

TRANSCRIPT

INTEGRITY AND OVERSIGHT COMMITTEE

Performance of the Victorian Integrity Agencies 2021/22

Melbourne – Monday 14 August 2023

MEMBERS

Dr Tim Read – Chair

Hon Kim Wells – Deputy Chair

Ryan Batchelor

Jade Benham

Paul Mercurio

Rachel Payne

Jackson Taylor

Belinda Wilson

WITNESSES

Stephen Farrow, Acting Commissioner,

Kylie Kilgour, Deputy Commissioner,

Marlo Baragwanath, Chief Executive Officer, and

Glenn Ockerby, Executive Director, Corporate Services, Independent Broad-based Anti-corruption Commission.

The CHAIR: We resume this public hearing for the Integrity and Oversight Committee's review of the performance of the Victorian integrity agencies in 2021/22. I welcome back the public gallery and members of the public watching the broadcast. For the new witnesses, let us introduce ourselves, starting on my right.

Belinda WILSON: Hi, I am Belinda Wilson, the Member for Narre Warren North. Nice to see all of you again; I think I have met you all.

Paul MERCURIO: Paul Mercurio, the Member for Hastings.

Ryan BATCHELOR: Ryan Batchelor, Member for the Southern Metropolitan Region.

The CHAIR: Tim Read, MP for Brunswick and Committee Chair.

Kim WELLS: Kim Wells, Deputy Chair and Member for Rowville.

Jade BENHAM: Jade Benham, Member for Mildura.

The CHAIR: And online –

Jackson TAYLOR: Jackson Taylor, Member for Bayswater.

The CHAIR: Rachel Payne MLC is an apology for today. Just a statement for witnesses – before you give your evidence there are formal things to cover, so please bear with me.

Evidence taken by this committee is generally protected by parliamentary privilege. You are protected against any action for what you say here today, but if you repeat the same things anywhere else, including on social media, these comments will not be protected by this privilege. Any deliberately false evidence or misleading of the Committee may be considered a contempt of Parliament.

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Do you have an opening statement, Mr Farrow?

Stephen FARROW: I do, yes. Thank you for the opportunity to come to speak to you about IBAC's performance in the 2021/22 financial year, which for simplicity I will refer to as the reporting year. With me today I have got Deputy Commissioner Kylie Kilgour, IBAC's CEO Marlo Baragwanath and our Executive Director of Corporate Services Glenn Ockerby.

The CHAIR: Welcome.

Stephen FARROW: I am sure you are aware that IBAC has got a wide range of functions. They include education and prevention; assessment of complaints and notifications; reviews of police investigations into police misconduct; examining compliance of police with a range of statutory obligations; conducting investigations of corruption and police misconduct; and conducting research, publishing reports and making recommendations.

I would like to start by just talking in detail about our work on preventing corruption and misconduct. IBAC's jurisdiction compasses over 300,000 staff across the Victorian public sector, local government and police, so it is vital that we work with other agencies across those sectors to educate them about corruption and misconduct risks to ensure that they have got relevant protections in place, including training, awareness of red flags in relation to corruption and misconduct and having a culture that is resistant to corruption and misconduct. During the reporting year we published a corruption prevention strategy for the years 2021 to 2024. We delivered 125 prevention initiatives. They included speaking engagements, public forums, reports, education resources and campaigns. I would particularly like to highlight a campaign we conducted that was entitled 'You Have the Right to Not Remain Silent'. That was a campaign that was targeted at regional LGBTQI+ and culturally and linguistically diverse communities, and it was to encourage them to come forward to report police misconduct if they had experienced it.

That takes us to complaints and notifications more generally. We received over 3,700 complaints and notifications in the reporting period. That was a 30 per cent increase on the previous year. As you will see from our annual report, that is a pattern that has occurred over a number of years, of increasing complaints and notifications. It is encouraging that more people are coming forward to report concerns about corruption and misconduct, but it also does place some strain on our capacity to respond to those promptly. We are taking a range of steps to improve our complaint-handling processes, and they include handling of triaging at the initial intake stage and also ensuring that staff have adequate training.

The outcomes from our assessment processes can include dismissing an allegation, referring it to another agency to investigate or investigating it ourselves. In this context, it is important to note that IBAC is one part of a broader integrity system. A longstanding feature of that integrity system is that IBAC is not solely responsible for investigating allegations of corruption or police misconduct – depending on the nature of the allegation, IBAC is required to refer it to the more appropriate agency. If we do refer a complaint or notification to another agency, one of our functions is to mark them for review by IBAC. That is to ensure that the complaint conducted by another agency is fair, is impartial and that the outcome is reasonable and based on the evidence. These reviews are a very important part of the work that we do.

