

OFFICIAL



JUDICIAL CONDUCT COMMISSIONER

2020-21 Annual Report

JUDICIAL CONDUCT COMMISSIONER

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2020-21 ANNUAL REPORT for the Judicial Conduct Commissioner

To:

The Honourable Joshua Teague MP
Speaker of the House of Assembly

The Honourable John Dawkins ADFM MLC
President of the Legislative Council

This annual report will be presented to Parliament to meet the statutory reporting requirements of section 27(3) of the *Judicial Conduct Commissioner Act 2015 (SA)* and the requirements of Premier and Cabinet Circular *PC013 Annual Reporting*.

This report is verified to be accurate for the purposes of annual reporting to the Parliament of South Australia.



The Honourable Ann Vanstone QC
Judicial Conduct Commissioner (2 September 2020 to 23 September 2021)
29 September 2021

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2020-21 ANNUAL REPORT for the Judicial Conduct Commissioner

To:

The Honourable Vickie Chapman MP
Deputy Premier
Attorney-General

This annual report will be presented to Parliament to meet the statutory reporting requirements of section 12(1) of the *Public Sector Act 2009* (SA) and the requirements of Premier and Cabinet Circular *PC013 Annual Reporting*.

This report is verified to be accurate for the purposes of annual reporting to the Parliament of South Australia.



The Honourable Ann Vanstone QC
Judicial Conduct Commissioner (2 September 2020 to 23 September 2021)
29 September 2021

From the Commissioner

The Office of the Judicial Conduct Commissioner was established upon the commencement of the *Judicial Conduct Commissioner Act 2015* (SA) (JCC Act) on 5 December 2016.

From 1 July 2020 to 1 September 2020 the Honourable Bruce Lander QC was the Judicial Conduct Commissioner. I commenced as Judicial Conduct Commissioner on 2 September 2020.



Complaints

It is my function as the Judicial Conduct Commissioner to receive and deal with complaints about the conduct of judicial officers. I am not subject to the direction of any person in relation to the manner in which that function is exercised or the priority which is to be given to a particular matter.

Unless a complaint is to be dismissed under section 17 of the Act, I am obliged to conduct a preliminary examination of it. The purpose of the preliminary examination is, in the first instance, to determine whether:

1. the complaint raises a reasonable suspicion that it relates to conduct that involves corruption in public administration, such that it should be referred to the Office for Public Integrity; or
2. further consideration of the complaint would, in all the circumstances, be unjustified in terms of section 16 of the Act, such that I should exercise the power to take no further action in respect of the complaint; or
3. at least one of the grounds in section 17 of the Act is met and the complaint must be dismissed.

Assuming none of these is applicable and that the preliminary examination proceeds, I can deal with the complaint by:

1. recommending that the judicial officer's jurisdictional head take specified action; or
2. making a recommendation to the Attorney-General to appoint a judicial conduct panel; or
3. making an immediate report to Parliament.

Statistics

During the reporting period my office received 58 complaints. Another 12 notifications were brought to my attention by jurisdictional heads. I chose on my own initiative to treat four of those notifications as complaints under section 12(8) of the Act. Two notifications were awaiting my decision at the close of the reporting period.

That meant the total number of complaints received in the reporting period was 62. In examining the 62 complaints 159 issues were identified and considered.

Most of the complaints were made by members of the public and related to inappropriate conduct in court or chambers, or a judicial decision or order.

There were 10 matters carried over from 2019-20 that were all closed in the 2020-21 reporting period.

At the end of the 2020-21 year there were eight matters that remained open and will be carried forward into the next reporting period, including the two open notifications.

The majority of the complaints were dismissed. As with previous years a large proportion of complaints received related to judicial decisions, which are not within jurisdiction. The Act prohibits me from challenging or calling into question the legality or correctness of a judicial decision, order, judgment or other decision given by a judicial officer.

