

TRANSCRIPT

INTEGRITY AND OVERSIGHT COMMITTEE

Inquiry into the Adequacy of the Legislative Framework for the Independent Broad-based Anti-corruption Commission

Melbourne – Monday 8 September 2025

MEMBERS

Dr Tim Read – Chair

Hon Kim Wells – Deputy Chair

Ryan Batchelor

Jade Benham

Eden Foster

Paul Mercurio

Rachel Payne

Belinda Wilson

WITNESS

Clancy Moore, Chief Executive Officer, Transparency International Australia.

The CHAIR: I declare open this public hearing for the Integrity and Oversight Committee's Inquiry into the Adequacy of the Legislative Framework for the Independent Broad-based Anti-corruption Commission. I would like to welcome the public gallery and any members of the public watching the live broadcast as well.

I also want to introduce my colleagues participating today. First of all, apologies from Deputy Chair Kim Wells, but from the far left hand end from my side we have got Paul Mercurio. Then we have got Belinda Wilson; Eden Foster; Ryan Batchelor; me, Tim Read; Jade Benham; and Rachel Payne.

On behalf of the Integrity and Oversight Committee, I acknowledge First Nations peoples, the traditional owners of the land, which has served as a significant meeting place for the First Peoples of Victoria. I acknowledge and pay respect to the elders of First Nations in Victoria past and present and welcome any elders and members of communities who may visit or participate in our public hearing today.

Before you give your evidence there are some formal things I have to cover, so please bear with me. Evidence taken by this Committee is generally protected by parliamentary privilege. You are protected against any action for what you say here today, but if you repeat the same things anywhere else, including on social media, those comments will not be protected by this privilege. Any deliberately false evidence or misleading of the Committee may be considered a contempt of Parliament.

All evidence given today is being recorded by Hansard. You will be provided with a proof version of the transcript to check once available. Verified transcripts will be placed on the Committee's website. Broadcasting or recording of this hearing by anyone other than Hansard is not permitted.

I welcome Clancy Moore, the Chief Executive Officer of Transparency International Australia, to give evidence at this hearing. Clancy, if you have got any brief opening comments, that would be great. Then we will have some questions for you.

Clancy MOORE: Sure. Thank you, Committee Chair, and thank you, Committee Members, for having me appear today. On behalf of Transparency International Australia I welcome the opportunity to contribute to this important Inquiry into the Legislative Framework for the Victorian IBAC. Quick disclosure: we recently hosted our Australian anti-corruption summit, and IBAC was one of four program sponsors as well. Obviously, we have very strong conflict-of-interest processes that mean that any sponsorship does not influence what I am saying here or our submission, but just to put that on the record for the Committee.

As the Australian chapter of Transparency International, which is an anti-corruption movement of over 100 organisations globally, it is important to ground our submission in the fact that we work for transparency, accountability and integrity, particularly in government but also the private sector, and we aim to combat corruption at every level of government.

We define 'corruption' as the abuse of entrusted power for private or personal gain – the abuse of entrusted power for private or personal gain. Looking at the IBAC Act, the current definition of corrupt conduct we believe limits the Commission's ability to investigate and address the full range of integrity risks facing the Victorian public sector. As such we recommend removing the relevant offence limitation from section 4 of the IBAC Act. Also, the current requirement that corrupt conduct constitute a criminal offence does not significantly capture other forms of misconduct that might not amount to a criminal offence but still have profound effects on public confidence, integrity and governance. This could include serious breaches of codes of conduct and ethical obligations, serious maladministration linked to favouritism or undue influence, conduct that facilitates corruption or misconduct by others, and conduct that undermines integrity or public trust in public institutions. We also recommend expanding the definition of 'corrupt conduct' to include conduct amounting to conspiracy to or attempt to engage in corrupt conduct.

Furthermore, the current threshold requiring IBAC to have reasonable grounds that the conduct constitutes corrupt conduct we believe is too restrictive. In comparison, the National Anti-Corruption Commission legislation allows the Commission to conduct investigations if the Commissioner believes the issue could

involve corrupt conduct that is serious or systemic, a much more open interpretation and less restrictive threshold. IBAC's current threshold may delay or prevent investigations into matters that may ultimately prove to involve serious wrongdoing but cannot be substantiated at an early stage of inquiry.

Importantly, the changes we put forward would enable the IBAC to launch investigations more proactively examining issues of grey corruption. This could particularly be valuable for uncovering entrenched corruption in the construction sector in Victoria, noting the allegations of corruption and cronyism in Victoria's \$100 billion Big Build program.

