



# Acknowledgement

The Commission acknowledges Aboriginal and Torres Strait Islander peoples as the First Peoples and Traditional Owners and Custodians of the land and waterways upon which our lives depend.

The Commission acknowledges and pays respect to the ancestors of this country, Elders, knowledge holders and leaders – past and present. The Commission extends that respect to all Aboriginal and Torres Strait Islander peoples.

The Commission acknowledges that harm has occurred for First Peoples in the court system. The Commission is committed to working with the Courts Koori Committee, the Dhumba Murmuk Djerring Unit, the Koori community and Court Services Victoria to ensure our work reflects this respect and acknowledgement.

## Publication information

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## Accessibility

If you would like to receive a printed copy of this publication or for information, please email [enquiries@judicialcommission.vic.gov.au](mailto:enquiries@judicialcommission.vic.gov.au).

## Enquiries and feedback

For enquiries on the report or to provide feedback, email [enquiries@judicialcommission.vic.gov.au](mailto:enquiries@judicialcommission.vic.gov.au).

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# Responsible Body's Declaration

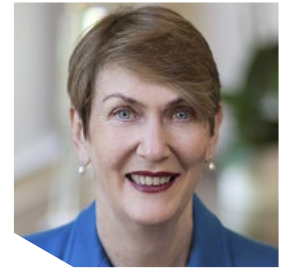
In accordance with the *Financial Management Act 1994*, I am pleased to present the Judicial Commission of Victoria's Annual Report for the year ending 30 June 2024.

A handwritten signature in black ink, consisting of a large loop followed by a horizontal line that tapers to the right.

**The Honourable Anne Ferguson**  
**Chief Justice and Chair of the Judicial Commission of Victoria**

Melbourne, October 2024

# Message from the Chair



## I am pleased to present the annual report of the Judicial Commission of Victoria for 2023–2024.

Now in its seventh year of operations, the Commission continues to uphold its commitment to maintain confidence and trust in the Victorian courts and VCAT. Through its fair and transparent complaint system, the Commission has continued to deliver considered and authoritative outcomes. The Commission has also increased understanding about its role and functions, engaging directly with the Victorian courts and legal sector.

In April, the Commission produced its Communications and Stakeholder Engagement Strategy to strengthen awareness and understanding of the Commission's operations. This year's annual report also features interviews with fellow Board member Judge Jack Vandersteen and former investigating panel member Judge Chris O'Neill, who share their insights into the processes and context that underpin the Commission's work.

Across the reporting year, the Commission received 230 new complaints about the conduct and capacity of judicial officers and VCAT members. Consistent with previous years, the vast majority (95.8%) of complaints were dismissed.

Where complaints were not dismissed, the Commission proceeded in accordance with the *Judicial Commission of Victoria Act 2016* (Vic), including referring nine matters to the head of the relevant jurisdiction with appropriate recommendations.

The Commission must give a judicial officer an opportunity to respond to a complaint before making any substantive findings. This provides procedural fairness and contributes to the integrity of the process. The Commission offered 12 judicial officers the opportunity to respond to 16 complaints. Of these, responses were received in relation to 14 complaints.<sup>1</sup>

Having published its Judicial Conduct Guideline on Judicial Bullying in the previous reporting year, the Commission received three complaints alleging judicial bullying. The Commission's work towards ensuring the courts and VCAT are safe and respectful places will

continue as it prepares for a series of consultations with the legal sector, including First Nations stakeholders, on the issue of discrimination. The community expects judicial officers to treat all people with respect, both in and out of the courtroom.

No complaints of any kind involved conduct that, if substantiated, could amount to misbehaviour or incapacity such as to lead to the removal of the officer. Consequently, no complaints were referred to an investigating panel.

I am grateful to the judicial officers across Victoria who strive each day to maintain the qualities and standards expected of them.

The Commission will continue to reflect on its processes and keep an open dialogue with stakeholders, always looking for ways to improve its operations in the interests of the Victorian community.

I would like to formally welcome Justice Ted Woodward to the Commission's Board. Justice Woodward commenced as President of VCAT on 1 July 2023.

I am very pleased to note that Dr Helen Szoke AO, a non-judicial member of the Commission's Board, was re-appointed to serve another five-year term from March 2024.

In closing, I would like to acknowledge and thank my fellow Board members, the Director, and the Commission staff, whose commitment to rigorous and evidence-based work continues to strengthen the role of the Commission in the justice system.

A handwritten signature in black ink, appearing to be 'Anne Ferguson', written over a horizontal line.

**The Honourable Anne Ferguson**  
Chief Justice and Chair of the  
Judicial Commission of Victoria

<sup>1</sup> One response is not due until after the publication of this Report.

# Message from the Director

After almost five years as Director, I remain passionate about leading an organisation which acts transparently, impartially, impactfully and with integrity.

Those values lay the foundation for the behaviour expected of the Commission and its staff.

Over the course of the year, we received and listened to a diverse range of feedback from across the sector – from complainants and judicial officers to colleagues across the courts group. We led or actively participated in numerous forums and sessions to continue to demystify the role of the Commission. Further, to explain, through interactive case studies and workshops how our complaint investigations work – and the types of conduct the Commission can and will investigate, we heard from agencies directly that have made complaints about the importance of calling out behaviour when appropriate.

We were particularly grateful to the judicial officers who participated in these forums – their time and insights were particularly well received by lawyers and other judicial officers, demonstrating an awareness of the important leadership role judicial officers have both in and out of the courtroom.

The introduction of the Judicial Conduct Guideline on Judicial Bullying last year has seen positive responses across the sector, and also from interstate colleagues. It has been used as a point of reference for lawyers who can clearly understand whether behaviour they have experienced ‘crosses the line’ or not. When talking to judicial officers, we have referred to the Guideline to explain the standards expected of them.

Overall, the importance of understanding context and the perspective of others has resonated with the Commission this year – and sets the scene for the Our Focus section of this annual report. I encourage you to read through the case studies that demonstrate the impact of various perspectives on the work of the Commission.



How you react to people and situations, especially when challenges arise, is the best indicator of how deeply you know yourself.<sup>2</sup>



The numbers of enquiries and complaints to the Commission have increased significantly from last year – although, as noted by the Chief Justice, importantly, the numbers of substantiated matters remains low.

The Commission’s website traffic has continued to increase this year, visitation growing by 55%. These changes remain consistent with our commitment to increased transparency in publishing complaint outcomes and communicating judicial conduct standards. This has included, where in the public interest, the identity of judicial officers who have been investigated. Although the investigation process is not designed to be punitive, routine and consistent publication of information is consistent with our purposes of transparency and accountability.

Following the review of the Commission’s budget, operations and legislation conducted in 2022 (discussed in our last two annual reports), the Commission is continuing to work with the Department of Justice and Community Safety to consider the proposed legislative reforms.

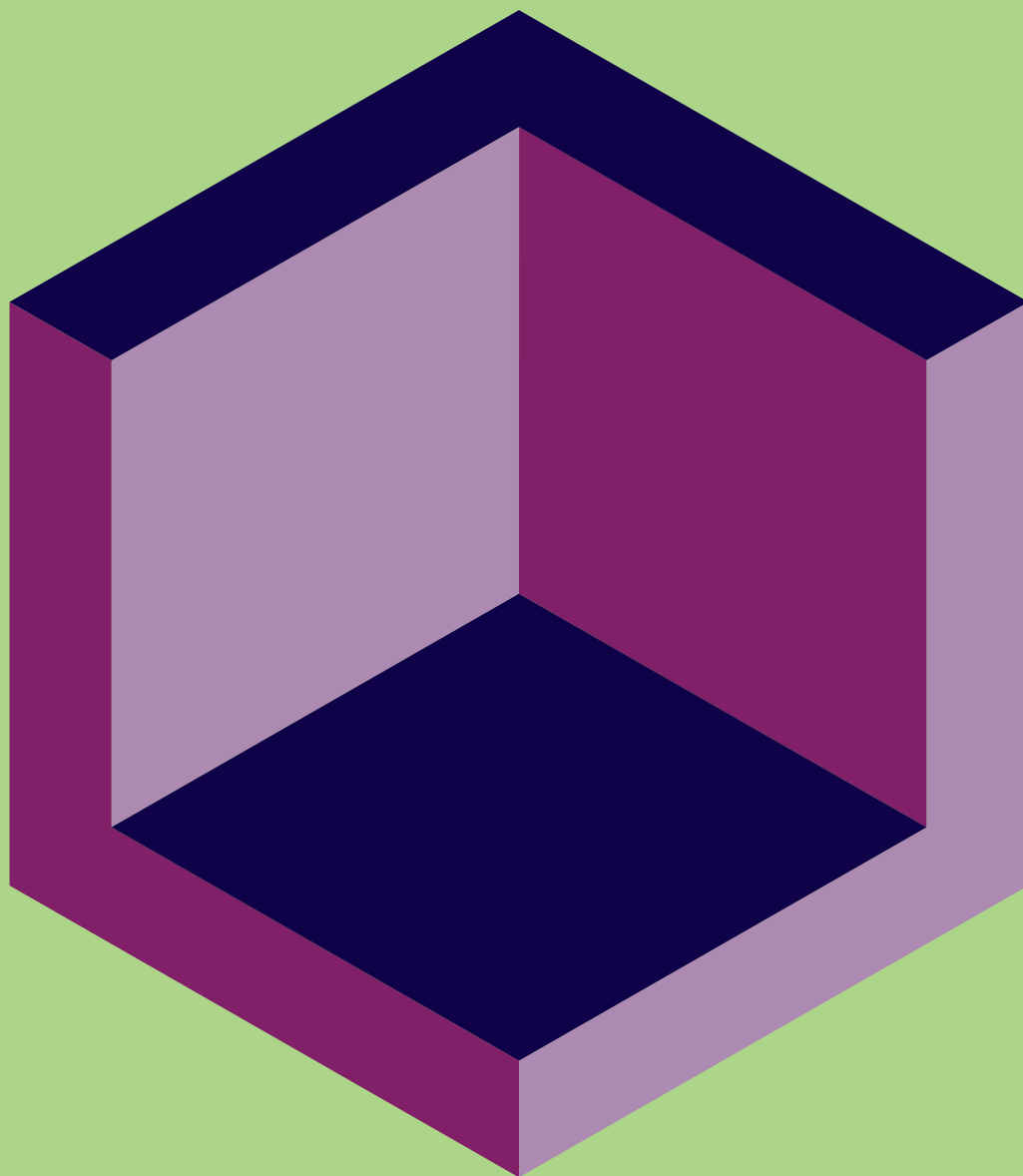
The support from Court Services Victoria, led by Louise Anderson (CEO) is invaluable to the Commission, and we could not operate effectively without them.

I would like to thank the team at the Commission for their commitment to instilling our values in their work every day. And, importantly, for contributing to a culture of openness, feedback and collaboration.

Finally, I would also like to thank the Chief Justice and the Board for their ongoing feedback and engagement in matters before the Commission and a commitment to transparency.

**Alexis Eddy**  
Director  
Judicial Commission of Victoria

<sup>2</sup> Eckhart Tolle, *A New Earth: Awakening to Your Life’s Purpose*, (Plume, 2006)



# **Our role in Victoria's judicial system**

# About the Judicial Commission of Victoria

## Who we are

The Judicial Commission of Victoria (the Commission) was established in 2016 under the *Constitution Act 1975* as an independent body to investigate complaints about the conduct or capacity of judicial officers and members of the Victorian Civil and Administrative Tribunal (VCAT).<sup>3</sup> The *Judicial Commission of Victoria Act 2016* (the Act) governs the process for investigating complaints about judicial officers and members of VCAT.

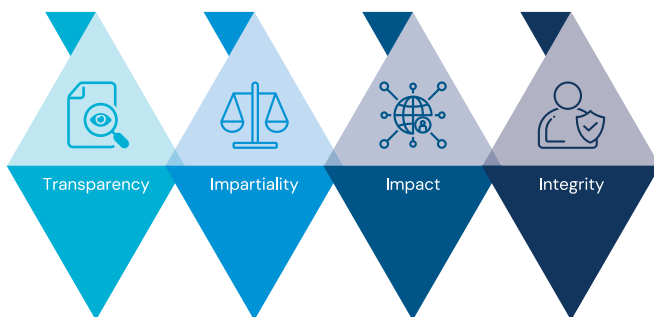
The Commission's function is to guard against any erosion in public confidence in the Victorian courts and VCAT and ensure the high standard of conduct the Victorian public expects of its judiciary is maintained.

## Our vision and mission

We seek to maintain public confidence and trust in the Victorian courts and VCAT. We achieve this by providing guidance on the highest standards of judicial behaviour and by delivering a fair and transparent complaint resolution process.

## Our values and strategic direction

We act transparently, impartially, impactfully and with integrity.



These values were endorsed as part of the Commission's inaugural 2022–2024 Strategic Plan, which sets out our vision: to ensure that public confidence and trust in the Victorian courts and VCAT is maintained. Alongside its core purposes to *enhance trust and confidence in the judiciary* and provide a *fair and transparent process for investigating complaints*, the Strategic Plan prioritises *individual, organisational and stakeholder wellbeing* as an overarching purpose.

The Strategic Plan is designed to capture an ambitious and achievable strategic direction for the Commission. It informs our day-to-day operations and guides the Board over a two-year period.

## The Board

The Commission is governed by the Board of the Judicial Commission of Victoria.

The Board consists of six judicial members (heads of jurisdiction) and four members of high standing from the community, appointed by the Governor in Council.

The Commission is led by the Director, who is appointed by the Chief Executive Officer (CEO) of Court Services Victoria (CSV) on the recommendation of the Board. The Director reports to the Board about the Commission's operations and to the CEO of CSV for all other matters.

<sup>3</sup> The expression 'judicial officer' refers to magistrates, judges and other persons identified as judicial officers under section 87AA of the *Constitution Act 1975* (Vic). The expression 'VCAT member' refers to non-judicial members of VCAT. However, this report uses 'officer' to refer to judicial officers and VCAT members (or 'Officer' to refer to a specific judicial officer or VCAT member – for example, in case studies), reflecting its use in the *Judicial Commission of Victoria Act 2016* (Vic).



## The Board members



**The Honourable Chief Justice Anne Ferguson (Chair)**  
Chief Justice,  
Supreme Court of Victoria

Chief Justice Anne Ferguson was appointed as the 12th Chief Justice of the Supreme Court of Victoria in October 2017.



**The Honourable Justice Peter Kidd**  
Chief Judge,  
County Court of Victoria

Chief Judge Peter Kidd was appointed as the Chief Judge of the County Court in September 2015.



**The Honourable Justice Lisa Hannan**  
Chief Magistrate,  
Magistrates' Court of Victoria

Chief Magistrate Lisa Hannan commenced in the role of Chief Magistrate on 17 November 2019 and was appointed a judge of the Supreme Court on 29 March 2022.



**The Honourable Justice Ted Woodward**  
President,  
Victorian Civil and Administrative Tribunal (VCAT)

President Ted Woodward was appointed a judge of the Supreme Court on 5 June 2023 and as President of the Victorian Civil and Administrative Tribunal on 1 July 2023 for five years.



**His Honour Judge John Cain**  
State Coroner,  
Coroners Court of Victoria

State Coroner John Cain was appointed a judge of the County Court and State Coroner in October 2019.



**His Honour Judge Jack Vandersteen**  
President,  
Children's Court of Victoria

President Vandersteen was appointed a judge of the County Court of Victoria on 1 January 2021 and as President of the Children's Court of Victoria for five years.



**Mr Graham Atkinson**

*Appointed July 2022 (further 5-year term)*

Mr Atkinson is the Director and Principal Consultant at Atkinson Consulting Group. He has nearly 30 years' experience consulting with government and Indigenous communities on matters including land justice and heritage, economic and social planning, good governance and change management.



**Dr Helen Szoke AO**

*Appointed March 2024 (further 5-year term)*

Dr Szoke AO has a breadth of experience, including being the Chief Executive of Oxfam Australia, Race Discrimination Commissioner for the Australian Human Rights Commission and CEO of the Victorian Equal Opportunity and Human Rights Commission. She has led a distinguished career in human rights, governance, public policy and leadership.



**Ms Claire Keating**

*Appointed July 2022 (further 5-year term)*

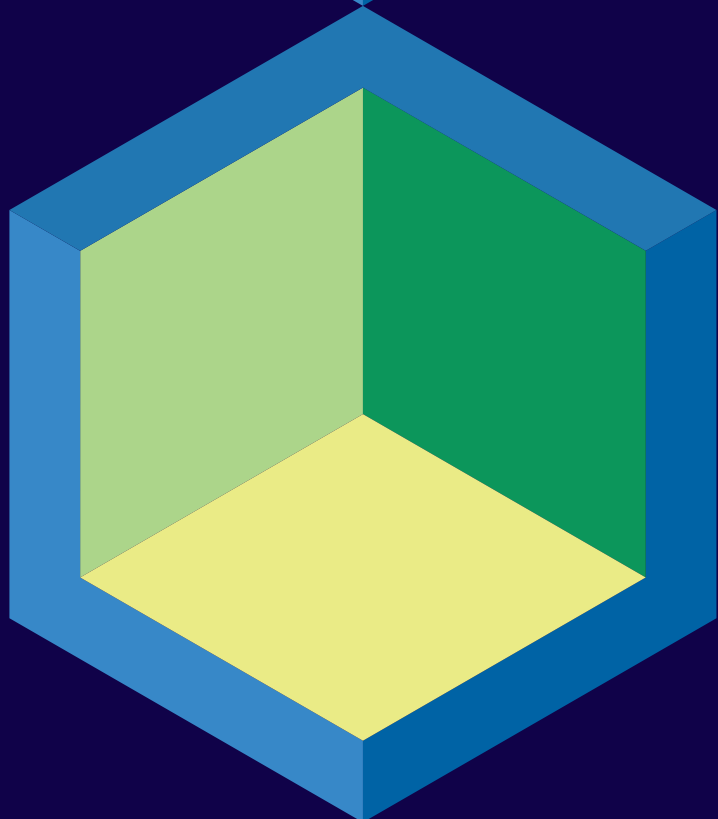
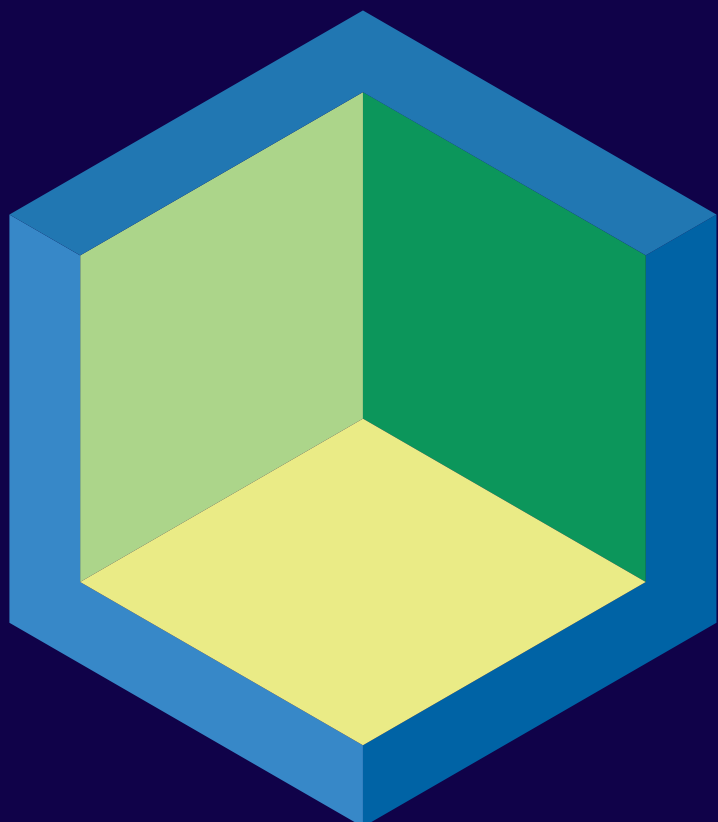
Ms Keating is a chartered accountant with over 30 years' experience in superannuation and funds management. She also serves on several boards, including AustralianSuper and the Victorian Managed Insurance Authority.

### **Our Director – Alexis Eddy**

Alexis was appointed Director in October 2019.

With over 20 years of experience in the justice and integrity sectors, Alexis has an expert understanding of the Victorian integrity regime and best-practice policies and procedures and has a depth of knowledge and expertise across the justice system.

She is passionate about leading an organisation that acts transparently, impartially, impactfully and with integrity. Those values lay the foundation for the behaviour expected of the Commission and its staff.



# Our impact

# Our work this year

This year, our work further enhanced the public’s understanding of the Commission in line with our mission of being fair, transparent and accountable. This included our digital transformation project to improve data consistency over time and provide clearer reporting. A higher complaint dismissal rate showed the importance of our judicial engagement and its impact on maintaining overall high standards of judicial conduct.

Referrals about conduct to heads of jurisdiction were also future-focused, aligning with our mission to maintain public trust in the courts and judiciary. Finally, our focus on continuous improvement helped us further refine the complaint process and keep finalisation times on track, despite an increase in the number of complaints.

## Key results

This section reports on key results from our complaints handling functions and provides data on the nature of this work.

Last year, we reported on several important practice and process changes and foreshadowed further work to enhance transparency in the way we report complaints data.

In the ‘[Our focus areas](#)’ section, we describe the work we have done this year through the digital transformation project to improve the consistency of our data and how we report and present it. Changes implemented this year have enabled more quantitative (comparable with last year) and some longitudinal reporting of complaints data.

Our final suite of improvements aims to enhance the way we report the nature and scope of complaints, and will complete our two-year project to improve our data and reporting processes. It will be implemented on 1 July 2024 for any complaints finalised after that date and provide quantitative data for next year’s report about the nature and scope of complaints we receive. This year, we have again undertaken a qualitative review of prominent themes that emerged.

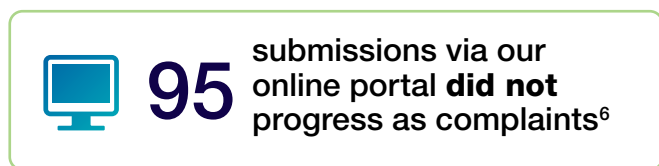
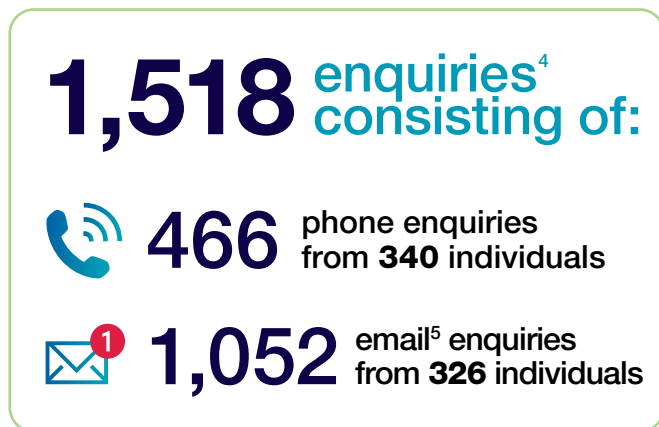
The culmination of all these improvements means that next year, we will be able to consistently and accurately present quantitative data about all aspects of our complaints work in a way that allows for future longitudinal analysis and meaningful comparison. This will further enhance the transparency of our complaints process.



### Note on reporting data:

Upgrades to our complaint management system (CMS) have identified inconsistencies in some data from previous years and resulted in updates to previously published data. Where this has occurred, figures have been adjusted (see the [Digital Transformation project: building an enhanced understanding of the Commission and how we operate](#) for more information on these changes).

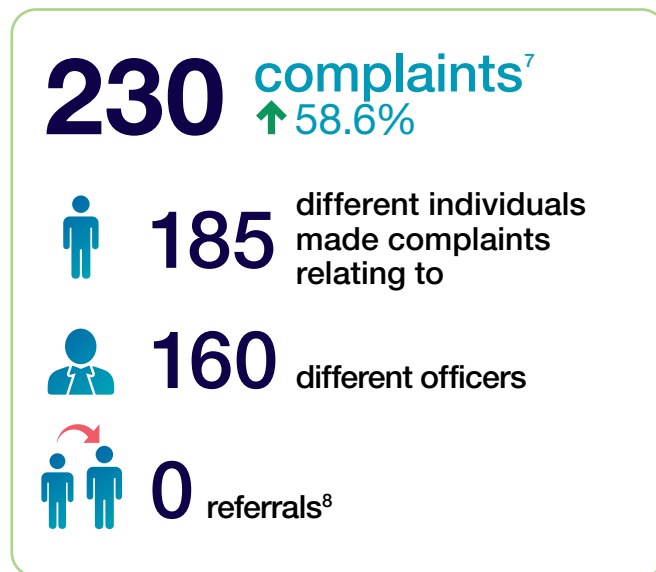
## Number of enquiries received



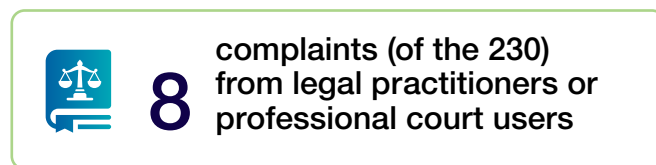
The significant difference between the total number of enquiries and complaints received shows the impact of efforts to:

- engage early with enquiries,
- help people understand our remit,
- divert appropriate matters from the formal process,
- provide timely information on referrals, and
- ensure our investigative resources are appropriately allocated.

## Number of complaints received



The higher number of complaints is consistent with increased enquiries.<sup>9</sup> It reflects increased public awareness of the Commission following the publication of six (6) statements about the investigation outcomes in nine (9) complaints in accordance with our Publication of Complaint Information Policy.



This figure has remained steady since establishing increased engagement with the legal sector last year.

4 We have not previously reported on email enquiries or the total number of enquiries due to limitations in extracting data from our case management system (CMS). Changes implemented this year to our reporting practices (see Digital Transformation Project: an enhanced understanding of the Commission and how it operates) now enable us to accurately report all enquiries we receive.

5 An enquiry may include multiple email exchanges with our Complaints team, so the actual number of individual emails received by our Complaints team is higher.

6 Submissions do not progress as a complaint where they are (1) triaged as outside the Commission’s jurisdiction because they do not meet the definition of a complaint under the Act, (2) substantively similar or duplicates of previously finalised complaints, (3) a duplicate of another submission, (4) cancelled by the complainant prior to triage, or (5) lodged in parts and so combined with other submissions into a single complaint.


7 All complaints received were made under section 5 of the Act. We received no complaints from professional bodies under section 6 of the Act.

8 Referrals may be made by a head of jurisdiction (section 7), the Attorney-General (section 8) or the Independent Broad-based Anti-corruption Commission (section 9).

9 For example, last year, we reported receiving 185 telephone enquiries in comparison to 466 this year.


## Complaint outcome results<sup>10</sup>

**216** complaint investigations finalised<sup>11</sup>

 **206** complaints dismissed

 **1** referral dismissed

**95.8% dismissed** ↑ 3.5%

 **0** complaints referred to an investigating panel

As a result, no investigating panels were appointed under section 87AAR(1) of the *Constitution Act (Vic) 1975* and no investigatory or coercive powers were exercised under Part 4 or 5 of the Act.

