

PARLIAMENT OF VICTORIA

Integrity and Oversight Committee



The independent performance audits of the Independent Broad-based Anti-corruption Commission and the Victorian Inspectorate

Parliament of Victoria
Integrity and Oversight Committee

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About the Committee

The Integrity and Oversight Committee is a joint investigatory committee constituted under the *Parliamentary Committees Act 2003* (Vic).

Functions

7 Integrity and Oversight Committee

- (1) The functions of the Integrity and Oversight Committee are—
 - (a) to monitor and review the performance of the functions and exercise of the powers of the Information Commissioner; and
 - (b) to consider and investigate complaints concerning the Information Commissioner and the operation of the Office of the Victorian Information Commissioner; and
 - (c) to report to both Houses of Parliament on any matter requiring the attention of Parliament that relates to—
 - (i) the performance of the functions and the exercise of the powers of the Information Commissioner; or
 - (ii) any complaint concerning the Information Commissioner and the operation of the Office of the Victorian Information Commissioner; and
 - (d) to examine the annual report of the Information Commissioner and any other reports by the Information Commissioner and report to Parliament on any matters it thinks fit concerning those reports; and
 - (e) to inquire into matters concerning freedom of information referred to it by the Parliament and to report to Parliament on those matters; and
 - (f) to monitor and review the performance of the duties and functions of the Victorian Inspectorate, other than those in respect of VAGO officers; and
 - (g) to report to both Houses of the Parliament on any matter connected with the performance of the duties and functions of the Victorian Inspectorate, other than those in respect of VAGO officers, that require the attention of the Parliament; and
 - (h) to examine any reports made by the Victorian Inspectorate to the Integrity and Oversight Committee or the Parliament other than reports in respect of VAGO officers; and
 - (i) to consider any proposed appointment of an Inspector under section 18 of the *Victorian Inspectorate Act 2011* and to exercise a power of veto in accordance with that Act; and

- (ia) to receive and assess public interest disclosures about conduct by or in the Victorian Inspectorate and engage an independent person to investigate any such disclosure that it has assessed to be a public interest complaint; and
 - (j) to monitor and review the performance of the duties and functions of the IBAC; and
 - (k) to report to both Houses of the Parliament on any matter connected with the performance of the duties and functions of the IBAC that require the attention of the Parliament; and
 - (l) to examine any reports made by the IBAC to the Integrity and Oversight Committee or the Parliament; and
 - (m) to consider any proposed appointment of a Commissioner under section 20 of the *Independent Broad-based Anti-corruption Commission Act 2011* and to exercise a power of veto in accordance with that Act; and
 - (n) to carry out any other function conferred on the Integrity and Oversight Committee by or under—
 - (i) the *Ombudsman Act 1973*; and
 - (ii) the *Independent Broad-based Anti-corruption Commission Act 2011*; and
 - (iii) the *Victorian Inspectorate Act 2011*; and
 - (iv) the *Public Interest Disclosures Act 2012*.
- (2) Despite anything to the contrary in subsection (1), the Integrity and Oversight Committee cannot—
- (a) reconsider a decision of the Information Commissioner or Public Access Deputy Commissioner in relation to a review of a particular matter; or
 - (b) reconsider any recommendations or decisions of the Information Commissioner or Public Access Deputy Commissioner in relation to a complaint under the *Freedom of Information Act 1982*; or
 - (c) reconsider any findings in relation to an investigation under the *Freedom of Information Act 1982*; or
 - (d) reconsider the making of a public interest determination under the *Privacy and Data Protection Act 2014*; or
 - (e) reconsider the approval of an information usage arrangement under the *Privacy and Data Protection Act 2014*; or
 - (f) reconsider a decision to serve a compliance notice under the *Privacy and Data Protection Act 2014*; or
 - (g) disclose any information relating to the performance of a duty or function or exercise of a power by the Ombudsman, the Victorian Inspectorate or the IBAC which may—

- (i) prejudice any criminal proceedings or criminal investigations; or
 - (ii) prejudice an investigation being conducted by the Ombudsman, the IBAC or the Victorian Inspectorate; or
 - (iii) contravene any secrecy or confidentiality provision in any relevant Act; or
- (h) investigate a matter relating to the particular conduct the subject of—
- (i) a particular complaint or notification made to the IBAC under the *Independent Broad-based Anti-corruption Commission Act 2011*; or
 - (ii) a particular disclosure determined by the IBAC under section 26 of the *Public Interest Disclosures Act 2012* to be a public interest complaint; or
 - (iii) any report made by the Victorian Inspectorate; or
- (i) review any decision by the IBAC under the *Independent Broad-based Anti-corruption Commission Act 2011* to investigate, not to investigate or to discontinue the investigation of a particular complaint or notification or a public interest complaint within the meaning of that Act; or
- (j) review any findings, recommendations, determinations or other decisions of the IBAC in relation to—
- (i) a particular complaint or notification made to the IBAC under the *Independent Broad-based Anti-corruption Commission Act 2011*; or
 - (ii) a particular disclosure determined by the IBAC under section 26 of the *Public Interest Disclosures Act 2012* to be a public interest complaint; or
 - (iii) a particular investigation conducted by the IBAC under the *Independent Broad-based Anti-corruption Commission Act 2011*; or
- (k) review any determination by the IBAC under section 26 of the *Public Interest Disclosures Act 2012*; or
- (l) disclose or share any information that is likely to lead to the identification of a person who has made an assessable disclosure and is not information to which section 53(2)(a), (c) or (d) of the *Public Interest Disclosures Act 2012* applies; or
- (m) review any decision to investigate, not to investigate, or to discontinue the investigation of a particular complaint made to the Victorian Inspectorate in accordance with the *Victorian Inspectorate Act 2011*; or
- (n) review any findings, recommendations, determinations or other decisions of the Victorian Inspectorate in relation to a particular complaint made to, or investigation conducted by, the Victorian Inspectorate in accordance with the *Victorian Inspectorate Act 2011*.

Secretariat

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This report is available on the Committee's website.

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Chair's foreword

The Committee welcomes the finalisation of the independent auditor's two audit reports, as part of the inaugural independent performance audits of the Independent Broad-based Anti-corruption Commission (IBAC) and the Victorian Inspectorate (VI).

The Committee notes that the independent auditor is empowered to exercise any powers of the Auditor-General contained within pt 7 of the *Audit Act 1994* (Vic) necessary to complete the audits under ss 170(5) of the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) (*IBAC Act 2011* (Vic)) and 90D(5) of the *Victorian Inspectorate Act 2011* (Vic) (*VI Act 2011* (Vic)). These powers include requiring a person, namely IBAC and the VI, to produce information and documents under an information gathering notice, including those the agencies did not make available, unless the agencies had a reasonable excuse. For certainty, the fact that another enactment (such as the secrecy provisions of the *IBAC Act 2011* (Vic), *VI Act 2011* (Vic) or *Public Interest Disclosures Act 2012* (Vic)) would otherwise prohibit the production of the information or documents is not a reasonable excuse. Legal advice from Mr Jason Pizer KC and Mr A F Solomon-Bridge clarifying the legal powers of the independent auditor is attached at appendices A and B.

As such, the Committee expresses disappointment that IBAC and the VI did not provide the information required in order for the independent auditor to conduct the performance audits to the fullest extent possible.

In preparation for the next independent performance audits of IBAC and the VI, the Committee endorses the independent auditor's recommendation that the auditor's information-gathering powers provided under legislation are clarified, to ensure its functions and powers under pt 7 of the *Audit Act 1994* (Vic) are unequivocal.

I express my appreciation for the work of my Committee colleagues during the course of the performance audits, particularly members of the Audit Subcommittee: Dustin Halse MP, Brad Rowsell MP, Stuart Grimley MLC and Jackson Taylor MP. I also thank Vicki Ward MP and Hon Kim Wells MP, as well as former Committee Chair Harriet Shing MLC for her assistance during her time on the Committee.

I would also like to acknowledge the work of the Committee Secretariat throughout these audits: Sean Coley, Committee Manager; Dr Stephen James, Senior Research Officer; Tom Hvala, Research Officer; Holly Brennan, Complaints and Research Assistant; and Committee Administrative Officers, Maria Marasco and Bernadette Pendergast.

I commend this report to the Parliament.



Mr Gary Maas MP
Chair

The independent performance audits of the Independent Broad-based Anti-corruption Commission and the Victorian Inspectorate

1.1 Legislative requirements

The *IBAC Act 2011* (Vic) and the *VI Act 2011* (Vic) require an independent performance auditor to be appointed at least once every four years to conduct an independent performance audit of IBAC and the VI.

Sections 170 of the *IBAC Act 2011* (Vic) and 90D of the *VI Act 2011* (Vic) provide, in part, that:

- (1) A suitably qualified person may be appointed by resolution of the Legislative Council and Legislative Assembly, on the recommendation of the Committee, as an independent performance auditor of IBAC and the VI, other than the following—
 - a. the Auditor-General
 - b. any other Victorian Auditor-General's Office officer, within the meaning of s 3(1) of the *Audit Act 1994* (Vic)
 - c. a person engaged by the Auditor-General under s 7 of the *Audit Act 1994* (Vic) to assist in the performance of a function under that Act
 - d. a person to whom the Auditor-General has delegated a power or function under s 8 of the *Audit Act 1994* (Vic).
- (2) The independent performance auditor—
 - a. is appointed on such terms and conditions and is entitled to such remuneration as are determined by the Committee
 - b. in conducting the audit must comply with directions as to the audit given by the Committee.
- (3) Remuneration payable under the appointment is paid out of the Consolidated Fund, which is to the necessary extent appropriated accordingly.
- (4) The independent performance auditor must conduct a performance audit at least once every four years to determine whether IBAC and the VI are achieving their objectives effectively, economically and efficiently and in compliance with the *IBAC Act 2011* (Vic) and the *VI Act 2011* (Vic).

- (5) Subject to any directions given by the Committee, the independent performance auditor may exercise any powers of the Auditor-General under pt 7 of the *Audit Act 1994* (Vic) to the extent necessary to conduct the audit as if a reference in that part to the Auditor-General includes a reference to the independent performance auditor.
- (6) The independent performance auditor may apply additional auditing and assurance standards applied by the Auditor-General under s 78(2) of the *Audit Act 1994* (Vic) while undertaking the performance audits of IBAC and the VI.

Sections 170A(4) of the *IBAC Act 2011* (Vic) and 90E(4) of the *VI Act 2011* (Vic) provide that the independent performance auditor must transmit their report to each House of Parliament within seven sitting days of completing the report.

Under ss 170A(2)(a) of the *IBAC Act 2011* (Vic) and 90E(2)(a) of the *VI Act 2011* (Vic), the independent performance auditor may include any information and recommendations they consider relevant.

1.2 Independent auditor's responsibilities

The independent performance auditor's statutory objective is to determine whether IBAC and the VI are achieving their objectives effectively, economically and efficiently and in compliance with the *IBAC Act 2011* (Vic) and the *VI Act 2011* (Vic).

The auditor was to review IBAC's and the VI's performance during the four-year period ending 30 June 2021. The auditor was to make findings and recommendations with respect to the audit specifications, taking into account the impact of the COVID-19 pandemic during the 2019/20 and 2020/21 reporting periods, in accordance with ss 170–170A of the *IBAC Act 2011* (Vic) and 90D–90E of the *VI Act 2011* (Vic).

The performance auditor's responsibilities included (among other things):

- providing the services required by Parliament in the manner set out in the audit specifications
- not being involved in a position that may or does give rise to an actual, potential or perceived conflict of interest with their duty to independently perform the services in accordance with the *IBAC Act 2011* (Vic) and the *VI Act 2011* (Vic)
- complying with ss 170(1) of the *IBAC Act 2011* (Vic) and 90D(1) of the *VI Act 2011* (Vic), which require that a person appointed by Parliament as a performance auditor must not be engaged by the Auditor-General to assist the Auditor-General under s 7 of the *Audit Act 1994* (Vic), or a person who holds a delegation from the Auditor-General under s 8 of the *Audit Act 1994* (Vic), or a person engaged by IBAC or the VI to provide services¹

¹ For certainty, the Integrity and Oversight Committee's Evaluation Subcommittee sought additional assurance from short-listed auditors that they would not engage in work with IBAC and/or the VI while completing the audits in 2022.

- undertaking the audits and providing evidence that they have been conducted in accordance with the relevant Australian auditing and assurance standards, including those applied by the Auditor-General under s 78(2) of the *Audit Act 1994* (Vic)
- demonstrating a commitment and ability to work in collaboration with Parliament over the term of any agreed contractual period to continuously seek improvements in value, efficiency and productivity in connection with providing the services
- evidencing a preparedness to work with Parliament to continually identify opportunities for improvement in the quality and level of service provided to Parliament.

1.3 The course of the audits

1.3.1 Evaluation process

The independent performance audits were the first occasion that IBAC and the VI were audited in accordance with ss 170 of the *IBAC Act 2011* (Vic) and 90D of the *VI Act 2011* (Vic). On 1 February 2021, the Integrity and Oversight Committee (the Committee) resolved to establish an Evaluation Subcommittee (the Subcommittee) to assist with the tender evaluation process.²

The Committee Secretariat, in consultation with Parliament's Department of Parliamentary Services, drafted the requests for proposals, audit specifications and the proposed terms and conditions under which to appoint an independent performance auditor. These were considered and approved by the Committee.³

On 2 August 2021, the Committee resolved to conduct a select tender process to appoint an independent auditor to undertake, in 2022, the performance audits of IBAC and the VI.

The requests for proposals were released to the public on 6 August 2021 via Tenderlink and closed on 6 September 2021. The Subcommittee received 12 written proposals to undertake the performance audits, from six auditors. On 16 September 2021, the Subcommittee assessed the submissions in accordance with the evaluation criteria outlined in the requests for proposals. The Subcommittee conducted interviews with the short-listed candidates. The Secretariat also contacted these candidates' referees, as appropriate, and made further enquiries on behalf of the Subcommittee.

² On 25 October 2021, the Committee resolved for the Evaluation Subcommittee to become a general audit subcommittee, for the purpose of facilitating the day-to-day business of the performance audits on behalf of the Committee.

³ Relevant motions establishing the performance audit framework were approved by the Committee on 1 February, 3 and 24 May, 21 June, 2 and 30 August, and 25 October 2021.

1.3.2 Appointment of the independent auditor

The Committee is responsible under both Acts for recommending, to both Houses of Parliament, the appointment of a suitably qualified person to undertake the performance audits.

The Committee resolved on 6 December 2021 to recommend the appointment of Callida Pty Ltd (Callida Consulting) to conduct the performance audits of IBAC and the VI.

The Committee recommended that Callida Consulting be appointed for the purpose of undertaking the performance audits of IBAC and the VI at the fixed total fees tendered for each audit's project deliverables, as contained in the Committee's *Report on the appointment of a person to conduct the independent performance audits of the Independent Broad-based Anti-corruption Commission and the Victorian Inspectorate*, tabled in Parliament in December 2021.

1.3.3 Auditor's reports

Callida Consulting's independent performance audit reports of IBAC and the VI are attached at appendices C and D. The Committee also attaches legal advice obtained at appendices A and B.

**Adopted by the Integrity and Oversight Committee
Parliament of Victoria, East Melbourne
26 October 2022**

Appendix A

Legal advice on the auditor's information-gathering powers in respect of the Independent Broad-based Anti-corruption Commission

IN THE MATTER OF:
THE INTEGRITY AND OVERSIGHT COMMITTEE

AND
THE IBAC

JOINT MEMORANDUM OF ADVICE

Introduction and summary

1. Callida Pty Ltd has been appointed as the independent performance auditor of the IBAC. That appointment was made under section 170 of the *Independent Broad-based Anti-corruption Commission Act 2011* (the **IBAC Act**).¹
2. The IBAC claims that, by reason of certain secrecy provisions, Callida cannot compel IBAC officers to produce or permit inspection of certain documents.²
3. We have been asked to advise on the correctness of that claim. More specifically, we have been asked whether any of the provisions of the IBAC Act or the *Public Interest Disclosures Act 2012* (the **PID Act**) enable the IBAC to withhold from Callida any document or other information that Callida has required to be produced or provided.
4. The short answer to that question is “no”.
5. Our more detailed advice is set out below, and will start by examining the secrecy provisions of the IBAC Act.

The secrecy provisions of the IBAC Act

6. The key secrecy provisions of the IBAC Act are found in sections 40, 46 and 47.

¹ That section requires the appointment to be by resolution of the Legislative Council and Legislative Assembly, on the recommendation of the Integrity and Oversight Committee of the Victorian Parliament. The Committee’s recommendation is contained in a report dated December 2021, the Assembly’s resolution was passed on 8 February 2022 (Victoria, *Parliamentary Debates*, Legislative Assembly, 8 February 2022, at page 26) and the Council’s resolution was passed on 10 February 2022 (Victoria, *Parliamentary Debates*, Legislative Council, 10 February 2022, at page 191).

² See the letters dated 16 and 18 March 2022. The 18 March letter relies heavily on sections 46 and 47 of the IBAC Act, which we consider below.

7. Section 40 provides as follows:

40 Unauthorised disclosures or provision of information

A person who is, or was, an IBAC Officer³ must not, directly or indirectly, provide or disclose any information acquired by the person or the IBAC by reason of, or in the course of, the performance of the duties and functions or the exercise of powers of the person or the IBAC under this Act or any other Act except—

- (a) for the performance of the duties and functions or the exercise of the powers of the person or the IBAC in accordance with this Act or any other Act; or
- (b) for the purposes of—
 - (i) proceedings for an offence; or
 - (ii) a disciplinary process or action—
brought as a result of an investigation conducted by the IBAC or by the Victorian Inspectorate; or
- (c) for the purposes of proceedings for an offence against this Act or the **Public Interest Disclosures Act 2012**; or
- (d) as is otherwise authorised or required to be made by or under this Act, the **Public Interest Disclosures Act 2012** or the **Special Investigator Act 2021**.

Penalty: 120 penalty units or imprisonment for 12 months or both.

Note

The person may be subject to further confidentiality obligations under Part 7 of the **Public Interest Disclosures Act 2012**.

8. Section 46 of the IBAC Act is in these terms:

46 What is a protected document or other thing?

For the purposes of this Division, a *protected document or other thing* is a document or other thing the production or inspection of which—

- (a) is likely to—
 - (i) reveal the identity of an informer or put an informer's safety at risk; or
 - (ii) reveal the identity of a person who has been summoned, or who has appeared, as a witness in an examination, or put that person's safety at risk; or

³ "IBAC Officer" is defined by section 3(1) to mean various IBAC office holders, employees and consultants.

- (iii) reveal the identity of a person who has provided the IBAC with information relating to an investigation, or put that person's safety at risk; or
 - (iv) reveal the identity of a person whose name appears in any evidence given or information provided to the IBAC relating to an investigation, or put that person's safety at risk; or
 - (v) reveal the identity of a person who is, or has been, the subject of an investigation, or put that person's safety at risk; or
- (b) is likely to place at risk—
- (i) an investigation under this Act; or
 - (ii) any other investigation by the Victorian Inspectorate, a law enforcement agency or an integrity body; or
- (c) is likely to risk the disclosure of any secret investigative method used by the IBAC, the Victorian Inspectorate, a law enforcement agency or an integrity body; or
- (d) is otherwise not in the public interest.

9. And section 47 of the IBAC Act then says this:

47 Protected documents and other things in proceedings, processes or actions other than criminal proceedings

(1) This section applies to—

- (a) any legal proceeding other than a criminal proceeding;
- (b) any proceeding, other than a criminal proceeding, of any tribunal, authority or person having power to require the production of documents or the answering of questions, other than the Victorian Inspectorate;
- (c) any disciplinary process or action.

(2) In any proceeding, process or action to which this section applies, a protected person is not compellable to produce, or permit inspection of, any document or other thing that the protected person has created or that has come into his or her possession or control in the performance of the duties and functions or the exercise of the powers of the person or the IBAC under this Act or any other Act, if the IBAC certifies in writing that in the IBAC's opinion the document or thing is a protected document or other thing.

10. The first question to consider here is whether these secrecy provisions are engaged.

11. As for section 40, the only matter to consider is this: if an IBAC Officer were to provide or disclose relevant information to Callida, would that be a provision or disclosure “for the performance of the duties and functions or the exercise of the powers of the person or the IBAC in accordance with this Act”?
 - 11.1 If the answer to that question is “yes”, section 40 is simply not engaged.
 - 11.2 But if the answer is “no”, the provision (at least when viewed in isolation) would be engaged.
12. The relevant express functions of the IBAC are set out most clearly in section 15(2)-(7) of the IBAC Act and section 55 of the PID Act, and do not easily comprehend the function of responding to a performance audit. That said, the functions and duties of a public office may include those that “although only incidental and collateral, serve to promote the accomplishment of the principal purposes [for which the office was created]”.⁴ It could be argued that responding to a performance audit meets that description.
13. In the end, however, we consider it safest to proceed on the basis that section 40 (viewed in isolation) is potentially engaged. Section 170 of the IBAC Act is, after all, concerned with the conferral of powers, duties and functions on the independent performance auditor and does not, in terms, confer any new duties or functions on the IBAC or IBAC Officers.
14. As for sections 46 and 47, the only matter to consider is this: does a performance audit fall within section 47(1)?
 - 14.1 If the answer to that question is “no”, section 47 is simply not engaged.
 - 14.2 But if the answer is “yes”, the provision (at least when viewed in isolation) would be engaged.
15. For a performance audit to fall within section 47(1), it would relevantly have to answer the description of “any proceeding” for the purposes of section 47(1)(b). It is unlikely that a performance audit falls within the natural meaning of a “proceeding”.

⁴ *Nesbitt Fruit Products Inc v Wallace* 17 F Supp 141 at 143 (1936), quoted by McHugh JA in *G J Coles & Co Ltd v Retail Trade Industrial Tribunal* (1986) 7 NSWLR 503 at 524.

Nevertheless, depending on the context, the term “proceeding” may broadly be synonymous with “procedure”,⁵ which a performance audit more readily satisfies. We are therefore prepared to proceed on the basis that section 47 is potentially engaged (although there is at least some doubt about whether it actually is).

16. That is all that need be said about the secrecy provisions of the IBAC Act. We turn now to examine the secrecy provisions of the PID Act.

The secrecy provisions of the PID Act

17. Section 3 of the PID Act defines “assessable disclosure” to mean various disclosures, including some that must or may be notified to the IBAC. Section 52(2), in substance, makes it an offence for a person or body who receives an assessable disclosure to disclose the content, or information about the content, of the assessable disclosure. Section 52(3) then provides that section 52(2) does not apply if:

- (a) the person or body discloses the content, or information about the content, of the assessable disclosure—
 - (i) in accordance with section 54; or
 - (ii) in accordance with a direction or authorisation given by the investigating entity⁶ that is investigating the disclosure; or
 - (iii) to the extent necessary for the purpose of taking lawful action in relation to the conduct that is the subject of the assessable disclosure including a disciplinary process or action; or
- (b) the IBAC, the Victorian Inspectorate or the Integrity and Oversight Committee has determined that the assessable disclosure is not a public interest complaint and the person or body discloses the content, or information about the content, of the assessable disclosure after that determination; or
- (c) an investigating entity has—
 - (i) published in a report to Parliament under this or any other Act, or otherwise made public, the content, or information about the content, of the assessable disclosure; and

⁵ See e.g. *Re Broadway Motors Holdings Pty Ltd (in liq)* (1986) 6 NSWLR 45 at 55-56.

⁶ “Investigating entity” is defined in section 3 to mean various entities (which do not include an independent performance auditor appointed under section 170 of the IBAC Act).

- (ii) in doing so, acted consistently with the obligations relating to confidentiality that apply to the investigating entity under this Act—

and the person or body discloses the content, or information about the content, of the assessable disclosure after that publication; or

- (d) the Integrity and Oversight Committee has published the information in a report to Parliament under this or any other Act and the person or body discloses the information after that publication.

18. Section 53(1) of the PID Act also makes it an offence for a person or body to disclose information likely to lead to the identification of a person who has made an assessable disclosure. Section 53(2) then says section 53(1) does not apply if:

- (a) the person who made the assessable disclosure has given written consent to an investigating entity to disclose—

- (i) any information likely to lead to the person's identification; or

- (ii) specific information likely to lead to the person's identification—

and the information is disclosed by the investigating entity after and in accordance with that consent; or

- (ab) the person who made the assessable disclosure has given written consent to the Integrity and Oversight Committee or to an independent investigator engaged by the Committee under Part 4A to disclose—

- (i) any information likely to lead to the person's identification; or

- (ii) specific information likely to lead to the person's identification—

and the information is disclosed by the Committee or the independent investigator after and in accordance with that consent; or

- (b) the person or body discloses the information in accordance with section 54; or

- (c) the IBAC, the Victorian Inspectorate or the Integrity and Oversight Committee has determined that the assessable disclosure is not a public interest complaint and the person or body discloses the information after that determination; or

- (d) an investigating entity has—

- (i) published in a report to Parliament under this or any other Act, or otherwise made public, the information; and

(ii) in doing so, acted consistently with the obligations relating to confidentiality that apply to the investigating entity under this Act—

and the person or body discloses the information after that publication;
or

(e) the Integrity and Oversight Committee has published the information in a report to Parliament under this or any other Act and the person or body discloses the information after that publication.

19. Section 54(2) provides for further circumstances in which the content of an assessable disclosure, or information about the content of an assessable disclosure, or information likely to lead to the identification of a person who has made an assessable disclosure, may be disclosed. They include where it is necessary for the purpose of the exercise of functions under the PID Act (section 52(2)(a)), by an investigating entity where necessary for the purpose of the exercise of functions under the Act under which it is authorised to investigate a public interest complaint (section 54(2)(b)), and for the purpose of certain proceedings for offences or disciplinary processes (section 54(2)(c)-(d)).
20. At least when viewed in isolation, sections 52(2) and 53(1) of the PID Act would seem to prohibit the IBAC from disclosing certain information to Callida.
21. It can be seen from the above that, at least when viewed in isolation, certain secrecy provisions potentially prohibit the IBAC from disclosing certain information to Callida.
22. This leads to the critical question: is it appropriate to view those provisions in isolation, or do other provisions of the IBAC Act (dealing with the role and powers of the independent performance auditor) alter the analysis?
23. We turn to consider that question now.

The significance of other provisions of the IBAC Act

24. Section 170(1) of the IBAC Act provides for the appointment of an independent performance auditor of the IBAC.
25. Section 170(5) is in these terms:

- (5) Subject to any directions given by the Parliamentary Committee, the independent performance auditor may exercise any powers of the Auditor-General under Part 7 of the **Audit Act 1994** to the extent necessary to conduct the audit as if a reference in that Part to the Auditor-General includes a reference to the independent performance auditor.
26. This is a critical provision. It requires one to focus on what, exactly, constitutes the “powers of the Auditor-General under Part 7 of the Audit Act”, being the powers that may be exercised by the independent performance auditor.
27. Part 7 of the Audit Act includes very broad powers.
28. Section 30 is particularly important. It provides as follows:

30 Power to call for information, documents and attendances

If it is relevant to the performance of functions or powers under this Act or any other Act, the Auditor-General or an authorised person may serve an information gathering notice on a person requiring the person to do any of the following—

- (a) provide to the Auditor-General or authorised person any relevant information specified in the notice before a specified time and in a specified manner;
 - (b) produce to the Auditor-General or authorised person any relevant document or other thing in the person's possession, custody or control, before a specified time and in a specified manner;
 - (c) attend and give evidence or answer any relevant questions before the Auditor-General or authorised person at a specified time and place.
29. Section 33(2) then says this:
- (2) In relation to a person required by an information gathering notice to attend and give evidence or answer any question, the Auditor-General or an authorised person—
- (a) may require the person to take an oath or make an affirmation; and
 - (b) may administer an oath or affirmation to the person; and
 - (c) may examine the person in accordance with the notice; and
 - (d) may require the person to produce documents or other things in accordance with the notice.

30. Both sections 30 and 33(2) need to be read in the context of Division 4 of Part 7, which is entitled “Offences”.
- 30.1 Section 52 provides that a person who is duly served with an information gathering notice must not, without reasonable excuse, refuse or fail to comply with the notice.
- 30.2 Section 54(1) provides that, subject to section 54(3), a person who is duly served with an information gathering notice must not, without reasonable excuse, refuse or fail to take an oath or make an affirmation when requested to do so.
- 30.3 Section 54(2) provides that, subject to section 54(3), a person who is duly served with an information gathering notice must not, without reasonable excuse, refuse or fail to answer a question that the person is required to answer by the Auditor-General or an authorised person.
- 30.4 And section 54(3) provides that a person does not commit an offence under section 54(1) or (2) if, before the person is required to take the oath or make an affirmation or answer the question, the Auditor-General or authorised person fails to inform the person that refusal or failure to do so without reasonable excuse is an offence.
31. It can be seen that the notion of a “reasonable excuse” is an important one in this context.
32. What amounts to a “reasonable excuse” is touched upon in section 40, which is also in Part 7. That section provides as follows:

40 Secrecy and confidentiality

(1) This section applies whether a person provides information (including an answer to a question), a document or thing to the Auditor-General, an authorised person or a VAGO officer assisting the Auditor-General for the purposes of anything done under this Act—

- (a) in response to a request; or
- (b) pursuant to an information gathering notice.

(2) Subject to subsection (3), a person may comply with a request for information, a document or thing despite anything in another enactment, rule of law or contract that—

- (a) prohibits the person from giving the information or producing the document or other thing; or
- (b) imposes a duty of confidentiality on the person in relation to the information, document or other thing.

(3) A person may only comply with a request to provide information or a document which is subject to Cabinet confidentiality if the request is made for any of the following purposes—

- (a) a financial audit under Part 3;
- (b) a performance audit under Part 4;
- (c) an assurance review under Part 5;
- (d) performing the Auditor-General's functions or powers under another Act where the other Act expressly authorises the provision of that information.

(4) Subject to subsection (5), it is not a reasonable excuse for a person to refuse or fail to comply with an information gathering notice on the grounds that another enactment, rule of law or contract—

- (a) prohibits the person from giving the information or producing the document or other thing; or
- (b) imposes a duty of confidentiality on the person in relation to the information, document or other thing.

(5) It is a reasonable excuse for a person to refuse or fail to comply with an information gathering notice that requires the provision of information or a document which is subject to Cabinet confidentiality unless the information gathering notice is served for any of the following purposes—

- (a) a financial audit under Part 3;
- (b) a performance audit under Part 4;
- (c) an assurance review under Part 5;
- (d) performing the Auditor-General's functions or powers under another Act where the other Act expressly authorises the provision of that information.

(6) A person is not subject to any civil, administrative or disciplinary proceeding or action only because the person complied with—

- (a) a request for information, a document or thing by the Auditor-General, an authorised person or a VAGO officer assisting the Auditor-General for the purposes of anything done under this Act; or
 - (b) an information gathering notice.
- 33. As noted in paragraph 25 above, section 170(5) of the IBAC Act relevantly provides that the independent performance auditor may exercise any powers of the Auditor-General under Part 7 of the Audit Act to the extent necessary to conduct the audit as if a reference in that Part to the Auditor-General includes a reference to the independent performance auditor.
- 34. What, then, are the powers that may be exercised by the independent performance auditor?
- 35. On a narrow view, it might be argued that this provision simply authorises the independent performance auditor to exercise the express powers of the Auditor General. Two examples would be the power to serve an information gathering notice under section 30 of the Audit Act, and the power to require a person to take an oath or make an affirmation under section 33(2)(a) of that Act. On this view, related provisions (such as the criminal offence provisions in Division 4 of Part 7, or section 40) are not “powers” that may be exercised by the independent performance auditor and are not “picked up” by section 170(5) of the IBAC Act.
- 36. This view of section 170(5) should not be adopted. Why not? Because the powers to require certain things to be done (for example, in sections 30 and 33(2)(a)) cannot be properly understood without considering a person’s capacity to refuse to comply with such a requirement where they hold a reasonable excuse under section 52.
- 37. A similar conclusion was reached in *WorkCover Authority of New South Wales v Seccombe*,⁷ where the Full Bench of the Industrial Relations Commission of New South Wales (Fisher P, Bauer and Hungerford JJ) analysed compulsory information gathering powers of a WorkCover inspector that were expressed in general terms (section 31I(e)) and for which non-compliance without reasonable excuse was made an offence (section 31N(d)). A separate section (section 31M) relevantly provided that a person was not excused from making a statement in accordance with a requirement under that Division

⁷ (1998) 43 NSWLR 390.

on the ground that the statement may tend to incriminate the person, but the statement was not admissible in evidence against a person in criminal proceedings if the person claimed before making the statement that the statement might tend to incriminate the person, or unless the person's entitlement to make that claim was drawn to the person's attention before the statement was made. The Full Bench relevantly observed as follows:⁸

It is plain, in our view, that the obligations on a person to answer an inspector's questions are founded not in s 31M but in s 31N(d) which says that "a person must not ... without reasonable excuse, refuse or fail to comply with a requirement made or to answer a question of an inspector asked in accordance with this Division".

...

[I]t would be extraordinary, in our view, if an inspector in requiring a person to answer questions could do so, and particularly where he indicates to the person concerned that he "must answer", without advising also the availability of reasonable excuse not to answer. In other words, we consider the interaction between s 31I(e) and s 31N(d) means that the power of an inspector to require answers to questions is qualified by the right of the person being questioned not to answer where he has reasonable excuse.

38. By analogy, we consider the interaction between provisions like sections 30 and 33 (on the one hand) and sections 52 and 54 (on the other) means that the power of the Auditor-General to require certain action to be taken is qualified by the right of the person not to comply where they have a reasonable excuse. For example, the power (under section 30) to require the production of information is qualified by a person's ability (under section 52) to refuse to do so where they have a reasonable excuse.
39. Viewed in this light, section 170(5) of the IBAC Act "picks up" the limitations found in Division 4 of Part 7. And since those limitations rest on the notion of a "reasonable excuse", section 170(5) also "picks up" section 40(4) of the Audit Act, being a section that necessarily informs the meaning of that notion in this context.
40. Critically, section 40(4) relevantly provides that it is not a reasonable excuse for a person to refuse or fail to comply with an information gathering notice on the grounds that another enactment prohibits the person from giving the information or producing the document or other thing.

⁸ Ibid at 398D, 398G-399A (emphasis added). *Secombe* was later referred to with apparent approval by a Full Court of the Supreme Court of Tasmania in *Dougherty v Ling* (2001) 108 IR 374 at [21]-[22].

41. It follows from the above that the relevant power of the Auditor-General is the power to compel a person to produce information, documents or other things unless the person has a reasonable excuse (and the fact that another enactment prohibits the person from giving the information or producing the document or other thing does not constitute a reasonable excuse).
42. This, in our view, is the correct description of the relevant power that has been given to the independent performance auditor under section 170(5) of the IBAC Act.
43. This conclusion is reinforced by three matters.
44. **First**, there is the consideration of the surrounding provisions in the IBAC Act. In particular, section 170A(1) (which was inserted by the same Act that inserted section 170) provides that the independent performance auditor may make a report of a performance audit conducted under section 170. Section 170A(6) anticipates that, in conducting a performance audit, the independent performance auditor may gain access to information whose publication in a report would:
 - 44.1 prejudice criminal proceedings, criminal investigations, or IBAC investigations (section 170A(6)(a));
 - 44.2 disclose the identity of a person to whom or in respect of whom an alcohol or drug testing direction had been given under Division 1 of Part 9 of the IBAC Act, or Part 5 of the *Victoria Police Act 2013* (section 170A(6)(b)); or
 - 44.3 be likely to lead to the identification of a person who has made an “assessable disclosure” — defined by reference to the PID Act — and is not information to which certain provisions of that latter Act (concerning permitted disclosure) apply (section 170A(6)(c)).
45. Section 170A also anticipates that the independent performance auditor may gain access to information that leads them to form an adverse view about IBAC’s staff or consultants (section 170A(7)), or information that leads them to form a view that a person is guilty of or has committed, should be prosecuted for, or is committing or is about to commit, an offence (section 170A(5)).

46. Much of this information is information that might otherwise fall within section 40 of the IBAC Act or be found in protected documents as certified by the IBAC under sections 46 and 47 of the IBAC Act. It will be recalled, for example, that the IBAC may certify documents the production or inspection of which, in its opinion, is likely to reveal the identity of an informer, a person who has provided the IBAC with information relating to an investigation, a person whose name appears in any evidence or information provided to the IBAC, or a person who is or has been the subject of an investigation (section 46(a)(i)-(v)). Having regard to the kind of information that section 170A contemplates the independent performance auditor to receive, it would be surprising if secrecy provisions were intended to prevent that from occurring.
47. **Secondly**, there is the consideration of the nature and purpose of the independent performance auditor's function. They have been appointed by resolution of both chambers of the Parliament, on the recommendation of the Committee, to audit the performance of the IBAC (section 170(1)) and any report of that audit will be transmitted to both Houses of Parliament (section 170A(4)). Further, they are subject to the directions of the Committee and must act according to a specification for the performance audit as finalised by the Committee (section 170(2)(b), (6)-(7)). Given the nature and importance of the independent performance auditor's function, it would be surprising if secrecy provisions could be used to thwart their information gathering powers and hence compromise their ability to discharge that function.
48. And **thirdly**, it is not apparent that the Parliament was seeking to draw on a technical and narrow definition of "powers" in section 170(5) of the IBAC Act. Had it wished to do so, it could have identified the few specific provisions that positively confer powers, strictly so-called, on the Auditor-General in Part 7. Instead, it has chosen to confer "powers" on the independent performance auditor by reference to Part 7 of the Audit Act in its entirety. That Part includes many sections that do not, in terms, confer any powers on the Auditor-General in the strict sense at all. But some of those sections shape or influence the scope or exercise of those powers. Other courts have, on occasion, interpreted "powers" in a non-technical way. See, eg, *Bradken Consolidated Ltd v Broken Hill Pty Co Ltd*,⁹ where Gibbs ACJ observed that, in that case, it could hardly be

⁹ (1979) 145 CLR 107.

doubted that the expression “powers, privileges, rights and remedies” of the Crown was intended in a wide sense, and to include immunities and exemptions.

49. We make two further observations for completeness.
50. **First**, we understand why the IBAC is concerned to protect the confidentiality of documents and information it holds, and is reticent to disclose such documents or information to the independent performance auditor. But the independent performance auditor is not free to use such documents or information in any way they see fit. Rather, they would come under an implied duty not to use those documents or that information for any purpose other than that for which the compulsory powers were conferred (namely, for the purposes of a performance audit).¹⁰ Further, the content of any report of the performance audit is further confined by the limits in section 170A mentioned earlier. Given these matters, it cannot be said that our preferred construction of the relevant provisions gives rise to some perverse or unreasonable outcome.
51. And **secondly**, as noted above, it is our view that: (a) the relevant power of the Auditor-General is the power to compel a person to produce information, documents or other things unless the person has a reasonable excuse; and (b) by reason of section 40(4) of the Audit Act, the fact that another enactment prohibits the person from giving the information or producing the document or other thing does not constitute a reasonable excuse. We do not regard this to be problematic here.
52. To start with, the PID Act is “another enactment” on any view. Thus, the fact that that Act may otherwise prohibit the IBAC giving information or producing a document or other thing does not constitute a reasonable excuse.
53. We also think the IBAC Act is “another enactment” in this context. Section 170(5) of the IBAC Act evidences an intention that the only words sought to be modified in Part 7 of the Audit Act are references to the Auditor-General (by expressly providing that a reference to the Auditor-General should be read as including a reference to the independent performance auditor). It follows that the reference to “another enactment” in section 40(4) of the Audit Act would keep its “native” contextual meaning. In other words, those words mean an enactment other than the Audit Act, even when picked up

¹⁰ *Johns v Australian Securities Commission* (1993) 178 CLR 408 at 423-434 per Brennan J.

by section 170(5) of the IBAC Act. On that analysis, the IBAC Act is “another enactment” for the purposes of section 40(4) of the Audit Act.

54. But even if the power being exercised by the independent performance auditor were properly regarded as being conferred by the IBAC Act (through the vehicle of the Audit Act), we still regard sections 40, 46 and 47 of the IBAC Act as being “other enactments”. Section 38 of the *Interpretation of Legislation Act* 1984 defines “enactment” to mean “an Act or subordinate instrument or a provision of an Act or subordinate instrument” (emphasis added). Sections 40, 46 and 47, being other provisions, are therefore secrecy provisions in “another enactment” for the purposes of the independent performance auditor’s powers conferred by section 170(5) of the IBAC Act.¹¹

Conclusion

55. For the reasons set out above:

- 55.1 section 170(5) of the IBAC Act empowers the independent performance auditor to exercise any powers of the Auditor-General under Part 7 of the Audit Act;
- 55.2 those powers include the power to require a person to produce information and documents under an information gathering notice, but that power is limited by the fact that the notice recipient need not comply if they have a reasonable excuse;
- 55.3 the fact that another enactment (such as the secrecy provisions of the IBAC Act or the PID Act) would otherwise prohibit the production of the information or documents¹² is not a reasonable excuse; and
- 55.4 as a consequence, if Callida were to require the IBAC to produce information and documents under an information gathering notice, the IBAC cannot refuse to comply with that requirement by reason of the secrecy provisions in the IBAC Act or the PID Act.

¹¹ In any event, it would not be plausible that the Parliament intended to give to the independent performance auditor powers that overrode all secrecy provisions except for secrecy provisions in respect of the very body being audited.

¹² This assumes, of course, that the secrecy provisions would otherwise prohibit the production of the information or documents. For the reasons set out above, that assumption might not be correct.

Please contact us if you wish to discuss this Joint Memorandum, or if you have any other queries.

Dated: 21 April 2022

A handwritten signature in blue ink that reads "Jason Pizer". The signature is written in a cursive style with a large, sweeping initial 'J'.

JASON PIZER QC
Owen Dixon Chambers West

A handwritten signature in black ink that reads "A. F. Solomon-Bridge". The signature is written in a cursive style with a large, sweeping initial 'A'.

A. F. SOLOMON-BRIDGE
Owen Dixon Chambers West

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Appendix B

Legal advice on the auditor's information-gathering powers in respect of the Victorian Inspectorate

IN THE MATTER OF:
THE INTEGRITY AND OVERSIGHT COMMITTEE

AND
THE INSPECTORATE

JOINT MEMORANDUM OF ADVICE

Introduction and summary

1. Callida Pty Ltd has been appointed as the independent performance auditor of the Victorian Inspectorate. That appointment was made under section 90D of the *Victorian Inspectorate Act 2011* (the **Inspectorate Act**).¹
2. The Inspectorate claims that, by reason of certain secrecy provisions, Callida cannot compel Inspectorate officers to produce or permit inspection of certain documents.²
3. We have been asked to advise on the correctness of that claim. More specifically, we have been asked whether any of the provisions of the Inspectorate Act or the *Public Interest Disclosures Act 2012* (the **PID Act**) enable the Inspectorate to withhold from Callida any document or other information that Callida has required to be produced or provided.
4. The short answer to that question is “no”.
5. Our more detailed advice is set out below, and will start by examining the secrecy provisions of the Inspectorate Act.

¹ That section requires the appointment to be by resolution of the Legislative Council and Legislative Assembly, on the recommendation of the Integrity and Oversight Committee of the Victorian Parliament. The Committee’s recommendation is contained in a report dated December 2021, the Assembly’s resolution was passed on 8 February 2022 (Victoria, *Parliamentary Debates*, Legislative Assembly, 8 February 2022, at page 26) and the Council’s resolution was passed on 10 February 2022 (Victoria, *Parliamentary Debates*, Legislative Council, 10 February 2022, at page 191).

² See the letter dated 28 March 2022.

The secrecy provisions of the Inspectorate Act

6. The key secrecy provisions of the Inspectorate Act are found in sections 33 and 37.
7. Section 33 provides as follows:

33 Unauthorised disclosures or provision of information

(1) Subject to subsection (2), a person who is, or was, a Victorian Inspectorate Officer must not directly or indirectly provide or disclose any information acquired by the person or the Victorian Inspectorate by reason of, or in the course of, the performance of the duties and functions or the exercise of powers of the person or the Victorian Inspectorate under this Act or any other Act except—

- (a) for the performance of the duties and functions or the exercise of the powers of the person or the Victorian Inspectorate in accordance with this Act or any other Act; or
- (b) for the purposes of—
 - (i) proceedings for an offence; or
 - (ii) a disciplinary process or action—
brought as a result of an investigation conducted by the Victorian Inspectorate; or
- (c) for the purposes of proceedings for an offence against this Act or the **Public Interest Disclosures Act 2012**; or
- (d) as is otherwise authorised or required to be made by or under this Act or the **Public Interest Disclosures Act 2012**.

Penalty: 120 penalty units or imprisonment for 12 months or both.

Note

The person may be subject to further confidentiality obligations under Part 7 of the **Public Interest Disclosures Act 2012**.

(2) This section does not apply to the provision or disclosure of information to which section 34 applies [which concerns information acquired through inspection and auditing of records kept by the Public Interest Monitor under the *Public Interest Monitor Act 2011* and the *Witness Protection Act 1991*].

8. And section 37 of the Inspectorate Act is in these terms:

37 Restrictions on compelling production or disclosure

(1) A person who is, or was, a Victorian Inspectorate Officer cannot be required or be compelled in a court to—

- (a) produce any document or other thing that has come into his or her possession or control in the performance of the duties and functions or the exercise of powers of the person or the Victorian Inspectorate under this Act or the **Public Interest Disclosures Act 2012**; or
- (b) produce any document or other thing that has come into his or her possession or control in, or disclose any matter or thing of which the person has knowledge as a result of, the performance of the duties and functions or the exercise of the powers of the person or the Victorian Inspectorate under the **Major Crime (Investigative Powers) Act 2004**; or
- (c) disclose any matter or thing of which the person has knowledge as a result of the performance of the duties and functions or the exercise of powers of the person or the Victorian Inspectorate under this Act or the **Public Interest Disclosures Act 2012**—

except—

- (d) for the purposes of proceedings for an offence or a disciplinary process or action brought as a result of an investigation conducted by the Victorian Inspectorate; or
- (e) for the purposes of proceedings for an offence against this Act or the **Public Interest Disclosures Act 2012**; or
- (f) in circumstances where the Victorian Inspectorate, or the Victorian Inspectorate Officer in his or her official capacity, is a party to the relevant proceeding.

(2) In this section—

court includes any tribunal, authority or person having power to require the production of documents or the answering of questions;

produce includes permit access to.

9. The first question to consider here is whether these secrecy provisions are engaged.
10. As for section 33, the only matter to consider is this: if a Victorian Inspectorate Officer were to provide or disclose relevant information to Callida, would that be a provision or disclosure “for the performance of the duties and functions or the exercise of the powers of the person or the Victorian Inspectorate in accordance with this Act”?

- 10.1 If the answer to that question is “yes”, section 33 is simply not engaged.
- 10.2 But if the answer is “no”, the provision (at least when viewed in isolation) would be engaged.
11. The relevant express functions of the Inspectorate are set out most clearly in section 11(2)-(8) of the Inspectorate Act and section 56 of the PID Act, and do not easily comprehend the function of responding to a performance audit. That said, the functions and duties of a public office may include those which “although only incidental and collateral, serve to promote the accomplishment of the principal purposes [for which the office was created]”.³ It could be argued that responding to a performance audit meets that description.
12. In the end, however, we consider it safest to proceed on the basis that section 33 (viewed in isolation) is potentially engaged. Section 90D of the Inspectorate Act is, after all, concerned with the conferral of powers, duties and functions on the independent performance auditor and does not, in terms, confer any new duties or functions on the Inspectorate or its officers.
13. As for section 37, the first matter to consider is this: is the independent performance auditor a court? (Section 37(1) is engaged where there is a requirement or compulsion to produce documents, things or information “in a court”.)
14. The answer to this question is “yes”. That is because the independent performance auditor is a person who has the power to require the production of documents or the answering of questions, and is therefore a “court” as defined by section 37(2).⁴
15. The next matter to consider is this: is the Inspectorate a “party to the relevant proceeding” in the “court”?
- 15.1 If the answer to that question is “yes”, section 37 is simply not engaged because the exception in section 37(1)(f) will apply.

³ *Nesbitt Fruit Products Inc v Wallace* 17 F Supp 141 at 143 (1936), quoted by McHugh JA in *G J Coles & Co Ltd v Retail Trade Industrial Tribunal* (1986) 7 NSWLR 503 at 524.

⁴ Although the wide definition of “court” then creates an awkwardness in grammar and concept, that awkwardness is not problematic. See *State of Victoria v Intralot Australia Pty Ltd* [2015] VSCA 358 at [62].

- 15.2 But if the answer is “no”, section 37 (at least when viewed in isolation) would be engaged.
16. It is unlikely that a performance audit falls within the natural meaning of a “proceeding”, let alone that the Inspectorate would be considered a “party to the ... proceeding”. Nevertheless, depending on the context, the term “proceeding” may broadly be synonymous with “procedure”,⁵ which a performance audit more readily satisfies. Further, if “proceeding” is interpreted to mean “procedure”, then it is very arguable that the Inspectorate is a “party” to that “proceeding”, it being the very body that is the subject of the performance audit.
17. In the end, while certainly not free from doubt, we will proceed on the basis that section 37 (viewed in isolation) is at least potentially engaged.
18. That is all that need be said about the secrecy provisions of the Inspectorate Act. We turn now to examine the secrecy provisions of the PID Act.

The secrecy provisions of the PID Act

19. Section 3 of the PID Act defines “assessable disclosure” to mean various disclosures, including some that must or may be notified to the Inspectorate. Section 52(2), in substance, makes it an offence for a person or body who receives an assessable disclosure to disclose the content, or information about the content, of the assessable disclosure. Section 52(3) then provides that section 52(2) does not apply if:
- (a) the person or body discloses the content, or information about the content, of the assessable disclosure—
 - (i) in accordance with section 54; or
 - (ii) in accordance with a direction or authorisation given by the investigating entity⁶ that is investigating the disclosure; or
 - (iii) to the extent necessary for the purpose of taking lawful action in relation to the conduct that is the subject of the assessable disclosure including a disciplinary process or action; or

⁵ See e.g. *Re Broadway Motors Holdings Pty Ltd (in liq)* (1986) 6 NSWLR 45 at 55-56.

⁶ “Investigating entity” is defined in section 3 to mean various entities (which do not include an independent performance auditor appointed under section 90D of the Inspectorate Act).

- (b) the IBAC, the Victorian Inspectorate or the Integrity and Oversight Committee has determined that the assessable disclosure is not a public interest complaint and the person or body discloses the content, or information about the content, of the assessable disclosure after that determination; or
- (c) an investigating entity has—
 - (i) published in a report to Parliament under this or any other Act, or otherwise made public, the content, or information about the content, of the assessable disclosure; and
 - (ii) in doing so, acted consistently with the obligations relating to confidentiality that apply to the investigating entity under this Act—

and the person or body discloses the content, or information about the content, of the assessable disclosure after that publication; or
- (d) the Integrity and Oversight Committee has published the information in a report to Parliament under this or any other Act and the person or body discloses the information after that publication.

20. Section 53(1) of the PID Act also makes it an offence for a person or body to disclose information likely to lead to the identification of a person who has made an assessable disclosure. Section 53(2) then says that section 53(1) does not apply if:

- (a) the person who made the assessable disclosure has given written consent to an investigating entity to disclose—
 - (i) any information likely to lead to the person's identification; or
 - (ii) specific information likely to lead to the person's identification—

and the information is disclosed by the investigating entity after and in accordance with that consent; or
- (ab) the person who made the assessable disclosure has given written consent to the Integrity and Oversight Committee or to an independent investigator engaged by the Committee under Part 4A to disclose—
 - (i) any information likely to lead to the person's identification; or
 - (ii) specific information likely to lead to the person's identification—

and the information is disclosed by the Committee or the independent investigator after and in accordance with that consent; or

- (b) the person or body discloses the information in accordance with section 54; or
- (c) the IBAC, the Victorian Inspectorate or the Integrity and Oversight Committee has determined that the assessable disclosure is not a public interest complaint and the person or body discloses the information after that determination; or
- (d) an investigating entity has—
 - (i) published in a report to Parliament under this or any other Act, or otherwise made public, the information; and
 - (ii) in doing so, acted consistently with the obligations relating to confidentiality that apply to the investigating entity under this Act—

and the person or body discloses the information after that publication;
or
- (e) the Integrity and Oversight Committee has published the information in a report to Parliament under this or any other Act and the person or body discloses the information after that publication.

21. Section 54(2) provides for further circumstances in which the content of an assessable disclosure, or information about the content of an assessable disclosure, or information likely to lead to the identification of a person who has made an assessable disclosure, may be disclosed. They include where it is necessary for the purpose of the exercise of functions under the PID Act (section 52(2)(a)), by an investigating entity where necessary for the purpose of the exercise of functions under the Act under which it is authorised to investigate a public interest complaint (section 54(2)(b)), and for the purpose of certain proceedings for offences or disciplinary processes (section 54(2)(c)-(d)).
22. At least when viewed in isolation, sections 52(2) and 53(1) of the PID Act would seem to prohibit the Inspectorate from disclosing certain information to Callida.
23. It can be seen from the above that, at least when viewed in isolation, certain secrecy provisions potentially prohibit the Inspectorate from disclosing certain information to Callida.

24. This leads to the critical question: is it appropriate to view those provisions in isolation, or do other provisions of the Inspectorate Act (dealing with the role and powers of the independent performance auditor) alter the analysis?
25. We turn to consider that question now.

The significance of other provisions of the Inspectorate Act

26. Section 90D of the Inspectorate Act provides for the appointment of an independent performance auditor of the Inspectorate.
27. Section 90D(5) is in these terms:
 - (5) Subject to any directions given by the Parliamentary Committee, the independent performance auditor may exercise any powers of the Auditor-General under Part 7 of the **Audit Act 1994** to the extent necessary to conduct the audit as if a reference in that Part to the Auditor-General includes a reference to the independent performance auditor.
28. This is a critical provision. It requires one to focus on what, exactly, constitutes the “powers of the Auditor-General under Part 7 of the Audit Act”, being the powers that may be exercised by the independent performance auditor.
29. Part 7 of the Audit Act includes very broad powers.
30. Section 30 is particularly important. It provides as follows:

30 Power to call for information, documents and attendances

If it is relevant to the performance of functions or powers under this Act or any other Act, the Auditor-General or an authorised person may serve an information gathering notice on a person requiring the person to do any of the following—

- (a) provide to the Auditor-General or authorised person any relevant information specified in the notice before a specified time and in a specified manner;
 - (b) produce to the Auditor-General or authorised person any relevant document or other thing in the person's possession, custody or control, before a specified time and in a specified manner;
 - (c) attend and give evidence or answer any relevant questions before the Auditor-General or authorised person at a specified time and place.
31. Section 33(2) then says this:

- (2) In relation to a person required by an information gathering notice to attend and give evidence or answer any question, the Auditor-General or an authorised person—
- (a) may require the person to take an oath or make an affirmation; and
 - (b) may administer an oath or affirmation to the person; and
 - (c) may examine the person in accordance with the notice; and
 - (d) may require the person to produce documents or other things in accordance with the notice.
32. Both sections 30 and 33(2) need to be read in the context of Division 4 of Part 7, which is entitled “Offences”.
- 32.1 Section 52 provides that a person who is duly served with an information gathering notice must not, without reasonable excuse, refuse or fail to comply with the notice.
- 32.2 Section 54(1) provides that, subject to section 54(3), a person who is duly served with an information gathering notice must not, without reasonable excuse, refuse or fail to take an oath or make an affirmation when requested to do so.
- 32.3 Section 54(2) provides that, subject to section 54(3), a person who is duly served with an information gathering notice must not, without reasonable excuse, refuse or fail to answer a question that the person is required to answer by the Auditor-General or an authorised person.
- 32.4 And section 54(3) provides that a person does not commit an offence under section 54(1) or (2) if, before the person is required to take the oath or make an affirmation or answer the question, the Auditor-General or authorised person fails to inform the person that refusal or failure to do so without reasonable excuse is an offence.
33. It can be seen that the notion of a “reasonable excuse” is an important one in this context.
34. What amounts to a “reasonable excuse” is touched upon in section 40, which is also in Part 7. That section provides as follows:

40 Secrecy and confidentiality

(1) This section applies whether a person provides information (including an answer to a question), a document or thing to the Auditor-General, an authorised person or a VAGO officer assisting the Auditor-General for the purposes of anything done under this Act—

- (a) in response to a request; or
- (b) pursuant to an information gathering notice.

(2) Subject to subsection (3), a person may comply with a request for information, a document or thing despite anything in another enactment, rule of law or contract that—

- (a) prohibits the person from giving the information or producing the document or other thing; or
- (b) imposes a duty of confidentiality on the person in relation to the information, document or other thing.

(3) A person may only comply with a request to provide information or a document which is subject to Cabinet confidentiality if the request is made for any of the following purposes—

- (a) a financial audit under Part 3;
- (b) a performance audit under Part 4;
- (c) an assurance review under Part 5;
- (d) performing the Auditor-General's functions or powers under another Act where the other Act expressly authorises the provision of that information.

(4) Subject to subsection (5), it is not a reasonable excuse for a person to refuse or fail to comply with an information gathering notice on the grounds that another enactment, rule of law or contract—

- (a) prohibits the person from giving the information or producing the document or other thing; or
- (b) imposes a duty of confidentiality on the person in relation to the information, document or other thing.

(5) It is a reasonable excuse for a person to refuse or fail to comply with an information gathering notice that requires the provision of information or a document which is subject to Cabinet confidentiality unless the information gathering notice is served for any of the following purposes—

- (a) a financial audit under Part 3;

- (b) a performance audit under Part 4;
- (c) an assurance review under Part 5;
- (d) performing the Auditor-General's functions or powers under another Act where the other Act expressly authorises the provision of that information.

(6) A person is not subject to any civil, administrative or disciplinary proceeding or action only because the person complied with—

- (a) a request for information, a document or thing by the Auditor-General, an authorised person or a VAGO officer assisting the Auditor-General for the purposes of anything done under this Act; or
- (b) an information gathering notice.

35. As noted in paragraph 27 above, section 90D of the Inspectorate Act relevantly provides that the independent performance auditor may exercise any powers of the Auditor-General under Part 7 of the Audit Act to the extent necessary to conduct the audit as if a reference in that Part to the Auditor-General includes a reference to the independent performance auditor.
36. What, then, are the powers that may be exercised by the independent performance auditor?
37. On a narrow view, it might be argued that this provision simply authorises the independent performance auditor to exercise the express powers of the Auditor General. Two examples would be the power to serve an information gathering notice under section 30 of the Audit Act, and the power to require a person to take an oath or make an affirmation under section 33(2)(a) of that Act. On this view, related provisions (such as the criminal offence provisions in Division 4 of Part 7, or section 40) are not “powers” that may be exercised by the independent performance auditor and are not “picked up” by section 90D(5) of the Inspectorate Act.
38. This view of section 90D(5) should not be adopted. Why not? Because the powers to require certain things to be done (for example, in sections 30 and 33(2)(a)) cannot be properly understood without considering a person’s capacity to refuse to comply with such a requirement where they hold a reasonable excuse under section 52.

39. A similar conclusion was reached in *WorkCover Authority of New South Wales v Seccombe*,⁷ where the Full Bench of the Industrial Relations Commission of New South Wales (Fisher P, Bauer and Hungerford JJ) analysed compulsory information gathering powers of a WorkCover inspector that were expressed in general terms (section 31I(e)) and for which non-compliance without reasonable excuse was made an offence (section 31N(d)). A separate section (section 31M) relevantly provided that a person was not excused from making a statement in accordance with a requirement under that Division on the ground that the statement may tend to incriminate the person, but the statement was not admissible in evidence against a person in criminal proceedings if the person claimed before making the statement that the statement might tend to incriminate the person, or unless the person's entitlement to make that claim was drawn to the person's attention before the statement was made. The Full Bench relevantly observed as follows:⁸

It is plain, in our view, that the obligations on a person to answer an inspector's questions are founded not in s 31M but in s 31N(d) which says that "a person must not ... without reasonable excuse, refuse or fail to comply with a requirement made or to answer a question of an inspector asked in accordance with this Division".

...

[I]t would be extraordinary, in our view, if an inspector in requiring a person to answer questions could do so, and particularly where he indicates to the person concerned that he "must answer", without advising also the availability of reasonable excuse not to answer. In other words, we consider the interaction between s 31I(e) and s 31N(d) means that the power of an inspector to require answers to questions is qualified by the right of the person being questioned not to answer where he has reasonable excuse.

40. By analogy, we consider the interaction between provisions like sections 30 and 33 (on the one hand) and sections 52 and 54 (on the other) means that the power of the Auditor-General to require certain action to be taken is qualified by the right of the person not to comply where they have a reasonable excuse. For example, the power (under section 30) to require the production of information is qualified by a person's ability (under section 52) to refuse to do so where they have a reasonable excuse.
41. Viewed in this light, section 90D(5) of the Inspectorate Act "picks up" the limitations found in Division 4 of Part 7. And since those limitations rest on the notion of a

⁷ (1998) 43 NSWLR 390.

⁸ Ibid at 398D, 398G-399A (emphasis added). *Seccombe* was later referred to with apparent approval by a Full Court of the Supreme Court of Tasmania in *Dougherty v Ling* (2001) 108 IR 374 at [21]-[22].

“reasonable excuse”, section 90D(5) also “picks up” section 40(4) of the Audit Act, being a section that necessarily informs the meaning of that notion in this context.

42. Critically, section 40(4) relevantly provides that it is not a reasonable excuse for a person to refuse or fail to comply with an information gathering notice on the grounds that another enactment prohibits the person from giving the information or producing the document or other thing.
43. It follows from the above that the relevant power of the Auditor-General is the power to compel a person to produce information, documents or other things unless the person has a reasonable excuse (and the fact that another enactment prohibits the person from giving the information or producing the document or other thing does not constitute a reasonable excuse).
44. This, in our view, is the correct description of the relevant power that has been given to the independent performance auditor under section 90D(5) of the Inspectorate Act.
45. This conclusion is reinforced by three matters.
46. **First**, there is the consideration of the surrounding provisions in the Inspectorate Act. In particular, section 90E(1) (which was inserted by the same Act that inserted section 90D) provides that the independent performance auditor may make a report of a performance audit conducted under section 90D. Section 90E(6) anticipates that, in conducting a performance audit, the independent performance auditor may gain access to information whose publication in a report would:
 - 46.1 prejudice criminal proceedings, criminal investigations, IBAC investigations or Inspectorate investigations (section 90E(6)(a));
 - 46.2 disclose the identity of a person to whom or in respect of whom an alcohol or drug testing direction had been given under Division 1 of Part 9 of the *Independent Broad-based Anti-corruption Commission Act 2011*, or Part 5 of the *Victoria Police Act 2013* (section 90E(6)(b)); or
 - 46.3 be likely to lead to the identification of a person who has made an “assessable disclosure” — defined by reference to the PID Act — and is not information to

which certain provisions of that latter Act (concerning permitted disclosure) apply (section 90E(6)(c)).

47. Section 90E also anticipates that the independent performance auditor may gain access to information that leads them to form an adverse view about the Inspectorate's staff or consultants (section 90E(7)), or information that leads them to form a view that a person is guilty of or has committed, should be prosecuted for, or is committing or is about to commit, an offence (section 90E(5)).
48. The information referred to in the two previous paragraphs is information that is likely to fall within sections 33 and 37 of the Inspectorate Act. Having regard to the kind of information that section 90E contemplates the independent performance auditor to receive, it would be surprising if secrecy provisions were intended to prevent that from occurring.
49. **Secondly**, there is the consideration of the nature and purpose of the independent performance auditor's function. They have been appointed by resolution of both chambers of the Parliament, on the recommendation of the Committee, to audit the performance of the Inspectorate (section 90D(1)), and any report of that audit will be transmitted to both Houses of Parliament (section 90E(4)). Further, they are subject to the directions of the Committee and must act according to a specification for the performance audit as finalised by the Committee (section 90D(2)(b), (6)-(7)). Given the nature and importance of the independent performance auditor's function, it would be surprising if secrecy provisions could be used to thwart their information gathering powers and hence compromise their ability to discharge that function.
50. And **thirdly**, it is not apparent that the Parliament was seeking to draw on a technical and narrow definition of "powers" in section 90E(5) of the Inspectorate Act. Had it wished to do so, it could have identified the few specific provisions that positively confer powers, strictly so-called, on the Auditor-General in Part 7. Instead, it has chosen to confer "powers" on the independent performance auditor by reference to Part 7 of the Audit Act in its entirety. That Part includes many sections that do not, in terms, confer any powers on the Auditor-General in the strict sense at all. But some of those sections shape or influence the scope or exercise of those powers. Other courts have, on occasion, interpreted "powers" in a non-technical way. See, eg, *Bradken Consolidated Ltd v*

Broken Hill Pty Co Ltd,⁹ where Gibbs ACJ observed that, in that case, it could hardly be doubted that the expression “powers, privileges, rights and remedies” of the Crown was intended in a wide sense, and to include immunities and exemptions.

51. We make two further observations for completeness.
52. **First**, we understand why the Inspectorate is concerned to protect the confidentiality of documents and information it holds, and is reticent to disclose such documents or information to the independent performance auditor. But the independent performance auditor is not free to use such documents or information in any way they see fit. Rather, they would come under an implied duty not to use those documents or that information for any purpose other than that for which the compulsory powers were conferred (namely, for the purposes of a performance audit).¹⁰ Further, the content of any report of the performance audit is further confined by the limits in section 90E mentioned earlier. Given these matters, it cannot be said that our preferred construction of the relevant provisions gives rise to some perverse or unreasonable outcome.
53. And **secondly**, as noted above, it is our view that: (a) the relevant power of the Auditor-General is the power to compel a person to produce information, documents or other things unless the person has a reasonable excuse; and (b) by reason of section 40(4) of the Audit Act, the fact that another enactment prohibits the person from giving the information or producing the document or other thing does not constitute a reasonable excuse. We do not regard this to be problematic here.
54. To start with, the PID Act is “another enactment” on any view. Thus, the fact that that Act may otherwise prohibit the Inspectorate giving information or producing a document or other thing does not constitute a reasonable excuse.
55. We also think the Inspectorate Act is “another enactment” in this context. Section 90D(5) of the Inspectorate Act evidences an intention that the only words sought to be modified in Part 7 of the Audit Act are references to the Auditor-General (by expressly providing that a reference to the Auditor-General should be read as including a reference to the independent performance auditor). It follows that the reference to “another enactment” in section 40(4) of the Audit Act would keep its “native” contextual meaning. In other

⁹ (1979) 145 CLR 107.

¹⁰ *Johns v Australian Securities Commission* (1993) 178 CLR 408 at 423-434 per Brennan J.

words, those words mean an enactment other than the Audit Act, even when picked up by section 90D(5) of the Inspectorate Act. On that analysis, the Inspectorate Act is “another enactment” for the purposes of section 40(4) of the Audit Act.

56. But even if the power being exercised by the independent performance auditor were properly regarded as being conferred by the Inspectorate Act (through the vehicle of the Audit Act), we still regard sections 33 and 37 of the Inspectorate Act as being “other enactments”. Section 38 of the *Interpretation of Legislation Act* 1984 defines “enactment” to mean “an Act or subordinate instrument or a provision of an Act or subordinate instrument” (emphasis added). Sections 33 and 37, being other provisions, are therefore secrecy provisions in “another enactment” for the purposes of the independent performance auditor’s powers conferred by section 90D(5) of the Inspectorate Act.¹¹

Conclusion

57. For the reasons set out above:

- 57.1 section 90D(5) of the Inspectorate Act empowers the independent performance auditor to exercise any powers of the Auditor-General under Part 7 of the Audit Act;
- 57.2 those powers include the power to require a person to produce information and documents under an information gathering notice, but that power is limited by the fact that the notice recipient need not comply if they have a reasonable excuse;
- 57.3 the fact that another enactment (such as the secrecy provisions of the Inspectorate Act or the PID Act) would otherwise prohibit the production of the information or documents¹² is not a reasonable excuse; and
- 57.4 as a consequence, if Callida were to require the Inspectorate to produce information and documents under an information gathering notice, the

¹¹ In any event, it would not be plausible that the Parliament intended to give to the performance auditor powers which overrode all secrecy provisions except for secrecy provisions in respect of the very body being audited.

¹² This assumes, of course, that the secrecy provisions would otherwise prohibit the production of the information or documents. For the reasons set out above, that assumption might not be correct.

Inspectorate cannot refuse to comply with that requirement by reason of the secrecy provisions in the Inspectorate Act or the PID Act.

Please contact us if you wish to discuss this Joint Memorandum, or if you have any other queries.

Dated: 21 April 2022

A handwritten signature in blue ink that reads "Jason Pizer". The signature is written in a cursive style with a large, sweeping initial 'J'.

JASON PIZER QC
Owen Dixon Chambers West

A handwritten signature in blue ink that reads "A. F. Solomon-Bridge". The signature is written in a cursive style with a large, sweeping initial 'A'.

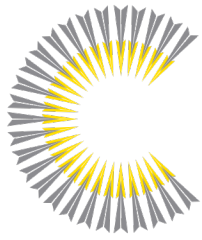
A. F. SOLOMON-BRIDGE
Owen Dixon Chambers West

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Appendix C

**Report of Callida Pty Ltd in respect
of the independent performance
audit of the Independent
Broad-based Anti-corruption
Commission**

C



Callida
Consulting

Parliament of Victoria

Independent Broad-based Anti-corruption Commission

Independent Performance Audit

Final Report

October 2022

Mr Gary Maas, MP
Chair, Integrity Oversight Committee
Parliament of Victoria
Spring Street
EAST MELBOURNE VIC 3002

25 October 2022

Dear Mr Maas,

Performance Audit of the Independent Broad-based Anti-Corruption Commission

We are pleased to submit our final report from the recently concluded Performance Audit of the Independent Broad-based Anti-corruption Commission.

We would like to take this opportunity to thank the Commissioner, Chief Executive Officer, and the staff of the Independent Broad-based Anti-Corruption Commission for the co-operation we have received while performing the audit.

Yours sincerely,



Paul Allen
Partner

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1 Executive summary

1.1 Objective and scope

Callida Consulting was appointed by the Parliament of Victoria on 10 February 2022 to undertake a performance audit of the Independent Broad-based Anti-corruption Commission (IBAC).

The objective of this performance audit was to review the extent to which IBAC effectively, economically, and efficiently performs its functions in compliance with the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) (IBAC Act).

The audit covered the period from 1 July 2017 through to 30 June 2021 (audit period).

Callida was engaged to conduct a performance audit on IBAC's performance throughout the audit period under the following standards issued by the Australian Auditing and Assurance Standards Board:

- Australian Standard on Assurance Engagements (ASAE) 3100 Compliance Engagements, and
- ASAE 3500 Performance Engagements.

1.2 Overall conclusion

Throughout the audit period, IBAC's systems, processes, and frameworks have matured. This growth in maturity has been achieved with limited resources, and managing the impact of COVID-19, while continuing to deliver its mandatory functions.

Since 2020, IBAC has focussed on implementing a number of improvements to ensure it can build and maintain trust in the integrity system. It is important to acknowledge the steps that IBAC has, and is taking, post the audit period with respect to its ongoing performance.

On appointment in 2020, the new CEO identified IBAC's strategic direction as a priority area and began assessing IBAC's strategic outlook. The resulting document, the IBAC Plan 2021-2025, establishes clear priorities and focus areas for the agency. Many of these focus areas address issues that have been identified through this audit, but also issues identified by IBAC itself. IBAC has taken time to embed the strategic focus areas and priorities into business/divisional plans and use them to guide operational decision making.

Since 2020, IBAC's approach, despite COVID-19, has been focussed on continuous improvement with a number of strategies being implemented, or having commenced, to support better performance of the organisation as a whole.

A key part of IBAC's focus has been on increasing the recurrent funding base to ensure financial sustainability into the future. With this now addressed through increased funding from 2022-23, IBAC is well positioned financially to focus on ongoing improvements within the current demand for its activities.

This growth in maturity has been observed through:

- The implementation of IBAC’s new case management system (CMS) - Condor which has facilitated greater collaboration and understanding between operational teams, as well as enhanced record keeping practices to support operations and demonstrate compliance.
- The development of the IBAC Plan 2021-2025 which incorporates IBAC’s Corruption Prevention Strategy and establishes clear priorities and focus areas for the future, strengthening IBAC’s strategic focus.
- The development of a new Operating Model.
- The strengthening of governance arrangements, risk management, and policies and procedures across operational and corporate functions.
- The development of a number of frameworks to support the Operating Model and deliver IBAC’s program of work.
- Improvements in systems to support staff perform work, particularly in relation to assessments and reviews.

While IBAC is well-positioned for the future, these developments highlight the proactive steps taken, particularly since 2020, to build organisational maturity.

Even though IBAC has matured over the audit period, it has faced challenges in doing so, including:

- Being underfunded as identified through the ‘Independent Base Review’. Despite growth in IBAC’s jurisdiction and workload, recurrent base funding did not increase from its inception through to 2021-22.
- Difficulty in recruiting and retaining adequate numbers of skilled staff. Discussions with IBAC’s Executive, Director People Culture & Capability and other staff have confirmed that carrying vacancies in teams and undertaking recruitment activities have impacted IBAC’s performance.

Despite significant improvements in IBAC’s performance, particularly during the latter part of the audit period, Callida has not been able to obtain sufficient appropriate evidence to form a conclusion on the performance of IBAC over the 4-year audit period against the objectives of this performance audit. Because of the significance of the matter described below, Callida does not express an opinion against the audit objective.

1.3 Basis for disclaimer opinion

The authority to undertake a performance audit of IBAC comes from subsection 170(4) of the IBAC Act which states:

The independent performance auditor must conduct a performance audit at least once every 4 years to determine whether the IBAC is achieving its objectives effectively, economically, and efficiently and in compliance with this Act.

There are 2 reasons that Callida has been unable to gather sufficient appropriate audit evidence to allow a reasonable assurance conclusion to be issued. The first relates to the 4-year period the audit

covers, while the second relates to legislative impediments to IBAC providing operational data that make it an offence to provide such information.

Four-year period covered in the audit

The 4-year timeframe to be covered by the audit (1 July 2017 – 30 June 2021) was defined in the audit specification tabled in the Victorian Parliament in December 2021. As noted above, the Act simply requires that a performance audit be conducted every four years.

Gathering sufficient appropriate evidence to support a reasonable assurance conclusion across a 4-year period is challenging for the following reasons:

- As noted in para A151 of ASAE 3000: *‘In terms of obtaining sufficient appropriate evidence, it is generally more difficult to obtain assurance about subject matter information covering a period than about subject matter information at a point in time’*. We believe that this difficulty is greater in the case of a 4-year period, as opposed to a point in time period due to several factors:
 - Changes to legislation, policies, and procedures that existed throughout the audit period
 - Whilst a range of documentary evidence may exist throughout the audit period, it is not possible to observe processes that existed in prior years, particularly where those processes have changed
 - Changes in staff, impacting the ability to access corporate memory.

Access to information

Prior to and throughout the audit, IBAC has highlighted the sensitive nature of information which relates to its operational activities.

In May 2021 the Integrity and Oversight Committee (IOC) invited IBAC to comment on the draft performance audit specification. In a letter addressed to the then Chair of the IOC dated 16 June 2021, the IBAC Commissioner provided feedback on the draft audit specification. IBAC outlined concerns about access to information including:

- That there were secrecy provisions under the IBAC Act, Surveillance Devices Act and the Telecommunications (Interception and Access) Act that IBAC did not believe were overridden by the statutory provisions relating to the performance audit and would mean that documents containing some information would not be able to be provided.
- The impost on IBAC staff and its operational work in having to review documents to determine whether they were protected documents.

Due to the issues identified above, IBAC provided information to the extent possible to support the performance audit. However this meant Callida was unable to gather sufficient audit evidence to allow a reasonable assurance conclusion to be issued. It is acknowledged that IBAC has ultimately provided Callida with access to the requested information. However, the circumstances under which access was provided did have an impact on Callida’s ability to conduct the audit as effectively and efficiently as possible.



For future audits, Callida suggests amending the IBAC and VI Acts to unequivocally empower the auditor to obtain and utilise the agencies' operational and related information to the extent necessary to conduct the audits.

Please refer to appendix H for further detail.

1.4 Findings and recommendations

The following table provides our overall findings against each of the audit criteria for the audit period (column 2). Strategies and actions subsequently identified and implemented, or in the process of being implemented by IBAC to address issues identified by IBAC throughout the audit period are detailed in column 4. Recommendations are included in column 3.

1 Criteria	2 Overall findings (for audit period 2017-18 to 2020-21)	3 Recommendations	4 Current strategies developed by IBAC to address matters identified by IBAC during and subsequent to the audit period
<p>1.1 The extent to which IBAC effectively, economically and efficiently identifies, investigates and exposes corrupt conduct and police personnel misconduct in the public sector (including through complaint-handling; ensuring police officers and protective services officers maintain the highest ethical and professional standards and have regard to human rights; conducting examinations; producing reports and making and monitoring recommendations; and making referrals).</p>	<p>IBAC's processes to identify, investigate and expose corrupt conduct have become more effective, but their efficiency has deteriorated.</p>	<p>1.1.1 – Implement the Balanced Scorecard and recommendations raised in the Integrity and Oversight Committee's (IOC) inquiry into the education and prevention functions of Victoria's integrity agencies (CPE) report.</p> <p>1.1.2 – Implement the Assessment and Review quality assurance framework.</p> <p>1.1.3 – Develop and implement a process to effectively capture verbal complaints and address the gaps identified through sample testing of assessments.</p> <p>1.1.4 – Develop clear business rules around when investigations are deemed to have started/finished – for the purpose of measuring timeframes.</p>	<p>1.1.1 – Evidence provided demonstrates that IBAC is in the process of developing and implementing the Balanced Scorecard and recommendations raised in the Integrity and Oversight Committee's (IOC) inquiry into the education and prevention functions of Victoria's integrity agencies (CPE) report.</p> <p>1.1.2 – Evidence provided demonstrates that IBAC is in the process of implementing its A&R quality assurance framework.</p> <p>1.1.4 – Evidence provided demonstrates that IBAC is in the process of implementing its investigations framework</p>

1 Criteria	2 Overall findings (for audit period 2017-18 to 2020-21)	3 Recommendations	4 Current strategies developed by IBAC to address matters identified by IBAC during and subsequent to the audit period
		<p>1.1.5 – Track key milestones such as when the investigations teamwork finishes, and activities like report writing, preparing briefs of evidence and the commencement of court proceedings.</p> <p>1.1.6 – Implement the investigations framework and underlying performance metrics to capture further indicators of complexity of investigations to allow for this to be measured over time.</p> <p>1.1.7 – Data collected and analysed to support performance results and information reported on in the annual report needs to be stored to ensure that consistent business rules are applied over time to generate accurate results each financial year.</p> <p>1.1.8 – Develop standard reporting in IBAC’s systems to measure and monitor:</p> <ul style="list-style-type: none"> the number of coercive powers exercised within a given period. 	<p>that documents clear business rules around when investigations are deemed to have started/finished – for the purpose of measuring timeframes.</p> <p>1.1.5 – Evidence provided demonstrates that IBAC is in the process of implementing the Operations Dashboard which will track key milestones such as when the investigations teamwork finishes, and activities like report writing, preparing briefs of evidence and the commencement of court proceedings.</p> <p>1.1.6 – Evidence provided demonstrates that IBAC is in the process of implementing its investigations framework and underlying performance metrics to capture further indicators of complexity of investigations to allow for this to be measured over time.</p> <p>1.1.8 – Evidence provided demonstrates that IBAC is in the process of developing</p>

1 Criteria	2 Overall findings (for audit period 2017-18 to 2020-21)	3 Recommendations	4 Current strategies developed by IBAC to address matters identified by IBAC during and subsequent to the audit period
1.2 The extent to which IBAC effectively, economically and efficiently performs its functions under the Public Interest Disclosures Act 2012 (Vic) (PID Act).	IBAC performs its functions under the PID Act effectively, but further improvement is required around efficiency and enhancement of educational information to the public sector.	<ul style="list-style-type: none"> • productivity of staff in completing assessments. • status of operations and assessments. <p>1.1.9 – Ensure that regular spot checks on a random sample of investigations (including use of coercive powers) is included in IBAC investigations framework to ensure compliance with appropriate processes and legislation.</p>	<p>standard reporting in IBAC’s systems to measure and monitor:</p> <ul style="list-style-type: none"> • the number of coercive powers exercised within a given period. • productivity of staff in completing assessments. • status of operations and assessments.
		1.2.1 – Address PID gaps identified in the IOC CPE report.	1.2.1 – Evidence provided demonstrates that IBAC is implementing a program of work to address PID gaps identified in the IOC CPE report, including exploring options for maintaining an appropriate list of PID contact points, reviewing PID materials and considering new information materials on anonymous reporting, providing specific information for PID Coordinators and exploring potential secure dropbox models and technology for receiving and managing PIDs/complaints.

