

# Safeguarding integrity

A guide to the integrity system in Victoria



## **Acknowledgements**

This guide has been produced by the Independent Broad-based Anti-corruption Commission in partnership with the agencies listed in this guide who form part of Victoria's integrity system. IBAC would like to acknowledge the assistance given by those organisations. In particular IBAC would like to acknowledge the Victorian Public Service Commission for their initial development of this guide.

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Authorised and published by the Independent Broad-based Anti-corruption Commission, Level 1, 459 Collins Street, Melbourne. December 2016

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ISBN 978-0-9954265-5-9 (print)

ISBN 978-0-9954265-4-2 (online)

# \ Content \

This guide has been developed to help public sector employees and the broader community understand Victoria's integrity system and its key agencies.

## Foreword

<b>\ 1 \ Integrity and the public sector</b>	<b>1</b>
1.1 The Victorian public sector	2
1.2 Obligations of public sector employees and managers	4
<b>\ 2 \ Key integrity agencies</b>	<b>6</b>
2.1 Independent Broad-based Anti-corruption Commission	7
2.2 Victorian Ombudsman	7
2.3 Victorian Auditor-General	8
<b>\ 3 \ Other related bodies</b>	<b>9</b>
3.1 Local Government Investigations and Compliance Inspectorate	9
3.2 Freedom of Information Commissioner	9
3.3 Victorian Public Sector Commission	10
3.4 Victorian Equal Opportunity and Human Rights Commission	10
3.5 Commissioner for Privacy and Data Protection	10
<b>\ 4 \ Oversight</b>	<b>11</b>
4.1 Victorian Inspectorate	11
4.2 Parliamentary Committees	12
4.3 Public Interest Monitors	13
<b>\ 5 \ Reporting misconduct and corruption</b>	<b>14</b>
5.1 Defining misconduct and corruption	14
5.2 Reporting misconduct	17
5.3 Reporting corruption	19
5.4 Making other complaints	19
<b>\ 6 \ Making a protected disclosure</b>	<b>22</b>
6.1 What is a protected disclosure?	22
6.2 How to make a protected disclosure	23
6.3 Ensuring protection during the investigation	25
<b>\ 7 \ Further information</b>	<b>26</b>
7.1 Agency contacts	26
7.2 Legislation	27
7.3 Useful resources	31
<b>\ 8 \ Glossary</b>	<b>33</b>

# \ Foreword \

Every day, public sector employees make decisions and take actions that affect the lives and interests of the Victorian community. They handle private and confidential information, respond to emergency situations and provide vital community services and support. As well, they manage and account for public funds.

People expect the highest standards from their politicians, public servants, courts, local councils and police. They want to know that government resources are distributed fairly, procedures are reasonable and decisions are consistent. They expect that public sector employees will act in the public interest and with integrity. They expect that public sector employees will not grant favours or privileges to particular clients, associates or suppliers. Nor will they act to benefit themselves.

All Victorians have a role to play in safeguarding integrity. But Victorian public sector employees are entrusted with a series of obligations that differ from those found in private sector employment relationships. They have special responsibilities and obligations; they have specific duties and commitments.

Acting with integrity is generally defined as being honest and behaving with strong moral principles. Integrity is essential for government to be legitimate, trusted and effective. The integrity system exists so that every Victorian can have confidence in the state's public sector. Wherever you work in the Victorian public sector, Victoria's integrity system is relevant to you.

As an employee within the Victorian public sector, it is important that you understand misconduct and corruption, and how our integrity system works to ensure the highest standards of conduct are upheld.

This guide has been developed to help public sector employees and the broader community understand our integrity system and its key agencies. It will help you to recognise misconduct and corrupt conduct, and know what to do about it.

We are sure you will find this a practical and useful resource.



**VAGO**

Victorian Auditor-General's Office  
Auditing in the Public Interest

Jointly signed by:

A handwritten signature in black ink, appearing to read "Stephen O'Byrne".

IBAC Commissioner

A handwritten signature in black ink, appearing to read "Alan Fyfe".

Victorian Ombudsman

A handwritten signature in black ink, appearing to read "Alan Fyfe".

Auditor-General

# \ 1 \ Integrity and the public sector

The public sector provides social, health, justice and emergency services. It provides transport and other infrastructure that support our daily lives. The public has a right to expect that people working for the public sector perform their duties fairly and honestly.

As tax and rate payers, citizens have opinions about how their taxes are distributed and which policies are funded. As consumers of government services they expect good quality. As members of a community they expect decisions to be made in the public interest.

Government policies are implemented by a professional and apolitical public sector. Citizens have the right to be given reasons for administrative decisions made about them and to have those decisions independently reviewed.

Misconduct and corruption can undermine people's trust and respect in government and damage the reputation of the public sector as a whole. When misconduct or corrupt activities are not identified – or are left unchecked – public money and resources are wasted.

In the Victorian public sector, employees are expected to use their powers responsibly, to be honest and transparent, to avoid conflicts of interest and to report any improper conduct. In this way, we can earn and sustain public trust. These requirements are defined in law, agreement, policies and codes of conduct.

## About this guide

This guide has been developed to help public sector employees and the broader community understand Victoria's integrity system. It will help you to recognise misconduct and corrupt conduct, and know what to do about it.

The guide focuses on key integrity bodies with public sector-wide responsibilities rather than those bodies with specific sector responsibilities, such as the Office of the Health Commissioner.

While this guide primarily covers the public sector as defined in the *Public Administration Act 2004*, it also refers to politicians, the courts, local councils and police. Anyone seeking more information about these areas should contact the relevant authority.

## \ 1.1 \

### The Victorian public sector

The Victorian public sector is comprised of both the Victorian Public Service and a range of Victorian public entities (Figure 1).

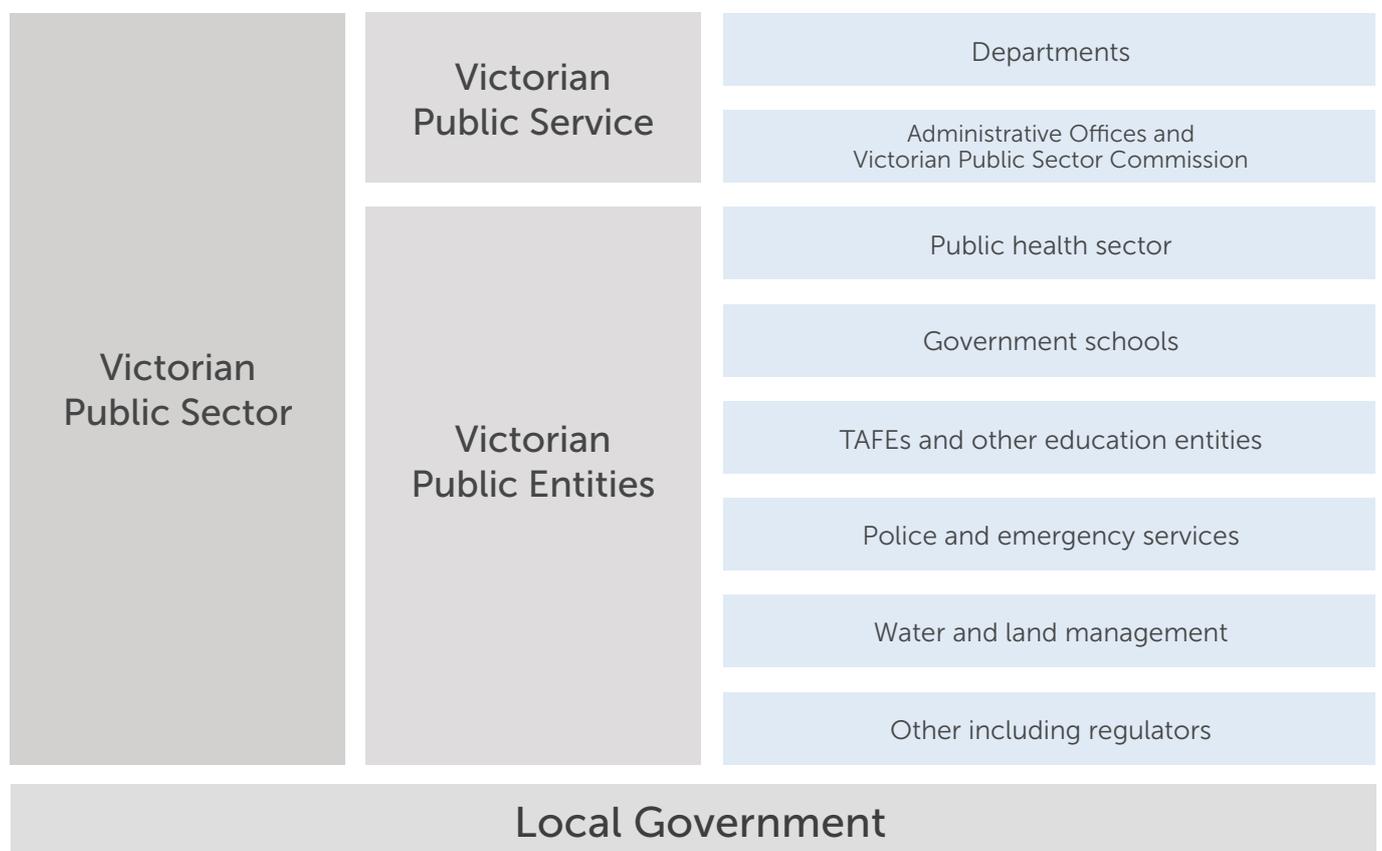


Figure 1. Composition of the Victorian public sector

## Victorian Public Service

The Victorian Public Service is comprised of government departments (eg. the Department of Justice and Regulation and the Department of Premier and Cabinet) and a number of portfolio-related authorities and offices (eg. the Office of the Chief Commissioner of Police, Office of the Victorian Electoral Commissioner and the Office of the Governor).

