

27 October 2025

**Integrity and Oversight Committee
Parliament House
Spring Street
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Dear Chair,

Thank you for the opportunity to contribute to the Committee's Inquiry. This submission answers the Committee's questions, drawing on the Independent Broad-based Anti-corruption Commission Act 2011 (Vic) (IBAC Act), the Public Interest Disclosures Act 2012 (Vic), and comparisons with other Australian jurisdictions.

1) Do the safeguards to protect individual civil liberties in the IBAC Act 2011 (Vic) need to be strengthened?

Currently, the IBAC Act can compel answers despite self-incrimination (s 144), enables broad secrecy directions (ss 42–44), and does not require procedural fairness (s 163).

One of the key principles of the Fundamental Principles of Australian Anti-Corruption Commissions¹ is the protection of whistleblowers and witnesses. Principle 4 notes "A person who refers information or gives evidence to a commission should be immune from any criminal, civil, administrative or disciplinary liability, and from the enforcement against them of contractual rights or remedies, for doing so."

By contrast, the IBAC Act gives only a narrow "use immunity" for a person's evidence. It does not bar the derivative use of compelled material (with some current exceptions). That gap weakens the promise of safe participation the Principles are designed to secure and risks deterring people from coming forward.

Second, IBAC's confidentiality notices are broad and open-ended and, unless lifted or varied, can remain in force for extended periods (up to five years). Breaches of a notice carry a penalty of up to 12 months' imprisonment. In practice, this can deter lawful help-seeking (legal, clinical, union or family) and constrain legitimate scrutiny, even where disclosure would pose little real risk. The

¹ Australian Anti-Corruption and Integrity Commissioners. (2024). *Fundamental principles of Australian anti-corruption commissions* [PDF]. https://icac.nt.gov.au/data/assets/pdf_file/0020/1422218/Fundamental-Principles-of-Australian-Anti-Corruption-Commissions.pdf

Committee should reconsider whether the current scope, duration and renewal settings are tightly targeted and proportionate to the harms they aim to prevent.

Third, uncertainty about procedural fairness before reports are published (s 162): People who may be criticised in a public report should reliably receive the substance of the proposed adverse material and a real chance to respond. While case law² has reinforced the need for fairness, the IBAC Act does not spell out clear, minimum steps and timelines. That leaves room for inconsistency and avoidable disputes.

The functions of Integrity under the Victorian Inspectorate Act 2011 should also provide a safeguard for civil liberties by being able to receive, assess, and where appropriate, investigate complaints about the IBAC.

2) With the current confidentiality provisions and practices as they relate to IBAC's handling of whistleblower disclosures, what are your concerns around that?

Victoria has made useful strides in support for whistleblowers through IBAC. Throughout investigations IBAC now offers a witness-liaison function and access to external counselling³, but supports remain largely policy-based and discretionary. By contrast, NSW ICAC's witness-wellbeing program is resourced and visible⁴ and backed by specific entitlements: under section 52 of the Independent Commission Against Corruption Act 1988 (NSW), a witness may apply to the Attorney-General for legal or financial assistance.

These measures make support for whistleblowers more predictable and easier to access in practice. To meet the needs of whistleblowers and witnesses, Victoria should ensure that people navigating IBAC's processes have comparable support, with funded access to independent legal advice and structured financial assistance, alongside consistent liaison and counselling support throughout an investigation.

3) Do you think that the current public interest disclosure scheme meets best practice in the broader view and in comparison to other jurisdictions?

Victoria's Public Interest Disclosure scheme has important strengths: it grants immunity for making a qualifying disclosure (s 39), criminalises and creates civil remedies for detrimental action (ss 45-47),

² AB v Independent Broad-based Anti-corruption Commission [2024] HCA 10, [hca-10-2024-03-13.pdf](https://www.hca-10-2024-03-13.pdf)

³ Independent Broad-based Anti-corruption Commission (Victoria), 'Information for witnesses involved in an examination' <https://www.ibac.vic.gov.au/information-witnesses-involved-examination>, accessed 22 October 2025

⁴ Independent Commission Against Corruption (NSW), Corruption Matters, Dec 2024. <https://www.icac.nsw.gov.au/newsletter/issue64/Witness.html>

and provides a tightly framed external-disclosure pathway to MPs or journalists (s 38). These are solid foundations and compare favourably with many older Australian frameworks.

