Annual Report 2013

Part 1

VICTORIAN ombudsman

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Letter to the Legislative Council and the Legislative Assembly

To

The Honourable the President of the Legislative Council

and

The Honourable the Speaker of the Legislative Assembly

Pursuant to sections 25 and 25AA of the *Ombudsman Act 1973*, I present to the Parliament Part 1 of the annual report of the Ombudsman for the year 2012-13 which relates to my statutory functions.

In order to provide Parliament with a timely report of the activities of my office over the past year, I am tabling my report in two parts:

Part 1 – dealing with my statutory functions

Part 2 – providing statistical details and the financial statements for my office.

I shall be tabling Part 2 of the annual report shortly.

G E Brouwer
OMBUDSMAN
20 August 2013

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Foreword

Part 1 of my annual report this year is divided into several sections, each with a different focus.

The introductory section discusses the role of my office in Victoria's system of governance and the integrity framework that has been in operation for the majority of my term. I then provide a summary of some of the changes to the functions and processes of my office brought about by the introduction of the Independent Broad-based Anti-corruption Commission.

The second section is a review of the achievements, challenges and recurring concerns during my time as Ombudsman. Over the almost 10 years I have been the state's Ombudsman I have encountered many challenges with difficult investigations and jurisdictional changes forcing my office to be flexible and able to adapt quickly to change. In particular and until recently, the now repealed *Whistleblowers Protection Act 2001* gave my office the role of a default corruption and misconduct body for large sections of the public sector. In this role I identified consistent problems regarding the temptations and difficulties faced by public officers when carrying out their duties.

At the same time my office has made a number of achievements that I will also highlight. My office has been able to bring important issues to light and make a valuable contribution to improving the operations of the public sector. This has been achieved against a backdrop of an ever increasing workload for my staff as there has been a significant and continuous rise in complaints to my office.

A further section focuses on challenges for the future. This will consider what I see as some of the Victorian public sector's challenges in the coming years, based on the investigative and complaint handling work that has been performed during my term as Ombudsman.

The year in review looks at 2012-13 for my office including case studies, themes and achievements for the year.

Introduction

An Ombudsman's role in Victoria

As I have written in a previous report[1] the trend towards having a parliamentary Ombudsman came to Westminster systems in the early 1970s. Based on a Scandinavian tradition Ombudsmen are used to monitor, assess and provide a means to investigate complaints about the exercise of the powers of the executive branch of government. For this reason they are often established or regarded as independent officers of the Parliament who report to the Parliament, not the government of the day. My office was created in Victoria in October 1973 with the introduction of the *Ombudsman Act 1973* and formally became an independent officer of the Parliament in 2003 when my office was constitutionally entrenched[2].

The primary function of the Victorian Ombudsman is to 'enquire into or investigate any administrative action taken by or in an authority'[3], thereby providing a check or guard against the unfair or improper exercise of executive power over individuals. Accordingly, the continuing independence and impartiality of my office is crucial to its effective operation.

As an independent officer I may investigate a complaint in any manner I see fit to establish the truth. It is important that the public has the confidence that I am able to do this without undue influence from the government or governmental departments and agencies. Any legislative amendments or other changes to the functioning of my office that, intentionally or unintentionally, undermine the independence of the Ombudsman are inconsistent with the very reason for having an Ombudsman. If this occurs then not only is my office weakened but one of the fundamental checks built into our system of government is compromised.

My investigative role is inquisitorial, not adversarial like our Courts. The adversarial system places a premium on the individual rights of the parties before the Court. In bodies where finding the truth is the primary objective the inquisitorial model is the appropriate method and better serves the public interest. This has been recognised, even in jurisdictions when the normal or usual investigative method is adversarial – as can be seen from the adoption of the inquisitorial method in Royal Commissions and Boards Of Inquiry.

There have at times been criticisms of my office based on fundamental misunderstandings of this distinction and recent legislative changes have not assisted in allaying that confusion, and may have accentuated those difficulties. Functions appropriate to adversarial bodies, such as the ability of witnesses to refuse to answer questions based on privilege, continue to be expected of inquisitorial bodies such as the Victorian Ombudsman, even though there are considerable restrictions as to what use can be made of those answers in legal proceedings[4]. As a consequence, the effect of those restrictions is to hamper me in achieving my primary objective; the search for the truth. For that reason, I consider they should have no place in inquisitorial investigations.

1 Victorian Ombudsman, *A section 25(2) report to Parliament on the proposed integrity system and its impact on the functions of the Ombudsman*, December 2012.

2 It is necessary for the passage of a referendum before my independence is reduced – see sections 18(1B) and 94E *Constitution Act 1975*.

3 Section 13(1) *Ombudsman Act 1973*.

4 Section 29B *Ombudsman Act 1973*.

Privileges are generally not available in relation to investigations by other integrity bodies such as the IBAC[5], the Victorian Inspectorate[6], Royal Commissions[7] and the Commonwealth Ombudsman[8]. However, privileges continue to be available to witnesses in my investigations, which is an inexplicable inconsistency and impediment to my investigations.

In a recent investigation involving corrupt conduct a key witness refused to answer any questions on the grounds of self-incrimination. This meant that my investigation was impeded. I have recommended that the Premier consider amending the Ombudsman Act to remove the privilege against self-incrimination as a basis for witnesses to refuse to answer questions in Ombudsman investigations. This is not the first time I have raised this matter with government.

5 Section 144 *Independent Broad-based Anti-corruption Commission Act 2011* (self-incrimination).

6 Section 68 *Victorian Inspectorate Act 2011* (all privileges).

7 Sections 19C and 19D *Evidence (Miscellaneous Provisions) Act 1958* (self-incrimination and legal professional privilege).

8 Section 9(4) *Ombudsman Act 1976* (Commonwealth) (self-incrimination).

Changes to the Ombudsman's office following the introduction of a new integrity system

The new integrity regime introduced in February 2013 has created major changes to my role and I identified significant difficulties and weaknesses with this system in my recent report to Parliament[9]. Notwithstanding this, my office has updated many of its practices to ensure it complies with the current integrity legislation including:

- the redrafting of existing policy and procedures
- the introduction of new policies and educational material
- training for staff members
- developing a strong working relationship with the Victorian Inspectorate and IBAC.

Despite my approaches to government, a complaint under the *Ombudsman Act 1973* 'must' still be made in writing to my office, unless I consider that limited exceptions apply. Those being: the complainant is under 18 years of age; does not have sufficient understanding of English; or has a mental or physical impairment which prevents them from making a written complaint. The requirement for complaints to be in writing makes it more difficult for the public to make a complaint to my office and does not take into account means of communication in a modern society.

The requirement that complaints must be in writing further disadvantages the marginalised (i.e., those who do not fall within the limited exceptions, but whose command of the written word is, for cultural or other reasons, limited). As those persons are also the ones who most need assistance, it is plain that the restriction serves no beneficial or public purpose. My office has endeavoured to work around this unnecessary restriction by undertaking own motion enquiries in urgent cases. For example, persons in closed environments such as prisons, mental health facilities or state residential care often do not fall within these exceptions yet have limited capacity to make a written complaint.

I often receive complaints which allege that a person is at immediate risk of harm, such as assaults in custody or child protection matters. This can require my urgent attention and in many cases, neither I nor the complainant can afford to await the lodgement of a written complaint before taking action. As a result I have had to increasingly rely on my own motion powers to make simple enquiries to ensure someone's safety, a process that would not be necessary if there was no obligation for complaints to be in writing.

I consider that the requirement is anachronistic and does not belong in current day legislation. The contradiction in this requirement is also evidenced by the fact that protected disclosures made to my office under the *Protected Disclosure Act 2012* can be made either orally or in writing. This creates an inconsistency and the requirement appears designed to limit the ability of citizens to complain to the Ombudsman.

9 See footnote 1.

My office has introduced new practices to ensure that I continue to be an effective complaints office and yet comply with the integrity legislation. For instance, my staff can fill in a re-designed complaint form or draft a written statement while taking a complaint over the telephone which can then be sent to the complainant to sign as a true and correct record of their complaint and sent back to my office. Staff are encouraged to remind complainants on the use of email or our online complaint form, as this is also a quick and efficient method of making a complaint in writing. Despite this, since the introduction of this requirement a number of complainants have not returned to my office having been required to put their complaint in writing.

The Ombudsman's 10 years in office

10 years of challenges

My office has faced many challenges over the past 10 years. A significant increase in approaches to my office has more than doubled the number of formal investigations using my statutory powers from 2007-08 to 2012-13. In addition I have conducted numerous preliminary enquiries leading to substantive outcomes. In the last two years I have made over 250 formal recommendations to various agencies, the majority of which have been accepted.

My office has also grown and diversified, however the growth in staff numbers has not matched the increase in approaches to my office. Despite this my office has been able to improve the timeliness in which it handles approaches, with 95-99 per cent of approaches being resolved within set timeframes.

Up until its recent repeal the *Whistleblowers Protection Act 2001* gave my office the important role of investigating complaints about corruption for most of the public service and local government. This legislation, the first in Victoria specifically designed to encourage people to report improper conduct and offer them protections, became one of my central responsibilities. Over the past 11 years my office acted as a clearing house for disclosures made under this legislation; produced guidelines for the public sector and local government; conducted numerous investigations; monitored investigations undertaken by public bodies; and run public sector workshops.

Throughout this time I also increased the number of reports I tabled annually in Parliament, from three in 2004 to 13 in 2012. I believe there is significant public benefit in my bringing issues to light through my reports. By tabling reports in Parliament I am able to bring the subjects of investigations and other functions of my office to the attention of not only the Parliament and government agencies, but to the wider public. In this way my office is able to draw attention to important matters and hold departments and agencies to account for their failures to perform their public duty. This also reflects the number of more complex and serious complaints my office has received. However, not all of my investigations lead to public reports, with many being addressed direct with the agency concerned.

Office review

In April 2013, with the financial assistance of the Department of Premier and Cabinet, an independent review was conducted into the operations and budgetary performance of my office. This was the first such review in the 40 years of the Ombudsman's office. The impetus for this review was the fact that up to 20 per cent of my budget in recent years has been provided by way of supplementary funding. This has limited my office's ability to plan strategically from year to year and to retain staff.

