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Victoria Police response to IBAC's audit of complaints handled by Professional Standards Command

Victoria Police has provided a number of updates to IBAC, reporting on action taken in response to IBAC's five audit recommendations. These updates were received in January 2019, July 2019 and May 2020.

Recommendation 1: That Victoria Police reviews the definition and use of the C1-0 work file classification, and formalises arrangements to notify IBAC of matters classified as work files.

Victoria Police response July 2019

The C1-0 file is used primarily as a 'work-file' while steps are taken to determine if criminality or misconduct has occurred, or a complaint/discipline investigation is warranted. Previously, IBAC was not normally notified of these files until they were reclassified into an investigation file. Shortly after publication of the IBAC audit, automated notifications of C1-0 files to IBAC was introduced. On 5 December 2018, this process was further enhanced with Professional Standards Command (PSC) completing amendments within the Register of Complaints Serious Incidents and Discipline (ROCSID) to increase the information provided to IBAC on all matters, in line with the requirements listed in IBAC Act s.61.

Ethical and Professional Standards Officer Standard Operating Procedures (SOPs) have been updated to include reference that at any time it becomes clear that an investigation should occur, the file will be reclassified in accordance with a PSC instruction titled 'Investigation and Incident File Reclassification'.

Recommendation 2: That Victoria Police considers the checks undertaken and criteria applied when recruiting new PSC investigators as part of its review of probity issues

Victoria Police response January 2019

Probity checks are conducted for all Victoria Police recruitment, transfer and promotion selections. Complaint histories of preferred applicants, police and VPS, are provided to the Transfer and Promotion Unit and to the delegate, who also receives any current complaints, to ensure suitability to role. In recognition of its high-risk function, selections to PSC positions are subject to additional higher-level probity checking.

For PSC investigators, the review of complaint history is particularly important to ensure that selected personnel are reflective of the standards against which they will be assessing other police employees. Draft PSC guidelines have been prepared with the aim of ensuring relevant information is taken into account during PSC investigator recruitment processes and the most effective method of delivering this information is now being considered.

Victoria Police response July 2019 and May 2020

A PSC Instruction has been implemented to outline the importance of considering complaint history in the selection of PSC staff and the role of the selection panel delegate to undertake this assessment. The instruction aims to ensure clarity and consistency in the application of the process across PSC recruitment selections and is available to all staff on the PSC staff Intranet site.

Selection of employees to PSC positions encompasses the normal ROCSID probity reports utilised across the broader selection processes in Victoria Police. The preferred candidate is subject to

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additional probity checks involving interrogation of any information and intelligence held within any of Victoria Police's operational systems. This scanning includes interstate checks. This higher level probity check is performed to identify any other potential ethical and integrity issues.

Victoria Police supports, in principle, IBAC's suggestion that 'protected disclosures' could be displayed in employee probity reports and acknowledges the potential risks that exist by their exclusion. Victoria Police has sought updated legal opinion from the Victorian Government Solicitor's Office in respect of same. Victoria Police will review the legal advice and advise IBAC once a formulated course of action is determined.

Recommendation 3: That Victoria Police ensures the Office of Public Prosecutions is consulted as soon as possible when Victoria Police forms a reasonable belief that a reportable offence has been committed, consistent with s127(2) of the *Victoria Police Act 2013*.

Victoria Police response January 2019

PSC is reviewing practices to ensure that the Office of Public Prosecutions (OPP) is consulted as soon as possible when a reasonable belief has been formed that a reportable offence has been committed. Guidelines have been drafted to ensure that all relevant areas of PSC understand this requirement and the most effective method of delivering the information within the Command is now being considered.

Victoria Police response July 2019

A PSC instruction has been implemented to confirm the Authorising Framework for Office of Public Prosecutions (OPP) notifications, that is, the process and threshold at which potential criminal offences involving police employees will be considered for addressing within the disciplinary system.

The Assistant Commissioner, PSC will apply this framework in determining if the matter should be dealt with as criminal or disciplinary and, if the latter, in seeking advice from the OPP as soon as possible. This instruction is available to all staff on the PSC staff Intranet site.

Recommendation 4: That Victoria Police ensures advice provided by the PSC Discipline Advisory Unit and reasons for key decisions, including those of the Assistant Commissioner PSC, are clearly documented and attached to the investigation file.

Victoria Police response January and July 2019

Advice is provided by the Disciplinary Advisory Unit (DAU) in both verbal and written format. It should be noted that all advice provided by the DAU is saved in electronic format in the relevant PSC computer drive.

Verbal Advice

Where verbal advice is provided by the Discipline Advisory Unit (DAU), that advice including the rationale for key decisions or advice is confirmed in writing (with an email to the investigator which includes the rationale for key decisions/advice). The advice is then recorded in Interpose.

Written Advice

Where the DAU provides written advice, a Briefing Note, or an Issue Cover Sheet that details key decision, advice or rationale that advice is attached to the investigation file. The advice is also recorded in Interpose.

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Discipline Intervention Program

In some DIP applications, a triage is required between DAU, the investigator and relevant parties. The triage is chaired by the relevant Superintendent (SALUS/PSC/CPD).

Documentation (DIP Triage Briefing Report) is prepared by the DAU member, incorporating recommendations from the investigator and the DAU. Following the decision by the chair, the rationale for key decisions is recorded on the DIP Triage Briefing Report. Where the Discipline Intervention Program (DIP) is applied, all decisions relevant to that process are recorded in writing and uploaded in Interpose.

Assistant Commissioner PSC Consultations

Where the investigation requires consultation with the Assistant Commissioner PSC, a consultation sheet is prepared prior to the consultation, which includes recommendations from the investigator and the DAU and identifies any advice or decisions required to be made. After the consultation, this sheet is updated to capture the rationale behind any decision. This is then attached to the investigation file.

IBAC has previously written to Victoria Police in respect of this recommendation and as a result, Victoria Police and IBAC met on 5 April 2019 and determined that the following DAU spreadsheets would be supplied to IBAC:

- Current investigation allocations/advice files spreadsheet
- Current Discipline Inquiries spreadsheet
- DIP Assessment phase spreadsheet.

Recommendation 5: That Victoria Police ensures policy and procedural improvements identified by investigators are formally recorded as recommended action, and implements measures to share those learnings across the organisation.

Victoria Police response July 2019

PSC has established a formal outcomes review process that analyses primary information sources including, but not limited to, final investigation reports, discipline hearings outcomes, Police Registration and Services Board Victoria decisions and IBAC and other oversight agencies' reports and investigations.

This analysis seeks to not only identify emerging risk and issues but learning and risk mitigation opportunities that may result from external drivers such as environmental, demographics and culture changes. An overview of this process is being developed by PSC and will be posted on the PSC Intranet site to inform the broader organisation of its existence. Victoria Police will share this with IBAC upon its completion.

Recommended actions are currently recorded on a spreadsheet and a proposal exists for this to be base-recording format and be available to a wider audience.