On the issue of public hearings, Transparency International Australia strongly supports greater flexibility for IBAC to hold public hearings in matters of significant public interest. Whilst it is essential to maintain safeguards for procedural fairness and protection for individuals and witnesses from unreasonable harm, the current legislative tests, which require IBAC to be satisfied on reasonable grounds that there are exceptional circumstances, that a public hearing is in the public interest and that it would not cause unreasonable reputational damage, we believe are unnecessarily restrictive. In particular, the threshold of exceptional circumstances imposes a high bar that is out of step with best practice. We believe that this may lead to missed opportunities for additional witnesses to come forward and a perception that IBAC is overly secretive and undermines public confidence in its work.

I think you are well aware, but public hearings can serve multiple vital functions. These include exposing systemic wrongdoing and helping the public understand how corruption operates. Public hearings can also encourage witnesses and whistleblowers to come forward once they are aware of an investigation; they can also help deter corrupt conduct, particularly within public institutions, by reinforcing that misconduct may be publicly scrutinised; and, importantly, they can help maintain and build community confidence in Victoria's integrity system. So Transparency International Australia strongly recommends that the Act be amended to replace the exceptional circumstances test with a more flexible public interest threshold consistent with other jurisdictions such as New South Wales and the ACT. I have actually brought some further evidence for the Committee, which is some analysis we did around public hearings via states and also the federal jurisdiction, which I will leave with the Committee Secretariat to share. I am happy to hand that over and talk to that as well.

Lastly, we recommend a strengthening of IBAC's prevention and public education powers to include the ability to hold public inquiries – so not public hearings or examinations as they are known under the Act but public inquiries like this one today. That could look at systemic corruption vulnerabilities for Victoria's public sector, which fall under section 15 of the Act. This, we suggest, should be modelled on part 9 of the National Anti-Corruption Commission legislation. Without these changes the IBAC risks being unable to act on matters of significant public concern, particularly in cases involving misuse of power, conflict of interest and grey corruption. Thank you for your time, and I am happy to answer any other questions.

The CHAIR: Thank you very much. You have recommended that the definition of 'corrupt conduct' in the Act be expanded to include non-criminal forms or grey corruption. If that change went ahead, how would you ensure that IBAC's jurisdiction does not intrude into that of the Ombudsman or, for that matter, employers for some of these non-criminal forms of corruption?

Clancy MOORE: By taking away the threshold of having criminal conduct, the IBAC would be able to investigate issues of grey corruption. This could include pork-barrelling and political influence and actually open up for more investigations, including, as I mentioned in the introductory comments, into Victoria's Big Build. There would need to be safeguards to not overlap with the work of the Ombudsman as well. But I think where Victorian contractors or agents, government agents or associates are involved in the private sector, they should also be under the scrutiny of the IBAC, similar to the NACC legislation. So I do not think that would be a particular issue if they are acting on behalf of the government or a government contract or program, or if the government is affected.

The CHAIR: What about for things that are more disciplinary, for example?

Clancy MOORE: Well, they can then refer those matters to other government departments like the Ombudsman or other federal workplace departments perhaps – Fair Work.

The CHAIR: All right. Let us go to Paul Mercurio.

Paul MERCURIO: Thank you, Chair. Thank you, Clancy. Should the IBAC Act be amended to authorise IBAC to use the full range of its coercive and covert powers during preliminary inquiries into whether it should investigate a matter, and also what are the potential civil liberties implications of such a change?

Clancy MOORE: Looking through the submissions by other parties to this inquiry, it is clear that many witnesses and people that have been subject to examinations and inquiries have experienced harm through the process and through the broad issues that they have uncovered or been involved with as well, so civil liberties need to be protected. There are safeguards in the Act already to do that, but they just need to be monitored and adhered to, I would suggest.

Paul MERCURIO: Do you think those safeguards need to be changed at all – strengthened?

Clancy MOORE: I would need to take that on notice, Mr Mercurio.

Paul MERCURIO: Okay. Thank you.

The CHAIR: Shall we go to Belinda Wilson.

Belinda WILSON: Thank you. Thanks, Chair. If IBAC could more readily hold public hearings, how in your view can the procedural fairness and protection of privacy and reputation due to witnesses be ensured?

