

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Inquiry into Fraud and Corruption Control in Local Government: A Follow Up of Two Auditor-General Reports

Melbourne – Monday 31 March 2025

MEMBERS

Sarah Connolly – Chair

Nicholas McGowan – Deputy Chair

Jade Benham

Michael Galea

Mathew Hilakari

Lauren Kathage

Aiv Puglielli

Meng Heang Tak

Richard Welch

WITNESSES

Michael Stefanovic, Chief Municipal Inspector, and

Dawn Bray, Manager, Strategy, Governance and Operations, Local Government Inspectorate;

Victoria Elliott, Commissioner, and

Alison Byrne, Chief Executive Officer, Independent Broad-based Anti-corruption Commission; and

Marlo Baragwanath, Ombudsman, and

Andrew Adason, Deputy Ombudsman, Victorian Ombudsman.

The CHAIR: I declare open this hearing of the Public Accounts and Estimates Committee. I ask that mobile telephones please be turned to silent.

I begin by acknowledging the traditional Aboriginal owners of the land on which we are meeting, and we pay our respects to them, their elders past, present and emerging and any other elders from other communities who may be here with us today.

On behalf of the Parliament the committee is conducting this Inquiry into Fraud and Corruption Control in Local Government: A Follow Up of Two Auditor-General Reports.

I advise that all evidence taken by the committee is protected by parliamentary privilege. However, any comments made outside of this hearing may not be protected by this privilege.

Witnesses will be provided with a proof version of the transcript to check, and verified transcripts, presentations and handouts will be placed on the committee's website.

I welcome representatives of the Local Government Inspectorate, Chief Municipal Inspector Michael Stefanovic and Dawn Bray, Manager, Strategy, Governance and Operations; and representatives of the Independent Broad-based Anti-corruption Commission, Commissioner Victoria Elliott and Alison Byrne, the CEO. We have also got, from the Victorian Ombudsman's office, Ombudsman Marlo Baragwanath – I hope I got that correct or I am very close; I really apologise – and Deputy Ombudsman Andrew Adason. Welcome. I am going to invite each agency to make an opening statement or presentation of no more than 5 minutes, beginning with LGI, followed by IBAC and then the Victorian Ombudsman, and this will be followed by questions from the committee. Okay, do you want to kick us off?

Michael STEFANOVIC: Thank you, and good morning, Chair Connolly and committee members. I am Michael Stefanovic. I am the Chief Municipal Inspector, and I am fortunate to lead a great team over at the LGI. On behalf of the LGI I wish to thank the committee for its invitation to provide a written and verbal submission to inform the committee on its deliberations into fraud and corruption control in local government. As the dedicated integrity agency for local government in Victoria, we engage with fraud and corruption controls in several ways, such as potential breaches of certain provisions of the Act and through proactive governance – examinations of any aspect of council operations.

With respect to the topics that were directed to us, our desire is to be proactive. As outlined in our written submission, we have seen an increase in the number of councils requiring early intervention by the LGI to mitigate the risk of poor governance and possible fraud and corruption. From our visits to councils over the past two years there is significant variation in the quality and the veracity of fraud and corruption controls across the state. We see immense value in undertaking a governance examination into aspects of council operations, such as CEO employment and remuneration committees and audit and risk committees, but given we only have one full-time compliance staff member, our ability to do so is extremely limited.

The committee has asked for my views on the prioritisation of enforcement versus proactive work. We are unable to prioritise proactive work ahead of investigating complaints, as we are the only agency with the

ability to enforce the *Local Government Act*. So any decline on the investigation side would leave a vacuum, potentially leading to worse outcomes in terms of fraud and corruption controls. Moving resources from investigations into proactive compliance work also does not make sense given our complaint caseload has more than doubled in the past five years. We have a duty to respond to all complainants, although it takes longer than we would like in many cases. It is my view that both our proactive and reactive functions are essential.

I do think, however, that we punch above our weight in terms of the guidance and education material we publish, the depth of our governance examinations, the presentations we make to councillors and officers and our early intervention initiatives. A case in point is our recommendation for municipal monitors to be appointed to three councils in recent times and two other instances where early intervention has provided meaningful outcomes. In one case it was around the involvement of an independent expert into a CEO recruitment process, and in another a referral to WorkSafe following a council visit. We are also providing ongoing guidance to this council in relation to rebuilding their governance and risk management frameworks.

Under the topic of potential reforms for streamlining and increasing navigation for councils and the public, the integrity agencies beside me are part of a 'no wrong door' approach to councillors, council staff or the public lodging complaints. Together we have stepped up our coordination between the Ombudsman's office, IBAC and LGI in terms of our sector education efforts, information on our websites and how our frontline teams deal with inquiries and complainants. Initiatives such as PEAC, the prevention and education advisory group, is also an important vehicle through which we streamline our engagement, education and complaint response activities. We are also working with the Ombudsman's office to ensure that frontline staff receive training and information about the LGI's role so that they are able to help direct complainants and queries to the appropriate agency.

Under the heading of adequacy of the LGI's legislative or enforcement power and resources, I draw your attention to part 6 of our written submission, which details the legislative enforcement challenges we face. Our experience is that bar for proving a breach of the Act is very high and that even when we meet the test and progress to court, the hearing is delayed for a significant period of time and the penalties are at the low end of the scale. Given our restricted funding, only the cases that are of the highest public interest and with the greatest chance of success proceed to an investigation. Our submission identifies possible streamlining of the provision of information relating to personal interest returns and election campaign donations directly to the LGI rather than to the Minister for Local Government to improve the efficiency of our work.

Under the heading of transparency and effectiveness of audit and risk committees, as I mentioned before, there is a significant variation in the terms of reference for the audit and risk committees across the state. We know councils face challenges in recruiting suitably qualified independent experts to scrutinise council activities, particularly in rural areas. There is divergence in the number and duration of committee meetings, which suggests that there may be differing levels of oversight and in the detail and range of information and matters that are reported. As part of our program going forward, we would hope to be in a position to undertake a comprehensive examination of the functionality of audit and risk committees across the sector.

