

JPRC



ELEVENTH ANNUAL REPORT

2017

**JUSTICES OF THE PEACE
REVIEW COUNCIL**

ONTARIO

ISSN 1918-3755



The Honourable Lise Maisonneuve

CHIEF JUSTICE

ONTARIO COURT OF JUSTICE

Chair, Justices of the Peace Review Council



JUSTICES OF THE PEACE REVIEW COUNCIL

October 26, 2018

The Honourable Caroline Mulroney
Attorney General for the Province of Ontario
720 Bay Street, 11th Floor
Toronto, Ontario
M5G 2K1

Dear Minister:

It is my pleasure to submit the Eleventh Annual Report of the Justices of the Peace Review Council concerning its operations throughout 2017, in accordance with subsection 9(7) of the *Justices of the Peace Act*.

The period of time covered by this Annual Report is from January 1, 2017 to December 31, 2017.

Respectfully submitted,

A handwritten signature in cursive script that reads "Lise Maisonneuve".

Lise Maisonneuve
Chief Justice
Ontario Court of Justice



TABLE OF CONTENTS

Introduction	1
1) Composition and Terms of Appointment	2
2) Members	3
3) Administrative Information	5
4) Functions of the Review Council	6
5) Education Plan	7
6) Standards of Conduct	8
7) Extra-Remunerative Work	9
Summary of Extra-Remunerative Files Closed in 2017	10
8) Communications	10
9) Accommodation of Needs Arising From a Disability	11
10) Overview of the Complaints Process	12
11) Summary of Complaints Closed in 2017	20
Appendix A: Case Summaries	A – 27
Appendix B: Policy on Extra-Remunerative Work and Applications Considered	B – 85
Appendix C: <i>Principles of Judicial Office of Justices of the Peace of the Ontario Court of Justice</i>	C – 101



INTRODUCTION

The period of time covered by this Annual Report is from January 1, 2017 to December 31, 2017. This report is the Eleventh Annual Report on the work of the Justices of the Peace Review Council.


The Council is an independent body established by the Province of Ontario under the *Justices of the Peace Act* with a mandate to receive and investigate complaints about the conduct of justices of the peace and to fulfill other functions as described in this report. The Review Council does not have the power to interfere with cases before the courts or to change a decision made by a justice of the peace. Those are matters to be pursued through other legal remedies before the courts.

The *Act* provides for the Council to submit an Annual Report to the Attorney General on its affairs, including case summaries about complaints. The report may not include information that identifies a justice of the peace, a complainant or a witness unless a public hearing has occurred.

This Eleventh Annual Report of the Review Council provides information on its membership, its functions and the work of the Council during 2017. The Annual Report also includes information on the procedures used to address complaints. Information is also included on applications for approval to engage in extra-remunerative activities, although names of applicants are confidential.

Justices of the peace play an important role in the administration of justice in Ontario. They are appointed by the Province of Ontario and have their duties assigned by a Regional Senior Justice or a Regional Senior Justice of the Peace. They routinely conduct trials under the *Provincial Offences Act* and preside over bail hearings. They also perform a number of other judicial functions, such as issuing search warrants. Justices of the peace do difficult, important work in the justice system. A justice of the peace may be the only judicial officer that a citizen will encounter in his or her lifetime.

The Review Council had jurisdiction over approximately 406 provincially-appointed justices of the peace, full-time, part-time and per diem, during the period of time covered by this Annual Report. In 2017, they presided over millions of provincial offences matters, such as traffic offences, as well as bail hearings, Intake Court and assignment courts. During 2017, the Council received 37 new complaints about justices of the peace, and



carried over 29 from previous years. Information about the 31 complaint files completed and closed in 2017 is included in this Report. Public hearings held by the Review Council are contained in the Appendices. We invite you to find out more about the Review Council by reading this Annual Report, and by visiting its website at www.ontariocourts.on.ca/jprc/en/. On the website, you will find the Council's current policies and procedures; updates about any public hearings that are in progress or that have been completed after this Report was prepared; the *Principles of Judicial Office*; the Education Plan; and links to the governing legislation.

1. COMPOSITION AND TERMS OF APPOINTMENT

The Justices of the Peace Review Council is an independent body established under the *Justices of the Peace Act*. The Review Council has a number of functions which are described in this section, including the review and investigation of complaints about the conduct of justices of the peace.

The Review Council includes judges, justices of the peace, a lawyer and four community representatives:

- ◆ the Chief Justice of the Ontario Court of Justice, or another judge of the Ontario Court of Justice designated by the Chief Justice;
- ◆ the Associate Chief Justice Co-ordinator of Justices of the Peace;
- ◆ three justices of the peace appointed by the Chief Justice of the Ontario Court of Justice;
- ◆ two judges of the Ontario Court of Justice appointed by the Chief Justice of the Ontario Court of Justice;
- ◆ one regional senior justice of the peace appointed by the Chief Justice of the Ontario Court of Justice;
- ◆ a lawyer appointed by the Attorney General from a list of three names submitted to the Attorney General by the Law Society of Ontario; and,
- ◆ four persons appointed by the Lieutenant Governor in Council on the recommendation of the Attorney General.



In the appointment of community members, the importance of reflecting, in the composition of the Review Council as a whole, Ontario’s linguistic duality, the diversity of its population and ensuring overall gender balance must be recognized.

The lawyer and community members who are appointed to the Council hold office for four-year terms and are eligible for reappointment. Judicial members on the Council are appointed by the Chief Justice of the Ontario Court of Justice.

2. MEMBERS

The membership of the Review Council in the year covered by this report (January 1, 2017 to December 31, 2017) was as follows:

Judicial Members:

CHIEF JUSTICE OF THE ONTARIO COURT OF JUSTICE

The Honourable Lise Maisonneuve (Toronto)

ASSOCIATE CHIEF JUSTICE CO-ORDINATOR OF JUSTICES OF THE PEACE OF THE ONTARIO COURT OF JUSTICE

The Honourable Faith Finnestad (Toronto)

THREE JUSTICES OF THE PEACE APPOINTED BY THE CHIEF JUSTICE OF THE ONTARIO COURT OF JUSTICE:

His Worship Bruce Leaman (Thunder Bay)

Her Worship Liisa Ritchie (Halton)

Her Worship Monique Seguin (Sudbury)



**TWO JUDGES OF THE ONTARIO COURT OF JUSTICE APPOINTED
BY THE CHIEF JUSTICE OF THE ONTARIO COURT OF JUSTICE:**

The Honourable Justice Lisa Cameron..... (Lindsay)
(Effective February 21, 2017 for four years)

The Honourable Justice Diane M. Lahaie (Ottawa)

**REGIONAL SENIOR JUSTICE OF THE PEACE APPOINTED
BY THE CHIEF JUSTICE OF THE ONTARIO COURT OF JUSTICE:**

Regional Senior Justice of the Peace Warren Ralph (Toronto)

Lawyer Member:

Ms. S. Margot Blight (Toronto)
Borden Ladner Gervais LLP
(Reappointed June 13, 2017 for four years)

Community Members:

Dr. Emir Crowne..... (Windsor)
Counsel, KPA Lawyers PC

Ms. Jenny Gumbs (Toronto)
Former Honorary Consul General to Canada for Grenada

Dr. Michael S. Phillips (Stouffville)
Consultant, Mental Health and Justice
(Reappointed May 2, 2017 for four years)

Ms. Leonore Foster (Kingston)
Former Councillor of the City of Kingston
(Reappointed May 29, 2017 for four years)



Members – Temporary:

Subsection 8(10) of the *Justices of the Peace Act* permits the Chief Justice of the Ontario Court of Justice to appoint a judge or a justice of the peace to be a temporary member of the Justices of the Peace Review Council of a complaints committee or hearing panel where it is necessary in order to meet the requirements of the *Act*. During the period covered by this report, the following members were temporary members:

- His Worship Michael Cuthbertson(Guelph)
- The Honourable Justice Esther Rosenberg(Peterborough)
- The Honourable Justice Peter Tetley..... (Newmarket)

3. ADMINISTRATIVE INFORMATION


Office space is shared by both the Ontario Judicial Council and the Justices of the Peace Review Council. The Councils make use of financial, human resources, and technology support staff in the Office of the Chief Justice, as needed, and computer systems without the need of acquiring a large staff.

Councils’ offices are used for meetings of both Councils and their members, and as needed for meetings with judicial officers that may result as part of the disposition of complaints. The Councils have a shared telephone reception and fax number. They share a toll-free number for the use of members of the public across the province of Ontario and a toll-free number for persons using TTY/teletypewriter machines.

During the period covered by this report, the staff of the Ontario Judicial Council and the Justices of the Peace Review Council consisted of a Registrar, one Counsel and Deputy Registrar, two Assistant Registrars and an Administrative Assistant:

Ms. Marilyn E. King, LL.B. – *Registrar*

Ms. Isfahan Merali, LL. B. – *Counsel and Deputy Registrar*
(Until July 14, 2017)



Ms. Michelle M. Boudreau – *Assistant Registrar*
(Effective May 15, 2017)

Ms. Ana M. Brigido – *Assistant Registrar*

Ms. Kayla Babin – *Administrative Assistant*
(Until December 15, 2017)

Ms. Rachel Doiron – *Administrative Assistant*
(Effective December 18, 2017)


4. FUNCTIONS OF THE REVIEW COUNCIL

The *Justices of the Peace Act* provides that the functions of the Review Council are:

- ◆ to establish complaints committees from amongst its members to receive and investigate complaints about justices of the peace, and decide upon dispositions under section 11(15);
- ◆ to hold hearings under section 11.1 when hearings are ordered by complaints committees pursuant to section 11(15);
- ◆ to review and approve standards of conduct;
- ◆ to consider applications under section 5.2 for the accommodation of needs
- ◆ to address continuing education plans; and
- ◆ to decide whether a justice of the peace who applies for approval to engage in other remunerative work may do so

The Review Council does not have the power to interfere with a court case or to change a decision made by a justice of the peace. If a person believes that a justice of the peace made an error in assessing evidence or in making a decision on any of the issues, the proper way to proceed is through other legal remedies before the courts, such as an appeal.

