

T R A N S C R I P T

I N T E G R I T Y A N D O V E R S I G H T C O M M I T T E E

Inquiry into the Adequacy of the Legislative Framework for the Independent Broad-based Anti-corruption Commission

Melbourne – Monday 18 August 2025

M E M B E R S

Dr Tim Read – Chair

Hon Kim Wells – Deputy Chair

Ryan Batchelor

Jade Benham

Eden Foster

Paul Mercurio

Rachel Payne

Belinda Wilson

WITNESSES

Lyn Allison, Chair, and

Hon Robert Redlich AM KC, Board Member, Accountability Round Table.

The CHAIR: We are reopening our public hearing of the Inquiry into the Adequacy of the Legislative Framework for the Independent Broad-based Anti-corruption Commission. We have got our second lot of witnesses: Lyn Allison, Chair of the Accountability Round Table – welcome – and the Honourable Robert Redlich, former IBAC Commissioner. Thank you both for coming in. Do you have any brief remarks to kick us off, or would you like to go straight to questions?

Robert REDLICH: I have put in an extensive submission. Rather than repeat anything that is in the submission, I would prefer to respond to questions as the committee wishes to raise them.

The CHAIR: Great. That saves us a few minutes, so let us get going. I might actually ask one of you to perhaps just kick off by defining ‘grey corruption’ for us – just setting out what that means.

Robert REDLICH: Well, section 4 of the Act lists various forms of misconduct, all of which, if not a criminal offence, would constitute grey corruption, and the thrust of not only my submission, but I think it is fair to say the submissions made by every one of the independent think tanks – IBAC itself, the Law Institute, the Bar Council, ICAC – all speak with one voice that those various forms of misconduct set out in section 4 all constitute grey or soft corruption, even if they do not constitute a crime. To the extent that reform is, in my respectful opinion, plainly necessary, the words at the end of section 4, the definition, should be removed so that all of that grey corruption can be addressed.

The important thing to appreciate at this stage of our democratic development is that the form of executive government has changed significantly over the last generation. In every state and federally, we have leadership surrounded by a vast number of ministerial advisers. We know that the function of ministerial advisers is a political one. We have serious questions that continue to be raised about whether or not the public sector still continue to place first and foremost honouring frank and fearless advice when they are asked to provide opinions to their minister. So we have a changing executive scheme of operation, which simply means that the scope for soft corruption has increased because of the nature of executive government. We should not lose sight of the fact that integrity commissions and this form of committee are the two mechanisms which Parliament has adopted, not just here, but in every state. These are the two mechanisms of ensuring that Parliament can properly oversight the executive. If we go back to the concept of responsible government, and I commend to the Committee the constitutional explanation provided by the Centre for Public Integrity in their submission, the constitutional requirement of responsible government is that Parliament oversees the executive, and it has become recognised over the last 25 years that Parliament cannot do that alone. That is why it has two instrumentalities – an integrity commission and a committee such as this – to ensure that executive decisions that are made, are made for the correct reasons, and the correct reason must always be to serve the public interest and not be affected by improper purposes, such as self-interest, party loyalty or political expediency. Therein lie the risks if an integrity commission cannot look at soft or grey corruption.

The CHAIR: I have just got one other question briefly. IBAC has the power to prosecute, and I wonder if it should, given that we have prosecutors who can do that. Is it necessary for IBAC to also have that power?

Robert REDLICH: No. No, I am strongly of the view that no integrity commission should have a prosecutorial function. Although most of the submissions do not address this question, I think it may be the Centre for Public Integrity, but one or two of the submissions do suggest that there should not be an investigative function. Speaking for myself, and I am not sure what ART’s position on that particular issue is, but speaking for myself, there is no place for an integrity commission to be undertaking prosecutorial tasks. The law has spoken for a century or more about the importance of keeping a clear division between prosecutorial and investigative functions, and for the obvious reason: investigators become wedded to their objectives. But once they have reached their conclusions, it must be for others to decide whether or not something should be prosecuted and how it should be prosecuted.

The CHAIR: Thank you. Let us go to Belinda Wilson for the next questions.

