

# **ombudsman** VICTORIAN

**Investigation into allegations of improper  
procurement of services by the Department  
of Education and Early Childhood Development**

**March 2014**

**Ombudsman Act 1973**

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# Letter to the Legislative Council and the Legislative Assembly

To

**The Honourable the President of the Legislative Council**

and

**The Honourable the Speaker of the Legislative Assembly**

Pursuant to sections 25 and 25AA of the *Ombudsman Act 1973*, I present to Parliament my report into an *Investigation into allegations of improper procurement of services by the Department of Education and Early Childhood Development*.



G E Brouwer

**OMBUDSMAN**

26 March 2014

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# Background

## Introduction

1. On 4 October 2013 I received a complaint from Mr Steve Herbert MP<sup>1</sup>, requesting that I investigate the engagement of Ms Marianne Lourey, Director of ACIL Allen Consulting (ACIL Allen)<sup>2</sup> by the Department of Education and Early Childhood Development (the department).
2. Mr Herbert said that Ms Lourey's engagement to lead the TAFE Transition Taskforce may have been inappropriate because:
  - the Secretary of the Department, Richard Bolt and Ms Lourey had a previous working relationship that was not disclosed
  - Ms Lourey had no experience in the TAFE sector
  - Ms Lourey's initial contract, worth \$517,000, had been entered into without a tender process, and that subsequent variations to the contract had increased its value to a total of \$999,386
  - Ms Lourey's business interest may conflict with her role on the TAFE Transition Taskforce.
3. On 23 October 2013, I received a subsequent letter from Mr Herbert in which he raised further concerns that Ms Lourey's engagement had not been properly reported in the department's 2012-2013 Annual Report.
4. On 30 October 2013, a related matter was reported in an article<sup>3</sup> in *The Age* newspaper. The article alleged that the Deputy Secretary Higher Education and Skills Group, Ms Kym Peake, had awarded contracts related to the TAFE reforms to her former employer, KPMG, without a competitive process. It was alleged that the value of these contracts totalled almost \$500,000.

## Issues subject to investigation

5. Pursuant to section 15B of the Ombudsman Act 1973 I conducted an investigation into the following issues:
  - a. The circumstances in which Ms Marianne Lourey was engaged as Project Executive Director of the TAFE Transitional Taskforce by the department for services related to the reform of the TAFE sector absent a competitive process. My investigation examined:
    - whether Mr Bolt and Ms Lourey's prior working relationship constituted a conflict of interest
    - whether Ms Lourey's business interests constituted a conflict of interest in relation to her leadership of the TAFE Transition Taskforce

<sup>1</sup> State Member for Eltham (Shadow Minister for Higher Education and Skills, Shadow Minister for the Teaching Profession).

<sup>2</sup> Formerly ACIL Tasman.

<sup>3</sup> 'Watchdog to probe TAFE deal done without tender', *The Age*, 30 October 2013.

- whether the department's securing of Ms Lourey's services complied with the Victorian Government Purchasing Board (VGPB) policies
  - the department's selection process and rationale for engaging Ms Lourey to work on TAFE reform when she had no prior experience in the sector
  - why the engagement of Ms Lourey was not reported in the department's Annual Report.
- b. The circumstances in which the department entered into two engagements with KPMG for services related to TAFE reform without a competitive process, including:
- whether the Deputy Secretary's prior employment at KPMG constituted a conflict of interest
  - whether KPMG was engaged according to VGPB policies.

## TAFE reforms

6. The 2012-2013 Victorian State Budget announced reforms to the Vocational Education and Training sector including significant changes to the funding models of TAFEs and Registered Training Organisations.
7. As part of the budget the government released a ministerial statement, *Refocusing Vocational Training in Victoria*, which provided that by January 2013 the TAFEs and privately owned providers would receive the same level of training subsidies.
8. In June 2012 a TAFE Reform Panel was established to provide oversight of the TAFEs as they adapted to reduced levels of funding.
9. A TAFE Transition Taskforce (the Taskforce) was also established in June 2012. The purpose of the Taskforce was to provide analysis on which the TAFE Reform Panel could base advice to Government.

## Victorian Government Purchasing Board

10. The Victorian Government Purchasing Board (VGPB) was established under the *Financial Management Act 1994* and is responsible for establishing policies and procedures that government departments must follow when procuring goods and services. Policies established by the VGPB have the force of statute, and departmental procurement policies must be consistent with those outlined by the VGPB.
11. VGPB policies promote principled public sector purchasing that emphasises value for money, open and fair competition, accountability, risk management, probity and transparency.

## Accredited Purchasing Units

12. The Accredited Purchasing Unit (APU), a unit within the department, has responsibility, delegated by the VGPB, for ensuring compliance with VGPB policies and procedures<sup>4</sup>.
13. VGPB policies provide that in limited circumstances a government department may be exempted from competitive purchasing such as obtaining quotes or initiating a public tender process<sup>5</sup>.
14. The APUs are responsible for approving requests in certain circumstances, and must abide by VGPB policies and departmental procurement policies relating to exemptions. APUs also play a role in the approval of financial variations to contracts in line with the departmental procurement policies and VGPB policies.

## Investigation methodology

15. In investigating this matter my officers:
  - reviewed relevant material from the department
  - made enquiries of the department
  - reviewed relevant legislation and policies
  - interviewed six witnesses.
16. This report includes adverse comments about:
  - Mr Richard Bolt, Secretary of the Department of Education and Early Childhood Development
  - Ms Kym Peake, Deputy Secretary, Higher Education and Skills Group in that department; and
  - The Chair of the Accredited Purchasing Unit in that department.
17. Mr Bolt, Ms Peake and the Chair of the APU were provided with the opportunity to respond to those adverse comments. Mr Bolt and the APU Chair's responses are fairly set out in this report. Ms Peake advised that she did not have any further comment to make.
18. This report also names or identifies:
  - Mr Peter Hall, then Minister for Higher Education and Skills; and
  - Ms Marianne Lourey

And also may identify a person who was a former Executive Director at the department. The report makes no adverse comments about any of those people. They are named or identified in this report as:

- I am satisfied that it is necessary or desirable to do so in the public interest; and

<sup>4</sup> Accreditation of Departments by the VGPB Policy.

<sup>5</sup> Exemption from Seeking Multiple Quotes, Open or Selective Tendering (Limited Tendering) and ICT IP Default Policy Position.

- I am satisfied that it will not cause unreasonable damage to the person's reputation, safety or well-being.

I note in this latter regard that these matters have been subject to media commentary.

