

## **COMPLAINTS PROCEDURES FOR THE COURTS OF THE COOK ISLANDS**

### **Introduction**

- 1 This document, published on the website of the Ministry of Justice, is a combined Practice Note issued by the Chief Justice and a Notice issued by the Secretary of Justice. It is intended for the guidance of the public. It does not provide inflexible rules and the procedure set out below may be departed from at any time by reference to specific circumstances arising.

### **Scope of this Notice**

- 2 To the extent that this Notice concerns the judiciary it is in the form of a Practice Note issued by the Chief Justice for the purpose of setting out the procedures to be followed in relation to complaints against any judicial officer. For the avoidance of doubt, judicial officer means:
  - the Chief Justice;
  - the President or any Judge of the Court of Appeal;
  - any Judge of the High Court;
  - any Justice of the Peace sitting as a judicial officer in the High Court.
- 3 This Notice also concerns any complaint made against the Registrar or any Deputy Registrar of the High Court and any staff of the Ministry of Justice employed in relation to the administration of the Courts of the Cook Islands.
- 4 For the avoidance of doubt, the procedures and processes set out in this Notice are not a substitute for appeals. Furthermore, these procedures are not designed or intended to be used by complainants who are dissatisfied with the outcome of judicial proceedings or administrative steps taken by Ministry staff in the proper discharge of their duties. Either the Chief Justice or the Secretary, as appropriate, may determine that any complaint is vexatious for such reasons and decline to take it any further.

### **Making complaints against a judicial officer**

- 5 Without limiting the scope of complaints which may be made against a judicial officer, it is anticipated that the following conduct may properly be the subject of complaints:
  - bringing the judiciary into disrepute;
  - acting inappropriately in relation to the conduct of a proceeding;
  - delaying unreasonably in the conduct of a proceeding or in producing a Judgment;
  - failing to recuse him/herself in circumstances when a recusal is justified.
- 6 In the usual course, complaints are expected to relate to the conduct of a judicial officer in carrying out judicial functions. It will be only in rare instances that the private life of a judicial officer will properly be the subject of a complaint.

- 7 Any complaints against a judicial officer shall be made in writing and given to the Registrar of the High Court for transmission to the Chief Justice. That includes any complaints against the Chief Justice.
- 8 If the complaint is made against the Chief Justice then it shall be referred to a senior Judge for consideration (the investigating Judge). In the usual course, it is anticipated that that senior Judge would be the President of the Court of Appeal.
- 9 The Chief Justice (or in the case of a complaint against the Chief Justice, the investigating Judge) shall then take such steps to inquire into and address the complaint as appear appropriate. Without limitation, the Chief Justice (or investigating Judge) may inquire into the matters raised and seek clarification from the complainant.
- 10 The steps which can be taken by the Chief Justice (or investigating Judge) in response to a complaint are matters subject both to the Constitution and to constitutional convention. For the avoidance of doubt, this Practice Note notifies the public that there may be no further notice (including to the complainant) as to the outcome of any complaint. Once the complaint has been made (and clarified to the extent necessary) resolution of that complaint, in almost all cases, is no longer a matter of the private interest of the complainant.

#### **The making of complaints against the Registrar and staff of the Ministry**

- 11 It is recognised that the Registrar and Ministry staff are required to administer matters and make decisions in relation to matters where there are competing interests. Litigants may be under pressure and subject to stress. Notwithstanding, parties using the Court system can reasonably expect to be treated politely and have their inquiries dealt with expeditiously. Conduct falling below that standard may be the subject of complaint.
- 12 Any complaints about a member of staff (other than the Registrar) should be made to the Registrar in the first instance. To the extent necessary, the Registrar should then consult with the Secretary and devise a course of action to investigate and resolve the complaint (bearing in mind that the complaint may raise employment issues more properly for resolution by the Secretary than the Registrar).
- 13 Any complaints against the Registrar should be made directly to the Secretary who shall investigate them as seems appropriate.
- 14 Because the making of a complaint against a staff member may give rise to employment law issues, it is not appropriate to set out any further detail in this Notice as to the outcome of any complaint made against a staff member.

#### **These guidelines may be amended**

- 15 As spelled out at the beginning of this Notice the Chief Justice and the Secretary reserve the right to amend the above procedures to the extent necessary to deal with any particular complaint. They also reserve the right to amend, in a formal way, these processes by issuing a replacement notice for publication on the Ministry website.