The review made the following observations about my office:

- The workload of my office has grown significantly with an over 80 per cent increase in approaches to my office over the last five years from approximately 16,344 in 2007-08 to over 30,000 in 2012-13.
- When comparing the total budget for my office against the number of approaches and number of Parliamentary reports, my office's budget was lower than those Ombudsman offices compared in other jurisdictions.
- My office's costs per case dealt with were the lowest of the compared Ombudsman offices.[10]
- Approaches to my office were the highest per head of population of the compared Ombudsman offices.
- Key stakeholders (Parliament, complainants and agencies within my jurisdiction) were considered to be satisfied with the performance of my office.
- My office is performing efficiently with an effective case management system and a limited complaints backlog.
- The ability of my office to investigate a higher number of jurisdictional complaints appears to be constrained by a lack of resources.

The report also raised significant concerns regarding the security of IT data held by my office which is hosted by CenITex. The report stated:

> The hosting of VO data by CenITex appears a significant risk to the integrity of VO investigations and public confidence in the Victorian integrity system generally and the Ombudsman in particular.
>
> ...
>
> Throughout the investigation CenITex had custody of the data collected by investigators including details regarding the identity of whistleblowers, witness details, transcripts of interviews, commercial-in-confidence contracts, ministerial briefings, confidential documents, draft reports, individual responses to copies and the attendant analysis undertaken by VO. This material remains in the custody of CenITex to this day.

The report noted that other integrity bodies such as IBAC and VAGO have independent IT infrastructure. Considering the sensitive material gathered by my office and the consequences should there be a data security breach the report concluded, 'This would suggest VO's IT capability should be independent, as is the case with other similar constitutionally independent officers of Parliament...'.

Further details of this review will be available in Part 2 of my report.

10 Commonwealth, New South Wales, Queensland and New Zealand.

Achievements

A most rewarding aspect of an Ombudsman's work is to see that the recommendations for improvement arising from investigations are implemented and lead to significant changes within the public sector and for the community. In addition to the thousands of complaints my office deals with annually and the 75 reports I have tabled in Parliament, below are some of the key achievements made by my office in recent years.

Identifying risks for the disadvantaged and vulnerable people in society

- My reports to Parliament[11] have brought serious child protection issues to light. This has led to, amongst other things, increased funding including a recent announcement of a further $91 million for out of home care to improve the area.
- Following a report I tabled into conditions in custody[12] prisoners were given free-call access to the Ombudsman's office, the only independent avenue of complaint open to them.
- Since my investigation into conditions in the Melbourne Youth Justice Precinct[13] there have been significant improvements at the centre including the introduction of a dedicated education program for detainees.

Identifying major public health and safety issues

- My 2012 investigation into the Melbourne Underground Rail Loop and Flinders Street Station[14] identified serious public health and safety concerns for Melbourne's busiest rail centres which are now being addressed.
- My investigation into methane leaks at the Brookland Greens Estate[15] identified serious failings in the planning and assessment of the housing estate built adjacent to the site of an old landfill. The investigation report was used to settle the resultant class action and major remedial works were carried out on the landfill site.

Identifying significant failings in agency practices and bringing these to light

- Following a report I tabled regarding the handling of drug exhibits by Victoria Police[16] there have been significant improvements to the handling of drug exhibits, including improved security and infrastructure processes and facilities and management of the Centre.
- There have been significant improvements made to minimise the risk of identity theft at VicRoads following my report to Parliament outlining many security risks[17].

11 Victorian Ombudsman, *Own motion investigation into Child Protection – out of home care*, May 2010. Victorian Ombudsman, *Investigation into the Department of Human Services Child Protection Program*, November 2009.

12 Victorian Ombudsman, *Conditions for persons in custody*, 2006.

13 Victorian Ombudsman, *Whistleblowers Protection Act 2001 – Investigation into conditions at the Melbourne Youth Justice Precinct*, October 2010.

14 Victorian Ombudsman, *Whistleblowers Protection Act 2001 – Investigation into allegations concerning rail safety in the Melbourne Underground Rail Loop*, October 2012.

15 Victorian Ombudsman, *Brookland Greens Estate – Investigation into methane gas leaks*, October 2009.

16 Victorian Ombudsman, *Investigation into the handling of drug exhibits at the Victoria Police Forensic Services Centre*, December 2009.

17 Victorian Ombudsman, *Investigation into VicRoads driver licensing arrangements*, December 2007.

- My office has consistently investigated and reported on the issue of conflict of interest in the public sector. Reports about conflicts in the public sector and local government[18] redefined the concept and brought it firmly into the public domain and led to amendments to the Local Government Act.
- My investigation of the $2 billion Foodbowl Modernisation Project[19] identified significant failings in the project's planning, management and governance, implementation and procurement practices. I recommended that the transfer of Northern Victoria Irrigation Renewal Project's (NVIRP) functions to Goulburn-Murray Water (GMW) was critical to ensure the future success of the Foodbowl Project. NVIRP was integrated with GMW on 1 July 2012.

Raising community awareness and improving the practices in the public sector

- My office developed guidelines for CCTV in public places[20] which has been used by many local councils in developing CCTV policies. My office has recently been advised by the Keeper of Public Records that she has approved these guidelines as a Public Record Office Victoria (PROV) endorsed tool. This means that the guidelines will be recommended by PROV for use by Victorian public agencies.
- Community outreach continues to be a vital activity for my office. Performed throughout Victoria and interstate these activities have included Whistleblower and Complaint Handling Workshops and information presentations to community and professional groups. Over 200 such activities have been undertaken in the last two years.
- Having noticed a growing number of complaints about universities and the poor manner in which these were often handled in the first instance my office has completed two investigations into how universities handle complaints from students[21]. Since these reports I have seen continued improvement in how complaints are handled at universities.
- Investigations by my office consistently identify poor record keeping at agencies affecting good governance and services to the public. Recommendations that have been implemented following my reports are contributing to a growing recognition of the importance of this issue in the public sector.

Influencing legislative and strategic change

- Significant legislative changes have been made following recommendations in my investigation reports. Recently, the *Corrections Amendment Act 2013* introduced legislative changes to the *Corrections Act 1986*, to require that the removal of a prisoner from a jail by police can only be authorised by the Supreme Court. This followed my report into the death of Mr Carl Williams[22].

18 Victorian Ombudsman, *Conflict of Interest in the public sector*, March 2008.
Victorian Ombudsman, *Conflict of interest in local government*, March 2008.

19 Victorian Ombudsman, *Investigation into the Foodbowl Modernisation Project and related matters*, November 2011.

20 http://www.ombudsman.vic.gov.au.

21 Victorian Ombudsman, *Investigation into how universities deal with international students*, October 2011.
Victorian Ombudsman, *Review of complaint handling in Victorian universities*, May 2005.

22 Victorian Ombudsman, *The death of Mr Carl Williams at HM Barwon Prison – Investigation into Corrections Victoria*, April 2012.

- Following my investigation into 10 ICT projects in Victoria[23], which identified budget overruns of $1.44 billion, the government initiated a whole-of-government ICT strategy.
- After twice raising concerns about police statistics in reports[24] the government recently announced funding to establish a new independent crime statistics agency.

Holding agencies and individuals to account

- My office has had an ongoing focus on good governance in the public sector. For example my own motion investigations into:
  - Greyhound Racing Victoria[25] identified integrity issues relating to staff betting on greyhounds as well as inappropriate behaviours and practices of staff
  - the Victorian Building Commission[26] found questionable entertainment, hospitality and sponsorship funds were spent by senior Commission executives.
- In relation to local government my report into Brimbank City Council[27] identified issues of Council dysfunction; poor councillor conduct; and factional voting that have prevented the proper functioning of local government.
- My investigation into Bayside Health[28] identified improper billing and medical practices by a surgeon and governance and oversight failures by the Alfred Hospital, the TAC and WorkSafe. My recommendations led to stricter controls regarding contracts and billing methods of surgeons relating to publicly funded compensation schemes with TAC and WorkSafe and a subsequent reduction in billing.

Contributing to broader research

- My office has in partnership with universities and other research bodies provided contributions to public research to improve public administration in conflict of interest; public sector whistleblowing; and conditions for persons in custody[29].

23 Victorian Ombudsman, *Own motion investigation into ICT-enabled projects*, November 2011.

24 Victorian Ombudsman, *Whistleblowers Protection Act 2001 – Investigation into an allegation about Victoria Police crime statistics*, June 2011.
Victorian Ombudsman, *Crime Statistics and police numbers*, March 2009.

25 Victorian Ombudsman, *Own motion investigation into Greyhound Racing Victoria*, June 2012.

26 Victorian Ombudsman, *Own motion investigation into the governance and administration of the Victorian Building Commission*, December 2012.

27 Victorian Ombudsman, *Investigation into the alleged improper conduct of councillors at Brimbank City Council*, May 2009.

28 Victorian Ombudsman, *Whistleblowers Protection Act 2001 – Report of an investigation into issues at Bayside Health*, October 2009.

29 With Macquarie University; Australian Research Council; and Monash University respectively.

Consistent themes and issues over 10 years

The failure of agencies to perform statutory functions

The conditions for and treatment of people in closed environments

Conduct of elected officials

Conflicts of interest

Poor procurement and contract management

Consistent themes and issues over 10 years

Over the last 10 years, my office completed numerous formal investigations into public administration and the conduct of public officers and public bodies. Some of these investigations have resulted in a report, including 67 investigation reports tabled in the Victorian Parliament. Many of these investigations identified recurring themes and issues. Despite these investigations and my recommendations to public agencies to address the issues arising from my investigations, I continue to identify many of the same issues prevalent within the Victorian public sector.

The following are consistent issues I have identified and raised concerns about over the past 10 years:

- the failure of government agencies to perform statutory functions
- the conditions for and treatment of people in closed environments
- the conduct of elected officials
- conflicts of interest
- poor procurement and contract management.

These issues have been the focus of much of the work of my office. I comment on each of these themes and draw on some of my investigation reports as examples, as follows.

The failure of agencies to perform statutory functions

The Parliament gives Victoria's public agencies significant responsibilities to regulate the conduct of individuals and organisations. If an agency fails in its statutory duties there is a risk that its continued viability may be called into question. A recent example is my report to Parliament following my investigation of the Victorian Building Commission[30] (the commission). My investigation identified significant issues regarding maladministration and misconduct in the commission's registration process for builder licences, one of its key statutory functions. Concerns were also identified about governance and recruiting practices at the commission. Following my report the government announced that the commission is to be replaced by the Victorian Building Authority. This highlights how an agency's existence can come under threat if it fails in its statutory functions.

