



The Bar Council wishes to inform its members that a number of member emails were accessed in mid-August 2022 as part of an investigation undertaken by Barristers' Chambers Limited (**BCL**) following an offensive notice being posted in the Owen Dixon Chambers East lifts on 10 August 2022. The notice generated a very significant degree of hurt and upset amongst many members which had to be addressed urgently.

The purpose of this communication is to set out what took place, and the steps the Bar Council has since taken to update the terms and conditions concerning the use of email and privacy.

What occurred?

BCL hosts email services as well as some other electronic services that are used by members.

Late on 10 August 2022, the Bar and BCL became aware of an offensive notice posted in the lifts of Owen Dixon Chambers East which purported to be a duly authorised Victorian Bar notice.

In response, BCL deployed software called 'Microsoft Purview Compliance Portal' to identify instances of the initialism 'LGBTQMS' being used in BCL's electronic environment between 3 August and 11 August 2022. This very distinctive initialism was selected because it was contained in the offensive notice.

That software returned a number of 'hits' that were responsive to the search term. Most were immediately disregarded as irrelevant to the investigation with approximately 10 emails identified as being of interest. A BCL employee reviewed the subject lines of those emails and one email was opened and read. That email was the subject of a notification by the then President of the Bar to the Legal Services Commissioner that members have been informed about previously.

No other information was obtained or retained consequent upon the assessment carried out by BCL.

What is being done in response?

First, the Bar Council and BCL assure members that no such access will occur in future, unless required or authorised at law.

Second, there is now a very clear and shared understanding between BCL and the Victorian Bar that the electronic environments used by members are to be maintained **in the strictest confidence** and will only be interrogated under the compulsion or authorisation of law (as would be the case for any third-party internet service provider). All terms and conditions concerning the use of email and privacy are being reviewed and updated to reflect this shared understanding.

In the interim, members are assured that BCL is acting and will continue to act in accordance with the understanding.

Third, the Bar Council is also reviewing the Victorian Bar's policies which relate to privacy and information management to strengthen privacy protections for members.

Members will be informed once BCL has updated its terms and conditions, and when the Bar Council has completed its review of the Bar's internal governance processes and policies.

Sam Hay KC

President

The Victorian Bar