In the '[Our focus areas](#)' section, you can learn about investigating panels by reading about the reflections of a previous panel member on the importance of the investigating panel process as a transparent and accountable process for investigating complaints.

In the context of significantly larger complaint numbers, the higher dismissal rate continues to demonstrate that, fundamentally, Victoria has a judiciary it can trust and be confident in.

 **7** complaints withdrawn

 **9** complaints (4.2%) referred to a head of jurisdiction  
↓ 1.6%<sup>12</sup>

This reflects a 3.5% decrease in referred matters overall, given that no referrals to investigating panels were made this year.

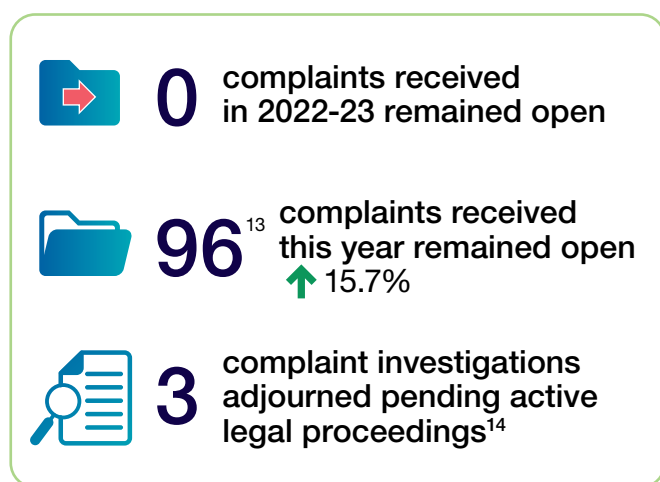
44% of the complaints referred to the head of jurisdiction came from legal practitioners or professional court users, despite complaints from this complainant group making up less than 4% of finalised complaints. This demonstrates the impact of our continued engagements with the legal sector to grow awareness and understanding of our role and function and what constitutes a valid complaint.

<sup>10</sup> This section uses the expression 'complaints' to include any referrals under sections 7 – 9 of the Act (unless it is indicated otherwise).

<sup>11</sup> For the purposes of this report, a complaint or referral is regarded as finalised when it is dismissed or referred (either to an investigating panel or head of jurisdiction). However, if a complaint or referral progresses to an investigating panel or head of jurisdiction, it will be the subject of further action by the panel or head of jurisdiction.

<sup>12</sup> The Act allows for complaints to be separated into 'parts'. It is possible for one part of a complaint to be dismissed while another part is referred to an investigating panel or head of jurisdiction. For consistent reporting of this data, a complaint is only counted once. For example, if part of a complaint was dismissed and a part was referred to a head of jurisdiction, it is only counted as being referred to a head of jurisdiction.

## Open complaints as of 30 June 2024

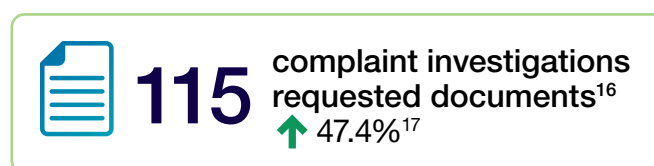


Increased complaint numbers have resulted in the number of open complaints being slightly higher than last year. However, continued efficiency gains allowed us to more than double the number of complaints we resolved this year, with no complaints received in the previous financial year outstanding.

## Powers and procedures used in investigating complaints



As illustrated by the case studies that follow in the ‘Our focus areas’ section, providing an opportunity to respond is important, as an officer can provide further information that can assist us in determining how to finalise the complaint.



‘Our detailed data’ provides a comparison of key complaints results with those of last year.

<sup>13</sup> This figure includes the 3 complaint investigations adjourned pending active legal proceedings.

<sup>14</sup> Under the Act, some complaints or referrals must be adjourned, and others may be adjourned – see sections 18 and 31 for further information.

<sup>15</sup> The offer of an opportunity to respond and receipt of the response may not necessarily occur in the same financial year.

<sup>16</sup> Document includes a copy of a transcript or recording of a hearing, a copy of a court or tribunal file or any other document relating to a proceeding that is in the possession or control of the court or VCAT that is relevant to the matter.

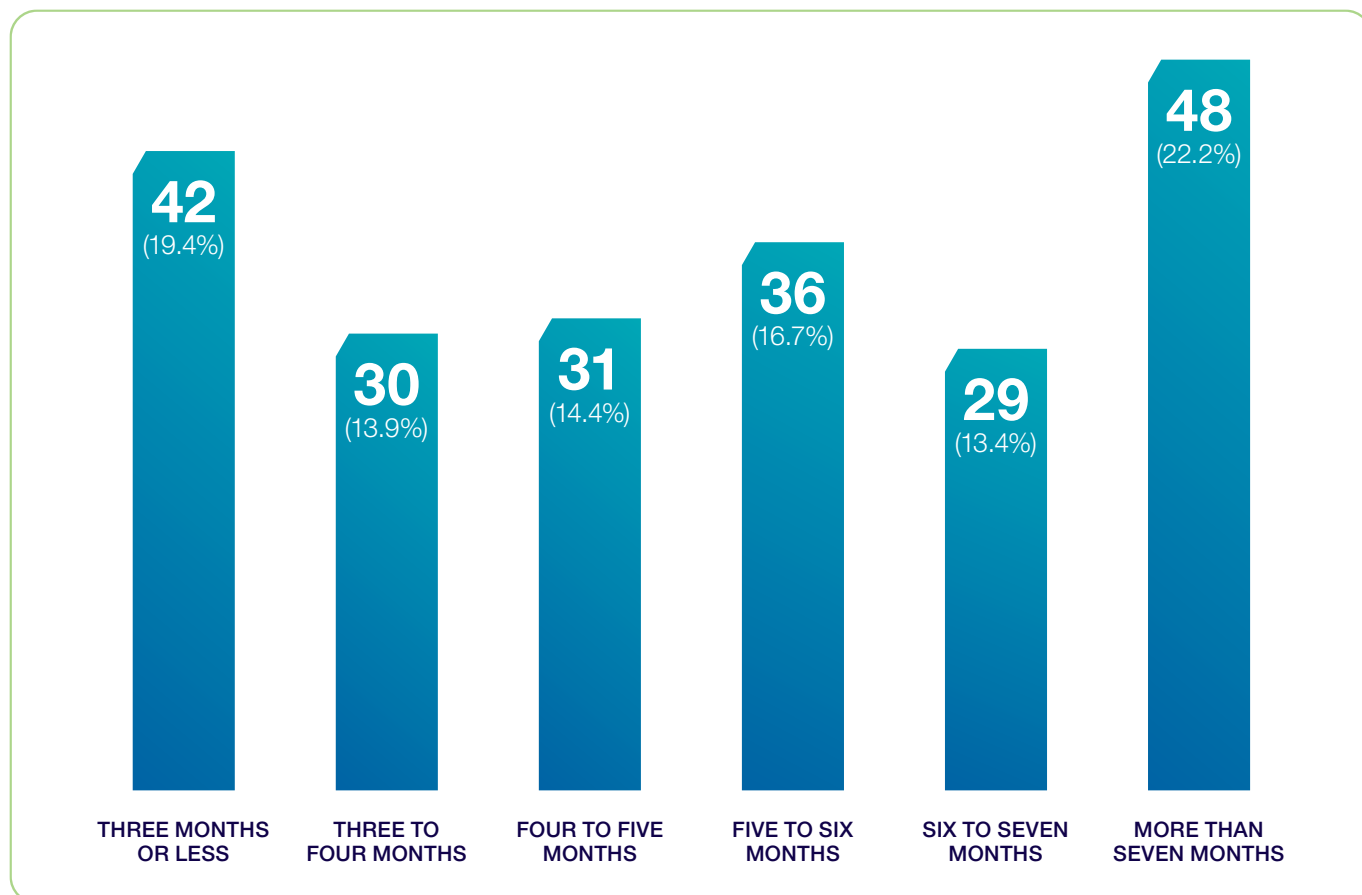
<sup>17</sup> This increase is in the context of a 107% increase in finalised complaint investigations.

## Timeliness and efficiency in finalising complaints

**Average** **166** days  
11% faster

**Median** **154** days  
3% faster

TABLE 2-1: Time taken to finalise complaints and percentage of total



 **64.4%** complaints finalised within six months  
↓ 2%

Generally, we aim to finalise complaints within six months of receipt.<sup>18</sup> This year we finalised twice as many complaints within six months compared to last year.

<sup>18</sup> This timeframe is in line with comparable Australian complaints handling bodies.



We introduced the change in reporting timeframes in 2021–22 when we established our intake, triage and early engagement model. Since then, we have maintained timeliness and improved our complaint finalisation rates, demonstrating our focus and commitment to always striving to do better. [‘Our detailed data’](#) provides a comparison of the time taken to finalise complaints and our timeliness and efficiency with previous years.

### Complaints by jurisdiction

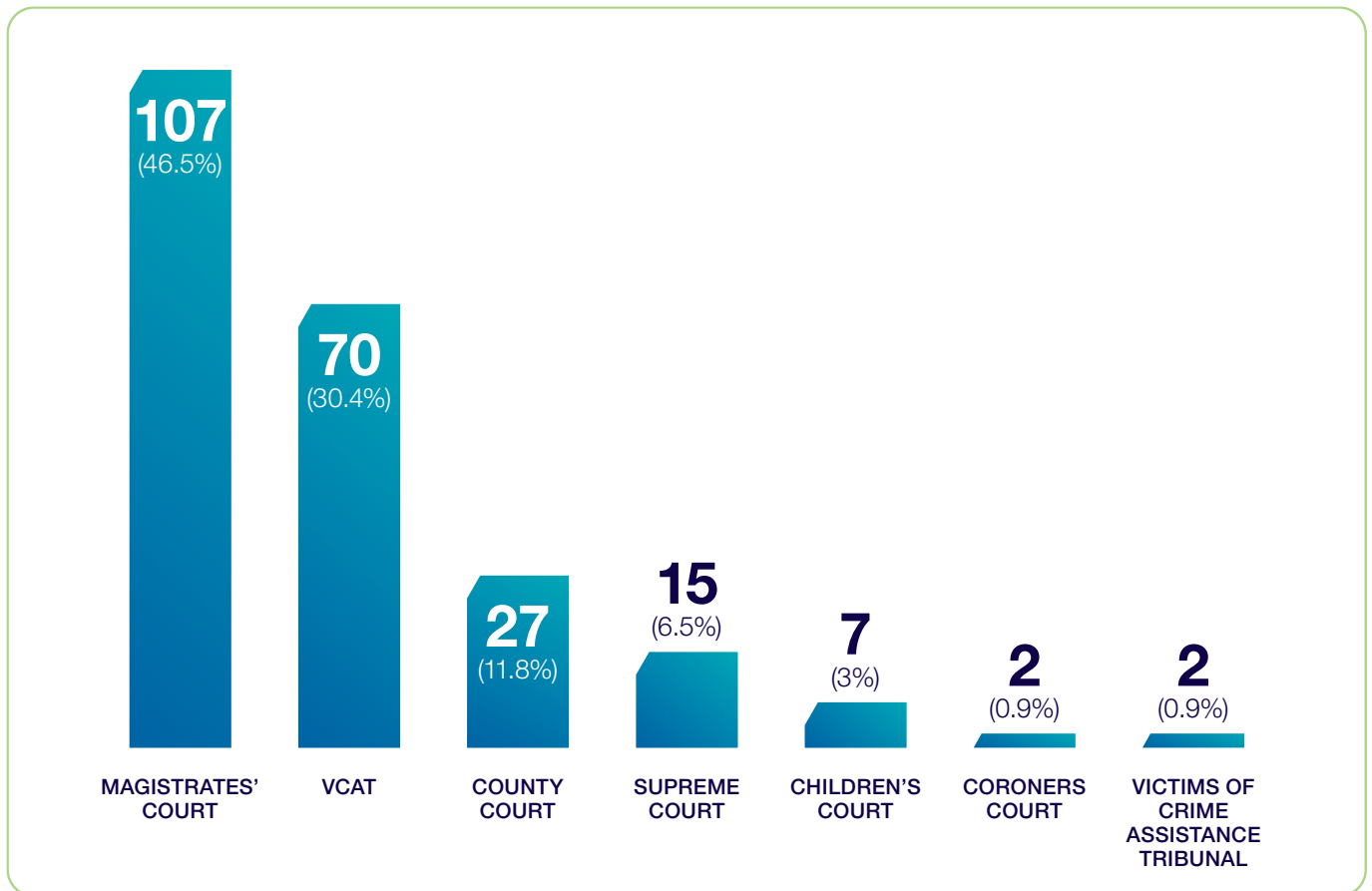
This year, we received more complaints about the two jurisdictions with the highest caseloads and number of officers: the Magistrates’ Court and VCAT.

Together, complaints about these two jurisdictions made up just over three-quarters (77%) of all complaints. [‘Our detailed data’](#) shows the trends in complaints by jurisdiction over the last three years.

Complaint numbers must be read in the context of the total cases the Victorian courts and VCAT dealt with this year and the significant proportion of cases heard by the Magistrates’ Court and VCAT.

For example, although we received 70 complaints about officers of VCAT, this year VCAT finalised more than 90,477 proceedings. In other words, the Commission received roughly one complaint per 1,292 cases (0.08%) finalised by VCAT.<sup>19</sup>

**TABLE 2-2: Number of complaints received per jurisdiction and percentage of total**



<sup>19</sup> A single case may be listed for multiple hearings, and before different judicial officers. If the number of complaints is compared to the number of listings (rather than cases finalised), then the proportion of cases where a complaint is made is even smaller.

## Nature and scope of complaints

We again undertook a qualitative review of this year's finalised complaint investigations,<sup>20</sup> confirming themes we saw last year:

- More than a third (35%) related to alleged conduct in intervention order proceedings, up 1% from last year. Consistent with last year, this was again the area of law with the highest number of complaints. The volume of complaints about conduct in this type of proceeding is reflected in the higher number of complaints received about officers in the Magistrate's Court jurisdiction.
- Of the complaints relating to alleged conduct in intervention order proceedings, almost 60% related (at least in part) to some sort of misunderstanding about the court or intervention order process.
- Allegations about out-of-court conduct remain a small proportion of complaints, at 5%.
- The number of complaints raising judicial bullying remained low, consistent with the results of our sector consultation and review of academic research, indicating that while judicial bullying is an important issue, it is not a widespread problem. ['Our detailed data'](#) contains further information on the number of complaints about judicial bullying since the introduction of the Judicial Conduct Guideline on Judicial Bullying.<sup>21</sup>

- Of those complaints resulting in referral to the head of jurisdiction, all related (at least in part) to what the officer said (language used) or how they said it (tone).
- A substantial proportion of complaints were framed as being about conduct issues (perceived bias, infringing the right to a fair trial, or denying procedural fairness). However, the alleged conduct did not reasonably support the characterisation. The complaint was really about the complainant's dissatisfaction with the officer's decision or assessment of the evidence.

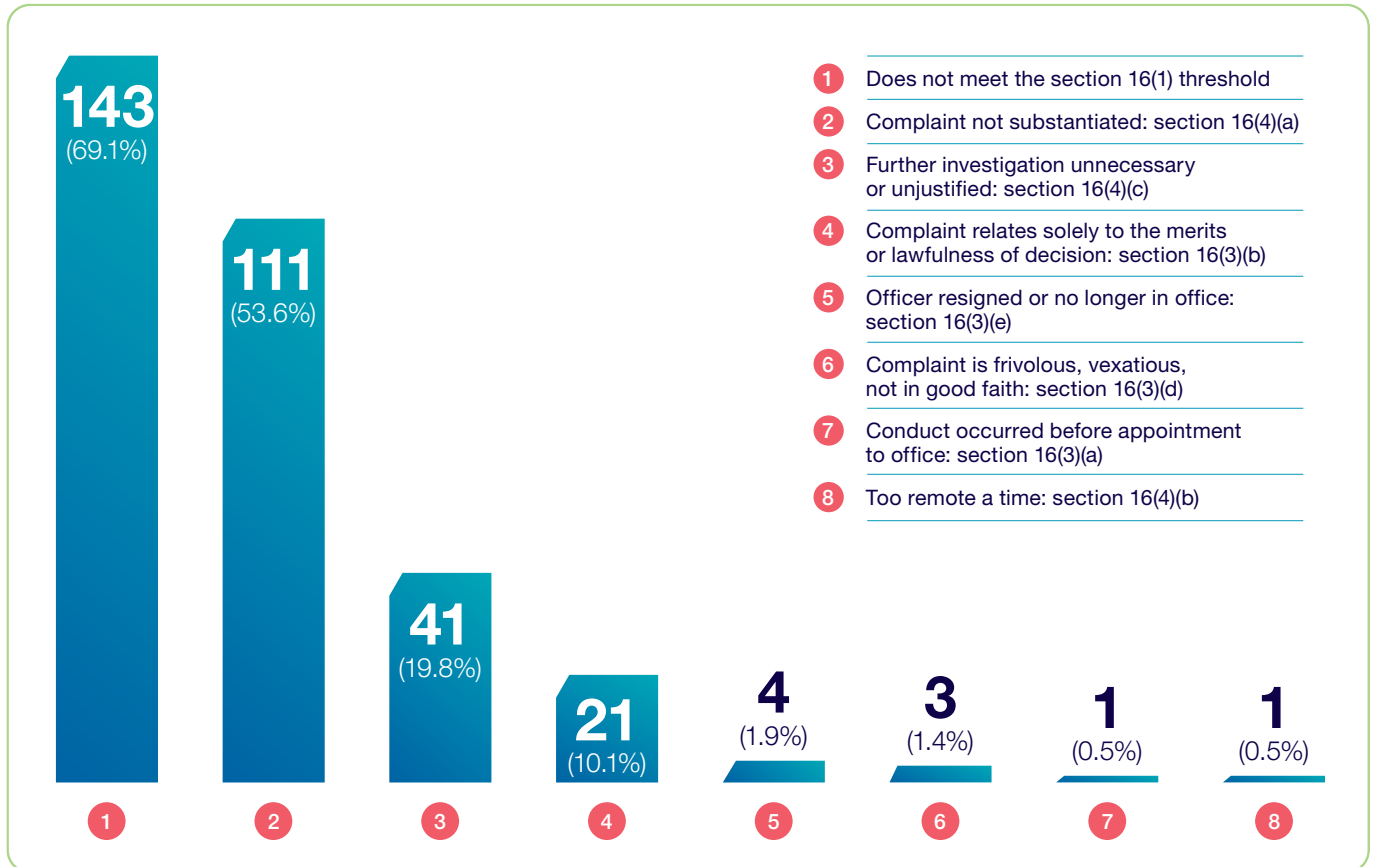
## Grounds of dismissal

Where complaints have distinct 'parts' or allegations, a single complaint may be dismissed on multiple grounds. Accordingly, the total number of grounds in Table 2-3 exceeds the number of complaints finalised this year.

<sup>20</sup> Quantitative data for the nature and scope of complaints has been unavailable for the last two years as we implemented ongoing upgrades to our complaint management system (CMS). The upgrades were completed in June 2024 during our Digital Transformation Project. Next year, we will report on the nature of allegations raised in individual complaints with quantitative data generated by the CMS, based on new categorisations that will enhance data consistency and better reflect the scope of our complaints work.

<sup>21</sup> We first started capturing complaint data about allegations of judicial bullying conduct in 2022-23 when we undertook a sector-wide consultation (2022) and released the Judicial Conduct Guideline on Judicial Bullying (May 2023).

TABLE 2-3: Grounds for dismissing complaint parts



## Mandatory notifications

We did not make any mandatory notifications of:

- corrupt conduct to the Independent Broad-based Anti-corruption Commission (IBAC) under section 25 of the Act; or
- misconduct to the Victorian Inspectorate under section 26 of the Act.

## Vexatious complainant declarations

We did not make any vexatious complainant declarations under section 140 of the Act.

## Public Interest Disclosures

A copy of our procedures for Making and Handling Public Interest Disclosures can be accessed at <https://www.judicialcommission.vic.gov.au/public-interest-disclosures/>.

We have no data to declare in respect of public interest disclosures (PID), as we:

- received no PID complaints referred by IBAC;
- did not investigate any PID complaints;
- made no notifications to IBAC under section 21(2) of the *Public Interest Disclosures Act 2012* (the PID Act); and
- made no applications for an injunction under section 50 of the PID Act.

## Key events



### Justice Woodward joined Board

We welcomed Justice Woodward as a member of our Board (5-year term).



### Complaints about an Officer dismissed

We dismissed three complaints about an Officer asking a member of the public observing a trial to leave the courtroom as she was breastfeeding. The complaints were dismissed after receiving the Officer's response. You can read more about this complaint and outcome in ['Our focus areas'](#).



### 6th Annual Report tabled

Our 6th Annual Report for 2022-23 was tabled in Parliament.

### Judicial College acting CEO

The Director was acting CEO of the Judicial College for seven weeks, helping to strengthen the relationship between both agencies.

### The Director presented at South Australia Conference

The Director presented at the Magistrates' Court of South Australia 2023 Conference.

### The Director chaired a panel discussion on judicial bullying

In collaboration with the Law Institute of Victoria (LIV), the Director chaired a panel discussion on Judicial Bullying: the way forward. The panel comprised His Honour, Magistrate Gattuso, Donna Cooper, LIV General Manager of Advocacy and Professional Standards, Kin Leong, Associate Director of Indictable Crime at Victoria Legal Aid, and Katherine Linzner, Manager of the Commission's Legal and Complaints team.



### Judicial College expert panel

The Director, as Acting CEO of the Judicial College, was on a Judicial College expert panel exploring the opportunity to respond process with other experts.

### The Director and Honourable Chief Judge Kidd on Victorian Bar expert panel

The Director, together with the Honourable Chief Judge Peter Kidd, was on a Victorian Bar expert panel discussing judicial bullying.



### Today.Design selected to deliver new website

Today.Design was selected as the supplier to deliver the Commission's new website.



### Work commenced on new website

We commenced work on the blueprint and creative direction for our new website.



### Dr Helen Szoke reappointed to Board

Dr Helen Szoke AO, was appointed for a further 5-year term.



### **Communications and Stakeholder Engagement Strategy produced**

We produced a Communications and Stakeholder Engagement Strategy to operationalise our approach to stakeholder engagement and build on the increased engagement we undertook last year.

### **In-house Senior Data and Reporting Analyst engaged**

We engaged an in-house Senior Data and Reporting Analyst to review our complaints management system (CMS) and recommend and implement improvements to our data management and reporting practices.



### **VCAT visits**

We visited VCAT – both the Residential Tenancies and Human Rights Lists – to better understand the work in that jurisdiction.

### **Referred a complaint from the Solicitor of Public Prosecutions**

We referred a complaint from the Solicitor of Public Prosecutions about an Officer’s ex parte communications and pejorative and demeaning language to the Officer’s head of jurisdiction for counselling.

### **Referred a complaint from a professional court user**

We referred a complaint from a professional court user about an Officer’s conduct in a Children’s Court proceeding to the Officer’s head of jurisdiction for counselling. This was the first Children’s Court complaint referred to a head of jurisdiction since the Commission’s inception.



### **The Director presented to judicial officers of the Supreme and County Courts**

The Director presented to judicial officers of the Supreme and County Courts about the Commission’s role and processes.

### **Magistrates’ Court visits**

We visited Broadmeadows Magistrates Court to better understand the work in that jurisdiction, particularly the challenges in the Family Violence and Intervention Order List.

### **New website launched**

We completed the redesign and rebuild of the new website, including a new online self-triage complaints portal, and launched our new brand.

### **Data management improvements implemented**

We implemented recommended data management improvements to our CMS and a new platform to automate our data reporting.



# Our focus areas

## Introduction

The front cover image is known as an *ambiguous image*.

Do you see an inward or outward cube?

This is a visual representation of our theme – *perspectives and perceptions* – demonstrating that various stakeholders see the Commission’s process from different points of view.

Through case studies and interviews, this report explores the different ‘perspectives and perceptions’ of complainants, the Commission, and the judiciary through the Commission’s complaints process with a focus on how different complaint outcomes build:

- awareness and knowledge of other perspectives and perceptions;
- understanding of how the Commission operates (in line with our strategic mission to be fair, transparent, and accountable); and
- understanding of and confidence in the court system (in line with our strategic vision that we maintain public confidence and trust in the Victorian courts and VCAT).



**Courts and judges need to understand user experiences:**

The experiences of those who use the court are important.

Understanding those experiences is critical to ensure that justice is not only done, but is also seen to be done.<sup>22</sup>



<sup>22</sup> Key Points, Without Fear or Favour: Judicial Impartiality and the Law on Bias (ALRC Report 138).

Focus 1:

# Complainant perspective and perceptions

This section explores some of the work we have done this year with professional bodies to help their members and the legal profession understand how we operate, the perspective of a legal sector complainant on the impact of making a complaint to us, and the different perspectives and perceptions about judicial conduct in complaints concerning intervention order proceedings.

## Perspectives and perceptions of a legal sector complainant

Victoria Legal Aid (VLA) has hundreds of lawyers servicing the courts and interacting with judicial officers daily. Over the last five years, VLA has made a number of complaints to the Commission about inappropriate judicial conduct in and out of court.



## Interview with Kate Bundrock, Executive Director of Criminal Law at VLA

Kate has been at VLA since 2004 and worked in a range of areas, including as a lawyer and now as a senior leader. Kate has delivered important initiatives, including the Help Before Court service, VLA's Bail and Remand Court services, and the expansion of VLA's work in therapeutic justice.



We asked Kate about:

- her reflections on judicial conduct that instils public confidence;
- the impact of judicial bullying on VLA lawyers;
- how VLA decides whether to make a complaint to the Commission; and
- VLA's experience of the Commission's complaint processes.



**What are your reflections on the role of a judicial officer in court in instilling public confidence?**



In my view, judicial officers can help instil public confidence by clearly explaining to people what is going on, why they are making the decisions they are making, and what it means for people. The judicial officers who do it well speak directly to the people involved (in an appropriate way) and ensure people feel they have been heard.

It is important for judicial officers to remain conscious of how intimidating and stressful courts are for people, and to be able to provide a sense of humanity while also being able to clearly communicate their decision and why they have made it.

The ability to listen, ensure everyone has been heard, and then calmly and clearly explain the reasons for a decision goes a long way to instilling confidence in people who appear in Court and the public generally.