My office has identified several instances where agencies have failed to perform their basic statutory functions. Over the past 10 years I have reported to Parliament on statutory failings of some of Victoria's larger public agencies including:

- VicRoads
- Transport Accident Commission (TAC)
- WorkSafe
- Environment Protection Authority (EPA)
- Victoria Police
- Department of Human Services
- Department of Justice.

These failures can place members of the public at a significant risk. My investigation into the failure to manage registered sex offenders[31] is an example. My report to Parliament identified that Victoria Police had failed to inform the Department of Human Services (the department) of 376 registered sex offenders who had unsupervised contact with over 700 children. As a result the department was unable to perform its statutory duty under the *Children, Youth and Families Act 2005* to consider the circumstances of the children concerned and take action as required to ensure their safety.

The importance of an agency adequately performing its statutory role is heightened when the needs of vulnerable members of the community are involved. The safety of children has been the focus of a number of investigations by my office. This included my investigation into the Department of Human Services child protection program[32]. My report identified that several statutory obligations were not being met by the department including a failure to perform criminal record checks on carers which led to children being placed in the care of convicted sex offenders. Likewise another investigation into child protection, involving the out of home care program[33], identified that the department did not ensure adequate care to children in out of home care thereby failing to meet its statutory obligations.

30 Victorian Ombudsman, *Own motion investigation into the governance and administration of the Victorian Building Commission*, December 2012.

31 Victorian Ombudsman, *Whistleblowers Protection Act 2001 – Investigation into the failure to manage registered sex offenders*, February 2011.

32 Victorian Ombudsman, *Investigation into the Department of Human Services Child Protection Program*, November 2009.

33 Victorian Ombudsman, *Own motion investigation into Child Protection – out of home care*, May 2010.

The conditions for and treatment of people in closed environments

People in closed environments are among the most vulnerable in our society. A key function of the Ombudsman's office is to provide generally the only avenue for such people to complain and have their conditions and treatment scrutinised and investigated. My responsibilities in this regard are augmented by my role under the *Charter of Human Rights and Responsibilities Act 2006* (the Charter). Under the Charter I am given power to investigate decisions that may otherwise be lawful, but that may limit a human right. Section 13(2) of the *Ombudsman Act 1973* states:

> The function of the Ombudsman under subsection (1) includes the power to enquire into or investigate whether any administrative action that he or she may enquire into or investigate under subsection (1) is incompatible with a human right set out in the *Charter of Human Rights and Responsibilities Act 2006*.

This extends my jurisdiction to address whether administrative actions are in breach of human rights under the Charter.

While the human rights established by the Charter apply to all people in Victoria, they are particularly important to consider for vulnerable individuals: those in closed environments (such as prisons and juvenile justice detention centres); individuals with a disability; and children. However, my investigations regarding closed environments have not been limited to only addressing issues relevant to the Charter. I have been concerned by issues such as prisons failing to perform the fundamental role of ensuring the safety of those incarcerated and also by allowing unacceptable conditions and cultures to fester in closed environments.

I have tabled several reports in recent years concerning the conditions for people in closed environments, prisons in particular. These have included:

- *Investigation into prisoner access to health care*, August 2011
- *Investigation into contraband entering a prison and related issues*, June 2008
- *Investigation into the use of excessive force at the Melbourne Custody Centre*, November 2007
- *Conditions for persons in custody*, July 2006
- *Investigation into the Handling, Storage and Transfer of Prisoner Property in Victorian Prisons*, December 2005.

These investigations have demonstrated that people in closed environments are vulnerable and there have been deficiencies in some practices in Victorian prisons. In particular inadequate access to medical treatment for prisoners has been a matter of concern. This issue affects not only prisoners but the community in general. Upon release prisoners who have had inadequate medical treatment are at risk of spreading communicable diseases to the general public or undertaking dangerous and violent behaviour due to untreated mental health problems.

More recent investigations have continued to identify failings within the prison system. My investigation into a death at Barwon prison (see footnote 22) identified systemic failures in the management, governance and administration of the prison that contributed to the prisoner's death. This included the decision by Corrections Victoria to place a highly dangerous prisoner in the same unit as his victim; the availability of exercise equipment in high security prison units; and the culture of staff in a high security unit. I concluded that Corrections Victoria failed in its duty to protect the prisoner's safety and highlighted several shortcomings in Corrections Victoria's administration of the prison.

One of my recommendations called for an amendment to the *Corrections Act 1986* to require a Judge or Magistrate (as opposed to the Secretary of the Department of Justice) to approve the removal of a prisoner from prison by police for the purposes of assisting with police enquiries. I am pleased that in March 2013, the *Corrections Amendment Act 2013* has introduced legislative changes to the Corrections Act, requiring that the removal of a prisoner by police can only be authorised by the Supreme Court.

Prisons are not the only closed facilities where issues have been identified. In 2011 I tabled a report in Parliament concerning the Melbourne Youth Justice Precinct (see footnote 13). My investigation found unacceptable conditions for detainees, including:

- Overcrowding with mattresses on the floor and a bucket used as a toilet
- Hanging points
- Blocked smoke detector vents
- Electrical hazards
- Unhygienic food preparation areas
- Mould infestations and unhygienic conditions in the residential areas.

My investigation also identified a lack of training and education programs for detainees in the precinct. Since my report there have been significant improvements made to conditions at the precinct. Parkville College has also been established at the precinct to provide an education program for all detainees, the first of its type in Australia.

Recently I commenced an own motion investigation into deaths in custody as a result of concerns about suicides and self-harm in prisons and other institutions.

Conduct of elected officials

Elected officials are expected to maintain a high standard of conduct in the performance of their public duties. In a lecture to the Commonwealth Parliament, Canadian Academic Mr David Zussman said '... it is not enough for the behaviour of a politician to be within the law. The legitimacy of the system requires that they meet a higher standard, a more rigorous code of behaviour'[34]. I have often found this has not been the case in local government. I have consistently identified issues regarding the conduct of elected officials relating to:

- improper use of powers
- misuse of government funds and equipment
- inappropriate release and/or use of information
- inadequate accountability and transparency.

Some elected members of local councils appear to either not understand or choose to disregard the codes of conduct they are required to adhere to in their public role. My investigation into the Brimbank City Council[35], still under administration, was an example of this. The investigation identified conflicts of interest by councillors and a 'ruling faction' of councillors. In particular, the 'ruling faction' failed to properly manage conflicts between their public duties as councillors and their private interests.

While I found that some conflicts stemmed from a lack of understanding of conflicts of interest principles, councillors were also identified engaging in deliberate misconduct by placing their private interests first in using their position within the council to obtain confidential information. I also identified unelected individuals were heavily influencing decisions made by the council that would affect residents. This influence was inappropriate as those influencing council decisions had not taken oaths of office or were in some instances precluded from office due to criminal convictions.

Councillors were also found to have engaged in decision-making which:

- was made for personal gain or political motivations
- could cause detriment to the council
- was in retaliation for broken promises
- was made behind closed doors
- involved voting in a block to support a faction, even when those decisions were not necessarily in the best interests of the community.

There were also examples of councillors:

- inappropriately using council funds and property
- failing to identify and reimburse the council for the private use of council telephones
- improperly using council provided laptops, such as installing pornographic material and inappropriate software on their laptops.

34 http://www.aph.gov.au/About_Parliament/Senate/Research_and_Education/pops/pop38/zussman.

35 Victorian Ombudsman, *Investigation into the alleged improper conduct of councillors at Brimbank City Council*, May 2009.

Some councillors clearly failed to meet what are reasonable standards of behaviour that the community can expect from its elected officers.

More recently my investigation into the activity of the Darebin City Council before the 2012 election identified some of the same issues apparent in my earlier Brimbank report. The Darebin City Council was similarly divided with block voting common with the dominant faction referred to as 'the five'. As with Brimbank this hampered the proper functioning of the Council as a decision-making body in particular impacting on controversial planning matters. Certain councillors were also found to have misused entitlements and council assets such as mobile phones, cabcharge vouchers, and IT equipment; one councillor having accrued over $18,000 in mobile phone charges in three years with only nominal reimbursements made for non-Council usage after my investigation commenced. My report of the investigation has been provided to the Minister for Local Government. One recommendation made in that report was for the Minister to consider monitoring the operation of the current Darebin City Council for the balance of its term so as to ensure that such behaviour in that council does not recur.

Conflicts of interest

Public officers are obliged to avoid conflicts of interest. A public officer should not allow a conflict to exist between a personal interest and their public duty. The term conflict of interest relates to circumstances where a public official could be influenced, or could be reasonably perceived to be influenced, by a private interest when performing an official (or public) function. The identification and appropriate management of conflicts of interest by public officers is imperative in retaining the public's trust and confidence in the public sector.

Conflict of interest has consistently been the subject of complaints received by my office and the subject of a number of investigations. I have provided Parliament with a number of reports on conflict of interest in both the public sector and local government[36]. Despite my recommendations to public sector agencies and local government, poor management and a lack of understanding of conflicts of interest continue to be a source of concern. In public reports over recent years I have identified conflicts of interest at a number of public bodies.

For example, a recent report that identified several conflicts of interest by public officers was my own motion investigation into Greyhound Racing Victoria (GRV)[37]. In this report the conflicts identified involved staff and the then CEO and included:

- GRV staff, including the CEO, were provided with assistance and advice from a GRV consultant architect in relation to improvements to their private homes.
- The CEO improperly provided advice to his daughter and son-in-law in relation to negotiations regarding the son-in-law's departure arrangements and payout following his termination from GRV for breaching the betting policies.
- The CEO requested senior officers from Tabcorp (a GRV contractor) to consider his daughter for employment opportunities.

In all three of these examples there was a clear conflict between the officer's public duty and private interests. Following my report there has been a significant change in the Board, management structure and personnel at GRV, including the resignation of the CEO.

My recent investigation report into a Magistrates' Court registrar[38] also identified issues of conflict of interest. I identified a court registrar had been inappropriately granting instalment orders on the payment of a fine on behalf of her husband. I considered that the conduct was improper as the registrar should have declared a conflict of interest and should have had no involvement with any applications relating to her husband's conviction and fine. The registrar had not declared any conflicts of interest in relation to her role at the court.

