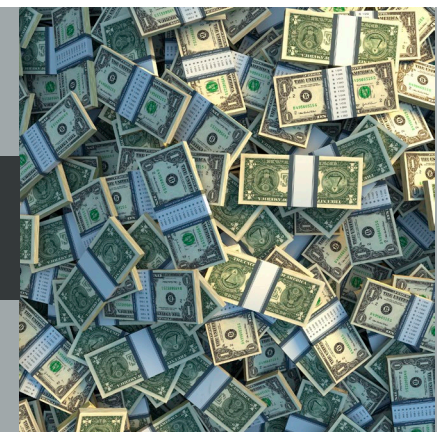




Lifestyle Audit Workshop

April 2025 | Confidential

A theoretical and practical exploration within the
South African environment



the dpsa

Department:
Public Service and Administration
REPUBLIC OF SOUTH AFRICA



Outcome:

Focus on equipping attendees with pertinent theoretical and practical knowledge relating to lifestyle audits (and the execution thereof) in the South African environment – private and public sector.

Structure and components:

Workshop broadly split into three sessions:

1. Understanding lifestyle audits:
 - Where do lifestyle audits originate?
 - What does a lifestyle audit mean – initial focus on public sector?
 - What can we do with lifestyle audits?
2. Practicalities of executing a lifestyle audit:
 - Lifecycle of a lifestyle audit



- Execution fundamentals
- Sources of information when executing a lifestyle audit:
 - ❑ Reliability
 - ❑ Extent
 - ❑ Legality
- Analysis and reporting

3. Outcomes of a lifestyle audit:

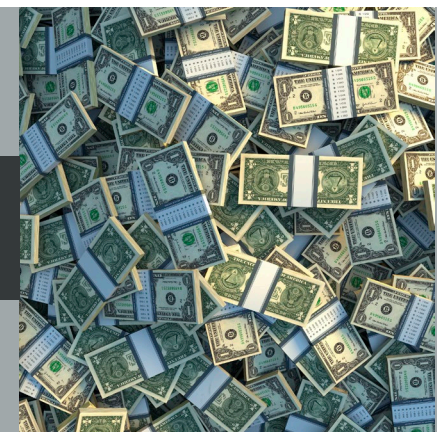
- What happens after the conclusion of a lifestyle audit?
- Comparison of South African and foreign jurisdictions
- Is there a need for development in our legislation?



Session 1

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Understanding lifestyle audits



Precursor of lifestyle audits:

- Lifestyle audits are not a new concept – think corporate intelligence, net worth analysis, due diligence reviews – also in the private sector
- We have been utilising the concept of a ‘lifestyle audit’ without calling it such – different requirements and needs
- It becomes important to define relevant terminology – environment they are utilised

‘Popularisation’ of lifestyle audits:

- During the 2018 SONA – President Ramaphosa announced his intention to implement lifestyle audits across government
- The topic has been addressed in various forums over time
- In April 2021 lifestyle audits were made compulsory in the government

Understanding – legislative framework:

Need to establish a common understanding of a lifestyle audit.

However, we need to operate within the bounds of applicable regulatory framework:

- Constitution:
 - ❑ Section 195(1)(a) – a high standard of professional ethics must be promoted and maintained in the public administration
 - ❑ Section 14 – everyone has the right to privacy – general and specific protection
 - ❑ Section 32 – everyone has the right of access to information – State and other persons



- POPIA – a closer look in the public sector:
 - ❑ Limited effect on collection and processing of personal information for the purpose of conducting lifestyle audits in the public service
 - ❑ No absolute right for the protection of personal information and no absolute ban on the processing thereof
 - ❑ Information obtained does not prove that an employee is guilty of illegal or unethical conduct, but that there may be further grounds for investigation
 - ❑ Conducting lifestyle audits fall within the functions of departments in the public service (a public body) and is thus exempted from the strict requirements of POPIA in chapter 3



- Public Administration Management Act (PAMA):
 - ❑ Establishment of the Public Administration Ethics, Integrity and Disciplinary Technical Assistance Unit (PAEIDTAU) – functions of the unit set out in section 15(4):
 - Provide technical assistance and support
 - Develop norms and standards on integrity, ethics, conduct and discipline
 - Build capacity within institutions to initiate and institute disciplinary proceedings into misconduct
 - Strengthen government oversight of ethics, integrity and discipline
 - ❑ Anti-corruption “*machinery*” and institutionalises ethics and integrity