The JCC and Independent Commissioner Against Corruption (ICAC)

In June 2021 I informed the Attorney-General that I do not consider that the roles of the Judicial Conduct Commissioner and the Independent Commissioner Against Corruption (which I hold) are compatible. There is potential for embarrassment when application for warrants, or charges arising from an ICAC investigation are in court and come before a judicial officer who is or has been subject to examination by the Judicial Conduct Commissioner.

A similar conclusion had been reached by my predecessor, the Hon. Bruce Lander QC. In his last annual report, he observed that, as the ICAC, he was both a litigant and subject to court processes, while also being the Judicial Conduct Commissioner with the function of overseeing the conduct of judicial officers. He regarded those circumstances as giving rise to a conflict of interest.

The Attorney-General told me she will accede to my request that I relinquish the Judicial Conduct Commissioner role at a convenient time. Therefore this will likely be the first and last annual report which I issue as the Judicial Conduct Commissioner.

Sexual Harassment in the Judiciary

The issue of sexual harassment and sexual assault within the legal profession and the parliament has been a subject of community interest over the past year. Allegations have extended to the judiciary. In mid-2020 an independent inquiry commissioned by the High Court of Australia found that a former High Court Justice had sexually harassed at least six young female associates during his time on the Court. Subsequently there were calls for the creation of an independent complaints handling body for the federal justice system.

South Australia has had an independent complaint handling body since December 2016. However, it appears to me that the mere establishment of this statutory position has given little assurance of cultural reform. Cultural reform will only occur if people are willing to raise their complaints with such a body. Until very recently, few have been willing to report to my office issues of sexual harassment by judicial officers.

In response to a motion passed in the South Australia Legislative Council in October 2020, the then Acting Commissioner for Equal Opportunity, Ms Stephanie Halliday, provided the Attorney General with a report on 9 April 2021 entitled Review of Sexual Harassment in the South Australian Legal Profession. I was troubled by the account of the cultural problems within the legal sector. In response to that review, I issued a public statement encouraging anyone who had experienced inappropriate conduct by a judicial officer to find the courage to make a report to me. That call was heeded, and I hope my successor will continue the important work of encouraging people to speak up. The role requires not just the passive receipt of complaints, but the active commitment to help people to feel supported in reporting instances of judicial impropriety.

Commentators have noted with unease how the hierarchical nature of the legal profession, its necessary power imbalances, and the necessary respect and deference given to judges and magistrates, can contribute to a culture of silence. These are powerful forces preventing people from speaking up about sexual impropriety. It is likely that they have served to protect some judicial officers from being held accountable for their misconduct.

Judicial officers are leaders of their profession, sitting atop the profession's hierarchy. They should serve as models for behavioural standards. Those that cannot uphold the high behavioural standards required, must be held accountable. As I said in my public statement, those who sit in judgement about the conduct of others should be beyond reproach.

There is much work that can and should be done within the judicial system itself to foster cultural reform. Recommendation 5 of the Review of Sexual Harassment in the South Australian Legal Profession suggested:

That the State Courts Administration Council, in consultation with the relevant bodies responsible for developing training, programs and resources for judicial officers, develop a training program on the nature, drivers and impacts of harassment, including sexual harassment for delivery to South Australian judicial officers on an annual basis.

I support this recommendation.

The state's first judicial conduct panel

In early May 2021 I began preliminary examinations of a series of complaints about the conduct of a serving magistrate involving five women and spanning a period of about seven years.

After completing those preliminary examinations, on 10 June 2021 I made a recommendation to the Attorney-General that she appoint a judicial conduct panel to inquire into and report on the complaints about that magistrate's conduct.

The Attorney General accepted the recommendation and appointed the Court of Appeal President Justice Patricia Kelly, retired Supreme Court Justice David Bleby QC and Australian Medical Association Vice President Dr Christopher Moy to sit on the panel. This is the first time a judicial conduct panel has been convened. The panel is required to provide a report to the Attorney General setting out its findings, its opinion as to whether the magistrate's removal is justified and the reasons for its decision. The report must be tabled in both Houses of Parliament. I understand that the panel is yet to determine these matters.

