

TRANSCRIPT

INTEGRITY AND OVERSIGHT COMMITTEE

Performance of the Victorian Integrity Agencies 2021/22

Melbourne – Monday 31 July 2023

MEMBERS

Dr Tim Read – Chair

Hon Kim Wells – Deputy Chair

Ryan Batchelor

Jade Benham

Paul Mercurio

Rachel Payne

Jackson Taylor

Belinda Wilson

WITNESS

Hon Robert Redlich AM KC, former Commissioner, Independent Broad-based Anti-corruption Commission.

The CHAIR: I declare open this public hearing for the Integrity and Oversight Committee's review of the performance of the Victorian integrity agencies in 2021/22.

I would like to welcome the public gallery and any members of the public watching the live broadcast. I also acknowledge my colleagues participating today. Shall we go along the table and introduce ourselves?

Belinda WILSON: Sure. I am Belinda Wilson, the Member for Narre Warren North.

Paul MERCURIO: Paul Mercurio, the Member for Hastings.

Jackson TAYLOR: Jackson Taylor, Member for Bayswater.

Ryan BATCHELOR: Ryan Batchelor, Member for the Southern Metropolitan Region.

The CHAIR: Tim Read, MP for Brunswick and Chair.

Rachel PAYNE: Rachel Payne, Member for the South-Eastern Metropolitan Region.

Kim WELLS: Kim Wells, Member for Rowville and Deputy Chair.

Jade BENHAM: Jade Benham, Member for Mildura.

The CHAIR: Thank you. On behalf of the Integrity and Oversight Committee I acknowledge First Nations peoples, the traditional owners of this land, which has served as a significant meeting place of the First Peoples of Victoria. I acknowledge and pay respect to the elders of First Nations in Victoria past and present and welcome any elders and members of communities who may visit or participate in the Committee's public hearing today.

And to Mr Redlich, before you give your evidence, there are some formal things I have to cover, so do bear with me. Evidence taken by this committee is generally protected by parliamentary privilege, and you are protected against any action for what you say here today, but if you repeat the same things anywhere else, including on social media, those comments will not be protected by this privilege. Any deliberately false evidence or misleading of the Committee may be considered a contempt of Parliament.

All evidence given today is being recorded by Hansard. You will be provided with a proof version of the transcript for you to check once available. Verified transcripts will be placed on the Committee's website. Broadcasting or recording of this hearing by anyone other than Hansard is not permitted.

I might just make a couple of other preliminary remarks. First of all, the time seems to go quickly, and so we will each spend about 5 minutes each, and if you have an introductory statement, we will have about 5 minutes or so for that.

The scope of this hearing is the performance of integrity agencies, in this case IBAC, in the 2021/22 year, or anything affecting the performance of IBAC. If you are concerned that something you want to mention may be confidential or at risk of breaching confidentiality, please feel free to flag that with me and we can go in-camera if necessary. I will also just remind Committee members that if I think that questions are out of scope, I will intervene.

So on that note, then, I warmly welcome the Honourable Robert Redlich AM KC, and thank you very much for accepting our invitation to give evidence at this hearing. If you have got some opening comments, please feel free to start.

Robert REDLICH: Only a brief opening comment, but I suspect that the five matters that, Mr Chair, you outlined the Committee would be particularly interested in will cover most of the things that I will want to say. The matter of general importance, though, is I am confident that we all hope that when executive government engage in decision-making, it will always be done according to the highest standards of integrity. When I say

executive government, I mean the leader, ministers, ministerial advisers and public servants; it includes all of those elements. It has been the Commission's uncomfortable finding over time – and that of other commissions, royal commissions around Australia – that there is a decision-making process engaged in by executive government that too often does not meet that high standard. In recent times, we have had the benefit of the Robodebt Royal Commission, and here in Victoria, Operation Daintree, which is the case in which the Health Workers Union was granted a contract which, on any view, as the evidence showed, should never have been granted. Daintree is a particularly illuminating case for the simple reason that it shows, both in relation to leadership and at a ministerial level, that there was a failure of ministerial responsibility, that ministerial advisers grossly overstepped their role and that the department – public servants who have now, regrettably, been fairly marginalised around Australia in terms of their role – did not discharge their obligations of frank and fearless advice in assisting government as to whether this particular contract should have been granted.

Now, I draw on Daintree only to say that it is a very recent verification of that decline in standards of the way executive government operates, and it is not a feature that is peculiar to Victoria; we have seen it at the highest level, at a federal level, and we see it interstate. It is important that my comments are put, therefore, in their right perspective: that we are dealing with a problem that exists perhaps not only in Australia but in other Western world democracies as well. And an interesting question, which I think is well beyond the scope of today's hearing, is: Why has that decline occurred?