## Legislative limitations on the Ombudsman's Jurisdiction

19. My office may not have been able to consider all the information relevant to this investigation because the department redacted documents; refused to provide documents; and one witness, Ms Kym Peake, said that she was prevented from answering certain questions on the basis of Section 19 of the *Ombudsman Act 1973*.
20. Section 19 of the Ombudsman Act notes:

Deliberations of Ministers and Parliamentary committees not to be disclosed

  1. A person shall not be required or authorized by virtue of this act-
    - a. To furnish any information or answer any question; or
    - b. To produce or inspect so much of any document- which relates to the deliberations of Ministers or any committee consisting of Members of Parliament where the committee is formed for the purpose of advising the Ministers in respect of their deliberations<sup>6</sup>.
21. The department said that it withheld documents in part, or wholly where the documents contained:
  - a. Material that was prepared for the purpose of a submission to Cabinet or a subcommittee of Cabinet; or
  - b. Otherwise reveals the deliberations of Cabinet or a subcommittee of Cabinet.
22. In a letter to my office Ms Peake said:

... much of the information about the context in which KPMG were engaged by the Department to produce work related to the ministerial roundtables and further funding analysis falls within s19 of the Act. The reason I cannot give this information in response to your questions is for the same reason that material has been removed from the enclosed documents.
23. Since a number of documents were not provided to my officers and sections of other documents were redacted, it is unclear how the withheld information related to the deliberation of Ministers or any committee consisting of Members of Parliament.
24. I also note that section 25A also applies in relation to the deliberation of Ministers.

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<sup>6</sup> This section does not apply in relation to an investigation on a relevant protected disclosure complaint.

25. Section 25A of the Ombudsman Act provides:
  - 25A Content of reports
  - (1) The Ombudsman must not include in a report under this Act-
    - ...
    - b. any information, or information in any document, referred to in section 19, 19A or 19B;
26. Section 25 of the Ombudsman Act does not prohibit me from receiving information that is relevant to my investigations under Section 19, it only prevents me from reporting such information.
27. The application of these provisions demonstrate again the unnecessary impediments imposed on my investigating and reporting functions which continue to hamper effective investigations of public bodies, serve no good public purpose and limit my ability to get to the truth.

## a) The engagement of ACIL Allen Consulting for Ms Lourey's services and the alleged conflict of interest

28. My investigation considered the probity of the process undertaken by the department in order to engage Ms Lourey to lead the Taskforce without first undergoing a tender process.
29. My investigation also considered whether Ms Lourey's lack of experience in the TAFE sector made her engagement inappropriate. My investigation identified:
  - there was no reasonable perception of a conflict of interest between Mr Bolt and Ms Lourey for the reasons identified in paragraphs 41-48.
  - the department failed to meet its obligations under the Financial Management Act 1994 in relation to the reporting of Ms Lourey's contract in its 2012-2013 Annual Report.
  - that experience in the TAFE sector was not one of the department's main prerequisites for the position.

### Background to the engagement

30. On 16 July 2012 the Secretary approved an exemption from obtaining quotes or undertaking a public tender in order to engage ACIL Tasman<sup>7</sup> for Ms Marianne Lourey to lead the Taskforce. The exemption was valued at \$517,900 (GST inclusive).
31. When the Taskforce was established in approximately June 2012 it was led by an Executive Director who had worked at the department for over a decade in areas that included oversight and reform of the TAFE sector.
32. In July 2012, Mr Bolt and Ms Peake decided that the Executive Director was unsuitable and embarked on a process to find a replacement. Ms Peake and Mr Bolt both said that the government's timeline created a great sense of urgency in relation to appointing somebody new to lead the Taskforce.
33. A number of deadlines were in place that related to the government's announcement that TAFEs and private training providers would be operating in a fully contestable market by January 2013.
34. At interview Ms Peake, who was responsible for filling the position, said that she consulted with a number of people, including other departmental Secretaries and the Victorian Leadership Development Centre. Ms Peake said of the eight candidates that were subsequently identified from within the public sector:
  - six were not immediately available

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<sup>7</sup> ACIL Tasman merged with Allen Consulting during the contract with the department and Ms Lourey became a director of ACIL Allen Consulting.

- one candidate was interviewed and not considered suitable for the role
  - another was not interested in leading the Taskforce.
35. At interview Ms Peake said that the Taskforce needed to be led by somebody with strong commercial acumen who also had experience with market and industry restructure and understood corporate governance.
36. Ms Peake said that she was struggling to identify a suitable Taskforce head and approached the Secretary who suggested that she might consider Ms Lourey. At interview Ms Peake said that she 'had no impression that [she] was under any direction' to engage Ms Lourey.
37. Mr Bolt and Ms Lourey said at interview that they did not have a personal relationship. Their shared professional history consisted of:
- 1999-2000: Mr Bolt was Director of Electricity Regulation at the Office of the Regulator General (now Essential Services Commission), and Ms Lourey as a contractor to KPMG working on a price review of the energy sector. Ms Lourey said that during this period, she did not work directly with Mr Bolt.
  - December 2003: Mr Bolt was the Executive Director of Energy Policy at the Department of Infrastructure (DOI) and engaged Ms Lourey for a 2-3 month period to provide advice after a fire at the Morwell Briquette Factory.
  - November 2005-December 2006: Ms Lourey worked as a director at DOI and reported directly to Mr Bolt who was then the Executive Director, Energy and Transport Security.
  - 2006-2011: Mr Bolt was the Secretary of the Department of Primary Industries (DPI) and in 2006 he appointed Ms Lourey to his former Executive Director role where she remained until 2010, including while working on the Bushfire Royal Commission.
  - 2009: Mr Bolt and Ms Lourey worked on the Bushfire Royal Commission.
  - Ms Lourey stated that she worked directly with Mr Bolt for a total of approximately 13-14 months.

## Conflict of interest

38. The *Code of Conduct for Victorian Public Sector Employees* (the Code) prescribes that public sector employees declare and avoid conflicts of interest, whether actual, potential or perceived, to help maintain community trust and confidence.
39. The department's conflict of interest policy states that it is particularly important for employees to address risks of perceived conflict of interest because they are the most likely to be overlooked or underestimated.

40. The department's conflict of interest framework states that the executive team is responsible for modelling a commitment to key principles in managing conflict of interest by identifying conflicts of interest that affect the executive team.
41. Mr Bolt said that he had concerns about the appearance of bias and did not participate in the decision to engage Ms Lourey. Mr Bolt also said that he made his concerns clear to Ms Peake. Ms Peake said that Mr Bolt 'only suggested [Ms Lourey]' and she did not consider that she was under direction by the Secretary to engage Ms Lourey.
42. The VGPB policies, and the department's procurement policy<sup>8</sup> that was in place at the time, required that a public tender process be undertaken for purchases in excess of \$150,000, unless particular limited circumstances apply<sup>9</sup>.
43. The VGPB policy on exemptions states:

Subject to the agreement of the [Accountable Officer], approval of exemptions less than the public tender threshold may be delegated to persons with the appropriate financial delegation.
44. The department's procurement policy provides that approval of the Secretary, after APU endorsement of the request, is required for exemptions sought in relation to a purchase in excess of \$100,000 or \$150,000<sup>10</sup>.
45. As the Accountable Officer, Mr Bolt approved the exemption valued at \$517,900<sup>11</sup> for Ms Lourey's services after it was endorsed by the APU. Given his view that his relationship with Ms Lourey might be perceived as influencing the decision to engage her, it would have been desirable for Mr Bolt to have delegated this function to another officer. However, it does not appear that Mr Bolt had the option under VGPB policies to delegate approval of exemptions.
46. The VGPB policies, the department's conflict of interest policy and procurement policy do not provide for situations where the exercise of a Secretarial power (eg the approval of exemptions over \$150,000) may lead to a perception of a conflict of interest.
47. As to the selection process, Mr Bolt did not interview Ms Lourey. However, he was involved in the interview of another candidate on the same day that Ms Lourey was interviewed. If, as he told my officers, Mr Bolt was concerned about the perception of bias regarding Ms Lourey, he should have entirely removed himself from the assessment process.

