



Integrity and Oversight Committee

The adequacy of the legislative framework for the Independent Broad-based Anti-corruption Commission

Inquiry

December 2025

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About the Committee

The Integrity and Oversight Committee is a joint investigatory committee constituted under the *Parliamentary Committees Act 2003* (Vic).

Functions

7 Integrity and Oversight Committee

- (1) The functions of the Integrity and Oversight Committee are—
- (a) to monitor and review the performance of the functions and exercise of the powers of the Information Commissioner; and
 - (b) to consider and investigate complaints concerning the Information Commissioner and the operation of the Office of the Victorian Information Commissioner; and
 - (c) to report to both Houses of Parliament on any matter requiring the attention of Parliament that relates to—
 - (i) the performance of the functions and the exercise of the powers of the Information Commissioner; or
 - (ii) any complaint concerning the Information Commissioner and the operation of the Office of the Victorian Information Commissioner; and
 - (d) to examine the annual report of the Information Commissioner and any other reports by the Information Commissioner and report to Parliament on any matters it thinks fit concerning those reports; and
 - (e) to inquire into matters concerning freedom of information referred to it by the Parliament and to report to Parliament on those matters; and
 - (f) to monitor and review the performance of the duties and functions of Integrity Oversight Victoria, other than those in respect of VAGO officers; and
 - (g) to report to both Houses of the Parliament on any matter connected with the performance of the duties and functions of Integrity Oversight Victoria, other than those in respect of VAGO officers, that require the attention of the Parliament; and
 - (h) to examine any reports made by Integrity Oversight Victoria to the Integrity and Oversight Committee or the Parliament other than reports in respect of VAGO officers; and
 - (i) to consider any proposed appointment of a Chief Integrity Inspector under section 18 of the *Integrity Oversight Victoria Act 2011* and to exercise a power of veto in accordance with that Act; and

- (ia) to receive and assess public interest disclosures about conduct by or in Integrity Oversight Victoria and engage an independent person to investigate any such disclosure that it has assessed to be a public interest complaint; and
- (j) to monitor and review the performance of the duties and functions of the IBAC; and
- (k) to report to both Houses of the Parliament on any matter connected with the performance of the duties and functions of the IBAC that require the attention of the Parliament; and
- (l) to examine any reports made by the IBAC to the Integrity and Oversight Committee or the Parliament; and
- (m) to consider any proposed appointment of a Commissioner under section 20 of the *Independent Broad-based Anti-corruption Commission Act 2011* and to exercise a power of veto in accordance with that Act; and
- (ma) to monitor and review the performance of the duties and functions of the Parliamentary Workplace Standards and Integrity Commission; and
- (mb) to report to both Houses of the Parliament on any matter connected with the performance of the duties and functions of the Parliamentary Workplace Standards and Integrity Commission that require the attention of the Parliament; and
- (mc) to examine—
 - (i) any reports made by the Parliamentary Workplace Standards and Integrity Commission to the Integrity and Oversight Committee; and
 - (ii) the Parliamentary Workplace Standards and Integrity Commission's annual reports to the Parliament; and
- (md) to consider any proposed appointment of a commissioner under section 52 of the *Parliamentary Workplace Standards and Integrity Act 2024* and make decisions under that section; and
- (n) to carry out any other function conferred on the Integrity and Oversight Committee by or under—
 - (i) the *Ombudsman Act 1973*; and
 - (ii) the *Independent Broad-based Anti-corruption Commission Act 2011*; and
 - (iii) the *Integrity Oversight Victoria Act 2011*; and
 - (iv) the *Public Interest Disclosures Act 2012*; and
 - (v) the *Parliamentary Workplace Standards and Integrity Act 2024*.

- (2) Despite anything to the contrary in subsection (1), the Integrity and Oversight Committee cannot—
- (a) reconsider a decision of the Information Commissioner or Public Access Deputy Commissioner in relation to a review of a particular matter; or
 - (b) reconsider any recommendations or decisions of the Information Commissioner or Public Access Deputy Commissioner in relation to a complaint under the *Freedom of Information Act 1982*; or
 - (c) reconsider any findings in relation to an investigation under the *Freedom of Information Act 1982*; or
 - (d) reconsider the making of a public interest determination under the *Privacy and Data Protection Act 2014*; or
 - (e) reconsider the approval of an information usage arrangement under the *Privacy and Data Protection Act 2014*; or
 - (f) reconsider a decision to serve a compliance notice under the *Privacy and Data Protection Act 2014*; or
 - (g) disclose any information relating to the performance of a duty or function or exercise of a power by the Ombudsman, Integrity Oversight Victoria, the IBAC or the Parliamentary Workplace Standards and Integrity Commission which may—
 - (i) prejudice any criminal proceedings or criminal investigations; or
 - (ii) prejudice an investigation being conducted by the Ombudsman, the IBAC or Integrity Oversight Victoria; or
 - (iii) contravene any secrecy or confidentiality provision in any relevant Act; or
 - (h) investigate a matter relating to the particular conduct the subject of—
 - (i) a particular complaint or notification made to the IBAC under the *Independent Broad-based Anti corruption Commission Act 2011*; or
 - (ii) a particular disclosure determined by the IBAC under section 26 of the *Public Interest Disclosures Act 2012* to be a public interest complaint; or
 - (iii) any report made by Integrity Oversight Victoria; or
 - (iv) a particular referral within the meaning of the *Parliamentary Workplace Standards and Integrity Act 2024*; or
 - (i) review any decision by the IBAC under the *Independent Broad-based Anti-corruption Commission Act 2011* to investigate, not to investigate or to discontinue the investigation of a particular complaint or notification or a public interest complaint within the meaning of that Act; or

- (j) review any findings, recommendations, determinations or other decisions of the IBAC in relation to—
 - (i) a particular complaint or notification made to the IBAC under the *Independent Broad-based Anti-corruption Commission Act 2011*; or
 - (ii) a particular disclosure determined by the IBAC under section 26 of the *Public Interest Disclosures Act 2012* to be a public interest complaint; or
 - (iii) a particular investigation conducted by the IBAC under the *Independent Broad-based Anti-corruption Commission Act 2011*; or
 - (k) review any determination by the IBAC under section 26 of the *Public Interest Disclosures Act 2012*; or
 - (l) disclose or share any information that is likely to lead to the identification of a person who has made an assessable disclosure and is not information to which section 53(2)(a), (c) or (d) of the *Public Interest Disclosures Act 2012* applies; or
 - (m) review any decision to investigate, not to investigate, or to discontinue the investigation of a particular complaint made to Integrity Oversight Victoria in accordance with the *Integrity Oversight Victoria Act 2011*; or
 - (n) review any findings, recommendations, determinations or other decisions of Integrity Oversight Victoria in relation to a particular complaint made to, or investigation conducted by, Integrity Oversight Victoria in accordance with the *Integrity Oversight Victoria Act 2011*; or
 - (o) reconsider or review any decision of the Parliamentary Workplace Standards and Integrity Commission to investigate, not to investigate, or to discontinue the investigation of a particular referral in accordance with the *Parliamentary Workplace Standards and Integrity Act 2024*.
- (3) If a member of the Integrity and Oversight Committee has an interest that would conflict with the proper performance of a function of the Committee in respect of the Parliamentary Workplace Standards and Integrity Commission, the member must recuse themselves from the Committee while it is performing that function.

Note

See also Part 8 of the *Public Interest Disclosures Act 2012* and Part VB of the *Ombudsman Act 1973* which set out the functions of the Integrity and Oversight Committee under each of those Acts.

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Contents

Preliminaries

Committee membership	ii
About the Committee	iii
Terms of reference	xiv
Chair's foreword	xv
Recommendations	xvii
Acronyms	xxiii

1	Introduction	1
1.1	Overview of Victoria's integrity system	1
1.1.1	The Integrity agencies	1
1.1.2	The Integrity and Oversight Committee	2
1.2	The rationale for the Inquiry	3
1.3	The Inquiry process	4
1.3.1	Submissions	4
1.3.2	Public hearings	7
1.3.3	Limitations on evidence imposed by the IOC's legislative framework	8
1.4	The legislative framework for IBAC	8
1.4.1	The origin and background of the <i>Independent Broad-based Anti-corruption Commission Act 2011</i> (Vic)	8
1.4.2	Other legislation that forms the legislative framework for IBAC	10
1.5	Best practice	11
1.5.1	No 'perfect model'	11
1.5.2	International practice	12
1.6	Report structure	16
2	Definitions in the <i>IBAC Act 2011</i> (Vic)	17
2.1	Introduction	17
2.2	The definition of 'corrupt conduct'	17
2.2.1	The current legislation in the <i>IBAC Act 2011</i> (Vic)	17
2.2.2	The definition of 'corrupt conduct' in other jurisdictions	19
2.2.3	The legal definition of 'grey corruption' in Victoria and breach of public trust	21
2.2.4	Should the 'relevant offence' requirement be removed?	23
2.2.5	What options are there for a new definition of 'corrupt conduct'?	24

2.2.6	The common law offence of ‘misconduct in public office’ needs to be more clearly defined	29
2.2.7	Resourcing and funding to any changes to the <i>IBAC Act 2011</i> (Vic)	30
2.3	The definitions of ‘public officer’ and ‘public body’	32
2.3.1	The current definitions in the <i>IBAC Act 2011</i> (Vic)	32
2.3.2	Should the definitions of ‘public officer’ and ‘public body’ be expanded?	34
3	Investigations	37
3.1	The threshold to investigate	37
3.1.1	The legislation for IBAC to start an investigation	37
3.1.2	Does the threshold for investigation in the <i>IBAC Act 2011</i> (Vic) need to be changed?	39
3.1.3	The threshold to investigate is linked to the definition of corrupt conduct	40
3.2	Investigative powers	41
3.2.1	Should IBAC have additional investigative powers regarding search warrants?	41
3.2.2	Any increase in IBAC’s investigative powers should be overseen by IOV and IOV should have comparable powers	44
3.3	IBAC as a prosecuting body	45
3.3.1	The current legislation	45
3.3.2	Should IBAC be able to prosecute matters?	46
3.4	Offences in the <i>IBAC Act 2011</i> (Vic)	48
3.4.1	The current legislation	48
3.4.2	Should the offences within the <i>IBAC Act 2011</i> (Vic) be expanded?	49
3.5	Conclusion	51
4	Examinations	53
4.1	Should the legislation for IBAC to hold examinations be changed?	53
4.1.1	The current legislation for IBAC to hold public examinations	53
4.1.2	IBAC’s powers in the examination process	54
4.1.3	The exceptional circumstances test for public examinations should be retained	56
4.1.4	The serious or systemic conduct threshold should be retained	58
4.2	Transparency and notification requirements for public examinations	59
4.2.1	The public interest should be balanced against the rights of the person being examined	59

4.2.2	The <i>IBAC Act 2011</i> (Vic) should be amended to require IBAC to notify IOV before issuing a witness summons for a public examination	61
4.2.3	IBAC should be required to publicly publish guidelines for holding public examinations	62
4.3	Claims of privilege	65
4.3.1	The current process for making claims of privilege	65
4.3.2	Proposed changes to claims of privilege process	66
4.4	Public examinations and IBAC's educative and preventive functions	67
4.4.1	IBAC's current educative and preventive functions	67
4.4.2	Should IBAC be able to hold public examinations for educative and preventive functions?	68
4.4.3	IBAC's finite resources should be used where they are needed most	70
4.5	Conclusion	70
5	Confidentiality and information security	73
5.1	Information security	73
5.2	Freedom of information and the <i>IBAC Act 2011</i> (Vic)	74
5.2.1	The current legislation	74
5.2.2	Should IBAC's exemption from the Freedom of Information Act remain in its current form?	76
5.2.3	Should complaints referred to Victoria Police by IBAC be protected under section 194 of the Act?	77
5.3	Confidentiality notices	79
5.3.1	Should the process for amending confidentiality notices be changed?	79
5.3.2	Should the definition of a 'restricted matter' be expanded?	81
5.4	Exceptions to non-disclosure requirements	83
5.4.1	The current legislation	83
5.4.2	IBAC should be able to authorise for a person to disclose confidential information	85
5.4.3	IBAC officers should be able to disclose information for welfare purposes	86
5.5	Public interest disclosures	87
5.5.1	Confidentiality requirements across the <i>PID Act 2012</i> (Vic) and the <i>IBAC Act 2011</i> (Vic) are overly complex	87
5.5.2	There should be a holistic review of the current PID scheme	89
5.6	Release of embargoed reports	91
5.6.1	Should IBAC be able to release embargoed reports to the media?	91

6	Police oversight and referrals: selected issues	93
6.1	Introduction	93
6.1.1	IBAC's function as a police oversight body	93
6.1.2	There is an ongoing conversation about police oversight in Victoria	94
6.2	Should police oversight in Victoria be transferred to a standalone body?	95
6.2.1	Are there conflicts of interest in the way police complaints are currently handled?	97
6.2.2	Do IBAC's multiple responsibilities cause issues for effective police oversight?	99
6.2.3	Does Victoria's current police oversight meet best practice or should it be a standalone body?	101
6.3	Handling of complaints about Victoria Police	105
6.3.1	Clarifying definitions outlining police misconduct	105
6.3.2	Should IBAC be required to provide complainants with reasons for referral when referring a complaint to Victoria Police?	107
6.3.3	Should IBAC have the express function of reviewing referred investigations, the power to make recommendations from reviews and the power to put conditions on referrals?	108
6.3.4	Should IBAC have the ability to communicate review outcomes to complainants when it <i>reviews</i> a referred matter?	110
6.3.5	Should IBAC be required to audit and publish findings regarding Victoria Police complaints data?	111
7	Other issues	113
7.1	IBAC's ability to make findings about corrupt conduct and police personnel misconduct	113
7.1.1	Does a finding of corrupt conduct equate to a finding of guilt?	114
7.2	Procedural fairness processes for publishing reports	117
7.2.1	The current process for providing procedural fairness to persons named in IBAC reports	118
7.2.2	Comparison to other jurisdictions	119
7.2.3	Should the procedural fairness process be changed?	121
7.3	Should IBAC be able to publish recommendations separate to publication of reports?	123
7.3.1	Should IBAC be required to publish recommendations made to Victoria Police in private?	126
7.4	Should IBAC establish an Aboriginal Engagement Unit?	128
7.4.1	Trust between IBAC and First Nations communities	128
7.4.2	What would be the functions of an Aboriginal Engagement Unit?	129

8	Conclusion	131
8.1	Approach to this Inquiry	131
8.2	Definitions in the <i>IBAC Act 2011</i> (Vic)	131
8.3	Investigations	133
8.4	Examinations	134
8.5	Confidentiality and information security	136
8.6	Police oversight and referrals	137
8.7	Other issues	138
8.8	Resourcing and funding	139
 Appendices		
A	Public hearings	141
B	Excerpts of the definition of ‘corrupt conduct’ across Australian jurisdictions	143
 Extract of proceedings		 149

Terms of reference

The Victorian Parliament's Integrity and Oversight Committee undertook an inquiry into the adequacy of the legislative framework for the Independent Broad-based Anti-corruption Commission (IBAC).

The Committee examined a range of issues, including:

1. whether the definition of 'corrupt conduct' in the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) ('the Act') should be amended to include other forms of misconduct;
2. whether the threshold for IBAC to investigate alleged corrupt conduct should be amended;
3. whether the criteria in the Act for IBAC to hold public hearings should be amended;
4. whether the information-security and confidentiality provisions in the Act and IBAC's systems and practices are robust and fit-for-purpose; and,
5. any other issue in the Act that may unreasonably limit IBAC's ability to identify, investigate and expose corrupt conduct.

Chair's foreword

I am pleased to present to the Parliament the Integrity and Oversight Committee's (IOC) report into the *Adequacy of the legislative framework for the Independent Broad-based Anti-corruption Commission* (IBAC).

Following some public debate on the issue, the Integrity and Oversight Committee resolved to inquire into whether the legislative framework governing IBAC is fit-for-purpose, adequately supports IBAC's mandate, and if reform is needed.

We wanted to hear from a range of experts and stakeholders and to assess IBAC's powers and responsibilities, to compare them to other jurisdictions and to identify opportunities for legislative improvement.

The Committee agreed on terms of reference which included: the definition of 'corrupt conduct', the threshold for IBAC to commence investigations, when IBAC is allowed to hold public hearings, and IBAC's information-sharing and confidentiality provisions.

The IBAC Act 2011 (Vic), which gives IBAC its powers, also limits those powers. IBAC's purpose is to expose public sector corruption, but the Act requires that corruption be 'a relevant offence', which is defined further in the Act. The Committee heard from many witnesses that this is too limiting and prevents IBAC from investigating serious integrity breaches that would be investigated by anti-corruption agencies elsewhere.

IBAC's power to investigate alleged corruption in publicly funded projects carried out by private companies is unclear in an era when so much government work is outsourced.

Chapter Two of the report discusses these issues in detail, with the Committee recommending a broadening of the definition of corrupt conduct in the Act, and that IBAC's jurisdiction extend to outsourced, government funded projects, also known as 'follow-the-dollar' powers.

Implementing this recommendation will hopefully enable IBAC to expose broader categories of corruption and ultimately increase public trust in state and local government and the public sector.

Public hearings or examinations, as they are referred to in the Act, demonstrate the anti-corruption agency at work. Public hearings sometimes prompt members of the public to come forward with further useful information about the matter under investigation. Unlike some other states, in Victoria, IBAC may only hold public examinations in exceptional circumstances.

Many agencies, experts and other witnesses, but not all, recommended doing away with this restriction to enable IBAC to hold public hearings more often. In favour of limiting public examinations to exceptional circumstances, was the risk to the reputation of those examined, in a forum which does not have all the protections of a court? This is discussed in greater depth in Chapter Four.

The Committee were divided on this issue, with the majority voting to retain the exceptional circumstances requirement. Votes of Committee members are recorded in the Extract of proceedings elsewhere in this report. With the exception of this matter, all other recommendations in the report were agreed by consensus.

However, the Committee did recommend IBAC have the power to hold public inquiries for the purposes of education and prevention – important roles for the agency.

While not part of the Inquiry's terms of reference, it is difficult to consider IBAC's legislation without considering its responsibility for the oversight of Victoria Police. This is discussed in Chapter Six which contains a number of recommendations, including that IBAC should establish a dedicated Police Corruption and Misconduct Division.

Because IBAC refers the great majority of complaints about police back to the police to investigate, the Committee recommended that IBAC be required to give complainants the reasons for the referral, that complaints not be referred to a police investigator with a conflict of interest, and that IBAC have the power to review investigations that it has referred back to the police. While Victoria Police provided limited answers to questions on notice, they declined to attend a hearing or make a submission.

In preparing this report, we received 26 submissions from individuals, legal bodies, oversight agencies, advocacy groups, and academics, and we heard from 14 groups at public hearings, including from integrity agencies directly relevant to the Inquiry and reviewed their responses to detailed questions on notice. The Committee thanks all stakeholders and agencies for their cooperation throughout the inquiry process.

I thank my fellow Committee members – Deputy Chair Hon Kim Wells MP, Ryan Batchelor MP, Jade Benham MP, Eden Foster MP, Paul Mercurio MP, Rachel Payne MP, and Belinda Wilson MP – for their contributions to this Inquiry.

Additionally, I acknowledge the Committee Secretariat for all their efforts in planning and conducting this review and preparing the report: Sean Coley, Committee Manager; Dr Chloë Duncan, Senior Research Officer (from 6 November 2025); Tom Hvala, Research Officer; Whitney Kapa, Research Assistant; Emma Daniel, Complaints and Research Assistant; Maria Marasco and Bernadette Pendergast, Committee Administrative Officers. I also extend my sincere appreciation to Dr Stephen James, former Senior Research Officer, for his outstanding work over nine years with the Committee, including in the early stages of this Inquiry, and to Monash University Law student intern Qianhao (Alex) Li, for his excellent analysis of the terms of reference and briefings in the early stages of this Inquiry and finally to Jessica Summers, Inquiry Officer with the Parliament's Legislative Council committees, for her invaluable review work on this report.

I commend this report to the Parliament.

A handwritten signature in black ink that reads "Tim Read". The signature is fluid and cursive, with the first name "Tim" and last name "Read" clearly distinguishable.

Dr Tim Read MP
Chair

Recommendations

2 Definitions in the *IBAC Act 2011* (Vic)

RECOMMENDATION 1: That the Victorian Government seek to broaden the definition of ‘corrupt conduct’ in s 4 of the *IBAC Act 2011* (Vic), to remove the requirement that conduct constitute a relevant offence and include matters involving a serious disciplinary offence, misconduct worthy of termination or other relevant offences or instances considered in breach of public trust in the public officer by reason of their appointment as a public officer.

28

RECOMMENDATION 2: That the Victorian Government seek to clarify the offence of ‘misconduct in public office’ under the definition of ‘relevant offence’ in s 3 of the *IBAC Act 2011* (Vic) and insert statutory offences.

30

RECOMMENDATION 3: That the Victorian Government provide proportionate funding to IBAC to support the expansion of the definition of ‘corrupt conduct’, and the realisation of any changes to the *IBAC Act 2011* (Vic) resulting from this inquiry.

31

RECOMMENDATION 4: That the Victorian Government seek input and advice from the Commonwealth Government and other stakeholders to clarify and streamline the definitions of ‘public officer’ and ‘public body’ under section 6 of the *IBAC Act 2011* (Vic).

35

RECOMMENDATION 5: That the Victorian Government seek to amend the *IBAC Act 2011* (Vic) to provide the Commissioner of the Independent Broad-based Anti-corruption Commission with powers comparable to the Victorian Auditor-General including:

- Investigation of corrupt conduct of third party and private subcontractors where there is a substantial connection between alleged corrupt conduct and government funding; and
- Follow-the-dollar investigatory powers.

36

3 Investigations

RECOMMENDATION 6: That the Victorian Government seek to amend section 91 of the *IBAC Act 2011* (Vic) for a search warrant issued under this Act to include the power to:

- Require the names and addresses of all persons present
- Require persons present to provide assistance to access a computer or data storage device
- Access data held in, or accessible from, a computer or data storage device, including data held off-site.

44

RECOMMENDATION 7: That the Victorian Government seek to amend the *IBAC Act 2011* (Vic) to include an offence to destroy or conceal a document or thing that is, or is likely to be, required in connection with an IBAC preliminary inquiry or investigation.

51

4 Examinations

RECOMMENDATION 8: That the Victorian Government seek to amend section 117(5) of the *IBAC Act 2011* (Vic) to require the Independent Broad-based Anti-corruption Commission (IBAC) to notify Integrity Oversight Victoria of its intention to hold a public examination prior to issuing the related witness summons.

62

RECOMMENDATION 9: That the Victorian Government seek to amend the *IBAC Act 2011* (Vic) to require the Independent Broad-based Anti-corruption Commission (IBAC) to table and publish procedural guidelines for:

- IBAC's process for deciding whether to hold a public examination
- Procedural fairness processes for witnesses in public examinations

64

RECOMMENDATION 10: That the Victorian Government seek to amend the *IBAC Act 2011* (Vic) to permit the Independent Broad-based Anti-corruption Commission (IBAC) to hold public inquiries for the purposes of its educative and preventive functions, and to be able to summons parties to attend public inquiries, without criminal sanctions for not complying with the summons. The Victorian Government should ensure IBAC is not able to use any other coercive powers in its educative and preventive functions.

70

5 Confidentiality and information security

RECOMMENDATION 11: That the Victorian Government seek to amend section 194 of the *IBAC Act 2011* (Vic) to make clear that a Victoria Police investigation following a referral from the Independent Broad-based Anti-corruption Commission (IBAC) is not an investigation ‘conducted under the IBAC Act’, so that documents collected by Victoria Police during such an investigation are not exempt under section 194 from the operation of the *Freedom of Information Act 1982* (Vic).

78

RECOMMENDATION 12: That the Victorian Government seek to amend section 42 of the *IBAC Act 2011* (Vic) to permit the Independent Broad-based Anti-corruption Commission (IBAC) to issue amended confidentiality notices, and require it be served in the same manner as a new confidentiality notice.

80

RECOMMENDATION 13: That the Victorian Government seek to amend section 3 of the *IBAC Act 2011* (Vic) to expand the definition of a ‘restricted matter’ to include:

- The subject matter or individual who is subject to a preliminary inquiry
- The subject matter or individual who is subject to an investigation, when a confidentiality notice has not been issued.

82

RECOMMENDATION 14: That the Victorian Government seek to amend the *IBAC Act 2011* (Vic) to provide the Independent Broad-based Anti-corruption Commission (IBAC) with the ability to explicitly authorise the disclosure of certain information under section 184.

86

RECOMMENDATION 15: That the Victorian Government seek to amend the *Integrity Oversight Victoria Act 2011* (Vic) to provide Integrity Oversight Victoria (IOV) with the ability to explicitly authorise the disclosure of certain information under section 97AA.

86

RECOMMENDATION 16: That the Victorian Government undertake a comprehensive review of Victoria’s current Public Interest Disclosure scheme to determine whether the adoption of an alternative model would best serve the needs of the Victorian community.

90

6 Police oversight and referrals: selected issues

RECOMMENDATION 17: That the Victorian Government seek the amendment of the *IBAC Act 2011* (Vic) and the *Victoria Police Act 2013* (Vic) to provide that IBAC, Professional Standards Command or Victoria Police cannot refer complaints to a police investigator who is affected by a conflict of interest.

99

RECOMMENDATION 18: That the Victorian Government seek to rewrite s 15(1A) of the *IBAC Act 2011* (Vic) to clarify that: in performing its functions, the IBAC must prioritise its attention on ‘serious corrupt conduct’, ‘systemic corrupt conduct’ and ‘serious police misconduct’. Further unless there are exceptional circumstances, the IBAC, rather than Victoria Police, should investigate complaints and disclosures about ‘serious police misconduct’.

101

RECOMMENDATION 19: That IBAC should formally establish a dedicated Police Corruption and Misconduct Division to increase public confidence in Victoria’s system for the handling of complaints about police corruption and other misconduct, improve its capacity to conduct effective investigations, enhance its independence, develop its expertise and improve its overall performance. This division should consolidate IBAC’s legislated functions that relate to complaints and disclosures about police corruption and other misconduct in Victoria. It should have dedicated teams for:

- Complaint receipt and assessment
- Investigations and referrals (including reviews and audits of investigations and own motion investigations)
- Public information and communications
- Welfare management (of complainants and those subject to investigation)
- In-house and external training (with respect to IBAC and Victoria Police personnel)
- Research and prevention.

IBAC should retain the discretion to allocate resources, including staff, between divisions in its organisation.

105

RECOMMENDATION 20: That the Victorian Government seek to amend and redraft the definitions of ‘police personnel conduct’, ‘police personnel conduct complaint’ and ‘police personnel misconduct’ in section 5 of *IBAC Act 2011* (Vic) and any relevant or related provisions in *Victoria Police Act 2013* (Vic) and *Public Interest Disclosures Act 2012* (Vic) to provide greater clarity.

That in doing so, the Victorian Government take into account Recommendation 20 by the IBAC Committee in the 2018 Police Oversight Inquiry.

107

RECOMMENDATION 21: That the Victorian Government seek to amend section 59(1) of the *IBAC Act 2011* (Vic) so that IBAC be required to provide complainants with reasons for referral when referring a complaint to Victoria Police. **108**

RECOMMENDATION 22: That the Victorian Government seek to amend the *IBAC Act 2011* (Vic) so that IBAC is provided with the express function of reviewing referred investigations, the power to make recommendations from reviews and the power to put conditions on referrals. **110**

RECOMMENDATION 23: That the Victorian Government seek to amend section 163 of the *IBAC Act 2011* (Vic) so that IBAC is provided with the ability to communicate review outcomes to complainants when it reviews a referred matter. **111**

7 Other issues

RECOMMENDATION 24: That the Victorian Government seek to amend the *IBAC Act 2011* (Vic) to empower IBAC to make findings of corrupt conduct. **115**

RECOMMENDATION 25: That the Victorian Government seek to amend the *IBAC Act 2011* (Vic) to require that IBAC implement additional procedural fairness requirements in respect of findings of corrupt conduct, including in respect of (but not limited to) confidentiality, timeliness and providing individuals with an opportunity to respond. **116**

RECOMMENDATION 26: That the Victorian Government seek to amend the *IBAC Act 2011* (Vic) to require that IBAC, in relevant reports, expressly states that findings in respect of corrupt conduct and police personnel misconduct do not amount to findings of guilt. **117**

RECOMMENDATION 27: That the Victorian Government seek to amend the *IBAC Act 2011* (Vic) to prescribe clear and reasonable statutory time frames within which affected individuals must be notified and given an opportunity to respond before the publication of any report that may contain adverse commentary about them. These timeframes should form part of the procedural fairness requirements and ensure a consistent, transparent process for managing natural justice obligations prior to tabling or public release. **122**

RECOMMENDATION 28: That the Victorian Government seek to amend section 159(2) of the *IBAC Act 2011* (Vic) to permit IBAC to table in Parliament recommendations it has made following any investigation if those recommendations relate to any public entity, agency or institution, regardless of whether IBAC transmits a Special Report to Parliament.

126

RECOMMENDATION 29: That the Victorian Government seek to amend the *IBAC Act 2011* (Vic) to require Victoria Police to:

- implement IBAC’s recommendations (or, where not implemented, to publicly state clear reasons and any alternative actions),
- provide IBAC with a progress/implementation report within six months and at reasonable intervals thereafter.

127

RECOMMENDATION 30: That the Victorian Government seek to amend the *IBAC Act 2011* (Vic) to enable IBAC to table in Parliament—in de-identified form—each recommendation together with Victoria Police’s implementation status and reasons, consistent with practices used by other complaint-handling bodies.

128

RECOMMENDATION 31: That IBAC in consultation with Gellung Warl, as the permanent representative and deliberative body for Traditional Owners and First Peoples in Victoria, establish a dedicated, appropriately-resourced Aboriginal Engagement Unit—led by a First Nations leader—to, amongst other things, embed culturally safe, trauma-informed practice; co-design engagement with communities; strengthen independence and investigative capability (including in deaths and serious injury matters); and improve complaint handling, transparency and outcomes to rebuild trust.

130

Acronyms

ACCC	Australian Competition and Consumer Commission
ACT	Australian Capital Territory
ALA	Australian Lawyers Alliance
AM	Member of the Order of Australia
ART	Accountability Round Table
CALD	Culturally and Linguistically Diverse
CCC	Crime and Corruption Commission (Queensland)
Cth	Commonwealth
DFV	Domestic and Family Violence
DPP	Director of Public Prosecutions
FOI	Freedom of Information
IBAC	Independent Broad-based Anti-corruption Commission
ICAC	Independent Commission Against Corruption
IMCL	Inner Melbourne Community Legal Centre
IOC	Integrity and Oversight Committee
IOV	Integrity Oversight Victoria
KC	King's Counsel
LIV	Law Institute of Victoria
MIPO	Misconduct in Public Office
MP	Member of Parliament
NACC	National Anti-Corruption Commission
NSW ICAC	New South Wales Independent Commission Against Corruption
OECD	Organisation for Economic Co-operation and Development
OPP	Office of Public Prosecution
OVIC	Office of the Victorian Information Commissioner
PDP Act	Privacy and Data Protection Act

PIC	Public Interest Complaint
PID	Public Interest Disclosure
PONI	Police Ombudsman Northern Ireland
POWG	Police Oversight Working Group
PPFV	Police-Perpetrated Family Violence
PSC	Professional Standards Command (Victoria Police)
PWSIC	Parliamentary Workplace Standards and Integrity Commission
RAJAC	Regional Aboriginal Justice Advisory Committee
SA	South Australia
SC	Senior Counsel
TIA	Transparency International Australia
TOR	Terms of Reference
TPAV	The Police Association Victoria
UK	United Kingdom
UNODC	United Nations Office on Drugs and Crime
VAGO	Victorian Auditor-General's Office
VALS	Victorian Aboriginal Legal Service
VCAT	Victorian Civil and Administrative Tribunal
VI	Victorian Inspectorate
VO	Victorian Ombudsman
VPS	Victorian Public Sector
VPSC	Victorian Public Sector Commission
Vic	Victoria
WA	Western Australia

Chapter 1

Introduction

1.1 Overview of Victoria's integrity system

1.1.1 The Integrity agencies

Victoria's integrity system is comprised of a number of bodies that perform distinctive roles in maintaining trust and confidence in public administration. Together, they help protect and advance the integrity of the Victorian public sector.

The Independent Broad-based Anti-corruption Commission (IBAC) is responsible for identifying, exposing and preventing corrupt conduct in the Victorian public sector. Its functions include overseeing Victoria Police, as well as receiving, assessing and investigating disclosures about improper conduct by a public officer or public body (known formally as public interest disclosures (PIDs) and informally as whistleblower complaints).

Integrity Oversight Victoria (IOV)—formerly named the Victorian Inspectorate (VI)—oversees a number of key integrity agencies, including IBAC, the Office of the Victorian Information Commissioner (OVIC), the Parliamentary Workplace Standards and Integrity Commission (PWSIC) and the Victorian Ombudsman (VO). It does this through, among other measures, monitoring their compliance with the law, use of coercive powers and compliance with procedural fairness requirements. Note that, for consistency, the abbreviation IOV will be used throughout this report.¹

OVIC oversees Victoria's freedom of information (FOI), information privacy, and information security regimes. It aims to facilitate greater access to information while safeguarding privacy and data in appropriate circumstances.

The PWSIC promotes and upholds parliamentary standards by receiving, managing and resolving allegations about parliamentary misconduct involving current and former Members of Parliament (MPs), government ministers and Parliamentary Secretaries.²

The VO investigates and resolves complaints about the administrative actions of Victorian government agencies, including local councils. It is also empowered to enquire into any administrative action that is incompatible with the *Charter of Human Rights and Responsibilities Act 2006* (Vic).

¹ Except when citing sources authored by the Victorian Inspectorate (VI) or when necessary to avoid ambiguity or misunderstanding.

² *Parliamentary Workplace Standards and Integrity Act 2024* (Vic) ('PWSIC Act 2024 (Vic)') s 4.

These integrity agencies are not subject to the direction or control of the executive government and are directly accountable to the Parliament of Victoria through the Integrity and Oversight Committee (IOC).

1.1.2 The Integrity and Oversight Committee

The IOC is a joint investigatory committee of the 60th Parliament of Victoria established under the *Parliamentary Committees Act 2003* (Vic). Established in 2019, the IOC is responsible for monitoring and reviewing the performance of the duties and functions of some of Victoria's leading integrity agencies. The IOC performs this oversight role through, among other actions:

- monitoring and reviewing the performance of the duties and functions of IBAC, IOV, OVIC, the PWSIC and the VO
- examining the agencies' reports, including annual reports
- reporting to both Houses of Parliament on any matter requiring the attention of Parliament.³

As noted, the Committee monitors and reviews the agencies' performance of their duties and functions. These duties, functions and responsibilities relate to public information, education and prevention; complaint handling, investigations and reviews of public sector body investigations; and inquiries into public sector bodies (including any consequent recommendations).

In addition to examining agency reports, the Committee exercises oversight by monitoring information about the performance of agencies it has received from complainants, information in the public domain, and information provided by integrity agencies (for example, through correspondence, briefings, submissions and appearances at Committee hearings). Further, the Committee has the power to inquire into matters that have been referred to it by the Parliament of Victoria or which have been self-referred by the Committee under the *Parliamentary Committees Act 2003* (Vic).⁴

With regard to its own investigatory power, the Committee may, in the circumstances prescribed in the *Parliamentary Committees Act 2003* (Vic), investigate complaints about the Information Commissioner and the operation of OVIC.⁵ However, it cannot investigate complaints about IBAC, the IOV or the VO. While the Committee cannot investigate these kinds of complaints, it can monitor and review them, and seek further information from the integrity agency concerned, where the Committee considers that a complaint has identified a systemic issue that bears on the performance of

³ *Parliamentary Committees Act 2003* (Vic) s 7(1); *Ombudsman Act 1973* (Vic) ('VO Act 1973 (Vic)') s 26H(1).

⁴ *Parliamentary Committees Act 2003* (Vic) s 33(1), (3).

⁵ *Parliamentary Committees Act 2003* (Vic) s 7(1)(b).

the agency (for example, its professionalism and timeliness).⁶ The *Parliamentary Committees Act 2003* (Vic) expressly prohibits the Committee, however, from reconsidering the decisions, findings or recommendations made by IBAC, IOV, OVIC, the PWSIC and the VO.⁷

The IOC is authorised to engage an independent investigator to investigate public interest complaints about IOV.⁸

Under the governing legislation, the budgets of IBAC, IOV and the VO ‘for each financial year ... [are] to be determined in consultation with the Parliamentary Committee [the IOC] concurrently with ... [their] annual plan[s] ...’⁹ Before the beginning of each financial year, each of these agencies must ‘prepare’ and ‘submit’ ‘a draft annual plan describing’ their ‘proposed work program for that financial year’ for the IOC’s ‘consideration’.¹⁰

Further, the IOC is required to recommend to Parliament the appointment of an independent person to conduct a performance audit of IBAC, IOV and the VO at least once every four years.¹¹ The independent performance audit must ‘determine’ whether these agencies are achieving their ‘objectives effectively, economically and efficiently and in compliance’ with their governing legislation.¹² The inaugural reports of the independent performance auditor on the performance of IBAC and IOV were tabled in 2022 and the inaugural report on the VO in 2024.¹³

1.2 The rationale for the Inquiry

The Integrity and Oversight Committee resolved to undertake an inquiry into the legislative framework governing IBAC. The Committee wanted to hear whether the current framework adequately supports IBAC’s mandate and whether reform is needed to strengthen transparency, accountability, fairness, and IBAC’s authority.

The inquiry aimed to:

- assess the adequacy of IBAC’s current legislative powers and responsibilities

6 *Parliamentary Committees Act 2003* (Vic) s 7(1); Integrity and Oversight Committee (IOC), *Integrity and Oversight Committee*, <<https://new.parliament.vic.gov.au/get-involved/committees/integrity-and-oversight-committee>> accessed 3 November 2025; IOC, *IOC complaint fact sheet*, <https://www.parliament.vic.gov.au/4992a5/contentassets/f6fcfe3fe8634673b04e36e325a4b6b2/ioc_info-for-complainants.pdf> accessed 3 November 2025.

7 *Parliamentary Committees Act 2003* (Vic) s 7(2); *VO Act 1973* (Vic) s 26H(2).

8 *Parliamentary Committees Act 2003* (Vic) s 7(1)(ia); *Public Interest Disclosures Act 2012* (Vic) s 56A(1)(d).

9 *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) (*‘IBAC Act 2011’*) s 167. There are provisions to the same effect with regard to Integrity Oversight Victoria (IOV) and the Victorian Ombudsman (VO): *Integrity Oversight Victoria Act 2011* (Vic) (*‘IOV Act 2011’*) s 90A; *VO Act 1973* (Vic) s 24A.

10 *IBAC Act 2011* (Vic) s 168(1); *IOV Act 2011* (Vic) s 90B(1); *VO Act 1973* (Vic) s 24B(1).

11 *IBAC Act 2011* (Vic) s 170; *IOV Act 2011* (Vic) s 90D; *VO Act 1973* (Vic) s 24D.

12 *IBAC Act 2011* (Vic) s 170(4); *IOV Act 2011* (Vic) s 90D(4); *VO Act 1973* (Vic) s 24D(4).

13 See Parliament of Victoria, IOC, *The independent performance audits of the Independent Broad-based Anti-corruption Commission and the Victorian Inspectorate*, Melbourne, October 2022; O’Connor Marsden, *Performance audit of the Victorian Ombudsman: report to the Integrity and Oversight Committee*, Melbourne, 18 June 2024, in Parliament of Victoria, IOC, *The independent performance audit of the Victorian Ombudsman*, Melbourne, July 2024, Appendix A.

- hear from a broad range of stakeholders
- consider comparative models from other jurisdictions
- identify opportunities for legislative improvement.

The Terms of Reference (TOR) focus on the statutory definition of ‘corrupt conduct’, investigation thresholds, criteria for public hearings, information-sharing and confidentiality, and any other provisions that may be constraining IBAC’s ability to identify, investigate and expose wrongdoing.

The Committee heard evidence that the current framework lacks clarity, has limitations on capacity and transparency, provides for weak feedback and enforcement mechanisms, misaligned resourcing, and a mismatch between police oversight needs and IBAC’s anti-corruption mandate. Evolving public expectations require that Victoria’s anti-corruption framework be transparent and defensible with the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) (*‘IBAC Act 2011 (Vic)’*), preserving due-process safeguards while ensuring transparency, public confidence, and genuine deterrence.

The Committee considers that legislative reform is both necessary and timely, in order to strengthen decision-making, transparency and fairness, improve accountability and public confidence in IBAC.

1.3 The Inquiry process

1.3.1 Submissions

The Inquiry into the Adequacy of the Legislative Framework for the IBAC received a wide range of submissions from individuals, legal bodies, oversight agencies, advocacy groups, and academics. These submissions addressed the TOR set by the Integrity and Oversight Committee, focusing on IBAC’s powers, processes, and legislative constraints. This section summarises the key issues raised in the submissions, grouped by themes and the TOR. Written submissions are available on the Committee’s page on the parliamentary website.

1. Definition of ‘corrupt conduct’ (TOR 1)

A recurring theme across submissions was the narrow definition of ‘corrupt conduct’ in the *IBAC Act 2011* (Vic), particularly the requirement that conduct must constitute a ‘relevant offence’ to fall within IBAC’s jurisdiction. Many submitters believed this excluded ‘grey corruption’—serious misconduct or integrity breaches that may undermine public trust but do not meet the threshold of a criminal offence.

Submitters such as the Centre for Public Integrity, Law Institute of Victoria, Accountability Round Table, Hon Robert Redlich AM KC, Transparency International Australia, and IBAC itself recommended broadening the definition of ‘corrupt conduct’. Many argued that this change would align Victoria’s legislation with other jurisdictions

like the NSW Independent Commission Against Corruption (NSW ICAC) and the National Anti-Corruption Commission (NACC), enabling IBAC to investigate breaches of public trust.

NSW ICAC provided a comparative analysis, noting that its broader definition allowed it to investigate high-profile cases such as those involving former Premier Gladys Berejiklian and Daryl McGuire. IBAC also highlighted the challenges posed by the common law offence of ‘misconduct in public office’ and supported codifying clearer statutory offences.

Conversely, The Police Association of Victoria opposed broadening the definition, citing risks of disproportionate consequences and resource strain. The Victorian Local Government Association and Commission for Gender Equality supported the current definition but suggested clearer inclusion of sexual exploitation and gendered abuses of power.

2. Threshold for investigation (TOR 2)

IBAC maintained that the current threshold is appropriate but should be consistent with any changes to the definition of ‘corrupt conduct’. IOV also noted that the broadening of the definition of ‘corrupt conduct’ has the effect of extending IBAC’s jurisdiction.

The Police Association of Victoria also supported the existing threshold, stating it provides necessary safeguards and aligns with national standards.

Notably, Transparency International Australia, Victorian Local Government Association and Dr Adam Masters from Australian National University queried whether the current threshold for investigation was appropriate, but there was insufficient evidence received from stakeholders to recommend changes to the threshold provision.

However, submissions were received on aspects of investigations such as the broadening of IBAC’s investigative powers, IBAC’s prosecuting powers and the need to add additional offences to the *IBAC Act 2011* (Vic).

3. Public examinations (TOR 3)

The criteria for IBAC to hold public examinations were widely debated. The current requirement for ‘exceptional circumstances’ was criticised as overly restrictive, unclear and too high a threshold, which has resulted in few public examinations.

Hon Robert Redlich AM KC, Law Institute of Victoria, Accountability Round Table, Transparency International, and IBAC recommended removing the ‘exceptional circumstances’ test and replacing it with a public interest threshold. They argued that public hearings enhance transparency, deter misconduct, and build public confidence.

The Police Oversight Working Group and Australian Lawyers Alliance emphasised the importance of public hearings in police misconduct cases, noting that few such matters have been publicly examined due to the high threshold.

The Police Association Victoria, however, considered that public examinations should be exceptional citing risks to procedural fairness and reputational harm. Susan Serey and other individual submitters raised concerns about the lack of transparency in IBAC's decision-making regarding public hearings and the impact on witnesses.

4. Confidentiality provisions and systems (TOR 4)

Many submitters expressed concern over the complexity and potential harshness of confidentiality provisions under the *IBAC Act 2011* (Vic) and the *Public Interest Disclosure Act 2012* (Vic). Several recommended reforms to reduce confusion, trauma, and procedural barriers for complainants and whistleblowers.

IBAC, IOV, and The Police Oversight Working Group recommended simplifying and harmonising confidentiality provisions to reduce confusion and support disclosers. IBAC proposed amendments to allow variation of confidentiality notices and better management of restricted matters during preliminary inquiries.

OVIC provided an overview of the *Privacy and Data Protection Act 2014* (Vic) and recommended maintaining a risk-based approach to information security. It cautioned against agency-specific information security legislative amendments.

Dr Adam Masters (Australian National University) raised concerns about information security in the context of emerging technologies like quantum computing and artificial intelligence. He also highlighted the need for comparative data analysis to assess IBAC's effectiveness.

The Police Oversight Working Group highlighted the silencing effect of confidentiality provisions on complainants, particularly in police oversight matters.

5. Other legislative and operational issues (TOR 5)

A wide range of broader reform proposals were raised under TOR 5, covering IBAC's powers, structure, operational limitations, and external accountability mechanisms. Several submissions addressed broader issues in IBAC's legislative framework and operational practices.

IBAC proposed numerous amendments, including:

- Clarifying definitions of 'public body' and 'public officer'
- Expanding powers to monitor and review referred investigations
- Publishing recommendations independently of special reports
- Enhancing investigative powers (e.g., search, arrest, compel information)
- Reviewing the PID regime for clarity and decentralisation.

IOV supported many of these proposals and suggested enabling IBAC to make findings of 'corrupt conduct' in public reports. It also recommended reviewing the *Public Interest Disclosures Act 2012* (Vic) to simplify processes and improve complainant welfare.

Victorian Aboriginal Legal Service endorsed the establishment of an independent police oversight body and recommended IBAC create an Aboriginal Engagement Unit to improve trust and representation.

Australian Lawyers Alliance and The Police Oversight Working Group called for clearer definitions of police misconduct and stronger oversight mechanisms. They criticised IBAC's reliance on Victoria Police to investigate complaints and recommended establishing an independent body.

The Victorian Bar supported broadening IBAC's powers but stressed the importance of procedural safeguards, particularly regarding self-incrimination and fairness in investigations.

Several individuals provided submissions based on personal experiences or broader concerns. Robert Sacco criticised IBAC's referral of police complaints back to Victoria Police, calling for greater independence. Susan Serey described the psychological impact of IBAC's processes on witnesses and called for clearer guidance and transparency, and Bernard Lee and others recommended removing IBAC's power to hold public examinations and aligning its processes with court standards.

1.3.2 Public hearings

The Committee held four public hearings during August and September 2025, with the following groups and organisations presenting evidence to the Committee, which was livestreamed and replayed the evening of the hearing, with full transcripts placed on the Committee's web page.

Monday 18 August 2025

- NSW Independent Commission Against Corruption (NSW ICAC)
- Accountability Round Table (ART).

Monday 25 August 2025

- The Centre for Public Integrity (CPI)
- Australian Lawyers Alliance (ALA)
- Integrity Oversight Victoria (IOV)
- The Police Association Victoria (TPAV)
- Police Oversight Working Group (POWG, including Inner Melbourne Community Legal)
- Dr Adam Masters, Transnational Research Institute on Corruption (Australian National University).

Monday 8 September 2025

- Transparency International Australia (TIA)
- Victorian Aboriginal Legal Service (VALS)
- Law Institute of Victoria (LIV)
- Inspector of the Independent Commission Against Corruption (NSW)
- The Victorian Bar.

Monday 22 September 2025

- Independent Broad-based Anti-corruption Commission (IBAC).

1.3.3 Limitations on evidence imposed by the IOC's legislative framework

This inquiry was focused on the adequacy of the legislative framework for IBAC. Given this focus and the limited nature of the IOC's jurisdiction, the Committee only accepted submissions addressing the TOR and within the remit of the following provisions.

