

TRANSCRIPT

INTEGRITY AND OVERSIGHT COMMITTEE

Performance of Victorian Integrity Agencies, 2017/18–2018/19

Melbourne—Monday, 17 August 2020

MEMBERS

Mr Steve McGhie—Chair

Mr Brad Rowswell—Deputy Chair

Mr Stuart Grimley

Mr Dustin Halse

Ms Harriet Shing

Mr Jackson Taylor

Hon Kim Wells

WITNESSES

Ms Deborah Glass OBE, Ombudsman,

Ms Megan Philpot, Deputy Ombudsman, and

Dr Marija Maher, Chief Operating Officer, Victorian Ombudsman.

The CHAIR: Welcome to Ms Deborah Glass OBE, Victorian Ombudsman; Ms Megan Philpot, Deputy Ombudsman; and Dr Marija Maher, Chief Operating Officer, from the Victorian Ombudsman's office.

I declare open the hearing for the Integrity and Oversight Committee's inquiry into the annual reports of the Victorian Ombudsman. I also acknowledge my colleagues participating today. I would like to begin this hearing by respectfully acknowledging the Aboriginal peoples, the traditional custodians of the various lands each of us is gathered on today, and pay my respects to their ancestors, elders and families.

To the witnesses: all evidence taken by this committee is protected by parliamentary privilege. You are protected against any action for what you say here today, but if you repeat the same things anywhere else, including on social media, those comments will not be protected by this privilege. Any deliberately false evidence or misleading the committee may be considered a contempt of Parliament. All evidence given today is being recorded by Hansard and is being livestreamed on the Parliament's website. You will be provided with a proof version of the transcript for you to check as soon as it is available. Verified transcripts will be placed on the Committee's website. Broadcasting or recording of this hearing by anyone other than Hansard is not permitted.

I welcome Ms Glass, the Victorian Ombudsman. We welcome you for your opening comments for 5 to 10 minutes, which will be followed by questions from the Committee. If you could please mute your microphones when not speaking to minimise interference and switch your mobile phones to silent, and if anyone has technical difficulties, please disconnect and contact the Committee Manager, Sean Coley. I believe you have got Sean's contact details. So over to you, Ms Glass. Thank you.

Ms GLASS: Thank you for the invitation to speak to you today. You have an important job, overseeing my office, among others, and I welcome your scrutiny. Annual reports are documents of record and a key reflection of my accountability to Parliament and the people. My office puts in quite some effort to ensure our reports are also informative and interesting, so when I received the Committee's detailed questions earlier this year it was particularly gratifying to see you had read them so carefully. The last two years have seen much activity, which I regard as business as usual within my office, but also preparation for change, as integrity legislation passed by Parliament last year conferred new functions and powers.

Let me briefly address both. I said in my 2018 report it has become trite to say it has been another busy year at the Ombudsman's office. I am now over halfway through my 10-year term, and the job has always been busy, which clearly shows in the numbers. My office deals with over 40 000 approaches each year. In the last two years complaints within jurisdiction have increased by 20 per cent, referrals from IBAC have doubled. Our total number of enquiries and investigations continues to increase. Numbers are of course only part of the story. A major systemic investigation, such as the one into State Trustees, counts as one but can take 18 months and result in significant and lasting change.

It has also been gratifying to see the extent to which the Ombudsman has become the State's independent investigator, as evidenced by four referrals from Parliament in recent years and one from a department into the historic sex abuse at Puffing Billy. My office has had the powers of a standing royal commission since 1973, and we investigate at a fraction of the cost of a royal commission, so it was good to see those powers being put to use.

Turning to other developments, the Act that created this committee also gave my office new functions and powers. The last year in particular has been exceptionally busy preparing for those changes, to understand what we must do, such as deal with more matters referred by IBAC and improve our finance capability in readiness for budget independence, and what we can do, such as use our new, modern, preventative-style functions and powers, such as education, complaints review and conciliation.

Against that background, my funding is also a recurrent theme in my annual reports. My office has never had ongoing sustainable funding, usually relying year-on-year on top-up funding from the Department of Premier and Cabinet. With the latest legislative reforms, as of 1 July this year I have budget independence—a very good thing in principle; not such a good thing if it is not accompanied by the funding required to do the job. Integrity agencies should be above and seen to be above the politics of the day. I would hope that being funded to do the job expected by Parliament should not be a matter for annual negotiation.

