

23 April 2025

Response to additional questions: Public Accounts and Estimates Committee inquiry into fraud and corruption control in local government

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

As noted by Local Government Victoria (LGV) in its submission to the inquiry, there are good working relationships between LGV and the integrity sector.

As a business unit of the Department of Government Services, which is an authority within the Ombudsman's jurisdiction, the VO is able to share appropriate information with LGV if relevant to the performance of its duties and functions.

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

As we understand it, the current suite of fraud and corruption controls under the Local Government Act already applies to all Councils.

The LGA control framework is in many ways analogous to the Victorian Government Risk Management Framework (VGRMF), which applies to a very wide range of departments and public bodies. The VGRMF describes the minimum risk management requirements agencies must meet, in order to ensure that risk is being managed effectively and consistently across the sector. Each agency is expected to adapt the framework to its own context.

It is important that any measures at the Local Government level can be scaled to suit the size and operating context of each Council. We consider the emphasis should be on improving the rigour and relevance of these, and ensuring they are regularly tested and continuously improved.

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

In addition to VAGO's published forward plan of audits, the Ombudsman, Auditor-General and IBAC Commissioner have always met regularly to discuss issues of shared interest. The agencies liaise during their annual planning to discuss their forward plan of work. Each agency also has suitable information-sharing powers allowing for consultation throughout the course of an investigation or audit as appropriate.

We understand that VAGO consulted with the Ombudsman's office at the time of conducting their audits.

- a. 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?**

The Ombudsman, IBAC 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.

When an integrity agency tables a report containing recommendations arising from an investigation into one, or a few, Government agencies or councils, we do as much as possible to ensure the report is disseminated widely across the sector (for example, media releases, newsletters, presenting at conferences and forums, posting on social media etc). This is with the expectation that, if relevant, an agency will read the report and recommendations and implement them as necessary in their own context. There is no requirement that Ombudsman recommendations are implemented, either the agency that the recommendations are directed at, nor more generally across the VPS.

- 4. The VO's and other integrity agencies' 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.**

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

The integrity agencies, including the Ombudsman, VAGO, IBAC and LGI already collaborate on a Prevention and Education Advisory Committee and consult broadly to disseminate key lessons with the sector. This Committee also discusses education offerings and other seminars and publications that each agency offers.

As LGV is within the Ombudsman's jurisdiction, it would not be appropriate for LGV to play a coordinating role or to direct the office on what education to provide. However, the Ombudsman's office is increasing its efforts to liaise with a number of local government bodies, such as LGV, MAV, LGPro and VLGA. In the interests of efficiency and not duplicating work done elsewhere, we will ensure we stay abreast of what education offerings and services each provides.

- b. 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?**

Put simply, prevention is better than cure. Only being resourced to focus on investigation at the expense of prevention can have longer-term consequences, as without proactive efforts to address root causes, issues can be left to escalate, leading to more complaints and greater complexity.

In the long run, a purely responsive model of oversight can be more expensive, slower and miss the opportunity to learn from patterns, share insights and improve systems before harm occurs. Over time, this can also impact public trust and reinforce inequity as only those who can navigate the complaints process are heard. Further, if the public only sees action when things go wrong, trust in institutions declines.

As mentioned in the Ombudsman's submission and at the hearing, the office is emphasising prevention to complement its complaints handling and investigations.

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

The Ombudsman's jurisdiction is primarily focussed on maladministration and improper conduct, as opposed to criminal fraud and corruption. That said, where appropriate, the Ombudsman can consult with Victoria Police (and others) to obtain information and ensure the Ombudsman's work does not prejudice any criminal investigations or proceedings.

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

The Ombudsman is not a prosecutor and does not take enforcement action.

If the Ombudsman suspects on reasonable grounds a matter involves corrupt conduct or police personnel misconduct, the Ombudsman must notify IBAC.

6. The VO's budget has decreased year on year, is that correct?

Yes.

While the dollar amount allocated to the VO has remained roughly the same, in real terms, factoring in CPI and increases in employment costs, this represents a reduction in resourcing available to meet VO's broad legislative mandate.

As noted in our submission, in 2020 the Ombudsman Act was amended to include important proactive functions within our legislative remit. Although our functions have expanded significantly, our budget has not increased to cover our work in these key areas.

Historically, the VO has received a Treasurer's Advance to supplement its funding, however, this was not provided in FY2024-25.

7. The VO's submission noted that 'while VO is effective in responding to citizens' complaints and investigating serious and systemic issues of public concern, overarching budget constraints mean there has been significantly less ability to undertake proactive work to prevent problems arising'

a. Can you please explain what these means and what sort of proactive work you undertake?

