

**Royal Commission into the
Management of Police Informants:**
Victorian Government Response and
Implementation Plan

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1. Attorney-General's foreword

The Victorian Government established the Royal Commission into the Management of Police Informants (the Commission) on 3 December 2018 to independently inquire into matters that go to the heart of Victoria's criminal justice system. The Commission made 111 recommendations, with 54 directed to the Victorian Government, 41 to Victoria Police, and recommendations also directed towards the Director of Public Prosecutions, Victorian Bar Council, Public Interest Monitor, the Independent Broad-based Anti-corruption Commission (IBAC), Law Institute of Victoria, Law Council of Australia, Legal Services Council, and Victorian Legal Services Board and Commissioner.

The Government is committed to implementing all the Commission's recommendations and has now allocated \$87.92 million to support this important work and ensure the events that led to the Commission never happen again.

The Commission's extensive and detailed inquiry uncovered significant historical shortfalls in the criminal justice system. Victoria Police has accepted responsibility for its role in these events and I acknowledge the significant steps Victoria Police has taken to improving its policies and procedures. I welcome Victoria Police's public commitment to implementing the Commission's recommendations and embedding systemic change.

We have already commenced work to deliver the Commission's recommendations within the indicative timeframes specified in the Commission's final report, including the implementation of 10 recommendations by the end of February 2021. Government has established the cross-agency Implementation Taskforce, consisting of all Victorian agencies with lead implementation responsibilities. The Government has appointed Sir David Carruthers as the Implementation Monitor to independently monitor the implementation of all

recommendations. Sir David will report to me annually and I will, in turn, report to Parliament on progress of implementation. This will provide additional assurance to the community that all parties with implementation responsibilities are addressing the shortfalls uncovered by the Commission.

The Commission's work followed the Victorian Parliament's former IBAC Committee's extensive 2017-2018 public inquiry into the external oversight of police corruption and misconduct in Victoria. I was privileged to serve as a member of the IBAC Committee during its inquiry. What clearly emerges from the work of the IBAC Committee and the Commission is the current police oversight system needs a stronger focus placed on the needs of complainants and victims of police misconduct. The Commission's recommendations build on the IBAC Committee's inquiry and set out a clear pathway for review and reform. This response incorporates the Government response to the IBAC Committee's Inquiry into the external oversight of police corruption and misconduct in Victoria.

There is still a long road ahead to delivering on our commitment to fully restoring confidence in Victoria's criminal justice system. Systemic and enduring changes will take time and effort. The Commission's report provides the blueprint and this response details our pathway to delivering on that commitment.



Jaclyn Symes MP
Attorney-General

Glossary

Term	Definition
Appeal	A review of a court or tribunal's decision by a higher court.
Barrister	<p>A type of lawyer. Barristers tend to specialise in representing people in court and may give legal advice on legal issues. A barrister generally receives instructions from their client (that is, the person they are representing) through a solicitor.</p> <p>Barristers and solicitors are often collectively referred to as 'lawyers'.</p>
Bar roll	An official record of all persons allowed to practice as a barrister in Victoria.
Charter	<p>The <i>Charter of Human Rights and Responsibilities Act 2006</i> (Vic) (Charter) is a Victorian law that sets out the basic rights, freedoms and responsibilities of all people in Victoria. It is about the relationship between government and the people it serves.</p> <p>The Charter requires public authorities, such as Victorian state and local government departments and agencies, and people delivering services on behalf of government, to act consistently with the human rights in the Charter.</p>
Conviction	A formal declaration by a court that a person is guilty of a criminal offence.
Criminal proceeding	The process of criminal charges being brought against an accused person (also known as a defendant) before a court.
Disclosure	<p>A process in court proceedings where each party is required to give any information that is, or may be considered, relevant to the case.</p> <p>In criminal proceedings the prosecution (including the police) has a duty to disclose all evidence that is relevant to the case against an accused person, even if that evidence might undermine the prosecution's case or help the accused person's case. This duty is subject to some exceptions, including information protected by public interest immunity.</p>
Human source	<p>A person who covertly gives information to police about a crime or people involved in criminal activity, usually with an expectation that their identity will be kept confidential.</p> <p>A human source is also referred to as a police 'informer' or 'informant'.</p>

Term	Definition
Human Source File Auditor	An independent barrister appointed in accordance with Recommendation 6 of the Commission’s final report to review and report to the Attorney-General, Minister for Police and Chief Commissioner of Victoria Police on 11 Victoria Police human source files that are extremely sensitive and were not provided to the Commission.
Human Source Policy	Victoria Police Manual – Human Sources. A document that sets out the requirements for risk assessment, management and deactivation of human sources. It also sets out the roles and responsibilities of those involved in the use and management of human sources.
IBAC Committee	The IBAC Committee is a former joint investigatory committee of the 58th Parliament of Victoria. Its key role was to monitor, review and report to Parliament on Victoria’s anti-corruption agencies. On 5 March 2019 the Committee merged with the Accountability and Oversight Committee and became the Integrity and Oversight Committee.
Interpose	Victoria Police’s intelligence and case management IT system.
Inquiries Act	The <i>Inquiries Act 2014</i> (Vic). The legislation that governs the establishment and conduct of inquiries, including royal commissions, in Victoria.
Lawyer	<p>A person who has studied law, completed practical legal training and been admitted to legal practice. A lawyer can advise a person about the law and represent them in court.</p> <p>Both solicitors and barristers are ‘lawyers’.</p>
Lead agency	The entity responsible for implementing the Commission’s recommendation.
Legal obligations of confidentiality or privilege	Duties imposed on people entrusted with confidential or privileged information to protect the information and not to disclose or distribute it.
Legal Profession Uniform Law	The <i>Legal Profession Uniform Law Application Act 2014</i> (Vic). The legislation that governs the practice of law and the regulation of the legal profession in Victoria. Equivalent legislation is also in place in New South Wales.
Legal professional privilege	A right that protects the disclosure of certain communications between a lawyer and their client.

Term	Definition
Oversight agency	An agency responsible for independent scrutiny and protection of the integrity of the public sector and/or law enforcement.
Potentially affected person	A person, convicted of a criminal offence, whose case the Commission assessed and determined may have been affected by Victoria Police's use of Ms Gobbo as a human source.
Public interest immunity	A rule of evidence used in court proceedings and inquiries. The rule states relevant evidence is not to be disclosed where disclosure would damage the public interest and the need to avoid damage outweighs a person's right to have all the relevant evidence made available to them.
Solicitor	<p>A type of lawyer. Solicitors provide legal advice to individuals and organisations and will sometimes instruct a barrister to assist with representing their clients in court or provide advice on complex legal issues.</p> <p>Solicitors and barristers are often collectively referred to as 'lawyers'.</p>
Victorian Legal Admissions Board	Victorian Legal Admissions Board is a statutory body which performs functions associated with the admission of lawyers in Victoria. At the time Ms Gobbo was admitted to practice as a lawyer this role was performed by a body called the Board of Examiners.

2. Background to the Commission's inquiry and recommendations

The Government announced the establishment of the Commission on 3 December 2018 following the publication of the High Court's decision in *AB v CD, EF v CD*, which revealed former criminal defence barrister, Ms Nicola Gobbo, was a registered Victoria Police human source.¹

The Commission was asked to determine the number of cases that may have been affected by the conduct of Ms Gobbo as a human source (and to what extent) at various times over a 14-year period between 1995 and 2009.

In addition, the Commission was asked to examine the adequacy and effectiveness of Victoria Police's current processes for the recruitment, management and disclosure of human sources who are subject to legal obligations of confidentiality or privilege.

The Commission delivered its final report on 30 November 2020. The extensive and detailed inquiry exposed historical shortfalls within Victoria's criminal justice system and emphasised the critical importance of strengthening the operation of, and public confidence in, that system.

The Commission's 111 recommendations fall into three categories:

- referrals for investigations of criminal conduct and misconduct to a new Special Investigator

- mandated processes for Victoria Police and the Director of Public Prosecutions (DPP) to ensure all people potentially affected by Ms Gobbo's use as a human source receive information relevant to their cases
- reforms to legislation, policies and procedures governing the use of human sources, disclosure in criminal proceedings, and aspects of legal profession regulation and police oversight.

The Government, as well as other bodies to which recommendations are directed have committed to delivering the changes detailed in the Commission's recommendations.

This response discusses the Commission's key findings, observations and the approach to the implementation of recommendations. It addresses:

- the Government's implementation framework and implementation governance structure
- the role of the Special Investigator
- human source management reforms
- police oversight reforms
- disclosure reforms
- legal profession regulation reforms
- improving the effectiveness of future royal commissions
- ongoing management of the Commission's records.

¹ *AB v CD, EF v CD* [2018] HCA 58.

3. Victoria Police's response to the Commission

Prior to the release of the Commission's final report, Victoria Police accepted responsibility for the events that led to the Commission and publicly apologised to the courts and the Victorian community for breaching its trust.² It accepted the cause of events that are the subject of the Commission's inquiry were primarily organisational and systemic.³

Victoria Police stated:

*without reservation that the way in which Ms Gobbo was managed as a human source in a way that resulted in a profound interference with the relationship between lawyer and client was a major failing. The consequences of that failing are resonating through the criminal justice system and will do so for many years. It has come at a very high cost to the organisation, to public confidence and to the criminal justice system.*⁴

As the Commission noted in its final report, Victoria Police has already taken steps to improve its policies, practices and training around human source management and disclosure, partly in response to the events that were the subject of the Commission's inquiry.⁵ The Commission also noted the Chief Commissioner of Victoria Police has commented publicly that the organisation will heed the Commission's recommendations and take whatever steps necessary to learn from its mistakes.⁶

Immediately after the release of the Commission's final report, the Chief Commissioner reiterated Victoria Police's commitment to reform, noting the Commission had identified areas in which Victoria Police can further improve, and emphasised his commitment to ensuring these opportunities are fully realised.⁷

Victoria Police has announced the establishment of Taskforce Reset to lead its organisational response on all matters arising out of the Commission. The Chief Commissioner stated Taskforce Reset will be provided with all the resources necessary to ensure it is able to deliver fully on its remit.⁸

² Responsive submission to the Royal Commission into the Management of Police Informants, Victoria Police, 24 August 2020, 10 [2.7], [2.9].

³ Responsive submission to the Royal Commission into the Management of Police Informants, Victoria Police, 24 August 2020, 10 [2.10].

⁴ Responsive submission to the Royal Commission into the Management of Police Informants, Victoria Police, 24 August 2020, 10 [2.8].

⁵ Royal Commission into the Management of Police Informants, November 2020, Final Report, Volume II, page 239.

⁶ Royal Commission into the Management of Police Informants, November 2020, Summary and Recommendations, page 24.

⁷ Chief Commissioner Patton, Media Statement, 30 November 2020.

⁸ Chief Commissioner Patton, Media Statement, 30 November 2020.

4. Other stakeholders' response to the Commission

The Victorian legal profession has publicly welcomed the Commission's findings and its regulatory bodies have committed to implementing the recommendations in a meaningful and coordinated way.

The Victorian Legal Services Board and Commissioner (VLSBC) has publicly supported the Commission's recommendations as they apply to lawyers. Following the delivery of the Commission's report, VLSBC CEO and Commissioner Fiona McLeay announced the VLSBC:

look[s] forward to working closely with the State Government and legal stakeholders, including the Legal Services Council, the Victorian Bar and the Law Institute of Victoria, to ensure the recommendations relating to legal regulation are properly implemented.⁹

The Victorian Bar has also welcomed the final report and supported the Commission's recommendations. The President of the Victorian Bar, Christopher Blenden QC, said:

The Victorian Bar and its members support the recommendations of the Royal Commission into the Management of Police Informants. The Commissioner's

robust investigation of these serious matters, and the implementation of the recommendations in the report will enable the justice sector to move forward.. The findings of the Royal Commission should strengthen public confidence in the integrity of the administration of justice and those barristers and solicitors who are charged with upholding it. We will be working closely with the Victorian Legal Services Board and Commissioner to implement the recommendations as they apply to the governance and oversight of barristers at the Victorian Bar.¹⁰

The Law Institute of Victoria (LIV) has also accepted the Commission's recommendations and committed to working with the Victorian Bar, VLSBC and other relevant legal profession stakeholders on implementation.¹¹ The LIV stated:

The Royal Commission into the Management of Police Informants provides a roadmap to reform the criminal justice system and restore public confidence in the legal profession.¹²

⁹ Victorian Legal Services Board + Commissioner, Media Release, 30 November 2020 <<https://lsbc.vic.gov.au/news-updates/news/vlsbc-welcomes-findings-royal-commission-management-police-informants>>.

¹⁰ The Victorian Bar, Media Release, 30 November 2020 <<https://www.vicbar.com.au/news-events/media-release-royal-commission-management-police-informants>>.

<<https://www.liv.asn.au/Staying-Informed/Media-Releases/Media-Releases/November-2020/Royal-Commission-provides-a-roadmap-for-criminal-justice-reform>>.

¹¹ Law Institute of Victoria, 30 November 2020 <<https://www.liv.asn.au/Staying-Informed/Media-Releases/Media-Releases/November-2020/Royal-Commission-provides-a-roadmap-for-criminal-justice-reform>>.

¹² Law Institute of Victoria, 30 November 2020 <<https://www.liv.asn.au/Staying-Informed/Media-Releases/Media-Releases/November-2020/Royal-Commission-provides-a-roadmap-for-criminal-justice-reform>>.

5. Government's approach to the implementation task

Upon establishing the Commission in December 2018, the Premier stated that the Government intended to implement all the Commission recommendations, a commitment that was reiterated by the Attorney-General upon receipt of the Commission's final report on 30 November 2020.¹³

Since the Commission handed down its final report, the Government has moved quickly to establish a robust governance structure and implementation framework to support and guide the implementation of recommendations. Both the governance structure and implementation framework are informed by the Commission's final report itself, as set out in more detail below.

Consistent with recent public inquiries and royal commissions, the Commission provided a detailed framework to guide the implementation of its recommendations. It emphasised the keys to a successful implementation are:

- establishing processes and structures to facilitate implementation
- strong leadership and stakeholder engagement
- an accountability framework and monitoring process.¹⁴

The Government has also committed \$87.92 million to ensure agencies are appropriately funded and resourced to implement the Commission's recommendations and ensure that appeals arising from the Commission are heard in a timely manner.

¹³ Victoria, Parliamentary Debates, Legislative Assembly, 19 December 2018 (Premier Daniel Andrews), page 10; Media release, 30 November 2020: 'Government To Act on All Recommendations of Royal Commission Into The Management of Police Informants' <[https://www.premier.vic.gov.au/government-act-all-](https://www.premier.vic.gov.au/government-act-all-recommendations-royal-commission-management-police-informants)

[recommendations-royal-commission-management-police-informants](https://www.premier.vic.gov.au/government-act-all-recommendations-royal-commission-management-police-informants)>.

¹⁴ Royal Commission into the Management of Police Informants, November 2020, Final Report, Volume IV, page 165.

5.1 Implementation principles

The Commission encouraged stakeholders to work together throughout the implementation process, focusing on implementation that is:

- **purposeful** to avoid purely compliance focused acquittal
- **targeted** and aimed at delivering the Commission's objectives of:
 - restoring faith in the criminal justice system
 - redressing past injustice
 - preventing recurrence of events giving rise to the Commission
- **transparent and accountable** with all those involved in the implementation of the Commission's recommendations to take responsibility in achieving the above objectives
- **timely and focused** on addressing issues once and for all
- **designed to avoid delay or inaction** in undertaking meaningful and long-lasting reforms
- **inclusive and collaborative**, with reforms based on cross-agency consultation and guided by a shared commitment to the principles that underpin the criminal justice system
- **flexible and adaptable**, aimed at minimising administrative and reporting burden for implementation agencies.¹⁵

Informed by the above objectives, Government has developed a principles-based implementation framework. The framework will guide the way Government approaches the implementation task, with an emphasis on achieving the Commission's objectives and Government's commitment that the events that led to the Commission can never occur again. It also outlines how Government intends to achieve the Commission's objectives, including through strong leadership and being transparent and accountable regarding implementation progress. It will also focus on implementation that will generate lasting cultural and structural change.

