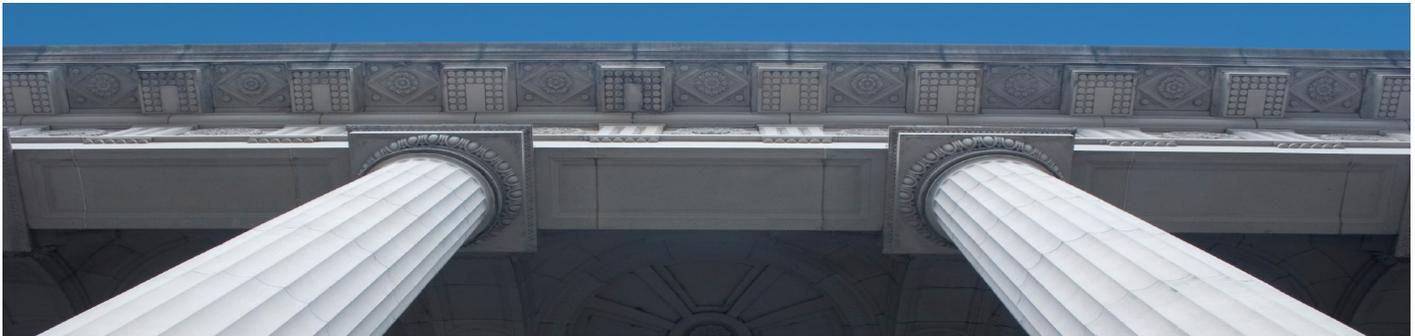


15 OCTOBER 2021

ISSUE 114



## PUBLIC SECTOR NEWSLETTER - VICTORIA

Integrity is the theme of this fortnight's newsletter – data and generally.

The Australian Lawyers Alliance has called for federal legislation to protect the integrity of Covid-19 tracing data and the Digital Transformation Agency is calling for feedback on a draft Bill to support the expansion of the Australian Government's Digital Identity System.

Two of Victoria's integrity agencies have joined forces for the first time in their histories as IBAC hold public hearings into allegations of corrupt conduct involving former and current MPs.

The Australian Human Rights Commission has marked the International Day of Older Persons with the launch of a new campaign on the warning signs of elder abuse, which is an issue of particular interest to Thomson Geer given our long history running the Bundoora Seniors Rights Clinic.

Finally, the Victorian Bar has launched a revised Code of Conduct encouraging members to report bullying, sexual harassment and discrimination.

On a positive note, as Victoria moves closer to our own "Freedom Day", the Government has launched a home quarantine trial using facial recognition.

### IN THE MEDIA

#### COVID-19 tracing data must be protected by law nationally

Federal legislation is urgently needed to ensure COVID-19 tracing data is used only for health purposes in every state and territory, says the Australian Lawyers Alliance (ALA) as the Greens plan to introduce a bill to Parliament that will ban law enforcement agencies from accessing this data. <https://www.lawyersalliance.com.au/news/covid-19-tracing-data-must-be-protected-by-law-nationally>

#### Comment call on digital identity plans

The Digital Transformation Agency (DTA) is calling for feedback on a draft bill to support the expansion of the Australian Government Digital Identity System. The Agency released a factsheet on the proposed legislation which it said was required to expand the Identity System to a whole-of-economy solution. <https://www.dta.gov.au/news/draft-legislation-australian-government-digital-identity-system>

#### Legislation expanding digital identity scheme to private sector finally unveiled

New draft legislation will introduce two voluntary schemes to accredit companies and governments as service providers or relying partners in the digital identity program, as well as enshrining extra privacy safeguards in law and establishing a permanent oversight authority for the scheme. <https://www.innovationaus.com/legislation-expanding-digital-identity-scheme-to-private-sector-finally-unveiled/>

#### Integrity Agencies team up to catch corruption

Allegations of corrupt conduct involving Victorian public officers and Members of Parliament have prompted two of the State's integrity Agencies to join forces for the first time in their history. Public hearings were scheduled to commence on 11 October as part of the joint Operation. <https://www.ibac.vic.gov.au/investigating-corruption/IBAC-examinations/operation-watts>