Belinda WILSON: Thanks, Chair. Welcome today. Thanks for joining us. I want to talk about this report which was done by the VI in October 2022. Their report was about IBAC's handling of Emma's case into police-perpetrated family violence. We all on this Committee have met with Emma and had her tell us her story, which I know for everyone on the Committee – sorry, I am also looking to the two women online; I am not sure which one I am supposed to look to acknowledge you both – it touched all of us, her story and her frustrations about a number of different things that happened to her that should not have. Emma was exposed to harm by her partner when a letter containing the complaint outcome was sent by Victoria Police to her residential address instead of the PO box she had asked IBAC to use. There were some very serious failings in IBAC's handling of Emma's identity, and this is of course identified in this report by the VI. So to what extent do you think that section 15(1A) – where IBAC is required to prioritise investigation of this really serious, systematic and corrupt conduct – contribute to IBAC's failing in Emma's case?

Robert REDLICH: Well, I must confess I am not particularly familiar with the content of that Inspector's report. What date was it published, could you assist me?

Belinda WILSON: October 2022.

Robert REDLICH: Well, it was just immediately before my period ended. But plainly enough, as the previous witness, the Commissioner of ICAC, has said, IBAC with limited resources must assess on a case-by-case basis what issues and what matters should receive priority, which of them they should personally undertake and which of them should be returned to relevant departments or investigative or other authorities to look at. And plainly enough, if there is a serious case such as that you have described, it would have warranted particular attention being given to it by IBAC.

Belinda WILSON: With respect, Mr Redlich, I would ask that you do obtain a copy of this – I am very happy to give it to you – and that you do have a read. It is a very telling case, something that I am sure you will be aware of once you do read the report. I understand that you are not in IBAC anymore, but I would ask that you do that –

Robert REDLICH: I am happy to.

Belinda WILSON: because it was something that was very touching to all of us, and we would appreciate that you have a look at that.

Robert REDLICH: Yes. Certainly.

Belinda WILSON: Thank you. Just one more point too: do you think that section 73 of the IBAC Act, where complaints are referred back to Victoria Police for investigation, operates efficiently?

Robert REDLICH: That is a difficult question to answer. I know that there are those who have submitted that it might be worth considering whether or not IBAC should continue in its role in oversighting police. Now, that is a fundamental policy question. It plainly will require significant budgetary considerations, because if some other authority were to undertake that role, then there will be obviously duplication of some level of resources in terms of administrative support for such a role. But it is really not a matter I think for me, in any event or ART, to be advocating one position or another. But it is a question for IBAC – whether or not IBAC has sufficient resources to properly fulfil that oversight role for police. The issue which has continued to be problematic for IBAC is that there is no discretion in terms of the jurisdiction. IBAC is currently required to look at all complaints concerning police officers, no matter how trivial. And of course inevitably a large percentage of the complaints that are made about police, whether they are valid or not, involve minor transgressions – if the complaints are valid – and the question that prominently arises is whether or not that is appropriate work for an organisation such as IBAC. Even if it were some other organisation that had that responsibility, those sorts of questions would in any event need to be remitted to Victoria Police. But they are all policy questions that are closely, unfortunately, interrelated to the question of budgetary capacity.

Belinda WILSON: Thank you.

The CHAIR: Thanks very much. Let us go to Deputy Chair Kim Wells.

Kim WELLS: Thanks for your time. In the context of this inquiry into the adequacy of IBAC's legislative framework, is there anything in the current IBAC legislation that would prevent the IBAC Commissioner from investigating criminal bikie infiltration on Victorian Government Big Build sites?

Robert REDLICH: Yes. Plainly enough, if the conduct does not meet the requirement of reasonable grounds for suspicion that the particular conduct constitutes a crime, it cannot be investigated. It is important that you mentioned in this context that particular infrastructure project. The reality today is there is a vast amount of infrastructure work being undertaken by government, and I suspect if figures were prepared we would find that, more so than ever before, a larger amount of government funding goes today towards employment, so the risks of government or executive government decision-making that might – that might – constitute grey or soft corruption have increased, simply by no other feature than the fact that there is far more being spent today on government work than there has been in the past. Whether or not a particular course of conduct would excite IBAC's jurisdiction will depend upon meeting that fundamental threshold requirement: are there reasonable grounds to suspect a crime? Of course if we come to the question of public hearings, not only must it be a crime, but IBAC would have to be satisfied that it was a serious crime before they could conduct a public hearing. So that is another reason, if I may say so, Mr Wells, why the Act needs to be amended to give IBAC the latitude to be able to look at soft or grey corruption.

