



Judicial  
Commission  
of Victoria

Annual Report

22  
/23

### Acknowledgements

The Commission acknowledges Aboriginal and Torres Strait Islander peoples as the First Peoples and Traditional Owners and Custodians of the land and waterways upon which our lives depend.

The Commission acknowledges and pays respect to the ancestors of this country, Elders, knowledge holders and leaders – past, present, and emerging. The Commission extends that respect to all Aboriginal and Torres Strait Islander peoples.

The Commission acknowledges that harm has occurred for First Peoples in the court system. The Commission is committed to working with the Courts Koori Committee, the Dhumba Murmuk Djerring Unit, the Koori community and Court Services Victoria to ensure our work reflects this respect and acknowledgement.

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### Accessibility

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Annual Report 2022–2023

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## Section 1

# Welcome

# Responsible Body's Declaration

In accordance with the *Financial Management Act 1994*, I am pleased to present the Judicial Commission of Victoria's Annual Report for the year ending 30 June 2023.



**The Honourable Anne Ferguson**  
Chief Justice and Chair of the  
Judicial Commission of Victoria

Melbourne, October 2023

# Message from the Chair



## I am pleased to present the annual report of the Judicial Commission of Victoria for 2022–2023.

This year has been significant for the Commission. With an ongoing commitment to fair and transparent processes and enhancing confidence and trust in the courts and judiciary, the Commission has continued to increase engagement and raise awareness and understanding of its role with the judiciary, legal sector and public.

One important way it does so is to make guidelines on the standards of conduct expected of judicial officers. To that end, during August and September 2022, the Commission conducted an extensive series of consultations with the legal sector and Victorian courts on the issue of judicial bullying. The feedback indicated that while there is no widespread problem, it is an important issue and has significant consequences for those who experience it.

In May 2023, the Commission published the *Judicial Conduct Guideline on Judicial Bullying*. A first in Australia, the Guideline outlines what constitutes judicial bullying and is intended to assist all judicial officers and VCAT members to identify conduct that might amount to judicial bullying, how to respond where they witness it, and the possible consequences for those who engage in such behaviour. The new Guideline will also help those appearing before or working with judicial officers or VCAT members to understand what type of conduct may breach those standards.

The Guideline is another important step towards ensuring the courts are a safe and respectful place for all. The Commission also made a number of other recommendations to address judicial bullying, and this work will continue into 2023–24. Alongside this, the Commission has collaborated with the Judicial College of Victoria on the issue of judicial bullying, including measures that focus on wellbeing, assist judicial officers to manage stress, and emphasise the importance of treating people with respect, both in and out of the courtroom.

In October, the Commission released its Strategic Plan for 2022–2024. The plan underpins the Commission's overarching goal to maintain public confidence and trust in the Victorian courts and VCAT with specific initiatives, accountabilities, resources and timelines.

Across the reporting year, the Commission received 136 new complaints and referrals. Consistent with previous years, the majority (94%) of complaints were dismissed. Where complaints and referrals were not dismissed, the Commission proceeded in accordance with the *Judicial Commission of Victoria Act 2016*, including referring five matters to the head of the relevant jurisdiction and two to an investigating panel.

I am pleased to note that Graham Atkinson and Claire Keating, two non-judicial members of the Commission's Board, were re-appointed to serve another five-year term from 1 July 2022.

I would also like to formally thank two members of the Commission's Board for their contributions to the Commission over five years. Helen Silver AO concluded her appointment on 30 June 2022 and Justice Michelle Quigley concluded her time as a member of the Commission's Board in June 2023. I acknowledge both for their important and valuable contributions during their time as members of the Board.

In conclusion, I would like to acknowledge and thank my fellow Board members, the Director and Commission staff for their dedication, hard work and commitment to the Commission's role in the justice system. The achievements of the past year provide a positive outlook for the year ahead.



**The Honourable Anne Ferguson**  
Chief Justice and Chair of the  
Judicial Commission of Victoria

## Message from the Director

The Commission stayed agile and invested in continual improvement to contribute to a transparent and accountable judicial system.

Now in its sixth year of operation, the Commission has improved its core complaints handling and investigative functions. This has created a more transparent and timely complaint process for complainants and judicial officers. The Commission's connection with stakeholders has also strengthened. Paired with significant sector feedback on the Commission's conduct guidelines and policies, the Commission is well-positioned to deliver on its goals in the next five years.

Developing the Commission's Strategic Plan was a notable highlight this year, as it outlines the Commission's vision, mission, objectives and values (transparency, impartiality, impact and integrity). The plan defines the Commission's roadmap to delivering on its core purposes, and identifies what success looks like and how to create a positive working environment. It is also accompanied by an Action Plan, which indicates how the Commission will deliver on its strategic priorities.

The Commission would like to extend its gratitude to the judicial officers, legal practitioners and court staff who significantly contributed to the Commission's consultation on judicial bullying. The time and energy invested by those who offered considered and constructive feedback assisted the Commission in drafting the findings, recommendations and ultimately, the Judicial Conduct Guideline on Judicial Bullying.

Since its publication, the Guideline has received widespread support across the sector and has been shared with other jurisdictions. The Guideline is applied when investigating complaints about judicial bullying.

The Commission's complaint numbers are consistent with the previous year. However, importantly, response times improved even further. Over the year, the Commission delivered an 11% increase in the number of complaints finalised within 6 months. This demonstrates the positive results from introducing a complaint triage and handling process, including early engagement, in the previous year.

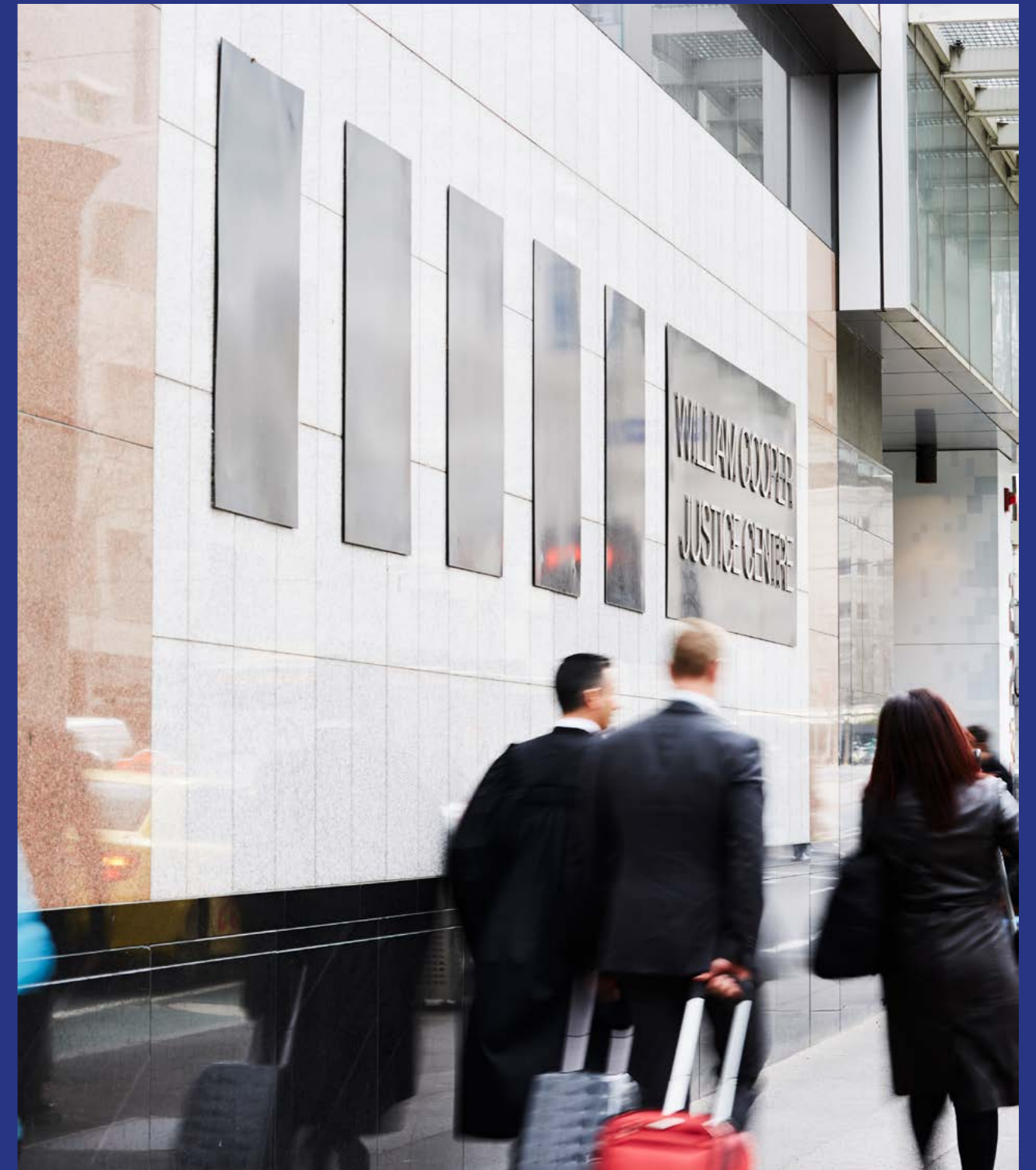
Significantly, there has been an increase in the number of complaints from professional court users. This is attributable to strengthened relationships with key legal stakeholders and reflects the growing awareness and understanding of the Commission's role and function among this group.

The Commission's website traffic has also increased over the past year, with visitation growing by 22%, the highest annual increase since its establishment. These changes are consistent with the Commission's increased transparency in publishing complaint outcomes and communicating judicial conduct standards.

The Board has continued to meet monthly during the year, with additional meetings when required. The Commission provides detailed papers and recommendations to the Board in relation to complaint investigations and corporate matters. I echo the Chief Justice's gratitude to Commission staff for their hard work and acknowledge the high standard of research, analysis and reasoning that is demonstrated in the recommendations and papers submitted to the Board.



**Alexis Eddy**  
Director of the Judicial Commission



## Section 2

# Our role in Victoria's judicial system



# About the Judicial Commission of Victoria

## Who we are

The Commission is governed by the Board of the Judicial Commission of Victoria. The Board consists of six judicial members (each head of jurisdiction) and four non-judicial members of high standing in the community, appointed by the Governor in Council.

The Commission is led by the Director, who is appointed by the Chief Executive Officer (CEO) of Court Services Victoria (CSV) on the recommendation of the Board. The Director reports to the Board about the Commission's operations and to the CEO of CSV for all other matters.



# Our Board

## Judicial Board members



**The Honourable Chief Justice  
Anne Ferguson (Chair)**  
Chief Justice,  
Supreme Court of Victoria

Chief Justice Ferguson was appointed to the Supreme Court in 2010 and to the Court of Appeal in 2014. She is the 12th Chief Justice of the Supreme Court, having been appointed to that position in 2017. Before her appointment as a judge, Chief Justice Ferguson was a partner at the law firm Allens Arthur Robinson (now Allens Linklaters).



**The Honourable Justice  
Peter Kidd**  
Chief Judge,  
County Court of Victoria

Chief Judge Kidd commenced his position with the County Court in September 2015. Before becoming Chief Judge, his Honour worked for 20 years as a criminal lawyer in Australia and overseas, mostly as a barrister and Senior Crown Prosecutor in Melbourne. Chief Judge Kidd was appointed Senior Counsel in 2011.

In the mid-2000s, Chief Judge Kidd moved to Sarajevo where he was an International Prosecutor at the War Crimes Chamber of the State Court of Bosnia and Herzegovina. There, he prosecuted war criminals from the Bosnian war in the mid-1990s.

His Honour regularly appears on Victorian radio stations, and occasionally, on national TV, where he explains how the justice system works.



**The Honourable Justice  
Lisa Hannan**  
Chief Magistrate,  
Magistrates' Court of Victoria

Chief Magistrate Hannan commenced her role on 17 November 2019. Prior to her appointment, Chief Magistrate Hannan served eight years as a Magistrate and Coroner and 13 years as a County Court Judge. She has significant experience and expertise in criminal law.

Chief Magistrate Hannan served as the inaugural Head of the Criminal Division of the County Court from 2014 to 2018, and previously worked as a barrister in criminal and family violence matters. She is the founding patron of the 'Women in Crime' network, which provides mentoring, education and support to approximately 250 female criminal lawyers.



**The Honourable Justice  
Michelle Quigley**  
President,  
Victorian Civil and  
Administrative Tribunal (VCAT)

Justice Quigley was appointed to the Supreme Court in December 2017 and is the first woman to be appointed as the President of VCAT. Prior to her Supreme Court appointment, Justice Quigley spent almost 30 years as a barrister specialising in administrative law, including planning and environmental law, and land valuation and acquisition.



**His Honour Judge  
Jack Vandersteen**  
President,  
Children's Court of Victoria

Judge Vandersteen was appointed Judge of the County Court of Victoria on 1 January 2021 and President of the Children's Court of Victoria for five years.

In 2009, his Honour was appointed Magistrate of the Magistrates' Court of Victoria and was assigned to the Melbourne and western region of the Court. In 2014, he was appointed Regional Co-ordinating Magistrate at Dandenong.



**His Honour Judge  
John Cain**  
State Coroner,  
Coroners Court of Victoria

Judge Cain was appointed State Coroner in October 2019. Before this, he was Victoria's Solicitor for Public Prosecutions. Between 2002 and 2006, Judge Cain was CEO of the Law Institute of Victoria. He was the Victorian Government Solicitor from 2006 until 2011, after which he became managing partner at Herbert Geer (now Thomson Geer).

# Our Board

## Non-Judicial Board members



**Mr Graham Atkinson**  
Reappointed July 2022  
(5-year term)

Mr Atkinson is Director and Principal Consultant at Atkinson Consulting Group. He has nearly 30 years' experience consulting with government and Indigenous communities on matters including land justice and heritage, economic and social planning, good governance and change management.



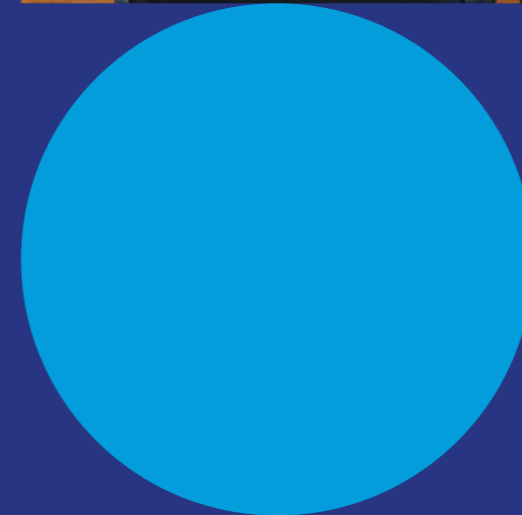
**Ms Claire Keating**  
Reappointed July 2022  
(5-year term)

Ms Keating is a chartered accountant with over 30 years' experience in superannuation and funds management. She also serves on several boards, including AustralianSuper and Charter Hall Direct Property.



**Dr Helen Szoke AO**  
Appointed 26 March 2019  
(5-year term)

Dr Szoke AO has a breadth of experience, including being the Chief Executive of Oxfam Australia, Race Discrimination Commissioner for the Australian Human Rights Commission, and CEO of the Victorian Equal Opportunity and Human Rights Commission. She has led a distinguished career in human rights, governance, public policy and leadership.



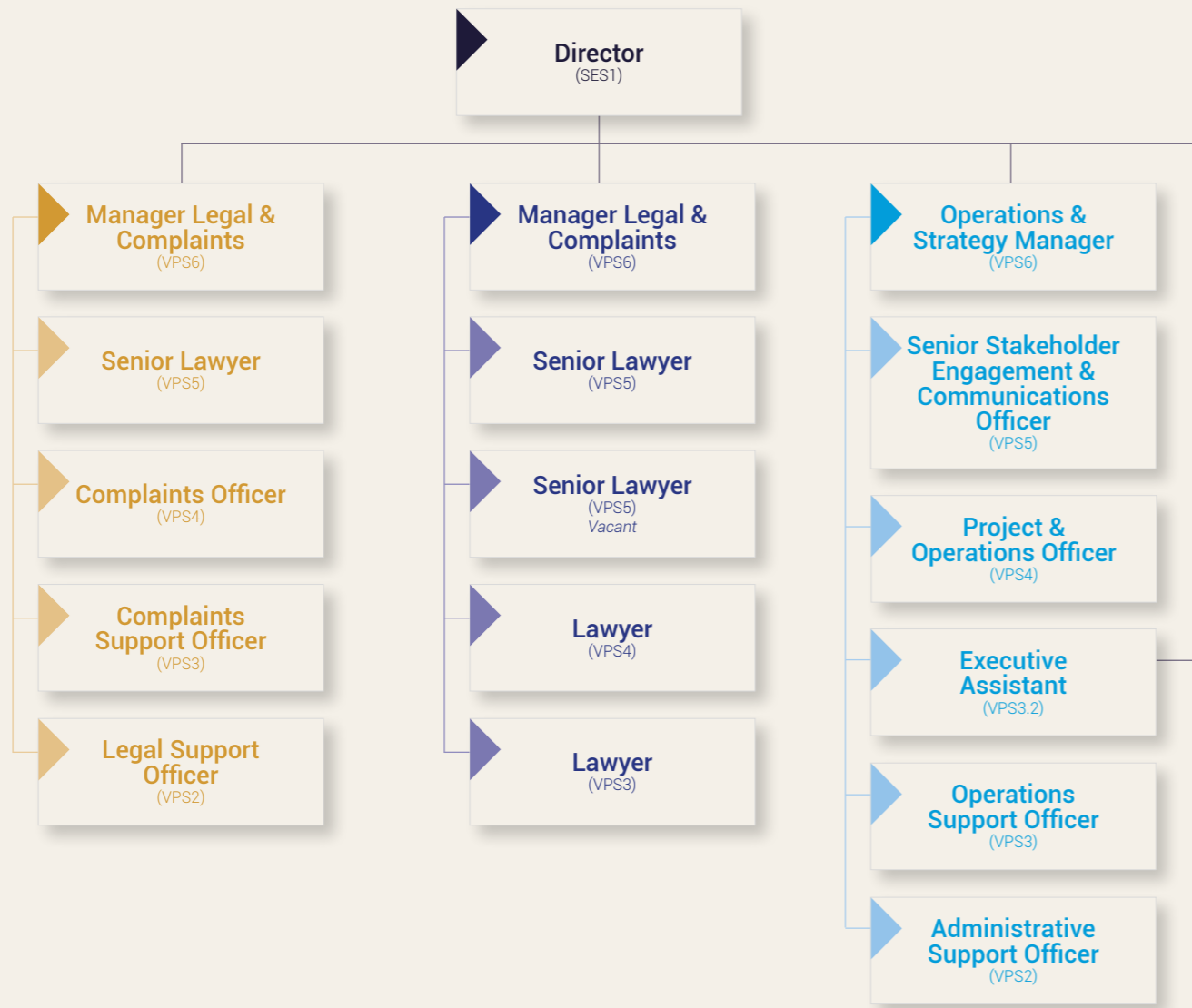
### Our Director

Alexis Eddy was appointed in October 2019. Before commencing her role at the Commission, she managed the in-house legal team at the Independent Broad-based Anti-corruption Commission (IBAC). Prior to that, Alexis was with the Office of Police Integrity.

She has an expert understanding of the Victorian integrity regime and best practice policies and procedures, and offers in-depth knowledge of the justice system.

### Organisational structure

The Director is supported by a team performing a broad range of operational and legal tasks to ensure the Commission can deliver its functions. This year, there were nine full-time and six part-time staff members. The Commission is supported by CSV, which provides corporate advice and assistance in finance, people and culture, information technology and procurement.

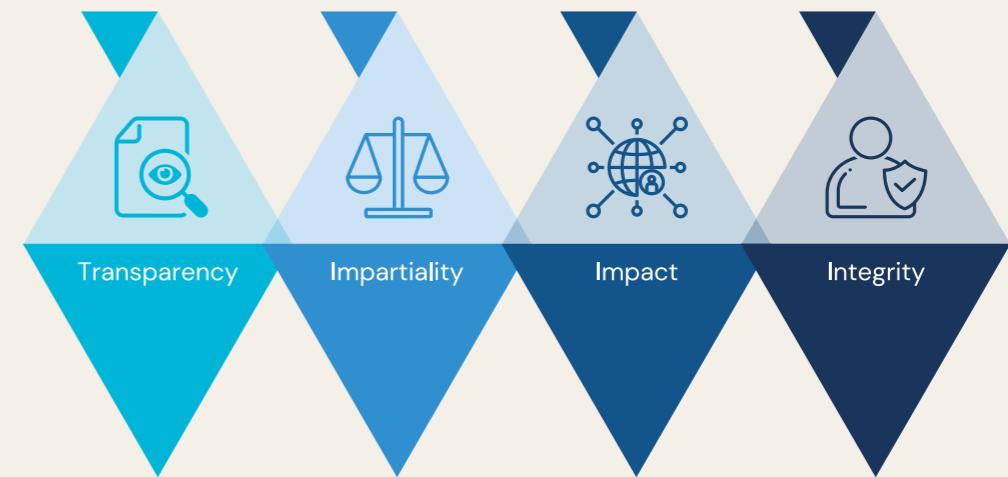


## Our values, mission and strategic direction

### Our vision and mission

We seek to maintain public confidence and trust in the Victorian courts and VCAT. We achieve this by providing guidance on the highest standards of judicial behaviour and delivering a fair and transparent complaint resolution process.

### Our values and strategic direction



The Commission's inaugural [Strategic Plan](#) was designed through an all-staff workshop in September 2022. It was informed by the Victorian Public Sector and CSV values and goals, which are integral to the Commission's identity, as well as its broader context. The plan sets an ambitious and achievable direction for the next two years, with this shorter duration to reflect the rapid growth and changes at the Commission.

In October 2022, the Board endorsed the Strategic Plan, articulating the Commission's values, mission and vision: to ensure that public confidence and trust in the Victorian courts and VCAT is maintained. It prioritises *wellbeing* as an overarching purpose alongside core purposes to *enhance trust and confidence in the judiciary and provide a fair and transparent process for investigating complaints*.

In parallel, the Commission developed an Action Plan which details the specific initiatives, responsibilities, resources and timelines required to deliver on the Strategic Plan's priorities. Reviewed annually, the Action Plan will document how the Commission has, and will continue to implement its strategic goals, demonstrate its measures of success, and realise its mission and values.

This year<sup>1</sup>, the Commission delivered or began implementing a range of initiatives, as illustrated in the 'Milestones by month' section.

<sup>1</sup> For the purposes of this annual report, we will refer to the financial year of 2022/23 as 'this year'. The only exception to this rule is when we are directly comparing two financial years in one sentence, and it is clearer to refer to it as 'FY22/23.'

## Section 3

# Our Impact

## Our work this year

In the past financial year, the Commission's work strengthened public trust and confidence in Victoria's judiciary. The dismissal of most complaints demonstrated the overall high standards of conduct within the judiciary, while referrals to heads of jurisdiction and investigating panels showed the Commission's commitment to upholding those standards. The Commission also solidified itself as a growth-oriented body by improving complaint finalisation times.

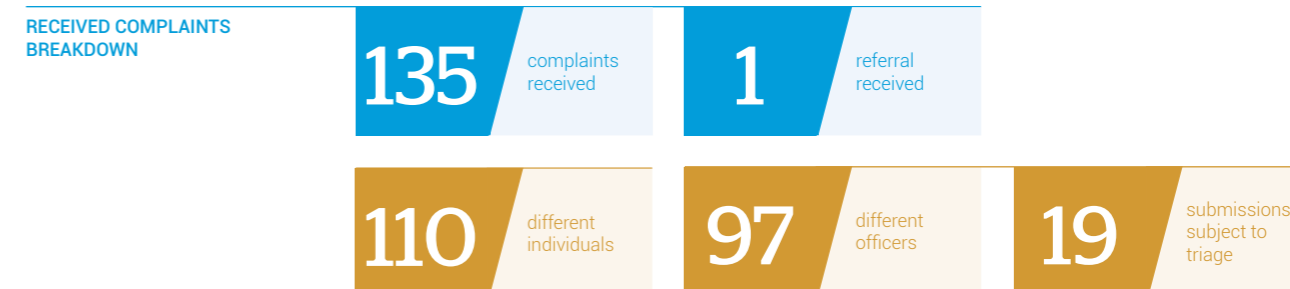
A primary function of the Commission is to receive and investigate complaints regarding judicial officers and VCAT members. In this report, the expression 'judicial officer' refers to magistrates, judges and other persons identified as judicial officers under section 87AA of the *Constitution Act 1975 (Vic)*. The expression 'VCAT member' refers to non-judicial members of VCAT. The expression 'officer' refers to judicial officers and VCAT members, reflecting its use in the *Judicial Commission of Victoria Act 2016 (Vic)* (the JCV Act).<sup>2</sup>

This section reports on key results from the Commission's complaints handling functions and provides data on the nature of this work. In 'Our focus areas', the report describes several important practice and process changes that have been, or are being, implemented. For these reasons, some of the data is not comparable to previous years.

In the next financial year, the Commission will work to identify how to consistently present data from previous years in a way that allows for longitudinal analysis and promotes transparency.



# Key results



## Number of enquiries received

The Commission receives a significant number of enquiries from members of the public by telephone and email. The Commission also receives online 'complaint' submissions that do not fall within the Commission's jurisdiction.