The Ombudsman has a number of legislative objectives including providing a timely, efficient, effective, flexible and independent means of resolving complaints and identifying, investigating, exposing and preventing maladministration and improper conduct.

In terms of 'prevention', the Ombudsman has the following functions:

- to review the complaint practices and procedures of authorities
- to provide education and training to the Victorian community and the public sector
- to promote improved public sector administration.

In terms of training, the office currently offers four workshops:

- Good complaint handling
- Managing conflicts of interests
- Good decision making
- Dealing with complex behaviour

The program is theoretically run on a cost-recovery model for direct costs, however it actually runs at a deficit.

While participant satisfaction remains high (above 90%), resourcing challenges across the public sector has meant that fewer participants are able to pay the training fees and enrol. Year-to-date, attendance is down by more than 50%. As a consequence of the 'cost recovery' model, the program cannot be targeted to those public sector agencies, including councils, that need it most with only those that can afford it attending the training. Funding the Ombudsman to do this work means that we could offer it on an as-needs basis.

The VO also conducts proactive reviews of public sector agencies' complaint-handling practices (Complaint System Reviews), with positive results to date. These reviews look at an agency's complaint-handling policies, processes and procedures against the Australian Standard on complaints handling. Recommendations are then made to the agency on how to improve their practices. To date, all recommendations have been accepted and we receive fewer complaints about the agencies that have been reviewed.

However, given resource constraints we only have 1.2 staff involved in this program and they can only complete up to three reviews per year. With these constraints, the office cannot support implementation of review recommendations, share broader lessons across the sector, offer targeted training or guidance materials, or attempt to measure impact.

If the office were funded to do more of this work, we could undertake data analysis to identify which agencies have the poorest complaint-handling practices and target our efforts to assist them to improve.

8. How does the VO's lack of discretion under its legislation to investigate or refer complaints to alternative agencies impact productivity and effectiveness?

a. What can be done to improve this?

This lack of statutory power to refer a matter to another agency relates to public interest complaints (PICs).

The Ombudsman does not have a statutory power to refer PICs to other agencies to investigate. The Ombudsman often receives PICs from IBAC that we believe could be effectively dealt with by another body, most often the respondent agency to which the PIC relates (for example, a local council that has appropriate mechanisms to deal with the complaint).

Absent the power to formally 'refer' the matter, we must rely on informal mechanisms such as using information-sharing powers to obtain the agency's agreement to investigate or otherwise deal with the matter. It would be much simpler and more efficient for all involved for VO to be able to make clear that we are now telling the agency to deal with the matter and overseeing the investigation through regular reporting.

A statutory power allowing us to formally refer and oversee PIC investigations by other agencies, to report on their outcomes and to make recommendations at the end of these investigations would enhance efficiency and accountability, while retaining the protections of independent oversight envisaged by the PID/PIC scheme.

We have previously raised this issue and requested that consideration be given to amending the legislation to provide us with a discretion to refer PICs.

9. Can the Committee obtain an update on the VO's Local Government complaints data published in its 2023 casebook? And time series data for the last 10 years?

Assuming this question refers to complaints data published in previous annual reports, between FY2013-14 and FY2017-18, the Ombudsman's office published in its annual reports a simple table showing the number of complaints received about each council.

As the office's capacity for data visualisation increased, presentation was refined, and between FY2018-19 and FY2022-23, our annual reports included a table showing the number of complaints finalised about each council and the percentage of those that were assessed as:

- premature (ie. the person hadn't complained to the council in the first instance, and they were advised to do so)
- not warranting enquiries (ie. enquiries were not necessary or justifiable)
- warranting enquiries (ie. to determine if the matter could be informally resolved).

The FY2023-24 annual report did not include data on the number of complaints about each council. This was an intentional decision taken in the course of developing our new Strategic Plan, a component of which is to increase our capability to leverage intelligence to drive improvements. We decided that presenting individual council complaint data without sufficient nuance and context, for example taking into account population size, was not contributing to this strategic outcome in the way we wanted.

Accordingly, into the future, and subject to resources, the office seeks to empower public bodies, including councils with meaningful analytics to learn from complaints data to proactively address community concerns and support continuous improvement, including by publishing sector profiles and data sets for high-risk agencies and portfolios.

The Ombudsman's annual reports FY2013-14 to FY2023-24 are available online here: <https://www.ombudsman.vic.gov.au/about-us/annual-reports-and-policies/annual-reports/>