



JUDICIAL
COMMISSION
OF VICTORIA

Publication of Complaint Information Policy

Judicial Commission of Victoria

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What is the purpose of this policy?

1. The Judicial Commission of Victoria (the **Commission**) recognises:
 - a. the importance of transparency and promoting confidence in Victoria's judiciary; and
 - b. that its investigation process is not designed to be punitive.
2. With these considerations at the forefront, the purpose of this policy is to:
 - a. guide the Commission's approach to engaging with the media and publishing information about complaints; and
 - b. promote consistency in when and how the Commission will do so.

How will the Commission make decisions in accordance with the policy?

3. Under [section 139\(1\)\(a\)](#) of the *Judicial Commission of Victoria Act 2016* (the **Act**), the Commission may publish information, including about a complaint, where it considers it to be in the public interest.
4. In deciding whether publication is in the public interest, the Commission will balance the disclosure considerations under [section 4](#) of the Act, as appropriate, taking into account the circumstances of each complaint. These align with the purposes of the Act overall, to:
 - a. ensure a *transparent* and *accountable* process for investigating the performance of judicial officers;¹
 - b. maintain present and future *public confidence* in the Victorian courts and Victorian Civil and Administrative Tribunal (**VCAT**);
 - c. protect the *privacy and safety of an individual*; and
 - d. prevent disruption to the *orderly administration of justice*.
5. In relation to:
 - a. the referral of a judicial officer to a head of jurisdiction or an investigating panel (see paragraph 10 below); or
 - b. significant steps in an investigation (subject to paragraph 15 below),

the Commission will provide the judicial officer concerned with an opportunity to provide information about any matters impacting on the disclosure considerations, before deciding to publish the judicial officer's identity as part of any complaint information.

¹ Any reference to 'judicial officer' in this policy should be taken to include non-judicial members of VCAT.

6. The Commission will have regard to any such relevant information provided by the judicial officer.

Why does the Commission publish complaint information?

7. The Commission recognises that informing the public through media and other channels, such as stakeholder engagement, is an essential part of the Commission's operations.
8. Consistent with its purposes, the Commission's vision and mission, as captured by its Strategic Plan 2022-2024, is to:
 - a. ensure that public confidence and trust in the Victorian courts and VCAT is maintained; and
 - b. provide a fair and transparent complaint resolution process.

Engaging with the public is a key mechanism to fulfil these goals.

When will the Commission publish complaint information?

9. The Commission recognises that publishing complaint information:
 - a. Demonstrates that the Commission's complaints process is transparent and that judicial officers are not exempt from scrutiny or being held accountable.
 - b. Publicly endorses and commends best practice judicial conduct.
 - c. Educates the public, the legal profession, and the judiciary about what is appropriate and inappropriate judicial conduct.
 - d. Publicly denounces conduct that infringes the standards generally expected of judicial officers.
 - e. Has a deterrent effect in discouraging inappropriate conduct amongst the judiciary.
 - f. Can correct misinformation in the public domain.

Referral to head of jurisdiction or investigating panel

10. Where:
 - a. the Commission determines to refer a complaint to a judicial officer's head of jurisdiction; or
 - b. an investigating panel finalises its investigation and notifies the Commission of the outcome under section 43(5) of the Act,

the Commission will, if it is in the public interest to do so, publish complaint information, as appropriate, including:

- i. the details of the complaint and matters alleged;
- ii. aspects of any response received from the judicial officer under section 14 of the Act;
- iii. a summary of the Commission's findings; and
- iv. the outcome of the Commission's or investigating panel's investigation.

Dismissal

11. Where a complaint is ultimately dismissed, if the Commission:

- a. identifies best practice or model judicial conduct or behaviour; or
- b. is aware of misinformation in the public domain,

the Commission may, if it is in the public interest to do so, publish complaint information, as appropriate, including:

- i. the details of the complaint and matters alleged;
- ii. a summary of the Commission's findings; and
- iii. the outcome of the Commission's investigation.

12. If the Commission decides to publish complaint information about best practice or model judicial conduct or behaviour, whether it publishes the relevant judicial officer's identity is subject to paragraphs 21-22 below.

Current investigation

13. Where an investigation is underway, the Commission will *not* ordinarily publish complaint information.

Significant steps

14. The Commission may, in certain circumstances, decide that it is in the public interest, and therefore appropriate, to publish complaint information or engage with the media during an investigation where significant steps in the investigation have occurred. These circumstances may include the standing down of a judicial officer or the referral of a judicial officer to an investigating panel.

15. In respect of the circumstances outlined in paragraph 5(b) above, the Commission will provide the judicial officer concerned with an opportunity to provide information impacting on the disclosure considerations where it is practicable to do so.

Media enquiries and reports

16. If the media enquires about or reports on a complaint by a particular complainant or about a judicial officer which is not yet finalised. The Commission will consider whether it is in the public interest to proactively publish complaint information on its

website or respond to the relevant media enquiry or report. That information would be limited to setting out that:

- a. the Commission has received a complaint about the judicial officer; and
- b. as the investigation is ongoing, the Commission will not be commenting further at this time.

17. If the media enquires about or reports on specific allegations made in a complaint, the Commission's practice is to respond in accordance with the preceding paragraph, but to *not* specifically confirm or refute the specific allegations.

Misinformation

18. If the Commission considers there is misinformation in the public domain about a particular complaint, the Commission will consider whether it is in the public interest to publish relevant complaint information.

When will the Commission publish identifying information about a judicial officer?

19. Routine and consistent publication of a judicial officer's identity promotes the purposes of the Act.

20. If the Commission decides to publish complaint information, then subject to paragraph 21 below, the Commission's practice, generally, is to publish the relevant judicial officer's identity, when it is in the public interest to do so.

21. In determining whether to publish a judicial officer's identity, the Commission will have regard to:

- a. ensuring that the Commission's investigative process is transparent and accountable in a way that encourages public and professional confidence in the Commission.
- b. maintaining present and future public and professional confidence in Victorian courts and VCAT, including by ensuring that the impact of informing the public and the message conveyed are not undermined by not naming the judicial officer.
- c. protecting the privacy and safety of individuals, taking into account:
 - i. the privacy of any person, including (but not limited to) the privacy of the judicial officer concerned;
 - ii. any possible threat to a person's safety that may result from publishing identifying information; and
 - iii. whether the media has become aware of, or speculated on, the judicial officer's identity.

- d. preventing disruption to the orderly administration of justice, taking into account the possibility that another judicial officer may be assumed or speculated to be the subject of the complaint.
 - e. the content of a judicial officer's response (if any) to a complaint under section 14 of the Act.
 - f. any other matters the Commission considers relevant, including any information provided by the judicial officer in relation to this paragraph of the Policy.
22. Where the Commission publishes complaint information about best practice or model judicial conduct or behaviour, the relevant judicial officer's identity will only be published with their consent.

Dissemination of information

23. The Commission will consider, on a case-by-case basis, the most appropriate method for dissemination of information having regard to paragraph 9 above.
24. The following (non-exhaustive) options will be considered:
- a. Publication on the Commission's website only.
 - b. Dissemination to the legal sector.²
 - c. Dissemination to media outlets more broadly.

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² For example, on a case-by-case basis, the Law Institute of Victoria, the Victorian Bar, the Victorian Legal Services Board, the Federation of Community Legal Centres, Victoria Legal Aid, the Office of Public Prosecutions and Victoria Police.