



## PUBLIC SECTOR NEWSLETTER - VICTORIA

This edition includes reference to the Victorian Government Annual Report 2018: Royal Commission into Institutional Responses to Child Sexual Abuse that was published earlier this month. The Oaths and Affirmations Act 2018 came into effect on 1 March 2019 and the Department of Justice and Community Safety has prepared guidance materials and template forms that are now accessible from their website.

As you may be aware, we are hosting our Victorian Public Sector CPD Intensive this Thursday, 28 March. To view the program and to register, please click [here](#).

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

### IN THE MEDIA

#### Why Chief Judge Kidd broadcast the Pell sentence

While handing down the six-year jail sentence for Cardinal George Pell, Chief Judge Peter Kidd of the County Court of Victoria explained that the live broadcasting of the sentencing hearing was done in accordance with "transparent and open justice" - something the Law Council of Australia has fully supported <https://www.lawyersweekly.com.au/wig-chamber/25247-why-kidd-cj-broadcast-the-pell-sentence>

#### Victorian facilities that will be inspected regarding the use of 'solitary confinement' and young people

A multi-disciplinary, multi-agency inspection team led by the Victorian Ombudsman will inspect Port Phillip Prison, Malmsbury Youth Justice Precinct and Secure Welfare Services, looking at practices related to 'solitary confinement' on children and young people <https://www.ombudsman.vic.gov.au/News/Media-Releases/Ombudsman-announces-Victorian-facilities-that-will>

#### Victoria Police officer found guilty following IBAC investigation

A Victoria Police Senior Constable was found guilty of two counts of unlawful assault in the Latrobe Valley Magistrates' Court, after an investigation by Victoria's independent police oversight body, IBAC <https://www.ibac.vic.gov.au/media-releases/article/victoria-police-officer-found-guilty-following-ibac-investigation>

#### IBAC's Operation Gloucester public hearings conclude and identify significant issues with police practices

IBAC's public hearings into Victoria Police practices when taking witness statements has heard testimony that improper practices had occurred and may still be occurring <https://www.ibac.vic.gov.au/media-releases/article/ibac-s-operation-gloucester-public-hearings-conclude-and-identify-significant-issues-with-police-practices>

#### VicBar: Statement by the Victorian Bar regarding Lawyer X

The High Court and the Victorian Court of Appeal have today lifted suppression orders precluding disclosure of the name of Lawyer X, also known as EF and Informer 3838. In order to restore public confidence in the administration of criminal justice in Victoria, it is vital that there be a full investigation into how Nicola Gobbo came to be an informant, how information provided by her was deployed by Victoria Police, and how the situation was permitted to persist <https://www.vicbar.com.au/news-events/media-release-%E2%80%93-statement-victorian-bar-regarding-lawyer-x>

### IN PRACTICE AND COURTS

#### The Oaths and Affirmations Act 2018 ("the Act") comes into effect on 1 March 2019

This new stand-alone Act contains provisions relating to oaths, affirmations, affidavits and statutory declarations, and replaces a number of provisions of the Evidence (Miscellaneous Provisions) Act 1958 outlined [here](#)

The new legislation may be found [here](#).

#### Victoria Legal Aid: Child Protection Duty Lawyer Guidelines to promote consistency and fairness

As part of our commitment to improve our child protection legal services, we are introducing new Child Protection Duty Lawyer Guidelines to promote consistency, certainty and transparency for clients and practitioners across the state. The guidelines commenced on 25 March 2019.

**New Laws: Oaths and Affirmations Act 2018 (Vic)**

The *Oaths and Affirmations Act 2018* (Vic) commenced on 1 March 2019, updating laws in relation to oaths, affirmations, affidavits, statutory declarations and document certification processes. The Department of Justice and Community Safety has prepared guidance materials and template forms on the *Oaths and Affirmations Act 2018*, which has been uploaded to the Department's website. Further information may be accessed via the [website](#).

