



District Court of NSW and NSW Bar Association

Protocol for Dealing with Complaints of Judicial Conduct

(as amended, effective on and from 4 August 2025)

Introduction

1. The *Judicial Officers Act 1986* (NSW) provides a means for any person to complain about the conduct of judges and registrars (together **judicial officers**) but not their decisions. Complaints about a judicial officer's conduct may be made in accordance with those procedures.
2. Barristers may however prefer to raise their concerns through a different mechanism.
3. This Protocol sets out the steps should a barrister wish to raise a concern about the conduct of a judicial officer with either:
 - (a) the **President** of the Bar Association; or
 - (b) one of two persons nominated by the Executive of Bar Council after consultation with the **Chief Judge** of the District Court, being a Senior Counsel appointed for this purpose and to be referred to as a **Judicial Conduct Liaison Officer (JCLO)**.

Raising a concern about conduct of a judicial officer of the District Court of NSW

4. A barrister, or in the case of a barrister of 5 years or fewer call, their clerk, may contact the President or JCLO to raise concerns about the alleged conduct of a judicial officer.
5. The raising of the concern will be treated confidentially by the persons with whom it is raised save to the extent disclosure to others is necessary for the purposes of this Protocol (subject to any mandatory reporting obligations).
6. If the barrister, or where applicable the clerk, raises the concern with a JCLO and requests that the matter not be disclosed to the President, this request will be respected. At this stage, the concern will not be disclosed to the relevant judicial officer, because no decision will have been made as to whether any complaint will be pursued.
7. The President or JCLO will make an assessment of the alleged conduct and, for this purpose, may ask for more information from the barrister, or where applicable the clerk, about the alleged conduct and its impact.

8. The Bar Association will maintain a confidential **register** that will record the following:
 - (a) The information provided by the barrister, or where applicable the clerk, under this Protocol.
 - (b) A record of the information provided by the President or JCLO to the barrister, or where applicable the clerk.
 - (c) Any steps taken by the President or JCLO to deal with the complaint.
 - (d) Any communications between the Chief Judge and the President or the Chief Judge and JCLO.
9. The register may only be accessed by the Chief Judge, the President, a JCLO, and the Executive Director of the Bar Association.

Complaint to the Judicial Commission

10. If the President or JCLO is of the view the alleged conduct is sufficiently serious to warrant a complaint to the Judicial Commission in accordance with paragraph 1, the barrister, or where applicable the clerk, is to be informed of that fact and asked if the barrister wishes to make the complaint themselves or have the President make the complaint in their capacity as President.
11. If the barrister wishes to pursue a complaint to the Judicial Commission (whether themselves or via the President), the President will record that fact in the register and no further action pursuant to this Protocol will take place.
12. If the barrister, or where applicable the clerk, does not wish to pursue a complaint to the Judicial Commission, the barrister, or where applicable the clerk, may take up one of the complaint processes below.

Other complaint processes

13. The barrister, or where applicable the clerk, may request that no further steps be taken by the President or JCLO. In that circumstance, the President or JCLO will record that communication in the register but will not take any other steps (subject to any mandatory reporting obligations).
14. Otherwise, the following may occur if the barrister, or where applicable the clerk, so wishes:
 - (a) The President or JCLO will meet with the Chief Judge on a confidential basis.
 - (b) At such a meeting, the identities of barrister and/or the clerk will not be disclosed without the consent of the barrister.
 - (c) The Chief Judge may take whatever steps she or he considers appropriate.
 - (d) The Chief Judge may inform the President or JCLO of any steps taken.
 - (e) The President or JCLO may inform the barrister, or where applicable the clerk, on a confidential basis of any steps taken by the Chief Judge (as communicated in accordance with paragraph 14(d)).
 - (f) Any steps taken by the Chief Judge (if communicated in accordance with paragraph 14(d)) will be recorded in the register.

15. Entries made in the register are to be reviewed by the Executive Director of the Bar Association every six months from the time of the creation of the register, to determine whether the Bar Association requires the entries for any purpose under this Protocol, or whether the Bar Association is required by law to retain any entry.
16. To the extent that any entry is no longer required to be retained by the Bar Association, the Executive Director is to take steps to destroy the entry within a reasonable time thereafter.
17. This Protocol is not intended to create any legal rights or obligations, nor does it affect any existing legal rights or obligations.

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The Hon. Justice S Huggett
Chief Judge, District Court of NSW
1 August 2025



Dominic Toomey SC
President, NSW Bar Association
1 August 2025