



ACT JUDICIAL
COUNCIL

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The Judicial Council Annual Report 2016–17 is available on the website.

WELCOME

Chief Justice Helen Murrell, Head of Council



The ACT Judicial Council commenced operation on 1 February this year.

The Council provides a new mechanism for the public to raise complaints about the conduct of judicial officers. This process will enhance public confidence in the judicial arm of government by increasing transparency with which complaints about judicial conduct are resolved.

Prior to 30 June 2017 the Council met three times and considered three complaints. The Council also established an online presence through the publication of the Council website (actjudicialcouncil.org.au) which includes information about the role and functions of the Council.

I thank my fellow Council members, Chief Magistrate Lorraine Walker, Ms Diane Collins (community representative) and Mr Bryan Meagher SC (senior legal practitioner), and the staff assisting the Council for their hard work in establishing the Council during 2016-17.

Chief Justice Helen Murrell
Supreme Court of the ACT
Head of ACT Judicial Council

COUNCIL OVERVIEW

Establishment

On 1 February 2017, amendments to the *Judicial Commissions Act 1994* establishing the ACT Judicial Council came into effect. The Act now provides a statutory framework for handling low and medium level complaints about the conduct of judges and magistrates in the ACT.

The Council is made up of the ACT Chief Justice, the ACT Chief Magistrate, an appointed legal practitioner and an appointed member of the community.

‘On 1 February 2017, amendments to the Judicial Commissions Act 1994 establishing the ACT Judicial Council came into effect.’

Role and functions

The Judicial Council can consider complaints about the behaviour or capacity of a judge of the ACT Supreme Court or a magistrate of the ACT Magistrates Court. For example, the Council can consider complaints about a judicial officer’s conduct in court, timeliness in providing judgments and physical and mental health issues affecting a judicial officer’s ability to perform their duties.

The *Judicial Commissions Act 1994* (ACT) provides that a complaint made to the Council may be referred to the head of the relevant jurisdiction (the Chief Justice or Chief Magistrate), dismissed without an examination or examined by the Council.

If a complaint proceeds to a full examination, and the complaint is substantiated, the Council will refer the complaint to the relevant head of jurisdiction and provide a report to the ACT Attorney-General. The Attorney-General may approve the establishment of a separate judicial commission for serious complaints that could lead to a recommendation to the ACT Legislative Assembly to dismiss a judicial officer.

Council Members

The Council comprises:

- Chief Justice Helen Murrell:
Chief Justice of the Supreme Court
and Head of the Council
- Chief Magistrate Lorraine Walker
- Ms Diane Collins (community member)
- Mr Bryan Meagher, SC
(Legal profession member).

The Council is supported by the principal officer and staff under her direction.

‘The Council is made up of the ACT Chief Justice, the ACT Chief Magistrate, an appointed legal practitioner and an appointed member of the community.’

Council



Chief Justice Helen Gay Murrell:
Chief Justice of the Supreme Court and Head of the Council

On 28 October 2013, Helen Murrell was sworn in as the Chief Justice of the Australian Capital Territory.

Her Honour holds a Bachelor of Arts and Bachelor of Laws (UNSW) and a Diploma of Criminology (University of Sydney). She was admitted as a solicitor of the Supreme Court of New South Wales (NSW) in 1977.

Her Honour practised as a solicitor before being called to the bar in 1981. In 1995 she was appointed Senior Counsel in NSW. From 1996 to 2013, her Honour was a Judge of the District Court of NSW. During this period her Honour also held positions as President of the Equal Opportunity Tribunal of NSW (later, Deputy President of the Administrative Decisions Tribunal) and the first Senior Judge of the Drug Court of NSW.

Her Honour has longstanding interests in therapeutic jurisprudence and judicial education.



Chief Magistrate Lorraine Walker

Lorraine Walker has been Chief Magistrate and Chief Coroner for the ACT, Jervis Bay Territory and the Antarctic Territory since 2011. She currently also sits as Children's Court Magistrate and Industrial Magistrate in the ACT.

She is a graduate of the University of Sydney with a Bachelor of Arts and Bachelor of Laws. She has held positions as a Legal Officer in the Royal Australian Air Force, a Crown Prosecutor in the United Kingdom, partner in a national law firm and barrister.



Ms Diane Collins

Diane Collins, Kalarie woman of the Wiradjuri nation, Central West NSW, Community member, and a long term resident of Canberra and Queanbeyan.

She has contributed to Aboriginal and Torres Strait Islander communities in a paid and voluntary capacity, through National Aborigines and Islanders Day Observance Committee (NAIDOC), Reconciliation and sporting events, and the Aboriginal and Torres Strait Islander Elected Body.

She was appointed to the ACT Judicial Council as a founding member and looks forward to bringing her skills and experience, through an Aboriginal lens, to this role.