So that is really what I want to say of a general nature. I am confident, given the topics you want to explore, that I will have an opportunity to address the specific issues of importance.

The CHAIR: Thank you, Mr Redlich. I might start, if I may, by asking you to reflect on that 2021/22 period and think about whether IBAC's jurisdiction, particularly as regards the definition of corrupt behaviour, is adequate in the Act, and whether that has in any way constrained the performance of IBAC.

Robert REDLICH: Well, I noticed one of the issues that you have flagged, Mr Chair, is what legislative amendments might be made to the *IBAC Act*. On my list are five or six of what are maybe 70 or 80 legislative amendments which the Justice Department and respective ministers responsible for IBAC over time have now had for perhaps four, perhaps even five, years, without there being any changes made to the legislation. The most important on my list is that to which your question is directed, namely that the Act requires that it is not corruption unless a crime has been committed. That is far too onerous an obligation, and Daintree is a stark example of it, because no crime was committed in Daintree. The Commission found that none of the misconduct – and there was a lot of it – met the definition of a crime. And, no doubt for good forensic reasons, the Premier made much of the fact in his long media address that there was no crime committed. But regrettably, and quite incorrectly, he repeatedly said there were no findings made – but the whole report is about findings of misconduct, and all of those findings go to a lack of integrity in the way in which the decision to fund the union was made. They all bear upon the integrity of the decision-making process.

Therefore, that leads to my proposition that we should not have a requirement at the end of subsection 4, which is the definition section, which adds the words 'constitute a relevant offence'. The matters set out in section 4, which talks about misconduct, are ample and should be ample to justify the jurisdiction of the Commission to look at misconduct. That is how it operates at a federal level, and I am delighted to say that the federal legislation is much broader than it is here in Victoria for that fundamental reason – that integrity commissions should not be constrained by having to be satisfied that a crime has been committed. Look, for 40 years we have been saying the criminal law is a blunt instrument to be applying to questions of integrity. The Fitzgerald Commission 40 years ago said that. The New South Wales Court of Appeal in *Greiner* said that. The Federal Parliament has recognised that making it a crime before it can be said to be corruption is unnecessary and stifles the role of an integrity commission.

The CHAIR: May I just clarify, in the minute I have got left: this constrains IBAC's ability to investigate matters – it is not just about the findings IBAC makes, but it is also what IBAC can look into. Am I correct in saying that?

Robert REDLICH: It will do that where, on its face, one can say no crime has been committed but there seems to be a litany of misconduct of a lesser order. If that were the view that could be formed at the outset, IBAC would not be able to investigate it. Daintree is a good example again. The Ombudsman reached the *prima facie* conclusion that there was a reasonable suspicion that a crime had been committed, and she thus

referred Daintree to IBAC to investigate. We investigated and came to the conclusion, on all of the facts that emerged, that it did not constitute any criminal conduct, but there was a range of very serious misconduct. Had we been in that position at the outset, we would not have been able to investigate it because we would not have had the jurisdiction that we suspected a crime had been committed.

The CHAIR: Thank you. Very good. At this point I am going to go to Mr Mercurio.

Paul MERCURIO: Hi, Mr Redlich. In the IBAC's annual report your foreword says:

Preventing public sector corruption and police misconduct is a priority for IBAC.

What corruption-prevention initiatives did you undertake, and what was the most effective?

Robert REDLICH: It is now the best part of I think eight or nine months since that report was written, so I am not privy to the detail that perhaps you are looking for. I understand that Acting Commissioner Farrow and the CEO will be before the Committee in a week or two, so to answer that question in detail I suggest you would need to direct it to them. At a more general level, what I can say is that in each year of the five years that I was the Commissioner a considerable, if not the largest, proportion of our resources have been directed towards prevention and education objectives, particularly in the area of Victoria Police. We do a vast amount of work both in terms of education and training, reviewing investigations which are referred to Victoria Police and the failings which emerge from those reviews. A large proportion of the Commission's work is directed to that end. I think it can also be said that in every investigation in the public sector, even where it has concluded no crime has been committed or even where it has concluded no serious misconduct, there are almost always institutional failings that are identified, and, as soon as they are, then that automatically creates a need for interaction with the relevant institution and the discussion of policy, training programs and other methods that need to be implemented to address the failings that have been identified.

Paul MERCURIO: Thank you. And a follow-up: What recommendations would you have to improve IBAC's corruption prevention program?

Robert REDLICH: What recommendations?

Paul MERCURIO: Yes.

