

GOVERNMENT RESPONSE TO THE PARLIAMENT OF VICTORIA LAW REFORM COMMITTEE INQUIRY INTO VEXATIOUS LITIGANTS FINAL REPORT

The Government welcomes the Parliament of Victoria Law Reform Committee's Final Report of its Inquiry into vexatious litigants (the Committee).

Vexatious litigants are defined in current Victorian law as people who habitually, persistently and without any reasonable grounds institute vexatious legal proceedings. Victoria already has a range of laws to deal with vexatious litigants, including section 21 of the *Supreme Court Act 1986* (Vic), which allows the Supreme Court to declare a person a vexatious litigant on the application of the Attorney-General. This prevents the person continuing or bringing further legal proceedings without leave from the court.

On March 2007, the Legislative Assembly gave the Committee terms of reference to conduct an Inquiry into vexatious litigants. On 4 December 2008, the Committee tabled its Final Report containing 32 recommendations for legislative and procedural reform to vexatious litigant laws.

Committee's findings

The Committee has identified that there is no firm data about the number of vexatious litigants in Victoria's courts and tribunals but some witnesses suggested the number was relatively small. While 15 people have been declared vexatious by the Supreme Court since 1928, this may not reflect the true extent of the problem. The Committee acknowledges that there is conflicting evidence about whether or not the number of possible vexatious litigants in Victoria is increasing.

There are conflicting views about why some people become vexatious litigants. The Inquiry considered factors such as poor early complaint handling services, lack of legal advice and poor treatment by courts and tribunals. The characteristics of the litigants themselves, such as motive and personality, may also contribute.

The Committee considered the impact of vexatious litigants on the justice system, noting that it is not possible to quantify the effect. The Committee gathered anecdotal evidence that although vexatious litigants are few in number they consume disproportionate amounts of resources in courts and tribunals. Some vexatious litigants also cause stress and security issues for judicial officers, court staff and lawyers. The Committee considered how vexatious litigants have a significant financial and emotional impact on the people they sue.

The Committee identified that the impact of vexatious litigants is felt more in the Supreme Court and County Courts than the Magistrates' Court or the Victorian Civil and Administrative Tribunal (VCAT). There are particular problems in family violence proceedings in the Magistrates' Court, which the vexatious litigants provisions in the *Family Violence Protection Act 2008* (Vic) aims to address.

The Committee considered that the current provision in section 21 of the *Supreme Court Act* is not always effective as applications are made infrequently. When orders

are made the Committee concluded that they are not always effective in stopping vexatious litigants.

Committee's recommendations

The Committee's preferred approach is to prevent vexatious litigants wherever possible and to manage one-off or infrequent vexatious proceedings more effectively without restricting general rights of access to justice. The Committee believes access to the courts should only be restricted when there is clear evidence of an established pattern of vexatious litigation. The Committee has made 32 recommendations to give effect to this approach.

The recommendations address alternative (non-legislative) ways of dealing with vexatious litigants, including better case management and more training and guidance for the judiciary and court and tribunal staff.

The recommendations also propose legislative reform to Victoria's vexatious litigant laws. The Committee recommends that Victoria move away from the traditional approach to vexatious litigants, where orders are made only as a last resort in the most extreme cases, to a system of 'graduated orders' like those used in civil cases in the United Kingdom. These orders are known as 'litigation limitation orders' and include a series of orders depending on the seriousness of the vexatious litigants behaviour:

- 'limited litigation orders' would restrain a person from continuing or bringing further interlocutory applications in existing litigation without leave;
- 'extended litigation orders' would restrain a person from continuing or bringing proceedings against particular people or organisations, or about particular issues, without leave; and
- 'general litigation limitation orders' would restrain a person from continuing or bringing any proceedings without leave.

The Committee recommends more information and clearer procedures for members of the public and courts and tribunals to refer possible cases for vexatious litigant orders to the Attorney-General. The Committee recommends that courts and VCAT should be able to consider a broader range of factors than under the current law, such as the way the person conducts the proceedings and their motive, any interlocutory applications and proceedings in other Australian courts. The Committee concludes that any legislative reform should be reviewed after a period of five years to assess its effectiveness and impact on access to justice.

Government's response

Following the tabling of the Committee's Final Report, the Department of Justice conducted internal consultations with business units. The Department also established an Inter-Departmental Steering Committee, which included the Department of Premier and Cabinet, Department of Human Services, Department of Planning and Community Development and Victoria Police to consider the Final Report.