36 Victorian Ombudsman, *Conflict of Interest in the public sector*, March 2008.
Victorian Ombudsman, *Conflict of interest in local government*, March 2008.

37 Victorian Ombudsman, *Own motion investigation into Greyhound Racing Victoria*, June 2012.

38 Victorian Ombudsman, *Whistleblowers Protection Act 2001 – Investigation into allegations of improper conduct by a Magistrates' Court registrar*, May 2013.

My investigations have identified that conflicts of interest are also common in local government, despite the specific conflict of interest provisions in the *Local Government Act 1989*. I tabled several reports in recent years[39] that have identified conflict of interest issues being mishandled or not acknowledged in councils, particularly by elected councillors, including:

- Being involved in council votes and decisions that would influence a private business interest.
- Attempting to influence council policy in areas where they, family or friends have a business interest.
- Inappropriately approaching council officers in an attempt to further personal interests and interfere with the administrative activities of the council.
- Wilfully ignored or refused to acknowledge conflicts of interest despite their responsibility as elected officials.

39 Victorian Ombudsman, *Whistleblowers Protection Act 2001 – Conflict of interest, poor governance and bullying at the City of Glen Eira Council*, March 2012.
Victorian Ombudsman, *Whistleblowers Protection Act 2001 – Investigation into allegations of improper conduct by a councillor at the Hume City Council*, February 2011.

Poor procurement and contract management

My office has regularly identified instances of poor procurement practices and contract management by public sector agencies, including issues relating to:

- purchases outside procurement policies, such as companies/ contractors awarded significant contracts without a competitive procurement process[40]
- the influence of nepotism and favouritism on procurement and recruitment[41]
- conflicts of interest of staff involved in procurement and recruitment processes[42]
- the engagement of contractors at excessive rates[43]
- inadequate procurement controls and checks[44]
- improper expenditure of public money[45]
- acceptance of gifts from suppliers[46].

Despite having conducted a number of investigations relating to procurement practices and contract management leading to reports to Parliament, and the guidance available to public sector agencies from the Victorian Government Purchasing Board, these issues remain a regular source of complaint. For example, my 2012 report to Parliament concerning CenITex[47] identified numerous breaches of government purchasing guidelines and improper conduct by senior officers.

That investigation identified officers who had misused their positions to engage friends and other third parties for a direct financial benefit as well as the acceptance of gifts and hospitality from prospective contractors. Senior management at CenITex (including the then CEO) approved exemptions from procurement guidelines without adequate justification. On other occasions state purchasing guidelines were deliberately subverted by officers splitting contracts or running sham procurement processes to support pre-determined appointments.

Many of the examples cited in my report involved managers in senior positions who should have been setting an example for the rest of the organisation. If there is poor leadership then cultures that allow and even promote these types of behaviour can flourish. Following my investigation one officer was dismissed and a contracting company had its contract terminated. Several other companies did not have their contracts with CenITex renewed. Several officers and contractors left or did not have their contracts renewed during my investigation.

40 Victorian Ombudsman, *Own motion investigation into Greyhound Racing Victoria*, June 2012.

41 Victorian Ombudsman, *Whistleblowers Protection Act 2001 – Investigation into allegations of improper conduct by CenITex officers,* October 2012.

42 Victorian Ombudsman, *Investigation into the Foodbowl Modernisation Project and related matters*, November 2011.

43 Victorian Ombudsman, *Own motion investigation into the governance and administration of the Victorian Building Commission*, December 2012.

44 Victorian Ombudsman, *A report of investigations into the City of Port Phillip*, August 2009.

45 Victorian Ombudsman, *Corrupt conduct by public officers in procurement*, June 2011.

46 Victorian Ombudsman, *Own motion investigation into the tendering and contracting of information and technology service within Victoria Police*, November 2009.

47 See footnote 41.

The offering and acceptance of gifts and hospitality as incentives for procurement is an ongoing risk for officers in the public sector. While the practice may be accepted in the private sector it is inappropriate for public officers to place themselves or their agency in a position where they are vulnerable to accusations of misconduct or favouritism. This issue was borne out in my investigation concerning the purchase of printer cartridges by public officers at various agencies[48]. In one case study concerning Arts Victoria, the investigation identified an officer who wasted $80,000 of public funds on the purchase of printer cartridges at inflated prices with a supplier, purchasing enough cartridges (which have a shelf life of 24 months), to last Arts Victoria the next 40 years. The same officer received $8,300 in gift vouchers and prepaid Visa cards for her private benefit from the supplier in exchange for her continued purchase of cartridges. The Arts Victoria officer resigned during my investigation.

48 Victorian Ombudsman, *Corrupt conduct by public officers in procurement*, June 2011.

Challenges for the future

Corruption and misconduct

Employing the right people with the right skills

The need for greater transparency, accountability and leadership in the public sector

The need for coordinated approaches

Keeping the public's trust

Challenges for the future

This section of my annual report looks forward to identify what are some of the major challenges facing the Victorian public sector and by extension our integrity system in years to come. These include the following issues which warrant vigilance by the public sector in the future:

- Corruption and misconduct
- Employing the right people with the right skills
- The need for greater transparency, accountability and leadership in the public sector
- The need for coordinated approaches
- Keeping the public's trust.

Corruption and misconduct

As has been evident from the commentary before and after the establishment of IBAC, the need for and expectation of an effective anti-corruption system is of significant public interest. There was little consultation with bodies such as my office during the drafting of the IBAC legislation[49]. As a result there was little if any discussion about the various forms that corruption can take, or how appropriate the emphasis on the undefined term 'serious corrupt conduct' is in the new integrity legislation.

Current integrity legislation in Victoria, introduced in late 2012 and early 2013 is clumsy and presents operational problems for all concerned that could undermine the effective functioning of our integrity system. Although my office is working closely with IBAC and the Victorian Inspectorate to ensure as smooth a functioning as is possible, inherent weaknesses with integrity legislation constrain the effectiveness of the integrity system.

Important considerations around concepts of misconduct and corruption are not adequately addressed in the legislation and are at risk of being excluded from our integrity system. In a speech given at the Diploma of Government Investigations training run by my office in July 2012, Mr Roger Watson, Director of Corruption Prevention at the West Australian Corruption and Crime Commission discussed another type of corruption which he called 'social corruption'.

Mr Watson explained 'social corruption' as being less concerned with financial concepts of fraud or misappropriation of funds often seen as more 'serious corruption'. Instead social corruption issues are primarily concerned with poor cultures within organisations and the treatment of people by public officers. He cited investigations in Western Australia concerning issues such as the misuse of tasers by police; sexual contact between students and teachers; and unexplained loss of pharmacy medicines in the health system. Social corruption or misconduct can:

- place people's lives at risk
- result in harm to children and other vulnerable members of our society
- foster cultures of misconduct and poor performance
- impact on the human rights of citizens.

It is these types of conduct that create the bulk of the more serious work of my office and has been the subject of many of my more significant investigations and reports[50]. Such investigations have ranged across many agencies and have revealed issues that have been of importance to the public sector and the wider public.

49 There was no consultation with my office regarding the *Integrity and Accountability Legislation Amendment Act 2012*.

50 See for example:
Victorian Ombudsman, *Whistleblowers Protection Act 2001 – Investigation into the improper release of autopsy information by a Victorian Institute of Forensic Medicine employee*, May 2011.
Victorian Ombudsman, *Whistleblowers Protection Act 2001 – Investigation into an allegation of improper conduct within RMIT's School of Engineering (TAFE) – Aerospace*, July 2010.
Victorian Ombudsman, *Whistleblowers Protection Act 2001 – Investigation into the handling of drug exhibits at the Victoria Police Forensic Services Centre*, December 2009.
Victorian Ombudsman, *Whistleblowers Protection Act 2001 – Report of an investigation into issues at Bayside Health*, October 2008.

This type of corruption can exist in any organisation and can often be more insidious and harder to identify and eradicate than the more obvious examples of serious corruption. They can be the result of individual actions or can be indicative of wider systemic problems. Government departments and agencies are far more susceptible to this type of corruption than serious corrupt conduct and must therefore ensure they have adequate processes and checks to guard against it. This is particularly so for agencies that have as core responsibilities delivering services to the public. This type of corruption is a particular risk in agencies where:

- there exists a poor culture, for instance of misconduct or diffused responsibility
- staff are stretched, poorly allocated or disaffected
- a majority of clients are vulnerable or disadvantaged
- their core function is not fiscal but providing a direct service to the community
- junior staff are allowed to exercise discretion on decision-making with limited oversight
- the focus has moved away from statutory responsibilities toward concepts of efficiency or economy.

If there is a culture where staff, particularly senior management, accept poor practices or do not engage in sufficient oversight then harm can come to a great number of vulnerable people. My investigation into the assault of a disability client by Department of Human Service's staff[51] is an example of an investigation into misconduct that I was able to undertake because my legislation encompasses concepts of 'social corruption'.

This investigation is a good example of how a culture of cover-up can lead to serious consequences. My investigation was initiated as a result of a complaint I received from the Public Advocate, on behalf of a Community Residential Unit (CRU) client. The client who was non-verbal had been dragged down the hallway in the CRU by two staff members causing a second degree carpet burn along the resident's back. The client did not receive medical attention for over 24 hours despite the injuries he had suffered. My investigation also concluded that:

- staff at the residence had misled community visitors by advising the injury was self-inflicted
- the Department of Human Services (the department) had incorrectly categorised the incident and therefore responded inadequately
- a manager at the department fabricated documentation relating to their response to the incident.

51 Victorian Ombudsman, *Ombudsman Investigation – Assault of a Disability Services Client by Department of Human Services Staff*, March 2011.

Employing the right people with the right skills

The prevalence of outsourcing government services and engaging contractors in the public sector has continued to grow over the past 10 years. In several of my recent investigations I have been concerned about the conduct of some contractors and the manner in which they are used, particularly in the information technology (IT) area.

Public agencies may need contractor services for short term project work or in highly specialised services that are used for limited periods of time. However, there is a risk if public agencies turn over entire IT services or projects to contractors with little or no effective oversight.