## Public entities

In Victoria, public entities are organisations that have a public function but are established outside the public service. This means they perform their functions with some autonomy from ministers and public servants.

Victoria's public entities include statutory authorities, state-owned corporations, professional registration boards, advisory groups, service providers (for example, health services) and industry regulators.

Examples of public entities include:

- Country Fire Authority
- Federation Square
- Gordon Institute of TAFE
- Greyhound Racing Victoria
- Melbourne Water
- Monash Health
- Omeo District Health
- Parks Victoria
- Veterinary Practitioners Registration Board
- VicRoads
- Victorian Institute of Sport

## \ 1.2 \ Obligations of public sector employees and managers

### Employee obligations

As a public sector employee you have obligations to your employer, colleagues and the public. These obligations are set out in documents including the *Public Administration Act 2004*, the *Code of Conduct for Victorian Public Sector Employees*, human resource policies and industrial agreements.

#### Your obligations

- Be aware of the standards expected of you.
- Be aware of how your role relates to your organisation's vision.
- Support, promote and model your organisation's values.
- Work in a transparent and open manner by keeping accurate and reliable records.
- Provide information to colleagues; offer help.
- Work safely and avoid conduct that puts others at risk.
- Be respectful in your relationships with managers, colleagues and the public.
- Treat everyone fairly.
- Comply with any reasonable requests to undertake tasks consistent with your classification level and skills.

#### If problems arise

- Be vigilant: report any potential risks or improper conduct to the appropriate person.
- Accept responsibility for your decisions and the impact of those decisions on others.
- If asked, participate in misconduct or unsatisfactory performance processes in good faith.
- Act quickly to address negative behaviours by handling the situation directly or reporting it to your manager.
- Attempt to resolve disputes quickly and informally in the first instance.
- Avoid lodging complaints that are frivolous, vexatious or lacking in substance.

## Manager obligations

Managers need to identify, manage and remove integrity risks and integrity breaches within their immediate work area. You can do this by observing what is happening, informally probing to clarify issues, conducting inspections and audits, and investigating complaints.

### Your obligations

- Create a culture of integrity: behave respectfully and act ethically.
- Promote Victorian public sector values with reference to the Public Administration Act, the Code of Conduct or local policies and procedures.
- Reward staff who are productive and ethical in their work.

### If problems arise

- Encourage staff to raise concerns openly. Offer guidance, training and counselling where needed.
- Reassure staff that they can report improper conduct without fear of reprisal.
- Hold staff accountable when integrity is in question.
- Be prepared to discipline staff who engage in misconduct (with the support of human resources staff).
- Put steps in place to prevent misconduct from occurring again.
- Encourage staff to consider the long-term consequences of acting dishonestly.

## \ 2 \ Key integrity agencies

The Victorian integrity system is comprised of a number of agencies, each with a distinct role (Figure 2). While those roles are distinct, the agencies have inter-connected functions. They also have an overarching shared responsibility for protecting integrity in the Victorian public sector.

This section provides a guide to the key functions and responsibilities of each.



Figure 2. Victoria's integrity system

## \ 2.1 \

### Independent Broad-based Anti-corruption Commission

#### What does the Independent Broad-based Anti-corruption Commission do?

The Independent Broad-based Anti-corruption Commission (IBAC) is responsible for identifying, exposing and preventing corrupt conduct across the public sector. It has jurisdiction for corrupt conduct involving the judiciary, local councils, schools and universities, public hospitals, parliamentarians and contractors performing a public function.

IBAC also has a broad oversight role in relation to police misconduct.

#### What powers does IBAC have?

IBAC can conduct an investigation as a result of a complaint, or initiate its own investigation (own motion).

IBAC has the power to apply for search warrants to enter premises, and can search and seize documents. It can use surveillance devices and telecommunication intercepts to gather evidence. IBAC also has the power to summons witnesses and conduct examinations.

Following an investigation IBAC may make recommendations to the employer, the government or Parliament. IBAC can bring criminal proceedings for an offence in relation to any matter arising out of an investigation.

They can also refer any matter to a prosecutorial body such as the Director of Public Prosecutions.

## IBAC's role under the *Protected Disclosure Act 2012*

The *Protected Disclosure Act 2012* enables anyone to make a disclosure about improper conduct by a person, public officer or public body – and protects them when they do. (Improper conduct is defined in section 6.1.)

Protected disclosures are a specific type of complaint about suspected improper conduct or detrimental action. Categorising a complaint as a protected disclosure helps protect the person making the disclosure (sometimes known as a whistleblower) from retaliation.

IBAC is the central agency for receiving, assessing and investigating protected disclosures about improper conduct by a public officer or public body. It also investigates complaints when someone who has made a disclosure is subject to reprisals for having spoken out.

IBAC may refer a protected disclosure complaint to another investigating entity.

#### IBAC's prevention role

IBAC is also responsible for informing the public sector and the community about the detrimental effects of corruption and how it can be prevented.

Further information  
[www.ibac.vic.gov.au](http://www.ibac.vic.gov.au)

## \ 2.2 \

### Victorian Ombudsman

#### What does the Victorian Ombudsman do?

The Victorian Ombudsman investigates the actions, decisions or conduct of public sector organisations and their staff. The Ombudsman may investigate a complaint made by a member of the public or the public sector. The Ombudsman can also start her own investigations in the public interest, even without a complaint.

The office also looks at whether a public sector organisation has acted in accordance with the *Charter of Human Rights and Responsibilities Act 2006*.

#### What powers does the Victorian Ombudsman have?

The Ombudsman has wide-ranging powers that include to summons and compel witnesses to give evidence, as well as power of entry to premises and to inspect documents. If the Ombudsman finds that an action or decision was made in error, she may recommend that the organisation take remedial action. The Ombudsman cannot make any comments adverse to a person without first giving them the right to respond to those comments, and setting out that response in the report.

The Ombudsman can also investigate matters that have been referred by IBAC. For example, IBAC may refer a protected disclosure complaint for investigation. Additionally, Parliament may refer certain matters for investigation.

Further information  
[www.ombudsman.vic.gov.au](http://www.ombudsman.vic.gov.au)

## \ 2.3 \ Victorian Auditor-General

### What does the Victorian Auditor-General do?

The Auditor-General is an independent officer of Parliament appointed by the Governor in Council on the recommendation of the Public Accounts and Estimates Committee (PAEC).

The Auditor-General examines the efficiency, effectiveness, economy and accountability of the public sector. The Auditor-General determines an annual work program and audit priorities in consultation with PAEC.

The Victorian Auditor-General's Office conducts two types of audit:

- *Financial and other attestation audits* assess whether the financial and performance statements of public sector organisations are presented fairly and in accordance with Australian accounting standards and relevant legislation.
- *Performance audits* assess whether public sector agencies are achieving their objectives effectively and doing so economically and efficiently, and in compliance with relevant legislation.

The Auditor-General tables reports in Parliament on the results of these audits. Reports may include findings about risks to integrity such as on the probity in purchasing, management of major contracts, fraud prevention strategies and the accuracy of public reporting.

### What powers does the Auditor-General have?

The *Audit Act 1994* provides the Auditor-General and the Victorian Auditor-General's Office (VAGO) staff with wide-ranging powers to access information needed during an audit. These powers override any restrictions on disclosure imposed by other legislation, such as statutory secrecy provisions and Cabinet or commercial-in-confidence confidentiality.

The Auditor-General makes recommendations to increase efficiencies within the public sector; if adopted, those recommendations can lead to substantial savings in public funds. However, the Auditor-General does not have the authority to implement recommendations – that is the role of the government.

Further information  
[www.audit.vic.gov.au](http://www.audit.vic.gov.au)

### What role do Victoria Police and the Victorian public sector play?

**Victoria Police** investigates crime including theft, fraud, bribery of a public official and misconduct in public office.

Victoria Police officers have powers to enable them to investigate criminal activity. When a crime is reported, the police take statements from any victims or witnesses to the crime and collect evidence, which may be used in the prosecution. Prosecution is undertaken either by Victoria Police, or in the most serious cases, the Office of Public Prosecutions.

**Departments and agencies** may manage complaints made directly to them, or referred by IBAC, as well as take disciplinary action against individuals. From 1 December 2016, principal officers of public bodies must notify IBAC of matters they suspect involve corrupt conduct.

## \ 3 \ Other related bodies

### \ 3.1 \ Local Government Investigations and Compliance Inspectorate

The Local Government Investigations and Compliance Inspectorate (Inspectorate) is the dedicated integrity agency for all local councils across Victoria. It is an independent administrative office established to investigate offences under the *Local Government Act 1989* (Act) and, more broadly, monitor councils' governance and compliance in accordance with the Act.

The Inspectorate investigates matters related to council operations including criminal offences under the Act involving councillors, senior council officers or any person subject to the conflict of interest provisions.

In addition, the Inspectorate plays an integral role in local council elections. As the authority responsible for receiving, assessing and, where appropriate, investigating matters and offences provided for under the electoral provisions of the Act, the Inspectorate's enquiries may extend to any person subject to these provisions, including candidates and voters.

