

29 July 2026

## OUTCOME OF INVESTIGATION INTO COMPLAINT ABOUT HIS HONOUR MAGISTRATE FOSTER

The Judicial Commission of Victoria (the **Commission**) received a complaint from a lawyer about the conduct of His Honour Magistrate Foster (the **Officer**) in criminal proceedings at the Magistrates' Court of Victoria.

### The Complaint

The complaint alleged (in part) that the Officer made extremely disparaging remarks about the lawyer's professionalism to the lawyer's client in open court (**Part C**).

### Investigation of the Complaint

The Commission investigated the Complaint in accordance with the *Judicial Commission of Victoria Act 2016*.

#### *Opportunity to Respond*

The Commission gave the Officer an opportunity to respond to Part C of the Complaint. The Officer did not respond.

#### *Findings and assessment*

When the proceedings were first called, the lawyer was not in attendance. When the matter was recalled, the lawyer appeared via audiovisual link. When the matter was recalled again, the lawyer was not present.

During the final recall, when the lawyer was not present, the Officer made comments to the lawyer's client about the lawyer's professional competence, based on what the lawyer was wearing including *'I suggest you come and speak to Legal Aid in the morning if Mr [lawyer] is not doing his job properly for you, and it's quite - it should be quite apparent to you that he's not doing his job properly if he intends – intends to appear before this court dressed with an open neck shirt and a jumper'*.

The Commission found that a reasonable person would perceive the Officer's comments as unnecessary, unfair, insulting and impugning the lawyer's professional integrity and competence.

Further, the Commission found that it was unnecessary and unfair to criticise the lawyer, by name, in circumstances where the lawyer was not present and did not have the opportunity to respond or defend himself.

Therefore, the Commission found that the Officer's conduct infringed the standards of conduct generally expected of judicial officers.

## **Outcome of the Complaint**

### *Part C - Referral*

The Commission referred Part C of the complaint to the Chief Magistrate (as head of jurisdiction) with the recommendations that the Officer be counselled by the head of jurisdiction, read and familiarise himself with the 'conduct and ethics' resources available on the Judicial College of Victoria webpage, and attend a relevant event within 12 months as directed by the head of jurisdiction.

### *Parts A and B - Dismissal*

Part A of the Complaint alleged that the Officer failed to accord the lawyer the appropriate professional courtesy and respect when he appeared via audiovisual link.

The Commission dismissed Part A of the Complaint on the basis that it was not substantiated.

Part B of the Complaint alleged the Officer took out his ire towards the lawyer on the lawyer's client by deliberately leaving the client's matter to the end of the day.

The Commission dismissed Part B of the Complaint on the basis that it did not warrant further consideration on the ground that the Officer's conduct may have infringed the standards of conduct generally expected of judicial officers.