**If a lawyer experiences judicial bullying when appearing in court, how does it affect their ability to do their job? How does this impact public confidence in the court system?**



In my view, there are three aspects to this:

- a) There is the personal impact on that lawyer. It can significantly impact their wellbeing, confidence, make them question their abilities and lead to feelings of depression and anxiety. It can also contribute to people deciding to leave the profession. Working in criminal law is hard. My experience, from overseeing our criminal law practice, is that judicial bullying is often the thing which is hardest and most upsetting for lawyers. It can be more upsetting to experience difficult behaviours from the court than it is from clients. It can have a very profound impact on individuals.
- b) It can have a dampening effect on high-quality representation for clients – particularly if there are illegitimate questions about your integrity or competence, or criticism toward you. People (clients) then feel like they haven't been heard because their lawyer hasn't been able to do their job. And really, it means that the judicial officer is not as well informed when making a decision as they would otherwise be which can impact on the quality of their decision making too.
- c) I think this behaviour is very much out of step with public expectations and undermines public confidence in the legal system. I think there are only a small number of judicial officers who behave this way, but it lets down their colleagues and the legal profession as a whole.





**VLA has developed an internal ‘triage’ system when staff raise concerns or complaints about judicial conduct. How does this work, and why should people speak out?**



We have approached the question of complaints and concerns in two ways.

First, we have tried to create a culture that helps people to feel less afraid of raising concerns or making complaints in the right situation. To do this, we’ve needed to bring managers along, as many of them learned to practice during times when poor judicial behaviour was just accepted. We have had a lot of informal conversations. We have an organisation working group to bring relevant roles together so that people understand the complaints process, and we have also had formal learning, including presentations from the Judicial Commission.

Our main message for staff is that if they are concerned, they should tell a manager about what happened. We try to emphasise that there are a number of options and that not everything becomes a formal complaint.

Sometimes, it’s a conversation with a manager regarding a different way to deal with things or validation that it wasn’t okay to be spoken to that way. Sometimes there might be internal training needs to improve representation. Sometimes we raise informal concerns with the relevant jurisdiction or stakeholder.

Second, we have a clear organisational structure for dealing with complaints, with a clear process, identified people to speak to, and clear decision-makers.

If a serious matter comes through, our internal legal services manage the process. We will listen to the recording and involve the staff member/manager in the decision making. It is ultimately signed off by the CEO, applying a consistent approach.



**When does VLA decide to make complaints to the Commission?**



We carefully consider every incident which is raised by our staff to decide the best course of action. We take very seriously allegations which involve racial or other discrimination or sexual harassment, and those which reveal significant accessibility or other systemic issues

Some of the factors we would look at include:

- Is the conduct what the Commission is empowered to investigate?
- Are the allegations supported by recordings or transcripts?
- Has there been a demonstrable impact of alleged conduct on staff as well as clients or other stakeholders?
- Does the complaint reveal a systemic issue?
- Does the staff member support a formal complaint being made?
- When did the alleged conduct occur?



**VLA has made a number of complaints to the Commission about inappropriate conduct in and out of court. What is your experience of the Commission's complaints process?**



VLA has had a good overall experience of the process, and our experience over time is that the process and the decisions (and explanations or reasons for them) have really improved.

While the process can sometimes be slow – which is difficult for everyone involved – we particularly appreciate the communication from the Commission throughout the process and the way in which the Commission is responsive to the needs of the people involved in the complaints.



**A number of complaints have resulted in a substantiated finding, and the outcome has been set out in a written report. What impact, if any, has making a complaint to the Commission had?**



It can engender confidence in people that there is follow-through. I think a substantiated finding creates a feeling of confidence in the complaints system, and for our staff, I hope it also creates a feeling of confidence that VLA will support them. I also think a substantiated finding provides a sense of validation to the person impacted but also to others who may have experienced similar behaviour.

A detailed outcome report provided by the Commission also means VLA can be more transparent with its staff regarding what is complained about and what the findings are. Greater transparency is educational for staff about expectations of judicial behaviour, and it also helps raise awareness of the Commission's guidelines.



**Do you have any other comments or feedback about the Commission's guidelines?**



The Judicial Conduct Guidelines on Sexual Harassment and Judicial Bullying are extremely helpful in providing more detail about what type of conduct is not okay. Further, the process of creating the Guidelines, the consultation, and education about it has assisted with expectation setting across the sector.

I look forward to the future consultation on discrimination, as this is something that impacts VLA lawyers, our clients and other members of the community who use the Court system.

## Practitioner welfare and complaints by professional bodies

Under section 6 of the Act, the Law Institute of Victoria (LIV) and Victorian Bar can make complaints to us on behalf of a member without disclosing the identity of the person on whose behalf a complaint is made. Since the Commission's inception, we have received no complaints from professional bodies.

This year, we collaborated with the LIV to increase awareness of the process available under section 6 of the Act. We ran a joint panel event entitled 'The Judicial Commission on bullying: the way forward' to discuss judicial bullying and explain the complaints process. We also provided feedback on the LIV Practitioner Welfare Guide, a guide for lawyers experiencing inappropriate judicial conduct. The guide, launched at the panel event, sets out the LIV's approach to making a complaint to us under section 6 on behalf of a member.

## Perspectives and perceptions in intervention order proceedings

This year, we again saw increased complaints about alleged conduct in proceedings concerning intervention orders (which include personal safety and family violence intervention orders). The following case studies all occur in the context of hearings for personal safety or family violence intervention orders.

They highlight:

- the different perspectives and perceptions complainants have about judicial conduct, which may be shaped by their role in the proceeding or misunderstandings about the legal process;
- how our process aims to enhance complainants' understanding of the court system to achieve our vision of maintaining present and future public confidence in the courts; and
- the added need for judicial officers to exercise sensitivity when dealing with intervention order matters.

### CASE STUDY

#### Perspectives impacting the characterisation of a complaint

We received a complaint alleging that the Officer refused the Complainant's application for an interim intervention order. In the complainant's view, the Officer's decision raised issues of capacity, and the complainant perceived the refusal as conduct akin to their 'attempted murder'.

Although the complaint: (i) was framed as raising issues of judicial capacity; and (ii) characterised the Officer's alleged conduct as criminal offending, we found that the complaint was really about the Complainant's dissatisfaction with the Officer's decision in the proceeding. Making decisions is a core responsibility of a judicial officer. It is not the function of the Commission to review those decisions. Further, making a decision that is not in a party's favour is not evidence of an incapacity to appropriately discharge the duties of judicial office.

The complaint was dismissed. We were satisfied that it did not warrant further consideration because it did not disclose any basis to consider that the Officer may have infringed the standards of conduct generally expected of judicial officers.

### CASE STUDY

#### Perceptions about 'forum' impacting a complainant's understanding of orders made

We received a complaint about the conduct and capacity of an Officer in a family violence intervention order proceeding. The complainant alleged, among other things, that the Officer's incapacity was demonstrated by a 'complete disregard' for the law and comments showing a misunderstanding of family violence.

We listened to the audio recordings of the proceeding. The Officer determined the issues in the proceeding concerned a family law-based dispute rather than family violence, and the Magistrates' Court was not the appropriate venue. The Officer dismissed the applications and said, 'this court ... will never be used as a back door into the family court'.

We found no basis for the complaint about the Officer's incapacity. Rather, the complaint, in effect, sought to challenge the Officer's assessment and application of the *Family Violence Protection Act 2008*. It is part of the judicial function to assess family violence intervention order applications, apply the legislation and determine whether the court has jurisdiction to deal with a proceeding or issues in a proceeding.

We dismissed the complaint on the basis that it related solely to the merits or lawfulness of the Officer's decision.

## CASE STUDY

### Perceptions about family violence

We received a complaint concerning cross-applications for family violence intervention order. The complainant alleged, among other things, that the Officer made inappropriate comments about the complainant's position in the community, perceived socio-economic class and wasting the court's time. This included the comments 'judging by appearances' the parties were not the courts 'regular customers' and that 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.'

We listened to the audio recording of the proceeding and gave the Officer an opportunity to respond to the complaint. The Officer did not, in effect, resile from his comments or demonstrate awareness that they were inappropriate or unacceptable judicial conduct, although they did not wish to come across as arrogant or dismissive.

We assessed the Officer's language, imputations arising from the comments, the effect of the conduct, and the Officer's response. In summary, we found that the Officer used stereotypical, insensitive, and judgmental language, which a reasonable member of the community was likely to regard as disrespectful and discourteous, perpetuating myths about family violence and suggesting unfair treatment or bias based on the complainant's assumed socio-economic class or position in the community.

This was inconsistent with the professionalism, respect, dignity, and courtesy judicial officers are expected to show toward court users, particularly in the family violence jurisdiction, and infringed the standards of conduct generally expected of judicial officers.

We referred the complaint to the Officer's head of jurisdiction and recommended counselling as to appropriate judicial conduct, particularly in proceedings involving allegations of family violence.

The complainant received a complaint outcome report detailing the Commission's findings and assessment of the conduct and a report from the Officer's head of jurisdiction stating the outcome of the referral and reasons for that outcome.

In providing feedback about the complaint process, the complainant expressed appreciation that the complaint had been taken seriously and for the work that had gone into the investigation.

Focus 2:

# Judicial perspectives and perceptions

This section explores how and when judicial officers engage with us, including if they are the subject of a complaint and are given the opportunity to respond to it or volunteer to work with us in an educative or awareness-raising capacity. Case studies examine how the opportunity to respond process can facilitate the transfer of perspectives between an officer and complainant, and why this is important.

This year, magistrates and judges participated in education sessions with us. For example, during the latter part of 2023, in collaboration with the Judicial College of Victoria, we hosted several educational panel-style events for officers about judicial conduct and the complaints process. At these events, officers candidly provided insights into triggers for conduct issues and the tips and tricks for avoiding them.



## A Magistrate's perspectives and perceptions on leading from the bench

**Below, one judicial officer shares their reflections with us on the challenges of a busy courtroom and the opportunities for leading from the bench, including their tips and tricks for maintaining appropriate judicial conduct.**

As judicial officers, we encounter a wide range of situations in the courtroom. From the bench, everything we say or do is magnified. From seemingly ordinary words uttered in court, we've all seen the media report something like 'Judge slams lawyer'.

Although our words may seem ordinary to us, they can come across very differently to others. Because of our power, it may appear like we are attacking those at the bar table or our staff when that is certainly not our intent.

The mood in the courtroom is important. Before being appointed, most judicial officers, including myself, remember being spoken to inappropriately in court. Sometimes, it seemed like it was almost for fun. The power disparity means how we use our authority as judicial officers matters.

Judicial officers are leaders. Most people associate good judicial leadership and decision-making with an even temperament. People mirror or model the behaviour of the leaders they see. As a contemporary judicial leader, I strive to cultivate a court culture where everyone can be at their best and not walk on eggshells. My leadership is focused on service and my role in adding to the administration of justice.

The court can be 'judicially led' in the sense that, as judicial officers, we set the tone for the courtroom we preside over. My approach to setting the tone in my courtroom is to:

- Be respectful and kind. Compliment people when they've done good work. If you're prepared to say positive things and thank them for the hard work they've done and are consistently respectful, it creates an environment where people feel valued. In addition, this helps to foster a view in people that you are not a mean-spirited judicial officer, but you are the opposite of that. I think that this, in turn, gives you a level of forgiveness and some leeway when you may not have been at your best or acted at your best on a given day.

- Avoid making comments when frustrated, angry, or disappointed – this is when things tend to get personal or pejorative. Rather, pause, think, and always tie comments back to the work of the court and the judicial function.
- Shorter is better; sometimes, it's those one or two extra words that go too far and are problematic.
- Aim to create an atmosphere that builds confidence by building a reputation as a positive, calm and 'in control' judicial officer. Be comfortable with what you know and confident to acknowledge things you don't.
- Respond to inappropriate conduct in the courtroom by dialling it down and focusing on maintaining the decorum of the court. Responding in kind usually just escalates matters.
- Recognise that judicial behaviour impacts people. Consider how facing inappropriate conduct from the bench would make you feel if you were the recipient. On the other hand, if practitioners and staff feel like they're in a courtroom where they have the confidence to be at their best, it helps with the administration of justice.
- Have difficult conversations with a service-focused approach. This allows for honest problem-solving discussions about what can be done about the issue to be better and improve rather than feeling like an attack.

I'm not suggesting that my way is the correct or only way, but it's an approach that works for me.

## An opportunity to provide the judicial perspective

Under the Act, we are required to notify officers that a complaint has been made about them at the earlier of:

- when the complaint is dismissed;<sup>23</sup> or
- when the officer is given an opportunity to respond to the complaint.<sup>24</sup>

The opportunity to respond process may be an officer's first significant interaction with the Commission and can be a stressful experience.

We must give an officer an opportunity to respond before referring a complaint or referral to an investigating panel or the nominated head of jurisdiction.

This is part of the information-gathering stage of the investigation, where the Commission considers that based on the material currently before it, it *may* be open to find that the officer's conduct has infringed the standards.

This is a relatively low threshold – *may* have. The decision to give an officer an opportunity to respond does not involve determining the merits of the case. It does not represent an adverse finding or any view about the standards expected of judicial officers.

The process set out under section 14 of the Act is opt-in. It is designed to provide the officer with a meaningful opportunity to address the allegations against them and provide their perspective on the complaint. It also affords an officer procedural fairness before a decision is made to refer a complaint to an investigating panel or head of jurisdiction. An officer may choose whether to respond or not, as there is no mandatory requirement under the Act to do so.

At this stage, no decision or outcome has been reached.

An officer is usually given four weeks to respond. If an officer requests an extension, we may grant it.

Once we receive a response, it is considered in determining the outcome of the complaint or referral. In some matters, the officer has acknowledged or even apologised for the impact of their conduct on the relevant party. They have demonstrated insight and awareness into the conduct and identified ways to address it going forward. Occasionally, based on the additional information contained in a response, the matter is ultimately dismissed.

In all matters, the officer and the complainant are notified in writing and provided a detailed investigation report. This is an important part of transparency and restoring faith in the individual officer and the judiciary more broadly.

<sup>23</sup> Section 21 of the Act.

<sup>24</sup> Section 14 of the Act.



The following case studies demonstrate the importance of having a fair, transparent and accountable complaints process that provides both the complainant and officer with an opportunity to provide their perspective. Officers can receive valuable feedback and insights into how their conduct may be perceived by others, including its impact. In return, it can assist complainants to understand the judicial perspective, thereby maintaining present and future public confidence in the courts.

### CASE STUDY

#### The importance of feedback and judicial insight

We received a complaint from a professional court user called to give evidence over two days as part of a ten-day contested hearing. The Complaint alleged, among other things, that the Officer was aggressive and intimidating. The complainant said that as a consequence of the Officer's conduct, she felt as though 'she had woken up feeling hit by a train'; she lost her appetite, took mental health leave from work and attended counselling sessions.

We reviewed transcripts and listened to the audio recordings of the proceeding. The Officer was given an opportunity to respond to the complaint.

In responding, the Officer accepted that there were times her 'performance could have been better'.

Importantly, the Officer said, 'The experience of reviewing my performance as dispassionately as possible had been an invaluable experience for me in being able to identify where and why I may be perceived to have become frustrated so I can avoid any suggestion in the future of unfairness to any party.'

We found that some parts of the Officer's conduct infringed the standards of conduct generally expected of judicial officers because the Officer's:

- tone of voice was often, but not always, frustrated, brusque, and abrupt;

- tone of questioning the Complainant was often, but not always, intimidating and more akin to what one might expect in cross-examination from an opposing party; and
- interruptions of the Complainant's evidence, together with tone of voice and manner of questioning, had a cumulative effect on the Complainant and could have been experienced as combative.

However, in referring the matter to the Officer's head of jurisdiction, we noted the level of insight and remorse demonstrated by the Officer in the response as relevant to recommendations about future conduct.

The complainant was provided with an outcome report that included the Officer's perspectives.

In providing feedback to us, the complainant described the Officer's response as 'helpful' and our investigative process (particularly being able to communicate to the Officer how the conduct had made her feel) as 'really therapeutic'.

The complainant appreciated that there was an independent complaints process that was fair and thorough. The complainant also said, 'The communication has been exceptional, and it's been a really pleasant experience, despite the circumstances.'

## CASE STUDY

### Judicial acknowledgment of impact on complainants

We received two separate complaints – one from a self-represented complainant and the other from a legal sector organisation – about an Officer’s conduct in two separate proceedings concerning applications for intervention orders. One of the proceedings involved sexual assault allegations. The complaints alleged that the Officer:

- made inappropriate, upsetting, and rude comments;
- engaged in overbearing conduct and did not treat the parties with dignity and respect; and
- did not adopt a trauma-informed approach when interacting with the parties, which was inconsistent with expectations about how the Specialist Family Violence Court should operate.

The complaints detailed the impact of the Officer’s comments on the parties, which caused feelings of distress and humiliation.

We listened to the audio recordings of the proceedings. The Officer was given an opportunity to respond to the complaints.

In the responses, the Officer acknowledged his language, tone of voice, method of questioning and interruption of the parties and apologised for the impact of his conduct. The Officer detailed the stress of dealing with complex proceedings, unrepresented litigants, online hearings and broader workplace pressures but noted his strong track record of resolving intervention order proceedings at special mention hearings.

In relation to the proceeding involving sexual assault allegations, the Officer said he believed what the self-represented complainant had told him about her grounds for seeking an intervention order but had tried to explain the potential unintended consequences of granting an order.

The Commission made several findings with a focus on the Officer’s frequently abrupt and impatient tone and use of blunt, informal language in the proceedings, including certain colloquial expressions. For example, the Officer across the proceedings:

- used the expression ‘don’t poke the bear’ to suggest the complainant should fear the respondent’s reaction to her application;
- invited parties to make submissions in the way of an analogy with asking for presents from Santa Claus;
- casually asked the parties if they had been to gaol;
- referred to parties potentially being ‘lunatics’ or ‘stupid’; and
- used a basketball metaphor to refer to intervention order matters.

### Judicial acknowledgment of impact on complainants *continued*

We found that the Officer's conduct was inconsistent with the:

- decorum and formality generally expected of court proceedings, and incongruous with the extremely sensitive and personal subject matter of the proceeding involving sexual assault allegations; and
- professionalism, respect and courtesy judicial officers are expected to show towards court users, especially in intervention order proceedings.

Each complaint was separately referred to the head of jurisdiction with recommendations that the Officer:

- be counselled by the head of jurisdiction as to appropriate judicial conduct, particularly in proceedings involving allegations of sexual assault, family violence matters and matters involving intervention order applications;

- in relation to managing judicial stress, be directed to engage with the Judicial Officers Assistance Program as needed and read and/or refamiliarise himself with relevant resources; and
- in relation to the family violence jurisdiction and virtual hearings, the Officer be directed to read and/or refamiliarise himself with relevant resources.

The self-represented complainant expressed her appreciation for our investigation and said she hoped the outcome would help to ensure better experiences for women participating in the intervention order process.

The following case study demonstrates how an officer's perspective can be critical to our investigation and decision about complaint outcome. The integrity of the complaints process is important. Sometimes everyone has an opinion, but no one has all the facts or relevant information, except the officer. The opportunity to respond process provides officers with an opportunity to provide additional information that the complainant or Commission might not be aware of, but which may be central to determining the appropriateness of the conduct in question.

### CASE STUDY

#### Judicial perspective provides additional vital information

We received three complaints concerning an Officer's conduct during a hearing. The Officer asked a member of the public, who was sitting in the public gallery observing, to leave the courtroom as she was breastfeeding. The complaints were from members of the public who had heard about the conduct from media reporting and were unconnected to the hearing and not present in court at the time.

The complaints contained two parts alleging that the Officer:

- discriminated against the woman by ruling that she was required to leave the courtroom; and
- humiliated the woman by 'singling her out' and commenting in open court that she would not be permitted to breastfeed a baby in court and asked her to leave.

We reviewed transcripts and relevant parts of the court file and listened to the audio-visual recording. The Officer was provided with an opportunity to respond to the complaints.

The Officer provided a detailed response:

- stating that his request was not related to the broader question of the appropriateness of breastfeeding, whether in public or a courtroom;

- providing specifics about the context of the hearing and the necessity of the request at that stage of the trial; and
- providing information (that was not known to the complainants or the public) about the related nature of some of the evidence given during the proceeding in closed court.

This information was important to the outcome of the investigation.

As a result, we dismissed the complaints, finding that:

- the Officer's decision to request the woman to leave the courtroom was made to fulfil his responsibility to manage the trial and the jury at a critical stage of the proceeding;
- the Officer's voice was not raised, and his language and tone could not be described as aggressive;
- while the woman concerned may have been impacted by the request, the Officer did not intentionally 'single out' or 'humiliate' the woman such that he infringed the standards of conduct generally expected of judicial officers.

Focus 3:

# Commission perspectives and perceptions

This section focuses on building understanding and awareness by exploring our operations, including technological transformations, and instilling confidence in the Commission as the ‘objective reasonable observer’. Case studies highlight the importance of our transparent and comprehensive investigation reports and how they can impact perspectives and perceptions, while judicial interviews deep dive into some of our less well-known and understood processes by providing first-hand accounts of how we work.



## The reasonable observer test – a perspectives and perceptions exchange

The Commission makes an objective assessment on the material before it as to whether an officer has infringed the standards of conduct generally expected of judicial officers.

In assessing conduct, we have regard to how a reasonable observer would perceive or experience the conduct in all the circumstances.<sup>25</sup> This may differ from how the officer concerned, or officers generally, would perceive or experience the conduct. After all, the reasonable observer is not a lawyer but a member of the community served by the courts.<sup>26</sup>

The reasonable observer is 'fair-minded'.<sup>27</sup> They are neither complacent nor unduly sensitive or suspicious.<sup>28</sup> They are aware of officers' 'human frailty'<sup>29</sup> and assumed not to have a detailed knowledge of the law or the character or ability of a particular officer.<sup>30</sup> The reasonable observer is placed in a contemporary setting – uncritical attitudes of the past are not assumed to be those of the present.<sup>31</sup>

We often consider how tone and critical comments would be reasonably perceived in an adversarial context. In our Judicial Conduct Guidelines, we incorporated the reasonable person test into the definitions of judicial bullying and sexual harassment. By focusing on the reasonable observer, we ensure our assessment of conduct is tethered to our overarching goal of maintaining public confidence and trust in the Victorian courts and VCAT.

<sup>25</sup> *Charisteas v Charisteas* (2021) 273 CLR 289, 299-300 [21] ('Charisteas'). See also *QYFM v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* [2023] HCA 15, [45]-[48], [71], [119], [255], [273] ('QYFM'); *Cesan v The Queen* [2008] 236 CLR 358, 380 [71].

<sup>26</sup> *Charisteas* 299 [21].

<sup>27</sup> *QYFM* [47], quoting *Johnson v Johnson* (2000) 201 CLR 488, 509 [53] (*Johnson*).

<sup>28</sup> *Ibid*

<sup>29</sup> *QYFM* [47], quoting *Ebner v Official Trustee in Bankruptcy* (2000) 205 CLR 337, 345 [8].

<sup>30</sup> *Charisteas* 297 [12], quoting *Johnson* 493 [13].

<sup>31</sup> *QYFM* [46]

## Interview with Judge Vandersteen, head of the Children's Court

Judge Jack Vandersteen was appointed a Judge and President of the Children's Court in January 2021. Read about his insights into the Commission and his role as a Board member over the last 3 years.



**If someone has a concern about judicial conduct, when should they raise it directly with the head of jurisdiction as opposed to lodging a formal complaint with the Commission?**



In my view, it is up to the complainant. When an issue is raised with me, I provide two options. They can make a complaint to me as the head of jurisdiction or to the Commission, but it is completely their choice, and I don't seek to influence that choice at all.



**What is the interaction between your role as a Commission Board member and head of jurisdiction?**



I think it is important and necessary that each head of jurisdiction is a member of the Commission's board. It gives you a greater overview of the issues being dealt with by judicial officers in your jurisdiction, which can inform your work as head of jurisdiction; you bring to the Commission a view of your jurisdiction and the nuances that are particular to it. For example, in the Children's Court, the rules of evidence and certain procedures can be very different from those of other jurisdictions.

Understanding these jurisdictional issues or differences can be relevant when considering a complaint.

In addition, as heads of jurisdiction, we have all been in court and had in-court experiences, so we understand the stressors and pressures that judicial officers\* and parties might be under. We bring that experience when assessing complaints.



**Officers can often face challenging conduct in court from litigants. What encouragement or advice would you give officers if they are experiencing difficult behaviour from parties in court?**



If experiencing challenging behaviour, my tips would be:

- Always be mindful about what your role is and how you should conduct yourself.
- As judicial officers, we hold a higher role, a higher office, so we need to behave in a way that reflects that.
- Do not 'personalise' a situation.
- If you recognise that you are becoming frustrated in court and it is impacting your courtcraft, take time, step away, analyse the situation and plan a response with less emotion.

- Judicial officers control the courtroom, so rather than engage or get argumentative and escalate the matter, remember that sometimes the less said, the better. Use the options available to you for controlling your court – stand the matter down, leave the courtroom, speak to a colleague, your head of jurisdiction, or person whose advice you trust. For example, a judicial officer approached me concerning a party's inappropriate in-court behaviour. Together, we developed a form of words that the judicial officer could use to prevent the situation from escalating.

\* All references to judicial officers in this interview also include VCAT members.



**The Commission can investigate complaints about the conduct or capacity of judicial officers and VCAT members. Do you see particular themes in the conduct complaints the Board determines?**



The complaints that are consistently **dismissed** generally involve some misunderstanding or misapprehension by the complainant as to:

- the court process or a judicial officer's role;
- the Commission's role; or
- what the judicial officer said or did or how they said or did it.

In the first two categories, generally, the complainant has concerns about the outcome of the proceeding, including evidentiary or procedural decisions made. The Commission does not have jurisdiction to review these matters.

In the third category, the recording provides objective evidence of what occurred. In my experience, after listening to the recordings, most complaint allegations are not borne out.

Anecdotally, I would say most of the complainants are self-represented or an unsuccessful party.

With **substantiated** complaints, tone, volume and pitch have a lot to do with it – often, it is the delivery of what the judicial officer says that is demeaning, rude, and, in some cases, bullying. Often this is not borne out in transcripts alone, but apparent on a recording.



**For individuals who don't understand how the Commission operates, can you give some insight into what you have learned over the last three years?**



Being on the Commission's board has been educational for me.

I knew that the Commission operated within the legislative framework of the *Judicial Commission of Victoria Act 2016*, but before becoming a board member, despite attending talks about it, I didn't know how the Commission carried out its functions and dealt with complaints.

Now I know that when the Commission receives a complaint, it considers what allegations it contains about conduct (or capacity) and whether the allegations are sufficiently particularised. Sometimes, this means asking the complainant for further information to refine or clarify the issue. The Commission then analyses the material, which can include the recording or aspects of the court file. Commission lawyers and the Director provide the Board with a detailed briefing paper and recommendation for dealing with the complaint. The Board discusses the issues raised in the complaint and makes a decision.





**Under the Act, in those few cases where a matter is not dismissed, prior to deciding whether to make a substantiated finding, officers must be given an opportunity to respond to a complaint. How does an officer's response assist you in your decision-making as a member of the Commission's Board? What things are you looking for in a response?**



First, giving a judicial officer an opportunity to respond before referring a complaint is procedurally fair. When given that opportunity, the Commission sets out the allegations and the basis for considering that the conduct may infringe the standards of conduct generally expected of judicial officers so that it is clear what aspects of the complaint the Commission would be most assisted by the judicial officer addressing in their response.

