

# Australian Judicial Officers Association

## GOVERNING COUNCIL

### MINUTES OF MEETING

**Saturday 19 June 2021** via Microsoft Teams. The meeting commenced at 9.30 am AEST.

#### Present

Justice Glenn Martin AM (Chair)	Supreme Court of Queensland
Magistrate Jennifer Atkinson	Local Court of New South Wales
Justice Michael Baumann AM	Family Court of Australia
Deputy Chief Magistrate Janelle Brassington	Magistrates Court of Queensland
Deputy Chief Magistrate Michael Daly	Magistrates Court of Tasmania
Judge Graham Dart	Supreme Court of South Australia
Deputy Chief Magistrate Brett Dixon	Magistrates Court of South Australia
Justice Steven Dolphin	South Australian Employment Tribunal
Judge Alexandra Harland	Federal Circuit Court
President Fleur Kingham	Land Court of Queensland
Justice Rene Le Miere	Supreme Court of Western Australia
Justice Neil McKerracher	Federal Court of Australia
Justice Steven Moore	Supreme Court of Victoria
Vice President Daniel O'Connor OAM	Industrial Court of Queensland
Judge Anthony Rafter	District Court of Queensland
Judge Rauf Soulio	District Court of South Australia
Justice Michael Walton	Supreme Court of New South Wales
Chief Justice Alan Blow AO	Supreme Court of Tasmania
Judge Michael Cahill	County Court of Victoria
Judge Andrew Stavrianou	District Court of Western Australia
Judge Christopher Robison (for Judge Neilson)	District Court of NSW

#### In attendance

Lillian Lesueur	CEO
Anthony Cotter	Administrative Assistant

#### Apologies

Justice Jenny Blokland	Supreme Court of the Northern Territory
Magistrate Andree Horrigan	Magistrates Court of Western Australia
Magistrate Jan Maclean	Magistrates Court of Victoria
Chief Judge Elizabeth Morris	Local Court of the Northern Territory
Magistrate Peter Morrison	Magistrates Court of the ACT
Judge Garry Neilson	District Court of New South Wales
Justice Nicola Pain	Land & Environment Court of NSW
Judge Gerard Winter	Judges Association of New Zealand

**1 Welcome and apologies**

Apologies were noted. The President apologised for changing the meeting at short notice from a face to face meeting to a Microsoft Teams meeting because of concerns over the recent Covid-19 outbreak in Sydney.

**2 Starring of items**

Unstarred items were resolved or noted as appropriate.

**3 Confirmation of minutes of the Governing Council meeting held on 13 March 2021**

The minutes of the 13 March 2021 meetings were approved.

**4 Minutes of the 22 April 2021 meeting of the Executive Committee**

The minutes of the Executive Committee meeting held on 22 April 2021 were noted.

**5 Business Arising from the last meetings of the Governing Council and Executive Committee**

Justice Martin noted that matters would be discussed under the relevant item on the agenda.

**6 Colloquiums**

Justice Walton advised that preparation for the 2021 Colloquium is well advanced. The Keynote Speaker is still to be secured. It is unlikely that the Governor of Queensland, His Excellency the Honourable Paul De Jersey AC, will be able to give the Keynote Address. The Chief Justice of the Supreme Court of Queensland and the Chief Justice of New Zealand have both been approached but are unable to deliver the Keynote Address. Other possibilities are being canvassed by the Sub-Committee.

Justice Walton thanked Vice President Dan O'Connor and Magistrate Jenny Atkinson for the significant amount of work they have done to organise the 2021 Colloquium. He also thanked Lillian Lesueur for her support.

Justice Martin encouraged everybody to register to attend the Colloquium.

**7 Post-Retirement Income and Restrictions on Practice Sub-Committee**

The President advised that the report prepared by the Sub-Committee would be discussed in detail immediately after the conclusion of the Governing Council meeting.

## 8 Equality of Outcomes in the Courts

Justice Martin reported that he has written to the following judicial officers and invited them to sit on the Equality of Outcomes in the Courts Sub-Committee:

Judge Nathan Jarro	District Court of Queensland
Magistrate Rose Falla	Magistrates Court of Victoria
Dr John Lowndes	formerly Chief Judge Local Court of the NT
Judge David MacLean	District Court of WA
Magistrate Louise Taylor	Magistrates Court of the ACT

Judges Jarro, Dr Lowndes, and Magistrate Taylor have all responded in the affirmative. Responses are still to be received from Magistrate Falla and Judge MacLean.

Chief Justice Kourakis is Chair of the Sub-Committee.

## 9 Federal Circuit Court and Family Court representation on the Governing Council

Justice Martin reported that he has spoken with Chief Justice Alstergren about representation of the “merged” Federal Circuit Court and Family Court of Australia. Chief Justice Alstergren has advised that he would be content to have a representative from each Division on the AJOA Governing Council.

The current level of representation will continue on the Governing Council.

## 10 ALRC: Apprehended Bias report

The Chair of the Sub-committee, Justice Neil McKerracher, presented the draft report to Council for their consideration. He advised that the Sub-committee had taken an expansive view of the Terms of Reference.

The Governing Council confirmed that they are content with the draft submission prepared by the Sub-Committee. It was noted that a case currently before the High Court may result in a refinement of the law.

Justice Martin thanked Justice McKerracher and the other Sub-committee members for the very good work they did in drafting the submission.

