



Judicial Conference of Australia

EXECUTIVE COMMITTEE

MINUTES OF MEETING: 2013/1

Held by teleconference on **Thursday 7th February 2013**
commencing at 5.00 pm Eastern Summer Time

Participating

Justice Philip McMurdo (President) in the Chair
Justice David Beach
Justice Robert Beech-Jones
Justice Alan Blow, OAM (Vice President)
Chief Magistrate Graeme Henson
Magistrate Don Jones
Justice Hilary Penfold, PSM
Justice Steven Rares
Magistrate Marc Sargent
Justice Michael Walton
Judge Brian Withers (Treasurer)

Apologies

Federal Magistrate Michael Baumann, AM
Chief Magistrate Elizabeth Bolton
Judge Allan Fenbury
Justice Judith Kelly
Christopher Roper, AM (Secretary)

In attendance

Dominic McNeil (Administrative Assistant)

1 Minutes of the previous meeting

The minutes of the previous meeting held on 22nd November 2012 had been circulated.

Justice Rares noted that the preparation of a brief note by himself and Federal Magistrate Baumann (as stated on page 2 of the minutes) had been deferred.

There were no proposed changes to the minutes.

Resolved:

That the minutes of the meeting held on 22nd November 2012 be approved.

2 President's report and business

Law Council's Judicial Issues Working Group

The President reported that he had written to the Law Council of Australia noting the establishment of the Working Group and that the JCA was interested in being kept informed of its work. The President said he had received a favourable response from the Law Council, which expressed that it was a good idea and that both entities should keep in touch.

Publication on the JCA's website of papers presented at conferences for judicial officers

The President reported that he had spoken to Justice Steven Rothman, who coordinates the Supreme and Federal Courts Judges Conference, and asked him whether he would be interested in sharing conference papers with the JCA. Justice Rothman agreed to the idea. The President noted he would write a letter to Justice Rothman to confirm the arrangement once he receives his own copies of the papers. The President noted that the Supreme and Federal Court Judges Conference had no website, so there would be no way to link the JCA website to the papers other than to display them on the JCA website. The President also noted that there were papers from other conferences which could be similarly uploaded or linked to the JCA website, but that this was at least a good start.

3 Financial matters

A report from Edwards Marshall for the period 1st October to 31st December 2012 had been circulated, and was noted. The Treasurer reported that the current balances at bank were in total just under \$536 000.

The Treasurer noted that the report states the JCA has spent \$36 on legal advice, and that this is obviously a mistake. Otherwise, the figures stated were satisfactory.

Justice Penfold asked for clarification on the interpretation of the report, and this was given by the Treasurer.

Resolved:

That the Treasurer's report be received.

4 Membership matters

A report from Edwards Marshall showing the position in regard to membership as at 31st December 2012 had been circulated, and was noted.

Dominic McNeil, the Administrative Assistant, reported that the current total membership was 649, and only 33 of the members from the 2011/12 membership year had not renewed their membership. He reported that the Secretary had advised him that this was the lowest number of non-renewing members for some years.

Justice Rares asked that the number of eligible Federal Court judges be amended to 44.

Chief Magistrate Henson acknowledged the contribution of Magistrate Lee Gilmour in recruiting new members from the Magistrates Court of New South Wales. The Chief Magistrate noted that 14 new members from his court had joined since Magistrate Gilmour became a representative on the Governing Council. The Chief Magistrate also noted he had written to the President regarding two new appointments, whom he would urge to join the JCA.

The President informed the two new members of the Executive Committee (Justice David Beach and Justice Robert Beech-Jones) of the JCA's policy of Governing Council and Executive Committee members notifying the Secretary of any new appointments or retirements from their courts. The President encouraged Justice Beach and Justice Beech-Jones to do this.

Justice Beach noted that membership of the JCA of judicial officers from the Supreme Court of Victoria was not 100% of eligible judicial officers. He asked that the Secretariat notify him of those eligible judicial officers who were not members so that he could urge them to join the JCA.

5 Secretariat matters

Membership by retired judicial officers

The meeting considered the proposal as to whether members who were retired, or were retiring, as active judicial officers might be offered three years of membership for \$150. The President stated that at least one member had inquired into the possibility of a three year membership.

The Treasurer expressed the view that it was a good idea, that the Secretary had suggested that three year membership be confined to retired members, and that the JCA should look into it further.

The President asked that the Secretariat provide advice on what would be required to set up a three year membership option for retired judicial officers which would be implemented as soon as possible.

Justice Blow alerted the Committee to the fact that this would change rule 8 of the JCA Rules, and that therefore a resolution must be made by the Governing Council to amend the Rules.

Resolved:

That a recommendation be put to the Governing Council to approve an amendment to the Rules to permit a three year membership option for retired judicial officers.

Depreciation on judges' robes

The President invited members of the Executive Committee to consider whether the JCA should make a submission. There was then general discussion of this matter.