A governance examination into the efficacy of these committees would provide more detailed and informed recommendations. However, at the very least we believe that every council should be required to publish information about their committee members, their expertise, agendas and minutes, noting that some aspects of an agenda may be confidential. Ongoing mandatory training for these committees is also another way in which consistency and efficacy could be enhanced across the sector. Lastly, we would like to do more to support the sector and to improve good governance and legislative compliance across the state and look forward to seeing the committee's report and findings. Thank you.

The CHAIR: Thank you. Ms Elliott.

Victoria ELLIOTT: Thank you, Chair. Before I begin, I would also like to knowledge that we are meeting here today on the traditional lands of the Wurundjeri Woiwurrung people and pay my respects to elders past, present and emerging.

As Commissioner of the Independent Broad-based Anti-corruption Commission, let me start by thanking members of the Public Accounts and Estimates Committee for the opportunity to contribute to this important inquiry into fraud and corruption control in local government. I would also like to take the opportunity to acknowledge our integrity agency colleagues from the Local Government Inspectorate and the Victorian Ombudsman who are appearing alongside us today. I am joined today by my colleague and IBAC CEO Alison Byrne, and we both look forward to shortly responding to the committee's questions on behalf of IBAC.

As you will be aware, IBAC is responsible for preventing and exposing public sector corruption and police misconduct in Victoria. A key component of the public sector for IBAC in this context is local government. In our submission you will have noted that we initially sought to ensure the committee is armed with a solid foundational understanding of IBAC's role in the local government space, together with certain reforms that could potentially serve to enhance it. But the main focus of the submission, and hopefully what we can expand on today, is to provide the committee with important insights that can serve to inform the parliamentary consideration of the issue of fraud and corruption control in local government. These insights, which are informed by our prevention and exposure work, can largely be broken down into two categories: IBAC's identification of corruption risks and issues in local government, and measures we have proposed to address them.

It is worth highlighting at this point that IBAC places equal importance on its prevention and exposure work, both in terms of local government and its remit more generally. From a prevention activity perspective, we have highlighted important analysis IBAC has produced in connection with the development of our local government sector profile. Forming part of a broader series of public sector risk profiles produced by IBAC, this seeks to inform the local government sector about their specific corruption risks and vulnerabilities and guidance on how to prevent corruption and misconduct occurring. Notable insights from the local government sector profile include that 11 per cent of allegations received by IBAC relate to local government, that a key corruption risk is organised crime groups cultivating relationships with council staff and councillors to gain access to information, systems or commodities and that identifying and managing conflicts of interest for councillors is a critical corruption prevention strategy.

The submission also touches on findings from IBAC's Victorian perceptions of corruption 2024 surveys of public sector stakeholders, which help to inform IBAC and public sector agencies prevention initiatives. From the results it was good to see that behaviours associated with corruption and misconduct are considered less likely to occur than they were in prior years, which may link to a perceived strengthening of ethical culture within local government. However, it was noted that, compared to previous surveys, people's perceptions that corruption and misconduct would be taken seriously within local government have weakened. IBAC has also shared in the submission relevant findings and recommendations from important investigative work it has conducted in relation to the local government sector and has linked this to related aspects of the Victorian Auditor-General's Office reports. This includes investigations into allegations of corrupt conduct, bribery and misconduct by councillors as well as a report on corruption risks associated with donations and lobbying.

In closing, I want to take the opportunity to acknowledge the important work of the Victorian Auditor-General's Office in producing the reports that are the subject of this inquiry and which serve to promote greater integrity in local government more generally. Thank you.

The CHAIR: Thank you, Commissioner. We will go to the Ombudsman.

Marlo BARAGWANATH: Thank you. Good morning, Chair and members of the committee. I too would like to begin by acknowledging that we meet today on the unceded lands of the Wurundjeri people of the Kulin nation and, on behalf of the office, pay my respects to elders past and present and recognise

their enduring connection to the land. I am joined today by Deputy Ombudsman Andrew Adason, who leads our prevention division.

As you have now heard from IBAC and the Local Government Inspectorate on some of the detail, I thought I would take a step back and explain where the Ombudsman sits and how we are a bit different. We have got a unique mandate as one of only three constitutionally independent offices of the Victorian Parliament along with the Auditor-General and the VEC – essentially one to ensure free and fair elections; one to audit the accounts and performance of the public sector; and one, being the Ombudsman, to act as a fair and independent bridge between the public and public institutions that serve them, including local councils. Our role is about not only resolving complaints but also strengthening trust and accountability, improving the responsiveness and fairness of public services and ultimately upholding the rights of all people who engage with the state. Of the integrity agencies the Ombudsman's office is the most community facing, dealing with people in all their complexity day in and day out. The system can be difficult to navigate, so if someone complains to us about something we cannot help with, we will do our best to point them in the right direction.

That said, plenty of people do come to the right place, and we receive around 18,000 complaints within our jurisdiction each year, finalising 94 per cent of those complaints within 30 days. Complaints about local government make up about 20 per cent of our cases on average each year, which as we said in our written submission is not itself necessarily a cause for concern but rather reflects the simple fact that everyone has got a local council. Relevant to this inquiry, our legislative objectives include identifying, investigating, exposing and preventing maladministration and improper conduct. Accordingly, we work alongside IBAC and the LGI particularly in the context of dealing with public interest complaints or, as they are more commonly known, whistleblower complaints. We are not a prosecutor and we do not take enforcement action. Rather, we are an investigator and we effectively are a standing royal commission with the ability to make remedial recommendations for improvement. In this regard we are satisfied that we have the powers we need to investigate issues in local government. About 10 per cent of the public interest complaints we deal with concern local government. The cases we see often allege improper recruitment or procurement practices with undeclared or unmanaged conflicts of interest, which is a common theme.

