

IN THE MATTER OF THE ROYAL COMMISSION
INTO FAMILY VIOLENCE

STATEMENT OF BELINDA ROSE CLARK QSO

Date of document: 9 October 2015
Filed on behalf of: State of Victoria
Prepared by:
Victorian Government Solicitor's Office
Level 33
80 Collins Street
Melbourne VIC 3000

I, BELINDA ROSE CLARK QSO, VICTORIAN PUBLIC SECTOR COMMISSIONER, SAY AS FOLLOWS:

1. I am the Victorian Public Sector Commissioner. I was appointed to this office in April 2014 when the Victorian Public Sector Commission (**Commission**) was established.
2. Prior to my current position, I was Chief Executive of New Zealand's Tertiary Education Commission (**TEC**) from 2011 until 2013. The TEC funds tertiary education in New Zealand and monitors the performance of tertiary education providers.
3. From 2001 until 2011, I was Secretary of Justice and Chief Executive of the Ministry of Justice in New Zealand. In this role I had responsibility for advising the government on all aspects of civil and criminal law. I have also held the roles of General Manager (Policy and Planning) with the Accident Compensation Corporation, the Director of the Office of Treaty Settlements and Group Manager (Policy) with the Ministry of Maori Development. All these roles were based in New Zealand.
4. I commenced my career in New Zealand's Ministry of Foreign Affairs and Trade (**MFAT**) as a Diplomatic Cadet. I served with MFAT for 10 years, including four years as New Zealand's Representative to the United Nation's Third (Human Rights) Committee. I also worked for four years as a senior associate in the banking and commercial areas of Minter Ellison Rudd Watts, a trans-Tasman law firm. While at the firm I worked for 12 months on a secondment to the Reserve Bank of New Zealand.

- 2 -

5. I hold a Bachelor of Laws (with Honours) and Bachelor of Arts from the University of Auckland. I also hold a Master of Laws from New York University. I am a Fellow of the New Zealand Institute of Management and a member of the New Zealand Institute of Directors.
6. I make this statement in my capacity as the Victorian Public Sector Commissioner.

SCOPE OF THE STATEMENT

7. I have received a notice from the Royal Commission into Family Violence pursuant to s 17(1)(d) of the *Inquiries Act 2014* (Vic) requiring me to attend to give evidence at the Royal Commission and to provide a written witness statement.
8. I understand that the Royal Commission would like me to give evidence at the public hearing for Module 2 of the October hearings, which relates to Developing the Workforce. I have been informed that this evidence will focus particularly on workforce diversity and its implications for services responding to family violence.
9. Before I discuss issues pertaining to workforce diversity in the public sector, I describe the functions of the Commission and I also describe the 'public sector' to which the functions of the Commission relate.

VICTORIAN PUBLIC SECTOR COMMISSION

10. The Commission is established by s 37(1) of the *Public Administration Act 2004* (Vic) (**the Act**). Pursuant to s 38 of the Act, the Commission has the following two objectives:
 - (a) to strengthen the efficiency, effectiveness and capability of the public sector in order to meet existing and emerging needs and deliver high quality services (see s 38(a) of the Act) (**first objective**); and
 - (b) to maintain, and advocate for, public sector professionalism and integrity (see s 38(b) of the Act) (**second objective**).
11. The Commission's functions are specified in the Act and are tied to its two objectives. Section 39(1) provides that, in fulfilling its first objective, the Commission has the following functions:
 - (a) to assess and provide advice and support on issues relevant to public sector administration, governance, service delivery and workforce management and development (see s 39(1)(a));

- 3 -

- (b) to conduct research and disseminate best practice in relation to public sector administration, governance, service delivery and workforce management and development (see s 39(1)(b));
 - (c) to collect and report on whole of government data (see s 39(1)(c); and
 - (d) to conduct inquiries as directed by the Premier (see s 39(1)(d)).
12. Pursuant to s 39(2)(a) of the Act, the Commission must perform any work falling within its functions under s 39(1)(a), (b) and (c) as requested by the Premier. By contrast, pursuant to s 39(2)(b) the Commission has a discretion to undertake such work when requested by a minister or public sector body.
13. Section 40(1) of the Act provides that, in fulfilling its second objective, the Commission has the following functions:
- (a) to advocate for an apolitical and professional public sector (see s 40(1)(a));
 - (b) to issue and apply codes of conduct and standards (see s 40(1)(b));
 - (c) to monitor and report to public sector body Heads on compliance with the public sector values, codes of conduct and public sector employment principles and standards (see s 40(1)(c));
 - (d) to review employment related actions and make recommendations following those reviews (see s 40(1)(d)); and
 - (e) to maintain a register of lobbyists and a register of instruments (see s 40(1)(e)).
14. Pursuant to s 40(2), the Commission is not subject to Ministerial direction or control in performing the functions listed in s 40(1)(a), (b), (c) or (d) of the Act.
15. The Act establishes an Advisory Board, which comprises the Secretary to the Department of Premier and Cabinet as Chairperson and a maximum of seven persons appointed by the Premier in accordance with the Act. The Commission must have regard to the advice of the Advisory Board in performing its functions and setting its annual and strategic plans.
16. As Commissioner, my functions are tied to the powers and functions of the Commission under the Act (and other legislation conferring powers and functions on the Commission).

