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# Men dominate Federal Court appointments under Porter

Hannah Wootton and Ronald Mizen

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The Coalition has failed to appoint any women to the Victorian registry of the Federal Court since coming to power in 2013, building on its poor [track record of female appointments](#) to the bench that has worsened under Attorney-General Christian Porter.

Women account for fewer than a quarter of Federal Court appointments by the Coalition and just two of 12 – or 16.7 per cent – of those made by Mr Porter federally, according to an analysis by *The Australian Financial Review*.

Nine male appointments to the Victorian registry since 2013 mean the proportion of women on the state's Federal Court bench sits at just 20 per cent.



Fewer than a quarter of Federal Court appointments under the Coalition are women. **Jessica Shapiro**

There are also fears a current vacancy in Melbourne, made available by Mr Porter's promotion of Simon Steward, QC, to the High Court in December, will be filled by a male barrister without Justice Steward's tax law expertise. Mr Porter appointed Justice Steward to the Federal Court in 2018.

Former chief justice of the Family Court Diana Bryant described the gender imbalance on Victoria's Federal Court bench as "very out of kilter since 2013" and said it "seemed [the jurisdiction had] gone back to the dark ages".

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“This is an argument and a debate that was had years ago, and I thought it was over and everyone understood it was important to have balance at the bar and the bench,” she said.

Justice Bryant said it sent a “bad message” to other minorities when the court “couldn’t even get gender diversity right”.

“It’s already a problem, and if you’re not going to at least appoint women to the bench, what does that say for the rest?”

Australian Women Lawyers treasurer and Women Barristers Association of Victoria representative Astrid Haban-Beer said the “scandalous” lack of women appointed to the bench in Victoria raised serious questions about the integrity of the selection process.

“You’ve got women who are leading major class actions and tax matters and cartel matters and royal commissions,” Ms Haban-Beer said.

“There’s such an amazing range of talent at that senior level who are working on federal court cases ... and are leading industry and practice groups, it just doesn’t make sense that’s not translating at the bench level.

”Who is advising the AG on the Victorian appointments? It must be someone who is familiar and connected and within. Why does that advice hold particular sway? Why does that person get through?

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“I don’t think they’re saying women aren’t good enough, they’re just saying [‘we like our buddies better’](#).”

The Attorney-General said he had a “strong track record” on appointing women to the bench and took gender balance into account.

“I have a strong record of appointing a high number of qualified women to senior judicial positions across all commonwealth courts, including recently to the High Court of Australia,” he told the *Financial Review*.

“I constantly consider gender balance on courts along with a number of other key factors in all appointments.”

Christian Porter says he has a “strong track record” in appointing women to senior court positions. **Alex Ellinghausen**

Mr Porter said the number of female judges on the Federal Court and Federal Circuit Court had

increased by three and two respectively since 2013, while the gender balance of the Family Court bench had held steady.

”The Coalition’s commitment to gender diversity is evident in the steady increase in the proportion of female judges that have been appointed to the Federal Courts,” he said.

The *Financial Review* analysis showed 50 per cent of Mr Porter’s picks to the Federal Circuit Court were women, as were 42.9 per cent of the Coalition’s more broadly.

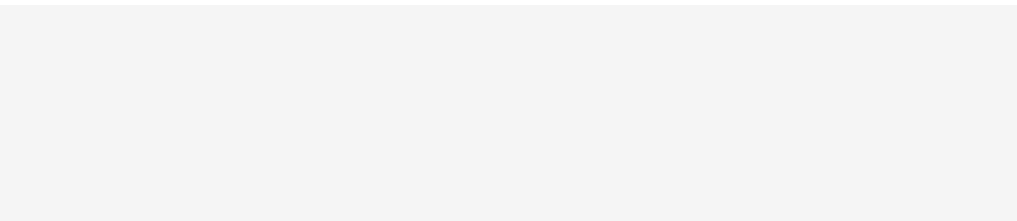
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But Ms Haban-Beer said that if gender balance were considered, the outcome on the Victorian Federal Court would be different: “If gender diversity is taken into account, then why have you got no women appointed?”

She said “it was not enough” to appoint women to junior courts as the Federal Court was more powerful and busier.



“This is an argument and a debate that was had years ago,” says Diana Bryant, a former chief justice of the Family Court. **Katherine Griffiths**

Ms Haban-Beer warned without more equitable appointments, the Victorian Federal Court risked both a loss in public confidence and an exodus of talent.

