

4 January 2016

Private and Confidential

Mr Chris Bince
CRN 04351 - Melaleuca Unit
Barwon Prison
Locked Bag 7
LARA VIC 3212

Dear Mr Bince

Your Complaint about Saul Holt of Victoria Legal Aid

Our ref: COM-2015-1338 - Jim Unkles

Decision

My office is an independent statutory authority established by the *Legal Profession Uniform Law (Victoria)* ("the LPUL") to handle complaints about lawyers and law practices.

I have received your complaint about Mr Saul Holt (practitioner).

When I receive a complaint I must make a *preliminary assessment* of it, that is, I must examine it to determine whether or not I have power to help and if so, what sort of assistance I may be able to provide. However, there are limits to what I can do. My actions are limited to the powers given to me by the LPUL.

Generally speaking, there are two types of complaints I receive, being;

- disputes about legal costs and other issues between lawyers and their clients; and
- complaints about the behaviour and conduct of lawyers.

Your complaint concerns your allegations that:

- the practitioner engaged in criminal behaviour with respect to your criminal court trial;
- the practitioner colluded with Victoria police and the Crown to pervert the course of justice and deny you a fair trial;
- Victoria Police officers committed criminal offence with respect to your investigation and trial.

I have now completed my preliminary assessment of your complaint and concerns and I have decided that I must close your complaint pursuant to Section s 277(1)(a) of the LPUL – being vexatious, misconceived, frivolous or lacking in substance

The reasons for this decision are as follows:

The conduct you have described is not of the kind that warrants my intervention. In order to investigate a complaint about conduct I must be satisfied that the conduct if proven, would amount to unsatisfactory professional conduct or professional misconduct. These are specific

concepts under the LPUL the meanings of which have been determined over time by the Courts and Tribunals involved in the discipline of lawyers.

Your Legal Representation

I understand that you are dissatisfied with the manner in which the practitioner represented you at your legal proceedings. However, this office is not able to examine the merits of your case, and determine what evidence should or should not have been called at the proceedings and the content of submissions made by your lawyers. It is not the function of this office to give you a second opinion or decide how the defence to criminal charges should have been conducted on your behalf.

Legal matters are often very complex and different practitioners may express different views on matters without this giving rise to any disciplinary implications. It is also an area where, in hindsight, advice may prove incorrect, but that may have been impossible to predict at the time the advice was given.

The manner in which your case was argued in Court called for judgement being exercised by your practitioner. Unfortunately, this office cannot forensically examine how your case was managed, the evidence presented on your behalf and the examination of witnesses. In criminal proceedings, defendants retain the right of appeal to a superior court and this was an option you had if you believed that you had suffered a miscarriage of justice. Unfortunately, this office does not have the judicial authority to retrospectively consider your conviction or sentence.

Actions of Victoria Police and the Crown

Allegations of criminal conduct by Police and the Crown is not a matter for this office to investigate and is not within our judicial jurisdiction.

The matters that raised in your complaint could have referred to a Court of appeal. Alternatively, you could refer your complaint to the Police Conduct Unit, Professional Standards Command GPO Box 913, Melbourne VIC 3001 or the Independent Broad-based Anti-corruption Commission (IBAC), GPO Box 24234, Melbourne Vic 3001.

I have enclosed the DVDs and CDs attached to your complaint.

Yours sincerely



Miranda Breisch
Acting Manager, Assessment & Resolutions