

POLICY

Own motion enquiries and investigations

TRIM record number	DOC/17/6739
Date approved	17 December 2015
Last reviewed	15 July 2016
Next review	17 December 2018
Responsible officer	Assistant Ombudsman, Portfolios & Administrative Improvement

Policy Statement3

Conducting own motion enquiries and investigations3

VO portfolio work.....4

Roles and Responsibilities5

Document Management.....6

 Compliance.....6

 Document approval6

 Document review6

 Document control.....6

APPENDIX A: Related documents.....7

POLICY STATEMENT

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

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

The Ombudsman takes a coordinated approach to monitoring and analysing information and data relating to the performance of Victorian state government authorities.

CONDUCTING OWN MOTION ENQUIRIES AND INVESTIGATIONS

1. VO is able to examine, by own motion, an administrative action taken by or in an authority, which includes Victorian state government departments, agencies and local councils (or those acting on behalf of these bodies), which we consider merits attention. We can take own motion action in addition to, or in place of, action taken as a result of receiving a complaint or referral.
2. Our own motion powers allow us to:
 - conduct enquiries (Ombudsman Act, section 13A. See our policy on 'Enquiries') in order to establish whether an investigation should be conducted or the matter may be informally resolved
 - conduct an investigation (Ombudsman Act, section 16A. See our policy on 'Investigations') in order to determine whether an error has been made, as set out at section 23(1) of the Ombudsman Act.
3. We are also able to report on the outcome of conducting enquiries or an investigation through the use of our own motion powers.
4. We are more likely to use our own motion powers when:
 - there may be a systemic problem at an authority
 - the administrative action affects a vulnerable person or community that may have limited capacity to complain themselves
 - it is otherwise in the public interest to scrutinise the authority's functions.
5. We cannot conduct an own motion enquiry or investigation where:

- we suspect on reasonable grounds that the complaint or matter involves corrupt conduct (Ombudsman Act, section 16A(2))
- IBAC notifies VO that it is investigating the matter or referred it to another body, except in some circumstances.

6. We may table the investigation report in Parliament once concluded, so that our findings are made publically available.

VO PORTFOLIO WORK

7. An important function of VO is to identify, and make recommendations on, areas of public administration that can be improved. To this end, we have teams of officers that monitor complaints data and information across Victorian state government authorities within our jurisdiction.

8. These teams of officers are each allocated a 'portfolio' responsible for oversight of one of the following:

- a state government department and the agencies (or local councils) within that department's portfolio
- an authority (or group of authorities) for which we receive a high proportion of complaints, such as prisons and correctional services
- human rights matters.

9. Portfolio teams develop an understanding and expertise in their area, and may be consulted by officers for advice or guidance. Additionally, portfolio teams are responsible for:

- monitoring complaints for common trends or issues suggesting there is a systemic problem that should be addressed through own motion enquiries or investigations
- establishing and maintaining protocols for dealing with authorities within their portfolio, including processes for obtaining information relating to the conduct of enquiries or an investigation
- ensuring that authorities are clear on their responsibilities when dealing with the Ombudsman, such as assisting with our enquiries (Ombudsman Act, section 13A(3))
- providing general advice, information and guidance on best practice in complaints handling, which may include giving an authority de-identified VO complaints data.

10. Our portfolio activities inform the work we undertake in dealing with individual complaints and referrals.

11.A decision by VO to act on an issue or information identified through our portfolio activities must be taken in accordance with our statutory functions, which is commonly through the use of our own motion powers.

ROLES AND RESPONSIBILITIES

Role	Responsibility
Assistant Ombudsman, Portfolios & Administrative Improvement	<i>Owner</i> – Accountable for ensuring the drafting, maintaining and seeking authorisation of the policy and standards from a suitable Senior Leadership Committee.
Manager, Human Rights Portfolio	<i>Charter compliance</i> – Responsible for checking compatibility of the policy with the human rights protected by the <i>Charter of Human Rights and Responsibilities 2006</i> .
Governance Committee	<i>Authorisation</i> – Authorises, leads, monitors and reports on information management activities.
All staff, contractors and third parties	<i>Implementation</i> – Responsible for acting in compliance with the policy, standards, procedures and associated documents.

DOCUMENT MANAGEMENT

Compliance

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

Document approval

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

Document review

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

Document control

Version	Date	Section	Brief Description of Change
0.1	17/12/2015	All	Policy approved by Governance Committee
0.2	15/7/2016	All	Policy amended to incorporate July 2016 legislative amendments to Victoria's integrity scheme
0.3	28/2/2017	All	Policy content transferred to new template

APPENDIX A: Related documents

Title	Location
<i>Ombudsman Act 1973</i>	<u><i>Ombudsman Act 1973</i></u>