Guideline - Complaints

Making a complaint to the Judicial Council of Tasmania

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JUDICIAL COUNCIL OF TASMANIA

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About

The Judicial Council of Tasmania is a statutory body that receives and examines complaints about judicial officers in Tasmania as defined by the *Judicial Commissions Act 2024* (Tas) (the Act). It also has a role in promoting and setting standards for judicial conduct and educating the community about its role where confidence and trust in the judiciary is paramount.

The Judicial Council of Tasmania does not provide legal advice to the public or any other parties. Individuals need to seek their own independent legal advice and representation.

This *Guideline* is published pursuant to section 7(2)(a) of the Act and provides information about the practices and procedures of the Judicial Council in relation to making a complaint. It is not intended as legal advice but provides general information.

Contact:

Principal Officer
Judicial Council of Tasmania
GPO Box 27
HOBART TAS 7001

Telephone: 0448 384 135

Email: principalofficer@judicialcouncil.tas.gov.au

Website (click here): Judicial Council

Making a Complaint

Who can make a complaint

Any person may make a complaint to the Judicial Council of Tasmania about a matter that relates or may relate to the behaviour, or physical or mental capacity, of a judicial officer.

Complaints may be made anonymously. This means you do not have to identify yourself or your organisation as the person or party making a complaint. If you do make an anonymous complaint the Judicial Council will not be able to advise you of the outcome of your complaint.

All complaints should be in writing although support and adjustments are available for vulnerable or disabled persons who can contact the Principal Officer for assistance.

Complaints may be completed using the online form available at:

Make a Complaint

Alternatively, the form may be printed off and completed and sent to the Principal Officer via mail or email.

All complaints should state the following:

- The name and address of the complainant; or
- That the complaint is being made anonymously; or
- That the complaint is being referred to the Judicial Council on behalf of another person regardless of whether the other person is known or anonymous; and
- The name of the judicial officer concerned; and
- The full particulars of the allegations that form the subject matter of the complaint; and
- The matter (or Court/Tribunal) reference number and/or the parties to the proceeding and on what date it was heard by the judicial officer.

Who is a Judicial Officer

Complaints can only be made about *Judicial Officers*. The Act defines *Judicial Officers* as:

- A judge of the Supreme Court and includes an Associate Judge and any acting Judge
- A magistrate of the Magistrates Court including coronial magistrates
- A presidential member of the Tasmanian Civil and Administrative Tribunal (TASCAT) being the President of TASCAT or any Deputy President of TASCAT but does not include other members of TASCAT

What can I complain about

Complaints may be made that relate or may relate to the behaviour, or physical or mental capacity of a judicial officer.

A complaint may not be made solely on the basis that a person is dissatisfied with the outcome of a judicial proceeding that was presided over by a judicial officer. This means that if your complaint is solely made because you did not get the outcome you wished in relation to a matter, your submission may not amount to a complaint that is able to be examined by the Judicial Council.

Complaints to the Judicial Council are not an alternative to an appeal or review mechanism for complainants who are dissatisfied with the outcome of their matter.

The Judicial Council cannot change the outcome of judicial proceedings. If your complaint fits into this category, you should seek independent legal advice about your options to have your matter appealed or reviewed if provided by the law.

A list of contacts is provided at the end of this *Guideline* of bodies that may assist you with enquiries about appeal and review processes or further rights that may be available to you.

How can I make a complaint

Complaints can be made:

- Online; or
- By printing off a copy of the complaint form, filling it in and either:
    - Posting the complaint to the Judicial Council; or
    - Sending the complaint via email; or
- In handwriting or by typing your complaint and sending it via post or email to the following addresses:

  Principal Officer
  Judicial Council of Tasmania
  GPO Box 27
  HOBART TAS 7001

principalofficer@judicialcouncil.tas.gov.au

You can make a complaint through the Judicial Council's website by clicking on the following link:

Make a Complaint

Contents of complaints

Complaints may be made that relate or may relate to the behaviour, or physical or mental capacity of a judicial officer.

Complaints may also be made about matters that happened in the past.

You should take time to consider what aspects of the judicial officer's behaviour, or physical or mental capacity has caused you concern or dissatisfaction.

Your complaint should be in writing and refer to the parties in the case, details of what court or tribunal your matter was before and the court/tribunal reference number that was allocated. This will assist the Judicial Council to identify the matter and take appropriate steps to undertake its examination.

