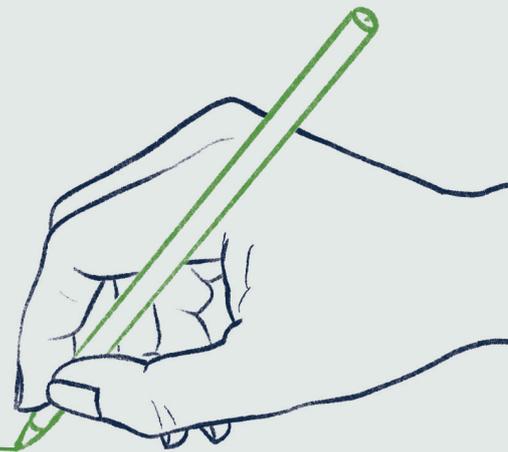


Victorian Inspectorate Annual Plan

2021-22

*Strengthening
trust in Victoria's
integrity system*



**VICTORIAN
INSPECTORATE**

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1 | Inspector's Foreword

In 2021–22 the Victorian Inspectorate (VI) will fully realise the benefits from the scaling up in FTE resources achieved in the final quarter of 2020–21 due to the increased funding received in the State budget handed down on 24 November 2020. As at the time of writing, the increased FTE funding is only in place until 30 June 2023. This will be a matter for discussion early in 2021–22.

An independent base review of the VI, for which funding was provided in the November 2020 budget, is anticipated to be completed by 30 June 2021. That review should place the VI in an informed position going forward to make submissions about the appropriate level of resourcing required for the effective and efficient performance of its functions.

The VI has been notified by the Integrity and Oversight Committee of the Parliament (IOC) that an independent performance auditor is proposed to be appointed to conduct a performance audit of the VI in accordance with s 90D of the *Victorian Inspectorate Act 2011*. The audit is expected to commence in October 2021 and be completed by March 2022.

The performance audit will be hot on the heels of the independent base review. While both are valuable exercises, they have the inevitable consequence in an

entity as small as the VI of diverting a considerable portion of the VI's resources away from the performance of its ordinary operational and corporate functions. This will undoubtedly impact on the VI's work program for 2021–22.

This foreword has been written during a time when an increase in COVID-19 restrictions is impacting how we work. COVID-19 restrictions, on top of the performance audit and seeking appropriate ongoing funding following the base review, will no doubt continue to impact the VI's performance in the coming year.

The VI's operational functions are large and, seemingly, ever increasing. From 1 July 2021 they extend to monitoring the exercise of coercive powers by Wage Inspectorate Victoria and investigating and assessing its conduct, and that of its officers, in exercising those powers. In addition, as a budgetary independent entity since 1 July 2020, the VI, despite its small size, has the same corporate compliance obligations as large Victorian government entities.

The VI has developed a strong and positive workplace culture in alignment with our values. We will continue to invest in that culture which helps contribute to the VI's ability to deliver strong integrity outcomes.

In developing this annual plan describing its proposed work program and priorities (both operational and corporate) for 2021–22, the VI has remained conscious of the fact that it operates in a dynamic environment and needs to be ready to adapt its plans at any time to accommodate developments. I am grateful to the IOC for its helpful comments on an earlier draft of this plan. Putting the plan together has been a valuable exercise. While there seems to be divided views on who to credit with the quote “If you fail to plan, you plan to fail”, I regard it as a truism.

Despite the challenges, I very much look forward to a year of consolidation and achievement and a year that, particularly as a result of the independent base review, will result in the VI being appropriately resourced in the years ahead for the important functions that it has in Victoria’s integrity system.



Eamonn Moran PSM QC
Inspector

2 | Background

OVERVIEW

The VI was established to provide oversight of other integrity, accountability or investigatory bodies and their officers. The VI is the key oversight body in Victoria's integrity system.

The VI is committed to providing the Parliament and the people of Victoria with independent assurance that these bodies, which collectively constitute Victoria's 'integrity system', act lawfully and properly in the performance of their functions.