For example, this year, the Commission received:

- 43 submissions via its online portal that were not complaints within the meaning of section 5 of the JCV Act. Section 5 requires that a complaint be 'about the conduct or capacity' of an officer.
- more than 158 individuals enquiring via telephone from more than 185 calls. Of those telephone enquiries:
  - about one-quarter (22%) related to the Commission's functions, processes and role (within the Commission's jurisdiction); and
  - about three-quarters related to matters outside the Commission's jurisdiction:
    - » These included enquiries related to court procedures, process, staff or decisions (63%). For example, potential complaints about lawyers, government agencies or court staff; others sought advice on active court or tribunal proceedings.
    - » The remaining enquiries (15%) related to issues that were not related to judicial officers, VCAT members or court proceedings. These included requests for advice on handling disputes more generally.

Where an individual's enquiry would be more appropriately handled by a court or another agency, the staff member provided the person with general information on how to contact that court/agency.

For example, when a person complains about a lawyer, they are provided with the website and contact details of the Victorian Legal Services Board and Commissioner, or when they seek information about court processes, they are directed to the relevant court or tribunal registry.

## Number of complaints received

This year, the Commission received 135 complaints under section 5 of the JCV Act, and one referral by a head of jurisdiction under section 7 of the JCV Act; a total of 136 matters.

The 135 complaints and single referral were made by 110 different individuals and related to 97 officers.

The Commission also received 19 submissions which, as of 30 June 2023, were subject to the Commission's triaging processes, including early engagement, to determine whether they were within the Commission's jurisdiction.

## Investigation of complaints

Upon receipt of a complaint or referral, the Commission must investigate it in accordance with Part 3 of the JCV Act. This investigation is intended to be a 'limited enquiry'.<sup>3</sup>

At this stage of the investigation, the Commission can request materials from the courts and VCAT. This year, the Commission requested documents under section 28(1) of the JCV Act to assist with investigating more than 87 complaints.

Most of these requests were for audio or video recordings of proceedings. This enabled the Commission to determine whether allegations of fact were supported, and to assess conduct having regard to its context.

The Commission may also review published reasons, if any, for decisions in relevant legal proceedings.

When investigating a complaint, the Commission may:

- require an officer to undergo a medical examination where the Commission reasonably believes the officer may be suffering from a condition that may significantly affect the officer's performance of their functions.<sup>4</sup> This year, the Commission did not require any officers to undergo medical examinations; and
- recommend to a head of jurisdiction that a particular officer be stood down (or where the officer has already been stood down by a head of jurisdiction, extend the time within which the officer is stood down).<sup>5</sup> A recommendation can only be made in limited circumstances and in respect of the most serious complaints. If the officer is stood down, it is a temporary measure that does not cause the officer to be removed from office, and does not affect the officer's remuneration, allowances or other entitlements. This year, the Commission made one recommendation that a head of jurisdiction stand down an officer.

The JCV Act requires the investigation of complaints or referrals be adjourned in particular circumstances (section 18) or provides a discretion to adjourn the investigation of complaints or referrals in other circumstances (section 31). As of 30 June 2023, three complaint investigations remained adjourned pending active legal proceedings.

<sup>3</sup> Parliament of Victoria, House of Assembly, *Hansard* (10 December 2015) at 5516 (Second Reading Speech).

<sup>4</sup> See *Judicial Commission of Victoria Act 2016* (Vic) s 29 for further information.

<sup>5</sup> See *Judicial Commission of Victoria Act 2016* (Vic) ss 97–103 for further information.

# Key results

## Explanation of complaint outcomes<sup>6</sup>

Section 13 of the JCV Act provides for three possible outcomes for complaints:

- (1) summary dismissal (section 13(2));
- (2) referral to an investigating panel (section 13(3)); and
- (3) referral to the relevant head of jurisdiction (section 13(4)).

## Dismissal of a complaint

First, the Commission determines whether the complaint must or should be dismissed, having regard to the dismissal grounds under section 16. This analysis involves several steps:

- a complaint must be dismissed unless the Commission is satisfied that one of the following three section 16(1) 'threshold' criteria apply:
  - (1) the matter could, if substantiated, amount to proved misbehaviour or incapacity such as to warrant removal from office; or
  - (2) the matter may affect or have affected the officer performing judicial functions; or
  - (3) the conduct may have infringed the standards of conduct generally expected of judicial officers or VCAT members.

These three criteria all go to the potential seriousness of the allegation. Generally, they are not concerned with whether a complaint is substantiated and are not intended to impose a high threshold. Rather, the Commission conducts a limited review and determines whether it is satisfied on the face of the complaint that one of threshold criteria apply;

- a complaint must be dismissed if the Commission is satisfied that any of the seven mandatory dismissal grounds under section 16(2)–(3) apply. This includes complaints that are trivial, vexatious, relate to a person who is no longer a judicial officer or VCAT member, or relate solely to the merits or lawfulness of a decision; and
- if any of the three discretionary dismissal grounds under section 16(4) are enlivened, then they may be exercised to dismiss the complaint. This includes where a complaint has not been substantiated or having regard to all the circumstances of the case investigation or further investigation is unnecessary or unjustified.

If a complaint is dismissed, the relevant head of jurisdiction, the officer, and the complainant will be notified and given reasons for the dismissal.

This year, 94% of complaints were dismissed by the Commission, demonstrating that, fundamentally, Victoria has a judiciary it can trust and be confident in.

## Referral to an investigating panel

If the complaint has not been dismissed, and the Commission is of the opinion that it could, if substantiated, amount to proved misbehaviour or incapacity such as to warrant removal of the officer, the Commission must refer the complaint to an investigating panel.

An investigating panel is appointed by the Commission's Board but operates independently of the Commission. An investigating panel comprises three members: two former or current judicial officers and one member of high standing in the community, selected from a pool of people appointed for this purpose.

This year, the Commission appointed one investigating panel. Two separate complaints were referred to that investigating panel. The two complaints related to the same Officer.

Subject to the JCV Act, a panel may regulate its own proceedings. It is bound by the rules of natural justice but not by the rules of evidence. An investigating panel must act expeditiously and confidentially, subject to limited exceptions. It has a broad range of coercive and investigatory powers, including to compel production of documents, conduct hearings and issue summonses requiring witnesses to give evidence. An investigating panel is reserved for the most serious matters and hearings are closed to the public unless exceptional circumstances exist.

This year an investigating panel:

- held one directions hearing which was closed to the public; and
- requested court documents pursuant to section 56(1) of the JCV Act on one occasion.

Having investigated the complaint, an investigating panel has three options. It may:

- dismiss the complaint;
- refer it to the relevant head of jurisdiction for action with recommendations about the officer's future conduct; or
- draft a report recommending the officer be removed from office where it has concluded facts exist that could amount to proved misbehaviour or incapacity.

This year, the investigating panel did not conclude investigations into either of the two complaints referred to it, as the Officer resigned from his position. Under section 35(2)(e) of the JCV Act, when an officer resigns, the investigating panel must dismiss the complaint.

This year, there were no:

- search warrants issued by the Supreme Court on application by an investigating panel;
- notices requiring the production of a document or thing under section 69 of the JCV Act;
- witnesses summonsed under section 70 of the JCV Act;
- claims of privilege determined by the Supreme Court under section 95 of the JCV Act;
- reports made under section 34(4) or (5) of the JCV Act;
- referrals to a head of jurisdiction under section 34(3) of the JCV Act;
- mandatory notifications of corrupt conduct to the Independent Broad-based Anticorruption Commission (IBAC) under section 48 of the JCV Act; or
- mandatory notifications of misconduct to the Victorian Inspectorate under section 49 of the JCV Act.



# Key results

## Referral to the head of jurisdiction

If the Commission has not dismissed the complaint or referred the matter to an investigating panel, the Commission must refer it to the head of jurisdiction.

Where a complaint is referred (by the Commission or investigating panel) to the head of jurisdiction, both the officer and the head of jurisdiction are provided with a report setting out the Commission or investigating panel's findings and recommendations. The head of jurisdiction may then counsel the officer, make recommendations to them as to their future conduct, or exercise any other power they have in relation to the officer.

The head of jurisdiction must then provide a report to the Commission stating the outcome of the referral and reasons for it, which is then given to the complainant.

## Opportunity to respond

Before deciding whether to refer a complaint to an investigating panel or head of jurisdiction, the Commission must give the officer an opportunity to respond to the complaint. An officer may choose whether or not to provide a response, as there is no mandatory requirement under the JCV Act to respond.

The primary purpose of an opportunity to respond is to enable the officer to provide their perspective on the complaint. It also affords an officer procedural fairness before a decision is made to refer a complaint to an investigating panel or head of jurisdiction.

This year, the Commission offered officers the opportunity to respond to four complaints. Of these, responses were received in relation to three complaints. As illustrated by the case studies that follow in 'Our focus areas', the provision of an opportunity to respond is important, as an officer can provide further information which can assist the Commission in determining how to finalise the complaint.

## Results of complaint outcomes

This year, the Commission finalised 111 complaints and no referrals.<sup>7</sup> Of these:

- 104 complaints (93.7%) were dismissed under section 13(2) of the Act;

- two complaints (1.8%) were referred to an investigating panel under section 13(3) of the Act; and
- five complaints (4.5%) were referred to a head of jurisdiction under section 13(4) of the Act.<sup>8</sup>

In addition to those 111 finalisations, one complaint was withdrawn pursuant to section 17 of the Act.

As of 30 June 2023:

- 79 complaints and one referral remained open;
- 19 submissions to the Commission's online portal remained the subject of early engagement; and
- four of the open complaints were received in FY21/22. One of these complaints remains adjourned pending the finalisation of an active court proceeding.

## Time taken to finalise complaints and other submissions

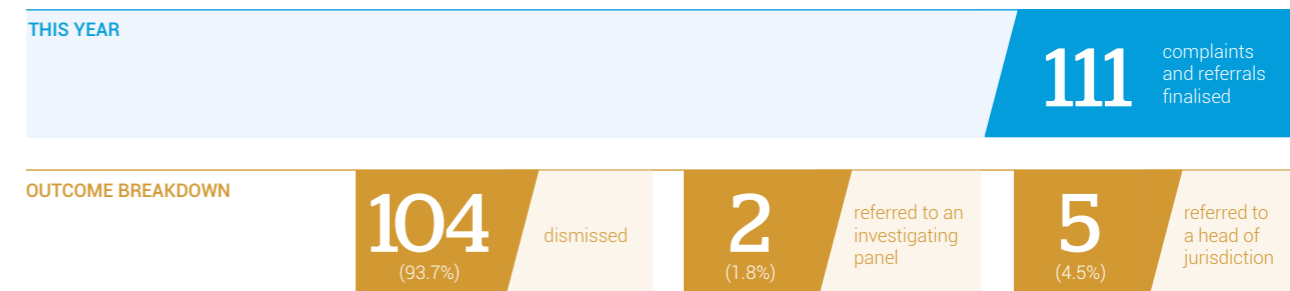
Of the 111 complaints finalised this year, the average time taken to finalise each complaint was 183 days (six months). The median number of days taken to finalise complaints was lower at 166 days.

Generally, the Commission finalises complaints within six months of receipt. That timeframe is consistent with comparable Australian complaints handling bodies.

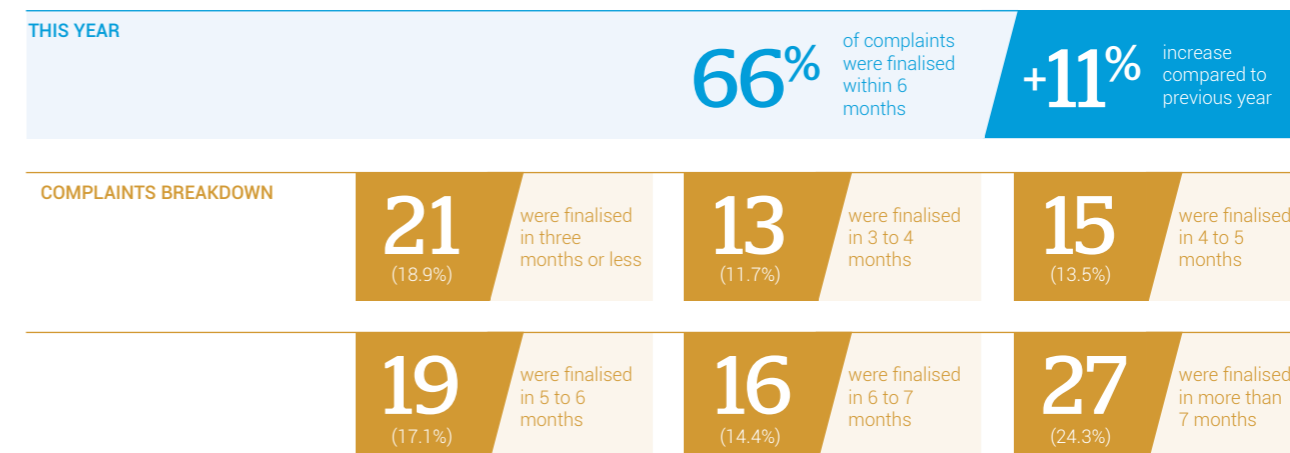
Notably, of the four complaints that took the longest to finalise:

- three complaints involved additional complexity, and the Commission gave the officer concerned an opportunity to respond to each complaint. Extensions of time in which to give a response were granted in each case; and
- in the fourth complaint, the complainant provided information about their complaint on numerous occasions over a period of more than six months after its receipt.

## Summary of complaint outcomes



## Time taken to finalise complaints



This year, 66% of complaints were finalised within 6 months. This is an increase from 55% of complaints finalised within that timeframe in the previous year. This demonstrates the impact of continued improvements to the Commission's intake, triage and early engagement processes.

<sup>7</sup> For the purpose of this report, a complaint or referral is regarded as 'finalised' when it is dismissed or referred (either to an investigating panel or head of jurisdiction). However, if a complaint or referral progresses to an investigating panel or a head of jurisdiction, it will be the subject of further action by the panel or head of jurisdiction.

<sup>8</sup> The JCV Act allows for complaints to be separated into 'parts'. It is possible for one part of a complaint to be dismissed while another part is referred to an investigating panel or head of jurisdiction. For consistent reporting of this data, a complaint is only counted once. For example, if part of a complaint was dismissed and part was referred to a head of jurisdiction, it is only counted as being referred to a head of jurisdiction.

# Nature and scope of complaints

## Complaints by jurisdiction

In each financial year since its inception, the Commission received more complaints from jurisdictions with the highest caseloads and number of officers: the Magistrates' Court and VCAT. That trend continued this year, with about three-quarters of all complaints relating to the conduct of magistrates and VCAT members. The data reported below must be read in the context of the significant proportion of cases heard by those particular jurisdictions.<sup>9</sup>

While the number of complaints received is significant, it represents a minute proportion of the total cases dealt with by the Victorian courts and VCAT this year. For example, although the Commission received 78 complaints about officers of the Magistrates' Court, the Court finalises more than 200,000 proceedings each year. This year, the Magistrates' Court reported finalising 160,959 criminal cases, 6,766 defended civil claims and 51,112 original intervention order matters. In other words, roughly one complaint was received by the Commission per 2,800 cases finalised by the Court. Of complaints found to infringe the standards, it equates to roughly one complaint in every 43,000 cases finalised by the Court.<sup>10</sup>

**Table 1: Number of complaints received per jurisdiction**

JURISDICTION	COMPLAINTS	PERCENTAGE OF TOTAL
Magistrates' Court	78	57.4%
VCAT	23	16.9%
Supreme Court	17	12.5%
County Court	11	8.1%
Children's Court	4	2.9%
Coroners Court	2	1.5%
Victims of Crime Assistance Tribunal	1	0.7%

<sup>9</sup> For example, the Magistrates' Court finalises about 90% of all criminal proceedings in Victoria: Productivity Commission, *Report on Government Services 2023: 7 Courts* (Data Table 7A.5, 31 January 2023).

<sup>10</sup> A single case may be listed for multiple hearings, and before different judicial officers. If the number of complaints is compared to the number of listings (rather than cases finalised), then the proportion of cases where a complaint is made is even smaller.

## Nature and scope of complaints

The Commission has undertaken a qualitative review of this year's complaints<sup>11</sup>, with several prominent themes emerging about the nature and scope of complaints:

- about 32% of complaints related to intervention order proceedings and about 29% related to criminal proceedings.<sup>12</sup> The remainder were generally spread across different areas of civil proceedings, such as common law actions (e.g. negligence or breach of contract) or claims or applications made under statute (e.g. the *Residential Tenancies Act 1997* (Vic) and *Guardianship and Administration Act 2019* (Vic));
- less than 10% of complaints concerned allegations in respect of officers' out-of-court conduct;
- a substantial proportion of complaints sought to challenge the merits or lawfulness of a decision. The complaints often framed the perceived conduct as biased, infringing the right to a fair trial, or denying procedural fairness. However, the complaint only alleged that the officer preferred the evidence or submissions of a party other than the complainant – rather than alleging conduct that might reasonably support the characterisation. Sometimes these complainants appeared to misunderstand the Commission's functions as providing an alternative means of merits or judicial review, or an avenue for appeal, from a particular decision;<sup>13</sup> and
- many complaints concerned in-court conduct such as an officer's language, tone or volume of voice, and general demeanour. The complaints sometimes framed the perceived conduct as: (a) demonstrating bias, prejudice, or dislike towards the complainant; (b) having a detrimental effect on how the complainant wished to present their case; or (c) being inappropriate because they were rude, offensive or discourteous. A smaller number of complaints concerned language or insinuations in written reasons for decision.

<sup>11</sup> In previous years, the Commission reported on the 'nature' of allegations raised in complaints with quantitative data generated by the complaints management system, based on a categorisation of individual complaints. As noted earlier, in the next financial year, the Commission will work to identify how to consistently present data from previous years in a way that allows for longitudinal analysis and further promotes transparency.

<sup>12</sup> For this analysis, criminal proceedings for breaches of intervention orders are included as 'intervention order proceedings'. However, most complaints relating to intervention order proceedings are made in respect of applications for an order, or applications to vary, revoke or extend orders.

<sup>13</sup> It is not the Commission's function to perform such reviews or appeals. Generally, complaints of this kind did not provide a basis for the Commission to be satisfied that any of the section 16(1) criteria were satisfied.

# Nature and scope of complaints

**Table 2: Grounds for dismissing complaint parts**

GROUND FOR DISMISSING COMPLAINT PARTS	TOTAL COMPLAINTS	TOTAL PERCENTAGE
Does not meet the section 16(1) threshold	78	75%
Complaint not substantiated: section 16(4)(a)	51	49%
Further investigation unnecessary or unjustified: section 16(4)(c)	37	35.6%
Complaint relates solely to the merits or lawfulness of decision: section 16(3)(b)	8	7.7%
Complaint is frivolous, vexatious, not in good faith: section 16(3)(d)	3	2.9%
Officer resigned or no longer in office: section 16(3)(e)	1	1%
Conduct occurred before appointment to office: section 16(3)(a)	1	1%

## Grounds of dismissal

Where complaints have distinct 'parts' or allegations, a single complaint may be dismissed on multiple grounds. Accordingly, the total number of grounds identified in Table 3 exceeds the number of complaints finalised this year. The percentage figure refers to the percentage of complaints where the ground was exercised at least once.

For example, the most common dismissal ground was that the complaint did not warrant further consideration because the Commission was not satisfied the officer's conduct may have infringed the standards generally expected. The Commission relied on this ground when dismissing 78 complaints (75% of all dismissed complaints this year).

In about half of all complaints, the Commission was satisfied that the complaint (in part or whole) had not been substantiated. This ground was generally exercised where the Commission reviewed relevant recordings, transcripts or reasons for the decision and found that complaint allegation(s) were not supported by those materials.

In about one-third of all complaints, the Commission was satisfied that further investigation of the complaint (in part or whole) was unnecessary or unjustified. Often, this ground was exercised where:

- the Commission reviewed recordings, transcripts or reasons for decision; and
- the reviewed materials supported some or all of the alleged conduct; but
- having regard to all the circumstances of the case, a reasonable member of the community would not consider the officer's conduct infringed the standards of conduct generally expected.

## Mandatory notifications

The Commission did not make any mandatory notifications of:

- corrupt conduct to IBAC under section 25 of the JCV Act; or
- misconduct to the Victorian Inspectorate under section 26 of the JCV Act.

## Vexatious complainant declarations

The Commission did not make any vexatious complainant declaration under section 140 of the JCV Act.

## Public interest disclosures

A copy of the Commission's procedures for Making and Handling Public Interest Disclosures can be accessed at [www.judicialcommission.vic.gov.au/complaints/public-interest-disclosures](http://www.judicialcommission.vic.gov.au/complaints/public-interest-disclosures).

The Commission has no data to declare in respect of public interest disclosures (PID), noting it:

- received no PID complaints referred by IBAC;
- did not investigate any PID complaints;
- made no notifications to IBAC under section 21(2) of the *Public Interest Disclosures Act 2012* (the PID Act); and
- made no applications for an injunction under section 50 of the PID Act.



# Milestones by month

## July 2022

### Two non-judicial Board members were reappointed for further 5-year terms.

The Director and Manager, Legal and Complaints presented to:

- the Law Institute of Victoria Criminal Law Conference on navigating wellbeing in courts; and
- the Office of Public Prosecutions about the Commission's role, functions and complaint processes.

## August 2022

### The Commission started sector-wide consultation on the issue of judicial bullying.

More than 120 individuals participated in the consultation process, including judicial officers, court staff, lawyers and legal sector organisations.

The Commission welcomed a Project and Operations Officer to the team.

## September 2022

### The Commission developed its inaugural Strategic Plan from a full-day staff workshop.

Commission staff attended training sessions on building trauma awareness and dealing with vicarious trauma.

The Director and Manager, Legal and Complaints delivered a presentation on judicial conduct to the Victorian Bar Readers' course.

## October 2022

### The Board endorsed the Commission's Strategic Plan, which outlines the Commission's vision and development of the Action Plan.

The Director delivered a presentation to the Federation of Community Legal Centres about the Commission's role, functions and complaint processes.

The Commission was successful in securing funding for the Digital Transformation project, which aims to overhaul the website and complaints portal.

The Director and a Senior Lawyer presented on judicial bullying at the Law Society of Tasmania Litigation Conference 2022.

## November 2022

### The Manager, Legal and Complaints delivered a presentation on courtroom conduct and culture at the Victoria Police Legal Services Department conference.

## December 2022

### The Commission referred a complaint about an Officer relating to in-court conduct to an investigating panel.

The Commission welcomed a secondee Lawyer with experience working at both the County Court of Victoria and VCAT.

## January 2023

### The investigating panel held a directions hearing to determine procedural steps and set a timetable for investigating the complaint.

The Commission commenced its Digital Transformation project and welcomed an Administrative Support Officer as part of the project team within Operations.

## February 2023

### The Commission published a statement confirming an Officer was stood down following a recommendation by the Commission, and on the referral of the complaint about in-court conduct to an investigating panel.

The Commission referred a second, separate, complaint about the same Officer relating to out of court conduct to the same investigating panel.

The Board endorsed the Commission's [Policy on Publication of Complaint Information](#), which guides the Commission's approach to publishing information about complaints.

The Commission welcomed another Senior Lawyer to the team and appointed the Operations and Complaints Support Officer<sup>14</sup> to the role of Lawyer.

The Commission's 5th Annual Report for FY21/22 was tabled in Parliament.

## March 2023

### The investigating panel dismissed the two complaints referred to it following the resignation of the Officer.

The Commission published a statement about the investigation outcomes of the two complaints.

The Commission finalised the initial Action Plan, arising from the Strategic Plan, and held an all-staff meeting to launch and implement the Action Plan.

The Commission and the Judicial College of Victoria (Judicial College) co-hosted an interactive hypothetical session for officers titled 'Courts as workplaces: A hypothetical about judicial bullying'. The Commission's Director appeared on the panel alongside the Honourable Justice Kevin Lyons KC of the Supreme Court, Dr Matt Collins AM KC and other esteemed panellists.

As part of a panel of innovative leaders within the legal sector, the Director attended the Law Institute of Victoria Board's Strategic Insights Forum. This included leaders from other professional associations and key stakeholders.

The Manager, Legal and Complaints presented to:

- the Victorian Bar Readers' course on the issues of sexual harassment, judicial bullying, and the role of the Commission; and
- students participating in Leo Cussen Practical Legal Training about the role of the Commission.

The Commission welcomed a Complaints Support Officer to the team.

## April 2023

### The Commission published a statement regarding the outcome of a complaint about judicial bullying of a legal practitioner.

The Director presented at a 'Twilight' session to VCAT members on maintaining public confidence in VCAT. The Director explained the jurisdiction of the Commission, and the types of complaints it can and cannot investigate.

The Commission authored an article published in the Law Institute Journal about the Commission's role and how to make a complaint.

The Commission welcomed a Senior Stakeholder Engagement and Communications Advisor as part of the Digital Transformation project.

## May 2023

### The Commission published a Summary paper: Consultation and Recommendations (nine) (Summary Paper) about judicial bullying.

At the same time, the Commission published a Judicial Conduct Guideline on Judicial Bullying under section 134 of the JCV Act (professional standards function), in accordance with Recommendation 2.

The Commission published two further guidelines – one on awarding costs to officers and one on making a complaint.

The Director participated in a Judicial College seminar about judicial conduct and behaviour as part of a panel facilitated by the Honourable Chris Maxwell, Former President of the Court of Appeal of Victoria, and with the Honourable Justice Jacinta Forbes of the Supreme Court.

