

## Media Release

For immediate release

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### Judicial Commission of Victoria Annual Report tabled

The Judicial Commission of Victoria (the Commission) has tabled its third annual report in State Parliament.

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 Chair of the Commission, Chief Justice Anne Ferguson described the Commission as a trusted resource.

"In its third year of operation, the Commission has continued the work of establishing itself as an independent and trusted resource for investigating complaints against judicial officers. It has increased its profile within Victorian legal system and in the wider community," she said.

"Despite the restrictions put in place amid the COVID-19 pandemic from March 2020, the Commission was able to adapt and respond quickly in an unprecedented time of change and uncertainty," the Chief Justice said.

The Commission received 252 new complaints and no referrals in its third year, slightly more than the 248 complaints and one referral received the previous year. A further 61 complaints and referrals remained open from the previous year. Of the 313 complaints:

- 196 were dismissed;
- 3 were referred to a Head of Jurisdiction;
- 0 were referred to an investigating panel;
- 4 were withdrawn;
- 114 remained open as at 30 June 2020.

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.

The Commission's annual report shows that one out of five complaints received were about

an alleged incorrect decision. A further 17% alleged a failure to give a fair hearing and 13% claimed failure to act in a judicial manner. Other complaints included claims of denial of due process and bias.

Of these complaints, 8% alleged inappropriate comments. One of these matters involved allegations that several improper statements were made by a judicial officer towards a victim of crime in relation to a claim for compensation arising out of a serious sexual assault. The Commission found that several of the judicial officer's comments were inappropriate and reinforced outdated misconceptions associated with sexual offending. It found that some comments could reasonably be construed as victim-blaming. It also found some comments indicated a closed mind and a lack of impartiality. After careful deliberation, the Commission referred these allegations to the Head of Jurisdiction on the grounds that the conduct of the Officer infringed the standards of conduct generally expected of judicial officers.

The distribution of complaints across the jurisdictions broadly reflects the volume of cases dealt with by the courts and VCAT. The Magistrates' Court received 46% of total complaints, 28% were about VCAT, the Supreme Court received 10% of complaints whilst County Court received 8%, the Children's Court 4% 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.

In instances 2 or 3, the relevant officer has the right to respond.

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

To view this media release visit <https://www.judicialcommission.vic.gov.au/publications/media>

## **Contact:**

**Judicial Commission of Victoria**  
**03 9084 9600 or email [enquiries@judicialcommission.vic.gov.au](mailto:enquiries@judicialcommission.vic.gov.au)**