Another key feature of Government's implementation approach is a commitment to regular and open communication between all lead agencies. This will enable effective, efficient and coordinated implementation across all agencies involved in implementing the Commission's 111 recommendations. Government has already taken steps to establish processes and structures to facilitate lines of communication that will be critical to progressing implementation in the manner envisaged by the Commission.

The principles-based implementation framework is provided at **Appendix A**.

¹⁵ Royal Commission into the Management of Police Informants, November 2020, Final Report, Volume IV, page 166.

5.2 Implementation timeframes

The Commission made 111 recommendations in total, 54 of which are directed towards the Victorian Government. These include:

- three recommendations to be implemented **within three months**, including the appointment of an Implementation Monitor and Human Source File Auditor and the establishment of an Implementation Taskforce
- two recommendations to be implemented **within six months**, including reviews of the court's powers to make non-disclosure orders and aspects of the legal admission process in Victoria
- 14 recommendations to be implemented **within 12 months**, including developing legislation to establish a Special Investigator with the necessary powers and resources to investigate potential criminal conduct and misconduct associated with Ms Gobbo's use as a human source
- one recommendation to be implemented **within 18 months**, directing Government to amend the *Inquiries Act 2014* (Vic) (Inquiries Act) to remove the ability of agencies to refuse to provide material to a Royal Commission based on public interest immunity (PII)
- 27 recommendations to be implemented **within two years**, including developing and implementing legislation for Victoria Police's registration, use and management of human sources.

One recommendation directed at Government involves staged implementation, and six recommendations directed to Government impose long-term or ongoing obligations or do not include specific timeframes for implementation. This includes recommendations with monthly and annual reporting requirements. **Appendices B and C** detail the Government's implementation deliverables, indicative timeframes for completion from the delivery of the Commission's final report on 30 November 2020 and current status.

In addition to the recommendations directed to Government, 41 recommendations are directed to Victoria Police. Recommendations are also directed towards the DPP, Victorian Bar Council, Public Interest Monitor, the Independent Broad-based Anti-corruption Commission, LIV, Law Council of Australia, Legal Services Council, Australian Bar Association, and VLSBC. These include:

- seven recommendations to be implemented **within three months**, including the establishment of strategic governance committees on disclosure and human source management and removing Ms Gobbo from the Victorian Bar Roll
- seven recommendations to be implemented **within six months**, including reforms to disclosure in criminal proceedings and the preparation of ethics guidance on specific conflict of interest issues and scenarios that can arise from criminal defence barristers

- 30 recommendations to be implemented **within 12 months**, including the development of new protocols and procedures to manage complex issues arising from disclosure obligations and PII claims and significant reforms to Victoria Police’s human source management policy
- six recommendations to be implemented **within two years**, including the development and implementation of a new strategy to prevent and detect misconduct in human source management
- one recommendation to be implemented **within three years**, directing Victoria Police to engage an independent expert to evaluate and report on its new human source management risk assessment tools.

Three recommendations involve staged implementation, and three recommendations impose long-term or ongoing obligations or do not include specific timeframes for implementation. This includes commissioning independent external reviews of some of the measures post implementation and ongoing reporting requirements.

The Government is working closely with each agency responsible for implementing the Commission’s recommendations through the cross-agency Implementation Taskforce, and in collaboration with Commonwealth agencies such as the Legal Services Council, Law Council of Australia and the Australian Bar Association, to ensure implementation is coordinated, efficient, effective and timely. All agencies represented on the Implementation Taskforce are committed to a principles-based approach to implementation as outlined above and achieving outcomes-based and enduring reform. **Appendix D** outlines responsible agencies’ implementation deliverables, indicative timeframes for completion from the delivery of the Commission’s final report on 30 November 2020 and current status.

5.3 Governance structure

To support its implementation principles, the Commission recommended a robust governance structure to oversee the implementation of its recommendations. The two principal mechanisms recommended by the Commission were a cross-agency taskforce to coordinate implementation (Implementation Taskforce) (**Recommendation 107**) and an independent monitor to assess and report on the status and adequacy of the recommendations (Implementation Monitor) (**Recommendations 108, 109 and 110**).

These governance arrangements are a key part of ensuring the implementation process remains focused on its overarching implementation objectives. They also provide the Victorian community confidence that the process is being independently monitored and holds Government and other lead agencies to account.

5.3.1 Implementation Monitor

The Commission emphasised the need for independent monitoring and reporting to support the effective and transparent implementation of its recommendations. Accordingly, the Commission recommended that the Government appoints an independent Implementation Monitor to assess and report to Government on the implementation of the Commission's recommendations until that task is completed (**Recommendation 108**).

The Commission also noted legislation may be required to support the establishment and work of the Implementation Monitor and ensure they can access all information necessary to undertake their role.¹⁶ However, the Commission recommended that the Implementation Monitor be appointed as a matter of priority, with the Implementation Monitor to become a statutory appointee once legislation governing their appointment is in force.¹⁷ A similar process was followed in relation to the Family Violence Reform Implementation Monitor.

The Government appointed Sir David Carruthers as the Implementation Monitor in February 2021.¹⁸ Sir David has significant experience and understanding of criminal justice and law enforcement issues. He has served as Chief District Court Judge in New Zealand, Chair of the New Zealand Parole Board, and Chair of the New Zealand Independent Police Conduct Authority, making him a highly qualified person to carry out this important role.

Work is also underway to develop legislation which will establish the Implementation Monitor as a statutory office, giving it all reasonable and necessary powers to fulfil its role. Legislation is anticipated to be introduced into Parliament in the second half of 2021. The Implementation Monitor will be a key implementation partner, monitoring implementation progress and advising Government and lead implementation agencies on the adequacy of implementation and what further measures may be required to ensure the Commission's recommendations are implemented.

¹⁶ Royal Commission into the Management of Police Informants, November 2020, Final Report, Volume IV, page 167.

¹⁷ Royal Commission into the Management of Police Informants, November 2020, Final Report, Volume IV, page 167.

¹⁸ The Hon. Jaclyn Symes, Attorney-General (Vic), Media Release, 1 March 2021 <<https://www.ioclvsymes.com.au/media-releases/royal-commission-implementation-monitor-appointed/>>.

In line with the Commission's observations, the Government envisages that the Implementation Monitor's role will be interactive over the course of the implementation process and will not be restricted to after-the-event reporting on compliance.¹⁹ The Commission also recommended that the Implementation Monitor be supported by a small secretariat within the Department of Justice and Community Safety (DJCS) (**Recommendation 109**), and work is underway to establish this secretariat and support the important work of the Implementation Monitor.

The Implementation Monitor will report to the Attorney-General at least annually (**Recommendation 110**).

The Victorian Government has invested \$2.03 million to establish the office of the Implementation Monitor and ensure progress and adequacy of implementation of the Commission's recommendations is independently monitored.

5.3.2 Implementation Taskforce

The Commission also recommended an Implementation Taskforce be established and have responsibility for ensuring proper implementation and coordination of all implementation tasks, as well as ensuring the Commission's recommendations are implemented swiftly and in accordance with their purpose and intent.²⁰

Government established the Implementation Taskforce immediately following the delivery of the Commission's final report, with the Taskforce meeting for the first time in December 2020. The Taskforce is chaired by the Secretary of DJCS with membership from:

- the Department of Premier and Cabinet
- Victoria Police
- the DPP
- the IBAC
- the Public Interest Monitor
- the Victorian Government Solicitor's Office
- the VLSBC
- the LIV
- the Victorian Bar Council.

The Implementation Monitor has also been invited to participate in the Implementation Taskforce, ensuring collaboration, cooperation and transparency in implementation. In addition, the Special Investigator will be invited to be a member of the Implementation Taskforce once the Special Investigator has been established.

To support and assist the work of the Implementation Taskforce, four subject-matter based cross-agency working groups have also been established. These working groups bring together key stakeholders with significant relevant expertise to coordinate and support implementation in each of the key reform areas: human source management, oversight, disclosure, and legal profession regulation.

¹⁹ Royal Commission into the Management of Police Informants, November 2020, Volume IV, page 167.

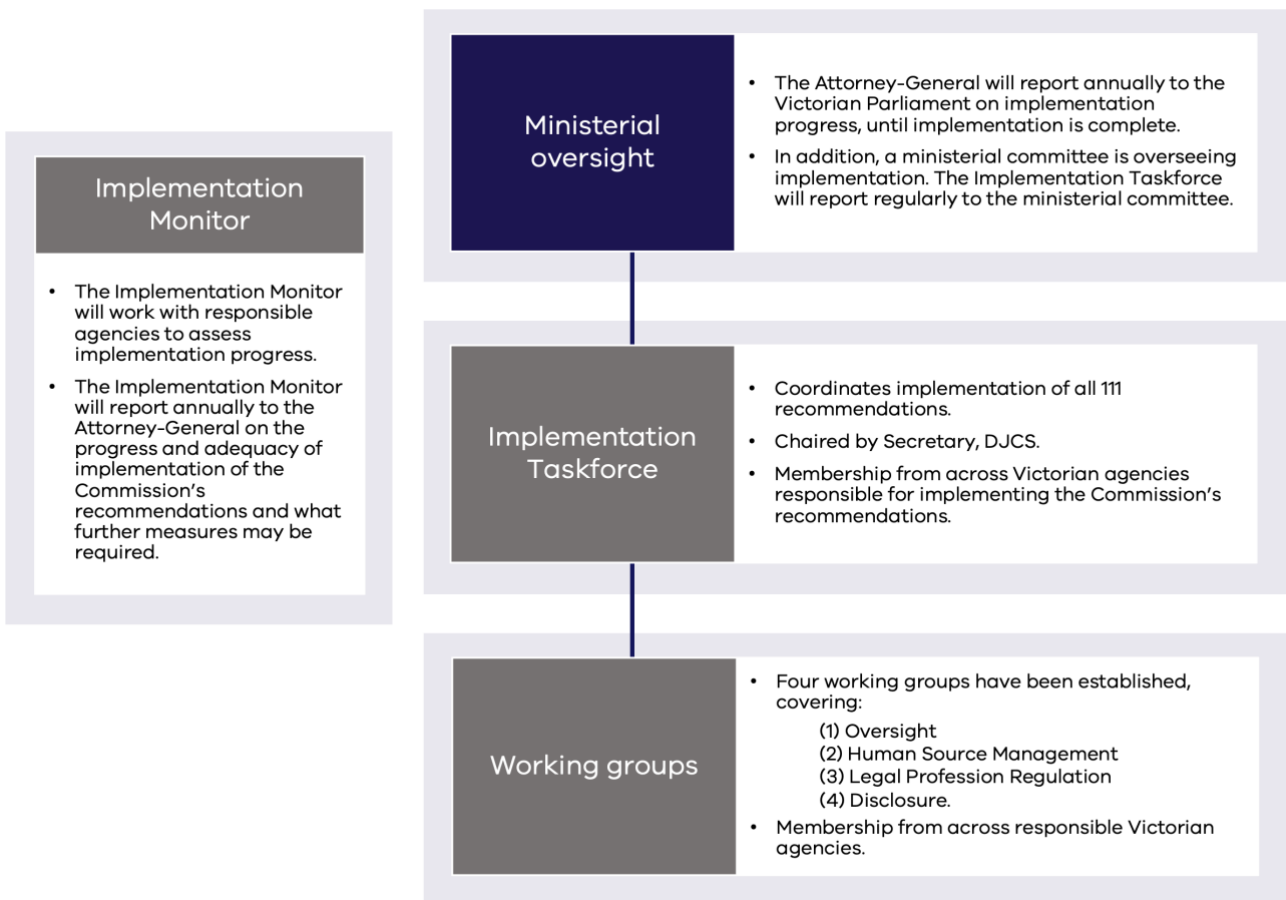
²⁰ Royal Commission into the Management of Police Informants, November 2020, Final Report, Volume IV, page 166.

5.3.3 Ministerial oversight

The Attorney-General will report annually to the Victorian Parliament on the progress of the implementation of the Commission’s recommendations, until implementation is complete, as recommended the Commission (**Recommendation 111**). In addition, a ministerial committee is overseeing implementation of government recommendations, and the Implementation Taskforce will report regularly to that committee on implementation progress.

The governance structure that has been established to drive, support, coordinate and monitor the implementation of the Commission’s recommendations is provided below:

Implementation Governance Structure



6. The role of the Special Investigator

One of the Commission's most significant recommendations was that the Government appoints a Special Investigator to investigate whether there is sufficient evidence to establish the commission of criminal offences connected with Victoria Police's use of Ms Gobbo as a human source (**Recommendation 92**).

The Commission also recommended that the Special Investigator be empowered to investigate whether there is sufficient evidence to establish the commission of misconduct or a breach of discipline under the *Victoria Police Act 2013* (Vic) (**Recommendation 96**).

The need for further investigations arises because evidence gathered by a royal commission is not generally admissible in criminal or disciplinary proceedings.

To carry out its recommended role, the Commission considered that the Special Investigator should have three core functions:

1. **assessing the more than 155,000 documents gathered by the Commission** to determine whether there is enough evidence to support the commission of any criminal offences and whether that evidence is admissible in court proceedings
2. **gathering further admissible evidence** in relation to any potential offences
3. **compiling a brief of evidence** to be submitted to the DPP to determine whether there is **sufficient** evidence to warrant prosecution and whether it is in the public interest to initiate prosecution.²¹

The Commission recommended that legislation establishing the Special Investigator be developed within 12 months of the final report (**Recommendation 92**). However, in recognition of the need for the Special Investigator's work to progress expeditiously, Government is committed to ensuring the Special Investigator can commence investigations as soon as possible and will introduce legislation establishing the Special Investigator into Parliament in the second half of 2021. In addition, the Government has engaged a specialist recruitment firm to identify candidates with the requisite skills and experience to undertake the important role of Special Investigator and is working towards appointing someone to the role by the middle of 2021 prior to supporting legislation coming into effect. This will allow crucial preparatory work (such as working through the extensive records publicly available on the Commission's website) to begin prior to formal investigations commencing.

Once Parliament passes legislation establishing the Special Investigator, the Government will immediately move to refer Ms Gobbo, and current and former Victoria Police officers named in the Commission's final report and the complete and unredacted submissions of Counsel Assisting, to the Special Investigator (**Recommendations 1 and 3**).

²¹ Royal Commission in the Management of Police Informants, November 2020, Final Report, Volume IV, page 156.

The Commission noted that the role of the Special Investigator would need to be given the necessary independence, investigative powers and resources to perform its functions.²² In line with the Commission's final report, the Government intends that the legislation establishing the Special Investigator will provide the Special Investigator with all powers necessary to deliver on its core functions of assessing the Commission's records, gathering evidence and compiling briefs for prosecutors. In line with the Commission's recommended approach, these powers will closely resemble those conferred on police officers when conducting an investigation.²³

A Special Investigator has also recently been established by the Commonwealth Government to investigate criminal allegations that arise from the Inspector-General of the Australian Defence Force's Afghanistan Inquiry. The Victorian Government will look to that model and draw from the experience of the Commonwealth in managing these kinds of complex investigations. One key difference, however, will be that the Special Investigator established in Victoria will not be able to draw on existing law enforcement powers and personnel, given the nature of the matters to be investigated involve Victoria Police. Instead new legislative powers and a new law enforcement office will be created which will take time and require significant investment. To this end, the Government has invested \$13.47 million to establish the office of the Special Investigator.