1 Criteria	2 Overall findings (for audit period 2017-18 to 2020-21)	3 Recommendations	4 Current strategies developed by IBAC to address matters identified by IBAC during and subsequent to the audit period
<p>1.3 The extent to which IBAC effectively, economically and efficiently uses information received, intelligence collected, and research undertaken in support of its investigations.</p>	<p>The use of information received, intelligence collected, and research undertaken in support of its investigations has been partially effective over the audit period.</p>	<p>1.3.1 – Develop and implement performance metrics to assess Target Development Unit (TDU)’s performance. 1.3.2 – Implement the intelligence framework.</p>	<p>1.3.1 – Evidence provided demonstrates that IBAC is in the process of implementing its investigations framework which includes performance metrics to assess Target Development Unit (TDU)’s performance. 1.3.2 – Evidence provided demonstrates that IBAC is in the process of finalising and implementing its intelligence framework.</p>
<p>The extent to which IBAC effectively, economically and efficiently: 1.4 Educates the public sector and community about the detrimental effects of corrupt conduct and police personnel misconduct on public administration and the community and the ways corrupt</p>	<p>IBAC delivers a significant number of initiatives/activities to educate and improve the capacity of the public sector to prevent corruption. However, the effectiveness of these initiatives/activities is not measured meaning there may be missed opportunities to improve them. IBAC needs to continue its program of work to improve the measurement of performance.</p>	<p>1.4.1 – Implement the IOC recommendations arising out of the CPE report. 1.4.2 – Undertake ongoing assessment of how achievement of BP3 measures is communicated within the annual report to more accurately demonstrate IBAC’s performance. This includes providing more detailed analysis within the annual report to explain how IBAC achieved the performance measure target or why there was variation against the targets.</p>	<p>1.4.1 – Evidence provided demonstrates that IBAC is in the process of implementing the IOC recommendations arising out of the CPE report, including:</p> <ul style="list-style-type: none"> • developing frameworks for measuring quality and impact of prevention and education (P&E) activities • collaborating with other integrity agencies on data collection

1 Criteria	2 Overall findings (for audit period 2017-18 to 2020-21)	3 Recommendations	4 Current strategies developed by IBAC to address matters identified by IBAC during and subsequent to the audit period
<p>conduct and police personnel misconduct can be prevented</p> <p>1.5 Improves the capacity of the public sector to prevent corrupt conduct and police personnel misconduct (including through the provision of advice, consultation, and training as well as the production of guidelines and procedures) in compliance with the IBAC Act.</p> <p>2.1 The extent to which IBAC complies with its reporting obligations to the Victorian Inspectorate under the IBAC Act and the PID Act.</p>	<p>Policies and procedures align to legislation to address VI reporting obligations. IBAC demonstrated that it has implemented systematic processes for notifying the VI as required under the IBAC Act. However, Callida was unable to assess IBAC's compliance in practice as IBAC did not have the information</p>	<p>2.1.1 – Implement a central register (or develop the functionality within Condor) which allows details of all investigative powers exercised to be captured, maintained, and reported against.</p> <p>2.1.2 – Include further guidance to staff in relevant internal policies and procedures on the type of information and level of detail that needs to be included in notifications to the VI when coercive powers are exercised.</p>	<p>projects to facilitate better measurement and reporting on value of work in P&E</p> <ul style="list-style-type: none"> incorporating a dedicated section in Annual Reports on measure of quality and impact of P&E activities and details of recommendations made during the financial year. <p>2.1.1 – Evidence provided demonstrates that IBAC is in the process of developing standard reporting in IBAC's systems to measure and monitor the number of coercive powers exercised within a given period.</p>

1 Criteria	2 Overall findings (for audit period 2017-18 to 2020-21)	3 Recommendations	4 Current strategies developed by IBAC to address matters identified by IBAC during and subsequent to the audit period
<p>2.2 The extent to which IBAC has effective structured processes for prioritising work against its statutory objectives, including the adequacy and currency of policies and procedures designed and implemented by IBAC to manage its work.</p>	<p>available in a form that would allow sample testing.</p> <p>IBAC has established partially effective processes for prioritising work with further improvement already in train in the form of a number of projects. The adequacy and currency of policies and procedures has improved over the audit period demonstrating continuous improvements.</p>	<p>2.2.1 – All policies and procedures overdue for review in the latest risk and assurance report are reviewed and updated to reflect IBAC’s current processes.</p> <p>2.2.2 – Implement the investigations framework to support better prioritisation and management of investigation activities.</p>	<p>2.2.2 – Evidence provided demonstrates that IBAC is in the process of implementing its investigations framework to support better prioritisation and management of investigation activities.</p>
<p>2.3 The adequacy and appropriateness of governance and risk management frameworks used to support IBAC’s work and staff, and to manage its engagement with others involved in IBAC operations (including members of the public, persons of interest and witnesses).</p>	<p>The adequacy and appropriateness of governance and risk management frameworks has improved over the audit period becoming more effective to support IBAC’s work and staff.</p>	<p>2.3.1 – Identify and document shared risks. This should include the identification of the relevant forum or communications undertaken with parties sharing the risk.</p> <p>2.3.2 – Identify (if applicable) state significant risks that impact IBAC as required by Victorian Government Risk Management Framework (VGRMF). Develop and implement an approach to managing applicable state significant risks. This can be incorporated</p>	<p>2.3.1 – Evidence provided demonstrates that IBAC is in the process of identifying and documenting shared risks.</p>

1 Criteria	2 Overall findings (for audit period 2017-18 to 2020-21)	3 Recommendations	4 Current strategies developed by IBAC to address matters identified by IBAC during and subsequent to the audit period
2.4 The quality of IBAC's strategic planning processes (including those related to IBAC's annual plan) and the extent to which their outcomes are communicated and clearly understood by staff.	The quality of IBAC's strategic planning processes has improved over the audit period to provide more direction for the organisation and staff.	<p>into current risk management policies and procedures.</p> <p>2.3.3 – Develop a centralised register that includes all recommendations raised from independent and external reviews performed and track and report on the progress of implementation. This will help ensure adequate implementation of recommendations which are accepted by IBAC and provide visibility to the executive that issues are being rectified.</p>	
2.5 The adequacy and appropriateness of mechanisms	Over the course of the audit period, IBAC has been able to establish adequate and appropriate	<p>2.4.1 – Document in the planning and reporting policy the approach IBAC took to communicate and provide awareness of the 2021 strategic planning outputs (i.e. annual plan, strategic plan) to all staff to ensure it is consistently implemented when required in future.</p> <p>2.5.1 – Make the pre-employment screening of misconduct in the Victorian public sector a mandatory check for potential IBAC employees (if applicable).</p>	2.5.1 – Evidence provided demonstrates that IBAC is looking to implement and enforce the pre-employment screening of misconduct in the Victorian public sector

1	2	3	4
Criteria	Overall findings (for audit period 2017-18 to 2020-21)	Recommendations	Current strategies developed by IBAC to address matters identified by IBAC during and subsequent to the audit period
<p>used to ensure the integrity and suitability of staff.</p> <p>3.1 The adequacy and appropriateness of processes used by IBAC to measure and manage the costs of performing its statutory functions.</p>	<p>mechanisms to ensure the integrity and suitability of staff.</p> <p>During the audit period, there were inadequate processes in place to measure and manage the costs of performing IBAC’s statutory functions. IBAC needs to continue its program of work to improve its measurement of performance.</p>	<p>2.5.2 – Implement a reporting process to identify any employees who are yet to complete the annual Change of Circumstance (COC) declaration process by the relevant due date to ensure every employee is aware and acknowledges their security obligations.</p> <p>3.1.1 – While noting IBAC is implementing time attribution more broadly for Operations, IBAC should perform a costs vs benefits analysis of implementing:</p> <ul style="list-style-type: none"> • Time attribution for Operations on a task/activity basis; that is, where staff assign their time to specific operations would capture details of actual time spent on operations and allow more informative reporting, analysis and planning. • Time attribution for other non-corporate areas in IBAC (e.g. A&R, P&C and Legal). 	<p>as a mandatory check for potential IBAC employees (if applicable).</p> <p>3.1.1 – Evidence provided demonstrates that IBAC is in the process of implementing time attribution more broadly for the Operations division through TimeFiler.</p>

1 Criteria	2 Overall findings (for audit period 2017-18 to 2020-21)	3 Recommendations	4 Current strategies developed by IBAC to address matters identified by IBAC during and subsequent to the audit period
<p>3.2 The adequacy and appropriateness of processes used by IBAC to identify scope for improvement, including how IBAC:</p> <ul style="list-style-type: none"> • identifies savings • reduces costs • reduces waste. 	<p>The identification of savings and the reduction of costs is a BAU activity undertaken through the review and detailed analysis of monthly expenditure reports.</p>		
<p>3.3 The adequacy of systems and processes used by IBAC to manage its work and improve its productivity.</p>	<p>Systems and processes are partially adequate to manage work and improve productivity. These systems have improved post the audit period and further work is currently being undertaken to manage work and productivity.</p>	<p>3.3.1 – Refer to recommendation 3.1.1 on the implementation of time attribution.</p> <p>3.3.2 – Implement a resource planning system to enable forecasting of upcoming work, planned work and resourcing (including staff leave, start and end dates of temporary or fixed term staff).</p> <p>3.3.3 – Enforce standard naming convention for all documents stored on TRIM.</p>	<p>3.3.1 – Refer to recommendation 3.1.1 on the implementation of time attribution.</p> <p>3.3.2 – Evidence provided demonstrates that IBAC is in the process of developing a scheduling tool to understand employee capacity across the Operations division.</p> <p>3.3.4 – Refer to recommendation 1.1.8 on developing standard reporting in IBAC’s systems.</p>

1 Criteria	2 Overall findings (for audit period 2017-18 to 2020-21)	3 Recommendations	4 Current strategies developed by IBAC to address matters identified by IBAC during and subsequent to the audit period
3.4 The extent to which IBAC has identified and implemented best practice initiatives from other agencies and jurisdictions.	Where possible, IBAC has leveraged experiences/information from their counterparts to implement best practice initiatives.	3.3.4 – Refer to recommendation 1.1.8 on developing standard reporting in IBAC’s systems.	
3.5 The extent to which IBAC reports to and informs Parliament and the wider community about its performance.	IBAC reports to and informs Parliament and the wider community as per legislative requirements, but IBAC needs to continue its program of work to improve its measurement of performance.	3.5.1 – Leverage the findings/recommendations of the external review to address gaps in BP3 measures to develop an effective collection of measures that accurately reflects IBAC’s performance to inform Parliament and the wider community. 3.5.2 – Develop a structured approach to regularly reviewing BP3 measures and internal performance measures to ensure these measures remain relevant to IBAC’s strategic priorities and objectives and accurately reflect performance.	3.5.1 – Evidence provided demonstrates that IBAC is in the process of implementing better performance measurement which is leveraging the findings/recommendations of the external review to address gaps in BP3 measures to develop an effective collection of measures that accurately reflects IBAC’s performance to inform Parliament and the wider community. 3.5.2 – Evidence provided demonstrates that IBAC is in the process of improving performance measurement needs to include

1 Criteria	2 Overall findings (for audit period 2017-18 to 2020-21)	3 Recommendations	4 Current strategies developed by IBAC to address matters identified by IBAC during and subsequent to the audit period
3.6 The extent to which IBAC attains and sustains public confidence in the agency.	While IBAC is progressing towards sustaining and strengthening public confidence, information collected to date does not measure the public's response to the education and prevention content delivered, making it difficult to assess its impact and to understand the extent to which it sustains public confidence. IBAC needs to continue its program of work to improve its measurement of performance.	3.6.1 – IBAC to include a measure of public trust and confidence in its prevention initiatives measured through a half-yearly survey with the results published. This will supplement the existing feedback on its forums and training initiatives.	a structured approach to regularly reviewing BP3 measures and internal performance measures to ensure these measures remain relevant to IBAC's strategic priorities and objectives and accurately reflect performance.
4.1 The promotion and existence of a strong integrity culture at IBAC.	During the audit period, IBAC has established adequate and appropriate		

1 Criteria	2 Overall findings (for audit period 2017-18 to 2020-21)	3 Recommendations	4 Current strategies developed by IBAC to address matters identified by IBAC during and subsequent to the audit period
	mechanisms to promote a strong integrity culture.		
4.2 The adequacy of measures used by IBAC to assess and maintain staff motivation, wellbeing and resilience, including those relating to occupational health and safety.	IBAC has adequate measures to assess and maintain staff motivation, wellbeing, and resilience through the People Matter Survey (PMS).		
4.3 The adequacy of channels of communication between staff and management to discuss and report staff concerns. 4.4 The adequacy of policies, systems and procedures for handling complaints and public interest disclosures by staff as well as other staff grievances.	IBAC has adequate channels, policies, systems, and procedures for handling staff complaints/grievances. The operating effectiveness of these controls was not performed as part of this audit. Based on PMS results, further work needs to be done to support employees' willingness to report grievances and the shortfall in PID guidance.	4.3.1 – IBAC should finalise and authorise the draft guidance to support staff in making a public interest disclosure to the Victorian Inspectorate. 4.3.2 – IBAC needs to understand why employees are not willing to formally report incidents. IBAC should continue to use the PMS survey and monitoring of incident reporting as a measure of effectiveness.	4.3.1 – Evidence provided demonstrates that IBAC is in the process of finalising and authorising the draft guidance to support staff in making a public interest disclosure to the Victorian Inspectorate. 4.3.2 – Evidence provided demonstrates that work has already commenced by IBAC to understand why employees are not willing to formally report incidents (including implementation of the “speak up” integrity hotline).

1 Criteria	2 Overall findings (for audit period 2017-18 to 2020-21)	3 Recommendations	4 Current strategies developed by IBAC to address matters identified by IBAC during and subsequent to the audit period
<p>4.5 The adequacy of processes and costs associated with the recruitment and retention of staff, including whether IBAC:</p> <ul style="list-style-type: none"> • implements succession planning. • has appropriate strategies in place to manage staff turnover. 	<p>IBAC needs to continue the work it has commenced to address retention and recruitment issues and improve strategies/processes going forward.</p>	<p>4.5.1 – Implement the recommendations from the mwah report to address gaps in workforce planning.</p> <p>4.5.2 – Review 2022 PMS survey results concerning workforce planning to identify key issues that have not been raised through the mwah report and devise an implementation plan to address these issues and strengthen IBAC’s workforce planning.</p> <p>4.5.3 – Ensure the People Strategy 2022 is implemented and IBAC is collecting relevant information to assess the strategy’s effectiveness.</p>	<p>4.5.1 – Evidence provided demonstrates that IBAC is in the process of implementing the recommendations from the mwah report to address gaps in workforce planning through the development and implementation of the People Strategy 2022.</p> <p>4.5.3 – Evidence provided demonstrates that IBAC is in the process of implementing its People Strategy 2022.</p>
<p>4.6 The adequacy and appropriateness of programs aimed at meeting staff professional development needs.</p>	<p>Although IBAC has made positive improvements to professional development between 2017 and 2021, PMS results indicate that IBAC needs to continue the work it has already commenced to meet staff needs.</p>	<p>4.6.1 – Conduct a training needs analysis for VPS employees.</p>	<p>4.6.1 – Evidence provided demonstrates that IBAC is in the process of implementing its People Strategy 2022 which includes undertaking a training needs analysis for VPS employees.</p>

1 Criteria	2 Overall findings (for audit period 2017-18 to 2020-21)	3 Recommendations	4 Current strategies developed by IBAC to address matters identified by IBAC during and subsequent to the audit period
<p>4.7 The appropriateness of criteria used to engage and manage IBAC’s contractors, as the term ‘contractor’ is defined in the Victorian Public Sector Commission’s Guidance for managers engaging contractors and consultants.</p>	<p>Arrangements are not adequate to support engagement and management of IBAC’s contractor/labour hire staff.</p>	<p>4.7.1 – Establish and maintain a register of contractors which will record all relevant screening and checks conducted and track labour hire.</p> <p>4.7.2 – Establish clear guidance material in relation to the engagement and management of contractors, including:</p> <ul style="list-style-type: none"> • a definition of ‘contractor’ and the protocols which apply to these individuals. • providing explicit instructions on security clearances. • providing explicit offboarding and onboarding requirements. 	

1.5 Procedural fairness

Pursuant to the procedural fairness requirements in section 170A(3) of the IBAC Act, IBAC was provided a copy of the proposed Report prepared as a result of the performance audit conducted under section 170 and provided with the opportunity to provide comments. IBAC's comments have been included in the Report pursuant to 170A(3)(c) of the IBAC Act.

A copy of IBAC's response is provided below.

From the Office of the CEO

Our ref: CD/22/92290

25 October 2022

Mr Paul Allen
Partner
Callida Consulting

Via email: paul.allen@callida.com.au

Dear Mr Allen

Integrity & Oversight Committee (IOC) independent performance audit of IBAC – IBAC management response

I refer to the draft of your final report provided to IBAC via email (in mark up form) on 10 October 2022.

The Independent Broad-based Anti-corruption Commission (**IBAC**) notes the outcome and findings of the IOC's performance audit conducted by Callida Consulting (**Callida**), for the period 1 July 2017 to 30 June 2021.

We would like to acknowledge the important role this legislated performance audit plays in providing assurance to the Victorian community that IBAC acts in accordance with its own legislation. As an agency that is entrusted with strong coercive powers, it was pleasing to note that Callida found no evidence of non-compliance with our legislative obligations in the exercise of these powers.

The Callida audit report acknowledges the work IBAC has done in recent years to establish clear priorities and focus areas, highlighting the development and implementation of the IBAC Plan 2021-2025.

The report recognises the proactive steps taken to build and improve IBAC's systems, processes and frameworks which is confirmation for IBAC that it is headed in the right direction. Specific initiatives that were referenced in the report include:

- Better complaint assessment processes assisted by a new IT system

- Quality assurance frameworks for complaint assessments and investigations
- The development of a new investigations framework to drive IBAC’s operational work
- The implementation of a capability framework for investigators to ensure IBAC is investing in, and developing, its employees
- Improved strategic planning processes to guide IBAC’s work.

Importantly, the report acknowledges the work we have done to improve our workplace culture and employee engagement. This has been a central focus area for us in recent years and we are committed to continuing our work in this area.

In discussing the findings with Callida, we were pleased that they had observed the substantial amount of work underway to address a range of matters identified by IBAC and its management team and that any additional issues Callida identified were not material.

The report makes a number of recommendations, the vast majority of which capture issues previously identified by IBAC, and which we are pleased to report are well on the way to being addressed. The balance of the recommendations will be considered as part of IBAC’s commitment to continuous improvement.

Despite Callida finding significant improvements in IBAC’s performance, particularly during the latter part of the 2017-2021 audit period, we note that Callida has not been able to obtain sufficient appropriate evidence to express an opinion against the audit objectives.

Callida was unable to express a ‘reasonable assurance’ opinion due to the challenge of gathering sufficient appropriate evidence spanning the IOC’s required four-year audit period and the strict confidentiality requirements in IBAC’s legislation that made provision of some operational information difficult.

In relation to the provision of information, we note Callida’s suggestion that a solution may be to amend IBAC’s legislation to “unequivocally empower the auditor to obtain and utilise [IBAC’s] operational and related information to the extent necessary to conduct the audits”. IBAC agrees that this would enhance the audit process.

To ensure that the Victorian community, complainants, and others involved in IBAC’s investigations can be assured of confidentiality, IBAC would also recommend that the legislation be further clarified to provide that the Integrity Oversight Committee (IOC) cannot direct the auditor to provide confidential IBAC information obtained in the course of the audit to anyone, including the IOC and its members.

The Callida report articulated the challenges faced by IBAC over many years, including ongoing underfunding. Despite growth in IBAC’s jurisdiction and workload, recurrent base funding did not increase from IBAC’s inception through to 2021-22 in real terms.

The additional funding IBAC received as part of last year's budget has now been directed to increase our capacity to manage the critical work we do to investigate corruption and police misconduct, review matters referred to other agencies for investigation, and further our prevention and education efforts. The additional funding was welcome recognition of the important work we do and the demands we face.

IBAC will continue to progress the implementation of the IBAC Plan 2021-25 with a view to achieving our vision of public sector and police that acts with integrity for all Victorians.

Please contact me if you have any questions.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'M. Baragwanath'.

Marlo Baragwanath
Chief Executive Officer

cc. Mr Gary Maas MP, Chair, IOC
Mr Sean Coley, Secretariat, IOC

2 Purpose, background & guiding principles

2.1 Introduction

IBAC is Victoria's agency responsible for preventing and exposing public sector corruption and police misconduct. IBAC's jurisdiction covers Victoria's state and local government, police, parliament, and the judiciary. IBAC was established under the *Independent Broad-based Anti-corruption Commission Act 2011* (IBAC Act).

As Victoria's anti-corruption agency, IBAC:

- receives complaints and notifications of public sector corruption and police misconduct
- investigates and exposes corruption and police misconduct
- informs the public sector, police and the community about risks and impacts of corruption and police misconduct, and ways it can be prevented.

2.2 Audit objective

The objective of this independent performance audit is to determine whether IBAC is achieving its objectives effectively, economically, efficiently and in compliance with the IBAC Act.

For the purposes of the audit, the following definitions have been used¹:

- **“Economy”** means the acquisition of the appropriate quality and quantity of resources at the appropriate times and at the lowest cost.
- **“Efficiency”** means the use of resources such that output is optimised for any given set of resource inputs, or input is minimised for any given quantity and quality of output.
- **“Effectiveness”** means the achievement of the objectives or other intended effects of activities at a program or entity level.

2.3 Audit scope

In accordance with sections 170-170A of the IBAC Act, and as per the audit criteria detailed in this document, the audit examined IBAC's performance and compliance during the 4-year period ending 30 June 2021. In doing this, the impact of the COVID-19 pandemic during the 2019-20 and 2020-21 reporting periods was considered.

¹ Standard on Assurance Engagements ASAE 3500 *Performance Engagements*, Issued by the Auditing and Assurance Standards Board



3 Criteria 1: IBAC objectives

3.1 Criteria 1.1: Identifies, investigates, and exposes corrupt conduct and police personnel misconduct in the public sector

Criteria	Overall finding
<p>The extent to which IBAC effectively, economically and efficiently: identifies, investigates and exposes corrupt conduct and police personnel misconduct in the public sector (including through complaint-handling; ensuring police officers and protective services officers maintain the highest ethical and professional standards and have regard to human rights; conducting examinations; producing reports and making and monitoring recommendations; and making referrals).</p>	<p>IBAC's processes to identify, investigate and expose corrupt conduct have become more effective, but their efficiency has deteriorated.</p>

Assessment activities

Effectiveness of assessment processes

The effectiveness of IBAC's assessment activities has improved from 1 July 2017 to 30 June 2021. This has been observed through:

- review of relevant policies, procedures, and guidelines
- inquiries of IBAC staff
- process walkthroughs
- sample testing of assessments
- review of governance committee meeting minutes and management reports.

In August 2018, IBAC implemented a new case management system: Condor. As this has driven significant changes in IBAC's end-to-end processes for assessing complaints and notifications, it is useful to consider IBAC's pre-Condor and post-Condor assessment activities separately. This same distinction was made by the Victorian Inspectorate (VI) in its 2019 Integrity Report on IBAC's handling of police misconduct complaints.

Pre-Condor assessment activities

Prior to the implementation of Condor, IBAC employed legacy assessment processes supported through its information management system, TRIM. Upon its establishment in 2013, IBAC inherited the Office of Police Integrity's case management system, which was reconfigured to meet IBAC's requirements for case management and investigations. The legacy system and former processes for managing assessments have been reviewed by Callida through walkthroughs and through reference to a sample of complaints and notifications from 2017-18.



Overall, the legacy system was not well equipped to support effective and efficient management of complaints and notifications. Each case file sampled, had limited information on the assessments of each allegation and the rationale for outcomes decided, capturing limited details of the end-to-end process of complaints and notifications, including:

- no workflow or audit trail of assessment preparer, reviewer, and approver (these were captured in hard forms outside of the system)
- limited details concerning the assessment outcome of individual complaints and notifications, including how the case officer determined a final outcome
- no ability to link matters to other complaints, notifications, or investigations
- no consistent structure applied to assess and document complaints and notifications
- no overview or summary page that provides a snapshot of assessment status.

Post-Condor assessment activities

In its 2019 Integrity Report on IBAC's handling of police misconduct complaints, the VI noted that assessment arrangements in the new case management system:

“represented a significant improvement in the recording of the analysis by IBAC of police misconduct complaints and, accordingly, enhanced the transparency of IBAC's assessment and determination process.”

This statement is consistent with Callida's observations made during walkthroughs and sample testing. These walkthroughs confirmed IBAC's current processes for assessing complaints and notifications are robust. Policies and procedures are comprehensive (aligning to legislative requirements) and workflow functionality in Condor supports timely review and escalation of matters.

Since Condor was implemented, the level of detail for each assessment has increased and these details are captured in a clearer, more structured manner. Workflow functionality provides tracking of assessment status, evidence of delegate approval and an audit trail of decisions (including date and user). Condor provides a 'single source of truth' for assessment activities, as well as improved tracking and reporting of cases. Moreover, the required information contained in each case file on Condor is comprehensive. For example, each case file includes details of:

- the end-to-end workflow of the complaint, including when each stage of the workflow was completed and by who
- each allegation that was raised and its assessment by the case officer, including context, approaches taken to assess the allegation, overall analysis and the recommended outcome
- the Deputy Commissioner's (DC) time-stamped decision for the outcome of each allegation. Moreover, if the DC does not agree with the decision made by the case officer or Team Leader, they can change the decision in Condor and provide justification prior to endorsing the outcome
- whether the complaint or notification is a Public Interest Disclosure (PID), and if applicable the relevant sections the complaint or notification links to within the PID Act



- the complaint or notification, including summary of the case, complexity rating, priority rating and details of the complainant. However, we note that ratings are not considered a mandatory field to complete at this stage.
- linkages to investigations or other complaints or notifications captured in Condor.

Callida also made the following observations concerning the effectiveness of the assessment process:

- Oversight arrangements, including the role of the DC's and reporting to committees have improved over the audit period. For example, Operations and Prevention Committee (OPC) minutes from July 2017 provided very limited detail of matters discussed with regards to assessments. Additionally, no dedicated reporting was prepared and OPC simply received a pdf which contained assessment forms for everything completed in the fortnight. Since 2017-18, these areas have gradually matured, but opportunities for improvement still exist. For example, functionality and processes for monitoring and reporting could be further improved in Condor, including productivity reporting.
- There was no quantitative way to assess the effectiveness or quality of the assessment process during the audit period. IBAC advised that it is in the process of building and implementing a quality assurance framework for the Assessment & Review (A&R) team that will include an audit and review process to assess the quality of assessments. The development of this framework commenced in January 2022 by an external provider and as of 30 June 2022, the project was 95% complete with the framework having been finalised to be formally launched by the A&R team in quarter 1 2022-23.

Efficiency of assessment processes

IBAC's performance against the BP3 timeliness measure for assessments declined from 1 July 2017 to 30 June 2021, despite the process improvements achieved through the implementation of Condor (as identified above). However, Callida acknowledges 35% more complaints and notifications were received by IBAC in 2020-21, compared to 2016-17 (as detailed below). Consequently, there has been a trade-off between efficiency and effectiveness as assessments have become more rigorous and better documented.

Table 1. Complaints and notifications received by IBAC

Classification	2016-17	2017-18	2018-19	2019-20	2020-21
Complaints and notifications received	2098	2315	2347	2419	2832

Source: IBAC Annual Report 2020-21

In 2017-18 IBAC assessed 92% and 95% of public sector and police assessments within 45 days, but performance dropped to 46% and 49% in 2020-21. These results are detailed in Appendix F.

The average days to assess a complaint/notification and come to a decision has varied for IBAC over the audit period. The average days listed in Table 2 were calculated by IBAC for each of the financial years in the audit period.

Table 2. Average days duration to complete an assessment

Financial year	2017-18	2018-19	2019-20	2020-21
Average days to complete an assessment	40	55	42	63

Source: IBAC

IBAC indicated that several key factors impacted its performance during the period including:

- **Changes to public interest disclosure legislation** – the tasks necessitated by the implementation of the PID Act (e.g. changes to assessment processes and systems, staff training) took A&R resources away from business-as-usual (BAU) activities.
- **Implementation of Condor** – the transition to Condor required A&R staff to familiarise themselves with the new system and its associated processes. As with the transition to the PID Act, this took resources away from BAU work.
- **Increases in the volume of matters to be assessed** – while the volume of complaints and notifications fluctuated somewhat over the audit period, the overall trend was an increase in the workload of the A&R team, increasing 35% between 2016-17 and 2020-21.
- **Increases in complexity of matters to be assessed** – in addition to increased volume, IBAC considers that the complexity of complaints has changed over time with complaints presenting to IBAC with more complex issues and allegations for assessment. This change in complexity also increases the duration required to complete an assessment, as noted in Table 2.
- **Staff turnover in the A&R team** – at 30 June 2021, only 2 of the 22 staff in the A&R team had been there since 1 July 2017. The high rate of turnover has impacted the level of skill and experience within the team and has likely reduced the efficiency of assessments. This is explored further in criteria 4.5 of this report.
- **COVID-19 and the shift to remote working arrangements** – A&R staff indicated this transition was challenging as remote access to certain databases was limited. An example of this was Victoria Police’s Records of Complaints and Serious Incidents Database (ROCSID) which is frequently queried by IBAC staff in assessing complaints and notifications. Further, using Condor and other systems via a virtual desktop had substantial latency. In September 2020, IBAC purchased laptops for the A&R team to better equip staff to work remotely.

To support efficiency going forward, IBAC undertook the following:

- Introduction of new policies, procedures and guidelines as well as an improvement in the clarity of existing documents to drive the implementation of more efficient and consistent processes.
- Introduction of frameworks for the categorisation of assessments and the implementation of different channels of review to provide more scrutiny for complex cases and streamlining of simpler cases.
- Consistently improving standardisation and structure into the assessment process since the introduction of Condor.
- The Assessment and Review (A&R) team have established specialised teams which emerged since the onset of COVID-19. Teams then focus on specific streams of work to address the backlog of cases and enable the A&R team to become more responsive with complaints and notifications. 4 teams have been created –
 - Reviews



- Engagement and Early Resolution
- 2 Assessment Teams that focus on PIDs, mandatory notifications and high complexity complaints.
- The A&R team used seconded/reassigned resources during COVID-19 to support the assessment of complaints and notifications. For example, utilising surveillance staff when they were unable to do their ordinary activities. While this may not have resulted in efficiencies within A&R (for example, a better BP3 outcome), it enabled these other resources to take up other work so A&R staff could focus on areas which most needed their expertise.

The following limitations applied to Callida’s analysis:

- While Condor’s workflow records the date at which assessments progress to different stages, IBAC has not developed a standard report to monitor and report on this progress and the data could not be extracted from Condor in a timely manner. As a result, Callida could not calculate the average amount of time spent in each phase of the assessment process or identify the most time-consuming stages of the process.
- The timeliness BP3 measure only considers the duration (in days) that it takes to complete an assessment after receipt. It does not measure how much staff time (effort) has been required to complete an assessment, but Callida notes based on annual reports that there is no evidence to suggest that other equivalent integrity agencies to IBAC perform this type of assessment. Without this data Callida could not determine how much the deterioration in BP3 results may have been driven by:
 - increased volume and complexity of cases
 - Staff taking longer on average to complete assessments

Economy of assessment processes

IBAC has not implemented a time recording system to attribute staff time to specific activities. As such, it was not possible to reliably determine the cost of outputs produced from key activities, such as investigations or assessments. This made it difficult to assess and compare how economically IBAC has performed its specific statutory functions and activities over the audit period. IBAC advised that other Australian integrity agencies faced similar challenges.

Moreover, as stated in criteria 3.1 and 3.2, the allocation of funds within IBAC’s budget impacts on their ability to identify cost savings. Seventy five percent of current expenditure relates to salaries and related costs. Given that employee costs in the public service are governed by the Victorian Public Service enterprise agreement for award staff and for Executive the Government Service Executive Remuneration Panel (GSERP), there is little capacity for IBAC to lower the cost of employment which is its main input. This, coupled with IBAC’s fixed costs (e.g. rent, building outgoings) means there is little discretionary funding remaining to identify savings.

At the Treasurer’s request, an external provider was engaged to perform an ‘Independent Base Review’ of IBAC’s function to assess how much funding IBAC requires to operate effectively and efficiently in the future. The report of this review provides a range of insights into IBAC’s financial management arrangements, including that IBAC was underfunded and did not find “there to be any clear and easy efficiencies that [would] help IBAC to fill its funding gap, or if addressed, would directly result in an increase in its output”.



Refer to criteria 3.1 and 3.2 for further detail.

Compliance of assessment processes

Overall, Callida identified only minor compliance observations through sample testing of assessments. These relate to instances where evidence of compliance with internal policies and procedures was not captured. These observations have been summarised in Table 3.

IBAC advised it is looking to perform spot checks on assessments completed as part of their quality assurance framework (currently being implemented) to ensure internal compliance with policies and procedures and appropriate record keeping is maintained.

Refer to Appendix D for Callida’s sample testing methodology.

Table 3. Results of sample testing – complaints and enquiries

Observation	Description
Review and approval by the Team Leader and Manager were not captured in the legacy system	<p>IBAC’s <i>Complaints and Enquiries Management Policy and Procedure</i> requires that an assessment outcome is to be reviewed by the Team Leader and Manager (if applicable) before it is provided to the DC for final approval.</p> <p>In 2017-18, IBAC was using a legacy system which did not capture Team Leader or Manager review and approval of an assessment outcome. The only sign off that was recorded for decisions was through the DC endorsement in the OPC report. This issue was identified for 8 of the 37 samples tested.</p> <p>Condor’s functionality includes workflows for review and approval of assessments which, once actioned, are recorded in an audit trail. For the remaining 29 of 37 samples tested, evidence of Team Leader and Manager review (where required) was sighted in Condor, as well as DC approval.</p>
The requirement to consult the IBAC Executive Committee (IEC) or Manager Investigation for 'investigate' or 'preliminary inquiry' outcomes is not clearly defined and is inconsistently followed	<p>The <i>Complaints and Enquiries Management Policy and Procedure</i> requires that the Manager Investigation and the IEC be consulted for any assessment where the recommended outcome is ‘preliminary inquiry’ or ‘investigate’.</p> <p>For samples where consultations were required (i.e. the 12 sampled cases with an outcome of ‘investigate’ or ‘preliminary inquiry’), 6 did not have evidence of consultation recorded in Condor.</p>
Verbal complaint was not signed off by the complainant acknowledging	<p>IBAC’s <i>Complaints and Enquiries Management Policy and Procedure</i> requires a written record of a verbal complaint be reviewed by a senior officer or Team Leader and provided to the complainant to review and amend (if necessary) before it is finalised.</p>



Observation	Description
information was true and accurate	<p>One sample tested was a verbal complaint made in 2018-19. The complaint was transcribed by an IBAC officer but there was no evidence of review by a senior officer or Team Leader and no written acknowledgement from the complainant that their statement had been recorded accurately.</p> <p>Since 2018-19, IBAC has introduced voice recordings for verbal complaints. However, acknowledgement by a complainant is still not captured and the complainant is not required to confirm the accuracy of the complaint or approve IBAC's use of the recording.</p>
Notifications marked to be reviewed by IBAC were not monitored and reported on to ensure timely completion of reviews	<p>IBAC may refer a matter to another agency to investigate and once completed, undertake a review of the investigation performed.</p> <p>Up until early 2021, cases that had been marked to be reviewed by IBAC were not systematically monitored. IBAC could not readily identify review cases where outstanding information was pending from the investigating agency, limiting IBAC's ability to make follow up inquiries.</p> <p>For one sample marked for review by IBAC, the investigating agency didn't provide relevant documentation until 3 years later. The length of the delay meant the planned review was of limited value.</p> <p>In January 2021, IBAC started reporting the status of reviews to the Operations Governance Committee (OGC) and implemented functionality in Condor which enabled monthly reporting of all cases marked for review, including details of reviews pending, in progress and completed. IBAC has established a standard 90-day benchmark for agencies to complete investigations of referred matters (noting that IBAC does not have the power to compel an agency to complete the investigation within this timeframe) and an escalation process if this target is not met or an update on progress is not provided.</p>

Review activities

There is no statutory requirement or framework for reviews.

Effectiveness of review activities

Evidence suggests that IBAC's review activities were not effective over the entirety of the audit period.

Until the review taskforce was created in February 2020, IBAC did not have dedicated systems, staffing arrangements and reporting for reviews. Prior to 2020, reviews were inadequately resourced as minimal resources were invested in review activities. In December 2020, in part due to COVID-19, processes were still highly manual with limited functionality in Condor to effectively track reviews.

In February 2020, IBAC established a review taskforce of 2 employees dedicated to reviews. However, there was a 11 month delay in commencing audit/triage activities as access to the physical files was not possible during COVID-19 lockdowns.

In January 2021, the review taskforce held its first meeting to recommence the audit/triage process. The taskforce undertook a stocktake to ascertain the number of cases selected for review, identifying 229 cases marked for review for which investigation files had been received. This indicated that IBAC's review process has been relatively ineffective as these cases awaiting review (for which an investigation file had been received) dated back to June 2019. IBAC advised that this was due to resourcing limitations. While timeliness is specifically considered as part of assessing efficiency, it is also a key element of assessing effectiveness. If IBAC reviews an investigation file 2 years after the investigation was completed, the effectiveness of the review is greatly reduced.

The stocktake was done as IBAC had secured 5 FTE's on a fixed term basis to clear the backlog.

With the implementation of the above, and the significant reduction in the backlog in 2020-21, IBAC is well positioned to manage the review function, as it enables:

- the dedicated Review team to be more responsive to cases marked for review without being overloaded by a large backlog
- the management of timeframes through monitoring processes that is regularly reported on to the OGC
- the implementation of a structured follow-up and escalation process once investigation files have not been received by an agency within 90 days.

IBAC also started to monitor the recommendations that were raised from its review of external investigations in 2020-21 through a reviews recommendation register. IBAC showed this register to Callida, however given the confidential nature of much of the information on this register, it was not provided to Callida for further review. As such, no further analysis could be performed on the effectiveness of IBAC's review process, including understanding:

- the number, or percentage of reviews which identified issues in investigations
- the number of recommendations made by IBAC or percentage of reviews resulting in recommendations
- the number of recommendations accepted and/or implemented by agencies
- the number or percentage of recommendations implemented on time.

Efficiency of review activities

IBAC invested only minimal resources in conducting reviews up until February 2020, creating a large back log of cases pending review. This backlog was in part attributed to limited resources assigned to reviews rather than the inefficiency of processes themselves. This is evident by IBAC reducing a backlog of 256 cases to 24 between April 2021 and March 2022 once a dedicated team of reviewers was assigned to it (refer to Figure 1).

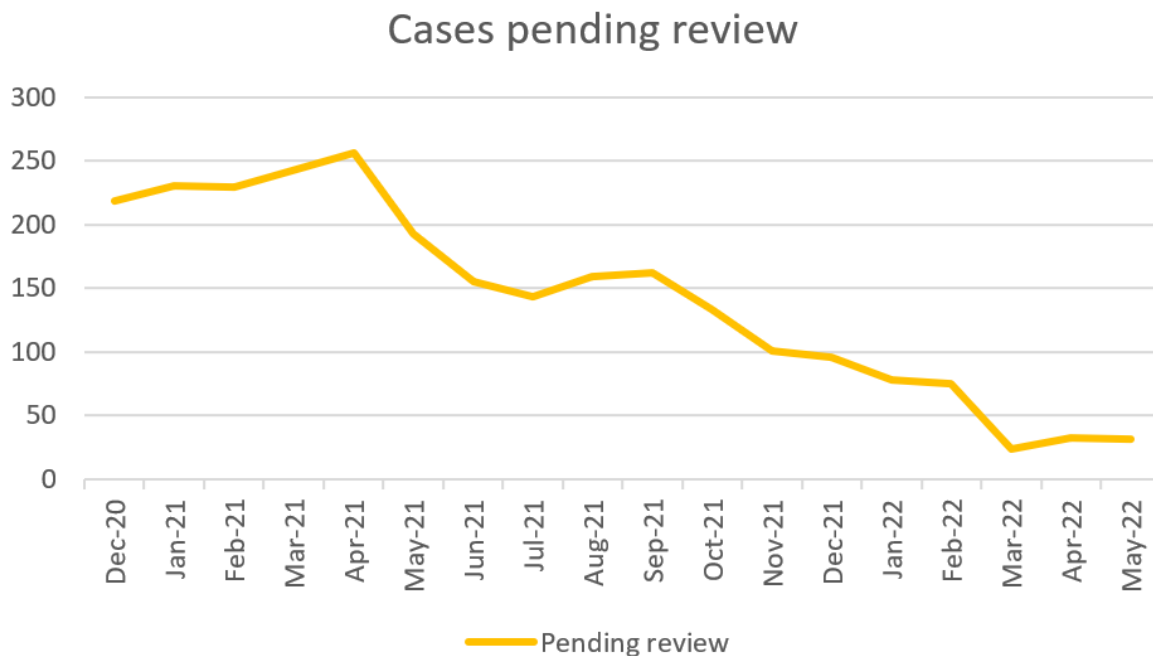
IBAC indicated that the historical lack of focus on reviews was due to IBAC's limited resources being allocated to deliver assessments, as well as reviews not being part of IBAC's statutory framework.



This ultimately created a trade-off between improving review timeliness/outcomes and improving (or maintaining) assessment timeliness/outcomes.

The backlog was also in part attributed to IBAC not having legislative powers when it came to their review function. IBAC does not have specific powers in the legislation to compel agencies to undertake actions. For example, if an agency has investigation files that are 6 or 12 months overdue, IBAC is unable to require the agency to produce these files. It should also be noted that, even with specific powers available to IBAC, the ability for an agency to complete an investigation can be impacted by several factors which are outside of IBAC’s control, such as persons involved in an investigation being on leave, availability of evidence and legal issues that may arise.

Figure 1. Cases pending review



IBAC does not have specific performance measures for reviews and therefore does not have data available to determine:

- the percentage of reviews completed within targeted timeframes
- average number of days to complete a review
- average number of days IBAC has waited for investigation files
- average number of days reviews have been pending (after IBAC has received the investigation files).

The only data available was the size of the backlog at different points in time. No further analysis was able to be performed on the efficiency of the review process.



Economy of review activities

IBAC has not implemented a time recording system to attribute staff time to specific activities. As such, it was not possible to reliably determine the cost of outputs produced from key activities, such as reviews. This made it difficult for Callida to assess and compare how economically IBAC has performed these specific activities over the audit period. IBAC advised that other Australian integrity agencies faced the same challenge.

Investigations

Effectiveness of investigations

Undertaking investigations, like most work activities, is a process. Within the IBAC context, this process will commence with a complaint, an allegation, or as a result of intelligence gathered, with that process defined in IBAC's policies and procedures.

All business processes have key elements that relate to time, cost, quality, quantity, resources, and culture. Additionally, the support systems available to investigators will also impact on the effectiveness of investigations. To determine the effectiveness of a process, each of these elements need to be captured, analysed, and understood.

Often when assessing the effectiveness of an investigation, the measure that it primarily focussed on is timeliness. But this approach fails to consider the impact of these other elements on the investigations process and fails to identify the root cause of why there are often delays in completing investigations.

For example, several integrity bodies across Australia each have developed a measure to assess their investigations process. In most cases this is simply the number of days taken to finalise an investigation from initial receipt of a complaint through to finalisation. But this approach does not take account of the actual effort that is required to complete the investigation. It also fails to consider whether appropriate resources have been allocated to the investigation, whether the necessary specialist skills required to conduct the investigation are available, the quality of the work undertaken during that investigation (including whether sufficient evidence has been collected to enable the agency to make an informed, evidence-based decision in concluding the investigation), or the cost of the investigation. None of these measures considered on their own will provide sufficient evidence on the effectiveness of the investigation process. Rather, a combination of all the elements is required to make that assessment.

IBAC, like other integrity bodies across Australia, only measures timeliness and quantity of investigations at this stage. As noted throughout the report, IBAC is taking steps to introduce a system that will capture the level of effort against each investigation. Until such time that this data is available, it is difficult to assess the effectiveness of the investigations process.

When measuring timeliness, there are two factors to be considered. Firstly, an agency should track the average process cycle time. That is, how long does it take to complete each stage in the investigations process. Secondly, it needs to be determined how many resource hours were invested to achieve this average process cycle time.

As part of this approach IBAC should also understand the costs of investigations, including each step in the investigations process. However, it is not necessary to have an exact cost. Multiplying the number of hours by an appropriate rate for each staff level will be sufficient for this purpose.



Information obtained through the Independent Base Review would be a sound starting point for this purpose.

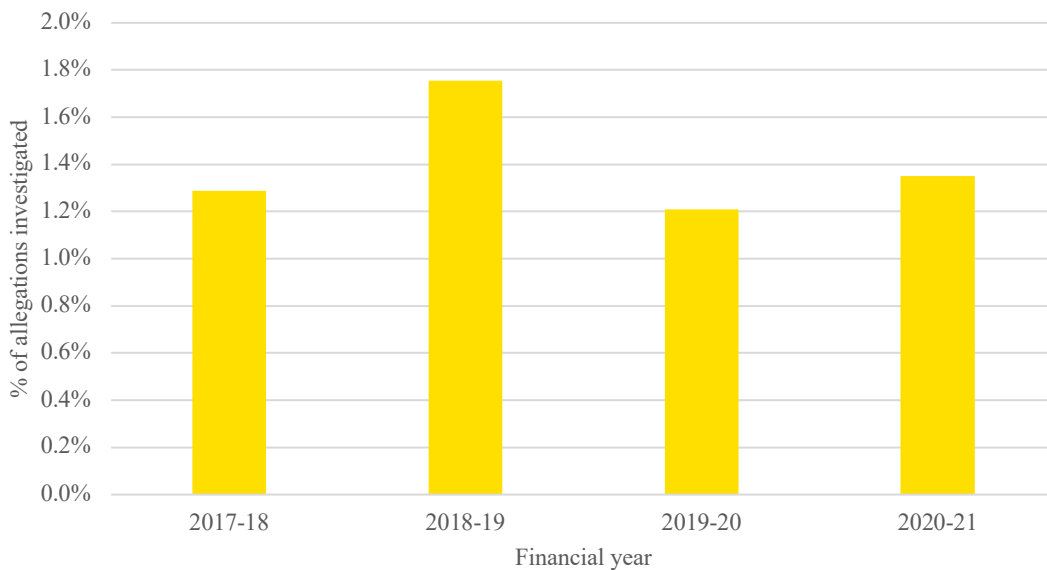
It is also important to note that cost should not be used solely as an indicator of effectiveness and an input to be reduced. Instead, IBAC should try to optimise the hours and dollars that are invested in completing each investigation. Without the data, it is not currently possible to achieve this.

The implementation of Condor has improved the effectiveness of some investigative processes, though this has not been reflected in the BP3 performance measure results.

The number and percentage of matters investigated by IBAC is an indicator of its effectiveness. During the audit period, the proportion of matters investigated by IBAC has fluctuated, noting for the last 2 years of the audit period, Victoria was subject to multiple lock downs and restrictions on people's movements and activities.

Given each complaint or notification received by IBAC may consist of one or more allegations, either the number of individual cases (e.g., complaints and notifications) or individual allegations can be considered. Figure 2 depicts the proportion of cases and allegations investigated by IBAC over the audit period.

Figure 2. Proportion of allegations investigated by IBAC²



² *Disclaimer: IBAC has not maintained source data which was used to prepare statistics for inclusion in the annual reports from 30 June 2018 to 30 June 2021. Callida sought to obtain the following data, which was used in annual reports, but were informed that it would be time consuming for IBAC to extract and collate this information:*

- *Assessments – data used to calculate performance against BP3 timeframes*
- *Investigations – data used to calculate performance against BP3 timeframes*
- *HR – FTE data included in the annual reports*

This resulted in Callida being unable to validate this data and perform additional analysis.

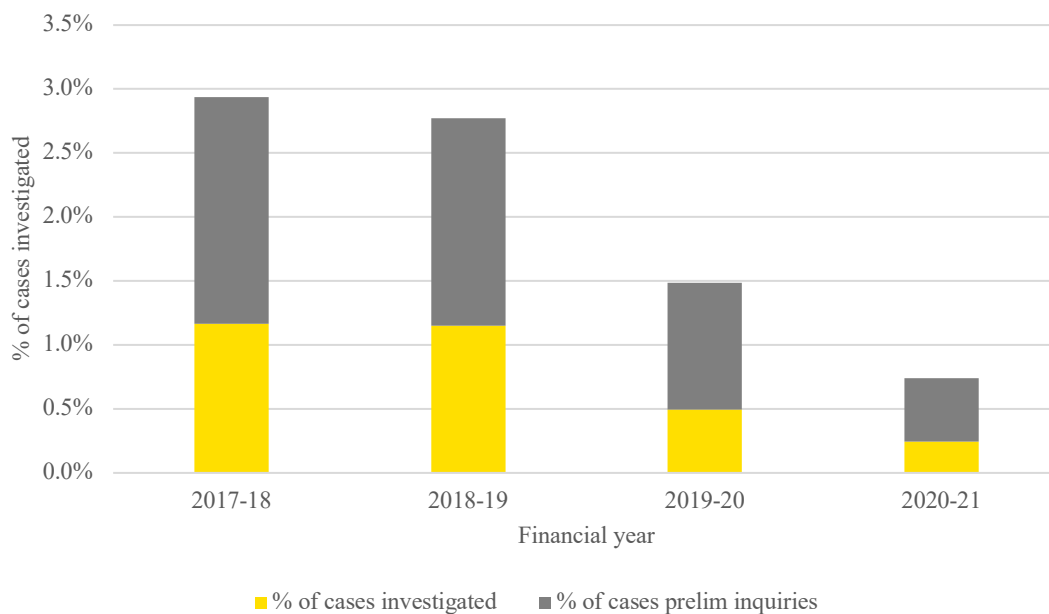


Source: IBAC Annual Report data from 1 July 2017 to 30 June 2021

As shown in Figure 2, IBAC has investigated less than 2 per cent of the total allegations received each year of the audit period. Aside from an increase in 2018-19, the proportion investigated has remained largely consistent.

In contrast, the proportion of complaints and notifications investigated by IBAC, both via full investigations and preliminary inquiries, has decreased each year over the audit period (refer Figure 3). As previously noted, IBAC indicated that COVID-19 has reduced IBAC’s ability to undertake investigative activities. As a consequence, the number of open investigations and preliminary inquiries increased from 23 at 30 June 2020 to 27 at 30 June 2021, despite the relatively small number of cases started during the 2020-21 financial year.

Figure 3. Proportion of cases investigated by IBAC



Source: IBAC Annual Report data from 1 July 2017 to 30 June 2021

IBAC’s ability to deliver more investigations has further been inhibited by shortfalls in available resources, including, the lack of availability of skilled staff, and limitations on investigative powers. IBAC vacancies have existed within the Investigations branch for several years since a fourth investigation team was established in November 2017. IBAC has indicated that filling these positions has been difficult due to a lack of suitably skilled and experienced candidates. This point was raised by IBAC in the IBAC Committee’s Inquiry into the external oversight of police corruption and misconduct in Victoria in 2018.

As noted in criteria 4, IBAC is implementing strategies to improve its performance in the areas of workforce planning, staff development and in strengthening its workplace culture. Improvements to the effectiveness of these processes will lead to increased staff retention and allow IBAC to further grow its workforce.

A further element of growing IBACs workforce was also reflected in a recommendation from the IBAC Committee Inquiry. This recommended that IBAC ‘increase the number of civilian specialists it



recruits from a diverse range of backgrounds and disciplines.’ Discussions with staff from IBAC’s Investigations and People Culture & Capability teams have indicated that IBAC has sought to attract and recruit more candidates that do not come directly from law enforcement, but these efforts to date have had only marginal success.

During walkthroughs, it was noted that in 2021-22 IBAC has undertaken a project to develop an Investigations Capability Framework, and detailed position statements to build and develop its investigation capability. It is understood these initiatives, once finalised, will also help guide professional development activities to upskill less experienced investigators, including those without previous work experience in the field.

Evidence of the effectiveness of IBAC’s investigations has also been provided through an internal audit of IBAC’s investigations framework, requested by management in 2020 which was completed in June 2021. The internal audit identified several shortcomings in IBAC’s approach to managing its investigations activities, with the following high-risk findings identified:

- Beyond the BP3 measures, IBAC has not designed and implemented performance measures to monitor and assess whether investigations are achieving intended outcomes.
- The governance structure across the investigations lifecycle requires improvement to ensure consistent, defensible, and transparent decision making.
- Investigations are largely undertaken in a siloed manner, with a ‘need-to-know’ mindset and limited collaboration.

IBAC is implementing 8 remedial actions in response to these findings, including

- Formalising an investigations framework by documenting an investigations framework that includes definitions and purpose, components of the framework, decision points, collaboration, roles and responsibilities, governance arrangements and reporting.
- Clarifying governance arrangements by formalising the Strategic Operations Meeting (SOM) terms of reference and its relationship with the Operations Governance Committee (OGC), amending the OGC terms of reference to clarify its role in the investigations lifecycle and relationship with SOM and establishing criteria for when an investigation specific Steering Committee is required.
- Refining management report formats, with an appropriate level of detail, quality, transparency, and consistency.
- Updating investigations process maps to reflect any changes to the investigations lifecycle and clearly reflect decision points. Process maps will be updated post the completion of the investigations framework.
- Developing a formal quality assurance framework that ensures processes are in place to check for compliance with policy and procedure and capture and act on lessons learned throughout the investigation lifecycle.
- Developing quantitative and qualitative measures to assess the impact and effectiveness of investigations.
- Establishing strategic focus areas to enable the development of proactive collection plans and response strategies which will promote engagement between all participating business areas.



- Continuing to improve the multi-disciplinary approach to investigations lifecycle by confirming and formalising agreed ways that Operations, Prevention & Communications and Legal, Assessment, Review and Compliance (LARC) divisions will work together to enhance communication, promote dynamic decision making, share insights and maximise prevention outcomes from an investigation.

As of May 2022, one action had been completed - refining management report formats, with an appropriate level of detail, quality, transparency, and consistency. The remaining 7 are being addressed through the implementation of a formal investigations framework, which has been undertaken as a strategic initiative under IBAC's 2021-22 Business Plan.

IBAC does not have clear measures to assess the effectiveness of investigations. IBAC has acknowledged that current BP3 measures provide no indication of effectiveness or impact of investigations. IBAC are seeking to address this limitation through the development of a Balanced Scorecard and evaluation of impact work foreshadowed in IBAC's Corruption Prevention Strategy. IBAC has advised that the Balanced Scorecard will include leading and lagging performance measures across the perspectives of Public Value Outcomes, Stakeholders, Core Service Delivery and Enablers.

Efficiency of investigations

IBAC has not consistently met the target timeframes for completing investigations, as set out in the BP3 measures. Results against the BP3 measures are detailed in Appendix F.

While implementation of Condor has improved the efficiency of some investigative processes, these improvements have not yet been reflected in the BP3 measure results.

IBAC noted that the following elements impacted the efficiency of its investigations:

- COVID-19, which restricted its ability to conduct evidence-gathering activities like examinations, surveillance activities and execution of search warrants. IBAC implemented a virtual examination capability, but this still posed a range of practical challenges, such as ensuring the confidentiality of hearings and the ability of witnesses to access necessary technology.
- Increased complexity of investigations, though the evidence for this is largely anecdotal due to a lack of available data to compare current complexity to complexity of investigations 2, 3 or 4 years ago. IBAC has defined a complex investigation as having 2 or more factors and most of these responses will be categorised as 'extensive' and a standard investigation as having no more than 2 factors and most of these will be categorised as 'limited'³. Such factors include number of persons of interest, offending period (limited or extensive), number of corruption or misconduct behaviours identified, number of criminal offences suspected and volume of evidence (limited or extensive)⁴.

The result was that IBAC commenced and completed less investigations in both 2019-20 and 2020-21, than 2018-19.

³ IBAC Annual report 2020/21, page 28.

⁴ IBAC Annual report 2020/21, page 28.

Up until 2017-18, IBAC reported the average number of days taken to finalise an investigation in its annual report. Reporting this data alongside the existing BP3 measure would provide further insight into the efficiency of IBAC's investigations. Callida requested these statistics (or underlying data to enable their calculation) from IBAC for the period from 1 July 2018 to 30 June 2021, however this data was not available for Callida to perform further analysis. The average days to complete investigations is reported in the annual reports of other integrity agencies, including:

- Independent Commission Against Corruption (ICAC), New South Wales
- Law Enforcement Conduct Commission (LECC), New South Wales
- Corruption and Crime Commission (CCC), Western Australia
- Australian Commission for Law Enforcement Integrity (ACLEI).

In assessing the efficiency of IBAC's investigations, the extent to which IBAC can influence and control the duration of an investigation should be considered. IBAC indicated a range of factors outside of its control can impact timeframes for completion, including time spent awaiting evidence from external parties (e.g. when a financial summons is issued to a financial institution), procedural fairness requirements and legal proceedings.

While it is acknowledged these factors are relevant, IBAC has not systematically captured and reported data to quantify the significance of these factors.

Callida notes a limitation in analysis as the timeliness BP3 measure only considers how long it takes to complete an investigation. It does not measure how much staff time has been required to complete an investigation, noting based on annual reports reviewed that there is no evidence to suggest that other equivalent integrity agencies to IBAC perform this type of measurement either. Without this data Callida could not determine how much the deterioration in BP3 results are due to:

- idle time or delays – periods where IBAC is investing minimal effort, but the time is still counted towards overall days, for example financial summons taking approximately 3 months to be addressed by banks.
- greater number of hours required to complete an investigation.

Economy of investigations

Refer to criteria 1.1 – 'Economy of assessments' for Callida's response to economy of statutory functions.

Compliance of investigations

No significant compliance or performance issues have been identified in the conduct of IBAC's investigations. However, some instances of inconsistencies in processes have been observed, as well as a lack of evidence of review and approval. It should be noted that review and approval issues were more consistently identified in relation to oversight by Manager Investigations and Team Leaders and not key decisions which require delegate approval. While efficiencies and improvements in documentation have been noted since the implementation of Condor, opportunities to better utilise all features of the system still exist.

IBAC advised that the investigations framework which is currently in development will include developing a formal quality assurance framework that ensures processes are in place to check for



compliance with policy and procedure and capture and act on lessons learned throughout the investigation lifecycle. IBAC plan to assign a compliance person to perform this function one day per month and will focus on non-delegate approval of key decisions.

Further details of observations from sample testing of investigations and preliminary inquiries are outlined in Table 4. Refer to Appendix D for Callida’s sample testing methodology

Table 4. Results of sample testing – investigations and preliminary inquiries

Observation	Description
<p>Approval of the scoping of an investigation by the Team Leader and Manager was not captured in the legacy system. Moreover, when Condor was first implemented, this approval process was inconsistently performed in 2018-19 and 2019-20.</p>	<p>IBAC’s <i>Commencing an Investigation Procedure</i> requires that the scoping of an investigation is reviewed by the Team Leader Investigations and the Manager Investigations prior to submission to the relevant delegate for consideration.</p> <p>In 2017-18, approval of the scoping of an investigation was documented manually through a <i>Decision to conduct the investigation</i> form. This form captured approval by the DC, but not the Investigations Team Leader and Manager. This issue concerned 2 of the 11 investigations sampled.</p> <p>The review and approval processes are now performed in Condor using workflow functionality. Condor captures evidence of all approvals by the Team Leader, Manager and DC for the scope of the investigation.</p> <p>We note that the implementation of this process has been continually improving since Condor was first introduced. For example, 4 samples assessed from 2020-21 reflected the correct workflow that should be performed, whereas 4 samples assessed from 2018-19 and 2 for 2019-20 inconsistently implemented the appropriate workflow for review and approval (e.g. the scoping decision was work flowed from the case officer directly to the DC for finalisation and activation or directly from the team leader to the DC).</p>
<p>Review and endorsement of status reports is not consistently captured</p>	<p>As stated in the <i>Commencing an Investigation Procedure</i>, the 6-weekly status report for each individual investigation is to be reviewed and endorsed by the Investigations Team Leader and Manager before it is submitted to the IBAC Executive Committee IEC for consideration.</p> <p>8 of the 11 investigations sampled did not have evidence of endorsement.</p> <p>2 of the 5 preliminary inquiries sampled did not have evidence of endorsement.</p> <p>Condor is now able to capture in its workflow the review and approval of the individual status report by the Team Leader and Manager. However, IBAC stated that this workflow is not being consistently utilised at this stage to capture the endorsement of the status report,</p>



Observation	Description
	therefore it is difficult to verify compliance with the requirement and determine if the appropriate individuals are reviewing the report.
Completion of an investigation plan for preliminary inquiries is inconsistently performed.	The <i>Completing an Investigation Procedure</i> requires that the Investigation Team Leader is to review and approve the completed investigation plan prior to commencement of the preliminary inquiry. However, for 3 of the 5 preliminary inquiries sampled, there was no evidence that an investigation plan was completed. Discussions with key stakeholders indicated that this can be due to the scoping document (used to receive delegate approval to commence the preliminary inquiry) clearly outlining the activities to be undertaken and that creating an investigation plan is duplication of effort.
Review and approval process of the Final Investigation Report (FIR) is not consistently recorded in Condor.	<p>The <i>Completing an Investigation Procedure</i> requires that the Investigation Team Leader, Prevention Policy & Research (PPR) team, Legal team and Strategic Intelligence (SI) team review the draft FIR.</p> <p>Evidence of this review can be recorded in Condor using the workflow for the FIR or the comments section of the FIR activity. However, this review process was not captured in Condor for 7 of the 11 investigations sampled, noting 2 samples did not capture Investigation Team Leader review and 5 samples did not capture PPR, SI or Legal review.</p> <p>Prior to implementation of Condor, evidence of review was captured via email or through edit history of the draft FIR in TRIM. However, based on sample testing this was also inconsistently recorded.</p>
Manager Investigations review of the IEC summary paper for an FIR was inconsistently recorded and/or performed.	<p>The <i>Completing an Investigation Procedure</i> requires that the Manager Investigations review the IEC (now OGC) summary paper for an investigation before the FIR is added to the IEC/OGC agenda.</p> <p>Evidence of this review process was not captured for 3 of the 11 investigations sampled. For one sample, the summary papers did not include the endorsement by the Manager Investigations. For another sample, endorsement was provided by the Investigations Team Leader, the Investigations Director and/or the Operations Director, not the Manager Investigations as required by policy. We note that it is justifiable that these other individuals review and endorse the IEC summary paper, but the procedure needs to be updated to enable this flexibility and provide further detail around this review process to ensure the appropriate individuals are reviewing the paper before it is officially submitted to the IEC (now OGC).</p>
IEC endorsement of the FIR is not captured in Condor. Moreover, lack of evidence to verify	The <i>Completing an Investigation Procedure</i> requires that IEC (now OGC) endorses the outcomes and recommendations of an investigation as stated in the FIR. However, to date the IEC endorsement of the FIR is not captured in the workflow in Condor, instead endorsement is still



Observation	Description
that the FIR received IEC endorsement before being finalised.	captured through meeting minutes and emails, but these artefacts are inconsistently stored in the relevant TRIM file. As a result, we could not verify that IEC endorsement was received for 4 of the 11 investigations sampled.
DC endorsement of the FIR was inconsistently captured in the legacy system and relevant meeting minutes or emails	<p>The <i>Completing an Investigation Procedure</i> requires that the DC must review and approve the FIR and finalisation of the investigation.</p> <p>Before Condor was introduced in August 2018, DC approval of a FIR was captured through meeting minutes or via email. However, for 2 of the 5 preliminary inquiries sampled, evidence of approval was not contained in the meeting minutes and an approval email could not be located.</p> <p>However, Deputy Commissioner approval is now captured in Condor workflows.</p>
DC endorsement of the finalisation of a preliminary inquiry was inconsistently captured in Condor	<p>The <i>Completing an Investigation Procedure</i> requires that the DC must review and approve the finalisation of the preliminary inquiry.</p> <p>Before Condor was introduced in August 2018, DC approval was captured through meeting minutes or via email. However, for 1 of the 11 investigations sampled, evidence of approval was not contained in the meeting minutes and an approval email could not be located.</p> <p>Deputy Commissioner approval is now captured in Condor workflows.</p>
Investigation Closure Checklist could not be located or had not been endorsed as required	<p>Before the Investigation Closure Checklist was embedded into Condor, case officers were required to complete a hard-copy checklist and obtain physical sign off from the Team Leader Investigations and the Manager Investigations.</p> <p>Based on sample testing, this manual process had to be performed for 3 of the 7 investigations sampled and all 5 of the preliminary inquiries sampled. The following issues were identified:</p> <ul style="list-style-type: none"> • For 6 of 8 samples, the Investigation Closure Checklist could not be located. • For 1 of 8 samples, the Investigation Closure Checklist was completed but the Manager Investigations had not physically signed off and endorsed the checklist. <p>This approval process is now embedded in Condor workflows. An investigation cannot be finalised in Condor until all required tasks linked to the investigation in Condor have been marked as ‘closed’. However, there are still activities that must be completed manually outside of Condor to officially close the investigation.</p>



Observation	Description
Review and approval process of outcome letters is not consistently recorded in Condor	<p>The <i>Completing an Investigation Procedure</i> requires that the Investigation Team Leader review the draft outcome letters.</p> <p>Evidence of this review can be recorded in Condor using the workflow or the comments section of the activity. However, this review process was not captured in Condor for 4 of the 11 investigations sampled. IBAC are looking to package the draft FIR and the outcome letters together into one activity in Condor for the Team Leader Investigation and any other relevant parties to review all at once.</p> <p>Prior to implementation of Condor, evidence of review was captured via email and recorded in TRIM. However, based on sample testing this was also inconsistently recorded.</p>

Examinations (and coercive powers)

Effectiveness of examinations

Public examinations

While IBAC does not formally measure the effectiveness of public examinations through internal performance measures, it collects communication and engagement data. This data indicates public examinations are an important tool in educating the community through exposing real-world examples of corruption and misconduct. Over the audit period, when a public hearing was announced or had commenced, there was a spike in the number of weekly unique users to IBAC's website. This is demonstrated in Figure 5. IBAC's recent live streamed public hearings (as part of Operation Watts) attracted more than 278,000 unique views over the 4 weeks.

IBAC's move to video streaming of public hearings allowed the organisation to continue to conduct public examinations during COVID-19, but also provided greater access for the Victorian community to understand what corruption looks like.

IBAC has indicated that exposure of corruption is an important way to drive prevention and deterrence, so the number of people who pay heed to these public examinations demonstrates the effectiveness of public examinations in reaching members of the public and exposing corruption to prevent and deter.

Use of coercive powers

While not a reflection of effectiveness, Table 5 below provides an indication of the extent of powers exercised by IBAC over the audit period. This data was extracted from the VI's annual reports from 2017-18 to 2020-21 identifying the number of notifications received by the VI from IBAC on the use of an investigative/coercive power they are obligated to report on to the VI. This data demonstrates a year-on-year reduction in the amount of coercive powers exercised by IBAC which correlates to the reduction in the number of cases investigated by IBAC (as identified above).

Table 5. Use of coercive powers notified to the VI

Coercive Power	2017-18	2018-19	2019-20	2020-21
Public hearing (s117(5))	1	1	1	3
Summons (s122)	373	378	353	251
Direction to lawyer (s128)	-	-	-	3
Recordings (s134)	138	101	65	52
Confidentiality notice cancelled (s43)	-	99	74	39
Confidentiality notice issued (s43)	250	142	37	64
Summons – preliminary inquiry (s59G)	77	63	52	4
Total	839	784	582	416

Source: VI Annual Reports from 2017-18 to 2020-21.

Policies and procedures for the exercise of coercive powers (including use of examinations) align to the IBAC Act. However, some areas for improvement have been identified, including:

- providing further guidance to staff on the type of information and level of detail that needs to be included in notifications to the VI when coercive powers are exercised
- reviewing and updating the Examination procedure as it has not been formally reviewed since 2013
- providing guidance on how IBAC is to deal with the withdrawal of referred complaints or notifications and how and when it is required to notify VI in writing of the withdrawal.

Through process walkthroughs, IBAC presented examples of documentation outlining the reasons for which exercise of a power were sought. For each example, the completed documentation was aligned to the requirements of the IBAC Act, authorised by an appropriate delegate and the reasons for use of the power were clear and appropriately detailed. Examples were sighted for:

- Confidentiality notices
- Witness summons – Examinations
- Examinations (including recordings)
- Witness summons – Preliminary inquiry
- Search warrants
- Entry to a premise.

IBAC is not required to notify the VI if the following powers are exercised, however examples were reviewed and aligned to requirements of the IBAC Act 2011.

- search warrants.
- entry to a police premise.

IBAC's power to issue an arrest warrant is considered out-of-scope as discussions with IBAC's Legal team have indicated that this power has never been exercised.

Examples of documentation presented to Callida, and process walkthroughs of coercive powers and examinations gave no indication that IBAC was not complying with its legislative obligations.

However, Callida notes the following limitations to its analysis:

- While all necessary documents exist to evidence compliance with legislative requirements for the exercise of coercive powers, IBAC does not have reporting functionality in Condor to produce a register of all coercive powers exercised in a given period. As a result, Callida was unable to perform systematic sampling or gain visibility of how many different types of coercive powers were exercised by IBAC during the audit period. This also prevented Callida from considering how many coercive powers were exercised as part of different investigations to be able to link outcomes and timeliness with use of powers. Analysis of this data may have also been able to support IBAC's argument that investigations have become more complex, correlating with greater use of powers.
- The VI advised IBAC of their informal view that the operational content of correspondence between IBAC and the VI not be shared with Callida unless that information was publicly available. Consequently, Callida could not confirm if the VI has raised any issues with IBAC based on its review of notifications and whether these issues were resolved.

In 2018-19, IBAC performed an internal review to develop principles around the use of coercive powers. The review concluded that:

“Whilst IBAC has in place a range of key processes and controls to ensure IBAC Officers exercise coercive information-gathering powers lawfully and appropriately, it can improve its witness welfare management policies, procedures and processes.”

According to an Operations & Prevention Committee (OPC) summary paper in 2019, the final report proposed a ‘model regime’ be adopted which includes clear witness welfare management policy direction, new guidelines for IBAC Officers, enhanced witness welfare support and improved assurance on the use of powers. Further analysis on witness welfare management and steps IBAC took to address these gaps and improve its framework have been detailed in criteria 2.3.

Efficiency of examinations

Examples of documentation presented to Callida, and process walkthroughs of examinations gave no indication that IBAC was working inefficiently in its examinations and its use of coercive powers. While remaining compliant with legislation, IBAC's examination process provided the necessary level of detail and oversight to perform each task appropriately.

Economy of examinations



Refer to criteria 1.1 – ‘Economy of assessments’ for Callida’s response to economy of statutory functions.

IBAC did present a paper to the Executive Committee in July 2019 that provided a high-level financial review of 2 public hearings. This paper noted the cost of these 2 public hearings and suggested the following cost reduction for the Executive:

- Review the venue for public hearings and assess whether the hearing can be held by IBAC in-house.
- Review the need for outside counsel and whether IBAC can increase the use of IBAC staff.
- Review and confirm plans for future public hearings, and relevant budget allocation.

Post-audit actions

IBAC has advised that all elements of the recommendation concerning measurement of performance and complexity are currently being addressed in the investigations framework and will be reported in the revised Operations dashboard. Performance measures will be developed as part of the implementation of the updated investigations framework.

Recommendations

Ref. No.	Recommendation
1.1.1	Implement the Balanced Scorecard and recommendations raised in the Integrity and Oversight Committee’s (IOC) inquiry into the education and prevention functions of Victoria’s integrity agencies (CPE) report.
1.1.2	Implement the A&R quality assurance framework.
1.1.3	Develop and implement a process to effectively capture verbal complaints and address the gaps identified through sample testing of assessments.
1.1.4	Develop clear business rules around when investigations are deemed to have started/finished – for the purpose of measuring timeframes.
1.1.5	Track key milestones such as when the investigations teamwork finishes, and activities like report writing, preparing briefs of evidence and the commencement of court proceedings.
1.1.6	Implement the investigations framework and underlying performance metrics to capture further indicators of complexity of investigations to allow for this to be measured over time.
1.1.7	Data collected and analysed to support performance results and information reported on in the annual report needs to be stored to ensure that consistent business rules are applied over time to generate accurate results each financial year.
1.1.8	Develop standard reporting in IBAC’s systems to measure and monitor:

Ref. No.	Recommendation
	<ul style="list-style-type: none"> the number of coercive powers exercised within a given period. productivity of staff in completing assessments. status of operations and assessments.
1.1.9	Ensure that regular spot checks on a random sample of investigations (including use of coercive powers) is included in IBAC investigations framework to ensure compliance with appropriate processes and legislation.

Work already progressed by IBAC since June 2021

Ref. No.	Work already progressed by IBAC since June 2021
1.1.1	Evidence provided demonstrates that IBAC is in the process of developing and implementing the Balanced Scorecard and recommendations raised in the Integrity and Oversight Committee's (IOC) inquiry into the education and prevention functions of Victoria's integrity agencies (CPE) report.
1.1.2	Evidence provided demonstrates that IBAC is in the process of implementing its A&R quality assurance framework.
1.1.4	Evidence provided demonstrates that IBAC is in the process of implementing its investigations framework that documents clear business rules around when investigations are deemed to have started/finished – for the purpose of measuring timeframes.
1.1.5	Evidence provided demonstrates that IBAC is in the process of implementing the Operations Dashboard which will track key milestones such as when the investigations teamwork finishes, and activities like report writing, preparing briefs of evidence and the commencement of court proceedings.
1.1.6	Evidence provided demonstrates that IBAC is in the process of implementing its investigations framework and underlying performance metrics to capture further indicators of complexity of investigations to allow for this to be measured over time.
1.1.8	<p>Evidence provided demonstrates that IBAC is in the process of developing standard reporting in IBAC's systems to measure and monitor:</p> <ul style="list-style-type: none"> the number of coercive powers exercised within a given period. productivity of staff in completing assessments. status of operations and assessments.

3.2 Criteria 1.2: Functions under the Public Interest Disclosures Act 2012 (Vic)

Criteria	Overall finding
The extent to which IBAC effectively, economically and efficiently: performs its functions under the <i>Public Interest Disclosures Act 2012</i> (Vic) (PID Act).	IBAC performs its functions under the PID Act effectively, but further improvement is required around efficiency and enhancement of educational information to the public sector.

IBAC's main function under section 55 of the PID Act is to:

- receive, whether directly or by notification from other entities, assessable disclosures; and
- assess those disclosures; and
- determine whether those disclosures are public interest complaints

IBAC has additional functions relating to the PID scheme established under the PID Act. These functions mainly concern communication, engagement, prevention and education in relation to the PID scheme. Refer to Appendix B for the detailed listing of IBAC's additional functions.

It is primarily the responsibility of the A&R team and Prevention & Communication (P&C) team to perform these functions outlined above.

In January 2020, legislative changes required agencies to update their policies and procedures in relation to PIDs. IBAC developed an information sheet that was made publicly available on their website detailing the key changes to the system. A summary of these changes is outlined in Appendix C.

Effectiveness of PID processes

The assessment of the PID process was incorporated into the sample testing of complaints and notifications (see criteria 1.1). The sample testing identified only minor internal compliance observations, relating to evidencing compliance with internal policies and procedures. There were no findings or observations relating to compliance with legislative requirements. The assessment of Protected Disclosures (PDs)/PIDs has been largely effective and continued to improve over the audit period.

PID legislative changes commenced in January 2020 and IBAC reflected these new PID legislative requirements in its assessment systems, processes, policies and procedures. A&R quickly responded to these changes, upskilling staff on how to address PID requirements and introducing specific PID assessment capabilities to drive greater effectiveness and efficiency.

IBAC also established a PID consultative group in 2020. The purpose of this group was to provide a forum for the identification and resolution of systemic issues and inter-agency practice issues that arise for key investigation bodies in the operation of the PID scheme. Members of the consultative group included:

- Independent Broad-based Anti-Corruption Commission – Executive Director LARC (Chair)
- Parliament of Victoria – Deputy Clerk, Legislative Assembly- representing both houses



- Victorian Inspectorate – Executive Director, Legal and Integrity
- Ombudsman Victoria – Assistant Ombudsman
- Victoria Police – Inspector, Integrity Liaison / EPSO Support
- Judicial Commission of Victoria – Director
- Office of the Racing Integrity Commissioner – Racing Integrity Commissioner
- Office of the Information Commissioner – Information Commissioner
- Local Government Inspectorate – Chief Municipal Inspector.

As stated in the terms of reference (TOR), the functions of the consultative group were to:

- contribute to the development of consistent practices and procedures in relation to the receipt, determination and notification of public interest disclosures
- identify opportunities for reform and continuing development of the public interest disclosure scheme
- assist IBAC to perform its function under subsection 55(2)(g) of the PID Act to provide information to consult with, and make recommendations to the public sector on matters relevant to the operation of the PID scheme.

A large volume of activities has been performed by P&C to support the PID process and meet its legislative requirements. This includes developing information sheets, guidelines, and processes for handling public interest disclosures. However, the IOC CPE inquiry identified further opportunities for IBAC to enhance the education and capacity of the public sector to understand and comply with the PID scheme. Such enhancements are included in Table 6.

Table 6. PID enhancements

Area	Description
PID Coordinators	Introducing up-to-date directory of all PID Coordinators on the IBAC website.
Anonymous reports	Publishing clear, consistent, detailed information for reporters on: <ul style="list-style-type: none"> • how to make an anonymous report • how IBAC protects their anonymity
Information for PID Coordinators	Providing PID Coordinators with adequate technical information and guidance so they can securely receive, store and manage anonymous reports.
Secure dropbox technology	Considering: <ul style="list-style-type: none"> • the potential use of secure dropbox solutions for receiving and managing PIDs/complaints, especially anonymous complaints • how this technology could be used to communicate with anonymous reporters



These PID recommendations were not addressed through proposed activities and initiatives in the Corruption Prevention Strategy 2021-2024. However, IBAC has advised that work is underway to respond to and/or address them.

Efficiency of PID processes

As discussed in criteria 1.1 (under ‘Efficiency of assessment processes’), IBAC’s performance against the BP3 timeliness measure for assessments (which included PIDs) declined during the period from 1 July 2017 to 30 June 2021, despite the process improvements achieved through the implementation of Condor.

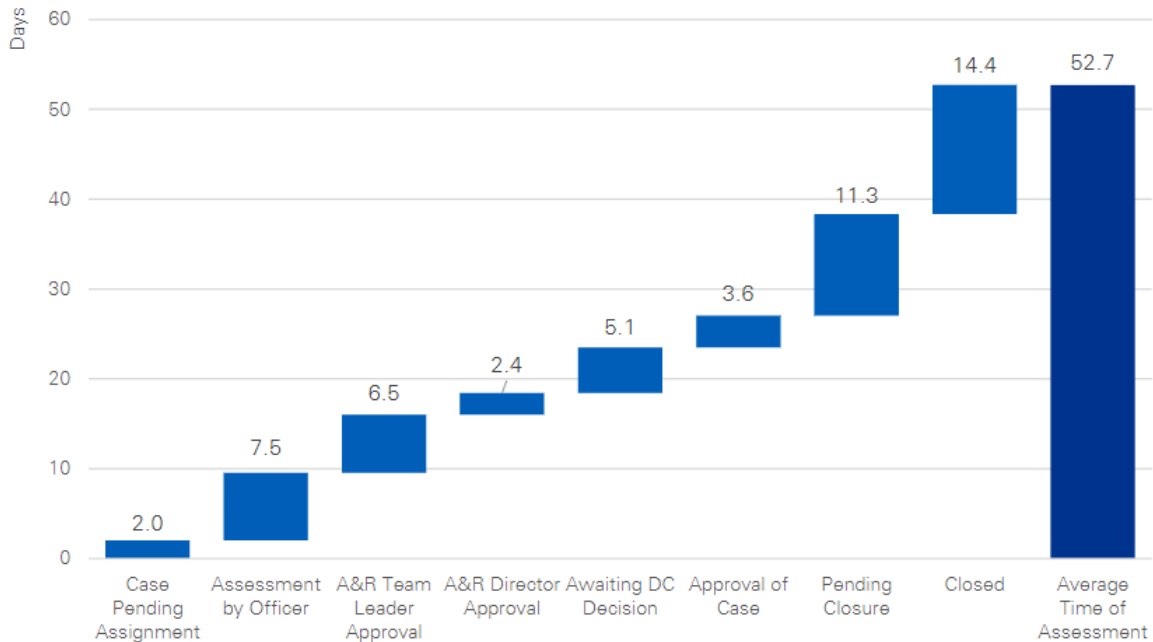
IBAC indicated that one of the key factors that impacted its performance during the period included changes to public interest disclosure legislation. Implementation of the PID Act necessitated changes to IBAC’s assessment processes, configuration of Condor, development of policies and procedures and training for staff on applying the new legislative requirements. IBAC indicated that no additional funding was provided to support the implementation of these new legislative requirements. Also, IBAC indicated that the impact of COVID-19 was most significant throughout 2020 and 2021 which impacted on IBAC and its implementation of the legislative changes.

Another key factor impacting IBAC’s efficiency in assessing PIDs was the time taken to officially close a PID assessment and receive the required sign-off/approval for outcome letters. This issue was highlighted through an internal audit of IBAC’s PID governance framework completed in July 2021.

As part of this internal audit, the internal audit providers analysed data extracted from Condor for the period January 2020 to December 2020. This data was used to map out the average days taken to complete each key milestone of a PID assessment. The total time taken to complete the assessment of a PID was 52.7 days based on data extracted from Condor. The internal auditors further broke down this data to outline the time taken to complete each milestone of the PID assessment (see figure 4 below).



Figure 4. Average days taken to complete PID assessment



Source: IBAC’s PID governance framework internal audit report (July 2021)

The chart indicates that it is the internal closure process incorporating pending closure and closed which is causing the greatest delays. These 2 milestones involve the case officer drafting, receiving sign-off and distributing the outcome letters to the relevant parties involved in the PID assessment. Stakeholders confirmed it can take up to 2 weeks for an outcome letter to be signed-off and distributed to the relevant parties. These delays are due to the delegation of authority requiring senior leadership (Directors and above) to sign-off on all types of outcomes letters, even for low-risk cases. The A&R team is in the process of rectifying this issue by making amendments to the sign-off process based on the risk level of cases.

To further drive efficiency, IBAC has introduced a new BP3 measure in 2021-22:

“Public Interest Disclosure (PID) complaints and notifications assessed within 30 days.”

This is expected to help improve PID assessment timeframes and increase efficiency in the future, but IBAC needs to be clear on the methodology to be used for determining the number of days i.e. effort days or days duration.

Economy of PID processes

Due to budget and resource limitations, IBAC had to largely absorb the costs of PID legislative changes within existing budget. These limitations concerned both the A&R team and the P&C team. This forced IBAC to be cost effective in responding to changes.

However, refer to criteria 1.1 – ‘Economy of assessments’ for Callida’s response to economy of statutory functions.



Recommendation

Ref. No.	Recommendation
1.2.1	Address PID gaps identified in the IOC CPE report.

Work already progressed by IBAC since June 2021

Ref. No.	Work already progressed by IBAC since June 2021
1.2.1	Evidence provided demonstrates that IBAC is implementing a program of work to address PID gaps identified in the IOC CPE report, including exploring options for maintaining an appropriate list of PID contact points, reviewing PID materials and considering new information materials on anonymous reporting, providing specific information for PID Coordinators and exploring potential secure dropbox models and technology for receiving and managing PIDs/complaints.

3.3 Criteria 1.3: Uses information received, intelligence collected, and research undertaken in support of its investigations

Criteria	Overall finding
The extent to which IBAC effectively, economically and efficiently: uses information received, intelligence collected, and research undertaken in support of its investigations.	The use of information received, intelligence collected, and research undertaken in support of its investigations has been partially effective over the audit period.

Effectiveness of intelligence activities

Over the 4-year audit period, IBAC has been partially effective in utilising information received, intelligence collected, and research undertaken to support investigations. Over the audit period, the use of intelligence was demonstrated through key outputs, including the production of thematic reports, instigating own motion investigations, and producing intelligence alerts/briefs. However, further work is required by IBAC to better utilise intelligence to support investigations based on opportunities to improve identified by Callida.

The 2 teams within IBAC dedicated to intelligence gathering, receipt of information and research undertaken to support investigations are the:

1. Target Development Unit (TDU) - the TDU commenced in 2017. The unit takes information from investigations, the Strategic Intelligence unit within the P&C team, trend data within complaints and notifications, and uses it to develop recommendations for own motion investigations and preliminary inquiries, direct investigation activities and provide input to the P&C team around prevention initiatives.

2. Strategic Intelligence (SI) team – the SI team conducts research and environmental scans to provide input into strategic and business planning and guide education and prevention initiatives.

These 2 teams work on a range of different activities and intelligence work which by its nature is unpredictable. As a result, it is hard to set meaningful parameters on expected number and type of outputs, timeframes for doing certain tasks, and the measurement of quality. The number of employees (headcount) over the audit period are detailed in Table 7 and IBAC has stated the number of employees has been insufficient to support intelligence activities over the audit period.

Table 7. No. of employees – Intelligence function

Financial Year	Employees in TDU	Employees in SI
As at 1 July 2017	2	8
As at 30 June 2018	3	7
As at 30 June 2019	4	8
As at 30 June 2020	4	8
As at 30 June 2021	4	7
Current (2021/2022)	5	6

Own motion investigations/preliminary inquiries

During the audit period, the following number of investigations and preliminary inquiries were instigated through an ‘own motion’, which is when IBAC investigates without a complaint or a notification.

Table 8. No. of own motion investigations commenced

Financial Year	Number of own motion investigations/preliminary inquiries
2017-18	14
2018-19	18
2019-20	10
2020-21	4

Source: IBAC Annual Reports from 2017-18 to 2020-21.