The President said he would draft something for the Secretary to send to the ATO.

Family Court of Western Australia

The President introduced this matter by stating there were no members of the JCA from the eight magistrates of the Family Court of Western Australia. The President queried whether these magistrates were eligible for membership. Justice Blow also queried whether these magistrates held Commonwealth commissions.

Members of the Executive Committee expressed the presumption that they were West Australian magistrates and therefore were eligible, and this was supported by information on the Court's website which indicates the magistrates were judicial officers.

Justice Blow referred to rules 11(1)(a) and (d) of the JCA Rules. On his interpretation, the Family Court of Western Australia was entitled to a representative on the Governing Council, and that the identity of this representative would be a matter for the Family Court of Western Australia. Justice Blow suggested that their eligibility be confirmed and then for the JCA to write to the Family Court of Western Australia inviting the magistrates to join.

The President stated he would speak to the representatives on the Governing Council from the Family Court of Australia and the Magistrates Court of Western Australia about this matter.

6 2013 Colloquium

Justice Blow reported that that the 2013 Colloquium is to be held at the Sir Stamford Hotel; that there were 80 rooms available starting at \$269 per night, and that a meeting room that sits 100 people can be provided. Justice Blow noted that there was some initial concern that hotel management would prefer to provide a standard buffet lunch, but that this had been resolved and the lunch would be seated. Justice Blow reported that dinner would be at the Australian Museum, with pre-dinner drinks taking place in the Skeleton Gallery terrace which faces north towards St Mary's Cathedral.

Justice Blow reported the provision of speakers had not yet been organised, however the Colloquium Planning Committee was to have a teleconference in one week. The main purpose of this meeting would be to consider topics for papers and potential speakers. Justice Blow invited members of the Executive Committee to send any ideas they had on this to him or one of the committee members.

The President noted that the choice of the Sir Stamford Hotel was good, and that the booking arrangements were now with AM Meetings Plus.

Justice Blow stated that Aghi Di Maio is currently away and that organisation of the Colloquium had not progressed since late December 2012. Aghi's assistant is currently waiting for a revised contract to be sent from Sir Stamford Hotel management. However Justice Blow noted that the arrangements for dinner in the Australian Museum were already in place.

The President supported Justice Blow's call for ideas regarding potential speakers. He noted that the existing practice was to use local talent, generally due to the cost savings. However the President also noted that the JCA was not limited to Sydney in its choice of speakers for the Colloquium.

7 Working Group on Judicial Advice to Vice Regal Office Holders

The President gave some background information on this matter, and reported that the current position was that the Working Group would be comprised of Justice Richard White, Justice Terry Sheahan, Judge John Williams, and himself. The President noted that he had wanted Justice Carmel McLure to chair the Working Group but that she was unfortunately too busy. The President stated that any other volunteers would be gratefully accepted.

The President reported that the Working Group was to meet by phone in one week. The Working Group would not have anything further to report for the next meeting of the Governing Council in Melbourne, however it would by the June meeting in Brisbane. The President noted that this matter had gone off the airwaves, and that the JCA should utilise this opportunity to form a position now rather than have to do so on the run.

It was reported that next week Professor Geoffrey Lindell of Melbourne University was making a presentation on the judicial review of reserve powers, and that this was relevant to this matter.

8 Working Group on Insurance for Members who are Involved in a Complaints Process

Justice Walton reported that the research done by Justice Peter Garling based on material provided by the Judicial Commission of New South Wales was the starting point to determine the costings of insurance. Justice Walton stated that the likely pricings (adopting a broad view of what may or may not be insured) were such that the cost per member was prohibitive to the point where there was no sensible basis on which to take out insurance. He noted that there had been no further progress beyond that; however the next step was to inquire into other approaches in order to make insurance a more workable position from an economic point of view. Justice Walton noted that the committee was now grappling with this question.

The President asked whether a new position would be available by the next meeting of the Governing Council and Justice Walton confirmed that it would.

9 Other business

The President noted that the next meeting of the Governing Council would be held in Melbourne. He stated that the JCA had been privileged in the past to hold that meeting in the Old High Court Library in the Supreme Court of Victoria. The President asked Justice Beach whether this would be possible.

Justice Beach said that should not be a problem and he would contact the Chief Justice to confirm this. He stated that the Secretary had mentioned to him that there were a few arrangements to be made with respect to this.

The President also noted that the JCA would be holding a dinner for Justice Harper and his wife, Margaret. The dinner was booked for the Committee Room at the Melbourne Cricket Club (at the MCG). His Honour noted that Justice Harper has been informed of this and was very happy for it to be there. The starting time was being determined by Judge McInerney. The President stated he would write to the Governing Council reminding them of the dinner and urging them to attend.

10 Next meeting

It was noted that the next meeting would be held on Thursday 18th April 2013 at 5.00pm Eastern Standard Time.