The work of the Special Investigator will be challenging. It must first consider over 155,000 documents gathered by the Commission. It will then need to undertake complex assessments of the information with reference to the laws of evidence. Finally, and perhaps most importantly, it will then begin the painstaking work of collecting further admissible evidence to build criminal cases.

If the Special Investigator determines there is sufficient evidence to establish the commission of criminal offences to bring to the DPP, it will ultimately be a matter for the DPP to decide whether to prosecute relevant individuals. As the Commissioner noted in her foreword to the final report, even if the Special Investigator considers there is sufficient evidence, the DPP's decision of whether to prosecute may also be difficult, both because of the passage of time and because of the competing and complex public interests involved.²⁴

²² Royal Commission in the Management of Police Informants, November 2020, Final Report, Volume IV, page 156.

²³ Royal Commission in the Management of Police Informants, November 2020, Final Report, Volume IV, page 156.

²⁴ Royal Commission in the Management of Police Informants, November 2020, Final Report, Volume 1, Commissioner's Foreword, page 7.

7. Enhancing human source management

A significant area of the Commission's focus was Victoria Police's use of human sources. While it found a number of systemic failings in the human source management framework during the period Victoria Police used Ms Gobbo as a human source, the Commission acknowledged the significant improvements that Victoria Police has made in this area in the intervening period.²⁵ The Commission found this was particularly evident in Victoria Police's current internal policies and processes governing the use of human sources involving legal obligations of confidentiality and privilege. As the Commission noted Victoria Police is now one of the very few Australian law enforcement agencies that adopts specific rules and safeguards around the registration, use and management of that category of human source.²⁶

Nevertheless, the Commission considered that Victoria Police's current human source management framework is not sufficient to manage risk or guide officers in their decisions and actions, nor to assure the public that events like those involving Ms Gobbo could not reoccur.²⁷ For these reasons it made a number of recommendations designed to strengthen and clarify the regulation and oversight of this high-risk area of policing. Central to the Commission's recommendation is the introduction of a legislative framework that will regulate the police's use and management of human sources (**Recommendation 8**).

The Government acknowledges the importance and centrality of the Commission's recommendations in this area for achieving enduring reform and ensuring that the events that gave rise to the Commission can never occur again. A principles-based legislative framework will provide police with a clear statutory basis within which difficult operational and ethical decisions in a covert environment can be made. It will also provide the public with assurance that the system is acting as it should, by enabling greater transparency and oversight across this important aspect of policing.

²⁵ Royal Commission in the Management of Police Informants, November 2020, Final Report, Volume V, page 11; 81, 83-84; 101.

²⁶ Royal Commission into the Management of Police Informants, November 2020, Summary and Recommendations, page 28.

²⁷ Royal Commission in the Management of Police Informants, November 2020, Final Report, Volume III, page 80.

7.1 Human source management legislation

The Commission noted that there are currently no legislated, enforceable rules for when, why and how Victoria Police can use human sources.²⁸ To date, human source management has been regulated by internal Victoria Police policies. The Commission recommended that the Government, within two years, implements legislation for Victoria Police's registration, use and management of human sources, to provide a clear framework for police to obtain and use information from human sources and to ensure they are used in an ethical and justifiable manner (**Recommendation 8**).

The Commission emphasised that this legislation should:

- permit and facilitate the effective use of sources to gather intelligence, conduct investigations and prevent, disrupt and detect criminal activity while ensuring their use is necessary, proportionate, justified and compatible with human rights
- include clear responsibilities and streamlined arrangements for registering human sources.²⁹

While there is already legislation in Victoria and other Australian jurisdictions regulating the use of other kinds of covert activities including the use of surveillance devices, telecommunication interceptions, assumed identities, covert search warrants and controlled operations, Victoria's human source management legislation will be the first of its kind in Australia. This legislation will represent a best practice approach to the management of human sources that provides a clear and comprehensive regulatory framework, supporting greater accountability and transparency in Victoria Police's use of human sources.

The Government will introduce human source management legislation into Parliament by the second half of 2022. Noting the complexities and uniqueness of this legislation, the Government will work closely with Victoria Police, the legal profession and other key stakeholders throughout the development of this legislation ensuring it supports Victoria Police's operational environment and establishes a clear, effective and usable framework.

²⁸ Royal Commission in the Management of Police Informants, November 2020, Final Report, Volume III, page 135.

²⁹ Royal Commission in the Management of Police Informants, November 2020, Final Report, Volume III, page 137.

7.2 Human Source File Auditor

Part of the Commission's inquiry involved an audit of Victoria Police human source files to see whether Victoria Police had used any human sources subject to legal obligations of confidentiality or privilege, other than Ms Gobbo.

During the Commission's audit of Victoria Police's human source files, 11 files were not provided to the Commission for review on the basis that they are extremely sensitive and subject to a claim of PII.³⁰

Consequently, the Commission recommended that Government appoint a suitably qualified and independent person (Human Source File Auditor) to review those files. The Commission recommended that the auditor should have full and unfettered access to these files and report to the Attorney-General, Minister for Police and the Chief Commissioner of Victoria Police (**Recommendation 6**).

In February 2021 the Government appointed a leading barrister to undertake the audit as recommended by the Commission. Government and Victoria Police are working closely together to ensure this audit is finalised without delay and in accordance with the Commission's recommendations.

In line with the Commission's recommendation, the Human Source File Auditor will report on whether:

- any of the human sources provided information to Victoria Police in possible breach of their legal obligations of confidentiality or privilege
- any confidential or privileged information provided by the human sources was used or disseminated by Victoria Police
- a referral should be made to the DPP and/or Commonwealth Director of Public Prosecution (CDPP) if there is evidence suggesting a prosecution or conviction was based on information improperly obtained by Victoria Police, or may have been affected by the non-disclosure of relevant evidence.

³⁰ Royal Commission in the Management of Police Informants, November 2020, Final Report, Volume III, page 23.

7.3 Oversight of human source management

The Commission also recommended a robust model for the external oversight of Victoria Police's use of human sources. It recommended Government develop and implement legislation that adopts a tiered model, where the intensity of oversight should align with the level of risk involved in using a human source.³¹

The tiers proposed by the Commission are:

- **Tier 1** – the Public Interest Monitor should be involved in Victoria Police's decisions to register human sources who are reasonably expected to have access to confidential or privileged information
- **Tier 2** – IBAC should be responsible for monitoring Victoria Police's compliance with the human source legislative and policy framework
- **Tier 3** – IBAC should keep its existing jurisdiction to investigate complaints about police misconduct and corruption, which may include complaints about Victoria Police's use and management of human sources (**Recommendation 45**).

The Commission also recommended that the principles of accountability, necessity and proportionality, effectiveness, safety and sensitivity and consistency should guide the development of this external oversight model.³²

The Government will ensure that the legislation governing Victoria Police's registration, use and management of human sources will include the Commission's recommended tiers of external oversight. As mentioned above, the Government will introduce this legislation into Parliament in the second half of 2022.

³¹ Royal Commission in the Management of Police Informants, November 2020, Final Report, Volume III, pages 211 and 231.

³² Royal Commission in the Management of Police Informants, November 2020, Final Report, Volume III, page 213-4.

8. Recommendation 61 – Systemic review of police oversight

8.1 Issues with the current system of police oversight

The Commission's final report also considered broader issues in the police oversight system, beyond human source management. It highlighted the importance of independent, external oversight of police officers that encourages police to use their powers fairly and lawfully and adhere to their ethical and professional standards.³³

The Commission found that the oversight model in Victoria is fragmented, inconsistent and limited by its focus on procedural compliance.³⁴ It therefore recommended that Government undertake a principles-based review of the police oversight system, within two years, to ensure that the system:

- is consistent and coherent
- contributes to improved police accountability
- delivers meaningful, outcome-focused monitoring of police decisions and actions (**Recommendation 61**).

The Commission was established shortly after the release of the IBAC Committee's *2018 Inquiry into the external oversight of police corruption and misconduct in Victoria* (IBAC Committee report). The IBAC Committee report concluded that the police complaints and oversight system needs significant reform to meet the needs of complainants, operate in a manner that is clear, accessible and transparent, and provide Victoria Police with the tools it needs to maintain the highest standards of integrity and accountability.³⁵

The IBAC Committee report found that Victoria Police has a vital role to play in upholding ethical standards in the police force and should retain a role in the complaints handling system, subject to effective and strengthened independent oversight arrangements.³⁶

However, the IBAC Committee report raised concerns about the existing system, in particular the small number of police misconduct complaints that are independently investigated by IBAC.³⁷ The IBAC Committee report found that the current system failed to meet community expectations regarding the independent investigation of serious police misconduct allegations and was confusing, complex, and difficult for complainants to navigate.³⁸

³³ Royal Commission in the Management of Police Informants, November 2020, Final Report, Volume III, page 183.

³⁴ Royal Commission in the Management of Police Informants, November 2020, Final Report, Volume III, page 234.

³⁵ IBAC Committee Inquiry into the external oversight of police corruption and misconduct in Victoria, 4 September 2018, Final Report, page 104.

³⁶ IBAC Committee Inquiry into the external oversight of police corruption and misconduct in Victoria, 4 September 2018, Final Report, pages 45-6 and 50-51.

³⁷ IBAC Committee Inquiry into the external oversight of police corruption and misconduct in Victoria, 4 September 2018, Final Report, page 51-52 and 126.

³⁸ IBAC Committee Inquiry into the external oversight of police corruption and misconduct in Victoria, 4 September 2018, Final Report, page 190-1.

Complaints about police range significantly in their nature and seriousness.

The IBAC Committee report highlighted the importance of a complaint handling and oversight system which deals effectively and efficiently with complaints at all levels.

The IBAC Committee report recommended that the oversight system should recognise three categories of complaint:

- customer service matters, which should generally be dealt with by police
- misconduct allegations, which may be dealt with by an independent oversight body or by Victoria Police
- serious police misconduct allegations, which should be investigated independently of Victoria Police.³⁹

The IBAC Committee report emphasised that an independent oversight body needs to maintain global oversight in relation to all complaints about police, to ensure that the system is operating effectively and complaints are not inappropriately classified.⁴⁰

The IBAC Committee report made a range of recommendations aiming to ensure that agencies that investigate police misconduct have appropriate powers to perform their functions efficiently and effectively. For example, the IBAC Committee report recommended several powers to enhance IBAC's ability to gather evidence, such as the power to obtain names and addresses of persons in similar terms to s 456AA of the *Crimes Act 1958* (Vic)

(Recommendation 44). These recommendations are consistent with the powers recommended for the Special Investigator.

The IBAC Committee report emphasised the importance of putting in place systems to effectively manage conflicts of interest which can arise in handling and investigating police misconduct allegations.⁴¹ The report also made recommendations aimed at enhancing Victoria Police's disciplinary system, including ensuring alignment between that system and the investigation of misconduct allegations and the prosecution of alleged offences **(Recommendation 64)**.

Like the Commission, the IBAC Committee report found that the legislative framework underpinning the existing police oversight system is unnecessarily complex and confusing.⁴² Among other issues, this raises challenges for the effective classification, allocation and referral of complaints and disclosures, which is integral to an effective police oversight system.

³⁹ IBAC Committee Inquiry into the external oversight of police corruption and misconduct in Victoria, 4 September 2018, Final Report, page 186.

⁴⁰ IBAC Committee Inquiry into the external oversight of police corruption and misconduct in Victoria, 4 September 2018, Final Report, page 186.

⁴¹ IBAC Committee Inquiry into the external oversight of police corruption and misconduct in Victoria, 4 September 2018, Final Report, pages 301-2.

⁴² IBAC Committee Inquiry into the external oversight of police corruption and misconduct in Victoria, 4 September 2018, Final Report, pages 55 and 103-4 and 184.

The IBAC Committee report commented on the importance of clear and transparent information about the operation of the police oversight system and complaints processes and made a range of recommendations about improving the collection, analysis, and publication of information about police misconduct complaints and disclosures. The report noted that good quality information enables a potential complainant to be fully informed about what conduct can be complained about, to whom, what processes are involved, and what to expect from the complaint process.⁴³

Importantly, the IBAC Committee report emphasised the need for the police misconduct complaints system to better support all complainants and be responsive to their diverse needs. It found that the complaints system does not yet meet best practice in providing a complainant-centred approach and does not give complainants clarity and certainty about their rights when making a complaint.⁴⁴ The IBAC Committee report emphasised that public trust and confidence in the system for handling, investigating, and overseeing complaints is essential for the effectiveness of the complaints system itself, and for ensuring that policing is founded on community consent, confidence and cooperation.⁴⁵

In light of the significant intersections between the Commission and the IBAC Committee's finding, the government response to the IBAC Committee Report is incorporated into this response.

⁴³ IBAC Committee Inquiry into the external oversight of police corruption and misconduct in Victoria, 4 September 2018, Final Report, page 159-160.

⁴⁴ IBAC Committee Inquiry into the external oversight of police corruption and misconduct in Victoria, 4 September 2018, Final Report, pages 148-159 and 170-80.

⁴⁵ IBAC Committee Inquiry into the external oversight of police corruption and misconduct in Victoria, 4 September 2018, Final Report, pages 28, 139-146, 190.

8.2 The need for systemic review of police oversight

Noting the significant intersections between the IBAC Committee report's recommendations and the Commission's work, the Commission considered that it may be timely to undertake a review of institutional and legislative structures for the oversight of Victoria Police's exercise of powers (**Recommendation 61**). The Commission commented that potential benefits of such a review would include:

- streamlining and rebalancing oversight jurisdiction between integrity bodies, to ensure clarity and coherence around roles and responsibilities so that system design can best achieve the desired outcomes
- shifting to more meaningful, outcome-focused monitoring where the necessity, proportionality and justification of decisions and actions is the focus of the assessment and reporting
- ensuring that, where appropriate and justified, functions, powers and obligations are consistent across different oversight regimes, and proportionate to the level of risk associated with the use of the police power
- easing the compliance burden for Victoria Police, while improving accountability.

The findings and recommendations of both the IBAC Committee report and the Commission highlight the need for a robust and accountable system of police oversight that encompasses both the proactive oversight of police's exercise of significant powers, and the reactive oversight of complaints and disclosures about police. This system must meet the expectations of the community for the transparent and effective management of complaints and the exercise of significant police powers, and support Victoria Police to uphold the highest standards of ethical and accountable police practice.

The same core questions arise across both the IBAC Committee's and the Commission's work – which body or bodies are best placed to oversee police? What powers should they have? When are police best placed to deal with complaints about police officers, and when is there a public interest in these decisions being overseen or undertaken by an external independent body?

8.3 Scope and purpose of the systemic review

To address all these questions consistently, and to build an effective and efficient system of both proactive and reactive police oversight, DJCS will lead a systemic review of Victoria's police oversight system to acquit recommendation 61 and respond to the IBAC Committee report. This will ensure that:

- a complainant-centred approach that reflects and supports the diverse needs of complainants is embedded in all stages of the complaint handling process
- the roles and responsibilities of all agencies within the police oversight system are clearly articulated and effective in driving accountability in police practice
- all agencies within the police oversight system have the powers they need to perform their functions effectively
- the legislation and policy framework that underpins the police oversight system is clear, consistent, and accessible
- Victoria Police's primary responsibility for detecting and preventing crime, upholding ethical standards in policing and their vital role in holding police personnel accountable for misconduct, is appropriately reflected in all aspects of the oversight system
- the exercise of police powers, decisions and actions are subject to appropriate outcome-focused monitoring
- all police misconduct complaints are assessed, classified and addressed consistently, and are managed in a way that appropriately reflects the nature and seriousness of the complaint.

8.4 Implementing the systemic review

The systemic review will begin with an options paper released for public consultation in 2021, with legislation being introduced to Parliament in this term of government.

