

# Victoria's new integrity system

## Introduction

Following its election in November 2010, the Victorian Coalition Government committed to creating a new integrity framework for Victoria. The keystone of the reforms was the establishment of Victoria's first anti-corruption commission. The Independent Broad-based Anti-corruption Commission (IBAC) was formally established in July 2012 with a responsibility for identifying and preventing serious corrupt conduct across the whole public sector, including members of Parliament, the judiciary and state and local government. The IBAC also has a broad oversight role in relation to police personnel misconduct.

The Victorian Government also introduced substantial changes to reform other components of Victoria's integrity system, through establishment of the Public Interest Monitor, the Freedom of Information Commissioner, and the Victorian Inspectorate. The powers of other entities within Victoria's integrity system, including the Ombudsman and the Auditor-General, were also amended, and relevant parliamentary oversight committees were established in the form of the IBAC Committee and the Accountability and Oversight Committee.

Changes to Victoria's integrity system were introduced through legislation from 2011, and at this time some of the key integrity bodies established through the legislation have not yet completed their first year of operation. This paper provides an overview of key legislative and structural features of Victoria's new integrity system, noting that at this point annual reports of the new bodies have not yet been produced.

## The Independent Broad-based Anti-corruption Commission

### Previous arrangements

Prior to introduction of the IBAC, responsibility for identifying corruption and misconduct within the police and public sector was dispersed among separate bodies. The Office of Police Integrity was established by the Bracks Government in 2004 to identify, prevent and investigate corruption and misconduct within Victoria Police. In 2009 the Brumby Government established the Local Government Investigations and Compliance Inspectorate to conduct audits of local governments, and investigate alleged breaches of the *Local Government Act 1989*. Other components of Victoria's integrity system included Ombudsman Victoria, the Victorian Auditor-General's Office, the Public Sector Standards Commissioner, and the Special Investigations Monitor. Prior to forming Government in 2010, the Coalition argued that Victoria's integrity system would be better served by a unified, broad-based integrity body, rather than a multi-layered, multi-agency integrity system. Consequently, upon forming Government the Coalition took steps to introduce a broad-based body for the identification, investigation, and prevention of public service corruption and serious police misconduct.

## Legislative reform

Legislation establishing the IBAC was introduced by the Victorian Government from October 2011, principally by means of the *Independent Broad-based Anti-corruption Commission Act 2011*, the *Victorian Inspectorate Act 2011*, and the *Protected Disclosure Act 2012*. Amendments were also introduced to existing legislation, including the *Parliamentary Committees Act 2003*, the *Surveillance Devices Act 1999*, the *Telecommunications (Interception) (State Provisions) Act 1988*, the *Police Regulation Act 1958*, the *Melbourne City Link Act 1995*, the *Audit Act 1994*, and the *Evidence Act 2008*. The Victorian Government also introduced amendments to the *Ombudsman Act 1973* to require the Victorian Ombudsman to notify the IBAC or the Victorian Inspectorate of complaints of corrupt conduct, to notify the Freedom of Information Commissioner of complaints about administrative action under the *Freedom of Information Act 1982*, and to report the use of certain instruments and actions to the Victorian Inspectorate.

## IBAC establishment, jurisdiction and powers

The primary purpose of the IBAC is to strengthen the integrity of the Victorian public sector, and to enhance community confidence in public sector accountability. The Commissioner is appointed as an independent officer of the Parliament upon the Minister's recommendation, with the Minister's recommendation subject to veto by the IBAC Committee. The Governor in Council is able to appoint Deputy Commissioners on recommendation by the Minister, although these appointments are not subject to veto by the parliamentary committee. The IBAC was fully established in February 2013, replacing the Office of Police Integrity as well as obtaining its broader jurisdiction to investigate corruption in the public sector generally.