Compliance audits undertaken by the Inspectorate assess individual councils' performance against the legislative requirements of the Act, and targeted audits address systemic issues or trends of non-compliance. The Inspectorate uses sector information, complaints data and council governance schedules to formulate and deliver a specialist audit program that encourages higher standards of integrity, accountability and transparency in local government.

Led by the Chief Municipal Inspector (CMI), the Inspectorate has broad powers under the Act that enable it to effectively perform its functions. In connection with matters under examination by the Inspectorate, the CMI may require or compel a person to produce any document, give all reasonable assistance or appear before the CMI for examination on oath.

Failure to comply with a requirement of the CMI is an offence.

Where appropriate, the Inspectorate may prosecute offences in the courts or, where the circumstances relate to serious misconduct or gross misconduct by a councillor, initiate a councillor conduct panel or VCAT proceeding to make a finding.

In line with its commitment to educate and inform, the Inspectorate will produce reports and make recommendations to assist the sector and promote voluntary compliance with the Act.

The Inspectorate does not investigate complaints relating to councils' decisions or democratic processes unless there is a breach of the Act.

IBAC must be informed if any matters referred to the CMI by IBAC appears to involve corrupt conduct. Protected disclosures about local councillors must be made to either the Victorian Ombudsman or IBAC.

Further information  
[www.dpc.vic.gov.au](http://www.dpc.vic.gov.au)

### \ 3.2 \ Freedom of Information Commissioner

The *Freedom of Information Act 1982* enables members of the public to inexpensively access public sector information including rules, policies, guidelines and precedents. The community also has a legal right to access information held by government agencies to ask for incorrect or misleading information about them to be amended.

Requested documents may include maps, films, microfiche, photographs, computer printouts, emails, computer discs, tape recordings and videotapes. Certain documents such as Cabinet and law enforcement documents may be exempt.

If you are denied access to information, you can make an application for a review of the decision to the FOI Commissioner and later to the Victorian Civil and Administration Tribunal. You can also complain to the FOI Commissioner if you feel there is an unreasonable delay in responding to your FOI request, or if the Agency cannot locate the documents you have requested. The FOI Commissioner will investigate your complaint.

The Commissioner reports to a Parliamentary Accountability and Oversight Committee and advises, educates and guides public sector organisations how to comply with the FOI Act.

The Victorian Ombudsman, Commissioner for Privacy and Data Protection and Health Services Commissioner can also refer freedom of information complaints to the Commissioner.

A number of other agencies play an important role in Victoria's integrity system, for example, by ensuring the public has access to information, protecting people's privacy, and protecting people from discrimination

The Commissioner reports to Parliament on the operation of the Freedom of Information Act each year.

Further information  
[www.foicommisioner.vic.gov.au](http://www.foicommisioner.vic.gov.au)

### \ 3.3 \ Victorian Public Sector Commission

The Victorian Public Sector Commission is a statutory authority established in 2014 through an amendment to the *Public Administration Act 2004*. It is headed by a single Commissioner. The Act sets out the values and employment principles that guide how public sector employees perform their work and are managed.

One of the Commission's legislated objectives is to maintain and advocate for public sector professionalism and integrity. To do this, the Commission issues codes of conduct and standards based on public sector values and employment principles. These are complemented by a range of materials designed to assist Victorian public sector organisations and their staff to meet their obligations.

The Commission also monitors and reports on compliance with public sector values, principles, codes and standards. Following reviews of employment-related actions and complaints, the Commissioner makes recommendations to public sector body heads. The Commission also publishes a register of lobbyists who make representations to government.

Further information  
[www.vpsc.vic.gov.au](http://www.vpsc.vic.gov.au)

### \ 3.4 \ Victorian Equal Opportunity and Human Rights Commission

The Victorian Equal Opportunity and Human Rights Commission receives complaints of discrimination, sexual harassment, racial or religious vilification and victimisation under the *Equal Opportunity Act 2010* and the *Racial and Religious Tolerance Act 2001*. The Commission uses dispute resolution processes to attempt to resolve complaints.

The Commission also educates people about the rights and responsibilities contained in the *Charter of Human Rights and Responsibilities Act 2006* but does not handle complaints related to the Charter. Complaints about alleged breaches of the Charter by public sector workers or other public authorities can be made to the Victorian Ombudsman. Complaints regarding Victoria Police can be made to IBAC.

Further information  
[www.humanrightscommission.vic.gov.au](http://www.humanrightscommission.vic.gov.au)

### \ 3.5 \ Commissioner for Privacy and Data Protection

The Commissioner for Privacy and Data Protection administers the *Privacy and Data Protection Act 2014* which provides for the responsible collection and handling of personal information in the Victorian public sector, and for establishing a protective data security regime in Victoria.

The Commissioner is responsible for:

- monitoring the public sector's compliance with the Information Privacy Principles set out in the Act
- educating the public sector on how to collect and handle personal information without interfering with an individual's privacy
- handling complaints and issuing compliance notices in relation to breaches of an individual's privacy by a government organisation
- developing, implementing and overseeing a comprehensive data security framework in Victoria
- issuing law enforcement data security standards for the integrity of law enforcement data systems and crime statistics data systems.

You can complain to the Commissioner if you believe your privacy has been breached by a Victorian public sector organisation.

Complaints about the way in which Victoria Police has handled data should be made to Victoria Police, IBAC or the Commissioner for Privacy and Data Protection.

Further information  
[www.cpdp.vic.gov.au](http://www.cpdp.vic.gov.au)

## \ 4 \ Oversight

Integrity bodies have been given significant powers to investigate and report on maladministration, misconduct and corruption. A number of entities have therefore been established to provide oversight, and receive complaints.

### \ 4.1 \ Victorian Inspectorate

The Victorian Inspectorate is responsible directly to Parliament and is not subject to the direction or control of the government.

#### Complaints role

The Inspectorate has the power to receive and investigate certain complaints made to it about:

- the Independent Broad-based Anti-corruption Commission (IBAC)
- specified conduct (including the exercise of coercive powers) of Victorian Ombudsman officers, officers of VAGO, and the Chief Examiner/Examiners<sup>1</sup>.

The Inspectorate also has a narrow role in relation to the former Office of Police Integrity (OPI). This role is limited to receiving complaints about administrative actions taken by the OPI.

Whether acting on a complaint or conducting an own motion investigation, the Inspectorate can obtain information and conduct investigations. These powers relate to officers from IBAC, VAGO and the Ombudsman's Office. They also relate to the Chief Examiner/Examiners.

The Inspectorate may report on and make recommendations concerning the complaints it receives. Recommendations may include any action that the Inspectorate considers should be taken by a particular body or person. This could involve a

recommendation that certain action be taken to prevent specific conduct from continuing or occurring in the future, or which is intended to remedy any harm or loss. The Inspectorate also has the power to recommend that further investigation or enforcement action be taken by other agencies, including Victoria Police and the Director of Public Prosecutions.

#### Protected disclosures role

The Inspectorate determines whether disclosures relating to IBAC or IBAC officers are protected disclosure complaints under the *Protected Disclosure Act 2012* (see section 6 for information about protected disclosures). It may also receive other assessable disclosures about Ombudsman officers, VAGO officers or the Chief Examiner/Examiners. The Inspectorate must notify IBAC of certain disclosures it receives.

#### Auditing and monitoring role

In addition to monitoring the compliance of IBAC with the *Independent Broad-based Anti-corruption Commission Act 2011* and other laws, the Inspectorate also monitors compliance by Ombudsman officers with procedural fairness requirements as well as the use of coercive powers by Ombudsman officers, VAGO officers and the Chief Examiner and Examiners.

In carrying out its statutory compliance obligations, the Inspectorate not only audits relevant records kept by the Public Interest Monitor (see section 4.3

for information on the Public Interest Monitor) but also ensures that agencies adhere to the various statutory record keeping requirements under legislation such as the *Surveillance Devices Act 1999*, the *Telecommunications (Interception) (State Provisions) Act 1988* and the *Crimes (Controlled Operations) Act 2004*.

Further information  
[www.vicinspectorate.vic.gov.au](http://www.vicinspectorate.vic.gov.au)

<sup>1</sup>The Chief Examiner and Examiners, established under the *Major Crime (Investigative Powers) Act 2004* are vested with coercive powers to investigate organised crime.

## \ 4.2 \

### Parliamentary committees

A parliamentary committee consists of a group of members of either House (or both in the case of joint committees) appointed by one or both Houses of Parliament. The main purpose of parliamentary committees is to conduct inquiries into specified matters and report the findings and recommendations to Parliament.

The Parliament of Victoria has three joint committees (Figure 3) that play an important oversight role in the state's integrity system:

- Public Accounts and Estimates Committee
- Accountability and Oversight Committee
- Independent Broad-based Anti-corruption Commission Committee.