The maintenance of public confidence in police, and the effectiveness and legitimacy of the often complex and challenging work of policing, depends on holding officers who do the wrong thing to account. The Government is committed to a robust police oversight and complaints system in which the roles of all agencies are clear and community expectations regarding the independent oversight of police misconduct complaints are met.

This includes establishing a police misconduct complaints system that is complainant-centred, accessible to all Victorians and meets the needs of all complainants, including children and young people, Aboriginal people, women, survivors of family violence, LGBTIQ+ people, people with mental illness or disability, culturally and linguistically diverse communities, and people experiencing social or economic disadvantage.

The Government will work closely with members of the community, stakeholders and key agencies, including Victoria Police, IBAC, the Public Interest Monitor, the Victorian Inspectorate and the Victorian Equal Opportunity and Human Rights Commission to conduct the review and develop principle-based reforms, to ensure Victoria's police oversight system meets community expectations and delivers the highest standards of police accountability and integrity. The Government will also engage closely with The Police Association of Victoria, recognising its critical role in representing its members and police personnel more broadly.

The review will build on the important work undertaken by the IBAC Committee and the Commission. The scope of the review will reflect the government's expectations of, and proposed direction for, reform in the police oversight system as set out in this response.

The systemic review will be informed by the work of the Implementation Taskforce, as well as input from IBAC, the Public Interest Monitor and the Victorian Inspectorate, to ensure alignment between the work of the systemic review and the broader reforms discussion in this response, especially the reforms to strengthen the oversight of human source management.

9. The disclosure of information in the criminal justice system

The duty of disclosure is essential to the proper functioning of the criminal justice system. It requires the police and prosecutors to give an accused all information that is relevant to their case. The duty of disclosure safeguards a person's right to a fair trial.

There are some limited exceptions to the duty of disclosure, including information that is protected by PII. PII prevents the disclosure of information in a criminal proceeding where it is not in the public interest for such information to be disclosed, for example information that would prejudice national security or damage Australia's international relations.

Failure to comply with the duty of disclosure can have serious consequences on the criminal justice system, including a criminal conviction being successfully appealed or preventing a prosecution from proceeding.

9.1 Strengthening the law of disclosure

An important aspect of the Commission's inquiry involved an examination of the current law and practice regarding the disclosure of human source information in Victoria. The Commission looked at whether the current law and processes sufficiently protect the fairness of trials particularly when the investigation involved information obtained from a human source.

The Commission heard of several challenges associated with Victoria Police's ability to fulfil their disclosure obligations, including:

- the complexity and volume of material police obtain in many investigations and their ability to review that material
- the difficulties associated with determining whether material is relevant and needs to be disclosed
- the additional difficulties where an investigation relies on information from human sources and may be subject to PII (and therefore not required to be disclosed).⁴⁶

The Commission emphasised the critical role that key stakeholders perform in developing policies and procedures that assist police to address these challenges. The Commission noted the importance of ongoing cooperation between police and the prosecution throughout the prosecution process to ensure they meet their disclosure obligations.

The Commission made several recommendations directed at Government to strengthen and clarify the current law, policy and practices concerning the duty of

disclosure. These include introducing a statutory duty of disclosure and making other amendments to the *Criminal Procedures Act 2009* (**Recommendations 62, 63 and 66**).

The Commission also recommended that the Government reviews the adequacy of existing court powers to make non-disclosure orders and considers whether a legislative power should be introduced to empower Victoria Police and/or the DPP to initiate applications for a court to determine PII claims without giving notice to an accused person (**Recommendation 67**).

The Government will work closely with the DPP, Victoria Police and the legal profession to develop and introduce legislation to strengthen and clarify the duty of disclosure in criminal proceedings in the second half of 2021. The review of the adequacy of courts' powers to make non-disclosure orders is underway and on track for completion in the first half of 2021, in line with the Commission's timeframes.

The Government will consider the implementation of the Commission's disclosure reforms alongside two reviews published in 2020 that address disclosure issues:

- the Victorian Law Reform Commission's review of the committals process⁴⁷
- IBAC's review into police conduct in the Victoria Police Lorimer Investigation (Operation Gloucester).⁴⁸

⁴⁶ Royal Commission into the Management of Police Informants, November 2020, Final Report, Volume IV, page 43.

⁴⁷ Victorian Law Reform Commission, *Committals* (March 2020).

⁴⁸ Independent Broad-based Anti-corruption Commission, *Operation Gloucester* (Special Report, July 2020). Operation Gloucester examined police statement-taking and disclosure practices in the Lorimer Investigation as well as other investigations.

10. Regulation of the legal profession

Over the course of its inquiry, the Commission heard from many witnesses and obtained substantial information indicating that Ms Gobbo had breached the legal and ethical obligations that she owed to her clients over many years. It also received information about Ms Gobbo's admission to the legal profession, and about previous complaints made to legal profession regulators during the time she was providing information to Victoria Police.

The Commission noted in its final report its concern that the use of Ms Gobbo as a human source may have diminished public confidence in the legal profession. It observed that as a result of Ms Gobbo's conduct, the public may now question whether the information they provide to their lawyer will remain confidential.⁴⁹ The Commission also noted that as a result of these events people may not choose to provide relevant information to their lawyers, or not obtain legal advice at all, "to the detriment of the justice system and our democracy".⁵⁰

Many of the Commission's recommendations in this area are directed to legal profession bodies such as the VLSBC, the Law Institute of Victoria and the Victorian Bar Council. These recommendations focus on increasing public confidence in the legal profession, on clarifying lawyers' understanding of the duty of confidentiality, and on the handling of complaints about lawyers.

Two recommendations, however, are directed to the Victorian Government to implement (**Recommendation 77** and **86**).

⁴⁹ Royal Commission into the Management of Police Informants, November 2020, Final Report, Volume IV, page 98.

⁵⁰ Royal Commission into the Management of Police Informants, November 2020, Final Report, Volume IV, page 98.

10.1 Review of the existing process to be admitted to practice as a lawyer

The Commission noted that there are a number of steps that must be undertaken to be admitted into the legal profession and while some are reasonably straightforward, such as satisfying the education and practical legal training requirements, other steps are more complicated and relate to a person's character and history.⁵¹ Specifically, someone wishing to become a lawyer must be able to show that they can uphold the integrity of the profession and the confidence of the public.

The Commission found that Ms Gobbo likely misled the then Board of Examiners in seeking admission to the legal profession.⁵² It also heard evidence that the Victorian Legal Admissions Board (VLAB) has experienced challenges with requesting documents from other agencies to support their assessment of whether a person should be admitted to the legal profession.

As such, the Commission recommended that, within six months, the Government consider whether the VLAB requires any additional powers to request and consider documentation from other agencies for the purpose of assessing applications for admission to the legal profession. If such powers are conferred, the Commission also noted that a working group should be established to consider whether a harmonised approach could be adopted in all Australian jurisdictions (**Recommendation 77**).

Consistent with the Commission's findings and recommendations, the Government will consult with stakeholders to ascertain the extent of the problem and to ensure that any additional powers are appropriately targeted and balanced against applicants' privacy and other relevant Charter rights. The Government will complete this review within the six-month timeframe and if reforms are required Government will engage with other states through the uniform law framework to deliver a harmonised national approach.

⁵¹ Royal Commission into the Management of Police Informants, November 2020, Final Report, Volume IV, page 71.

⁵² Royal Commission into the Management of Police Informants, November 2020, Final Report, Volume IV, page 78.

10.2 Introduction of mandatory reporting requirement

The Commission acknowledged in its final report that there are a number of ways in which complaints about the misconduct of lawyers can be raised and that legal profession regulators have a number of tools available when considering the most appropriate approach to resolving a complaint.⁵³ The Commission also found that complaints were made about Ms Gobbo's conduct by a former client and heard evidence that some lawyers were concerned about her professional behaviour but did not make formal complaints. However, these complaints and misgivings did not result in her unethical conduct being exposed early on.

The Commission therefore recommended that the Government introduce a mandatory requirement for lawyers to report the suspected misconduct of other lawyers (**Recommendation 86**). The Commission considered that the introduction of such a requirement would deter misconduct by lawyers, encourage adherence to high ethical standards, strengthen public confidence in the legal profession and bring it into line with other professions and fields where mandatory reporting obligations apply, including the health sector and policing.⁵⁴

The Commission recommended that the Government initially pursue the introduction of mandatory reporting by working with other States and Territories to amend the Legal Profession Uniform Law. The Legal Profession Uniform Law is in place in Victoria and New South Wales and governs legal profession regulation.

These are complex issues which will require careful, considered and purposeful development in consultation with key stakeholders. The Government will consult closely with stakeholders and is working towards the indicative timeframe of 12 months set by the Commission.

As recommended by the Commission, should changes to the Legal Profession Uniform Law not be agreed within the 12-month timeframe, the Government will pursue its own legislative changes to ensure that mandatory reporting is introduced in Victoria.

⁵³ Royal Commission into the Management of Police Informants, November 2020, Final Report, Volume IV, page 75.

⁵⁴ Royal Commission into the Management of Police Informants, November 2020, Final Report, Volume I, page 35.

11. Improving the effectiveness of future royal commissions

The Commission noted in its final report that its task was complicated by the sensitive nature of the material under examination and this in turn, created some unavoidable obstacles to accessing, sharing and publishing certain information.⁵⁵ As a result, the Commission recommended the Government make amendments to the Inquiries Act to enhance the effectiveness and efficiency of future royal commissions and public inquiries (**Recommendation 91**).

The Commission stated that the most significant challenge to its inquiry related to information subject to PII claims. Under the Inquiries Act, it is a reasonable excuse for a person not to comply with the Commission's powers to compel production of documents on the basis that the information is subject to PII. The Commission found that this legislative exception, combined with the volume of material over which PII claims were made, complicated and delayed the production, review and publication of material integral to its inquiry.

The Government will progress implementing this recommendation in a way that ensures the Inquiries Act continues to interact effectively with other legislation and court processes, while placing appropriate safeguards on sensitive information ordinarily protected by the immunity. Legislation amending the Inquiries Act will be introduced into Parliament in 2022, in order to meet the Commission's recommended timeframes.

⁵⁵ Royal Commission into the Management of Police Informants, November 2020, Final Report, Volume IV, page 121.

12. Ongoing management of the Commission's records

Due to the sensitivity of its records, the Commission recommended that they be closed for 75 years under the *Public Records Act 1973* (Vic). However, it acknowledged that some institutions and agencies may still require ongoing access to the records in order to fulfil their functions. The Commission recommended that special arrangements be made for access to be granted in accordance with a court order or legislation, for example, the legislation establishing the Special Investigator (**Recommendation 102**). This recommendation may require amendment to the *Public Records Act 1973* (Vic) to acquit.

The Commission also recommended that the Department of Premier and Cabinet, as the agency responsible for closing the records, notify Victoria Police of any court order or request to access the Commission's records, except any requests made by the Special Investigator or IBAC (**Recommendation 104**).

13. Facilitating access to justice

The matters which were the focus of the Commission's inquiry have already had – and will continue to have for some time to come – significant impacts on the workings of the criminal justice system. As noted above, the Commission concluded that more than 1,000 people may have been impacted by Victoria Police's and Ms Gobbo's conduct.

When establishing the Commission, the Government acknowledged that the integrity of the criminal justice system is of paramount importance to our democracy and all people charged with crimes are entitled to a fair trial in accordance with the law. The Victorian community deserves to have confidence that such fundamental principles are being upheld, and when these principles are shown to have been compromised, we must face up to and deal fairly with the consequences.

For those people whose cases may have been tainted by Ms Gobbo's conduct, they must have the opportunity to bring their case before the courts.

The Government has already taken action to make appeal proceedings more efficient and transparent by introducing a second, or subsequent, right of appeal if fresh and compelling evidence emerges that shows a substantial miscarriage of justice has occurred.

The Government has also invested \$17.5 million in the Courts, the Office of Public Prosecutions and Victoria Legal Aid to ensure that appeals arising from the Commission are heard in a timely manner, and acquit the Commission's recommendations relating to improving disclosure practices in criminal proceedings.

Appendix A – Principles-based implementation framework

Principles-based implementation will help achieve the Commission’s recommended outcomes



At the core of the Commission’s recommendations are the objectives of redressing past and potential miscarriages of justice, preventing the recurrence of similar events, and restoring the community’s faith in the criminal justice system and legal profession.”

Final Report, Vol IV page 166

Successful implementation of the Commission’s recommendations will ensure the Commission’s broader objectives and outcomes are achieved. For justice system stakeholders, successful implementation and enduring change in the criminal justice system will result in:

Justice System Stakeholder	Result
 Victoria Police	Strengthened police process and practices through a robust system of checks and balances supporting both the use and management of human sources and confidential or privileged information
 Courts	Procedural fairness afforded to, and timely access to justice for, affected persons
 Director of Public Prosecutions and Office of Public Prosecutions	Strengthened ability to fairly prosecute serious crimes on behalf of the Victorian community
 Legal profession	Greater community and client confidence in the legal profession
 Government	Embedded and enduring change ensuring the events that led to the Royal Commission never happen again
 Community	Increased confidence in Victoria’s criminal justice system and its key agencies and institutions

Achieving the Commission's objectives and intended outcomes requires a collaborative, cross-agency approach

The Commission's objectives will be achieved by:

- ✓ Strong leadership and collaboration across all stakeholders
- ✓ Being transparent and accountable regarding implementation progress
- ✓ Utilising the Implementation Taskforce and its working groups, as well as engaging with the Implementation Monitor, to ensure implementation is purposeful and outcomes-focused, collaborative and unified
- ✓ Dedicating and focusing resources to ensure implementation momentum is maintained
- ✓ A focus on implementation that will generate lasting cultural and structural change
- ✓ Evaluating outcomes where applicable

Purposeful implementation	Transparency and accountability	Timeliness and finality	Collaboration and coordination	Flexibility
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“**Purposeful implementation:** *“to encourage the Victorian Government and agencies to focus on the objectives sought to be achieved through the Commission’s recommendations, rather than adopting a purely compliance-based approach.”*


Final Report, Vol IV page 166

Achieving the Commission’s objectives and intended outcomes requires a collaborative, cross-agency approach

“*The Commission was established to find out how and why these events occurred, and to make sure they can never happen again.*”

Final Report, Vol I page 7

These objectives are set out in Vol IV, page 166 of the final report and include:

 Purposeful implementation	 Transparency and accountability	 Timeliness and finality	 Collaboration and coordination	 Flexibility
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The Department of Justice and Community Safety (DJCS) has used these objectives as the basis for a Principles-based Implementation Framework for the Commission’s recommendations.

The Implementation Framework can be used by the Implementation Taskforce to guide and direct implementation, ensuring reforms are outcomes-focused.