The model of integrity oversight adopted by the Victorian Parliament is unique in Australia in how it vests in a single entity (the VI) the oversight of multiple integrity bodies. This allows the VI to take a leadership role within the integrity system and apply learnings from its oversight of any one integrity body across the integrity system, as appropriate.

VISION

- An integrity system that is robust and trusted

ASPIRATIONS

Public confidence and trust in Victoria's integrity system

- The right checks and balances are in place
- The community knows to come to the VI to protect their rights
- Intrusive and coercive powers are exercised lawfully

A robust Victorian integrity system

- Parliament has confidence in the VI
- The VI is positively influencing the conduct of integrity bodies
- The public sector is being held to account

STRATEGIC PRIORITIES (3 YEARS)

- 1 Build the capability of the VI to proactively manage demand
- 2 Raise public awareness of the role and impact of the VI
- 3 Lead a network focused on improving agency practice

The VI's three-year strategic plan commenced 1 January 2019. We are completing this journey and will establish a new strategic plan during 2021-22.

3 | Planned Business Activities

OPERATIONAL FUNCTIONS AND PRIORITIES

The VI has a broad range of legislative functions across 12 integrity, accountability and investigatory bodies, including, from 1 July 2021, oversight of the Wage Inspectorate Victoria. Our key functions table (**Attachment 1**) details our oversight responsibility for each body.

Our functions include inspections, public interest disclosures, investigations, complaints and monitoring activities. Whilst we have discretion in exercising our monitoring function, the following functions are mandatory:

- Inspections and related reporting obligations
- Public interest disclosure assessments and notifications to IBAC
- Public interest complaint investigations.

The VI must also respond to all complaints.

In 2021–22, we will give priority to our mandatory functions and to complaints. Priority will also be given to monitoring the exercise of coercive powers through reviewing coercive power notifications. Remaining resources will be used for monitoring, investigative and educative activities within a risk based model.

Statistics on the VI's input and output across each legislative function are published in the Annual Reports.

Operational Priority One – Mandatory functions

Inspections

In accordance with legislative timeframes, the VI will inspect records and report to Parliament and relevant Ministers on controlled operations and the use of surveillance devices by the following bodies:

- Independent Broad-based Anti-corruption Commission (IBAC)
- Victoria Police
- Game Management Authority
- Victorian Fisheries Authority
- Department of Environment, Land, Water and Planning (DELWP)

The VI will inspect records and report to relevant Ministers on IBAC's telephone intercepts and Victoria Police's telephone intercepts and to Parliament on Victoria Police's use of counter-terrorism powers.

The VI will design an inspections methodology for powers not yet exercised by Victoria Police under the *Terrorism (Community Protection) Act 2003* but in respect of which the VI has legislative functions.

For parts of 2019–20 and 2020–21, the *COVID-19 Omnibus (Emergency Measures) (Integrity Entities) Regulations 2020* permitted a modified inspection program. The VI now uses a sampling methodology for inspections, within a risk framework, which has helped with clearing the backlog of inspections.

Assessing Public Interest Disclosures

The VI has a broad jurisdiction under the *Public Interest Disclosures Act 2012* (PID Act), including the mandatory receipt, assessment and notification of public interest disclosures.

To ensure we identify all assessable disclosures, we will undertake a preliminary assessment of all complaints against the requirements of the PID Act.

If a complaint is an assessable disclosure about IBAC, an IBAC officer or a Public Interest Monitor (PIM), we will determine whether the disclosure is a public interest complaint under the PID Act. All other assessable disclosures will be notified to IBAC under the PID Act.

Investigating Public Interest Complaints

The VI has a mandatory function under the *Victorian Inspectorate Act 2011* (VI Act) to investigate all public interest complaints in our jurisdiction, namely:

- Disclosures about a PIM, IBAC or an IBAC officer that we determine are public interest complaints; and
- All public interest complaints referred to us by IBAC.

As at June 2021, the VI was undertaking four investigations under the PID Act. The VI anticipates concluding these investigations during 2021–22. Any new public interest complaints received during 2021/22 will also be investigated, as per the mandatory legislative requirement.