Kim WELLS: Just to follow that up, obviously we seem to hear every day or every week of the outlaw bikie groups making standovers and threatening extortion on the building sites. I would have thought from the media reports, even if they are half right, that there are serious concerns about what is happening on the building sites. That is the first part. The second part of the question is: under section 6 it talks about public bodies – is a private company working on a building site considered a public body if it is being paid by taxpayer dollars to build a road or to build a bridge, under your interpretation of the Act?

Robert REDLICH: Well, at least in terms of the IBAC Act, it would not constitute a public body. Whether or not IBAC would have jurisdiction to look at the conduct of that body would depend upon whether or not the definition of 'corruption' was met by someone within the public sector who is dealing with that private body. I mean, it is important I think to make the point, because submissions have been made about this. Any broad investigation – as the Commissioner from ICAC explained a short time ago – any substantial investigation, by an integrity commission is not going to be confined to a single act by a single person. It is going to look at the complexity of the circumstances in which that conduct occurred, because perhaps even more important than dealing with the individual who may have transgressed is looking at the environment in which that conduct occurred and ensuring that all of the reforms are undertaken to increase the prospect that such conduct cannot occur again, which means addressing all of the failings in any environment which surrounds that individual.

Kim WELLS: Are you satisfied that the definition of 'public body' under section 6 is satisfactory for the IBAC Commissioner to do his or her job in regard to corruption on building sites, for example?

Robert REDLICH: Well, in the example that you posed, it would almost certainly be the case that if a private body was engaging in misconduct it would also involve public officials as well. They cannot misconduct themselves in isolation. So, if it is that under the present regime there must be a relevant offence, there would be ample opportunity for IBAC to investigate. I do not know whether or not there have been complaints made to IBAC which have enlivened any such jurisdiction.

The CHAIR: All right. Thank you. Let us move now to Eden Foster.

Eden FOSTER: Thanks, Chair. Thank you both for coming in today. My question is relating to witness welfare. As a psychologist, it is extremely important to me, and it relates to section 184 of the IBAC Act, which makes it an offence to disclose certain information received from IBAC. This provision is important of course to preserve the confidentiality of IBAC investigations for witnesses in distress, and there is an element of post-traumatic stress disorder coming from a trauma-focused lens for me. Do you think this section prevents witnesses from engaging with medical professionals to get support – for example, psychiatric support – while an investigation is ongoing, and does it require reform to make it clearer that witnesses can talk with a registered medical professional about their personal circumstances?

Robert REDLICH: I have some thoughts about that, but would you like to speak?

Lyn ALLISON: No.

Robert REDLICH: That has been an issue for some time with IBAC, and I suspect it has been an issue because the legislation could be clearer. But IBAC, certainly during my period and I imagine that has continued to be the case, goes to some lengths now to ensure that every witness understands that the confidentiality requirements do not prohibit the witness from speaking with their medical practitioners or others in relation to any wellbeing issue that arises as a consequence of being involved in an IBAC investigation. I am sure if IBAC were here, they would be able to identify the very specific format that is utilised with and given to each witness to ensure that they understand that. But certainly there would be no harm – and perhaps there would be a positive benefit – from it being more specifically articulated in the legislation.

Eden FOSTER: I guess in relation to perhaps, say, close relatives, for example, for many individuals who are experiencing an investigative process as a witness, it can be quite, like I said, traumatic. Having that capacity to be able to speak with a close loved one, particularly if there is a wellbeing concern or a suicidal risk, are there limitations as well with that confidentiality and IBAC?

Robert REDLICH: Well, again, it was a practice during my time, and I am sure it has continued, that supporting personnel could be present. IBAC is very alive to the stresses of examination – even if it is a private investigation, a private examination or even if it is only an interview by IBAC officers – and understands the stresses that are associated with that role. Any person that is an examiner, I would expect, would have litigation experience and would know from that experience that, whether it is a court of law or an integrity commission, giving evidence is a very stressful process.

Eden FOSTER: Absolutely. Thank you.

The CHAIR: Thanks. Let us go to Paul Mercurio.

