

# Ombudsman reports and adverse comments

At the completion of most investigations the Ombudsman prepares a report. The report will generally include information about what was investigated and why, how the investigation was conducted and the Ombudsman's findings or conclusions, and may include recommendations.

Reports may contain comments or opinions that are adverse to a person (such as comments that are unfavourable to, or critical of, the person). Before the Ombudsman finalises any report that contains adverse comments about a person, the Ombudsman must provide that person with a reasonable opportunity to respond to the adverse material and fairly set out their response in the final report (Ombudsman Act, section 25A(2)). This can mean that the report is altered, material is omitted or comments from the response are included in the final report.

The Ombudsman will also consult the relevant Minister, Principal Officer of the authority concerned or Mayor (where the investigation relates to a local council) in relation to a draft report.

## Responding to adverse comments

If a draft report contains adverse comments about you, the Ombudsman will provide you a copy of the draft report or the sections of the draft report that relate to you. In some cases, parts of the draft report you receive may be blacked out or left blank because these sections do not relate to you.

The Ombudsman will usually request that you provide your response to the draft report in writing. This is your opportunity to respond to the Ombudsman's comments and to correct any factual inaccuracies before the report is finalised.

When providing your response, you should be aware that it is an offence to make any statement which you know to be false or which may, in any way, mislead the Ombudsman. If you are found guilty of providing false or misleading information, it carries a penalty of 12 months imprisonment or a \$1,000 fine or both.

## Can I seek legal advice about responding to adverse comments?

You have the right to seek legal advice in relation to a draft report. If you intend to seek legal advice or representation, please contact us to provide the details of the lawyer or firm.

If we are concerned that your nominated lawyer's involvement may prejudice the investigation, we may ask or direct you to nominate a different lawyer and will give you a reasonable time to make new arrangements.

## Disclosure of information in a draft report

The information in the draft report provided to you must not be disclosed except in limited circumstances (Ombudsman Act, section 25B). Circumstances when you may disclose the information include, but are not limited to, where the disclosure:

- ✔ is made in accordance with a direction or authorisation given by the Ombudsman
- ✔ is made for the purposes of obtaining legal advice or representation in relation to the draft report, subject to any direction given by the Ombudsman
- ✔ is otherwise authorised under the Ombudsman Act.

If you disclose information under any of the circumstances outlined above, the Ombudsman Act also requires you to advise the person to whom you provide the information that section 25B applies to any subsequent disclosure they make.

### Further information

Information about the Ombudsman's role is available at [www.ombudsman.vic.gov.au](http://www.ombudsman.vic.gov.au).

If you have any questions, please contact us on 9613 6222 or via email to [complaints@ombudsman.vic.gov.au](mailto:complaints@ombudsman.vic.gov.au).