The Integrity and Oversight Committee reviews and monitors the performance of IBAC, IOV, OVIC, the PWSIC and the VO.¹⁴

However, section 7(2) of the *Parliamentary Committees Act 2003* (Vic), under which the IOC is established, prohibits the IOC from reconsidering, reviewing or overturning any integrity agency decisions, findings and recommendations, including complaint outcomes.

Section 7(2)(g) of the *Parliamentary Committees Act 2003* (Vic) further prohibits the IOC from disclosing any information which may:

- prejudice any criminal proceedings or criminal investigations; or
- prejudice an investigation being conducted by IBAC, IOV or the VO; or
- contravene any secrecy or confidentiality provision in any relevant Act.

1.4 The legislative framework for IBAC

1.4.1 The origin and background of the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic)

The perennial issues of preventing corruption and sufficient police oversight have been given varying solutions and structures within and outside Australia. But when the *IBAC Act 2011* (Vic) was given royal assent on 29 November 2011, fourteen years ago, this

¹⁴ *Parliamentary Committees Act 2003* (Vic) s 7(1); *VO Act 1973* (Vic) s 26H(1).

core integrity reform signalled Victoria's first 'dedicated commission with the ability to tackle corruption across the whole of the public sector'.¹⁵

Anti-corruption and oversighting policing are important aspects of Victorian governance and the IBAC's remit. It follows that the performance of IBAC is integral to the health of Victoria's integrity system.

Previously, corruption and police misconduct matters were distributed among different bodies including the former Office of Police Integrity, Local Government Investigations and Compliance Inspectorate, Ombudsman Victoria, the Victorian Auditor-General's Office, the Public Sector Standards Commissioner, and the Special Investigations Monitor.¹⁶

The passing of the *IBAC Act 2011* (Vic) also signalled the establishment of the correlating organisations with oversight over IBAC such as the Integrity Oversight Victoria¹⁷ and the IBAC Parliamentary Committee,¹⁸ the latter of which whose functions have now been subsumed by this Committee.¹⁹ Such organisations, among other purposes, serve to ensure accountability of the use of IBAC's coercive powers.

The legislative establishment of IBAC was completed in stages. The first Act enabled the appointment of a Commissioner and other aspects of the 'practical process' of establishing IBAC.²⁰ This was then followed by amendments to outline the investigatory powers and the definition of 'corrupt conduct' on 20 March 2012²¹ as well as an amendment establishing examination and referral powers on 25 May 2012.²²

The agency was called 'Broad-based' as it was to include 'the wider public sector', which includes 'ministers, members of Parliament, ministerial advisers, parliamentary officers, all police personnel, the judiciary, local government and a broad range of other public officers and bodies'.²³

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- 15 Hon Andrew McIntosh MP (Minister responsible for the establishment of an anti-corruption commission), Second Reading Speech, Victoria, Legislative Assembly, 27 October 2011, *Parliamentary Debates*, 57th Parliament, p. 4974.
 - 16 Clem Newton-Brown MP, Philip Davis MP, 'Victoria's new integrity system', paper presented at Australasian Study of Parliament Group, Perth, 2-4 October 2013, p. 1, <<https://www.aspg.org.au/wp-content/uploads/2017/08/Conference-Paper-Clem-Newton-Brown-and-Philip-Davis.pdf>> accessed 17 July 2025.
 - 17 Named the 'Victorian Inspectorate' at the time.
 - 18 Independent Broad-based Anti-corruption Commission Bill 2011 (Vic) cl 40 (*Parliamentary Committees Act 2003* (Vic) s 12A at the time); Parliament of Victoria, IBAC Committee, *Strengthening Victoria's key anti-corruption agencies?*, February 2016, p. iii.
 - 19 Independent Broad-based Anti-corruption Commission Bill 2011 (Vic) cl 40 (*Parliamentary Committees Act 2003* (Vic) s 12A at the time); *Parliamentary Committees Act 2003* (Vic) s 7.
 - 20 Independent Broad-based Anti-corruption Commission Bill 2011 (Vic); Hon Andrew McIntosh MP (Minister responsible for the establishment of an anti-corruption commission), Second Reading Speech, Victoria, Legislative Assembly, 27 October 2011, *Parliamentary Debates*, 57th Parliament, 27 October 2011, p. 4974.
 - 21 Independent Broad-based Anti-corruption Commission Amendment (Investigative Functions) Bill 2011 (Vic); *Independent Broad-based Anti-corruption Commission Amendment (Investigative Functions) Act 2012* (Vic).
 - 22 Independent Broad-based Anti-corruption Commission Amendment (Examinations) Bill 2012 (Vic); *Independent Broad-based Anti-corruption Commission Amendment (Examinations) Act 2012* (Vic).
 - 23 Hon Andrew McIntosh MP (Minister responsible for the establishment of an anti-corruption commission), Second Reading Speech, Victoria, Legislative Assembly, *Parliamentary Debates*, 57th Parliament, 8 December 2011, p. 6306; see also Dr Catriona Ross, Kristin Richardson and Bella Lesman, *Independent Broad-Based Anti-Corruption Commission Amendment (Investigative Functions) Bill 2011*, current issues brief, Parliamentary Library Research Service, Department of Parliamentary Services, Melbourne, February 2012, p. 5, <<https://apo.org.au/sites/default/files/resource-files/2012-02/apo-nid29522.pdf>> accessed 24 August 2025.

At the time, anti-corruption commissions had already been established in New South Wales (1988),²⁴ Queensland (2001),²⁵ Western Australia (2003)²⁶ and Tasmania (2010).²⁷ After Victoria, then came South Australia (2012),²⁸ Northern Territory (2018)²⁹ and the ACT (2019).³⁰ Most recently, an anti-corruption commission was established on the federal level (2022),³¹ following a discussion of best practice principles and some themes relevant to the current inquiry.

1.4.2 Other legislation that forms the legislative framework for IBAC

The main legislation that governs IBAC's functions and powers and for which most of the recommendations in this report will be referring to is the *IBAC Act 2011* (Vic).

The *Public Interest Disclosures Act 2012* (Vic) facilitates procedures and protects those 'who may suffer detrimental action in reprisal for those disclosures'³² and outlines IBAC's 'central role in deciding which complaints are treated as public interest disclosures'.³³

The *Victoria Police Act 2013* (Vic), alongside the police-related complaint and referral procedures in the *IBAC Act 2011* (Vic), also governs police oversight.

The overall complexity and confusion of the IBAC legislative framework has been comprehensively discussed in the context of police oversight.³⁴

IBAC must also adhere to the *Charter of Human Rights and Responsibilities Act 2006* (Vic) in their interactions with the Victorian Public.³⁵

²⁴ *Independent Commission Against Corruption Act 1988* (NSW); ICAC, *About the NSW ICAC*, <<https://www.icac.nsw.gov.au/about-the-nsw-icac>> accessed 20 October 2025.

²⁵ *Crime and Corruption Act 2001* (QLD); Crime and Corruption Commission, *From the CJC to the CCC: an overview*, 2019, <<https://www.ccc.qld.gov.au/about-us/our-history/cjc-ccc-overview>> accessed 20 October 2025, called the 'Crime and Misconduct Commission' at the time.

²⁶ *Corruption, Crime and Misconduct Act 2003* (WA); operationalised in 2004, Corruption and Crime Commission, *Our history*, 2021 <<https://www.ccc.wa.gov.au/about-us/our-history>> accessed 23 October 2025.

²⁷ *Integrity Commission Act 2009* (Tas); operational in 2010, Integrity Commission Tasmania, *About us*, September 2025, <<https://www.integrity.tas.gov.au/about>> accessed 23 October.

²⁸ *Independent Commission Against Corruption Act 2012* (SA).

²⁹ *Independent Commissioner Against Corruption Act 2017* (NT).

³⁰ *Integrity Commission Act 2018* (ACT).

³¹ *National Anti-Corruption Commission Act 2022* (Cth); began operations in 2023, Attorney-General's Department, *What is the NACC?* <<https://www.ag.gov.au/integrity/national-anti-corruption-commission/what-nacc>> accessed 23 October 2025.

³² IBAC, *Legislation we work under*, 2025, <<https://www.ibac.vic.gov.au/legislation-we-work-under>> accessed 25 August 2025.

³³ Ibid.

³⁴ 'The provisions in the IBAC Act 2011 (Vic), Victoria Police Act 2013 (Vic) and Protected Disclosure Act 2012 (Vic) relating to the making and handling of complaints and disclosures about police corruption and police misconduct are over-complex, as is the interaction of these Acts with each other': Parliament of Victoria, IBAC Committee, *Inquiry into the external oversight of police corruption and misconduct in Victoria*, September 2018, p. xxiv, <<https://apo.org.au/sites/default/files/resource-files/2018-09/apo-nid190261.pdf>> accessed 25 August 2025.

³⁵ 'IBAC has two main obligations in relation to the Charter: 1. Under the Charter Act (section 38), as a Victorian public authority IBAC must act compatibly with the Charter rights and give proper consideration to those rights when making decisions. In some circumstances, IBAC may lawfully act in a way that limits an individual's rights. 2. Under the IBAC Act (section 15), IBAC is required to ensure that Victoria Police officers and protective services officers have regard to the human rights set out in the Charter': IBAC, *Legislation we work under*, 2025, <<https://www.ibac.vic.gov.au/legislation-we-work-under>> accessed 25 August 2025.

In addition, there are other acts that also provide powers and corollary responsibilities:

- *Confiscation Act 1997* (Vic)
- *Crimes (Assumed Identities) Act 2004* (Vic)
- *Crimes (Controlled Operations) Act 2004* (Vic)
- *Surveillance Devices Act 1999* (Vic)
- *Telecommunications (Interception and Access) Act 1979* (Cth)
- *Telecommunications (Interception) (State Provisions) Act 1988* (Vic).

1.5 Best practice

1.5.1 No ‘perfect model’

Since the establishment of IBAC in 2011, several inquiries in other jurisdictions discussing the establishment or reform of an anti-corruption body have occurred. For example, at the federal level, the National Anti-corruption Commission began operations in 2023.³⁶ In its lead up, two inquiries held in 2017 and 2022 included discussion by stakeholders on issues present in the current inquiry such as the definition of ‘corrupt conduct’ and rules governing public examinations.³⁷

However, in searching for improvements, this report will delve into a discussion of best practice, noting that the literature might not unequivocally point to one model for every state or country.

Associate Professor Yee-Fui Ng and Dr Stephen Gray suggest that there is ‘no consensus’ that can be derived from the wide variation produced by independent reviews and inquiries by different jurisdictions. They emphasise, ‘[i]ndeed, there is no single perfect model or design’³⁸ and that ‘there is no definitive framework that specifies the granular detail for institutional design’.³⁹

Associate Professor Yee-Fui Ng and Dr Stephen Gray note that ‘[i]deally, the design of such a body will strike a balance between the values of independence and

³⁶ Attorney-General’s Department, *What is the NACC?* <<https://www.ag.gov.au/integrity/national-anti-corruption-commission/what-nacc>> accessed 23 October 2025.

³⁷ Parliament of Australia, Select Committee on a National Integrity Commission, *Select Committee on a National Integrity Commission report*, 2017, pp. 7–15, 200–209 <https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/National_Integrity_Commission/IntegrityCommissionSen/-/media/Committees/nic_ctte/report.pdf> accessed 23 October 2025; Parliament of Australia, Joint Select Committee on National Anti-Corruption Commission Legislation, *Advisory report on the provisions of the National Anti-Corruption Commission Bill 2022 and the National Anti-Corruption Commission (Consequential and Transitional Provisions) Bill 2022*, 2022, pp. 3–14, 37–52, <https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Former_Committees/National_Anti-Corruption_Commission_Legislation/NACC/Report> accessed 23 October 2025.

³⁸ Associate Professor Yee-Fui Ng and Dr Stephen Gray, ‘Robust Watchdogs, Toothless Tigers, or Kangaroo Courts? The evolution of anti-corruption commissions in Australia’, *UNSW Law Journal*, vol. 47, no. 2, 2024, p. 446, <<https://www.unswlawjournal.unsw.edu.au/article/robust-watchdogs-toothless-tigers-or-kangaroo-courts-the-evolution-of-anti-corruption-commissions-in-australia>> accessed 9 July 2025.

³⁹ *Ibid.*, p. 443.

accountability, and be both effective in its pursuit of corruption while not infringing on individual rights, thereby undermining the value of integrity in government it was created to preserve'.⁴⁰

In particular, they refer to the perennial tension of anti-corruption commissions, noting that the 'depth of coercive powers' justifies 'robust oversight' (including through specialist inspectorates and parliamentary committees).⁴¹ Further, the risk with a quasi-judicial body is the lack of equivalent criminal law protections provided to suspects and the very real risk to reputation.⁴²

It should be forewarned that when looking at a legal framework, the discussion of the principles of independence and accountability may not always provide a satisfactory explanation on whether any 'marginal change' is appropriate due to the reality of the environments that integrity agencies work in.⁴³ Further, other non-legal factors, such as the culture of the organisation also contribute to success.⁴⁴

However, that does not mean legislative reform is a futile exercise, rather the Committee will consider the evidence provided by stakeholders, attempt to balance these competing principles and promote system coherence and practical effectiveness.

1.5.2 International practice

The 1990s brought in a plethora of international instruments aimed at combatting corruption,⁴⁵ with the *United Nations Convention Against Corruption* entered into force in 2005.⁴⁶

As stated in the OECD's 2013 review of models on specialised Anti-Corruption institutions, it was a decade that witnessed a growth in international instruments addressing the issue.⁴⁷ Established in 1974, Hong Kong's Independent Commission against Corruption 'contributed significantly to Hong Kong's success in reducing corruption'.⁴⁸ Accordingly, '[i]nspired by the success story of Hong Kong's anti-corruption commission and its three-pronged approach to fighting corruption

⁴⁰ Ibid.

⁴¹ Ibid., p. 446.

⁴² Ibid., p. 447.

⁴³ Ibid., p. 443: in echoing Mark Tushnet, 'Institutions Supporting Constitutional Democracy: Some Thoughts about Anti-corruption (and Other) Agencies', *Singapore Journal of Legal Studies*, vol. 440, no. 442, 2019, p. 448.

⁴⁴ Ibid., p. 443.

⁴⁵ Organisation for Economic Co-operation (OECD), *Specialised Anti-Corruption Institutions: Review of Models: Second Edition*, OECD Publishing, Paris, 2013, p. 19, <https://www.oecd.org/content/dam/oecd/en/publications/reports/2013/03/specialised-anti-corruption-institutions_glg24879/9789264187207-en.pdf> accessed 23 October 2025; Agence Française Anticorruption et al., *Global Mapping of Anti-Corruption Authorities: Analysis Report*, Paris, 2020, p. 4 <https://www.agence-francaise-anticorruption.gouv.fr/files/files/NCPA_Analysis_Report_Global_Mapping_ACAs.pdf> accessed 23 October 2025.

⁴⁶ *United Nations Convention Against Corruption*, 2349 UNTS 41 (entered into force 14 December 2005); United Nations Treaty Collection, *Depository*, October 2025, <https://treaties.un.org/pages/viewdetails.aspx?src=ind&mtdsg_no=xviii-14&chapter=18&clang=en> accessed 23 October 2025.

⁴⁷ Organisation for Economic Co-operation (OECD), *Specialised Anti-Corruption Institutions: Review of Models: Second Edition*, OECD Publishing, Paris, 2013, p. 19, <https://www.oecd.org/content/dam/oecd/en/publications/reports/2013/03/specialised-anti-corruption-institutions_glg24879/9789264187207-en.pdf> accessed 23 October 2025.

⁴⁸ Ibid., p. 11.

and also encouraged by international conventions, many countries around the world ... established specialised bodies to prevent and combat corruption'.⁴⁹

Transparency International's Corruption Perceptions Index and its impact on public discourse, and other sociological methods, provide useful context and depth to corruption policymaking.⁵⁰

United Nations Convention against Corruption

A relevant international instrument is the *United Nations Convention against Corruption*, which is ratified by 192 parties and came into effect in 14 December 2005.⁵¹ It outlines State obligations, but defines those obligations at a high level, focused on fulfilment of certain actions within a system.

For example, the *United Nations Convention against Corruption* articulates the following preventive measures as summarised or paraphrased below:

- Article 5: Preventive anti-corruption policies and practices⁵²
- Article 6: Independence, specialised staff
- Article 7: Public sector: recruitment into the public sector, election to public office
- Article 8: Codes of conduct for public officials
- Article 9: Public procurement and management of public finances
- Article 10: Public reporting.

The *United Nations Convention against Corruption* also describes criminalisation and law enforcement of key offences such as:

- Article 15: Bribery of national public officials
- Article 17: Embezzlement, misappropriation or other diversion of property by a public official
- Article 19: Abuse of functions.

The *United Nations Convention against Corruption* also includes the protection of witnesses, experts and victims (article 32) and the protection of reporting persons (article 33).

⁴⁹ Ibid.

⁵⁰ Transparency International, *Corruption Perceptions Index*, 2024, <<https://www.transparency.org/en/cpi/2024>> accessed 23 October 2025.

⁵¹ United Nations Convention Against Corruption, 2349 UNTS 41 (entered into force 14 December 2005); United Nations Treaty Collection, Depository, October 2025, <https://treaties.un.org/pages/viewdetails.aspx?src=ind&mtdsg_no=xviii-14&chapter=18&clang=_en> accessed 23 October 2025.

⁵² An example of the way the obligations of the convention is Article 5(1) '1. Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability'.

Fundamental Principles of Australian Anti-Corruption Commissions

The ‘Fundamental Principles of Australian Anti-Corruption Commissions’ are twelve principles that summarise how Australia’s ten anti-corruption commissions, including IBAC, will engage with Australia’s obligations under the *United Nations Convention against Corruption*. It is the result of a ‘collaborative review by Australia’s anti-corruption commissioners of the best practice principles originally released in December 2022’.⁵³

The twelve principles paraphrased include:

1. Referrals to be received from any third party
2. Own motion powers
3. A duty for heads of public sector agencies to report corruption
4. Whistleblowers and witness protections
5. Some coercive powers
6. Ability to refer matters to a prosecuting authority
7. Making recommendations
8. An investigative function including public statements
9. A corruption prevention function
10. An adequate and ‘predictable’ budget
11. Transparency on the appointment of integrity commissioners
12. Effective and proportionate oversight.

Two examples of how these principles articulate protections include the following:

Protections for whistleblowers and witnesses

A person who refers information or gives evidence to a Commission should be immune from any criminal, civil, administrative or disciplinary liability, and from the enforcement against them of contractual rights or remedies, for doing so. The taking of any reprisal against a person for giving information or evidence to a Commission should be an offence. However, these protections should not exempt such a person from liability for providing intentionally false or misleading information or evidence, nor from liability for past conduct of the person that is disclosed by the person.

Coercive powers to obtain information and evidence

In addition to traditional law enforcement investigative tools to obtain information and evidence, Anti-Corruption Commissions should be able to compel the production of information or documents, and conduct hearings, as a coercive tool to obtain evidence.

⁵³ National Anti-corruption Commission, *Anti-corruption chiefs announce fundamental principles*, <<https://www.nacc.gov.au/news-and-media/anti-corruption-chiefs-announce-fundamental-principles>> accessed 28 October 2025.

Anti-Corruption Commissions should be able to compel and use records that would usually attract an immunity from production where it can be demonstrated that it is necessary and proportionate to advance an investigation. This includes the express abrogation of the privilege against self-incrimination in respect of evidence given or documents or information produced, but with corresponding use immunity provisions, so that evidence obtained under compulsion cannot be used against the witness from whom it is obtained (though it can be used against others) in a criminal prosecution (except a prosecution for an offence against the relevant integrity legislation).

The features of hearings in this context include:

- The power to summons witnesses
- The power to require production of information and documents
- The power to take evidence subject to penalty for perjury (on oath or affirmation).

Anti-Corruption Commissions should be able to conduct hearings either in public or private. The types of considerations in deciding whether to conduct a hearing in public or in private include reputation, witness welfare, privacy, confidentiality, any risk of compromising a fair trial in potential criminal proceedings, and the public interest.

While the Fundamental Principles of Australian Anti-Corruption Commissions assist in establishing best practice principles that apply to the *IBAC Act 2011* (Vic), where they have not been determinative on a discrete issue, stakeholder evidence on how the law and processes operate in practice and their effects within the Victorian system has been relied on. The Committee has also considered the balancing of the principles outlined below where appropriate.

Other principles

It is important to keep in mind that IBAC is not a court and is 'prohibited from including in its reports any finding or opinion that a person is guilty of or has committed a criminal or disciplinary offence, or that person should be prosecuted for any such offence.'⁵⁴ Indeed, anti-corruption commissions are 'inquisitorial rather than adversarial like the Australian courts' or establish truth 'rather than determine which of two litigants has the better case'.⁵⁵ It is in this context that the Committee notes the importance of balancing competing principles,⁵⁶ between ensuring an organisation

⁵⁴ IBAC, *Operation Daintree: Special report*, Melbourne, State of Victoria (IBAC), 2023, p. 5, <<https://www.ibac.vic.gov.au/operation-daintree-special-report>> accessed 24 August 2025; IBAC, *Operation Turton: Special report*, Melbourne, State of Victoria (IBAC), 2024, p. 7, <<https://www.ibac.vic.gov.au/operation-turton-special-report>> accessed 24 August 2025.

⁵⁵ It should be noted that '[s]ome jurisdictions expressly require examinations to be conducted with as little emphasis on an adversarial approach as possible', Dr Catriona Ross et al., *Independent Broad-based Anti-corruption Commission Amendment (Examinations) Bill 2012*, Current Issues Brief, Department of Parliamentary Services, Melbourne, April 2012, p. 6, <<https://www.austlii.edu.au/au/other/VicBillsRR/2012/3.pdf>> accessed 13 August 2025.

⁵⁶ 'The difficult question for the courts is how they may strike the balance between the competing interests of an investigative agency such as IBAC and the people who are affected by its investigations. Balancing those interests is what can be called the Goldilocks aspect of fairness — if the balance reflects too much of one concern or too little of another, it will be unpalatable to many. Striking the right balance is an intuitive exercise that is not easy to express in anything other than general terms.' Matthew Groves, 'What's in a Name? Fairness and a Reasonable Opportunity: AB v Independent Broad-Based Anti-Corruption Commission', *Sydney Law Review*, vol. 45, no. 4, 2023, pp. 537–538, <<https://openjournals.library.sydney.edu.au/SLR/article/view/19156/16073>> accessed 23 October 2025.

has the capacity for truth-finding, the need for robust investigatory powers due the secretive nature of corruption⁵⁷ and procedural fairness for those being investigated and witnesses implicated.⁵⁸ For example, on one hand, there may be need for coercive powers to be effective due to the secretive nature of corrupt activity, and on the other hand, a need to prevent disproportionate harm to the rights of witnesses during the process.

1.6 Report structure

This chapter has introduced the background to this inquiry, Victoria's integrity system, the role of the IOC, the legislative framework for IBAC, the inquiry process as well as best practice including international standards.

Chapter 2 examines the definitions in the *IBAC Act 2011* (Vic) and also addresses TOR 1.

Chapter 3 examines investigations and addresses TOR 2 and 5.

Chapter 4 examines public and private examinations in addressing TOR 3.

Chapter 5 examines confidentiality and IBAC's information management and security in addressing TOR 4.

Chapter 6 examines police oversight and referrals: selected issues. Police oversight falls under TOR 5 but is also one of IBAC's main functions.

Chapter 7 examines any other issue with the *IBAC Act 2011* (Vic) that may unreasonably limit IBAC's ability to identify, investigate and expose corrupt conduct, addressing TOR 5.

Chapter 8 concludes the report with reflections on the Committee's recommendations.

⁵⁷ On the secretive nature of corruption, see '[t]he extraordinary investigative powers that are conferred on anti-corruption commissions are ordinarily justified on the basis that government corruption is of a peculiar nature: it can be systemic, shrouded in secrecy, and difficult for traditional investigative agencies to uncover. It also inherently involves the abuse of public power', Grant Hoole and Gabrielle Appleby, 'Integrity of Purpose: Legal Process Approach to Designing a Federal Anti-Corruption Commission', *Adelaide Law Review* 38, 2017, p. 427, <<https://law.adelaide.edu.au/ua/media/399/alr-38-2-ch05-hoole-appleby.pdf>> accessed 23 October 2025.

⁵⁸ For example, those being investigated and witnesses can be subject to coercive powers such as compulsory examinations, the power to require the production of documents and the abrogation of the privilege against self-incrimination, Dr Catriona Ross et al., *Independent Broad-based Anti-corruption Commission Amendment (Examinations) Bill 2012*, Current Issues Brief, Department of Parliamentary Services, Melbourne, April 2012, pp. 6–12, <<https://www.austlii.edu.au/au/other/VicBillsRR/2012/3.pdf>> accessed 13 August 2025.

Chapter 2

Definitions in the *IBAC Act 2011* (Vic)

2.1 Introduction

The definitions of ‘corrupt conduct’ and ‘public officer’ and ‘public body’ are outlined in sections 3, 4 and 6 in the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) (*‘IBAC Act 2011 (Vic)’*) and set limitations on the kinds of matters that the Independent Broad-based Anti-corruption Commission (IBAC) can attend to. For example, IBAC and Integrity Oversight Victoria (IOV) have noted how crucially, the definition of ‘corrupt conduct’ affects the threshold of investigations and impacts determination of the matters that falls within IBAC’s jurisdiction.¹

Several submissions stated that primary amendments to *IBAC Act 2011* (Vic) are required and outlined the need for the definitions to be clearer and more fit-for-purpose as will be discussed further below.

2.2 The definition of ‘corrupt conduct’

2.2.1 The current legislation in the *IBAC Act 2011* (Vic)

Box 2.1 Section 4(1)(a)-(d) of the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic)

4 Corrupt conduct

- (1) For the purposes of this Act, corrupt conduct means conduct—
- (a) of any person that adversely affects the honest performance by a public officer or public body of his or her or its functions as a public officer or public body; or
 - (b) of a public officer or public body that constitutes or involves the dishonest performance of his or her or its functions as a public officer or public body; or

(Continued)

¹ Independent Broad-based Anti-corruption Commission (IBAC), *Submission 23*, received 15 July 2025, p. 8; Integrity Oversight Victoria (IOV), *Submission 21*, received 15 July 2015, p. 2.

Box 2.1 Continued

- (c) of a public officer or public body that constitutes or involves knowingly or recklessly breaching public trust; or
- (d) of a public officer or a public body that involves the misuse of information or material acquired in the course of the performance of his or her or its functions as a public officer or public body, whether or not for the benefit of the public officer or public body or any other person

Source: *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 4.

Under s 4(1) of the *IBAC Act 2011* (Vic), 'corrupt conduct' includes:

- adversely affecting the honest performance by a public officer's or body's of their functions²
- dishonest performance of public office functions
- knowingly or recklessly breaching public trust³
- misusing information or other material acquired in the performance of their work, whether or not for the benefit of themselves or anyone⁴ and
- adversely affecting a public officer's or body's performance of their functions or powers to corruptly obtain a benefit, such as a licence, appointment, financial benefit or other gain.

These elements speak to the quality of the wrongdoing which links it to a corrupt nature and the particular scenarios in which they arise: that is, in connection to public office functions.

However, acts are only 'corrupt conduct' if it also constitutes a 'relevant offence', which is defined in s 3(1):

... relevant offence means—

- (a) an indictable offence against an Act; or
- (b) any of the following common law offences committed in Victoria—

² On 'dishonesty', see, for example, the precursor legislation and common law, 'in *Peters v R*, the High Court considered the tests for dishonesty in the English case of *R v Ghosh* and the Victorian case of *R v Salvo*. It should be noted that dishonesty requires both *mens rea* and *actus reus*: John Benson and Marlo Baragwanath, 'Whistleblowers Protection Act 2001: A view from the Ombudsman's Office', *Australian Institute of Administrative Law Forum*, vol. 10, no. 33, 2002 ('*Whistleblowers Protection Act*'), p. 18, <<https://www7.austlii.edu.au/au/journals/AIAdminLawF/2002/6.pdf>> accessed 22 August 2025.

³ Ibid., see, for example, the precursor legislation and common law, '[I]n the case of *R v Woods*, a breach of public trust was held to have occurred when a public officer had lodged fraudulent expense claims'.

⁴ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) ('*IBAC Act 2011* (Vic)') s(1)(da); it is possible that the some of the description of 'corrupt conduct' can be traced back to prior whistleblower legislation, *Whistleblowers Protection Act*, p. 18; on the parallels of the description of 'corrupt conduct' with other local and overseas jurisdictions see Kirsten Storry, *What can corruption and anti-corruption theory tell us about the problems facing policing in remote indigenous communities?*, Policy and Governance Discussion Paper 08-02, Crawford Schools of Economics and Governments, Australian National University, 2008, p. 7 <<https://openresearch-repository.anu.edu.au/server/api/core/bitstreams/2dd3d43d-6356-4c6f-8261-43f51fc93393/content>> accessed 22 August 2025.

- (i) attempt to pervert the course of justice;
- (ii) bribery of a public official;
- (iii) perverting the course of justice;
- (iv) misconduct in public office ...

That is, the kinds of matters that can be investigated by IBAC are linked to preexisting criminal offences defined in common law or in statute. This also means that ‘corrupt conduct’ is linked to preexisting legally defined categories of wrongdoing. This is one way to establish the seriousness of a matter and provide legal clarity to those accused of ‘corrupt conduct’.

However, many submitters and agencies note that such a definition might not cover instances that would be considered ‘corrupt conduct’ today, which will be discussed later in this chapter.

The *IBAC Act 2011* (Vic) has undergone some amendments since it was first introduced. In 2016, s 3(1) was amended to include ‘misconduct in public office’ as a ‘relevant offence’.⁵ Section 4(1)(da) was inserted into the *IBAC Act 2011* (Vic) and the definition of ‘corrupt conduct’ was expanded, in summary, to include ‘conduct of any person that adversely affects the effective performance of public functions and results in monetary, financial or other gain for the person or their associate’.⁶ Further, IBAC’s threshold to investigate was modified to a lower level to ensure that ‘IBAC does not need to consider whether the facts giving rise to corrupt conduct would be found proved beyond reasonable doubt at trial.’⁷ In addition, a section outlining IBAC’s prioritisation of ‘serious corrupt conduct’ or ‘systemic corrupt conduct’ rather than limiting IBAC’s jurisdiction to only serious corrupt conduct, was also included.⁸

2.2.2 The definition of ‘corrupt conduct’ in other jurisdictions

Common themes

Across Australian jurisdictions, common themes emerge in the statutory definitions of corrupt conduct. Appendix B compares excerpts of the definition of ‘corrupt conduct’ across Australian jurisdictions.

Most notably, all frameworks focus on conduct that undermines the integrity, honesty, or impartiality of public administration. This includes dishonest or improper performance of official functions, breaches of public trust, misuse of information or

⁵ Integrity and Accountability Legislation Amendment (A Stronger System) Bill 2015 (Vic) cl 3(f); Explanatory Memorandum, Integrity and Accountability Legislation Amendment (A Stronger System) Bill 2015 (Vic) 2.

⁶ Integrity and Accountability Legislation Amendment (A Stronger System) Bill 2015 (Vic) cl 4(2); Explanatory Memorandum, Integrity and Accountability Legislation Amendment (A Stronger System) Bill 2015 (Vic) 1.

⁷ Integrity and Accountability Legislation Amendment (A Stronger System) Bill 2015 (Vic) cl 4(1); Explanatory Memorandum, Integrity and Accountability Legislation Amendment (A Stronger System) Bill 2015 (Vic) 4.

⁸ Integrity and Accountability Legislation Amendment (A Stronger System) Bill 2015 (Vic) cl 8; Explanatory Memorandum, Integrity and Accountability Legislation Amendment (A Stronger System) Bill 2015 (Vic) 6.

public resources, and conduct adversely affecting public confidence.⁹ However, given the variation in wording on this concept, these provisions are not taken as strictly equivalent among jurisdictions.

Like Victoria, many jurisdictions also require conduct that amounts to a criminal offence.¹⁰ However, the majority of those jurisdictions have a lower threshold in that they also include conduct that amounts to grounds for dismissal¹¹ or a disciplinary breach.¹²

There is also a consistent emphasis on serious misconduct, such as bribery, fraud, and collusive tendering, as core examples of corruption.¹³ Attempts, conspiracies, and aiding corrupt acts are expressly covered in several statutes, further broadening the scope.¹⁴

While terminology varies, the underlying concern remains consistent: protecting public administration from abuse, bias, and self-interest.

Key differences

While the jurisdictions share core principles in defining corrupt conduct, key differences lie in their thresholds, scope, and statutory structures:

- New South Wales introduces a dual-layered approach: section 8 sets a broad definition, while section 9 narrows it by requiring legal or disciplinary consequences.¹⁵ It is considered one of the broadest and most inclusive definitions across jurisdictions.¹⁶
- The Commonwealth definition is similarly wide-ranging but explicitly excludes certain high officeholders, such as judges and the Governor-General.¹⁷

⁹ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) ('*IBAC Act 2011* (Vic)') s 4; *National Anti-Corruption Commission Act 2022* (Cth) s 8; *Independent Commission Against Corruption Act 1988* (NSW) s 8; *Crime and Corruption Act 2001* (QLD) s 15; *Independent Commission Against Corruption Act 2012* (SA) s 5; *Integrity Commission Act 2018* (ACT) s 9; *Independent Commissioner Against Corruption Act 2017* (NT) s 10; *Integrity Commission Act 2009* (TAS) s 4; *Corruption, Crime and Misconduct Act 2003* (WA) s 4.

¹⁰ *IBAC Act 2011* (Vic) s 3(1) 'relevant offence'; *Independent Commission Against Corruption Act 2012* (SA) s 5(1); *Crime and Corruption Act 2001* (QLD) s 15; *Integrity Commission Act 2018* (ACT) s 9; *Independent Commissioner Against Corruption Act 2017* (NT) s 10.

¹¹ *Crime and Corruption Act 2001* (QLD) s 15(1)(c); *Integrity Commission Act 2018* (ACT) s 9(1)(a).

¹² *Independent Commission Against Corruption Act 1988* (NSW) s 9(1).

¹³ See, for example, *IBAC Act 2011* (Vic) s 4, *Independent Commission Against Corruption Act 1988* (NSW) s 8, *Integrity Commission Act 2018* (ACT) s 9 (on bribery); *Integrity Commission Act 2018* (ACT) s 9 (on fraud); *Independent Commission Against Corruption Act 1988* (NSW) s 8, *Integrity Commission Act 2018* (ACT) s 9, *Crime and Corruption Act 2001* (QLD) s 15 (on collusive tendering).

¹⁴ *IBAC Act 2011* (Vic) s 4, *National Anti-Corruption Commission Act 2022* (Cth) s 8 (on attempt); *IBAC Act 2011* (Vic) s 4, *National Anti-Corruption Commission Act 2022* (Cth) s 8, *Crime and Corruption Act 2001* (QLD) s 15 (on conspiracy).

¹⁵ *Independent Commission Against Corruption Act 1988* (NSW).

¹⁶ See, for example, New South Wales Independent Commission Against Corruption (NSW ICAC), *Submission 16*, received 11 July 2025, p. 9: 'had the Commission's jurisdiction been limited by a definition of corrupt conduct such as that under the IBAC Act, it is unlikely that the Commission would have investigated conduct involving the former NSW Premier'.

¹⁷ *National Anti-Corruption Commission Act 2022* (Cth) s 8(2).

- Victoria and South Australia adopt a criminal-offence-based model, limiting corruption to conduct that amounts to indictable offences or specific statutory crimes.¹⁸ South Australia adopts a criminal-offence-based model that uniquely ties its definition of corruption directly to offences listed in other legislation, such as the *Criminal Law Consolidation Act 1935* (SA).¹⁹
- In contrast, Queensland, the Australian Capital Territory, and the Northern Territory include a broader range of misconduct that may not necessarily be criminal but could justify dismissal or disciplinary action.²⁰
- Western Australia and Tasmania adopt a misconduct rather than corrupt conduct terminology.²¹
- The Northern Territory and Queensland legislation specifically include conduct by any person that impairs public confidence, often listing examples like collusive tendering or misuse of resources.²²

Overall, the variation reflects each jurisdiction's balance between legal precision, the breadth of the integrity agencies' oversight, and enforcement flexibility.

2.2.3 The legal definition of 'grey corruption' in Victoria and breach of public trust

In this inquiry, many submissions considered the definition of 'corrupt conduct' to be too narrow. In particular, some were concerned that it does not encompass so-called 'grey corruption' and other breaches of the public trust,²³ which do not necessarily constitute a criminal offence or one of the common law offences outlined in the *IBAC Act 2011* (Vic).

For example, IBAC argues that

the NSW ICAC definition captures a broader range of behaviours, including those that involve a clear abuse of power ... such as failing to manage serious conflicts of interest. This broader definition of corrupt conduct may better reflect public perceptions of what constitutes corruption and is arguably easier for the community to understand.²⁴

¹⁸ *IBAC Act 2011* (Vic) s 3(1), *Independent Commission Against Corruption Act 2012* (SA) s 5(1).

¹⁹ See, for example, *Independent Commission Against Corruption Act 2012* (SA) s 5(1)(a).

²⁰ *Crime and Corruption Act 2001* (QLD) s 15(1)(c); *Integrity Commission Act 2018* (ACT) s 9(1)(a); *Independent Commissioner Against Corruption Act 2017* (NT) s 10(1)–(2).

²¹ *Corruption, Crime and Misconduct Act 2003* (WA) s 4; *Integrity Commission Act 2009* (Tas) s 4.

²² *Crime and Corruption Act 2001* (QLD) s 15(2)(b)(i); *Independent Commissioner Against Corruption Act 2017* (NT) s 10(4)(a), s 10(4)(d).

²³ See, for example, The Centre for Public Integrity, *Submission 7*, received 24 June 2025; stating that 'grey corruption' is 'conduct that may not be technically illegal but that is a breach of the public trust', p. 4; The Victorian Bar, *Submission 26*, received 23 July 2025, p. 3; Hon Robert Redlich AM KC, *Submission 6*, received 26 June 2025, p. 3; Law Institute of Victoria, *Submission 8*, received 26 June 2025, p. 2; NSW ICAC, *Submission 16*, received 11 July 2025, p. 9 ('had the Commission's jurisdiction been limited by a definition of corrupt conduct such as that under the IBAC Act, it is unlikely that the Commission would have investigated conduct involving the former NSW Premier'); IBAC, response to Integrity and Oversight Committee questions on notice, received 24 October 2025, p. 1, desiring to capture a 'broader range of conduct that does not meet the criminal threshold but undermines public integrity'.

²⁴ IBAC, *Submission 23*, received 15 July 2025, p. 3.

The New South Wales Independent Commission Against Corruption (NSW ICAC) submission notes that the NSW definition is broader than the Victorian definition and that the investigation of certain conduct in Operation Keppel would not have been possible without the way the NSW definition is drafted.²⁵ The NSW provision is analysed further below.

One caveat to considering public perception is that some experts note that public perception of corruption is so broad it may never be satisfied.²⁶

The difficulty in defining the legal test of ‘grey corruption’

Some scholars have noted that including acts of ‘grey corruption’ may be difficult to define legally. For example, Professor Tim Prenzler notes that ‘[t]he term “grey corruption” appears to have utility in political discourse in describing areas of minor corruption and/or unethical but legally ambiguous practice’.²⁷ In his submission to the Inquiry into the National Anti-Corruption Commission Bills 2022, Professor Tim Prenzler favoured references to ‘misconduct’ to the Commonwealth definition.²⁸

What is involved in the definition of corruption from corruption studies

A commonly cited definition of corruption in global scholarship is that ‘[c]orruption is the abuse of power by a public official for private gain’.²⁹ This definition is useful as a starting point, insofar that it conceptualises that the crux of issue is that when a public official has been given power, a wrong has occurred when it has been misused for a self-serving benefit.

Another academic suggestion is that ‘[c]orruption occurs when an actor seeks an unauthorized benefit from an organization in a manner that could compromise the public’s trust in that organization’.³⁰ This definition seeks to remedy three of the shortcomings the commonly used definition above presents; that the term ‘abuse’ does not have a clear and useful meaning (for example, it is unclear as to whether illegal

25 NSW ICAC, *Submission 16*, received 11 July 2025, p. 9: ‘had the Commission’s jurisdiction been limited by a definition of corrupt conduct such as that under the IBAC Act, it is unlikely that the Commission would have investigated conduct involving the former NSW Premier’.

26 Dr Adam Masters, Executive Director, Transnational Research Institute on Corruption, Australian National University, public hearing, Melbourne, 25 August 2025, *Transcript of evidence*, p. 41.

27 Professor Tim Prenzler, ‘Grey corruption issues in the public sector’, *Journal of Criminological Research, Policy and Practice*, vol. 7, no. 2, p. 145, he then goes on to describe some alleged categories of grey corruption: ‘gift giving, favouritism and undue influence, conflicts of interest, excessive expenditures and deceit in political discourse’.

28 Professor Tim Prenzler, Professor of Criminology, University of Sunshine Coast, *Submission 73*, submission to the Parliament of Australia, Joint Select Committee on National Anti-Corruption Commission Legislation, Inquiry into the National Anti-Corruption Commission Bills 2022, p. 1.

29 The original attribution is J S Nye, ‘Corruption and Political Development: A Cost-Benefit Analysis’, *American Political Science Review*, 1967, vol. 61 no. 2, pp. 417–427; this definition was cited as ‘one of the most popular of the standard longstanding definitions’, *Corruption*, Stanford Encyclopedia of Philosophy <<https://plato.stanford.edu/entries/corruption/#VariCorr>> accessed 22 August 2025; ‘the misuse of entrusted public power for private gain’ is also cited in the Organisation for Economic Co-operation and Development, *Corruption as a Development Obstacle*, Policy brief, March 2025, p. 1, <[https://one.oecd.org/document/DCD/DAC/GOVNET\(2024\)2/en/pdf](https://one.oecd.org/document/DCD/DAC/GOVNET(2024)2/en/pdf)> accessed 22 August 2025.

30 Dinsha Mistree and Aruna Dibley, *Corruption and the Paradox of Transparency*, Stanford Law School, Working Paper Series, 2018, <<https://law.stanford.edu/wp-content/uploads/2018/07/Mistree-Dibley-Corruption.4.18.18.pdf>> accessed 22 August 2025, p. 15.

action is always involved), that ‘public office’ appears to exclude private actors, and that corruption no longer involves private gains (that is, it could be for the interests of political parties).³¹ Other elements that are usually involved in defining corruption are the level of seriousness of the wrongdoing and whether the definition of corruption should be tied to pre-existing acts of wrongdoing.³²

2.2.4 Should the ‘relevant offence’ requirement be removed?

In the evidence received, the focus of implementing a broader definition has not been on the elements outlining what ‘corrupt conduct’ is, but rather the removal of the requirement for a matter to be linked to a criminal offence. In relation to their recommendation that the ‘relevant offence’ requirement be removed,³³ IBAC makes the following points. IBAC is concerned that with the current definition of ‘corrupt conduct’ they cannot ‘investigate a wide range of unethical or integrity-compromising behaviours, even where they are serious or systemic’, standalone misconduct or ‘broader governance or systemic failures’.³⁴

A substantial cohort of submissions supported the removal of ‘relevant offence’ to expand the definition of ‘corrupt conduct’. This included IBAC as outlined above, but also supported by Hon Robert Redlich AM KC, Centre for Public Integrity, Accountability Round Table, Jordan Brown, the Victorian Bar and the IOV.³⁵

Other submitters also supported the expansion of the definition through various means including the Law Institute of Victoria, the Bridge of Hope Innocence Initiative and Transparency International Australia.³⁶

Notably, The Police Association Victoria submitted that the current definition is fit-for-purpose.³⁷

The Hon Robert Redlich AM KC submitted that the term ‘corrupt conduct’ should be amended to include either ‘serious misconduct’ or ‘misconduct in public office’.³⁸ This would remove the requirement of a criminal offence to have been committed for

³¹ Ibid, pp. 10–12.

³² Ibid, pp. 19 and 15–16, respectively.

³³ IBAC, *Submission 23*, received 15 July 2025, p. 4.

³⁴ Ibid., pp. 3–4.

³⁵ Ibid; Hon Robert Redlich AM KC, *Submission 6*, received 26 June 2025, pp. 3–4; Accountability Round Table, *Submission 9*, received 26 June 2025, pp. 2–3; Jordan Brown, *Submission 13*, received 15 June 2025, p. 2; The Victorian Bar, *Submission 26*, received 23 July 2025, p. 4 (as a general comment, the ‘the operative effect of the definitions and the threshold requirement for an investigation do appear to practically limit IBAC’s ability to meet the objects of the Act’); IOV, response to Integrity and Oversight Committee questions on notice, received 23 October 2025, p. 1.

³⁶ Law Institute of Victoria, *Submission 8*, received 26 June 2025, pp. 3–5 (on the ‘two options available to lower the jurisdictional threshold’); Bridge of Hope Innocence Initiative, RMIT University, *Submission 11*, received 30 June 2025, p. 2; Transparency International Australia, *Submission 18*, received 14 July 2025, p. 3; Commission for Gender Equality in the Public Sector, *Submission 15*, received 10 July 2025, also submitted ‘abuses of power for sexual benefit’ be expressly included in the definition of corrupt conduct’, p. 3.

³⁷ The Police Association Victoria, *Submission 24*, received 15 July 2025, p. 2.

³⁸ Hon Robert Redlich AM KC, *Submission 6*, received 26 June 2025, p. 3.

IBAC to investigate, reduce the public perception that corruption is always a criminal offence, and allow IBAC to investigate ‘grey corruption’ which is currently beyond its reach.³⁹

Similarly, some academics prefer a definition that ‘reinforces a firm distinction between the work of anti-corruption commissions and the criminal law, thus relying on a definition of corruption which does not incorporate criminal law analytic criteria.’⁴⁰

The Centre for Public Integrity and Accountability Round Table also submitted that the definition of ‘corrupt conduct’ should be expanded to include ‘grey corruption’ by removing the ‘relevant offence’ limitation.⁴¹

In considering the submissions and following the discussion laid out in the paragraphs above, the Committee agrees that the current definition of ‘corrupt conduct’ is too narrow in being limited by the current ‘relevant offences’ definition. The definition of ‘corrupt conduct’ should apply to a wider group of behaviours in line with how the concept of the breach of public trust has developed in Victoria and other jurisdictions. However, this might be achievable without taking out a reference to criminal and common law offences but instead adding another inclusion which creates a link with serious misconduct or serious disciplinary offences as will be discussed below.

The Committee recognises the difficulty in settling on a workable legal test for a definition of serious corrupt conduct in the political context that falls short of a criminal offence, and notes the lack of substantive definition, and even consistent definition between witnesses, on what would constitute ‘grey corruption’. The Committee does not consider that the term ‘grey corruption’ is helpful in guiding reforms to the IBAC’s legislation.

2.2.5 What options are there for a new definition of ‘corrupt conduct’?

Law Institute of Victoria

The Law Institute of Victoria (LIV) noted that the *IBAC Act 2011* (Vic) currently sets the threshold to commence an investigation too high, however, it would be unreasonable and inappropriate to use IBAC’s covert and coercive powers for low-level instances of corruption.⁴² Victoria remains one of the few Australian jurisdictions that requires

³⁹ Ibid.

⁴⁰ Grant Hoole and Gabrielle Appleby, ‘Integrity of Purpose: A Legal Process Approach to Designing a Federal Anti-Corruption Commission’ *Adelaide Law Review*, vol. 38, no. 2, 2017, p. 425, <<https://law.adelaide.edu.au/ua/media/399/alr-38-2-ch05-hoole-appleby.pdf>> accessed 22 August 2025.

⁴¹ Centre for Public Integrity, *Submission 7*, received 24 June 2025, pp. 4–5; Accountability Round Table, *Submission 9*, received 26 June 2025, pp. 2–3.

⁴² ‘Noting that the IBAC Act provides the IBAC with significant covert and coercive investigative powers, it would be inappropriate to enable the IBAC to low-level fraud that is more appropriately suited to a workplace misconduct investigation’: Law Institute of Victoria, *Submission 8*, received 26 June 2025, p. 3.