However, it is an 'opportunity', so it is not mandatory that a judicial officer responds. But when we receive a response (and we do in most cases), I find it is usually very informative.

It is especially helpful when it provides context and further explanation that we are not otherwise getting from listening to the recording or may not be evident based on the materials before the Commission. Sometimes, that further information or context satisfies the Board that the complaint should be dismissed. In other cases, the response is balanced against everything else, and the complaint might end in referral, but the response is relevant to deciding and can impact the nature of the recommendations that are made about the judicial officer's future conduct.



**Do you see any other benefits to the opportunity to respond process?**



Generally, judicial officers don't have the opportunity of being in a reflective environment. The opportunity to respond process provides an opportunity for self-reflection and may assist in developing an awareness or insight into the judicial officer's conduct.

Where you have a judicial officer who has demonstrated that, which sometimes includes acknowledging the conduct and apologising, it is evidence that the process has worked. That's an important consideration for the Board and can be relevant to recommendations that the Board may make.

## Interview with Judge O'Neill, Investigating Panel member



The appointment and membership of an investigating panel is governed by the *Constitution Act 1975*. An investigating panel investigates complaints or referrals that are so serious that they could, if substantiated, warrant removal from office. An investigating panel consists of three members. One of those members must be a person who is or has been a judicial officer. Judge Chris O'Neill was a Judge of the County Court of Victoria from 2007 until his retirement in 2021. After his retirement, he was appointed to an investigating panel. He provides his perspectives and insights about the process.



How did you come to be appointed to an investigating panel, and how does a panel operate?



I had not long been retired when the Chief Judge, as head of jurisdiction of the County Court, recommended me for appointment to the investigating panel. I was appointed alongside Justice Chris Maxwell, former President of the Court of Appeal (who was recommended for appointment by the Chief Justice, as head of jurisdiction of the Supreme Court) and a person of high standing in the community (appointed to a pool by the Governor on the recommendation of the Attorney General).

Beyond that, I didn't know much about the process, so I came to it with an open mind. Given the small number of investigating panels that have been constituted since the Commission's inception, I suppose few people do. That is why getting information like this into the public domain is important.

First, we were provided with all the information and documents that the Commission considered would assist us in investigating and resolving the complaint.<sup>32</sup> I was impressed by the quality of the materials the Commission prepared and provided us with. They were extensive and thorough, making it much easier to understand the complaint and proceeding.

We appointed a barrister as counsel assisting.<sup>33</sup> I consider it vital for a panel to have counsel assisting because absent the subject matter of the complaint, the area of law concerning investigating judicial officers\* is specific and complex, including reference to overseas authorities. The involvement and advice of counsel assisting and the panel's instructing solicitors on that and other issues was very important. It meant the complaint was thoroughly and clearly particularised and presented to the panel, the judicial officer and his legal representatives.

As a panel, we are bound by the rules of natural justice when investigating a complaint.<sup>34</sup> This is important because a lot is at stake when a judicial officer is referred to an investigating panel. To investigate the complaint, the panel determined it necessary to hold a hearing and receive written submissions.<sup>35</sup> The panel ensured that the judicial officer was seized of all the information and documents that were before the panel so the judicial officer could properly understand the complaint against them and how it was put in order to make an informed response. The panel held a Directions Hearing regarding the conduct of the matter, conducted in accordance with the principles of natural justice. However, the complaint was ultimately dismissed before the substantive hearing due to the resignation of the judicial officer.<sup>36</sup>

<sup>32</sup> Section 19(1) and 19(2)

<sup>33</sup> Section 53

<sup>34</sup> Section 52(a)

<sup>35</sup> Section 55

<sup>36</sup> Section 35(2)(e)

\* All references to judicial officers in this interview also include VCAT members.



**Is an officer entitled to be represented before an investigating panel, and do you think it is important that they are?**



The Act allows for a judicial officer to be represented by a legal practitioner before an investigating panel.<sup>37</sup> I believe the investigating panel process works much better when quality lawyers and counsel legally represent a judicial officer. This was evident in the panel I was part of.

Experienced representation is important because, as in court proceedings, issues arise when a party tries to represent themselves. I can see problems with a judicial officer trying to represent himself or herself concerning a complaint when there is a lot at stake personally and professionally.



**An investigating panel also comprises a community member. What value do you see in having a community perspective on an investigating panel?**



The argument I see in favour of having a high-standing community member as part of an investigating panel is like the arguments that apply to juries. Although the judicial members are experienced, we've spent our lives with our heads in the law, so we can look at things through a fairly narrow lens.

Judicial officers are not any better qualified and, in fact, may not be as well qualified as a community member to make determinations on the facts. Having a community perspective when dealing with the facts is always healthy. How a reasonable community member would perceive the conduct is important to understanding current community views and expectations about how judicial officers should behave.



**How was the hearing conducted, and what was the set-up of the hearing room?**



It is not in a courtroom and the environment differs from a courtroom in many respects. It is more low-key, similar to a boardroom. Everyone is seated at the same level; the investigating panel is not elevated. In my view, it struck a good balance of creating an atmosphere that wasn't too intimidating, and yet, on the other hand, one where the panel was treated with the authority and respect necessary to

carry out its function. Some of the formalities and courtesies you might find in court were observed, such as everyone getting an opportunity to speak without interruption and a right of reply. Others were not; for instance, the members of the investigating panel were addressed with courtesy titles rather than honorific titles.

<sup>37</sup> Section 62(1)(b)



**Courtrooms are open to the public unless subject to a suppression order. In comparison, how are hearings before an investigating panel conducted?**



The hearing before the investigating panel I was part of was closed to the public.<sup>38</sup> The only people present at the hearing were those specifically allowed at a closed hearing under the Act. That included the three panel members, the solicitors instructing the panel, counsel assisting, the judicial officer's legal representatives and some secretariat staff running the hearing room.<sup>39</sup>

Generally, investigating panel hearings are closed to the public unless there are exceptional circumstances and the investigating panel considers it in the public interest to direct that the hearing be open.<sup>40</sup> This requires balancing the protection and privacy of an important part of the justice system with the public's right to know what is going on.



**When the Board of the Commission decides to refer a matter to an investigating panel, what, if any, ongoing role does it have with the complaint?**



The first thing to note is that the investigating panel acts independently. While the panel is effectively informed by the preparation work and the preliminary investigation conducted by the Commission, it does not act subject to the Commission's direction.

On several occasions during preparations before the hearing, we, as the panel, asked counsel assisting and the lawyers instructing the panel to leave the room because we wanted to discuss privately some aspects of the complaint and issues in the matter and wanted to come to a determination on what we would do on one or other point.

That involved an assessment of the complaint allegations, the conduct and the law. This was all achieved just amongst the three of us. No others were involved in those discussions. That was an important and effective way to ensure the investigating panel's decision-making process was independent. Although assistance is provided to the investigating panel by the Commission and counsel assisting, in my view, the arrangement works well and does not impact the panel's independence.

<sup>38</sup> Section 62(2)

<sup>39</sup> Section 63

<sup>40</sup> Section 62(3)



**Do you have any views about an investigating panel's role in a transparent and accountable complaints process?**



The justice system in the state and country is extremely important, and the independence, objectivity, thoroughness and skills of the judicial officers who work in the system are essential. Without those qualities in its judicial officers, the whole system breaks down and ceases to have the trust and confidence of the public. But it is also a delicate and sensitive area, so it is essential that there be an independent body to whom complaints can be made and who will investigate allegations about inappropriate conduct.

You can't have a system where judicial officers can do what they want without any scrutiny. Fortunately, in this state, that is a rare thing.

In my view, investigating panels are an appropriate response to the most serious complaints. The process is measured, thorough, efficient, fair and essential for the proper administration of justice. In my experience as a member of an investigating panel, it worked appropriately.

The following case study illustrates how our new Judicial Conduct Guideline has been implemented since its release in May 2023.

## CASE STUDY

### The Judicial Bullying Guideline at work

We received a complaint from a legal practitioner about an Officer alleging that the Officer:

- refused to pronounce the legal practitioner's name correctly and made a sarcastic comment about his pronunciation; and
- made personal attacks about the legal practitioner's look and appearance, which indicated a bias or apprehended bias.

The legal practitioner alleged that, overall, the Officer's conduct amounted to judicial bullying.

We listened to the audio recording of the hearing and applied the Judicial Conduct Guideline on Judicial Bullying.

The Guideline defines judicial bullying as conduct that is:

- unreasonable; and
- includes, but is not limited to, conduct that a reasonable person would, having regard to all the circumstances, perceive as belittling, humiliating, insulting, victimising, aggressive or intimidating.

We did not identify any conduct on the part of the Officer that would constitute judicial bullying under the Guideline.

In respect of the Officer's pronunciation of the legal practitioner's surname, early in the hearing, the legal practitioner corrected the Officer's pronunciation, and the Officer responded by saying 'thank you' and commenting that the legal practitioner's pronunciation was better than the Officer's.

We found that the Officer's tone when responding was not sarcastic but polite and courteous.

Further, there was no evidence that the Officer deliberately continued to mispronounce the legal practitioner's surname.

We also identified two comments made by the Officer (relating to the legal practitioner's apparent facial expression and body language) that could be construed as personal in nature. In particular, the Officer commented that the legal practitioner should not look so 'smug'.

However, having regard to judicial ethics and balancing the factors (as set out in the Guideline) for assessing the appropriateness of conduct and determining when it is unreasonable, we found:

- The Officer's comments did not reach a level, either in tone or content, that a reasonable person would, having regard to all the circumstances, perceive as belittling, humiliating, insulting, victimising, aggressive or intimidating.
- The Officer's comments must be considered within the context of the proceeding as a whole. The comments were momentary, and the Officer was, overall, courteous and polite during the proceeding and actively listened and asked questions of the Complainant during submissions.
- Although the use of the word 'smug' could have been avoided, core judicial values are not offended by '[o]ccasional displays of impatience and irritation, whether justified or not'.<sup>41</sup> A single, unseemly remark by a judicial officer is unlikely to infringe the standards of conduct generally expected of judicial officers.

The complaint was dismissed.

<sup>41</sup> VFAB v Minister for Immigration and Multicultural and Indigenous Affairs [2003] FCA 872, 131 FCR 102 at [81] (Kenny J), quoted with approval in SZRUI v Immigration, Multicultural Affairs and Citizenship [2013] FCAFC 80 at [31] (Flick J), [90]-[91] (Robertson J).

The following case study highlights the importance of our reports in building an understanding of and confidence in the court system.

### CASE STUDY

#### Outcome report changing perspectives

We received a complaint about an Officer's conduct at a compulsory conference in VCAT. The proceeding concerned a protracted residential tenancies dispute.

The complaint primarily alleged that the Officer had blackmailed and extorted the complainant. The very serious allegation was put solely on the basis that the Officer had:

- asked the complainant to consider paying the other party's legal fees; and
- destroyed the notes they made at the compulsory conference.

The complainant said the Officer made the complainant feel 'under pressure' to settle.

We found that the complaint disclosed no basis for considering that the Officer may have infringed the standards of conduct generally expected of judicial officers. The complaint was dismissed.

In our investigation report, we referred to section 83 of the *VCAT Act 1998* (Vic) and VCAT's practice note relating to alternative dispute resolution and explained:

- the purpose of compulsory conferences;
- the expectation that Officers at a compulsory conference play an active role in expressing an opinion about the parties' prospects, discuss settlement options and suggest compromises; and
- the norm that Officers destroy the notes they have made at a compulsory conference, noting that (with few exceptions) evidence of things said or done during a conference is inadmissible.

Although the complaint was dismissed, the complainant contacted us after receiving the report and advised that she appreciated the Commission's assistance and was satisfied with the investigation.

By providing information about tribunal processes, the report was central to shifting the complainant's genuinely felt but misplaced perceptions about their experience of the legal system.

## The Digital Transformation Project: building an enhanced understanding of the Commission and how it operates.

Last year, we reported on improvements we were making in line with our commitment to continuous improvement and enhanced fairness and transparency.

This included the Digital Transformation Project, which was an opportunity to:

- reimagine our digital presence by transforming our website, online complaints portal, complaints management system, and data reporting and analysis tools; and
- continue to improve and refine our complaint receipt, triage and engagement processes.

### The website and further advances to triaging

Our website serves as the primary tool for engaging the public, the profession and the judiciary and raising awareness of our functions. It is important that it provides information to inform and educate in a format that is accessible to a broad range of stakeholder groups and effectively guides the submission and triage of complaints.

The design and development of our new website were driven by the strategic objectives in our Strategic Plan 2022-24. The focus was on:

- increasing transparency and wellbeing;
- enhancing user experience; and
- improving the complaints process and stakeholder engagement.

Part of this involved developing an online self-triage system to simulate the internal triage process that was introduced during the 2021-22 financial year. The new automated process:

- guides complainants through the complaint process by helping to determine if their complaint meets the criteria under the legislation before it can be submitted;
- suggests alternative pathways where their complaint is not a matter we can investigate; and
- aims to reduce the number of matters we receive that are outside of our jurisdiction and improve our engagement response times for these matters.

The website redesign also provided an opportunity to refresh our branding to more clearly represent the Commission's values, mission and vision and deliver on our Stakeholder Engagement Strategy to vision, and improve stakeholder recognition.

We also considered feedback from First Peoples stakeholders about how to make our website a culturally safe space for First Peoples to make a complaint to us.

In response to that feedback, a key element of the new website is the artwork 'Myles' (meaning truth in Yurruk) created by Wemba Wemba, Wiradjuri, Wotjiboluk, Nari Nari, and Boon Wurrung woman, Kenita-Lee.



The artwork depicts the Commission's work:

- Gold dots form together to represent the Commission's work for the community.
- The hands represent Commission values of transparency, impartiality, integrity and impact.
- The arched-shaped symbols represent the people.
- The blue rivers represent the Birrang Marr on country that the Commission resides on.

The upgraded website and portal were delivered in June 2024, with a go-live date of July 2024.

## Upgrades to managing complaints and reporting data

Last year, we reported on several important practice and process changes that had been or were in the process of being implemented, leading to a change in the way we reported data from previous years.

Our focus was to increase transparency and confidence in the judicial complaints system by:

- enhancing our consistency in categorising individual complaints;<sup>42</sup>
- improving the efficiency of our reporting systems; and
- improving the quality of quantitative data generated by our complaints management system (CMS).

We simplified our complaint categories. This involved removing categorisations that overlapped, were too narrow, or where it was unclear when or how they should be applied.

We engaged an in-house Senior Data and Reporting Analyst to review our CMS and recommend and implement improvements to our data management practices. This included:

- mandating certain data input requirements in the online portal and CMS to improve the completeness of our dataset, and
- building customised data reporting platforms to automate reporting from the CMS.

We developed and implemented some of those changes (like using a data reporting platform) this year, resulting in immediate improvements to our efficiency in producing data and its accuracy<sup>43</sup> for this report. The new reporting platforms identified some inconsistencies in how we collected our data in previous years and has resulted in some adjustments to the figures presented from previous years.

Other changes (like the simplified categorisations) will be implemented on 1 July 2024 and apply to all complaints finalised after that date.

The outcome of the Digital Transformation Project directly reinforces the Commission's mission of maintaining public confidence in the Victorian courts and VCAT and delivering a fair and transparent complaint resolution process.

<sup>42</sup> We categorise complaints by (1) in or out of court conduct; (2) the area of law the proceeding relates to (for complaints about in-court conduct); (3) the alleged conduct; (4) conduct covered by a Guideline; and (5) professional court user v civilian complainants.

<sup>43</sup> For example, last year we reported enquiries as 'more than' and only reported on telephone enquiries. This year the new reporting tools allow us to accurately report the number of enquiries received by telephone and email.

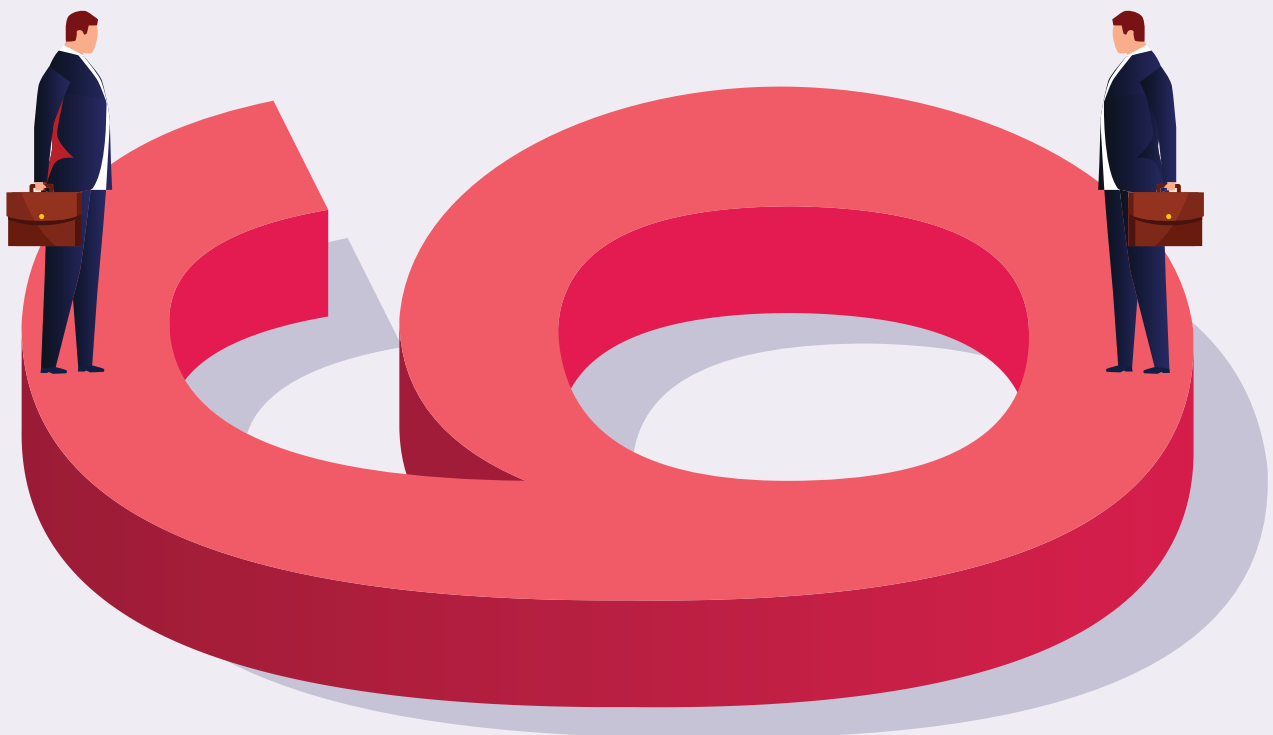
## Focus 4:

# Diverse perspectives and perceptions

This section explores diverse perspectives, outside of a legal or judicial view. We spotlight the work we are doing to develop a judicial conduct guideline addressing the issue of discrimination and the views of Commission board member and First Nations person Graham Atkinson. Case studies illustrate how discrimination is being raised in complaints to us and highlight the importance of language used in court.

Diverse perspectives, outside of a legal or judicial view, are vital. In part, this is reflected by the Commission's Board having four appointed members who are upstanding members of the community. Together, they bring a diverse, considered and strong community perspective to decision making. It's not just 'judges judging judges'.

Further, we acknowledge that the impact of discrimination can be profound. This issue is increasingly raised in complaints to us, as demonstrated by some of the case studies below. We are continually looking at ways to address this; for example, by a new judicial conduct guideline on discrimination (to complement the existing guidelines on judicial bullying and sexual harassment).





## Judicial Conduct Guideline on Discrimination and engagement with DMDU and VALS

In May 2023, we published a Judicial Conduct Guideline on Judicial Bullying. During the bullying consultation, stakeholders almost universally supported a separate, discrimination-focused consultation to address discrimination by judicial officers.

In May 2024, we commenced early engagement with key stakeholders, including the Victorian Aboriginal Legal Service (VALS), regarding a potential Judicial Conduct Guideline on Discrimination. VALS provided feedback about consulting with First Peoples stakeholders on the Guideline, as well as broader feedback on how we can adopt culturally safe practices in our complaints handling processes.

The Commission's appointed community board member and First Nations person Graham Atkinson supports the publication of a Judicial Conduct Guideline on Discrimination, having recently stated, *'As a First Nations person sitting on the Board, I believe more work needs to be done in the area of discrimination. I understand that judicial officers have a very responsible role. There's a lot of pressure involved. That said, judicial officers must be mindful of their language.'*

He reiterated that *'The justice system can be an intimidating experience for anyone, but especially First Nations people. It's very important the court understands where First Nations people are coming from and their cultural perspectives and understandings of the justice system.'*

The Guideline will provide guidance on what constitutes discrimination by a judicial officer and VCAT member, identify the potential impacts of discrimination and articulate how we will address complaints about discrimination. Consultation with the courts, VCAT and various other legal, justice and human rights stakeholders is scheduled for the first half of 2024–25.

Complaints we receive alleging discriminatory conduct are often about the words used by the officer. The following case studies illustrate the significance of officers' language in court and support the development of a Judicial Conduct Guideline on Discrimination as another important step towards ensuring the courts are a safe and respectful place for all.

### CASE STUDY

#### Forms of address in court

We received a complaint about an Officer's conduct in a family violence intervention order proceeding. The Complainant alleged, among other things, that the Officer used incorrect pronouns when addressing the Complainant and their former partner, the respondent.

As part of our investigation, we inspected the court file and listened to the audio recording of the proceeding.

The pre-hearing court documents noted the complainant's pronouns as they/them and that the respondent identified as a transwoman. The respondent's pronouns were not specified.

During the proceeding, the Officer addressed the Complainant as 'Ms' twice and the respondent as 'Mr' once.

We sought further information from the complainant. The Complainant confirmed that neither they nor their legal representative advised the Officer of their correct pronouns or corrected the Officer's use of incorrect pronouns during the proceeding.

We dismissed the complaint because we found that in the context of the Proceeding as a whole, the Officer's conduct did **not** infringe the standards of conduct generally expected of judicial officers in circumstances where:

- Judicial conduct must be assessed in context, which requires an appreciation of the busy workload of magistrates and the challenges that this presents. Although the standards of conduct require that 'everyone that comes to court [is] treated in a way that respects their dignity' and using a person's pronouns is important to promote public trust, impartiality, and confidence in the court system, in the context of a busy court list, it did not follow that the Officer was aware of this on court documents.
- The complainant was legally represented during the proceeding. Where a party is legally represented, legal representatives should ensure that the court has access to all the facts relevant to the parties, including forms of address. Some Victorian jurisdictions have provided practice notes concerning forms of address and provide that where a representative or party is concerned about the use of an inappropriate form of address in a proceeding, this may be brought to the attention of the presiding officer.

## CASE STUDY

### The importance of culturally sensitive language and practices

We received a complaint from a professional court user who attended court to give evidence in support of a member of the First Peoples community.<sup>44</sup> The complaint alleged that the Officer's conduct was racist.

We listened to the audio recording of the proceeding. During the complainant's evidence, the Officer used the phrase 'native accent' when referring to the complainant's speech and made other comments that indicated the Officer did not understand the complainant's speech.

When we investigate a complaint from, about, or related to the treatment of First Peoples by judicial officers or VCAT members, we do so in the context of the wider experience of First Peoples in the legal system by reviewing research on culturally sensitive courtcraft and seeking perspectives from relevant First Peoples experts.

Noting that:

- the use of the phrase 'native accent' may have particular connotations for First Peoples;
- the complainant represented an organisation that provided services to First Peoples;
- the defendant identified as First Peoples; and
- other First Peoples, including members of the defendant's family, may have been attending court,

we sought the perspectives of First Peoples experts regarding the Officer's conduct, including the Dhumba Murmuk Djerring Unit (DMDU) at Court Services Victoria and First Peoples academics, and reviewed research on culturally sensitive courtcraft to determine how the expression 'native accent' may be perceived.

<sup>44</sup> The complainant did not identify as First Peoples.

### The importance of culturally sensitive language and practices *continued*

It is not our role to determine ideal or preferred conduct but to make an objective assessment about whether specific conduct is appropriate in all the relevant circumstances. Although we considered that the expression was unnecessary and did not reflect the kind of culturally sensitive practices that need to be incorporated into the mainstream criminal and legal justice systems, we did not consider that a reasonable member of the community would perceive the Officer's conduct as racist or discriminatory because:

- The phrase was used as an adjective to describe the complainant's accent, not the defendant's, and it was sometimes used in Australian legal contexts as a neutral way of describing a person's speech.<sup>45</sup> For example, the term is used several times in resources produced or endorsed by First Nations organisations in reference to a person's speech.<sup>46</sup>
- At the relevant time, the Officer referred to the complainant's talking speed, and his tone was polite or neutral. The Officer's comment explained why it would assist the court if the complainant spoke more slowly. There was no indication that 'native accent' was intended to convey a lack of respect towards the complainant. Rather, it appeared directed at ensuring the evidence was properly understood and taken into account.

- The Officer did not remark on the complainant's accent at any other time. Rather, the Officer commented several times on the complainant's talking speed and the content of his answers. The adjective was used once in the context of a busy criminal list. In analogous cases on apprehended bias, the courts have held that a reasonable observer must not look at comments 'taken out of context and then weighed in isolation' in determining whether core judicial values have been offended by judicial conduct.<sup>47</sup>

We dismissed the complaint on the basis that it was not substantiated.

45 See, e.g., *DPP v Huan* [2022] VCC 1551 at [31]; Natalie Sheard, 'Employment Discrimination by Algorithm: Can Anyone be Held to Account?' (2022) 45(2) *UNSW Law Journal* 617 at 629, 639–640.

46 *The Plain English Legal Dictionary: Northern Territory Criminal Law* (2015) refers several times to 'native speakers of English' in contrast to 'a person who grows up speaking an Aboriginal language'. The dictionary was prepared by Aboriginal Resource and Development Services, the North Australian Aboriginal Justice Agency, and the Aboriginal Interpreter Service; it is quoted in the National Indigenous Australian Agency's *Commonwealth Protocol Fact Sheet: Indigenous Language Translation Services* (2017).

47 *Galea v Galea* (1990) 19 NSWLR 263 at 279. See, eg, *SZCJP v Minister for Immigration* [2006] FMCA 168 at [9] ('it would be difficult to come to the conclusion that an allegation based solely on one comment could give rise to [an apprehension of bias] unless that comment was ... outrageous').



# About the Commission

# What we do

We investigate complaints about the conduct or capacity of judicial officers and VCAT members (together referred to as officers).

Conduct is the manner in which officers behave in public or in some private settings. By accepting an appointment, officers agree to uphold the judiciary's status and reputation and avoid conduct that diminishes public confidence in and respect for the judicial office.<sup>48</sup>

Capacity is the ability of an officer to perform their official duties appropriately.

## Roles, functions and duties

We are governed by the *Constitution Act 1975*, the *Judicial Commission of Victoria Act 2016* (the Act) and the *Public Interest Disclosures Act 2012*.