#### New IBAC to hold public hearings into allegations of serious corrupt conduct involving Victorian Members of Parliament

Public hearings into allegations of serious corrupt conduct involving Victorian public officers, including Members of Parliament, will commence on 11 October. The hearings are part of Operation Watts, which is looking into a range of matters including allegations of 'branch stacking'. <https://www.ibac.vic.gov.au/media-releases/article/ibac-to-hold-public-hearings-into-allegations-of-serious-corrupt-conduct-involving-victorian-members-of-parliament>

## Victoria launches home quarantine trial using facial recognition tech

The Victorian government has launched a trial of home quarantine for returning residents using facial recognition and geolocation technology, the latest in a number of states to embark on similar pilots. <https://www.innovationaus.com/victoria-launches-home-quarantine-trial-using-facial-recognition-tech/>

## New campaign on the warning signs of elder abuse

A new campaign to raise awareness of elder abuse has been launched by the Australian Human Rights Commission to mark the International Day of Older Persons. <https://humanrights.gov.au/about/news/new-campaign-warning-signs-elder-abuse>

## New campaign blows whistle on elder abuse

The AHRC said calls to the National Elder Abuse phone line increased by 87 per cent between January and June this year, compared to the previous six months. Troubling accounts from frontline workers had come to her attention during the pandemic with incidents including pressure to change wills; misuse of bank accounts and powers of attorney; cancellation of aged care packages; and limiting of GP visits. <https://humanrights.gov.au/about/news/media-releases/commission-launches-elder-abuse-awareness-campaign>

## Victorian Bar revises code of conduct

The Victorian Bar has launched a revised code of conduct for its members. The revised code encourages reporting of bullying, sexual harassment or discrimination. It also offers support for victims and guidance to barristers who need to improve their conduct with the introduction of a Peer Support Barristers Program. <https://www.vicbar.com.au/news-events/media-release-%E2%80%93-victorian-bar-revises-code-conduct>

## IN PRACTICE AND COURTS

### Draft legislation for Australian Government Digital Identity System

The proposed legislation will enshrine in law, privacy and consumer safeguards for greater trust in the System as it expands. This includes more services and sectors, accelerating an economy-wide rollout. Submissions are open until 27 October 2021. Visit [digitalidentity.gov.au/have-your-say](https://digitalidentity.gov.au/have-your-say) for more information.

### ACMA: Scam alert: COVID-19 scams

Australians need to be vigilant about scammers using calls, SMS and emails to take advantage of the COVID-19 vaccination rollout and, more generally, COVID-related restrictions. If in doubt, or for more information, contact the Department of Health's COVID-19 vaccine helpline on 1800 020 080 or visit [health.gov.au](https://health.gov.au) You can make a report and/or find out more about COVID-19 scams at [Scamwatch](https://www.scamwatch.gov.au).

## Victoria

### Supreme Court Victoria Practice Notes – September 2021

#### [Notice to the Profession - Changes to file inspections and affidavits for proceedings in the Common Law Division and Commercial Court](#)

This Notice relates to changes to file inspections and affidavits for proceedings in the Common Law Division and Commercial Court.

#### [SC Gen 20 Inspection of civil court files by non-parties](#)

The purpose of this Practice Note is to explain the reliance that will be placed on details provided by the parties of evidential material to read and relied on, in the context of inspection of civil...

### Commonwealth and Victorian Courts' COVID updates [Coronavirus information](#)

08 October 2021 - The Supreme Court of Victoria is following State and Commonwealth Government advice regarding coronavirus (COVID-19).

### Changes to Supreme Court of Victoria file searches and affidavits

The Supreme Court of Victoria has new rules relating to court file searches and affidavits, which will come into effect on 1 October 2021, evidentiary documents filed in a proceeding, including affidavits, exhibits to affidavits, witness statements, expert reports, written submissions, outlines of argument and chronologies, may not be inspected by any non-party until the document has been read or relied on in open court or for an application determined without a hearing.

