

Media Release

For immediate release

15 November 2019

Judicial Commission of Victoria Annual Report tabled

The second annual report of the Judicial Commission of Victoria (the Commission) was tabled in State Parliament on 14 November 2019.

Since the Commission was established in July 2017, it has played a valuable role as Victoria's first independent body investigating the conduct and capacity of judicial officers and VCAT members.

"The Commission plays an important role in ensuring the high standards of conduct the community expects of the judiciary are maintained," said the Chair of the Commission, Chief Justice Anne Ferguson.

"It also provides people with an accessible and robust avenue through which to make complaints," the Chief Justice said.

The Commission received 248 new complaints and one referral in its second year, slightly less than the 264 received the previous year. A further 77 complaints and referrals remained open from the previous year. Of the 326 matters:

- 251 were dismissed
- 5 were referred to a Head of Jurisdiction
- 1 was referred to an investigating panel
- 12 were withdrawn
- 61 remained open as at 30 June 2019

Most of the complaints were made by members of the public with a small proportion made by members of the legal profession. There was also a referral made by the State Attorney General about the conduct of a Magistrate. This matter is still open.

Under the *Judicial Commission of Victoria Act 2016*, the Commission can investigate complaints about the conduct or capacity of judicial officers and VCAT members, but not complaints about the correctness of a decision made by a judicial officer or VCAT member. It is not a substitute for the appeals process.

Half of the complaints received were about an alleged incorrect decision. A further 29% alleged a failure to give a fair hearing and 23% claimed bias. Other complaints included claims of rudeness, corruption and conflict of interest.

15% of complaints alleged inappropriate comments. In one case, the complainant alleged the officer made persistent and derogatory comments in court towards a party. The Commission investigated and found some of the comments made were strongly worded, inappropriate and offensive. The matter was referred to the Head of Jurisdiction. The judicial officer accepted the Commission's recommendations and resolved to treat all court users with courtesy, dignity and respect and to refrain from displaying excessive criticism, sarcasm and overbearing conduct.

The distribution of complaints across the jurisdictions broadly reflects the volume of cases dealt with by the courts and VCAT. The Magistrates' Court received 37% of total complaints, 34% were about VCAT, the County and Supreme Courts each received 11% of complaints, the Children's Court 3% and the Coroners Court 2%.

Background

The Commission has the power to consider a range of matters including excessive delays in giving judgments, inappropriate courtroom conduct and health issues affecting a judicial officer or VCAT member's ability to perform their official duties.

When the Commission receives a complaint or referral, it must either:

1. dismiss it (for example those that do not warrant further consideration or the judicial officer's removal from office, are trivial, vexatious, relate to a person who is no longer a judicial officer or VCAT member, or relate solely to the correctness of a decision);
2. refer it to an investigating panel if it is a very serious matter, which if true, warrants removal from office on grounds of misbehaviour or incapacity; or
3. refer it to the relevant head of jurisdiction with recommendations about the future conduct of the officer if it is a less serious matter.

To review the annual report or to learn more about the Commission and its work, visit <https://judicialcommission.vic.gov.au/publications/annual-reports>

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