*Action: AJOA to send their submission to the ALRC by 30 June 2021.*

## 11 One Day Conference on Judicial Appointments and Judicial Incapacity

Justice Martin reported that he has had a positive discussion with Professor Andrew Lynch, UNSW Law, to ascertain his level of interest in supporting a one-day conference on this topic.

Council agreed that a conference be held on the Friday prior to the first Governing Council meeting in 2022.

*Action: Lillian to circulate possible dates for the 2022 Governing Council meetings.*

*Action: The Executive Committee be asked to set up a sub-committee to develop a one day conference on judicial appointments and judicial incapacity.*

## **12 AJOA Policy on Change of Title for Magistrates**

Magistrate Dixon reported that the magistrates on the Governing Council have prepared a draft set of generic talking points discussing the reasons why it is important for the title magistrate to be changed to judge. It was agreed that it would be beneficial to include reasons that will be of value for the Attorneys-General. This could be that a change in title may lead to a reduction in stress experienced by magistrates as it will reduce their feeling of inferiority compared to other judicial officers.

Deputy Chief Magistrate Daly advised that legislated change are being considered in Tasmania that, if passed, will extend the type of offences that can be heard in the Magistrates Court of Tasmania consistent with offences that can be heard by mid-level courts in other states.

Justice Martin noted that significant changes to the work undertaken by Queensland Magistrates are also being considered.

*Action: Magistrate Dixon to discuss recent research on judicial stress with academics in South Australia, and discuss with Magistrate Maclean adding a point relating to judicial stress to the draft talking points. Talking points to then be circulated to Governing Council members.*

*Action: A magistrate and a Supreme Court justice will seek to meet with their Attorney-General to advance AJOA's policy.*

## **13 Online Course: The Modern Judiciary**

Justice Martin reported work is progressing with the development of the course, with the focus now being on the platform on which the course will be presented. Future Learn have several restrictions on how their platform is used which make this platform less attractive. ANU have a platform which the AJOA can use for free.

Two case studies – one civil and one criminal – will be woven into the course material.

The report recently released by Churchill Fellowship recipient Jacqueline Charles on Court Education 2019-021 provides useful guidance for the AJOA course.

## **14 Presidents Report**

Justice Martin reported that he has spoken with the current Chair of the Association of Australian Magistrates, Magistrate Roger Prowse, Local Court of NSW, about a potential merger between the AJOA and Australian Magistrates Association. The AAM have about 350 members and \$80,000 in financial assets. Magistrates pay \$50 per annum to be a member of the AAM, compared to \$240 membership fee charged by the AJOA. The AAM is a company limited by guarantee and can only distribute their funds to a company with a purpose which aligns with theirs. The AJOA will need to amend its Constitution if the merger is to proceed.

The Governing Council discussed the possibility of having two divisions within the AJOA – one for magistrates and one for other judicial officers – or, alternatively, having a Standing Committee for magistrates. A Standing Committee is the preferred option. The \$80,000 in financial resources brought in to the AJOA through the merger could be set aside for initiatives that assist magistrates. Justice Baumann as AJOA Treasurer is willing to contribute to the merger discussion with the AAM if required.

Magistrate Dixon advised that Magistrate Prowse has sent a memorandum to the AAM Executive Committee discussing the proposal. The Executive Committee are content for Magistrate Prowse to continue to have discussions with Justice Martin on the proposed merger.

It was noted that the AAM have a conference very two years in conjunction with a State Magistrates Conference. This conference will need to continue to be held, either in line with current practice or possibly immediately prior to an AJOA Colloquium.

*Action: The AJOA to consider amending its Constitution at its 2021 Annual General Meeting to enable a merger with the AAM to proceed.*

## **15 Chief Executive Officer's report**

Lillian advised that the membership renewal process is well underway. To date, 55% of members have renewed their membership for 2021/22. 14% have paid their membership for three years. We have made improvements to the database which have significantly reduced the amount of administrative time required to process applications and reconcile payments.

Under our contract with Isentia, we should not be including articles in our weekly newsletter distributed through media outlets owned by the Fairfax stable. Isentia has sought permission from Fairfax to enable us to do so, but Fairfax have not agreed to the request. Isentia has recommended we take the issue up directly with Fairfax.

Lillian noted that she has asked Isentia if AJOA could send out the weekly newsletter on a one-off basis to non-members to encourage them to join the AJOA. Isentia had declined the request.

*Action: Lillian to contact Fairfax to seek permission to include Fairfax articles in the weekly newsletter.*

*Action: AJOA secretariat to send out a shortened version of the weekly newsletter, not including actual media articles, to non-members to encourage them to join.*

Lillian presented the three logo options for consideration. It was agreed that the 3<sup>rd</sup> logo option - the "windows" – be adopted.

*Action: Lillian to explore other colour palates and fonts with the creative designer and discuss options with Justice Martin. Recommended option to be emailed to Governing Council members for decision by flying minute.*

## **16 Treasurer's report**

The Treasurer presented the draft 2021/22 budget. Governing Council approved the budget.

The Profit and Loss report and Balance Sheet as at 31 May 2021 were noted.

**17 International Association of Judges**

The President reported on the proposed amendments to the IAJ Constitution and Regulations and advised that the AJOA will vote in favour of the amendments.

**18 Membership report**

The membership report was noted.

**19 Media releases, articles and letters to the editor**

Noted.

**20 Items for Noting**

Noted.

**Next meeting**

The next meeting will be held on Friday 8 October 2021 in Brisbane.

There being no further business, the meeting concluded at 11.00 am.

Signed as a true record:

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President