

POLICY

Own motion enquiries and investigations

Date approved	17 December 2015
Last reviewed	1 June 2022
Next review	1 June 2025
Responsible officer	Assistant Ombudsman, Executive Office

Policy Statement.....	4
Conducting own motion enquiries and investigations.....	4
VO portfolio work.....	5
Roles and Responsibilities	7
Document Management	8
Compliance.....	8
Document approval.....	8
Document review.....	8
APPENDIX A: Related documents	9

POLICY STATEMENT

The Ombudsman fosters improvement to public administration by initiating enquiries and investigations even when a complaint or referral has not been received. This 'own motion' action may be taken when:

- complaint data or information available suggests a systemic problem in public administration
- a matter is deemed to require attention, or
- the Ombudsman considers action is otherwise appropriate in the public interest.

The Ombudsman takes a coordinated approach to monitoring and analysing information and data relating to the performance of Victorian public organisations.

CONDUCTING OWN MOTION ENQUIRIES AND INVESTIGATIONS

1. VO is able to examine, by own motion, an administrative action taken by or in an authority, which includes Victorian state government departments, local councils, administrative offices, public organisations and specified entities, which we consider merits attention.
2. We can take own motion action in addition to, or in place of, action taken as a result of receiving a complaint or referral.
3. Our own motion powers allow us to:
 - conduct enquiries (Ombudsman Act, section 13A. See our policy on 'Enquiries') in order to establish whether an investigation should be conducted, or the matter can be resolved informally
 - conduct an investigation (Ombudsman Act, section 16A. See our policy on 'Investigations') in order to determine whether an error has been made, as set out at section 23(1) of the Ombudsman Act.
4. We are also able to report on the outcome of conducting enquiries or an investigation through the use of our own motion powers.
5. We are more likely to use our own motion powers when:
 - there may be a systemic problem at an authority
 - the administrative action affects a vulnerable person or community who may have limited capacity to complain themselves
 - it is otherwise in the public interest to scrutinise the authority's actions.

6. We cannot conduct an own motion enquiry or investigation where we would ordinarily be required to refuse to deal with the matter if it was the subject of a complaint (Ombudsman Act, section 16A).
7. We may table the investigation report in Parliament once concluded, so that our findings are made publicly available.

VO PORTFOLIO WORK

8. An important function of VO is to identify, and make recommendations on, areas of public administration that can be improved. To this end, Statutory Functions officers need to monitor complaints data and information across authorities within our jurisdiction.
9. Statutory Functions officers are each allocated a 'portfolio'. Each portfolio team is responsible for oversight of a group of departments and agencies or human rights matters.
10. Portfolio teams have two main objectives:
 - ensuring VO officers can handle complaints efficiently and effectively by maintaining relationships with jurisdictional agencies
 - analysing systemic issues for further intervention or investigation.
11. To this end Portfolios undertake to:
 - develop an understanding and expertise in their area and may be consulted by officers for advice or guidance on matters arising in relation to complaints and investigations
 - maintaining portfolio advice sheets on the intranet to capture and share up to date agency information and corporate knowledge to inform enquiries and investigations
 - monitoring complaints for common trends or issues suggesting there is a systemic problem that should be addressed through own motion enquiries or investigations
 - gathering information and intelligence through open source searches to identify current and emerging issues
 - establishing and maintaining protocols for dealing with authorities within their portfolio, including processes for obtaining information relating to the conduct of enquiries or an investigation

- ensuring that authorities are clear on their responsibilities when dealing with the Ombudsman, such as assisting with our enquiries (Ombudsman Act, section 13A(3)).
12. Our portfolio activities inform the work we undertake in dealing with individual complaints and referrals.
 13. A decision by VO to act on an issue or information identified through our portfolio activities must be taken in accordance with our statutory functions, which is commonly through the use of our own motion powers.

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 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>Ombudsman Act 1973</i>	Available at http://www.legislation.vic.gov.au/