Briefs and alerts

A brief provides analysis of public sector corruption or police misconduct risk, trends or emerging issues, including background content, implications for IBAC and opportunities for future expository and prevention work. An alert provides a quick analysis of a single corruption or police misconduct risk, trend or emerging issue, highlighting implications for IBAC and opportunities for further work. The identification of risks, trends or emerging issues researched internally and documented in intelligence briefs and alerts

Table 9 identifies the number of briefs and alerts delivered during the audit period. The number of briefs and alerts issued over the audit period has been consistent.

Table 9. Number of briefs and alerts delivered during audit period

Financial Year	Number of briefs	Number of alerts
2018-19	8	7
2019-20	8	11
2020-21	6	6
2021-22	7	7

Source: Internal data provided by IBAC on all briefs and alerts delivered between 2017-18 and 2020-21.

The following 2 areas of improvement were identified during this review that have impacted IBAC's utilisation of intelligence to support investigations over the audit period:

- The Corporate Plan 2018-21 had a large focus on IBAC being a more 'proactive organisation' and using data to a greater extent. This outcome was not achieved by 30 June 2021 with COVID-19 and resource limitations being factors. Callida notes that progress is being made in 2021-22 around the use of data with the creation of local government and Victoria Police dashboards to identify potential areas of high risk to explore. IBAC have also advised that the SI team are seeking to replace intelligence analyst roles with data analyst roles to further support the collection and analysis of IBAC's data.
- Collaboration between SI, TDU and the Investigations team has been weak. This was confirmed through an external process mapping engagement in 2020 and the investigations framework internal audit. Improvements have already started to be implemented to address this issue through:
 - the introduction of the Strategic Operations and Advisory Group (SOAG). Reporting to the OGC. This group brings all Deputy Commissioners (DCs), Executive Directors (EDs) and Directors/Managers from each division together to discuss investigation proposals, new investigations and enquiries, emerging targets, intel probes and own motion investigations, and SI and P&C activities.
 - the development and implementation of an intelligence framework, which IBAC has advised will complement the investigations framework to build structure, discipline, and clarity around the work of the intelligence function and TDU.

Efficiency and economy of these intelligence activities

It is difficult to assess the efficiency and economy of these activities as there are no defined timeframes to measure against and there is no specific costing or detailed budgeting for these types of activities.

Recommendations

Ref. No.	Recommendation
1.3.1	Develop and implement performance metrics to assess Target Development Unit (TDU)'s performance.
1.3.2	Implement the intelligence framework.

Work already progressed by IBAC since June 2021

Ref. No.	Work already progressed by IBAC since June 2021
1.3.1	Evidenced provided demonstrates that IBAC is in the process of implementing its investigations framework which includes performance metrics to assess Target Development Unit (TDU)'s performance.
1.3.2	Evidenced provided demonstrates that IBAC is in the process of finalising and implementing its intelligence framework.

3.4 Criteria 1.4 and 1.5: Educates and improves the capacity of the public sector to prevent corruption

Criteria	Overall finding
<p>The extent to which IBAC effectively, economically and efficiently:</p> <ul style="list-style-type: none"> educates the public sector and community about the detrimental effects of corrupt conduct and police personnel misconduct on public administration and the community and the ways corrupt conduct and police personnel misconduct can be prevented improves the capacity of the public sector to prevent corrupt conduct and police personnel misconduct (including through the provision of advice, consultation, and training as well as the production of 	<p>IBAC delivers a significant number of initiatives/activities to educate and improve the capacity of the public sector to prevent corruption. However, the effectiveness of these initiatives/activities is not measured, meaning there may be missed opportunities to improve them. IBAC needs to continue its program of work to improve the measurement of performance.</p>

Criteria	Overall finding
guidelines and procedures) in compliance with the <i>IBAC Act 2011</i> (Vic).	

Effectiveness and efficiency of initiatives/activities delivered

IBAC performs a wide range of activities and produces numerous outputs as part of its prevention, education, capacity building and communication functions. While these activities are considered in IBAC's BP3 measures, the volume and client satisfaction of initiatives provide only limited insight into IBAC's performance. This was acknowledged in the Integrity and Oversight Committee's (IOCs) Inquiry into the Education and Prevention functions of Victoria's Integrity Agencies (April 2022) which was reported on in April 2022 and provided recommendations in Table 10.

Table 10. Inquiry into the Education and Prevention functions of Victoria's Integrity Bodies - IOC recommendations

Ref. No.	IOC Recommendation
13	That the IBAC, the Office of the Victorian Information Commissioner (OVIC), the Victorian Inspectorate (VI), the Victorian Ombudsman (VO) to consult and develop frameworks for measuring quality and impact of their prevention & education (P&E) activities.
14	That the IBAC, OVIC, VI, and VO collaborate on data collection projects to facilitate better measurement and reporting on value of work in P&E.
15	That the IBAC, OVIC, VI, and VO include in Annual Reports a dedicated section on measurement of the quality and impact of their P&E activities
16	That IBAC include in its annual report, details of recommendations made during the financial year, by number, type and sector

Without a systematic framework and approach to measuring the quality and impact of these activities, it is difficult to assess IBAC's effectiveness in these areas. It is also difficult to measure efficiency of these activities in the absence of time attribution (further explored in Criteria 3.3 – Systems and processes) and clear timeframes for completing tasks (due to the variety and dynamic nature of these activities).

Throughout the audit period, IBAC's 2015 Corruption Prevention Strategy provided the framework for these activities. While the strategy provided sound guidance to the division, it did not establish an appropriate basis for assessing success. IBAC has recently implemented a new Corruption Prevention Strategy 2021-2024 which incorporates evidence based, qualitative and quantitative performance indicators. This will support more effective measurement of performance and drive behaviours and activities which achieve the greatest impact on IBAC's jurisdiction. Callida acknowledges that IBAC's (working draft) Corruption Prevention Strategy 2021-2024 was provided to the IOC as part of its inquiry into education and prevention functions of Victoria's integrity agencies. The IOC

supported IBAC's Corruption Prevention Strategy 2021-2024 and the introduction of performance measures that will facilitate the collection of crucial baseline data to determine what works.

The new strategy activities and initiatives are aligned to the recommendations raised out of the Integrity and Oversight Committee's inquiry, except for recommendations 3 to 6 which focused on PIDs and anonymous reporters.

In the absence of performance measures, IBAC commissioned an external provider in 2020 to conduct research to assess how IBAC is performing in delivering corruption prevention education and engagement. The external provider conducted 25 telephone interviews with external stakeholders representing state government, local government, integrity stakeholders, police jurisdiction, the legal sector, and academia. The following key findings were identified:

- The stakeholders interviewed valued IBAC as an essential integrity organisation and it is perceived to be doing well in its mission to prevent and expose public sector corruption.
- Stakeholders are generally satisfied with IBAC's corruption prevention engagement. It is important engagement approaches are adapted and tailored for each stakeholder audience.
- Face-to-face engagement and direct lines of communication are essential for maintaining a strong relationship

The report also identified the following recommendations to help IBAC to continue to drive effective engagement:

- Leverage the industry-wide support for corruption prevention education and engagement through partnerships with other integrity agencies and legal agencies.
- Continue to offer face-to-face meetings, presentations and industry forums.
- Ensure the information provided online for practitioners is up-to-date and detailed.
- Work with agencies to deliver tailored information for different workplaces.
- Examine corruption trends more broadly and share these with the industry.
- Many stakeholders mentioned they are working towards creating a culture of integrity more broadly as opposed to focussing on reactive policies. IBAC is perceived to play a part in facilitating this cultural shift and there is scope for IBAC to examine and advise on what a positive, corruption-free workplace looks like.

Based on stakeholder discussions and review of documentation, IBAC is implementing these recommendations to support effective engagement and delivery of corruption prevention education to the wider community. These results demonstrate that the initiatives/activities IBAC is using to educate and improve the capacity of the public sector to prevent corruption is valued by the stakeholders, having the potential to have a lasting impact and effect change.

Over the audit period, IBAC has undertaken the following initiatives/activities to educate and improve the capacity of the public sector to prevent corruption.



Table 11. Initiatives/activities delivered to educate and improve the capacity of the public sector

Activity	Description
Media releases	<p>Media releases have been issued for the duration of the audit period (July 2017 to June 2021). All media releases are publicly available on IBAC's website. These media releases inform the public/wider community of IBAC's investigations. IBAC also employs a full-time senior communications officer to help ensure broad coverage of IBAC statements/activities and accurate reporting.</p> <p>Articles provide tags underneath if the public want to further explore certain topics, for example, conflict of interest, public hearings, stakeholders identified in the release (Vic Police, V/Line, Metro Trains), misuse of information. Moreover, there are small blurbs underneath headlines to summarise what the media release is all about.</p> <p>IBAC has delivered the following number of media releases for each of the 4 years:</p> <ul style="list-style-type: none"> • 26 media releases in 2021 • 40 media releases in 2020 • 38 media releases in 2019 • 41 media releases in 2018 • 25 media releases in 2017.
Advertising and campaigns	<p>The following advertising campaigns were run during the audit period:</p> <ul style="list-style-type: none"> • 2018-2019 – IBAC launched the 'Yes, it's corruption' campaign calling on Victorians to realise the pivotal role they can play in preventing public sector corruption. Campaign materials (videos, posters, and digital banners) are available on IBAC's website for the public to access. IBAC also put out a media release on the campaign in June 2019. • 2017-2018 – A series of print advertisements were run in major Victorian metro daily newspapers, regional press and non-English language papers to inform the community about the impacts of corruption and how to report and prevent it. • 2017-2018 – IBAC continued its 'When something's not right. Report it' campaign launched in the previous period. This campaign included outdoor advertising on bus and tram shelters, in metropolitan and regional newspapers and on radio, digital media and some catch-up TV. <p>IBAC optimised its search engine in June 2020 to raise awareness of corruption risks, prevention and IBAC's role. This optimisation, which incorporated 4 languages, made it easier for web visitors to find IBAC content</p>

Activity	Description
	<p>when doing internet searches and allowed IBAC to reach Victorians online, receiving about 15,000 unique visitors. Together with ongoing work to optimise IBAC web content for discovery via search, this optimisation helped increase the number of visits to IBAC’s website from search engines by more than 80%.</p>
Public examinations	<p>Public hearings are considered an important tool for IBAC in creating a corruption resistant public sector. IBAC’s move to video streaming of public hearings allowed the organisation to continue to conduct public examinations during COVID-19, but also provided greater access for the Victorian community to understand what corruption looks like. IBAC held public examinations for 4 major investigations (Operations Lansdowne, Gloucester, Sandon and Esperance) of public interest during the audit period.</p> <p>IBAC’s recent live streamed public hearings (as part of Operation Watts) attracted more than 278,000 unique views over the 4 weeks. Levels of interest in public hearings depend on the matters being investigated, witness profiles and media coverage.</p>
Social media	<p>Social media helps IBAC engage cost-effectively with stakeholders and key intermediaries. IBAC currently has 2 main social media channels – Twitter and LinkedIn. Its audience includes journalists, lawyers, academics, and public sector leaders who regularly share IBAC’s updates with their networks.</p> <p>IBAC reported the following social media statistics in their annual reports during the audit period:</p> <ul style="list-style-type: none"> • 2020-2021 – 27% growth in social media following to more than 7,800 users, with engagement up more than 45% • 2019-2020 – 5,981 followers on Twitter and LinkedIn, growing by 62% from 2018-19 • 2018-2019 – no percentage increase reported, only that there was an increase in engagement with IBAC via social media due to enhancements to both platforms. • 2017-2018 – no percentage increase stated, only that there has been an increase in the number of subscribers.
Resources	<p>The following artefacts are published on IBAC’s website:</p> <ul style="list-style-type: none"> • Special reports – reports tabled to the Parliament of Victoria on major investigations, systemic issues, or specific sectors and themes. Compliance with the IBAC Act is required. • Research reports – reports presenting findings of IBAC research into current and emerging trends and issues in public sector corruption or police misconduct in Victoria.



Activity	Description
	<ul style="list-style-type: none"> - 2017-18 – 2 special reports and 9 research reports - 2018-19 – no special reports and 5 research reports - 2019-20 – 2 special reports and 3 research reports - 2020-21 – 2 special reports and 3 research reports. <ul style="list-style-type: none"> • Information sheets – quick reference materials including information sheets, practical guides, and checklists to help the public sector strengthen measures to detect and prevent corruption and misconduct. • Investigation reports/case studies – reports and case studies on completed IBAC investigations covering allegations, how the investigation was conducted, key findings and recommendations. • IBAC Insights quarterly newsletter – discusses integrity building features, tips, trends, resources, and upcoming events. Over the audit period, IBAC report the following e-newsletter subscribers: <ul style="list-style-type: none"> - 2020-21 – 3500 subscribers - 2019-20 – 3480 subscribers - 2018-19 – 3100 subscribers - 2017-18 – 2700 subscribers. • Webinars – in-depth discussions with leading integrity thinkers about emerging corruption risks, practical prevention tips, and more. • Videos – also published on the IBAC YouTube channel to reach more of the community. • Responses to IBAC recommendations – responses published to inform the community about actions agencies are taking to address IBAC recommendations, and to share learnings that may help other agencies improve their systems and practices to prevent corruption and misconduct. • Corporate reports – including annual reports detailing IBAC’s operational and financial performance, and plans outlining IBAC’s strategic direction and priorities. • Podcasts – on topics including IBAC's focus on police oversight, fraud and corruption control standards, and corruption, integrity, and human rights. All these podcast episodes are publicly available to inform the public on what IBAC does and some of the important topics and issues influencing the public sector, police and the community. • Service charter – explains IBAC’s commitment to people who make a complaint and IBAC’s accountability for their role.



Activity	Description
	<ul style="list-style-type: none"> • Forums/engagements – IBAC presents at external forums or speaking engagements. These presentations are provided at various sector and agency-specific forums, reaching senior leaders and practitioners working in integrity-related roles, as well as stakeholders and community members working outside the public sector. <p>Overall, the number of resources and engagement activities delivered over the 4-year audit period has remained constant. See details below:</p> <ul style="list-style-type: none"> • 2017-18 – 13 resources and 67 engagements • 2018-19 – 21 resources and 73 engagements • 2019-20 – 20 resources and 50 engagements • 2020-21 – 46 resources and 64 engagements.
S159 Recommendations	<p>Section 159 of the IBAC Act 2011, states:</p> <p>IBAC may at any time make recommendations in relation to a matter arising out of an investigation about any action that the IBAC considers should be taken to one or more of the following:</p> <ul style="list-style-type: none"> • The relevant principal officer • The responsible Minister • The Premier. <p>Over the audit period, IBAC has made, implemented and monitored the following number of s159 recommendations.</p> <ul style="list-style-type: none"> • 2017-18 – 14 recommendations made, 33 recommendations implemented, and 27 recommendations monitored by IBAC • 2018-19 – 50 recommendations made, 27 recommendations implemented, and 48 recommendations monitored by IBAC • 2019-20 – 46 recommendations made, 21 recommendations implemented, and 68 recommendations monitored by IBAC • 2020-21 – 33 recommendations made, 53 recommendations implemented, and 42 recommendations monitored by IBAC. <p>IBAC has limited legislative power when it comes to the implementation of s159 recommendations. The IBAC Act, an agency that has received an s159 recommendations only needs to report to IBAC whether or not it has or intends to act on the recommendation.</p> <p>IBAC does not have legislative powers to request updates from the agencies on their progress in implementing IBAC’s recommendations nor the power to ensure recommendations are implemented to IBAC’s satisfaction.</p>
Briefs and alerts	Refer to criteria 1.3 on Callida’s analysis of briefs and alerts.

Activity	Description
Victoria Police education and prevention initiatives	<p>Throughout the audit period, IBAC regularly delivered an education session to the Probationary Constable Foundation Development (PCFD) program at the Victoria Police academy. IBAC delivered this education session 18 times in 2020-2021, 17 times in 2019-20, 25 times in 2018-19 and 25 times in 2017-18.</p> <p>To further support IBACs proactive education and engagement with Victoria Police, in 2018-19 IBAC launched the Victoria Police Education program. The broader programs include targeted engagement with Senior leaders from Sergeant to Senior Command, and the Victoria Police Professional Standards Command.</p>
Corruption Prevention and Integrity Insights conferences/forums	<p>IBAC delivered its first Corruption Prevention and Integrity Conferences in 2017-18 in Melbourne, followed by 2 regional forums in Warrnambool and Traralgon.</p> <p>IBAC hosted 2 regional Integrity Insights forums on corruption prevention in 2018-19, one in Ballarat in November 2018 and the other in Horsham in May 2019.</p> <p>In 2019-20 the Corruption Prevention and Integrity Insights forum was delivered in Geelong.</p> <p>The forums outline the roles of Victoria’s key integrity agencies and highlight the common themes and issues identified in corruption complaints, investigations and research.</p>
Protected Disclosure/Public Interest Disclosure (PID) activities	<p>In May 2018, IBAC hosted a hybrid in-person and online Protected Disclosures Coordinator’s forum and established a Protected Disclosure Community of Practice (PDCOP). It went on to host a PDCOP forum in 2018-19.</p> <p>Following the changing of the <i>Protected Disclosure Act 2012</i> to the <i>Public Interest Disclosures Act 2012</i> in January 2020, IBAC chaired a Public Interest Disclosure Consultative Group to support sector-wide implementation of the new legislation. IBAC delivered several external engagement activities, tools and resources to Victorian public sector stakeholders to help them adopt the legislative changes.</p>

IBAC has tracked the weekly unique users of its website over the audit period to identify the impact of these activities on its online traffic. Refer to Figure 5 in criteria 3.6 for the diagram and spreadsheet IBAC developed for this purpose.

Economy of initiatives/activities delivered

Refer to criteria 1.1 – ‘Economy of assessments’ for Callida’s response to economy of statutory functions.



Recommendations

Ref. No.	Recommendation
1.4.1	Implement the IOC recommendations arising out of the CPE report.
1.4.2	Undertake ongoing assessment of how achievement of BP3 measures is communicated within the annual report to more accurately demonstrate IBAC's performance. This includes providing more detailed analysis within the annual report to explain how IBAC achieved the performance measure target or why there was variation against the targets.

Work already progressed by IBAC since June 2021

Ref. No.	Work already progressed by IBAC since June 2021
1.4.1	<p>Evidence provided demonstrates that IBAC is in the process of implementing the IOC recommendations arising out of the CPE report, including:</p> <ul style="list-style-type: none"> • developing frameworks for measuring quality and impact of prevention and education (P&E) activities • collaborating with other integrity agencies on data collection projects to facilitate better measurement and reporting on value of work in P&E • incorporating a dedicated section in Annual Reports on measure of quality and impact of P&E activities and details of recommendations made during the financial year.

4 Criteria 2 – Sound governance and planning

4.1 Criteria 2.1: Reporting obligations to the Victorian Inspectorate

Criteria	Overall finding
The extent to which IBAC complies with its reporting obligations to the Victorian Inspectorate under the IBAC Act and the PID Act.	Policies and procedures align to legislation to address VI reporting obligations. IBAC demonstrated that it has implemented systematic processes for notifying the VI as required under the IBAC Act. However, Callida was unable to assess IBAC’s compliance in practice as IBAC did not have the information available in a form that would allow sample testing.

Under the IBAC Act, IBAC is required to notify the VI when certain powers are exercised, including:

- issuing a confidentiality notice
- issuing a summons for the production of documents or other things
- issuing a witness summons to attend a private or public examination
- conducting examinations, including the intention to hold a public examination and providing a copy of the video recording and any transcript of the examination of an individual
- issuing directions in relation to a specified Australian legal practitioner
- issuing an arrest warrant.

Moreover, IBAC is required to provide information concerning a complaint or notification to the VI in the following circumstances:

- When a complaint or notification concerns the conduct of the IBAC or any person who is, or was at the time of the conduct, an IBAC officer.
- When a referred complaint or notification to the VI has been withdrawn.

Policies and procedures for the exercise of coercive powers have been reviewed and align to the IBAC Act. However, some areas for improvement have been identified, including:

- providing further guidance to staff on the type of information and level of detail that needs to be included in notifications to the VI when coercive powers are exercised
- reviewing and updating the Examination procedure as it has not been formally reviewed since 2013
- providing guidance on how IBAC is to deal with the withdrawal of referred complaints or notifications and how and when it is required to notify VI in writing of the withdrawal.

Through process walkthroughs, IBAC presented examples of documentation outlining the reasons for which exercise of a power was sought. For each example, the completed documentation was aligned

to the requirements of the IBAC Act, authorised by an appropriate delegate and the reasons for use of the power were clear and appropriately detailed. Examples were sighted for:

- Confidentiality notices
- Witness summons – Examinations
- Examinations.
- Witness summons – Preliminary inquiry
- search warrants.
- entry to a premise.

IBAC is not required to notify the VI if the following powers are exercised, however examples were reviewed and comply with the requirements of the IBAC Act 2011.

- search warrants.
- entry to a police premise.

IBAC's power to issue an arrest warrant is considered out-of-scope as IBAC's Legal team have confirmed that this power has never been exercised.

IBAC demonstrated that it has implemented systematic processes for notifying the VI as required under the IBAC Act. Prior to the onset of COVID-19, IBAC physically delivered notifications to the VI in hard copy and stored them digitally in TRIM. In response to COVID-19, IBAC implemented a solution using Kiteworks, a secure data exchange, which allows notifications to be shared with the VI electronically. The use of Kiteworks has improved the efficiency of the notification process and allows the VI to immediately access reports from IBAC once uploaded.

Based on walkthroughs performed, the following issues were identified:

- **Completeness of notifications to the VI** – IBAC does not currently maintain or have reporting functionality in Condor to produce a register which details all coercive powers exercised by IBAC in a given period. As a result, Callida was unable to select a sample of powers exercised by IBAC over the audit period to assess whether, in all cases, VI was notified of the use of powers within the required timeframe.
- **Correspondence with the VI** – IBAC has not systematically captured all feedback and correspondence received from the VI during the audit period in a central register. While the Legal team has begun compiling details of all VI correspondence in an Excel register, this was not performed prior to 30 June 2021. In the absence of a central register, it is difficult to identify key issues, themes or trends raised by the VI. It is also difficult to confirm that IBAC has responded to and/or addressed all feedback received.

In addition, the VI provided an informal view that the operational content of correspondence between IBAC and the VI not be shared with Callida unless that information was publicly available. This prevented Callida from assessing whether the VI has raised any issues with IBAC and the adequacy of IBAC's response to these issues.

Recommendations

Ref. No.	Recommendation
2.1.1	Implement a central register (or develop the functionality within Condor) which allows details of all investigative powers exercised to be captured, maintained, and reported against.
2.1.2	Include further guidance to staff in relevant internal policies and procedures on the type of information and level of detail that needs to be included in notifications to the VI when coercive powers are exercised.

Work already progressed by IBAC since June 2021

Ref. No.	Work already progressed by IBAC since June 2021
2.1.1	Evidence provided demonstrates that IBAC is in the process of developing standard reporting in IBAC's systems to measure and monitor the number of coercive powers exercised within a given period.

4.2 Criteria 2.2: Prioritising work against statutory objectives

Criteria	Overall finding
The extent to which IBAC has effective structured processes for prioritising work against its statutory objectives, including the adequacy and currency of policies and procedures designed and implemented by IBAC to manage its work.	IBAC has established partially effective processes for prioritising work with further improvement already in train in the form of a number of projects. The adequacy and currency of policies and procedures has improved over the audit period demonstrating continuous improvements.

Prioritisation of work

Whole of organisation strategic direction

At a whole of organisation level, the role of leadership in prioritising the work of IBAC refers to:

- determining strategic objectives, focus areas and priorities and managing these on an ongoing basis
- developing a Strategic Plan, Corporate Plan and Annual (or Business) Plans to help define priorities and guide IBAC and manage the extent to which these were followed in practice.



IBAC has improved its strategic planning since 2021. Stakeholders confirmed that prior to this, IBAC had a more inward-looking stance with a large focus on compliance and confidentiality; it did not have a clearly articulated strategy and vision to drive collaboration between different divisions and teams. This was reflected in responses from IBAC staff to the Victorian Public Sector Commission People Matter Surveys, detailed in Table 12. The People Matter Survey (PMS) shows the changing perception of staff toward the strategic direction of IBAC in 2019, 2021 and 2022.

Table 12. PMS results on IBAC’s strategy

Survey question	2019 result	2020 result	2021 result	Comparator result (2021)	2022 result	Comparator result (2022)
Senior leaders provide clear strategy and direction	48%	39%	40%	63%	60%	69%
Senior leaders have communicated a vision that motivates me	41%	26%	27%	Custom questions	QNA	QNA
Senior leaders keep people informed of what’s happening	24%	52%	54%		QNA	QNA

As demonstrated above, IBAC had not effectively developed and implemented a strategy to guide and motivate its workforce as of October 2020 when the 2020 survey was run. Given IBAC’s Corporate Plan 2018-21 was in effect at this time, Callida does not consider it to be an effective strategic plan and did not support the effective prioritisation of work.

The Corporate Plan 2018-21, set direction for IBAC’s operations and highlighted key areas of focus. These areas, however, were considered BAU priorities and did not establish a clear vision or strategic priorities for IBAC.

The 2021 PMS closed 2 July 2021, meaning IBAC staff responded prior to the official launch of the new strategy – The IBAC Plan 2021-2025. This partially explains the limited improvement noted from comparison of the 2020 and 2021 survey results. As such, while IBAC’s strategic planning has matured, it was relatively ineffective from 1 July 2017 to 30 June 2021. The 2022 People Matter Survey recently closed on 1 July 2022. The one question that was included by the VPSC indicated a 20% improvement in relation to senior leaders providing a clear strategy and direction indicating that IBAC’s strategic planning has gained significant traction with staff between 2021 and 2022.

It is further noted that the onset of COVID-19 midway through the period covered by the plan required an immediate and significant change in IBAC’s priorities and how it operated. This likely contributed to IBAC’s inability to fully deliver on the plan’s objectives and planned activities.

Since January 2020, IBAC’s Executive leadership has undergone substantial change. The personnel occupying all executive roles, which include the Chief Executive Officer and the Executive Director of each of IBAC’s 4 divisions, have changed since this time. This turnover likely contributed to the results noted above as the new Executive transitioned into their roles and began assessing IBAC’s



strategic outlook. The improvement in the question around keeping staff informed is likely in response to IBAC's communication with staff following the onset of COVID-19.

Immediately on appointment, the new IBAC CEO identified determining IBAC's strategic direction as a priority area and began by assessing IBAC's strategic outlook and implementing executive changes. The implementation of the CEO's strategy was supported by the new executive. In February 2021, an all-staff briefing was held to communicate the People Matter Survey results and management responses to the results. A focus of the briefing was highlighting the importance of an effective strategic plan and the steps IBAC needed to take to develop and implement such a plan.

The IBAC Plan 2021-2025, establishes clear priorities and focus areas for the agency going forward. These priorities and focus areas are detailed in Appendix G. Stakeholders, including the Audit and Risk Committee Chair have indicated that the strategy is clearer and has gained greater traction than the previous version. The direction set by the strategy has also been reflected in operational activities. For example, both the A&R and P&C team have prioritised activities aligned to the plan's strategic focus areas. For example, the A&R team now consider alignment to strategic focus areas when assessing allegations raised in complaints and notifications. Similarly, the SI team has prioritised its work in alignment with the strategic focus areas, such as development of intelligence dashboards that include trend analysis in line with these areas.

IBAC has taken to embed the strategic focus areas and priorities into business/divisional plans and use them to guide operational decision making. For example, these strategic focus areas/priorities are being considered for thematic reports, data analytics, incorporation into assessment processes and decision making processes for commencing investigations. The IBAC Plan 2021-2025 was adequately communicated to staff through senior leadership meetings and workshops with directors/managers to effectively embed the strategy.

During the audit period, business/divisional plans were essentially lists of annual priority initiatives, which were evaluated and updated quarterly. Callida believes business planning was largely adequate for oversight given the large number of individual initiatives involved. However, greater project management discipline was warranted for key strategic projects, especially those with significant budget assigned. This was not adequately performed during the audit period, but Callida notes that IBAC has since established the Project Governance Committee and it has been designed to perform this role going forward for key projects.

IBAC had difficulty completing all actions within the proposed financial year: 51% of actions were completed in 2020-21, 41% in 2019-20, 70% of in 2018-19 and 54% in 2017-18. IBAC advised that the newly developed Annual Plan 2021-22 establishes the contribution that will be made to achieve the strategic objectives in the IBAC Plan 2021-25. Project delivery is now supported by a newly established Project Management Office with additional oversight from the Project Governance Committee.

While the IBAC Plan 2021-2025 was drafted as of June 2021, its launch was delayed until Victorian health restrictions further eased and was published as of December 2021.

IBAC's Committees Structure

According to stakeholders and a review of documentation, IBAC's committee structure has become more effective and efficient in driving key decisions/judgements around the prioritisation of activities.

These changes reflect a continuous improvement mindset for IBAC. It also suggests that committees may not have been as effective and efficient in the earlier years of the audit period. Meeting minutes from 2017-18 and 2018-19 (when the Executive Committee and OPC were in place) provided limited detail of judgements made and questions raised through the Committees. This lack of detail made it difficult to assess the extent to which the Committees drove prioritisation of activities. The detail provided within minutes around judgements/decisions made and questions raised has improved for the minutes reviewed over the audit period.

Another area of improvement was the reporting provided to the committees. Towards the beginning of the audit period (2017-18 and 2018-19) reporting was weak – the OPC would receive detailed PDFs of all assessments completed in a fortnight (which could be 200+ pages of scanned forms) and status reports for all investigations (which could be 30+ status reports). The information provided was not tailored to the needs of the OPC or designed to provide optimum detail for decision making. This weakness in reporting has been rectified over the audit period, with reporting and agendas becoming more tailored and minutes providing greater detail. This has resulted in documented evidence of key judgements/decisions being made around the prioritisation of activities. A summary of the committee structure changes over the audit period is detailed in Table 13.

Table 13. Changes to the committee structure over the audit period

Financial year	Structure		
2017-18	Executive Committee	Operations & Prevention Committee (OPC)	
2018-19	Executive Committee	OPC	
2019-20	IBAC Executive Committee (IEC)		
2020-21	Corporate Governance Committee (CGC)	Operations Governance Committee (OGC)	Executive Leadership Team Committee (ELTC)

The following reasons were provided for the changes to the committee structure:

- In 2019-20, IBAC combined the OPC and Executive Committee into one forum (IEC) to make processes more efficient.
- In 2020-21, IBAC split the IEC into the OGC, CGC and ELTC as they felt corporate matters were being overshadowed by operational matters. Separate committees would allow more effective oversight by the Executive and give appropriate attention to corporate governance matters.

Investigations

There is no formal or structured approach to the prioritisation of investigations and related operational activities. Limited documentary evidence was made available to Callida to understand how these types of decisions/judgements were made during the audit period. This weakness was also identified in an internal audit report on IBAC’s investigations framework finalised by the internal audit providers in June 2021, stating that “*investigations lack the methodology to drive the defensible prioritisation of investigative efforts, dynamic decision making and strategic resourcing*”

This is an issue that IBAC itself raised, and it acknowledges that portfolio/project management discipline of investigations has been lacking. Prioritisation has relied on verbal discussions and individual team leaders, managers and directors taking their own notes and using their own tools to track progress and key developments and issues. This process has required manual effort and workarounds, increasing the risk that things are missed (for example, low priority investigations being idle) or inconsistencies. It is also noted that IBAC has not had system functionality to support prioritisation of investigations as Condor cannot produce effective status reports.

IBAC is looking to address these issues through the implementation of the investigations framework. IBAC advised that the framework is seeking to set clearer parameters around decision making and establish clearer business rules around phases of investigations (to enable consistent, accurate reporting of status) to guide prioritisation. IBAC also plans to support this framework by implementing a time attribution system that will help gauge how much time and effort has been spent on different operations. This is further explored by Callida in Criteria 3.3 – Systems and processes.

Callida stresses the importance of IBAC continuing its work to implement the investigations framework and the need for greater discipline and structure around monitoring and reporting status of operations. A single source of truth should be established in these areas to enhance clarity and transparency across IBAC.

Assessments and reviews

Similar to investigations, prioritisation processes around the assessments of complaints and notifications were weak at the start of the audit period. Limited documentary evidence was made available to Callida to understand how complaints/notifications were triaged/prioritised.

With the implementation of Condor in 2018-19, improvements have been made around workload management and prioritisation in managing complaints/notifications. For example, clearer status details are able to be generated through Condor for complaints and notifications, providing more visibility over the workload of staff and the progression of cases. Prior to Condor, effective prioritisation was difficult in the absence of a dedicated case management system and appropriate reporting functionality.

The A&R team has introduced complexity and priority indicators into Condor and into its policies and procedures to better support the prioritisation (and categorisation) of assessments. For example, the A&R team have defined priority areas and have structured resourcing with the intention of focusing on these priority areas (such as PIDs and mandatory notifications from agencies). Refer to Criteria 1.1 for further detail.

Prioritisation of reviews was another area of weakness for IBAC for the early part of the audit period, with reviews not prioritised until 2020-21 when a significant backlog was identified. IBAC has taken key steps to respond and address this issue (as detailed in Criteria 1.1). Nevertheless, the actions taken in response suggested that A&R processes and reporting have all improved in 2020-21 and 2021-22 to support prioritisation of review activities. This was evident through a reduction in the reviews backlog, commencement of monthly reporting to the OGC and dedicated resources assigned to manage reviews.

Callida acknowledges that IBAC has planned enhancements to better support the prioritisation of work. It is also recognised that there are resourcing challenges for completing reviews as that team did

not get additional resources under the Independent Base Review. IBAC should continue to enhance data capture and reporting so that resource allocation can be targeted to high priority areas.

Adequacy and currency of processes, policies and procedures for prioritisation and management of IBAC's work

Processes

Upon its establishment in 2013, IBAC inherited the Office of Police Integrity's case management system, which was reconfigured to meet IBAC's requirements for case management and investigations. The legacy system was used extensively in parallel with hard copy records, however, it did not support effective and efficient management of investigations across their lifecycle. This was identified through discussions with IBAC staff, sample testing of assessments and investigations and review of reports prepared by the VI and IBAC's internal auditors. Stakeholders indicated there were key limitations under legacy processes which made managing operational work more challenging. As a result, a greater degree of manual reporting and data analysis was required to monitor the status of operational activities and to inform other teams or staff of required actions. Furthermore, the case management system (CMS) did not support functions performed by other Business Units within IBAC.

IBAC's new case management system, Condor, was implemented in August 2018. Workflow and reporting functionality within Condor has driven improvements in IBAC's monitoring of operational activities and its ability to manage and prioritise its work. Refer to criteria 1.1 for further detail.

Policies and procedures

Overall, IBAC's policies and procedures have become more comprehensive and complete over the audit period. IBAC provided to Callida a significant number of policies, procedures, guidelines, and templates. However, it is noted that this review has been focused on current versions of these documents. In most cases, the versions reviewed were approved in 2020 or later. While the documentation reviewed is largely considered clear and comprehensive, noting IBAC is currently refining investigations and coercive and intrusive powers policy areas through the policy harmonisation project (see further details below), the review of current documentation does not indicate the adequacy of the processes or practices across the audit period.

While IBAC has sought to ensure policies and procedures are up-to-date, this has proved a challenge due to resourcing constraints and the need to first address operational changes.

Effort is ongoing by IBAC to ensure the adequacy and currency of policies and procedures. Such efforts include:

- **Policy redevelopment project**— instigated in 2019 and completed in 2020 to address outdated policies, the project appears to have only been partially effective in delivering its objectives. The risk and assurance report continues to report a high number of out-of-date policies yet to be addressed by IBAC (25 as per the May 2022 quarterly risk and assurance report). This issue was evident when Callida reviewed operational policies and procedures and found instances in which they were overdue for review, referencing committees/processes that no longer existed, lacking alignment with current systems/processes or were overdue for review.
- **Policy harmonisation project** – IBAC engaged Deloitte in 2022 to complete a policy harmonisation project for Investigations and Legal policies and procedures that overlapped



significantly. The policy suite was fragmented and numerous documents relating to one particular subject, or category of activity, existed from different divisions within IBAC. This meant that guidance to staff was less effective, and management of the policy/procedure framework was inefficient. These issues mainly concerned the investigations and coercive and intrusive powers policy areas. This project is currently being finalised.

Recommendations

Ref. No.	Recommendation
2.2.1	All policies and procedures overdue for review in the latest risk and assurance report are reviewed and updated to reflect IBAC's current processes.
2.2.2	Implement the investigations framework to support better prioritisation and management of investigation activities.

Work already progressed by IBAC since June 2021

Ref. No.	Work already progressed by IBAC since June 2021
2.2.2	Evidence provided demonstrates that IBAC is in the process of implementing its investigations framework to support better prioritisation and management of investigation activities.

4.3 Criteria 2.3: Adequacy and appropriateness of governance and risk management frameworks

Criteria	Overall finding
The adequacy and appropriateness of governance and risk management frameworks used to support IBAC's work and staff, and to manage its engagement with others involved in IBAC operations (including members of the public, persons of interest and witnesses).	The adequacy and appropriateness of governance and risk management frameworks has improved over the audit period becoming more effective to support IBAC's work and staff.

Callida has assessed the following frameworks, structures and processes established by IBAC to understand the adequacy and appropriateness of IBAC's governance and risk management practices:

- Risk management framework
- Witness welfare management framework
- Policies and procedures
- Committee structures

- Assurance program

Risk management framework

IBAC's risk management framework (RMF) aligns to the ISO 31000 Risk Management Guidelines and the Victorian Government Risk Management Framework (VGRMF), noting some minor gaps concerning the annual review process of the RMF, shared risks, identification and management of state significant risks and guidance material.

IBAC has had a risk management framework in place since the beginning of the audit period (2017). This framework includes:

- **Risk management policy** – sets out the overarching objectives and requirements for risk management across IBAC. Its implementation helps to ensure that IBAC's risk exposures are identified, and that the business has taken steps to properly manage these risks.
- **Risk management plan** – outlines IBAC's objectives for risk management and specifies how risk is managed and explains the key activities designed to achieve IBAC's objectives.
- **Risk management procedure** – outlines the steps to be performed by IBAC officers on an ongoing basis to identify, analyse, evaluate, treat, monitor and report risks that could prevent the achievement of IBAC's defined business objectives.
- **Risk appetite statement** – provides IBAC with a basis for escalation where a risk (or opportunity) may have a significant impact on IBAC's strategic position and guides the approach in assessing and managing risk in IBAC's work.
- **Risk management guideline** – guides IBAC officers on managing risks in their day-to-day activities, actions and decision making, provide minimum standards for risk management practices, and introduce important risk management tools and techniques for assessment and necessary treatment of various risks.
- **Strategic and operational risk register** – identify the potential strategic and operational risks that could impact IBAC in achieving its strategic objectives/priorities and delivering its operational activities.

To support the management of risk, IBAC introduced Protecht (an enterprise risk management system) in 2017. This system includes all risk registers (including linkage to risk mitigation plans) and internal audit actions. Based on the due dates of risk treatment actions, the system will send an automatic notification to the assigned risk owner reminding them that their action is due for completion. All risks are monitored by the Strategy & Risk (S&R) team and reported on quarterly to the Audit and Risk Committee (ARMC) and the IBAC executive (through the CGC).

IBAC has prepared quarterly risk management reports since 2017-18. These evolved to become risk and assurance reports in 2018-19. The risk and assurance report has improved over time, refining how information is reported to IBAC's executive committee and the ARMC, to report on high-risk activities/actions that require oversight from the executive. IBAC currently reports on the following each quarter:

- Risk events (incidents), including incidents by type for the financial year and incidents by business unit.
- Risk activities, including implementation of risk treatments (strategic and operational)



- Risk and control indicators and status of assurance activities scheduled for the financial year
- Status of audit actions (overdue actions and high-risk actions)
- Integrity risks, including conflicts of interest (COI) and gifts, benefits, and hospitality (GBH)
- Policy document status for all overdue policies.

Callida has identified some minor gaps/areas of improvement based on assessments against the ISO 31000 Risk Management Guidelines and the VGRMF, including:

- Since 2017, IBAC's risk management framework has not been reviewed on an annual basis (as required under VGRMF and ISO 31000 guidelines). Based on review of documentation received, IBAC's risk management framework was reviewed approximately every 18 months during the audit period. Callida notes that this review process has since been included in the ARMC's annual work plan as a reminder to ensure that this framework is reviewed once a year going forward.
- Shared risks and the identification and management of state significant risks have not been addressed in IBAC's risk management framework. This is a requirement under the VGRMF, and it has been noted in IBAC's executive meeting minutes that there are potential shared risks between IBAC and other integrity agencies. However, these types of risks have not been identified and there is no defined process detailed in procedural documents to support IBAC officers in managing these types of risk.

Since the completion of fieldwork, IBAC advised that the identification of shared risks has commenced with Victoria Police and IBAC noted that once this has been trialled, consideration will be given to whether IBAC has other shared risks that require the development of plans.

- No evidence was provided to confirm that IBAC's risk appetite statement was reviewed annually before 2020.

Witness welfare management framework

Based on Callida's review of special reports and IBAC's formal response to questions/recommendations, the witness welfare management framework has improved over time to provide more guidance and support to IBAC staff in managing the welfare of witnesses and persons of interest involved in an IBAC operation.

In 2018, the VI tabled a special report on the Welfare of Witnesses in IBAC Investigations. The special report included 10 recommendations addressing IBAC's welfare management practices. However, based on documentation received from IBAC:

- 6 recommendations had been adopted/met
- 2 recommendations had been adopted/met in part
- 1 recommendation had not been adopted/met

For the recommendations that had been adopted or met in part or were not adopted or met, IBAC considered the VI's recommendations and determined that they were not appropriate or feasible, had already been addressed by IBAC through relevant policies and procedures or IBAC believed a better approach was available that should be implemented instead. Consistent with a continuous improvement approach, IBAC advised Callida it recently reviewed the support it provides to

witnesses and others affected by investigations. IBAC indicated that the review recommended some enhancements to IBAC's model for witness welfare, and these have been endorsed by the Executive and will be implemented in 2022-23.

In March 2022, the IOC requested responses from IBAC to witness welfare management questions and concerns posed. Callida has reviewed the responses IBAC has provided and verified that the initiatives developed in response to the 2019 internal review to strengthen and formalise IBAC's approach to witness welfare management have been implemented.

In its 2019/20 Annual Report, the VI acknowledged the improvements IBAC has made in relation to its witness welfare practices, which were observed by VI in the Operation Sandon public hearings.

Policies and procedures

Overall, IBAC's policies and procedures have become more comprehensive and complete over the audit period. Further work, however, is required to ensure that all policies and procedures are current. Refer to Criteria 2.2 that provides further analysis on the adequacy and currency of processes, policies and procedures.

Committee structures

Refer to criteria 2.2 that provides analysis on the effectiveness of committee structures over the audit period.

Assurance program

In June 2018, IBAC developed a model assurance map to provide a snapshot of the level of monitoring of internal controls for strategic risks. Assurance activities at the time were assessed and mapped based on the 'Three lines of defence' model⁵ and using bowtie analysis⁶. The overall level of assurance activity was assessed as either comprehensive or partial.

Based on this assurance mapping exercise, IBAC developed an assurance program in 2018-19 that brought together existing assurance activities along with proposed new activity and metrics. This created an integrated plan that enabled whole-of-organisation oversight of the effectiveness of IBAC's strategic risk controls.

This assurance program continued in 2019-20 and 2020-21, noting that the 2020-21 program was decoupled from the strategic risks to re-focus on a broader set of perennial risks. This program was and is monitored and reported on through the quarterly risk and assurance report provided to the ARMC and the CGC. This program is a helpful tool to identify key risks and control gaps at a whole-of-organisation level to support effective decision making to fix areas of exposure for IBAC.

⁵ As defined by a Global Association of Risk Professionals (GARP) article (February 2021), titled 'Three Lines of Defence: A New Principles-Based Approach', the three lines of defence represent an approach to providing structure around risk management and internal controls within an organisation by defining roles and responsibilities in different areas and the relationship between those different areas.

⁶ Bowtie Risk Assessment (RA) is a methodology that allows risk to be evaluated in terms of multiple scenarios surrounding an unwanted event and presents a holistic picture of the overall risk which is easy to communicate.



Recommendations

Ref. No.	Recommendation
2.3.1	Identify and document shared risks. This should include the identification of the relevant forum or communications undertaken with parties sharing the risk.
2.3.2	Identify (if applicable) state significant risks that impact IBAC as required by Victorian Government Risk Management Framework (VGRMF). Develop and implement an approach to managing applicable state significant risks. This can be incorporated into current risk management policies and procedures.
2.3.3	Develop a centralised register that includes all recommendations raised from independent and external reviews performed and track and report on the progress of implementation. This will help ensure adequate implementation of recommendations which are accepted by IBAC and provide visibility to the executive that issues are being rectified.

Work already progressed by IBAC since June 2021

Ref. No.	Work already progressed by IBAC since June 2021
2.3.1	Evidence provided demonstrates that IBAC is in the process of identifying and documenting shared risks.

4.4 Criteria 2.4: Quality of IBAC's strategic planning processes

Criteria	Overall finding
The quality of IBAC's strategic planning processes (including those related to IBAC's annual plan) and the extent to which their outcomes are communicated and clearly understood by staff.	The quality of IBAC's strategic planning processes has improved over the audit period to provide more direction for the organisation and staff.

IBAC has improved its strategic planning since 2021. Stakeholders confirmed that prior to this, IBAC had a more inward-looking stance with a focus on compliance and confidentiality; it did not have a clearly articulated strategy and vision to drive collaboration between different divisions and teams. This was reflected in responses from IBAC staff to the Victorian Public Sector Commission PMS, detailed in Table 14. The PMS shows the changing perception of staff toward the strategic direction of IBAC between 2019, 2021 and 2022.



Table 14. PMS results on IBAC’s strategy

Survey question	2019 result	2020 result	2021 result	Comparator result (2021)	2022 result	Comparator result (2022)
Senior leaders provide clear strategy and direction	48%	39%	40%	63%	60%	69%
Senior leaders have communicated a vision that motivates me	41%	26%	27%	Custom questions without comparator	QNA	QNA
Senior leaders keep people informed of what’s happening	24%	52%	54%		QNA	QNA

As demonstrated above, IBAC had not effectively developed and implemented a strategy to guide and motivate its workforce as of October 2020 when the 2020 survey was run. Given IBAC’s Corporate Plan 2018-21 was in effect at this time, Callida does not consider it to be an effective strategic plan.

The Corporate Plan 2018-21, set direction for IBAC’s operations and highlighted key areas of focus. These areas, however, were identified as BAU priorities that did not establish a clear vision or strategic priorities for IBAC. As a result, the corporate plan relied on performance measures that reiterated the BP3 measures. IBAC acknowledged that these were inadequate and do not provide a true indication of performance. Furthermore, the plan would have benefited from greater clarity on how desired outcomes were to be achieved as well as greater discipline around monitoring and measurement. In the absence of effective monitoring and measurement, many of the prescribed actions in the plan have not been achieved. For example, the following actions that were outlined in the ‘Performance and monitoring’ section of the plan:

- Analyse and response to workforce gaps, develop succession plans and other required strategic HR initiatives.
- Monitor staff retention rates and leave balances.
- Ensure all high-risk recommendations by our internal auditor are implemented.
- Assess trends in mandatory notifications to assess the effectiveness of our prevention and engagement efforts.

The items above remain a work in progress for IBAC.

The 2021 PMS closed 2 July 2021, meaning IBAC staff responded prior to the official launch of the new strategy – The IBAC Plan 2021-2025. This partially explains the limited improvement noted from comparison of the 2020 and 2021 survey results. As such, while IBAC’s strategic planning has matured, it was relatively ineffective from 1 July 2017 to 30 June 2021. Current management noted this and instigated the development of a new strategic plan.

The 2022 People Matter Survey recently closed on 1 July 2022. The one question that was included by the VPSC indicated a 20% improvement in relation to senior leaders providing clear strategy and



direction indicating that IBAC's strategic planning has gained significant traction with staff between 2021 and 2022.

Further impacting the ability to complete actions identified in the strategic plan was the onset of COVID-19 midway through the period covered by the plan. This required an immediate and significant change in IBAC's priorities and how it operated and contributed to IBAC's inability to fully deliver on the plan's objectives and planned activities. The strong improvement in the question around keeping staff informed is likely in response to IBAC's communication with staff following the onset of COVID-19.

Since January 2020, IBAC's Executive leadership has undergone substantial change. The personnel occupying all Executive roles, which include the Chief Executive Officer and the Executive Director of each of IBAC's 4 divisions, have changed since this time. This turnover also likely contributed to the results noted above as the new Executive transitioned into their roles and began assessing IBAC's strategic outlook.

Immediately on appointment, the new IBAC CEO identified strategic direction as a priority area and began by assessing IBAC's strategic outlook and implementing executive changes. The implementation of the CEO's strategy was supported by the new executive. A specific all staff briefing was held to communicate the People Matters Survey results and management responses to the results. A focus of the briefing was highlighting the importance of an effective strategic plan and the steps IBAC needed to take to develop and implement such a plan.

Through the support of an external provider, IBAC undertook the following activities to develop The IBAC Plan 2021-2025:

- Stocktake through undertaking an environmental scan and review of previous processes and communication plans developed for the Corporate Plan 2018-21.
- External engagement through 1-1 interviews and small focus groups.
- Internal engagement through a staff survey, staff workshops and development of a brief insights report.
- Development of the strategy through drafting the strategic framework and strategic planning workshops with the Executive Team and staff.
- Finalisation of the strategy

IBAC took a much more collaborative approach with all IBAC staff in developing the IBAC Plan 2021-2025.

The IBAC Plan 2021-2025 establishes clear priorities and focus areas for the agency going forward. These priorities and focus areas are detailed in Appendix G. Feedback obtained through meetings with stakeholders, including Audit and Risk Committee Chair have indicated that the strategy is clearer and has gained greater traction than the previous plan. The direction set by the strategy has also been reflected in operational activities. For example, both the Assessments & Review (A&R) and Prevention & Communication (P&C) divisions have prioritised activities which are aligned to the plan's strategic focus areas. For example, the A&R team now consider alignment to strategic focus areas when assessing allegations raised in complaints and notifications and the Strategic Intelligence (SI) team has prioritised its work in alignment with the strategic focus areas.



While in practice The IBAC Plan 2021-2025 was adequately communicated to staff through senior leadership meetings and workshops with directors/managers, the newly implemented *Planning and reporting* policy does not identify the communication and awareness activities to be performed to inform staff of strategic planning processes. Amending this would support the effective delivery of future planning processes and ensure continuity.

To monitor the implementation status of The IBAC Plan 2021-25, IBAC has developed a quarterly progress report that identifies the overall implementation status for each of the 4 strategic pillars and each individual strategic priority outlined under each pillar in the plan. All strategic pillars and priorities are assigned a lead who is accountable for the delivery of the strategic pillar/priority and each pillar/priority has a status of either completed, on track, at risk, off track, not started or cancelled with overall comments attached.

Recommendation

Ref. No.	Recommendation
2.4.1	Document in the planning and reporting policy the approach IBAC took to communicate and provide awareness of the 2021 strategic planning outputs (i.e. annual plan, strategic plan) to all staff to ensure it is consistently implemented when required in future.

4.5 Criteria 2.5: Integrity and suitability of staff

Criteria	Overall finding
The adequacy and appropriateness of mechanisms used to ensure the integrity and suitability of staff.	Over the course of the audit period, IBAC has been able to establish adequate and appropriate mechanisms to ensure the integrity and suitability of staff.

Conflicts of interest (COI) processes

COI processes have improved since 2017-18. Discussions with stakeholders indicated that prior to the implementation of the COI system in September 2021, processes were manual with all COIs being declared through a physical form and physically signed and stored onsite at IBAC.

Through the implementation of the COI system in September 2021, this process is now online, recording all declarations (including nil declarations), streamlining processes, and enhancing reporting capabilities/visibility for IBAC. As a result, IBAC has developed adequate and appropriate COI mechanisms that align to better practice standards and support the integrity of staff.

To assess COI processes, Callida performed audit testing of a sample of 10 employees recruited across the audit period (2017-18 to 2020-21). However, Callida notes the following limitations to audit testing:

- Physical COI forms were not scanned into the system and added to the relevant employee's file. These files were archived and moved offsite to allow for space in the IBAC office. This

prevented Callida from accessing these physical files, therefore was unable to assess the COI process in practice up until the system was implemented in September 2021.

- For the requirement ‘All IBAC officers on procurement panels must complete a declaration’, Callida was unable to assess this requirement as IBAC does not maintain a register of short-term contracts. This prevented Callida from selecting a sample of contracts from within the audit period to assess the fulfilment of this requirement. Refer to criteria 4.7 for further detail.

Audit testing confirmed that COI processes are now considered largely effective based on the following observations:

COI requirement	Observation
All IBAC officers on recruitment panels must complete a declaration.	<p>Prior to the COI system being implemented in September 2021, all COIs were declared through a manual form (including the management plan if required) and physically stored onsite at IBAC. These files were not scanned into the system and added to the relevant employee’s file. Before the commencement of this independent review, these files were moved offsite to allow for space in the IBAC office. Callida was not provided access to these physical files, therefore was unable to assess the COI process prior to the implementation of the system.</p> <p>For the 10 employee samples assessed, one (1) sample was recruited after the COI system was implemented. For this sample, all panel members completed a declaration form, including external members. One panel member declared a conflict and completed a management plan that was endorsed by the relevant director. No issues/gaps were identified.</p>
All IBAC officers on investigations or preliminary inquiries must complete a declaration.	<p>Of the 4 investigations sampled, 2 of the investigations were able to use the online COI system to complete declarations. No issues were identified with employees from all of areas of the business that were involved in these investigations completing a declaration and when required completing a management plan that was approved by the relevant Director.</p> <p>For the other 2 investigations sampled, these cases had been closed prior to the implementation of the COI system, therefore were unable to be assessed by Callida due to the same access issues as identified under the recruitment panel requirement.</p>
COIs must be considered as part of executive committee meetings	Based on the review of CGC and OGC meeting minutes, Callida can confirm that this COI process is being performed at the beginning of each meeting.
Declaration of private interests must be completed for all executive staff and staff	Based on sampling testing of 3 executives, no issues had been identified in fulfilling this requirement.

COI requirement	Observation
with a delegation over \$20,000.	
If a declaration is made, a management plan must be completed and reviewed and approved by the relevant Directors.	Based on sample testing of 4 management plans that were completed due to declarations made by the 10 employees sampled, no issues were identified in fulfilling this requirement.
Executive reporting	<p>IBAC adequately monitors the COI process through:</p> <ul style="list-style-type: none"> • Quarterly reporting to the Executive and the Audit and Risk Committee (ARMC) through the risk and assurance report. • Regularly review of the COI register, identifying conflicts that can be closed when no longer relevant. For example, an investigation has been closed, an IBAC officer ceases employment, specific procurement activities have been completed.

However, the following exceptions were noted over the audit period.

COI requirement	Observation
All IBAC officers must complete an annual attestation acknowledging that they understand the COI policy and their obligations.	<p>This COI annual attestation requirement was introduced in 2020.</p> <p>For the 10 employee samples assessed, 4 did not complete either the 2020 or 2021 annual attestation:</p> <ul style="list-style-type: none"> • 3 employees did not complete it in 2021. • 1 employee did not complete it in 2020. <p>Based on stakeholder discussions, reporting is performed and provided to Executive Directors (EDs) to identify all employees that have not completed the COI annual attestation and perform the necessary follow-up. However, based on the above results, it indicates that this process is not performed effectively.</p>
All IBAC officers must complete mandatory COI training through iPeople.	For the 10 employee samples assessed, 3 had not completed the mandatory integrity training. IBAC advised that HR generates a report that identifies all employees that have not completed mandatory training and provides it to the relevant Executive Directors (EDs) for follow-up. However, based on the above results, it indicates that this process is not performed effectively, with employees not being followed up.

Prior to the implementation of the COI system, an internal audit was performed on IBAC's COI processes, and the following 3 findings were raised:

1. Revisit ownership and clearly define roles and responsibilities for conflicts of interest policy compliance in all 3 areas of which COI may arise
2. Guidelines to identify and manage conflicts of interest should be enhanced and an ongoing training and education program implemented.
3. Records management and ongoing monitoring and reporting practices should be enhanced.

Based on the 3 findings identified, the following recommendations were made:

- An owner for the administration, management, and oversight of conflicts of interest management in the procurement, recruitment and investigations functions should be established. The roles and responsibilities of the owner should be clearly defined and formalised.
- Develop and implement an ongoing training program for COI management relevant to their area. The program should include knowledge assessments to identify knowledge gaps and enable targeted training.
- Develop and implement guidelines that support IBAC employee's conflict of interest risk assessment and determination of management plans.
- Implement a process for periodic declaration of compliance in order to obtain confirmation that staff understand their roles and responsibilities with respect to COI management and are compliant with IBAC conflict of interest policy.
- Records management requirements. The policy should include protocols for duplication and destruction of COI related documentation, requirements for the physical and digital storage of conflict of interest related documentation, and restrictions on user access to TRIM files containing confidential conflict of interest information.
- Executive reporting for high-risk conflict of interests. The policy should include the definition of a high-risk conflicts of interest that are required to be reported to Executive level stakeholders, responsibilities and ownership for escalating high-risk conflicts of interest to Executive and leadership level stakeholders, reporting channels and frequency for reporting high-risk conflicts of interests to Executive and leadership level stakeholders.
- Periodic declarations of conflicts of interests from long-term contractors and suppliers. The policy should define the roles and responsibilities for the identification of contractors and suppliers required to complete the periodic declaration, following-up with contractors' and suppliers to obtain periodic declarations.

A follow-up internal audit was performed by the internal audit providers in 2018-19 on these COI recommendations proposed in 2017 and noted that some of the recommendations had been addressed, but further work needed to be performed by IBAC to address the remaining recommendations.

Based on the review of documentation and discussions had with key stakeholders, Callida can confirm that all recommendations have since been addressed, except for one. This recommendation required IBAC to implement a periodic COI declaration of long-term contractors and suppliers. As Callida was unable to assess IBAC's procurement practices, we were unable to confirm if this process had been implemented and was being performed in practice.

Gifts, Benefits and Hospitality (GBH) processes

IBAC's GBH processes/mechanisms have improved over the audit period and are now considered adequate and appropriate to support the integrity of staff. This was reflected based on the following observations identified by Callida:

- The current *Gifts, benefits, and hospitality* (GBH) policy and guideline developed and authorised by IBAC in July 2020 aligns with the Victorian Public Sector Commission's minimum standards. IBAC has had a GBH policy in place for the duration of the audit period, reviewing it annually.
- IBAC's public and private GBH register aligns with VPSC's minimum standards of reporting.
- In practice, IBAC employees are fulfilling their GBH obligations, documenting all offers. However, in the 2017-18, 2018-19 and 2019-20 private register, the ceremonial column was not included, the approval column was not consistently filled out and IBAC employees did not document the ownership of each line item, even though it was required under column 'Decision regarding the offer'.
- These gaps were rectified in the 2020-21 GBH register through the development of a form that details all fields that must be completed in the private register, including the relevant approval which enables all information to be captured for decision making purposes.
- All GBH offers are monitored and reported on through the risk and assurance quarterly report which is presented to both the ARMC and the executive (through the CGC).

Recruitment processes

IBAC has improved its recruitment processes over the audit period to ensure the suitability and integrity of staff. Through the introduction of key policies and procedures, IBAC has improved its recruitment processes over the audit period and established adequate and appropriate mechanisms to support the recruitment of suitable and ethical employees.

In November 2017, the internal audit providers completed an internal audit on HR planning and capability and identified that outstanding probity checks needed to be completed. In response, IBAC did the following:

“Governance and Risk has completed the outstanding probity check for the staff member identified. All previous probity checks for existing staff and contractors will be reviewed and further checks performed if required. The current probity checking process requires both the police check and internal probity check to be completed before a notification is sent to the recruiting manager. In addition, People and Culture (PC&C) has introduced an additional control by enhancing the recruitment selection report to require a copy of the notification from Governance and Risk before recruitment paperwork is signed off. This ensures all the individual checks are completed.”

IBAC has continued to improve its recruitment processes over the audit period and in March 2021 established the *Personnel security management* policy.

Under this policy, the following pre-employment screening activities are undertaken:

- National police check through ACIC



- Victoria police law enforcement data checks (LEAP, INTERPOSE)
- Victoria police ROCSID check (if applicable)
- Qualification verification (for all roles where a qualification is required and executive level roles)
- Internal checks on IBAC’s case management systems
- Review of any declarations, including private interests, associations and relationships
- Pre-employment screening of misconduct in the Victorian public sector
- For executive level, checks with previous employers

Moreover, once the employee has passed the pre-employment screening and has been offered the job, they are required to complete the following:

- Complete a legal briefing which covers obligations under the IBAC Act, confidentiality requirements and associated penalties for breach
- Take an oath or affirmation
- For all ongoing employees and fixed term or agency staff employed for longer than 6 months, obtain an AGSVA security clearance, minimum negative vetting 1 (NV1).
- Complete a mandatory annual declaration acknowledging security clearance requirements, including changes in circumstances
- Complete mandatory security training

Audit testing on a sample of 10 employees recruited across the audit period (2017-18 to 2020-21) confirmed that pre-employment screening/probity controls outlined in *Personnel security management* policy have improved over the audit period and are now considered largely effective with the following exceptions.

Pre-employment requirement	Observation(s)
Qualification verification (for all roles where a qualification is required and executive level roles)	Based on stakeholder discussions and sample testing, this requirement was not enforced as an official pre-employment screening process until 2020/21.
Internal checks on IBAC’s case management systems (IBAC CM and Condor)	Internal checks in IBAC’s case management systems (IBAC’s legacy system and then Condor from August 2018) were not consistently performed until 2019-20. This caused only 4 of the 10 employees to be checked against IBAC’s operational records in the 2 internal systems.
Review of any declarations, including private interests, associations, and relationships	IBAC advised that COI declarable associations were recorded in 2017-18, but Callida was unable to verify this through sample testing. This effected 2 of the 10 employees sampled.



Pre-employment requirement	Observation(s)
Pre-employment screening of misconduct in the Victorian public sector	This pre-employment screening of misconduct in the Victorian public sector is not considered a mandatory check prior to hiring the applicant. This has been mainly due to the lack of response received by the applicant's previous department/agency on their conduct.
For executive level, checks with previous employers	For the 2 samples this check was relevant for, Callida could not access the physical file for one of them (recruited in 2018-19), and so could not verify if this check had occurred.
Mandatory annual declaration acknowledging security clearance requirements, including Changes of Circumstance (COC).	This requirement was introduced in 2019, therefore relevant for 9 of the employees sampled. One of the 9 employees did not complete the annual declaration process for 2021. Based on stakeholder discussions and documentation received, there is currently no reporting process to ensure the EDs follow-up on incomplete declarations.
Mandatory cyber security training	<p>Cyber security essentials eLearning training was completed by 7 of the 10 employees sampled, noting that one of the employees left IBAC before the eLearning system was implemented in 2019 and one was seconded to IBAC for a year in 2020-21 and did not complete all mandatory training before leaving. Based on stakeholder discussions, HR generates a report that identifies all employees that have not completed mandatory training and provides it to the relevant Executive Directors (EDs) for follow-up. However, based on the above results, it indicates that this process is not performed effectively, with employees not being followed up.</p> <p>IBAC also introduced a requirement in 2021 that prevents employees from progressing to the next salary bracket if they have not completed all mandatory training assigned to them.</p>

To ensure staff remain suitable, IBAC introduced in 2020 a police check every 2 years for all ongoing and fixed term employees which is recorded in a central register. Every year, a member of the Strategy & Risk (S&R) team identifies all employees who have been with IBAC for 2 years or whose police check was performed 2 years ago and will request that these employees complete another police check to verify that they are still considered suitable.



Recommendations

Ref. No.	Recommendation
2.5.1	Make the pre-employment screening of misconduct in the Victorian public sector a mandatory check for potential IBAC employees (if applicable).
2.5.2	Implement a reporting process to identify any employees who are yet to complete the annual Change of Circumstance (COC) declaration process by the relevant due date to ensure every employee is aware and acknowledges their security obligations.

Work already progressed by IBAC since June 2021

Ref. No.	Work already progressed by IBAC since June 2021
2.5.1	Evidence provided demonstrates that IBAC is looking to implement and enforce the pre-employment screening of misconduct in the Victorian public sector as a mandatory check for potential IBAC employees (if applicable).



5 Criteria 3 – Genuine accountability and transparency

5.1 Criteria 3.1: Cost of performing its functions

Criteria	Overall finding
The adequacy and appropriateness of processes used by IBAC to measure and manage the costs of performing its statutory functions.	<p>During the audit period, there were inadequate processes in place to measure and manage the costs of performing IBAC's statutory functions.</p> <p>IBAC needs to continue its program of work to improve its measurement of performance.</p>

IBAC has not implemented a time recording system to attribute staff time to specific activities. As such, it is not possible to reliably determine the cost of outputs produced from key activities, such as investigations or assessments. This makes it difficult for Callida to assess and compare how economically IBAC has performed its specific functions and activities over time. IBAC advised that other Australian integrity agencies have not implemented a time recording system, but in recognition of these challenges, IBAC already had plans in place to implement a time recording system, Timefiler, for investigative staff in the coming year.

Human resources are essentially IBAC's main input and main source of costs. As noted in Table 15, salaries and related staff costs account for approximately 75% of IBAC's annual expenditure. Given the level of alignment between staff resources and total costs, there is a close relationship between IBAC's efficiency and economy.

In 2020-21 employee related expenditure accounted for approximately 75% of IBAC's total expenditure (excluding depreciation and interest expense). Over the 4-year period examined, this ranged from 69% in 2017-18 to 76% in 2019-20.

Table 15. Salaries and related costs

	2017-18	2018-19	2019-20	2020-21
Actual expenditure (\$). See Table 19 for a detailed breakup)	25,294,614	27,828,685	31,058,034	31,364,158
Budget (Original) (\$)	28,348,133	28,463,756	31,469,778	32,456,979
Variance to budget (\$)	-3,053,519	-635,072	-411,744	-1,092,821
Percentage of salaries and related expenditure to total expenditure	63.72%	63.72%	66.75%	67.87%
Percentage of actual expenditure (excluding depreciation and interest costs)	69.36%	68.86%	76.57%	75.16%
FTE	179.4	199.3	196.1	202.7



	2017-18	2018-19	2019-20	2020-21
Avg salary/FTE – Salary & related costs (\$)	140,995.62	139,632.14	158,378.55	154,731.91
Avg salary/FTE – Total costs (\$)	221,264.35	219,126.31	237,268.22	227,967.44
Increase in FTE salary & related costs over year 1				9.7%
Yearly percentage increase in FTE		11.1%	-1.6%	3.4%
Percentage FTE increase over year 1				13.0%

Source: IBAC Annual Financial Statements from 1 July 2017 to 30 June 2021

It is also noted that:

- the average salary/FTE for IBAC ranged from \$140,995 in 2017-18 to \$154,731 in 2020-21
- this represents an increase of 9.7% over year 1
- IBAC's FTE has increased from 179.4 in 2017-18 to 202.7 in 2020-21. This represents a 13.0% increase over 2017-18. During this same period, IBAC's salary costs increased by 9.7%, while its recurrent funding remained steady. See Tables 16 and 19 below.
- Notwithstanding the above, IBAC has been underspent in each of the 4 years throughout the audit period

Table 16. Funding received

	2017-18	2018-19	2019-20	2020-21
Recurrent funding (\$ million)	38.9	38.9	38.9	38.9
Once off funding (and prior years underspend adjustment)	3.4	1.9	1.8	6.5
Depreciation	3.5	3.6	6.0	2.9
Total Funding/Income	45.8	44.4	46.7	48.3

Notes to table:

- *Funding refers to available funding for IBAC*
- *Once off funding includes one-off fundings approved including use of IBAC Trust funds. IBAC trust funds refer to fundings recognised in prior years and expenditure against funding in subsequent years*
- *One-off fundings referred in 2020-21 relates to the use of trust account balance*

Table 17. Actual income vs expenditure

	2017-18	2018-19	2019-20	2020-21
Total actual FTE	179.4	199.3	196.1	202.7
Total income	39.7	43.7	46.5	42.3
Total expenditure	39.7	43.7	46.5	46.2
Surplus/(deficit)	0.0	0.0	0.0	(3.9)

Notes to table:

- Actuals refer to total income and expenditure recognised in the relevant financial year
- Source – Annual Report

Table 18. IBAC expenditure 2017-18 to 2020-21

Expenditure item	2017-18	2018-19	2019-20	2020-21
Accom, rent & property services	3,738,936	3,781,120	1,702,165	1,891,827
Audit services	286,333	267,032	256,617	249,151
Bad and doubtful debts			3,090	0
Capital asset charge				302,000
Consultancies & professional services	1,709,146	2,502,415	1,884,930	2,566,273
Depreciation	3,225,433	3,259,081	5,964,304	4,477,287
Finance lease and other interest costs	19,606	37,753	540,698	464,116
Information technology expenses	2,193,686	2,312,981	2,424,733	2,887,263
Marketing and promotion	598,256	1,201,449	563,021	175,769
Motor vehicles	272,992	344,121	286,409	236,214
Office and other incidentals	740,454	572,980	610,222	507,612
Outsourced services	345,425	384,545	365,402	235,111
Recruitment expenses	327,159	208,028	303,495	323,432
Salaries and related costs (see breakup below)	25,294,614	27,828,685	31,058,034	31,364,158
Training	760,703	790,479	489,794	507,055
Travel and accommodation	182,082	181,204	75,385	21,730
Grand Total	39,694,824	43,671,874	46,528,298	46,209,000



Table 19. Salaries & related expenses

Cost centre	2017-18	2018-19	2019-20	2020-21
Assessments And Review	1,748,762	1,898,160	2,128,765	2,382,323
Office of the Commissioner and CEO	1,707,746	1,974,306	2,437,008	2,025,683
Communication and Engagement	1,089,469	1,467,735	1,563,895	1,357,987
Digital Forensics and Collections	1,904,356	1,962,032	2,393,964	2,407,837
ED Corporate	254,195	283,685	392,732	427,148
ED LARC		118,355	387,163	399,285
ED Operations	423,137	460,390	406,461	510,305
ED Prevention and Comms	454,321	465,054	298,508	460,480
Facilities	380,550	619,453	743,062	774,239
Finance	568,852	709,688	663,972	931,580
HR	932,390	898,062	1,159,663	1,109,946
Information & Digital Services	1,747,809	1,480,307	1,829,362	2,058,810
Investigations	6,186,505	7,057,351	7,676,502	7,495,046
Legal and Compliance	2,203,543	2,326,448	2,199,050	2,929,797
NA	27,444	150,078	359,175	52,083
PPR		552,939	811,030	719,633
SI	1,228,774	762,088	694,173	754,254
Strategy & Risk	838,231	637,931	949,233	809,979
Surveillance	3,598,530	4,004,623	3,964,317	3,861,909
Grand Total	25,294,614	27,828,685	31,058,034	31,364,158
Percentage increase in salary costs over previous year		10.0%	11.6%	1.0%
FTE	179.4	199.3	196.1	202.7

While IBAC's economy cannot be assessed with precision, some analysis at an aggregate level is possible. IBAC's recurrent base funding remained constant at \$38.9 million from its inception in 2013 to 30 June 2021.⁷ As a start-up organisation, IBAC recorded substantial underspends in its first years of operation. However, underspends have persisted up until 30 June 2021, primarily due to staff vacancies. These vacancies and resulting underspends have been highest in the Investigations branch within the Operations division. A fourth investigation team was established in November 2017 with the intent of growing IBAC's capacity to undertake investigations. While this helped drive a 26% increase in the number of allegations investigated by IBAC in 2018-19,⁸ the team and the Investigations branch have consistently had vacancies. Underspends in the Investigations branch have totalled \$1.1 million (13%), \$1.6 million (17%) and \$1.4 million (15%) over the past 3 financial years.⁹

Given its fixed base funding, IBAC has been required to absorb the impacts of consumer price index (CPI) movements and salary increases¹⁰ over the past 4 years. This has reduced the amount of funding available for IBAC to spend on non-employee expenditure. To an extent, this has forced IBAC to operate more economically as these cost increases are beyond its control. However, as noted above, staff vacancies have been a key factor which has allowed IBAC to operate within its allocated funding.

To effectively utilise budgeted underspends for other purposes, IBAC has operated an internal budget bid process. Under this arrangement, a budget pool is determined on an ongoing basis through reference to unallocated, available funding. Divisions and teams submit bids to obtain funding for projects and initiatives which will help deliver their objectives. These are then reviewed and approved by the IBAC Executive during Committee meetings. It is noted that budget bids also resulted in underspends, with only \$1.88 million of a budget pool of \$2.78 million spent in 2019-20¹¹. From September 2021, IBAC has developed a set of Budget Discipline Principles which have been approved by the IBAC Executive Committee. These principles formalise and communicate IBAC's budget development process to drive greater transparency and understanding across the organisation.

At the Treasurer's request, an external provider was engaged to perform an 'Independent Base Review' of IBAC functions to assess how much funding IBAC requires to operate effectively and efficiently into the future. The report of this review provides a range of insights into IBAC's financial management arrangements.

The Independent Base Review found that:

- IBAC is underfunded. Despite growth in IBAC's jurisdiction and workload, recurrent base funding has not increased from its inception through to 2021-22
- to create efficiencies, IBAC needs more sustainable funding, a more appropriately skilled workforce and greater utilisation of existing technology and tools

⁷ Source: Data provided by IBAC from its Finance System from 1 July 2017 to 30 June 2021

⁸ *IBAC Annual Report 2018-19*, p. 18

⁹ Source: Data provided by IBAC from its Finance System from 1 July 2017 to 30 June 2021

¹⁰ Annual salary increases under the *Victorian Public Service Enterprise Agreement 2016 and 2020* have ranged between 1.25 per cent and 3.25 per cent from 1 July 2017 to 30 June 2021.

¹¹ *Finance Report June 2020, IBAC Executive Committee Summary Paper 18 August 2020*



- greater role clarity, increased collaboration and more proactive measurement will enable IBAC to operate more effectively.

While these observations suggest that, without increased and sustainable funding, IBAC cannot invest in its people, systems and processes to ensure more effective and efficient operations, additional funding has now been provided through the 2022-23 budget process.

Recommendation

Ref. No.	Recommendation
3.1.1	<p>While noting IBAC is implementing time attribution more broadly for Operations, IBAC should perform a costs vs benefits analysis of implementing:</p> <ul style="list-style-type: none"> • Time attribution for Operations on a task/activity basis; that is, where staff assign their time to specific operations would capture details of actual time spent on operations and allow more informative reporting, analysis and planning. • Time attribution for other non-corporate areas in IBAC (e.g. A&R, P&C and Legal).

Work already progressed by IBAC since June 2021

Ref. No.	Work already progressed by IBAC since June 2021
3.1.1	Evidence provided demonstrates that IBAC is in the process of implementing time attribution more broadly for the Operations division through TimeFiler.

5.2 Criteria 3.2: Cost reduction strategies

Criteria	Overall finding
<p>The adequacy and appropriateness of processes used by IBAC to identify scope for improvement, including how IBAC:</p> <ul style="list-style-type: none"> • identifies savings • reduces costs • reduces waste. 	<p>The identification of savings and the reduction of costs is a BAU activity undertaken through the review and detailed analysis of monthly expenditure reports.</p>

Throughout the audit period IBAC has not focused on implementing any cost reduction strategies. However, the Independent Base Review did not find “there to be any clear and easy efficiencies that [would] help IBAC to fill its funding gap, or if addressed, would directly result in an increase in its output”.



During the audit period IBAC’s focus has been on increasing the recurrent funding base to ensure financial sustainability into the future. With this now addressed through an increase to IBAC’s funding from 2022-23, IBAC is now focused on ongoing continuous improvement activities aimed at identifying and realising cost efficiencies. The certainty provided through the increase to IBAC’s recurrent funding will also allow for more targeted projects to be funded and implemented, including upgrading existing infrastructure. The increase in funding will also allow IBAC to increase staff numbers to meet increased workloads.

IBAC’s small budget also impacts on their ability to identify cost savings. As noted in criteria 3.1, 75% of current expenditure relates to salaries and related costs. This, coupled with IBAC’s fixed costs (e.g. rent, building outgoings) means there is little discretionary funding remaining to identify savings. Any reductions will come at the expense of staff numbers. An analysis of IBAC expenditure over the audit period has also identified:

- IBAC’s funding arrangements has required the organisation to absorb increases in workload, including adjusting to changes in the PID scheme within the standard operating budget. This has forced IBAC to find cost efficiencies and figure out how to do more with the same amount of funding.
- The CPI and fixed salary increase had to be absorbed by IBAC each year as there was no indexation on the organisation’s budget. Since the completion of fieldwork, IBAC has confirmed this issue has now been fixed with IBAC receiving CPI increases.

5.3 Criteria 3.3: Systems and processes

Criteria	Overall finding
The adequacy of systems and processes used by IBAC to manage its work and improve its productivity.	Systems and processes are partially adequate to manage work and improve productivity. These systems have improved post the audit period and further work is currently being undertaken to manage work and productivity.

IBAC has made multiple system enhancements over the audit period to manage work and improve productivity. Callida has identified gaps that could further improve/enhance IBAC’s management of work going forward, including:

- implementation of a time attribution system and a time/resource planning system
- improvement of Condor’s functionality and processes for monitoring and reporting
- ability to better access information in TRIM

Based on stakeholder discussions, process walkthroughs and sample testing, the following system enhancements were observed over the audit period:



System	Observation
Condor (Case Management System)	<p>As discussed in criteria 1.1, since Condor was implemented in August 2018, the level of detail captured for each assessment/ investigation has increased and these details are captured in a clearer, more structured manner. Workflow functionality allows tracking of assessment status, evidence of delegate approval and an audit trail of decisions (including date and user). Condor provides a ‘single source of truth’ for assessment activities, as well as improved tracking and reporting of cases/operations. The required information contained in each case/operation file is comprehensive.</p> <p>Condor has streamlined assessment and approval processes for complaints/investigations, enabled paperless case management, improved efficiency in information management and more effective sharing of information across the organisation.</p>
iPeople (HR system)	<p>The following components of iPeople were implemented during the audit period:</p> <ul style="list-style-type: none"> • Performance Development Plans (PDP) (went live in June 2019) • eLearning (went live in September 2019) • Incident management (went live in 2020) <p>The following observations were made around the above components:</p> <ul style="list-style-type: none"> • The PDP component has improved productivity and efficiency of the previously manual PDP process. The new component provides HR with clear visibility and oversight over the process, including being able to clearly identify and follow-up with employees that are yet to complete their key milestones. It also provides clear official channels for staff to discuss and receive feedback/guidance on their professional development. • eLearning allows IBAC to undertake mandatory training modules electronically and effectively monitor their completion. The system also sends out individual notifications to staff to advise them that a training module is due. • Incidents are now able to be reported through iPeople, providing the staff member with clear instructions on what information must be provided to report an incident. OHS updates are provided on the incident reporting landing page for staff to be aware of. This tool is monitored by HR and is able to generate reports when required to inform the Executive.
TRIM	<p>TRIM is IBAC’s record management system and it has been largely sufficient to support IBAC staff in managing their work both for operational and corporate purposes.</p> <p>Based on sample testing of operational activities, the use of the system for record keeping purposes has improved over time and is now linked to Condor. This</p>



System	Observation
	ensures that all operational records created on Condor are automatically saved to TRIM and vice versa.
Remote working solutions (Microsoft Teams, video conferencing)	IBAC has improved its remote working capabilities since the onset of COVID. IBAC went from having no video conferencing capability in early 2020, to it becoming BAU for the organisation. Now IBAC is able to conduct hearings remotely, undertake virtual public examinations and send and receive documentation through their online secure portal. By improving their remote working solutions, IBAC has been able to manage operations and access sensitive information remotely to be able to work productively during a difficult period with numerous lockdowns and stay at home orders in Victoria.
Governance, Risk and Compliance (GRC) software system	<p>The implementation of GRC in 2017-18 enabled risk management and internal audit actions to be managed in one centralised system. This system was also able to support IBAC's assurance program by providing whole-of-organisation oversight of IBAC's risk management and internal controls.</p> <p>All strategic and operational risks are recorded, managed and monitored through this system with the risk owners being notified when a risk treatment is due to be implemented. This automatic notification process also occurs for internal audit actions that are due. This system enables S&R to monitor and manage organisation wide risks and internal audit actions.</p>
COI system	Through the implementation of the COI system in September 2021, COI processes are now completely online, recording all declarations (including nil declarations), whether for investigations, recruitment or procurement panels or annual attestations. This has streamlined processes, and enhanced reporting capabilities/visibility for IBAC. As a result, IBAC has developed adequate and appropriate mechanisms to support the management of COIs.

Even though IBAC has been improving its system capability over the audit period, Callida did identify the following key system gaps:

- Consistent with all other Australian integrity agencies, IBAC has not implemented a time recording system to attribute staff time to specific activities. As such, it is not possible to reliably determine the cost of outputs produced from key activities, such as investigations or assessments. In recognition of these challenges, IBAC had already begun exploring software solutions and intends to implement a time attribution system, Timefiler for Operations staff in the coming year.
- Consistent with all other Australian integrity agencies, IBAC has not implemented a time attribution system – absence of this system prevents IBAC from accurately tracking and monitoring what tasks staff spend time on. For example, staff in Legal, in Prevention, Policy & Research (PPR), SI staff may work on a range of different activities in parallel, however without a time attribution system it is difficult to track what they have worked on in a given period. In contrast, for A&R and the Investigations teams, lack of time attribution means the amount of effort invested in assessments or investigations cannot be determined. As a result,

an investigation which takes 12 months with one person allocated part time and an investigation which takes 12 months with a team of 10 persons allocated full time appear to have utilised the same resources under reporting of the BP3 measures. In recognition of these challenges, IBAC has highlighted through discussions that it had already begun exploring software solutions and intends to implement Timefiler for Operations staff in the coming year.

- IBAC had identified that it does not have a time/resource planning system, but the Operations division is in the process of better capturing resource availability over a three month time horizon. Absence of this system causes forward planning to be difficult, particularly for investigations, PPR and SI where the work is longer term. Having a clearer view of the pipeline would help teams plan for future work and identify most appropriate resources to allocate future work to.
- Stakeholders sometimes have issues accessing information in TRIM, especially when permissions were tailored, and staff turnover had occurred.
- IBAC has not implemented a standard naming convention when saving files on TRIM. This concerns both operational and corporate documentation. This made it challenging for IBAC to retrieve documentation requested due to a lack of consistency of document titles across different versions of a document.

Callida does note the challenges associated with implementing the time attribution and resource planning systems, including the cost, implementation, training and the organisational change aspects of these types of projects. Implementation of such systems will require a cost benefit analysis to consider the value that will be generated through improved management information and efficiency.

Post-audit actions

IBAC highlighted the following:

- A time attribution system is in development, with IBAC indicating that it will be in place in 2022 for the Operations division for investigations and preliminary inquiries. Consideration will be given to including other areas of IBAC in future years.
- A resourcing system will also be implemented for Operations which will have a 3 month forward schedule to allow appropriate decisions on new work accepted or referred. Consideration will be given to including other areas of IBAC in future years.

Recommendation

Ref. No.	Recommendation
3.3.1	Refer to recommendation 3.1.1 on the implementation of time attribution.
3.3.2	Implement a resource planning system to enable forecasting of upcoming work, planned work and resourcing (including staff leave, start and end dates of temporary or fixed term staff).
3.3.3	Enforce standard naming convention for all documents stored on TRIM.