## June 2023

### The Commission updated its complaints management system (CMS) to implement Recommendation 4 in the Summary Paper (data collection on complaints received from lawyers).

Justice Quigley's term as President of VCAT and a member of the Commission's Board concluded.



<sup>14</sup> The capability and capacity review identified a need for this role to be split into two roles – (1) complaints support officer and (2) operations support officer.

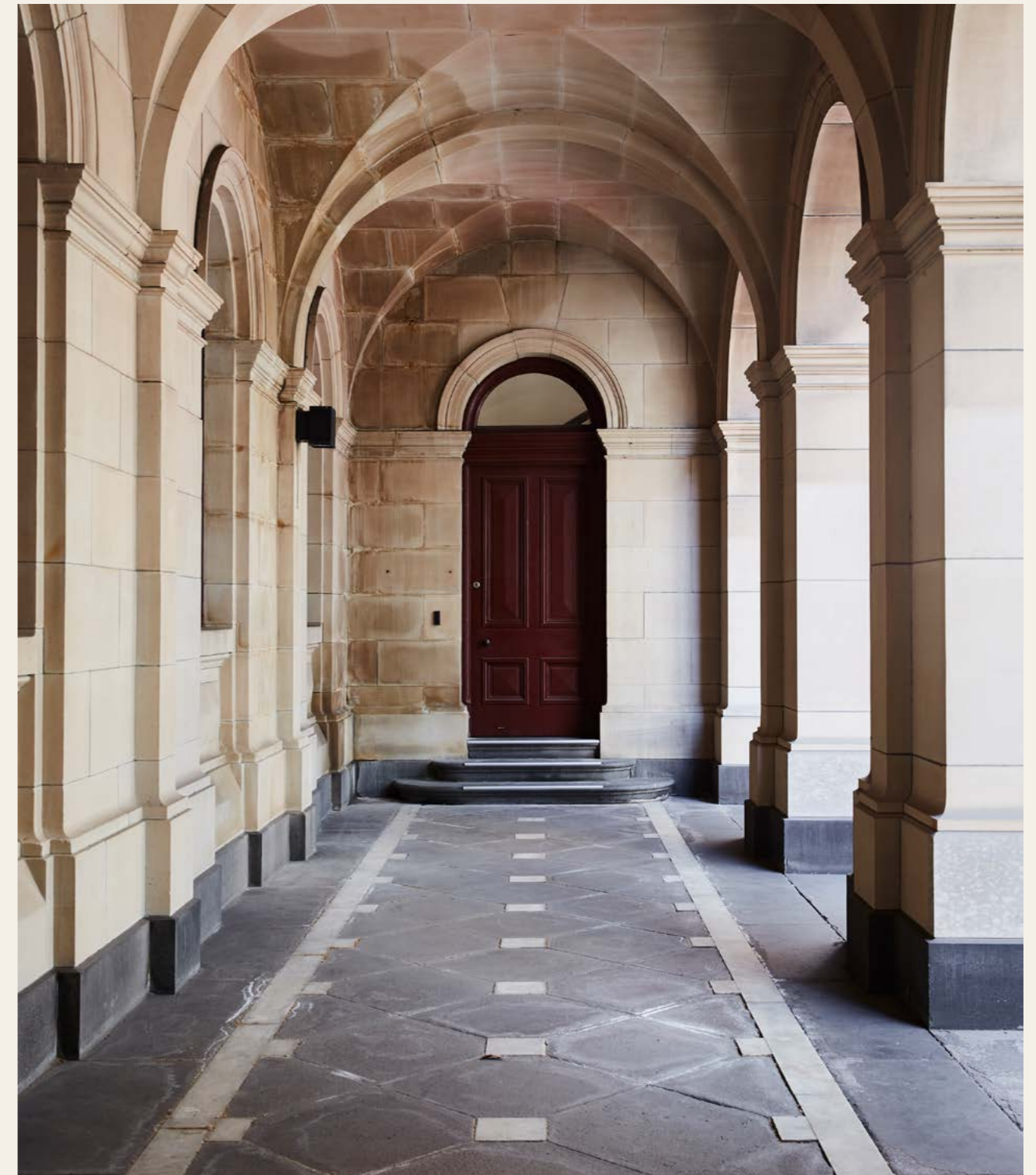
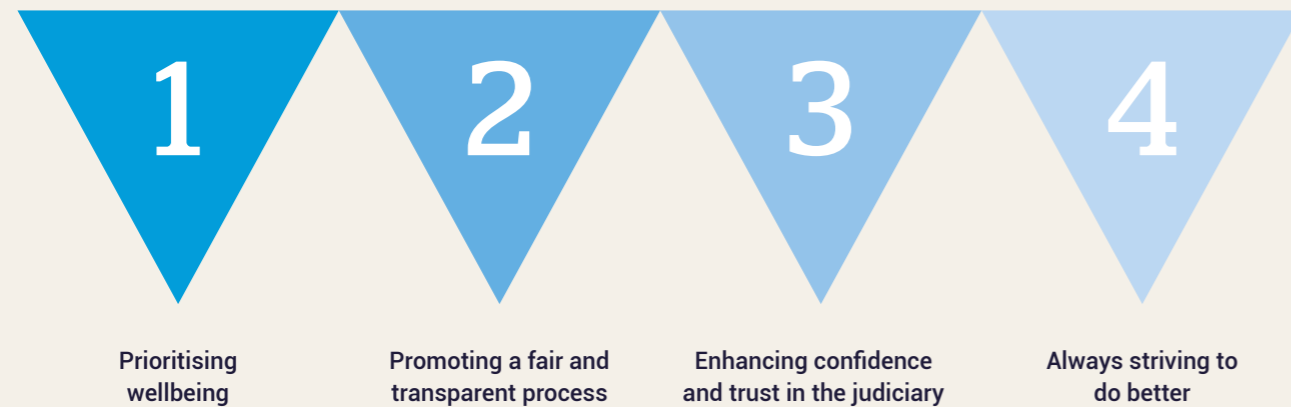
# Our focus areas

As highlighted in the Strategic Plan, the Commission's core purposes are to prioritise wellbeing, promote a fair and transparent complaints process, and enhance confidence and trust in the judiciary.

The next section of this report adopts these core purposes as 'focuses' to discuss trends and highlight key complaints through case studies. These examples contextualise and demonstrate how each focus arose in the Commission's work this year.

The fourth focus area considers how the Commission delivers on the core purposes by continually reviewing and improving investigative and operational processes. The Commission's significant projects this year are also expanded on within each focus.

## Focus areas



## Focus 1: Prioritising wellbeing

Individual, organisational and stakeholder wellbeing is central to everything the Commission does. That's why improving awareness of the importance of wellbeing among stakeholders, including judicial officers and VCAT members, is a priority for the Commission.

This section explores why taking steps to address stress and improve wellbeing is vital to fostering a respectful, connected and collaborative culture internally, among the judiciary, and in interactions with stakeholders.

### Complainant wellbeing

As reflected in the Strategic Plan, the Commission is dedicated to engaging with the public and complainants in a way that respects their dignity and considers their wellbeing. The improvements to enhance complaint intake, triage and the introduction of the early engagement model were strengthened after recruiting a complaints support officer this year. This role assists the complaints officer in improving the complainant experience and managing expectations about process and outcome. This has resulted in an increase in positive responses from complainants.

In addition, the Commission has adopted a trauma-informed approach to dealing with complainants in sensitive matters, including sexual harassment or other inappropriate behaviour such as judicial bullying.

#### ► Case study

##### Going beyond to ensure the wellbeing of a member of the public

A Commission complaints officer engaged with a member of the public who was enquiring about the Commission's role and jurisdiction, as well as the complaint process. At the start of the discussion, the person expressed doubt that anyone would address their concerns professionally.

The complaints officer actively listened to the person's concerns while continually assessing their state of wellbeing. The complaints officer noticed red flags that signalled concern for the individual's wellbeing. After confirming the person was not at risk of self-harm, the complaints officer displayed empathy and offered practical support, including providing contact details to support agencies such as counselling services and a nearby mental health hospital.

At the end of the discussion, the person expressed thanks to the complaints officer for listening to their experience and making an extra effort to ensure their welfare was cared for. Following this interaction with the complaints officer, the person felt empowered and confident to raise a complaint on the Commission's complaints portal.

#### ► Case study

##### Dealing sensitively with complainants in sexual harassment matters

The Commission deals with sensitive complaints, such as those alleging sexual harassment, differently to other complaints. There is an additional focus on protecting the privacy and safety of the individual impacted by the conduct, as well as the officer who is the subject of the complaint. These complaints are handled by a specialist team of trained lawyers and documents are secured with limited access. During the investigation, pseudonyms may be applied, and there is an increased focus on regularly updating relevant parties on the investigation's progress where appropriate.

The Commission also has a process to allow individuals to speak directly with members of the dedicated team about potential sexual harassment complaints, prior to lodging a formal complaint. This year, managers of the legal and complaints team met on two occasions with individuals about potential sexual harassment allegations. Adopting a trauma-informed approach, Commission staff explained the Commission's process and potential outcomes, and answered questions to enable those affected to determine whether they wished to make a complaint or provide information. The emphasis was on ensuring the person did not have to tell their story or recount their experience more than required.

## Judicial officer and VCAT member wellbeing

Wellbeing was a key focus of the Commission and Judicial College's interactive hypothetical session for officers. As Chair of both organisations, Chief Justice Ferguson emphasised the importance of wellbeing, its connection to performing at one's best, and encouraged all officers to prioritise it.

The Commission also addressed wellbeing by updating its key correspondence to officers. The new correspondence will provide officers with access to resources and support to assist them in managing their wellbeing during a Commission investigation process. The Commission has also worked with the relevant head of jurisdiction to ensure access to targeted wellbeing support in more complex or sensitive investigations.

### ► Case study

#### **Prioritising officer wellbeing by extending the opportunity to respond**

After conducting a preliminary investigation, the Commission decided to give an Officer the opportunity to respond to a complaint about in-court conduct. The response was due within four weeks.

Shortly after the Commission made that decision, it became aware that the Officer had not seen the Commission's correspondence due to the onset of health/medical issues. The Commission chose to extend the time for response in consideration of the Officer's health and wellbeing.

Over approximately the next six months, the Commission liaised with the head of jurisdiction and gave several extensions for the Officer to respond.

Upon the Officer's return to work, the Officer provided a response to the complaint.

## Wellbeing at the Commission

The Commission is committed to fostering a positive workplace culture, and supports each employee to prioritise their own wellbeing and that of their colleagues.

Like many other organisations, the Commission grappled with the impact of COVID on staff wellbeing, including working arrangements.

The Commission introduced an anchor day once a week, where all staff attended the office to focus on connection, collaboration and inclusion. After a trial period and staff survey, a second anchor day was introduced. The benefits included an increase in shared knowledge, productivity and increased opportunities for mentoring and social connection. This is particularly so for less experienced staff who have enjoyed moments of informal idea sharing and collaboration.

Staff may work flexibly on anchor days if exceptional circumstances arise, and pro-rata arrangements are available for part-time staff. The team are actively encouraged to access regular breaks, health and wellbeing programs, and use the end-of-trip facilities. Support services are available and staff are encouraged to communicate openly with their managers as required about the need to access various leave.

## Judicial bullying impacting stakeholder wellbeing

Judicial bullying is an important issue that poses a risk to the health and wellbeing of those experiencing it. It can also impact those observing the conduct and diminish public confidence in the judiciary and legal system more broadly. On the other hand, respectful behaviour enhances wellbeing and helps build respect and public confidence in the courts as institutions that deliver justice.

Judicial bullying has been a key focus for the Commission this year with the aim of enhancing the wellbeing of stakeholders within the legal and courts sectors.

Judicial bullying was identified as a matter of significant concern during the Commission's consultations on the Judicial Conduct Guideline on Sexual Harassment, which highlighted the connections between sexual harassment and other inappropriate behaviour such as bullying.

In July 2022, the Commission prepared a consultation paper on judicial bullying which considered (among other issues) the causes and impacts of judicial bullying, and how the Commission can contribute to preventing judicial bullying and promoting wellbeing through a respectful and safe court culture.

In August and September 2022, the Commission consulted widely with the courts, VCAT and various legal sector stakeholders on judicial bullying. The Commission received overwhelming interest from the sector, with more than 120 individuals volunteering and attending feedback sessions or providing written feedback. Key themes canvassed in the consultation included participant experience and perceptions of judicial bullying, as well as its impact on wellbeing and ability to impact culture.

After analysing the consultation responses, the Commission produced a report with nine recommendations for preventing and addressing judicial bullying. This included a recommendation to publish a conduct guideline on judicial bullying (see Focus 3 for a discussion of the Guideline), as well as judicial education and continued engagement to increase awareness of its role and processes.

A key recommendation was to collaborate with the Judicial College to rollout an education program for judicial officers and VCAT members. This will commence in the next year. Similar education programs within the legal sector and court services will also begin.

The following complaint demonstrates how the conduct of officers in court can negatively impact wellbeing. It also illustrates that a transparent complaint process is an important way for officers to gain insight into their conduct and understand its impact.

### ► Case study

#### **The impact of comments and tone on practitioner wellbeing**

The Commission received a complaint from a legal practitioner who had appeared remotely in a hearing.

The complaint alleged, among other things, that the Officer:

- rudely confronted the legal practitioner about not being physically present in court;
- treated the legal practitioner appallingly; and
- subjected the legal practitioner to humiliation in open court.

It was alleged that this undermined the legal practitioner in front of their client. The practitioner detailed how significantly the conduct had impacted them.

The Commission reviewed an audio recording of the hearing and determined that the Officer be given an opportunity to respond to the complaint.

The Officer chose to submit a response. In the response, the Officer acknowledged that their tone, volume and admonishing remarks during the hearing were inappropriate and injudicious. The Officer stated that they were extremely regretful of the exchange and disheartened that their remarks caused the legal practitioner to feel humiliated.

Further, the Officer acknowledged their approach on this occasion was the antithesis of their intent; to impart courtcraft skills. They also noted that it was inconsistent with their efforts to mentor junior practitioners throughout their career. The Officer expressed renewed determination to guide new practitioners in court in a gentle and polite manner.

While the exchange between the Officer and the legal practitioner was short, the Commission found that the Officer's comments, tone and manner in the opening minutes of the hearing were confrontational and abrasive, and on one occasion, reached the level of yelling. The Officer's tone, in combination with the comments that:

- the practitioner should know better;
- there was an absence of courtcraft and the practitioner's courtcraft needed to be 'honed'; and
- the Officer was trying to do the practitioner a favour and that she should not 'bristle' but 'learn'

were found to have undermined the legal practitioner and were unnecessarily critical and unwarranted.

The Commission found (among other things) that despite the rest of the hearing proceeding in a professional and courteous manner, the impact of the conduct on the legal practitioner in the initial exchange would have persisted throughout the hearing, and potentially after its conclusion.

#### ► Case study

##### The courts as a safe workplace

Similarly, the Commission considered a complaint made by a legal sector organisation concerning an Officer's conduct over three separate proceedings.

It was alleged the Officer's conduct demonstrated a pattern of behaviour falling short of the standards expected of judicial officers, specifically that the Officer:

- repeatedly used an unnecessarily condescending, disdainful and sarcastic tone when engaging with legal representatives in routine hearings; and
- unjustifiably criticised the conduct of legal practitioners appearing before the Officer.

The complainant highlighted the health and safety issue this raised for the legal practitioners appearing before the Officer.

The Commission reviewed audio recordings and gave the Officer an opportunity to respond to the complaint.

In choosing to respond, the Officer accepted:

- there were issues with their tone on this occasion, as well as their abrupt and peremptory speech; and
- that they caused offence and made practitioners feel demeaned by their comments.

The Officer unreservedly apologised for any offence caused and stated they would ensure the behaviour would not be repeated. Those acknowledgements were conveyed to the complainant as part of the outcome report.

In referring the matter to the head of jurisdiction, the Commission made several findings about the Officer's conduct, with a focus on the impact of the Officer's behaviour on legal practitioners.

Among other things, the Commission found:

- the Officer's tone towards the legal practitioners was (at different times across the three proceedings) disrespectful, impolite, condescending, sarcastic, abrupt and confrontational. This included paraphrasing or sarcastic relaying of practitioners' submissions on a number of occasions;
- the Officer's remarks, in combination with the tone used, did not appear to serve any purpose other than to continue to criticise the legal practitioners. Together, the comments and tone were unnecessarily and unjustifiably critical and disrespectful, and could reasonably be interpreted as personally demeaning; and
- a person in the position of the legal practitioners appearing before the Officer would reasonably have felt demoralised or disrespected.

The Commission recommended that the Officer be counselled by the head of jurisdiction with respect to appropriate judicial conduct, including the need to exercise sensitivity, courtesy and respect in the courtroom towards all court users, including legal representatives.

The Commission also found that the totality of the Officer's conduct was relevant. Conversely, if the Officer's conduct in the second proceeding had been an isolated or single instance, it may not have fallen short of the standards of conduct generally expected of judicial officers.

This example highlights the importance of the Commission being able to consider behaviour of the same or similar nature in its entirety (rather than as an isolated instance). Doing so:

- impacts the Commission's assessment of the seriousness and appropriateness of the conduct, enabling the Commission to assess the overall conduct against the standards expected of judicial officers; and
- helps highlight the workplace health and safety issue, and impact on the wellbeing of a collective group.





## Focus 2: Promoting a fair and transparent process



The Commission embodied transparency through consistently communicating investigation outcomes to stakeholders and the public, and also improving the complaint investigation process.

The Commission recognises the importance of being transparent in promoting trust and confidence in Victoria's judiciary.

### Transparent communication of conduct standards

The Commission is required to provide reasons for complaint outcomes. Generally, the complainant and officer will receive a report that draws on a range of sources to explain why conduct is found not to or to infringe on the standards of conduct generally expected of an officer.

In the past year, these sources have included:

- Legislation, particularly where it requires an officer to perform their role in particular ways.<sup>15</sup>
- Superior court decisions, particularly where the decision analyses officer's conduct in light of core judicial values of impartiality and independence.<sup>16</sup>
- Authoritative guidelines or statements of principle, such as the *Guide to Judicial Conduct* and *Bangalore Principles of Judicial Conduct*.<sup>17</sup>
- Empirical research on how core judicial values are demonstrated in practice, as well as the pressures on officers to perform their work: see, for example, Professor Roach Anleu and Emerita Professor Mack's work on impartiality, legitimacy and emotions, and Ms Schrever's research on judicial stress and wellbeing.<sup>18</sup>

- Speeches and academic work by senior judicial officers.
- Bench books and educational materials to instruct and inform officers on various aspects of their work or best practice in executing it, such as those produced by the Judicial College.

By referring to these authoritative sources, the Commission is transparent in explaining the complexities involved in judging and clarifying the expectations of officers.

While this process provides transparency for the individual complainant and officer about how the Commission arrived at the outcome, the Commission recognises that maintaining trust and confidence in the judiciary and courts requires that, in some cases, investigation outcomes or processes are communicated to the public more broadly. This year, the Commission developed and published a Policy on Publication of Complaint Information to guide how these decisions are made (discussed below).

Further, an important part of the process of communicating outcomes includes identifying best practices or model judicial conduct to help officers identify appropriate behaviour. The following case study exemplifies a best practice approach. It illustrates conduct which is the subject of many complaints before the Commission.

<sup>15</sup> See, for example, *Evidence Act 2008* (Vic), *Civil Procedure Act 2010* (Vic), and *Victorian Civil and Administrative Tribunal Act 1998* (Vic).

<sup>16</sup> See, for example, *Galea v Galea* (1990) 19 NSWLR 263; *Michael v Western Australia* [2007] WASCA 100; *Piccolotto v The Queen* [2015] VSCA 143; *VFAB v Minister for Immigration and Multicultural and Indigenous Affairs* [2003] FCA 872, 131 FCR 102.

<sup>17</sup> The Council of Chief Justices of Australia and New Zealand, *Guide to Judicial Conduct* (ALJA, 3rd ed, amended 2022); United Nations Office on Drugs and Crime, *Commentary on the Bangalore Principles of Judicial Conduct* (2007).

<sup>18</sup> See, for example, Sharyn Roach Anleu and Kathy Mack, *Performing Judicial Authority in the Lower Courts* (Palgrave, 2017); Sharyn Roach Anleu and Kathy Mack, *Judging and Emotion: A Socio-Legal Analysis* (Routledge, 2021); Carly Schrever et al, 'The Psychological Impact of Judicial Work: Australia's First Empirical Research Measuring Judicial Stress and Wellbeing' (2019) 28(3) *Journal of Judicial Administration* 141.

### ► Case study

#### Spotlighting best practice judicial conduct

The Commission received a complaint which, in part, alleged that the Officer avoided answering straightforward questions and did not explain complex legal terminology.

While reviewing the audio recording, the Commission identified several occasions when the Officer was unable to answer questions. However, this was in circumstances where the complainant frequently interrupted the Officer. The Commission determined that the complainant's behaviour could reasonably be described as disruptive to the orderly conduct of the proceeding. This was further supported by the complainant's tone and volume.

The Commission found that the Officer endeavoured to explain the legal terms, corresponding orders, and sections of the relevant legislation. The Commission also considered the Council of Australasian Tribunals' *Practice Manual for Tribunals*, which provides that 'it is not a tribunal's role to run the party's case for them'.<sup>19</sup>

The complaint was dismissed, noting that the Officer's approach in dealing with a difficult complainant demonstrated best practice behaviour.



### ► Case study

#### Transparency about the Commission's role and function

In the interests of fairness and transparency, the Commission strives to be transparent about its role and function, including with individuals and stakeholders who are not involved in the investigation of a particular complaint.

For example, while investigating a complaint made by the respondent in a civil proceeding, the Commission received correspondence from the legal practitioner representing the applicant in the proceeding. Among other information, the legal practitioner asked to be informed about the status of the investigation. The legal practitioner believed the outcome of the respondent's complaint would impact their client's position in legal proceedings with the respondent.

Although the Commission is not able to provide this type of information under the JCV Act, it did help the practitioner understand the Commission's role and function. This included explaining that investigation and complaint outcomes have no impact or legal bearing on legal proceedings, nor does the Commission have jurisdiction to review the merits or lawfulness of decisions or procedural rulings.

### Policy on publication of complaint information

During the Commission's consultation on judicial bullying, the Commission received feedback that transparency about the Commission's complaints process and complaint outcomes was a central element of any judicial complaints system. In particular, publishing statements on substantiated complaints was an important dimension of being transparent.

In response to that feedback and Recommendation 7 of the Summary Paper, the Commission published a Policy on the Publication of Complaint Information (the Policy) which outlines the Commission's approach to publishing information about complaints (including how it will determine whether to make a public statement).

The Policy states that the Commission recognises that publishing complaint outcomes:

- a. Demonstrates that the complaints process is transparent and that judicial officers and VCAT members are not exempt from scrutiny or being held accountable.
- b. Endorses and commends best practice judicial conduct.
- c. Educates the public, the legal profession, and the judiciary about appropriate and inappropriate judicial conduct.
- d. Denounces conduct that infringes the standards generally expected of judicial officers and VCAT members.
- e. Has a deterrent effect in discouraging inappropriate conduct among the judiciary.
- f. Can correct misinformation that is in the public domain.

Since the publication of the Policy this year, the Commission published three statements about the investigation or outcome of complaints, which can be found on the Commission's website. One of those complaints, relating to an allegation and finding that an officer had engaged in judicial bullying, is discussed in the *Case study: conduct with no legitimate purpose*.

### Guideline on making a complaint

Under section 134(d) of the Act, the Commission may make guidelines about the making of complaints. The revised Guideline clearly establishes the process for making a complaint and the information to be provided. The Guideline is targeted at members of the general public and reflects the continual internal improvements and streamlining of the Commission's complaint intake and triage processes over the last two financial years, documented in Focus 4: Always striving to do better.

## Focus 3: Enhancing confidence and trust in the judiciary

The Commission regularly and intentionally assesses awareness and understanding of its role and function. This ensures it provides informed guidance on professional standards and the complaints system.

### Increasing stakeholder awareness and understanding

The Commission has focused on increasing understanding of its role and processes among the court and legal sectors, as well as with the public. This supports the Commission's vision of maintaining public confidence and trust in the Victorian courts and VCAT.

To deliver on this vision, the Commission presented at various events this year, increasing the number of presentations it made to key stakeholders from one in FY21/22 to 12 in FY22/23. This was in addition to the judicial bullying consultations discussed earlier in this report.

The positive impact of this engagement is evident from:

- d. an increase in the number of complaints from legal practitioners – a 60% increase on the last financial year;<sup>20</sup>
- e. the more serious subject matter of the complaints being received from legal practitioners;
- f. informal communications from legal practitioners about how to complain;
- g. continued invitations to speak to new audiences; and
- h. feedback received during and after the consultations on judicial bullying.

The Commission's complaints data also demonstrates that these engagements are improving the legal sector's understanding of the Commission, its role, functions and what constitutes a valid complaint. For example:

- although fewer than 10% of complaints finalised in FY21/22 and FY22/23 were received from legal practitioners, more than 50% of the complaints referred to a head or jurisdiction or investigating panel came from legal practitioners; and
- the dismissal rate for complaints received from all complaints was about 94%, whereas this figure was only about 60% where the complaints were made by legal practitioners.

