



ACT JUDICIAL
COUNCIL

2020-21

ANNUAL REPORT

Credits

Date of publication: October 2021

Australian Capital Territory

ISSN 2208-5335

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Produced by the ACT Judicial Council, Canberra.

Design: Typeyard Design and Advertising Pty Ltd

Printing: New Millenium Print

Print stock: Monza Satin Recycled. This stock contains 99 per cent recycled fibre and is FSC® Mixed Certified, which ensures that all virgin pulp is derived from well-managed forests and controlled sources. It is manufactured by an ISO 14001 certified mill.

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The Judicial Council Annual Report 2020–21 is available on the website.

Welcome

Chief Justice Helen Murrell, Head of Council



“ All complaints received during this reporting period were from members of the public. ”

The ACT Judicial Council (the 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. The Council receives a small but 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 (ACT).

In 2020–21, the operations of the ACT courts continued to be affected by the COVID-19 pandemic and this may have led to fewer complaints made to the Council, compared to before the COVID-19 pandemic. All complaints received during this reporting period were from members of the public. No complaints were received from legal practitioners or formally referred to the Council by the ACT Attorney-General.

I take this opportunity to thank my fellow Council members for their efforts this year. In particular, to Jenny Hodges for her professionalism and dedication to the role as appointed community member between May 2018 until her term ended in March 2021.

I also take this opportunity to acknowledge the work of the Principal Officer, Michael Manthorpe PSM, and his staff to support the Council in the performance of its functions. During the preparation of this report, Michael Manthorpe announced his retirement effective 30 July 2021. I thank Michael Manthorpe for his expertise and commitment to the Principal Officer role and wish him the very best on his retirement.

Council Overview

The 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. The Principal Officer is the Commonwealth and ACT Ombudsman, Michael Manthorpe PSM, who is supported by members of his staff.

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 3 times in 2020–21.

Preliminary examination

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 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 Council is satisfied after a preliminary examination that the complaint is partly or wholly substantiated, but it does not justify the Council's further attention by examination, the complaint may 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 is satisfied after a preliminary examination that the complaint is partly or wholly substantiated, and it justifies further attention by the Council, the Council will proceed to examine the complaint. In doing so, it must consider whether the complaint justifies parliamentary consideration of the removal of the judicial officer.

If the Council concludes that the complaint justifies parliamentary 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 then refer the matter to the head of the relevant jurisdiction.

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

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

Lodging a complaint

Anyone can make a complaint to the ACT Judicial Council, including 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.

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.

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 received

In 2020–21, the Council received 7 complaints from 7 individual complainants, about 6 ACT judicial officers. All complaints were made to the Council by members of the public.

Complaints included allegations of bias, failure to give a fair hearing, discourtesy, incorrect application of the law, bullying and intimidation.

Some complaints also included allegations of incorrect decisions. In these cases, the Council advised the complainant that they may wish to seek legal advice about their appeal options because the Council has no ability to examine the merits of, or change, a judicial officer's decision.

Following a preliminary examination of the complaints, the Council decided to dismiss 4 complaints under s 35B of the *Judicial Commissions Act 1994* (the Act). Included in these 4 complaints was one complaint carried over from the previous reporting period.

 **As at 30 June 2021, the Council was assessing 4 open complaints.** 

In 2020–21, consistent with previous years, most complaints were received from self-represented litigants facing difficulties navigating court processes.

The small number of complaints received this year may be attributed to the continued impact COVID-19 has had on ACT court operations and the ACT community in general.

Enquiries received

In 2020–21, the Council received 18 enquiries, separate to the 7 complaints, from members of the public. Several enquiries related to possible complaints where the person was seeking more information about the process, before deciding not to proceed. Most enquiries related to complaints about aspects of the court process that the Council has no ability to consider. In these instances, complainants were provided with information about other complaint pathways.

Council members

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.



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 ACT.

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 a Bachelors of Arts and Laws from the University of Sydney. Lorraine was admitted as a solicitor in NSW 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 3 years in Melbourne and the Northern Territory before relocating to her birthplace – the United Kingdom.

Lorraine 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 before being made a partner in a national law firm. She started at the ACT Bar in 2000.

Lorraine 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.

In August 2019, Lorraine was appointed an Acting Judge of the Supreme Court for 12 months to establish the ACT's Drug and Alcohol Sentencing list but resumed as Chief Magistrate in April 2020, in light of the impact of the COVID-19 pandemic.



Martin Hockridge

Martin Hockridge was appointed to the Council as the legal practitioner representative in February 2020.

Martin was admitted as a lawyer in 1982 and has practised in the ACT for more than 30 years. He was a long time criminal defence lawyer before moving to policy and administration as Deputy Chief Executive Officer at Legal Aid ACT. After leaving Legal Aid, he was president of the ACT Law Society for 3 years.

Martin has been a Director of the Law Council of Australia and is currently a member of the Legal Practitioners Admission Board as well as working on Law Society Committees. His work interests include access to justice, the criminal law and human rights.



Clare Doube

Clare Doube was appointed to the Council as the community representative in April 2021. Clare is a human rights consultant and nationally-accredited mediator. Much of her work focuses on strategy and evaluation, across varied areas including social safeguards, criminal justice, civic space and gender. She has strong connections in the Canberra community, including through her past work as Executive Director of Companion House and through consultancies for ACT community organisations and the ACT Government.



Jenny Hodges

Jenny Hodges served as the appointed community member on the Council between May 2018 and March 2021.

Jenny has 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. She has also worked in community services in local government authorities.

The Principal Officer and supporting staff

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

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



Michael Manthorpe PSM, Principal Officer

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

Michael is the Commonwealth Ombudsman and the ACT Ombudsman. Michael undertakes this role as one of his functions as the Commonwealth and ACT Ombudsman – a position he has occupied since May 2017. Before that, Michael was a career Australian Public Servant, who served 33 years in various Australian Government agencies, most recently as a Deputy Secretary at the then Department of Immigration and Border Protection, and the Department of Education, Employment and Workplace Relations.



Louise Macleod

Louise Macleod has assisted the Principal Officer to support the Council since December 2019.

Louise joined the Office of the Commonwealth Ombudsman in July 2016. Her public service career spans more than 17 years in various leadership roles conducting investigations, compliance monitoring, and dispute resolution in government agencies including the Department of the Prime Minister and Cabinet, the Administrative Appeals Tribunal, the Australian Competition and Consumer Commission, the Energy and Water Ombudsman (Victoria) Limited, the Queensland Department of Justice and Attorney General's Dispute Resolution Centres, and the Family Court of Australia. Before this, Louise spent 7 years as an officer in the Australian Army and served on operations in East Timor.

Louise is a mediator and is admitted as a solicitor in the ACT.



Jennifer Furze

Jennifer Furze started assisting the Principal Officer to support the Council in February 2020.

Jennifer was admitted as a solicitor to the Supreme Court of the ACT in 2007. She has been a Freedom of Information merits review officer at the Office of the Commonwealth Ombudsman. Jennifer has also previously held roles with the Department of Agriculture and Water Resources working on export control legislation, and the Attorney General's Department working on family law policy and matters under the *Hague Convention on the Civil Aspects of International Child Abduction*.



Suseela Durvasula

Suseela assists the Principal Officer to support the Council.

Suseela joined the Office in October 2015 and has worked in a range of investigation, strategy, program delivery and management roles. She was previously a member of the Migration and Refugee Review Tribunals and the Social Security Appeals Tribunal. She has had over 20 years' experience in the public service in policy and legal roles, with a particular focus on administrative law. Suseela is admitted as a solicitor in NSW and Victoria.



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