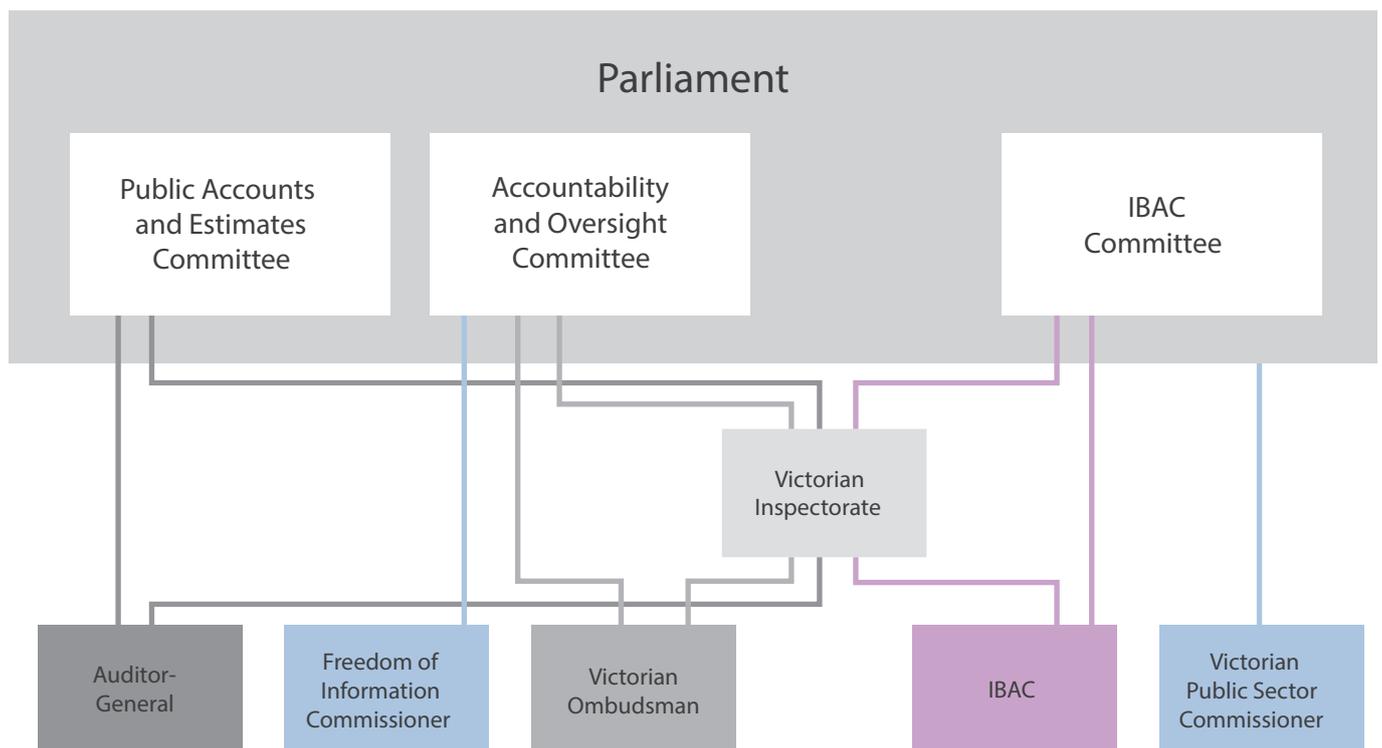


Figure 3. Parliamentary oversight

## Public Accounts and Estimates Committee

The Public Accounts and Estimates Committee (PAEC) reviews public administration, public sector finances and the budget estimates. PAEC reports give Parliament sufficient information to compare government expenditure against departmental performance.

PAEC is also the key mechanism for ensuring the Auditor-General is accountable to Parliament. PAEC recommends the appointment of the Auditor-General, appoints the external auditor of the Auditor-General's Office, and reports to Parliament on the budget estimates and annual plan of the Auditor-General's Office. PAEC also monitors the performance of the duties and functions of the Victorian Inspectorate in relation to the Auditor-General's Office.

## Accountability and Oversight Committee

The Accountability and Oversight Committee monitors and reviews the performance of the duties and exercise of powers of the Freedom of Information Commissioner and the Victorian Ombudsman, as well as the Victorian Inspectorate in respect of Ombudsman officers. The Committee examines reports and decides which matters require the attention of Parliament. It investigates complaints about the Freedom of Information Commissioner and may also enquire into freedom of information matters referred by Parliament.

The Committee cannot reconsider a decision or recommendation of the Freedom of Information Commissioner or Ombudsman. Nor can the Committee reconsider a decision or recommendation of the Victorian Inspectorate in relation to the Ombudsman's officers.

## Independent Broad-based Anti-corruption Commission (IBAC) Committee

The IBAC Committee monitors, reviews and reports to Parliament on how IBAC and the Victorian Inspectorate perform their functions and duties. This does not include the Victorian Inspectorate's functions in relation to VAGO or the Ombudsman's Office.

The IBAC Committee cannot review a complaint that has been made to IBAC or the Victorian Inspectorate about IBAC; nor can it disclose information that is confidential or would prejudice an investigation. It has the right of veto over any appointment to the role of IBAC Commissioner or Victorian Inspector.

## Other parliamentary committees

Other parliamentary committees include:

- *Privileges Committee* – a domestic committee in each House of Parliament that investigates and reports on potential breaches of parliamentary privilege or potential contempt of Parliament more generally.
- *Electoral Matters Committee* – a joint investigatory committee that reports on the conduct of parliamentary elections and referendums, the election of councillors, and electoral practices.

Further information  
[www.parliament.vic.gov.au](http://www.parliament.vic.gov.au)

## \ 4.3 \ Public Interest Monitors

Integrity agencies need to collect evidence as part of their investigations. Sometimes, this might affect the privacy and civil liberties of community members. Public Interest Monitors provide accountability around the use of covert and coercive powers, such as telephone intercepts and surveillance devices.

The functions of a Public Interest Monitor include appearing at any hearing of a relevant application for covert or coercive powers to test the content and sufficiency of the information relied on and the circumstances of the application. To fulfil these functions, the Public Interest Monitor can ask questions of any person giving information in relation to the application and may make submissions about whether the application should be granted.

The annual report of the Principal Public Interest Monitor details the number of applications each law enforcement agency and integrity body has made for an order, warrant or approval and the number that have been granted, refused or withdrawn.

The Public Interest Monitor does not receive complaints.

Further information  
[www.dpc.vic.gov.au](http://www.dpc.vic.gov.au)

# \ 5 \ Reporting misconduct and corruption

## \ 5.1 \ Defining misconduct and corruption

### Misconduct

As defined in the *Public Administration Act 2004*, misconduct includes:

- contravention of the Public Administration Act or *Code of Conduct for Victorian Public Sector Employees*
- improper conduct in an official capacity
- contravention of a lawful direction given to an employee
- employees making improper use of their position for personal gain
- employees making improper use of information they have gained because of their position. Improper use can be to gain financial benefits (or some other benefit) for themselves or someone else, or to cause detriment to the public sector.

To determine how serious a particular action is, investigators take a range of factors into account including the context within which the behaviour occurs. For example, is the employee entrusted with significant powers or responsibilities? What are the implications that flow from the conduct? Is there a history of previous misconduct? Does the employee work in a sensitive environment?

### Examples of misconduct

- forwarding an email that contains an offensive joke
- posting negative comments about a work colleague on social media
- being rude to a client who is requesting assistance
- failing to declare a gift valued at \$150 provided by a member of the public who is pleased with the service you have given
- coming to work affected by drugs or alcohol and being unable to perform your duties
- initiating an email containing pornography and circulating it
- stealing a laptop from your workplace
- assaulting a client
- manipulating a selection process to recruit a friend

## Corruption

Corruption in the public sector is generally defined as the misuse of a person's position or power to obtain personal gain either for themselves or for others.

Under the *Independent Broad-based Anti-corruption Commission Act 2011* 'corrupt conduct' includes:

- a person adversely affecting the honest performance by a public body or public officer of their functions
- a public officer or public body performing their functions dishonestly
- a public officer or public body knowingly or recklessly breaching public trust
- a public officer or public body misusing information or material acquired in the course of doing their job for their own benefit or someone else's benefit
- a person intending to affect the effective performance by a public officer or public body of their functions where this results in the person (or an associate) obtaining certain benefits
- conspiring or attempting to engage in the above activity.

The conduct must also constitute a 'relevant offence' – that is, an indictable offence against an Act or one of the common law offences of attempting to pervert the course of justice, perverting the course of justice, bribery of a public official, or misconduct in public office.

### Examples of corruption

- providing services to families and friends ahead of other members of the community
- misusing information (for example, releasing confidential information) to help a particular company win a contract
- accessing information gained in the course of employment and selling it to others who use it for personal gain
- defrauding your employer through misuse of procurement cards when you are a finance officer with responsibility for procurement
- accepting a bribe in return for doing something (such as approving a request for public housing) or not doing something (such as turning a blind eye to a licensed venue failing to comply with liquor licensing regulations)

### Misconduct or corruption?

It can be useful to understand misconduct and corruption in terms of a spectrum of behaviours, with integrity at one end and corruption at the other (Figure 4).

To determine whether conduct represents misconduct or corruption, you should consider the facts of each individual case. For example, is the conduct an isolated instance? Does it involve collusion between colleagues? Has the person’s official position been used to receive a benefit?