Operational Priority Two – Complaints and coercive power notifications

Complaints

The VI can receive complaints about:

- IBAC and IBAC personnel
- Victorian Ombudsman (VO) officers
- Office of the Victorian Information Commissioner (OVIC) officers
- Victorian Auditor-General’s Office (VAGO) officers
- Chief Examiner or Examiners.

The VI will give priority to complaints. We have a statutory function to receive complaints and must properly consider and respond to every complaint. We have a performance measure to give written reasons for outcomes to 100% of complainants.

The VI’s assessment of a complaint may result in:

- A PID Act notification or another form of referral to a body with the appropriate jurisdiction
- Engagement with the body to discuss identified issues or risks
- Feedback to the body on how it handled the complainant’s matter
- An Integrity Response, including other planned oversight projects
- A preliminary inquiry or an investigation.

The VI will continue to work through the backlog of complaints caused by COVID-19 restrictions. To mitigate the impact of delays, the VI will direct increased resources towards complaints and keep communicating with complainants to ensure they are kept up to date on the progress of their complaint.

The VI can investigate a complaint and also initiate own motion investigations. The VI can conduct a preliminary inquiry to determine whether or not to investigate and will typically request information from a body or individuals.

The VI will only commence a preliminary inquiry or an investigation where it is appropriate and if it has sufficient resources.

Monitoring the exercise of coercive powers

The VI has a legislative requirement to monitor the exercise of coercive powers by:

- IBAC
- VO
- OVIC
- VAGO
- Chief Examiner or Examiners
- Judicial Commission of Victoria
- Wage Inspectorate Victoria (WIV)

These bodies are required to notify the VI when they exercise coercive powers and the VI has a discretion to review the notifications. Since 1 January 2020, each time the VI exercises that discretion we are required to assess a number of criteria that increase the time taken for each review.

The VI commonly receives around 1000 notifications per annum. This number is likely to increase in 2021–22 as we start oversighting the exercise of coercive powers by the WIV and its officers.

During 2020–21, the VI designed a model to oversight the exercise of coercive powers by the WIV and its officers. In 2021–22, the VI will focus resources on implementing this model and reviewing notifications, as the WIV will be able to exercise new coercive powers for the first time in 2021–22.

The VI will continue to monitor the agencies that infrequently exercise coercive powers through self-reporting questionnaires covering relevant legislative requirements, and a review of their notifications (if any).

To help drive efficiency and identify systemic issues in notifications, the VI piloted an integrity program in 2020–21 in which allocated officers undertook risk assessments and reviews of a particular integrity body's notifications. This successful program will continue in 2021–22, enhanced by regular meetings of reviewers and managers to help identify thematic issues across entities.

If resources allow, the VI will undertake all or parts of the integrity program referred to in section 6.

Operational Priority Three – Other monitoring and review functions

The VI has further legislative requirements to monitor:

- IBAC's compliance with the *Independent Broad-based Anti-corruption Commission Act 2011* and other laws, and its interaction with other bodies
- VAGO's compliance with certain provisions of the *Audit Act 1994*
- VO and OVIC's compliance with procedural fairness
- Chief Examiner and Victoria Police's compliance with the *Major Crime (Investigative Powers) Act 2004*.

The VI also has legislative requirements to:

- Assess the effectiveness and appropriateness of IBAC's policies and procedures
- Oversee IBAC's performance of its PID Act functions
- Review IBAC, VO and the Judicial Commission's PID procedures.

Significant monitoring projects are resource intensive and the VI has not been resourced to undertake monitoring projects since its completion of longstanding projects in 2018–19. During 2019–20 and 2020–21, the VI identified issues during inspections, complaint assessments, notifications, preliminary inquiries and investigations. The Integrity Response Guidelines were a useful barometer to identify an appropriate response by the VI to ensure proportionate steps were taken by the integrity body to prevent recurrence.

With increased staffing numbers in 2021–22, the VI plans to undertake a monitoring project in the second half of the year. The subject matter of the project will be chosen according to risk, following consultation with relevant stakeholders about their progress and intention to address the particular subject matter of concern to the VI. Consultation ensures significant resources are not directed to identifying the extent of an issue within an integrity body where the integrity body has a sufficient mitigation strategy to address the issue.