- Public Service Act (PSA):
 - ❑ Section 3(h) of the PSA – *“The Minister is responsible for establishing norms and standards relating to integrity, ethics, conduct and anti-corruption in the Public Service”*
- Regulation 22 of the Public Service Regulations (PSR):
 - ❑ Analyse ethics and corruption risks – risk management
 - ❑ Develop/implement an ethics management strategy – deters unethical conduct
 - ❑ Establish an information system that inter alia:
 - Records allegations of corruption and unethical conduct
 - Monitors management of allegations of corruption/unethical conduct
 - Identifies systemic weaknesses and recurring risks and records outcomes of allegations of corruption etcetera



- DPSA Guide on lifestyle audits – definition in the public sector:
 - ❑ Amalgamation of reports – financial profile – declared income against known/observed assets
 - ❑ Where expenditure exceeds income – investigate to establish undeclared sources of income etcetera
 - ❑ Where required – objective evaluation of standard of living – opinion by applying audit sampling methods – governed by legislation and standards to establish:
 - Living beyond means
 - Abusing power/influence for personal gain – at that time/later stage
- What about – draft regulations on conducting business with the State (2019) – inclusion of spouses?



- Financial disclosure framework (FDF):
 - Purpose:
 - Identify and manage conflicts of interest
 - Prevent corruption among public service employees
 - Promote transparency
 - Various interests are disclosed – different levels of public officials
 - Who should disclose in terms of the FDF (risk environment) – misconduct if fail to do so – consequence management and responsibility of the relevant Head of Department? (dealt with in session 3)
- What do we do with the information obtained from the FDF process?



- Development for lifestyle audits – risk-based approach – regulation 22 PSR
- Development – *Guide to implement lifestyle audits in the public service*:
 - ❑ Conduct lifestyle audits – mandate, who should conduct, principles, execution of functions and role-players
 - ❑ Roles and responsibilities – risk management, ethics office, investigators, auditors, departmental committees, TAU
 - ❑ The lifestyle audit methodology
- Lifestyle audit comprises three formal activities:
 - ❑ Lifestyle review
 - ❑ Lifestyle investigation
 - ❑ Lifestyle audit



- Lifestyle review:
 - ❑ Known remuneration versus financial disclosure (and reporting lines, departmental and public databases) – eDisclosure used to obtain trigger point
 - ❑ Anomalies – referred to an investigator/anti-corruption official – lifestyle investigation
- Lifestyle investigation:
 - ❑ Examine, analyse and gather additional information – confirm lifestyle commensurate with income
 - ❑ Trigger points – reporting mechanism or lifestyle review
- Lifestyle audit:
 - ❑ Obtain evidence for unexplained wealth and evaluate standard of living – opinion
 - ❑ Financial aspect of loss quantification



- Additional aspects to consider when framing lifestyle audits:
 - ☐ What legislation is applicable to your client – National Prosecuting Authority Act Regulations – *“lifestyle audit” means the study of a person’s living standards, assets and expenditure to ascertain if it is consistent with his or her reported income, in accordance with legislation governing the public service and its associated guidelines”*
 - ☐ In the private sector – consider employment contracts and company policies
- Previous aspects – context to lifestyle audits in public and private sector – considerations/approach...is there a different approach or element that needs to be considered?
 - ☐ How do we refer to those who are subjected to the lifestyle audit?
 - ☐ Consent versus no consent?



We now have a framework – do we have a definition?

- Terminology:
 - ❑ Is 'audit' the correct term – predetermined meaning and includes a sampling methodology, and compliance with standards
 - ❑ Lifestyle – a way of living – work and leisure behaviour – culture, family, reference groups and social class
- Possible definition of lifestyle audits:
 - ❑ A holistic review of various sources of information relating, but not limited, to income, expenditure, assets, professional and personal associations and memberships, beneficial ownership, to determine if an individual is living beyond their known sources of income

