

# **Parliamentary Inquiry into Fraud and Corruption Control in Local Government – 31 March 2025**

**Response to Questions on Notice and further information**

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### **1. What challenges are impacting the capacity for your agency to collaborate effectively with Local Government Victoria (LGV)?**

IBAC works collaboratively with all of Victoria's integrity agencies across a range of functions including intelligence sharing, investigations and in the delivery of prevention activities.

IBAC proactively looks to collaborate with its integrity partners on prevention activities, including identifying synergies when appropriate; for example, in 2024, IBAC, alongside the Local Government Inspectorate, the Victorian Electoral Commission and the Victorian Ombudsman, delivered a series of local government information sessions to help councils learn how to identify, prevent and manage integrity risks in the lead up to the council election period.

As is stands, IBAC sees no challenges in collaborating with the LGV. IBAC will continue to look for ways to work with all its integrity partners to help build the capacity of the local government sector.

### **2. Given that each council varies significantly in geographical size, population and demographics, how can a control framework cater to the whole sector?**

IBAC's legislation does not distinguish between state and local government; and instead requires accountability across the Victoria public sector. Our local government prevention and education work is guided by data derived from allegations & complaints, investigation outcomes and perceptions surveys – this helps IBAC to target its prevention activities based on risk.

Through recent investigations, IBAC exposed corrupt conduct by local councillors, explored local and systemic fraud and corruption vulnerabilities affecting councils, and made a range of significant recommendations to address identified corruption risks in local government.

As detailed in IBAC's written submission, IBAC recommended government introduce whole of sector governance practices to strengthen standards for councillor conduct and promote good governance practices across all Victorian Councils, including:

- requiring all councillors undertake mid-term refresher training on governance leadership and integrity
- developing conflict of interest training to be completed by all Victorian councillors
- developing governance rules to be adopted by all Victorian councils; and
- developing a model councillor code of conduct which applies to all councils.

These recommendations align with similar themes identified by the Victorian Auditor General in the two reports that are the subject of PAEC's inquiry.

Implementation of IBAC's recommendations are designed to ensure minimum standards exist across councils regardless of their size, demographics etc.

### **3. How and at what stages in the VAGO audit process were your agencies engaged with/advised of the audit?**

VAGO provides its annual plan to IBAC for input and consultation prior to it being finalised.

In addition, the Auditor-General, Ombudsman and IBAC Commissioner meet regularly to discuss issues and topics of mutual concern. All agencies have information sharing arrangements which also support a coordinated response to emerging issues.

In addition, VAGO consulted with IBAC at the time of conducting their audits.

**3a. Would there be a benefit to integrity agencies tracking the implementation of VAGO audit recommendations by local councils? If so, which agency would be best placed to undertake this?**

IBAC, the Ombudsman and VAGO all monitor the acceptance and implementation of their respective recommendations, including those made to councils. Given that these recommendations arose from VAGO audits, VAGO will be monitoring their implementation.

While there is no legislative requirement for audited agencies to accept, complete or publicly report on VAGO recommendations; IBAC understands that VAGO does track audit recommendations through an annual follow-up survey. This survey helps VAGO monitor how audited agencies are addressing their findings and implements a system to report on agency progress to Parliament.

IBAC tracks implementation of its own recommendations however, it does not have the statutory powers or resourcing to track the implementation of recommendations made by other agencies (and we do not have evidence to suggest that it is necessary to do so).

**4. IBAC and other integrity agency's submissions noted resource limitations to undertake the 'proactive' work needed to prevent the occurrence of fraud and corruption. MAV's submission also noted that more funds were required for LGI to expand council preventative training, guidance and support.**

**4a. What benefit would coordination efforts by LGV have on streamlining education offerings across the local government sector?**

**4b. Are there any longer-term consequences of having to adopt a 'reactive' approach to focus available resources on investigations and enforcement, over a 'preventative' approach through promoting local government knowledge relating to fraud and corruption?**

IBAC has investigation and prevention statutory functions under the IBAC Act. It should be noted that IBAC, in its first submission and public hearing, did not indicate it has resource limitations to undertake the proactive work needed to prevent the occurrence of fraud and corruption in local government.