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8 The department's procurement policy that was in place at the time, Purchasing@DEECD, was replaced in November 2012.

9 The VGPB Exemption Policy provides a non-exhaustive list of circumstances that may give rise to a request for an exemption certificate including emergency, lack of competition, need for specialist expertise and exceptional circumstances as determined by the Minister or Accountable Officer.

10 There was an inconsistency in the department's procurement policy in that Section 2.2.3 Roles and Responsibilities in Obtaining a Certificate of Exemption provides that the Secretary must approve exemptions over \$100,000, whereas 2.1.2b The Purchasing Method, provides that the Secretary must approve exemptions over \$150,000.

11 GST inclusive.

48. Public officers, especially senior officers, must not engage in conduct that undermines public confidence. However in order for views regarding a relationship to amount to a perceived conflict of interest they must be held by a “fair-minded member of the public” or a “reasonably well-informed person”<sup>12</sup> or a “reasonable member of the public, properly informed”<sup>13</sup>.
49. My investigation did not identify evidence a conflict of interest in the relationship between Mr Bolt and Ms Lourey. Nor did my investigation identify a conflict of interest between Ms Lourey’s business interests and her engagement to lead the Taskforce.

## Experience in the Education Sector

50. Ms Lourey’s lack of experience in the education sector has been reported in *The Age*<sup>14</sup> and was raised by Mr Herbert in his complaint to my office.
51. No position description along with a list of preferred qualifications, knowledge and experience was drafted by the department.
52. At interview, Ms Peake indicated that it was not necessary for Ms Lourey to have experience in the TAFE sector. Ms Peake said that Ms Lourey’s knowledge of governance and market restructure issues would complement the skills that already existed in the Taskforce, which included members with long standing TAFE involvement.
53. At interview, Ms Lourey said that there were benefits in not having education sector experience:
- It’s actually, I think been better not having it, because the role is actually far more focused on the commercial operation of the TAFE institute. Around strategy, reporting, governance ... and people who have had experience in the sector tend to be influenced by their long term views of the sector ...
54. At interview, the previous TAFE transition taskforce lead said that while he felt he had the relevant qualifications for the role he could also understand the rationale for appointing somebody with no relationship to the sector:
- Sometimes when you’re having to make big changes in organisations, you are better off having someone coming in who’s completely clinical and has no particular involvement. Particularly if you’ve got a team around them that does know what’s going on.

<sup>12</sup> Queensland, Crime and Misconduct Commission and New South Wales, Independent Commission on Corruption, *Managing Conflicts of Interest – Toolkit* (2004) 37.

<sup>13</sup> Paper presented at the Australian Public Sector Anti-Corruption Conference on Wednesday 24th October 2007 by Mr Gary Crooke QC, Queensland Integrity Commissioner, *The Queensland Integrity Commissioner Role and functions: Conflicts of Interest matters and examples*, 4.

<sup>14</sup> *‘Department awards \$1M TAFE contract without tender’*, *The Age*, 2 October 2013.

## Relevant procurement requirements and the engagement

55. Departments are not permitted to engage suppliers prior to the approval of an exemption<sup>15</sup>. The evidence indicates that, while discussions and negotiations occurred prior to the granting of the exemption, the department had not entered into any binding arrangement until the day the exemption was granted.
56. On 9 July 2012 Ms Peake and Ms Lourey had two telephone conversations about the project. On the same day, Ms Peake provided Ms Lourey with a project brief and Ms Lourey submitted a proposal that included rates of pay.
57. According to Ms Peake's evidence the telephone conversations on 9 July 2012 included negotiation around pay:

... certainly I had a conversation with her on the Monday about her rates and what she could do to discount those.
58. There is also evidence to suggest that a verbal understanding was reached between 9 July and 11 July 2012 for Ms Lourey to head the Taskforce, although I do not consider that either Ms Peake or Ms Lourey considered that this understanding constituted a binding obligation.
59. On 11 July 2012, Ms Peake submitted a request for a certificate exempting the department from a competitive procurement process, for a total cost of \$470,000 (excluding GST), for the engagement of a contractor to lead the Taskforce for a period of six to nine months. The rationale for requesting the exemption was strict project timelines and specialist knowledge and expertise.
60. The request was endorsed by the APU on 16 July 2013 with a recommendation that the Secretary approve an exemption to engage Ms Lourey. The exemption certificate was signed by Mr Bolt on the same day.
61. The contract<sup>16</sup> between ACIL Tasman<sup>17</sup> and the department for Ms Lourey's services<sup>18</sup> was also entered on 16 July 2012. Ms Lourey commenced work the same day.

## Variations and additional contract

62. On 25 March 2013 a non-financial variation to Ms Lourey's contract was approved extending the engagement to 26 April 2013.
63. On 24 April 2013, two days before Ms Lourey's contract would have ended, a further variation valued at \$49,068 was entered extending the contract until 24 May 2013.

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15 The VGPB Exemption from Seeking Multiple Quotes or Selective Tendering (Limited Tendering) and ICT IP Default Position Policy. The department's procurement policy required that approval to waive tender or quotation requirements must be obtained prior to accepting quotes, engaging a supplier, commencement of work or commitment of funds by the financial delegate.

16 The contract was for an eight month period, the initial rate of \$3,136.50 per day (excluding GST) for 31 days, to a capped sum of \$97,231.50. Thereafter, the discounted rate of \$2,788 per day applied (excluding GST). The duration of the initial contract was for eight months. The contract commencement date was 16 July 2012 and completion date listed as March 2013.

17 ACIL Tasman merged with Allen Consulting during the contract with the department and Ms Lourey became a director of ACIL Allen Consulting.

18 Ms Lourey was recorded as service provider's only employee to be engaged in the provision of the services (unless an equivalent representative was required in her absence).

64. On 28 May 2013 the department entered into a new contract with ACIL Allen for the provision of further services by Marianne Lourey to the value of \$432,418.30 for a period of approximately 10 months. As Secretary of the department, Mr Bolt approved an exemption allowing the engagement to occur without a tender process.
65. The services to be provided by Ms Lourey under this second contract included the implementation of the Government's response to the TAFE Reform Panel recommendations contained in the *A Strong And Sustainable TAFE Sector Report*.
66. The variations and additional contract brought the total expenditure by the department on contracts with ACIL Allen related to TAFE reform to \$999,386.

