

TRANSCRIPT

INTEGRITY AND OVERSIGHT COMMITTEE

Performance of the Victorian Integrity Agencies 2023/24 and 2024/25

Melbourne – Monday 16 February 2026

MEMBERS

Dr Tim Read – Chair

Hon Kim Wells – Deputy Chair

Ryan Batchelor

Jade Benham

Eden Foster

Paul Mercurio

Rachel Payne

Belinda Wilson

WITNESSES

Sean Morrison, Information Commissioner,

Penny Eastman, Deputy Commissioner, Public Access, and

Anthony Corso, Acting Deputy Commissioner, Privacy and Data Protection, Office of the Victorian Information Commissioner.

The CHAIR: I declare open this public hearing for the Integrity and Oversight Committee's Inquiry into the Performance of the Victorian Integrity Agencies 2023/24 and 2024/25. I would like to welcome the public gallery and members of the public watching the live broadcast.

I would like to acknowledge my colleagues participating today. Online we have Eden Foster, and from my left, Rachel Payne; Jade Benham; Kim Wells, the Deputy Chair; myself, Tim Read, the Chair; Ryan Batchelor; Belinda Wilson; and Paul Mercurio. That is the Committee.

I would like to, on behalf of the Committee, acknowledge First Nations peoples, the traditional owners of this land, which has been a significant meeting place of the First People of Victoria. I acknowledge and pay respects to the elders of First Nations in Victoria past and present. I welcome any elders and members of communities who may visit or participate in the public hearing today.

A note to the witnesses: before you give your evidence, there are some formalities to cover, so bear with me. Evidence taken by this Committee is generally protected by parliamentary privilege. You are protected against any action for what you say here today, but if you repeat the same things elsewhere, 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 to check once 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, from the Office of the Victorian Information Commissioner [OVIC], Sean Morrison, the Information Commissioner; Penny Eastman, Deputy Commissioner for Public Access; and Anthony Corso, Acting Privacy and Data Protection Deputy Commissioner, all giving evidence today. We welcome any brief opening comments, to be followed by questions from us.

Sean MORRISON: Thank you, Chair. Good afternoon to the Committee Members. Thank you for the opportunity to make an opening statement. Given that this hearing is intended to cover OVIC's performance for two financial years, my opening statement will be very brief.

As with previous years, there continues to be growing demand for the services that OVIC delivers. For example, in the 2023/24 financial year, OVIC's registry and case support team recorded a 20 per cent increase in telephone calls, with over 6,000 calls received and a 30 per cent increase in the number of email inquiries. Similarly, in the 2024/25 financial year, there was a further 5 per cent increase in calls and a 35 per cent increase in email inquiries. OVIC saw a 19.4 per cent increase in the number of FOI [freedom of information] review requests we received and an 8 per cent increase in FOI complaints. There was a 52 per cent increase in the number of privacy complaints received and a 50 per cent increase in information security incident notifications. Despite this increasing demand, OVIC was able to stabilise its performance and finalise more FOI and privacy complaint matters and a near similar amount of FOI reviews than in the 2023/24 reporting year. This is also despite the challenges of administering an FOI Act [*Freedom of Information Act 1982* (Vic)] that is no longer fit for purpose. In the 2024/25 financial year 58,181 FOI requests were made to agencies. This is a 9.4 per cent increase from the previous reporting year and is a record high for FOI requests made in a year.

OVIC continues to strongly support the IOC's [the Committee's] recommendations from its Inquiry into the operation of the FOI Act. As previously stated, Victoria needs a new third-generation legislative framework that makes it easier for individuals to access information about themselves and easier for agencies to publish and release information about the work of government where it is appropriate to do so.

OVIC was the first information integrity agency in Australia to publish guidance on the use of publicly available and enterprise generative AI [artificial intelligence] tools. OVIC's resources relating to AI are popular, with our resource on AI and privacy resources receiving over 63,000 hits in the 2024/25 financial year. OVIC is focused on transparency of the use of generative AI and AI tools within the Victorian public sector and is committed to helping agencies understand these technologies so that use cases can be developed appropriately.

OVIC guidance and education materials are in high demand. For example, the FOI guidelines section on OVIC's website has over 27,000 hits in the two reporting cycles. This resource provides comprehensive guidance on almost every section of the FOI Act, guiding FOI officers through the entire FOI process.

In relation to information security during the reporting cycles, our information security team dealt with over 6,000 email inquiries and consulted over 600 times with organisations concerning information security obligations. Throughout the 2024/25 financial year OVIC reviewed its processes and policies to ensure we continue to adequately support and influence agencies to release more information to the public while ensuring its proper use and security.