Another issue that we are seeing emerge, which is not just about local government, concerns contract management and how authorities ensure effective oversight of outsourced services. In our written submission we talked about our role in the public interest disclosure scheme as it relates to local government. Again, while we are comfortable with the powers we have got to investigate, we did describe some of the other reforms to our Act we are seeking to provide greater flexibility in how we handle these sorts of cases, such as the discretion to refer or conciliate appropriate complaints and decline to deal with them where appropriate. Across my career in the public sector and in integrity agencies I have learned that you cannot investigate your way out of maladministration or corruption. It really requires a sustained focus on prevention. Without it, investigating the same issues again and again can feel like a game of Whac-A-Mole. We have just launched our strategic plan for the next four years, a key pillar of which is prevention activities including education, engagement and improving capabilities in administration and complaints handling across the authorities we oversee. That said, the scope and scale of our prevention work is subject to resources. We have sought funding to deliver a targeted, risk-based and data-led program of prevention, as we cannot not deal with the 18,000 complaints we receive each year. We currently offer training, including on complaints handling and managing conflicts of interests. However, this is on a fee-for-service model, meaning those that need it most are not necessarily the ones who can afford to attend. In terms of our responsive operational work, again, with the broad jurisdiction that we have got and limited resources, we have to be careful about which matters we take on, which is why we are seeking more discretion in how we deal with certain types of cases.

In closing, promoting administrative improvement in local government, whether through complaints and investigations or other prevention activities, will continue to be a focus for our office. The local government sector is one where the interactions between citizen and state are at their closest and is therefore an area where we seek to have an impact in pursuit of our vision that Victoria is fair, where human rights are protected and promoted, where people are kept at the centre of decision-making and where all public bodies are open and accountable. Thank you.

The CHAIR: Thank you very much. We will go straight to Mr Welch.

Richard WELCH: Thank you all. First to you, Mr Stefanovic. In your submission you talked a lot about the risk of lobbyists, particularly in the developer class. Do you see any similar risks in the community level, where the community organisations are lobbying for grants et cetera, and how would you weigh the difference in degree of risk in those two?

Michael STEFANOVIC: I thank you for that question. If I can draw a very big picture, I fall back to my experience in the World Bank and the United Nations. I have real concerns with respect to that particular issue, with respect to potential community organisations. Do we know who they really are? IBAC actually encountered that in their Casey investigation, a degree of astroturfing, and it does concern me that groups pop up ostensibly claiming to support part of the community and they may not be. There may be some other people behind the scenes, and that is something that, from our governance side, we would certainly want to examine a little bit more closely as to who may be there. But I put it up there in some respects probably more so than the developers. There has been a lot of focus on the developers, but I think some of the other groups warrant some pretty serious attention as well.

Richard WELCH: And is part of that the delegation of, if you like, councillor powers to advisory committees and then the appointment of those advisory committees not being done by the councillors – it is done by unelected people, duly processed – but the actual understanding of any potential conflicts of interest within the advisory committee, which then is largely informing how grants are allocated?

Michael STEFANOVIC: That directly follows on from my previous answer. There is that whole flowthrough, and that is something I would really like to give some serious attention to. If I could frame it this way: when auditors go through, typically they are looking at whether, in very simple terms, all the processes are listed appropriately – all the relevant processes. Are they being followed? Is there a book for invoices? Is there a book for receipts? Okay, yes, there is. Okay, so they are compliant with respect to the documents they are supposed to have in place and the bare minimum detail that is required to be kept in order to provide some level of assurance. My concern is what is in some of those binders is not sampled, so it is like doing some ground truth to what may be in those binders. You take some invoices and receipts, and then you go and do some ground truth behind them to see, if they actually went there, whether what was contracted or sought was actually delivered. So it is that ground truth to that, and I think we are a long way off doing that. But I think from our preventative side or proactive side, that is the sort of area we would like to go into as well.

Dawn BRAY: Can I also add: in terms of those advisory committees, they actually sit outside of councils' governance rules, so they are not a delegated committee. Often councils will have conflict-of-interest provisions and people will be required to declare conflicts, but it is not across a whole sector and it is not enforced and it is not written anywhere that advisory committees must also be subject to the same governance rules. So that is where it gets a little bit grey. I think a lot of people have the best of intentions, but again there is not that level of governance. Again, it is really hard in a small rural council if you are actually adding advisory committees to that wealth of workload that they already have. But it is a risk.

Richard WELCH: The other question generally, and I am happy for anyone to answer this too, is that you have all identified quite rightly that prevention is better than cure. Part of that, though, in my mind is that in the reporting cycle things are highlighted and those empowered to act can act. I am interested in your relationship, say, to the minister and the timeliness of your reporting to the ministers that they may be able to intervene.

Marlo BARAGWANATH: I will start with that. In terms of any investigations that we conduct, generally when we start the investigation, we write to the minister. When we close the investigation, we write to the minister and let them know what the outcome is. We also write to the mayor and the CEO of the local council unless they are somehow involved in whatever conduct it is we are examining. One of the things we want to do in our prevention activity is to be more proactive about sharing our data publicly and making sure that people can see trends and issues as soon as we are seeing them. We have got a bit of a

way to go until we get there, but that is sort of where we are trying to head, because we do not want to sit on information that could usefully inform councils of risks that are sort of occurring in their areas.

Michael STEFANOVIC: From my perspective, I would say the reporting is largely similar to what Marlo's just covered. But I would also say we also have the ability to make recommendations as we are going along, so if we think that there is a potential need for an intervention in the form of a monitor, we can make those recommendations to the minister. There have been three in recent times that we have done. The minister can obviously make their own decisions independent of us, but where we sit, where we go in and see something, if we think it warrants a monitor, we will certainly engage with the minister with our recommendations.

