

Recommendations

Operation Watts

Operation Watts was an investigation by the Independent Broad-based Anti-corruption Commission (IBAC) and the Victorian Ombudsman into allegations that some members of parliament were misusing public funds to pursue the interests of the Moderate Labor (ML) faction of the Victorian branch of the Australian Labor Party (ALP).

Background

IBAC and the Victorian Ombudsman coordinated an investigation into the allegations in response to confidentially received information, complaints, notifications and a formal referral from the Legislative Council. The investigation commenced in May 2020.

Operation Watts explored the allegations and underlying factors that may have contributed to the alleged misuse of public resources. The investigation was open to the possibility that misconduct might not have been confined to the ML faction but it did not uncover any specific examples of potential misuse of public resources by other factions of the Victorian branch of the ALP or other political parties.

The **Operation Watts special report** describes the investigation's key findings which relate to:

- the misuse of staff for factional work
- work relating to branch stacking
- publicly funded jobs given to factional allies and operatives
- grants to community organisations.

Recommendations

The **Operation Watts special report** makes 21 recommendations to address ongoing corruption risks and promote a culture of integrity across the Victorian Government and the Parliament of Victoria.

Recommendations

1

IBAC and the Ombudsman recommend that:

- a. the government and the parliament work together to establish a Parliamentary Ethics Committee that:
 - i. monitors the effectiveness of the Statement of Values and Code of Conduct in the *Members of Parliament (Standards) Act 1978* and other ethical obligations imposed on MPs
 - ii. promotes and provides training and information about the Statement of Values and Code of Conduct, in the parliament and in the general community
 - iii. prepares guidance materials on the Statement of Values and Code of Conduct
 - iv. works with the Parliamentary Integrity Commissioner in carrying out its functions and receiving reports about ethical standards
 - v. reviews the Statement of Values and Code of Conduct at least once every four years.
- b. the Parliamentary Ethics Committee should be a Joint House Committee composed of equal numbers of members from the Legislative Assembly and Legislative Council and be established by amendment to the *Parliamentary Committees Act 2003*. Consideration should be given to including some members from each of the parliamentary privileges committees.
- c. the government and parliament should consider for inclusion in the Parliamentary Ethics Committee's role and composition:
 - i. a requirement to consult the public when undertaking reviews
 - ii. a power to appoint members of the public to assist it with its work, or specify a fixed number of members of the public to be Committee members
 - iii. appointment of a non-government member as the chair of the Committee
 - iv. a power for the Committee to undertake related integrity roles as may be requested, such as in relation to codes of conduct for ministers, ministerial advisors and electorate officers, or a parliamentary bullying and harassment protocol.

2

IBAC and the Ombudsman recommend that:

- a. the government and the parliament work together to establish a Parliamentary Integrity Commissioner as an independent officer of the parliament who would:
 - i. receive and investigate complaints about possible non-criminal breaches of the Members of Parliament Code of Conduct in the *Members of Parliament (Standards) Act 1978* and other standards and rules relevant to parliamentary integrity
 - ii. submit reports on investigations to the privileges committee of the relevant House for consideration and action where required, including recommendations on appropriate sanctions for a serious breach of the Members of Parliament Code of Conduct or other integrity rule or standard
 - iii. monitor the effectiveness of the Statement of Values and Code of Conduct in the *Members of Parliament (Standards) Act 1978* and other ethical obligations imposed on members of parliament
 - iv. promote and provide training and information about the Statement of Values and Code of Conduct, in the parliament and the general community, in collaboration with the Parliamentary Ethics Committee
 - v. help the Parliamentary Ethics Committee prepare guidance materials on the Statement of Values and Code of Conduct and review the Statement of Values and Code of Conduct at least once every four years
 - vi. undertake other integrity-related functions allocated to them by the government or parliament.
- b. the Parliamentary Integrity Commissioner be established by legislation and be appointed by or upon the recommendation of a cross-party parliamentary panel with members from both Houses selected for that purpose
- c. the term of appointment be for more than four years and that there be narrowly defined criteria for dismissal upon a recommendation from the proposed Parliamentary Ethics Committee
- d. the processes and sanctions available to the Parliamentary Integrity Commissioner be fair, efficient and proportionate to the nature of the alleged breach
- e. the Parliamentary Integrity Commissioner have the powers and resources necessary to carry out their functions, including a power to apply sanctions by consent where a member of parliament acknowledges a breach of a minor nature, such as requiring an apology or a binding undertaking.

