

Response to the recommendations made to the Victorian Government by the Integrity and Oversight Committee in its report *Performance of the Victorian integrity agencies 2020/21: focus on witness welfare*

Background

The Victorian Government thanks the Integrity and Oversight Committee for its report and acknowledges the valuable work of the Committee in monitoring and reviewing the performance and functions of the Victorian Inspectorate, the Independent Broad-based Anti-Corruption Commission, the Office of the Victorian Information Commissioner, and the Victorian Ombudsman. The Victorian Government notes the importance of witness welfare for those involved in the integrity system.

Response

Eight of the Committee's recommendations were directed to government. The government's response to those recommendations is set out in the table below. The government notes that eight other recommendations were directed to the Independent Broad-based Anti-Corruption Commission, Victorian Inspectorate and Victorian Ombudsman.

| Committee recommendation | Government response |
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| <p>Recommendation 1 That the Victorian Government, following consultation with Independent Broad-based Anti-corruption Commission (IBAC) and the Victorian Inspectorate (VI) and helplines providing telephone and online mental health crisis support services, seek to amend the IBAC Act to permit a person who is subject to an IBAC confidentiality notice to disclose a restricted matter to a telephone or online helpline providing mental health crisis support services, for the purpose of seeking mental health crisis support in relation to the investigation in respect of which the confidentiality notice has been issued, unless IBAC directs that the restricted matter must not be disclosed in that circumstance.</p> | <p>The Victorian Government supports in principle the recommendation.</p> <p>Section 44(2)(f)(iii) of the <i>Independent Broad-based Anti-corruption Commission Act 2011</i> and s 39(2)(f)(iii) of the <i>Victorian Inspectorate Act 2011</i> permit disclosure to prescribed services. The <i>Independent Broad-based Anti-corruption Commission Regulations 2023</i> and <i>Victorian Inspectorate Regulations 2023</i> have been made to permit persons subject to a confidentiality notice to disclose restricted matters to a prescribed support services such as Beyond Blue or Headspace. Therefore legislative reform is not necessary to give effect to this recommendation.</p> |
| <p>Recommendation 2 That the Victorian Government, following consultation with IBAC and the VI, seek to amend the IBAC Act to require IBAC to:</p> <ul style="list-style-type: none"> develop procedural guidelines relating to the requirements for holding public examinations, including the assessment of the mandatory criteria in s 117(1)(a)-(d) of the IBAC Act, and, in particular, guidance on what may constitute 'unreasonable damage to a person's reputation, safety or wellbeing'; and provide in its written report under s 117(5)(b) of the IBAC Act to the VI giving reasons for its decision to hold a public examination information about its compliance with those procedural guidelines. | <p>The Victorian Government supports in principle these recommendations.</p> <p>IBAC is in the process of developing, in consultation with the Victorian Inspectorate, guidelines on the requirements for holding public examinations, including the assessment of the mandatory criteria in s 117(1)(a)-(d). These guidelines will be published on IBAC's website. Following consultation with IBAC and the Victorian Inspectorate, the government does not consider that legislative amendment is necessary to give effect to the intent of these recommendations.</p> |
| <p>Recommendation 3 That the Victorian Government, following consultation with IBAC and the VI, seek to amend s 40A of the VI Act to require the VI to develop procedural guidelines relating to its review of IBAC's written report to the VI giving reasons for its decision to hold a public examination, including for its assessment of IBAC's compliance with the mandatory criteria in s 117(1)(a)-(d) of the IBAC Act (and, in particular, guidance on what may constitute 'unreasonable damage to a person's reputation, safety or wellbeing').</p> | |
| <p>Recommendation 4 That the Victorian Government, following consultation with IBAC and the VI, seek to amend the IBAC Act to require IBAC to include in a special report tabled under s 162 of the IBAC Act, on an investigation in which public examinations were held, information setting out, in general terms, the Commissioner's decision to hold public examinations in the investigation:</p> <ul style="list-style-type: none"> addressing the mandatory criteria in s 117(1)(a)-(d) of the IBAC Act; and providing a description of the exceptional circumstances that led to the public interest in them and the consideration given to risks that any person's reputation would be damaged. | <p>This recommendation is under review.</p> <p>This recommendation is subject to further consultation with IBAC and the Victorian Inspectorate to determine the operational effect of including such matters in a special report.</p> |
| <p>Recommendation 10 That the Victorian Government, in consultation with the VI, develop a Budget Paper No. 3 timeliness performance measure for the VI's assessment of complaints, taking into account the VI's size and variations in the complexity of complaints received.</p> | <p>The Victorian Government supports in principle the recommendation.</p> <p>The Victorian Government notes that two new timeliness performance measures were introduced for the VI in the 2022-23 State Budget. This includes measures in relation to acknowledging the receipt of new complaints and completing standard investigations. The Victorian Government will continue to work with the VI to ensure</p> |



| Committee recommendation | Government response |
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| | that its BP3 performance measures provide an appropriate benchmark for the timeliness of its complaint handling processes. |
| Recommendation 14 That the Victorian Government examine whether amendment of s 26FC(1) of the Ombudsman Act is warranted to permit the VO to make, in the public interest, broader disclosures of the public information received or obtained in the course of the VO's performance of duties or functions or the exercise of powers under the Act. | The Victorian Government supports in full the recommendation. The Victorian Government will examine the merits of the amendment in consultation with the Victorian Ombudsman and other stakeholders. |
| Recommendation 15 That the Victorian Government examine the merits of legislative amendments authorising the VO to investigate all kinds of improper conduct, as defined in the PID Act, alleged in public interest complaints referred to the VO by the IBAC. | The Victorian Government supports in full the recommendation. The Victorian Government will examine the merits of the amendment in consultation with the Victorian Ombudsman and other stakeholders. |
| Recommendation 16 That the Victorian Government examine the merits of amending Part IIIAC of the Ombudsman Act to give the VO a discretion to attempt to resolve public interest complaints by alternative dispute resolution (including conciliation and mediation). | The Victorian Government supports in full the recommendation. The Victorian Government will examine the merits of the amendment in consultation with the Victorian Ombudsman and other stakeholders. |