## Functions of the IBAC

The IBAC has a broad range of functions, including to identify, expose and investigate serious corrupt conduct and police personnel misconduct, and to assess police personnel conduct. The IBAC is able to receive complaints about corrupt conduct and police personnel misconduct, to hold examinations, and make referrals to other persons or bodies. The IBAC also receives protected disclosure complaints, and may investigate according to its functions in regard to corrupt conduct and police personnel conduct, refer to other persons or bodies, or dismiss the complaint. The IBAC can initiate an investigation on its own motion.

The IBAC also has a range of educational and informative functions. It is required to examine systems and practices in the public sector and public sector legislation, and provide information to, consult with and make recommendations to the public sector. The IBAC is also required to provide information and education to the community, and to police personnel, about corrupt conduct and police misconduct.

## Corrupt conduct and police personnel misconduct

Under the *Independent Broad-based Anti-corruption Commission Act 2011* (the "IBAC Act"), corrupt conduct is defined as conduct that, if the facts were proved beyond reasonable doubt, would constitute a relevant offence and that:

- a) adversely affects the honest performance by a public officer or public body of his or her or its functions in that regard;
- b) constitutes or involves the dishonest performance by a public officer or public body of his or her or its functions;
- c) constitutes or involves knowingly or recklessly breaching public trust by a public officer or public body;

- d) involves misuse of information or material acquired in the course of performing the functions of a public officer or public body, whether or not for the benefit of her or him or it or any other person;
- e) could constitute a conspiracy or an attempt to engage in any of the above.

The Act differentiates between police personnel, depending on whether the person is a member of the police force, or a public officer who is not a member of the police force. For a person who is a member of police, misconduct includes conduct:

- a) that constitutes an offence punishable by imprisonment;
- b) that is likely to bring the police force into disrepute or diminish public confidence in it;
- c) that is disgraceful or improper conduct (whether in the member's official capacity or otherwise).

Misconduct by police personnel that are not a member of the police force is defined as "conduct which is likely to bring police personnel into disrepute or diminish public confidence in police personnel."

## Disclosure of information

The IBAC has discretion to disclose certain information to the following persons or bodies, provided that the IBAC considers the information relevant to functions or the exercise of powers of that person or body:

- a) an integrity body;
- b) a law enforcement agency;
- c) a prosecutorial body;
- d) the relevant principal officer.

In contrast to some jurisdictions with parliamentary committee oversight of anti-corruption and misconduct bodies, the IBAC Committee of the Victorian Parliament is not one of the bodies listed under the relevant section of the IBAC Act to which specific information about investigations can be disclosed.

## Receipt and Investigation of Complaints

Complaints to the IBAC must be provided in writing, unless the IBAC determines that written notice is not necessary. Public sector body heads, the Chief Commissioner of Police, and the Chief Executive Officer of a council may notify of any matter that the person believes on reasonable grounds constitutes corrupt conduct. The Chief Commissioner of Police must notify about all complaints of corrupt conduct by non-member personnel. Upon receipt of a complaint, the IBAC must dismiss, investigate, or refer the matter back to the originating agency or a prosecutorial body. The IBAC may also refer it to prosecutorial bodies for advice.

In order for the IBAC to investigate a complaint, notice, or own motion, it must be reasonably satisfied that the conduct is serious corrupt conduct. The IBAC has absolute discretion whether to conduct an investigation into a matter referred to it. The IBAC Act describes some grounds that the IBAC may consider not to conduct an investigation, such as if:

- the subject matter of the complaint is trivial, frivolous or unrelated to the functions of the IBAC;
- the matter has already been the subject of a complaint or notification which has been investigated or otherwise dealt with, or if it relates to conduct that occurred at too remote a time to justify investigation; or
- in all of the circumstances, the conduct does not warrant investigation.

An investigation into a judicial officer must be conducted by a sworn IBAC Officer who is either a former judge or former magistrate of a court of a higher level than the person whose conduct is being investigated;

or of the same level but not of the same court as the person whose conduct is being investigated. The IBAC Officer in this case cannot be an Australian legal practitioner.