The Government's response is to further consider the Committee's recommendations in the context of current reform, in particular, the Consolidated Courts Act Project and the Civil Justice Review. Any reforms to legislation or procedure governing

vexatious litigants in Victoria will also need to be compatible with the *Charter of Human Rights and Responsibilities Act 2006* (Vic).

Further consultation and consideration of the Committee's recommendations should also take account of broader reform of vexatious litigant laws in Australia. In 2004 the Standing Committee of Attorneys-General, the Ministerial Council of Commonwealth, state and territory Attorneys-General in Australia approved a 'model bill' to address vexatious litigants. The model bill allows a range of people to apply for orders and has a lower threshold test that the courts and tribunals can apply for making orders. It also attempts to address 'forum shopping' by vexatious litigants who move between different Commonwealth, state and territory courts and tribunals in Australia.

Conclusion

The Government recognises the important contribution made by the many individuals and organisations who participated in the Committee's review. This response sets out the Government's commitment to an ongoing consideration of vexatious litigant laws and procedures in Victoria.

**PARLIAMENT OF VICTORIA LAW REFORM COMMITTEE - INQUIRY INTO VEXATIOUS LITIGANTS – FINAL REPORT
GOVERNMENT RESPONSE TO RECOMMENDATIONS**

Recommendation	Government Response	Page Reference
<p>1 Case management The courts and VCAT should develop, trial and evaluate agreed case management strategies for possible vexatious litigants. In particular, the courts and VCAT should consider docket systems, simpler litigation procedures, fast-tracking hearings and systems for information sharing between court and VCAT registries.</p>	<p>The Government will consider the Committee's recommendations on case management as it reviews and implements the related recommendations of the Victorian Law Reform Commission <i>Civil Justice Review</i>, Report 2008 (VLRC Report) and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.</p>	<p>Page 105</p>
<p>2 Training and guidance for judicial officers and VCAT members The Judicial College of Victoria should provide training in and guidance for judicial officers and VCAT members on dealing with possible vexatious litigants. The training should be available through the College's intranet service and the orientation course for new appointees, as well as through other programs.</p>	<p>The Government will consider the Committee's recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.</p> <p>Training by Judicial College of Victoria supported in principle. Training package under development.</p>	<p>Page 106</p>
<p>3 Training and guidance for court and tribunal staff The Victorian Government should provide training in and guidance for all court and VCAT staff on dealing with possible vexatious litigants. The training and guidance should be provided in induction programs for new staff, as part of ongoing training for existing staff and in written manuals.</p>	<p>The Government will consider the Committee's recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.</p>	<p>Page 107</p>
<p>4 Training and support for lawyers 4.1 The Law Institute of Victoria should provide training in and publish professional guidelines for solicitors about dealing with possible vexatious litigants.</p>	<p>The Government will consider the Committee's recommendation as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.</p>	<p>Page 109</p>
<p>Training and support for lawyers 4.2 The Victorian Bar should provide training, including as part of the Bar reader's course, and publish professional guidelines for barristers about dealing</p>	<p>The Government will consider the Committee's recommendation as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in</p>	<p>Page 109</p>

Recommendation	Government Response	Page Reference
with possible vexatious litigants.	consultation with the courts and the profession.	
<p>5 Fee waivers: The Victorian Government should, in consultation with the courts and VCAT, review fee waiver provisions to ensure that fee waivers are only provided in cases of genuine financial hardship and to consider as an additional ground that the proceedings are not vexatious.</p>	<p>The Government supports initiatives to ensure court resources are managed efficiently and proportionately. The Government is reviewing the policy around court fees. This recommendation will be considered within this review.</p> <p>The Government also notes recommendation 132 of the VLRC's Report which provides that the prothonotary or registrar should have the discretion to waive court fees and photocopying and other charges otherwise payable by the applicant in proceedings for orders in relation to a vexatious litigant.</p>	Page 114
<p>6 Security for costs The courts should amend their rules to clarify that security for costs may be ordered when the proceedings are vexatious. The training and guidance for judicial officers in recommendation 2 should include information about the power to make a security for costs order when the proceedings are vexatious.</p>	The Government supports in principle but notes that the amendment of the courts' rules are within the jurisdiction of the courts.	Page 117
<p>7 Registrars' powers to refuse to seal documents 7.1 The courts should amend their rules to make it clear that registrars must seek directions from a judge before refusing to seal or accept documents. The rules should also specify that a judge may make this determination in open court.</p>	The Government will consider the Committee's recommendation as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.	Page 125
<p>7.2 The courts should publish on an annual basis information about the number of times the power to refuse to seal or accept documents is exercised.</p>	The Government will consider the Committee's recommendation as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.	Page 125
<p>8 Interventions by the Victorian DPP 8.1 The Victorian DPP should publish the policy for taking over private criminal prosecutions under section 22(1)(b)(ii) of the <i>Public Prosecutions Act 1994 (Vic)</i>.</p>	The Government supports this recommendation. The policy in relation to taking over private criminal prosecutions is currently under review and it is expected it will be published on the Office of the Public Prosecutions' website in the near future.	Page 127