Government's implementation will be:

- Adaptable to changing circumstances so focus is maintained on achieving objectives and outcomes
- Targeted and in accordance with the Commission's intent
- Aimed at delivering long-standing systemic benefits by:
 - enhancing confidence in the criminal justice system
 - redressing past injustices
 - preventing recurrence of events giving rise to the Commission through ongoing assurance and oversight

How Government will ensure purposeful implementation:

- Utilise the Implementation Taskforce to ensure purposeful implementation
 - Develop policy and legislation with the objective of long-term reform
 - Implementation Monitor to report on adequacy of implementation
 - Appropriately resource justice agencies to effectively respond to the Commission's recommendations
 - Develop, in conjunction with the Implementation Monitor and the Special Investigator, a model and practice of assurance and monitoring
-

Purposeful
implementation

**Transparency and
accountability**

Timeliness and finality

Collaboration and
coordination

Flexibility



Transparency and accountability: *“to see all those concerned with implementation of the Commission’s recommendations, and with the events giving rise to the Commission’s inquiry, take responsibility for fulfilling the above objectives.”*

Final Report, Vol IV page 166

Government’s implementation will be:

- Independently monitored
- Transparent to the public
- Responsive to the specific issues raised in the Commission’s final report
- Focused on ensuring past injustices never happen again
- Guided by the principles that everyone has access to independent legal advice and a fair trial

How Government will ensure transparency and accountability:

- Implementation Monitor will be appointed as an independent statutory appointee empowered to access all relevant information
- Implementation Taskforce will meet regularly and report to Implementation Monitor
- Adherence to Commission’s accountability framework and monitoring processes
- Implementation will be collaborative and consultative across justice and integrity agencies
- Attorney-General will report annually to parliament on the progress of implementation until complete

Purposeful
implementation

Transparency and
accountability

Timeliness and finality

Collaboration and
coordination

Flexibility



Timeliness and finality: *“to ensure that implementation occurs without delay and that the public can be assured that the events that were the subject of the Commission’s inquiry have been addressed once and for all .”*

Final Report, Vol IV page 166

Government’s implementation will be:

- Appropriately sequenced to achieve optimal outcomes, mindful of the Commission’s implementation timeframes
- Aimed at ensuring implementation embeds long-standing reform
- Designed to avoid delay or inaction in undertaking reforms

How Government will ensure timeliness and finality:

- Establish a robust governance structure involving all agencies responsible for implementation and overseen by a Cabinet committee
- Comprehensive implementation planning, informed by expert and dedicated policy and project teams
- Regular and comprehensive progress reporting
- Working collaboratively with the independent Implementation Monitor

Purposeful implementation

Transparency and accountability

Timeliness and finality

Collaboration and coordination

Flexibility



Collaboration and coordination: *“to support the engagement of all agencies with an interest in the implementation of the Commission’s recommendations, and the efficient acquittal of all implementation tasks. Cross-agency collaboration is also important for fostering a shared commitment to the values and principles that underpin the proper administration of the criminal justice system.”*

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Government’s implementation will be:

- Inclusive of, and informed by, stakeholders
- Consultative and transparent
- Underpinned by strong leadership
- Guided by a shared commitment to improving criminal justice system outcomes

How Government will ensure collaboration and coordination:

- Dedicated and focused resources to ensure momentum is maintained
- Cross-agency working groups will meet monthly
- Implementation Taskforce will meet regularly with representation from all agencies with responsibility and interest in implementing the Commission’s recommendations
- Implementation Monitor and Implementation Taskforce will work collaboratively whilst maintaining the Implementation Monitor’s independence
- Regular and open communication with stakeholders

Purposeful implementation

Transparency and accountability

Timeliness and finality

Collaboration and coordination

Flexibility



Flexibility: *“to minimise the administrative and reporting burden for agencies with responsibility for implementation of the Commission’s recommendations. ”*

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Government’s implementation will be:

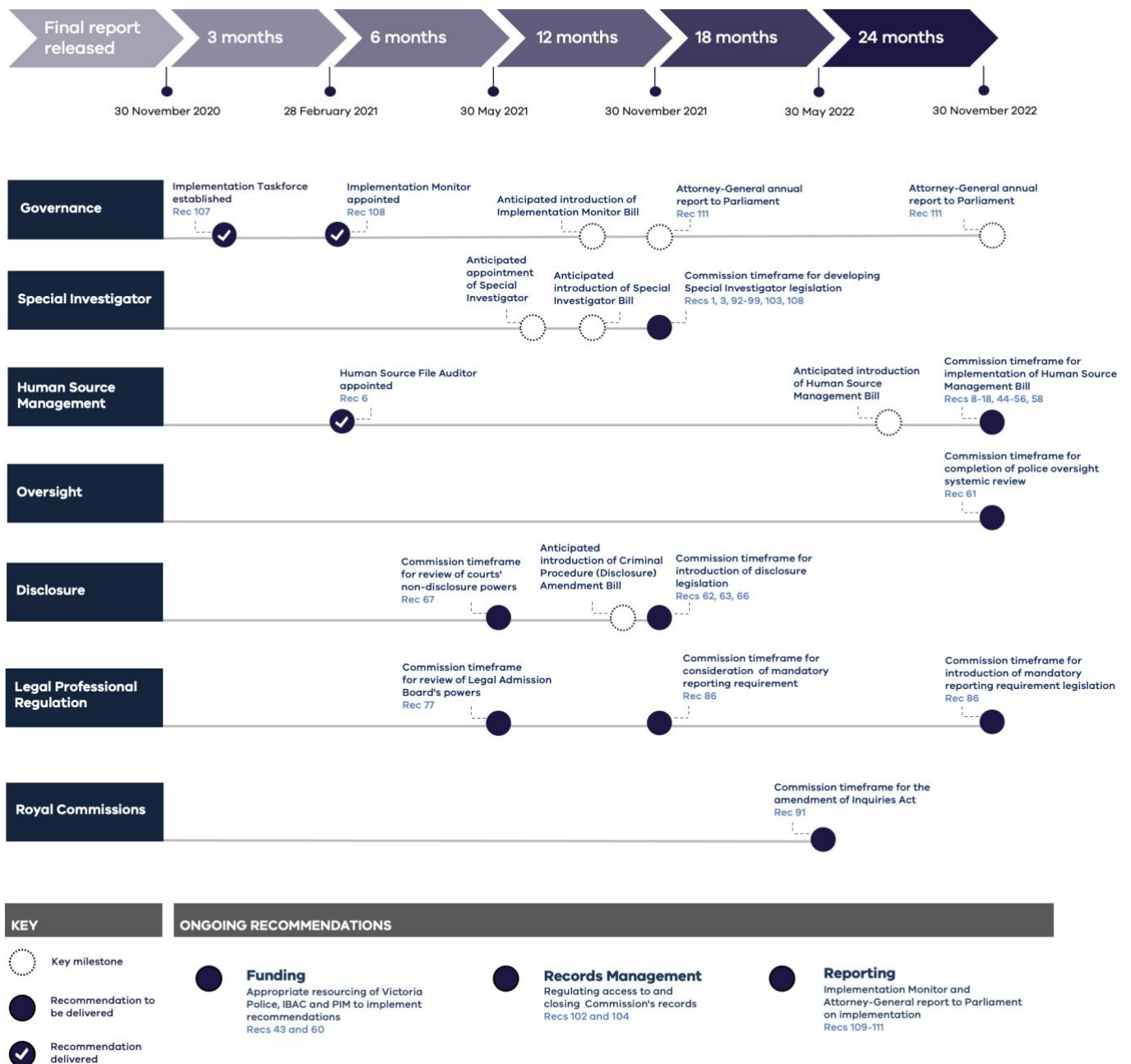
- Adaptable and informed by stakeholders’ internal reporting and governance structures
- Supported by reporting processes that enable rather than obstruct efficient and effective implementation
- Focused on achieving outcomes

How Government will ensure flexibility

- Project management will be comprehensive but also responsive and adaptable to change
- DJCS will support the working groups to report regularly to the Implementation Taskforce, minimising the reporting burden for agencies so they can focus on outcomes
- The Chair of the Implementation Taskforce will be responsible for providing regular reports to the Attorney-General, supported by the cross-agency governance structure
- The Implementation Taskforce will make its progress reports available to the Implementation Monitor
- Thorough evaluation of efficacy of reforms throughout reform process and post implementation

Appendix B – Timeline of key Victorian Government deliverables

The Commission made **111** recommendations in total, **54** of which are directed towards the Victorian Government. The 54 recommendations are mapped below according to key themes and have either **been delivered** or are **on track to be delivered** as recommended by the Commission.



Appendix C – Table of Victorian Government deliverables

The Commission’s final report included 111 recommendations. The following table sets out the Commission’s implementation timeframes against each of the 54 recommendations that the Victorian Government is responsible for implementing. Unless otherwise indicated in the table, the implementation of each recommendation is **on track** at the time of releasing this response.

Appendix D sets out the Commission’s recommendations all other agencies are responsible for implementing.

No.	Recommendation	Theme	Commission’s implementation timeframe
1.	<p>That the Victorian Government, immediately after it has established the Special Investigator proposed in Recommendation 92, refers the conduct of Ms Nicola Gobbo to the Special Investigator to investigate whether there is sufficient evidence to establish the commission of a criminal offence or offences connected with her conduct as a human source for Victoria Police.</p> <p>If the Special Investigator considers that there is sufficient evidence to establish the commission of a criminal offence or offences, they should prepare a brief of evidence for the Victorian Director of Public Prosecutions to determine whether to prosecute.</p>	Special Investigator	30 November 2021

No.	Recommendation	Theme	Commission's implementation timeframe
3.	<p>That the Victorian Government, immediately after it has established the Special Investigator proposed in Recommendation 92, refers the conduct of current and former Victoria Police officers named in this report or the complete and unredacted submissions of Counsel Assisting to the Special Investigator to investigate whether there is sufficient evidence to establish the commission of a criminal and/or disciplinary offence or offences connected with Victoria Police's use of Ms Nicola Gobbo as a human source.</p> <p>If the Special Investigator considers that there is sufficient evidence to establish the commission of a criminal offence or offences, they should prepare a brief of evidence for the Victorian Director of Public Prosecutions to determine whether to prosecute.</p> <p>If the Special Investigator considers that there is sufficient evidence to establish the commission of a disciplinary offence or offences, they should deal with those matters in accordance with Recommendation 99.</p>	Special Investigator	30 November 2021

No.	Recommendation	Theme	Commission's implementation timeframe
6.	<p>That the Victorian Government, within three months, appoints a suitably qualified and independent person to review the 11 Victoria Police human source files subject to a claim of public interest immunity. The appointed person should have full and unfettered access to the human source files and report to the Attorney-General, the Minister for Police and the Chief Commissioner of Victoria Police on whether:</p> <ul style="list-style-type: none"> a. any of the human sources provided information to Victoria Police in possible breach of their legal obligations of confidentiality or privilege b. any confidential or privileged information provided by the human sources was used or disseminated by Victoria Police c. a referral should be made to the Victorian Director of Public Prosecutions and/or Commonwealth Director of Public Prosecutions for further consideration, if there is evidence to suggest a prosecution or conviction was based on information improperly obtained by Victoria Police or may have been affected by the non-disclosure of relevant evidence. 	Human Source Management	28 February 2021 Delivered
8.	<p>That the Victorian Government, within two years, implements legislation for Victoria Police's registration, use and management of human sources, to provide a clear framework for police to obtain and use information from human sources and to ensure they are used in an ethical and justifiable manner.</p>	Human Source Management	30 November 2022
9.	<p>That the Victorian Government, in developing the legislation for Victoria Police's registration, use and management of human sources, makes it an offence to disclose information relating to a human source without authorisation (including information that a human source provided or was tasked to provide, and information about the identity of a human source and their registration and management).</p>	Human Source Management	30 November 2022

No.	Recommendation	Theme	Commission's implementation timeframe
10.	<p>That the Victorian Government, in developing the legislation for Victoria Police's registration, use and management of human sources, defines 'reportable human sources' as a class of people who are prospective or registered human sources and who are reasonably expected to have access to confidential or privileged information.</p>	Human Source Management	30 November 2022
11.	<p>That the Victorian Government, in developing the legislation for Victoria Police's registration, use and management of human sources, establishes clear decision-making arrangements that demonstrate alignment between the seniority of the decision maker and the level of risk posed by the registration of human sources.</p> <p>The legislation should:</p> <ul style="list-style-type: none"> a. empower the Chief Commissioner of Victoria Police to register human sources to assist in gathering criminal intelligence and/or investigating criminal activity b. permit the Chief Commissioner to delegate the power to register reportable human sources to an officer of or above the rank of Assistant Commissioner and non-reportable human sources to an officer of or above the rank of Superintendent c. require that an application for the registration of a prospective human source must be authorised by the Chief Commissioner or their delegate before the person can be used as a human source. 	Human Source Management	30 November 2022

No.	Recommendation	Theme	Commission's implementation timeframe
12.	<p>That the Victorian Government, in developing the legislation for Victoria Police's registration, use and management of human sources, requires the Chief Commissioner of Victoria Police or their delegate to be satisfied that in registering any human source, the registration is appropriate and justified, including that:</p> <ul style="list-style-type: none"> a. the use of the person as a human source is necessary to achieve a legitimate law enforcement objective and is proportionate to that objective b. the risks associated with the person's registration have been identified and can be adequately managed. 	Human Source Management	30 November 2022
13.	<p>That the Victorian Government, in developing the legislation for Victoria Police's registration, use and management of human sources:</p> <ul style="list-style-type: none"> a. empowers the Chief Commissioner of Victoria Police or their delegate to impose conditions in respect of the registration of any human source b. requires the Chief Commissioner or their delegate to determine the period that a human source may be registered c. requires the Chief Commissioner or their delegate to determine the frequency with which the registration of a human source should be reviewed. 	Human Source Management	30 November 2022
14.	<p>That the Victorian Government, in developing the legislation for Victoria Police's registration, use and management of human sources, requires that a prospective human source who is reasonably expected to have access to information that would be confidential or privileged but for an exception to the duty of confidentiality or privilege, should for the purpose of the human source registration process be treated as though they are a reportable human source.</p>	Human Source Management	30 November 2022

No.	Recommendation	Theme	Commission's implementation timeframe
15.	<p>That the Victorian Government, in developing the legislation for Victoria Police's registration, use and management of human sources, requires that:</p> <ul style="list-style-type: none"> a. the Chief Commissioner of Victoria Police or their delegate must consider formal legal advice before deciding to register a reportable human source b. the Chief Commissioner or their delegate must have regard to any recommendations or submissions on the proposed registration that the Public Interest Monitor has made before deciding to register a reportable human source. 	Human Source Management	30 November 2022

No.	Recommendation	Theme	Commission's implementation timeframe
16.	<p>That the Victorian Government, in developing the legislation for Victoria Police's registration, use and management of human sources:</p> <ul style="list-style-type: none"> a. requires that the Chief Commissioner of Victoria Police or their delegate must be satisfied that there are exceptional and compelling circumstances to justify the registration of a human source where Victoria Police intends to obtain or disseminate confidential or privileged information from that person b. provides that 'exceptional and compelling circumstances' be defined as circumstances where there is a serious threat to national security, the community or the life and welfare of a person; and where the information cannot be obtained through any other reasonable means c. requires that the Chief Commissioner or their delegate must consider formal legal advice before deciding to register a human source with the intention to obtain or disseminate confidential or privileged information from that person d. requires that the Chief Commissioner or their delegate must have regard to any recommendations or submissions on the proposed registration that the Public Interest Monitor has made before deciding to register a human source with the intention to obtain or disseminate confidential or privileged information from that person. 	Human Source Management	30 November 2022

No.	Recommendation	Theme	Commission's implementation timeframe
17.	<p>That the Victorian Government, in developing the legislation for Victoria Police's registration, use and management of human sources, requires that where a reportable or non-reportable human source provides confidential or privileged information to police that was not expected or authorised at the time of their registration as a human source:</p> <ul style="list-style-type: none"> a. Victoria Police must quarantine the confidential or privileged information b. Victoria Police must cancel the registration and commence a new application (if Victoria Police considers it necessary to continue using the person as a human source), in line with Recommendations 11, 15 and 16. 	Human Source Management	30 November 2022
18.	<p>That the Victorian Government, in developing the legislation for Victoria Police's registration, use and management of human sources, allows the Chief Commissioner of Victoria Police or their delegate to make an emergency authorisation of a reportable human source.</p> <p>This power should only be used in circumstances where: there is a serious threat to national security, the community, or the life and welfare of a person; the threat is imminent; and the information is not able to be obtained through any other reasonable means.</p>	Human Source Management	30 November 2022
43.	That the Victorian Government ensures Victoria Police is appropriately funded and resourced to implement the Commission's recommendations.	Funding	No specified timeframe
44.	That the Victorian Government, within two years, implements legislation for external oversight of Victoria Police's registration, use and management of all human sources.	Human Source Management	30 November 2022

