

### Chapter 3. Building a culture of integrity in Mexico City

*This chapter reviews Mexico City's policies and practices designed to promote a culture of integrity in government, and it considers the challenges surrounding the National and Local Anti-corruption Systems. In line with the principles of the OECD Recommendation of the Council on Public Integrity, it provides recommendations for action in the normative framework and organisational culture, so to ensure its implementation. The chapter assesses the required changes for promoting ethics and managing conflicts of interest in Mexico City. Furthermore, it examines whether the newly adopted human resources policies and mechanisms are effective. Proposed actions intend to mainstream the integrity policies, legislation, regulations and practices in effect. They also intend to guarantee public servants' compliance with regulations and raise awareness among all actors who interact with the various government entities. Finally, it examines the existing mechanism for ensuring citizen and stakeholder participation in monitoring integrity and accountability within the public administration.*

The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

### 3.1. Introduction

While many OECD member countries have laws, regulations, policies and practices intended to preserve or enhance integrity, trust in public service has declined significantly, despite governments' best efforts. Public servants' adherence to core values set out in these rules has been affected, since they are poorly articulated or even ignored. Mexico City, for instance, has the worst rating in terms of public perception of corruption, according to the National Survey on the Quality and Impact of Governance conducted by the INEGI in 2015, despite the anti-corruption initiatives undertaken since 2014.

Rebuilding and preserving trust is, thus a complex challenge for Mexico City. Factors militating against trust are the negative perception of its citizens; the complexity of its governmental structure; citizens' limited access to public information if they have doubts about the integrity of the government decision-making processes; the existence of various ethics rules applicable to various categories of public servants, and the lack of clear mechanisms to ensure effective penalties for breaches of the integrity framework.

The governmental structure of Mexico City includes 22 ministries, 64 deconcentrated, decentralised, parastatal and auxiliary entities and 16 autonomous territorial demarcations. Among these units and bodies, mandates, objectives and functions overlap. Public servants do not have a uniform understanding of its values, principles and practices. As various units and bodies are called on to ensure integrity in Mexico City, this is likely to become even more complex. The new Constitution of Mexico City, which came into effect in September 2018, creates additional organisations to fight corruption under the federal regulations establishing the Local Anti-corruption System (*Sistema Local Anticorrupción*, or SLAC-CDMX). The goal is to ensure accountability of public organisations and deter undesirable behaviour in the public service. Citizens, civil society organisations and media in Mexico City now have far more access to information through several websites the City has established, even though they need some improvement to be fully effective. Each category of employee, whether "structural" (*empleados de base*), free appointments (*empleados de confianza*) or those who are unionised, is subject to a variety of ethical and conflict-of-interest rules. This makes the system more complex and also makes it difficult to impose penalties in a timely fashion, undercutting citizens' assurance that the use of public funds is properly monitored and evaluated.

Mexico City's efforts to cultivate a culture of integrity in this challenging context will be assessed in light of the *OECD Recommendation of the Council on Public Integrity* (OECD, 2017<sup>[1]</sup>). The Recommendation breaks down the key elements for building a culture of integrity in the public sector. These include: setting clear integrity standards and procedures; investing in integrity leadership; promoting a professional public sector dedicated to the public interest; communicating and raising awareness of the standards and values; ensuring an open organisational culture; and clear and transparent penalties in cases of misconduct. Moving forward from an integrity framework to an "integrity culture" requires that governments do more than approve formal laws, regulations, policies and practices. Risks of misconduct evolve and emerge very quickly, and it is necessary to integrate and mainstream the rules within the organisational structure, including human resources management, management practices and procedures, and internal control.

## 3.2. Building a normative framework to shift towards a values-based approach

### 3.2.1. Mexico City could consider streamlining its ethics rules and issuing a single, comprehensive Ethics Code to promote integrity and management of conflicts of interest.

The general legal framework setting out the principles, values and standards of conduct expected from public servants of Mexico City is laid out in three different legal instruments (Table 3.1). According to interviews with public servants, none of these ethics rules was adopted using a participatory framework. This may very well influence the effectiveness and relevance of the current framework and public servants' buy-in to these rules. They also do not include any reference to the possibility of setting specific rules in the ethical framework for sensitive areas and for positions at particular risk. Only one of the ethics rules refers vaguely to the possibility that each Mexico City public organisation will adopt its own organisational code.

**Table 3.1. Mexico City's framework for ethical behaviour in the public administration**

Primary legislation	
Article 47 of the Federal Law on the Responsibilities of Public Servants ( <i>Ley Federal de Responsabilidades de los Servidores Públicos</i> , LFRSP) which was abrogated on 18 July 2016, as per the Official Gazette of the Federation.	Refers to 5 principles and describes in its various clauses 24 desired and undesired behaviour expected from public servants and its corresponding penalties in case of contravention.
Article 6, 7, 49-64 and 75-89 of the General Law on Administrative Responsibilities (LGRA) published in the Official Gazette of the Federation on 18 July 2016 (new law).	The law makes reference to 11 principles of the public service in Mexico, describes ten desirable and undesirable types of behaviour that are expected from public servants and signals the types of behaviour that are considered to be administrative breaches, and grave and less serious offences. Finally, the law establishes the penalties in case of infractions.
Article 6, 7, 49-64 and 75-89 of the Law on Administrative Responsibilities of Mexico City, published in Mexico City's <i>Official Gazette</i> on 1 September 2017.	The Law on Administrative Responsibilities of Mexico City harmonises the framework with the LGRA and also makes reference to 11 principles of the public service in Mexico, as well as establishing transparency as the guiding principle. Similarly, in accordance with the LGRA, it describes ten desirable and undesirable types of behaviour that are expected of public servants and signals the types of behaviour that are considered administrative infractions, both grave and less serious offences. Finally, the law establishes the penalties for infractions.
Ethics Code for Public Servants ( <i>Código de Ética de los servidores públicos para el Distrito Federal</i> , CESPFD) enforced in 10 July 2014.	Lists 13 desired and undesired behaviours, with no reference to values, principles and penalties. Declares that public servants should hold themselves to the highest standards of conduct, with the goal of promoting a culture of respect and professionalism and increasing citizens' trust in public institutions. No additional guidelines stipulate how to comply with this obligation, whether this will be monitored by the government and what penalties will be imposed for non-compliance.
Charter of Duties of Public Servants ( <i>Carta de Obligaciones de los Servidores Públicos</i> , or COSP, <i>Circular Note 009 de la Contraloría General del Distrito Federal</i> ) enforced on 23 May 2013.	Sets out 5 principles and describes 16 desired and undesired behaviours, and the corresponding penalties and mechanisms for its enforcement. It applies only to personnel in fixed structure posts ( <i>puestos de estructura</i> ) and those considered as free appointments, or "of confidence" ( <i>puestos de confianza</i> ).

*Source:* Author, based on information provided by the Office of the Comptroller-General.

The current normative framework, while apparently exhaustive, does not achieve its goal, given its fragmentation and the lack of definitions and mechanisms outlining the core values for public servants in Mexico City. Neither does it define, for instance, what constitutes a conflict of interest, as is the case at the federal level (Box 3.1).

### Box 3.1. Code of Ethics for public officials at the federal level

The new Code of Ethics involves both general principles and values and a set of desirable and undesirable behaviours. The general Code of Ethics includes a set of constitutional principles (legality, honesty, loyalty, impartiality, efficiency) as well as additional values (public interest, respect, respect for human rights, equality and non-discrimination, gender equality, culture and environment, integrity, co-operation, leadership, transparency, accountability) that every public servant shall respect. These principles and values overlap with those in the set of ethics rules adopted by Mexico City. Mexico City ethics rules, however, do not include the values of respect for human rights, equality and non-discrimination, gender equality and co-operation.

On the other hand, at the federal level, a set of specific desirable and undesirable conduct is articulated in the *Rules of Integrity*, which complement the new Code of Ethics and which are divided into 12 domains:

- public behaviour;
- public information;
- public contracting, licensing, permits, authorisations and concessions;
- government programmes;
- public procedures and services;
- human resources;
- administration of public property;
- evaluation processes;
- internal control;
- administrative procedures;
- permanent performance with integrity;
- co-operation with integrity.

Source: (OECD, 2017<sup>[21]</sup>), *Integrity Review of Mexico: Taking a Stronger Stance Against Corruption*, OECD Publishing, Paris.

Discussions with public servants confirmed that these ethical rules, at different government levels, create confusion, undercutting their application in their daily work. Indeed, public servants in Mexico City consider complying with Article 47 of the LFRSP and the Charter of Duties of public officials (*Carta de Obligaciones de los servidores públicos*, or COSP) as synonymous with acting ethically. The COSP is the only set of rules requiring public servants to sign a declaration confirming that they know and affirm that they must comply with Article 47 of the LFRSP and could potentially be subject to penalties for failing to observe them. It also contains an implementation clause indicating that internal control units within the Office of the Comptroller-General will ensure that ministries, deconcentrated bodies, territorial demarcations and government entities publicise the charter among its officials and the general public, to remind public servants of their obligation to comply with the current legal framework. As far as possible, the Comptroller-General will need to harmonise the

instruments promoting ethics and public integrity, such as the COSP, with the legal framework of the new Anti-corruption System, to reflect the provisions of the LGRA and the Law on Administrative Responsibilities of Mexico City (LRA of Mexico City).

The Law on Administrative Responsibilities of Mexico City (*Ley de Responsabilidades Administrativas de la Ciudad de México*, LRA of Mexico City) is part of the secondary laws enacted to create the SLAC-CDMX. It notes that an Ethics Code will be adopted by the Office of the Comptroller, and internal control units in the case of autonomous bodies. The General Directorate of Legality of the Office of the Comptroller-General (*Dirección General de Legalidad*) will be responsible for drafting this new ethics code. It is worth noting that this future Ethics Code should be drafted using clear, plain language, to minimise confusion among public servants, and be structured in an understandable way. Preventive mechanisms are needed to ensure integrity in government decisions and to ensure that public servants internalise ethical rules. This will help them make the intrinsic choice to act in the public interest in facing real situations, rather than simply complying with the ethical framework.

### ***3.2.2. In drafting its future Ethics Code, Mexico City should use plain language to communicate clearly the behaviour expected of all public officials.***

Conceptually, Mexico City's various ethics rules fall between a Code of Conduct and a Code of Ethics. They set out general principles and values, list a set of desirable and undesirable behaviour and also describe the way they are enforced (Box 3.2).

#### **Box 3.2. Code of conduct or code of ethics**

##### **Conceptual issues**

A distinction is often made between a “code of conduct” and a “code of ethics”. This distinction usually refers to both the contents of the code and the way in which it is enforced:

- The “code of conduct” is a typical instrument of a rules-based approach to integrity management. Like that more general approach, it starts from the assumption that people are essentially self-interested and that they will only behave with integrity when this coincides with their self-interest. Hence, a preferably detailed code of conduct will describe, as specifically and unambiguously as possible, the behaviour that is expected. Such a code of conduct will also establish strict procedures to enforce the code: systematic monitoring and strict punishment of those who break the rules.
- A “code of ethics” on the other hand, is rooted in the values-based approach. It focuses on general values, rather than on specific guidelines for behaviour, putting more trust in the organisational members' capacity for independent moral reasoning. Rather than telling them what to do, the organisation provides its members with a general framework that identifies the general values and provides support, training and coaching for the application of these values in daily, real-life situations.

As for making a choice between the two types of codes, the recommendation is to situate this within the broader question of the balance between the rules-based and the values-based approaches, a balance that should also take into consideration the outer context.

*Source:* (OECD, 2009<sup>[3]</sup>), Towards a Sound Integrity Framework: Instruments, Processes, Structures and Conditions for Implementation, GOV/PGC/GF(2009)1, 23 April.

By streamlining these rules into a single code of ethics, Mexico City could enhance clarity and avoid confusion among public servants. This document would reduce the number of values, offer a single definition of a conflict of interest, and define its scope and the mechanisms that will be used to enforce it. It would also identify a point of contact who might be reached for questions or any doubt about the contents or its application (OECD, 2009<sup>[3]</sup>). Additional core integrity precepts, such as gifts and advantages, post and pre-employment rules, which are somewhat dispersed in the current framework, also need to be addressed. The provisions of this future Ethics Code should extend beyond compliance with the legislative framework and focus on preventive measures rather than penalties. This will lay the foundation for co-ordination between the General Directorate of Legality, the General Directorate of Legal Affairs and the internal control units.

When drafting the new ethics rules, common values and principles guiding the behaviour of public servants should be clearly set out. Unlike at the federal level and in the other Mexican states, Mexico City's newly enacted Constitution does not refer to detailed core values. Meanwhile, it specifies in general terms that public service activity should be based on ethics, austerity, openness, responsibility, citizen participation and accountability (Box 3.3). In addition, the SLAC of Mexico City notes that those who are part of the anti-corruption system, which includes public servants, should base their behaviour on 11 values and principles. It also includes: a definition of conflict of interest; provisions concerning the corresponding administrative offences; disclosures of private interest; procedures and penalties for administrative faults; and preventative, corrective and investigatory mechanisms to prevent or correct misconduct (i.e. audits, verifications, etc.).

### **Box 3.3. The Constitution of Mexico City**

Mexico City enacted its Constitution on 5 February 2017, with extensive participation from many stakeholders. Specialists, members of academia, social leaders and civil society organisations actively participated by submitting their views. Among its goals are: to promote and ensure the full exercise of citizens' rights; to satisfy the government's responsibilities to citizens; to conserve and enhance the environment; to fight corruption; to reduce inequality and increase distributive justice; and to encourage social well-being. It was due to come into force on 17 September 2018.

The first title of this new Constitution contains various articles setting out the new constitutional principles. Article 3 outlines how official powers should be exercised, in the following terms:

#### **First Title**

#### **General provisions**

#### ***Article 3: Guiding principles***

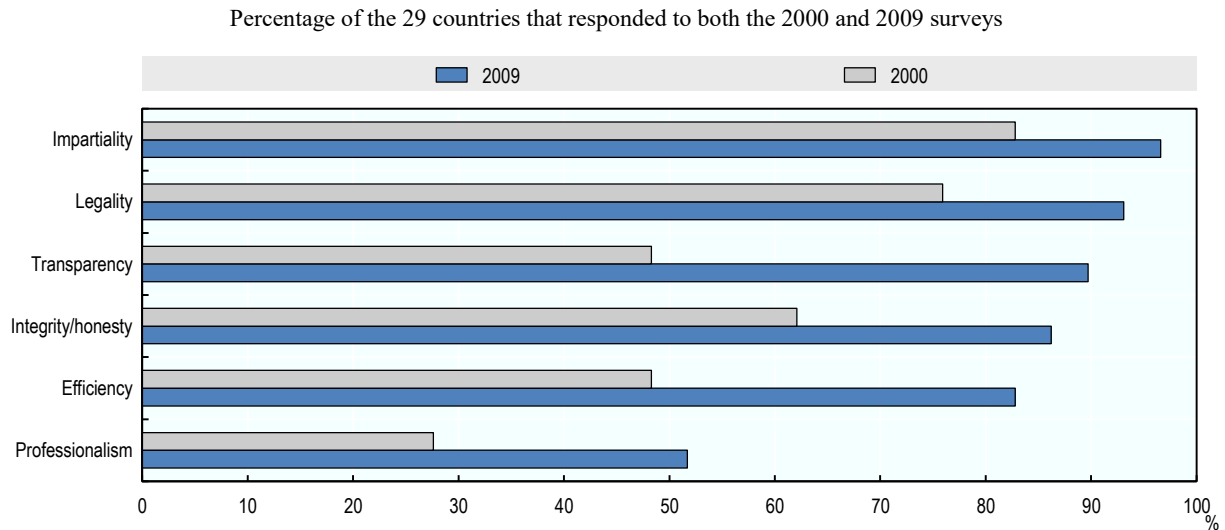
1. Human dignity is the supreme guiding principle and pillar of human rights. All individuals are entitled to freedom and equal rights. Protection of human rights is the foundation of this Constitution, and any public activity should be guided by these principles.

2. Mexico City assumes as principles:
  - a. respect for human rights, the defence of a democratic and social State, social dialogue, a culture of peace and non-violence, solidarity and sustainable economic development with a metropolitan perspective, a more equitable distribution of income, the dignity of work and wages, the eradication of poverty, respect for private property, substantive equality, non-discrimination, inclusion, accessibility, universal design, the preservation of ecological balance, protection of the environment, and the protection and preservation of Mexico City's cultural and natural heritage. Recognition of the City's ownership of its public, common and private domain property, as well as the community-owned land (*propiedad ejidal y comunal*).
  - b. stewardship in the exercise of public administration should adhere to ethics, austerity, rationality, transparency, openness, responsibility, citizen participation and accountability with control management and evaluation in terms that the law establishes;
  - c. the social function of the City, to guarantee the well-being of its citizens, in harmony with nature.
3. The exercise of power shall be organised according to principles of direct, representative and participatory democracy, social interest, subsidiarity, government proximity and the right to good governance.

The right to good governance is now considered a human right, as stipulated in Article 7 of the Constitution. Under Article 60 of the new Constitution, this right will be guaranteed through an open, honest, transparent, professional, efficient, austere, inclusive, resilient and whole-government approach that seeks to promote the public interest and that tackles corruption.

*Source:* Mexico City, Constitution of Mexico City, translation from Spanish version online at [http://www.infodf.org.mx/documentospdf/constitucion\\_cdmx/Constitucion\\_%20Pol%C3%ADtica\\_CDMX.pdf](http://www.infodf.org.mx/documentospdf/constitucion_cdmx/Constitucion_%20Pol%C3%ADtica_CDMX.pdf), accessed on 3 April 2017 and Bill of the Constitution of Mexico City, translation from Spanish version online at <http://gaceta.diputados.gob.mx/ACCM/DOC/ProyectoConst15sep.pdf>.

Therefore, Mexico City could thus consider, in building this new ethics Code, the frequently stated core public service values adopted by OECD member countries as a precondition of setting an integrity and accountable government (Figure 3.1). Reference to these values need not be exhaustive, and may mention, for instance, the values most commonly identified by governments, such as: legality, transparency, objectivity, efficiency and accountability. The new ethics code should not, in any case, use legalistic language, as recommended in Box 3.4, in order to ensure its effective application in the day-to-day work of public servants. Furthermore, it also needs to consider the varying missions of Mexico City government entities, so that the ethics codes are designed to protect the integrity and reputation of the various entities that will fall under it (Gilman, 2005<sup>[4]</sup>).

**Figure 3.1. Core public service values**

Source: (OECD, 2009<sup>[5]</sup>), “Graph 3 Frequently stated core public service values (2000 and 2009)”, in *Government at a Glance 2009*, OECD Publishing, Paris.

#### Box 3.4. Drafting an Integrity Code: Guidelines for process and content

Various criteria and guidelines have been advanced for the drafting of integrity codes. What follows is a selection of recommendations, based on those guidelines and on lessons learned:

- One important preparatory step is a **letter** from the highest government levels (political and/or administrative) that explains the reasons for developing the code and stresses its importance.
- The code itself should begin with an **introduction** that addresses the aims and characteristics of the code. Below is a non-exhaustive list of aspects and questions that might be addressed:
  - Objectives: What expectations is the code addressing?
  - Scope: To whom is the code applicable?
  - Enforcement: Is the code enforceable and, if so, how?
  - Contact: Who can the staff members approach if they have questions about the contents or the application of the code?
  - Hierarchy of values and rules: Should the readers of the code attach any importance to the order in which the values/rules are presented?
  - Conflicting values: What response is expected if the values addressed in the code happen in any way to conflict with each other? Does the organisation provide support for staff members who find themselves confronted with such dilemmas (e.g. through training, coaching, counselling, etc.)?



- Consistency: The code is embedded in a broader integrity management framework. What are those other instruments, and how do they link with the code?