3.3.4	Refer to recommendation 1.1.8 on developing standard reporting in IBAC's systems.
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Work already progressed by IBAC since June 2021

Ref. No.	Work already progressed by IBAC since June 2021
3.3.1	Refer to recommendation 3.1.1 on the implementation of time attribution.
3.3.2	Evidence provided demonstrates that IBAC is in the process of developing a scheduling tool to understand employee capacity across the Operations division.
3.3.4	Refer to recommendation 1.1.8 on developing standard reporting in IBAC's systems.

5.4 Criteria 3.4: Better practice initiatives

Criteria	Overall finding
The extent to which IBAC has identified and implemented best practice initiatives from other agencies and jurisdictions.	Where possible, IBAC has leveraged experiences/information from their counterparts to implement best practice initiatives.

Where possible, IBAC leverages best practice initiatives from other agencies to improve its ways of working. Callida notes that IBAC is a unique organisation and there is not another agency in another state that performs the exact same role, making it difficult to leverage all information and practices from other integrity agencies.

Activities used to identify and implement these practices included:

- Stakeholder engagement** – IBAC has regular discussions with other agencies to seek advice and leverage experiences to improve processes. IBAC introduced a standing agenda item to the IEC in 2019 referred to as 'strategic stakeholder engagement'. This provided the CEO / Executive Directors / Deputy Commissioners / Directors / Commissioner the opportunity to note engagement with a range of other integrity agencies and key stakeholders. Such agencies included the Victorian Ombudsman (VO), VI, Attorney General, Victorian Auditor-General's Office (VAGO), Crime and Corruption Commissioner Queensland (CCC QLD), Corruption and Crime Commission Western Australian (CCC WA), ICAC NSW and Independent Commissioner Against Corruption South Australian (ICAC SA). These discussions with other integrity agencies/counterparts often related to key projects and developments. For example, transitioning to the PID scheme, meetings with the VI to provide/receive feedback, review of fraud plans and performance of case management systems. Further engagement with counterparts is undertaken at the manager/officer level through their individual roles. Based on meeting minutes, these discussions occurred regularly and were in relation to changes in systems, regulations, projects, and strategies.

- **Professional development** – Learnings from staff professional development is leveraged to improve processes. A technical skills development budget is provided for the Operations division to maintain skill level requirements inherent to performing their role. IBAC has a dedicated L&D budget for conference/networking opportunities, targeted leadership development and specialist development within each directorate to enable staff to develop their capabilities and enhance current process. Further details on professional development are outlined under criteria 4.6.
- **Request for information** – When needed, IBAC has reached out to other integrity agencies with a targeted request for information to support process improvement. For example, in 2017, the CEO wrote to interstate counterparts requesting welfare management resources to inform IBAC’s internal review on the use of coercive powers.
- **Consultancies** – IBAC has used consultants over the audit period to provide expert advice and benchmarking. For example, IBAC engaged external providers to review and develop IBAC’s corruption prevention strategy, review IBAC’s BP3 measures and perform internal audit services.
- **Research projects** – IBAC has undertaken research on specific topics which may result in enhanced awareness and understanding of better practice. For example, in 2018 IBAC reviewed a sample of both state and local government integrity frameworks. As a result, IBAC identified a number of initiatives the broader public sector could consider to strengthen their own integrity framework. Such initiatives included the application for more robust due diligence processes for suppliers, development of more interactive training in corruption prevention awareness and consideration of integrity-related performance measures.

5.5 Criteria 3.5: Performance reporting

Criteria	Overall finding
The extent to which IBAC reports to and informs Parliament and the wider community about its performance.	IBAC reports to and informs Parliament and the wider community as per legislative requirements, but IBAC needs to continue its program of work to improve its measurement of performance.

Under the Financial Management Act 1994, IBAC is required to prepare an annual report outlining its performance at the end of each financial year. IBAC also has the authority at any time to transmit a special report to Parliament on any matter relating to the performance of its duties and functions.

Based on Callida’s assessment of IBAC’s 4 annual reports and a sample of special reports for the audit period, IBAC complies with the relevant legislative requirements, noting only a small number of minor gaps in information contained in IBAC’s annual reports (see details in the below table). All information gaps were addressed in the 2020/21 report.

Legislation	Gap identified
IBAC Act	<ul style="list-style-type: none"> • No information was contained in the 2019-20, 2018-19 and 2017-18 annual report to address the requirement - ‘any



Legislation	Gap identified
	recommendations for changes to any Act or law in force in Victoria or for specified administrative actions to be taken which the IBAC considers necessary as a result of the performance of its duties and functions’.
PID Act	<ul style="list-style-type: none"> • The number and types of disclosures IBAC was unable to investigate or refer was not included in 2018-19 annual report. • Information on recommendations made by IBAC under section 61 of the PID Act 2012 and actions taken in relation to these recommendations was not included in the 2017-18, 2018-19 and 2019-20 annual reports. • The number of applications for an injunction made by IBAC under section 50 of the PID Act was not included in the 2017-18, 2018-19 and 2019-20 annual reports.
IBAC Act	<ul style="list-style-type: none"> • Minor error in the 2020/21 annual report - 6 of the BP3 targets that were not achieved, the variance was outside 5% not within 5% so the report should have displayed a different symbol.
IBAC Act	<ul style="list-style-type: none"> • For the period 2020-21, the performance measure: <i>‘Proportion of complex IBAC investigations into police personnel conduct and police personnel corrupt conduct completed within 18 months’</i> is included in the annual report but was not included in the budget paper no.3 for 2020-21.

IBAC has also developed the following artefacts to help further inform the wider community about their performance in preventing corruption within Victoria Police and the Victorian public sector:

- **Investigation outcomes/summaries** – reports and case studies made publicly available on completed IBAC investigations covering allegations, how the investigation was conducted, key findings and recommendations.
- **Public examinations** – the Commissioner decides to hold a public examination when there are exceptional circumstances, it is in the public interest to do so, and the examination can be held without causing unreasonable damage to a person’s reputation, safety or wellbeing.
- **Research reports** – reports presenting findings of IBAC research into current and emerging trends and issues in public sector corruption or police misconduct in Victoria.
- **Responses to IBAC recommendations** – responses published to inform the community about actions agencies are taking to address IBAC recommendations, and to share learnings that may help other agencies improve their systems and practices to prevent corruption and misconduct.
- **Media releases** – IBAC provides media releases to the public through their website to inform the public/wider community of IBAC’s investigations, demonstrating their ability to remain apprised of current activity in the public sector and Victoria Police.

Though IBAC has provided a large amount of information on its performance to the public over the audit period, there is still a need for IBAC to further improve the information that is provided to Parliament and the wider community. Such areas of improvement include:

- **Developing BP3 measures that address effectiveness and economy** – IBAC covers efficiency through its BP3 performance measures through which it assesses timeliness of assessments and investigations. However, the only BP3 measure that assesses effectiveness is the satisfaction rate of initiatives delivered by IBAC. There is no measure of effectiveness when it comes to the delivery of complaints and notifications, investigations or educational reports and resources made publicly available. There are no cost measures to assess economic value of IBAC's processes and performance against functions, for example, cost per investigation conducted. This observation is consistent across all 4 years of the audit period. Without a robust collection of performance measures, it is difficult for IBAC to reflect an accurate and holistic performance story each financial year.
- **Regularly reviewing performance measures to ensure relevance** – there is no structure around the review of BP3 measures or internal performance measures. According to the Victorian Government Resource Management Framework, performance measures should be reviewed annually to ensure relevance. During this review, Callida was only able to identify 2 instances of review within the audit period – an external review and an internal review to split the BP3 measures based on investigation complexity. Moreover, there is no evidence to suggest that IBAC has implemented the recommendations proposed by the external provider to adjust the BP3 measures to better reflect IBAC's performance. Without regular review of performance measures, there is a risk that these measures will not be relevant and provide an inadequate performance story of the organisation over the financial year period.

Callida notes that IBAC's BP3 measures are imposed by the government. IBAC has advised that it has already commenced a program of work to develop better metrics and once this has been completed, it will commence discussions with the government and request that the BP3 measures are amended.

In relation to the external review, IBAC has noted that a decision was made at the time of receipt of the review that given the impending development of the new IBAC Strategic Plan, the development of new measures should await the finalisation of a new plan. With the plan now finalised, IBAC is commencing the development of a Balanced Scorecard which (according to IBAC) will include leading and lagging (outcome) performance measures across the perspectives of Public Value Outcomes, Stakeholders, Core Service Delivery and Enablers. Once developed, IBAC will then request that the government reconsider its BP3 measures accordingly.



Recommendations

Ref. No.	Recommendation
3.5.1	Leverage the findings/recommendations of the external review to address gaps in BP3 measures to develop an effective collection of measures that accurately reflects IBAC's performance to inform Parliament and the wider community.
3.5.2	Develop a structured approach to regularly reviewing BP3 measures and internal performance measures to ensure these measures remain relevant to IBAC's strategic priorities and objectives and accurately reflect performance.

Work already progressed by IBAC since June 2021

Ref. No.	Work already progressed by IBAC since June 2021
3.5.1	Evidence provided demonstrates that IBAC is in the process of implementing better performance measurement which is leveraging the findings/recommendations of the external review to address gaps in BP3 measures to develop an effective collection of measures that accurately reflects IBAC's performance to inform Parliament and the wider community.
3.5.2	Evidence provided demonstrates that IBAC is in the process of improving performance measurement needs to include a structured approach to regularly reviewing BP3 measures and internal performance measures to ensure these measures remain relevant to IBAC's strategic priorities and objectives and accurately reflect performance.

5.6 Criteria 3.6: Public confidence

Criteria	Overall finding
The extent to which IBAC attains and sustains public confidence in the agency.	While IBAC is progressing towards sustaining and strengthening public confidence, information collected to date does not measure the public's response to the education and prevention content delivered, making it difficult to assess its impact and to understand the extent to which it sustains public confidence. IBAC needs to continue its program of work to improve its measurement of performance.

While IBAC has delivered a large number of initiatives to help build public confidence, no information/data is being collected to measure the effect these initiatives have on the public.

Callida does acknowledge that IBAC has conducted 2 Perception of Corruption surveys in the audit period, one in 2018 and one in 2020.

In 2018, this survey was used by IBAC to gain a better understanding of the Victorian community's understanding of corruption, their perception of corruption and misconduct, attitudes to reporting corruption and misconduct and their attitudes towards preventing corruption. IBAC received 1236 responses from members of the Victorian community and the following key findings were identified:

- 65% of respondents knew what behaviours constituted corruption
- 62% of respondents agreed that corruption happens in Victoria
- 75% of respondents said they would report corruption if they personally observed it, but only 23% of respondents said they knew how to report corruption and only 24% said they knew where to report corruption.

In 2020, IBAC commissioned an external provider to conduct research to assess how IBAC is performing in delivering corruption prevention education and engagement. The external provider conducted 25 telephone interviews with external stakeholders representing state government, local government, integrity stakeholders, police jurisdiction, the legal sector, and academia. The following key findings were identified:

- The stakeholders interviewed valued IBAC as an essential integrity organisation and it is perceived to be doing well in its mission to prevent and expose public sector corruption.
- Stakeholders are generally satisfied with IBAC's corruption prevention engagement. It's important engagement approaches are adapted and tailored for each stakeholder audience.
- Face-to-face engagement and direct lines of communication are essential for maintaining a strong relationship

The report also identified the following recommendations to help IBAC to continue to drive effective engagement:

- Leverage the industry-wide support for corruption prevention education and engagement through partnerships with other integrity agencies and legal agencies.
- Continue to offer face-to-face meetings, presentations and industry forums.
- Ensure the information provided online for practitioners is up-to-date and detailed.
- Work with agencies to deliver tailored information for different workplaces.
- Examine corruption trends more broadly and share these with the industry.
- Many stakeholders mentioned they are working towards creating a culture of integrity more broadly as opposed to focussing on reactive policies. IBAC is perceived to play a part in facilitating this cultural shift and there is scope for IBAC to examine and advise on what a positive, corruption-free workplace looks like.

Based on stakeholder discussions and review of documentation, IBAC is implementing these recommendations to support effective engagement with the wider community and provide awareness through the delivery of corruption prevention education to continue to build public confidence.

In 2021, IOC performed an inquiry into the education and prevention functions of Victoria's integrity agencies. One of the observations of this inquiry was that IBAC does not have a systematic



measurement framework for assessing the quality and impact of its prevention and education initiatives. The IOC sees the existing prevention and education performance measures (number of initiatives delivered and satisfaction of these initiatives) as unsatisfactory for measuring impact.

Callida agrees with the IOC and the recommendations it has raised (see criteria 1.4 & 1.5), identifying the following gaps based on our own stakeholder discussions and review of documentation:

- Existing BP3 measures are insufficient to measure the impact its operations have on the public. By developing more informative measures and gathering relevant and reliable data, IBAC would be in a better position to measure and demonstrate its impact.
- While IBAC’s performance measures do not directly measure public confidence, if IBAC does not meet its own performance goals or adequately explain why performance goals were not met, this is likely to erode public confidence. As a result, IBAC’s decline in performance over the last 2 financial years based on the BP3 measures and lack of adequate explanation as to why, for example increased workload and lack of sufficient resourcing, hinders IBAC’s ability to sustain and strengthen public confidence.

Over the audit period, IBAC has undertaken the following activities to help build public confidence detailed in Table 20.

Table 20. Initiatives/activities delivered to educate and improve the capacity of the public sector

Activity	Description
Media releases	<p>Media releases have been issued for the duration of the audit period (July 2017 to June 2021). All media releases are publicly available on IBAC's website. These media releases inform the public/wider community of IBAC's investigations. IBAC also employs a full-time senior communications officer to help ensure broad coverage of IBAC statements/activities and accurate reporting.</p> <p>Articles provide tags underneath if the public want to further explore certain topics, for example, conflict of interest, public hearings, stakeholders identified in the release (Vic Police, V/Line, Metro Trains), misuse of information. Moreover, there are small blurbs underneath headlines to summarise what the media release is all about.</p> <p>IBAC has delivered the following number of media releases for each of the 4 years:</p> <ul style="list-style-type: none"> • 26 media releases in 2021 • 40 media releases in 2020 • 38 media releases in 2019 • 41 media releases in 2018 • 25 media releases in 2017
Advertising and campaigns	The following advertising campaigns were run during the audit period:

Activity	Description
	<ul style="list-style-type: none"> • 2018-2019 – IBAC launched the 'Yes, it's corruption' campaign, calling on Victorians to realise the pivotal role they can play in preventing public sector corruption. Campaign materials (videos, posters, and digital banners) are available on IBAC's website for the public to access. IBAC also put out a media release on the campaign in June 2019. • 2017-2018 – A series of print advertisements were run in major Victorian metro daily newspapers, regional press and non-English language papers to inform the community about the impacts of corruption and how to report and prevent it. • 2017-18 – IBAC continued its 'When something's not right. Report it' campaign launched in the previous period. This campaign included outdoor advertising on bus and tram shelters, in metropolitan and regional newspapers and on radio, digital media and some catch-up TV. <p><u>IBAC optimised its search engine in June 2020</u> to raise awareness of corruption risks, prevention and IBAC's role. This optimisation, which incorporated 4 languages, made it easier for web visitors to find IBAC content when doing internet searches and allowed IBAC to reach Victorians online, receiving about 15,000 unique visitors. Together with ongoing work to optimise IBAC web content for discovery via search, this optimisation helped increase the number of visits to IBAC's website from search engines by more than 80%.</p>
Public examinations	<p>Public hearings are considered an important tool for IBAC in creating a corruption resistant public sector. IBAC's move to video streaming of public hearings allowed the organisation to continue to conduct public examinations during COVID-19, but also provided greater access for the Victorian community to understand what corruption looks like. IBAC held public examinations for 4 major investigations (Operations Lansdowne, Gloucester, Sandon and Esperance) of public interest during the audit period.</p> <p>IBAC's recent live streamed public hearings (as part of Operation Watts) attracted more than 278,000 unique views over the 4 weeks. Levels of interest in public hearings depend on the matters being investigated, witness profiles and media coverage.</p>
Social media	<p>Social media helps IBAC engage cost-effectively with stakeholders and key intermediaries. IBAC currently has 2 main social media channels – Twitter and LinkedIn. Its audience includes journalists, lawyers, academics, and public sector leaders who regularly share IBAC's updates with their networks.</p> <p>IBAC reported the following social media statistics in their annual reports during the audit period:</p>



Activity	Description
	<ul style="list-style-type: none"> • 2020-2021 – 27% growth in social media following to more than 7,800 users, with engagement up more than 45% • 2019-2020 – 5,981 followers on Twitter and LinkedIn, growing 62% from 2018-19 • 2018-2019 – no percentage increase reported, only that there was an increase in engagement with IBAC via social media due to enhancements to both platforms. • 2017-2018 – no percentage increase reported, only that there has been an increase in the number of subscribers.
Resources	<p>The following are examples of the types of artefacts published on IBAC’s website:</p> <ul style="list-style-type: none"> • Special reports – reports tabled to the Parliament of Victoria on major investigations, systemic issues, or specific sectors and themes. Compliance with the IBAC Act is required. • Research reports – reports presenting findings of IBAC research into current and emerging trends and issues in public sector corruption or police misconduct in Victoria. • Information sheets – quick reference materials including information sheets, practical guides, and checklists to help the public sector strengthen measures to detect and prevent corruption and misconduct. • Investigation reports/case studies – reports and case studies on completed IBAC investigations covering allegations, how the investigation was conducted, key findings and recommendations. • IBAC Insights quarterly newsletter – discusses integrity building features, tips, trends, resources, and upcoming events. Over the audit period, IBAC report the following e-newsletter subscribers: <ul style="list-style-type: none"> - 2020-21 – 3,500 subscribers - 2019-20 – 3,480 subscribers - 2018-19 – 3,100 subscribers - 2017-18 – 2,700 subscribers • Webinars – in-depth discussions with leading integrity thinkers about emerging corruption risks, practical prevention tips, and more. • Videos – also published on the IBAC YouTube channel to reach more of the community. • Responses to IBAC recommendations – responses published to inform the community about actions agencies are taking to address



Activity	Description
	<p>IBAC recommendations, and to share learnings that may help other agencies improve their systems and practices to prevent corruption and misconduct.</p> <ul style="list-style-type: none"> • Corporate reports – including annual reports detailing IBAC’s operational and financial performance, and plans outlining IBAC’s strategic direction and priorities. • Podcasts – on topics including: IBAC's focus on police oversight, fraud and corruption control standards, and corruption, integrity, and human rights. All these podcast episodes are publicly available to inform the public on what IBAC does and some of the important topics and issues influencing the public sector, police and the community. • Service charter – explains IBAC’s commitment to people who make a complaint and IBAC’s accountability for their role.
Victoria Police education and prevention initiatives	<p>Throughout the audit period, IBAC regularly delivered an education session to the Probationary Constable Foundation Development (PCFD) program at the Victoria Police academy. IBAC delivered this education session 18 times in 2020/2021, 17 times in 2019-20, 25 times in 2018-19 and 25 times in 2017-18.</p> <p>To further support IBACs proactive education and engagement with Victoria Police, in 2018-19 IBAC launched the Victoria Police Education program. The broader programs include targeted engagement with Senior leaders from Sergeant to Senior Command, and the Victoria Police Professional Standards Command.</p>
Corruption Prevention and Integrity Insights conferences/forums	<p>IBAC delivered its first Corruption Prevention and Integrity Conferences in 2017-18 in Melbourne, followed by 2 regional forums in Warrnambool and Traralgon.</p> <p>IBAC hosted 2 regional Integrity Insights forums on corruption prevention in 2018-19, one in Ballarat in November 2018 and the other in Horsham in May 2019.</p> <p>In 2019-20 the Corruption Prevention and Integrity Insights forum was delivered in Geelong.</p> <p>The forums outline the roles of Victoria’s key integrity agencies and highlight the common themes and issues identified in corruption complaints, investigations, and research.</p>
Protected Disclosure/Public Interest Disclosure (PID) activities	<p>In May 2018, IBAC hosted a hybrid in person and online Protected Disclosures Coordinator’s forum and established a Protected Disclosure Community of Practice (PDCOP). It went on to host a PDCOP forum in 2018-19.</p>

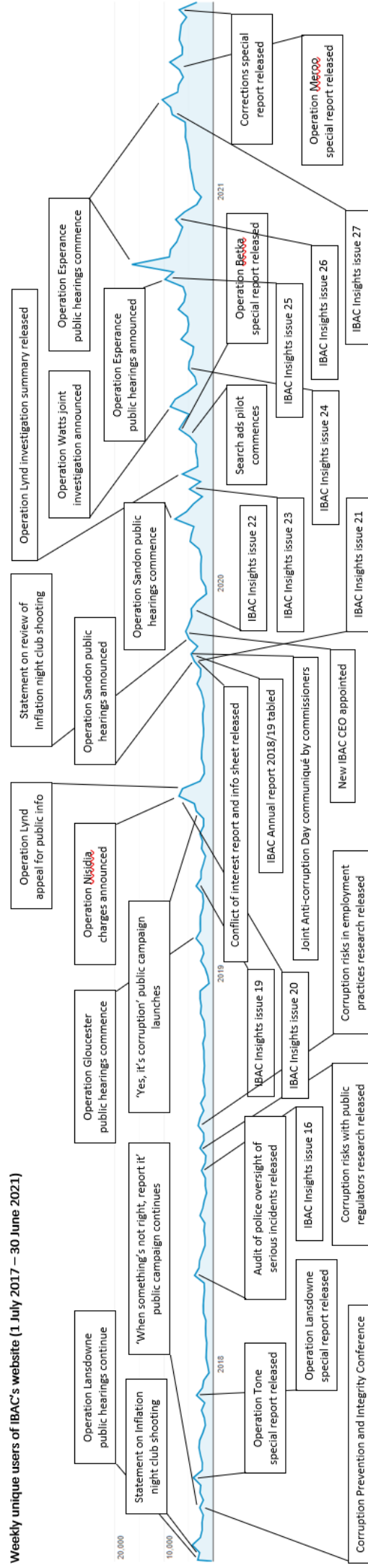


Activity	Description
	Following the changing of the <i>Protected Disclosure Act 2012</i> to the <i>Public Interest Disclosures Act 2012</i> in January 2020, IBAC chaired a Public Interest Disclosure Consultative Group to support sector-wide implementation of the new legislation. IBAC delivered several external engagement activities, tools and resources to Victorian public sector stakeholders to help them adopt the changes.

IBAC had tracked weekly unique users of its website over the audit period to identify the impact of these activities on its online traffic. Refer to the following page for the diagram and spreadsheet IBAC developed for this purpose.

Figure 5. Weekly unique users of IBAC's website

Weekly unique users of IBAC's website (1 July 2017 – 30 June 2021)



Year	unique website users	growth/ decline	PDF downloads	growth/ decline	Video views (excludes live streams)	growth/ decline	Email subscribers	growth/ decline	Social followers	growth/ decline	Social engagements	growth/ decline
2020-21	283,072	75%	40,824	26%	17,437	74%	3500	1%	7800	30%	5796	57%
2019-20	161,902	58%	32,311	19%	10,000	33%	3480	12%	5981	62%	3692	52%
2018-19	102,505	12%	27,200	-29%	7516	58%	3100	15%	3683	24%	2425	157%
2017-18	91,886	9%	38,162	57%	4746	62%	2700	35%	2971	53%	942	n/a

Recommendation

Ref. No.	Recommendation
3.6.1	IBAC to include a measure of public trust and confidence in its prevention initiatives measured through a half-yearly survey with the results published. This will supplement the existing feedback on its forums and training initiatives.

6 Criteria 4 – Strong and healthy workforce and performance culture

6.1 Criteria 4.1: Promotion of a strong integrity culture

Criteria	Overall finding
The promotion and existence of a strong integrity culture at IBAC.	During the audit period, IBAC has established adequate and appropriate mechanisms to promote a strong integrity culture.

Refer to criteria 2.5 for the detailed analysis performed to assess IBAC’s promotion of a strong integrity culture.

6.2 Criteria 4.2: Staff motivation, wellbeing and resilience

Criteria	Overall finding
The adequacy of measures used by IBAC to assess and maintain staff motivation, wellbeing and resilience, including those relating to occupational health and safety.	IBAC has adequate measures to assess and maintain staff motivation, wellbeing, and resilience through the People Matter Survey (PMS).

The results attained through the annual PMS allows IBAC to adequately assess staff motivation, wellbeing, and resilience. While IBAC has taken several steps, including undertaking internal and external reviews and developing and implementing action plans in an effort to improve its results, it is clear that the wellbeing of staff was an ongoing issue for IBAC in the audit period.

The 2019 PMS results identified OHS issues relating to organisational climate, psychosocial safety conditions impacted by job and role factors. To address these issues, IBAC undertook several reviews to assist in identifying weaknesses in its approach to OHS-related matters and has sought to rectify these.

IBAC engaged an external provider in 2020 to perform a review of OHS practices. This review identified that IBAC needed to transition from a compliance-focused state of OHS towards a proactive, engaging, and embedded future state.

The external provider stated that:

“A standout theme was the need for senior leadership to be more visible and engaged with health and safety, particularly in relation to setting the direction (strategy), driving a proactive culture, consistent messaging, and accountability.”

Another review was conducted in 2020 as part of the internal audit program on IBAC’s safety management system (SMS). The audit raised positive findings relating to IBACs system, including:

- IBAC's Governance & Risk (G&R) unit has established a specialised system to capture OHS incidents and issues.
- IBAC's HR team has a dedicated team leader responsible for strengthening the existing safety management system (SMS), through improving current OHS artefacts, processes, and training programs. The HR team has demonstrated expertise in the field of OHS and SMS and maintain a strong commitment to the achievement of a safety-first culture.
- In the 2020 calendar year, the HR team commissioned an independent consultant to perform a review of OHS strategic priorities, culture, committee, and framework, which provided a variety of opportunities to improve the existing OHS.

The audit also identified 3 high risk findings relating to the SMS, including that IBAC needed to:

1. Strengthen the fragmented safety management governance model.
2. Enhance the enablement and embedding of the safety management system.
3. Uplift safety management system monitoring, oversight, and reporting.

Based on the findings, the following recommendations were made:

- Revise the current safety management governance model to ensure clear and practical distribution of accountabilities and responsibilities between HR, the OHS Committee and the G&R Unit.
- Establish and communicate consistent processes to triage OHS incidents, near misses and hazards.
- Include SMS as a standing agenda item for discussion at the Executive Committee and a representative from the OHS Committee to provide input on SMS matters.
- Revise the OHS Committee Terms of Reference to establish a clear mandate and associated forward plan to discharge that mandate. The revised OHS Committee's membership should also be refined, and a consistent Executive-level chairperson should be installed.
- Develop a strategy to deploy, operationalise and communicate the OHS Strategy and Policy.
- Establish and deliver an SMS-specific training module to all IBAC staff across the organisation on the key SMS objectives, accountabilities, processes, and documents. This should be supplemented by an annual refresher training program to ensure staff understand key SMS definitions, stakeholders, and processes for identification and escalation.
- Establish assurance mechanisms to monitor and oversee the operating effectiveness and understanding of the SMS. These mechanisms should be supported by OHS reporting that is presented to the OHS Committee and then an Executive Summary presented to the Executive Committee. Reporting should clearly link to the Lead and Lag KPIs identified in the OHS Strategy and include key OHS themes.
- As part of the revision to the SMS governance model, assign HR responsibility for overseeing the operationalising of the OHS Strategy and Policy, and the Governance & Risk Unit responsibility for performing legislative compliance monitoring of the SMS.

The implementation of each of these recommendations is monitored regularly through the Audit and Risk Management Committee (ARMC). Minutes from the ARMC demonstrated this monitoring process was being performed through the review of quarterly risk and assurance reports. All internal audit actions and due dates are inputted into IBAC’s risk management system – Protecht and the action owners are notified when their actions are due to be finalised. IBAC has also developed an internal audit action tracker to monitor the progress of implementation, listing all internal audit recommendations, agreed management actions, due dates and the progress towards implementing each recommendation. The internal audit action tracker indicated that all recommendations raised from this internal audit have been addressed and formally closed by IBAC.

Through IBAC’s efforts in 2020, PMS results improved between 2019 and 2020, detailed in Table 21.

To continue to improve IBAC’s management of staff safety and wellbeing, IBAC developed action plans in response to the issues identified in the 2020 PMS. These plans identified focus areas and targeted actions for each of IBAC’s divisions and progress of implementation was monitored on a quarterly basis through the IBAC Executive. In response, staff wellbeing, motivation and resilience are incrementally improving. These improvements can be seen in the PMS results from 2019 to 2022 in Table 21 below.

Table 21. PMS results from 2019 to 2021

PMS question	2019 result	2020 results	2021 results	2022 results	Comparator result 2022
Senior leaders show support for stress prevention	28%	55%	40%	49%	62%
Senior leaders consider the psychological health of employees to be important as productivity	28%	52%	46%	51%	68%
All levels of IBAC are involved in the prevention of stress	23%	39%	39%	44%	56%
Experienced bullying at work during the last 12 months	14%	18%	12%	14%	
Experienced sexual harassment at work during the last 12 months	13%	6%	4%	**	
My organisation motivates me to help achieve its objectives	59%	47%	59%	66%	75%

Note: Mandatory participation in the PMS was not required until 2021. IBAC chose not to participate in 2017 and 2018 and the reason for this is unknown due to gaps in staff member knowledge, as outlined in section 1.5

*** Given the small numbers, the results on this measure were not provided.*

Results declined between 2020 and 2021 for 2 of the 5 survey questions, indicating that more work was required by senior leaders to support staff wellbeing. These 2020 action plans are starting to show improvements, as evidenced in Table 22 identifying results for 2022.

Table 22. PMS results from 2022

PMS question	2020 results	2021 results	2022 results
Senior leaders show support for stress prevention	55%	40%	49%
Senior leaders consider the psychological health of employees to be important as productivity	52%	46%	51%

Reviews that have been conducted to date and the development of actions plans that are monitored through quarterly progress reports to IBAC’s Executive (as identified above), and incremental improvements in PMS results demonstrates that IBAC is taking the necessary steps to improve OHS practices over the audit period. The impact of the improvements (including Assessment & Review (A&R) specific staff wellbeing risks identified below) are anticipated to be reflected in future PMS reporting periods. Responses to specific questions relating to IBAC’s organisational safety climate, indicate that IBAC’s safety climate is already improving. The results from the 2022 PMS show that 66% of staff responded positively to questions on safety climate. This was an increase off 11% over the 2021 result.

A&R specific staff wellbeing risks

The A&R team identified specific risks around staff wellbeing due to their interaction with both members of the public and people making complaints. As a result, the A&R team has introduced specific mechanisms to mitigate risks to staff, including guidelines, policies, and training. An example of this is a new requirement in the policies and procedures around unreasonable behaviour of the complainant: if the complainant displays ‘unreasonable behaviour’ and ignores warnings to moderate this behaviour, calls and/or emails from the complainant will be blocked or will be diverted to the A&R Director to manage. This protects the case officer from experiencing any further interaction with the complainant.

The A&R team undertook the following training sessions to support staff wellbeing when dealing with these specific A&R risks.

- Managing unreasonable behaviour, delivered in February 2022.
- Understanding vicarious trauma and why it matters, delivered in May 2022
- Peer support sessions (also referred to as facilitated discussions) delivered by IBAC’s EAP service in March 2019 and June 2022.

Callida notes that based on information provided limited training was provided to A&R staff prior to 2022 in dealing with these types of risks.

This work appears to have had effect with the Engagement score for A&R staff in the PMS survey increasing from 56% in 2020, 64% in 2021, to 74% in 2022. The proportion of employees who report experiencing high to severe work-related stress has also declined from 57% in 2020, 31% in 2021 to 17% in 2022.

IOC Inquiries into performance of Victorian integrity agencies



The IOC performed an inquiry into the performance of Victorian Integrity agencies in 2017-18/2018-19 and 2019-20. In 2017-18/2018-19, the IOC noted the following around Occupational, Health & Safety (OH&S) and workplace environment and culture:

“In 2017-18 the retention rate at IBAC was 84%, falling to 75% in 2018-19 within the context of employment growth rates at the agency of 6% and 12% within those respective years. Turnover is highest within the first 18 months of employment, with departure reasons including ‘limited career paths, restricted professional growth opportunities and work not meeting expectations’. In response, IBAC has reviewed its approach to recruitment, and is committed to a practice of transparent and realistic discussions between hiring managers and potential employees about role requirements, respective expectations about the role and the candidate’s suitability and capability to perform it effectively.

Initiatives undertaken by IBAC in 2018-19 in pursuit of these ends include the delivery of an OH&S program focused on physical and mental health and work/life balance; updating its Flexible Work Arrangements Policy; and learning from the results of the Victorian Public Sector Commission’s (VPSC) 2019 People Matter Survey.”

In the 2019-20 report (completed on 17 November 2021), the IOC noted the following with respect to IBAC’s workplace culture:

“Concerns over the health of IBAC’s workplace culture came to the attention of the Committee through public accounts of alleged bullying, sexual harassment, and related misconduct at the agency. In a public hearing on 15 March 2021 as part of its review of integrity agency performance, the Committee gave IBAC an opportunity to respond to these concerns and followed up with questions on notice.”

Based on IBAC’s responses, the IOC made one recommendation which required IBAC to review its OH&S strategies, policies and practices and report to the IOC on the methodologies, processes, and outcomes of that review. IBAC responded to the IOC’s recommendation in February 2022 and while IBAC accepted the IOC’s recommendation, IBAC noted that given the notable improvements in its PMS results in 2020 and 2021, it would conduct a review of its OH&S Strategy in early 2023. IBAC also noted that it is committed to seeing through the full cycle of its current 2021-2023 Health, Safety and Wellbeing Strategy.

Post-audit actions

Since the completion of fieldwork, IBAC has received the 2022 PMS results and noted the following:

- A 2 point improvement in its engagement index with a 64 point score result out of 100. It is a weighting of all responses to engagement questions. VPSC states that higher engagement may lead to greater satisfaction and lower absences, turnover and workplace stress.
- Safety and wellbeing scores have improved, with an increase in positive work-related emotions (7% increase in happiness from 39% in 2021 to 46% in 2022, a 4% increase in enthusiasm from 40% in 2021 to 44% in 2022) and a 3% increase in safety climate from 52% in 2021 to 55% in 2022.
- IBAC’s safety climate has improved in 2022 with 66% of staff who completed the survey responding positively to questions on safety climate, compared to 55% in 2021.



- Organisational resilience has improved slightly, with a reduction of 1% from 22% in 2021 to 21% in 2022 of staff experiencing high to severe workplace stress and an increase of 5% (from 39% in 2021 to 44% in 2022) of people agreeing that all levels of the organisation are involved in stress prevention.

However, Callida noted that 2022 PMS results did identify and a 2% increase from 12% in 2021 to 14% in 2022 of staff that experienced bullying in the last 12 months and of that 14%, 67% said that the top type of bullying was exclusion or isolation. The comparator score for this survey question for 2022 was 7%. This indicates that further work needs to be performed in this space to identify and resolve issues concerning workplace bullying.

VPSC did not publish results on sexual harassment in 2022 because less than 10 people said they experienced sexual harassment (i.e. less than 5% of respondents) and VPSC do this to protect the respondents.

Callida notes that all 2022 PMS results identified above are below the relevant comparator results, indicating that these results are still considered below average.

6.3 Criteria 4.3: Staff communication channels & Criteria 4.4: Staff grievances

Criteria	Overall finding
4.3 The adequacy of channels of communication between staff and management to discuss and report staff concerns. 4.4 The adequacy of policies, systems and procedures for handling complaints and public interest disclosures by staff as well as other staff grievances.	IBAC has adequate channels, policies, systems, and procedures for handling staff complaints/grievances. The operating effectiveness of these controls was not performed as part of this audit. Based on PMS results, further work needs to be done to support employees' willingness to report grievances and the shortfall in PID guidance.

As defined by IBAC's *Managing misconduct* policy, misconduct and serious misconduct includes the following:

- A contravention of the Act (or regulations to the Act), the Code, or a provision of any statute or regulation that applies to the Staff member in their employment.
- Improper conduct in an official capacity.
- Failure to follow a lawful direction of employment without reasonable excuse.
- Making improper use of the Employee's position for personal gain.
- Making improper use of information acquired by virtue of position for personal, financial, or other benefits for the Employee or another person, or to cause detriment to the public sector.
- Misconduct of a serious nature.

- Wilful or deliberate behaviour of an Employee that is inconsistent with the continuation of their employment contract.
- Conduct that causes immediate and serious risk to the health or safety of any person, or the reputation or viability of IBAC.

PMS results from 2019, 2021 and 2022 indicate that, while there has been improvement, IBAC continues to score below its comparator group in relation to issues around tolerance and reporting improper conduct and grievances, as detailed in Table 23.

Table 23. PMS result from 2019 to 2022

Survey question	2019 result	2020 result	2021 result	Comparator result ¹² (2021)	2022 result	Comparator result (2022)
My organisation does not tolerate improper conduct	72%	QNA	62%	71%	71%	77%
Safe to challenge inappropriate behaviour at work	QNA	QNA	61%	68%	67%	77%
Protection from reprisal for reporting improper conduct	49%	QNA	59%	69%	QNA	QNA
Confidence in thorough investigation of grievances	55%	QNA	46%	63%	QNA	QNA

**QNA stands for 'question not asked'*

The above PMS results indicate the following:

- Staff who felt the organisation does not tolerate improper contact between the 2019 and 2021 PMS results decreased by 10%. In other words, the number of IBAC staff who consider that IBAC tolerates improper conduct has, in fact, increased during the audit period. However, from 2021 to 2022, results have improved by 9% from 62% in 2021 to 71% in 2022, indicating that there has been an increase in the number of staff that feel IBAC does not tolerate improper conduct. Even though IBAC is continuing to improve in this area, its results were still below the 2022 comparator, indicating IBAC's performance was below average and needs to continue to focus on this area going forward.
- 61% of staff in 2021 felt comfortable challenging inappropriate behaviour at work. This result was below the 2021 comparator, indicating IBAC's performance was below average. However, there was a 6% improvement in PMS results from 61% in 2021 to 67% in 2022 in

¹² *Comparator result indicates the results achieved by similar agencies to IBAC. VPSC collates a group of similar organisations to IBAC known as the comparator group to generate a comparator result for IBAC to understand if their performance is above or below average compared to similar organisations.*



staff feeling safe to challenge inappropriate behaviour at work. Even though IBAC is continuing to improve in this area, its results were still below the 2022 comparator, indicating IBAC's performance is still below average and needs to continue to focus on this area going forward.

- The percentage of staff that feel protected from reprisal for reporting improper conduct has increased by 10% between the 2019 and 2021 PMS which demonstrates a gradual shift in IBAC's culture and supports the development of a safer workplace environment. However, IBAC's result is still below the 2021 comparator result, indicating its performance is below average.
- In 2021, only 46% of staff believed a rigorous investigation will be performed if they decide to report the grievance or improper conduct to IBAC. This percentage has reduced by 9 points between 2019 and 2021, showing a deterioration of staff confidence levels.
- All 2021 and 2022 survey results identified in the above table are below the comparator results, indicating that IBAC's performance is below average in this 'Speak Up' section of the PMS survey when compared to their organisation counterparts.

Based on walkthroughs with HR, these results were further validated with key stakeholders noting that one formal complaint and one informal complaint had been reported between 2017 and 2021. None of these complaints related to discrimination, sexual harassment, or occupational violence and both complaints were independently investigated, and none were substantiated. Due to the sensitive nature of the 2 complaints Callida was unable to perform further analysis on the effective implementation of IBAC's grievance process.

IBAC has responded to the PMS results in this area by providing the following to staff:

- An incident reporting roadshow was delivered in August and September 2021 by an external provider to all division of IBAC.
- 6 active trained contact officers with which to raise grievances. IBAC noted that as this is a confidential activity which is dependent on volunteers undertaking the role, contact officers are not assigned to a specific division.
- The commencement of Bystander/Speak Up training. Based on stakeholder discussions, this training was delivered by the Institute of Communication, Management and Leadership (CML) and was offered to employees in March, April and May 2022, as part of IBAC's OHS/speak up awareness training.
- Appropriate workplace behaviour (bullying) training which was made available via iPeople and as of 31 March 2021 had a 100% participation rate. Based on stakeholder discussions, this training is offered every 12-15 months in accordance with the requirements under the OHS Act. IBAC noted that it offered the training in April – June 2019, July 2021 and is planning to offer it in October 2022 to all employees.

However, there is no evidence to suggest that IBAC has undertaken initiatives to understand why employees are not willing to formally report incidents. This issue was also identified in the IOC's 2019-20 report titled 'Inquiry into the performance of Victorian integrity agencies' stating that if an organisation does not have a culture in which people do not feel safe/confident to report wrongdoing,

low formal complaint numbers are symptomatic rather than demonstrating there is not much of a problem.

The VPSC issued guidelines to help organisation review their employees' genuine workplace concerns. IBAC developed the *Resolution of grievance* policy in line with these VPSC guidelines. IBAC has also developed the following policies and procedures to support the staff grievances and complaints process.

Current policy/procedure/guideline	Date authorised
Managing misconduct policy	December 2021 (noting this version superseded the previous version of the policy that was authorised in September 2019)
Occupational Health and Safety (OH&S) policy	June 2021 (noting this version superseded the previous version of the policy that was authorised in February 2017)
OH&S guidelines	June 2020
Appropriate workplace behaviour policy	September 2019 (noting this policy superseded the Respect in the Workplace policy authorised in 2014)

IBAC has implemented an online, easily accessible reporting tool in iPeople to enable all staff to report any incidents as they arise.

A review of the above documentation identified that there is an absence of guidance material to support IBAC staff in directing a public interest disclosure to the Victorian Inspectorate.

Post-audit actions

IBAC has noted the following:

- Guidance for staff about how to make a public interest disclosure has been drafted and is in the process of being reviewed and authorised by the relevant delegate.
- An anonymous hotline will be implemented in 2022-23 which will allow employees to report issues to management.

Recommendations

Ref. No.	Recommendation
4.3.1	IBAC should finalise and authorise the draft guidance to support staff in making a public interest disclosure to the Victorian Inspectorate.
4.3.2	IBAC needs to understand why employees are not willing to formally report incidents. IBAC should continue to use the PMS survey and monitoring of incident reporting as a measure of effectiveness.

Ref. No.	Recommendation
	Callida notes that the IOC's inquiry into the education and prevention functions of Victoria's integrity agencies has material on improving psychological safety and a 'speak up' culture that IBAC can leverage.

Work already progressed by IBAC since June 2021

Ref. No.	Work already progressed by IBAC since June 2021
4.3.1	Evidence provided demonstrates that IBAC is in the process of finalising and authorising the draft guidance to support staff in making a public interest disclosure to the Victorian Inspectorate.
4.3.2	Evidence provided demonstrates that work has already commenced by IBAC to understand why employees are not willing to formally report incidents (including implementation of the "speak up" integrity hotline).

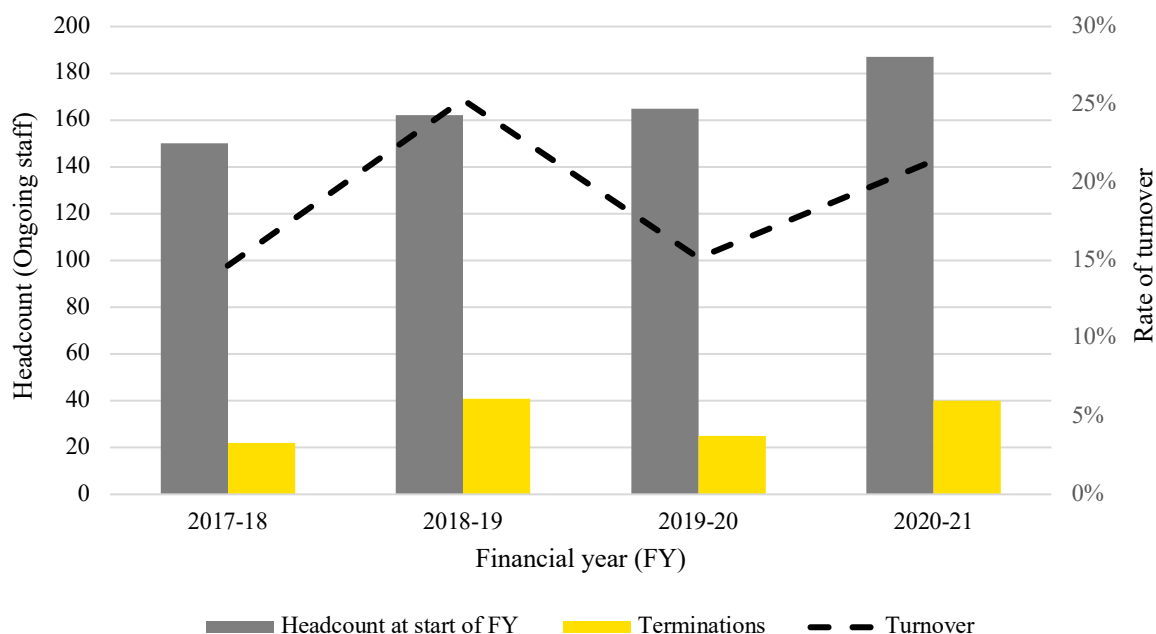
6.4 Criteria 4.5: Recruitment and retention

Criteria	Overall finding
The adequacy of processes and costs associated with the recruitment and retention of staff, including whether IBAC: <ol style="list-style-type: none"> implements succession planning has appropriate strategies in place to manage staff turnover. 	IBAC needs to continue the work it has commenced to address retention and recruitment issues and improve strategies/processes going forward.

Staff retention

Over the audit period, IBAC has faced difficulty in recruiting and retaining adequate numbers of skilled staff. This was exacerbated by the fact that IBAC needed to recruit a significant number of fixed term employees due to short term funding received in 2021. Discussions with the Executive, Director People Culture & Capability and other staff have confirmed that IBAC's performance has been impacted by the shortage of staff and the need to redirect resources to undertake recruitment activities.

IBAC has only reported on staff turnover intermittently throughout the audit period, as identified in a review of Executive Committee meeting minutes and other documentation received. Staff turnover has been calculated for each of the 4 years and is outlined in Figure 6.

Figure 6. Staff turnover analysis


Source: Human Resource Information System (HRIS) data from 1 July 2017 to 30 June 2021.

*Figure 6 note: Termination includes all types of employment separations, including resignation and promotion to another agency. Callida calculated it as staff turnover = number of staff cessations / staff headcount at the start of the year.

The steady increase of IBAC’s workforce since 1 July 2017 has been accompanied by a high rate of turnover, with 2018-19 and 2020-21 reporting 25% and 21% respectively. IBAC staff have highlighted challenges which IBAC faces in attracting and recruiting adequately skilled and experienced staff. These relate to specific skillsets (particularly in IBAC’s Operations Division) and security clearance requirements. Given the difficulty in attracting and recruiting staff, it is important that IBAC can retain its staff. However, IBAC has not been successful in doing so across the 4-year audit period. Based on the 2021 PMS results, the 58 staff who indicated they were leaving IBAC (including leaving the sector), identified it was for the following reasons. See Table 24.

Table 24. 2021 PMS results on staff who indicated they were leaving IBAC

Survey question	2021 result
Limited future career opportunities at my organisation	62%
Limited opportunities to gain further experience at my organisation	59%
Opportunity to seek/take a promotion elsewhere	45%
Opportunity to broaden experience	43%
Lack of confidence in senior leadership	40%

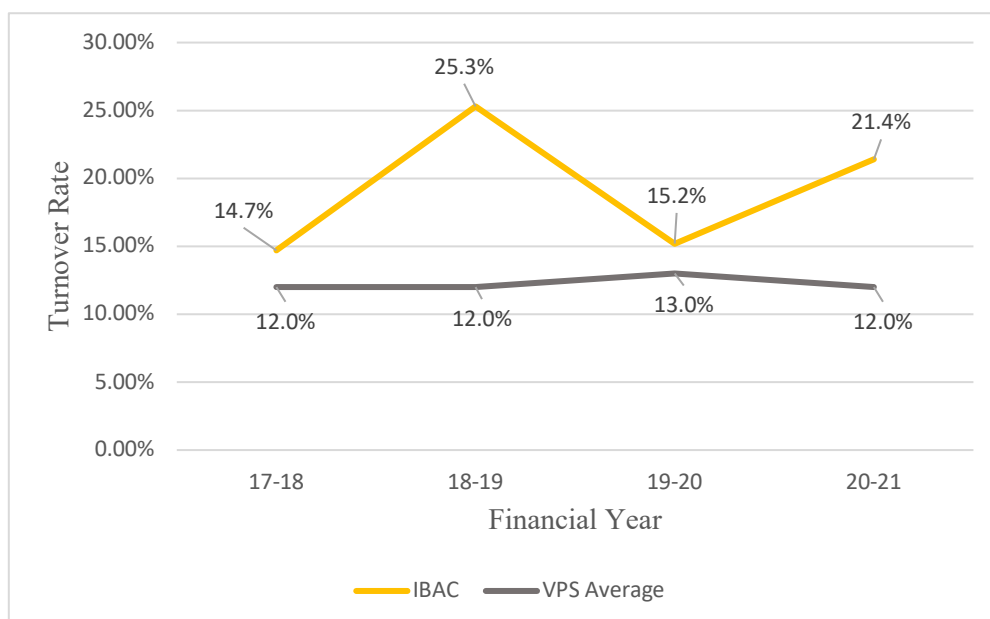
Survey question	2021 result
Limited developmental/educational opportunities at my organisation	38%
Better remuneration	36%
Lack of organisational stability	26%
Limited recognition for doing a good job	26%
Limited involvement in decisions affecting my job and career	21%

With IBAC unable to retain staff, the current tenure for all staff averaged 1.8 years based on HRIS data from 1 July 2017 to 30 June 2021, identifying the following tenure averages for each of IBAC's divisions in Table 25.

Table 25. Current tenure average by division

Division	Current tenure average (years)
Corporate Services	1.6
Legal & Compliance	1.7
Operations	2.4
Prevention & Communications	1.4
Executive	1.8

IBAC's rate of staff turnover over the audit period is significantly greater than that of the Victorian Public Sector (VPS). Figure 7 demonstrates that over the 4-year audit period IBAC's turnover rate has remained at least 2.0% above the VPS average, with 2018-19 and 2020-21 being 13.3% and 9.4% higher respectively. However, Callida notes that IBAC's staff turnover was not dissimilar to VAGO early in the audit period, with 2017-18 and 2018-19 reporting a turnover of 22% and 23% respectively as stated in its publicly available 'Performance Audit of the Victorian Auditor-General and The Victorian Auditor-General's Office' report from July 2020.

Figure 7. Employee turnover rate


Source: HRIS data from 1 July 2017 to 30 June 2021 analysed by Callida and VPS data from 2017-18 to 2020-21.

During the audit period, IBAC received additional funding for a range of new fixed term or one-year positions, but filling these positions was challenging given the impacts of COVID-19, the tight market for these skillsets and the short-term nature of the funding. The Base Review noted that as of November 2021, there were 41 vacant positions in IBAC. As such, recruitment has remained a key focus for IBAC's Human Resources team and a priority for the organisation in 2021-22. However, Callida notes that IBAC's funding was insufficient to recruit 41 people. At 30 June 2021, IBAC was underspent by only \$2.6m. This would equate to approximately 12 staff. Discussions with IBAC's Executive, Director People Culture & Capability and other staff have confirmed that carrying vacancies in teams and undertaking recruitment activities has impacted IBAC's performance, particularly with regard to the efficiency and effectiveness of operational activities (as identified in Criteria 1.1).

Callida requested documentation/data outlining any People Metrics which are reported monthly and/or annually to Senior Leaders/Executive Leadership Team. These were identified as action items in the Strategic Workforce Plan Phase III report. IBAC indicated no metrics are currently captured but will be incorporated into the 2022-25 People Strategy. Callida could not perform the following analysis as a result:

- staff turnover at divisional level and team level
- staff vacancies over time to identify the extent to which funded positions were not actually filled during the period
- retention trends
- average length of service of employees who are leaving



- determine if IBAC had a problem with senior staff leaving the agency

Recruitment costs

While IBAC has successfully recruited nearly 200 new starters during the audit period, this has come at a substantial cost in direct terms (nearly \$1.2m spent on recruitment) and has likely involved significant effort from staff across the organisation. This underlines the importance of retaining staff - which eliminates the need for, and costs of, recruitment activities and also includes the benefit of more experienced staff.

Figure 8. Recruitment expenses



Figure 9. Number of new starters

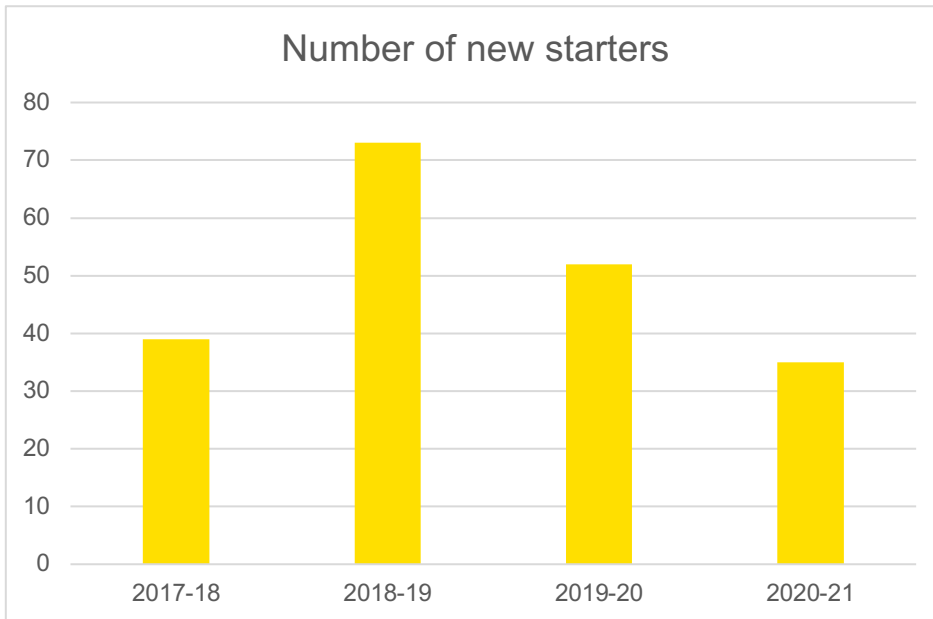
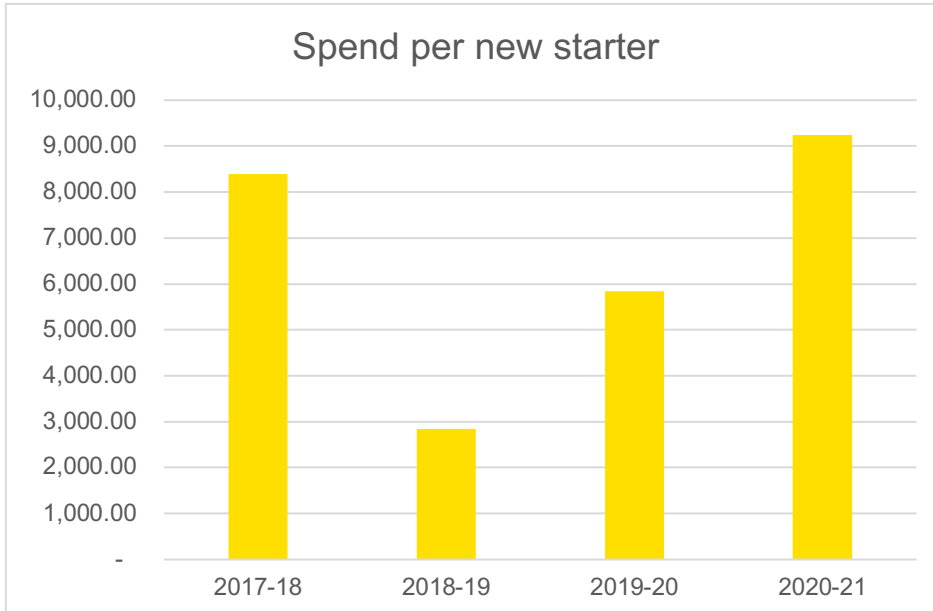


Figure 10. Recruitment costs per new starter



The following observations from the analysis of recruitment expenditure and the successful recruitment of approximately 200 new starters over the audit period are noted:



2017-18

- High spend on recruitment, whilst small number of new starters in 2017-18- seems likely that some of the new starters from 2018-19 were actually recruited in 2017-18
- Suggests IBAC got sound return on investment - given over 70 new starters in 2018-19

2018-19

- Low spend on recruitment - seems reasonable given high spend in the previous year
- High number of new starters, as above, suggests spending on recruitment in 2017-18 and 2018-19 was effective in attracting/recruiting staff

2019-20

- High spend on recruitment, lower number of new starters
- Possible that this is partially due to lower spend in the previous year - given likely time lag between recruitment and actual start date for new starters
- Also noted \$48k of spend was marked as recruitment costs for Deputy Commissioner and CEO role
- Spend appears reasonably effective

2020-21

- High spend on recruitment, but lower number of new starters
- Likely that COVID would have impacted ability to attract/hire new staff
- Also noted significant spend on Deputy Commissioner recruitment - nearly half of the spend was to fill these two roles

Post audit period

- Also noted 93 new starters in 2021-22 from 1 July 2021 to 16 June 2022
- Suggests the high recruitment spend was ultimately effective - likely a reasonable time lag before recruited staff commence positions

Other points to note:

- Aside from direct external recruitment costs, it is likely that recruitment involves significant internal costs (in the form of staff time managing/undertaking recruitment activities)
- HR has significant involvement in liaising with recruiting areas/managers, managing advertising/recruiters, approval processes, reviewing CVs/applications
- For probity and conflict of interest reasons, a minimum of three staff must be involved on interview panels, recruitments may involve more than one interview (meaning potentially more than 3 staff are involved)
- Selection reports need to be prepared, reviewed and approved.
- Non-HR staff must also participate in reviewing applications, CVs and liaising with HR throughout the process
- Senior management are involved in approval of recruitment decisions

- There are also overheads involved in getting new starters inducted, including briefings, probity checks, induction training
- There is likely a period before staff are operating at full productivity after starting a new role - the length of the period would differ depending on the role/experience of the recruit

Workforce planning

While gaps in IBAC’s workforce planning have been identified, changes in leadership in 2020 and the onset of COVID-19 caused management to defer the implementation of workforce planning strategies to focus on developing and embedding an effective strategic plan that is to guide the direction and priorities of IBAC while continuing to manage a large workload of operational activities. IBAC has advised that it is currently developing a new People Strategy from 2022 onwards that is looking to review current workforce planning arrangements and address the gaps identified by mwah.

Callida agrees that this was an acceptable management response.

In 2017-18, IBAC’s internal auditors conducted a review of Human Resources Planning and Capability. Consistent with the observations from Callida’s analysis of staff turnover, the internal audit reported that IBAC’s turnover rate for 2016-17 was 19%, while more than 50% of staff turnover in the 5 preceding years was staff who had been with IBAC for less than a year. Information regarding the average length of service of the remaining 50% of staff turnover was not provided in the internal audit report and IBAC does not have the data available for Callida to be able to calculate this figure.

The audit concluded that without strategic workforce planning, IBAC would not be in a position to attract and retain the talent needed to meet its strategic and operational objectives. Specifically, the report raised the following high-risk findings:

- IBAC required a strategic focus to drive its workforce agenda and assist in delivering the Corporate Plan 2018-21.
- Detailed workforce analysis should be performed to understand IBAC’s strategic workforce needs and the risks to acquiring talent.
- Workforce initiatives to address gaps in strategic workforce requirements should be developed, implemented and operationalised.

In response to the internal audit findings, IBAC engaged an external consultancy firm, mwah, in January 2019 to undertake a strategic workforce planning exercise. The engagement was conducted and reported on across 3 distinct phases, with a final report delivered in June 2019. The report outlined findings and strategies across an Employee Value Proposition (EVP), talent acquisition, performance management and development planning. The implementation of these strategies has not yet been progressed due to reasons identified above. Table 26 provides the detailed findings and proposed next steps identified in the mwah report for implementing effective strategic workforce planning.

Table 26. Findings and proposed next steps from mwah

Area	Current state (as at June 2019)	Next steps
EVP	IBAC’s EVP for current employees is based on purpose. It is not well	The EVP needs to come from internal employees. An EVP and the objectives could

Area	Current state (as at June 2019)	Next steps
	<p>articulated as a component of recruitment and under-utilised as a recruiting tool.</p>	<p>be achieved in a short workshop, run by People & Culture (PC&C). A copywriter, or talented communicator could take the workshop outcomes and deliver them as a workable EVP. In the longer term, as IBAC develops, the EVP will best be brought to life via very low touch marketing (to avoid the cynicism that goes with posters, mouse mats, etc.) real stories and networking with the right audience.</p> <p>The EVP was subsequently prepared in consultation with IBAC staff and completed in 2020.</p>
<p>Talent acquisition</p>	<p>Talent acquisition is highly reactive to vacancies, and the approach based on filing individual roles. Internal and external labour market is not linked (i.e., internal candidates rarely apply, as most moves internally are made as the result of individual negotiation, rather than through a recruitment process). Metrics are not used by Hiring Managers. At best, recruitment is hard work. At worst, it is not working for IBAC, especially in some areas.</p>	<p>Undertake the following:</p> <ul style="list-style-type: none"> • Role design • Review prior recruitment strategies • Know the target market • Review best practices in the VPS’s approach to target recruitment • Review Hiring Managers’ Networking and potential to use referrals or ‘creating external benches’ as strategies • Process map Talent Acquisition and set firm timelines and expectations for candidate experience • Review the quality and consistency of quality of the IBAC interview process • Design the IBAC Talent Acquisition process from a candidate perspective • Firm the Talent Acquisition Scorecard • Take the EVP, the IBAC Job Ad template, Role Design process, the designed Talent Acquisition process, and the Talent Acquisition Scorecard, and build them into a short Hiring Manager Talent Acquisition Workshop.



Area	Current state (as at June 2019)	Next steps
Performance Management	IBAC has a formal Performance Management process, however, it doesn't work well. It is seen as a 'tick the box' exercise, with little value added. It is not particularly effective in providing feedback, coaching or development –it is mainly applied for progression of role levels and remuneration. Furthermore, the appetite for feedback is limited to individual receptivity. In some individuals and team, receptivity to feedback is high and in others it is limited. There are no common expectations around leadership.	Design and implement a simple performance management process.
Development Planning	Similar to performance management, IBAC has a system and fairly traditional development process. That said, individual development is self-driven and team development is largely event-based. There are exceptions, such as Operations participation in external network training with interstate and federal agencies. There is limited structure around continued growth in capability, particularly leadership capability.	Undertake the following: <ul style="list-style-type: none"> • Simple Development Planning Process, that can be used by individuals or teams • Simple Capability Framework to be used by each department or team • Coaching capability into Leadership

Given IBAC's ongoing challenges around staff recruitment and retention, deferring the implementation of mwah's recommendations is particularly pertinent as these issues have a flow on impact to all aspects of IBAC's operations. This means that audit recommendations dating back to November 2017 have not been implemented.

IBAC is currently developing a new People Strategy from 2022 onwards that is looking to review current workforce planning arrangements and implement mwah's recommendations.

Despite deferring the implementation of mwah's recommendations, IBAC did continue to develop its approach to recruitment, implementing various business improvement activities from 2019/20, including:

- All position descriptions/roles are reviewed before approval to recruit
- PC&C team member is on all interview panels to coach and support



- A talent pool is maintained
- Psychometric testing maybe completed, depending on the nature and requirements of the position
- New interview guide prepared that includes behaviour based questions
- Job advertisement redesign
- Sourced additional job advertisement sites that incorporate disability and aboriginal audiences and have better utilised LinkedIn
- New recruitment tools introduced with video interviews being the first step
- Implementation of the X-ref reference system
- Trial of group assessment centre recruitment process

Post-audit actions

Since the completion of fieldwork, IBAC have noted the following in response to issues raised above:

- IBAC is seeking to incorporate key insights from the mwah consultancy into its people planning for 2022-2025.
- While IBAC does not have a specific succession planning model, PMS results demonstrate the following improvements in recruitment and promotion processes between 2021 and 2022, which will support the retention of staff:
 - ‘I believe the recruitment processes in my organisation are fair’ – improved by 15% to 55% in 2022.
 - ‘I believe the promotion processes in my organisation are fair’ – improved by 3% to 43% in 2022.
 - ‘I have an equal chance at promotion in my organisation’ – improved by 14% to 48% in 2022.

Callida notes that all 2022 PMS results identified above are below the relevant comparator results, indicating that these results are still considered below average.

Recommendations

Ref. No.	Recommendation
4.5.1	Implement the recommendations from the mwah report to address gaps in workforce planning.
4.5.2	Review 2022 PMS survey results concerning workforce planning to identify key issues that have not been raised through the mwah report and devise an implementation plan to address these issues and strengthen IBAC’s workforce planning.

Ref. No.	Recommendation
4.5.3	Ensure the People Strategy 2022 is implemented and IBAC is collecting relevant information to assess the strategy's effectiveness.

Work already progressed by IBAC since June 2021

Ref. No.	Work already progressed by IBAC since June 2021
4.5.1	Evidence provided demonstrates that IBAC is in the process of implementing the recommendations from the mwah report to address gaps in workforce planning through the development and implementation of the People Strategy 2022.
4.5.2	Evidence provided demonstrates that IBAC is in the process of implementing its People Strategy 2022.

6.5 Criteria 4.6: Professional development

Criteria	Overall finding
The adequacy and appropriateness of programs aimed at meeting staff professional development needs.	Although IBAC has made positive improvements to professional development between 2017 and 2021, PMS results indicate that IBAC needs to continue the work it has already commenced to meet staff needs.

Over the audit period, IBAC has been continually improving its approach to professional development to enable staff to fulfil their capability needs both technically and for career progression. However, based on PMS results, staff believed that further improvement was required to better align learning and development with staff needs. The PMS results below indicated that career development and opportunities deteriorated for staff at IBAC between 2019 and 2021 but, whilst still below their comparator agencies, have improved in 2022.

Survey question	2019 result	2020 result	2021 result	Comparator result (2021)	2022 result	Comparator result (2022)
Satisfaction with career development within current organisation	51%	38%	43%	53%	54%	60%
High priority on learning and development	47%	QNA	34%	61%	55%	62%

Survey question	2019 result	2020 result	2021 result	Comparator result (2021)	2022 result	Comparator result (2022)
Adequate opportunities to develop skills and experience	57%	QNA	35%	58%	QNA	QNA

In response to the 2021 PMS results, IBAC’s Corporate Services division developed the following actions to be completed by 30 June 2022:

- Require all Development Plans in PDPs to include learning on the job (stretch) opportunities and capability skill gap training opportunities. As noted by IBAC, the PDP cycle for 2021-2022 has just closed with end of year performance reviews having just taken place. IBAC has not yet undertaken a reconciliation of what was in the plans and what was completed.
- Commence a mentoring program across the agency. IBAC noted that its P&C team held a Lunch & Learn session for staff interested in participating in a Mentoring program on 20 July 2022, which was attended by 9 employees. IBAC acknowledged there does not appear to be an appetite for such a program at this time, but P&C continue to promote a program at divisional meetings.
- Ensure that staff members spend 70% of \$1,500 training budget in 2021-22. Based on 2021-22 year-to-date actuals against budget, IBAC’s total training spend (including technical skills) was 65% against budget. IBAC attributes its 2021-22 training spend to COVID, work from home recommendations and low-cost virtual training opportunities.

As IBAC is an integrity agency responsible for overseeing improvement in VPS learning and development, training, and governance with regards to integrity, the 2021 PMS results identified above are not considered a positive outcome. However, due to the actions implemented by IBAC in response to these results, the 2022 PMS results around learning and development have improved (see details of the 2022 results in ‘Post-audit actions’ below). The IOC’s inquiry into the education and prevention functions of Victoria’s integrity agencies detailed best practice principles around training that IBAC should consider in the People Strategy (currently in development) to further improve the results in the learning and development area.

Professional Development Plan process

IBAC undertook a review of the PDP process in December 2017. The review involved all business units and identified the following changes to the process in place at the time:

- Better align to the business planning process
- Move to a paperless system with automatic signature
- Remove the need to document evidence when achieving expectations
- Improve how progression is awarded as currently it is too easy
- Lack of calibration at the manager level

The Executive Committee paper detailing the results of the review noted that these agreed changes would be implemented when IBAC transitioned to an online PDP system. The online PDP system



went live in June 2019 and these changes have been implemented. IBAC monitors compliance of the PDP process, reporting to IBAC Executive when required. This monitoring process enables IBAC to identify employees that have not completed mandatory PDP processes and therefore are not eligible to progress to the next salary bracket.

Prior to the implementation of the online PDP system, the PDP process was manual, requiring all staff to physically fill out the relevant forms and receive sign off. As a result, all hard copies were stored onsite at IBAC and later moved to a storage facility to provide more space for staff in the IBAC office. These manual forms did not form part of audit testing.

IBAC's online PDP system requires the following milestones to be completed by an employee each financial year:

- Creation and approval of a development plan.
- Mid-cycle check-in and manager sign-off.
- End of cycle assessment and manager sign-off.

Callida performed sample testing of the current PDP process (2019–2021) by selecting a sample of 10 employees that commenced with IBAC over the audit period, making sure to select at least one employee from each of the 4 financial years to ensure a representative sample. Of these 10:

- 7 had successfully completed all PDP milestones for 2019-20, 2020-21 and 2021-22.
- One had not received manager sign-off for the development plan in 2021-22.
- One had not completed their development plan, mid-cycle check-in and end of cycle assessment for 2021-22. Note this was the first time the employee had undergone the PDP process, having started in February 2021.
- One had left IBAC before the system was implemented in June 2019.

IBAC aims for 100% completion rate of PDP milestones by notifying all employees with outstanding PDP tasks that they must be completed by the required due date. Since June 2021, incomplete PDP processes impact the ability of employees to progress salary brackets.

Based on testing performed, this PDP process through the online system in iPeople is partially effective due to a 70% completion rate of all PDP milestones.

Learning & development (L&D)

L&D policy

Based on the 3 iterations of IBAC's L&D policy in 2016, 2018 and 2019, IBAC's overall approach to learning and development has remained consistent. The approach highlighted on-the-job training, learning through others (e.g., coaching, conferences, seminars) and formal education and training as the 3 key components of their learning model. This model has become more structured over the audit period with the addition of learning plans in 2019, aligning to the implementation of the new PDP system on iPeople.

These learning plans enable the employee and their supervisor to discuss:



- appropriate professional development goals when setting their annual performance development plan.
- learning goals to assist in achieving stated performance goals.
- development of new skills or knowledge or modifying existing skills or behaviour or retaining relevant certifications to maintain compliance.

Based on PMS results (identified at the beginning of criteria 4.6), IBAC needs to further improve the implementation of this learning model by providing more opportunities for staff to develop their capabilities and skillset through on-the-job training and formal education. This approach will enable all staff to receive the necessary opportunities to build their capabilities, satisfy their learning and development needs and continue to progress their career.

L&D budget

In 2019, IBAC performed a review of training expenditure over the preceding 3 years. The review concluded that the L&D budget expenditure was largely driven by individual identification of staff learning needs, and that there was no structured approach to the allocation of the L&D budget. This resulted in an uneven distribution of funds across the directorates that favoured technical capability development.

In response to the review, IBAC undertook a realignment of the L&D budget for the 2019-20 financial year and divided the budget to identify categories of training and allocate budget across divisions. In 2020-21, IBAC reflected on L&D in 2019-20 and recognised that the approach to allocate \$15,000 per directorate and a \$250 budget per person had varying degrees of success with a mixed level of consultation with PC&C throughout the year to discuss actual training needs. This issue was amended in the 2020-21 L&D budget by allocating \$10,000 per directorate for specialist development that must be recommended by the Executive Director (ED) in consultation with P&C.

Post-audit actions

Due to an increased focus by management to address the L&D issues raised by employees, IBAC's 2022 PMS have seen improvements in staff perception of the agency's L&D efforts.

- Survey question on IBAC placing a high priority on learning and development of staff has improved from 34% in 2021 to 54% in 2022.
- Survey question on staff being able to learn and develop in their role has improved from 61% in 2021 to 66% in 2022.
- Survey question on staff being satisfied with the way their learning and development needs have been addressed in the past 12 months has improved from 46% in 2021 to 54% in 2022.

As part of its People Strategy and approach to workforce planning, IBAC advised it is looking to conduct a training needs analysis for VPS employees, with a process already underway in the Operations directorate to assess their technical training capability requirements. This will include input from staff but will require IBAC leadership to identify what skills are required to create an innovative, collaborative, and productive workforce and where those skill gaps exist.



IBAC is also looking to consult with its interstate counterparts and other regulatory agencies to identify what is best practice and what resources may already be available.

Callida notes that all 2022 PMS results identified above are below the relevant comparator results, indicating that these results are still considered below average.

Recommendation

Ref. No.	Recommendation
4.6.1	Conduct a training needs analysis for VPS employees.

Work already progressed by IBAC since June 2021

Ref. No.	Work already progressed by IBAC since June 2021
4.6.1	Evidence provided demonstrates that IBAC is in the process of implementing its People Strategy 2022 which includes undertaking a training needs analysis for VPS employees.

6.6 Criteria 4.7: Use of contractors

Criteria	Overall finding
The appropriateness of criteria used to engage and manage IBAC's contractors, as the term 'contractor' is defined in the Victorian Public Sector Commission's Guidance for managers engaging contractors and consultants.	Arrangements are not adequate to support engagement and management of IBAC's contractor/labour hire staff.

For IBAC, there are 3 categories of short-term labour:

1. Fixed Term employees (for example, an individual offered a 12-month contract as an employee).
2. Contractors or consultants using an ABN that are engaged to deliver discrete pieces of work or solutions/projects.
3. Labour hire workforce capacity where a company is engaged to provide a short-term workforce.

Based on the VPSC guidelines for managers engaging contractors and consultants, IBAC's labour hire personnel are the key cohort which meets the definition of 'contractor' under the VPSC guidelines.



Based on review of documentation and stakeholder discussions, arrangements are not considered adequate to support engagement and management of IBAC's contractor/labour hire staff. The following observations were made:

- IBAC does not track the use of labour hire staff. There is no central data available to identify how many are used, in what roles, how long for, and how much it has cost.
- IBAC indicated that all contractors are meeting security protocols. Callida has been unable to verify this through audit testing due to a lack of available data to select a sample of contractors. It is unclear how IBAC has gained assurance that these protocols were consistently met over the 4-year period when there is no register of who was engaged, when and details of whether protocols were met.
- Policies and procedures don't provide specific guidance to managers and team leaders around protocols for engaging labour hire/contractors and what they need to do in managing these arrangements.

Callida was unable to confirm or assess IBAC's performance of key procurement and contract management processes in practice as IBAC does not maintain a register of short-term contracts. This prevented Callida from selecting a sample of contractors/labour hires from within the audit period to assess whether IBAC are performing their procurement responsibilities appropriately and effectively in practice.

IBAC should have processes implemented to appropriately onboard, manage and offboard labour hire personnel. Key aspects of managing contractors include:

- on-boarding – ensuring the contractors complete appropriate induction and mandatory training and meet security protocol requirements.
- management – ensuring performance is managed on an ongoing basis.
- off-boarding – ensuring that contractors complete departure checklists, including returning passes, removal of system access, cancellation of email address, returning any items of equipment, undertaking any required de-briefings.

As Callida was unable to perform audit testing due to a lack of available data to select a sample of contractors, the existence and effectiveness of these processes could not be assessed.

IBAC has developed the following documents to support the management of contractors, however these documents do not provide specific guidance to managers and team leaders around protocols for engaging labour hire/contractors and what they need to do in managing these arrangements.

- Procurement policy (authorised September 2021)
- Procurement and contract management manual (authorised November 2018)

Based on an IEC committee paper (2 July 2019), IBAC performed a self-assessment to ensure their procurement framework met the standards outlined in the Victorian Government Purchasing Board (VGPB) procurement framework. This formed part of the Procurement Road map project with stage 2 of the project having been noted as completed at the July 2019 meeting.



Recommendations

Ref. No.	Recommendation
4.7.1	Establish and maintain a register of contractors which will record all relevant screening and checks conducted and track labour hire.
4.7.2	Establish clear guidance material in relation to the engagement and management of contractors, including: <ul style="list-style-type: none">• a definition of ‘contractor’ and the protocols which apply to these individuals.• providing explicit instructions on security clearances.• providing explicit offboarding and onboarding requirements.

7 Appendix A - Objectives of Audit

1. Achieving the objectives¹³ of the *IBAC Act 2011* (Vic)

The audit will review the extent to which IBAC effectively, economically and efficiently:

- 1.1 identifies, investigates and exposes corrupt conduct and police personnel misconduct in the public sector (including through complaint-handling; ensuring police officers and protective services officers maintain the highest ethical and professional standards and have regard to human rights; conducting examinations; producing reports and making and monitoring recommendations; and making referrals)
- 1.2 performs its functions under the *Public Interest Disclosures Act 2012* (Vic) ('*PID Act 2012* (Vic)')
- 1.3 uses information received, intelligence collected, and research undertaken in support of its investigations
- 1.4 educates the public sector and community about the detrimental effects of corrupt conduct and police personnel misconduct on public administration and the community and the ways corrupt conduct and police personnel misconduct can be prevented
- 1.5 improves the capacity of the public sector to prevent corrupt conduct and police personnel misconduct (including through the provision of advice, consultation, and training as well as the production of guidelines and procedures) in compliance with the *IBAC Act 2011* (Vic).

2. Sound governance and planning

The audit will review:

- 2.1 The extent to which IBAC complies with its reporting obligations to the Victorian Inspectorate under the *IBAC Act 2011* (Vic) and the *PID Act 2012* (Vic).
- 2.2 The extent to which IBAC has effective structured processes for prioritising work against its statutory objectives, including the adequacy and currency of policies and procedures designed and implemented by IBAC to manage its work.
- 2.3 The adequacy and appropriateness of governance and risk management frameworks used to support IBAC's work and staff, and to manage its engagement with others involved in IBAC operations (including members of the public, persons of interest and witnesses).
- 2.4 The quality of IBAC's strategic planning processes (including those related to IBAC's annual plan) and the extent to which their outcomes are communicated and clearly understood by staff.
- 2.5 The adequacy and appropriateness of mechanisms used to ensure the integrity and suitability of staff.

¹³ The *IBAC Act 2011* (Vic) identifies IBAC's functions under s 15.

3. Genuine accountability and transparency

The audit will review:

- 3.1 The adequacy and appropriateness of processes used by IBAC to measure and manage the costs of performing its statutory functions.
- 3.2 The adequacy and appropriateness of processes used by IBAC to identify scope for improvement, including how IBAC:
 - identifies savings
 - reduces costs
 - reduces waste.
- 3.3 The adequacy of systems and processes used by IBAC to manage its work and improve its productivity.
- 3.4 The extent to which IBAC has identified and implemented best practice initiatives from other agencies and jurisdictions.
- 3.5 The extent to which IBAC reports to and informs Parliament and the wider community about its performance.
- 3.6 The extent to which IBAC attains and sustains public confidence in the agency.

4. Strong and healthy workforce and performance culture

The audit will review:

- 4.1 The promotion and existence of a strong integrity culture at IBAC.
- 4.2 The adequacy of measures used by IBAC to assess and maintain staff motivation, wellbeing and resilience, including those relating to occupational health and safety.
- 4.3 The adequacy of channels of communication between staff and management to discuss and report staff concerns.
- 4.4 The adequacy of policies, systems and procedures for handling complaints and public interest disclosures by staff as well as other staff grievances.
- 4.5 The adequacy of processes and costs associated with the recruitment and retention of staff, including whether IBAC:
 - a. implements succession planning
 - b. has appropriate strategies in place to manage staff turnover.
- 4.6 The adequacy and appropriateness of programs aimed at meeting staff professional development needs.
- 4.7 The appropriateness of criteria used to engage and manage IBAC's contractors, as the term 'contractor' is defined in the Victorian Public Sector Commission's *Guidance for managers engaging contractors and consultants*.

8 Appendix B – IBAC’s additional functions under the PID Act 2012

Table 27. Additional functions for IBAC under the PID Scheme as established by the PID Act 2012.

Section	Function
55(2)(a)	Issue guidelines for procedures— (i) to facilitate the making of disclosures in accordance with Part 2 (other than disclosures made to the Victorian Inspectorate). (ii) for the handling of those disclosures and, where appropriate, their notification to the IBAC. (iii) for the protection of persons from detrimental action in contravention of section 45;
55(2)(b)	Issue guidelines for the management of the welfare of persons who make public interest disclosures or who are otherwise affected by public interest disclosures.
55(2)(c)	Provide advice to the public sector on any matter included in the guidelines referred to in paragraphs (a) and (b).
55(2)(d)	Review the procedures established by the public sector under Part 9, other than those established by the Victorian Inspectorate and the Ombudsman, and the implementation of those procedures; promote the purposes of this Act;
55(2)(e)	Provide information and education about the public interest disclosure scheme;
55(2)(f)	Assist the public sector to increase its capacity to comply with the public interest disclosure scheme;
55(2)(g)	Provide information to, consult with, and make recommendations to the public sector on matters relevant to the operation of the public interest disclosure scheme;
55(2)(h)	Undertake research and collect, analyse, and report on data and statistics relating to the public interest disclosure scheme;
55(2)(i)	Report to Parliament at any time on matters arising from the performance of any of its research and education functions;
55(2)(j)	Perform any other function conferred on the IBAC by or under this Act

9 Appendix C – PID scheme changes (January 2020)

Table 28. Summary of key changes to the PID Scheme in January 2020.

