



## PUBLIC SECTOR NEWSLETTER - VICTORIA

The past fortnight was relatively quiet. Perhaps it was because the most newsworthy story, Victoria's assisted dying laws, is yet to land. However, IBAC published responses following several investigations into a range of public sector agencies on 16 October and, on the same day, the Victorian Ombudsman released its annual report which revealed the Ombudsman received a record number of requests for assistance in 16/17. There were also some interesting decisions on enforcement orders, indirect discrimination, lawful directions and privacy. We hope you enjoy this fortnight's edition of our Victorian public sector newsletter.

### IN THE MEDIA

#### VCAT, we have a problem

As "fast" as planning minister Wynne signs new laws around the sustainability of development, VCAT undermines them. The maxim "community need, not developer greed" is simply ignored. Premier Daniel Andrews is quick to point out how all of his administration's policies and initiatives are aimed at making things "fair" for all Victorians. The policies are only as good as their enforceability and, in that regard, VCAT continues to fail us miserably.  
<https://www.thefifthstate.com.au/columns/spinifex/vcat-we-have-a-problem/96382>

#### Preventing corruption in Victoria: responses to IBAC investigations

Victoria's independent anti-corruption agency, IBAC, has published responses from a range of public sector agencies following several IBAC investigations into serious corruption and police misconduct.  
<http://www.ibac.vic.gov.au/media-releases/article/preventing-corruption-in-victoria-responses-to-ibac-investigations>

#### Record numbers of Victorians seen Ombudsman's help

The Victorian Ombudsman managed the highest ever number of complaints, investigations and enquiries in 2016-17 supported by a new Early Resolution Team trained to speedily resolve matters, according to the latest 2017 annual report.  
<https://www.ombudsman.vic.gov.au/News/Media-Releases/Media-Alerts/Record-numbers-of-Victorians-see-Ombudsman's-help>

#### Almost half of Victoria's prisoners are back in jail within two years of release

Figures from the state's Justice Department also show more than 40 per cent of young offenders come from just three ethnic communities.  
<http://www.abc.net.au/news/2017-10-19/victorian-prisoner-recidivism-rates-increase-justice-department/9065752>

### CASES

#### [Kyria v Traffic Camera Office \[2017\] VSC 630](#)

JUDICIAL REVIEW AND APPEALS – Appeal from Magistrates' Court pursuant to Criminal Procedure Act 2009 (Vic), s 272 – Question of law Whether Magistrate erred in identifying and applying applicable legal test – Meaning of sufficient grounds for revocation of enforcement order – No error – Appeal dismissed - Infringements Act 2006 (Vic), s 66A.

#### [Petrou v Bupa Aged Care Australia Pty Ltd \(Human Rights\) \[2017\] VCAT 1706](#)

Indirect discrimination-section 9 Equal opportunity Act 2010 -meaning of " effect of disadvantaging persons with an attribute", "not reasonable", section 53(f) discrimination in providing accommodation, section 55 reasonable alterations to accommodation, section 44 subjecting person to detriment in connection with provision of a service - claims dismissed

[Rich v Ryan \[2017\] VSC 607](#)

JUDICIAL REVIEW – Application for strike out or summary dismissal – Plaintiff contends that a direction by the defendant that he provide a urine sample for testing was ultra vires for failure to comply with a requirement that the sample be tested by an ‘officer’ – Whether claim is intelligible – Whether it has any real prospect of success – Whether declaratory relief would be granted – Strike out and summary judgment refused – Corrections Act 1986 (Vic) s 29A.

[DNV v Department of Health and Human Services \(Human Rights\) \[2017\] VCAT 1569](#)

Privacy and Data Protection Act 2014 (Vic) – Information Privacy Principle 2.1 – whether breach of IPP 2.1 when respondent disclosed content and copy of sentencing remarks regarding offences against the complainant’s children to the children’s grandfather – whether sentencing remarks were contained in a generally available publication – whether the disclosure was for the primary purpose of collection or necessary to lessen or prevent a serious and imminent threat to the children’s health, safety or welfare. Dismissed

**LEGISLATION**

**Victoria**

**Statutory Rules made**

**No. 103: Magistrates’ Court General Civil Procedure (Miscellaneous Amendments) Rules 2017**

Date of Making: 10/10/2017 Commencement:  
16/10/2017: rule 3 Not yet in operation:  
Rules 1-7: on 16/10/2017: rule 3 Sunset Date:  
10/10/2027

Access Victorian legislation at  
[www.legislation.vic.gov.au](http://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.

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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](mailto: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.