IBAC conducts investigations into allegations of corruption in local government and makes recommendations on strategies to enhance fraud and corruption control. In addition, IBAC produces a range of resources for local governments to help prevent corruption and misconduct. These resources aim to equip local governments and council officers with tools to identify, report, and mitigate corruption risks.

IBAC works collaboratively with all of Victoria's integrity agencies across a range of functions including intelligence sharing, investigations and in the delivery of prevention activities including metro and regional face-to-face events and webinars.

Currently, significant effort is dedicated to co-ordinating and streamlining prevention education activities, in part through the established Prevention Education Advisory Group (PEAC) and the Public Interest Disclosure Consultative Group (PIDCG) – both of which are co-ordinated and chaired by IBAC.

PEAC meets quarterly to discuss prevention and education initiatives, information and collaborative opportunities. PEAC attendees include the IBAC, Victorian Ombudsman (VO), Victorian Auditor General's Office (VAGO), Local Government Inspectorate (LGI) Office of the Victorian Information Commissioner (OVIC) and the Victorian Public Sector Commission (VPSC).

The PIDCG purpose is to provide a forum for the identification and resolution of systemic issues and inter-agency practice issues that arise for key investigation bodies in the operation of the protected disclosure scheme, under the Protected Disclosure Act 2012 (PID Act) and related legislation. Its attendees include the VO, Parliament (Deputy Clerk representing both houses), Integrity Oversight Victoria, Victoria Police, LGI and the Judicial Commission of Victoria.

IBAC will continue to work with its integrity partners, including the LGV, to ensure the local government sector is provided with a range of tools and resources to increase their knowledge relating to the prevention of fraud and corruption.

## **5. What role does Victoria Police have in collaborating with integrity agencies on investigations into suspected fraud and corruption in local government?**

As set out in our submission to this inquiry, it may be appropriate for IBAC to work with another agency to investigate a matter from time to time. Section 72 of the IBAC Act allows IBAC to conduct an investigation in coordination with any integrity body or law enforcement agency (such as Victoria Police). There have been no recent examples of how IBAC has worked with Victoria Police on a local government related investigation.

Outside of coordinated investigations, Victoria Police can refer matters of suspected fraud and corruption in local government to IBAC where it is considered that IBAC is the most appropriate entity to conduct the investigation.

Victoria Police and IBAC, along with other government departments, also participate in a shared community of practice through regular meetings between senior representatives. This community of practice facilitates the sharing of information relevant to each other's jurisdiction and may result in further investigative steps being taken by participating agencies.

### **5a. Under what circumstances would police become involved in prosecutions?**

Victoria Police and IBAC may initiate prosecutions following an investigation into fraud or corruption in local government. Generally, the body with primary responsibility for the conduct of the investigation will maintain primacy for the conduct of any prosecution arising from the investigation.

Victoria Police may become involved in the prosecution of offences resulting from their own investigations which arose following a referral of a complaint or the disclosure of information from IBAC.

Prosecution of summary offences may be conducted by Victoria Police or IBAC themselves, while the Office of Public Prosecutions may conduct prosecutions of serious offences on behalf of those entities.

In relation to prosecutions commenced by IBAC following an IBAC investigation, there may be incidental involvement by Victoria Police based on the level of Victoria Police involvement during the investigation stage. By way of example, Victoria Police members may occasionally assist IBAC officers during the execution of search warrants, or serving documents on key persons of interest or witnesses. In those circumstances, it may be necessary for a Victoria Police member to become involved in the prosecution through the provision of a witness statement and giving evidence as a prosecution witness.

Similarly, if an IBAC investigation is commenced following receipt of information from Victoria Police and the investigation results in a prosecution, it is possible that the Victoria Police member or members that identified and referred the relevant information may need to provide a witness statement and subsequently become involved as a witness in any resulting prosecution.

**6. Submissions from IBAC and LGI, have noted that only the most serious examples of non-compliance have been prosecuted, leading to an impression across the sector that there are little consequences for compliance failings in relation to ‘lesser’ offences.**

**6a. What accounts for the low number of prosecutions?**

The term ‘corruption’ in the two VAGO reports is broadly described as dishonest activity in which an employee of an entity acts contrary to its interests, abusing their position of trust to achieve personal gain or advantage.

