

# POLICY

## Supporting the wellbeing of VO complainants and witnesses (Welfare Policy)

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<b>Responsible officer</b>	Assistant Ombudsman, Executive Office



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## POLICY STATEMENT

1. Ombudsman officers interact with a variety of people in the course of their duties and functions under the *Ombudsman Act 1973* (Vic), including complainants, disclosers, witnesses, subjects, public officers and members of the community. The Ombudsman recognises the potential powers of the office in the Act, and the stresses or anxiety that people may consequently experience in dealing with our office. We are committed to supporting the wellbeing of people engaged with our service.
2. The purpose of this policy is to consolidate for staff of Victorian Ombudsman (VO) key expectations for supporting the wellbeing of persons other than employees, arising from the exercise of the Ombudsman's functions and powers. The application of this policy and related documents seek to ensure risks to people's wellbeing, where reasonably practicable, are eliminated or minimised.
3. VO recognises that assessing and mitigating welfare risks is a dynamic process to be considered during all phases of the exercise of functions and powers, and each case will have its own unique circumstances.

## LEGAL CONTEXT

4. The Ombudsman Act contains specific obligations on the Ombudsman that directly and indirectly bear on the wellbeing of people using our services, such as privacy, procedural fairness and confidentiality.
5. Section 23 of the *Occupational Health & Safety Act 2004* (Vic) imposes upon VO, as an employer, a duty to ensure, as far as is reasonably practicable, that 'persons other than employees' are not exposed to risks to their health and safety as a result of VO's conduct.
6. Section 20 of the OHS Act provides that employers such as VO are under a duty to eliminate or reduce risks to health and safety, to the extent that is reasonably practicable. The Ombudsman Act also contains specific obligations relating to the safety and wellbeing of others.
7. The *Equal Opportunity Act 2010* (Vic) ensures service providers, including VO, make reasonable adjustments for people with a disability and not discriminate against persons on the basis of protected attributes.

8. Section 38(1) of the *Charter of Human Rights and Responsibilities Act 2006* (Vic) provides it is unlawful for VO staff to act incompatibly with human rights or, in making a decision, fail to give proper consideration to relevant human rights.
9. Section 10(b) protects against degrading treatment, being treatment that humiliates or debases a person, shows a lack of respect to a person, or diminishes a person's dignity.

## WELFARE SUPPORT

10. The table below consolidates welfare support expectations, including those detailed in VO's operational policies, procedures and guidance material:

Category	Expectation
Guidance	VO provides guidance to officers in dealing with people's behaviour which they find challenging, in their contact with the office.
	VO provides particular guidance to officers on how to manage welfare risks to witnesses or subjects involved in VO investigations.
	VO provides training for relevant VO officers on welfare management.
Training	VO prioritises mental health first aid training for relevant staff.
	VO officers debrief at the conclusion of an investigation so lessons learned, including those concerning welfare, may be shared internally to foster continuous improvement.
Communication	Where practicable VO modifies its communication style and methods as required to meet individual need.
	VO offers and makes reasonable adjustments for people to access and utilise our services, regardless of whether they identify as having a disability.
	VO provides information to people about our processes, and their rights and responsibilities.
	VO staff provide regular updates to parties, and where possible and practicable, foreshadow potential next steps or outcomes.
	VO officers consider timing when providing potentially adverse outcomes or opinions to people.
	VO officers take reasonable steps to engage directly with affected parties, provide reasons for adverse decisions and explain avenues for internal and external review.
Responding to threats of suicide or self-harm	Where welfare concerns are identified, VO proactively shares information with relevant people, bodies (e.g. Victoria Police) or authorities to prevent or lessen the risk of harm to a person's health, safety or welfare.
Timeliness and quality assurance	VO has timeliness performance measures to ensure exercise of functions are not protracted and unduly burdensome on affected parties.
	VO undertakes quality assurance activities, including case, call and interview auditing to monitor performance and identify training needs.

