

TRANSCRIPT

INTEGRITY AND OVERSIGHT COMMITTEE

Inquiry into the Education and Prevention Functions of Victoria's Integrity Agencies

Melbourne—Monday, 7 June 2021

(via videoconference)

MEMBERS

Mr Stephen McGhie—Chair

Mr Brad Rowswell—Deputy Chair

Mr Stuart Grimley

Mr Dustin Halse

Ms Harriet Shing

Mr Jackson Taylor

Hon Kim Wells

WITNESSES

Mr Eamonn Moran PSM QC, Inspector, and

Ms Cathy Cato, Executive Director, Legal and Integrity, Victorian Inspectorate.

The CHAIR: I declare open the public hearing for the Inquiry into the Education and Prevention Functions of Victoria's Integrity Agencies. I would like to welcome any members of the public watching the live broadcast. I also acknowledge my colleagues participating today, and of course I thank those who have provided apologies who cannot be here through this session.

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.

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 of the Committee may be considered a contempt of Parliament.

All evidence given today is being recorded by Hansard. You will be provided with a proof version of the transcript for you to check as soon as 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 the Victorian Inspector, Mr Eamonn Moran, and Ms Cathy Cato, Executive Director, Legal and Integrity. We welcome your opening comments for the first 5 to 10 minutes, which will be followed by questions from the Committee. So over to you, Inspector. And if you could just give your name, position and organisation. Thank you very much.

Mr MORAN: Thank you, Chair. My name is Eamonn Moran. I am the Inspector here at the Victorian Inspectorate. With me today is Cathy Cato, who is the Executive Director, Legal and Integrity, at the Inspectorate. Cathy and I of course will be pleased to respond to any questions that you may have at the end of this opening.

Thank you very much for the opportunity to appear today before the Committee on its Inquiry into the Education and Prevention Functions of Victoria's Integrity Agencies. I think a key initial point for me to make is that the Victorian Inspectorate, unlike the other agencies which are the subject of this inquiry, does not have a legislated education function, nor does it have a legislated prevention function such as IBAC has. Nor do we have jurisdiction and certainly not the funding to oversight the education functions of the Ombudsman and OVIC or, arguably, IBAC, nor to assess whether they meet best practice. But that said, we do believe that education has a valuable role to play, and further we see that helping prevent non-compliance by integrity bodies oversights by us and so bring about systemic improvements to the integrity system—we see that as a key performance objective of the VI, and achieving that objective leads to prevention of non-compliant conduct.

When the VI staff sat down a few years ago to agree on a new statement of vision, aspirations and values for the VI, among the aspirations agreed were the following. One:

The community knows to come to the VI to protect their rights

And two:

The VI is positively influencing the conduct of integrity bodies

I think those aspirations reflect the commitment of the VI to education and prevention activities and to the building of capacity across the integrity system. The finite resourcing we have must be applied to the pursuit of our core legislated functions, but education and prevention outcomes can result from that pursuit or from activities necessarily connected with that pursuit. So with functions across 11, and soon to be 12, bodies, we are not resourced to prioritise education and prevention activities independently of our legislated functions. Further, we are not seeking a legislated education and prevention function.

As a body required by statute to receive, notify, assess and, as necessary, investigate complaints and public interest disclosures relating to integrity bodies oversighted by us, we regard it as important that the community is aware of our existence and of our role. To that end we have updated the VI website to make it an informative resource for the public on the VI and its functions; we have given presentations at various public forums and connected with various groups; we have published reports of various kinds, which while primarily aimed at improving agency compliance also lead to education outcomes for community members, including a better understanding of their rights when interacting with integrity agencies; and we have worked collaboratively with IBAC and others on an inter-agency approach to public information on the public interest disclosure scheme and to ensuring a common understanding of the requirements of that scheme.

The VI annual plan sets out our Operations Model, and this provides a framework for our operational activities and introduces the concept of responding to identified issues through ‘integrity responses’. Integrity responses are determined in accordance with the VI’s *Integrity Response Guidelines*, which we published in June 2020, and those responses range broadly from public reports with recommendations through to informal liaison and stakeholder engagement, but they also include education programs. Where we discover an issue that is systemic and of relevance to other integrity bodies, we realise that an appropriate response may be for us to publish information, guidance or education material to inform others of the VI’s expectations and/or of best practice on the systemic issue. So while this approach is directed primarily to positively influencing the conduct of integrity bodies, it also serves the purpose of informing the public about the conduct that should be expected of these bodies.

Despite a recent increase in the VI’s FTE number, we are still a microscale body with macroscale functions. We need to direct our resources primarily to our mandatory functions, including investigations arising from public interest disclosures and the handling of complaints, and we take a risk-based approach to our other legislated functions in accordance with available resources. As mentioned, in doing so we can achieve education and prevention outcomes.

The VI is a unique body in Australia with oversight not only of an anti-corruption agency but also of a range of other bodies across the integrity system. While this broader purpose spreads our resources very thinly over the system, it offers us the advantage of being able to take a system-wide view. We can count our successes not only in how we assist individual stakeholders to improve how they operate but in how we can apply particular learnings to other stakeholders and to the integrity system in general.

