



PUBLIC SECTOR NEWSLETTER - VICTORIA

This edition comments on a number of recent developments relevant to public sector lawyers in Victoria. We include reference to the release by the Grattan Institute of its Commonwealth Orange Book 2019, which rates Australia's performance against similar countries and proposes policy reforms for a number of areas. Definitely a worthwhile read for anyone with an interest in public policy.

We hope you enjoy this edition of our Victorian Public Sector Newsletter.

IN THE MEDIA

Statement concerning IBAC's independent oversight of the Victoria Police response to falsification of preliminary breath tests

A widespread practice within Victoria Police of falsifying preliminary breath tests to meet quotas was revealed in May 2018. IBAC announced it would oversight Victoria Police's response to this issue

<https://www.ibac.vic.gov.au/media-releases/article/statement-concerning-ibac's-independent-oversight-of-the-victoria-police-response-to-falsification-of-preliminary-breath-tests>

IN PRACTICE AND COURTS

Four new judicial appointments

Congratulations to members who were appointed to judicial office this week

[Jacinta Forbes QC](#) was appointed as a judge of the Supreme Court

[George Georgiou SC](#) was appointed as a judge of the County Court

[Liz Brimer QC](#) was appointed to the County Court

[Shiva Pillai](#) was appointed to the Magistrates' Court

PUBLISHED - ARTICLES, PAPERS, REPORTS

[Commonwealth Orange Book 2019: policy priorities for the federal government](#)

John Daley, Stephen Duckett, Peter Goss, Andrew Norton, Marion Terrill, Danielle Wood, Tony Wood, Brendan Coates; Grattan Institute: 16 April 2019

This report rates Australia's performance against similar countries and proposes policy reforms for schools and universities, hospitals and housing, roads and railways, cities and regions, taxes, retirement incomes and climate change - worthwhile reading for anyone with an interest in those critical policy areas.

CASES

[Goodrich v Racing Victoria Racing Appeals and Disciplinary Board \[2019\] VSC 248](#)

ADMINISTRATIVE LAW – Judicial review – Victorian Civil and Administrative Tribunal – Review of decision of Racing Victoria Racing Appeals and Disciplinary Board – Failure to allow stewards to inspect horse on race day – Whether the Victorian Civil and Administrative Tribunal misapplied s 51(2) of the Victorian Civil and Administrative Tribunal Act 1998 by setting aside the decision under review and not making another decision in substitution for it or remitting the matter – Whether seeking to obtain documents of appointment of the stewards was a collateral purpose amounting to an abuse of process – Whether reasonable apprehension of bias on the part of the Victorian Civil and Administrative Tribunal – No error in the Victorian Civil and Administrative Tribunal's reasoning or conclusion that would justify overturning its decision – Application for leave to appeal granted – Appeal dismissed – Victorian Civil and Administrative Tribunal Act 1998 ss 49, 50, 51, 75, 148

[Lambrou v Smith & Anor \[2019\] VSC 254](#)

JUDICIAL REVIEW – Application to issue a witness summons for production of documents in criminal proceeding – handwritten statements of complainant and other witnesses – Documents required for forensic testing – Whether there exists a legitimate forensic purpose for testing documents – Whether there exists a reasonable possibility that testing documents may assist accused’s defence – Magistrates’ Court Act 1989 ss 43, 44 considered - Alister v R [1984] HCA 85; (1984) 154 CLR 404; R v Saleam (1989) 16 NSWLR 14; Craig v South Australia [1995] HCA 58; (1995) 184 CLR 163; R v Mokbel (Ruling No 1) [2005] VSC 410; Ragg v Magistrates’ Court of Victoria [2008] VSC 1; (2008) 18 VR 300; Commissioner of AFP v Magistrates’ Court of Victoria [2011] VSC 3 referred to

[Baker v Culvenor \[2019\] VSC 224](#)

CIVIL CLAIMS – Order of VCAT summarily dismissing civil claim on limitation defence – Plaintiff self-represented – Issue as to when cause of action arose – Tribunal found loan repayable on a date not advanced by the parties – Tribunal decided case on written submissions after limited hearing – Failure to find terms of contract – Appeal allowed – Limitation of Actions Act 1958 s 5(1)(a); Victorian Civil and Administrative Tribunal Act 1998 ss 75, 148.

ADMINISTRATIVE LAW – VCAT – Natural justice – Granting summary judgment on basis not advanced by parties – Parties not given opportunity to lead oral evidence or cross-examine witnesses – Denial of natural justice – Victorian Civil and Administrative Tribunal Act 1998 s 98, 102

LEGISLATION

Victoria

Statutes - 16 April 2019

[No 27 Corrections Regulations 2019](#)

[No 28 County Court Miscellaneous Rules 2019](#)

[No 29 County Court \(Chapter I Miscellaneous Amendments\) Rules 2019](#)

Victorian legislation can be accessed at www.legislation.vic.gov.au

KEY CONTACTS

PANEL RELATIONSHIP CONTACTS

Your contacts responsible for navigating our firm, connecting you with appropriate expertise and achieving maximum efficiency and your Newsletter editors.



Cameron Roberts

Partner
+61 3 9641 8696
+61 438 510 885
croberts@tglaw.com.au



Loretta Reynolds

Partner, Markets
+61 3 8080 3705
+61 403 069 819
lreynolds@tglaw.com.au

NEWSLETTER EDITOR



Paul Ronfeldt

Partner
+61 3 8080 3533
+61 407 504 075
pronfeldt@tglaw.com.au

HELP DESK SERVICES

Thomson Geer is delighted to offer access to the Victorian Government to its Legal Help Desk on our usual terms of engagement and as set out below.

Scope

We are pleased to be able to work collaboratively with the Victorian Government to offer the following services (at no charge):

- advice regarding discrete and non-complex legal queries – up to 30 minute teleconference with a Partner, Special Counsel or relevant Senior Associate or, short written advice (max. 1 page);
- the opportunity to 'brainstorm' or discuss topical and complex legal issues with industry specialists – up to 30 minute teleconference with a Partner, Special Counsel or relevant Senior Associate; and
- a dedicated library resource to assist Victorian Government departments and agencies research relevant case law, statutes, regulations and articles.

(Help Desk Services)

Please note that the Help Desk Services are only available in respect of any matter which is currently unallocated i.e. to this firm or any other firm.

Key Contact and Help Desk Process

You can access the Help Desk by:

- (a) Calling 03 8080 3604; or
- (b) Emailing legalhelpdesk@tglaw.com.au

Once relevant details are received from you (whether that be by email or over the phone) it will be directed to the appropriate Thomson Geer Partner, Special Counsel or Senior Associate. The Help Desk number and email address will be monitored during normal business hours (9.00 am to 5.00 pm (EST), Monday to Friday).

Thomson Geer will use its best endeavours to provide the Help Desk Services within one business day of the query being logged.