During the reporting year I am pleased to report that we conducted 281 of these reviews, and that was by far the largest number of reviews that IBAC has ever undertaken. 258, or 92 per cent, of those reviews were of police investigations into police misconduct, and these reviews that we conducted identified some systemic issues which we have highlighted in a series of thematic reports and recommendations to Victoria Police in terms of improvements. During the reporting period we also released a report on Victoria Police's handling of complaints by Aboriginal people. This report highlighted some concerning patterns and deficiencies in how Victoria Police dealt with these types of complaints. In terms of matters that we investigated ourselves, we commenced 12 preliminary inquiries and 18 investigations during the reporting period, and at the end of the reporting period we had 38 ongoing preliminary inquiries or investigations.

It is important to note that only a small proportion of those investigations result in a special report that is tabled in Parliament. During the reporting period we published two special reports that were tabled in Parliament, and just within weeks of the end of the reporting period we published and tabled our special report on Operation Watts, which was of course a joint investigation conducted with the Victorian Ombudsman into allegations of misuse of public resources by Members of Parliament.

Some IBAC investigations do result in prosecution. For example, during the reporting period a former Department of Education training manager and his cousin were jailed by the County Court, and that was as a result of our investigation in Operation Ord. Others who were involved in that operation were convicted and sentenced to community correction orders. In the same period a former acting sergeant of Victoria Police was convicted and fined \$10,000 for the aggravated assault of a 15-year-old boy, and that was following an investigation that IBAC conducted named Operation Durack. These are just some examples of prosecutions that were finalised in the reporting year but resulted from investigations that IBAC conducted in previous years.

During the reporting period we began a process to improve our practices in relation to witness welfare. We reviewed our policy and guidelines to ensure that throughout the course of an investigation we explain to witnesses the steps of the investigation, that we are using language that is easy to understand and that we provide clear information and guidance about the support services that are available to witnesses. In this period we took steps to develop a dedicated IBAC Witness Liaison Team, and that team came into operation in

February of this year. The team ensures that we maintain regular contact with witnesses or anyone who is affected by the exercise of our functions and powers, and that is throughout the life cycle of an investigation – including, in cases where we publish a special report, throughout the drafting, publication and tabling of that special report.

Our Witness Liaison Team make sure that witnesses are aware of the support services available to them, and we have also developed a new witness wellbeing procedure that provides guidance to IBAC officers on witness wellbeing risk assessments and on the supports that are available and the escalation processes if there are concerns about the wellbeing of a witness. The witness liaison team, along with an external provider, provided in-depth training to IBAC officers to increase their education on risk screening and on witness wellbeing management. We welcome your interest in IBAC's work and any of your questions on the performance during that reporting period.

The CHAIR: Thanks very much, Mr Farrow. I might start by just asking whether, during the reporting period, IBAC was constrained or limited in what it could investigate by the *IBAC Act*, particularly the jurisdiction and whether the definition of corruption is too stringent.

Stephen FARROW: Look, I am mindful that the definition of corrupt conduct is the subject of a Bill that is presently before Parliament. It is very important, as you would appreciate, for IBAC to be impartial and apolitical because of the nature of our work. As an independent officer of Parliament I am very keen to assist in Parliament's deliberations on those matters, but I do want to make sure that my comments are interpreted in that light.

I think it is important to not lose sight of the fact that in the 10 years it has been in existence IBAC has done some very valuable work. Certainly it is not the case that IBAC has been unduly constrained, but we recognise that IBAC's definition of corrupt conduct is very different to that which applies in some other jurisdictions. South Australia and Victoria are the only jurisdictions where corrupt conduct is limited to criminal conduct. As you would appreciate, there is a spectrum from maladministration through to misconduct and criminal conduct. Our definition is focused on the far end of that spectrum. Some other jurisdictions, such as ICAC in New South Wales and the National Anti-Corruption Commission, have a definition [that] goes into misconduct, that part of the spectrum.

But I think it is important when looking at the jurisdiction to look at the role that IBAC plays in the broader integrity system. There is no question that there need to be effective mechanisms to investigate and deal with misconduct. The question is: Which body, which powers and which functions are appropriate? I am sure you are aware that in Operation Watts, IBAC and the Victorian Ombudsman investigated alleged misconduct by Members of Parliament and ministers, identified a gap in the integrity system and recommended the establishment of a Parliamentary Integrity Commissioner to deal with misconduct by Members of Parliament and ministers that falls short of criminal conduct. That was a recommendation that we reiterated in our Operation Daintree Special Report earlier this year, recommending that the jurisdiction of that body be expanded to cover ministerial advisers.

