

Confidentiality in IPSC processes

Confidentiality in Independent Parliamentary Standards Commission (IPSC) processes

Confidentiality of complaints made to the IPSC and of IPSC investigations is protected in a number of ways.

While investigations are underway, confidentiality is necessary to protect the integrity of IPSC processes. This is important to protect complainants, respondents and other participants, including by avoiding public speculation on unsubstantiated allegations.

IPSC Commissioners may impose confidentiality obligations to prevent individuals from disclosing, or making records of, certain information relevant to an IPSC process.

A confidentiality notice will generally end at the conclusion of an IPSC investigation. This means that providing the complaint handling and/or investigation process is completed, generally participants can comment publicly on IPSC outcomes.

When could a Commissioner issue a confidentiality notice?

The Commissioner assigned to deal with a matter may consider it necessary to impose confidentiality obligations on persons involved in that matter. This could include the complainant, the respondent or any other person involved in the matter, such as a witness or the employer of a person involved.

Confidentiality obligations may be imposed on a person where necessary to:

- prevent prejudice to the IPSC process or the fair trial of any person or the impartial adjudication of the matter,
- protect the identity of those involved in the matter,
- prevent unreasonable detriment to those involved in the matter,

- or prevent the publication of sensitive information.

Confidentiality obligations will only be imposed over information that has not already lawfully been made public.

What does it mean if I receive a confidentiality notice?

You will receive written notice if a Commissioner imposes confidentiality obligations on you. The notice will set out your obligations, which may include restrictions on the disclosure of certain information relevant to an IPSC process (including an investigation or review) or action, and will specify the period for which you must comply with those obligations.

If I receive a confidentiality notice, can I talk to anyone about the matter?

It is important that you are able to receive the advice and support you need from the appropriate people during, and after, an IPSC investigation. As such, if you receive a confidentiality notice you may still discuss the matter with:

- an approved support person,
- the Parliamentary Workplace Support Service (for the purpose of receiving support),
- your employer, supervisor or manager (provided you do not reveal the conduct issue),
- a legal practitioner, and
- a medical practitioner or psychologist.

For example, you can inform your employer, supervisor or manager that you are involved in a matter before the IPSC, provided you do not reveal the conduct issue. This would allow you to be transparent about your obligations to the IPSC with your employer, such as if you had to take leave in order to attend an interview with the IPSC or to prepare a statement.

If you are unsure about who you can discuss an IPSC matter with, you can ask the Commissioner responsible for dealing with the matter, or the IPSC, who will be able to advise you.

Additionally, a confidentiality notice does not prevent you from disclosing information relating to an IPSC process or action where the disclosure is:

- required or authorised by law, or by an order of a Court or Tribunal,
- for the purpose of obtaining advice in relation to an insurance contract,
- or to protect life or safety.

How long do I have to keep the information confidential?

A confidentiality notice will generally end at the conclusion of an IPSC investigation. However, your confidentiality obligations may be extended beyond the conclusion of an investigation if the Commissioner believes one of the reasons for issuing the notice still applies. For example, where the Commissioner is satisfied there is still a risk of unreasonable detriment to a person involved in the matter if the information was to be made public. You will be notified if a confidentiality notice is extended beyond the conclusion of an investigation.

Can I speak to the media?

If you are a parliamentarian or a MOP(S) Act employee you have obligations under the Behaviour Codes to maintain the confidentiality of the complaint process, unless authorised by the IPSC (or otherwise required by law) to share or release information.

What happens if I breach my confidentiality obligations?

If you breach your confidentiality obligations, you will be liable for an offence, the penalty for which is imprisonment for up to six months or 30 penalty units (currently \$9,390), or both.

Additionally, if you are a parliamentarian or a MOP(S) Act employee you have obligations under the Behaviour Codes to maintain the confidentiality of the IPSC process. Failure to do so may constitute a breach and be dealt with as such by the IPSC, and sanctions may be imposed on you.

Will the IPSC publish details of the matter following an investigation?

The IPSC will not publish investigation reports.

However, the IPSC may publish a statement containing information about a matter, where information about the matter is already publicly available, in order to afford fairness to any person or to correct erroneous reporting.

Additionally, the IPSC may publish a statement identifying a parliamentarian respondent where:

- on separate occasions, more than one adverse finding has been made against a parliamentarian,
- or the parliamentarian fails to comply with a sanction imposed by the IPSC.

How will information I provide to the IPSC be protected?

Commissioners and staff of the IPSC are subject to confidentiality obligations and are liable for an offence if they make an unauthorised record, or disclosure, of information they obtained in the course of their duties. This offence carries a penalty of six months imprisonment or 30 penalty units (currently \$9,390), or both.

There are some exceptions to this offence, including where disclosure of information is required or authorised by law, or where necessary to protect life, health or safety.