Under the *Police Regulations Act 1958*, a member of the police force must report either to a senior officer or/and the IBAC if he or she has reason to believe that another member of the police force is guilty of serious misconduct. The senior officer must refer the complaint to the Chief Commissioner (unless the complaint concerns the Chief Commissioner), and the Chief Commissioner must notify the IBAC as soon as practicable, and report to the IBAC on the outcome of any subsequent investigation.

The IBAC may provide a complainant with information about the results of an investigation, unless providing that information would:

- a) not be in the public interest or in the interests of justice; or
- b) put a person's safety at risk; or
- c) cause unreasonable damage to a person's reputation; or
- d) prejudice an investigation under this Act or an investigation by the police force; or
- e) be likely to lead to the disclosure of any secret investigative method used by the IBAC or members of police personnel; or
- f) otherwise contravene any applicable statutory secrecy obligations or which would involve the unreasonable disclosure of information relating to the personal affairs of any person.

## Investigative powers

The IBAC may require a member of the police force to give the IBAC any relevant information; produce any relevant document to the IBAC; or answer any relevant question in relation to investigations of a breach of discipline by police personnel (public officer or member of police force). Generally, information obtained in this manner is not admissible before any court.

Furthermore, authorised officers may enter police premises (but not premises used for residential purposes) to obtain documents and things pertaining to an investigation, but only with written authorisation from the Commissioner. Under certain circumstances authorised officers may seize materials. Authorised IBAC Officers may carry defensive equipment for the purpose of their duties.

With written notice from the Commissioner, an authorised officer may also apply to a Judge of the Supreme Court for a search warrant for 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; or to 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.

A person may claim privilege in respect of any document subject to seizure by the IBAC. However, Crown and journalistic privilege does not apply in this case, and nor does any obligation on a member of police personnel to maintain secrecy or other restriction upon the disclosure of information imposed by any enactment or any rule of law.

## Examinations

The IBAC is able to convene examinations that are not bound by the rules of evidence, and in which the procedure of examination is determined as the IBAC sees fit. The proceedings of all examinations must be video recorded. The IBAC Act requires that examinations generally be conducted in private, unless the IBAC determines that:

- 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.

The IBAC Act also requires that when considering whether to conduct examinations in public, the IBAC take into consideration factors including:

- a) whether the corrupt conduct or the police personnel conduct being investigated is related to an individual and was an isolated incident or systemic in nature;
- b) the benefit of exposing to the public, and making it aware of, corrupt conduct or police personnel misconduct;
- c) in the case of police personnel conduct investigations, the seriousness of the matter being investigated.

The IBAC is required to advise the Victorian Inspectorate that it will convene a public examination at least seven days prior to the examination taking place.

The IBAC has the power to summons people to give evidence at an examination, provided the summons is served not less than seven days before the date set for examination. The penalty for not attending an examination, answering questions, taking an oath, and like offences when summonsed is 240 penalty units or imprisonment for 2 years, or both.

The IBAC may apply to a Judge of the Supreme Court for the issue of a warrant to arrest a person, if the IBAC believes on reasonable grounds that the person has:

- a) been duly served with a witness summons; and
- b) failed to appear at the IBAC in accordance with the witness summons.

Witnesses are entitled to seek legal representation, unless the IBAC directs a witness not to seek representation from a specific legal practitioner. If the IBAC exercises this power the Victorian Inspectorate must be informed and receive a report outlining the reasons for directing a witness not to seek legal representation from a specific person.

A person is not excused from answering a question, giving information, or producing a document in accordance with a witness summons on the ground that it might tend to incriminate the person or make the person liable to a penalty. However, evidence provided in this manner is inadmissible before a court, except in the course of proceedings for:

- a) perjury or giving false information; or
- b) an offence against the IBAC Act; or
- c) an offence against the *Victorian Inspectorate Act 2011*; or
- d) an offence against section 72 or 73 of the *Protected Disclosure Act 2012*; or
- e) contempt of the IBAC under the IBAC Act; or
- f) a disciplinary process or action.