‘corrupt conduct’ to be capable of being a criminal offence before an investigation can be commenced.⁴³ The LIV considers that there are two options available to lower the jurisdictional threshold to a suitable level:

Amend section 4 of the IBAC Act to require that the conduct listed in subsections 4(1)(a)–(e) is conduct that would constitute either a relevant offence or would be reasonable grounds to terminate employment, or

Amend section 4 of the IBAC Act to remove the requirement that conduct listed in subsections 4(1)(a) –(e) would constitute a relevant offence, and instead require that the IBAC must consider the conduct to be either serious or systemic occurrences of such conduct.⁴⁴

Commonwealth

Another possibility for ensuring that the definition of ‘corrupt conduct’ is broadened but retains a certain threshold is found in Commonwealth legislation. In effect, it defines corrupt conduct as conduct that is in breach of public trust or could adversely affect the honesty or impartiality of a public official’s work and that the matter is ‘serious or systemic’.⁴⁵ The Centre for Public Integrity referred to this provision as a viable option at hearing.⁴⁶ Professor A J Brown has noted that the NACC legislation extends into the ‘grey area’ of corruption. However, he states that ‘it’s not yet clear how these thresholds will be met’.⁴⁷

Including serious disciplinary breaches and examples from other jurisdictions

Unlike Victoria’s current threshold, jurisdictions such as Queensland, the Australian Capital Territory, and the Northern Territory also include conduct warranting dismissal or serious disciplinary breaches.⁴⁸ This broader scope would enable integrity agencies to investigate misconduct that, while not criminal, undermines public integrity.

⁴³ Ibid.

⁴⁴ Ibid., p. 5.

⁴⁵ *National Anti-Corruption Commission Act 2022* (Cth) ss 3(a)(ii), 17(c).

⁴⁶ Associate Professor William Partlett, The Centre for Public Integrity, public hearing, Melbourne, 25 August 2025, *Transcript of evidence*, p. 3.

⁴⁷ As AJ Brown states ‘[t]he NACC’s scope extends to “grey area” and political corruption, like pork-barrelling. However, this is only if it involves a breach of public trust or could adversely affect the honesty or impartiality of a public official’s work and the problem is serious or systemic. It’s not yet clear how these thresholds will be met’; ABC, *Restoring public trust and political integrity: The challenge before the National Anti-Corruption Commission*, 3 July 2023, <<https://www.abc.net.au/religion/aj-brown-anti-corruption-commission-and-public-trust-in-politics/102556720>> accessed 22 August 2025; further, as Professor Tim Prenzler states: ‘the term “serious or systematic corruption” is of concern in that it can provide a justification for an integrity commission to refuse to investigate matters that should be considered corruption or misconduct and within the jurisdiction of a state-of-the-art commission. In my view, the term “serious or systematic” should be removed from the Bill’, Professor Tim Prenzler, Professor of Criminology, University of Sunshine Coast, *Submission 73*, submission to the Parliament of Australia, Joint Select Committee on National Anti-Corruption Commission Legislation, Inquiry into the National Anti-Corruption Commission Bills 2022, p. 1.

⁴⁸ *Crime and Corruption Act 2001* (QLD) s 15(1)(c)(ii); *Integrity Commission Act 2018* (ACT) s 10(2)(a); *Independent Commissioner Against Corruption Act 2017* (NT) s 9(1)(a)(ii)-(iii).

The NSW provision is said to capture a broader range of corruption and sets out the following elements:

- 9 Limitation on nature of corrupt conduct
 - (1) Despite section 8, conduct does not amount to corrupt conduct unless it could constitute or involve—
 - (a) a criminal offence, or
 - (b) a disciplinary offence, or
 - (c) reasonable grounds for dismissing, dispensing with the services of or otherwise terminating the services of a public official, or
 - (d) in the case of conduct of a Minister of the Crown or Parliamentary Secretary or a member of a House of Parliament—a substantial breach of an applicable code of conduct⁴⁹

It has been referred to as a preferred option from the Centre for Public Integrity and recommended by IOV.⁵⁰

In addition, in comparing jurisdictions there is a variety of options utilising a reference to misconduct or a disciplinary offence in terms of level of seriousness of the minimum threshold:

- ‘a disciplinary offence’ (New South Wales)⁵¹
- ‘a significant employment penalty’ (Australian Capital Territory) or ‘in the case of conduct of a ... [member of a House of Parliament etc]—a substantial breach of an applicable code of conduct’ (New South Wales)⁵²
- ‘misconduct providing reasonable grounds for terminating the public officer’s appointment’ (Tasmania) or a ‘disciplinary breach providing reasonable grounds for terminating the person’s services, if the person is or were the holder of an appointment’ (Queensland)⁵³
- criminal offences or common law offences as outlined in the current *IBAC Act 2011* (Vic) or ‘a crime or an offence of a serious nature’ (Tasmania)⁵⁴
- limited to criminal offences (South Australia).⁵⁵

⁴⁹ *Independent Commission Against Corruption Act 1988* (NSW) s 9.

⁵⁰ For example, the IOV submits that the definition of ‘corrupt conduct’ could ‘[a]lign with the non-exhaustive list of behaviours and limitations under sections 8 and 9 of the *Independent Commission against Corruption Act 1988* (NSW)’, IOV, response to Integrity and Oversight Committee questions on notice, 23 October 2025, p. 1.

⁵¹ *Independent Commission Against Corruption Act 1988* (NSW) s 9(1)(b).

⁵² *Integrity Commission Act 2018* (ACT) s 9(3), ‘serious disciplinary offence includes— (a) any serious misconduct; or (b) any other matter that constitutes or may constitute grounds for— (i) termination action under any law; or (ii) a significant employment penalty. serious misconduct—see the *Fair Work Regulations 2009* (Cwlth), section 1.07 (Meaning of serious misconduct)’, *Independent Commission Against Corruption Act 1988* (NSW) s 9(1)(d).

⁵³ *Integrity Commission Act 2009* (Tas) s 4 definition of ‘serious misconduct’ (b); *Crime and Corruption Act 2001* (QLD) s 15(1)(c)(ii).

⁵⁴ *Integrity Commission Act 2009* (Tas) s 4 definition of ‘serious misconduct’ (a).

⁵⁵ *Independent Commission Against Corruption Act 2012* (SA) s 5.

Providing illustrative examples of corrupt conduct

States such as Western Australia and South Australia provide additional wording or illustrative examples offering greater clarity. For example, Western Australia includes conduct that ‘constitutes or involves a breach of the trust placed in the public officer by reason of his or her office or employment as a public officer’.⁵⁶ South Australia includes ‘threats or reprisals against public officers’ and ‘offences relating to appointment to public office’.⁵⁷ Victoria could consider adopting similar elements but with the intention of covering ‘grey corruption’⁵⁸ or acts now considered in breach of public trust, to improve clarity in interpretation.

Factors towards a new provision

While the Committee agrees that the definition of ‘corrupt conduct’ should be broadened, in a democratic system, it is a reasonable expectation that decisions on the allocation of resources will be made and the existence of, for example, potential partisan benefits alone, is not enough to indicate ‘corrupt conduct’.

While the Committee agrees that the definition of ‘corrupt conduct’ should be broadened, it notes several issues with the sole removal of the ‘relevant offence’ threshold.

Firstly, removing the threshold might create a lack of legal clarity over those being investigated, and gives IBAC wider discretion to interpret what the definition encompasses. Inserting limitations adds another constraint on interpretation by Courts should the matter be litigated.

The Committee acknowledges evidence given by stakeholders and the literature which indicates that ‘corrupt conduct’ should be serious or systemic. However, the *IBAC Act 2011* (Vic) has previously amended a reference to ‘serious corrupt conduct’ as a threshold for investigation in 2016. It was found in that instance such a definition could be challenged by complainants and ‘potential difficulties ... could arise, leading to the possibility of protracted and resource intensive court challenges’.⁵⁹

⁵⁶ *Corruption, Crime and Misconduct Act 2003* (WA) s 4(d)(iii).

⁵⁷ *Independent Commission Against Corruption Act 2012* (SA) s 5.

⁵⁸ As Professor Tim Prenzler states: ‘the legislation needs to be clearer about whether or not there is coverage of all the types of misconduct which have caused concern nationally in recent years’, he then goes on to list examples of ‘grey corruption’, Professor Tim Prenzler, Professor of Criminology, University of Sunshine Coast, *Submission 73*, submission to the Parliament of Australia, Joint Select Committee on National Anti-Corruption Commission Legislation, Inquiry into the National Anti-Corruption Commission Bills 2022, p. 1.

⁵⁹ Independent Broad-based Anti-corruption Commission Committee, *Strengthening Victoria's key anti-corruption agencies?*, pp. 41–42, <https://www.parliament.vic.gov.au/495ef3/contentassets/f243bd8f934344c78f739fff95189faf/ibacc_58-01_report_web.pdf> accessed 22 August 2025; further, as Professor Tim Prenzler states: ‘the term “serious or systematic corruption” is of concern in that it can provide a justification for an integrity commission to refuse to investigate matters that should be considered corruption or misconduct and within the jurisdiction of a state-of-the-art commission. In my view, the term ‘serious or systematic’ should be removed from the Bill’, Professor Tim Prenzler, Professor of Criminology, University of Sunshine Coast, *Submission 73*, submission to the Parliament of Australia, Joint Select Committee on National Anti-Corruption Commission Legislation, Inquiry into the National Anti-Corruption Commission Bills 2022, p. 1.

In addition, many jurisdictions refer to ‘misconduct’ or a ‘disciplinary offence’ as an additional nexus to criminal offences. While this might provide a way to limit the definition of ‘corrupt conduct’ that gives legal clarity, it may involve overlap with the jurisdiction of the Victorian Ombudsman or employment law.

However, it is possible that any issue could be alleviated by cooperation between agencies. As IBAC states ‘no single agency is currently empowered to comprehensively identify and respond to the precursors to corruption across the public sector’ and thus

Removing the requirement that ‘corrupt conduct’ must constitute a relevant offence will create an opportunity to clarify the intersection with other agencies in the integrity system.⁶⁰

Further, considering IBAC’s coercive powers, the impact of public hearings on witnesses, that IBAC is not a Court and that IBAC does not have all the protections a criminal court would have for giving evidence, it is essential that some level of serious wrongdoing and clarity on the kinds of behaviours involved is retained.⁶¹

In the Committee’s view, considering the reasons outlined above for why ‘corrupt conduct’ should relate to serious matters, any reference included should refer to serious misconduct or serious disciplinary offences and not just any misconduct or disciplinary offence. This provides some legal clarity and limits in excluding any misconduct or a disciplinary offence that by itself would not be considered serious. Alternatively, a reference to a misconduct or disciplinary offence that results in termination could also provide legal clarity. Further, illustrative examples or listing other relevant offences may also have the same effect.

RECOMMENDATION 1: That the Victorian Government seek to broaden the definition of ‘corrupt conduct’ in s 4 of the *IBAC Act 2011* (Vic), to remove the requirement that conduct constitute a relevant offence and include matters involving a serious disciplinary offence, misconduct worthy of termination or other relevant offences or instances considered in breach of public trust in the public officer by reason of their appointment as a public officer.

⁶⁰ IBAC, *Submission 23*, received 15 July 2025, p. 4; further, in NSW, there had not been a conflict between jurisdictions in practice according to the Inspector of the Independent Commission Against Corruption NSW as far as she was aware: Gail Furness SC, Inspector, The Inspector of the Independent Commission Against Corruption New South Wales, public hearing, Melbourne, 8 September 2025, *Transcript of evidence*, p. 24.

⁶¹ This point is also supported by the Law Institute of Victoria, ‘[t]o minimise risk that IBAC uses covert and coercive powers on low-level matters (for example, workplace misconduct), the LIV considers that the Parliament must carefully amend the IBAC Act to set IBAC’s jurisdiction at an appropriate level. As stated in our submission to the IOC, the LIV considers that the current threshold is too high and should be lowered from a “relevant offence”, to also include conduct that could be capable of terminating employment’: Law Institute of Victoria, response to Integrity and Oversight Committee questions on notice, received 27 October 2025, p. 5.

2.2.6 The common law offence of ‘misconduct in public office’ needs to be more clearly defined

The definition of ‘corrupt conduct’ related to the indictable offences is listed under ‘relevant offence’ in s 3 of the *IBAC Act 2011* (Vic) but there are also four specific common law offences outlined in that provision. One such offence is the common law ‘misconduct in public office’ (MIPO).

IBAC recommends the clarification of MIPO through the insertion of statutory offences to provide greater certainty on its scope.⁶² MIPO is an old common law offence but was included and referenced in a 2016 amendment,⁶³ to be ‘a “catch-all” offence used to initiate an investigation where the conduct does not otherwise constitute an offence currently within IBAC’s corrupt conduct jurisdiction’.⁶⁴ However, IBAC notes that it has had ‘considerable difficulties establishing the offence of MIPO in a range of cases’.⁶⁵

The common law offence consists of five key elements. The five elements under case law as described by IBAC are:

- (1) a public official;
- (2) in the course of or connected to his public office;
- (3) wilfully misconduct himself; by act or omission, for example, by wilfully neglecting or failing to perform his duty;
- (4) without reasonable excuse or justification; and
- (5) where such misconduct is serious and meriting criminal punishment having regard to the responsibilities of the office and the officeholder, the importance of the public objects which they serve and the nature and extent of the departure from those objects.⁶⁶

The fifth element, which includes the requirement that the misconduct merits criminal punishment, creates difficulty for IBAC to establish that the threshold for the offence has been met.⁶⁷

Additionally, MIPO requires the individual to be a ‘public official’, rather than the lower threshold of a ‘public officer’ under the *IBAC Act 2011* (Vic). MIPO offences have been codified in criminal legislation with most other Australian jurisdictions, but not in Victorian legislation.⁶⁸

⁶² The IOV also supports the codification of the common law offence of ‘misconduct in public office’: IOV, response to Integrity and Oversight Committee questions on notice, 23 October 2025, p. 1.

⁶³ In the *IBAC Act 2011* (Vic) s 3(1): ‘...relevant offence means—(a) an indictable offence against an Act; or (b) any of the following common law offences committed in Victoria—... (iv) misconduct in public office’; Integrity and Accountability Legislation Amendment (A Stronger System) Bill 2015 (Vic) cl 3(f).

⁶⁴ IBAC, *Submission 23*, received 15 July 2025, p. 4.

⁶⁵ Ibid.

⁶⁶ Ibid., pp. 4–5.

⁶⁷ IBAC, *Submission 23*, received 15 July 2025, p. 5.

⁶⁸ Ibid; *Criminal Code Act 1995* (Cth) division 142, *Criminal Code Act 1899* (Qld) chapter 13, *Criminal Code Act 1913* (WA) chapter XIII, *Criminal Code Act 1983* (NT) part IV, *Criminal Code Act 1924* (Tas) chapter IX, *Criminal Law Consolidation Act 1935* (SA) division 4.

In 2020, the UK Law Commission recommended definitions of ‘corruption in public office’⁶⁹ and ‘breach of duty in public office’.⁷⁰ IBAC supports the UK Law Commission report recommendations and considers that replacing the common law offence of MIPO with statutory offences that are more clearly defined would be beneficial.⁷¹ Notably, IBAC recommends ‘even if the requirement for a relevant offence is removed—replacing the common law offence of MIPO with one or more clearly defined statutory offences would bring much needed clarity to the scope of its jurisdiction’.⁷²

The Committee agrees that in this circumstance, there is a compelling argument that the reference to MIPO in isolation creates uncertainty and ambiguity. This defeats the original intention of including such a reference. The inclusion of statutory offences will also assist in capturing corrupt acts irrespective of whether the person committing those acts is a public servant or Member of Parliament. Considering the practice of other States and the justifications provided by the UK Law Commission report, the Committee agrees statutory offences are necessary.

RECOMMENDATION 2: That the Victorian Government seek to clarify the offence of ‘misconduct in public office’ under the definition of ‘relevant offence’ in s 3 of the *IBAC Act 2011* (Vic) and insert statutory offences.

2.2.7 Resourcing and funding to any changes to the *IBAC Act 2011* (Vic)

The Committee notes that in any event, IBAC should ensure there is a sufficient allocation of resources to maintain high-quality police oversight. Any broadening of IBAC’s jurisdiction may exacerbate pre-existing concerns on resourcing and suggested uneven focus between corruption matters and police oversight. For example, it was stated by the IOV that ‘[a]ny definitional changes that broaden IBAC’s capacity to investigate public sector corrupt conduct could further reduce the resources available for police oversight. Without a commensurate resourcing increase, a broader definition of corrupt conduct could create unrealistic public expectations of what IBAC will investigate’.⁷³

69 IBAC, *Submission 23*, received 15 July 2025, pp. 5–6: IBAC describes the elements of ‘corruption in public office’ from the UK Law Commission as including ‘(1) the defendant is, and knows that he or she is, a public office holder; (2) the defendant uses or fails to use his or her public position or power; (3) for the purpose of achieving a benefit or detriment; (4) a reasonable person would consider the use or failure seriously improper; (5) the defendant realised that a reasonable person would regard it as such; and 6) the defendant is not able to prove that their conduct was, in all the circumstances, in the public Interest.’

70 Ibid., p. 6: IBAC describes the elements of ‘breach of duty in public office’ from the UK Law Commission as including ‘(1) a public office holder; (2) subject to a duty to prevent death or serious injury that arises only by virtue of the functions of the public office; (3) being aware of the duty; (4) breaches the duty; (5) thereby causing or risking death or serious injury; and (6) the public office holder was reckless as to the risk of death or serious injury.’

71 IBAC, *Submission 23*, received 15 July 2025, p. 5: however, IBAC also notes ‘the UK Government is yet to formally respond to the report’s central recommendation that a new offence of a corruption in public office be created’; UK Law Commission, *Misconduct in public office*, London, 2020, <https://webarchive.nationalarchives.gov.uk/ukgwa/20250109094412mp_/https://cloud-platform-e218f50a4812967ba1215eaecede923fs3.amazonaws.com/uploads/sites/30/2020/12/Misconduct-in-public-office-WEB11.pdf> accessed 22 August 2025.

72 IBAC, *Submission 23*, received 15 July 2025, p. 6.

73 IOV, *Submission 21*, received 15 July 2025, p. 1.

The Committee agrees that in broadening IBAC's jurisdiction, the Victorian Government should ensure there is sufficient resources for investigations, especially in consideration of maintaining high-quality police oversight. Furthermore, the Committee believes that the decision on the level of severity of misconduct that IBAC may investigate should not be a decision limited by budgetary concerns. The Committee also acknowledges IBAC's concerns over limited resources, noting in their submission that '[a]ny amendments to the legislative framework need to be considered in the context of [Victoria's integrity] system, including resources and funding that would be crucial to support an expanded remit'.⁷⁴

The Committee supports this position. It also supports IOV's observation noted above that '[w]ithout a commensurate resourcing increase, a broader definition of corrupt conduct could create unrealistic public expectations of what IBAC will investigate'.⁷⁵ Framed in the context of the definition of 'corrupt conduct', it applies more broadly. In light of sustained public interest in government accountability, the Committee supports efforts to ensure IBAC is adequately funded to implement any changes to its responsibilities arising from this inquiry and, critically, to meet the expectations of the Victorian community. As such, the Committee adds further:

RECOMMENDATION 3: That the Victorian Government provide proportionate funding to IBAC to support the expansion of the definition of 'corrupt conduct', and the realisation of any changes to the *IBAC Act 2011* (Vic) resulting from this inquiry.

⁷⁴ IBAC, *Submission 23*, received 15 July 2025, p. 1.

⁷⁵ IOV, *Submission 21*, received 15 July 2025, p. 1.

2.3 The definitions of ‘public officer’ and ‘public body’

2.3.1 The current definitions in the *IBAC Act 2011* (Vic)

Box 2.2 Section 6(1) of the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic)

6 Definitions of public body, public officer and public sector

(1) For the purposes of this Act—

public body means, subject to this section—

- (a) a public sector body within the meaning of section 4(1) of the Public Administration Act 2004;
- (b) a body, whether corporate or unincorporated, established by or under an Act for a public purpose, including a university;
- (c) the Electoral Boundaries Commission constituted under the Electoral Boundaries Commission Act 1982;
- (d) a Council;
- (e) a body that is performing a public function on behalf of the State or a public body or public officer (whether under contract or otherwise);
- (f) any other body or entity prescribed for the purposes of this definition;

public officer means, subject to this section—

- (a) a person employed in any capacity or holding any office in the public sector within the meaning of section 4(1) of the Public Administration Act 2004;
- (b) a person to whom a provision of the Public Administration Act 2004 applies as a result of the application of Part 7 of that Act;
- (c) an ongoing employee or temporary employee in the teaching service under the Education and Training Reform Act 2006;
- (d) a judicial employee employed under Division 3 of Part 6 of the Public Administration Act 2004;
- (e) a Ministerial officer employed under Division 1 of Part 6 of the Public Administration Act 2004;
- (f) an electorate officer within the meaning of the Parliamentary Administration Act 2005;
- (g) a Parliamentary adviser employed under Division 2 of Part 6 of the Public Administration Act 2004;

(Continued)

Box 2.2 Continued

- (h) a Parliamentary officer within the meaning of the Parliamentary Administration Act 2005;
- (i) a member of Victoria Police personnel;
- (j) a responsible Minister of the Crown;
- (k) a member of the Legislative Assembly or the Legislative Council;
- (l) a Councillor within the meaning of section 3(1) of the Local Government Act 2020;
- (m) a member of Council staff employed under the Local Government Act 2020;
- (n) a judge, a reserve judge, a magistrate, a reserve magistrate, a coroner or a member of VCAT;
- (o) an associate judge or a judicial registrar;
- (p) a Crown Prosecutor;
- (q) the Chief Crown Prosecutor;
- (r) the Director of Public Prosecutions
- (s) the Governor, the Lieutenant-Governor or the Administrator of the State;
- (t) the Auditor-General;
- (u) the Ombudsman;
- (v) the Electoral Commissioner;
- (va) the Parliamentary Budget Officer;
- (w) the holder of any other statutory office or any other prerogative office;
- (x) any other person in the service of the Crown or a public body;
- (y) a person that is performing a public function on behalf of the State or a public officer or public body (whether under contract or otherwise);
- (z) a person who holds, or a person who is a member of a class of persons who hold, an office prescribed to be a public office for the purposes of this definition;
- (za) an employee of, or any person otherwise engaged by, or acting on behalf of, or acting as a deputy or delegate of, a public body or a public officer; public sector means the sector comprising all public bodies and public officers

Source: *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 6.

2.3.2 Should the definitions of ‘public officer’ and ‘public body’ be expanded?

IBAC seeks for the definitions of ‘public body’ and ‘public officer’ to be clarified and expanded to enable entities not typically regarded as public bodies (for example, subcontractors), to be investigated by IBAC.⁷⁶ In s 6 of the *IBAC Act 2011* (Vic) there are six meanings of a ‘public body’, while there are 28 meanings of a ‘public officer’. Some of these definitions require significant interpretation when applied—for example s 6(3) of the *IBAC Act 2011* (Vic) outlines factors that may be considered including whether a body is publicly funded. However s 6(4) states that one or more of these factors does not automatically mean the body is performing a public function.

IBAC also adds ‘complexity of such commercial arrangements ... means IBAC must conduct a complex case-by-case assessment’ to establish if the entity in question is a public body.⁷⁷ IBAC notes that in any case ‘[t]his assessment is not necessarily definitive and creates significant uncertainty’.⁷⁸

IBAC suggests one option for amendment is to give ‘follow-the-dollar’ powers to IBAC, similar to those of the Victorian Auditor-General’s Office.⁷⁹ IBAC refers to the IBAC Committee’s 2017 report on the public interest disclosure regime, where it recommended s 6 of the *IBAC Act 2011* (Vic) be amended to state that an entity that receives substantial public funds is a public body, giving greater certainty, provided the term ‘substantial’ is clearly defined.⁸⁰ IBAC also seeks for the definition of ‘relevant principal officer’ in s 6 of the *IBAC Act 2011* (Vic) to be amended, as it does not extend to the head of an organisation that qualifies as a ‘public body’ under s 6, to enable IBAC to perform all obligations in the *IBAC Act 2011* (Vic).⁸¹

The IOV also supports the expansion of this definition to third parties. They suggest that ‘[a]n alternative to expanding the definition of public body is to use the *Audit Act 1994* (Vic) definitions of “associated entity” and “third party contractor” as a starting point’.⁸² The IOV also support the use of ‘follow the dollar powers like that for the Victorian Auditor-General’s Office ... enabling IBAC to oversee the use of public funds whether expended through public or private entities’.⁸³ They go on to add, ‘[f]or example, subsection 6(3) of the *IBAC Act 2011* (Vic) could be expanded to ensure a public function covers a function undertaken by an associated entity or third party publicly funded to perform the function’.⁸⁴

⁷⁶ IBAC, *Submission 23*, received 15 July 2025, p. 6: they desire expansion to ‘capture possible corrupt conduct engaged in by entities not typically regarded as public bodies, including where public functions are performed under commercial subcontracting arrangements’.

⁷⁷ *Ibid.*, p. 7.

⁷⁸ *Ibid.*

⁷⁹ *Ibid.* p. 6; see also, Parliament of Victoria, *Formal Review into Victorian Government Bodies’ Engagement with Construction Companies and Construction Union*, November 2024, p. 17.

⁸⁰ IBAC, *Submission 23*, received 15 July 2025, p. 6.

⁸¹ *Ibid.*, p. 7.

⁸² IOV, Response to Integrity and Oversight Committee questions on notice, 23 October 2025, p. 1.

⁸³ *Ibid.*

⁸⁴ *Ibid.*

Dr Adam Masters also outlined the risk involved in third-party corruption and noted that the complexities and gaps resulting from overlapping federal and State laws can result in bureaucratic inertia.⁸⁵

Additionally, New South Wales and Queensland extend their definitions to cover the actions of any person that adversely affects official functions, capturing third-party corruption in a wider range of instances than Victoria.⁸⁶

In particular, as was submitted by NSW ICAC, a section was inserted into the NSW legislation to apply to third parties even in those circumstances where no wrongdoing has been done by the public official themselves, prompted by *ICAC v Cunneen*.⁸⁷

As NSW ICAC noted:

The Independent Panel Report recommended that corrupt conduct under the ICAC Act should be extended to include certain specified classes of conduct of any person (whether or not a public official) that do not involve wrongdoing on the part of a public official, but which impair or could impair public confidence in public administration. The Independent Panel Report described the nature of those matters recommended for inclusion in the expanded definition of corrupt conduct as 'sufficient to indicate that the confidence referred to is not confined to faith in the probity of individual public officials'.⁸⁸

The risks relating to outsourcing and third-party arrangements have been noted by integrity agencies across jurisdictions.⁸⁹ Further, the Committee agrees that current definitions are overly complex and difficult to navigate. However, there are difficulties in regulating third parties and the private sector, who may operate in different jurisdictions, and where the Commonwealth and Victorian jurisdictions overlap. Therefore, it is imperative that the Victorian Government consult with relevant stakeholders.

RECOMMENDATION 4: That the Victorian Government seek input and advice from the Commonwealth Government and other stakeholders to clarify and streamline the definitions of 'public officer' and 'public body' under section 6 of the *IBAC Act 2011* (Vic).

⁸⁵ Dr Adam Masters, Transnational Research Institute on Corruption, ANU, *Submission 17*, received 13 July 2025, p. 2.

⁸⁶ *Independent Commission Against Corruption Act 1988* (NSW) s 8; *Crime and Corruption Act 2001* (QLD) s 15(1).

⁸⁷ *Independent Commission Against Corruption Act 1988* (NSW) s 8(2A); 'Section 8(2A) of the ICAC Act was inserted into the ICAC Act in 2015 by the *Independent Commission Against Corruption Amendment Act 2015* (NSW). This was the legislative response to the recommendations contained in the *Review of the Jurisdiction of the Independent Commission Against Corruption Report (2015)* by the Hon Murray Gleeson and Bruce McClintock SC (the Independent Panel Report), a report commissioned in response to the High Court decision in *ICAC v Cunneen* (2015) 256 CLR 1': NSW ICAC, *Submission 16*, received 11 July 2025, p. 8.

⁸⁸ NSW ICAC, *Submission 16*, received 11 July 2025, p. 8.

⁸⁹ Corruption and Crime Commission WA, *A report on corrupt procurement practices and conduct in the Department of Communities*, Perth, September 2022; NSW ICAC, *Outsourcing*, December 2018, <<https://www.icac.nsw.gov.au/prevention/corruption-prevention-advice-topics/outsourcing>> accessed 25 August 2025.

RECOMMENDATION 5: That the Victorian Government seek to amend the *IBAC Act 2011* (Vic) to provide the Commissioner of the Independent Broad-based Anti-corruption Commission with powers comparable to the Victorian Auditor-General including:

- Investigation of corrupt conduct of third party and private subcontractors where there is a substantial connection between alleged corrupt conduct and government funding; and
- Follow-the-dollar investigatory powers.

Chapter 3

Investigations

3.1 The threshold to investigate

3.1.1 The legislation for IBAC to start an investigation

Box 3.1 The threshold to commence an investigation in the *IBAC Act 2011* (Vic)

60 Conducting investigations about corrupt conduct

- (1) Subject to subsection (2), the IBAC may conduct an investigation in accordance with its corrupt conduct investigative functions—
 - (a) on a complaint made to it under section 51; or
 - (b) on a notification to it under section 57(1); or
 - (c) on its own motion.
- (2) The IBAC must not conduct an investigation under subsection (1) unless the IBAC suspects on reasonable grounds that the conduct constitutes corrupt conduct.
- (3) The IBAC may conduct an investigation under subsection (1) in relation to conduct of, or in relation to—
 - (a) a person who was a public officer at the time of the conduct even if that person is no longer a public officer;
 - (b) a body that was a public body at the time of the conduct even if that body is no longer a public body or has ceased to exist as a body or as a public body;
 - (c) a person referred to in section 4(1)(a) which is, or was, a corporation even if that corporation has been deregistered under the Corporations Act.

Source: *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 60.

The Independent Broad-based Anti-corruption Commission (IBAC) can investigate alleged corrupt conduct upon receiving a complaint,¹ notification,² or on its own initiative.³ It may also receive and use information from any person or body to support

¹ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 60(1)(a).

² *Ibid.*, s 60(1)(b).

³ *Ibid.*, s 60(1)(c).

its investigative functions or preliminary inquiries.⁴ However, IBAC cannot investigate unless it suspects on reasonable grounds that the conduct constitutes corrupt conduct.⁵

IBAC is required to prioritise ‘the investigation and exposure of corrupt conduct which the IBAC considers may constitute serious corrupt conduct or systemic corrupt conduct’ under section 15(1A) of the *IBAC Act 2011* (Vic), but that does not restrict IBAC’s discretion to investigate.⁶

IBAC may undertake preliminary inquiries to help it determine whether to dismiss, refer, or investigate a complaint or notification,⁷ or whether to initiate an own motion investigation.⁸ It is a distinct, pre-investigative phase where the coercive powers identified in Parts 3 and 4 do not apply.⁹ During this phase, IBAC may request relevant information from public body officers,¹⁰ and issue witness summonses for production of documents,¹¹ which must be reported to Integrity Oversight Victoria (IOV) within three days.¹² Limitations include prohibitions on using surveillance devices or conducting controlled operations.¹³

The comparable jurisdictions across Australia share several core features with IBAC in how they assess whether to commence an investigation. Most require a threshold of reasonable suspicion or information that, if true, would suggest improper or corrupt conduct. This is evident in NSW,¹⁴ the ACT,¹⁵ and the Northern Territory.¹⁶ Many jurisdictions also empower their commissions to initiate investigations on their own motion, including NSW, Queensland, Tasmania, and the ACT.¹⁷ Preliminary inquiries are frequently used to support decisions on whether to proceed, ensuring investigative resources are deployed appropriately, such as in the ACT and WA.¹⁸

However, jurisdictions also differ in the specificity and prescriptiveness of their legislative thresholds. For instance, WA’s commission operates under a more detailed statutory framework, listing factors such as the nature and timing of alleged misconduct and whether an independent investigation is necessary.¹⁹ In contrast,

⁴ Ibid., ss 56(1–3).

⁵ Ibid., s 60(2).

⁶ Ibid., ss 15(1A)–(1B).

⁷ Ibid., s 59A.

⁸ Ibid., s 59B.

⁹ Ibid., s 59C.

¹⁰ Ibid., s 59D.

¹¹ Ibid., s 59E.

¹² Ibid., s 59G.

¹³ Ibid., s 59P.

¹⁴ *Independent Commission Against Corruption Act 1988* (NSW) s 13(1)(a).

¹⁵ *Integrity Commission Act 2018* (ACT) s 100(b).

¹⁶ *Independent Commissioner Against Corruption Act 2017* (NT) s 31(1).

¹⁷ *Independent Commission Against Corruption Act 1988* (NSW) s 20(1). *Crime and Corruption Act 2021* (QLD) s 35(1)(f). *Integrity Commission Act 2018* (ACT) s 101(1). *Integrity Commission Act 2009* (Tas) s 45(1).

¹⁸ *Integrity Commission Act 2018* (ACT) s 86. *Corruption, Crime and Misconduct Act 2003* (WA) s 32(2).

¹⁹ *Corruption, Crime and Misconduct Act 2003* (WA) s 34.

South Australia vests broader discretion in the Commissioner once a matter meets the basic threshold of prosecutable corruption.²⁰ Like Victoria, Queensland and the Commonwealth explicitly prioritise serious and systemic corruption.²¹

3.1.2 Does the threshold for investigation in the *IBAC Act 2011* (Vic) need to be changed?

In considering the threshold to investigate there are competing principles to be balanced. It is not possible for IBAC to investigate every corruption and police misconduct case. This is due to multiple factors, including funding limitations. Therefore, it is integral that IBAC is able to prioritise the most serious suspected corrupt conduct when deciding to commence an investigation. Additionally, as stated by the Law Institute of Victoria, ‘it would be inappropriate to enable the IBAC to investigate low-level fraud that is more appropriately suited to a workplace misconduct investigation’, particularly when considering the coercive powers conferred to IBAC in the *IBAC Act 2011* (Vic).²²

The Committee has received submissions that state the current threshold for investigation within the *IBAC Act 2011* (Vic) is appropriate and does not require amendment.²³ For example, IBAC submitted that 2016 amendments to the threshold have effectively addressed barriers it had previously faced when commencing investigations:

Prior to legislative changes introduced in 2016, the threshold for IBAC to investigate alleged corrupt conduct was significantly higher. IBAC was required to be reasonably satisfied that an allegation involved corrupt conduct before it could investigate. This meant that IBAC needed to have prima facie evidence of a relevant offence, effectively requiring it to gather a significant amount of evidence before it could start investigating allegations. IBAC also had to be satisfied about a suspect’s intent to commit an offence before commencing an investigation. The 2016 amendments to the threshold addressed the key barriers IBAC previously faced in commencing investigations into corrupt conduct.²⁴

In contrast, the Victorian Local Governance Association has suggested in their submission, that the Committee consider the graduated definition developed by Transparency International Australia (TIA).²⁵ TIA has submitted that the current threshold to commence an investigation — that IBAC must suspect on reasonable grounds that corrupt conduct has occurred — is still too high.²⁶ Instead, it suggested

²⁰ *Independent Commission Against Corruption Act 2012* (SA) s 24.

²¹ *Crime and Corruption Act 2001* (QLD) s 34(d); *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 15(1A). *National Anti-Corruption Commission Act 2022* (Cth) s 55(a).

²² Law Institute of Victoria, *Submission 8*, received 26 June 2025, p. 4.

²³ Independent Broad-based Anti-Corruption Commission, *Submission 23*, received 15 July 2025, p. 8; The Police Association Victoria, *Submission 24*, received 15 July 2025, pp. 6–7.

²⁴ Independent Broad-based Anti-Corruption Commission, *Submission 23*, received 15 July 2025, p. 8.

²⁵ Victorian Local Governance Association, *Submission 14*, received 7 July 2025, p. 9.

²⁶ Transparency International Australia, *Submission 18*, received 14 July 2025, p. 3.

that best practice ‘favours 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’.²⁷ Meanwhile, it has been contended that the current threshold creates a ‘catch-22’ in which ‘investigations are needed to establish reasonable suspicion, yet that suspicion is required before an investigation can begin’.²⁸

Dr Adam Masters has suggested that in considering whether to change the threshold for investigation within the *IBAC Act 2011* (Vic), it is important to ask if the change would make a substantive difference, and if there are cases that could or should have been investigated if the threshold were lower.²⁹ The Committee considers that this question can be considered through expanding the definition of corrupt conduct, rather than changing the threshold for investigation.

3.1.3 The threshold to investigate is linked to the definition of corrupt conduct

The threshold for investigation in the *IBAC Act 2011* (Vic) is that IBAC suspects on reasonable grounds that corrupt conduct has occurred.³⁰ Therefore, if the definition of corrupt conduct is expanded in the Act, by extension the types of matters IBAC could investigate would also be expanded. IOV’s Chief Integrity Inspector, Ms Louise Macleod has stated that ‘[t]he definitions should be doing the heavy lifting to make clear what is the scope and jurisdiction of IBAC’, and that the definitions should be easy to understand.³¹ IOV also submitted that the current definition of corrupt conduct, including the requirement that it constitute a relevant offence, limits IBAC’s ability to commence an investigation and ‘creates a public association of all IBAC findings with criminality’.³²

IBAC has stated that it is ‘seeking amendments to the current definition of ‘corrupt conduct’ and thus any threshold has to be consistent with such amended definition’.³³ Accountability Round Table (ART) has submitted that IBAC should be able to investigate grey corruption. This includes ‘conduct that adversely affects the honest performance by public officers of their functions’ and ‘conduct by officers [that] knowingly or recklessly breached public trust’.³⁴ ART has suggested that the proposed expansion of matters IBAC can investigate should occur through amending the

²⁷ Ibid.

²⁸ Bridge of Hope Innocence Initiative, *Submission 11*, received 30 June 2025, p. 2.

²⁹ Adam Masters, Transnational Research Institute on Corruption, *Submission 17*, received 13 July 2025, p. 2.

³⁰ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 60(2).

³¹ Ms Louise Macleod, Chief Integrity inspector, Integrity Oversight Victoria, Public hearing, Melbourne, 25 August 2025, *Transcript of evidence*, p. 19.

³² Integrity Oversight Victoria, *Submission 21*, received 15 July 2025, p. 2.

³³ Independent Broad-based Anti-Corruption Commission, *Submission 23*, received 15 July 2025, p. 8.

³⁴ Accountability Round Table, *Submission 9*, received 26 June 2025, p. 2.

definition of corrupt conduct in section 4 of the *IBAC Act 2011* (Vic).³⁵ Additionally, the Law Institute of Victoria has stated that the definition of corrupt conduct and the threshold for investigation are ‘intrinsically linked’.³⁶

The Committee recommends that the definition of corrupt conduct be expanded (see Chapter 2). This would enhance transparency and better align IBAC’s processes with emerging best practices. For example, those adopted by NSW ICAC, which, in the view of several commentators,³⁷ benefits from a ‘broad jurisdiction’ and ‘strong investigative powers’.³⁸ Broadening the definition of corrupt conduct would sufficiently expand the types of matters IBAC can investigate, without the need to change the threshold for investigation within the *IBAC Act 2011* (Vic).

3.2 Investigative powers

3.2.1 Should IBAC have additional investigative powers regarding search warrants?

Box 3.2 Search warrant powers in the *IBAC Act 2011* (Vic)

91 Search warrant

- (1) Subject to subsections (2) and (8), an authorised officer may apply to a Judge of the Supreme Court or a magistrate for a search warrant in relation to either or both of the following—
 - (a) particular premises, if the authorised officer believes on reasonable grounds that entry to the premises (including any vehicle, vessel or aircraft on or in those premises) is necessary for the purpose of an investigation;
 - (b) a particular vehicle, vessel or aircraft located in a public place if the authorised officer believes on reasonable grounds that entry to the vehicle, vessel or aircraft is necessary for the purpose of an investigation.
- (2) An application must not be made without the written authorisation, in the prescribed form, of the Commissioner.

(Continued)

³⁵ Ibid.

³⁶ Law Institute of Victoria, *Submission 8*, received 26 June 2025, p. 4.

³⁷ Hannah Aulby, *Different breeds of watchdog*, The Australian Institute, 1 November 2018; David Ipp, *Anti-corruption Agencies in Australia*, paper presented at Accountability and the Law Conference, August 2017; The Australia Institute and Environmental Defenders Office Queensland, *Ensure the Crime and Corruption Commission is the strongest it can be to prevent corruption in Queensland*, 27 June 2017.

³⁸ Hannah Aulby, *Different breeds of watchdog*, The Australian Institute, 1 November 2018, p. 2.

Box 3.2 Continued

- (3) If a Judge of the Supreme Court or a magistrate is satisfied by evidence on oath or by affirmation, whether oral or by affidavit, that there are reasonable grounds for the belief under subsection (1)(a) or (b), the Judge or the magistrate may issue a search warrant authorising any authorised officer or police officer—
- (a) to enter and search the premises or vehicle, vessel or aircraft named or described in the search warrant and inspect any document or thing at those premises or on or in that vehicle, vessel or aircraft; and
 - (b) to make a copy of any document relevant, or that the person executing the warrant reasonably considers may be relevant, to the investigation; and
 - (c) to take possession of any document or other thing that the person executing the warrant considers relevant to the investigation.

Source: *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 91(1-3).

Under section 91 of the *IBAC Act 2011* (Vic) an authorised officer can apply to a Magistrate or Supreme Court Judge for a search warrant on the grounds that it is necessary for an investigation to gain access to a premises or vehicle.³⁹ The procedure for executing a search warrant and dealing with documents obtained in the execution are outlined in sections 92–94 of the Act.⁴⁰ The powers under section 91 of the Act align with the search warrant powers set out in the *Victoria Police Act 2013* (Vic).⁴¹

In its submission, IBAC contends that its powers regarding search warrants should be expanded to include powers, such as to:

- Search a person present at the premises that is subject to the search warrant
- Seek assistance to access a computer
- Inspect and copy information held offsite, for example, being held in offsite servers
- Require names and addresses of persons present
- Arrest persons reasonably suspected of committing an offence without a warrant⁴²

The *Magistrates' Court Act 1989* (Vic) sets out the powers conferred by a search warrant, and includes the power 'to arrest any person apparently having possession, custody or control of the article, thing or material.'⁴³ IBAC argues that it should be given an additional power to arrest persons without a warrant when it reasonably

³⁹ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 91.

⁴⁰ *Ibid.*, ss 92–94.

⁴¹ *Victoria Police Act 2013* (Vic) ss 267–268.

⁴² Independent Broad-based Anti-Corruption Commission, *Submission 23*, received 15 July 2025, p. 25.

⁴³ *Magistrates' Court Act 1989* (Vic) s 78(1).

suspects them of committing an offence.⁴⁴ Some comparable jurisdictions, such as South Australia, have included this power within relevant legislation.⁴⁵ However, not all comparable jurisdictions confer the power to arrest persons without the issue of an arrest warrant within their enabling act, such as Queensland. In NSW, while a person cannot be arrested without a warrant, the Commissioner has the power to issue an arrest warrant in certain circumstances, such as after a failure to comply with a summons.⁴⁶ The Committee considers that the power conferred by a search warrant in the *Magistrates' Court Act 1989* (Vic),⁴⁷ combined with the power to apply for a warrant to arrest in various circumstances in the *IBAC Act 2011* (Vic), provides sufficient powers for the function of IBAC investigations, without requiring an additional power to arrest persons without a warrant.⁴⁸

IBAC also contends that it should be given the power to seek assistance to access a computer, and to access information held offsite, such as on a server.⁴⁹ A warrant issued for execution by a police officer under section 465 of the *Crimes Act 1958* (Vic) can include a separate order from the Magistrate on application to allow a police officer to:

- (a) access data held in, or accessible from, a computer or data storage device that—
 - (i) is on warrant premises; or
 - (ii) has been seized under the warrant and is at a place other than warrant premises;
- (b) copy to another data storage device data held in, or accessible from, a computer, or data storage device, described in paragraph (a);
- (c) convert into documentary form or another form intelligible to a police officer—
 - (i) data held in, or accessible from, a computer, or data storage device, described in paragraph (a); or
 - (ii) data held in a data storage device to which the data was copied as described in paragraph (b).⁵⁰

Such an order made under the *Crimes Act 1958* (Vic) allows a police officer to access information that is being held in an offsite server. Additionally, the Crimes Act makes it an offence for a person with knowledge of the computer or data storage device to fail to comply with a request to assist a police officer to access the data.⁵¹ The Committee considers that it is appropriate for a warrant issued under the *IBAC Act 2011* (Vic) to have a comparable clause to ensure IBAC officers are not impeded in accessing data

⁴⁴ Independent Broad-based Anti-Corruption Commission, *Submission 23*, received 15 July 2025, p. 25.

⁴⁵ *Independent Commission Against Corruption Act 2012* (SA) s 33.

⁴⁶ *Independent Commission Against Corruption Act 1988* (NSW) s 36.

⁴⁷ *Magistrates' Court Act 1989* (Vic) s 78(1).

⁴⁸ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) ss 139(2), 141A(2), 141B(2), 141C(2), 153(1).

⁴⁹ Independent Broad-based Anti-Corruption Commission, *Submission 23*, received 15 July 2025, p. 25.

⁵⁰ *Crimes Act 1958* (Vic) s 465AA(3).

⁵¹ *Ibid.*, s 465AA(9).

due to technology or password protections. Additionally, to enable the IBAC officers to identify if persons present can assist with accessing documents, it is appropriate for them to be able to require persons present to provide their names and addresses for identification purposes.

RECOMMENDATION 6: That the Victorian Government seek to amend section 91 of the *IBAC Act 2011* (Vic) for a search warrant issued under this Act to include the power to:

- Require the names and addresses of all persons present
- Require persons present to provide assistance to access a computer or data storage device
- Access data held in, or accessible from, a computer or data storage device, including data held off-site.

3.2.2 Any increase in IBAC's investigative powers should be overseen by IOV and IOV should have comparable powers

Oversight of IBAC's use of its coercive and investigative powers is integral to maintaining public confidence in IBAC. IOV has an important role in overseeing IBAC's coercive powers, therefore, the expansion of IBAC's coercive powers should be overseen by IOV. As stated by IOV:

Given our role in providing independent oversight of IBAC, were the Committee to recommend an increase in IBAC's powers, we suggest that Integrity Oversight Victoria be enabled to oversee any increased powers.⁵²

IOV currently has the power to review written reports on the issue of an arrest warrant under sections 142 and 154 of the *IBAC Act 2011* (Vic), however, it does not have a function to review search warrant functions.⁵³ Given the requirement for a Search Warrant issued under the *IBAC Act 2011* (Vic) to be issued by a Magistrate or Supreme Court Judge, the decisions in these circumstances are not required to be reviewed by IOV.

⁵² Integrity Oversight Victoria, *Submission 21*, received 15 July 2025, p. 5.

⁵³ *Integrity Oversight Victoria Act 2011* (Vic) s 40A(1)

3.3 IBAC as a prosecuting body

3.3.1 The current legislation

Box 3.3 Prosecuting powers set out in the *IBAC Act 2011* (Vic)

74 Referrals to prosecutorial bodies

- (1) If the IBAC considers it appropriate, the IBAC, at any time, may refer to a prosecutorial body any matter that the IBAC considers is relevant to the performance of the prosecutorial duties and functions or the exercise of prosecutorial powers of that prosecutorial body.
- (2) Without limiting any matter which may be referred under this section, the IBAC may refer—
 - (a) any matter under investigation by the IBAC;
 - (b) any matter raised in a report of the Chief Commissioner of Police.

189 Power to bring proceedings

- (1) Proceedings for an offence under this Act or the regulations may be brought by—
 - (a) the IBAC;
 - (b) a sworn IBAC Officer who is authorised by the Commissioner;
 - (c) a police officer who is authorised by the Commissioner.
- (2) The Commissioner may authorise a sworn IBAC officer or a police officer to bring proceedings for an offence under this Act or the regulations.

190 Power for the IBAC to bring criminal proceedings

- (1) Proceedings for an offence in relation to any matter arising out of an IBAC investigation may be brought by—
 - (a) the IBAC;
 - (b) a sworn IBAC Officer who is authorised by the Commissioner;
 - (c) a police officer.
- (2) The Commissioner may authorise a sworn IBAC officer to bring proceedings for an offence in relation to any matter arising out of an IBAC investigation.

Source: *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) ss 74, 189 and 190.