Under section 10(1) of the *Justices of the Peace Act*, the Review Council may establish rules of procedure for complaints committees and for hearing panels and the Review Council must make the rules available to the public. The Review Council has established



procedures containing rules for the complaints process which are posted on its website at the link for “Policies and Procedures” at www.ontariocourts.ca/ocj/jprc/policies-and-procedures/procedure/.

During 2017, the Council continued to refine and develop its procedures and policies.


The Council decided to add a new webpage on its website about “Confidentiality” to provide a brief explanation for the public and the media about the confidential nature of the legislative framework that governs the complaints process.

The Council reviewed the wording in its Procedures about its policy that it does not confirm or deny whether a complaint has been received unless there is a hearing. The Council amended the wording in its Procedures to reflect that the Review Council has determined that in accordance with the statutory framework set out in the *Justices of the Peace Act*, the complaints process is confidential in its early stages. If it is determined that a hearing is warranted, the hearing process, by contrast, is public unless there are exceptional circumstances that require that all or part of the hearing be held in private.

A copy of the Council’s current procedures for the complaints process that incorporates the amendments made during 2017 is posted on the Review Council’s website under the link “Policies and Procedures” at www.ontariocourts.ca/ocj/jprc/policies-and-procedures/procedure/.

5. EDUCATION PLAN

The Associate Chief Justice Co-ordinator of Justices of the Peace of the Ontario Court of Justice is required, by section 14 of the *Justices of the Peace Act*, to establish, implement and make public a plan for the continuing judicial education of justices of the peace. The education plan must be approved by the Justices of the Peace Review Council. In 2007, a continuing education plan was developed by the Associate Chief Justice Coordinator of Justices of the Peace in conjunction with the Advisory Committee on Education. The Committee included the Associate Chief Justice Co-ordinator of Justices of the Peace as Chair (*ex officio*) and justices of the peace nominated by the Associate Chief Justice Co-ordinator of Justices of the Peace and by the Association of Justices of the Peace of Ontario.



In 2017, the updated Education Plan was reviewed and approved by the Council. The Council noted that although attendance at Initial Education Workshops was mandatory, the Plan did not reflect it as mandatory. An amendment clarified that attendance at Initial Education Workshops “is a requirement”. Similarly, new wording was added that attendance at continuing education programs “is an assignment” which makes it a requirement. Both amendments were made to incorporate existing practice and policy for mandatory education.

A copy of the current Education Plan can be found on the Council’s website under the link “Education Plan” at www.ontariocourts.ca/ocj/jprc/education-plan/.

6. STANDARDS OF CONDUCT

The Associate Chief Justice Co-ordinator of Justices of the Peace may, under section 13(1) of the *Justices of the Peace Act*, establish standards of conduct for justices of the peace and a plan for bringing the standards into effect and must implement the standards and plan when they have been reviewed and approved by the Review Council.

Further to section 13(1), the Principles of Judicial Office for Justices of the Peace of the Ontario Court of Justice were approved by the Justices of the Peace Review Council on December 7, 2007. The principles set out standards of excellence and integrity to which justices of the peace subscribe. These principles are not exhaustive. Intended to assist justices of the peace in addressing ethical and professional dilemmas, they may also serve in assisting the public to understand the reasonable expectations which the public may have of justices of the peace in the performance of judicial duties and in their conduct generally.

The principles are advisory in nature. A breach does not automatically lead to a conclusion that there has been misconduct. However, the principles do set out a general framework of values and considerations that are relevant in evaluating allegations of improper conduct by a justice of the peace.

A copy of the Principles of Judicial Office for Justices of the Peace of the Ontario Court of Justice is included as Appendix C in this Annual Report and can be found on the Council’s website under the link for “Principles of Judicial Office” at www.ontariocourts.ca/ocj/jprc/principles-of-judicial-office/.

7. EXTRA-REMUNERATIVE WORK


Under section 19 of the *Justices of the Peace Act*, all justices of the peace are required to seek the written approval of the Review Council before accepting or engaging in any extra-remunerative work.

Applications received from justices of the peace to engage in other remunerative work are considered in accordance with the Council's policy. The policy sets out criteria that are used in assessing applications including:

- ◆ whether there is an actual, or perceived conflict of interest between the duties as assigned and the extra-remunerative activity for which approval is sought;
- ◆ whether the nature of the activity for which the justice of the peace seeks approval will present an intrusive demand on the time, availability or energy of the justice of the peace and his or her ability to properly perform the judicial duties assigned; and,
- ◆ whether the activity for which the justice of the peace seeks approval is a seemly or appropriate activity in which a judicial officer should engage, having regard to the public perceptions of judicial demeanour, independence and impartiality.

The Council considers two aspects in relation to remuneration associated with the work. Firstly, the Council considers whether the work gives rise to any remuneration to the applicant justice of the peace. Secondly, the Council considers that a justice of the peace is engaged in extra-remunerative work when that justice of the peace is a party to someone else's remunerative work. Once the Council has established whether there is any remuneration, the policy and criteria set out in the Council's extra-remunerative policy are considered.

One criterion to be considered by the Council in considering applications is whether the activity for which the justice of the peace seeks approval is a seemly or appropriate activity in which a judicial officer should engage, having regard to the public perceptions of judicial demeanour, independence and impartiality (paragraph 6(c) of the Policy Re Extra-Remunerative Work). The Council has considered how that criterion should be applied and determined that it must be understood in the context of the public policy encapsulated in the legislative framework set out in the *Justices of the Peace Act* R.S.O. 1990, c. J.4, as amended and, in particular, in view of the amendments that resulted from



the *Access to Justice Act*, 2006, S.O. 2006, c. 21. The legislative amendments brought about a comprehensive reform intended to strengthen public confidence in a professional bench and in the justice system.

Having carefully considered the public policy underlying the current legislative framework, the objectives of the amendments underlying the *Access to Justice Act*, 2006, and the Principles of Judicial Office of Justices of the Peace of the Ontario Court of Justice, the Review Council determined that it would in general be unseemly for full-time presiding justices of the peace to be engaged in commercial extra-remunerative work. The Policy Re Extra-Remunerative Work was amended to reflect the Council's decision.

The Review Council has approved some applications by full-time justices of the peace to engage in extra-remunerative work on an exceptional basis in limited circumstances where the activity was primarily non-commercial and had other intrinsic value from an educational, patriotic, religious or creative standpoint. In accordance with the Council's policy and procedure, an applicant who seeks approval to engage in commercial activity must address the issue of why the application for extra-remunerative work should be approved as an exception to the general policy that full-time presiding justices of the peace should not engage in extra-remunerative work that is commercial in nature.


The Policy on Extra-Remunerative Work is included as Appendix B in this Annual Report. The most recent version is posted on the Council's website under the link "Policies and Procedures" at www.ontariocourts.ca/ocj/jprc/policies-and-procedures/extra-remunerative-work/.

Summary of Extra-Remunerative Files Closed in 2017

During 2017, the Council received nine applications for approval to engage in extra-remunerative work and completed its consideration of those applications. Case summaries can be found at Appendix B in this Annual Report.

8. COMMUNICATIONS

The website of the Justices of the Peace Review Council includes information about the Council, including the most current version of the policies and procedures, as well as



information about hearings that are underway or that have been completed. Information on ongoing hearings is available under the link “Public Hearings” at www.ontariocourts.ca/ocj/jprc/public-hearings/. Decisions made during the hearings are posted under the link “Public Hearings Decisions” at www.ontariocourts.ca/ocj/jprc/public-hearings-decisions/. Each Annual Report of the Council is also available on the website after it has been tabled in the legislature by the Attorney General.

The address of the Council’s website is: www.ontariocourts.ca/ocj/jprc/.

A brochure to inform the public about the process to make complaints about judges and justices of the peace is available in hard copy at courthouses or by contacting the Council’s office, and electronically on the website at www.ontariocourts.ca/ocj/conduct/do-you-have-a-complaint/. The brochure, “Do You Have a Complaint?” provides information on what a justice of the peace does, on how to tell whether the presiding judicial officer is a judge or a justice of the peace, and on how to make a complaint about conduct.

9. ACCOMMODATION OF NEEDS ARISING FROM A DISABILITY

A justice of the peace who believes that he or she is unable, because of a disability, to perform the essential duties of the office unless his or her needs are accommodated may apply to the Council under section 5.2 of the *Justices of the Peace Act* for an order that such needs be accommodated.

The Ministry of the Attorney General, with input from the Office of the Chief Justice, has a process that provides a consistent means for judicial officers to request accommodation of needs arising from disabilities. The Council recognizes that the Ministry has access to the expertise and resources to properly assess and address requests for accommodation of needs. In order that the Council can properly consider applications made to it, if any, the Council’s Procedures require the applicant justice of the peace to first exhaust the accommodation of needs process that is available for judicial officers through the Ministry of the Attorney General. When that process has been completed, if the justice of the peace makes an application for an order of accommodation to the Council, he or she must provide a copy of all documents, medical evidence and decisions resulting from the application process.



The current procedure that governs such applications is included in the Council's Procedure which is posted on the website at www.ontariocourts.ca/ocj/jprc/accessibility-and-accommodation/.

During 2017, one justice of the peace applied to the Review Council for an order of accommodation. An accommodations subcommittee of the Review Council gathered evidence from the justice of the peace and from staff of the Ministry of the Attorney General. The Council learned that the accommodation of needs process available through the Ministry had not yet been exhausted. The Ministry had not yet made a final decision on the request for accommodation. The Review Panel concluded that it was premature to consider whether His Worship's needs had been sufficiently accommodated. The Council requested that the justice of the peace provide current medical information to the Ministry so that the Ministry could continue its process of considering the request for accommodation. After the Ministry's process is completed, the justice of the peace can re-apply for an order of accommodation, if his view is that his needs were not sufficiently accommodated by the Ministry.