One last thing about the reporting, it has been a particular issue for us not having the ability to publicly report. We get questioned by lots of people why we do not publish their report. Under the Act we are not empowered to do so, so we would have been acting out of power and exposing the government to risk as a result of it. We now, as of October last year, have the ability to table reports, so you will start to see some of those coming through.

Victoria ELLIOTT: IBAC obviously has its powers under the Act to make special reports to Parliament at the end of our investigations. We also have the ability to make private recommendations to the relevant agency or department when we conclude an investigation, which we do under a number of situations, so that might be to the relevant person who has provided the notification to us, but they are private recommendations. That is obviously something that we flagged in our submission. That is not for public consumption at this point in time.

We have actually recently launched a dashboard on our website that identifies all our allegations that are made across the whole public sector. It looks at allegations made against local government, Victoria Police or the departments, and that is open for everybody to see the breadth of allegations received, and people can drill down to see allegations that are made.

The CHAIR: Thank you, Commissioner. Apologies, Mr Welch, your time is up. We are going to go straight to Mr Galea.

Michael GALEA: Thank you, Chair. Thank you all for joining us this morning. I might start with you, Ms Baragwanath – is that correct?

Marlo BARAGWANATH: Close.

Michael GALEA: I am very sorry. The large amount of complaints that you process probably gives us a very useful indication of what sort of trends you might be seeing, particularly in relation to that portion of local government. Could you briefly run me through any trends that you have seen, particularly as it relates to fraud in terms of grants and council processes, but also anything that you have seen since the most recent council elections?

Marlo BARAGWANATH: Not a lot – I mean, it is quite soon after the recent council elections, so I do not think there are any new trends emerging. I think the important thing to remember is the stuff that you would think is sort of criminal fraud and corruption, generally if we get those complaints, we send them over to IBAC, who then assesses them. It might end up back with us for investigation or IBAC might keep it or it might end up with Michael. A lot of the ones that we tend to look at are probably in the non-criminal corruption or fraud category, which is really around sort of the recruitment and procurement practices, like classic things around IT procurement, nepotism in recruitment. Those sorts of things are the things that we very commonly see. I think the other thing, which is sort of a risk and also makes it difficult to investigate, is councils where there are poor governance practices. They might have actually done the right thing, but if it is not documented, it is actually really hard for us to tell, so you have to do further digging. That in and of itself is probably a risk if things are not documented properly. Andrew?

Andrew ADASON: I think, just to add to that, from our general jurisdiction, the portion of that 18,000 complaints that come in the door every year, the common themes are around communication or

poor communication between citizen and state, and in the context of the fraud and corruption risk lens, if you are not communicating effectively, a lack of information in a vacuum can lead to suspicion –

Marlo BARAGWANATH: And a lack of trust.

Andrew ADASON: and lack of trust. I think from our traditional complaints jurisdiction, that is a theme that is relevant to this, but as Marlo says, allegations of conflicts of interest in recruitment and procurement are probably the most common themes in our whistleblower space.

Michael GALEA: And where you do find that it is more a case of bad data or record keeping than actual misconduct, is that an area in which you would then make a recommendation to that council, or would you refer it to the LGA?

Marlo BARAGWANATH: No. In terms of the reporting that we do, whether or not that is a report that we would publicly table – question mark. But we will often make recommendations in private and that sort of thing. It may be that we suggest something to council. It may be that we suggest to the council that we have the power to do what we call complaints handling reviews, so look at their systems, if it is those communication and documentation issues. If we do a detailed complaints handling review, that will highlight those issues, and they have proven to be quite successful to date. We would like to do more of them.

Andrew ADASON: From a prevention perspective, what we want to be able to do in the future, where we are making those private recommendations about how, ‘You’re sailing close to the wind here; we think you could do this to improve,’ is to wring every lesson we possibly can out of those reports to share more broadly with the sector. That is one of the things we are hoping to do in the prevention space.

Michael GALEA: Wonderful, thank you very much. Commissioner Elliott, I want to move to you now. On the discussion we have been having this morning and with VAGO earlier about the role of ministers, VAGO told us that if they do find certain misconduct – extreme misconduct – they will refer that to you in an investigation. Do you believe that is the appropriate course of action, or do you think that they should be involving ministers instead, and why or why not?

Victoria ELLIOTT: I guess the first point is it is up to government how they want to structure the system. But VAGO is an independent body and IBAC is an independent body, and at the moment we are responsible for investigating, exposing and preventing allegations of corrupt conduct. That is where all allegations come in relation to corrupt conduct, and we will assess those through the assessment process. We will go through our normal assessment processes. We have that open to us. We can refer it, we can investigate it, we can do a preliminary investigation or, if it is appropriate and there is nothing in it, we can dismiss it. Then as a result there are outcomes that occur if corrupt conduct it is found.

Michael GALEA: As a result of your investigations?

Victoria ELLIOTT: As a result of our investigations or as a result –

Michael GALEA: Which would then be up to the relevant agency or minister to act on.

Victoria ELLIOTT: We report to Parliament, and I assume VAGO is reporting to Parliament as well.

Michael GALEA: Thank you. So would you say that the way the system is designed at the moment – if a serious allegation arises through a VAGO audit they would refer it to you – is the most appropriate thing? Would that be fair to say, for IBAC to then investigate?

Victoria ELLIOTT: Well, I can say that it is working and it is effective. I would always say it is a matter for government how they want to set their policy and process, but at the moment we are operating under that system and we are operating effectively under that system.

Michael GALEA: Sure. Thank you. We have had some discussion already about interim and private recommendations, but short of those recommendations being made, do you see it as the role of government to intervene if there is an active investigation underway?