Section 189 of the *IBAC Act 2011* (Vic) allows for IBAC to bring proceedings for offences outlined in the Act.⁵⁴ Meanwhile, section 190 of the *IBAC Act 2011* (Vic) gives the authority for IBAC, an IBAC officer authorised by the Commissioner or a police officer to bring proceedings for matters arising from an investigation.⁵⁵ Section 74 of the Act gives IBAC the power to refer to a prosecutorial body (and does not prescribe specific prosecuting bodies), and section 75 gives the power for IBAC to make a referral to a prosecuting body for advice, provided it notifies Victoria Police.⁵⁶ Additionally, section 41 gives IBAC the ability to disclose information to a prosecutorial body if it considers it relevant to the performance of their duties.⁵⁷

In practice, IBAC initiates proceedings, however, the Office of Public Prosecution (OPP) must prosecute indictable offences in higher courts. Therefore, IBAC has advised the Committee that ‘[i]n most cases, IBAC officers initiate proceedings for indictable offences only after IBAC has received advice from or consulted with the OPP’, then formally refers the matter to the OPP.⁵⁸ For summary offences, IBAC often brings proceedings and prosecutes the matters.⁵⁹ IBAC has stated that this is comparable to the processes of ‘WorkSafe Victoria for offences under workplace health and safety legislation and Consumer Affairs Victoria for offences under the Australian Consumer Law and associated consumer legislation.’⁶⁰

3.3.2 Should IBAC be able to prosecute matters?

The Centre for Public Integrity has submitted that it is inappropriate for IBAC to have prosecutorial powers under section 190 of the *IBAC Act 2011* (Vic).⁶¹ It stated that anti-corruption agencies should ‘operate through the mechanisms of political accountability, uncovering information that is useful to the public in assessing how public power is being exercised’, and this should be separate from criminal prosecution.⁶² Former IBAC Commissioner Robert Redlich AM KC has stated that ‘there is no place for an integrity commission to be undertaking prosecutorial tasks’, citing the importance for maintaining separation between investigative and prosecuting processes.⁶³

⁵⁴ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 189.

⁵⁵ *Ibid.*, s 190.

⁵⁶ *Ibid.*, ss 74–75.

⁵⁷ *Ibid.*, s 41.

⁵⁸ Independent Broad-based Anti-corruption Commission, Inquiry into the Adequacy of the Legislative Framework for the Independent Broad-based Anti-corruption Commission hearings, response to questions on notice received 24 October 2025, p. 3.

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*

⁶¹ The Centre for Public Integrity, *Submission 7*, received 24 June 2025, p. 5.

⁶² *Ibid.*

⁶³ Hon Robert Redlich AM KC, Accountability Round Table, Public hearing, Melbourne, 18 August 2025, *Transcript of evidence*, p. 8.

In contrast, IOV has stated that it ‘does not propose removing IBAC’s ability to prosecute matters under section 190 of the IBAC Act’.⁶⁴ For comparison, IOV has highlighted agencies in Victoria that can issue charges for breaches of their respective Acts including WorkSafe Victoria, the Environmental Protection Agency, Energy Safe Victoria and the Building and Plumbing Commission.⁶⁵ Additionally, IBAC has stated that if IBAC’s prosecutorial powers under section 190 of the Act were repealed, it would be required to refer matters to another agency to initiate proceedings, who in turn, would need to refer indictable matters to the OPP.⁶⁶ This would likely cause unnecessary delays.

The Best Practice Principles for Australian Anti-Corruption Commissions, endorsed by all anti-corruption agencies in 2022, includes the ability to refer matters for prosecution, but not for the agency to be able to bring proceedings itself.⁶⁷ This was reinforced at the 2024 Australian Public Sector Anti-Corruption Conference.⁶⁸

In NSW, ICAC can refer matters for prosecution⁶⁹, but ‘the relevant provisions of the ICAC Act do not contain any express function or power involving prosecution of criminal offences.’⁷⁰ In case law, it has been found that ICAC has the power to bring prosecutions for breaches of the *ICAC Act 1988* (NSW), but it cannot bring proceedings regarding the subject matter of its investigations.⁷¹ This is consistent with anti-corruption agencies across Australia, where the respective Commissions have the power to refer matters for prosecution established in their legislation.⁷² IBAC is therefore in the minority in having the express power to bring proceedings set out in the Act⁷³, however, the ability to bring proceedings is generally inferred, and a necessary measure given the processes of public prosecutors.

While IBAC has the power to bring proceedings, and prosecute matters expressly stated within the Act, in practice its prosecutorial processes are consistent with anti-corruption agencies in comparable jurisdictions, and other prosecuting agencies in Victoria. Additionally, any change to the current legislation is likely to create additional complications and delays to the process.

⁶⁴ Integrity Oversight Victoria, *Inquiry into the Adequacy of the Legislative Framework for the Independent Broad-based Anti-corruption Commission* hearings, response to questions on notice received 23 October 2025, p. 3.

⁶⁵ Ibid.

⁶⁶ Independent Broad-based Anti-corruption Commission, *Inquiry into the Adequacy of the Legislative Framework for the Independent Broad-based Anti-corruption Commission* hearings, response to questions on notice received 24 October 2025, p. 3.

⁶⁷ Independent Broad-based Anti-corruption Commission, *Best Practice Principles for Australian Anti-Corruption Commissions*, December 2022, p. 2.

⁶⁸ National Anti-Corruption Commission, *Fundamental Principles of Australian Anti-Corruption Commissions*, July 2024, p. 2.

⁶⁹ *Independent Commission Against Corruption Act 1988* (NSW) s 14.

⁷⁰ *Gamage v Riashi* [2025] NSWCA 84, Judgement part 20.

⁷¹ *Gamage v Riashi* [2025] NSWCA 84. *Lazarus v Independent Commission Against Corruption* [2017] NSWCA 37.

⁷² *National Anti-Corruption Commission Act 2022* (Cth) s 3(b). *Integrity Commission Act 2018* (ACT) s 111. *Independent Commission Against Corruption Act 2012* (SA) s 7(1)(a). *Crime and Corruption Act 2001* (Qld) ss 49(2)(a), 49B. *Corruption, Crime and Misconduct Act 2003* (WA) s 18(h). *Independent Commissioner Against Corruption Act 2017* (NT) ss 3(3)(d) and 18(1)(c).

⁷³ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 190.

3.4 Offences in the *IBAC Act 2011* (Vic)

3.4.1 The current legislation

Table 3.1 Offences under the *IBAC Act 2011* (Vic)

Section	Offence	Penalty
40	For an IBAC officer or former IBAC officer to disclose information acquired in the performance of their duties	120 penalty units or 12 months imprisonment or both
44(1)	To disclose a restricted matter specified in a confidentiality notice	120 penalty units or 12 months imprisonment or both
44(6)	Not to provide a copy of the confidentiality notice to a person to whom a permitted disclosure of a restricted matter is made	120 penalty units or 12 months imprisonment or both
44(7)	Not to provide a copy of the new or extended confidentiality notice or cancellation of confidentiality notice to a person to whom a permitted disclosure of a restricted matter was made	120 penalty units or 12 months imprisonment or both
54(7)	To hinder the forwarding of a letter from a detained person to IBAC	120 penalty units or 12 months imprisonment or both
59N(5–6), 101(5–6), 148(7–8)	To open a sealed envelope or other contained thing, or access a document or other thing, prior to a ruling on a claim of privilege	120 penalty units or 12 months imprisonment or both
59(O)	For a summoned witness to fail to produce a document or other thing, without reasonable excuse	For a natural person: 60 penalty units or 6 months imprisonment or both For a body corporate: 300 penalty units
102(5), 103(5)	For a senior IBAC Officer to possess, carry or use defensive equipment when investigating police personnel conduct or possible corrupt conduct unless authorised to do so	60 penalty units or 6 months imprisonment or both
106(5), 107(5)	For a senior IBAC Officer to possess, carry or use a firearm when investigating police personnel conduct or possible corrupt conduct unless authorised to do so	60 penalty units or 6 months imprisonment or both
110	For a senior IBAC Officer to contravene conditions to which authorisation to possess, carry or use defensive equipment or a firearm is subject to	60 penalty units or 6 months imprisonment or both
118	To attend a private examination if not authorised to do so	120 penalty units or 12 months imprisonment or both
129A	To knowingly or recklessly contravene a suppression order	For a natural person: 600 penalty units or imprisonment for 5 years; For a body corporate: 3000 penalty units.
135	For a summoned witness to fail to attend to give evidence or produce a document or other thing at an examination, or fail to attend from day to day	240 penalty units or 2 years imprisonment or both
136	For a witness summoned to give evidence to refuse to answer a question	240 penalty units or 2 years imprisonment or both

Section	Offence	Penalty
137	For a witness summoned to produce a document or thing to fail to do so	240 penalty units or 2 years imprisonment or both
138	For a witness at an examination to refuse or fail to take an oath or make an affirmation.	240 penalty units or 2 years imprisonment or both
166	For a person who receives a proposed report, or advance copy of a report to disclose information contained within it	120 penalty units or 12 months imprisonment or both
177	To disclose the identity of a person identified in a direction given by IBAC	60 penalty units
179	To impersonate an IBAC officer	120 penalty units or 12 months imprisonment or both
180	To hinder or obstruct an IBAC officer performing their duties	120 penalty units or 12 months imprisonment or both
181	To refuse or fail to comply with a lawful direction made by an IBAC officer	120 penalty units or 12 months imprisonment or both
182	To wilfully make a false statement to mislead IBAC or an IBAC officer	120 penalty units or 12 months imprisonment or both
183	To disclose a transferred restricted matter, unless in the circumstances outlined	120 penalty units or 12 months imprisonment or both
184	To disclose information received in the outcome of a complaint, unless in the circumstances outlined	60 penalty units or 6 months imprisonment or both

3.4.2 Should the offences within the *IBAC Act 2011* (Vic) be expanded?

IBAC has suggested that new offences should be introduced in the *IBAC Act 2011* (Vic) including:

- offence of destroying or concealing evidence required in connection with an IBAC investigation
- offence of engaging in conduct to undermine an IBAC investigation⁷⁴

IBAC has noted that these offences are not currently included in the *IBAC Act 2011* (Vic) and considers them to be key offence provisions.⁷⁵ While IOV has not provided a specific view on IBAC's submission, it has noted that 'anything that aids an effective and proportionate investigation may be beneficial for IBAC'.⁷⁶

⁷⁴ Independent Broad-based Anti-Corruption Commission, *Submission 23*, received 15 July 2025, p. 25.

⁷⁵ Ibid.

⁷⁶ Integrity Oversight Victoria, *Inquiry into the Adequacy of the Legislative Framework for the Independent Broad-based Anti-corruption Commission* hearings, response to questions on notice received 23 October 2025, p. 3.

By comparison, most anti-corruption agencies across Australia have an offence of destroying evidence.⁷⁷ Jurisdictions vary in how they express the offence. For example, NSW and Western Australia state that it is an offence *to wilfully* destroy or damage a document or thing.⁷⁸ By contrast, South Australia and Tasmania state that it is an offence *to knowingly* destroy or damage the evidence.⁷⁹ The federal legislation sets out the offence more comprehensively, as shown below.

A person commits an offence if:

- (d) the person acts or omits to act; and
- (e) the act or omission results in a document or thing being:
 - (i) concealed, mutilated or destroyed; or
 - (ii) rendered incapable of identification; or
 - (iii) in the case of a document, rendered illegible or indecipherable; and
- (f) the document or thing is, or is likely to be, required by the Commissioner under a notice to produce or at a hearing.⁸⁰

The element of concealing evidence is included in the federal legislation,⁸¹ and is also included in South Australia.⁸² In Western Australia and NSW, it is an offence to send or attempt to send the evidence out of the state.⁸³

Comparable jurisdictions do not, however, have comparable offences to the proposal set out by IBAC for an offence to engage in conduct to undermine an investigation.⁸⁴ Instead, they each have a cluster of specific offences that outline instances where conduct would undermine an investigation, and more broadly, the functions of the Commission. For example, most jurisdictions have an offence of obstructing the Commission or its officers in the performance of their duties.⁸⁵ IBAC has an offence in line with this in section 180 of the *IBAC Act 2011* (Vic). Some jurisdictions include an offence to obstruct an investigation, such as in South Australia.⁸⁶ However, it is more common for there to be offences related to obstructing the functions of examinations or hearings within an investigation.⁸⁷

⁷⁷ *National Anti-Corruption Commission Act 2022* (Cth) s 70. *Independent Commission Against Corruption Act 1988* (NSW) s 88. *Crime and Corruption Act 2001* (Qld) s 210. *Corruption Crime and Misconduct Act 2003* (WA) s 171. *Integrity Commission Act 2009* (Tas) s 97. *Independent Commission Against Corruption Act 2012* (SA) s 33(d).

⁷⁸ *Independent Commission Against Corruption Act 1988* (NSW) s 88(1). *Corruption Crime and Misconduct Act 2003* (WA) s 171.

⁷⁹ *Independent Commission Against Corruption Act 2012* (SA) s 33(d). *Integrity Commission Act 2009* (Tas) s 97.

⁸⁰ *National Anti-Corruption Commission Act 2022* (Cth) s 70.

⁸¹ *Ibid.*

⁸² *Independent Commission Against Corruption Act 2012* (SA) s 33(d).

⁸³ *Independent Commission Against Corruption Act 1988* (NSW) s 88(2). *Corruption Crime and Misconduct Act 2003* (WA) s 171.

⁸⁴ Independent Broad-based Anti-Corruption Commission, *Submission 23*, received 15 July 2025, p. 25.

⁸⁵ *Crime and Corruption Act 2001* (Qld) s 215. *Independent Commission Against Corruption Act 1988* (NSW) s 80. *Corruption Crime and Misconduct Act 2003* (WA) s 165. *Integrity Commission Act 2018* (ACT) s 296(a).

⁸⁶ *Independent Commission Against Corruption Act 2012* (SA) s 33(e).

⁸⁷ *Independent Commission Against Corruption Act 2012* (SA) sch 2 s 19. *Integrity Commission Act 2018* (ACT) s 166(d). *National Anti-Corruption Commission Act 2022* (Cth) s 72.

The Committee considers that the omission of an offence of destroying or concealing evidence from the *IBAC Act 2011* (Vic) creates barriers for IBAC to effectively carry out preliminary inquiries and investigations. Additionally, amending the Act to include the offence would bring IBAC in line with anti-corruption commissions across Australia. However, the Committee does not consider that the proposed offence of conduct to undermine an investigation is necessary given the existing offences within the *IBAC Act*.

RECOMMENDATION 7: That the Victorian Government seek to amend the *IBAC Act 2011* (Vic) to include an offence to destroy or conceal a document or thing that is, or is likely to be, required in connection with an IBAC preliminary inquiry or investigation.

3.5 Conclusion

It is integral that the legislation supports IBAC's ability to effectively investigate suspected corrupt conduct, and prioritise its investigative resources appropriately. In considering investigative powers within the *IBAC Act 2011* (Vic), the Committee has given considerable attention to whether the current threshold for investigation should be changed. The Committee notes that the threshold for investigation was amended in 2016, and concludes that the threshold does not require further revision. Instead, the definition of corrupt conduct in the *IBAC Act 2011* (Vic) should be expanded, which by extension, will broaden the types of corrupt conduct IBAC can investigate.

Search warrants are an important aspect of IBAC's investigative processes. In considering the search warrant powers in the *IBAC Act 2011* (Vic), the Committee is of the view that additional search warrant powers would be beneficial to IBAC's practices. This includes the ability to access data that is accessible from a device held at the location of the search warrant, regardless of whether the data is being held offsite, and the ability to compel individuals to assist IBAC officers to access the data storage device. The Committee considers that section 465AA of the *Crimes Act 1958* (Vic) provides an example of how this can be legislated effectively.

The Committee has considered prosecution powers within the *IBAC Act 2011* (Vic), considering IBAC's ability to refer matters to a prosecuting body,⁸⁸ and to prosecute matters itself.⁸⁹ The Committee notes that Victoria is in the minority in having an anti-corruption agency that has the power to prosecute expressly set out within the legislation. However, IBAC's prosecution practices are consistent with some other prosecuting agencies in Victoria such as WorkSafe, and are working effectively.

The Committee has examined whether the offences in the *IBAC Act 2011* (Vic) require any change. The Committee has concluded that an offence should be introduced, that makes it an offence to destroy or conceal evidence that is, or likely to be, required by IBAC in the process of a preliminary inquiry or investigation.

⁸⁸ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 74.

⁸⁹ *Ibid.*, ss 198, 190.

Chapter 4

Examinations

4.1 Should the legislation for IBAC to hold examinations be changed?

4.1.1 The current legislation for IBAC to hold public examinations

4

Box 4.1 Sections 117(1) and (2) of the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic)

117 Examinations generally to be held in private

- (1) Subject to subsection (2), an examination is not open to the public unless the IBAC considers on reasonable grounds—
 - (a) there are exceptional circumstances; and
 - (b) it is in the public interest to hold a public examination; and
 - (c) a public examination can be held without causing unreasonable damage to a person's reputation, safety or wellbeing; and
 - (d) the conduct that is the subject of the investigation may constitute—
 - (i) serious corrupt conduct; or
 - (ii) systemic corrupt conduct; or
 - (iii) serious police personnel misconduct; or
 - (iv) systemic police personnel misconduct.
- (2) The IBAC must not hold an examination in public if the examination may disclose particulars likely to lead to the identification of a person who has made an assessable disclosure.

Source: *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 117(1)-(2).

The Independent Broad-based Anti-corruption Commission (IBAC) may hold an examination¹ for the purposes of an investigation,² and the examiner appointed must meet several requirements.³ Examinations are generally conducted in private unless IBAC considers, on reasonable grounds, that all four of the statutory requirements are met.

Even where a public examination is approved, IBAC may still direct parts of it to be conducted in private,⁴ based on considerations of public interest and the need to prevent unreasonable damage to a person's reputation, safety or wellbeing.⁵

Public examinations are restricted if they are likely to disclose particulars that could lead to the identification of a person who has made an assessable disclosure under the *Public Interest Disclosures Act 2012* (Vic).⁶ However, exceptions apply where the discloser has given written consent;⁷ where disclosure is permitted;⁸ where IBAC, Integrity Oversight Victoria (IOV), or the Integrity and Oversight Committee determines the disclosure is not a public interest complaint;⁹ or where the information has already been lawfully published in a parliamentary report or otherwise made public in accordance with confidentiality obligations.¹⁰

4.1.2 IBAC's powers in the examination process

Box 4.2 The abrogation of privilege in the *IBAC Act 2011* (Vic)

143 Privileges and secrecy generally

- (1) If a person is a public officer, any obligation to maintain secrecy or comply with a restriction upon the disclosure of information obtained by or provided to the person in his or her service as a public officer imposed by any enactment or any rule of law—
- (a) is overridden; and
 - (b) does not apply to the disclosure of information under Part 6.

(Continued)

¹ The *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) uses the word examination to describe when an individual gives evidence before the Commission. In comparable jurisdictions across Australia the term hearing or inquiry is sometimes used. For the purposes of discussing the legislative framework for IBAC this report will use the term 'examination'.

² *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 115(1).

³ *Ibid.*, s 115(2)–(8).

⁴ *Ibid.*, s 117(3A).

⁵ *Ibid.*, s 117(3B).

⁶ *Ibid.*, s 117(2).

⁷ *Public Interest Disclosures Act 2012* (Vic) s 53(2)(a)–(ab).

⁸ *Ibid.*, s 53(2)(b).

⁹ *Ibid.*, s 53(2)(c).

¹⁰ *Ibid.*, s 53(2)(d)–(e).

Box 4.2 Continued

- (2) The Crown is not entitled to assert any privilege in relation to an examination of a public officer, including any requirement under a witness summons.
- (3) Any privilege referred to in subsection (2) is abrogated.
- (4) A person is not subject to any criminal, civil, administrative or disciplinary proceedings or actions only because the person has not maintained secrecy or complied with a restriction upon the disclosure of information imposed by any enactment or any rule of law in the circumstances referred to in subsection (1).
- (5) This section does not apply to information, documents or things that are subject to Cabinet confidentiality.

144 Privilege against self-incrimination abrogated— witness summons

- (1) A person is not excused from answering a question or giving information or from producing a document or other thing in accordance with a witness summons, on the ground that the answer to the question, the information, or the production of the document or other thing, might tend to incriminate the person or make the person liable to a penalty.
- (2) Any answer, information, document or thing that might tend to incriminate the person or make the person liable to a penalty is not admissible in evidence against the person before any court or person acting judicially, except in proceedings for—
 - (a) perjury or giving false information; or
 - (b) an offence against this Act; or
 - (c) an offence against the Integrity Oversight Victoria Act 2011; or
 - (d) an offence against section 72 or 73 of the Public Interest Disclosures Act 2012; or
 - (e) contempt of the IBAC under this Act; or
 - (f) a disciplinary process or action.

Source: *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) ss 143, 144.

Section 143 of the *IBAC Act 2011* (Vic) provides that any secrecy obligations required of public officers, other than Cabinet confidentiality, are overridden by requirements to comply with a witness summons during IBAC examinations.¹¹ Section 144 of the *IBAC Act 2011* (Vic) provides that a person summoned to provide evidence to IBAC cannot claim privilege against self-incrimination to not provide the evidence.¹² However, the

¹¹ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 143.

¹² *Ibid.*, s 144.

evidence cannot be used in a prosecution except in certain circumstances, as outlined in section 144(2) of the Act.¹³ The abrogation of privilege in the examination process and superseding of secrecy obligations for IBAC examinations is necessary for IBAC to expose corrupt conduct. However, it also increases the risk of reputational damage for witnesses, creates complication in balancing the needs for confidentiality and public transparency, and provides less protection for witnesses in comparison to providing evidence in a court of law.

IBAC's examination process is notably different than the court process for giving evidence. Aside from the abrogation of privilege discussed above, submissions have also highlighted that while witnesses in IBAC examinations are able to have a lawyer present, their lawyer is not able to speak, and there is no opportunity for cross-examination to enable a right of reply.¹⁴ It has also been stated that '[e]xhibits used by IBAC lawyers in examinations are not provided to witnesses or their lawyers prior to the commencement of the examination¹⁵, which is distinctive from court processes. Additionally, an IBAC investigation is identifying whether corrupt conduct has occurred is a truth-finding exercise, which is a lower threshold than the finding of guilt beyond a reasonable doubt in criminal court hearings. It is also necessary to ensure IBAC's examination process is consistent with the *Charter of Human Rights and Responsibilities Act 2006* (Vic). This is explored further in section 4.2.1.

4.1.3 The exceptional circumstances test for public examinations should be retained

Under the current legislation, one of the requirements for IBAC to hold a public examination is for there to be exceptional circumstances.¹⁶ Exceptional circumstances has not been defined in the *IBAC Act 2011* (Vic). It has, however, been set out in *R and M v Independent Broad-based Anti-corruption Commission* to require circumstances to be 'highly unusual, and quite rare' and distinct from matters ordinarily examined by IBAC.¹⁷

Some stakeholders believe there should be a presumption in favour of public examinations¹⁸ in line with other jurisdictions such as the Independent Commission Against Corruption NSW (ICAC NSW)¹⁹ and the Independent Commission Against Corruption NT.²⁰ Meanwhile, many stakeholders support the removal of the exceptional

¹³ Ibid.

¹⁴ Janet Halsall, et al., *Submission 4*, received 3 June 2025, pp. 2–3.

¹⁵ Ibid., p. 3.

¹⁶ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 117(1).

¹⁷ *R and M v Independent Broad-based Anti-corruption Commission* [2015] VSCA 271, 67.

¹⁸ RMIT University Bridge of Hope Innocence Initiative, *Submission 11*, received 30 June 2025, p. 3. Robert Redlich, *Submission 6*, received 25 June 2025, p. 4. Adam Masters, Transnational Research Institute on Corruption, *Submission 17*, received 13 July 2025, p. 3.

¹⁹ *Independent Commission Against Corruption Act 1988* (NSW) s 31(1–2).

²⁰ *Independent Commission Against Corruption Act 2017* (NT) s 40.

circumstances test as a measured change.²¹ Notably, while NSW does have a presumption in favour of public inquiries, they held ‘about 31 days in public inquiries last year, or thereabouts, and that was in one public inquiry’.²² Therefore, recently NSW has been comparable to Victoria, regarding how many investigations result in public inquiries or examinations.

IBAC submitted that the exceptional circumstances test for holding a public examination ‘imposes an additional and unnecessary constraint on IBAC’s ability to inform the public and promote accountability’.²³ The Law Institute of Victoria submitted that the exceptional circumstances test ‘hinders the IBAC’s ability to hold its examinations in public to draw attention to matters that are likely in the public interest’.²⁴ The Victorian Bar and Police Oversight Working Group, by contrast, support a less complex test for holding a public hearing which does not include the exceptional circumstances criterion.²⁵ Justin Hannebery KC, President of the Victorian Bar, has noted that they are not ‘calling for there to be more public hearings’, as ‘that is ultimately a matter for the Commissioner to determine’.²⁶ However, he has stated that ‘changing the test would actually result in an increased number of public hearings is a presumption you might make, but it would depend upon what the assessment of ‘in the public interest’ at that time might be’.²⁷

For the exceptional circumstances test to be removed, the remaining criteria for holding a public examination must sufficiently balance the needs for public transparency with the rights of people being examined. While IBAC has acknowledged the exceptional circumstances test may address some concerns, both IBAC and IOV have stated that it is not necessary in the context of the other thresholds required for holding a public examination.²⁸ IOV’s Chief Integrity Inspector Louise Macleod stated

We would not say that the public hearings need any amendment. You could remove the exceptional circumstances, but within the rest of 117 you have still got adequate safeguards there that include a role for our office.²⁹

21 Independent Broad-based Anti-Corruption Commission, *Submission 23*, received 15 July 2025, pp. 11–12. Integrity Oversight Victoria, *Submission 21*, received 15 July 2025, p. 3. The Victorian Bar, *Submission 26*, received 23 July 2025, pp. 4–5. Law Institute of Victoria, *Submission 8*, received 26 June 2025, pp. 5–6. Accountability Round Table, *Submission 9*, received 26 June 2025, p. 3. Robert Redlich, *Submission 6*, received 25 June 2025, p. 4. Transparency International Australia, *Submission 18*, received 14 July 2025, p. 4.

22 Hon John Hatzistergos AM, Chief Commissioner, NSW Independent Commission Against Corruption, Public hearing, Melbourne, 18 August 2025, *Transcript of evidence*, p. 1.

23 Independent Broad-based Anti-Corruption Commission, *Submission 23*, received 15 July 2025, p. 11.

24 Law Institute of Victoria, *Submission 8*, received 26 June 2025, p. 5.

25 The Victorian Bar, *Submission 26*, received 23 July 2025, pp. 4–5. Police Oversight Working Group, *Submission 19*, received 14 July 2025, p. 7.

26 Justin Hannebery AM, President, The Victorian Bar, Public hearing, Melbourne, 8 September 2025, *Transcript of evidence*, p. 30.

27 Ibid.

28 Independent Broad-based Anti-Corruption Commission, *Submission 23*, received 15 July 2025, p. 11–12, Integrity Oversight Victoria, *Submission 21*, received 15 July 2025, p. 3.

29 Ms Louise Macleod, Chief Integrity inspector, Integrity Oversight Victoria, Public hearing, Melbourne, 25 August 2025, *Transcript of evidence*, p. 20.

The requirement under section 117(5) of the Act³⁰ for IBAC to notify IOV of its intention to hold a public examination at least 10 days prior to the scheduled examination provides an additional protection.

The National Anti-Corruption Commission (NACC) also has a presumption in favour of private examinations,³¹ and requires the Commissioner to apply an exceptional circumstances test for holding a public examination.³² However, the additional thresholds for IBAC to hold a public examination are primarily factors the Commissioner may have regard to in the federal jurisdiction rather than compulsory conditions.³³ Therefore, there are additional protections within the *IBAC Act 2011* (Vic) if the exceptional test were to be removed.

While the Committee acknowledges that the exceptional circumstances test in section 117 of the *IBAC Act 2011* (Vic) provides a high threshold for holding an examination in public, the Committee considers that this is appropriate when considering the risks associated with IBAC's public examinations, including reputational damage.

4.1.4 The serious or systemic conduct threshold should be retained

The fourth test for IBAC to hold a public examination is that the conduct subject to investigation *may* constitute either serious or systemic corrupt conduct, or serious or systemic police personnel misconduct.³⁴ Former IBAC Commissioner, Hon Robert Redlich AM KC, has described this to mean that 'not only must it be a crime, but IBAC would have to be satisfied that it was a serious crime before they could conduct a public hearing'.³⁵ Hon Redlich's assessment of this test would no longer apply if the definition of corrupt conduct is expanded to include 'grey corruption'. Some stakeholders have proposed that this threshold is too high and should be removed.³⁶

While the threshold for conducting an investigation, as discussed in Chapter 3, requires that IBAC 'suspect on reasonable grounds that the conduct [to be investigated] constitutes corrupt conduct',³⁷ the threshold for holding a public examination is higher. This differentiation is reflective of the presumption that examinations are generally held in private.³⁸

³⁰ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic), s 117(5).

³¹ Examinations are referred to as 'hearings' in the *National Anti-Corruption Commission Act 2022* (Cth).

³² *National Anti-Corruption Commission Act 2022* (Cth) s 73(1-2).

³³ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 117(1), *National Anti-Corruption Commission Act 2022* (Cth), s 73(2-3).

³⁴ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic), s 117(1).

³⁵ Hon Robert Redlich AM KC, Accountability Round Table, Public hearing, Melbourne, 18 August 2025, *Transcript of evidence*, p. 10.

³⁶ Accountability Round Table, *Submission 9*, received 26 June 2025, p. 4. Robert Redlich, *Submission 6*, received 25 June 2025, p. 4.

³⁷ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic), s 60(2).

³⁸ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic), s 117(1).

The test for holding a public examination in the *IBAC Act 2011* (Vic) requires for all four of the parameters in section 117(1) to be considered together.³⁹ One of the thresholds is that ‘it is in the public interest to hold a public examination’, however, ‘public interest’ is not defined in the *IBAC Act 2011* (Vic).⁴⁰ The test that conduct being investigated may constitute either serious or systemic corrupt conduct, or serious or systemic police personnel misconduct, therefore, provides a necessary severity test for the conduct being investigated to warrant a public examination.

4.2 Transparency and notification requirements for public examinations

4.2.1 The public interest should be balanced against the rights of the person being examined

Box 4.3 Rights to privacy and reputation in the Charter of Human Rights and Responsibilities

13 Privacy and reputation

A person has the right—

- (a) not to have that person’s privacy, family, home or correspondence unlawfully or arbitrarily interfered with; and
- (b) not to have that person’s reputation unlawfully attacked.

Source: *Charter of Human Rights and Responsibilities Act 2006* (Vic), s 13.

For a public examination to be conducted, the legislation requires IBAC to consider on reasonable grounds that ‘a public examination can be held without causing unreasonable damage to a person’s reputation, safety or wellbeing’.⁴¹ This is reflective of the *Victorian Charter of Human Rights and Responsibilities Act 2006*, which specifies the individual’s right to not have their reputation unlawfully attacked.⁴² Additionally, the rights of the person being examined are generally contained in the legislation of other jurisdictions around Australia.⁴³ In NSW, for example, despite having a presumption in favour of public inquiries, when determining whether it is in the public interest to hold a public inquiry⁴⁴ it may consider ‘whether the public interest in

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 117(1).

⁴² *Charter of Human Rights and Responsibilities Act 2006* (Vic) s 13.

⁴³ *Independent Commission Against Corruption Act 1988* (NSW) s 31(2). *National Anti-Corruption Commission Act 2022* (Cth) s 73(3). *Crime and Corruption Act 2001* (Qld) s 177(2)(a).

⁴⁴ The *Independent Commission Against Corruption Act 1988* (NSW) gives the Commission the power to hold an ‘inquiry’, not an ‘examination’. An ‘inquiry’ can include the examination of multiple witnesses.

exposing the matter is outweighed by the public interest in preserving the privacy of the persons concerned.⁴⁵ Furthermore, the NSW Commissioner can decide to hold part of an inquiry in private, for example, a particular witness' testimony, if it is in the public interest to do so.⁴⁶

Notably, the term 'unreasonable damage'⁴⁷ in the *IBAC Act 2011* (Vic) has not been further defined, and is therefore, at the discretion of the Commissioner. This has been raised in submissions as a point of contention for individuals who have been examined in public,⁴⁸ and has also been litigated in court.⁴⁹ Meanwhile, in his submission former Commissioner of IBAC Hon Robert Redlich AM KC contends that '[m]ost of those who advance objections to a public hearing do so out of self-interest'.⁵⁰ Additionally, Hon Redlich has stated that '[i]n order to determine whether or not there can be unreasonable damage to reputation, that means IBAC must make an assessment of whether the evidence is sufficiently cogent to demonstrate that that person has been engaged in misconduct'.⁵¹

For some submitters, the view is that the only way to mitigate the risk to an individual's reputation is for all examinations to be held in private,⁵² in line with the jurisdiction of the *Independent Commission Against Corruption SA*.⁵³ However, there are also strong views in favour of transparency and public awareness.⁵⁴ These competing interests, therefore, must be balanced against one another and procedural safeguards are crucial. IOV has stated that 'unreasonable damage to a person's reputation, safety or wellbeing needs to be a mandatory consideration before a public hearing is considered appropriate'.⁵⁵

⁴⁵ *Independent Commission Against Corruption Act 1988* (NSW) s 31(2).

⁴⁶ *Ibid.*, s 31(9).

⁴⁷ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 117(1).

⁴⁸ Janet Halsall, et al., *Submission 4*, received 3 June 2025. Susan Serey, *Submission 12*, received 30 June 2025.

⁴⁹ *R and M v Independent Broad-based Anti-corruption Commission* [2015] VSCA 271, 67.

⁵⁰ Robert Redlich, *Submission 6*, received 25 June 2025, p. 7.

⁵¹ Hon Robert Redlich AM KC, Accountability Round Table, Public hearing, Melbourne, 18 August 2025, *Transcript of evidence*, p. 13.

⁵² The Police Association Victoria, *Submission 24*, received 15 July 2025, pp. 8–9. Susan Serey, *Submission 12*, received 30 June 2025. Janet Halsall, et al., *Submission 4*, received 3 June 2025, p. 4.

⁵³ *Independent Commission Against Corruption Act 2012* (SA), sch 2 s 3(3).

⁵⁴ Police Oversight Working Group, *Submission 19*, received 14 July 2025, p. 6. Australian Lawyers Alliance, *Submission 22*, received 15 July 2025, p. 11. Transparency International Australia, *Submission 18*, received 14 July 2025, p. 4.

⁵⁵ Ms Cathy Cato, Chief Executive Officer, Victorian Inspectorate, Joint Select Committee on National Anti-corruption Commission Legislation, Public hearing, 19 October 2025, *Transcript of evidence*, p. 33.

4.2.2 The *IBAC Act 2011* (Vic) should be amended to require IBAC to notify IOV before issuing a witness summons for a public examination

Box 4.4 Requirement to notify IOV of a public examination in the *IBAC Act*

- (5) Not less than 10 business days before a public examination is held, the IBAC must—
- (a) inform Integrity Oversight Victoria that the IBAC intends to hold the public examination; and
 - (b) provide a written report to Integrity Oversight Victoria giving the reasons the IBAC decided to hold a public examination in accordance with subsection (1).

Source: *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 117(5)

Under section 117(5) of the *IBAC Act 2011* (Vic), IBAC is currently required to notify IOV at least 10 business days prior to holding a public examination and provide reasons for doing so.⁵⁶ This allows IOV to test IBAC's reasoning. IBAC has stated that this process is a 'notice only provision', and that any further restriction to IBAC's powers to serve a witness summons under section 117(5) of the Act could 'erode the independence and capacity of IBAC to exercise its statutory functions'.⁵⁷ Meanwhile, according to IOV, 'while the legislation does not require IBAC to act on the views of the [IOV], in practice the interaction makes decisions more robust'.⁵⁸ Stakeholders have highlighted the importance of this provision in providing a safeguard when IBAC is exercising its coercive powers in deciding to hold public examinations.⁵⁹

When IBAC intends to hold a public or private examination for the purposes of an investigation it must serve a witness summons on the intended witness at least 7 days prior to the examination.⁶⁰ IBAC is then required to notify IOV within 3 days after the issue of the witness summons, and provide the reasons for doing so.⁶¹ IBAC has stated that it 'typically gives witnesses far more than the minimum seven days' notice' for witness welfare and procedural fairness purposes.⁶²

⁵⁶ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 117(5).

⁵⁷ Independent Broad-based Anti-corruption Commission, Inquiry into the Adequacy of the Legislative Framework for the Independent Broad-based Anti-corruption Commission hearings, response to questions on notice received 24 October 2025, p. 4.

⁵⁸ Victorian Inspectorate, *Submission No. 28*, submission to Australian Parliament, National Anti-Corruption Commission Legislation Committee, Inquiry into the NACC Bills, 2022, p. 2.

⁵⁹ Integrity Oversight Victoria, *Submission 21*, received 15 July 2025, p. 3. Robert Redlich, *Submission 6*, received 25 June 2025, p. 6. Law Institute of Victoria, *Submission 8*, received 26 June 2025, p. 6.

⁶⁰ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 124(1).

⁶¹ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 122.

⁶² Independent Broad-based Anti-corruption Commission, Inquiry into the Adequacy of the Legislative Framework for the Independent Broad-based Anti-corruption Commission hearings, response to questions on notice received 24 October 2025, p. 4.

Currently, IBAC can issue a witness summons before or after making notifications to IOV under section 117(5) of the *IBAC Act 2011* (Vic). IOV has recommended that this legislation be changed to require IBAC to notify IOV of its intention to hold a public examination *before* the witness summons is issued, stating '[t]he safeguard will better protect a potential witness if we have an opportunity to assess the notification before the witness is summonsed to give evidence at a public examination'.⁶³ Cathy Cato, General Counsel and CEO of IOV has stressed this when stating

if they have already issued the notice or at the same time, even if the process through which we provide feedback gets to the point where they might withdraw that notice, that person has still suffered for that period of time. So we are trying to take away any period of time where a person might think they are going to be summonsed if they are not.⁶⁴

The Committee acknowledges that the provision under section 117(5) of the *IBAC Act 2011* (Vic) is a notice only provision. However, it is an important safeguard when IBAC intends to hold a public examination, and in practice, can make the decision making more robust. The Committee considers it to be appropriate to require IBAC to make this notification *before* it issues the witness summons as a means for strengthening this safeguard, particularly when considering the welfare of witnesses.

RECOMMENDATION 8: That the Victorian Government seek to amend section 117(5) of the *IBAC Act 2011* (Vic) to require the Independent Broad-based Anti-corruption Commission (IBAC) to notify Integrity Oversight Victoria of its intention to hold a public examination prior to issuing the related witness summons.

4.2.3 IBAC should be required to publicly publish guidelines for holding public examinations

When a witness is summoned to appear at an examination, IBAC is required to advise the witness if the examination will be held in public or private.⁶⁵ However, IBAC is *not* required to provide the witness with reasons for deciding to hold an examination in public. If the witness then chooses to contest the decision for a public examination to be held, they must make an application to the Supreme Court.

There has been some suggestion the lack of transparency in decision-making when deciding whether to conduct a public examination does not align with procedural fairness requirements, and is not complainant-centric.⁶⁶ Additionally, when reasons for holding a public examination are not provided, it is difficult for the witness to contest the decision. However, providing reasons to the witness can conflict with the confidential nature of the investigation process.

⁶³ Integrity Oversight Victoria, *Submission 21*, received 15 July 2025, p. 3.

⁶⁴ Cathy Cato, Chief Executive Officer, Integrity Oversight Victoria, Public hearing, Melbourne, 25 August 2025, *Transcript of evidence*, p. 20.

⁶⁵ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 121(4)(b).

⁶⁶ Police Oversight Working Group, *Submission 19*, received 14 July 2025, p. 8.

In NSW, the legislation was amended in 2016 to require the Independent Commission Against Corruption to table in Parliament and publish procedural guidelines for holding a public inquiry.⁶⁷ In a report recommending the amendment, the Committee on the Independent Commission Against Corruption stated '[t]here would be greater certainty around the content of this [natural justice] requirement if specific procedural fairness obligations were set out in guidelines.'⁶⁸ The Inspector of ICAC NSW, Gail Furness, stated that the guidelines are of enormous benefit, adding that

it is very important for people and their lawyers to understand what their rights are going into a hearing and what the Commission's obligations are so that they can ask for information or opportunities which they may well not otherwise know are available to them, and it holds the ICAC to account for what are published guidelines that they have to comply with.⁶⁹

The *Integrity Commission Act 2018* (ACT) requires the ACT Integrity Commission to produce guidelines regarding the conduct of examinations,⁷⁰ and permits the Commission to produce guidelines 'about whether an examination should be held in public or in private'.⁷¹ The guidelines were produced in 2021 and provide an outline of the Commission's procedural fairness obligations when conducting examinations,⁷² and the relevant considerations for the Commission to decide to hold a public examination.⁷³

The publication of procedural guidelines provides transparency for the public and particularly for witnesses. While providing specific reasons to a witness for holding an individual public examination could compromise an investigation, published procedural guidelines can provide the framework for defensible decision-making. This approach can balance the needs for transparency with the confidentiality requirements of an investigation. Donna Cooper, Law Institute of Victoria, has stressed that

it could be very helpful for the public and in fact the lawyers representing witnesses who are going before IBAC in various hearings if there are probably some expanded guidelines around what witnesses can expect when they are appearing in a public hearing and what determination factors the Commissioner might make in terms of deciding a public hearing versus a private hearing.⁷⁴

⁶⁷ *Independent Commission Against Corruption Act 1988* (NSW), s 31B, *Independent Commission Against Corruption Amendment Bill 2016* (NSW).

⁶⁸ Committee on the Independent Commission Against Corruption (NSW), *Review of the Independent Commission Against Corruption: Consideration of the Inspector's Reports*, Report 2/56, Parliament of New South Wales, Sydney, October 2016, p. 14.

⁶⁹ Gail Furness SC, Inspector, The Inspector of the Independent Commission Against Corruption, NSW, Public hearing, Melbourne, 8 September 2025, *Transcript of evidence*, p. 25.

⁷⁰ *Integrity Commission Act 2018* (ACT) s 142(2).

⁷¹ *Integrity Commission Act 2018* (ACT) s 143(4).

⁷² ACT Integrity Commission, *Integrity Commission (Examination Conduct) Guidelines 2021*, Canberra, 2021.

⁷³ ACT Integrity Commission, *Integrity Commission (Examination) Guidelines 2021*, Canberra, 2021.

⁷⁴ Donna Cooper, General Manager, Policy, Advocacy, and Professional Standards, Law Institute of Victoria, Public hearing, Melbourne, 8 September 2025, *Transcript of evidence*, p. 19.

CEO of IBAC, Alison Byrne, has stated that IBAC has ‘drafted a document for witnesses appearing at public hearings – to assist them.’⁷⁵ However, in regard to guidelines for the decision making to hold a public examination, Ms Byrne stated there are no published guidelines, but rather

We have internal policies and procedures in relation to our determinations that involve different aspects of the matter, whether it is through our investigators, whether it is through the Deputy Commissioners or Commissioner or our legal team.⁷⁶

IOV has informed the Committee that it is currently reviewing draft guidelines for witnesses, and that it supports ‘a requirement that IBAC publish guidelines for holding public examinations’.⁷⁷ In referencing the guidelines published by ICAC NSW, IOV has stated that

The guidelines ensure ICAC has a process for approaching important issues in a public investigation, including how ICAC will deal with exculpatory evidence, and how the affected person can seek to place exculpatory evidence before the Commission.⁷⁸

IBAC has emphasised to the Committee that it currently provides witnesses with access to a Witness Liaison Officer, and an additional witness information sheet.⁷⁹ Additionally, IBAC has information about public and private examinations and its investigative processes published on its website.⁸⁰ The Committee commends IBAC for the work it has done to improve witness welfare during its investigations, and in particular that it is currently working to improve the information given to witnesses at public examinations. The Committee believes these first steps could be improved further by codifying the requirements for IBAC to produce guidelines, and by requiring them to be published.

RECOMMENDATION 9: That the Victorian Government seek to amend the *IBAC Act 2011* (Vic) to require the Independent Broad-based Anti-corruption Commission (IBAC) to table and publish procedural guidelines for:

- IBAC’s process for deciding whether to hold a public examination
- Procedural fairness processes for witnesses in public examinations

⁷⁵ Alison Byrne, Chief Executive Officer, Independent Broad-based Anti-corruption Commission, Public hearing, Melbourne, 22 September 2025, *Transcript of evidence*, p. 11.

⁷⁶ Ibid.

⁷⁷ Integrity Oversight Victoria, Inquiry into the Adequacy of the Legislative Framework for the Independent Broad-based Anti-corruption Commission hearings, response to questions on notice received 23 October 2025, p. 4.

⁷⁸ Ibid.

⁷⁹ Independent Broad-based Anti-corruption Commission, Inquiry into the Adequacy of the Legislative Framework for the Independent Broad-based Anti-corruption Commission hearings, response to questions on notice received 24 October 2025, p. 4.

⁸⁰ Ibid.

4.3 Claims of privilege

4.3.1 The current process for making claims of privilege

A person who is summoned to give evidence at an examination or to provide a document or thing to the Commission may make a claim of privilege.⁸¹ Upon the making of a claim of privilege, IBAC must decide whether to withdraw the request. If IBAC does not withdraw the request to the witness it must make an application to the Supreme Court within 7 days for determination of the claim of privilege.⁸² The Supreme Court determination can take significant time and delay the progress of an IBAC investigation.⁸³

This process for making a claim of privilege can also be seen with the Integrity Commission in the ACT⁸⁴ and the Independent Commission Against Corruption in South Australia, for the purposes of search warrants.⁸⁵ In contrast, in Queensland if a witness makes a claim of reasonable excuse in the course of a corruption investigation conducted by the Crime and Corruption Commission, the Commission must decide whether to withdraw the requirement.⁸⁶ If the Commission does not withdraw the requirement, an application must be made to the Supreme Court to decide on the claim of privilege, however, the legislation does not specify which party must make the application.⁸⁷

The *Inquiries Act 2014* (Vic) provides for witnesses to make a claim of a 'reasonable excuse' for not complying with a notice to attend or notice to produce that they were served with in relation to a Board of Inquiry.⁸⁸ The Board of Inquiry can then vary or revoke the notice to the witness, in response to the witnesses claim, or on the Board of Inquiry's own motion.⁸⁹ This process is less prescriptive than the claim of privilege process in the *IBAC Act 2011* (Vic). While considering the *Inquiries Act 2014* (Vic) by comparison is useful, the Committee notes that a 'claim of reasonable excuse' is different than claims of privilege in the *IBAC Act 2011* (Vic).

The Law Institute of Victoria has stressed that '[t]he term 'privilege' is broad under the IBAC Act and encompasses all privileges that a person is entitled to claim before a court or tribunal (except for journalistic privilege).'⁹⁰ Therefore, it includes legal professional privilege and parliamentary privilege. Additionally, claims of privilege can

⁸¹ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) ss 59L, 146.

⁸² *Ibid.* ss 59M, 100, 147.

⁸³ Notably Operation Sandon and Operation Richmond have both had significant delays.

⁸⁴ *Integrity Commission Act 2018* (ACT) ss 161-162.

⁸⁵ *Independent Commission Against Corruption Act 2012* (SA), sch 3 s 3.

⁸⁶ *Crime and Corruption Act 2001* (Qld) s 190.

⁸⁷ *Ibid.*

⁸⁸ *Inquiries Act 2014* (Vic) s 65.

⁸⁹ *Ibid.*

⁹⁰ Law Institute of Victoria, Inquiry into the Adequacy of the Legislative Framework for the Independent Broad-based Anti-corruption Commission hearings, response to questions on notice received 27 October 2025, p. 1.

be made in a range of circumstances under the *IBAC Act 2011* (Vic), such as when a search warrant is executed or an individual is served with a witness summons.⁹¹

4.3.2 Proposed changes to claims of privilege process

Accountability Round Table and former IBAC Commissioner Hon Robert Redlich AM KC, have submitted that the process for claims of privilege should change.⁹² The proposed change would allow the Commissioner to make a ruling regarding the claim of privilege, and if the ruling is that the claim of privilege is not valid, compel the witness to provide the requested information.⁹³ Subsequently, if the witness wants to pursue the claim of privilege, the proposed change would place the onus on the witness to make an application to the Supreme Court to decide on the claim of privilege.⁹⁴ This would also require an additional application to the Supreme Court for an order to restrain IBAC from proceeding until the claim is determined.