10. OVERVIEW OF THE COMPLAINTS PROCESS

What initiates a review by the Review Council?

Any person may make a complaint to the Review Council about the conduct of a justice of the peace. Complaints must be made in writing. The governing legislation and the principles of natural justice do not provide for the Review Council to act on anonymous complaints or to initiate inquiries into the conduct of a judicial officer. Rather, an investigation conducted by the Review Council must be in response to specific allegations submitted by a complainant. Most of the complaints received by the Justices of the Peace Review Council are received from members of the public.

Does the Council have the legal authority to consider the complaint?

The Review Council has a legislative mandate to review complaints about the **conduct** of justices of the peace. The Council has no authority to review **decisions** of justices of the peace to determine whether there were any errors in how the issues were determined or



how conclusions were drawn. If a party involved in a court case thinks that a justice of the peace reached the wrong decision in the case, he or she has legal remedies through the courts. Only a court can change the original decision of a justice of the peace.

All correspondence is reviewed to determine whether or not a complaint is within the jurisdiction of the Review Council. In those cases where the complaint may be within the jurisdiction of the Review Council, a complaint file is opened and a letter of acknowledgement is sent to the complainant, usually within a week of his or her letter being received by the Council.

If the complainant expresses dissatisfaction with a decision that has been made by a justice of the peace, the letter of acknowledgement advises the complainant that the Council has no power to change a decision made by a justice of the peace. In such cases, the complainant is advised that he or she may wish to consult legal counsel to determine what, if any, remedies may be available through the courts.

If an individual is complaining about his/her lawyer or paralegal, a Crown Attorney, or another office, the complainant is generally referred to the appropriate agency or authorities.

What happens in the complaints process?

The *Justices of the Peace Act* and the procedures that have been established by the Council provide the current framework for addressing complaints about justices of the peace. Certain provisions of the *Statutory Powers Procedure Act* also apply. The complaints procedure is outlined below. The current procedures are posted on the Council's website at www.ontariocourts.ca/ocj/jprc/policies-and-procedures/procedure/.

Preliminary Investigation and Review

As soon as possible after receiving a complaint about the conduct of a justice of the peace, the office of the Council will acknowledge receipt of the complaint. If the complaint raised allegations of conduct about a justice of the peace who is presiding over a court proceeding, the Council will not generally commence an investigation until that court proceeding and any appeal or other related legal proceedings have been completed.




This will ensure that any investigation by the Council is not interfering or perceived to be interfering with any on-going court matters.

If there is no on-going court proceeding, a complaints committee of the Council will be assigned to investigate the complaint. Members of the Council serve on complaints committees on a rotating basis. Each complaints committee is composed of: a provincially-appointed judge who acts as chair; a justice of the peace; and, either a community member or a lawyer member. Complaints are not generally assigned to members from the same region where the justice of the peace who is the subject of the complaint presides. This avoids any risk of or perception of bias or conflict of interest between a member of Council and the justice of the peace.

Except for hearings ordered under section 11(15)(c) of the *Justices of the Peace Act* to consider complaints about specific justices of the peace, meetings and proceedings of the Review Council are not held in public. Section 11(8) of the *Act* requires that investigations by the Review Council must be conducted in private. The legislative framework recognizes the need to safeguard judicial independence while simultaneously ensuring judicial accountability and public confidence in the administration of justice.

If the complaint arose from a court proceeding, a transcript of the court hearing is ordered to be reviewed by the members of the complaints committee. An audio recording, if available, may also be ordered and reviewed. In some cases, the committee may find that it is necessary to conduct further investigation in the form of having witnesses interviewed. An external lawyer may be retained, pursuant to section 8(15) of the *Act*, to assist the committee by interviewing witnesses and providing transcripts of the interviews to the investigating complaints committee. Legal advice may also be obtained.

The complaints committee will determine whether or not a response to the complaint should be invited from the justice of the peace in question. If a response is invited from the justice of the peace, the letter sent inviting a response will enclose a copy of the complaint, the transcript (if any) and all of the relevant materials considered by the committee. The justice of the peace may seek independent legal advice or assistance before responding. The justice of the peace will also be invited to listen to the audio recording, if it has been reviewed by the committee.




Section 11(15) of the *Justices of the Peace Act* gives the complaints committee the authority to dismiss a complaint after reviewing the complaint where, in the opinion of the committee: it is frivolous or an abuse of process; it falls outside the Council's jurisdiction (e.g. because it is a complaint about the exercise of judicial discretion); it does not include an allegation of judicial misconduct; the allegation is unproven; or, the misconduct does not rise to the level of misconduct that requires further action on the part of the Council.

Interim Recommendations

The investigating complaints committee will consider whether the allegation(s) warrants making an interim recommendation pending the final disposition of a complaint. Under section 11(11) of the *Act*, an interim recommendation for non-assignment of work or re-assignment to work at another court location may be made to the Regional Senior Justice appointed for the region to which the justice of the peace is assigned. The Regional Senior Justice may decide not to assign work to the justice of the peace until the final disposition (but he or she will continue to be paid); or, with the consent of the justice of the peace, may re-assign him or her to another location until the disposition of the complaint. It is within the discretion of the Regional Senior Justice as to whether he or she decides to act upon the recommendation from a complaints committee.

The Review Council has approved the following criteria in the procedures to guide complaints committees as to when an interim recommendation should be made:

- ◆ where the complaint arises out of a working relationship between the complainant and the justice of the peace and the complainant and the justice of the peace both work at the same court location;
- ◆ where allowing the justice of the peace to continue to preside would likely bring the administration of justice into disrepute;
- ◆ where the complaint is of sufficient seriousness that there are reasonable grounds for investigation by law enforcement agencies;
- ◆ where it is evident to the complaints committee that a justice of the peace is suffering from a mental or physical impairment that cannot be remedied or reasonably accommodated.



Where a complaints committee proposes to recommend temporarily not assigning work or re-assigning a justice of the peace to work at a different court location, it may give the justice of the peace an opportunity to be heard on that issue in writing before making its decision. Particulars of the factors upon which the complaints committee's recommendations are based are provided to the Regional Senior Judge to assist the Regional Senior Judge in making his or her decision, and to the justice of the peace to provide him or her with notice of the complaint and the complaints committee's recommendation.

Of the files closed in 2017, one complaints committee recommended that a justice of the peace be non-assigned pending the final disposition of the complaints.

Dispositions of the Complaints Committee


When the investigation is completed, pursuant to section 11(15) of the *Act*, the complaints committee will do one of the following:

- a) dismiss the complaint if it is frivolous, an abuse of process or outside the jurisdiction of the complaints committee;
- b) invite the justice of the peace to attend before the complaints committee to receive advice concerning the issues raised in the complaint or send the justice of the peace a letter of advice concerning the issues raised in the complaint, or both;
- c) order that a formal hearing into the complaint be held by a hearing panel; or,
- d) refer the complaint to the Chief Justice of the Ontario Court of Justice

The complaints committee reports to the Review Council on its decision and, except where it orders a formal hearing, does not identify the complainant or the justice of the peace who is the subject of the complaint in its report.

Notification of Disposition

After the complaints process is completed, the Review Council communicates its decision to the person who made the complaint and, in most cases, to the justice of the peace. A justice of the peace may waive notice of the complaint if it is being dismissed and no response was invited by the Council. In accordance with the Procedures of the



Review Council, if the Review Council decides to dismiss the complaint, it will provide brief reasons.

Public Hearing Under section 11.1

When the complaints committee orders a public hearing, under section 11.1(1) of the *Act*, the Chief Justice of the Ontario Court of Justice, who is also the Chair of the Review Council, establishes a three-member hearing panel from among the members of the Council, composed of: a provincially-appointed judge who chairs the panel; a justice of the peace; and, a lawyer or a member of the public. Complaints committee members who participated in the investigation of the complaint do not participate in its review by a hearing panel.


The legislation provides for judicial members to be appointed as temporary members of the Council to ensure that the three members of the hearing panel have not been involved in earlier stages of reviewing the complaint. The Chief Justice of the Ontario Court of Justice may appoint a judge or a justice of the peace who is not a member of the Review Council to be a temporary member of a hearing panel where necessary to form a quorum to meet the requirements of the *Act*.

By the end of the investigation and hearing process, all decisions regarding complaints made to the Justices of the Peace Review Council will have been considered and reviewed by a total of six members of the Council – three members of the complaints committee and three members of the hearing panel.

The Review Council engages legal counsel, called Presenting Counsel, for the purposes of preparing and presenting the case about the justice of the peace. The legal counsel engaged by the Review Council operates independently of the Review Council. The duty of legal counsel engaged to act as Presenting Counsel is not to seek a particular order against a justice of the peace, but to see that the complaint about the justice of the peace is evaluated fairly and dispassionately to the end of achieving a just result.

The justice of the peace has the right to be represented by counsel, or to act on his or her own behalf in any hearing under this procedure.

The *Statutory Powers Procedure Act*, with some exceptions, applies to hearings into complaints. Persons may be required, by summons, to give evidence on oath or



affirmation at the hearing and to produce in evidence at the hearing any documents or things specified by the panel which are relevant to the subject matter of the hearing and admissible at the hearing.

Public Hearing Unless Ordered Private

A section 11.1 hearing into a complaint is public unless the Review Council determines, in accordance with criteria established under the *Statutory Powers Procedure Act*, that matters involving public security may be disclosed; or, intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure of such matters, in the interests of any person affected or in the public interest, outweighs the desirability of following the principle that the hearing be open to the public.

In certain circumstances where a complaint involves allegations of sexual misconduct or sexual harassment, the Review Council also has the power to prohibit publication of information that would disclose the identity of a complainant or a witness who testifies to having been the victim of the conduct. If a complaint involves allegations of sexual misconduct or sexual harassment, the hearing panel will, at the request of the complainant or of a witness who testifies to having been the victim of such conduct by the justice of the peace, prohibit the publication of information that might identify the complainant or the witness, as the case may be.

