



## PUBLIC SECTOR NEWSLETTER - VICTORIA

It has been a busy fortnight.

The Victorian Government has committed to the National Redress Scheme for victims of sexual abuse whilst in institutions, and the Law Council of Australia has called for other states to follow suit.

The Government is taking steps to correct the criminal records of individuals who required State care as children and has overhauled the Guardianship Laws.

Meanwhile Kerry Judd QC has been appointed the Director of Public Prosecutions and Matt Finnis has been appointed to the Board of Victorian Equal Opportunity and Human Rights Commission.

Coincidentally VCAT was asked to consider whether an Estate can bring a discrimination claim.

Finally, another 'plug' for our upcoming Public Sector Seminar on Wednesday, 28 March 2018 at 1pm, when Dugald McWilliams, Barrister, will present on recent tort cases relevant to the public sector. Click [here](#) for more details.

### IN THE MEDIA

#### New board member appointed to VEOHRC

The Government has announced the appointment of Matthew Finnis to the Board of the Victorian Equal Opportunity and Human Rights Commission (VEOHRC). <https://www.premier.vic.gov.au/new-board-member-appointed-to-veohrc/>

#### Remaining States and Territories' urged to opt-in to National Redress Scheme as matter of priority

The Law Council of Australia is urging all States and Territories to follow the lead set by New South Wales and Victoria to opt-in to the Commonwealth's Redress Scheme for sexual abuse survivors without further delay. <https://www.lawcouncil.asn.au/media/media-releases/remaining-states-and-territories-urged-to-opt-in-to-national-redress-scheme-as-matter-of-priority>

#### First states commit to Redress Scheme

New South Wales and Victoria will be the first states to opt into the National Redress Scheme for people who were sexually abused as children while in the care of institutions. Subject to the passage of legislation, the Redress Scheme will commence on 1 July.

<http://www.justice.nsw.gov.au/Pages/media-news/media-releases/2018/first-states-commit-to-redress-scheme.aspx>

#### Former City of Ballarat Council consultant sentenced following IBAC investigation

A former consultant to the City of Ballarat Council has been convicted at the Melbourne County Court following an IBAC investigation into allegations of corrupt procurement transactions at the council. Jasmine Finnigan pleaded guilty and was convicted of obtaining a financial advantage by deception and attempting to commit an indictable offence.

<http://www.ibac.vic.gov.au/media-releases/article/former-city-of-ballarat-council-consultant-sentenced-following-ibac-investigation>

#### Correcting the historical records of Victorian children

The Government will take action to address a serious historical injustice which saw Victorians effectively given criminal records for needing state care as children.

<https://www.premier.vic.gov.au/correcting-the-historical-records-of-victorian-children/>

#### Guardianship Laws overhauled

The Government introduced new laws this week to better protect the rights of adults with disability to make and participate in decision that affect their lives. The Guardianship and Administration Bill 201 will replace outdated laws from 1986 to define decision-making capacity.

<https://www.premier.vic.gov.au/guardianship-laws-overhauled/>

### **New Director of Public Prosecutions for Victoria**

The Government has announced the appointment of Kerri Judd QC as new Director of Public Prosecutions, and Brendan Kissane QC as new Chief Crown Prosecutor.

<https://www.premier.vic.gov.au/new-director-of-public-prosecutions-for-victoria/>

### **More action recommended to fix youth justice centres**

A parliamentary committee report tabled in the Victorian Parliament has recommended a range of measures to address problems with youth justice centres in Victoria. The Legal and Social Issues Committee has made 33 findings and 39 recommendations after a comprehensive inquiry.

[https://www.parliament.vic.gov.au/images/stories/committees/SCLSI/Youth\\_Justice\\_System/Media\\_Release\\_LSIC\\_2018-03-06.pdf](https://www.parliament.vic.gov.au/images/stories/committees/SCLSI/Youth_Justice_System/Media_Release_LSIC_2018-03-06.pdf)

### **CASES**

#### **[Trustee for the Estate of the late Darryl Anderson v Rose City Kitchens \(Human Rights\) \[2018\] VCAT 338](#)**

Application to strike out – person subjected to alleged discrimination died after the alleged discrimination occurred and before an application was made – whether person’s legal personal representative can make an application on behalf of his estate – whether application misconceived or lacking in substance for lack of standing by the applicant. Equal Opportunity Act 2010 – s 122 and 123

#### **[Weber v Deakin University \[2018\] VSCA 53](#)**

ADMINISTRATIVE LAW – Judicial Review – Victorian Civil and Administrative Tribunal – Dismissal of claim during final hearing – Prior to commencement of final hearing respondents granted liberty to make no case submission without being put to election – Proceeding dismissed pursuant to Victorian Civil and Administrative Tribunal Act 1998 s 75 – Tribunal failed to apply statutory criteria for summary dismissal of proceeding – Tribunal dismissed proceeding pursuant to orders granting liberty to respondents to make no case submission – Whether appellant denied procedural fairness – No denial of procedural fairness – Appeal dismissed – Victorian Civil and Administrative Tribunal Act 1998 ss 75, 80(1), 83(2), 98(3) – Equal Opportunity Act 2010 ss 8, 17, 20, 103.

#### **[Luke Polkinghorne v Warrnambool City Council \(Human Rights\) \[2018\] VCAT 171](#)**

Privacy and Data Protection Act 2014 (Vic) Schedule 1 Information Privacy Principles 1.2 and 1.3(d) and 2.1 - allegations of use and disclosure of personal information.

### **LEGISLATION**

#### **Victoria**

#### **Bills Introduced and Second Read in the first House** **[Guardianship and Administration Bill 2018](#)**

#### **[Legal Identity of Defendants \(Organisational Child Abuse\) Bill 2018](#)**

#### **Acts**

#### **[No. 9: Gambling Legislation Amendment Act 2018](#)**

Assent: 14/03/2018 SG (No. 113) 14/3/2018 p/ 1  
Commencement: Ss 1-5, 10, 12-17, 19-25, 27-31 on 15/03/2018: s. 2(1) Not yet in operation: Ss 6-9, 11, 18, 26

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.