

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

Responses to Question on Notice and Supplementary Submission arising from public hearings of August 2025

We thank the Parliamentary Integrity and Oversight Committee (**PIOC**) for the opportunity to give evidence in relation to our submission to the Inquiry into the Adequacy of the Legislative Framework for the Independent Broad-based Anti-corruption Commission (**IBAC**).

This submission is a joint submission from Survivors of Police Perpetrated Sexual and Family Violence Advocacy Network and the Police Accountability Project at Inner Melbourne Community Legal. It is informed by the Police Oversight Working Group. With thanks to the primary author and compiler of the submission Jana Katerinskaja.

QON #1: Regarding complaints IBAC receives about Police misconduct, do you have any recommendations about the sorts of measures and measurements that at an aggregate level we can build into the reporting framework for IBAC, which this Committee has a role in helping to advise upon?

We note that nearly all of the police conduct complaints received by IBAC are referred to police or dismissed. IBAC investigates less than 1 per cent of complaints. Metrics on what happens to complaints referred to Victoria Police are critical for effective oversight. We recommend the following measures be incorporated into a public/PIOC reporting framework for IBAC's police accountability oversight function:

METRIC CATEGORY	AGGREGATE MEASURE
(1) Complaints referred by IBAC to Victoria Police – more granular referred complaints data and information on geographic complaint hotspots (<i>note - no statutory amendment required for metric; data</i>)	Aggregated data on - <ul style="list-style-type: none">the number and type* of referred complaints that are regionally delegated for investigation vs direct investigated by Professional Standards Command (<i>noting that IBAC has this data, and in our experience the quality of investigations and also the nature of investigation outcome of referred complaints differs between PSC direct investigations and regionally delegated investigations</i>); andfor regionally delegated investigations – the area/unit regionally delegated referred complaints are referred to within Victoria Police, with that level of detail showing whether complaints are delegated to – PSC for direct investigation, delegated to a specialist officer in a particular unit, or regionally delegated to a

<p><i>held by IBAC but not externally reported)</i></p>	<p>general duties member, etc <i>(noting that this will highlight complaints hotspots for family violence investigation failure allegations, conflict of interest concerns, and racialised policing allegations¹)</i></p> <p>* In respect of the type of referred-complaints: IBAC must provide more granular aggregated complaint data on the types of complaints referred to Victoria Police for investigation by:</p> <ul style="list-style-type: none"> • Allegation with sub-category (e.g. ‘inaction’ sub-category should include - <i>duty failure - failure to investigate an FVIO breach or DFV complaint</i>) <u>and/or</u> offence type (e.g. <i>unlawful assault</i>), and • Context (e.g. for an unlawful assault, the context could be one of the following categories- family violence, protest, in-custody, arrest, between colleagues at workplace, or other), and • Division, unit/station of the member complained about at the time of the events giving rise to the complaint <p><i>We note that IBAC will have these details in complaint forms and referral assessment paperwork. We recognise that complaints about single member stations may, given the nature of small communities, be more likely to identify individuals. To ensure there is some oversight of this issue IBAC could provide a report on single member police station complaints to the Parliamentary Integrity Oversight Committee confidentially. The Parliamentary Integrity Oversight Committee could determine whether it is appropriate or not to make such data public.</i></p> <p><i>We note further that IBAC does not see a complete picture of predatory police conduct, police sexual and family violence and assaults, particularly in the context of those occurring in the workplace between police employees/members, as complaints about these matters may never be reported to IBAC, being visible only to WorkCover/WorkSafe and insurers, or Victoria Police’s internal discipline system. Further work is required between IBAC, Victoria Police and other agencies to provide IBAC with a more complete picture of these issues and accurate statistics.</i></p>
<p>(2) Complaints referred by IBAC to Victoria Police –</p>	<p>Aggregated metrics on the reason for the referral of complaints to Victoria Police <i>(noting these reasons are now recorded as a consequence of IBAC complying with the recommendations made by the then Victorian Inspectorate’s</i></p>

¹ IBAC has provided limited reporting on these matters in respect of limited case studies, so this metric broadens that work to be statewide – see Independent Broad-based Anti-Corruption Commission, *IBAC’s focused police complaints pilot: Changing IBAC’s approach to single incident complaints about police misconduct*, (December 2024), 13.

referral reasons (<i>note -no statutory amendment required for metric; data already specifically collected and held by IBAC but not externally reported</i>)	<i>“Emma” Report in October 2022 - IBAC’s referral and oversight of Emma’s complaints about Victoria Police’s response to family violence by a police officer - October 2022 integrityoversight.vic.gov.au</i>
(3) Complaints referred by IBAC to Victoria Police – statutory NDA details (<i>note- no statutory amendment required for metric; data already collected and held by IBAC, but some data processing will likely be required re the last key element</i>)	<p>Aggregated data from IBAC in respect of the number of -</p> <ul style="list-style-type: none"> referred police conduct complaints assessed as PICs and PIDs by IBAC, complainants issued with a notice by IBAC under s184 of the <i>IBAC Act 2011</i> - and the confidentiality conditions and “statutory NDA term” applicable to the discloser/complainant under these notification regimes (<i>noting the intent of this last measure is to track improvements in notice terms re whom a complainant can speak to about their complaint (e.g. family, peer support workers, counsellors) and the term of gag-duration – as these things have a material and ongoing impact upon complainant mental health well after the closure of a complaint, and prevent them from recovering from their experiences</i>).
(4) Complaints referred by IBAC to Victoria Police – recommendation insights and themes (<i>note- statutory amendment will be required to s159(2) of the IBAC Act 2011, only re the second bullet point and final suggested paragraph parts of the suggested metrics; no amendment required for other elements; data held</i>)	<p>Aggregated data on the percentage and number of referred complaints IBAC reviewed, and arising from those reviews:</p> <ul style="list-style-type: none"> The thematic insights The type and detail of recommendations made (<i>noting most recommendations are generic and/or high level, such as re-investigation, or review of complaint file by PSC, improvements to training, redeploy conflict of interest training, or develop process for notifying complainants that they have been deemed unreasonable and will not be communicated with; that is, the recommendations will not identify individuals</i>) Whether recommendations made <ul style="list-style-type: none"> have been implemented, the timeframe for implementation, and

<i>by IBAC but will require processing)</i>	<ul style="list-style-type: none"> • whether IBAC has conducted assurance on that implementation; and • if recommendations have not been implemented or have been rejected - the rationale <p>We note that as IBAC issues relatively low numbers of recommendations to Victoria Police annually (arising from complaint and thematic reviews), with an amendment to s159(2) of the <i>IBAC Act 2011</i>, reporting could easily be provided as suggested above on an individual recommendation basis (where recommendations cannot be grouped). Such reporting would not identify individuals or render them identifiable. IBAC's current reporting provides limited detail about what happens after it makes recommendations, partly because the <i>IBAC Act 2011</i> restricts what it can publish. Publishing follow-through data on IBAC's recommendations to Victoria Police would show whether reforms are effective and strengthen public trust in the oversight process.</p>
<p>(5) Complaints referred by IBAC to Victoria Police – detailed metrics on rescinded referrals and complaint dismissals <i>(note - no statutory amendment required for metric; data held by IBAC but not presently reported)</i></p>	<p>Aggregate data, based upon data IBAC has to hand on:</p> <ul style="list-style-type: none"> • How many referrals were rescinded by IBAC and the reasons for these complaints to be rescinded (e.g. conflict of interest/independence cannot be addressed) • The breakdown of reasons for complaint dismissal by IBAC
<p>(6) General Metrics – performance timeframes <i>(note- no statutory amendment required for metric; data held by IBAC and presently reported in part only)</i></p>	<p>Aggregated data on IBAC's timeframes from complaint lodgement to assessment, investigation, outcome and if applicable – referred complaint file-review completion.</p> <p><i>(Noting IBAC's reporting does not adequately track how long complaints take from lodgement to assessment, investigation, outcome and review. Including all of these timeframes would improve accountability, identify where delays and systemic inefficiencies are occurring, and promote faster, fairer investigations)</i></p>
<p>(7) Complaints referred by IBAC to Victoria Police – IBAC activities in police</p>	<p>Data on the number of police oversight activities completed by IBAC by -(a) preliminary inquiries (b) inquiries (c) direct investigations (d) "active monitoring" and (e) referred complaint reviews</p>

oversight <i>(note- no statutory amendment required for metric; data held by IBAC but not presently reported)</i>	<i>(Noting IBAC reports on police oversight activities in total as preliminary inquiries, inquiries, investigations, active monitoring, and review are aggregated into one statistic². More details are provided on preliminary inquiries, inquiries and investigations; however, better understanding of active monitoring and reviews would be helpful as this is the majority of ‘police oversight activities’.)</i>
(8) Complaints referred by IBAC to Victoria Police – complainant welfare and experience with IBAC <i>(no statutory amendment required for metric; data not collected or held by IBAC at present, new data processing and data collection design will be required but is not unduly onerous or unreasonable, noting other complaint handling services collect such data)</i>	<p>IBAC must provide complainant satisfaction and welfare management performance data based upon qualitative and quantitative measures.</p> <p>We note that IBAC claims to be trauma-informed and complainant centric, but our experience is that IBAC’s intents are not materialising into action from a complainant perspective. IBAC does have a complaints review and feedback function, but in our experience, the complainants more likely to use that feedback function (and most likely to respond to any surveys IBAC may deploy) have not suffered police violence and racial discrimination, and/or are not marginalised.</p> <p>IBAC does need to measure and track its performance against its stated objective of being complainant centred and trauma informed, but for the reasons articulated above, those measures cannot rely solely upon feedback from satisfaction surveys sent to complainants (re police conduct/failures). We suggest IBAC measure its performance using a combination of surveys³, better engagement with organisations supporting complainants from marginalised and priority communities (including but not limited to our own organisation), and focus groups of service users from priority communities. IBAC should provide its performance methodology to PIOC and report annually on its performance, the insights gained from those performance assessments, and changes made to address identified issues.</p>
(9) Demographic <i>(note- no statutory amendment required for metric; data part held by IBAC and presently reported in part only. Metric will require</i>	IBAC should collect and report data on complainant ethnicity. IBAC complaints currently collect data on Aboriginality, age, and gender, and whether a language other than English is spoken at home, but not other racial-ethnicity. We know that people from marginalised communities are less likely to lodge a complaint and more likely to experience police harm ⁴ . IBAC should include ethnicity data in its complaint forms. A key metric should be to ensure that complaints are being lodged from all communities. (We note that the New Zealand Independent Police

