

OFFICIAL

Governance Charter

Governance arrangements of IBAC

Governance & Risk
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Table of contents

1	Introduction	4
1.1	Governance	4
1.2	Powers and functions	4
1.3	Vision, purpose and corporate plan	5
1.4	Victorian integrity system	5
2	Document purpose	5
3	Governance arrangements	6
3.1	IBAC's governance arrangements	6
3.2	External governance	6
3.2.1	Relationship with Parliament	6
3.2.2	Relationship with the Integrity and Oversight Committee	6
3.2.3	Relationship with the Victorian Inspectorate	7
3.2.4	Relationship with the Public Interest Monitor	8
3.2.5	Relationship with Government	8
3.2.6	Relationship with the Attorney-General	9
3.2.7	Relationship with the Department of Justice and Community Safety	9
3.2.8	Relationship with public officers, public bodies and the public sector	9
3.3	Internal governance	10
3.3.1	IBAC Commissioner	10
3.3.2	Deputy Commissioners	12
3.3.3	Corporate Governance Committee	13
3.3.4	Executive Leadership Team Committee	13
3.3.5	Operations Governance Committee	14
3.3.6	Audit and Risk Management Committee	14
3.3.7	Chief Executive Officer	16
3.3.8	IBAC staff	18
4	Values and Code of Conduct	18
4.1	IBAC values	18
4.2	VPS values	19
4.3	Human rights	20
4.4	Employment principles	20
4.5	Code of conduct	21
4.6	Other legislation	21
5	Authorisation	22
	Attachment A – IBAC's governance framework	22
	Attachment B – Appointees as at 31 December 2020	23
	References	25

1 Introduction

The Independent Broad-based Anti-corruption Commission (IBAC) was established in 2012 by the *IBAC Act 2011* (“*IBAC Act*”). The IBAC consists of one Commissioner to which IBAC may delegate any function or power of IBAC. IBAC must also appoint a Chief Executive Officer (CEO) who is the Special Body Head of IBAC under the *Public Administration Act 2004* (“*PA Act*”). Hence there are two key roles responsible for the internal governance of IBAC – the Commissioner and the CEO.

1.1 Governance

Governance refers to the ways in which the IBAC is directed, controlled and held to account, and includes internal and external aspects. External governance includes the roles, relationships and distribution of powers, accountabilities and responsibilities between Parliament, the Integrity and Oversight Committee, the Victorian Inspectorate, the Attorney-General, the Department of Justice and Community Safety and the Victorian public sector. Internal governance includes IBAC’s internal accountability structures (organisational structure and committees), outcomes, delegations and authorisations, policies and procedures, risk management, planning and performance management, compliance management, culture (leadership and behaviours) and assurance mechanisms.

1.2 Powers and functions

The Commissioner has been provided with powers and functions to undertake the roles given to IBAC by Parliament. These powers and functions are contained in the following legislation:

Independent Broad-based Anti-corruption Commission Act 2011

Victorian Police Act 2013

Confiscation Act 1997

Crimes Act 1958

Crimes (Assumed Identities) Act 2004

Crimes (Controlled Operations) Act 2004

Drugs, Poisons and Controlled Substances Act 1981

Firearms Act 1996

Freedom of Information Act 1982

Public Interest Disclosure Act 2012

Surveillance Devices Act 1999

Telecommunications (Interception and Access) Act 1979

Telecommunications (Interception) (State Provisions) Act 1988

Witness Protection Act 1991

Drugs, Poisons and Controlled Substances Act 1981

Sex Offenders Registration Act 2004

Surveillance Devices Act 1999

Taxation Administration Act 1953

Charter of Human Rights and Responsibilities Act 2006 (Vic)

IBAC’s primary functions are to:

- Identify, expose and investigate serious or systemic public sector corrupt conduct and Victoria police misconduct.
- Prevent serious corrupt conduct and police misconduct by informing and educating the public sector, police and the community about the detrimental effects of corruption on public administration.

The full functions and powers of IBAC are referenced in sections 15 and 16 of the *IBAC Act*.¹

1.3 Vision, purpose and corporate plan

IBAC's vision is a Victorian public sector that actively resists corruption.² Its purpose is to prevent and expose public sector corruption and police misconduct in Victoria.

IBAC's Corporate Plan 2018-21 is focused on:

1. exposing and preventing corruption and police misconduct
2. a respected, trusted independent statutory agency
3. a highly capable and forward looking organisation
4. investing in our people.

For further information including performance indicators, please refer to IBAC's Corporate Plan 2018-21 (refer link in references section).

1.4 Victorian integrity system

IBAC is part of the Victorian integrity system, which is comprised of several agencies with distinct roles (Figure 1). While those roles are distinct, the agencies have inter-connected functions. They also have an overarching shared responsibility for protecting integrity in the Victorian public sector. IBAC works closely with the Victorian Ombudsman (VO) in managing complaints.