Legislative change and funding certainty are still needed, and the new legislation presents some exciting opportunities for my office's engagement with the public and the public sector. We have a new education function, where I would like to extend our current offerings. I would like to broaden our contact with communities, especially across regional Victoria, and those who have most need of our services—usually those who have heard of us the least. We have a new complaints review function where I would like to establish a program that will help agencies deal with complaints better themselves to be more responsive to the public they serve. And we have new alternative dispute resolution powers, including conciliation and mediation, putting more tools in the Ombudsman's armoury and bringing the *Ombudsman Act* into the 21st century. I look forward to being able to use them.

One of your functions is of course to examine my reports, and I hope we can have a conversation about the key learnings from my investigations and the impact of my recommendations, but I suspect that is for another day. In the meantime, I welcome this hearing and I welcome your questions.

Ms SHING: You were not kidding when you said it was going to be brief.

Ms GLASS: You said 5 to 10 minutes, and I take that literally.

The CHAIR: Thanks, Ms Glass. I will just extend to the Committee members that due to running out of time and a few members asking questions in the previous hearing, maybe we will just go around the table for one question each, and then if we have got more time, then members can ask further questions. So I will start again with Mr Rowswell.

Mr ROWSWELL: Thanks very much, Chair. Ombudsman, good to see you again. I agree with you: I think that your level of funding should be beyond political reproach and should not be subject to negotiation in a political environment year on year. My question is in relation to, however, the current environment that we all find ourselves in, being an annual request from your office for additional funding to undertake the important work of your office. Are you able to quantify the additional funding that you have requested through the budgetary process for the Committee for this next budgetary period?

Ms GLASS: I have put in a bid, as many agencies have done, for the current financial year. I understand that the numbers are supposedly treated as cabinet in confidence. As I say, it is information that is available. I would have to take it on notice as to whether it is appropriate to share it in a public forum, but certainly the work has been done. I did happen to listen to the Committee in the previous session, and my situation in terms of numbers is somewhat different from IBAC's in that my office has actually never had sustainable funding. I have almost every year run a deficit. So I look at their situation and I think, 'Well, actually they're rather well off by comparison.'

Mr ROWSWELL: For the Committee's purposes it would be good just to have a benchmark figure so then when the Budget is announced we can then go back and see to what degree that has been responded.

Ms GLASS: The difficulty, Mr Rowswell, with a benchmark figure is that in the last financial year I did not receive the funding I needed to do the job, so I did say in my annual report that I was going to run a deficit. So the question of the benchmark is: Would that benchmark be against the amount I was originally allocated in the 2019/20 Budget or the amount I finally received? This is the problem that I have had year on year. Eventually, I generally get the money or most of the money I need to run the office, but because it is never provided on a sustainable basis—and I am talking about not only the entire six years I have been in the role but many, many years before that—it means that I cannot plan and I cannot invest. So the difficulty is that even if you get it eventually you do not actually have the ability to make the kind of sustainable investment, for example, in technology and systems that you need to be able to do to run a really efficient office.

Mr ROWSWELL: I am grateful for you taking it on notice, Ombudsman. Thank you.

Ms GLASS: Thank you.

The CHAIR: Ms Shing. You are on mute.

Ms SHING: That is probably a relief for everyone. I am in fact going to extend—

Mr WELLS: Can't someone else from the Labor Party ask the questions? Chair, I am sorry—I am sure there is someone else in the Labor Party that can ask questions.

Ms SHING: Sorry, Mr Wells, I think that—

The CHAIR: Mr Wells, I did explain that we would go around the table for one question for everyone and then if we had time we would come back. So let us just move on. Ms Shing.

Ms SHING: Mr Wells, literally what I was in the process of saying was that I was very happy to defer to somebody else given that I had an abundance of time in the last hearing. Thank you for attending, Ombudsman. Thank you for attending, Dr Maher.

The CHAIR: Thanks, Ms Shing. Mr Wells.

Mr WELLS: Ombudsman, thank you. Just a couple of very quick questions: in regard to your deficit, are you relying on DPC to top that up; and we are just obviously very concerned—if the Government is not able to make it a sustainable budget or a budget of independence, then will there be enough funding to properly investigate the Labor branch-stacking allegations?