² IBAC Annual Report 2023-24, p46

³ New Zealand’s IPAC records participates satisfaction in the contact of the Authority staff and the process ([2024 Annual Report](#) p22)

⁴ See IBAC, [Victoria Police Handling of complaints made by Aboriginal people](#) (2021)

<i>some new data collection and processing and the amendment of IBAC's online intake/complaints form)</i>	Conduct Authority measures the percentage of Māori, Pasifika and Youth complainant with the aim to increase the numbers, to measure the success of their engagement with these communities ⁵ .)
(10) Demographic <i>(no statutory amendment required for metric; data available to IBAC through Victoria Police and presently reported in part only)</i>	IBAC should monitor and report on Victoria Police use of discretionary powers and the impact on racialised communities: e.g. police use of stop, search, traffic, bail compliance checks etc. IBAC should monitor the use of police powers to ensure racial profiling is not occurring through providing regular data to the PIOC on police use of stop, search, and bail compliance checks.
(11) General Metrics – complaints IBAC self-investigates <i>(no statutory amendment required for metric; data collected and held by IBAC but presently not reported)</i>	<p>IBAC does not yet report metrics on the small percentage of police complaints IBAC self-investigates but should align that reporting with the metrics reported for referred police complaints (for comparative assessment purposes).⁶</p> <p><i>(We note that clients are often deterred from making complaints due to the low substantiation rates or positive outcomes arising from making complaints against the police. Accordingly, very few lawyers advise clients to make complaints as the trauma and stress often outweighs any possible benefit. IBAC does not publish the substantiation rate for the police complaint matters it investigates. The substantiation rate for police complaints dealt with by PSC are estimated to be around 17% based upon Victoria Police data⁷. However, substantiated results on their own do not reveal the effectiveness of the oversight system. Substantiation rate needs to be seen next to outcomes: we note in 2023-24 Victoria Police report 70% of substantiated complaints recommended no action⁸.)</i></p>

⁵ IPAC – [2024 Annual Report](#) – page 21

⁶ Victoria Police publicly began reporting on complaint data in response to Yoorrook Justice Commission. See Victoria Police *Annual Report 2023-24* (Report, 2024) 59-63.

⁷ This figure has come from an analysis of Victoria Police PSC complaints data that is published in their annual reports from 2016-2021; Victoria Police, *Annual Report 2021-2022* (Report, 2022), 62; Victoria Police, *Annual Report 2020-2021* (Report, 2021), 61; Victoria Police, *Annual Report 2019-2020* (Report, 2020), 56-57; Victoria Police, *Annual Report 2018-2019* (Report, 2019), 82-83; Victoria Police, *Annual Report 2017-2018* (Report, 2018), 85-86; Victoria Police, *Annual Report 2016-2017* (Report, 2017), 93-94.

⁸ Victoria Police, *Annual Report 2021-2022* (Report, 2022), 62.

QON #2: Do you think there are concrete recommendations that the Committee can make about how IBAC needs to be providing feedback to complainants about the outcome of their particular cases and what sorts of information would be relevant to that feedback? We would welcome some proposals that we might be able to make to both deal with it at a system level and then deal with it at a case level in terms of the reporting framework.

There are concrete recommendations that the Committee could make about how IBAC needs to be providing feedback to complainants about the prospective outcome and final outcome of their particular complaints. We have set out these suggestions below, but note that to fully implement some of them, amendments will be needed to ss159(2), 163 and 184 of the *IBAC Act 2011*:

1. Prospective outcome communications

○ Initial communications with complainants by IBAC–

- IBAC needs to more clearly explain the complaints process, expected timeframe, and its limits (particularly in respect of complaint outcomes) in initial communications with complainants and the public.
- For complainants issued s184 notices or making disclosures/complaints deemed protected, IBAC should clearly and in trauma informed plain language articulate –
 - who the complainant can speak to and
 - the term of any “statutory NDA”.

These materials should not be expressed in legalese and be available in multiple formats (including video). We have attached a current copy of an IBAC redacted communication to a complainant to demonstrate to the PIOC how intimidating and incomprehensible these initial IBAC communications are to complainants who are experiencing vulnerability and trauma.

- Initial communications should restate and provide a copy of any allegations made and referred to Victoria Police (noting the current IBAC complaints portal does not provide this by default, nor does IBAC consistently provide to complainants a copy of referred (and reframed) allegations despite claiming to do so). It can be a shock for complainants to receive complaint outcome letters from Victoria Police referring to complaint allegations the complainant did not make, omitting other allegations, or reframing them in such a way that they do not reflect the complainant’s original allegations.
- Initial communications following the acceptance of a complaint should ask complainants to provide all relevant evidence for referral to Victoria Police with the complaint and include examples (noting that presently this is not done separate to the online portal (which has limited evidence upload capability), and Victoria Police often does not contact complainants at all until the complaint outcome letter is sent, let alone seek substantiation materials. Consequently, complaints can be deemed unsubstantiated or unfounded when the complainant had evidence and was not asked to produce it)

- IBAC should provide links to ***sanitised case studies and outcomes (including recommendations) for similar cases*** on its website in initial communications to complainants to help manage complainant expectations. We note that this will require the development of such case studies, but observe that such case studies and the issue of them to complainants is commonplace in other jurisdictions and by other complaint handling bodies – including AFCA and industry ombudsman schemes. We note further that implementing this proposal may require making amendments to the *IBAC Act 2011* (s163 and s159).
- **Referral notification correspondence to complainants should provide details for escalating concerns about a referred complaint with IBAC** – presently if a complainant is encountering difficulties with an active referred complaint investigation, often due to the investigator’s conflict of interest, and sometimes due to the investigator’s racial bias, IBAC tells the complainant to raise their concerns with the investigator or PSC (with PSC direct referring concerns about the investigator to the investigator). IBAC referral notification correspondence should provide details for escalating concerns about an active complaint IBAC has referred to Victoria Police, and IBAC should-
 - upon receipt of such concerns consider whether
 - a new complaint should be recorded,
 - concerns formally raised with PSC, or
 - the complaint rescinded and direct investigated by IBAC.
 - IBAC should have a channel for passing on concerns raised by complainants about the management or ongoing/active referred-police complaints, to the PCU, with the expectation that the PCU will consider the concerns rather than passing them on to the investigator absent assessment.
- **Scheduled periodic updates-** IBAC should communicate with complainants at least every 60 days (potentially using automated correspondence) in respect of their complaint by way of progress update, unless a complainant opts out of receiving these progress updates (noting that complainants are presently not kept informed about their investigations by Victoria Police or IBAC often even when updates are sought, causing undue distress and frustration, and on occasion understandable behavioural outbursts).
- **IBAC should issue preliminary complaint outcomes to complainants, or require Victoria Police to do so** (which will require *IBAC Act 2011* amendments, as beyond rescinding a complaint, IBAC has no power to intervene in a complaint once it is referred to Victoria Police). Complainants should be provided a copy of the preliminary complaint outcomes, with information on how the conclusions have been reached. Unless they opt out or there is a compelling reason not to, in the interests of fairness, the complainant should be given an opportunity to respond to these findings within a set period, including providing additional evidence if relevant.

2. Post outcome communications/ feedback –

- IBAC should ensuring that complainants are provided with outcome letters (as in some instances, complainants have not received outcome letters for complaints IBAC has referred to Victoria Police)

- IBAC should ensure that for both referred and direct investigated complaints, complainants are provided with reasons for outcomes (as noted above, this will require legislative amendments in respect of referred police complaints)
- IBAC should ensure that complainants are provided reasons in relation to an IBAC decision to: dismiss a matter, refer to police, investigate, conduct a file review/active monitoring, or make recommendations to Victoria Police. The level of detail will reflect the complexity of the matter; however, the information should be sufficient to allow the complainant to understand the reasons for IBAC's decision. Presently despite there being no impediment at law, IBAC generally does not provide reasons or sufficient explanations to complainants, causing undue distress to already traumatised people.
- IBAC should be trauma informed and should forewarn complainants before they receive significant correspondence that could trigger them and ensure complainants have support around them before communication with them.
- Beyond a checkbox on the online complaints form, closer to the issue of complaint outcomes, complainants should be asked to confirm how they would like to receive information on the outcome of their investigation – i.e. over the phone, by email, or by post – with an option for in-person for complex investigations and an option to change preferences when/if circumstances change. If a verbal outcome is provided this should be followed up with written correspondence, to provide a record for the complainant.
- Consistent with some (but not all) of the above suggestions, complainants should be given the following information about their complaint whether it is direct investigated by IBAC or referred to Victoria Police:
 - Clearly document the allegations and the nature of the complaint that has been made;
 - What steps were taken to investigate their matter;
 - The final findings – which should clearly state what evidence was considered and how the conclusion was reached;
 - There should be space to find that wrongs made have been committed even if they did not breach procedural protocols, assessments should be made on the impact of Victoria Police's actions on the complainant and what the appropriate response should have been in the circumstances;
 - The recommendations that were made to Victoria Police or other government agencies;
 - Victoria Police's response to the recommendations;
 - Updates on the implementation of the recommendations.