Marlo BARAGWANATH: I do not think we would want any of our investigations prejudiced, and that can often happen if stuff gets out into the public domain. Obviously with local government the community is often talking about issues anyway and there is speculation in the community, but to the extent that any intervention from a ministerial level or political level prejudices the investigation, it is unfair to everyone then that is involved, particularly, as I said, when sometimes on further digging nothing has actually happened but they have just really poorly communicated what is going on at the council. Beyond that I think again, as Commissioner Elliott said, it is a matter for government or for the Parliament to determine how the legislation is structured and whether there is some ability for them to intervene at a particular point in time. At the moment we all operate independently of government. As I said, at the beginning, at the outset, we notify about the general allegations, not necessarily the specifics, and then at the end we do a close-out correspondence if we have not done a public report. I think we would all like to conduct more expeditious investigations because we understand that time is often of the essence and that people may want to intervene or take particular action. But at the moment all I would say is: as long as they are not interfering with our investigations, yes.

Andrew ADASON: I can only talk from an Ombudsman perspective, but we often see, when we are investigating, that an agency will actively work to improve while the investigation is going on. Things do not stand still necessarily just because you have started investigating. We might get to the end of a process and the agency through the course of the investigation has identified and started to implement those improvements, and that is great.

Marlo BARAGWANATH: And we are happy with that; that is great. So it is not necessarily from the political level but their own internal issues, because you are in constant conversation with the agency itself.

Victoria ELLIOTT: Also, IBAC is conducting criminal investigations as well. We have covert means of investigation and obviously we would like to be able to conduct those investigations covertly.

Michael GALEA: It is especially important for them to be respected when that is –

Victoria ELLIOTT: We want to be able to gather as much evidence as possible and gather that evidence as covertly as possible without it being interfered with and get the best possible evidence that we can gather to get to the essence or the truth of those allegations.

Alison BYRNE: Speaking more generally, of course as you are aware, IBAC's remit is the public sector, which includes local government. For the integrity system to work as a whole, I think there must be that trust and confidence in us as the independent arbiter. One would question, or perhaps the community might question, our independence with that interference.

Michael GALEA: Absolutely. Thanks very much, all.

The CHAIR: Thanks, Mr Galea. We will go straight to Ms Benham.

Jade BENHAM: Thank you, Chair. I am gathering from the discussion thus far that all integrity agencies collaborate together and are not working in their own silos. Would that be a correct thing to say?

Michael STEFANOVIC: Correct.

Marlo BARAGWANATH: Correct.

Jade BENHAM: Excellent. With regard to something you said earlier, Mr Stefanovic, that the bar is extraordinarily high for any breaches: given that I would assume that a fair few MPs have a fair bit to do with their councils and some flippant comments that might be made about how a councillor may be able to breach the code of conduct every day and get away with it – and there has been a lot of talk about

prevention as well – wouldn't a good place to start be actually lowering the bar so that a breach is punishable, and how do you think we could do that?

Michael STEFANOVIC: I will throw to Dawn on that because we have actually done some substantial work around code of conduct in particular.

Dawn BRAY: We are doing a major report on the review of the conduct framework system, so we have looked at all of the data and we have come up with some different models, but we cannot talk about that obviously because it is not public yet. Sorry, what was the question again?

Jade BENHAM: Where the bar is set for any actual breaches.

Dawn BRAY: I think it is really around – sorry, I have just lost my train of thought. Sorry, can you re-ask the question?

Jade BENHAM: Would we be able to prevent breaches of the code of conduct or prevent fraud and corruption within local government if the bar was set lower, and how do we do that?

Dawn BRAY: I think it is also having a range of different sanctions as well. In our conduct framework we are looking at not just suspension and not just issuing an apology but trying to have a range of sanctions. Even for things like confidential information and all of the breaches that we can investigate, yes, you can have the court action, but a lot of the time we are just issuing suggestions around how they could declare conflicts of interest better or issuing a warning around 'Please be mindful of how you do this.' But is there something in between around some fines and some lower levels – so instead of going to court or just having an apology, there must be something in between.

Michael STEFANOVIC: We are hoping that this will probably be the first report that we actually table. We consulted far and wide. Dawn led a consultative group drawn from across the sector. It addresses a lot of those concerns around the time. This is probably what we are getting at here: do we wait till we have got a fully ironclad case that we can prosecute before we do something, or is there somewhere earlier in the piece that we can do stuff, particularly around behaviours? Again, we are trying not to put out where we are at the moment, but we have a number of suggested recommendations that we will go through. They are tiered based on the level that we think is achievable. The players that we had in the consultative committee are across it. Dawn can probably give a summary of who they are.

Dawn BRAY: Sorry about my brain fade before. It is hard to talk about what we are saying, because it has not also gone through. It has gone partially through a natural justice process. I am trying to work out how we actually say something –

Jade BENHAM: Without saying it.

Dawn BRAY: without saying it. We have come up with a minor-change model which is looking at the existing legislation and doing some enhancements, and a lot of that is around education and prevention. We are looking at a moderate-change model which would move the system into a different entity and have more of a conciliation focus and then a major-change model where we actually change where the conduct framework sits. There are a whole lot of recommendations around legislative change and education from candidacy until the end of a councillor's term. We actually broadened the whole scope to look at the whole-of-life cycle of a councillor, not just when they are actually elected, because it has to start from when they are a candidate. With all of that training around conflicts of interest, fraud and corruption and controls and possibilities, it is a whole-of-life perspective that we have to take.

Michael STEFANOVIC: The composition of our panel – largely we formed our own ideas from things that we put, but it was largely to get their input as to: are these things achievable if we were to move with this? It is all well and good being oversight bodies and coming up with our own ideas, but if they are not achievable across the sector, then it is largely for not much. On our consultative group we have had CEO representation, peak body representation and metro and rural legal representation.

Dawn BRAY: Peak bodies.

Michael STEFANOVIC: These are people who have got deep experience in the sector; they have lived the dream. What we are trying to put forward is something that we think will be the ability for Parliament to look at it, ultimately through the minister, to work out what you want to do and which things are achievable or not. We are hoping to get that out fairly soon, and it will be the first one that gets tabled.