Ms GLASS: In answer to the first part of your question, I did receive the amount to cover the deficit by way of a Treasurer's advance just after the end of the financial year, and that came from the Department of Justice, who took responsibility after the departure of the Special Minister of State.

In relation to the referral from Parliament, I have always taken the view that referrals from Parliament are above and beyond the regular work of my office, and I do not attempt to absorb them into the work of the day. I mean, I have never had the budget to be able to accommodate major investigations of that sort without additional funding. As I have done in previous parliamentary referrals, I will do what is necessary to resource those investigations. I think they are matters that I must investigate under my legislation, and I will send the bill to Parliament, which is effectively what you would expect. So I do not expect it to compromise my ability to carry out an investigation.

Mr WELLS: Thank you.

The CHAIR: Thanks, Ms Glass and Mr Wells. Mr Taylor.

Mr TAYLOR: Thank you, Chair, and thank you to the Ombudsman as well for your time today. I have not got any questions at the current time, Chair.

The CHAIR: Thanks, Mr Taylor. Mr Halse.

Mr HALSE: Ombudsman, you have identified the need to increase public awareness of the role of your office. How are you seeking to raise awareness of your role among those that come from vulnerable cohorts of Victorians—those that might not have access to technological means or those from, for example, the Aboriginal community in Victoria?

Ms GLASS: Those are really important questions, Mr Halse, and thank you for that question. One of the challenges of my funding position, I am afraid, is that I am not funded—never have been in fact—to do community engagement, to do education or to do prevention work. I do not have a department that deals with those. I would like to, so it is part of the bid that I put forward, because it is only through the changes in the legislation that have come into effect on 1 January this year that it is now in my Act. And on the back of that I have put forward a bid for a relatively modest amount to be able to do that kind of work. So the difficulty is that, you know, I cannot give you a direct answer to that question because actually at the moment I do not really have the capacity to make that happen, but there are a number of initiatives that I would be very keen to be able to do—to be able to do outreach work.

Let me give you an example. One of the things that we have started discussing is working through community legal centres around Victoria, because we are never going to have the resources to have bricks and mortar around Victoria to run many offices and to go into disadvantaged communities. But, what I hope to be able to do, is put some modest resource into leveraging our existing work to go to community legal centres around Victoria and work with their disadvantaged clients in particular—and to work with financial counsellors. So there are a number of initiatives that I would be keen to see us pursue, and that is really just a taste of it. Some of it involves better use of technology, but you are absolutely right, when you are talking about the most disadvantaged, they do not have access to the internet a lot of the time: such as some people with disability—a really important area. Aboriginal communities—again, a really important area and something we are very keen to explore as we develop our RAP programs. So, I am very happy to share this further with you, but I do have to put down a marker that this is exactly the kind of area that is very dependent on getting the resources I need to do the job.

The CHAIR: Thank you, Ms Glass and Mr Halse. I do not believe Mr Grimley is online, so I will go around again. Mr Rowswell, have you got further questions?

Mr ROWSWELL: Thanks, Chair. Ombudsman, in a recent letter from the Committee we attempted to make a helpful suggestion to you and your organisation, being that, in place of commencing new inquiries, it might be valuable to go back through earlier inquiries that have been undertaken by you and your office and to see if the recommendations from those investigations have in fact been implemented to the full. Have you or your office considered that recommendation, and do you have a view on it?

Ms GLASS: Well, I hope I have beaten you to that, in fact, Mr Rowswell, because I tabled my report on recommendations, my third report in fact, on 30 June, and it does, I hope, precisely what you are suggesting—that I look at the impact of the recommendations I have made in the reports I have tabled in the previous two years and where there are gaps.

I think probably the most striking example of that is the investigation I did into WorkSafe, where of course I tabled a report back in 2016. I monitored those recommendations, but I continued to receive large numbers of complaints. The result of that was that I did a second investigation into the workers compensation scheme, which was tabled in December of last year. Now, I have noted in my report in June that those recommendations have been accepted. There were significant systemic reform recommendations. They are not going to show results immediately, but I am very committed to following up and to ensuring that, I hope, I do not have to investigate this a third time.