Dispositions after section 11.1 Hearing

After hearing the evidence, under section 11.1(10) of the *Justices of the Peace Act*, the hearing panel of the Review Council may dismiss the complaint, with or without a finding that it is unfounded or, if it upholds the complaint, it may decide upon any one of the following sanctions singly or in combination:

- ◆ warn the justice of the peace;
- ◆ reprimand the justice of the peace;
- ◆ order the justice of the peace to apologize to the complainant or to any other person;

-
- ♦ order the justice of the peace to take specified measures such as receiving education or treatment, as a condition of continuing to sit as a justice of the peace;
 - ♦ suspend the justice of the peace with pay, for any period; or,
 - ♦ suspend the justice of the peace without pay, but with benefits, for a period up to thirty days.

Removal from Office


Following the hearing, the Review Council may make a recommendation to the Attorney General that the justice of the peace be removed from office. This sanction stands alone and cannot be combined with any other sanction. A justice of the peace may be removed from office only if a hearing panel of the Review Council, after a hearing under section 11.1, recommends to the Attorney General under section 11.2 that the justice of the peace be removed on the ground of:

- ♦ he or she has become incapacitated or disabled from the execution of his or her office by reason of inability to perform the essential duties of the office because of a disability and, in the circumstances, accommodation of his or her needs would not remedy the inability, or could not be made because it would impose undue hardship to meet those needs;
- ♦ conduct that is incompatible with the execution of the office; or
- ♦ failure to perform the duties of his or her office.

Only the Lieutenant Governor in Council may act upon the recommendation and remove the justice of the peace from office.

Recommendation of Compensation for Legal Costs

When the Justices of the Peace Review Council has dealt with a complaint, section 11(16) of the *Justices of the Peace Act* makes provision for a justice of the peace to request that a complaints committee recommend to the Attorney General that he or she should be compensated for all or part of the costs of legal services incurred in connection with the investigation. Such a request would generally be submitted to the Council after the



complaints process has been completed, along with a copy of the statement of account of legal services to support the request. Similarly, section 11.1(17) allows a hearing panel to recommend compensation for all or part of the cost of legal services incurred in connection with a hearing.

In 2017, five recommendations for compensation were made by complaints committees to the Attorney General that the justices of the peace be compensated for all or part of the cost of legal services incurred in connection with the investigation of the complaints.

Legislation

The current legislative provisions of the *Justices of the Peace Act* concerning the Justices of the Peace Review Council are available on the government's e-laws website at www.e-laws.gov.on.ca. The website contains a database of Ontario's current and historical statutes and regulations.

11. SUMMARY OF COMPLAINTS CLOSED IN 2017

Overview

The Justices of the Peace Review Council carried forward 29 complaints to 2017 from previous years. During 2017, 37 new complaint files were opened with the Review Council. Including those cases carried into 2017 from previous years, the total number of files open during 2017 was 66. Of the 66 open files in 2017, 31 files were completed and closed before December 31, 2017.

Of the 31 files that were closed, 13 files were opened in 2017, 17 were opened in 2016 and one was opened in 2015.

Thirty-five of the 66 open files were still ongoing at the end of 2017 and carried over into 2018. Twenty-four were complaints filed in 2017. Eight were complaints filed in 2016. Three were complaints that were filed in 2015, investigated and ordered to a hearing.

Dispositions

As indicated earlier, section 11(15) of the *Justices of the Peace Act* authorizes a complaints committee to:


- ◆ dismiss the complaint if it was frivolous, an abuse of process or outside the jurisdiction of the complaints committee;
- ◆ invite the justice of the peace to attend before the complaints committee to receive advice concerning the issues raised in the complaint or send the justice of the peace a letter of advice concerning the issues raised in the complaint, or both;
- ◆ order that a formal hearing into the complaint be held by a hearing panel; or,
- ◆ refer the complaint to the Chief Justice of the Ontario Court of Justice.

Of the 31 files addressed and closed, seven complaints were dismissed by the Review Council under section 11(15)(a) on the basis that they were found to be outside of the jurisdiction of the Council. These files typically involved a complainant who expressed dissatisfaction with the result of a trial or with a justice of the peace's decision, but who made no allegation of misconduct. While the decisions made by the justice of the peace in these cases could be the subject of other legal remedies, such as an appeal, the absence of any alleged misconduct meant that the complaints were outside of the jurisdiction of the Review Council.

Complaints within the jurisdiction of the Council included allegations such as improper behaviour (rudeness, belligerence, etc.), lack of impartiality, conflict of interest or some other form of bias.

Eighteen complaints were dismissed by the Review Council under section 11(15)(a) after they were investigated by a complaints committee and determined to be unsubstantiated or unfounded, or the behaviour did not amount to judicial misconduct and no further action was required.

In two cases, the Review Council provided advice in writing to justices of the peace under section 11(15) (b) of the *Act*. In one case, advice in person was provided to a justice of the peace.




In 2017, no complaints were referred to the Chief Justice of the Ontario Court of Justice pursuant to section 11(15)(d) of the *Act*. A complaints committee will refer a complaint to the Chief Justice of the Ontario Court of Justice in circumstances where the committee is of the opinion that the conduct complained of does not warrant another disposition and that there is some merit to the complaint. As well, the complaints committee is of the view that a referral to the Chief Justice is a suitable means of informing the justice of the peace that his or her course of conduct was not appropriate in the circumstances that led to the complaint. The committee may recommend imposing conditions on its referral to the Chief Justice where the committee agrees that there is some course of action or remedial training of which the justice of the peace could take advantage and the justice of the peace agrees.

In three cases, the justice of the peace left office before the complaints process was completed. The Council lost jurisdiction and the files were administratively closed.

A public hearing is ordered pursuant to section 11(15)(c) where the complaints committee is of the opinion that there has been an allegation of judicial misconduct which the majority of the members of the committee believes has a basis in fact and which, if believed by the finder of fact, could result in a finding of judicial misconduct. When a hearing is ongoing, updates on the status of the case are posted on the Review Council's website under the link "Public Hearings" at www.ontariocourts.on.ca/jprc/en/hearings/. At the end of a hearing, the decision can be found on the website under the link "Public Hearings Decisions".

In 2017, no files were closed as a result of hearings being completed. A hearing continued in relation to the conduct of His Worship Tom Foulds. His Worship Foulds filed an application for judicial review to challenge the decision of the complaints committee to order a hearing. On September 28, 2017, the Divisional Court heard a motion brought by His Worship requesting a temporary stay/adjournment of the public hearing, pending determination of His Worship's application for judicial review. The Divisional Court dismissed the motion and granted a motion by counsel for the Review Council to quash His Worship's application for judicial review on the basis of prematurity. Decisions made in the hearing are posted on the Council's website under the link Public Hearings Decisions.

A hearing about the conduct of Justice of the Peace Errol Massiah resulted in his removal from office in 2015. Mr. Massiah filed an application for judicial review of the decisions made by the Hearing Panel during the hearings process, including the recommendation



for his removal from office and the decision that he should not be compensated for his legal costs. In 2016, the Divisional Court dismissed his application for judicial review with one exception. The decision of the Panel not to recommend compensation for legal fees was set aside and that single issue was remitted back to the Panel for reconsideration. Applications by Mr. Massiah and by the Review Council for leave to appeal to the Court of Appeal for Ontario were dismissed.

Since the time of the 2015 removal of Mr. Massiah from office, the judge member of the Hearing Panel that recommended his removal from office had retired and she was no longer able to preside in the matter. After deliberating on the question of whether to recommend compensation for Mr. Massiah's legal costs, the two remaining members of the Panel were unable to reach a unanimous decision. A new Hearing Panel was established to consider whether or not to recommend to the Attorney General that Mr. Massiah be compensated for his legal costs.

The decision will be posted on the Review Council's website on the webpage Public Hearings Decisions 2018.

In 2017, a hearing began in relation to the conduct of His Worship Richard Bisson. The hearing was ongoing at the time when this Report was prepared.

In 2017, hearings also began in relation to the conduct of Her Worship Adele Romagnoli and His Worship Paul Welsh. The results of those hearings are posted on the Public Hearings Decisions webpage on the Council's website at www.ontariocourts.ca/ocj/jprc/public-hearings-decisions/d2018/.

Types of Cases

Of the 31 files that were completed and closed in 2017, 11 complaints arose from events during provincial offences proceedings, five arose from matters in Intake Court, twelve arose from proceedings under the Criminal Code (four pre-enquêtes and eight bail hearings), and three related to conduct outside of the courtroom.

Case Summaries

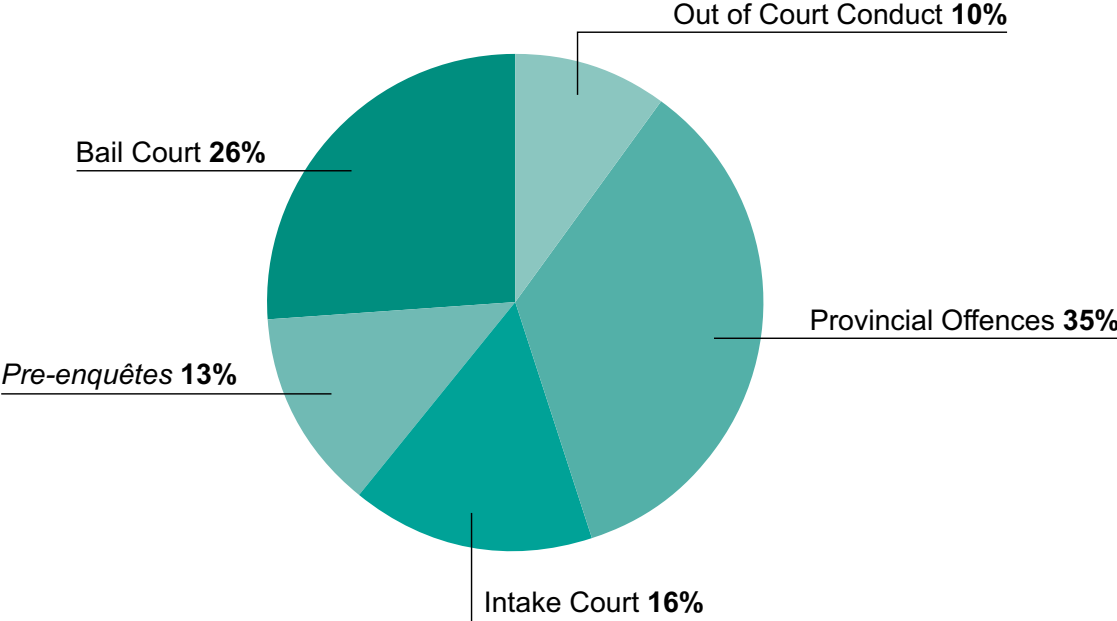
Case summaries for each complaint file closed during 2017 follow in Appendix "A" of this Report.