In respect of recommendations made to Victoria Police and arising from the review of referred police conduct complaints, presently IBAC refuses to provide copies of recommendations, whether recommendations have been accepted by Victoria Police, and updates on the progress of implementing recommendations to complainants. IBAC claims s163 of the *IBAC Act 2011* only applies to police conduct complaints it direct investigates and not police conduct complaints referred to Victoria Police. This differs from the interpretation of s163 by the previous Commissioner. We submit that s163 needs amendment to make it clear that the provision also applies to police conduct complaints IBAC refers to Victoria Police. An absence of detail about complaint outcomes and reasons,

inclusive of recommendations made denies complainants closure and causes frustration and distress to people already suffering harm.

As discussed in our submission, s.159(2) prohibits IBAC from publicly reporting its recommendations. In our view, in respect of police conduct complaints, this provision should be repealed to improve transparency and accountability, with recommendations only exempt from such public reporting where they may identify an individual or compromise an ongoing investigation.

Additional comments

On statutory NDAs...

We note IBAC's support for a review of the statutory secrecy regime (under the *IBAC Act 2011* and protected disclosure regime) as it applies to police conduct complaints, and the comments made by Integrity Oversight Victoria and other submitters (including ourselves) about that regime being a "mess" and causing real harm to complainants. We have, in the survivor group, a number of complainants who as a result of the statutory secrecy regime (which we referred to in our evidence as a *statutory NDA*) have suffered significant mental health harm, and in several instances past suicidal ideation. That harm for some is ongoing as they remain silenced. Their complaints were substantiated, their perpetrators have moved on to civilian jobs and are thriving, while these victim-survivors struggle and cannot confide in their supporters and so further process their trauma and try and find closure. The statutory NDA scheme punishes victims and protects perpetrators exactly the same way contractual NDAs in corporate Australia protect powerful workplace predators and punish and silence victims. The regime requires urgent review and reform.

We have been asked by several survivors in our group to ask the PIOC to be mindful that any reforms to the statutory NDA scheme be retrospective (so as to ungag people still silenced). We have further been asked to note that while IBAC's verbal evidence that it heard us and is committed to improve is heartening, there was no apology from IBAC for past harm, and no evidence of change. In the words of one regional/country survivor-

"Please ask the IOC members to conduct assurance and ensure that IBAC keeps its word. Give IBAC direction and like you said, give them some black letter law. Say they [PIOC should] performance manage them [IBAC] with metrics. They [IBAC] have enough money to do their job a lot better than they do. We could give them tips for free but they won't listen to us despite what they say, but they have to listen to the IOC."

On reporting on outcomes and recommendations....

Reporting on outcomes and implementation of recommendations is key to ensuring IBAC is an effective integrity body for police oversight. Rather than the prohibition in s159(2) *IBAC Act 2011*, we say that there should be a positive duty for IBAC to report on its investigations, outcomes and recommendations. Regularly publishing de-identified summaries of police complaint investigations and any disciplinary recommendations made to

the Chief Commissioner under s159 of the *IBAC Act 2011* is a further way to improve transparency in IBAC's police complaints handling and confidence in its ability to function as a police oversight body.

IBAC currently publishes a limited number of investigations in special reports, however this is subject to a number of limitations set out in s162 of the *IBAC Act 2011*. Comparatively, in the UK, the Independent Office for Police Conduct (**IOPC**) regularly publish information about their investigations and what they have done as a part of the investigatory process. Furthermore, the IOPC also publish details about disciplinary action that was subsequently taken by the IOPC. The New Zealand Independent Police Conduct Authority also publishes Public Reports or Summary Reports on its investigations⁹.

We consider that given the small number of police complaint investigations undertaken by IBAC (less than 1%), the resource impost of publishing de-identified summaries of their investigations, what IBAC reviewed as a part of its investigation and the disciplinary action undertaken should be relatively limited. We further note that the disciplinary charges against police officers for breaches of discipline under the *Victoria Police Act 2013* are already publicly available on the Police Registration and Services Board.

IBAC should be required to publish all recommendations (except those where the complainant has not consented and the recommendation would publicly identify the complainant).

This would be consistent with Victoria Police current approach to publish their recommendations and detailed decisions of disciplinary proceedings against their own. A good model to follow is the NSW Law Enforcement Conduct Commission that has a public Recommendations Register Library which provides current information on the recommendations and implementation status. This data hub also has a database of prosecutions arising from LECC investigations¹⁰.

On the definition of police personnel misconduct....

Lastly, we note that the Police Accountability Project submission called for the definition for police personnel misconduct must be expanded to include a wider range of misconduct to align with public expectations. Regardless of the definition, in our view, IBAC should be open to make adverse findings and recommendations even if the strict definition is not met. IBAC may find Victoria Police did not breach procedure, but did not meet community expectations or as a whole act appropriately in the circumstances.

⁹ <https://www.ipca.govt.nz/Site/publications-and-media/2025-Reports-on-Investigations/>

¹⁰ Law Enforcement Conduct Commission, *LECC Data Hub* (2025) <https://www.lecc.nsw.gov.au/data-hub>

Lastly, we have intentionally kept our answers above directly relevant to the questions posed, after much debate amongst contributors and consulted victim-survivors and people harmed by IBAC. In the survivor group, survivors have referred you the Police Accountability Project submission of this year and our answers to your questions on notice over the Christmas period of 2024/5 – particularly at pages 16-19 inclusive, which in part reiterate and give context and further explanation to our answers above. We take all of those materials as both read and informing your questions, so we have not repeated them here. We again thank the Committee for your questions, for reading our submissions, for inviting us to appear and most of all for being open to the voices of lived experience informing IBAC’s metrics and IBAC reform.

[Enc. Sample of documents sent to complainants by IBAC, being the same as those referred to in our verbal evidence of August 2025]



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F: (03) 8672 0230

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VIC 3051

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North Melbourne
VIC 3051

Annexure: Sample of documents sent to complainants by IBAC

1. Outcome letter sent by IBAC to complainants
2. Initial letter sent by IBAC to complainants with attachments (order and format as provided to complainants)

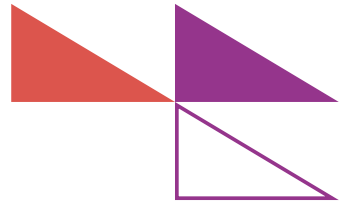


Independent broad-based
anti-corruption commission
Victoria

Level 1, North Tower,
459 Collins Street,
Melbourne Victoria 3000

1300 735 135
info@ibac.vic.gov.au
www.ibac.vic.gov.au

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

Outcome of IBAC's investigation of your complaint about Victoria Police

Thank you for submitting your complaint about Victoria Police to IBAC and being patient while we conducted our investigation. We are writing to advise you that IBAC has completed its investigation of your complaint.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

IBAC's investigation remains confidential

IBAC's decision to investigate your complaint, IBAC's investigation of your complaint and any results from IBAC's investigation, are confidential. It is an offence to share this information, except under specific circumstances which are set out in section 184 of the IBAC Act. The exceptions allowed include disclosing to a manager or employer, spouse or domestic partner, to a lawyer in seeking legal advice, or as required to comply with a witness summons, among other things. A copy of this section of the IBAC Act is attached.

If you have questions about what this means for you, please contact the IBAC investigator who can discuss this with you.

If you need support

Although IBAC's investigation has now ended, IBAC's dedicated Witness Liaison Team remains available to you to provide information about, or referrals to, counselling services and resources.

You can access IBAC's Witness Liaison Team by:

- emailing witnessliaison@ibac.vic.gov.au
- calling **1300 735 135**

Should you require counselling services, you can access IBAC's independent, free, and confidential witness support service through Carfi. Counselling provides an opportunity for you to confidentially discuss your experience in a safe and supported environment and connect to further resources or services where necessary. You can contact Carfi and access their services by:

- filling in the IBAC Witness Support Service online referral form: Referral Form <https://forms.office.com/r/r6NdNyiET6>
- calling **9112 4233** to arrange an appointment or to access emergency assistance 24 hours a day, seven days a week.

Alternatively, you may also access one of the support services listed here:

<https://www.ibac.vic.gov.au/mental-health-support>.

If you would like further information about any of these support services, please refer to the attached witness wellbeing information sheet.

