

SUPPLEMENTARY REPORT¹ OF DR IAN FRECKELTON QC

This report deals with allegations first made in late 2017 that at a formal dinner event run by Melbourne Health on 25 June 2016 the then Lord Mayor, Mr Robert Doyle, behaved in a sexually inappropriate way towards Ms Kharla Williams, beside whom (on her left) he was seated at the dinner. She says that this was in the context of her observing him to be drinking substantial amounts of red wine and her having her then fiancé seated next to her (on her right), and her husband's daughter next to her husband (on his right). She alleges that Mr Doyle touched her on her lower back near to her buttocks in a suggestive way and repeatedly, under the tablecloth, on her inside thigh, close to her groin. Ms Williams emphasises that the encounter with Mr Doyle was extremely traumatic for her and spoilt the evening which she had hoped to be a celebration for her then fiancé's achievements.

This report is supplementary to my 'First Report' dated 10 March 2018 in respect of sexually inappropriate conduct that the former Lord Mayor of Melbourne, Mr Robert Doyle, was found by the investigation on behalf of the Melbourne City Council to have engaged in with respect to two Councillors. The aspect of the investigation the subject of this report was not able to be finalised at the time of the conclusion of the First Report because by then it had not been possible to interview the Lord Mayor about the additional matters raised by Ms Williams, although on his behalf it had been communicated that he wished to have input into the investigation.

On 28 January 2018, Mr Doyle's legal representatives were provided with the statements of Ms Williams and of Dr Walterfang, who by that stage had become her husband. On the same date Mr Doyle's legal representatives were informed of the issues in relation to which Mr Doyle was asked to assist the investigation by providing information and setting out his position.

Between January and August 2018, Mr Doyle was invited on eight occasions to attend an interview (including in the presence of a support person of his choosing) and on three occasions to supply the names of any persons to whom he might wish the investigators to speak in relation to the additional matters. He was also extended the opportunity to speak to the investigators on the telephone, to write his account of what occurred on 25 June 2016 for the investigators and/or to provide submissions to the investigation through his solicitors.

¹ This is a report prepared by Dr Ian Freckelton QC of his findings following the investigation described in this report. It is supplementary to the report published by the City of Melbourne of the first aspect of Dr Freckelton QC's investigation on 13 March 2018. This report has been prepared for the Council of the City of Melbourne and, if deemed appropriate, wider publication, on the basis that it does not contain information which cannot be published by reason of the operation of the *Privacy and Data Protection Act* and the *Health Records Act*.

In the period of 14 months commencing 17 January 2018 Mr Doyle did not avail himself of any of the options offered to him to participate in the investigation. Instead he asserted through his solicitors that the allegations raised by Ms Williams did not fall within the Terms of Reference for the investigation and that he has not been well enough to respond to what has been alleged against him. He also argued through his solicitors that he would not be well enough for this task for a considerable time into the future. In November 2018, he provided instructions to his solicitors to take action to prevent this report being finalised but withdrew his application to the Supreme Court on confidential terms prior to the scheduled hearing in February 2019.

In support of his assertion of ill health precluding his ability to participate in the investigation Mr Doyle relied on six reports provided to the investigators, comprising two reports from his general practitioner dated 22 January 2018 and 31 January 2018 and four reports from a specialist dated 5 February, 17 July, 14 September and 14 November 2018. Mr Doyle has exercised his right not to consent to the disclosure of the specifics of the personal health information contained in those reports.

However, the content of the communications and medical reports provided on behalf of Mr Doyle did not establish that his state of health at all relevant times has been such as to preclude his providing his account of what occurred on 25 June 2016, either directly to the investigation or through his solicitors. He has had ample and fair opportunity to provide his account of events. Put another way, he has been extended full natural justice and procedural fairness.

In addition, he has been provided twice with a draft of this report to enable him to refute or contest its contents. Most latterly, on 19 March 2019, Mr Doyle's solicitors communicated that they did not have instructions to respond to the report. They did not make reference to what was precluding his response or theirs.

It is in the public interest that there not be ongoing, open-ended further delays in this investigation without sufficient medical justification and that there be closure to the investigative process.

The investigation received credible evidence that on 25 June 2016 the Lord Mayor attended a formal event of Melbourne Health, where at the time he was the Chairman of the Board of Melbourne Health. The event was listed in his Lord Mayor's diary. He introduced himself to Dr Walterfang as both Lord Mayor and Chairman of Melbourne Health. He spoke to Ms Williams about being Lord Mayor. He was named in the evening's program as Councillor, was introduced to give his speech as both Lord Mayor and the Chairman of Melbourne Health and he spoke in the course of his address about being Lord Mayor. In such circumstances, it is clear that he was

functioning in both capacities when he attended the function on 25 June 2016 and interacted with persons present, including Ms Williams. A reasonable person present at the evening's event would have perceived Mr Doyle to be functioning in both capacities.

The investigation has assumed that Mr Doyle has wished to contest the accounts by Ms Williams and Dr Walterfang.

Having received statutory declarations from Ms Williams and Dr Walterfang and having met with them in person and posed a considerable number of questions to them, I have reached the firm conclusion that their accounts are compellingly credible. They had not previously, and have not since, met Mr Doyle. Their accounts contained no inconsistencies of any substance. Ms Williams and Dr Walterfang appear to have no vested interest in the outcome of the investigation. There is no indication that at the time of approaching the investigation they had engaged in any form of collusion with other complainants or each other and there is nothing to indicate that their motives in reporting Mr Doyle's conduct are other than genuine distress arising from Mr Doyle's conduct.

Other persons at their table have been contacted. None saw inappropriate conduct by Mr Doyle but given the nature of the behaviour in question, the layout of the table and the presence of a substantial tablecloth, it is unlikely that they would have been able to observe the conduct graphically described by Ms Williams.

The investigation has found (on the *Briginshaw* standard – taking into account the seriousness of the findings and their potential consequences) that in the context of consumption of alcohol the former Lord Mayor Mr Doyle behaved in a sexually inappropriate way toward Ms Williams at a Melbourne Health event on 25 June 2016 by:

- speaking to her in a 'sleazy' and inappropriate way;
- placing his hand on her lower back near her buttocks; and
- on a number of occasions placing his right hand on her left inside leg, near her groin.

There was no justification whatsoever for Mr Doyle's behaviour - it was completely inappropriate and there was no contextual legitimacy for it. It was opportunistic and occurred in circumstances of significant power imbalance between Mr Doyle and Ms Williams. Mr Doyle's conduct was foreseeably highly distressing and was fundamentally inconsistent with the dignity of the office of Lord Mayor and the reasonable expectations of the public as to how a Lord Mayor should behave.

Dated:

Signed:

26 March 2019