I think any consideration of the definition of corrupt conduct and the scope of IBAC's investigation powers needs to have regard to how we fit within a scheme that is made up of multiple bodies. For example, if you compare us to ICAC in New South Wales, there is not a parliamentary integrity commission in New South Wales, and so I think looking at, for example, the scope of their jurisdiction it is important to bear in mind, as I say, the multiple components of any integrity system. But another aspect of the definition of corrupt conduct is the label that is applied to particular types of conduct, and, clearly, that is a matter of community values and a matter for Parliament to determine.

The CHAIR: Thank you, Mr Farrow. Just briefly, we have already heard today about what could be perceived as onerous oversight requirements affecting the Ombudsman can affect the efficiency of an organisation, and I am wondering whether IBAC also has any comments to make about the impact of oversight requirements on IBAC and whether they affect IBAC's efficiency to operate.

Stephen FARROW: Look, it is difficult for me to comment about the efficiency. Certainly we recognise the importance. We exercise very significant powers, and understandably there should be oversight of the exercise of those powers. Certainly every time we issue a summons, for example, we are required to provide a report to

the Victorian Inspectorate. That is a requirement under our legislation. There are many requests for information that we receive from the Victorian Inspectorate in relation to the exercise of a range of our powers, but in terms of the efficiency, we recognise that, given the nature of the powers that we exercise, it is appropriate that we are subject to external, independent oversight.

The CHAIR: Great. Thank you very much. Well, in the interest of time I might pass to Mr Taylor online.

Jackson TAYLOR: Thank you, Chair. Thank you, Acting Commissioner. My first question continues on from the questions I had. Did IBAC submit a budget bid for the financial years of 2022/23 and 2023/24?

Stephen FARROW: I will just invite our Executive Director, Corporate Services, Glenn Ockerby, who has responsibility for budget matters.

Glenn OCKERBY: For the 2023/24 year, we have not submitted a budget bid, and in the prior year we submitted a budget bid on the basis of conducting a base review and using that as a basis to submit an ERSC [Expenditure Review Subcommittee] bid for additional funding.

Jackson TAYLOR: Thank you. I will come back to the budget thing in a tick, but I just have some questions about some termination and ex gratia payments, which are detailed in your annual report at pages 88 and 108 and total \$800,000. Is this amount for the relevant period higher or lower than usual?

Glenn OCKERBY: For the most recent period, it was \$120,000, and the period prior to that it was about \$450,000. They relate to –

Jackson TAYLOR: I was just talking about the figures in the annual report, sorry.

Glenn OCKERBY: Yes, that is right. So over the last two years, that is the profile. Is that higher than in the past? Is that the question?

Jackson TAYLOR: That is the question: Is it higher or lower than usual?

Glenn OCKERBY: I do not think it is particularly high or a different variation on the past pattern.

Jackson TAYLOR: What would an ex gratia payment relate to?

Marlo BARAGWANATH: In relation to the ex gratia payments, basically the DTF [Department of Treasury and Finance] model accounts require us to report in a particular way. So termination benefits – obviously benefits that are paid in accordance with either the enterprise agreement or contractual requirements for executives – include payments made to staff who have resigned, been terminated or come to the end of a fixed-term contract. Ex gratia payments are paid in very limited circumstances. They are basically done in negotiation with the employee, but in very limited circumstances.

Jackson TAYLOR: Thank you. And as part of that payment or termination payments generally, would you typically be required to sign a non-disclosure agreement?

Marlo BARAGWANATH: Most termination agreements take place in relation to executive contracts, and they generally have confidentiality requirements. In some of the discussions that I have been involved in my time at IBAC, those confidentiality requirements are often requested by the staff members.

Jackson TAYLOR: Yes. Understandably there are confidentiality agreements that do endure; however, are there NDAs [non-disclosure agreements] signed by employees, previous employees, that went beyond what would be required by relevant Acts?

Marlo BARAGWANATH: No.

Jackson TAYLOR: Thank you. And who does typically sign off on NDAs?

Marlo BARAGWANATH: That would be me.

Jackson TAYLOR: Thank you. Then I had another question, just on the budget. So IBAC's 2022 report confirms its funding increased by more than \$10 million in 2022 to \$54 million or thereabouts. About

\$35 million of the budget was on employee expenses, and also in that same period it did also record a \$3.45 million operating loss for the year. While the News South Wales Independent Commission Against Corruption does not quite have the same jurisdiction to investigate police misconduct as IBAC, a comparison to New South Wales for the purposes of this question I feel might be broadly instructive. So for the 2019/20 year New South Wales ICAC received \$29.3 million compared to IBAC's higher amount of \$46.6 million, and I understand that the average per state for similar bodies was \$31.7 million. So by the end of the forward estimates IBAC's funding will be double what it was when Labor came to Government. Just given that context, [do] you have any suggestions for how IBAC can be more efficient in light of this comparison to New South Wales?