“It’s a public perception question. We’re missing out on people who can send a message to the community there is a judiciary that reflects, in part and more than it perhaps would, the people it looks over,” she said.

“It also says to women that you can be a leading practitioner but there’s a glass ceiling when it comes to court appointments ... and that discourages excellent women from aspiring to the height they should naturally rise to.”

Justice Bryant said the [establishment of a judicial appointments committee](#) would improve gender equity on the bench.

The Coalition has pushed back on calls for such a committee, eschewing even the multi-step judicial selection process adopted by Labor designed to increase diversity in gender, professional and cultural background, and location.

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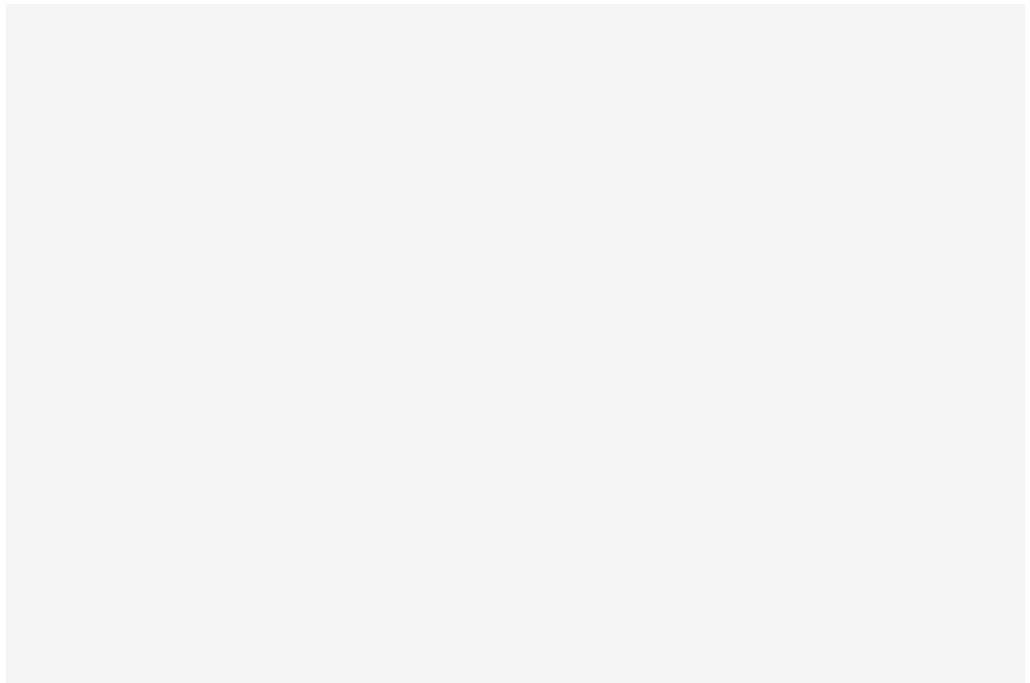
“The more this [predominantly male appointments] happens, the more there’s a case for having a judicial appointments committee.”

“Even the Labor approach was certainly a start, you got people applying so at least you got a diverse range of people.“

She said a formal committee would force transparency on the process.



Law Council president and leading family law silk  
Jacoba Brasch, QC, called for greater transparency in  
the appointments process by establishing a judicial  
appointments protocol.



Jacoba Brasch, QC, wants a protocol established for appointing  
judges. **Tertius Pickard**

“This [current] process is largely opaque and often  
leads to great speculation about prospective  
appointees when a vacancy arises,” Dr Brasch said.

A protocol would improve transparency of the skills,  
attributes and experience that potential judges must  
possess and could also impose a requirement for  
broad consultation prior to appointments, she said.

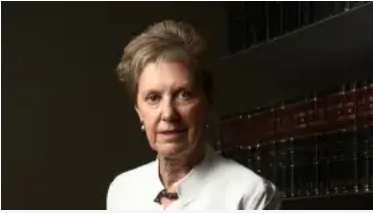
“[This would] reinforce the independence and  
integrity of these bodies ... and promote  
accountability and diversity in appointments.”

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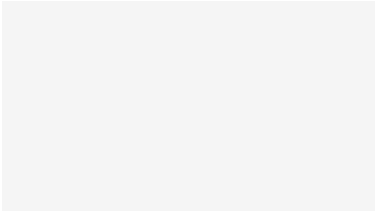


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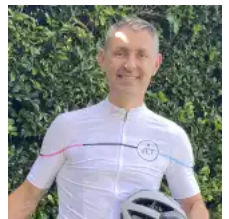
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