[REDACTED]

[REDACTED]

Enclosures:

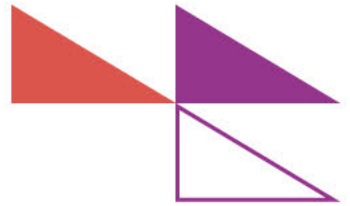
1. Section 184 of the *Independent Broad-based Anti-corruption Commission Act 2011*



Independent broad-based
anti-corruption commission
Victoria

Level 1, North Tower,
459 Collins Street,
Melbourne Victoria 3000

1300 735 135
info@ibac.vic.gov.au
www.ibac.vic.gov.au



[REDACTED]

[REDACTED]

[REDACTED]

IBAC has decided to investigate your complaint

Thank you for reaching out to IBAC. We understand making a complaint about police conduct can be challenging, and we appreciate you bringing this matter to our attention.

[REDACTED]

[REDACTED]

[REDACTED]

Please be aware the decision to investigate your complaint is confidential. It is an offence to share this information, except in the specific circumstances set out in section 184 of the *Independent Broad-based Anti-corruption Commission Act 2011* (IBAC Act). As set out in subsection 5, exceptions include disclosing to a manager or employer; spouse or domestic partner; a lawyer in seeking legal advice; or as required to comply with a witness summons. As per subsection 4, any person that you have disclosed to in accordance with subsection 5 will also be bound by the confidentiality requirements. A copy of this section of the IBAC Act is attached.

IBAC's decision on whether your complaint is a public interest complaint

The *Public Interest Disclosures Act 2012* (PID Act) provides protections for people who report improper conduct. The PID Act also provides protections for negative action taken against a person who reports improper conduct. In order to determine which protections may apply to you, IBAC is required to assess whether your complaint is a 'public interest disclosure', and if yes, if your complaint is also a 'public interest complaint' as defined in the PID Act.

Different protections apply to complaints that are decided by IBAC to be a 'public interest disclosure' or a 'public interest complaint'. In this instance, IBAC has decided that your complaint is a public interest disclosure and also a public interest complaint.

Because your complaint is a public interest disclosure and a public interest complaint you are protected under Part 6 of the PID Act and the confidentiality provisions under Part 7 of the PID Act apply. This means that IBAC cannot provide your identity, or the contents of the complaint, to other agencies except in certain circumstances.

The enclosed fact sheet explains these protections and obligations. The confidentiality obligations in the PID Act do not apply to you as the discloser, but they will apply to anyone that you tell about your complaint. Additionally, as mentioned above, section 184 of the IBAC Act limits who you can tell about IBAC's decision to investigate your complaint. If this remains unclear, please contact the IBAC investigator (whose contact details are below) for more information.

What information can you share?

- You can tell anyone about the incident, and that you have made a complaint to IBAC, but those people may be bound by the PID Act
- You cannot tell anyone about the fact that IBAC has decided to investigate your complaint except in accordance with the exceptions at section 184(5) of the IBAC Act.

What happens next?

The IBAC investigator appointed to your complaint will provide you with more detail about IBAC's processes. Generally, what occurs is that:

- the IBAC investigator will contact you to understand what happened, and may ask you to write down your account
- the IBAC investigator will gather relevant and available evidence
- the IBAC investigator will provide you with updates when they are able to. The investigator will discuss with you when and how you would like updates.
- the IBAC investigator may ask you further questions to clarify information or seek further information
- the IBAC investigator will ensure you are aware how to access wellbeing support throughout the investigation (see section below for more details)

Some IBAC investigations are resolved within weeks, while others can take months. We cannot tell you how long IBAC's investigation of your matter will take, but we will provide updates along the way.

Who you can contact with questions

If you have any questions about IBAC, the investigation, or your complaint, you should contact these

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

What welfare services are available?

IBAC understands that being involved in an investigation can be difficult and may create a range of emotions. There are a range of support options available to you.

IBAC has a dedicated Witness Liaison Team that can help you access information and support during an investigation, with a focus on your wellbeing. Witness liaison officers can provide you with information about, or referrals to, counselling services, and resources available, and support you to access information about the IBAC process and what to expect. Witness liaison officers do not provide counselling or have a therapeutic relationship with witnesses. You can access IBAC's Witness Liaison Team by:

- emailing witnessliaison@ibac.vic.gov.au
- calling **1300 735 135**

Should you require counselling services, you can access IBAC's independent, free, and confidential witness support service through Carfi. Counselling provides an opportunity for you to confidentially discuss your experience in a safe and supported environment and connect to further resources or services where necessary. You can contact Carfi and access their services by:

- filling in the IBAC Witness Support Service online referral form: Referral Form <https://forms.office.com/r/r6NdNyiET6>
- calling **9112 4233** to arrange an appointment or to access emergency assistance 24 hours a day, seven days a week.

Alternatively, you may also access one of the support services listed here:

<https://www.ibac.vic.gov.au/mental-health-support>.

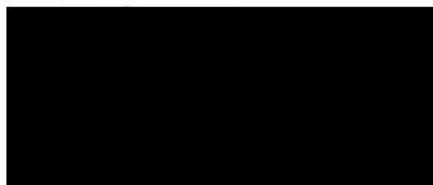
If you would like further information about **any of these** support services, please refer to the attached witness wellbeing information sheet.

Diversity and Inclusiveness

Please let us know of any personal attributes you would like us to be aware of so we can better engage with you, such as gender identity, culture, preferred language, LGBTIQ+, age, disability, or Aboriginal and Torres Strait Islander status.

If you have any further questions, please feel free to contact the investigators direct using the contact details provided in this letter.

Yours sincerely,



Enclosures:

1. Section 184 of the Independent Broad-based Anti-corruption Commission Act 2011
2. Witness wellbeing information sheet
3. Fact sheet – Public Interest Complaint
4. Part 6 and Part 7 Public Interest Disclosures Act 2012

S. 184
inserted by
No. 82/2012
s. 22.

**184 Offence to disclose certain information received
from the IBAC**

S. 184(1)
amended by
No. 30/2016
s. 46(15),
substituted by
No. 2/2019
s. 130.

- (1) A person who made a complaint who is notified by the IBAC under section 59(1) or (2), other than a person notified that the IBAC has dismissed the complaint under section 58(a), must not disclose the content of the notification except in the circumstances specified in subsection (5).

Penalty: 60 penalty units or 6 months imprisonment or both.

Note

Section 185 applies to an offence against this subsection.

- (2) A complainant who receives information under section 163(1) or (2) must not disclose that information except in the circumstances specified in subsection (5).

Penalty: 60 penalty units or 6 months imprisonment or both.

Note

Section 185 applies to an offence against this subsection.

**Note to
s. 184(2)
inserted by
No. 30/2016
s. 46(16).**

- (3) A person who receives information referred to in subsection (1) or (2) in any circumstance specified in subsection (5) must not disclose that information except in the circumstances specified in subsection (5).

Penalty: 60 penalty units or 6 months imprisonment or both.

Note

Section 185 applies to an offence against this subsection.

**Note to
s. 184(3)
inserted by
No. 30/2016
s. 46(17).**

- (4) A person other than a person referred to in subsection (3) who receives information referred to in subsection (1), (2) or (3) from a person referred to in those subsections must not disclose that information except in the circumstances specified in subsection (5).

Penalty: 60 penalty units or 6 months imprisonment or both.

Note

Section 185 applies to an offence against this subsection.

**Note to
s. 184(4)
inserted by
No. 30/2016
s. 46(18).**

- (5) For the purposes of this section, the specified circumstances are—
- (a) disclosure to any person where necessary for the purposes of obtaining any information, document or other thing to comply with a witness summons, a confidentiality notice, a notice cancelling a confidentiality notice or an order extending a confidentiality notice under section 42 or to comply with this section, including if the person—
 - (i) does not have a sufficient knowledge of the English language to understand the nature of the witness summons, a confidentiality notice, a notice cancelling a confidentiality notice or an order extending a confidentiality notice under section 42 or this section, to an interpreter;
 - (ii) is a person under the age of 18 years, to a parent, guardian or independent person;
 - (iii) is a person who is illiterate or has a mental, physical or other impairment which prevents the person from understanding the witness summons, a confidentiality notice, a notice cancelling a confidentiality notice, an order extending a confidentiality notice under section 42 or this section without assistance, to an independent person;
 - (b) disclosure for the purposes of obtaining legal advice or representation in relation to—
 - (i) a witness summons, a confidentiality notice, a notice cancelling a confidentiality notice, an order extending a confidentiality notice

under section 42 or compliance with this section;

- (ii) the person's rights, liabilities, obligations and privileges under this Act or the **Public Interest Disclosures Act 2012**;
- (c) disclosure by an Australian legal practitioner who receives a disclosure in the circumstances specified in paragraph (b), for the purposes of complying with a legal duty of disclosure or a professional obligation arising from his or her professional relationship with his or her client;
- (d) disclosure for the purposes of making a complaint to the Victorian Inspectorate;
- (e) disclosure for the purposes of complying with a witness summons served on a person by the Victorian Inspectorate under the **Victorian Inspectorate Act 2011**;
- (f) disclosure of information that has been published by the IBAC in a report or has otherwise been made public in accordance with this Act;
- (g) disclosure to a person's spouse or domestic partner;
- (h) disclosure to a person's employer or manager or both;
- (i) disclosure as is otherwise authorised or required to be made by or under this Act.

S. 184(5)(b)(ii)
amended by
No. 2/2019
s. 57(Sch. 1
Pt A item 22).



Support for witnesses

Information sheet

Being involved in an IBAC investigation can be stressful. You don't have to manage this alone. This information sheet provides an overview of the experiences you may have as a witness and how to access support.

Who can be a witness?