3

IBAC and the Ombudsman recommend that:

- a. the privileges committees of each House be reformed to dilute the capacity of the majority in each House to determine the privileges committees' priorities and decision making
- b. the privileges committee for the relevant House should receive the report of a Parliamentary Integrity Commissioner's investigation, provide the relevant MP with an opportunity to respond to it, and table the report in the House together with the privileges committee's comments and recommendations, within a fixed time of receiving the report
- c. if the privileges committee disagrees with all or some of the Parliamentary Integrity Commissioner's recommendations, it must provide a comprehensive explanation of its reasons when tabling the Commissioner's report
- d. the relevant House should vote within a fixed time of the tabling of the Parliamentary Integrity Commissioner's report to support or reject all or some of the Commissioner's or privileges committee's recommendations, but should not be permitted to amend them.

4

IBAC and the Ombudsman recommend that the Parliamentary Integrity Adviser continue to provide confidential advice to members of parliament on integrity and ethical issues and help the Parliamentary Integrity Commissioner and Parliamentary Ethics Committee with information and training activities.

5

IBAC and the Ombudsman recommend that whichever party or parties form government after the November 2022 state election commit to introducing and commencing the legislation to establish the Parliamentary Ethics Committee and Parliamentary Integrity Commissioner as recommended in this report, by June 2024.

6

IBAC and the Ombudsman recommend that the work of the Parliamentary Ethics Committee and Parliamentary Integrity Commissioner to promote an ethical culture in parliament:

- a. involve and be actively supported by the leaders of all political parties represented in the parliament, as well as by the presiding officers
- b. focus closely on the role of leadership in fostering ethical practices
- c. reinforce respect and support for the institution of parliament
- d. create strong links with the community and community groups.

7

IBAC and the Ombudsman recommend that the definition of prohibited party-specific activities in section 30 of the *Parliamentary Administration Act 2005* be amended to include activities undertaken for the predominant purpose of helping the administration, organisation or management of a political party, including the recruitment and maintenance of party members.

8

IBAC and the Ombudsman recommend that:

- a. an offence be created that provides that a member of parliament who directs or allows a person to undertake party-specific activities while that person is employed to help the member of parliament discharge their public duties is guilty of an offence.
- b. the government in formulating the offence and the penalty should take account of:
 - i. the degree of a member of parliament's intent or recklessness in directing or allowing the employee to undertake such activities
 - ii. activities where it is difficult to separate the party-political aspect of the work from the normal duties of an electorate officer's role, such as attendance at a community-organised event with the member of parliament
 - iii. unavoidable and reasonable communication with a party's head office or local branch on minor or incidental matters.

9

IBAC and the Ombudsman recommend that:

- a. the Electorate Officers Code of Conduct be reviewed to make it more relevant to the actual responsibilities and challenges of the electorate officer role and to specifically prohibit party-specific work from being undertaken during the course of an electorate officer's employment. The Parliamentary Ethics Committee and Parliamentary Integrity Commissioner could be tasked with conducting the review.
- b. the Code of Conduct be publicly available.

10

IBAC and the Ombudsman recommend that:

- a. members of parliament be prohibited from employing close family members in their electorate office
- b. the government and parliament consider whether this prohibition should extend to a member of parliament employing a close family member of another member of parliament from the same political party.

11

IBAC and the Ombudsman recommend that to strengthen the capacity of the Department of Parliamentary Services to perform its role efficiently and effectively:

- a. the Secretary of the Department of Parliamentary Services be the employer of electorate office staff in their capacity as Secretary of DPS, not as a delegate of the presiding officers
- b. the contractual term for the Secretary of the Department of Parliamentary Services be made significantly longer than the duration of a parliamentary term.

12

IBAC and the Ombudsman recommend that the presiding officers and the Department of Parliamentary Services review the processes for recruiting and selecting electorate office staff, to promote a more competitive, open and merit-based process. Possible topics for the review include:

- a. reviewing the standard position description for electorate officers, and including an explicit statement prohibiting the successful applicant from engaging in party-specific requiring all non-casual roles to be advertised by the Department of Parliamentary Services. The department would receive all applications and forward them to the member of parliament. The desirable level of involvement by the Department of Parliamentary Services in helping a member of parliament appoint an electorate officer could be considered, for example, in respect of whether a departmental employee should sit on a selection panel, either in all cases or upon request
- b. requiring a member of parliament, when nominating an applicant for a job as an electorate officer, to provide the Department of Parliamentary Services with a selection report demonstrating the suitability and preferability of the successful applicant compared with other applicants and advising the Department of Parliamentary Services of the reasons for employing a casual electorate officer.