In Victoria, the IBAC Act defines ‘corrupt conduct’ as conduct of a public officer or public body that involves a knowing or reckless breach of public trust, or that involves misuse of information gained in the performance of public functions (whether or not for the benefit of a particular person). The definition requires that the conduct would also constitute a relevant criminal offence. Accordingly, it is a much higher threshold than that used in the VAGO reports. IBAC often receives complaints that do not meet the threshold definition of corruption required for it to act on an allegation.

Approximately 11 per cent of all allegations received by IBAC relate to local government. Some of the most common types of allegations in local government are often not about corruption, but instead include:

- inaction in relation to local council’s official capacity or powers. Often this is a failure by the council to take sufficient or appropriate action in response to licensing or zoning requests, complaints or reports made by residents;
- favouritism (including mismanaged conflicts of interest) in procurement and purchasing, recruitment activities, and planning decisions; and
- breach of professional boundaries (including bullying and harassment as well as the exceeding of delegated powers), particularly between councillors and in relation to how councillors and other decision makers at council interact with staff and the community.

Prosecution is one method of deterrence used to address corruption and police misconduct in Victoria. However, IBAC deters corruption through a multifaceted approach that includes investigations and their exposure, educational initiatives, and public reporting that include recommendations designed to prevent corruption.

IBAC collaborates with other integrity agencies and government organisations to ensure that each allegation it receives is either referred or returned to the most suitable organisation for actioning before it investigates the remaining allegations.

Action against local government allegations is often taken at the local government level itself. Where relatively minor infractions are involved, local government actions can have advantages over action through IBAC or the Victorian Ombudsman (VO). These include being able to:

- directly collect, assess and investigate information and feedback from staff
- deliver more immediate remedial or punitive measures, including dismissal
- provide ongoing organisational cultural change through training and mentoring.

IBAC has determined the following outcomes for local government allegations, in descending order of prevalence.

#### Dismissed allegations (59 per cent)

Most allegations (59 per cent) that IBAC receives regarding local governments do not fall within the jurisdiction of IBAC or contain insufficient detail.

Out of 4291 allegations received regarding the local government sector during the period (01 July 2018 to 27 Feb 2025), 59 per cent were dismissed (2518 allegations).

Outcome decision	Percentage of allegations	Number of allegations
Dismiss	58.68%	2518
Dismiss with Section 41	0.93%	40
Refer	29.01%	1202
Return	9.95%	427
Investigate	0.75%	32
Withdrawal	0.61%	26
Allegations awaiting decision	0.58%	25
No further action	0.40%	17
Preliminary inquiries	0.09%	4

Out of all dismissed allegations, most are dismissed because:

- they lack substance or credibility (34 per cent)
- the conduct cited does not warrant investigation under the IBAC Act (25 per cent)

Other reasons that account for dismissals include:

- that the allegation has already been investigated
- the alleged behaviour occurred at too remote a time, beyond the 10-year statute of limitations
- that the allegation does not relate to IBAC's functions
- frivolous or vexatious content
- allegations that are not genuine or mischievous in nature
- combinations of the above reasons.

IBAC may also dismiss an allegation under s41 of the IBAC Act, which involves the release of information in the allegation that IBAC has determined is useful to the organisation in question.

#### **Referred allegations - 28 per cent**

Once allegations are dismissed, IBAC often determines that remaining allegations do not meet IBAC's threshold and are therefore best addressed by a more suitable organisation. Around 28 per cent of allegations were in this category. IBAC referred 34 per cent of referred allegations to the VO, which is best suited to addressing allegations of maladministration, unfairness, breaches of human rights, and poor conduct in public sector decision-making.

The Local Government Inspectorate (LGI) received 33 per cent of IBAC's referred allegations, and is best placed to address many of the allegations of conflict of interest, misuse of position, and improper governance in local government.

The remaining allegations (roughly 32 per cent) were referred to the local council or shire in question.

#### **Returned allegations (10 per cent)**

IBAC may return an allegation to a public sector organisation if it does not relate to serious or systemic corruption. The organisation, often the council itself, is often best placed to investigate violations of its code of conduct, HR and procurement procedures. In some cases, IBAC might have already investigated an allegation, or one that is similar in content. In this case, unless there is new evidence that merits escalation, the allegation will be returned to the originating organisation. IBAC can also include accompanying recommendations for improvement rather than conduct an investigation.