Jade BENHAM: Excellent. I look forward to that. Ms Elliott mentioned earlier that there is that ethical culture problem within local government. Sometimes we hear of this because a complaint might be made to IBAC, to the inspectorate or to the Ombudsman for something mid level – or the community sees it as something major – and with one compliance staff member it could take years, so it could be that entire life cycle. Do you think having sanctions in that low- to mid-range will help the public trust of local government that seems to have eroded, sometimes for good cause?

Dawn BRAY: I think what the community and even what the sector wants is a short, sharp turnaround and some punitive measures that actually make a difference. I think that builds the trust. I think we have just got to have a broader range of measures that are effective, but you have also obviously got to go through the natural justice processes as well. I think if you actually had a system that was really efficient and councillors knew that there was a meaningful outcome or there were punitive measures, then that might actually spur a little bit more compliance.

The CHAIR: Apologies, Ms Benham, I have got to move on.

Jade BENHAM: No worries.

The CHAIR: We can come back. We probably will not have time.

Jade BENHAM: That is okay. Sure.

The CHAIR: We are going to go straight to Mr Tak.

Meng Heang TAK: Thank you, Chair. I would like to touch on the role and responsibility of each state agency. The Victorian Ombudsman's submission notes that there has been a bit of confusion in the community about the role and responsibility of each state agency. It is also increasing the complexity and inefficiency of the complaints process. To any of you perhaps: how can Victoria's complaints process be better streamlined under the current regime?

Marlo BARAGWANATH: I think our submission probably talks to some of the overlapping definitions; the definitions are not particularly clear. Then even the definition that VAGO uses in terms of fraud and corruption, while it is largely based on the *Public Interest Disclosure Act*, I think – so there is some confusion. There is 'mistake', 'maladministration', 'misconduct', 'improper conduct', 'corruption', all of that sort of stuff, so there is a whole spectrum of behaviour. I think realistically, though, one of the good things that we all work very closely on is the 'no wrong door' approach: if you approach one of us, we will make sure it gets to where it needs to go in the system rather than bouncing around and telling people sorry. We try and do that as quickly as we can. The public interest disclosure regime – that is a fairly well-trodden path where they all go, and we are all very used to working pretty seamlessly in relation to that and also the rest of the complaints handling. There probably is not a day that goes by that people in our assessment teams are not picking up the phone to each other and saying, 'Hey, we've got this one' or 'I think this is coming over to you' – all those sorts of things – and having a chat about where it sits in terms of the definitions. So that works pretty well, but I would probably suggest that anything that could be done by the Parliament in terms of the legislation to provide some clarity around those definitions would be useful. But again that is a matter for the Parliament.

Michael STEFANOVIC: Further to that, I will just say one complexity is that while we understand our roles and what we can do, the complainants do not necessarily do so. Sometimes the nature of the complaint – there might be a piece that belongs to the LGI, but there may be a piece that is under the jurisdiction of one of the other agencies; it will be typically the Ombudsman's office. So we basically have

to deconflict and identify ‘This piece belongs to the Ombudsman’s office to do; we’ll deal with this bit’ and make sure we do not conflict as we do our work.

Marlo BARAGWANATH: I think the concern with that is, in circumstances where someone already has a complaint about something or has some suspicion that something has gone wrong, if we then look like we are kind of pointing the finger, ‘No, I think it’s them’ or ‘I think it’s us and we’re going to make sure it’s there’, I am not entirely sure that does a lot to help rebuild trust in agencies. As I said, we do it as seamlessly as we can, and we spend a lot of time and effort explaining it to people who may not be familiar with the legislation or the structure of these agencies. But I think in terms of building public confidence in the integrity system there is a risk there that the overlaps make it really confusing for people. So as much as can be done to make it clear and simple I think would be good.

Victoria ELLIOTT: I think that is the keyword: it is a system, the Victorian integrity system. We all have clear roles to play, and it is just making the system work effectively. But it is a system that we work under.

Meng Heang TAK: I have got one more question, moving on more to prevention. I will touch on a bit of your submission, Commissioner. Local government as we know is very close to the people, to the community, and coming from a local government background like me, you want to serve the community to the best ability that you can. I understand you said before that 11 per cent of complaints come from the local government sector. So how can councillors and staff be best prepared to enact effective fraud and corruption control at the commencement of their duty?

Victoria ELLIOTT: I will first answer some of those questions, and then I will throw to Alison, who will also speak to that. Picking it up from one of VAGO’s reports – and it is something that IBAC also highlighted and the Local Government Inspectorate has raised – there is the importance of training and also the code of conduct. IBAC has made recommendations specifically in relation to training and the code of conduct arising from its investigations, and it was welcome to see that those recommendations have actually been accepted and even implemented with the amendments to the *Local Government Act* with the uniform model code of conduct, with the commitment now to having mandatory training for elected officials and also having now the commitment to developing refresher training, particularly in conflict-of-interest matters, because that is something that IBAC sees as a key risk, which is obviously what the LGI and the Ombudsman have identified. So training is something that is clearly a prevention mechanism, but Alison can expand further.

Alison BYRNE: I think if you take a step back, firstly, IBAC’s remit, as you know, is both prevention and exposure. But interestingly enough, a lot of community members are more aware of our investigations rather than our prevention. Key stakeholders – happily enough, from our surveys we can see – in local government understand our role in prevention, so we do a lot in that space. In terms of councils, as we do in the public sector, the most important thing for them in relation to prevention is understanding those risks and vulnerabilities and then how to address it, and that is how we focus our prevention initiatives.