No.	Recommendation	Theme	Commission's implementation timeframe
45.	<p>That the Victorian Government, in developing legislation for external oversight of Victoria Police's registration, use and management of human sources, adopts a model comprised of the following three tiers:</p> <ul style="list-style-type: none"> a. The Public Interest Monitor should be involved in Victoria Police's decision-making process for registering reportable human sources. b. The Independent Broad-based Anti-corruption Commission should retrospectively monitor Victoria Police's compliance with the human source management framework recommended by the Commission, including the proposed legislation, any regulations, Victoria Police's Human Source Policy and related procedures. c. The Independent Broad-based Anti-corruption Commission should continue to receive, handle and investigate complaints about Victoria Police, including any complaints about Victoria Police's use of human sources. 	Human Source Management, Oversight	30 November 2022

No.	Recommendation	Theme	Commission's implementation timeframe
46.	<p>That the Victorian Government, in developing legislation for external oversight of Victoria Police's registration, use and management of human sources, provides the Public Interest Monitor with the following legislative functions in relation to Victoria Police applications to register reportable human sources:</p> <ul style="list-style-type: none"> a. test the sufficiency and adequacy of information relied on by Victoria Police in its application to register a reportable human source b. ask questions of any person giving information about the application c. assess the appropriateness of, and make recommendations or submissions on, the application to the Chief Commissioner of Victoria Police or their delegate d. such other functions as considered necessary or appropriate. 	Human Source Management	30 November 2022

No.	Recommendation	Theme	Commission's implementation timeframe
47.	<p>That the Victorian Government, in developing legislation for external oversight of Victoria Police's registration, use and management of human sources, provides the Public Interest Monitor with all necessary and reasonable powers required to fulfil its functions under the new legislation, including the power to:</p> <ul style="list-style-type: none"> a. request, access and receive relevant documents, information or other material from Victoria Police b. require the Chief Commissioner of Victoria Police or other relevant Victoria Police personnel to answer questions relevant to an application to register a reportable human source c. make recommendations to the Chief Commissioner or their delegate regarding Victoria Police's decisions relating to human sources d. refer to the Chief Commissioner for reconsideration a delegate's decision not to accept a recommendation of the Public Interest Monitor relating to an application to register a reportable human source. 	Human Source Management	30 November 2022
48.	<p>That the Victorian Government, in developing legislation for external oversight of Victoria Police's registration, use and management of human sources, empowers the Public Interest Monitor to make retrospective submissions or recommendations to the Chief Commissioner of Victoria Police or their delegate about the adequacy of any decisions made or actions taken by Victoria Police in relation to an emergency authorisation (made in line with the process proposed in Recommendation 18).</p>	Human Source Management	30 November 2022

No.	Recommendation	Theme	Commission's implementation timeframe
49.	<p>That the Victorian Government, in developing legislation for external oversight of Victoria Police's registration, use and management of human sources, requires the Public Interest Monitor to:</p> <ul style="list-style-type: none"> a. report to the Attorney-General annually on, among other things, the performance of its legislative functions, Victoria Police's acceptance or rejection of its recommendations and its views about the adequacy of actions taken by Victoria Police b. provide special reports to the Attorney-General on other occasions if it deems necessary, or on the Attorney-General's request c. provide copies of these annual and special reports to the Minister for Police and the Chief Commissioner of Victoria Police. 	Human Source Management	30 November 2022
50.	<p>That the Victorian Government, in developing legislation for external oversight of Victoria Police's registration, use and management of human sources, requires the Attorney-General to:</p> <ul style="list-style-type: none"> a. table in the Victorian Parliament annual and special reports prepared by the Public Interest Monitor b. cause the reports to be published on a Victorian Government website, subject to any redactions that the Public Interest Monitor considers necessary on safety and security grounds. 	Human Source Management	30 November 2022

No.	Recommendation	Theme	Commission's implementation timeframe
51.	<p>That the Victorian Government, in developing legislation for external oversight of Victoria Police's registration, use and management of human sources, provides that the Chief Commissioner of Victoria Police has obligations to:</p> <ul style="list-style-type: none"> a. notify the Public Interest Monitor of any application to register a reportable human source b. provide all information relevant to the application, whether supportive or adverse, to the Public Interest Monitor c. ensure that any relevant Victoria Police personnel provide information and answer questions relevant to an application when requested by the Public Interest Monitor d. provide the Public Interest Monitor with all information relevant to an emergency authorisation of a reportable human source and a report explaining why the circumstances were exceptional and compelling and why the threat was imminent e. respond to the Public Interest Monitor within a reasonable time after a recommendation has been made as to whether the recommended action has been or will be taken, or provide reasons as to why the recommendation is not accepted f. ensure that Victoria Police personnel provide all reasonable assistance to support the Public Interest Monitor in the performance of its functions. 	Human Source Management	30 November 2022

No.	Recommendation	Theme	Commission's implementation timeframe
52.	<p>That the Victorian Government, in developing legislation for external oversight of Victoria Police's registration, use and management of human sources, provides the Independent Broad-based Anti-corruption Commission with legislative functions to:</p> <ul style="list-style-type: none"> a. monitor Victoria Police's compliance with the human source management framework recommended by the Commission b. conduct inspections of Victoria Police human source records at least once every six months c. receive and consider reports from Victoria Police regarding material breaches of compliance with, or material deviations from, the human source management framework d. receive and consider reports from Victoria Police regarding its management of confidential or privileged information obtained from a human source e. make findings and recommendations to the Chief Commissioner of Victoria Police. 	Human Source Management	30 November 2022

No.	Recommendation	Theme	Commission's implementation timeframe
53.	<p>That the Victorian Government, in developing legislation for external oversight of Victoria Police's registration, use and management of human sources, provides the Independent Broad-based Anti-corruption Commission with all necessary and reasonable powers required to fulfil its legislative functions, including the power to:</p> <ol style="list-style-type: none"> a. enter any Victoria Police premises, after notifying the Chief Commissioner of Victoria Police b. have full and free access to Victoria Police human source records and systems c. make copies of records, in accordance with appropriate security measures d. request Victoria Police personnel to answer questions and provide documents e. request further inspection outside the legislative inspection period to monitor and assess Victoria Police's implementation of any of its recommendations f. do any other thing reasonably necessary to discharge its legislative functions effectively. 	Human Source Management	30 November 2022

No.	Recommendation	Theme	Commission's implementation timeframe
54.	<p>That the Victorian Government, in developing legislation for external oversight of Victoria Police's registration, use and management of human sources, provides that the Chief Commissioner of Victoria Police has obligations to:</p> <ul style="list-style-type: none"> a. report regularly (every three or six months) to the Independent Broad-based Anti-corruption Commission on any material breach of, or material deviation from, the human source management framework recommended by the Commission, and explain the circumstances of that breach and steps taken or planned to rectify the breach and prevent it recurring b. report regularly (every three or six months) to the Independent Broad-based Anti-corruption Commission on confidential or privileged information that Victoria Police has obtained from any human source and how that information has been or will be dealt with c. respond in writing within a reasonable time of receiving a recommendation of the Independent Broad-based Anti-corruption Commission, either to accept the recommendation or explain why it has not been accepted d. implement a recommendation of the Independent Broad-based Anti-corruption Commission within a reasonable time of receiving and accepting it e. ensure that Victoria Police personnel provide all reasonable assistance to the Independent Broad-based Anti-corruption Commission in the performance of its functions. 	Human Source Management	30 November 2022

No.	Recommendation	Theme	Commission's implementation timeframe
55.	<p>That the Victorian Government, in developing legislation for external oversight of Victoria Police's registration, use and management of human sources, requires the Independent Broad-based Anti-corruption Commission to:</p> <ul style="list-style-type: none"> a. report to the Attorney-General annually on, among other things, the performance of its legislative functions and Victoria Police's compliance with the human source management framework recommended by the Commission b. provide special reports to the Attorney-General on other occasions if the Independent Broad-based Anti-corruption Commission deems necessary, or on the Attorney-General's request c. provide copies of these annual and special reports to the Minister for Police and the Chief Commissioner of Victoria Police. 	Human Source Management	30 November 2022
56.	<p>That the Victorian Government, in developing legislation for external oversight of Victoria Police's registration, use and management of human sources, requires the Attorney-General to:</p> <ul style="list-style-type: none"> a. table in the Victorian Parliament annual and special reports prepared by the Independent Broad-based Anti-corruption Commission b. cause the reports to be published on a Victorian Government website, subject to any redactions that the Independent Broad-based Anti-corruption Commission considers necessary on safety and security grounds. 	Human Source Management	30 November 2022
58.	<p>That the Victorian Government, in developing legislation for external oversight of Victoria Police's registration, use and management of human sources, allows the Public Interest Monitor and Independent Broad-based Anti-corruption Commission to securely share information relevant to their respective legislative functions regarding Victoria Police's use and management of human sources.</p>	Human Source Management	30 November 2022

No.	Recommendation	Theme	Commission's implementation timeframe
60.	That the Victorian Government, within two years, ensures that the Public Interest Monitor, Independent Broad-based Anti-corruption Commission and Victoria Police are appropriately funded and resourced to undertake the additional legislative functions and fulfil associated obligations that the Commission has recommended for the external oversight of the use of human sources.	Funding	30 November 2022
61.	That the Victorian Government, within two years, undertakes a review of institutional and legislative structures for the oversight of Victoria Police's exercise of powers, to ensure that Victoria's police oversight system is consistent and coherent and contributes to improved police accountability, including through outcome-focused monitoring of police decisions and actions.	Oversight	30 November 2022
62.	<p>That the Victorian Government, within 12 months, introduces a legislative requirement for the responsible Victoria Police officer to:</p> <ul style="list-style-type: none"> a. provide the Victorian Director of Public Prosecutions with all material obtained during an investigation that may be relevant to either the prosecution or the accused person's case, except for material that is subject to a claim of privilege, public interest immunity, a legislative immunity or publication restriction b. notify the Director of the existence and nature of any material subject to a claim of privilege, public interest immunity, a legislative immunity or publication restriction c. where requested, provide the Director with any material subject to a claim of privilege, public interest immunity, legislative immunity or publication restriction. 	Disclosure	30 November 2021

No.	Recommendation	Theme	Commission's implementation timeframe
63.	<p>That the Victorian Government, within 12 months, introduces a legislative requirement for Victoria Police to complete a disclosure certificate in summary proceedings when a full brief is served and in indictable proceedings when a hand-up brief is served, which describes:</p> <ul style="list-style-type: none"> a. relevant material not contained in the brief of evidence that is subject to a claim of privilege, public interest immunity, a legislative immunity or publication restriction b. the nature of the privilege or immunity claim or publication restriction in relation to each item. <p>A copy of the disclosure certificate should be provided to the Victorian Director of Public Prosecutions and served on accused persons.</p>	Disclosure	30 November 2021
66.	<p>That the Victorian Government, within 12 months, amends sections 41(e) and 110(e) of the <i>Criminal Procedure Act 2009</i> (Vic) to clarify that any information, document or thing that is relevant to an alleged offence includes any material relevant to the credibility of a prosecution witness.</p>	Disclosure	30 November 2021
67.	<p>That the Victorian Government, within six months, in consultation with the Victorian Director of Public Prosecutions, Victoria Police, the Victorian courts, Victoria Legal Aid and other relevant stakeholders:</p> <ul style="list-style-type: none"> a. reviews the adequacy of existing court powers to make non-disclosure orders b. considers whether a legislative power should be introduced to empower Victoria Police and/or the Director to initiate applications for a court to determine public interest immunity claims without giving notice to an accused person. 	Disclosure	31 May 2021

No.	Recommendation	Theme	Commission's implementation timeframe
77.	<p>That the Victorian Government, within six months, considers whether the Victorian Legal Admissions Board requires any additional powers to request and consider documentation from other agencies for the purpose of assessing applications for admission to the legal profession.</p> <p>If such powers are conferred in Victoria, a Council of Attorneys-General working group should consider whether a harmonised approach could be adopted in all Australian jurisdictions.</p>	Legal Profession Regulation	31 May 2021
86.	<p>That the Victorian Government, within 12 months, pursues through the Council of Attorneys-General and the Legal Services Council, an amendment to the Legal Profession Uniform Law introducing a mandatory requirement for lawyers to report the suspected misconduct of other lawyers. The Victorian Government should ensure the Victorian Legal Services Board and Commissioner is appropriately resourced to implement this recommendation.</p> <p>If the amendment incorporating a mandatory reporting obligation has not been agreed within 12 months, the Victorian Government should, within a further 12 months, introduce a mandatory reporting requirement for Victorian lawyers to report the suspected misconduct of other lawyers.</p>	Legal Profession Regulation	30 November 2021 or, if the amendment has not been agreed within 12 months, by 30 November 2022

No.	Recommendation	Theme	Commission's implementation timeframe
91.	<p>That the Victorian Government, within 18 months, amends the <i>Inquiries Act 2014</i> (Vic) to:</p> <ul style="list-style-type: none"> a. remove the ability for a person to refuse to comply with a notice to give information to a royal commission on the basis that the information is the subject of public interest immunity b. insert a provision to make clear that it is not a reasonable excuse for a person to refuse or fail to comply with a requirement to give information (including answering a question) or produce a document or other thing to a royal commission on the basis that the information, document or other thing is the subject of public interest immunity c. specify that any such information or document or other thing does not cease to be the subject of public interest immunity only because it is given or produced to a royal commission in accordance with a requirement under the Act. 	Royal Commissions	31 May 2022
92.	<p>That the Victorian Government, within 12 months, develops legislation to establish a Special Investigator with the necessary powers and resources to investigate whether there is sufficient evidence to establish the commission of a criminal offence or offences (connected with Victoria Police's use of Ms Nicola Gobbo as a human source) by Ms Gobbo or the current and former police officers named in the Commission's final report or in the complete and unredacted submissions of Counsel Assisting.</p>	Special Investigator	30 November 2021
93.	<p>That the Victorian Government, in developing the legislation to establish the Special Investigator, requires that the person appointed as the Special Investigator be an Australian lawyer with at least 10 years' experience in criminal law or a related field.</p>	Special Investigator	30 November 2021

No.	Recommendation	Theme	Commission's implementation timeframe
94.	That, where the Special Investigator compiles a brief of evidence containing sufficient evidence to establish the commission of a criminal offence or offences by Ms Nicola Gobbo or current or former Victoria Police officers, the Victorian Director of Public Prosecutions should be responsible for determining whether to prosecute and, if so, for the prosecution of the matter under the <i>Public Prosecutions Act 1994</i> (Vic).	Special Investigator	30 November 2021
95.	That the Victorian Government, in developing the legislation to establish the Special Investigator, requires the Special Investigator to report regularly to the Implementation Monitor proposed in Recommendation 108 on their progress to establish their operations, and on the outcomes of their investigations.	Special Investigator	30 November 2021
96.	That the Victorian Government, in developing the legislation to establish the Special Investigator, requires the Special Investigator to investigate whether there is sufficient evidence to establish the commission of misconduct or a breach of discipline under the <i>Victoria Police Act 2013</i> (Vic) (connected with Victoria Police's use of Ms Nicola Gobbo as a human source) by current Victoria Police officers named in the Commission's final report or in the complete and unredacted submissions of Counsel Assisting.	Special Investigator	30 November 2021