Robert REDLICH: Well, there is currently a deficiency in the *IBAC Act*. It is not on my list of the really important things that need to be addressed, but there is currently a deficiency in the *IBAC Act* in that the only recommendations of IBAC which can be published are those which are made in a special report which is tabled in Parliament. IBAC does not table more than two or three reports a year, but we write countless outcome letters to councils and departments at the end of an investigation, in which we identify failings and we set out recommendations. It would be really important that the legislation is amended to reflect the need to be able to publish those recommendations. I do not suggest, if we are talking about recommendations concerning individuals, that recommendations should be published. I am talking about recommendations that identify institutional failings. It makes I think good sense that the community should be alive to recommendations that address institutional failings and are aware of them, and that encourages in turn public discussion about those sorts of things.

Paul MERCURIO: When I read the 2021/22 –

The CHAIR: Sorry, Mr Mercurio, I think we are done.

Paul MERCURIO: Okay.

The CHAIR: We will move to Mr Wells.

Jackson TAYLOR: Sorry, Chair, on timing, he was still under 4 minutes.

The CHAIR: I have got 4 seconds left. But, listen, if we can keep the question and answer succinct –

Robert REDLICH: I am sorry, I will try and be shorter, Mr Chair.

The CHAIR: No, not at all.

Paul MERCURIO: I was just going to ask: when I read the 2021/22 annual report, your statement in the report did not include any of your concerns that you subsequently wrote in your letter. I was just wondering – you probably still had those concerns – why you did not include some of them in the annual report.

Robert REDLICH: You are speaking now of my letters to the President and the Speaker, are you?

Paul MERCURIO: Yes.

Robert REDLICH: Well, firstly, they were not a matter for an annual report in my view. Secondly, I do not have those letters. I have seen the content of them as they have been published, and I have been reminded of their content. Do you want me to discuss the letters now? Is this a convenient time?

Paul MERCURIO: Sorry, I was just curious as to that point.

The CHAIR: If we can do it briefly, that would be great, yes.

Robert REDLICH: All right. Those letters were written by me as the Commissioner speaking on behalf of the entire executive and were written because of immense frustration with the way in which this Committee had operated last year. This Committee, in my respectful view, has got an incredibly important role to play with Parliament, because right now, if we look at the issue that I touched on earlier about ministerial responsibility, the accountability of ministers rests with the Members of Parliament. If Members of Parliament are not prepared to take issue with conduct of ministers, there is no form of accountability for ministers. Of course, the leader can sack a minister or can require a minister to stand down, but that is not likely to happen unless the leader has the sense that Parliament will be outspokenly critical about the minister.

We raised a variety of issues with this Committee last year, and, in relation to them, as the letter discloses – and I do not want to descend to repeating what is in the letters – I cannot add anything in terms of specifics beyond those letters. We set out the way in which the Committee had conducted itself in relation to a range of issues, which regrettably showed that political issues influenced or interfered with the way in which the Committee conducted itself. That is to be regretted, surely, by all of us, because as I say, this Committee has got a terribly important function to perform, particularly the function of informing and, where necessary, encouraging Members of Parliament to act appropriately in dealing with misconduct that is identified. If this Committee is stymied at the outset because political considerations override an objective determination of things that are wrong, then it is a very sad day. If we cannot say that the integrity committee of the Victorian Parliament is acting with integrity, we have a very, very serious problem. I do not need to remind you all that I think something unprecedented occurred last year when the minority report of this Committee on one of those matters actually asserted that the Committee had acted without integrity.

The CHAIR: Thank you. I might move directly now to Mr Wells.

Kim WELLS: Thanks, Chair, and thanks, Mr Redlich, for attending. I think the last time you were here at a public hearing I was halfway through a question when the Chair said, ‘Cut the feed.’ So I will not continue on with that question because the Chair will rule me out of order. I refer to the letter which has already been put forward. In the attachment you have spoken about the IOC [Integrity and Oversight Committee] Audit Subcommittee and that the information that you had was that they were looking to find a negative narrative about the IBAC and that you believed it was about political payback. Do you want to clarify or extend on those comments that were in the letter?

Robert REDLICH: I do not think it is necessary, Mr Wells, to expand on it. The letters speak for themselves. Let me make clear that in expressing myself as I did in the letter about what might have been the motivation of the Committee, I was mindful of the fact that there were members on the Committee that would have been intimately familiar with matters that IBAC was investigating and which would not in the end reflect well on government, one of them being Operation Daintree and the union. It is very difficult to imagine, but it is possible there was some other motivation, but very difficult to imagine that there was other than a political consideration which led some members of the Committee – the Subcommittee – to give the directions that they did to the auditor. But I cannot add beyond what is in the letters.