The introduction is followed by the **actual code**. The following guidelines (Maesschalck, J., and Schram, F., 2006<sup>[6]</sup>) can increase the quality and relevance of a code, on the following model: including a limited number of core values that are each defined and then further specified in specific rules that may in turn be illustrated with examples:

- **Clear:** Make the text as clear and legible as possible. The code should be clear for all staff members who are expected to apply it.
- **Simple:** Make the text as simple as possible, but not too simple. Integrity is a complicated topic, and the code should not neglect to emphasise this. However, there is no reason to make things more complicated than necessary.
- **Concrete:** Avoid empty generalisations. Vague statements are not always avoidable, particularly in (values-based) “codes of ethics”. Nevertheless, it is important to try and make the values as concrete as possible, e.g. by specifying them in specific rules and guidelines or by illustrating them with concrete examples.
- **Structured:** Make sure that the code is constructed logically, and is centred on a number of core values that do not overlap. If the values are thus truly mutually exclusive, it will become easier to identify the tensions between them. These tensions are typical of ethical dilemmas, and a code with clearly delineated values becomes a useful tool for dealing with ethical dilemmas or for exploring ethical dilemmas in training sessions.
- **Consistent:** Use concepts in a parsimonious and consistent way. It is advisable not to use different terms for the same concept within the same code (or in different documents within the same organisation). Likewise, avoid using terms that lend themselves to different interpretations. Decide on the term that is most appropriate and use it consistently throughout the different documents. This will increase the chance that all staff members use the same language, thus allowing the code and related documents to become truly useful tools in training and daily conversation.
- **Linked:** Include sufficient cross-references in the code to other documents, guidelines and codes where staff members can find further details about specific themes.
- **Relevant:** The code should move beyond the obvious and particularly focus on those issues where guidance is needed. The chances for this will increase if risk analysis and dilemma analysis are used in preparation of the code.

*Source:* (OECD, 2009<sup>[3]</sup>), Towards a Sound Integrity Framework: Instruments, Processes, Structures and Conditions for Implementation, GOV/PGC/GF(2009)1, 23 April.

To ensure clarity, Mexico City could consider removing detailed integrity rules of this new ethics code and, based on good international practices such as Australia’s, develop a manual or guideline to provide guidance on solving challenging ethical dilemmas that

may arise in the exercise of public servants' functions. At present, there are no effective guidelines on how to resolve ethical dilemmas (Box 3.5). The proposed manual could contain provisions with clear, concrete, simple and consistent criteria to help public servants in Mexico City resolve ethical dilemmas that may arise in their daily work.

### **Box 3.5. Guiding public officials in facing ethical dilemmas in Australia**

The Australian government has developed strategies to enhance ethics and accountability in the Australian Public Service (APS), such as the Lobbyist Code of Conduct, and the register of “third parties”, the Ministerial Adviser’s Code and the work on whistle-blowing and freedom of information.

To support its ethics and integrity regime, the Australian Public Service Commission has enhanced its guidance on APS Values and Code of Conduct issues. This includes integrating ethics training into learning and development activities at all levels.

To help public servants facing ethical dilemmas, the Australian Public Service Commission has developed a decision-making model that follows the acronym REFLECT:

#### **1. Recognise a potential issue or problem**

Public officials should ask themselves:

- Do I have a gut feeling that something is not right or that this is a risky situation?
- Is this a right versus right, or a right versus wrong issue?
- Recognise the situation as one that may involve tensions between APS Values or the APS and their personal values.

#### **2. Find relevant information**

- What was the trigger and what are the circumstances?
- Identify the relevant legislation, policies and guidance (APS-wide and agency specific).
- Identify the rights and responsibilities of relevant stakeholders.
- Identify any precedents.

#### **3. Linger at the “fork in the road”**

- Talk it through; use intuition (emotional intelligence and rational processes) and analysis; listen and reflect with supervisors, respected colleagues, peers, or support services; and remember privacy.

#### **4. Evaluate the options**

- Discard unrealistic options.
- Apply the accountability test: would the decision stand up to public scrutiny/independent review?

- Be prepared to explain the reasons for your decision.

#### 5. Come to a decision

- Come to a decision, act on it and make a record if necessary.

#### 6. Take time to reflect

- How did it turn out for all concerned?
- Learn from your decision.
- If you had to do it all over again what would you do differently?

Source: Office of the Merit Protection Commissioner (2009), "Ethical decision making", <http://www.apsc.gov.au/publications-and-media/current-publications/ethical-decision-making>.

An additional aspect that Mexico City could consider in streamlining the ethics framework is to define a strategy to ensure alignment of the organisational codes within its public administration and make sure they are easily accessible for consultation, known by all public servants and duly enforced. To ensure a whole-government approach and strengthen co-ordination, Mexico City needs to co-ordinate with the territorial demarcations to ensure that they help ensure the coherence of the new ethical and conflict of interest framework implementing the Local Anti-corruption System. As a result, Mexico City will ensure that all public servants under its jurisdiction share the same values and are aware of the potential penalties in case of breaches.

This new proposed Ethics Code needs to apply to all public servants and an employee in Mexico City regardless of their contractual status, which is not at present the case. All should receive a same level of basic guidance and training, while senior management and officials in at risk-positions should receive additional, tailored guidance. Mexico City requires that even the temporary staff be made aware of the new Ethics Code.

Finally, when drafting these rules, Mexico City needs to consult its public servants to help build a common understanding throughout the public administration and to ensure their buy-in. The new Ethics Code should be accompanied with a set of interpretative guidelines, checklists and procedures to ensure its application in a consistent and coherent manner, avoiding bias and conflict of interest situations.

#### 3.2.3. Mexico City could also streamline its conflict of interest rules.

To manage conflict of interest in a workplace, conflict of interest rules should specify clearly what is expected of public servants and be accompanied by procedures, guidelines, checklists or other tools to assist them in determining whether a conflict of interest exist and, if so, how to proceed. These rules are usually applicable following descriptive and prescriptive approaches.

As noted in the case of the existing ethics rules, Mexico City's conflict of interest framework is made up of the legal instruments, policies and guidelines laid out in Table 3.2, which vary widely in content and quality. Moreover, they cannot be uniformly applied, since the rules apply to fixed structure posts (*puestos de estructura*) and to personnel of free appointment (*de confianza*) but not to unionised employees.

**Table 3.2. The existing conflict of interest rules in Mexico City**

Conflict of interest normative framework
Article 47 of the Federal Law on the Responsibilities of Public Servants (LFRSP), which was abrogated on 18 July 2016 and applied until 18 July 2017:
Article 3, clause VI: 31, 37 last paragraph: 47, 58 and 60 of the General Law on Administrative Responsibilities published in the Official Gazette of the Federation on 18 July 2016, and entered into force on 19 July 2017.
Similar and aligned to the LGRA, articles 3, clause VII:31:37 last paragraph: 47, 58 and 60 of the Law on Administrative Responsibilities of Mexico City published in Mexico City's Official Gazette on 1 September 2017.
Guidelines for the presentation of a declaration of interest and a declaration of non-conflict of interest by public servants of the Federal District (Distrito Federal) public administration and their counterparts (Guidelines of July 2015)
Agreement establishing policies for transparent accountability to avoid conflict of interest and increase in unjustified equity (Guidelines of March 2016)
Guidelines for the declaration and dissemination of patrimonial, fiscal and interest information by public servants of the public administration of Mexico City and their counterparts (Guidelines of April 2016).

Source: Author, based on information provided by the Office of the Comptroller-General.

Several clauses of Article 47 of the LFRSP, which outlined the responsibilities of public servants (abrogated in the *Official Gazette* 18 July 2016 and valid until 18 July 2017) describe situations under which a conflict of interest may arise and provides, as a reference, a procedure for managing conflicts of interest. This consists of notifying managers of this situation when it arises. Likewise, the new LGRA, issued on 18 July 2016, which came into force on 19 July 2017, defines conflict of interest as “the possible impairment of the impartial and objective performance of the duties of Public Servants due to personal interests, family or business relationship”. It goes on to describe situations under which a conflict of interest could arise and establishes a procedure for managing a conflict of interest. It stipulates that a public servant who becomes aware that he or she is in a conflict of interest or in a legal impediment must inform his or her immediate supervisor, or the government body that determines the applicable provisions. It states that such an employee should request that he or she be excused from participating in any way in the handling, processing or resolution of the matters that pertain to the conflict of interest. The immediate supervisor must then determine and inform the public servant, no later than 48 hours before the time limit set for dealing with the matter in question, of any situation in which it is not possible to refrain from intervening in the matters. It also states that written instructions must be drawn up for the impartial and objective handling, processing or resolution of such matters.

The Guidelines of May 2015 describe when a conflict of interest may arise, makes no reference to mechanisms for preventing this situation from arising. Furthermore, its rules only apply to public procurement officials. The other Guidelines do not include a definition of what constitutes a conflict of interest. They refer to the mechanisms for disclosing financial and non-financial interests, and to the Digital Platform on which these declarations should be made public, but they do not specify a mechanism to prevent them from arising or for mitigating their impact on public decision-making processes.

From the review and discussions with public servants of Mexico City, it seems that as currently written and applied, these guidelines are not helping to create common understanding on how to effectively manage conflicts of interest or preventing such situations from arising. Thus, Mexico City could consider streamlining and clarifying the rules to ensure that public servants will understand and recognise that managing conflicts of interest cannot be limited to filling out a disclosure form of their financial and non-financial interests and punishing any delay in submitting them. Public servants in Mexico City need to understand that conflicts of interest may arise when they are exercising their duties and functions and that they need to be effectively managed or prevented. Mexico City needs to ensure that continuous training

and awareness-raising activities be conducted. Meanwhile, public servants should be encouraged to identify potential conflicts of interest and as soon as they become aware of any, to report them to their managers, superiors or to the unit with the authority to provide guidance for reaching a solution together (see Box 3.6).

### 3.2.4. Mexico City could consider updating the existing organisational code.

Five government entities in Mexico City have adopted their own Ethics Code: two ministries, two decentralised bodies and one entity (Table 3.3). Unlike the general current ethics rules applicable to public servants, two of these organisational codes contain a definition of what constitutes a conflict of interest. Not all these government entities and organisations align their missions with the values set out in the existing ethics framework systematically, and some were not approved in a participatory process. Moreover, public servants working in the internal control units of the Office of the Comptroller are not aware of this disbalance between mission and values, even though they are responsible for enforcement of the general ethics rules.

**Table 3.3. Organisational ethics codes in Mexico City**

Ethics Code and Integrity Rules of Mexico City Organisations
Ethics Code of the Ministry of Education (includes 19 principles)
Ethics Code of the Ministry of Urban Development and Housing (sets out 3 ethical principles, 4 obligations, contains penalties and has a definition of what constitutes a conflict of interest)
Ethics Code of the Social Advocate of Mexico City (sets out 11 principles and 7 detailed obligations required of public servants)
Ethics Code of the Superior Tribunal of Justice of the Judiciary Council (sets out 22 principles to guide its public servants and includes a definition of conflict of interest)
Ethics Code of the Water System of Mexico City (sets out 5 principles, makes detailed reference to the declarations of interest and of no conflict of interest)

*Source:* Author, based on information provided by the Office of the Comptroller-General.

While having separate Ethics Code can constitute a core element of a governmental strategy, to target organisations with functions that are considered particularly sensitive to risk, maintaining consistency among these Codes can be a challenge, since they could undermine the uniformity of expected standards of conduct to integrity risks (OECD, 2012<sup>[7]</sup>).

In Mexico City, the government entities that adopted their own codes have not been guided by an overarching framework. Their content, scope and quality are very different. A review of these organisational ethics codes confirms that there is no coherence in the values and ethical duties required of public servants. This fragmentation and the lack of common general principles do not allow for a uniform culture of integrity in public sector entities. Mexico City could thus consider, while updating these organisational codes, adopting specific guidelines like those used at the federal level. This would ensure, among other things, that: these codes use plain language; identify the risks of integrity breaches in the context of the organisation's activities; provide guidance to public officials working on these organisations when ethical dilemmas or conflict of interest issues arise; and also, are aligned with the new integrity framework. Mexico City should do more than simply provide definitions, setting up ways to identify conflict situations and offer instruments to guide public servants in resolving ethical issues and manage conflicts of interest as they arise.

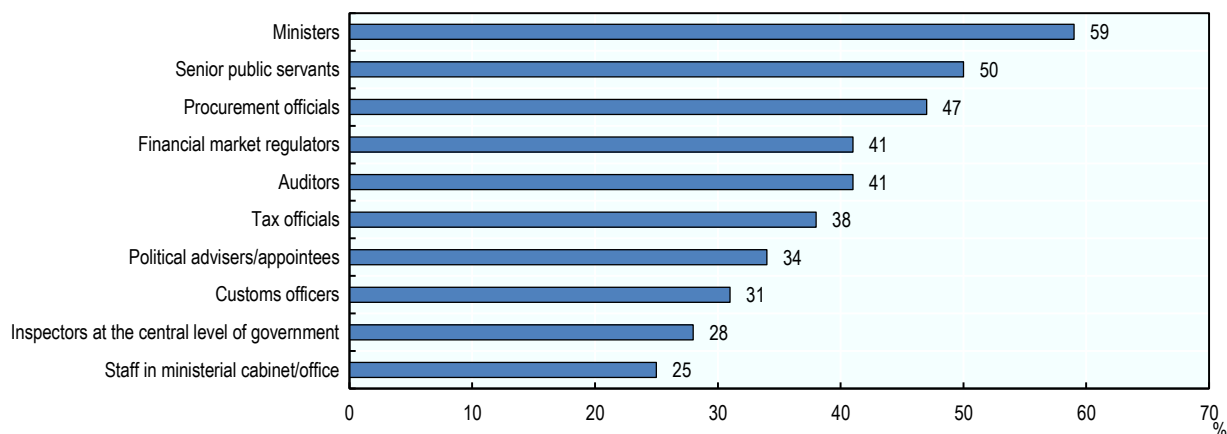
In adopting these new organisational codes, Mexico City should ensure a participatory process, to build consensus and ownership of the rules, and provide relevant and clear guidance to public servants. This participatory process could reduce the risk that the organisational codes become a “check-the-box” exercise, as has been observed in many public entities all over the world in the past. Careful analysis of each organisation’s particular susceptibility to corruption potential ethical dilemmas can help promote discussions amongst public servants and build consensus on shared values and principles.

### 3.2.5. Mexico City could consider developing special standards for such risk areas as law enforcement, political advisers and procurement officials

Ultimately, public servants are responsible for identifying conflicts of interest, but OECD countries have identified areas that are most at risk and have attempted to provide guidance to their public servants on conflicts of interest. Most OECD countries have adopted special standards for the specific activities and positions described in Figure 3.2. Countries such as Canada and United States have also identified activities and official positions that are most vulnerable to breaches of integrity and have adopted rules and guidelines to resolve ethical issues and manage conflicts of interest. In Mexico, the presidential Executive Order of 3 February 2015 led to the creation of a code of conduct for all public servants and a single protocol governing interactions between procurement officials and suppliers.

In Mexico City, no special standards are in force for public servants working in areas susceptible to corruption. The procurement legislative framework, however, does contain provisions on disclosure of interests, recusal from participating in the procurement process if a conflict of interest exists, and so on. There are also no specific rules for other risk areas such as the Auxiliary Police Service of Mexico City (*Policía Auxiliar del Distrito Federal*) and in the Police Banking Service of Mexico City (*Policía Bancaria e Industrial de la Ciudad de México*), two deconcentrated government entities where the risk of corruption has been identified as extremely high (Casar, 2016<sup>[8]</sup>).

**Figure 3.2. Development of specific conflict-of-interest policy/rules for particular categories of public officials in OECD countries**



Source: (OECD, 2014<sup>[9]</sup>).

The LRA of Mexico City does not contain specific rules for public procurement officials or other officials occupying positions that are particularly at risk for

corruption. It does create a system that will be set up in the Digital Platform identifying public servants participating in public procurement process and the government entities where they work (Article 43 of the LRA of Mexico City). This initiative will be helpful in ensuring transparency throughout public procurement process, but it cannot prevent and resolve ethics and conflict of interest issues that may arise in the area most at risk.

In drafting the new integrity framework, Mexico City could consider identifying the most risky areas and then providing a manual on ethics and conflicts of interest intended for officials participating in public procurement activities or other specified government activities. This would help them to spot these situations and make the appropriate decisions. This risk-based guidance could complement the organisational codes already noted. In the long term, rules could also be set for those working in the law enforcement sector.

### ***3.2.6. Mexico City could set out clear instructions describing the penalties for failing to abide by the integrity rules.***

In stipulating desirable behaviour, public servants need to be informed of the consequences of violation of ethical and conflict of interest rules and, where applicable, that recovery mechanisms for economic losses and damages may be applied. The rules of conduct and ethical values need to be clearly drafted and applied equitably, explaining the links between them and the legal instrument where these breaches are described. If applied fairly and in a timely fashion, penalties can have a positive impact on credibility of the integrity rules and framework. They will send a signal to public servants and citizens that impunity will not prevail, and that the government is serious about upholding the public interests and can help to instil integrity values in individuals and organisations.

OECD research suggests that organisations should react to any undesirable behaviour, no matter how small. Any tolerance of infractions can erode integrity in the organisation, or encourage cynicism and frustration among those who do respect the rules (OECD, 2017<sub>[10]</sub>). The penalties most often used for breaches of conflict-of-interest policies in OECD countries are disciplinary and criminal prosecution, along with the cancellation of relevant decisions and contracts (Box 3.6).

### Box 3.6. Setting proportional penalties for breaching conflict-of-interest policies

The nature of the position is taken into consideration when countries determine appropriate personal consequences for breaching the conflict-of-interest policy. The following list of personal consequences indicates the variety of severe penalties applied to different categories of officials in Portugal:

- loss of mandate for political and senior public office holders, advisers or technical consultants
- immediate cessation of office and return of all sums that have been received, for ministerial advisers
- three-year suspension of senior political duties and senior public duties for senior civil servants
- loss of office in the case of managerial staff
- fines and inactivity or suspension for civil servants and contractual staff.

*Source:* (OECD, 2004<sup>[11]</sup>), *Managing a Conflict of Interest in the Public Service: OECD Guidelines and countries experiences*, OECD Publishing, Paris.

In Mexico City's integrity framework (applicable before 1 September 2017) the penalties imposed in cases of ethics or conflict of interest breaches were not clearly understood. Public servants were not always aware that their misbehaviour would have consequences not only for them but also for their organisations, and that penalties could be imposed accordingly. Penalties for integrity breaches were also not expressly and clearly set out in the various legal instruments, policies and guidelines. These refer in some cases to Article 47 of the LFRSP, outlining the responsibilities of civil servants (now abrogated). This provision and the other regulations do not address such integrity breaches as those associated with: abuse of office; giving preferential treatment; exercise of prohibited activities; and post-employment cases arising from increased mobility between the public and private sector (the "revolving door" phenomenon). In interviews conducted in research for this review, officials' responses when asked about penalties imposed in case of integrity breaches systematically made reference to provisions of the LFRSP (Articles 47 and 50 abrogated), not making clear reference to the appropriate penalty that is applied to contravening a specific ethics rule. Their responses were based on a legalistic approach that focused on compliance with the provisions set out in the integrity framework rather than in properly identifying and resolving an ethical dilemma or a conflict of interest. This suggested that Mexico City's integrity strategy has focused on enforcement more than on prevention. This can potentially dilute ethical behaviour within organisations, because it appears to have less to do with personal responsibility than a detailed knowledge of the law (Gilman, 2005<sup>[4]</sup>).