One notable change we have made in the past reporting period was to adapt our approach to regulatory action and make greater use of preliminary inquiries as a regulatory tool. This approach enabled us to work with agencies to improve these practices without OVIC having to take more formal regulatory action, such as examinations and investigations, for the purpose of issuing compliance notices. This internal adjustment around processes is ongoing, and at OVIC, we look forward to meeting the challenge of improving agency compliance and providing assurance to government. That concludes my opening statement and we welcome any questions.

The CHAIR: Great. Thank you very much. Let us go to Eden Foster.

Eden FOSTER: Thank you, Chair, and thank you for your opening comment. Your 2024/25 annual report stated the organisational structure has been changed to place the investigations team under the responsibility of the General Counsel. However, it is noted that this was a temporary reporting line. What were the reasons for this change and the consequences for your organisational structure?

Sean MORRISON: The reasons for the change were that we had an immediate vacancy we needed to fill. But as noted in my opening speech, we are looking at ways to improve processes, and this change, this alignment, is still ongoing. The reasons really for it are to give a greater regulatory framework around investigations, so involving our legal counsel, who was involved, but we are creating a reporting hierarchy to the Information Commissioner to make sure that our actions are legitimate, lawful and reasonable and in line with our regulatory action policy. The consequences are that we have been able to conduct a greater number of regulatory action activities. I know the reporting cycle we are talking about is for the 2024/25 year, but our annual report for 2025/26 will indicate nearly double the amount of regulatory activities we have been able to conduct under this model. In summary, it was to create an escalating hierarchy, remove any conflicts and have greater efficiency.

Eden FOSTER: Thank you.

The CHAIR: Great. Let us go to Belinda Wilson.

Belinda WILSON: Thanks, Chair. You introduced the Freedom of Information Guidelines in 2024. What was the consultation process in the development of these guidelines, and how have they been received and used by your stakeholders?

Sean MORRISON: I might throw to Penny for that question.

Penny EASTMAN: Thank you, Sean. That is correct. We did introduce the guidelines at that time. The project commenced in 2021, and chapters have been published on a rolling basis since then. We consulted with agencies and the public between those periods – between 2021 and 2024. That was done when the chapter was drafted. We advertised that on our website and gave people an opportunity to make submissions or comments in relation to the drafted guidelines. Those were then assessed and changes made to the guidelines as appropriate.

We also sought public feedback on the Engage Victoria website as well as our website, and we notified stakeholders through our newsletter and through liaison meetings as well. In the 2023/24 reporting cycle we received feedback from 20 stakeholders, and they included the Victorian Inspectorate, as it was then known; DJCS [Department of Justice and Community Safety]; IBAC [Independent Broad-based Anti-corruption Commission]; a local council; the Office of Public Prosecutions; the Health Complaints Commissioner; as well as members of the public. We considered that feedback and made appropriate changes from there.

We are also, through our stakeholder engagement, regularly asking our stakeholders for feedback outside that rolling structure and making changes as appropriate through that as well. As Sean mentioned, we have had a large amount of hits to our guidelines and think it is a really fantastic resource, available not only for agencies, but also used within the freedom-of-information space to direct applicants to the guidelines when we are trying to resolve matters as well.

Belinda WILSON: Thank you.

The CHAIR: Let us go to Ryan Batchelor.

Ryan BATCHELOR: Thanks, Chair. Commissioner, thanks so much for coming back. It is good to see you again. I just want to go to some of the BP3 [Budget Paper 3] performance targets that you have got, particularly the ones relating to the percentage of FOI reviews completed within time lines agreed with applicants. It is obviously a measure that sort of reflects how well you are going against the thing that you have agreed you will be able to do in terms of processing FOI reviews. In 2023/24 – so the first of the two years – we saw a pretty significant decline to just around 51.7 per cent, and in 2024/25 it declined again to 50.8 per cent. If we hop back a few years earlier, it was at around 60 per cent. I am just sort of wondering what has happened in the last couple of years that has caused the timeliness to decrease.

Sean MORRISON: I will just start with: I do not think we will continue to use this metric in the future, because I do not think it is comparing apples to apples, in that people can grant OVIC an extension of time, so for some requests it might be 90 days you have to meet the timeliness and it could just be 30 days for other matters. We think a better metric, which we are seeking a change to, is the number of days it has taken OVIC to deal with a request, and I think that would assist everyone and the Committee in assessing quality. So that is the first overarching thing I would say. I do not think this BP3 measure is entirely –appropriate, but it gives validation to what is happening inside OVIC.