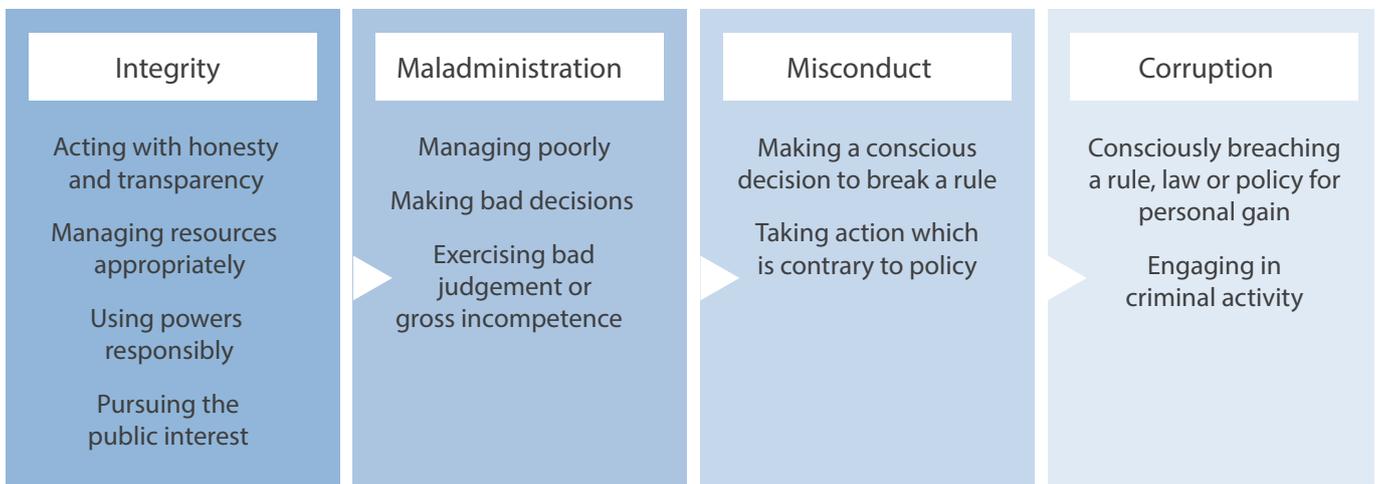


Figure 4. Range of behaviours

Adapted from *The Financial Administration Act: Responding to Non-compliance*, Treasury Board of Canada, 2005, page 10. Accessed 13 September 2013 at [www.tbs-sct.gc.ca/report/rev-exa/faa-lgfp-eng.pdf](http://www.tbs-sct.gc.ca/report/rev-exa/faa-lgfp-eng.pdf)

## \ 5.2 \ Reporting misconduct

### Misconduct of public sector staff

You can complain to the Victorian Ombudsman about the administrative actions, decisions or conduct of staff within the Victorian public sector. She will consider whether the organisation and/or individual employees have behaved fairly, reasonably and in accordance with relevant legislation, policies or procedures.

The Ombudsman does not deal with a complaint relating to the terms and conditions of employment of public sector employees unless she considers that the matter merits investigation to avoid injustice. The Ombudsman does not have the power to investigate certain people, including judges or magistrates.

### How do I make a complaint?

You can make a complaint over the phone or online at [www.ombudsman.vic.gov.au](http://www.ombudsman.vic.gov.au). You can also make a complaint by post, fax or in person.

In your complaint, set out the issue as clearly and concisely as you can. Focus on the main problems and the facts. Include dates of relevant events, the names and contact details of the organisation and any people who may have relevant information. Attach any supporting documents.

You can ask the Ombudsman to keep your identity confidential.

If the Ombudsman can help, staff will tell you about the outcome of your complaint. She may recommend that the organisation take action to resolve the problem. The Ombudsman may decide to report to Parliament.

If your complaint is not upheld you will be told why. If the Ombudsman can't help, staff may suggest other action that you could take.

### Misconduct relating to public sector values, principles, standards or codes

If you believe a public sector organisation has not properly applied public sector values, employment principles, standards or codes of conduct, you can complain to the Victorian Public Sector Commissioner.

For example, you may be concerned about how employment powers are being exercised, or how expected standards of behaviour are being managed. The Commissioner may seek assurance that public sector organisations are complying with their obligations in these areas. Based on the findings of a review, the Commissioner can make recommendations about relevant policies and processes.

Complaints to the Ombudsman can include:

- mistreatment of children or other vulnerable people in state care
- breaches of procurement policies and procedures
- giving wrong information to the public
- bias, favouritism or conflicts of interest that affect decision making.

### How do I make a complaint?

You need to complain to the Commissioner in writing. You can do this online at [www.vpsc.vic.gov.au](http://www.vpsc.vic.gov.au)

In the complaint, explain what avenues of review within the organisation have been explored – this might include speaking with your manager or human resources as a first step. Sometimes the VPSC may suggest a matter be directed to another, more appropriate body such as the Victorian Ombudsman or Fair Work Australia.

When conducting a review, the Commissioner will advise you and the head of the organisation concerned of the findings and any recommendations. If the organisation does not adopt the recommendations, it must provide a written statement of reasons to the Commissioner, who may include these in her annual report.

### Misconduct in council operations (including electoral provisions)

You can make a complaint to the Local Government Investigations and Compliance Inspectorate about alleged breaches of the *Local Government Act 1989*.

The Inspectorate can only investigate matters related to council operations and breaches of the Act involving a councillor, a senior council officer or any person subject to the conflict of interest provisions within the Act. If your complaint relates to electoral provisions, the Inspectorate can investigate matters related to any individual.

The Inspectorate does not investigate complaints relating to council decisions or democratic processes unless there is an allegation of a breach of the Act.

### How do I make a complaint?

Where appropriate, you should try to resolve the issue directly with the council as a first step. If you are unsatisfied with the council's response, you can complain to the Inspectorate by phoning the complaints hotline (1800 469 359), by post or by email at [inspectorate@lgici.vic.gov.au](mailto:inspectorate@lgici.vic.gov.au)

You can make an anonymous complaint; however, it is best if you leave contact details as the Inspectorate may require further information and evidence. They can also notify you of the outcome of their investigation.

### Police misconduct

IBAC accepts complaints about police misconduct and corruption. You can also choose to report to Victoria Police's Professional Standards Command.

## \ 5.3 \ Reporting corruption

### Corrupt conduct in the public sector

You can make a complaint to the Independent Broad-based Anti-corruption Commission (IBAC) about suspected corrupt conduct in the Victorian public sector.

IBAC will assess your complaint to determine whether:

- the matter should be referred to another organisation for action
- dismissed (that is, no further action taken)
- investigated.

IBAC can commence or continue an investigation despite the matter being before the courts, providing the investigation does not prejudice the court proceedings. It can also continue an investigation on its own motion if a complaint is withdrawn, or discontinue an investigation at any time.

You will be advised of the action to be taken, unless doing so would jeopardise an investigation.

#### How do I make a complaint?

Complaints made to IBAC must be in writing and can be lodged online at [www.ibac.vic.gov.au](http://www.ibac.vic.gov.au)

Outline your complaint as clearly and with as much detail as possible. Describe the conduct you are complaining about, who was involved and where it occurred.

IBAC may prepare a written report for the relevant public sector employer or the

government outlining the results of its investigation and any recommendations. It may also inform you of the results of the investigation (providing this would not cause unreasonable damage to another person's reputation or prejudice a police investigation).

IBAC may also refer the matter to another body (including a prosecutorial body) or submit a report to Parliament.

From 1 December 2016 principal officers of public bodies must notify IBAC of matters they suspect involve corrupt conduct.

IBAC can assess and investigate a broad range of corruption allegations, but is required to prioritise allegations about serious or systemic corruption.

Depending on the nature of the complaint, IBAC may decide to refer the complaint to another agency, take no further action, conduct a preliminary inquiry or investigate the complaint. All complaints received inform IBAC's intelligence gathering and prevention functions.

IBAC selects certain cases for review to help ensure matters referred by us to other agencies have been handled fully and investigated thoroughly.

## \ 5.4 \ Making other complaints

### Unfair treatment

You can complain directly to a public sector organisation if you believe you have been treated unfairly or have a concern about the conduct of its employees. This gives the organisation the opportunity to address your concerns and may result in changes being made to their policies or procedures.

### How do I make a complaint?

Your manager or human resources department can advise you as to how your organisation resolves complaints. There may be different processes for different complaints. For example, if you are disclosing possible corrupt conduct (or improper conduct), you will be directed to the organisation's protected disclosure coordinator.

If you are dissatisfied with how the organisation manages your complaint, you can ask for a review. Organisations must conduct reviews quickly, fairly and without formality. If your complaint involves another employee, your employer may offer mediation or conciliation.

After this, if you remain dissatisfied with how your complaint has been handled, you can complain to an external body such as the Victorian Public Sector Commissioner or the Victorian Ombudsman.

They may investigate whether the organisation's decision was fair and reasonable and check that policies and proper procedures were followed.

### Breach of privacy

A privacy breach can happen when a public sector organisation engages in an act or practice that is contrary to, or inconsistent with:

- an Information Privacy Principle or applicable code of practice
- another mechanism under the *Privacy and Data Protection Act 2014* including a public interest determination (including temporary determinations), an information usage arrangement or a certification.

### How do I make a complaint?

If you believe your privacy has been breached, try to resolve the issue directly with the organisation concerned. If this does not work, contact the Office of the Commissioner for Privacy and Data Protection to lodge a formal complaint.

Once a complaint has been investigated, the Commissioner can:

- decide not to take any further action – for example, if it is considered that the complaint is vexatious or lacking in substance
- refer a complaint to conciliation
- decide that conciliation of a complaint is inappropriate.

If the Commissioner decides to dismiss the matter, or if conciliation is considered inappropriate or is unsuccessful, the Commissioner may refer the matter to the Victorian Civil and Administrative Appeals Tribunal (VCAT).