<sup>20</sup> This statistic includes complaints from legal practitioners and legal organisations/associations, and referrals. The statistic does not include complaints received from legal practitioners where: (a) the complaint related to a proceeding in which they were a party; or (b) where the practitioner has been, or is, the subject of disciplinary proceedings.



### Collaboration with the Judicial College of Victoria

The Judicial College facilitates the professional development of judicial officers and VCAT members and provides for their continuing education and training. In other jurisdictions, the information generated through complaints bodies is used to inform and enrich judicial education.

In FY21/22, the Commission investigated ways to collaborate with the Judicial College to share information and contribute to its important work.

This year, the Commission cemented its collaborative endeavours with the Judicial College by focusing on preventing and addressing judicial bullying and encouraging appropriate court behaviours. In particular:

- where complaints have been referred to the head of jurisdiction by the Commission, the Commission has engaged with the Judicial College to ensure professional development recommendations reflect best practice and align with education that is accessible to that officer;
- in March 2023, the Commission and Judicial College jointly hosted a cross-jurisdictional education event about judicial bullying. Opened by the Chief Justice, the event aimed to increase awareness of judicial bullying and encourage officers to think about the effect of their conduct and position on others. Approximately 30 officers attended to discuss examples of behaviour that may be deemed inappropriate judicial conduct. The Commission received important feedback to shape future training on the issue and support the wellbeing of all court and tribunal users;

- the Judicial College provided feedback on the Commission's draft report on the judicial bullying consultation. That feedback helped shape the recommendations made by the Commission around judicial education; and
- the Commission drew on its awareness of contemporary issues in judicial ethics to provide the Judicial College with information to guide the content of its seminars in 2023.

### Collaboration with other agencies in respect of judicial commissions and judicial ethics

The Commission has been engaged on several occasions by judicial commissions (and equivalent agencies) in other states and territories to provide advice and support. These engagements have included proactively offering resources that may assist the agencies with common issues in complaint investigation, as well as responding to specific enquiries about practice in Victoria.

The Commission has also engaged with other government agencies to share knowledge and learn from other jurisdictions. For example:

- following the Australian Law Reform Commission's inquiry into judicial impartiality, the Commission and Australian Law Reform Commission hosted a webinar to discuss the inquiry's findings. Staff from the Judicial College and CSV's Dhumba Murmuk Djerring Unit (DMDU) were invited to attend to promote information-sharing across the agencies; and
- the Commission has engaged with government departments in other Australian jurisdictions to inform their consideration of establishing new judicial commissions.

### Providing informed guidance on professional standards and processes

The Commission also has a professional standards function under section 134(1) of the *Judicial Commission of Victoria Act 2016* (the Act). This enables the Commission to make targeted guidelines regarding (among other things) the standards of conduct expected of judicial officers and VCAT members, the performance of functions by the Commission as conferred under the Act, the making of complaints and any other matters the Commission considers appropriate. In conduct matters, these guidelines supplement the Guide.

In May 2023, the Commission's Board endorsed revised guidelines on making a complaint and awarding costs.

After considering new information and data informing how the discretion should be applied, the Commission updated the Guideline on the Award of Costs. The revised Guideline intends to provide transparency around the key factors the Commission will consider when assessing a request for costs and determining whether to exercise its discretion.

In FY21/22, the Commission introduced new processes around complaint intake and triage (including early engagement) to provide a consistent approach to assessing potential complaints. In March 2023, the Commission implemented further internal changes to how complaints are accepted, including streamlining the

receipt of complaints via the online portal. The Commission identified that a revised Guideline for Making a Complaint was necessary to accurately reflect the process. The Guideline was revised to:

- reflect the internal process changes of the previous year and ensure they are transparent to potential complainants;
- reinforce that complaints must meet the criteria in section 5 of the JCV Act; and
- ensure complainants are afforded procedural fairness.

#### ► Case study

##### Applying a Guideline to reinforce standards of conduct

The Commission received a complaint alleging an Officer had communicated with a junior solicitor, whom he was in a mentoring relationship with, in an unprofessional and inappropriate manner. It was alleged that the Officer sent inappropriate text messages, emails and other electronic communication.

Applying the Commission's Judicial Conduct Guideline on Sexual Harassment, after a preliminary investigation under Part 3 of the Act, the Commission was satisfied the alleged conduct could be characterised as sexual harassment by the Officer and that the complaint should be referred to an investigating panel.

## The Commission's Conduct Guideline on Judicial Bullying

In May 2023, the Commission published a Judicial Conduct Guideline on Judicial Bullying. It is the second conduct guideline published by the Commission. The Guideline provides clear and transparent accountability standards for all judicial officers and VCAT members in relation to judicial bullying.

The Guideline was the culmination of significant work over the year. It commenced during the Commission's consultation on its first judicial conduct guideline on sexual harassment. During that consultation process, it became clear that the impact and prevalence of bullying were potentially more significant.

Unlike the sexual harassment guideline, which was informed by Dr Helen Szoke's Review of Sexual Harassment in Victorian Courts and recommendations, there was no Szoke Report or definition of judicial bullying. In lieu of an equivalent review into judicial bullying, the Commission prepared an evidence-based consultation paper.

The consultation paper analysed the existing research and commentary on judicial bullying and drew on Safe Work Australia recommendations about bullying in the workplace to suggest ways the Commission could contribute to preventing and addressing judicial bullying.

The consultation paper proposed six questions for the consultation, including a proposed definition of judicial bullying. The Commission conducted a targeted consultation with various external stakeholders from the legal and courts sector, including each jurisdiction.

The consultation responses were analysed, and in total, nine recommendations were made to prevent and address judicial bullying, including the publication of the Guideline, judicial education, improving transparency and continued engagement by the Commission to increase awareness of its role and processes.

The Guideline outlines what constitutes judicial bullying and makes it clear that it breaches the standards of conduct expected of judicial officers, as it departs from the three core judicial values of impartiality, independence and integrity of personal behaviour. At its most egregious, judicial bullying may demonstrate incapacity or amount to proven misbehaviour warranting removal from office.

The Guideline also:

- sets out the matters the Commission will balance in assessing whether the conduct is unreasonable;
- outlines the factors that can contribute to judicial bullying and the impact on those who experience it;
- provides examples of behaviour that will and will not infringe the standards; and
- states how the Commission addresses complaints and the potential outcomes.

In FY23/24, the Commission will roll out education for the legal sector in collaboration with the Judicial College for judicial officers and VCAT members.

### Assessing judicial conduct: relevant factors

The Commission's purpose in assessing complaints about judicial conduct is not to determine ideal or 'preferable' judicial conduct.<sup>21</sup> Most commonly the test will be whether the conduct infringed the standards of conduct generally expected of judicial officers by the community.

As outlined in the Judicial Conduct Guideline on Judicial Bullying, there are a range of interrelated factors that inform the Commission's assessment of judicial conduct, and each complaint is determined on a case-by-case basis. In general, the relevant factors will often include the:

- functions of a judicial officer;
- subject or 'target' of the conduct;
- tone or nature of the conduct;
- frequency of the conduct;
- location, jurisdiction, or type of proceeding; and
- the overall context of the conduct, recognising the realities of courtroom interactions, demands of judicial work and human nature.<sup>22</sup>

The following discussion and case studies illustrate how the Commission considered some of these factors in complaints about several different officers.

### Factor

#### Purpose of the conduct

Courtroom interactions may involve (and require) a degree of robustness as an incident of the judicial function. Conduct directed at the proper discharge of the judicial function is less likely to infringe on the standards of conduct. Examples may be critical comments from the bench directed at moving a legal practitioner from a weak submission, intervening in an overly-long or unclear witness examination, or suggesting preliminary views as to issues before the court.

However, conduct which does not appear related to the judicial function is more likely to infringe the standards of conduct. Critical comments that are purely gratuitous or serve only to insult, harass or threaten a person do not serve a legitimate purpose.

#### Case study

##### Conduct directed at the proper discharge of the judicial function

The Commission received a complaint regarding a civil proceeding. The complaint alleged, among other things, that the Officer spoke to a litigant in an inappropriate and antagonistic tone, made disparaging remarks about the litigant and demonstrated bias against the litigant.

Having reviewed the audio recording of the hearing, the Commission found that the Officer (among other things):

- commented on the litigant 'fighting dirty' and behaving disgracefully; and
- described the litigant's claim as 'smack[ing] of desperation' and 'smack[ing] of recent invention'.

The Commission noted that on one view, the Officer's conduct towards the litigant may not reflect expected qualities of courtesy and patience. Further, the Commission considered that the Officer's language may be perceived by a reasonable member of the community as critical, forceful and sceptical about the litigant's bona fides and integrity.

The Officer was given the opportunity to respond to the complaint. The Officer explained that the litigant was impeding the proper and efficient discharge of VCAT's functions and described the likely impact of the litigant's conduct on the other parties. The Officer explained that she intended to issue a stern reprimand to prevent similar conduct going forward. The response detailed how those beliefs were formed in a considered way.

Overall, the Commission dismissed the complaint. Its report:

- noted that VCAT proceedings must be conducted 'with as little formality and technicality, and [be] determine[d] ... with as much speed, as the requirements of [law] and a proper consideration of the matters before it permits';<sup>23</sup>
- remarked that the effect of frustrating the Tribunal's processes (whether intentional or not), negatively impacts upon the other parties in a dispute, 'other litigants [who] are left in the queue awaiting justice', and the wider community;<sup>24</sup> and
- considered that while the member robustly rebuked the litigant, a reasonable observer would likely perceive there was a legitimate reason for her to do so. Further, the rebuke was not so serious that it offended core values of professionalism or impartiality.

<sup>23</sup> Victorian Civil and Administrative Tribunal Act 1998 (Vic) s 98(1)(d).

<sup>24</sup> UBS AG v Tyne [2018] HCA 45, 265 CLR 77 at [38], [45].

<sup>21</sup> Compare *Dennis v Commonwealth Bank of Australia* [2019] FCAFC 231, 272 FCR 343 at [35].

<sup>22</sup> These factors are distilled from superior court decisions or socio-legal research on judicial conduct.



### ► Case study

#### Conduct demonstrating an improper discharge of the judicial function

In contrast to the previous case study, a complaint was received from a self-represented litigant about an order made by an Officer in a building enforcement hearing. The complaint alleged that the Officer's judgement was impaired by his anger, and as a result, he made an order based on annoyance with the litigant rather than the evidence and supporting material. In this way, it was suggested that the Officer had used his power to punish the litigant.

Making orders and decisions is part of the judicial function, and the Commission must dismiss a complaint that relates solely to the merits or lawfulness of a decision or procedural ruling.

However, having reviewed the audio recording, the Commission considered that the complaint related to the fairness and impartiality of the Officer's conduct (specifically to his decision-making process) including his comments, tone and manner, rather than the merits of the decision.

In particular, the audio recording suggested that there was a direct correlation between the litigant's conduct and the Officer's shift in position and change in manner and tone, such that it impacted his ability to remain impartial. This included statements such as:

- '[O]ne more outburst like that and I will make the order that's sought. Do you understand that? This is a court. You do not speak and address the court in a manner you have. I said to you 10 minutes ago my tolerance was waning...'
- 'No... I cautioned you on a number of occasions. You've spoken over me. You have not been of any assistance to the court... As a consequence, I am going to make the order for the injunction...'

The Officer was given the opportunity to respond to the complaint. The Officer considered that he had acted professionally in the circumstances made difficult by the litigant and that any frustration did not impact his decision.

The Commission accepted that the litigant's behaviour created additional challenges for the Officer in conducting the proceeding and that for most of the proceeding, the Officer demonstrated patience and courtesy.

Further, it was appropriate for the Officer to take steps to ensure the litigant's behaviour was addressed, including by changing the volume or tone of his voice and by interrupting where appropriate.

However, the Commission found the Officer's statements, combined with the manner and tone used, demonstrated that the Officer's decision-making would be predicated not on submissions or evidence, but on the litigant acting or behaving in a certain manner, and such conduct was inappropriate.

Overall, the Commission found that the conduct could diminish the confidence of litigants and the public in the court process, as well as the integrity and impartiality of judicial officers, thereby infringing the standards of conduct generally expected of judicial officers.

The Commission referred the matter to the head of the jurisdiction with a recommendation (among others) that the Officer be counselled on inappropriate judicial conduct, including the need to exercise patience, courtesy and respect in the courtroom towards all court users, including self-represented litigants.

### ► Case study

#### Conduct with no legitimate purpose

Similarly, the apparent purpose of an Officer's conduct was an important factor in a complaint concerning an application to adjourn a contested hearing. The hearing was conducted online and listed in four sessions across one day. The complaint alleged that the Officer engaged in conduct that amounted to judicial bullying, among other things.

The Commission reviewed the audio recordings of each court session and provided the Officer with an opportunity to respond to the complaint. The Officer considered his conduct justified, having regard to all the circumstances.

The Commission assessed the Officer's actions, language, imputations arising from comments, tone, impact of the conduct and written response. It found that a reasonable observer would regard the conduct as rude, sarcastic, discourteous and bullying. Among other things:

- the Officer's comment to the legal practitioner that 'this matter will be reported to the Attorney-General by the way...this matter's escalating, alright' created a risk of harm to the legal practitioner, placing them in fear of their professional reputation in circumstances where there was no reasonable basis for the comment; and
- the Officer asked sarcastic, 'tongue-in-cheek' questions in circumstances where his position of authority and court custom required the legal practitioner to give serious answers. The answers were then mocked by the Officer in open court, which could have embarrassed or humiliated the practitioner.

The Commission did not accept that the legal practitioner acted inappropriately. Further, the Commission found the Officer's conduct to be an unwarranted attack upon the legal practitioners' competence and professionalism, in circumstances where the Officer had no reasonable basis for censuring the legal practitioner.

Overall, the behaviour directed at the legal practitioner was unreasonable, personal and had no legitimate purpose. The Commission was satisfied that the Officer's conduct fell short of community expectations of how judicial officers should treat legal practitioners.

### ● Factor

#### The tone or nature of conduct & frequency of conduct

Qualitative aspects of the conduct will inform whether the conduct is acceptable, inappropriate or unacceptable. This includes express language, the implicit meaning of comments, tone or volume of voice, and any physical conduct or displays.

### ► Case study

#### Assessing qualitative aspects of conduct

The tone and nature of the conduct was an important factor in a complaint alleging that during a mention, an Officer was rude and yelled at the applicant when she had not finished answering certain questions. The Commission reviewed an audio recording of the mention (among other things) and determined to give the Officer an opportunity to respond to part of the complaint. The Commission found, relevantly:

- the parties were self-represented and the applicant appeared to have a limited understanding of court processes;
- the applicant often spoke over the Officer, but at times, asked (or waited) for permission to speak; and
- on two occasions approximately eight minutes apart, the Officer's tone, volume and language escalated.

Generally, the Commission did not consider the Officer's behaviour rude. Rather, a reasonable observer would perceive that the Officer was speaking loudly and emphatically to be heard in, and maintain control of, a virtual courtroom. The Commission acknowledged significant caseload pressures on the court at the time.

However, the two occasions identified above were assessed as having gone beyond what was necessary to maintain effective courtroom management. The Commission distinguished what may be (a) displays of frustration or annoyance; from (b) yelling at and acting rudely towards a self-represented litigant. Although both occasions were momentary, the Commission found that their nature was such that the Officer infringed the standards of conduct generally expected of a judicial officer.



### ● Factor

#### Location, jurisdiction and type of proceeding

When assessing conduct and whether it infringes the standards generally expected of judicial officers, one relevant factor which often contextualises a complaint and the conduct that is being alleged is the location, jurisdiction or type of proceeding.

In some jurisdictions, specific processes and procedures may shape expected standards of behaviour. For example, VCAT 'is not bound by the rules of evidence or any practices or procedures applicable to courts of record, except to the extent that it adopts those rules, practices and procedures'.<sup>25</sup>

### ▶ Case study

#### Jurisdiction contextualising the complaint

The Commission received a complaint that primarily alleged that a tribunal member permitted an expert witness report to be filed out of time, and then read this report before the hearing and indicated that they would be influenced by the report. This was alleged to demonstrate bias.

In this case, the Commission considered the type of proceeding and jurisdiction in which it occurred, which was an application in the planning and environment list of VCAT

The Commission considered the conduct in the context of the nature and jurisdiction of the proceeding. The expectations around submitting and receiving evidence in VCAT, are purposefully less formal than in the courts, to promote (among other things) VCAT accessibility.

In this context, the conduct was not inappropriate. The tribunal member had acted in accordance with section 98(1)(c) of the *Victorian Civil and Administrative Act* and the supplementary Practice Notes, both of which permitted discretion around the acceptance of evidence, despite non-compliance with time limits or procedure.

Similarly, a separate complaint alleged that the complainant felt 'mentally overpowered' by the tribunal member sitting at the bar table with the parties during the VCAT proceeding, rather than at the bench. The complainant was self-represented.

Again, the Commission found that the tribunal member did not infringe the standards of conduct generally expected because, generally, VCAT procedures are intended to have a more flexible and informal approach than that which might be expected in a court setting. This is to accommodate the fact that, in many cases, parties will not be represented by a legal practitioner. Tribunal members are usually required to conduct the proceedings with as little formality and technicality as possible to allow each proceeding to be determined effectively.

Accordingly, the Commission considered that in the context of the VCAT jurisdiction, it was not inappropriate for the member to sit at the bar table with the parties rather than the bench.

### ▶ Case study

#### Type of proceeding contextualising the complaint

The Commission considered a complaint alleging, among other things, that an officer coerced and threatened the parties into attending mediation. The matter involved a directions hearing for a personal safety intervention order application, where both parties were self-represented.

A review of the audio recording revealed that on several occasions, the Officer explained to the parties that although mediation is not a requirement, it is encouraged by law pursuant to the *Personal Safety Intervention Orders Act 2010* (Vic). The Officer explained that without legal representation, they had to explain that legislation permits a judicial officer to consider a party's refusal to attend mediation and that it may go against their credibility at the contested hearing.

The Commission did not identify any evidence to support the allegations that the Officer coerced or threatened the parties into attending mediation. Further, the Commission considered that as part of the Officer's case management role, there was nothing inappropriate or improper about encouraging mediation to resolve the proceeding early. In fact, this type of proceeding required it.

### Judicial officers and VCAT members as leaders

Judicial officers and VCAT members are leaders and how they respond to inappropriate conduct in their courtroom or tribunal is an important factor to instil trust and confidence in the judiciary.

The Judicial Conduct Guideline on Judicial Bullying recognises that conduct will not ordinarily infringe the standards of conduct expected when an officer exercises proper control of the courtroom to curb or respond to inappropriate behaviour (including bullying-type behaviour by others).

A bystander is a person who witnesses or becomes aware of inappropriate conduct. Officers are encouraged to be 'active' bystanders in their own courtrooms. This means acting when witnessing inappropriate conduct. The following case study demonstrates one instance where an officer did so.

### ▶ Case study

#### Alleged bystander conduct

The Commission received a complaint alleging, among other things, that an Officer was a bystander and allowed the complainant to be subjected to inappropriate and abusive behaviour during the proceeding by the other party.

The Commission considered that officers are expected to maintain control over the courtroom. To uphold public confidence in the judicial system, it is expected that officers intervene to stop abusive behaviour by lawyers or other court users. Not doing so may suggest that unprofessional behaviour is acceptable in the courtroom.

However, on reviewing the proceeding's audio, the Commission did not find any evidence to suggest that the Officer was a bystander or tolerated inappropriate in-court behaviour. On several occasions when the other party might be interpreted as having criticised the complainant personally, the Officer intervened to redirect them to focus on their submissions.

The Commission was satisfied that the Officer had not been a bystander, nor did they allow the complainant to be exposed to abusive or insulting behaviour. The Officer's conduct did not infringe on the standards of conduct generally expected of judicial officers.

The complaint was dismissed on the basis that it had not been substantiated.

## Focus 4: Always striving to do better



### Making changes to enhance our wellbeing

#### Office relocation

The Commission moved to a new location that facilitates an easier working relationship with its stakeholders, and in particular, with the Judicial College.

The relocation provides a more naturally lit and centralised floor plan to promote staff collaboration, connection and wellbeing. The space has several dedicated offices (usually reserved for confidential calls/discussions), meeting rooms and quiet rooms, as well as an informal break area and staffroom with amenities.

The new office also provides the Commission with secure dedicated rooms for Board meetings, hearings and investigating panels. These have been equipped with technology that enables protected remote access.

#### Expansion and recruitment

Due to growing awareness of the Commission and increased engagement from the sector, the Commission undertook a Capability and Capacity Review in FY21/22.

As a result of this review, the Commission has grown both the Operations team and Legal and Complaints team. The newly expanded Legal and Complaints team, now comprises two managers, two senior lawyers, two lawyers, two complaints/support officers and a legal support officer. The expanded Operations team now has an Operations and Strategy Manager, a Senior Engagement and Stakeholder Communications Advisor, a Project and Operations Officer, an Operations Support Officer and an Administrative Support Officer.

The Commission's increase in staff has improved the quality and timeliness of its services. The larger team has also supported the wellbeing of Commission staff by easing workload pressure and providing staff with more time to complete high-quality work.

### Improvements enhancing fairness and transparency

#### Digital Transformation Project

In FY21/22, the Commission identified the need to overhaul its website and online portal. The Commission received feedback from stakeholders that providing more information through the website would raise greater awareness and understanding of the Commission's role.

The Commission's website is the primary source of engagement with the public. The primary function of the website is to inform and educate, while the online portal guides the submission of complaints and impacts triage. The website and complaints portal's aesthetic and functionality do not best achieve these goals. The cumulative effect goes beyond the user experience by also impacting the operations, accessibility of information and ability to manage expectations and disseminate information.

The Commission was awarded funding to undertake the Digital Transformation Project. The project, which commenced in January 2023, focuses on improving the website and online portal.

The Digital Transformation Project will refresh the Commission's digital presence and, in turn, enhance the user experience. These changes will improve the complaint process by eliminating roadblocks, shortening timelines and refining communication. The project is set to be delivered by the end of June 2024.

#### The Review of the Commission's Operations, Legislation and Budget – update

A review of the Commission's budget, operations and legislation was completed in June 2022. In addition to implementing several internal operational measures, potential legislative amendments were developed at a high level.

Legislative reform proposals identified, include expanding the matters the Commission can consider when assessing a complaint against an officer (such as previous complaints) and potential additional preliminary investigation powers.

The Commission is working with the Department to consider the reform proposals in more detail.



**Complaint receipt, triage and engagement processes**

The Commission is continually improving its complaint investigation processes. By developing a triaging and early engagement process, the Commission has achieved a more rigorous assessment of whether each matter is a complaint.

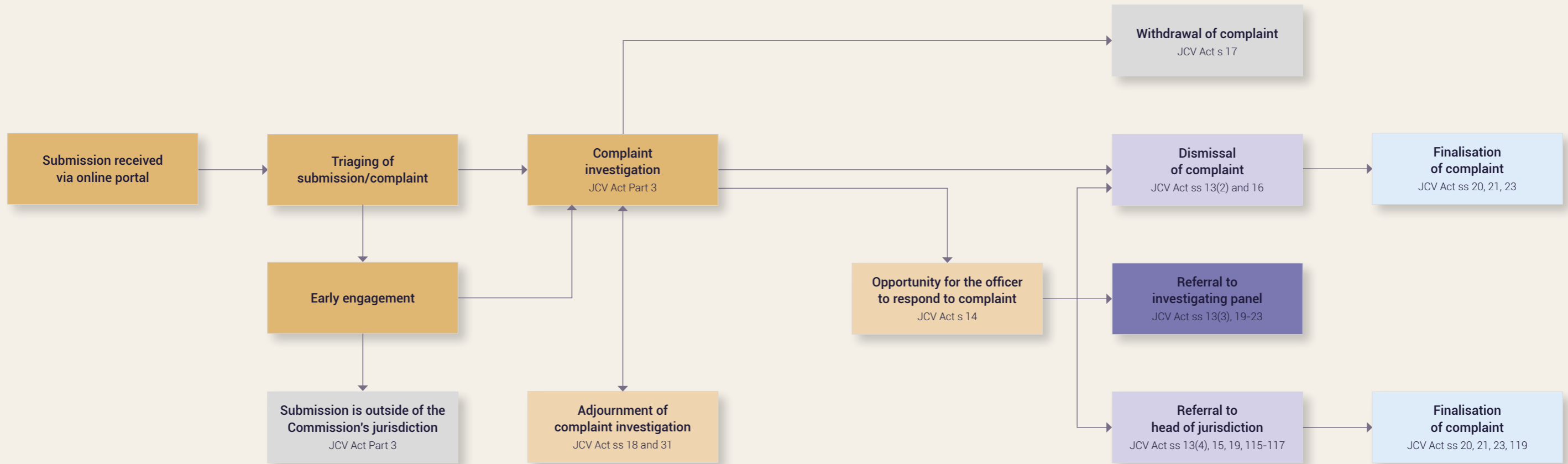
This year, continuous improvement has included identifying matters outside the Commission's jurisdiction in an efficient, timely and effective manner. This better directs the Commission's resources to investigate complaints and reinforces that complaints must meet the criteria in section 5 of the JCV Act.

These changes are contributing to greater benefits in productivity and efficiency. For example, they have increased the Commission's capacity to undertake complex legal work. In previous years (and in similar organisations), this kind of complex work required engaging an external law firm or seeking advice from counsel. For example, previous investigating panels required the Commission to engage private law firms for solicitor work. This year, the solicitor work was performed in-house. Similarly, the Commission leveraged the experience and capacity of its lawyers on commercial and litigation issues to undertake specialised tasks. This increased capacity has reduced external legal consultancy fees and built skills and expertise within the Commission.