The Judicial Conduct Commissioner has an important role of maintaining public confidence in the judicial system.

I am grateful for the support I have received from the staff in my office since my appointment.



The Honourable Ann Vanstone QC
Judicial Conduct Commissioner (2 September 2020 to 23 September 2021)

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Overview: about the agency

Our strategic focus

The Judicial Conduct Commissioner's Strategic Plan 2017-21 continues to guide the goals and objectives of the office.

Goals

- To be accessible, so that anyone who believes a judicial officer has acted inappropriately is able to make a complaint to the Judicial Conduct Commissioner.
- To deal with all complaints before the Judicial Conduct Commissioner in a fair and efficient manner.

Objectives

- To establish and maintain business processes consistent with the JCC Act.
- To increase awareness of the existence and role of the Judicial Conduct Commissioner.
- To ensure the process for making complaints is readily accessible.
- To ensure that we have appropriately skilled people and the necessary resources to meet the demands of the office.

Organisational values

It is critical that employees assisting the Judicial Conduct Commissioner act in accordance with the highest levels of integrity and hold values commensurate with the important work undertaken.

The core values that underpin the governance framework of the Judicial Conduct Commissioner's office and guide the processes carried out in dealing with complaints.

- **Fairness**
We ensure just and unbiased treatment of complaints and always act in accordance with principals of procedural fairness.
- **Independence**
Our decisions are made in accordance with the law, free from influence and without fear or favour.
- **Excellence**
We act professionally, efficiently and effectively and we continuously strive to improve.

Our organisational structure

Currently, the Judicial Conduct Commissioner has no employees and relies on the services of employees employed under the *Independent Commissioner Against Corruption Act 2012* (SA).

The Judicial Conduct Commissioner also makes use of the services and employees assigned to the Office for Public Integrity under an agreement established by the Independent Commissioner Against Corruption.

In particular, the Judicial Conduct Commissioner has received executive assistance and support in relation to legal services, complaints management and corporate services.

This arrangement is in accordance with section 10 (4) of the JCC Act.

Changes to the agency

The Honourable Ann Vanstone QC commenced as the Judicial Conduct Commissioner on 2 September 2020.

During 2020-21 there were no other changes to the agency's structure and objectives as a result of internal reviews or machinery of government changes.

Our Minister

The Judicial Conduct Commissioner is appointed by the Governor and is not subject to the direction of any person in relation to any matter.

Our Executive team

The Judicial Conduct Commissioner concurrently fulfils the role of Independent Commissioner Against Corruption and makes use of the administrative structure of that office.

Legislation administered by the agency

The position of the Judicial Conduct Commissioner is established under section 7 of the *Judicial Conduct Commissioner Act 2015* (SA).

It is the role of the Judicial Conduct Commissioner to administer the JCC Act.

Other related agencies (within the Minister's area/s of responsibility)

The Judicial Conduct Commissioner holds a number of key relationships with other agencies.

The Judicial Conduct Commissioner is subject to review by the Independent Reviewer.

The Judicial Conduct Commissioner has a strong working relationship with the Courts Administration Authority who on request provide relevant information relating to complaints.

The Judicial Conduct Commissioner is supported by the office of the Independent Commissioner Against Corruption and the Office for Public Integrity. These agencies are, in turn, supported by the Attorney-General's Department for some administrative services.

The agency's performance

Performance at a glance

| Key performance indicator | Measure | Current year 2020-21 | Past year 2019-20 |
|---|---|----------------------|-------------------|
| Register all new complaints in our electronic system. | Within an average of three business days from the receipt of the complaint. | 3.01 | 2.11 |
| Determine whether there is a reasonable suspicion of corruption in public administration. | Within an average of 10 business days after registration of the complaint. | 13.39 | 14.48 |
| For all complaints which do not raise a reasonable suspicion of corruption in public administration, complete a preliminary examination of the complaint. | Within an average of 15 business days after registration of the complaint. | 14.88 | 40.72 |

Agency response to COVID-19

Not applicable.