## Reporting requirements – disclosure of contractors with significant management responsibility

67. My investigation considered whether Ms Lourey's contract was properly reported in the department's 2012-2013 Annual Report.
68. The *Financial Management Act 1994* requires that Victorian public sector entities provide the relevant Minister with its annual report as soon as practicable after the end of each financial year.
69. The Department of Treasury and Finance provides guidance to assist public sector entities comply with accounting and financial reporting obligations. The Minister for Finance has the authority to issue mandatory directions in relation to financial administration issues that must be applied in the preparation of an entity's annual report<sup>19</sup>.
70. *Financial Reporting Direction*<sup>20</sup> 21B (the direction) states that an entity shall disclose the number of contractors charged with significant management responsibilities, to whom the total expenses paid by the entity exceed \$100,000.
71. The direction also provides that:
- ... the entity shall exercise judgement in determining whether a contractor has been charged with significant management responsibilities.
72. Some of the indicators of 'significant management responsibilities' reflected in the Financial Reporting Direction, are:
- having the authority for planning, directing and controlling the activities, directly or indirectly
  - participating in the formation of an entity's business/project plans
  - undertaking team/project leadership roles or
  - involvement in the entity's operational decisions.

<sup>19</sup> Pursuant to section 8 of the *Financial Management Act 1994*, and Regulation 16 of the *Financial Management Act 2004*.

<sup>20</sup> Financial Reporting Directions (FRDs) prescribe both financial and non-financial reporting requirements. Compliance with FRDs is mandatory and must be consistently applied in the preparation and presentation of an entity's annual report.

73. Ms Lourey was listed in the department's 2012-2013 Annual Report as a 'Project Executive Director', with no disclosure that she was on a contract.
74. At interview Ms Peake said that Ms Lourey was a contractor and not a consultant. Ms Peake said that Ms Lourey was not listed in the annual report because she did not have responsibility for performance management of staff. She stated that Ms Lourey was responsible for task allocation but not performance management.
75. However, Ms Lourey said that she was involved in some Human Resourcing processes such as recruitment and termination of staff. At interview Ms Lourey said:
- When I started the TAFE Transition Taskforce wasn't fully staffed so one of my jobs was to actually fully staff it.
76. In addition, Section 7.5 of the direction states:
- Holding a financial and/or human resources management delegation is not a pre-requisite for undertaking significant management responsibilities.
77. A review of the documentation provided by the department indicates that Ms Lourey was engaged in significant management responsibilities such as chairing the TAFE transition taskforce group meetings, attending meetings with the Minister, meeting TAFE CEOs and developing strategic planning guidelines.

## Conclusions

### Conflict of Interest

78. There is no evidence that the Secretary and Ms Lourey had a personal relationship or that their professional relationship could give rise to an actual or perceived conflict of interest.
79. In my view, Mr Bolt and Ms Lourey's professional relationship, of itself, is not sufficient to cause a reasonably informed person to consider that there is a possibility of a conflict of interest.
80. The Secretary and Ms Lourey's common work history is not inconsiderable, and the Secretary's own view was that the relationship might be perceived as one involving bias. As a result of this concern, Mr Bolt was not involved in the interview of Ms Lourey. While I do not consider that it was necessary that Mr Bolt not participate in the interview of Ms Lourey, it is unfortunate that Mr Bolt did not apply his concerns consistently and interviewed another candidate on the same day.
81. I also note that the idea of engaging Ms Lourey originated with the Secretary, and as the department's Accountable Officer, he was ultimately responsible for approving her engagement. The APU endorsed the exemption prior to the Secretary's approval. However, the lack of independence and rigour with which the APU operated does not reassure me that this endorsement, in itself, could have cured any perception of bias in the selection process.

82. In response to my draft report the Chair of the APU said:

In relation to comments made in relation to the APU considerations of conflict of interest/bias ... it is noted that the APU endorsed the exemption in relation to the engagement of ACIL Allen Consulting Pty Ltd (ACIL Allen), as opposed to an exemption in relation to the engagement of Ms Marianne Lourey.

The documentation provided to the APU did not give rise to a suspicion of any actual or perceived bias in the request to approve an exemption in relation to the engagement of ACIL Allen. Had a bias or conflict been identified, the APU would have been in a position to consider that conflict in its decision-making process and act accordingly.

Improved documentation for procurement processes now require that business units specifically consider any issues of actual or perceived conflict of interest in their preparation. This has been in operation since mid-2012.

83. The VGPB policies do not allow for a delegation when there is an actual or perceived conflict of interest and the department's conflict of interest policy does not provide a process for relieving the Secretary of duties where the exercise of such duties may create a perception of a conflict of interest. I consider that there should have been a process which would have allowed the Secretary to address his concerns about the perception of bias in his relationship with Ms Lourey. Clearly some saw a conflict, hence the complaint to my office.

84. In response to my draft report Mr Bolt said:

I do not consider the relationship between Ms Marianne Lourey and myself to be one that might be 'perceived as a conflict'.

### **Marianne Lourey engagement**

85. Before engaging Ms Lourey, the department considered other options within the public service and did not believe there was anyone available with the desired skillset.

86. The department did not consider experience in the TAFE sector to be necessary because there were others on the Taskforce with that experience. Ms Lourey was engaged by the department in order to help implement a significant restructure of the TAFE sector, and to this end commercial expertise was prioritised. Ultimately, this was a decision reasonably open to the department to make.

87. I consider that *Financial Reporting Direction 21B* required Ms Lourey's contract to be disclosed in the department's annual report because her role clearly involved management responsibilities. She was only listed by the department as an executive officer with no disclosure about the contract.

## Recommendations

I recommend that the department:

### Recommendation 1

Seek advice from the VGPB about how to manage situations where the Secretary has a conflict of interest that affects the ability to discharge one of his or her powers and update its conflict of interest policy accordingly.

I recommend that the Secretary:

### Recommendation 2

Retrospectively report Ms Lourey as a contractor who had significant management responsibilities in 2012-2013 and 2013-2014 in the department's 2013-2014 annual report.

#### ***Departmental response:***

The Secretary of the department stated:

I acknowledge and will implement the recommendations.

## b) The engagement of KPMG services related to TAFE reform and the alleged conflict of interest

88. My investigation also considered allegations that Ms Peake had awarded contracts worth almost \$500,000 to her former employer, KPMG, without a competitive process.
89. My investigation examined two contracts that were awarded to KPMG by Ms Peake. While my investigation did not identify Ms Peake as having a conflict of interest with regard to the engagements, a number of breaches of VGPB requirements were identified. These included:
- The department varied the contract with KPMG for ministerial roundtables on TAFE Governance without seeking or obtaining APU approval. The APU then retrospectively granted approval of the variation.
  - An exemption for the engagement of KPMG for modelling work was requested by the department and approved by the APU some months after KPMG completed the work.
  - The scope and cost of the engagement with KPMG for modelling work was expanded prior to seeking APU approval.
  - The department failed to report any breaches that occurred in relation to the contracts with KPMG to the VGPB.

### Conflict of interest

90. At interview Ms Peake said that she was employed by KPMG for eight months in 2008 and that for three months of her employment she was overseas on secondment. Ms Peake also said that she was seconded to the Department of Sustainability and Environment for a month, and in total only spent three and a half months at KPMG's Melbourne offices.
91. Ms Peake also said that, prior to KPMG's work on TAFE reform, she had never met the KPMG partner who headed the firm's work on the engagement for services related to Ministerial Roundtables.