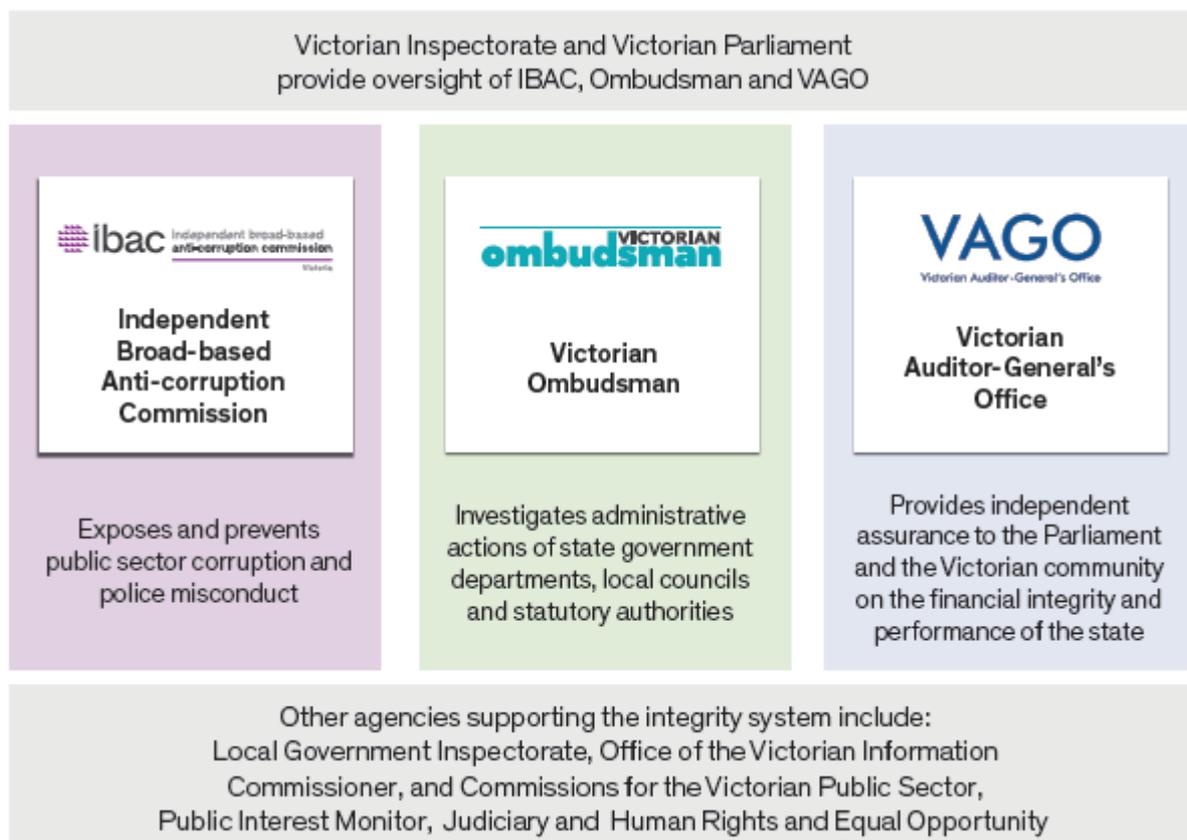


Figure 1. Victoria's integrity system

2 Document purpose

This Charter describes the governance arrangements of IBAC. It articulates the operating context and the roles, responsibilities, decision making authorities and accountabilities of the organisation's key governance bodies and other relevant stakeholders.

Where there is any inconsistency between this Charter and any documents that it refers to, then those documents have precedence over this Charter. If any document referred to in this Charter is amended from time to time, then this Charter should be interpreted as referring to the amended document.

The Governance Charter describes the roles of the Commissioner, Deputy Commissioner and CEO, and outlines IBAC's role within the Victorian Integrity System and its relationship with the Victorian Government, IOC and the VI.

The Charter also explains the roles and functions of IBAC executive committees, the Audit and Risk Management Committee (ARMC) and IBAC staff.

Finally, it outlines the organisation's values and code of conduct.

3 Governance arrangements

3.1 IBAC's governance arrangements

IBAC's governance framework³ articulates the principles and elements in IBAC's approach to good governance. Refer to Appendix A for an overview of the framework.

3.2 External governance

3.2.1 Relationship with Parliament

IBAC exists to achieve objectives deemed by government to be in the public interest and operates using the powers conferred by Parliament. The Commissioner is an independent officer of the Parliament with complete discretion in the performance or exercise of his or her duties, functions or powers, subject to the *IBAC Act* and other laws of the State. IBAC is accountable to Parliament for its performance through the IOC. IBAC is also subject to oversight via several other mechanisms including the VI, VAGO and PIM.

3.2.2 Relationship with the Integrity and Oversight Committee

The Integrity and Oversight Committee is a joint investigatory committee of the Parliament of Victoria. IBAC is directly responsible for managing its own budget and expenditure. There is no legal authority to spend over an appropriation amount included in the Bill.

IBAC will:

- determine its draft budget in consultation with the IOC
- prepare an annual plan in consultation with the IOC (to be considered in conjunction with the draft budget); and
- be subject to a periodic independent performance audit.

3.2.2.1 Role and responsibilities

The Integrity and Oversight Committee is responsible for monitoring and reviewing the performance of the following Victorian agencies:

- IBAC
- VO
- OVIC
- VI

In turn the VI oversees IBAC, VO, Victorian Auditor-General's Office (VAGO) and the OVIC, and a number of other integrity bodies, such as the Public Interest Monitor (PIM).

3.2.2.2 Authority

The IOC can examine reports produced by IBAC, OVIC, the VI and the VO, including their annual reports and budgets. The IOC also has the power to report to Parliament in relation to these agencies' performance of their duties and functions and can recommend the appointment of an independent auditor. In addition, the IOC can undertake inquiries into issues related to the work of these agencies and make recommendations for improvements.

While the IOC can, in limited circumstances, investigate complaints about the Information Commissioner and OVIC, it does not have the power to investigate complaints about IBAC, the VI or the VO.

3.2.2.3 The IOC can receive, assess and investigate public interest disclosures (PIDs) about the VI or a VI officer under the *Public Interest Disclosures Act 2012* (Vic). If the IOC determines a disclosure to be a public interest complaint, it must engage an independent person to investigate the disclosure. Accountability

The IOC reports to, and is accountable to, Parliament.

3.2.2.4 Appointment

As soon as practicable after the commencement of each Parliament, the members of the IOC must be appointed according to the practice of Parliament relating to the appointment of members to joint select committees.

3.2.3 Relationship with the Victorian Inspectorate

3.2.3.1 Role and responsibilities

In relation to IBAC, it is the role of the VI to:

- monitor the compliance of IBAC and IBAC personnel with the IBAC Act and other laws
- oversee the performance by IBAC of its functions under the *Public Interest Disclosure Act 2012*
- assess the effectiveness and appropriateness of IBAC's policies and procedures which relate to the legality and propriety of IBAC's activities
- receive complaints about the conduct of IBAC and IBAC personnel
- investigate and assess the conduct of the IBAC and IBAC personnel in the performance or exercise or purported performance or purported exercise of their duties, functions and powers
- monitor the interaction between IBAC and other integrity bodies to ensure compliance with relevant laws.

3.2.3.2 Authority

The VI has the power to receive certain complaints made to it about IBAC, conduct investigations, including own motion investigations, and obtain information.

The VI may report on and make recommendations concerning the complaints it receives, including any action it considers should be taken by a particular body or person and to recommend further investigation or enforcement action be taken by other agencies, including Victoria Police and the Director of Public Prosecutions.

3.2.3.3 Accountability

The VI is an independent officer of the Parliament and is responsible directly to Parliament. It is not subject to the direction or control of the government in respect of the performance of its duties and functions and the exercise of its powers.

3.2.3.4 Appointment

The VI consists of one Inspector appointed by the Governor in Council on the recommendation of the Minister¹ in accordance with the *Victorian Inspectorate Act 2011*.

3.2.4 Relationship with the Public Interest Monitor

3.2.4.1 Role and responsibilities

The PIM ensures that IBAC is accountable in its application for use of coercive powers, telecommunications interception warrants and surveillance devices warrants, with a view to safeguarding the privacy and civil liberties of community members. The PIM can appear at any hearing of a relevant application by IBAC in order to test the sufficiency of the information upon which IBAC is relying in support of its application.

3.2.4.2 Authority

To fulfil its functions, the PIM may appear at any hearing of a relevant application (for example, for the use of coercive powers), can ask questions of any person giving information in relation to the application to test the content and sufficiency of the information relied on in support of the application, and may make submissions about whether the application should be granted. The PIM does not receive complaints.