Agency contribution to whole of Government objectives

Not applicable.

Agency specific objectives and performance

Objective 1 of the office of the Judicial Conduct Commissioner is to establish and maintain business processes consistent with the JCC Act. The Judicial Conduct Commissioner has established three key performance indicators for this objective.

All new complaints received during the reporting period were registered in the electronic system within an average of 3.01 business days from being received. The key performance indicator is three business days.

All complaints registered during the reporting period were determined as to whether there was a reasonable suspicion of corruption in public administration within 13.39 business days after the date of registration. The key performance indicator is ten business days.

For those complaints not raising a reasonable suspicion of corruption in public administration, a preliminary examination was completed within 14.88 business days after the date of registration. The key performance indicator is fifteen business days.

Objective 2 of the office of the Judicial Conduct Commissioner is to increase awareness of the existence and role of the Judicial Conduct Commissioner. The Judicial Conduct Commissioner has established three key performance indicators for this objective.

During the reporting period the Judicial Conduct Commissioner met with the jurisdictional heads of the Supreme Court and District Court. Meetings included discussions about the length of time over which judgments of certain Judges had been outstanding. The Judicial Conduct Commissioner also raised matters arising from the report into harassment in the legal profession and spoke with the Chief Magistrate on the same topic on a number of occasions.

The office of the Judicial Conduct Commissioner performs an educational function by responding to enquiries. During the 2020-21 period, the office received no telephone or written enquiries in relation to its education function.

The Judicial Conduct Commissioner continues to make educational material available for the use of people engaged in the justice system and the public.

The Judicial Conduct Commissioner maintains a modern, user-friendly, accurate and informative website. The website strives to conform to the World Wide Web Consortium's (W3C) Web Content Accessibility Guidelines version 2.1 and is audited against that standard.

The website has been visited 2,597 times and the webpages have been viewed 5,757 times in the reporting period.

Objective 3 of the office of the Judicial Conduct Commissioner is to ensure the process for making complaints is readily accessible. While all complaints must be provided in writing, those complaints can be channelled via an online form on the website, via email, through a hard copy form or by writing a letter.

The office of the Judicial Conduct Commissioner is a state authority for the purpose of the *Disability Inclusion Act 2018* (SA) and leverages the Independent Commissioner Against Corruption's Diversity and Inclusion Strategy 2020-24. This strategy has been developed to align with the South Australian Public Sector Diversity and Inclusion Strategy 2019-21.

The strategy includes goals aimed at improving access and inclusion in the community of people with disability.

All people who come into contact with the Judicial Conduct Commissioner's office should have equal access to information and be dealt with in the same way.

The office of the Judicial Conduct Commissioner provides assistance with literacy, interpreting and translating to any person lodging a complaint who requires this kind of help.

Corporate performance summary

Not applicable.

Employment opportunity programs

Not applicable.

Agency performance management and development systems

The employees of the Independent Commissioner Against Corruption and Office for Public Integrity provide the Judicial Conduct Commissioner with professional services. The performance of these employees is managed by their respective agencies.

Work health, safety and return to work programs

Employees of the Independent Commissioner Against Corruption and the Office for Public Integrity undertake work health and safety programs as described in the Independent Commissioner Against Corruption and Office for Public Integrity Annual Report.

Employees who assist the Judicial Conduct Commissioner have access to an Employee Assistance Program.

There were no workplace injury claims during the reporting period.

There were no notifiable incidents during the reporting period.

There were no return to work costs attributable to work performed for the Judicial Conduct Commissioner during the reporting period.

