

**PROTOCOL FOR THE TASMANIAN BAR AND THE LAW SOCIETY OF
TASMANIA TO RAISE CONCERNS ABOUT THE CONDUCT OF TASMANIAN
JUDGES AND MAGISTRATES – MARCH 2021**

The Judges of the Supreme Court of Tasmania and the Magistrates of the Magistrates Court of Tasmania have agreed with the President of the Tasmanian Bar and the President of the Law Society of Tasmania, upon the terms of this protocol, for the Presidents of the professional bodies to raise any concerns from time to time with:

- A. the Chief Justice or the senior puisne judge about the conduct of any judicial officer of the Supreme Court of Tasmania; or
- B. the Chief Magistrate or Deputy Chief Magistrate about the conduct of any magistrate of the Magistrates Court of Tasmania.

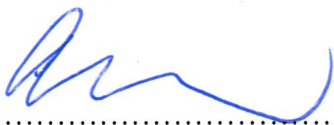

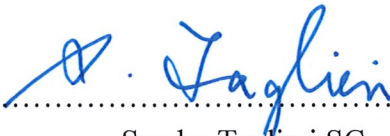

Tasmanian legislation does not prescribe any procedures in relation to complaints about Judges or Magistrates. Barristers or other legal practitioners may wish to raise concerns about judicial conduct through their professional bodies. This protocol is designed to support barristers and other legal practitioners in such circumstances. Its aim is to enable them to raise concerns with the President of either professional body ("**the President**"), who may then raise concerns with the Chief Justice, or the senior puisne Judge if the concern relates to a judicial officer of the Supreme Court or the Chief Magistrate or Deputy Chief Magistrate if the concern relates to a Magistrate.

The steps in the procedure are as follows:

- 1 A barrister or other legal practitioner may contact either President by telephone, email or in person to raise concerns about the conduct of a judicial officer (a Judge, the Associate Judge or Magistrate). The raising of the concern will be treated confidentially, save to the extent that disclosure to others is necessary for the purposes of this protocol. The barrister or other legal practitioner raising a concern need not be the person who has been the subject of the conduct, but should have knowledge of the conduct sufficient to raise the concern.
- 2 The President will make an assessment of the conduct and, for this purpose, may ask for more information from the barrister or other legal practitioner or others about the nature of the conduct and its impact.
- 3 If the President is of the view that the conduct is of a type that warrants action, the President may:

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- (a) in the case of concern about a judicial officer of the Supreme Court, encourage the barrister or other legal practitioner to make a written complaint directly to the Chief Justice or, if the matter relates to the conduct of the Chief Justice, the senior puisne judge;
 - (b) in the case of concern about a magistrate, encourage the barrister or other legal practitioner to make a written complaint directly to the Chief Magistrate or, if the matter relates to the conduct of the Chief Magistrate, the Deputy Chief Magistrate;
 - (c) consider whether the President's professional body should itself initiate such a complaint; or
 - (d) raise the matter with the Chief Justice, the senior puisne judge, Chief Magistrate or Deputy Chief Magistrate as the case may be on a confidential basis.
 - 4 In appropriate cases, the President may raise concerns with the Chief Justice, the senior puisne judge, Chief Magistrate or Deputy Chief Magistrate in accordance with this protocol of his or her own motion. Before doing so, the President will take into account, but not be bound by, the wishes of the aggrieved barrister(s) or other legal practitioners..
 - 5 After a matter has been raised with the Chief Justice, the senior puisne judge, Chief Magistrate or Deputy Chief Magistrate he or she may consider the matter, or cause the matter to be considered, and, amongst other things may:
 - (a) have the matter brought to the attention of the relevant judicial officer (without, so far as possible, identifying the source of the concern or complaint if that person would prefer not to be identified) either at the time it is raised or at a subsequent time if that is appropriate having regard to all the circumstances;
 - (b) give the judicial officer the opportunity to express his or her views;
 - (c) examine or have examined any in-court recording relevant to the conduct;
 - (d) read or have read any transcript of any matter relevant to the conduct;
 - (e) discuss the conduct or have the conduct discussed with the relevant judicial officer;
 - (f) discuss or have discussed with the judicial officer what is the appropriate course to take.
 - 6 Thereafter the Chief Justice or the senior puisne judge, Chief Magistrate or Deputy Chief Magistrate will respond to the President who raised the concern, as considered appropriate. The response may include:

- (a) informing the President in general terms of the outcome of discussions with the judicial officer; and/or
- (b) informing the President that in his or her view the judicial officer's conduct does not warrant any action.
- 7 Communications between the President and the Chief Justice, the senior puisne judge, Chief Magistrate or Deputy Chief Magistrate are confidential.
- 8 The President may inform the Chief Justice, the senior puisne judge, Chief Magistrate or Deputy Chief Magistrate about any matters in relation to the operation of this protocol more generally.
- 9 This protocol is not intended to create any legal rights or obligations, nor to affect any existing legal rights or obligations.

 The Honourable Justice A M Blow AO Chief Justice, Supreme Court of Tasmania	 Chief Magistrate C Geason Magistrates Court of Tasmania
 Sandra Taglieri SC President of the Tasmanian Bar Association	 Trevor McKenna President of the Law Society of Tasmania