The CHAIR: Thank you, Ms Glass. Ms Shing?

Ms SHING: Thank you very much. I am very keen to see the work of the Ombudsman continue around positive engagement and education, particularly given that there is often an area of ambiguity around the way in which different jurisdictions operate. I am keen to explore the level of cooperation that has been generated through the work of your office, along with other agencies who have an overlap of jurisdiction, and the extent to which that has been refined or perhaps improved with practice and over time.

Ms GLASS: Thank you for that question, Ms Shing. It is an area that I am very keen to develop further. As I said, I have only had an education function since January, although in fact I have had a very small education team in my office for a couple of years now. Again, without the funding, we operate essentially on a self-funded basis. If your question is around how we currently do it, maybe I can invite Dr Maher, in my office, who is my Chief Operating Officer, and who is responsible for, among other things, the education area, to give a bit of a picture of how that—

Ms SHING: Thank you, that would be great. Thanks, Dr Maher. Hello.

Dr MAHER: Hello. How are you? I managed to unmute myself. Think if we all had a dollar for every time we said something to each other about muting and unmuting.

To the Ombudsman's point, our education function has really grown organically over the last two or three years, and it really was in that proactive approach of trying to identify prevention over treatment. Connecting this question to the previous question around our engagement in general, one of the most pleasing things that we have seen—pre-COVID—has been our attempt to actually grow into regional Victoria, not just advertising

our education programs and expecting agencies to send staff to 570 Bourke Street. So the change that we have seen, which is a really pleasing trend, is where agencies are increasingly coming to us and asking for a contextualised and customised version of our standard content that we would deliver using their settings, their issues, their examples and very much tailoring those to their staff. So we have seen more and more a kind of shift to agency delivery as opposed to delivery to an individual and, as I said, the really pleasing trend before COVID was us actually going to regional Victoria, be that visiting a particular agency or just advertising, 'We are in Greater Shepparton between these and these dates', and then hosting a hub for all kinds of public sector agencies to join.

Since COVID, we have really had to move very, very quickly to find out where our new feet are and what that looks like, what that delivery looks like, post COVID. The saddest thing for us is, because we are so constrained in our resourcing, it has been a real challenge to try to think about it without the appropriate level of expertise. What does that translation of face-to-face delivery look like online? So what we have done is very much be cognisant of our reputation and the way we have delivered those programs—just how strong that is in the public sector. Just to give you a sense, our satisfaction rates are in the high 80s to low 90s for every single content delivery, and you never want to compromise that. Attendance rates are really high.

So what we have done is a deliberate attempt to continuously fly the flag and put in these seeds of what best practice looks like. Specifically how we have done that is by doing very short, sharp webinars. I think we can all attest to just how hard it is to stay engaged if you are involved in any form of online content delivery for a long period of time. So they are very short with a few little quizzes and really trying to capitalise on having a very diverse audience in it for them to actually benefit from a joint collaboration. However, that really will not be sustainable as a model if the COVID situation prolongs, and for us the critical outcome is to see if we can be in a position—as a result of the budget outcomes and beyond—just to really get it done properly in a way that, irrespective of whether or not delivery is face to face or online, we have a really strong product, for a lack of a better word, that the whole of the public sector can engage with.

Ms GLASS: I would just add, Ms Shing, in relation to that, in terms of collaboration, it is an area I would really be keen to see us expand. We already do quite a bit of work with IBAC informally on public sector messaging. And we do some work, for example, regularly with IBAC and the Local Government Inspectorate, where there is a huge amount of confusion as to who is responsible for what—so trying to explain both to the public sector and to the public where you go if you have got an issue involving local government, for instance. So it is an area that we do get involved in, but I also think there is a lot of opportunity for really working together more, you know, once we have clear funding assigned in this area. It is something that I would be very keen to see us grow.

Ms SHING: Do you think that clarity in funding, to the extent that it is achieved, would result in efficiencies around the way in which various agencies operate, given that grey, woolly area that often exists between where people go if they have got questions or wish to make a complaint?