## Recommendations and reports

The IBAC may at any time make recommendations on any matter arising from an investigation, or any other action that the IBAC considers should be taken. Recommendations can be made to a principal officer (public sector body head, Chief Commissioner, or CEO of a council), the responsible Minister, or the Premier. That person must then provide the IBAC with a report on actions taken, or not taken, in regard of a particular recommendation.

The IBAC may also table a report in each House of Parliament on any matter relating to the performance of its functions and duties. Any person named or identified in a report must have an opportunity to review relevant sections of the report, and if the matter adversely reflects on that person, that person must also be provided with an opportunity to respond.

## The IBAC Committee

The IBAC Committee is established under the *Parliamentary Committees Act 2003*, with the membership of the Committee established on Tuesday 5 February 2013. The Committee does not formally receive or investigate complaints about the operation of the IBAC or of the Victorian Inspectorate. Under the Act, the functions of the IBAC Committee are to:

- a) monitor and review the performance of the duties and functions of the IBAC;
- b) 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;
- c) examine any reports made by the IBAC;
- d) consider any proposed appointment of a Commissioner and to exercise a power of veto in accordance with the *Independent Broad-based Anti-corruption Commission Act 2011*;
- e) carry out any other function conferred on the IBAC Committee by or under this Act or the *Independent Broad-based Anti-corruption Commission Act 2011*;
- f) monitor and review the performance of the duties and functions of the Victorian Inspectorate, other than those in respect of VAGO officers or Ombudsman officers;
- g) report to both Houses of the Parliament on any matter connected with the performance of the duties and functions of the Victorian Inspectorate that require the attention of the Parliament, other than those in respect of VAGO officers or Ombudsman officers;
- h) examine any reports made by the Victorian Inspectorate, other than reports in respect of VAGO officers or Ombudsman officers; and
- i) consider any proposed appointment of an Inspector and to exercise a power of veto in accordance with the *Victorian Inspectorate Act 2011*.

The role of the IBAC Committee is restricted under the *Parliamentary Committees Act 2003*, and by provisions governing disclosure of information by the IBAC to other bodies. Specifically, the IBAC Committee is not able to investigate particular complaints or disclosures made under the IBAC Act or the *Protected Disclosure Act 2012*, or to review any decision, finding, recommendation or determination of the IBAC or the Victorian Inspectorate regarding the investigation of particular complaints or receipt of protected disclosures.

## Powers

The IBAC Committee has the powers generally possessed by Victorian Joint Investigative Committees under the *Parliamentary Committees Act 2003*. Consequently, the IBAC Committee may be required to inquire into, consider and report on any proposal, matter or thing that is relevant to its functions and has been referred to it by resolution of the Council or the Assembly, or by Order of the Governor in Council (published in the Government Gazette). A joint investigatory committee is also able to initiate its own inquiry into any annual report or document laid before either House of Parliament, provided the document relates to its functions.

Under the *Parliamentary Committees Act 2003*, the IBAC Committee is not compelled to table any report in Parliament unless, in the Committee's opinion, matters arise that "require the attention of the Parliament." The Committee also is empowered under the *Parliamentary Committees Act 2003* to take evidence in public and in private.

# The Victorian Inspectorate

The Victorian Inspectorate is the key oversight body in Victoria's integrity system. The Victorian Inspectorate commenced operations in February 2013, and operates under the *Victorian Inspectorate Act 2011*. The Victorian Inspectorate is responsible directly to the Parliament of Victoria, and is not subject to the direction or control of the Victorian Government in respect of the performance of its duties and functions and the exercise of its powers.

