



Criminal Lawyers Association of the Northern Territory (CLANT)

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SUBMISSION ON THE JUDICIAL COMMISSION BILL 2020

The Criminal Lawyers Association of the Northern Territory (CLANT) supports the Judicial Commission Bill 2020.

CLANT members, who include both prosecutors and defence counsel, appear daily before judges in the Northern Territory. Criminal proceedings are adversarial matters. In serious cases there are often high stakes and inevitably exchanges between bar and bench can be robust, tense and even passionate. In the great majority of cases, our members are treated by Supreme and Local Court judges with civility, courtesy and professionalism. However, in recent years there have also been instances of repeated inappropriate judicial conduct directed towards both our members and defendants before the court. On several occasions CLANT has resorted to making formal complaints to the head of jurisdiction on behalf of its members.

The current system for dealing with complaints is unsatisfactory. A very significant burden is placed on the Chief Judge of the Local Court (in the case of complaints against a Local Court judge) and the Chief Justice of the Supreme Court (in the case of complaints against a Supreme Court judge), who must alone receive, investigate, assess and respond to every complaint received. Following the determination of the complaint, the head of jurisdiction has no real power to impose or enforce any sanction or remedial action, other than in the case of serious misconduct. In such a case the head of jurisdiction may request that the Chief Minister instigate a Parliamentary inquiry into whether a judicial officer is fit to hold office.

The vast majority of CLANT's formal complaints have been investigated and upheld. Despite these findings an ongoing pattern of inappropriate judicial conduct and bullying behaviour has continued. It is entirely unacceptable and has caused significant harm to CLANT's affected members. Criminal practice is a difficult profession. Judges and practitioners deal with serious and traumatic cases on a daily basis. A prerequisite for a successful career as a criminal lawyer is a thick skin. However, none of us should be required to expose ourselves to bullying conduct that would not be tolerated in any other employment sector.

All of our members have the right to a safe and healthy workplace, and when that workplace becomes unsafe and unhealthy, it is important that effective and accessible measures are available to address the problem. At the same time, CLANT recognises the fundamental importance of protecting the independence of the judiciary. To that end, CLANT considers that it is essential to maintain the long-standing rule by which judges can only be removed by the Legislative Assembly.

In the view of CLANT, the Bill strikes an appropriate balance between the need to provide an effective complaint system, and the need to protect judicial independence.

CLANT supports the enactment of the Judicial Commission Bill 2020.



Marty Aust
President
6 March 2020