Area of change	Description
Renaming of the Act	<p>The Protected Disclosure (PD) Act 2012 changed in name to the Public Interest Disclosure (PID) Act 2012. The terms ‘protected disclosure’ and ‘protected disclosure complaint’ have been replaced with:</p> <ul style="list-style-type: none"> Public Interest Disclosure (PID) – disclosure by a natural person of information that shows / tends to show or information that the person reasonably believes shows / tends to show improper conduct or detrimental action (previously a protected disclosure) Public Interest Complaint (PIC) – a public interest disclosure that has been determined by IBAC, the Victorian Inspectorate or IOC to be a Public Interest Complaint (previously a protected disclosure complaint). <p>Once a PID has been assessed and is determined to be a PIC, additional rules apply, for example restricting when and to whom the matter can be referred and other altered confidentiality and notification requirements.</p>
Improper conduct	<p>The definition of ‘improper conduct’ has been revised to specify the following categories:</p> <ul style="list-style-type: none"> Corrupt conduct Criminal offence Serious professional misconduct Dishonest performance of public functions Intentional or reckless breach of public trust Intentional or reckless misuse of information Substantial mismanagement of public resources Substantial risk to health or safety of a person Substantial risk to the environment Conduct of any person that adversely affects the honest performance by a public officer of their functions Conduct of any person that is intended to adversely affect the effective performance by a public officer of their functions for the benefit of the other person. <p>Less serious or trivial conduct is excluded from the definition of improper conduct.</p>

Bodies that can receive PIDs	The addition of the Integrity and Oversight Committee (IOC) in relation to the Victorian Inspectorate as a new body to the PID scheme was the key change.
Bodies that cannot receive PIDs	Any public sector body not listed in the information sheet, may not receive a public interest disclosure. Persons wishing to make a PID about such bodies should be directed to IBAC. Public sector bodies that cannot receive PIDs must still have systems in place to manage confidentiality, welfare support and risk management measures for PIDs made about their organisation.
Bodies that can assess and determine a PID	<p>Only IBAC, the Victorian Inspectorate and now the IOC can determine that a PID meets the criteria to be a PIC. The Victorian Inspectorate may only assess PIDs about IBAC officers and the Public Interest Monitor. The IOC may only assess PIDs about the Victorian Inspectorate or a Victorian Inspectorate Officer. All other PIDs are to be assessed by IBAC.</p> <p>IBAC may refer a PIC to another more appropriate body for investigation. IBAC will also be able to refer complaints back to agencies for action with the consent of complainants and agencies.</p>
Bodies that can investigate PICs	<p>Under the new scheme, the following bodies have been added and can now investigate PICs:</p> <ul style="list-style-type: none"> • The Chief Municipal Inspector • The Information Commissioner • The Racing Integrity Commissioner.
Misdirected disclosures	<p>The legislation provides a new ‘no wrong door’ provision. This allows for a PID made to the wrong receiving entity to be redirected to another receiving entity, without the discloser losing the protections of the PID scheme, where:</p> <ul style="list-style-type: none"> • The receiving entity must be an entity to which a PID ordinarily may be made; and • The person making the disclosure must honestly believe that the receiving entity was the appropriate entity to receive the disclosure.
External disclosures	A new class of disclosure is created for ‘external disclosures’. External disclosures are defined as a PID made to a person or body who is not an entity to whom a PID can be made under Division 2, Part 2 of the PID Act (the part which prescribes how and to whom PIDs must be made).
Detrimental action – defence test lowered	From 1 January 2020, there is a lower threshold for proving that detrimental action has taken place. Prior to 1 January 2020, a discloser would have to prove that detrimental action was a ‘substantial reason’ for their employer (manager) taking action against them following their disclosure, but from 1 January 2020 ‘substantial’ has been removed from section 45.

<p>Confidentiality obligations</p>	<p>The 3 main elements of the revised confidentiality requirements are:</p> <ul style="list-style-type: none"> • To ensure that all bodies to whom a public interest complaint is referred, are permitted to disclose information necessary to perform their investigative functions. • To make it clear that complainants may always seek advice and support from specified categories of persons without seeking permission. These changes enable information about an assessable disclosure (content or information about the content) to be provided to a trade union, employee assistance program, the Victorian WorkCover Authority or for the purposes of an application to the Fair Work Commission. • To change the statutory requirements around confidentiality notices used in investigations across the integrity system, to make it a presumption that recipients of confidentiality notices will be entitled to disclose restricted matters to certain categories or persons, unless the issuing agency makes a direction to the contrary.
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10 Appendix D – Operational sample testing methodology

Callida undertook sample testing in relation to IBAC’s compliance with legislation and internal procedures:

- assessment of complaints and notifications
- commencement and finalisation of investigations.

Across both areas, samples were selected from each of the 4 financial years within the audit period. This not only provided a representative sample across the period but enabled auditors to identify and note the impact of changes in systems, processes, and practices.

Different types of matters were also selected to understand different processes and examine different compliance requirements. Selected samples included examples of both alleged corrupt conduct and alleged police personnel misconduct. Similarly, samples were chosen to include examples of matters raised through complaints, notifications and IBAC’s own intelligence.

Assessment of complaints and notifications

The 37 samples of assessments selected for testing are detailed in Table 29.

Table 29. Complaints and notifications - samples selected

Type	Samples selected
Complaints received by IBAC	3 complaints from each year during the audit period. For each year, the samples included one example of complaints where the outcome determined by IBAC was to: <ul style="list-style-type: none"> • Dismiss • Refer • Investigate.
Notifications received by IBAC	3 notifications from each year during the audit period. For each year, the samples included one example of notifications where the outcome determined by IBAC was to: <ul style="list-style-type: none"> • Dismiss • Refer • Investigate. <i>Note: One (1) additional notification sample from 2017-18 was selected where the outcome determined was ‘Review by IBAC’.</i>
Public Interest Disclosures (PIDs) received by IBAC	2 PIDs from each year during the audit period. For each year, the samples included one example of PIDs where the outcome determined by IBAC was to: <ul style="list-style-type: none"> • Dismiss • Investigate.
Assessments resulting in a preliminary inquiry	One assessment resulting in a preliminary inquiry from each year during the audit period. The 4 preliminary inquiries selected arose following assessment of a: <ul style="list-style-type: none"> • Complaint – one sample • PID – 3 samples.



Commencement and finalisation of investigations

Where the outcome of an assessment sampled above was to conduct an investigation or a preliminary inquiry, the same matter was selected as part of testing conducted over investigations. In total, 16 samples of investigations and preliminary inquiries were selected for testing, as outlined in Table 30.

Table 30. Investigations – sample selected

Type	Samples selected
Complaints investigated by IBAC	One (1) complaint resulting in an investigation by IBAC was selected from each year during the audit period.
Notifications investigated by IBAC	One (1) notification resulting in an investigation by IBAC was selected from each year during the audit period. <i>Note: one (1) of the samples selected was considered highly sensitive, so Callida was advised not to include this case in our assessment process.</i>
Preliminary inquiries conducted by IBAC	One (1) preliminary inquiry commenced by IBAC was selected from each year during the audit period. <i>Note: one (1) of the samples selected did not end up progressing to a preliminary inquiry, so Callida was unable to perform an assessment of this sample.</i>
Own motion investigations conducted by IBAC	One (1) own motion investigation commenced by IBAC was selected from each year during the audit period. 2 own motions were preliminary inquiries and 2 were full investigations.
PIDs conducted by IBAC	One (1) PID from 2019-20 and 2020-21.

To perform testing, relevant evidence was sighted on-screen with the supervision of IBAC officers. Evidence was primarily contained within the case management system, Condor or within the records management system, TRIM. Key elements examined in testing included compliance with legislative requirements, conformance to documented policies and procedures and assessment of the efficiency, consistency and clarity of processes and documentation.

11 Appendix E – Annual report figures

Table 31. Complaints and notifications assessed by IBAC

Classification	2017-18	2018-19	2019-20	2020-21
Complaints and notifications received	2315	2347	2419	2832
Allegations assessed	6293	5812	5955	4965
Allegations assessed as public interest complaints or protected disclosures ^(a)	742	875	1184	785
Allegations investigated by IBAC	81	102	72	67 ^(b)
Allegations referred to another entity	1460	1765	2370	1884
Allegations dismissed ^(c)	3758	2544	3081	2690
Allegations resulting in other outcomes ^(d)	N/A	1401	432	309

Notes:

(a) This was referred to as 'matters assessed for protected disclosure' in previous reports between 2015-16 and 2017-18.

(b) In addition to the allegations investigated by IBAC, there were another 15 preliminary investigations conducted during this time.

(c) In 2017-18, 'dismissed' included withdrawn allegations. 'Withdrawn' allegations have been included in 'other' for 2018-19 and 2019-20.

(d) 'Other' is the sum of no further action, returned and withdrawn. The numbers of returned allegations were not included in reports between 2016-17 and 2017-18.

Table 32. Investigations and preliminary inquiries

Classification	2017-18	2018-19	2019-20	2020-21
Preliminary inquiries commenced ^(a)	14	11	12	7
Investigations commenced ^(b)	27	27	12	7
Investigations commenced – standard ^(c)	N/A	11	4	7
Investigations commenced – complex	N/A	16	8	-
Investigations and preliminary inquiries finalised ^(d)	14	45	28	19
Preliminary inquiries finalised	N/A	18	4	10
Investigations finalised – standard	N/A	19	5	2
Investigations finalised – complex	N/A	8	19	7
Open investigations and preliminary inquiries at 30 June	51	31	23	27

Notes:

(a) From 1 July 2016, IBAC was able to conduct preliminary inquiries to help determine whether to dismiss, refer or investigate a complaint or notification. More information is on the IBAC website.

(b) 2018-19 is the first year IBAC reported on 'standard' and 'complex' investigations.

(c) 'Standard' investigations will have no more than 2 factors and most of these will be categorised as 'limited'. 'Complex' investigations will have 2 or more factors and most of these responses will be categorised as 'extensive'.

(d) Before 2018-19, 'preliminary inquiries finalised' and 'investigations finalised' was a combined total.



Table 33. Examinations undertaken as part of IBAC investigations

Classification	2017-18	2018-19	2019-20	2020-21
Private examination days	57	64	50	47
Public examinations days	9	16	23	31
Witnesses called	91	111	67	61

Table 34. Corruption prevention initiatives delivered by IBAC (Output)

Classification	2017-18	2018-19	2019-20	2020-21
Number of corruption prevention initiatives delivered by IBAC	92	99	75	115

12 Appendix F – Results against BP3 performance measures

Table 35. Results against BP3 performance measures

Area	Performance measure	2020-21			2019-20			2018-19			2017-18		
		Target	Result	Met	Target	Result	Met	Target	Result	Met	Target	Result	Met
Prevention	Corruption prevention initiatives delivered by IBAC (Output)	90	115	Yes	90	75	No	90	99	Yes	90	92	Yes
	Satisfaction rating with corruption prevention initiatives delivered by IBAC (Effectiveness)	95%	99%	Yes	95%	93%	No	95%	99%	Yes	90%	99%	Yes
Assessment	Complaints or notifications about public sector corrupt conduct assessed by IBAC within 45 days (Efficiency)	85%	46%	No	85%	79%	No	85% ¹⁴	85%	Yes	80%	92%	Yes
	Complaints or notifications about police personnel corrupt conduct assessed by IBAC within 45 days (Efficiency)	90%	49%	No	90%	68%	No	90%	77%	No	90%	95%	Yes
Investigations	Standard IBAC investigations into public sector corrupt conduct completed within nine months (Efficiency)	60%	0%	No	60%	100%	Yes						
	Complex IBAC investigations into public sector corrupt conduct completed within 18 months (Efficiency)	60%	50%	No	60%	75%	Yes						
	Proportion of IBAC investigations into public sector corrupt conduct completed within twelve months ¹⁵ (Efficiency)							75%	42%	No	75%	60%	No
	Standard IBAC investigations into police personnel corrupt conduct completed within nine months (Efficiency)	60%	0%	No	60%	100%	Yes						
	Complex IBAC investigations into police personnel corrupt conduct completed within 18 months (Efficiency)	60%	0%	No	60%	71%	Yes						
Proportion of IBAC investigations into police personnel corrupt conduct completed within twelve months (Efficiency)							75%	33%	No	75%	100%	Yes	

¹⁴ Target increased from 80% to 85% in 2018-19

¹⁵ Investigations measures were changed in 2019-20 to include separate targets for standard and complex investigations.

13 Appendix G – The IBAC Plan 2021-2025 – Priorities and focus areas for IBAC

IBAC’s strategic pillars are the foundation of The IBAC Plan. The pillars will be the areas of focus for IBAC’s work over the 4-years.

Strategic pillar	Priorities	What success looks like	IBAC’s strategy in action
<p>An independent, fair, and trusted integrity agency</p>	<p>1.1 Embed a whole-of-IBAC approach to preventing serious and systemic corrupt conduct, underpinned by a robust and nuanced understanding of Victoria’s corruption landscape.</p> <p>1.2 Develop practical guidance and education materials to support the public sector to prevent, identify and report corrupt conduct.</p> <p>1.3 Better analyse complaints data and the outcomes of our work to identify and prioritise emerging corrupt conduct risks, in Victoria and interstate.</p> <p>1.4 Working with the public sector and Victoria Police, develop a clear and consistent approach to complaints management and investigations of serious and systemic corruption.</p>	<p>The outcomes of our work positively shift the integrity culture of the public sector.</p> <p>The public sector feels supported to embed a strong integrity culture within their own organisations.</p> <p>The public sector understands IBAC’s approach to investigations, including what we can and cannot disclose and our timeframes for investigations.</p>	<p>We’re strengthening our corrupt conduct prevention work and embedding a whole-of-IBAC approach to public sector corruption prevention.</p> <p>Our Corruption Prevention Strategy 2021-24 aims to support a corruption-resistant Victorian public sector that is committed to, and underpinned by, a strong culture of integrity. To achieve this, we will leverage the diverse range of tools, interventions, and capabilities we have, guided by a robust and nuanced understanding of Victoria’s corruption landscape.</p> <p>Preventing public sector corruption is a shared responsibility. That’s why a key focus of the Corruption Prevention Strategy is building the capability of public sector agencies to prevent corruption and proactively promote integrity.</p> <p>We need everyone in the public sector and police to actively resist corruption and be part of building a strong integrity culture within their organisations.</p>
<p>A targeted approach to police misconduct</p>	<p>2.1 Improve transparency and complainant understanding of our approach to police misconduct (including the way we communicate decisions and the outcomes of our work).</p> <p>2.2 Engage with the community and Victoria Police to strengthen our approach to identifying and investigating police misconduct issues.</p> <p>2.3 Strengthen the way we track referrals and provide oversight of Victoria Police.</p> <p>2.4 Strengthen our engagement with Victoria Police to build on our prevention and education activities to ensure they are</p>	<p>The community has confidence that IBAC deals with police misconduct appropriately.</p> <p>The community know where to go to report complaints of police misconduct, and are able to progress their complaints, either through IBAC or another agency.</p> <p>We have contributed to a reduction in the prevalence of police misconduct.</p>	<p>We are committed to engaging better with Victorian communities. Community organisations are effective bridges between IBAC and the broader community, and over the next 4 years we will step up our community engagement. We see significant opportunity to educate, engage with, and learn more about the needs and priorities of Victorians who experience vulnerability or marginalisation.</p> <p>We want to provide the best possible experience for everyone who contacts IBAC and make sure everyone understands our processes and what we can and can’t do.</p> <p>We’re also working to implement the recommendations from Royal Commission into the Management of Police Informants, including</p>



Strategic pillar	Priorities	What success looks like	IBAC's strategy in action
	<p>internally equipped to prevent misconduct.</p> <p>2.5 Continue to work with government to implement recommendations and legislative change from Royal Commission into the Management of Police Informants and Victorian government reviews into Victoria's integrity and oversight system.</p>		<p>strengthening the way we receive, handle, and investigate complaints about Victoria Police and complaints about Victoria Police's use of human sources.</p> <p>Together, these strategic initiatives will ensure we have a more targeted and transparent approach to police misconduct, to deliver greater outcomes in the interests of all Victorians.</p>
<p>A progressive and connected workplace</p>	<p>3.1 Create a culture where everyone's strengths are cultivated, people can take ownership of their careers and explore opportunities within and outside of IBAC.</p> <p>3.2 Nurture a diverse and inclusive workforce where everyone feels included and safe, both physically and mentally.</p> <p>3.3 Empower bold and authentic leaders who excel in constructive, honest, and empathetic conversations.</p> <p>3.4 Ensure people understand what other areas of IBAC do, are accountable to each other and know where key decision and escalation points are.</p> <p>3.5 Invest in enabling and fit-for-purpose IT and data infrastructure and ensure we are using it to its full potential.</p>	<p>Everyone feels their strengths are utilised and they are able to progress their careers within and outside of IBAC.</p> <p>We have clear processes and decision making frameworks.</p> <p>Everyone knows how to use our systems and data effectively and we share information across teams.</p>	<p>As part of refining our operating model, we have commenced work in mapping out our processes, so that we can identify how we can do things more efficiently and effectively.</p> <p>Over the next 4 years, we will build on these foundational process mapping activities to further clarify how we work together to deliver the best outcomes for Victoria.</p> <p>The aim of this work is to ensure our operating model is fit-for-purpose to deliver on this plan. Articulating our operating model will help everyone at IBAC understand what other areas of IBAC do in order to deliver outcomes in the interests of all Victorians. It helps to de-mystify our supporting processes and allows us to understand who to go to for support and decisions.</p> <p>We're also refining and implementing our People Strategy, which will include refreshing our organisational values, reviewing our capability framework, and strengthening our approach to diversity and inclusion.</p> <p>Bringing this work to life — mapping our processes and implementing our People Strategy — will ensure we're working as a progressive and connected workplace.</p>
<p>A collaborative way forward</p>	<p>4.1 Lead by example in collaborative behaviours with other organisations and agencies, where appropriate. While we value collaboration, we will continue to be fiercely independent in our investigative work.</p> <p>4.2 Ensure that there is an accessible pathway for every complaint. If a complaint comes to us that's outside our legislative</p>	<p>Victorians understand and value the outcomes of our investigations and coordinated work.</p> <p>We make timely referrals of information and complaints to other bodies.</p> <p>Everyone is clear on what information can and cannot be shared.</p>	<p>We're fiercely independent in our investigative work, but value collaboration when it's appropriate.</p> <p>That's why we're developing a comprehensive investigations framework, which will articulate our role and the role of other integrity and oversight agencies in investigating public sector corruption and police misconduct.</p> <p>We're consulting with the Victorian community, public sector agencies and</p>

Strategic pillar	Priorities	What success looks like	IBAC's strategy in action
	<p>remit, we'll advise the complainant of other options to follow or agencies who may be able to help so they feel heard.</p> <p>4.3 Build a consistent and structured approach to managing our relationships, listening, and adapting our approach based on feedback and sharing information that will help our peers.</p> <p>4.4 Engage with Victorians who experience vulnerability or marginalisation to better understand community needs and concerns.</p>		<p>Victoria Police to build a consistent and structured approach to investigating public sector corruption and police misconduct.</p> <p>We want to put the interests of all Victorians at the centre of all we do and make sure everyone who interacts with us understands our processes and what we can and can't do.</p>

14 Appendix H – Access to information

Prior to and throughout the audit, IBAC has highlighted the sensitive nature of information which relates to its operational activities.

In May 2021 the Integrity Oversight Committee (IOC) invited IBAC to comment on the draft performance audit specification. In a letter addressed to the then Chair of the IOC dated 16 June 2021, the IBAC Commissioner provided feedback on the draft audit specification. IBAC outlined concerns about access to information including:

- That there were secrecy provisions under the IBAC Act, Surveillance Devices Act and the Telecommunications (Interception and Access) Act that IBAC did not believe were overridden by the statutory provisions relating to the performance audit and would mean that documents containing some information would not be able to be provided.
- The impost on IBAC staff and its operational work in having to review documents to determine whether they were protected documents.

The IOC responded to this in a letter from the then Chair dated 11 August 2021. The letter stated that “the Committee will consult with IBAC to ensure that any requests by an auditor for the provision of operational documents and information which IBAC is bound not to disclose under its secrecy provisions are, where such requests are made, determined with consideration of available alternative measures including, but not limited to, partial disclosure or redaction”.

No further steps have been taken by the IOC in consultation with IBAC in relation to the provision of confidential information.

Callida shared an initial tranche of information requests with IBAC on 3 March 2022.

In a letter addressed to Callida Consulting dated 18 March 2022, IBAC’s Chief Executive Officer stated:

We have carefully considered the interaction of the Audit Act and the IBAC Act in relation to the provision of information by IBAC to Callida. While IBAC is currently compiling information about its policies and procedures which will be provided to Callida and will continue to do so, we wanted to bring to your attention that the provision of any information to Callida must not be inconsistent with section 47 of the IBAC Act.

Section 47 applies to the performance audit on the basis that the independent auditor appointed under the IBAC Act has the power to require the production of documents or the answering of questions. The section makes clear that IBAC officers cannot be compelled to produce or permit inspection of any document or other thing that the person has created or come into possession of as a result of the performance of their duties and functions or the exercise of powers, where IBAC certifies that the document is a protected document. The categories of protected document are specified in section 46 of the IBAC Act.

While IBAC intends to cooperate to the fullest extent possible with the performance audit, IBAC will consider any request for information that relates to operational



information having regard to the IBAC Act. If the information sought is considered to be a protected document or thing, IBAC will certify this where appropriate, and inform Callida that production of that document or thing will not be made.

It has been suggested that a solution to the issue will be for IBAC to redact information from requested documents as part of the performance audit process. Unfortunately, IBAC does not have the resources required to redact information in the time necessary to finalise the performance audit. Rather, where IBAC can provide information to Callida by way of summary, sample documents, templates, or policies, IBAC will do so, and it will cooperate with Callida and work towards an acceptable solution for both organisations.

In line with the letter from the Chief Executive Officer, IBAC indicated that certain information requested by Callida on 3 March 2022 was considered by IBAC to meet the definition of a ‘protected document’ under section 47 of the IBAC Act. This information included the minutes of organisational committees including IBAC’s:

- Operations Governance Committee (OGC) (formerly Operations and Prevention Committee)
- Corporate Governance Committee (CGC)
- Executive Leadership Team (ELT) Committee (formerly, IBAC Executive Committee).

Given IBAC’s concern about the confidential subject matter contained within the protected documents, Callida and IBAC agreed that redacted copies of committee agendas would be provided for their review. Callida did not express any concerns or objections to this approach.

The Integrity and Oversight Audit Subcommittee instructed Callida on 25 March 2022 to obtain legal advice in relation to the issue around access to information raised by IBAC. On 22 April 2022, Callida received external legal advice which indicated there are no valid legal impediments to Callida (as the appointed auditor) being provided access to any information required for the purposes of conducting the performance audit.

On 13 May 2022, the Integrity and Oversight Audit Subcommittee instructed Callida to issue IBAC with an information gathering notice under Part 7 of the Audit Act, requesting that IBAC provide Callida with access to requested information necessary to obtain a reasonable level of assurance.

On 25 May 2022, Callida sent IBAC its Tranche 3 document request. It contained a request for documents which IBAC considered to be protected documents.

On 27 May 2022, Callida, at the direction of the IOC Secretariat issued an information gathering notice addressed to IBAC’s Chief Executive Officer, requesting that access to this information be provided by no later than 10 June 2022. On 6 June 2022, a second information gathering notice was issued to IBAC by Callida to address some administrative errors in the initial notice. This was in relation to other information requested by Callida which IBAC considered to be protected documents.

Through further discussions, Callida offered to enter into a confidentiality undertaking. The IBAC Chief Executive Officer agreed that IBAC would permit Callida personnel to access the requested information under the conditions that:

- Callida execute a Confidentiality Deed Poll drafted by IBAC



- the requested information is not transmitted electronically and is only viewed by Callida personnel in IBAC's offices.

IBAC forwarded the Deed Poll to Callida on 8 June 2022. Callida subsequently executed the Deed Poll on 14 June 2022 and arranged with IBAC to view the requested information on-site at IBAC's offices from 21 to 24 June 2022.

Prior to receiving access to the agency committee meeting minutes (and other information which was considered by IBAC to be protected documents), Callida's understanding of IBAC was impaired in part.

Due to the issues identified above, IBAC provided information to the extent possible to support the performance audit. However, this meant Callida was unable to gather sufficient audit evidence to allow a reasonable assurance conclusion to be issued. It is acknowledged that IBAC has ultimately provided Callida with access to the requested information. However, the circumstances under which access was provided did have an impact on Callida's ability to conduct the audit as effectively and efficiently as possible.

For future audits, Callida suggests amending the IBAC and VI Acts to unequivocally empower the auditor to obtain and utilise the agencies' operational and related information to the extent necessary to conduct the audits.

15 Appendix I – IBAC response

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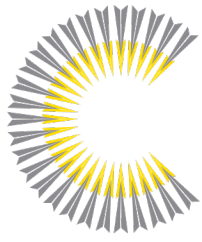
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Appendix D

Report of Callida Pty Ltd in respect of the independent performance audit of the Victorian Inspectorate

D



Callida
Consulting

Parliament of Victoria

Victorian Inspectorate

Independent Performance Audit

Final Report

October 2022

Mr Gary Maas, MP
Chair, Integrity Oversight Committee
Parliament of Victoria
Spring Street
EAST MELBOURNE VIC 3002

14 October 2022

Dear Mr Maas,

Performance Audit of the Victorian Inspectorate

We are pleased to submit our final report from the recently concluded Performance Audit of the Victorian Inspectorate.

We would like to take this opportunity to thank the Inspector, the Executive Director and the staff of the Victorian Inspectorate for the co-operation we have received while performing the audit.

Yours sincerely,

Paul Allen
Partner

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1 Executive Summary

1.1 Introduction

Callida Consulting (Callida) was appointed by the Parliament of Victoria on 10 February 2022 to undertake a performance audit of the Victorian Inspectorate (VI). The objective of the performance audit was to review the extent to which the VI effectively, economically, and efficiently performs its functions under the VI Act, and more specifically in relation to the following bodies:

- IBAC
- VO
- OVIC

The audit covered the period from 1 July 2017 through to 30 June 2021 (audit period). A copy of the audit objectives is included at Appendix A.

Callida was engaged to provide an opinion under the following standards issued by the Australian Auditing and Assurance Standards Board:

- ASAE 3100 Compliance Engagements, and
- ASAE 3500 Performance Engagements.

1.2 Overall Conclusions

Throughout the audit period, the VI made substantial improvements to its operations and management arrangements. These improvements have been achieved with limited resources, and managing the impact of COVID-19, while continuing to deliver its mandatory functions.

These improvements have included:

- Developing and implementing a new organisational structure that reflects the functions that the VI delivers
- Developing and implementing a robust governance framework to guide and manage the activities it performs. This includes making improvements to internal policies and procedures, guidance and supporting documentation and improved financial management arrangements
- Introducing a range of agency specific checklists to assist with monitoring coercive power notifications.

The lack of sufficient resources has been a consistent theme across the audit period. The issue has been raised by the VI through its annual reporting process and noted as a risk in the preparation of Annual Plans over the past three years. The Base Review undertaken in 2020 also raised the issue of resourcing.

Importantly, the VI has now received a substantial increase in its funding through the 2022-23 budget process. The effect of this increase, which has included moving fixed term funding into on-going

base funding will provide the VI with greater certainty moving forward. It will further support the delivery of mandatory functions and allow for more coverage and focus for these functions.

The additional funding will also provide the VI with opportunities to develop its corporate support functions. As the VI continues to expand, it is important that operational and corporate systems are also supported. Areas to focus on include workforce planning, stakeholder engagement, financial management, and IT support.

Despite clearly improving its governance and supporting policies, procedures, and guidelines, we have not been able to obtain sufficient audit evidence to form a conclusion on the performance of the VI over the four-year audit period against the objectives of this performance audit. Because of the significance of the matter described in the Basis for Disclaimer of Conclusion section of our report, we do not express an opinion against the audit objective.

1.3 Key findings

Notwithstanding the overall conclusion above, the audit has made the following findings with respect to the performance of the VI over the audit period:

- The VI now has in place a robust governance framework to guide and manage the activities it performs.
- The VI has made significant improvements to its operational governance arrangements throughout the audit period, including improving the level and detail of internal policies, procedures, and guidelines.
- The VI are compliant with the key requirements of the VI Act, however, some business performance improvements could be implemented, particularly relating to corporate support functions.
- The VI has improved budget management practices, however, do not capture time and effort data against their mandatory functions.
- The VI has a strong framework to promote integrity of employees and the organisation.
- The VI could improve its performance measurement, both in setting targets and collecting data.
- The VI has not developed a strategic Workforce Strategy and Plan.
- The VI has not developed a Stakeholder Engagement Plan.

1.4 Basis for disclaimer of opinion

The authority to undertake a performance audit of VI comes from subsection 90D(4) of the VI Act which states:

The independent performance auditor must conduct a performance audit at least once every 4 years to determine whether the Victorian Inspectorate is achieving its objectives effectively, economically, and efficiently and in compliance with this Act.



There are two reasons that Callida has been unable to gather sufficient appropriate audit evidence to allow a reasonable assurance conclusion to be issued. The first relates to the lack of access to operational information throughout the audit, while the second relates to the 4 year period the audit covers.

1.4.1 Access to operational information

Paragraphs 66 and 74(a) of ASAE3000 outline the circumstances where it is appropriate to issue a disclaimer of opinion following the conduct of an assurance review undertaken in accordance with the standard. These circumstances are outlined below:

- Paragraph 66 of ASAE 3000 states that ‘*if the assurance practitioner is unable to obtain sufficient appropriate evidence, a scope limitation exists and the assurance practitioner shall express a qualified conclusion, disclaim a conclusion, or withdraw from the engagement, where withdrawal is possible under applicable law or regulation, as appropriate*’.
- Paragraph 74(a) of ASAE 3000 requires that an assurance practitioner shall express a modified conclusion ‘*when, in the assurance practitioner’s professional judgement, a scope limitation exists, and the effect of the matter could be material (see paragraph 66). In such cases, the assurance practitioner shall express a qualified conclusion or a disclaimer of conclusion*’.

With respect to the performance audit of the VI, Callida was not provided full access to operational information or files for the purposes of conducting the audit. In a letter to Callida Consulting dated 28 March 2022 the Inspector advised that the VI would not make available all information and data requested as part of the audit process. An extract from that letter is provided below:

Extract from advice provided by the Inspector re access to information.

The Inspectorate holds highly sensitive material, including material provided to it by integrity bodies that it oversees. That material includes information that, if released, could cause severe reputational damage to persons or endanger their health or safety and perhaps even their lives. Access to it may also prejudice the conduct of investigations by the Inspectorate or another integrity body.

Division 2 of Part 2 of the Victorian Inspectorate Act 2011 contains a series of provisions designed to protect the confidentiality of information acquired by the Inspectorate in the performance of its duties and functions or the exercise of its powers. Those provisions make it a criminal offence for a person who is, or was, a Victorian Inspectorate Officer to directly or indirectly provide or disclose that information, other than in the limited circumstances set out in them. If the information relates to an assessable disclosure under the Public Interest Disclosures Act 2012, there are additional provisions under that Act that criminalise the disclosure of the content, or information about the content, of that information or the disclosure of information likely to lead to the identification of the person who provided that information.

As an integrity body, the Inspectorate attaches great importance to the security of its information holdings and to compliance with the law.

Further, the Inspectorate is of the opinion that section 90D(5) of the Victorian Inspectorate Act 2011 does not enable the performance auditor to exercise any powers under Part 7 of the Audit Act 1994 to require the production of sensitive operational material from the Inspectorate. The reason

for this is that the Auditor-General, by virtue of section 14(2) of the Audit Act 1994, is prohibited from conducting a performance audit of the Inspectorate and, accordingly, has no access to powers under Part 7 of that Act for the purposes of such an audit. If the Auditor-General does not have these powers in relation to the Inspectorate, then neither does the independent performance auditor under section 90D of the Victorian Inspectorate Act 2011 as under that section the independent performance auditor only has whatever powers the Auditor-General has.

As noted above, the VI Act¹ places restrictions on VI staff and ex-staff providing information, either directly or indirectly that they have acquired by reason of, or in the course of, the performance of the duties and functions, or the exercise of the powers of the person or the VI under this Act. Several exceptions to this requirement exist but conducting the performance audit is not one specifically identified.

The VI have been a productive partner in conducting this audit and have provided all requested information within the limits of the existing legislation in a timely manner. The VI also provided access to redacted operational information for this audit as a means of demonstrating the application of VI policies and procedures to the delivery of the VI functions. Despite access to this redacted information, the necessary evidence required to provide the level of assurance required under the terms of the performance audit cannot be achieved.

Section 90D(5) of the VI Act provides the authority for the performance auditor to exercise any powers of the Auditor-General under Part 7 of the Audit Act 1994.

*90D(5) Subject to any directions given by the Parliamentary Committee, the independent performance auditor may exercise any powers of the Auditor-General under Part 7 of the **Audit Act 1994** to the extent necessary to conduct the audit as if a reference in that Part to the Auditor-General includes a reference to the independent performance auditor.*

Part 7 of the Audit Act details information gathering powers and duties applicable in these circumstances. Section 31 provides details on information gathering notices and details the form and content of those notices.

However, as noted in the Inspector's letter to Callida, the Inspectorate is of the opinion that s 90D(5) *does not enable the performance auditor to exercise any powers under Part 7 of the Audit Act 1994 to require the production of sensitive operational material from the Inspectorate.*

In lieu of direct access to VI's operational information, the performance audit has relied on representations from VI executives and copies of supporting operational information that have been heavily redacted as its prime information gathering source. The performance audit has not been able to fully verify information provided by VI executives and does not claim to have done so.

It is noted that the VI did provide access to all corporate documentation and reporting, including policies, procedures, guidelines, and governance committee Terms of Reference,

¹ S33(1) of the VI Act

financial reports, risk registers, and planning documentation. Access to this information was always provided in a timely manner.

For future audits, Callida suggests amending the IBAC and VI Acts to unequivocally empower the auditor to obtain and utilise the agencies' operational and related information to the extent necessary to conduct the audits.

1.4.2 Four-year period covered in the audit

The four-year timeframe to be covered by the audit (1 July 2017 – 30 June 2021) was defined in the audit specification tabled in December 2021.

Gathering sufficient appropriate evidence to support a reasonable assurance conclusion across a four-year period is challenging for several reasons:

- As noted in para A151 of ASAE 3000: *'In terms of obtaining sufficient appropriate evidence, it is generally more difficult to obtain assurance about subject matter information covering a period than about subject matter information at a point in time'*. We believe that this difficulty is greater in the case of a four-year period, as opposed to a one-year period due to several factors:
 - Changes to legislation, policies and procedures during the audit period
 - Whilst a range of documentary evidence may exist throughout the audit period, it is not possible to observe processes that existed in prior years
 - Turnover in staff, particularly at the VI as it is a small organisation impacts on the ability to access corporate memory.

1.4.3 Advice to IOC

On 13 April 2022 Callida wrote to the Chair of the Integrity Oversight Committee outlining the implications for the final audit opinion with respect to the issues outlined above. It was noted that if the audits were to continue, there were three potential options:

- a. Undertaking reasonable assurance engagements for both agencies, with Callida expressing a qualified conclusion or a disclaimer of conclusion in relation to any audit criteria where sufficient appropriate audit evidence could not be obtained.
- b. Revising the draft Audit Plans for both agencies to specify that the audits will seek to gain only limited assurance in relation to operational audit criteria. Reasonable assurance will be sought in relation to all other audit criteria. This will require two separate audit opinions to be provided at the conclusion of each audit (i.e. a reasonable assurance opinion and a limited assurance opinion).
- c. Revising the draft Audit Plans for both agencies to specify that the audits will seek to gain limited assurance in relation to all audit criteria.

The IOC advised that its preference was to continue with a reasonable assurance engagement, noting the qualified conclusion or disclaimer of conclusion that would likely result.



1.4.4 Use of the Base Review

In the 2020-21 State Budget, the VI was provided funding to undertake an independent base review to confirm that ongoing funding requirements were sufficient for the VI to meet and deliver on its expanded statutory remit. The final report on this review was delivered as Cabinet-in-Confidence. The financial analysis components of this audit relied heavily on information in the Base Review as this review had greater access to granular activities than the Performance Audit.

Following advice from the Cabinet Office, the contents of the Base Review remain Cabinet-in-Confidence and can only be referred to at a high level for the purposes of the report with minimal direct references.

1.5 Recommendations

Section Ref.	Recommendations	VI's response
1.5	It is recommended that the Parliament of Victoria clarify the authority of any future performance auditor to utilise the provisions of the Audit Act to issue formal Information Gathering Notices	Agree with this recommendation to Parliament
4.3	The VI consider capturing the results from the triage of coercive power notifications in the case management system, including the rationale for requiring a review to be undertaken.	Accept – will incorporate CMS upgrade into planning
4.3	The VI ensure more consistency of conducting Quality Assurance processes when assessing coercive power notifications	Accepted and implemented
5.2	Develop a set of definitions to clearly describe the outcomes of complaints and use these definitions to report complaint outcomes through the annual reporting process.	Accept
5.4	The VI capture and report on the circumstances that people make a complaint to the VI.	Accept – will incorporate CMS upgrade into planning
5.4	The VI consider amending their process to allow Complaints Officers to close simple, low risk complaints to ensure timely resolution.	Accept in principle – new Complaints Framework provides for streamlined closure process
5.4	The VI capture the date the final outcome letter is issued to the complainant and relevant	Accept – will incorporate CMS upgrade into planning

Section Ref.	Recommendations	VI's response
	integrity body in the case management system.	
6.2	The VI finalise the draft investigation guideline to provide a single source of truth for undertaking investigations and ensuring consistency in the conduct of all investigations.	Accept
6.3	The VI ensure Investigation Plans are completed and approved for each investigation in accordance with the draft guideline.	Accept
10.7	It is recommended that the VI continue with the development of the Stakeholder Engagement strategy as outlined in the 2022 Implementation Plan	Accept
10.7	It is recommended that the VI develop a stakeholder survey to enable deeper and more consistent feedback from agencies overseen by the VI.	Accept – will incorporate into planning
11.3	Using the cost model developed in the Base Review, it is recommended that VI begin measuring the costs of their activities, particularly core functions such as investigations, assessing coercive power notifications and assessing complaints. <i>Note: There are several methods that can be applied to identify the costs of services, from the implementation of a system designed to capture and record time against specified activities through to an Activity Based Costing exercise.</i>	Will consider for incorporation into planning
11.9	It is recommended that the VI review their existing performance measures to ensure that they meet the characteristics detailed in the Victorian Government Resource Management Framework. As part of this review, the VI should consider developing additional measures, including to measure the level of public confidence in the VI.	Accept

Section Ref.	Recommendations	VI's response
12.5.1	It is recommended that the VI develop a formal Strategic Workforce Plan	Accept – will incorporate into planning
12.6	It is recommended that the VI improve learning and development opportunities to staff to further increase employee engagement and satisfaction. This may be through increased opportunity to undertake external courses, attending conferences or increasing frequency of internal learning and development programs.	Accept

1.6 Procedural Fairness

Pursuant to section 90E(3) of the VI Act, the VI was provided a copy of the proposed Report prepared as a result of the performance audit conducted under section 90D and provided with the opportunity to provide comments. The VI's comments have been included in the Report pursuant to 90E(3)(c) of the VI Act.

A copy of the VI response is included at Appendix D.

2 Purpose, background and guiding principles

2.1 Introduction

The VI was established under the VI Act to provide oversight of other integrity, accountability or investigatory bodies and their officers.

The main role of the VI is to ensure that the agencies it oversees use their powers, and exercise their functions, lawfully and properly.

Commencing operations in 2013 the VI receives, assesses, and where appropriate, investigates complaints made to it about the agencies it oversees. The VI also:

- Monitors agencies in relation to their duties, functions, and powers
- Inspects and audits certain records
- Oversees the use of coercive powers; and
- Oversees and reviews certain public interest disclosure procedures.

Specifically, the functions of the VI are set out in section 11 of the VI Act. A non-exhaustive listing of these functions is provided at Appendix B.

Initially, the VI was established to provide oversight of the Independent Broad-based Anti-corruption Commission (IBAC) and monitor the Public Interest Monitor (PIM). However, the VI's remit has regularly been expanded and as at 30 June 2021 the VI has 12 agencies to oversight.

As at 30 June 2021, the VI oversaw the following bodies:

- IBAC
- Victorian Ombudsman (VO)
- Office to the Victorian Information Commissioner (OVIC)
- Victorian Auditor-General's Office (VAGO)
- Office of the Chief Examiner
- Judicial Commission of Victoria (JCV)
- Public Interest Monitor (PIM)
- Victoria Police
- Game Management Authority
- Victorian Fisheries Authority
- Department of Environment, Land, Water and Planning
- Wage Inspectorate Victoria (from 1 July 2021)

The model of integrity oversight adopted by the Victorian Parliament is unique in Australia in how it vests in the VI the oversight of multiple integrity bodies. This allows the VI to take a leadership role within the integrity system and apply learnings from its oversight of any one entity across all bodies, as appropriate.

2.2 Audit objective

The objective of this performance audit was to review the extent to which the VI effectively, economically, and efficiently performs its functions under the VI Act, and more specifically in relation to the following bodies:

- IBAC
- VO
- OVIC.

For the purposes of the audit, the following definitions have been used²:

- “*Economy*” - means the acquisition of the appropriate quality and quantity of resources at the appropriate times and at the lowest cost.
- “*Efficiency*” - means the use of resources such that output is optimised for any given set of resource inputs, or input is minimised for any given quantity and quality of output.
- “*Effectiveness*” - means the achievement of the objectives or other intended effects of activities at a program or entity level.

The functions of the VI differ in respect of each integrity, accountability, or investigatory body that it oversees. As indicated above, the scope of the audit was limited to examining the arrangements operating within IBAC, VO and the OVIC during the audit period.

The VI, as the key oversight body in Victoria’s integrity system, is committed to providing the Parliament and the people of Victoria with independent assurance that these bodies act lawfully and properly in the performance of their functions.

As noted in the introduction to the VI Annual Plan 2020-21, “*the model of integrity oversight adopted by the Victorian Parliament is unique in Australia in how it vests in a single entity (the VI) the oversight of multiple integrity bodies. This allows the VI to take a leadership role within the integrity system and apply learnings from its oversight of any one entity across the board, as appropriate*”.

With respect to those bodies included in the audit, the VI undertakes some or all of the following range of functions:

- monitoring of coercive power notifications
- receiving complaints
- undertaking investigations
- undertaking inspections of records
- preparing reports, recommendations, and integrity responses.

As indicated above, the scope of the audit is limited to examining the arrangements operating in relation to IBAC, VO and the OVIC. Table 1 provides a summary of the functions that the VI currently performs in relation to those bodies. A cross reference to the audit criteria is also provided:

² Standard on Assurance Engagements ASAE 3500 *Performance Engagements*, Issued by the Auditing and Assurance Standards Board

Table 1. Functions undertaken by the VI

Function	IBAC	OVIC	VO	Cross-reference to Audit criteria		
				IBAC	OVIC	VO
Receives and assesses complaints about conduct of: <ul style="list-style-type: none"> • IBAC and IBAC personnel • VO officers • OVIC officers 	●	●	●	2.6	3.2	4.3
Investigates conduct	●	●	●	2.7	3.3	4.4
Investigates a public interest complaint (PIC) about IBAC or an IBAC officer, or about VO officers and other public officials if referred by IBAC	●	●	●	2.6, 2.7		
Monitors the exercise of coercive powers	●	●	●	2.2	3.1(a)	4.1
Assesses the effectiveness and appropriateness of policies and procedures	●			2.5		
Monitors compliance with the IBAC Act and other laws	●			2.1		
Reviews Public Interest Disclosure (PID) procedures	●		●	2.5		
Oversees IBAC's performance of its PID Act functions	●			2.4		
Receives and assesses PIDs about IBAC	●			1.1		
Monitors IBAC's interaction with other integrity bodies	●			2.8		
Inspects records on telephone intercepts, use of surveillance devices and on controlled operations	●			2.1		
Monitors compliance with procedural fairness		●	●		3.1	4.2
Reporting on, and making recommendations as a result of, the performance of its functions relating to each body.				2.9	3.4	4.5

Source: VI Annual Report 2020-21 (and other documentation)

The following sections of this report addresses each of the audit criteria in more detail.



3 Is the VI performing its functions under the PID Act?

Findings:

The VI's operational governance framework is designed to effectively support the management of the VI's functions under the PID Act.

The framework provides a structured and detailed set of policies and guidelines to support the VI in performing these functions.

3.1 Introduction

The VI has a key role in ensuring the requirements of the PID Act are being met.

The purposes of the *Public Interest Disclosures Act 2012* (PID Act) are outlined in Box 1 below:

Box 1 – Purposes of the PID Act

1 Purposes

The purposes of this Act are:

- (a) to encourage and facilitate disclosures of:
 - (i) improper conduct by public officers, public bodies, and other persons; and
 - (ii) detrimental action taken in reprisal for a person making a disclosure under this Act; and
- (b) to provide protection for:
 - (i) persons who make those disclosures; and
 - (ii) persons who may suffer detrimental action in reprisal for those disclosures; and
- (ba) to ensure that those disclosures are properly assessed and, where necessary, investigated; and
- (c) to provide for the confidentiality of the content of those disclosures and the identity of persons who make those disclosures

The PID Act commenced on 31 December 2019 replacing the *Protected Disclosure Act 2012* (PD Act). This reform to Victoria's integrity system was made through the passing of the *Integrity and Accountability Legislation Amendment (Public Interest Disclosures, Oversight and Independence) Act 2019* (IALA Act).

The IALA Act amended the PD Act to make Victoria's whistleblower protection system stronger, more accessible, and more effective by better aligning it with Australian and international best practice principles. These amendments were aimed at encouraging people to report public sector corruption and wrongdoing, and to provide protections to them as a result of any reports.

The key reforms in relation to the PD Act included:

- renaming the PD Act the PID Act and adopting the term “public interest disclosure”
- expanding and clarifying the types of public sector improper conduct that a person can disclose in a public interest disclosure
- clarifying, simplifying, and increasing the pathways for making a public interest disclosure.

The VI’s functions and powers under section 56 of the PID Act are outlined in Box 2 below.

Box 2 – Functions and powers of the Victorian Inspectorate under the PID Act

56	<p>Functions and powers of the Victorian Inspectorate</p> <p>(1) The functions of the Victorian Inspectorate under this Act are—</p> <ul style="list-style-type: none">(a) to receive assessable disclosures that relate to the IBAC, IBAC Officers, Public Interest Monitors, the Office of the Special Investigator or OSI officers; and(b) to assess those disclosures; and(c) to determine whether those disclosures are public interest complaints; and(d) to receive other assessable disclosures and to notify those disclosures to the IBAC; and <p>Note</p> <p>The Victorian Inspectorate may receive disclosures that relate to certain entities other than the IBAC, IBAC Officers or Public Interest Monitors. See sections 13 and 14(f).</p> <ul style="list-style-type: none">(e) to review the procedures established by the IBAC, the Judicial Commission and the Ombudsman under Part 9 and the implementation of those procedures; and(ea) to promote the purposes of this Act; and(f) to perform any other function conferred on the Victorian Inspectorate by or under this Act. <p>(2) The Victorian Inspectorate has power to do all things that are necessary or convenient to be done for, or in connection with, the performance of its functions under this Act.</p>
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To deliver these functions, the VI has implemented a comprehensive framework for managing public interest disclosures.

Externally, the VI has published Public Interest Disclosure Guidelines to facilitate the reporting of corruption and other misconduct by public bodies and public officers within the Victorian Public Sector (VPS) under Victoria’s Public Interest Disclosures Scheme³.

A range of other guidance is also available on the Victorian Inspectorate internet site. This guidance includes the following:

³ A copy of the guidelines is available at www.vicinspectorate.vic.gov.au/guidelines-victorian-inspectorate.



- An online form to facilitate the submission of a public interest disclosure (PID)
- How to make a PID to the VI
- Who can make a PID?
- What wrongdoing can you report?
- Who can a PID be made about?
- Who can a PID be made to?
- What PID's can the VI receive?
- Legal protections for making a PID
- Confidentiality requirements for PIDs
- Offences
- Opting out of making a PID
- Reforms to the whistleblower scheme.

Internally, the VI has developed the following documentation to support its functions under the PID Act:

- PID Policy
- PID assessment template
- PID template letter to IBAC notifying of an assessable disclosure
- PID template letter to the discloser advising of the notification to IBAC
- PID fact sheet (for disclosers)

The existing governance framework has been designed to provide oversight, management and control of activities undertaken.

3.2 Disclosures made under the PD and PID Acts

During the audit period the VI received 13 assessable disclosures under the PD Act or PID Act. Table 2 refers. The VI also received five referrals of protected disclosure complaints / public interest complaints for investigation and determined two disclosures to be protected disclosure complaints. During the audit period the VI commenced six investigations under the PD Act or PID Act. Table 3 refers.

Table 2. Disclosures made under the PD and PID Acts

	PD	PID	Total received
17-18			
Assessable disclosures received by the VI	2	0	2
• Disclosures the VI notified to IBAC	1	0	
• Disclosures the VI determined to be a protected disclosure complaint	1	0	
18-19			

	PD	PID	Total received
Assessable disclosures received by the VI	2	0	2
<ul style="list-style-type: none"> Disclosures the VI notified to IBAC 	0	0	0
<ul style="list-style-type: none"> Disclosures the VI determined to be a protected disclosure complaint 	0	0	0
19-20			
Referrals received from IBAC as public interest complaints for investigation	0	3	3
Misdirected disclosures received by the VI	0	2	2
Assessable disclosures received by the VI	5	2	7
<ul style="list-style-type: none"> Disclosures the VI notified to IBAC 	0	3	
<ul style="list-style-type: none"> Disclosures the VI determined to be a protected disclosure complaint 	1	0	
<ul style="list-style-type: none"> Disclosures the VI determined not to be a protected disclosure complaint 	1	0	
<ul style="list-style-type: none"> Disclosures the VI did not notify to IBAC as below the threshold 	3	1	
Applications for injunction made by the VI under section 50 PD Act	0	0	
20-21			
Referrals received from IBAC as public interest complaints for investigation	0	1	1
Misdirected disclosures received by the VI	0	0	0
Assessable disclosures received by the VI	0	2	2
<ul style="list-style-type: none"> Disclosures the VI notified to IBAC 	0	0	
<ul style="list-style-type: none"> Disclosures the VI determined to be a public interest complaint 	0	0	
<ul style="list-style-type: none"> Disclosures the VI determined not to be a public interest complaint 	0	1	
<ul style="list-style-type: none"> Disclosures the VI did not notify to IBAC as already disclosed to IBAC 	0	1	
Disclosures assessed & not notified to IBAC by the VI as below the threshold	0	6	6
Disclosures notified to IBAC by the VI	0	0	0
Disclosures still undergoing assessment by the VI	0	1	1
Applications for injunction made by the VI under section 50 of the PID Act	0	0	0
Total assessable disclosures received			13
Total determined by the VI to be protected disclosure complaints	2	0	2
Total referrals by IBAC to the VI of protected disclosure complaints / public interest complaints for investigation	1	4	5
Total disclosures received and assessed as below threshold	3	4	6

Source: VI Annual Reports

Table 3. New investigations of protected disclosure complaints and public interest complaints

	PD	PID	Total
17-18			
New investigation following VI determination of a protected disclosure complaint	1	0	1
18-19			
New investigation following IBAC referral of a protected disclosure complaint	1	0	1
19-20			
New investigations following IBAC referral of public interest complaints	0	2	2
New investigation following VI determination of a protected disclosure complaint	1	0	1
20-21			
New investigation following referral of public interest complaint	0	1	1
Total new investigations of protected disclosure complaints / public interest complaints	3	3	6

Source: VI Annual Reports

3.3 Receive, assess, and determine disclosures

The process followed by the VI in meeting these specific requirements is detailed in section 5 below. In summary, this involves assessing every complaint received by the VI against the PID Act to determine whether the matter appears to be an assessable disclosure, either requiring a notification to IBAC, or a full assessment by the VI to determine if the complaint is a public interest disclosure requiring investigation.

Under section 56 of the PID Act, the VI is required to:

- receive assessable disclosures that relate to the IBAC, IBAC Officers or Public Interest Monitors⁴ – s 56(1)(a)
- assess those disclosures – s 56(1)(b)
- determine whether each disclosure is a public interest complaint – s 56(1)(c)
- receive assessable disclosures about other bodies and persons⁵ - s 56(1)(d)
- notify those disclosures to the IBAC - s 56(1)(d)

During the audit period, the VI:

- received thirteen assessable disclosures and six disclosures
- assessed each disclosure against the requirements contained in the PD Act/ PID Act

⁴ Since 1 December 2021, the VI also receives and determines disclosures about the Office of the Special Investigator (OSI) and OSI officers

⁵ See sections 13 and 14(f)

- notified four disclosures to IBAC
- determined that two disclosures were public interest complaints and commenced an investigation into those complaints.
- received five protected disclosure complaints / public interest complaints from IBAC and commenced four investigations into those complaints (as two were related)

3.4 Effectiveness and appropriateness of IBAC and the VO procedures

Section 56(1)(e) of the PID Act requires the VI to review the procedures established by IBAC and the Ombudsman under Part 9, and the implementation of those procedures.

The VI meets these requirements through its delivery of its on-going integrity programs. As part of these activities, the VI will consider the policies and procedures in place within each agency to guide and direct those activities. Often the outcome of these activities will result in the publication of an Integrity Report or in some instances a Special Report with recommendations. The VI also has the option of providing private recommendations to agencies based on the outcomes of inspections, complaints, or monitoring activities.

During the audit period, the VI made several recommendations to IBAC aimed at improving IBAC's policies, procedures, and guidelines under the PID Act. These are detailed below:

- In 2017-18 the VI commenced a two-stage monitoring project to oversee the performance of IBAC's main functions under the PD Act. During stage 1, the VI reviewed whether IBAC's policies, procedures and practice enabled IBAC to perform its functions under section 55(1) of the PD Act. Those functions related to the receipt and assessment by IBAC of assessable disclosures and the determination of whether they are protected disclosure complaints.
- The VI's monitoring project confirmed that IBAC had developed policies, procedures and practices that enabled it to perform its functions under section 55(1) consistently with the purposes of the PD Act. Stage 2 of the project confirmed that IBAC is consistent in adhering to these policies, procedures, and practices.

Two recommendations that resulted from the monitoring project addressed IBAC's existing policies and procedures. Firstly, a recommendation was made for IBAC to create written procedures for the internal practices IBAC had developed for receiving oral and written disclosures in person at IBAC's offices or by e-mail or post, to ensure that those practices are consistently adhered to. Secondly, the VI recommended that IBAC develop additional guidance material to assist IBAC officers with their assessment obligations under section 26 of the PD Act.

IBAC either accepted or partially accepted all the feedback provided within the VI's Integrity Report. Where IBAC had partially accepted the feedback provided by the VI, IBAC provided the VI with alternative actions which IBAC has indicated its intention to implement.



4 Monitoring coercive power notifications

Findings:

The VI's operational governance framework is designed to effectively support the monitoring of coercive power notifications in accordance with the VI Act.

4.1 Introduction

One of the VI's core functions is to oversight the use of coercive powers – powers that limit the freedoms and rights of individuals – by Victorian integrity, accountability, and investigatory bodies. The VI is required to be notified of uses of coercive powers by IBAC, the VO, OCE, OVIC, VAGO, the Judicial Commission, Wage Inspectorate Victoria (WIV) and the Office of the Special Investigator (OSI). These bodies, other than the Judicial Commission, must provide copies of relevant instruments, transcripts, and recordings of compulsory examinations (or interviews) which are retained and may be reviewed by the VI.

4.2 Coercive powers

Section 11 of the VI Act provides the authority for the VI to monitor the exercise of coercive powers by IBAC⁶, the VO, OVIC, VAGO, the Office of the Chief Examiner (OCE), Wage Inspectorate Victoria (WIV) and the Office of the Special Investigator (OSI). The WIV and OSI are not considered further in this report as they were not in the VI's jurisdiction during the audit period.

Each body is required to notify the VI when they exercise coercive powers with the VI receiving approximately 1,000 notifications per year. Most of these notifications are from IBAC, with a smaller portion from the VO and the OCE. OVIC rarely exercises coercive powers.

For IBAC, the VO and OVIC, these powers include:

- Issuing a summons or notice to a person requiring them to give evidence at a compulsory examination, to appear for compulsory questioning, or to produce documents or things. IBAC must also notify the VI where it determines to conduct an examination in public.
- Issuing a confidentiality notice prohibiting a person from disclosing information about a matter being investigated, or that a summons or notice has been issued. The VI is also required to be notified of the cancellation of a confidentiality notice.
- Compulsorily examining or questioning a person.

IBAC must also notify the VI where it exercises certain other powers, including:

- Making directions about Australian legal practitioners, including that a specified witness is prohibited from engaging a specified practitioner.

⁶ The VI's function to monitor IBAC's exercise of coercive powers arises from section 11(2)(a), as IBAC exercises coercive powers under the IBAC Act.



- Issuing a warrant for the arrest of a person for failing to appear for examination or for otherwise being in contempt of IBAC.

Over the four-year audit period, the VI received a total of 3,349 notifications from IBAC, VO and OVIC (3,808 from all bodies). Table 4 refers.

Table 4. Notifications received – by type

Agency	Section	sub-type	17-18	18-19	19-20	20-21
IBAC	s 117(5)	Public hearing	1	1	1	3 ¹
	s 122	Summons	373	378	353	251 ²
	s 128	Direction to lawyer	0	0	0	3
	s 134	Recordings	138	101	65	52
	s 43	Confidentiality notice cancelled	0	99	74	39
		Confidentiality notice issued	250	142	37 ³	64
	s 59G	Summons, preliminary inquiry	77	63	52	4
	s 71	Complaint referral	2 ⁴	0	0	0
	s 73	Complaint referral	0 ⁴	0	0	0
IBAC Total			841	784	582	416
OVIC	s 61ZD	Notice to produce documents	0	0	1	0
OVIC Total			0	0	1	0
VO	s 16F	Complaint referral	4 ⁴	0	0	0
	s 18A	Summons	14	22	17	54
	s 18F(7), s 18Q	Recordings	82	68	83 ⁵	33
	s 26E	Confidentiality notice cancelled	0	26	38	32
		Confidentiality notice issued	94	35	28	68
	s 26FB	Voluntary appearance recordings	0	0	0	27 ⁵
VO Total			194	151	166	214
Grand Total			1,035	935	749	630

Source: VI Annual Reports for the years identified

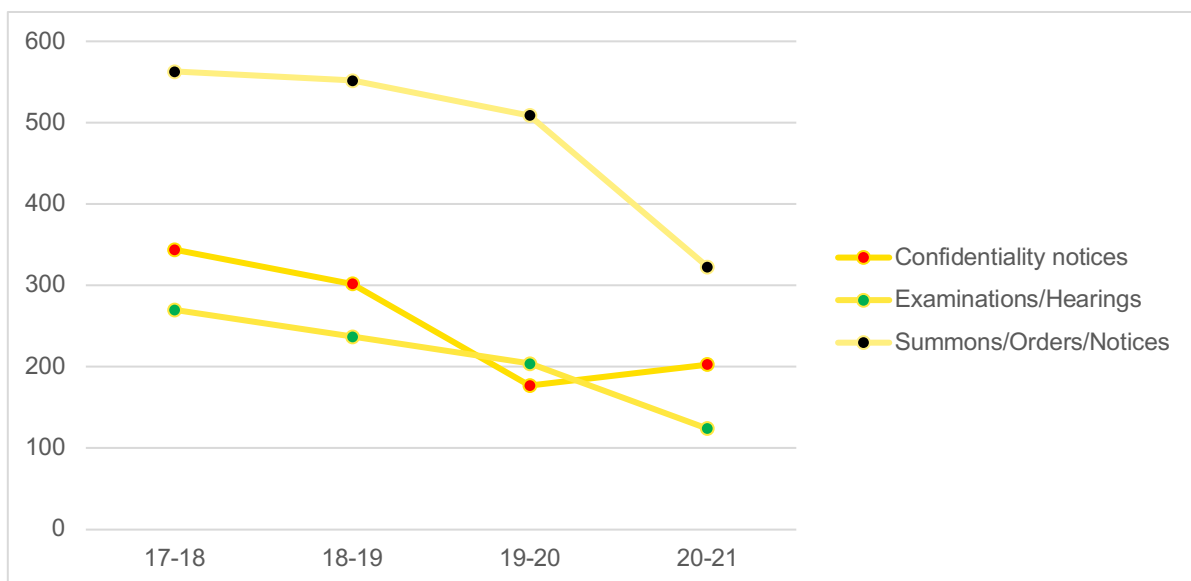
Notes to Table 4

1. Annual Report notes that subsequent notices related to the resumption of Operation Esperance public hearings
2. Annual Report notes that this includes six summons that were issued but not served
3. Annual Report notes that this includes two notices that were issued but not served
4. Whilst these were notifications, and reported as such in the 2017-18 Annual Report, they are notifications of complaints, not coercive power notifications. For this reason, the Annual Reports from 2018-19 onwards moved their reporting to the complaint section
5. Annual Report notes that this includes compulsory and voluntary appearances. From 2020-21 these have been recorded separately

The key points to be noted from Table 4 include:

- Notifications received have been gradually decreasing over the four-year audit period. This decrease was partially due to the impact that COVID-19 had as summonses and notices could not be served, and compulsory examinations or questioning could not occur, until a legislative change permitted service, examinations and questioning by audio or video. For example, the number of s.134 notifications received in 2020-21 is 63% less than that received in 2017-18. The exception to this is the large increase in summonses issued by the VO under s.18A of the Ombudsman’s Act that have increased by 74%. This increase is due to a legislative change from 1 January 2020, which removed the former power of the VO to compulsorily examine persons who ‘happen to be present’ and required the VO to make more extensive use of its power to issue summonses. The relevant amending Act was the *Integrity and Accountability Legislation Amendment (Public Interest Disclosures, Oversight and Independence) Act 2019*.
- It is also noted that the percentage of Notifications issued by IBAC has reduced over the past four years from 81% of the total issued in 2017-18 to 67% in 2020-21 (Table 4).
- The number of notifications issued by the VO has marginally increased over the audit period, while the number issued by IBAC has fallen substantially (Figure 2).

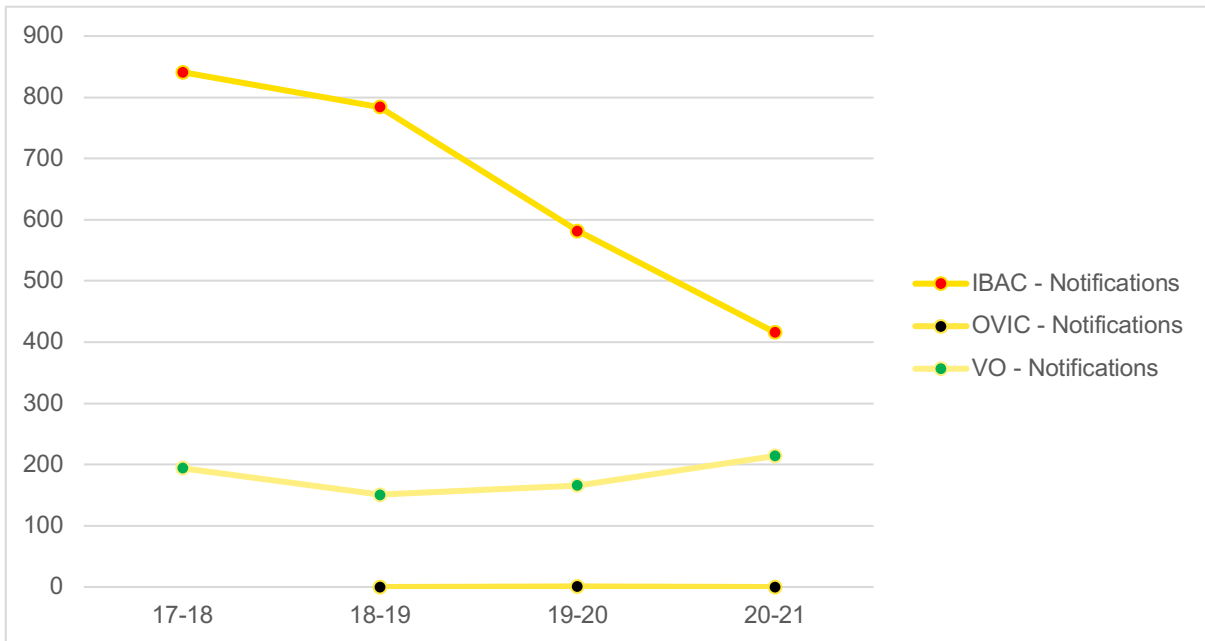
Figure 1. Number of notifications issued (by type) – All agencies



Source: Annual Reports



Figure 2. Number of notifications issued – by agency



Source: Annual Reports

The VI is not required to review all notifications received, and historically has not done so. Amendments to the VI Act that took effect from 1 January 2020 clarified this position and confirmed that the VI has discretion over which notifications to review. The legislative amendment requires that where the VI does exercise that discretion, it assesses:

- whether the notification is compliant with the legislation governing the integrity body.
- whether a requirement by an integrity body for a person to produce documents or things may reasonably be considered as assisting the body to achieve the purposes of its investigation.
- whether the questioning of a person attending the integrity body for an examination may reasonably be considered as assisting the body to achieve the purposes of the investigation to which the examination relates.

The current process for reviewing coercive power notifications was first established in 2018-19. In its 2018-19 Annual Report, the VI described this new process as follows:

In general terms, the VI’s approach included:

- making and maintaining registers and records of the notifications it receives from bodies, which include copies of summonses and notices issued to witnesses, and audio or video recordings of examinations.
- undertaking a preliminary triage, where notifications are prioritised depending on the presence of risk or strategic oversight factors, such as those associated with an investigation, a witness, or the type of coercive power to be exercised by a body.



- where a notification is reviewed, assessing whether the body has complied with applicable statutory requirements in exercising the coercive power that has been notified.

As indicated in the table below (and Figure 3), there are a variety of different types of coercive power notifications that the VI monitors. The largest relates to the issuing of a summons.

Table 5. Coercive power notifications issued (by type)

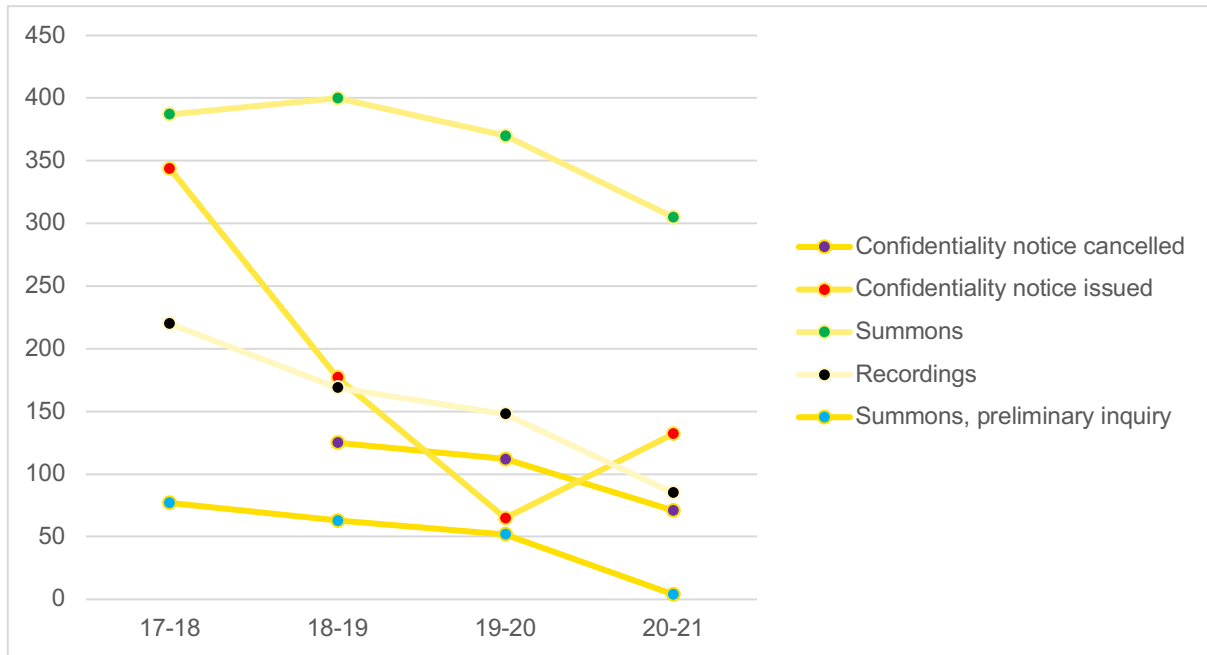
Category	17-18	18-19	19-20	20-21	Grand Total
Confidentiality notice cancelled	0	125	112	71	308
Confidentiality notice issued	344	177	65	132	718
Direction to lawyer	0	0	0	3	3
Notice to produce documents	0	0	1	0	1
Public hearing	1	1	1	3	6
Summons	387	400	370	305	1462
Recordings	220	169	148	85 ²	622
Summons, preliminary inquiry	77	63	52	4	196
Voluntary appearance recordings	0	0	0	27 ²	27
Grand Total	1035	935	749	630	3349

Notes to Table 4

1. *Complaint referrals from IBAC under s71 and s73 and from the VO under s16F are now recorded as complaints and not coercive power notifications*
2. *Voluntary appearance recordings are now reported separately*



Figure 3. Notifications issued (selected notifications)



4.3 Coercive power notification process

When the VI receives a statutory notification from any integrity body, it has complete discretion whether to review that notification. This is clear from s40A of the VI Act as it relates to IBAC, and s 42AA as it relates to the VO. The VI has implemented a triage process as part of a risk-based approach to determine whether a notification should be subject to a formal review.

The process implemented by the VI for the monitoring of coercive power notifications is summarised in the following table:

Table 6. Coercive power monitoring process

Step	Detail
Receipt of Notification	From 2017 to 2020, all notifications were required to be hand delivered to the VI and were tracked through delivery receipts, hard copy files and a spreadsheet. After the onset of COVID-19 related lockdowns, the VI pivoted to allow receipt of notifications through the secure file transfer tool Kiteworks. This allowed the VI to continue to receive notifications throughout lockdowns and limited office attendance. Under its current arrangements, VI has developed a process that allows for electronic storage and management of individual notifications in the case management system.
Completeness check (Initial assessment)	An initial check is undertaken of all notifications to identify and raise any administrative errors directly with the agency before it undergoes triage, such as the



Step	Detail
Triage ²	<p>completeness of documents and recordings, and to flag any urgent notifications (as defined in the notifications manual).</p> <p>When a notification is received, key information and all documents are added to the case management system and cross linked with the related investigation and witnesses.</p> <p>After undertaking a completeness check to identify and raise any administrative errors, the VI conducts a triage on as many notifications as resources permit. This identifies administrative and other obvious errors as well as assessing risk and priority for review.</p> <p>The triage process is not a legislative requirement as the VI has a discretion whether to review each notification.</p> <p>As resources limit the number of notifications reviews, the triage process was introduced to support a risk-based approach to identifying notifications that would benefit from review.</p> <p>The VI considers the priority level of all notifications, which may vary according to the type of notification, a body’s compliance history, and the presence of risk or strategic oversight factors, such as those associated with an investigation, a witness, or the type of coercive power to be exercised by a body. There is no specific template for this, however, the Notifications Manual offers a guide.</p> <p>The notifications are now received electronically and uploaded into the case management system by the support officer ready for triage and review by an officer allocated to that agency¹:</p> <ol style="list-style-type: none"> a. IBAC - Senior Legal Policy Officer (SLPO) b. VO - Compliance and Policy Officer (CPO) c. OVIC notifications are very rare - currently managed by the Manager and the CPO. <p>The triage process is carried out on as many notifications as resources permit. This identifies administrative and other obvious errors as well as assessing risk and priority for review. Prior to this process being implemented in 2019, and during COVID-19 strict lockdown periods, the Inspector undertook the triage process. Until early 2021, notifications were managed via spreadsheets and allocated to legal policy officers or solicitors according to available resources.</p> <p>At this stage, the Triage Officer will triage the notification (also referred to as a preliminary review) to determine whether it warrants review. In determining whether a notification warrants review, the Triage Officer will consider the following issues:</p> <ul style="list-style-type: none"> • Any errors or inconsistencies in the documents that may require them to be re-issued by the agency



Step	Detail
	<ul style="list-style-type: none"> • Any issues with the documents that may require substantive feedback to the agency • Any questions about the legality of the exercise of a statutory power based on the documents provided • Any risk factors that are apparent from the notification such as welfare or safety concerns relating to the witness, the identity of the witness as a person of interest or a complainant, or any of the other matters that are listed as ‘Risk factors’ on the Main screen for Notifications in the case management system • whether information gleaned from a review of the notification could be relevant to other work being conducted by the VI; and • the resources available in the Inspections & Monitoring Team to conduct a review. <p>Issues are escalated to the team’s Manager and recorded in the case management system.</p> <p>If a notification requires further review, it is assigned to a VI Officer to complete a checklist relevant to the type of notification and the integrity body.</p> <p>If it is decided the notification is low-risk, that notification will not be reviewed.</p>
Review	<p>At the review point, a VI Officer will complete a checklist. These checklists ensure that each legislative requirement for the exercise of the power is considered during the review. The checklists have been updated throughout the audit period as legislative requirements evolved. A new set of checklists were approved in April 2019, and these were then updated in February 2020. The checklists are presented in a question-and-answer format which prompt the reviewer to answer yes/no/non-applicable to a series of questions derived from the relevant pieces of legislation. There are further sections to summarise issues identified, identify key themes for VI’s internal intelligence. All checklists also have space to identify who completed the review and who conducted quality assurance over the review. Until the VI received increased funding for notifications resources in November 2020, quality assurance was only conducted for escalated issues, not for every review. There are separate checklists for each agency and each coercive power type to account for the different legislation. During the audit period, there were no specific checklists for OVIC notifications, due to the very low volume coercive power notifications allowing VI to take those notifications on a case-by-case basis. Checklists for OVIC notifications are currently being developed.</p>

Notes to Table 6:

1. *During the audit period the VI did not have two policy officers allocated to notifications, nor access to the case management system for notifications. Also, when limited staff were able to attend during strict lockdown periods, the Inspector considered notifications as they were delivered to identify risks (triage) – see Annual Reports 2019-20 and 2020-21.*



2. *The triage process is not a legislative requirement as the VI has discretion whether to review each notification. As resources limit the number of notifications reviews, the triage process was introduced to support a risk-based approach to identifying notifications that would benefit from review. In the preliminary reviews undertaken by the Inspector in the early years of the audit period, if an issue was identified which was important enough to raise, the Inspector wrote a letter to the relevant agency. When conducting triage during the lockdown period, the Inspector did not require criteria to identify notifications for review. For more junior staff, the guidance in the notifications manual adds criteria and consistency to the triage process and to the record of triage observations in the case management system.*

The following table summarises the treatment of each notification received throughout the audit period. Prior to 2019-20, there was no formal triaging of notifications, although an informal arrangement was in place. The table highlights the large decrease in the number of notifications received over the audit period, noting that the impact of COVID-19 during 2019-20 significantly impacted on the number of notifications issued and the VI's ability to undertake this activity.

Table 7. Notifications reviewed – All integrity bodies

	17-18	18-19	19-20	20-21
Notifications received ¹	1171	1091	890	650
Notifications triaged	0	266 ²	210	413
Notifications reviewed	251	466	63	233
% of notifications reviewed	21.4%	42.7%	7.1%	35.8%
% of notifications triaged	0.0%	24.3%	23.6%	63.5%
% of triaged notifications reviewed	0%	0%	30.0%	56.4%

Notes to Table 7:

1. *Removes Complaint notifications from 2017-18*
2. *During this period some notifications went straight to review without being subjected to the triage process*

The use of individual checklists that apply to each agency and each notification type provide an effective control mechanism for ensuring agency compliance with legislative requirements. Use of these individual checklists assists in ensuring the VI is discharging its responsibility under the Act to test compliance by agencies of their exercise of power. The checklists enable the VI to collate the results from reviews and provide comprehensive feedback to agencies about systemic issues identified. Callida was provided access to a sample of notifications checklists but was not provided access to the overall results relating to each agency.

The design of this process allows for the consistent capture of information and supports providing feedback to each agency. Using this approach, the VI can provide comprehensive and thematic feedback focussed on both individual and systemic improvements. As indicated above, Callida was not provided access to this information.



The VI has also developed a Notifications Manual (draft) to support staff monitoring notifications. While the manual has not been finalised, a strategy has been put in place for this to occur during the 2022-23 financial year following some planned enhancements to the case management system.

The VI noted that the manual is providing a valuable resource to staff that should increase consistency in how notifications are assessed. The manual also provides a valuable training tool for staff. While outside the audit period, the VI was successful in triaging 100% of notifications received in 2021-22. This resulted in an increase in the number of notifications reviewed. Triaging 100% of notifications means that the VI has a comprehensive picture of the compliance of agencies with legislative requirements. This allows the VI to target its resources to areas of greater risk. Timely triage of 100% of notifications also allows the VI to provide real-time feedback on issues that may affect the legality of an agency's use of coercive powers, and in this way the VI can safeguard the rights of witnesses at the time, as well as the rights of future witnesses.

The results of the reviews now provide an important input into the decision to create a monitoring case in the case management system or commence a monitoring project. Monitoring cases are established to capture the management of a recurrent issue that has been identified and monitor implementation of feedback. Monitoring projects explore a compliance issue in more detail. No detailed analysis of the results of notifications was provided by the VI for the purposes of the audit.

4.4 Coercive powers testing

A sample of coercive power notifications were tested for compliance against the VI's internal policies and procedures. As noted above, the VI completes a review by working through agency specific checklists designed for each type of notification.

The current notifications monitoring process includes five key steps to ensure consistency, accuracy, and quality of notifications oversight. Those steps are as follows:

- initial triage process completed
- completed relevant checklist for notifications selected for review
- reviewer signoff on completed relevant checklist
- if applicable, signoff on QA from a Manager
- if applicable, Integrity Operations Management Committee (IOMC) approval for actions

The VI has developed nine separate checklists for this purpose. There are five specific checklists relevant to IBAC's coercive powers and four relating to VO's coercive powers. The checklists are as follows:

- IBAC
 - Confidentiality Notice
 - Confidentiality Notice Cancellation
 - Hearings
 - Witness Summons for preliminary inquiry
 - Witness Summons for investigation
- VO

- Confidentiality Notice
- Confidentiality Notice Cancellation
- Summons Notifications
- Hearings

An initial review of each checklist was completed. The review confirmed that each element of the checklist referred to the correct section of the legislation applicable for each agency, and that it included coverage of all legislative requirements.

A sample was then selected of notifications recorded over the audit period. The selection covered all agencies and all audit periods. Details of the number of samples selected are provided in the tables below:

Table 8. Sample testing – Notifications by agency

Notifications by Agency	
IBAC	19
VO	12
OVIC	1
Total	32

Table 9. Sample testing – Notifications by year

Notifications by Year	
17-18	4
18-19	8
19-20	10
20-21	10
Total	32

For each selected notification, documentation was requested to confirm that the steps identified above were operating as designed.

The VI provided copies of all supporting documentation for each sample, however, each document was heavily redacted. As a result, testing was limited to confirming that, where applicable, a checklist had been completed and there was evidence that each checklist had been reviewed.

The results of testing identified the following:

Table 10. Results of testing - Notifications

Control	Process followed	N/A	Process not followed	Total
Triage	18	14	0	32
Completed Checklist template	17	15	0	32
Template QA'd	1	12	19 ¹	32
If relevant, IOMC approval	0	32	0	32

Notes to Table 10:



1. *Until the VI was allocated further resources in November 2020 to engage new FTE (including a monitoring manager), there were insufficient resources to quality assure every checklist. Quality assurance was undertaken through the escalation process if issues were identified.*

Table 11. Summary assessment against steps

Observation:	Process/control	Assessment
1	Triage process	Outside of guidance in the Section 9 of Notifications Manual, there is no specific triaging template or required documentation. As such, there are limited records to support decision making at the triage stage. Similarly, without any template or records, it is impossible to assess if triaging decisions were appropriate.
2	Completed checklists	Checklists for each of the sample items were provided by the VI but heavily redacted. Due to the lack of available information, no conclusions are made over the appropriateness and completeness of assessments made using relevant checklists.
3	Quality assurance	<p>All checklists incorporate a section for the reviewer to sign off upon completion of the checklist. There is also provision for another officer to sign-off on quality assurance over the completion of the checklist. For all checklists reviewed, only one had evidence of quality assurance.</p> <p>Quality Assurance (QA) provides additional confidence that any mandatory activities are completed as required by internal procedures and/or guidelines.</p> <p>Until early /mid 2021, the VI did not have sufficient resources to QA all checklists. Until then, officers escalated issues that they identified through the initial review. From 2021-22, the formal process is to QA all checklists.</p>
4	Approval by IOMC	<p>The history of the VI over the audit period shows a steady maturing in its processes with a move to more robust decision-making and formal recording of decisions. There is evidence in the many items of correspondence with agencies that notifications were being reviewed and issues identified.</p> <p>IOMC approval records were not created for most of the audit period due to the shortage of staff at senior levels. However, existing senior staff were each aware of the issues and moved forward by consensus without formal consideration at an IOMC meeting. Specific issues that were important enough to raise were contained in correspondence from the Inspector to the agency. During 2019, the VI commenced tracking integrity responses for complex issues on a spreadsheet for discussion at monthly IOMC meetings. After the monitoring manager commenced in late May 2021 IOMC tracked all</p>



Observation:	Process/control	Assessment
5		notification issues in the case management system and introduced regular notifications meetings for discussion and approval of complex issues.
	Targets & performance measures	<p>Throughout the audit period, there were no established targets or performance measures against volume or quality of checklists completed. Performance measures allow for accurate and up to date measures of performance and provide both the executive and the public with confidence over performance.</p> <p>The setting of targets by the VI was impacted during the audit period by its uncertain funding. In 2018-19, the VI commenced reporting the number and percentage of its notification reviews and explained its priorities, and resource and COVID-19 limitations in its Annual Plan for 2020-21.</p>

As noted in Table 7, in 2018–19, the VI received 1091 coercive power notifications, mostly from IBAC, the VO and the Chief Examiner. The VI conducted preliminary reviews of 266 and reviews of 466 notifications. The VI noted that COVID-19 impacted the review work significantly as most review work could not be done remotely. The VI’s approach will continue to monitor those agencies that infrequently exercise coercive powers through self-reporting questionnaires covering relevant legislative requirements..

4.5 Recommendations

Section Ref.	Recommendation
4.3	The VI consider capturing the results from the triage of coercive power notifications in the case management system, including the rational for requiring a review to be undertaken.
4.3	The VI ensure more consistency of conducting QA processes when assessing coercive power notifications.

5 Receiving and managing complaints and enquiries

Findings:

The VI's operational governance framework is designed to effectively support the management of complaints and enquiries in line with the requirements of the VI Act.

The VI have experienced an increase in high complexity complaints which, combined with resourcing constraints, has increased the average handling time for complaints over the audit period.

5.1 Introduction

Section 11 of the VI Act requires the VI to receive and manage complaints on the conduct of seven integrity bodies, including:

- the IBAC and IBAC personnel (s 11.2(d))
- the OVIC (s 11.5(b))
- the VO (s 11.4(b)).

The VI can also receive complaints relating to a variety of other integrity agencies across Victoria.

5.2 Complaints background and data

Section 43 of the VI Act sets out the circumstances in which a person may make a complaint to the VI and the specific requirements that are applicable to each agency. Section 43 of the VI Act is reproduced at Appendix C.

The VI records a complaint when it receives substantive information from a person who has demonstrated an intention to make a complaint to them. The VI has created an online form for this purpose, however it also receives complaints in other formats (including orally and by email). The VI also records a complaint where a complaint is made pursuant to mandatory reporting obligations in the Ombudsman Act and the IBAC Act.

Table 12 details the number of complaints and disclosures under the PID Act the VI received between 2017-18 and 2020-21.

Table 12. Complaints received

Agency	17-18	18-19	19-20	20-21
IBAC	38	37	39	44
VO	40	45	36	36
IBAC/VO	0	1	0	4
VAGO	0	0	1	3
Local Council*	0	0	0	1
Regulatory entity*	0	0	0	1
Multiple bodies*	0	0	0	1

Agency	17-18	18-19	19-20	20-21
VicPol	0	0	0	1
OVIC	4	3	9	0
Not identified (as under investigation)	0	0	4	0
Public bodies*	0	0	2	0
Judicial Commission*	0	0	1	0
Outside jurisdiction	1	3	0	0
OCE	0	0	1	0
Total complaints received	83	89¹	93	91

Source: VI Annual Reports for the years identified

Note: * disclosures under the PID Act

1. The VI's 2018-19 Annual Report refers to 83 jurisdictional complaints received about IBAC, VO, OVIC plus 1 joint IBAC/VO complaint. The above table includes 3 other complaints received that were outside the VI's jurisdiction, plus three other complaints received from IBAC under ss71 and 73 relating to IBAC staff – pages 53-54 of the Annual Report refer.

Table 13 details the outcome of the complaints throughout the audit period.

