IBAC Operation Daintree Special Report – Government Progress Report – June 2024

The Government sets out information below regarding progress against recommendations made by the Independent Broad-based Anti-corruption Commission (IBAC) in its *Operation Daintree Special Report*.

No.	Recommendation	Portfolio	Government response and June 2024 update
1	That the Victorian Government ensures that lobbying activities by employee and employer associations are included in any reforms arising from IBAC's Special report on corruption risks associated with donations and lobbying (Corruption Risks Special Report).	Premier	**Support-in-principle** • Government is progressing work on reforms to lobbying regulation in the context of its in-principle commitment to implement recommendations arising from IBAC's *Special report on corruption risks associated with donations and lobbying*, and its in-principle support for further relevant recommendations from IBAC's Operation Clara and Operation Sandon.
2	That the Victorian Parliament request the Ethics Committee (when established) to prepare guidance about the current scope of the convention on ministerial accountability and its application to Victorian Government ministers.	Premier	**Matter for Parliament** • Government remains committed to working with the Parliament, including representatives of the Opposition and Crossbench, to consider what matters could be appropriately considered by the Parliamentary Ethics Committee, once established. • The Government has introduced the Parliamentary Workplace Standards and Integrity Bill 2024 to Parliament to establish the Parliamentary Ethics Committee in legislation. • The Bill proposes that the Parliamentary Ethics Committee will have functions such as monitoring the effectiveness of the Statement of Values and the MP Code of Conduct, promoting the Code in Parliament, and preparing guidance and training materials for members of Parliament on integrity and their ethical obligations. The Parliamentary Ethics Committee will comprise an equal number of MPs from each House of Parliament. The number of Government MPs will be limited to half the membership and the Chair will be a non-Government MP.

No.	Recommendation	Portfolio	Government response and June 2024 update
3	That the Premier ensures that: a) the Ministerial Code of Conduct (Ministerial Code) is amended to be consistent with any guidance issued by the Ethics Committee in implementing Recommendation 2 b) the Ministerial Code is amended to require all ministers to: • observe the relevant protocols and conventions in providing instructions to, and communicating with, departments • ensure that their offices have effective arrangements for the supervision and accountability of staff, escalation of issues and clear lines of communication • ensure that their staff observe the relevant protocols and conventions in communicating with departments • complete a mandatory induction program • undertake mandatory refresher training on the Ministerial Code of Conduct • be fully aware of their obligations under the Ministerial Code of Conduct and their staff's obligations under the Ministerial Staff Code of Conduct (Ministerial Staff Code) • ensure the scope of all advisors' authority is clearly defined, and the manner they may discharge their functions are consistent with the Ministerial Staff Code and the protocols about interactions with public servants.	Premier	**3(a) <u>Under review</u>** • As noted under Recommendation 2, the Parliamentary Workplace Standards and Integrity Bill 2024 will establish a Parliamentary Ethics Committee in legislation. • Following establishment of the Parliamentary Ethics Committee, Government will consider any amendments to the Ministerial Code that may arise from guidance issued by the committee. **3(b) <u>Support-in-principle</u>** • The Victorian Government released an updated Ministerial Code on 1 December 2023, which included new and strengthened obligations that focused on conduct, integrity and probity for Ministers and Parliamentary Secretaries. • Relevant obligations under the updated Ministerial Code require Ministers to: ▪ observe, and ensure their staff observe, relevant protocols and conventions in their interactions with departments ▪ be aware, and ensure their staff are aware, of their respective obligations under the Ministerial Code and Ministerial Staff Code ▪ complete mandatory induction and training programs, noting training on the updated Ministerial Code was provided to Ministers and Parliamentary Secretaries in November 2023, and ▪ ensure their ministerial offices have effective arrangements to oversee staff.
4	In line with other jurisdictions, that the Victorian Government develop and introduce legislation to clarify and formalise the employment arrangements for ministerial staff to strengthen transparency and accountability. Options to consider include:	Premier	**<u>Support</u>** • Government is progressing work on codifying employment arrangements for ministerial staff in legislation.