To the extent allowed by our resourcing, the VI has sought to implement education-related recommendations made by this Committee in its December 2020 report *Inquiry into the performance of Victorian integrity agencies 2017/18–2018/19* and by the former Accountability and Oversight Committee for the Parliament in its November 2017 report *Inquiry into the education, training and communication initiatives of Victorian oversight agencies*. In its December 2020 report, this Committee recommended that the Victorian Government fund an ongoing communications and publishing officer position at the VI. We recently secured fixed-term funding effective from 1 July 2021 for a dedicated communications position, and we are currently in the process of recruiting to that position. This will greatly add to our prevention and education capacity.

In conclusion, we welcome the Committee’s Inquiry into the Education and Prevention Functions of Victoria’s Integrity Agencies. We see community education and the prevention of corrupt conduct and misconduct in integrity agencies as important outcomes to achieve. On our current funding and with our current broad functions we believe that we are positively contributing to these outcomes and can continue to do so under our current charter, which, as mentioned earlier, does not include a legislated education or prevention function. Mr Chair, those are my opening remarks.

The CHAIR: Thank you, Inspector. I will open it up to Committee members, if they wish to ask questions. Mr Rowsell.

Mr ROWSWELL: Thank you, Chair. Thank you, Inspector. It is good to see you and Ms Cato again. Inspector, I will be frank: I am very confused. You do not have a legislative requirement to educate. You say in your submission that you would not prioritise this function over other legislated functions:

In any event, we are not funded to undertake this assessment.

You say that in your written submission, and yet your very last paragraph in your submission says:

The VI has previously, and is currently seeking, funding to carry out education initiatives, as part of its general budget bid, so as to achieve the outcomes set out ...

in the paragraphs above. So what is it? Do you see the VI's role is one which could be involved in education or not at all?

Mr MORAN: Thank you, Mr Rowswell, for the question. We very much see that we have got functions to perform—mandatory functions that we must perform. We must do investigations into public interest complaints. We must deal generally with complaints. We have got an inspections role. We feel that along the way we can achieve a prevention function, and it is important that we educate the community that the VI is here and that they can come to us when they have a complaint about one of the integrity bodies. It is important too, we feel, that when we discover a systemic issue that we issue material that is system-wide and therefore educates the public about what to expect when interacting with an integrity agency. But we do not see education and prevention as a core function for us to pursue—it is something that we will achieve along the way when achieving all our other functions.

I think when I mentioned funding it really was purely in the context of this communications officer position, which we now have funding for from 1 July, and that will really help us to put out material about some of the education outcomes that can be achieved and help get the message out about the VI. But we feel we can do that without having a specific function.

In terms of what I mentioned, that we were not funded to oversight, I said we are not funded to oversight the education roles that these other bodies perform. We are very much an oversight body. We look at how they carry out their functions, you know, as a corruption prevention body or, in the Ombudsman's case, as a body that is there to investigate administrative mistakes or actions to look at. We are not specifically looking at whether they are conducting so many lectures or whatever in the community.

I do not know if Cathy has got anything to add to that.

Ms CATO: I think that covers it.

The CHAIR: Thank you. Mr Rowswell, do you have a follow-up?

Mr ROWSWELL: I am a little bit better informed now. So you do not see it as a core function—it is certainly not a legislated function and you are not asking for it to be a legislated function of the VI—but you now have funding to employ a communications officer that will largely undertake the education effect of your normal practice.

Mr MORAN: Yes, that is correct—provide information about the VI, yes.

Mr ROWSWELL: Thank you, Inspector. Thank you, Chair.

The CHAIR: Thanks, Mr Rowswell. Thanks, Inspector. Any further questions for the Inspector?

Mr HALSE: Yes, if I may.

The CHAIR: Yes, Mr Halse.

The CHAIR: Thank you, Inspector and Ms Cato, for appearing today. I just wanted to follow up on something that Mr Rowswell has mentioned. With the employment of a new communications position within the Inspectorate, what do you envision those outcomes to be from this new FTE position?

Mr MORAN: Well, in a broad way: to put out information about the Victorian Inspectorate and our role as a body that can receive complaints about IBAC, Ombudsman, various other bodies. We see that role, when we have identified an integrity response, as helping with an education piece. We can have this person write it up and promote it, and help get the message out around the integrity systems [Zoom dropout]. In broad terms that describes some of the things we see this person as doing.

Mr ROWSWELL: And if I may follow up, Chair, are there any models that you have looked at in terms of best practice in that space that might facilitate this position and the way in which this position is going to sit within the organisation?

Mr MORAN: Well, I think one of the challenges we have at the VI is that there is no other comparator body within Australia. Nobody else has got the same roles, functions. Other jurisdictions do have an oversight body for their anti-corruption body, but it is very much taking complaints, conducting investigations; they are not performing specifically an education function. But we have looked at it. We have advertised a position—it has just closed. We have a position description that is out there indicating what that person will do, and we hope we find someone suitable to take on the role, because the funding starts 1 July and it is limited-term funding.