The new legal framework corresponding to the General Law of Responsibilities of Public Servants (LGRA) and the Law of Administrative Responsibilities of Mexico City, clearly establishes the acts in which public servants may be committing acts of corruption by omission or action, by regulating grave and less serious administrative misconduct by public servants. The following acts are also included: bribery, embezzlement, diversion of resources, misuse of information, abuse of functions, acting in a conflict-of-interest situation, improper hiring, illicit enrichment or concealment of a conflict of interest,



influence peddling, cover-up, contempt of court, obstruction of justice and also differentiated penalties, depending on whether a grave or less serious administrative offence was involved.

As detailed in Table 3.4, a breach of ethics principles while fulfilling public duties and functions: failing to identify and resolve a conflict of interest when it arises; accepting or maintaining a prohibited private interest; not reporting a known conflict of interest of a colleague; failing to resolve or manage conflicts of interest; not providing or providing false information on assets and private interests, are all considered violations to which administrative penalties should apply. However, there is no clarity on what the applicable penalty is. Indeed, when any of these situations occurs, public officials should abstain from intervening or participating in any way in the procedures or related acts, and inform their immediate superior, the internal control unit or the Directorate of Internal Control Units in Government Entities (*Dirección General de Contralorías Internas en Entidades*).

**Table 3.4. Violations of conflict of interest and ethics rules subject to penalties under the current Mexico City integrity framework**

Violations	Legal provisions	Administrative penalty	Criminal penalty	Reparatory penalty
Breach of ethical principles while fulfilling their duties and functions	Article III of the Charter of Rights.	X		
	No penalty under the Ethics Code for Public Servants.	X		
	Article 47, first paragraph and 53 of the LFRSP (abolished) Articles 75-89 LGRA and LRA of Mexico City	X		X
In case of actions or omissions concerning management of public funds, securities and economic resources property of the City in the context of budget and planning, which causes damages to the Ministry of Finance and the assets of a government entity	Article III of the Charter of Rights	X	Only if classified as such by the Criminal Code	X
	Articles 75-89 of the LRA of Mexico City	X		X
Not resolving a conflict of interest when it arises	Article II (6) of the Charter of Duties	X	Only if classified as such by the Criminal Code	
	Articles 47, clause XX and 53 of the LFRSP (abolished)	X		
	Article 7 of Guidelines of May 2015	X		
Not recusing themselves when a conflict of interest exists	Articles 47, clause XIII and 53 of the LFRSP (abolished) Articles 75-89 of the LRA of Mexico City	X		

Failure to disclose a known conflict of interest involving a colleague	Articles 47, clause XIV and 53 of the LFRSP (abolished)	X	
	Articles 3 and 6 of the Guideline of May 2015	X	
	Article 6 of Guidelines July 2015 Article 75-89 of the LRA of Mexico City	X	
Not resolving or managing a conflict of interest of a superior	Articles 47, clause XX and 53 of the LFRSP (abolished)	X	
Not providing information on assets and private interests	Article 47 fraction XVIII of the LFRSP (abolished)	X	
	Article 6 (a) vii Guidelines of July 2015	X	
	Article 7 Guidelines May 2015	X	
	Article 75-89 of the LRA of Mexico City	X	
Not providing information on assets and private interests in a timely manner	Art. 7 Guidelines of May 2015	X	
	Art. 7 Guidelines of April 2016	X	
	Art 75-89 of the LRA of Mexico City	X	
Providing false assets and private interest information	Article 7 Guidelines of May 2015	X	
	Article 7 Guidelines of April 2016	X	
	Article 75-89 of the LRA of Mexico City	X	
Other situations (i.e. not disclosing gifts, accepting an offer of employment in breach of provisions set out in the LRSP)	Articles 88 and 89 of the LFRSP. Acceptance of gifts over of the threshold should be reported to the Directorate of Legality. Article 75-89 of the LRA of Mexico City	X	If value of a gift is over the threshold stipulated in Article 88 of the LRSP and has been received from persons enumerated in Article 87, and the public official cannot during the investigation justify the increase of his or her assets.
		X	

Source: Author, based on information provided by the Office of the Comptroller-General.

Interviews with public servants also indicated that Mexico City's integrity policy focuses on managing ethics and conflicts of interest by imposing penalties, rather than preventing their occurrence or resolving them as they arise. Managing a conflict of interest thus basically consists of verifying whether the form used to disclose assets and interests has been submitted, using a "checklist approach" and punishing the public servant for non-compliance. As currently implemented, integrity policy within public sector organisations is not oriented toward preventing public officials, as far as reasonably possible, from being placed in a conflict of interest or ethical dilemma. The LRA of Mexico City makes

a distinction between grave and less serious offences (as detailed in Box 3.7). The statute of limitations for less serious offences under this law is three years from the day after infractions have occurred or ceased, and up to seven years in the case of serious offences. This is now aligned with the National Anti-corruption System. This feature is a notable effort to enhance the effectiveness of the penalty function, letting public servants know the conduct that is expected of them and that will need to be communicated to all public entities to provide for its effective enforcement.

**Box 3.7. Serious and less serious offences under the Law on Administrative Responsibility of Mexico City and Mexico's General Law on Administrative Responsibilities**

At the federal level, Articles 49 and 50 of the General Law on Administrative Responsibilities (LGRA), which took effect in July 2017, define less serious offences. Serious offences are defined by Articles 52 to 64 of the law. In Articles 49 and 50, the LRA of Mexico City defines less serious offences as follows:

- failure to comply with the duties, attributions and commissions entrusted to them, observing in their performance discipline and respect, both for other public servants and for the private individuals with whom they deal, in the terms established in the Code of Ethics;
- omitting to report behaviour that they witness in the exercise of their duties and functions that could constitute an administrative offence;
- failure to comply with the instructions of their superiors, providing these are in accordance with the normative provisions governing them. In case of receiving instruction or assignment contrary to these provisions, public servants should report this under the terms of Article 93 of the Law;
- disclose in an extemporaneous manner the asset or interest declarations. It will cease to be considered a less serious offence if the presentation of the corresponding declaration is made after the disciplinary administrative procedure has begun.
- failure to register, integrate, store and care for documentation and information that, due to their charge or commission, falls to their responsibility; or allow in an intentional or criminal manner its use, disclosure, abduction, destruction, misappropriation or misuse;
- failure to respond in a timely manner to requests for documents, information or implementation of precautionary measures requested by any of the Human Rights Commissions;
- failure to respect in a timely manner and in the form required requests for collaboration, information or documentation made by judicial or administrative authorities, provided that it is in the legitimate exercise of their powers and there is no legal impediment to it, which must be justified;
- failure to respond in a timely manner to requests for collaboration, information or documentation made by the internal control bodies or the Court in connection with procedures for investigating complaints or to complaints or to administrative disciplinary procedures;

- failure to execute set penalties of reprimand or temporary suspension of employment of public servants punished by the internal control body or by the Court. It will also be punishable to fail to execute the temporary suspension of employment referred to in this provision when it has been imposed as a precautionary measure;
- failure to verify before the competent authority that the legal status of “not disabled” has been modified between the date of issue of a certificate of non-disqualification and the date of hiring of a public official, provided that more than ten business days have elapsed between the issuance and hiring date;
- use of resources assigned to them for the performance of their employment, position or commission, the powers assigned to them or information reserved for their access, for purposes other than those for which they were assigned;
- requesting, on the basis of the position or commission that they hold, preferential treatment or any kind of privilege or undue benefit to which they are not entitled, whether in the private or public sphere.
- failure to ensure, prior to the conclusion of contracts for acquisition, lease or sale of all types of goods, provision of services of any nature or the contracting of public works or services related thereto, that the individual confirms under oath that he or she does not hold a job, a position or commission in the public service or, if applicable, that despite the performance of the contract, a conflict of interest is not updated with the corresponding contract. The respective statements must be in writing and made known to the internal control body prior to the conclusion of the act in question. In the event that the contractor is a legal entity, such statements must be filed with respect to partners or shareholders who exercise control.

For the purposes of this Law, it is understood that a partner or shareholder exercises control over a company when they are managers or form part of the board of directors, or, jointly or separately, directly or indirectly, retain ownership of rights that allow voting to be exercised over more than 50 percent of the capital, have decision-making power in their assemblies, are in a position to appoint the majority of the members of its administrative body or, by any other means, have the power to make the fundamental decisions of said legal person.

- Acts or omissions that imply a breach of any legal provision related to the public service or function, whose typical description is not provided for in any of the previous sections or which constitutes a serious administrative fault.
- Damages and losses committed in a criminal or negligent manner and without falling in any of the serious administrative offences indicated in the following chapter, that are caused by a public official to the Public Treasury or to the asset of a public entity, would be considered less serious offences.
- Public entities or private individuals who, under the terms of this article, have received public resources without being entitled to them, must return them to the Public Treasury or to the public entity concerned within a period not exceeding 90 days of the corresponding notification of the Superior Audit or the authority making the determination;

- In the event that the monies referred to in the previous paragraph are not reimbursed, these will be considered tax credits, and the Secretary of Finance must collect the amounts in terms of the applicable legal provisions;
- The Authority may refrain from imposing the corresponding penalty under Article 75 of this Law, when the damage or prejudice to the Public Treasury does not exceed 2 000 times the daily value of the Unit of Measure and Update, and the damage has been compensated or recovered.

In contrast to the federal provisions, the above-mentioned articles consider as less serious offences other kinds of misconduct, such as: not verifying the qualification of a public official before hiring him or her; the misuse of resources provided to execute an official's functions and duties; giving preferential treatment; and not verifying the status of private persons or legal persons participating in public procurement processes. Such behaviour is considered a serious offence under federal law.

Serious offences are described in Articles 51 to 64, which cover the behaviour described in Section 52 to 64 of the LGRA but with certain differences. For instance, in the case of a conflict of interest, Mexico City's LRA punishes the lack of timely and truthful attention to measures of prevention of conflict of interest, such as the declaration of interests, recusals and declarations of no conflict of interest; hidden enrichment or hiding a conflict of interest as a result of providing false information in declarations of their assets and interests; and declarations intended to conceal an increase in assets or a conflict of interest; etc.

*Source:* Bill of the Law on Administrative Responsibilities of Mexico City and the General Law of Administrative Responsibilities, cited in (OECD, 2017<sup>[21]</sup>), *OECD Integrity Review of Mexico: Taking a Stronger Stance Against Corruption*, OECD Public Governance Reviews, OECD Publishing, Paris.

They also need to be communicated to all public servants, citizens and other stakeholders. This information needs to show that the integrity system calls for more than simple compliance with the rules, and to prioritise the primacy of the public interest by identifying areas of risk for the integrity of public servants and government entities.

Penalties are tracked by the government (Box 3.8) and published in various locations (reports of activities of the Comptroller, quarterly bulletins and social networks such as Twitter and Facebook). The format used to disseminate this information, however, could be improved, since it is not regularly updated. In addition, no details are provided to monitor the effectiveness of enforcement of the integrity system. Some improvements are also required to identify clearly the risk areas where breaches of integrity rules are recurrent, not only to punish the public servants responsible but also to restore the integrity of the government entity, which could be compromised by the systematic behaviour of its employees.

**Box 3.8. Penalties imposed by the Office of the Comptroller-General during the current administration (from 5 December 2012 to 31 January 2017)**

According to data provided by the Office of the Comptroller, penalties were imposed on 9 083 public servants during the current administration, and a total of 9 183 penalties, from warnings to disqualification, were imposed, as detailed in the table below:

Warnings	Reprimands	Suspensions	Disqualifications	Dismissal	Dismissal and disqualification	Total
446	3 032	4 156	1 162	145	242	9 183

In its most recent report, for 2016-2017, the Office of the Comptroller reported that a total of 2 599 investigations for administrative fault were launched during this period. This volume of investigations was added to 1 000 procedures already in place. A total of 1 792 procedures were resolved, resulting in 2 001 penalties imposed on the same number of public servants. Additionally, 156 economic penalties were imposed for a total of close to MNX 3 070 million. Penalties imposed ranged from warnings to dismissal and disqualification, as detailed below:

Warnings	Reprimands	Suspensions	Disqualifications	Dismissal	Dismissal and disqualification	Total
1 023	67	668	181	2	60	2 001

Data on penalties imposed on public servants are not available online in the format used to disseminate penalties and are instead published in online bulletins. While this information shows Mexico City's commitment to zero tolerance of corruption, it only provides reference on the type of penalty imposed, without specifying the position of public servants, the ministry, territorial demarcation, deconcentrated or parastatal entities where they work and the type of administrative fault. This information could be useful to determine whether preventive measures could have been taken to avoid future recurrences of such behaviour. For preventative purposes, the information could also make reference to cases that constitute conflicts of interest, those of apparent conflicts of interest (not actual cases of conflict of interest but damaging enough to undermine public confidence), and those resolved by adopting a particular mechanism, such as holding corporate shares in a public or private corporation having dealings with the government, resignation of a position of office within a corporation or a non-profit organisation, etc.

The Office of the Comptroller-General of Mexico City mentioned that since the implementation of the assets, interests and tax declarations, it has analysed the files designated as having an alleged administrative fault for not submitting these declarations within the deadlines required by the current guidelines. However, no public information exists on the number of files under investigation and on integration to determine the appropriate penalties, which could also be helpful to ensure compliance.

No data exists on the number of files currently under investigation, even though a potential breach in the integrity system exists. When it is expected to be resolved is also not available online. These situations may suggest to public servants that it is likely the declarations will never be checked. This risks turning the exercise into a purely formal undertaking, with negative consequences.

*Source:* Author, based on the information provided by the Office of the Comptroller-General.

The lack of data publicly available on penalties imposed on a given class of position and the nature of violations related to these penalties suggest that potential issues could arise even before files are transferred to internal control units or the Tribunal. It is thus important that Mexico City ensure that, when implementing the enforcement mechanisms, the timeframes set out in the Law of Administrative Responsibilities of Public Servants (LRASP) of Mexico City are followed and penalties imposed are communicated widely both within and outside government entities.

Previous recommendations stressed the importance of establishing an Ethics Code and updating organisational codes of public entities. The overall legitimacy and effectiveness of the future Mexico City integrity framework will also depend on ensuring that enforcement mechanisms provide “appropriate and timely” responses to all suspected violations of public integrity standards (Gilman, 2005<sup>[4]</sup>). In particular, Mexico City will need to ensure that the disciplinary system is coherent and consistent with the integrity framework. Thus, it should ensure that any duty or obligation mentioned in the disciplinary system is properly linked to the Ethics Code, and provide for the enforcement of appropriate penalties, in line with the principles and conditions governing disciplinary action in Mexico City (e.g. due process, legality and proportionality).

Because of the central role that the Co-ordination Committee will have in the Local Anti-corruption System in developing integrity policies, instruments and forms within Mexico City’s public administration, the directorates of the Office of the Comptroller in charge of enforcing the integrity rules and the Directorate of Legality, which will draft the Ethics Code, should co-ordinate their work to ensure that it be properly harmonised with the accountability mechanisms and that public servants are aware of the responsibilities of their roles. Investigations set out in the bill for the LRASP of Mexico City should be held to the highest standards and be applied consistently with the new law, to avoid causing confusion among public servants. In the new integrity system, three different government entities will be charged with conducting investigations: the Office of the Comptroller-General, the internal control units (for less serious offences) and the Superior Auditor of Mexico City (for serious offences), all granted considerable discretion and not subject to a time limit to complete their investigations. Three others (the Office of the Comptroller, the internal control units and the Tribunal for Administrative Justice) will set the penalties, which could affect the consistency of the enforcement function.

Finally, the Administrative Office of the Government of Mexico City (*Oficialía Mayor*), charged with the management and development of personnel within the whole administration and the public service, should co-ordinate with the Office of the Comptroller to make sure all public servants are aware of the integrity policies and the associated penalties for failing to comply with its provisions in a timely manner.

### 3.3. Building a strong institutional framework for public ethics and conflicts of interest

#### 3.3.1. To ensure coherence in developing conflict of interest and ethics policies, Mexico City should designate a unit in the Office of the Comptroller.

Most OECD countries have delegated the development and maintenance of conflict of interest and ethics policies to a central body responsible for this matter across the government (OECD, 2014<sup>[9]</sup>). This central function may be a parliamentary committee, central agency or specialised, designated body to promote public ethics across the government. Centralising this function in one body helps to create a common understanding of values, principles and practices among public servants, to provide clear guidance, ensure coherence in the development and implementation of the integrity strategy and avoid overlaps or even contradictions when dealing with integrity issues. In Mexico City, these functions currently involve participation of seven Directorates within the Office of the Comptroller-General, whose functions sometimes overlap, as seen in Table 3.5.

**Table 3.5. Government entities within the Office of the Comptroller-General in charge of developing, maintaining and enforcing conflict-of-interest and ethics policies**

Directorates	Functions	Legal framework
<b>Directorate of Legal Affairs and Responsibilities – Office of the Comptroller-General of Mexico City</b>	Provides opinions on rules and codes, resolves integrity issues in case of doubt and prevents and fights corruption by imposing penalties in cases of contravention of the normative framework. Public servants may submit requests in writing, by phone, electronic means or by asking in person for advice. Eighteen public servants are responsible for this function.	Article 34 of the Organic Law of the Public Administration of Mexico City ( <i>Ley Orgánica de la Administración Pública del Distrito Federal</i> ) and Articles 28, 102 to 113, 113-A, 113 Ter, 113 Ters-1 to 4 of the Interior Regulation of the Public Administration of Mexico City ( <i>Reglamento Interior de la Administración Pública del Distrito Federal</i> )
<b>Directorate of Legality – Office of the Comptroller-General of Mexico City</b>	Interprets the normative framework in force and provides advice to public servants. Public servants may address their doubts or requests for advice in case of lack of clarity in any of the current legal framework or to resolve integrity issues in their workplace. Provides support especially to public procurement activities and supervises public servants' activities. Public servants may submit their request in writing, by phone, electronic means or by asking guidance and advice in person. Sixty public servants work in this directorate. Eight of these 60 public servants provide advice. Requests can be submitted by various means.	Article 34 of the Organic Law of the Public Administration of Mexico City ( <i>Ley Orgánica de la Administración Pública del Distrito Federal</i> ) and Articles 28, 102 to 113, 113-A, 113 Ter, 113 Ters-1 to 4 of the Interior Regulation of the Public Administration of Mexico City ( <i>Reglamento Interior de la Administración Pública del Distrito Federal</i> )
<b>General Co-ordination of Evaluation and Professional Development</b>	Provides assessment on training and competencies required by public servants to perform their duties and functions efficiently. Ensures training of public servants.	
<b>General Directorates of Internal control units in Ministries, deconcentrated administrative political bodies, deconcentrated administrative bodies and government entities of the public administration of Mexico City</b>	Monitor public servants' compliance in submitting their declarations of assets, tax and interests. They request from each ministry, deconcentrated administrative and entities information on public servants who submit their declarations. They verify the accuracy of assets and interests' declarations in the context of verifications and audits but do not have authority to verify, ask and cross-check fiscal and bank information.	Article 34 of the Organic Law of the Public Administration of Mexico City ( <i>Ley Orgánica de la Administración Pública del Distrito Federal</i> ) and Articles 28, 102 to 113, 113-A, 113 Ter, 113 Ters-1 to 4 of the Interior Regulation of the Public Administration of Mexico City ( <i>Reglamento Interior de la Administración Pública del Distrito Federal</i> )



<b>General Directorate of internal control units in territorial demarcations</b>	Monitors public servants' compliance in submitting their declarations of assets, tax and interests. They verify the accuracy of assets and interests' declarations in the context of verifications and audits but do not have the authority to verify, ask and cross-check fiscal and bank information	Article 34 of the Organic Law of the Public Administration of Mexico City ( <i>Ley Orgánica de la Administración Pública del Distrito Federal</i> ) and Articles 28, 102 to 113, 113-A, 113 Ter, 113 Ters-1 to 4 of the Interior Regulation of the Public Administration of Mexico City ( <i>Reglamento Interior de la Administración Pública del Distrito Federal</i> )
<b>Directorate of Assets Situation</b>	Applies guidelines on the growth of assets of public servants from ministries, administrative units, deconcentrated bodies and entities of the public administration, receives declarations of assets, analyses their contents, conducts inspections in case of external signs of wealth. Public declarations are handled by 22 public servants.	Article 34 of the Organic Law of the Public Administration of Mexico City ( <i>Ley Orgánica de la Administración Pública del Distrito Federal</i> ) and Articles 28, 102 to 113, 113-A, 113 Ter, 113 Ters-1 to 4 of the Interior Regulation of the Public Administration of Mexico City ( <i>Reglamento Interior de la Administración Pública del Distrito Federal</i> )
<b>General Directorate of Cyber Audit and Technological Projects</b>	Approves and ensures that appropriate technological support is available to submit declarations. It monitors compliance with deadlines for submitting assets, interests and tax declarations throughout the Digital Platform. Ten public servants are in charge of providing this support.	Article 34 of the Organic Law of the Public Administration of Mexico City ( <i>Ley Orgánica de la Administración Pública del Distrito Federal</i> ) and Articles 28, 102 to 113, 113-A, 113 Ter, 113 Ters-1 to 4 of the Interior Regulation of the Public Administration of Mexico City ( <i>Reglamento Interior de la Administración Pública del Distrito Federal</i> )

Source: Author, based on information provided by the Office of the Comptroller-General.

