



Judicial Conference of Australia

EXECUTIVE COMMITTEE

MINUTES OF MEETING: 2015/5

Held by teleconference on **Thursday 26th November 2015**
commencing at 5.00 pm Eastern Summer Time

Participating

Justice Steven Rares (President)	in the Chair
Judge Michael Baumann, AM	Treasurer
Justice Robert Beech-Jones	Vice-President
Chief Justice Alan Blow, OAM	
Judge Philip Eaton	
Justice Timothy Ginnane	
Chief Magistrate Graeme Henson	
Justice Hilary Penfold, PSM	
Magistrate Marc Sargent	

Apologies

Justice Judith Kelly
Justice Glenn Martin, AM
Justice Michael Walton

In attendance

Christopher Roper, AM (Secretary)

1 Minutes of the previous meeting

The minutes of the previous meeting held on 24th September 2015 had been circulated.

Resolved:

That the minutes of the meeting held on 24th September 2015 be approved.

2 Co-option of a member to the Executive Committee

Resolved:

That Chief Magistrate Graeme Henson be co-opted to the Executive Committee until the next Annual General Meeting.

3 President's report and business

3.1 Superannuation surcharge, anomaly in regard to taxation of redundancy payments and excess contributions tax

The President reported that he had not received any replies to his letters to the Commonwealth Attorney-General or Treasurer.

There was some discussion as to whether the President's assessment, that the current legislation was the result of a drafting error, was correct or not. Justice Penfold referred to the Explanatory Memorandum which said that the government was only excluding those in respect of which it had no choice: and therefore, in her view, it was not a drafting error.

It was agreed that the JCA would wait for the replies from the two Ministers before deciding what, if anything, should be done.

The Secretary was asked to contact the Ministers' offices and enquire when a response might be received and, failing that, seek an appointment for the President to see the Minister.

3.2 Remuneration Tribunal's review of judicial salaries

The President reported that he had had an enquiry from Judge McInerney as to progress. He said that he understood Mr Conde was seeking to make a proposal which would be politically achievable.

The question was raised as to whether the JCA itself should make a submission. The President noted that the Tribunal would be looking at each federal court individually, and each court would make its own submission. He said he thought it would be difficult to make a submission on behalf of judges generally.

Justice Penfold noted that the Tribunal was seeking submissions from bodies in relevant State jurisdictions. She suggested the JCA could just say that almost all judges are affected by having had to be on the same pay level for several years.

Justice Rares said that he was sure the federal courts would put a case as high as could be made. He said he would make some enquiries. If he got the impression from Chief Justice Allsop that the JCA should put in a submission then he would do so.

3.3 Observer status for New Zealand judges on the Governing Council

It was agreed that the President should write to Chief Justice Elias and advise her that the JCA would be pleased if Justice Ellis, or another judge nominated by the Chief Justice, were in future to attend Governing Council meetings.

3.4 Honorary membership of the JCA

It was agreed that, in light of the recent changes to the JCA Rules, that the President should write to Judge James Crawford, AC of the International Court of Justice and invite him to be an honorary member of the JCA.

3.5 Observer on behalf of the International Association of Judges on the Governing Council

The President reported that Justice Pagone wished, as he is now a Vice President of the International Association of Judges (IAJ), to have another person on the Governing Council be given the IAJ 'linking role' which he now has. As no members of the Executive Committee expressed interest in this position, it was agreed that all members of the Governing Council be asked if they wished to assume this role. It was decided that this matter be put onto the Executive Committee's Action List.

4 Financial matters

A financial report prepared by Edwards Marshall for the period 1st July to 31st October 2015 had been circulated, and was noted. The Treasurer reported that the current balance in the accounts at the bank totalled \$618,082.

Judge Michael Baumann, the Treasurer, reported that he now was able to authorise payments through NAB Connect and was acquiring an understanding of the process for paying the JCA's bills. He said it was a transparent process. He said he may have some suggestions but he would not propose them until next year.

The President proposed that the bank balances be shown as part of the report from Edwards Marshall, and it was agreed that this be done.

The President also proposed that the financial report have a Budget to Date column. The Secretary said that, so far, a cash-flow budget has not been prepared alongside the budget itself, and hence these figures have not been available. However, it could be done. The Treasurer proposed that he and the Secretary would look into this.