Ms GLASS: Yes. Absolutely. And I think we already do that in fact. I mean, there is a lot of work behind the scenes to make sure that particularly as far as the public is concerned—

The whole complaints process, the landscape, is so fragmented and confusing. It is nobody's fault, but where do you go if you have got a problem? So it has been in my vision for years now that even though we cannot make the system fundamentally less complex, we actually make it easier for the people to come into it. And we have been able to do that even at the moment with our new website. I would invite the Committee in fact to get onto the Ombudsman's website, because we did relaunch it just a couple of months ago, and it has actually won an award for—

Ms SHING: It is much easier to navigate now than the previous version, I will tell you that much.

Ms GLASS: I am delighted, Ms Shing, that you have actually been on and had a look.

Ms SHING: I have had a bit of time on my hands.

Ms GLASS: That is wonderful. One of the things that we are working on, again with some modest technological investment, is to be able to build in efficiencies that improve the work of my office and vastly

improve our accessibility for the public and our ability to deliver the kind of service that you would expect of us.

Ms SHING: Thank you very much for that. Appreciate it.

The CHAIR: Thanks, Ms Glass. I should make mention that Ms Megan Philpot has been unable to log on. She has had some difficulty with that. That is unfortunate. Mr Wells, over to you.

Mr WELLS: I had a question for her. Okay. I will ask my question to the Ombudsman again. Ombudsman, you mentioned in your presentation that the number of IBAC referrals to you have increased. Is there a specific reason for that? I certainly hope it is not one of resourcing. And also, has the number of referrals from the Ombudsman, if any, increased or decreased going back to IBAC, or does it not work as clearly as that?

Ms GLASS: If it is specific numbers you are looking for, I would have to take that on notice, but in terms of the broad sense of it the increase is down to a number of factors. One of them is that the threshold is lower, and that is a change to the legislation. So we get involved more often. I think levels of awareness have grown. IBAC has done a lot of work around corruption-prevention awareness. They act of course as a clearing house for public interest disclosure matters. As the awareness grows and as the threshold lowers, inevitably you are going to get a higher volume of workload, and I think that is broadly what we are seeing. I do not think it is because the public sector has got notably worse; I think it is simply because more is under scrutiny.

Mr WELLS: So there would be never an accusation of it being an issue of resourcing or lack of resourcing when one complaint is being passed from IBAC to the Ombudsman?

Ms GLASS: I am not sure I understand the question. A public interest disclosure could come into the system anywhere, including my office. So the way it would work would be, if something comes into us, we would assess it as a potential public interest disclosure. We send it to IBAC, who acts of course as the clearing house. If it does not meet their threshold, they will send it back to me.

Mr WELLS: Yes.

Ms GLASS: And at that point I need to deal with it. I have more flexibility than I had a few years ago, but that is the kind of work that I cannot simply hand back. You know, I have to do something with it.

Mr WELLS: Okay. Thanks.

The CHAIR: Thanks, Ms Glass. Ms Glass, I have got a question for you, and that is to do with the delivery of joint investigations and how that is determined between the agencies and I suppose the parameters, criteria and whether there is any training that evolves out of that between the agencies to conduct those joint investigations.

Ms GLASS: Look, I think this is not something that we have a vast experience of. I mean, clearly we have announced our first-ever joint investigation relatively recently. When I first put that into my draft plan I was not anticipating that would happen. Leaving aside a referral from Parliament, there are a number of areas where IBAC and my office could carry out joint investigations. Again, we would have to be really selective in terms of the sort of cases—it is an important issue—because what we need to determine with these is: Whose powers are we using? My office and IBAC's office operate slightly different sets of powers, jurisdictions and others, so you need to be extremely careful and pretty meticulous about how you carry out that work. So the training is likely to be on the job as we do those, but what it does is ensure that each agency will develop a much better, and I think very productive, understanding of each other's powers and processes, which has to be good fundamentally for the integrity system.

The CHAIR: Thank you. I did say earlier that Ms Megan Philpot was unable to log on, but I believe she has just been able to.

Ms GLASS: I can see her there, and I might even invite her to add to that answer.

The CHAIR: Sure, by all means.

Ms PHILPOT: Please excuse me. I apologise. I was sent a fresh link and it has worked. So, Deborah, I did not catch the last bit of what you were saying, I apologise.

Ms GLASS: Is there something in the question that you would like to repeat, Mr McGhie, or are you satisfied?