Data for previous years is available at: <https://data.sa.gov.au/data/dataset/jcc-annual-report-data-whs>

Executive employment in the agency

The Judicial Conduct Commissioner does not receive any remuneration for the discharge of her functions under the JCC Act.

The [Office of the Commissioner for Public Sector Employment](#) has a [workforce information](#) page that provides further information on the breakdown of executive gender, salary and tenure by agency.

Financial performance

Financial performance at a glance

The following is a brief summary of the overall financial position of the agency. The information is unaudited. Full audited financial statements for 2020-2021 will be published separately to this report.

| Statement of Comprehensive Income | 2020-21 Budget \$000s | 2020-21 Actual \$000s | Variation \$000s | Past year 2019-20 Actual \$000s |
|--|------------------------------|------------------------------|-------------------------|--|
| Total Income | 0 | 5 | 0 | 6 |
| Total Expenses | 0 | 5 | 0 | 6 |
| Net Result | 0 | 0 | 0 | 0 |
| Total Comprehensive Result | 0 | 0 | 0 | 0 |

| Statement of Financial Position | 2020-21 Budget \$000s | 2020-21 Actual \$000s | Variation \$000s | Past year 2019-20 Actual \$000s |
|--|------------------------------|------------------------------|-------------------------|--|
| Current assets | 0 | 0 | 0 | 0 |
| Non-current assets | 0 | 0 | 0 | 0 |
| Total assets | 0 | 0 | 0 | 0 |
| Current liabilities | 0 | 5 | 0 | 5 |
| Non-current liabilities | 0 | 0 | 0 | 0 |
| Total liabilities | 0 | 5 | 0 | 5 |
| Net assets | 0 | (5) | 0 | (5) |
| Equity | 0 | (5) | 0 | (5) |

Consultants disclosure

No consultants were engaged during the reporting period.

Data for previous years is available at: <https://data.sa.gov.au/data/dataset/jcc-annual-report-data-consultants>

See also the [Consolidated Financial Report of the Department of Treasury and Finance](#) for total value of consultancy contracts across the South Australian Public Sector.

Contractors disclosure

No contractors were engaged during the reporting period.

Data for previous years is available at: <https://data.sa.gov.au/data/dataset/jcc-annual-report-data-contractors>

The details of South Australian Government-awarded contracts for goods, services, and works are displayed on the SA Tenders and Contracts website. [View the agency list of contracts.](#)

The website also provides details of [across government contracts.](#)

Other financial information

Not applicable.

Other information

Not applicable.

Risk management

Risk and audit at a glance

During 2020-21 an internal review of risk management approaches was carried out, continuing a commitment to establishing and improving internal controls to manage the risks associated with security governance, cyber security, personnel security and physical security.

Fraud detected in the agency

Number of instances and nature of fraud detected in the agency: 0

NB: Fraud reported includes actual and reasonably suspected incidents of fraud.

Strategies implemented to control and prevent fraud

The Judicial Conduct Commissioner endorses and adopts the South Australian Public Sector Fraud and Corruption Control Policy.

The Judicial Conduct Commissioner's corporate risk register has been reviewed and updated, identifying a risk owner for each risk. The register assesses controls and their effectiveness, identifying the level of risk acceptance. Where the level of acceptance is undesirable the decision for risk acceptance is to be made by the Judicial Conduct Commissioner. The Judicial Conduct Commissioner ensures no decision is made to accept risk that is considered unacceptable after control.

The Judicial Conduct Commissioner proactively responds to emerging risks by fully examining likely circumstances and introducing and/or tightening controls in order to adequately control the risks.

Data for previous years is available at: <https://data.sa.gov.au/data/dataset/jcc-annual-report-data-fraud>

Public interest disclosure

Number of occasions on which public interest information has been disclosed to a responsible officer of the agency under the *Public Interest Disclosure Act 2018*: 0

Data for previous years is available at: <https://data.sa.gov.au/data/dataset/jcc-annual-report-whistle-blowers-disclosure>

Note: Disclosure of public interest information was previously reported under the *Whistleblowers Protection Act 1993* and repealed by the *Public Interest Disclosure Act 2018* on 1/7/2019.