Table 13. Complaints – Outcomes

Agency	Complaint outcome	Issue addressed	17-18	18-19	19-20	20-21
IBAC	Complaint dismissed at initial assessment		19	9	10	13
	Complaint dismissed following enquiries		2	10	8	
	Outside jurisdiction		1			
	Remain open at end of period		7	11	20	25
	Under investigation as part of PD investigation		1			
	VI raised concerns	Communication with complainant	2			
		Delay in timely notification to VI			1	
		IBAC handling of complaint		3		
		Witness welfare		1		
		Delays in reviewing file	1			
		Complaint closed following enquiries				6

Agency	Complaint outcome	Issue addressed	17-18	18-19	19-20	20-21
	Complaint deemed closed	Additional information not provided	3			
	Prior year complaint	Complaints dismissed		7	10	
		VI raised concerns			4	
		Closed - Complaints dismissed at assessment				6
		Closed - Dismissed as unsubstantiated after enquiries				1
		Closed - Dismissed as unsubstantiated after file review				4
		Closed - Feedback provided after file review				1
		Closed - Feedback provided after enquiries				4
		Closed - Feedback provided after enquiries - substantiated				1
IBAC Total			36	41	53	61
OVIC	Complaint dismissed at initial assessment		2		2	
	Complaint dismissed following enquiries				2	
	Complaint substantiated			1		
	Outside jurisdiction		1		5	
	Remain open at end of period		1	2		
	Prior year complaint	VI raised concerns			2	
	Complaint unsubstantiated			1		
OVIC Total			4	4	11	
VO	Complaint dismissed at initial assessment	No evidence of breach of procedural fairness	13	12	15	9
	Complaint dismissed following enquiries		1	13	6	
	Not considered by VI as on-going at VO		2			

Agency	Complaint outcome	Issue addressed	17-18	18-19	19-20	20-21
	Outside jurisdiction		4			
	Remain open at end of period		10	18	13	25
	VI raised concerns	VI prompted the VO to contact complainant			1	
		VI provided informal feedback re communication			1	
		Incomplete referral to IBAC		1		
		Delay in finalising		1		
		Internal review by VO	3			
	Prior year complaint	VI raised concerns			3	
		Complaints unsubstantiated		10	11	
		Deemed premature			2	
		Dismissed at assessment			2	7
		Remain open at end of period				2
		Dismissed after file review - unsubstantiated				4
	Deemed closed	Additional information not provided	3			
	Complaint closed with feedback	Complaint substantiated				1
		Complaints dismissed as unsubstantiated				1
VO Total			36	55	54	49
VO & IBAC	Complaint dismissed at initial assessment					1
	Remain open at end of period			1		1
	Complaint dismissed	Insufficient information				2
VO & IBAC Total				1		4
Total Complaints¹			76	101	118	114

Notes to Table:

1. *The total complaints noted in the table will not match the total included in Table 11 due to Complaints remaining outstanding at the end of the year also being counted in the following year when the complaint has been finalised.*

The table above identifies the outcomes from each complaint investigated by the VI throughout the audit period based on the outcomes detailed in the VI Annual Report for each year. While the VI is transparent in detailing the outcome, it is difficult to determine whether the complaint has been substantiated or not. This then makes it difficult to measure the outcomes of complaints against prior years, or to analyse trend data over a longer period.

To address this issue, the VI would benefit from developing some standard definitions for recording the outcome of each complaint. This would also provide input into the VI's planning arrangements, and as an input into the preparation of each Annual Plan.

The VI allocates complaints into different categories based on their complexity. Each category covers a wide range of complaints, including:

Low complexity complaints

- Standard complaints that require limited interaction with the complainant and the agency and limited document analysis
- Assessable disclosures that are simple to assess and notify to IBAC

Medium complexity complaints

- Assessable disclosures that are difficult to assess
- Complaints that require either significant interaction with the complainant* or the agency
- Complaints that require significant document review or analysis
- Complaints that raise legal issues requiring legal advice – these may also require interaction with the agency over the interpretation of a legal issue

High complexity complaints

- Complaints that require extensive interaction with the complainant* or the agency
- Complaints that require extensive document review or analysis
- Complaints with complex legal issues
- Complaints that relate to agency investigations, examinations, or hearings
- Complaints that require significant input from senior management.

**significant / extensive interaction with a complainant can arise from a range of issues including welfare management; the complex presentation of the complainant (as previously explained to Callida); the need for a contact management plan; challenges in obtaining the required evidence.*

The definitions used by the VI to classify complaints have not changed throughout the audit period. The complexity of each complaint is determined by the VI officer undertaking the initial triage process. This information is then included in reporting to the Case Assessment Meeting (CAM) and IOMC. The complexity of a complaint can be changed at either the CAM or IOMC.



An important component of the VI’s complaints management process is the engagement of a forensic psychiatrist who specialises in managing complex complaints and complainants. This supports the VI to manage the increasingly large proportion of complainants in this category.

The VI is currently working on developing a new complaints framework. These descriptions will be built into the framework and assist with allocating sufficient resources to assess and manage complaints.

The complexity of each complaint determines how long it will take to assess and manage. The higher rated a complaint is, the longer it will take to complete an assessment and provide an outcome to the complainant. This also translates into a higher cost to the VI in undertaking the complaints management process. Table 14 and 15 and Figure 4 provide a snapshot of complaints received over the audit period.

Table 14. Complexity of complaints

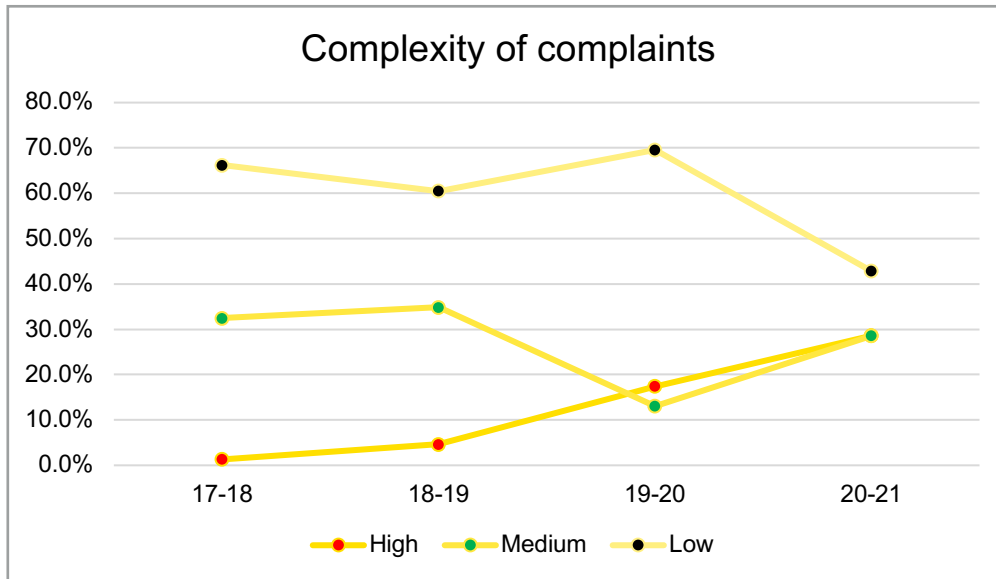
Complexity	17-18	18-19	19-20	20-21
High	1	4	16	26
Medium	25	30	12	26
Low	51	52	64	39
Total	77	86	92	91

Table 15. Percentage of complaints at complexity level

Complexity	17-18	18-19	19-20	20-21
High	1.3%	4.7%	17.4%	28.6%
Medium	32.5%	34.9%	13.0%	28.6%
Low	66.1%	60.5%	69.6%	42.8%
Total	100.0%	100.0%	100.0%	100.0%



Figure 4. Change in complexity of complaints



As shown in the above tables and figure, the complexity of complaints has significantly increased over the audit period. In 2017-18, complaints categorised as high complexity equated to only 1.3% of total complaints received. This number increased to 28.6% in 2020-21. Similarly, the overall number of complaints received in 2020-21 has increased 9.64% over those received in 2017-18. This increase, coupled with the increased in complexity of complaints has meant that more resources are required to assess and investigate complaints received by the VI.

There are several reasons that explain the increase in complexity of complaints across the audit period:

- The introduction of the PID Act from 31 December 2019, considerably broadened the VI’s PID jurisdiction, as well as the complexity of complaints received. Public interest disclosures can relate to improper conduct of any kind, which expanded the type of complaints the VI now receives. This has led to an increase in disclosures, often from within agencies, about issues which would not have previously come to the VI. Those that are determined to be public interest complaints must be investigated.
- An increase in notifications from IBAC of complaints about IBAC or IBAC officers:
 - 2017-18
 - 2 complaints about IBAC or IBAC officers notified by IBAC to the VI under section 71 of the IBAC Act
 - 2018-19
 - 1 complaint notified to the VI under section 71
 - 2 complaints referred to the VI for investigation under section 73
 - 2019-20

- 5 complaints about IBAC or an IBAC officer were notified by IBAC under section 71 of the IBAC Act
- A sixth complaint notified by IBAC under section 71 was already a complaint at the time of notification
- 2020-21
 - 6 complaints about IBAC or an IBAC officer were notified from IBAC under section 71
 - 2 complaints were referred to the VI for investigation under section 73, including 1 public interest complaint
- An increase in notifications from the VO of complaints in relation to misconduct by a VO officers, IBAC or IBAC personnel, the Chief Examiner, and Examiner or a VAGO officer
 - 2019-20
 - 2 complaints notified by the VO under section 16F of the Ombudsman Act. This provision requires the VO to notify or refer to the VI a complaint or referred matter that appears to involve the misconduct of a VO officer, IBAC or IBAC personnel, the Chief Examiner or an Examiner, or a VAGO officer.
 - 2020-21
 - 2 complaints were notified by the VO to the VI under section 16F of the Ombudsman Act.
- The role and functions of the VI have become better known in the public and within agencies, in part through:
 - presentations at Law Week
 - the VI's increased engagement across various levels of agencies to more clearly articulate the VI's role
 - the Special Report into the welfare of witnesses in IBAC investigations
 - increased public focus on the integrity system, both nationally and within the state
 - Flow on effect from improvements to VI website – the single digital presence website is more informative about how to make complaints and the complaint jurisdiction
 - an increase in the number of IBAC public hearings. Complaints about public hearings are usually classified as either medium or complex.
- The impact of COVID-19 on complainant resilience, leading to increasingly complex complainant management issues.

The increase in the complexity of complaints affects both the level of resources required to assess the complaint and the duration that it takes to finalise each complaint. Based on resource requirements identified through the Base Review for complaint handling, the actual effort required at each



complexity level was determined. The analysis in the following table identifies the impact of that those changes in complexity had on overall resourcing requirements.

Table 16. Resources (days of effort) required at complaint complexity level

Complaint complexity level	Avg days	17-18	18-19	19-20	20-21
<i>Low</i>	4.85	247	252	310	189
<i>Medium</i>	16.1	402	483	193	418
<i>High</i>	32.5	32	180	520	845
<i>Days of effort required</i>		682	915	1,023	1,452
<i>Complaints received</i>		77	86	92	91
<i>% increase in the number of complaints received over previous year</i>			11.7%	7.0%	-1.1%
<i>% increase in number of complaints over audit period</i>					18.2%
<i>% year on year increase in days of effort required to deliver complaints</i>			34.2%	11.8%	41.9%
<i>% increase in days of effort required over audit period</i>					112.9%

The time assessment includes each stage in the complaints process, from triage through to outcome, and incorporates all administrative and management time. This analysis identifies that:

- The number of complaints has increased 18.2% over the audit period.
- The days of effort required to deliver the complaints function have increased 112.9% over the audit period.
- While the number of complaints received during 2020-21 decreased by 1, the estimated days of effort required to finalise complaints increased by 41.9%.

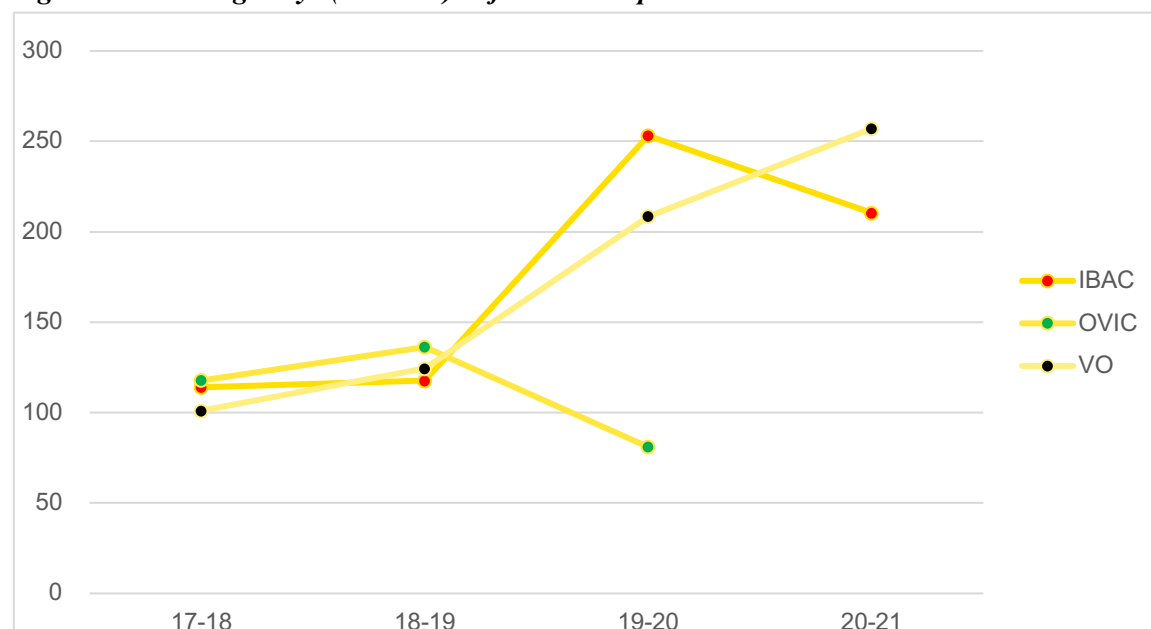
The change in complexity of complaints also affects the length of time it takes to finalise a complaint. Table 17 summarises the average length of time (duration) it took for the VI to close a complaint in the case management system over the audit period. The following observations can be made from the data:

- The number of days to finalise has increased significantly over the audit period from an average of 108 days in 2017-18 to 229 days in 2020-21. There are several factors that have resulted in the increase in duration. Firstly, the increase in complexity of complaints has increased the number of days effort required to finalise each complaint. Secondly, the impact of COVID-19 has meant that some interviews could not be held, or were delayed, and staff working from home could not access the VI case management system. (see Figure 5).
- The largest increase in the days to complete was with complaints made against the VO which increased by 154% over the audit period.



Table 17. Average days (duration) to finalise complaints (by integrity body)

Body	17-18	18-19	19-20	20-21	Agency Average
IBAC	114	118	253	210	176
OVIC	118	136	81	N/A	103
VO	101	124	208	257	165
Average	108	122	215	229	167

Figure 5. Average days (duration) to finalise complaints


Further data is provided in Table 18. This table highlights the maximum and minimum number of days taken to finalise complaints during the audit period.

Table 18. Days (duration) to finalise complaints (closed complaints)

	17-18	18-19	19-20	20-21
No. of Complaints (closed)	75	86	85	69
Average of Days to complete	108	122	215	229
Max. of Days to complete	553	350	961	646
Min. of Days to complete	9	3	24	30



An important qualification on these statistics is that they represent the day the file was closed in the CMS, not necessarily the date when the complainant outcome letter was sent. This will have the effect of over-stating the number of days that it takes to finalise a complaint.

The VI has advised that outcomes were frequently provided to complainants' weeks or months before the closure date recorded in the CMS. As the CMS does not record the outcome letter date as a searchable field, the accurate data can only be extracted manually. The VI plans to update the CMS to add an outcome date field as the only alternative to access the data is to manually search each case.

The statistics were extracted from the CMS maintained on the VI's air-gapped network and included data stored in a closed date field that is system generated i.e., the field is updated based on the date of entry recording the date the complaint was closed. There are two reasons the closed date is often weeks or many months after the date the complainant receives their first outcome letter.

- Some complainants return to the VI with more information or to seek a review and the VI reopens their complaint. (see example in Table 20 – 20/00077)
- The VI frequently closed the cases in the CMS well after the outcome was provided to the complainant (and where required, the agency). This has happened more frequently post COVID-19 due to the VI's shift to temporarily storing complaint records on its remotely accessible network. Since March 2020, this has created an administrative burden as records needed to be manually transferred back to the CMS housed on the air gapped system before case closure and for extended periods complaint staff had limited access to the office.

Development of Complaints Service Charter

The VI is currently working with a consultant to deliver a Complaints Service Charter to be supported by a new complaints framework expected to be finalised in October 2022.

The VI's new three-year Strategic Plan will deliver a Service Charter in 2022 for the VI's complaints function. To support delivery of the Service Charter, the VI will develop and implement a new complaints framework to address the impact of two years of COVID-19 restrictions on the VI's under-resourced operations, combined with the impact of the base review, the performance audit and an increase in complaints volume and complexity in 2021-22. The recent increase to the VI's ongoing resources now makes this possible.

The Service Charter will set the VI's expectations for managing complaints, and the Complaints Handling Framework will improve the VI's complaints handling processes to support delivery of the Service Charter. Both the charter and the framework have been drawn from an overview of best practice complaints handling frameworks and an assessment of the strengths of the VI's current complaints handling approach and identifying opportunities for improvement.

5.3 Complaints process

Section 43 of the VI Act outlines the circumstances in which a person can make a complaint to the VI. While it provides specific requirements for each agency in the VI's jurisdiction, it states that a complaint may be made against any agency whose conduct was:

- contrary to law; or
- unreasonable, unjust, oppressive, or improperly discriminatory; or



- based on improper motives; or
- an abuse of power; or
- otherwise improper.

Before 2017-18, the VI had no formal governance arrangements for managing complaints. All complaints were mostly handled by a complaints officer with consultation with in-house lawyers. Issues were escalated to the Inspector on an as needed basis.

Following the appointment of the current Inspector in January 2018, a more structured approach was introduced that allowed increased oversight of the complaints. This relied on the establishment of two key forums: the Complaint Assessment Meeting (CAM) and the Integrity Operations Management Committee (IOMC). The CAM’s function is to review details of incoming complaints and recommend action for the IOMC to endorse.

The current structure (as at 30 June 2021) had 6 staff attached to the Complaints and Investigations team, although one of these positions was vacant at that time and one was a Support Officer. This team reported to the General Manager, Integrity Operations and Policy. Throughout the audit period the VI had 2 staff mostly responsible for managing the complaints process.

Table 19 summarises the current process for handling complaints. These arrangements were first implemented in 2019 following the establishment of the operational governance framework. The process has been revised several times since to tighten controls around complaints management. These changes have been affected as a result of increased resources becoming available to the VI for this purpose.

Table 19. Complaints handing process (current arrangements)

Step	Detail	Outputs
Initial Assessment	<p>The VI can receive complaints in many ways: online webform, email, mail, over the phone or in person.</p> <p>Every complaint is triaged by the Complaints Assessment Officer and provided to the Manager, Complaints and Investigations (MC&I) to determine whether it contains any information requiring an immediate response. This may include issues of complainant welfare if it is determined there is an imminent risk to safety.</p> <p>Each complaint is assessed against the PID Act to determine whether the matter appears to be an assessable disclosure, either requiring a notification to IBAC or a full assessment by the VI to determine if the complaint is a PID requiring investigation, known as a public interest complaint.</p> <p>This is completed using a PID assessment template. If it is determined that a full PID assessment is required, a more detailed assessment takes place, using a different section of the same PID assessment template. From here, a recommendation</p>	<p>Initial Complaint form</p> <p>Form for preliminary and full PID assessment. This form assesses whether a complaint is a PID under the PID Act.</p>



Step	Detail	Outputs
Case Assessment Meeting (CAM)	<p>will be made for Case Assessment Meeting (CAM) consideration.</p> <p>When it is not deemed to meet the threshold of the PID Act, the complaints officer will determine if the VI has jurisdiction to receive the complaint under section 43 of the VI Act. Once an initial determination is made, a recommendation will be submitted to the CAM for consideration and progression.</p>	
	<p>The CAM meets weekly and is attended by the General Manager – Integrity Operations and Policy (GMIO&P), the MC&I, and the Complaints and Investigations team.</p> <p>The purpose of the CAM is to review complaint assessments and decide recommendations for the following fortnightly IOMC meeting.</p> <p>Following the CAM, the MC&I will review all cases from the CAM agenda to ensure appropriate assessment and recommendations are supported by documentation. The review outputs the CAM Table, which is then reviewed by the IOMC.</p> <p>The use of a CAM template also aids in assessing each individual complaint. Details of each complaint are entered into the template that includes an overview of the complaint, any risks identified and an assessment and recommendation on the course of action to be taken by the VI. The template is the basis for discussions at the weekly CAM meeting. Recommendations require consensus to progress to the final assessment and decision-making process. New complaints that are received during each week that have not been through an initial assessment are added to the CAM agenda for noting. This ensures that all complaints are recorded, and details are maintained of the status of each complaint.</p> <p>Recommendations that result from the case assessments include:</p> <ul style="list-style-type: none"> ▪ take no further action on the complaint or disclosure ▪ in the case of a complaint, make enquiries with the relevant integrity body for information or its case file/s or provide feedback/raise observations about the handling of a complaint, and invite a response if necessary ▪ in the case of an assessable disclosure, either notify the matter to IBAC if required under the PID Act, or 	<p>Recommendations to the IOMC on the course of action to be taken against each complaint.</p>



Step	Detail	Outputs
Integrity Operations Management Committee (IOMC)	for the VI to commence an investigation of a public interest complaint <ul style="list-style-type: none"> implement contact management strategies to manage any unreasonable or complex complainant conduct to progress the complaint while appropriately managing any behaviours of concern. 	
	The IOMC meets fortnightly and is attended by the Inspector, Executive Director – Legal and Integrity (EDL&I) and GMIO&P. At this meeting, the MC&I presents each case and answers any questions that the IOMC may have. Following this, the IOMC will make decisions based on the recommendation and supporting documentation. The IOMC will also note all new complaints that are still in initial assessment process. This enables early escalation of background and any risks or issues with any incoming complaints.	Meeting minutes detail the decision of the IOMC on actions to be taken against each complaint.
Post IOMC	Following IOMC decisions, instructions will be fed back to the Complaints Assessments Officers for continuation of cases. This may include a decision not to proceed and to notify complainant and agency of this outcome, a request for more information or a decision to consider an investigation.	Commence: <ul style="list-style-type: none"> Information requests Outcome letters Integrity response Commence investigation

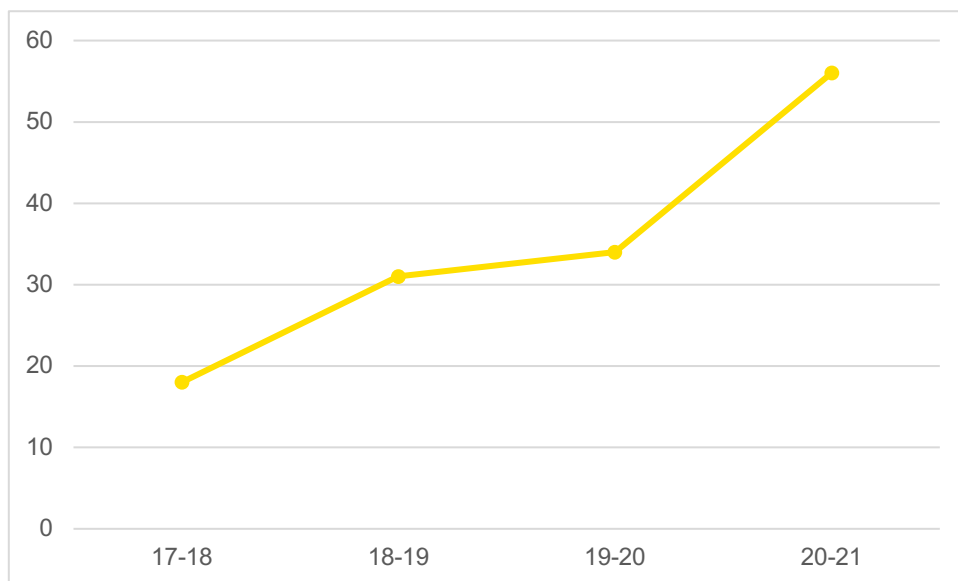
This approach provides an effective mechanism for the VI to ensure adequate resources are allocated to addressing each complaint, and that all complaints are assessed consistently and in a timely manner.

As the VI grows and the number of complaints increase, it may be worth considering empowering Complaints Officers to handle and close low risk complaints to ensure timely turnaround on incoming complaints and avoid bloating executive forums such as the IOMC.

The number of complaints that remain open at the end of each financial year is continuing to increase, as shown in Figure 6 below. This is a function of the increase in complexity of complaints received. This increase then leads to an increase in the number of days required to assess and investigate a complaint, resulting in less complaints being assessed during the period without the addition of more resources. Based on the trajectory over the audit period, it is likely that the number of complaints will continue to increase into the future placing further pressure on the VI's resources.



Figure 6. Complaints remaining open at end of financial year



While changes to the complaints checklists have generally resulted in additional information being captured, one change has meant that the VI is no longer capturing the basis for the complaint as outlined in the legislation in a structured manner. The VI noted that this data is being recorded in notes attached to each complaint within the case management system, but this approach does not provide a method to extract and analyse the basis for complaints. While this information can still be extracted manually, increases to the number of complaints received will mean that this becomes a more time consuming exercise.

5.4 Complaints testing

Review of the current process identified four steps to ensure consistency and quality in the outcome of each complaint:

1. A preliminary PID assessment is completed.
2. A recommendation is made to the CAM.
3. The endorsement of all CAM recommendations is made by the IOMC.
4. The issuance of signed outcome letters to both agency and complainant following the completion of the complaint assessment.

The VI provided copies of supporting documentation for each of the sample selected. However, the detailed documentation of each sample was heavily redacted. Audit testing was limited to sighting documentation that evidenced an assessment was completed, that there was a reference number recorded in CAMs and IOMC and limited evidence that outcome letter had been approved and sent.

However, Callida can confirm that for all cases reviewed, documentation was provided and evidence of executive approval over decisions and actions was sighted.

As the complaints management process has evolved over the audit period, complaints received prior to 2019 did not require a preliminary PID assessment. For those cases, a completed Preliminary Complaint Assessment tool was reviewed.

For complaints received prior to implementation of the operational governance model (i.e., introduction of CAM and IOMC), all decision approvals from the Inspector were requested.

Details of the samples selected are provided in the tables below:

Table 20. Sample testing – Complaints by agency **Table 21. Sample testing – Complaints by year**

Complaints by Agency	
IBAC	4
VO	4
OVIC	4
Total	12

Complaints by Year	
17-18	3
18-19	3
19-20	3
20-21	3
Total	12

Table 22. Results of testing - Complaints

Stage of the Process	Control	Process followed	Process not followed	N/A
PID Assessment	A PID Preliminary Assessment is made	10	0	2
Case Assessment Meeting (CAM)	Minutes identify the assessment of the matter	5	0	7
	Endorsement of assessment/recommendation	4	0	8
Assessment of complaint (new and existing)	Review and approval from the Manager - Complaints and Investment	7	0	5
Integrity Operations Management Committee (IOMC)	Includes case recommendations and outcomes and the endorsement of these recommendations and outcomes by the IOMC.	5	0	7
Outcome Letter Approval	Relevant outcome letters reviewed and approved by the Manager - Complaints and Investigations (or General Manager IOP if required).	11	0	1

Table 23. Days to finalise complaints – sample selection

Ref	Date rec'd	Date outcome letter provided to complainant	Days to outcome letter	File closed	Days to finalise	Complexity rating
17/00120	27/10/2017	8/11/2017	12	8/12/2017	42	Low
18/00037	9/3/2018	26/07/2018	139	8/8/2018	152	Medium
18/00088	27/6/2018	17/07/2018	20	17/7/2018	20	Low
18/00105	13/8/2018	22/08/2018	9	28/8/2018	15	Low
18/00106	13/8/2018	24/08/2018	11	24/8/2021	11	Low
18/00190	18/12/2018	15/07/2019	209	17/7/2019	211	High
19/00149	16/9/2019	14/10/2019	28	13/11/2019	58	Low
19/00185	31/10/2019	23/01/2020	84	28/1/2020	89	Medium
20/00077	2/6/2020	9/10/2020 & 16/3/2021 (further summary of outcome)	129	30/6/2021	393	High
20/00079	2/6/2020	30/06/2020	28	30/6/2020	28	Low
20/00104	21/7/2020	27/04/2022	645	28/4/2022	646	High
21/00010	9/2/2021	13/7/2022	519	2/8/2022	539	High
Average			153		183	

The days to finalise a complaint has been calculated based on the file closed date recorded in the case management system. As noted above, the VI has advised that this does not represent the date on which an outcome letter was sent. Noting that distinction, the VI provided additional data for the sample of complaints selected to demonstrate this difference. The results have been added to the table above and included in the summary table below. This additional data was extracted manually from the case management system.



Table 24. Days to issue complaint outcome letter

Complexity	Average days to issue outcome letter	Average days to finalise complaint (CMS)
High	373	441
Medium	112	121
Low	18	29
Average	152	182

It is important that the VI records the date that the outcome letter was issued as this represents the date that the complaint is actually finalised. This information could also be used for performance reporting purposes and assist with the setting of targets for the VI to meet. It also provides a baseline for measuring any improvements in the VI's complaint management process.

The VI has also developed a series of checklists that have been developed specifically for each integrity body. These checklists are regularly reviewed and updated as necessary. It was also noted that an earlier iteration of the current checklists included the identification of the circumstances under which a complaint was made.

Subsequent amendments to the checklists removed this specific requirement, although it is still captured as part of general information gathered. The benefit from the previous checklist was that data could be extracted from the case management system and used for analysis and reporting. While this analysis can still be completed, it does require a VI officer to manually extract the information.

The benefits to the VI of capturing, analysing, and reporting on this data is that it provides valuable intelligence to the VI on the nature of complaints. It also allows the VI to target the specific areas that give rise to a complaint and to develop any specific strategies as required.

5.5 Enquiries

An enquiry differs from a complaint in that it generally involves a contact from a member of the public seeking information about the VI's complaint process, or some other information. This may also include providing information about the VI's functions. An enquiry is also recorded when an individual requests information that is publicly available and does not invoke the requirements of the Freedom of Information Act. An enquiry may or may not proceed to a complaint.

Table 25 shows the number of enquiries the VI received across the audit period:

Table 25. Enquiries received

Agency	17-18	18-19	19-20	20-21
Public bodies			36	56
IBAC	45	27	24	29
VO	41	25	24	20
VI (seeking information about the VI)	4		5	6

Agency	17-18	18-19	19-20	20-21
OVIC	3	2	6	5
OCE			1	2
IBAC/VO		3	3	1
Outside jurisdiction	21	70		
VAGO	2			
	116	127	99	119

5.6 Enquiries process

There is no formal documented process for managing enquiries. They are primarily received by telephone or via email and are usually in the form of a person seeking information about how to make a complaint to the VI or queries about the VI's jurisdiction.

For telephone and written enquiries, a VI case officer will communicate relevant information to the caller in line with the scope of their enquiry. In instances where persons contact the VI about a non-jurisdictional matter, VI officers seek to provide an appropriate referral to another entity or service and take the opportunity to provide some detail of their role and jurisdiction as an education initiative.

Where information is sought about the VI's jurisdiction regarding an integrity agency, the VI's role is explained to the caller, in addition to referring persons where necessary to the VI website or resources for more formal information and, if required, the online complaint form. The information provided to callers about their jurisdiction seeks to mirror that which is reflected on the VI website.

Enquiries are generally straight-forward in nature and can be addressed by any VI case officer. Where a case officer considers an enquiry raises matters that require consultation, such as welfare considerations or a jurisdictional query, this is discussed at the time of receipt of the enquiry with the Senior Complaints Officer in the first instance and is escalated to the MC&I if necessary.

As some enquiries may involve back and forth communications with an individual and take longer to address, these are discussed at a weekly forum on enquiries between the Complaints Assessment Officer and Senior Complaints Officer for agreement on the proposed action to take. Where required, this may be escalated to the Manager, Complaints, and Investigations and/or the Case Assessment Meeting to discuss any concerning factors involved in the enquiry, such as welfare for example, and form a consensus on the handling of the enquiry.

5.7 Recommendations

Section ref	Recommendation
5.2	Develop a set of definitions to clearly describe the outcomes of complaints and use these definitions to report complaint outcomes through the annual reporting process.
5.4	The VI capture and report on the circumstances that people make a complaint to the VI.



Section ref	Recommendation
5.4	The VI consider amending their process to allow Complaints Officers to close simple, low risk complaints to ensure timely resolution.
5.4	The VI capture the date the final outcome letter is issued to the complainant and relevant integrity body.

6 Investigating and assessing conduct of agency staff

Findings:

The VI has implemented a fit for purpose framework for managing and undertaking investigations in accordance with the requirements contained in the VI Act.

6.1 Introduction

Under s 44 of the VI Act, the VI may investigate a complaint made under s 43 to assess the conduct in respect of which a complaint is made or any other conduct relevant to the matter. The VI has a mandatory requirement to investigate public interest complaints referred to the VI for investigation, or assessed by the VI as public interest complaints, in accordance with its responsibilities under the PID Act.

The VI can also investigate a complaint or commence an own motion investigation under s 46 of the VI Act. During the 4-year audit period, the VI undertook nine investigations and completed five. Of the nine, two were carried forward from 2015-16 and seven were commenced during the audit period. A breakdown of these investigations is included below:

Table 26. Investigations commenced

Investigation commenced	17/18	18/19	19/20	20/21
Own motion investigation	1	0	0	0
Protected disclosure / Public interest complaint investigations	1	1	3	1
Total	2	1	3	1

Table 27. Investigations undertaken

Investigation commenced	17/18	18/19	19/20	20/21
Own motion investigation	3	2	1	0
Protected disclosure / Public interest complaint investigations	1	2	4	5
Total	4	4	5	5

Table 28. Investigations Completed

Investigation completed	17/18	18/19	19/20	20/21
Own motion investigation	1	1	1	0
Protected disclosure / Public interest complaint investigations	0	1	0	1
Total	1	2	1	1

6.2 Process for conducting an investigation by VI

Investigations at the VI are all conducted following the same methodology regardless of which agency is the focus of an investigation. Both protected disclosure and public interest complaint investigations are conducted in accordance with the PID Act and related provisions in the VI Act.

In 2020, the VI commenced developing an Investigations Guideline. While the VI considered that the guideline was not essential due to the size of the VI, the limited investigations undertaken, and the extensive detail included in each associated template, its intention was to record the link between the VI's governance framework, investigation templates and practices. Its completion at that time was constrained by the availability of resources, the impact of COVID-19 and because of operating without a General Manager Integrity Operations and Policy (GM IOP) between December 2020 and May 2021.

In 2021, the VI appointed new operations and legal managers after receiving new fixed term funding for 7.6 new FTE in the November 2020 budget. Together with the Executive Director, the draft guideline was reviewed with the VI concluding that it was too lengthy and complex for the VI's requirements. A streamlined approach was designed, comprising a short Investigation Guideline and a set of procedures for each key investigation stage.

Since April 2019, a set of investigation templates have been utilised in accordance with the operational governance framework for all VI investigations and inquiries. They have supported the VI in the use of coercive powers and in conducting investigations lawfully, consistently, and with due consideration of witness welfare.

The templates are also supported by a separate witness welfare policy which reflects how the VI manages the welfare of complainants and witnesses in its investigations and inquiries. The templates are currently under review by the VI, with new templates also being developed.

The templates cover a variety of functions, both to meet legislative requirements placed on the VI when undertaking certain functions, as well ensuring that internal governance processes are being followed. Table 29 provides details of the current templates and provides a brief explanation of their purpose.

Table 29. Investigations templates

Template Name	Explanation
Determination to Conduct Preliminary Inquiry	Determination, signed by the Inspector that the VI will conduct a Preliminary Inquiry
Determination Conduct an Investigation	Determination, signed by the Inspector, that the VI will commence an investigation
Determination to Hold an Inquiry	Determination, signed by the Inspector that the VI will hold an inquiry as part of an investigation.

Template Name	Explanation
Delegation	Delegation, signed by the Inspector, for a VI Officer to exercise powers of the Inspector under the VI Act.
Letter Advising of Investigation - Complainant	Letter template for initial communication with complainant that the VI intends to begin an investigation.
Letter Advising of Investigation - Agency	Letter template for initial communication with an agency that the VI intends to begin an investigation.
Memo	Internal Memo template to the Inspector. Allows for communication of key information and recommendations.
Investigation Plan	Optional high-level template outlining key tasks, action owners and due dates. Further it includes risk and issues sections.
Witness List	Optional template includes witness name, contact details, relevance to investigation, evidence intended to be collected, collection method, summary of contact with the witness and whether a confidentiality notice had been issued.
Confidentiality Notice	A confidentiality notice issued to an individual under s38 of the Victorian Inspectorate Act.
Memo – Decision to Issue Confidentiality Notice	Memo to the Inspector giving rationale for issuing a confidentiality notice with guidance as to what legislation is applicable and considerations for relevant human rights.
Cover Letter – Confidentiality Notice	Covering letter explaining the nature of the confidentiality notice being issued – used when serving confidentiality notices.
Confidentiality Notice Information Sheet	Information sheet explaining the effect of provisions of the Victorian Inspectorate Act relating to confidentiality notices.
Notice of Requirement to Attend	Notice for a witness to attend the Victorian Inspectorate, includes relevant legislative provisions.
Memo – Decision to Compel a Witness	Memo to the Inspector giving rationale for issuing a summons or notice to compel a witness with guidance as to what legislation is applicable and considerations for relevant human rights.
Cover Letter – Witness Summons	Covering letter explaining the nature of the witness summons and any accompanying confidentiality notices – used when serving witness summons.

Template Name	Explanation
Record of Service	Tick-box form to note the service of documents such as summons, requirement to attend the Victorian Inspectorate and/or Confidentiality Notices. To be signed by the Serving Officer.
Cancellation of Confidentiality Notice	Letter addressed to an individual cancelling a confidentiality notice under s38 of the Victorian Inspectorate Act.
Property Receipt and Return	Register to track property taken by the VI and when it is returned.
Voluntary Interview Preamble	Guide for interviewer with prompts that align to the relevant legislation.
S47 Interview Template	Guide for interviewer with prompts that align to the relevant legislation.
Examination Preamble	Guide for the Inspector or Executive Director of Legal and Integrity Operations in opening an examination in a way that aligns with legislation.
Confidentiality Deed for a Record of Interview	Template for the agreement between VI and the witness for confidentiality of the interview.
Confidentiality Deed for a Record of Interview which permits transcription	Variation on the above that allows for VI to transcribe the interview.
Witness Welfare Checklist	Checklist for VI Officers to guide them in ensuring Witness Welfare requirements are met.

It is mandatory for staff undertaking investigations to utilise these templates as required. The Integrity Operations Governance Policy (IOGP), the Investigations Guideline (draft) and the Operations Risk Framework all mandate that VI staff utilise these templates in the conduct of investigations.

Investigations are also supported by the operational governance framework. The IOGP outlines decision-making delegations and governance structures to assist the VI in performing its mandatory functions. Specific to investigations, it identifies key responsibilities of Owners of Investigations, Investigation Leads and general staff. Memorandums are used to record the Inspector's decisions to exercise coercive powers and approve related documents.

To further support the operational environment there are several key operational governance mechanisms including the IOMC. All in-progress investigations are discussed regularly at the scheduled IOMC meeting for updates and priority steps.



6.3 Investigations testing

The templates developed for investigation purposes were all reviewed and tested to ensure compliance with relevant legislation. This testing found no errors or omissions with the templates.

Testing of investigations involved selecting a sample of four investigations over the audit period and examining supporting documentation to ensure that it complied with the VI's internal policies and procedures. As with all operational information requested, all sample documentation provided was heavily redacted, with only the relevant case number and evidence of approval being available. Testing concluded that the correct templates were correctly used on every occasion that coercive powers were exercised.

Testing concluded that in the reviewed sample, there was limited evidence of any review and approval of investigations plans. In two cases, there were no specific investigation plans prepared, and the final case had no evidence of signoff from Inspector or Executive Director, Legal and Integrity on the Investigation Plan. The VI does not mandate the use of investigation plans as all investigation steps and evidentiary requests are agreed to by the Inspector. The Inspector only issues summonses and confidentiality notices after considering a memorandum outlining the rationale for exercising the power and the consideration of relevant human rights.

Table 30. Results from investigations testing

Control	Internal process followed	Internal process not followed	N/A
Inspector signoff on determination to conduct preliminary enquiry/enquiry/investigation (including own motion investigation)	4	0	0
Inspector signoff on instrument of delegations for the case officer to perform the inquiry/investigation	4	0	0
<i>If applicable</i> , Inspector signoff on Instrument of revocations	2	0	2
Inspector/ ED, Legal and Integrity signoff on Notification of investigation to complainant	3	0	1
Inspector/ED, Legal and Integrity Signoff on Notification of investigation to agency	4	0	0
Appropriate approval/sign-off on Investigation Plan	0	4	0
Appropriate approval/sign off of Witness List	1	0	3
<i>If applicable</i> , Inspector signoff on confidentiality notice (CN) including approval of CN through the cover memo and sign off on the CN cover letter to the agency/individual	1	0	3

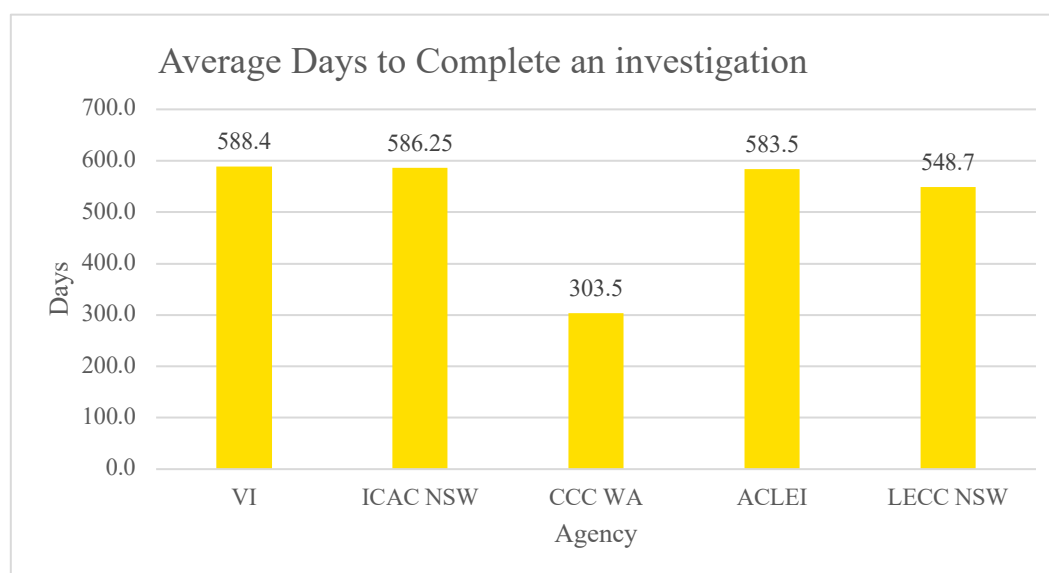
Control	Internal process followed	Internal process not followed	N/A
<i>If applicable</i> , Inspector signoff on cancellation of confidentiality notice (CN)	1	0	3
<i>If applicable</i> , Inspector signoff on notice of requirement to attend VI including cover letter	0	0	4
<i>If applicable</i> , Inspector review and approval of the decision to compel a witness through the memo provided	1	0	3
<i>If applicable</i> , Inspector signoff on witness summons including the cover letter issued to the individual or entity	1	0	3
<i>If applicable</i> , Signoff from serving officer of records of service	1	0	3
<i>If applicable</i> , Review and signoff from Inspector on authorisation to disclose	1	0	3
<i>If applicable</i> , appropriate signoff on preamble developed for interviews/examinations	2	0	2
<i>If applicable</i> , Inspector signoff on instrument of authorisation (enabling a VI member to administer an oath or affirmation to a person, examine a person and require the person to answer questions) and any revocation of that authorisation	1	0	3
<i>If applicable</i> , Inspector signoff on instrument of revocation of authorisation	1	0	3
<i>If applicable</i> , appropriate signoff on witness welfare checklists	2	0	2

A key measure of the efficiency of conducting investigations is to review the length of time taken to complete each investigation. This information can then be used to compare an agency against similar organisations operating across other jurisdictions. Table 31 details the number of days taken to complete the investigations completed by the VI throughout the audit period. Figure 7 provides a comparison with other integrity bodies within Australia.

Table 31. Days taken to complete investigations

Days taken to complete	17/18	18/19	19/20	20/21
Own motion Investigation				
18/00051	856			
Protected Disclosure Investigation				
18/00077	50			
18/00164		1257		
19/00147			329	
Public Interest Complaint Investigation				
20/00029			640	
20/00065 & 20/00066			545	
20/00107				442
Average days to complete investigations	453	1257	505	442

Source: Information provided by the VI. Note that investigation years are categorised by the year that those investigations commenced.

Figure 7. Average days to complete an investigation – comparison with other integrity bodies


Source: Annual Reports from each integrity body

It is acknowledged that the results identified above are not a perfect comparison due to the differences in resourcing and nature of investigations, however, it does give an indication of investigation timeframes compared to other agencies. Further, the VI's capacity to quickly close investigations is impacted by the legislative requirement to investigate all PIDs and PDs. Other agencies have more capacity to choose investigations, meaning they can be more involved in managing workload. Further

to this, it is acknowledged that average investigation time is impacted by the smaller number of investigations conducted by the VI. In these circumstances, the lengthy time to complete one investigation will impact on the overall average length of time. As an example, removing the VI investigation that took 1257 days to complete and the investigation that took 50 days to complete, the average time is reduced to 562 days which is lower than a number of the benchmarked agencies.

The VI also only had one investigator throughout the audit period and was heavily impacted by COVID-19 due to operational material being inaccessible to staff working from home. Hearings could not be conducted for a significant period. The 1257-day investigation was unable to be progressed for much of 2020 due to COVID-19 related lockdowns.

Another key factor impacting the length of the VI investigations is that the VI must investigate all protected disclosure/public interest complaints, so will always have more investigations than it can manage with its limited resources.

All other integrity bodies can choose what to investigate and better match their investigations numbers with their available resources.

6.4 Recommendations

Section Ref.	Recommendation
6.2	The VI finalise the draft investigation guideline to provide a single source of truth for undertaking investigations and ensuring consistency in the conduct of all investigations.
6.3	The VI ensure Investigation Plans are completed and approved for each investigation in accordance with the draft guideline.

7 Oversighting the Independent Broad-based Anti-corruption Commission (IBAC)

Findings:

The VI has designed and implemented a robust governance framework to manage its oversight of IBAC.

7.1 Introduction

IBAC is Victoria's agency responsible for preventing and exposing public sector corruption and police misconduct. Under s11(2) of the VI Act, the VI have the following functions in relation to IBAC:

- Monitor compliance with the IBAC Act and other laws
- Oversee performance of functions under the Public Interest Disclosures Act
- Assess effectiveness and appropriateness of policies and procedures
- Receive complaints about the conduct of IBAC and IBAC personnel
- Investigate and assess conduct of IBAC and IBAC personnel
- Monitor interaction between IBAC and other integrity bodies to ensure compliance with relevant laws
- Inspect and audit relevant records kept by the Public Interest Monitor for the purpose of monitoring compliance with prescribed obligations and report this to the Minister and Parliament
- Report on, and make recommendations as a result of, the performance of its duties and functions.

7.2 Compliance with IBAC Act

The VI monitors the compliance of IBAC with the IBAC Act through:

- the receipt and management of complaints about IBAC and IBAC personnel
- the conduct of inquiries and investigations about the conduct of IBAC and IBAC personnel
- the review of the exercise of coercive power by IBAC in the conduct of public and private examinations in the course of IBAC investigations
- the inspection of records relating to IBAC's use of covert or intrusive powers
- the review of IBAC in relation to specified functions.

Each of these activities are discussed in more detail in the following sections.

7.3 Monitoring coercive powers

IBAC must notify the VI at each use of their coercive powers. As IBAC is one of the larger agencies overseen by the VI, their notifications account for 69% of the overall notifications received by the VI. A breakdown of IBAC's use of coercive powers is provided in the following table.

Table 32. IBAC – Use of coercive powers

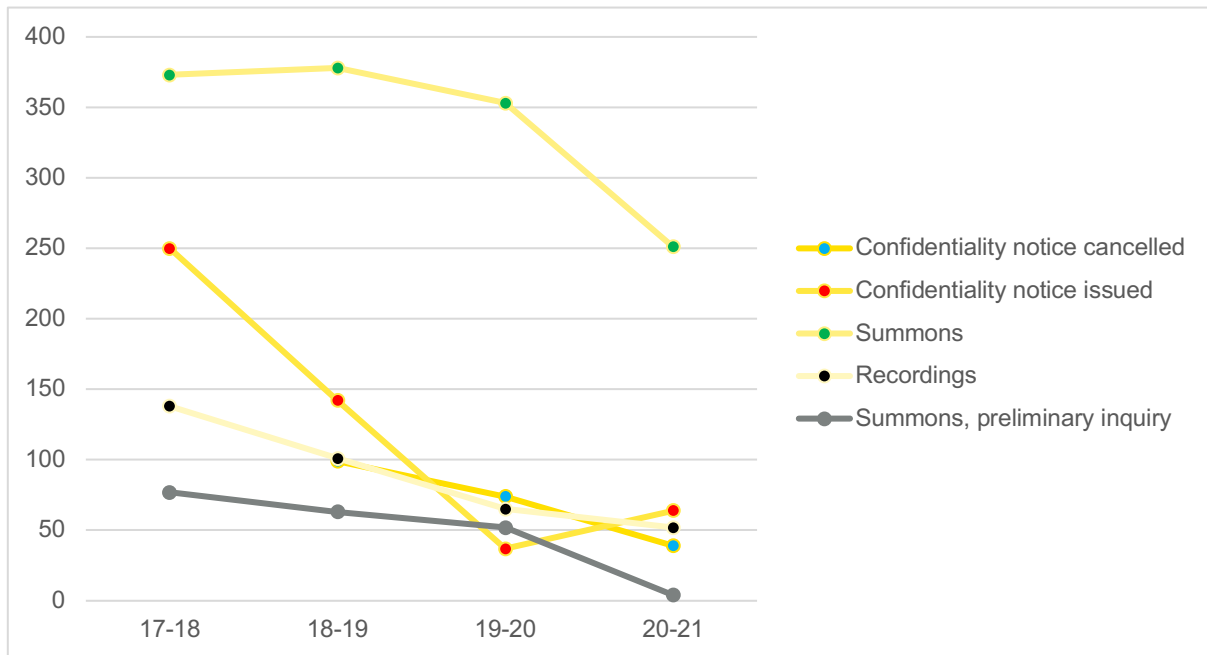
Agency	Section	sub-type	17-18	18-19	19-20	20-21
IBAC	s 117(5)	Public hearing	1	1	1	3 ¹
	s 122	Summons	373	378	353	251 ²
	s 128	Direction to lawyer	0	0	0	3
	s 134	Recordings	138	101	65	52
	s 43	Confidentiality notice cancelled	0	99	74	39
		Confidentiality notice issued	250	142	37 ³	64
	s 59G	Summons, preliminary inquiry	77	63	52	4
IBAC Total			839	784	582	416

Source: VI Annual Reports

Notes to Table 32

1. Annual Report notes that subsequent notices related to the resumption of Operation Esperance public hearings
2. Annual Report notes that this includes six summons that were issued but not served
3. Annual Report notes that this includes two notices that were issued but not served

Figure 8. Coercive power notifications issued by IBAC



Both Table 32 and Figure 8 highlight the significant reduction in coercive power notifications provided by IBAC to the VI over the audit period. This reduction is most likely due to the impact of COVID-19.

As outlined in Section 6, the VI’s approach to monitoring coercive powers is consistent across all three agencies.

The only difference between the integrity bodies is with the individual checklists that have been designed specifically for checking compliance with the IBAC Act. The specific checklists used for IBAC are:

- Confidentiality notice issue
- Confidentiality notice cancellation
- Hearings
- Investigation summons
- Witness summons

Each of these checklists were assessed against the specific requirements outlined in the relevant legislation with no issues noted.



7.4 Inspections

7.4.1 Telecommunications Intercepts

The VI's role to provide independent oversight of telecommunications interceptions is established by the *Telecommunications (Interception) (State Provisions) Act 1988* (the TISP Act). The TISP Act and *Telecommunications (Interception and Access) Act 1979* (Commonwealth Act) together provide the legislative framework for the records inspected by the VI.

Although the VI also inspects telecommunication interception records belonging to Victoria Police, for the purposes of this audit, only IBAC inspection records were reviewed. The VI is obliged to conduct inspections at least twice during each financial year and the resulting report is sent to the IBAC Commissioner as well as the relevant Minister.

The inspection itself takes up to two days and is completed by the Senior Integrity Operations Officer. The main tools used by VI to complete this are a checklist as well as a Compliance Operation Guide. Hard copy and electronic documents are inspected.

For the purposes of this audit, redacted work papers from three of these inspections were reviewed. These inspections were:

- October 2017
- November 2019
- December 2020

This included a review of Inspector sign-off on Inspection reports and distribution to both IBAC and the relevant Minister. For all three of these inspections, there were no compliance issues identified. Due to information access limitations, a review of the appropriateness of inspection findings was not possible.

7.4.2 Surveillance Devices Act 1999

The VI is required to inspect the records of law enforcement agencies from time to time to determine the extent of their compliance with the *Surveillance Devices Act 1999* (Vic) (the SD Act). To fulfil the requirement to report to Parliament at 6-monthly intervals, the VI conducts biannual inspections of ceased warrants and emergency authorisations from the preceding six-month period, as well as any destruction activity taken, and evidentiary certificates issued.

Following the inspections, the Senior Integrity Operations Officer will draft findings from each inspection and give IBAC an opportunity to comment on the VI findings. Following this, a draft report will be written by the Senior Integrity Operations Officer for review and approval by the Inspector. Once the Inspector's final review is completed, a final draft is provided to IBAC's Legal and Compliance team for feedback and then to the IBAC Commissioner for final comment.

Once finalised, the report on inspections is tabled in Parliament and sent to the Attorney-General.

Following this, the VI monitors implementation of any recommendations made in their report.

The results from each of these inspections are noted in the table below. Callida was not provided with access to files or other information and has relied on the information available through the VI website.

Table 33. Results of SD Act inspections

Financial Year	2017-18		2018-19		2019-20		2020-21	
	1	2	1	2	1	2	1	2
Report Number								
Were applications for warrants (including extensions and variations) properly made?	✓	✓	✓	✓	✓	n/a	✓	✓
Were warrants, including retrieval warrants, and emergency authorisations in proper form and revocations properly made?	✓	✓	✓	✓	✓	n/a	✓	✓
Did IBAC keep all records connected with warrants and emergency authorisations?	✓	✓	✓	✓	✓	n/a	✓	✓
Did IBAC keep all other necessary records?	✓	✓	✓	✓	✓	n/a	✓	✓
Did IBAC maintain an accurate register of warrants and emergency authorisations?	✓	✓	✓	✓	✓	n/a	✓	✓
Were reports to the magistrate and judge properly made?	✓	✓	✓	✓	✓	n/a	✓	✓
Was the annual report to the Minister properly made?	✓	✓	✓	✓	✓	n/a	✓	✓
Were issues identified at previous inspections addressed?	✓	✓	✓	✓	✓	n/a	✓	✓
Destruction of protected information	✓	✓	✓	✓	✓	n/a	✓	✓

Source: Inspection Reports available at www.victorianinspectorate.vic.gov.au

Notes: ✓ No compliance issues identified

n/a No SD records inspected during the first half of 2020 due to COVID-19. The inspection of records for this period was postponed to October 2020.

7.4.3 Crimes (Controlled Operations) Act 2004

In Victoria five State Government agencies are authorised to conduct controlled operations. IBAC and the Victoria Police are authorised to conduct controlled operations under the *Crimes (Controlled Operations) Act 2004* (Vic) ('the CCO Act'), the Victorian Fisheries Authority (VFA) is authorised to conduct controlled operations under Part 7A of the *Fisheries Act 1995* (Vic) ('the Fisheries Act'), and part IX of the *Wildlife Act 1975* (Vic) ('the Wildlife Act') permits the Department of Environment,

Land, Water and Planning (DELWP); and the Game Management Authority (GMA) to conduct controlled operations.

The legislation governing each of these activities requires that the VI inspect the records of these agencies to determine the level of statutory compliance achieved by them and their officers. The VI prepares an annual report on the work and activities of the agencies during the year. A copy of the report is provided to the Chief Officer of each agency and the relevant Minister and is tabled in the Parliament of Victoria.

The VI meets this requirement through its inspections program. The program provides independent oversight to determine the extent of compliance achieved by these agencies in exercising their powers to conduct controlled operations.

To fulfil the requirement to report to Parliament annually on the work and activities of each agency, the VI conducts six-monthly inspections of completed controlled operations files (with the exception of 2020 due to COVID-19 related workplace restrictions). In addition, the VI assesses the reports made every six months by the Chief Officer of each agency.

The inspection involves the VI examining hard copy documents and electronic registers to ensure that agencies are keeping proper records connected with authorities to conduct controlled operations, and other records connected with controlled conduct. The VI also confirms that each law enforcement agency has met its prescribed reporting obligations.

During the audit period the VI completed a Controlled Operations Report for 2017-18, 2018-19 and 2019-20. The results of the inspections of IBAC records are provided in Table 34.

Table 34. Controlled Operations Inspections - IBAC

Controlled Operations	2017-18	2018-19	2019-20	2020-21
Nil applications for COps		✓	✓	✓
Fully compliant				
Records	✓			
Reports	✓			

Source: Inspection Reports available at www.victorianinspectorate.vic.gov.au

Note: Since IBAC has not made an application for a controlled operation since early 2018, the VI's assessment of IBAC's compliance and reporting requirements from 2018-19 onwards is restricted to the biannual s 38 'chief officer' reports it makes.

7.5 Improving capacity

There is no specific activity that the VI undertakes that is targeted at improving IBAC and IBAC personnel capacity to perform their duties and functions and exercise their powers. Rather, it is the results from each of the VI's oversight activities under its specific functions that may lead to the identification of opportunities that may result in improvements in IBAC's performance and capacity.

The activities that the VI undertakes that may lead to specific recommendations include:

- recommendations arising from mandatory oversight functions (such as notifications, inspections, and investigations)
- recommendations arising from special reports
- recommendations arising from monitoring projects

Making reports and recommendations is at the more significant end of the VI's responses. The VI also provides informal feedback and makes observations in response to issues identified during activities such as complaint assessments and coercive power notification reviews. The VI's published Integrity Response Guidelines outline the range of responses used by the VI to address non-compliance and other identified issues, and the criteria that guide the type of response.

The feedback provided by the VI through its reports, recommendations and informal feedback is a key element of the VI's vision to strengthen trust in the integrity system. The development of specific Budget Paper 3 performance measures aimed at measuring improvements to the integrity system (which includes improving IBAC's capacity) are reflective of the importance that the VI places on providing this advice.

7.5.1 Mandatory Oversight functions

Coercive Power Notifications

Each assessed coercive power notification can identify issues with the exercise of these powers. The individual checklists provide for reviewers to capture any specific issue and record those details in the CMS. Callida was unable to review any information captured but saw evidence from samples to demonstrate that checklists are completed, and issues identified and recorded.



Special Reports

Under s87 of the VI Act, the VI may at any time cause a report to be transmitted to each House of the Parliament on any matter relating to the performance of its duties. Throughout the audit period, only one Special Report was tabled on Welfare of Witnesses in IBAC Investigations. This report was conducted following two specific complaints received by the VI, which triggered the VI to conduct an own motion investigation. This report made 10 recommendations around witness welfare. None of these recommendations were accepted by IBAC, but IBAC undertook an independent review that subsequently addressed many of the recommendations.

Inspections

See section 7.4 for a breakdown of how Inspections contribute to Improving IBAC capacity.

Monitoring

The VI's Operations Model defines monitoring projects as strategically targeted and finite activities with objectives, a methodology and deliverables. A monitoring project at the VI is a discrete, focussed oversight project where the VI will deliver an additional, audit-style review into a specific area at IBAC. Monitoring projects are commenced at the discretion of the Inspector (with agreement from the agency) into high risk areas of operation for the overseen bodies. The outcome of a monitoring project is an Integrity Report. It can take over two years to complete a monitoring project from commencement to tabling of the final report.

During 2019, the VI completed three monitoring projects which commenced in 2017-18. The VI published an integrity report for each monitoring project and reported on them in the 2018-19 and 2019-20 Annual Reports.

The table below is an outline of monitoring projects undertaken at IBAC throughout the audit period.

Table 35. Results of monitoring projects undertaken during audit period

Financial Year	Report Type	Issue	Recommendations / Observations made	Recommendations / Observations fully accepted
2018-19	Integrity report	Protected Disclosures	5	2
2019-20	Integrity report	Police Misconduct complaints	2	2

There are no legislative or internal requirements for the VI to conduct certain volumes of monitoring projects. The decision to conduct such activities is based on available resources and whether any systemic issues have been noted during mandatory testing.

As outlined in the VI's tabled Annual Plan for 2020-21, the VI has not scheduled any monitoring projects due to limited resources, giving priority to its mandatory functions (inspections, public interest disclosure assessments and public interest complaint investigations) and to complaints, which must all be responded to. It is noted that the Annual Plan for 2021-22 anticipates delivering a monitoring project if resources allow.



7.6 Policies and procedures review

Under s11(c) of the VI Act, the VI is required ‘to assess the effectiveness and appropriateness of the policies and procedures of the IBAC which relate to the legality and propriety of IBAC’s activities.

The VI meets this requirement through undertaking the activities outlined above. A key element of a monitoring project is the development of a methodology to guide the project. This methodology will include a review of existing policy and procedural documentation, and an assessment of whether the agency (in this case IBAC) is complying with those documented requirements.

In addition, as part of monitoring coercive power notifications, assessing complaints and undertaking investigations, the VI will examine and review policies and procedures that have been established within each body. Any issues that are identified through this process will be raised and discussed.

As there is no legislative requirement for frequency of these policy and procedure reviews, there are no specific frequency requirements for the VI. Noting the performance measure as related to acceptance of recommendations, there is scope to improve internal performance measures that provide a clearer picture of VI performance.

The mechanisms in place for VI to assess the effectiveness and appropriateness of IBAC’s policies and procedures which relate to legality and propriety of IBAC’s activities are reasonable, but due to information access constraints no conclusions can be offered over the effectiveness and efficiency of these activities and considering VI are unable to cost their activities, no conclusions can be offered over whether this is done economically.

7.7 Receiving complaints

The VI are responsible for receiving and managing complaints made about IBAC. As IBAC is one of the larger agencies overseen by the VI, complaints against IBAC account for 44% of the overall complaints received. A summary of the outcomes of complaints made regarding IBAC are noted below.

Table 36. IBAC – Outcome of complaints received

Complaint outcome	Sub-category (if applicable)	17-18	18-19	19-20	20-21
Complaint dismissed at initial assessment		19	9	10	13
Complaint dismissed following enquiries		2	10	8	
Outside jurisdiction		1			
Remain open at end of period		7	11	20	25
Under investigation as part of PD investigation		1			
VI raised concerns	Communication with complainant	2			

Complaint outcome	Sub-category (if applicable)	17-18	18-19	19-20	20-21	
Complaint closed following enquiries	Delay in timely notification to VI			1		
	IBAC handling of complaint		3			
	Witness welfare		1			
	Delays in reviewing file	1				
					6	
	Complaint deemed closed	Additional information not provided	3			
	Prior year complaint	Complaints dismissed		7	10	
		VI raised concerns			4	
		Closed - Complaints dismissed at assessment				6
		Closed - Dismissed as unsubstantiated after enquiries				1
		Closed - Dismissed as unsubstantiated after file review				4
		Closed - Feedback provided after file review				1
		Closed - Feedback provided after enquiries				4
		Closed - Feedback provided after enquiries - substantiated				1
Total		36	41	53	61	

As noted in section 5, the complaints management process is mostly similar to all other overseen agencies.

The outcomes from each IBAC complaint received throughout the audit period are detailed above in Table 36. As noted in the table:

- the number of new complaints received each year have remained relatively stable over the audit period.
- while no complaints were substantiated (meaning that a legal non-compliance was identified), a number of complaints resulted in feedback being provided to IBAC.

- there is a growing number of complaints that remain outstanding at the end of the financial year. This is attributed to the increase in complexity of complaints received, and the increase in the number of days required to assess each complaint.

7.8 Results of audit testing - IBAC

7.8.1 Coercive power notifications

Eighteen instances of IBAC coercive power notifications were reviewed as part of testing that covered the audit period. The notifications were assessed against the key internal controls that the VI may (but are not required to) apply to monitoring notifications. These controls included:

- evidence of triage or initial review being conducted
- completed checklists for each notification were retained on file, or in the case management system
- quality assurance signoff was retained on file, or in the case management system.

Of the sampled notifications, 50% had evidence of triaging occurring, 50% had completed checklists and none had evidence of QA signoff. Noting that completing triage and checklists are at VI's discretion.

Table 37. Results of testing - Coercive power notifications testing: IBAC

Control	Internal process followed	N/A	Process not followed	Total
Triage	9	9	0	18
Completed Checklist template	9	9	0	18
Template QA'd	0	6	12	18
If relevant, IOMC approval	0	18	0	18

7.8.2 Complaints

Four complaints across the audit period were reviewed as part of testing. These were selected based on one complaint per year of the audit period. Several key internal controls were tested including sighting documentary evidencing that:

- preliminary review/PID Preliminary assessment being conducted
- relevant CAM meeting minutes articulating a recommendation for IOMC
- IOMC tabling and endorsement of recommended action
- distribution of outcome letters to complainant and agency (if relevant)

Table 38. Results of testing – Complaints: IBAC

Stage of the Process	Control	Internal process followed	Process not followed	N/A
PID Assessment	A PID Preliminary Assessment is made	4	0	0
Case Assessment Meeting (CAM)	Minutes identify the assessment of the matter	2	0	2
	Endorsement of assessment /recommendation	1	1	2
Assessment of complaint (new and existing)	Review and approval from the Manager - Complaints and Investment	2	1	0
Integrity Operations Management Committee (IOMC)	Includes case's recommendations and outcomes and the endorsement of these recommendations and outcomes by the IOMC.	2	0	1
Outcome Letter Approval	Relevant outcome letters identify reviewed and approved by the Manager - Complaints and Investigations (or General Manager IOP if required).	4	0	0

Of the four reviewed complaints, two occurred prior to the new operational governance structure being fully implemented, meaning they do not have minutes or papers from CAM for IOMC consideration. In these cases, there was limited evidence of structured executive sign-off on actions outside of the final outcome letters.

For the two complaints that were reviewed while the operational governance structure was in place, appropriate records were kept, and evidence was provided that these complaints were discussed, and actions endorsed at CAM and IOMC meetings.

For all complaints, a compliant outcome letter was issued and signed by an appropriately delegated staff member.

7.8.3 Investigations

The process followed by the VI for conducting investigations is described at section 6. For the purposes of audit testing, the agency subject to the sampled investigation was not disclosed, as such, no agency-specific observations can be made. Please refer to section 1.5 for details.

7.8.4 Inspections

This audit conducted testing over a sample of six inspections to ensure compliance with the process outlined in 7.4. The inspections reviewed were:

- Telephone Intercepts

- October 2017
- November 2019
- December 2020
- Surveillance Devices
 - October 2018
 - May 2021
- Controlled Operations
 - 2018.

As part of this testing, the following controls were assessed for operating effectiveness

- Preliminary findings shared with IBAC for comment
- Inspector approval of final report
- Appropriate publishing/distribution of final report.

Testing identified no issues with any of the completed Inspections. Table 39 refers:

Table 39. Results of testing – Inspections: IBAC

Control	Internal process followed	N/A	Internal process not followed
Findings shared with IBAC?	6	0	0
Inspector Review	6	0	0
Report published	6	0	0

7.9 Monitoring interaction

Through the course of undertaking their statutory functions, IBAC engage with various other integrity bodies. The primary bodies that IBAC engage with are:

- Victoria Police: through its oversight role in preventing police misconduct
- The VO and OVIC: as the agency with lead responsibility for the public interest disclosure scheme under the PID Act.

The VI monitors interaction between IBAC and Victoria Police through the following activities:

- Complaints management: complaints about IBAC’s handling of complaints about Victoria Police. See 7.6 for more detail on management of IBAC’s complaints
- Monitoring activities: particularly the Integrity Report released in October 2019 on IBAC: Police misconduct complaints. See 7.3 for more detail on monitoring projects at VI.
- The Inspector’s attendance and provision of information to the former parliamentary IBAC Committee’s Inquiry into external oversight of police corruption and misconduct.



The VI monitor interaction between IBAC and the VO in its role under the Public Interest Disclosure Scheme.

- Integrity Report on IBAC’s Protected Disclosures (the precursor to the Public Interest Disclosure Scheme)
- Member of and provided feedback to IBAC’s Public Interest Disclosure Liaison Group (PIDLG) (formerly the Protected Disclosure Group). The PIDLG meet on a quarterly basis to discuss the development of the scheme and contribute to consistent practices and procedures across the integrity system.
- Observed IBAC implement the new PID Scheme through the PIDLG

Management have advised that as this is a non-mandatory function, it had not been prioritised under a risk-based approach in allocating limited resources. The VI neither captures costs or the level of effort associated with undertaking this activity, nor does it capture specific details of the level of engagement between agencies. However, it is noted⁷ that the VI’s limited resources affect their ability to undertake these non-mandatory functions in a planned and structured manner. Generally the decision to conduct these activities will be based on the availability of resources not allocated to mandatory functions from time to time throughout each financial year.

7.10 Reporting on, and making recommendations

Under the VI Act s11(2)(k) it is a function of the VI to ‘*to report on, and make recommendations as a result of, the performance of its duties and functions*’. In practice, this means that it is a function of the VI to make recommendations to IBAC where appropriate following the performance of its functions such as investigations and monitoring coercive power notifications, and to publish reports such as Integrity Reports following Monitoring Projects or Special Reports which are tabled at parliament.

This occurs through several mechanisms, including:

- Direct reporting following a coercive power notification, complaint, or investigation
- An integrity report following a monitoring project; and
- Special Reports which can come as a result of an investigation or other VI activities.

As noted previously, throughout the audit period, two Integrity Reports and one Special Report were published, details of these and their recommendations are included below.

Table 40. Integrity Reports and Special Reports during audit period

Financial Year	Report Type	Issue	Recommendations / Observations made	Recommendations / Observations fully accepted
2018-19	Integrity report	Protected Disclosures	5	2

⁷ Refer VI Annual Plans



Financial Year	Report Type	Issue	Recommendations / Observations made	Recommendations / Observations fully accepted
2019-20	Special report	Witness welfare	10	0
	Integrity report	Police Misconduct complaints	2	2
Total			17	4

Following acceptance of recommendations, the VI provides public updates on the implementation of these recommendations through their Annual Report.

The VI also makes private recommendations and reports. In 2019-20, the VI provided IBAC a private Integrity Report on complaints data for the 2019 calendar year, containing key themes that emerged from the data relating to IBAC's operational areas.

In line with one of the objectives of the VI Act, the VI's aim in making the report was to assist IBAC and its personnel in the performance of their duties and functions and the exercise of their powers, by presenting a comprehensive analysis of the VI's complaints data for a 12-month period.

The report did not seek to make recommendations, rather its aims were:

- to present a de-identified 12-month dataset of IBAC complaints received by the VI, to provide IBAC with useful data for its continuous improvement activities.
- reflect the productive engagement and correspondence between the VI and IBAC officers in 2019 on complaints, and to record some proposed next steps in that relationship.
- support IBAC's consideration of the themes that emerge from the VI's complaints data.
- document issues that, in 2019, the VI communicated to IBAC it had an ongoing interest in.
- Include explanatory information about the VI's role and complaints-handling processes, for IBAC officers who are new or unfamiliar with the VI's functions.

There were no published reports delivered in 2020-21 with accompanying recommendations. The VI have indicated that resource constraints preventing monitoring work were primarily caused by limited funding, while also noting the impact that COVID-19 related lockdowns have on restricting staff availability to conduct these projects.

Overall, the VI's capacity to report on, and make recommendations is reasonable subject to the availability of resources.

8 Oversighting the Office of the Victorian Information Commissioner (OVIC)

Findings:

The VI has designed and implemented a robust framework to manage its oversight of the OVIC.

8.1 Introduction

The Office of the Victorian Information Commissioner was established under the *Public Administration Act 2004* as a special body to assist the Information Commissioner and commenced operations on 1 September 2017.

OVIC has oversight of the Victorian government’s collection, use and disclosure of information. The functions of the Information Commissioner, Public Access Deputy Commissioner, and Privacy and Data Protection Deputy Commissioner are set out in the *Freedom of Information Act 1982 (Vic)* (FOI Act) and the *Privacy and Data Protection Act 2014* (PDP Act).

8.2 VI oversight of OVIC

The VI’s oversight of OVIC is set out in section 11(5) of the VI Act. The VI is responsible for monitoring OVIC’s exercise of coercive powers and compliance with procedural fairness requirements. The VI may also receive, assess, and investigate complaints about the conduct of OVIC officers in relation to the exercise of coercive powers or compliance with procedural fairness requirements. In addition, the VI may investigate matters on its own motion, and report on, and make recommendations about, the performance by OVIC of its functions. Since 1 January 2020, the VI can only oversight procedural fairness as it relates to OVIC’s exercise of coercive powers.

8.3 Monitoring coercive powers

Under the *Freedom of Information Act 1982* and the *Privacy and Data Protection Act 2014*, OVIC must notify the VI at each use of their coercive powers. During the audit period, the OVIC issued one coercive power notification.

Table 41. OVIC – Use of coercive powers

Category	Section	sub-type	17-18	18-19	19-20	20-21
Summons/Orders/Notices	s 61ZD	Notice to produce documents	0	0	1	0
		SCV Summons (Supreme Court)	0	0	0	0
Total			0	0	1	0

Due to the low volume of notifications, VI did not have a specific checklist relating to OVIC’s exercise of coercive powers during the audit period. Checklists for OVIC notifications are currently being developed.

8.4 Receiving complaints

The VI is responsible for receiving and managing complaints made about OVIC. During the audit period 16 complaints were received in relation to the conduct of OVIC officers. A breakdown of complaints made regarding OVIC are detailed below:

Table 42. OVIC – No. of complaints received

Source	17-18	18-19	19-20	20-21
Direct	4	3	9	0

Table 43. OVIC – Outcomes of complaints received

Complaint status	Sub-category	17-18	18-19	19-20	20-21
Complaint dismissed at initial assessment		2	0	2	0
Complaint dismissed following enquiries		0	0	2	0
Complaint substantiated		0	1	0	0
Outside jurisdiction		1	0	5	0
Remain open at end of period		1	2	0	0
Prior year complaint	VI raised concerns	0	0	2	0
	Complaint unsubstantiated	0	1	0	0
Total		4	4	11	

Of the eighteen complaints finalised during the audit period, six were outside the VI's jurisdiction, six were dismissed and one was substantiated. In this instance, substantiated refers to instances of legal non-compliance. The VI also spent significant time investigating complex complaints and making observations for potential improvements.

Further, the VI provided private Integrity Reports on two occasions following complaints about OVIC. These reports contained two and three recommendations respectively.

For assessing complaints about OVIC, VI use the same complaints framework and processes that apply to all agencies. For a detailed breakdown and explanation of these processes, refer to Section 5.

8.5 Investigating and assessing the conduct of OVIC officers

The process followed by the VI for conducting investigations is described at section 6. The VI did not undertake any investigations relating to OVIC or OVIC officers during the audit period. Please refer to section 1.5 for details.



8.6 Reporting on, and making recommendation

Under the VI Act s11 (4)(d) it is a function of the VI to ‘*to report on, and make recommendations as a result of, the performance of its duties and functions*’. In practice, this means that it is a function of the VI to report and provide recommendations to OVIC following the performance of its functions such as monitoring coercive power notifications, assessing complaints, or issuing Integrity Reports following the completion of monitoring projects.

Throughout the audit period, two private integrity reports were provided to OVIC in 2018-19 and 2019-20 which made two and three recommendations respectively to OVIC, all of which were accepted and implemented.

The VI’s Integrity Reports considered several issues regarding complaints, including:

- issues of delay in assessment
- OVIC’s processes to engage with agencies
- the operation of the “*required period*” for a review
- the availability to an applicant of a right to apply to the Victorian Civil and Administrative Tribunal (VCAT) for a review decision
- the timeframes for such applications
- OVIC’s record-keeping and correspondence practices.

The VI made three recommendations to the Deputy Commissioner, Public Access toward improving certain aspects of OVIC’s procedures on FOI complaints and reviews. The Deputy Commissioner accepted the VI’s findings and confirmed OVIC had undertaken actions to address the areas of concern. OVIC’s officers engaged productively and transparently with VI staff during its assessment process, providing the VI with additional records and context for their actions, and acknowledging where delays occurred.

There were no reports or recommendations delivered in 2020-21 as the VI received no complaints about OVIC and OVIC did not exercise its coercive powers.

8.7 Results of audit testing – OVIC

8.7.1 Coercive power notifications

OVIC only had one instance of issuing a coercive power notification within the audit period. This coercive power notification was reviewed as part of sample testing. In this instance the notification was reviewed by the Inspector who subsequently provided advice to the Information Commissioner to help ensure compliance.

8.7.2 Complaints

Four complaints across the audit period were reviewed as part of testing. These were selected based on one complaint per year of the audit period. The following controls were tested:

- Preliminary review/PID Preliminary assessment being conducted



- Relevant CAM meeting minutes articulating a recommendation for IOMC
- IOMC tabling and endorsement of recommended action
- Distribution of outcome letters to complainant and agency (if relevant)

Table 44. Results of testing – Complaints: OVIC

Stage of the Process	Control	Internal process followed	Process not followed	N/A
PID Assessment	A PID Preliminary Assessment is made	3	1	0
Case Assessment Meeting (CAM)	Minutes identify the assessment of the matter	1	0	3
	Endorsement of assessment/recommendation	1	0	3
Assessment of complaint (new and existing)	Review and approval from the Manager – Complaints and Investigations	2	0	1
Integrity Operations Management Committee (IOMC)	Includes case’s recommendations and outcomes and the endorsement of these recommendations and outcomes by the IOMC.	2	0	2
Outcome Letter Approval	Relevant outcome letters identify reviewed and approved by the Manager – Complaints and Investigations (or General Manager IOP if required).	4	0	0

In three of the four complaints, the appropriate initial complaints assessment tool was completed. For one, there was no documented evidence of this initial assessment.

Of the four reviewed complaints, two occurred prior to the new operational governance structure being fully implemented, meaning they do not have minutes or papers from CAM or IOMC. In both these cases, there was evidence of the Inspector reviewing the initial assessment or endorsing an internal memo with recommendations.

For the two complaints that were reviewed while the operational governance structure was in place, appropriate records were kept, and evidence was provided that these complaints were discussed, and actions endorsed at the IOMC Meeting. For one case, CAM discussion was required and for the other it was not as it was assessed as outside the VI jurisdiction, so the matter went directly to IOMC for endorsement.

For all complaints, a compliant outcome letter was issued and signed by an appropriately delegated staff member.



8.7.3 Investigations

The VI did not undertake any investigations relating to OVIC or OVIC officers during the audit period. The process followed by the VI for conducting investigations is described at section 6.

9 Oversighting the Victorian Ombudsman

Findings:

The VI has designed and implemented a robust framework to manage its oversight of the VO in accordance with the legislative requirements detailed in the VI Act.

9.1 Introduction

The VO is an independent officer of the Victorian Parliament whose principal functions are to resolve complaints about, enquire into and investigate administrative actions taken in or by Victorian state government and public organisations, including departments, statutory bodies, and local councils.

Under s11(4) of the VI Act, the VI have the following functions in relation to the office of the VO:

- to monitor the exercise of coercive powers by Ombudsman officers
- to monitor compliance by Ombudsman officers with procedural fairness requirements in the performance of functions under the *Ombudsman Act 1973* or any other Act, including in the conduct of enquiries and investigations and the making of reports and recommendations under the *Ombudsman Act 1973* or any other Act
- to receive complaints in accordance with this Act about the conduct of Ombudsman officers
- to investigate and assess in accordance with this Act the conduct of Ombudsman officers
- report on, and make recommendations as a result of, the performance of the above functions.

The VI monitors the VO and compliance by VO officers with procedural fairness requirements under the Ombudsman Act or any other Act through:

- the receipt and management of complaints about VO officers
- the conduct of inquiries and investigations about the conduct of VO officers
- the review of the exercise of coercive power by VO officers during investigations by the Ombudsman
- the monitoring of compliance with procedural fairness requirements
- the review of the Ombudsman's public interest disclosure procedures.

9.2 Coercive powers

Under the *Ombudsman Act 1973*, the VO are required to notify the VI when they use coercive powers to issue a confidentiality notice, cancel a confidentiality notice, conduct a hearing, or issue a summons. As VO is one of the larger agencies overseen by the VI, their notification account for 19% of the overall notifications received. A breakdown of VO's use of coercive powers is available in the below table.

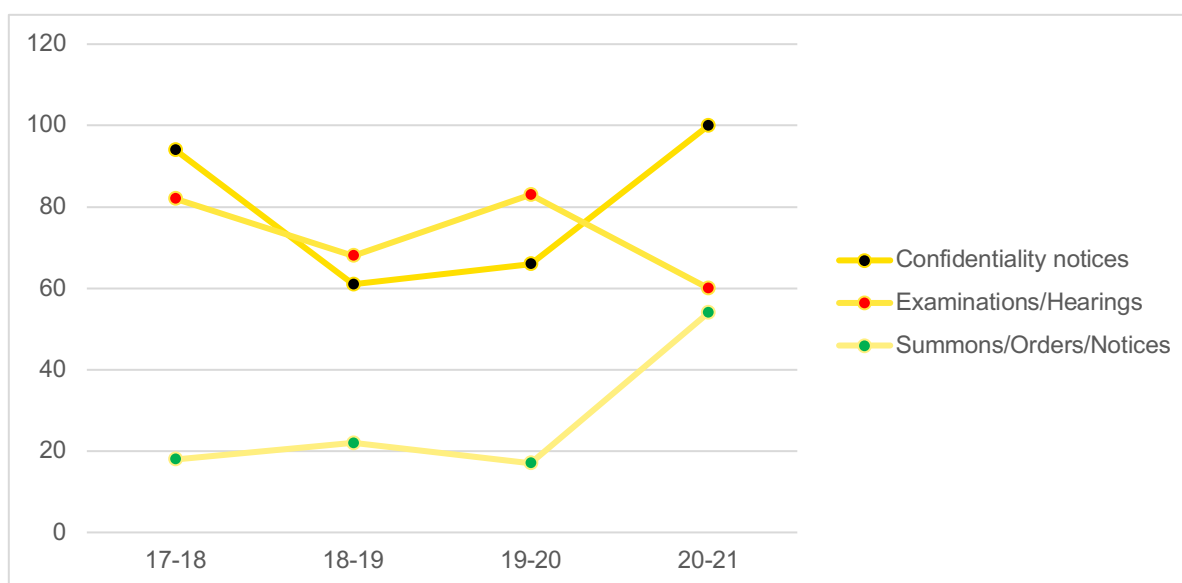
Table 45. VO - Use of coercive powers

Category	Section	sub-type	17-18	18-19	19-20	20-21
Confidentiality notices	s 26E	Confidentiality notice cancelled	0	26	38	32
		Confidentiality notice issued	94	35	28	68
Examinations/Hearings	s 18F(7)	Recordings	82	68	0	0
	s 18F(7), s 18Q	Recordings	0	0	83	33
	s 26FB	Voluntary appearance recordings	0	0	0	27
Summons/Orders/Notices	s 18A	Summons	14	22	17	54
			190	151	166	214

As outlined in Section 6, VI’s approach to monitoring coercive powers is consistent across the three agencies. The point of difference for VO are the specific checklists that have been built specifically for checking compliance to the VO Act. The specific checklists used for VO are:

- Confidentiality notice issue
- Confidentiality notice cancellation
- Hearings
- Summons

All these checklists were reviewed for compliance with relevant sections of the VO Act and found no material issues.