The Judicial Council cannot advise you what to put in your complaint.

What happens to my complaint

Once your complaint is received by the Judicial Council the following will occur:

- Your complaint will be recorded and logged in our systems.
- Your complaint will be acknowledged as received by the Judicial Council within 5 working days.
- The Principal Officer may seek further information or documents from you or your advocate/family member if appropriate.
- Transcripts may be sought in relation to the complaint.

The matter will be heard in private unless otherwise decided by the Judicial Council.

You may contact the Principal Officer to determine the progress of your complaint at any time by contacting 0448 384 135 but you will be advised of the final outcome when the complaint is finalised or determined if you provided your contact details.

The Judicial Council also has powers to refer a matter to a Judicial Commission in certain circumstances. The Parliament of Tasmania also has powers to refer a matter for inquiry to the Judicial Council to establish a Judicial Commission.

Preliminary Examination

The Judicial Council must conduct a preliminary examination of a complaint. The preliminary examination is a 'gatekeeping' provision, to ensure that the Judicial Council has jurisdiction to consider the complaint, and that the complaint should proceed further.

The Act allows the Judicial Council to dismiss a complaint if it is frivolous, vexatious, or lacking in substance, or the substance of complaint is trivial, or happened so far in the past that it does not justify further consideration.

Complaints can also be dismissed if they are not within the jurisdiction of the Judicial Council. Complaints that are in relation to a judicial officer who presides in a court or tribunal in another State or Territory cannot be examined by the Judicial Council. Nor can complaints be considered by the Judicial Council if they relate to matters heard in the Federal Courts such as the Federal Family Court or the Federal Circuit Court.

Following a preliminary examination, the Judicial Council may also refer the complaint to the relevant head of jurisdiction if it is satisfied on reasonable grounds that if it were substantiated it would not justify the removal of the judicial officer from office.

What if my complaint is dismissed

If your complaint is dismissed by the Judicial Council, the complaint process comes to an end, and no further action will be taken by the Judicial Council. If you have provided contact details the Judicial Council will write to you and advise you that your complaint has been dismissed.

Complaints to the Judicial Council are not an alternative to an appeal or review mechanism for complainants who are dissatisfied with the outcome of their matter.

The Judicial Council cannot change the outcome of judicial proceedings. If your complaint fits into this category, you should seek independent legal advice about your options to have your matter appealed or reviewed if provided by the law.

Substantive Examination

After the preliminary examination of the complaint, if the complaint is not dismissed or referred to the head of jurisdiction, the Judicial Council must conduct a substantive examination. At this stage the Judicial Council is required to determine if there are reasonable prospects of the complaint being wholly or partly substantiated, and whether the complaint is of a nature that would justify the removal of the judicial officer from office.

The Judicial Council may also refer the complaint to the relevant head of jurisdiction if it is satisfied on reasonable grounds that if it were substantiated it would not justify the removal of the judicial officer from office.

If a complaint is of a very serious nature the Judicial Council may appoint a Judicial Commission to inquire into a complaint.

The following list of contacts may assist you with enquiries about appeal and review processes or further rights that may be available to you.

Useful contacts for advice and information

Legal Aid

Hobart

158 Liverpool Street
GPO Box 1422
HOBART TAS 7001
Phone 6236 3800

Launceston

Level 1, 117 Cimitiere Street
PO Box 810
LAUNCESTON TAS 7250
Phone 6328 4000

Devonport
8 Griffith Street
PO Box 87
DEVONPORT TAS 7310
Phone 6423 8444

Burnie
50 Alexander Street
PO Box 550
BURNIE TAS 7320
Phone 6432 5000

Community Legal Centres

Hobart Community Legal Centre
166 Macquarie Street
HOBART TAS 7000
Phone 03 6223 2500
Email info@hobartlegal.org.au

Launceston Community Legal Centre
2/42-48 St John St
LAUNCESTON TAS 7250
Phone 03 6334 1577

The North West Community Legal Centre
56 Formby Road,
DEVONPORT TAS 7310
Phone 03 6264 8720

Other Services

Women's Legal Service
Phone 1800 682 468

Aboriginal Legal Service of Tasmania
4/152 Macquarie St
HOBART TAS 7000
Phone 1800 595 162

Law Society of Tasmania
28 Murray Street
HOBART TAS 7000
Phone 03 6234 4133