It has been suggested that the proposed change could reduce delays in IBAC's investigative process.⁹⁵ Giving the Commissioner the additional power to make an initial ruling on the claim of privilege may, in some circumstances, avoid the need for an application to the Supreme Court. However, the Commissioner can currently make a decision whether to withdraw the request that led to the claim of privilege, therefore, the change of onus may not be significant in reducing time delays. Additionally, if an application is made in the Supreme Court, which party is required to make the application does not affect the time it takes for a determination to be made.

Both IOV and IBAC have suggested that changing the claim of privilege process *could* reduce the risk of delays due to unmeritorious claims.⁹⁶ However, IBAC has stated that 'such a change would place significant responsibility and cost on claimants and could limit access to judicial review for those with fewer resources'.⁹⁷ Additionally, IOV has stated that the 'efficient conduct of examinations' is preferable for many reasons, including witness welfare.⁹⁸

⁹¹ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) ss 59L, 97, 146.

⁹² Robert Redlich, *Submission 6*, received 25 June 2025, pp. 10–11. Accountability Round Table, *Submission 9*, received 26 June 2025, pp. 6–7.

⁹³ Ibid.

⁹⁴ Ibid.

⁹⁵ Ibid. Robert Redlich, *Submission 6*, received 25 June 2025, pp. 10–11. Accountability Round Table, *Submission 9*, received 26 June 2025, pp. 6–7.

⁹⁶ Integrity Oversight Victoria, Inquiry into the Adequacy of the Legislative Framework for the Independent Broad-based Anti-corruption Commission hearings, response to questions on notice received 23 October 2025, p. 4; Independent Broad-based Anti-corruption Commission, Inquiry into the Adequacy of the Legislative Framework for the Independent Broad-based Anti-corruption Commission hearings, response to questions on notice received 24 October 2025, p. 5.

⁹⁷ Independent Broad-based Anti-corruption Commission, Inquiry into the Adequacy of the Legislative Framework for the Independent Broad-based Anti-corruption Commission hearings, response to questions on notice received 24 October 2025, p. 5.

⁹⁸ Integrity Oversight Victoria, Inquiry into the Adequacy of the Legislative Framework for the Independent Broad-based Anti-corruption Commission hearings, response to questions on notice received 23 October 2025, p. 4.

LIV has considered the suggested amendment in the context of claims of legal professional privilege.⁹⁹ LIV has stated that changing the claim of privilege process would have ‘minimal effect to reduce time delays in process’, and that ‘any potential timeliness that may be gained could be at the expense of access to justice if a claimant is required to cover Supreme Court filing costs to have the Supreme Court assess their claim.’¹⁰⁰ Additionally, LIV has stressed that the Commissioner is an ‘independent officer of the parliament’,¹⁰¹ and its view is that legal professional privilege should only be determined by the judicial arm of Government.¹⁰²

The investigation process, and being summoned as a witness, can be a very distressing experience for individuals, as the Committee been advised in evidence received.¹⁰³ Also, IBAC has emphasised that ‘any amendment should carefully balance efficiency, fairness and equitable access to judicial review.’¹⁰⁴ Requiring a witness making a claim of privilege to initiate the application for a determination in the Supreme Court could increase the stressful nature of this process, reduce access to due process resulting from an additional financial burden, and exacerbate witness welfare concerns. Therefore, such a change should only be made if it is completely necessary.

4.4 Public examinations and IBAC’s educative and preventive functions

4.4.1 IBAC’s current educative and preventive functions

Under section 15(5) of the *IBAC Act 2011* (Vic), ‘IBAC has education and prevention functions for the purpose of achieving the objects of this Act.’¹⁰⁵ Additionally, the objects of the Act include to:

facilitate the education of the public sector and the community about the detrimental effects of corrupt conduct and police personnel misconduct on public administration and the community and the ways in which corrupt conduct and police personnel misconduct can be prevented.¹⁰⁶

IBAC states that it fulfils its prevention role ‘by informing the public sector, police and community about the risks and impacts, and what can be done to stop corruption

⁹⁹ Law Institute of Victoria, *Inquiry into the Adequacy of the Legislative Framework for the Independent Broad-based Anti-corruption Commission* hearings, response to questions on notice received 27 October 2025, pp. 1–2.

¹⁰⁰ *Ibid.*, p. 1.

¹⁰¹ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 19(1).

¹⁰² Law Institute of Victoria, *Inquiry into the Adequacy of the Legislative Framework for the Independent Broad-based Anti-corruption Commission* hearings, response to questions on notice received 27 October 2025, p. 2.

¹⁰³ Susan Serey, *Submission 12*, received 30 June 2025. Janet Halsall, et al., *Submission 4*, received 3 June 2025.

¹⁰⁴ Independent Broad-based Anti-corruption Commission, *Inquiry into the Adequacy of the Legislative Framework for the Independent Broad-based Anti-corruption Commission* hearings, response to questions on notice received 24 October 2025, p. 5.

¹⁰⁵ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 15(5).

¹⁰⁶ *Ibid.* s 8(c).

and police misconduct.¹⁰⁷ This includes identifying trends, educating the public sector about vulnerabilities within their organisations, and making recommendations for improvement and to prevent events from happening again.¹⁰⁸ As Dr Adam Masters noted, it is preferable to prevent corruption rather than merely punish it – both in terms of financial cost and in achieving a meaningful reduction in corruption rates.¹⁰⁹ IBAC Commissioner, Victoria Elliott has asserted that ‘[t]he impact of greater public awareness of how corruption and misconduct is being addressed and prevented cannot be understated, nor can the importance of clarity.’¹¹⁰ Therefore, the educative and preventive functions of IBAC are integral to the purposes of the *IBAC Act 2011* (Vic).¹¹¹

IBAC’s educative and preventive functions are for the purpose of *sharing information* with the public sector and the wider public. This is notably different from IBAC’s preliminary inquiry and investigative powers, which are for the purpose of *evidence gathering*.

4.4.2 Should IBAC be able to hold public examinations for educative and preventive functions?

IBAC has submitted that the power to hold public examinations should be extended to allow IBAC to hold public examinations for the purposes of its educative and preventive function, and not limited to being in connection with an investigation.¹¹² It has stated that this power would provide a platform for informing the public and the public sector.¹¹³ IOV has supported IBAC’s recommendation, provided the appropriate safeguards are in place.¹¹⁴ The recommendation from IBAC has also been supported by Accountability Round Table.¹¹⁵

Alison Byrne, CEO of IBAC, has suggested that such examinations could be used as ‘more of an academic exercise – people who are subject matter experts and academics giving evidence and giving evidence from other jurisdictions, say, from other integrity bodies’.¹¹⁶ However, she has also noted that there should also be a threshold, such

¹⁰⁷ Independent Broad-based Anti-corruption Commission, *Preventing Corruption: IBAC’s prevention role*, <<https://www.ibac.vic.gov.au/preventing-corruption>> accessed 3 October 2025.

¹⁰⁸ Ibid.

¹⁰⁹ Dr Adam Masters, Executive Director, Transnational Research Institute on Corruption, Public hearing, Melbourne, 22 September 2025, *Transcript of evidence*, p. 42.

¹¹⁰ Victoria Elliott, Commissioner, Independent Broad-based Anti-corruption Commission, Public hearing, Melbourne, 22 September 2025, *Transcript of evidence*, p. 1.

¹¹¹ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 15(5).

¹¹² Independent Broad-based Anti-Corruption Commission, *Submission 23*, received 15 July 2025, p. 12.

¹¹³ Ibid.

¹¹⁴ Louise Macleod, Chief Integrity inspector, Integrity Oversight Victoria, Public hearing, Melbourne, 25 August 2025, *Transcript of evidence*, p. 16.

¹¹⁵ Robert Redlich, *Submission 6*, received 25 June 2025, pp. 11–12. Accountability Round Table, *Submission 9*, received 26 June 2025, p. 8.

¹¹⁶ Alison Byrne, Chief Executive Officer, Independent Broad-based Anti-corruption Commission, Public hearing, Melbourne, 22 September 2025, *Transcript of evidence*, p. 8.

as being in relation to ‘serious and systemic corruption, and the precursors to corruption’.¹¹⁷

Most anti-corruption bodies do not have the power to conduct examinations for educative and preventive functions, with the exception of the Queensland CCC, who in its most recent public examination for this purpose did not compel witnesses to appear.¹¹⁸ The NACC can also hold a public inquiry that is not related to an investigation for preventive functions. It cannot compel witnesses to attend or to produce documents, but may invite submissions.¹¹⁹

The Committee notes that while a public examination and a public inquiry have many similarities, they are not the same. A public examination is the examination of a particular witness, while a public inquiry may require multiple witnesses to appear. The notable characteristic of public inquiries or examinations held for educative or preventive purposes in comparable jurisdictions, is that coercive powers have not been used for this purpose, and witnesses have not been compelled to attend at an inquiry or examination. It would therefore be helpful to differentiate IBAC’s investigative functions from its educative and preventive functions, by distinguishing IBAC’s educative and preventive functions being fulfilled through public inquiries, rather than examinations.

It is notable that the Queensland CCC and the NACC do not compel witnesses when conducting inquiries or examinations for educative purposes.¹²⁰ IBAC has alluded to the requirement to summons parties due to organisational processes, with IBAC Commissioner, Victoria Elliott, stating that ‘[p]eople are not always in a position to provide the actual evidence unless it is through compulsion through a summons’.¹²¹ Additionally, IOV has suggested that the Committee can consider the powers of the Australian Competition and Consumer Commission (ACCC) to hold public inquiries as a comparison.¹²² The ACCC holds public inquiries as an exercise in evidence gathering, which is notably different from the objective of IBAC’s educative and preventive functions to disseminate information.

The Committee understands that the function of the proposed educative and preventive inquiries would be limited if it can only occur voluntarily. However, safeguarding the use of coercive powers in this context would be challenging and it is important that IBAC’s educative and preventive functions are not being used as a tool for gathering evidence. Therefore, if the legislation is amended to give IBAC the power to hold public inquiries for the purposes of its educative and preventive functions, with no connection to an investigation, IBAC should be able to summons parties to

¹¹⁷ Ibid.

¹¹⁸ *Crime and Corruption Act 2001* (Qld) s 176. Independent Broad-based Anti-Corruption Commission, *Submission 23*, received 15 July 2025, pp. 10–11.

¹¹⁹ *National Anti-Corruption Commission Act 2022* (Cth) ss 161–171.

¹²⁰ *Crime and Corruption Act 2001* (Qld) s 176. *National Anti-Corruption Commission Act 2022* (Cth) ss 161–171.

¹²¹ Victoria Elliott, Commissioner, Independent Broad-based Anti-corruption Commission, Public hearing, Melbourne, 22 September 2025, *Transcript of evidence*, p. 8.

¹²² Integrity Oversight Victoria, Inquiry into the Adequacy of the Legislative Framework for the Independent Broad-based Anti-corruption Commission hearings, response to questions on notice received 23 October 2025, p. 5.

attend public inquiries for administrative purposes. However, the Committee contends that there should not be any criminal sanctions for not complying with a summons to attend a public inquiry for educative and preventive purposes. Additionally, IBAC should not be able to use any other coercive powers in this context.

4.4.3 IBAC's finite resources should be used where they are needed most

IBAC has acknowledged that '[t]he effective operation of Victoria's integrity system depends on each agency using its finite resources to maximise impact.'¹²³ Additionally, IBAC is legislatively required to prioritise the investigation and exposure of serious corrupt conduct and systemic corrupt conduct.¹²⁴ Therefore, while IBAC's educative and preventive functions are integral, they are not IBAC's highest priority.

There is also concern that any expansion of IBAC's powers could negatively impact its ability to effectively discharge its police oversight responsibilities,¹²⁵ as discussed in detail in Chapter 6. Any decision to expand IBAC's ability to hold public examinations must take into account the resource capacity and ensure that existing resources are sufficient to support the use of expanded powers.

RECOMMENDATION 10: That the Victorian Government seek to amend the *IBAC Act 2011* (Vic) to permit the Independent Broad-based Anti-corruption Commission (IBAC) to hold public inquiries for the purposes of its educative and preventive functions, and to be able to summons parties to attend public inquiries, without criminal sanctions for not complying with the summons. The Victorian Government should ensure IBAC is not able to use any other coercive powers in its educative and preventive functions.

4.5 Conclusion

IBAC's use of public and private examinations is integral to its functions for exposing corruption and serious police misconduct within the public sector. In examining the effectiveness of the legislation that underpins this function, the Committee has heard from many stakeholders regarding the balance of the rights of the individual being examined and the public interest in exposing corruption. The Committee contends that the current legislation is functioning satisfactorily and should be retained in its current form.

While there is value in IBAC being able to hold public examinations, and a certain amount of procedural confidentiality is required, increased transparency would improve the public's trust in IBAC. The Committee, therefore, considers it appropriate

¹²³ Independent Broad-based Anti-Corruption Commission, *Submission 23*, received 15 July 2025, p. 1.

¹²⁴ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 15(1A).

¹²⁵ Integrity Oversight Victoria, *Submission 21*, received 15 July 2025, pp. 1–2. Louise Macleod, Chief Integrity inspector, Integrity Oversight Victoria, Public hearing, Melbourne, 25 August 2025, *Transcript of evidence*, p. 16.

for IBAC to be required to publish guidelines for deciding to hold a public examination, and for the procedural fairness processes when it does so. Additionally, the oversight mechanism of notifying IOV prior to holding a public examination can be strengthened by requiring this to occur before the serving of a summons on the witness.

The Committee has considered IBAC's educative and preventive functions in the context of public examinations, and has determined that a legislative expansion in this area is appropriate. Public hearings for educative and preventive purposes should be distinct from examinations for investigative purposes. Additionally, for the function to be effective IBAC should have the flexibility to use this function in a variety of ways. Therefore, IBAC having the ability to hold public inquiries for educative and preventive purposes strikes the right balance. Furthermore, it is essential that IBAC not be able to use its coercive powers in the function of public inquiries, aside from the ability to summons witnesses for administrative purposes.

Chapter 5

Confidentiality and information security

5.1 Information security

The primary legislation for information security in the Victorian Public Sector (VPS) is the *Privacy and Data Protection Act 2014* (Vic) ('*PDP Act 2014* (Vic)'), and under this legislation the Office of the Victorian Information Commissioner (OVIC) has the authority to audit public sector bodies to ensure they are complying with the Act.¹ OVIC has stated it has not had reason to audit IBAC to gain insight into its information security environment.²

OVIC has the authority to establish the Victorian Protective Data Security Framework under part 4 of the *PDP Act 2014* (Vic).³ This Framework is supported by the Victorian Protective Data Security Standards which contain 12 high-level mandatory requirements and takes a risk-based approach to information security, reflecting best practice standards.⁴ Organisations such as IBAC can determine which elements are applicable, and develop their own controls as required, based on their specific circumstances.⁵ Additionally, customised Standards can be issued that apply to specific agencies or bodies.

IBAC has submitted that its information security protocols are fit-for-purpose, and the legislation does not require amendment in this area.⁶ OVIC has submitted that the *PDP Act 2014* (Vic) should continue to be the primary avenue for public sector information and information systems to be protected.⁷ Additionally, OVIC warns against legislative amendments specific to an individual organisation, as this may cause unnecessary complexity.⁸

¹ *Privacy and Data Protection Act 2014* (Vic) ss 8C-8D.

² Office of the Victorian Information Commissioner, *Submission 20*, received 14 July 2025, p. 1.

³ *Privacy and Data Protection Act 2014* (Vic) s 85.

⁴ Office of the Victorian Information Commissioner, *Victorian Protective Data Security Standards Version 2.0: Implementation Guidance Version 2.3* (February 2024).

⁵ Office of the Victorian Information Commissioner, *Submission 20*, received 14 July 2025, p. 2.

⁶ Independent Broad-based Anti-Corruption Commission, *Submission 23*, received 15 July 2025, p. 13.

⁷ Office of the Victorian Information Commissioner, *Submission 20*, received 14 July 2025, p. 3.

⁸ *Ibid.*

5.2 Freedom of information and the *IBAC Act 2011* (Vic)

5.2.1 The current legislation

The objective of the *Freedom of Information Act 1982* (Vic) ('*FOI Act 1982* (Vic)') is to 'extend as far as possible the right of the community to access to information in the possession of the Government of Victoria and other bodies constituted under the law of Victoria for certain public purposes'.⁹ Individuals can make a request in writing to the relevant agency for access to documents.¹⁰ The request for access to documents may be refused in certain circumstances, including if granting the request would unreasonably divert the agency's resources from its other operations.¹¹ The Committee's 2024 report on *The operation of the Freedom of Information Act 1982* (Vic), identified the three main justifications for the Act at its inception in 1982, that were recognised by the then Premier, John Cain. They were:

- enhanced personal autonomy and privacy: Victorians would be able to better guard against intrusions, make more informed decisions, and correct any inaccuracies in personal information held about them
- better transparency and accountability: when Victorians have more information about the operation of their government and its agencies, they can be better held to account
- increased and better-informed political participation: Victorians would be more engaged and better-informed participants in the democratic system.¹²

Part IV of the *FOI Act 1982* (Vic) outlines documents that are exempt from the Act, including section 31A, which outlines documents relating to IBAC are exempt if they would:

- prejudice an IBAC investigation
- disclose the identity of someone who has provided information to IBAC
- disclose or prejudice the effectiveness of IBAC's methods and procedures
- endanger persons who are connected to IBAC's functions, including by providing information to IBAC.¹³

Additionally, IBAC should be notified, and their view should be sought, when any document is being assessed for exemption under section 31A.¹⁴

⁹ *Freedom of Information Act 1982* (Vic) s 3(1).

¹⁰ *Freedom of Information Act 1982* (Vic) s 17(1).

¹¹ *Freedom of Information Act 1982* (Vic) s 25A.

¹² Integrity and Oversight Committee, *The operation of the Freedom of Information Act 1982* (Vic), Parliament of Victoria, Melbourne, May 2025, p. 9.

¹³ *Freedom of Information Act 1982* (Vic) s 31A(1).

¹⁴ *Ibid.*, s 31A(2).

Section 194 of the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) ('IBAC Act 2011 (Vic)') also provides exemption from the *FOI Act 1982* (Vic) regarding documents that disclose information in relation to investigations, preliminary inquiries, complaints and notifications under the *IBAC Act 2011* (Vic).¹⁵

By comparison, in most jurisdictions across Australia there is no specific exemption from freedom of information for anti-corruption agencies. In Queensland's *Right to Information Act 2009* (Qld), information is exempt if it relates to the work of the Crime and Corruption Commission, however, the exemption does not apply if the information requested is about the applicant and the investigation has been finalised.¹⁶ This caveat provides for complainants to make a request for information about the information that applies to them, when it is appropriate to do so.

Box 5.1 Freedom of information in the IBAC Act

194 Exemption from Freedom of Information Act 1982

- (1) The Freedom of Information Act 1982 does not apply to a document that is in the possession of any person or body to the extent to which the document discloses information that relates to—
 - (a) a recommendation made by the IBAC under this Act; or
 - (b) an investigation conducted under this Act; or
 - (c) a report, including a draft report, on an investigation conducted under this Act.
- (2) The Freedom of Information Act 1982 does not apply to a document that is in the possession of the IBAC to the extent to which the document discloses information that relates to—
 - (a) a complaint; or
 - (b) information received by the IBAC under section 56; or
 - (c) a notification made to the IBAC under a mandatory notification provision; or
 - (d) a preliminary inquiry.
- (3) In this section, document has the same meaning as it has in the Freedom of Information Act 1982.

Source: *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 194.

¹⁵ *Independent Broad-based Anti-corruption Commission Act 2011* s 194.

¹⁶ *Right to Information Act 2009* (Qld), sch 3 s 10.

5.2.2 Should IBAC's exemption from the Freedom of Information Act remain in its current form?

There have been submissions that the exemption from the *FOI Act 1982* (Vic) in section 194 of the *IBAC Act 2011* (Vic) is not necessary and should be repealed.¹⁷ The exemption under this section includes documents in possession of IBAC that contain information related to a complaint.¹⁸ The Police Oversight Working Group has stated that 'complainants should have access to information on the Government records that pertains to them'¹⁹, and has highlighted transparency in the way an investigation has been conducted as a fundamental element of victim-centred complaint-handling.²⁰ The intention of the *FOI Act 1982* (Vic) to provide transparency and accountability for the public, particularly for documents that relate to oneself, is counter to this exemption. However, if the exemption were repealed there would be a question of whether the complainant would be sufficiently protected.

The exemptions under section 31A of the *FOI Act 1982* (Vic) do not specifically exempt documents relating to a complaint made to IBAC, however, it does include any document that would 'disclose, or enable a person to ascertain, the identity of any person or body (other than Victoria Police) who has provided information to the IBAC'.²¹ Some submissions have suggested that this protection is sufficient, and that section 194 of the *IBAC Act 2011* (Vic) is therefore unnecessary.²²

OVIC has asserted that '[i]n a best practice ATI law, the non-disclosure of information must be justified on a case-by-case basis. Exemptions should not apply in a 'blanket' way to classes of documents or information.'²³ However, as the Committee has discussed in its report on *The operation of the Freedom of Information Act 1982* (Vic), which was tabled in the Parliament in September 2024, OVIC has also noted that '[e]very government holds information that should legitimately be withheld from open access. The principle of maximum disclosure cannot mean the release of all documents.'²⁴ Additionally, section 94H of the *Victorian Constitution Act 1975* provides for a general right to information, but allows for 'exceptions and exemptions necessary for the protection of essential public interests and the private and business affairs of persons in respect of whom information is collected and held by agencies.'²⁵

¹⁷ Police Oversight Working Group, *Submission 19*, received 14 July 2025, p. 4. RMIT University Bridge of Hope Innocence Initiative, *Submission 11*, received 30 June 2025, p. 3.

¹⁸ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 194(2)(a).

¹⁹ Police Oversight Working Group, *Submission 19*, received 14 July 2025, p. 4.

²⁰ *Ibid.*, p. 11.

²¹ *Freedom of Information Act 1982* (Vic) s 31A(1)(b).

²² Police Oversight Working Group, *Submission 19*, received 14 July 2025, p. 4.

²³ Office of the Victorian Information Commissioner, submission to Parliament of Victoria, Integrity and Oversight Committee, Inquiry into the operation of the Freedom of Information Act 1982 (Vic), 2024, p. 124.

²⁴ *Ibid.*, p. 125. Integrity and Oversight Committee, *The operation of the Freedom of Information Act 1982* (Vic), Parliament of Victoria, Melbourne, May 2025, p. 66.

²⁵ *Constitution Act 1975* (Vic) s 94H.

IBAC has stressed the importance of section 194 of the *IBAC Act 2011* (Vic) 'to protect integrity investigations, complainants, whistleblowers, witnesses and other sensitive information.'²⁶ Integrity Oversight Victoria (IOV) has suggested that rather than making changes to section 194 of the Act, '[g]reater transparency and accountability for complainants can be created through other provisions'.²⁷ IBAC has also stated that it 'does release information to complainants outside of the FOI regime where it is lawful to do so', such as under the *PDP Act 2014* (Vic).²⁸

The Committee has considered whether an addition to section 194 of the *IBAC Act 2011* (Vic) to provide a caveat similar to that of the Crime and Corruption Commission in the *Right to information Act 2009* (Qld) would be appropriate. However, the Committee considers that increasing transparency for complainants can be addressed more effectively in other areas. This has been explored in greater detail in Chapter 6.

Additionally, the Committee reiterates Recommendation 14 of the report on *The operation of the Freedom of Information Act 1982* (Vic).²⁹

5.2.3 Should complaints referred to Victoria Police by IBAC be protected under section 194 of the Act?

Some submissions have stated that in some circumstances, when a Freedom of Information request is made to Victoria Police in relation to a complaint that was made to IBAC and referred to Victoria Police under section 73 of the *IBAC Act 2011* (Vic), Victoria Police have claimed an exemption under section 194 of the Act.³⁰ Section 194(1)(a) states that the FOI Act does not apply if the document relates to an investigation conducted under the *IBAC Act 2011* (Vic).³¹ Therefore, the question arises; when a matter is referred to Victoria Police by IBAC does the subsequent investigation conducted by Victoria Police fall under the *IBAC Act 2011* (Vic) or the *Victoria Police Act 2013* (Vic) ('*VP Act 2013* (Vic)'). This has been addressed by the Committee previously in its report on *The operation of the Freedom of Information Act 1982* (Vic).³²

This question has been considered in VCAT hearings, with differing results. In *Gilmore v Victoria Police FOI Division* in 2018, it was found that '[t]he documents in dispute are within s 194(1)(b) of the IBAC Act as they disclose information relating to an

²⁶ Independent Broad-based Anti-corruption Commission, Inquiry into the Adequacy of the Legislative Framework for the Independent Broad-based Anti-corruption Commission hearings, response to questions on notice received 24 October 2025, p. 6.

²⁷ Integrity Oversight Victoria, Inquiry into the Adequacy of the Legislative Framework for the Independent Broad-based Anti-corruption Commission hearings, response to questions on notice received 23 October 2025, p. 6.

²⁸ Independent Broad-based Anti-corruption Commission, Inquiry into the Adequacy of the Legislative Framework for the Independent Broad-based Anti-corruption Commission hearings, response to questions on notice received 24 October 2025, p. 6.

²⁹ Integrity and Oversight Committee, *The operation of the Freedom of Information Act 1982* (Vic), Parliament of Victoria, Melbourne, May 2025, p. 93.

³⁰ Police Oversight Working Group, *Submission 19*, received 14 July 2025, p. 12.

³¹ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 194(1)(a).

³² Integrity and Oversight Committee, *The operation of the Freedom of Information Act 1982* (Vic), Parliament of Victoria, Melbourne, May 2025, pp. 93-95.

investigation conducted under the IBAC Act.³³ In contrast, in *Marke v Victoria Police FOI Division* it was stated that

I have interpreted s 194(1)(b) as referring to an investigation conducted by the IBAC under the IBAC Act and this does not include an investigation conducted by a party to whom the IBAC refers a complaint under ss 58 and 73 of the IBAC Act, as was submitted by Victoria Police.³⁴

These contradictory decisions highlight the ambiguity created by the legislation regarding complaints referred by IBAC to Victoria Police. Resulting from this, lawyers have stated Victoria Police is continuing to interpret section 194 of the *IBAC Act 2011* (Vic) inconsistently. Therefore, complainants are being discouraged from directing complaints about Victoria Police to IBAC for many reasons including to enable complainants to make a request for information once their complaint is finalised.³⁵ To overcome this issue, the legislation needs to be amended to make it clear that section 194 of the *IBAC Act 2011* (Vic) does not apply to information obtained subsequent to a referral made under section 73 of the *IBAC Act 2011* (Vic).

The Committee, therefore, reiterates Recommendation 15 in its report on *The operation of the Freedom of Information Act 1982* (Vic).³⁶

RECOMMENDATION 11: That the Victorian Government seek to amend section 194 of the *IBAC Act 2011* (Vic) to make clear that a Victoria Police investigation following a referral from the Independent Broad-based Anti-corruption Commission (IBAC) is not an investigation ‘conducted under the IBAC Act’, so that documents collected by Victoria Police during such an investigation are not exempt under section 194 from the operation of the *Freedom of Information Act 1982* (Vic).

³³ *Gilmore v Victoria Police (FOI Division)* [2018] VCAT 899 (Review and Regulation), 107.

³⁴ *Marke v Victoria Police FOI Division* [2018] VCAT 1320, 168.

³⁵ Nerita Waight, Chief Executive Officer, Victorian Aboriginal Legal Service, Public hearing, Melbourne, 8 September 2025, *Transcript of evidence*, p. 9. Jeremy King, President, Australian Lawyers Alliance, Public hearing, Melbourne, 25 August 2025, *Transcript of evidence*, pp. 9-10.

³⁶ Integrity and Oversight Committee, *The operation of the Freedom of Information Act 1982* (Vic), Parliament of Victoria, Melbourne, May 2025, p. 95.

5.3 Confidentiality notices

5.3.1 Should the process for amending confidentiality notices be changed?

Table 5.1 The confidentiality notice process under the *IBAC Act 2011* (Vic)

Process	Description
Issuing	IBAC may issue a confidentiality notice during an investigation, or during a preliminary investigation when a witness summons has been issued, if the disclosure of information could affect the investigation, the safety or reputation of a person, or a fair trial. ³⁷
Service	Confidentiality notices, cancellation notices, or extension orders must be served in the same manner as a witness summons ³⁸ . Modes of service include: <ul style="list-style-type: none"> • personal service • by registered post • electronic service, by consent • leaving at their residence or place of business with a person aged 16 or over • delivering or sending it to their legal representative.³⁹
Prohibition of disclosure	IBAC must specify the restricted matter in the confidentiality notice, ⁴⁰ and once served, it is a criminal offence for a person to disclose the restricted matter. ⁴¹
Exceptions to non-disclosure	The specified restricted matter may be disclosed in the following circumstances: <ul style="list-style-type: none"> • with IBAC's direction or authorisation • when necessary for compliance (such as to an interpreter, a guardian for a person under 18) • for legal advice or representation • unless directed otherwise by IBAC, to the spouse or domestic partner, and the employer or manager of the person served with the notice • unless directed otherwise by IBAC, to a registered health practitioner, employee assistance program, or trade union for obtaining support • for the purpose of claiming workers' compensation • for the purposes of an application and proceeding with the Fair Work Commission • to an investigating entity that IBAC has referred the matter to • to Victoria Police if IBAC has disclosed the restricted matter to Victoria Police and it is relevant to a Victoria Police investigation.⁴²
Amendment or Cancellation	IBAC can cancel a confidentiality notice if it is no longer necessary. ⁴³ If IBAC determines that the restricted matters under a confidentiality notice have changed, IBAC must cancel the notice, and issue a new one. ⁴⁴
Duration	The confidentiality notice is effective until 5 years after the date of the first notice, unless it is cancelled by IBAC on an earlier date. ⁴⁵

³⁷ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) ss 42(1)-(1A).

³⁸ *Ibid.*, s 42(9).

³⁹ *Ibid.*, ss 59I(3)-(4), 191(1)-(2).

⁴⁰ *Ibid.*, s 42(2)(b).

⁴¹ *Ibid.*, s 44(1).

⁴² *Ibid.*, ss 44(2-2B).

⁴³ *Ibid.*, s 4(5).

⁴⁴ *Ibid.*, s 42(3).

⁴⁵ *Ibid.*, s 42(6).

Process	Description
Extension	IBAC can apply to the Supreme Court for an extension of the confidentiality notice. ⁴⁶
Oversight requirements	IBAC must provide IOV with copies of: <ul style="list-style-type: none">• each confidentiality notice• each cancellation notice• any application to extend made to the Supreme Court• any extension order made by the Court.⁴⁷

IBAC has proposed that the current process for amending a confidentiality notice is unnecessarily complex,⁴⁸ and IOV has stated confidentiality in the Act should be considered.⁴⁹ The current process under section 42(3) of the Act requires IBAC to cancel a confidentiality notice, and issue a new confidentiality notice if it deems that the restricted matters that should be included in the notice have changed.⁵⁰ It does not allow IBAC to vary a confidentiality notice if IBAC considers it is necessary to add a restricted matter, when a particular matter no longer needs to be restricted, or if it is no longer necessary to restrict matter specified in the confidentiality notice.

IBAC has suggested that a provision could be introduced to allow IBAC to amend a confidentiality notice without the need to cancel and reissue.⁵¹ The suggested provision would reduce the current administrative burden on IBAC, and provide clearer directions for the confidentiality notice recipient.

The current service requirement for a confidentiality notice is that it be served in the same manner as a witness summons.⁵² If a provision is introduced to allow IBAC to issue an amended confidentiality notice, the same requirements for service should apply to an amended confidentiality notice.

RECOMMENDATION 12: That the Victorian Government seek to amend section 42 of the *IBAC Act 2011* (Vic) to permit the Independent Broad-based Anti-corruption Commission (IBAC) to issue amended confidentiality notices, and require it be served in the same matter as a new confidentiality notice.

⁴⁶ Ibid., s 42(8).

⁴⁷ Ibid., s 43.

⁴⁸ Independent Broad-based Anti-Corruption Commission, *Submission 23*, received 15 July 2025, pp. 15-16.

⁴⁹ Cathy Cato, Chief Executive Officer, Integrity Oversight Victoria, Public hearing, Melbourne, 25 August 2025, *Transcript of evidence*, p. 17.

⁵⁰ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 42(3).

⁵¹ Independent Broad-based Anti-Corruption Commission, *Submission 23*, received 15 July 2025, p. 13.

⁵² *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 42(9).

5.3.2 Should the definition of a ‘restricted matter’ be expanded?

Box 5.2 The current definition of a restricted matter in the *IBAC Act 2011* (Vic)

restricted matter means—

- (a) any evidence or information given to, or obtained by, the IBAC;
- (b) the contents of any document, or a description of any thing, produced to, or obtained by, the IBAC;
- (c) the contents of any document, or a description of any thing, which the IBAC has made a copy of or seized under Division 3 or Division 4 of Part 4;
- (d) the existence of, or any information about, a confidentiality notice or a witness summons;
- (e) the subject matter of an investigation in relation to which a witness summons has been issued;
- (f) any information that could enable a person who has been, or is proposed to be, examined by, or who has produced, or may produce, any document or thing to, the IBAC, to be identified or located;
- (g) the fact that a person has been, or is proposed to be, examined by, or has produced, or may produce, any document or thing to, the IBAC;
- (h) the fact that a disclosure or related disclosure has been notified to an appropriate entity for assessment under Part 3 of the **Public Interest Disclosures Act 2012**;
- (i) the fact that a disclosure or related disclosure has been determined under Part 3 of the **Public Interest Disclosures Act 2012** to be a public interest complaint.

Source: *Independent Broad-based Anti-corruption Commission Act 2011* (Vic), s 3(1).

The current definition of a restricted matter under the *IBAC Act 2011* (Vic) includes the subject matter of an investigation where a witness summons has been issued, and any information that could identify an individual who has been or will be examined.⁵³ IBAC has sought for the definition to be expanded to include the subject matter or individual who is the subject of a preliminary inquiry.⁵⁴ While IBAC can issue a confidentiality notice during a preliminary inquiry under section 42(1A) of the Act,⁵⁵ the definition of ‘restricted matter’ does not include the subject matter of a preliminary inquiry. A confidentiality notice is issued to stop the disclosure of a restricted matter, therefore, these two elements in the Act are contradictory.

⁵³ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 3(1).

⁵⁴ Independent Broad-based Anti-Corruption Commission, *Submission 23*, received 15 July 2025, p. 16.

⁵⁵ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 42(1A).

IBAC has also sought for the definition of a restricted matter to include the subject matter or individual under investigation regardless of whether a witness summons has been issued.⁵⁶ IBAC does not always issue a confidentiality notice and a summons simultaneously, and views this as a gap in the legislation.⁵⁷ It can cause issues where it is not necessary to issue a witness summons or when it would be premature to issue a witness summons.

IOV has stated that it ‘does not consider there are any disadvantages in including the subject matter of a preliminary inquiry in the definition of a ‘restricted matter’.⁵⁸ The Law Institute of Victoria (LIV) has also stated that it supports the proposed amendment, stating that the current definition of a ‘restricted matter’ in the *IBAC Act 2011* (Vic) is too narrow and could result in disclosure of information that is the subject of a preliminary inquiry or investigation.⁵⁹ Additionally, LIV has stated that the proposed amendments ‘would place additional safeguards to protect the reputation of individuals whilst they remain under investigation or subject to a preliminary inquiry’.⁶⁰ Meanwhile, Transparency International Australia has suggested the proposed change could ‘risk deterring witnesses, whistleblowers and journalists from seeking lawful advice or contextual support’, therefore, strong safeguards are integral.⁶¹

Expanding the definition of a ‘restricted matter’ in these ways would create greater consistency across the Act, and improve IBAC’s processes at both preliminary inquiry and investigation stages. Additionally, it would improve IBAC’s ability to protect the reputation of individuals associated with preliminary inquiries and ongoing investigations.

RECOMMENDATION 13: That the Victorian Government seek to amend section 3 of the *IBAC Act 2011* (Vic) to expand the definition of a ‘restricted matter’ to include:

- The subject matter or individual who is subject to a preliminary inquiry
- The subject matter or individual who is subject to an investigation, when a confidentiality notice has not been issued.

⁵⁶ Independent Broad-based Anti-Corruption Commission, *Submission 23*, received 15 July 2025, p. 16.

⁵⁷ Ibid.

⁵⁸ Integrity Oversight Victoria, *Inquiry into the Adequacy of the Legislative Framework for the Independent Broad-based Anti-corruption Commission* hearings, response to questions on notice received 23 October 2025, p. 5.

⁵⁹ Law Institute of Victoria, *Inquiry into the Adequacy of the Legislative Framework for the Independent Broad-based Anti-corruption Commission* hearings, response to questions on notice received 27 October 2025, p. 3.

⁶⁰ Ibid., p. 4.

⁶¹ Transparency International Australia, *Inquiry into the Adequacy of the Legislative Framework for the Independent Broad-based Anti-corruption Commission* hearings, response to questions on notice received 27 October 2025, p. 4.

5.4 Exceptions to non-disclosure requirements

5.4.1 The current legislation

Box 5.3 Exceptions to non-disclosure requirements in section 184 of the IBAC Act 2011 (Vic)

- (5) For the purposes of this section, the specified circumstances are—
- (a) disclosure to any person where necessary for the purposes of obtaining any information, document or other thing to comply with a witness summons, a confidentiality notice, a notice cancelling a confidentiality notice or an order extending a confidentiality notice under section 42 or to comply with this section, including if the person—
 - (i) does not have a sufficient knowledge of the English language to understand the nature of the witness summons, a confidentiality notice, a notice cancelling a confidentiality notice or an order extending a confidentiality notice under section 42 or this section, to an interpreter;
 - (ii) is a person under the age of 18 years, to a parent, guardian or independent person;
 - (iii) is a person who is illiterate or has a mental, physical or other impairment which prevents the person from understanding the witness summons, a confidentiality notice, a notice cancelling a confidentiality notice, an order extending a confidentiality notice under section 42 or this section without assistance, to an independent person;
 - (b) disclosure for the purposes of obtaining legal advice or representation in relation to—
 - (i) a witness summons, a confidentiality notice, a notice cancelling a confidentiality notice, an order extending a confidentiality notice under section 42 or compliance with this section;
 - (ii) the person's rights, liabilities, obligations and privileges under this Act or the Public Interest Disclosures Act 2012;
 - (c) disclosure by an Australian legal practitioner who receives a disclosure in the circumstances specified in paragraph (b), for the purposes of complying with a legal duty of disclosure or a professional obligation arising from his or her professional relationship with his or her client;
 - (d) disclosure for the purposes of making a complaint to Integrity Oversight Victoria;

(Continued)

Box 5.3 Continued

- (e) disclosure for the purposes of complying with a witness summons served on a person by Integrity Oversight Victoria under the Integrity Oversight Victoria Act 2011;
- (f) disclosure of information that has been published by the IBAC in a report or has otherwise been made public in accordance with this Act;
- (g) disclosure to a person's spouse or domestic partner;
- (h) disclosure to a person's employer or manager or both;
- (i) disclosure as is otherwise authorised or required to be made by or under this Act.

Source: *Independent Broad-based Anti-corruption Commission Act 2011* (Vic), s 184(5).

When an individual is issued a Confidentiality Notice under section 42 of the *IBAC Act 2011* (Vic), they can only disclose the information in the circumstances prescribed in section 44(2).⁶² These circumstances are outlined in Table 5.1 above. Similarly, the outcome of a complaint also has non-disclosure requirements in certain circumstances, as outlined in section 184 of the *IBAC Act 2011* (Vic).⁶³ While the non-disclosure exceptions in sections 42 and 184 of the *IBAC Act 2011* (Vic) overlap, they are not identical. As IBAC has noted, section 185(5) of the Act does not include an exception for the welfare of the individual.⁶⁴

By comparison, the *Victoria Police Act 2013* (Vic) has similar provisions for non-disclosure of a restricted matter, and exceptions to non-disclosure.⁶⁵ However, the *Victoria Police Act 2013* (Vic) has an additional provision that the Chief Commissioner can authorise the disclosure of a restricted matter.⁶⁶ Therefore, the Chief Commissioner of Police has greater discretion for allowing disclosure than that of the IBAC Commissioner.

In the *National Anti-Corruption Commission Act 2022* (Cth) (NACC Act 2022) non-disclosure is established through a notation when issuing a notice to produce or attend a hearing, giving the Commissioner considerable discretion in the issuing and non-issuing of non-disclosure requirements.⁶⁷ In NSW, the exceptions to the non-disclosure requirements are not as thorough as that in the *IBAC Act 2011* (Vic), primarily allowing non-disclosure for receiving legal advice, medical treatment, for the purposes of a legal proceeding and to comply with the requirements of the summons.⁶⁸

⁶² *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) ss 42, 44.

⁶³ *Ibid.*, ss 44, 184(5).

⁶⁴ Independent Broad-based Anti-Corruption Commission, *Submission 23*, received 15 July 2025, pp. 16-17.

⁶⁵ *Victoria Police Act 2013* (Vic) s 185.

⁶⁶ *Ibid.*, s 186.

⁶⁷ *National Anti-Corruption Commission Act 2022* (Cth) ss 95-96.

⁶⁸ *Independent Commission Against Corruption Act 1988* (NSW) s 114(3).

In South Australia, in addition to the prescribed non-disclosure exceptions, the Commissioner can authorise a person in writing to disclose confidential information.⁶⁹ In Queensland, the Commissioner is able to give approval for relevant information to be disclosed.⁷⁰

5.4.2 IBAC should be able to authorise for a person to disclose confidential information

In its submission, IBAC has sought for section 184(5) to be amended to give IBAC discretion to authorise the disclosure of certain information.⁷¹ IBAC has noted that the welfare of the individual is not currently an exception to non-disclosure, and giving IBAC the discretion to authorise individuals to disclose information for wellbeing purposes would be beneficial.⁷²

IOV has also submitted that the exceptions in section 184(5) of the *IBAC Act 2011* (Vic) 'are not sufficiently broad'.⁷³ IOV has therefore suggested that for the intention of the exceptions to be achieved, IBAC should be able to explicitly authorise disclosure.⁷⁴ Additionally, the *Integrity Oversight Victoria Act 2011* (Vic) has a similar provision in section 97AA.⁷⁵ IOV has sought for IOV to also be able to authorise disclosure of confidential information, requesting that the amendment be made for both IBAC and IOV.⁷⁶

The proposed amendments would align Victoria with other jurisdictions such as the Anti-Corruption Commission SA,⁷⁷ and the Crime and Corruption Commission in Queensland.⁷⁸ It would also improve the welfare processes for both IBAC and IOV, as 'the legislation at the moment is the blocker to further improvement'⁷⁹ in this area. The *VP Act 2013* (Vic) contains a provision that could be utilised as a reference.

⁶⁹ *Independent Commission Against Corruption Act 2012* (SA) s 54(3).

⁷⁰ *Crime and Corruption Act 2001* (Qld) s 146J(2).

⁷¹ Independent Broad-based Anti-Corruption Commission, *Submission 23*, received 15 July 2025, p. 16.

⁷² *Ibid.*, pp. 16-17.

⁷³ Integrity Oversight Victoria, *Submission 21*, received 15 July 2025, p. 5.

⁷⁴ *Ibid.*

⁷⁵ *Integrity Oversight Victoria Act 2011* (Vic) s 97AA.

⁷⁶ Integrity Oversight Victoria, *Submission 21*, received 15 July 2025, p. 5.

⁷⁷ *Independent Commission Against Corruption Act 2012* (SA) s 54(3).

⁷⁸ *Crime and Corruption Act 2001* (Qld) s 146J(2).

⁷⁹ Cathy Cato, Chief Executive Officer, Integrity Oversight Victoria, Public hearing, Melbourne, 25 August 2025, *Transcript of evidence*, p. 17.

Box 5.4 Authorisation for disclosure in the *Victoria Police Act 2013* (Vic)**186 Chief Commissioner may authorise disclosure of restricted matter**

- (1) Subject to this section, the Chief Commissioner may authorise a person to disclose a restricted matter to a person specified in the authorisation.
- (2) The Chief Commissioner must not authorise a person to disclose a restricted matter under subsection (1) if—
 - (a) the Chief Commissioner considers that the disclosure of the restricted matter would be likely to prejudice—
 - (i) an investigation under this Part; or
 - (ii) the safety or reputation of any person; or
 - (iii) the fair trial of a person who has been charged with an offence; or
 - (b) the restricted matter is or contains information that is likely to lead to the identification of a person who has made an assessable disclosure.
- (3) However, the Chief Commissioner may authorise a person to disclose a restricted matter under subsection (1) that is or contains information to which section 53(2) (a), (c) or (d) of the Public Interest Disclosures Act 2012 applies.
- (4) An authorisation under subsection (1) must be in writing.

Source: *Victoria Police Act 2013* (Vic), s. 186.

RECOMMENDATION 14: That the Victorian Government seek to amend the *IBAC Act 2011* (Vic) to provide the Independent Broad-based Anti-corruption Commission (IBAC) with the ability to explicitly authorise the disclosure of certain information under section 184.

RECOMMENDATION 15: That the Victorian Government seek to amend the *Integrity Oversight Victoria Act 2011* (Vic) to provide Integrity Oversight Victoria (IOV) with the ability to explicitly authorise the disclosure of certain information under section 97AA.

5.4.3 IBAC officers should be able to disclose information for welfare purposes

Section 40 of the *IBAC Act 2011* (Vic) prohibits an IBAC officer or former IBAC officer from disclosing information obtained in the course of their duties except:

- In the performance of their duties
- For the purposes of bringing criminal proceedings or a disciplinary process

- For the purposes of proceedings under the *IBAC Act 2011* (Vic) or the *PID Act 2012* (Vic).⁸⁰

The reasons for IBAC officers to disclose information is appropriately narrow given the coercive powers that IBAC officers discharge in the course of their duties. While the Law Institute of Victoria has acknowledged this, it has also submitted that ‘there may be merit in broadening the exceptions to also authorise a current or former IBAC officer to disclose information to a registered medical practitioner, including a psychologist, for the purpose of seeking support for their mental health and wellbeing.’⁸¹

IBAC’s current processes for supporting its officers include:

- Priority access to our Employee Assistance Program 24 hours a day, seven days a week and periodic onsite sessions and consultations
- team-specific wellbeing training (including training to help teams manage complex situations and the impacts of vicarious trauma)
- An early Intervention Program that enables staff to take up to 10 days of leave and capped financial assistance to seek specialist medical support; and
- the provision of a range of tailored psychosocial training programs providing staff with the opportunity to debrief in a safe and constructive manner, as well as providing them with important self-management tools designed to assist them to effectively manage difficult situations.⁸²

IBAC’s programs and training for the wellbeing of IBAC officers is considered to be sufficient, and does not require legislative change for it to continue to benefit the wellbeing of officers.

5.5 Public interest disclosures

5.5.1 Confidentiality requirements across the *PID Act 2012* (Vic) and the *IBAC Act 2011* (Vic) are overly complex

The confidentiality requirements for complainants and witnesses are not consistent across the *IBAC Act 2011* (Vic), the *Public Interest Disclosures Act 2012* (Vic) (*‘PID Act 2012* (Vic)’) and the *VP Act 2013* (Vic). This results in confusion and inconsistency for individuals making complaints, and fear of unintentionally breaching the legislation.⁸³ In one submission, the Committee heard of a complainant’s experience stating:

⁸⁰ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 40.

⁸¹ Law Institute of Victoria, *Submission 8*, received 26 June 2025, p. 7.

⁸² Independent Broad-based Anti-corruption Commission, Inquiry into the Adequacy of the Legislative Framework for the Independent Broad-based Anti-corruption Commission hearings, response to questions on notice received 24 October 2025, p. 8.

⁸³ Name Withheld, *Submission 5*, received 5 June 2025, p. 5. Police Oversight Working Group, *Submission 19*, received 14 July 2025, p. 13.