Kim WELLS: Also as part of the letter there was a deadlock between the IOC and IBAC in that public hearing which you have referred to. I will just quote this part:

The ...Chair of the IOC did not attempt to address the complaints made by IBAC but in a response in late June incorrectly stated that the IOC, in conducting its review under the authority of PCA complied with s 7(2).

I know that a lot of time was spent. How do we break that deadlock between your interpretation and the IOC being able to do its work, because that was what created a lot of the issues in regard –

Robert REDLICH: Mr Wells, it is important to remember there were two quite distinct issues. One was the audit issue. It was not the audit issue which was under consideration when the Chair resolved not to permit the feed to continue. We were then concerned with the witness welfare inquiry. So that distinction is important. We were not then dealing with the audit issue. The point that is at issue here in relation to the witness welfare inquiry of the committee is that Section 7 of the *Parliamentary Committees Act* is quite clear. The Committee cannot inquire into matters which concern ongoing investigations of IBAC. It cannot seek information either from IBAC or from anyone else about matters that concern ongoing investigations. Regrettably what occurred was that within a day or two of the passing of the former Mayor of Casey Council, the Committee announced its intention to conduct an inquiry into witness welfare. Nobody was under any mistaken illusion that the death of Ms Stapledon prompted that decision. What the Committee then immediately did was to invite submissions from members of the public about their experiences of not only that investigation but other investigations, and not surprisingly the Committee received a very large number of submissions from members of the public, all of which, by receiving them, contravened Section 7 of the *Parliamentary Committees Act*. We drew that to the attention of the Chair of the Committee. The Committee Chair assured us at that point of time that those submissions would not be taken into account.

Ryan BATCHELOR: Chair, on a point of order, are we straying into territory that you advised us that we should not in terms of the deliberations of the Committee?

The CHAIR: Well, I think there are two issues –

Kim WELLS: On the point of order, we are talking about PCA [*Parliamentary Committees Act 2003*] Section 7(2), which was the whole reason why we had the issue about ‘cut the feed’ at that public hearing.

The CHAIR: May I intervene at this point? It happens that Mr Wells’s time has just expired.

Robert REDLICH: I am sorry.

The CHAIR: Not at all. Mr Redlich, if you would like to finish your sentence, that is fine, and then we will move to another questioner. Or are you –

Robert REDLICH: Well, no. It is simply that having been assured that the Committee would not take those submissions into account, it being recognised. I want to be clear about this: I am not suggesting that when the initial Chair invited the public to make those submissions there was a conscious recognition that it was contrary to Section 7. But it was, and once it was recognised that it was, I was told, as was my colleague, the CEO, that those submissions would not be taken into account.

Kim WELLS: So, the Chair got it clearly wrong.

Ryan BATCHELOR: We are clearly straying into matters about the deliberations of a prior committee that your advice has been that we are not getting into.

The CHAIR: We are going to focus on the performance of IBAC and factors affecting the performance of IBAC. I appreciate that this is a little borderline. But, that said, I think time has moved on.

Robert REDLICH: I am sorry. I was not aware, Mr Chair, that you had received that advice that you do not want me to go into that area. Having heard what has been said, I will not.

The CHAIR: Not at all. We move now to Mr Taylor.

Jackson TAYLOR: Thank you. Mr Redlich, can you confirm that IBAC did not submit a budget bid for the financial years 2022/23 and 2023/24?

Robert REDLICH: Whether it did or did not?

Jackson TAYLOR: Whether you did or you did not.

Robert REDLICH: No, I cannot, but I presume you will be able to ask the Acting Commissioner or the CEO that in a week or two.

Jackson TAYLOR: My next question: Is it the case that IBAC received a budget increase of \$32.1 million in 2022/23 as well as an additional \$8.6 million in annual base funding?

Robert REDLICH: We certainly received an additional amount by way of a Treasurer's grant. I am not aware of the first amount that you mentioned.

Jackson TAYLOR: Thank you, Mr Redlich. In the annual report it describes that:

Termination benefits are payable when employment is terminated before the normal retirement date, or when an employee accepts an offer of benefits in exchange for the termination of employment. Termination benefits are recognised when IBAC is either demonstrably committed to terminating the employment of current employees according to a detailed formal plan which has no possibility of withdrawal, or providing termination benefits because of an offer made to encourage voluntary redundancy.

Mr Redlich, in the relevant period, did IBAC pay staff relating to the termination of employment contracts?

Robert REDLICH: I have no idea.

Jackson TAYLOR: You are not aware?