### Relevant Procurement Requirements

92. Neither the VGPB nor the APU are able to retrospectively approve procurement activity that does not comply with VGPB policies<sup>21</sup>.
93. The department's procurement policy states that:

Approval to waive tendering and/or quotation requirements cannot be sought retrospectively. That is to say, you must not seek a certificate after you have embarked on a course of action as this will be considered to be a serious breach of government policy and may ... be reported to the relevant Deputy Secretary, Secretary/ Minister and the Victorian Government Purchasing Board (VGPB), Details of breaches reported to the VGPB are included in the Board's annual report to Parliament.

<sup>21</sup> VGPB Protocol for Reporting Non-Compliance with VGPB Policies.

94. VGPB policies allow administrative and financial variations of existing one-off supply contracts where, during the course of an engagement, the scope of a contract requires adjustment. However there are a number of rules that govern how departments are permitted to use variations.
95. The VGPB Variation Process Approval for One-Off Supply Contracts Policy states the following:
- Approval of a financial variation within a department's accreditation level is the responsibility of the financial delegate, and or in accordance with procedures adopted by the APU.
96. The procedures adopted by the APU in relation to financial variations require APU approval of a variation where the value of the purchase was greater than \$100,000.
97. The VGPB variation policy also states that:
- The approval of a financial variation does not remove the obligation to report a breach of process if the variation is the result of a failure to comply with VGPB policy.
- Only after approval has been given is the department in a position to implement the contract changes for which approval was sought.

## Engagement of KPMG for Ministerial Roundtables

98. In November 2011 the department engaged KPMG to organise five ministerial roundtables that were to be held between November 2011 and February 2012. The engagement was procured via an exemption for \$45,000, approved by Ms Peake. Ms Peake's financial delegation enabled her to approve certificates of exemptions valued at up to \$50,000.
99. At interview Ms Peake said that the roundtables involved consultation with the TAFEs 'around the structure of their boards'. Ms Peake explained:
- ... the Minister attended a round table that one of the partners at KPMG was hosting with universities on a pro bono basis to consult with them on their governance and came back from that and said that he had spoken to that partner and was very keen for a similar set of round tables to be hosted by KPMG, by this KPMG partner, about the TAFE sector to inform his thinking so I signed an exemption for I think it was \$45,000 for them to undertake those roundtables on the Minister's request.
100. During a further interview with my officers, Ms Peake said that the Minister requested that 'in a very short period of time that we do the same thing, exactly the same format for the TAFEs'.
101. Ms Peake said that whilst the Minister requested the work, as the financial delegate she was satisfied about the appropriateness of the engagement, because:
- she had also attended the university roundtables and was impressed, and was familiar with other governance related work that KPMG had completed for the department

- KPMG's costs were comparable to other similar consultancies.
- she involved another consultancy in the project that had been engaged via a competitive process for similar work in order to ensure continuity.

102. At interview Mr Peter Hall, then Minister for Higher Education and Skills, said that he received a recommendation from the department that hosting roundtables about TAFE governance would be appropriate, and approved the recommendation. Minister Hall also said that he receives recommendations that are signed by the Secretary and Deputy Secretary.
103. Minister Hall denied that he had requested that KPMG host the roundtables. He said:
- I was unaware, I had no recollection that they were the nominated company to assist with that particular work, so there was certainly not a request from me for any organisation in particular to be involved.
104. Ms Peake said that in late February or early March 2012<sup>22</sup>, the department was asked to do further urgent work about TAFE governance that stemmed from the roundtables.
105. My investigation identified that this work had commenced at least two months prior to the department seeking APU approval to vary the KPMG contracts. In fact, the works had already been completed and invoices had been received from KPMG totalling \$199,900, some \$154,900 above the \$45,000 originally approved by Ms Peake.
106. On 1 May 2012, Ms Peake submitted a briefing to the Chair of the APU requesting approval of the expenditure. In the briefing Ms Peake explained that:
- ... as the roundtables progressed, two key complex policy issues emerged that the Minister sought advice on, and as KPMG had been part of the initial conversation, their engagement was varied to include supporting the provision of the advice.
107. Ms Peake wrote that there was an 'overarching requirement for confidentiality due to Cabinet-in-Confidence processes and an exceptionally fluid and dynamic environment' and that she had requested further works without consulting the relevant contract manager who was aware that there was a \$45,000 cap on services.
108. In the briefing, Ms Peake also acknowledged that approval for the variation 'should have been sought from the APU panel'<sup>23</sup>.
109. At interview Ms Peake said that the request was submitted retrospectively because there had been miscommunication between staff in her office and the team conducting the work about who was responsible for obtaining the necessary approvals.

22 The material provided by the department related to the Roundtables work has been redacted pursuant to the department's application of Section 19 of the Ombudsman Act. However Ms Peake's oral evidence was that the department was asked to organise further work in late February or early March 2012.

23 Ms Peake's financial delegation allows her to approve exemptions up to \$50,000, and variations under \$100,00.

110. On 11 May 2012 the APU approved the additional expenditure of \$154,900, enabling the department to pay KPMG for the services already provided.
111. The Chair of the APU was questioned about the process that enabled the APU to approve a variation request a number of months after the work had been completed. The Chair of the APU stressed that the APU did not approve a contract variation but the overall expenditure that had been committed. Indeed, the approval certificate that was granted by the APU at least two and a half months after the additional work had commenced, references 'expenditure' of \$199,900.<sup>14</sup> However in the briefing accompanying the approval, the APU Chair described the procurement activity as a 'variation'.
112. At interview the APU Chair explained the approval provided by the APU. She said:
- When we had a look at this one under the procurement process guidelines on our website there were some inconsistencies there in one part of it ... So that's why ... we said to them we can't officially retrospectively approve a variation because its already happened but we note that you have conducted the work, that an appropriate financial delegate approved it from a financial delegate perspective all we can do is approve the expenditure.
113. Advice to my office from the VGPB is that approval of expenditure related to a contract is the responsibility of the financial delegate, and APUs are only able to approve the related procurement process.
114. At interview the APU Chair said that there were 'some inconsistencies' in the procurement policy that was in place at the time. The relevant section<sup>24</sup> of the policy, that the APU Chair said was inconsistent, stated:
- The delegate is responsible for approving variations to the contract price.  
...  
The APU is responsible for approving variations where the cumulative value of the purchase is greater than \$100,000 (GST inclusive).
115. The Chair of the APU also said that because the business unit in the Higher Education and Skills Group 'didn't realise' that APU approval was required by the procurement policy, it was 'a bit hard for us to say no sorry that's wrong, so we have interpreted that and considered that in that light'.
116. In response to my draft report the Secretary said:
- I have been advised by [the APU Chair's] then manager that [the APU Chair] was focused on assessing procurement proposals against the policy requirements, and never indicated a willingness to bend the rules or to sanction inappropriate conduct.
117. When asked if she considered the retrospective variation to have been a breach of VGPB policies, Ms Peake said:
- I think that the advice that I certainly received [from the procurement area] was that it wasn't a tidy process by any stretch of the imagination but that the decisions that were made were consistent with VGPB [policies] ... it wasn't that there was- that someone was trying to seek retrospective approval it's just that again with the parallel processing that it wasn't managed well in this one.