3.2.4.3 Accountability

The Principal PIM provides an annual report to the Attorney-General with details of the number of applications IBAC has made for an order, warrant or approval and the number that have been granted, refused or withdrawn.

3.2.4.4 Appointment

The Governor in Council may appoint an eligible person as the Principal PIM, in accordance with the *Public Interest Monitor Act 2011*.

3.2.5 Relationship with Government

IBAC is not subject to the direction or control of the Victorian Government in respect of how it performs its duties and functions and exercises its powers. IBAC has no direct relationship with any department or minister.

The Premier, by Administrative Arrangements Order, made under the *Administrative Arrangements Act 1983*, determines the body responsible for administering the IBAC Act. Since 23 March 2020, the responsible body is Attorney-General of Victoria.

IBAC was established as a Special Body by an Order in Council made by the Governor in Council under section 6 of the PA Act. This means it is not subject to review by the Victorian Public Sector Commission and may not be subject to some Public Sector Values.

The Governor in Council, on the recommendation of the Attorney-General, appoints the Commissioner (and Deputy), subject to Cabinet approval

Parliament makes amendments to the IBAC Act, subject to Cabinet approval.

In addition to the Victorian bodies listed above, IBAC's operations are subject to scrutiny by various federal bodies, including:

- Commonwealth Ombudsman – inspects IBAC's use of stored communications warrants

¹ Attorney-General.

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- Commonwealth Attorney-General – receives reports on IBAC’s telecommunications interception and stored communications warrants.

3.2.6 Relationship with the Attorney-General

The Victorian Attorney-General is responsible for a number of integrity agencies, including IBAC, VI, VO, PIM and OVIC.

IBAC is not subject to the direction or control of the Attorney-General in respect of the performance of its duties and functions and the exercise of its powers. IBAC’s responsible Minister is the Attorney General supported by the DJCS. The Attorney-General does however receive reports on IBAC’s:

- telecommunications interception warrants
- surveillance device warrants
- assumed identities.

3.2.7 Relationship with the Department of Justice and Community Safety

Unlike IBAC, departments are not created by statute but by orders of the Governor in Council on recommendations of the Government. By convention, departments can be considered as extensions of their responsible Minister(s). Pursuant to that relationship, IBAC may be required to respond to queries from DJCS.

IBAC was declared a Special Body, via amendment to the *PA Act*, on 29 November 2011 (for commencement on 1 July 2012). As a Special Body, IBAC is not a public entity (s5 (1)(f) *PA Act*) and therefore not bound by the conditions of operation of public entities specified in the *PA Act*. In practical terms, this means the IBAC CEO, as Special Body Sector Head (s4 (1) *PA Act*), does not report to the DJCS Secretary and is not required to provide advice to the Government or implement Government policies and programs equitably (s7 (3) *PA Act*).

IBAC reports annually on its performance against Budget Paper 3 measures directly to the Department of Treasury and Finance, with the results published in the IBAC Annual Report.

3.2.8 Relationship with public officers, public bodies and the public sector

The Victorian public sector supports the government of the day in serving the Victorian community by providing public services, supporting Ministers in developing and implementing policies and legislation, building and maintaining physical and social infrastructure, managing resources and administering state finances.

For the purposes of the *IBAC Act*, the public sector means the sector comprising all public bodies and officers (s6 (1)). This includes state government departments and administrative offices, public entities (e.g. public health sector, government schools, TAFEs and other education entities, Victoria Police and emergency services agencies, water and land management, arts, finance, transport local councils, the judiciary² and Parliament³).

The public sector must provide its public services free from corrupt conduct and Victoria Police must operate free from police personnel misconduct, as defined under s4 and s5 of the *IBAC Act* respectively. Public officers must report to an appropriate authority workplace behaviour that violates any law, rule or regulation or constitutes corrupt conduct. Relevant principal officers must notify IBAC of all instances of matters suspected by them, on reasonable grounds to involve corrupt conduct (s57 (1)). Relevant principal officers include heads of state government departments and many government agencies and local council CEOs.

² With limitations.

³ With limitations

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The Chief Commissioner of Police must notify IBAC of any complaints he or she has received about corrupt conduct or police personal misconduct by Victoria Police employees or recruits (s57(2) *IBAC Act*).

IBAC's work covers the whole Victorian public sector, excluding IBAC itself, the Public Interest Monitor, the Office of the Special Investigations Monitor, the Victorian Inspectorate and the courts (s6(2) *IBAC Act*). This includes:

- receiving complaints from the public, notifications (from agencies) and public interest disclosures and assessing these matters for allegations of corruption or misconduct
- referring matters to other appropriate agencies (such as public sector bodies and integrity agencies) for action
- investigating serious or systemic public sector corruption and police misconduct
- informing the public sector and wider community about corruption and police misconduct and ways it can be prevented.

In carrying out investigations IBAC must consider the impact on human rights (see section 4.3 for further detail) and provide procedural fairness in relation to investigation results (s163 *IBAC Act*).

Complaints about IBAC and IBAC personnel conduct in respect of the performance or exercise of duties, functions or powers can be made to the Victorian Inspectorate.

3.3 Internal governance

3.3.1 IBAC Commissioner

3.3.1.1 Role and responsibilities

The Commissioner constitutes IBAC under s14 of the *IBAC Act* and is responsible for:

- undertaking the strategic leadership of IBAC for the purpose of achieving the objects of the *IBAC Act*
- the duties delegated to the Commissioner by IBAC
- any other duties conferred on the Commissioner under the *IBAC Act* or any other Act (s22 *IBAC Act*).

Other Acts relating to IBAC operations for which the Commissioner may have duties conferred are listed in section 1.2.

Under the *Standing Directions 2018* (made pursuant to the *Financial Management Act 1994 [FM Act]*) the Commissioner is the Responsible Body, with governance responsibilities for financial management. Pursuant to Direction 2.2, the Responsible Body must:

- ensure that government objectives and priorities, and relevant statutory purposes and functions, are furthered in a financially efficient, effective and economical way
- establish appropriate and effective financial governance and oversight arrangements and regularly review the effectiveness of those arrangements
- ensure the agency implements Victorian government policy frameworks relating to the requirements of the *FM Act* and the associated directions issued under section 8 of the *FM Act* (including the Directions, the Instructions and the Financial Reporting Directions)
- keep the Responsible Minister informed of agency activities and strategic issues with potential financial implications for the State. Note: For the purpose of the Standing Directions, the Commissioner is the Responsible Minister.