See section 6 for the types of monitoring projects that are resource dependent. Before commencing any monitoring projects, the VI will give priority to mitigating complaint delays caused by COVID-19 and completing investigations.

OPERATIONAL FRAMEWORK AND GOVERNANCE

The VI's Operations Model (Attachment 2) is a conceptual framework for our approach to conducting this broad range of operational functions.

The Operations Model represents:

- **The source and use of information - notifications and complaints** - these are received as key information and intelligence.

The VI will assess, review and respond to all complaints. Occasionally, a complaint may lead to a preliminary inquiry and/or an investigation.

The VI will triage coercive power notifications, identifying suitable matters for a full review within the context of a planned Integrity Program.

- **Investigative activities** - Investigative activity is proportionate and purposive: our preliminary inquiries, investigations and inquiries are directed toward effective Integrity Responses.

The VI will continue to prioritise public interest complaint investigations as they are mandatory. Any other investigations will be resource dependent and are likely to start with a preliminary inquiry.

- **Compliance activities - Integrity Programs and Monitoring Projects** - Integrity Programs are regular, ongoing oversight activities that deliver recurrent outputs, such as the VI's inspections activities and monitoring of coercive powers. By contrast, monitoring projects are strategically targeted and involve finite activities with well-defined objectives.

The number of risk based reviews of coercive power notifications will continue to increase, within a planned Integrity Program.

The VI anticipates delivering a proactive monitoring project if resources allow.

- **Integrity Responses** – Our Integrity Responses to identified non-compliance and other issues include liaison and engagement, education, recommendations and reports. We may also decide to conduct a more in depth oversight activity, like a monitoring project. We focus on productive, influential “Integrity Responses” that support our vision of improving Victoria’s integrity system.

The VI anticipates publishing education resources relating to previously identified issues (see section 6 for a description of the planned guidance notes).

In practice, the Operations Model underpins our internal operational governance structures. Through our Integrity Operations Management Committee (IOMC), operational decision-making is consistent, informed by risk assessments and legal advice, and properly documented.

Importantly, the IOMC structure ensures that decisions to initiate new work are carefully considered, and that progress on existing work is monitored for resource short-falls or delays.

CORPORATE / GOVERNANCE PRIORITIES

Core Business

The small corporate services unit at the VI will continue to lead the delivery of all standard corporate functions with limited support acquired from the Department of Premier and Cabinet (eg. finance, payroll, HR advice). This unit, with only 1 ongoing FTE and 2.8 fixed term FTE, is mostly resourced with project funding and has responsibility for all corporate and governance functions including budget

independence, human resources, financial planning and compliance, procurement, business facilities, asset management, security and ICT management, information and records management, internal audit and risk management.

Within the capability of our size and footprint, the VI will also support the delivery of governance compliance requirements including the Financial Management Compliance Framework, the Victorian Protective Data Security Standards as well as audit and risk management requirements.

An important focus for the unit is supporting staff engagement to maintain our strong People Matter Survey results from 2019–20 and 2020–21. The People Matter Surveys support public sector organisations in building positive workplace cultures with integrity that live the public sector values.

In addition to core business corporate functions, there are several key priorities to deliver in 2021-22 that will support operational activities. The VI will undertake these projects primarily with resources provided through non-recurrent funding.

Corporate Priority One – Key infrastructure projects

Having made significant progress during 2020-21 on the VI’s comprehensive capital program, which includes replacing end of life and specialised ICT infrastructure, the VI is scheduled in 2021-22 to complete the four remaining key infrastructure projects:

- upgrade the VI’s security alarm system
- upgrade the VI’s telephony system
- new records management system
- pilot a document review system.

Corporate Priority Two – Budget Independence

In response to the independent base review conducted during 2020-21, the VI will seek appropriate ongoing budget funding to support its expanded remit since establishment and its status as a budgetary independent agency with complex security needs. This will result in the VI being appropriately resourced to undertake its important operational functions and comply with Victorian governance frameworks.

Corporate Priority Three – Performance Audit

As foreshadowed in the Inspector's foreword, an independent performance audit of the VI is expected to commence in October 2021 and be completed by March 2022 on behalf of the IOC.

