

Responding to Ombudsman draft reports – case studies

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. It may also include recommendations.

In some cases, the Ombudsman prepares a report based on a series of complaints or investigations.

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)).

The Ombudsman may also ask the relevant Minister; Principal Officer of the authority concerned; Mayor (where the investigation relates to a local council); or other relevant third party, to respond to a draft report before it is finalised.

What do I need to do?

The Ombudsman is seeking your written response to the attached report / case study provided. This is your opportunity to:

- respond to the Ombudsman's comments, conclusions, or findings; and
- correct any factual inaccuracies.

Based on your response, the final report may be altered, material removed, or your comments may be directly quoted or paraphrased. Where appropriate, we may attach your response in its entirety as an appendix to the final report.

If you do not intend to respond to the draft report or do not agree to your matter being represented as a case study, please confirm this in writing by the due date.

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.

Use of pseudonyms

If pseudonyms have been used in the report, please check these names and advise if you have any objection to the pseudonym. You may propose an alternative with which you are more comfortable. Will I have any further opportunities to comment on the report before it is finalised?

Authorities normally only receive one opportunity to comment on a draft report before it is finalised. If we make significant amendments to the substance of the report after you have provided your response, we may give you the opportunity to comment on the amendments before we finalise the report.

Will the report be made public?

If the Ombudsman decides to table the final report in Parliament, it will become a public document. All other reports remain private. While the final decision on whether a report will be tabled is not made until all responses to the draft report have been received, we can advise that it is likely this report will be made public. If you would like further information about this, please contact the nominated case officer.

If we have advised you that this report is likely to be tabled in Parliament and you believe there are strong reasons why this should not occur, please provide details of this in your response.

Can I seek legal advice?

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. Circumstances when you may disclose the information include 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.

Requests for an extension of time to respond

If you believe you will require an extension of time to respond, please advise us of this as soon as possible, including a brief explanation of the reason for your request.

Further information

Information about the Ombudsman's role, including how the Ombudsman conducts investigations, is available at www.ombudsman.vic.gov.au.