An additional Directorate has been added to this complex institutional framework since November 2016: the Directorate of Mobile Control Units (*Dirección de Contraloría Móvil*), which will hand off to the General Directorate of Legal Affairs and Responsibilities cases where irregularities are found. Its main functions are to receive and review complaints and reports from citizens, and conduct inspections and verifications in public entities, using mobile units in operation 24 hours per day in priority areas providing services to citizens. According to the Office of the Comptroller, this new directorate will promote citizens' participation in fighting corruption and resolve those claims in an expedited manner.

Analysis and interviews in Mexico City indicated that this institutional framework leaves some confusion as to which specific Directorate in the Office of the Comptroller public servants can consult for guidance in a timely fashion. This situation is exacerbated by the lack of human resources able to provide effective guidance to ministries and government entities. In addition, there is not sufficient co-ordination between these directorates, the Administrative Office of the Government of Mexico City (*Oficialía Mayor*) and the territorial demarcations (*delegaciones* or *alcaldías*) to ensure common understanding of the ethics policies. Some interesting initiatives were implemented in Mexico City to ensure this co-ordination, such as providing interactive information on the website of the Office of the Comptroller. Stands were also stationed in certain locations to answer questions related to, for instance, the filling out of declarations of assets and interests and some phone lines were offered, but they were not adequate to instil a culture of integrity.

In the SLAC-CDMX, this central function will remain in the Office of the Comptroller-General and internal control bodies whose functions will be to oversee, supervise and ensure internal control across Mexico City's public administration. They will also: specify administrative responsibilities; resolve the less serious administrative offences and substantiate the serious ones; ensure recruitment of public servants and compliance with ethics rules throughout the government; evaluate the results of measures to prevent integrity breaches annually; and propose amendments if needed. The internal control bodies will also assess the recommendations made by the Co-ordination Committee of the SLAC-CDMX to government entities of Mexico City to improve their performance and

internal control, to prevent administrative faults and corrupt acts from occurring in the first place.

While the new local anti-corruption system assigns the design, promotion and evaluation of public policies to fight corruption to the Co-ordination Committee, the design and execution of the general policy of the public administration to promote integrity and transparency in managing public affairs has been assigned to the Office of the Comptroller. This is an effective policy choice, given its experience on matters of integrity. Moreover, the intervention of internal control bodies should be dissociated from the preventing function, as their mandate is to enforce integrity rules. It is recommended that a central unit or directorate specialised in ethics and conflict of interest prevention, like the one at the federal level, be established within the Office of the Comptroller-General. Like the existing federal unit specialised in Ethics and Conflict of Interest Prevention (*Unidad de Ética, Integridad Pública y Prevención de Conflictos de Intereses*, or UEIPPCI) of the Ministry of Public Administration (*Secretaría de la Función Pública*, or SFP), this proposed ethics unit or directorate should lead the development of integrity policies, co-ordinate with ministries and government entities to implement the policies effectively and then evaluate them.

However, unlike the role of the UEIPPCI at the federal level, its role should be purely preventive. It should not process any integrity violations and should focus on developing, promoting and implementing all policies, regulations and related activities in Mexico City's public administration.

This Unit or Directorate should be in charge of defining and implementing coherent integrity and organisational policies. It could develop an open culture of integrity where ethical dilemmas, public integrity concerns and errors can be discussed freely, and it could ensure the development, implementation and update of the organisational ethics codes across government entities. In addition, it could provide policy guidance and support to other ministries in implementing integrity policies, and help to mainstream integrity measures in internal control and risk management. Its responsibilities should therefore be clearly dissociated from the enforcement function in charge of the internal control units, to encourage public servants to seek advice without being afraid of negative consequences and penalties.

This clear distinction between prevention and enforcement functions could help remove the repressive archetype typical of a legalistic approach. This typically focuses on enforcement of integrity and anti-corruption rules rather than on defining integrity within organisations. The effectiveness of this proposed integrity system will require close co-ordination between the enforcement and prevention functions, so the new Ethics Unit should work closely with internal control units and the General Directorates in the Office of the Comptroller-General. Creating a culture of integrity cannot rely only on sharing values and on individuals' intrinsic motivation.

To undertake this preventive role, Mexico City should ensure that the proposed Ethics unit has the human, financial and organisational resources to support effective implementation of integrity policies. Public servants assigned to work in this unit should hold a full-time position, be subject to the highest ethical standards and sufficiently trained to resolve and provide prompt guidance on ethical dilemmas and conflicts of interest.

A major challenge that will face this centralised unit in initiating its activities is the varying capacity of Mexico City ministries, government entities and territorial

demarcations. Interviews with public servants suggest that some territorial demarcations lack the resources to adapt the policies adopted and will need to be guided to develop a long-term strategy on how to build capacity in their own organisations. This, in turn, will require financial and human resources. Under Article 63, clause 2 of the Constitution of Mexico City and Article 8 of the LACS of Mexico City, the Co-ordination Committee will establish the basis for effective co-ordination between these preventive and enforcement functions under the jurisdiction of the Office of the Comptroller-General, the future Administrative Justice Tribunal (*Tribunal de Justicia Administrativa*) and the Specialised Anti-corruption Prosecutor (*Fiscalía Especializada de Combate a la Corrupción*). This new Ethics Unit or directorate should ensure that existing and future programmes, as well as related resources dedicated to cultivating a culture of integrity in the public administration, are also closely co-ordinated with the Administrative Office of the Government of Mexico City (*Oficialía Mayor*),<sup>1</sup> which is responsible for some aspects of human resources. In this way, integrity policies can be mainstreamed in every phase of the human resource processes.

### ***3.3.2. Mexico City could establish Ethics Units in its 21 ministries to provide coherent, timely advice on integrity.***

Even well-drafted policies promoting and managing ethics and conflict of interest issues are not sufficient to instil an integrity culture. International best practices show that organisations need dedicated and well-trained professionals or units responsible and accountable for implementing and promoting these policies. For instance, in Canada, senior officials and departmental officers for public services and values and conflicts of interest and post-employment ensure and support these two functions (Box 3.9).

**Box 3.9. Canada: Senior officials for public service values and ethics and departmental officers for conflict of interest and post-employment measures**

Senior officials for public service values and ethics:

- The senior official for values and ethics supports the deputy head in ensuring that the organisation exemplifies public service values at all levels of their organisations. The senior official promotes awareness, understanding and the capacity to apply the code amongst employees, and ensures that management practices support values-based leadership.

Departmental officers for conflict of interest and post-employment measures:

- Departmental officers for conflict of interest and post-employment are specialists within their respective organisations who have been identified to advise employees on conflict of interest and post-employment measures (...) of the Values and Ethics Code.

Source: Treasury Board of Canada Secretariat, [www.tbs-sct.gc.ca/ve/snrsl-eng.asp](http://www.tbs-sct.gc.ca/ve/snrsl-eng.asp).

These specialised units within government entities co-ordinate with the central entity to ensure effective engagement of government in promoting high standards of conduct throughout its organisations, rather than simply monitoring entities' compliance. While these specialised individuals or units are important pieces of the integrity institutional arrangement, heads and senior managers of public sector entities are also responsible for ensuring high standards of conduct in public servants' day-to-day activities and interactions with citizens and other stakeholders (OECD, 2009<sup>[3]</sup>).

Currently, the implementation and promotion of integrity policies in Mexico City is the responsibility of both the Administrative Office of the Mexico City Government (*Oficialía Mayor de la Ciudad de Mexico*), which establishes directives and takes actions on training, hiring process, development and promotion of its human resources issues, and the various Directorates of the Office of the Comptroller-General of Mexico City (as seen in Table 3.5). Employees responsible for this within these two organisations are not, however, assigned full-time to these functions, and since their other duties are not related to these subjects, capacity for streamlining integrity policies in Mexico City is weak.

At the federal level, this situation is quite different. Ethics Committees (*Comités de Ética y de Prevención de Conflictos de Interés, CEPCI*) have been established in each federal entity to implement and promote ethics and conflict of interest policies since 2015. These committees were created by the Agreement issuing the Ethics Code for public servants of the Federal Government, the Integrity Rules for the exercise of the public function and the General Guidelines for enhancing the integrity of public servants and implementing permanent actions to promote ethical behaviour through the Ethics and Prevention Committees (*Acuerdo que tiene por objeto emitir el Código de Ética de los servidores públicos del Gobierno Federal, las Reglas de Integridad para el ejercicio de la función pública, y los Lineamientos generales para propiciar la integridad de los servidores públicos y para implementar acciones permanentes que favorezcan su comportamiento ético, a través de los Comités de Ética y de Prevención de Conflictos de Interés*) as an official link and contact point between the central Ethics Unit in the SFP and the federal entities. Their mandates evolve around three main issues: review, implementation and evaluation of organisational codes of conduct; promotion of guidance over integrity policies, including trainings; and reception and processing of integrity violations (OECD, 2017<sup>[2]</sup>).

The OECD identified various challenges that Ethics Committees at the federal level will face when exercising their functions. These include a lack of training on integrity matters for its members; the fact that its members do not have full-time positions; that their performance depends on the individual motivation of its members; their position in the organisational chart of each government entity was not clear; their budget is insufficient, as is their co-ordination with the head of each government entity; and the fact that they play an enforcement rather than preventing role (OECD, 2017<sup>[2]</sup>). Mexico City should consider these challenges in implementing the proposed recommendation.

In the context of approving the SLAC-CDMX legislative framework, the Office of the Comptroller has indicated that Ethics Committees will be created in Mexico City's 21 ministries to provide advice and ensure the enforcement of ethics and conflict of interest policies. No guidelines for their functions and organisational composition have been drafted or discussed among its public servants. In drafting these guidelines, Mexico City could consider the experience of the existing CEPCIs but should avoid the weaknesses identified at the federal level (OECD, 2017<sup>[2]</sup>) and clearly define their

preventing role. Mexico City should thus note that ensuring consistency of this new institutional arrangement requires effective co-ordination between all actors responsible, to provide guidance to public servants and implement the new rules, to avoid sending contradictory messages to public servants.

Given the budgetary constraints and the size of each ministry in Mexico City, positive experiences from other countries, such as Canada (Box 3.9) and Germany (Box 3.10), could be considered for reference.

### **Box 3.10. Germany's contact persons for corruption prevention**

Germany, at the federal level, has institutionalised units for corruption prevention as well as a person responsible for promoting corruption prevention measures within a public entity. The contact person and a deputy must be formally nominated. The "Federal Government Directive concerning the Prevention of Corruption in the Federal Administration" defines these contact persons and their tasks as follows:

1. A contact person for corruption prevention shall be appointed based on the tasks and size of the agency.

One contact person may be responsible for more than one agency. Contact persons may be charged with the following tasks:

- serving as a contact person for agency staff and management, if necessary without having to go through official channels, along with private persons;
  - advising agency management;
  - keeping staff members informed (e.g. by means of regularly scheduled seminars and presentations);
  - assisting with training;
  - monitoring and assessing any indications of corruption;
  - helping keep the public informed about penalties under public service law and criminal law (preventive effect) while respecting the privacy rights of those concerned.
2. If the contact person becomes aware of facts leading to a reasonable suspicion that a corruption offence has been committed, he or she shall inform the agency management and make recommendations on conducting an internal investigation, on taking measures to prevent concealment, and on informing the law enforcement authorities. The agency management shall take the necessary steps to deal with the matter.
  3. Contact persons shall not be granted any authority to carry out disciplinary measures or lead investigations in disciplinary proceedings for corruption cases.
  4. Agencies shall provide contact persons promptly and comprehensively with the information needed to perform their duties, particularly with regard to incidents of suspected corruption.

5. In carrying out their duties of corruption prevention, contact persons shall be independent of instructions. They shall have the right to report directly to the head of the agency and may not be subject to discrimination as a result of performing their duties.
6. Even after completing their terms of office, contact persons shall not disclose any information they have acquired about staff members' personal circumstances; they may, however, provide such information to agency management or personnel management if they have a reasonable suspicion that a corruption offence has been committed. Personal data shall be treated in accordance with the principles of personnel records management.

Source: German Federal Ministry of the Interior "Rules on Integrity",\*  
[https://www.bmi.bund.de/SharedDocs/Downloads/EN/Broschueren/2014/rules-on-integrity.pdf?\\_\\_blob=publicationFile](https://www.bmi.bund.de/SharedDocs/Downloads/EN/Broschueren/2014/rules-on-integrity.pdf?__blob=publicationFile).

Thus, the Office of the Comptroller could identify 21 public officials among those who have already received ethics training, obtained the highest score in the assessment of their ethical profile made under the new Integral and Preventing Evaluation (*Evaluación Preventiva Integral*, EPI) and have expressed interest in this matter. These should be designated to serve as Integrity Contact Points. These public servants should be clearly integrated in the structure of each ministry, should exercise their mandate independently of internal pressure of any kind, report directly to the head of the public entity, and be informed and properly trained on the new role they will play by the proposed dedicated ethics unit within the Office of the Comptroller. Their mandate should focus exclusively on providing guidance on integrity matters and not on processing complaints. That task would need to be completely distinct, in dedicated units (see Chapter 6. on internal control and the section in this chapter on the administrative disciplinary regime).

To ensure the effectiveness of this proposed integrity measure, the Office of the Comptroller should co-ordinate and liaise with all Integrity Contact Points (or persons) in the public administration, monitor their work, provide tools and materials, support them with *ad hoc* guidance, and provide up-to-date trainings focusing on integrity management. This practice is followed in the Netherlands, where such training courses are aimed at providing insight into the role of an integrity officer (Huberts and Hoekstra, 2016<sup>[12]</sup>). These training courses could be built in co-ordination with the School of Public Administration (*Escuela de Administración Pública de la Ciudad de Mexico*, or EAP). Additionally, a network between these public servants should be established to ensure consistency of the message, to maintain a critical view of the integrity policy across Mexico City organisations and to offer an opportunity to learn from each others' experiences.

Finally, to ensure coherence of the SLAC\_CDMX system, these proposed Integrity Contact Points and the Ethics Unit within the Office of the Comptroller need to co-ordinate with all members of the SLAC-CDMX Co-ordination Committee, set out in Article 63 Clause 2 of the Mexico City Constitution, in order to determine whether a large Integrity Contact Point staffed by more than one person could be set up in future.

### ***3.3.3. Strategic human resources management could reinforce integrity initiatives in Mexico City's public administration, to help restore public trust.***

Enhancing integrity standards in the public administration is not enough to create a strong integrity environment. A strong institutional fabric is needed, rather than a purely formal commitment. Committed public servants with the legal authority to supervise compliance with ethics rules and prioritise public interest can help guarantee a successful integrity system, but they need to be supported at the highest levels by senior leaders and high-ranking officials, who must lead by example.

In Mexico City, high-ranking officials and managers have expressed their commitment to set the highest standards of conduct in all public organisations, by participating actively in training sessions and forums on public integrity. However, effective implementation of the integrity institutional framework will require commitment. To build and to retain the required human capital to work on integrity issues, public servants need the expertise for carrying out the mandate, responsibilities that prioritise integrity initiatives and excellent job conditions.

International experience suggests that personnel working on integrity issues should be granted an appropriate level of job security, earn salaries that reflect the nature and specificity of their work and, to some extent, be shielded from undue political interference in the exercise of their functions, to ensure continuity and consistency in the decisions they make. All these requirements are necessary to ensure that the proposed public servants working as Integrity Contact Points exercise their duties and functions in a consistent, coherent and unbiased manner.

The enactment on 13 June 2000 of the first Public Service Law for the Public Administration in Mexico City (Ley del Servicio Público de Carrera de la Administración Pública del Distrito Federal, or LSPCAP) attempted to professionalise the public service by instituting merit-based management of its workforce and establishing a performance evaluation system, professional training and promotion. However, the law was not effectively enforced. It was amended on various occasions, and sought to professionalise the public service in Mexico City by establishing a merit-based approach, guaranteeing public servants equal opportunities and continuous development. It was enacted to ensure that public administration achieve its goals, execute programmes to satisfy citizens, provide quality services and employ qualified personnel acting impartially and free of prejudice who were loyal to the organisation.

Unlike legislation in the United States, Canada and some European, Asian and Latin-American countries, the LSPCAP did not include a set of rules and principles regulating all public servants' behaviour within the civil service regime (Dussauge Laguna, M., 2007<sup>[13]</sup>). The latest version of this law, dated 26 January 2012, notes that it should apply essentially to middle managers and personnel of free appointment of the central administration, who were considered part of the civil service, but not to unionised employees or to a specific number of professionals from various sectors (education, public safety, law, etc.).

As currently written, this opened the door to exempt from its application directors of divisions and counterparts involved in political activities, who were included in a list, and some personnel were appointed under exceptional circumstances for short periods of time. In practice, it was used as a permanent basis for covering the requirements of the various units and directorates of Mexico City public organisations. The contracts now offered to a large percentage of public servants do not offer job security, and allow for the

dismissal of staff without reason and without notice. As a result, staff need to consider alternatives – and are likely to seek out other means of financial security.

In interviews with public officials, it was noted that staff were recruited based on family, personal or political relationships, with no formal hiring process before the new Integral and Preventing Evaluation. If staff members are dismissed, there is a risk they might leave with sensitive information. This situation seems worst at the territorial demarcations level, since after each election of a new delegate (*delegado*) a high percentage of those working in the various divisions and units of the territorial demarcations give up their positions to members of a new workforce.

Adopting a clear and transparent appointment (and dismissal) procedure for public servants, based on merit, would help reinforce internal control and a culture of integrity in the government of Mexico City. At present, the employees in charge of ensuring integrity are often personnel of free appointment (*de confianza*).

To uphold standards of conduct among its public servants, Mexico City adopted internal policies and guidelines stipulating that high-ranked public servants provide guidance to their subordinates on how to conduct themselves in the exercise of their daily activities and also on prohibited conduct. However, interviews with public officials confirmed that these policies and guidelines did not have the intended effect. The guidelines outlining deadlines, procedures, exceptions and tools to submit, for instance, and the disclosure of public servants' assets, interests and revenue, did not help managers provide advice and counsel to their subordinates or resolve ethical dilemmas and conflicts of interest as they arise. They were also not helpful in generating open discussions with employees on performance results, the challenges faced in obtaining these results and ethical dilemmas or conflicts of interest encountered.