Set against best practice, however, including the benchmarks highlighted in TI Australia's *Protecting Australia's Whistleblowers: The Federal Roadmap*⁵, Victoria falls short.

Other jurisdictions such as NSW⁶ provide more practical protection by imposing clear, enforceable duties on agencies (early risk assessment (s 42-44) and regular updates (s 59) and recognising broader categories of detriment (s32).

To move closer to best practice, a targeted, time-bound review of Victoria's PID Act would be timely to ensure it keeps pace with better practice and recent reforms elsewhere. The review should test whether agency duties are clear and enforceable, whether update obligations and reprisal-risk assessments are explicit, whether the external-disclosure pathway is workable, whether remedies are straightforward to access in practice, and how the PID framework interacts with IBAC's confidentiality, welfare and referral practices.

4) Do you have more to add regarding if an anti-corruption commission should be empowered to go after what we might regard as unethical or favouritism – funding marginal seats, for example? Is that really the domain of an anti-corruption commission, or is that really the voters' job, perhaps with the assistance of media, to make a determination on that? Do you have a comparison from other jurisdictions?

Transparency International defines corruption as "the abuse of entrusted power for personal or private gain". As outlined, in our submission we recommend the definition of corruption (sec 4.) in the IBAC Act be broadened to cover other forms of misconduct and integrity failures, with appropriate thresholds to ensure IBAC focuses on matters of genuine public interest and gravity.⁷

⁵ Brown, A. J. & Pender, K. (2022). *Protecting Australia's Whistleblowers: The Federal Roadmap*. Griffith University, Human Rights Law Centre and Transparency International Australia: Brisbane and Melbourne. <https://transparency.org.au/wp-content/uploads/2023/02/Protecting-Australias-Whistleblowers-Federal-Roadmap-2022-January-2023-update.pdf>

⁶ Public Interest Disclosures Act 2022 No 14 (NSW) s 59 (Information to be provided to disclosers) NSW Legislation <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-2022-014#>

⁷ IBAC Act 2011 (Vic), s 4 (definition of "corrupt conduct"), Legislation Victoria <https://content.legislation.vic.gov.au/sites/default/files/2025-09/11-66aa048-authorized.pdf>

Comparative practice indicates a principled middle path. NSW ICAC's 2022 report on pork-barrelling (Operation Jersey)⁸ concluded that allocating public funds for partisan advantage can constitute corrupt conduct, noting the different definition in NSW, in some circumstances, such as serious breaches of codes of conduct or the common-law offence of misconduct in public office and made 21 recommendations to help prevent or better regulate pork barrelling.

The National Anti-Corruption Commission's (NACC) broad scope and definition of corrupt conduct, also empowers it to conduct investigations into pork-barrelling. For example, corruption includes:

- any conduct of a public official that constitutes or involves a breach of public trust;
- any conduct of a public official that constitutes, involves or is engaged in for the purpose of abuse of the person's office as a public official;⁹

IBAC should not police simply political partisanship. But where for example, public funded resource-allocation departs markedly from merit criteria or lawful purpose, amounting to breach of public trust, abuse of office, or dishonest conduct, those should lie properly within an anti-corruption remit. The current definition of 'corrupt conduct' in the IBAC Act is too narrow and limits the Commission's ability to investigate and address the full range of integrity risks faced in Victoria.

5) IBAC has submitted to the Committee that the definition of a 'restricted matter' in the IBAC Act 2011 (Vic) should be expanded to include the subject matter of a preliminary inquiry, and the subject matter under investigation regardless of whether a witness summons has been issued. In your view, would there be any disadvantages of the proposed change?

There are potential disadvantages if this change proceeds without strong safeguards. Criminalising disclosure of the "subject matter" before an investigation even crystallises (at the preliminary-inquiry stage) risks deterring witnesses, whistleblowers and journalists from seeking lawful advice or contextual support. Also, a blanket restriction would could transparency on issues of significant public interest by unduly inhibiting informed debate where disclosure poses little real risk, particularly if notices persist for long periods of time.

⁸ NSW ICAC, Investigation into pork-barrelling (Operation Jersey), Report and Media Release, 1 August 2022. <https://www.icac.nsw.gov.au/investigations/past-investigations/2022/investigation-into-pork-barrelling--operation-jersey->

⁹National Anti-Corrupt Commission 2022, (Cth), Section 8, 1, https://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/naca2022397/s8.html?context=1;query=%22naca2022397%20s8%22;mask_path=