Paul MERCURIO: Thank you. As a little bit of a follow-up, I note that in your submission you used the words ‘educate’ and ‘education’ quite a lot, which is terrific. We have been advised that IBAC has recently changed its interpretation of section 184 to be even more narrowly constrained on how witnesses can seek support. Do you think that IBAC should make it clear publicly that they have changed how they are interpreting the operation of different parts of the IBAC Act, and if IBAC changes its interpretation of a provision, doesn’t that make it more difficult for legal services to advise victims of police harm of their rights or for complainants to make complaints and manage their own expectations of IBAC?

Robert REDLICH: Well, I am not familiar with recent developments that have involved some review or changing of the position of IBAC on those sorts of issues. Plainly, if the amendment or change in position has in any way resulted in some diminution in the rights of individuals, either/or, that might adversely affect their wellbeing or safety, then plainly there should be consideration given to addressing the Act if such changes in position are being adopted. Certainly there needs to be some publicity associated with ensuring that people understand the change in position. But I am sorry, I do not think I can offer a more constructive response than that.

The CHAIR: Thank you. Let us go to Jade Benham online.

Jade BENHAM: Thank you, Chair, and thank you both for attending today. There has been a recommendation that the *Parliamentary Committees Act* be amended so that the Integrity and Oversight Committee, this one, can inquire into any matter concerning IBAC, provided the Committee has determined that it would not be prejudicial. In what way does that differ from the current operation of section 7(2)(g) of the Act, under which the committee is prohibited from disclosing any information which may prejudice an integrity agency investigation, criminal investigation, obviously, or proceeding, or be in breach of confidentiality or secrecy provisions? How do we find a balance?

Robert REDLICH: I suspect this is an issue that is sensitive to a number of us here today. The reason it needs to be amended is because as the provision currently reads, there is an assumption made that if there is any sort of ongoing investigation that is a matter which has not been finally, irrevocably concluded, that to engage in discussion with the Committee about it will of necessity prejudice or risk prejudicing the outcome of the investigation. My point is that there will be many circumstances in which the Committee will be best placed to assess the performance of IBAC if it is able to understand in a particular case what is going on with a particular issue, even if it has not been concluded, so long as it can be said that it will not prejudice that investigation. They are the critical words. If indeed the Committee can be satisfied in a particular case as a consequence of

some private initial hearing that exploring the issue that has been raised will not prejudice the ongoing investigation, the Committee should be able to do so, because, as I have said earlier, the Committee should not lose sight of the fact that they are one of the two bodies that Parliament now reposes faith in in order to ensure that integrity issues are properly addressed, to discharge Parliament's responsibility to the people of Victoria.

Jade BENHAM: That brings me to my next point. I wanted to touch on something that you said earlier, Mr Redlich, about the changing nature of Parliament and how it was Parliament's duty to oversee the executive, but that has changed over the last 25 years. So with regard to the Act being amended so that the Committee is able to inquire as to any matter, there have been submissions received and also public comment about the timeliness of IBAC investigations. How can this Committee and/or Parliament balance legitimate natural justice timeframes with preventing tactical delays that stall reports? I mean, we are still waiting on Operation Richmond – that report. So how can we balance that?

Robert REDLICH: Well, I have sought to address that in a number of ways in my submission by identifying a number of provisions which create enormous obstacles to timely presentation of reports. Perhaps the most important is the publication of a special report at the end of the investigation. Operation Sandon, which is completely concluded I am pleased to say, was a glaring example of years of waiting, after a draft report had been prepared, before it was eventually the subject of a report remitted to Parliament. And the reason for that was because of the provision which requires a draft report to be given to each person who is mentioned in the report – the opportunity then arising for each person to respond, for IBAC to then include their response, even if they do not consider that there is a need to amend the draft. I have pointed out that that process is entirely inconsistent with the process followed by royal commissions, by integrity commissions in other places and by courts of law which, at least in the case of public hearings, provides for counsel assisting – who was assisting the commission – to summarise at the end of the case all of the evidence which counsel assisting would submit supports adverse findings, provides for the persons of interest who are legally represented to make their own submissions in response and then, from that moment on, the commission or the judge writes their own report; they do not further consult with the parties to ask them what they think about a draft of the report, which has led to years – it may be extraordinary to realise this – of protracted litigation before a report was ultimately tabled.