Leadership positions play a key role in promoting integrity within organisations, and the current turnover in personnel undermines that goal. Open dialogue among public servants is important for buy-in of integrity strategies (Zepeda, 2016<sup>[14]</sup>). Mexico City would do well to consider adopting a new Law of Public Service within the future integrity policies. This would be adopted in the context of the SLAC-CDMX, to create a more stable public service, and it could help ensure the implementation of public integrity policies that promote an integrity culture in the public administration. The Office of the Comptroller-General could co-ordinate this initiative, since it is responsible for establishing the procedures and guidelines to assess the competencies and performance of public servants, the recruitment of candidates for positions and for co-ordinating the operation and development of public service career system within the public administration, under the Organic Law of the Organic Administration of Mexico City (*Ley Orgánica de la Administración Pública del Distrito Federal*, or LOAP).

In addition to this proposed new public service law, other human resources policies could help achieve this objective. Integrity measures could also be incorporated into human resources management (HRM) practices in general (Table 3.6). It is the employees who ultimately shape and build an open organisational culture, encouraging ethical behaviour and open discussion for resolving any ethical problems. In addition to including integrity trainings in the induction process for entry into the public service, integrity should also be streamed in HRM processes at the recruitment level.



**Table 3.6. Mainstreaming integrity throughout HRM practices**

HRM practices	Mainstreaming integrity
Human resources planning	Assessing integrity risks of different positions and planning accordingly
Entry	Background checks, ethical tests, managing potential conflicts of interest arising from previous employment (the “revolving door”); developing job descriptions with ethical considerations in mind
Professional development, training and capabilities certification	Customised trainings on integrity policies
Performance evaluation	For managers: assessing management of their employees’ ethical dilemmas or conflicts of interest; For employees: assessing adherence and compliance with integrity policies
Severance	Monitoring potential conflicts of interest arising from subsequent employment (i.e. the “revolving door”)

Source: (OECD, 2017<sup>[21]</sup>), *OECD Integrity Review of Mexico: Taking a Stronger Stance Against Corruption* (p. 62), OECD Publishing, Paris.

### ***3.3.4. The Integral and Preventing Evaluation (EPI) could help ensure that public service integrity values are mainstreamed in human resources management.***

The Office of the Comptroller recently developed a recruitment evaluation mechanism for public servants in various public organisations, to support its General Development Programme 2013-2018. Adopted on 21 July 2016, the Integral and Preventing Evaluation (Evaluación Preventiva Integral, or EPI) is a recruitment tool to evaluate the performance of public officials in 12 areas of competency. These include “respect for institutional values” and cover behaviour from recruitment to the termination of employment (Box 3.11). This assessment was first developed for the police and public safety staff, but was extended to the hiring of all medium- to high-level public service positions in Mexico City. The Office of the Comptroller-General considers this evaluation a tool for guaranteeing public official competences, suitability, honesty and a high level of public trust in the exercise of their duties and functions, as well as to prevent misconduct and deter corruption.

### Box 3.11. Recruitment process and integrity under the Integral and Preventing Assessment (EPI)

Adopted on 20 July 2016, the Integral and Preventing Evaluation (*Evaluación Preventiva Integral*, EPI) is an important mechanism for controlling, preventing and fighting corruption as part of the initiatives to establish the Local Anti-corruption System and to strengthen public service in Mexico City.

The EPI uses the job profile as a benchmark and consists of evaluations measuring public officials' level of trust, examining their reliability and integrity, as well as considering their professional competences. It consists of a psychometric evaluation, psychological interviews, socio-economic investigations and polygraph examinations. The goal is to select the best candidate to occupy the position and ensure that his or her profile fits with the list of requirements for the position.

It is administered by the General Co-ordination of Evaluation and Professional Development (*Coordinación General de Evaluación y Desarrollo Profesional*), and public servants are administered its four examinations when they are recruited or promoted to higher positions; change their positions within the public administration or are appointed to a permanent position. Its purpose is to satisfy the requirement of professionalisation of candidates for the position they are applying to.

Tests are administered to all public servants, with the exception of those who are unionised, working in ministries, deconcentrated administrative bodies and certain other government entities of Mexico City public administration. Territorial demarcations (*delegaciones*) do not use the EPI as a recruitment mechanism.

After the administration of the EPI's examinations, areas for improvement are identified and, if necessary, further training sessions are recommended, as a part of the strategy to enhance public servants' integrity. Only officials whose evaluations indicate they require training in ethical values receive a refreshment training session.

In 2016, the Office of the Comptroller administered 8 946 assessments at the recruitment level and on the occasion of a public official's promotion to a higher position.

*Sources:* Ciudad de Mexico (2016), 4to Informe de Gobierno, p. 514, document online; Contraloría General de la Ciudad de Mexico, 4to Informe de Gobierno (2016), Contraloría General de la Ciudad de Mexico (2017), Informe de Actividades, electronic version not available to the public.

While the EPI is an interesting and innovative recruitment tool, it raises some concerns about the validity and accuracy of the assessments administered. Using polygraphs to test an individual's honesty is controversial, since how nervous the person tested can influence the result (American Psychological Association, 2004<sup>[15]</sup>). Such an assessment cannot guarantee that qualified candidates will follow the required ethical rules or detect potential conflicts of interest and resolve ethical dilemmas.

Mexico City requires all potential candidates to undertake psychometric testing, but this is a considerable weakness in the current recruitment practices. There are no effective controls to ensure that appointments are made based on merit and in accordance with the profile of the position open for recruitment. Vacancies are not advertised online, even though this is required by the Transparency Law. The tests administered do not include integrity questions on the candidate's experience and background or in dealing, for example, with authority, diverse cultures and financial management, and they do not expose candidates to ethically complex situations where they should use sound judgment rather than follow instructions, etc. Mexico could consider international experience to enhance the EPI, to ensure that it is administered objectively.

Another area of concern with the EPI is that it is administered when public servants move from one public organisation to another, or are promoted to another position, but not when they move within their organisation. As currently structured, it focuses only on the recruitment process and does not include a review of public official performance while the public servant is occupying the position. It is thus recommended that Mexico City adopt an effective performance evaluation mechanism and consider issuing guidelines including ethical and integrity issues. Managers and supervisors would use such tools for regular performance evaluations of their personnel (Box 3.12). Managers should be trained in: how to use judgement when cases are brought to their attention; how to identify and signal unethical behaviour in discussions with their staff; how to promote a culture of open discussion in the workplace; and how to resolve conflicts of interest when they arise.

#### **Box 3.12. Canada's performance management tool in the Public Service**

In 2015, the Treasury Board Secretariat of Canada issued a new Performance Management strategy. This is intended as a tool to improve the work performance and productivity of individuals, teams and organisations in the Canadian public service. It was adopted to help the Canadian public sector respond to budgetary and fiscal pressures, increasing demands for public services, and the need for more transparency in reporting on the use of government funds. Under the guidelines issued, its proper implementation in the public service can help build and maintain trust between employer and employee, and create conditions to allow all employees to maximise their contributions and provide world-class service to Canadians.

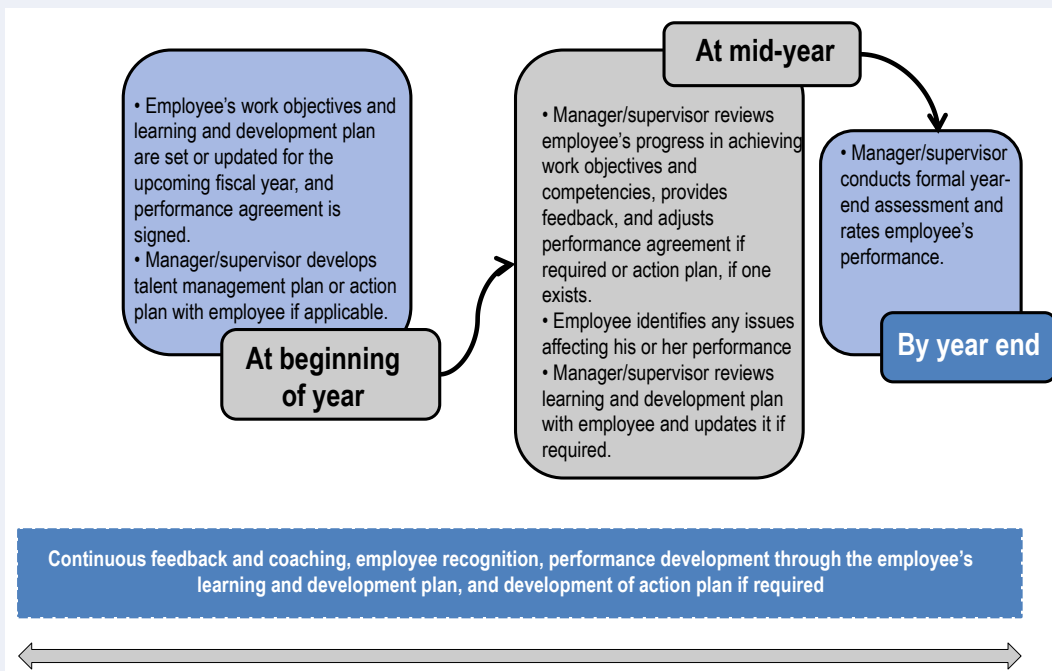
This Performance Management strategy is the responsibility of deputy heads, or their delegates, who should ensure its consistent, equitable and rigorous implementation across the core public administration. The focal point of performance management is the performance agreement, which spells out the work expectations for each employee.

### The performance management annual cycle:

Performance management is an ongoing process that involves planning, developing, coaching, providing feedback and evaluating employee performance. Some performance management requirements are time-specific:

- at the beginning of the fiscal year, when performance expectations are established;
- mid-year, when performance is reviewed; and
- by year-end, when performance is assessed.

Other requirements are ongoing and apply to activities throughout the year and for employees on probation. These include review panels.



Source: Treasury Board Secretariat, "Performance management program for employees", document available online: [www.canada.ca/en/treasury-board-secretariat/services/performance-talent-management/performance-management-program-employees.html](http://www.canada.ca/en/treasury-board-secretariat/services/performance-talent-management/performance-management-program-employees.html).

Properly used, performance evaluations are invaluable tools for transmitting values and expectations, evaluating past and future objectives, and identifying talented employees and issues that may affect the organisational culture. They can also help uphold standards of conduct in the workplace, but they require administration by well-trained managers, as confirmed by a Canadian public service employee survey (OECD, 2016<sup>[16]</sup>) cited in Box 3.13.

**Box 3.13. Managers' key role in establishing an integrity policy**

Managers play a key role in instilling an integrity culture. A Canadian survey of public service employees found that “sound leadership, at both the supervisor and the senior management level, is closely associated with positive perceptions of values and ethics in the workplace. Employees whose supervisor exhibits good management practices, such as providing feedback on their job performance, keeping promises, informing them about issues affecting their work, and assessing their work against identified goals and objectives, tend to respond more positively to questions about values and ethics. For instance, employees who agreed that they receive useful feedback from their immediate supervisor on their job performance were more likely than employees who disagreed to indicate that:

- They know where they can go for help in resolving an ethical dilemma or a conflict between values in the workplace (82% versus 51%).
- Discussions about values and ethics occur in their workplace (66% versus 35%).
- Senior managers in their organisation lead by example in ethical behaviour (68% versus 28%).” (Treasury Board of Canada Secretariat, 2012-13).

It is worth noting that the text of any code of conduct and the arrangements for implementing it should be reviewed on a regular basis, to make sure they are well-adapted to current needs and that any deficiencies are rectified.

*Source:* Cited in (OECD, 2016<sup>[17]</sup>), *The Implementation of the Palestinian Code of Conduct: Strengthening Ethics and Contributing to Institution-Building*, OECD Public Governance Reviews, OECD Publishing, Paris.

### 3.4. Strengthening integrity culture in Mexico City by raising public servants' awareness of ethics and conflicts of interest

#### ***3.4.1. Mexico City could initiate an awareness-raising campaign co-ordinated by the proposed Ethics Unit, Integrity Contact Points (or persons), human resources representatives of public organisations.***

When the Office of the Comptroller implemented its current integrity policies, it adopted several awareness-raising measures comparable to those adopted in OECD countries, which range from:

- dissemination of rules or guidelines when the public official takes office;
- proactive updates on any changes to the public integrity framework;
- publication of the public ethics policies online or on the organisation's Intranet;
- regular reminders about public integrity policies;
- training;
- regular guidance and assistance;

- advice lines or help desks where officials can receive guidance on filing requirements or conflict-of-interest identification or management (OECD, 2014<sup>[9]</sup>).

Upon joining Mexico City organisations, newly recruited candidates are asked to sign in duplicate a copy of the COSP, which then is sent to the Administrative Office of the Government of Mexico City (*Oficialía Mayor*) and to the Office of the Comptroller-General. A copy is filed in the official protected personnel dossier at the Administrative Office of the Government of Mexico City, as is a copy of the employment contract.

Additional measures have also been taken to disseminate integrity policies throughout the government. These include: publishing the COSP on each website of Mexico City organisations and communicating this policy to its territorial demarcations; editing booklets and leaflets for distribution among public servants; publishing the results of the implementation of the public declarations policy in the website with the slogan “We all do it. Clear accounts for you” (*Todos Cumplimos. Cuentas claras por ti*), setting up training sessions to ensure their compliance with the public declarations rules, providing assistance using a telephone number, etc.

Interviews with public servants and a review of the documents obtained indicated that no reminders of these integrity rules or additional guidelines were issued to clarify any problems that might arise, to guide public servants in the daily exercise of their duties and functions. Moreover, no monitoring mechanisms were set up to ensure the effective implementation of the policies. A considerable number of ministries and territorial demarcations have not complied by publicising the COSP, even though they are required to do so under the code. Additional problems were also reported by public officials with the implementation of some integrity policies in territorial demarcations and some decentralised bodies and government entities.

In light of these issues, Mexico City needs to consider these challenges and draft a clear communication strategy to raise awareness of the future Ethics Code and integrity policies, the available tools and guidance for public servants, so that consensus can be reached among them. To ensure reaching out all Mexico City public organisations, including territorial demarcations when implementing this new integrity framework, Mexico City could launch a consciousness-raising campaign co-ordinated by the proposed Ethics Unit, the Integrity Contact Points (or persons) and responsible for human resources in public organisations, and including reaching out to the private sector, civil society organisations and citizens.

These awareness-raising campaigns could include: posting conspicuous banners with the principles and values of the new Code at the entrance of each location; reminders of each value every month in public servants’ Intranet system; surveys of officials for their feedback on implementation of the integrity policies; practical tools, such as workplace calendars with anti-corruption information, for example deadlines for submission of asset declarations; reminders of principles to guide public officials’ behaviour, etc. Such guiding measures could support the Local Anti-corruption System and should aim to uphold public servants’ standards of conduct that need to focus on the public interest.

***3.4.2. Ethics Units could be created at the Office of the Comptroller implement raising awareness training programmes based on the results of a survey on training needs and such trainings be offered in an annual basis tailored to each public organisation.***

In addition to the above-mentioned awareness-raising initiatives, ethics training programmes also need to be drafted to ensure that public servants become partners in creating an integrity culture. The behavioural objective is to encourage public servants to ask ethical questions, and that managers come to see this as a natural part of their day-to-day work (Gilman, 2005<sup>[4]</sup>). To achieve this objective, special attention should be paid to the preparation and design of ethics training. Training could be developed for individual public organisations or target groups of officials, be interactive, led by management, address legal requirements/rules and values; based on real scenarios that are associated with the activities of the institution or group of public servants and are relevant for the public organisation or group of officials to which they are addressed.

Ethics training cannot be considered a one-time exercise. Experience suggests that training needs to be repeated as people forget, circumstances may change, and responsibilities increase, law and regulations could be amended or new ones could be enacted (see Box 3.14). For these reasons, the most rigorous ethics regimes embarked on a strategy that emphasises regular training exposure (Gilman, 2005<sup>[4]</sup>).

The Office of the Comptroller-General with the collaboration of the School of Public Administration of Mexico City (*Escuela de la Administración Pública de la Ciudad de Mexico*, EAP) and the Administrative Office of the Government of Mexico City (*Oficialía Mayor*) as well as the Mexico City's Institute for Transparency, Access to Public Information, Data Protection and Accountability (*Instituto de Transparencia, Acceso a la Información Pública, Protección de Datos Personales y Rendición de Cuentas de la Ciudad de México*, or InfoDF) have built a series of training programmes as detailed in Table 3.7.

**Table 3.7. Training sessions provided to public servants in Mexico City since 2015**

Training sessions	Target Audience
<p>Applying public policies to promote values and principles within the public service and prevent conflicts of interest (<i>Aplicación de las Políticas Públicas de Actuación para Promover los Valores y Principios que rigen al Servicio Público y para Prevenir la Existencia de Conflicto de Intereses</i>).</p> <p>Main objective: Familiarise public servants with the government strategy on preventing conflicts of interest, current policies on conflicts of interest, guidelines on disclosure of assets, interests and tax information.</p>	Public servants from all government entities (ministries, deconcentrated bodies, government entities and territorial demarcations). In its first phase of implementation, 353 public servants from the Office of the Comptroller and 62 from the internal control bodies received this training.
<p>Mandatory training course explaining how to fill out the declaration of no conflict of interest (<i>Consulta-Respuesta de No Conflicto de Intereses y Manifestación de No Conflicto de Intereses</i>) forms.</p> <p>Main objective: This training course also focused on ethics or management of conflicts of interest.</p>	Public servants from public organisations of Mexico City who participate in public procurement processes. During the first stage of its implementation in 2015, 25 training sessions were offered to 171 public servants from 59 public organisations.
<p>Online 16-hour training course on Public Ethics and Administrative Responsibilities (<i>Ética Pública y Responsabilidades Administrativas</i>) offered by Mexico City's School of Public Administration of (<i>Escuela de Administración Pública de la Ciudad de México</i>) on public ethics, basic ethical concepts and exercises to assess their own behaviour, resolve ethical problems and identify inherent public service values designed and implemented as part of the implementation of the objectives of the General Development Programme 2013-2018.</p> <p>Main objective: Ensure that officials occupying a position in Mexico City public organisations uphold highest standards of conduct in exercising their duties and functions.</p>	All public servants occupying a position within the organisational structure and those receiving a salary working in the government of Mexico City. A total of 3 059 have received this training since February 2016.
<p>Voluntary in-class training sessions offered by the Office of the Comptroller-General to raise awareness of ethical standards.</p>	All public servants in Mexico City public organisations.
<p>Certification of internal control officers in co-operation with the School of Public Administration of Mexico City (<i>Escuela de la Administración Pública de la Ciudad de México</i>).</p> <p>Main objectives: Professionalise all public servants working in internal control bodies across Mexico City organisations.</p>	Experts on the field at the director-general level, from the internal control units of ministries, deconcentrated bodies, government entities and political administrative bodies.
<p>Training course on professional competences with the purpose of enhancing professionalism and capacity of public servants in various aspects, including public service and ethics to promote efficiency, professionalism, impartiality, ethics within preventive, efficient management against corruption.</p>	All public servants. Almost 1 233 public servants were certified in 2016 and the first quarter of 2017.
<p>Workshop to revitalise ethics and integrity in public servants of Mexico City (<i>Taller para Revitalizar la Ética e Integridad en las Personas Servidoras Públicas de la Ciudad de México</i>)</p> <p>Main objective: Generate an ethics culture and integrity among public servants. The course was offered for the first time on February 2017, to encourage public servants to reflect on the importance of their behaviour. In executing their duties and functions they need to be in line with the ethics and standards of conducts of its public service. This training seems to be focused on discussion on how to apply these standards in their daily work.</p>	All public servants of Mexico City public organisations.
<p>Mandatory online training session on ethics offered by INFODF (Instituto de Acceso a la Información Pública y Protección de los Datos Personales de la Ciudad de Mexico). While all public servants received a certification for attending these two training sessions, it seems not to have provided specific guidelines to middle managers or head of offices on how to apply and promote these ethical rules in the workplace.</p>	All public servants across Mexico City organisations. A total of 2 040 public servants received this training between January and June 2016.