We have the power to consider a range of complaints, including excessive delays in giving judgment, inappropriate courtroom conduct and health issues affecting an officer's ability to perform their official duties. However, we cannot investigate complaints about the lawfulness of decisions or procedural rulings.

Any member of the public or the legal profession can make a complaint to the Commission. Complaints can be made by those directly impacted or by third parties who witnesses or are aware of the matter. While the Commission cannot accept anonymous complaints, complaints can be made by organisations and agencies on behalf of their employees or by third parties who witnessed or are aware of the matter (but were not directly impacted). Similarly, the Law Institute of Victoria and the Victorian Bar can make complaints on behalf of their members without disclosing the identity of the person they are making the complaint on behalf of.

An investigation can often involve requesting a file or audio recording from the court or tribunal. Lawyers carry out this preliminary investigation under the supervision of the Manager (Legal and Complaints). The Director prepares a recommendation for the Board.

<sup>48</sup> Guide to Judicial Conduct (n 2) at 8.



Once we have considered the complaint or referral, there are three possible outcomes:

- i. Dismiss the complaint or referral (for example, those that are trivial, vexatious, relate to a person who is no longer a judicial officer or VCAT member or relate solely to the merits or lawfulness of a decision).
- ii. If it is a complaint about serious conduct, conclude 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.
- iii. If it is a complaint about a very serious matter, which, if true, warrants removal from office on the grounds of misbehaviour or incapacity, refer it to an investigating panel for further investigation.

A detailed investigation report is prepared, including, where appropriate, quotes from the proceedings and references to relevant standards or guides.

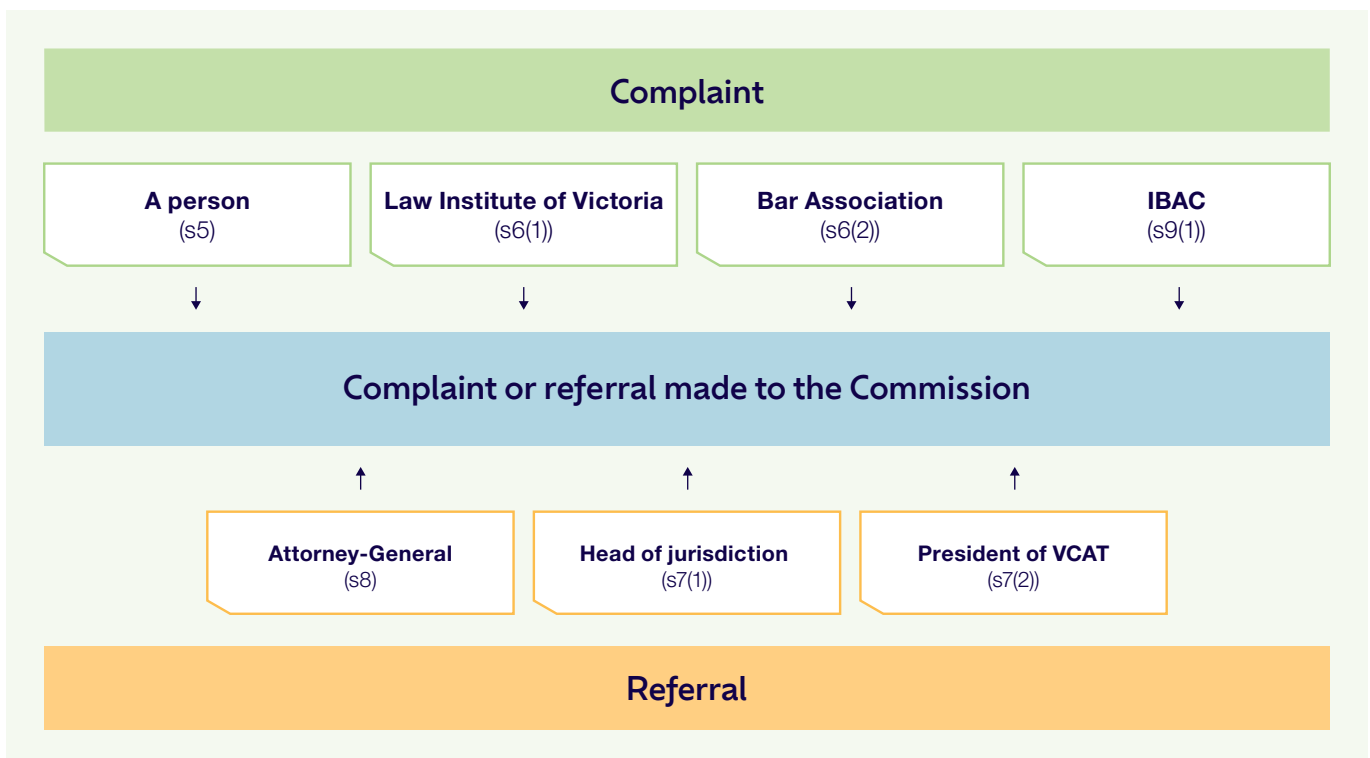
We are not empowered to ‘discipline’ or ‘remove’ an officer from their position. Most complaints do not concern matters that could warrant removal. The recommendations are intended to focus on the officer’s future conduct and to guide the officer to achieve and maintain expected standards of judicial conduct.

If a matter that could warrant removal does arise, we must refer the matter to an independent investigating panel. A special majority of both Houses of Parliament must agree before an officer can be removed.

During an investigation, we may recommend that an officer be stood down pending the outcome.

## Complaints

### Who can make a complaint?



## Who can the Commission investigate?

Complaints must be about one of the following Victorian judicial officers or VCAT members:

- a Judge of the Supreme Court or the County Court;
- a Magistrate of the Magistrates' Court or Children's Court or when presiding in the Victims of Crime Assistance Tribunal (VOCAT);
- a Coroner;
- a VCAT member;
- a judicial registrar of the Supreme Court, the County Court, the Magistrates' Court, the Children's Court or the Coroners Court.

## What can the Commission investigate?

We can investigate complaints about the conduct or capacity of officers. For example:

- courtroom demeanour, such as inappropriate remarks;
- sexual harassment, discrimination or bullying;
- health issues which may affect the officer's ability to perform their official functions;
- excessive delay in handing down a judgment.

We cannot investigate complaints about:

- the merits or lawfulness of a decision or procedural ruling made by an officer;
- court or VCAT staff members;
- an officer who has resigned or retired and is no longer a judicial officer or VCAT member;
- the conduct of judicial officers or tribunal members in federal courts or tribunals such as the Federal Circuit and Family Court of Australia and the Administrative Appeals Tribunal.

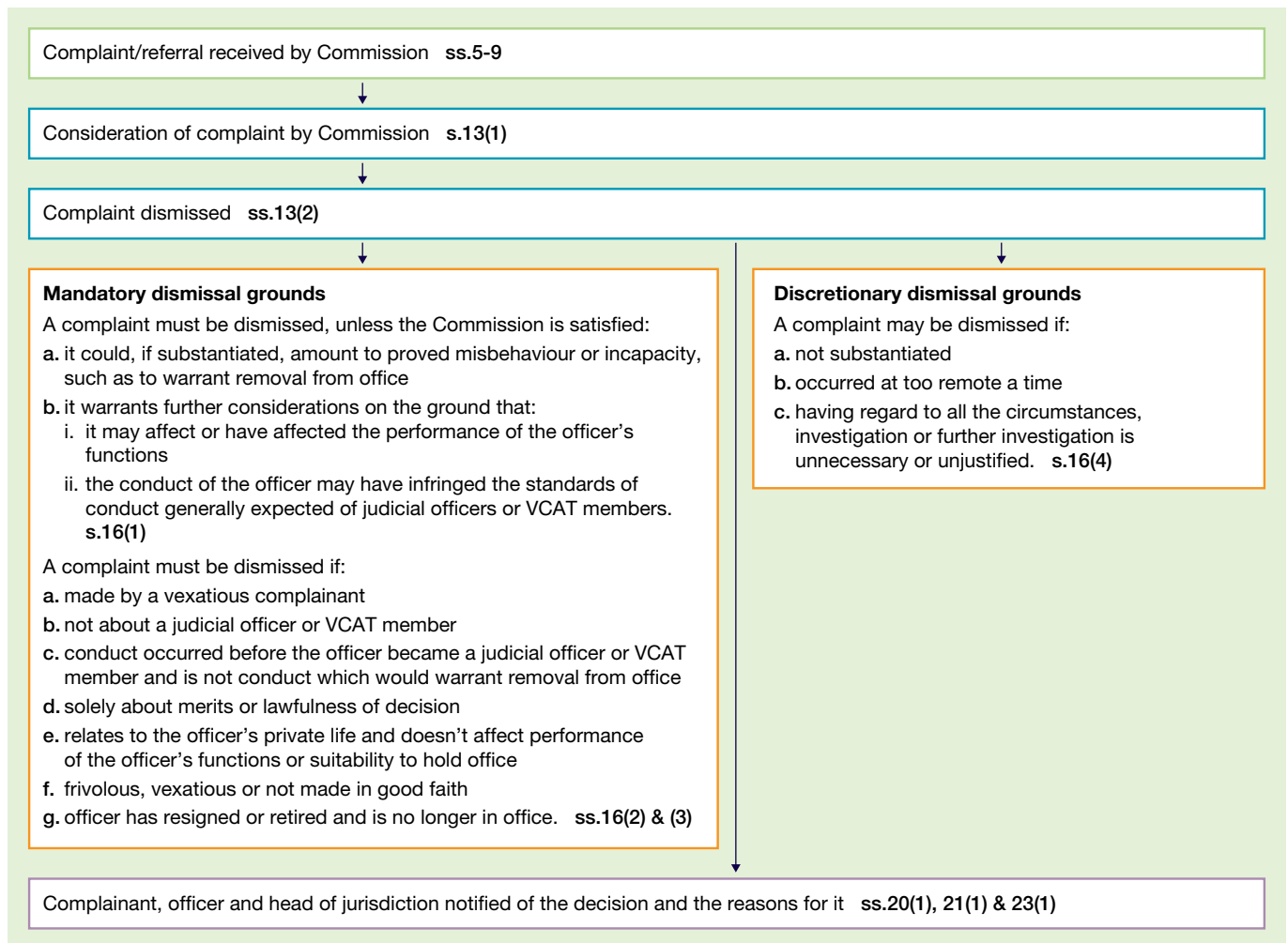
## How to make a complaint

A complaint can be made to us online at [www.judicialcommission.vic.gov.au](http://www.judicialcommission.vic.gov.au).

## Dismissal of a complaint

The Act establishes mandatory and discretionary grounds for dismissing a complaint.

If a complaint is dismissed, the relevant head of jurisdiction, the officer concerned, and the complainant will be notified of the dismissal and the reasons for it. An investigating panel may also dismiss a matter.



## Referral to the head of jurisdiction

If we find that conduct infringed the expected standards of judicial officers, the matter may be referred to the relevant head of jurisdiction, with recommendations for future conduct.

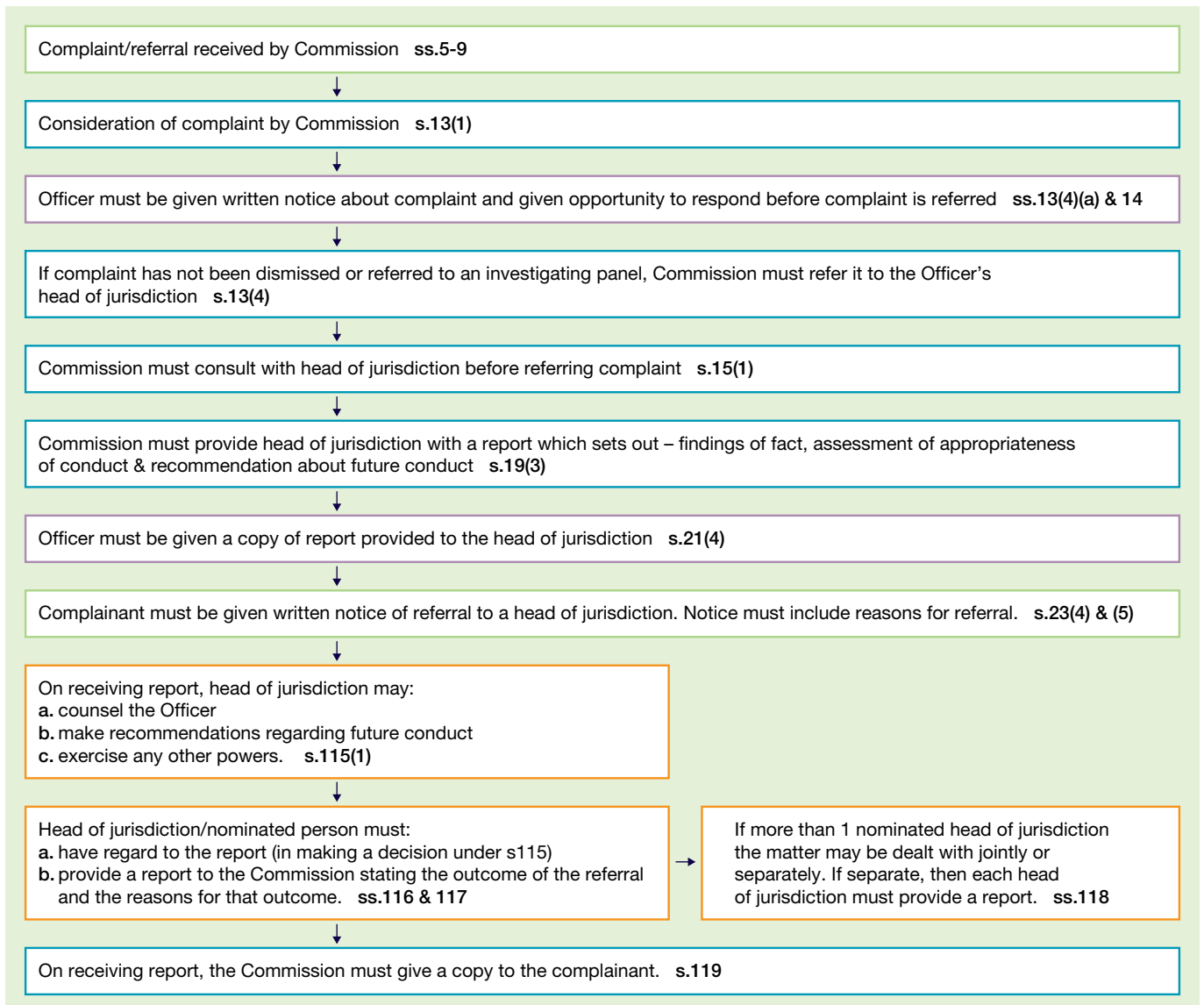
First, however, the officer concerned is notified about the nature of the complaint and has the opportunity to respond.

Where a complaint is referred to the head of jurisdiction, both the officer concerned and the head of jurisdiction are provided with a report setting out our findings and recommendations.

The head of jurisdiction must consider our report and may do one or more of the following:

- counsel the officer in respect of the complaint;
- make recommendations to the officer about future conduct;
- exercise any other powers of the head of jurisdiction.

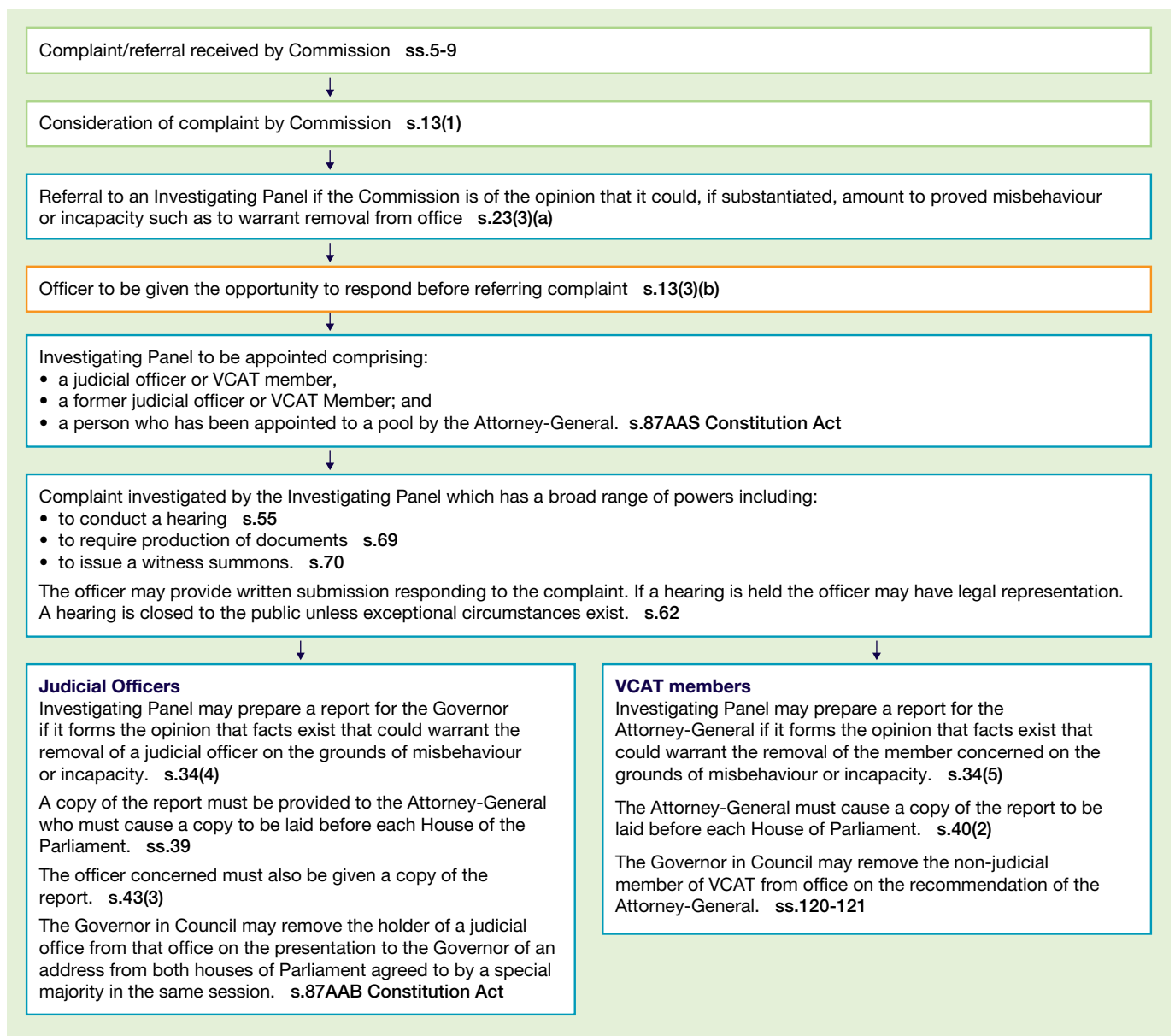
After finalisation, the head of jurisdiction must provide a report to us stating the outcome and how they arrived at that conclusion. We provide a copy of that report to the complainant.



## Referral to an investigating panel

If a complaint has not been dismissed and we are of the opinion that it could, if substantiated, amount to proved misbehaviour or incapacity to warrant removal of the officer, we must refer it to an investigating panel for a full investigation.

An investigating panel is appointed by the Commission's Board but operates independently of the Commission. An investigating panel comprises three members: two former or current judicial officers or VCAT members and one community member of high standing selected from the pool of people appointed for this purpose.



Subject to the Act, an investigating panel may regulate its own proceedings. It is bound by the rules of natural justice but not by the rules of evidence. An investigating panel must act expeditiously and confidentially, subject to limited exceptions. It has a broad range of coercive and investigatory powers, including compelling the production of documents, conducting hearings, and issuing summonses requiring witnesses to give evidence.

An investigating panel is reserved for the most serious matters and hearings are closed to the public unless exceptional circumstances exist.

Having investigated the complaint, an investigating panel has three options. It may:

- dismiss the complaint;
- refer the complaint to the relevant head of jurisdiction with recommendations about the future conduct of the officer concerned;
- draft a report recommending the officer be removed from office where it has concluded facts exist that could amount to proved misbehaviour or incapacity.

## When can an officer be stood down?

The relevant head of jurisdiction may stand down an officer (other than another head of jurisdiction or an officer of the Supreme Court or the County Court). This can occur at any time if they believe that the continued performance of functions by the officer is likely to impair public confidence in the impartiality, independence, integrity or capacity of that person or the relevant court or tribunal.

The Commission or an investigating panel may recommend to a head of jurisdiction that an officer be stood down (or where the officer has already been stood down by a head of jurisdiction, extend the time within which the officer is stood down). A recommendation can only be made in limited circumstances and in respect of the most serious complaints. If the officer in question is a head of jurisdiction or an officer of the Supreme Court or County Court, the relevant council of judges may determine that the officer be stood down. Standing down an officer is a temporary measure and is not the same as removing an officer from office. It does not affect the officer's remuneration, allowances, or other entitlements.

A head of jurisdiction can stand down an officer for a period of 21 days. The Commission or an investigating panel may recommend that an officer be stood down from office or continue to be stood down from office after the expiration of 21 days, pending the outcome of a complaint or referral.

## When can an officer be required to undergo a medical examination?

If the Commission or an investigating panel reasonably believes an officer may be suffering from an impairment, disability, illness or condition that may significantly affect the officer's performance of their functions, it may require an officer to undergo any medical examination it considers necessary.

The officer concerned must be given a copy of the medical report. The officer may then submit a medical report by a registered medical practitioner that addresses those matters.

## Powers of heads of jurisdictions

Prior to the establishment of the Commission, complaints could only be made to the heads of jurisdiction. These were processed internally by the relevant jurisdiction. The Commission's complaint process provides an alternate, separate and transparent decision-making process.

The Act does not, however, limit the powers that the heads of jurisdiction have to:

- ensure the effective, orderly, and expeditious discharge of the business of the court;
- do all the things necessary or convenient to perform these responsibilities.

## Our relationship with the Victorian Parliament and other sector agencies

The Victorian Parliament has the power to remove a judicial officer. Only the Attorney-General of Victoria has the power to remove a non-judicial VCAT member from office. The Governor in Council in Victoria makes the orders for the removal of officers.

The Victorian Inspectorate is responsible for the oversight of the exercise of coercive powers by an investigating panel or exercise by the Commission of the power to compel an officer to undergo a medical examination. This occurs through notification to the Victorian Inspectorate of any exercise of these powers at the conclusion of an investigating panel hearing or investigation of a matter, as the case may be.

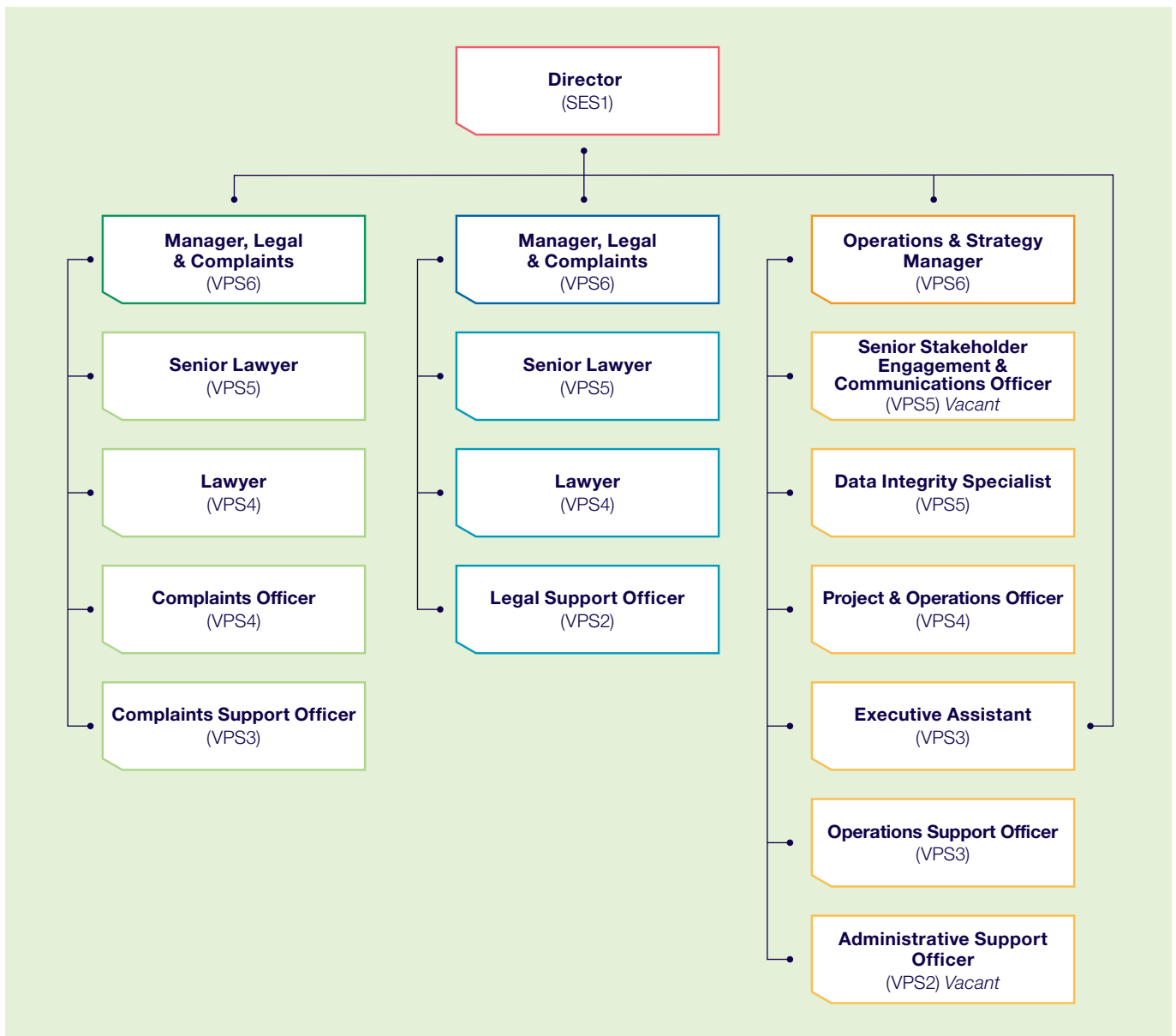


# Our operations



# Organisational structure

The Director is supported by a team performing a broad range of operational and legal tasks to ensure the Commission can deliver its functions. This year there were nine full-time and five part-time staff members. The Commission is supported by CSV, which provides corporate advice and assistance in finance, people and culture, information technology and procurement.



# Committees

## Audit and Risk Committee membership and roles

The Audit and Risk Committee (ARC) is a committee of the Courts Council.<sup>49</sup> Meeting every quarter, the ARC oversees the provision of audit and risk management functions and assurance to the Judicial Commission of Victoria Board.