Marlo BARAGWANATH: Mr Taylor, I think that is a false comparison with New South Wales ICAC given that our jurisdiction encompasses two New South Wales organisations, being the New South Wales ICAC and the New South Wales LECC, which is the Law Enforcement Conduct Commission. There are actually two organisations' budgets that you need to compare ours to. And in relation to the size of IBAC in comparison to the other states, if you looked at it in terms of the proportion of the organisation versus the size of the public sector in those states, I think we are in the ballpark of proportionally being about the same as our interstate counterparts.

Jackson TAYLOR: Thank you for that clarity. I guess just a quick thing, a quick follow-up to that, would there be –

The CHAIR: Sorry Mr Taylor, I am afraid your time is up.

Jackson TAYLOR: No, all good. Thanks, Chair. Thank you.

The CHAIR: We will have to move on now to Ms Benham.

Jade BENHAM: Thank you, Chair. Obviously being the Member for Mildura I have a special interest in regional Victoria. So in the reporting period how did, and how does, IBAC go about raising awareness in the regions of its police oversight role? Is it different then to what it will be in the future, and what is your strategy behind that?

Stephen FARROW: Certainly. I think it is fair to say during the reporting period there were constraints in terms of COVID and limitations on going out, but I might ask Deputy Commissioner Kilgour to respond. Deputy Commissioner Kilgour is very much focused on our police jurisdiction and has done a great deal of work in terms of raising awareness and engagement, particularly in regional Victoria.

Kylie KILGOUR: Thanks for that question. In the reporting period, as Acting Commissioner Farrow mentioned at the start, we ran a regional awareness raising campaign called 'You Have the Right to Not Remain Silent'. The objective of this campaign was to increase awareness about IBAC's police oversight role with a particular focus on regional Victoria. So I am going to give you some of the information specifically about how we went about doing that.

The campaign was targeted to eight regional local government areas, and they were Greater Shepparton, Horsham, Latrobe, Mitchell, Southern Grampians, Swan Hill, Wellington and Wodonga. As well as that, we were doing some specific work with cultural and linguistically diverse communities in Victoria at that time. Those regional areas were chosen based, basically, on strategic intelligence that we have that suggests that police misconduct may be under-reported in those locations, so that is why we targeted those areas. Our paid campaign appeared digitally 2.1 million times in those regional areas and reached more than 340,000 individuals. It played 218 times also across multicultural and community radio. The campaign reached more than – I will just round this up for you – 290,000 people through outdoor digital screens and up to 133,405 people via print advertising. That only cost us \$65,357, so I think that was pretty good value for money for that campaign. And we have rolled that campaign into the financial year 2022/23, so you may have also seen that we have been rolling that out to more regional communities over the coming period.

I do not know if you have seen that campaign, but we have really targeted it at the diversity of communities across regional Victoria as well. So we have tried to make sure that it is speaking to young people, speaking to people from all sorts of cultural backgrounds and speaking to women as well, who also, I would suggest, are under-reporting some of their experiences of police misconduct.

Jade BENHAM: The geography of that is really interesting, and I have not seen it, because it has not actually been targeted up in our north-west part, sort of past Swan Hill, which is interesting given the diversity of our communities, both the large Aboriginal population and the CALD communities there. I am just wondering: Is it because reporting of – you know, or is it that the police oversight role that you play is well known there or is it just a spend? Is there any reason for that?

Kylie KILGOUR: I think, like I said, it will have more to do with our intelligence holdings about where the most high-risk regional areas were that we identified for that campaign – 2021/22. In 2022/23, I can take it on notice and check with you whether Mildura is in that. I have not got that in front of me. What I would say about Aboriginal community awareness is there is a specific different program that we are running around building Aboriginal community awareness around our complaints processes, and that really builds off the back of that audit that we did into Victoria Police's handling of Aboriginal complaints. Now, we were not able to publish that until May 2022, so that is kind of the end of this reporting period. Next year when I come back I can tell you all about what we did in the 2022/23 period and now to really raise awareness in those communities. So really that is work that has happened sort of following the reporting period that we are looking at today.

Jade BENHAM: Terrific. Look forward to it. Mr Farrow, just quickly, you are Acting Commissioner at the moment. Can you tell us if you have applied for the permanent role, or if you are considering that at all?

Stephen FARROW: I have.

Jade BENHAM: You have? You have applied. So given that, how many investigations at moment are IBAC investigating?

Stephen FARROW: Look, as you are aware, the role of this committee under the *Parliamentary Committees Act* is about IBAC's performance generally, but we are precluded from providing any information about specific operations, so I cannot comment specifically.

Jade BENHAM: It is just interesting.

The CHAIR: Sorry, Ms Benham, we are just about out of time.

Jade BENHAM: No time for one more?