SUMMARY OF COMPLAINTS CLOSED IN 2017

DISPOSITIONS ON COMPLAINTS CLOSED IN 2017	
Dismissed as out of jurisdiction	7
Dismissed as not substantiated or did not amount to misconduct	18
Advice Letter	2
Advice - In-person	1
Referred to Chief Justice	0
Loss of jurisdiction	3
Public Hearing	0
TOTAL CLOSED IN 2017	31

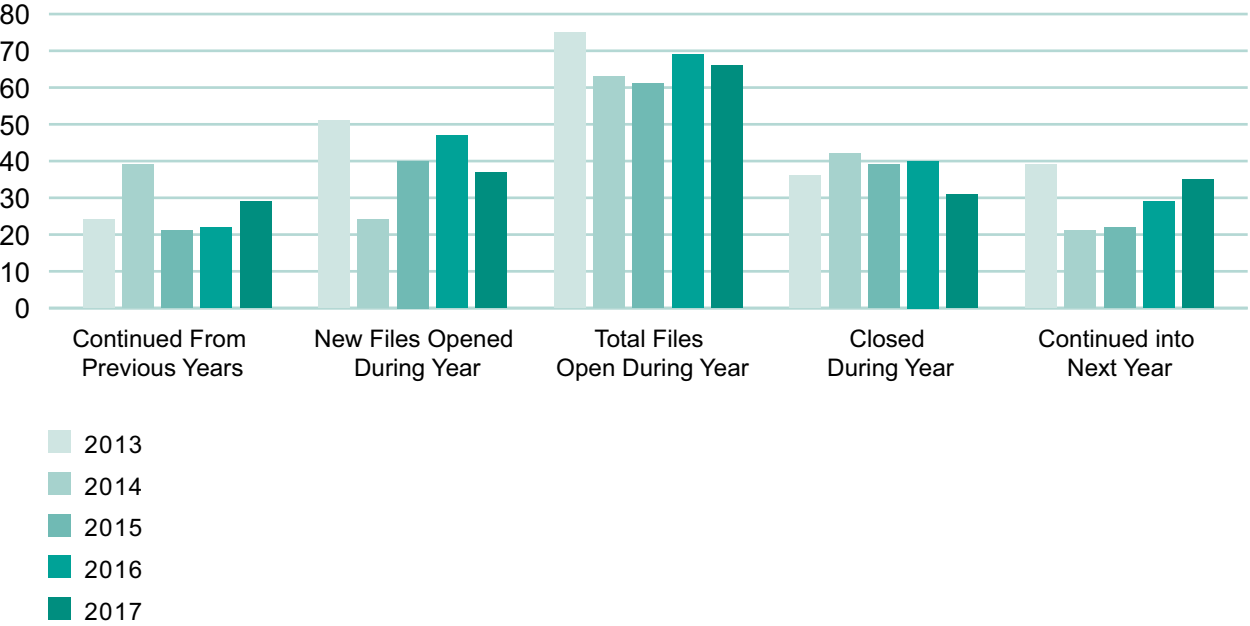
TYPES OF CASES CLOSED IN 2017

TYPES OF CASES	# OF COMPLAINTS
Provincial Offences Court	11
Intake Court	5
Bail Court	8
Set-date Court	0
<i>Pre-enquêtes</i>	4
Peace Bond Applications	0
Out of Court Conduct	3
TOTAL	31



CASELOAD IN CALENDAR YEARS

	2013	2014	2015	2016	2017
Continued From Previous Years	24	39	21	22	29
New Files Opened During Year	51	24	40	47	37
Total Files Open During Year	75	63	61	69	66
Closed During Year	36	42	39	40	31
Continued into Next Year	39	21	22	29	35



APPENDIX A

2017
CASE SUMMARIES

APPENDIX A

Case Summaries

Complaint files are given a two-digit prefix indicating the complaint year, followed by a sequential file number and by two digits indicating the calendar year in which the file was opened (i.e., Case No. 28-001/17 was the first file opened in the period of reporting and opened in calendar year 2017).

Except where a public hearing was ordered, details of each complaint for which the complaints process was completed, with identifying information removed as required by the legislation, are provided below. Decisions on public hearings are posted on the Council's website.

CASE NO. 26-038/15

The complainant wrote to the Council arising from a criminal court proceeding before a justice of the peace. The complainant alleged that when counsel for the accused sought to have him take the stand in order to outline some of the factors in his life and behaviours from intergenerational abuse, Her Worship replied dismissively and made comments indicating that it was not necessary to hear his life story.

The complainant alleged that the justice of the peace “evidenced blatant lack of knowledge on both the historical and cultural reasons behind the necessity and procedure for considering the *Gladue* principles”. The Supreme Court of Canada’s decision in *R. v. Gladue* recognizes the over-representation of Aboriginal offenders in the Canadian criminal justice system and makes it incumbent upon the judicial officer in bail or sentencing proceedings to acquire information about the circumstances of the offender as an Aboriginal person, and to consider that information.

The complainant also expressed concern about comments made by the justice of the peace during the proceeding, describing them as “racism-fuelled”, “contempt-fuelled” and “oppressive” towards the accused, including an unsolicited comment on the accused’s ability to be a parent: “I hope that you don’t have [children in the future] because you are clearly not in a position to be a father to anybody.”

She alleged that it was an error of law for the justice of the peace to substitute a “common sense” assessment for the right of the accused to have his background considered in

APPENDIX A

Case Summaries

the manner contemplated within the *Gladue* framework. She alleged that this was an incidence of racism that was masked as an inappropriate application of the law.

The complaints committee reviewed the letter of complaint and ordered and reviewed the transcript and audio recording of the proceeding. The committee noted that errors of law are matters outside the jurisdiction of the Review Council. A higher level of court has the authority to determine whether a justice of the peace erred in his or her interpretation or application of the law.

The committee invited Her Worship to respond to the complaint and reviewed her response. After reviewing the response, the committee accepted that Her Worship regretted her comments and conduct and that she undertook to ensure that it would not reoccur.

The committee understood that the courtroom can be a demanding place with a busy docket. The committee noted that regardless of how busy a court is, there is an obligation on every justice of the peace to fulfill his or her responsibilities as a justice of the peace and to uphold the high standards of conduct that apply to justices of the peace, both on and off the bench. Judicial officers must always be aware of the appearance created by their conduct.

The Review Council, and by extension, every complaints committee, has the role of maintaining and preserving the public's confidence in judicial officials and in the administration of justice through its review of complaints about conduct. The approach is remedial. Section 11(15) of the *Justices of the Peace Act* provides for dispositions that should be invoked when necessary to restore public confidence. The complaints committee decided that the appropriate disposition was to provide the justice of the peace with written advice, pursuant to section 11(15)(b) of the *Act*. Under the Review Council's Procedures, a complaints committee provides advice to a justice of the peace in circumstances where the conduct complained of does not warrant another disposition, there is some merit to the complaint, and advice is, in the opinion of the committee, a suitable means of informing the justice of the peace that his or her conduct was not appropriate.

The committee reminded Her Worship that a justice of the peace must be mindful that his or her conduct plays a vital role in building and maintaining the public's respect and confidence not only in an individual judicial officer, but in the bench, and in the justice

APPENDIX A

Case Summaries

system as a whole. The committee advised Her Worship of the importance of a justice of the peace being mindful of the possible perceptions of other persons in the courtroom, and even more so if those other persons have a background that may involve cultural or historical sensitivities that differ from that of the judicial officer. The comments and conduct of a justice of the peace play a vital role not only in setting the tone in the courtroom, but also in the perception of whether justice has been administered fairly, impartially, respectfully and without bias or discrimination.

The committee provided Her Worship with advice on how to better deal with similar situations and individuals in the future if a case arises involving the application of *Gladue* in court. The committee noted that continuing education materials were prepared in 2016 for justices of the peace on the *Gladue* principles and related issues of cultural awareness and competence. The committee provided Her Worship with a copy of all of the materials.

After the committee provided its advice, the file was closed.

CASE NO. 27-019/16

The complainant wrote to the Council about her interaction with a justice of the peace at a courthouse when she appeared before him for a parking infraction. The complainant wrote that her intention, when she appeared in court, was to plead not guilty to the charge. She alleged that while she waited for her case to be called, she observed defendants subjected to “very intimidating language and tone of voice” from the justice of the peace. She also alleged that after finding defendants guilty, His Worship asked two questions: whether they had a job and if they had children. She alleged that His Worship was lenient towards those defendants who answered “yes” to having children.

The complainant alleged that after watching the process, she was not prepared to subject herself to the cross-examination and decided that it was in her best interest to plead guilty to the parking infraction charge. She alleged that it was clear that she was not going to have the opportunity to defend herself or to voice her opinion because the intimidating atmosphere of trial would only allow the defendant to speak when spoken to. She alleged that after she pleaded guilty, she was asked questions relating to her employment and whether she had children. His Worship imposed the full fine for the offence. The complainant indicated that she felt embarrassed at having to answer whether she had

APPENDIX A

Case Summaries

children and she felt discriminated against since she did not have children and had to pay the full fine.

The complaints committee reviewed the complaint letter and ordered and reviewed the transcript and a portion of the audio recording of the proceeding.