The receipt, triage and engagement processes are intended to increase fairness and transparency. An important component of these processes is ensuring that people are contacted early in response to a telephone or email enquiry, or if they make a submission via the Commission's online portal. This year, the data demonstrates the processes worked effectively:

- telephone enquiries to the Commission were returned within four business days (on average);<sup>26</sup>

- where the Commission received a submission that was triaged as a complaint, the complainant was informed by an acknowledgment letter within 23 days (on average); and
- 92 online submissions were the subject of early engagement to clarify a person's concerns or seek more information to determine whether the submission was a complaint for investigation. Of the submissions that were not considered complaints (i.e. they were outside the Commission's jurisdiction), the person was informed of that outcome within 34 days (on average).



26 These data exclude a period in 2023 where the Commission's voicemail service was offline due to technical issues.



### Yaanadhan Manamith Yirramboi: Striving for a Better Tomorrow

CSV's Self-determination Plan (2021-2025) sets out the expectations for CSV to create a Koori<sup>27</sup>-inclusive environment for staff, Koori agencies and the Koori community in Victoria. The overarching theme of CSV's Self-determination Plan (2021-2025) is "Yaanadhan Manamith Yirramboi: Striving for a Better Tomorrow". The Commission is determined to strive for a better tomorrow for the Koori Community in all our work and engagements.

To support this commitment, four action areas were identified:

- Prioritising Culture;
- Addressing Trauma and Support Healing;
- Addressing Racism and Promote Cultural Safety; and
- Transfer Power and Resources to the Community.

The Commission has committed to the four priority areas. This year, the Commission has focused on two action areas: Prioritising Culture, and Addressing Racism and Promoting Cultural Safety. This section explores how the Commission has worked towards those two action areas over the past year.

#### Prioritising Culture

Most Commission staff received formal Koori Cultural Awareness training learning about traditional Aboriginal society and exploring the long-term impact of government policies on First Peoples, including over-representation in the Victorian justice and child protection systems.

In addition, a manager from the Commission's Legal and Complaints attended a three-day Senior Leadership Cultural Immersion Program in Bendigo (Dja Dja Wurrung Country) facilitated by the Dhumba Murmuk Djerring Unit (DMDU), which explored First Peoples history and culture. The group visited the new Bendigo Law Courts where they learned about the many cultural elements incorporated in the new building's design, including a stunning sculpture of a wedge-tailed eagle on the building's copper façade, a representation of the Kulin creator Bunjil.

The next day, the group had an on-country visit at Kooyoora State Park, a place of cultural importance to the Dja Dja Wurrung people. The group had the privilege of being Welcomed to Country by Traditional Owners of the land and learning about the impacts of colonisation and the work of the Dja Dja Wurrung people to revive the park and share their culture with the community.

Throughout the program, the group learned more about the DMDU's important work including the CSV Koori Engagement and Consultation Framework, Self-determination Plan and Koori Employment Plan. The program concluded with a yarning circle where the group shared professional and personal reflections, which was a moving experience for all involved.

Stemming from the program, the Commission has implemented a number of changes, such as ensuring Acknowledgements of Country are made frequently at meetings. Further, the leadership team is more cognisant of the requirements for, and benefits of, engagement and consultation with the DMDU and Koori stakeholders and community. The Commission has flagged several projects where engagement with the DMDU early in the process will be essential.

The Commission collaborated with the DMDU to refine its Acknowledgement of Country statement for this annual report.

<sup>27</sup> The term 'Koori' is used to describe Aboriginal and Torres Strait Islander People, acknowledging that not all Indigenous People employed by CSV are necessarily of Koori background. The term 'Indigenous' is used to describe Aboriginal and Torres Strait Island peoples nationally (source: CSV's Self-Determination Plan 2021-2025).

### Addressing Racism and Promoting Cultural Safety

To promote cultural safety, the Commission improved the online complaint form to enable complainants to identify as Aboriginal and/or Torres Strait Islander. This enables the Commission to identify where complainants may benefit from support from an Elder and/or Respected Person throughout the complaints process.

When the Commission undertakes an investigation of complaints from or in relation to the treatment of First Peoples by judicial officers or VCAT members, it is undertaken in the context of the wider experience of First Peoples in the legal system.

The Australian Law Reform Commission recently considered how Australian judicial officers engage with First Peoples and communities, culture, and law. Its report recognised:

*the special position of Aboriginal and Torres Strait Islander peoples as Australia's First Peoples, and the fact that the Australian legal system has been imposed over Aboriginal and Torres Strait Islander systems of law. It also responds to the particularly high levels of distrust of the legal system recorded among Aboriginal and Torres Strait Islander people.*<sup>28</sup>

Research has emphasised the imperative for 'culturally sensitive practices ... to be incorporated into the mainstream criminal and legal justice systems.'<sup>29</sup> At the same time, certain judicial conduct – including the use of particular language in court – may contribute to perceptions that First Peoples are 'others' in a court system that is seen to perpetuate disadvantage.

Where the Commission receives a complaint from individuals who identify as Aboriginal and/or Torres Strait Islander the Commission may:

- review research on culturally-sensitive courtcraft; and
- seek perspectives from the DMDU and other relevant First Peoples experts,

to determine whether particular conduct infringed the standards of conduct generally expected of a judicial officer, noting the special position of First Peoples in the legal system.

For example, this year the Commission adopted this approach in relation to a complaint (noting it was not finalised this year):

- received from a professional court user who represented an Aboriginal Australian man;
- where the officer was alleged to have used an expression that may have particular connotations for First Peoples; and
- the Commission's professional standards functions under section 87AAL of the *Constitution Act 1975 (Vic)*.

Following the implementation of the Commission's Strategic Plan, a Senior Stakeholder Engagement and Communications Advisor was appointed and established a strong engagement with the DMDU. A key priority for this new role has been to develop a Strategic Communications and Stakeholder Engagement plan that considers and addresses the specific needs and views of First Peoples and key organisations in the sector. In addition to working on the above two action areas, this work will incorporate the remaining two action areas of Addressing Trauma and Support Healing; and Transferring Power and Resources to the Community.

<sup>28</sup> Australian Law Reform Commission, *Without Fear or Favour: Judicial Impartiality and the Law on Bias* (ALRC Report 138, 2021) at [12.102] (citations omitted).

<sup>29</sup> Elena Marchetti and Janet Ransley, 'Applying the Critical Lens to Judicial Officers and Legal Practitioners Involved in Sentencing Indigenous Offenders: Will Anyone or Anything Do?' (2014) 37(1) *UNSW Law Journal* 1 at 31, citing Royal Commission into Aboriginal Deaths in Custody (Cth), *National Report* (1991) at vol 5, 91.



## Section 4

# About the Commission



## About the Commission

### What we do

The Commission investigates complaints about the conduct or capacity of officers.

Conduct is the manner in which officers behave in public and in some private settings. By accepting an appointment, officers agree to uphold the judiciary's status and reputation, and to avoid conduct that diminishes public confidence in, and respect for, the judicial office.<sup>30</sup>

Capacity is the ability of an officer to perform their official duties appropriately.

### Roles, functions and duties

The Commission is governed by the *Constitution Act 1975*, the JCV Act and the PID Act. The Commission has the power to consider complaints about a range of matters, including excessive delays in giving judgment, inappropriate courtroom conduct and health issues affecting an officer's ability to perform their official duties. The Commission cannot consider complaints about the lawfulness of decisions or procedural rulings.

An investigation is often initiated by a request to the court or tribunal for a file or audio recording, which can take some time. This preliminary investigation is carried out by lawyers within the Commission under the supervision of the Manager (Legal and Complaints). A recommendation is prepared for the Board.

Once the Commission has considered the complaint or referral, it can take one of the following courses of action:

- dismiss the complaint or referral (for example, those that are trivial, vexatious, relate to a person who is no longer an officer, or relate solely to the merits or lawfulness of a decision);
- if it is a complaint about serious conduct, conclude that the conduct infringed the standards of conduct expected of officers and refer it to the relevant head of jurisdiction, with recommendations in relation to future conduct; and
- if it is a complaint about a very serious matter, which, if true, could warrant removal from office on the grounds of misbehaviour or incapacity, refer it to an investigating panel for further investigation.

A detailed investigation report is prepared, including, where appropriate, quotes from the proceedings and references to relevant standards or guides.

The Commission is not empowered to 'discipline' or 'dismiss' an officer from their position. Most complaints do not concern matters that could warrant removal. The recommendations are intended to focus on future conduct and to guide the officer to achieve and maintain expected standards of judicial conduct.

If a matter that could warrant removal arises, the Commission must refer the matter to an investigating panel. A special majority of both Houses of Parliament must agree before a judicial officer can be removed. The Governor in Council, on recommendation from the Attorney-General may remove a VCAT member.

During an investigation, the Commission may recommend an officer be stood down pending the outcome.

## Complaints

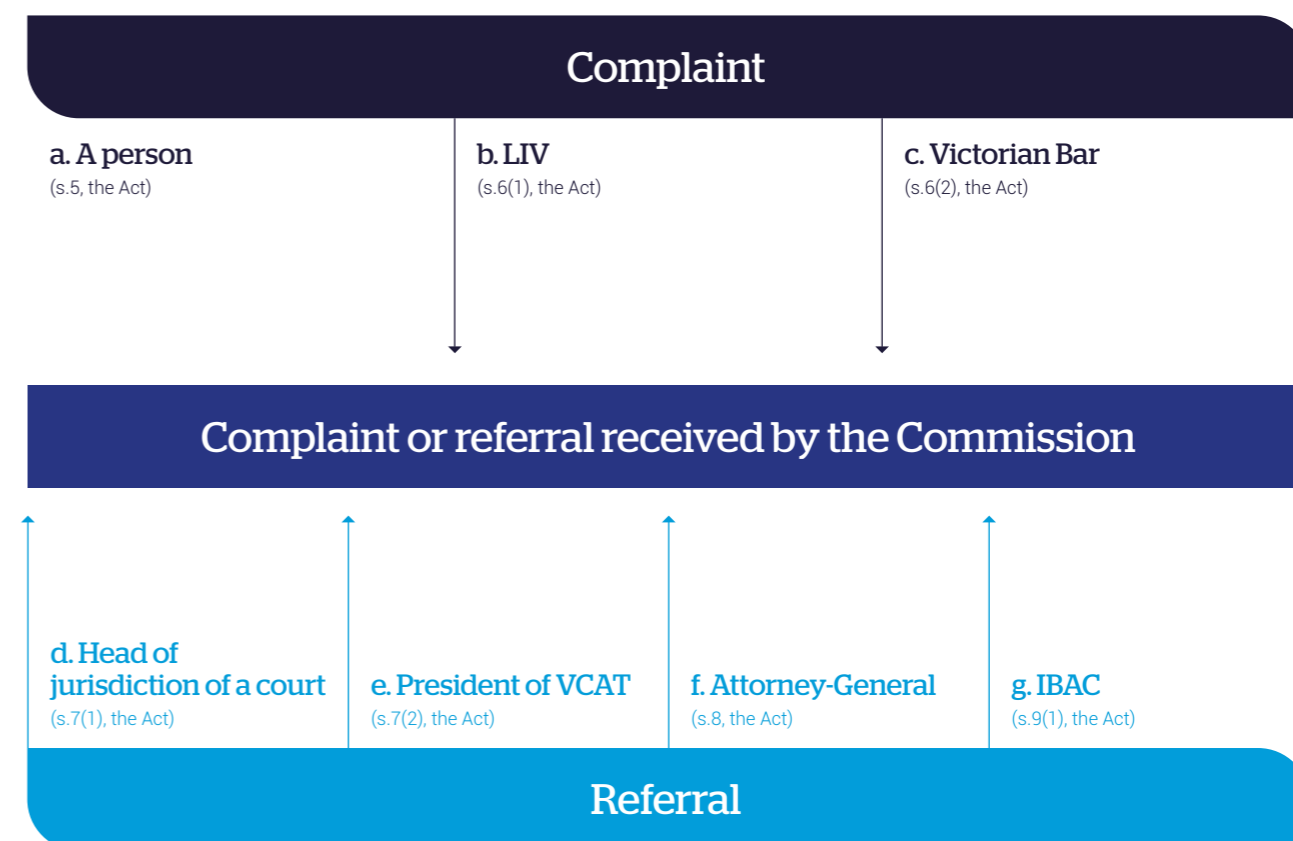
### Who can make a complaint?

Any member of the public or the legal profession can make a complaint to the Commission.

While the Commission cannot accept anonymous complaints, complaints can be made by organisations and agencies on behalf of their employees or by third parties who witnessed or are aware of the matter (but were not directly impacted). Similarly, complaints can be made by

the Law Institute of Victoria and the Victorian Bar on behalf of their members without disclosing the identity of the affected person.

The Attorney-General, heads of jurisdiction and the Independent Broad-based Anti-corruption Commission (IBAC) can refer matters for investigation to the Commission.



## What type of complaints can the Commission investigate?

Complaints made to the Commission must relate to one of the following Victorian officers:

- a Judge of the Supreme Court or the County Court;
- a Magistrate of the Magistrates' Court or Children's Court or when presiding in the Victims of Crime Assistance Tribunal (VOCAT);
- a Coroner of the Coroners Court;
- a VCAT member; and
- a judicial registrar of the Supreme Court, the County Court, the Magistrates' Court, the Children's Court or the Coroners Court.

The Commission can investigate complaints about the conduct or capacity of officers. For example:

- courtroom demeanour such as inappropriate remarks;
- sexual harassment, discrimination or bullying;
- health issues which may affect the officer's ability to perform their official functions; and
- excessive delay in handing down a judgment.

The Commission cannot investigate complaints about:

- the lawfulness of a decision or procedural ruling made by an officer;
- court or VCAT staff members;
- a person who is no longer an officer; and
- the conduct of judicial officers in federal courts or tribunals such as the Federal Circuit and Family Court of Australia and the Administrative Appeals Tribunal.

## How to make a complaint

All complaints must be made via the [Commission's online portal](#). The complaint must include a summary of the conduct or capacity issue. The description should be specific and include examples where relevant.

Once the complaint is submitted, an assessment will be made to determine if it meets the definition of 'complaint' under section 5 of the JCV Act. As part of this process, a complaint or potential complaint, may be earmarked for early engagement. If this occurs, a complaints officer will contact the individual to obtain further information or clarify matters.

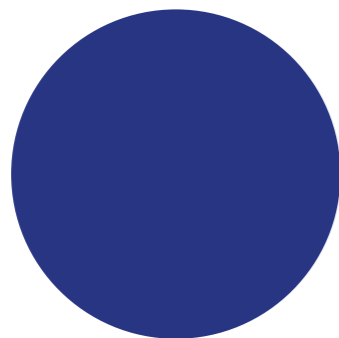
If a person is unable to use or access the portal, they can contact the Commission's voicemail service to request alternate options. Requests for an alternate option will be considered on a case-by-case basis.

The Commission continues to encourage enquiries to be made with one of our complaints officers via telephone or email. Our trained complaints staff may guide you in submitting an online complaint or provide suggestions to other services that may be relevant to your concerns where they are outside the Commission's jurisdiction.

Judicial Commission of Victoria  
 Website: [www.judicialcommission.vic.gov.au](http://www.judicialcommission.vic.gov.au)  
 Phone: (03) 9084 9600  
 Email: [enquiries@judicialcommission.vic.gov.au](mailto:enquiries@judicialcommission.vic.gov.au)

## Dismissal of a complaint





### Powers of heads of jurisdictions

Prior to establishing the Commission, complaints could only be made to the heads of jurisdiction. These were processed internally by the relevant jurisdiction. The Commission's complaint process provides an alternate, separate and transparent decision-making process.

The JCV Act does not, however, limit the powers that the heads of jurisdiction have to:

- ensure the effective, orderly and expeditious discharge of the business of the court
- do all the things necessary or convenient to perform these responsibilities

The JCV Act also provides specific powers for the Board to make recommendations to heads of jurisdiction and requires the head of jurisdiction to report back to the Commission. The Commission provides the officer, the relevant head of jurisdiction, and the complainant with a full report of the outcome, including investigation processes and responses by each party.

This is important to support the transparency of the Commission's complaint procedures. Each party is made aware of outcomes and the rationale behind decisions. This level of clarity and transparency enables the Commission to meet its core aim of maintaining public trust in the courts and VCAT.

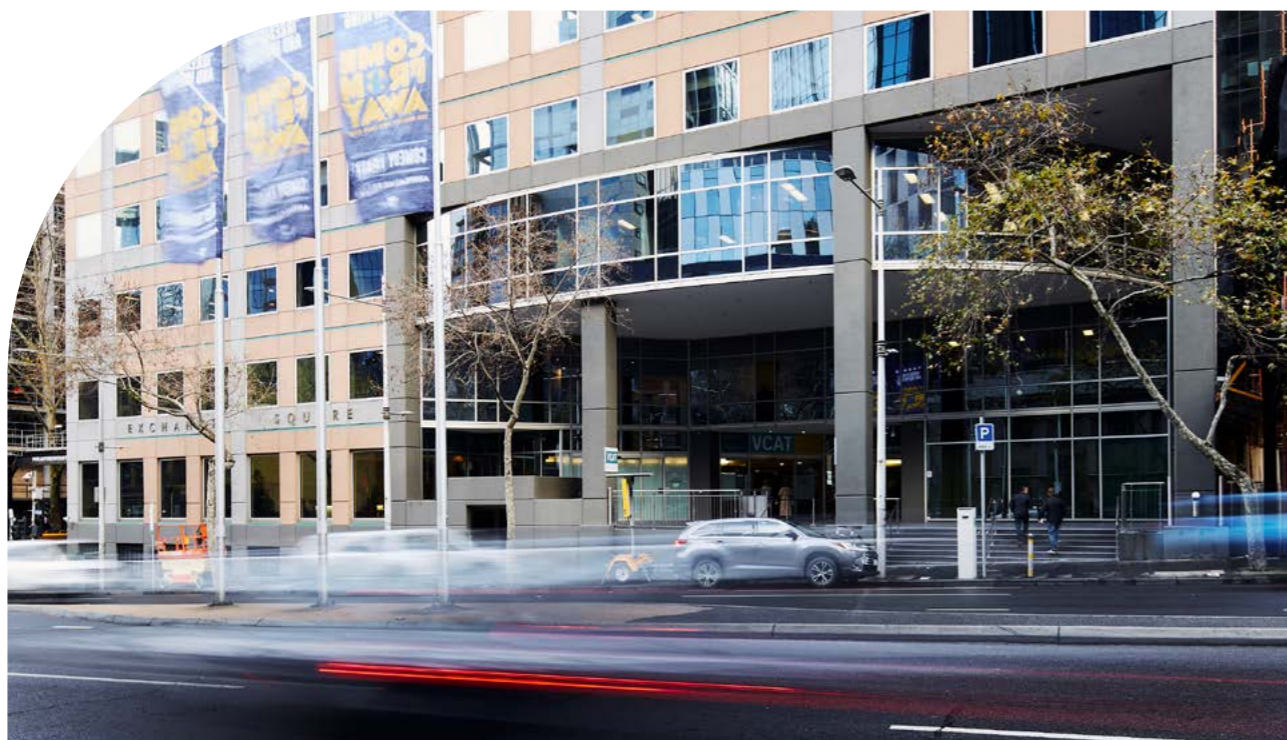
### Referral to head of jurisdiction



### Our relationship with the Victorian Parliament and other sector agencies

The Victorian Parliament has the power to remove a judicial officer. Only the Attorney-General of Victoria has the power to remove a VCAT member from office. The Governor in Council in Victoria makes the orders for the removal of officers.

The Victorian Inspectorate is responsible for the oversight of the exercise of coercive powers by an investigating panel or exercise by the Commission of the power to compel an officer to undergo a medical examination. This occurs through notifying the Victorian Inspectorate of any exercise of these powers at the conclusion of an investigating panel hearing or investigation of a matter, as the case may be.



### Referral to an investigating panel





## Section 5

# Our operations

# Staff at the Commission

The following table details the headcount, full-time staff equivalent (FTE), and level of all public service employees of the Commission as of 30 June 2023:

**Table 3: Staffing FTE**

FTE	VPS LEVEL	POSITIONS
1	E03	Director
2.6	VPS 6	Manager Legal and Complaints Manager Legal and Complaints Operations and Strategy Manager
3.0	VPS 5	Senior Lawyer Senior Lawyer Senior Engagement and Stakeholder Communications Advisor
2.8	VPS 4	Lawyer Complaints Officer Project and Operations Officer
3.8	VPS 3	Lawyer Complaints Support Officer Executive Assistant Operations Support Officer <sup>31</sup>
0.4	VPS 2	Legal Support Officer Administrative Support Officer

31 This role has been seconded by the Administrative Support Officer.



**Comparative workforce data**

The following table discloses the headcount and full-time staff equivalent (FTE) of all active public service employees of the Commission that were employed in the last pay period in June 2022.

**Executive officer data**

As of 30 June 2023, there was one Executive Officer at the Commission.

	30 JUNE 2023							
	ALL EMPLOYEES		ONGOING			FIXED TERM AND CASUAL		
	Number (headcount)	FTE	Full-time (headcount)	Part-time (headcount)	FTE	Number (headcount)	FTE	
<b>DEMOGRAPHIC DATA</b>								
<b>Gender</b>								
Women	14	11.7	8	2	9.3	4	2.4	
Men	5	5	0	0	0	5	5	
Self-described	0	0	0	0	0	0	0	
<b>Age</b>								
Under 25	3	2.6	0	0	0	3	2.6	
25-34	4	4	3	0	3	1	1	
35-44	10	8.1	4	2	5.3	4	2.8	
45-54	2	2	1	0	1	1	1	
55-64	0	0	0	0	0	0	0	
Over 64	0	0	0	0	0	0	0	
<b>CLASSIFICATION DATA</b>								
VPS 1	0	0	0	0	0	0	0	
VPS 2	2	1.2	0	0	0	2	1.2	
VPS 3	5	4.2	1	0	1	4	3.2	
VPS 4	3	3	2	0	2	1	1	
VPS 5	5	4.8	2	1	2.8	2	2	
VPS 6	3	2.5	2	1	2.5	0	0	
<b>Total</b>	<b>18</b>	<b>15.7</b>	<b>7</b>	<b>2</b>	<b>8.3</b>	<b>9</b>	<b>7.4</b>	
STS	0	0	0	0	0	0	0	
Executive officer 1	0	0	0	0	0	0	0	
Executive officer 2	0	0	0	0	0	0	0	
Executive officer 3	1	1	1	0	0	0	0	
<b>Total senior employees</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	
<b>Total employees</b>	<b>19</b>	<b>16.7</b>	<b>8</b>	<b>2</b>	<b>8.3</b>	<b>9</b>	<b>7.4</b>	

**Table 4: Details of employment levels**

	30 JUNE 2022								30 JUNE 2021							
	ALL EMPLOYEES		ONGOING			FIXED TERM AND CASUAL			ALL EMPLOYEES		ONGOING			FIXED TERM AND CASUAL		
	Number (headcount)	FTE	Full-time (headcount)	Part-time (headcount)	FTE	Number (headcount)	FTE	Number (headcount)	FTE	Full-time (headcount)	Part-time (headcount)	FTE	Number (headcount)	FTE		
	9	7	4	1	4.8	4	2.2	8	6.2	4	1	4.2	3	2		
	3	3	0	0	0	3	3	2	2	0	0	0	2	2		
	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
	1	1	0	0	0	1	0.2	1	1	0	0	0	1	1		
	4	4	1	0	3	1	3	3	3	2	0	2	1	1		
	5	4	2	0	2	3	2	5	4	2	0	2	3	2		
	0	0	0	0	0	0	0	0	0	0	0	10	0	0		
	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
	0	0	0	0	0	0	0	1	0.2	0	1	0.2	0	0		
	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
	1	0.2	0	0	0	1	0.2	0	0	0	0	0	0	0		
	2	2	1	0	1	1	1	2	2	1	0	1	1	1		
	3	2.8	1	0	0.8	2	2	2	1.5	0	0	0	2	1.5		
	3	3	2	0	2	1	1	4	3.2	2	1	2.2	1	1		
	2	1	0	0	0	2	1	1	0.5	0	0	0	1	0.5		
	<b>11</b>	<b>9</b>	<b>4</b>	<b>0</b>	<b>3.8</b>	<b>7</b>	<b>5.2</b>	<b>9</b>	<b>7.2</b>	<b>3</b>	<b>1</b>	<b>3.2</b>	<b>5</b>	<b>4</b>		
	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
	1	1	1	0	1	0	0	1	1	1	0	1	0	0		
	<b>1</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>		
	<b>12</b>	<b>10</b>	<b>5</b>	<b>0</b>	<b>4.8</b>	<b>7</b>	<b>5.2</b>	<b>10</b>	<b>8.2</b>	<b>4</b>	<b>1</b>	<b>4.2</b>	<b>5</b>	<b>4</b>		

## Employment values

### Work and conduct principles

The Commission is committed to applying merit and equity principles when appointing staff members. These selection processes ensure that applicants are assessed and evaluated fairly based on the key selection criteria and other accountabilities.

### Occupational health and safety

The Commission's Occupational Health and Safety (OH&S) Strategy aims to ensure that all staff remain safe and healthy at work. That is why the Commission has implemented an OH&S Management System.