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<sup>24</sup> Section 4.3.3 Roles and Responsibilities in Managing Contract Variations.

118. The department did not report this procurement activity to VGPB as a breach of process.

## Engagement of KPMG for modelling work

119. On 8 March 2012, Ms Peake requested that the Chair of the APU approve a certificate of exemption from seeking three quotes to engage KPMG at a cost of \$99,000 for modelling work related to how the removal of subsidies would potentially impact the TAFE sector. The exemption was approved by the Chair of the APU on 15 March 2012.
120. Documents provided to my office by the department identified that KPMG commenced work on 5 March 2012, three days before Ms Peake requested the initial exemption.
121. At interview Ms Peake agreed that KPMG commenced work on 5 March 2012. Ms Peake said:
- ... it is correct that to meet the timeframes that we were asking of [KPMG] that they had to start straight away and that the teams that were preparing the paperwork in consultation with the procurement area took them a couple of days ... In a world where there wasn't the urgency, of course we would wait the two days but the world we were in, work had to start to meet the deadlines.
122. Ms Peake agreed that there were no exceptions to the VGPB's prohibition on retrospective approvals, but said:
- ... I think there are occasions where the timing urgency is such that there is a need to be engaging with the procurement area ... in parallel with the work commencing.
123. The evidence identified by my investigation is that the exemption allowing the engagement of KPMG was approved retrospectively. However, the evidence about the related question of whether the APU was aware that KPMG started work prior to the exemption request and grant is less clear:
- The APU Chair said at interview that she was unaware that work had commenced when she granted the exemption.
  - Ms Peake said that she believed that the KPMG engagement letter was provided to the procurement area, but she was unable to confirm whether the letter was passed on to the actual APU committee.
  - A table of events created in support for the 13 April 2012 exemption request does not include the date of engagement.
  - On 11 April 2012 the APU Chair referenced the KPMG engagement letter in an e-mail, indicating that, at least after the exemption was granted, the APU was aware of the date KPMG commenced work.
124. At interview Ms Peake said that the department was requested to continue work with KPMG after the initial engagement was either completed or close to complete in order to produce further detail and further modelling options.

125. On 3 April 2012, Ms Peake submitted a second exemption request<sup>25</sup> to engage KPMG for additional modelling work. The additional work was valued at \$49,500 increasing the total expenditure on modelling work to \$148,500. The exemption was requested on the basis of strict project timelines, specialist skills and the contractor's involvement in a related project. Ms Peake explained that it became apparent that an expansion in the scope was necessary prior to signing the contract.
126. On 11 April 2012, the APU Chair sent an e-mail to the Higher Education and Skills Group, expressing concerns that the original project had not been properly scoped, that KPMG may have already completed the work and that KPMG may have been engaged for work on the expanded project prior to approval being sought.
127. On 13 April 2012 Ms Peake submitted a revised exemption request<sup>26</sup>. In it she acknowledged that the approval for the expanded scope of work was not requested from the APU prior to work commencing, but said that this was 'unavoidable in the circumstances'.
128. In an e-mail<sup>27</sup> responding to the APU Chair's concerns that the work had been completed, the Director, Tertiary Education Policy Branch, Higher Education and Skills Group, said that 'KPMG work was still in progress when the revised APU exemption was sought'. However, the table of events submitted in support of the 13 April 2012 request described that work had been completed by KPMG and approval of the request was urgent.
129. The Chair of the APU approved the second exemption request as a variation on 30 April 2012, stating that '... the APU is satisfied that Government purchasing policy and procedures have been observed ...'
130. At interview, the Chair said that the APU approved the variation even after learning that KPMG had commenced work because the initial \$99,000 had not been exhausted. Therefore, she said, there were residual funds that could be allocated to the new work pending the approval of the variation, making acceptable the commencement of work.
131. There was no evidence in the documentation provided to my investigation to support this reason for approving the variation.
132. When asked how the APU satisfied itself that the unused funds from the initial exemption were not exhausted prior to the variation grant, the APU Chair said that:

It's a devolved procurement environment it's up to the business units to advise the APU ... we don't see every piece of paper we would take it on what the financial delegate has told us'.

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25 The documentation relevant to the 3 April 2012 request has been partially redacted by the department, pursuant to the department's application of Section 19 of the Ombudsman Act.

26 The exemption request dated 13 April 2012 has also been partially redacted by the department, pursuant to the department's application of Section 19 of the Ombudsman Act. I note that redacted content in paragraph 3 appears to provide background to the APU about the early commencement of work by KPMG.

27 This email, dated 11 April 2012, has been partially redacted by the department, pursuant to the department's application of Section 19 of the Ombudsman Act.

133. In response to my draft report, the APU Chair said:

It is noted that in its email of 11 April 2012 to the business unit, the APU specifically asked *'Has KPMG been engaged to do this work before approval was sought'*.

The APU was satisfied with the response received from the business unit that *'Following the initial approval we received from you as Chair for the lower scope of work, KPMG did commence this work as it was considered critical'*; this relates to the previous exemption approval given on 15 March 2012, valued at \$99,000.00. This was less than one month from the request for a further exemption.

The APU considered that the initial \$99,000 had not been exhausted and could be allocated to the widened scope of works pending the approval of the variation. The APU was satisfied that public funds above \$99,000 had not and could not within the timeframe be spent without APU approval.

134. My investigation also identified that the contract between KPMG and the department was not executed until 21 May 2012, almost two months after KPMG was 'engaged'.

135. In relation to decisions to request work from KPMG Ms Peake said:

Just to be clear at each stage of this, it was not somebody in the department that was instigating the further work. We were commissioning it but we were not instigating it.

...

[Requests for further work were made] on my authority, but it wasn't on my instigation.

136. At interview Minister Hall said that he could not recall being involved in conversations about engaging KPMG for the modelling work.

137. The table of events, submitted by the department to the APU as part of the 13 April 2012 request, lists the following events as having occurred prior to the exemption request:

- 13 March – meeting between Minister, Secretary, Deputy Secretary considers preliminary work undertaken by KPMG.
- 19 March – meeting between Minister, Secretary, Deputy Secretary considers modelling undertaken by KPMG.
- 19 March – Minister meets with KPMG to discuss modelling.
- 21 March – meeting of Minister, Secretary and Deputy. Secretary determines need to expand scope of work being undertaken by KPMG.
- 27 March – meeting of Secretary, Minister and Deputy Secretary.
- 29 March – meeting of Secretary, Minister and Deputy Secretary.
- 29 March – second meeting with Minister.