Under section 3.1.1 of the Victorian Government Risk management framework (VGRMF) the Responsible Body must be satisfied that:

- IBAC has a risk management framework in place consistent with *AS/NZS ISO 31000:2018 Risk Management – Principles and Guidelines*

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- the risk management framework:
 - is reviewed annually to ensure it remains current and is enhanced, as required; and
 - supports the development of a positive risk culture within the agency.
- IBAC defines its risk appetite
- it is clear who is responsible for managing each risk
- shared risks are identified and managed through communication, collaboration and/or coordination by impacted agencies
- IBAC contributes to the identification and management of state significant risks, as appropriate
- strategic and business planning and decision-making processes embed risk management and demonstrate considerations of IBAC's material risks
- adequate resources are assigned to risk management
- the agency risk profile and risk appetite is reviewed at least annually.

Under section 3.1.2 of the VGRMF the Responsible Body of an agency is required to insure with the Victorian Managed Insurance Authority (VMIA) and must:

- determine the most appropriate insurance products and levels of cover for IBAC's present and future risk exposure, in consultation with VMIA
- arrange all its insurance with VMIA, unless exempted by the responsible Minister or where VMIA cannot offer insurance for a specific risk
- maintain appropriate deductibles for each insurance product that reflects IBAC's risk appetite and capability for retaining financial risk
- provide adequate claims management capability, resources, structures and processes for the management of financial risks
- ensure claims management practices for retained financial risks are in place and that the agency maintains relevant claims data, and have this information available to VMIA on request
- provide required below deductible claims data for self-managed claims to VMIA.

Under section 3.2 of the VGRMF, the Responsible Body is responsible for the accuracy and completeness of the annual attestation of compliance with the VGRMF under *Ministerial Standing Direction 5.1.4 – Financial management compliance attestation* and should utilise audit committees or other internal governance bodies, where available, to support the view expressed.

3.3.1.2 Authority

The Commissioner has the functions and powers of IBAC (refer to section 1.2) delegated to the Commissioner by IBAC (s22(c) *IBAC Act*).

In accordance with s 32(3) of the *IBAC Act*, the Commissioner may delegate to a Deputy Commissioner, the CEO, Senior IBAC Officer or a person (*consultant*) appointed under section 36 any duty, function or power of the Commissioner, with some exceptions. Such delegations are made by instrument, maintained by the Executive Director Legal.

Pursuant to Direction 2.2 of the *Standing Directions 2018* (Standing Directions), the Commissioner (as Responsible Body) has the authority to:

- set IBAC's strategic direction and priorities
- approve related plans, budgets and policies
- approve major decisions related to strategic initiatives and policies
- oversee IBAC's delivery of services and agency objectives and performance
- approve key accountability reports including the IBAC Annual Report and performance reports.

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Under Direction 2.5, the Commissioner can delegate authorisation of expenditure of IBAC funds for specified amounts and activities to designated IBAC staff, and does so via the following instruments, maintained by the Chief Financial Officer:

- Instrument of Financial Authorisation⁴
- Delegation Instrument Standing Directions.⁵

3.3.1.3 Accountability

IBAC is not subject to the direction or control of the Attorney-General in respect of the performance of its duties and functions and the exercise of its powers (s18 *IBAC Act*) and the Commissioner is an independent officer of the Parliament (s19(1) *IBAC Act*).

The Commissioner is accountable to Parliament, through the Integrity and Oversight Committee.

3.3.1.4 Appointment

Subject to s 20 and 21 of the *IBAC Act*, and Cabinet approval, the Governor in Council, on the recommendation of the Minister, appoints the Commissioner.

3.3.2 Deputy Commissioners**3.3.2.1 Role and responsibilities**

The duties and functions of the Deputy Commissioners are not specified in the *IBAC Act*. However, the Deputy Commissioners may hold any duty and perform any function formally delegated by the Commissioner (s 32(1) *IBAC Act*).

For the benefit of IBAC, the Deputy Commissioners participate in all the functions of IBAC, including operations, prevention and communication and provide input and advice on corporate services matters of strategic or significant operational importance. The Deputies are involved both at a strategic level as members of the Executive Team and operationally through the exercise of functions under delegation.

3.3.2.2 Authority

Under the *IBAC Act*, the Deputy Commissioners:

- may have any duty, function or power of the Commissioner under the *IBAC Act* or any other Act delegated to him or her by the Commissioner (in accordance with s 32(1))
- has the power to delegate to, a senior IBAC Officer or a person (*consultant*) appointed under section 36, any duty, function or power of the Deputy Commissioner under the *IBAC Act* (including any duty, function or power delegated to the CEO under s 17 of the *IBAC Act*) or any other Act other than the power of delegation.

Although Deputy Commissioners regularly engage with staff across the organisation on operational matters, they are not involved in managing staff, who are managed and directed through reporting lines established within each division.

3.3.2.3 Accountability

The Deputy Commissioners are accountable to the Commissioner.

3.3.2.4 Appointment

Subject to s 23 of the *IBAC Act*, and Cabinet approval, the Governor in Council, on the recommendation of the Minister, and concurrence of the Commissioner, appoints the Deputy Commissioners.

3.3.3 Corporate Governance Committee

The Corporate Governance Committee (CGC) is an executive management committee that comprises the Commissioner, CEO (Chair) and IBAC Executive Directors. Corporate Services directors are standing invitees.

3.3.3.1 Role and responsibilities

The CGC's role and responsibilities cover:

- Providing advice and oversight of IBAC corporate functions – business planning and organisational performance, risk and compliance management, financial management, people management and organisational culture/structure, information management and business systems, internal communications
- Supporting the Commissioner to discharge his obligations as Responsible Body under the *Financial Management Act 1994*.

3.3.3.2 Authority

Through approval by the CEO, the CGC has authority to make decisions on the matters set out in the *CGC Terms of Reference*,⁶ and any other corporate matter the Chair approves to come before the committee. The CGC also supports the CEO to make decisions in their role as Accountable Officer under legislation relevant to public sector governance, including the PA Act and the FM Act 1994.

The CGC's preferred approach to making decisions and provide advice and support the CEO is by way of consensus. Where consensus cannot be reached, the decision will be made by the CEO.

3.3.3.3 Accountability

The CGC is accountable to the Commissioner.

3.3.3.4 Appointment

CGC members are appointed automatically by way of their position and specification of the committee's membership in its terms of reference.

3.3.4 Executive Leadership Team Committee

The Executive Leadership Team (ELT) Committee is an executive management forum that that comprises the Commissioner, Deputy Commissioners, CEO (Chair) and Executive Directors.

3.3.4.1 Roles and responsibilities

The ELT's roles and responsibilities cover:

- Organisational strategy - strategic planning and implementation, strategic risk appetite and management
- strategic stakeholder engagement management
- strategic policy issues – investigative and legislative strategy and planning, and operational, human source management, legislative reforms and operational sourcing.