The CHAIR: No, sorry. We are done.

Jade BENHAM: Thanks, Chair.

The CHAIR: My apologies. We have to move to Mr Mercurio.

Paul MERCURIO: Thank you. Acting Commissioner, you spoke about this in your opening remarks. You may have answered the question, but I will give you the opportunity to fill it out if you would like to. In the annual report foreword, it talks about preventing public sector corruption and police misconduct is a priority for IBAC. What corruption prevention initiatives did you undertake, and, as I said, you did speak about some of those, and what was the most effective?

Stephen FARROW: As I say, there were 125 initiatives, and obviously it is challenging to measure effectiveness. We have got a range of measures that we use. I think certainly, as you can see from the increasing numbers of complaints and notifications we are receiving, that is one measure that there is greater awareness of IBAC's work. But we have done a range of things, including a lot of work with – you can see from our strategic focus areas, we have identified a number of high-risk areas where we want to really ensure that particular agencies or sectors are very aware of corruption risks. The major transport infrastructure was one of our strategic focus areas, and we have published a report on corruption risks in that sector. So we do a lot of intelligence-led – we have got a strategic intelligence capacity, which really directs our attention to where the greatest risks are. But I will hand over to our CEO to elaborate.

Marlo BARAGWANATH: Yes, so 125 corruption prevention initiatives. We presented at 89 forums in that year. A lot of them were online due to COVID at the time. We commenced the first year of our corruption prevention strategy, which focused on building internal data analytics capability and initiated several projects to enhance our reach and accessibility. We delivered two campaigns to enhance community's knowledge of

corruption and police misconduct, one of which DC [Deputy Commissioner] Kilgour has already spoken to, which is about police. The other one was a digital awareness campaign across State and local government to highlight the risk of undue influence, which appeared nearly 2 million times online. We began a research project to better understand attitudes towards and barriers against reporting VPS [Victorian Public Sector] corruption of police misconduct, and in 2021 over 12,000 people participated, including public sector and local government employees, VicPol [Victoria Police] and Victorian government business suppliers and the Victorian community. The findings were published on our website and a range of communication and engagement activities were undertaken to share those findings.

We had two special reports which were also a part of our prevention function, operations Turon and Dawson, which each included recommendations to address corruption risks and promote a culture of integrity. We had two research reports, *Corruption Risks Associated with Government Funded Human Services Delivered by Community Service Organisations* and *Victoria Police Handling of Complaints Made by Aboriginal People*. We continued our Victoria Police education program, where we presented at over 30 forums or speaking engagements to Victoria Police and its members. Our online complaint form was released in a range of accessible formats and in 21 languages other than English, and we made 28 formal recommendations to the Victorian public service to improve their systems, practices and controls. It was a busy year.

Paul MERCURIO: It was a busy year. In amongst all of that I was waiting for you to mention the podcasts.

Marlo BARAGWANATH: We do those too, yes.

Paul MERCURIO: I was just waiting for that one because I did have a question. You talked about in your annual report that you had done a series of podcasts and also some webinars. I am just wondering: As a communications tool, how successful were they for you? I want to know exactly how many people listened – well, not exactly. And also, were there any external parties contracted to support that production, and what was the value of those contracts if there were?

Marlo BARAGWANATH: We, at the beginning of COVID, had a significant uplift in our internal capability to deliver online forums, which was partly driven by the need to continue with examinations. We are very self-sufficient when it comes to doing webinars internally, so there are no contract providers there. In relation to satisfaction, particularly with the webinars, I am not entirely sure – I can take it on notice – whether we assess satisfaction with the podcasts. But we have got a 93 per cent average satisfaction rating with the webinars that we do as one of the prevention initiatives, so it is pretty high.

Paul MERCURIO: You do not have any numbers on the podcasts?

Marlo BARAGWANATH: No. I would probably be able to tell you numbers of hits and the number of people that have logged on, but I will have to take it on notice.

Paul MERCURIO: Okay. My last question is: When will IBAC roll out its new intelligence and investigations framework?

Marlo BARAGWANATH: We are in the process of doing that now. The investigations framework has already been – the implementation of the rollout has started, and we will have reviewed all of the policy documents and procedures underpinning it by the end of the financial year. The intelligence framework will be completed in the next couple of months, and rollout and implementation will continue from there, so we are very close.

Paul MERCURIO: Thank you.

The CHAIR: Thanks, Mr Mercurio. Let us move to Mr Wells.

Kim WELLS: Thanks, Chair. Acting Commissioner, just following on from Jade's question, it is no surprise that you are applying for the job, so we get that, but how are you going to manage the conflict in regard to Operation Richmond as well as applying for the job? There is a real balancing act between the two.