Now, it will be different if there is a private examination, because sometimes private examinations are conducted where the person of interest is not there, is not legally represented, so obviously that requirement would have to be moderated to adjust to the circumstances of the case. But certainly in the case of public hearings, which we can assume will involve more serious investigations, that process has got to be altered, at least to give IBAC the option of being able to deal with it expeditiously. Similarly, in relation to my point about privilege, if a Commissioner or an examiner is conducting a hearing and the person represented or not represented claims privilege over a question, that is the end of the examiner being able to proceed with those questions. It matters not that the Commissioner might conclude that it is an absolutely ridiculous privilege claim; the Act provides for only one course, and that is as soon as the word 'privilege' is mentioned, that line of inquiry stops and the matter goes to the Supreme Court.

Now, there have been examples where it is gone to the Supreme Court and sat there for a year, 15 months, and at the end of that time a report by the judge has found that a minimal amount of the objection was ever sustained. What we have to be able to do at IBAC is follow the same procedure as a royal commission, which is: if a claim for privilege is made, the Commissioner may rule on it, and if the Commissioner rules against the claim, the person is given the right to go to the Supreme Court and persuade a judge in the Practice Court that their argument is reasonable, at which point the judge in the Practice Court will then say, 'Well, IBAC, you cannot proceed further until this issue is resolved.' It puts the onus on the person making the claim to demonstrate then to the Supreme Court that the privilege is without substance. I am sorry to descend to this level of particularity, but these are the sorts of provisions, regrettably, that have really delayed the production of reports by IBAC.

Jade BENHAM: Agreed. Please do not apologise. Sorry, just one more, Chair, as Mr Redlich referred to Operation Sandon, which has been tabled and is complete but is no longer published on the IBAC website. Have you got any insights as to why that would no longer be published?

The CHAIR: I am not sure we can allow a question unless it relates to the terms of reference of the inquiry. Thank you, Jade.

Jade BENHAM: Isn't it regarding the previous question around transparency? This inquiry, at the heart of it, is about public trust, and there is now a report that has been tabled and is missing from the IBAC website.

The CHAIR: Well, if Mr Redlich has a comment that he is at liberty to make on that, that is fine. But could you keep it brief.

Robert REDLICH: I think that really needs to be a question directed to IBAC – if it has been removed, why is that so?

Ryan BATCHELOR: It is still on the Parliament's website.

Belinda WILSON: It could be a technical issue.

The CHAIR: For time reasons, if for no others, we do need to move on to Rachel Payne's questions. Thank you both.

Rachel PAYNE: Thank you, Chair. Thank you to you both for appearing before us today. My question is: if IBAC's investigative examination and reporting jurisdiction were expanded, would additional procedural safeguards be necessary for persons subject to its powers, and if so, what should that look like?

Robert REDLICH: I am sorry, in what context? Could you explain?

Rachel PAYNE: In the context of would the oversight powers of Integrity Oversight Victoria need to be expanded accordingly? Would there be a need for additional procedural safeguards for persons subject to those powers if IBAC's investigative powers and examination powers were extended upon?

Robert REDLICH: Well, if we are speaking about the jurisdiction to examine, IBAC has got to be satisfied – and if we are looking at the present threshold – there are reasonable grounds to suspect corrupt conduct. The Inspector, if I can use the shortened title for present purposes, needs to be satisfied that on the evidence that is available to IBAC, that jurisdiction has been enlivened. My experience has been that Inspectors take a very active role in oversighting the jurisdictional questions of IBAC. If the question is for a public hearing, then IBAC has to presently demonstrate not only that it is serious corrupt conduct or systemic corrupt conduct, but that it is in the public interest. There are provisions there which, at least in part, explain what sorts of considerations need to be entertained for the purpose of determining whether it is in the public interest.

I think it is important to say, however, that to address the question of reputational risk, IBAC has within its provisions the most powerful protection that one could hope for – namely, that it cannot examine a person in public if there is a prospect of unreasonable damage to reputation, wellbeing or safety. In order to determine whether or not there can be unreasonable damage to reputation, that means IBAC must make an assessment of whether the evidence is sufficiently cogent to demonstrate that that person has been engaged in misconduct. Whatever the ultimate definition of corruption may be, IBAC has got to be satisfied that the evidence cogently demonstrates that the person has been involved in misconduct. Short of being satisfied as to that, there would be the prospect of unreasonable damage to reputation.