Recommendation	Government Response	Page Reference
8.2 The Victorian DPP's policy for taking over private criminal prosecutions under section 22(1)(b)(ii) should include mechanisms for dealing with apparent conflicts of interest which arise when the DPP or an officer of the DPP is the subject of the prosecution.	The Government agrees with this recommendation. An appropriate mechanism will be included in the Director of Public Prosecutions' policy, to be published shortly. The Director of Public Prosecutions proposes to implement the mechanism suggested in the Committee's report, whereby in such circumstances the Director of Public Prosecutions will request the Attorney-General to exercise the DPP's discretionary function under section 22(1)(b)(ii), pursuant to section 29 of the <i>Public Prosecutions Act 1994</i> (Vic), which allows the Director of Public Prosecutions to request the Attorney-General to exercise the Director of Public Prosecutions' powers in a situation where there is a conflict of interest or it is otherwise in the interests of justice to do so.	Page 127
8.3 The Victorian Government should examine possible mechanisms to enable a litigant to appeal decisions of the DPP under section 22(1)(b)(ii).	The Government notes the recommendation.	Page 127
8.4 The Office of Public Prosecutions should publish in its annual report the number of private criminal prosecutions taken over and discontinued by the Victorian DPP under section 22(1)(b)(ii).	The Government agrees with this recommendation. It is noted that the rationale behind this recommendation is the laudable objective of increased accountability in relation to the exercise of the Director of Public Prosecutions' discretion under section 22(1)(b)(ii). The Office of Public Prosecutions has committed to commence publishing these figures in its annual report for the financial year ending 30 June 2009, and will continue to do so in each annual report thereafter.	Page 127
9 Courts' power to stay criminal proceedings The Victorian Government should introduce legislation codifying the courts' inherent power to stay criminal proceedings that are an abuse of process.	The Government will consider the Committee's recommendation as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.	Page 128
10 Registrars' powers to refuse to issue vexatious criminal proceedings The Victorian Government should consider giving registrars a statutory power to refuse to issue vexatious criminal proceedings. Any such legislation should make it clear that registrars must seek directions from a judge before refusing to issue proceedings.	The Government will consider the Committee's recommendation as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.	Page 129
11 McKenzie friends The courts should develop and circulate plain-language materials about the	The Government notes that the VLRC Report recommends that legislation prohibit a person acting in concert with a vexatious litigant from taking or	Page 136

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	<p>principles of representation and appropriate persons to act as McKenzie friends.</p> <p>continuing an action, and prohibit a vexatious litigant acting in concert with, or directing, another person to bring legal proceedings that are subject to an order against the vexatious litigant (recommendation 126.2)</p> <p>It is noted that the Committee's recommendation is a matter for the courts. The Government will consider the Committee's recommendations as it reviews and implements the related recommendations of the VLRC Report and the Consolidated Courts Act Project in consultation with the courts and the profession.</p>	
12	<p>Vexatious subpoenas The courts should consider amending the court rules to extend the registrars' power to refuse to seal or accept documents where the proceeding would be an abuse of process to include the power to refuse to issue subpoenas. Any expanded power should require registrars to seek directions from a judge before refusing to issue subpoenas on this ground.</p> <p>The Government will consider the Committee's recommendation as it reviews and implements the related recommendations of the VLRC Report and in the context of the Courts Consultative Project in consultation with the courts and the profession.</p>	Page 136
13	<p>Reform of Victoria's vexatious litigant provision The Victorian Government should introduce legislation to replace the vexatious litigant provision in section 21 of the <i>Supreme Court Act 1986 (Vic)</i> with new legislation providing for a graduated system of 'litigation limitation orders'.</p> <p>The Government will consider the Committee's recommendation as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.</p>	Page 171
14	<p>Limited litigation orders 14.1 The new legislation should give all courts and VCAT the power to make a 'limited litigation order'</p> <p>The Government will consider the Committee's recommendation as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession, subject to consideration of the impact on the <i>Charter of Human Rights and Responsibilities Act 2006 (Vic)</i>. The impact of the <i>Charter of Human Rights and Responsibilities Act 2006</i> on all the recommendations in the Final Report of the Parliament of Victoria Law Reform Committee Inquiry into Vexatious Litigants will also be considered.</p> <p>The Government notes that further consideration will be undertaken on the legislative model for vexatious litigant orders proposed by the Standing Committee of Attorneys-General in 2005. Further detailed and close</p>	Page 171