16 WHAT CAN WE DO WITH LIFESTYLE AUDITS?

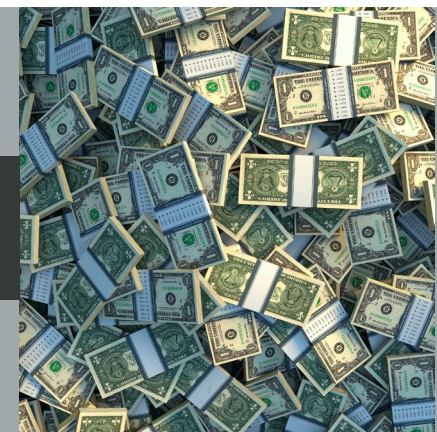


- We may have a definition – practically – what does your client want?
 - ☐ Basic due diligence exercise?
 - ☐ Net worth analysis?
 - ☐ Reputation and integrity review?
 - ☐ Criminal or civil proceedings?
- Choices influence how information may/should be obtained and the burden of proof
- Outcome of the lifestyle audit?
 - ☐ Indications that an individual is at risk due to financial pressure?
 - ☐ Individual is receiving income from unknown sources – unexplained wealth?
 - ☐ Failure to disclose as required – progression to investigation and/or audit?
- Above aspects impact risk rating and analysis – guide further action – practicalities

Session 2

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Practicalities of executing a lifestyle audit

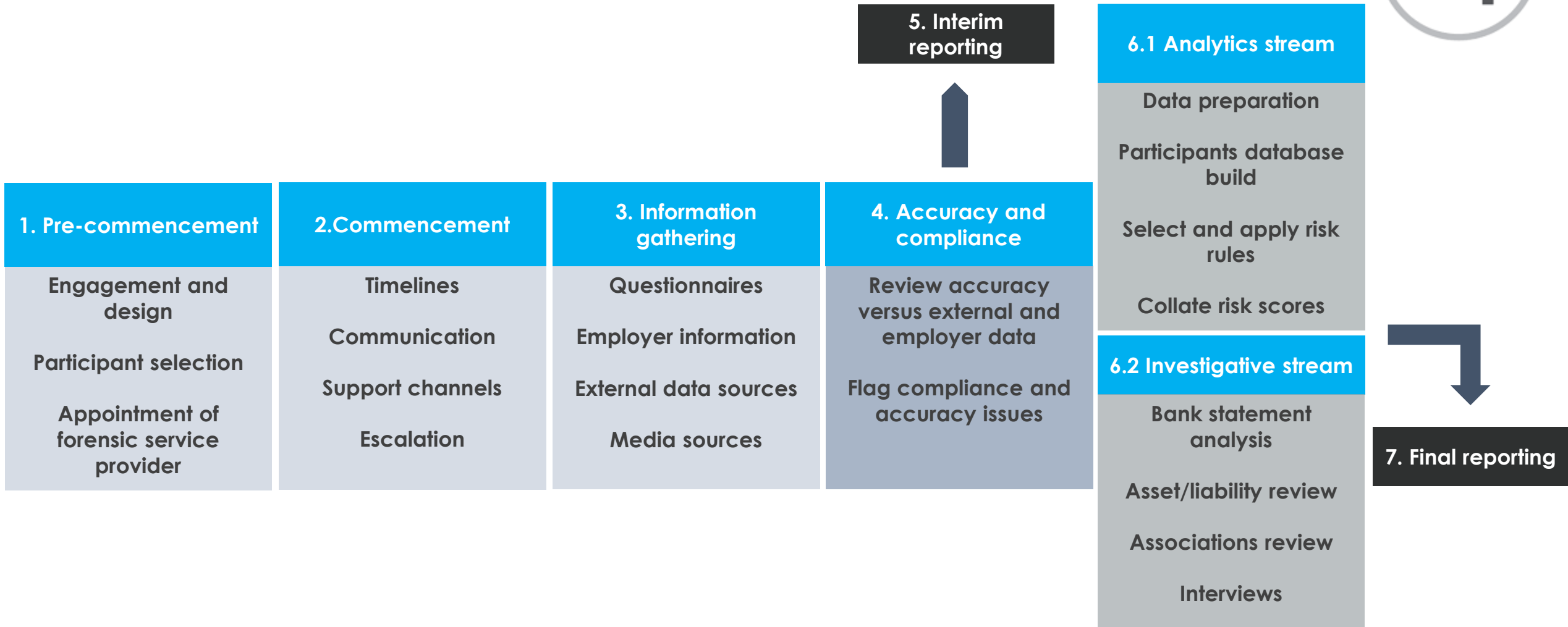




Overview – a way to conduct lifestyle audits:

Broadly applicable across public and private sectors – combines best elements of traditional investigative approach and data driven analytic approach to maximise fairness, completeness, risk sensitivity and cost efficiency of a lifestyle audit – phased approach:

- Pre-commencement
- Commencement
- Information gathering
- Accuracy and compliance
- Analysis and investigation
- Engagements
- Reporting





Activities and consideration:

- Engagement:
 - ☐ Regulatory environment/requirements – talk to the benefits, process and outcomes
 - ☐ Client mandate – extent and consent
 - ☐ Logistical arrangements – provision and retention of information
- Design:
 - ☐ Comparison versus third party public data – mechanism to obtain information
 - ☐ Agree reporting formats, frequency, progress, interim, final reporting and close-out
- Participant selection:
 - ☐ Number and identity of participant(s) – record reason for selection – fairness
- Outcome or goal of lifestyle audit:
 - ☐ Client wants – public or private sector?