Robert REDLICH: I am not aware. They may have. I am not saying it did not occur. It is not a matter that has been drawn to my attention. But could I respectfully suggest you could ask the CEO, and I am sure she will come prepared to give you a detailed –

Jackson TAYLOR: You were the Commissioner at the time of the –

Robert REDLICH: I was, but I do not anticipate that that necessarily would have been drawn to my attention if it did occur.

Jackson TAYLOR: It has been reported as well – from any knowledge you may have, would it be accurate to say it was over \$800,000 in taxpayer-funded payouts to staff?

Robert REDLICH: I have no idea.

Jackson TAYLOR: So just for clarity, the \$800,000 was reported in the media and is also detailed on pages 88 and 108 of the annual report, and you are not aware of that, Mr Redlich?

Robert REDLICH: I have no particular knowledge of that, no.

Jackson TAYLOR: It also defines ex gratia expenses in the annual report as:

... the voluntary payments of money or other non-monetary benefit (for example, a write-off) that is not made either to acquire goods, services or other benefits for the entity or to meet a legal liability, or settle or resolve a possible legal liability of or claim against the entity.

As per the 2021/22 annual report, page 108, it states that \$129,000 in ex gratia payments was made to staff in relation to the termination of contracts while you were the Commissioner of IBAC. Is that correct?

Kim WELLS: On a point of order, I think these are questions that should be directed to the CEO, whose role –

Ryan BATCHELOR: Chair –

Kim WELLS: Hang on, let me finish – who has the role of running IBAC and is responsible for staff.

Ryan BATCHELOR: Mr Redlich has been invited here as the Commissioner to reflect on the period. I think it is perfectly legitimate we ask him questions about material contained in the annual report. If he does not know what went on, that says something.

The CHAIR: Okay, first up: one at a time.

Kim WELLS: What are you inferring, Ryan, by that comment?

The CHAIR: Well, first of all I am going to stop the clock. I am going to ask everybody to take a pause and a deep breath, and I am going to hear from Committee members one at a time and not one after the other. Once you have spoken, that is it on the point of order. The only person we have not heard from who seems to want to say something is Mr Taylor.

Jackson TAYLOR: Thank you, Chair. Chair, we have invited Mr Redlich here to talk about performance and matters affecting performance, and that is based on the annual report. I am only asking Mr Redlich matters to do with the annual report. If Mr Redlich is not aware of those particular matters or cannot provide any colour to the responses, then that is understandable – that is Mr Redlich’s response. However, I should be entitled to ask the questions which are based on their performance and in the annual report directly.

The CHAIR: Indeed, and I agree. I think these matters do go to the performance of IBAC, and therefore they are within scope. However, I would just make the comment that this is a level of detail that we might not expect from Mr Redlich at this point, and they may well be better directed to current staff, who we will be hearing from in a couple of weeks. You have got a minute left, Mr Taylor.

Robert REDLICH: The only thing I could add to that, Mr Chair, is if there was an issue of propriety associated to any of those matters, then I would have expected it would have come to my attention. Your mention of these matters is the first occasion that I have heard any suggestion that there is a concern in any of those matters. I suggest you might direct those questions to the CEO.

Jackson TAYLOR: Chair, might I add, when I finished my question we went to points of order. I was at 3 minutes. So if I could have –

The CHAIR: Yes. I have stopped the clock, and I will give you another half a minute.

Jackson TAYLOR: Thank you, Chair. So, Mr Redlich, you are not aware of the details of the \$129,000 ex-gratia payment?

Robert REDLICH: I may have been aware at that time, but I have no memory of it at the moment, no.

Jackson TAYLOR: And a further question, Mr Redlich: Were other ex-gratia payments made to staff during your tenure as Commissioner?

Robert REDLICH: You will have to ask the CEO.

Jackson TAYLOR: So you are not aware of other ex-gratia payments made during your time?

Robert REDLICH: Not as I sit here now, no.

The CHAIR: And we are going to leave it there. Thank you, Mr Taylor.

Jackson TAYLOR: I had one more question, Chair. It is only 3 minutes and 15 seconds on my clock.

The CHAIR: Well, I am sorry, but –

Jackson TAYLOR: If I could have one more question, Mr Chair.

The CHAIR: If you can keep it very brief.

Jackson TAYLOR: Sure. Mr Redlich, did you ask staff to accept non-disclosure agreements as part of the termination of contracts?

Robert REDLICH: I have no idea.

Jackson TAYLOR: So you are not aware, during your time as Commissioner, if you asked staff to sign non-disclosure agreements.