Ryan BATCHELOR: Just on a point of order, Chair, I am not sure this is within the scope of the terms of reference of the inquiry, but I am in your hands as to whether you think it is appropriate.

The CHAIR: I might ask Mr Wells to rephrase the question in a way that is within the scope of the performance of IBAC in 2021/22.

Kim WELLS: I guess on the point of order, I think what the Committee needs is an assurance from the Acting Commissioner about how to best – and it is just a simple assurance, that is all I am seeking. Because he is the Acting Commissioner – we welcome that he is going to apply for the job, and we would expect that, but there is a blatant, obviously, conflict in regard to if you are investigating the Government and the Government is going to make the decision on who is going to be the next Commissioner. All it is just a simple ‘I’m going to be doing these four steps’.

Ryan BATCHELOR: Just further to the point of order, we would not want to stray into territory that would breach the *Parliamentary Committees Act* with respect to disclosure about ongoing investigations either.

Stephen FARROW: I could probably mention, if I could – I could answer it in a way that might not touch on any operations, if that would help.

The CHAIR: Thank you. I was going to ask you to do that.

Kim WELLS: I was not asking about the operations on Richmond.

The CHAIR: Understood. All right. Thank you, Mr Farrow. Go ahead.

Stephen FARROW: Certainly I welcome your question. It is obviously something that IBAC and I take very, very seriously – any conflicts of interest, whether they are actual, potential or perceived conflicts. As we have discussed, under the *Parliamentary Committees Act* I am constrained in what I can say in relation to the steps that might be taken in any individual operation or operations that IBAC might be undertaking. What I can say is that steps that we take can include, obviously, declaring conflicts, and then there are clear policies at IBAC for declaring and managing any conflicts that may arise. That can include engaging an independent third party outside the organisation for the whole or part of any operation, and that is to mitigate or manage any, as I say, actual, potential or perceived conflicts that could arise in relation to that matter. I should also say that responsibility for oversighting our compliance with the *IBAC Act*, which includes provisions on conflict of interest, sits with the Victorian Inspectorate, so any concerns about the management or otherwise of a conflict of interest are subject to external scrutiny by that agency. If there is an assurance that is required, certainly the assurance is that this is something that I and the organisation take very seriously. We have got very clear policies around declaration and management of conflicts and there is independent oversight of them.

Kim WELLS: There we go. Can I just move on to another issue?

Stephen FARROW: Certainly.

Kim WELLS: It is one I raised when we went down to IBAC, and it is the issue of the oversight of the police complaints record. I think I raised with the CEO and the deputy commissioners that issue of if the police are dealing with internal complaints against police officers, does IBAC have the reach to be able to go into the police complaints system to be able to audit those complaints to ensure that the police are classifying them correctly, so in other words, if they have classified something as just a very minor ‘Go and apologise to Mrs Brown’ compared to a systemic issue that they have misclassified?

Stephen FARROW: I will invite Deputy Commissioner Kilgour, who is our dedicated police oversight –

Kylie KILGOUR: The short answer is yes, we do have the reach, and there are a few different ways that we can do that. On a daily basis the Chief Commissioner of Police has to mandatorily notify us of any complaints that he receives, so we receive those on a daily basis, and we will be scanning those. There is me and other staff in the office to scan them on a daily basis, and one of the things we look at is what is the classification versus what is the report telling us about what the nature of the misconduct is.

Then the other thing we can do is with our review function as well. As Acting Commissioner Farrow mentioned, we did 258 reviews in this period of time. One of the things we will be looking at when we review a matter that we have referred back to VicPol is [whether it] was it handled appropriately. We are absolutely live to the idea that they might be trying to minimise misconduct and push matters out to the service delivery sort of category, and that will be one of the things that we can pick up through our review function.

What I would also say, though, is Victoria Police have just changed their classification process as well. That is off the back of a body of work that IBAC has done for years, raising issues about classifications and how they are handled internally, and they have shifted from – when I joined IBAC they had 13 classifications for complaints in various subcategories. Just as I finally learned them all and understood them all, they changed them to three. Now they have got a much simpler process. Cat [Category]1 is, like, really serious; cat 2 is sort of medium serious; and cat 3 is service delivery – you know, ‘I was treated rudely when I went to the counter’. And you can definitely see that helps us as well in being able to measure if they are fiddling anything around and trying to minimise anything out.

But I would say at the moment I am pretty satisfied through the review function. If you think 258 reviews in a context where we have referred 900 allegations, that is a pretty significant number of reviews, and we will keep doing that. We have got a pretty good handle on what they are getting up to in terms of classifications.

The CHAIR: Thanks, Mr Wells. Let us move to Ms Wilson.

Belinda WILSON: Thank you. We are obviously focused on the 2021/22 time period. I just want to clarify who signs off on the annual report and also the financial statement in the organisation before it is presented to Parliament.