In accordance with the Financial Reporting Directions under the FMA, the members of the committee during 2023-24 were:

- Ms Susan (Sue) Friend, Chair, non-judicial independent member of both the ARC and Courts Council;
- Dr Philip Williams AM, non-judicial independent member of both the ARC and Courts Council;
- The Honourable Justice Michael McDonald, judicial member (retired 22 February 2023);
- The Honourable Justice Michael Osbourne, judicial member (effective 25 May 2023);
- The Honourable Judge Philip Ginnane, judicial member;
- The Honourable Magistrate Phillip Goldberg, judicial member;
- Ms Elizabeth (Liz) Camilleri, non-judicial independent member.

The ARC supports the Courts Council and the CSV Board in achieving the CSV Strategic Plan's objectives. This involves providing guidance and leadership in the following areas:

- financial reporting and CSV financial statements;
- risk management;
- internal controls;
- internal audit function;
- external audit;
- compliance with the *Financial Management Act 1994* (FMA) and other relevant legislation, regulations, codes, internal policies and industry standards.

On 29 May 2021, the Assistant Treasurer granted the Commission a full exemption from the Standing Directions 2018 under the FMA for 2020-21 and onwards. This year, we collaborated with Court Services Victoria (CSV) to maintain a range of financial control and governance arrangements to ensure ongoing sound financial management. We continue to adopt CSV policies on a broad range of finance, risk and procurement matters, and the ARC maintain its oversight of and engagement with the Commission.

We continue to be subject to annual Victorian Auditor General's Office audits. This ensures a thorough review of financial management practices with opportunities for remedy and improvement, including auditing the Commission's annual financial statements for ARC to review and endorse. The Commission's Board will review and sign off the statements. These are included in [Section 7](#) of this report.

<sup>49</sup> Courts Council is Court Services Victoria's governing body. The Courts Council is Chaired by the Chief Justice of the Supreme Court and comprises the Heads of Jurisdiction and two non-judicial members. Courts Council directs the strategy, governance and risk management of CSV.

## Occupational health and safety

Our Occupational Health and Safety (OH&S) Strategy ensures that all staff remain safe and healthy at work. We have implemented an OH&S Management System.

This includes supplying office-based staff with an adjustable stand-up desk, footstools and chairs. It also involves keeping the office space clean and tidy and complying with OH&S walkway requirements to ensure accessibility and safety for all staff.

Another component of OH&S is ensuring staff well-being, including during and after potentially distressing phone calls. The content of complaints and legal proceedings handled by staff can be confronting or challenging. Further, many complainants who call us are frustrated and confused about the legal system. Some complainants also exhibit complex behaviours and mental health issues (self-disclosure). Our staff are experienced at responding to complainants disclosing self-harm or suicidal ideations during telephone calls.

However, to ensure their well-being, we regularly conducted debrief sessions, provided access to a free Employee Assistance Program, and encouraged employees to take breaks after challenging phone calls. Staff also attended trauma awareness training.

## Incident management

We have had no incidents.

## Employment values and conduct principles

We are committed to applying merit and equity principles when employing staff. The selection process ensures that applicants are assessed and evaluated fairly and equitably based on the key selection criteria and other accountabilities without discrimination. Employees have been correctly classified in workforce data collections.

## Comparative workforce data

The following table discloses the head count and full-time staff equivalent (FTE) of all active public service employees of the Commission employed in the last full pay period in June of the current reporting period and in the last full pay period in June of the previous reporting period (2023).

TABLE 4-1: Details of employment levels in June 2024

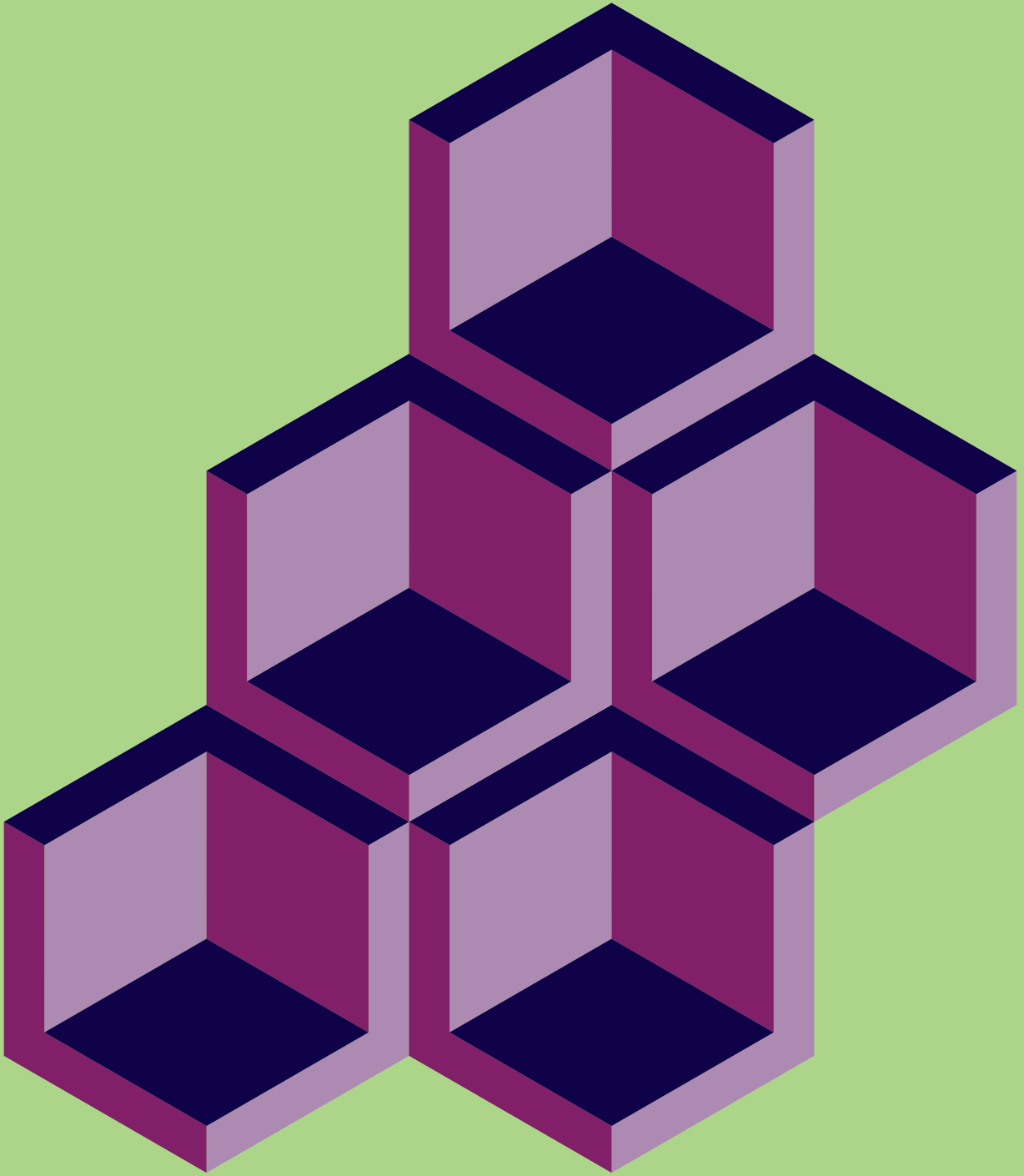
		June 24						
		All employees		Ongoing			Fixed term and casual	
		Number (headcount)	FTE	Full-time (headcount)	Part-time (headcount)	FTE	Number (headcount)	FTE
Demographic data	<b>Gender</b>							
	Women	13	11	5	1	6	7	5
	Men	2	2	1	0	1	1	1
	Self-described	0	0	0	0	0	0	0
	<b>Age</b>							
	15-24	1	1	0	0	0	1	1
	25-34	3	3	2	0	2	1	1
	35-44	9	8	4	1	5	4	3
	45-54	2	2	0	0	0	2	2
	55-64	0	0	0	0	0	0	0
65+	0	0	0	0	0	0	0	
Classification data	<b>VPS 1-6 grades</b>	13	10	5	1	6	7	7
	VPS 1	0	0	0	0	0	0	0
	VPS 2	1	0	0	0	0	1	1
	VPS 3	3	2	1	0	1	2	2
	VPS 4	3	3	1	0	1	2	2
	VPS 5	3	3	2	0	2	1	1
	VPS 6	3	2	1	1	2	1	1
	<b>Executives</b>	1	1	1	0	1	0	0
	<b>Total employees</b>	<b>14</b>	<b>11</b>	<b>6</b>	<b>1</b>	<b>7</b>	<b>7</b>	<b>7</b>

TABLE 4-2: Details of employment levels in June 2023

		June 23						
		All employees		Ongoing			Fixed term and casual	
		Number (headcount)	FTE	Full-time (headcount)	Part-time (headcount)	FTE	Number (headcount)	FTE
Demographic data	<b>Gender</b>							
	Women	14	12	8	2	9	4	2
	Men	5	5	0	0	0	5	5
	Self-described	0	0	0	0	0	0	0
	<b>Age</b>							
	15-24	3	3	0	0	0	3	3
	25-34	4	4	3	0	3	1	1
	35-44	10	7	4	2	5	4	3
	45-54	2	2	1	0	1	1	1
	55-64	0	0	0	0	0	0	0
	65+	0	0	0	0	0	0	0
Classification data	<b>VPS 1-6 grades</b>	18	15	7	2	8	9	7
	VPS 1	0	0	0	0	0	0	0
	VPS 2	2	1	0	0	0	2	1
	VPS 3	5	4	1	0	1	4	3
	VPS 4	3	3	2	0	2	1	1
	VPS 5	5	5	2	1	3	2	2
	VPS 6	3	2	2	1	2	0	0
	<b>Executives</b>	1	1	1	0	1	0	0
	<b>Total employees</b>	<b>19</b>	<b>16</b>	<b>8</b>	<b>2</b>	<b>9</b>	<b>9</b>	<b>7</b>

## Executive Officer data

As of 30 June 2024, there is one Executive Officer at the Commission.



# Our detailed data

**TABLE 5-1: Comparison of key complaints data from the last two financial years**

	2022-23	2023-24
Individual complainants	116	185
Individual officers	103	160
Complaints where a request for documents was made under section 28	78	115
Complaints where an opportunity to respond was offered	4	16
Complaints where a response was received	3	14
Dismissed	96 (92.3%)	207 (95.8%)
Referred to head of jurisdiction	6 (5.8%)	9 (4.2%)
Referred to investigating panel	2 (1.9%)	0 (0%)

**TABLE 5-2: Time taken to finalise complaints and percentage of total**

Time period from date of receipt to finalisation	Number of complaints (percentage of totals)		
	2021-22	2022-23	2023-24
Three months or less	30 (21.6%)	18 (17.3%)	42 (19.4%)
Three to four months	20 (14.4%)	13 (12.5%)	30 (13.9%)
Four to five months	20 (14.4%)	14 (13.5%)	31 (14.4%)
Five to six months	9 (6.5%)	24 (23.1%)	36 (16.7%)
Six to seven months	15 (10.8%)	12 (11.5%)	29 (13.4%)
More than seven months	45 (32.3%)	23 (22.1%)	48 (22.2%)

**TABLE 5-3: Timeliness of finalised complaints**

Timeliness of finalised complaints	2021-22	2022-23	2023-24
Average	176	187	166
Median	148	159	154
Finalised within 6 months	79 (56.9%)	69 (66.4%)	139 (64.4%)

TABLE 5-4: Efficiency in finalising complaints

Complaint flow	2021-22	2022-23	2023-24
Received	131	145	230
Investigations finalised	138	104	216
Withdrawn	7	1	7
Remaining open at the end of the financial year <sup>50</sup>	53	83	96
Of those remaining open, the number received in the previous financial year	3	4	0
Clearance rate <sup>51</sup>	110%	72%	97%

TABLE 5-5: Number of complaints received per jurisdiction and percentage of total

Jurisdiction	2021-22	2022-23	2023-24
Supreme Court	6 (4.6%)	17 (11.7%)	15 (6.5%)
County Court	9 (6.9%)	11 (7.6%)	27 (11.8%)
Magistrates' Court	71 (54.2%)	83 (57.2%)	107 (46.5%)
Children's Court	5 (3.8%)	4 (2.8%)	7 (3%)
Coroners Court	0 (0%)	2 (1.4%)	2 (0.9%)
VCAT	39 (29.8%)	27 (18.6%)	70 (30.4%)
Victims of Crime Assistance Tribunal	1 (0.7%)	1 (0.7%)	2 (0.9%)

TABLE 5-6: Number of complaints alleging judicial bullying since the introduction of the Judicial Conduct Guideline on Judicial Bullying

Judicial Bullying Complaints	2022-23	2023-24
Received	3	3

50 These figures exclude submissions received prior to 30 June that are triaged as a complaint after 30 June

51 Clearance rate = investigations finalised + withdrawn / received, expressed as a percentage.



TABLE 5-7: Grounds for dismissing complaint parts

Ground for dismissing complaint parts	Number of complaints and percentage of total dismissed complaints where the ground was exercised at least once		
	2021-22	2022-23	2023-24
Does not meet the section 16(1) threshold	50 (37.6%)	73 (76%)	143 (69.1%)
Not a judicial officer or VCAT member: section 16(2)(b)	13 (9.8%)	1 (1%)	0 (0%)
Conduct occurred before appointment to office: section 16(3)(a)	0 (0%)	1 (1%)	1 (0.5%)
Complaint relates solely to the merits or lawfulness of decision: section 16(3)(b)	35 (26.3%)	7 (7.3%)	21 (10.1%)
Complaint is frivolous, vexatious, not in good faith: section 16(3)(d)	6 (4.5%)	3 (3.1%)	3 (1.4%)
Officer resigned or no longer in office: section 16(3)(e)	1 (0.75%)	1 (1%)	4 (1.9%)
Complaint not substantiated: section 16(4)(a)	86 (64.7%)	47 (49%)	111 (53.6%)
Too remote a time: section 16(4)(b)	0 (0%)	0 (0%)	1 (0.5%)
Further investigation unnecessary or unjustified: section 16(4)(c)	58 (43.6%)	34 (35.4%)	41 (19.8%)



# Disclosures

# Financial summary and review

## Four-year financial summary

The budget provides a comparison of the financial statements for the Commission and the forecast financial information.

The financial summary and review are not subject to audit by the Victorian Auditor General's Office and are not prepared on the same basis as the Commission's financial statements.

Refer to the financial statements for comparisons of budget and actual.

**TABLE 6-1: Financial summary**

	2023–2024	2022–2023	2021–2022	2020–2021
	\$000	\$000	\$000	\$000
Revenue from government	2,681	2,803	2,656	2,465
Total income from transactions	2,681	2,803	2,656	2,465
Total expenses from transactions	2,435	2,368	2,685	2,465
Net result from transactions – surplus / (deficit)	246	435	(2)	0
Net result for the period – surplus / (deficit)	246	435	(0)	0
Net cash flow from operating activities	–	200	265	226
Total assets	1,765	1,439	1,378	1,476
Total liabilities	505	425	580	895

## Consultancy expenditure

### Details of consultancies (valued at \$10,000 or greater)

This year there were three consultancies where the total fees payable to the consultants were \$10,000 or greater. The total expenditure incurred during this year in relation to these consultancies was \$317,444 (excl. GST).

**TABLE 6-2: Details of individual consultancies over \$10,000**

Purpose of consultancy	Start date	End date	Total approved project fee (excl. GST)	Expenditure 2023–2024 (excl. GST)	Future expenditure (excl. GST)
PR and Annual Report Services	1 July 2023	30 June 2024	\$43,360	\$38,970	\$0
Revised Complaints Portal Build – Digital Transformation Project	1 July 2023	30 June 2024	\$0	\$0	\$66,773
Website design and build – Digital Transformation Project	1 July 2023	30 June 2024	\$375,000	\$301,539	\$0
Rebranding – Digital Transformation Project	1 July 2023	30 June 2024	\$15,905	\$15,905	\$0

### Details of consultancies under \$10,000

This year there were four consultancies where the total fees payable to the individual consultancies was less than \$10,000. The total expenditure incurred during this year in relation to these consultancies was \$13,840 (excl. GST).

**TABLE 6-3: Details of consultancies under \$10,000**

Purpose of consultancy	Start date	End date	Total approved project fee (excl. GST)	Expenditure 2023–2024 (excl. GST)	Future expenditure (excl. GST)
PR Support and Annual Report Services	1 July 2023	30 June 2024	\$12,000	\$3,000	\$9,000
Penetration Testing – Digital Transformation Project	1 July 2023	30 June 2024	\$19,400	\$6,600	\$8,800
Revised Portal Build – Digital Transformation Project	1 July 2023	30 June 2024	\$1,740	\$1,740	\$0
First Nations Artwork for website – Digital Transformation Project	1 July 2023	30 June 2024	\$2,500	\$2,500	\$0

## Information and Communication Technology expenditure

### Details of Information and Communication Technology (ICT) expenditure

This year we had a total ICT expenditure of \$323,783 with the details shown below.

**TABLE 6-4: Total ICT expenditure**

(\$ Thousand)			
All operational ICT expenditure		ICT Expenditure related to projects to create or enhance ICT capabilities	
Business As Usual (BAU) ICT expenditure	Non-Business As Usual (Non-BAU) ICT expenditure	Operational Expenditure	Capital Expenditure
\$175,095	\$323,783	\$323,783	\$0
<b>Total = Operational expenditure and capital expenditure</b>			\$323,783

ICT expenditure refers to costs in providing business-enabling ICT services within the current reporting period. It comprises BAU ICT expenditure and non-BAU ICT expenditure.

Non-BAU ICT expenditure relates to extending or enhancing current ICT capabilities. BAU ICT expenditure is all remaining ICT expenditure which mainly relates to ongoing activities that operate and maintain the current ICT capabilities.

## Office-based environmental impacts

### Energy and water consumption

The building is carbon neutral certified under the combined NABERS and Climate Active pathway, and in alignment with the international Greenhouse Gas Protocol. The building has a 5 Star NABERS Energy (6 Star equivalent NABERS Energy with GreenPower rating using self-surrendered LGCs). Additionally, the building has a 5.5 Star NABERS Water Rating.

The focus on energy efficiency, utilising a combination of both on-site and off-site 100% renewable electricity combined with a demand response programme to manage electricity loads within the building. LED light and air conditioning have been upgraded to optimise energy efficiencies also.

Water usage and electricity is not billed directly to the Commission separately as it is included as part of the building lease. We have no oversight of consumption of these services.

### Paper purchasing

We buy paper supplies through the State Purchase Contract with Complete Office Supplies. The paper is 100% Recycled Bright White Australian (made in Victoria) and is certified carbon neutral under the National Carbon Offset Standard's Carbon Neutral Program.

### Plants

Plant maintenance, in relation to plants that were part of the tenancy fit-out, is managed by an external contractor. Additional plants are maintained by office staff.

### Transportation

Most staff use sustainable transport to get to and from work. The main mode is public transport, including the train and tram. Some staff members use active transport such as walking and cycling. End-of-trip facilities include drying space and showers.

### Waste generation

We manage waste through a contract supplied by building management of the leased premises and it includes recyclables.

## Freedom of Information

The *Freedom of Information Act 1982* (the FOI Act) allows the public a right to access documents held by the Commission. The purpose of the FOI Act is to give the community the right to access information held by government departments, local councils, Ministers and other bodies subject to the FOI Act.

While an applicant can apply for access to documents held by the Commission, including documents created by the Commission or supplied to the Commission by an external organisation or individual, under section 143 of the Act, the FOI Act does not apply to a document that discloses information about a complaint, referral or investigation of the Commission.

The FOI Act allows us to refuse access, either fully or partially, to certain documents or information. Examples of documents that may not be accessed include:

- cabinet documents;
- some internal working documents;
- law enforcement documents;
- documents covered by legal professional privilege such as legal advice;
- personal information about other people;
- confidential information provided to the Commission.

If an applicant is not satisfied by the Commission's decision, under section 49A of the FOI Act, the applicant has the right to ask for a review by the Office of the Victorian Information Commissioner (OVIC) within 28 days of receiving a decision letter.

We did not receive any Freedom of Information (FOI) requests this year. FOI requests are handled in accordance with guidelines and processes set down by the OVIC.

## Making a request

FOI requests can be lodged online at <https://online.foi.vic.gov.au/foi/request.doj>. An application fee of \$31.80<sup>52</sup> applies and charges may also apply if the document pool is large.

Access to documents can also be obtained via a written request to the Commission's FOI team (section 17 of the FOI Act).

When making an FOI request, applicants must request information in writing, and clearly identify what types of material/documents they are seeking.

Requests for documents at the Commission go to:  
Freedom of Information Team  
Judicial Commission of Victoria  
GPO Box 4305  
Melbourne VIC 3001

## Compliance with the *Building Act 1993*

The Commission does not own or control any government buildings and therefore is excused from notifying its compliance with the building and maintenance provisions of the *Building Act 1993*.

## Victorian Industry Participation Policy Act 2003

The *Victorian Industry Participation Policy Act 2003* must be applied to all procurement activities valued at \$3 million, or more, in metropolitan Melbourne and for state-wide projects, or \$1 million or more in regional Victoria.

We did not commence or complete any such procurement activities in this year.

## Compliance with the *Public Interest Disclosures Act 2012*

The PID Act encourages people to disclose improper conduct by public officers and public bodies and provides protection to those who make disclosures in accordance with the Act or anyone who may suffer detrimental action in reprisal for those disclosures. The PID Act establishes a system for ensuring disclosures are properly assessed and investigated where appropriate. It also ensures the content and identity of the disclosure is confidential.

## Reporting procedures

We can receive Public Interest Disclosures about judicial officers and non-judicial members of VCAT. Disclosures of improper conduct about a judicial officer or non-judicial member of VCAT should be made to the Director of the Judicial Commission.

We have processes to protect people who makes such disclosures from any resulting detrimental action. This will also afford natural justice to the subject of the disclosure.

<sup>52</sup> Price is current at the time of writing.

We do not accept improper conduct by employees. We are committed to ensuring transparency and accountability in the Commission's administrative and management practices. We support disclosures that:

- reveal corrupt conduct;
- a criminal offence;
- serious professional misconduct;
- the dishonest performance of public functions;
- breach of public trust;
- misuse of information or material acquired while performing public functions;
- a substantial mismanagement of public resources;
- a substantial risk to health and safety or the environment.

Disclosures of improper conduct by the Commission or any of its employees must be made to the:

- Independent Broad-based Anti-corruption Commission (IBAC);
- Victorian Inspectorate.

## Further information

Our Public Interest Disclosures Policy and Procedures is available on our website and outlines the system for reporting disclosures of improper conduct or detrimental action.

## Compliance with the Carers Recognition Act 2012

We comply with our obligations under the *Carers Recognition Act 2012 (Vic)* by ensuring all new employees are aware of their rights under the legislation. We also ensure that existing employees, who have carer responsibilities, are supported to balance work responsibilities and caring commitments in accordance with the Victorian Public Service Enterprise Agreement 2020.

We also have people management policies that support the guiding principles of the *Carers Recognition Act 2012*, including those listed below.

- Employee Assistance Program;
- Personal/Carer's Leave Policy;
- Flexible Working Arrangements Policy;
- Respect in the Workplace Policy;
- Hours of Work Policy;
- Purchased Leave Policy;
- Special Leave Policy due to the pandemic.



## Additional Commission information available on request

In compliance with the Standing Directions of the Minister for Finance, the items listed below have been retained by the Commission and are available on request, subject to the provisions of the FOI Act.

- (a) A statement that declarations of pecuniary interests have been duly completed by all relevant Officers of the Commission;
- (b) Details of shares held by a senior officer as nominee or held beneficially in a statutory authority or subsidiary;
- (c) Details of publications produced by the Commission about itself, and how these can be obtained;
- (d) Details of assessments and measures undertaken to improve the occupational health and safety of employees;
- (e) A list of major committees sponsored by the Commission, the purpose of each committee and the extent to which the purposes has been achieved;
- (f) Details of consultancies and contractors including:
  - (i) Consultants/contractors engaged;
  - (ii) Services provided;
  - (iii) Expenditure committed to for each engagement.

## Compliance with DataVic Access Policy

Consistent with the DataVic Access Policy issued by the Victorian Government in 2012, we made zero data sets available on the DataVic website this year.

Information included in this annual report will also be available at [www.judicialcommission.vic.gov.au](http://www.judicialcommission.vic.gov.au) in electronic readable format.

# JCV Disclosure Index

Legislation	Requirement
<b>Ministerial Directions and Financial Reporting Directions</b>	
<b>REPORT OF OPERATIONS</b>	
<b>Charter and purpose</b>	
FRD 22H	Manner of establishment and the relevant Ministers
FRD 22H	Purpose, functions, power and duties
FRD 8D	Departmental objectives, indicators and outputs
FRD 22H	Nature and range of services provided
<b>Management and structure</b>	
FRD 22H	Organisational structure
<b>Financial and other information</b>	
FRD 8D	Budget portfolio outcomes
FRD 10A	Disclosure Index
FRD 22H	Employment and conduct principles
FRD 22H	Occupational health and safety policy
FRD 22H	Summary of financial results for the year
FRD 22H	Application and operation of <i>Freedom of Information Act 1982</i>
FRD 22H	Compliance with building and maintenance provisions of <i>Building Act 1993</i>
FRD 22H	Compliance with the <i>Victorian Industry Participation Act 2003</i>
FRD 22H	Application and operation of the Public Interest Disclosure 2012
FRD 22H	Application and operation of the <i>Carers Recognition Act 2012</i>
FRD 22H	Details of consultancies over \$10,000
FRD 22H	Details of consultancies under \$10,000
FRD 22H	Disclosure of ICT expenditure
FRD 24D	Reporting of office based environmental impacts
FRD 29	Workforce data disclosures
SD 5.2	Specific requirements under Standing Direction 5.2

Legislation	Requirement
<b>Compliance attestation and declaration</b>	
SD 5.1.4	Attestation for compliance with Ministerial Standing Direction
SD 5.2.3	Declaration in report of operations
<b>Financial statements</b>	
Declaration	
SD 5.2.2	Declaration in financial statements
<b>Ministerial Directions and Financial Reporting Directions</b>	
<b>Other requirements under Standing Directions 5.2</b>	
SD5.2.1(a)	Compliance with Australian accounting standards and other authoritative pronouncements
SD 5.2.1(a)	Compliance of Ministerial Directions
SD 5.2.1(b)	Compliance with Model Financial Report
<b>Other disclosures as required by FRDs in notes to the financial statements</b>	
FRD 13	Disclosure of Parliamentary Appropriations
FRD 103H	Non-Financial Physical Assets
FRD 110A	Cash Flow Statements
FRD 112D	Defined Benefit Superannuation Obligations
<b>LEGISLATION</b>	
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	<i>Building Act 1993 (Vic)</i>
	<i>Public Interest Disclosures Act 2012 (Vic)</i>
	<i>Carers Recognition Act 2012 (Vic)</i>
	<i>Victorian Industry Participation Policy Act 2003 (Vic)</i>
	<i>Constitution Act 1975 (Vic)</i>
	<i>Financial Management Act 1994 (Vic)</i>
	<i>Judicial Commission of Victoria Act 2016 (Vic)</i>



# Financial statements

# **FINANCIAL STATEMENTS**

**FOR THE FINANCIAL YEAR ENDED 30 June 2024**

## JUDICIAL COMMISSION OF VICTORIA - FINANCIAL STATEMENTS

### How this report is structured

Judicial Commission of Victoria (JCV) has presented its audited general purpose financial statements for the financial year ended 30 June 2024 in the following structure to provide users with the information about JCV's stewardship of resources entrusted to it.