Similar to what Marlo was saying a little earlier on, in terms of what we are seeing in local government in those key areas, things like inaction, favouritism and breach of professional boundaries might not in and of themselves be corrupt conduct, but they create an environment where corruption can thrive or go undetected. So we look at that, explain that to council and work with councils, both councillors and staff members, and at other key risk areas specifically for councillors and for staff around assets; procurement; recruitment; the misuse of grant funding, particularly in relation to our colleagues in LGI in relation to misuse of position and so forth; and election donations, which you spoke about earlier. We identify those key risk areas, and then through our artefacts that we provide to council – our e-modules, induction training for new councillors, our guides, and our perception of corruption survey and risk profiles for local government – we show them where those risks are, particularly in relation to the differences between regional and metro areas, and then, as I said, how to address them and provide them with the tools to address those risks and vulnerabilities.

Meng Heang TAK: No further questions.

The CHAIR: Thank you, Mr Tak. We will go to Mr Puglielli.

Aiv PUGLIELLI: Thank you, Chair. Good morning. I will begin with the Local Government Inspectorate. In your submission under 3.4 'Enforcement action arising from investigations' I have noted 213 warnings issued so far for 2024–25, mainly for breach of electoral provisions. That is seeming to imply therefore that a smaller proportion were for a non-electoral context – how much smaller?

Dawn BRAY: We can give you the actual breakdown of the figures, if you like, on notice.

Aiv PUGLIELLI: Yes. That would be great.

Dawn BRAY: But a lot of them were in terms of the election, so just around things like non-authorisation of materials, those sorts of things. You will see in the figures that we have had a real uptick of around 1000 complaints. About 800 of those are election complaints, and we can certainly give you that breakdown on notice.

Aiv PUGLIELLI: That proportionality, is that somewhat typical for previous years?

Dawn BRAY: Yes, if you look through and you look at the figures for the last election cycle, in 2020 you will see the same sort of trend. Although obviously we are getting more complaints year on year, but certainly the trends are the same. We can give you those breakdowns for both those election years, if you like.

Aiv PUGLIELLI: Thank you. Just to follow that up, given this, should the VAGO audits that we are following up here today have included risk of local government electoral fraud and corruption in their original scope?

Michael STEFANOVIC: There is a specific electoral offence of bribery, which people do not realise, so that potentially would fall under theirs. Normally corruption, as people think of corruption, falls to IBAC, but that is bribery. We do get complaints like that during the course of the election. I will give you a shape of what one of those complaints might be that we think warrants further work to develop as to how we might collectively deal with them. It could be an example of, say, a prospective candidate wanting to host a barbecue to solicit people to come and look at their materials and talk, or they want to set up a coffee stand or they want to set up whatever it is – pick something similar. Is that bribery, and is there a threshold to it? We certainly get those matters, and again, depending on your perspective as a complainant to those things, it may be seen as being something that warrants immediate action. When you look at the nature of many of them, they are quite low level, but that does not mean the complainant's view is different as to how they should be responded to. In our elections report, which we are putting out in a few months, we will make recommendations around that, but that potentially would fall under the VAGO terms of reference – either that or repeat the exercise.

Dawn BRAY: I think in terms of fraud and corruption it is also around the campaign donations. We have just received from LGV all of the 78 councils and all of those returns, and that is obviously quite a significant amount of information to go through. But there is the question around: we know that there are over 110 candidates just from looking at councils' websites that did not lodge a campaign donation. And then there is obviously the other level around: what is the veracity of the information? And also, in terms of where conflicts of interest are automatically triggered where a party has donated more than \$500 to a candidate: who actually proactively monitors that? I think we said in our submission that there is a little bit of a gap around that. So it is a very broad topic in terms of: is it something that VAGO would do? Certainly we do play a part in that in terms of the campaign donations.

Aiv PUGLIELLI: Thank you. I might move on to IBAC now. In your submission under key insights from allegations, 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, and I think you spoke to some of these earlier: perceived inaction in relation to local councils' official capacity or powers, favouritism in procurement purchasing, recruitment activities, planning decisions and breach of professional boundaries. Of the approximately 11 per cent of those allegations that IBAC is receiving

regarding local government, what proportion would actually be about what we would constitute as corruption, especially in a form that you are able to act on?

Victoria ELLIOTT: I do not think I could actually provide you with a figure in relation to that, a breakdown in relation to that, because what we do is we get complaints, and within complaints there are multiple allegations – that is how it works. I guess maybe I will just step back, and Alison might want to interject. When you get a complaint it will have multiple allegations in it, and there might be something in there that then is within our jurisdiction. We may refer and refer with review or we may undertake that investigation, and when we take that investigation on, obviously we can only take it if it has got a suspicion of a criminal activity. But it might actually then follow that we will identify other information or other activity. So you might have something that starts with an allegation of something that is corrupt conduct, and then you also have had allegations in it that might have had something that is below that. We have started on the corrupt conduct, and then as we go it might expand further. We also might just have it that it is not at all within our jurisdiction, and then we will refer it out. So I cannot really give you precision as to what of those 11 per cent of allegations then resulted in corrupt conduct or not in corrupt conduct in that sense.

Aiv PUGLIELLI: Would you say that it is frequent that you refer things out, as you have described?

Victoria ELLIOTT: Yes, it is – it is frequent. They could also be dismissed. But in saying that, that does not mean that all that information is not valuable. All that information that we get obviously goes onto our dashboards. It is all collected; it all goes into our holdings. We use that information to guide our risk sector profiles. It goes into gathering all of our intelligence products and so forth. We say to anybody that makes a complaint – and if a complaint does end up being dismissed, we will always say it – that information that you’ve provided is of value, because if it does not end up being within jurisdiction for an investigation, it may still have value in the future and is still information that we will hold and look at and come back to, because they are trends.

Aiv PUGLIELLI: Thank you.