Clancy MOORE: Yes, I think in any expanding of public hearing powers there need to be strong safeguards maintained to protect people's reputations, including whistleblowers and witnesses. Currently under the legislation there is the exceptional circumstances test, plus there are tests around the benefit of public awareness for holding public hearings, but they are also balanced against unfair risk to reputation and unfair risk to people's safety and wellbeing. I think those tests are okay, but the exceptional circumstances is a bar too high, we would argue, as well. If you look at the public hearing powers for the New South Wales ICAC and the ACT Integrity Commission, which are included here in this analysis, which I will share afterwards, they have a test around public exposure and public awareness with a focus on: is it serious and/or systemic conduct? But also it is balanced against tests around unfairness, of not holding the issues in public but also reputational risk to privacy and risks to human rights in the ACT Act. So as long as there are those proper safeguards, which are already in the legislation, I think it is fine, to be honest. If you look at the public hearings that have been held in Victoria, including Operation Bredbo and Operation Watts, they were good examples of how they can be run, I believe, and help build trust in the IBAC with Victorians. At a time when trust in institutions is failing or is struggling, I would argue, across Australia, including Victoria, the greater the transparency, the greater the safeguards we can have to actually instil people's trust. It is really important; otherwise people lose faith in the democracy and how government works.

The CHAIR: Eden Foster.

Eden FOSTER: Thanks, Chair. Thanks, Clancy. Would you support IBAC's use of public hearings for purely educational and preventative purposes without the need to establish a connection with an investigation?

Clancy MOORE: To be clear, the suggestion I put forward in my opening remarks, which was not in my submission, was around the ability to hold public inquiries, not in relation to specific corruption misconduct involving a person or persons – rather, systemic vulnerabilities at a state sector, or maybe involving particular government departments, which would have a strong preventative and education component. That was the proposal. For public hearings or examinations, as they are called under the Act, they should be related to a particular example of corrupt conduct. Is that clear, Ms Foster?

Eden FOSTER: That is clear, yes. Thank you.

The CHAIR: Can I interrupt just quickly, just to clarify: what about IBAC having the use of coercive powers for these public inquiries?

Clancy MOORE: It is not something we have looked into, to be honest. The NACC legislation which we suggest the IBAC could mirror has pretty extensive powers, but it is really for the purposes of educating the public and preventing corruption from taking hold in the first instance. Normally, participation would be on a voluntary nature. They would call for submissions, perhaps. I am not sure about the use of coercive powers. Committee Chair, for those broader public inquiries.

Jade BENHAM: You just stole my question, Chair. That is all right. Just to expand on that a little bit more, there has been a lot of discussion around witness welfare. If, for those public hearings, those inquiries that you talk about, do you think if the use of coercive powers was part of that, that would go against best practice, possibly?

Clancy MOORE: Yes, quite possibly. I would also put forward the consideration that if there were marginalised or vulnerable communities or whistleblowers that would like to participate in those sorts of inquiries – let us call them prevention and education inquiries – that could be done potentially behind closed doors to protect their identity and their vulnerabilities if they were at risk.

Jade BENHAM: It is a great segue to my next question. So with the current confidentiality provisions and practices as they relate to IBAC's handling of whistleblower disclosures, what are your concerns around that?

Clancy MOORE: I would have to take that question on notice, Ms Benham.

Jade BENHAM: Okay, sure. The current public interest disclosure scheme – do you think that that currently meets best practice in the broader view and in regard to other jurisdictions?

Clancy MOORE: Most of our work is focused on the federal whistleblower legislation and regime, so I am happy to provide a further response to that question. I think the IBAC has done a lot of work around protecting witnesses and whistleblowers, but I cannot give you a fair assessment of the actual practice of the IBAC in doing that at this stage.

Jade BENHAM: That is fine. We will take that on notice.

Clancy MOORE: I am not privy to that.

Jade BENHAM: Yes. Thank you.

The CHAIR: Great. Rachel Payne.

Rachel PAYNE: Thank you, Chair. Thank you, Clancy, for your submission and your opening remarks. My question is in relation to online reporting platforms and security around that so that anonymous disclosures can be handled without the agency knowing of the disclosure and thinking of whistleblowers and the like. Would you recommend an entirely secure platform for IBAC to use in line with Integrity Oversight Victoria?

Clancy MOORE: Yes, absolutely. I think government is often slow to use technology, and often technological solutions can get around some of these issues.

Rachel PAYNE: Okay. Currently IBAC is not using a secure platform. Is that –

Clancy MOORE: I am not aware of that, sorry.

Rachel PAYNE: Okay.

The CHAIR: Thanks. Let us go to Ryan Batchelor.

