

FUNCTIONS OF VIGILANCE

While it is difficult to outline an exhaustive list of functions & responsibilities of Vigilance functionaries, as the sphere of Vigilance is ever-evolving, an indicative list is as under:

- (1) To conduct preventive check and Carry out checks, with follow-up investigations, on serious cases of irregularities, based on source information
- (2) To undertake prompt investigation of authenticated complaints, with special emphasis on Presidential & PMO references, CA-iii references, CVC-referred complaints, complaints appearing in the media and serious complaints, involving malafide intent, sent by members of the public.
- (3) Ensure speedy processing of Vigilance cases at all stages. Undertake regular review of these cases
- (4) To advise for suspension / transfer / DAR or Administrative action against defaulted railway employees and Administrative action against defaulted contractor / Agent / Firm engaged in railway contract.
- (5) To hold Vigilance Seminar, lectures, etc. to educate Railway employee to curb corruption and to promote transparency.
- (6) To provide service to executive department by giving Vigilance history to management at various occasions as well as to maintain close liaison with Railway Board, CBI, CVC & ACB.
- (7) To ensure that the CVC and UPSC (as per merit of case) are consulted at all relevant stages in an expeditious manner.
- (8) To scrutinize reports of Parliamentary Committees, Audit Reports, proceedings of both Houses of Parliament, news items in the media, annual property statements, etc. to obtain information about irregularities that pertain to the Organization.
- (9) Undertake review of existing rules and procedures to suggest the system improvement as per merit of case for reducing possibility of Corruption/Leakage of Revenue.
- (10) Surveillance and Detection watch on the working of Officials of Doubtful Integrity and those who are on Agreed and Secret Lists.
- (11) Arrange regular and surprise inspections at sensitive work units, which are susceptible to corruption.

DEFINITION OF VIGILANCE ANGLE

1. Vigilance angle is obvious in the following acts:
 - a) Demanding and/ or accepting gratification other than legal remuneration in respect of an official act or for using his influence with any other official.
 - b) Obtaining valuable thing, without consideration or with inadequate consideration from a person with whom he has or is likely to have official dealings or his subordinates have official dealings or where he can exert influence.
 - c) Obtaining for himself or for any other person any valuable thing or pecuniary advantage by corrupt or illegal means or by abusing his position as a public servant.
 - d) Possession of assets disproportionate to his known sources of income.
 - e) Cases of misappropriation, forgery or cheating or other similar criminal offences.
2. There are, however, other irregularities where circumstances will have to be weighed carefully to take a view whether the officer's integrity is in doubt. Gross or wilful negligence; recklessness in decision making; blatant violations of systems and procedures; exercise of discretion in excess, where no ostensible public interest is evident; failure to keep the controlling authority/ superiors informed of required transactions and issues in time; cause of undue loss or a concomitant gain to an individual or a set of individuals/ a party or parties; these are some of the irregularities where the disciplinary authority with the help of the CVO should carefully study the case and weigh the circumstances to come to a conclusion whether there is reasonable ground to doubt the integrity of the officer concerned.
3. Any undue/ unjustified delay in the disposal of a case, perceived after considering all relevant factors, would reinforce a conclusion as to the presence of vigilance angle in a case.
4. The purpose of vigilance activity is not to reduce but to enhance the level of managerial efficiency and effectiveness in the organisation. Commercial risk-taking forms part of business. Therefore, every loss caused to the organisation, either in pecuniary or non-pecuniary terms, need not necessarily become the subject matter of a vigilance inquiry. Thus, whether a person of common prudence, working within the ambit of the prescribed rules, regulations and instructions, would have taken the decision in the prevailing circumstances in the commercial/ operational interests of the organisation is one possible criterion for determining the bona fides of the case. A positive response to this question may indicate the existence of bona-fides. A negative reply, on the other hand, might indicate their absence.
5. It would be quite unfair to use the benefit of hind-sight to question the technical merits of a managerial decision from the vigilance point of view. At the same time, it would be unfair to ignore motivated or reckless decisions, which have caused damage to the interests of the organisation. Therefore, a distinction has to be made between a business loss which has arisen as a consequence of a

bona-fide commercial/ operational decision, and an extraordinary loss which has occurred due to any malafide, motivated or reckless performance of duties. While the former has to be accepted as a normal part of business and ignored from the vigilance point of view, the latter has to be viewed adversely and dealt with under the extant disciplinary procedures.

6. It follows that vigilance investigation on a complaint would not be called for on the basis of a mere difference of opinion/ perception or an error of judgment simplicities or lack of efficiency or failure to attain exemplary devotion in the performance of duties. ([Union of India vs. J. Ahmed AIR 1979 SC 1022](#)). Such failures may be a matter of serious concern to the organisation but not from the vigilance point of view. They have to be dealt with separately.
7. The Commission has decided that the CVOs, while sending the case to the Commission for advice against the lapses of officers exercising quasi-judicial powers, should examine critically whether the criteria laid down by Hon'ble Supreme Court in [K.K. Dhawan's case](#) was attracted or not. The following criteria was laid down:
 - (i) Where the officer had acted in a manner as would reflect on his reputation for integrity or good faith or devotion to duty;
 - (ii) If there is prima facie material to show recklessness or misconduct in the discharge of his duty;
 - (iii) If he has acted in a manner which is unbecoming of a Government Servant;
 - (iv) If he had acted negligently or that he omitted the prescribed conditions which are essential for the exercise of the statutory powers;
 - (v) If he had acted in order to unduly favour a party;
 - (vi) If he had actuated corrupt motive, however, small the bribe may be.
8. Absence of vigilance angle in various acts of omission and Commission does not mean that the concerned official is not liable to face the consequences of his actions. All such lapses not attracting vigilance angle would, indeed, have to be dealt with appropriately as per the disciplinary procedure under the service rules.
9. Administrative misconduct such as lack of punctuality, drunken behaviour at work, insubordination, etc. would be left to the disciplinary authority to deal with in an appropriate manner. If the lapse is without a vigilance angle, the disciplinary authority would be within its rights to initiate appropriate penalty proceedings against erring employees. ([CVC Office Order No.23/04/04 dated 13.04.2004](#))
10. Thus, the CVC gives advice only in such cases in which there is a vigilance angle. In other cases, where it concludes that the lapses do not attract vigilance angle, necessary disciplinary action will have to be taken by the concerned disciplinary authority under conduct/disciplinary rules, as deemed appropriate. These cases are not to be referred to CVC for any further advice.