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## DECLARATION IN THE FINANCIAL STATEMENTS

The attached financial statements for the Judicial Commission of Victoria have been prepared in accordance with Direction 5.2 of the Standing Directions of the Assistant Treasurer under the *Financial Management Act 1994*, applicable Financial Reporting Directions (FRDs), Australian Accounting Standards including interpretations, and other mandatory professional reporting requirements.

We further state that, in our opinion, the information set out in the comprehensive operating statement, balance sheet, cash flow statement, statement of changes in equity and accompanying notes, presents fairly the financial transactions during the year ended 30 June 2024 and financial position of the Judicial Commission of Victoria at 30 June 2024.

At the time of signing, we are not aware of any circumstance that would render any particulars included in the financial statements to be misleading or inaccurate.

We authorise the attached financial statements for issue on 7 October 2024.



The Honourable Chief Justice Mary  
Anne Ferguson  
Chair of the Board  
Judicial Commission of Victoria



Alexis Eddy  
Director  
Judicial Commission of Victoria



Peter Bennis  
Chief Finance Officer  
Judicial Commission of Victoria

Melbourne  
7 October 2024

Melbourne  
7 October 2024

Melbourne  
7 October 2024

# Independent Auditor's Report

## *To the Board of the Judicial Commission of Victoria*

<b>Opinion</b>	<p>I have audited the financial report of the Judicial Commission of Victoria (the Commission) which comprises the:</p> <ul style="list-style-type: none"> <li>• balance sheet as at 30 June 2024</li> <li>• comprehensive operating statement for the year then ended</li> <li>• statement of changes in equity for the year then ended</li> <li>• cash flow statement for the year then ended</li> <li>• notes to the financial statements, including material accounting policy information</li> <li>• declaration in the financial statements.</li> </ul> <p>In my opinion the financial report presents fairly, in all material respects the financial position of the Commission as at 30 June 2024 and its financial performance and cash flows for the year then ended in accordance with the financial reporting requirements of Part 7 of the <i>Financial Management Act 1994</i> and applicable Australian Accounting Standards.</p>
<b>Basis for opinion</b>	<p>I have conducted my audit in accordance with the <i>Audit Act 1994</i> which incorporates the Australian Auditing Standards. I further describe my responsibilities under that Act and those standards in the <i>Auditor's responsibilities for the audit of the financial report</i> section of my report.</p> <p>My independence is established by the <i>Constitution Act 1975</i>. My staff and I are independent of the Commission in accordance with the ethical requirements of the Accounting Professional and Ethical Standards Board's APES 110 <i>Code of Ethics for Professional Accountants (including Independence Standards)</i> (the Code) that are relevant to my audit of the financial report in Victoria. My staff and I have also fulfilled our other ethical responsibilities in accordance with the Code.</p> <p>I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.</p>
<b>The Board's responsibilities for the financial report</b>	<p>The Board of the Commission is responsible for the preparation and fair presentation of the financial report in accordance with Australian Accounting Standards and the <i>Financial Management Act 1994</i>, and for such internal control as the Board determines is necessary to enable the preparation of a financial report that is free from material misstatement, whether due to fraud or error.</p> <p>In preparing the financial report, the Board is responsible for assessing the Commission's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless it is inappropriate to do so.</p>



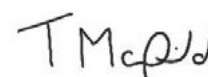
**Auditor's responsibilities for the audit of the financial report**

As required by the *Audit Act 1994*, my responsibility is to express an opinion on the financial report based on the audit. My objectives for the audit are to obtain reasonable assurance about whether the financial report as a whole is free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with the Australian Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of this financial report.

As part of an audit in accordance with the Australian Auditing Standards, I exercise professional judgement and maintain professional scepticism throughout the audit. I also:

- identify and assess the risks of material misstatement of the financial report, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control
- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Board's internal control
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Board
- conclude on the appropriateness of the Board's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Board's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial report or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the Commission to cease to continue as a going concern
- evaluate the overall presentation, structure and content of the financial report, including the disclosures, and whether the financial report represents the underlying transactions and events in a manner that achieves fair presentation.

I communicate with the Board regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.



Timothy Maxfield

*as delegate for the Auditor-General of Victoria*

MELBOURNE  
11 October 2024

## Comprehensive operating statement

### For the financial year ended 30 June 2024

	Note	2024 \$'000	2023 \$'000
<b>Continuing operations</b>			
<b>Income from transactions</b>			
Grants	2.1	2,681	2,803
<b>Total income from transactions</b>		<b>2,681</b>	<b>2,803</b>
<b>Expenses from transactions</b>			
Employee expenses	3.1	1,744	1,593
Depreciation and amortisation	4.1/4.2	21	122
Interest expense	6.1	-	2
Supplies and services	3.2	670	651
<b>Total expenses from transactions</b>		<b>2,435</b>	<b>2,368</b>
<b>Net result from transactions (net operating balance)</b>		<b>246</b>	<b>435</b>
<b>Other economic flows included in net result</b>			
Net gain/(loss) arising from revaluation of long service liability		-	(1)
<b>Total other economic flows included in net result</b>		<b>-</b>	<b>(1)</b>
<b>Net result</b>		<b>246</b>	<b>434</b>
<b>Comprehensive result</b>		<b>246</b>	<b>434</b>

The accompanying notes form part of these financial statements.

## Balance Sheet

### As at 30 June 2024

	Note	2024 \$'000	2023 \$'000
<b>Financial assets</b>			
Cash and deposits	7.1.1	240	240
Receivables	5.1	1,433	1,079
<b>Total financial assets</b>		<b>1,673</b>	<b>1,319</b>
<b>Non-financial assets</b>			
Property, plant and equipment	4.1	92	114
Prepayments		-	5
<b>Total non-financial assets</b>		<b>92</b>	<b>119</b>
<b>Total assets</b>		<b>1,765</b>	<b>1,438</b>
<b>Liabilities</b>			
Payables	5.2	143	95
Provisions	3.1	362	329
<b>Total liabilities</b>		<b>505</b>	<b>424</b>
<b>Net assets</b>		<b>1,260</b>	<b>1,014</b>
<b>Equity</b>			
Accumulated surplus/(deficit)		1,260	1,014
<b>Net worth</b>		<b>1,260</b>	<b>1,014</b>

The accompanying notes form part of these financial statements.

## Cash flow statement

### For the financial year ended 30 June 2024

	Note	2024 \$'000	2023 \$'000
<b>Cash flows from operating activities</b>			
<b>Receipts</b>			
Receipts from Government		2,327	2,396
<b>Total receipts</b>		<b>2,327</b>	<b>2,396</b>
<b>Payments</b>			
Payments to suppliers and employees		(2,327)	(2,194)
Interest and other costs of finance paid		-	(2)
<b>Total payments</b>		<b>(2,327)</b>	<b>(2,196)</b>
<b>Net cash flows from/(used in) operating activities</b>	6.2	<b>-</b>	<b>200</b>
<b>Cash flows from investing activities</b>			
Purchases of non-financial assets		-	(98)
<b>Net cash flows from/(used in) investing activities</b>		<b>-</b>	<b>(98)</b>
<b>Cash flows from financing activities</b>			
Repayment of principal portion of right of use leases		-	(103)
<b>Net cash provided by/(used in) financing activities</b>		<b>-</b>	<b>(103)</b>
<b>Net increase (decrease) in cash held</b>		<b>-</b>	<b>-</b>
Cash and cash equivalents at the beginning of the financial year		240	240
<b>Cash and cash equivalents at the end of the financial year</b>		<b>240</b>	<b>240</b>

The accompanying notes form part of these financial statements.

## Statement of changes in equity

### For the financial year ended 30 June 2024

2024	Note	Accumulated surplus/ (deficit)	Total
		\$'000	\$'000
<b>Balance as at 1 July 2023</b>		1,014	1,014
Net result for the year		246	246
<b>Balance as at 30 June 2024</b>		<b>1,260</b>	<b>1,260</b>

2023	Note	Accumulated surplus/ (deficit)	Total
		\$'000	\$'000
<b>Balance as at 1 July 2022</b>		580	580
Net result for the year		434	434
<b>Balance as at 30 June 2023</b>		<b>1,014</b>	<b>1,014</b>

The statement of changes in equity should be read in conjunction with the notes to the financial statements.

## 1 ABOUT THIS REPORT

---

The Judicial Commission of Victoria (JCV) was established on 1 July 2017 under the *Constitution Act 1975* as an independent body to investigate complaints about judicial officers and non-judicial members of the Victorian Civil and Administrative Tribunal (VCAT) to ensure public confidence and trust in the system is maintained.

JCV's activities and governance are defined within the *Judicial Commission of Victoria Act 2016* and the *Constitution Act 1975*. JCV's activities include investigating complaints about judicial officers and non-judicial members of VCAT.

JCV's principal address is GPO Box 4305, Melbourne, Vic 3000.

### Basis of preparation

These financial statements are in Australian dollars and the historical cost convention is used unless a different measurement basis is specifically disclosed in the note associated with the item measured on a different basis.

The accrual basis of accounting has been applied in the preparation of these financial statements whereby assets, liabilities, equity, income and expenses are recognised in the reporting period to which they relate, regardless of when cash is received or paid.

Consistent with the requirements of Australian Accounting Standard AASB 1004 *Contributions*, contributions by owners (that is contributed capital and its repayment) are treated as equity transactions and, therefore, do not form part of the income and expenses of JCV.

Additions to net assets that have been designated as contributions by owners are recognised as contributed capital. Other transfers that are in the nature of contributions to or distributions by owners have also been designated as contributions by owner.

Transfers of net assets arising from administrative restructurings are treated as distributions to or contributions by owners. Transfers of net liabilities arising from administrative restructurings are treated as distributions to owners.

Revisions to accounting estimates are recognised in the period in which the estimate is revised and also in future periods that are affected by the revision. Judgments and assumptions made by management in applying Australian Accounting Standards (AAS) that have significant effects on the financial statements and estimates are disclosed in the notes under the heading 'Change in accounting policies'.

These financial statements cover JCV as an individual reporting entity and include all the controlled activities of JCV. All amounts in the financial statements have been rounded to the nearest \$1,000 unless otherwise stated.

Comparative figures have been reinstated where necessary.

### Compliance information

These general purpose financial statements have been prepared in accordance with the *Financial Management Act 1994* (FMA) and applicable AAS, which include Interpretations issued by the AASB. In particular, they are presented in a manner consistent with the requirements of AASB 1049 *Whole of Government and General Government Sector Financial Reporting*.

Where appropriate, those AAS paragraphs applicable to not-for-profit entities have been applied. Accounting policies selected and applied in these financial statements ensure that the resulting financial information satisfies the concepts of relevance and reliability, thereby ensuring that the substance of the underlying transactions or other events is reported.

## 2 FUNDING DELIVERY OF OUR SERVICES

### Introduction

JCV is an independent body established by legislation to investigate complaints about Judicial Officers and non-judicial members of the Victorian Civil and Administrative Tribunal (VCAT).

### Structure

2.1 Summary of income that funds the delivery of our services

#### 2.1 Summary of income that funds the delivery of our services

	2024 \$'000	2023 \$'000
Grants	2,681	2,803
<b>Total income from transactions</b>	<b>2,681</b>	<b>2,803</b>

Revenue and income that fund delivery of JCV's services are accounted for consistently with the requirements of AASB 1058 *Income of Not-for-Profit Entities*, as disclosed in the following notes.

### Grant Income

The JCV is funded for the provision of outputs consistent with its statutory function by accrual-based grants derived from monies appropriated annually by Parliament through Court Services Victoria (CSV).

Grant income for investigating panel expenditure is recognised when a present obligation for such expenditure has been incurred as a result of services provided prior to balance date relating to a complaint or referral being referred to an Investigating Panel.

### 3 THE COST OF DELIVERING SERVICES

#### Introduction

This section provides an account of the expenses incurred by JCV in delivering the services and outputs it received income for, as outlined in section 2.

#### Structure

- 3.1 Expenses incurred in delivery of services
- 3.2 Supplies and services

#### 3.1 Expenses incurred in delivery of services

	Note	2024 \$'000	2023 \$'000
Employee benefit expenses	3.1.1	1,744	1,593
Supplies and services	3.2	670	651
<b>Total expenses incurred in delivery of services</b>		<b>2,414</b>	<b>2,244</b>

##### 3.1.1 Employee benefit and Judicial Officer remuneration expenses in the comprehensive operating statement

		2024 \$'000	2023 \$'000
Defined contribution superannuation expense	3.1.3	155	142
Salaries and wages		1,333	1,200
Leave expenses (annual leave and long service leave)		114	132
Other on-costs (fringe benefits tax, payroll tax, training and workcover levy)		142	119
<b>Total employee expenses</b>		<b>1,744</b>	<b>1,593</b>

Employee expenses encompasses all costs related to employment, including wages and salaries, fringe benefits tax, leave entitlements, termination payments and WorkCover premiums.

The amount recognised in the Comprehensive operating statement in relation to superannuation is employer contributions for members of defined contribution superannuation plans that are paid or payable during the reporting period.



### 3.1.2 Employee benefits and Judicial Officer remuneration in the balance sheet

Provision is made for benefits accruing to employees in respect of wages and salaries, annual leave and long service leave for services rendered to the reporting date and recorded as an expense during the period the services are delivered.

	2024 \$'000	2023 \$'000
<b>Current provisions:</b>		
<b>Annual leave</b>		
Unconditional and expected to settle within 12 months	100	90
Unconditional and expected to settle after 12 months	23	4
<b>Long service leave</b>		
Unconditional and expected to settle within 12 months	22	26
Unconditional and expected to settle after 12 months	137	128
<b>Provisions for on-costs</b>		
Unconditional and expected to settle within 12 months	23	33
Unconditional and expected to settle after 12 months	32	24
<b>Total current provisions for employee benefits</b>	<b>337</b>	<b>304</b>
<b>Non-current provisions</b>		
Employee benefits and Judicial Officer remuneration	21	21
On-costs	4	4
<b>Total non-current provisions for employee benefits</b>	<b>25</b>	<b>25</b>
<b>Total provisions for employee benefits</b>	<b>362</b>	<b>329</b>

#### Reconciliation of movement in on-cost provision

	2024 \$'000	2023 \$'000
<b>Opening balance</b>	60	53
Additional provisions recognised	22	29
Reductions arising from payments/other sacrifices of future economic benefits	(23)	(22)
<b>Closing balance</b>	<b>59</b>	<b>60</b>
Current	55	56
Non-current	4	4
<b>Total</b>	<b>59</b>	<b>60</b>

**Wages and salaries, annual leave and sick leave:** Liabilities for wages and salaries (including non-monetary benefits, annual leave and on-costs) are recognised as part of the employee benefit provision as current liabilities, because JCV does not have an unconditional right to defer settlements of these liabilities.

The liability for salaries and wages are recognised in the balance sheet at remuneration rates that are current at the reporting date. As JCV expects the liabilities to be wholly settled within 12 months of reporting date, they are measured at undiscounted amounts.

The annual leave liability is classified as a current liability and measured at the undiscounted amount expected to be paid, as JCV does not have an unconditional right to defer settlement of the liability for at least 12 months after the end of the reporting period.

No provision has been made for sick leave as all sick leave is non-vesting and it is not considered probable that the average sick leave taken in the future will be greater than the benefits accrued in the future. As sick leave is non-vesting, an expense is recognised in the Comprehensive operating statement as it is taken.

Employment on-costs such as payroll tax, workers compensation and superannuation are not employee benefits. They are disclosed separately as a component of the provision for employee benefits when the employment to which they relate has occurred.

**Unconditional long service leave** is disclosed as a current liability even where JCV does not expect to settle the liability within 12 months, as it will not have the unconditional right to defer the settlement of the entitlement should an employee take leave within 12 months.

The components of the current long service leave liability are measured at:

- undiscounted value – if JCV expects to wholly settle within 12 months; or
- present value – if JCV does not expect to wholly settle within 12 months.

**Conditional long service leave** is disclosed as a non-current liability. There is an unconditional right to defer the settlement of the entitlement until the employee has completed the requisite years of service. This non-current long service leave liability is measured at present value.

Any gain or loss following revaluation of the present value of non-current long service leave liability is recognised as a transaction, except to the extent that a gain or loss arises due to changes in bond interest rates for which it is then recognised as an 'other economic flow' in the net result.

### 3.1.3 Superannuation contributions

Employees of JCV are entitled to receive superannuation benefits and JCV contributes to defined contribution plans.

	Paid contribution for the year		Contribution outstanding at year end	
	2024 \$'000	2023 \$'000	2024 \$'000	2023 \$'000
<b>Defined contribution plans:</b>				
Vic Super merged with Aware Super	58	44	-	-
Various other	97	98	-	-
<b>Total</b>	<b>155</b>	<b>142</b>	<b>-</b>	<b>-</b>

## 3.2 Supplies and services

	2024 \$'000	2023 \$'000
Accommodation and property services	21	46
Contractors, professional services and consultants	177	272
Printing, stationery and other office expenses	37	30
Technology services	409	210
Other	26	93
<b>Total supplies and services</b>	<b>670</b>	<b>651</b>

**Supplies and services** expenses generally represent day-to-day running costs incurred in normal operations and are recognised as an expense in the reporting period in which they are incurred. These expenses include lease payment as discussed below.

Court Service Victoria as per Memorandum of Understanding (MOU) provides the Commission with corporate support services such as accommodation, financial services, facilities management services, payroll services, procurement and information communication technology. These services are not recognised in the financial statements of the Commission, as their fair values cannot be reliably determined.

### Investigating Panel expenditure

Investigating Panel expenditure of \$29k (2023: \$207k) is included in contractors, professional services, consultants and other costs (such as salaries and wages, stationery and transcript cost).

A liability for Investigating Panel expenditure is recognised when a present obligation for such expenditure has been incurred as a result of services provided prior to balance date relating to a complaint or referral being referred to an Investigating Panel, it is likely that there will be a consequent outflow of economic benefits and the amount of the obligation can be measured reliably. The liability for investigating panel expenditure at 30 June 2024 is \$nil (2023: \$49k).

## 4 KEY ASSETS AVAILABLE TO SUPPORT OUTPUT DELIVERY

### Introduction

JCV controls non-financial assets that are utilised in fulfilling its objectives and conducting activities. These non-financial assets represent the key resources that have been entrusted to JCV to be utilised for delivery of its outputs.

### Structure

4.1 Property, plant and equipment

4.2 Intangible assets

### 4.1 Property, plant and equipment

	Gross carrying amount		Accumulated Depreciation		Net carrying amount	
	2024	2023	2024	2023	2024	2023
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Plant and equipment at fair value	175	175	(82)	(60)	92	114
<b>Total property, plant and equipment</b>	<b>175</b>	<b>175</b>	<b>(82)</b>	<b>(60)</b>	<b>92</b>	<b>114</b>

#### 4.1.1 Total right-of-use assets: buildings, plant, equipment and vehicles <sup>(i)</sup>

	Buildings at Fair Value	Buildings at Fair Value
	2024	2023
	\$'000	\$'000
Opening Balance	-	298
Additions	-	-
Disposals	-	(224)
Depreciation	-	(74)
<b>Closing Balance</b>	<b>-</b>	<b>-</b>

(i) There were no Right-of-use assets as at 30 June 2024.

## 4.1.2 Depreciation Charge for the period

	2024	2023
	\$'000	\$'000
Buildings (Right-of-use)	-	74
Plant and equipment at fair value	21	21
<b>Total property, plant and equipment</b>	<b>21</b>	<b>95</b>

All property, plant and equipment that have finite useful lives, are depreciated.

Depreciation is generally calculated on a straight-line basis, at rates that allocate the asset's value, less any estimated residual value, over its estimated useful life. Typical estimated useful lives for the different asset classes for current and prior years are included in the table below:

Asset	Useful Life Years
Plant and equipment	4 to 10
Intangible assets	5

The estimated useful lives, residual values and depreciation method are reviewed at the end of each annual reporting period, and adjustments made where appropriate.

Right-of use assets are generally depreciated over the shorter of the asset's useful life and the lease term. Where JCV obtains ownership of the underlying asset or if the cost of the right-of-use asset reflects that the entity will exercise a purchase option, the entity depreciates the right-of-use asset over its useful life.

## 4.1.3 Reconciliation of movements in carrying values of property, plant and equipment

	Buildings at fair value	Plant and equipment at fair value	Total
2024	\$'000	\$'000	\$'000
Opening balance	-	113	113
Additions	-	-	-
Disposals	-	-	-
Depreciation	-	(21)	(21)
Transfer in/out of assets under construction	-	-	-
	-	92	92

	Buildings at fair value	Plant and equipment at fair value	Total
2023	\$'000	\$'000	\$'000
Opening balance	298	134	432
Additions	-	-	-
Disposals	(224)	-	(224)
Depreciation	(74)	(21)	(95)
Transfer in/out of assets under construction	-	-	-
	-	113	113

## 4.2 Intangible assets

	Computer Software	
	2024 \$'000	2023 \$'000
<b>Gross carrying amount</b>		
Opening balance	197	197
Additions	-	-
<b>Gross value at the end of the financial year</b>	<b>197</b>	<b>197</b>
<b>Accumulated amortisation and impairment</b>		
Opening balance	(197)	(170)
Amortisation	-	(27)
<b>Closing balance</b>	<b>(197)</b>	<b>(197)</b>
<b>Net book value at the end of the financial year</b>	<b>-</b>	<b>-</b>

### Initial recognition and subsequent measurement

Purchased intangible assets are initially recognised at cost. When the recognition criteria in AASB 138 *Intangible Assets* is met, internally generated intangible assets are recognised at cost. Subsequently, intangible assets with finite useful lives are carried at cost less accumulated amortisation. Amortisation begins when the asset is available for use, that is, when it is in the location and condition necessary for it to be capable of operating in the manner intended by management.

### Impairment of intangible assets

Intangible assets with finite useful lives are tested for impairment whenever an indication of impairment is identified. Intangible assets not yet available for use are tested annually for impairment and whenever there is an indication that the asset may be impaired. JCV has no intangible assets with indefinite useful lives.

## 5 OTHER ASSETS AND LIABILITIES

### Introduction

This section sets out those assets and liabilities that arose from JCV's controlled operations.

### Structure

- 5.1 Receivables
- 5.2 Payables

### 5.1 Receivables

	2024 \$'000	2023 \$'000
<b>Current receivables</b>		
<b>Statutory</b>		
Amounts owing from Victorian Government	1,433	1,079
<b>Total receivables</b>	<b>1,433</b>	<b>1,079</b>
<i>Represented by:</i>		
Current receivables	1,433	1,079

**Statutory receivables** do not arise from contracts and are recognised and measured similarly to contractual receivables (except for impairment), but are not classified as financial instruments. Amounts recognised from the Victorian Government represent funding for all commitments incurred and are drawn from the Consolidated Fund as the commitments fall due. All of JCV's receivables are statutory receivables.

### 5.2 Payables

	2024 \$'000	2023 \$'000
<b>Current Payables</b>		
<b>Contractual</b>		
Trade creditors and other payables	143	95
<b>Total payables</b>	<b>143</b>	<b>95</b>
<i>Represented by:</i>		
Current payables	143	95

Payables consist of:

**contractual payables**, classified as financial instruments and measured at amortised cost. Accounts payable represent liabilities for goods and services provided to JCV prior to the end of the financial year that are unpaid; and

**statutory payables**, that are recognised and measured similarly to contractual payables, but are not classified as financial instruments and not included in the category of financial liabilities at amortised cost, because they do not arise from contracts.

Contractual payables have an average maturity of 30 days.

The terms and conditions of amounts payable to the government and agencies vary according to the particular agreements and as they are not legislative payables, they are not classified as financial instruments.

## 6 FINANCING OUR OPERATIONS

### Introduction

This section provides information on the sources of finance utilised by JCV during its operations and other information related to the financing of activities.

### Structure

- 6.1 Lease liabilities
- 6.2 Cash flow information and balances
- 6.3 Commitments for expenditure

### 6.1 Lease liabilities

JCV did not have a lease liability as at 30 June 2024. In the prior year there was an interest expense and cash flow component for the 5 months of the 2023 financial year as disclosed in notes 6.1.1 and 6.1.2.

#### 6.1.1 Amounts relating to leases recognised in the Comprehensive operating statement <sup>(i)</sup>

The following amounts are recognised in the Comprehensive operating statement relating to leases:

	2024 \$'000	2023 \$'000
Interest expense on lease liabilities	-	2
<b>Total amount recognised in the comprehensive operating statement</b>	<b>-</b>	<b>2</b>

(i) Represents first 5 months' of interest in 2023.

#### 6.1.2 Total cash outflows for leases

The following amounts are recognised in the Statement of cash flows for the year ending 30 June 2024 relating to leases.

	2024 \$'000	2023 \$'000
Total cash outflow	-	104

### 6.2 Cash flow information and balances

Cash and deposits, including cash equivalents, comprise cash on hand and cash at bank that are held for the purpose of meeting short-term cash commitments, rather than for investment purposes, and which are readily convertible to known amounts of cash and are subject to an insignificant risk of changes in value.

Due to the State's investment policy and funding arrangements, JCV does not hold a bank account in its name and uses CSV's bank account. Cash received from generation of income is generally paid into the State's bank account ('public account'). Similarly, JCV expenditure, including payments to its suppliers and creditors, is made via the public account. The public account remits to CSV the cash required upon presentation of cheques by JCV's suppliers or creditors.

These funding arrangements may result in JCV having a notional shortfall in the cash required, and any monies owed to JCV, are received via CSV through the State Administered Unit (SAU) debtors account. Amounts receivable at balance date are shown in note 5.1.

For cash flow statement presentation purposes, cash and cash equivalents comprise the cash balance and funds held in trust, \$0.24m (2023: \$0.24m).



## 6.2.1 Reconciliation of net result for the period to cash flow from operating activities

	2024 \$'000	2023 \$'000
<b>Net result for the period</b>	246	434
<b>Non-cash movements:</b>		
Depreciation and amortisation of non-current assets	21	122
<b>Movements in net assets and liabilities</b>		
Decrease/(increase) in receivables	(354)	(407)
Decrease/(increase) in prepayments	5	3
Increase/(decrease) in payables	48	30
Increase/(decrease) in provisions	34	18
<b>Net cash from/(used in) operating activities</b>	-	200

## 6.3 Commitments for expenditure

Commitments for future expenditure include operating commitments arising from contracts. These commitments are recorded below at their nominal value and inclusive of GST. These future expenditures cease to be disclosed as commitments once the related liabilities are recognised in the balance sheet.