The CHAIR: Thanks, Inspector.

Mr ROWSWELL: Just a follow-up question then: so the position that is being advertised in the communications role is funded on a limited term.

Mr MORAN: That is correct. At this stage—

Mr ROWSWELL: So what is the length of the term?

Mr MORAN: It is funded through to 30 June 2023, so it—

Mr ROWSWELL: Okay. So I assume that that is an opportunity for you to assess the efficacy of that role and to advocate its continuity, should it be worthwhile.

Mr MORAN: That is correct, Mr Rowswell. It gives us that opportunity. The other thing that we have been doing at the moment, too, is we are nearing the end of a base review, an independent base review of the Victorian Inspectorate, which will give us an overall picture of how best we can be set up to perform our role, and obviously the communications officer position is one of the things that we are looking at in the course of that.

The CHAIR: Thank you, Inspector. Thanks, Mr Rowswell. Any other questions from committee members? Mr Wells.

Mr WELLS: Inspector, is that base review being done by Treasury and Finance, and if so, when will that be completed?

Mr MORAN: Well, it is being done by an independent firm. Certainly we have had discussions with Treasury and Finance. It should be finished by the end of this month. That is what I am very keen to see.

Mr WELLS: So Treasury and Finance have oversight of that?

Mr MORAN: Look, I might ask Ms Cato to respond to that. She has been more directly involved.

Ms CATO: Thank you. Mr Wells, they are a key stakeholder in the base review and the conduct of the base review so are consulted with by the independent body that has been engaged to do that.

Mr WELLS: So who is that independent body?

Ms CATO: Ernst & Young.

The CHAIR: Any other questions from Committee members? I have just the one brief question, Inspector. In regard to the comms officer/publication officer role that you are recruiting for and the material you have had to, I suppose, produce, who are your primary targets that you would hope for that material to be distributed among?

Mr MORAN: Well, certainly insofar as telling people about the Victorian Inspectorate, it is the people who come into contact with the other integrity agencies in particular we would be looking at, to make sure that they know that we exist. We are also keen to ensure that various groups within the community—we reach out to various groups to make sure that they know. We are particularly interested in catching up with disadvantaged

groups to ensure they understand, that there is a body that they can come to when they have an issue with an integrity body as such. So we will be adopting a pretty broad approach.

Ms CATO: If I may add to that, Chair, we are also keen to engage with the legal fraternity to help ensure that those being represented across the integrity system have, you know, the best knowledge of really how the system works and have as much transparency as possible about when they are representing witnesses et cetera—what they might expect, for example, at coercive hearings and things like that. So we want our reach to go sort of across the integrity system and its representatives.

The CHAIR: Thank you very much. Yes, Mr Rowswell.

Mr ROWSWELL: Just one final question, if I may. So we have been speaking about more specifically the external-facing education that the VI would undertake. Can you give us a sense of the inward-facing education that you undertake with your own small staff grouping to ensure that they act with integrity and that they are aware of things that might get them into trouble or might be the wrong things to do?

Mr MORAN: Yes, certainly, Mr Rowswell. I mentioned about how we set about a few years ago devising a vision statement/aspirations. We very much talk about that all the time. One of the things we are most proud of is the People Matter survey results we have been getting over the last couple of years. They show such a positive workplace culture and such a strong sense of identification with integrity and recognising it within the VI. One of the things we have also been doing over the last few years is inviting in experienced people from outside who can take part in a seminar series that we have been having. So we have had people involved in a royal commission, for example, come in and talk about what is involved in that and the challenges in it. And I think that is important too, because the problem with an organisation like the VI is we can be very insular. So we have to make sure that we, you know, hear from people who have got something to contribute to the role that we play within the VI, and we have had a very active series going for the last two and a bit years.

Mr ROWSWELL: So your measures for success in terms of keeping your own staff and cohort aligned with values of integrity are a staff survey and access to external presentations and the like?

Mr MORAN: And plus the general discussions we have within the VI. I think everyone understands that we see ourselves very much as the model agency, because I firmly believe, you know, if you are living in a glasshouse you cannot throw stones. So we are very keen that we exhibit, in everything that we do, best practice.

Ms CATO: Deputy Chair, we also provide reasons for all of our decisions, so in terms of accountability and transparency, all of our complaint outcomes have detailed reasons to accompany them. We also have—for example, with the way we conduct our procurements—a strict conflict of interest policy. We sign conflict of interest declarations to ensure there are not any conflicts, and we do the same across our practice generally.

Mr ROWSWELL: Thank you.

The CHAIR: Thank you, Ms Cato. Thanks, Inspector. If there are no further questions—anything further? No. We are right on time. I thank you, Inspector, and Ms Cato for, firstly, providing a written submission and then of course for doing your oral submissions and answering the questions from our Committee members today. I really appreciate your time. There may be some questions on notice as an outcome of today that we will provide to you in writing as soon as we can for you to be able to respond to those. Again, I thank you for your time and your presentation. It was great to see you again. I declare this public hearing closed.

Mr MORAN: Thank you, Chair.

Witnesses withdrew.