Upon their review of the court record, the committee found that the allegations in regards to the justice of the peace's tone were unsupported. However, the committee was concerned that the court record appeared to indicate that the justice of the peace's manner and comments during the proceedings were abrupt and his approach to the cases exhibited inconsistency and brevity such that defendants may not have understood the process.

The committee noted the comments made by the Court in *R. v. Rijal*, 2010 ONCJ 329, in reviewing the duty of a justice of the peace, in every proceeding, to ensure that the unrepresented defendant receives a fair trial, and that his or her defence is brought out with its full force and effect. The committee was concerned that the justice of the peace did not appear to fulfill the responsibility outlined in *R. v. Rijal*. The committee was further concerned by the lack of adequate explanations at the outset of trials and at appropriate junctures; as well, an opportunity to make submissions on sentence was not always provided.

The committee noted that despite the demands of a busy provincial offences court where there are many defendants, there is an obligation on every justice of the peace to fulfill their duty to assist an unrepresented defendant and to explain what the proceeding is about so that they can properly understand the process and the decision of the justice of the peace. This is particularly important if the individual before them is not legal counsel. Unrepresented defendants may have no familiarity with legal process or concepts. The committee noted that it is always important for a justice of the peace to be aware of how such defendants perceive the process and of how their comments and conduct are viewed and understood by those appearing before them.

The committee noted that the preamble to the *Principles of Judicial Office of Justices of the Peace of the Ontario Court of Justice* states:

APPENDIX A

Case Summaries

The justices of the peace of the Ontario Court of Justice recognize their duty to establish, maintain, encourage and uphold high standards of personal conduct and professionalism so as to preserve the independence and integrity of their judicial office and to preserve the faith and trust that society places in the men and women who have agreed to accept the responsibilities of judicial office.

The committee observed that in the *Principles of Judicial Office*, the standard of excellence expected includes:

Justices of the peace must strive to be patient, dignified and courteous in performing the duties of judicial office.

The committee also observed that the opportunity to be heard is an essential component of a fair and impartial system of justice. A justice of the peace must also be mindful of how his or her actions and comments can affect the appearance of their objectivity and impartiality.

The committee was also concerned that the justice of the peace's comments left the complainant with the perception that His Worship imposed a more lenient fine if a defendant had children. The committee observed that the court record showed that His Worship asked defendants if they had children and how many. The committee noted that it appeared that such questions, combined with little or no reasons from the justice of the peace to explain how having children or a number of children was considered to be an appropriate mitigating factor on sentencing, may give rise to a perception of discrimination based on family status.

The committee invited His Worship to respond to the complaint and reviewed his response. After reviewing the response, the committee accepted that His Worship did not intend to demean or belittle anyone because they did not have children; rather, his sole intent was to determine their ability to pay. The committee noted that His Worship expressed his regret and offered an apology for his comments.

The Review Council, and by extension, every complaints committee, has the role of maintaining and preserving the public's confidence in judicial officials and in the administration of justice through its review of complaints about conduct. The approach is remedial. In this case, the committee was concerned that His Worship may not have fully

APPENDIX A

Case Summaries

appreciated the issues raised by the complainant and the perceptions left with her when she left the courtroom that day, and the concerns of the committee following its review of the court record.

The committee decided that the appropriate disposition of the complaint was inviting His Worship to attend before the complaints committee to receive advice. Pursuant to s. 11(15)(b) of the *Justices of the Peace Act*, a complaints committee will provide advice to a justice of the peace in circumstances where the misconduct complained of does not warrant another disposition, there is some merit to the complaint and the disposition is, in the opinion of the complaints committee, a suitable means of informing the justice of the peace that his/her course of conduct was not appropriate in the circumstances that led to the complaint. Through the review of one's conduct, improvements are made with respect to how situations and individuals are treated and handled in the future.

During the advice meeting, the committee reminded His Worship of the high standard of conduct expected of a justice of a peace and the *Principles of Judicial Office of Justices of the Peace of the Ontario Court of Justice*.

The committee discussed the concerns about His Worship's manner and comments during the proceedings. The Committee reminded His Worship of the comments made by the Court in *R. v. Rijal* that it is the duty of a justice of the peace, in every proceeding, to ensure that the unrepresented defendant receives a fair trial, and that his or her defence is brought out with its full force and effect.

The committee also discussed the concern that his comments, during the proceeding, left the complainant with the perception that, His Worship imposed a more lenient fine if a defendant had children. The committee advised His Worship that asking questions about whether defendants had children, without providing reasons to explain how that related to the ability to pay a fine, may be perceived as differential treatment of defendants based upon family status. The committee reminded His Worship that many defendants have little or no experience in the court process and they do not understand that one consideration in determining the ability to pay is whether the defendant has dependents.

The committee reviewed with His Worship that a justice of the peace must be mindful that his or her conduct plays a vital role in building and maintaining the public's respect and confidence not only in an individual judicial officer, but in the bench, and in the justice

APPENDIX A

Case Summaries

system as a whole. The comments and conduct of a justice of the peace play a vital role not only in setting the tone in the courtroom, but also in the perception of whether justice has been administered fairly, impartially, respectfully and without bias or discrimination.

The committee provided His Worship with advice on how to better deal with similar situations and individuals in the future. The committee provided His Worship with a copy of all of the court cases referred to in the advice meeting; the court record had also been provided to His Worship previously.

At the conclusion of the advice meeting, the justice of the peace expressed his appreciation for the detailed review of the court record in relation to the committee's concerns during the advice meeting, indicated that he found the advice meeting to be very helpful, and conveyed his intention to apply the committee's advice in future proceedings.

After the committee provided its advice, the file was closed.

CASE NO. 27-025/16

A Regional Senior Justice of the Peace sent a letter asking the Review Council to consider whether the conduct of another justice of the peace constituted judicial misconduct. In the letter, the complainant's allegations about the subject justice of the peace included:

- ◆ The subject justice of the peace was not forthcoming and attempted to intentionally and inappropriately influence another colleague to cover his own assigned court duties.
- ◆ The subject justice of the peace demonstrated an irresponsible course of action and possible dereliction of duties when he left his assignment to attend a meeting and did not return.
- ◆ The subject justice of the peace attempted to conceal his intention to leave early and his actions from the administrative justice of the peace and his office.

The complainant provided enclosures with additional information, including information about the policies relating to the assignment of the duties of a justice of the peace.

The complaints committee reviewed the complainant's letter and the enclosures. The committee retained independent counsel to assist the committee by interviewing

APPENDIX A

Case Summaries

witnesses who may have knowledge of the alleged events. Independent counsel provided transcripts of the interviews of those persons and relevant documents. The committee reviewed the materials and noted some inconsistencies with the information gathered.

The committee noted that a justice of the peace is expected to act with integrity. The preamble to the *Principles of Judicial Office of Justices of the Peace of the Ontario Court of Justice* states:

... society has a right to expect those appointed as justices of the peace to be honourable and worthy of its trust and confidence.

The justices of the peace of the Ontario Court of Justice recognize their duty to establish, maintain, encourage and uphold high standards of personal conduct and professionalism so as to preserve the independence and integrity of their judicial office and to preserve the faith and trust that society places in the men and women who have agreed to accept the responsibilities of judicial office.

The committee observed that *The Principles of Judicial Office* also state:

3.1 Justices of the peace should maintain their personal conduct at a level which will ensure the public's trust and confidence.

[...]

3.4 Justices of the peace are encouraged to be involved in community activities provided such involvement is not incompatible with their judicial office.

The committee noted that justices of the peace are expected to assist and work collegially with their colleagues on the Bench, in order to facilitate the efficient, prompt and fair disposition of court business. *The Principles of Judicial Office* state:

2.1 Justices of the peace should approach their judicial duties in a spirit of collegiality, cooperation and mutual assistance.

2.2 Justices of the peace should conduct court business with due diligence and dispose of all matters before them promptly and efficiently having regard, at all times, to the interests of justice and the rights of the parties before the court.

APPENDIX A

Case Summaries

The committee invited the subject justice of the peace to respond to the complaint. After reviewing his response, the committee observed that the justice of the peace recognized how he had mishandled the situation. His Worship provided detailed information about his personal circumstances and the reasons for his actions. The committee could see that His Worship sincerely regretted his conduct and he appreciated that he should have handled the situation differently. His Worship realized that regardless of the circumstances, when his judicial duties were being affected, he should have had a timely and candid discussion with the Regional Senior Justice of the Peace. He recognized that he should apologize to those affected by his conduct.

After completing its investigation and considering all of the evidence, the committee concluded that the evidence would not support a finding judicial misconduct.

The complaints process through the Review Council is remedial in nature and through the review of one's conduct, improvements are made as to how situations and individuals are treated and handled in the future. The committee concluded that no further steps were necessary and the file was closed.

CASE NO. 27-026/16

The complainant, a lawyer, appeared on a consent bail matter before the subject justice of the peace. His Worship made an order in relation to the matter. The matter was adjourned.

The complainant was told by a legal representative that on a subsequent date, in the absence of the complainant, His Worship said that the complainant had disobeyed his court order and that the complainant's conduct should be reported for disciplinary action to the Law Society of Ontario. The comments were allegedly made in front of a number of justice stakeholders. Allegedly, His Worship also said that there were some counsel he trusted and some whom he did not. Allegedly, he specifically said he did not trust the complainant. The complainant said that the comments were inappropriate and lacking in civility. She expressed the view that if His Worship believed that she had disobeyed a court order, he should have addressed it through proper channels. She alleged that instead, His Worship chose to impugn her integrity publicly and his comments could have an adverse effect on her reputation as a lawyer.

APPENDIX A

Case Summaries

The complainant referred to the *Principles of Judicial Office of Justices of the Peace of the Ontario Court of Justice* and the responsibility of a justice of the peace to remain impartial. She alleged that His Worship’s conduct demonstrated prejudice and a lack of impartiality.