No.	Recommendation	Portfolio	Government response and June 2024 update
	a) clarifying employment responsibilities, such as: • designating the minister to whom the staff are assigned to be their employer, or alternatively, vesting employer responsibilities in the minister to whom staff are assigned once they have been employed by the Premier, • providing for the accountability and supervisory arrangements for ministerial staff b) articulating the values and employment principles that apply to ministerial staff c) providing for the making of codes of conduct by the Premier to be observed by staff in performing their functions, including: • providing that a breach of the Ministerial Staff Code may constitute misconduct • requiring the Ministerial Staff Code to be published and reviewed at regular intervals d) articulating the principles for ministerial staff to follow when dealing with portfolio departments and agencies, including a specific prohibition on directing public sector employees.		
5	That the Victorian Government introduce legislation to require the Secretary to the DPC or the VPSC to include information in their annual report about the number of ministerial advisors and other staff who were employed in each ministerial office as of 30 June each year, and the total cost of employing ministerial advisors and staff during each financial year.	Premier	**Support-in-principle** • Government is considering this recommendation as part of the work on codifying employment arrangements for ministerial staff in legislation.
6	Subject to any legislation drafted pursuant to Recommendation 4, that the Premier, DPC and the VPSC collaborate to ensure that the Ministerial Code, the Ministerial Staff Code, and the VPSC guidance to	Premier	**Support** • Government remains committed to codifying employment arrangements for ministerial staff in legislation. • Obligations under the updated Ministerial Code of Conduct released in December 2023 emphasise role clarity, greater

No.	Recommendation	Portfolio	Government response and June 2024 update
	ministerial staff, and department secretaries, executive officers and non-executive officers are comprehensive, consistent and emphasise: a) role clarity and the need for ministerial staff and public servants to understand and act in accordance with the scope of their roles b) mutual respect in relations between ministerial offices and public servants c) greater awareness of potential conflicts of interest and the need for additional caution to be exercised in managing conflicts of interest, and d) the operation of the conventions on ministerial responsibility.		awareness of conflicts of interest and the operation of conventions of ministerial responsibility. • This includes new and strengthened requirements regarding the disclosure of interests and declaration of conflicts, including publication of a ministerial register of interests. • VPSC regularly reviews its integrity guidance and will ensure it is up to date with any legislation passed in response to this recommendation.
7	a) That the Victorian Government, in consultation with the VPSC, provide a mandatory induction program for new ministerial staff that covers their obligations under the Ministerial Staff Code and other guidance b) All ministerial staff members and public service employees who regularly engage with ministerial offices undertake training in the relevant guidance governing relations between ministers, their offices and public sector departments and agencies and the principles underpinning the guidance at least once every two years c) DPC or the VPSC publish annual statements that detail the number of staff and advisors who attended training sessions in the previous financial year, broken down by individual portfolios.	Premier	**Support-in-principle** • VPSC continues to work with DPC to deliver ministerial adviser induction sessions (which include presentations by the Secretary, DPC or the Victorian Public Sector Commissioner). • VPSC is developing a model protocol to support departments to set clear expectations about who has authority to engage with Ministers and their offices and how to do it appropriately. • VPSC is also exploring options to provide additional capability development across the VPS, targeted to particular cohorts, such as executives. This will include a focus on integrity and engagement with ministerial offices.
8	That the Parliamentary Integrity Commissioner (PIC) be responsible for: a) receiving and investigating complaints about possible, non-criminal breaches of the Ministerial Staff Code and other misconduct	Premier	**Under review** • Government has introduced to Parliament the Parliamentary Workplace Standards and Integrity Bill 2024 to establish a Parliamentary Workplace Standards and Integrity Commission (Commission) in legislation.

