



# IBAC special reports and the natural justice process

## Information sheet

### The role of IBAC special reports

One of IBAC’s functions is to educate and prevent public sector corruption and police misconduct through the publication of special reports.

IBAC can publish a special report relating to the performance of its duties and functions at any time. This includes a special report about an investigation into suspected ‘corrupt conduct’.

A special report is a public document that may provide a detailed account of an IBAC investigation. This could include a discussion and examination of evidence, and IBAC’s findings and recommendations based on this evidence.

IBAC special reports may include:

- comments about individuals or entities involved in the investigation
- how they were involved
- what part they played in the conduct under investigation.

The report may identify people or businesses by name or pseudonym (change of name/alias).

Sometimes IBAC makes adverse comments or opinions about witnesses or parties involved in an operation. An ‘adverse comment or opinion’ about a person is one which may negatively affect their interests (for example their reputation or employment).

IBAC takes its responsibility to support and protect the wellbeing of witnesses seriously and will give all people who are adversely mentioned in a special report a reasonable opportunity to respond before the report is published.

### The natural justice process

Natural justice refers to the right to be made aware of, and respond to, an administrative decision which may affect a person.

In the context of an IBAC special report this means that where IBAC intends to include comments or opinions which may be adverse to a person, we provide that person with a reasonable opportunity to respond to those comments or opinions.

The natural justice process requires that a person who is the subject of an adverse comment or opinion is given sufficient information to understand and respond to the adverse material IBAC intends to include in a special report. This includes providing witnesses with a copy of their own examination transcript (if they were examined).

#### Natural justice: required by law

Section 162 of the *Independent Broad-based Anti-corruption Commission Act 2011* (IBAC Act) sets out all the requirements IBAC must comply with before publishing a special report.

These include:

- giving people a reasonable opportunity to respond to any adverse comment or opinion about them that IBAC intends to include in a special report
- giving public bodies and their relevant principal officer a reasonable opportunity to respond to any adverse findings
- if a response is provided, IBAC must fairly set out each element of the response in the special report.

## What can and cannot be included in a special report

- If IBAC needs to include a comment or opinion about a person which is not adverse, then the person must be provided with the relevant material. This will usually be a copy of the relevant sections in the draft report.
- If IBAC is aware of a criminal investigation or legal proceeding, IBAC must not include any information in a special report which would prejudice that proceeding.
- IBAC must not include a finding or an opinion that a person is guilty, or has committed, or is committing, or is about to commit a criminal or disciplinary offence.
- IBAC cannot recommend or provide an opinion that a person should be prosecuted for a criminal or disciplinary offence.

IBAC must not disclose:

- the identity of a person who has received a direction under the *Victoria Police Act 2013* (ie a disciplinary proceeding)
- a public interest complainant
- matters relating to the provision of drug or alcohol samples by an IBAC officer.

**IBAC must be satisfied certain conditions have been met before including information that would identify a person who is not the subject of adverse comment or opinion. These conditions include that it is:**

- in the public interest
- satisfied that it will not cause unreasonable damage to the person's reputation, safety, or wellbeing
- stated in the report that the person is not the subject of adverse comment or opinion.

## Deceased persons subject to adverse comment or opinion

Where a special report includes adverse comment or opinion about a deceased person, IBAC will ensure that the next of kin and/or executors are provided with sufficient information and a reasonable opportunity to respond to the adverse comment or opinion, if they choose to do so.

## Natural justice timing

It is difficult for IBAC to estimate how long it will take to undertake an investigation and publish any associated special report.

The time it takes to complete a special report may be impacted by several factors, including:

- size and complexity of the investigation
- number of people or public bodies involved
- volume of material gathered by IBAC
- duration of the natural justice process
- legal delays.

IBAC is committed to keeping witnesses up-to-date about estimated timings and delays throughout an investigation and during the natural justice process.