Figure 9. Coercive power notifications issued by the VO


9.3 Receiving complaints

The VI are responsible for receiving and managing complaints made about the VO. During the audit period 152 complaints were received in relation to the conduct of VO officers which accounts for 44% of all complaints the VI received. A breakdown of complaints made regarding the VO are noted below.

Table 46. VO - No. of complaints received

Source	Section	17-18	18-19	19-20	20-21
Direct	Not identified	36	45	34	34
	s 16F – Ombudsman’s Act 1973 (Vic)	2	0	2	2
	Not identified	2			
Total		40	45	36	36

The outcomes from each VO complaint received throughout the audit period are detailed in Table 47. As noted in the table:

- complaint numbers have remained relatively consistent over the audit period
- the number of complaints remaining open at the end of each financial year has increased year on year throughout the audit period. For the 2020-21 financial year, 69.4% of complaints received during the current year remained open at 30 June 2021
- one complaint against the VO was substantiated during the audit period. This represents 0.65% of complaints against the VO received during the audit period
- a large percentage of complaints are dismissed at initial assessment, although the percentage of complaints dismissed has reduced from 36.1% in 2017-18 to 25.0% in 2020-21
- The reduction in the percentage of complaints dismissed is attributed to an increase in the complexity of complaints received and, by extension, the number of complaints remaining open at the end of each financial year.

Table 47. VO - Outcomes of complaints received

Complaint status	Sub-category (if recorded)	17-18	18-19	19-20	20-21
Complaint dismissed at initial assessment	No evidence of breach of procedural fairness	13	12	15	9
Complaint dismissed following enquiries		1	13	6	
Not considered by VI as on-going at VO		2			
Outside jurisdiction		4			
Remain open at end of period		10	18	13	25
VI raised concerns	VI prompted the VO to contact complainant			1	

Complaint status	Sub-category (if recorded)	17-18	18-19	19-20	20-21
Prior year complaint	VI provided informal feedback re communication			1	
	Incomplete referral to IBAC		1		
	Delay in finalising		1		
	Internal review by VO	3			
	VI raised concerns			3	
	Complaints unsubstantiated		10	11	
	Deemed premature			2	
	Dismissed at assessment			2	7
	Remain open at end of period				2
	Dismissed after file review - unsubstantiated				4
Deemed closed	Additional information not provided	3			
Complaint closed with feedback	Complaint substantiated				1
	Complaints dismissed as unsubstantiated				1
		36	55	54	49

Source: VI Annual Reports

For assessing complaints about the VO, the VI use the same complaints framework and processes as the other overseen agencies. For a detailed breakdown and explanation of these processes, refer to Section 5.

9.4 Monitoring compliance with procedural fairness

The VI have a role to monitor procedural fairness at the VO. There is no specific activity that the VI undertakes to monitor compliance with procedural fairness. The VI achieve this through activities including:

- receiving and managing complaints about the VO
- reviewing coercive power notifications
- conducting investigations
- publication of Integrity Reports

In conducting each of these activities the VI considers the principles of procedural fairness. As an example, completing the VO Hearing checklist provides an opportunity for the reviewer to note



concerns relating to procedural fairness amongst other checks. The VI also considers whether procedural fairness has been provided when assessing complaints against the VO.

9.4.1 Monitoring projects

Under the VI’s Operations Model, monitoring projects undertaken by the VI are discrete, focussed oversight projects where the VI will deliver additional, audit-style review into a specific area at the VO. These projects can be focussed specifically into issues of procedural fairness. The output of each monitoring project is an Integrity Report. It can take over two years to complete a monitoring project from commencement to finalisation.

Throughout the audit period, the VI conducted one monitoring project which resulted in an Integrity Report into the *Victorian Ombudsman Interviews*. This Integrity Report was released in June 2019 and delivered four recommendations relating to voluntary interviews and compulsory interviews other than by summons. All these recommendations were accepted.

9.5 Investigating and assessing conduct

The process followed by the VI for conducting investigations is described at section 6. For the purposes of audit testing, the agency subject to the sampled investigation was not disclosed, and as such, no agency-specific observations can be made. Please refer to section 1.5 for more details.

9.6 Reporting on, and making recommendations

The VI have the legislative function under s11(4)(d) to ‘*report on and make recommendations as a result of the performance of its function under paragraphs (a) to (c)*’.

As part of this, the VI report on their monitoring of coercive powers, compliance with procedural fairness, receipt and assessments of VO complaints and conducting investigations of VO officers. These details are included in the annual report, and in integrity reports.

Throughout the audit period, the VI made 10 public and private recommendations to the VO, all of which have been accepted.

Table 48. Recommendations made to the VO

Financial Year	Report Type	Issue	No. of recs	Recs accepted
2018-19	Integrity report following a monitoring project	VO interviews	4	4
2019-20	Private recommendations following an investigation	Exercise of coercive powers	3	3
2020-21	Private recommendations following a preliminary inquiry	Exercise of coercive powers	3	3
Total			10	10



9.7 Results of testing - VO

9.7.1 Coercive power notifications

Twelve instances of VO notifications were reviewed as part of testing from a sample across the audit period and coercive power notification type. The notifications were assessed against the key controls that the VI may (but is not required to) apply to monitoring notifications. These controls included:

- evidence of triage or initial review being conducted
- completed checklists for each notification were retained on file, or in the case management system
- quality assurance signoff was retained on file, or in the case management system.

Of the sampled notifications, 58% had evidence of triaging occurring, 66% had completed checklists and only one had evidence of quality assurance signoff. Noting that completing triage and checklists are at VI's discretion.

Table 49. Results of testing – Notifications: VO

Control	Internal process followed	Process not followed	N/A
Triage	7	0	5
Completed Checklist template	8	0	4
Checklist QA'd	1	7	4
If relevant, IOMC approval	0	0	12

9.7.2 Complaints

Four complaints across the audit period were reviewed as part of testing. These were selected based on one complaint per year of the audit period. The key controls tested included:

- preliminary review/PID Preliminary assessment being conducted
- relevant CAM meeting minutes articulating a recommendation for IOMC
- IOMC tabling and endorsement of recommended action
- distribution of outcome letters to complainant and agency (if relevant).

Table 50. Results of testing – Complaints: VO

Stage of the Process	Control	Internal process followed	Not followed	N/A
PID Assessment	A PID Preliminary Assessment is made	3	1	0
Case Assessment Meeting (CAM)	Minutes identify the assessment of the matter	2	0	2

Stage of the Process	Control	Internal process followed	Not followed	N/A
Assessment of complaint (new and existing)	Endorsement of assessment/recommendation	2	0	2
	Review and approval from the Manager - Complaints and Investment	3	0	1
Integrity Operations Management Committee (IOMC)	Includes case's recommendations and outcomes and the endorsement of these recommendations and outcomes by the IOMC.	1	0	3
Outcome Letter Approval	Relevant outcome letters identify reviewed and approved by the Manager - Complaints and Investigations (or General Manager IOP if required).	3	0	1
Review of complaint outcome				

In three of the four complaints, the appropriate initial complaints assessment tool was completed. For one, there was no documented evidence of this initial assessment.

Of the four reviewed complaints, two of these complaints occurred before the new operational governance structure was fully implemented, meaning they do not have minutes or papers from CAM or IOMC. In both these cases, there was evidence of the Inspector being involved with the assessment and endorsing the proposed actions.

For the two complaints that were reviewed while the operational governance structure was in place, appropriate records were kept, and evidence was provided that these complaints were discussed, with actions endorsed at the IOMC Meeting. For one case, the CAM discussed the matter, while the second case was outside the VO's jurisdiction and went directly to IOMC for endorsement.

For all complaints, a complaint outcome letter was issued and signed by an appropriately delegated staff member.



10 Sound governance and planning

10.1 Governance and risk management

Findings:

The VI has designed and implemented a well-defined governance and risk framework to manage and oversight its mandatory functions.

10.1.1 Operational governance

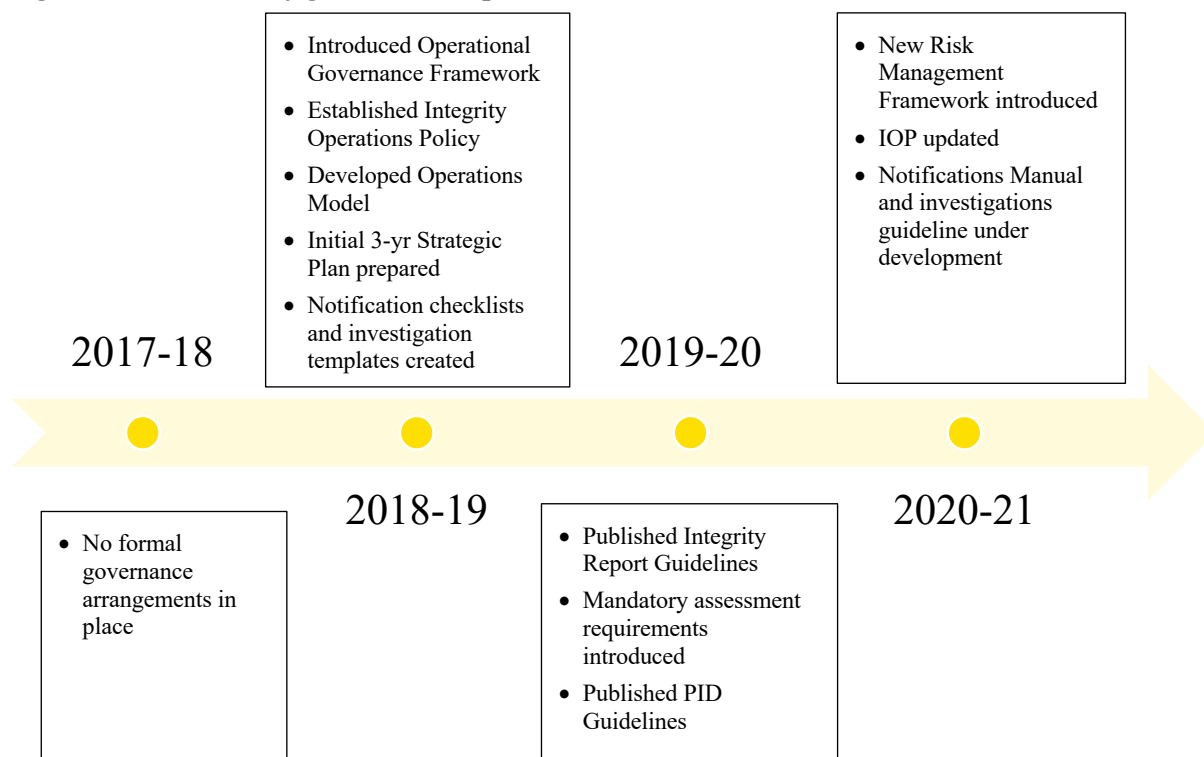
Establishing effective governance arrangements is fundamental to delivering the VI's mandatory functions. An effective governance framework provides the necessary structure and authority to allow staff to undertake their respective roles and responsibilities. In addition, it directs how people interact with the organisation, with the bodies the VI oversees, with the IOC which oversees the VI and with stakeholders more generally to closely guide and monitor and deliver operations.

Over the audit period, the VI has made substantial improvements to its operational governance arrangements. These improvements have included:

- developing a formal Operational Governance Framework (2018-19)
- developing an Integrity Operations Policy (2018-19)
- developing an Operations Model (2018-19)
- developing a suite of investigations templates to ensure compliance with relevant legislation (2018-19)
- developing a suite of coercive power notification checklists to assist with ensuring agencies' compliance with relevant legislation (2018-19)
- publishing Integrity Response Guidelines (2019-20)
- publishing Public Interest Disclosure Guidelines (2019-20)
- introducing Operational Risk Management Framework (2020-21)
- new policies developed for Complaints Assessment meetings (2020-21)
- commenced development of Notifications Manual (2020-21)
- further development of an Investigations Guideline (2020-21)

The following figure provides a graphical representation of the changes made since 2017-18.

Figure 10. Timeline of governance improvements



10.2 Corporate Governance

Callida has reviewed the VI governance arrangements against a set of key governance principles as provided in the following table:

Table 51. Principles of good governance

Principle 1	Government and public sector relationship	<ul style="list-style-type: none"> • Operational governance framework has been designed and implemented. • Establishment of initial Budget Paper 3 Performance Measures • Annual Reports are prepared
Principle 2	Management and oversight	<ul style="list-style-type: none"> • Appropriate committees (including CAM and IOMC) have been established with clearly defined Terms of Reference • Roles and responsibilities of staff have been clearly defined. Appropriate delegations have been developed and issued to support operational decision making • An Audit & Risk Committee has been established • Internal audit program by contracted auditors
Principle 3	Organisational structure	<ul style="list-style-type: none"> • The VI organisational structure has been designed around the mandatory functions delivered by the VI supported by legal and corporate services teams.

Principle 4	Operations	<ul style="list-style-type: none"> • Strategic and Annual Plans have been developed • Policy and procedural documentation have been implemented for each function under the VI Act • Checklists have been developed to assist staff in the discharge of their responsibilities. Each checklist has been assessed against the existing legislation to ensure that all elements of the legislation have been included.
Principle 5	Ethics and integrity	<ul style="list-style-type: none"> • All staff are required to take an oath or affirmation and maintain a Negative Vetting 1 security clearance • Integrity information is provided • People Matter Survey (PMS) results indicate positive environment
Principle 6	People	<ul style="list-style-type: none"> • High staff engagement scores in PMS survey • Positive outcomes for staff psychological environments
Principle 7	Finance	<ul style="list-style-type: none"> • Achieved budget independence in 2020 • Conducted the Base Review to forecast costings for the next five years • Base Review produced a cost model to estimate FTE requirements per function • Quarterly Financial Reports to Audit and Risk Committee • Procurement oversighted by departmental Chief Procurement Officer
Principle 8	Communication	<ul style="list-style-type: none"> • High level of internal communication • Focus on website usability • Participate in government forums and events such as Law Week • Gained approval to appoint a Senior Communications Officer from 1 July 2021.
Principle 9	Risk management	<ul style="list-style-type: none"> • The VI has established a risk management framework and an operational risk assessment to manage risks. • The VI has implemented an Information Security Management Framework.

Oversight of non-operational functions is driven through Monthly Corporate meetings. These meetings are attended by the Inspector, Executive Director – Legal and Integrity, Director – Budget Independence and Strategy, General Manager – Corporate Services. At these meetings, there is a review of the corporate business plan, tracking of internal audit recommendations and compliance obligations. Further to this, there are weekly meetings of the Corporate and Finance functions to ensure more granular priorities are understood.

10.2.1 Risk management

The VI's approach to managing risk has substantially improved during the audit period. Prior to 2017, the VI maintained a single risk register which was reviewed as part of the then Audit Committee



process. At that time, the VI applied the Department of Premier and Cabinet's (DPC) Risk Management Policy and, if required their risk management tools and processes. In 2017 the VI Risk Register identified eight risks to the organisation. Each risk was assessed, controls were identified, and a final risk rating determined. Each risk was accepted based on the effectiveness of existing controls. Regular reports on the status of each risk were provided at each Audit Committee meeting.

During 2018 and 2019, the VI gradually improved its risk management focus and approach. These improvements were part of wider improvements to the VI's governance arrangements, evidenced by stronger engagement with the revised Audit and Risk Committee (ARC), the appointment of an internal auditor, the appointment of a new member with extensive experience in public sector governance, strategic planning and risk to the ARC and a pro-active risk management approach.

These improvements in risk management culminated in the drafting of the VI's Risk Management Framework 2021 (the Framework).

The Framework comprises the set of components that provide the VI's foundations and organisational arrangements for designing, implementing, monitoring, reviewing and continually improving risk management throughout the VI. The Framework outlines the methodology and overall approach to responding to risk along with management responsibilities for managing risk. From 1 July 2021, in line with the mandatory Victorian Government Risk Management Framework requirements, the Framework will be reviewed each year with the next review on the agenda for the September 2022 Committee meeting.

Several recent reviews, including a risk management internal audit, the independent base review, and a Governance Review (January 2022) each commented on the arrangements that the VI has implemented throughout the audit period.

In an internal audit report completed in December 2019 it was noted:

Our review and discussions with senior staff noted they are more than conversant with risk management and activities across their business areas. Senior staff are actively and appropriately managing risk in their area of responsibility, however, the formal documentation to demonstrate this is yet to be developed; and

Our review highlighted that the Risk Management Framework at VI was still at an early stage of maturity and needs to be re-visited/reviewed. We did acknowledge though that the VI understands the current immaturity of its risk management documentation and formal approach required. Where possible, the organisation is allocating resourcing within a constrained environment to revise/re-visit its risk management approach with the intention of progressively improving its risk maturity. (at page 17)

Similarly, the Governance Review (January 2022) noted:

Nil recommendations noted, the VI's Risk management governance documentation appears to meet the expectations of an agency of similar size. Aligned to good governance practices, the Framework, Policies and Procedures should be continuously reviewed and updated to remain current and relevant.



10.3 Prioritising work against statutory objectives

Findings:

The VI have established a well-defined approach to prioritising work against statutory objectives.

The VI has established a framework for prioritising work against its statutory objectives consisting of the following elements:

- Integrity Operations Governance Policy
- Integrity Operations Management Committee (IOMC)
- VI Operations Model
- Integrity Response Guidelines
- VI's Public Interest Disclosure Guidelines
- Integrity Operations Risk Assessment
- Annual Plan.

10.3.1 Integrity Operations Governance Policy

The Integrity Operations Governance Policy (IOG Policy) was first established in 2019. It sets out the governance structures and level of decision making authority by which the VI performs its statutory functions. It ensures that the VI delivers strategically targeted, planned and properly resourced oversight activities.

The specific aims of the IOG Policy are to:

- ensure the VI's operational activities are properly planned and resourced, and are appropriately steered toward effective integrity responses
- require transparent and documented decision-making about operationally significant actions at an appropriately senior level, with collaboration between managers, and engagement with staff
- prioritise work programs and make appropriate records where work cannot be supported with available resources
- incorporate accountability and risk assessment mechanisms into the direction of operational activities
- ensure outcomes from the VI's activities are considered, proportionate, fair, consistent, and influential.

10.3.2 Integrity Operations Management Committee (IOMC)

The VI's standing Integrity Operations Management Committee (IOMC) is responsible for making decisions about the VI's activities as set out in IOG Policy, including prioritising resources directed to Integrity Programs, Monitoring Projects, Preliminary Inquiries, Investigations, and Inquiries.



The IOMC may also steer the direction of integrity operations activities and ensure subsequent Integrity Responses are appropriately planned and executed through considered and consistent engagement with relevant entities.

The IOMC is comprised of three members: the Inspector, the ED, Legal & Integrity and the GM, Integrity Operations and Policy. The committee is required to meet regularly, and although this term is not defined, in practice the committee meets at least fortnightly. One of the meetings focusses specifically on managing complaints. Formal minutes are recorded for each meeting.

One of the responsibilities of the IOMC is to approve the following activities.

- integrity programs
- monitoring projects
- preliminary inquiries
- investigations
- inquiries.

None of these activities can commence until formally approved by the IOMC. These decisions are also recorded in a Decision Register that forms part of the IOMC minutes.

10.3.3 VI Operations Model

In January 2019, the VI implemented an Operations Model as a framework for its operational oversight activities. The Operations Model sets out:

- the relationship between the VI's functions, oversight activities and integrity responses
- how the VI regularly receives information about the activity of integrity bodies through two key sources, namely complaints and coercive power notifications
- how information received may lead to a preliminary inquiry, an investigation, an inquiry, or activities within an integrity program or a monitoring project
- a broad range of integrity responses can arise from the VI's reactive and proactive activities.

During 2018-19 the VI utilised this new model to complete long term investigations and projects that had commenced under the previous Inspector, implemented a new organisational structure, established a strategic plan, and introduced a decision-making framework for complaints and the exercise of coercive powers, with templates to support the framework.

During 2019-20 the VI added Integrity Response Guidelines to its operations strategy to ensure a consistent and transparent approach to operations.

Prior to the audit period, no structured framework existed for the management and oversight of the VI's core activities.

10.3.4 Annual Plan

Under section 90B of the VI Act the VI is now required to prepare a draft annual plan of the VI's proposed work program for the financial year and submit that plan to the Parliamentary Committee for its consideration.



In June 2020, the VI published its first Annual Plan which set out the VI’s operations strategy. That plan:

- explained that the VI had a broad range of legislative functions across 11 integrity, accountability, and investigatory bodies
- summarised the VI’s functions in the VI’s key functions table
- explained that within the VI’s budget allocation, priority would be given to mandatory functions and complaints
- outlined the VI’s risk-based model to monitoring and other legislative functions in accordance with available resources
- explained the resource dependent operational activities the VI would undertake if any additional resources were available.

The plan also highlighted the VI’s limited budget and the implications on delivering non-mandated activities such as delivering educations programs or monitoring projects for that year.

The 2021-22 Annual Plan takes a similar approach, demonstrating the operational limitations caused by the VI’s budget. The three operational priorities detailed in the plan were:

Table 52. VI Operational priorities 2021-22

No	Priority	Explanation
1	Mandatory Functions	Includes Inspections and Public Interest Disclosure and related investigations
2	Responding to complaints and notifications	Includes complaints managements, investigations (not associated with public interest disclosures), and receiving and assessing coercive power notifications.
3	Other monitoring and review functions	Includes all other VI functions: <ul style="list-style-type: none"> • Specified monitoring risks • Assessing legislative compliance of overseen agencies, • Review of various policies and procedures at overseen agencies

These three operational priorities act as the main prioritisation tool for day-to-day operations of the VI and for the allocation of resources. All incoming complaints must be assessed as to whether they are a Public Interest Disclosure, and this must occur within 28 days of receiving the complaint. While a full assessment does not need to be completed within 28 days, it must be assessed as to whether it meets the legislative threshold of a PID.

Within these priorities, the VI rely on their internal Operational Governance structure to help inform prioritisation. All current operational matters are discussed at the IOMC which allows for regular executive oversight and direction from the Inspector and Executive Director – Legal and Integrity.

Audit was unable to review IOMC meeting minutes in detail due to information access constraints, so cannot offer assurance over whether this is an effective prioritisation model.

10.4 Strategic planning

Findings:

The VI have matured their strategic planning process significantly over the audit period to provide more direction for the organisation and staff.

The VI have implemented appropriate arrangements to monitor the implementation of Strategic Plan actions.

At the beginning of the audit period, there was a limited strategic focus or approach to VI operations. The approach of the VI was predominantly reactive, addressing issues as they were identified or notified as required. Prior to the development of the Strategic Plan covering the period 1 January 2019- to 31 December 2021 there is no evidence of any strategic planning having been implemented. A strategic plan was developed under the former Inspector in the second half of 2017 by a consultant engaged by the VI but there is no evidence of it having been utilised.

Following the appointment of the current Inspector several changes to the operations of the VI were introduced. These changes included:

- updating the organisational structure of the VI based on mandatory functions required to be delivered
- establishing an approach where the senior leadership team began considering longer term strategic approaches. The VI engaged a facilitator to help develop a Strategic Plan that covered the period from 1 January 2019 – 31 December 2021. The three strategic priorities detailed in the plan where to:
 - Build the capability of the VI to proactively manage demand.
 - Raise public awareness of the role and impact of the VI.
 - Lead a network focussed on improving agency practice.

The initial Strategic Plan was supported by an 18-month implementation plan. The implementation plan set out the required actions to implement the three priorities and identified the responsible VI officer and dates for completion. And from 1 January 2020 the VI developed six-month Corporate and Operational business plans.

The Corporate business plan identified 33 activities allocated between several functional themes for delivery by the end of the planning period. Not all strategies were completed by the due date. Disruptions due to the COVID-19 pandemic, operational priorities, and delays in finalising the 2019-20 budget all impacted on the availability of resources.

During 2020, monthly corporate meetings were introduced to monitor progress against the implementation plan. This meeting would review and update the plan as necessary to reflect current priorities and available resources. It should also be noted, that at this time, the VI had limited resources available for this purpose.

Throughout this period, the Inspector received regular updates with quarterly memos provided that outlined progress against each of the initiatives and the activities completed to achieve these. A sample of these reports were examined and confirmed that appropriate monitoring of these initiatives was undertaken.



In October 2021, the VI again engaged a facilitator to assist with the development of the 2022-2024 Strategic Plan. As with the previous plan, the VI identified the following four strategic priorities and supporting strategies:

Priorities	Strategies
1. Build community knowledge of rights within the integrity system	Better utilise the VI Website
	Improve complaints information
	Further develop guidance to inform and explain rights
2. Address issues thematically to create improvements across the integrity system	Develop an Integrity Body Forum to influence practice
	Create and implement a communication framework with agencies
	Commence monitoring projects
	Proactively contribute to law reform
	Share key learnings from across the integrity system
3. Improve timeliness and ease of access for integrity participants	Keep developing more process-driven operations
	Customise the online complaints and PID processes to assist with enquiries
	Provide timely responses to build public confidence
	Create an Intranet
4. Continue to build organisational sustainability, capability and a positive culture	Build a flexible work approach to support culture, and a united and safe VI
	Develop and implement an ICT Strategy and Roadmap
	Implement and maintain a sustainable model for budget independence and compliance
	Create and implement an Integrated Communication and Engagement Strategy

With the new iteration of the Strategic Plan, priorities were assigned strategies to help achieve each priority. These strategies have assigned targets within each quarter to meet. Further, there are metrics assigned to each strategy to help assess the progression of the four priorities. These metrics include, for example, website hits, implementation of key planned programs, average response times and people and culture measures.



Both the 2019-2021 and the 2022-2024 Strategic Plans were presented to staff. This was an important method of sharing the VI's vision with staff over the direction of the agency. The benefits of this approach were recognised through the annual Victorian Public Service People Matters Survey.

The survey results indicated that staff opinions are positive towards the capacity of VI senior leaders to provide clear strategy and direction. One specific question from the survey highlights the VI's success in this regard.

Question	2019*	2020	2021*
Senior leaders provide a clear strategy and direction	71% (+8)	Not asked	89% (+27)

* Number within brackets is the differentiation from the comparator group average.

The VI's organisational results are well above comparator groups and have significantly improved over the audit period (increasing 18% in two years).

10.5 Ensuring integrity and appropriateness of staff

Conclusion	
	The VI has established appropriate mechanisms for ensuring the integrity and suitability of staff.

As the VI's role is to ensure integrity through the Victorian integrity system, integrity of staff is critical to ensure the VI are successful. The VI have several mechanisms or controls in place to ensure all staff maintain high levels of integrity including some pre-commencement controls:

Table 53. Controls over the integrity and suitability of staff

Control	Description	Occurrence
Inspector Vetting	All prospective new starters meet with the Inspector where cultural fit is considered, and the clearance process is discussed.	Pre-Employment
Security Clearance	All staff are required to hold and maintain a Negative Vetting 1 (NV1) Clearance from the Australian Government Security Vetting Agency (AGSVA). Staff can commence while they are waiting to be assessed for an NV1. Provisional clearances are sought for operational staff during this waiting period	Pre-Employment/throughout employment
Oath or Affirmation	Upon commencement, it is a legislative requirement for all staff to complete a declaration under an oath or affirmation which includes a statement that at all times the staff will faithfully and impartially perform duties and functions, and exercise powers.	On commencement
PDP Review	Within the Personal Development Plan assessment, managers will assess employees on Values and Behaviours	Annually

Control	Description	Occurrence
Conflict of Interest Policies	While employed, VI officers are subject to the Conflict-of-Interest Policy to guide staff through what is a declarable association and situations where they are required to complete declarations.	As needs
Personal Contact	As the VI is a relatively small agency, they can rely on informal communication and oversight to ensure integrity of staff	Continual

The design of these controls is suitable for a small agency such as VI, especially given the level of personal oversight that is evident in a small agency.

10.6 Testing outcomes

To validate the operating effectiveness of these controls, the audit tested the following areas:

10.6.1 Security clearances

The Australian Government Security Vetting Agency (AGSVA) is a Commonwealth-wide service that assesses whether an individual possesses and demonstrates an appropriate level of integrity to hold a security clearance. Security clearances are required when accessing various levels of information or to occupy a position of trust requiring additional assurance about the integrity of the occupant of that position.

Employment at VI is contingent on an individual's capacity to hold and maintain a Negative Vetting 1 clearance. If a new starter at VI does not hold an NV1, they can commence while applying for the clearance, but their continued employment is contingent on them successfully attaining the required clearance. The cost to the VI of requiring staff security clearances is \$950 (GST inclusive) per clearance.

The VI track currency of staff clearances through a List of VI Staff Security Clearances which contains names, clearance status, date granted, expiry dates and any further comments. This document was reviewed at a point in time throughout fieldwork. The list contained the clearance status of 32 individuals. Of the 32, 25 had active clearances and the remaining seven had active applications. The oldest of these applications was from December 2021.

Figure 11. Security clearance status

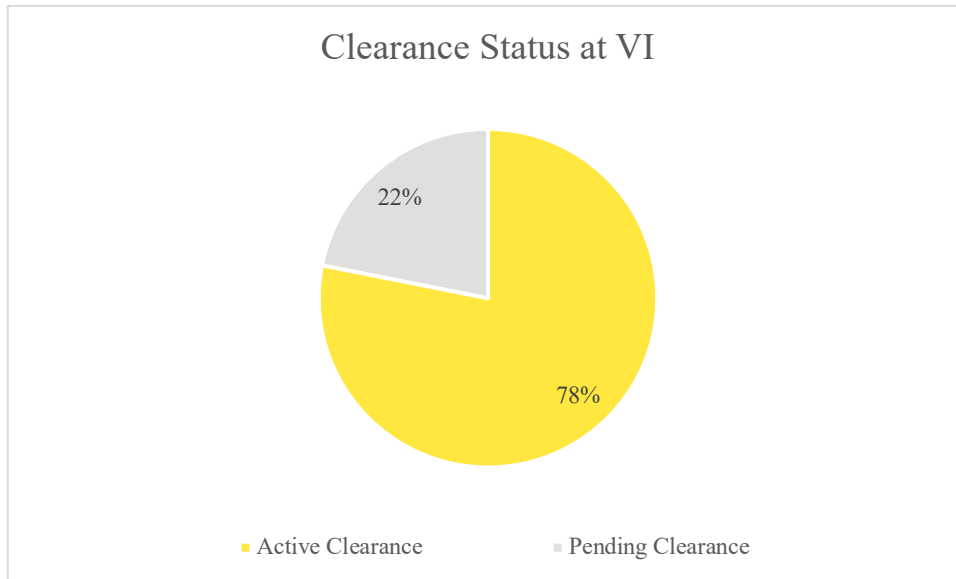
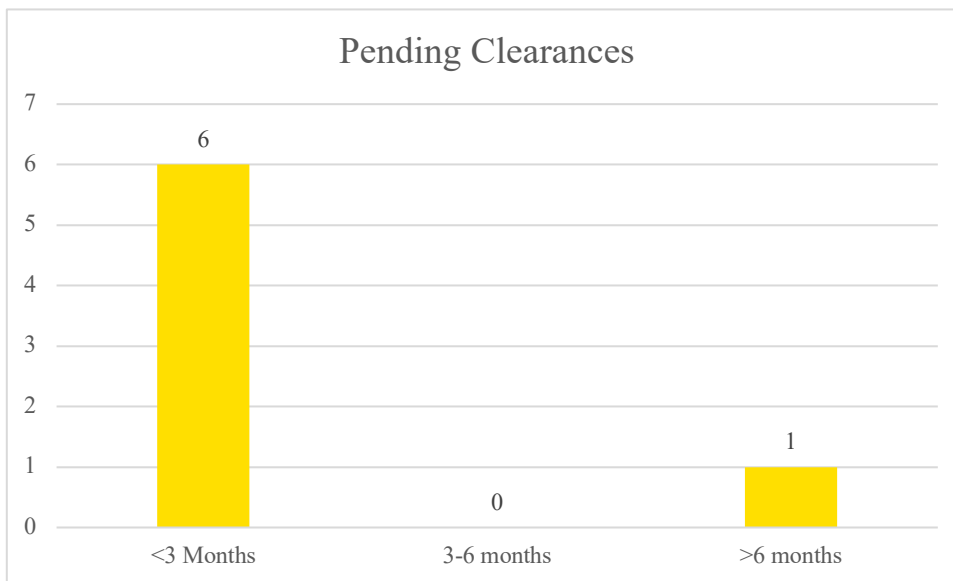


Figure 12. Pending security clearances



10.6.2 Affirmations and declarations

Pursuant to s30 of the VI Act, it is a legislative requirement for all staff to complete an oath or affirmation as part of their employment conditions. Callida reviewed a sample of signed affirmations for several key staff including:

- General Manager, Integrity Operations and Policy
- Manager, Inspections and Monitoring
- Senior Legal Policy Officer



- Complaints Assessment Officer

All declarations were completed, still valid and were administered by the Inspector as per legislative requirements. No issues were identified in the sample selected.

10.6.3 Conflict of Interest declarations

Staff at the VI are subject to a Conflict-of-Interest Policy. The VI's policy was authorised in May 2021 and outlines staff responsibilities for declaring actual, perceived, or potential conflict. There are no mandatory requirements to declare interests, however, for some high-risk activities, such as recruitment, project work or procurements, staff may be required to complete a conflict-of-interest declaration form. The VI adopted the Department of Premier and Cabinet policy prior to establishing its own policy.

As part of testing, Callida reviewed whether conflict of interest declaration forms were utilised and completed. For this, Callida reviewed a sample procurement activity to ensure the appropriate declaration of interest was completed. For this instance, it was compliant with the policy and contained both employee and appropriate management sign off.

As key management personnel, the Inspector, and the Executive Director, Legal and Integrity complete and submit to the Department of Premier and Cabinet annual declarations of private interest including related party transactions.

10.6.4 Staff survey results

To further reinforce the effectiveness of the process to ensure integrity of staff, results from the People Matter's Survey indicate that staff are highly satisfied with the standard of integrity across the organisation. Results of integrity related questions are outlined below:

Table 54. People Matters Survey – Standard of integrity

Question	2019*	2020	2021*
My organisation is committed to earning a high level of public trust	93% (+9)	Not asked	100% (+9)
My organisation does not tolerate improper conduct	93% (+28)	Not asked	100% (+30)
My organisation makes fair recruitment and promotion decisions, based on merit	71% (+14)	Not asked	94% (+37)
Senior leaders display honesty and integrity	86% (+13)	Not asked	100% (+28)
My manager demonstrated honesty and integrity	93% (+8)	Not asked	100% (+11)



Question	2019*	2020	2021*
People in my workgroup appropriately manage conflicts of interest	86% (+13)	Not asked	89% (+20)
People in my workgroup are honest, open, and transparent in their dealings	93% (+15)	Not asked	89% (+8)

* Number within the bracket is the differentiation from the comparator group average.

10.7 Engaging with stakeholders

Findings:

The VI has not developed a Stakeholder Engagement Plan/Communications Plan.

The VI has developed several strategies within two priorities to improve its engagement with its stakeholder groups.

As the key oversight body in Victoria's integrity system, the VI was established to provide oversight of other integrity, accountability or investigatory bodies and their officers. The VI is committed to providing the Parliament and the people of Victoria with independent assurance that these bodies act lawfully and properly in the performance of their functions. Effectively delivering this oversight requires developing effective relationships with other integrity bodies and identifying and engaging with key stakeholders.

The VI has several key stakeholder groups to engage with. These groups can be categorised as follows:

1. other agencies within the Victorian Government Integrity system who have been established to deliver defined functions within the legislative framework developed by the Parliament
2. the Parliament of Victoria, and other government departments and agencies responsible for the design of the integrity system framework
3. members of the public and other interested parties.

Each category of stakeholder will have differing requirements, require different approaches to engagement, and may influence the VI in different ways.

In its risk register (December 2020) and November (2021) the VI has identified the following risk:

The VI does not assign high priority to working with government departments to improve the legislative basis for the integrity system, If the VI is not consulted as a leading stakeholder it will have limited capacity to influence the development of both State and Commonwealth legislation reforms which expand the VI's statutory remit or impact on the Victorian integrity system.



This risk is aimed at addressing the VI's lack of influence over the development of legislative reforms that may impact the VI's ability to deliver its functions, or to impact on the overall integrity system. In terms of the different stakeholder groups identified above, this risk fits within category 2.

An initial assessment of that risk identified the following three existing controls:

- Additional senior leadership resourcing now in place allowing Inspector and Executive Director to spend more time outwardly focussing
- VI will be developing a stakeholder engagement strategy for key stakeholders to ensure its profile is lifted – while the risk register notes this as a current control, at the time of the assessment it had not been finalised
- Communications officer position commenced in September 2021 and a communications strategy is in development.

In addition to the controls above, the VI developed two additional strategies to manage the risk:

- Developed a stakeholder engagement and communications strategy across key areas and stakeholders to increase VI's profile and influence
- Researched key integrity reforms at a State and Commonwealth level to ensure the VI can influence drafting at an earlier stage.

At the conclusion of the audit period, these strategies had not been implemented.

In addition to the stakeholder risk identified in the risk register, a second stakeholder risk exists with respect to the VI's ongoing oversight of, and engagement with other VI integrity bodies, and its engagement with members of the public.

The VI has recognised that these risks need to be managed. In the 2022 VI Implementation Plan, the VI has identified two key priorities and several supporting strategies, including:

1. Build community knowledge of rights within the integrity system
 - Better utilise the VI Website
 - Improve complaints information
 - Further develop guidance to inform and explain rights.
2. Address issues thematically to create improvements across the integrity system
 - Develop an Integrity Body Forum to influence practice
 - Create and implement a communication framework with agencies
 - Share key learnings from across the integrity system.

While engagement between the VI and other integrity bodies does occur regularly, this engagement is generally in relation to the activities that the VI delivers. There is no evidence that this engagement is driven by a defined strategy that identifies what the VI wants to achieve through its engagement activities.

While the VI recognises that more can be done in this area, since 2019 they have established regular meetings at various levels across the agencies, to create forums to discuss operational activities and to



raise issues about communication, legislative reform and any other matters of common interest. These arrangements will now be supported by the development of an Integrity Body Forum as noted above.

Since the audit period, a Communications officer has been engaged and commenced work on an engagement strategy, but progress has been impacted by DPC changing their level of backend support for the VI's website. Steps are being taken to engage a third party to provide this service to enable the Communications officer to refocus on the strategy.

Effective and strategically aligned stakeholder engagement can:

- enable better management of risk and reputation
- allow for the pooling of resources (knowledge, people, money, and technology) to solve problems and reach objectives that cannot be reached by single organisations
- enable understanding of the complex business environment that each body operates in
- enable integrity bodies to learn from each other, potentially resulting in product and process improvements
- inform, educate, and influence stakeholders and the government to improve their decision-making and actions that impact on the Victorian community
- build trust between the VI and other integrity bodies
- build trust between the VI and other stakeholders – IOC, Secretariat, Department of Justice and Community Safety, Attorney-General

As noted above, creating, and implementing a communication framework with agencies is one of the strategies in the VI's Strategic Plan 2022-2024. This framework, along with developing an integrity body forum to influence practice, are strategies to help achieve the VI's priority of addressing issues thematically to create improvements across the entire integrity system.

A similar priority, "*leading a network focused on improving agency practice*", was also part of the VI's Strategic Plan 2019-2021. This was not achieved as the VI's limited resources were focused on achieving the first priority of building the capability of the VI to proactively managing demand. This strategy has also been included in the 2022 VI Implementation Plan.



10.8 Promoting the PID Act internally

Findings:

The VI have designed and implemented a reasonable framework to internally promote and implement the purposes of the PID Act 2012 (Vic)

Part 1 s1 of the Public Interest Disclosures Act identifies the Purposes of the Act to be:

1 Purposes

The purposes of this Act are:

- (a) to encourage and facilitate disclosures of:
 - (i) improper conduct by public officers, public bodies and other persons; and
 - (ii) detrimental action taken in reprisal for a person making a disclosure under this Act; and
- (b) to provide protection for:
 - (i) persons who make those disclosures; and
 - (ii) persons who may suffer detrimental action in reprisal for those disclosures; and
- (ba) to ensure that those disclosures are properly assessed and, where necessary, investigated; and
- (c) to provide for the confidentiality of the content of those disclosures and the identity of persons who make those disclosures

In 2019, the *Public Interest Disclosures Act 2012 (PID Act)* replaced the pre-existing *Protected Disclosure Act 2012 (PD Act)*. This change also significantly changed the VI's role with regard to Public Interest Disclosures (PID). The update in this role expanded the VI's obligations and responsibilities to include:

- A public interest disclosure was now able to be made to the VI, if not required to be made to another entity under the PID Act.
- The VI may receive and, where applicable, must be notified of disclosures about the PIM and will be responsible for determining whether those assessable disclosures are public interest complaints.
- The VI became responsible for investigating public interest complaints about the PIM.
- The VI may now receive misdirected disclosures which have been incorrectly made to the VI.
- Public interest disclosures were able to be made to the IOC about the VI and its officers.

With this expanded function, VI have updated their policies, tools, and resources to support their obligations under the *PID Act* including:

- A Public Interest Disclosure Policy
- PID Guidelines & online PID forms (available on the VI Website)
- PID assessment templates

- PID Fact Sheet for disclosers
- PID information presentation for staff

The PID documentation framework from the VI addresses the purposes of the PID Act 2012 by encouraging and facilitating relevant disclosures (through the Policy and outreach activities including presentations to staff and public guidelines), providing protection for those making disclosures (through the PID policy) and, ensuring that those disclosures are properly assessed (through a comprehensive and legislatively compliant assessment template) and that confidentiality was maintained (through Policy).

Throughout the audit period, the VI have not received any Public Interest Disclosures about VI officers.

10.9 Recommendations

Ref	Recommendation
10.7	It is recommended that the VI continue with the development of the Stakeholder Engagement strategy as outlined in the 2022 Implementation Plan.
10.7	It is recommended that the VI develop a stakeholder survey to enable deeper and more consistent feedback from agencies overseen by the VI.

11 Genuine accountability and transparency

11.1 Financial management

Findings:

The VI did not have adequate mechanisms in place throughout the audit period to capture and measure the costs of performing their statutory functions.

A high percentage of fixed term funding limited the VI's ability to effectively plan and manage the delivery of its outputs.

Following the development of a cost model (as an element of the Base Review), the VI has a methodology and baseline established to measure the cost and effort required to deliver mandatory functions.

11.1.1 Financial management arrangements

At the commencement of the audit period, the VI had an Office and Administration Manager (OAM) who managed all corporate functions including finance. At that time, the position was not required to hold any formal accounting qualifications with many of the financial functions being delivered by the Department of Premier and Cabinet (DPC) Portfolio Finance Team. The Chief Financial Officer for the VI was the DPC CFO.

The VI has only been a budget independent agency since 2020-21. Prior to that time, funding to VI was provided through a grant payment by the Department of Premier and Cabinet. To prepare for budget independence, the VI introduced several improvements in the way that it manages its finances. These improvements include:

- The VI now prepares a detailed budget and monthly phasing for inclusion in the finance system. Prior to that DPC prepared and loaded the VI's budget in consultation with the VI.
- Improved internal management reporting and analysis of the VI's financial position.
- The appointment of a Project Manager, Finance and Budget Independence from October 2019 to support the Director Budget Independence and Strategy with the transition to budget independence.
- The appointment of a Senior Finance Officer in February 2021 to replace the Project Manager Finance and Budget Independence.
- The development of a cost model (as an element of the Base Review) to identify costs at the function/activity level.
- The development and implementation of a comprehensive asset management framework.

At present the VI's budget is managed centrally by the Director, Budget Independence and Strategy and has not been devolved to Branch level. Approvals to incur expenditure are tightly controlled with the Director and Senior Finance Officer consulted on all spending (beyond day to day spending within pre-approved budget parameters). While this centralised approach provides for tight control over expenditure, the VI has yet to implement processes to capture costs at an operational level.

Budgets, and responsibility for managing costs, have not yet been devolved to team level. While this approach is acceptable given the size of the VI during the audit period, as the VI continues to grow and expand its remit, the need for more granular financial information is essential to enable the VI to manage limited resources and for decision making purposes.

VI's leadership have expressed the view that the current cost management arrangements are the most appropriate given VI's size and limited expendable budget outside of salaries. This is due to the capacity for the Executive Director to oversee all operational and corporate activities and the VI's complex remit (making activity based costing difficult).

11.1.2 Funding and expenses

Table 55 provides a summary of funding received and costs incurred by the VI throughout the audit period.

Table 55. Actual funding received and costs incurred 2017-18 to 2020-21

Account	Actuals			
	2017-18	2018-19	2019-20	2020-21
Grant funding/appropriation	(3,355,012)	(3,633,267)	(4,718,312)	(4,940,038)
Salaries	1,895,429	2,108,065	2,478,407	2,622,651
On costs	130,235	257,965	267,730	185,243
Superannuation	118,393	151,650	167,487	183,557
Depreciation & amortisation	287,830	214,600	638,561	721,393
ICT	76,584	92,352	387,900	160,725
Other professional costs	25,360	105,782	76,128	280,150
Accommodation, Rent & Property	607,362	584,470	290,018	242,005 ¹
Other supplies and services	239	0	107,920	105,126
Outsourced services	55,718	79,397	14,396	120,277
Marketing & promotion	15,300	10,821	33,371	10,716
Other expenses	28,800	35,200	65,600	58,806
Consultancies	20,019	36,429	31,501	21,003
Training	38,516	21,661	24,341	11,350
Recruitment	24,613	40,848	8,867	83,507
Office expenses	17,591	24,717	24,593	20,528
Travel and accommodation	2,684	6,419	352	5,746
Interest and finance charges	842	(536)	33,477	25,687
Staff wellbeing	3,969	1,582	2,094	1,442
Books and publications	449	1,486	2,517	1,126
Motor vehicles	4,610	(4,092)	250	0
Hospitality	261	104	0	0
Capital asset charge	0	0	62,800	79,000
Total operating expenses - depn and EB	922,917	1,036,640	1,166,125	1,227,194
Total funding	(3,355,012)	(3,633,267)	(4,718,312)	(4,940,038)

Account	Actuals			
	2017-18	2018-19	2019-20	2020-21
Total expenses	3,354,804	3,768,920	4,718,310	4,940,038
Net result	(208)	135,653	(2)	0

Source: Information provided by the VI

Notes to table:

- The reduction in Accommodation, rent & property costs result from the adoption of AASB 16: Leases, that came into effect in 2019-20. With transition to AASB16 Leases, accommodation leases are accounted for as a "right of use asset/lease liability" in the balance sheet and are no longer expensed as lease.

Table 56. Analysis of funding and expenses

	2017-18	2018-19	2019-20	2020-21
Total Salary costs as % of Funding/Appropriation	63.9%	69.3%	61.8%	60.6%
Depn & amortisation as % of funding	8.6%	5.9%	13.5%	14.6% ¹
Year on year funding increase		8.3%	29.9%	4.7%
% Funding increase over base year				47.2%
Total Salary & related costs	2,144,057	2,517,680	2,913,624	2,991,451
% Year on year Salary costs		17.4%	15.7%	2.7%
% Total Salary cost increase over base				39.5%
Total running costs as a % of funding	36.1%	34.4%	38.2%	39.4%
Variable running costs as a % of funding	18.0%	18.4%	32.1%	34.5%

Notes to table:

- The increase in the % results from the changes to AASB 16: Leases that came into effect in 2019-20. With transition to AASB16 Leases, accommodation leases are accounted for as a "right of use asset/lease liability" in the balance sheet and are no longer expensed as lease. The reduction in accommodation expenses is offset by an increase in depreciation.

An analysis of the VI's funding and expenditure over the period has identified the following:

- funding has increased 47.2% over the audit period
- salary and related expenses have increased 39.5% during the same period, noting that the VI was not funded for CPI increases and met salary increases through existing funding
- depreciation and amortisation expense as a percentage of revenue has increased substantially over the audit period. This is related to the adoption of AASB 16: Leases which changed the treatment of lease payments and resulted in increased depreciation expense for the right of use asset (leased premises). It also partly reflects the increased investment in capital expenditure throughout the period on projects including the updated case management system, the hardware upgrades of the network and air gapped systems and the audio-visual upgrade.



- there has been a significant increase on expenditure in ‘other supplies and services’ as a result of the VI achieving budget independence. This expenditure was minimised by continuing to outsource services, at a cost, through its previous service arrangements with the DPC
- spending on recruitment has increased significantly in 2020-21 compared to previous years. This increase was a result of utilising a recruitment agency for the engagement of:
 - Executive Director in 2018-19
 - two senior roles in 2019-20.

As noted above, the VI budget is managed centrally at an agency level. The benefit of this approach is that all expenditure is channelled through a central point making control over expenditure more manageable. The downside of this approach is that costs are not allocated to teams or against activities and/or outputs. However, it is acknowledged that given the small size of the VI, how few staff are allocated to each activity, and the variability in size and scope of each activity, there would be limited benefit to introducing such arrangements at this point in time.

Should the role of the VI continue to expand and the VI’s resources continue to grow, this issue should be reconsidered.

A major issue for the VI to manage throughout the audit period has resulted from the split in budget funding between on-going and fixed term funding. Table 57 refers and identifies that in 2020-21 37.4% of the VI budget was for a fixed term period. This is also evidenced in the split in staffing numbers between non-ongoing and ongoing employees.

There are several impacts that this funding split had on the VI. Firstly, it is difficult to recruit staff into positions when funding is only available for a limited period. In times of low unemployment and limited resources, potential staff are looking for more security in a position.

Secondly, any improvements in systems or performance may be adversely affected when funding is ceased, and non-ongoing staff are required to leave. Any benefits that have been gained through productivity improvements, or improved processes are lost when staff can no longer be employed.

Table 57. Budget – Recurrent funding v. fixed term funding (\$m)

	2017-2018	2018-2019	2019-2020	2020-2021
Base/Ongoing Funding	3.120	3.194	2.818	2.786
Fixed Term Funding	0	0.268	1.427	1.668
Depreciation	0.530	0.300	0.714	0.957
Total	3.650	3.762	4.959	5.411
Total - excl Depn	3.120	3.462	4.245	4.454
% of On-going funding	100.0%	92.3%	66.4%	62.6%
% of Fixed term funding	0.0%	7.7%	33.6%	37.4%



11.2 Base review

Following amendments to the VI Act through the introduction of the *Integrity and Accountability Legislation Amendment (Public Interest Disclosures, Oversight and Independence) Act 2019*, from 1 July 2020 the VI was directly appropriated through the Parliament’s appropriation and “vested with full responsibility for the financial management and financial services that support their annual appropriation”.⁸

These amendments, collectively referred to as “budget independence”, placed a greater level of accountability on the VI for its performance and its financial management arrangements. As part of this increased accountability, the VI was required to:

- Prepare an annual plan prior to the beginning of each financial year
- Submit the plan to the Integrity and Oversight Committee for review
- Taking account of any comments provided by the IOC, finalise the plan following the passage of the annual appropriation Bill and transmit the final plan to the Parliament
- Apply the legal and policy framework that underpins resource management, budgeting and reporting processes in accordance with the Victorian Government Resource Management Framework, including Output Performance reporting.

In the 2020-21 State Budget, the VI was provided funding to undertake an independent base review to confirm that ongoing funding requirements were sufficient for the VI to meet and deliver on its expanded statutory remit. The VI appointed Ernst and Young (EY) to undertake the review.⁹

The objective of the review was to perform a detailed analysis and costing of the VI’s current functions and operations.

A summary of the key conclusions from the Base Review is provided below:

- *the VI is not functioning optimally due to structural and organisational limitations caused by limited resources and a regularly expanding remit.*
- *The VI meets the requisite statutory obligations at a baseline level however has not had the organisational capacity or capability to utilise the full range of powers available to the Inspector to provide oversight to Victoria’s integrity system.*

The review assessed that the VI is currently 33 per cent under-resourced to effectively deliver its mandated functions. This conclusion is based on the development of a cost model aimed at providing an assessment of the full-time equivalent staffing requirements (FTE) to deliver the VI’s mandatory functions. The cost model was determined by:

⁸ Hansard, Second Reading Speech: *Integrity and Accountability Legislation Amendment (Public Interest Disclosures, Oversight and Independence) Bill 2018*, December 2018

⁹ Victorian Inspectorate, Independent Base Review Report, Ernst & Young, September 2021



- Estimating the frequency (the key driver) of each task identified (e.g., for triaging complaints, which is the first of about 30 complaint assessment/response steps, the driver would be the number of complaints)
- Estimating the distribution and the effort required at each complexity level (some complaints would be standard taking two hours per complaint to triage, whereas non-standard complaints would require up to a day to triage)
- The frequency of each task was then multiplied against the distribution of complexity and the effort required at each complexity level to estimate the total FTE effort required to undertake the task per annum
- The total FTE effort was then distributed across the employee levels based on the estimated effort required at each level
- The total FTE effort at an employee level for each task was consolidated based on function, team, and an overall organisational level to estimate the future state total FTE effort required to undertake the VI's operations.

The most significant gaps identified were in the Inspections and Monitoring team and across the Corporate Services team. As a result of the under resourcing noted, the Base Review recommended an additional ten FTE be added to the agency, this included an extra 3.5 FTE within the Corporate Services areas, another 4.5 in the Inspections and Monitoring area, one FTE within Legal area and 0.5 FTE for both Complaints and Investigations, and Education and responding to IOC, respectively.

The review also noted:

- that the VI is forecasting an increase in capital expenditure to complete key projects, including corporate systems to support VI operations, for example the case management system, telephony system, record keeping system
- improvements in operational governance arrangements since 2018 plus planned improvements and enhancements.

The results of the Base Review are unsurprising. The VI has several times noted the effect its limited resources have on its ability to deliver its functions effectively. This, coupled with a lack of early investment in systems and software has placed even greater pressure on the VI to deliver its mandated functions.

The Base Review was examined by the Department of Treasury and Finance and was considered to be a sound model. An important outcome of the Base Review is that the VI had its ongoing funding increased from 1 July 2022, and more importantly can move away from its reliance on fixed term funding to manage short term funding gaps. This change provides the VI with a greater level of certainty over its long-term funding and allows the VI to more effectively plan for its future.

A secondary outcome from the Base Review is that the VI now has a methodology and baseline for determining the costs and effort required to deliver its mandatory functions.

Table 58 provides a summary of the funding the VI will now receive following its successful 2022 budget bid, noting that the level of funding received remains below that requested based on the resourcing needs identified by the Independent Base Review. While outside the audit period, it does recognise the funding difficulties that the VI faced throughout the audit period, and the impact that this has had on the delivery of its functions.



Table 58. Future funding

	2021-2022	2022-2023	2023-2024	2024-2025	2025-2026
Base/Ongoing Funding	2.756	4.083	7.014	7.276	7.474
Fixed Term Funding	3.582	3.601*	0.00	0.00	0.00
Depreciation	1.156	1.122	1.173	1.173	1.173
Total	7.494	8.806	8.187	8.449	8.647

*Additional fixed term funding was received in 2022-2023 to establish VI's oversight of the Office of the Special Investigator (OSI)

11.3 Cost of performing statutory functions

Throughout the audit period the VI had no mechanisms in place to capture and record the costs of each activity. During that period the VI did not employ a time recording system to attribute staff time to specific activities, nor had it undertaken any activity based costing exercise. As such, it is not possible to reliably determine the cost of the VI's mandatory functions.

As noted above, one of the outputs from the Base Review was the development of a cost model to allow the VI to capture the effort required to deliver its statutory functions and other functions and activities that it provides. As a result, the VI now has a methodology and baseline for determining the costs and effort required to deliver its functions.

The VI's cost model will also provide a valuable input onto future workforce planning activities.

There are several methodologies that the VI could employ to establish the costs of delivering its outputs. These range from implementing a full time and effort recording system, undertaking a six week time study, or calculating and applying an average hourly rate to the cost model developed as part of the Base Review.

For a small agency such as the VI, any advantages of a time recording system would be outweighed by the effort and cost involved in implementing any system. However, undertaking an activity based costing exercise, or applying an hourly rate would provide an indicative cost of activities delivered by the VI and provide substantial benefits to the VI in the process.

11.4 Cost reduction strategies

Conclusion

While the VI do not have a defined, structured process to identify savings, reduce costs and reduce waste, the centralised financial management arrangements operating within the VI provided a sound mechanism to identify any possible savings.

The VI have had limited opportunity to identify savings, reduce costs, and reduce waste due to their limited budget, and the high percentage of fixed costs.

Throughout the audit period the VI has not focussed on implementing any cost reduction strategies. The VI spent much of the audit period seeking sufficient funding to keep staff employed and to deliver statutory functions. Annual Plans clearly identified activities that the VI could not deliver, such as monitoring projects, based on the level of available resources.

The VI also relied on fixed term funding to employ non-ongoing staff rather than ongoing staff as a cost saving strategy for the out years. This approach, coupled with tight centralised control of the budget was aimed at keeping expenditure to a minimum. One off budget bids were also used to seek capital grants funding to invest as required in replacing key infrastructure and upgrading.

To reduce costs since budget independence, the VI leverages off shared services arrangements within government. This helps alleviate the economies of scale challenges for the VI - every system and software package, and all time spent researching their replacement or upgrade, has a baseline cost equivalent to a departmental system yet the VI cannot spread the cost across staff. This same challenge applies to governance compliance.

This has resulted in limited opportunities to implement any material cost reduction strategies due to its small budget. Any reductions will come at the expense of staff numbers.

11.5 Systems and processes

Findings:

The VI's systems and processes are partially adequate to manage work and improve productivity.

Upgrades and improvements to the VI's case management system have been made across the audit period.

An ICT Strategy and Roadmap is planned for implementation during 2022.

Throughout the audit period, the VI did not have a dedicated ICT resource to manage ICT systems and related activities due to funding constraints, relying on external ICT service providers.

Nevertheless, throughout the audit period, the VI upgraded all ICT systems and software appropriately and formalised managed service agreements with each provider to ensure they remain fit for purpose and fully functional. This was necessary as at the end of the VI's first five years, the VI's ICT infrastructure was reaching end of life.

The VI operate in a relatively simple ICT environment but with complex security requirements. Historically, the VI have leveraged off shared services with the DPC for generic corporate IT services. For operational purposes, the VI utilise an air-gapped network and a case management system. In this instance, air-gapped refers to a network that has no direct connection to the internet or to any other computer that is connected to the internet.

The air-gapped system, while it is secure and supports the VI's classified information, presented issues throughout COVID-19 related lockdowns as it did not allow staff working remotely to access the system. This issue was partially addressed through establishing work arounds involving encryption on the internet enabled system and through the Inspector approving instances of staff working in the office, usually one to three staff per day, to continue undertaking VI functions.



One significant improvement that came in this area was the change in how integrity bodies could deliver their coercive power notifications to the VI. Historically, a hard copy was hand delivered to the VI office, however, now VI have begun accepting documents over the secure file transfer system, Kiteworks. This change has been noted by the other agencies as a positive development.

The VI maintains the importance of keeping the air-gapped system to ensure the protection of sensitive data and information, and to safeguard people who may report incidents to the VI.

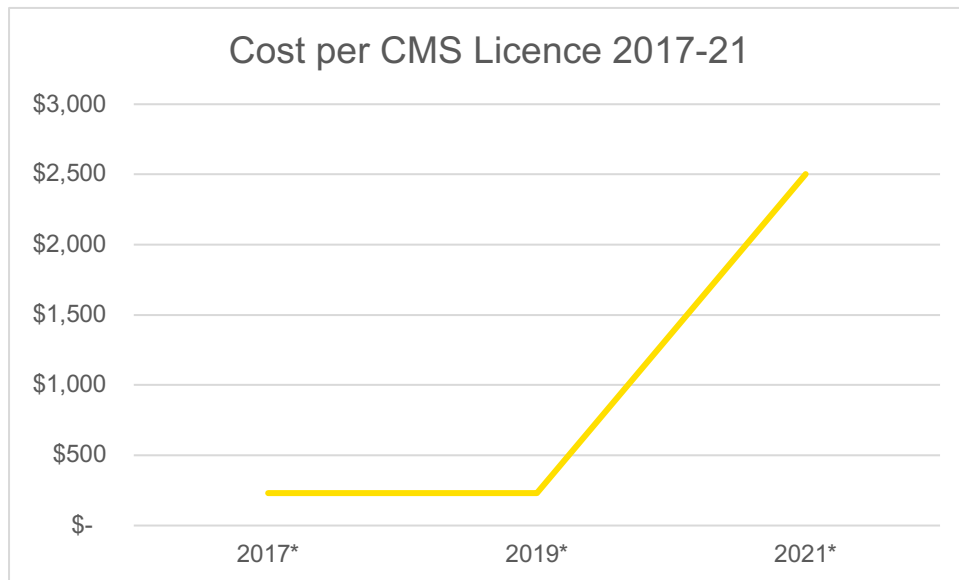
11.5.1 Case management system

Initially, the VI's case management system supplier was awarded the contract in 2016 with the main provision for the system to be able to operate on a stand-alone network with strict security policies and no internet access. The original licence package at a basic level was selected, which had restricted functionality, but was deemed appropriate given the functions of VI and the volume of operations at that time.

While the VI was undertaking an organisational restructure, scoping of increased functionality of the case management system was identified as being necessary to support the work of the VI moving forward. This increased functionality included purpose-built functions for managing coercive power notifications and integrity responses. This upgrade represented a significant investment in VI's case management capability. This, coupled with the current supplier contract expiring, also provided the VI with an opportunity to upgrade to a licence that provided additional flexibility and functionality.

The costs for each licence are highlighted in the figure below:

Figure 13. Cost per case management system licence 2017-21



**Figures taken from August of each year*

This increased expenditure per licence represents the ongoing increased investment into the case management system. Throughout the audit period, the VI were still realising the benefits of the increased functionality of the system to increase flexibility and detail in system reports of operational activities.



Information Management System

The VI has invested time and effort into uplifting its record management practices. Historically the VI used the local G Drive for its non-operational records and work was underway to transition to the TRIM electronic document records system used by DPC. Noting the MOU arrangements with DPC were to end on 30 June 2022, the VI has made the decision to adopt Microsoft Sharepoint for non-operational records management.

Going Forward

Throughout this audit, VI management indicated plans to engage an ICT Consultant to help build an ICT roadmap for the VI and identify if continuing the air-gapped system is the most appropriate arrangement going forward. These strategies have been included in the 2022 implementation plan with target dates as follows:

- Develop and implement an ICT Strategy and Roadmap
 - Procure consultant to draft the strategy (note corporate priority from annual plan) Qtr 1: 2022
 - Commence the development of an ICT Strategy Qtr 2: 2022
 - Complete ICT Strategy and Roadmap Qtr 3: 2022

11.6 Better practice initiatives

Findings:

The VI have reasonable processes to identify and implement better practice initiatives from other agencies and jurisdictions despite the limited direct equivalent agencies in other jurisdictions.

The VI are in a unique position in terms of adopting better practice initiatives. While there are numerous integrity bodies established at both federal and state levels, agencies with a function equivalent to VI are non-existent. Similar integrity oversight roles in other states are Parliamentary Inspectors, who are all focussed on one agency (e.g. the NSW Inspector of the Independent Commission Against Corruption). As such, operationally, there are no direct equivalents to draw better practice initiatives from. Despite this, the Inspector is an active member of a community of practice with other Parliamentary Inspectors across the states and territories. This network enables the sharing of strategies and methodologies that may be useful to other agencies.

Additionally, the VI have input better practice into the following functions:

Initiative	Better Practice Inputs
Public Interest Disclosure Guidelines	While legislated, consideration was given to IBAC's guidelines as the body leading the PID scheme.
Integrity Response Guidelines	Consultation and consideration given the bodies overseen by the VI



Initiative	Better Practice Inputs
Complaints Processes:	Victorian Ombudsman Good Practice Guides, NSW Ombudsman Unreasonable Complainant Conduct Manual, IBAC case assessment meeting process
Inspections	Input from practices at the Australian Criminal Intelligence Commission
Managing challenging complaints	The VI have engaged the services of a consultant forensic psychiatrist with extensive experience and qualifications in managing complex issues.

For internal policies and procedures, the VI leverage VPSC better practice or existing DPC policies to ensure that they can have the highest standard of policy that their resources can allow.

11.7 Educating the public

Findings:	<p>While the VI do not expressly have a legislated education function, they do deliver several awareness raising activities.</p> <p>The VI website provides extensive information to members of the public on the role and function of the VI.</p> <p>Guidance material, including outlining the process for making a complaint are provided on the VI website.</p>
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The VI do not expressly have a legislative education and prevention function. However, they do acknowledge the benefits of proactive management of the integrity system as opposed to being solely reactive.

At the beginning of the audit period, there was limited to no focus or resourcing devoted to education or prevention activities at the VI. With the introduction of the new organisational structure and improvements in the overall governance arrangements, the VI increased focus on external communications and in developing more detailed advice and guidance aimed at members of the public.

In 2019-20 the VI identified several strategies to increase its influence and improve the understanding by members of the public of the services the VI delivers and other stakeholders on the VI's role as a leading integrity oversight body. Within the plan, the VI identified as a priority the raising of public awareness of the role and impact of the VI by strengthening the website content to reach a broader audience, encouraging key stakeholders to communicate the role of the VI and developing and implementing a public communications strategy. The key tool to achieving this was the VI website. These improvements were introduced in the latter part of the 2019-20 financial year.

Three key strategies included in the plan were to:

- strengthen the website content to reach a broader audience.
- encourage key stakeholders to communicate the role of VI and how it supports oversight of the system.



- develop and implement a public communications strategy

In December 2020, the IOC also tabled a report in Parliament on its Inquiry into the Performance of Integrity Agencies 2017/18 – 2018/19 in which it made two recommendations about the VI, each relating to education activities:

- that the VI produce and host on its website targeted and accessible videos explaining the role of the VI, the kinds of complaints and public interest disclosures the VI is authorised to handle, how to make complaints or disclosures to the VI and how the VI handles them.
- that the Victorian Government fund an ongoing communications and publishing officer position at the Victorian Inspectorate.

In response to the first recommendation, the VI had not produced targeted and accessible videos explaining the role and functions of the VI, the kinds of complaints and public interest disclosures the VI is authorised to handle, and how to make complaints or disclosures. However, the VI had produced a range of guidance documentation that is available on the VI website outlining these responsibilities.

In response to the second recommendation, approval and funding were provided to the VI to recruit a senior communications officer from July 2021, and there was an appointment in this role on 6 September 2021 (outside of the audit period). To date, VI have not had the funding or capacity to produce targeted and accessible videos explaining the functions outlined in the recommendation. However the Inspector would like such videos produced and the VI will outsource website functions undertaken by the communications officer to enable this to occur.

The VI have, as part of Law Week 2021, uploaded a presentation from the Inspector outlining the role of the Victorian Inspectorate in the Victorian Integrity System. The video was uploaded in May 2021 and currently has had 104 views as at 22 June 2022.

The launch of its new website was in accordance with the Single Digital Presence (SDP) strategy across the Victorian government. Through this strategy, the VI gained access to a reporting dashboard that provides metrics on visitors to the VI’s website, including to individual pages. Details of website hits since the introduction of the reporting dashboard are provided in Table 59.

- Of the 4,610 Australian based users of the VI’s website (accessed at least one page of the VI’s website) in 2020-2021, 4,561 were identified as new users for the period.
- Of the 5,253 Australian based users of the VI’s website (accessed at least one page of the VI’s website) in 2021-2022, 5,187 were identified as new users for the period.

Table 59. VI Website hits

Page Title	2020-21	2021-22	Est 22-23 ¹
Victorian Inspectorate (Home Page)	4,710	5,127	4,647
Make a Public Interest Disclosure – Victorian Inspectorate	140	206	142
Make a Complaint – Victorian Inspectorate	213	472	614



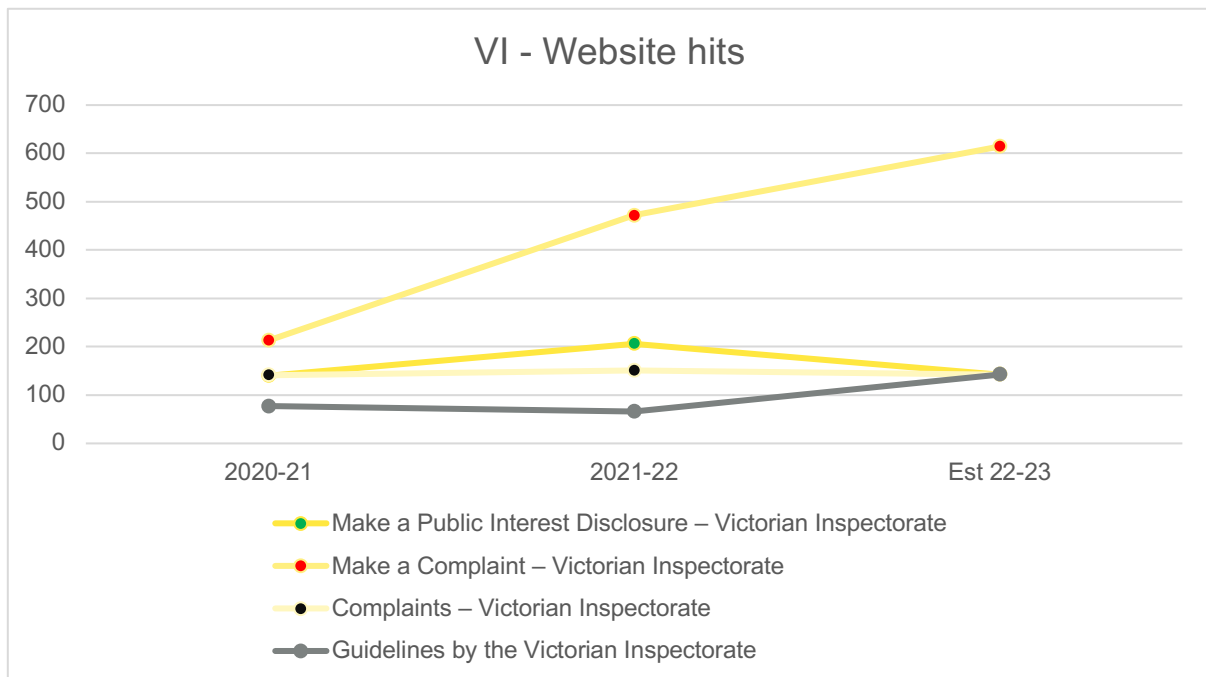
Page Title	2020-21	2021-22	Est 22-23 ¹
Complaints – Victorian Inspectorate	141	151	142
Guidelines by the Victorian Inspectorate	77	66	142

Notes to table:

- The figures for 2022-23 have been estimated based on six weeks of available data

The following chart represents the number of hits to specific pages on the VI website since this information was captured in 2020-21. While these figures fall generally outside the audit period, it does demonstrate the increase in hits made by members of the public interested in making a complaint to the VI.

Figure 14. Website hits



11.8 Performance reporting

Findings:

The VI provides key reports about its performance that align with legislative requirements to inform Parliament and the wider community.

Existing KPI's do not meet the criteria for effective performance measures as detailed in the Victorian Government Resource Management Framework.

11.8.1 Background

Section 11.1 provides background to the circumstances of the VI becoming a budget independent agency from 2020-21. As a budget independent agency, the VI is required to meet certain elements of the Resource Management Framework¹⁰(RMF), including specifying outputs and performance measures.

With respect to performance measures, the RMF requires departments to measure output delivery and outcome achievement. These requirements are detailed in the box below:

Requirements under the RMF

1.2.1 Specifying outputs and performance measures

The Accountable Officer must ensure:

- (a) the identification of outputs required to best achieve departmental objectives
- (b) the specification of a meaningful mix of quality, quantity, timeliness and cost performance measures for each output that assess:
 - i. service efficiency and effectiveness
 - ii. all major activities of the output
- (c) the impacts of any major policy decisions (i.e., to fund a new initiative or change the level of service) are reflected in updated performance measures
- (d) all departmental operating costs are allocated to outputs
- (e) any outputs and performance measures created enable meaningful comparison and benchmarking over time
- (f) the data and methodology underpinning performance measures are available to DTF for review upon request

1.2.2 Reviewing outputs and performance measures

The Accountable Officer must ensure:

- (a) an annual review of the department's outputs and performance measures is conducted, to assess continued relevance; and

¹⁰ The Resource Management Framework, for Victorian Government Departments, integrating the former Performance Management and Budget Operations frameworks, effective from 1 July 2019

- (b) any changes to departmental outputs and performance measures are only made annually as part of the budget process (in departmental performance statements).

The RMF requires departments to set clear objectives and report on their progress towards achieving them.¹¹ This detail is reported annually through Service Delivery - Budget Paper 3 (BP3) which outlines the Government's priorities for the goods and services it provides to Victorians and details the Government's budget decisions.

BP3 also provides information on how the Government is meeting its performance targets for delivering outputs to the community, and how these outputs contribute to key objectives.

Within this construct, the VI has defined its objective as: *"...to provide the Parliament and the people of Victoria with independent assurance that these bodies, which collectively constitute Victoria's "integrity system", act lawfully and properly in the performance of their functions"*.

While specific outputs are not identified in BP3, the outputs that the VI delivers to achieve its objective can be drawn from the Annual Plan and summarised as follows:

- conducting Inspections
- delivering Integrity Programs
- delivering Monitoring Projects
- receiving and oversighting Coercive Power Notifications
- receiving and investigating Complaints
- conducting Preliminary Inquiries
- conducting Investigations
- conducting Inquiries.

To deliver these outputs in 2020-21, the VI was appropriated \$6.6m. Prior to the 2020-21 financial year, the VI formed part of the DPC appropriation and was not required to report in its own right, other than through its Annual Report.

For the 2020-21 financial year, the VI developed the following performance measures to assess its performance. Performance measures are externally reported and monitored in output performance reports, and publicly reported in budget papers and annual reports. The RMF states that performance measures should be able to be used to identify trends over time, benchmarking across departments and against other jurisdictions.

¹¹ Refer Figure 1B: Key service logic concepts in the framework



Table 60. VI Performance measures 2020-21

VI Performance Measures	Target
Recommendations of the VI accepted by agencies	75%
Reasons for decisions provided for complaint outcomes	100%
Improvements to the integrity system ¹	5
Total output cost	\$6.6m

Notes to Table 60:

1. *An improvement to the integrity system is a demonstrable change to the conduct and compliance of any of the integrity, accountability and investigatory bodies oversighted by the VI (integrity bodies).*

We identify non-compliance and opportunities for systemic improvement through undertaking our functions (inspections, investigations, monitoring etc) and respond proportionately through the framework of our published Integrity Response Guidelines.

We measure improvements to the integrity system where the VI's integrity response has demonstrably influenced an integrity body's conduct to help prevent future non-compliance, such as:

- *an integrity body implementing VI recommendation(s)*
- *an integrity body establishing new procedures to prevent systemic recurrence of non-compliance*
- *an integrity body changing its application of the law in response to VI feedback.*

The RMF provides several checklists that can be used to assess an agency's objective, outputs and performance measures. The following tables provide an assessment of the VI's objectives, outputs and performance measures for the 2020-21 financial year. As noted previously, 2020-21 was the first year that the VI was required to develop and report on its performance.

Table 61. Assessment against Objective characteristics checklist

Objective	Clear, concise, specific	Focus on results	Measurable and timely
To provide the Parliament and the people of Victoria with independent assurance that those bodies, which collectively constitute Victoria's 'integrity system', act lawfully and properly in the performance of their functions.	✓	✓	✓

Table 62. Assessment against Output characteristics checklist

Outputs	External focus	Objective focus	Clear	Measurable	Comparable
Delivering Integrity Programs	✓	✓	✓	✓	✓
Delivering Monitoring Programs	✓	✓	✓	✓	✓
Receiving and overseeing Coercive Power Notifications	✓	✓	✓	✓	✓
Receiving and investigating Complaints	✓	✓	✓	✓	✓
Conducting Preliminary Inquiries	✓	✓	✓	✓	✓
Conducting Investigations	✓	✓	✓	✓	✓
Conducting Inquiries	✓	✓	✓	✓	✓

Table 63. Assessment against Performance measures characteristics checklist

Performance measure	Attributable	Available	Comparable	Influenced by key stakeholders	Manageable	Verifiable	Quality	Quantity	Timeliness	Cost
Recommendations of the VI accepted by agencies	✓	✓	✓	✓	✓	✓	✓	X	X	X
Reasons for decisions provided for complaint outcomes	✓	✓	✓	✓	✓	✓	✓	X	X	X
Improvements to the integrity system	✓	✓	X	✓	✓	✓	X	X	X	X

As noted above, both the Objective and the Outputs defined by the VI for performance reporting purposes meet the characteristics defined in the RMF. However, the performance measures established for the 2020-21 reporting period did not meet all characteristics outlined in the RMF.

The VI is continually reviewing and improving its performance measures. Minor changes were made to the 2021-22 measures while an additional three measures were introduced for the 2022-23 reporting period.

While the addition of these new measures is a positive step, the VI has not yet developed any measures to assess its overall objective. The development of a measure to assess the VI's achievement of its core objective would provide further confirmation of the benefits that the VI provides to the Parliament and the people of Victoria.

An example of a measure that would meet each of the characteristics identified above is provided below:

The average duration (in days) to finalise a complaint at the following complexity levels:



Complexity level	Duration	Target
Low	20 days	80%
Medium	110 days	80%
High	220 days	70%

11.9 Public confidence

Findings:

The VI provides key reports about its performance that align with legislative requirements to attain and sustain public confidence.

No performance measures have been designed to measure the level of public confidence in the VI.

As one of Victoria's foremost integrity bodies, maintaining public trust and confidence is essential to carry out their duties. This function is especially important considering that much of the work undertaken by VI is not visible to the public as it occurs through private engagement. There are three main mechanisms used to encourage public confidence in the VI which included:

- Public Reporting, such as the Annual Reports and the Annual Plans
- Public Website
- Participation in ad hoc activities and events such as Law Week and, in 2018, Parliament House Open Day

11.9.1 Public Reporting

As outlined in 11.8, the public reporting at VI is essential to achieve public confidence in VI. Since 2020, the Annual Plans outline planned activities while giving detailed information into the way VI plan to utilise their resources. The Annual Report attempts to provide transparency over operations in that year as well as reporting against BP3 Measures as an indication of how public funds are being used. Annual Reports were delivered on time for the whole audit period and were compliant with legislative requirements. Improvements in the detail and level of transparency provided in Annual Reports from 2018-19 onwards were also identified.

11.9.2 Public Website

The VI's public website is their primary repository for all publicly available information. The website outlines key pieces of information such as the VI's accountability network through the IOC and Public Accounts and Estimates Committee (PAEC). Further to this, the website also hosts all public reporting made by the VI in addition to all integrity reports and special reports, allowing visibility over the VI's actions. The public website also acts as a guide and a portal for people wishing to make complaints and enquiries, with key guidelines available as well as a portal allowing the public to make



complaints. The VI's Integrity Response Guidelines are published to provide transparency on how the VI decides to respond when it identifies non-compliance and other issues.

11.9.3 Ad hoc activities

The VI participate in various ad hoc activities to publicly communicate their role and explain their processes. This assists with building public trust in the VI as their functions and operations are more publicly accessible.

The Inspector, as an Independent Officer of the Parliament, participated in the Parliament House Open Day in 2018, where he was open for questions for the whole day. Anecdotal reports have indicated that the Inspector can interact with up to 200 members of the public through this event. This event has not occurred throughout the COVID-19 pandemic.

The VI as a whole are active participants in Law Week. Law Week is an annual event in Victoria that attempts to make learning and understanding the law easy. It attempts to provide an opportunity for the public to engage with various aspects of the legal system to understand rights, answer questions and understand what is available within the legal system. VI's involvement with Law Week has spanned from 2018-21 and involves a public presentation from the Inspector and often from the Executive Director Legal and Integrity on the role of VI and on a key topic, such as the requirements of procedural fairness more broadly, witness welfare and the public interest disclosure scheme.

The VI also reports their own uses of coercive powers through the Annual Report. For the audit period, the VI issued the following coercive power notifications:

Table 64. Coercive power notifications issued by the VI

Notification	17-18	18-19	19-20	20-21
Summons issued	5	1	9	10
Confidentiality notice issued	12	1	5	10
Confidentiality notice cancelled	8	0	0	0



11.10 Recommendations

Section	Recommendation
11.3	<p>Using the cost model developed in the Base Review, it is recommended that VI begin measuring the costs of their activities, particular core functions such as investigations, assessing coercive power notifications and assessing complaints.</p> <p><i>Note: There are several methods that can be applied to identify the costs of services, from the implementation of a system designed to capture and record time against specified activities through to an Activity Based Costing exercise.</i></p>
11.9	<p>It is recommended that the VI review their existing performance measures to ensure that they meet the characteristics detailed in the Victorian Government Resource Management Framework.</p> <p>As part of this review, the VI should consider developing additional measures, including to measure the level of public confidence in the VI.</p>

12 Strong and healthy workforce and performance culture

Findings:

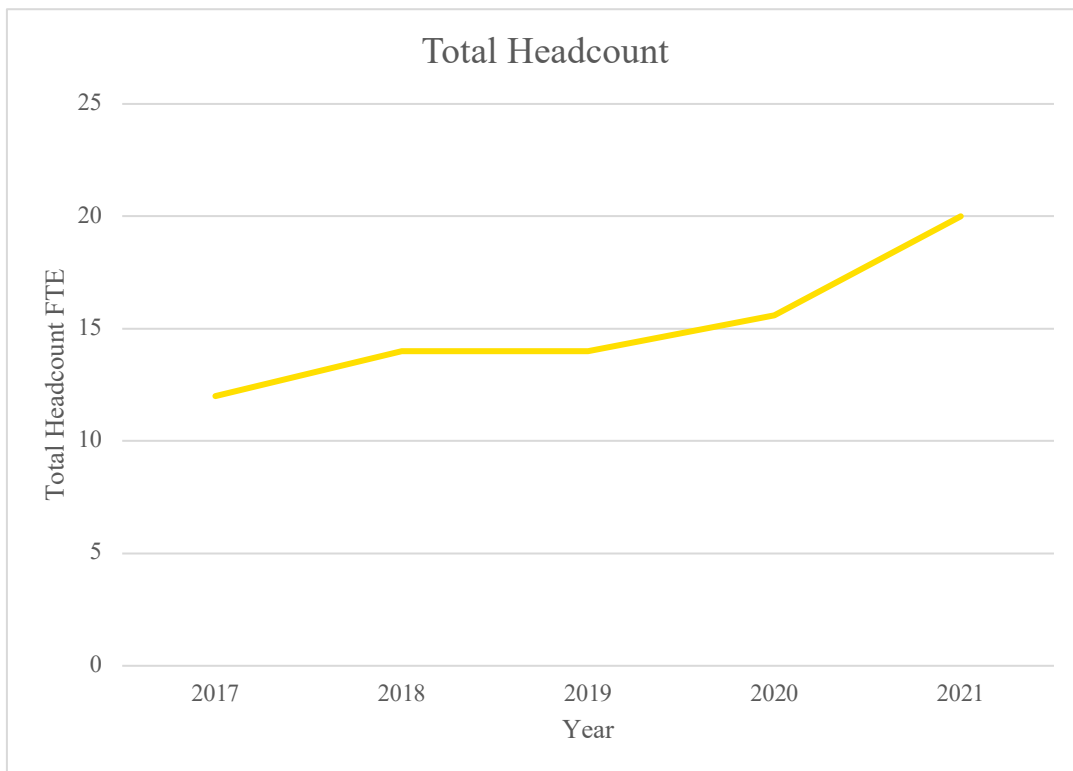
The results of recent VPS staff surveys indicate that the VI has a strong and healthy workforce culture. This is being reflected in their rapidly increasing staff retention rate since the start of the audit period.