[Practice Note SC Gen 20 Inspection of Civil Court Files by Non-Parties](#) and [Notice to the Profession \(Changes to File Inspections and Affidavits\)](#) have been published on the Court's website, providing further details of the changes and how they apply in the Common Law Division and Commercial Court. Further information on these changes can be found in the [Supreme Court news story](#).

## CASES

### [Nine Network Australia Pty Ltd v Civil Aviation Safety Authority \[2021\] FCA 1160](#)

ADMINISTRATIVE LAW – application for judicial review under the Administrative Decisions (Judicial Review) Act 1977 (Cth) – urgent suspension or stay of decision – where respondent declared restricted area under Airspace. Administrative Decisions (Judicial Review) Act 1977 (Cth); Airspace Regulations 2007 (Cth).

### [Laird v Laird \[2021\] VSC 645](#)

ADMINISTRATIVE LAW – Appeal from a decision of the Victorian Civil and Administrative Tribunal as to costs – Guardianship proceeding – Whether Tribunal's decision infected by error – Where Tribunal relied on unserved additional submissions – Appeal allowed – Whether to redetermine or remit – Decision to re-exercise costs discretion.

### [Re Blockchain Tech Pty Ltd \[2021\] VSC 640](#)

PRACTICE AND PROCEDURE – Discovery of documents – Production for inspection of discovered documents – Scope of discovery - Whether categories of documents are discoverable – Whether categories of documents are relevant – Volunteer Fire Brigades Victoria v CFA (discovery ruling) [2016] VSC 537.

PRACTICE AND PROCEDURE – Subpoena objections – Subpoenas issued to banks – Whether classes of documents sought are discoverable – Whether subpoenas are used as a substitute for discovery - Objections to subpoenas allowed on the basis that subpoenas were used as substitute for discovery.

### [Pattersons Insurerbuild Pty Ltd v AWS Services Vic Pty Ltd \[2021\] VSC 639](#)

ADMINISTRATIVE LAW – Appeal from a decision of the Victorian Civil and Administrative Tribunal – Whether Tribunal erred in failing to award damages to the applicant – Whether Tribunal made finding of breach of contract – Whether damages ought to flow from breach – Where grate drain not great drain – Assessment of damages for breach of contract – Whether reasonable to award rectification damages – Whether respondent denied procedural fairness – Applications for extension of time and leave to appeal granted – Appeal dismissed.

This proceeding concerns a leaking balcony in Frankston and a leaking shower in St Kilda. Both were the subject of insurance claims.

### [Smith v Thompson & Anor \(No 2\) \[2021\] VSC 632](#)

ADMINISTRATIVE LAW – Search warrant issued for plaintiff's residential address – Items seized – Items returned and no criminal charges made against plaintiff – Judicial review of decision to issue search warrant – Whether the plaintiff can inspect affidavit filed in support of warrant issued – Whether the affidavit has forensic purpose for the plaintiff's application – Whether public interest immunity applies – Supreme Court (General Civil Procedure) Rules 2015 r 42.13 – Crimes Act 1958 s 465 – Evidence Act 2008 s 130.

## LEGISLATION

### Victoria

#### Bills

Date of second reading speech: 6 October 2021  
[Children, Youth and Families Amendment \(Child Protection\) Bill 2021 \(Vic\)](#)

Date of second reading speech: 6 October 2021  
[Health Legislation Amendment \(Information Sharing\) Bill 2021 \(Vic\)](#)

Date of second reading speech: 6 October 2021  
[Mental Health Amendment \(Counsellors\) Bill 2021 \(Vic\)](#)

#### Statutory Rules – 28 September 2021

[No 122 Status of Children Amendment \(Counselling\) Regulations 2021 – 28 September 2021](#)

Victorian legislation can be accessed here [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au)

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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.

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.

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