If an organisation is found to have breached one or more Information Privacy Principles, VCAT can make an order requiring the organisation to apologise, change a procedure, correct or delete personal information, and/or pay compensation.

### Discrimination, sexual harassment, vilification and victimisation

Complaints about discrimination, sexual harassment, racial or religious vilification and victimisation can be made to the Victorian Human Rights and Equal Opportunity Commission. The Commission uses dispute resolution processes to address complaints.

### How do I make a complaint?

Phone the Commission's enquiry line to discuss your concerns. Staff at the Commission will tell you what they can and cannot help with and offer alternate avenues for assistance if they cannot help.

You can also submit a complaint using a secure online form on the Commission's website:  
[www.humanrightscommission.vic.gov.au](http://www.humanrightscommission.vic.gov.au)

## Human rights charter

A breach of human rights can occur where a public sector worker or public sector organisation acts in a way that is incompatible with human rights outlined in the *Charter of Human Rights and Responsibilities Act 2006* or in making a decision, fails to properly consider relevant human rights. The Charter protects and promotes a number of civil and political rights.

The human rights in the Charter are also reflected in the *Code of Conduct for Victorian Public Sector Employees*. This means that people working in the public sector must respect and promote these human rights as part of their employment obligations.

### How do I make a complaint?

Complaints that administrative actions taken by a public sector organisation are not compatible with the Charter can be made to the Victorian Ombudsman. Complaints regarding the conduct of Victoria Police can be made to the Independent Broad-based Anti-corruption Commission. The Victorian Equal Opportunity and Human Rights Commission does not handle complaints regarding the Charter.

## Criminal offences

Suspected criminal conduct (such as theft or assault) should be reported to Victoria Police.

### How do I make a complaint?

In an emergency, always call 000.

Non-emergency crime should be reported via phone or in person through your local police station. Details are available on the Victoria Police website [www.police.vic.gov.au](http://www.police.vic.gov.au)

Crimestoppers is used to provide information about suspicious activity or a crime. Information can be provided anonymously and is confidential.

Or you can call Crime Stoppers Victoria on 1800 333 000 or contact them online at [www.crimestoppersvic.com.au](http://www.crimestoppersvic.com.au)

Police will make enquiries about the complaint and investigate if appropriate. If they can gather enough evidence, they will lay charges against the person believed to have committed the crime. The person will then be required to appear in court.

Police prosecute offences in the Magistrates' Court. Some of the most serious crimes are referred to the Director of Public Prosecutions.

Complaints involving police corruption should be reported to IBAC in writing (see section 5.3) or Victoria Police Professional Standards Command. IBAC has an oversight role in relation to Victoria Police.

## Conduct of integrity agencies

You can lodge a complaint with the Victorian Inspectorate about:

- the conduct of IBAC or its officers
- specified conduct, including the use of coercive powers, of Ombudsman officers, officers of the Victorian Auditor-General's Office, or the Chief Examiner/Examiners.

The Inspectorate has discretion as to whether or not it will investigate a complaint.

If the Inspectorate investigates a complaint it must notify the integrity body concerned in writing unless doing so could prejudice an investigation.

### How do I make a complaint?

A complaints form is available online at [www.vicinspectorate.vic.gov.au](http://www.vicinspectorate.vic.gov.au)

When an investigation is complete, the Inspectorate may report on the complaint and make recommendations to the agency investigated.

# \ 6 \ Making a protected disclosure

## \ 6.1 \ What is a protected disclosure?

Protected disclosures are a specific type of complaint about suspected improper conduct. If a complaint is categorised as a protected disclosure, it helps protect the person making the disclosure from retaliation for making the complaint. Making a protected disclosure is sometimes known as whistleblowing.

Anyone can make a protected disclosure about improper conduct. Encouraging people to make disclosures about suspected improper conduct is an important way of maintaining the integrity of the Victorian public sector. It is important that people who make protected disclosures – and those who assist in an investigation – are looked after.

Sometimes retaliatory actions are taken against someone because they have made a protected disclosure. You can also make a disclosure about such actions.

The making of protected disclosures is governed by the *Protected Disclosure Act 2012*. Under the Act, a complaint or allegation that is already in the public domain will not usually be considered a protected disclosure. The term 'disclosure' is interpreted as being a revelation to the person receiving it.

Improper conduct is a wider category than corrupt conduct and includes the following:

**Corrupt conduct**  
as defined in the  
*Independent Broad-based Anti-corruption Commission Act 2011*

Includes:

- a person adversely affecting the honest performance by a public body or public officer of their functions
- a public officer or public body performing their functions dishonestly
- a public officer or public body knowingly or recklessly breaching public trust
- a public officer or public body misusing information or material acquired in the course of doing their job for their own benefit or someone else's benefit
- a person intending to affect the effective performance by a public officer or public body of their functions where this results in the person (or an associate) obtaining certain benefits
- conspiring or attempting to engage in the above activity where the conduct constitutes a 'relevant offence'.

**Specified conduct as defined in the**  
*Protected Disclosure Act 2012*

Includes:

- all types of corrupt conduct
- conduct of a public officer or public body that involves:
  - a substantial mismanagement of public resources
  - a substantial risk to public health or safety
  - a substantial risk to the environment.
- where the conduct constitutes a criminal offence or reasonable grounds for dismissal.

## \ 6.2 \

### How to make a protected disclosure

You can make a protected disclosure in writing or verbally. A disclosure can be made anonymously.

Protected disclosures can be made to the:

- Independent Broad-based Anti-corruption Commission (IBAC)
- Victorian Inspectorate, Victorian Ombudsman or Victoria Police (known as investigating entities) if the body is able to investigate that type of disclosure
- public sector organisation where the improper conduct occurred<sup>2</sup>.

IBAC assesses whether a given disclosure is a protected disclosure complaint. If it is, IBAC investigates the complaint, refers it to another investigating entity or dismisses the complaint.

The Victorian Inspectorate, Victorian Ombudsman, Victoria Police or public sector organisation must notify IBAC of any disclosures they receive that may be protected disclosures. This does not include disclosures the Victorian Inspectorate receives about IBAC.

#### Other protected disclosures

- A disclosure about a Minister or other Member of Parliament must be made to the Presiding Officer of the relevant House of Parliament.
- A disclosure about police personnel must be made to IBAC or a police member with a rank of sergeant or above.
- A disclosure about councillors must be made to IBAC or the Ombudsman.
- A disclosure cannot be made about the Victorian Inspectorate, Public Interest Monitor or a court (as opposed to judicial officers and staff employed at the courts).

<sup>2</sup> For the purpose of receiving a protected disclosure, a public sector organisation is defined as a department, administrative office, the Victorian Public Service Commission, council, prescribed public body or prescribed public officer.

Some disclosures must be made to a specific investigating entity

Subject of protected disclosure	Who the disclosure should be made to		
	IBAC	Ombudsman	Victorian Inspectorate
Governor	X		
Parliament apart from Members of Parliament	X		
Director of Public Prosecutions	X		
Judiciary	X		
Chief Commissioner of Police	X		
FOI Commissioner	X	X	
Commissioner for Privacy and Data Protection	X	X	
Auditor-General's Office	X		X
Ombudsman's Office	X		X
IBAC			X

Unless noted above, all other disclosures should be made to IBAC. For a full listing refer to ss13-19 of the *Protected Disclosure Act 2012*.

### \ 6.3 \ Ensuring protection during the investigation

A protected disclosure is investigated in a similar way to other complaints except that care is taken not to reveal information about the complainant's identity or the content of their disclosure. Penalties apply for breaching confidentiality.

It is also critical that people making protected disclosures are supported and protected against detrimental action. Public bodies are therefore required to ensure that people who disclose (as well as those who assist with a protected disclosure investigation) receive suitable welfare support and are safeguarded against direct and indirect detrimental action.

It is an offence for a person to take detrimental action against another person in retaliation for having made a protected disclosure. A court may award damages to compensate a person for any injury, loss or damage.

These protections may also apply if someone is subject to detrimental action because another person believes they had made a disclosure *regardless of whether a disclosure has, in fact, been made*.

When an investigation is completed, IBAC or another investigating entity must tell the discloser about the results of the investigation, including any action taken or recommendations made. IBAC may also advise the head of the relevant public body of the investigation outcome and relevant actions and recommendations. It will do this in a way that ensures the discloser is not identified.

Examples of detrimental action toward a discloser:

- action causing injury, loss or damages
- intimidation or harassment – for example, direct or indirect threats to safety and property (or similar threats to the discloser's friends or family)
- demotion, transfer, isolation in the workplace or changed duties
- discrimination, disadvantage or adverse treatment in relation to a person's employment, career, profession, trade or business including disciplinary action – for example, discrimination when applying for jobs, permits or tenders, which results in financial loss or damaged reputation (or similar discrimination directed to the discloser's family and friends).

# \ 7 \ Further information

## \ 7.1 \ Agency contacts

### Independent Broad-based Anti-corruption Commission

IBAC is responsible for identifying and preventing corrupt conduct across the whole of the Victorian public sector, including Parliament, the judiciary, statutory authorities and state and local government. It is also responsible for identifying and preventing misconduct by police personnel.

Level 1, North Tower  
459 Collins Street  
Melbourne VIC 3000  
Phone: 1300 735 135  
[www.ibac.vic.gov.au](http://www.ibac.vic.gov.au)

### Victorian Ombudsman

The Victorian Ombudsman is an independent officer of the Victorian Parliament who investigates complaints about state government departments, most statutory authorities and local government.

