

18 October 2024

OUTCOME OF INVESTIGATION INTO COMPLAINT ABOUT AN OFFICER AT THE VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

The Judicial Commission of Victoria (the **Commission**) received a complaint about the conduct of an Officer of the Victorian Civil and Administrative Tribunal (**VCAT**).

The Commission found that a part of the Officer's conduct infringed the standards of conduct generally expected of non-judicial members of VCAT.

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 inspected the tribunal file, made inquiries of VCAT and gave the Officer an opportunity to respond to a part of the complaint. The Officer provided a response to that part of the complaint.

The Commission assessed the Officer's actions, impact of the conduct, and the Officer's response.

The Commission's findings and assessment

There were two parts to the complaint, alleging that the Officer:

- **Part A:** delayed the provision of the written reasons in the proceeding by over nine months (**delay allegation**); and
- **Part B:** was non-responsive to the Complainant's request for updates (**non-responsive allegation**).

Part A - Delay allegation

Officer's response

In response to this part of the complaint, the Officer apologised for the delay and acknowledged that timeliness is a 'fundamental judicial responsibility.'

The Officer detailed various personal and professional challenges that contributed to the delay. For example, the Officer noted the 'stressful' and 'overwhelming' workload demands, particularly since the COVID-19 pandemic and the pressures to work through the backlogs.

The Officer said, as a general conclusion:

I am focused and committed to maintaining the standards of judicial conduct and ensuring that such delays do not recur. I appreciate [the Complainant] bringing this matter to attention, as it highlights the importance of transparency and timeliness in our judicial process. I am actively seeking ways to improve my time management ... to better fulfill my professional responsibilities.

Findings and assessment

The Commission found that the Officer's conduct infringed the standards of conduct generally expected of non-judicial members of VCAT because the Officer delayed the provision of written reasons in the proceeding for approximately 9 months and 14 days.

The Commission acknowledged that working across busy tribunal lists can be overwhelming and stressful, as addressed in the Officer's response. The Commission also acknowledged that the Officer's response demonstrated an appropriate level of insight into his conduct.

Nonetheless, the Commission found that:

- A reasonable member of the community was likely to regard a period of 9 months and 14 days for the provision of written reasons as an unreasonable and excessive delay. A litigant is entitled to expect matters in VCAT to be finalised quickly, effectively, and efficiently.
- A delay of this nature could diminish public trust and confidence in the administration of justice.

Part B - Non-responsive allegation

The Commission found that this part of the Complaint *did not* disclose a basis to consider that the Officer's conduct may have infringed the standards of conduct generally expected of tribunal members.

The Commission considered that it was a matter for a tribunal member to decide whether to respond to or correspond directly with litigants outside the tribunal process.

Outcome of the complaint

The Commission referred the part of the complaint relating to the delay allegation to the President of VCAT (as head of jurisdiction) with the following recommendations as to the Officer's future conduct:

- a) the head of jurisdiction counsel the Officer as to appropriate judicial conduct, including in relation to time-management.
- b) the Officer attend a course conducted by the Judicial College of Victoria.
- c) the Officer read and/or refamiliarise himself with relevant resources.

The Commission dismissed the part of the complaint relating to the non-responsive allegation.¹

¹ This part of the complaint was dismissed under section 13(2)(a) of the Act on the basis that section 16(1) of the Act applied. The Commission was not satisfied that the matter warranted further consideration on the ground that the Officer's conduct may have infringed the standards of conduct generally expected of tribunal members, nor that any of the other criteria in section 16(1) of the Act were met.