- 4 -

17. The Commission publishes the *Code of Conduct for Victorian Public Sector Employees*, the *Code of Conduct for Victorian Public Sector Employees of Special Bodies* and the *Directors' Code of Conduct & Guidance Notes*. The Commission also collects workforce data and publishes the *State of the Public Sector in Victoria*, a document which reports on (among other things) the composition of the public sector and includes demographic information about the public sector workforce. Demographic information is largely concentrated on age and gender breakdown. The Report has a chapter on the results of the People Matters Survey, a survey conducted by the Commission, which captures the views of public sector employees on public sector values and employment principles, wellbeing and engagement.
18. The Commission currently has 49.95 full time equivalent (FTE) staff. Of the 49.95 FTE staff, 26.65 FTE are funded through Government appropriation, and 23.3 FTE are funded through 'fee for service' arrangements whereby the Commission charges a fee for the services provided.
19. As noted above, the Commission is required to deliver on a range of statutory functions within these resources.

THE VICTORIAN PUBLIC SECTOR

20. The work of the Commission concerns the Victorian public sector. The Act defines the public sector to include the public service, public entities and special bodies (see s 4(1) of the Act). The Victorian public sector has the following broad structure:
 - (a) public service bodies, which are defined by s 4(1) of the Act to include Departments, administrative offices (such as the Environmental Protection Authority and the Victorian Government Solicitor's Office) and the Commission;
 - (b) public entities, which are defined by s 5 of the Act and include statutory authorities, state-owned corporations, school councils, boards and trusts, advisory committees, and professional regulatory bodies; and
 - (c) special bodies, which are listed in s 6 of the Act and include, but are not limited to, a department of the Parliament of Victoria, the Independent Broad-Based Anti-Corruption Commission and Victoria Police.
21. The Victorian public sector currently employs approximately 277,000 people across 40 public service employer agencies (7 departments and 33 offices and authorities), 229 public entity employers, and 1539 school councils.

DEVELOPING THE WORKFORCE

22. As noted above, the Commission has broad functions in terms of supporting public sector efficiency, effectiveness and capability. The Commission delivers on its objectives and functions in accordance with the resourcing available to the Commission.
23. I will now outline current functions and activities of the Commission that relate to developing the public sector workforce.

Public sector employment principles and standards

24. As noted above, the Commission's functions include monitoring and reporting to public sector body Heads on compliance with the public sector values, codes of conduct and public sector employment principles and standards (see s 40(1)(c)).
25. The public sector values are set out in s 7 of the Act and include responsiveness, integrity, impartiality, accountability, respect, leadership and human rights. Section 7 provides further detail in relation to each of these values. Section 7(1)(e) provides that public sector employees should demonstrate respect to work colleagues, other public officials and the community through fair and objective treatment and by ensuring freedom from discrimination, harassment and bullying. Section 7(1)(g) provides that public officials should respect and promote the human rights set out in the Charter of Human Rights and Responsibilities by making decisions and providing advice consistent with human rights and by actively implementing, promoting and supporting human rights. Diversity is an aspect of human rights, in particular the right to equality and freedom from discrimination in s 8 of the Charter.
26. The public sector employment principles are set out in s 8 of the Act, which provides that public sector body Heads must establish employment processes that will ensure that, among other things, equal employment opportunity is provided and human rights as set out in the Charter are upheld.
27. Diversity of the public sector workforce is important given that the Victorian community itself is diverse. Data from the 2011 Australian Census indicates that:
 - 27.1 49.2% of the Victorian population is male and 50.8% is female; and
 - 27.2 19.6% of the Victorian population were born in non-main English-speaking countries.