## Functions of the Victorian Inspectorate

The Victorian Inspectorate is responsible for overview of the IBAC, the Victorian Auditor-General's Office, and the Victorian Ombudsman. The functions of the Victorian Inspectorate that are relevant to the IBAC and the IBAC Committee are:

- a) to monitor the compliance of the IBAC and IBAC personnel with the *Independent Broad-based Anti-corruption Commission Act 2011* and other laws;
- b) to oversee the performance by the IBAC of its functions under the *Protected Disclosure Act 2012*;
- c) to assess the effectiveness and appropriateness of the policies and procedures of the IBAC which relate to the legality and propriety of IBAC's activities;
- d) to receive complaints in accordance with this Act about the conduct of the IBAC and IBAC personnel;
- e) to investigate and assess the conduct of the IBAC and IBAC personnel in the performance or exercise or purported performance or purported exercise of their duties, functions and powers;
- f) to monitor the interaction between the IBAC and other integrity bodies to ensure compliance with relevant laws;
- g) to inspect and audit relevant records kept under the *Public Interest Monitor Act 2011* by the Public Interest Monitors for the purpose of monitoring compliance with the prescribed obligations;
- h) to report to the Minister and the Parliament on the results of the performance of its function under paragraph (g);
- i) to receive complaints in accordance with this Act about the conduct of the Chief Examiner or any Examiner;
- j) to investigate and assess, in accordance with this Act, the conduct of the Chief Examiner or any Examiner;
- k) to report on, and make recommendations as a result of, the performance of its duties and functions.

The Victorian Inspectorate is also responsible for monitoring the exercise of coercive powers by the IBAC, the Auditor-General and the Ombudsman, and to ensure that officers of those bodies abide by the relevant legislation. Furthermore, the Victorian Inspectorate receives, investigates and assesses complaints about the conduct of officers of the IBAC, Auditor-General, and Ombudsman.

## The Victorian Inspector

As is the case with the Commissioner of the IBAC, the Victorian Inspector is an independent officer of the Parliament, and constitutes the Commission under section 10 and 18 of the Victorian Inspectorate Act. The appointment of the Commissioner by the Governor in Council is made upon the Minister's recommendation, with the Minister's recommendation subject to veto by the IBAC Committee.

## Powers of the Victorian Inspectorate

The Victorian Inspectorate is vested with all powers necessary for it to perform its functions under the Victorian Inspectorate Act. Section 13 of the Victorian Inspectorate Act also specifies a number of powers in regard to oversight and monitoring of the Public Interest Monitor by the Victorian Inspectorate. As with IBAC

officers, Victorian Inspectorate officers are not permitted to disclose certain information obtained in the course of their duties. The Victorian Inspectorate is also able to issue confidentiality notices where considered reasonable, if the matter may prejudice:

- a) an investigation; or
- b) the safety or reputation of a person; or
- c) the fair trial of a person who has been, or may be, charged with an offence

## Reports to the Victorian Inspectorate

Under the Victorian Inspectorate Act, the Victorian Inspectorate may require the IBAC, the Auditor-General and/or the Ombudsman to provide it with a report specifying circumstances where an examination of a person has been conducted.

## Investigations and Inquiries

Section 43 of the Victorian Inspectorate Act provides that a person may make a complaint to the Victorian Inspectorate about the conduct of the IBAC or of IBAC personnel about the exercise, or failure to exercise, the functions or duties of the IBAC or of IBAC personnel. While complaints may be made generally, the Victorian Inspectorate Act describes some of the grounds on which a complaint can be made, including that an act of the IBAC or an IBAC officer was:

- a) contrary to law; or
- b) unreasonable, unjust, oppressive or improperly discriminatory; or
- c) based on improper motives; or
- d) an abuse of power; or
- e) otherwise improper.

Similarly, complaints can be made by any person in respect of the Victorian Auditor-General's Office or the Victorian Ombudsman.

Generally, the conduct of investigations, and the powers vested in the Victorian Inspectorate are similar to the powers of the IBAC to investigate police misconduct and public sector corruption, but instead with regard to the IBAC, the Victorian Auditor-General's Office, and the Victorian Ombudsman, respectively. However, under section 51 of the Victorian Inspectorate Act examinations by the Victorian Inspectorate must be conducted in private. Furthermore, there is no body that the Victorian Inspectorate is required to inform during the exercise of some of its powers, such as if the Victorian Inspectorate directs a witness not to seek advice in relation to a summons from a specified Australian legal practitioner.