Mr Bryan Meagher, SC

Bryan Meagher is a Senior Counsel who has practised as a barrister for over 30 years and as a lawyer for more than 40 years in the ACT and NSW.

He is currently a part time Senior Member of the ACT Civil and Administrative Tribunal (ACAT), Editor of the ACT Law Reports, the authorised reports of the ACT Supreme Court and an author of the ACT Civil Procedure published by Lexis Nexis.

He has been a President of the ACT Bar Association and a member of many committees of the ACT Law Society. He is an accredited mediator and has conducted numerous mediations in ACT Court matters.

Bryan has been closely involved in life in the ACT since first attending school here in 1960.

‘The principal officer is the point of contact for complainants and facilitates communication between a complainant and the Judicial Council.’

Principal officer

Since March 2017, the Council has been supported by a principal officer. The principal officer is provided by the Commonwealth Ombudsman by agreement with the ACT Executive.

The principal officer is the point of contact for complainants and facilitates communication between a complainant and the Judicial Council.

The principal officer is authorised to receive enquiries and complaints on behalf of the Council and to conduct a preliminary examination of complaints. After a preliminary examination, the Council will consider and make a decision about a complaint. The principal officer is responsible for contacting the complainant regarding the progress of their complaint.

‘After a preliminary examination, the Council will consider and make a decision about a complaint.’



Chelsey Bell

Chelsey Bell commenced as the ACT Judicial Council's principal officer in March 2017 and is the Director of the ACT Ombudsman Team in the Commonwealth Ombudsman's Office.

Her previous roles have focused on administrative law, public policy, complaint-handling and human rights. She has worked for the Attorney-General's Department, the Victorian Equal Opportunity and Human Rights Commission, Safe Work Australia and the Administrative Appeals Tribunal.

Chelsey is a lawyer by training.

Will Mueller

Will commenced as the staff member assisting the ACT Judicial Council's principal officer in April 2017.

He previously worked as an Investigation Officer within the Commonwealth Ombudsman handling complaints about the decisions and actions of Commonwealth and ACT Government agencies. He is a graduate of the Australian National University with a Juris Doctor.

Prior to this, he taught English, Politics and Philosophy at the secondary level in both Victoria and the ACT.

COUNCIL BUSINESS AND COMPLAINTS

Between 1 February and 30 June 2017 the Council met three times to consider complaints and administrative matters.

Complaints

The Council undertook a preliminary examination of three complaints during the period from 1 February 2017 to 30 June 2017.

The Council also received enquiries about the role of the Council and the complaints process from the public. The principal officer provides information on the role and functions and jurisdiction of the Council and, where appropriate, refers matters to other appropriate bodies or agencies.

Complaint types

The types of issues or conduct identified in the complaints received by the Council to 30 June 2017 were:

- Complaint 1: Delay in the delivery of judgment
- Complaint 2: Failure to give a fair hearing, inappropriate comments, discourtesy, bias
- Complaint 3: Bias.

The Council will monitor the types of issues and conduct identified in complaints to determine if there are any patterns in the nature and scope of complaints made to the Council.

Complaint outcomes

The *Judicial Commissions Act 1994* (ACT) provides that a complaint made to the Council may be referred to the head of the relevant jurisdiction (the Chief Justice or Chief Magistrate), dismissed without an examination or examined by the Council.

Following preliminary examination or examination by the Council the following applies to complaints that are wholly or partially substantiated:

- if the complaint does not justify further consideration by the Council or does not justify parliamentary consideration of the removal of the judicial officer, the complaint is referred to the relevant head of jurisdiction
- if the complaint could justify parliamentary consideration of the removal of the judicial officer, the Council must make a recommendation that the Executive appoint a judicial commission to examine the complaint.

‘The Judicial Council can consider complaints about the behaviour or capacity of a judge of the ACT Supreme Court or a magistrate of the ACT Magistrates Court.’

A preliminary examination was undertaken in relation to each of the complaints received. The Council decided:

- Complaint 1: complaint substantiated and referred to the relevant head of jurisdiction under section 35C of the *Judicial Commissions Act 1994*
- Complaint 2 and Complaint 3: Complaints dismissed under section 35B (Early dismissal of complaint) of the *Judicial Commissions Act 1994*.

Performance statistics and trends

In the case of each complaint, the Council finalised a preliminary examination at the following Council meeting. Meetings are scheduled every second month.

As only three complaints were received, a systemic analysis of complaints was not undertaken for the reporting period.

Administrative projects

Council – website

The Council website actjudicialcouncil.org.au includes information regarding the role and functions of the Council. The website also provides:

- contact details for the Council
- an explanation of how to make a complaint to the Council
- the process followed by the Council in considering a complaint and,
- an explanation of the possible outcomes of a complaint to the Council.

‘If a complaint proceeds to a full examination, and the complaint is substantiated, the Council will refer the complaint to the relevant head of jurisdiction and provide a report to the ACT Attorney-General.’



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