In my investigation of Victorian IT projects undertaken at state agencies[52] I identified significant cost overruns in 10 major projects. A common problem I identified across many of these projects was the lack of skilled IT and Project Management professionals in the public sector. This meant that agencies had to engage either expensive consultants or appoint inexperienced public officers to roles for which they were not qualified. Apart from the cost involved with contractors there is a risk that their work may not be adequately supervised by a public officer. It is vital that contractors are overseen by a public officer with sufficient knowledge and experience to be able to challenge the advice and claims made by contractors and effectively manage their work on behalf of the agency.

Another area of concern with the increasing use of contractors is the risk that they may behave in a manner not acceptable in the public sector. As was revealed in my CenITex investigation a 'private sector' culture with regards to gifts and hospitality; hiring and procurement; and conflicts of interest is problematic in a public sector organisation. This is an issue I have previously identified including in my report concerning tendering and contracting of IT services in Victoria Police[53]. Public agencies should be judicious in their use of external contractors and ensure they are well versed in and contractually obliged to observe public sector standards.

A similar area of concern identified in some recent investigations has been where public officers resign or take a redundancy and are then re-engaged as contractors. For example my investigation into the Victorian Building Commission[54] identified that one of the commission's investigators resigned only to return as a contracted investigator three days later. The one year contract that this person was engaged under was at nearly triple their previous salary. My investigation identified that this officer had been assured before resigning that they would be re-engaged as a contractor. This is illustrative of improper use of contractor services which does not serve a public purpose.

52 Victorian Ombudsman, *Own motion investigation into ICT-enabled projects*, November 2011.

53 Victorian Ombudsman, *Own motion investigation into the tendering and contracting of information and technology service within Victoria Police*, November 2009.

54 Victorian Ombudsman, *Own motion investigation into the governance and administration of the Victorian Building Commission*, December 2012.

The need for greater transparency, accountability and leadership in the public sector

Transparency

I am concerned with the growing trend for Governments and government agencies seeking to restrict the availability of information to my office. In particular, I am concerned that the application of the legislative restrictions regarding my access to cabinet documents does not serve the public interest and in fact can actively hamper investigations.

In addition, the recent integrity legislation has restricted my access to these documents and prevents my reporting to parliament on any matter that is considered cabinet in confidence.

Unlike the Auditor-General I do not have access to Cabinet material. I have commented on this issue in my report on the new integrity regime[55] as my access to and use of Cabinet material is limited in three ways:

1. The new section 19A of the *Ombudsman Act 1973* concerns investigations of protected disclosure complaints and expands the scope of the "Cabinet information" that persons are not required or authorised to furnish, or, in relation to which, answer questions. Previously, under the *Whistleblowers Protection Act 2001*, the exclusion was limited to matters that relate to any deliberation or decision of the Cabinet. Now it also covers anything falling within the *Freedom of Information Act 1982* 'Cabinet information' exemption. This term goes well beyond the deliberations and decisions of Cabinet and includes:
    a. a document that has been prepared by a Minister or on his or her behalf or by an agency for the purpose of submission for consideration by the Cabinet; and
    b. a document prepared for the purposes of briefing a Minister in relation to issues to be considered by the Cabinet[56].
2. Recently the Attorney General has twice issued conclusive certificates to prevent my access to documents or information that have been considered Cabinet information. While this facility has been available since 1973, so far as I can determine, it has never been used before.
3. If Cabinet information is obtained in the course of an investigation, the new section 25A prevents me from including that material in any report[57].

I note that these amendments were made in the absence of any consultation with my office.

Accountability

Two of the core functions of the public sector are to provide 'frank, impartial and timely advice to government' and 'providing high quality services to the Victorian community'[58]. The public sector therefore needs to be courageous in providing advice to government and within its own agency; clearly communicate this advice and then act on it; and be prepared to be held accountable when it fails in its core duties. Several of the investigations I have conducted have identified agencies failing in these key areas.

55 Victorian Ombudsman, *A section 25(2) report to Parliament on the proposed integrity system and its impact on the functions of the Ombudsman*, December 2012.

56 Section 2 of the Ombudsman Act and Section 28(1)(b) and (ba) of the Freedom of Information Act.

57 Section 25A(1)(b) of the amended Ombudsman Act.

58 State Services Authority, *Code of Conduct for Victorian Public Sector Employees*, 2007.

My investigations into the release of crime statistics by Victoria Police[59] and the closure of Alfred Health's adult lung transplant program[60] revealed a breakdown in communication that meant key senior officers were not fully informed before making important decisions or if informed, disregarded the advice. In other investigations into the Brookland Greens Estate[61] and the Melbourne Underground Rail Loop (MURL)[62] vital advice was either not acted upon in a timely manner or not acted on at all. In the MURL investigation this led to the Minister for Transport being provided false and misleading information concerning the safety systems of the metropolitan underground rail system.

Leadership

I have commented many times on the need for effective leadership in the public sector. Good leadership enables an agency to foster an environment where its staff are best able to perform their roles and by extension the agency will adequately perform its statutory and public responsibilities. Good leadership requires key qualities such as:

- Responsibility
- Decisiveness
- Courage
- Communication
- Openness.

Many of my investigations have revealed a lack of strong leadership. Too often senior public officers have pleaded ignorance of the problems my investigations have identified either because they have been unaware or have not implemented the necessary processes that would have ensured that they were aware of such issues.

59 Victorian Ombudsman, *Whistleblowers Protection Act 2001 – Investigation into an allegation about Victoria Police crime statistics*, June 2011.

60 Victorian Ombudsman, *Investigation into the temporary closure of Alfred Health's adult lung transplant program*, October 2012.

61 Victorian Ombudsman, *Brookland Greens Estate – Investigation into methane gas leaks*, October 2009.

62 Victorian Ombudsman, *Whistleblowers Protection Act 2001 – Investigation into allegations concerning rail safety in the Melbourne Underground Rail Loop*, October 2012.

The need for coordinated approaches

Many of the problems confronting our society are complex. Issues such as child protection; public housing; generational disadvantage; demand for services; accommodating prisoners; and providing adequate infrastructure are some of the most challenging areas. Victoria has a population growing at record levels. It is also an ageing population with a great diversity in backgrounds whose needs are going to be more difficult to cater for in coming years. To adequately meet these and other challenges the public sector needs to implement a range of coordinated approaches across departments and agencies.

Departments and agencies need to ensure that when coordinated approaches are required they are open with their communication and enter into such arrangements in the spirit of cooperation. Some investigations undertaken by my office identified poor communication between agencies that needed to work collaboratively. This has been at times the result of poor record keeping or a limited understanding of statutory requirements. At other times there is an unwillingness on the part of some agencies to pass on their information to others who need to be briefed or if information is received, a reluctance to act upon it.

My investigation into the problems with the Melbourne Underground Rail Loop (MURL) identified a failure of several agencies to adopt a coordinated approach to the complex issue of major infrastructure maintenance. The investigation identified that there were significant tensions between some agencies that hampered their ability to function together as necessary. In other instances vital information such as engineering reports highlighting maintenance concerns in the MURL were not provided to all relevant parties.

Repeated concerns raised by the emergency services were not acted upon by the various transport authorities, in particular the Department of Transport. The Victorian Managed Insurance Agency, the State's insurer, was unaware of many of the issues in the MURL because of a failure of the transport agencies to inform them. All these issues contributed to the ineffective management of important public safety matters.

I also identified similar issues with poor inter-departmental and agency responses in other investigation reports (see footnote 31). Some reports identified situations where the failure in coordinated approaches left vulnerable members of the community at a significant risk. Not only is it important that such situations be better managed but that public officers and agencies be encouraged to identify opportunities for coordinated approaches in the public sector, particularly in areas where the issues needing to be addressed may have potentially serious outcomes for the public.

Keeping the public's trust

The ties that bind the community's faith to public institutions are fragile. The social contract that allows our society to operate in a reasonably harmonious manner is not one that public institutions should underestimate. Academic research suggests that there is a general loss of confidence in public institutions, particularly in developed western democracies such as ours. Citizens have greater access to information than ever before; are generally better educated and therefore more likely to challenge the status quo; and have access to a 24-hour media cycle.

It is against this backdrop that the Victorian public sector operates. It is for this reason that the public sector needs to strive to continuously improve its delivery of services to the public. The investigations I have conducted over the past 10 years have sought to improve the public sector through an independent assessment of its performance. Every investigation and report I have tabled should act as a warning to other public sector bodies to ensure that their houses are in order. Every report that identifies people acting on conflicts of interest or subverting procurement guidelines is an opportunity to ensure staff in the wider public service are aware of their obligations. Reports that detail inefficient practices and statutory failures can provide the impetus for other agencies to review their own practices and identify areas for improvement.

The role of my office however goes beyond this. A healthy society needs to provide avenues for individuals to raise their concerns about executive power. It also needs agencies that it believes will hold those in power to account if they fail in their public duties and bring such issues out into the open. I believe that my office fulfils this function.

The year in review

A busy year

This financial year has seen over 30,000 approaches to my office from the public. My office has also conducted 30 formal investigations, nine of which resulted in Parliamentary reports. This year has also been one of the most challenging in recent years with the establishment of Victoria's new integrity system and the demise of the Office of Police Integrity (the OPI) which has meant significant changes in the operations of my office and also for the public who wish to complain to my office as detailed earlier in this report.

Already my office is experiencing a significant increase in workload since the establishment of IBAC as I foreshadowed in my report to Parliament in December 2012[63] with a large number of matters being referred to my office for investigation. The table below details referred complaints to my office since the introduction of IBAC.

Table 1 – Complaints referred to the Victorian Ombudsman

Complaints referred to IBAC (no.)	Complaints referred back to VO for investigation (no.)	Complaints received by IBAC and referred to VO (no.)
48	21	14

Under the new integrity legislation my office must investigate complaints referred to me by IBAC. The legislation also requires that I refer any complaint that appears to involve 'corrupt conduct' to IBAC who can then refer the matter back to my office if it does not meet the 'serious corrupt conduct' threshold that would allow IBAC to investigate. The above table reflects all matters that have been referred to my office to investigate, whether they were first received by my office or by IBAC.

Since February 2013 I have had 35 matters referred which must be investigated by my office. This compares with 24 investigations conducted by my office last financial year under the repealed *Whistleblowers Protection Act 2001*. Should this trend continue my office will require additional resources to effectively manage the increase in referred investigations under the new integrity system. In the coming year my office will have a further independent review conducted on the impact of the new integrity system.

