



ACT JUDICIAL
COUNCIL



ANNUAL REPORT

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■ CONTENTS

<u>WELCOME</u>	<u>1</u>
<u>COUNCIL OVERVIEW</u>	<u>2</u>
<u>LODGING A COMPLAINT</u>	<u>4</u>
<u>COMPLAINTS RECEIVED</u>	<u>5</u>
<u>COUNCIL MEMBERS</u>	<u>6</u>
<u>THE PRINCIPAL OFFICER AND SUPPORTING STAFF</u>	<u>8</u>

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The Judicial Council Annual Report 2018–19
is available on the website.

WELCOME

Chief Justice Helen Murrell, Head of Council



Most complaints received in 2018–19 were from members of the public.

The ACT Judicial Council receives a steady number of complaints from across the community. The Council's complaint-handling role contributes to a fair and accountable judiciary for the Australian Capital Territory.

Most complaints received in 2018–19 were from members of the public. However, this year the Council also received a number of complaints from legal practitioners. Several complaints were formally referred to the Council by the ACT Attorney-General.

This year, the Council took steps to raise awareness in the community about its role. The Council published a brochure about making complaints which is available from courts and legal centres in the ACT. The brochure explains the Council's powers and functions, gives examples of the types of complaints that can be made and outlines the process for lodging complaints.

The Council also contacted judicial officers who were welcomed to the bench this year, to explain the Council's role and the complaint process.

I take this opportunity to thank my fellow Council members for their efforts this year. Thank you also to the Principal Officer and his staff for their invaluable work to support the Council in the performance of its function.

COUNCIL OVERVIEW

The Judicial Council is comprised of the Chief Justice of the ACT Supreme Court, the Chief Magistrate of the ACT Magistrates Court, an appointed legal practitioner and an appointed member of the community. The Council is supported by a Principal Officer and two staff members.

The Council can consider complaints about the behaviour and the physical or mental capacity of a judge of the ACT Supreme Court, or of a magistrate of the ACT Magistrates Court.

The Council's functions include:

- receiving complaints about judicial officers
- examining complaints about judicial officers
- referring complaints to the ACT Executive or the relevant head of jurisdiction
- responding to enquiries about the complaint process.

The Council met nine times in 2018–19.

When a complaint is received about an ACT judicial officer, the Council must conduct a preliminary examination. Depending on the outcome of the preliminary examination, the Council may take the following actions:

- early dismissal of the complaint
- refer the complaint to the head of the relevant jurisdiction
- proceed to an examination of the complaint by the Council.

The Council is required to conduct its preliminary examinations in private, where possible.

When a complaint is received about an ACT judicial officer, the Council must conduct a preliminary examination.

Early dismissal

After conducting a preliminary examination of a complaint, the ACT Judicial Council may dismiss the complaint if it is satisfied of one or more of the following:

- The complaint is frivolous, vexatious or not in good faith.
- The subject matter of the complaint is trivial.
- The matter complained about happened at too remote a time to justify further consideration.
- There is or was another satisfactory means of redress or dealing with the subject matter of the complaint.
- The complaint relates to the exercise of a judicial function or decision that is subject to appeal or review rights.
- The complaint is about a person who is no longer a judicial officer.
- The complaint is one that the Council is not required to deal with.
- Further consideration of the complaint is unnecessary or unjustifiable.

If the Council decides to dismiss a complaint for any of the above reasons, the judicial officer and the complainant will both be told of this outcome.

Referring a complaint to the head of jurisdiction

If the ACT Judicial Council is satisfied after a preliminary examination that the complaint is wholly or partly substantiated but it does not justify the Council's further attention, the complaint must be referred to the relevant head of jurisdiction. The complainant will be notified of this outcome by staff assisting the Principal Officer.

The heads of jurisdiction in the ACT are the Chief Justice of the ACT Supreme Court and the Chief Magistrate of the ACT Magistrates Court, who are also members of the Council. The Council's referral can include recommendations about what steps could be taken to deal with the complaint.

Examination by the Council

If the Council proceeds to examine a complaint and is satisfied that it is wholly or partly substantiated, it must consider whether the complaint justifies consideration of the removal of the judicial officer.

If the Council concludes that the complaint justifies this consideration, the Council must make a recommendation to the ACT Executive that it appoint a Judicial Commission to examine the complaint further.