Recommendation	Government Response	Page Reference
14.2 The Attorney-General and the Solicitor-General should be able to apply for this order. A person against whom the person has instituted or conducted proceedings that are without merit and a person who has a 'sufficient interest' in the matter should also be able to apply, subject to leave.	<p>analysis of the alternative provisions needs to be undertaken in order to ascertain the human rights limitations of each model.</p> <p>The issue of standing is a key threshold issue. Due to key divergences between the VPLRC Report and VLRC Report on this issue, further consultation with the courts and the profession is required. The Government will consider this recommendation as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.</p> <p>The Government notes that the VLRC Report recommends standing to apply for a vexatious litigant order be expanded to:</p> <ul style="list-style-type: none"> • the Prothonotary of the Supreme Court; • the Victorian Government Solicitor; • the Principal Registrar of the County Court; • a person with 'sufficient interest'; and • a person against whom another person has instituted or conducted vexatious proceedings (Recommendation 125). 	Page 171
14.3 The threshold test for this order should be that the person has brought two or more applications in the existing litigation that are without merit.	The Government will consider the Committee's recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.	Page 171
14.4 The effect of the order should be to prohibit further applications in the existing litigation without leave.	The Government will consider the Committee's recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.	Page 171
<p>15 Extended litigation limitation orders</p> <p>15.1 The new legislation should give the Supreme Court, the Chief Judge of the County Court, the Chief Magistrate and the President of VCAT the power to make an 'extended litigation limitation order'</p>	The Government will consider the Committee's recommendation as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession, subject to consideration of the impact on the <i>Charter of Human Rights and Responsibilities Act 2006</i> (Vic). The impact of the <i>Charter of Human Rights and Responsibilities</i>	Page 172

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	<p><i>Act 2006</i> on all the recommendations in the Final Report of the Parliament of Victoria Law Reform Committee Inquiry into Vexatious Litigants will also be considered.</p> <p>The Government notes that further consideration will be undertaken on the legislative model for vexatious litigant orders proposed by the Standing Committee of Attorneys-General in 2005. Further detailed and close analysis of the alternative provisions needs to be undertaken in order to ascertain the human rights limitations of each model.</p>	
<p>15.2 The Attorney-General and the Solicitor-General should be able to apply for this order. A person against whom the person has instituted or conducted proceedings that are without merit and a person who has a 'sufficient interest' in the matter should also be able to apply, subject to leave.</p>	<p>The issue of standing is a key threshold issue. Due to key divergences between the VPLRC Report and VLRC Report on this issue, further consultation with the courts and the profession is required. The Government will consider this recommendation as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.</p> <p>The Government notes that the VLRC Report recommends standing to apply for a vexatious litigant order be expanded to:</p> <ul style="list-style-type: none"> • the Prothonotary of the Supreme Court; • the Victorian Government Solicitor; • the Principal Registrar of the County Court; • a person with 'sufficient interest'; and • a person against whom another person has instituted or conducted vexatious proceedings (Recommendation 125). 	<p>Page 172</p>
<p>15.3 The threshold test for this order should be that the person has frequently brought legal proceedings that are without merit.</p>	<p>The Government will consider the Committee's recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.</p>	<p>Page 172</p>
<p>15.4 The effect of the order should be to prohibit the person from continuing or bringing any applications or legal proceedings against the persons or organisations named in the order, or about the issues described in the order.</p>	<p>The Government will consider the Committee's recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in</p>	<p>Page 172</p>