No.	Recommendation	Theme	Commission's implementation timeframe
97.	<p>That the Victorian Government, in developing the legislation to establish the Special Investigator, empowers the Special Investigator to investigate:</p> <ul style="list-style-type: none"> a. whether there is sufficient evidence to establish the commission of a criminal offence or offences (connected with Victoria Police's use of Ms Nicola Gobbo as a human source) by any current or former Victoria Police officers other than those named in the Commission's final report or in the complete and unredacted submissions of Counsel Assisting b. whether there is sufficient evidence to establish the commission of misconduct or a breach of discipline under the <i>Victoria Police Act 2013</i> (Vic) (connected with Victoria Police's use of Ms Gobbo as a human source) by any current Victoria Police officers other than those named in the Commission's final report or in the complete and unredacted submissions of Counsel Assisting. 	Special Investigator	30 November 2021
98.	<p>That the Victorian Government, in developing the legislation to establish the Special Investigator, provides the Special Investigator with all necessary and reasonable powers required to fulfil their role in investigating misconduct or breaches of discipline, including but not limited to the power to direct any police officer to give any relevant information, produce any relevant document or answer any relevant question during a disciplinary investigation.</p> <p>Any information, document or answer given in response to such a direction should not be admissible in evidence before any court or person acting judicially, other than in proceedings for perjury or for a breach of discipline.</p> <p>To support the Special Investigator's powers, the failure of an officer to comply with a direction from the Special Investigator should itself constitute a breach of discipline.</p>	Special Investigator	30 November 2021

No.	Recommendation	Theme	Commission's implementation timeframe
99.	That the Victorian Government, in developing the legislation to establish the Special Investigator, empowers the Special Investigator to lay disciplinary charges against relevant police officers if satisfied there is sufficient evidence to do so.	Special Investigator	30 November 2021
102.	That the Victorian Government ensures that under the <i>Public Records Act 1973</i> (Vic), the Commission's records be unavailable for public inspection for 75 years, subject to: any order of the Supreme Court of Victoria; the legislation providing the Special Investigator and the Independent Broad-based Anti-corruption Commission with access to the records; or any decision of the responsible Minister under section 9(2)(b) of the Act to permit all or any of the records to be open for inspection by any specified person or class of persons.	Records Management	No specified timeframe
103.	<p>That the Victorian Government, in developing the legislation to establish the Special Investigator, ensures that the legislation:</p> <ul style="list-style-type: none"> a. gives the Special Investigator full and free access to the Commission's records b. requires the Special Investigator to establish appropriate security arrangements for access to and the management of such records. <p>The Victorian Government should also ensure that the Independent Broad-based Anti-corruption Commission has a legislative entitlement to obtain full and free access to the Commission's records.</p>	Special Investigator	30 November 2021
104.	That the Department of Premier and Cabinet notifies Victoria Police of any court order or request to access the closed records of the Commission, except in relation to requests made by the Special Investigator or Independent Broad-based Anti-corruption Commission.	Records Management	Ongoing

No.	Recommendation	Theme	Commission's implementation timeframe
107.	<p>That the Victorian Government, within three months, establishes an Implementation Taskforce, chaired by a senior executive of the Department of Justice and Community Safety, with responsibility for coordinating and completing implementation of the Commission's recommendations. The Taskforce should:</p> <ul style="list-style-type: none"> a. consist of members from the Department of Justice and Community Safety, Department of Premier and Cabinet, Victoria Police, the Victorian Office of Public Prosecutions, the Special Investigator and other relevant stakeholders b. engage regularly with, and report formally and informally to, the Implementation Monitor proposed in Recommendation 108 throughout the implementation process. 	Governance	<p>28 February 2021</p> <p>Delivered</p>
108.	<p>That the Victorian Government, within three months, appoints an independent Implementation Monitor to monitor the implementation of the Commission's recommendations until implementation is completed.</p>	Governance	<p>28 February 2021</p> <p>Delivered</p>

No.	Recommendation	Theme	Commission's implementation timeframe
109.	<p>That the Victorian Government, in establishing the role of the Implementation Monitor, provides the Implementation Monitor with the support of a small secretariat located within the Department of Justice and Community Safety, and all necessary and reasonable legislative powers required to fulfil their role, including the power to:</p> <ul style="list-style-type: none"> a. assess the implementation of the Commission's recommendations throughout the implementation process, not only once responsible agencies have reported on the completion of implementation b. access Implementation Taskforce documents and attend meetings of the Implementation Taskforce c. indicate to responsible agencies the extent to which their implementation of the Commission's recommendations is considered adequate d. request regular reports from Victoria Police on its progress in fulfilling its ongoing disclosure obligations to potentially affected persons identified by the Commission e. request reports from the Special Investigator on progress to establish their operations and the outcomes of their investigations f. request reports from the Chief Commissioner of Victoria Police on the progress and outcomes of any disciplinary proceedings arising from the Special Investigator's disciplinary investigations. 	Governance	No specified timeframe
110.	<p>That the Victorian Government, in establishing the role of the Implementation Monitor, requires it to report to the Attorney-General annually, or more frequently as it deems necessary, on the progress of the implementation of the Commission's recommendations, the adequacy of implementation and what further measures may be required to ensure the Commission's recommendations are implemented fully within the specified timeframes.</p>	Reporting	No specified timeframe

No.	Recommendation	Theme	Commission's implementation timeframe
111.	That the Attorney-General reports annually to the Victorian Parliament on the progress of the implementation of the Commission's recommendations, until implementation is complete.	Reporting	Ongoing until implementation complete

Appendix D – Recommendations directed to other stakeholders

The Commission’s final report included 111 recommendations. The following table sets out the Commission’s implementation timeframes against each recommendation that all agencies are responsible for implementing. Unless otherwise indicated in the table, the implementation of each recommendation is **on track** at the time of releasing this response.

No.	Recommendation	Responsible agency	Reform area	Commissioner’s implementation timeframe
2.	That the Victorian Bar Council, within three months, considers removing Ms Nicola Gobbo from the Victorian Bar Roll, including by any necessary amendment to the Victorian Bar Constitution.	Victorian Bar	Legal Profession Regulation	28 February 2021 Delivered
4.	That the Chief Commissioner of Victoria Police, within three months: <ol style="list-style-type: none"> a. takes steps to ensure that Victoria Police’s organisational and executive structure enables the role of Executive Director, Legal Services to provide independent legal advice to Victoria Police Executive Command (or creates an alternative senior legal advisory role for this purpose) b. considers whether limits should be placed on the maximum time a person may spend in the position of Executive Director, Legal Services (or any alternative senior role created within Victoria Police for the purpose of providing independent legal advice to Executive Command). 	Victoria Police	Governance	28 February 2021 Delivered

No.	Recommendation	Responsible agency	Reform area	Commissioner's implementation timeframe
5.	<p>That Victoria Police provides monthly progress reports to the Implementation Taskforce proposed in Recommendation 107, regarding its progress in fulfilling its ongoing disclosure obligations to potentially affected persons identified by the Commission. These reports should also be made available to the Implementation Monitor proposed in Recommendation 108.</p>	Victoria Police	Disclosure	Ongoing
7.	<p>That Victoria Police, within three months and consistent with its <i>Capability Plan 2016–2025</i>, establishes clear processes for the review and amendment of human source management policies and procedures, including processes for:</p> <ul style="list-style-type: none"> a. seeking and incorporating operational input from police officers involved in human source management b. disseminating and communicating policy and procedural changes so that all relevant officers receive timely and accurate advice about impending change c. Reviewing and evaluating policies and procedures on an annual basis to ensure its human source management practices are responsive to emerging risks, changes to the operating environment and changes to any relevant legislation; and are consistent with Victoria Police's human rights obligations under the <i>Charter of Human Rights and Responsibilities Act 2006</i> (Vic). 	Victoria Police	Human Source Management	<p>28 February 2021</p> <p>Delivered</p>

<p>19.</p>	<p>That Victoria Police, within 12 months, implements changes to its decision-making model and associated requirements in the Human Source Policy, on an interim basis until the legislation proposed in Recommendation 8 comes into force. The Human Source Policy should:</p> <ul style="list-style-type: none"> a. provide that the Assistant Commissioner, Intelligence and Covert Support Command, is responsible for decisions to register Category 1–3 human sources and to disseminate confidential or privileged information obtained from any human source b. provide that the Central Source Registrar is responsible for the registration of human sources other than Category 1–3 human sources c. require the Assistant Commissioner to consider formal legal advice in deciding whether to authorise the registration of a Category 1 human source or to disseminate confidential or privileged information, and to consider other specialist advice as required in deciding whether to register a Category 2 or 3 human source d. replace the requirement for officers to seek approval from the Human Source Ethics Committee to ‘approach’ a prospective Category 1–3 human source with a requirement for the handling team to consult with the Human Source Management Unit before approaching such a prospective source 	<p>Victoria Police</p>	<p>Human Source Management</p>	<p>30 November 2021</p>
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No.	Recommendation	Responsible agency	Reform area	Commissioner's implementation timeframe
	<ul style="list-style-type: none"> e. remove Category 4 human sources as a separate category under the Human Source Policy. 			
20.	<p>That Victoria Police, within 12 months:</p> <ul style="list-style-type: none"> a. implements changes to its Human Source Policy to include a statement of the organisation's objectives and guiding principles for the registration, use and management of human sources, including but not limited to principles of integrity, necessity and proportionality, accountability, effectiveness, consistency, and safety and sensitivity b. obtains operational input to inform the development of these objectives, principles and associated guidance. 	Victoria Police	Human Source Management	30 November 2021
21.	<p>That Victoria Police, within 12 months, implements changes to its Human Source Policy to provide practical examples of the ways in which human source management can engage and limit the human rights set out in the <i>Charter of Human Rights and Responsibilities Act 2006</i> (Vic), and guidance for police officers in considering whether the use of a human source is necessary and proportionate.</p>	Victoria Police	Human Source Management	30 November 2021

No.	Recommendation	Responsible agency	Reform area	Commissioner's implementation timeframe
22.	<p>That Victoria Police, within 12 months, implements changes to its Human Source Policy to provide practical guidance to assist police officers to identify potentially confidential or privileged information. This guidance should include advice and examples relating to:</p> <ul style="list-style-type: none"> a. the types of occupations and professional relationships that attract legal obligations of confidentiality or privilege b. the exceptions to legal obligations of confidentiality or privilege and when these may apply c. the implications of using confidential or privileged information, including the potentially adverse consequences for any resulting investigations, prosecutions or convictions d. when and how to seek further advice, including from the Human Source Management Unit. <p>Victoria Police should seek legal advice from its Legal Services Department or the Victorian Government Solicitor's Office in developing this guidance.</p>	Victoria Police	Human Source Management	30 November 2021

No.	Recommendation	Responsible agency	Reform area	Commissioner's implementation timeframe
23.	That Victoria Police, within 12 months, implements changes to its Human Source Policy to provide clear requirements and instructions to police officers on the use and handling of confidential and privileged information, including in relation to the quarantine, retention, dissemination and destruction of such information.	Victoria Police	Human Source Management	30 November 2021
24.	<p>That Victoria Police, within 12 months, implements changes to its Human Source Policy to require that:</p> <ul style="list-style-type: none"> a. when dealing with human sources involving legal obligations of confidentiality or privilege, the Acknowledgement of Responsibilities must clearly set out any limitations on the information a human source can provide b. police officers must not actively, without appropriate authority, seek information from a human source that would cause the human source to breach a legal obligation of confidentiality or privilege. 	Victoria Police	Human Source Management	30 November 2021
25.	That Victoria Police, within 12 months, implements changes to its Human Source Policy to provide clear instructions and practical guidance on the circumstances in which it may be appropriate to dispense with the requirement for a sterile corridor and the measures that officers should adopt to manage the associated risks.	Victoria Police	Human Source Management	30 November 2021

No.	Recommendation	Responsible agency	Reform area	Commissioner's implementation timeframe
26.	<p>That Victoria Police, within two years, establishes an organisational model for the registration, use and management of human sources that provides for:</p> <ul style="list-style-type: none"> a. the management of all human sources by dedicated source teams b. centralised internal oversight of the management of human sources by the Human Source Management Unit, the Central Source Registrar and the Assistant Commissioner, Intelligence and Covert Support Command. 	Victoria Police	Human Source Management	30 November 2022
27.	<p>That Victoria Police, within two years, removes the roles of Officer in Charge and Local Source Registrar from its decision-making process and organisational model for the registration, use and management of human sources.</p>	Victoria Police	Human Source Management	30 November 2022
28.	<p>That Victoria Police, within two years, introduces requirements limiting the maximum time that police officers can hold positions within dedicated source teams and the Human Source Management Unit to five years.</p>	Victoria Police	Human Source Management	30 November 2022

No.	Recommendation	Responsible agency	Reform area	Commissioner's implementation timeframe
29.	<p>That Victoria Police, within two years:</p> <ul style="list-style-type: none"> a. develops a prevention and detection strategy to mitigate the risk of misconduct and corruption that may arise from the implementation of a centralised and dedicated human source management model, taking into account the Commission's findings and those of previous inquiries b. ensures that this strategy is regularly reviewed and refined as part of Victoria Police's strategic management of this high-risk area of policing. 	Victoria Police	Human Source Management	30 November 2022
30.	<p>That Victoria Police, within 12 months and as part of its current work to improve its human source risk assessments, develops guidance on how to assess:</p> <ul style="list-style-type: none"> a. the source and nature of information reasonably expected to be provided by a human source, to identify whether that information could be confidential or privileged b. the risks that the use of a human source could pose to the proper administration of justice c. the engagement of any human rights set out in the <i>Charter of Human Rights and Responsibilities Act 2006</i> (Vic), including how any limitation is reasonable, necessary and proportionate in the circumstances. 	Victoria Police	Human Source Management	30 November 2021

No.	Recommendation	Responsible agency	Reform area	Commissioner's implementation timeframe
31.	That Victoria Police, within three years, engages an independent expert to evaluate and report on the effectiveness of its new human source management risk assessment tools, to determine whether they support effective identification and management of risks.	Victoria Police	Human Source Management	30 November 2023
32.	That Victoria Police, within 12 months, implements changes to its Human Source Policy to provide clear instructions and practical guidance about who is responsible for supervision of the handling team, why effective supervision is necessary and how it should be applied in practice.	Victoria Police	Human Source Management	30 November 2021

No.	Recommendation	Responsible agency	Reform area	Commissioner's implementation timeframe
33.	<p>That Victoria Police, within 12 months, develops guidance in its human source management training to assist police officers to identify confidential and privileged information, focusing on the origin of information and circumstances in which such information could be provided to police, including:</p> <ul style="list-style-type: none"> a. how to identify potential legal obligations of confidentiality or privilege through the risk assessment process b. how to manage any professional conflicts of interest that may arise for a human source with legal obligations of confidentiality or privilege. <p>Victoria Police should seek legal advice from its Legal Services Department or the Victorian Government Solicitor's Office in developing this training material.</p>	Victoria Police	Human Source Management	30 November 2021

No.	Recommendation	Responsible agency	Reform area	Commissioner's implementation timeframe
34.	<p>That Victoria Police, within 12 months, develops guidance in its human source management training on:</p> <ul style="list-style-type: none"> a. the human rights set out in the <i>Charter of Human Rights and Responsibilities Act 2006</i> (Vic) that are generally engaged by the management of human sources, including the right to life, the right to privacy and the right to a fair hearing b. how to assess whether the use of a human source unreasonably limits the human rights of the source or other people. <p>Victoria Police should seek input from the Victorian Equal Opportunity and Human Rights Commission in developing and delivering this training.</p>	Victoria Police	Human Source Management	30 November 2021
35.	<p>That Victoria Police, within 12 months, develops and implements training for controllers, the Human Source Management Unit, the Central Source Registrar and the Assistant Commissioner, Intelligence and Covert Support Command, focused on effective risk management, supervision, oversight and decision making in respect of the use of human sources. This training should include guidance on identifying confidential and privileged information, and the circumstances in which such information could be provided to police.</p>	Victoria Police	Human Source Management	30 November 2021