Level 2  
570 Bourke Street  
Melbourne VIC 3000  
Phone: (03) 9613 6222 or 1800 806 314 (regional freecall)  
[www.ombudsman.vic.gov.au](http://www.ombudsman.vic.gov.au)

### Victorian Auditor-General's Office

The Auditor-General provides assurance to Parliament on the accountability and performance of the Victorian public sector.

Level 24  
35 Collins Street  
Melbourne VIC 3000  
Phone: (03) 8601 7000  
[www.audit.vic.gov.au](http://www.audit.vic.gov.au)

### Local Government Investigations and Compliance Inspectorate

The Inspectorate conducts compliance audits at all Victorian local councils (including spot audits) and investigates complaints of alleged breaches of the *Local Government Act 1989*.

GPO Box 2392  
Melbourne VIC 3001  
Phone: 1800 469 359  
[www.dpc.vic.gov.au/index.php/local-government/local-government-investigations-and-compliance-inspectorate](http://www.dpc.vic.gov.au/index.php/local-government/local-government-investigations-and-compliance-inspectorate)

### Commissioner for Privacy and Data Protection

The Commissioner is responsible for the oversight of collecting and handling personal information in the Victorian public sector, and for establishing a protective data security regime in Victoria.

PO Box 24014  
Melbourne VIC 3000  
Phone: 1300 666 444  
[www.cdpd.vic.gov.au](http://www.cdpd.vic.gov.au)

### Victorian Equal Opportunity and Human Rights Commission

The Victorian Equal Opportunity and Human Rights Commission is an independent statutory body with functions under the *Equal Opportunity Act 2010*, *Racial and Religious Tolerance Act 2001* and *Charter of Human Rights and Responsibilities Act 2006*.

Level 3  
204 Lygon Street  
Carlton VIC 3053  
Phone: 1300 891 848  
[www.humanrightscommission.vic.gov.au](http://www.humanrightscommission.vic.gov.au)

### Victorian Inspectorate

The Inspectorate is the key oversight body in Victoria's integrity system.

PO Box 617  
Collins Street  
West Melbourne VIC 8007  
Phone: (03) 8614 3225  
[www.vicinspectorate.vic.gov.au](http://www.vicinspectorate.vic.gov.au)

### Victorian Public Sector Commission

The Victorian Public Sector Commissioner works with public sector employers to support public sector professionalism and integrity in the Victorian public sector.

3 Treasury Place  
Melbourne VIC 3002  
Phone: (03) 9651 1321  
[www.vpsc.vic.gov.au](http://www.vpsc.vic.gov.au)

## \ 7.2 \ Legislation

### ***Audit Act 1994***

The Audit Act sets out the functions of the Auditor-General in conducting financial and performance audits of the public sector. The Auditor-General has wide-ranging powers to access information and may report directly to Parliament. Safeguards in the Audit Act include requirements for strict confidentiality, consultation with the Public Accounts and Estimates Committee on the audit program, regular external audits of the office and the obligation to conduct audits in line with Australian Auditing and Assurance Standards.

### ***Charter of Human Rights and Responsibilities Act 2006***

The Charter of Human Rights and Responsibilities Act sets out a number of civil and political rights that must be protected and promoted. It is unlawful for any public sector worker or other public authority to act in a way that is incompatible with human rights or, in making a decision, fail to give proper consideration to relevant human rights. Any limits on human rights must be justified. When ministers introduce bills to Parliament, the bill must be accompanied by a statement of compatibility. The Scrutiny of Acts and Regulations Committee reports on whether those bills are incompatible with human rights. Questions in relation to the Charter may be raised in court or tribunal proceedings.

### ***Constitution Act 1975***

The Constitution Act sets the foundations for the Victorian Parliament, courts and local government. The Auditor-General, Ombudsman, Electoral Commissioner, IBAC Commissioner and Victorian Inspector are independent of Parliament. This means they have complete discretion in how they perform their duties.

### ***Crimes Act 1958***

The Crimes Act details the penalties for offences including theft, fraud, bribery of a public official and perverting or attempting to pervert the course of justice. The Act also gives procedures for conducting investigations, issuing search warrants and collecting forensic material.

### ***Financial Management Act 1994***

The Financial Management Act establishes a budgeting and reporting framework consistent with the principles of sound financial management. Those principles include managing financial risks and fully disclosing government financial information. The Auditor-General audits the annual financial reports presented to Parliament. Departments must comply with the policies of the Victorian Government Purchasing Board.

***Freedom of Information Act 1982***

The Freedom of Information Act enables members of the public to inexpensively access government information including documents containing rules, policies, guidelines, practices or precedents. Certain documents such as Cabinet and law enforcement documents may be exempt. If someone is denied access to information, they can apply for a review of this decision to the Freedom of Information Commissioner and later to the Victorian Civil and Administrative Tribunal.

The Freedom of Information Commissioner reports to a Parliamentary Accountability and Oversight Committee and advises, educates and guides public sector organisations on freedom of information professional standards. The Ombudsman, Commissioner for Privacy and Data Protection and Health Services Commissioner can refer freedom of information complaints to the Commissioner. The Commissioner or organisation concerned can refer matters to the Supreme Court for determination.

***Independent Broad-based Anti-corruption Commission Act 2011***

The Independent Broad-based Anti-corruption Commission Act establishes the IBAC Commissioner, an independent officer of Parliament who reports to the IBAC Parliamentary Committee. IBAC is responsible for preventing and exposing public sector corruption and police misconduct. IBAC can commence an investigation into corrupt conduct or police misconduct in response to a complaint or notification. It can also initiate its own investigations (own motion).

***Local Government Act 1989***

The Local Government Act provides councils with a legislative framework for accountable and transparent decision making and use of resources. The Act outlines sound financial management principles, best value principles and employment principles. It also requires that each council adopt a councillor code of conduct as determined by its elected councillors. Each councillor must formally agree to abide by the code to retain qualification as a councillor. Councillor conduct panels can hold hearings to test allegations that a councillor has engaged in misconduct or serious misconduct. The Victorian Civil and Administrative Tribunal can hold hearings to test allegations that a councillor has engaged in gross misconduct.

***Major Crime (Investigative Powers) Act 2004***

The Major Crime (Investigative Powers) Act allows the Chief Examiner to summons witnesses to give evidence under oath and to produce documents related to an investigation of organised crime. The Act states that the Victorian Inspectorate is responsible for monitoring how well the Chief Examiner, Examiners, Chief Commissioner of Police and members of Victoria Police comply with the Act.

***Members of Parliament  
(Register of Interests) Act 1978***

The Members of Parliament (Register of Interests) Act sets out a code of conduct for members and requires them to declare their interests.

***Ombudsman Act 1973***

The Ombudsman Act gives the Victorian Ombudsman the power to enquire into and investigate administrative actions taken by public bodies such as government departments and council staff. An enquiry or investigation can be initiated by the Ombudsman on her 'own motion' or be in response to a complaint. The Ombudsman may also investigate any matter referred by parliament, other than a matter related to a judicial (eg court or tribunal) proceeding; corrupt conduct referred by IBAC (including protected disclosure complaints) and whether administrative actions are incompatible with the Charter of Human Rights and Responsibilities Act.

***Parliamentary Administration  
Act 2005***

The Parliamentary Administration Act sets out values and employment principles for parliamentary officers. A department head may terminate the employment of a parliamentary officer who is found guilty of serious misconduct. A board of inquiry can hear charges of misconduct against a department head.

***Parliamentary Committees  
Act 2003***

The Parliamentary Committees Act establishes a number of joint investigatory committees that consider evidence and report to Parliament. These include the Accountability and Oversight Committee, the Electoral Matters Committee, the Independent Broad-based Anti-corruption Commission Committee, the Public Accounts and Estimates Committee, and the Scrutiny of Acts and Regulations Committee.

***Privacy and Data Protection  
Act 2014***

The Privacy and Data Protection Act provides for the responsible collection and handling of personal information in the Victorian public sector, and establishes a protective data security regime in Victoria.

***Protected Disclosure Act 2012***

The Protected Disclosure Act encourages people to disclose the improper conduct of an employee or public sector organisation to the organisation concerned or to an investigating entity such as IBAC or the Victorian Ombudsman. It also protects a discloser from reprisal.

***Public Administration Act 2004***

The Public Administration Act sets out a system of values, employment principles, codes and standards to guide conduct and performance in the public sector. The Victorian Public Sector Commissioner promotes these and reports annually on how they have been applied. The Commissioner may also request information from an employer and recommend changes. The Act also defines the duties of board directors.

***Public Interest Monitor Act 2011***

The Public Interest Monitor Act establishes an independent body to assess applications with the public interest in mind. Public Interest Monitors also assist the court when granting orders, warrants or approvals to conduct covert operations. The Public Interest Monitor can appear before a Supreme Court judge or a magistrate to ask questions and make submissions about whether an application is granted.

***Victoria Police Act 2013***

The Victoria Police Act enables the Chief Commissioner of Police to issue standing orders and to discipline or dismiss members of the police service for misconduct. Misconduct includes bringing the police service into disrepute. The Act also empowers police to seek a search warrant for specified offences.