It may be convenient to also make the point that there will be people on the periphery of that conduct who are not themselves engaged in that misconduct, but who, as a result of their own roles, the roles they are discharging, may be required to give evidence or may be referred to. Of course it is always incumbent on a Commissioner then, or whoever the examiner is, to make clear, both to the witness and to the public at large, that there is no suggestion being made that that person has engaged in any form of misconduct. I do, with respect, suggest that whilst that requirement is enforced, and the Inspector is very vigilant to ensure that it is, the risk of unreasonable damage to reputation – and that is the important word 'unreasonable' – is a very important protection, as it is for wellbeing.

Rachel PAYNE: Thank you.

The CHAIR: All right. Ryan Batchelor.

Ryan BATCHELOR: Thanks, Chair. Thank you both for coming in. Mr Redlich, just to follow on from Ms Wilson's questions, I want to check in the course of the last half an hour whether any of the references she made to the Inspector's report from October jogged your memory in any way.

Robert REDLICH: I am happy to read it, but I am not familiar with its content, I am sorry.

Ryan BATCHELOR: That is okay. I wanted to check, just in case. It was a couple of years ago; sometimes things take a while to come out. You were alluding to this point earlier about particularly the question of IBAC's police oversight jurisdiction. One of the things the predecessor Committee looked at in the past is whether there needed to be a dedicated division of IBAC solely focused on police oversight matters. We have obviously got a Deputy Commissioner whose task is largely, not exclusively, focused on such matters. Do you think that a dedicated division of IBAC would help the agency discharge its police oversight functions better, particularly in light of some of the issues that the Inspector has raised with respect to the way that IBAC has in the past not handled particularly well, to put it nicely, questions of oversight of police-perpetrated family violence?

Robert REDLICH: I think it comes down to a question of resources. If the resources are available, then it follows that a more specialised section of the organisation focused only on those sorts of issues would probably produce more effective and advantageous outcomes. I really think it does come down to the question of whether or not government is able to substantially further fund IBAC to enable that differentiation in roles to be made.

Ryan BATCHELOR: Thanks. Ms Allison, I am conscious that your counterpart has given us a lot of his wisdom. Is there anything that you would like to add just in closing about any of the matters in your submission or that you want to put before us today?

Lyn ALLISON: I guess one important issue is that we have been hoping for recommendations of IBAC to be made public. So we consider it to be in the public interest for people to know what recommendations IBAC has made to public entities, to agencies –

Ryan BATCHELOR: Sorry, just to clarify here, this is recommendations to entities that are not contained in special reports?

Robert REDLICH: Correct. Recommendations that are not in a special report, correct.

Lyn ALLISON: Yes. So we would like to see this amendment broadened to the reporting power to Parliament, even out of session, to permit reports containing such recommendations. There was an earlier question about whether there is any research into the understanding of how this relates to – I have lost my track. Sorry, I will have to stop there.

Ryan BATCHELOR: That is fine. Before we conclude, I just thought I would double-check. I am done.

The CHAIR: Thank you very much, Ryan. We have got a minute left. I would just like to ask a brief question. In your submission you commented that you thought that referrals to IBAC should be kept confidential. I can see that would obviously protect the person who might be accused or somehow defamed if they were the subject of that referral, but I could also see a scenario where a department head or a minister was asked, 'What are you doing about this thing?' and they might want to say, 'I've referred it to IBAC.' I just wonder if you could comment on this.

Robert REDLICH: I must say, Mr Chair, I have not considered that related issue. Plainly enough, IBAC has too often been weaponised because a complaint is made. Whether or not valid or whether just done for political reasons, it has been weaponised, and it is important that that should not happen. If the corollary of including a requirement, or rather a prohibition against it simply being publicly stated that a complaint has been made, which the legislation also provides in particular circumstances, a person who is the subject of a complaint may be able to explain in an appropriate way why they are not able to deal with an issue in the way in which they would have preferred to – if that is a corollary of that prohibition, it should be addressed, but it should not be a reason for not including that prohibition.

The CHAIR: Yes. All right. Thank you. I think we have completed our questions. I want to thank you both very much for coming along and answering all of our questions. We will close the public hearing there.

Committee adjourned.