

POLICY

Complaints about and oversight of the Ombudsman

Date approved	17 December 2015
Last reviewed	31 July 2023
Next review	1 July 2026
Responsible officer	Assistant Ombudsman, Executive Office

Policy Statement.....	3
Complaints about VO	3
Categorisation of a complaint	3
Conduct that must be notified to IBAC or the Victorian Inspectorate.....	4
Complaints about the outcome of a case	5
Complaints about poor service	5
Independent Oversight of the Ombudsman	6
Roles and Responsibilities	7
Document Management	8
Compliance	8
Document approval.....	8
Document review.....	8
APPENDIX A: Related documents	9

POLICY STATEMENT

The Victorian Ombudsman is committed to providing a high quality complaint resolution and investigation service. However, at times, a complainant, government authority or other person may be aggrieved by an action or decision of VO. Where this is the case, a complaint can be made to this office or to another body with oversight of the Ombudsman.

The Ombudsman values complaints as core to the business of serving the community and improving our service delivery.

Where appropriate, VO follows the Australian Guidelines for complaint management in organizations (ISO 10002:2022).

COMPLAINTS ABOUT VO

1. VO takes seriously complaints about our actions, decisions and how we deliver our services. While we encourage people to raise their concerns with our office first, nothing in this policy prevents a person from making a complaint direct to an oversight agency about VO.
2. A complaint about VO is an expression of dissatisfaction about the quality of an action taken, decision made or service provided by a VO staff member. It can also include dissatisfaction with a delay in taking an action, making a decision or providing a service, as well as decisions not to take an action, make a decision or to provide a service.
3. In the first instance we will try to resolve the complaint informally. If this is not possible, the complaint is allocated to a senior officer with no prior involvement in the matter for consideration and action if deemed appropriate.
4. Complaints about VO can be made orally or in writing and should include:
 - the name of the officer being complained about
 - the actions or behaviour being complained about
 - the resolution sought by making the complaint.
5. We are unable to receive disclosures about improper conduct or detrimental action of VO officers under the *Public Interest Disclosures Act 2012* (Vic). Public interest disclosures about a VO officer must be made to the Independent Broad-based Anti-corruption Commission (IBAC) or the Victorian Inspectorate (Public Interest Disclosures Act, section 14(f)).

CATEGORISATION OF A COMPLAINT

6. To determine how a complaint will be handled and what form of action, if any, will be taken, the senior officer will assess whether the complaint is about:
 - corrupt conduct or misconduct that must be notified to another integrity or oversight body (IBAC or the Victorian Inspectorate)
 - the outcome of VO's consideration of a case
 - poor service.
7. The action to be taken in response is outlined beneath the headings below. Action taken on a complaint will be consistent with any existing contact management strategy (see our policy on 'Dealing with complex behaviours from members of the public').

CONDUCT THAT MUST BE NOTIFIED TO IBAC OR THE VICTORIAN INSPECTORATE

8. VO is required to notify IBAC about complaints involving corrupt conduct by VO officers (Ombudsman Act, section 16E).
9. Corrupt conduct (as defined at section 4 of the *Independent Broad-based Anti-Corruption Commission Act 2011* (Vic)) broadly means behaviour or actions by an officer that are dishonest, breach public trust, or adversely affect the honest performance of a public body and, if proven, would constitute an indictable offence.
10. A complaint about corrupt conduct is allocated to a senior manager for assessment and recommendation as to whether notification to IBAC is required.
11. The Ombudsman, or their delegate, having regard to the senior manager's recommendation, may make the notification to IBAC.
12. If the Ombudsman notifies IBAC of the complaint in writing, then we must inform the complainant in writing (Ombudsman Act, section 16E(2)).
13. VO is required to notify the Victorian Inspectorate of complaints about misconduct by a VO officer (Ombudsman Act, section 16F).
14. Generally, VO considers 'misconduct' to mean any conduct that contravenes the Code of Conduct for Victorian Public Sector Employees of Special Bodies, such as any inappropriate or unsatisfactory behaviour or an action by an officer that, if substantiated, would result in disciplinary action. Examples include:

- accessing official information without reason or approval
- failing to act honestly in the performance of duties
- excessive use of your work computer for personal reasons, or to access inappropriate content
- a breach of VO's Drugs and Alcohol Policy
- failure to follow a lawful direction from your manager without reasonable excuse, such as to attend an independent medical examination for assessment
- bullying, being repeated, unreasonable behaviour directed at an employee or group of employees that creates a risk to health and safety.

15.A complaint assessed to be about the misconduct of an officer is allocated to a senior manager for assessment and recommendation as to whether notification to the Victorian Inspectorate is required.

16.The Ombudsman, or their delegate, having regard to the senior manager's recommendation, may make the notification to the Victorian Inspectorate.

17.If the Ombudsman notifies the Victorian Inspectorate of the complaint in writing, then we must inform the complainant in writing (Ombudsman Act, section 16F(3)).