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	consultation with the courts and the profession.	
<p>16 General litigation limitation orders 16.1 The new legislation should give the Supreme Court the power to make a general litigation limitation order on the application of the Attorney-General and the Solicitor-General</p>	<p>The Government will consider the Committee's recommendation as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession, subject to consideration of the impact on the <i>Charter of Human Rights and Responsibilities Act 2006</i> (Vic). The impact of the <i>Charter of Human Rights and Responsibilities Act 2006</i> on all the recommendations in the Final Report of the Parliament of Victoria Law Reform Committee Inquiry into Vexatious Litigants will also be considered.</p> <p>The Government notes that further consideration will be undertaken on the legislative model for vexatious litigant orders proposed by the Standing Committee of Attorneys-General in 2005. Further detailed and close analysis of the alternative provisions needs to be undertaken in order to ascertain the human rights limitations of each model.</p> <p>The issue of standing is a key threshold issue. Due to key divergences between the VPLRC Report and VLRC Report on this issue, further consultation with the courts and the profession is required. The Government will consider this recommendation as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.</p>	Page 172
<p>16.2 The Supreme Court should be able to make an order if it is satisfied that the person has persistently and without reasonable ground brought legal proceedings that are without merit in circumstances where an extended litigation limitation order would not be appropriate.</p>	<p>The Government will consider the Committee's recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.</p>	Page 172
<p>16.3 The effect of the order should be to prohibit the person from continuing or bringing any legal proceedings in any Victorian court or tribunal without leave.</p>	<p>The Government will consider the Committee's recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in</p>	Page 172

Recommendation	Government Response	Page Reference
	consultation with the courts and the profession.	
<p>17 Referral of cases to the Attorney-General 17.1 The Victorian Government should publish information about litigation limitation orders, including how to apply for an order and how to ask the Attorney-General to apply for an order.</p>	The Government will consider the Committee's recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.	Page 173
<p>17.2 The Victorian Government should work with the courts and VCAT to develop a protocol under which the courts and VCAT can refer persons for whom a litigation limitation order may be warranted to the Attorney-General for consideration.</p>	The Government will consider the Committee's recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of the Courts Consultative Project in consultation with the courts and the profession.	Page 173
<p>17.3 The Victorian Government should establish or designate an agency responsible for publishing information about litigation limitation orders, receiving and investigating referrals and advising the Attorney-General about applications. The Government should develop and publish key performance criteria for the exercise of these functions.</p>	The Government will consider the Committee's recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.	Page 173
<p>18 Evaluation of reforms The Victorian Government should commission an evaluation of the new legislation after it has been in operation for five years to determine whether it has been effective in meeting its objectives and its impact on access to justice.</p>	The Government will consider the Committee's recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.	Page 173
<p>19 Implications for the Family Violence Protection Act The Victorian Government should review the vexatious litigant provisions in the <i>Family Violence Protection Act 2008</i> (Vic) to ensure that they are consistent with the new legislation proposed by the Committee.</p>	The Government will consider the Committee's recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.	Page 173
<p>20 When is a proceeding vexatious or without merit? The new legislation should define 'institute', 'proceedings' and 'proceedings that are without merit' in a manner consistent with the definitions in the Standing Committee of Attorneys-General model vexatious proceedings bill.</p>	The Government will consider the Committee's recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.	Page 177
<p>21 'Forum shopping' The new legislation should allow the Supreme Court, and the courts and VCAT where relevant, to consider proceedings in any Australian court when determining whether to make a litigation limitation order.</p>	The Government will consider the Committee's recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.	Page 178
<p>22 The effect of litigation limitation orders 22.1 The new legislation should provide that the effect of a litigation limitation order is to stay any existing applications or proceedings covered by the order.</p>	The Government will consider the Committee's recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of Consolidated Courts Act Project in	Page 181

