



PUBLIC SECTOR NEWSLETTER - VICTORIA

In this edition we note that the Office of the Australian Information Commissioner has issued a report on the 'Notifiable Data Breaches scheme: 12 month insights report' and is intended to assist entities to understand the common causes of data breaches and to implement proactive strategies for the benefit of all Australians.

We also note that the Victorian Audit General's Office has issued a report on 'Compliance with the Asset Management Accountability Framework' in which they made 11 recommendations directed to Government departments and to audit committees.

We hope you enjoy this edition of our public sector newsletter.

IN THE MEDIA

Statement on the Royal Commission into Informants in Victoria

The reporting timelines for the Royal Commission into the Management of Police Informants will be extended after a request from the Royal Commission. The Royal Commission will now provide a progress report to government by 1 July 2019

<https://www.premier.vic.gov.au/statement-on-the-royal-commission-into-informants-2/>

Victoria Legal Aid: A new client referral process to support high-quality and consistent child protection legal services

Victoria Legal Aid have announced that they are introducing a new, fairer and more transparent referral process to help more people across the state access consistent child protection legal services

<http://www.legalaid.vic.gov.au/about-us/news/new-client-referral-process-to-support-high-quality-and-consistent-child-protection-legal-services>

OPCAT ratification - Consultations

The Law Council has continued to engage with the Australian Human Rights Commission's (AHRC's) consultative process following the Australian Government's ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) in December 2017

<https://www.lawcouncil.asn.au/media/news/opcat-ratification-consultations>

Crime Prevention Grants to Boost Community Safety in Victoria

Applications are now open for up to \$3 million in crime prevention grants, thanks to the Government's Public Safety Infrastructure Fund. Projects that could receive funding include lighting upgrades, streetscape and other amenity improvements, or the installation of CCTV camera in high-risk areas

<https://www.premier.vic.gov.au/crime-prevention-grants-to-boost-community-safety/>

Bipartisanship, consultation needed to develop effective national integrity commission model

The Law Council of Australia wholly supports the establishment of a national integrity commission but believes consultation, collaboration and bipartisanship is needed for a functional and effective model to come to fruition

<https://www.lawcouncil.asn.au/media/media-releases/bipartisanship-consultation-needed-to-develop-effective-national-integrity-commission-model>

IN PRACTICE AND COURTS

Thinking big: The Australian Constitution as a law reform project

As part of the ALRC's *Where next for law reform?* project the ALRC is encouraging Australians to think big. Arguably the most significant law reform initiative would be to revise the constitution. We have prepared a short paper to start the [conversation](#). Have your say by taking the [survey](#)

[AHRC: Commission calls for public submissions](#)

The AHRC has released an issues paper for 'Free and Equal': *An Australian conversation on human rights* and has called for public submissions. Submissions are open until 12 July 2019. See the [issues paper](#).

VLRC - Contempt of Court - Release of Consultation Paper

The Commission's [consultation paper](#) on contempt of court was published online on 23 May on the Commission's website together with a summary document.

The closing date for written submissions is 28 June 2019. For ease of reference [click here for a copy of the consultation paper](#).

Online sentencing database updated with new statistics and summary reports

The Council has released updated sentencing statistics on SACStat (Sentencing Advisory Council Statistics Online), the Council's online statistical database. SACStat now includes sentencing data for over 200 offences sentenced in the higher courts (the County and Supreme Courts) of Victoria over the five years to 30 June 2018. You can access the SACStat from the [database homepage](#)

PUBLISHED - ARTICLES, PAPERS, REPORTS

[Compliance with the Asset Management Accountability Framework](#)

VAGO: Tabled: 23 May 2019

Victoria's roads, railways, schools, prisons and hospitals are part of the \$265 billion of non-financial assets that government departments and agencies manage. Many of our audits show that asset management is often neglected or poorly done. We made 11 recommendations. Four were directed to all departments and one to the audit committees of all departments

Proud, visible, safe

Victorian Equal Opportunity and Human Rights Commission: 17 May 2019

This report examines the experiences of LGBTIQ employees at Victoria Police. The report finds that Victoria Police is committed to building an organisational culture that is safe from LGBTIQ employees - but that there is still a way to go [proud, visible and safe](#)

[Notifiable Data Breaches scheme: 12 months insights report](#)

Office of the Australian Information Commissioner: 13 May 2019

Entities regulated by the Privacy Act should review this report and use the learnings to enhance their prevention and response strategies for the benefit of all Australians. One of the key messages taken from this inaugural review of the Notifiable Data Breaches (NDB) scheme is that entities must put individuals first.

[The Impacts of Self-Represented Litigants on Civil and Administrative Justice: Environmental Scan of Research, Policy and Practice](#)

by Dr Liz Richardson, Dr Genevieve Grant and Dr Janina Boughey

CASES

[Hive & Wellness Australia Pty Ltd v Mulvany \[2019\] VSC 273](#)

PRACTICE AND PROCEDURE – Summary judgment/strike out application – Whether defence of qualified privilege has a real, and not fanciful prospect of success

DEFAMATION – Defences – Qualified privilege at common law – Publication to the world at large – Public interest in food safety and regulation – Whether defendant had an interest in making the defamatory statements and the recipients had a reciprocal interest in receiving them – Voluntary disclosure of information to a broad audience about the conduct of the chief executive officer of a private business – Public interest and concern insufficient to establish reciprocity – Whether the publications could attract the defence of qualified privilege by reason of the implied freedom of communication with respect to government and political matters – Summary judgment granted
DEFAMATION – Defences – Qualified privilege – Reply to attack – Whether reply by defendant privileged – Kennett v Farmer [1998] VR 991, referred to – Properly the subject of full evidence and argument at trial

[Herrington v Lawrence \[2019\] VSC 319](#)

JUDICIAL REVIEW – Application for leave to appeal decision of VCAT – Whether identified error of law – Whether real or significant argument that error exists – Whether grant of leave just in all the circumstances – Supreme Court (Miscellaneous Civil Procedure) Rules 2018 r 4.08(8) considered - Secretary of the Department of Premier and Cabinet v Hulls [1999] VSCA 117; [1999] 3 VR 331 referred to.

RES JUDICATA – Cause of action estoppel – Issue estoppel – Anshun estoppel – Previous proceedings before VCAT issued under incorrect legislative provisions – Previous proceedings dismissed as being issued under incorrect provisions – Whether final determination on the merits – Whether unreasonable not to raise correct cause of action

CIVIL PROCEDURE – Application for leave to amend notice of appeal – Application made at hearing of appeal – Whether prejudice to respondent

[Valeo Construction v Tiling Expert \[2019\] VSC 291](#)

ADMINISTRATIVE LAW – Judicial review – Relief in the nature of certiorari – Injunctions – Declarations – Whether Adjudication Determination is vitiated by jurisdictional error – Error of law on the face of the record - Review of jurisdictional facts - Supreme Court (General Civil Procedure) Rules 2015 (Vic), r 56.
BUILDING CONTRACTS

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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.