## Reports of the Victorian Inspectorate

Under section 78, the Victorian Inspectorate is able to make recommendations to the IBAC in relation to any action that the Victorian Inspectorate considers must be taken. These recommendations are not to be made public other than by means of a report. The Victorian Inspectorate may require the IBAC to prepare a report outlining responses to recommendations made under this section of the Victorian Inspectorate Act.

The Victorian Inspectorate is also able to recommend in private to the IBAC disciplinary action that should be taken in regard of an IBAC officer, other than the Commissioner. The Victorian Inspectorate may also refer matters for consideration by other prescribed bodies, as it sees fit.

The Victorian Inspectorate may table a report in each House of Parliament on any matter relating to the performance of its functions and duties. Any person named or identified in a report must have an opportunity to review, and if the matter adversely reflects on that person, respond, to relevant sections of the report.

The Victorian Inspectorate Act also outlines considerations when providing advice and outcomes to complainants, and for the Victorian Inspectorate annual report. These provisions are similar to those applying under the IBAC Act.

## The Freedom of Information Commissioner and the Accountability and Oversight Committee

As well as the introduction of the IBAC and the Victorian Inspectorate, the Victorian Government established the Freedom of Information Commissioner to review FOI decisions, consider FOI complaints, monitor compliance with the Freedom of Information Act and provide advice, education and guidance to the public and government agencies. A new joint parliamentary investigatory committee, the Accountability and Oversight Committee, was also established with functions to consider and investigate complaints concerning the Freedom of Information Commissioner, and to monitor and review the performance of the duties and functions of the Ombudsman, as well as to examine any reports laid before a House of Parliament of either of those agencies, among other things. Legislation was also introduced to make the Ombudsman and the Auditor-General subject to Victorian Inspectorate oversight of the use of their coercive powers and the conduct of investigations and inquiries.

### Previous arrangements

Prior to introduction of the Victorian Inspectorate and the Accountability and Oversight Committee, there was no centralised body responsible for ensuring that the coercive powers of the Auditor-General and Ombudsman were exercised consistently. Furthermore, while the Auditor-General was subject to some scrutiny by the Victorian Parliament's Public Accounts and Estimates Committee, there was no comparable scrutiny for the Ombudsman. Prior to establishment of the IBAC as the key integrity body for corruption issues, the Ombudsman dealt with a number of these issues, so the introduction of the new integrity legislation set new parameters on some of the matters the Ombudsman was able to investigate.

The establishment of the Freedom of Information Commissioner was also intended to provide an impetus for consistency to freedom of information requests and processing across the public sector, and to provide a mechanism for complaints about requests under the FOI Act to be considered. Prior to establishment of the Commissioner, departments conducted an internal process of review upon receipt of a complaint about a request for information.

## The Freedom of Information Commissioner

The most significant function of the FOI Commissioner is to conduct reviews of government agencies' decisions to refuse access to documents. The FOI Commissioner also reviews decisions to defer provision of access to a document, refusals to requests to amend a record, and decisions of government agencies regarding FOI application fees. The FOI Commissioner has the discretion not to accept, or to dismiss at any time, frivolous, vexatious and inappropriate applications for review. The FOI Commissioner must complete a review of an agency's decision within 30 days of receiving an application for review. Upon completion of the FOI Commissioner's review, the applicant or the agency has 60 days to appeal the decision to VCAT.

The VCAT maintains jurisdiction to hear applications for review of:

- decisions about access charges;
- decisions not to amend a document containing a person's information;
- decisions by agencies to exempt documents as cabinet documents or on the grounds of national security; and
- any decisions of a principal officer of an agency or a minister refusing to grant access to a document in accordance with a request.

The FOI Commissioner does not have the power to conduct reviews of decisions about documents that are claimed to be exempt as cabinet documents or on the grounds of national security, although appeal rights to VCAT where the status of these kinds of documents is disputed are retained.