138. At interview, Minister Hall said that ‘there were a number of occasions throughout that we’ve had to go back and do further work’, but said that he did not recall requesting that KPMG be engaged for further work and that ‘the authors of the modelling work was not necessarily known to [him] [*sic*]’.
139. This non-compliant procurement activity was not reported by the Secretary to the VGPB as part of the department’s annual supply report.
140. At interview, Ms Peake said that while the roundtables breach was caused by errors, the non-compliant processes involved in the modelling engagements were ‘unavoidable’ because of the urgency of the work.

## Improvements made to policies and procedures

141. Both Ms Peake and the APU Chair provided evidence that the department has since made efforts to address some of the issues encountered in the procurements examined by my investigation including:
- commencement of the centralisation of procurement responsibility away from individual business units, to staff dedicated to procurement
  - the provision of further training in response to issues relevant to this report
  - more emphasis on forecasting at the outset of a project
  - the completion of standardised documentation as part of a request for an exemption or variation
  - improved clarity in the new procurement policy<sup>28</sup> in relation to approval of variations in order to address the confusion that occurred about whether the APU or the financial delegate is responsible for approval.
142. In response to my draft report, the APU Chair said:

The APU is made up of senior executives across every group within the Department. The makeup of the APU provides a level of independence and ensures that everyone within the Department has a voice through their group representative in the procurement process.

The APU operates with rigour and oversight. Where it identifies a gap in information before it, it will request it as it demonstrated in relation to the exemption for modelling work. The improvements made to the procurement process, including enhanced documentation and request for information, has allowed the APU to operate with even greater rigour and oversight.

The Department acknowledges that the Ombudsman’s Office has recognized in its draft report that efforts have been made to address issues relevant to the matters. The Department is committed to improved procurement outcomes and processes. Procurement education and training, and process improvements is constant and evolving.

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<sup>28</sup> Introduced in November 2012.

143. In response to my draft report the Secretary said:

The Department has a strong commitment to improved procurement, which has driven its early adoption of the procurement reforms ... These reforms will implement a new supply policy framework that was announced by the VGPB in 2013.

...

The Department was given approval to transition to the new framework by 1 July 2014.

## Conclusions

### Conflict of interest

144. My investigation did not identify a conflict of interest between the Deputy Secretary and KPMG. I am satisfied that this relationship was simply one of a professional nature.

### KMPG Engagements

145. Evidence supports the view that the government's reform timetable may have created a sense of urgency in relation to the engagement of suppliers. Ms Peake explained that the breach that occurred in relation to the roundtables work was caused by miscommunication, and that the breaches that occurred in relation to the modelling work were unavoidable. However urgency should not negate obligations to follow VGPB requirements, nor the obligation to report breaches when they occur.
146. The failure to secure approval for the variation to the contract with KPMG related to the roundtables may have been caused by poor appreciation of procurement requirements, and/or poor communication within the department. Either way, the department committed \$154,900.44 of public funds to KPMG, and KPMG completed the related work, prior to approval being sought from the APU.
147. The proper procedure for the APU to follow in this instance would have been to report the breach to the Secretary for immediate reporting to the VGPB. Instead, the APU approved the variation by framing it as 'expenditure'. It is my opinion, what was requested and what was approved was a variation and it was described as 'expenditure' in order to avoid reporting obligations.
148. In relation to the exemption for modelling work, the department attempted, and failed, to simultaneously organise the approvals for the work with its commencement. Therefore the APU approval was, again, retrospective. This procurement should have been reported by the Secretary to the VGPB in the department's annual supply report.

149. My investigation identified a lack of oversight and rigour in the APU's application of VGPB policies and requirements regarding documentation that was submitted for its consideration. In some of the examples the APU did not have the relevant information necessary to make informed decisions about compliance with VGPB procedures. At other times the APU re-framed requests in order to provide approval for the procurement process, or approved requests that should have been reported as breaches because the policy requirements may have been misunderstood.
150. There is no provision in the guidelines or the VGPB policies that give the APU the discretion to alter the nature of a procurement because a mistake was made in interpreting procedures. The VGPB does not permit retrospective approval of procurement activities because of miscommunication between staff. Nor does it because of pressure relating to implementing policy or directions from government.
151. While the APU is part of the department, as the VGPB's delegate it is expected to identify and report non-compliant procurement. Although the APU made some enquiries about irregular requests, its willingness to sanction clearly retrospective approvals indicates that it operated with little objectivity or independence.

152. In response to my draft report, the APU Chair said:

The report identifies a number of breaches of requirements. None of those were identified as breaches by the APU and therefore they were not reported as such to the VGPB.

At the time, the APU was satisfied that the Government purchasing policy and procedures had been observed. Whilst the Department's policy at the time may be criticized for creating inconsistencies between it and the Victorian Government Purchasing Board (VGPB) policy, this is quite different from labelling the Department's activity as a breach of process requiring reporting to the VGPB. Had a breach been identified, it would have been reported to the VGPB.

153. In response to my draft report the Secretary said:

I accept that the deficiencies you identify were caused by inconsistencies in the Department's policy and shortcomings in the management of the relevant engagements. That the APU identified no breach of procurement requirements was a result of these inconsistencies, and reflected its legitimate view that the engagements were within financial delegations and were an appropriate expenditure of public money.

Therefore and with respect, I do not accept that the APU, or individuals within it, were seeking to avoid reporting obligations. I consider such inferences ... to be unwarranted criticism.

Importantly the Department has already made improvements to its procurement policy that, had the circumstances arisen today, would have resulted in a breach being identified and reported.

The Secretary also acknowledged that:

... a rigorous procurement system is essential to the effective and efficient use of public money, and that your draft report highlights the need for some improvements in the Department's procurement system.

## Use of Section 19 of the Ombudsman Act

154. While I do not necessarily read anything sinister in the department's reliance on Section 19 of the Ombudsman Act to conceal information from my investigation, I question why the department considered it necessary to do so. It has clearly hampered my investigation and left an obvious line of inquiry up in the air, perhaps for no good reason. It has certainly limited my ability to find out the truth, despite being able to reasonably conclude the investigation in the interests of fairness to those concerned.

## Recommendations

I recommend that the Secretary:

### Recommendation 3

Provide written notification to the VGPB of the breaches identified in this report relating to the engagement of KPMG for roundtables and modelling work.

### Recommendation 4

Audit the department's compliance with procurement guidelines over the past 18 months.

#### ***Departmental response:***

The Secretary of the department stated:

I acknowledge and will implement the recommendations.