Reporting required under any other act or regulation

The following complies with the Judicial Conduct Commissioner’s reporting obligations under the *Judicial Conduct Commissioner Act 2015 (SA)*.

The number and general nature of complaints received by the Judicial Conduct Commissioner:

| | Current year 2020-21 | Past year 2019-20 | Change (+ / -) |
|--|-------------------------------------|----------------------------------|---------------------------|
| Conflict of interest | 0 | 1 | -1 |
| Failure or delay in delivering judgment or making decision | 0 | 9 | -9 |
| Inappropriate conduct in court or in chambers | 21 | 17 | +4 |
| Inappropriate conduct outside of court or chambers | 3 | 1 | +2 |
| Judicial decision/order | 15 | 20 | -5 |
| Non-SA State Court judicial officer | 18 | 11 | +7 |
| Failure to exercise power/carry out function | 0 | 1 | -1 |
| Workplace bullying/harassment | 5 | 0 | +5 |
| Total | 62 | 60 | +2 |

Section 16 – Discretionary dismissal of complaint

Section 16 provides that the Judicial Conduct Commissioner may determine to dismiss a complaint without taking any further action if satisfied that further consideration of the complaint would, in all the circumstances, be unjustified.

Reasons for a decision to take no further action may include:

- the complaint has been resolved to the complainant's satisfaction following an explanation from the judicial officer who is the subject of the complaint;
- the complaint is genuine and made in good faith, but is based on a misunderstanding;
- the Judicial Conduct Commissioner has concluded that there is no reasonable prospect of information being available to enable the complaint being substantiated;

- the Judicial Conduct Commissioner has requested additional information from the complainant and the complainant has refused to provide the information.

The number and general nature of any complaints dismissed under section 16:

| | Current year 2020-21 | Past year 2019-20 | Change (+ / -) |
|--|---------------------------------|------------------------------|---------------------------|
| Conflict of interest | 0 | 1 | -1 |
| Failure or delay in delivering judgment or making decision | 1 | 5 | -4 |
| Inappropriate conduct in court or chambers | 14 | 16 | -2 |
| Inappropriate conduct outside of court or chambers | 1 | 1 | 0 |
| Judicial decision/order | 2 | 2 | 0 |
| Non SA State Court judicial officer | 0 | 0 | 0 |
| Failure to exercise power/carry out function | 0 | 0 | 0 |
| Workplace bullying/harassment | 0 | 0 | 0 |
| Total | 18 | 25 | -7 |

Section 17 – Mandatory dismissal of complaint

Section 17 requires the Judicial Conduct Commissioner to dismiss a complaint for a number of reasons including:

- the complaint is not within the Judicial Conduct Commissioner’s jurisdiction;
- the complaint is about a judicial decision, or other judicial function that is or was subject to a right of appeal or right to apply for judicial review;
- the complaint is about a person who is no longer a judicial officer.

The number and general nature of any complaints dismissed under section 17:

| | Current year 2020-21 | Past year 2019-20 | Change (+ / -) |
|--|-------------------------------------|----------------------------------|---------------------------|
| Conflict of interest | 0 | 1 | -1 |
| Failure or delay in delivering judgment or making decision | 0 | 1 | -1 |
| Inappropriate conduct in court or chambers | 6 | 1 | +5 |
| Inappropriate conduct outside of court or chambers | 1 | 0 | +1 |
| Judicial decision/order | 15 | 20 | -5 |
| Non SA State Court judicial officer | 19 | 11 | +8 |
| Failure to exercise power/carry out function | 0 | 1 | -1 |
| Total | 41 | 35 | +6 |

Section 18 – Referral of complaint to relevant jurisdictional head

Section 18 obliges the Judicial Conduct Commissioner to refer the complaint to the relevant jurisdictional head unless the complaint is dismissed, determined to have no further action or arises from a notification from the jurisdictional head.