Just coming back to your question, even putting that to the side, we have seen for the 2024/25 year a 19.4 per cent increase in the number of reviews we have received, so there is an increase in workload. And I think you will note in OVIC's 2023/24 annual report that there was a clause 11 [process under the Victorian Public Service Enterprise Agreement 2020] conducted before I arrived – but I am the Information Commissioner now – which realigned some staff and saw a reduction in staffing. That is why we are on this internal process journey to make sure that we at least maintain our timeliness and now improve it. In effect, I think it is really the workload and the complexity of requests as well. We are seeing a lot of larger and more complex requests coming through, dealing with the unique application of exemptions claimed.

Ryan BATCHELOR: Right. I was going to ask about the revision to the performance target on the measure, but as you have basically said, you think the measure is pretty cooked and needs to be replaced. I will not pursue it. Have you done any analysis on how you would have performed under your proposed measure?

Sean MORRISON: Yes, I have.

Ryan BATCHELOR: Can you tell that to the Committee?

Sean MORRISON: In 2021/22, based on OVIC receiving 528 reviews, the average days to complete a review was 110 and in 2024/25 they were 137, which is an 11 per cent increase.

Ryan BATCHELOR: 137 days?

Sean MORRISON: 137 days.

Ryan BATCHELOR: And of how many reviews?

Sean MORRISON: 689, so 528 compared to 689 – that is the comparison.

Ryan BATCHELOR: And that was 2021/22 and 2024/25?

Sean MORRISON: Yes. And I am happy to take that on notice and provide the table to the Committee afterwards.

Ryan BATCHELOR: Yes, sure. That would be great.

Sean MORRISON: Yes.

Ryan BATCHELOR: It is useful. The number is increasing, and you are saying the complexity is increasing as well?

Sean MORRISON: Definitely.

Ryan BATCHELOR: One of the things that obviously came out of our inquiry into the FOI regime was the large number of FOIs relating to people's personal records, their own information that they are seeking access to – I should have remembered what the percentage was, but it was about two-thirds; anyway, I cannot remember – the rest being sort of documents of government, for want of a better term. How much of the growth that you are seeing in both the volume and complexity is in the personal records side versus the documents of government side?

Sean MORRISON: I might throw to Penny for that.

Penny EASTMAN: Thank you, Sean. We are certainly seeing in the review side an increase in requests for documents relating to government decision-making as opposed to personal affairs information. There still is a large volume that does relate to personal affairs information, but a significant proportion does relate to Cabinet documents, and documents relating to Big Build projects in particular was a theme in the reviews for the 2023/24 financial year, which we noticed an increase in. We can certainly provide some more data on those breakdowns between the themes that we recorded the most reviews for during that period.

Ryan BATCHELOR: Sure. Thanks, Chair.

The CHAIR: Thanks, Ryan. Let us go to Jade Benham.

Jade BENHAM: Thank you, Chair. The 2023/24 annual report says:

51 agencies reported that releasing information proactively –
that push model that we talk about –

led to a decrease in FOI requests being received or having to be processed.

So what work is being done with agencies to start to proactively release more information?

Sean MORRISON: Just before I throw to Penny, I will just say that no matter how hard OVIC pushes in relation to proactive release, until agencies are given that comfort that they will have the protections of documents proactively released under the FOI Act, there is that tension where you can understand some hesitancy of people being subject to some kind of legal claim. So we say the Act needs to be amended to allow for proactive release and the protections. Penny.

Penny EASTMAN: In that environment what we really aim to do is to provide advice and guidance to agencies to help them feel better supported to release information either informally or proactively, and that includes through our FOI Guidelines. Another big piece of work we did was to develop a policy template for agencies that they could use and tailor to the individual needs of their department or agency to try to get that buy-in from the top down, to have support to release things in different ways outside the Act. We have also got templated content on our website and guidance in terms of the things to consider when trying to release things outside the Act, and that includes specific guidance to particular sectors such as local councils as well as the health sector, which touches on Mr Batchelor's point about a lot of personal affairs information being requested through that space.

Jade BENHAM: Agencies are continuing to report an increase in the number of FOI requests and their complexity, as you have stated. So those issues with the protections and those changes being made in the Act,

are they the biggest barrier that you see with agencies' compliance with section 21 of the FOI Act, to finalise those requests within the 30 days? And do you think the 30-day timeframe in section 21 is reasonable and balanced?