# Ombudsman's Reports 2004-14

## 2014

*Ombudsman Act 1973* Investigation into Latrobe City Council's failure to reinstate Summerfield Track following a landslip in June 2012  
March 2014

*Ombudsman Act 1973* Investigation into deaths and harm in custody  
March 2014

*Ombudsman Act 1973* Conflict of interest in the Victorian public sector – ongoing concerns  
March 2014

*Ombudsman Act 1973* Ombudsman's recommendations – Third report on their implementation  
February 2014

*Ombudsman Act 1973* Investigation into a complaint about the conduct of Authorised Officers on V/Line  
February 2014

## 2013

*Ombudsman Act 1973* Investigation into children transferred from the youth justice system to the adult prison system  
December 2013

*Ombudsman Act 1973* Review of the governance of public sector boards in Victoria  
December 2013

*Ombudsman Act 1973* Report on issues in public sector employment  
November 2013

*Ombudsman Act 1973* A section 25(2) report concerning the constitutional validity of aspects of Victoria's new integrity legislation  
October 2013

*Ombudsman Act 1973* Own motion investigation into unenforced warrants  
August 2013

*Whistleblowers Protection Act 2001* Investigation into allegations of improper conduct by a Magistrates' Court registrar  
May 2013

## 2012

Own motion investigation into the governance and administration of the Victorian Building Commission  
December 2012

A section 25(2) report to Parliament on the proposed integrity system and its impact on the functions of the Ombudsman  
December 2012

*Whistleblowers Protection Act 2001*

Investigation into allegations concerning rail safety in the Melbourne Underground Rail Loop  
October 2012

*Whistleblowers Protection Act 2001*

Investigation into allegations of improper conduct by CenITex officers  
October 2012

*Whistleblowers Protection Act 2001*

Investigation into allegations of improper conduct involving Victoria Police  
October 2012

*Whistleblowers Protection Act 2001*

Investigation into allegations against Mr Geoff Shaw MP  
October 2012

Investigation into the temporary closure of Alfred Health adult lung transplant program  
October 2012

Investigation into an alleged corrupt association  
October 2012

*Whistleblowers Protection Act 2001*

Investigation into allegations of detrimental action involving Victoria Police  
June 2012

Own motion investigation into Greyhound Racing Victoria  
June 2012

The death of Mr Carl Williams at HM Barwon Prison – investigation into Corrections Victoria  
April 2012

*Whistleblowers Protection Act 2001* Conflict of interest, poor governance and bullying at the City of Glen Eira Council  
March 2012

Investigation into the storage and management of ward records by the Department of Human Services  
March 2012

## 2011

Investigation into the Foodbowl Modernisation Project and related matters  
November 2011

Investigation into ICT-enabled projects  
November 2011

Investigation into how universities deal with international students  
October 2011

Investigation regarding the Department of Human Services Child Protection program (Loddon Mallee Region)  
October 2011

Investigation into the Office of Police Integrity's handling of a complaint  
October 2011

SafeStreets Documents - Investigations into Victoria Police's Handling of Freedom of Information request  
September 2011

Investigation into prisoner access to health care  
August 2011

Investigation into an allegation about Victoria Police crime statistics  
June 2011

Corrupt conduct by public officers in procurement  
June 2011

Investigation into record keeping failures by WorkSafe agents  
May 2011

*Whistleblowers Protection Act 2001*  
Investigation into the improper release of autopsy information by a Victorian Institute of Forensic Medicine employee  
May 2011

Ombudsman investigation - Assault of a Disability Services client by Department of Human Services staff  
March 2011

The Brotherhood - Risks associated with secretive organisations  
March 2011

Ombudsman investigation into the probity of The Hotel Windsor redevelopment  
February 2011

*Whistleblowers Protection Act 2001*  
Investigation into the failure of agencies to manage registered sex offenders  
February 2011

*Whistleblowers Protection Act 2001*  
Investigation into allegations of improper conduct by a councillor at the Hume City Council  
February 2011

## **2010**

Investigation into the issuing of infringement notices to public transport users and related matters  
December 2010

Ombudsman's recommendations second report on their implementation  
October 2010

*Whistleblowers Protection Act 2001*  
Investigation into conditions at the Melbourne Youth Justice Precinct  
October 2010

*Whistleblowers Protection Act 2001*  
Investigation into an allegation of improper conduct within RMIT's School of Engineering (TAFE) - Aerospace  
July 2010

Ombudsman investigation into the probity of the Kew Residential Services and St Kilda Triangle developments  
June 2010

Own motion investigation into Child Protection - out of home care  
May 2010

Report of an investigation into Local Government Victoria's response to the Inspectors of Municipal Administration's report on the City of Ballarat  
April 2010

*Whistleblowers Protection Act 2001*  
Investigation into the disclosure of information by a councillor of the City of Casey  
March 2010

Ombudsman's recommendations - Report on their implementation  
February 2010

## **2009**

Investigation into the handling of drug exhibits at the Victoria Police Forensic Services Centre  
December 2009

Own motion investigation into the Department of Human Services - Child Protection Program  
November 2009

Own motion investigation into the tendering and contracting of information and technology services within Victoria Police  
November 2009

Brookland Greens Estate - Investigation into methane gas leaks  
October 2009

A report of investigations into the City of Port Phillip  
August 2009

An investigation into the Transport Accident Commission's and the Victorian WorkCover Authority's administrative processes for medical practitioner billing  
July 2009

*Whistleblowers Protection Act 2001* Conflict of interest and abuse of power by a building inspector at Brimbank City Council  
June 2009

*Whistleblowers Protection Act 2001*

Investigation into the alleged improper conduct of councillors at Brimbank City Council

May 2009

Investigation into corporate governance at Moorabool Shire Council

April 2009

Crime statistics and police numbers

March 2009

**2008**

*Whistleblowers Protection Act 2001* Report of an investigation into issues at Bayside Health  
October 2008

Probity controls in public hospitals for the procurement of non-clinical goods and services

August 2008

Investigation into contraband entering a prison and related issues

June 2008

Conflict of interest in local government

March 2008

Conflict of interest in the public sector

March 2008

**2007**

Investigation into VicRoads' driver licensing arrangements

December 2007

Investigation into the disclosure of electronic communications addressed to the Member for Evelyn and related matters

November 2007

Investigation into the use of excessive force at the Melbourne Custody Centre

November 2007

Investigation into the Office of Housing's tender process for the cleaning and gardening maintenance contract - CNG 2007

October 2007

Investigation into a disclosure about WorkSafe's and Victoria Police's handling of a bullying and harassment complaint

April 2007

Own motion investigation into the policies and procedures of the planning department at the City of Greater Geelong

February 2007

**2006**

Conditions for persons in custody  
July 2006

Review of the *Freedom of Information Act 1982*  
June 2006

Investigation into parking infringement notices issued by Melbourne City Council  
April 2006

Improving responses to allegations involving sexual assault  
March 2006

**2005**

Investigation into the handling, storage and transfer of prisoner property in Victorian prisons  
December 2005

*Whistleblowers Protection Act 2001*  
Ombudsman's guidelines  
October 2005

Own motion investigation into VicRoads registration practices  
June 2005

Complaint handling guide for the Victorian Public Sector 2005  
May 2005

Review of the *Freedom of Information Act 1982*  
Discussion paper  
May 2005

Review of complaint handling in Victorian universities  
May 2005

Investigation into the conduct of council officers in the administration of the Shire of Melton  
March 2005

Discussion paper on improving responses to sexual abuse allegations  
February 2005

**2004**

Essendon Rental Housing Co-operative (ERHC)  
December 2004

Complaint about the Medical Practitioners Board of Victoria  
December 2004

Ceja task force drug related corruption - second interim report of Ombudsman Victoria  
June 2004