A witness is a person involved in an IBAC investigation, either as: the subject of that investigation; a person of interest; someone required to provide information; or a person impacted by the exercise of IBAC's duties, functions and powers.

Why do witnesses need support?

Every witness's experience is different and depends on the type of investigation and their role in it. However, no matter how you are involved, the serious nature of an IBAC investigation may be stressful. IBAC investigations are complex and can take a long time to complete which can be challenging for those involved. Witnesses may experience:

- anxiety or fear
- difficulty concentrating or sleeping
- feelings of embarrassment and shame
- social withdrawal
- uncertainty.

Support is available

It's important to access the right information and support so you can look after your wellbeing during an IBAC investigation. There are a number of options available to you, including:

1. IBAC Witness Liaison Team:

For information, referrals and support

IBAC has a dedicated Witness Liaison Team that can help you access information and support during the investigation, with a focus on your wellbeing. Witness liaison officers can:

- provide you with information about, or referrals to, counselling services, resources and other supports available
- support you to access information about the IBAC process and what to expect
- be available to support you from the first time IBAC makes contact with you until the completion of its investigation, the publication of findings (if any) and subsequent legal proceedings (if any).

Witness liaison officers can't provide you with counselling or therapeutic support, however, they will support you to access these services elsewhere.

You can contact the Witness Liaison Team by:

- emailing witnessliaison@ibac.vic.gov.au
- calling IBAC reception on **1300 735 135** from Monday to Friday between 10 am–4 pm. Ask to speak to a witness liaison officer.

2. Carfi:

For independent and confidential wellbeing support and counselling

As an IBAC witness, you can access free, independent and confidential counselling and support through Carfi.

Counselling can provide you with an opportunity to discuss your experience in a safe and supported environment and environment and to prepare for potential outcomes of the investigation. For example, Carfi can assist you with:

- support throughout the process of an IBAC investigation
- support with wellbeing before, during or after an examination
- coaching on how to manage anxiety



You can make an appointment with Carfi by:

- referrals if specialised help is required.
- completing the IBAC Witness Support self-referral form using the QR code or via <https://forms.office.com/r/r6NdNyiET6> or
- calling **9112 4233**. When you call, identify yourself as an IBAC witness so that you can access tailored witness support.

If you have difficulties accessing Carfi, please contact the Witness Liaison Team for assistance.

3. Registered health provider

You may choose to access wellbeing support through another registered health practitioner such as:

- an Employee Assistance Program (EAP) service at your work (if available)
- your General Practitioner (GP)
- your psychologist or counsellor.

4. Support services

You can also access wellbeing and crisis support through services such as:

- Beyond Blue Ltd - 1300 224 6361
- Headspace National Youth Mental Health Foundation Ltd - 1800 650 8902
- Lifeline Australia - 13 11 443
- SuicideLine Victoria - 1300 651 251 or Suicide Call Back Service - 1300 659 467
- SANE Australia - 1800 187 2635
- QLife - 1800 184 527
- 13YARN - 13 92 76

Confidentiality

There may be restrictions on what information about an IBAC investigation you can share with other people. You will be given more information if this applies to you.

If you are ever unsure about your confidentiality obligations, please contact IBAC for clarification.

If you would like more information, please:



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



Email the IBAC Witness
Liaison team at
witnessliaison@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

INFORMATION FOR PERSONS WHO HAVE MADE A PUBLIC INTEREST COMPLAINT

Your disclosure has been assessed by IBAC and determined to be a **Public Interest Complaint** under the *Public Interest Disclosures Act 2012* ('the Act').

This information answers some questions you may have in relation to Public Interest Complaints. In particular you need to be aware of:

- the protections available to you, and their limitations
- your obligations to keep certain information about disclosures confidential
- the obligations that the organisation to whom you have made the disclosure has to keep certain information about your disclosure confidential.

Enclosed with this information sheet is a copy of sections 72 and 73, and Parts 6 and 7 of the Act, to which this information sheet refers.

What is a public interest complaint?

A disclosure is a Public Interest Complaint if:

- it is made by a person (i.e. not an organisation)
- it is made to a receiving entity under the Act
- it contains allegations of improper conduct or detrimental action by, or involving a public officer or public body
- the information disclosed by the person shows, or the person making the disclosure has reasonable grounds to believe the information disclosed shows, that the conduct has, or will, occur.

If IBAC determines your matter is a Public Interest Complaint, IBAC may:

- dismiss your complaint;
- undertake an investigation in relation to your complaint; or
- refer your complaint to another investigating entity such as the Chief Commissioner of the Victoria Police, the Victorian Ombudsman, the Victorian Inspectorate, the Judicial Commission of Victoria, the Local Government Inspectorate or in some instances the Information Commissioner or the Racing Integrity Commissioner, depending on the nature of your complaint.

The confidentiality obligations and the protections attached to your Public Interest Complaint will continue to apply regardless of which course IBAC chooses.

Any further information you provide about the same subject matter will also be treated as a Public Interest Complaint.

Rights and Protections for a person making a Disclosure

Part 6 of the Act is enclosed for consideration regarding your rights and protections provided to a person making a disclosure. Specifically, Part 6 of the Act legally protects you against:

- civil, criminal or disciplinary action being taken against you for making the disclosure
- having committed any offence by breaching any confidentiality provisions or obligations you might have with respect to the information you have provided
- reprisal, being detrimental action taken against you by another person because of your disclosure

If defamation proceedings are brought against you as a result of making a disclosure, the Act also provides you with a defence.

The Act gives you the right to:

- sue for damages for any injury, loss or damage suffered as a result of a person taking detrimental action in reprisal
- obtain damages and reinstatement of employment where an employer is found guilty of taking detrimental action
- seek an injunction to stop actions in reprisal
- request a transfer of employment (if you work for or in the Victorian public sector) where a person believes detrimental action has been, is being, or will be, taken.

These protections apply from the time you made a Public Interest Disclosure and whether or not the entity to which you made the disclosure notifies IBAC.

It is important to remember you are still liable for your own conduct even if you have disclosed that conduct under the Act.

The Act does not protect you from *legitimate* performance management action taken against you (if applicable).

If you have knowingly provided false or misleading information intending that the information be acted on as a public interest complaint, the protections do not apply. See the section on 'Offences' below for more information.

Confidentiality

Part 7 of the Act is enclosed (which includes sections 52, 53 and 54) which sets out the confidentiality requirements that protect the identity of a person who makes a disclosure and also the content of their disclosure.

If you have made a disclosure, it is an offence under sections 52 and 53 of the Act for the person who received the disclosure (or knows any information about the disclosure) to make known:

- the content, or information about the content, of a disclosure
- information likely to lead to the identification of a person who has made a disclosure.

There are a number of exceptions available under the Act. These exceptions differ depending on what information is being disclosed. These exceptions are intended to allow for the reasonable exchange of information necessary to take action in relation to your disclosure.

Section 54 of the Act is enclosed which sets out the details of these exceptions. Some examples include:

- where necessary for the purpose of the exercise of functions under the Act, or by the investigating entity for the purposes of the *Independent Broad-based Anti-corruption Commission Act 2011*, the *Victorian Inspectorate Act 2011*, the *Ombudsman Act 1973* or Part IVB of the *Police Regulation Act 1958*
- for the purpose of obtaining legal advice or representation
- to an interpreter
- to a parent or guardian of a person under 18 years of age
- to an independent person for the purposes of enabling a person who is illiterate or has a mental or physical impairment that prevents them from understanding their obligations
- for the purpose of certain legal proceedings
- for the purpose of seeking advice or support in relation to the disclosure to any of the following:
 - a registered health practitioner
 - a trade union
 - an employee assistance program
- the Victorian Workcover Authority
- for the purpose of an application to the Fair Work Commission, including any related proceeding.

IBAC will only disclose your identity or information about the content of your disclosure where required or allowed to do so by law.

OFFENCES

The Act creates a number of criminal offences. In order to ensure that you comply with the law, it is important that you are aware of your legal obligations under the Act before and after making a disclosure. Sections 72 and 73 of the Act are enclosed for information on offences.

Offence to make false disclosure

Under section 72 of the Act, it is a criminal offence to provide information that you know is false or misleading with the intention that the information be acted on as a Public Interest Complaint. It is also an offence to provide further information relating to a disclosure which you know is false or misleading. The offences carry a fine of up to 120 penalty units or 12 months imprisonment or both.

Offence to make false claims

It is an offence under section 73 of the Act to claim that:

- a matter is the subject of a Public Interest Complaint when you know that it is not; or
- that IBAC or the Victorian Inspectorate has determined a disclosure to be a Public Interest Complaint when you know that they have not.

An offence against section 73 of the Act carries a fine of up to 120 penalty units or 12 months imprisonment or both.

OFFICIAL

Under section 184 of the IBAC Act you are not permitted to disclose the action IBAC has taken in relation to your complaint, with the exception of those matters listed in section 184(5) of the IBAC Act. This means that if IBAC determines to investigate your complaint or refer your complaint to another agency for investigation, this determination is confidential and you must not disclose the decision to anyone else with the exception of those circumstance prescribed in section 184(5) of the IBAC Act.

Please contact IBAC if you have any further questions.

Phone: 1300 735 135

Post: IBAC, GPO Box 24234, Melbourne, Victoria 3000

This written statement is a summary of elements of the Act, provided for information and educational purposes. It is not a substitute for referring to the provisions of the Act itself or for obtaining legal advice.