The performance audit will require a considerable portion of the VI's resources which will be a diversion from the performance of the VI's usual operational and corporate functions.

Corporate Priority Four – Strategic Plan

With the VI's three-year strategic plan coming to an end on 31 December 2021, the VI will establish a new strategic plan during 2021-22 that reflects its maturity level and current challenges.

Corporate Priority Five – ICT Strategy & Roadmap

During 2021-22, the VI will undertake a comprehensive project to identify the future state of the VI's ICT systems and structures to ensure that:

- they align with and support the VI's future strategic vision and objectives
- they are managed efficiently, effectively and economically
- the VI develops a long-term infrastructure replacement strategy that is well paced, evidence based and leverages off new and emerging technologies
- the VI's ongoing information management and security needs continue to be comprehensively met.

4 | Budget

2021-22 Budget

Recurrent base operating funding	\$2,755,980
Fixed term operating and project funding	\$3,332,031
Depreciation funding	\$1,155,494
Total Operating	\$7,243,505
Fixed Term Capital Funding	\$440,000
Total Budget	\$7,683,505

5 | Performance Measures

The VI's performance measures are as follows:

Performance Measure	Unit of Measure	2021-22 Target
Quantity		
Recommendations of the VI accepted by agencies	Per cent	75%
Reasons for decisions provided for complaint outcomes	Per cent	100%
Quality		
Improvements to the integrity system*	Number	6

* An improvement to the integrity system is a demonstrable change to the conduct and compliance of any of the integrity, accountability and investigatory bodies oversighted by the VI (integrity bodies).

We identify non-compliance and opportunities for systemic improvement through undertaking our functions (inspections, investigations, monitoring etc) and respond proportionately through the framework of our published Integrity Response Guidelines.

We measure improvements to the integrity system where the VI's integrity response has demonstrably influenced an integrity body's conduct to help prevent future non-compliance, such as:

- an integrity body implementing VI recommendation(s)
- an integrity body establishing new procedures to prevent systemic recurrence of non-compliance
- an integrity body changing its application of the law in response to VI feedback.

6 | Resource Dependent Operational Activities

Further to the priorities identified in section 3, and subject to any further delays caused by COVID-19, any remaining resources will be directed towards the delivery of one or more of the integrity activities outlined below. The VI will continue to take a risk based approach, noting that more urgent activity may arise from an issue identified during the 2021–22 financial year.

Education

As set out in the VI's Operations Model, the VI may respond to issues with a spectrum of appropriate activities such as stakeholder engagement, education programs and/or the provision of integrity resources such as published practice or guidance notes or reference materials. The VI recognises that a fundamental part of effective oversight is education and communication which are also preventative strategies.

Developing an education strategy as a key tool in supporting compliance recognises the recommendations from the report tabled in November 2017 by the former Accountability and Oversight Committee of the Parliament – Inquiry into Education, Training and Communications Initiatives of Victorian Oversight Agencies. The VI also notes the Integrity and Oversight Committee's current Inquiry into the Education and Prevention Functions of Victoria's Integrity Agencies.

In 2021-22, the VI plans to publish guidance notes on the following issues:

- an issue relating to the adverse comments process during the drafting of investigation reports
- access by lawyers to notes taken during coercive examinations.

Publication will be preceded by consultation with relevant bodies within the integrity system.

Monitoring Projects

As at June 2021, the VI has identified four monitoring projects across four integrity bodies that could lead to improvements to the integrity system:

- A targeted project arising from multiple complaints about an integrity body's handling of complaints referred to another body for investigation.
- A project focussed on two integrity bodies' compliance with particular statutory requirements, as well as their policies and procedures.
- A targeted project arising from notifications about an integrity body's processes for exercising coercive powers.
- A targeted project arising from multiple complaints about search and seizure activities.

Multi-body integrity program

Coercive power notifications are an important source of information for monitoring how each integrity body exercises their coercive powers. The VI receives around 1000 notifications each year.

To enable integrity bodies to learn from issues identified about other bodies, the VI proposes to produce a multi-body report on findings and learnings across integrity bodies relating to a particular coercive power, such as a confidentiality notice. Without identifying the source of the finding, the VI could provide integrity bodies with a report that would provide a preventative benefit across the integrity system.

