

29 March 2023

Statement

COMPLAINT INVESTIGATION OUTCOMES

First complaint – in court behaviour

On 15 September 2022, the Judicial Commission of Victoria (the **Commission**) received a complaint about His Honour Magistrate Pithouse (the **Officer**). On 6 February 2023, the Commission published a statement regarding the standing down of the Officer and the referral of the complaint to an investigating panel. That complaint concerned the Officer's in-court behaviour.

A copy of the Commission's statement is available [here](#).

Further complaint - out of court behaviour

On 21 December 2022, the Commission received a further complaint about the Officer, from a separate complainant, relating to alleged out of court behaviour. On 27 February 2023, the Commission determined to refer the complaint to an investigating panel, pursuant to section 13(3) of the *Judicial Commission of Victoria Act 2016* (the **Act**).

Complaint outcomes

On 14 March 2023, the Officer resigned from his position as a Magistrate, effective close of court, 24 March 2023.

Pursuant to [section 35\(2\)\(e\)](#) of the Act, an investigating panel *must* dismiss a complaint if the officer concerned has resigned or retired and is no longer a judicial officer.

On 28 March 2023 the investigating panel investigating both complaints notified the Commission that it had dismissed the complaints under that provision.

As the panel's investigation of the first complaint did not conclude, and the panel's investigation of the second complaint did not commence, no findings were made in relation to the allegations contained in either complaint.

With the complaints being finalised on that basis, the Commission has determined that it is in the public interest to release the following information about the complaints, pursuant to [section 139](#) of the Act.

Complaint details – first complaint

On 22 August 2022, the Officer presided over a criminal matter in which Victoria Legal Aid (VLA) represented the defendant at the hearing.

On 15 September 2022, the Chief Executive Officer of VLA wrote to the Commission alleging inappropriate conduct by the Officer during that hearing, in particular that:

(a) The Officer's treatment of the defendant was inappropriate in that:

- his conduct was excessively and unnecessarily aggressive and intimidating towards the defendant;
- he used the threat of immediate imprisonment to terrify the defendant, knowing she had children at Court with her; and
- he failed to demonstrate respect or courtesy towards the defendant at any point during the hearing, or to respect her dignity.

(b) The Officer demonstrated a lack of impartiality and integrity in that he:

- appeared to pre-judge the matter before hearing from the VLA lawyer;
- demonstrated that his decision making was dictated by his emotional state of anger rather than application of the law;
- in remanding the defendant in custody overnight, made use of his judicial power to assuage his own anger; and
- allowed himself to become angry and aggressive as a result of taking the defendant's behaviour personally.

The complaint also alleged the Officer did not have the capacity to discharge the judicial function in accordance with expectations of impartiality, integrity, and appropriate treatment of court users.

The Commission provided the Officer with an opportunity to respond to the complaint. On 24 November 2022, the Officer provided a response and denied the allegations.

On 12 December 2022, the Commission determined to refer the complaint to an investigating panel. An investigating panel was appointed under Division 5 of the *Constitution Act 1975* chaired by the Hon Chris Maxwell AC (former President of the Court of Appeal), also comprising the Hon Chris O'Neill (former County Court judge) and an esteemed member of the community.

The investigating panel decided to hold a hearing for the purposes of investigating the complaint. A directions hearing was held in January 2023, and a further hearing was scheduled for 28 March 2023. That hearing was vacated given the dismissal of the complaint as a result of the Officer's resignation.

Complaint details – further complaint

On 21 December 2022, the Commission received a further complaint about the Officer, from a separate complainant, alleging he had communicated with a junior solicitor, whom he was in a mentoring relationship with, in an unprofessional and inappropriate manner including via text messages, emails and other electronic communication.

The Commission was satisfied the alleged conduct could be characterised as sexual harassment by the Officer of the junior solicitor, in accordance with the Commission's [Judicial Conduct Guideline on Sexual Harassment](#).

The Commission provided the Officer with an opportunity to respond to the complaint. The Officer did not provide a response.

On 27 February 2023, the Commission determined to refer the complaint to an investigating panel. An investigating panel was subsequently appointed comprising the same members of the panel investigating the first complaint. Pursuant to section 87AAR of the *Constitution Act 1975*, an investigating panel may investigate two or more complaints referred to it.

As stated above, no findings were made in relation to the allegations contained in either complaint.

The Commission will not be releasing any further information about the complaints.

For all media enquiries, the Commission can be contacted via email at media@judicialcommission.vic.gov.au.