Pt 6 (Heading)
amended by
No. 2/2019
s. 20.

Part 6—Protection of person making public interest disclosure

S. 38
substituted by
No. 2/2019
s. 21.

38 Disclosures to which this Part applies

- (1) This Part applies to the following disclosures—
 - (a) a public interest disclosure made in accordance with Division 2 of Part 2;
 - (b) a misdirected disclosure;
 - (c) a complaint by a police officer or a protective services officer about the conduct of another police officer or protective services officer made in accordance with section 167(3) of the **Victoria Police Act 2013**;
 - (d) an external disclosure made in accordance with section 38A.
- (2) A reference in this Part (other than a reference in this section or section 38A) to a public interest disclosure is taken to be a reference to a disclosure to which this Part applies.
- (3) This Part applies to a public interest disclosure made in accordance with Division 2 of Part 2 or a misdirected disclosure from the time the disclosure is made—
 - (a) whether or not the entity to which the disclosure was made has notified the disclosure to the IBAC, the Victorian Inspectorate or the Integrity and Oversight Committee; and
 - (b) whether or not the IBAC, the Victorian Inspectorate or the Integrity and Oversight Committee has determined that the disclosure is a public interest complaint.

- (4) This Part applies to a complaint referred to in subsection (1)(c) from the time the complaint is made—
 - (a) whether or not the complaint is investigated by the Chief Commissioner of Police; and
 - (b) whether or not the Chief Commissioner of Police has notified the complaint to the IBAC under section 22; and
 - (c) whether or not the IBAC has determined that the complaint is a public interest complaint.
- (5) Any further information relating to a public interest disclosure provided by the person who made the disclosure is to be treated as if it were a public interest disclosure.
- (6) Subsection (5) applies only to further information provided, whether orally or in writing, to—
 - (a) in the case of a public interest disclosure made in accordance with Division 2 of Part 2—the entity to which the disclosure was made; or
 - (b) the IBAC; or
 - (c) the Victorian Inspectorate; or
 - (d) the Integrity and Oversight Committee; or
 - (e) an investigating entity that is investigating the disclosure; or
 - (f) a person engaged by the Integrity and Oversight Committee under Part 4A to investigate a public interest disclosure.

38A External disclosures

- (1) An external disclosure is a public interest disclosure made to a person or body who is not an entity to whom a public interest disclosure may be made under Division 2 of Part 2.

**S. 38A
inserted by
No. 2/2019
s. 21.**

- (2) Subject to subsection (3), an external disclosure is made in accordance with this section if—
- (a) the person making the external disclosure has previously made a public interest disclosure in accordance with Division 2 of Part 2 (the *original disclosure*) and the original disclosure was not made anonymously; and
 - (b) the original disclosure was determined under Division 2 of Part 3 to be a public interest complaint and the person has been notified of that determination; and
 - (c) the subject matter of the external disclosure is substantially the same as the subject matter of the original disclosure; and
 - (d) either subsection (3) or (4) applies.
- (3) This subsection applies if—
- (a) the person has not been notified by the investigating entity about any action taken in relation to the original disclosure within 6 months after being notified that the original disclosure has been determined to be a public interest complaint; and
 - (b) the person has requested advice on the progress of the public interest complaint from the investigating entity and has not received a response within 30 days after that request.
- (4) This subsection applies if—
- (a) an investigation of the public interest complaint has not been completed within 12 months after the person was notified that the original disclosure has been determined to be a public interest complaint; and

- (b) the person has requested advice on the progress of the public interest complaint from the investigating entity; and
 - (c) either—
 - (i) the person has not received a response within 30 days after the request; or
 - (ii) the person received a response within 30 days after the request advising that the investigation is still ongoing but has not been advised that the investigation has been completed within 6 months after that response.
- (5) An external disclosure is not a disclosure made in accordance with this section if it contains information that—
- (a) may prejudice a criminal investigation, criminal proceeding or other legal proceeding of which the person making the external disclosure is aware; or
 - (b) is likely to lead to the disclosure of any investigative method used by the IBAC or members of Victoria Police personnel.

Note

Despite being taken to be a public interest disclosure for the purposes of this Part, the confidentiality provisions of Part 7 do not apply to an external disclosure made in accordance with this section.

39 Immunity from liability

- (1) A person who makes a public interest disclosure is not subject to any civil or criminal liability or any liability arising by way of administrative process (including disciplinary action) for making the disclosure.

S. 39(1)
amended by
No. 2/2019
s. 22.

S. 39(2)
amended by
No. 2/2019
s. 22.

- (2) Subsection (1) does not apply to a person who, in making the public interest disclosure, has contravened section 72(1) or (2) in relation to the information disclosed.

40 Confidentiality provisions do not apply

S. 40(1)
amended by
No. 2/2019
s. 22.

- (1) Without limiting section 39, a person who makes a public interest disclosure does not by doing so—
- (a) commit an offence under section 95 of the **Constitution Act 1975** or a provision of any other Act that imposes a duty to maintain confidentiality with respect to a matter or any other restriction on the disclosure of information; or

S. 40(1)(b)
amended by
No. 6/2018
s. 68(Sch. 2
item 102).

- (b) breach an obligation by way of oath or affirmation or rule of law or practice or under an agreement requiring him or her to maintain confidentiality or otherwise restricting the disclosure of information with respect to a matter.

S. 40(2)
amended by
No. 2/2019
s. 22.

- (2) Subsection (1) does not apply to a person who, in making the public interest disclosure, has contravened section 72(1) or (2) in relation to the information disclosed.

41 Protection from defamation action

S. 41(1)
amended by
No. 2/2019
s. 22.

- (1) Without limiting section 39, in any proceeding for defamation there is a defence of absolute privilege in respect of the making of a public interest disclosure.

S. 41(2)
amended by
No. 2/2019
s. 22.

- (2) Subsection (1) does not apply to a person who, in making the public interest disclosure, has contravened section 72(1) or (2) in relation to the information disclosed.

42 Liability for own conduct

Despite anything to the contrary in this Part, a person's liability for his or her own conduct is not affected by the person's disclosure of that conduct under this Act.

43 Detrimental action in reprisal for public interest disclosure

S. 43
(Heading)
amended by
No. 2/2019
s. 23(1).

- (1) For the purposes of this Act and subject to subsections (2) and (3), a person takes detrimental action against another person in reprisal for a public interest disclosure if—

S. 43(1)
amended by
No. 2/2019
s. 23(2).

- (a) the person takes or threatens to take detrimental action against the other person because, or in the belief that—
- (i) the other person or anyone else has made, or intends to make, the disclosure; or
- (ii) the other person or anyone else has cooperated, or intends to cooperate, with an investigation of the disclosure; or
- (b) for either of those reasons, the person incites or permits someone else to take or threaten to take detrimental action against the other person.

- (2) A person does not take detrimental action against another person in reprisal for a public interest disclosure made by the other person if the other person has contravened section 72(1) or (2) in relation to the information disclosed by the public interest disclosure.

S. 43(2)
amended by
No. 2/2019
s. 23(3).

* * * * *

S. 43(3)
repealed by
No. 2/2019
s. 23(4).

44 Management action not prevented

S. 44(1)
amended by
No. 2/2019
s. 24(1).

- (1) Nothing in this Part is intended to prevent a manager from taking management action in relation to an employee who has made a public interest disclosure.

S. 44(2)
amended by
No. 2/2019
s. 24(2).

- (2) A manager may take management action that is detrimental action in relation to an employee who has made a public interest disclosure only if the fact that the employee has made the public interest disclosure is not a reason for the manager taking the action.

S. 44(3)
inserted by
No. 2/2019
s. 24(3).

- (3) Without limiting subsection (1) and subject to subsection (2), management action that may be taken in relation to an employee who has made a public interest disclosure includes any action that may or is required to be taken—
- (a) in respect of performance development (including training), conditions of employment or discipline; or
 - (b) to ensure the safety of the workplace.

45 Protection from reprisal

S. 45(1)
amended by
No. 2/2019
s. 25(1).

- (1) A person must not take detrimental action against another person in reprisal for a public interest disclosure.

Penalty: 240 penalty units or 2 years imprisonment or both.

S. 45(2)
amended by
No. 2/2019
s. 25(2).

- (2) It is a defence in a proceeding for an offence against subsection (1) if a reason referred to in section 43(1)(a) was not a reason for the person taking the detrimental action against the other person.

(3) It is a defence in a proceeding for an offence against subsection (1) if—

- (a) the IBAC, the Victorian Inspectorate or the Integrity and Oversight Committee has determined that the disclosure is not a public interest complaint; and
- (b) at the time the person took the detrimental action, the person knew of that determination.

S. 45(3)(a)
substituted by
No. 2/2019
s. 25(3).

(4) Despite subsection (3), it is not a defence in a proceeding for an offence against subsection (1) if the IBAC, the Victorian Inspectorate or the Integrity and Oversight Committee (as the case may be) determined the disclosure is not a public interest complaint under section 26(5).

S. 45(4)
inserted by
No. 2/2019
s. 25(4).

46 Order for damages or reinstatement

(1) If a person is convicted or found guilty of an offence against section 45, the court may, in addition to imposing a penalty, order that, within a specified time, the offender pay to the person against whom the detrimental action was taken damages that the court considers appropriate to compensate the person for any injury, loss or damage.

