

## **IBAC's role and functions**

Under the *Independent Broad-based Anti-corruption Commission Act 2011* (IBAC Act), IBAC has been established to:

- identify, expose and investigate serious corrupt conduct and police personnel misconduct
- assist in the prevention of corrupt conduct and police personnel misconduct
- facilitate the education of the public sector and the community about the detrimental effects of corrupt conduct and police personnel misconduct on public administration and the community, and the ways in which corrupt conduct and police personnel misconduct can be prevented
- assist in improving the capacity of the public sector to prevent corrupt conduct and police personnel misconduct.

IBAC has a broad role in relation to assessing police personnel conduct, and investigating and preventing misconduct by police personnel. IBAC can receive complaints about the conduct of both sworn members of Victoria Police and unsworn members who assist in the administration of police, police recruits and Protective Service Officers.

Specifically, IBAC can assess complaints about the following types of conduct:

- an act or decision, or failure or refusal, to act, perform or discharge a function or duty of a sworn or unsworn officer
- conduct which is likely to bring Victoria Police or police personnel into disrepute or diminish public confidence in them
- disgraceful or improper conduct by a sworn officer, whether in their official capacity or otherwise
- conduct by a sworn officer which constitutes an offence punishable by imprisonment.

Please find enclosed an information sheet providing further details about IBAC's role and functions.

## **Assessments and investigations concerning police personnel conduct**

Pursuant to section 64(1) of the IBAC Act, IBAC may conduct an investigation about police personnel conduct:

- upon receipt of a complaint about police personnel conduct
- upon notification of a relevant matter from the Chief Commissioner of Police
- on its own motion.

As with other anti-corruption agencies, IBAC's powers, expertise and resources are focused on investigating more serious allegations of police misconduct.

Complaints and notifications received by IBAC about police that are not investigated by IBAC but are considered to have possible substance are usually referred to Victoria Police for action, in accordance with section 73(1) of the IBAC Act. Please note however, that section 65(1) of the IBAC Act requires IBAC to investigate a complaint or notification that relates to police ranked Assistant Commissioner and above.

When IBAC refers matters to the public body involved (including Victoria Police) or to other integrity agencies, it may require that IBAC be kept advised on how the matter is being handled. IBAC may also withdraw a referral in appropriate circumstances (under sections 78(2) and 79(2) respectively of the IBAC Act).

Section 72(3) of the IBAC Act states that IBAC may consult, coordinate and cooperate with any integrity body or law enforcement agency which is conducting an investigation in respect of the same or similar or related subject matter.

### **Training and education**

IBAC works to assist Victoria Police to strengthen its capacity to prevent corrupt conduct and police personnel misconduct.

IBAC delivers a number of education programs including:

- training to probationary constables during the 'foundation phase' of their training immediately prior to their first work placement at a police station. The training covers information on IBAC, mandatory reporting obligations under the IBAC Act and the *Police Regulation Act 1958*, as well as corruption and misconduct risks
- training as part of the Disciplinary Investigations Course which targets members of Victoria Police who have responsibility for managing lower level complaints referred by Professional Standards Command (PSC). IBAC's training session covers IBAC's functions, IBAC's ability under section 78(2) of the IBAC Act to review files and examples of good and poor practice being found during IBAC reviews.

### **Information sharing and other assistance**

Under a Memorandum of Understanding, Victoria Police has agreed to provide authorised persons within IBAC access to its law enforcement data, for the purpose of carrying out its functions and duties consistent with the Standards for Victoria Police Law Enforcement Data Security.

IBAC has also sought and obtained assistance from Victoria Police in relation to matters involving the identification and investigation of serious corrupt conduct of public officers other than police members. This has included working with Victoria Police technical and other units on a needs basis.

### **Recommendations and reviews**

IBAC can make recommendations in relation to any matter arising out of an investigation of alleged public sector serious corrupt conduct or police personnel misconduct. For Victoria Police, such recommendations must be adopted unless the Chief Commissioner of Police specifically reports the reasons for not adopting a recommendation to IBAC.

IBAC actively monitors the recommendations it makes to Victoria Police and other public sector bodies, and will report publicly on these recommendations and the actions taken in response each year.

IBAC may also review investigations of allegations of corruption or police misconduct undertaken by other public sector bodies, including those conducted by Victoria Police. Some of these matters may have been referred by IBAC for investigation, as previously noted above.

All critical incidents involving death or serious injury, or the risk of death or serious injury, as a result of contact with Victoria Police are reported to IBAC by PSC. Pursuant to an Own Motion Investigation Determination, IBAC determines which of these incidents require active monitoring and/or review.

The key objective of IBAC oversight of these critical incidents is to determine whether any death or serious injury was a result of action or inaction by police that constituted a failure to properly discharge duties, and whether anything could have been done to prevent that death or serious injury.

Further information on IBAC's functions and oversight role in relation to Victoria Police may be found in our recently released *Special Report following IBAC's first year of being fully operational* (April 2014), which is available at: <http://www.ibac.vic.gov.au/about-ibac/reports>