13

IBAC and the Ombudsman recommend that:

- a. the presiding officers and the Department of Parliamentary Services review the arrangements for managing and supervising electorate officers, to ensure that:
 - i. electorate officers' work is undertaken within the limits of their role
 - ii. electorate officers are competently and effectively supervised
 - iii. electorate officers receive all the legal protections that they are entitled to
 - iv. electorate officers are given learning and development opportunities to develop their skills
- b. the Department of Parliamentary Services take a more active role in implementing the new arrangements described in (a).

14

IBAC and the Ombudsman recommend that the presiding officers, the Department of Parliamentary Services and the DPS Audit Committee review the DPS audit program in light of this investigation's findings, to refine their approach to risk identification and the choice of issues and business operations that should be audited.

15

IBAC and the Ombudsman recommend that section 17 of the *Public Interest Disclosures Act 2012* be reviewed to establish an alternative course for a person who has reasonable grounds for not wishing to lodge a complaint with a presiding officer.

16

IBAC and the Ombudsman recommend that the Ministerial Code of Conduct be amended to clarify that ministers must ensure that the public resources made available for performing their duties are not used for party-specific purposes.

17

IBAC and the Ombudsman recommend that the government and parliament clarify the extent to which it is intended that the Members of Parliament Code of Conduct and the processes for dealing with breaches of the Code should cover the actions of ministers in relation to their ministerial portfolios.

18

IBAC and the Ombudsman recommend that:

- a. an offence be created that provides that a minister who directs or allows a person to undertake party-specific activities while that person is employed to assist the minister in discharging their public duties is guilty of an offence
- b. the government, in formulating the offence and the penalty, should take account of:
 - i. the degree of a minister's intent or recklessness in directing or allowing the employee to undertake such activities
 - ii. activities where it is difficult to separate the party-political aspect of the work from the normal duties of a ministerial staff member's role, such as briefing other members of parliament and party members on matters relevant to the minister's portfolio
 - iii. unavoidable and reasonable communication with a party's head office or other organisational unit on minor or incidental matters.

19

IBAC and the Ombudsman recommend that:

- a. the Ministerial Staff Code of Conduct be reviewed to explicitly prohibit a ministerial staff member from doing party-specific work during their employment
- b. the Ministerial Staff Code of Conduct be made publicly available.

20

IBAC and the Ombudsman recommend that the Victorian Government:

- a. undertake a comprehensive review of existing conflict of interest controls for ministers and ministerial staff to strengthen the identification and management of conflicts of interest
- b. revise the codes of conduct for ministers and ministerial staff to recognise the particular risks of conflicts of interest
- c. develop associated guidance to raise awareness of the risks associated with unmanaged conflicts of interest, and provide mandatory training for ministers and ministerial staff.

21

IBAC and the Ombudsman recommend that state and local government funders of community organisations continue to improve their management of grants, in accordance with evolving best practice, and make sure that monitoring and reporting practices are risk-informed and sufficiently prioritised to be implemented effectively. In particular, they should consider:

- a. requiring copies of receipts with all expenditure acquittals, and checking them against grant applications
- b. requiring payment of salaries to be accounted for, especially if existing office holders are being funded from non-recurring grant monies
- c. vetting applicant organisations' competence to undertake specific-purpose projects
- d. requiring grant recipients to certify that items of expenditure have not been claimed against other organisational revenues or grants, to prevent the use of the same receipt to acquit different reporting obligations to different grant providers
- e. adopting proactive risk-management practices to identify organisations that might have weak accountability arrangements
- f. withholding final grant payments or refusing to accept new grant applications from an applicant who has not completed a full grant acquittal report.

Responses

Responses to our investigations are published on [IBAC's website](#) to inform the community about actions agencies advise they are taking, and to share learnings that may help other agencies improve their systems and practices to prevent corruption and misconduct.

About IBAC

IBAC is Victoria's agency responsible for preventing and exposing public sector corruption and police misconduct. This also covers the not for profit sector where organisations receive government funding to provide services on behalf of the government. Suspected corrupt conduct can be reported to IBAC, including anonymously. To report corruption and misconduct now, visit www.ibac.vic.gov.au/report or call **1300 735 135**.

About the Victorian Ombudsman

The Office of the Victorian Ombudsman promotes fairness, integrity and respect for human rights. It holds the Victorian public sector accountable to the people of Victoria using a range of functions and powers, including the investigation of administrative actions in the Victorian public sector and matters that might be referred to it by the Victorian Parliament. To make a complaint about an action or decision made by a Victorian public organisation visit www.ombudsman.vic.gov.au or call **1800 806 314**.