

[REDACTED]
[REDACTED]
[REDACTED]
18 November 2009

Mr [REDACTED]
Partner
[REDACTED]
Lawyers
[REDACTED]
MIDTOWN

Dear Mr [REDACTED]

WITHOUT PREJUDICE
[REDACTED]

We refer to your letter dated 12 November 2009 and the enclosed CD recording of the conversation between Professor McColl and Mr [REDACTED] on 6 August 2009.

In relation to the recording, we consider that your client may be in breach of section 11 of the *Surveillance Devices Act 1999* (Vic). The conversation between Professor McColl and Mr [REDACTED] on 6 August 2009 was a private conversation and Professor McColl was not aware that the conversation was being recorded. Professor McColl therefore could not, and did not, provide his consent to it being recorded. We note that the penalties for a breach of this section include imprisonment for up to two years and/or financial penalties up to \$28,036.80.

If this recording is published to anyone else, we put you on notice that the University will take all action necessary to ensure that its rights are protected.

Notwithstanding our objection to your client's recording of this conversation, we note, as you pointed out in your letter, that the recording shows that Professor McColl is considerate and sympathetic when providing Mr [REDACTED] with feedback as to why he failed the supplementary OSCEs. Professor McColl offers advice to Mr [REDACTED] to move things forward, such as writing directly to the Dean, and also offers to speak to the Dean about potential fee relief for Mr [REDACTED].

We note that there is discussion about Mr [REDACTED] stuttering and it is made clear by Professor McColl that the reason why Mr [REDACTED] failed the supplementary examinations was because Mr [REDACTED] academic knowledge was insufficient. This feedback was from four independent and experienced examiners.

We do not consider that a discussion about Mr [REDACTED] stuttering amounts to discrimination. The test for direct discrimination requires less favourable treatment *because of* a person's disability.

RECEIVED
19 NOV 2009