No.	Recommendation	Responsible agency	Reform area	Commissioner's implementation timeframe
36.	That Victoria Police, within 12 months, requires all handlers and controllers to successfully complete intermediate human source management training at a minimum.	Victoria Police	Human Source Management	30 November 2021
37.	That Victoria Police, within 12 months, introduces requirements for mandatory annual human source management training for all police officers with human source management responsibilities and timely training associated with any significant policy or legislative changes.	Victoria Police	Human Source Management	30 November 2021
38.	That Victoria Police, within 12 months, enhances Interpose or develops some other system for recording details of the origin of information provided by human sources and how it was obtained.	Victoria Police	Human Source Management	30 November 2021
39.	That Victoria Police, within 12 months, reviews the broader functionality of Interpose to ensure that it will support the effective implementation of the Commission's recommendations.	Victoria Police	Human Source Management	30 November 2021

No.	Recommendation	Responsible agency	Reform area	Commissioner's implementation timeframe
40.	<p>That Victoria Police, within 12 months, implements changes to its Human Source Policy and associated processes to:</p> <ul style="list-style-type: none"> a. provide for six-monthly compliance audits of human source files at all risk levels by the Compliance and Risk Management Unit within the Intelligence and Covert Support Command b. clearly set out the compliance monitoring functions of both the Compliance and Risk Management Unit and the Human Source Management Unit. 	Victoria Police	Human Source Management	30 November 2021
41.	<p>That Victoria Police, within 12 months, implements changes to its Human Source Policy and associated processes to require that:</p> <ul style="list-style-type: none"> a. the results of human source management audits be reported to the Assistant Commissioner, Intelligence and Covert Support Command b. any system-wide risks or major failings that are identified through human source management audits be reported to the Victoria Police Audit and Risk Committee. 	Victoria Police	Human Source Management	30 November 2021

No.	Recommendation	Responsible agency	Reform area	Commissioner's implementation timeframe
42.	<p>That Victoria Police, within three months, establishes a strategic governance committee to:</p> <ul style="list-style-type: none"> a. contribute to the development, and oversee Victoria Police's implementation of, the human source management reforms recommended by the Commission b. identify, address and monitor emerging risks, issues and opportunities in Victoria Police's human source management program and provide strategic advice to the Assistant Commissioner, Intelligence and Covert Support Command and Deputy Commissioner, Specialist Operations c. be responsible for strategic planning for Victoria Police's human source management program. 	Victoria Police	Human Source Management	<p>28 February 2021</p> <p>Delivered</p>
57.	<p>That Victoria Police, within three months, implements changes to its Human Source Policy to require that all human sources are informed upon registration that they are able to make complaints to the Independent Broad-based Anti-corruption Commission, which may be confidential if they wish.</p>	Victoria Police	Human Source Management	<p>28 February 2021</p> <p>Delivered</p>

No.	Recommendation	Responsible agency	Reform area	Commissioner's implementation timeframe
59.	<p>That the Public Interest Monitor and the Independent Broad-based Anti-corruption Commission, within two years and prior to the commencement of the proposed new legislation for external oversight of Victoria Police's registration, use and management of human sources, implement appropriate security protocols and infrastructure to securely receive, share, store and dispose of sensitive human source information.</p>	PIM, IBAC	Oversight	30 November 2022
64.	<p>That Victoria Police, within 12 months, amends its internal policies and procedures to align with the legislative changes proposed in Recommendations 62 and 63. These amendments should include guidance for the responsible Victoria Police officer on disclosure obligations and how to describe withheld materials in the proposed disclosure certificate.</p> <p>Victoria Police should consult with the Victorian Director of Public Prosecutions in developing these amendments.</p>	Victoria Police	Disclosure	30 November 2021
65.	<p>That the Victorian Director of Public Prosecutions, within 12 months, amends the <i>Policy of the Director of Public Prosecutions for Victoria</i> to align it with the legislative changes proposed in Recommendations 62 and 63.</p>	DPP	Disclosure	30 November 2021

No.	Recommendation	Responsible agency	Reform area	Commissioner's implementation timeframe
68.	<p>That the Victorian Director of Public Prosecutions, Victoria Police, the Victorian Government Solicitor's Office and any other relevant stakeholders work together to establish clear protocols and procedures, within 12 months, to facilitate effective engagement with, and resolution of, complex issues arising from disclosure obligations and public interest immunity claims.</p> <p>These protocols and procedures should:</p> <ul style="list-style-type: none"> a. ensure Victoria Police has adequate and early support, including legal advice, when making complex decisions about relevant and disclosable information that may be subject to public interest immunity b. tailor the level of support provided to Victoria Police, to enable greater support in cases involving complex public interest immunity and disclosure issues c. ensure the Director's independence is maintained and potential conflicts of interest are avoided. 	DPP, Victoria Police, VGSO	Disclosure	30 November 2021

No.	Recommendation	Responsible agency	Reform area	Commissioner's implementation timeframe
69.	<p>That the Victorian Director of Public Prosecutions, within 12 months, amends the <i>Policy of the Director of Public Prosecutions for Victoria</i> to provide appropriate guidance on when and how the Director can be consulted by Victoria Police in relation to complex issues arising from disclosure obligations and public interest immunity claims. These amendments should reflect the protocols and procedures proposed in Recommendation 68.</p>	DPP	Disclosure	30 November 2021
70.	<p>That Victoria Police, within 12 months, amends its internal policies and procedures to provide appropriate guidance on when and how Victoria Police can consult the Victorian Director of Public Prosecutions in relation to complex issues arising from disclosure obligations and public interest immunity claims. These amendments should reflect the protocols and procedures proposed in Recommendation 68 and the need for police officers to obtain early legal advice when potentially complex disclosure and public interest immunity issues arise; and provide a clear framework for seeking that advice.</p>	Victoria Police	Disclosure	30 November 2021
71.	<p>That Victoria Police, within six months, implements the measures it has proposed to improve training and support for police officers regarding their disclosure obligations, across all levels of the organisation.</p>	Victoria Police	Disclosure	31 May 2021

No.	Recommendation	Responsible agency	Reform area	Commissioner's implementation timeframe
72.	<p>That Victoria Police commissions two independent reviews of the measures implemented in Recommendation 71, to ensure that they adequately reflect any applicable changes to law and policy and are effective in improving police officers' understanding of their disclosure obligations. The reviews should be undertaken as follows:</p> <ul style="list-style-type: none"> a. an initial independent external review within two years of implementation b. an additional independent external review within five years of the initial review. 	Victoria Police	Disclosure	First review within two years of implementation of Recommendation 71 and additional review within five years of first review
73.	<p>That Victoria Police commissions two independent reviews of the implementation of its dedicated disclosure officer initiative, to ensure that it is effective in improving disclosure processes and practices. The reviews should be undertaken as follows:</p> <ul style="list-style-type: none"> a. an initial independent external review within two years of implementation b. an additional independent external review within five years of the initial review. 	Victoria Police	Disclosure	First review within two years of implementation of disclosure officer initiative and additional review within five years of first review

No.	Recommendation	Responsible agency	Reform area	Commissioner's implementation timeframe
74.	<p>That Victoria Police, within six months, reviews the information management systems it relies on to fulfill its disclosure obligations, to assess with specificity:</p> <ul style="list-style-type: none"> a. the extent to which the implementation of recent system reforms will enable Victoria Police to fulfil its disclosure obligations adequately b. remaining system gaps and issues c. system functionality needed to address any identified gaps and issues d. investment requirements to develop and implement any additional system functionality needed. 	Victoria Police	Disclosure	31 May 2021

No.	Recommendation	Responsible agency	Reform area	Commissioner's implementation timeframe
75.	<p>That Victoria Police, within three months, establishes a disclosure governance committee that has responsibility for identifying and monitoring systemic disclosure issues and overseeing the development and implementation of reforms to improve disclosure processes and practices.</p> <p>The committee's membership should consist of stakeholders with expertise in policing, disclosure, public interest immunity and the conduct of criminal prosecutions, including the Victorian Office of Public Prosecutions, the Victorian Government Solicitor's Office, the Department of Justice and Community Safety, Victoria Legal Aid and any other relevant legal profession representatives.</p>	Victoria Police	Disclosure	<p>28 February 2021</p> <p>Delivered</p>

No.	Recommendation	Responsible agency	Reform area	Commissioner's implementation timeframe
76.	<p>That the Victorian Legal Services Board and Commissioner, the Law Institute of Victoria and the Victorian Bar work with community legal services and Victoria Legal Aid to, within six months, prepare and distribute communications aimed at restoring and promoting public and client confidence in the legal profession. These communications should:</p> <ul style="list-style-type: none"> a. educate clients and the public on lawyers' ethical duties and obligations, particularly in relation to confidentiality, conflicts of interest and legal professional privilege b. inform clients and the public about where they can seek help or advice regarding concerns they may have about their lawyer. 	VLSBC, LIV and Victorian Bar	Legal Profession Regulation	<p>31 May 2021</p> <p>Experiencing delays due to funding</p>
78.	<p>That the Legal Services Council, Law Council of Australia and Australian Bar Association work together to, within 12 months, clarify and harmonise the duty of confidentiality and its exceptions, as contained in the Solicitors' Conduct Rules and the Barristers' Conduct Rules.</p>	Legal Services Council, Law Council of Australia, Australian Bar Association	Legal Profession Regulation	30 November 2021

No.	Recommendation	Responsible agency	Reform area	Commissioner's implementation timeframe
79.	<p>That the Law Council of Australia, within 12 months, updates the commentary to the Solicitors' Conduct Rules in relation to the duty of confidentiality and its exceptions, to include guidance on:</p> <ul style="list-style-type: none"> a. the factors to be considered when assessing whether a disclosure of confidential information is justified b. where and how a solicitor can obtain advice on ethics when considering making a disclosure c. steps to be taken to document the actions taken by a solicitor regarding the information received and the disclosure made d. any further actions that a solicitor should take when considering making a disclosure. 	Law Council of Australia	Legal Profession Regulation	30 November 2021

No.	Recommendation	Responsible agency	Reform area	Commissioner's implementation timeframe
80.	<p>That the Victorian Bar, within 12 months, prepares guidance in relation to the duty of confidentiality and its exceptions, including:</p> <ul style="list-style-type: none"> a. the factors to be considered when assessing whether a disclosure of confidential information is justified b. where and how a barrister can obtain advice on ethics when considering making a disclosure c. steps to be taken to document the actions taken by a barrister regarding the information received and the disclosure made d. any further actions that a barrister should take when considering making a disclosure. 	Victorian Bar	Legal Profession Regulation	30 November 2021
81.	<p>That the Victorian Bar, within six months, develops ethics guidance on specific conflict of interest issues and scenarios that can arise for criminal defence barristers.</p> <p>The Victorian Bar should prepare this guidance in consultation with the Criminal Bar Association, Victoria Legal Aid and other relevant stakeholders.</p>	Victorian Bar	Legal Profession Regulation	31 May 2021
82.	<p>That the Law Council of Australia, within 12 months, includes specific guidance on maintaining appropriate professional boundaries in the commentary to the Solicitors' Conduct Rules.</p>	Law Council of Australia	Legal Profession Regulation	30 November 2021

No.	Recommendation	Responsible agency	Reform area	Commissioner's implementation timeframe
83.	That the Victorian Bar, within 12 months, develops specific guidance for barristers on maintaining appropriate professional boundaries.	Victorian Bar	Legal Profession Regulation	30 November 2021
84.	That the Victorian Legal Services Board and Commissioner, within six months, issues clear guidance about how legal ethics education should be embedded in the four compulsory fields of continuing professional development, including through the use of practical, scenario-based learning.	VLSBC	Legal Profession Regulation	30 May 2021
85.	<p>That the Legal Services Council, Law Council of Australia and Australian Bar Association work together to, within 12 months, harmonise the powers held by local regulatory authorities through the Solicitors' Continuing Professional Development Rules, so that policies and requirements for continuing professional development can be made for solicitors as they can already for barristers.</p> <p>If this change has not been made within 12 months, the Victorian Government should, within a further 12 months, provide the Victorian Legal Services Board and Commissioner with the power to regulate solicitors' continuing professional development, as it is currently able to do in respect of barristers.</p>	Legal Services Council, Law Council of Australia, Australian Bar Association	Legal Profession Regulation	30 November 2021 or, if change has not been made within 12 months, by 30 November 2022

No.	Recommendation	Responsible agency	Reform area	Commissioner's implementation timeframe
87.	That the Victorian Legal Services Board and Commissioner, the Victorian Bar and the Law Institute of Victoria, in consultation with other relevant stakeholders and prior to the commencement of the mandatory reporting obligation proposed in Recommendation 86, prepare harmonised guidance and continuing professional development activities for the legal profession to accompany and support the introduction of a mandatory reporting requirement.	VLSBC, Victorian Bar, LIV	Legal Profession Regulation	Prior to implementation of Recommendation 86
88.	That the Victorian Legal Services Commissioner, within 12 months, revokes the Instrument of Delegation conferred on the Victorian Bar for receiving and handling complaints regarding barristers and resumes that function.	VLSBC	Legal Profession Regulation	30 November 2021

No.	Recommendation	Responsible agency	Reform area	Commissioner's implementation timeframe
89.	<p>That the Victorian Bar and the Law Institute of Victoria, within six months, assess the awareness level, use and views of the ethical, health and wellbeing support services and resources offered to their members. If the awareness levels and usage are found to be low, the Victorian Bar and the Law Institute of Victoria should review the quality of the services and resources and improve marketing and communications to ensure members are aware of the useful supports available.</p> <p>The Victorian Bar and the Law Institute of Victoria should regularly review the effectiveness of these services and resources (at least every two years) and update them as required to meet the needs of members.</p>	Victorian Bar and LIV	Legal Profession Regulation	31 May 2021
90.	<p>That Victoria Police, within 12 months, amends the <i>Victoria Police Manual</i> and relevant training materials to comprehensively set out obligations under section 464C of the <i>Crimes Act 1958</i> (Vic) and the <i>Charter of Human Rights and Responsibilities Act 2006</i> (Vic) related to the right of a person in police custody to communicate with a lawyer.</p> <p>Victoria Police should undertake this work in consultation with relevant stakeholders including Victoria Legal Aid, the Department of Justice and Community Safety, Law Institute of Victoria, Victorian Bar, Federation of Community Legal Centres and Victorian Aboriginal Legal Service.</p>	Victoria Police	Legal Profession Regulation	30 November 2021

No.	Recommendation	Responsible agency	Reform area	Commissioner's implementation timeframe
100.	That the Chief Commissioner of Victoria Police ensures that a suitably qualified, independent authorised person, who is not a police officer, determines any disciplinary charges laid by the Special Investigator.	Victoria Police	Special Investigator	Following completion of investigations by the Special Investigator
101.	That the Chief Commissioner of Victoria Police reports to the Special Investigator and Implementation Monitor proposed in Recommendation 108 on the outcome of any disciplinary proceedings arising from the Special Investigator's investigation of current Victoria Police officers.	Victoria Police	Special Investigator	Following completion of investigations by the Special Investigator
105.	That Victoria Police and the Victorian Director of Public Prosecutions, within three months, in accordance with their ongoing disclosure obligations, apply the Commissioner's determinations in relation to the public interest immunity claims (or as otherwise determined by a court) over the complete and unredacted submissions of Counsel Assisting, and, where relevant, facilitate disclosure of these revised versions of the submissions to potentially affected persons.	Victoria Police	Disclosure	28 February 2021 Delivered

No.	Recommendation	Responsible agency	Reform area	Commissioner's implementation timeframe
106.	That Victoria Police and prosecuting agencies, within six months, make all reasonable attempts to advise the 887 people whose cases may have been affected in the manner identified in <i>R v Szabo</i> that their cases may have been affected by Ms Nicola Gobbo's conduct as a human source, and facilitate ongoing disclosure of relevant information to those persons.	Victoria Police	Disclosure	31 May 2021