Alison BYRNE: If I may just add to that, the other thing that we have not addressed is the notifications. Allegations relate to complaints that come to us from members of the community, businesses and so forth. We also receive notifications from other agencies, entities, departments and so forth. Of those notifications, we would say, and I do not have the exact number before me, there is a far greater percentage of conduct and allegations therein that result in a preliminary inquiry or investigation or referral to our counterparts – that result in an investigation of various sizes. As the Commissioner said, there is that hurdle that needs to be surmounted in terms of the criminal conduct when it comes to IBAC’s jurisdiction, but otherwise when we look at our notifications we see different risks and issues come out there and then provide that information, as Victoria said, to other agencies – information sharing and also, importantly, sharing with council, as you can see from our submission.

Aiv PUGLIELLI: Thank you. I think I am out of time.

The CHAIR: Yes. Apologies, Mr Puglielli. We are going to go straight to Mr Hilakari.

Mathew HILAKARI: Thank you. Thank you for attendance this morning. We appreciate it and the insight so far. If there was one thing that we could be doing to prevent fraud or corruption or improving the controls, I would be interested to hear what that one thing would be, from each of the agencies.

Michael STEFANOVIC: Thanks for that question. Very timely – I was hoping we would get there. I think governance managers and officers within council – that is a really critical role within local government. Just to give you an example, just prior to the elections we did some outreach work, and I spoke before a room with most of the governance officers in the state. Something like 60 per cent of them had never encountered a local government election before. They are very junior, as a class of people, and they are in a difficult role because they have got to deal with some of the conflicts that occur between councillors and staff and the like. They find themselves as the meat in the sandwich in a lot of cases. So whatever we can do to build them up as a group, to support them in their training, is critical.

Mathew HILAKARI: Do you think it is a best fit for them to be employed by an individual council or work across councils, particularly considering the variations of sizes and capabilities of councils?

Michael STEFANOVIC: I will put that on Dawn. Thank you.

Dawn BRAY: Speaking as a former governance person, I think they need to be embedded in the organisation because really, I suppose, as a governance officer you are not a person that is very popular, because you are sort of the police person of council. I think they actually have to be embedded in the council and develop that culture around good governance, around reporting issues. I suppose that is one thing that we have not touched on, the culture, and that culture of reporting is really, really critical within an organisation. I think they really need to be a part of that organisation to develop those relationships and develop that trust.

Mathew HILAKARI: Maybe I will put it another way. Are councils, of a smaller size in particular, fit for purpose in terms of being able to sustain that level of support when they have got a whole bunch of other pressures related to their activities?

Dawn BRAY: It is a real challenge. We see, particularly in rural areas, big and small, that a lot of experienced governance staff have actually left the sector – a lot of it because of behaviours and also increased expectations under the new Act and the workloads. But on a very positive note, though, governance officers do have their own support networks. I know the VLGA have a governance officers network, and there is a lot of picking up the phone – ‘Have you got this policy?’, ‘How did you deal with this issue?’ – so the governance officers as a sector also do a lot of their own networking and calling on each other for assistance as well. So you do get that, particularly on a regional basis.

Mathew HILAKARI: Great. Thank you.

Marlo BARAGWANATH: I would say strong induction, regular and ongoing training, and I do not think you can understate the role that culture plays in an organisation. I think the governance officer is important but I also think the CEO is really important in leading some of that cultural stuff, but again their performance is then impacted by the councils that they work for. I think that is extremely important, and then I think the issue that comes up time and again for us in terms of our inquiry is strong internal policies that are really clear and easy to understand. We have all worked in an organisation where we have had like 300 policies, and we were like, ‘Has anyone actually read those?’. Clear, easy-to-follow policies, regular training on those, and then really good document management as well, so that you are easily able to tell why decisions were made and what the supporting documents were and who was involved, those sorts of things.

Mathew HILAKARI: CEOs are appointed by councils at the moment. Are councillors in the best position to be appointing CEOs, or should that be another body, an external body?

Marlo BARAGWANATH: Again, I think that is a matter for the Parliament, but I do think the more independence you can have in appointment processes, the more confidence you can probably have that the right people are being appointed to jobs.

Mathew HILAKARI: There is always a tension when people are going to be appointed soon and there are expectations on CEOs as to what they must perform in their role. Thank you.

Victoria ELLIOTT: I will not repeat anything that my colleagues have said.

Mathew HILAKARI: You will surely have a third one, I suspect.

Victoria ELLIOTT: One thing is, just adding to culture, is really important. We talk about having a ‘speak up, listen up and then act on’ culture. As we have seen, in our corruption perception surveys there has been an improvement in relation to integrity, but there has been a decrease in people thinking that things will be taken seriously. We really want people to speak up, but we want them to feel that they will

be listened to and things will be responded to. Really that mantra needs to be imposed – ‘speak up’ – and action to be taken.

I heard your question earlier – I was listening in the audience – about audit and risk committees. We did do in 2019 a local government integrity framework review, and some good ideas that we had found in relation to audit and risk committees are having them actually look at reports of suspected corrupt conduct as a standing agenda item; having somebody that is responsible, a senior officer, looking at fraud and corruption prevention and controls; reporting to executive, reporting to the audit and risk committees, actually looking at the policies and procedures, checking compliance and looking at trends in relation to the allocation of funding, particularly in grants; and always acting upon and checking things, encouraging reports, acting on reports, seeing that they are of value and learning from them.

Mathew HILAKARI: Am I running out of time entirely?

The CHAIR: You are out of time entirely.

Mathew HILAKARI: I might write to you on some IT procurement, because that was one of the matters that you raised, and maladministration versus improper conduct. I would love to have you for a lot longer.

The CHAIR: In closing, the committee will follow up on any additional questions that it might have. You have given a lot of evidence today and given us a lot to think about. I agree; I think we could spend a lot more time with you. We will also follow up on questions taken on notice in writing, and those responses are required within five working days of the committee’s request. Thank you very much for appearing before us today. The committee is going to take a 10-minute break before recommencing the hearing. I declare the hearing adjourned.

Witnesses withdrew.