- Utilisation of data sources and tools:
 - ☐ Cost effective
 - ☐ Practical
- Data collection – data/information/intelligence
- Analysis of collected data – risk sensitivity:
 - ☐ Traditional
 - ☐ Accounting methodologies
 - ☐ Data-centred approach
- Reporting requirements of client
- Consider when executing in public sector versus private sector
- Criminal versus civil?
- Lifestyle audits fit with forensic investigations?



Activities and consideration – dependent on population and purpose:

- Questionnaire finalisation and distribution
- Communicate lifestyle audit with intended participants – include confidentiality arrangements
- Project mailbox or online form – coordinate all engagements with participants
- Timelines and submission dates
- Contact persons and helpdesk arrangements – more efficient information gathering phase
- Engagement with information sources to be relied on
- Escalation protocols



Other third-party sources/informants: Aeroplanes, helicopters, yachts, boats

Limited access information: FIC, National Treasury (including CSD), Department of Home Affairs, DPISA

Closed proprietary sources: Completed lifestyle audit questionnaire, bank statements, vehicle purchase agreements

Open proprietary information: Searchworks, XDS, Windeed and others

Open-source information: Google, social media, news, media



Following focus areas are addressed:

- Verification of personal information – marital status, employment history, business interests and personal associations
- Qualification verification
- Determination of criminal status, including consideration of SAFPS listings
- Confirmation of tax compliance status
- Review of self disclosed income and expenditure and review of financial position
- Bank statement analyses
- Identification of adverse media and sanctions screening
- Determination of the nature of social media activity
- Review of employer procurement registers to consider conflicts of interest

25 INFORMATION GATHERING - QUESTIONNAIRE



- One tool that can be utilised to gather a base layer of information
- Determine content of the questionnaire – how detailed to go
- Oath before taking information?
- Consider inclusion of the following with provision of supporting documents:
 - ☐ Personal information and contact details
 - ☐ Tax returns and financial records
 - ☐ Income sources
 - ☐ Qualifications and memberships
 - ☐ Business and other interests
 - ☐ Property and other assets
 - ☐ Travel history
 - ☐ Gifts

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- Valuable information may be obtained from employers
- Dependent on public versus private sector
- Information to consider:
 - ☐ Payroll information
 - ☐ CSD reports
 - ☐ Employer vendor listings
 - ☐ Gift registries
 - ☐ Human resources information (roles, appointment dates and disciplinary records)
 - ☐ Other remunerative work application(s)



- Public scrutiny – role of media and journalism – anonymous informants
- Lifestyle indicators – social media:
 - ❑ Privacy setting and ‘connections’
 - ❑ Generation of participant – settings, platforms
 - ❑ Importance of images used in posts – different ways information can be obtained
- Time consuming
- Not a one size fits all – trial and error
- Question: utilisation of fake profiles, and ‘inviting’ participants to connect? What about an alias?
- Possible sources – Google (adverse media and reverse image search), Facebook, Instagram, LinkedIn, X, TikTok, YouTube, Snapchat, Discord...



- Different sources and different data – when do you use?
- Subscriptions offer access to multiple search capabilities
- Bulk requests – effective and efficient



Examples of data that can be obtained:

- Directorships and memberships
- Credit bureau
- Account verification
- ID verification
- PEP and sanction screening
- Lineage reports
- Spousal verification
- Property
- Vehicles
- Deeds records – bonds, ANC
- Qualification verification
- Person trace
- Property history ownership
- Vehicle history ownership
- ...



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**CENTRAL SUPPLIER
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- What MOU's does your client have in place?
- Should we use this information for lifestyle audits – development?