If the Council considers the complaint does not justify its further consideration or parliamentary consideration, the Council will refer the matter to the head of the relevant jurisdiction.

The complainant will be advised of the outcome of the examination.

Similar to preliminary examinations, the Council must conduct examinations in private, where possible. However, the Council must notify the ACT Attorney-General when it starts an examination, and of the outcome once the examination is finalised.

LODGING A COMPLAINT

Anyone can make a complaint to the ACT Judicial Council. This includes members of the public, legal practitioners, and members of organisations such as the Law Society, Bar Association and Legal Aid. The ACT Attorney-General can also refer complaints to the Council.

Complaints can be made by using the complaint form available on the ACT Judicial Council website or by sending the Council a letter or email.

The Principal Officer and their staff receive complaints and enquiries on behalf of the Council. When a complaint is received, staff members will tell the relevant judicial officer that a complaint has been made and give them an initial opportunity to comment. Staff will then help the Council to conduct the preliminary examination of the complaint.

Complaints must:

- be in writing
- provide the name and address of the person making the complaint
- identify the judicial officer who is the subject of the complaint
- provide details about the complaint.

COMPLAINTS RECEIVED

In 2018–19, the Council received 12 complaints about seven ACT judicial officers, and 11 enquiries. Four complaints were referred to the Council by the Attorney-General.

These complaints included allegations of bias, failure to give a fair hearing, bullying, discourtesy, and inappropriate comments.

The Council also received a number of complaints about what were claimed to be incorrect decisions. In these cases, the Council advised the complainant that they may wish to seek legal advice about their appeal options as the Council has no ability to examine or change the merits of a judicial officer's decision.

Following a preliminary examination of the complaints, the Council decided to dismiss seven complaints under s35B of the *Judicial Commissions Act 1994* (the Act).

Two complaints were wholly or partly substantiated, one under s35C of the Act and the other under s35J, after an examination was conducted under s35D. The Council referred both matters to the head of the relevant jurisdiction with recommendations.

As at 30 June 2019, the Council was assessing three complaints.

In 2017–18, the Council observed that a significant proportion of the complaints received were from self-represented litigants facing difficulties navigating court processes. While this remains the case, this year there was an increase in complaints from legal practitioners, which may reflect growing awareness of the Council's role and processes.

COUNCIL MEMBERS

The members of the ACT Judicial Council are the ACT Chief Justice, the ACT Chief Magistrate, an appointed legal practitioner and an appointed member of the community.



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

Chief Magistrate Lorraine Walker holds Bachelors of Arts and Laws from the University of Sydney. She was admitted as a solicitor in New South Wales in 1987, working briefly as an employed solicitor until joining the Royal Australian Air Force later that year. She served as a legal officer for three years in Melbourne and the Northern Territory before relocating to her birthplace, the United Kingdom.

She was employed by the Crown Prosecution Service as a prosecutor from 1990 to 1996. On returning to Australia, she practised as a solicitor in the ACT for one year prior to being made a partner in a national law firm. She commenced at the ACT Bar in 2000.

She was appointed to the ACT bench in 2010 with a dual commission as Coroner and Magistrate. She was subsequently appointed Chief Coroner and Chief Magistrate in 2011.

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



Ms Jenny Hodges

Jenny Hodges was appointed to the ACT Judicial Council in May 2018.

She has had a long involvement with the charitable sector as a volunteer and in a paid capacity. Her experience includes work in the animal welfare and youth services areas and she has also worked in community services in local government authorities.



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 LexisNexis.

He has been 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 AND SUPPORTING STAFF

The Council is supported by a Principal Officer.
The Principal Officer is Michael Manthorpe PSM.



**Michael Manthorpe PSM,
Principal Officer**

Michael Manthorpe PSM commenced his position as the Council's Principal Officer on 7 December 2017.

Michael is the Commonwealth Ombudsman and the ACT Ombudsman.

**The Principal Officer
and their staff are the point
of contact for complainants.
They facilitate communication
between a complainant and the
Council.**



Chelsey Bell

Chelsey Bell assists the Principal Officer to support the Council.

Chelsey is a Director at the Office of the Commonwealth Ombudsman and is admitted as a solicitor of the Supreme Court of the ACT.



Anika Khwaja

Anika Khwaja assists the Principal Officer to support the Council.

Previously Anika was an investigation officer at the Office of the Commonwealth Ombudsman and is admitted as a solicitor of the Supreme Court of the ACT.