Recommendation	Government Response	Page Reference
<p>22.2 The new legislation should provide that any new applications or proceedings brought in contravention of the order are a nullity.</p>	<p>consultation with the courts and the profession.</p> <p>The Government will consider the Committee's recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.</p>	<p>Page 181</p>
<p>23 Vexatious litigant networks The Victorian Government should commission research into the nature and extent of vexatious litigant networks in Victoria and develop a strategy to deal with any problems that may be identified. This should include consideration of a power to restrain litigation by persons 'acting in concert' with persons who are subject to a litigation limitation order.</p>	<p>The Government will consider the Committee's recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.</p> <p>The Government notes that the VLRC Report recommends legislation prohibiting a person acting in concert with a vexatious litigant from taking or continuing an action, and prohibiting a vexatious litigant acting in concert with, or directing, another person to bring legal proceedings that are subject to an order against the vexatious litigant (recommendation 126.2).</p>	<p>Page 182</p>
<p>24 Power to make additional orders The new legislation should give the Supreme Court, and other courts and VCAT where relevant, the power to make any other order they consider appropriate when making a litigation limitation order, consistent with the Standing Committee of Attorneys-General model vexatious proceedings bill.</p>	<p>The Government will consider the Committee's recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.</p>	<p>Page 185</p>
<p>25 Granting leave to continue or bring proceedings The new legislation should give the Supreme Court, and other courts and VCAT where relevant, the power to grant leave to continue or bring new applications or proceedings only if the application or proceeding is not 'without merit'.</p>	<p>The Government will consider the Committee's recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.</p>	<p>Page 187</p>
<p>26 Notification of other persons about leave applications The new legislation should require the Supreme Court, and other courts and VCAT where relevant, to notify designated persons and to provide them with an opportunity to be heard where it proposes to grant leave to a person to continue or bring an application or proceeding. The designated persons should include the Attorney-General, the person who applied for the litigation limitation order and the person/s named, in the proposed application or</p>	<p>The Government will consider the Committee's recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.</p>	<p>Page 189</p>

Recommendation	Government Response	Page Reference
<p>proceedings.</p> <p>27 Determining leave applications ‘on the papers’ The new legislation should give the Supreme Court, and other courts and VCAT where relevant, the power to determine a leave application without an oral hearing if the court considers it appropriate.</p>	<p>The Government will consider the Committee’s recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.</p> <p>The Government notes that the VLRC Report recommends that to circumvent the problem of vexatious litigants absorbing court time by making repeated applications for leave to commence proceedings, legislation should provide that, unless the court otherwise orders, such applications be determined on the papers without the need for a formal oral hearing (Recommendation 131).</p>	Page 190
<p>28 Conditions on leave The new legislation should give the Supreme Court, and other courts and VCAT where relevant, the power to impose conditions on leave to continue or bring applications or proceedings.</p>	<p>The Government will consider the Committee’s recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.</p>	Page 191
<p>29 Controlling excessive leave applications 29.1 The new legislation should require a person seeking leave under a litigation limitation order to disclose all previous applications for leave.</p>	<p>The Government will consider the Committee’s recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of the Courts Consultative Project in consultation with the courts and the profession.</p>	Page 193
<p>29.2 The new legislation should also give the Supreme Court, and other courts and VCAT where relevant, the power to limit the number of occasions on which a person may seek leave if there is evidence that the person has frequently brought applications for leave that are without merit.</p>	<p>The Government will consider the Committee’s recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.</p>	Page 193
<p>30 Review of orders 30.1 The new legislation should give persons who are subject to litigation limitation orders a right to appeal, subject to leave, and a right to apply for variation or revocation of the order.</p>	<p>The Government will consider the Committee’s recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.</p>	Page 195
<p>30.2 The new legislation should give the Supreme Court, and other courts and VCAT where relevant, the power to determine an application for variation or revocation of the order without an oral hearing if the court considers it appropriate.</p>	<p>The Government will consider the Committee’s recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.</p>	Page 195

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	30.3 The new legislation should give the Supreme Court, and other courts and VCAT where relevant, the power to limit the number of occasions on which a person may apply for variation of revocation of the order if there is evidence that the person has frequently brought applications that are without merit.	The Government will consider the Committee's recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.	Page 195
	30.4 The new legislation should provide that litigation limitation orders remain in effect for the period determined by the court or VCAT.	The Government will consider the Committee's recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.	Page 195
31	Public register of orders 31.1 The agency established or designated in accordance with recommendation 17.3 should establish a publicly searchable register of all litigation limitation orders, including on the internet.	The Government will consider the Committee's recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.	Page 196
	31.2. The courts and VCAT should have the power to order non-publication of the name of a person mentioned in the order.	The Government will consider the Committee's recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.	Page 196
32	Coordination within the justice system 32.1 The agency established or designated in accordance with recommendation 17.3 should establish appropriate arrangements for ensuring that all courts and VCAT are aware of litigation limitation orders relevant to their jurisdiction.	The Government will consider the Committee's recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.	Page 197
	32.2 The agency should monitor orders in Victoria and vexatious litigant orders in other jurisdictions to identify cases which may warrant a general litigation limitation order and should bring these cases to the attention of the Attorney-General.	The Government will consider the Committee's recommendations as it reviews and implements the related recommendations of the VLRC Report and in the context of the Consolidated Courts Act Project in consultation with the courts and the profession.	Page 197