ATTACHMENT 1 | VICTORIAN INSPECTORATE'S KEY FUNCTIONS

					
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For each agency, the Victorian Inspectorate has these different functions:

Receives and assesses complaints about conduct of IBAC & IBAC personnel Investigates conduct Investigates a public interest complaint (PIC) about IBAC or an IBAC officer	Receives and assesses complaints about conduct of VO officers Investigates conduct	Receives and assesses complaints about conduct of OVIC officers Investigates conduct	Receives and assesses complaints about conduct of VAGO officers Investigates conduct	Receives and assesses complaints about conduct of the Chief Examiner or Examiners Investigates the conduct of the Chief Examiner and Examiners	
Monitors the exercise of coercive powers	Monitors the exercise of coercive powers	Monitors the exercise of coercive powers	Monitors the exercise of coercive powers	Monitors the exercise of coercive powers	Monitors the exercise of coercive powers
	Monitors compliance with procedural fairness	Monitors compliance with procedural fairness			
Assesses the effectiveness and appropriateness of policies and procedures				Assesses the effectiveness and appropriateness of policies and procedures	
Monitors compliance with the IBAC Act and other laws			Monitors compliance with sections 30 to 37, 39, 43 to 46, 50(1) and 51 of the <i>Audit Act 1994</i>	Monitors compliance with the <i>Major Crime (Investigative Powers) Act 2004</i>	
Reviews Public Interest Disclosure (PID) procedures	Reviews PID procedures				Reviews PID procedures
Oversees IBAC's performance of its PID Act functions Receives & assesses PIDs about IBAC					
Monitors interaction with other integrity bodies					
Inspects records on telephone intercepts, use of surveillance devices and on controlled operations					

The VI must consider whether any disclosure received by it relating to any public information is exempt from disclosure.

The VI must also investigate any PIC referred to it by IBAC regarding its performance.

	 VICTORIA POLICE	 Game Management Authority	 Victorian Fisheries AUTHORITY	 VICTORIA State Government	 Wage Inspectorate Victoria
Investigates PICs about a PIM					Investigates conduct
					Monitors the exercise of coercive powers
	Monitors compliance with the <i>Major Crime (Investigative Powers) Act 2004</i>				
Receives & assesses PIDs about a PIM					
Inspects records relating to order/warrant applications	Inspects records on telephone intercepts, use of surveillance devices and on controlled operations	Inspects records on use of surveillance devices and on controlled operations	Inspects records on use of surveillance devices and on controlled operations	Inspects records on use of surveillance devices and on controlled operations	
	Inspects records on use of counter-terrorism powers				

ic body or public officer is a PID that must be notified to the appropriate entity.
relating to the conduct of any public body or public officer.

ATTACHMENT 2 | OPERATIONS MODEL

Integrity Responses

The VI is empowered to make recommendations and issue reports.

The VI may respond to issues with a spectrum of appropriate activities, such as informal liaison and stakeholder engagement, education programs and resources, or the initiation of further oversight projects or programs.

Integrity Responses

Integrity Programs

Inquiries

The VI may conduct an inquiry into a matter arising out of an investigation.

The VI is empowered to:

- Examine witnesses
- Compel the production of documents or things
- Enter and search premises, seize evidence