The jurisdictional head is required to address the issues raised by the Judicial Conduct Commissioner in the referral and provide written notification of any action taken.

The number and general nature of any complaints referred to a jurisdictional head under section 18:

| | Current year 2020-21 | Past year 2019-20 | Change (+ / -) |
|---|-------------------------------------|----------------------------------|---------------------------|
| Complaints referred to jurisdictional heads | 1 | 6 | -5 |

Section 19 – Immediate report to Parliament

Section 19 provides the Judicial Conduct Commissioner with the power to make a report on a complaint to Parliament.

The Judicial Conduct Commissioner may consider making a report to Parliament if a complaint is not able to be satisfactorily dealt with by the taking of action by the relevant jurisdictional head or a judicial conduct panel.

The number and general nature of any complaints that resulted in a report to Parliament under section 19:

| | Current year 2020-21 | Past year 2019-20 | Change (+ / -) |
|---------------------------------|-------------------------------------|----------------------------------|---------------------------|
| Number of reports to Parliament | 0 | 0 | 0 |

Section 20 – Recommendation to appoint judicial conduct panel

The Judicial Conduct Commissioner may consider making a recommendation of this nature if the complaint consists of a referral by the relevant jurisdictional head or has been referred to the relevant jurisdictional head under section 18; and in the Judicial Conduct Commissioner’s opinion the matter has not been or is not able to be satisfactorily dealt with by the relevant jurisdictional head.

The number and general nature of any complaints that resulted in a recommendation under section 20:

| | Current year 2020-21 | Past year 2019-20 | Change (+ / -) |
|---|-------------------------------------|----------------------------------|---------------------------|
| Number of recommendations to Attorney-General | 1 ¹ | 0 | +1 |

Notice from jurisdictional heads

Under section 27C(4) of the *Courts Administration Act 1993* (SA), jurisdictional heads are required to provide the Judicial Conduct Commissioner with notice of any complaint made to them in relation to the conduct of a judicial officer. However, that referral does not constitute a ‘complaint’ under the JCC Act unless the jurisdictional head categorises it as such, or the Judicial Conduct Commissioner determines to treat the notification as a complaint under section 12(8) of the JCC Act.

¹ One recommendation was made in respect of five ‘complaints’ received, using that term as it is used in the Act.

The office of the Judicial Conduct Commissioner received notice from jurisdictional heads on 12 occasions during the reporting period. The Judicial Conduct Commissioner considered it appropriate to consider four of those notifications as complaints which led the Judicial Conduct Commissioner to conduct a preliminary examination of those complaints. The Judicial Conduct Commissioner noted six notifications and two notifications were awaiting a decision.

Complaints about judicial officers

During the reporting period the office of the Judicial Conduct Commissioner received complaints about the conduct of judicial officers and other persons who do not meet the definition of a judicial officer. Some complaints were about the conduct of more than one judicial officer.

| | Current year 2020-21 | Past year 2019-20 | Change (+ / -) |
|--|---------------------------------|------------------------------|---------------------------|
| About the conduct of Justices, Judges, and/or Masters | 22 | 37 | -15 |
| About the conduct of Magistrates | 36 | 38 | -2 |
| About the conduct of other persons who do not meet the definition of judicial officer ² | 16 | 14 | +2 |

Key performance indicators

The key performance indicator to determine whether there is a reasonable suspicion of corruption in public administration was 10 business days after registration.

For the reporting period the average number of business days to complete a corruption determination was 13.39 days.

Where further information is required, a corruption determination may fall outside of the regular timeframes seen in other or more straightforward matters. Further information might include transcripts or audio recordings from hearings, some of which may be lengthy and voluminous. In these circumstances, the assessment of audio recordings and transcripts may require a significant amount of time. Consequently, this may have an effect on the key performance indicators.