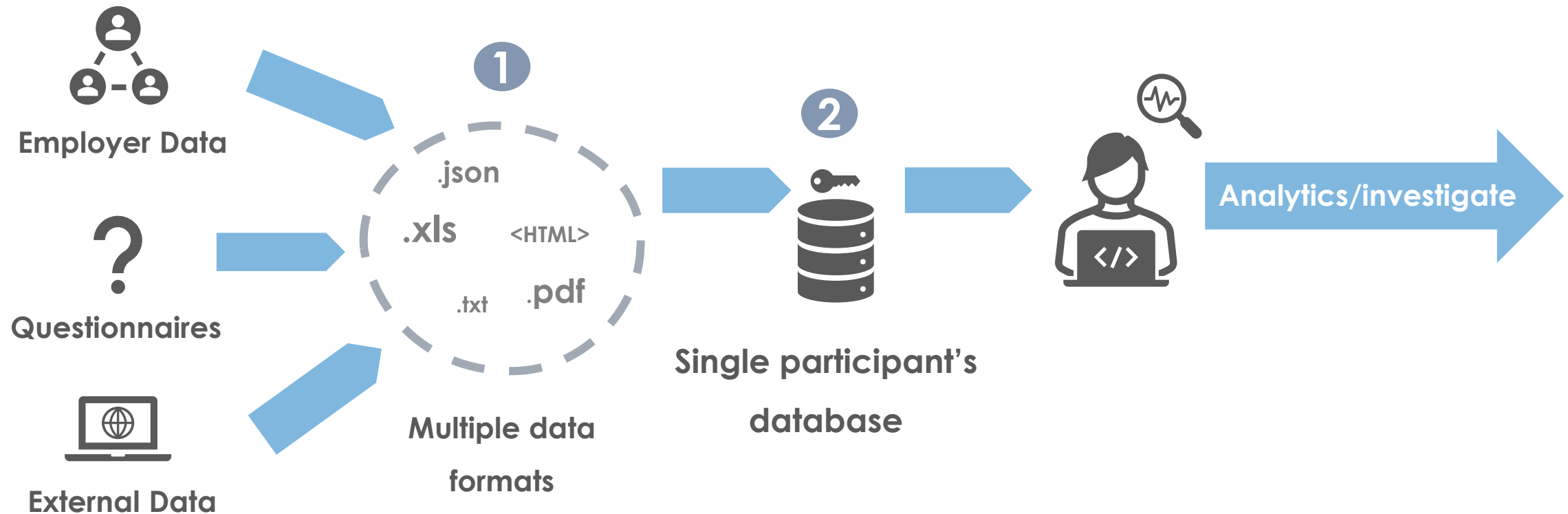
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- To be agreed with client at pre-commencement phase
- Provide client with initial and interim feedback:
 - ☐ Participation level
 - ☐ Accuracy
 - ☐ Completion
 - ☐ Compliance
 - ☐ Initial findings and risk rating
- Discuss with client – operational context – fraud risk area
- Additional engagement/information discussed and agreed on
- Reduce lifestyle audit population?

Activities and consideration:

- Data preparation – single structured data format
- Participants database build – apply risk rules and report per participant.





- Risk rules, risk factors and the weight of each:
 - ❑ Create a risk-based approach across all data
 - ❑ Efficient way of expressing risk relationships
 - ❑ Fairness – anonymity?
 - ❑ Reproducibility
 - ❑ But – bad data in, bad data out
- Apply risk rules – ensure consistency and defensible position
- Contextualise findings – category of participants and prevalence of behaviours in South Africa
- Collate risk scores – guide conclusions/recommendations, supplemented by quantitative considerations
- Analytic tools beyond Microsoft Excel?



High-risk categories



Risk assessment

Active directorships	Properties owned	Property value	Unbonded property value	Outstanding debt	Monthly instalment
0	1	R1 500 000.00	R0.00	R1 547 478.00	R14 969.00
Employment level	Amounts in bad standing	Judgements			
9	0	0			



Activities and consideration:

- Significant in- and outflows – supported by explanations and supporting documents?
- Income and expenses – directly compared to participant's declarations and employer HR information (salary level/bonus/other financial benefits):
 - ☐ Source and application?
 - ☐ Net worth analysis?
 - ☐ Automated analysis?
- Financial distress is usually identifiable using bank statements
- Outside business interests occasionally evident from bank statement analysis
- Undisclosed asset ownership – ancillary costs
- What you do not see...