Inquiries

Investigations

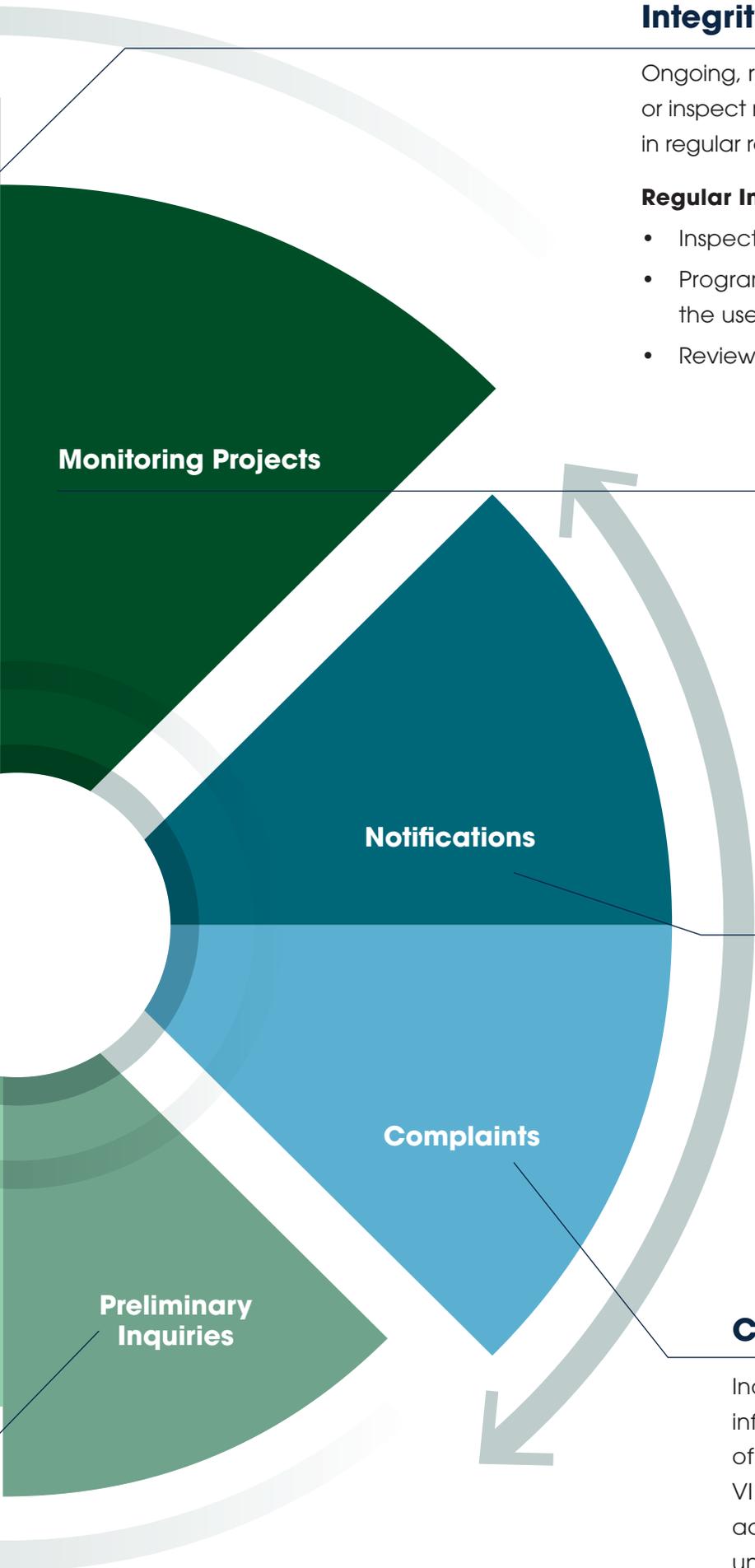
The VI may investigate and assess the conduct of officers, including own motion investigations.

The VI must investigate a public interest disclosure.

Investigations

Preliminary Inquiries

The VI may conduct a preliminary inquiry to determine whether it will investigate a matter.



Integrity Programs

Ongoing, regular programs to assess compliance or inspect records; results are generally delivered in regular reports.

Regular Integrity Programs:

- Inspections of law enforcement powers
- Program of notification reviews to monitor the use of coercive powers
- Reviewing compliance with certain provisions

Monitoring Projects

Monitoring Projects

Strategically targeted and finite activities with well-defined objectives, methodology and deliverables.

Targeted monitoring projects:

- Projects arising from identified concerns
- Reviews of high risk notifications eg. Public hearings

Notifications

Notifications

The VI receives information via notifications from oversight entities where they:

- Use a coercive power
- Are required to notify the VI of other information

Complaints

Complaints

Individuals can complain or provide information to the VI about the conduct of officers of bodies it oversees. The VI also receives complaints about the activities of IBAC and certain disclosures under the PID Act.

Preliminary Inquiries



vic.gov.au/vicinspectorate