

## Media Release

For immediate release

8 April 2019

### Outcome of Preliminary Investigation into Complaint about Conduct of Judge Sara Hinchey

The Judicial Commission of Victoria (the **Commission**) has considered a complaint concerning the conduct of State Coroner, Judge Sara Hinchey, and has reached its conclusions after its preliminary investigation.

In accordance with Part 3 of the *Judicial Commission of Victoria Act 2016* (the **Act**), after considering a complaint, the Commission must either:

- dismiss it, in whole or in part, on a range of grounds specified in the Act;
- refer it to an investigating panel if it is a serious complaint which, if true, may warrant removal from office on grounds of misbehaviour or incapacity; or
- refer it to the relevant head of jurisdiction with recommendations about the future conduct of the officer if it is a less serious complaint but one that warrants further consideration on certain grounds.

The Commission is always mindful of the important role it plays in maintaining public confidence in the judiciary. The Commission applied the criteria in the Act to each of the allegations, as well as considering the cumulative effect of all allegations. The Commission reached its conclusions after carefully considering the 92 allegations made against Judge Hinchey and the 21 affidavits of responding material, exhibited documents, and submissions provided on behalf of Judge Hinchey.

Despite the large number of allegations in the complaint, many of them lacked detail or were otherwise incapable of meeting the criteria for referral for further action under the Act. Others were unsubstantiated after reviewing the responsive material from Judge Hinchey. Five allegations warranted further action, as explained in more detail below.

Having considered the complaint, Judge Hinchey's response, further information provided by the complainants and correspondence from two Coroners Court staff:

- 87 allegations have been dismissed on the grounds, that on the evidence available they either:
  - do not meet the criteria for referral to an investigating panel or the head of jurisdiction;
  - were unsubstantiated; or
  - were not serious enough to necessitate or justify further investigation.
- One allegation concerning the alleged removal of alcohol purchased using Coroners Court funds for personal use, has been referred to an investigating panel. The Commission was of the opinion it could, if substantiated, amount to proven misbehaviour such as to warrant removal from office. The Commission – which has limited powers of investigation - was unable to make findings about this allegation. It will now be the task of an investigating panel to consider this allegation further.

- Four allegations about conduct in the workplace were referred to Judge Hinchey's head of jurisdiction, the Hon. Justice Kidd, Chief Judge of the County Court of Victoria for counselling to occur. Those matters are:
  - an occasion when Judge Hinchey removed her own skirt and persuaded a former senior employee to try on the skirt during a meeting between Judge Hinchey, the employee and another senior employee;
  - at a legal services meeting attended by various employees of different levels, Judge Hinchey spoke words that in effect reprimanded 'despicable behaviour' by some of those present, and that could have been understood as threatening to harm the professional reputations of those people and to take their conduct into account during any future appearances before her;
  - frequently swearing during meetings with senior staff; and
  - on one occasion, encouraging staff to dance and be filmed for a Coroners Court-Victorian Institute of Forensic Medicine revue and in particular, encouraging and filming two suggestive dance moves.

These matters have been referred as the Commission was satisfied they warranted further consideration because they may affect or have affected the performance of Judge Hinchey's functions or may have infringed the standards of conduct generally expected of judicial officers and were not dismissed as unsubstantiated.

An investigating panel will now be established to consider the single allegation concerning the alleged removal of alcohol purchased using Coroners Court funds for personal use.

The panel has a broad range of powers and can compel witnesses to attend and produce documents. It comprises two current or former judicial officers from an Australian jurisdiction and one member of the community appointed on the recommendation of the Victorian Attorney-General.

The investigating panel will determine what, if any, action should be taken. If it forms an opinion that facts exist which could warrant the removal of the officer concerned, it may prepare a report for the Governor of Victoria. It may also dismiss the matter or refer it to the head of jurisdiction.

Neither the Commission nor the investigating panel has the power to remove a judicial officer from office. A special majority of both Houses of Parliament must agree before a judicial officer can be removed.

Judge Hinchey, Chief Judge Kidd, the complainants and the Attorney-General have been notified of the outcome of the preliminary investigation.

The Commission does not intend to comment further while the investigating panel considers the allegation referred to it.

For further information contact:

Judicial Commission of Victoria  
03 9604 2420 or email [enquiries@judicialcommission.vic.gov.au](mailto:enquiries@judicialcommission.vic.gov.au)