28. It is also widely understood that the community is also diverse in terms of sexual orientation.
29. Public sector agencies, including those which respond to family violence, should be sensitive to that diversity. In my view, this sensitivity can be achieved by employing workers from the same diverse background as the community they are serving or alternatively by equipping employees with the skills to work capably and sensitively with a diverse community.
30. A number of public sector agencies have programs to expand the diversity of their workforce, for example in relation to hiring employees from an Aboriginal and Torres Strait Islander background and enhancing the representation of particular cultural and linguistic groups. For example:
- 30.1 the Commission administers an Aboriginal Pathway Program to the Victorian Public Service Graduate Recruitment and Development Scheme, which recruits and develops recent tertiary graduates for roles in the public service;
 - 30.2 the Department of Health and Human Services (**DHHS**) has an internship program that provides employment opportunities for university graduates with a disability;
 - 30.3 the Department of Justice and Regulation has a comprehensive Koori Employment Strategy. Key initiatives include the Koori Graduate Recruitment and Development Scheme, Koori Tertiary Scholarships, Koori Youth Traineeships and the Koori Prison Officer Program. Koori employees are supported through the Koori Staff Network and the Koori Mentoring Program.
31. Agencies also have programs to promote the public sector as a desirable place to work, including by ensuring there are pathways for employment and promotion for people from diverse backgrounds. However, it is important to note that the success of such programs also depends on the desire of individuals in target communities wanting to work within the public sector.

Public sector workforce capability

32. The Commission's legislative powers and functions are limited to the public sector. The Commission has no jurisdiction to collect data about, or review the practices of,

the non-government sector workforce or the local government workforce, which may be funded by government.

33. In respect of the public sector, it is within the Commission's responsibilities to conduct research and disseminate best practice in relation to public sector administration, governance, service delivery and workforce management and development. Where public sector agencies identify the awareness of, or appropriate response to, family violence as an area where skills in its workforce are lacking, it would be consistent with the functions of the Commission to provide an advisory and support role to assist agencies in developing their workforce. Workforce skills include technical skills relating to service delivery, and people skills, such as developing rapport and client trust. The extent of the advisory and support role of the Commission would be dependent on resourcing available to the Commission.
34. The Commission could, for example, assist an agency develop its own training program for employees for identifying and responding to the risk of family violence. A recent example of an identified capability gap is in the area of skills for employees dealing with people affected by the drug "Ice". Development of a program to build required capability fostered a collaborative approach across service delivery areas led by the major service provider DHHS. The Commission has provided input and advice to DHHS on how to develop the program.
35. A general heightening of awareness of family violence within public sector agencies is starting to emerge, including with departments developing strategies for dealing with employees who may be either victims of perpetrators of violence. Some large departments are also currently seeking White Ribbon Accreditation.
36. In addition to providing support to public sector agencies with specific workforce capability matters, the Commission is currently undertaking a significant project for the Victorian Secretaries' Board, which is examining how to develop the workforce capability of the Victorian public sector. As this project progresses it may involve examination of current capability gaps in the public sector workforce, and strategies for improvement. While this project does not relate specifically to family violence, it does concern whether relevant Victorian public sector employees have the requisite skills to deliver Government priorities. The Commission will be reporting back to the Victorian Secretaries' Board next year, which will drive the future direction of the project.

Workforce data collection and reporting

37. The Commission has a function to collect and report on whole of government data. In line with this function, the Commission collects and reports on information relating to the public sector workforce.
38. The Commission is unable to confirm the size of the public sector workforce that is involved in family violence responses. It is anticipated that this workforce would include public sector employees across a range of organisations and professions, including:
- 38.1 Police Officers;
 - 38.2 Allied Health Officers;
 - 38.3 nurses;
 - 38.4 Housing Services Officers;
 - 38.5 Children, Youth and Families Officers and Child Protection practitioners;
 - 38.6 Youth Justice workers; and
 - 38.7 counsellors, psychologists and welfare staff employed by Court Services Victoria.

However, current data collection mechanisms cannot collect information on the extent to which these employees, or others, are involved in family violence responses either directly or indirectly.

39. In addition, there are limitations with public sector workforce data concerning diversity, for example in relation to employees from culturally and linguistically diverse backgrounds or LGBTI employees. The same is true of data concerning employees with disabilities. Victoria has a decentralized system of recording data on employee background and training. This means that the Commission receives data from public sector agencies, which use their own systems and processes and policies for data collection.
40. The Commission's primary source of data on the diversity of the workforce is the People Matter Survey. In my experience, there is a reluctance by survey respondents to report on their background as they may be concerned about how the data is used or because they consider the questions intrusive. Furthermore, the

People Matter Survey is a sample survey and therefore subject to margins of error that don't exist for routine workforce data collection.

- 41. A comprehensive whole of public sector agenda to change the way public sector data is collected and reported to the Commission would be required in order to develop a greater understanding of the Victorian public sector family violence workforce.

Signed by BELINDA ROSE CLARK QSO)
 at Melbourne)
 this 9th day of October 2015)



Before me