



## Minister for Police and Emergency Services Minister for Bushfire Response

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Our ref: CD/14/418694

Mr Nathan Kennedy  
President  
Australia Lawyers for Human Rights  
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Dear Mr Kennedy

### **Horvath v Australia - UN HRC Communication 1885/2009**

Thank you for your letter dated 24 July 2014 about the Government's response to the United Nations Human Rights Committee (UN HRC) Communication 1885/2009 *Horvath v Australia*. I have been asked to respond on behalf of the Government.

A number of steps have been taken to address the UN HRC's views. To remedy Ms Horvath's complaint, the Chief Commissioner of Victoria Police has issued an apology and paid Ms Horvath adequate and appropriate compensation.

To guard against a repeat of the circumstances, the Government has changed laws to provide an effective remedy for all torts committed by police including assault, battery, false imprisonment and malicious prosecution.

On 1 July 2014, sections 72-81 of the *Victoria Police Act 2013* replaced section 123 of the *Police Regulation Act 1958* with a statutory model of State liability for police conduct in Victoria. Under the new provisions, the State is liable for all police conduct in the course of duties. The scheme also covers serious and wilful police misconduct in the purported course of duties and ensures that victims of tortious police misconduct can access compensation without leaving police free from consequences for abuse of office. Police may be personally liable for serious and wilful misconduct in the purported course of duties.

However, if the victim is unable to recover compensation from the police officer responsible for the misconduct, the State must pay compensation (section 79). A plaintiff in this scenario will not be subject to the State's legal costs (section 78). In this way, the scheme ensures that a successful plaintiff will not be left without access to compensation.

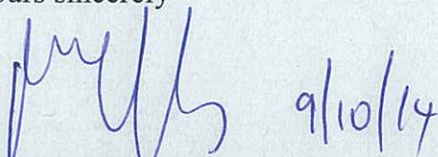
As you may be aware, a range of other laws and mechanisms may also apply to police misconduct allegations. For example, criminal offences and other civil remedies including discipline and regulatory frameworks such as State and Commonwealth anti-discrimination and equal opportunity legislation. The Government recognises that independence is one of several elements underpinning a system of prompt, thorough and effective investigation into such allegations.

Your letter specifically refers to the statutory framework in place for the discipline of police officers. The police discipline framework, as well as the administrative arrangements that support it have changed over the last 18 years. Most recently, the Government has established the Independent Broad-based Anti-Corruption Commission (IBAC). IBAC has broad powers to investigate police conduct following a complaint or on the IBAC Commissioner's own motion. Even where the IBAC Commissioner does not personally investigate a matter, IBAC continues to have a role overseeing such investigations and this role is supported by a broad range of powers appropriate to this function.

The Commonwealth is preparing a formal response to the UN HRC Communication of *Horvath v Australia* to be transmitted later this year. Victoria has worked closely with the Commonwealth on preparing the response.

Thank you for raising these important matters with the Government.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'Kim Wells', followed by the date '9/10/14' written in the same ink.

**KIM WELLS MP**  
**Minister for Police and Emergency Services**  
**Minister for Bushfire Response**