

## Statement

27 March 2024

### OUTCOME OF INVESTIGATION INTO COMPLAINT ABOUT A FAMILY VIOLENCE PROCEEDING

The Judicial Commission of Victoria (the **Commission**) received a complaint about the conduct of an Officer in a proceeding concerning cross-applications for family violence intervention orders.

The Commission found that overall, the Officer's conduct was inconsistent with the professionalism, respect and courtesy judicial officers are expected to show towards court users, particularly in a proceeding concerning allegations of family violence.

#### Investigation of the Complaint

In accordance with the *Judicial Commission of Victoria Act 2016* (the **Act**), the Commission investigated the complaint. As part of its investigation, the Commission listened to the audio recordings of the proceeding and gave the Officer an opportunity to respond to the complaint. The Officer provided a response to the complaint.

The Officer responded that he did not, in effect, resile from his comments, although noted that he did not wish his response to come across as arrogant or dismissive.

#### The Commission's findings and assessment

The person making the complaint (the **Complainant**) alleged that the Officer addressed them in an inappropriate way throughout the proceeding by:

1. making inappropriate comments about the Complainant's position in the community, perceived socio-economic class and wasting the court's time (the **inappropriate comments** allegation); and
2. addressing the Complainant's former partner (the **Respondent**) in a softer tone but speaking aggressively towards the Complainant (the **differential treatment** allegation).

##### *Inappropriate comments allegation*

The Commission assessed the Officer's conduct in the proceeding – namely the language, imputations arising from the comments and effect of the conduct – and the Officer's response.

The Commission found that the Officer's conduct during the proceeding infringed the standards of conduct generally expected of judicial officers. This assessment was based on the Officer's comments in the proceeding that:

- the parties were 'civilised middle-aged people';
- 'judging by appearances', the parties were not the court's 'regular customers'; and
- the courts, 'with respect, don't have so much time for middle-class well to do people, who have had a bit of a relationship break-up.'

The Commission found that the Officer's comments were made in the context of explaining the court's busy workload and limited resources.

However, the Commission also found that:

- The Officer's use of stereotypical, judgmental and insensitive language was not appropriate in the circumstances, nor consistent with the dignified and respectful treatment of court users in the family violence jurisdiction.
- A reasonable member of the community was likely to regard the Officer's remarks as: (i) disrespectful and discourteous; (ii) perpetuating myths about family violence; and (iii) suggesting unfair treatment or bias based on the Complainant's appearance and assumed socio-economic class or position in the community.
- The Officer's response did not demonstrate an awareness that his comments were inappropriate or unacceptable judicial conduct. Although the Officer acknowledged that maintaining this position may be perceived as arrogant or dismissive, the response did not address the impact of his comments on the Complainant or the potential for the remarks to diminish public trust and confidence in the impartiality of the judiciary more broadly.

*Differential treatment allegation:*

The Commission was not satisfied that a reasonable member of the community was likely to perceive the Officer's tone as aggressive, nor that there was any marked difference in how the Officer addressed the Complainant when compared with the Respondent.

Further, the Commission found that the Officer's tone was not unprofessional or discourteous, or otherwise infringed the standards of conduct generally expected of judicial officers.

## **Outcome of the Complaint**

Overall, the Commission found that the Officer addressed the Complainant inappropriately, based on the Officer's language (but not tone), the effect of the conduct, and the Officer's response.

The Commission referred the complaint to the Chief Magistrate (as head of jurisdiction) with the following recommendations as to the Officer's future conduct:

- The head of jurisdiction counsels the Officer as to appropriate judicial conduct, particularly in proceedings involving allegations of family violence.
- In relation to the family violence jurisdiction, the Officer be directed to read and/or refamiliarise himself with relevant resources.
- The Officer's response to the Complaint, insofar as it demonstrates a lack of awareness as to what is, and what is not, appropriate judicial conduct, may assist the head of jurisdiction with respect to any counselling, mentoring or coaching.

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