Sean MORRISON: I think that is not the only barrier, to start with. I think the Act itself is a barrier because people start with an exemptions-first mindset rather than a proactive mindset. It would be interesting to see, if we peeled away some of the exemptions and, as we said before, have a limited number of exemptions with a public interest test and have mandatory proactive disclosure, what the true barrier was on meeting the compliance with the 30-day timeframe. In times where organisations are under pressure with FOI requests, potentially it is OVIC's role to highlight the obligation to agencies that they must fill their FOI positions with suitable staff members and suitable staff numbers, and that is something we are doing now. I cannot say that there is a one-to-one correlation with anything in particular in the 30-day time frame until we peel away those other barriers. Anything you would like to add, Penny?

Penny EASTMAN: Just to add that the vast majority, from the data we collected from the annual report – I think it was the most recent year just gone – 76.6 per cent of requests were dealt with in time by agencies. That was a slight reduction from the year prior, but pretty consistent in terms of matters that were dealt with in time. The key things that are raised with us for major departments are the incoming volume of FOI requests – just that there is so much coming in the door, as well as potential backlogs from previous years. That is a real hindrance to them being able to meet those time frames, and resourcing issues contribute as well.

Jade BENHAM: Does that time frame need to be adjusted, or is it fair?

Penny EASTMAN: I think we come from a place where we understand that access to information is perishable, so doing it as quickly as possible is the ideal scenario. The 30-day time period is certainly best practice in other jurisdictions and countries.

Jade BENHAM: Great. Thank you.

The CHAIR: Thanks, Jade. I might take this one, and start by thanking OVIC for all your work and your participation in our inquiry into the FOI Act from 18 months ago. The government's response did include the words that it was going to 'continue to do analysis in this area'. OVIC has since said that it looks forward to working with the government on the access to information framework. What work has OVIC done so far with the government on potential reform?

Sean MORRISON: We are in constant contact with the Department of Justice and Community Safety, putting forward ideas of how to progress these. I would not like to speak on behalf of the Department on what work they have going on internally, but OVIC has put forward some ideas about whether these changes can happen incrementally or, instead of them being a whole piece of work, potential changes going forward.

The CHAIR: Do you think that there would be some sensible increments that could be done to reduce the immediate workload?

Sean MORRISON: Noting that it is up to the government of the day to make those laws and make those changes, OVIC's preference would be, I think, a staged approach rather than waiting for an all-in approach. I think, for example, one of the things we could do is look at this disparity between health records and personal information and have a separate distinction for health records, making them all, under the FOI Act, just one type of record. The second thing is potentially having a proactive release scheme for personal information, like health information and people's own information, so carving them out to start with. We understand there are other pieces of work to be done that interact with the *Public Records Act* [1973 (Vic)], for example, and secrecy provisions across the statute. We know that it is a big piece of work, and an incremental approach we think is the best way forward.

The CHAIR: Do you have any sense of optimism that that work is actually ongoing?

Sean MORRISON: Very optimistic, and we take the government at face value. This inquiry was referred here by the government of the day, so I think everyone acknowledges that it is an important piece of work. Maybe the inquiry just discovered for all of us how big a piece of work it is, that it is not just simply the flick of a switch. Then there is the cultural change to take place as well, apart from the legislative change.

The CHAIR: I think you said in your introductory remarks that there was an 8 per cent increase in FOI complaints in 2023/24 and then I may have missed it, but a 9 per cent increase the following year. In any event, the numbers are rising fairly rapidly. The other thing is the increased number of reviews and privacy complaints, and also the number of days taken to finalise an FOI complaint or review have increased. I would be interested in if you could say a bit more about what steps you are taking to manage the increased workload in processing complaints and reviews.

Sean MORRISON: We are always reviewing our processes, but in relation to complaints, we are looking at ways to deal with complaints front-on. I will throw to Penny in a minute to talk more about the complaints process, but with reviews we are doing short-form notices of decisions or providing people with initial views up-front of where OVIC has made a similar decision where we can refer to a public decision so that they understand potentially, if the review had followed through, what the decision would have been of the Deputy or Information Commissioner. We are providing preliminary views to departments so that potentially they can make a fresh decision, and we are also doing informal resolution to try and get on top of this workload. Penny, would you like to say something about complaints?

Penny EASTMAN: Yes, certainly. Similarly, with complaints we are really focusing on triaging them at the front end to see if there are ways we can shortcut the process, seeking combined submissions from major agencies to look at the problem in a more holistic way rather than on a case-by-case basis as well, to not only save the agency time so it can focus on making decisions, but also in terms of us having the right information to be able to update applicants and complainants, and really looking at ways that we can still provide procedural fairness to complainants but reduce the number of steps to get to the final outcome as well.

The CHAIR: Thank you very much. Let us go to Rachel Payne.