Despite a positive workforce culture, the high percentage of staff employed with fixed term funding creates uncertainty which has negative impacts on the VI's ability to effectively plan and manage its workloads.

12.1 Workforce Overview

The VI have a small workforce that has evolved in purpose over the four years of the audit period. The total FTE has grown 66% from 12 as at 30 June 2017 to 20 at 30 June 2021.

Figure 15. Total headcount 2017-2021

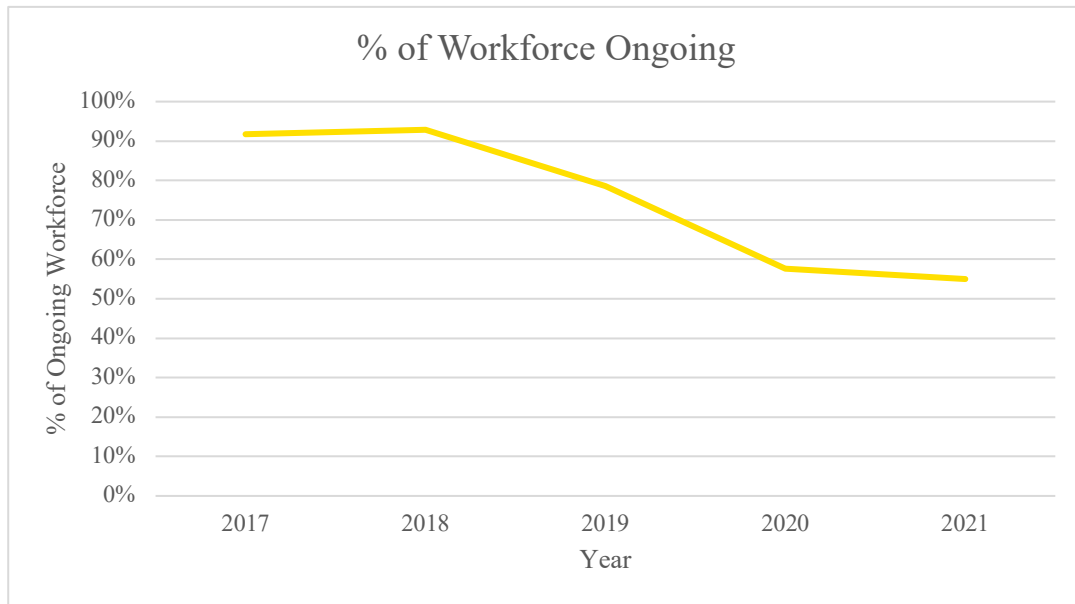


Source: Annual Reports

Due to funding limitations and the fixed based nature of funding, the VI have not been able to maintain an ongoing permanent workforce. This has negative impact in terms of long term resource planning, staff security within roles and capacity to attract new staff.



Figure 16. % of Workforce ongoing



**Figures at 30 June of that year*

12.2 Adequacy of measures used by the VI to assess and maintain staff motivation, wellbeing, and resilience

Findings:

The measures available to the VI to measure and assess staff motivation, wellbeing and resilience are adequate.

VPS PMS outcomes from the last three years have been overwhelmingly positive for the VI showing that staff motivation and resilience is very high.

People Matter Survey (PMS) (external - conducted by the Victorian Public Sector Commission)

The PMS is a culture survey undertaken by most public sector organisations, with 241 organisations participating in the 2021 survey. Departments and entities can opt in or out of participation. The data included in the PMS is de-identified and data is not included where less than 10 responses have been received.

Organisations who participate in the PMS are provided with a benchmark results report. This provides a comparison against the results of other agencies of a ‘similar’ size or structure (referred to as the comparator group (CG)), and in comparison, to the whole of the VPS, as well as with the organisation’s previous year results, where available.

The VI first participated in the PMS during the 2018-2019 period (the survey was undertaken in 2019), following the restructure of the organisation. This was the first time where the VI met qualification requirements of a minimum of ten responses. The VI participated in the PMS for the second time in 2020, which enabled a direct comparison between the VI’s 2019 and 2020 results in most areas. Generally, the 2020 results were consistently favourable to not only the VI’s 2019 results and to the comparator group, but also to the broader VPS results. The VI also participated in the

survey for a third time in 2021 with partial results available in August 2021, with the free text data provided in October 2021.

The table below provides a snapshot overview of the VI's PMS results for 2018-2019, 2019-2020 and 2020-2021:

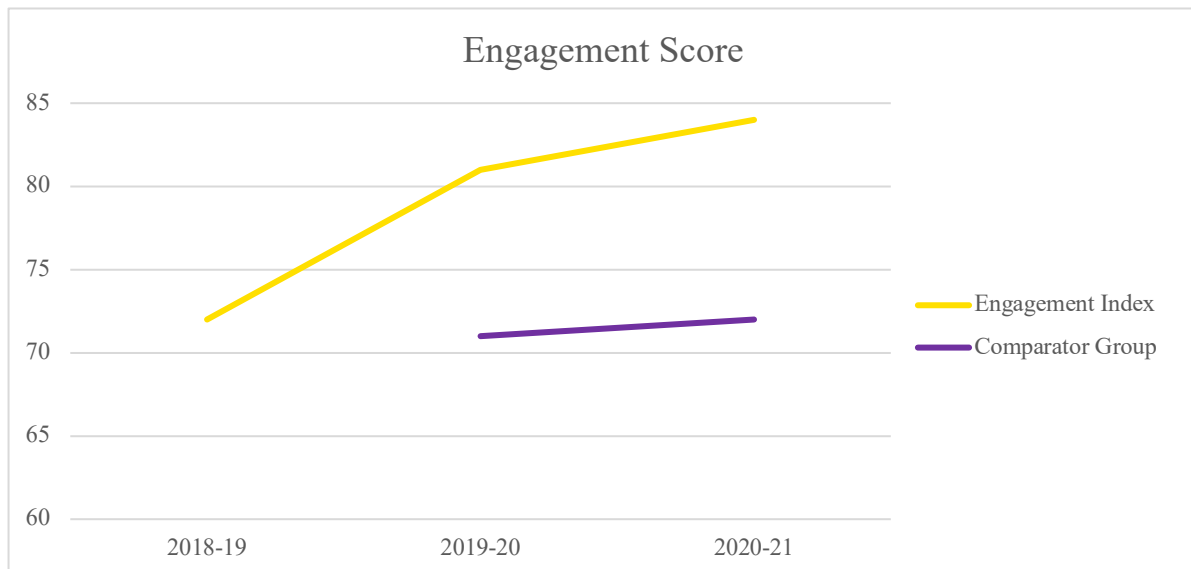
Table 65. Results from People Matters Survey 2018-19 to 2020-21

Factor/element	2018-2019	2019-2020	2020-21
Survey response rate	82% (CG scored 72%) *	94% (CG scored 70%)	95% (CG scored 50%)
Engagement Index	72	81 (CG scored 71)	84 (CG scored 72)
Satisfaction Score	57%	76% (CG scored 66%)	81% (CG scored 64%)
Psychological Safety Score	15	18	17 (CG scored 14)
Areas of greatest improvement	N/A	Psychological health/safety Stress prevention Staff engagement Reduction in violence and aggression (significant in the context of the VI's complaint's function)	Choice in how I work Worthwhile contribution Time to do job effectively Motivated to achieve
Areas of greatest decline	N/A	Workload Manager support (The two biggest areas of decline in manager support were in relation to 'my manager listens to what I have to say' and 'my manager involves me in decisions about my work'.)	All work levels involved in stress prevention Ability to work effectively with others

Factor/element	2018-2019	2019-2020	2020-21
Areas of concern	Job related stress Bullying Occupational violence Lack of learning and development opportunities Workload	Workload	Work related stress

*CG = Comparator Group which includes agencies such as the Office of the Victorian Ombudsman (VO), the Independent Broad-based Anti-Corruption Commission (IBAC) and the Office of the Information Commissioner (OVIC).

Figure 17. PMS engagement score against comparator groups

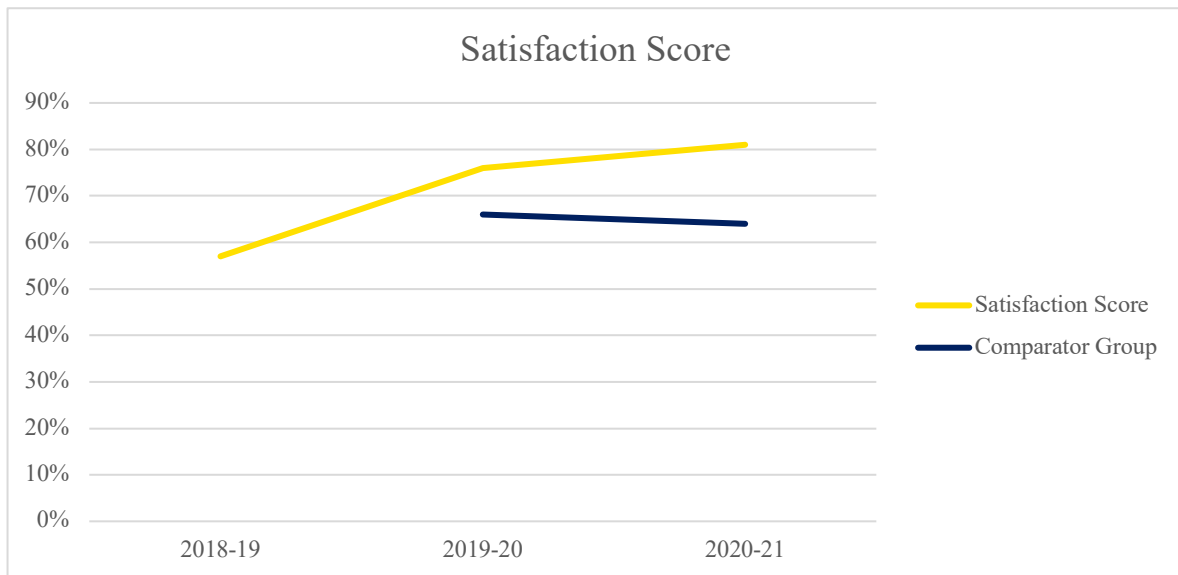


The engagement index represents an overall score achieved by each agency based on the responses to survey questions. The higher the index, the better an agency has performed. The engagement score is calculated as follows:

- Engagement index: each respondent is given a score for answer against each engagement question; strongly agree equates to 100 points, agree equates to 75 points, neither agree nor disagree equates to 50 points, disagree equates to 25 points and strongly disagree equates to 0 points.
- The engagement index is the average of these scores.
- I feel a strong personal attachment to the Victorian public sector is a supplementary question and does not contribute to the engagement index.



Figure 18. Staff satisfaction score



Workload and manager support were reported as the areas of greatest decline in the 2019/2020 year. The issue of workload has been reported every year and in large part is attributable to the VI's inadequate resourcing levels. However, in 2020 this was further exacerbated by the impacts of COVID-19; both the additional work created by the response to COVID-19 as well as the complications of accessing operational information housed on the air-gapped system and the inefficiencies of the workarounds which involved unavoidable double and triple handling of data. The VI has sought to address this by increasing resourcing levels with the funds provided in the 2020-21 State Budget to engage up to 7.6 additional FTE.

The reported decline in manager support dropped from 100% in 2019 to 93% in 2020, however this is still higher than the comparator group at 86%. COVID-19 and the mandatory introduction of working from home arrangements presented a significant shift in how and where VI staff worked. The stress created by the different working environments and the risk and uncertainty of contracting COVID-19 impacted staff in different ways at different times. At a time when the VI was under-resourced and managing a pandemic, some staff required greater levels of support than others. The reported decline represents one staff member. Refer to section below re psychological safety and wellbeing for further information.

Following receipt of the PMS Survey, VI management provided staff with an overview presentation of the results. The 2019 PMS staff presentation focused on the three main issues identified, being role clarity, lack of learning and development opportunities, and workload.

The 2020 PMS staff presentation focused on the main issue raised by the results, which again included workload, particularly in the context of COVID-19, and the limitations for operational staff working from home due to the inability to access the secure network. A key focus to address the workload concern has been to seek more funding to properly resource the VI.

The 2021 PMS again showed improvement in the VI's performance with one key exception relating to workload and work stress. This has been the consistent theme in all three surveys conducted. The



VI has actively pursued additional funding to address this and is currently waiting on the outcome of a budget submission to further increase resourcing which will be announced in the May 2022 budget.

Other Staff Communication Channels

The VI heavily rely on personal contact to measure and assess staff wellbeing. Their relatively small headcount means that executives can maintain contact with staff regularly.

The Inspector and Executive Director – Legal and Integrity both note their preference for an open-door approach in their offices. The VI being a small agency means that there is regular contact with the two primary agency leaders in both a work and social context. This is supported in the PMS survey outcomes.

Question	2019	2020	2021
I would be confident in approaching my manager to discuss concerns and grievances	100% (+11)	Not asked	100% (+17)

Note: the number in brackets represents the difference between the VI score and the comparator score group

12.3 Staff Communication Channels

Findings:

There are adequate channels for staff communication and avenues for staff to raise concerns.

At the commencement of the audit period, there were limited formal channels developed for staff communication. As part of the organisational restructure (2018), the VI created a meeting pattern that provided for staff communication. The VI reported to the ARC in May 2021 to outline the proposed meeting structure. An extract from that paper is below:

Table 66. Meeting frequency

Meeting	Frequency	Purpose
Senior Leadership	Weekly	Preparation for the week ahead & confirmation of setting priorities
Finance and Corporate Team Meeting	Fortnightly	Team meeting to update on priorities and discuss issues.
Legal Services Team Meeting	Fortnightly	Team meeting to update on priorities and discuss issues.
Inspections Team Meeting	Fortnightly	Team meeting to update on priorities and discuss issues.

Meeting	Frequency	Purpose
All staff meeting	Monthly	General VI updates and an opportunity for any all-staff training/awareness raising for any given issues (e.g., OHS, PID Information)
VI Seminar Series	Quarterly	An invited speaker will attend to provide a presentation on operation or integrity issues. Part of the VI's learning and development program

The regular and defined meeting structure provides staff with an opportunity to raise concerns, receive communications and to know when their next opportunity to formally raise issues may be.

Throughout COVID-19 related lockdowns, these meetings continued in a virtual setting using Microsoft Teams capability. In addition, there was an informal weekly catch-up using Zoom as well as some online staff competitions to ensure staff stayed connected with each other and VI leadership during this period.

Open Door Approach

As described in section 12.3, the VI place high importance on personal contact outside of the meeting schedule, the Inspector and Executive Director – Legal and Integrity both maintain an open-door approach where both senior leaders are available to discuss operational matters or raise general concerns.

Outcomes of PMS Survey

Outcomes from the PMS survey support the assertion that these mechanisms are effective in making staff feel comfortable approaching leadership with grievances and concerns.

Question	2019	2020	2021
I would be confident in approaching my manager to discuss concerns and grievances	100% (+11)	Not asked	100% (+17)

Based on the results of staff feedback, the VI has implemented appropriate and adequate communication mechanisms for staff to both receive and provide feedback.

12.4 Staff Grievances and PID Act

Findings:

Formal staff grievances processes have been defined, and are supported by adequate policies, systems, and procedures.

For formal issues, the VI have two main avenues for staff: submitting a formal staff grievance or making a Public Interest Disclosure.

12.4.1 Staff Grievance

If a staff member would like to submit a formal grievance, it is handled through DPC HR services as per the Memorandum of Understanding. Under Annexure 1 – People and Culture of the MOU dated 1 July 2020, the DPC provide support in various human resource functions, particularly including:

- Misconduct and serious misconduct
- Industrial Relations matters

Under the MOU, DPC HR was responsible for managing formal staff grievances and complaints when they cannot be informally managed within VI.

The VI and DPC HR were unable to provide data around volume of grievances being submitted to DPC, however, informal management representation stated that the number of cases being managed by DPC HR has declined from the start of the audit period to none at the end of the audit period. As no data is available, this cannot be fully verified.

12.4.2 PID Act

Staff can leverage the Public Interest Disclosures Act to make a formal submission about another VI Officer. Since its inception in 2019, the VI have provided information to staff on a yearly basis in all-staff meetings through a presentation at all-staff meetings.

Included in this presentation is information about the Act, what protections are offered to disclosers, and who to make the PID to. For the VI, a PID must be made to the Presiding Officer (i.e. the Speaker of the Legislative Assembly), the President of the Legislative Council or the Parliamentary Integrity Oversight Committee (IOC). It also outlines the general process including defining responsibilities.

Other policies, tools and resources to support the VI in handling disclosures under the *PID Act* include:

- A Public Interest Disclosure Policy
- PID Guidelines & online PID forms (available on the VI Website)
- PID assessment templates
- PID Fact Sheet for disclosers

The PID documentation framework provides ample internal guidance and support for VI officers to allow for complaints.

Throughout the audit period, the VI have had no Public Interest Disclosures made about VI officers.

12.5 Adequacy and Cost associated with Recruitment and Retention

Findings:

The VI has not prepared and implemented a workforce plan which inhibits their capacity to take a strategic approach to recruitment and staff retention. Recruitment costs have increased across the audit period.

12.5.1 Workforce Plan

While the VI have implemented several strategies that would normally form part of a strategic workforce plan, the VI has yet to develop a formal workforce plan.

The small size of the VI and the lack of sufficient resources available to deliver corporate functions has meant that the VI has not developed and implemented a formal workforce plan and supporting strategies. However, it is noted that the VI has undertaken several activities that contribute to identifying workforce requirements to ensure that the VI has the capacity and capability to deliver the statutory remit. These activities have included:

- a. Undertaking an organisational restructure in 2018 that reflected the key functions/activities delivered by the VI.
- b. the continued review and revision of position descriptions for each recruitment process, including where required, tailoring the VPS Capability Framework to the VI's requirements.
- c. a detailed analysis of FTE requirements and the comprehensive justification for those requirements undertaken for the preparation of each business case seeking additional funding for FTE resourcing.
- d. the use of recruitment consultants for key senior positions such as the Executive Director, Legal and Integrity and the General Manager of Integrity Operations and Policy.
- e. the development of detailed success profiles with an organisational psychologist for several positions.
- f. acknowledging the skills development and growth of long-term staff whose expertise and responsibilities had significantly increased by reclassifying their positions accordingly as part of a staff retention strategy.
- g. advertising positions on a broad array of platforms including Ethical Jobs to attract applicants from a range of different backgrounds.
- h. leveraging advice and support from VPSC and DPC as required, including the performance development program (PDP). The VI uses DPC's PDP policy, however, was excluded from accessing their electronic system, People Central, and therefore used a paper-based approach.
- i. completion of the independent base review to confirm the ongoing level of resourcing required.

It is also noted that the VI operated with a significant level of fixed term positions due to the funding limitations (refer figure 16). This affected the utility of any formal Workforce Plan given the uncertainty in staff numbers into the future. Rather than developing a longer term plan, workforce requirements were managed through senior management meetings and with the ARC, particularly given the difficulties with recruiting staff to fixed term positions during the COVID-19 pandemic. This approach has led to the development of alternative recruitment strategies including seconding staff from other Victorian Government agencies where opportunities existed.

It is also noted that while technical skills have been a clear focus for the VI in its efforts to recruit staff, it has been equally important to ensure the cultural fit of new staff to ensure a strong integrity culture is maintained. The VI places significant importance on developing and maintaining a strong



and healthy workforce culture. The success of this strategy has been demonstrated through the results of the PMS survey, and through feedback received through employee exit interviews.

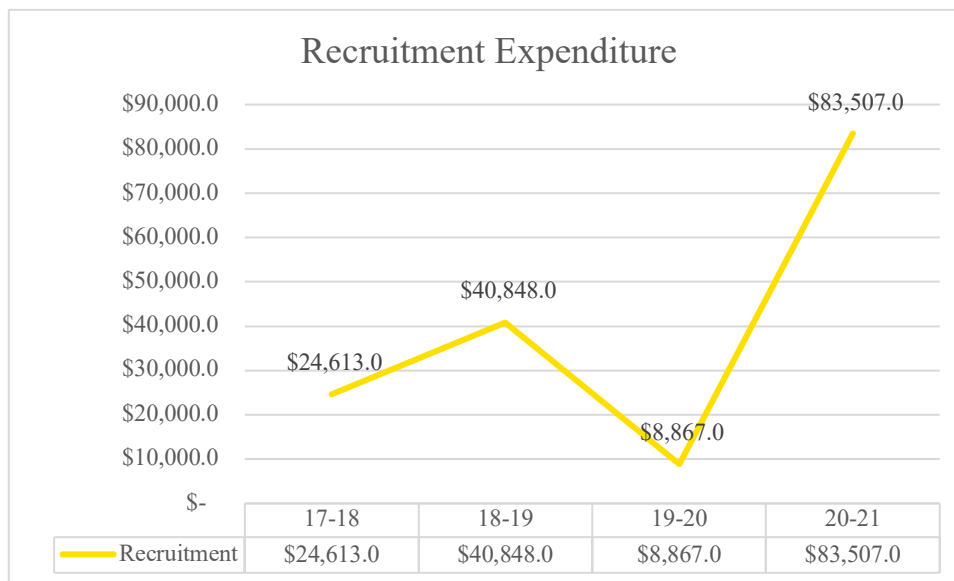
Additional funding requests prepared during 2020-21 sought funding for additional staff in several key functional areas of the VI. Detailed analysis undertaken to support these bids has included prioritising where additional resources are required and the supporting rationale for those bids.

12.5.2 Recruitment

Recruitment at VI has proved a difficult undertaking. The skillset required for several VI roles are less common than most jobs and often potential recruits with the required skillset come from roles that may carry a conflict of interest going forward (i.e. from one of the overseen agencies). As such, attracting and retaining talent has been difficult for the VI which was then exacerbated by COVID-19 related lockdowns. Consistent with the Jobs and Skills Exchange (JSE) policy implemented on 1 October 2019, the VI are required to advertise exclusively via the JSE in the first instance before advertising externally, unless an exemption is granted.

The VI did not formally capture data on recruitment efforts until November 2020. The only measure available is recruitment expenditure incurred during the audit period.

Figure 19. Recruitment Expenditure



Recruitment expenditure is heavily dependent on whether an external recruitment consultant is required to assist in filling roles. In 2020-21, there was an increase to recruitment expenditure. This was due to their attempts to recruit two General Manager positions being initially unsuccessful and the subsequent engagement of the services of a recruitment consultant to fill these roles.

12.5.3 Recruitment Reporting

Since November 2020, the General Manager – Corporate Services has reported to the ARC on recruitment activities including:

- VPS Grade
- Reasons for Vacancy
- Date Advertised
- Date Closed
- Placements advertised
- Total Applications
- Shortlisted candidates
- Outcomes and commencement dates.

Within this period, recruitment rounds have been completed for fourteen separate positions. Through analysis of this data, the following observations are made:

- on average, it takes 85 days from first advertising a position until a candidate begins in that role, with successfully filled fixed term positions filling 19 days faster than ongoing positions. While there is no information to indicate why this may be the case, one possible explanation is that fixed term employees are possibly available for commencement earlier than ongoing appointees where they are not required to give a mandatory four weeks notice to a current employer

Figure 20. Days between advertising job and commencement of applicant

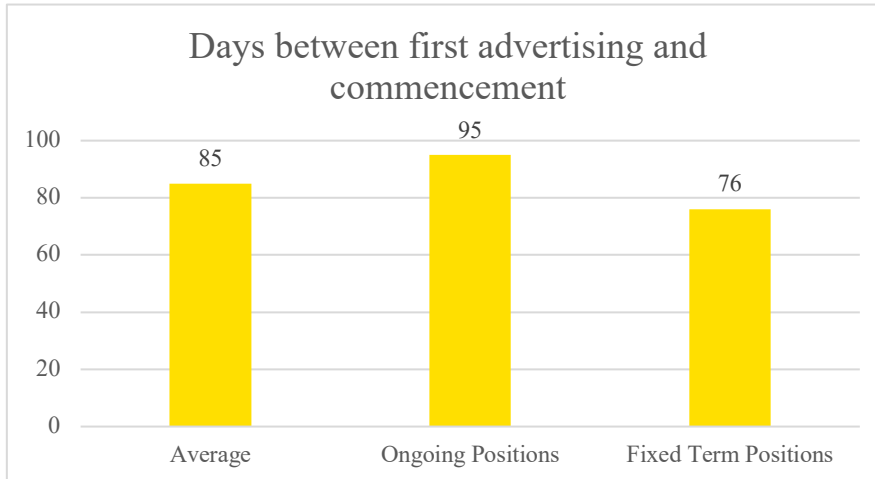
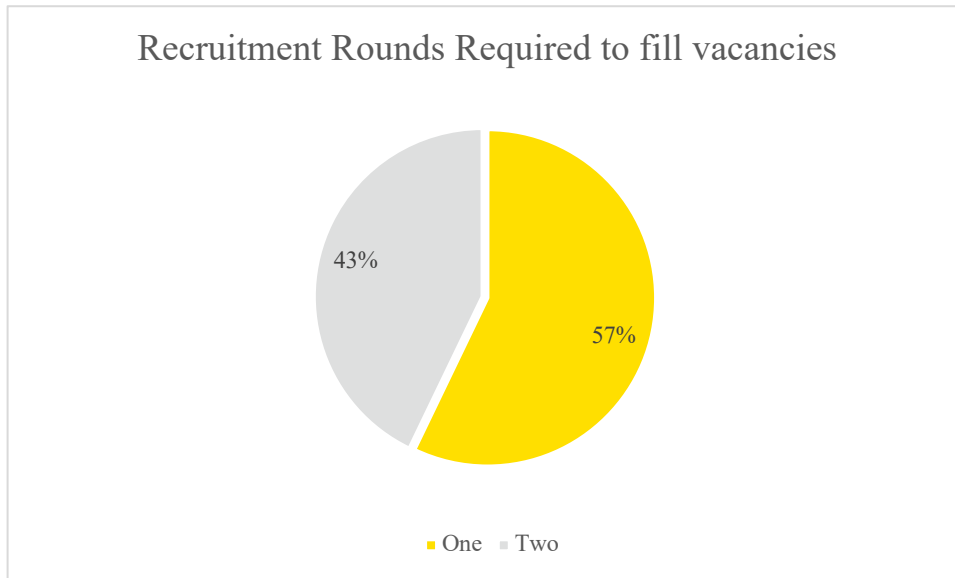


Figure 21. Recruitment rounds required to fill vacancies



- It is noted that the above data is only for positions that were filled. Several roles that were initially offered as fixed term were not filled and then were readvertised as ongoing.
- Further it can be seen that fixed term positions take less time to fill than ongoing position.
- As seen in Figure 21, almost half of all vacancies (43%) require at least two recruitment rounds to fill positions; this leaves roles vacant for longer which impacts VI’s capacity to complete work.

Figure 22. Recruitment success rate after the first recruitment round

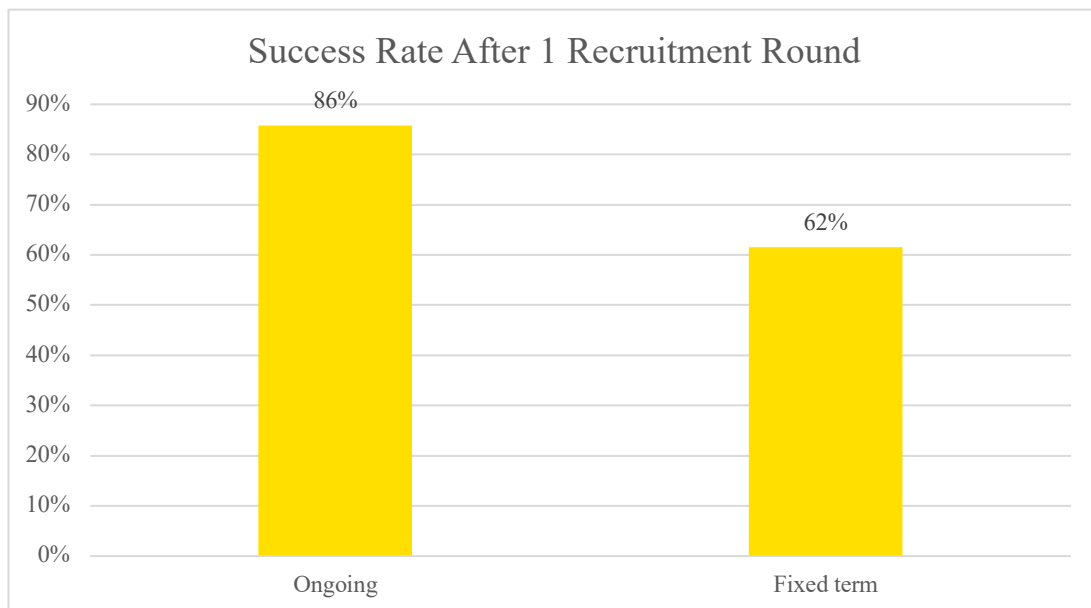
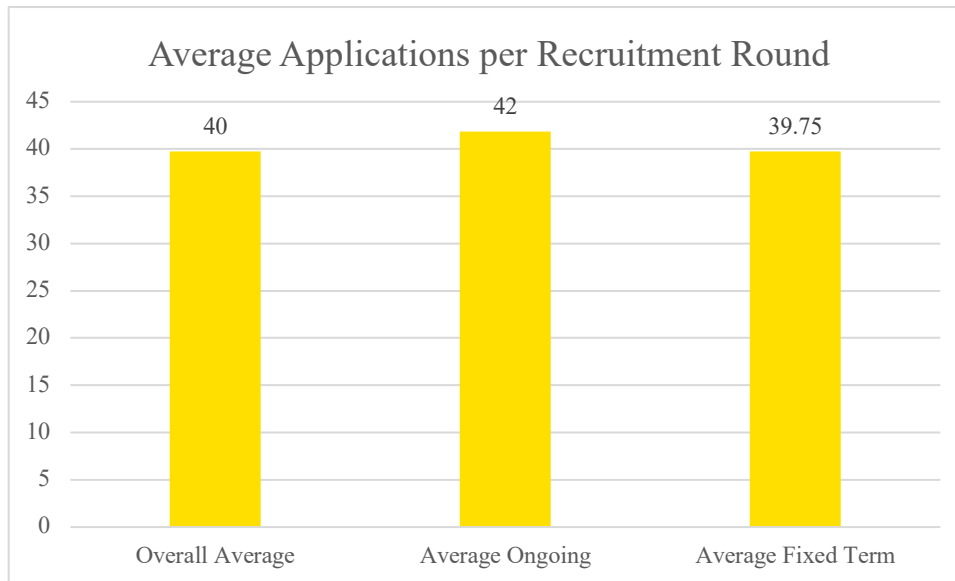


Figure 23. Average Applications per recruitment round



The above graphs shows that ongoing roles have a much higher success rate of finding candidates in the first recruitment round than for fixed-term funded roles. Interestingly, the number of applicants applying for each category is not materially different, with an average of 39.75 applicants being received for fixed-term roles as opposed to 42 applicants for ongoing roles. A caveat on this data is that different roles received significantly different volume of application. For the non-ongoing role of Administrative Support Officer, there were over 180 applications, whereas for some of the more specialised, legal roles, there were less than ten applications. This data has also not been able to take into account the advertising methodology (external vs only on JSE) which can impact application volume.

The success rate for each category provides a more accurate reflection of the difference between each category with 86% of ongoing roles being filled after one recruitment round against 62% for non-ongoing roles.

The Victorian Public Service Commission (VPSC) has developed several guidance tools to support agencies with their recruitment activities. The Best Practice Recruitment and Selection Toolkit¹² has been prepared to assist the VPS and the broader public sector in the application of best practice in the recruitment selection process.

This tool kit represents an end-to-end best practice recruitment selection process, from the start of the process (i.e. planning) through to the end (i.e. evaluation). The toolkit identifies that this approach should aim to finalise the recruitment process within seven weeks (or 49 days). As noted above, the average time for the VI to recruit new staff is 85 days.

¹² VPSC Guidance - <https://vpvc.vic.gov.au/wp-content/uploads/2015/03/best-practice-recruitment-selection-methodology-and-tools.pdf>

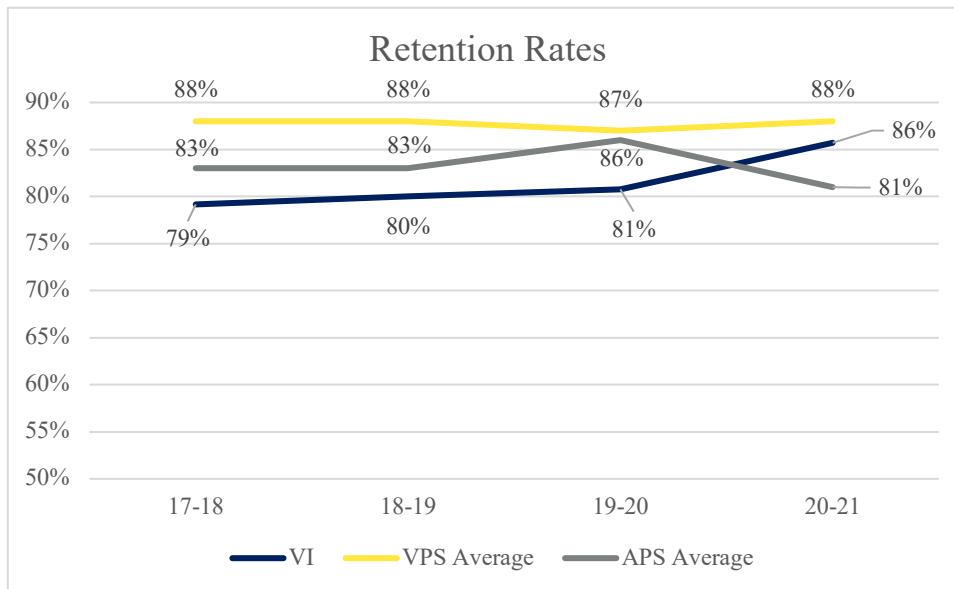


While the VI is not currently resourced to meet such timeframes, it does provide a benchmark that the VI should work towards achieving in the future. However, this will also require dedicated resources to manage the recruitment function, which at this point in time the VI does not have.

12.5.4 Staff Retention and Turnover

As previously outlined, the VI are a very small organisation that has undergone significant maturing over the four-year audit period. As it is a small organisation, it is disproportionately impacted by staff turnover. As seen in the below graph, at the start of the audit period, VI's retention rate was below the average in both the Victorian Public Service (VPS) and Australian Public Service (APS). Despite these initially lower scores, over the audit period, coinciding with the organisational restructure in 2018, the VI saw a significant increase to its retention rate more in line with VPS average.

Figure 24. Staff retention rates



Retention is incredibly important in an agency the size of the VI as key person risk has a greater impact. Key person risk is when business operations are critically impacted when individuals either leave or are unavailable for an extended period. Specifically for the VI, impact of poor retention can greatly vary depending on which area a person is leaving from. Data around turnover in specific teams was not available for this audit.

12.6 Learning and development

Findings:

The VI has an ad hoc and individual led approach to learning and development. This is appropriate given the VI's size, however, there are potential improvement areas within the current operations.

Learning and development at the VI is a mostly ad hoc process that relies on individuals to lead their own professional development. Management have represented that due to resourcing constraints,

taking a risk-based resource allocation approach, a robust learning and development program is a lower priority than other HR functions.

At the organisation level, there is some overarching direction to professional development through a quarterly seminar series. Once a quarter, the VI will invite a guest speaker to present on an integrity or operational issues. Previous speakers have included:

- Justice Michael Kirby (Former High Court Justice)
- Liana Buchanan (Commissioner for Children and Young People)
- Sal Perna (Commissioner for Racing Integrity)
- Justice Kenneth Hayne (Former High Court Justice).

12.6.1 Professional Development Programs

At an individual level, VI leverage off DPC Learning and Development frameworks including their templates for Professional Development Plans (PDP). In an employee's PDP, they establish Performance goals across three core criteria. These criteria are:

- Delivering Results
- Values and Behaviours
- Learning and Development.

For each of the three criteria, employees identify a core performance goal and performance measure to match this. At the mid-way point and the end of the cycle, employees are to provide commentary about progress against these goals. Finally, managers, will provide an overall comment and score from 1-5 on the employee's achievement of the goals.

12.6.2 Testing outcomes

As part of fieldwork, a sample of nine PDP's were reviewed from a variety of years and in a variety of teams. All nine had evidence of the employee establishing performance goals, three showed evidence of mid-point reviews with the relevant manager and six had completed comments at the end of cycle.

Review of the PDP impact showed minimal constructive feedback for staff. While it is good that all feedback is overwhelmingly positive, feedback rarely included development points and areas for the employee to focus on in future cycles.

12.6.3 Success Profiles

Several success profiles have been defined for individual roles to help guide staff through their development and expectations for output. These success profiles have been established for:

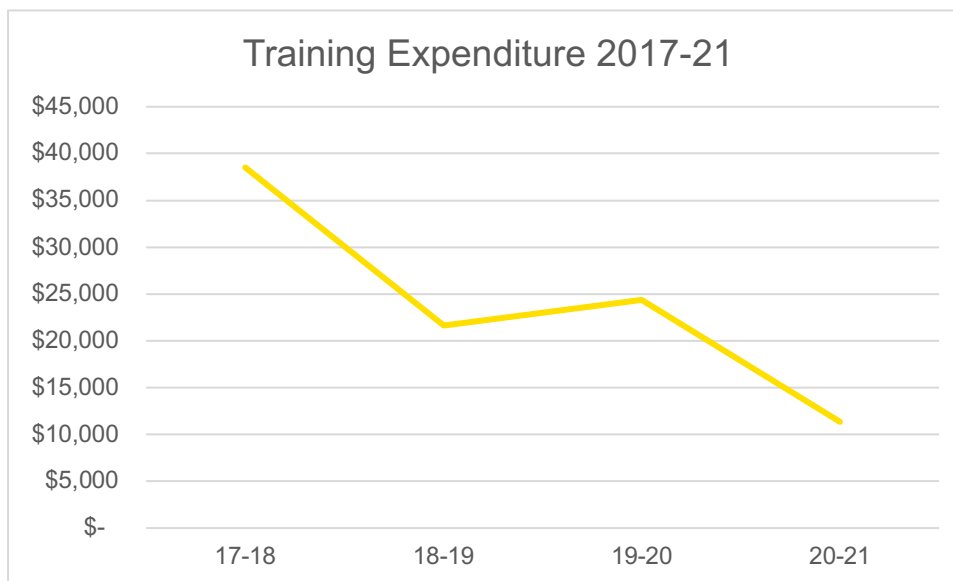
- GM - Integrity, Operations and Policy
- GM – Legal Services
- Manager – Complaints and Investigations
- Manager- Monitoring and Inspections
- Senior Complaints Officer

Additionally, the VI support several staff in maintaining their professional memberships and the associated required professional learning for CPA and legal practising certificates.

12.6.4 Expenditure on Training and Development

Expenditure on training has been decreasing over the audit period as seen in the graph below.

Figure 25. Staff training expenditure – 2017-18 to 2020-21



This decrease can be attributed to the impact that COVID-19 has had on the availability of training courses during this period and the requirement for staff to work remotely.

Staff Feedback

The PMS survey outcomes provide an insight into staff attitudes towards learning and development opportunities at VI. While the results are comparatively lower than most of the VI's PMS result, almost all are above the average of agencies within the comparator group and support the arrangements that the VI has in place to support staff development.

Question	2019	2020	2021
My manager encourages and supports my participation in learning and development opportunities	79% (+0)	Not asked	83% (+3)
My manager has regular conversations with me about my learning and development	Not asked	Not asked	78% (+19)
I am developing and learning in my role	Not asked	Not asked	83% (+11)
I am satisfied with the way my learning and development needs have been addressed in the last 12 months	Not asked	Not asked	67% (+12)



My organisation places a high priority on the learning and development of staff	43% (-18)	Not asked	56% (-4)
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12.7 Use of contractors

Findings:	The VI have limited formalised criteria used to engage and manage contractors, noting that there have only been two instances of contractors being engaged throughout the audit period.
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The VI have had limited experience engaging contractors throughout the audit period. For the four-year period, only two contractors were engaged, both to conduct discrete pieces of work. As engaging contractors is uncommon at the VI, there are no VI specific process, criteria, or method to engage and assess performance of contractors. In both cases, the VI leveraged whole of Victorian Government processes.

In both cases, there was an initial attempt to engage a fixed term employee which was unsuccessful. There was an attempt to source candidates by VI on the JSE and careers.vic. Only when those were unsuccessful was the decision made to engage a contractor. This was done by engaging a labour-hire company to provide resources. VI were able to access a Master List of Labour Hire Vendors through the DPC through completing a Master Vendor Engagement Request. As such, neither of the contractors had a specific contract with performance measurements.

For both these contractors, they did not require access to VI systems or to the building.

As the VI's remit grows, there may be an increased use of contractors that will be required to fill roles. As this expands, the VI will continue to comply with the required whole of Victorian government procurement processes.

12.8 Recommendations

Section Ref.	Recommendation
12.5.1	It is recommended that the VI develop a formal Strategic Workforce Plan.
12.6	It is recommended that the VI improve learning and development opportunities to staff to further increase employee engagement and satisfaction. This may be through increased opportunity to undertake external courses, attending conferences or increasing frequency of internal L&D programs.



13 Appendix A - Objectives of Audit

1. [Achieving the objectives of the VI Act 2011 \(Vic\)](#)

- 1.1. The audit will review the extent to which the VI effectively, economically, and efficiently performs its functions under the *Public Interest Disclosures Act 2012* (Vic) ('PID Act 2012 (Vic)') (including the investigation of public interest complaints).

2. [Independent Broad-based Anti-corruption Commission \(IBAC\)](#)

The audit will review the extent to which the VI effectively, economically, and efficiently provides for the independent oversight of the Independent Broad-based Anti-corruption Commission (IBAC) and IBAC personnel by:

- 2.1. enhancing the compliance of IBAC and IBAC personnel with the Independent Broad-based Anti-corruption Commission Act 2011 (Vic) ('IBAC Act 2011 (Vic)') and other laws
- 2.2. monitoring the exercise of coercive powers by IBAC and IBAC personnel
- 2.3. improving the capacity of IBAC and IBAC personnel to perform their duties and functions and exercise their powers
- 2.4. overseeing the performance by IBAC of its functions under the PID Act 2012 (Vic)
- 2.5. assessing the effectiveness and appropriateness of IBAC's policies and procedures which relate to the legality and propriety of IBAC's activities
- 2.6. receiving complaints in accordance with the VI Act 2011 (Vic) about the conduct of IBAC and IBAC personnel
- 2.7. investigating and assessing the conduct of IBAC and IBAC personnel in the performance or purported performance or exercise of their duties, functions, and powers
- 2.8. monitoring the interaction between IBAC and other integrity bodies to ensure compliance with relevant laws
- 2.9. reporting on, and making recommendations as a result of, the performance of its functions relating to IBAC

in compliance with the VI Act 2011 (Vic).

3. [Office of the Victorian Information Commissioner \(OVIC\)](#)

The audit will review the extent to which the VI effectively, economically, and efficiently provides for the independent:

- 3.1. monitoring the exercise of coercive powers by OVIC officers and compliance by OVIC officers with procedural fairness requirements in the oversight of OVIC officers by:
 - a. exercise, or purported exercise, of coercive powers under the Freedom of Information Act 1982 (Vic) ('FOI Act 1982 (Vic)') and the Privacy and Data Protection Act 2014 (Vic) ('PDP Act 2014 (Vic)')
 - b. conduct of investigations under pt VIB of the FOI Act 1982 (Vic)
 - c. making of recommendations under s 61L of the FOI Act 1982 (Vic)
 - d. making of investigation reports under s 61Q of the FOI Act 1982 (Vic)
 - e. making of compliance notices under pt 3 of the PDP Act 2014 (Vic)

- 3.2. receiving complaints about the conduct of OVIC officers in accordance with the VI Act 2011 (Vic)
 - 3.3. investigating and assessing the conduct of OVIC officers in accordance with the VI Act 2011 (Vic)
 - 3.4. reporting on, and making recommendations as a result of, the performance of its functions relating to OVIC
- in compliance with the VI Act 2011 (Vic).

4. [Victorian Ombudsman \(VO\)](#)

The audit will review the extent to which the VI effectively, economically, and efficiently provides for the independent oversight of VO officers by:

- 4.1. monitoring the exercise of coercive powers by Ombudsman officers
- 4.2. monitoring compliance by Ombudsman officers with procedural fairness requirements in the performance of functions under the Ombudsman Act 1973 (Vic) or any other Act
- 4.3. receiving complaints about the conduct of Ombudsman officers in accordance with the VI Act 2011 (Vic)
- 4.4. investigating and assessing the conduct of Ombudsman officers in accordance with the VI Act 2011 (Vic)
- 4.5. reporting on, and making recommendations as a result of, the performance of its functions relating to the VO

in compliance with the VI Act 2011 (Vic).

5. [Sound governance and planning](#)

The audit will review:

- 5.1. the extent to which the VI internally promotes and implements the purposes of the PID Act 2012 (Vic)
- 5.2. the extent to which the VI has effective structured processes for prioritising work against its statutory objectives, including the adequacy and currency of policies and procedures designed and implemented by the VI to manage its work
- 5.3. the adequacy and appropriateness of governance and risk-management frameworks used to support the VI's work and staff, and to manage its engagement with others involved in the VI's operations (including members of the public, persons of interest and witnesses)
- 5.4. the quality of the VI's strategic planning processes (including those related to the VI's annual plan) and the extent to which their outcomes are communicated and clearly understood by staff
- 5.5. the adequacy and appropriateness of mechanisms used to ensure the integrity and suitability of VI staff.

6. [Genuine accountability and transparency](#)

The audit will review:

- 6.1. the adequacy and appropriateness of processes used by the VI to measure and manage the costs of performing its statutory functions

-
- 6.2. the adequacy and appropriateness of processes used by the VI to identify scope for improvement, including how it:
 - a. identifies savings
 - b. reduces costs
 - c. reduces waste.
 - 6.3. the adequacy of systems and processes used by the VI to manage its work and improve its productivity
 - 6.4. the extent to which the VI has identified and implemented best practice initiatives from other agencies and jurisdictions
 - 6.5. the extent to which the VI educates the public sector and community about its functions
 - 6.6. the extent to which the VI reports to and informs Parliament and the wider community about its performance
 - 6.7. the extent to which the VI attains and sustains public confidence in the agency.
7. [Strong and healthy workforce and performance culture](#)
- The audit will review:
- 7.1. the promotion and existence of a strong integrity culture at the VI
 - 7.2. the adequacy of measures used by the VI to assess and maintain staff motivation, wellbeing, and resilience, including those relating to occupational health and safety
 - 7.3. the adequacy of channels of communication between staff and management to discuss and report staff concerns
 - 7.4. the adequacy of policies, systems and procedures for handling complaints and public interest disclosures by staff as well as other staff grievances
 - 7.5. the adequacy of processes and costs associated with the recruitment and retention of staff, including whether the VI:
 - a. implements succession planning
 - b. has appropriate strategies in place to manage staff turnover.
 - 7.6. the adequacy and appropriateness of programs aimed at meeting staff professional development needs
 - 7.7. the appropriateness of criteria used to engage and manage the VI's contractors, as the term 'contractor' is defined in the Victorian Public Sector Commission's *Guidance for managers engaging contractors and consultants*.

14 Appendix B - Extract from Section 11 of the VI Act - Functions of the Victorian Inspectorate

1. The Victorian Inspectorate has the functions conferred on the Victorian Inspectorate under this Act or any other Act.
2. Without limiting the generality of subsection (1), the Victorian Inspectorate has the following functions—
 - (a) to monitor the compliance of the IBAC and IBAC personnel with the **Independent Broad-based Anti-corruption Commission Act 2011** and other laws;
 - (b) to oversee the performance by the IBAC of its functions under the **Public Interest Disclosures Act 2012**;
 - (c) to assess the effectiveness and appropriateness of the policies and procedures of the IBAC which relate to the legality and propriety of IBAC's activities;
 - (d) to receive complaints in accordance with this Act about the conduct of the IBAC and IBAC personnel;
 - (e) to investigate and assess the conduct of the IBAC and IBAC personnel in the performance or exercise or purported performance or purported exercise of their duties, functions and powers;
 - (f) to monitor the interaction between the IBAC and other integrity bodies to ensure compliance with relevant laws;
 - (g) to inspect and audit relevant records kept by the Public Interest Monitor under—
 - (i) the Public Interest Monitor Act 2011; and
 - (ii) the Witness Protection Act 1991—for the purpose of monitoring compliance with the prescribed obligations;
 - (h) to report to the Minister and the Parliament on the results of the performance of its function under paragraph (g);
 - (i) to receive complaints in accordance with this Act about the conduct of the Chief Examiner or any Examiner;
 - (j) to investigate and assess, in accordance with this Act, the conduct of the Chief Examiner or any Examiner;
 - (k) to report on, and make recommendations as a result of, the performance of its duties and functions.
3. Without limiting the generality of subsection (1), the Victorian Inspectorate has the following functions in respect of VAGO officers—
 - (a) to monitor—
 - (i) the exercise of coercive powers by VAGO officers; and
 - (ii) compliance by VAGO officers with sections 30, 31, 32, 33, 34, 35, 36, 37, 39, 43, 44, 45, 46, 50(1) and 51 of the **Audit Act 1994**;
 - (b) to receive complaints in accordance with this Act about the conduct of VAGO officers;

- (c) to investigate and assess, in accordance with this Act, the conduct of VAGO officers;
 - (d) to report on, and make recommendations as a result of, the performance of its functions under paragraphs (a) to (c).
4. Without limiting the generality of subsection (1), the Victorian Inspectorate has the following functions in respect of Ombudsman officers—
- (a) to monitor—
 - (i) the exercise of coercive powers by Ombudsman officers; and
 - (ii) compliance by Ombudsman officers with procedural fairness requirements in the performance of functions under the **Ombudsman Act 1973** or any other Act, including in the conduct of enquiries and investigations and the making of reports and recommendations under the **Ombudsman Act 1973** or any other Act;
 - (b) to receive complaints in accordance with this Act about the conduct of Ombudsman officers;
 - (c) to investigate and assess in accordance with this Act the conduct of Ombudsman officers;
 - (d) to report on, and make recommendations as a result of, the performance of its functions under paragraphs (a) to (c).
5. Without limiting the generality of subsection (1), the Victorian Inspectorate has the following functions in respect of officers of the Office of the Victorian Information Commissioner—
- (a) to monitor—
 - (i) the exercise of coercive powers by officers of the Office of the Victorian Information Commissioner; and
 - (ii) whether procedural fairness requirements have been complied with by officers of the Office of the Victorian Information Commissioner in—
 - A. the exercise, or purported exercise, of coercive powers under the **Freedom of Information Act 1982** and the **Privacy and Data Protection Act 2014**; and
 - B. the conduct of investigations under Part VIB of the **Freedom of Information Act 1982**; and
 - C. the making of recommendations under section 61L of the **Freedom of Information Act 1982**; and
 - D. the making of investigation reports under section 61Q of the **Freedom of Information Act 1982**; and
 - E. the making of compliance notices under Part 3 of the **Privacy and Data Protection Act 2014**;
 - (b) to receive complaints in accordance with this Act about the conduct of officers of the Office of the Victorian Information Commissioner;
 - (c) to investigate and assess in accordance with this Act the conduct of officers of the Office of the Victorian Information Commissioner;

-
- (d) to report on, and make recommendations as a result of, the performance of its functions under paragraphs (a) to (c).
6. Without limiting the generality of subsection (1), the Victorian Inspectorate has the function in respect of the Judicial Commission to monitor the use of coercive powers under the **Judicial Commission of Victoria Act 2016**.
7. Without limiting the generality of subsection (1), the Victorian Inspectorate has the following functions in respect of the Wage Inspectorate Victoria and Wage Inspectorate Victoria officers—
- (a) to monitor the exercise of coercive powers by the Wage Inspectorate Victoria and Wage Inspectorate Victoria officers;
- (b) to investigate and assess, in accordance with this Act, the conduct of the Wage Inspectorate Victoria and Wage Inspectorate Victoria officers in the performance or exercise or purported performance or purported exercise of coercive powers;
- (c) to report on, and make recommendations as a result of, the performance of its functions under paragraphs (a) and (b).
8. Without limiting subsection (1), the Victorian Inspectorate has the following functions in respect of the Office of the Special Investigator and OSI personnel—
- (a) to monitor the compliance of the Office of the Special Investigator and OSI personnel with Part 3 of the **Special Investigator Act 2021** and other laws in the performance of the Office of the Special Investigator's investigative functions, duties, and powers under that Part;
- (b) to receive complaints in accordance with this Act about the conduct of the Office of the Special Investigator and OSI personnel;
- (c) to investigate and assess in accordance with this Act the conduct of the Office of the Special Investigator and OSI personnel;
- (d) to assess the effectiveness and appropriateness of the policies and procedures of the Office of the Special Investigator which relate to the legality and propriety of activities of OSI personnel;
- (e) to report on, and make recommendations as a result of, the performance of its functions under paragraphs (a), (b), (c) and (d).

15 Appendix C – Section 43 of the VI Act

43 Complaints

- (1) A person may make a complaint to the Victorian Inspectorate about the conduct of the IBAC or IBAC personnel in respect of the—
 - (a) performance or exercise; or
 - (b) failure to perform or exercise; or
 - (c) purported performance or purported exercise—by the IBAC or IBAC personnel of the duties, functions or powers conferred on the IBAC or IBAC personnel in relation to any matter.

Note

See section 92A for complaints by detained persons. See section 48A for withdrawal of complaints.

- (2) Without limiting the generality of subsection (1), a complaint may be made on the basis that specified conduct of the IBAC or IBAC personnel was—
 - (a) contrary to law; or
 - (b) unreasonable, unjust, oppressive, or improperly discriminatory; or
 - (c) based on improper motives; or
 - (d) an abuse of power; or
 - (e) otherwise improper.
- (3) A person may make a complaint to the Victorian Inspectorate about the conduct of a VAGO officer in respect of—
 - (a) the exercise or purported exercise of coercive powers in relation to any matter; or
 - (b) the compliance with sections 30, 31, 32, 33, 34, 35, 36, 37, 39, 41, 42, 43, 44, 45, 46, 48, 49, 50 and 51 of the Audit Act 1994.
- (4) Without limiting the generality of subsection (3), a complaint may be made on the basis that specified conduct was—
 - (a) contrary to law; or
 - (b) unreasonable, unjust, oppressive, or improperly discriminatory; or
 - (c) based on improper motives; or
 - (d) an abuse of power; or
 - (e) otherwise improper.
- (5) A person may make a complaint to the Victorian Inspectorate about the conduct of an Ombudsman officer in respect of—
 - (a) the exercise or purported exercise of coercive powers in relation to any matter; or

- (b) the compliance with procedural fairness requirements in the performance of functions under the Ombudsman Act 1973 or any other Act, including in the conduct of enquiries and investigations and the making of reports and recommendations under the Ombudsman Act 1973 or any other Act.
- (6) Without limiting the generality of subsection (5), a complaint may be made on the basis that specified conduct was—
 - (a) contrary to law; or
 - (b) unreasonable, unjust, oppressive, or improperly discriminatory; or
 - (c) based on improper motives; or
 - (d) an abuse of power; or
 - (e) otherwise improper.
- (7) A person may make a complaint to the Victorian Inspectorate about the conduct of the Chief Examiner or an Examiner in respect of—
 - (a) the exercise or purported exercise of coercive powers in relation to any matter; or
 - (b) compliance with the Major Crime (Investigative Powers) Act 2004.
- (8) Without limiting the generality of subsection (7), a complaint may be made on the basis that specified conduct was—
 - (a) contrary to law; or
 - (b) unreasonable, unjust, oppressive, or improperly discriminatory; or
 - (c) based on improper motives; or
 - (d) an abuse of power; or
 - (e) otherwise improper.
- (9) A person may make a complaint to the Victorian Inspectorate about the conduct of an officer of the Office of the Victorian Information Commissioner in respect of—
 - (a) the exercise or purported exercise of coercive powers in relation to any matter; or
 - (b) the compliance with procedural fairness requirements in—
 - i. the exercise, or purported exercise, of coercive powers under the **Freedom of Information Act 1982** and the **Privacy and Data Protection Act 2014**; and
 - ii. the conduct of investigations under Part VIB of the **Freedom of Information Act 1982**; and
 - iii. the making of recommendations under section 61L of the **Freedom of Information Act 1982**; and
 - iv. the making of investigation reports under section 61Q of the **Freedom of Information Act 1982**; and
 - v. the making of compliance notices under Part 3 of the **Privacy and Data Protection Act 2014**.

-
- (10) Without limiting the generality of subsection (9), a complaint may be made on the basis that specified conduct was—
- (a) contrary to law; or
 - (b) unreasonable, unjust, oppressive or
 - (c) improperly discriminatory; or
 - (d) based on improper motives; or
 - (e) an abuse of power; or
 - (f) otherwise improper.
- (11) A person may make a complaint to the Victorian Inspectorate about the conduct of the Office of the Special Investigator or OSI personnel in respect of the—
- (a) performance or exercise; or
 - (b) failure to perform or exercise; or
 - (c) purported performance or purported exercise—
- by the Office of the Special Investigator or OSI personnel of the duties, functions and powers conferred on the Office of the Special Investigator or OSI personnel in relation to any matter.
- (12) Without limiting the generality of subsection (11), a complaint may be made on the basis that specified conduct was—
- (a) contrary to law; or
 - (b) unreasonable, unjust, oppressive, or improperly discriminatory; or
 - (c) based on improper motives; or
 - (d) an abuse of power; or
 - (e) otherwise improper.



16 Appendix D – VI Response to Audit Report

VICTORIAN INSPECTORATE

13 October 2022

Our ref:VI8069

Mr Paul Allen
Partner
Callida Consulting
2/28 National Circuit
FORREST ACT 2603

Via email

Dear Mr Allen

Victorian Inspectorate: Independent Performance Audit

I refer to your letter dated 16 September 2022 by which you provided a copy of the proposed report of the performance audit conducted under section 90D of the *Victorian Inspectorate Act 2011* and asked for our written comments to be provided by no later than 19 October 2022.

I request that this response be included in the final report.

Disclaimer of Opinion

Prior to the audit, the Victorian Inspectorate (VI) briefed the Integrity and Oversight Committee (IOC) that it was bound not to disclose unpublished information about operational cases, files or content during a performance audit. The VI understood that any such requests would be determined after consultation with the VI and with consideration of available alternative measures including, but not limited to, partial redaction.

This consultation process was enshrined in Escalation Protocols contained in the March 2022 Communication Plan.

At no stage during the course of the audit was the VI notified of a disagreement with the arrangements made by the VI for providing information in response to a request. The VI sought throughout to cooperate as fully as it could with information requests and in total provided 776 items of information, some of which were partially redacted.

Until it saw the proposed report, the VI was not aware that a consequence of the redactions was that you were not provided with the necessary evidence to provide the level of assurance required under the terms of the performance audit.

I note at para 1.4.3 of the proposed report that Callida raised the level of assurance with the IOC as an issue and suggested as a possible solution that only limited assurance be required in relation to operational audit criteria. It is stated in that paragraph that the 'IOC

advised that its preference was to continue with a reasonable assurance engagement, noting the qualified conclusion or disclaimer of conclusion that would likely result.'

The VI now appreciates that a disclaimer of opinion was perhaps the inevitable outcome given the required level of assurance and the non-usage of the Escalation Protocols.

The VI regrets that this is the outcome. Despite that, the VI considers that preparing for, and engaging in, the audit process has been a valuable exercise.

Recommendations

The proposed report contains 15 recommendations. With respect to the recommendations for measuring activity costs, the VI will consider it for incorporation into planning. Otherwise, the VI accepts all other recommendations. This is annotated on the attached copy of the proposed report.

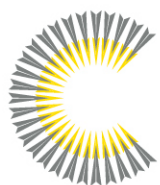
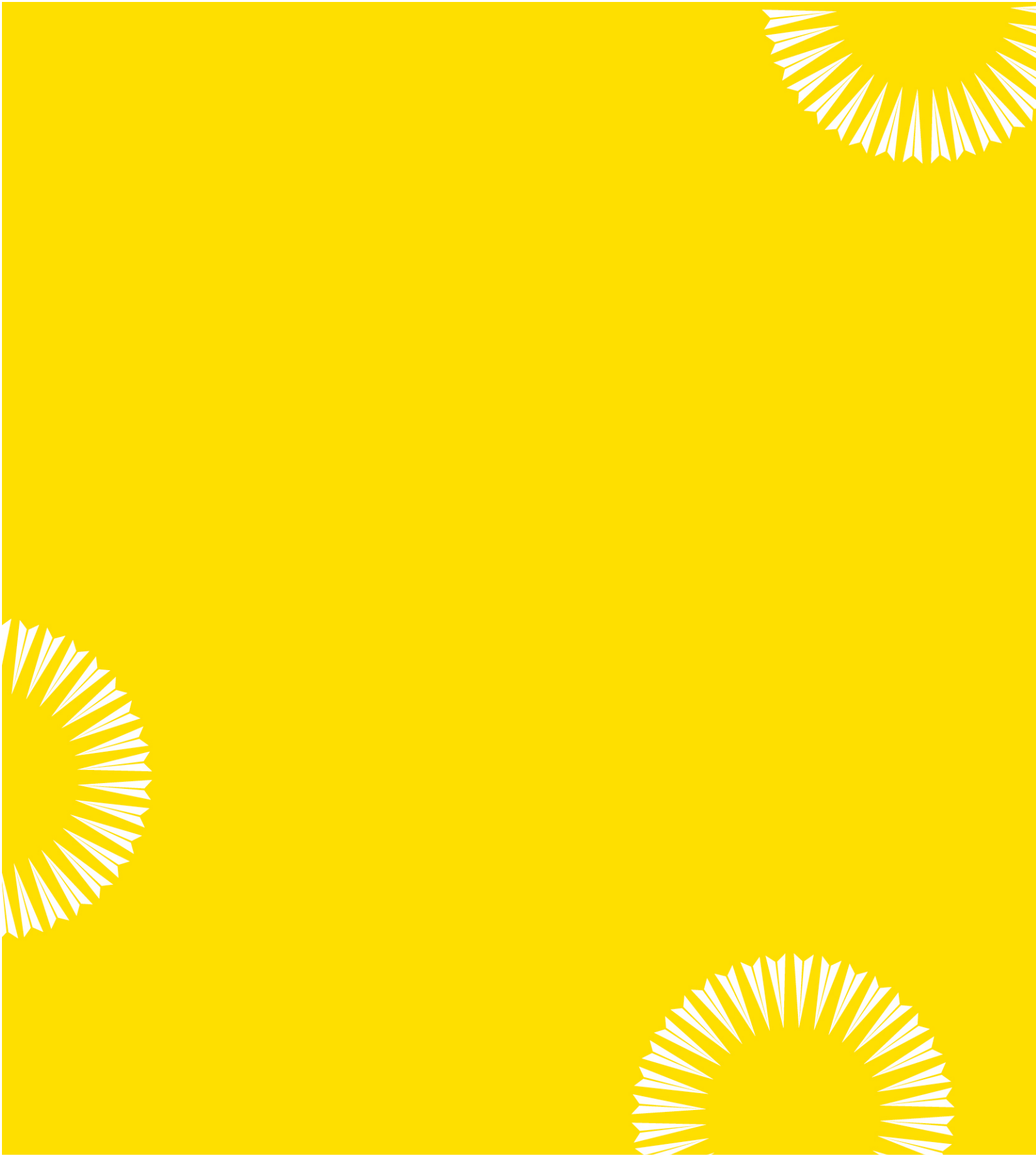
Conclusion

Finally, I would like to express my appreciation of the co-operative and considerate way in which Callida conducted this audit.

Yours sincerely



Eamonn Moran PSM KC
Inspector



**Callida
Consulting**

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E info@callida.com.au

Extracts of proceedings

The Committee divided on the following questions during consideration of this report. Questions agreed to without division are not recorded in these extracts.

Committee meeting—26 October 2022

Report adoption

Mr Stuart Grimley MLC moved that the report titled *The independent performance audits of the Independent Broad-based Anti-corruption Commission and the Victorian Inspectorate* be adopted and stand part of the Report.

The Committee divided.

Ayes	Noes
Mr Gary Maas MP	Mr Brad Rowswell MP
Mr Stuart Grimley MLC	Hon Kim Wells MP
Mr Dustin Halse MP	
Mr Jackson Taylor MP	
Ms Vicki Ward MP	

Resolved in the affirmative.

Appendices adoption

Mr Dustin Halse MP moved that appendices A to D be adopted and stand part of the Report.

The Committee divided.

Ayes	Noes
Mr Gary Maas MP	Mr Brad Rowswell MP
Mr Stuart Grimley MLC	Hon Kim Wells MP
Mr Dustin Halse MP	
Mr Jackson Taylor MP	
Ms Vicki Ward MP	

Resolved in the affirmative.

Preliminary pages adoption

Mr Jackson Taylor MP moved that the preliminary pages be adopted and stand part of the Report.

The Committee divided.

Ayes	Noes
Mr Gary Maas MP	Mr Brad Rowswell MP
Mr Stuart Grimley MLC	Hon Kim Wells MP
Mr Dustin Halse MP	
Mr Jackson Taylor MP	
Ms Vicki Ward MP	

Resolved in the affirmative.

Entire report adoption

Mr Stuart Grimley MP moved that the Committee adopts the entire report, *The independent performance audits of the Independent Broad-based Anti-corruption Commission and the Victorian Inspectorate*.

The Committee divided.

Ayes	Noes
Mr Gary Maas MP	Mr Brad Rowswell MP
Mr Stuart Grimley MLC	Hon Kim Wells MP
Mr Dustin Halse MP	
Mr Jackson Taylor MP	
Ms Vicki Ward MP	

Resolved in the affirmative.

Minority report



Integrity and Oversight Committee

The independent performance audits of the Independent Broad-based Anti- Corruption Commission and the Victorian Inspectorate

Minority Report

Brad Rowswell MP, Deputy Chair
The Hon. Kim Wells MP

28 October 2022

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Summary

Opposition members of the Committee make the following Minority Report recommendation:

Recommendation 1: The incoming Integrity and Oversight Committee of the 60th Parliament should review and rewrite sections of the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) and the *Victorian Inspectorate Act 2011* (Vic) with a particular focus on the framework of integrity agency performance audits.



Brad Rowswell MP, Deputy Chair
Member for Sandringham



The Hon. Kim Wells MP
Member for Rowville

1. Introduction

On behalf of the Parliament of Victoria, the Integrity and Oversight Committee (Committee) are required to appoint an independent auditor to conduct a performance audit of Victoria's integrity agencies at least once every four years. This is the first performance audit of its kind in Victoria.

On 10 February 2022, Callida Pty Ltd (Callida) was appointed by the Parliament of Victoria, on the recommendation of the Committee, to performance audit both the Independent Broad-based Anti-corruption Commission (IBAC) and the Victorian Inspectorate (VI).

In compliance with the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) (IBAC Act) and the *Victorian Inspectorate Act 2011* (Vic) (VI Act), the performance auditor is required to determine whether these agencies are “achieving its objectives effectively, economically, and efficiently”.¹

This Minority Report seeks to disclose some of the significant challenges throughout the performance audit process. There are two reasons why we oppose the Committee's adoption of the performance audits. First, the inability of the performance auditor to do what the law and the Committee required and second, the inadequate legislative framework that underpins the performance audit process.

This Report concludes that, due principally to the misrepresentations of the auditor's capacity to undertake this audit, their final reports contained in the Majority Report are not independent.

2. The auditor

Prior to Callida's appointment, the Audit Subcommittee (Subcommittee) instructed auditor candidates that they were expected to conduct their review to the highest, most thorough standard possible and to the highest possible level of assurance.

Shortly after their appointment, Callida submitted their audit plans. In short, these plans did not meet the Committee's expectations.

As an example, the plans provided little overall detail and omitted reference to significant and essential components of a plan such as key risks and mitigation strategies, reference to past annual reports and other similar documents, audit criteria, timelines and key staff members.

For example, Callida referred to ASAE standards 3100 (Compliance Engagements) and 3500 (Performance Engagements) as the measure for which it would conduct the audits. In paragraph [A22] on p. 28 of the ASAE 3100 Compliance Engagement framework, there are several main matters of consideration when planning and performing the engagement.² However, in the example of the requirement in item [A22(b)], Callida did not provide any risk assessment of their capability to undertake the performance audits in their plan. As this demonstrates, the expectation set by Callida, and agreed to by the Subcommittee, was unmet.

¹*Independent Broad-based Anti-corruption Commission Act 2011* (Vic) ss 170(4); *Victorian Inspectorate Act 2011* (Vic) ss 90D(4).

² https://www.auasb.gov.au/admin/file/content102/c3/ASAE_3100_Compliance_Engagements.pdf

In March 2022, the Chair of the Committee received a letter from Paul Allen, Partner at Callida. Mr Allen referenced several issues such as the auditor’s inability to attend on-site visits, the departure of key staff who possessed requisite legal knowledge and their difficulties accessing operational information. Mr Allen concluded:

We believe the constraints raised by IBAC and the VI make it highly improbable that we will be able to obtain sufficient appropriate evidence to enable a reasonable assurance audit conclusion to be provided, for all audit criteria.

The legal advice received by the Committee in relation to the collection of agency data, for the purpose of the performance audit, make it quite clear that the auditor was within their rights to request and receive information from the agencies in order to perform the performance audit. The fact that Callida felt that they were not able to “obtain sufficient appropriate evidence” is a reflection on Callida’s incapacity to undertake the work that they were appointed to do.³

These and similar issues continued to be raised throughout the course of the performance audit and to numerous to mention individually.

In the end, Callida themselves acknowledged their inability to undertake these performance audits to an acceptable standard when they stated “Callida does not express an opinion against the audit objective”.⁴ Although unsurprising, Callida’s inability to express an audit opinion is greatly disappointing.

We cannot agree to support both the IBAC and VI performance audit reports as they fail to express an audit opinion.

³ Callida Pty Ltd. *Independent Broad-based Anti-corruption Commission Independent Performance Audit*, October 2022, p. 7.

⁴ *Ibid*, p. 7.

3. The legislation

When questions arose concerning the process of the performance audits, the current legislative framework in the IBAC Act and the VI Act were found to be inadequate and failed to provide necessary clarity for the Committee.

During the audit, the Committee sought – on a number of occasions – independent legal advice on the auditor’s information-gathering powers in respect of the IBAC and the VI. This advice is included in the Majority Report in Appendices A and B.

The need to receive independent legal advice to provide greater certainty for both the Committee and auditor, demonstrates the need for legislative review and change. It is not an unreasonable expectation for the Act to be clearer in its meaning and intent.

As described later in this Minority Report, the existing legislative framework does not ensure absolute independence for the auditor, which is ordinarily a characteristic of a performance audit.

Recommendation 1: The incoming Integrity and Oversight Committee of the 60th Parliament should review and rewrite sections of the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) and the *Victorian Inspectorate Act 2011* (Vic) with a particular focus on the framework of integrity agency performance audits.

4. Directing the auditor

On Thursday 6 October 2022, the Chair of the Subcommittee issued an email to the auditor instructing them to act in a particular way. Dustin Halse MP wrote to the auditor expressing the “Committee’s clear directions to Callida”.⁵

We attach the full email from Mr Halse in Appendix 1.

This email from the Chair of the Subcommittee demonstrates the level of direct engagement and assistance – one may even assert ‘interference’ – in order to arrive at the final reports. It also further demonstrates Callida’s inability to undertake the performance audit themselves. This level of assistance, which was maintained during the course of the performance audit, legitimately calls into question the independence of the audit.

It is not unreasonable to state that a completed performance audit report (as included in the Majority Report), albeit without an expressed audit opinion, would not have been achieved without the ongoing oversight and assistance of the Subcommittee.

⁵ Email from Dustin Halse MP to Paul Allen, Thursday, 6 October 2022.

5. Conclusion and acknowledgement

It is important to reiterate that the purpose of writing this Minority Report is to contextualise the process of the performance audit.

When considering whether to support the Majority Report and Callida's final performance audit reports, we recognised that the final product was not written to the highest standard possible and it did not provide the highest level of assurance possible; in fact, no audit opinion could be provided at all.

This Minority Report must not be seen as a reflection of the diligent work of the Committee Secretariat who have worked professionally and impartially with Committee members and with Callida. The Opposition members of the Committee acknowledge and commend members of the Secretariat for their expertise, guidance and contribution.

Appendix A

From: Dustin Halse <Dustin.Halse@parliament.vic.gov.au>
Sent: Thursday, 6 October 2022 8:18 PM
To: 'Paul Allen' <[REDACTED]>
Cc: Brad Rowswell <Brad.Rowswell@parliament.vic.gov.au>; Stuart Grimley <Stuart.Grimley@parliament.vic.gov.au>; Jackson Taylor <Jackson.Taylor@parliament.vic.gov.au>; [REDACTED]
[REDACTED]
Subject: Performance Audit - IBAC Report
Importance: High

Dear Paul,

I note your email to [REDACTED] yesterday, attaching Callida's draft IBAC audit report.

From the outset, the Committee notes that a significant number of substantial changes (including revisions, additions, re-wording of partial sentences, deletions, etc.) have not been tracked, despite the Committee's clear directions to Callida on this matter.

The amendments to the body text and recommendations, which were neither sufficiently discussed with, nor approved or authorised by, the Committee, represent a substantial departure from the previous iteration of the final report. In particular, many of the changes are substantive and depart significantly from the expectations of the Committee, based on Callida's previous representations – including those provided on 22 and 26 August 2022 – regarding the number and character of changes to be made during the procedural fairness process.

The procedural fairness process under the legislation neither contemplates wholesale acceptance of the audited entity's feedback on the auditor's work, nor delegation by the auditor to the audited entity for it to re-write substantive content or recommendations.

The Committee notes the following unconventional examples of Callida's incorporation of IBAC's feedback into the revised draft:

- feedback of the agency presented as commentary, opinions or findings of Callida rather than contextualised as IBAC's response to various issues raised in the report;
- re-classification and re-wording of recommendations to acknowledgments of programs of work being undertaken by IBAC;
- softening of technical language (e.g., 'findings' revised to 'observations'); and
- and deletions and re-framing of IBAC's non-cooperation with Callida's information-gathering attempts in circumstances where such commentary is materially relevant to Callida's findings and recommendations, etc.

These, and other, examples, of Callida's response to IBAC's feedback represent a material departure from the accepted norms of addressing feedback received during a procedural fairness process in a final audit report.

The Committee has significant concerns that these changes more closely reflect and represent IBAC's opinions rather than Callida's. Moreover, without further substantiation or qualification, these

analyses and opinions cannot reasonably be attributed to Callida as the independent performance auditor. Specifically, IBAC’s feedback has been incorporated into the latest iteration of the draft report in a way that demonstrates extreme deference to IBAC, without explanation or supporting evidence. This concern has been raised with Callida on multiple occasions. The Committee considers that this raises fundamental questions regarding the independence of the IBAC audit and, in fact, seriously undermines the independence of the report. The Committee therefore, on behalf of the Parliament of Victoria, is not in a position to approve the draft report in its current form.

Under s 170(2)(b) of the *IBAC Act 2011* (Vic), the independent performance auditor must comply with directions as to the audit given by the Committee. The Committee hereby directs Callida to:

- action the ‘red flag’ feedback we have provided below; and
- revert to the previous iteration of ‘overall findings’ and recommendations contained in the draft final report for the IBAC audit and document any feedback received from the agency during the procedural process separately, ensuring that it is clearly attributed to the agency, unless Callida can provide a persuasive and evidence-based explanation as to why the recommendations should change, on a case-by-case basis.

The Committee’s position is that:

- the structure and character of the report, particularly where it relates to the language and substance of Callida’s overall findings (re-named ‘Overall observations’) and recommendations, should not – without clear, independent justification from Callida – be changed. If the revisions to the recommendations in the latest iteration of the final audit report represent Callida’s own opinions and findings in response to feedback received from IBAC during the procedural fairness process, Callida **must** provide a clear explanation as to why such revisions are appropriate, by reference to supporting evidence in the report;
- Callida’s ‘key findings’ and ‘overall conclusion(s)’ should not be re-named ‘observations’; and
- where the report has been updated to any include a line of argument, qualification or paraphrased or verbatim text provided by IBAC during the procedural fairness process, it **must** be clearly attributed to the agency—for example, the tracked additions to pp. 6, 24, 30, 40, 46, 119–121, 123–124.

For certainty, the Committee will not be in a position to approve the report if the above instructions (also noting the red flag items below) are not actioned in their entirety.

Last, we request that Callida complete this work by COB tomorrow Friday 7 October 2022.

Regards,

Dustin Halse
State Member for Ringwood
Victorian Legislative Assembly

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This office is located on the land of the Kulin Nations. I respectfully recognise Elders past, present and emerging. I also acknowledge the Traditional Custodians of lands across Australia, their Elders, Ancestors, cultures and heritage.

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1. All references to funding that have been added to the latest iteration of the final audit report in response to IBAC's feedback during the procedural fairness process **must** be clearly identified as the opinion/comments of the agency.
2. All references to funding which represent Callida's own opinions **must** contain appropriate nuance (as done in the VI report) and **must** be supported by evidence contained in the report.
3. Re references to funding (throughout)—Callida is instructed to delete:
 - references to funding in all recommendations
 - references to the Government
 - p. 6—the sentence 'It was noted that IBAC did not receive any increase to its recurrent funding throughout the audit period.'
 - p. 7—the sentence 'This has been exacerbated by the short-term nature of some of IBAC's funding.'
 - p. 8—the partial sentence 'due to a lack of resources and an increasing workload'
4. p. 19, Four-year period covered in the audit—Callida is instructed to delete the sentence 'It is not a requirement of the IBAC Act.'
5. p. 19—Callida is to make unequivocally clear that the tracked two additional paragraphs that have been added under the heading 'Access to information' commencing, 'In May 2021 (including the bullet-point list) and, 'Due to such legislative impediments ...', are the opinion of the agency.
6. p. 20, section 1.5 (Support provided by IBAC)—Callida is instructed to delete the heading and information contained therein. IBAC has been provided with an opportunity to make such comments during the procedural fairness process. If IBAC has done so, they **must** be clearly identified as the opinion of the agency.
7. pp. 20—Callida is instructed to delete the sentence 'For future audits, it would be prudent for the Parliament of Victoria to seek formal legal advice to clarify the legality of any performance auditor to access operational information'. Callida is instructed to replace this sentence with a suggestion that the IBAC and VI Acts are amended to unequivocally empower the auditor to obtain and utilise the agencies' operational and related information to the extent necessary to conduct the audits.
8. p. 46—Callida is instructed to delete the sentence 'The government provided no additional funding for these tasks, which took resources away from BAU activities.' IBAC has been provided with an opportunity to make such comments during the procedural fairness process. If IBAC has done so, they **must** be clearly identified as the opinion of the agency.
9. Appendix H (Limitation – Access to information)—Callida is instructed to include this information in the final audit report (it was deleted from the latest iteration). IBAC has been provided with an opportunity to make comments on Appendix H during the procedural fairness process. If IBAC has done so, they **must** be clearly identified as the opinion of the agency.

Callida is instructed to make the following changes to Appendix H:

- ‘Access to information’—refine the recommendation that Parliament obtain legal advice, to suggest that the IBAC and VI Acts are amended to unequivocally empower the auditor to obtain and utilise the agencies’ operational and related information to the extent necessary to conduct the audits
- Content re instructions regarding information requests dated 13 May 2022—the commentary provided in this section of Appendix H is incorrect. The Subcommittee issued instructions to Callida to ensure it obtained the required information to obtain a reasonable level of assurance, as opposed to only any relevant minutes, as follows:

Callida is to make a formal and final request to the agencies for information within the scope of the audit criteria that it is yet to receive, on the basis that it has received legal advice indicating that Callida’s appointment, as well as its ability to handle information of an operative or confidential nature, are, respectively, valid and authorised. The request can be limited to types or classes of documents and information necessary to achieve a reasonable assurance standard for audit criteria, as opposed to *all* outstanding information not provided by the agencies. Such documents are to be provided by a select date, in a confidential manner. To the extent the agencies are unwilling to accede to any directions from the auditor, they are to provide their reasons in formal correspondence to the auditor.

Callida is instructed to refine the sentence – ‘On 13 May 2022, the Integrity and Oversight Audit Subcommittee instructed Callida to issue IBAC with an information gathering notice under Part 7 of the Audit Act, requesting that IBAC provide Callida with access to the committee meeting minutes’ – as follows:

On 13 May 2022, the Integrity and Oversight Audit Subcommittee instructed Callida to issue IBAC with an information gathering notice under Part 7 of the Audit Act, requesting that IBAC provide Callida with access to requested information necessary to obtain a reasonable level of assurance.

- ‘Management of agency’—the Subcommittee appreciates that IBAC’s approach to providing operational information presented much difficulty in terms of Callida’s ability to conduct the audit as first envisaged. However, as is, the immediately below analysis presents a tension in that, although IBAC eventually provided the requested information, Callida was still unable to provide a reasonable level of assurance. Callida is instructed to refine the following sentences to reflect this feedback:

It is acknowledged that IBAC has ultimately provided Callida with access to the requested information. However, the circumstances under which access has been provided has impacted Callida’s ability to conduct the audit effectively and efficiently.

Prior to receiving access to the committee meeting minutes (and other information which was considered by IBAC to be protected documents), Callida’s understanding of IBAC was impaired.

Did IBAC provide Callida with access to everything requested (whether in the information requests or more generally)? Various minutes from Callida’s meetings with the IOC indicates this was not the case. The final reports also indicate Callida did not obtain access to everything it requested during the audit. As such, Callida is instructed to refine the above sentences as follows:

Prior to receiving access to the agency committee meeting minutes (and other information which was considered by IBAC to be protected documents), Callida’s understanding of IBAC

was impaired in part. It is acknowledged that IBAC did not provide Callida with access to all of the requested information. In addition, the circumstances under which access was provided impacted Callida's ability to conduct the audit effectively and efficiently.

- Callida is instructed to delete the sentence, 'For future audits, it would be prudent for the Parliament of Victoria to seek formal legal advice to clarify the legality of any appointed performance auditor to access operational information for the purposes of conducting the performance audit in accordance with the Audit Act and relevant legislation.' Callida is instructed to replace this sentence with a suggestion that the IBAC and VI Acts are amended to unequivocally empower the auditor to obtain and utilise the agencies' operational and related information to the extent necessary to conduct the audits.