*Source:* Author, based on the information provided from the Office of the Comptroller-General and available online and in reports issued by Mexico City.

Discussions with public servants showed that this ethics trainings was appreciated by attendees but that their content was considered too theoretical and general in nature and could not be applied in their daily work. In the particular case of territorial demarcations, these ethics trainings were offered only to managers and not to other officials that resulted in an incomplete adoption of these integrity policies. Moreover, from these discussions it appears that, while public servants received an induction training to



familiarise them with the public administration of Mexico City, they could not remember whether the training made reference to the requirements, rights and obligations related to their positions and the values of Mexico City organisations. They also mentioned, for instance, that after induction trainings, no follow-up was conducted to assess its effectiveness or receive their feedback.

International experience suggests that induction training offers an excellent opportunity to set the tone on integrity at the very beginning of the working relationship, explaining the principles and values associated with working for the public sector and to highlight ethical issues and conflicts of interest that may arise in the exercise of public functions (Box 3.14).

#### **Box 3.14. Integrity induction training for public servants in Canada**

In the Government of Canada, integrity training for public sector employees is conducted at the Canada School of Public Service. The Treasury Board Secretariat works closely with the School to develop training for employees on ethics. The School recently updated the orientation course for public servants on values and ethics, which is part of a mandatory curriculum for new employees. In addition, the course is used by federal departments as a refresher for existing employees, to ensure they understand their responsibilities under the Values and Ethics Code for the Public Sector. To ensure accessibility for all public servants, the course is available online.

The course focuses on familiarising public servants with the relevant acts and policies, such as the Values and Ethics Code for the Public Sector, the Public Servants Disclosure Protection Act, and the Policy on Conflict of Interest and Post-Employment. Additionally, modules on ethical dilemmas, workplace well-being and harassment prevention are included in the training. Through the five different modules, public servants not only increase their awareness of the relevant policy and legislative frameworks, but also develop the skills to apply this knowledge as a foundation to their everyday duties and activities.

The training course includes a dedicated module on the Values and Ethics Code for the Public Sector. The module highlights the importance of understanding the core values of the federal public sector as a framework for effective decision making, legitimate governance as well as for preserving public confidence in the integrity of the public sector. The module contains a section on duties and obligations, laying out the responsibilities for employees, managers/supervisors, and deputy heads/chief executives in detail. This section also discusses the Duty of Loyalty to the Government of Canada, stating that there should be a balance between freedom of expression and objectiveness in fulfilling responsibilities, illustrated with an example from social media. At the end of the module, two questions are posed, to ensure that participants have understood the purpose of the Values and Ethics Code for the Public Sector and the foundation for fulfilling one's responsibilities in the public sector.

An innovative component of the integrity training course is the module on ethical dilemmas. The purpose of the module is to ensure familiarity with the Values and Ethics Code for the Public Sector, and it includes a range of tools to cultivate ethical decision making amongst public servants. The module also informs public servants of the five core values for the Canadian public service – respect for democracy, respect for people, integrity, stewardship and excellence – prompting them to think about how

to apply these values in their everyday role. Key risk areas for unethical conduct, such as bribery, improper use of government property, conflict of interest and mismanagement of public funds are identified, with descriptions that put the risks into practical, easy-to-understand language. By posing three different scenario questions and asking participants to select competing public sector values, the module also encourages public servants to think about how conflicts between these values may be resolved.

*Source:* Treasury Board Secretariat, Canada.

The Office of the Comptroller could therefore consider developing, in collaboration with the EAP, a comprehensive capacity-building strategy for its public administration, to ensure a common understanding among all public servants about how the machinery of the government works, the core values of the public administration and prompting them to think about how to apply these values in their daily work.

To ensure a common understanding on the integrity rules and help to instil a culture of integrity in its public entities, Mexico City could also call upon the proposed Ethics Units in the Office of the Comptroller to conduct surveys on training needs to identify those subject matters that need to be revisited.

In addition to induction training programmes, Mexico City could also consider building a strategy to continuously maintain training offered to high-ranking officials and work with them to develop their own integrity action plan. This would identify integrity risks and challenges in their workplace. They would also discuss how they intend to implement these plans, what the potential barriers are to implementing these action plans, and provide each other support and share ideas on potential solutions. The example of the sub-national government of Catalonia can be instructive in this regard (see Box 3.15).

### **Box 3.15. Follow-up to ethics trainings in Catalonia**

Ethics training provided by the Anti-Fraud Office of Catalonia is based on a training itinerary, rather than on a one-off training course approach. Follow-up for a training course is an important part of the itinerary. During the training course, each participant develops his or her own integrity action plan. In this plan, each participant identifies integrity risks and challenges in their individual workplace. During the follow-up trainings, participants discuss the implementation of their personal plan. They discuss barriers that have been identified in implementing the actions proposed in their individual action plan, and provide each other support, sharing ideas on solutions.

*Source:* OECD-ACN and SIGMA (2013), “Ethics training for public officials”, presentation by Jordi Tres, Head of Training Department, Anti-Fraud Office of Catalonia, at the Vilnius seminar, p. 18, [www.sigmaxweb.org/publicationsdocuments/EthicsTrainingforPublicOfficials\\_11Feb2013.pdf](http://www.sigmaxweb.org/publicationsdocuments/EthicsTrainingforPublicOfficials_11Feb2013.pdf).

Finally, Mexico City could make some improvements to the training programmes offered to professionalise public servants in charge of doing audits or public procurement (see Chapters 6 and 7), to ensure that they will be able to identify and properly manage and resolve conflict of interest and ethics dilemmas that could arise in the context of their activities. The training now offered to those working on these area of activities focuses more on familiarising them with how to verify if the declaration of no conflict of interest

has been properly filled out and provide assistance if required rather than to detect potential conflicts of interest that may affect the integrity of the public decision process.

### ***3.4.3. Mexico City could consider using e-learning tools to raise awareness of the new ethics framework and help public servants identify and resolve conflicts of interest and ethics dilemmas***

In Mexico City, e-learning has been implemented for the training course on Public Ethics and Administrative Responsibilities with some success. It was built in modules with self-assessment sections that helped public servants to observe the increase of their knowledge. Mexico City could consider using this same format for e-learning modules. Public servants could be presented with past cases in the public administration, to see how they could be resolved based on the current integrity framework. This e-training course could help them recognise, manage and resolve ethical dilemmas and conflicts of interest that could arise in at-risk areas, encouraging an open culture for discussions of these matters within the public organisations, to remain alert for potential situations that may arise.

The e-training should include scenarios that encourage public servants to reflect on solutions that are best for the public interest. Public servants should also be reminded that they should seek practical advice and guidance when dealing with grey, unregulated areas. They could be encouraged to consult their superiors, the new proposed Ethics Unit or the proposed Integrity Contact Points. Refresher ethics training with similar content should be offered to managers and other public servants. Ethics dilemmas evolve based on changes that may occur as a result of government priorities and complex interactions with the private sector. The effectiveness of this ethics training can be increased if it is part of a more comprehensive framework. Channels for reporting suspicions of corruption by public servants, whistle-blower protection, and other corruption prevention measures in the context of the integrity strategy, could also be explored.

### ***3.4.4. Mexico City could also consider experimenting with mechanisms based on insights from research in behavioural sciences, and consider scaling up successful interventions to build a strong integrity culture.***

The conventional approach to preventing corruption and encouraging integrity is essentially based on a traditional rational choice model, in which individuals maximise their self-interest through a decision-making process based on a cost-benefit analysis of alternatives. This usually uses the lens of a principal-agent-client approach, excluding psychological aspects (OECD, 2017<sub>[1]</sub>). Integrity policies usually stress the importance of imposing control and penalties, as mechanisms both to increase the costs and lower the benefits of undesirable behaviour. They also typically reduce decision makers' discretion to reduce their scope for misbehaviour, or at least manage the risks that arise with conflict of interest rules, ethics codes or codes of conduct. These traditional measures are sometimes perceived as ineffective. Questions have been raised as to whether their costs outweigh the supposed benefits (Anechiarico and Jacobs, 1996<sub>[18]</sub>).

New experimental evidence, both from the laboratory and the field, has provided a more comprehensive picture of humans facing perverse incentives (Lambsdorff, 2012<sub>[19]</sub>). A body of research that can help to frame innovative and effective approaches to integrity and to combat corruption now exists (Lambsdorff, 2012<sub>[19]</sub>) and (Lambsdorff, 2015<sub>[20]</sub>); (Boehm, Isaza E and Villalba Díaz, 2015<sub>[21]</sub>). In recent years, some countries and

international organisations, such as the World Bank and the OECD, have incorporated behavioural science into their public policy.

In addition to adopting a new integrity framework in the context of the SLAC-CDMX, Mexico City could consider completing future measures, such as the adoption of its new Ethics Code and others to ensure its effective implementation based on insights from research in behavioural sciences. For this purpose, piloting and testing measures in specific risk areas that the Office of the Comptroller or internal control units have identified could be undertaken.

One might be the so-called “moral reminders” that can be built into key decision-making processes to remind public servants of the correct behaviour in a specific context. Research suggests that small reminders of the correct behaviour do have a measurable impact on the probability of cheating (Ariely, 2012<sup>[22]</sup>); Box 3.16 and Box 3.17). A concrete policy measure that Mexico City could take, for example, is to include a line that procurement officials or human resource managers would sign just before taking an important decision in managing a procurement contract or a hiring process. The line could read: “I will take the following decision according to the highest professional and ethical standards”. By signing, the official implicitly links his name with an ethical conduct (OECD, 2017<sup>[10]</sup>).

#### Box 3.16. Ethical reminders

Behavioural research shows that more ethical choices can be triggered by reminding people of moral norms. This can be an inconspicuous message, such as “Thank you for your honesty”. Contextual clues in the immediate situation function as reference to an underlying norm (Mazar N. and Ariely D., 2006<sup>[23]</sup>). Such moral appeal has in some cases shown to be even more effective than a reminder of the threat of a punishment. In field experiments, subjects paid a higher price for a newspaper (Pruckner and Sausgruber, 2013<sup>[24]</sup>) and were more likely to pay back a debt (Bursztyn, 2017<sup>[25]</sup>) when exposed to a moral reminder.

These findings are in line with the understanding that most people view themselves as moral individuals (Aquino, K. and Reed, A., 2002<sup>[26]</sup>). Reminded of moral standards, they adjust their actions to reduce the dissonance between self-concept and behaviour. Many small acts of cheating are in fact also acts of self-cheating. The cost of this can be increased not by increasing external punishment, but by increasing the salience of intrinsic morality.

*Source:* (Aquino, K. and Reed, A., 2002<sup>[26]</sup>) (Bursztyn, 2017<sup>[25]</sup>) (Mazar N. and Ariely D., 2006<sup>[23]</sup>) (Pruckner and Sausgruber, 2013<sup>[24]</sup>).

**Box 3.17. How to measure cheating**

Cheating can be measured through experimental designs (e.g. (Ariely, 2012<sup>[22]</sup>), or (Fischbacher U. and Föllmi-Heusi F., 2013<sup>[27]</sup>)). Before implementing or reforming innovative integrity policies aimed at reducing dishonest behaviour, a country could apply such experimental designs to measure the “cheating baseline” in an organisation or group.

On the one hand, the experiments could inform the country if there are areas where cheating is more common than in others, to focus policies on these areas. On the other hand, the baseline would offer a concrete indicator to measure whether the piloted policies had the desired impact before considering an up-scaling.

*Source:* (Ariely, 2012<sup>[22]</sup>) (Fischbacher U. and Föllmi-Heusi F., 2013<sup>[27]</sup>).

An alternative solution would be to address social dynamics in a specific directorate or unit within a Directorate in the Office of the Comptroller or another pre-identified ministry of Mexico City. The goal would be to observe whether integrity is understood in the selected group and how the group reacts to undesirable behaviour, even to small and seemingly negligible actions, since they may lead to more serious and unacceptable behaviour, creating a vicious circle. An effective reaction does not necessarily involve strict penalties. It also suggests how important it is to publicise “ethical success stories” to encourage positive dynamics in the organisation: the “good” should be more visible than the “bad” (OECD, 2017<sup>[2]</sup>).

Mexico City could also consider implementing pilot projects to improve working environments. Experimental research suggests that creating environments that are clean and bright can, at least to some extent, inhibit corrupt behaviour. It has been shown that the mere presence of an aroma associated with cleanliness leads to increased pro-social behaviour (Liljenquist, et al, 2010<sup>[28]</sup>). This finding could be used as an additional argument to push for cleaner offices that are more worker-friendly in selected Mexico City public organisations.

To pilot, evaluate and fine-tune such measures, it is recommended that rigorous design and impact evaluation be used, following a procedure that has been carefully designed. Guidance can be provided for the random assignment and adequate indicators identified as needed. The cost need not be significant and this can be implemented relatively easily. The United Kingdom Behavioural Insights Team has provided a guide on how to design randomised control trials (BIT, 2012<sup>[29]</sup>). This could help policy makers in Mexico City build a stronger evidence base and can make the case for scaling up innovative interventions, with more confidence in the expected results.

### **3.5. Public declarations could be used as a tool to prevent corruption and increase trust in Mexico City entities and government decision making.**

#### ***3.5.1. Mexico City’s current assets disclosure system could be limited to those in senior positions or occupying positions at high risk of corruption.***

Mexico City uses three types of disclosure forms. These are comparable to the federal level, but the level of disclosure and scope differs. At the federal level, the requirements are more detailed, such as for instance the information publicly available about the real

value of the real property disclosed its registration number in the land registry, the area of land and building, and the institution that has delivered the diploma to the public official in question (*declarante*). Information submitted by public servants is considered to be submitted in good faith. They are liable for the accuracy of the information submitted, which needs to be updated in case of changes.

All public officials in Mexico City are required to submit the same information in their declarations of assets and interests. However, not all are required to submit the three declarations, as shown in Table 3.8. Public servants who are temporarily hired are hired under Category 8 of the payroll (public servants with a net salary less than MXN 11 298.88) and/or those who are unionised are not subject to this obligation. The obligation to submit a tax declaration is based on public servants' obligation to submit a tax revenue declaration to the Revenue Administration System (*Sistema de Administración Tributaria*, or SAT) which is required to be submitted at the same time as the declaration of assets.

**Table 3.8. Public servants subject to public disclosure requirements in Mexico City's current conflict of interest legal framework**

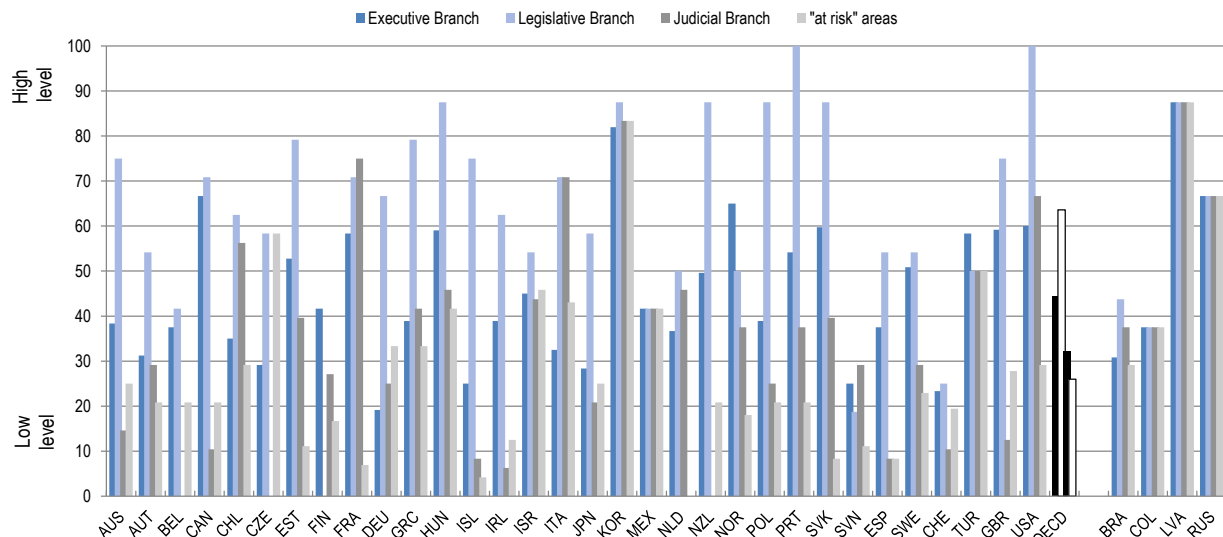
Type of public official	Declaration of assets	Declaration of interests	Declaration of tax	Declaration of no conflict
21 Heads of Mexico City ministries	X	X	X	
Heads of the 64 Deconcentrated Support and Counsel Bodies of Mexico City	X	X	X	
16 Chief of territorial demarcations ( <i>delegaciones</i> )	X	X	X	
Public servants who occupy a position within a public organisation, known as "of structure" ( <i>de estructura y homólogos por funciones, ingresos o contraprestaciones</i> ), and personnel of confidence	X	X	X	
Public servants of "base" (unionised personnel) or temporary	X	X	Only if they are obliged to submit tax revenue for to the SAT	Only if they participate in the tendering process or in the resolution and formalisation of legal instruments
Individuals who provide professional services (receiving professional fees or similar)	X	X	Only if they are obliged to submit tax revenue for to the SAT	Only if they participate in the tendering process or in the resolution and formalisation of legal instruments
"Base" personnel, temporary and hired under the payroll Category 8 ("Nomina 8") (public servants with a net salary of less than MXN 11 298.88).	Only if for extraordinary reasons they participate in recruitment processes or assess the participation of persons in work, acquisitions, patrimonial regime or leasing of real estate	Only if for extraordinary reasons they participate in recruitment processes or assess the participation of persons in work, acquisitions, patrimonial regime or leasing of real estate	Only if they are obliged to submit tax revenue for to the SAT	Only if they participate in a tendering process or in the resolution and formalisation of legal instruments

Source: Author, based on information provided by the Office of the Comptroller-General.

In addition to these three declarations, a fourth is required in the case of public procurement activities: the *declaration of no conflicts of interest*. This declaration is filled out by second-line public servants who participate in tendering process, to confirm that they have no relationship with their superiors and with participants in the tendering process. It seeks to disclose any potential conflicts of interest before the procurement process and it is filed after reviewing the declaration of interests of public officials authorised to participate in this procedure. From a procedural perspective, this declaration is made through an electronic system, which produces two copies. One is provided to suppliers or services providers participating in the procurement process, and the other is kept in the procurement file for consultation. This form is submitted 24 hours before the contract award, resolution and conclusion of the contract, concession, licence and other legal instruments through an electronic system not accessible to the public. A copy of this form can be accessed, however, through a request for information. If this declaration is not complete or is false, an administrative penalty can be imposed and the public procurement procedure is suspended. However, it is not clear whether the public servants will be punished with a warning, a monetary penalty or be removed from their position.

The current disclosures of assets and interests, like the requirement of the LGRA, are far more extensive than the ones that are typically applied in OECD member countries (Figure 3.3 and Figure 3.4), since they apply to every level of public servant, with the exception of unionised personnel. The scope of this legislative framework requires that a large number of public servants be subjected to the same level of disclosure (see details in Box 3.18). Enforcing compliance will be a challenge for Mexico City authorities. Given the labour-intensive work that would be needed, this does not appear to be an effective mechanism for monitoring public servants' wealth and for detecting situations where there is a potential conflict of interest and possibilities for illicit enrichment.