Rachel PAYNE: Thank you, Chair. Great to see you all today. Thanks for coming in. My question is in relation to information security and engagement with Victoria Police. OVIC has continued to engage with Victoria Police about recommendations previously made to Victoria Police by OVIC and its predecessors regarding information security. I would be interested to know what progress has been made for Victoria Police to implement the outstanding recommendations.

Sean MORRISON: I will let Anthony take this question.

Rachel PAYNE: Thanks, Anthony.

Anthony CORSO: Thank you. There is a lot of progress being made by Victoria Police, particularly in the last two years. I think you will see that in our annual reports. They had 16 recommendations initially outstanding from the 270 that have accumulated over the years. Of those 16, 11 were finalised in that particular year, and we only have five more that are outstanding. In recent conversations with Victoria Police we have had a commitment that those remaining five should be addressed this financial year.

Rachel PAYNE: Great. Thank you.

The CHAIR: Paul Mercurio.

Paul MERCURIO: Thank you, Chair. When you were talking earlier, you spoke about the increase in the complexity of requests. I am just wondering what is driving that complexity. What is the cause of that?

Sean MORRISON: There is only our experience, so it is not a scientific response, but I think that we are seeing that there is greater interest from all community groups and action groups and residents about what is happening in their local community. They are not just members of Parliament making these requests. They are people from particular special interest groups or people in a particular area where certain projects touch on their locality, and I think this is a result of interested citizens since the COVID pandemic. People are more interested in what is happening in their local government, for example, and also in government in particular.

Paul MERCURIO: I am also wondering: people using AI to formulate their requests – is that increasing the complexity for you guys?

Sean MORRISON: We have seen an uptick in AI-generated requests. What we are doing to potentially deal with that – because the problem is that they are not very well constructed – is we are reaching out to one of the

agencies that use that platform to try and interact with them to at least get the information that they are basing these requests on correct, so that, if they are pulling from our guidelines, to make sure that these people are given the appropriate guidance and can make a request so that there is not this back and forth at the front end that the requests are valid. So we are seeing that, and it is a great tool to empower citizens, but the downside is if the information is not accurate it actually creates more of an impost.

Paul MERCURIO: I guess, to my question: what education programs and resources have OVIC developed regarding the use of AI, and what measures have been taken to ensure engagement with the resources OVIC has developed?

Sean MORRISON: We have released a number of resources on AI. We do not have one specifically on making a request using AI as yet. So the first thing we have done is we are interacting with the platform that we suspect is generating most of these requests to try and get them to train their systems using OVIC's data, instead of whatever data they are training their model on, and making sure it is correct. We will eventually develop a resource, but of course it has to be tech agnostic, and it comes back to the basic AI principles of what our guidance is: that is, to be frank, rubbish in, rubbish out, to make sure that people are using OVIC's guidance and guidelines, because we have a complaint-making process, they are all on our website, and these agents are trained on that data.

Paul MERCURIO: Thank you.

The CHAIR: Fantastic. Let us go to Kim Wells, the Deputy Chair.

Kim WELLS: Thanks. OVIC's annual report states that in 2023/24 and 2024/25 you increased the use of preliminary inquiries. What advantage did you find from using preliminary inquiries more? To follow on from that, in 2024/25 you exercised coercive powers after not using coercive powers for some time: what processes does OVIC follow in cooperating with IOV [Integrity Oversight Victoria] regarding the use of coercive powers?

Sean MORRISON: Thank you. The first question is around the use of preliminary inquiries. Our next annual report I think will evidence that they have been more effective in conducting a greater number of regulatory actions. The advantage is that OVIC is a small organisation, and sometimes an investigation can take a year or six months, and that is a lot of resources that are pulled offline to deal with one particular topic when, in the end, all we want is agency compliance. Recently – not in these financial years – OVIC has published a case study of one of these preliminary inquiries we did in relation to online forms. So it allows us to be a bit more agile without going through the full investigative process and having agencies effectively admit to noncompliance and rectify it rather than going all the way through to the end and issuing a compliance notice to get some kind of action. In relation to the processes with Integrity Oversight Victoria, we follow those that we are statute-bound by, and we inform them of those coercive notices; they conducted a review and found that we were compliant with the protocols and their expectations. We do work very closely with them; we are finalising an investigations handbook, and it will go to that agency for review as well, so we are in close contact with them to make sure we do not fall foul of our obligations.

Kim WELLS: Thanks.

The CHAIR: All right. Any further questions? If not, we will thank Sean Morrison, Anthony Corso and Penny Eastman very much for coming in and helping us out. We will suspend the hearing now and take a short break.

Witnesses withdrew.