(2) If—

- (a) the employer of a person; or
- (b) someone in the course of employment with, or while acting as an agent of, the employer of a person—

is convicted or found guilty of an offence against section 45 in relation to detrimental action taken against that person, the court may, in addition to imposing a penalty and in addition to any damages ordered under subsection (1), order that the employer reinstate or re-employ the person in

his or her former position or, if that position is not available, in a similar position.

- (3) Without limiting the court's discretion, when making an order under subsection (1), the court may take into account any remedy granted under section 47 or any order made under section 49 in relation to the same conduct.

47 Proceedings for damages for reprisal

S. 47(1)
amended by
No. 2/2019
s. 26(1).

- (1) A person who takes detrimental action against another person in reprisal for a public interest disclosure is liable in damages for any injury, loss or damage to that other person.
- (2) The damages may be recovered in proceedings as for a tort in any court of competent jurisdiction.
- (3) Any remedy that may be granted by a court with respect to a tort, including exemplary damages, may be granted by a court in proceedings under this section.
- (4) The right of a person to bring proceedings for damages does not affect any other right or remedy available to the person arising from the detrimental action.
- (5) Proceedings for damages under this section may be brought even if a prosecution in relation to the detrimental action has not been brought under section 45.
- (6) Without limiting the court's discretion, when granting a remedy under this section, the court may take into account any order made under section 46 or 49 in relation to the same conduct.
- (7) In proceedings under this section, costs against the person alleging that detrimental action has been taken in reprisal for a public interest disclosure must not be awarded unless the court is satisfied—

S. 47(7)
inserted by
No. 2/2019
s. 26(2).

- (a) the person's claim that detrimental action had occurred is vexatious; or
- (b) the person did not conduct the litigation reasonably.

48 Vicarious liability of public body

- (1) If a person in the course of employment with, or while acting as an agent of, a public body takes detrimental action against another person in reprisal for a public interest disclosure—
 - (a) the public body and the employee or agent (as the case may be) are jointly and severally civilly liable for the detrimental action; and
 - (b) a proceeding under section 47 may be taken against either or both.
- (2) It is a defence to a proceeding against a public body under section 47 if the public body proves, on the balance of probabilities, that it took reasonable precautions to prevent the employee or agent from taking detrimental action against the other person in reprisal for the public interest disclosure.

S. 48(1)
amended by
No. 2/2019
s. 27.

S. 48(2)
amended by
No. 2/2019
s. 27.

49 Injunction or order

- (1) If, on receipt of an application under section 50, the Supreme Court is satisfied that a person has taken or intends to take detrimental action against another person in reprisal for a public interest disclosure, the Court may—
 - (a) order the person who took the detrimental action to remedy that action; or
 - (b) grant an injunction in any terms the Court considers appropriate.
- (2) The Supreme Court, pending the final determination of an application under section 50, may—

S. 49(1)
amended by
No. 2/2019
s. 27.

- (a) make an interim order in the terms of subsection (1)(a); or
- (b) grant an interim injunction.
- (3) Without limiting the discretion of the Supreme Court, when granting a remedy under this section, the Court may take into account any order made under section 46 or 47 in relation to the same conduct.

50 Application for injunction or order

An application for an order or an injunction by the Supreme Court under section 49 may be made by—

S. 50(a)
amended by
No. 2/2019
s. 28(a).

- (a) a person who believes that detrimental action has been taken or may be taken against him or her in reprisal for a public interest disclosure; or

S. 50(b)
amended by
No. 2/2019
s. 28(b).

- (b) an investigating entity if the investigating entity believes that detrimental action has been taken or may be taken in reprisal for a public interest disclosure the subject of which is a matter that the investigating entity is authorised to investigate under another Act; or

S. 50(c)
inserted by
No. 2/2019
s. 28(c).

- (c) the Integrity and Oversight Committee, if the Committee believes that detrimental action has been taken or may be taken in reprisal for a public interest disclosure the subject of which is a matter that the Committee may under Part 4A engage a person to investigate.

51 Transfer of employee

S. 51(1)
inserted by
No. 2/2019
s. 29.

- (1) An employee of a public service body or a public entity who has made a public interest disclosure and who believes on reasonable grounds that detrimental action will be, is being or has been taken against him or her in contravention of

section 45 may request a transfer of employment in accordance with this section.

- (2) Subject to subsection (4), a public service body Head may transfer an employee of the public service body who has made a public interest disclosure to duties within—

S. 51(2)
inserted by
No. 2/2019
s. 29.

- (a) another public service body; or
- (b) a public entity; or
- (c) a different area of the same public service body—

on terms and conditions of employment that are no less favourable overall.

- (3) Subject to subsection (4), a public entity Head may transfer an employee of the public entity who has made a public interest disclosure to duties within—

S. 51(3)
inserted by
No. 2/2019
s. 29.

- (a) a public service body; or
- (b) a different area of the same public entity—

on terms and conditions of employment that are no less favourable overall.

- (4) An employee may only be transferred under subsection (2) or (3) if—

- (a) the employee requests or consents to the transfer; and
- (b) the public service body Head or the public entity Head (as the case may be) has reasonable grounds to suspect that detrimental action will be, is being or has been taken against the employee in contravention of section 45; and

- (c) the public service body Head or the public entity Head (as the case may be) considers that the transfer of the employee will avoid, reduce or eliminate the risk of detrimental action being taken against the employee; and
 - (d) the Head of the public service body or public entity to which it is proposed to transfer the employee consents to the transfer.
- (5) The transfer of an employee under subsection (2) or (3) may be permanent or for a fixed term.
- (6) The transfer of an employee under subsection (2) or (3) does not constitute a resignation or termination of employment and the post-transfer service is to be regarded as continuous with the pre-transfer service.
- (7) In this section, *public entity*, *public entity Head*, *public service body* and *public service body Head* have the same meanings as they have in the **Public Administration Act 2004**.

Part 7—Confidentiality of disclosures

52 Content of assessable disclosure must not be disclosed

- (1) This section applies to a person or body—
- (a) to whom an assessable disclosure has been made; or
 - (b) who receives an assessable disclosure in the performance of duties or functions under this Act; or
 - (c) to whom the IBAC, the Victorian Inspectorate or the Integrity and Oversight Committee provides information about the content of an assessable disclosure to determine whether the disclosure is a public interest complaint; or
 - (d) to whom an assessable disclosure, or information about the content of an assessable disclosure, is disclosed in any of the circumstances referred to in subsection (3)(a); or
 - (e) to whom an assessable disclosure, or information about the content of an assessable disclosure, has been disclosed in contravention of subsection (2).
- (2) The person or body must not disclose the content, or information about the content, of an assessable disclosure.

S. 52(1)(c)
substituted by
No. 2/2019
s. 30(1).

Penalty: In the case of a natural person,
120 penalty units or 12 months
imprisonment or both.

In the case of a body corporate,
600 penalty units.

(3) Subsection (2) does not apply if—

- (a) the person or body discloses the content, or information about the content, of the assessable disclosure—
 - (i) in accordance with section 54; or
 - (ii) in accordance with a direction or authorisation given by the investigating entity that is investigating the disclosure; or
 - (iii) to the extent necessary for the purpose of taking lawful action in relation to the conduct that is the subject of the assessable disclosure including a disciplinary process or action; or
- (b) the IBAC, the Victorian Inspectorate or the Integrity and Oversight Committee has determined that the assessable disclosure is not a public interest complaint and the person or body discloses the content, or information about the content, of the assessable disclosure after that determination; or
- (c) an investigating entity has—
 - (i) published in a report to Parliament under this or any other Act, or otherwise made public, the content, or information about the content, of the assessable disclosure; and

S. 52(3)(b)
substituted by
No. 2/2019
s. 30(2)(a).

S. 52(3)(c)
amended by
No. 2/2019
s. 30(2)(b).

(ii) in doing so, acted consistently with the obligations relating to confidentiality that apply to the investigating entity under this Act—

and the person or body discloses the content, or information about the content, of the assessable disclosure after that publication; or

(d) the Integrity and Oversight Committee has published the information in a report to Parliament under this or any other Act and the person or body discloses the information after that publication.

S. 52(3)(d)
inserted by
No. 2/2019
s. 30(2)(c).

53 Identity of person making assessable disclosure must not be disclosed

(1) A person or body must not disclose information likely to lead to the identification of a person who has made an assessable disclosure.

Penalty: In the case of a natural person,
120 penalty units or 12 months
imprisonment or both.

In the case of a body corporate,
600 penalty units.

(2) Subsection (1) does not apply if—

(a) the person who made the assessable disclosure has given written consent to an investigating entity to disclose—

(i) any information likely to lead to the person's identification; or

(ii) specific information likely to lead to the person's identification—

and the information is disclosed by the investigating entity after and in accordance with that consent; or

Public Interest Disclosures Act 2012
No. 85 of 2012
Part 7—Confidentiality of disclosures

S. 53(2)(ab)
inserted by
No. 2/2019
s. 31(a).

- (ab) the person who made the assessable disclosure has given written consent to the Integrity and Oversight Committee or to an independent investigator engaged by the Committee under Part 4A to disclose—
- (i) any information likely to lead to the person's identification; or
 - (ii) specific information likely to lead to the person's identification—

and the information is disclosed by the Committee or the independent investigator after and in accordance with that consent; or

- (b) the person or body discloses the information in accordance with section 54; or

S. 53(2)(c)
substituted by
No. 2/2019
s. 31(b).

- (c) the IBAC, the Victorian Inspectorate or the Integrity and Oversight Committee has determined that the assessable disclosure is not a public interest complaint and the person or body discloses the information after that determination; or

S. 53(2)(d)
amended by
No. 2/2019
s. 31(c).

- (d) an investigating entity has—
- (i) published in a report to Parliament under this or any other Act, or otherwise made public, the information; and
 - (ii) in doing so, acted consistently with the obligations relating to confidentiality that apply to the investigating entity under this Act—

and the person or body discloses the information after that publication; or

S. 53(2)(e)
inserted by
No. 2/2019
s. 31(d).

- (e) the Integrity and Oversight Committee has published the information in a report to Parliament under this or any other Act and

the person or body discloses the information after that publication.