Before a final determination could be made on the complaint, the Review Council received confirmation that His Worship was no longer a justice of the peace. As he was no longer a justice of the peace, the Review Council lost jurisdiction to continue its complaints process in relation to the complaint. This file was administratively closed due to a loss of jurisdiction.

CASE NO. 27-029/16

The Review Council received a letter of complaint from a complainant arising from a trial that was ongoing before the courts. The complainant was informed of the Review Council’s policy that when a complaint raises allegations of conduct about a justice of the peace who is presiding over a court proceeding, the Review Council will not generally commence an investigation until that court proceeding and any appeal or other related legal proceedings have been completed. This will ensure that any investigation by the Council is not interfering or perceived to be interfering with any ongoing court matters.

When the court matter concluded, the complainant sent a further letter to inform the Review Council of the status. He alleged a “huge conflict of interest” arising from the same justice of the peace’s involvement in court matters between the same parties. His allegations included the following:

- ◆ On the particular day, the justice of the peace signed a warrant requested by Mr. “X”, an employee of an agency that authorized the employee to take action in relation to the complainant’s property.
- ◆ The complainant attempted to have charges laid against the Mr. “X” in relation to the actions taken by Mr. “X” at the complainant’s home. His Worship presided over the pre-enquête and decided not to issue process against Mr. “X”.
- ◆ The execution of the warrant led to charges against the complainant. The same justice of the peace presided over the trial.

APPENDIX A

Case Summaries

- ◆ Mr. “X” entered his home with an unsigned, unstamped warrant on two occasions and this was “blatantly ignored by this justice of the peace.”
- ◆ The justice of the peace entered pleas of not guilty for him when the complainant was still trying to get His Worship to acknowledge why the complainant was there in the first place. He further alleged that His Worship “kicked me off the witness stand” when he was trying to enter evidence in his defence.
- ◆ The justice of the peace did not normally preside in this location. The complainant said, “So it would seem pretty obvious to me [His Worship] was brought in especially to place criminal charges against me for Mr. [“X”] when my actions didn’t warrant any charges in the first place.”
- ◆ There was “irreversible harm and destruction of my rights and freedoms by those who I would think should be most interested in such actions.”
- ◆ A warrant was forged, that the charges were “trumped up and falsified” and the charges would hurt his ability to succeed in a profession for which the complainant was studying.

The complaints committee reviewed all of complainant’s letters and the enclosures that he provided, including copies of warrants and the Informations. The committee ordered and reviewed the transcripts of the court proceedings including the pre-enquête and the trial.

The complaints committee noted that the decisions of the justice of the peace, including his decision to sign the warrant, to not issue process, and his decisions on the trial, including the sentence he imposed, were matters of judicial decision-making outside the jurisdiction of the Review Council. Justices of the peace have decision-making independence in accordance with the *Constitution Act, 1867*. The Review Council’s legislated jurisdiction is limited to the conduct of justices of the peace. If a person is of the view that a justice of the peace erred in his or her rulings or decision, a higher level court is the body with jurisdiction to determine whether there was an error in law and, if so, to change the decision.

The committee noted that the law provides that if a person declines to enter a plea, a justice of the peace may enter a plea of not guilty and a trial will proceed.

APPENDIX A

Case Summaries

The committee observed that the transcript of the court proceedings of the trial did not support the complainant's allegation that His Worship "kicked me off the witness stand" when he attempted to enter evidence in his defence.

The committee further observed that the court record showed that there were warrants that appeared to be properly signed and dated. Further, the legal issue of whether a warrant is defective fell outside the jurisdiction of the Council.

The committee noted that the preamble of the *Principles of Judicial Office of Justices of the Peace of the Ontario Court of Justice* includes the following:

The justices of the peace of the Ontario Court of Justice recognize their duty to establish, maintain, encourage and uphold high standards of personal conduct and professionalism so as to preserve the independence and integrity of their judicial office and to preserve the faith and trust that society places in the men and women who have agreed to accept the responsibilities of judicial office.

The committee noted that the *Principles* also state:

- 1.1 Justices of the peace must be impartial and objective in the discharge of their judicial duties.

Commentaries:

Justices of the peace should maintain their objectivity and shall not, by words or conduct, manifest favour, bias or prejudice towards any party or interest.

The committee noted that to preserve public confidence in the judiciary and in the administration of justice, it is important not only that a justice of the peace is impartial; he or she must also be perceived as impartial. The committee noted that justice should not only be done; it should be seen to be done.

The committee noted that a justice of the peace has a responsibility to ensure that the proceeding is fair for a person who does not have legal representation. The duty to provide assistance to an unrepresented defendant throughout the proceedings is a continuous one. As the proceedings unfold, if legal issues (such as a perception of a conflict of interest or potential perception of a bias) arise, such matters should be properly explained so that the unrepresented defendant is made aware of his/her right to address the Court, and to make submissions and/or indicate a position.

APPENDIX A

Case Summaries

A

The committee invited His Worship to respond to the complaint. The committee reviewed His Worship's response and was satisfied that in this particular jurisdiction that the assignment of justices of the peace to specific courthouses was the responsibility of the Regional Senior Justice of the Peace. A justice of the peace does not select the location where he or she would preside on a particular date, nor whether he or she would preside in the same location on multiple dates. The subject justice of the peace was frequently assigned to various locations in the region, including those where the events took place that gave rise to the complaint.

The committee understood that in small communities, such as those where the complaint arose, frequently only one justice of the peace may be on duty and the justice of the peace may have the same parties appear before him or her in more than one court proceeding. That situation is not uncommon in some locations and does not in and of itself give rise to bias or partiality on the part of the justice of the peace, nor an obligation on his or her part to raise the issue of partiality, or recuse himself or herself.

The committee noted that a decision of whether or not to recuse oneself from a case is a discretionary judicial decision. Judicial decision-making is outside the jurisdiction of the Council in the absence of evidence of judicial misconduct.

The committee observed, based on His Worship's response and the court record, that the evidence did not support a conclusion that there was a conflict or bias. The evidence did not support a conclusion that His Worship was influenced by his prior dealings with the complainant. The evidence indicated that, in fact, His Worship had no recollection of the previous proceeding. The transcript supported an opinion that the complainant received a fair, unbiased trial.

The committee concluded that His Worship's decisions were outside the jurisdiction of the Council and there was no evidence of judicial misconduct.

For the reasons noted, the complaint was dismissed and the file was closed.

CASE NO. 27-032/16, 27-033/16, 27-034/16 AND 27-035/16

The complainant filed complaints about four justices of the peace before whom he appeared in bail court. The complainant alleged that the justices of the peace were acting

APPENDIX A

Case Summaries

in concert with a correctional facility to deny him his right to legal counsel of his choice. He stated in his complaint that, “They would not even give me access to a telephone so that I could contact legal counsel.”

He further alleged that all of these justices of the peace failed to ensure that he had counsel of his choice at any of the appearances. He alleged that they all tried to proceed without him having legal representation of his choice.

The complaints committee reviewed the transcripts of the complainant’s appearances before each justice of the peace. They found no evidence to substantiate the complainant’s allegation that all the justices of the peace conspired with the jail to deny him his right to a telephone call. The transcripts showed that Duty Counsel was present to assist him at every appearance.

CASE NO. 27-032/16

The complainant alleged that during the court appearance, he requested a phone call to a lawyer and that he named two lawyers whom he wanted to represent him. He alleged that the subject justice of the peace ignored his request for representation of his choice and proceeded to have the charges read in court. He stated that Duty Counsel gave him the phone number of the lawyer of his choice but he was not allowed to make a call before his return date to court.

The committee observed that the transcripts showed that Duty Counsel represented the complainant on a bail hearing. During the proceeding, the justice of the peace listened to him, tried to explain the process for a bail hearing to him and the complainant kept interrupting. The justice of the peace asked him to listen first until it was explained. The justice of the peace told the complainant that he would get the same respect.

Duty Counsel had concerns about comments made by the complainant and asked that the bail hearing be struck. The bail hearing was struck and a new date was scheduled. The complainant said that he wanted it on the record that he wanted his lawyer without delay.

The committee found no evidence of judicial misconduct. The complaint was dismissed and the file was closed.

APPENDIX A

Case Summaries

CASE NO. 27-033/16

The complainant alleged that he again asked for the lawyer of his choice. He alleged that he asked the court to allow him to make a call to the lawyer and his request was denied. He stated that he told the court that he would plead guilty to mischief but only after he spoke to competent counsel. He also alleged that the justice of the peace said this was his right but he needed to get hold of the lawyer himself. The complainant said that this was impossible as he was not being allowed to make a phone call at either the courthouse or the jail. He alleged that the justice of the peace was going to allow the John Howard Society to speak before the complainant knew what they were going to say, and he then asked that the trial continue in French and said he wanted a lawyer.

The committee observed that the transcript showed that Duty Counsel was present to represent the complainant on the bail proceedings. The complainant said he was not being allowed to make a phone call and the justice of the peace informed him that was something between him and the custodial institution. He indicated that the judiciary has no control over the institution.

The transcript showed that the complainant told the justice of the peace that he had spoken with the John Howard Society quite extensively and they listened to him.

The transcript showed that when the Crown Attorney was going to read the conditions proposed for the release of the complainant, including those needed by the John Howard Society, the complainant said he wanted the matter to continue in French. The matter was then adjourned to make arrangements for a French-speaking justice of the peace to preside. The complainant also said in French that he had no need of a lawyer. After a new date was set, the complainant said in English that he wanted to get competent counsel in English or French. The committee was satisfied that the court attempted to address the complainant's request for a French-speaking (or English-speaking) lawyer.

The committee found no evidence of judicial misconduct. The complaint was dismissed and the file was closed.

APPENDIX A

Case Summaries

CASE NO. 27-034/16

The complainant stated in his letter that he told the justice of the peace that he had not been allowed to contact the counsel of his choice while being incarcerated for a period of seven days, and he alleged that the justice of the peace indicated that “I’m worried about you being in custody for seven days without any kind of communication.” He alleged that the justice of the peace still would not or could not get him to a telephone call. He stated that there was a French interpreter present.