3.3.4.2 Authority

Through approval by the CEO, the ELT Committee has authority to make decisions on the matters set out in the *ELT Committee Terms of Reference*,⁷ The ELT Committee makes decisions relevant to the strategic oversight of IBAC and supports the Commissioner, Deputy Commissioners, CEO and other delegates to make decisions within their authorised capacity. The ELT makes decisions and provides

advice and support to the Chair to reach a consensus. Where consensus cannot be reached, the decision will be made by the CEO.

3.3.4.3 Accountability

The ELT is accountable to the Commissioner.

3.3.4.4 Appointment

ELT members are appointed automatically by way of their position and specification of the committee's membership in its terms of reference.

3.3.5 Operations Governance Committee

The Operations Governance Committee (OGC) is an executive management committee that comprises the Commissioner, CEO (Chair), Deputy Commissioners, Executive Director Operations, Executive Director Prevention & Communication and Executive Director Legal, Assessment, Review & Compliance (LARC). There is also a range of standing invitees, mostly operational. OGC is primarily an advisory forum.

3.3.5.1 Role and responsibilities

The OGC's role and responsibilities cover:

- providing advice and oversight of IBAC core functions, including complaints and notifications (by exception), reviews, investigations, corruption prevention, education, policy and research, strategic stakeholder engagement and communication, strategic intelligence and IBAC legal affairs, including prosecutions.

3.3.5.2 Authority

The OGC does not make operational decisions where such authority formally resides elsewhere, for example in statutory delegations or authorisations. However, the OGC:

- advises on matters relevant to the operational oversight of IBAC
- supports the Commissioner, Deputy Commissioners and other delegates to make decisions in their role under relevant legislation including the *IBAC Act 2011* and its satellite legislation
- may make decisions on operational matters where authority is not otherwise assigned.

The functions undertaken by OGC are detailed in Appendix A. The Commissioner or Chair of the OGC may approve the OGC considering and deciding a matter that is not listed in Appendix A.

3.3.5.3 Accountability

The OGC is accountable to the Commissioner.

3.3.5.4 Appointment

OGC members are appointed automatically by way of their position and specification of the committee's membership in its terms of reference⁸.

3.3.6 Audit and Risk Management Committee

Under Direction 3.2.1.1 of the *Standing Directions 2018*, the Responsible Body (Commissioner) must establish an audit committee. IBAC's Audit and Risk Management Committee (ARMC) is an advisory committee with at least four members, the majority being independent and an independent member as Chair.

3.3.6.1 Role and responsibilities

The role of the ARMC is to provide independent assurance and advice to the Responsible Body (IBAC Commissioner) on the effectiveness of IBAC's internal control, risk management and compliance management frameworks, and its financial statement responsibilities.

The ARMC's responsibilities cover oversight and review of IBACs:

- financial reporting
- internal audit function
- external audit
- risk management
- legislative and policy compliance.

3.3.6.2 Authority

The ARMC has no executive powers, except those expressly provided by the *Standing Directions 2018* or delegated to it by the Responsible Body through the *ARMC Charter*⁹.

Direction 3.1.1.1(b) of the Standing Directions empowers ARMC to:

- approve IBAC's Internal Audit Charter
- approve IBAC's internal audit strategy and plan.

The Responsible Body authorises the Committee, within the scope of its responsibilities, to:

- perform activities within the scope of its Charter
- seek explanations and additional information from any IBAC officer and obtain any information it needs relevant to its responsibilities
- have access to the Accountable Officer (CEO), the Chief Finance Officer (Director Finance & Procurement), internal auditors and external auditor in carrying out the ARMC's responsibilities
- request the attendance of any IBAC officer, including the Responsible Body, at ARMC meetings
- obtain legal or other professional advice, as considered necessary to meet its responsibilities.

3.3.6.3 Accountability

The ARMC must:

- report to the Responsible Body⁴
- exercise independent judgement and be objective in its deliberations, decisions and advice
- self-assess its performance annually and report this assessment to the Responsible Body
- have its performance formally reviewed by the Responsible Body at least once every three years.

3.3.6.4 Appointment

The Accountable Officer (CEO) appoints ARMC members as consultants as defined under section 36 of the *IBAC Act*, in line with the Victorian Department of Premier and Cabinet's *Appointment and Remuneration Guidelines*.¹⁰ The Responsible Body pre-approves these appointments, including appointment of the Chair.

⁴ Direction 3.2.1.3(a) of the Standing Directions 2018.

3.3.7 Chief Executive Officer**3.3.7.1 Role and responsibilities**

The duties and functions of the CEO are not specified in the *IBAC Act*. However, the CEO may hold any duty and perform any function formally delegated by the Commissioner (s 32(3)).

The CEO is the Special Body Head of IBAC for the purposes of s 16 of the *PA Act*. In this role, the CEO:

- has all the duties of an employer in respect of IBAC and its employees (PA Act s 20(1))
- must promote the public sector values to IBAC Officers and ensure that any statement of values adopted or applied by IBAC is consistent with the public sector values (s 7(2))
- must establish employment processes in line with the public sector employment principles (s 8).

The CEO's responsibilities as an employer includes:

- ensuring employee pay rates and conditions are met, including associated financial obligations such as payroll tax, PAYG, and superannuation payments
- establishing leave policies and flexible work arrangements
- ensuring equal opportunity of employment
- maintaining staff records
- maintaining a safe working environment and adequate workers compensation insurance.

Specific employer responsibilities are set out in the relevant legislation listed in section 4.6.

The CEO has financial management responsibilities, as the Accountable Officer under the *FM Act*. Pursuant to Direction 2.3.1 of the *Standing Directions 2018*, the CEO's financial management responsibilities include:

- promoting and regularly reviewing the proper use and management of public resources for which the IBAC is responsible
- establishing and maintaining an effective internal control system
- identifying and managing IBAC's risks
- managing IBAC's financial information
- ensuring IBAC plans and manages performance to achieve financial sustainability
- ensuring IBAC's financial management compliance
- meeting internal and external reporting and information provision requirements
- providing assurance to IBAC's Audit and Risk Management Committee on:
 - the integrity of information relevant to financial management, performance and sustainability in the Annual Report
 - compliance with relevant legislation, standards and government requirements for attesting in the Annual Report
- consulting with the Responsible Body in relation to the appointment or the dismissal of the CFO
- providing assurance to the Audit and Risk Management Committee on the integrity of IBAC's budgets and financial projections and financial and performance reports
- providing the CFO, Audit and Risk Management Committee and internal audit function with access to the Accountable Officer, to enable those positions to carry out their responsibilities
- ensuring that exemptions from these Directions and Instructions are sought and dealt with appropriately.