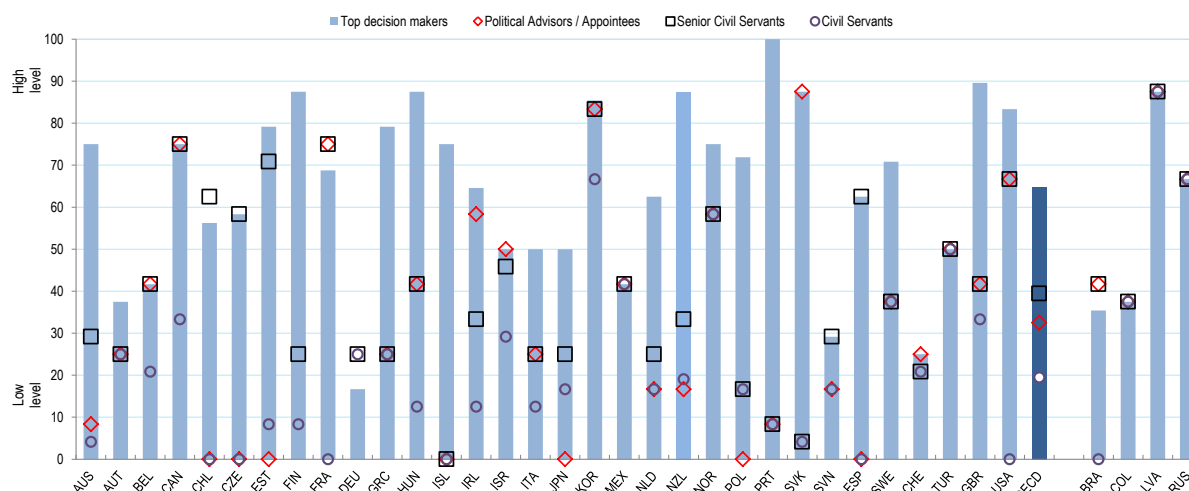
Figure 3.3. Disclosure of private interests in OECD countries, 2014



Note: Score for Mexico reflects the 2014 legislation and has not been adjusted since the new reforms setting up the National Anti-corruption System.

Source: (OECD, 2015<sup>[30]</sup>), Government at Glance 2015, OECD Publishing, Paris.

**Figure 3.4. Availability of private interests in the executive branch of government in OECD countries, 2014**



Note: Score for Mexico reflects the 2014 legislation and has not been adjusted since the new reforms setting up the National Anti-corruption System.

Source: (OECD, 2015<sup>[30]</sup>), Government at Glance 2015, OECD Publishing, Paris.

### Box 3.18. Volume of public disclosure submitted by public servants in Mexico City since the implementation of the various disclosure guidelines

Since June 2016, the Office of the Comptroller-General has publicly disclosed online the public version of the three declarations submitted by their public servants, in accordance with the Articles 5 and 16 of the Protection of Personal Data Law (*Ley de Protección de Datos Personales, LPDP*) and with the criteria set out by the Supreme Court of Justice. To publicly disclose these declarations, the Office of the Comptroller-General set up a Digital Platform, namely the 3x3, through which public servants submitted their asset declarations. In 2016, a total of 44 628 asset declarations, 65 179 interest declarations and 26 697 tax declarations were submitted. To ensure compliance with this obligation a total of 36 000 public servants received training on how to use the Declarations Platform.

While there is no data available on the total number of public servants in Mexico City who should submit these declarations and the number of those who have not complied with this obligation since its implementation. The Report of Activities of the Office of the Comptroller-General of 2016-2017 mentions that 7 000 public servants obtained assistance to access to the platform to comply with their disclosure obligations.

Under the Guidelines of April 2016, public declarations are to be submitted within specific deadlines. As such, public servants should submit these declarations 60 days after their recruitment, on May of each year and 30 days after the termination of their employment. Failure to submit these declarations within the deadlines may be subject to penalty, but the severity of the penalty is not clear in the current integrity framework.

While the Office of the Comptroller-General is making an effort to monitor the



enforcement of these disclosure measures, the lack of accurate data on the total number of public servants who should submit these forms and of human resources has an impact on the effectiveness of the measures. Public servants stated in interviews that one of their difficulties in implementing these mechanisms was not to have assistance and clarification on who should submit these declarations.

It must be noted, however, that the volume of declarations filed is not sufficient to evaluate the effectiveness of this disclosure programme. A more nuanced approach that addresses the relationship between outputs and outcomes is needed for an effective understanding of the successes and vulnerabilities of this programme. It would also be important to consider whether public servants apply ethical principles they have learned to specific circumstances (OECD, 2005<sup>[31]</sup>).

*Source:* Based on information of the 4th Report of Government submitted by the Office of the Comptroller on October 2016, and the Report of Activities of the Office of the Comptroller-General for 2016-2017.

A level of disclosure can certainly serve as a powerful tool. It can draw attention to the abuse of public office, help prosecute public servants and instil a culture of scrutiny in the public sector. Citizens can now examine public servants' decisions in light of their declared assets and conflicts of interest (OECD, 2016<sup>[32]</sup>). However, Mexico City needs to reassess its disclosure strategy, since it does not allow them to precisely determine when a conflict of interest arises and may recur in the future.

Various factors are problematic, such as the impossibility of properly managing the amount of information contained in these declarations, and also the potential negative impact of this policy on the morale of public servants. It also affects the possibility of recruiting or retaining top talent. The organisational culture in Mexico City public organisations presume that their officials are corrupt. This does not effectively neutralise the risk that citizens may report a conflict of interest that could have been resolved either through recusal, divestiture or using other preventing mechanisms. This raises unnecessarily doubts about the integrity of public servants and their organisations.

The LRA of Mexico City sets out that only those considered public servants under this law need submit the tax, assets and interests declarations (Article 32). The law expressly mentions that board members of state enterprises, those working in public entities whose statutory laws do not consider these individuals as public servants, and board members of Mexico public administration entities that exercise a commercial activity and are hired as advisers, are not obliged to submit these assets and interest declarations. While this policy decision could help reduce the total number of officials obliged to submit these declarations, Mexico City could consider setting a common criteria, such as the one used in such countries as United States, Estonia, Lithuania and Ukraine (OECD, 2011<sup>[33]</sup>) or Argentina (OECD, 2017<sup>[34]</sup>). Mexico City could identify which public servants' declarations of assets and interests will be publicly available based on the following suggested criteria:

- based on the hierarchy within the executive (for example, all officials at the director level and above)
- based on their position (minister, deputy minister, director and so on)
- based on the duties and functions they exercise (administrative decision making, granting contracts, public procurement, tax inspection, etc.)

- based on the risk of corruption of the activities in which they are involved (filers based upon their role and the risk they could become involved in corrupt activity involving building licences, infrastructure contracts, customs, etc.)
- based on the fact that they are classified as a politically exposed person (PEP), according to the Financial Action Task Force on Money Laundering.

As for the availability of the information submitted by public servants, these assets and interests declarations have until now been made public only if the public official agrees that they may be at the time of filling out the form, using the Digital Platform. This has a direct impact on the level of transparency and on the management of public disclosure, as it is not possible to obtain an exact record of who has complied with this disclosure obligation.

Mexico City's LRA does not provide a general description of the specific information that should be publicly disclosed in the asset and interest declarations, but it delegates authority for establishing the content and design of the declarations forms (paper and electronic version) to the SLAC-CDMX Co-ordination Committee. The committee's discretion should be exercised in accordance within the limits of access and privacy laws on protected personal information, to protect public servants' privacy rights.

Future members of the SLAC-CDMX Co-ordination Committee could consider the basis for the determination of Mexico's Supreme Court of Justice (*Suprema Corte de Justicia de la Nación*) in Sections 29, 34 and 48 of the LGRA, which refer to public disclosure of declarations of assets and interests. The formats of these declarations as well as the manuals and guidelines intended to ensure their timely submission could be reviewed in order to arrive at a decision on the use of personal information. This would need to balance expectations concerning the public declarations and the implementation of risk-based verifications and audits, in order to maximise their use for building greater trust in government, and to prevent and resolve conflicts of interest when they arise.

If the Co-ordination Committee opts for the same level of disclosure as at the federal level, and if it complies with rules set out in the Transparency and Access to Information and Accountability Law of Mexico City and the Protection Privacy Data Law, the scope of information publicly available would be in line with the information that is made public in various OECD countries (Box 3.19).

#### **Box 3.19. Common financial and non-financial disclosures in OECD countries**

Generally, the following types of information are required to be disclosed in OECD member and partner countries. As in Mexico, these can include financial and non-financial interests:

##### **Financial interests**

Reporting of financial interests can allow for the accumulation of wealth over time and the detection of illicit enrichment. Financial information can also help to identify conflict of interest situations.

- **Income:** Officials in OECD countries are commonly asked to report income amounts as well as the source and type (i.e. salaries, fees, interest, dividends, revenue from sale or lease of property, inheritance, hospitality, travel paid,

etc.). The exact requirements of income reporting may vary and public officials may only be required to report income above a certain threshold. The rationale for disclosing income is to indicate potential sources of undue influence (i.e. such as from outside employment) as well as to monitor increases in income that could stem from illicit enrichment. In countries where public officials' salaries are low, this is of particular concern.

- **Gifts:** Gifts can be considered a type of income or assets. However, since they are generally only of minor value, countries generally only require reporting gifts above a certain threshold.
- **Assets:** A wide variety of assets are subject to declaration in OECD countries, including savings, shareholdings and other securities, property, real estate, savings, vehicles/vessels, valuable antiques and art, etc. Reporting of assets allows for comparison with income data, to assess whether changes in wealth are due to declared legitimate income. However, accurately reporting on the value of assets can be a challenge in some circumstances and difficult to validate. Some countries make a distinction between owned assets and those in use (i.e. such as a house or lodging that has been lent but is not owned).
- **Other financial interests:** In addition to income, gifts and assets, additional financial interests to declare often include: debts, loans, guarantees, insurances, agreements that may result in future income, and pension schemes. When such interests have significant value, they can potentially lead to conflicts of interest.

#### **Non-financial interests**

While non-financial interests may not contribute to monitoring for illicit enrichment, they can nonetheless also lead to conflicts of interest. Many countries request disclosure of:

- **previous employment:** relationships or information acquired from past employment could unduly influence public officials' duties in their current post. For instance, if an official's previous firm applied to a public procurement tender where the public official had a say in the process, the past position could be considered a conflict of interest.
- **current non-remunerated positions:** board or foundation membership or active membership in political party activities could similarly affect public officials' duties. Even voluntary work could be considered to influence duties in certain situations.

*Source:* (OECD, 2011<sup>[33]</sup>), *Asset Declarations for Public Officials: A Tool to Prevent Corruption*, OECD Publishing, Paris.

### ***3.5.2. Mexico City could consider adopting an integrity policy that recognises other situations that could lead to an integrity breach.***

In the current Mexico City integrity framework, most of public servants' financial interests are disclosed in the assets declaration. However, other information related to sensitive areas can also lead to conflicts of interest, such as gifts reported and considered acceptable, recusal mechanisms implemented to ensure the integrity of the decision

process in a government organisation, outside activities, and other mechanisms used in OECD countries to properly manage conflicts of interest that are not currently declared or publicly disclosed.

The subject of gifts was raised in interviews with public officials. The answers they gave about current practice revealed the lack of clarity of the applicable rules and the officials' scepticism, and even cynicism, on this subject. Gift rules set out in the LFRSP on the responsibilities of public servants, which expired 18 July 2017, established that a public official is prohibited from receiving and accepting gifts worth more than the cumulative threshold of ten times the minimal legal wage in Mexico City at the time of its reception. While violation of this rule constitutes bribery and is punished under the criminal code under the law, public officials ignore this and do not disclose gifts received, even when they could potentially leave the public official in a conflict of interest.

The LGRA and the LRA of Mexico City prohibits gifts only if they are obtained as a result of the use of public position, duties and functions that constitutes a conflict of interest (Articles 7, Clause II and 52 for both laws), which is a serious offence. If public servants receive unsolicited gifts due to their position, they should inform the internal control units or the Office of the Comptroller and must forfeit them to the authorities in charge of administering and disposing of public assets (Article 40). As noted, the new gift policy requires that public servants read various provisions of the law to understand the applicable rules. Mexico City thus needs to enhance efforts to clarify the rules and raise awareness among its public servants, to ensure that they are all aware of the new gift rules. They also need to receive proper guidance on receiving gifts in the context of the exercise of their official duties and functions. Training and awareness-raising campaigns should also be carried out to familiarise officials with the new rules and encourage disclosure. Policy guidelines and other mechanisms can also be printed as an auxiliary way of assisting public servants to determine the acceptability of gifts and remind them of the importance of disclosing them in a timely fashion, as is done in OECD countries like Germany and Canada.

The implementation of this new proposed gift policy will require an extraordinary effort to impress upon officials that they must disclose gifts to authorities to ensure that they will not be placed in situations that involve a conflict of interest.

To ensure transparency on the issue of the disposal of gifts forfeited, Mexico City could also consider publicly disclosing reported gifts that are not prohibited, using the Digital Platform. The OECD standards for reporting gifts (Box 3.20) could be considered to resolve any potential conflict of interest that could arise as a result of receiving gifts, or prevent them from arising at all. The information in this public declaration will be useful for internal control bodies to identify real conflicts of interest.

**Box 3.20. Gifts for Officials – Generic Law****Definitions**

“**Current market value**”, of a gift, means the real market value of the gift on the day it is received.

“**Gift**” includes:

- a) a gift of entertainment, hospitality, travel or other form of benefit of significant value;
- b) a gift of any item of property of significant value, whether of a consumable nature or otherwise, including, for example, a display item, watch, clocks, book, furniture, figurine, work of art, jewellery, equipment, clothing, wine/spirits, or personal item containing precious metal or stones.

**Meaning of “reportable gift”**

1. A “reportable gift” is:

- any gift made to an official by an organisation, agency or private sector entity;
- any gift made to an official by a private individual;
- where the current market value of the gift exceeds the “reportable gift threshold”.\*

\*Amount of limit to be selected according to policy intention, as determined by regulation.

2. A gift received by an official from a relative, personal friend or family member in a private capacity and in accordance with normal social custom (such as at a birthday, marriage, religious festival, etc.), or a gift from any source in recognition of service, professional achievement or retirement), is not a reportable gift. This does not limit the operation of the code of ethics of a public body, to the extent the code provides for reporting a gift of a value less than the reportable gift threshold.

3. Where an official receives more than one gift from the same person in any financial year, and the current market value of all the gifts so received exceeds the reportable gift threshold applicable at the end of the year, each of the gifts so received are reportable gifts.

4. If an agency makes more than one gift to the same official, etc. in a financial year, and the current market value of all gifts exceeds the reportable gift threshold, each of the gifts so received are reportable gifts.

**Reportable gifts to be dealt with as a physical or material asset:**

5. A reportable gift received by the official must be considered an accountable asset of the public body.

6. A public body may dispose of reportable gifts, after registration, as it sees fit.

**Reportable gifts to be declared and accounted for:**

7. An official who receives a reportable gift must complete a declaration:
- within 14 days after the gift becomes a reportable gift because it exceeds the “reportable gift threshold”, or
  - for another reportable gift within 14 days after receiving the gift.
8. In the case of reportable gifts, the official must, as soon as practicable:
- transfer the gift into the control of the official’s public body; and by consent, may.
  - pay the body:
    - for gifts that are reportable gifts because they exceed the threshold, an amount equal to the difference between the total current market value of the gifts and the reportable gift threshold for each gift, or
    - for any other reportable gift, an amount equal to the difference between the current market value of the gift and the reportable gift threshold.
9. Paragraph 1 above does not limit the operation of the code of ethics of a public body, to the extent the code provides for reporting the receipt of a reportable gift within a period of less than 14 days.

**Register of reportable gifts**

10. The public body must keep a register of reportable gifts received by any of its officials.
11. The register must include information about each of the following matters:
- the date the reportable gift was received by the official;
  - the persons and circumstances involved in making and receiving the gift;
  - a detailed description of the gift, including its current market value and the basis for the valuation;
  - the approval for receiving the gift, if relevant;
  - the date the gift was transferred to the control of the body and the present location of the gift, or
  - if the official is permitted to retain the gift:
    - the date and amount of the payment made under paragraph 8(b), for the gift.
  - If the gift is disposed of:
    - the authority for disposal;
    - the date and method of disposal;
    - the name and location of the beneficiary;
    - the proceeds, if any, arising from the disposal.

Source: (OECD, 2005<sup>[35]</sup>), *Managing Conflict of Interest in the Public Sector: A Toolkit*, OECD Publishing, Paris.

A fundamental aspect that needs to be considered when implementing this proposed gift policy is that a clear distinction should be made between the declaration form and the rationale of the gift policy. Mexico City should keep in mind that an effective preventing measure is more than the simple disclosure of traditional sources of influence, such as receipt of gifts or hospitalities offered to public servants, and should have the public interest at the centre of all its activities. Public declarations are the only mechanism for disclosing a predetermined set of financial and non-financial information that could constitute a (real or apparent) conflict of interest or that could lead to a (potential) conflict of interest in future. The purpose of conflict of interest policies is to ensure that public servants proactively report and resolve issues as they arise.

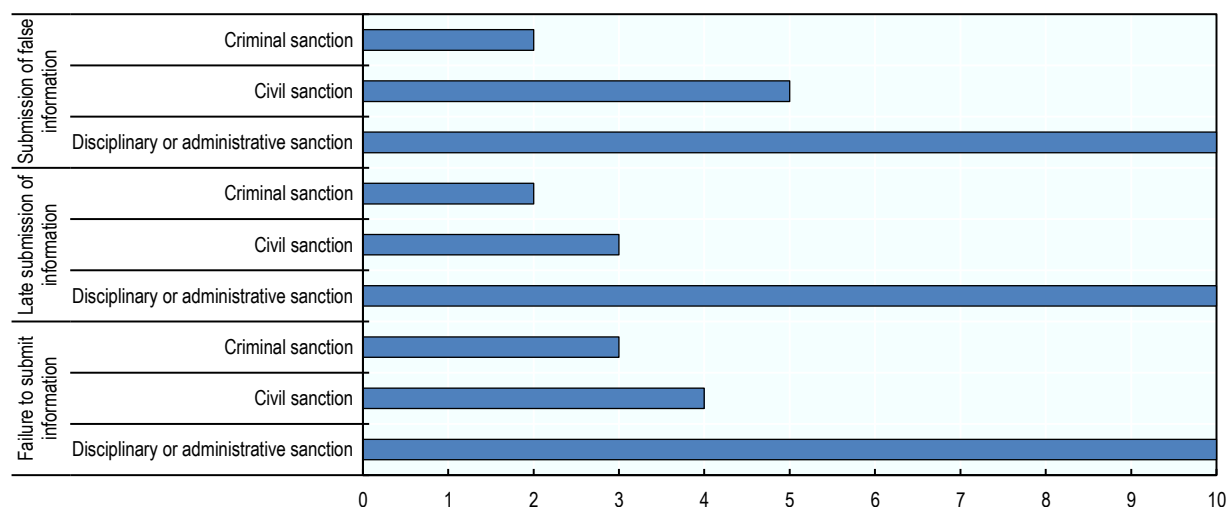
A similar strategy could be introduced to disclose recusal, offers of employment received in the context of the exercise of a public servant's duty and functions, as well as outside activities that could constitute a conflict of interest.

***3.5.3. Failure to comply with the obligation to disclose assets and interest should be actively punished, to guarantee public servants' adherence to the Local Anti-corruption System.***

Penalties are essential to guarantee compliance with the requirements of submitting assets and interests declarations (OECD, 2011<sup>[33]</sup>) but they are not sufficient. While different types of penalties can be a powerful mechanism for discouraging public servants from dishonest conduct, countries should evaluate what penalties should be imposed for delay in submitting these declarations, failing to submit such declarations or providing false information in the declarations submitted.