Allegations can also be returned when they are the subject of mandatory notifications to IBAC from local councils. Although IBAC may decide to investigate these notifications, it may assess the matter before returning it for actioning by the local council.

### **Withdrawn or no further action taken (1 per cent)**

Allegations can also be withdrawn by the originator. Or IBAC may determine that no further action is warranted.

### **Investigations or preliminary inquiries (1.15 per cent)**

Although the percentage of allegations that are investigated or are the subject of preliminary inquiry are small, these processes are time and resource intensive because of the complexity in investigating matters involving corruption. In some cases, they may be the subject of public hearings.

## **6b. Does allowing lower-severity breaches increase the likelihood that higher-severity breaches occur?**

IBAC's data does not support this idea.

Allowing responses to lower-severity breaches to go unaddressed increases the likelihood of higher-severity breaches occurring relies on two assumptions:

- lower-severity breaches (those that do not involve serious and systemic corruption or fraud) are not being addressed; and
- there will have been a corresponding increase in higher-severity breaches (those involving serious and systemic corruption or fraud) over time.

IBAC has no evidence of either occurring.

IBAC's high-level focus on serious and systemic fraud and corruption does mean that many allegations are more suitably addressed by returning the complaint to the notifying organisation or referring it to the most appropriate integrity body for further action. In most cases concerning local governments, this was either the VO (34 per cent) or the LGI (33 per cent). In most of the remaining cases, this was the respective local council, which would be responsible for sanctioning the staff involved.

There is no indication that the number of higher-severity breaches have increased, or that the proportion of higher-severity breaches within all local-government allegations has increased. The overall number of allegations against local governments reduced from around 800 in FY2019-20 to around 600 in FY2023-24, in-line with the number of allegations received in FY2018-19.

## **7. How are the search and seizure enforcement powers of IBAC officers currently limited under the IBAC Act? How are these limitations impacting investigation effectiveness and outcomes in local government?**

Section 91 of the IBAC Act enables a Supreme Court judge or magistrate to issue a search warrant authorising an IBAC officer to enter and search premises and to copy documents or seize anything that the officer considers is relevant to an IBAC investigation. Many search warrant provisions relating to Victoria Police (such as section 81 of the Drugs Poisons and Controlled Substances Act 1981) also enable police to search a person who is present at the premises.

The omission of this power in relation to IBAC officers can significantly inhibit the effectiveness of IBAC searches.



**8. IBAC recommended extensive reforms to strengthen council governance, including transparent decision making, preventing improper influence, improving reporting and data collection, strengthening conflict of interest processes and ensuring adequate penalties.**

**8a. How is IBAC tracking the implementation and impact of these recommendations?**

IBAC tracks the implementation of its recommendations in several ways, including by requesting periodic progress reports from responsible entities, engaging with responsible entities, and sourcing other publicly available information. IBAC conducts a qualitative analysis of that information to assess the adequacy of implementation responses and provide feedback to entities.

IBAC also measures the impact of recommendations through various forms of engagement, including formal and direct consultation with stakeholders and other more broad engagements such as the periodic Perceptions of Corruption surveys, which occur across seven stakeholder groups, including local government. IBAC may also track the impact of recommendations through other publicly available information, such as the reports of municipal monitors appointed to local councils throughout Victoria to monitor relevant issues including councillor behaviour, council processes and good governance.

**8b. What has it discovered?**

IBAC has made numerous recommendations regarding local government, almost all of which have been accepted or supported in principle. While it would not be appropriate for IBAC to speak for the government regarding the details of its implementation activities, IBAC notes that through the introduction of the *Local Government Amendment (Governance and Integrity) Act 2024* and associated regulations, the government has made progress addressing IBAC's recommendations. The suite of local government reforms included the introduction of the Model Code of Conduct for Councillors which has been adopted by local councils, alongside mandatory professional development training for councillors and improvements to the councillor conduct framework. IBAC will continue to liaise with responsible entities regarding the implementation of IBAC's recommendations.