Specific financial management responsibilities are set out in the relevant legislation listed in section 4.6. The CEO may also have responsibilities delegated under the *Delegations of Standing Directions Instrument*.⁴

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The CEO as Special Body Head must ensure that IBAC information is managed in compliance with the Victorian Protective Data Security Standards enacted under the *Privacy and Data Protection Act 2014* (s 88). Specific information management responsibilities are set out in the relevant legislation listed in section 4.6. The CEO may also have additional responsibilities under 'Other' legislation listed in section 4.6.

3.3.7.2 Authority

Under the IBAC Act, the CEO:

- has all the rights and powers of the CEO (s 33(6)(a))
- may have any duty, function or power of the Commissioner or Deputy Commissioner under the IBAC Act delegated to him or her by the Commissioner or Deputy Commissioner (in accordance with section 32(3))
- has the power to delegate to a senior IBAC Officer any duty, function or power of the CEO under the IBAC Act (including any duty, function or power delegated to the CEO under section 32 of the IBAC Act) or any other Act other than the power of delegation.

Under the PA Act, the CEO:

- may delegate his or her functions under the PA Act (s 18)
- has all the rights, powers and authorities of an employer in respect of IBAC and its employees (s 20)
- may assign an employee in IBAC, duties consistent with his or her employment classification, skills and capabilities (s 31A)
- may terminate the employment of a non-executive employee (s 33) and executives (s 34).

Under Direction 2.5 of the *Standing Directions 2018*, the CEO may delegate most of his or her powers and responsibilities under the Directions and subsidiary Instructions.

The CEO may also have additional authority under legislation listed in section 4.6 below.

3.3.7.3 Accountability

As Special Body Head under the *PA Act*, the CEO is accountable to the Attorney-General for IBAC's administrative affairs but is not subject to direction in relation to the exercise of his or her employer powers and must act independently (s 15(1) *PA Act*).

In exercising a right, power, authority or duty under the *PA Act*, the CEO is accountable for conforming to the public sector values, any binding code of conduct, the public sector employment principles, standards issued by the Victorian Public Sector Commissioner and any provisions of the *PA Act* or the regulations (s 20(3)).

As Accountable Officer under the *FM Act* (s 42(2)(b)), the CEO is accountable to the Commissioner as the Responsible Body. On behalf of the Commissioner, the CEO reports IBAC's financial affairs to the IOC under *Part 5 of the Integrity and Accountability Legislation Amendment (Public Interest Disclosure, Oversight and Independence Act) 2019 (Amending Act)*.

Pursuant to Direction 2.3.2 of the *Standing Directions 2018*, the CEO must, as soon as practicable:

- provide the Responsible Minister any information related to financial management, performance and sustainability required by the Responsible Minister
- notify the Responsible Minister of any significant issue of which the Accountable Officer is aware that has affected or may affect IBAC's or the State's financial management, performance, sustainability or reputation.

For the purposes of this direction, the Responsible Minister is the Responsible Body (IBAC Commissioner).

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The CEO may also have additional accountabilities under legislation listed in section 4.6 below.

3.3.7.4 Appointment

The Commissioner appoints the CEO in accordance with s 33 of the *IBAC Act*.

3.3.8 IBAC staff**3.3.8.1 Role and responsibilities**

IBAC staff are employed under the *VPS Enterprise Agreement 2020* and are required to perform their duties as per the agreement. which empowers the CEO to use the services of IBAC staff and facilities to perform its functions.

3.3.8.2 Authority

Senior IBAC Officers⁵ may have decision making authority under the *IBAC Act*, subordinate legislation and other Acts. These powers may be delegated by IBAC to the Commissioner (s 32(1)), and subsequently to Senior IBAC Officers (s 32(3)). Such delegations are made by instrument and maintained by the Executive Director Legal.

As specified in s 18 of the *PA Act*, the CEO, as Special Body Head, can delegate his or her (employer) rights, powers, authorities and duties to IBAC staff. Such delegations are made via the *Instrument of Delegation – People Management*,¹¹ maintained by the Director Human Resources.

3.3.8.3 Accountability

IBAC staff are ultimately accountable to the CEO.

IBAC employees are part of the Victorian Public Sector (VPS) and are bound by the *PA Act*, the *VPS Workplace Determination 2016* and any standards issued by the Victorian Public Sector Commissioner.

It is a condition of employment that all IBAC employees comply with the *Code of Conduct for Victorian Public Service Employees of Special Bodies*,¹² and disciplinary action may be taken if the Code of Conduct is breached.

3.3.8.4 Appointment

Staff may be employed by the CEO, as Special Body Head, under Part 3 of the *PA Act*.

IBAC may also enter into agreements or arrangements for the use of the services of any staff of a Department, statutory authority or other public body (s 35(2)) and engage consultants (s 36) under the *IBAC Act*.

4 Values and Code of Conduct**4.1 IBAC values**

IBAC's values are:

- Fairness: We are objective, consistent and impartial in everything we do demonstrating the highest standards of integrity and independence.
- Professionalism: We are responsive and accountable for our actions. We strive for excellence and take pride in our work.
- Courage: We are committed and tenacious in realising our purpose.

⁵ Defined under s 3 of the *IBAC Act* as a sworn IBAC Officer who is the holder of a prescribed office or position or is the holder of an office or position of a prescribed class of offices or positions.

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- Respect: We work in a spirit of cooperation and understanding, drawing on the skills and expertise of others. We are open and responsive, valuing the view of others.
- Trust: We promote and sustain public confidence through the quality of our work. We implicitly trust the competence of people we work with.

4.2 VPS values

IBAC employees are part of the VPS and are bound by the *PA Act*.

Section 7 of the *PA Act* outlines the Public Sector Values which underpin and reflect the behaviours essential to the relationship between:

- the public sector and the Government
- the public sector and the community
- those who work in the public sector.

The values are:

Responsiveness

- providing frank, impartial and timely advice to the Government (IBAC may be exempt as a special body)
- providing high quality services to the Victorian community
- identifying and promoting best practice.

Integrity

- being honest, open and transparent in their dealings
- using powers responsibly
- reporting improper conduct
- avoiding real or apparent conflicts of interest
- striving to earn and sustain public trust at the highest level.

Impartiality

- making decisions and providing advice on merit without bias, caprice, favouritism or self-interest
- acting fairly by objectively considering all relevant facts and applying fair criteria
- implementing Government policies and programs equitably (IBAC may be exempt as a special body).

Accountability

- working to clear objectives in a transparent manner
- accepting responsibility for their decisions and actions
- seeking to achieve best use of resources
- submitting themselves to appropriate scrutiny.

Respect

- treating others fairly and objectively
- ensuring freedom from discrimination, harassment and bullying
- using their views to improve outcomes on an ongoing basis.

Leadership

- actively implementing, promoting and supporting these values.