Ryan BATCHELOR: Thanks, Chair. Clancy, thanks so much for coming in today. Just really on the theme of information security, we have had it addressed briefly in your submission. There have been some instances in the past here in Victoria, but also we have had a recent case in the ACT, I think, where their Integrity Commission made some remarks about a board of inquiry providing copies of materials relating to the inquiry and reports of the inquiry to journalists before they were tabled in the Parliament and made some findings about that. Does Transparency International have a view about corruption agencies' relationships with media organisations in terms of handling of reports, particularly prior to their tabling in Parliament?

Clancy MOORE: No real firm view. I would suggest it is probably not the best practice to hand over reports before they are public to media unless they were embargoed, obviously, with strict confidentiality. I think that is probably quite wise.

Ryan BATCHELOR: In the past this Committee has suggested that if that kind of practice were to occur it would need to be governed by some pretty strict policies and protocols. Can you see any risks to corruption organisations in terms of that practice occurring without pretty strict guidance on how it is done?

Clancy MOORE: Absolutely. I think there is a risk that the public would lose faith and trust in agencies like the IBAC if that was to occur.

Ryan BATCHELOR: Okay. That is all.

The CHAIR: Very good. Have you got another question?

Jade BENHAM: Yes, I have got another question. Apart from the changes that you spoke about in your introduction, changes to section 4 and the removal of exceptional circumstances, are there any other reforms that Transparency International can see that would most improve public confidence in Victoria's anti-corruption regime?

Clancy MOORE: Yes. I think strengthening Victoria's lobbying regulations and the regulating of lobbyists, including civil society lobbyists like me, but also where there have been known allegations of corruption or misconduct, including property developers, other private interests who engage in lobbying and I think former politicians, is one key gap. I would note the IBAC's reports on political donations previously – some very good work with recommendations that have not necessarily been followed. Similarly, there is a very interesting model in Queensland where they have the Queensland Crime and Corruption Commission, but they also have an Integrity Commissioner. The Queensland Integrity Commissioner advises MPs and Ministers on dealing with conflicts of interest and also oversees the lobbying code of conduct there. It is separate to the CCC, the Queensland Crime and Corruption Commission, but she has got a statutory role to actually advise parliamentarians on how to deal with issues which may involve potentially allegations of corruption but oversees the lobbying regulations as well. So I think there are a couple of things to consider in future.

The CHAIR: Great. Eden Foster, have you got another question?

Eden FOSTER: Thanks, Chair. I have got another question, Clancy. Just on the threshold for IBAC investigating, in your submission you recommend that IBAC is empowered to apply a lower threshold – reasonable suspicion – to open investigations. In your submission you cite Singapore and ICAC as examples of having a tiered or graduated threshold allowing for investigations based on reasonable grounds for suspicion, rather than requiring a high standard of certainty before any investigation can commence. While fact-dependent, can you provide some examples of what a reasonable ground for suspicion may be? I assume it would be more than a mere complaint.

Clancy MOORE: Yes, it would involve evidence or strong suspicion that something has taken place. I also talked about the NACC threshold, which gives quite a lot of leeway to the Commissioner to make the evaluative judgement. In the NACC example the Commissioner just has to have some concern or consideration that a corrupt conduct may have occurred as well. So I think there are some different models to consider.

Eden FOSTER: Okay. Thank you.

The CHAIR: Just a question: early on you mentioned pork-barrelling as a potential form of corruption that could be investigated. That could bring, theoretically, an anti-corruption commission quite close to political decision-making and areas that are the domain of elected representatives. So even if we might regard it as bad practice or bad policy, at what point would it become corruption, and at what point should an anti-corruption commission be involved?

Clancy MOORE: If the threshold was lowered and the definition of 'corrupt conduct' changed, the IBAC could more strongly investigate issues of grey corruption, which include pork-barrelling, and then would be able to make final reports or produce more public information around the risks and the prevalence of pork-barrelling as well, which I would argue would help hold governments to account on both sides of politics and lead to a better use of public resources as well. So I do not think there is an issue of getting too close to elected officials. The IBAC is independent of the Parliament for obvious reasons – it is there to provide oversight and accountability functions as well. I do not see it being a problem, Committee Chair, but I might have missed something in your question, so apologies if I have.

The CHAIR: Perhaps if I could just narrow it down a little bit. I would be fascinated to know internationally if there are anti-corruption commissions that do this. But if elected representatives are, for example, making funding decisions based on political favouritism, that is something that we might regard as bad policy or poor practice. But is it necessarily corrupt?