Marlo BARAGWANATH: The three of us.

Stephen FARROW: Yes, the three of us basically.

Marlo BARAGWANATH: And the Auditor-General signs off on the accounts as well.

Belinda WILSON: So you were not, obviously, part of that.

Stephen FARROW: Not for the 2021/22 financial year; that was my predecessor.

Belinda WILSON: So it is the Commissioner –

Marlo BARAGWANATH: Former Commissioner, the CEO and Glenn as the CFO [Chief Financial Officer].

Belinda WILSON: Great. Thanks for that clarification. The recommendations from the Committee’s witness welfare report have been accepted by IBAC. I just want to know how many have been implemented.

Marlo BARAGWANATH: Let me have a look. Most of them, I think.

Stephen FARROW: We have certainly got, obviously, a detailed process for reconciling them, but it might just take a moment to do it.

Marlo BARAGWANATH: Recommendation 1 was in relation to the Victorian Government, and that was about legislative change, but I understand a change has been made to the regulations. Recommendation 2 was to the Victorian Government about legislative change to require us to develop procedural guidelines. We have agreed to implement the guidelines without the need for legislative change. As to whether or not Government are going to make that legislative change, you would have to direct that query to them. Similarly, Recommendation 3 was in relation to those guidelines again. Recommendation 4 was in relation to seeking to amend our legislation to include mandatory reporting against the mandatory criteria for public examinations. That is a matter for Government, and I think they have publicly commented that that is under review. Recommendation 5 is about updating our policies and procedures in relation to confidentiality notice variation requests. That one was accepted and is in progress. The only thing that is outstanding for that one is that we are developing a register to track the use of coercive powers so that we can tell you exactly how many coercive powers we use in a particular period.

Recommendation 6 was in relation to looking at, when we are serving a summons, what permission we seek from the individual receiving the summons about referring them off to Converge, which was our support provider. We accepted that recommendation in principle, but given that we have now set up our Witness Liaison Team we focus on making sure we have got proactive communication and offering them that support in

any event. Then Recommendation 7 was in relation to our policies and procedures for public examinations, which is nearly completed and will be completed in the next couple of months.

Belinda WILSON: So you have addressed it?

Marlo BARAGWANATH: Pretty much, yes.

Belinda WILSON: With the witness welfare team that you spoke about earlier, are those people qualified psychologists? Who are those people and who do they deal with when they are dealing with the witnesses that are brought before IBAC?

Stephen FARROW: I should probably clarify there. We refer to them as the Witness Liaison Team, and it is very clear to them that their role is not to provide counselling services, for example. Their role is really around ensuring that our interactions between IBAC officers and witnesses are managed appropriately. They have relevant expertise for managing that function, but it is made very clear to them that their role is not to provide, for example, counselling services themselves. Their expertise is around ensuring that there are referrals to appropriate agencies.

Marlo BARAGWANATH: It is not a therapeutic relationship, as Acting Commissioner Farrow said. They are generally from a social work background, and we also have an Aboriginal Witness Liaison Officer in the team, so we are trying to look at how we deal with various communities. That is the background. But it is not a therapeutic relationship.

Belinda WILSON: So you are routinely taking a risk assessment of each witness? Do you classify these witnesses, or does this group classify high, medium or low risk in terms of their assessment when they are talking to those witnesses?

Marlo BARAGWANATH: I am loath to say that someone is high, medium or low risk. They will assess whatever information we have to hand – how the person presents, what they actually tell us, those sorts of things – to basically, whether it is the investigators or the lawyers that are dealing with the witnesses, to work with them, to work out what is the most appropriate referral or support to put in place for that person.

Belinda WILSON: And that is a new process? How long –

Marlo BARAGWANATH: We have always referred people to Converge, which is an independent service that provides support. But having an internal advice function that actively provides all of us with advice and support when we are interacting with people, that is new.

Belinda WILSON: Yes. Great. Thank you.

Stephen FARROW: They have also had a role in terms of training our staff and lifting the expertise. Obviously it is everyone's responsibility to ensure that we are managing witness welfare, we are identifying risks, but it has really helped with that internal training as well.

Belinda WILSON: Yes, great. Thanks so much.

The CHAIR: Thank you. I have got a question quickly from Ms Rachel Payne, who was unable to make it today, which I think has already been partly addressed. But if there is anything further you wanted to say on whether IBAC feels adequately funded to fulfil your core work and strategic objectives going forward, is the question.

Stephen FARROW: I think I could say, like any organisation, if we had more, there is more we could do. But I think it is very important that our funding is based on a careful assessment of our needs and is linked with our strategic planning. I will ask Mr Ockerby if he has got any further elaboration on that.

