



## PROTOCOL FOR THE BAR TO RAISE CONCERNS ABOUT JUDICIAL CONDUCT

### PREAMBLE

- A. There exists an informal procedure by which a barrister can raise concerns through the President of the Bar Association about the courtroom conduct of a judge of the District Court. In that informal process, the President communicates those concerns to the Chief Judge who gives consideration as to whether and what steps should be taken and acts accordingly.
- B. This protocol is intended to document that procedure.

### THE PROCEDURE

The steps in the procedure are:

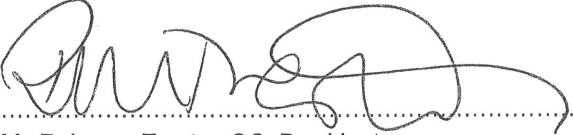
1. Members of the Bar may contact the President of the Bar to raise concerns about the conduct of a judge. The raising of the concern will be treated confidentially, save to the extent that disclosure to others is necessary for the purposes of this Protocol. The member of the Bar raising a concern need not be the person who has been the subject of the conduct, but must have firsthand 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 member about the nature of the conduct and its impact.
3. After such assessment as the President deems necessary, if the President is of the view that conduct may be of the type that warrants it, the President may raise the matter with the Chief Judge on a confidential basis. If the matter raised concerns the Chief Judge then the President may raise the matter with the next most senior judge available. That judge may act under this protocol in relation to the matter as the Chief Judge could, had the matter concerned a different judge.
4. In appropriate cases, the President may raise concerns with the Chief Judge in accordance with this Protocol of their own motion. Before doing so, the President will take into account, but not be bound by, the wishes of aggrieved members.
5. After a matter has been raised with the Chief Judge they will make such enquiry as they think fit so as to inform themselves of the validity of the concern. The Chief Judge may:
  - a. bring the matter to the attention of the relevant judge (without, so far as is possible, identifying which barrister has raised the concern where the President has advised that the barrister would prefer not to be identified);
  - b. watch or listen to any in-court recording relevant to the conduct;

- c. read any transcript of hearing(s) relevant to the conduct;
  - d. give the judge the opportunity to express their views.
6. If, after informing themselves about the conduct complained of, the Chief Judge is of the view that there is no substance to the concern raised or that the conduct does not warrant any further action the Chief Judge shall so inform the President.
7. The Chief Judge may take steps which include, but are not limited to, one or more of the following:
- a. discussing their views about the conduct with the judge;
  - b. discussing with the judge if any further action is appropriate;
  - c. informing the President that discussion has taken place with the judge concerned;
  - d. informing the President in general terms of the outcome of any discussion with the judge;
  - e. advising the President of any further step that has been agreed or has occurred;
  - f. informing the President of the extent to which the President might disseminate any information provided by the Chief Judge.
8. The President shall not inform any third party (including the barrister raising the concern) of their discussions with the Chief Judge concerning any such matter without the express approval of the Chief Judge.
9. The President may raise with the Chief Judge any matter in relation to the operation of this Protocol or in relation to judicial conduct more generally.

DATED this 17<sup>th</sup> day of February 2020

  
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His Honour Chief Judge O'Brien  
District Court of Queensland

DATED this 17<sup>th</sup> day of February 2020

  
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Ms Rebecca Treston QC, President  
Bar Association of Queensland