This includes supplying office-based staff with an adjustable stand-up desk, footstools and chairs. It also involves keeping the office space clean and tidy, and ensuring accessibility and safety for all staff by complying with OH&S walkway requirements.

Another component of OH&S is ensuring staff wellbeing, including during and after potentially distressing phone calls. The content of complaints and legal proceedings

handled by staff can be confronting or challenging. Further, many complainants who call the Commission are frustrated and confused about the legal system. Some complainants also exhibit complex behaviours and mental health issues (self-disclosure). Our staff are experienced at responding to complainants disclosing self-harm or suicidal ideations during telephone calls.

However, to ensure their wellbeing, the Commission regularly conducted debrief sessions, provided access to a free Employee Assistance Program, and encouraged employees to take breaks after challenging phone calls. Staff also attended trauma awareness training.

The Commission's Strategic Plan (2022–2024) outlines an organisational purpose of integrating wellbeing into everything the Commission does. The Commission prioritises the wellbeing of all staff and stakeholders in its interactions, thereby fostering a positive culture among stakeholders.

To reflect these changes, this year's annual report includes a dedicated theme on wellbeing.



## Committees

### Audit and Risk Committee membership and roles

The Audit and Risk Committee (ARC) is a committee of the Courts Council<sup>32</sup>. Meeting every quarter, the ARC oversees the provision of audit and risk management functions and assurance to the Judicial Commission of Victoria Board.

The ARC supports the Courts Council and the CSV Board in achieving the CSV Strategic Plan's objectives. This involves providing guidance and leadership in the following areas:

- financial reporting and CSV financial statements
- risk management
- internal controls
- internal audit function
- external audit
- compliance with the *Financial Management Act 1994* (FMA) and other relevant legislation, regulations, codes, internal policies and industry standards

In accordance with the Financial Reporting Directions under the FMA, the members of the committee this year were:

- Ms Susan (Sue) Friend, Chair, non-judicial independent member of both the ARC and Courts Council
- Dr Philip Williams AM, non-judicial independent member of both the ARC and Courts Council
- The Honourable Justice Michael McDonald, judicial member (retired 22 February 2023)
- The Honourable Justice Michael Osborne, judicial member (effective 25 May 2023)
- The Honourable Judge Philip Ginnane, judicial member
- The Honourable Magistrate Phillip Goldberg, judicial member
- Ms Elizabeth (Liz) Camilleri, non-judicial independent member

On 29 May 2021, the Assistant Treasurer granted a full exemption from the Standing Directions 2018 under the FMA to the Commission for FY20/21 and onwards. This year, the Commission and Court Services Victoria (CSV) worked together to maintain a range of financial control and governance arrangements to ensure ongoing sound financial management.

The Commission continued to adopt CSV policies on a broad range of finance, risk and procurement matters, and the ARC maintained its oversight of, and engagement with, the Commission.

The Commission continues to be subject to annual Victorian Auditor General's Office audits. This will ensure a thorough review of its financial management practices with opportunities for remedy and improvement, including auditing the Commission's annual financial statements for ARC to review and endorse. The Commission's Board will review and sign off the statements. These are included in Section 7 of this report.

## Learning and development

Staff members can access several learning and development opportunities internally through CSV (both online and face-to-face) and externally through training providers such as the Australian Institute of Management. Some of the training courses staff attended include:

- Respect and Equality at Work
- Emergency Management Awareness
- Time Management
- Emergency First Aid training
- Building Trauma Awareness
- Wellbeing and Emotional Awareness (when working with complex trauma)
- Fire Warden Training
- Contract Management
- Critical Thinking and Problem Solving
- Charter of Human Rights
- Cyber Security Awareness
- Dealing with Complex Behaviours
- Disability Confidence Training
- Effective Communication
- Feedback and Delegation
- Implementing Innovation and Continuous Improvement
- Koori Cultural Awareness
- Procurement and Zycus System Training
- Project Management
- Public Sector Management
- Public Sector Investigations
- Purchase to Pay (Oracle Training)
- Sexual Harassment Prevention – optimising respect and eliminating sexual harassment and bullying
- Work Priorities

All lawyers within the Legal & Complaints team at the Commission have current practising certificates. The Commission funds these employees' memberships with bodies, including the Law Institute of Victoria and the Australasian Institute of Judicial Administration. These staff members also undertake relevant training and development in accordance with Continuing Professional Development requirements.

This includes attending events organised by the profession, government agencies and academia in areas such as administrative law, criminal law, human rights law and integrity and ethics. For example, this year, legal staff attended events organised by the Australian Law Reform Commission, Flinders University, Judicial College of Victoria, Law Institute of Victoria, Law Foundation of Victoria, Law Library of Victoria, Law Society of Tasmania, Melbourne Law School, Victorian Government Solicitor's Office and Victorian Ombudsman.

<sup>32</sup> Courts Council is Court Services Victoria's governing body. The Courts Council is Chaired by the Chief Justice of the Supreme Court and comprises the Heads of Jurisdiction and two non-judicial members. Courts Council directs the strategy, governance and risk management of CSV.

## Section 6

# Disclosures

# Financial summary and review

## Four-year financial summary

The budget provides a comparison of the financial statements for the Commission and the forecast financial information.

The financial summary and review are not subject to audit by the Victorian Auditor General's Office and are not prepared on the same basis as the Commission's financial statements.

Refer to the financial statements for comparisons of budget and actual.

**Table 5: Financial summary**

	2022-2023 \$'000	2021-2022 \$'000	2020-2021 \$'000	2019-2020 \$'000
Revenue from government	2,803	2,656	2,465	3,058
Total income from transactions	2,803	2,656	2,465	3,058
Total expenses from transactions	2,368	2,685	2,465	2,747
Net result from transactions – surplus / (deficit)	435	(2)	0	311
Net result for the period – surplus / (deficit)	435	(0)	0	311
Net cash flow from operating activities	200	265	226	463
Total assets	1,439	1,378	1,476	1,937
Total liabilities	425	580	895	1,205

# Consultancy expenditure

## Details of consultancies (valued at \$10,000 or greater)

This year there were 1 consultancies used by the Commission where the total fees payable to the consultants were \$10,000 or greater. The total expenditure incurred during this year in relation to these consultancies was \$29,500 (excl. GST).

**Table 6: Details of individual consultancies over \$10,000**

PURPOSE OF CONSULTANCY	START DATE	END DATE	TOTAL APPROVED PROJECT FEE (EXCL. GST)	EXPENDITURE 2022-2023 (EXCL. GST)	FUTURE EXPENDITURE (EXCL. GST)
Annual Report services	01/07/2022	29/09/2022	\$29,500	\$29,500	\$48,000

## Details of consultancies under \$10,000

This year there were three consultancies where the total fees payable to the individual consultancies was less than \$10,000. The total expenditure incurred during this year in relation to these consultancies was \$28,190 (excl. GST).

**Table 7: Details of consultancies under \$10,000**

PURPOSE OF CONSULTANCY	START DATE	END DATE	TOTAL APPROVED PROJECT FEE (EXCL. GST)	EXPENDITURE 2022-2023 (EXCL. GST)	FUTURE EXPENDITURE (EXCL. GST)
Annual Report services	01/07/2022	09/11/2022	\$2,660	\$2,660	\$48,000
Advice on dispute with architecture firm	01/07/2022	31/10/2022	\$1,668	\$1,668	N/A
Skill workshop and consulting for presentation	01/07/2022	26/09/2022	\$44,050	\$4,450	N/A
Ergonomic assessments for staff	01/07/2022	21/05/2023	\$1,632	\$1,632	N/A
Bullying Guideline design	01/07/2022	24/05/2023	\$1,440	\$1,440	N/A
Complaint information design	01/07/2022	26/05/2023	\$1,140	\$1,140	N/A
Logo branding refresh	01/01/2023	07/06/2023	\$5,200	\$5,200	\$3600
Board member search and appointment	01/07/2022	19/06/2023	\$10,000	\$10,000	N/A

# Information and communication technology expenditure

## Details of Information and Communication Technology (ICT) expenditure

This year the Commission had a total ICT expenditure of \$94,166 with the details shown below.

**Table 8: Total ICT expenditure**

(\$ THOUSAND)

All operational ICT expenditure		ICT Expenditure related to projects to create or enhance ICT capabilities	
Business As Usual (BAU) ICT expenditure	Non-Business As Usual (Non-BAU) ICT expenditure	Operational Expenditure	Capital Expenditure
\$160,874	\$94,166	\$94,166	\$0
<b>Total = Operational expenditure and capital expenditure</b>			\$94,166

**ICT expenditure** refers to the Commission's costs in providing business-enabling ICT services within the current reporting period. It comprises BAU ICT expenditure and non-BAU ICT expenditure.

**Non-BAU ICT expenditure** relates to extending or enhancing the Commission's current ICT capabilities. BAU ICT expenditure is all remaining ICT expenditure which mainly relates to ongoing activities that operate and maintain the current ICT capabilities.

# Disclosures

## Office-based environmental impacts

### Energy and water consumption

The building is carbon neutral certified under the combined NABERS and Climate Active pathway, and in alignment with the international Greenhouse Gas Protocol. The building has a 5 Star NABERS Energy (6 Star equivalent NABERS Energy with GreenPower rating using self-surrendered LGCs). Additionally, the building has a 5.5 Star NABERS Water Rating.

The focus on energy efficiency, utilising a combination of both on-site and off-site 100% renewable electricity combined with a demand response programme to manage electricity loads within the building. LED light and air conditioning have been upgraded to optimise energy efficiencies also.

Water usage and electricity is not billed directly to the Commission separately as it is included as part of the building lease. The Commission has no oversight of consumption of these services.

### Freedom of Information

The *Freedom of Information Act 1982* (the FOI Act) allows the public a right to access documents held by the Commission. The purpose of the FOI Act is to give the community the right to access information held by government departments, local councils, Ministers and other bodies subject to the FOI Act.

Information on the type of material produced by the Commission is available on its website under the Part II information Statement.

While an applicant can apply for access to documents held by the Commission, including documents created by the Commission or supplied to the Commission by an external organisation or individual, under section 143 of the JCV Act, the FOI Act does not apply to a document that discloses information about a complaint, referral or investigation of the Commission.

### Paper purchasing

The Commission buys paper supplies through the State Purchase Contract with Complete Office Supplies. The paper is 100% Recycled Bright White Australian (made in Victoria) and is certified carbon neutral under the National Carbon Offset Standard's Carbon Neutral Program.

### Plants

Plant maintenance, in relation to plants that were part of the tenancy fit-out, is managed by an external contractor. Additional plants are maintained by office staff.

### Transportation

Most staff use sustainable transport to get to and from work. The main mode is public transport, including the train and tram. Some staff members use active transport such as walking and cycling. End-of-trip facilities include drying space and showers.

### Waste generation

The Commission manages waste through a contract supplied by building management of the leased premises and it includes recyclables.

The FOI Act allows the Commission to refuse access, either fully or partially, to certain documents or information. Examples of documents that may not be accessed include:

- cabinet documents
- some internal working documents
- law enforcement documents
- documents covered by legal professional privilege such as legal advice
- personal information about other people
- confidential information provided to the Commission

If an applicant is not satisfied by the Commission's decision, under section 49A of the FOI Act, the applicant has the right to ask for a review by the Office of the Victorian Information Commissioner (OVIC) within 28 days of receiving a decision letter.

The Commission did not receive any Freedom of Information (FOI) requests in FY21/22. FOI requests are handled in accordance with guidelines and processes set down by the OVIC.



**Making a request**

FOI requests can be lodged online at <https://online.foi.vic.gov.au/>. An application fee of \$31.80<sup>33</sup> applies and charges may also apply if the document pool is large.

Access to documents can also be obtained via a written request to the Commission's FOI team (section 17 of the FOI Act).

When making an FOI request, applicants must request information in writing, and clearly identify what types of material/documents they are seeking.

Requests for documents at the Commission go to:

Freedom of Information Team  
Judicial Commission of Victoria  
GPO Box 4305  
Melbourne VIC 3001

**Compliance with the Building Act 1993**

The Commission does not own or control any government buildings and therefore is excused from notifying its compliance with the building and maintenance provisions of the *Building Act 1993*.

**Victorian Industry Participation Policy Act 2003**

The *Victorian Industry Participation Policy Act 2003* must be applied to all procurement activities valued at \$3 million, or more, in metropolitan Melbourne and for state-wide projects, or \$1 million or more in regional Victoria.

The Commission did not commence or complete any such procurement activities in this year.

**Compliance with the Public Interest Disclosures Act 2012**

The PID Act<sup>34</sup> encourages people to disclose improper conduct by public officers and public bodies and provides protection to those who make disclosures in accordance with the JCV Act or anyone who may suffer detrimental action in reprisal for those disclosures. The PID Act establishes a system for ensuring disclosures are properly assessed and investigated where appropriate. It also ensures the content and identity of the disclosure is confidential.

**Reporting procedures**

The Commission can receive Public Interest Disclosures about judicial officers and non-judicial members of VCAT. Disclosures of improper conduct about a judicial officer or non-judicial member of VCAT should be made to the Director of the Judicial Commission.

For people who make such disclosures, the Commission has processes to protect them from any resulting detrimental action. This will also afford natural justice to the subject of the disclosure.

The Commission does not accept improper conduct by employees. It is committed to ensuring transparency and accountability in its administrative and management practices. The Commission supports disclosures that:

- reveal corrupt conduct
- a criminal offence
- serious professional misconduct
- the dishonest performance of public functions
- breach of public trust
- misuse of information or material acquired while performing public functions
- a substantial mismanagement of public resources
- a substantial risk to health and safety or the environment

Disclosures of improper conduct by the Commission or any of its employees must be made to the:

- Independent Broad-based Anti-corruption Commission (IBAC)
- Victorian Inspectorate

**Further information**

The Public Interest Disclosures Policy and Procedures is available on the Commission's website and outlines the system for reporting disclosures of improper conduct or detrimental action.

**Disclosures under the Public Interest Disclosure Act 2012**

The number of disclosures made by an individual to the Commission and notified to IBAC.

2022–23	No
Assessable disclosures	Nil

**Compliance with the Carers Recognition Act 2012**

The Commission complies with its obligations under the *Carers Recognition Act 2012 (Vic)* by ensuring all new employees are aware of their rights under the legislation. It also ensures that existing employees, who have carer responsibilities, are supported to balance work responsibilities and caring commitments in accordance with the Victorian Public Service Enterprise Agreement 2020.

The Commission also has people management policies that support the guiding principles of the *Carers Recognition Act 2012*, including those listed below.

- Employee Assistance Program
- Personal/Carer's Leave Policy
- Flexible Working Arrangements Policy
- Respect in the Workplace Policy
- Hours of Work Policy
- Purchased Leave Policy
- Special Leave Policy due to the pandemic

**Additional Commission information available on request**

In compliance with the Standing Directions of the Minister for Finance, the items listed below have been retained by the Commission and are available on request, subject to the provisions of the FOI Act.

- a. A statement that declarations of pecuniary interests have been duly completed by all relevant officers of the Commission
- b. Details of shares held by a senior officer as nominee or held beneficially in a statutory authority or subsidiary
- c. Details of publications produced by the Commission about itself, and how these can be obtained
- d. Details of assessments and measures undertaken to improve the occupational health and safety of employees
- e. A list of major committees sponsored by the Commission, the purpose of each committee and the extent to which the purposes has been achieved
- f. Details of consultancies and contractors including:
  - i. Consultants/contractors engaged
  - ii. Services provided
  - iii. Expenditure committed to for each engagement.

The information is available on request from the Commission.

**Compliance with DataVic Access Policy**

Consistent with the DataVic Access Policy issued by the Victorian Government in 2012, the Commission made zero data sets available on the DataVic website in this year.

Information included in this annual report will also be available at [www.judicialcommission.vic.gov.au](http://www.judicialcommission.vic.gov.au) in electronic readable format.

<sup>33</sup> Current at the time of publication

<sup>34</sup> In 2019, the *Public Interest Disclosures Act (2012)* superseded the *Protected Disclosures Act (2012)*

# JCV Disclosures Index

LEGISLATION	REQUIREMENT
<b>Ministerial Directions and Financial Reporting Directions</b>	
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<b>Charter and purpose</b>	
FRD 22H	Manner of establishment and the relevant Ministers
FRD 22H	Purpose, functions, power and duties
FRD 8D	Departmental objectives, indicators and outputs
FRD 22H	Nature and range of services provided
<b>Management and structure</b>	
FRD 22H	Organisational structure
<b>Financial and other information</b>	
FRD 8D	Budget portfolio outcomes
FRD 10A	Disclosure Index
FRD 22H	Employment and conduct principles
FRD 22H	Occupational health and safety policy
FRD 22H	Summary of financial results for the year
FRD 22H	Application and operation of Freedom of Information Act 1982
FRD 22H	Compliance with building and maintenance provisions of Building Act 1993
FRD 22H	Compliance with the Victorian Industry Participation Act 2003
FRD 22H	Application and operation of the Public Interest Disclosure 2012
FRD 22H	Application and operation of the Carers Recognition Act 2012
FRD 22H	Details of consultancies over \$10,000
FRD 22H	Details of consultancies under \$10,000
FRD 22H	Disclosure of ICT expenditure
FRD 24D	Reporting of office based environmental impacts
FRD 29C	Workforce data disclosures
SD 5.2	Specific requirements under Standing Direction 5.2

LEGISLATION	REQUIREMENT
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SD 5.1.4	Attestation for compliance with Ministerial Standing Direction
SD 5.2.3	Declaration in report of operations
<b>Financial statements</b>	
<b>Declaration</b>	
SD 5.2.2	Declaration in financial statements
<b>Ministerial Directions and Financial Reporting Directions</b>	
<b>Other requirements under Standing Directions 5.2</b>	
SD5.2.1(a)	Compliance with Australian accounting standards and other authoritative pronouncements
SD 5.2.1(a)	Compliance of Ministerial Directions
SD 5.2.1(b)	Compliance with Model Financial Report
<b>Other disclosures as required by FRDs in notes to the financial statements</b>	
FRD 13	Disclosure of Parliamentary Appropriations
FRD 103H	Non-Financial Physical Assets
FRD 110A	Cash Flow Statements
FRD 112D	Defined Benefit Superannuation Obligations
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	<i>Building Act 1993 (Vic)</i>
	<i>Public Interest Disclosures Act 2012 (Vic)</i>
	<i>Carers Recognition Act 2012 (Vic)</i>
	<i>Victorian Industry Participation Policy Act 2003 (Vic)</i>
	<i>Constitution Act 1975 (Vic)</i>
	<i>Financial Management Act 1994 (Vic)</i>
	<i>Judicial Commission of Victoria Act 2016 (Vic)</i>

## Section 7

# Financial Statements

How this report is structured

Judicial Commission of Victoria (JCV) has presented its audited general purpose financial statements for the financial year ended 30 June 2023 in the following structure to provide users with the information about JCV's stewardship of resources entrusted to it.

**FINANCIAL STATEMENTS**

**FOR THE FINANCIAL YEAR ENDED 30 June 2023**

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## DECLARATION IN THE FINANCIAL STATEMENTS

The attached financial statements for the Judicial Commission of Victoria have been prepared in accordance with Direction 5.2 of the Standing Directions of the Assistant Treasurer under the *Financial Management Act 1994*, applicable Financial Reporting Directions (FRDs), Australian Accounting Standards including interpretations, and other mandatory professional reporting requirements.

We further state that, in our opinion, the information set out in the comprehensive operating statement, balance sheet, cash flow statement, statement of changes in equity and accompanying notes, presents fairly the financial transactions during the year ended 30 June 2023 and financial position of the Judicial Commission of Victoria at 30 June 2023.

At the time of signing, we are not aware of any circumstance that would render any particulars included in the financial statements to be misleading or inaccurate.

We authorise the attached financial statements for issue on 23 October 2023.



The Honourable Chief Justice Mary  
Anne Ferguson  
Chair of the Board  
Judicial Commission of Victoria



Alexis Eddy  
Director  
Judicial Commission of Victoria



Kathryn Hunter  
Acting Chief Finance Officer  
Judicial Commission of Victoria

Melbourne  
23 October 2023

Melbourne  
23 October 2023

Melbourne  
23 October 2023

## Independent Auditor's Report

### To the Board of the Judicial Commission of Victoria

**Opinion** I have audited the financial report of the Judicial Commission of Victoria (the Commission) which comprises the:

- balance sheet as at 30 June 2023
- comprehensive operating statement for the year then ended
- statement of changes in equity for the year then ended
- cash flow statement for the year then ended
- notes to the financial statements, including significant accounting policies
- declaration in the financial statements

In my opinion the financial report presents fairly, in all material respects, the financial position of the Commission as at 30 June 2023 and its financial performance and cash flows for the year then ended in accordance with the financial reporting requirements of Part 7 of the *Financial Management Act 1994* and applicable Australian Accounting Standards.

**Basis for opinion** I have conducted my audit in accordance with the *Audit Act 1994* which incorporates the Australian Auditing Standards. I further describe my responsibilities under that Act and those standards in the *Auditor's Responsibilities for the Audit of the Financial Report* section of my report.

My independence is established by the *Constitution Act 1975*. My staff and I are independent of the Commission in accordance with the ethical requirements of the Accounting Professional and Ethical Standards Board's APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* (the Code) that are relevant to my audit of the financial report in Victoria. My staff and I have also fulfilled our other ethical responsibilities in accordance with the Code.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

**The Board's responsibilities for the financial report** The Board of the Commission is responsible for the preparation and fair presentation of the financial report in accordance with Australian Accounting Standards and the *Financial Management Act 1994*, and for such internal control as the Board determines is necessary to enable the preparation and fair presentation of a financial report that is free from material misstatement, whether due to fraud or error.

In preparing the financial report, the Board is responsible for assessing the Commission's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless it is inappropriate to do so.

**Auditor's responsibilities for the audit of the financial report**

As required by the *Audit Act 1994*, my responsibility is to express an opinion on the financial report based on the audit. My objectives for the audit are to obtain reasonable assurance about whether the financial report as a whole is free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with the Australian Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of this financial report.

As part of an audit in accordance with the Australian Auditing Standards, I exercise professional judgement and maintain professional scepticism throughout the audit. I also:

- identify and assess the risks of material misstatement of the financial report, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal control.
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Board.
- conclude on the appropriateness of the Board's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Commission's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial report or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the Commission to cease to continue as a going concern.
- evaluate the overall presentation, structure and content of the financial report, including the disclosures, and whether the financial report represents the underlying transactions and events in a manner that achieves fair presentation.

I communicate with the Board regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

MELBOURNE  
24 October 2023

Timothy Maxfield  
as delegate for the Auditor-General of Victoria

## Comprehensive operating statement For the financial year ended 30 June 2023

	Note	2023 \$'000	2022 \$'000
<b>Continuing operations</b>			
<b>Income from transactions</b>			
Grants	2.1	2,803	2,656
<b>Total income from transactions</b>		<b>2,803</b>	<b>2,656</b>
<b>Expenses from transactions</b>			
Employee expenses	3.1	1,593	1,587
Depreciation and amortisation	4.1/4.2	122	233
Interest expense	6.1	2	6
Supplies and services	3.2	651	832
<b>Total expenses from transactions</b>		<b>2,368</b>	<b>2,658</b>
<b>Net result from transactions (net operating balance)</b>		<b>435</b>	<b>(2)</b>
<b>Other economic flows included in net result</b>			
Net gain/(loss) on revaluation of building		-	-
Net gain/(loss) on financial instruments		-	-
Net gain/(loss) arising from revaluation of long service liability		(1)	2
<b>Total other economic flows included in net result</b>		<b>(1)</b>	<b>2</b>
<b>Net result</b>		<b>434</b>	<b>-</b>
<b>Comprehensive result</b>		<b>434</b>	<b>-</b>

The accompanying notes form part of these financial statements.

## Balance Sheet

### As at 30 June 2023

	Note	2023 \$'000	2022 \$'000
<b>Financial assets</b>			
Cash and deposits	7.1.1	240	240
Receivables	5.1	1,079	672
<b>Total financial assets</b>		<b>1,319</b>	<b>912</b>
<b>Non-financial assets</b>			
Property, plant and equipment	4.1	114	432
Intangible assets	4.2	-	27
Prepayments		5	7
<b>Total non-financial assets</b>		<b>119</b>	<b>465</b>
<b>Total assets</b>		<b>1,438</b>	<b>1,378</b>
<b>Liabilities</b>			
Payables	5.2	95	65
Borrowings	6.1	-	423
Provisions	3.1	329	310
<b>Total liabilities</b>		<b>424</b>	<b>798</b>
<b>Net assets</b>		<b>1,014</b>	<b>580</b>
<b>Equity</b>			
Accumulated surplus/(deficit)		1,014	580
<b>Net worth</b>		<b>1,014</b>	<b>580</b>

The accompanying notes form part of these financial statements.

## Cash flow statement

### For the financial year ended 30 June 2023

	Note	2023 \$'000	2022 \$'000
<b>Cash flows from operating activities</b>			
<b>Receipts</b>			
Receipts from Government		2,396	2,556
<b>Total receipts</b>		<b>2,396</b>	<b>2,556</b>
<b>Payments</b>			
Payments to suppliers and employees		(2,194)	(2,285)
Interest and other costs of finance paid		(2)	(6)
<b>Total payments</b>		<b>(2,196)</b>	<b>(2,291)</b>
<b>Net cash flows from/(used in) operating activities</b>	6.2	<b>200</b>	<b>265</b>
<b>Cash flows from investing activities</b>			
Purchases of non-financial assets		(98)	(27)
<b>Net cash flows from/(used in) investing activities</b>		<b>(98)</b>	<b>(27)</b>
<b>Cash flows from financing activities</b>			
Repayment of principal portion of right of use leases		(103)	(238)
<b>Net cash provided by/(used in) financing activities</b>		<b>(103)</b>	<b>(238)</b>
<b>Net increase (decrease) in cash held</b>			
		-	-
Cash and cash equivalents at the beginning of the financial year		240	240
<b>Cash and cash equivalents at the end of the financial year</b>		<b>240</b>	<b>240</b>

The accompanying notes form part of these financial statements.