Clancy MOORE: That is why we term it grey corruption; it is not technically a breach of the law. If a political party or the government is choosing to, like we have seen federally, invest public money into marginal seats to win favour with voters ahead of election, that is not illegal; it is not against the law. But it could be questioned to be unethical or potentially bending the rules as well. Those instances are not technically corruption by the law, but it is that grey area around favouritism and pork-barrelling and other things that I have talked about earlier.

The CHAIR: All right. I suspect we might have the same question next.

Ryan BATCHELOR: No, no. I do not know what yours is, so you should go first.

The CHAIR: All right. Should an anti-corruption commission be empowered to go after what we might regard as unethical or favouritism – funding marginal seats, for example? Is that really the domain of an anti-corruption commission, or is that really the voters' job, perhaps with the assistance of media, to make a determination on that?

Clancy MOORE: We would argue that anti-corruption commissions have a role in exposing the misuse of public funds and instances of grey corruption where it might not be technically a breach of the law. But that is absolutely what an anti-corruption commission can do and could be doing in Victoria. I mean, the media has a role to play, yes, I agree.

The CHAIR: Is it done around the world?

Clancy MOORE: I can take it on notice, yes, absolutely.

The CHAIR: Okay. Thank you.

Ryan BATCHELOR: I am interested in where the boundaries are, right, because you said grey corruption should be in, pork-barrelling should be in. There is a lot of other engagement that occurs in politics, particularly in the Parliament and the legislature, to seek to get agreement to pass legislation. We have got a bicameral Parliament where here the government does not have a majority, and there have often been times when governments do not have majority in either house of the Parliament. Do you think that negotiations and horsetrading over the passage of legislation, for example, would be the sort of grey corruption that should be within the remit of an IBAC?

Clancy MOORE: Thanks for your question. It is not something I have thought about deeply, to be honest, Mr Batchelor. I mean, the political process is the political process. If there were instances of favouritism or nepotism or that abuse of entrusted power in that political horsetrading, I would argue yes. If it involves an abuse of entrusted power for personal or private gain, well, then it should be potentially looked at by an anti-corruption commission. But if it is just the cut and dry of parliamentary politics, I do not think it would form the remit, but where there is that abuse of power –

Ryan BATCHELOR: And this is the distinction I am trying to get to. You say that an executive allocating funding to marginal seats – pork-barrelling – is grey corruption, but negotiations between elected representatives about supporting a piece of legislation if other certain things happen, whether they are related to that piece of legislation or extrinsic to that particular piece of legislation, is not something that you would define as grey corruption. I am trying to understand the difference between the former and the latter in your mind as to what sits on which side of a line.

Clancy MOORE: I guess it comes down to whether there is an abuse of power and if there is any personal or private gain through that abuse of power.

Ryan BATCHELOR: Why is it personal or private gain if there is a funding allocation to a community group in a particular electorate – pork-barrelling?

Clancy MOORE: I was referring to your instance of political horsetrading for legislation. Perhaps there might be, I am not sure, in some instances. I hope there is not; I think Victorians would be pretty shocked if there is. But if there is that exchange for votes, if I am not sure what the benefit could be, absolutely I would argue it should be under the remit of the anti-corruption commission.

The CHAIR: Have you got a question?

Jade BENHAM: I have got another one.

The CHAIR: Yes. Great.

Clancy MOORE: Sorry, Mr Batchelor, it could also be if Victoria did decide to follow the Queensland model and have that Integrity Commissioner role, that could be something that the Integrity Commissioner could actually advise –

Ryan BATCHELOR: We have got one. We have got a Parliamentary Integrity Adviser and a parliamentary integrity Commission, so I think we are ahead of the Queenslanders.

The CHAIR: Jade Benham.

Jade BENHAM: When we talk about IBAC, the Victorian IBAC, the Victorian public service and transparency, does the current legislative framework give the Victorian public enough transparency about IBAC's work comparative to some others?

Clancy MOORE: I think the IBAC is doing a pretty good job of explaining their work to the public. It seems to be very well resourced. There are lots of documents online, videos and guides for the community. So I would argue it does. I think the weakness in the current system is the reluctance or the legal threshold to hold those public hearings to really kind of have a clear view of what is going on inside those examinations or hearings that the IBAC undertakes. But I think they seem to be pretty well resourced. There are lots of materials, lots of guidance documents – absolutely.

Jade BENHAM: So the two biggest reforms you see are the changing of the definition of 'corruption' and the ability to hold inquiries.

Clancy MOORE: Yes. Absolutely.

Jade BENHAM: Thank you.

The CHAIR: If there are no further questions, then we will suspend the hearing now and take a break. Thank you very much for coming in.

Witness withdrew.