Human Rights

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Public servants should also respect and promote the human rights set out in the *Charter of Human Rights and Responsibilities Act 2006* by:

- making decisions and providing advice that is consistent with human rights; and
- actively implementing, promoting and supporting human rights.

These values are reflected and complemented by the *Code of Conduct for VPS employees of Special Bodies* and employment principles.

4.3 Human rights

The *Charter of Human Rights and Responsibilities Act 2006 (Vic) (Charter Act)* s 38(1) makes it unlawful for public authorities to:

- 'act in a way that is incompatible' with a human right (the conduct obligation)
- in making a decision, to fail to give 'proper consideration' to a relevant human right (the procedural obligation).

IBAC is a public authority for the purpose of s 38(1) of the *Charter Act* and, accordingly, is required to conform to it. Failure to do so will be unlawful.

In relation to the conduct obligation IBAC will Act 'incompatibly' with a human right if its conduct has the effect of limiting a person's enjoyment of a right, and that limitation is unable to be justified under s 7(2) of the *Charter Act*. As such, where IBAC's conduct limits a particular human right, IBAC must be able to demonstrate upon clear evidence that the limitation was demonstrably justified based on factors including:

- the nature of the right
- the importance of the purpose of the limitation
- the nature and extent of the limitation
- the relationship between the limitation and its purpose
- any less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve.

Under the procedural obligation, IBAC is required to give 'proper consideration' to people's human rights when making decisions. In order to discharge this obligation IBAC is required to understand in general terms:

- which of the rights of the person affected by the decision may be relevant
- whether, and if so how, those rights will be interfered with by the decision that is made.

As part of the exercise of justifying any intrusion into people's rights, proper consideration by IBAC will involve it balancing competing private and public interests.

4.4 Employment principles

Section 8 of the *PA Act* outlines the principles for employment in the public sector. These principles reflect and complement the Public Sector Values. IBAC is required to establish processes to ensure:

- employment decisions are based on merit
- employees are treated fairly and reasonably
- equal employment opportunity is provided
- human rights, as set out in the *Charter of Human Rights and Responsibilities Act 2006*, are upheld
- employees have a reasonable avenue of redress against unfair or unreasonable treatment
- in the case of public service bodies, the development of a career public service is fostered.

4.5 Code of conduct

The *Code of Conduct for VPS Employees of Special Bodies* is based on and reinforces public sector values. It prescribes how, as public servants, we are required to conduct our business and treat:

- the public
- our clients
- each other as colleagues.

It is a condition of employment that all VPS employees comply with the Code of Conduct, and disciplinary action may be taken if the Code of Conduct is breached.

4.6 Other legislation

In addition to the legislation relating to IBAC's powers and functions listed in section 1.2, additional legislation that applies to IBAC includes, but is not necessarily limited to, the following:

Employment

AusCheck Act 2007
Australian Human Rights Commission Act 1986
Charter of Human Rights and Responsibilities Act 2006
Disability Discrimination Act 1992 (Cth)
Disability Act 2006 (Vic)
Equal Opportunity Act 1995
Equal Opportunity Act 2010
Fair Work (Commonwealth Powers) Act 2009
Independent Contractors Act 2006 (Cth)
Long Service Leave Act 1992
Paid Parental Leave Act 2010 (Cth)
Public Administration Act 2004
Public Administration (review of Actions) Regulations 2005
Racial and Religious Tolerance Act 2001
Racial Discrimination Act 1975 - Victoria (Cth)
Racial Discrimination Regulations - Victoria (Cth)
Sex Discrimination Act 1984 - Victoria (Cth)

Financial management

Financial Management Act 1994
State Superannuation Act 1988
A New Tax System (Goods and Services Tax) Act 1999 (Cth)
Income Tax Assessment Act 1997 (Cth)
Fringe Benefits Tax Act 1986 (Cth)
Payroll Tax Act 2007 (VIC)

Information

Audit Act 1994
Freedom of Information Act 1982
Health Records Act 2001
Ombudsman Act 1973
Privacy Act 1988 (Cth)
Privacy and Data Protection Act 2014
Public Records Act 1973

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Accident Compensation (Work Cover Insurance) Act 1993
Accident Compensation Act 1985
Dangerous Goods Act 1985
Dangerous Goods (Storage and Handling) Regulations 2012
Occupational Health & Safety Act 2004
OHS Act 2004 - Section 21(1) Compliance Code - WorkSafe Victoria
Occupational Health & Safety Regulations 2007
Occupational Health & Safety (Confined Spaces) Regulations 1996
Occupational Health & Safety (Manual Handling) Regulations 1999

Operational

Victorian Inspectorate Act 2011
Service & Execution of Process Act 1992 (Cth)
Court Security Act 1980
Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth)
Australian Crime Commission Act 2002

