

# POLICY

## Complaints about the Ombudsman

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## POLICY STATEMENT

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

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

Where appropriate, VO follows the Australian/New Zealand Complaint Handling Standard (10002:2014).

## COMPLAINTS ABOUT VO

1. VO takes seriously complaints about our actions, decisions and how we deliver our services. While we encourage people to raise their concerns with our office first, nothing in this policy prevents a person from making a complaint direct to an oversight agency about VO.
2. In the first instance we will try to resolve the complaint informally. If this is not possible, the complaint is allocated to a senior officer with no prior involvement in the matter for consideration and action if deemed appropriate.
3. Complaints about VO can be made orally or in writing and should include:
  - the name of the officer being complained about
  - the actions or behaviour being complained about
  - the resolution sought by making the complaint.
4. We are unable to take disclosures about VO officers under the *Protected Disclosure Act 2012*. Disclosures about improper conduct or detrimental action involving a VO officer must be made to the Independent Broad-based Anti-Corruption Commission (IBAC) or the Victorian Inspectorate (Protected Disclosure Act, section 15(b)).

## CATEGORISATION OF A COMPLAINT

5. To determine how a complaint will be handled and what form of action, if any, will be taken, the senior officer will assess whether the complaint is about:
  - corrupt conduct or misconduct that must be notified to another integrity or oversight body (IBAC or the Victorian Inspectorate)
  - the outcome of VO's consideration of a case

- poor service.

6. The action to be taken in response is outlined beneath the headings below. Action taken on a complaint will be consistent with any existing contact management strategy (see our policy on 'Unreasonable Complainant Conduct').

## **CONDUCT THAT MUST BE NOTIFIED TO IBAC OR THE VICTORIAN INSPECTORATE**

7. VO is required to notify IBAC about complaints involving corrupt conduct by VO officers (Ombudsman Act, section 16E).
8. Corrupt conduct (as defined at section 4 of the *Independent Broad-based Anti-Corruption Commission Act 2011*) broadly means behaviour or actions by an officer that are dishonest, breach public trust, or adversely affect the honest performance of a public body and if proven would constitute an indictable offence.
9. A complaint about corrupt conduct is allocated to a senior officer that is not involved or implicated in the complaint, or an associated case.
10. If the senior officer notifies IBAC of the complaint in writing, then we must inform the complainant in writing (Ombudsman Act, section 16E(2)).
11. VO is required to notify the Victorian Inspectorate of complaints about misconduct by a VO officer (Ombudsman Act, section 16F).
12. Misconduct is not defined in the Ombudsman Act. Generally, we take misconduct to mean any conduct that contravenes the Code of Conduct for Victorian Public Sector Employees of Special Bodies, such as any inappropriate or unsatisfactory behaviour or an action by an officer that, if substantiated, would result in disciplinary action against that officer.
13. A complaint assessed to be about the misconduct of an officer is allocated to a senior officer that is not involved or implicated in the complaint, or an associated case.
14. If the senior officer notifies the Victorian Inspectorate of the complaint in writing, then we must inform the complainant in writing (Ombudsman Act, section 16F(3)).
15. The senior officer may also consider whether the complaint raises an issue of non-compliance against:

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

16. VO staff are employed under, and are required to act in a manner consistent with the *Public Administration Act 2004*. The requirements of public sector bodies to deal with 'misconduct' and consequential action are set out in the Victorian Public Sector workplace determination.

17. A person may also complain about VO by contacting IBAC or the Victorian Inspectorate direct.

## COMPLAINTS ABOUT THE OUTCOME OF A CASE

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

19. A request for an internal review should:

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

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

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

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

## COMPLAINTS ABOUT POOR SERVICE

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

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

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

- a further explanation
- an apology
- escalating the matter to a senior officer.

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

## ROLES AND RESPONSIBILITIES

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

## DOCUMENT MANAGEMENT

### Compliance

VO maintains a compliance management system. Compliance to this policy, including use of information and systems, is subject to regular monitoring and reporting to the 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	31/8/2016	All	Policy reviewed
0.3	28/2/2017	All	Policy content transferred to new template
0.4	1/9/2017	Complaints about the outcome of a case	Paragraphs 19 and 20 amended

## APPENDIX A: Related documents

Title	Location
<i>Protected Disclosure Act 2012</i>	<a href="#"><u>Protected Disclosure Act 2012</u></a>
<i>Ombudsman Act 1973</i>	<a href="#"><u>Ombudsman Act 1973</u></a>