Robert REDLICH: I would not have asked. I had a large staff, and the CEO in turn would have made arrangements with someone else on the staff at a director level. Whether that occurred or not, I do not know. If it is in the report, then plainly it did occur. Is it in the report, Mr Taylor?

The CHAIR: We are stopping there and going to Ms Benham.

Jade BENHAM: Thank you, Chair. Thank you for coming, Mr Redlich. To the first point of Mr Jackson's question about the budget increase: How did you go about seeking that additional budget for IBAC, and what was the Government's initial response?

Robert REDLICH: The question of the budgetary position of the Commission is of course in part inter-related to government policy of the day. If we are looking at the question of whether all serious public sector misconduct should be investigated by the Commission, then the Commission's budget is wholly inadequate. If we are looking at the question of whether or not all serious police misconduct should be investigated by the Commission, the Commission's budget is wholly inadequate. This is a policy question in terms of how much funding an integrity commission is prepared to be granted. As the Committee I think would well know, IBAC is only able to investigate something in the order of 2 per cent of serious police misconduct. If that is to increase, it inevitably would require a substantial increase in funding.

We have, during my period as Commissioner, acted in accordance with the dictates of the government policy of the day. When things have emerged that indicate that the Government has a disposition to considering further support in the budgetary area, we have of course made specific responses and requests for that additional funding. It starts and ends with a policy decision by government as to how much they want to fund the Commission for, bearing in mind that will impact upon the extent to which misconduct both in the public sector and the police sector can be investigated.

Jade BENHAM: So did you ever feel the Government or its agents were working to undermine the work of IBAC?

Robert REDLICH: Do you mean in a financial sense or more generally?

Jade BENHAM: In any sense – more generally.

Robert REDLICH: Only via the conduct of this Committee in the last year of its operation.

Jade BENHAM: Thank you. That was the only question I had.

The CHAIR: Thanks, Ms Benham. Let us go now to Mr Batchelor.

Ryan BATCHELOR: Thanks, Chair. You mentioned at the start you had received some communications on behalf of the Committee, on behalf of the Chair, about the matters you were going to come prepared to talk about today. So you did get advice?

Robert REDLICH: Yes. The Secretary of the Committee wrote to me following an inquiry by me as to whether or not I could get some indication of the matters on which the Committee would wish to inquire, and I was given five matters. If you are interested in knowing what they are –

Ryan BATCHELOR: I am just curious about the preparation you have been asked to do for today.

We talked earlier about the letter. Did you retain a copy of that when you left IBAC?

Robert REDLICH: No.

Ryan BATCHELOR: Did you ask anyone at IBAC to provide you with a copy after you had left IBAC?

Robert REDLICH: Yes.

Ryan BATCHELOR: And did they?

Robert REDLICH: No.

Ryan BATCHELOR: So you asked someone at IBAC to give you a copy of that letter?

Robert REDLICH: After the publicity occurred, yes.

Ryan BATCHELOR: After the publication of the letter?

Robert REDLICH: Yes.

Ryan BATCHELOR: So you did not have a copy of the letter when it was published –

Robert REDLICH: Correct.

Ryan BATCHELOR: But it somehow made its way from IBAC to a journalist.

Robert REDLICH: Well, we do not know if it was from IBAC, Mr Batchelor.

Ryan BATCHELOR: Right. Do you have any reflections on the information security practices at IBAC in your time as Commissioner?

Robert REDLICH: Information security?

Ryan BATCHELOR: Yes.

Robert REDLICH: Well, it varies of course, depending on the nature of the issue. In relation to investigations, there is a blanket cast over any information concerning investigations. Some issues that fall into different other areas may not call for the same level of security oversight. If you are asking about those letters, then I would have imagined that there was a very small group of people within IBAC that would have been familiar with them.

Ryan BATCHELOR: Are you concerned that there might be other material of a sensitive nature that has made its way from IBAC into the media?

Robert REDLICH: I have no reason to think there is.

Ryan BATCHELOR: Was it the practice when you were Commissioner to brief journalists about the contents of reports of IBAC before they were tabled in the Parliament?

Robert REDLICH: No.

Ryan BATCHELOR: Do you think that is an appropriate course of conduct for IBAC – to be briefing the media of the contents of reports prior to their tabling in the Parliament?

Robert REDLICH: Well, your suggestion seems to suggest that –

Ryan BATCHELOR: I am not suggesting anything. I am asking whether you think it is appropriate.

Robert REDLICH: Well, the way question was framed, with respect, Mr Batchelor, was to the contrary.

Ryan BATCHELOR: No.

Robert REDLICH: I am not aware of briefings being given to journalists of that sort.