The CHAIR: The question was about joint investigations and I suppose the parameters and criteria around how the agencies work together on joint investigations and whether there was also any training that would be required between the two agencies to conduct those types of investigations.

Ms PHILPOT: Yes, thank you, Chair. I mean, obviously if there is going to be a joint investigation, there does need to be training. The Ombudsman necessarily looks at broader issues and systemic issues than IBAC in certain circumstances. The provisions in the legislation, particularly in the IBAC legislation, do allow for joint investigations; it is a little trickier under the *Ombudsman Act*. But certainly our last experience with the joint parliamentary referral, as we call it, investigation—the branch stacking—has shown that we can do it together, even though it is quite a technical process in terms of making sure we share information, and also issues around claiming privilege can be a little bit of a barrier, but we are certainly moving towards that and we are sharing significantly more data with each other.

The CHAIR: Great. Thank you very much. Mr Taylor, any questions from you?

Mr TAYLOR: No, Chair. Thank you.

The CHAIR: Mr Halse?

Mr HALSE: No, Chair. Thank you.

The CHAIR: Thank you. Any other Committee members with any further questions?

Ms SHING: Can I ask a question if I do have the indulgence of the Committee. I am keen to understand a little bit more about the way in which the Ombudsman and the office can work with people from culturally and linguistically diverse backgrounds. I know that often in stakeholder engagement and community-based work there are significant cultural barriers to understanding how people can pursue a complaints-based mechanism for investigation or resolution of an issue that they may wish to escalate. What is your experience, I suppose I am asking, in addressing those sorts of additional challenges? It is similar to what Mr Halse asked.

Ms GLASS: Now, look, I think it is an incredibly important area, and let me give you an immediate example of how I am doing that. You will be aware that I announced a couple of weeks ago an investigation into the lockdown of the public housing towers in Melbourne—clearly an area of significant public interest, and it would be hard to find a community that was more culturally and linguistically diverse than the inhabitants of those inner Melbourne towers. So it has been a really, I think, interesting test of how we approach this. It is what I was very mindful of. When I first saw it—as we all did, you know, I watched the news and saw people making complaints on the television—I thought to myself, ‘We can deal with these complaints, and they obviously do not know my office exists.’ Some of the frustration there was about: How do we get that message out? How do we communicate to people in those communities? The answer is never going to be easy, but it is fundamentally through intermediaries: through the community legal centres, where we will engage very directly; through community advocates; through being on the ground, getting the word out. It is something that we are actively pursuing, but I am not going to pretend this is easy. As for everybody, this is incredibly challenging. Yes, we have interpreter services; people can make complaints in any language. But do they know? So it will always be a work in progress.

If I stay on the public housing theme, we have, for example, just in the last month developed a public housing leaflet translated into—I am not sure how many languages. Marija, I do not know whether you—

Ms PHILPOT: Twelve.

Ms GLASS: Twelve—thank you, Megan. So it is in 12 languages, and we are circulating it in those places where it will be needed. What I hope is that that will begin to have an impact. I do not expect it to change overnight, but people also need to see that there is a point in complaining. Then they will tell their friends and relations, and I hope that that also will have an impact.

Ms SHING: Thank you very much for that.

Ms PHILPOT: Just a point of interest, Ms Shing.

Ms SHING: Yes; thank you.

Ms PHILPOT: It is amazing how this scenario we find ourselves in makes us look at other ways of doing things. We have been holding Zoom meetings with some of the residents in the towers and have invited them to put in submissions either through Zoom or through their own mobile phone in their own language, and then we can get them translated. So we are trying to explore every mechanism possible to really try and connect. But it will always be an ongoing issue.

Ms SHING: Thank you. That is where I suppose the work of technology goes on to improve accessibility, particularly with those diverse cohorts.

Ms PHILPOT: That is for sure.

Ms SHING: Thank you very much. That is very helpful. Thanks, Chair.

The CHAIR: Thank you. I am mindful of the time, and I just want to thank you for presenting to the Committee and answering our questions on your agency's annual reports. Obviously if anything arises out of this hearing, we might write to you with some questions on notice. But again thank you for your time, Ms Glass, Dr Maher and Ms Philpot. We really appreciate it. I declare the public hearing closed, and I would ask that Hansard pause the recording. Thank you very much.

Witnesses withdrew.