**Victorian Law Reform Commission review: the state's committal system**

Under the terms of reference, the Commission will consider best practices for supporting victims. The Commission will consult widely in undertaking its review, including with courts, government stakeholders, the legal profession and victims' groups. The review will report back to government in March 2020. A copy of the full terms of reference is available [here](#).

**PUBLISHED - ARTICLES, PAPERS, REPORTS****[Delivering fairness: 2019 VCOSS Victorian budget submission](#)**

Victorian Council of Social Service: 13 March 2019

This pre-budget submission, from the state's peak social service body, contains over 50 recommendations to government aimed to deliver fairness, prosperity and opportunity for Victorians.

**[Victorian Government annual report 2018: Royal Commission into Institutional Responses to Child Sexual Abuse](#)**

Department of Justice and Community Safety (Vic); Government of Victoria: 06 March 2019

The Victorian Government committed to reporting annually on its response to the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse for five years, until 2022

**CASES****[Michos v Eastbrooke Medical Centre Pty Ltd \[2019\] VSC 131](#)**

ADMINISTRATIVE LAW – Appeal from decision of Victorian Civil and Administrative Tribunal dismissing complaint under Health Records Act 2001 – Right of access to health information under s 25, Health Records Act 2001 – Whether Tribunal misconstrued s 25 – Whether request for access can lapse for the purposes of s 34 – Tribunal misconstrued s 25 but no error in Tribunal's finding that right of access not breached – Health Records Act 2001 (Vic), ss 5, 25, 34

**[Pacific Wireless Pty Ltd v Breeze Logistics Australia Pty Ltd \(No 2\) \[2019\] VSC 130](#)**

ADMINISTRATIVE LAW – Appeal from decision of Victorian Civil and Administrative Tribunal – Costs of Tribunal hearing – Where settlement offers not relevant before Tribunal but relevant following successful appeal on question of law – Where relevant authorities not before Tribunal and only raised on appeal – Where facts not in dispute – Where remedial consequence of dealing with an error of law – Remittal not warranted to avoid unnecessary expense and delay

**[Djime v Kearnes \[2019\] VSC 117](#)**

ADMINISTRATIVE LAW – Victorian Civil and Administrative Tribunal – Litigant in person – Claims of racial discrimination and related claims – Most claims summarily dismissed – Others dismissed at final hearing – Application for leave to appeal – Nature of appeal from summary dismissal of claims at VCAT – Unreasonable conduct by litigant – Poor prospects of success on appeal – Leave to appeal refused – Victorian Civil and Administrative Tribunal Act 1998 (Vic) ss 75, 148.

DISCRIMINATION LAW – Areas of activity – Provision of goods and services – Services by police – Equal Opportunity Act 2010 (Vic) ss 3, 44, 75, 99, 105

**[Djalalian-Assl v Office of the Victorian Information Commissioner \(Review and Regulation\) \[2019\] VCAT 304](#)**

Freedom of Information Act 1982 (Vic), section 6AA(e) – whether documents to which the applicant sought access were in the possession of a relevant person within the Office of the Victorian Information Commissioner – whether the documents were the subject of or disclosed information that relates to a complaint under Part VIA. Application dismissed

**LEGISLATION****Victoria****Acts as at 15 March 2019**

[No 2 Integrity and Accountability Legislation Amendment \(Public Interest Disclosures, Oversight and Independence\) Act](#)

[No 3 Justice Legislation Amendment \(Police and Other Matters\) Act 2019](#)

[No 4 Parliamentary Committees Amendment Act 2019](#)

**Acts current versions**

[Parliamentary Committees Act 110/2003 030 14 March 2019](#)

[Sentencing Act 49/1991 202 14 March 2019](#)

[Sex Offenders Registration Act 56/2004 061 14 March 2019](#)

**Proclamations**

Justice Legislation Miscellaneous Amendment Act 2018 No. 48/2018

Sections 5-7, 10, 13, 15, 20-31 of this Act came into operation on 3 March 2019

Victorian legislation can be accessed [here](#).

## KEY CONTACTS

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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.