As with previous years the work of my office has identified issues of concern whether they be systemic issues identified in several separate investigations or individual case studies as a result of complaints I have received. This section of my report draws attention to some of the prevalent issues and public agencies for the year.

63 Victorian Ombudsman, *A section 25(2) report to Parliament on the proposed integrity system and its impact on the functions of the Ombudsman*, December 2012.

Case studies

Case studies give an insight into the less publicised work of my office. With over 30,000 approaches a year these examples give a snapshot of the work done by my staff and the variety of ways in which my office can assist the public.

Many of the cases dealt with instances where citizens approach my office with complaints relating to fees and charges that have been imposed on them by public agencies. As the following three case studies demonstrate these can often be for significant sums of money.

- *Fees and charges*

Case study 1

A student at Swinburne University of Technology complained to my office that she had been overcharged $13,750 in university fees over the duration of her university course. The student provided documents which showed that she had first informed the university that it had overcharged her in January 2011 and the university acknowledged its error in April 2011, but continued to overcharge the student for another two semesters.

By April 2013 the university had still not reimbursed her and she complained to my office. My office made enquiries with the university regarding this matter. As a result of our enquiries, the student was reimbursed the full amount overcharged in early May 2013. The university also agreed to reimburse interest applied to the amount overcharged based on the Consumer Price Index (CPI) amounting to a further $1,295. The university also provided the complainant with a written apology.

Case study 2

My office received a complaint from the pastor of a church about the failure of Knox City Council to refund council rates he had paid for the financial years 2007-08 to 2010-11. The rates had been incorrectly applied under the *Local Government Act 1989* as the property was not rateable being a residence of a religious minister. The complainant had only recently become aware of this provision and had attempted to resolve the matter with the council and sought a refund of approximately $7,000 in rates. The council only agreed to a partial refund.

My office made enquiries with the council regarding its decision. In response the council stated it had agreed to the partial refund but it was not required to fully refund the money as the church had not appealed the rates notice at the time the rates were issued. I did not consider the council's argument to be sufficient justification for the council's decision and recommended they provide a full refund for the earlier years. The council agreed to do so.

Case study 3

My office received a complaint about a VicRoads decision not to waive a $633 registration transfer fee. The complainant stated that the fee had been paid to a car dealership as part of the contract of sale. Before that fee had been passed onto VicRoads the dealership closed. On that basis VicRoads had initially agreed to waive the transfer fee however had later requested the fee be paid by the complainant before the registration transfer would be completed.

My office made enquiries with VicRoads to find out why it had changed its decision to waive the fee having previously agreed to do so. VicRoads agreed that the complainant had demonstrated that he had made payment to the dealership and provided evidence that it was now closed. VicRoads decided to waive the request for the registration transfer fee.

- *Child protection*

Child protection issues continue to be a significant source of complaints to my office. As there is at times a risk for children in these matters my office will act quickly to ensure that the Department of Human Services (the department) is aware of the issue and takes steps to ensure the child's safety, as the following case studies demonstrate.

Case study 4

My office received a complaint from the mother of a seven year old child. The child was living with the father under a temporary accommodation order made by the Children's Court. The mother stated that the child's father had not been undertaking scheduled drug tests, a condition of the Court order.

My office made enquiries with the department which investigated the matter and scheduled the father to undertake drug testing in compliance with the order. The father subsequently tested positive for illicit drugs and the child was removed from his care.

Case study 5

My office received a complaint from a mother regarding the care being provided by the department's Child Protection unit. In particular the mother was concerned about her daughter absconding from a residential unit and allegations of sexual assault. The complainant stated that the department had not adequately responded to these issues.

My office's enquiries identified particular concerns with the child's placement in a residential unit with a group of adolescent males and the department's response to allegations the child made of sexual assault at the unit. Other issues of concern related to the department's decision-making in managing the child's welfare.

Following my enquiries the department advised my office that it was referring the matter to the Office of Professional Practice for a full case review. The review found that there was a failure to respond adequately to the child's allegations of sexual assault and that it was a poor decision to place the child in an all-male unit.

The department has advised that it is taking action to address the issues identified in the Practitioner's review and is continuing to monitor the welfare of the child although she is no longer a Child Protection client.

- *Urgent cases*

It is not only in child protection matters that my office will take quick action to make enquiries. A number of cases require urgent and immediate action to prevent further harm as this case study shows.

Case study 6

I received a complaint regarding WorkSafe agent QBE. The complainant's partner had suffered a serious brain injury in a workplace accident. The complainant contacted my office with a number of concerns about QBE including the failure to respond to requests to approve urgent surgery. The surgery had been rescheduled twice already and was tentatively scheduled to be performed within two weeks of the complaint to my office.

My office made enquiries with QBE. As a result, that day the complainant was contacted by a customer service manager and QBE's legal counsel to discuss the matter. QBE stated that the lack of response to the complainant's repeated letters was unacceptable and that all efforts would be made to address her concerns and to ensure that the scheduled surgery was approved in time. The complainant's partner has subsequently undergone the necessary surgery.

- *Delays*

In my 2009 Annual Report I detailed an investigation my office had conducted into the office of the Legal Services Commissioner (the Commissioner). The investigation identified significant concerns with the operation of the office including the inadequate investigation of complaints and unreasonable delays in investigations being finalised. Although improvements have been made the following case study illustrates that there is still work to be done.

Case study 7

My office received a complaint about an investigation of a legal practitioner by the Commissioner. The complainant raised concerns about the time taken for the Commissioner to complete its investigation and the lack of communication with him during the investigation. The Commissioner had received the complaint in October 2009 and did not finalise its investigation until June 2012.

As a result my office conducted enquiries into the Commissioner's handling of the matter. Following these enquiries I raised the following concerns direct with the Commissioner:

- the original investigation plan carried inadequacies that were cured late in the investigation
- direct communication by staff of the Commissioner, or his delegate, the Law Institute of Victoria, was infrequent and there were periods of insufficient regular contact
- the Commission's file showed long periods where there was no activity relating to the investigation, contributing to the excessive time taken to finalise the matter
- the signatories to many file notes in the complaint file and on letters were unclear.

Following the enquiries by my office the Commissioner advised that he had decided to award an ex gratia payment of $4,400 to the complainant. This amount represented the legal fees that had been charged by the legal practitioner that led to his complaint to the Commissioner.

The Commissioner also apologised to the complainant for the delay in finalising the complaint and advised my office that steps have been introduced to address the issues identified.

- *Lack of action*

Many of the complaints I receive each year concern a lack of action by an agency in dealing with issues. As the next two case studies demonstrate my office is often able to facilitate quick resolutions for complaints that have been delayed due to a lack of action by the agency concerned.

Case study 8

My office received a complaint from a prisoner at Dhurringile Prison (the prison) who had been trying to resolve a property claim for approximately four months before contacting my office. The prisoner complained that various reading materials had been removed from his cell by prison officers to be placed in storage, however these materials had subsequently been lost by the prison. The prisoner stated that he had submitted a property claim form.

My office made enquiries with the prison who initially advised my office that the prisoner had been compensated for the lost items. My office asked for documentation to confirm this compensation. Having sought this documentation the prison advised my office that in fact no compensation payment had been made due to a change of staff in Administration. The prison immediately made the compensation payment of approximately $300 to the prisoner, some five months after his initial claim was made.

Case study 9

In March 2013 my office received a complaint regarding a lack of action by the Department of Human Services (Housing & Accommodation) in repairing a fence at her property. The fence had been damaged when a car ran into it shortly before the complainant moved into the property in August 2012. The complainant was particularly concerned as she had a young disabled son and was worried he may get out through the broken fence and onto the road. Despite numerous complaints to the department repair work had still not been undertaken.

My office made enquiries with the department regarding the delay in the repair work being completed. The department advised that the delay was in part caused by the insurance company requiring three quotes before paying for the work. Despite this my office considered the delay unacceptable and the department immediately organised an inspection and repaired the fence following my office's enquiries.

- *Conflict of interest*

Several complaints received by my office concern relationships between individuals at agencies leading to conflicts of interest and allegations of favouritism. Particularly concerning in such matters is when the relationship not only represents a conflict but is fundamentally inappropriate considering the position of the public officer involved. The following case study demonstrates this issue.

Case study 10

My office received allegations under the *Whistleblowers Protection Act 2001* that a lecturer at a university:

- employed one of their international students, Student A, in a private business
- improperly provided Student A with an exam paper and answers
- had an intimate relationship with another of their international students, Student B
- failed to declare either relationship to the university.

My investigation substantiated the allegations. It identified that the staff member had breached the university's *Conflict of Interest Policy* by failing to declare and manage private relationships with students. There was evidence that the staff member:

- had a business relationship with Student A
- had a close personal relationship with Student B who relied on the staff member as a mentor and for emotional support
- was involved in hundreds of text exchanges with Student B including on the day she sat the exam for a unit the staff member taught.

In 2012 the university accepted my recommendation that it review the staff member's conduct in light of my investigation. In May 2013 the university dismissed the staff member following internal disciplinary proceedings.

Multiple investigations of the one agency

In some years particular agencies may be the subject of several investigations by my office. While there can be problems in drawing definitive conclusions from this fact alone, it can be an indication of issues within an agency such as:

- There may be a lack of leadership or leadership tensions within the agency.
- If there has been significant re-structuring at the agency, including job losses, staff express their disgruntlement by disclosing long held concerns or previously unreported misconduct at the agency.
- Personnel changes expose previously poor procedures and practices.
- My office may in the course of one investigation, uncover other areas of concern at the agency.
- Poor organisational culture.

In the past year two agencies in particular were the subject of a number of formal investigations. At VicRoads these investigations identified serious concerns about the conduct of individual officers, several of whom held senior positions. Investigations also raised issues regarding the adequacy of oversight in a number of areas of VicRoads' operations with poor conduct and practices allowed to develop without the knowledge of those in senior positions of responsibility. My investigations identified:

- Poor recruitment practices with senior officers engaging friends or associates as contractors at excessive rates without open and transparent recruitment processes.
- VicRoads not adequately monitoring a road maintenance contractor which meant VicRoads was unable to know the depth, quality or adequacy of road repairs carried out by the contractor. VicRoads was also unable to locate many of the road repairs undertaken due to a lack of detailed site information. Notwithstanding this, VicRoads continued to pay the contractor significant payments under contract for works it was unable to verify had been performed.
- A senior legal officer engaged in an inappropriate relationship with a staff member of a company VicRoads was prosecuting in court. The officer was subsequently demoted as a result of my investigation.
- VicRoads officers giving preferential treatment to a high profile citizen by allowing their licence suspension date to be moved to coincide with a planned overseas holiday. This resulted in VicRoads counselling the officers involved.