- I couldn't say my complaint had been accepted as a PID under the PID Act until the fifth anniversary of the date of notification
- I couldn't talk about the investigation itself under Section 184 of the IBAC Act
- I couldn't speak about the subject matter of a public interest disclosure complaint being investigated under Section 185 of the Police Act.⁸⁴

While complainants are not prohibited from divulging the contents of their disclosure under the *PID Act 2012* (Vic), where a disclosure is within the remit of IBAC, the *IBAC Act 2011* (Vic) will also apply, creating non-disclosure requirements for the complainant. This includes under section 184 of the *IBAC Act 2011* (Vic) that a complainant cannot disclose the information they receive from IBAC regarding the outcome of their complaint, unless the complaint has been dismissed.⁸⁵

The Committee has heard evidence that when complainants receive information about the section 184 non-disclosure requirements, including the penalties for breaches, it invokes fear and confusion for complainants.⁸⁶ The Police Oversight Working Group has submitted that section 184 is not necessary and should be repealed.⁸⁷ Anna Nguyen stated that when complainants are issued with a notice under section 184 '[t]here is no way for them to be able to communicate what has happened as a part of their experience, and we find that to be grossly disproportionate'.⁸⁸

Complainants can also be issued with a confidentiality notice by IBAC if it is conducting a preliminary inquiry or an investigation, which specifies the restricted matters that cannot be disclosed.⁸⁹ A confidentiality notice is in place for five years, unless it is cancelled by IBAC.⁹⁰

If a complaint is made in relation to Victoria Police, it is also subject to non-disclosure requirements under the *VP Act 2013* (Vic), specifically section 185 which states that 'a person must not disclose a restricted matter'.⁹¹ A restricted matter in this context includes information obtained during the investigation of a public interest complaint.⁹²

Additionally, IBAC has stated that the confidentiality requirements in Part 7 of the *PID Act 2012* (Vic) — which requires the person or body who receives an assessable disclosure not to disclose the content of the disclosure — in addition to the confidentiality provisions in the *IBAC Act 2011* (Vic) creates undue layers of complexity.⁹³

⁸⁴ Name Withheld, *Submission 5*, received 5 June 2025, p. 3.

⁸⁵ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 184.

⁸⁶ Anna Nguyen, Police Oversight Working Group, Public hearing, Melbourne, 25 August 2025, *Transcript of evidence*, p. 35.

⁸⁷ Police Oversight Working Group, *Submission 19*, received 14 July 2025, p. 13.

⁸⁸ Anna Nguyen, Police Oversight Working Group, Public hearing, Melbourne, 25 August 2025, *Transcript of evidence*, p. 35.

⁸⁹ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) ss 42-44.

⁹⁰ *Ibid.*, s 42(6).

⁹¹ *Victoria Police Act 2013* (Vic) s 185.

⁹² *Victoria Police Act 2013* (Vic) ss 176, 183.

⁹³ Independent Broad-based Anti-Corruption Commission, *Submission 23*, received 15 July 2025, p. 17.

These confidentiality provisions across the Acts are unnecessarily complex and confusing for complainants. An interim measure for reducing confusion would be to amend the provisions under section 184 of the *IBAC Act 2011* (Vic) to align with the five-year time frame for confidentiality notices. However, the current PID scheme is complex and requires further review.

5.5.2 There should be a holistic review of the current PID scheme

Box 5.5 The purpose of the *Public Interest Disclosure Act 2012* (Vic)

1 Purposes

The purposes of this Act are—

- (a) to encourage and facilitate disclosures of—
 - (i) improper conduct by public officers, public bodies and other persons; and
 - (ii) detrimental action taken in reprisal for a person making a disclosure under this Act; and
- (b) to provide protection for—
 - (i) persons who make those disclosures; and
 - (ii) persons who may suffer detrimental action in reprisal for those disclosures; and
- (ba) to ensure that those disclosures are properly assessed and, where necessary, investigated;
- (c) to provide for the confidentiality of the content of those disclosures and the identity of persons who make those disclosures.

Source: *Public Interest Disclosure Act 2012* (Vic), s 1.

The *PID Act 2012* (Vic) was established to encourage disclosure of improper conduct in the public sector, and to provide protection for disclosers.⁹⁴ For the Act to achieve its purpose it needs to be fit-for-purpose and not overly complex for disclosers. IBAC has submitted that '[t]he confidentiality regime in place in Victoria can be complex and difficult for witnesses of an IBAC investigation to understand.'⁹⁵ Therefore, IBAC has recommended that a holistic review of the PID Act would be appropriate.⁹⁶

⁹⁴ *Public Interest Disclosures Act 2012* (Vic) s 1.

⁹⁵ Independent Broad-based Anti-Corruption Commission, *Submission 23*, received 15 July 2025, p. 14.

⁹⁶ *Ibid.*, p. 18.

Transparency International Australia has recognised the strengths of Victoria's public interest disclosure scheme, however, has also stated that Victoria falls short when 'set against best practice'.⁹⁷ They have therefore advised that

To move closer to best practice, a targeted, time-bound review of Victoria's PID Act would be timely to ensure it keeps pace with better practice and recent reforms elsewhere. The review should test whether agency duties are clear and enforceable, whether update obligations and reprisal-risk assessments are explicit, whether the external-disclosure pathway is workable, whether remedies are straightforward to access in practice, and how the PID framework interacts with IBAC's confidentiality, welfare and referral practices.⁹⁸

IOV has also stated that a review of the *PID Act 2012* (Vic) may be appropriate.⁹⁹ Louise Macleod, Chief Integrity Inspector, has stated that 'it is really a complicated piece of legislation' and 'simplifying and making it clear how it works is the way to go'.¹⁰⁰ IOV suggested that the review should consider technical amendments that could simplify the *PID Act 2012* (Vic) for complainants and agencies, and, given the resources required for IBAC to fulfil its PID functions, if a more decentralised model would enhance Victoria's PID scheme.¹⁰¹

IBAC currently acts as a clearinghouse for public interest disclosures, whereby IBAC is the assessing body for most disclosures under the *PID Act 2012* (Vic).¹⁰² In contrast, most comparable jurisdictions across Australia have a decentralised model, where public bodies are required to have internal mechanisms for processing disclosures, with varying levels of oversight.¹⁰³ New legislation was introduced in NSW in 2022, implementing a hybrid model with the NSW Ombudsman responsible for overseeing public interest disclosures.¹⁰⁴ Given the complexities in Victoria's current PID scheme, it is appropriate to examine the scheme in greater detail, with a comparison to other models across Australia.

RECOMMENDATION 16: That the Victorian Government undertake a comprehensive review of Victoria's current Public Interest Disclosure scheme to determine whether the adoption of an alternative model would best serve the needs of the Victorian community.

⁹⁷ Transparency International Australia, Inquiry into the Adequacy of the Legislative Framework for the Independent Broad-based Anti-corruption Commission hearings, response to questions on notice received 27 October 2025, pp. 2-3.

⁹⁸ Ibid., p. 3.

⁹⁹ IOV submission Integrity Oversight Victoria, *Submission 21*, received 15 July 2025, p. 7.

¹⁰⁰ Louise Macleod, Chief Integrity inspector, Integrity Oversight Victoria, Public hearing, Melbourne, 25 August 2025, *Transcript of evidence*, p. 21.

¹⁰¹ IOV submission Integrity Oversight Victoria, *Submission 21*, received 15 July 2025, p. 7.

¹⁰² Integrity Oversight Victoria is responsible for handling Public Interest Disclosures about IBAC, and the Integrity and Oversight Committee is responsible for handling Public Interest Disclosures about Integrity Oversight Victoria.

¹⁰³ Integrity Oversight Victoria, *Submission 21*, received 15 July 2025, p. 7.

¹⁰⁴ *Public Interest Disclosures Act 2022* (NSW).

5.6 Release of embargoed reports

5.6.1 Should IBAC be able to release embargoed reports to the media?

The Committee noted in its report on the *Performance of the Victorian Integrity Agencies 2021/22* that IBAC ‘provides copies of final special reports to select media outlets 24 hours in advance of tabling in Parliament and formal publication’ on a case-by-case basis.¹⁰⁵ IBAC had stated that this practice facilitates accurate media reporting, given the complexity of IBAC’s reports.¹⁰⁶ The Committee therefore recommended that IBAC obtain legal advice on whether this process corresponds with the privileges of Parliament, and that IBAC develop a policy regarding embargoed reports being provided to the media.¹⁰⁷

The Police Association of Victoria has submitted that the Committee should consider ‘the reasonableness or otherwise of IBAC’s practice of providing embargoed media releases and/or reports to the media ahead of tabling of those reports in Parliament.’¹⁰⁸ Meanwhile, Transparency International Australia inferred that reports should only be distributed to the media in these circumstances if they are embargoed, but that there is a risk that ‘the public would lose faith and trust in agencies like IBAC’ if it occurred without strict policies in place.¹⁰⁹

In response to the recommendations in the Committee’s *Performance of the Victorian Integrity Agencies 2021/22* report, IBAC sought legal advice regarding this issue, which supported that IBAC’s processes are appropriate and do not breach the privileges of Parliament.¹¹⁰ IBAC accepted the recommendation that it develop a policy regarding the release of embargoed reports ‘in principle’.¹¹¹ IBAC stated that it does not consider a specific policy to be necessary regarding the release of embargoed reports, however, it would make ‘explicit amendments to its Media Policy’.¹¹²

¹⁰⁵ Parliament of Victoria, Integrity and Oversight Committee, *Performance of the Victorian Integrity Agencies 2021/22*, Parliament of Victoria, November 2023, p. 51.

¹⁰⁶ Ibid., p. 52.

¹⁰⁷ Ibid., p. 53.

¹⁰⁸ The Police Association Victoria, *Submission 24*, received 15 July 2025, p. 12.

¹⁰⁹ Clancy Moore, Chief Executive Officer, Transparency International Australia, Public hearing, Melbourne, 8 September 2025, *Transcript of evidence*, p. 5.

¹¹⁰ Independent Broad-based Anti-corruption Commission, *Performance of the Victorian Integrity Agencies 2022/23*, response to questions on notice received January 2025, p. 11.

¹¹¹ Ibid.

¹¹² Ibid.

Chapter 6

Police oversight and referrals: selected issues

6.1 Introduction

6.1.1 IBAC's function as a police oversight body

Aside from the Independent Broad-based Anti-corruption Commission's (IBAC) anti-corruption remit, IBAC also has an important police oversight function.

Under s 15(2) of the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) ('*IBAC Act 2011* (Vic)'), IBAC's functions includes

- (a) to identify, expose and investigate corrupt conduct;
- (b) to identify, expose and investigate police personnel misconduct;
- (c) to assess police personnel conduct.

IBAC was established to integrate Victoria's 'multi-layered, multi-agency integrity system'.¹ A consequence of this was that IBAC replaced the former standalone Office of Police Integrity in its police oversight duties.²

During this inquiry, several stakeholders raised issues relating to whether there should be a standalone police oversight body and improvement of IBAC's referral processes, concerned that further expansion of IBAC's anti-corruption jurisdiction would impact its police oversight capacities.

Section 15(1A) states that in 'performing its functions, the IBAC must prioritise its attention to the investigation and exposure of corrupt conduct which the IBAC considers may constitute serious corrupt conduct or systemic corrupt conduct'. Issues with how matters are prioritised within IBAC's jurisdiction will be discussed further below.

Victoria Police was invited to provide evidence for this inquiry and declined to provide a written submission. In questions on notice, they clarified that two of the matters referred to in this chapter were considered matters for Government and IBAC.³

¹ Clem Newton-Brown MP and Philip Davis MP, 'Victoria's new integrity system', paper presented at Australasian Study of Parliament Group, Perth, 2–4 October 2013, <<https://www.aspg.org.au/wp-content/uploads/2017/08/Conference-Paper-Clem-Newton-Brown-and-Philip-Davis.pdf>> accessed 17 July 2025, p. 1.

² Ibid., p. 2.

³ Victoria Police, response to Integrity and Oversight Committee questions on notice, received 21 October 2025, p. 1.

6.1.2 There is an ongoing conversation about police oversight in Victoria

The IBAC Committee, the precursor to this Committee, conducted *The Inquiry into the external oversight of police corruption and misconduct in Victoria* ('2018 Police Oversight Report' in the '2018 Police Oversight Inquiry') which provides comprehensive analysis and key recommendations for improving police oversight within Victoria.⁴ The current IOC Committee is not bound by the recommendations of a past Committee; however, it will refer to it where the evidence used by that report remains current.⁵

The 2018 Police Oversight Inquiry was commenced as the Committee 'identified concerns raised by key stakeholders regarding the investigation of complaints about police in Victoria, including calls for a new, independent complaints-handling system'.⁶

The Royal Commission into the Management of Police Informants was completed in 2020.⁷ It was established in 2018, 'after the High Court of Australia upheld the decisions of Victorian courts to allow the Director of Public Prosecutions (DPP) to disclose to a group of convicted persons that Victoria Police had used former defence barrister, Ms Nicola Gobbo, as a human source'.⁸

That Commission recommended the following:

RECOMMENDATION 61

That the Victorian Government, within two years, undertakes a review of institutional and legislative structures for the oversight of Victoria Police's exercise of powers, to ensure that Victoria's police oversight system is consistent and coherent and contributes to improved police accountability, including through outcome-focused monitoring of police decisions and actions.⁹

Since that Royal Commission, the Victorian Government has published a consultation summary and conducted ongoing consultation on the issue.¹⁰ IBAC has enhanced many police oversight measures since, including utilising the Deputy Commissioner role

⁴ Parliament of Victoria, IBAC Committee, *The Inquiry into the external oversight of police corruption and misconduct in Victoria (2018 Police Oversight Report)*, Melbourne, September 2018, for the rationale of the inquiry see pp. 2–3.

⁵ The IBAC Committee was the precursor to the current Committee who has since subsumed that Committee's functions.

⁶ *2018 Police Oversight Report*, p. 2; further, at the time, IBAC and Victoria Police had outlined challenges in complaint-handling and the misconduct system.

⁷ Royal Commission into the Management of Police Informants, *Final report: Summary and recommendations*, Victorian Government, Melbourne, 2020, <<https://rcmpi.archive.royalcommission.vic.gov.au>> accessed 25 August 2025.

⁸ Ibid., p. 6.

⁹ Ibid., p. 235.

¹⁰ Department of Justice and Community Safety, *Systemic review of police oversight: consultation summary*, <<https://www.parliament.vic.gov.au/496393/globalassets/taled-paper-documents/taled-paper-8987/document-1---systemic-review-of-police-oversight---consultation-summary.pdf>> accessed 25 August 2025; the advertised timeline for targeted stakeholder consultation is mid 2024–2025, with completion of the draft bill cited as the next stage: Engage Victoria, *Systemic review of police oversight*, <<https://engage.vic.gov.au/systemic-review-police-oversight>> accessed 28 October 2025.

for overseeing police,¹¹ creating a specified team for single incidents¹² and developing police oversight strategies.¹³ During the hearing, IBAC noted

Each year between 40 and 60 per cent of our work is split between both, but I would say in last year's work the majority of our investigations were in the police space. Of course it is a matter for government, but IBAC is doing a significant amount of work in the police space.¹⁴

They also noted that

We make significant recommendations privately. We review over 200 police investigations a year and make recommendations, but nobody sees that work. We would like to be able to communicate with complainants about the outcomes of those reviews.¹⁵

The consideration of the 2018 Police Oversight Report and the Victorian Government consultations are ongoing, affecting the implementation of some of the recommendations the Committee makes in this chapter.

6.2 Should police oversight in Victoria be transferred to a standalone body?

It has been suggested by several stakeholders that IBAC's current police oversight powers should be transferred to another fit-for-purpose institution.¹⁶

It was stated by the Police Oversight Working Group that

At a fundamental level we submit that IBAC's legislative regime is manifestly inadequate for the Commission to discharge its obligations in respect of police corruption. That regime is set up for dealing with public sector corruption, not police complaints oversight or dealing with people experiencing vulnerability, at risk of real harm or having suffered harm at the hands of police members.¹⁷

In other words, they described it as 'putting two things together that should not be there' and that 'it would improve both functions ... If you want to strengthen the anti-corruption function, separate them out'.¹⁸

¹¹ This began in the 2018/19 period, IBAC, *2018-19 annual report*, Melbourne, 2019, p. 16.

¹² IBAC, *Focused Complaints Pilot summary report*, Melbourne, 2024.

¹³ See, for example, IBAC, *The IBAC Strategy 2025-28*, Melbourne, 2025, pp. 12-15, <<https://www.ibac.vic.gov.au/IBAC-strategy-2025-28>> accessed 25 August 2025.

¹⁴ Victoria Elliott, Commissioner, IBAC, public hearing, Melbourne, 22 September 2025, *Transcript of evidence*, p. 10.

¹⁵ Ibid.

¹⁶ See, for example, The Centre for Public Integrity, *Submission 7*, received 24 June 2025, pp. 5-6; Jordan Brown, *Submission 13*, 30 June 2025, p. 3; Australian Lawyers Alliance, *Submission 22*, received 15 July 2025, pp. 13-14; Victorian Aboriginal Legal Service, *Submission 25*, received 18 July 2025, p. 3.

¹⁷ Dr Jana Katerinskaja, human rights lawyer, survivor advocate, Inner Melbourne Community Legal representing the Police Oversight Working Group, public hearing, Melbourne, *Transcript of evidence*, 25 August 2025, p. 31.

¹⁸ Michelle Reynolds, Director, Policy and Advocacy, Inner Melbourne Community Legal representing the Police Oversight Working Group, public hearing, Melbourne, *Transcript of evidence*, 25 August 2025, p. 39.

Australian Lawyers Alliance argued that a separate body:

- a. would address the issues we have raised in our submission about Victoria Police and IBAC investigating matters pertaining to police misconduct, especially police corruption;
- b. could address the conflict between IBAC needing confidentiality and secrecy for investigating corruption matters generally, and the public interest in having a police oversight system which is transparent and accountable to the public;
- c. would be able to shed light on and assess more closely some of the broader issues within Victoria Police, including any systemic and cultural issues affecting Victoria Police;
- d. could improve public confidence in Victoria Police and Victoria's integrity system more generally, especially if more complaints about and investigations into police corruption are progressed and then tangible changes are made to how Victoria Police personnel engage with the public as a result; and
- e. would allow IBAC to focus on its significant functions of preventing corruption, assessing complaints about corruption and investigating corruption in the rest of Victoria's public sector.¹⁹

In supporting that the current police oversight powers should be transferred to another fit-for-purpose institution, the Centre for Public Integrity also stated the following reasoning:

specialised focus avoids a situation where additional duties 'confuse the core purpose' of the [anti-corruption commissions].

...

The oversight of the police is unquestionably important. But it overburdens an anti-corruption agency like IBAC that should have its primary focus on investigating and reporting on breaches of the public trust.²⁰

The Victorian Aboriginal Legal Service recounted the impact of police corruption against Aboriginal people.²¹

They noted

As found by the Yoorrook Justice Commission (Yoorrook), 'there is compelling evidence for the need of a truly independent police complaints system'. Yoorrook's 27th recommendation is for a new police oversight authority that is led by a statutory officer who has not been a police officer and has the power to investigate and determine serious corruption, including by having the power to investigate and report on police contact deaths. VALS supports this, and urges the Inquiry to recommend that the Victorian government implement this critical recommendation.²²

¹⁹ Australian Lawyers Alliance, *Submission 22*, received 15 July 2025, pp. 13–14.

²⁰ The Centre for Public Integrity, *Submission 7*, received 24 June 2025, pp. 5–6.

²¹ Victorian Aboriginal Legal Service, *Submission 25*, received 18 July 2025, pp. 2–3.

²² *Ibid.*, p. 3.

Victoria Police deferred their response on this issue, citing it as a matter for Government on whether oversight of Victoria Police should be transferred from IBAC to a separate fit-for-purpose agency.²³ They stated that ‘consistent with the Chief Commissioner’s Statement of Commitment to the Yoorrook Justice Commission in 2024, Victoria Police will continue to support any independent body to perform its police oversight functions’.²⁴

These views point to issues of perceived conflicts of interest, multiple responsibilities, and at times, the recommendation for a standalone body to remedy these issues. They will be taken into consideration against further analysis set out below.

6.2.1 Are there conflicts of interest in the way police complaints are currently handled?

As stated in the 2018 Police Oversight Inquiry:

A conflict of interest exists where there is a conflict between, broadly, a person’s private interests and their public duties. Conflicts of interest can be actual, potential, perceived or a ‘conflict of duty’.²⁵

From the outset, as one submitter expressed in the 2018 Police Oversight Inquiry, ‘[t]here is a clear risk for a conflict of interest where Victoria Police investigates its own officers’.²⁶

In practice, IBAC refers the majority of complaints about Victoria Police to Victoria Police, and in turn some of those complaints are referred from Professional Standards Command (PSC) to be dealt with at a local level.²⁷

Stakeholders in the 2018 Police Oversight Inquiry recognised that this may be due to IBAC’s broader field of anti-corruption and whether it has ‘sufficient funding and human resources’.²⁸ Further, IBAC faced challenges in recruiting appropriate investigators, as investigation into serious human rights violations often require those with police expertise. Therefore, it may be more appropriate to refer serious matters to police for investigation due to police expertise and resourcing. However, the IBAC Committee recommended that the number of IBAC staff dedicated to the investigation of complaints and disclosure be increased and noted that some capacity could be built by ‘increasing the number of civilian specialists from a diverse range of backgrounds and disciplines’ and creating an in-house training team.²⁹

²³ Victoria police, response to Integrity and Oversight Committee questions on notice, received 21 October 2025, p. 1.

²⁴ Ibid.

²⁵ 2018 Police Oversight Report, p. 230.

²⁶ Ibid., p. 231.

²⁷ Ibid., p. 246.

²⁸ Ibid., p. 247.

²⁹ Ibid., pp. 52, 248.

A consequence of this practical limitation is that conflict of interest risks may be exacerbated.

In addressing conflict of interest risks, a standalone body like the Police Ombudsman of Northern Ireland (PONI) has been suggested to be best practice.³⁰

However, it was noted in the 2018 Police Oversight Report that the best practice principles outlined by the European Commissioner for Human Rights ‘do not prescribe or require the establishment of a PONI-style body to investigate all complaints about police, excluding police from any involvement in complaints-handling’.³¹ That is, ‘police have a part to play in taking responsibility for addressing corruption and misconduct within its ranks and for handling a range of complaints subject to effective independent oversight’.³²

IBAC is still responsible for overseeing Victoria Police in their management of conflict of interest issues. As stated in the 2018 Police Oversight Report, ‘IBAC’s audit of Victoria Police regional-level complaints found that 17% of the files ... were found to have been allocated to an inappropriate investigator’.³³ Further, investigating officers had complaint histories that could impact impartiality in 7% of the files.³⁴

It was also noted that ‘[b]est practice principles require the proper identification, declaration, management and avoidance of conflicts of interest in investigations of complaints about police’ and that according to the United Nations Office on Drugs and Crime (UNODC) it ‘is crucial that police do not investigate their immediate colleagues both in order to avoid any conflict of interest and to ensure that the investigation may be seen by the public as unbiased and impartial’.³⁵

Recommendation 33 of the IBAC Committee was ‘[t]hat the Victorian Government seek the amendment of the *IBAC Act 2011* (Vic) and the *Victoria Police Act 2013* (Vic) to provide that complaints not be referred back to police by IBAC or Professional Standards Command, Victoria Police, for investigation by a police investigator who is affected by a conflict of interest’.³⁶

³⁰ Ibid., p. 39: the most independent model of police oversight discussed in the 2018 Police Oversight Report is where all complaints about police are received, handled, assessed, investigated and reviewed by a fully independent external agency. It is alleged that PONI is the best example of this, and this model is described as the ‘civilian model’ (that is, conducted by non-police or civilians).

³¹ Ibid., p. 41.

³² Ibid., pp. 48–49, ‘[a]lthough in general it is considered good practice for the independent body to have investigative powers and the capacity to initiate an investigation, this does not mean that it needs to investigate all complaints’.

³³ Ibid., p. 232, it was ‘inappropriate’ where: ‘the investigator was not of a higher rank than all of the subject officer[,] ... the investigator and the subject officer worked at the same station [or] the investigator had a complaint history relevant to the investigation.’

³⁴ Ibid.

³⁵ Ibid., p. 234.

³⁶ Ibid., p. 234, Recommendation 33.

During this inquiry, it was raised by Jordan Brown that there could be better management of conflict-of-interest issues with '[l]ess than 2% of complaints against police ... investigated by IBAC' currently.³⁷

In the last performance review, the Committee addressed the issue of police-perpetrated family violence (PPFV). It was noted that 'the investigation of PPFV by fellow Victoria Police members gives rise to a potential conflict of interest, which often materialises'.³⁸ Evidence was received by Inner Melbourne Community Legal that '[l]ocal/divisional members have an insurmountable conflict of interest (whether actual or perceived) when managing or investigating DFV [domestic and family violence] matters involving a colleague they know or are connected to'.³⁹

The issue of the high percentage of referrals of complaints about police investigated by police was raised in questions on notice. Victoria Police noted that this was a question for IBAC and Government and that '[h]ow IBAC assesses the complaints it receives would depend on legislative and operational factors only appreciated by IBAC'.⁴⁰

The Committee supports the recommendation from the 2018 Police Oversight Inquiry but notes that the response to the 2018 Police Oversight Report and Victorian consultation is still ongoing. Further, Integrity Oversight Victoria (IOV) will begin their police monitoring project in 2025 which will provide further insight to IBAC's referral processes.⁴¹ The Committee reiterates Recommendation 33 of the IBAC Committee in the 2018 Police Oversight Report.⁴²

RECOMMENDATION 17: That the Victorian Government seek the amendment of the *IBAC Act 2011* (Vic) and the *Victoria Police Act 2013* (Vic) to provide that IBAC, Professional Standards Command or Victoria Police cannot refer complaints to a police investigator who is affected by a conflict of interest.

6.2.2 Do IBAC's multiple responsibilities cause issues for effective police oversight?

Connected to the merits of a separate police oversight body are concerns that resources are dedicated to police investigations and ensuring that IBAC maintains a balance of priorities. In relation to prioritisation, it is notable that s 15(1A) of the *IBAC Act 2011* (Vic) states that in 'performing its functions, the IBAC must prioritise its attention to the investigation and exposure of corrupt conduct which the IBAC considers may constitute serious corrupt conduct or systemic corrupt conduct'.

³⁷ Jordan Brown, *Submission 13*, received 30 June 2025, p. 3; echoes the 2018 Police Oversight Report.

³⁸ Parliament of Victoria, IOC, *Performance of the Victorian integrity agencies 2022/23*, May 2025, p. 100.

³⁹ Ibid; see also Victorian Inspectorate (now Integrity Oversight Victoria (IOV)), *Special Report: IBAC's referral and oversight of Emma's complaints about Victoria Police's response to family violence by a police officer*, Melbourne, October 2022.

⁴⁰ Victoria Police, response to Integrity and Oversight Committee questions on notice, received 21 October 2025, p. 1.

⁴¹ Parliament of Victoria, IOC, *Performance of the Victorian integrity agencies 2022/23*, May 2025, p. 106; Victorian Inspectorate (now IOV), response to Integrity and Oversight Committee questions on notice, received 19 December 2024, p. 8.

⁴² *2018 Police Oversight Report*, p. 234.

Evidence received in this inquiry points to anti-corruption and police oversight responsibilities creating a push-pull of priorities. It was noted by the IOV submission that an important consideration for deciding whether to expand the definition of 'corrupt conduct' was whether expansion would divert resources and focus away from police oversight.⁴³ The Centre for Public Integrity and Police Oversight Working Group also noted concerns relating to the dynamics of these priorities.⁴⁴

However, in summarising the potential benefits of IBAC's current remit, IBAC submitted that:

Both jurisdictions may have unique challenges, but there are also significant similar aspects to both jurisdictions. We are able to learn from those and apply the learnings from both of those and apply our resources effectively across both jurisdictions.⁴⁵

They also provided further context of how police matters are currently managed within IBAC:

We have three Deputy Commissioners that are allocated across the jurisdictions. We have teams that are focused on individual jurisdictions, teams that are separate to jurisdictions and teams that are across both jurisdictions. Each year between 40 and 60 per cent of our work is split between both, but I would say in last year's work the majority of our investigations were in the police space. Of course it is a matter for government, but IBAC is doing a significant amount of work in the police space.⁴⁶

When the IBAC Committee considered these issues in the 2018 Police Oversight Report, with comparison to best practice principles, they also considered the importance of IBAC investigating 'serious police misconduct'.⁴⁷

The IBAC Committee concluded that:

RECOMMENDATION 36: That the Victorian Government seek the amendment of s 15(1A) of the *IBAC Act 2011* (Vic) to provide that:

In performing its functions, the IBAC must prioritise its attention to the investigation and exposure of corrupt conduct which the IBAC considers may constitute serious corrupt conduct, systemic corrupt conduct or serious police misconduct.

...

RECOMMENDATION 37: That the Victorian Government seek the amendment of the *IBAC Act 2011* (Vic) to require that, unless there are exceptional circumstances, IBAC, rather than Victoria Police, investigate complaints and disclosures about 'serious police misconduct' (as defined in this report). In addition, in their annual report IBAC must

⁴³ Integrity and Oversight Victoria, *Submission 21*, received 15 July 2025, p. 2.

⁴⁴ The Centre for Public Integrity, *Submission 7*, received 24 June 2025, pp. 5–6; Michelle Reynolds, Director, Policy and Advocacy, Inner Melbourne Community Legal representing the Police Oversight Working Group, public hearing, Melbourne, *Transcript of evidence*, 25 August 2025, p. 39.

⁴⁵ Victoria Elliott, Commissioner, IBAC, public hearing, Melbourne, 22 September 2025, *Transcript of evidence*, p. 10.

⁴⁶ Ibid.

⁴⁷ *2018 Police Oversight Report*, pp. 184–189.

report what exceptional circumstances existed justifying referral of a complaint or disclosure about serious police misconduct back to police. Further, IBAC must maintain rigorous oversight of any such referral of a complaint or disclosure back to police.

...

RECOMMENDATION 38: That the Victorian Government seek the amendment of s 15(2) of the *IBAC Act 2011* (Vic) to provide that IBAC has functions of investigating police misconduct and serious police misconduct (as defined in this report).⁴⁸

The Committee notes that the response to the 2018 Police Oversight Inquiry is still pending. The Committee reiterates Recommendations 36–38 of the IBAC Committee in the 2018 Police Oversight Report.⁴⁹

RECOMMENDATION 18: That the Victorian Government seek to rewrite s 15(1A) of the *IBAC Act 2011* (Vic) to clarify that: in performing its functions, the IBAC must prioritise its attention on ‘serious corrupt conduct’, ‘systemic corrupt conduct’ and ‘serious police misconduct’. Further unless there are exceptional circumstances, the IBAC, rather than Victoria Police, should investigate complaints and disclosures about ‘serious police misconduct’.

6.2.3 Does Victoria’s current police oversight meet best practice or should it be a standalone body?

Many stakeholders submitted views on the downsides of IBAC’s current remit as mentioned above.⁵⁰ IBAC’s submission on the benefits of its current remit is also relevant here in that they submit there are efficiencies between the two and ‘economies of scale’.⁵¹ For example, ‘the analysis of use of force as a corruption risk and associated prevention work is applicable to Victoria Police but also Corrections Victoria and Youth Justice’.⁵² Further, IBAC has noted that

IBAC has teams that work across all sectors – such as strategic intelligence, communications and engagement, some specialist investigative teams including surveillance and digital forensics, and corporate services. Some of the reasons IBAC utilises such teams across both police and public sector matters include, the specialist work of such teams does not change whether they are focused on police matters or public sector matters and IBAC can apply its finite resources across all sectors according to risk, timelines and schedules.⁵³

⁴⁸ Ibid., 240–252.

⁴⁹ Ibid.

⁵⁰ See, for example, The Centre for Public Integrity, *Submission 7*, received 24 June 2025, pp. 5–6; Jordan Brown, *Submission 13*, received 30 June 2025, p. 3; Australian Lawyers Alliance, *Submission 22*, received 15 July 2025, pp. 13–14; Victorian Aboriginal Legal Service, *Submission 25*, received 18 July 2025, p. 3; Law Institute of Victoria, response to Integrity and Oversight Committee questions on notice, received 27 October 2025, pp. 8–9.

⁵¹ Alison Byrne, Chief Executive Officer, IBAC, public hearing, Melbourne, 22 September 2025, *Transcript of evidence*, p. 10.

⁵² IBAC, response to Integrity and Oversight Committee questions on notice, received 24 October 2025, p. 11.

⁵³ Ibid., p. 8.

In relation to current structures, IBAC clarified that '[p]arts of IBAC are already focused solely on Victoria Police work, including a dedicated Deputy Commissioner, a Focused Police Complaints team, and other related roles. Approximately half of IBAC's investigative work is focused on Victoria Police.'⁵⁴ The also noted that in 'last year's work the majority of our investigations were in the police space'.⁵⁵

In the IBAC Committee's 2018 Police Oversight Inquiry, the question of whether Victoria Police should be oversighted by a standalone body was addressed, and three models were identified. The Internal Affairs model is where 'police are almost exclusively responsible for receiving, handling and investigating complaints about them' and 'the dominant model in the common law world until the 1970s'.⁵⁶ The Civilian Review model is where police oversight involves a second body. It ranges from more minimal intervention where 'police carry out investigations into complaints with the external body monitoring them, sometimes only after an investigation has been completed' to 'fully independent bodies with robust investigative powers'.⁵⁷ Followed in all Australian states and the 'dominant model internationally',⁵⁸ it does feature some strengths but has the potential to be undermined.⁵⁹

There is also the Civilian Control model, one definition of which is that 'Civilian Control would require that all complaints about police be received, handled, assessed, investigated and reviewed by a fully independent external agency' and it has been alleged that PONI is the best example of this.⁶⁰

However, it should also be noted that '[w]hile PONI is often referred to as an exemplar of the Civilian Control model, even it retains aspects of the Civilian Review approach. For example, it does not investigate all complaints, makes use of informal resolution approaches and is authorised under its governing legislation to refer complaints back to police in some circumstances'.⁶¹

In this inquiry, IBAC submits that '[c]omparisons between IBAC and the Police Ombudsman Northern Ireland (PONI) may be flawed, due to significant differences in scale and powers'.⁶² They go on to clarify that

the PONI may not be considered completely independent from government, as it reports to the Department of Justice, and its powers do not align with community expectations of police oversight in Victoria (E.g.: PONI cannot investigate complaints involving off-duty police officers, former police officers, or complaints by police officers about

⁵⁴ Ibid., p. 11.

⁵⁵ Victoria Elliott, Commissioner, IBAC, public hearing, Melbourne, 22 September 2025, *Transcript of evidence*, p. 10.

⁵⁶ *2018 Police Oversight Report*, p. 30.

⁵⁷ Ibid., p. 33.

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ *2018 Police Oversight Report*, p. 34.

⁶¹ Ibid., p. xxi, see also pp. 218, 319–321.

⁶² IBAC, response to Integrity and Oversight Committee questions on notice, received 24 October 2025, pp. 11, 12.

other police officers). The PONI also does not have the powers to charge police officers with criminal offences.⁶³

After reviewing the PONI model and international best practice, the IBAC Committee found that international standards did not require a standalone body and that there was a role for police to play in relation to their own complaints-handling. That is, a PONI-style body was not required.⁶⁴

By the same token, this view was mirrored by UNODC stating that '[e]xternal oversight is complementary to internal mechanisms: it can reinforce them and sustain police managers in their efforts to enhance police integrity and performance'.⁶⁵

Further, the IBAC Committee came to the following conclusions:

- Robust Civilian Review complaints systems can comply with best practice principles.
- IBAC is legally and institutionally independent from Victoria Police.
- IBAC has the jurisdiction and capacity to investigate and oversee complaints.
- IBAC can recommend improvements to Victoria Police.
- It is important for Victoria Police to continue to have a role with respect to upholding its professional standards and in handling and investigating complaints.⁶⁶

Recommendation 1 thus concluded that it is not necessary to create a new body.⁶⁷

However, despite not establishing a separate body, Recommendation 2 is of particular importance and outlined the following:

RECOMMENDATION 2: That IBAC should formally establish a dedicated Police Corruption and Misconduct Division to increase public confidence in Victoria's system for the handling of complaints about police corruption and other misconduct, improve its capacity to conduct effective investigations, enhance its independence, develop its expertise and improve its overall performance. This division should consolidate IBAC's legislated functions that relate to complaints and disclosures about police corruption and other misconduct in Victoria. It should have dedicated teams for:

- Complaint receipt and assessment
- Investigations and referrals (including reviews and audits of investigations and own motion investigations)
- Public information and communications
- Welfare management (of complainants and those subject to investigation)
- In-house and external training (with respect to IBAC and Victoria Police personnel)

⁶³ Ibid., p. 12.

⁶⁴ 2018 Police Oversight Report, p. 50, see also, pp. 46–50.

⁶⁵ Ibid., p. 48.

⁶⁶ Ibid., p. 50.

⁶⁷ Ibid., p. 50, Recommendation 1.

- Research and prevention.
- IBAC should retain the discretion to allocate resources, including staff, between divisions in its organisation.⁶⁸

This recommendation should be read alongside and in context with the recommendation that IBAC increase the number of staff within this Police Corruption and Misconduct Division⁶⁹ and that this Police Corruption and Misconduct Division be adequately resourced.⁷⁰

The Committee has also considered secondary research that has emerged since that 2018 Police Oversight Inquiry.⁷¹ Professor Tim Prenzler and Dr Michael Maguire note that '[t]here is an emerging consensus that the democratic accountability of police—free from the actual or perceived conflicts of interest entailed in internal investigations'.⁷² They also refer to the Council of Europe's Commissioner for Human Rights' five principles from 2009 which was considered in the 2018 Police Oversight Report. However, they do note that a 'growing body of research showing that procedural justice principles' are necessary for public confidence in police and protecting minority groups.⁷³

The Committee finds the international standards considered at the time of the 2018 Police Oversight Report and their interpretation of them in that report to still be applicable.⁷⁴ The Committee is of the opinion that best practice principles can still be met if a separate division and certain appropriate measures are created within IBAC. The Committee notes it is integral that IBAC's independence in its police oversight functions is guaranteed.

The Committee notes that Victorian Government consultations appear to be ongoing.⁷⁵ The Committee reiterates recommendation 2 of the IBAC Committee in the 2018 Police Oversight Report.⁷⁶

⁶⁸ Ibid., p. 52.

⁶⁹ Ibid., p. 52, Recommendation 3.

⁷⁰ Ibid., p. 52, Recommendation 4.

⁷¹ See, for example, Parliament of Victoria, Legal and Social Issues Committee, March 2022, pp. 245–256; Pascale Chifflet, Laura Griffin and Meribah Rose, 'Reforming police accountability in the age of Treaty: The need for a new model', *Alternative Law Journal*, vol. 50, no. 1, 2024, <<https://journals.sagepub.com/doi/10.1177/1037969X241306470>> accessed 25 August 2025; Michael Maguire and Jude McCulloch compare PONI to IBAC and note the differences in substantiating outcomes: Michael Maguire and Jude McCulloch, 'Submission on Systemic Injustice in the Criminal Justice System: Focus on Police Oversight in Victoria', Yoorrook Justice Commission, Inquiry into Victoria's Child Protection and Criminal Justice Systems, 2022, p. 47.

⁷² Professor Tim Prenzler and Michael Maguire, 'Reforming Queensland's police complaints system: recent inquiries and the prospects of a best practice model', *Current Issues in Criminal Justice*, vol. 35 no. 3, 2–2023, pp. 326–227, <<https://www.tandfonline.com/doi/full/10.1080/10345329.2023.2210791>> accessed 25 August 2025.

⁷³ Ibid., pp. 324–33.

⁷⁴ For example, see the 2018 Police Oversight Report, p. 43: Commissioner for Human Rights, Council of Europe, *Opinion of the Commissioner for Human Rights concerning independent and effective determination of complaints against the police* (CommDH (2009) 4), 12 March 2009; United Nations Office on Drugs and Crime (UNODC), *Handbook on police accountability*, Oversight and integrity, New York, United Nations, 2011.

⁷⁵ The advertised timeline for targeted stakeholder consultation is mid 2024–2025, with completion of the draft bill cited as the next stage: Engage Victoria, *Systemic review of police oversight*, <<https://engage.vic.gov.au/systemic-review-police-oversight>> accessed 28 October 2025.

⁷⁶ 2018 Police Oversight Report, p. 52.

RECOMMENDATION 19: That IBAC should formally establish a dedicated Police Corruption and Misconduct Division to increase public confidence in Victoria's system for the handling of complaints about police corruption and other misconduct, improve its capacity to conduct effective investigations, enhance its independence, develop its expertise and improve its overall performance. This division should consolidate IBAC's legislated functions that relate to complaints and disclosures about police corruption and other misconduct in Victoria. It should have dedicated teams for:

- Complaint receipt and assessment
- Investigations and referrals (including reviews and audits of investigations and own motion investigations)
- Public information and communications
- Welfare management (of complainants and those subject to investigation)
- In-house and external training (with respect to IBAC and Victoria Police personnel)
- Research and prevention.

IBAC should retain the discretion to allocate resources, including staff, between divisions in its organisation.

6.3 Handling of complaints about Victoria Police

6.3.1 Clarifying definitions outlining police misconduct

Under the *IBAC Act 2011* (Vic), each of the current definitions 'police personnel conduct', 'police personnel conduct complaint' and 'police personnel misconduct' are extensively worded, with many clauses with unclear and abstract language.

The Australian Lawyers Alliance recommend that the definitions of 'police personnel conduct', 'police personnel conduct complaint' and 'police personnel misconduct' in section 5 of the *IBAC Act 2011* (Vic) should be redrafted to provide greater clarity.⁷⁷

Police Oversight Working Group submitted that the definition of 'police personnel misconduct' should be expanded to include all criminal offences instead of just those that are punishable by imprisonment.⁷⁸ They also submit that examples of the kind of conduct which is likely to bring Victoria Police into disrepute or diminish public confidence should also be included. They submit that these sentences should include examples such as 'breaches of police discipline (as defined under the *Victoria Police Act 2013*), excessive use of force and racial profiling'.⁷⁹

⁷⁷ Australian Lawyers Alliance, *Submission 22*, received 15 July 2025 pp. 7–10.

⁷⁸ Police Oversight Working Group, *Submission 19*, received 14 July 2025, p. 18.

⁷⁹ *Ibid.*, p. 17.

IBAC do caution that amendments to these definitions will have flow on effects. They state that:

The current definitions of police personnel conduct and police personnel misconduct within the IBAC Act are complex however, they are reflective of similar definitions contained in section 166 of the *Victoria Police Act 2013*. Any amendments to [the] IBAC Act definitions would have to be mirrored in [the] Victoria Police Act.

It is important to note that the common definitions within the IBAC Act, and the Victoria Police Act are not aligned to definitions of improper conduct within the *Public Interest Disclosures Act 2012*. Any consideration of amendments to the Police Personnel Conduct and Police Personnel Misconduct definitions should include a consideration of potential flow on effects to the PID scheme.⁸⁰

IOV also note that there is ‘merit in achieving consistency in the definitions in the IBAC Act, the *Victoria Police Act 2013* (Vic) and the *Public Interest Disclosures Act 2012* (Vic) ... to provide clarity and reduce complexity’.⁸¹ They support amendments which ‘clarify and simplify understanding of IBAC and Victoria Police’s jurisdiction in managing police complaints’.⁸²

Australian Lawyers Alliance provide definitions from Canada and PONI that provide clear and specific descriptors as well as examples of what misconduct could entail.⁸³ Further, the need to clarify the aforementioned definitions was explored in the 2018 Police Oversight Report. The IBAC Committee crucially defined ‘serious police misconduct’⁸⁴ in connection with the recommendation for IBAC to investigate those kinds of matters unless there are exceptional circumstances.⁸⁵ This recommendation is similar to the list of examples recommended by the Police Oversight Working Group.⁸⁶

IBAC also adds that clarification of these definitions could assist delineation of matters appropriate for IBAC, in contrast to matters ‘better managed through Victoria Police’s internal complaint and disciplinary systems’.⁸⁷ Focusing on serious categories of conduct would reiterate that ‘IBAC’s police conduct jurisdiction does not include service-level or strictly performance-related complaints’.⁸⁸

⁸⁰ IBAC, response to Integrity and Oversight Committee questions on notice, received 24 October 2025, p. 2.

⁸¹ IOV, response to Integrity and Oversight Committee questions on notice, received 23 October 2025, p. 2.

⁸² Ibid.

⁸³ Australian Lawyers Alliance, *Submission 24*, received 15 July 2025, pp. 9–10; see also, Hon Michael H. Tulloch, *Report of the Independent Police Oversight Review*, Ontario, 2017, <<https://opcc.bc.ca/wp-content/uploads/2017/04/2017-04-06-Report-of-the-Independent-Police-Oversight-Review.pdf>> accessed 25 August 2025.

⁸⁴ *2018 Police Oversight Report*, p. 189, referencing a NSW example for its wording.

⁸⁵ Ibid., p. 219.

⁸⁶ Police Oversight Working Group, *Submission 19*, received 14 July 2025, p. 17.

⁸⁷ IBAC, response to Integrity and Oversight Committee questions on notice, received 24 October 2025, p. 2.

⁸⁸ Ibid.

RECOMMENDATION 20: That the Victorian Government seek to amend and redraft the definitions of ‘police personnel conduct’, ‘police personnel conduct complaint’ and ‘police personnel misconduct’ in section 5 of *IBAC Act 2011* (Vic) and any relevant or related provisions in *Victoria Police Act 2013* (Vic) and *Public Interest Disclosures Act 2012* (Vic) to provide greater clarity.

That in doing so, the Victorian Government take into account Recommendation 20 by the IBAC Committee in the 2018 Police Oversight Inquiry.

6.3.2 Should IBAC be required to provide complainants with reasons for referral when referring a complaint to Victoria Police?

Under section 59(1) of *IBAC Act 2011* (Vic), IBAC ‘may’ notify the person who made a complaint when they have referred a matter under section 58. The Police Oversight Working Group submitted that this section be amended so that IBAC ‘must’ notify the complainant if a referral has occurred and submit that detailed reasons for referrals should be provided to complainants.⁸⁹

As was stated by Inner Melbourne Community Legal (on behalf of Police Oversight Working Group):

Of the complaints IBAC does not dismiss, 99 per cent of ongoing complaints are referred back to Victoria Police to self-investigate, as you have been hearing from all the other submitters. In respect of these referred complaints IBAC claims it has no obligation to provide to complainants the detailed reasons for complaint outcomes or the details of any recommendations made. The most you will get told is that IBAC has referred your complaint back to Victoria Police, and maybe years on you will get told that IBAC has reviewed your complaint outcome and made recommendations.⁹⁰

In the IOC’s last performance review, it was noted that ‘in 2025, IOV will commence a monitoring project regarding IBAC’s handling of complaints concerning Victoria Police, including an assessment of IBAC’s police-complaint referral process’.⁹¹

Concerns about referral processes have been raised previously before this Committee. In *IBAC’s referral and oversight of Emma’s complaints about Victoria Police’s response to family violence*, the IOV found that IBAC’s referral to Victoria Police was not supported by any written reasons and analysis, and IBAC ‘ought to have a process

⁸⁹ Police Oversight Working Group, *Submission 19*, received 14 July 2025, p. 16.

⁹⁰ Dr Jana Katerinskaja, human rights lawyer, survivor advocate, Inner Melbourne Community Legal representing the Police Oversight Working Group, public hearing, Melbourne, *Transcript of evidence*, 25 August 2025, p. 31.

⁹¹ Parliament of Victoria, IOC, *Performance of the Victorian integrity agencies 2022/23*, May 2025, p. 106; Victorian Inspectorate (now IOV), response to Integrity and Oversight Committee questions on notice, received 19 December 2024, p. 8.

for escalating issues of conflicts of interest or bias allegations', including 'recorded analysis' on whether to withdraw the referral and itself investigate the complaint.⁹²

On its current processes, IBAC has stated that it 'informs complainants, in writing, that their matter is being referred to another body for investigation. IBAC's letters explain that the information that has been provided does not meet IBAC's thresholds to investigate'.⁹³ They have also highlighted that they are

committed to improving the clarity of its communication with complainants and its responsiveness. The provision of additional information or reasons would be one way to increase transparency and must necessarily be balanced with capacity and the need to improve responsiveness. IBAC will give detailed consideration to these priorities as part of its multi-year project to optimise its complaints assessments practices.⁹⁴

Due to the importance of transparency for complainants, the Committee believes that complainants should be provided with reasons for referral.