<b>Pre-interaction welfare risk assessment</b>	Where practicable, prior to the use of VO powers, VO officers conduct operational risk assessments, consider potential risks to the health and safety of persons impacted by the use of powers, and identify any available means of eliminating or reducing those risks.
<b>Welfare support notification</b>	VO officers notify persons subject to the use of VO powers of the welfare support resources available to them.
<b>Welfare risk monitoring</b>	<p>When using their powers, VO officers monitor the welfare of parties and escalate welfare issues as required.</p> <p>At the conclusion of exercising their powers, VO officers consider the welfare status of persons subject to those powers and whether they need to notify relevant welfare support services.</p>
<b>Medical incident management and response</b>	Where appropriate, VO officers use their information sharing powers to assist persons receive appropriate medical attention.
<b>Welfare services</b>	<p>VO makes its Employee Assistance Program (EAP) available to persons engaged with its services as appropriate.</p> <p>Where it would not prejudice an investigation, VO refers parties to their employer's welfare support services, VO's EAP or public welfare support services.</p> <p>If a VO officer determines that a registered health practitioner or welfare support service should be notified of a person's welfare risk, the VO officer seeks and obtains prior permission to provide their personal welfare details.</p>
<b>Confidentiality Notices</b>	<p>VO does not routinely issue Confidentiality Notices and only does so when necessary and proportionate.</p> <p>VO allows restricted matters in Confidentiality Notices to be disclosed by the subject of the notice to registered health practitioners, unless this would prejudice an investigation.</p> <p>VO gives proper consideration to relevant human rights before deciding to issue a Confidentiality Notice.</p>
<b>Summons to appear</b>	<p>VO does not routinely issue summons to appear and only does so when necessary and proportionate.</p> <p>VO may issue a summons to appear at the request of the party.</p> <p>VO actively considers the use of Statutory Declarations in lieu of a summons to appear where the latter may have an undue impact on the witness.</p> <p>VO gives proper consideration to relevant human rights before deciding to issue a summons to appear.</p>
<b>Summons to produce</b>	<p>VO does not routinely issue a summons to produce and only does so when necessary and proportionate.</p> <p>VO may issue a summons to produce at the request of the party.</p> <p>VO gives proper consideration to relevant human rights before deciding to issue a summons to produce.</p>

## ROLES AND RESPONSIBILITIES

Role	Responsibility
<b>Assistant Ombudsman</b>	<i>Owner</i> – Accountable for maintaining policy drafting, reviews and authorisation from the Executive.
<b>Principal Legal Adviser</b>	<i>Legal compliance</i> – Responsible for ensuring compatibility with the <i>Charter of Human Rights and Responsibilities 2006</i> (Vic) and compliance with other legislation under which VO operates.
<b>Executive Committee</b>	<i>Authorisation</i> – Authorises policies and significant amendments.
<b>All staff, contractors and third parties</b>	<i>Implementation</i> – Responsible for acting in compliance with the policy, standards, procedures and associated documents.

## RELATED DOCUMENTS

### External documents:

[Good Practice Guide: Managing Complex Complainant Behaviour, February 2022](#)

[Service Delivery Charter](#)

[Policy: Human Rights](#)

[Policy: Dealing with complex behaviours from members of the public](#)

[Policy: Complaints about and oversight of the Ombudsman](#)

[Guidelines for public interest disclosure welfare management](#) (IBAC)

[Guidance for complaint handlers on dealing with risks of harm](#) (Commonwealth Ombudsman)

### Internal documents:

[Procedure: Complaints and Approaches](#)

[Procedure: Enquiries](#)

[Procedure: Investigations](#)

[Procedure: Public Interest Disclosures](#)

[Procedure: Complaints about and oversight of the Ombudsman](#)

[Procedure: Dealing with Complex Behaviours from members of the public](#)

Business Rule: Responding to threats of suicide, self-harm or threats to others

Information sheet: Welfare support services

Template: Appendix E to interview scripts for both voluntary and compulsory appearances

Template: Briefing for summons or confidentiality notice

Template: Confidentiality notice (prescribed form)

Template: Investigation Plan - Detailed plan

Template: Investigation plan -Short plan

Template: Assessment checklist - assessable disclosure (improper conduct)  
Template: Assessment checklist- referred PIC from IBAC (improper conduct)  
Template: Assessment checklist - assessable disclosure (detrimental action)  
Template: Assessment checklist - referred PIC from IBAC (detrimental action)

## **DOCUMENT MANAGEMENT**

### **Compliance**

VO maintains a compliance management system. Compliance to this policy, including use of information and systems, is subject to regular monitoring and reporting to the Executive Committee. For further details on compliance checks please refer to the compliance management system.

### **Document approval**

This document was approved by the Executive Committee on 6 April 2022.

### **Document review**

This document is due for review upon major changes or three years from the date of the last review.