Depending on the severity of the infraction, the penalty might range from criminal penalty, administrative penalty, disciplinary penalty and civil liability, to softer measures, such as warnings, public announcements or apologies. In most OECD countries, penalties are administrative or disciplinary and are imposed for failure to fulfil duties related to the declarations. This could involve failing to comply with the submission process (failure to submit the declaration, or late submission) or to provide the information requested (incomplete statement of required information, inadvertently false statement, intentional false statement) (see Figure 3.5).

**Figure 3.5. Penalties for public officials for violations of the disclosure requirement in 10 G20 countries**



*Note:* Data refers to penalties in place in Australia, Canada, France, Italy, Japan, Korea, Mexico, Turkey, the United Kingdom and the United States.

*Source:* G20 Working Group (2014), “Good practices in asset disclosure systems in G20 Countries”. — (OECD, 2017<sup>[10]</sup>), *OECD Integrity Review of Colombia*, OECD Publishing, Paris.

The current legislative framework in Mexico City does not clearly set out the applicable penalties for not submitting the assets and interest declarations, submitting them late or for submitting false information (see section 3.2.6 on penalties). Failure to submit assets and interests declarations can be either a serious or a less serious offence that could result in a warning, reprimand, suspension, disqualification and dismissal or in both penalties, as the current integrity system does not make such distinction. It is not clear whether an economic penalty could be imposed under the current integrity framework, as none of the guidelines include specific reference to this. This will change with passage of the proposed bill of the LRA of Mexico City. This would consider failure to submit assets and interests declarations in time as a less serious offence. It would be considered a serious offence if these declarations contain untruthful information intended to hide a conflict of interest or an unjustified increase of assets or use of goods and services. While these penalties are similar to the ones set for the federal level, in most OECD countries, failure to submit these declarations in a timely fashion can result in administrative penalties or fines. This appears to be an effective way of ensuring compliance, and is used in such countries as Canada and France.

The LRA of Mexico City stipulates that the Office of the Comptroller and internal control bodies will perform verifications of declarations of assets, interests and tax in a random manner, which will be available under the Digital Platform to certify that disclosures were made (Article 30). If these declarations are not submitted, internal control bodies and the Office of the Comptroller-General will launch the appropriate investigation. They will also examine whether a conflict of interest exists or is likely to arise based on the information submitted. The Office of the Comptroller-General may sign, for this purpose, agreements with government entities that hold information submitted. To ensure the effectiveness of these examinations, the Office of the Comptroller could consider signing



agreements with the private sector, such as banks and other financial institutions, to verify the information submitted.

While this mechanism could be helpful to ensure high-quality verification process, the Office of the Comptroller-General could also suggest to the Co-ordination Committee that a set of guidelines for all internal control bodies be adopted to guarantee uniformity in the examination process. Moreover, Mexico City could leverage the electronic platform to facilitate compliance and allow automatic validation of receipt of these declarations, triangulation with other existing databases (if linked), and the automatic notification of “red flags” (for mistakes, missing information, major changes in assets or income, etc.) as suggested in (Table 3.9).

**Table 3.9. Types of verification checks on asset and interest declarations**

Type of verification check	Description
Basic/preliminary verification	Ensures whether declarations are complete or whether there are obvious mistakes (i.e. numerical values entered, valid addresses, etc.)
Simple verification	Ensures the logical consistency of the information provided on the declaration forms (i.e. arithmetical checks, checks against past years or modifications, and checks that assets are accounted for by declared income). Simple verifications can therefore spot potential or real conflicts of interest and can lead to audits.
Audit verification	This most advanced stage of verification may not only cross-check information from past declarations but also against “external” data sources from financial or other public institutions. An auditor may validate the existence/value of assets, assess lifestyle, as well as request proof and testimonies from public officials and other persons.

Source: (OECD, 2017<sup>[2]</sup>), *OECD Integrity Review of Mexico: Taking a Stronger Stance Against Corruption*, OECD Public Governance Reviews, OECD Publishing, Paris.

To improve the performance of this disclosure mechanism, the Co-ordination Committee of Mexico City could also consider using one of the following verification checks recommended also at the federal level (OECD, 2017<sup>[2]</sup>), which are in line with the best existing practice in OECD countries:

- ***Automatic confirmation of receipt for all declarations.*** Declaration databases should be able to indicate missing declaration forms after key deadlines, with follow-up by the Office of the Comptroller and internal control bodies. Organisations could consider automatic notifications (email, text) for failing to meet declaration deadlines and/or linking submission with other human resource management processes.
- ***Basic verifications on a random basis for a high number of declarations.*** Basic checks are relatively easy to carry out, since they can be programmed and conducted automatically. A large number of declarations could thus be verified. With random selection, the incentive is high for officials to submit complete and accurate information, since it increases the chances that the information will be verified.
- ***Simple verifications on a risk-based basis.*** Many simple verifications may also be programmed automatically, although at a later stage, they may require the intervention of a qualified investigator/auditor. As such, a lower number of declarations may be submitted to simple verification checks and a risk-based

approach could be considered. The Co-ordination Committee should therefore conduct a risk assessment, which could consider the following:

- *Definition of high-risk positions:* public procurement officials, officials in charge of granting or extending licences, permits, authorisations and concessions and ensuring public safety, as well as financial authorities, can be considered at greater risk. Senior civil servants and elected officials could also be at high risk. The Co-ordination Committee may wish to establish a specified list of high-risk positions for internal control bodies.
- *Analysis of complaints from citizens and other officials:* the Co-ordination Committee, the Office of the Comptroller and internal control bodies may wish to assess and study complaints received, to identify ministries, sectors, regions and officials subject to high risk that could warrant verification checks.
- *Risks identified from the declarations themselves:* the Co-ordination Committee may wish to establish automatic verification checks for declarations that present certain trends, such as late submissions, increases in wealth, major outside interests, inconsistencies between declarations, etc. Information and communications technology (ICT) systems can be programmed to automatically detect such “red flags”, and can be pre-programmed by internal control bodies.

Finally, to ensure the effectiveness of the whole disclosure policy, the Office of the Comptroller and internal control bodies could adopt a risk-based approach to using verification and leverage digital tools to the fullest extent possible, to effectively detect illicit enrichment or not resolving conflicts of interest. Thus, the Office of the Comptroller and internal control bodies should keep track of public servants’ disclosures under their responsibilities, informing the Executive Secretariat of the SLAC-CDMX, which will oversee the Digital Platform.

### 3.6. Ensuring effective monitoring and evaluation of integrity policies in Mexico City to promote high standards of conduct across its public organisations

#### ***3.6.1. Surveys, reviews of the guidance provided for the new Ethics Code and statistical data on penalties imposed could enhance monitoring and evaluation.***

Monitoring the implementation of policies to adopt high standards of conduct rather than merely examining the existence of these policies ensures that commitment to integrity is followed by action. Information about measures undertaken by different institutions or levels of government should be reported back, so they can be centrally overseen, shared and improved (OECD, 2017<sup>[10]</sup>). Carefully conducted, evaluation can identify the impact of the effective implementation of integrity policies.

Active monitoring can entail specific initiatives to (OECD, 2011<sup>[33]</sup>):

- count and analyse violations of the Code (e.g. analysis of disciplinary actions) and trends thereof;
- measure the awareness of civil servants (e.g. with the help of opinion surveys, including after training events); and

- measure opinion of clients of civil servants – usually also with the help of opinion surveys.

Mexico City could also consider including the two following mechanisms:

- monitoring the implementation of its new ethics framework through diagnostic tools such as surveys and statistical data and reviewing how public organisations provide guidance on the code;
- defining long-term goals for selected integrity policies and undertaking baseline assessment of respective outcome indicators.

While surveys including questions on ethics are important, they are not sufficient and need to be oriented to their implementation and efficiency. Mexico City needs to evaluate the effectiveness of awareness-raising activities and training measures to promote ethical behaviour, so that it can improve their content and evaluate how effective they are.

In Mexico City, Article 34 of the *Organic Law of the Public Administration of Mexico City* stipulates that the Office of the Comptroller-General is responsible for the evaluation of the management of public administration. In this context, it submits annually a report of government detailing activities executed. While this report includes data on the number of evaluations made in various public organisations, as well as penalties imposed on public servants and ethics training offered, it does not include information on whether public servants are familiar with the current integrity rules.

The Co-ordination Committee will be in charge of designing overarching policies that require the commitment of each government entity. The Office of the Comptroller could thus propose that it will conduct both fraud and corruption-risk mapping when proposing the whole government integrity plan.

Using surveys to measure how familiar public servants are with the integrity rules can be a helpful guide to the degree of implementation of the future Ethics Code and the internalisation of values by all public servants. Poland, for example, monitors the implementation of the Ethics Code using an employee survey (Box 3.21).

#### **Box 3.21. Monitoring the implementation of the Code of Ethics in Poland**

In 2014, the Head of the Civil Service (HCS) commissioned a survey known as the monitoring of “Ordinance No. 70 of the Prime Minister, dated 6 October 2011, on the guidelines for compliance with the rules of the civil service and on the principles of the civil service code of ethics”. The HCS is the central government administration body in charge of civil service issues under the Chancellery of the Prime Minister.

The survey was given to three groups of respondents:

##### **1) Members of the civil service corps**

In this case, the survey pertained, on the one hand, to the degree of implementation of the ordinance in their respective offices and, on the other hand, to their subjective assessment of the operation and of the effectiveness of the ordinance. The members of the civil service corps were asked to complete a survey containing 16 questions (most framed as closed questions, with a few allowing for comments). The questions pertained to the following issues, among others:

- knowledge of the principles enumerated in the Ordinance;
- impact of the entry into force of the Ordinance on changes in the civil service;
- the need to/the advisability of expanding the list through the addition of new rules;
- comprehensibility/clarity of the guidelines and principles laid down in the Ordinance;
- the usefulness of the Ordinance for the purposes of resolving professional dilemmas.

In addition, the correct understanding of the principle of “selflessness” and “dignified conduct”, as well as the need to provide training in the field of compliance, were also assessed. The surveys were available on the website of the Civil Service Department. The respondents were asked to respond and submit the survey electronically to a dedicated e-mail address.

### **2) Directors General, directors of treasury offices and directors of tax audit offices**

In this case, the survey was intended to verify the scope and manner of implementation of tasks which they were required to perform under the provisions of the ordinance, including, for example:

- the manner in which compliance with the rules in the given office is ensured;
- information on whether the applicable principles were complied with when adopting decisions authorising members of the civil service corps to undertake additional employment or authorising a civil service employee occupying a higher position within the civil service to undertake income-generating activities;
- the manner in which the principles in question are taken into account in the human resources management programmes being developed;
- the manner in which the relevant principles were taken into account in the course of determining the scope of the preparatory service stage.

### **3) Independent experts – public administration theorists and practitioners**

In this case, the survey was intended to obtain an additional, independent specialist evaluation of the execution of ethical regulations within the civil service, to obtain suggestions on the ethical principles applicable to the civil service and to identify the aspects of the management process that might need to be supplemented or updated, clarified or emphasised to a greater extent, or even corrected or elaborated.

The response rate differed across the three groups. The HCS received 1 291 surveys completed by members of the civil service corps (the number of surveys completed represented approximately 1% of all civil service corps members), 107 surveys dedicated to the directors (that is, 100% of all directors general, directors of treasury offices and directors of tax audit offices, for a total of 98). Other surveys, completed on a voluntary basis by the head of the tax offices, and 7 replies from independent experts, or approximately 13% of all experts invited to the study, were also received. Given that this survey was the first such an exercise conducted on a large scale, information gathered could be used in further developing the integrity policy in the Polish civil service system.

*Source:* Adapted from a presentation by the Polish Chancellery of the Prime Minister at the OECD workshop in Bratislava, Slovakia, in 2015.

If the data obtained from these surveys shows that public servants have not yet reached a satisfactory intrinsic understanding of integrity values, further guidelines may be drafted to clarify the values and standards of conduct laid out in the code.

As for case numbers and reporting data on the penalties imposed, this information can provide insights on the effectiveness of measures to promote ethical behaviour and to prevent corruption and misconduct. While case numbers alone do not allow for inferences on a highly corrupted environment or effective reporting mechanisms, regular monitoring and evaluation of these numbers makes it possible to track changes and observe irregularities. Mexico City could consider using these tools in implementing its future Ethics Code to enhance the strategies and instil a culture of integrity.

***3.6.2. To monitor Mexico City's future Ethics Code, the Executive Commission could publish clear and transparent indicators based on data collected by the General Co-ordination for Administrative Modernisation.***

Performance evaluation requires a shift towards the development, monitoring and publication of key performance indicators that can help assess dimensions such as effectiveness, efficiency and timeliness (see (OECD, 2017<sub>[10]</sub>)). Mexico City could consider selecting the proposed central Ethics Unit recommended in this review to monitor and review the new Ethics Code, following the guidelines for monitoring and evaluation of the public administration of Mexico City adopted by the General Co-ordination for Administrative Modernisation (*Coordinación General de Modernización Administrativa*, or CGMA) (see Chapter 2. ). The internal control units and the different directorates of the Office of the Comptroller could provide findings and data on disciplinary penalties imposed for less serious offences and report disclosures of these findings. The Superior Audit Institution of Mexico City (*Auditoría Superior de la Ciudad de Mexico*, or ASCDMX) could do the same for related findings on disciplinary penalties imposed for serious offences.

The Office of the Comptroller could also compile findings and data on the integrity policies adopted in order to generate clear and transparent indicators. These should be uploaded to the online platform Monitoreo CDMX, which could become a site for the monitoring of the future integrity system of Mexico City (see Box 3.14). These indicators need to be collected and updated on a regular basis (e.g. quarterly). They would then need to be communicated to discuss progress to the CGMA. Subsequently, they would be given to the SLAC\_CDMX Executive Commission, which would develop a methodology for measuring the impact of the integrity policies. No single indicator can be useful in isolation, but rather, a set of indicators must be assessed as a whole, accompanied by contextual information. The Executive Committee could consider developing a proposal for the methodology to measure the impact of integrity policies based on the indicators elaborated. It could also consider conducting a survey on public ethics inside and outside the government, using the Polish survey as a guide.

In generating this data, the SLAC-CDMX Executive Commission should bear in mind that objective assessments (free of social desirability and cheap talk) provide the most reliable information. To obtain credible results, the questions could assess comprehension of the code of conduct by asking respondents to apply them to a specific moral dilemma.

It is recommended that the majority of indicators have quantitative targets. Exactly how many indicators should be used, and how resource-intensive they are, would depend on a balance between the need on the one hand to measure progress and on the other, the ability to devote resources to producing the data. There is no single right set of indicators.

Instead, the SLAC-CDMX Executive Commission and the government entities should weigh needs versus possibilities and come to an appropriate conclusion.

### Proposals for action

To conclude, this chapter recommends that Mexico City take the following actions to strengthen its integrity framework for the public administration.

#### ***Building a normative framework to shift towards a values-based approach in Mexico City***

- Mexico City could consider streamlining its current ethics rules to issue a single and comprehensive Ethics Code for promoting integrity and conflict of interest management.
- In drafting this Ethics Code, Mexico City should avoid being exhaustive and use plain language to ensure clarity on the behaviour expected of all public officials and how to integrate it effectively into their daily work.
- Mexico City could also consider streamlining its current conflict of interest rules as a complementary measure to enhance its integrity system.
- Mexico City could consider updating the existing organisational codes to ensure coherence of its integrity system.
- Mexico City could consider developing special standards for risk areas such as the law enforcement sector, political advisers and procurement officials.
- To ensure effective enforcement of integrity rules, Mexico City could set out a clear reference to applicable penalties for infractions of these rules.

#### ***Building a strong institutional framework for public ethics and conflict of interest to ensure coherence in the development and maintenance of integrity policies, training and enforcement of these rules throughout the whole Mexico City administration.***

- A specific directorate in the Office of the Comptroller should be designated to ensure coherence in developing conflict of interest and ethics policies in Mexico City's public administration.
- Mexico City could establish Ethics Units in the 21 ministries to provide integrity advice and counsel in a coherent and timely manner.
- Strong strategic human resources management could help to promote and ensure implementation of an effective integrity strategy in Mexico City's public organisations, and also to restore public trust in the effectiveness of the integrity framework.
- Mexico could consider improving the Integrated and Preventing Evaluation (EPI) to ensure that public service integrity values be mainstreamed in all human resources and management processes.

***Building a strong integrity culture in Mexico City's public entities by raising awareness of ethics and conflict of interest issues among its public servants.***

- Mexico City could launch an awareness-raising campaign co-ordinated by the proposed Ethics Unit, the Integrity Contact Points (or persons) and human resources representatives from public organisations, and could also reach out to the private sector, civil society organisations and citizens.
- Mexico City could consider that the Ethics Units to be created in the Office of the Comptroller implement awareness-raising campaign training programmes based on the results of a survey on training needs. Training could be offered on an annual basis to ensure that the subjects discussed reflect the particular needs of each of its public organisations.
- Mexico City could consider using e-learning tools to raise awareness of the new ethics framework adopted for the Local Anti-corruption System. This could help ensure a high participation of public servants in recognising, managing and resolving conflicts of interest and ethics dilemmas.
- Mexico City could also consider piloting mechanisms based on insights from research in behavioural sciences and consider scaling up successful interventions to build a strong integrity culture.

***Maximising the use of the three public declarations as a tool for reducing corruption and enhancing trust in Mexico City entities and government decision-making processes:***

- Since July 2015, Mexico City's current assets disclosure system requires that the majority of public servants submit an asset declaration. However, a culture of mistrust remains. To improve the effectiveness of the system, the number of public servants required to submit the three declarations could be narrowed down to public servants in senior positions or those occupying high-risk position.
- Mexico City could consider adopting an integrity policy that recognises other situations that could lead to integrity breaches to enhance the future integrity system.
- Failure to comply with the obligation to disclose assets and interests should be effectively punished, to guarantee public servants' adherence to the Local Anti-corruption System. The electronic means through which these declarations are submitted could be leveraged to facilitate risk-based verification and automatically identify "red flags", to ensure its effectiveness.

***Effective monitoring and evaluation of integrity policies could help promote high standards of conduct across Mexico City's public organisations.***

- Additional tools and processes, including surveys, reviews of the guidance provided on the new Ethics Code and in-depth statistical data on the disciplinary penalties would help facilitate the effective monitoring and evaluation.
- To monitor and evaluate the implementation of the future Ethics Code and the integrity policies, the results and progress need to be published using clear and transparent indicators elaborated by the Executive Commission, based on information collected from the platform managed by the General Co-ordination for Administrative Modernisation of Mexico City.

## Note

<sup>1</sup> During the preparation of this Review, the Administrative Office was in charge of human resources management (HRM) of the Government of Mexico City. As of 1 February 2017, it is the responsibility of the Ministry of Finance, in accordance with the Decree amending and adding provisions of the Organic Law of the Public Administration of the Federal District. Consequently, in this Review, all references to the Administrative Office in relation to HRM are understood to be under the jurisdiction of the Ministry of Finance. The decree can be viewed at: [www.ssp.df.gob.mx/TransparenciaSSP/sitio\\_sspdf/art\\_14/fraccion\\_i/normatividad\\_aplicable/39.3.pdf](http://www.ssp.df.gob.mx/TransparenciaSSP/sitio_sspdf/art_14/fraccion_i/normatividad_aplicable/39.3.pdf).

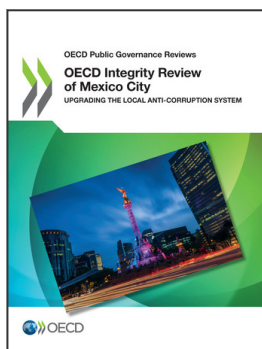


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