

4 April 2023

Statement

COMPLAINT ABOUT JUDICIAL BULLYING

In May 2022, the Judicial Commission of Victoria (the **Commission**) received a complaint about His Honour Magistrate Rodney Crisp, a Reserve Magistrate (the **Officer**). The complaint was received from a partner of a law firm and it related, in part, to conduct by the Officer towards a practitioner of that firm (**Practitioner A**).

The complaint concerned an application to adjourn a contested hearing. The proceeding was conducted online and listed in four sessions across one day.

The complaint alleged that the Officer engaged in conduct that amounted to judicial bullying, among other things.

Investigation of the complaint

The Commission reviewed the audio-recordings of each court session and provided the Officer with an opportunity to respond to the complaint.

In October 2022, the Officer provided the Commission with a response to the complaint. The Officer considered his conduct was justified, having regard to all circumstances.

The Commission's findings and assessment

The Commission assessed the Officer's actions, language, imputations arising from comments, tone, effect of the conduct, and written response. It found that a reasonable observer would regard the Officer's conduct as rude, sarcastic, discourteous, and bullying. In particular:

- the Officer abruptly ended and disconnected from the proceeding on three occasions;
- the Officer commented to Practitioner A that 'this matter will be reported to the Attorney-General by the way ... this matter's escalating, alright'. This created a risk of harm to Practitioner A by unsettling and placing them in fear of their professional reputation. There was no reasonable basis for the Officer's comment; and
- the Officer asked sarcastic, 'tongue-in-cheek' questions, in circumstances where the Officer's position of authority and court custom required Practitioner A to give serious

answers. The answers were then mocked by the Officer in open court which could have embarrassed or humiliated Practitioner A.

The Commission did not accept that Practitioner A acted inappropriately. Further the Commission found the Officer's conduct to be an unwarranted attack upon the competence and professionalism of Practitioner A in circumstances where the Officer had no reasonable basis to censure Practitioner A.

Overall, the behaviour directed at Practitioner A was unreasonable, personalised, and had no legitimate purpose. The Officer's conduct fell short of community expectations of how judicial officers should treat practitioners.

Outcome of the complaint

After careful consideration, the Commission referred the complaint to the head of jurisdiction with recommendations as to the Officer's future conduct including that:

- the head of jurisdiction counsels the Officer as to appropriate judicial conduct;
- the Officer be directed to undertake coaching or mentoring as the head of jurisdiction considers appropriate; and
- the Officer's response to the complaint, insofar as it demonstrates a lack of awareness of what is, and what is not, appropriate judicial conduct, may assist the head of jurisdiction with respect to any counselling, mentoring or coaching.

To learn more about the Commission, visit www.judicialcommission.vic.gov.au.

For all media enquiries, the Commission can be contacted on (03) 9084 9600 or through email at media@judicialcommission.vic.gov.au.