No.	Recommendation	Portfolio	Government response and June 2024 update
	b) referring prima facie allegations of criminal or corrupt conduct to Victoria Police or IBAC c) referring minor breaches to the Premier for investigation and resolution, in the Commissioner's discretion and subject to the Premier advising the Commissioner of the outcome of the investigation d) where the PIC is satisfied a ministerial staff member engaged in conduct that is in breach of the Ministerial Staff Code, recommending further action to the employer of the ministerial staff member, including on potential sanctions e) promoting the revised Ministerial Staff Code and providing regular education on it f) monitoring and reporting on compliance with the Ministerial Staff Code and potential measures to improve it g) revising the Ministerial Staff Misconduct Policy and Procedure to align with this report's recommendations h) reporting annually on the performance of their functions with respect to ministerial staff (or on specific cases if warranted) to the Parliament.		• The Commission will have jurisdiction to investigate allegations of parliamentary misconduct by MPs, Ministers and Parliamentary Secretaries, and public interest complaints referred from IBAC about members, Ministers and Parliamentary Secretaries. • The Government will first implement its commitment to codifying employment arrangements for ministerial staff in legislation and will consider recommendations on the ministerial staff complaints regime following that work. • The Government supports ministerial staff being held to the highest standards of conduct, integrity, and probity, and continues to support the efficient and fair handling of complaints about ministerial staff. • Ministerial staff continue to be subject to obligations under the Ministerial Staff Code, as well as detailed policies in relation to misconduct, bullying and occupational violence, sexual harassment, equal opportunity and diversity, and internal complaints resolution procedures.
9	When developing the legislation to establish the ministerial staff complaints regime, that the Victorian Government ensure that the legislation includes a requirement for ministerial staff to cooperate with an investigation of a complaint against them (or another ministerial staff member) with: a) safeguards against the use of such information in other criminal or civil proceedings (other than for unfair dismissal or providing false or misleading information) b) a failure to cooperate with the PIC constituting misconduct enabling the Commissioner to recommend appropriate action to the employer of the ministerial staff member for that misconduct.	Premier	**<u>Under review</u>** • See update regarding recommendation 8. • Government restates its support for ministerial staff being held to the highest standards of conduct, integrity, and probity, and continues to support the efficient and fair handling of complaints about ministerial staff. • Ministerial staff continue to be subject to obligations under the Ministerial Staff Code, as well as detailed policies in relation to misconduct, bullying and occupational violence, sexual harassment, equal opportunity and diversity, and internal complaints resolution procedures.

No.	Recommendation	Portfolio	Government response and June 2024 update
10	When developing the proposed complaints regime in relation to ministerial staff, that the Victorian Government: a) require the Premier (or minister to whom a ministerial staff member is assigned if they have employment responsibilities) to: i. accept the recommendations of the proposed Parliamentary Integrity Commissioner in relation to a ministerial staff member from an investigation into their conduct; or ii. report to the Commissioner on their reasons for not accepting the recommendations and any alternative action they have taken or have determined should be taken b) provide that the Commissioner publish a report each year on the nature and number of recommendations made, accepted, and not accepted.		**Under review** • See update regarding recommendation 8.
11	a) That the Victorian Government develop and introduce amendments to the Parliamentary Committees Act 2003 to empower relevant Committees to compel ministerial staff members to appear before them and answer questions in limited and defined circumstances, such as where a minister claims to be unaware of the staff member's conduct in a matter relevant to the minister's portfolio into which the committee is inquiring. b) The Standing Orders Committee of each House (or such other committee as may be appropriate) develops guidance material for parliamentary committees and ministerial advisors called before such committees on, among other things: i. what does or does not constitute permissible questions to put to an advisor ii. what an advisor's obligations are to answer questions	Premier	**11(a) Do not support** **11(b) Matter for Parliament**

No.	Recommendation	Portfolio	Government response and June 2024 update
	iii. the consequences of an advisor		
12	That the Victorian Government and Parliament develop and introduce amendments to all relevant codes of conduct to provide that a breach of the relevant code includes conduct that: a) directly or indirectly intimidates or victimises a person who has reported conduct (or proposes to report conduct) of a ministerial staff member or made a complaint (or proposes to complain) about a ministerial staff member b) directly or indirectly interferes with any investigation or inquiry into the conduct of a ministerial staff member that is the subject of a complaint or a report for the purpose of influencing the outcome or findings.	Premier	**Under review** • See update regarding recommendation 8. • Government restates its support for ministerial staff being held to the highest standards of conduct, integrity, and probity, and continues to support the efficient and fair handling of complaints about ministerial staff. • Ministerial staff continue to be subject to obligations under the Ministerial Staff Code, as well as detailed policies in relation to misconduct, bullying and occupational violence, sexual harassment, equal opportunity and diversity, and internal complaints resolution procedures. • Harassment, bullying, victimisation, discrimination, or other inappropriate behaviour wherever it takes place is not consistent with the updated Ministerial Code. • Enforcement of the Ministerial Code, including any sanctions for a breach, is a matter for the Premier.
13	That the Victorian Government ensure persons making legitimate or reasonable allegations of misconduct about a ministerial staff member are protected from detrimental action by: a) consulting with IBAC on the expansion of the Parliamentary Integrity Commissioner's remit to ensure that the office holder can engage effectively with the provisions of the Public Interest Disclosures Act 2012 b) establishing procedures to provide protection for persons who are not otherwise eligible for protection under the Public Interest Disclosures Act, such as by developing and introducing amendments to the Public Administration Act 2004.	Premier, Attorney-General	**Under review** • See update regarding recommendation 8. • The Government supports appropriate protections and safeguard for individuals who report misconduct. • The Government also supports ministerial staff being held to the highest standards of conduct, integrity and probity and notes that staff are already required to comply with an internal complaints investigation that includes requirements to ensure all parties are treated with respect, protection against victimisation and adherence to the principles of natural justice.