18.The senior manager may also consider whether the complaint raises an issue of non-compliance against:

- VO's expectations of staff for service delivery
- the requirements of VO staff as employees of the State of Victoria.

19.VO staff are employed under, and are required to act in a manner consistent with, the *Public Administration Act 2004* (Vic). The requirements of public sector bodies to deal with 'misconduct' and consequential action are set out in the Victorian Public Sector enterprise agreement ([VPS Enterprise Agreement 2020](#)).

20.Any person, including VO staff, may also complain or make a disclosure about VO or VO staff by contacting IBAC or the Victorian Inspectorate direct. VO cannot receive or investigate a public interest disclosure about VO staff or VO.

COMPLAINTS ABOUT THE OUTCOME OF A CASE

21.If a complainant disagrees with the outcome of their case, the complainant can request an internal review. An internal review is a review of VO's handling of the case and our compliance with our statutory obligations and policies.

22.A request for an internal review should:

- be made after VO has informed the complainant of its final decision on the case
- be lodged within 60 days of being informed of this decision
- include reasons for believing VO has made an error, together with supporting evidence
- express dissatisfaction with an action or decision, or with a delay in, or lack of action or decision.

23.The senior officer responsible for coordinating the internal review function will assess a request for review and determine whether a review is warranted. If so, it will be progressed to internal review.

24.If an internal review is assessed as not warranted, further action in respect of the complaint may be undertaken.

25.A senior officer, who has had no prior involvement in matter (where possible), will conduct an internal review and determine if:

- the original decision should stand and/or
- further action is required.

26.On completing an internal review, VO will inform the complainant of the outcome and any additional action taken by this office.

COMPLAINTS ABOUT POOR SERVICE

27.VO is committed to providing an accessible and responsive service to the public, authorities, and any other parties we deal with in the performance of our statutory functions. The Ombudsman's 'Service Delivery Charter' sets out our service standards.

28.In the first instance, if a person is dissatisfied with the way in which an officer has dealt with them or their complaint, the person should raise their concerns with the officer involved.

29.At this stage, the complaint may be resolved by the officer providing:

- a further explanation
- an apology
- escalating the matter to their manager.

30.If the complaint cannot be resolved, the matter may be escalated to a senior manager for further consideration and resolution.

INDEPENDENT OVERSIGHT OF THE OMBUDSMAN

31.Actions and decision of VO are subject to independent oversight by:

- the Integrity and Oversight Committee which is a joint Parliamentary Committee that monitors and reviews VO's general performance (Ombudsman Act, section 26H and 26I and the Parliamentary Committees Act 2003 (Vic))
- the Victorian Inspectorate which can receive and investigate complaints about VO (Victorian Inspectorate Act 2011 (Vic), section 11(4)(b)-(c)). The Victorian Inspectorate also monitors VO's use of coercive powers and compliance with procedural fairness requirements (Victorian Inspectorate Act, section 11(4)(a)).

32.Complaints about certain actions and conduct taken in or by VO can also be made to:

- IBAC or the Victorian Inspectorate where it relates to improper conduct or detrimental action involving a VO officer
- the Office of the Victorian Information Commissioner where it relates to the collection, storage or release of information.

33.We cooperate with all requests for information from bodies with oversight of the Victorian Ombudsman. The Principal Legal Adviser is responsible for coordinating and responding to such requests.

ROLES AND RESPONSIBILITIES

Role	Responsibility
Assistant Ombudsman, Executive Office	<i>Owner</i> – Accountable for maintaining policy drafting, reviews and authorisation from the Executive.
Principal Legal Adviser	<i>Legal compliance</i> – Responsible for ensuring compatibility with the <i>Charter of Human Rights and Responsibilities 2006</i> (Vic) and compliance with other legislation under which VO operates.
Executive Committee	<i>Authorisation</i> – Authorises policies and significant amendments.
All staff, contractors and third parties	<i>Implementation</i> – Responsible for acting in compliance with the policy, standards, procedures and associated documents.

DOCUMENT MANAGEMENT

Compliance

VO maintains a compliance management system. Compliance to this policy, including use of information and systems, is subject to regular monitoring and reporting to the Executive Committee. For further details on compliance checks please refer to the compliance management system.

Document approval

This document was approved by the Executive Committee on Governance Committee on 17 December 2015.

Document review

This document is due for review upon major changes or three years from the date of the last review.

APPENDIX A: Related documents

Title	Location
<i>Public Interest Disclosures Act 2012</i> (Vic)	Available at http://www.legislation.vic.gov.au/
<i>Ombudsman Act 1973</i> (Vic)	
<i>Independent Broad-based Anti-Corruption Commission Act 2011</i> (Vic)	
<i>Public Administration Act 2004</i> (Vic)	
<i>Parliamentary Committees Act 2003</i> (Vic)	
<i>Victorian Inspectorate Act 2011</i> (Vic)	