Ryan BATCHELOR: On a different matter, IBAC as an agency in the public sector is required to undertake a series of surveys of their staff – the People Matter survey. Are you familiar with the survey?

Robert REDLICH: Yes.

Ryan BATCHELOR: The People Matter survey for 2021/22, so the year that we are inquiring into, showed that about 14 per cent of staff had experienced bullying in the last 12 months, which is nearly double comparator organisations. Why do you think that there was such a higher level of bullying at IBAC in 2021/22?

Robert REDLICH: Well, firstly, could I suggest if you want a detailed response to that, I would address that question to the CEO.

Ryan BATCHELOR: You were the Commissioner, though.

Robert REDLICH: I was. And there is a limit, though, to which one can be across administrative matters. For each of those annual inquiries the results were drawn to my attention, and each year there were various steps taken by the organisation to address that sort of issue. If you want detail of them, you will need to speak to –

Ryan BATCHELOR: Sure. So your reflections as a leader of the organisation – none of the people who reported feeling bullied in the survey submitted a formal complaint. In fact, 93 per cent said that they did not submit a formal complaint because they thought it would lead to negative consequences for their reputation, and 78 per cent said they did not due to concerns there would be negative consequences for their career. Did you think there was a culture of fear and reprisal at the organisation when you were the Commissioner?

Robert REDLICH: No, absolutely not.

Ryan BATCHELOR: Are you concerned by these figures?

Robert REDLICH: I have always viewed those figures as suggesting there is a small proportion of people who may feel in some sense that they have been bullied or intimidated. But, as I say, if you want more detail about that, you should address that to the CEO. That certainly was not the culture.

The CHAIR: Thank you, Mr Batchelor. Let us move now to Ms Payne for some questions.

Rachel PAYNE: Thank you, Chair. Thank you, Mr Redlich. Reflecting on the reporting period of 2021/22 when you were Commissioner and thinking of the future, during that time you publicly made comment that you hoped the Parliament would give urgent consideration to the composition and constitution of the Committee for future purposes. This is in relation to the IOC being the only institution that IBAC can go to for remedy when it comes to integrity and oversight issues, and you mentioned safeguards there. Can you please elaborate on your comments there?

Robert REDLICH: Well, the letters I think spoke cogently to the need for this Committee to operate without being unduly affected by political considerations. I regret to say that the information, which only emerged in the media yesterday, suggests quite colourfully that that is still a problem that exists, because I understand that the four members of the Committee that are members of the governing party all objected –

A member interjected.

The CHAIR: I appreciate the point that is about to be made and its importance, nevertheless I just ask Mr Redlich to confine his comments to matters affecting the performance of IBAC or relating to the performance of IBAC, but feel free to continue.

Robert REDLICH: Well, I am not sure that I can answer the question then. It was the most powerful indication that there is still a need not merely to have a de facto arrangement where the composition of the Committee is not made up by a majority of persons who are from the governing party of the day nor that the Chair be from the governing party. Why is that? Because with every successive period that a government is going to be in power, the risk increases that an integrity commission is going to be looking at conduct of the Government, and the integrity commission stands between the Commission and Parliament. It is pivotal that it is able to operate without political interference. If all we have is a de facto arrangement which means tomorrow the Premier of the day can say, 'I'm changing the constitution of the Committee, with the approval of the majority in the Assembly', that will happen, and tomorrow you will be out of the job, Mr Chair. That is not an appropriate integrity situation, and the history of the last year and what has occurred in the last few days are examples.

Rachel PAYNE: How does Victoria stand up in comparison to other jurisdictions in relation to –

Robert REDLICH: The integrity committee?

Rachel PAYNE: Yes.

Robert REDLICH: I have not made a study of whether or not there are other committees that have behaved in the same way. I cannot really answer that question.

The CHAIR: Did you mean the Committee or IBAC?

Rachel PAYNE: IBAC –

The CHAIR: IBAC.

Rachel PAYNE: as the integrity agency.

Robert REDLICH: I am sorry, could you ask the question again?

Rachel PAYNE: How does Victoria stand up in comparison to other jurisdictions?

Robert REDLICH: In terms of integrity?

Rachel PAYNE: The integrity agency, yes.

The CHAIR: Particularly in terms of IBAC or agencies.

Robert REDLICH: Yes. As I said at the outset, I think we are dealing with a fundamental problem in the way executive government operates, not just in Victoria but around Australia and in the federal environment. It has to be understood that this is a decline which has not just occurred today or last week or in 10 years; we can go back 40 years to see where those problems started, and they have gone on unarrested. And the difficulty that I have in answering your question is that I cannot immerse myself in the detail of the information from other commissions. I can point to the royal commission as a recent example – Robodebt – and I can point to things that occurred at ICAC in recent times with investigations like Operation Keppel to suggest that we are not dealing with a problem which is peculiar to Victoria. Some might argue that it is worse at the moment. That is not for me to say. It is enough that we recognise we have an acute problem.