RECOMMENDATION 21: That the Victorian Government seek to amend section 59(1) of the *IBAC Act 2011* (Vic) so that IBAC be required to provide complainants with reasons for referral when referring a complaint to Victoria Police.

6.3.3 Should IBAC have the express function of reviewing referred investigations, the power to make recommendations from reviews and the power to put conditions on referrals?

IBAC seeks that they are provided with a function of reviewing referred investigations as they currently rely 'on a variety of functions and powers to undertake review'.⁹⁵ They also seek the power to make recommendations arising from these reviews as these reviews provide vital information for improving the performance of oversight agencies.⁹⁶

As IBAC states:

The IBAC Act currently permits IBAC to require a referral agency to provide information regarding the investigation and any action taken in respect of the referred matter and also permits IBAC to withdraw a referral if it has determined to investigate the matter

⁹² Victorian Inspectorate (now IOV), *IBAC's referral and oversight of Emma's complaints about Victoria Police's response to family violence by a police office*, Melbourne, October 2022, p. 29, see also pp. 16, 33 respectively: the Victorian Inspectorate (now IOV) noted that there was no legislative requirement to provide written reasons for a section 73 decision to dismiss, refer or investigate a complaint but 'that it would be considered best practice to set out the reasons or rationale for a decision'. They also did not consider 'that IBAC was required to provide formal reasons for the [referral] decision. However, even if IBAC was not strictly required to provide reasons, it would have been preferable for IBAC to provide some level of information regarding the reasons for that decision from a welfare perspective'.

⁹³ IBAC, response to Integrity and Oversight Committee questions on notice, received 24 October 2025, p. 7.

⁹⁴ Ibid.

⁹⁵ IBAC, *Submission 23*, received 15 July 2025, p. 23: '[f]or referrals to Victoria Police ss 78 and 160 of the IBAC Act and s 170 of the Victoria Police Act 2013; for referrals to other public bodies: ss 73, 78 and 79 of the IBAC Act'.

⁹⁶ Ibid.

itself. But there is currently no express legislative power to attach conditions to a referral from the start of the process. Instead, IBAC has to rely on an implied power incidental to the power to refer a complaint.

One of the most effective ways of ensuring public confidence in a robust anti-corruption and police oversight system is for IBAC to review investigations that it has referred to other agencies.⁹⁷

The function of reviewing referred investigations and the power to make recommendations from these reviews ‘would confirm and clarify IBAC’s authority in this area’.⁹⁸ In addition, IBAC submits that ‘[c]lear monitoring powers are also essential to enable IBAC to review referred investigations in real-time and maintain oversight of ongoing investigations’ with reference to the NSW jurisdiction.⁹⁹

IBAC also recommends the ability to place conditions on a referral:

For instance, IBAC may wish to refer a matter to another agency, with a condition that the investigation be conducted within a certain time, or that the agency provide IBAC and the complainant with progress updates.¹⁰⁰

Relatedly, on the topic of Victoria Police conduct of internal investigations of serious incidents and deaths associated with police contact, IBAC states:

If such incidents have not been the subject of an independent complaint, there is no express legislative provision requiring Victoria Police to notify IBAC of these incidents, and no clear ability for IBAC to review internal Victoria Police investigations into them. IBAC’s capacity to conduct reviews of internal investigations is inherently connected to whether it is aware of the internal investigations taking place.¹⁰¹

Notably, the recommendation as proposed by IBAC would affect referrals in both IBAC’s anti-corruption remit and Victoria Police oversight. However, it would be of particular benefit over IBAC’s police oversight remit, and in principle, be a benefit in anti-corruption matters, in order to ensure independence oversight is also adequate over public agencies.

Another recommendation aimed to improve IBAC’s independent oversight over Victoria Police is to require IBAC to review all complaints referred to Victoria Police. The Police Oversight Working Group submitted that IBAC should review all complaints referred to Victoria Police for investigation and give IBAC access to Victoria Police systems to conduct ‘independent assurance of complaint files’.¹⁰² However, the Committee queries

⁹⁷ Ibid.

⁹⁸ Ibid.

⁹⁹ Ibid., p. 24.

¹⁰⁰ Ibid.

¹⁰¹ Ibid.

¹⁰² Police Oversight Working Group, *Submission 19*, 14 July 2025, p. 16.

IBAC's resource capacity to review all referrals and how this would operate in practice. IBAC confirms that

Overall, reviewing all police investigation files of referred complaints would represent (on average and approximately) an increase in volume of 350%. While it is anticipated that some economies of scale could be achieved, the increase in scale would necessitate a detailed business process review and significant additional resources.¹⁰³

RECOMMENDATION 22: That the Victorian Government seek to amend the *IBAC Act 2011* (Vic) so that IBAC is provided with the express function of reviewing referred investigations, the power to make recommendations from reviews and the power to put conditions on referrals.

6.3.4 Should IBAC have the ability to communicate review outcomes to complainants when it reviews a referred matter?

Section 163(2) requires IBAC to provide the complainant with the results of an investigation undertaken if the complaint is *about* police personnel conduct. However, it does not extend to *referred* complaints and investigations undertaken by Victoria Police.

IOV recommend that the *IBAC Act 2011* (Vic) be amended to allow IBAC to communicate review outcomes to complainants when it reviews a referred matter. IBAC reviews selected referred investigations and advises complainants when a complaint has been referred and marked for review. Section 163 of *IBAC Act 2011* (Vic) in its current form creates ambiguity about whether information about referred investigations can be conveyed.¹⁰⁴ IOV proposes an amendment to the legislation to allow greater communication of reviews, as being able to effectively communicate review outcomes can assuage complainants' concerns.¹⁰⁵ IBAC has also submitted that it should be permitted to communicate the outcomes of these reviews to complainants.¹⁰⁶

The Police Oversight Working Group recommends that s 163 be amended to clarify that the provision of results includes complaints referred to Victoria Police and other agencies.¹⁰⁷ This would improve transparency, and the complainants' autonomy over their experience. However, the Committee queries whether it should be IBAC or Victoria Police's responsibility to provide the results of a Police-run investigation to the complainant. The Committee has reservations that this requirement might not be practicable but further supports the amendment of s 163 for the provision of results on IBAC reviews of referrals in meeting this concern.

¹⁰³ IBAC, response to Integrity and Oversight Committee questions on notice, received 24 October 2025, p. 8.

¹⁰⁴ 'The ambiguity in section 163 of the Act over whether information can be shared about referred investigations needs clarification to empower IBAC to communicate meaningfully with complainants following its reviews': IOV, *Submission 21*, received 15 July 2025, p. 2.

¹⁰⁵ Ibid.

¹⁰⁶ 'It is also critical that IBAC be permitted to communicate the outcomes of these reviews to complainants': IBAC, *Submission 23*, received 15 July 2025, p. 23.

¹⁰⁷ Police Oversight Working Group, *Submission 19*, received 14 July 2025, pp. 18–19.

RECOMMENDATION 23: That the Victorian Government seek to amend section 163 of the *IBAC Act 2011* (Vic) so that IBAC is provided with the ability to communicate review outcomes to complainants when it reviews a referred matter.

6.3.5 Should IBAC be required to audit and publish findings regarding Victoria Police complaints data?

Another measure that would assist transparency over police oversight in key areas is the publication of Victoria Police complaints data. The Bridge of Hope Innocence Initiative submits that IBAC should be required to ‘keep a record of all complaints made concerning Victoria Police’.¹⁰⁸ There should also be ‘regular auditing of complaints’.¹⁰⁹ Further, findings should be published in relation to complaints:

- Whether a complaint is part of a vulnerable community (including Aboriginal and Torres Strait Islander people etc etc).
- Whether the complaint relates to the use of force, racial profiling, unlawful searches, or discriminatory policing practices.
- The outcome of the complaint, including whether disciplinary action was taken, and whether the complaint was upheld, dismissed, or unresolved.
- Patterns of repeat complaints against the same officers or within the same police units or stations, particularly in relation to vulnerable groups.¹¹⁰

Concerns on key issues such as racial profiling and the impact on vulnerable communities were also raised by the Victorian Aboriginal Legal Service.¹¹¹

The 2018 Police Oversight Report noted how robust data is necessary for transparency, and provided the following recommendation:

RECOMMENDATION 7: That IBAC and Victoria Police draw on the United Nations General Assembly–endorsed Fundamental Principles of Official Statistics (2014) in order to meet best practice in relation to the collection, analysis, reporting and publication of statistics. This includes statistics relating to the making, handling, assessment, dismissal, investigation and nature of complaints and disclosures about police corruption and other misconduct. This data should be provided across a range of variables, including age, gender, ethnicity and Aboriginality of complainants, and published in IBAC and Victoria Police annual reports and websites. The Office of the Police Ombudsman for Northern Ireland provides an excellent example of best practice with respect to the comprehensive collection, management, analysis and publication of statistics.¹¹²

¹⁰⁸ Bridge of Hope Innocence Initiative, RMIT University, *Submission 11*, received 30 June 2025, p. 3.

¹⁰⁹ Ibid.

¹¹⁰ Ibid.

¹¹¹ Victorian Aboriginal Legal Service, *Submission 25*, received 18 July 2025, pp. 2–5.

¹¹² *2018 Police Oversight Report*, p. 134.

Notably, IBAC launched the Corruption and Misconduct Allegations Dashboard in late 2024, which is a 'publicly accessible, interactive online tool that allows people to view and search for corruption and misconduct allegations across Victoria's public sector including police'.¹¹³ As IBAC states

The dashboard, which will have new data added to it on a regular basis, allows users to filter information by state government sector, organisation type and name, police division and by local council. It reveals the category of alleged corrupt behaviour or misconduct and the type of function or activity the allegation related to. The data available in the dashboard allows people to understand what kind of corruption and misconduct risks may be more prevalent in different parts of the public sector.¹¹⁴

Data on complaints and notifications about Victoria Police are also provided in an annual report with a breakdown of some allegations such as inaction, force and favouritism.¹¹⁵ IBAC also provides an annual snapshot on its website.¹¹⁶

IBAC has emphasised the importance of the Corruption and Misconduct Allegations Dashboard noting that

The CMAD provides an unprecedented level of reporting (for Australia) regarding complaints (received by IBAC). Any increase in the specificity of reporting would need to be balanced against the need to maintain the privacy of the complainant and the subject of the complaint.¹¹⁷

IBAC further notes that currently

IBAC is seeking changes to the legislation to enable greater transparency, such as to permit reporting on the outcomes of its reviews of Victoria Police investigations, subject to meeting procedural fairness requirements.¹¹⁸

The Committee commends IBAC for the launch of the Corruption and Misconduct Allegations Dashboard. However, IBAC has noted that certain details cannot be provided due to privacy concerns. Therefore, the Committee will continue to monitor the issue of whether further matter breakdowns or data can and should be given on the variables of age, gender, ethnicity and Aboriginality of complainants referred to in best practice. How stakeholders continue to respond to the Corruption and Misconduct Allegations Dashboard will also be monitored. It is also the Committee's view that the requirement to publish complaints data may be better suited to an operational recommendation, rather than a legislative obligation.

¹¹³ IBAC, response to Integrity and Oversight Committee questions on notice, received 24 October 2025, p. 6.

¹¹⁴ Ibid.

¹¹⁵ IBAC, *Annual report 2023–24*, Melbourne, 2024, pp. 34–35; IBAC notes that '[d]ata from complaints is currently captured by IBAC's Complaints & Assessment team at intake. A significant amount of data is reported on in IBAC's Annual Reports'; IBAC, response to Integrity and Oversight Committee questions on notice, received 24 October 2025, p. 6.

¹¹⁶ IBAC, *IBAC's independent oversight of Victoria Police January–31 December 2024*, March 2025, <https://www.ibac.vic.gov.au/sites/default/files/2025-04/IBAC%20Police%20Infographic%202024_0.PDF> accessed 25 August 2025.

¹¹⁷ IBAC, response to Integrity and Oversight Committee questions on notice, received 24 October 2025, p. 7.

¹¹⁸ Ibid., p. 7: IBAC goes on to say '[t]hese changes would enable IBAC to provide clearer context for the work it undertakes with Victoria Police, improve transparency for complainants and the community, support community understanding of how IBAC functions and strengthen the tools available to us to prevent corruption and police misconduct'.

Chapter 7

Other issues

Under its terms of reference, the Committee also examined ‘any other issue in the Act that may unreasonably limit IBAC’s ability to identify, investigate and expose corrupt conduct’. Although a range of matters was raised with the Committee, it focused on three areas: Independent Broad-based Anti-corruption Commission’s (IBAC) ability to make findings of ‘corrupt conduct’; its ability to publish reports and recommendations (including in relation to police oversight) while balancing procedural fairness; and steps to rebuild confidence between IBAC and First Nations communities in Victoria. These issues are addressed in Chapter 7.

7.1 IBAC’s ability to make findings about corrupt conduct and police personnel misconduct

Currently, reports ‘must not include ... a finding or an opinion’ that any named person is guilty of a criminal or disciplinary offence.¹ The Committee heard that the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) (*‘IBAC Act 2011 (Vic)’*) empowers IBAC to make adverse findings of corrupt conduct, however it employs a ‘conservative reading’ of the *IBAC Act 2011* (Vic) to avoid breaching s 162(6).² This section prescribes what IBAC can and cannot include in a special report. IBAC Commissioner, Victoria Elliott explains:

[IBAC] makes findings of fact, but it does not state in its report that it has found corrupt conduct ... because the Act says you cannot make any comment that includes that a person has committed or may have committed or is guilty of an act ... because our corrupt conduct jurisdiction requires a relevant offence ... therefore you cannot make a finding of corrupt conduct, even though [a] public report is on the balance of probabilities, not a court of law.³

As Integrity Oversight Victoria (IOV) observes, ‘[t]his limitation prevents IBAC giving an opinion on whether conduct found during the investigation is corrupt conduct’.⁴ As a result, because “‘corrupt conduct’ must constitute a relevant offence’, any IBAC findings in a public report ‘risk being associated with criminality’, however IBAC cannot publicly ‘clear’ a person whose conduct, in their opinion, falls short of corruption.⁵ Louise Macleod, Chief Integrity Inspector, explained why this is problematic, namely absent clear findings, naming someone in a public report creates an ‘association... with

¹ IBAC, *Submission 23*, received 15 July 2025, p. 20.

² Law Institute of Victoria (‘LIV’), response to questions on notice received 27 October 2025, p. 7.

³ Victoria Elliott, Commissioner, IBAC, public hearing, Melbourne, 22 September 2025, *Transcript of evidence*, p. 9; see also IOV, *Submission 21*, received 15 July 2025, pp. 2–3.

⁴ IOV, *Submission 21*, received 15 July 2025, p. 6.

⁵ Ibid.

criminality' and disproportionate reputational harm; therefore 'it is really important that there is that clarity and that can come through actually making an explicit finding in a public report'.⁶

In contemplating the need to balance the 'public interest' and 'rights of the individual', the LIV underscored the potential harms to an individual if this balance is not struck:

A public finding of corrupt conduct or police personnel misconduct against an individual inherently impacts upon the person's right to privacy and reputation, particularly where such findings have been made in the absence of the same procedural fairness safeguards that would have been provided in the judicial system. Arguably, in the social media age, public findings of corrupt conduct or police personnel misconduct are likely to have long lasting reputational impacts for the individual, which may culminate in severe impacts to the person's future employment and overall health and wellbeing.⁷

As such, IBAC proposes amending the Act to confer the explicit power and to clarify that any such finding 'is not a finding of guilt' but simply establishes jurisdiction.⁸ IBAC contends this would let it report more clearly on the conduct in issue, sharpen prevention-focused recommendations, offer 'authoritative statements' without prejudicing prosecutions, and help 'build ... public trust'.⁹ Put simply, a findings power would 'make clear the conduct ... and the outcome ... and identify clearly what the recommendations are trying to achieve'.¹⁰ The Committee supports this approach, subject to various qualifications explored further below.

7.1.1 Does a finding of corrupt conduct equate to a finding of guilt?

IBAC suggests that any amendment 'include a provision clarifying that a finding ... is not a finding of guilt or proof of the commission of a criminal offence and serves solely to establish jurisdiction'.¹¹ This power would allow IBAC to 'clearly report on the conduct, explain its implications and make recommendations to prevent similar conduct'.¹² Furthermore, an improved ability to provide 'authoritative statements' without pre-empting prosecution, will help to 'build public trust'.¹³ The LIV also raised these ideas,¹⁴ as did IBAC:

Most jurisdictions have the ability to make a finding of corrupt conduct ... with an express provision that any finding does not equate to a finding of commission of an offence ... so it is transparent and accountable.¹⁵

⁶ Louise Macleod, Chief Integrity Inspector, IOV, public hearing, Melbourne, 25 August 2025, *Transcript of evidence*, p. 17.

⁷ LIV, response to questions on notice received 27 October 2025, p. 10.

⁸ IBAC, *Submission 23*, received 15 July 2025, p. 21.

⁹ Ibid.

¹⁰ Victoria Elliott, Commissioner, IBAC, public hearing, Melbourne, 22 September 2025, *Transcript of evidence*, p. 9.

¹¹ IBAC, *Submission 23*, received 15 July 2025, p. 21.

¹² Ibid.

¹³ Ibid.

¹⁴ These ideas were also raised by the LIV in its response to questions on notice received 27 October 2025, pp. 8–9.

¹⁵ Victoria Elliott, Commissioner, IBAC, public hearing, Melbourne, 22 September 2025, *Transcript of evidence*, p. 9.

As a model, the *Independent Commission Against Corruption Act 1988* (NSW) ('*ICAC Act 1988* (NSW)') 'expressly provides' that ICAC can 'make a finding of serious corrupt conduct' and that this 'is not a finding or opinion' that a person committed a criminal or disciplinary offence.¹⁶ The IOV noted:

The NSW ICAC has an express power to make findings and form opinions, whether or not they relate to corrupt conduct (section 13(3) of the [*ICAC Act 1988* (NSW)] ... Sections 74A, 74B and 74BA provide the scope of ICAC's authority to report on corrupt conduct and to some extent limit findings to that of serious corrupt conduct. For example, in respect of each affected person, NSW ICAC must include statements of opinion whether or not to obtain the DPP's advice on prosecution, take disciplinary action for a specified disciplinary offence or take action against a public official with a view to terminating them or their services.¹⁷

The IOV suggests similar clarity for Victoria: '[w]e recommend amending the Act to give IBAC the ability to make findings about corrupt conduct, within appropriate settings, to ensure public transparency and clarity around the outcomes of investigations'.¹⁸ The Committee endorses this approach.

RECOMMENDATION 24: That the Victorian Government seek to amend the *IBAC Act 2011* (Vic) to empower IBAC to make findings of corrupt conduct.

7

The *IBAC Act 2011* (Vic) currently contains a number of safeguards that promote procedural fairness and natural justice that are relevant to whether IBAC should make findings of guilt. The LIV highlights these protections as follows:

- Maintaining confidentiality during the investigation;
- Providing persons subject to investigation with the opportunity to respond to adverse findings and opinions made against them;
- Be given a reasonable timeframe to respond; and
- The general administrative law principle that an investigation should be [completed] in as timely a manner as possible (justice delayed is justice denied).¹⁹

The LIV also highlighted that, in addition to legislation, individuals can seek judicial review of IBAC's findings via the courts.²⁰

While these protections go some way in achieving a balance between the public interest and an individual's privacy, the Committee considers that additional individual protections and procedural fairness requirements are needed if the above

¹⁶ *ICAC Act 1988* (NSW), s 12A–13; Gail Furness SC, Inspector, ICAC NSW, public hearing, Melbourne, 8 September 2025, *Transcript of evidence*, p. 23.

¹⁷ IOV, *Submission 21*, received 15 July 2025, p. 2.

¹⁸ *Ibid.*, p 6; *ICAC Act 1988* (NSW), s 13(3A).

¹⁹ LIV, response to questions on notice received 27 October 2025, p. 10.

²⁰ *Ibid.*

recommendation is implemented. ICAC's current framework provides some useful examples. For instance, ICAC's remit enables corruption findings over a broader definition than Victoria's—extending to 'a substantial breach of an applicable code of conduct', disciplinary offence, and effectively any criminal offence.²¹ ICAC weighs 'the public interest' in making determinations public and focuses on 'serious or systemic corrupt conduct', with safeguards such as non-publication orders and withholding names to protect private interests.²² As such, issues regarding procedural fairness, reputation, and witness welfare, still apply.²³ ICAC's current Inspector, Gail Furness, suggests that 'the Commission not being able to include a finding or an opinion that somebody is guilty or ... should be prosecuted' is an 'appropriate balance'.²⁴

Further, as suggested by the LIV, the Committee recommends amending the *IBAC Act 2011* (Vic) to mandate that IBAC must state, in its relevant reports, that its

duties and functions only relate to investigating and providing findings about allegations of corrupt conduct and police personnel misconduct, and that this does not amount to findings of criminal guilt.²⁵

The ACT Integrity Commission currently adopts this approach, which is useful for the present purpose:

An investigation under the IC Act [*Integrity Commission Act 2018* (ACT)] is not a trial: there are no parties; and no legal or evidentiary burden is placed on anyone to prove or disprove any fact. There is an applicable standard of proof in the sense that the process of investigation and the ability to make any findings must be based on a rational assessment of the relevant and available evidence to an appropriate level of certainty. In respect of findings of corrupt conduct, this is the civil, as distinct from the criminal, standard of proof. The civil standard is conventionally stated to be reasonable satisfaction on the balance of probabilities or on the preponderance of probabilities, whilst the criminal standard is satisfaction beyond reasonable doubt.²⁶

In support, the Committee proposes the following recommendations:

RECOMMENDATION 25: That the Victorian Government seek to amend the *IBAC Act 2011* (Vic) to require that IBAC implement additional procedural fairness requirements in respect of findings of corrupt conduct, including in respect of (but not limited to) confidentiality, timeliness and providing individuals with an opportunity to respond.

21 Hon John Hatzistergos AM, Chief Commissioner, NSW ICAC, public hearing, Melbourne, 18 August 2025, *Transcript of evidence*, p. 3.

22 Ibid., pp. 1–3.

23 These issues are discussed further below.

24 Gail Furness SC, Inspector, The Inspector of ICAC, NSW, public hearing, Melbourne, 8 September 2025, *Transcript of evidence*, p. 26.

25 LIV, response to questions on notice received 27 October 2025, p. 11.

26 ACT Integrity Commission, *Investigation Report Operation Juno*, ACT, March 2025, p. 6.

RECOMMENDATION 26: That the Victorian Government seek to amend the *IBAC Act 2011* (Vic) to require that IBAC, in relevant reports, expressly states that findings in respect of corrupt conduct and police personnel misconduct do not amount to findings of guilt.

7.2 Procedural fairness processes for publishing reports

IBAC can publish its reports.²⁷ During the Committee's Inquiry into Witness Welfare, IBAC explained how its reporting power complements its 'functions to expose corrupt conduct and police personnel misconduct and to achieve its education and prevention functions'.²⁸ This power, inevitably, raises significant procedural fairness considerations. Gabrielle Appleby, Yee-Fui Ng, and A J Brown, suggest public reporting serves four interconnected purposes:

- Transparency—opening government processes and the agency's own work to informed scrutiny that deters abuse and clarifies decisions;²⁹
- Accountability—enabling Parliament and the public to assess performance and progress against clear standards, consistent with the Jakarta Principles;³⁰
- Independence and effectiveness—strengthening the agency's credibility and impact through routine and case-specific reporting, including (where justified) naming non-compliance to secure uptake of recommendations;³¹ and
- Public participation—meeting international expectations that agencies inform and involve the community in integrity efforts.³²

These considerations require a balancing act and were of interest to the Committee during this Inquiry, particularly in relation to s 162(3) of the *IBAC Act 2011* (Vic) and the procedural fairness requirements attaching to IBAC's publication of its reports. Commissioner of the NSW ICAC, John Hatzistergos underscored why publication matters: 'reports are important because they add to our information back ... with time ... [they] may provide a somewhat different picture and justify our intervention. However, this reporting must be 'subject to appropriate safeguards' and fulfil IBAC's 'ongoing obligation to balance investigative and individual rights, assessing risk and supporting witness welfare'.³³ Procedural fairness is paramount: IBAC 'cannot publish

²⁷ *IBAC Act 2011* (Vic), s 162(1).

²⁸ IBAC, *Submission number 29*, received 3 May 2022, p. 10.

²⁹ Gabrielle Appleby, Yee-Fui Ng, and A J Brown, *Public Reporting of Corruption Matters: Research Report for the Independent Crime and Corruption Commission Reporting Review* ('*Public Reporting of Corruption Matters ICAC Research Report*'), report for the Independent Crime and Corruption Commission Reporting Review, 2024, pp. 14–16 ('*Public Reporting of Corruption Matters ICAC Research Report*').

³⁰ Ibid., p. 16; *Jakarta Statement on Principles for Anti-corruption Agencies*, 26–27 November 2012.

³¹ Appleby, Ng and Brown, *Public Reporting of Corruption Matters ICAC Research Report*, pp. 17–18.

³² Ibid., p. 21; *United Nations Convention Against Corruption*, 31 October 2003 (Article 13).

³³ Louise Macleod, Chief Integrity Inspector, IOV, public hearing, Melbourne, 25 August 2025, *Transcript of evidence*, p. 16

a report that talks about an individual until such time as the procedural fairness process has completed'.³⁴

7.2.1 The current process for providing procedural fairness to persons named in IBAC reports

Section 162(3) of the *IBAC Act 2011* (Vic) provides:

If the IBAC intends to include in a report under this section a comment or an opinion which is adverse to any person, the IBAC must first provide the person a reasonable opportunity to respond to the adverse material and fairly set out each element of the response in its report.³⁵

The Act seeks to minimise unreasonable reputational harm by controlling who may be identified in a public report and what can be published about them. For example, IBAC is prohibited from publishing findings or opinions that a person 'is guilty of or has committed, is committing or is about to commit' a criminal or disciplinary offence, or from publishing a recommendation that a person be prosecuted for such an offence.³⁶ IBAC also, if aware of the investigation or proceeding, cannot publish information that would prejudice a 'criminal investigation, criminal proceedings or other legal proceedings'.³⁷ Where IBAC makes no adverse comment or opinion about a person, it must not identify them unless it determines that doing so serves 'the public interest' and will not result in 'unreasonable damage to the person's reputation, safety or wellbeing'.³⁸ If IBAC does identify such a person, the report must include a statement that IBAC has not made an adverse comment or opinion about the person.³⁹ In IBAC's own words, they explain:

Under s 162 of the [*IBAC Act 2011* (Vic)], IBAC can publish a special report on any matter relating to the performance of its duties and functions. The report is subject to a rigorous procedural fairness process. IBAC must provide any public body or person in respect of which an adverse comment or opinion is made with a reasonable opportunity to respond ... and fairly set out each element of their response in its report.⁴⁰

The High Court, in *AB v Independent-Broad-based Anti-corruption Commission*, considered these issues.⁴¹ It made clear, before publishing any adverse comment, IBAC must disclose the 'adverse material' required by s 162(3) of the *IBAC Act 2011* (Vic)—that is, the evidentiary material on which the proposed comment or opinion rests, or at least its substance or gravamen; giving people only the draft adverse opinions is not

³⁴ Cathy Cato, Chief Executive Officer, Victorian Inspectorate, Joint Select Committee on National Anti-corruption Commission Legislation, public hearing, *Transcript of evidence*, p. 21.

³⁵ Similar provisions apply in respect of the Victorian Ombudsman and IOV: *Victorian Ombudsman Act 1973* (Vic), s 25A(2); *Integrity Oversight Victoria Act 2011* (Vic), s 87(3).

³⁶ *IBAC Act 2011* (Vic), s 162(6).

³⁷ *Ibid.*, s 162(5).

³⁸ *Ibid.*, s 162(7); IBAC, *Submission 23*, received 15 July 2025, p. 20.

³⁹ *IBAC Act 2011* (Vic), s 162(7). IBAC, *Submission 23*, received 15 July 2025, p. 20.

⁴⁰ IBAC, *Submission 23*, received 15 July 2025, p. 20.

⁴¹ (2024) 278 CLR 300.

enough. As Prof Matthew Groves notes, this requires striking a balance between IBAC's investigative imperatives, and the procedural fairness owed to those affected by its investigations.⁴² Former Chief Commissioner of the NSW ICAC Peter Hall has observed that the issue of balance differs based on the individual circumstances of the case.⁴³ It depends on the inquiry's mandate and the issues in dispute, weighing investigation integrity against fairness and reputational harm, without any rigid rules.⁴⁴

In addition to concerns about reputational risk and undue harm, witnesses cautioned that current procedural fairness steps can significantly stall publication of special reports. During hearings for this Inquiry, the Committee Chair enquired whether courts 'can be used to delay the publication of special reports for a very long time'.⁴⁵ Justin Hannebery KC agreed 'there have been a number of reports that have been delayed for a long time', urging that any new legislation keep such delays 'to a minimum'.⁴⁶ Similarly, former IBAC Commissioner, Robert Redlich AM KC described *Operation Sardon* as 'a glaring example of years of waiting' driven by the requirement to circulate drafts to every person named and then include their responses, contributing to 'years ... of protracted litigation before tabling'.⁴⁷ The Committee heard, this approach is 'entirely inconsistent' with royal commissions, where counsel and parties make submissions and the commission then 'writes their own report' without further consultation.⁴⁸

7.2.2 Comparison to other jurisdictions

Approaches to this specific issue differ across Australian states and territories. For example, in South Australia, its Independent Commission Against Corruption may table reports in Parliament only where they do not include 'any findings or suggestions of criminal or civil liability'.⁴⁹ As a result, the Commission is unable to publicise findings of corrupt conduct. Commentators have suggested this reduces its ability to achieve its deterrence, corruption prevention, and educative functions'.⁵⁰

In New South Wales, the Commission can only include an adverse finding in a published report if it first gives the person a reasonable chance to respond, and includes a summary of the substance of the person's response to the report (if requested).⁵¹ In 2015, Bruce McClintock SC and former High Court of Australia Chief Justice Murray

⁴² Matthew Groves, 'What's in a name? Fairness and a reasonable opportunity: *AB v Independent Broad-based Anti-corruption Commission*', *Sydney Law Review*, vol. 45, no. 4, 2023, p. 525.

⁴³ Peter Hall, *Investigating Corruption and Misconduct in Public Office*, LawBook Co, Pyrmont, 2019, p. 780.

⁴⁴ Ibid.

⁴⁵ Tim Read, Chair, Integrity and Oversight Committee, Parliament of Victoria, public hearing, 8 September 2025, *Transcript of evidence*, p. 32.

⁴⁶ Justin Hannebery KC, President, The Victorian Bar, public hearing, Melbourne, 8 September 2025, *Transcript of evidence*, p. 32.

⁴⁷ Hon Robert Redlich AM KC, Accountability Round Table, public hearing, Melbourne, 18 August 2025, *Transcript of evidence*, p. 12.

⁴⁸ Ibid.

⁴⁹ *Independent Commission Against Corruption Act 2012 (SA)* ('*ICAC Act 2012 (SA)*'), ss 25(5)(b), 42(1a)(b).

⁵⁰ Yee-Fui Ng and Stephen Gray, 'Robust watchdogs, toothless tigers or kangaroo courts? The evolution of anti-corruption commissions in Australia', *UNSW Law Journal*, vol. 47, no. 2, 2024, p. 441.

⁵¹ *ICAC Act 1988 (NSW)*, s 79A.

Gleeson reviewed the NSW ICAC's powers, including its ability to publish reports. Their report concluded, broadly, that legislative amendment or further qualification was not warranted. They acknowledged

[t]he very fact that inquiries are held in public with the obvious potential for reputational damage arising not only from considered findings at the end of an inquiry, but also from publicity associated with the course of the inquiry, creates a risk of serious unfairness. At the same time, publicity itself is a source of protection against administrative excess.⁵²

Across the NSW evidence, procedural fairness in public inquiries is actively managed through non-publication powers: as John Hatzistergos notes, '[p]rotection of reputations is not unimportant; it is extremely important... there are various ways... including making directions for non-publication of certain evidence and non-publication of names'.⁵³ The NSW ICAC Commissioner notes, '[i]n one instance ... I made a non-publication order in relation to the witness's name during the course of the public inquiry as a way of managing the concerns that had been raised'.⁵⁴

In Queensland, in accordance with s 69B(2)(a)–(c) of the *Crime and Corruption Act 2001* (Qld), the Crime and Corruption Commission must provide a copy of the proposed report and related evidence. It must also invite the relevant person to make a submission to the commission on the draft report and the related evidence (or summary).⁵⁵ An exception applies if the Commission 'considers the confidentiality of the evidence, information or material should be strictly maintained'.⁵⁶

Thus, across jurisdictions, publication and procedural-fairness settings vary on a spectrum from restrictive to permissive. South Australia's ICAC can only table reports that avoid any findings or suggestions of criminal or civil liability,⁵⁷ effectively preventing the public release of corrupt-conduct findings and, according to commentators, blunting deterrence, prevention and educative functions. New South Wales retains strong publication powers subject to natural-justice safeguards (notice and right of reply), with the Gleeson–McClintock review concluding that legislative curtailment is unwarranted despite the reputational risks, because transparency also guards against administrative excess. Queensland demonstrates a more prescriptive natural-justice process—using a draft report, underlying evidence (or a summary), and an invitation to respond—further qualified by a confidentiality carve-out where strict secrecy is needed. On balance, these models suggest the most robust approach preserves publication in the public interest while implementing clear, proportionate procedural-fairness steps and narrow, evidence-based confidentiality exceptions.

⁵² See generally NSW Department of Premier and Cabinet, *Independent Panel—Review of the Jurisdiction of the Independent Commission Against Corruption*, report prepared by Hon Murray Gleeson AO and Bruce McClintock, Sydney, 2015.

⁵³ Hon John Hatzistergos AM, Chief Commissioner, ICAC, NSW, public hearing, Melbourne, 18 August 2025, *Transcript of evidence*, p. 4.

⁵⁴ *Ibid.*, p. 7.

⁵⁵ *Crime and Corruption Act 2001* (Qld), s 69B(2)(c).

⁵⁶ *Ibid.*, s 69B(8).

⁵⁷ *ICAC Act 2012* (SA), ss 25(5)(b), 42(1a)(b).

7.2.3 Should the procedural fairness process be changed?

IBAC requested expanded authority to issue public reports on the outcomes of investigations and reviews. Specifically, whereas it currently can only publish ‘specific reports’ when investigations or reviews conclude, IBAC seeks a broader discretion to publish ‘outcomes of investigations or reviews ... subject to meeting procedural fairness requirements’.⁵⁸ The IOV agrees IBAC should ‘publicly report on a broader range of findings and recommendations within appropriate settings to promote transparency and accountability’.⁵⁹ The Committee generally supports this approach. Importantly, this approach will help ‘generate awareness of IBAC’s prevention and exposure work ... and ... build understanding and trust’.⁶⁰

Importantly, IBAC has expressed a commitment to preserving the Act’s baseline safeguards as currently expressed.⁶¹ The Victorian Bar adds, further:

The processes that are outlined in section 162 do have important safeguards ... give someone notice of the material ... and then give them an opportunity to respond ... it seems to be an appropriate procedural safeguard ... it is important to ensure that the existing procedural safeguards ... remain, that they not be diluted.⁶²

Thus, the Committee is in favour of expanding IBAC’s powers to publish reports on the basis that procedural fairness protections for witnesses and those affected by its reports are similarly enhanced. To that end, the Committee acknowledges suggestions to clarify statutory language and timeframes. As Simon Thomas points out: ‘[t]he legislation uses the words “reasonable opportunity to respond” ... designed to give flexibility... there is something in between hard deadlines and what the current test is’.⁶³

Furthermore, the Committee also notes the approach of NSW ICAC in respect of non-publication orders and protecting the identities of specific witnesses as appropriate. As Inspector Gail Furness SC noted, the Commission uses secrecy provisions ‘quite routinely... to good effect’, covering ‘the name of the person, the image of the person and the evidence that they give’.⁶⁴ The Committee supports these suggestions, noting that they also serve to mitigate the likelihood and length of ongoing litigation—as mentioned by former IBAC Commissioner, Robert Redlich AM KC.⁶⁵

In response to a question on notice, IBAC described its position in respect of minimum standards of procedural fairness. IBAC supports the current procedural fairness process, and requirement to give the affected party advance notice and an

⁵⁸ IBAC, *Submission 23*, received 15 July 2025, p. 19.

⁵⁹ Louise Macleod, Chief Integrity Inspector, IOV, public hearing, Melbourne, 25 August 2025, *Transcript of evidence*, p. 16.

⁶⁰ IBAC, *Submission 23*, received 15 July 2025, pp. 22–23.

⁶¹ *Ibid.*, pp. 20–21.

⁶² Simon Thomas, Barrister, The Victorian Bar, public hearing, Melbourne, 8 September 2025, *Transcript of evidence*, p. 31.

⁶³ *Ibid.*, p. 32.

⁶⁴ Gail Furness SC, Inspector, The Inspector of ICAC, NSW, public hearing, Melbourne, 8 September 2025, *Transcript of evidence*, p. 26.

⁶⁵ Hon Robert Redlich AM KC, Accountability Round Table, public hearing, Melbourne, 18 August 2025, *Transcript of evidence*, p. 12.

opportunity to respond when IBAC intends to publish an adverse finding. However, IBAC also suggested that it should not be compelled to disclose full source material or reflect every element of a response (though it should have a power to share underlying material where fairness requires it). If new adverse material becomes available, IBAC should provide a further opportunity to respond, limited to that new material. The Committee has considered IBAC's position in respect of these points and agrees with the agency's approach.

The Committee sought further information from IBAC and the IOV in respect of two specific procedural fairness matters relating to the publication of reports. First, it asked IBAC and the IOV their opinions about default time limits for each procedural-fairness stage.

IBAC suggested that the time required to give a fair opportunity to respond to an adverse finding (procedural fairness) depends on the circumstances of each case, which is why legislation and the courts use flexible language like 'a reasonable opportunity to respond'.⁶⁶ This flexibility is needed, even if sometimes ambiguous, because it ensures 'that fairness is afforded to all affected entities in all cases'.⁶⁷ This complexity is heightened when there are external factors such as parallel court proceedings, which can significantly delay IBAC's ability to meet its procedural fairness obligations to all affected parties, including through lengthy appeal processes.⁶⁸

The IOV's view is that clear statutory timeframes—supported by a mechanism to seek reasonable extensions, as in Queensland where individuals generally have 30 days to respond to a draft report, can apply within 14 days for up to a 60-day extension (or longer in exceptional circumstances), and must be re-notified of any new adverse material—promote procedural fairness for all parties by creating certainty about what must be done and by when.⁶⁹ As the IOV put neatly, 'statutory timeframes are procedurally fair for everyone if the settings are reasonable. Timeframes give certainty and remove doubt about what is to be done and by when'.⁷⁰

The Committee therefore supports the implementation of this latter approach in Victoria, which balances a need for certainty against due process and procedural fairness and, therefore, recommends the following:

RECOMMENDATION 27: That the Victorian Government seek to amend the *IBAC Act 2011* (Vic) to prescribe clear and reasonable statutory time frames within which affected individuals must be notified and given an opportunity to respond before the publication of any report that may contain adverse commentary about them. These timeframes should form part of the procedural fairness requirements and ensure a consistent, transparent process for managing natural justice obligations prior to tabling or public release.

⁶⁶ IBAC, response to questions on notice received 24 October 2025, p. 9.

⁶⁷ Ibid., p. 10.

⁶⁸ Ibid.

⁶⁹ IOV, response to questions on notice received 23 October 2025, p. 7.

⁷⁰ Ibid.

Second, the Committee enquired with IBAC and the IOV as to what metrics and documents IBAC should regularly provide to IOV to demonstrate its compliance with procedural fairness, without unduly compromising the agency's investigations or individual rights. In IBAC's opinion, it 'considers existing internal monitoring and reporting protocols with IOV, combined with IOV's oversight of IBAC's policies and procedures and its complaint handling function are sufficient to effective oversight of IBAC's natural justice obligations'.⁷¹

The IOV, as the integrity body responsible for overseeing IBAC, agrees. It highlighted that it can

- receive complaints about IBAC's compliance with procedural fairness;
- monitor IBAC's compliance with the *IBAC Act 2011* (Vic) and relevant laws;
- engage with IBAC regarding any identified risks.⁷²

Furthermore, as highlighted above, the IOV reiterated that IBAC must comply with the procedural fairness requirements as per s 162 of the *IBAC Act 2011* (Vic), as well as common law procedural fairness requirements for both public and private reports.⁷³ Moreover, IOV can scrutinise IBAC's procedures and policies for the purpose of ensuring it complies with legislative and common law requirements.⁷⁴ As such, the IOV suggests:

These current settings appropriately enable us to oversee IBAC's natural justice processes. Legislating provision of metrics could add a regulatory burden at an already complex state of an investigation.⁷⁵

As such, in light of IBAC and IOV's responses, and broader procedural fairness analysis and related recommendations further above, the Committee is amenable to maintaining the status quo in this instance.

7.3 Should IBAC be able to publish recommendations separate to publication of reports?

As part of discussion regarding procedural fairness requirements and publishing reports, the Committee also considered 'whether the power to publish recommendations not contained in a special report may be appropriate in certain circumstances'.⁷⁶

⁷¹ IBAC, response to questions on notice received 24 October 2025, p. 10.

⁷² IOV, response to questions on notice received 23 October 2025, p. 7.

⁷³ Ibid.

⁷⁴ Ibid.

⁷⁵ Ibid.

⁷⁶ Ibid, p. 4.

At present, IBAC's ability to publish formal recommendations is limited. Under s 159 of the *IBAC Act 2011* (Vic), formal recommendations attract a statutory obligation on the recipient to report whether the recommended action will be taken and, if not, why.⁷⁷ Furthermore, recommendations may only be made about a matter 'arising out of an investigation', and public release occurs only when they are included in a special report under s 162.⁷⁸ In practice, many IBAC recommendations are issued privately and never appear in a special report.

IBAC may publish otherwise private recommendations in a special report or annual report where it considers an agency has failed to take appropriate action.⁷⁹ While this mechanism allows some recommendations to be made public, it is only triggered when IBAC is not satisfied with an agency's response, and therefore has limited application.⁸⁰

In its submission, IBAC highlighted that publishing recommendations, even when an investigation does not result in a public report, has clear public value.⁸¹ It enhances IBAC's prevention and education impact by letting agencies that were not investigated learn from the findings and adopt relevant prevention measures in their own contexts, strengthening controls and integrity frameworks.⁸² Public recommendations also make IBAC's prevention and exposure work more visible, helping build community understanding and trust in its role.⁸³ During the hearing, IBAC's leadership team made clear how publishing recommendations outside of special reports will assist with transparency and accountability.⁸⁴ The Accountability Round Table noted similar ideas.⁸⁵

The IOV also mentioned the benefit of publishing recommendations separately in respect of minimising undue delay with publishing reports:

For example, where legal proceedings relating to procedural fairness delay the publication of investigation findings in a special report, it may be appropriate to empower IBAC to separately publish recommendations that address systemic risks. This would mitigate the risk in a timelier manner without unfairly prejudicing those awaiting a procedural fairness court judgment.⁸⁶

These are important considerations, however maintaining—and enhancing—procedural fairness requirements remain paramount. As such, IBAC proposes a standing discretion

⁷⁷ IBAC, *Submission 23*, received 15 July 2025, p. 21.

⁷⁸ Ibid.

⁷⁹ *IBAC Act 2011* (Vic), s 159(2).

⁸⁰ IBAC, *Submission 23*, received 15 July 2025, p. 21.

⁸¹ Ibid, p. 22.

⁸² Ibid.

⁸³ Ibid.

⁸⁴ Victoria Elliott, Commissioner, IBAC, public hearing, Melbourne, 22 September 2025, *Transcript of evidence*, pp. 9–10; Liana Buchanan, Deputy Commissioner, IBAC, public hearing, Melbourne, 22 September 2025, *Transcript of evidence*, p. 9; Alison Byrne, Chief Executive Officer, IBAC, public hearing, Melbourne, 22 September 2025, *Transcript of evidence*, p. 10.

⁸⁵ Accountability Round Table, *Submission 9*, received 26 June 2025, p. 6.

⁸⁶ IOV, *Submission 21*, received 15 July 2025, p. 4.

to publish investigation and review outcomes, and their recommendations, ‘subject to meeting procedural fairness requirements’.⁸⁷ Such requirements include providing individuals with a reasonable opportunity to respond, fairly setting out response, and not identifying non-adverse persons unless public-interest and no-unreasonable-harm tests are met.⁸⁸ In terms of reforming the *IBAC Act 2011* (Vic), IBAC suggests

the legislation could require that recommendations be made in private to the relevant person or agency, with the recipient being given an opportunity to respond and being notified that any response they provide may be made public. Once such a process has occurred, IBAC should have the discretion to determine whether it will publish the outcomes of the investigation or review and any associated recommendations, subject to limitations as those found in ss 162(6) and (7) of the Act.⁸⁹

Best practice recognises that anti-corruption commissions should be able to make recommendations to address systemic corruption risks.⁹⁰ At a Commonwealth level, the NACC may comment on and add recommendations to an agency’s completion report and must give the agency an opportunity to respond,⁹¹ but it appears limited to providing information to the responsible Minister or agency head rather than publishing those recommendations.⁹² By contrast, NSW ICAC can recommend action to a relevant authority, require a response, escalate unresolved dissatisfaction by reporting to the responsible Minister with both sides’ comments, and, if still unsatisfied, report to Parliament.⁹³ Similarly, WA’s CCC may recommend action to appropriate authorities,⁹⁴ prepare and table a report in Parliament where action is not being carried out properly, efficiently or expeditiously,⁹⁵ and must give any person or body subject to an adverse report a reasonable opportunity to make representations.⁹⁶

By contrast with these above approaches, IBAC’s suggested model would permit publication of recommendations in accordance with procedural fairness guardrails, rather than make publication contingent on dissatisfaction or non-compliance. This approach remedies the current constraint that formal recommendations are public ‘only via a special report’, leaving ‘a significant portion ... not published’.⁹⁷

⁸⁷ IBAC, *Submission 23*, received 15 July 2025, p. 19.

⁸⁸ Ibid, p. 20.

⁸⁹ Ibid., p. 23.

⁹⁰ National Anti-corruption Commission, *Fundamental principles of Australian anti-corruption commissions*, 31 July 2024, <<https://www.nacc.gov.au/news-and-media/fundamental-principles-australian-anti-corruption-commissions>> accessed 15 September 2025.

⁹¹ *National Anti-Corruption Commission Act 2022* (Cth), ss 53(1)–(2).

⁹² Ibid., s 54.

⁹³ *ICAC Act 1988* (NSW), s 55(1)–(3).

⁹⁴ *Corruption, Crime and Misconduct Act 2003* (WA), s 43.

⁹⁵ Ibid., ss 85(2), 85(4).

⁹⁶ Ibid., s 86.

⁹⁷ IBAC, *Submission 23*, received 15 July 2025, pp. 21–22.

The Committee acknowledges the above contributions. Subject to adherence with procedural fairness guardrails (as IBAC has expressed commitment to), it endorses the Accountability Round Table's recommendation,⁹⁸ as follows:

RECOMMENDATION 28: That the Victorian Government seek to amend section 159(2) of the *IBAC Act 2011* (Vic) to permit IBAC to table in Parliament recommendations it has made following any investigation if those recommendations relate to any public entity, agency or institution, regardless of whether IBAC transmits a Special Report to Parliament.

7.3.1 Should IBAC be required to publish recommendations made to Victoria Police in private?

The Committee also heard further submissions about IBAC's oversight of Victoria Police under s 159, in which private recommendations may only be published in limited circumstances, and that Victoria Police is not generally required to publicly report on implementation.

