



Children's Court Victoria

Protocol for the Bar to raise concerns about judicial conduct in the Children's Court

The Children's Court of Victoria values and promotes a healthy, safe and respectful workplace. In that context, this protocol sets out a procedure for the President of the Victorian Bar to raise with the President of the Children's Court concerns about judicial conduct in the Children's Court.

The procedure is an alternative to the process provided by the *Judicial Commission of Victoria Act 2016* (the Act) for making complaints about the conduct or capacity of a judicial officer. Serious complaints about a judicial officer's conduct should be made in accordance with the Act. Nevertheless, depending on the nature of the judicial conduct, members of the Bar may prefer to raise their concerns through a less formal mechanism. This protocol is designed to encourage and support members of the Bar in such a case. Its aim is to enable such members to raise concerns with the President of the Bar who may then raise them with the President of the Children's Court.

The steps in the procedure are:

1. Members of the Bar may contact the President of the Bar by telephone, email or in person to raise concerns about the conduct of a judicial officer in the Children's Court. The raising of the concerns will be treated with strict confidence by each party, save to the extent that the 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 first-hand knowledge of the conduct sufficient to raise the concern.
2. The President of the Bar 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. If the President of the Bar is of the view that the conduct is of a type that warrants action, the President of the Bar may:
 - (a) encourage the member to make a formal complaint under the Act;
 - (b) consider whether the Bar should itself initiate a formal complaint under the Act; or
 - (c) raise the matter with the President of the Children's Court on a confidential basis.
4. In appropriate cases, the President of the Bar may raise concerns with the President of the Children's Court in accordance with this Protocol of his or her own motion. Before doing so, the President of the Bar will take into account, but not be bound by, the wishes of aggrieved members.
5. After a matter has been raised with the President of the Children's Court, he or she may:
 - (a) bring the matter to the attention of the relevant judicial officer (without, so far as is possible, identifying which barrister has raised the concern where the President of the Bar has advised that the barrister would prefer not to be identified);
 - (b) give the judicial officer the opportunity to express their views;
 - (c) read any transcripts of hearings available and relevant to the conduct
 - (d) discuss their views about the conduct with the judicial officer;
 - (e) discuss with the judicial officer whether any remedial action is appropriate.
6. The President of the Children's Court may also:
 - (a) in general terms, inform the President of the Bar of the outcome of their discussions with the judicial officer;
 - (b) encourage the President of the Bar to recommend to the member that a formal complaint be made under the Act;
 - (c) encourage the President of the Bar to recommend to the member that a formal complaint be made under the Act;
 - (d) inform the President of the Bar that in their view, the judicial officer's conduct does not warrant further action.
7. The President of the Bar may inform the President of the Children's Court about any matters in relation to the operation of this Protocol or judicial conduct more generally.

8. This Protocol does not create any legal rights or obligations. Nor does it affect any existing legal rights or obligations.

Signed

A handwritten signature in black ink, appearing to be 'A. Chambers', written over a horizontal line.

Judge Amanda Chambers

President, Children's Court of Victoria

Date: 25.2.19

Signed

A handwritten signature in black ink, appearing to be 'M. Collins', written in a cursive style.

Dr Matt Collins QC

President

Victoria Bar

Date: 25-2-19