My investigations revealed a culture of favouritism; repeated failures to follow procurement guidelines; and continuing issues with poorly managed or undisclosed conflicts of interest. VicRoads accepted all of my recommendations and is taking steps to respond individually and systematically to each. The fact that my office has had reason to formally investigate one agency on several separate occasions throughout the year is concerning as is the seniority of the VicRoads' officers involved in these matters.

In response to this report VicRoads stated:

> VicRoads is in the midst of a fundamental reorganisation to move from a road network provider to a customer oriented, innovative and agile provider of road based services.

In 2012 I tabled three reports to Parliament involving Victoria Police[64]. These investigations identified issues with Victoria Police practices and decision-making at senior levels. They included:

- a senior executive being provided with an unnecessary and unwarranted termination payment
- a superintendent being appointed without an open and competitive recruitment process
- Victoria Police employees, including senior officers, accepting gifts and benefits, in breach of Victoria police policy
- failure at a senior level to adequately document or respond to intelligence information provided by an interstate integrity body.

Since 10 February 2013 IBAC has sole jurisdiction over Victoria Police, including its civilian employees.

64 Victorian Ombudsman, *Whistleblowers Protection Act 2001 – Investigation into allegations of detrimental action involving Victoria Police*, June 2012.
Victorian Ombudsman, *Investigation into an alleged corrupt association*, October 2012.
Victorian Ombudsman, *Whistleblowers Protection Act 2001 – Investigation into allegations of improper conduct involving Victoria Police*, October 2012.

Continuing issues for vulnerable children

My office has been active in investigating and reporting on issues that have affected some of the State's most vulnerable children. While progress has been made with regard to how children are protected there remain areas of concern for my office.

This year I conducted an investigation into Secure Welfare Services (secure welfare), a state-wide secure residential service operated by the Department of Human Services (the department). The investigation followed a disclosure under the *Whistleblowers Protection Act 2001* which contained several allegations raising concerns about the treatment of children in secure welfare.

Secure welfare is used for children subject to custody and guardianship orders or by order of the Children's Court where there is a 'substantial and immediate risk of harm' to a child. This provides short-term secure accommodation while the department can consult child protection professionals to develop a plan for the child's safe accommodation. Children who are assessed as in need of secure welfare can be at risk of:

- sexual exploitation by adults
- self-harm
- mental health issues
- drug and alcohol use.

Described by a witness as 'the most extreme form of child protection' it is important that secure welfare is administered to the highest standards. My investigation identified concerns with aspects of how the department was managing secure welfare. These concerns included:

- children being subjected to searches, akin to prohibited strip searches, and physical restraint without a legislative basis
- children being placed in isolation without a legislative basis
- there being no independent visitor program for secure welfare as there is at adult prisons and youth justice centres
- poor record keeping which meant that a number of authorities for admission were not signed and there was no accurate data recording the use of restraint and isolation
- secure welfare being often at or near capacity with staff expressing concern that placement decisions were based on capacity rather than need.

Following my investigation I made eight recommendations to the department, all of which were accepted. With regard to restraint and seclusion the department stated 'that client restraint and seclusion are only used when they are critical to protecting clients, staff or others from injury'. I will continue to monitor the implementation of my recommendations.

Poor record keeping and the prevention of scrutiny

Record keeping is an issue that I have identified in a number of reports to Parliament in recent years[65]. Despite this the issue continues to arise in many of the investigations undertaken by my office. I have previously observed that inadequate practices in this area can to lead poor and delayed decision-making; privacy breaches; and manipulation of statistical measures.

Poor record keeping also hinders scrutiny of agencies. In several investigations I concluded that due to the lack of adequate records my office was unable to reach definitive conclusions when investigating misconduct or was unable to probe further given the poor records maintained by the agency.

A recent example was an investigation undertaken into allegations of funds being misappropriated at the Victorian Commission for Gambling and Liquor Regulation (the commission). The allegations concerned funds from a float that the commission uses to conduct covert surveillance. The float is used by the commission's investigators to gamble in gaming venues so as not to be identified as commission staff.

The allegations investigated concerned thousands of dollars of commission funds that a senior officer had allegedly misused for almost five years at the former Victorian Commission for Gambling Regulation. My investigation identified that the record keeping practices used to account for these funds were so poor that I was unable to determine whether improper use had taken place. While I could not conclude that a particular officer misappropriated the funds neither the officer concerned nor the commission were able to provide records to adequately account for the funds used.

As a result of my investigation, the commission has advised that significant improvements are being made in the record keeping practices in this area, including a strengthened authorisation process for use of and access to the gaming float fund. In addition, my investigation resulted in the commission's undertaking a review of whether or not it should continue the use of gaming float funds as a means of covertly inspecting gaming premises.

Poor record keeping not only limits external scrutiny but can have an impact on citizens. My investigation into the storage of ward records by the Department of Human Services[66] revealed that many former wards of the State were unable to access their own records because of the disorganised and poorly indexed files held by the department. Former wards may have a need to access these records for emotional, medical, psychological, financial or legal reasons. Further, there is a real risk that inquiries into the abuse of children in care (including wards of the State) being undertaken at both State and Federal levels may be hampered by the lack of complete, accurate and locatable records as identified in my report.

65 Victorian Ombudsman, *Investigation into record keeping failures by WorkSafe agents*, May 2011.
Victorian Ombudsman, *Ombudsman investigation into the probity of The Hotel Windsor redevelopment*, February 2011.

66 Victorian Ombudsman, *Investigation into the storage and management of ward records by the Department of Human Services*, March 2012.

Prisoners held in police cells

In his 2002 Annual Report my predecessor, the late Dr Barry Perry wrote the following regarding detention in Police Cells:

> During the course of the year I completed an investigation concerning Conditions and Overcrowding in Police Cells. In the course of the past decade, the number of prisoners has exceeded the capacity of the prison system to hold them. Consequently prisoners have been detained in unsatisfactory police cells for lengthy periods, those cells not being conducive to long term incarceration.

In a 2006 report on conditions in custody[67] I stated:

> This office has previously reported on the overcrowding and conditions for persons held in police custody. It is with concern that I conclude that conditions in police cells mirror most of the earlier criticisms and confirm that overcrowding in some police watch-houses continues, that conditions for persons held in custody, in particular for those kept there for more than a few days, continue to be below acceptable standards.

Holding prisoners in police cells continues to be a matter of concern for my office. During 2012 my officers inspected several police cells around the state as well as the holding cells at the County and Supreme Courts. My staff observed conditions and spoke to police officers about the challenges they face in holding people in police cells. The following issues were identified:

- There has been a steady increase in the number of prisoners in police cells for over 12 months.
- Police officers having to supervise the detention of prisoners can impact on the number of officers patrolling in the community.
- Generally the conditions in police cells are unsuitable for holding prisoners for any length of time.
- There is a limited ability for prisoners to be separated should there be security or health needs. As a result there have been infestations of scabies and lice in some police cells.
- Some police holding cells lacked a 'run out' yard meaning that prisoners do not have access to fresh air or sunlight.
- Prisoners are not allowed to be held in police custody at one location for more than 14 days (with the exception of Mildura). However, some are being moved from one police station to another meaning they are in police custody for over 14 days across various locations.
- The Police Association has an industrial agreement to hold a maximum of 100 prisoners overnight across the state. Weekly reports received by my office show the number is now regularly over 200 and recently, over 300.
- Police officers expressed concern that the conditions represented a breach of the human rights of prisoners.

67 Victorian Ombudsman, *Conditions for persons in custody*, 2006.

In an effort to find a solution to this long-standing issue my office hosted two round table conferences in April and November 2012 with representatives from Victoria Police; the Department of Justice; the Victorian Custody Group; the contracted provider G4S; and the Magistrates Court. These conferences have helped to encourage communication between the various concerned parties and some agreements have been made to try and reduce the number of prisoners in police custody.

However, the problem of high numbers of prisoners in police cells continues. Despite warnings from my office for over a decade, it is clear that the State still lacks the facilities and systems to detain all its prisoners in acceptable conditions. Sentencing reforms and an increase in police numbers on the street are likely to lead to higher numbers in police custody. Unless action is taken and the necessary investment is made, this issue is likely to worsen and presents an unacceptable risk for those detained and for the state as custodian.

The Chief Commissioner of Police recently stated that:

> I share your concerns relating to the number of prisoners in police cells and the risk this presents to those in custody and to the police members who provide care and supervision.

Human Rights

Human rights continue to be an important consideration in the work undertaken by my office. *The Charter of Human Rights and Responsibilities Act 2006* (the Charter) aims to protect and promote human rights by 'imposing an obligation on all public authorities to act in a way that is compatible with human rights'[68]. My office's role in relation to the Charter includes the ability to investigate any administrative action that I consider incompatible with the Charter.

However my role regarding human rights extends beyond the investigation of individual complaints. Over the past year my officers conducted over 20 visits to Victorian prisons and other secure facilities where individuals are held. These included police cells; juvenile justice centres; closed psychiatric facilities; and secure disability units. These visits allow my officers to observe the conditions in these facilities to identify any issues that are not compatible with the Charter, in particular the right to humane treatment when deprived of liberty[69].

As in previous years my office this year again received complaints that raise issues around human rights. These complaints often concern the treatment of people in custody or people such as vulnerable children or people with a disability who rely on the state for their continued welfare.

In one instance a detainee at a youth justice centre complained they had been assaulted by a number of staff members while being restrained. During the incident the complainant received an injured shoulder, exacerbating an earlier sporting injury. However, when my office made enquiries it was identified that no incident report had been completed by youth justice centre staff despite the fact that the detainee required medical treatment. It was not until my office made enquiries that an incident report was completed and Victoria Police were notified. One of the staff members involved was subsequently counselled.

Another complaint received by my office concerned the treatment of a disability services client. In this incident staff had taken a group of disability clients to a shopping centre. Upon arrival one of the clients refused to leave the bus. One of the staff members decided to leave the client unattended in the bus while the rest of the group attended the shopping centre. I made enquiries with the Department of Human Services who advised that no incident report had been completed by any of the staff present. Following my enquiries a review was undertaken by senior management which recommended that the staff member should be subject to performance management action.