Glenn OCKERBY: Essentially the key to this question is the base review that was conducted recently. The intent of that is to establish an enduring and sustainable funding base for the agency, and as a result we received additional funding to be in that position. If our strategic environment changes significantly in relation to things that drive costs – an example would be potential change of jurisdictional activity that would require us to cover and deliver our services on more activity – then certainly the opportunity exists to seek ERSC funding to cover

that off. But something would have to change significantly. The base review is there. It is a long-term setting of the organisation's funding base.

The CHAIR: Great. All right. Thank you very much. Let us move now to Mr Batchelor.

Ryan BATCHELOR: Thanks, Chair. In the last hearing we had with the former Commissioner, I asked him about a letter he wrote to the Presiding Officers that found its way to the newspapers. Mr Redlich denied being involved in its distribution. Are there any other information security matters that you think the Committee needs to be aware of or concerned about at IBAC?

Stephen FARROW: Information security is crucial given the nature of the work that we do. It is identified as a risk. I think it is known that our challenges have included through the procedural fairness process that we are required under our legislation to provide draft copies of reports to witnesses who are affected by, named in the report or adversely referred to. There have been challenges. Although that is subject to very strict confidentiality and we have got a range of mechanisms, as much as we can control, to ensure that the confidentiality is maintained, there have been challenges there. I will ask the CEO to comment more broadly on information security and measures we have got to address that.

Marlo BARAGWANATH: Obviously all staff swear an oath when they start in the organisation. They are subject to extensive induction training and ongoing training in relation to information security and regular reminders. We not irregularly will audit or look at incoming and outgoing emails and correspondence to see what is coming in and what is going out. Then the VPDSS [Victorian Protective Data Security Standards] –

Glenn OCKERBY: We have a very high level of compliance with the Victorian protective data security framework, and we also continue to invest significant money in cybersecurity around all of our networks.

Ryan BATCHELOR: A question I asked the former Commissioner was: Is it practice for IBAC to brief journalists about the content of reports before they are tabled in the Parliament?

Stephen FARROW: You would appreciate that some of our reports are detailed, very complex. It is very important that they are reported accurately, so IBAC does, within the terms of its legislation, provide advance copies, only 24 hours in advance of publication of its reports, subject to a very strict embargo, and IBAC has never experienced any breach of those embargoes. It is the experience of IBAC that the provision of reports a very short time before publication has improved IBAC's obligation, its function in terms of education and prevention particularly.

Ryan BATCHELOR: There was an article published on 17 April in the *Australian* at 10:30 pm in relation to Operation Daintree which gave a pretty comprehensive assessment of what was to be contained in that report, and [the] Operation Daintree [report] was due to be tabled in the Parliament on 18 April. Would a journalist have been briefed about the contents of [the] Operation Daintree [report] before it was tabled in the Parliament?

Stephen FARROW: In relation to that specific matter, I would have to take that on notice. I want to make sure that whatever information we give you is accurate.

Ryan BATCHELOR: I would appreciate that.

Kylie KILGOUR: Acting Commissioner, can I just add to that one. Operation Daintree was a matter that I worked on quite closely. I think from memory what happened in that matter was that the draft report had been leaked, not by us but by somebody else, to a journalist from *The Age* and that some of that reporting that then appeared at the time that you are talking about was taken from the knowledge that they had from having seen the draft report, as opposed to anything we had provided.

Ryan BATCHELOR: So the journalist from *The Australian* got it from *The Age*?

Kylie KILGOUR: Let us go back and check, but definitely the draft report had been leaked and people had information based on that draft report that they were then reporting publicly on.

Ryan BATCHELOR: Given that it is practice to brief journalists, have you sought advice about how that relates to the privileges of the Parliament in respect of reports to be tabled? As a Member of the Parliament, I

am concerned that information that we are supposed to receive from you is being communicated to persons outside of the framework of tabling, it seems routinely, as a matter of practice, because it is concerning that we are not told first about matters that I would expect the Parliament to be told first about.

Stephen FARROW: Certainly the advice that I have received is that it is consistent with our education functions and the legislative framework, but if we could take that question on notice we can certainly provide some further clarification.

Ryan BATCHELOR: I think it would be useful for the Committee to be fully apprised of the basis on which this practice is undertaken, because it strikes me that it might not necessarily be consistent, as a matter of privilege.

Stephen FARROW: Certainly. We will take that on notice, and we will undertake to get back to you.

Ryan BATCHELOR: Thank you.

The CHAIR: All right. Well, that ends our time for questions in the public hearing, so we will suspend the hearing at this point and move to our next set of witnesses. But first I would like to thank Ms Kilgour, Mr Farrow, Ms Baragwanath and Mr Ockerby for appearing and answering our questions so thoroughly. Thank you.

Witnesses withdrew.