## Statement of changes in equity For the financial year ended 30 June 2023

2023	Note	Accumulated	Total
		surplus/ (deficit)	
		\$'000	\$'000
<b>Balance as at 1 July 2022</b>		580	580
Net result for the year		434	434
<b>Balance as at 30 June 2023</b>		<b>1,014</b>	<b>1,014</b>

2022	Note	Accumulated	Total
		surplus/ (deficit)	
		\$'000	\$'000
<b>Balance as at 1 July 2021</b>		580	580
Net result for the year		-	-
<b>Balance as at 30 June 2022</b>		<b>580</b>	<b>580</b>

The statement of changes in equity should be read in conjunction with the notes to the financial statements.

## 1 ABOUT THIS REPORT

The Judicial Commission of Victoria (JCV) was established on 1 July 2017 under the *Constitution Act 1975* as an independent body to investigate complaints about judicial officers and non-judicial members of the Victorian Civil and Administrative Tribunal (VCAT) to ensure public confidence and trust in the system is maintained.

JCV's activities and governance are defined within the *Judicial Commission of Victoria Act 2016* and the *Constitution Act 1975*. JCV's activities include investigating complaints about judicial officers and non-judicial members of VCAT.

JCV's principal address is GPO Box 4305, Melbourne, Vic 3000.

### Basis of preparation

These financial statements are in Australian dollars and the historical cost convention is used unless a different measurement basis is specifically disclosed in the note associated with the item measured on a different basis.

The accrual basis of accounting has been applied in the preparation of these financial statements whereby assets, liabilities, equity, income and expenses are recognised in the reporting period to which they relate, regardless of when cash is received or paid.

Consistent with the requirements of Australian Accounting Standard AASB 1004 *Contributions*, contributions by owners (that is contributed capital and its repayment) are treated as equity transactions and, therefore, do not form part of the income and expenses of JCV.

Additions to net assets that have been designated as contributions by owners are recognised as contributed capital. Other transfers that are in the nature of contributions to or distributions by owners have also been designated as contributions by owner.

Transfers of net assets arising from administrative restructurings are treated as distributions to or contributions by owners. Transfers of net liabilities arising from administrative restructurings are treated as distributions to owners.

Revisions to accounting estimates are recognised in the period in which the estimate is revised and also in future periods that are affected by the revision. Judgments and assumptions made by management in applying Australian Accounting Standards (AAS) that have significant effects on the financial statements and estimates are disclosed in the notes under the heading 'Change in accounting policies'.

These financial statements cover JCV as an individual reporting entity and include all the controlled activities of JCV. All amounts in the financial statements have been rounded to the nearest \$1,000 unless otherwise stated.

Comparative figures have been reinstated where necessary.

### Compliance information

These general purpose financial statements have been prepared in accordance with the *Financial Management Act 1994* (FMA) and applicable AAS, which include Interpretations issued by the AASB. In particular, they are presented in a manner consistent with the requirements of AASB 1049 *Whole of Government and General Government Sector Financial Reporting*.

Where appropriate, those AAS paragraphs applicable to not-for-profit entities have been applied. Accounting policies selected and applied in these financial statements ensure that the resulting financial information satisfies the concepts of relevance and reliability, thereby ensuring that the substance of the underlying transactions or other events is reported.



## 2 FUNDING DELIVERY OF OUR SERVICES

### Introduction

JCV is an independent body established by legislation to investigate complaints about Judicial Officers and non-judicial members of the Victorian Civil and Administrative Tribunal (VCAT).

### Structure

2.1 Summary of income that funds the delivery of our services

#### 2.1 Summary of income that funds the delivery of our services

	2023 \$'000	2022 \$'000
Grants	2,803	2,656
<b>Total income from transactions</b>	<b>2,803</b>	<b>2,656</b>

Revenue and income that fund delivery of JCV's services are accounted for consistently with the requirements of AASB 1058 *Income of Not-for-Profit Entities*, as disclosed in the following notes.

### Grant Income

The JCV is funded for the provision of outputs consistent with its statutory function by accrual-based grants derived from monies appropriated annually by Parliament through Court Services Victoria (CSV).

Grant income for investigating panel expenditure is recognised when a present obligation for such expenditure has been incurred as a result of services provided prior to balance date relating to a complaint or referral being referred to an Investigating Panel.

## 3 THE COST OF DELIVERING SERVICES

### Introduction

This section provides an account of the expenses incurred by JCV in delivering the services and outputs it received income for, as outlined in section 2.

### Structure

3.1 Expenses incurred in delivery of services

3.2 Supplies and services

#### 3.1 Expenses incurred in delivery of services

	Note	2023 \$'000	2022 \$'000
Employee benefit expenses	3.1.1	1,593	1,587
Supplies and services	3.2	651	832
<b>Total expenses incurred in delivery of services</b>		<b>2,244</b>	<b>2,419</b>

##### 3.1.1 Employee benefit and Judicial Officer remuneration expenses in the comprehensive operating statement

		2023 \$'000	2022 \$'000
Defined contribution superannuation expense	3.1.3	142	121
Salaries and wages		1,200	1,134
Leave expenses (annual leave and long service leave)		132	243
Other on-costs (fringe benefits tax, payroll tax, training and workcover levy)		119	89
<b>Total employee expenses</b>		<b>1,593</b>	<b>1,587</b>

Employee expenses encompasses all costs related to employment, including wages and salaries, fringe benefits tax, leave entitlements, termination payments and WorkCover premiums.

The amount recognised in the Comprehensive operating statement in relation to superannuation is employer contributions for members of defined contribution superannuation plans that are paid or payable during the reporting period.

### 3.1.2 Employee benefits and Judicial Officer remuneration in the balance sheet

Provision is made for benefits accruing to employees in respect of wages and salaries, annual leave and long service leave for services rendered to the reporting date and recorded as an expense during the period the services are delivered.

	2023 \$'000	2022 \$'000
<b>Current provisions:</b>		
<b>Annual leave</b>		
Unconditional and expected to settle within 12 months	90	73
Unconditional and expected to settle after 12 months	4	18
<b>Long service leave</b>		
Unconditional and expected to settle within 12 months	26	23
Unconditional and expected to settle after 12 months	128	114
<b>Provisions for on-costs</b>		
Unconditional and expected to settle within 12 months	33	25
Unconditional and expected to settle after 12 months	24	23
<b>Total current provisions for employee benefits</b>	<b>304</b>	<b>276</b>
<b>Non-current provisions</b>		
Employee benefits and Judicial Officer remuneration	21	29
On-costs	4	5
<b>Total non-current provisions for employee benefits</b>	<b>25</b>	<b>34</b>
<b>Total provisions for employee benefits</b>	<b>329</b>	<b>310</b>

### Reconciliation of movement in on-cost provision

	2023 \$'000	2022 \$'000
<b>Opening balance</b>	53	25
Additional provisions recognised	29	39
Reductions arising from payments/other sacrifices of future economic benefits	(22)	(12)
<b>Closing balance</b>	<b>60</b>	<b>53</b>
Current	56	48
Non-current	4	5
<b>Total</b>	<b>60</b>	<b>53</b>

**Wages and salaries, annual leave and sick leave:** Liabilities for wages and salaries (including non-monetary benefits, annual leave and on-costs) are recognised as part of the employee benefit provision as current liabilities, because JCV does not have an unconditional right to defer settlements of these liabilities.

The liability for salaries and wages are recognised in the balance sheet at remuneration rates that are current at the reporting date. As JCV expects the liabilities to be wholly settled within 12 months of reporting date, they are measured at undiscounted amounts.

The annual leave liability is classified as a current liability and measured at the undiscounted amount expected to be paid, as JCV does not have an unconditional right to defer settlement of the liability for at least 12 months after the end of the reporting period.

No provision has been made for sick leave as all sick leave is non-vesting and it is not considered probable that the average sick leave taken in the future will be greater than the benefits accrued in the future. As sick leave is non-vesting, an expense is recognised in the Comprehensive operating statement as it is taken.

Employment on-costs such as payroll tax, workers compensation and superannuation are not employee benefits. They are disclosed separately as a component of the provision for employee benefits when the employment to which they relate has occurred.

**Unconditional long service leave** is disclosed as a current liability even where JCV does not expect to settle the liability within 12 months, as it will not have the unconditional right to defer the settlement of the entitlement should an employee take leave within 12 months.

The components of the current long service leave liability are measured at:

- undiscounted value – if JCV expects to wholly settle within 12 months; or
- present value – if JCV does not expect to wholly settle within 12 months.

**Conditional long service leave** is disclosed as a non-current liability. There is an unconditional right to defer the settlement of the entitlement until the employee has completed the requisite years of service. This non-current long service leave liability is measured at present value.

Any gain or loss following revaluation of the present value of non-current long service leave liability is recognised as a transaction, except to the extent that a gain or loss arises due to changes in bond interest rates for which it is then recognised as an 'other economic flow' in the net result.

### 3.1.3 Superannuation contributions

Employees of JCV are entitled to receive superannuation benefits and JCV contributes to defined contribution plans.

	Paid contribution for the year		Contribution outstanding at year end	
	2023 \$'000	2022 \$'000	2023 \$'000	2022 \$'000
<b>Defined contribution plans:</b>				
VicSuper Part of Aware Super	44	60	-	-
Various other	98	61	-	-
<b>Total</b>	<b>142</b>	<b>121</b>	<b>-</b>	<b>-</b>

## 3.2 Supplies and services

	2023 \$'000	2022 \$'000
Accommodation and property services	46	138
Contractors, professional services and consultants	272	531
Printing, stationery and other office expenses	30	42
Technology services	210	60
Other	93	61
<b>Total supplies and services</b>	<b>651</b>	<b>832</b>

**Supplies and services** expenses generally represent day-to-day running costs incurred in normal operations and are recognised as an expense in the reporting period in which they are incurred. These expenses include lease payment as discussed below.

Court Service Victoria as per Memorandum of Understanding (MOU) provides Commission with corporate support services such as financial services, facilities management services, payroll services, procurement and information communication technology services free of charge.

### Investigating Panel expenditure

Investigating Panel expenditure of \$207k (2022: Nil) is included in contractors, professional services, consultants and other costs (such as salaries and wages, stationery and transcript cost).

A liability for Investigating Panel expenditure is recognised when a present obligation for such expenditure has been incurred as a result of services provided prior to balance date relating to a complaint or referral being referred to an Investigating Panel, it is likely that there will be a consequent outflow of economic benefits and the amount of the obligation can be measured reliably. The liability for investigating panel expenditure at 30 June 2023 is \$49k (2022: \$Nil).

## 4 KEY ASSETS AVAILABLE TO SUPPORT OUTPUT DELIVERY

### Introduction

JCV controls non-financial assets that are utilised in fulfilling its objectives and conducting activities. These non-financial assets represent the key resources that have been entrusted to JCV to be utilised for delivery of its outputs.

### Structure

4.1 Property, plant and equipment

4.2 Intangible assets

### 4.1 Property, plant and equipment

	Gross carrying amount		Accumulated Depreciation		Net carrying amount	
	2023	2022	2023	2022	2023	2022
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Buildings at fair value	-	476	-	(178)	-	298
Plant and equipment at fair value	175	175	(60)	(40)	114	134
<b>Total property, plant and equipment</b>	<b>175</b>	<b>651</b>	<b>(60)</b>	<b>(218)</b>	<b>114</b>	<b>432</b>

The following tables are subsets of buildings, and plant and equipment by right-of-use assets.

#### 4.1.1 Total right-of-use assets: buildings, plant, equipment and vehicles

	Gross carrying amount	Accumulated depreciation	Net carrying amount	Gross carrying amount	Accumulated depreciation	Net carrying amount
	2023	2023	2023	2022	2022	2022
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Buildings at fair value	-	-	-	476	(178)	298
Property, Plant and Equipment	-	-	-	-	-	-
<b>Net carrying amount</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>476</b>	<b>(178)</b>	<b>298</b>

	Buildings at Fair Value	Buildings at Fair Value
	2023	2022
	\$'000	\$'000
Opening Balance	298	476
Additions	-	-
Disposals	(224)	-
Depreciation	(74)	(178)
<b>Closing Balance</b>	<b>-</b>	<b>298</b>

**Initial recognition:** Items of property, plant and equipment are measured initially at cost and subsequently revalued at fair value less accumulated depreciation. Where an asset is acquired for no or nominal cost, a fair value is determined at the date of acquisition.

The cost of constructed non-financial physical assets includes the cost of all materials used in construction, direct labour on the project and an appropriate proportion of variable and fixed overheads.

The cost of leasehold improvements is capitalised and depreciated over the shorter of the remaining term of the lease or its estimated useful lives.

#### Right-of-use asset acquired by lessees - Initial measurement

JCV recognises a right-of-use asset and a lease liability at the lease commencement date. The right-of-use asset is initially measured at cost which comprises the initial amount of the lease liability adjusted for:

- any lease payments made at or before the commencement date; plus
- any initial direct costs incurred; and
- an estimate of costs to dismantle and remove the underlying asset or to restore the underlying asset or the site on which it is located, less any lease incentive received.

**Subsequent measurement:** Property, plant and equipment are subsequently measured at fair value less accumulated depreciation and impairment. Fair value is determined with regard to the asset's highest and best use (considering legal or physical restrictions imposed on the asset and public announcements or commitments made in relation to the intended use of the asset). This net carrying amount of property, plant and equipment is considered a reasonable approximation of its fair value.

**Right-of-use asset – Subsequent measurement:** JCV depreciates the right-of-use assets on a straight line basis from the lease commencement date to the earlier of the end of the useful life of the right-of-use asset or the end of the lease term. The estimated useful life of the right-of-use assets are determined on the same basis as property, plant and equipment. The right of use assets are subject to revaluation as required by FRD 103 *Non-financial physical assets* and are periodically adjusted for certain remeasurements of the lease liability.

#### 4.1.2 Depreciation Charge for the period

	2023	2022
	\$'000	\$'000
Buildings (Right-of-use)	74	178
Plant and equipment at fair value	21	15
<b>Total property, plant and equipment</b>	<b>95</b>	<b>193</b>

All property, plant and equipment that have finite useful lives, are depreciated.

Depreciation is generally calculated on a straight-line basis, at rates that allocate the asset's value, less any estimated residual value, over its estimated useful life. Typical estimated useful lives for the different asset classes for current and prior years are included in the table below:

Asset	Useful Life Years
Right of Use Buildings	5
Plant and equipment	4 to 10
Intangible assets	5

The estimated useful lives, residual values and depreciation method are reviewed at the end of each annual reporting period, and adjustments made where appropriate.

Right-of use assets are generally depreciated over the shorter of the asset's useful life and the lease term. Where JCV obtains ownership of the underlying asset or if the cost of the right-of-use asset reflects that the entity will exercise a purchase option, the entity depreciates the right-of-use asset over its useful life.

#### 4.1.3 Reconciliation of movements in carrying values of property, plant and equipment

	Buildings at fair value	Plant and equipment at fair value	Assets under construction at cost	Total
2023	\$'000	\$'000	\$'000	\$'000
Opening balance	298	134	-	432
Additions	-	-	-	-
Disposals	(224)	-	-	(224)
Depreciation	(74)	(21)	-	(95)
Transfer in/out of assets under construction	-	-	-	-
	-	113	-	113

	Buildings at fair value	Plant and equipment at fair value	Assets under construction at cost	Total
2022	\$'000	\$'000	\$'000	\$'000
Opening balance	476	122	-	598
Additions	-	27	-	27
Disposals	-	-	-	-
Depreciation	(178)	(15)	-	(194)
Transfer in/out of assets under construction	-	-	-	-
	298	134	-	432

## 4.2 Intangible assets

	Computer Software	
	2023	2022
	\$'000	\$'000
<b>Gross carrying amount</b>		
Opening balance	197	197
Additions	-	-
<b>Gross value at the end of the financial year</b>	<b>197</b>	<b>197</b>
<b>Accumulated amortisation and impairment</b>		
Opening balance	(170)	(131)
Amortisation	(27)	(39)
<b>Closing balance</b>	<b>(197)</b>	<b>(170)</b>
<b>Net book value at the end of the financial year</b>	<b>-</b>	<b>27</b>

#### Initial recognition and subsequent measurement

Purchased intangible assets are initially recognised at cost. When the recognition criteria in AASB 138 *Intangible Assets* is met, internally generated intangible assets are recognised at cost. Subsequently, intangible assets with finite useful lives are carried at cost less accumulated amortisation. Amortisation begins when the asset is available for use, that is, when it is in the location and condition necessary for it to be capable of operating in the manner intended by management.

#### Impairment of intangible assets

Intangible assets with finite useful lives are tested for impairment whenever an indication of impairment is identified. Intangible assets not yet available for use are tested annually for impairment and whenever there is an indication that the asset may be impaired. JCV has no intangible assets with indefinite useful lives.

## 5 OTHER ASSETS AND LIABILITIES

### Introduction

This section sets out those assets and liabilities that arose from JCV's controlled operations.

### Structure

- 5.1 Receivables
- 5.2 Payables

#### 5.1 Receivables

	2023 \$'000	2022 \$'000
<b>Current receivables</b>		
<b>Statutory</b>		
Amounts owing from Victorian Government	1,079	672
<b>Total receivables</b>	<b>1,079</b>	<b>672</b>
<i>Represented by:</i>		
Current receivables	1,079	672

**Statutory receivables** do not arise from contracts and are recognised and measured similarly to contractual receivables (except for impairment), but are not classified as financial instruments. Amounts recognised from the Victorian Government represent funding for all commitments incurred and are drawn from the Consolidated Fund as the commitments fall due. All of JCV's receivables are statutory receivables.

#### 5.2 Payables

	2023 \$'000	2022 \$'000
<b>Current Payables</b>		
<b>Contractual</b>		
Trade creditors and other payables	95	65
<b>Total payables</b>	<b>95</b>	<b>65</b>
<i>Represented by:</i>		
Current payables	95	65

Payables consist of:

**contractual payables**, classified as financial instruments and measured at amortised cost. Accounts payable represent liabilities for goods and services provided to JCV prior to the end of the financial year that are unpaid; and

**statutory payables**, that are recognised and measured similarly to contractual payables, but are not classified as financial instruments and not included in the category of financial liabilities at amortised cost, because they do not arise from contracts.

Contractual payables have an average maturity of 30 days.

The terms and conditions of amounts payable to the government and agencies vary according to the particular agreements and as they are not legislative payables, they are not classified as financial instruments.

## 6 FINANCING OUR OPERATIONS

### Introduction

This section provides information on the sources of finance utilised by JCV during its operations and other information related to the financing of activities.

### Structure

- 6.1 Lease liabilities
- 6.2 Cash flow information and balances
- 6.3 Commitments for expenditure

#### 6.1 Lease liabilities

JCV leases office space to meet its operational needs. The lease has varying terms, escalation clauses and renewal rights. JCV's lease commitments and policy is discussed in detailed below.

##### 6.1.1 Lease Liabilities (JCV as lessee)

	Interest bearing lease liabilities		Present value of minimum lease payments	
	2023 \$'000	2022 \$'000	2023 \$'000	2022 \$'000
<b>Lease liabilities payable</b>				
Not longer than 1 year	-	254	-	250
Longer than 1 year and not longer than 5 years	-	174	-	173
<b>Minimum future lease payments</b>		<b>428</b>		<b>423</b>
Less future finance charges	-	(4)	-	-
<b>Present value of minimum lease payments</b>		<b>424</b>		<b>423</b>
Included in the financial statements as:				
Current borrowings lease liabilities	-	-	-	250
Non-current borrowings lease liabilities	-	-	-	173
<b>Total lease liabilities</b>				<b>423</b>

##### 6.1.2 Amounts relating to leases recognised in the Comprehensive operating statement

The following amounts are recognised in the Comprehensive operating statement relating to leases.

	2023 \$'000	2022 \$'000
Interest expense on lease liabilities	2	6
<b>Total amount recognised in the comprehensive operating statement</b>	<b>2</b>	<b>6</b>

##### 6.1.3 Total cash outflows for leases

The following amounts are recognised in the Statement of cash flows for the year ending 30 June 2023 relating to leases.

	2023 \$'000	2022 \$'000
Total cash outflow	104	244

#### 6.1.4 Lease policy

For any new contracts entered into JCV considers whether a contract is, or contains a lease. A lease is defined as 'a contract, or part of a contract, that conveys the right to use an asset (the underlying asset) for a period of time in exchange for consideration'. To apply this definition JCV assesses whether the contract meets three key evaluations:

- whether the contract contains an identified asset, which is either explicitly identified in the contract or implicitly specified by being identified at the time the asset is made available to JCV and for which the supplier does not have substantive substitution rights;
- whether JCV has the right to obtain substantially all of the economic benefits from use of the identified asset throughout the period of use, considering its rights within the defined scope of the contract and JCV has the right to direct the use of the identified asset throughout the period of use; and
- whether JCV has the right to take decisions in respect of 'how and for what purpose' the asset is used throughout the period of use

#### Separation of lease and non-lease components

At inception or on reassessment of a contract that contains a lease component, the lessee is required to separate out and account separately for non-lease components within a lease contract and exclude these amounts when determining the lease liability and right-of-use asset amount.

#### Recognition and measurement of leases as a lessee

##### (a) Lease liability - initial measurement

The lease liability is initially measured at the present value of the lease payments unpaid at the commencement date, discounted using the interest rate implicit in the lease if that rate is readily determinable or JCV's incremental borrowing rate.

Lease payments included in the measurement of the lease liability comprise the following:

- fixed payments (including in-substance fixed payments) less any lease incentive receivable;
- variable payments based on an index or rate, initially measured using the index or rate as at the commencement date;
- amounts expected to be payable under a residual value guarantee; and
- payments arising from purchase and termination options reasonably certain to be exercised.

##### (b) Lease liability – subsequent measurement

Subsequent to initial measurement, the liability will be reduced for payments made. It is remeasured to reflect any reassessment or modification, or if there are changes to in-substance fixed payments.

When the lease liability is remeasured, the corresponding adjustment is reflected in the right-of-use asset, or profit and loss if the right-of-use asset is already reduced to zero.

##### (c) Short-term leases and leases of low-value assets

JCV has elected to account for short-term leases and leases of low-value assets using practical expedients. Instead of recognising a right-of-use asset and liability, the payments in relation to these are recognised as an expense in the Comprehensive operating statement on a straight-line basis over the lease term.

Variable lease payments that are not included in the measurement of the lease liability (i.e. variable lease payments that do not depend on an index or a rate and which are not, in substance fixed) such as those based on performance or usage of the underlying asset, are recognised in the Comprehensive operating statement in the period in which the event or condition that triggers those payments occur.

##### (d) Presentation of right-of-use assets and lease liabilities

JCV presents in the balance sheet right-of-use assets as 'buildings at fair value' and 'property plant equipment'. Lease liabilities are presented as 'borrowings' in the balance sheet.

## 6.2 Cash flow information and balances

Cash and deposits, including cash equivalents, comprise cash on hand and cash at bank that are held for the purpose of meeting short-term cash commitments, rather than for investment purposes, and which are readily convertible to known amounts of cash and are subject to an insignificant risk of changes in value.

Due to the State's investment policy and funding arrangements, JCV does not hold a bank account in its name and uses CSV's bank account. Cash received from generation of income is generally paid into the State's bank account ('public account'). Similarly, JCV expenditure, including payments to its suppliers and creditors, is made via the public account. The public account remits to CSV the cash required upon presentation of cheques by JCV's suppliers or creditors.

These funding arrangements may result in JCV having a notional shortfall in the cash required, and any monies owed to JCV, are received via CSV through the State Administered Unit (SAU) debtors account. Amounts receivable at balance date are shown in note 5.1.

For cash flow statement presentation purposes, cash and cash equivalents comprise the cash balance and funds held in trust, \$0.24m (2022: \$0.24m.)

#### 6.2.1 Reconciliation of net result for the period to cash flow from operating activities

	2023 \$'000	2022 \$'000
<b>Net result for the period</b>	434	-
<b>Non-cash movements:</b>		
Depreciation and amortisation of non-current assets	122	233
<b>Movements in net assets and liabilities</b>		
Decrease/(increase) in receivables	(407)	(100)
Decrease/(increase) in prepayments	3	(8)
Increase/(decrease) in payables	30	(20)
Increase/(decrease) in provisions	18	160
<b>Net cash from/(used in) operating activities</b>	<b>200</b>	<b>265</b>

## 6.3 Commitments for expenditure

Commitments for future expenditure include operating commitments arising from contracts. These commitments are recorded below at their nominal value and inclusive of GST. These future expenditures cease to be disclosed as commitments once the related liabilities are recognised in the balance sheet.