The Courts Administration Authority assisted in providing materials in a timely manner.

² Some complaints were not about the conduct of any judicial officer but about the conduct of the Court's administration, legal practitioners or Federal Court judicial officers.

Open matters at the close of the reporting period

Of the matters received during the reporting period eight matters remained open as at 30 June 2021, including two notifications. The majority of these matters were received within the two months prior to the end of the reporting period and were close to being finalised.

The role of the Judicial Conduct Commissioner

The role of the Judicial Conduct Commissioner continues to be misunderstood. The majority of matters that were received were in the form of a request for a review of a judicial decision. This is not within the Judicial Conduct Commissioner's jurisdiction.

Unrepresented litigants

Unrepresented litigants who have limited experience in the Courts and who may be unfamiliar with the Court's procedures continued to submit matters to this office seeking a review of a judicial decision.

In most cases the Judicial Conduct Commissioner was unable to deal with those matters as they were decisions which may be subject to appeal or review.

Judicial decisions

The role of the Judicial Conduct Commissioner is to consider the conduct of judicial officers in relation to the carrying out of judicial duties and functions. Many complainants did not understand the distinction between the conduct of a judicial officer and his or her judicial decisions and had mistakenly viewed the role of the Judicial Conduct Commissioner as that of an appeal court.

The Judicial Conduct Commissioner is required to dismiss any complaint that is about a judicial decision where there is a right of appeal or right to apply for judicial review.

During the 2020-21 reporting periods 15 complaints were received where the primary issue identified by the Judicial Conduct Commissioner related to a judicial decision.

Media releases, communication and engagement

Where the Judicial Conduct Commissioner feels it is in the public interest to do so she has the discretion to issue a media release.

The Judicial Conduct Commissioner issued two media releases in the 2020-21 financial year. ICAC employees engaged with the media regarding the Judicial Conduct Commissioner on 11 occasions.

Materials on the Judicial Conduct Commissioner website provide details on the role and functions of the office.

| Website | Total |
|-------------------|--------------|
| Website visitor | 2,597 |
| Webpages accessed | 5,757 |

Data for previous years is available at: <https://data.sa.gov.au/data/dataset/jcc-annual-report-data-reporting-required-under-legislation>

Public Interest Disclosures

The Judicial Conduct Commissioner is a relevant authority under section 5(5)(h) of the *Public Interest Disclosure Act 2018*. During the reporting period, the Judicial Conduct Commissioner received two disclosures of public interest information relating to a judicial officer.

Reporting required under the *Carers' Recognition Act 2005*

Not applicable.

Public complaints

Number of public complaints reported

There have been no public complaints that express dissatisfaction with the service received, or the conduct of my employees during the reporting period.

Public complaints about service or conduct do not include complaints made by people who may be aggrieved with a decision or outcome in relation to a complaint made to the Judicial Conduct Commissioner about the conduct of a judicial officer.

| Additional metrics | Total |
|--|-------|
| Number of positive feedback comments | 0 |
| Number of negative feedback comments | 0 |
| Total number of feedback comments | 0 |
| % complaints resolved within policy timeframes | 0 |

Data for previous years is available at: <https://data.sa.gov.au/data/dataset/jcc-annual-report-data-public-complaints>

Service improvements

| |
|--|
| Service improvements resulting from complaints or consumer suggestions over 2020-21. |
| Not applicable. |

Compliance statement

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| Judicial Conduct Commissioner is compliant with Premier and Cabinet Circular 039 – complaint management in the South Australian public sector | Y |
| Judicial Conduct Commissioner has communicated the content of PC 039 and the agency’s related complaints policies and procedures to employees. | Y |

Appendix: Audited financial statements 2020-21

At the time of printing this Annual Report the JCC's audited Financial Statements were not available.

The JCC's audited Financial Statements are published in a separate document.