All parties or persons involved in the natural justice process will have matters with different levels of complexity. For some the process may be quick, while for others it may be longer and more complicated.

## Confidentiality and non-disclosure provisions

Anyone who receives a copy of a draft special report is subject to strict confidentiality provisions.

It is a criminal offence to discuss the contents or findings in a draft report prior to its publication, unless you:

- receive authorisation in writing by IBAC (this may include authorisation to discuss with your registered medical or allied health professional)
- are seeking legal advice or representation in relation to the proposed report
- are making a complaint to the Victorian Inspectorate in relation to the conduct of IBAC or an IBAC officer, or are responding to a summons issued by the Victorian Inspectorate.

If you need to discuss matters with someone outside of this list, please contact the IBAC investigator assigned to the operation.

## Legal advice and legal representation

At any stage during the natural justice process you may seek legal advice. If you do not have your own legal practitioner, please consider the following resources:

- The **Law Institute of Victoria's** legal referral service, which has lists of private lawyers you can access. All law firms included in the legal referral service provide a free 30-minute interview. You can use this interview to understand more about the legal issue and discuss the available options and how much they will cost.

If you would like further information, please call the legal referral service on (03) 9607 9550 or visit [www.liv.asn.au/referral](http://www.liv.asn.au/referral).

- **Victoria Legal Aid** can help you with criminal law and some civil law matters. Some services are available for everyone, while other services are offered only to people who are eligible.

If you would like further information, please call 1300 792 387 or visit [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au)

- The **Victorian Aboriginal Legal Service Co-operative Limited (VALS)** plays an important role in providing referrals, advice/information, duty work or case work assistance to Aboriginal and Torres Strait Islander peoples in Victoria. Solicitors at VALS specialising in criminal or civil law may be able to assist you.

For more information, please to contact VALS on **1800 064 865** or visit [www.vals.org.au](http://www.vals.org.au).

## Witness wellbeing support is available

IBAC has a dedicated witness liaison team who ensures regular communication is maintained with witnesses, persons of interest, and other persons subject to the exercise of IBAC's duties, functions, and powers throughout an IBAC operation.

Witness liaison officers will provide witnesses with information about, or referrals to, counselling services and resources. Witness liaison officers will not provide counselling or have a therapeutic relationship with witnesses.

If you are concerned about your wellbeing and would like counselling support, you can access IBAC's independent, free, and confidential witness wellbeing provider, Converge International, on 1300 687 327. Converge answers calls 24 hours a day, seven days a week. When using this service, it is helpful to let Converge know that you are a witness or are involved in an IBAC operation.

Counselling services can provide you with an opportunity to discuss your feelings in a safe and supported environment. If you need support in relation to an IBAC operation, you are permitted to discuss with a registered health practitioner anything to do with your mental health and wellbeing and the matters in your confidentiality notice.

If you require an interpreter, mobility assistance, or modifications made to the examination environment or if you would like further information about the wellbeing support available to you, please email the witness liaison team at [witnessliaison@ibac.vic.gov.au](mailto:witnessliaison@ibac.vic.gov.au) or refer to the witness wellbeing information sheet.

## Making a complaint

If you wish to make a complaint about IBAC or the conduct of its officers, please call the Victorian Inspectorate on 1800 518 197 or visit [www.vicinspectorate.vic.gov.au](http://www.vicinspectorate.vic.gov.au).

For more information, including what to do if you disagree with IBAC's decision, please refer to [www.ibac.vic.gov.au](http://www.ibac.vic.gov.au).



If you would like more information, please:



Call IBAC on **1300 735 135**  
(10am – 4pm, Monday to Friday,  
excluding public holidays)



Email IBAC at  
**info@ibac.vic.gov.au**  
or visit our website at  
**www.ibac.vic.gov.au**



If you need help with translation, call Translating and Interpreting Service  
on **13 14 50** or visit **www.ibac.vic.gov.au/mylanguage**