My office has also recently made a submission to a research project being undertaken by the Victorian Equal Opportunity and Human Rights Commission. The project is looking at the experience of people with disabilities when reporting crimes against them. My office's submission focused on the need for incidents involving people with disabilities to be appropriately classified by carers and other welfare staff. Investigations by my office have identified that if incidents are not appropriately classified then mandatory requirements such as reports to police do not occur. For people with severe disabilities or who are non-verbal this represents a significant barrier to their ability to report mistreatment.

68 Part 1 of the *Charter of Human Rights and Responsibilities Act 2006*.

69 Section 22 of the *Charter of Human Rights and Responsibilities Act 2006*.

Lax supervision and resultant misconduct

Several of my investigations this year that have not been made public through a Parliamentary report have identified issues of misconduct. These investigations have often concerned the activities of staff who work in maintenance or manual work for public agencies.

Two such investigations involved staff selling scrap metal that belonged to their employer. The first involved a staff member at a council landfill site taking and then selling scrap metal for personal gain. My investigation identified that the staff member involved had sold scrap metal to two separate companies on over 100 occasions. Over a five-year period these sales had generated more than $20,000 for the staff member, none of which had been returned to the council as owner of the scrap metal. Following my investigation the staff member involved was dismissed for misconduct.

In a separate investigation my office identified that a staff member at a prison had sold material belonging to the prison during a redevelopment. Again this included the sale of scrap metal for personal profit. It was also identified that the staff member had accepted a gift from one of the contractors involved in the redevelopment. The contractor had asphalted the staff member's home driveway free of charge. Following my investigation the staff member was suspended pending the outcome of a disciplinary investigation.

The issue of public officers inappropriately accepting gifts without declaring them also came to light in an investigation undertaken by my office. In this matter my investigation identified staff at a cemetery had regularly been accepting gifts of cash and alcohol from bereaved families which had not been declared on the cemetery's gifts register.

Although these issues can appear minor they can cost people their jobs and embarrass the agency involved. A common theme in these investigations has been the lack of supervision from more senior staff. Similarly the policies and procedures relevant to such activities have either been lacking or poorly understood by staff. In environments such as depots or maintenance centres, which are often remotely located from central agency offices, practices that may not be appropriate can develop. It is important that agencies recognise and develop policies and oversight procedures that guard against these risks.

Education

My office continues to be active in providing education opportunities for our staff and other public sector agencies. The Victorian Ombudsman's Office in partnership with Box Hill Institute of TAFE has established the Certificate IV in Government Investigations for Ombudsman staff, the first such accredited course in Australia. The Certificate IV program commenced in 2008. Since then 49 of my investigative staff have graduated from the program.

With Box Hill my office has also established the Diploma of Government (Investigation) in 2011, a nationally accredited qualification which recognises the practical skills and professional knowledge developed in the workplace.

As part of the Diploma program my office holds Investigation Skills Workshops annually which have been attended by staff from:

- Victorian Ombudsman
- Queensland Ombudsman
- New South Wales Ombudsman
- South Australian Ombudsman
- Office of the New Zealand Ombudsman
- Ombudsman Tasmania
- Ombudsman Northern Territory
- Children's Commissioner Northern Territory
- Legal Services Commissioner (Victoria)
- Victorian Auditor-General's Office
- Victorian Equal Opportunity and Human Rights Commission.

The workshops are facilitated by my officers and staff from other integrity agencies, as well as speakers expert in areas such as: forensic interviewing; cultural awareness; whistleblowing and evidence gathering.

After successfully completing three workshops and a portfolio of evidence to demonstrate competency participants are awarded the Diploma. In the past year 15 officers from oversight agencies from around the country and New Zealand received their diplomas through this program.

Earlier this year my office sent a delegate to a free seminar and training workshop hosted by the Thai Ombudsman in conjunction with the International Ombudsman Institute and the Asian Ombudsman Association.

Ombudsman's Reports 2004-13

2013

Whistleblowers Protection Act 2001
Investigation into allegations of improper conduct by a Magistrates' Court registrar
May 2013

2012

Own motion investigation into the governance and administration of the Victorian Building Commission
December 2012

A section 25(2) report to Parliament on the proposed integrity system and its impact on the functions of the Ombudsman
December 2012

Whistleblowers Protection Act 2001
Investigation into allegations concerning rail safety in the Melbourne Underground Rail Loop
October 2012

Whistleblowers Protection Act 2001
Investigation into allegations of improper conduct by CenITex officers
October 2012

Whistleblowers Protection Act 2001
Investigation into allegations of improper conduct involving Victoria Police
October 2012

Whistleblowers Protection Act 2001
Investigation into allegations against Mr Geoff Shaw MP
October 2012

Investigation into the temporary closure of Alfred Health adult lung transplant program
October 2012

Investigation into an alleged corrupt association
October 2012

Whistleblowers Protection Act 2001
Investigation into allegations of detrimental action involving Victoria Police
June 2012

Own motion investigation into Greyhound Racing Victoria
June 2012

The death of Mr Carl Williams at HM Barwon Prison – investigation into Corrections Victoria
April 2012

Whistleblowers Protection Act 2001 Conflict of interest, poor governance and bullying at the City of Glen Eira Council
March 2012

Investigation into the storage and management of ward records by the Department of Human Services
March 2012

2011

Investigation into the Foodbowl Modernisation Project and related matters
November 2011

Investigation into ICT-enabled projects
November 2011

Investigation into how universities deal with international students
October 2011

Investigation regarding the Department of Human Services Child Protection program (Loddon Mallee Region)
October 2011

Investigation into the Office of Police Integrity's handling of a complaint
October 2011

SafeStreets Documents – Investigations into Victoria Police's Handling of Freedom of Information request
September 2011

Investigation into prisoner access to health care
August 2011

Investigation into an allegation about Victoria Police crime statistics
June 2011

Corrupt conduct by public officers in procurement
June 2011

Investigation into record keeping failures by WorkSafe agents
May 2011

Whistleblowers Protection Act 2001
Investigation into the improper release of autopsy information by a Victorian Institute of Forensic Medicine employee
May 2011

Ombudsman investigation – Assault of a Disability Services client by Department of Human Services staff
March 2011

The Brotherhood – Risks associated with secretive organisations
March 2011

Ombudsman investigation into the probity of The Hotel Windsor redevelopment
February 2011

Whistleblowers Protection Act 2001
Investigation into the failure of agencies to manage registered sex offenders
February 2011

Whistleblowers Protection Act 2001
Investigation into allegations of improper conduct by a councillor at the Hume City Council
February 2011

2010

Investigation into the issuing of infringement notices to public transport users and related matters
December 2010

Ombudsman's recommendations second report on their implementation
October 2010

Whistleblowers Protection Act 2001
Investigation into conditions at the Melbourne Youth Justice Precinct
October 2010

Whistleblowers Protection Act 2001
Investigation into an allegation of improper conduct within RMIT's School of Engineering (TAFE) – Aerospace
July 2010

Ombudsman investigation into the probity of the Kew Residential Services and St Kilda Triangle developments
June 2010

Own motion investigation into Child Protection – out of home care
May 2010

Report of an investigation into Local Government Victoria's response to the Inspectors of Municipal Administration's report on the City of Ballarat
April 2010

Whistleblowers Protection Act 2001
Investigation into the disclosure of information by a councillor of the City of Casey
March 2010

Ombudsman's recommendations – Report on their implementation
February 2010

2009

Investigation into the handling of drug exhibits at the Victoria Police Forensic Services Centre
December 2009

Own motion investigation into the Department of Human Services – Child Protection Program
November 2009

Own motion investigation into the tendering and contracting of information and technology services within Victoria Police
November 2009

Brookland Greens Estate – Investigation into methane gas leaks
October 2009

A report of investigations into the City of Port Phillip
August 2009

An investigation into the Transport Accident Commission's and the Victorian WorkCover Authority's administrative processes for medical practitioner billing
July 2009

Whistleblowers Protection Act 2001 Conflict of interest and abuse of power by a building inspector at Brimbank City Council
June 2009

Whistleblowers Protection Act 2001
Investigation into the alleged improper conduct of councillors at Brimbank City Council
May 2009

Investigation into corporate governance at Moorabool Shire Council
April 2009

Crime statistics and police numbers
March 2009

2008

Whistleblowers Protection Act 2001 Report of an investigation into issues at Bayside Health
October 2008

Probity controls in public hospitals for the procurement of non-clinical goods and services
August 2008

Investigation into contraband entering a prison and related issues
June 2008

Conflict of interest in local government
March 2008

Conflict of interest in the public sector
March 2008

2007

Investigation into VicRoads' driver licensing arrangements
December 2007

Investigation into the disclosure of electronic communications addressed to the Member for Evelyn and related matters
November 2007

Investigation into the use of excessive force at the Melbourne Custody Centre
November 2007

Investigation into the Office of Housing's tender process for the cleaning and gardening maintenance contract – CNG 2007
October 2007

Investigation into a disclosure about WorkSafe's and Victoria Police's handling of a bullying and harassment complaint
April 2007

Own motion investigation into the policies and procedures of the planning department at the City of Greater Geelong
February 2007

2006

Conditions for persons in custody
July 2006

Review of the *Freedom of Information Act 1982*
June 2006

Investigation into parking infringement notices issued by Melbourne City Council
April 2006

Improving responses to allegations involving sexual assault
March 2006

2005

Investigation into the handling, storage and transfer of prisoner property in Victorian prisons
December 2005

Whistleblowers Protection Act 2001
Ombudsman's guidelines
October 2005

Own motion investigation into VicRoads registration practices
June 2005

Complaint handling guide for the Victorian Public Sector 2005
May 2005

Review of the *Freedom of Information Act 1982*
Discussion paper
May 2005

Review of complaint handling in Victorian universities
May 2005

Investigation into the conduct of council officers in the administration of the Shire of Melton
March 2005

Discussion paper on improving responses to sexual abuse allegations
February 2005

2004

Essendon Rental Housing Co-operative (ERHC)
December 2004

Complaint about the Medical Practitioners Board of Victoria
December 2004

Ceja task force drug related corruption – second interim report of Ombudsman Victoria
June 2004

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