

## Media Release

4 February 2022

### **OUTCOME OF INVESTIGATION INTO COMPLAINTS MADE ABOUT THE CONDUCT OF MAGISTRATE BELINDA WALLINGTON**

The Judicial Commission of Victoria (the Commission) has concluded its investigation into complaints made about the conduct of Magistrate Wallington (the Officer) during the 2019/2020 proceedings concerning Mr Craig McLachlan. Mr McLachlan appeared before the Magistrates' Court of Victoria in relation to charges of indecent and common law assault and was found not guilty on all charges.

The complaints contained a number of allegations relating to the Officer's conduct throughout the course of the proceeding. A number of complaints also contained allegations relating to the delivery and content of the reasons for the decision.

In accordance with the *Judicial Commission of Victoria Act 2016* (the Act), the Commission was required to investigate those complaints. The Commission conducted a thorough investigation which included reviewing transcripts, listening to audio recordings and considering written material.

At the conclusion of the investigation, the Commission determined that all complaints be dismissed.

#### **In finding that all complaints warranted dismissal, the Commission found overall that:**

- the Officer's tone and demeanour was courteous. There were some robust exchanges with counsel, but at no time was the Officer's conduct inappropriate;
- there was no evidence that the Officer was biased or that she behaved unprofessionally;
- there are specific legislative requirements for judicial officers to observe in proceedings involving sexual assault allegations. The Officer's interactions with witnesses were consistent with those requirements;
- the Officer's conduct throughout the proceedings did not infringe any standards of conduct generally expected of a judicial officer. The conduct was consistent with expectations as to judicial impartiality;
- some allegations fell within the mandatory dismissal requirements of the Act, such as those relating solely to the merits or lawfulness of a decision or procedural ruling; and
- the manner in which the Officer delivered and expressed her reasons for decision were within the standards of acceptable judicial conduct.

## Background on the Commission

The Commission has the power to consider a range of complaints including excessive delays in giving judgments, inappropriate courtroom conduct and health issues affecting a judicial officer or VCAT member's ability to perform their official duties.

Any person can make a complaint to the Commission. Once the Commission has considered the matter, it can take one of the following courses of action:

- (i) dismiss the complaint. There are some circumstances where the Commission **must** dismiss a complaint (for example, where the complaint relates solely to the merits of a decision or where the complaint is frivolous) and circumstances where the Commission **may** dismiss a complaint (such as where the complaint has not been substantiated);
- (ii) if it is a serious complaint about conduct, make a finding that the conduct infringed the standards of conduct expected of judicial officers and refer it to the relevant head of jurisdiction, with recommendations in relation to future conduct; or
- (iii) if it is a very serious complaint which if true, warrants removal from office on grounds of misbehaviour or incapacity, refer it to an investigating panel for further investigation.

The Commission does not have the power to remove a judicial officer from their position. A special majority of both Houses of Parliament must agree before a judicial officer can be removed.

The governing body of the Commission is its Board. The Board consists of six judicial Board members and four Board members appointed by the Governor in Council.

To learn more about the Commission, visit <http://www.judicialcommission.vic.gov.au>.

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