IBAC's submission further explains that, beyond formal recommendations, it issues requests to Victoria Police after receiving a police report, but Victoria Police may decline the requested actions (with reasons).⁹⁹ However, 'IBAC does not have the power to publish either the requested actions or the response from Victoria Police'.¹⁰⁰ As a result, IBAC makes significant private recommendations to Victoria Police and reviews 'over 200 police investigations a year' but 'nobody sees that work'.¹⁰¹

IBAC's December 2023 special report reviewed 104 recommendations to Victoria Police (Jan 2016 – Mar 2022) to 'increase transparency and accountability' around Victoria Police's responses.¹⁰² It discovered that Victoria Police 'accepted 92 per cent' of recommendations and that 'most recommendations were implemented within two years', but that Victoria Police was 'usually late when reporting on implementation', with 90% of first reports overdue.¹⁰³ About half of investigations led to discipline recommendations—often involving 'obscuring behaviours'—and many recommendations targeted complaint-handling, use-of-force reporting, conflicts of interest, and note-taking/statement making.¹⁰⁴ IBAC sought 'legislative change to permit greater visibility of all its recommendations' and to improve accountability for responses.¹⁰⁵

⁹⁸ Accountability Round Table, *Submission 9*, received 26 June 2025, p. 6.

⁹⁹ IBAC, *Submission 23*, received 15 July 2025, p. 22.

¹⁰⁰ Ibid.

¹⁰¹ Victoria Elliott, Commissioner, IBAC, public hearing, Melbourne, 22 September 2025, *Transcript of evidence*, p. 10.

¹⁰² IBAC, *Victoria Police's responses to IBAC's recommendations*, Melbourne, 2023, p. 5.

¹⁰³ Ibid., pp. 9, 12–13.

¹⁰⁴ Ibid., pp. 13–17.

¹⁰⁵ Ibid., pp. 6, 8, 19.

The Police Working Oversight Group (POWG) raised similar concerns. For example, it noted that while ‘Victoria Police act on 90% of IBAC’s recommendations’, ‘most recommendations are not the subject of special reports’ and thus ‘the majority of recommendations made to Victoria Police cannot be publicly reported’.¹⁰⁶ This approach impacts complainants. During hearings, the Committee heard:

IBAC ... [make] recommendations. But they will not tell you what those recommendations are ... [or] whether the police have implemented those recommendations or how they have implemented those recommendations’.

This is particularly disempowering for complainants and those invested in improving Victoria’s police system.¹⁰⁷

Against that backdrop, IBAC told the Committee it wants to publish recommendations and outcomes from its police-oversight work to rebuild trust. Understandably, it wants to communicate outcomes to complainants and, ‘subject to natural justice’, be able to publish the outcomes of those investigations and reviews.¹⁰⁸ As Deputy IBAC Commissioner, Liana Buchanan, states:

when we review police investigations, we can publish and make transparent the outcomes of those reviews ... We think all of those will help ... to rebuild some of the confidence in IBAC’s police oversight jurisdiction.¹⁰⁹

To that end, to increase accountability, POWG recommended amending the *IBAC Act 2011* (Vic) to mandate for Victoria Police to implement IBAC recommendations and provide IBAC with a progress or implementation report within six months.¹¹⁰ Such information, when presented, could be in de-identified format, similar to ‘the way other complaint-handling bodies do’.¹¹¹ Furthermore, noting delays of 18 to 24 months, POWG called for ‘timely and public implementation’.¹¹² This measure would provide insight into why Victoria Police may not implement IBAC’s recommendations.¹¹³

RECOMMENDATION 29: That the Victorian Government seek to amend the *IBAC Act 2011* (Vic) to require Victoria Police to:

- implement IBAC’s recommendations (or, where not implemented, to publicly state clear reasons and any alternative actions),
- provide IBAC with a progress/implementation report within six months and at reasonable intervals thereafter.

¹⁰⁶ Police Oversight Working Group, *Submission 19*, received 14 July 2025, p. 20.

¹⁰⁷ Ibid.

¹⁰⁸ Victoria Elliott, Commissioner, IBAC, public hearing, Melbourne, 22 September 2025, *Transcript of evidence*, p. 10.

¹⁰⁹ Liana Buchanan, Deputy Commissioner, IBAC, public hearing, Melbourne, 22 September 2025, *Transcript of evidence*, p. 9.

¹¹⁰ Police Oversight Working Group, *Submission 19*, received 14 July 2025, p. 19.

¹¹¹ Dr Jana Katerinskaja, public hearing, Melbourne, 25 August 2025, p. 32.

¹¹² Michelle Reynolds, Director, Policy and Advocacy, Inner Melbourne Community Legal, public hearing, Melbourne, 25 August 2025, p. 36.

¹¹³ Ibid.

RECOMMENDATION 30: That the Victorian Government seek to amend the *IBAC Act 2011* (Vic) to enable IBAC to table in Parliament—in de-identified form—each recommendation together with Victoria Police’s implementation status and reasons, consistent with practices used by other complaint-handling bodies.

7.4 Should IBAC establish an Aboriginal Engagement Unit?

7.4.1 Trust between IBAC and First Nations communities

During its Inquiry, the Committee heard from the Victorian Aboriginal Legal Service (VALS). VALS promotes social justice for Aboriginal and Torres Strait Islander peoples in Victoria and, beyond legal services, undertakes advocacy to protect and promote First Nations people’s ‘empowerment, identity and culture’.¹¹⁴ The Committee is grateful for VALS’ contribution to this Inquiry and its wider advocacy. First Nations perspectives are essential to understanding how corruption and police oversight affect communities, and how any changes to IBAC’s legislative framework may be received.

Currently, trust between IBAC and Aboriginal communities is poor. Drawing on the findings of the Yoorrook Justice Commission,¹¹⁵ VALS told the Committee that Aboriginal people ‘do not have trust in the ability of government agencies to adequately investigate serious corruption’.¹¹⁶ VALS also pointed to IBAC’s 2022 audit of Victoria Police handling of complaints by Aboriginal people, which found that more than half of files failed to collect or consider relevant evidence and that conflicts of interest were identified in 84 per cent of files, many unmanaged.¹¹⁷

IBAC itself acknowledges that the ‘extremely low substantiation rates’ deter Aboriginal people from complaining and ‘can undermine efforts to build trust and confidence’ in the system.¹¹⁸ The audit also notes long-standing criticisms about a lack of independence—most matters investigated by police themselves—and records that ‘the community lacks trust and confidence in the system’.¹¹⁹ It further documents conflict-of-interest risks and frequent failures to gather or analyse key evidence.¹²⁰

IBAC has committed to improving this situation. It states it will further engage with Aboriginal communities and agencies, use the audit’s findings to improve how it handles complaints made by Aboriginal people, and better support Aboriginal complainants through the process.¹²¹ To that end, IBAC met with Regional Aboriginal Justice Advisory Committees (‘RAJACs’) across Victoria to discuss how it can

¹¹⁴ VALS, *About VALS*, (n.d.), <<https://www.vals.org.au/about-vals>> accessed 14 September 2025.

¹¹⁵ Yoorrook Justice Commission, *Report into Victoria’s child protection and criminal justice system*, Melbourne, 2023.

¹¹⁶ VALS, *Submission 27*, received 18 July 2025, p. 4.

¹¹⁷ Ibid; IBAC, *Victoria Police handling of complaints made by Aboriginal people audit report*, Melbourne, 2022, p. 11.

¹¹⁸ Ibid., p. 9.

¹¹⁹ Ibid., p. 19.

¹²⁰ Ibid., p. 12.

¹²¹ Ibid., pp. 8–9.

effectively engage with communities to promote reporting of police misconduct.¹²² IBAC also attended the Hume and Gippsland RAJACs meetings to present the findings from its audit report, and to listen to insights from Aboriginal leaders on community concerns about police misconduct.¹²³

IBAC has taken broader steps to build trust with First Nations communities. Its Reflect Reconciliation Action Plan sets a foundation for culturally safe engagement, learning and acknowledgement, with actions across Relationships, Respect, Opportunities and Governance (including cultural capability building, participation in community events, targeted recruitment and supplier diversity, and structures to track delivery).¹²⁴ In conjunction, the Community Engagement Strategy prioritises First Nations communities and aims to lift awareness of, and trust in, IBAC over multiple years—initially focusing on capability-building and harder-to-reach groups, strengthening relationships with First Nations leaders and organisations, producing tailored information, maintaining a consistent presence at community events, and tracking progress through trust and legitimacy indicators.¹²⁵

7.4.2 What would be the functions of an Aboriginal Engagement Unit?

Evidence from VALS indicates that, notwithstanding recent initiatives, trust between IBAC and First Nations communities remains low. The lived experience of First Nations people points to persistent harms and weak outcomes in complaint pathways. VALS CEO Nerita Waight observed: ‘Aboriginal people are overpoliced, over-represented and underserved when seeking police assistance’, and many ‘do not report being victims of crime’ because of prior experiences of ‘police brutality ... excessive use of force and ... racialised abuse and policing practices’.¹²⁶ She told the Committee that First Nations communities have ‘tried IBAC’ and ‘none of those systems have worked’, leading many to ‘endure’ rather than complain.¹²⁷

This, in-turn, creates a systemic issue where ‘police cannot be trusted to investigate themselves’, complainants ‘are frequently not believed’, the ‘framework itself is flawed’, resources are insufficient, and investigations are ‘rather narrow’.¹²⁸ These statements collectively describe a confidence gap grounded in both process (perceived lack of independence, narrow scopes) and outcome (low likelihood of meaningful action), and explain why trust remains fragile even as IBAC seeks to improve practice.

VALS proposes targeted improvements to address that gap. First, it argues that investigations of deaths and serious injuries involving police must be fully independent of police because police involvement ‘compromises integrity and fuels community

¹²² IBAC, *Annual report 2023/24*, Melbourne, p. 24.

¹²³ Ibid.

¹²⁴ IBAC, *Reflect Reconciliation Action Plan*, Melbourne, 2023.

¹²⁵ IBAC, *Community Engagement Strategy*, Melbourne, pp. 4, 9, 12–13, 19.

¹²⁶ Nerita Waight, Chief Executive Officer, VALS, public hearing, Melbourne, 8 September 2025, p. 9.

¹²⁷ Ibid.

¹²⁸ Ibid.

mistrust'.¹²⁹ Second, as an interim trust-building step within IBAC, VALS urges the creation of a dedicated Aboriginal Engagement Unit, led by a First Nations person 'at least at the level of Deputy Commissioner,¹³⁰ so IBAC has 'the skills, the expertise and the knowledge base' to 'effectively identify, investigate and expose corrupt conduct against Aboriginal people in Victoria'.¹³¹ Taken together, these measures aim to strengthen independence, cultural safety and investigative capability, and as importantly, rebuild trust and increase the likelihood that First Nations people will report misconduct.

IBAC is amenable to VALS's suggestion to introduce a dedicated Aboriginal Engagement Unit, stating

The introduction of a dedicated Aboriginal Engagement unit within IBAC would further assist IBAC to build these connections. The best people to provide support to First Nations people are most often First Nations people, including looking for opportunities to apply self-determination.¹³²

The IOV has expressed support for this approach, to the extent it will assist with developing 'culturally sensitive, safe and trauma informed practices', enable First Nations persons to occupy various levels of IBAC (including key decision-making positions), and strengthen Victoria's First Nations' trust and awareness of IBAC's complaints process.¹³³

RECOMMENDATION 31: That IBAC in consultation with Gellung Warl, as the permanent representative and deliberative body for Traditional Owners and First Peoples in Victoria, establish a dedicated, appropriately-resourced Aboriginal Engagement Unit—led by a First Nations leader—to, amongst other things, embed culturally safe, trauma-informed practice; co-design engagement with communities; strengthen independence and investigative capability (including in deaths and serious injury matters); and improve complaint handling, transparency and outcomes to rebuild trust.

¹²⁹ VALS, *Submission 27*, received 18 July 2025, p. 3.

¹³⁰ *Ibid.*, pp. 4–5.

¹³¹ Nerita Waight, Chief Executive Officer, VALS, public hearing, Melbourne, 8 September 2025, p. 12.

¹³² IBAC, response to questions on notice received 24 October 2025, p. 11.

¹³³ IOV, response to questions on notice received 23 October 2025, p. 7.

Chapter 8

Conclusion

8.1 Approach to this Inquiry

The Independent Broad-based Anti-corruption Commission (IBAC) was established by the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) ('*IBAC Act 2011* (Vic)') as Victoria's first public-sector-wide anti-corruption body. It is Victoria's principal anti-corruption, integrity and accountability body. Undoubtedly, IBAC's responsibility is significant and of utmost importance—not only to those directly involved in this inquiry, but to all Victorians.

Given this, this inquiry examined whether IBAC's legislative framework, which empowers IBAC to fulfil this responsibility, is fit-for-purpose. During the inquiry, the Committee called for written submissions and public evidence from integrity agencies, legal bodies, academics and community stakeholders, focusing on corrupt-conduct definitions, investigation thresholds, examinations, and information-sharing and confidentiality (with transcripts published on the Committee's web page). The Committee acknowledges the value and work involved in participating in this inquiry, and thanks all stakeholders for their contributions.

In addition to understanding IBAC's legislative framework in a local context, the Committee also located this inquiry in broader Australian and international contexts. Specifically, the Committee was informed by the United Nations Convention against Corruption, as well as the Australian Fundamental Principles of Anti-Corruption Commissions.

Scholarly literature cautions there is no single 'perfect model' for anti-corruption commissions; design must balance effectiveness, independence, accountability and rights protections. The Committee adopted this pragmatic lens throughout the inquiry, continually weighing principles against how the law operates in practice. Attempts to balance these ideas are demonstrated throughout this report.

8.2 Definitions in the *IBAC Act 2011* (Vic)

Chapter 2 explored how to modernise the definitional architecture of the *IBAC Act 2011* (Vic). Specific issues included: broadening 'corrupt conduct' to capture serious non-criminal integrity breaches with clear thresholds; replacing common-law 'misconduct in public office' (MIPO) with codified offences; and streamlining the reach of 'public officer' and 'public body'—potentially through follow-the-dollar and third-party coverage—subject to further governmental consultation and safeguards.

On corrupt conduct, the Act presently links this definition to a ‘relevant offence’ (i.e., indictable offences and specified common-law offences such as misconduct in public office). This offence-based model offers legal certainty and qualification in respect of ‘seriousness’, but the Committee heard that it can exclude significant integrity-compromising behaviour—e.g., ‘grey corruption’—that erodes public trust without necessarily constituting a crime, such as unmanaged serious conflicts or systemic governance failures.

Cross-jurisdictional comparisons show similarities and differences. For example, Queensland requires a criminal offence or conduct that could lead to dismissal while the ACT requires criminal offences, serious disciplinary offences or reasonable grounds for dismissal. New South Wales is considered the broadest, including disciplinary breaches, dismissal-level conduct and criminality.

The Committee understands there is broad support among integrity bodies, legal organisations and academics for broadening Victoria’s definition to capture serious non-criminal misconduct while retaining objective limits—whether by removing the ‘relevant offence’ threshold, adding a ‘serious misconduct/disciplinary’ limb or by adopting a ‘serious or systemic’ test. It cautions that any expansion must be accompanied by clear drafting, safeguards for rights, and realistic resourcing to avoid diluting police-oversight capacity or creating unreasonable public expectations. The Committee recommended that the definition of ‘corrupt conduct’ be broadened and include a serious disciplinary offence or conduct resulting in termination.

The Committee also acknowledges IBAC’s submission to this inquiry in respect of its resourcing and funding. It was also noted by Integrity Oversight Victoria (IOV) that broadening the definition of ‘corrupt conduct’ without the appropriate resourcing may create a disconnect with the public’s expectations. The Committee agrees and supports additional and proportionate resources and funding to IBAC where further responsibilities and powers have been given.

The inquiry also considered MIPO. In practice, MIPO’s common-law elements—especially the requirement that conduct merits criminal punishment—are uncertain and difficult to establish, creating jurisdictional and evidentiary challenges. Most Australian jurisdictions have enacted analogous public-office offences. As such, the Committee supports replacing reliance on MIPO with clearly defined statutory offences, drawing on domestic and comparative law reform work to provide predictable elements and thresholds for investigators and those subject to the law.

In evaluating definitions of ‘public officer’ and ‘public body’, Chapter 2 highlights complexity in current definitions and the growing prevalence of outsourcing, grants, and mixed public-private delivery. IBAC told the Committee of its resource-intensive, case-by-case inquiries that are needed to determine coverage, especially where private entities perform public functions or receive substantial public funds. Options canvassed include an explicit ‘follow-the-dollar’ approach (with a defined meaning of ‘substantial’ public funding), extending coverage to conduct by any person that impairs public administration (as seen in NSW and Queensland), and clarifying who is a ‘relevant principal officer’. In light of practical and constitutional limits, particularly

where Commonwealth–State responsibilities may overlap, the Committee recommends targeted consultation before streamlining definitions of ‘public officer’ and ‘public body’, and considering whether such definitions should cover third-party arrangements.

8.3 Investigations

In Chapter 3, the Committee considered whether IBAC’s investigative settings enable timely, effective inquiries while maintaining proper safeguards. It found that the existing threshold to commence an investigation should remain unchanged, and that any expansion of IBAC’s remit is better achieved by clarifying and broadening the definition of ‘corrupt conduct’ rather than by lowering the threshold itself.

Under s 60 of the *IBAC Act 2011* (Vic), IBAC may investigate after receiving a complaint or notification, or on its own motion, but it must suspect on reasonable grounds that the conduct constitutes corrupt conduct. Evidence to the Committee indicates that the 2016 amendments already eased barriers to commencing investigations by moving from a high ‘reasonably satisfied’ standard to ‘reasonable suspicion’.¹ Submissions emphasised, however, that the threshold and definition are linked. That is, if Parliament expands the statutory definition of corrupt conduct (for example, to encompass ‘grey corruption’), the range of matters IBAC can investigate will expand—without altering the threshold. As such, the Committee recommends that the definition of corrupt conduct be expanded, to thus expand the range of matters IBAC can investigate. This approach preserves proportionality and resource triage while aligning Victoria with broader integrity practice.

The Committee also considered IBAC’s search warrant powers. The Committee found that modern investigative realities—particularly data held in distributed systems—warrant targeted enhancements to s 91 of the *IBAC Act 2011* (Vic). Comparable provisions in Victoria allow police, when authorised, to access data ‘held in, or accessible from’, local devices, and to compel reasonable assistance to access that data. The Committee recommends amending the *IBAC Act 2011* (Vic) so that an IBAC Officer executing a search warrant issued under s 91 can:

- require the names and addresses of persons present;
- compel assistance to access computers and data-storage devices (including passwords/credentials or other reasonable facilitation); and
- enable access to data held offsite but accessible from a device on the premises.

The Committee does not support conferring a general power of arrest without warrant, noting that existing warrant frameworks and the *Magistrates’ Court Act 1989* (Vic) already provide sufficient pathways for arrest in appropriate circumstances. Any increase in IBAC’s powers should be subject to oversight by the IOV, although, noting that search warrants are issued by a Magistrate or Supreme Court Judge, decisions in these specific circumstances do not need to be reviewed by the IOV.

¹ IBAC, *Submission 23*, received 15 July 2025, p. 8.

The inquiry also explored IBAC's power to prosecute. Victoria is unusual in expressly permitting IBAC (or authorised IBAC officers) to bring proceedings for offences arising from an IBAC investigation, alongside powers to refer matters to prosecutorial agencies. However, in comparable jurisdictions the authority is generally inferred. Comparative materials and best-practice principles tend to favour referral rather than agency-led prosecutions. In practice, IBAC must initiate proceedings by filing charges, and then it refers matters to the Office of Public Prosecutions for prosecution when it is appropriate to do so. While IBAC does prosecute matters in some cases, it is comparable to other prosecuting agencies such as WorkSafe Victoria. The Committee has concluded that the prosecution powers set out in the *IBAC Act 2011* (Vic) should remain unchanged.

The Committee identified a notable gap regarding offences. Unlike most Australian anti-corruption bodies, the *IBAC Act 2011* (Vic) presently lacks an explicit offence to destroy or conceal evidence required in connection with an IBAC preliminary inquiry or investigation. The Committee recommends inserting a new offence that captures such instances. This would better align Victoria's framework with interstate and federal practice and strengthen early-stage inquiries. Conversely, the Committee does not support creating a broad offence of 'engaging in conduct to undermine an investigation', opting to rely on targeted obstruction-type offences already in the Act.

Overall, the Committee puts forward specific recommendations directed at improving the effectiveness of IBAC's investigations, including: keeping the investigation threshold but expanding the definition of corrupt conduct, enhancing search warrant powers for data access and compelled assistance, and introducing an evidence-destruction and concealment offence.

8.4 Examinations

Chapter 4 examined the legislative test for IBAC to hold public examinations and concluded that the four tests for holding a public examination should all be retained. Referencing s 117(1) of the *IBAC Act 2011* (Vic), this chapter notes that while 'IBAC's use of public and private examinations is integral to its functions for exposing corruption and serious police misconduct within the public sector', such powers must be balanced with the rights of the individual.

This chapter examined the legislative test for IBAC to hold public examinations and concluded that the four tests for holding a public examination should all be retained. It considered s 117(1) of the *IBAC Act 2011* (Vic), which establishes a presumption of privacy unless IBAC is satisfied there are exceptional circumstances, it is in the public interest, a public examination can be held without 'unreasonable damage' to reputation/safety/wellbeing, and the conduct might constitute serious or systemic corrupt conduct or serious or systemic police personnel misconduct. It noted the courts had described 'exceptional circumstances' as 'highly unusual, and quite rare',²

² *R and M v Independent Broad-based Anti-corruption Commission* [2015] VSCA 271, [67].

and observed that IBAC suggested the test imposed an additional and unnecessary constraint on its ability to inform the public and promote accountability,³ with similar concerns raised by the LIV.⁴

The Committee opts for retaining the ‘serious or systemic conduct’ threshold as a necessary severity test, distinguishing the higher bar for public examinations from the lower ‘suspect on reasonable grounds’ standard that applied to commencing investigations. It emphasises that decisions must consider the balance between the public interest and the rights to privacy and reputation in the Charter, with IBAC able to direct parts of an examination to be held in private. The Committee concluded that section 117 of the *IBAC Act 2011* (Vic) appropriately balances the rights of the individual against the public interest, and should therefore be retained.

To strengthen oversight, the Committee proposed amending s 117(5) so that IBAC must notify the IOV before issuing a witness summons—‘the safeguard will better protect a potential witness if we have an opportunity to assess the notification before the witness is summonsed’.⁵ It recommended the Government require this earlier notification.

To increase transparency and public trust, the Committee recommends that IBAC be required to publicly publish procedural guidelines for holding public examinations—covering how IBAC decides to hold a public examination and procedural fairness obligations during examinations. Drawing on approaches in NSW and the ACT, published guidelines provide ‘greater certainty’ about natural-justice requirements,⁶ help witnesses and lawyers understand their rights and the Commission’s obligations, and hold the agency to account for compliance—while still balancing transparency with investigation confidentiality. The Committee recognises that IBAC is currently drafting guidelines for witnesses in public examinations—in consultation with IOV—and considers legislating for such guidelines, and procedural guidelines for deciding to hold public examinations would further strengthen the steps already taken.

Finally, on IBAC’s educative and preventive functions, the Committee supports enabling public proceedings for educative and preventive purposes, but distinguishes public inquiries (multi-witness, no coercive powers) from public examinations (a particular witness). It observed that comparable jurisdictions (e.g., QLD CCC; NACC) do not compel witnesses or documents for such educative inquiries, and considered that adopting a similar, non-coercive inquiry power would clarify the line between IBAC’s investigative and preventive roles while informing the public and public sector.

³ Independent Broad-based Anti-Corruption Commission, *Submission 23*, received 15 July 2025, p. 11.

⁴ Law Institute of Victoria, *Submission 8*, received 26 June 2025, pp. 5–6.

⁵ Integrity Oversight Victoria, *Submission 21*, received 15 July 2025, p. 3.

⁶ Inspector of ICAC NSW, *Report to the Premier: The Inspector’s Review of the ICAC*, report for Parliament of New South Wales, 2016, p. 28.

8.5 Confidentiality and information security

Chapter 5 examined whether Victoria's confidentiality and information-security settings strike the right balance between protecting investigations and enabling transparency—especially for complainants—across the *IBAC Act 2011* (Vic), the *Freedom of Information Act 1982* (Vic) and the Public Interest Disclosures scheme.

On Freedom of Information (FOI), evidence provided during the Inquiry suggested s 194 of the *IBAC Act 2011* (Vic) currently operates as a class-based exemption over IBAC complaints, notifications, preliminary inquiries and investigations. The Committee heard that this blanket exemption has the capacity to undermine complainant transparency and is inconsistent with best-practice, case-by-case FOI exemptions. However, the Committee also considered that 'maximum disclosure cannot mean the release of all documents',⁷ and exceptions to the right to information are necessary when it is in the public interest. Additionally, the Committee has also received evidence that IBAC provides information to complainants where it is appropriate to do so, outside of the FOI provision. Therefore, the Committee concluded that transparency for complainants is best dealt with through alternative legislative changes.

The chapter also addresses confusion when IBAC refers a matter to Victoria Police under s 73 of the *IBAC Act 2011* (Vic). Inconsistent VCAT decisions have produced variable practice, with Victoria Police sometimes invoking s 194 for referred matters. The Committee recommends amending the *IBAC Act 2011* (Vic) to make it clear that a Victoria Police investigation following an IBAC referral is not an investigation 'conducted under the IBAC Act', so documents created by Victoria Police are not captured by s 194.

The Committee also considered confidentiality notices. The current Act requires IBAC to cancel and re-issue a notice whenever the 'restricted matters' change. IBAC and IOV consider this administratively burdensome and potentially confusing for recipients. The chapter recommends amending s 42 to permit confidentiality notices to be amended without cancellation, with the amended notice served in the same manner as a new notice.

In addition, the Committee proposes expanding the definition of 'restricted matter' in s 3(1) so it can cover: (i) the subject matter or individual who is subject to a preliminary inquiry; and (ii) the subject matter or individual in an investigation where a confidentiality notice has not issued. This would align the definition with how confidentiality notices are used and better protect reputations at early stages.

In considering controlled disclosure for welfare or other legitimate purposes, the Committee understands that Victoria Police already has a statutory mechanism for the Chief Commissioner to authorise disclosure of restricted matters, and that comparable interstate integrity bodies possess similar discretions. It recommends

⁷ Office of the Victorian Information Commissioner, submission to, Integrity and Oversight Committee, Inquiry into the operation of the Freedom of Information Act 1982 (Vic), 15 January 2024, p. 125. Integrity and Oversight Committee, *The operation of the Freedom of Information Act 1982* (Vic), Parliament of Victoria, Melbourne, May 2025, p. 66.

amending the *IBAC Act 2011* (Vic) (s 184(5)) to allow IBAC to authorise disclosure of specified information in defined circumstances, and making a parallel amendment to the *Integrity Oversight Victoria Act 2011* (Vic) so IOV can also authorise disclosure. The stated policy aim is to ensure safe and efficient processes (e.g., enabling wellbeing-related disclosures) while maintaining necessary protections.

The chapter also considers the cumulative complexity of confidentiality obligations across the *IBAC Act 2011* (Vic), the *Public Interests Disclosures Act 2012* (Vic) and the *Victoria Police Act 2013* (Vic). Evidence describes overlapping provisions, prolonged non-disclosure, confusion, and challenges for complainant understanding and participation. While an interim alignment (between s 184 timeframes with five-year confidentiality-notice durations) may help, Victoria's PID scheme ultimately requires a comprehensive review. That review should consider simplification, possible decentralisation (noting most jurisdictions are less centralised than Victoria), and alignment with contemporary practice to encourage disclosures while protecting participants.

8.6 Police oversight and referrals

IBAC is also Victoria's independent police oversight body. Given this, in Chapter 6, the Committee considered the adequacy of current referral and review settings regarding Victoria Police, and whether best practice would be better achieved by structural reform or targeted improvements within the existing model.

A central theme during the Inquiry was whether police oversight should remain within IBAC or be transferred to a standalone authority. Several stakeholders (including community legal centres, the Centre for Public Integrity, and the Police Oversight Working Group) argued that combining anti-corruption and police-oversight would create an additional strain on IBAC's resources, blur IBAC's core purposes, and risk perceived conflicts. Others emphasised efficiencies and cross-learning benefits where a single agency holds both responsibilities. IBAC itself reported that a substantial share of its investigations concern Victoria Police. In the Committee's opinion, with reference to international standards, a new and separate body is not needed. Rather, IBAC should formally establish a dedicated Police Corruption and Misconduct Division.

Importantly, the Division would consolidate police-related complaint intake, investigations and referrals (including reviews and audits), public information, welfare management, training, and research/prevention, with appropriate additional staffing and resources. The Committee also supports amending s 15(1A) of the *IBAC Act 2011* (Vic), so that IBAC's prioritisation expressly includes serious police misconduct, and—absent exceptional circumstances—requires IBAC, not Victoria Police, to investigate such matters.

This inquiry also addressed conflicts of interest in complaint handling. As most complaints are referred by IBAC to Victoria Police (often at local levels), unsurprisingly risks arise when police investigate colleagues. The 2018 Inquiry found measurable allocation problems and endorsed principles that immediate colleagues should not

investigate one another. The Committee supports this stance and reiterates earlier recommendations to prohibit referrals where the investigator would be affected by a conflict, while recognising the practical need for police expertise in some serious matters and the importance of IBAC's oversight of any police-run investigation.

The chapter recommends several targeted legislative refinements to strengthen transparency and independent assurance over referrals. First, amend the Act to require IBAC to provide reasons to complainants when referring a complaint to Victoria Police, improving complainant understanding and trust. Second, expressly empower IBAC to attach conditions to referrals (for example, timeframes and progress reporting), addressing current reliance on implied powers and enabling "real-time" oversight. Third, clarify that IBAC may communicate the outcomes of its reviews of referred investigations to complainants, resolving ambiguity around s 163 and supporting procedural fairness.

Recognising definitional complexity, the Committee also explored modernising the Act's police-misconduct definitions (found in s 5) to improve clarity and alignment with practice, drawing on interstate and international examples and the 2018 Inquiry's definition of 'serious police misconduct'. Finally, while various witnesses and organisations called for mandated publication of detailed complaints data, the Committee favours treating regular auditing and publication of police-complaints statistics as an operational improvement guided by recognised statistical principles, rather than a strict legislative duty at this stage.

8.7 Other issues

In accordance with the terms of reference, the Committee also considered 'any other issue in the Act that may unreasonably limit IBAC's ability to identify, investigate and expose corrupt conduct'. While the Committee was made aware of multiple issues and suggestions directed toward this item, the Committee prioritised examining IBAC's ability to make findings, publish reports and recommendations (particularly regarding police oversight), and measures to rebuild confidence between IBAC and Victoria's First Nations communities. These issues were explored in Chapter 7.

At present, public reports cannot include a finding or opinion that a named person is guilty of a criminal or disciplinary offence. In practice, IBAC makes findings of fact but does not state that conduct is 'corrupt conduct' in public reports, creating ambiguity and reputational risks. As is, the term 'corrupt conduct' in Victoria is connected to criminality, yet IBAC cannot publicly 'clear' a person whose conduct falls short of corruption. Chapter 7 considers an amendment to empower IBAC to make explicit findings of corrupt conduct (or not), paired with a statutory clarification that such findings do not equate to guilt and serve only to establish jurisdiction.

As throughout the report, the Committee weighed the need to balance competing priorities, such as when contemplating whether natural-justice protections are required before tabling adverse material. The Committee learned that current processes can significantly delay publication and, as a result, suggests various improvements: clearer

statutory language around timeframes, and greater use of non-publication powers (e.g., temporary suppression of names) to manage reputational harm while enabling timely reporting. The Committee drew on a spectrum of alternative approaches in Australia, noting South Australia's restrictions limit the public release of findings; NSW maintains robust publication powers subject to natural justice; Queensland prescribes a draft-and-reply process with confidentiality exceptions. The Committee endorses publication in the public interest while recommending that procedural-fairness steps are made clearer, more proportionate and less delay-prone. Various additional recommendations were considered.

Furthermore, formal recommendations attract reporting obligations only when embedded in a special report, leaving many recommendations private and unseen. The Committee supports allowing IBAC to publish recommendations (and investigation or review outcomes) independently of a special report, subject to the same procedural-fairness guardrails (notice, right of reply, and non-identification of non-adverse persons absent public-interest and 'no-unreasonable-harm' findings). Comparative practice (NACC, NSW ICAC, WA CCC) demonstrates that public recommendations and monitored responses improve prevention and accountability.

This issue has specific application in respect of police oversight. IBAC reviews more than 200 police investigations per year and issues significant private recommendations, but, as made clear to the Committee, complainants and the public rarely see outcomes. As such, the Committee recommends empowering IBAC to publish de-identified recommendations and Victoria Police implementation status, and requiring Victoria Police to provide progress reports within six months (and thereafter at reasonable intervals), or publicly explain non-implementation. These measures aim to lift transparency, timeliness and trust.

The Committee was particularly concerned by, and grateful for, evidence from the Victorian Aboriginal Legal Service (VALS), which underscored low trust in current complaint pathways for First Nations communities in Victoria. VALS cited low substantiation rates, unmanaged conflicts of interest in police-handled matters, and gaps in evidence collection. While IBAC has taken steps — including community engagement through Regional Aboriginal Justice Advisory Committees, a Reconciliation Action Plan and targeted communications — the Committee recognises a significant confidence gap remains. It therefore supports establishing a dedicated Aboriginal Engagement Unit, led by a First Nations leader, to embed culturally safe, trauma-informed practice; strengthen independence and investigative capability (including in deaths and serious injury matters); and improve complaint handling and transparency. If implemented, these measures will likely increase reporting and improve outcomes for Victoria's First Nations communities.

8.8 Resourcing and funding

On a concluding note, the Committee acknowledges IBAC's submission regarding its resourcing and funding. In this inquiry, IBAC highlighted that Victoria's integrity system has 'finite resources' and '[a]ny amendments to the legislative framework need to

be considered in the context of [Victoria's integrity] system, including resources and funding that would be crucial to support an expanded remit'.⁸

As outlined in Chapter 2, this report recommends broadening the definition of 'corrupt conduct'. The Committee considers that any such expansion must be accompanied by an increase in IBAC's resourcing and funding to support the resulting wider remit.

The Committee has previously raised this issue in its most recent annual review of Victoria's integrity agencies. In that report, the Chair observed:

More broadly, to improve funding transparency and reinforce integrity agencies' institutional and practical independence from government, the Committee has recommended that the Victorian Government consider whether the way in which Victorian integrity agencies are funded can be improved, bearing in mind the recommendations of IBAC, the VO and the Victorian Auditor-General's Office in their 2022 joint paper: *Budget independence for Victoria's Independent Officers of Parliament*.⁹

The Committee reiterates the need for a review of IBAC's funding model. It also notes that, if IBAC's functions and outputs are increased as a result of this inquiry, its funding will need to increase accordingly.

This is both a practical and principled consideration. For example, if IBAC is empowered to hold public inquiries for educative and preventative purposes, it will require additional resources to do so. It is also critical to transparency and public confidence in government accountability. As IOV has highlighted, without a proportionate increase in resourcing, public expectations of IBAC's role — and IBAC's capacity to meet those expectations — will not align.¹⁰ The Committee therefore supports efforts to ensure IBAC is adequately funded to implement any changes arising from this inquiry and, critically, to meet the expectations of the Victorian community.

**Adopted by the Integrity and Oversight Committee
Parliament of Victoria, East Melbourne
24 November 2025**

⁸ Independent Broad-based Anti-Corruption Commission, *Submission 23*, received 15 July 2025, p. 1.

⁹ Integrity and Oversight Committee, Parliament of Victoria, *Performance of the Victorian integrity agencies 2022/23*, Melbourne, 2025, p. xiii (Chair's foreword); see also IBAC, the Victorian Ombudsman and the Victorian Auditor-General's Office joint paper: *Budget independence for Victoria's independent officers of Parliament*, Melbourne, 2022.

¹⁰ Integrity Oversight Victoria, *Submission 21*, received 15 July 2025, p. 1.

Appendix A

Public hearings

A

Monday, 18 August 2025

Federation Room, Parliament House, Spring Street East Melbourne

Name	Position	Organisation
The Hon John Hatzistergos AM	Chief Commissioner	NSW Independent Commission Against Corruption
Lyn Allison	Chair	Accountability Round Table
The Hon Robert Redlich AM KC		Accountability Round Table

Monday, 25 August 2025

Federation Room, Parliament House, Spring Street East Melbourne

Name	Position	Organisation
Associate Professor Will Partlett		The Centre for Public Integrity
Jeremy King	President	The Australian Lawyers Alliance
Estelle Petrie	Senior Lawyer	The Australian Lawyers Alliance
Louise Macleod	Chief Integrity Inspector	Integrity Oversight Victoria
Cathy Cato	CEO and General Counsel	Integrity Oversight Victoria
Alison Lister	Director, Integrity Operations and Policy	Integrity Oversight Victoria
Wayne Gatt	Secretary	The Police Association Victoria
Jeff Gundy	Manager, Legal and Discipline	The Police Association Victoria
Michelle Reynolds	Director, Policy & Advocacy	Police Oversight Working Group – Inner Melbourne Community Legal
Anna Nguyen	Program Manager	Police Oversight Working Group – Inner Melbourne Community Legal
Dr Jana Katerinskaja	Human rights lawyer and survivor advocate	Police Oversight Working Group
Dr Adam Masters	Executive Director	Transnational Research Institute on Corruption, Australian National University

Monday, 8 September 2025

Federation Room, Parliament House, Spring Street East Melbourne

Name	Position	Organisation
Clancy Moore	Chief Executive Officer	Transparency International Australia
Nerita Waight	Chief Executive Officer	Victorian Aboriginal Legal Service
Amala Ramarathinam	Principal Policy Adviser and Lawyer	Victorian Aboriginal Legal Service
Raagini Vijaykumar	Principal Managing Lawyer	Victorian Aboriginal Legal Service
Donna Cooper	General Manager, Policy, Advocacy, and General Standards	Law Institute of Victoria
Luke Janeczko	Principal Legal Policy Officer	Law Institute of Victoria
Gail Furness SC	Inspector	The Inspector of the Independent Commission Against Corruption, NSW
Justin Hannebery KC	Bar President	The Victorian Bar
Simon Thomas	Barrister	The Victorian Bar

Monday, 22 September 2025

Federation Room, Parliament House, Spring Street East Melbourne

Name	Position	Organisation
Victoria Elliott	Commissioner	Independent Broad-based Anti-corruption Commission
Liana Buchanan	Deputy Commissioner	Independent Broad-based Anti-corruption Commission
Alison Byrne	Chief Executive Officer	Independent Broad-based Anti-corruption Commission

Appendix B

Excerpts of the definition of ‘corrupt conduct’ across Australian jurisdictions

Jurisdiction	Legislation & Section	Excerpts of the definition of ‘corrupt conduct’
Victoria	<i>Independent Broad-based Anti-corruption Commission Act 2011</i> (Vic) s 4	<p>4 Corrupt conduct</p> <p>(1) For the purposes of this Act, corrupt conduct means conduct—</p> <ul style="list-style-type: none"> (a) of any person that adversely affects the honest performance by a public officer or public body of his or her or its functions as a public officer or public body; or (b) of a public officer or public body that constitutes or involves the dishonest performance of his or her or its functions as a public officer or public body; or (c) of a public officer or public body that constitutes or involves knowingly or recklessly breaching public trust; or (d) of a public officer or a public body that involves the misuse of information or material acquired in the course of the performance of his or her or its functions as a public officer or public body, whether or not for the benefit of the public officer or public body or any other person ... <p>Source: <https://www.legislation.vic.gov.au/in-force/acts/independent-broad-based-anti-corruption-commission-act-2011/047></p>
Commonwealth	<i>National Anti-Corruption Commission Act 2022</i> (Cth) s 8	<p>8 Meaning of corrupt conduct</p> <p>(1) Each of the following is corrupt conduct:</p> <ul style="list-style-type: none"> (a) any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly: <ul style="list-style-type: none"> (i) the honest or impartial exercise of any public official’s powers as a public official; or (ii) the honest or impartial performance of any public official’s functions or duties as a public official; (b) any conduct of a public official that constitutes or involves a breach of public trust; (c) any conduct of a public official that constitutes, involves or is engaged in for the purpose of abuse of the person’s office as a public official; (d) any conduct of a public official, or former public official, that constitutes or involves the misuse of information or documents acquired in the person’s capacity as a public official. <p>Source: <https://www.legislation.gov.au/C2022A00088/latest/text></p>

Jurisdiction	Legislation & Section	Excerpts of the definition of 'corrupt conduct'
New South Wales	<i>Independent Commission Against Corruption Act 1988</i> (NSW) s 8	<p>8 General nature of corrupt conduct</p> <p>(1) Corrupt conduct is—</p> <ul style="list-style-type: none"> (a) any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any public official, any group or body of public officials or any public authority, or (b) any conduct of a public official that constitutes or involves the dishonest or partial exercise of any of his or her official functions, or (c) any conduct of a public official or former public official that constitutes or involves a breach of public trust, or (d) any conduct of a public official or former public official that involves the misuse of information or material that he or she has acquired in the course of his or her official functions, whether or not for his or her benefit or for the benefit of any other person. <p>Source: <https://legislation.nsw.gov.au/view/html/inforce/current/act-1988-035></p>
Australian Capital Territory	<i>Integrity Commission Act 2018</i> (ACT) s 9	<p>9 Meaning of corrupt conduct</p> <p>(1) ...</p> <p>(b) that is any of the following:</p> <ul style="list-style-type: none"> (i) conduct by a public official that constitutes the exercise of the public official's functions as a public official in a way that is not honest or is not impartial; (ii) conduct by a public official or former public official that— <ul style="list-style-type: none"> (A) constitutes a breach of public trust; or (B) constitutes the misuse of information or material acquired by the official in the course of performing their official functions, whether or not the misuse is for the benefit of the official or another person; (iii) conduct that adversely affects, either directly or indirectly the honest or impartial exercise of functions by a public official or a public sector entity; (iv) conduct that— <ul style="list-style-type: none"> (A) adversely affects, either directly or indirectly the exercise of official functions by a public official or public sector entity; and (B) would constitute, if proved, an offence against a provision of the Criminal Code, chapter 3 (Theft, fraud, bribery and related offences) <p>...</p> <p>Source: <https://www.legislation.act.gov.au/a/2018-52></p>

Jurisdiction	Legislation & Section	Excerpts of the definition of 'corrupt conduct'
South Australia	<i>Independent Commission Against Corruption Act 2012</i> (SA) s 5	<p>5—Corruption, misconduct and maladministration</p> <p>(1) Corruption in public administration means conduct that constitutes—</p> <ul style="list-style-type: none"> (a) an offence against Part 7 Division 4 (Offences relating to public officers) of the <i>Criminal Law Consolidation Act 1935</i>, which includes the following offences: <ul style="list-style-type: none"> (i) bribery or corruption of public officers; (ii) threats or reprisals against public officers; (iii) abuse of public office; (iv) demanding or requiring benefit on basis of public office; (v) offences relating to appointment to public office; or (b) an offence against the <i>Public Sector (Honesty and Accountability) Act 1995</i> or the <i>Public Corporations Act 1993</i>, or an attempt to commit such an offence; or (ba) an offence against the <i>Lobbyists Act 2015</i>, or an attempt to commit such an offence; or (d) any of the following in relation to an offence referred to in a preceding paragraph: <ul style="list-style-type: none"> (i) aiding, abetting, counselling or procuring the commission of the offence; (ii) inducing, whether by threats or promises or otherwise, the commission of the offence; (iii) being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence; (iv) conspiring with others to effect the commission of the offence <p>Source: <https://www.legislation.sa.gov.au/lz?path=/c/a/independent%20commission%20against%20corruption%20act%202012></p>
Queensland	<i>Crime and Corruption Act 2007</i> (QLD) s 15	<p>15 Meaning of corrupt conduct</p> <p>(1) Corrupt conduct means conduct of a person, regardless of whether the person holds or held an appointment, that—</p> <ul style="list-style-type: none"> (a) adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of— <ul style="list-style-type: none"> (i) a unit of public administration; or (ii) a person holding an appointment; and (b) results, or could result, directly or indirectly, in the performance of functions or the exercise of powers mentioned in paragraph (a) in a way that— <ul style="list-style-type: none"> (i) is not honest or is not impartial; or (ii) involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or (iii) involves a misuse of information or material acquired in or in connection with the performance of functions or the exercise of powers of a person holding an appointment ... <p>Source: <https://www.legislation.qld.gov.au/view/html/inforce/current/act-2001-069></p>

Jurisdiction	Legislation & Section	Excerpts of the definition of 'corrupt conduct'
Tasmania	<i>Integrity Commission Act 2009</i> (TAS) s 4	<p>4 Interpretation</p> <p>misconduct means –</p> <ul style="list-style-type: none"> (a) conduct, or an attempt to engage in conduct, of or by a public officer that is or involves – <ul style="list-style-type: none"> (i) a breach of a code of conduct applicable to the public officer; or (ii) the performance of the public officer's functions or the exercise of the public officer's powers, in a way that is dishonest or improper; or (iii) a misuse of information or material acquired in or in connection with the performance of the public officer's functions or exercise of the public officer's powers; or (iv) a misuse of public resources in connection with the performance of the public officer's functions or the exercise of the public officer's powers; or (b) conduct, or an attempt to engage in conduct, of or by any public officer that adversely affects, or could adversely affect, directly or indirectly, the honest and proper performance of functions or exercise of powers of another public officer ... <p>Source: <https://www.legislation.tas.gov.au/view/html/inforce/current/act-2009-067></p>
Northern Territory	<i>Independent Commissioner Against Corruption Act 2017</i> (NT) s 10	<p>10 Meaning of corrupt conduct</p> <ul style="list-style-type: none"> (2) Conduct is also corrupt conduct if it is conduct engaged in by a public officer (whether or not the identity of the public officer is known): <ul style="list-style-type: none"> (a) that constitutes reasonable grounds for dismissing or terminating the services of the public officer; and (b) that is connected to public affairs; and (c) that involves or results in any of the following: <ul style="list-style-type: none"> (i) dishonesty; (ii) failure to manage adequately an actual or perceived conflict of interest; (iii) a breach of public trust; (iv) the illegal, unauthorised or otherwise inappropriate performance of official functions; (v) inappropriate conduct in relation to official information; (vi) an adverse effect on the honest, impartial or effective performance of official functions by any public officer or public body or group of public officers or public bodies <p>Source: <https://legislation.nt.gov.au/Legislation/independent-commissioner-against-corruption-act-2017></p>

Jurisdiction	Legislation & Section	Excerpts of the definition of 'corrupt conduct'
Western Australia	<i>Corruption, Crime and Misconduct Act 2003</i> (WA) s 4	<p>4. Term used: misconduct</p> <p>Misconduct occurs if –</p> <p>(d) a public officer engages in conduct that –</p> <ul style="list-style-type: none"> (i) adversely affects, or could adversely affect, directly or indirectly, the honest or impartial performance of the functions of a public authority or public officer whether or not the public officer was acting in their public officer capacity at the time of engaging in the conduct; or (ii) constitutes or involves the performance of his or her functions in a manner that is not honest or impartial; or (iii) constitutes or involves a breach of the trust placed in the public officer by reason of his or her office or employment as a public officer; or (iv) involves the misuse of information or material that the public officer has acquired in connection with his or her functions as a public officer, whether the misuse is for the benefit of the public officer or the benefit or detriment of another person ... <p>Source: <https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_207_homepage.html></p>

Extract of proceedings

The Committee divided on the following question during consideration of this report.

Questions agreed to without division are not recorded in this extract.

Committee meeting—24 November 2025

Report adoption

Mr Ryan Batchelor MP moved that the Committee accept the revisions to chapter 4 section 4.1.3, including that the heading for 4.1.3 be amended with the word ‘retained’ replacing the word ‘omitted’, the proposed paragraph at the end of 4.1.3 be added and the draft recommendation to remove the exceptional circumstances test for public examinations be deleted.

The Committee divided.

Ayes	Noes
Mr Ryan Batchelor MP	Ms Rachel Payne MP
Ms Jade Benham MP	Dr Tim Read MP
Ms Eden Foster MP	
Mr Paul Mercurio MP	
Hon Kim Wells MP	
Ms Belinda Wilson MP	

Resolved in the affirmative.