Other

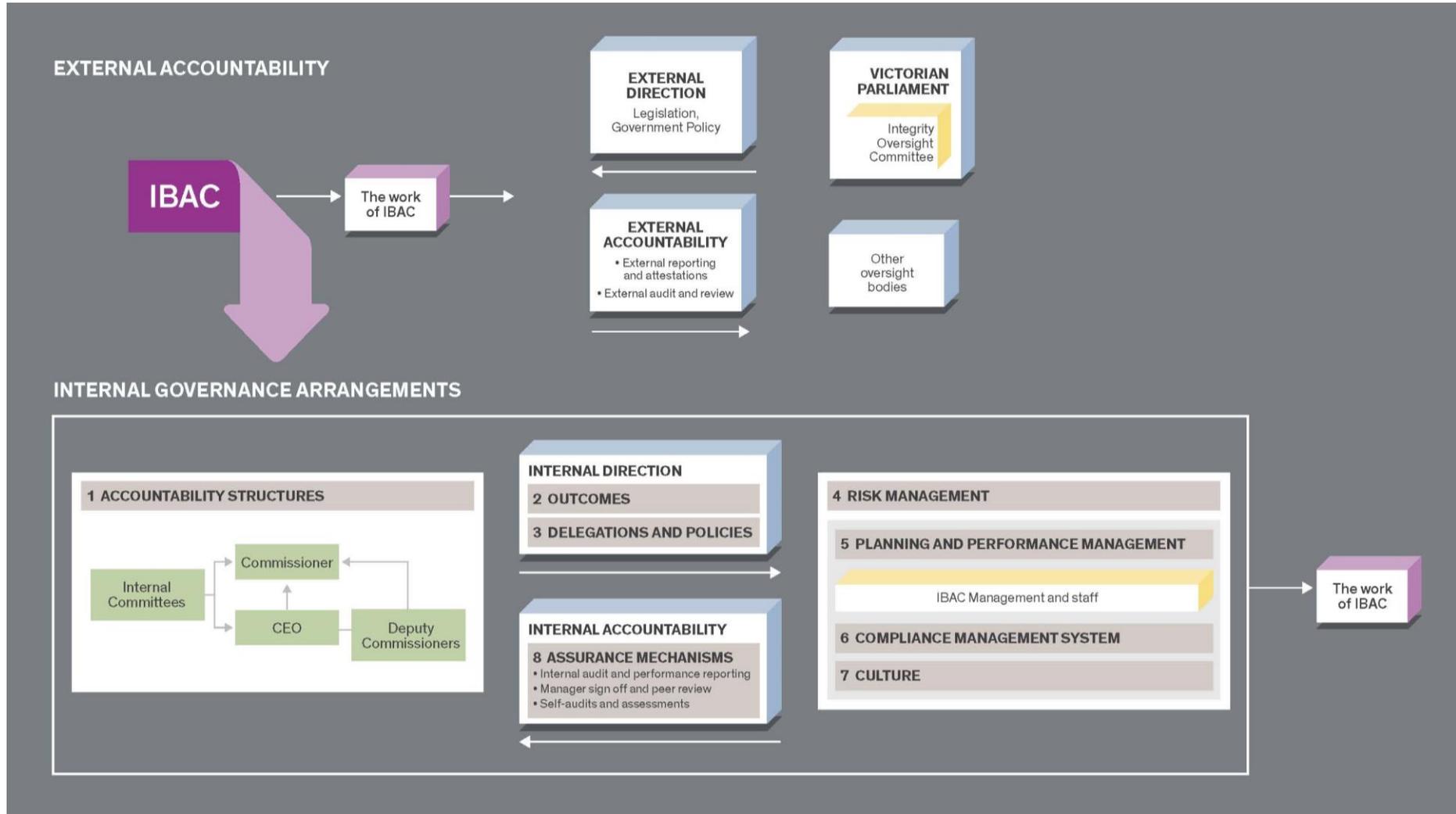
Fair Trading Act 1985
Planning and Environment Act 1987
WorkCover and Occupational Health legislation
Victorian Managed Insurance Authority Act 1996

5 Authorisation

Date	Name	Signature
24-08-21 3:21:11 AM	Marlo Baragwanath Chief Executive Officer	DocuSigned by:  809FE259E6DE4BA...

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Attachment A – IBAC’s governance framework



OFFICIAL**Attachment B – Appointees as at 30 June 2021****External Governance**

Governance entity	Position	Name
Victorian Parliament	Members	http://www.parliament.vic.gov.au/about/people-in-parliament/members
Integrity and Oversight Committee	Chair	The Honourable Jill Hennessey
	Deputy Chair	Mr Brad Rowswell
	Member	Mr Stuart Grimley
	Member	Mr Dustin Halse
	Member	Ms Harriet Shing
	Member	Mr Jackson Taylor
Victorian Inspectorate	Inspector	The Hon. Kim Wells
Public Interest Monitor	Principal Public Interest Monitor	Mr Eamonn Moran PSM QC
The Minister	Attorney-General	The Honourable Michael Strong
Department Secretary	Secretary Department Justice and Community Safety	Ms Jaclyn Symes
		Ms Rebecca Falkingham

Internal Governance

Governance entity	Position	Name
IBAC (Commissioner)	Commissioner	The Honourable Robert Redlich QC
Deputy Commissioners	Deputy Commissioner	Mr David Wolf
	Deputy Commissioner	Ms Kylie Kilgour
	Deputy Commissioner	Mr Stephen Farrow
Corporate Governance Committee (CGC)	Chair (CEO)	Ms Marlo Baragwanath
	Member (Commissioner)	The Honourable Robert Redlich QC
	Member (Executive Director Corporate Services)	Mr Glenn Ockerby
	Member (Executive Director Prevention & Communication)	Ms Christine Howlett
	Member (Executive Director Operations)	Vacant
	Member (Executive Director Legal)	Ms Stacey Killackey
Executive Leadership Team Committee	Chair (CEO)	Ms Marlo Baragwanath
	Member (Commissioner)	The Honourable Robert Redlich QC
	Deputy Commissioner	Mr David Wolf
	Deputy Commissioner	Ms Kylie Kilgour
	Deputy Commissioner	Mr Stephen Farrow
	Member (Executive Director Corporate Services)	Mr Glenn Ockerby
	Member (Executive Director Legal)	Ms Stacey Killackey

IBAC Governance Charter

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	Member (Executive Director Operations)	Vacant
	Member (Executive Director Prevention & Communication)	Ms Christine Howlett
Operations Governance Committee (OGC)	Chair (Commissioner)	The Honourable Robert Redlich QC
	Member (Deputy Commissioner)	Mr David Wolf
	Member (Deputy Commissioner)	Ms Kylie Kilgour
	Member (Deputy Commissioner)	Mr Stephen Farrow
	Member (CEO)	Ms Marlo Baragwanath
	Member (Executive Director Prevention & Communication)	Ms Christine Howlett
	Member (Executive Director Operations)	Vacant
	Member (Executive Director Legal)	Ms Stacey Killackey
Audit and Risk Management Committee (ARMC)	Chair	Ms Sara Watts
	Member	Mr Geoff Harry
	Member	Ms Jennifer Johanson
	Member	Mr Chris Sheehan
Chief Executive Officer (CEO)	Chief Executive Officer	Ms Marlo Baragwanath

References

¹ *Independent Broad-based Anti-corruption Commission Act 2011* - <https://www.legislation.vic.gov.au/in-force/acts/independent-broad-based-anti-corruption-commission-act-2011/033>

² IBAC Corporate Plan 2018-21 – <https://www.ibac.vic.gov.au/publications-and-resources/article/corporate-plan-2018-21>

³ Governance framework – internal document only - CD/17/51612*

⁴ Instrument of Financial Authorisation - Internal document only – CD/18/40063*

⁵ Delegations Instrument Standing Directions - Internal document only – CD/17/29942*

⁶ Corporate Governance Committee Terms of Reference - Internal document only – CD/20/61026*

⁷ Executive Leadership Team Committee Terms of Reference - Internal document only – CD/21/40207*

⁸ Operations Governance Committee Terms of Reference - Internal document only – CD/20/61027*

⁹ Audit and Risk Management Committee Charter – Internal document only –CD/20/27853*

¹⁰ Appointment and Remuneration Guidelines – <https://www.dpc.vic.gov.au/index.php/policies/governance/appointment-and-remuneration-guidelines>

¹¹ Instrument of Delegation – People Management - Internal document only –CD/19/1359*

¹² *Code of Conduct for VPS Employees of Special Bodies* - <https://vpsc.vic.gov.au/html-resources/code-of-conduct-for-victorian-public-sector-employees-of-special-bodies/>