No.	Recommendation	Portfolio	Government response and June 2024 update
14	That the VPSC amend the Code of Conduct for Victorian Public Sector Employees (VPS Code) and the Victorian Government amend the Ministerial Staff Code to provide that the making of a frivolous, vexatious, or malicious allegation to the independent complaints process may constitute a breach of the relevant code with appropriate sanctions available to respond to such conduct.	Premier	**Under review** • See update regarding recommendation 8. The Government supports appropriate protections against the making of frivolous, vexatious, or malicious complaints and is further considering amendments to relevant codes of conduct.
15	That the VPSC and Secretaries Board review their current programs and initiatives with a view to strengthening and supplementing them with specific training and materials directed to the challenges of ensuring a greater commitment in the Victorian Public Service to preventing and responding effectively to improper political interference.	Premier	**Support** • Building on the actions noted in the Government's October 2023 report, the VPSC has created the following new resources to support capability development in this area: ▪ three detailed scenarios, distributed to departments, to be used in internal training sessions. These focus on engaging with ministerial offices appropriately and providing apolitical and impartial advice ▪ eLearning modules for use across the sector covering the topics of working in government, code of conduct and integrity ▪ a model protocol to support departments to set clear expectations about who has authority to engage with Ministers and their offices and how to do it appropriately. • VPSC is exploring options to provide additional capability development across the VPS, targeted to particular cohorts, such as executives. This will include a focus on integrity and engagement with ministerial offices. • In November 2023, the Victorian Secretaries Board (VSB) issued its Integrity Statement (Statement) which focused on strengthening integrity culture and providing frank and fearless advice. The Statement commits secretaries to a range of actions including:

No.	Recommendation	Portfolio	Government response and June 2024 update
			▪ increasing integrity training opportunities for all staff and mandating training in ethical decision-making for executives, ▪ implementing a model protocol for engaging with ministerial offices, ▪ creating avenues for staff at all levels to discuss integrity and raise concerns (anonymously or with their managers), ▪ consistently applying merit-based employment processes, and ▪ embedding integrity expectations in all staff performance development plans. • In May 2024, the VSB renewed its commitment to continuing to work with the VPSC to strengthen and expand existing integrity training and development initiatives.
16	That the Department of Health reviews, and where necessary, strengthens its procurement policies, systems, and practices to address the corruption vulnerabilities identified by IBAC in this report, including: a) the assessment and management of unsolicited proposals to supply goods or services, regardless of how a proposal is conveyed to it b) its conflicts of interest framework so employees and contractors understand their obligations to identify, declare and manage such conflicts and avoid them where possible c) that suppliers are sourced in a way that complies with competition requirements in legislation and/or procurement policy and procedures.	Health	**<u>Support</u>** • Building on actions noted in Government's October 2023 report, the Department of Health (DH) has further strengthened its procurement policies, systems and practices, including: ▪ developed material providing department staff and ministerial officers with guidance about managing unsolicited proposals, ▪ amended its procurement governance processes to improve visibility of procurement delegate advice for financial delegates, ▪ consulted with the VPSC on its conflict of interest policy and will continue to ensure compliance with the VPSC model policy, ▪ developed a new eLearning module to assist staff to identify integrity flags and to raise concerns that they identify, and ▪ held an Executive Leadership Forum focused on integrity.

No.	Recommendation	Portfolio	Government response and June 2024 update
17	That the Victorian Government: a) consult with IBAC on the preparation of legislative changes arising from the implementation of recommendations in this report; and b) provide to Parliament: i. a progress report on the action taken in response to the recommendations in this report by 31 October 2023 ii. a further report on those actions (with a focus on the recommended complaints regime) by 30 June 2024, noting that IBAC may further publicly report on the adequacy or otherwise of those responses.	Premier (Attorney-General, Health)	**17(a) <u>Do not support</u>** **17(b) <u>Support</u>** The Government tabled a response to Operation Daintree which included a progress report for Parliament on 31 October 2023. This document is the June 2024 further progress report for Parliament.