

10 July 2026

## OUTCOME OF INVESTIGATION INTO COMPLAINT ABOUT HIS HONOUR JUDGE MICHAEL TINNEY

The Judicial Commission of Victoria (the **Commission**) received a complaint (the **Complaint**) from an experienced member of the Victorian Bar (**counsel**) about the conduct of His Honour Judge Michael Tinney (the **Officer**). The Complaint concerned the Officer's conduct in two sex offence trials where counsel appeared as lead counsel (**Trials 1 and 2**), and a third sex offence trial where counsel was initially briefed as trial counsel but returned the brief and did not appear (**Trial 3**). Trials 1 and 2 occurred in 2022 and Trial 3 in 2023.

### The Complaint

The Complaint alleged that the Officer:

- had an inappropriate tone and demeanour towards counsel in Trials 1 and 2 (**Part A**);
- made critical comments of an inappropriate nature concerning counsel's professional integrity and competence in Trials 2 and 3 (**Part B**); and
- demonstrated unjustified differential treatment (including a lack of flexibility) towards counsel in Trials 1 and 2 (**Part C**).

The Complaint broadly alleged judicial bullying and described the conduct as having caused counsel significant distress.

### Investigation of the Complaint

The Commission investigated the Complaint in accordance with the *Judicial Commission of Victoria Act 2016* (Vic), which included:

- watching the audio-visual recordings<sup>1</sup> and reading the transcripts of relevant parts of the trials; and
- providing the Officer with an opportunity to respond to the Complaint.

### Officer's response

The Officer provided a detailed written response to the Complaint.

As to **Trial 1**, the Officer completely rejected the allegations.

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<sup>1</sup> The visual component of the recordings was of insufficient quality to enable the Commission to assess certain allegations concerning the Officer's body language.

As to **Trial 2**, the Officer (among other things):

- denied any inappropriate conduct (including bullying);
- did not accept that his tone and demeanour in the context of Trial 2 were inappropriate;
- accepted that there were some displays of frustration or annoyance and that he had made some robust statements;
- characterised those displays of frustration as often in the moment and almost universally a response to the conduct of counsel;
- said that such statements as were critical of counsel were justified and not gratuitously made;
- acknowledged that he did not act perfectly and might have done things differently and would do things differently in the future; and
- noted that if he had known the impact of his words, he would not have uttered them in the precise manner they were uttered.

As to **Trial 3**, the Officer denied any wrongdoing.

## **The Commission's findings and assessment**

### *Dismissed – Part A of the Complaint*

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

While there were moments of frustration and annoyance on the Officer's part, the Commission was not satisfied that a reasonable community member would perceive that the Officer had an inappropriate tone or demeanour towards counsel.

In making this finding, the Commission acknowledged that counsel reasonably felt tested by the Officer in some exchanges. The Commission noted, however, that momentary displays of frustration or annoyance do not necessarily evidence inappropriate behaviour, and that there is a proper role for robust and vigorous courtroom debate.

### *Referred – Part B of the Complaint*

The Commission referred Part B of the Complaint to the Officer's head of jurisdiction.

The Commission found that the Officer in **Trial 2** made critical comments towards counsel, in the presence of their client and practitioner colleagues (but not the jury), concerning counsel's professional integrity and/or competence.

The Commission found that the Officer in **Trial 3** made a critical comment about counsel, in circumstances where counsel was not present to defend themselves, concerning counsel's professional integrity and/or competence.

The Commission found that in the course of interactions with counsel the Officer admonished counsel in terms that were unfair and inappropriate. In one exchange the Officer suggested that counsel did not need to cheat and in another he said that he shuddered to think what submissions would be made. These comments were, of themselves, inappropriate, and unwarranted, and liable to cause unnecessary hurt, and therefore infringed the standards of conduct generally expected of judicial officers.

The Commission considered that other comments taken as single or isolated incidents, may have been understood as momentary displays of frustration or annoyance but cumulatively were disrespectful towards counsel and were liable to diminish counsel's professional standing in the mind of a reasonable community member. They infringed the standards of conduct generally expected of judicial officers. The conduct was inconsistent with the respect, courtesy, patience and tolerance judicial officers are expected to afford court users.

The Commission acknowledged that the trials were challenging for both the Officer and counsel, and that some degree of frustration was understandable in the circumstances. However, it concluded that, on a number of occasions, the Officer's comments exceeded what was appropriate and fell short of the standards expected of a judicial officer, warranting referral of the matter to the head of jurisdiction

As to several other alleged instances, the Commission was not satisfied that the comments in question were personally critical of counsel or otherwise inappropriate. Rather, the comments were largely directed at clarifications and managing impacts on the trial.

#### *Dismissed – Part C of the Complaint*

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

The Commission was satisfied that there were no instances of the Officer demonstrating unjustified differential treatment (including a lack of flexibility) towards counsel.

#### *No finding of judicial bullying*

The Commission found that, overall, the Officer's conduct (while inappropriate with respect to Part B of the Complaint) was sufficiently aligned with the judicial function that it did not amount to judicial bullying by the Officer towards counsel.

#### **Outcome of the Complaint**

The Commission referred Part B of the Complaint to the Chief Judge (as head of jurisdiction) with recommendations that the Officer be counselled by the head of jurisdiction and attend a relevant judicial educational event within 12 months as directed by the head of jurisdiction.