

# POLICY

## Referrals and notifications

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<b>Last reviewed</b>	20 October 2022
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<b>Responsible officer</b>	Assistant Ombudsman, Executive Office



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## POLICY STATEMENT

The Ombudsman is part of a broader integrity and complaints system in Victoria that involves a number of integrity and oversight agencies. It is important that:

- matters are able to move between agencies (by 'referral') so that they can reach the agency with appropriate jurisdiction, expertise, or services to respond, and
- agencies are kept informed (by 'notification') of matters that are likely to be of interest or relevance to them.

## REFERRALS AND NOTIFICATIONS

1. The *Ombudsman Act 1973* (Vic) enables VO to:
  - refer complaints we receive to any of the bodies specified in Schedule 3 to the Ombudsman Act (Ombudsman Act, section 16I)
  - refer a complaint to the authority to which the complaint relates where the complainant consents to the referral (Ombudsman Act, section 16IA)
  - receive complaints referred by other persons or bodies for consideration under the Ombudsman Act.
2. This allows matters to be transferred across agencies so that complaints reach the agency best placed to deal with the matter.
3. The Ombudsman Act also requires VO to inform certain agencies (by 'notification') of complaints that we have received, but are not permitted to deal with.

## REFERRALS TO THE VICTORIAN OMBUDSMAN

4. VO can receive referrals from any person or body (Ombudsman Act, section 16B).
5. We are required to investigate:
  - referrals made by the Parliament (Ombudsman Act, section 16)
  - public interest complaints referred from the Independent Broad-based Anti-corruption Commission (IBAC) under section 73 of the *Independent Broad-based Anti-Corruption Commission Act 2011* (Vic) (Ombudsman Act, section 15C), unless an exception to this requirement applies under sections 15D or 15E of the Ombudsman Act (see our policy on 'Investigations').
6. We deal with other referred complaints in the same way as we deal with complaints made direct to VO (Ombudsman Act, section 16C). We deal with referred matters in the same way as if we had become directly aware of the matter (Ombudsman Act, section 16D. See our policy on 'Own Motion Enquiries and Investigations'). That is,

each complaint or matter that reaches VO is assessed and dealt with on its merits, not on how or from whom it is received.

7. On receipt of a referral, the complaint or matter is registered and assigned to a case officer who is responsible for handling the referral.

## REFERRALS BY VO TO ANOTHER AGENCY

8. VO has the power to refer certain complaints (Ombudsman Act, section 16I) to other specified agencies (Ombudsman Act, Schedule 3) when:
  - the complaint is about a matter relevant to the functions of the receiving agency, and
  - the receiving agency could more appropriately deal with the complaint.
9. VO has the power to refer certain complaints (Ombudsman Act, section 16IA) to an authority to which the complaint relates when:
  - the complaint is about a matter relevant to the functions of the receiving authority, and
  - the receiving agency could more appropriately deal with the complaint, and
  - the complainant consents to the referral.
10. VO has a discretion to determine when to refer a complaint and can decide to do so even if we have the power to deal with the matter. In order to determine which agency is best placed to deal with a complaint and whether a referral is warranted, we may consult other agencies about their potential role in the matter (Ombudsman Act, section 16K).
11. Generally, we are more likely to refer a matter when the receiving agency:
  - has specialist expertise on the subject matter of the complaint
  - has well established practices for dealing with the complaint (such as conciliation or mediation)
  - is better placed to achieve the outcome sought by the complainant (for example, through the use of enforcement powers).
12. We will not provide a complainant's personal information when they have expressly asked us not to disclose the information to another party, except when we have a legal obligation to do so.
13. Once we have referred the complaint, we usually cease to deal with the matter in order to avoid duplication of effort and/or an inconsistent outcome. We may reconsider the complaint if it is later determined to be appropriate.

## NOTIFICATIONS BY THE OMBUDSMAN

14. VO is required to inform certain agencies (by 'notification') of complaints received by this office or matters raised in the course of an investigation that could be relevant to the functions of the agency that receives the notification.
15. We must notify IBAC (Ombudsman Act, section 16E) of receiving a complaint, or a matter that we become aware of, that we suspect on reasonable grounds involves:
- police personnel misconduct
  - corrupt conduct.
16. We must notify the Victorian Inspectorate (Ombudsman Act, section 16F) of a complaint or a matter involving other integrity agencies, otherwise exempt from our oversight, when the complaint or matter is about the:
- misconduct of an IBAC officer
  - misconduct, other than corrupt conduct, of a Victorian Auditor General's Office (VAGO) officer, the Chief Examiner or an Examiner.
17. We must also notify the Victorian Inspectorate of complaints about the misconduct, other than corrupt conduct, of an Ombudsman officer (Ombudsman Act, section 16F. See our policy on 'Complaints about the Ombudsman').
18. We must notify the Information Commissioner (Ombudsman Act, section 16G) of a complaint that relates to the obligations of a state government department, agency or local council under the *Freedom of Information Act 1982* (Vic), and that could be the subject of a complaint under that Act. We are not permitted to otherwise deal with such complaints.
19. We inform the complainant in writing when we notify another agency of their complaint, and also provide the complainant contact details of the notified agency.

## INFORMATION SHARING

20. In addition to our referral and notification powers, we are able to share information with other agencies under certain circumstances.
21. We may disclose information to a specified person or body, or any authority or its principal officer, if we believe that the information is relevant to its functions and should be brought to its attention (Ombudsman Act, section 26FB).
22. We can also disclose information, provided that doing so does not breach any confidentiality requirements, for certain specified purposes (Ombudsman Act, section 26FC) such as:

- to the public about an own motion investigation or a review of an authority's complaint practices and procedures
- to an appropriate person or body where deemed necessary to prevent or minimise the risk of harm to a person's health, safety or welfare (see our 'Dealing with Complex Behaviour' policy)
- to an authority to help it improve its complaint handling or administrative practices or procedures. (see our 'Own Motion Enquiries and Investigations' policy).

## ROLES AND RESPONSIBILITIES

Role	Responsibility
<b>Assistant Ombudsman, Executive Office</b>	<i>Owner</i> – Accountable for maintaining the policy drafting, reviews and authorisation from the Executive.
<b>Principal Legal Adviser</b>	<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.
<b>Executive Committee</b>	<i>Authorisation</i> – Authorises policies and significant amendments.
<b>All staff, contractors and third parties</b>	<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>Public Interest Disclosures Act 2012</i>	Available at <a href="http://www.legislation.vic.gov.au/">http://www.legislation.vic.gov.au/</a>
<i>Ombudsman Act 1973</i>	