#### 6.3.1 Total commitments payable

	Less than 1 year \$'000	Between 1 and 5 years \$'000	Over 5 years \$'000	Total \$'000
<b>Nominal Amounts: 2023</b>				
Operating commitments payable	45	46	-	91
<b>Total commitments (inclusive of GST)</b>	<b>45</b>	<b>46</b>	<b>-</b>	<b>91</b>
Less GST recoverable	4	4	-	8
<b>Total commitments (exclusive of GST)</b>	<b>41</b>	<b>42</b>	<b>-</b>	<b>83</b>

Note: There were no commitments for 2021-22 year.

## 7 RISKS, CONTINGENCIES AND VALUATION JUDGEMENTS

### Introduction

JCV is exposed to risk from its activities and outside factors. In addition, it is often necessary to make judgements and estimates associated with recognition and measurement of items in the financial statements. This section sets out financial instrument specific information (including exposures to financial risks), as well as those items that are contingent in nature or require a higher level of judgement to be applied, which for JCV relate mainly to fair value determination.

### Structure

7.1 Financial instruments specific disclosures

7.2 Contingent assets and contingent liabilities

### 7.1 Financial instruments specific disclosures

#### Introduction

Financial instruments arise out of contractual agreements that give rise to a financial asset of one entity and a financial liability or equity instrument of another entity.

#### Categories of financial assets under AASB 9

JCV has no financial assets classified as “at fair value through other comprehensive income” or “at fair value through profit or loss”.

#### Financial assets at amortised cost

Financial assets are measured at amortised costs if both of the following criteria are met and the assets are not designated as fair value through net result:

- the assets are held by JCV to collect the contractual cash flows, and
- the assets’ contractual terms give rise to cash flows that are solely payments of principal and interest.

These assets are initially recognised at fair value plus any directly attributable transaction costs and subsequently measured at amortised cost less any impairment.

JCV recognises the following assets in this category:

- cash and deposits;

#### Categories of financial liabilities under AASB 9

#### Financial liabilities at amortised cost

Financial liabilities at amortised cost are initially recognised on the date they are originated. They are initially measured at fair value minus any directly attributable transaction costs. Subsequent to initial recognition, these financial instruments are measured at amortised cost with any difference between the initial recognised amount and the redemption value being recognised in profit and loss over the period of the interest bearing liability, using the effective interest rate method. JCV recognises payables in this category:

- payables (excluding statutory payables).

#### Derecognition of financial assets

A financial asset (or, where applicable, a part of a financial asset or part of a group of similar financial assets) is derecognised when:

- the rights to receive cash flows from the asset have expired; or
- JCV retains the right to receive cash flows from the asset, but has assumed an obligation to pay them in full without material delay to a third party under a ‘pass through’ arrangement; or
- JCV has transferred its rights to receive cash flows from the asset and either:
  - has transferred substantially all the risks and rewards of the asset; or
  - has neither transferred nor retained substantially all the risks and rewards of the asset, but has transferred control of the asset.

Where JCV has neither transferred nor retained substantially all the risks and rewards or transferred control, the asset is recognised to the extent of JCV’s continuing involvement in the asset.

#### Derecognition of financial liabilities

A financial liability is derecognised when the obligation under the liability is discharged, cancelled or expires.

When an existing financial liability is replaced by another from the same lender on substantially different terms, or the terms of an existing liability are substantially modified, such an exchange or modification is treated as a derecognition of the original liability and the recognition of a new liability. The difference in the respective carrying amounts is recognised as an ‘other economic flow’ in the comprehensive operating statement.

#### 7.1.1 Financial instruments: Categorisation <sup>(i)</sup>

Category		2023 \$'000	2022 \$'000
<b>Contractual financial assets</b>			
Funds held in Trust	Cash and deposits	240	240
<b>Total contractual cash and deposits</b>		<b>240</b>	<b>240</b>
<b>Total contractual financial assets</b>		<b>240</b>	<b>240</b>
<b>Contractual financial liabilities</b>			
<b>Payable:</b>			
Trade creditors and other payables	Financial liabilities at amortised cost	95	64
<b>Total contractual financial liabilities</b>		<b>95</b>	<b>64</b>

<sup>(i)</sup> The total amounts disclosed here exclude statutory amounts and leases that are not in the scope of AASB 9 (e.g. amounts owing from Victorian Government and GST input tax credit recoverable and taxes payable)

### 7.1.2 Financial risk management objectives and policies

JCV's main financial risks include credit risk and liquidity risk. JCV's financial risk management program seeks to manage these risks and the associated volatility of its financial performance.

Details of the significant accounting policies and methods adopted, including the criteria for recognition, the basis of measurement, and the basis on which income and expenses are recognised, with respect to each class of financial asset, financial liability and equity instrument are disclosed in note 7.1 above.

The main purpose in holding financial instruments is to prudentially manage JCV's financial risks within the government policy parameters.

JCV uses different methods to measure and manage the different risks to which it is exposed. Primary responsibility for the identification and management of financial risks rests with JCV's Board. The Board is supported by the JCV Accountable Officer and Chief Finance Officer for financial risk management reporting.

#### Financial instruments: Credit Risk

Credit risks arise from the contractual financial assets of JCV, which comprises cash and deposits, contractual receivables and other contractual financial assets. JCV's exposure to credit risk arises from the potential default of a counterparty on their contractual obligations resulting in financial loss to JCV. Credit risk is measured at fair value and is monitored on a regular basis.

Credit risk associated with JCV's contractual financial assets is minimal as its main debtor is the Victorian Government. Credit risk in relation to JCV's receivables is also monitored by management by reviewing the ageing of receivables on a monthly basis.

JCV does not engage in hedging for its contractual financial assets.

The carrying amount of contractual financial assets recorded in the financial statements, net of any allowances for losses, represents JCV's maximum exposure to credit risk without taking account of the value of any collateral obtained.

There has been no material change to JCV's credit risk profile in 2022-23.

#### Credit quality of financial assets

	Financial institution (double-A credit rating)	Government agencies (double-A credit rating)	Government agencies (triple-B credit rating)	Other (min triple-B credit rating)	Total
2023	\$'000	\$'000	\$'000	\$'000	\$'000
<b>Financial assets</b>					
<b>Financial assets with loss allowance measured at 12-month expected credit loss</b>					
Cash and deposits	-	240	-	-	240
Statutory receivables (with no impairment loss recognised)	-	1,079	-	-	1,079
<b>Total financial assets</b>	-	<b>1,319</b>	-	-	<b>1,319</b>

	Financial institution (double-A credit rating)	Government agencies (double-A credit rating)	Government agencies (triple-B credit rating)	Other (min triple-B credit rating)	Total
2022	\$'000	\$'000	\$'000	\$'000	\$'000
<b>Financial assets</b>					
<b>Financial assets with loss allowance measured at 12-month expected credit loss</b>					
Cash and deposits	-	240	-	-	240
Statutory receivables (with no impairment loss recognised)	-	672	-	-	672
<b>Total financial assets</b>	-	<b>912</b>	-	-	<b>912</b>

#### Impairment of financial assets under AASB 9

JCV records a provision for expected credit loss for the relevant financial instruments by applying AASB 9's expected credit loss approach. Financial assets at fair value through net result are not subject to impairment under AASB 9.

Cash and deposits and statutory receivables are subject to impairment under AASB 9, but any impairment loss would be immaterial.

Contractual receivables are subject to impairment under AASB 9. JCV applied the simplified approach to measure expected credit losses for all contractual receivables using a lifetime expected loss allowance based on the assumptions about risk of default and expected loss rates. JCV has determined that it does not have any contractual receivables at 30 June 2023 (2022: \$nil).

Movements in the provision for credit losses are classified as other economic flows in the net result. Contractual receivables are written off when there is no reasonable expectation of recovery and impairment losses are classified as either a transaction expense or other economic flow in the net result.

Statutory receivables are not financial instruments. However, they are nevertheless recognised and measured in accordance with AASB 9 requirements as if those receivables are financial instruments.

Statutory receivables are considered to have low credit risk, taking into account the counterparty's credit rating, risk of default and capacity to meet contractual cash flow obligations in the near term. As the result no loss allowance has been recognised.



## Financial instruments: Liquidity risk

### Financial instruments: Liquidity risk

Liquidity risk arises from being unable to meet financial obligations as they fall due. JCV operates under the Government fair payments policy of settling financial obligations within 30 days. In the event of a dispute, JCV makes payments within 30 days from the date of resolution.

JCV is exposed to liquidity risk mainly through the financial liabilities as disclosed in the balance sheet. JCV's exposure to liquidity risk is deemed insignificant based on prior periods' data and current assessment of risk. JCV manages its liquidity risk by:

- maintaining an adequate level of uncommitted funds that can be drawn at short notice to meet its short-term obligations; and
- careful maturity planning of its financial obligations based on forecasts of future cash flows.

## 7.2 Contingent assets and contingent liabilities

Contingent assets and contingent liabilities are not recognised in the balance sheet but are disclosed and, if quantifiable, are measured at nominal value.

Contingent assets and liabilities are presented inclusive of GST receivable or payable respectively.

### Contingent assets

Contingent assets are possible assets that arise from past events, whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity. There is a contingent asset of \$0.201m for the recovery of consultant costs for advice relating to accommodation fit out.

These are classified as either quantifiable, where the potential economic benefit is known, or non-quantifiable.

### Contingent liabilities

Contingent liabilities are:

- possible obligations that arise from past events, the existence of which will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity; or
- present obligations that arise from past events but are not recognised because:
- it is not probable that an outflow of resources embodying economic benefits will be required to settle the obligations; or
- the amount of the obligations cannot be measured with sufficient reliability.

Contingent liabilities are also classified as either quantifiable or non-quantifiable. There are no non-quantifiable contingent liabilities to be reported or disclosed.

The quantified contingent liability is nil (2022: \$0.044m).

## 8 OTHER DISCLOSURES

### Introduction

This section includes additional material disclosures required by accounting standards or otherwise, for the understanding of this financial report.

### Structure

- 8.1 Responsible persons
- 8.2 Key management personnel
- 8.3 Remuneration of executive officers
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### 8.1 Responsible persons

In accordance with the Ministerial Directions issued by the Assistant Treasurer under the *Financial Management Act 1994*, the following disclosures are made regarding responsible persons for the reporting period.

#### Names

The persons who held the positions of Minister and Accountable Officer in JCV are as follows:

Responsible Minister	Period
Attorney-General, The Hon. Jaclyn Symes MP	1 July 2022 to 30 June 2023
Acting Attorney-General, The Hon. Anthony Richard Carbines, MP	23 September 2022 to 2 October 2022
Acting Attorney-General, The Hon. Anthony Richard Carbines, MP	28 December 2022 to 14 January 2023
Acting Attorney-General, The Hon. Anthony Richard Carbines, MP	29 April 2023 to 30 April 2023

Accountable Officer	Period
Director, Alexis Eddy	01 July 2022 to 30 June 2023
Acting Director, Katherine Linzer	27 June 2023 to 30 June 2023

#### Governing Body

The persons who held membership of the Board of JCV are as follows:

Member Names	Period
The Honourable Chief Justice Mary Anne Ferguson, Chair	01 July 2022 to 30 June 2023
The Honourable Chief Judge Peter Kidd	01 July 2022 to 30 June 2023
Her Honour Chief Magistrate Lisa Hannan	01 July 2022 to 30 June 2023
His Honour Judge Jack Vandersteen	01 July 2022 to 30 June 2023
His Honour State Coroner Judge John Cain	01 July 2022 to 30 June 2023
The Honourable Justice Michelle Quigley	01 July 2022 to 30 June 2023
Mr Graham Atkinson	01 July 2022 to 30 June 2023
Ms Claire Keating	01 July 2022 to 30 June 2023
Dr Helen Szoke AO	01 July 2022 to 30 June 2023

#### Remuneration: Accountable Officer

	2023	2022
Remuneration range	No.	No.
\$50,000-\$59,999	0	0
\$230,000-\$239,999	0	1
\$260,000-\$269,999	1	0
<b>Total</b>	<b>1</b>	<b>1</b>

#### Remuneration: Non Judicial Member

	2023	2022
Remuneration range	No.	No.
\$0-\$9,999	3	3
\$10,000-\$19,999	0	1
<b>Total</b>	<b>3</b>	<b>4</b>

Judicial members of the responsible body are remunerated under the *Judicial Entitlements Act 2015* as holders of judicial positions defined by the respective acts of law that create the Victorian judiciary, namely the *Constitution Act 1975 s 82*, *County Court Act 1958 s.10*, *Magistrates Court Act s.1 Pt1 cl.10* and *Victorian Civil and Administrative Tribunal Act. 1998 s.17AA*. The Judicial members receive no additional remuneration in their capacity as members of the Board of the Judicial Commission of Victoria.

### 8.1.1 Transactions and balances with key management personnel and other related parties

Given the breadth and depth of State government activities, related parties transact with the Victorian public sector in a manner consistent with other members of the public e.g. stamp duty and other government fees and charges.

Further employment of processes within the Victorian public sector occur on terms and conditions consistent with the *Public Administration Act 2004* and Codes of Conduct and Standards issued by the Victorian Public Sector Commission. Procurement processes occur on terms and conditions consistent with the Victorian Government Purchasing Board requirements.

JCV receives grant income from appropriations received by CSV as shown in note 2.1. JCV receives administrative support from CSV under a memorandum of understanding between the two entities.

During the period from 1 July 2022 to 30 June 2023, there were no related party transactions that involved key management personnel for JCV.

## 8.2 Key management personnel

**Key management personnel** of JCV includes the responsible Minister, members of the Governing Body, and Accountable Officer.

Remuneration of key management personnel comprises employee benefits (as defined in AASB 119 *Employee Benefits*) in all forms of consideration paid, payable or provided by the entity, or on behalf of the entity, in exchange for services rendered. Accordingly, remuneration is determined on an accruals basis, and is disclosed in the following categories.

**Short-term employee benefits** include amounts such as wages, salaries, annual leave or sick leave that are usually paid or payable on a regular basis, as well as non-monetary benefits such as allowances and free or subsidised goods or services.

**Post-employment benefits** include pensions and other retirement benefits paid or payable on a discrete basis when employment has ceased.

**Other long-term benefits** include long service leave, other long service benefits or deferred compensation.

**Termination benefits** include termination of employment payments, such as severance packages.

The compensation detailed below excludes the salaries and benefits of Portfolio Ministers. Ministers' remuneration and allowances are set by the *Parliamentary Salaries, Allowances and Superannuation Act 1968* and have been previously disclosed within the Department of Parliamentary Services' financial report. From this financial year, the disclosure will be reported within the 2022–23 Financial Report for the State of Victoria.

The remuneration of the Judicial members of the responsible body as holders of judicial positions is also excluded. The Judicial members receive no additional remuneration in their capacity as members of the Board of the Judicial Commission of Victoria.

### Remuneration of key management personnel

	2023 \$'000	2022 \$'000
Short-term employee benefits	252	210
Post-employment benefits	26	21
Other long-term benefits	5	5
<b>Total remuneration</b>	<b>283</b>	<b>236</b>

### 8.3 Remuneration of executive officers

Other than the Director, who is the Accountable Officer, there are no other executive officers employed by JCV.

### 8.4 Remuneration of auditors

	2023	2022
	\$'000	\$'000
<b>Victorian Auditor-General's Office</b>		
Audit of the financial statements	23	23
<b>Total remuneration of auditors</b>	<b>23</b>	<b>23</b>

### 8.5 Other accounting policies

#### Contributions by owners

Consistent with the requirements of AASB 1004 *Contributions*, contributions by owners (that is, contributed capital and its repayment) are treated as equity transactions and, therefore, do not form part of the income and expenses of JCV.

Additions to net assets that have been designated as contributions by owners are recognised as contributed capital. Other transfers that are in the nature of contributions to or distributions by owners have also been designated as contributions by owners.

### 8.6 Subsequent events

There have been no significant or material events since the balance date to the date of approval of the financial report that require adjustments to the amounts reported and disclosures made in the financial report.

### 8.7 Change in accounting policies

There has been no changes in the accounting policies during the year.

### 8.8 Australian Accounting Standards issued that are not yet effective

Certain new and revised accounting standards have been issued but are not effective for the 2022-23 reporting period. These accounting standards have not been applied to the JCV Annual Financial Statements. JCV is reviewing its existing policies and assessing the potential implications of these accounting standards which includes:

*AASB 2020-1 Amendments to Australian Accounting Standards – Classification of Liabilities as Current or Non-Current.*

This Standard amends AASB 101 to clarify requirements for the presentation of liabilities in the statement of financial position as current or non-current. It initially applied to annual reporting periods beginning on or after 1 January 2023. JCV will not early adopt the Standard. JCV is in the process of analysing the impacts of this Standard, however, it is not anticipated to have a material impact.

*AASB 2022-10 Amendments to Australian Accounting Standards – Fair Value Measurement of Non-Financial Assets of Not-for-Profit Public Sector Entities*

This Standard amends *AASB 13 Fair Value Measurement* by adding authoritative implementation guidance and illustrative examples for fair value measurement of non-financial assets of not-for-profit public sector entities not held primarily for their ability to generate net cash flows. This Standard applies prospectively to annual periods beginning on or after 1 January 2024, with earlier application permitted. JCV will not early adopt the Standard. JCV is in the process of analysing the impacts of this Standard, however, it is not anticipated to have a material impact.

Several other amending standards and AASB interpretations have been issued that apply to future reporting periods, but are considered to have limited impact on JCV's reporting.

- AASB 17 *Insurance Contracts*
- AASB 2021-7 *Amendments to Australian Accounting Standards – Effective Date of Amendments to AASB 10 and AASB 128 and Editorial Corrections.*
- AASB 2022-6 *Amendments to Australian Accounting Standards – Non-current Liabilities with Covenants.*

## 9 GLOSSARY OF TECHNICAL TERMS AND STYLE CONVENTIONS

**Comprehensive result** is the amount included in the comprehensive operating statement representing total change in net worth other than transactions with owners as owners.

**Current grants** are amounts payable or receivable for current purposes for which no economic benefits of equal value are receivable or payable in return.

**Depreciation** is an expense that arises from the consumption through wear or time of a produced physical or intangible asset. This expense is classified as a 'transaction' and so reduces the 'net result from transactions'.

**Effective interest method** is the method used to calculate the amortised cost of a financial asset and of allocating interest income over the relevant period. The effective interest rate is the rate that exactly discounts estimated future cash receipts through the expected life of the financial asset or, where appropriate, a shorter period.

**Employee benefits expenses** include all costs related to employment including wages and salaries, fringe benefits tax, leave entitlements, redundancy payments, defined benefits superannuation plans, and defined contribution superannuation plans.

**Financial asset** is any asset that is:

- a) cash;
- b) an equity instrument of another entity;
- c) a contractual right:
  - to receive cash or another financial asset from another entity; or
  - to exchange financial assets or financial liabilities with another entity under conditions that are potentially favourable to the entity; or
- d) a contract that will or may be settled in the entity's own equity instruments and is:
  - a non-derivative for which the entity is or may be obliged to receive a variable number of the entity's own equity instruments; or
  - a derivative that will or may be settled other than by the exchange of a fixed amount of cash or another financial asset for a fixed number of the entity's own equity instruments.

**Financial instrument** is any contract that gives rise to a financial asset of one entity and a financial liability or equity instrument of another entity.

**Financial liability** is any liability that is:

- a) a contractual obligation:
  - to deliver cash or another financial asset to another entity; or
  - to exchange financial assets or financial liabilities with another entity under conditions that are potentially unfavourable to the entity; or
- b) a contract that will or may be settled in the entity's own equity instruments and is:
  - a non-derivative for which the entity is or may be obliged to deliver a variable number of the entity's own equity instruments; or
  - a derivative that will or may be settled other than by the exchange of a fixed amount of cash or another financial asset for a fixed number of the entity's own equity instruments. For this purpose, the entity's own equity instruments do not include instruments that are themselves contracts for the future receipt or delivery of the entity's own equity instruments.

**Financial statements** in this report comprises:

- a) a balance sheet as at the end of the period;
- b) a comprehensive operating statement for the period;
- c) a statement of changes in equity for the period;
- d) a cash flow statement for the period;
- e) notes, comprising a summary of significant accounting policies and other explanatory information;
- f) comparative information in respect of the preceding period as specified in paragraph 38 of AASB 101 *Presentation of Financial Statements*; and
- g) a statement of financial position as at the beginning of the preceding period when an entity applies an accounting policy retrospectively or makes a retrospective restatement of items in its financial statements, or when it reclassifies items in its financial statements in accordance with paragraphs 41 of AASB 101.

**Grant expenses and other transfers** are transactions in which one unit provides goods, services, assets (or extinguishes a liability) or labour to another unit without receiving approximately equal value in return. Grants can either be operating or capital in nature.

While grants to governments may result in the provision of some goods or services to the transferor, they do not give the transferor a claim to receive directly benefits of approximately equal value. For this reason, grants are referred to by the AASB as involuntary transfers and are termed non-reciprocal transfers. Receipt and sacrifice of approximately equal value may occur, but only by coincidence. For example, governments are not obliged to provide commensurate benefits, in the form of goods or services, to particular taxpayers in return for their taxes.

Grants can be paid as general purpose grants, which refer to grants that are not subject to conditions regarding their use. Alternatively, they may be paid as specific purpose grants, which are paid for a particular purpose and/or have conditions attached regarding their use.

**General government sector** comprises all government departments, offices and other bodies engaged in providing services free of charge or at prices significantly below their cost of production. General government services include those that are mainly non-market in nature, those that are largely for collective consumption by the community and those that involve the transfer or redistribution of income. These services are financed mainly through taxes, or other compulsory levies and user charges.

**Grants for on-passing** are grants paid to one institutional sector (e.g. a State general government entity) to be passed on to another institutional sector (e.g. local government or a private non-profit institution).

**Interest expense** represents costs incurred in connection with leases. It includes interest on lease repayments.

**Leases** are rights conveyed in a contract, or part of a contract, the right to use an asset (the underlying asset) for a period of time in exchange for consideration.

**Net financial worth** is equal to financial assets minus liabilities. It is a broader measure than net debt as it incorporates provisions made (such as superannuation, but excluding depreciation and bad debts) as well as holdings of equity. Net financial worth includes all classes of financial assets and liabilities, only some of which are included in net debt.

**Net operating balance** or **net result from transactions** is a key fiscal aggregate and is revenue from transactions minus expenses from transactions. It is a summary measure of the ongoing sustainability of operations. It excludes gains and losses resulting from changes in price levels and other changes in the volume of assets. It is the component of the change in net worth that is due to transactions and can be attributed directly to government policies.

**Net result** is a measure of financial performance of the operations for the period. It is the net result of items of revenue, gains and expenses (including losses) recognised for the period, excluding those classified as 'other non-owner movements in equity'.

**Net worth** is calculated as assets less liabilities, which is an economic measure of wealth.

**Non-financial assets** are all assets that are not financial assets. It includes land, buildings, plant and equipment, cultural and heritage assets and intangibles.

**Operating result** is a measure of financial performance of the operations for the period. It is the net result of items of revenue, gains and expenses (including losses) recognised for the period, excluding those that are classified as 'other non-owner movements in equity'. Refer also 'net result'.

**Other economic flows** included in net result are changes in the volume or value of an asset or liability that do not result from transactions. In simple terms, other economic flows are changes arising from market remeasurements. They include gains and losses from disposals, revaluations and impairments of non-current physical and intangible assets; fair value changes of financial instruments and agricultural assets; and depletion of natural assets (non-produced) from their use or removal.

**Other economic flows** – other comprehensive income comprises items (including reclassification adjustments) that are not recognised in net result as required or permitted by other Australian Accounting Standards. They include changes in physical asset revaluation surplus and gains and losses on remeasuring available-for-sale financial assets.

**Payables** includes short and long-term trade debt and salaries and wages payable

**Present value** is a financial calculation that measures the worth of future amount of money in today's dollars adjusted for interest and inflation.

**Receivables** include amounts owing from government through appropriation receivable, short and long-term trade credit and accounts receivable, accrued investment income, grants, taxes and interest receivable.

**Supplies and services** generally represent cost of goods sold and the day to day running costs, including maintenance costs, incurred in the normal operations of JCV.

**Taxation income** represents income received from the State's taxpayers and includes:

- payroll tax, land tax and duties levied principally on conveyances and land transfers
- insurance duty relating to compulsory third party, life and non life policies;
- insurance company contributions to fire brigades;
- motor vehicle taxes, including registration fees and duty on registrations and transfers
- levies (including the environmental levy) on statutory corporations in other sectors of government; and
- other taxes, including landfill levies, licence and concession fees.

**Transactions** are those economic flows that are considered to arise as a result of policy decisions, usually an interaction between two entities by mutual agreement. They also include flows into an entity such as depreciation, where the owner is simultaneously acting as the owner of the depreciating asset and as the consumer of the service provided by the asset. Taxation is regarded as mutually agreed interactions between the government and taxpayers. Transactions can be in kind (e.g. assets provided/given free of charge or for nominal consideration) or where the final consideration is cash. In simple terms, transactions arise from the policy decisions of the Government.

#### Style conventions

Figures in the tables and in the text have been rounded. Discrepancies in tables between totals and sums of components reflect rounding. Percentage variations in all tables are based on the underlying unrounded amounts.

The notation used in the tables is as follows:

- 0 zero, or rounded to zero
- zero, or rounded to zero
- (xxx) negative numbers
- 200x year period
- 200x 0x year period

The financial statements and notes are presented based on the illustration for a government department in the 2022-23 Model Report for Victorian Government Departments. The presentation of other disclosures is generally consistent with the other disclosures made in earlier publications of the JCV's annual reports.

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