***Victorian Inspectorate Act 2011***

The Victorian Inspectorate Act establishes the Inspector as an independent officer of Parliament who is not subject to ministerial direction. The Inspector monitors IBAC, the Victorian Ombudsman's Office, the Auditor-General's Office, the Chief Examiner/Examiners and the Public Interest Monitors to ensure compliance with relevant laws and statutory obligations. The Inspector can initiate an investigation or respond to a complaint about specified conduct. The Inspector can also require people to give evidence, produce documents and take evidence under oath.

## \ 7.3 \ Useful resources

### Codes

Administrative Departments of the Parliament 2009, *Code of Conduct for Victorian Parliamentary Officers*, Administrative Departments of the Parliament, Melbourne

Australasian Institute of Judicial Administration Incorporated 2007, *Guide to Judicial Conduct (Second Edition)*, Australasian Institute of Judicial Administration Incorporated, Melbourne

Judicial College of Victoria 2008, *Framework of Judicial Abilities and Qualities for Victorian Judicial Officers*, Judicial College of Victoria, Melbourne

Local Government Victoria, 2016, *Reforms arising from the Local Government Amendment (Improved Governance) Act 2015: A guide for councils*, Department of Environment, Land, Water and Planning  
<[www.delwp.vic.gov.au/\\_\\_\\_data/assets/pdf\\_file/0005/321467/Improved-governance-guide-for-councils-PDF-211215.pdf](http://www.delwp.vic.gov.au/___data/assets/pdf_file/0005/321467/Improved-governance-guide-for-councils-PDF-211215.pdf)>

Victorian Government 2011, *Fundraising Code of Conduct for Ministers, Parliamentary Secretaries and Coalition Government Members of Parliament*, Victorian Government, Melbourne

Victorian Government 2013, *Victorian Government Professional Lobbyist Code of Conduct*, Victorian Government, Melbourne (NB: this is published on the lobbyists register website at: [www.lobbyistsregister.vic.gov.au](http://www.lobbyistsregister.vic.gov.au))

Victoria Police 2010, *Victoria Police Code of Conduct: Professional and Ethical Standards*, Victoria Police, Melbourne

Victorian Public Sector Commission 2015, *Code of Conduct for Victorian Public Sector Employees*, Victorian Public Sector Commission, Melbourne

Victorian Public Sector Commission 2015, *Code of Conduct for Victorian Public Sector Employees of Special Bodies*, Victorian Public Sector Commission, Melbourne

Victorian Public Sector Commission 2016, *Code of Conduct for Directors of Victorian Public Entities*, Victorian Public Sector Commission, Melbourne

Victorian Institute of Teaching 2008, *Victorian Teaching Profession Code of Conduct*, Victorian Institute of Teaching, Melbourne

## Guidelines

Department of Treasury and Finance 2011, *Victorian Risk Management Framework*, Department of Treasury and Finance, Melbourne

Independent Broad-based Anti-corruption Commission 2016, *Guidelines for making and handling protected disclosures*, Independent Broad-based Anti-corruption Commission, Melbourne

Independent Broad-based Anti-corruption Commission 2016, *Guidelines for protected disclosure welfare management*, Independent Broad-based Anti-corruption Commission, Melbourne

Independent Broad-based Anti-corruption Commission and Victorian Ombudsman 2016, *Investigations guide – conducting internal investigations into misconduct*, Independent Broad-based Anti-corruption Commission and Victorian Ombudsman, Melbourne

Local Government 2012, *Conflict of Interest: A Guide for Councillors*, Department of Community Planning and Development, Melbourne

Local Government 2011, *Conflict of Interest: A Guide for Council Staff*, Department of Community Planning and Development, Melbourne

Local Government 2011, *Conflict of Interest: A Guide for Members of Council Committees*, Department of Community Planning and Development, Melbourne

Privacy Victoria 2012, *Info Sheet 04.12: Responding to Requests from Law Enforcement Agencies*, Privacy Victoria, Melbourne

Victorian Ombudsman 2016, *Complaints: Good Practice Guide for Public Sector Agencies*, Victorian Ombudsman, Melbourne

Victorian Public Sector Commission 2015, conflict of interest resources:

- Conflict of Interest guidance for directors
- Conflict of Interest guidance for organisations
- Assessing and evaluating your conflict of interest policy
- Implementing and evaluating your conflict of interest policy.

State Services Authority 2012, *Gifts, Benefits and Hospitality Policy Framework*, State Services Authority, Melbourne

Victorian Equal Opportunity and Human Rights Commission 2013, *Close to Home: Protecting People's Human Rights in Victoria – An Introductory Guide to the Charter for Victorian Public Servants and Local Government Staff*, Victorian Equal Opportunity and Human Rights Commission, Melbourne

## Standards

The VPSC issues binding standards under the Application of Public Sector Employment Principles Standard (No 1). See [www.vpsc.vic.gov.au/resources/standards/](http://www.vpsc.vic.gov.au/resources/standards/) for standards on:

- equal employment opportunity
- fair and reasonable treatment
- merit in employment
- reasonable avenue of redress.

## \ 8 \ Glossary

<b>Appeal</b>	A formal request for a decision or sentence to be changed.
<b>Committal hearing</b>	A hearing where a Magistrate hears evidence in the Magistrates' Court before deciding whether a matter should go to trial.
<b>Constitution</b>	The law that defines the powers and responsibilities of the Parliament of Victoria.
<b>Corrupt conduct</b>	<p>The <i>Independent Broad-based Anti-corruption Commission Act 2011</i> (IBAC Act) defines corrupt conduct as conduct:</p> <ul style="list-style-type: none"><li>• of a person that adversely affects the honest performance by a public body or public officer of their functions</li><li>• of a public officer or public body that constitutes or involves the performance of their functions dishonestly</li><li>• of a public officer or public body that constitutes or involves knowingly or recklessly breaching public trust</li><li>• of a public officer or public body that involves misusing information or material acquired in the course of the performance of their functions, whether or not for their benefit or the benefit of another person</li><li>• of a person intended to affect the effective performance by a public officer or public body of their functions where this results in the person (or an associate) obtaining certain benefits they would not otherwise have obtained</li><li>• that could constitute a conspiracy or attempt to engage in the above conduct.</li></ul>
<b>Executive</b>	Those from within government who define and implement policy, and who answer to Parliament for their administration.
<b>Executive Council</b>	The Executive Council consists of all ministers.
<b>Government</b>	The party or group of parties (Coalition) that enjoys the support of the majority of Members of the Legislative Assembly.
<b>Governor in Council</b>	When the Governor is given advice in the presence of the Executive Council.
<b>Governor of Victoria</b>	The Crown's representative in Victoria. The Governor exercises power on the advice of the Premier.
<b>Indictable offence</b>	A serious crime that usually requires trial by judge and jury in the County or Supreme Court. An indictable offence carries a more serious maximum penalty than a summary offence.
<b>Integrity body</b>	IBAC, the Auditor-General, Commissioner for Privacy and Data Protection, the Ombudsman, the Victorian Inspectorate or any other person or body that has an equivalent integrity function in Australia.
<b>Investigating entity</b>	IBAC, the Victorian Inspectorate, Victorian Ombudsman and Chief Commissioner of Police are investigating entities.

<b>Judiciary</b>	A branch of government that has the authority to interpret and apply the law, adjudicate legal disputes and administer justice.
<b>Law enforcement agency</b>	The Chief Commissioner of Police, Victorian WorkCover Authority, Environment Protection Authority or any other person or body that has an equivalent law enforcement function in Australia.
<b>Legislative Assembly</b>	The Lower House of the Parliament of Victoria.
<b>Legislative Council</b>	The Upper House of the Parliament of Victoria.
<b>Minister</b>	A member of the government responsible for one or more government departments.
<b>Parliament</b>	The Parliament of Victoria consists of the Queen, Legislative Assembly and Legislative Council. The term also refers to the two Houses.
<b>Parliamentary committee</b>	A parliamentary committee consists of a group of members of either House (or both in the case of joint committees) appointed by one or both Houses of Parliament. The main purpose of parliamentary committees is to conduct inquiries into specified matters and report the findings and recommendations to Parliament.
<b>Premier</b>	Head of government and elected leader of the party or parties with a majority in the Legislative Assembly.
<b>Presiding Officer</b>	The Speaker of the Legislative Assembly or the President of the Legislative Council.
<b>Protected disclosure</b>	Protected disclosures are a specific type of complaint about improper conduct or detrimental action, made in accordance with the <i>Protected Disclosure Act 2012</i> . Where a person makes a protected disclosure, they are afforded protections from retaliation for making the complaint.
<b>Public officer</b>	A public officer is a person engaged in any capacity or who holds any office in the public sector, including contractors. IBAC officers, a Public Interest Monitor, and Victorian Inspectorate officers are not public officers under the IBAC Act. For a complete definition of public officer, see section 6 of the IBAC Act.
<b>Public Service</b>	Government departments, administrative offices and Victorian Public Service Commission.
<b>Relevant offence</b>	Defined in the IBAC Act to mean an indictable offence against an Act or one of the common law offences of attempting to pervert the course of justice, perverting the course of justice, bribery of a public official, or misconduct in public office.
<b>Separation of powers</b>	Refers to the three separate branches of government: the Parliament, executive and judiciary.
<b>Summary offence</b>	A less serious crime than an indictable offence. Summary offences are tried in the Magistrates' Court and generally prosecuted by Victoria Police.



Published in December 2016

Prepared by the Independent Broad-based Anti-corruption Commission,  
Victorian Ombudsman, and Victorian Auditor-General's Office.