Rachel PAYNE: Thank you.

The CHAIR: All right. Thank you, both. Last, we will move to Ms Wilson.

Belinda WILSON: Thank you. I am also going to touch a little bit on the People Matter survey, a very big document with lots of interesting findings inside.

Robert REDLICH: Yes.

Belinda WILSON: Did anyone ever voice disagreement with senior leaders in your organisation when you were the Commissioner, regarding the proposed course of any investigation that you were in charge of?

Robert REDLICH: Did they?

Belinda WILSON: Ever voice disagreement with senior leaders in your organisation about –

Robert REDLICH: I think over time, on a number of the issues, we had healthy debate at an executive level about the way forward, as one ought to expect. I conducted the executive on the basis that I encouraged everyone to speak freely and openly about their views. The short answer to your question is: yes, there were occasions when people had differing views about a way forward.

Belinda WILSON: Sure. And, look, there are lots of themes in the People Matter survey that are connected to termination of payments that IBAC made during this time. Thirty per cent of staff who reported bullying stated that an executive, senior leader or the head of the organisation was responsible. What are your thoughts on that?

Robert REDLICH: I do not know what the person is speaking about. But obviously in terms of investigations, ultimately, I, of course, was responsible for what investigations were undertaken and which ones

were not. Whether or not we should investigate or whether or not it should be referred to another institution or to Victoria Police to investigate, were all decisions that ultimately came to the executive, and I participated as a member of the executive.

Belinda WILSON: Did you ever bully anyone as the IBAC Commissioner – any of your staff?

Robert REDLICH: I would like to think that bullying is not any part of my personality, but it is a value judgement, isn't it? I hope not.

Belinda WILSON: I would also like to touch on the timing of reports. At Christmas time in 2021, IBAC sent out an investigating report, a prelim report, for comment over a very busy time – over the Christmas break. We know that that time is a time when families and lots of people are on holidays. I just wanted to get your thoughts on the timing of those reports being sent out at that very busy time and people being able to get back to you with comments on that, especially with them having to get legal advice, as they were mentioned in the report.

Robert REDLICH: Yes, you said a preliminary report.

Belinda WILSON: Correct.

Robert REDLICH: Do you mean a draft report that was ultimately going to be tabled after the natural justice process was completed? Is that what you mean?

Belinda WILSON: Correct.

Robert REDLICH: I am not sure that there were time limits attached to the responses – were there?

Belinda WILSON: I believe that there were. They were only given a number of weeks during that time.

Robert REDLICH: I am not aware of any person who sought additional time in which to respond ever being refused that additional time. If I am going to have an opportunity to address half a dozen of the legislative reforms that I think are critical, you have touched on one of them. Is it convenient for me to speak on that?

The CHAIR: Yes. I think, absolutely.

Belinda WILSON: Just before you do though, can I actually just add to that? I guess in answering the question, do you think that that time of the year to send out a prelim report to witnesses who have been before IBAC and to ask them to review that is timely? We all know that lots of lawyers and legal counsel are not normally available during that time.

Robert REDLICH: There is no good time. There is no good time at which to give somebody who is mentioned adversely in a draft report the opportunity to see what is being said.

Ryan BATCHELOR: But Christmas is as good a time as any?

Robert REDLICH: Well, it was not Christmas; it was earlier than that, was it not? The period might have covered Christmas. I think it is important that the Committee understand something – and this is going to the question of witness welfare. Whether it is judicial proceedings, where witnesses are coerced into coming and giving evidence, whether it is inquisitorial proceedings such as those that take place in the Coroners Court, where witnesses are coerced into giving evidence, or whether it is a royal commission – Lawyer X, Robodebt, whatever you like – all of those cases involve compelling witnesses, under the most distressing and challenging circumstances, to give evidence.

Belinda WILSON: Sure. I think you are sort of going down a track now that is not a part of the question that I asked.

Robert REDLICH: Well, I am sorry, if you are not concerned about welfare, then I am not sure why the importance of the Christmas period.

The CHAIR: I am just going to interrupt –

Belinda WILSON: I will say – sorry, Chair – that I am very concerned about welfare. However, that was not part of my question. But I believe my time is up.

The CHAIR: Time has expired, so we have to draw an end to this happy occasion. Thank you again very much for accepting our invitation to appear and answer questions. I declare the public hearing closed.

Committee adjourned.