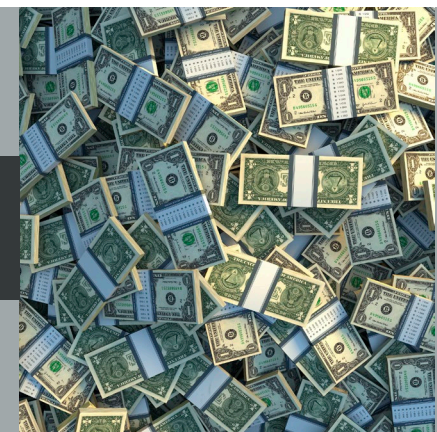


- Final reporting is performed on completion of the lifestyle audit:
 - ❑ Trend analysis
 - ❑ Findings – report on exceptions?
 - ❑ Recommendations? (discussed further in next session)
- Confidentiality and privacy:
 - ❑ Lifestyle audit reporting deals with personal information – no expectations that lifestyle audit reports will be widely disseminated – agree in advance
- Utilisation of summary reporting to management – trends, anonymised
- Utilisation for other purpose?
- Notification letter per participant(s)
- Overall close out report?

Session 3

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Outcomes of a lifestyle audit





- What do you do after completing a lifestyle audit?
 - ❑ Recommendations?
 - ❑ Consequence management?
 - ❑ Successful implementation?
- DPSA Guide – process following determination that standard of living of an official is not commensurate with their income – should we criminalise conduct?
- Has there been any disciplinary action in public sector?
- Compliance to implement lifestyle audits in public sector:
 - ❑ Moved from 27 national departments and 47 for provincial departments – end of January 2022
 - ❑ Now 42 national departments and 99 provincial departments – end of January 2025

- Successful application of lifestyle audit outcomes:
 - ❑ National Union of Mineworkers v Mogale Gold, a Division of Mintails (SA) (Pty) Ltd [2015] 10 BLLR 1016 (LAC) – relied on a lifestyle audit as proof that a couple could not have financed the family lifestyle
 - ❑ CEPPWAU obo Hlebela / Lonmin Precious Metals Refinery [2011] 8 BALR 814 (CCMA) – lifestyle audit showed that an employee enjoyed a standard of living higher than anyone earning his salary
 - ❑ Heese obo Peters v Road Accident Fund [2012] 6 SA 496 (WCC) – unable to finance lifestyle expenditure from income reported in AFS of business
- But does our present regulatory framework allow for consequences to flow from lifestyle audits – do we need to significantly develop the legislation....

- Article 20 UN Convention Against Corruption (UNCAC):
 - ❑ Requires the criminalisation of illicit enrichment...BUT it is non-mandatory
- PRECCA – section 23 – application for an investigation:
 - ❑ Individual possesses property disproportionate to present/past known sources of income/assets – looks at standard of living
 - ❑ No evidence as at 2024 that this provision has been utilised – no offence created, but rather empowers an investigation
 - ❑ Excludes political officials from public officials – lacuna?
 - ❑ Evidence obtained not admissible in criminal proceedings – UNCAC not addressed by PRECCA – also only open to the NPA to use?

- Illicit enrichment:
 - ❑ UN defines illicit enrichment, when committed intentionally, is a significant increase in the assets of a public official that he or she cannot reasonably explain in relation to his or her lawful income
 - ❑ Five elements to this definition:
 - Public official
 - Period of interest
 - Significant increase in wealth
 - Unlawfulness
 - Intention (fault)
 - ❑ Other countries – not first world and no strong rule of law – have criminalised – what about SA?



- Non-conviction based asset forfeiture – unexplained wealth orders (UWO):
 - ❑ UK, Ireland and Australia
 - ❑ Civil recovery approach
 - ❑ Rely on slightly different definitions – who is targeted by the UWO
 - ❑ Reverse burden of proof – if you cannot substantiate then you must pay the difference between legitimate wealth and unexplained wealth
 - ❑ Target the proceeds of criminal activities – civil confiscation and forfeiture jurisprudence – decriminalises the judicial procedure and deprives reward of criminal activity
 - ❑ Ireland – presumption of corrupt enrichment if you fail to declare properly/fully
- Role of freezing orders?



- Guidance from FATF and the ACTT:
 - ☐ Baseline requirements to consider further legislative development
- Do we create a civil recovery method – UWO – or criminalise and take PRECCA further?
 - ☐ Benefit of criminalising, and who pays for it?
 - ☐ Accountability tool and anti-corruption measure?
 - ☐ Applicability to private and public officials?



- What do we do while we wait for the bigger developments?
- Current progress and success in the public sector
 - ❑ Development and buy-in
- Are we faced with a so-what question?
 - ❑ If we cannot prove a predicate offence – what can we do?
- What development should be prioritised and how long will this take?