## 6.3.1 Total commitments payable

	Less than 1 year \$'000	Between 1 and 5 years \$'000	Over 5 years \$'000	Total \$'000
<b>Nominal Amounts: 2024</b>				
Operating commitments payable	62	62	-	124
<b>Total commitments (inclusive of GST)</b>	<b>62</b>	<b>62</b>	-	<b>124</b>
Less GST recoverable	6	6	-	11
<b>Total commitments (exclusive of GST)</b>	<b>56</b>	<b>56</b>	-	<b>112</b>

	Less than 1 year \$'000	Between 1 and 5 years \$'000	Over 5 years \$'000	Total \$'000
<b>Nominal Amounts: 2023</b>				
Operating commitments payable	45	46	-	91
<b>Total commitments (inclusive of GST)</b>	<b>45</b>	<b>46</b>	-	<b>91</b>
Less GST recoverable	4	4	-	8
<b>Total commitments (exclusive of GST)</b>	<b>41</b>	<b>42</b>	-	<b>83</b>

## 7 RISKS, CONTINGENCIES AND VALUATION JUDGEMENTS

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### Introduction

JCV is exposed to risk from its activities and outside factors. In addition, it is often necessary to make judgements and estimates associated with recognition and measurement of items in the financial statements. This section sets out financial instrument specific information (including exposures to financial risks), as well as those items that are contingent in nature or require a higher level of judgement to be applied, which for JCV relate mainly to fair value determination.

### Structure

7.1 Financial instruments specific disclosures

7.2 Contingent assets and contingent liabilities

### 7.1 Financial instruments specific disclosures

#### Introduction

Financial instruments arise out of contractual agreements that give rise to a financial asset of one entity and a financial liability or equity instrument of another entity.

#### Categories of financial assets under AASB 9

JCV has no financial assets classified as “at fair value through other comprehensive income” or “at fair value through profit or loss”.

#### Financial assets at amortised cost

Financial assets are measured at amortised costs if both of the following criteria are met and the assets are not designated as fair value through net result:

- the assets are held by JCV to collect the contractual cash flows, and
- the assets’ contractual terms give rise to cash flows that are solely payments of principal and interest.

These assets are initially recognised at fair value plus any directly attributable transaction costs and subsequently measured at amortised cost less any impairment.

JCV recognises the following assets in this category:

- cash and deposits;

#### Categories of financial liabilities under AASB 9

#### Financial liabilities at amortised cost

Financial liabilities at amortised cost are initially recognised on the date they are originated. They are initially measured at fair value minus any directly attributable transaction costs. Subsequent to initial recognition, these financial instruments are measured at amortised cost with any difference between the initial recognised amount and the redemption value being recognised in profit and loss over the period of the interest bearing liability, using the effective interest rate method. JCV recognises payables in this category:

- payables (excluding statutory payables).

### Derecognition of financial assets

A financial asset (or, where applicable, a part of a financial asset or part of a group of similar financial assets) is derecognised when:

- the rights to receive cash flows from the asset have expired; or
- JCV retains the right to receive cash flows from the asset, but has assumed an obligation to pay them in full without material delay to a third party under a 'pass through' arrangement; or
- JCV has transferred its rights to receive cash flows from the asset and either:
  - has transferred substantially all the risks and rewards of the asset; or
  - has neither transferred nor retained substantially all the risks and rewards of the asset, but has transferred control of the asset.

Where JCV has neither transferred nor retained substantially all the risks and rewards or transferred control, the asset is recognised to the extent of JCV's continuing involvement in the asset.

### Derecognition of financial liabilities

A financial liability is derecognised when the obligation under the liability is discharged, cancelled or expires.

When an existing financial liability is replaced by another from the same lender on substantially different terms, or the terms of an existing liability are substantially modified, such an exchange or modification is treated as a derecognition of the original liability and the recognition of a new liability. The difference in the respective carrying amounts is recognised as an 'other economic flow' in the comprehensive operating statement.

#### 7.1.1 Financial instruments: Categorisation <sup>(i)</sup>

Category		2024	2023
		\$'000	\$'000
<b>Contractual financial assets</b>			
Funds held in Trust	Cash and deposits	240	240
<b>Total contractual cash and deposits</b>		<b>240</b>	<b>240</b>
<b>Total contractual financial assets</b>		<b>240</b>	<b>240</b>
<b>Contractual financial liabilities</b>			
<b>Payable:</b>			
Trade creditors and other payables	Financial liabilities at amortised cost	143	95
<b>Total contractual financial liabilities</b>		<b>143</b>	<b>95</b>

(i) *The total amounts disclosed here exclude statutory amounts and leases that are not in the scope of AASB 9 (e.g. amounts owing from Victorian Government and GST input tax credit recoverable and taxes payable)*

### 7.1.2 Financial risk management objectives and policies

JCV's main financial risks include credit risk and liquidity risk. JCV's financial risk management program seeks to manage these risks and the associated volatility of its financial performance.

Details of the significant accounting policies and methods adopted, including the criteria for recognition, the basis of measurement, and the basis on which income and expenses are recognised, with respect to each class of financial asset, financial liability and equity instrument are disclosed in note 7.1 above.

The main purpose in holding financial instruments is to prudentially manage JCV's financial risks within the government policy parameters.

JCV uses different methods to measure and manage the different risks to which it is exposed. Primary responsibility for the identification and management of financial risks rests with JCV's Board. The Board is supported by the JCV Accountable Officer and Chief Finance Officer for financial risk management reporting.

#### Financial instruments: Credit Risk

Credit risks arise from the contractual financial assets of JCV, which comprises cash and deposits, contractual receivables and other contractual financial assets. JCV's exposure to credit risk arises from the potential default of a counterparty on their contractual obligations resulting in financial loss to JCV. Credit risk is measured at fair value and is monitored on a regular basis.

Credit risk associated with JCV's contractual financial assets is minimal as its main debtor is the Victorian Government. Credit risk in relation to JCV's receivables is also monitored by management by reviewing the ageing of receivables on a monthly basis.

JCV does not engage in hedging for its contractual financial assets.

The carrying amount of contractual financial assets recorded in the financial statements, net of any allowances for losses, represents JCV's maximum exposure to credit risk without taking account of the value of any collateral obtained.

There has been no material change to JCV's credit risk profile in 2023-24.

## Credit quality of financial assets

	Financial institution (double-A credit rating)	Government agencies (double-A credit rating)	Government agencies (triple-B credit rating)	Other (min triple-B credit rating)	Total
2024	\$'000	\$'000	\$'000	\$'000	\$'000
<b>Financial assets</b>					
<b>Financial assets with loss allowance measured at 12-month expected credit loss</b>					
Cash and deposits	-	240	-	-	240
Statutory receivables (with no impairment loss recognised)	-	1,433	-	-	1,433
<b>Total financial assets</b>	-	1,673	-	-	1,673

	Financial institution (double-A credit rating)	Government agencies (double-A credit rating)	Government agencies (triple-B credit rating)	Other (min triple-B credit rating)	Total
2023	\$'000	\$'000	\$'000	\$'000	\$'000
<b>Financial assets</b>					
<b>Financial assets with loss allowance measured at 12-month expected credit loss</b>					
Cash and deposits	-	240	-	-	240
Statutory receivables (with no impairment loss recognised)	-	1,079	-	-	1,079
<b>Total financial assets</b>	-	1,319	-	-	1,319

## Impairment of financial assets under AASB 9

JCV records a provision for expected credit loss for the relevant financial instruments by applying AASB 9's expected credit loss approach. Financial assets at fair value through net result are not subject to impairment under AASB 9.

Cash and deposits and statutory receivables are subject to impairment under AASB 9, but any impairment loss would be immaterial.

Contractual receivables are subject to impairment under AASB 9. JCV applied the simplified approach to measure expected credit losses for all contractual receivables using a lifetime expected loss allowance based on the assumptions about risk of default and expected loss rates. JCV has determined that it does not have any contractual receivables at 30 June 2024 (2023: \$nil).

Movements in the provision for credit losses are classified as other economic flows in the net result. Contractual receivables are written off when there is no reasonable expectation of recovery and impairment losses are classified as either a transaction expense or other economic flow in the net result.

Statutory receivables are not financial instruments. However, they are nevertheless recognised and measured in accordance with AASB 9 requirements as if those receivables are financial instruments.

Statutory receivables are considered to have low credit risk, taking into account the counterparty's credit rating, risk of default and capacity to meet contractual cash flow obligations in the near term. As the result no loss allowance has been recognised.

### Financial instruments: Liquidity risk

#### Financial instruments: Liquidity risk

Liquidity risk arises from being unable to meet financial obligations as they fall due. JCV operates under the Government fair payments policy of settling financial obligations within 30 days. In the event of a dispute, JCV makes payments within 30 days from the date of resolution.

JCV is exposed to liquidity risk mainly through the financial liabilities as disclosed in the balance sheet. JCV's exposure to liquidity risk is deemed insignificant based on prior periods' data and current assessment of risk. JCV manages its liquidity risk by:

- maintaining an adequate level of uncommitted funds that can be drawn at short notice to meet its short-term obligations; and
- careful maturity planning of its financial obligations based on forecasts of future cash flows.

## 7.2 Contingent assets and contingent liabilities

Contingent assets and contingent liabilities are not recognised in the balance sheet but are disclosed and, if quantifiable, are measured at nominal value.

Contingent assets and liabilities are presented inclusive of GST receivable or payable respectively.

### Contingent assets

Contingent assets are possible assets that arise from past events, whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity. There are no contingent assets to be reported or disclosed (2023: \$0.201m).

These are classified as either quantifiable, where the potential economic benefit is known, or non-quantifiable.

### Contingent liabilities

Contingent liabilities are:

- possible obligations that arise from past events, the existence of which will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity; or
- present obligations that arise from past events but are not recognised because:
- it is not probable that an outflow of resources embodying economic benefits will be required to settle the obligations; or
- the amount of the obligations cannot be measured with sufficient reliability.

Contingent liabilities are also classified as either quantifiable or non-quantifiable. There are no non-quantifiable contingent liabilities to be reported or disclosed (2023:\$nil).

## 8 OTHER DISCLOSURES

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### Introduction

This section includes additional material disclosures required by accounting standards or otherwise, for the understanding of this financial report.

### Structure

- 8.1 Responsible persons
- 8.2 Key management personnel
- 8.3 Remuneration of executive officers
- 8.4 Remuneration of auditors
- 8.5 Other accounting policies
- 8.6 Subsequent events
- 8.7 Change in accounting policies
- 8.8 Australian Accounting Standards issued that are not yet effective



## 8.1 Responsible persons

In accordance with the Ministerial Directions issued by the Assistant Treasurer under the *Financial Management Act 1994*, the following disclosures are made regarding responsible persons for the reporting period.

### Names

The persons who held the positions of Minister and Accountable Officer in JCV are as follows:

#### Responsible Minister

Attorney-General, The Hon. Jaclyn Symes MP  
 Acting Attorney-General, The Hon. Anthony Richard Carbines, MP  
 Acting Attorney-General, The Hon. Anthony Richard Carbines, MP  
 Acting Attorney-General, The Hon. Enver Erdogan, MP

#### Period

1 July 2023 to 30 June 2024  
 1 July 2023 to 21 July 2023  
 22 March 2024 to 31 March 2024  
 1 April 2024 to 13 April 2024

#### Accountable Officer

Director, Alexis Eddy <sup>(i)</sup>  
 Acting Director, Katherine Linzner

#### Period

01 July 2023 to 30 June 2024  
 03 July 2023 to 10 July 2023

### Governing Body

The persons who held membership of the Board of JCV are as follows:

#### Member Names

The Honourable Chief Justice Mary Anne Ferguson, Chair  
 The Honourable Chief Judge Peter Kidd  
 Her Honour Chief Magistrate Lisa Hannan  
 His Honour Judge Jack Vandersteen  
 His Honour State Coroner Judge John Cain  
 The Honourable Justice Edward Woodward  
 Mr Graham Atkinson  
 Ms Claire Keating  
 Dr Helen Szoke AO

#### Period

01 July 2023 to 30 June 2024  
 01 July 2023 to 30 June 2024  
 01 July 2023 to 30 June 2024  
 01 July 2023 to 30 June 2024  
 01 July 2023 to 30 June 2024  
 01 July 2023 to 30 June 2024  
 01 July 2023 to 30 June 2024  
 01 July 2023 to 30 June 2024  
 01 July 2023 to 30 June 2024

### Remuneration: Accountable Officer

	2024	2023
Remuneration range	No.	No.
\$260,000-\$269,999	-	1
\$270,000-\$279,999	1	-
<b>Total</b>	<b>1</b>	<b>1</b>

### Remuneration: Non Judicial Member

	2024	2023
Remuneration range	No.	No.
\$0-\$9,999	3	3
<b>Total</b>	<b>3</b>	<b>3</b>

Judicial members of the responsible body are remunerated under the *Judicial Entitlements Act 2015* as holders of judicial positions defined by the respective acts of law that create the Victorian judiciary, namely the *Constitution Act 1975 s 82*, *County Court Act 1958 s.10*, *Magistrates Court Act s.1 Pt 1 cl.10* and *Victorian Civil and Administrative Tribunal Act. 1998 s.17AA*. The Judicial members receive no additional remuneration in their capacity as members of the Board of the Judicial Commission of Victoria.

(i) Ms. Eddy was Acting CEO at the Judicial College of Victoria at a 0.6 FTE capacity during the period from 14 September to 2 November 2023.

### 8.1.2 Transactions and balances with key management personnel and other related parties

Given the breadth and depth of State government activities, related parties transact with the Victorian public sector in a manner consistent with other members of the public e.g. stamp duty and other government fees and charges.

Further employment of processes within the Victorian public sector occur on terms and conditions consistent with the *Public Administration Act 2004* and Codes of Conduct and Standards issued by the Victorian Public Sector Commission. Procurement processes occur on terms and conditions consistent with the Victorian Government Purchasing Board requirements.

JCV receives grant income from appropriations received by CSV as shown in note 2.1. JCV receives administrative support from CSV under a memorandum of understanding between the two entities.

During the period from 1 July 2023 to 30 June 2024, there were no related party transactions that involved key management personnel for JCV.

## 8.2 Key management personnel

**Key management personnel** of JCV includes the responsible Minister, members of the Governing Body, and Accountable Officer.

Remuneration of key management personnel comprises employee benefits (as defined in AASB 119 *Employee Benefits*) in all forms of consideration paid, payable or provided by the entity, or on behalf of the entity, in exchange for services rendered. Accordingly, remuneration is determined on an accruals basis, and is disclosed in the following categories.

**Short-term employee benefits** include amounts such as wages, salaries, annual leave or sick leave that are usually paid or payable on a regular basis, as well as non-monetary benefits such as allowances and free or subsidised goods or services.

**Post-employment benefits** include pensions and other retirement benefits paid or payable on a discrete basis when employment has ceased.

**Other long-term benefits** include long service leave, other long service benefits or deferred compensation.

**Termination benefits** include termination of employment payments, such as severance packages.

The compensation detailed below excludes the salaries and benefits of Portfolio Ministers. Ministers' remuneration and allowances are set by the *Parliamentary Salaries and Superannuation Act 1968* and is reported within the State's Annual Financial Report.

The remuneration of the Judicial members of the responsible body as holders of judicial positions is also excluded. The Judicial members receive no additional remuneration in their capacity as members of the Board of the Judicial Commission of Victoria.

### Remuneration of key management personnel

	2024 \$'000	2023 \$'000
Short-term employee benefits	266	252
Post-employment benefits	28	26
Other long-term benefits	6	5
<b>Total remuneration</b>	<b>300</b>	<b>283</b>

### 8.3 Remuneration of executive officers

Other than the Director, who is the Accountable Officer, there are no other executive officers employed by JCV.

### 8.4 Remuneration of auditors

	2024	2023
	\$'000	\$'000
<b>Victorian Auditor-General's Office</b>		
Audit of the financial statements	25	23
<b>Total remuneration of auditors</b>	<b>25</b>	<b>23</b>

### 8.5 Other accounting policies

#### Contributions by owners

Consistent with the requirements of AASB 1004 *Contributions*, contributions by owners (that is, contributed capital and its repayment) are treated as equity transactions and, therefore, do not form part of the income and expenses of JCV.

Additions to net assets that have been designated as contributions by owners are recognised as contributed capital. Other transfers that are in the nature of contributions to or distributions by owners have also been designated as contributions by owners.

### 8.6 Subsequent events

Subsequent to the reporting period a non-adjusting event occurred. The Victorian Public Service Enterprise Agreement 2024 (Agreement) was formally approved by the Fair Work Commission on 12 August 2024. The agreement has a nominal expiry date of 9 April 2028.

The first salary and allowance increase apply for the period 1 May 2024 to 30 June 2024. These increases, as well as other entitlements, will be recognised in the financial year 2024-25.

All VPS staff employed at JCV are entitled to:

- 3% salary increase backed to 1 May 2024 for the period 1 May 2024 to 30 June 2024
- Once off cost of living lump sum payment of \$5,600 per full time employee (employed in the VPS on 28 June 2024) and prorated for part-time employees.

The estimated financial effect on the reporting period (1 May 2024 to 30 June 2024) is \$0.084 million.

### 8.7 Change in accounting policies

There has been no changes in the accounting policies during the year.

## 8.8 Australian Accounting Standards issued that are not yet effective

Certain new and revised accounting standards have been issued but are not effective for the 2023-24 reporting period. These accounting standards have not been applied to the JCV Annual Financial Statements. JCV is reviewing its existing policies and assessing the potential implications of these accounting standards which includes:

*AASB 2020-1 Amendments to Australian Accounting Standards – Classification of Liabilities as Current or Non-Current and AASB 2022-6 Amendments to Australian Accounting Standards – Non-current Liabilities with Covenants.*

AASB 2020-1 amended AASB 101 *Presentation of Financial Statements* to clarify requirements for the presentation of liabilities in the statement of financial position as current or non-current and was applicable to annual reporting periods beginning on or after 1 January 2022.

AASB 2020-6 subsequently amended AASB 2020-1, deferring the mandatory effective date of AASB 2020-1 from 1 January 2022 to 1 January 2023. AASB 2022-6 was applicable for annual reporting periods beginning on or after 1 January 2022.

AASB 2022-6 amends and clarifies the requirements contained in AASB 2020-1. Among other things, it:

- clarifies that only those covenants that an entity must comply with at or before the reporting date affect a liability's classification as current or non-current; and
- requires additional disclosures for non-current liabilities that are subject to an entity complying with covenants within twelve months after the reporting date.

AASB 2022-6 applies to annual reporting periods beginning on or after 1 January 2023.

JCV is currently in the process of assessing the potential impact of these standards and amendments.

*AASB 2022-10 Amendments to Australian Accounting Standards – Fair Value Measurement of Non-Financial Assets of Not-for-Profit Public Sector Entities*

This Standard amends *AASB 13 Fair Value Measurement* by adding authoritative implementation guidance and illustrative examples for fair value measurement of non-financial assets of not-for-profit public sector entities not held primarily for their ability to generate net cash flows. This Standard applies prospectively to annual periods beginning on or after 1 January 2024, with earlier application permitted. JCV will not early adopt the Standard. JCV is in the process of analysing the impacts of this Standard, however, it is not anticipated to have a material impact.

Several other amending standards and AASB interpretations have been issued that apply to future reporting periods, but are considered to have limited impact on JCV's reporting.

- AASB 17 *Insurance Contracts*
- AASB 2021-7 *Amendments to Australian Accounting Standards – Effective Date of Amendments to AASB 10 and AASB 128 and Editorial Corrections.*
- AASB 2022-6 *Amendments to Australian Accounting Standards – Non-current Liabilities with Covenants.*

## 9 GLOSSARY OF TECHNICAL TERMS AND STYLE CONVENTIONS

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**Comprehensive result** is the amount included in the comprehensive operating statement representing total change in net worth other than transactions with owners as owners.

**Current grants** are amounts payable or receivable for current purposes for which no economic benefits of equal value are receivable or payable in return.

**Depreciation** is an expense that arises from the consumption through wear or time of a produced physical or intangible asset. This expense is classified as a 'transaction' and so reduces the 'net result from transactions'.

**Effective interest method** is the method used to calculate the amortised cost of a financial asset and of allocating interest income over the relevant period. The effective interest rate is the rate that exactly discounts estimated future cash receipts through the expected life of the financial asset or, where appropriate, a shorter period.

**Employee benefits expenses** include all costs related to employment including wages and salaries, fringe benefits tax, leave entitlements, redundancy payments, defined benefits superannuation plans, and defined contribution superannuation plans.

**Financial asset** is any asset that is:

- a) cash;
- b) an equity instrument of another entity;
- c) a contractual right:
  - to receive cash or another financial asset from another entity; or
  - to exchange financial assets or financial liabilities with another entity under conditions that are potentially favourable to the entity; or
- d) a contract that will or may be settled in the entity's own equity instruments and is:
  - a non-derivative for which the entity is or may be obliged to receive a variable number of the entity's own equity instruments; or
  - a derivative that will or may be settled other than by the exchange of a fixed amount of cash or another financial asset for a fixed number of the entity's own equity instruments.

**Financial instrument** is any contract that gives rise to a financial asset of one entity and a financial liability or equity instrument of another entity.

**Financial liability** is any liability that is:

- a) a contractual obligation:
  - to deliver cash or another financial asset to another entity; or
  - to exchange financial assets or financial liabilities with another entity under conditions that are potentially unfavourable to the entity; or
- b) a contract that will or may be settled in the entity's own equity instruments and is:
  - a non derivative for which the entity is or may be obliged to deliver a variable number of the entity's own equity instruments; or
  - a derivative that will or may be settled other than by the exchange of a fixed amount of cash or another financial asset for a fixed number of the entity's own equity instruments. For this purpose, the entity's own equity instruments do not include instruments that are themselves contracts for the future receipt or delivery of the entity's own equity instruments.

**Financial statements** in this report comprises:

- a) a balance sheet as at the end of the period;
- b) a comprehensive operating statement for the period;
- c) a statement of changes in equity for the period;
- d) a cash flow statement for the period;
- e) notes, comprising a summary of significant accounting policies and other explanatory information;
- f) comparative information in respect of the preceding period as specified in paragraph 38 of AASB 101 *Presentation of Financial Statements*; and
- g) a statement of financial position as at the beginning of the preceding period when an entity applies an accounting policy retrospectively or makes a retrospective restatement of items in its financial statements, or when it reclassifies items in its financial statements in accordance with paragraphs 41 of AASB 101.

**Grant expenses and other transfers** are transactions in which one unit provides goods, services, assets (or extinguishes a liability) or labour to another unit without receiving approximately equal value in return. Grants can either be operating or capital in nature.

While grants to governments may result in the provision of some goods or services to the transferor, they do not give the transferor a claim to receive directly benefits of approximately equal value. For this reason, grants are referred to by the AASB as involuntary transfers and are termed non reciprocal transfers. Receipt and sacrifice of approximately equal value may occur, but only by coincidence. For example, governments are not obliged to provide commensurate benefits, in the form of goods or services, to particular taxpayers in return for their taxes.

Grants can be paid as general purpose grants, which refer to grants that are not subject to conditions regarding their use. Alternatively, they may be paid as specific purpose grants, which are paid for a particular purpose and/or have conditions attached regarding their use.

**General government sector** comprises all government departments, offices and other bodies engaged in providing services free of charge or at prices significantly below their cost of production. General government services include those that are mainly non-market in nature, those that are largely for collective consumption by the community and those that involve the transfer or redistribution of income. These services are financed mainly through taxes, or other compulsory levies and user charges.

**Grants for on-passing** are grants paid to one institutional sector (e.g. a State general government entity) to be passed on to another institutional sector (e.g. local government or a private non-profit institution).

**Interest expense** represents costs incurred in connection with leases. It includes interest on lease repayments.

**Leases** are rights conveyed in a contract, or part of a contract, the right to use an asset (the underlying asset) for a period of time in exchange for consideration.

**Net financial worth** is equal to financial assets minus liabilities. It is a broader measure than net debt as it incorporates provisions made (such as superannuation, but excluding depreciation and bad debts) as well as holdings of equity. Net financial worth includes all classes of financial assets and liabilities, only some of which are included in net debt.

**Net operating balance** or **net result from transactions** is a key fiscal aggregate and is revenue from transactions minus expenses from transactions. It is a summary measure of the ongoing sustainability of operations. It excludes gains and losses resulting from changes in price levels and other changes in the volume of assets. It is the component of the change in net worth that is due to transactions and can be attributed directly to government policies.

**Net result** is a measure of financial performance of the operations for the period. It is the net result of items of revenue, gains and expenses (including losses) recognised for the period, excluding those classified as 'other non-owner movements in equity'.

**Net worth** is calculated as assets less liabilities, which is an economic measure of wealth.

**Non-financial assets** are all assets that are not financial assets. It includes land, buildings, plant and equipment, cultural and heritage assets and intangibles.

**Operating result** is a measure of financial performance of the operations for the period. It is the net result of items of revenue, gains and expenses (including losses) recognised for the period, excluding those that are classified as 'other non-owner movements in equity'. Refer also 'net result'.

**Other economic flows included in net result** are changes in the volume or value of an asset or liability that do not result from transactions. In simple terms, other economic flows are changes arising from market remeasurements. They include gains and losses from disposals, revaluations and impairments of non-current physical and intangible assets; fair value changes of financial instruments and agricultural assets; and depletion of natural assets (non-produced) from their use or removal.

**Other economic flows – other comprehensive income** comprises items (including reclassification adjustments) that are not recognised in net result as required or permitted by other Australian Accounting Standards. They include changes in physical asset revaluation surplus and gains and losses on remeasuring available-for-sale financial assets.

**Payables** includes short and long-term trade debt and salaries and wages payable

**Present value** is a financial calculation that measures the worth of future amount of money in today's dollars adjusted for interest and inflation.

**Receivables** include amounts owing from government through appropriation receivable, short and long-term trade credit and accounts receivable, accrued investment income, grants, taxes and interest receivable.

**Supplies and services** generally represent cost of goods sold and the day to day running costs, including maintenance costs, incurred in the normal operations of JCV.

**Transactions** are those economic flows that are considered to arise as a result of policy decisions, usually an interaction between two entities by mutual agreement. They also include flows into an entity such as depreciation, where the owner is simultaneously acting as the owner of the depreciating asset and as the consumer of the service provided by the asset. Taxation is regarded as mutually agreed interactions between the government and taxpayers. Transactions can be in kind (e.g. assets provided/given free of charge or for nominal consideration) or where the final consideration is cash. In simple terms, transactions arise from the policy decisions of the Government.

### Style conventions

Figures in the tables and in the text have been rounded. Discrepancies in tables between totals and sums of components reflect rounding. Percentage variations in all tables are based on the underlying unrounded amounts.

The notation used in the tables is as follows:

0	zero, or rounded to zero
-	zero, or rounded to zero
(xxx)	negative numbers
200x	year period
200x 0x	year period

The financial statements and notes are presented based on the illustration for a government department in the 2023-24 Model Report for Victorian Government Departments. The presentation of other disclosures is generally consistent with the other disclosures made in earlier publications of the JCV's annual reports.



