

Fact sheet 9

Information for support persons or lawyers attending an interview with a witness

The Ombudsman's role and powers

Witnesses who attend a formal interview with the Ombudsman's staff receive an information sheet that explains the Ombudsman's powers in detail.

The Ombudsman has extensive powers under the *Ombudsman Act 1973*. More information on the Ombudsman's role and powers is provided in *Fact Sheet 1* and *Fact Sheet 7*. Both of these fact sheets are available on the Victorian Ombudsman website:

<http://www.ombudsman.vic.gov.au/www/html/87-fact-sheets.asp>

Who can I bring to the interview?

The Ombudsman will generally permit a witness to bring a support person with them to an interview, provided that support person does not have any involvement in the matter being investigated. A support person is there to provide a reassuring presence to the witness during the interview. The support person may not provide the witness with advice, attempt to answer questions on their behalf or otherwise interrupt the interview without the approval of the Ombudsman's delegate.

The information sheet provided to witnesses includes detailed information regarding the obligations imposed on a person who attends an interview with the Ombudsman. These obligations also apply to the support person, including that it is an offence to mislead or obstruct the Ombudsman.

A witness also has the right to seek legal advice about an investigation by the Ombudsman, your rights under the Ombudsman Act; or to be represented by a lawyer when attending an interview at the Ombudsman's office. The Ombudsman may direct a witness not to seek legal advice or representation from a particular lawyer if the Ombudsman considers on reasonable grounds that an investigation may be prejudiced. If the Ombudsman does this, the Ombudsman must allow a witness at least three days to obtain representation or advice from another lawyer.

During the interview, a lawyer assisting a witness may request an opportunity to provide the witness with legal advice or to make a submission during the interview, particularly if they consider the witness may have a lawful basis to be excused from answering a particular question. The Ombudsman's delegate will consider that request.

Please note: This document is intended as a guide only. For this reason the information contained herein should not be relied on as legal advice or regarded as a substitute for legal advice in individual cases. To the maximum extent permitted by the law, the Victorian Ombudsman is not liable to you for any loss or damage suffered as a result of reliance on this document. For the most up-to-date versions of cited Acts, please refer to www.legislation.vic.gov.au.

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