

Supreme Court of Victoria
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STATEMENT FROM ANNE FERGUSON CHIEF JUSTICE OF THE SUPREME COURT OF VICTORIA

17 February 2022

In March 2021, the Court was advised of allegations of sexual harassment and discrimination involving a retired judge. The complaints were made by two women who are former Judges' Associates.

The Court established a confidential, independent investigation at the request of the individuals making the complaints. That investigation was undertaken by Kate Eastman AM SC, a barrister from Sydney with extensive experience in this field.

Ms Eastman adopted a trauma informed approach to the investigation. She interviewed each of the former employees and the former judge as well as reviewing relevant documents. The Court received two draft reports from the investigation in late January 2022 and final reports in February of this year.

Ms Eastman found that the two women were sexually harassed and/or subjected to discrimination on the basis of sex. The findings include that the women experienced:

- Unwelcome sexual advances
- Unwelcome conduct of a sexual nature; and
- Unfavourable treatment in employment on the basis of sex

The reports found that the actions of the judge were a serious transgression of appropriate professional boundaries. The reports noted the significant power imbalance between the employees and the judge.

As I read the reports I was struck by the horrible impact of these actions. The employees experienced panic, feelings of being powerless, embarrassed, trapped, anxious, deeply uncomfortable, distressed, intimidated and fearful for their employment and future careers.

The behaviour of the judge was wrong and reprehensible.

I am profoundly sorry that the behaviour the women endured occurred. It should never have happened. Every person who works in and with our Court has a right to feel safe. They must be able to feel that they are respected and can trust everyone in their workplace.

I thank the women involved for coming forward. I know that was not easy. I acknowledge the trauma they have experienced.

Although we know how hard it is to make a complaint, we encourage people to speak up when they experience or witness inappropriate behaviour. We will investigate any complaints, past or present. Anyone who reports sexual harassment will be supported and

treated fairly.

This unacceptable behaviour must stop. Apologies are not enough. The responsibility to change culture and put measures in place to stop it happening lies with us.

We are taking action to prevent sexual harassment and discrimination in our Court.

We are working hard to ensure our workplace is safe, respectful, and inclusive.

In August 2020 I, together with the then Attorney-General, commissioned a Review into Sexual Harassment in the Victorian Courts and VCAT. Dr Helen Szoke completed that review last April. The report from that review set out recommendations to prevent sexual harassment, improve reporting and support for those who experience sexual harassment, raise awareness, and ensure accountability across the State's courts and VCAT. Most of the recommendations are directed to:

- Court Services Victoria (CSV) (the employer of all staff working in Victorian Courts and VCAT);
- Courts Council (the governing body of CSV);
- the heads of each Victorian jurisdiction;
- the Judicial Commission of Victoria; and
- the Judicial College of Victoria.

Those recommendations have been accepted by us. We are committed to their implementation and have begun this work.

We have also committed to reviewing the effectiveness of these measures once implemented so that we will know if there is more we need to do.

We will continue to work to build cultures of respect, fairness, and inclusion, with equal opportunity for all of our employees to thrive.

ANNE FERGUSON
CHIEF JUSTICE OF THE SUPREME COURT OF VICTORIA
17 February 2022

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Further Information

Further information about the [Review into Sexual Harassment in the Victorian Courts and VCAT can be found at this website link](#)

Some of the measures underway in response to the recommendations include:

- Court leaders have communicated to judicial officers and staff that sexual harassment will not be tolerated, that active steps are being taken to prevent sexual harassment in the workplace and that appropriate and supportive mechanisms are in place to address sexual harassment where it occurs
- A dedicated project group has been established within CSV to lead the implementation of recommendations
- An external, specialist Sexual Harassment Support Service has been established

- Following extensive consultation, a new suite of policies, including a sexual harassment and victimisation policy will be launched in late February, alongside detailed guidelines for judicial officers developed by the Judicial Commission
- A sexual harassment risk assessment has been undertaken across the courts and VCAT
- Sexual harassment contact officers and executives have undergone sexual harassment education sessions with the Victorian Equal Opportunity and Human Rights Commission (VEOHRC) with further workshops planned on a quarterly basis to build on this initial training
- An education session has been held with all Victorian heads of jurisdiction, conducted by former head of the VEOHRC
- The Judicial College of Victoria is working on an education program for judicial officers on sexual harassment and has released a podcast episode with judicial officers in conversation with the former VEOHRC Commissioner about the culture of courts, the damaging consequences of disrespectful behaviour and what it means to be a 'good judicial officer' in the workplace.
- HR leaders across all courts and VCAT have undertaken targeted specialised sexual harassment and inappropriate behaviours training and are undertaking quarterly update sessions
- Managers have undertaken targeted special sexual harassment and inappropriate behaviours training
- Work has begun on the development of all-staff training including an induction module for new staff and specific guidance material for staff and judicial officers
- An independent person is reviewing and will make recommendations to Courts Council on recruitment processes and working arrangements for staff working in a primary relationship with judicial officers
- Changes have been made to the criteria for appointing barristers as Senior Counsel
- It is now a performance measure for all CSV staff to positively participate and support the work of the sexual harassment review and for managers to model positive workplace behaviour and respond to concerns or complaints in a timely and sensitive way
- A person with specific expertise in the prevention of sexual harassment has been appointed as a member of the Courts Council Health, Safety and Culture Committee
- People Matters Survey (for all CSV employees) included a number of questions on sexual harassment to better understand employees' experiences and reporting numbers. A further survey was conducted in December 2021 specifically on the complaints process.

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