The Secretary was asked if a financial report for the Colloquium was yet available. He advised the Committee that AM Meetings Plus had not yet provided their report on revenue but that he had a full record of expenditure. He said he was yet to reconcile the (forthcoming) AM Meetings Plus report, the ledger kept by Edwards Marshall, and his own cash book. He said that an early analysis indicated that the Colloquium was likely to have been profitable.

It was agreed that a financial report on the Colloquium would be provided to the Executive Committee before the end of the year.

Resolved:
That the Treasurer's report be received.

5 Membership matters

A membership report as at 31st October 2015 had been circulated, and was noted.

Justice Penfold enquired as to the proposal that all Governing Council members be sent a list showing those members of their respective courts who were members of the JCA, those who had not renewed from last year, and those who were not members, so that they could encourage non-members to join. She said she had not received a list. The Secretary said he would investigate and report, to her and the Executive Committee.

The matter of the membership of the JCA by Deputy Presidents of the South Australian Workers Compensation Tribunal was deferred to the next meeting.

6 Secretariat matters

A report from the Secretary had been circulated and was noted.

It was agreed that the existing arrangement, whereby the registered office of the JCA is at Phipson Corporate Services, Canberra, be maintained.

It was also agreed that the Secretary be authorised to expend \$285 to purchase a subscription to Adobe Acrobat for installation on the Secretariat's laptop computer.

7 Dates for 2016 meetings of the Governing Council and Executive Committee

A memorandum had been circulated.

Resolved:

That the meetings of the Governing Council and Executive Committee in 2016 be held as follows –

Governing Council

March 19 Melbourne

June 4 Sydney

October 7 & 8 Canberra

Executive Committee

February 4

April 21

July 21

September 15

November 24.

It was agreed that, for the March and June meetings, there be an informal dinner beforehand for those members who wished to participate.

8 Colloquiums

It was agreed that the Planning Committee for the 2016 Colloquium be –

Justice Beech-Jones

Magistrate Karen Fryar

Justice Tim Ginnane

Justice Hilary Penfold

Magistrate Marc Sargent.

Members were asked to provide any suggestions they may have for topics for the Colloquium. A suggestion was made that George Megalogenis would be a very good speaker (after-dinner or otherwise). The President said that Justice Sheahan had proposed the topic of bullying within courts be a topic. He noted that there had been a good response to the depression topic and that, like it, the bullying topic could give a voice to those who felt disempowered. He also said that the JCA

might consider whether it should, in specific situations of alleged bullying, make a submission to a court where a member of the JCA felt he/she could not do it internally.

9 Social media and judges symposium

The President reported that he had written to the Prime Minister to ask him to take part. It was noted that this was unlikely but the Secretary was asked to follow this up with the Prime Minister's office.

The Secretary pointed out that it was proposed that a background paper be prepared for all those participating, and that Professor Reinhardt of the AIJA had identified Professor Marilyn Krawitz of Notre Dame University as a person well qualified to prepare it. He said he and Professor Reinhardt would have a teleconference discussion with her shortly. He observed that there would be a cost involved in preparation of the paper, which he did not think would exceed \$10,000, to be shared equally by the JCA and the AIJA. He said that this paper could be very useful not only for the symposium but as a future publication by the JCA, for its members and more widely.

Resolved:

That the Office Bearers be given approval to authorise the appropriate expenditure for this paper.

10 Title of magistrates

A draft of a letter to be sent to relevant Attorneys-General and their Shadows, had been circulated. The President reported that Governing Council members from the relevant courts had provided details for inclusion. It was noted that the letters would be finalised and sent out by the President.

11 Retirement age of judges and the appointment of acting judges and reserve judges

The President reported that he had been approached by Justice Michael Barker about this matter. The President asked if the JCA should develop a policy on the retirement age for judges and magistrates, which at present varies between jurisdictions and courts, as well as a policy on the appointment of acting judges or reserve judges.

It was agreed that this matter be added to the Governing Council's agenda.

It was suggested that a paper might be commissioned which looked at this matter and its implications. Chief Justice Blow said he would send to the President a report of which he was aware on this matter, which could be circulated for the Governing Council meeting.

12 Recent media release on attacks by politicians on the Court of Appeal judges in Victoria

The President reported that Chief Justice Warren had expressed her appreciation for the JCA's media release on this matter.

13 Next meeting

It was noted that the next meeting would be held on Thursday 4th February 2016 at 5.00pm Eastern Summer Time.