



PUBLIC SECTOR NEWSLETTER - VICTORIA

The future is here this fortnight, with Victoria Police announcing the establishment of a new 'drone squad' to track offenders, conduct surveillance and assist in emergency management.

Meanwhile, The Victorian Bar has issued a reminder to clients to submit their equitable briefing report and the Victorian Law Reform Commission has called for submissions in relation to the reform of the committal system.

The parliament has announced inquiries into the conduct of the Victorian State Election and the impact of animal rights activism on Victorian agriculture.

Finally, the courts have delivered some interesting judgments in relation to whether a letter of offer forms part of an employment contract, the judicial review of medical panel determinations and costs.

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

IN THE MEDIA

Drone squad assembled in Victoria

Victoria Police has announced that it will create a new drone unit by the end of August. The unit will have up to 50 drones to help police with activities such as tracking offenders, conducting surveillance and assisting with emergency management. (10 July 2019) <https://www.itnews.com.au/news/victoria-police-to-buy-50-drones-for-unmanned-squadron-527969>

IN PRACTICE AND COURTS

[OVIC: Agency reporting obligations - August 2019 Reporting](#)

While OVIC analyses these submissions, your agency's protective data security obligations under the Framework remain unchanged. This includes reporting obligations under Standard 12. Agencies must submit their 2019 attestation to OVIC by the 30th of August, 2019. For more information about the August 2019

reporting requirements, please see the [letter](#) from the Victorian Information Commissioner to agencies [Option 1 – Single Organisation 2019 Attestation Template](#) and [Option 2 – Multiple Organisation 2019 Attestation Template](#).

[VICBAR: Equitable Briefing Policy Reporting 2018-19](#)

The 2018-2019 financial year has recently ended, and annual reports of briefing entities who have adopted the Law Council's Equitable Briefing Policy are due by 30 September 2019. The Equitable Briefing Policy Reporting Template and Guidelines provide information on the reporting requirements and the reporting template. (12 July 2019)

[VLRC: Reform of committals system: VLRC calls for submissions](#)

The Victorian Law Reform Commission is calling for submissions to a review that could lead to important changes to the state's committals system. Options under consideration include reforming the process or abolishing committals completely. Visit the link above to download the issues paper and make a submission. The Commission is consulting widely during July and August, and submissions are open until 16 August 2019.

Victoria Parliament Consultations

[Inquiry into the Conduct of the 2018 Victorian State Election](#)

The Committee is inviting people to submit their views on how the election was conducted and suggestions on how things could be improved. Issues to be examined include enrolling, being a candidate and voting. Submissions close on 30 August 2019.

[Inquiry into the Impact of Animal Rights Activism on Victorian Agriculture](#)

The Legislative Council's Economy and Infrastructure Committee has commenced a public inquiry into the impact of animal rights activism on Victorian agriculture. The Committee is inviting written submissions by 2 August 2019 and will then conduct public hearings.

CASES[Dundar v Bas Brothers \[2019\] VSC 469](#)

JUDICIAL REVIEW – Accident compensation – Medical Panel Review – Opinion on medical questions – Whether Panel’s reasons were adequate – Whether Panel failed to take into account relevant considerations – Whether Panel’s decision was irrational and/or illogical – Richter v Driscoll (2016) 51 VR 95 – Accident Compensation Act 1985 s 93C(1)(a) – Workplace Injury Rehabilitation and Compensation Act 2013 ss 3, 274, 302, and 313(3).

[Tucker v State of Victoria \[2019\] VSC 420](#)

EMPLOYMENT – Construction of employment contract – Whether letter of offer formed part of contract – Toll FGCT Pty Ltd v Alphapharm Pty Ltd [2004] HCA 52; (2004) 219 CLR 165 – Whether a term of an enterprise agreement was incorporated into contract by reference – Whether failure to provide materials and particulars concerning workplace investigations a breach of employment contract or Public Administration Act 2004 s 20(3) – Whether investigation framed allegations so as to shift the onus of proof onto employee.

STATUTORY INTERPRETATION – Applicable principles – Construction of Public Administration Act 2004 ss 8, 20(3) – Whether s 8 imposes an obligation to comply with processes established under it – Whether failure to follow a process established pursuant to s 8 is a breach of s 20(3) of that Act – Quinn v Overland [2010] FCA 799.

PRACTICE AND PROCEDURE – Pleadings – Amendment principles – Whether it is necessary to expressly plead a statutory provision pursuant to Supreme Court (General Civil Procedure) Rules 2015 r 13.02(1)(b)

[Zaitsev v Building Appeals Board & Anor \(Costs\) \[2019\] VSC 455](#)

COSTS – Judicial review – Jurisdictional error – Costs sought against second defendant – Compensatory principle – ‘usual order’ as to costs – Exercise of discretion – Appeal costs indemnity certificate sought – Application of Hardiman position discussed – No active participation in the proceeding – No contradictor – Costs awarded to plaintiff – Indemnity certificate granted – Supreme Court Act 1986 s 24 – Supreme Court (General Civil Procedure) Rules 2015 ord 63 – Civil Procedure Act 2010 s 7 – Appeal Costs Act 1998 ss 4, 35(1)(c).

[Maimonis v Bourke & Ors \[2019\] VSC 456](#)

ADMINISTRATIVE LAW – Judicial review – Opinion of a Medical Panel – Order 56 – Certiorari to quash the determination of the Medical Panel – Whether jurisdictional error – Taking into account irrelevant considerations – Failure to take into account relevant considerations – Whether Panel’s statement of reasons adequate – Procedural fairness – No error established – Definition of ‘injury’ considered – Accident Compensation Act 1985 ss 82, 5(1B) – Workplace Injury Rehabilitation and Compensation Act 2013 ss 3, 40(3), sch 1 pt 3 cl 25.

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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

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