## The Accountability and Oversight Committee

The Accountability and Oversight Committee (AOC) is also established under the *Parliamentary Committees Act 2003*, with the membership of the Committee established on Tuesday 5 February 2013. While some of the functions of the AOC are comparable to the IBAC Committee – particularly in regard of the AOC's function to monitor and review the performance of the Ombudsman – the AOC is also required to consider and *investigate* complaints concerning the Freedom of Information Commissioner and the operation of the office of the Freedom of Information Commissioner. Specifically, under the Act, the functions of the Committee are:

- a) to monitor and review the performance of the functions and exercise of the powers of the Freedom of Information Commissioner; and
- b) to consider and investigate complaints concerning the Freedom of Information Commissioner and the operation of the office of the Freedom of Information Commissioner; and
- c) to report to both Houses of Parliament on any matter relating to—
  - i. the performance of the functions and the exercise of the powers of the Freedom of Information Commissioner; and
  - ii. any complaint concerning the Freedom of Information Commissioner and the operation of the office of the Freedom of Information Commissioner—  
that requires the attention of Parliament;
- d) to examine the annual report of the Freedom of Information Commissioner and any other reports by the 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;
- f) to monitor and review the performance of the duties and functions of the Victorian Inspectorate in respect of Ombudsman officers; and
- g) to report to both Houses of the Parliament on any matter connected with the performance of the duties and functions of the Victorian Inspectorate in respect of Ombudsman officers that require the attention of the Parliament; and
- h) to examine any reports made by the Victorian Inspectorate in respect of Ombudsman officers; and
- i) the functions conferred on the Committee by the *Ombudsman Act 1973*.

Under the *Ombudsman Act 1973*, the AOC has the following functions:

- a) to monitor and review the performance of the duties and functions of the Ombudsman;
- b) to report to both Houses of the Parliament on any matter connected with the performance of the duties and functions of the Ombudsman that requires the attention of the Parliament;
- c) to examine any reports by the Ombudsman that are laid before a House of the Parliament.

Comparable to the IBAC Committee, the AOC is restricted from considering specific complaints, or from reviewing findings, recommendations, determinations or other decisions made by the Ombudsman or the Victorian Inspectorate.

The AOC has similar powers to those conferred on the IBAC Committee by virtue of both being Joint Investigatory Parliamentary Committees under the *Parliamentary Committees Act 2003*.

## The Public Interest Monitor

The Victorian Government also introduced the *Public Interest Monitor Act 2011*, to establish the Public Interest Monitor (PIM) to provide a mechanism to subject more rigour to applications for the following instruments:

- a) coercive powers orders;
- b) surveillance device warrants;
- c) retrieval warrants;
- d) assistance orders;
- e) approval of emergency authorisations;
- f) telecommunications interception warrants;
- g) covert search warrants;
- h) preventative detention orders;
- i) prohibited contact orders;
- j) an extension, variation, renewal or revocation of an order, warrant or approval referred to in paragraphs (a) to (i).

The role of the PIM is to appear at any hearing where an application for one of these instruments is made, and to test the content and sufficiency of the information relied on, and the circumstances surrounding the application. The PIM is able to ask questions of any person giving information in relation to the application, and make submissions as to whether the application is appropriate. The PIM is authorised to obtain relevant information from applicants in determining his or her submission in regard of an application.

## Continuing components of Victoria's integrity system

As noted above, the Victorian Auditor-General, Ombudsman, and the Victorian Parliament's Public Accounts and Estimates Committee (PAEC) continue to play a key role in Victoria's integrity system. Of these institutions, the role of the Auditor-General and the PAEC have been least altered, with the main changes to each introduced through the establishment of the Victorian Inspectorate, with its powers to review and investigate complaints regarding those agencies.

## Developments to date

To date, the key bodies established under Victoria's new integrity system – the IBAC, the Victorian Inspectorate, the IBAC Committee, the AOC, the FOI Commissioner and the PIM – have been operational for less than a year. Furthermore, none of these bodies, or those affected by changes to integrity legislation – such as the Ombudsman, the Auditor-General, and the PAEC – have yet tabled annual reports under the new regime. Consequently, the development and evaluation of Victoria's integrity system will likely commence in earnest over the next few months.