54 Circumstances in which information may be disclosed

- (1) A person or body may, in any of the circumstances set out in subsection (2), disclose—
- (a) the content, or information about the content, of an assessable disclosure; or
 - (b) information likely to lead to the identification of a person who has made an assessable disclosure.
- (2) For the purposes of subsection (1) information may be disclosed in the following circumstances—
- (a) where necessary for the purpose of the exercise of functions under this Act;
 - (b) by an investigating entity, or an officer of an investigating entity, where necessary for the purpose of the exercise of functions under the Act, or part of the Act, under which the investigating entity, or the officer of the investigating entity, is authorised to investigate a public interest complaint;
 - (ba) to Victoria Police where an investigating entity has previously disclosed information to the Chief Commissioner of Police relating to actual or potential criminal conduct and the information is relevant to an investigation by Victoria Police of the criminal conduct;
 - (c) for the purpose of a proceeding for an offence against—
 - (i) a relevant Act; or

S. 54(2)(b) amended by Nos 37/2014 s. 10(Sch. item 134.6(a)), 16/2016 s. 173(1), substituted by No. 2/2019 s. 32(1)(a).

S. 54(2)(ba) inserted by No. 2/2019 s. 32(1)(a).

- (ii) section 19 of the **Evidence (Miscellaneous Provisions) Act 1958** arising from an investigation by the Ombudsman;
- (d) for the purpose of a disciplinary process or action instituted in respect of conduct that could constitute an offence against—
 - (i) a relevant Act; or
 - (ii) section 19 of the **Evidence (Miscellaneous Provisions) Act 1958** arising from an investigation by the Ombudsman;
- (da) for the purpose of, or in the course of, a restorative engagement process, with the written consent of the person participating in the process who alleges that they are the victim of sex discrimination or sexual harassment;
- (e) for the purpose of obtaining legal advice or representation in relation to—
 - (i) a witness summons, a confidentiality notice, a notice cancelling a confidentiality notice or an order extending a confidentiality notice;
 - (ii) the person's rights, liabilities, obligations and privileges under a relevant Act;
- (f) by an Australian legal practitioner to whom an assessable disclosure or information has been disclosed in the circumstances specified in paragraph (e), for the purpose of complying with a legal duty of disclosure or a professional obligation arising from his or her professional relationship with his or her client;

S. 54(2)(da)
inserted by
No. 3/2019
s. 37(a).

- (g) to an interpreter, for the purpose of enabling a person who does not have a sufficient knowledge of the English language to comply with this Part;
- (h) to a parent or guardian of a person or to an independent person, for the purpose of enabling a person who is under the age of 18 years to comply with this Part;
- (i) to an independent person, for the purpose of enabling a person who is illiterate or has a mental or physical impairment that prevents the person from understanding an obligation imposed under this Part to comply with this Part; S. 54(2)(i)
amended by
No. 2/2019
s. 32(1)(b).
- (j) to any of the following for the purpose of assisting the person who made the assessable disclosure to seek advice or support in relation to the assessable disclosure— S. 54(2)(j)
inserted by
No. 2/2019
s. 32(1)(c).
 - (i) a registered health practitioner;
 - (ii) a trade union, within the meaning of the Workplace Relations Act 1996 of the Commonwealth, of which the person who made the assessable disclosure is a member;
 - (iii) an employee assistance program;
- (k) to the Victorian WorkCover Authority for the purpose of a workers' compensation claim; S. 54(2)(k)
inserted by
No. 2/2019
s. 32(1)(c).
- (l) to a prescribed service for a purpose prescribed for that service; S. 54(2)(l)
inserted by
No. 2/2019
s. 32(1)(c).
- (m) for the purpose of an application to the Fair Work Commission, including any related proceeding. S. 54(2)(m)
inserted by
No. 2/2019
s. 32(1)(c).

(3) For the purposes of subsection (2)—

S. 54(3) def. of
confidentiality
notice
amended by
Nos 82/2012
s. 315(e)(i),
2/2019
s. 32(2)(a).

confidentiality notice means—

- (a) a confidentiality notice issued by the IBAC under section 42(1) of the **Independent Broad-based Anti-corruption Commission Act 2011**; or
- (b) a confidentiality notice issued by the Victorian Inspectorate under section 38(1) of the **Victorian Inspectorate Act 2011**; or
- (c) a confidentiality notice issued by the Ombudsman under section 26C(1) of the **Ombudsman Act 1973**;
- (d) a confidentiality notice issued by the Chief Municipal Inspector under section 223BJ of the **Local Government Act 1989**; or
- (e) a confidentiality notice issued by the Racing Integrity Commissioner under section 37T of the **Racing Act 1958**; or
- (f) a confidentiality notice issued by the Information Commissioner under section 61TJ of the **Freedom of Information Act 1982**;

S. 54(3) def. of
Fair Work
Commission
inserted by
No. 2/2019 s.
32(2)(d).

Fair Work Commission means the body established under section 575 of the Fair Work Act 2009 of the Commonwealth;

S. 54(3) def. of
officer of an
investigating
entity
amended by
No. 2/2019
s. 32(2)(b).

officer of an investigating entity means a person who is—

- (a) carrying out investigative functions in relation to a public interest complaint; and

- (b) is authorised to perform those functions by or under the Act under which the public interest complaint is being investigated by the investigating entity;

registered health practitioner means a person registered under the Health Practitioner National Law to practise a health profession (other than as a student);

S. 54(3) def. of *registered health practitioner* inserted by No. 2/2019 s. 32(2)(d).

relevant Act means—

- (a) this Act; or
- (b) the **Independent Broad-based Anti-corruption Commission Act 2011**; or
- (c) the **Victorian Inspectorate Act 2011**; or
- (d) the **Ombudsman Act 1973**; or
- (e) Part 10 of the **Victoria Police Act 2013**; or
- (f) the **Judicial Commission of Victoria Act 2016**; or
- (g) Part IIIAA of the **Constitution Act 1975**; or
- (h) the **Local Government Act 1989**; or
- (i) the **Racing Act 1958**; or
- (j) the **Freedom of Information Act 1982**;

S. 54(3) def. of *relevant Act* amended by Nos 37/2014 s. 10(Sch. item 134.6(b)), 16/2016 s. 173(2)(a)(b), 2/2019 s. 32(2)(c).

restorative engagement process has the meaning given in section 174A(1) of the **Victoria Police Act 2013**;

S. 54(3) def. of *restorative engagement process* inserted by No. 3/2019 s. 37(b).

S. 54(3) def. of
*Victorian
WorkCover
Authority*
inserted by
No. 2/2019
s. 32(2)(d).

Victorian WorkCover Authority has the same
meaning as in the **Workplace Injury
Rehabilitation and Compensation
Act 2013**;

S. 54(3) def. of
*witness
summons*
amended by
Nos 82/2012
s. 315(e)(ii),
16/2016 s. 173
(2)(c)(d).

witness summons means—

- (a) a witness summons issued by
the IBAC under section 120(1)
of the **Independent Broad-based
Anti-corruption Commission
Act 2011**; or
- (b) a witness summons issued by the
Victorian Inspectorate under
section 53(1) of the **Victorian
Inspectorate Act 2011**; or
- (c) a witness summons issued by the
Ombudsman under section 17 of the
**Evidence (Miscellaneous Provisions)
Act 1958**; or
- (d) a requirement to produce a document or
thing under section 69 of the **Judicial
Commission of Victoria Act 2016**; or
- (e) a witness summons issued under
section 70 of the **Judicial Commission
of Victoria Act 2016**.

Part 11—General

Division 1—Offences and proceedings

72 Offence to make false disclosure or provide false further information

S. 72(1)
amended by
No. 2/2019
s. 43.

- (1) A person must not provide information under this Act that the person knows is false or misleading in a material particular, intending that the information be acted on as a public interest disclosure.

Penalty: 120 penalty units or 12 months imprisonment or both.

S. 72(2)
amended by
No. 2/2019
s. 43.

- (2) A person must not provide further information, relating to a public interest disclosure made by the person, that the person knows is false or misleading in a material particular.

Penalty: 120 penalty units or 12 months imprisonment or both.

73 Offence to falsely claim disclosure is a public interest disclosure or is a public interest complaint

S. 73
(Heading)
amended by
No. 2/2019
s. 44(1).

- (1) A person must not claim that a matter is the subject of a public interest disclosure knowing that claim to be false.

Penalty: 120 penalty units or 12 months imprisonment or both.

S. 73(1)
amended by
No. 2/2019
s. 44(2).

- (2) A person must not claim that a matter is the subject of a disclosure that the IBAC or the Victorian Inspectorate has determined to be a public interest complaint knowing that claim to be false.

Penalty: 120 penalty units or 12 months imprisonment or both.

S. 73(2)
amended by
No. 2/2019
s. 44(3).