He alleged that he again appeared before this justice of the peace on a second date and she did not appear to understand the meaning of “counsel of my choosing.” He said that the problem was that neither the court nor the jail would allow him to make calls to retain a lawyer of his choice.

He also alleged that this justice of the peace manipulated the timing by not having him into the court until late in the afternoon. She said this was, “Her choice.” She said that Her Worship then claimed that she had to “wind up because it was after 4:00 PM.”

The committee noted that the transcript showed that the justice of the peace explained to the complainant that she could not direct the superintendent of the jail to give him access to a phone. Duty Counsel was present on both occasions to represent him at the bail hearing. The transcript of the first appearance showed that the justice of the peace observed that Duty Counsel was present and the complainant could make a request in relation to calling counsel to Duty Counsel.

The committee noted that the Crown Attorney determined the order in which the list of cases would be called in the courtroom, not the justice of the peace.

The committee found no evidence of judicial misconduct and dismissed the complaint. The file was closed.

CASE NO. 27-035/16

On the next court date, the complainant again told the subject justice of the peace that he wanted to retain a lawyer of his choosing. The hearing was adjourned because there was no French interpreter.

APPENDIX A

Case Summaries

The complainant alleged that when he appeared in court four days later before the subject justice of the peace, the justice of the peace said that he was there to ensure the complainant's rights were upheld and respected, and that he would get a fair and reasonable hearing. The complainant said that the justice of the peace also said, "I would also expect that you would respect me." The complainant stated that he said "no". He alleged that it was hypocritical of the subject justice of the peace to claim he was respecting the complainant's rights when the complainant had been denied a right to make a phone call to counsel of his choice and denied a phone call by His Worship to get counsel.

He further alleged that His Worship was "really angry" at being called a hypocrite and he had recessed the court for ten minutes. The complainant alleged that after the complainant was taken out of court, the justice of the peace made a little speech to the lawyers justifying himself. The complainant alleged that His Worship did nothing to ensure that he had his right to legal counsel.

The committee observed that the transcript showed that the complainant was speaking and the justice of the peace determined it to be necessary to say that she expected he would respect her. The complainant said, "No."

The committee found that there was no evidence of judicial misconduct. The transcript showed that the justice of the peace exercised great patience and restraint even though the complainant was disrespectful and used obscenities in the courtroom. The committee dismissed the complaint.

CASE NO. 27-036/16

An administrative justice of the peace wrote to the Council to complain about another justice of the peace. She indicated that she encountered His Worship, in the late morning, in the process of leaving the courthouse. His Worship had been scheduled to preside that day but the matter did not proceed. She stated that when no assistance for other courts was immediately needed, His Worship became impatient and told her that he was going home. Her Worship alleged that she reminded him of his obligation to assist other courts, at which time he became angry, shouted at her and "went on a

APPENDIX A

Case Summaries

very unprofessional ‘rant’ that was overheard by court staff and other justices of the peace.” The complainant stated that she found His Worship’s tone and language to be “offensive, demeaning and very angry.”

The complainant stated that when she saw His Worship at a later date, she attempted to be conciliatory and resolve what she felt was an outstanding issue that made her, other colleagues and staff uncomfortable. She alleged that His Worship was not at all receptive, called her a variety of insulting names, was very angry and shouted at her. The complainant alleged that His Worship’s “angry, threatening, demeaning behaviour” was personally directed at her and she felt that it put her personal safety at risk.

The complaints committee read the letter from the complainant and pursuant to section 8(15) of the *Justices of the Peace Act*, the committee retained independent counsel to interview witnesses who may have had knowledge of the alleged events and to provide transcripts of the interviews to the committee for its review. The committee received and reviewed transcripts of the interviews.

As part of its investigation, the committee invited His Worship to respond to the complaint. The committee noted that His Worship offered an explanation of the events, reflected upon his actions and regretted how he had handled the situation with the administrative justice of the peace. His Worship recognized that he should apologize to the administrative justice of the peace and extended an apology in his response.

The committee observed that the investigation showed that there was a policy in place in the particular jurisdiction that 2:45 p.m. is the earliest cut off for bail assist and bail court, and that justices of the peace who have completed their own court list are obliged to remain in the courthouse until at least 2:45 p.m. As well, the committee observed that the policy indicates that justices of the peace should proactively offer assistance to other courts, and if no assistance is required, they should consult with the local administrative justice of the peace or acting local administrative justice of the peace to determine if they can assist in some capacity.

The committee noted that the justice of the peace, in his response to the committee, indicated that he had not previously understood that this was the court practice, but that upon being made aware of the practice, he indicated that he fully accepted this policy of waiting until 2:45 p.m. before closing his court. The committee noted that, in his response, the justice of the peace also expressed his regret for the misunderstanding that ensued.

APPENDIX A

Case Summaries

The committee, in reviewing all the information gathered during the investigation, including the interview transcripts, noted that there were inconsistencies about what occurred in the interactions between the complainant and the subject justice of the peace in the evidence.

The committee was of the view that the evidence did not establish judicial misconduct. The committee concluded, in the absence of judicial misconduct, matters of judicial assignment are outside the Council's jurisdiction.

The committee dismissed the complaint and closed the file.

CASE NO. 27-037/16

The complainant appeared before the justice of the peace for a provincial offences trial. She alleged that when the police officer mentioned that the speed on the ticket was reduced, His Worship immediately intervened with a smirk, shook his head and said to the officer that he should not have reduced it. The complainant perceived then that His Worship had already made his mind up on the case and she felt that she was at a disadvantage.

The complainant alleged that the justice of the peace did not interrupt the proceeding when the police officer was being questioned by the prosecutor but that during the complainant's attempt to cross-examine the police officer, His Worship interrupted and silenced her several times. She alleged that His Worship was blocking her questions and answering them negatively himself, instead of having the officer answer them. She alleged that the justice of the peace did not allow due process to proceed. She felt intimidated and insulted as she was trying to get the facts out to defend her position.

She alleged that he appeared to be exasperated with her questions and made comments such as, "No need to ask about it" and "Do not ask that either." She said that he did not show any patience or attentive listening. Overall, she found that he showed a condescending, insulting and disrespectful attitude by ignoring or undermining some important facts about the case that she wanted to present and that she believed would have helped her to win the case. She perceived him to be unprofessional and biased.

APPENDIX A

Case Summaries

The complaints committee reviewed the complainant's letter and ordered and reviewed the transcript and the audio recording.

The committee observed that the *Principles of Judicial Office for Justices of the Peace of the Ontario Court of Justice* state:

“Justices of the peace must strive to be patient, dignified and courteous in performing the duties of judicial office...”

The committee noted that a justice of the peace has a unique role as exemplar and guardian of the dignity of the court. The conduct and comments of a justice of the peace set the tone for the environment in the courtroom. Each and every comment made by a justice of the peace, and the tone and manner used, can affect how a justice of the peace is perceived by persons who appear before him or her, and whether he or she is perceived to remain impartial.

An impatient tone, sarcasm, or a perceived unwillingness to fully hear an argument gives rise to a greater risk of a misinterpretation of a justice of the peace's motivation. Comments must be made with an appropriate level of courtesy and civility. It is always important for a justice of the peace to be aware of how such defendants may perceive the process and of how his or her comments and conduct are viewed and understood by those appearing before him or her. Justice must not only be fair, it must be seen to be fair. The committee noted that the appearance of impartiality is important to maintain public confidence in the administration of justice.

The committee understands that provincial offences court is very busy, with many defendants. While the committee appreciates the demands upon a justice of the peace, regardless of how busy a court is, there is an obligation on every justice of the peace to take the requisite time to listen to individuals before him or her, and to explain what the proceeding is about so that they can properly understand the process and the decision of the justice. This is particularly important if the individual before them is not legal counsel. The committee noted that an introductory explanation of the trial process and explanations of why the justice of the peace does not find questions to be appropriate or relevant helps an unrepresented person to understand the process.

The committee noted that a police officer has discretion to decide on the charge against a person. The role of a justice of the peace is to adjudicate fairly to decide whether the

APPENDIX A

Case Summaries

charge has been proven. The committee was concerned by the negative perceptions left with the complainant about the administration of justice.

The committee invited His Worship to respond to the complaint and reviewed his response. The committee observed that His Worship had reviewed the transcript and reflected upon his conduct. The committee could see that His Worship regretted how he had handled himself during her trial and he was deeply sorry that the complainant was left with the perception that he prejudged her matter and failed to remain impartial. He recognized how he could have dealt with the matter differently. His Worship expressed his sincere apology to the complainant and asked that his apology be communicated to her on his behalf.

The complaints process through the Review Council is remedial in nature and through the review of one's conduct, improvements are made as to how situations and individuals are treated and handled in the future. The committee concluded that His Worship had genuinely learned why and how his conduct was not appropriate. The committee dismissed the complaint on the basis that the conduct did not rise to the level of misconduct and no further action was required.

CASE NO. 27-038/16

The complainant indicated that he was in custody and appeared by video conference before the justice of the peace who was presiding in bail court. The complainant indicated that at that time, the complainant's criminal record had been "clean for the last 20 years" and his brother was prepared to post bail on his behalf. The complainant alleged that His Worship said he was "steppin over what the law states and detaining me and will be seeking an NCR and asking for 5 years in prison for my charges."

The complainant alleged that His Worship always addressed him by his first name. He also alleged that during the court proceeding that gave rise to the complaint, words were exchanged and the justice of the peace said "good luck your [sic] going to need it." The complainant said that His Worship's tone was very angry and serious, and for this reason, he feared for his safety.

APPENDIX A

Case Summaries

The committee reviewed the letter from the complainant. The committee requested and reviewed the transcripts and the audio recording of the proceedings that gave rise to the complaint.

The committee, in reviewing the transcripts and the audio recordings, did not find any evidence of anger or menace in the justice of the peace's tone during the court proceeding. The committee found no evidence that His Worship said he would "step over the law" or that His Worship made any threat towards the complainant.

The committee was concerned by His Worship's use of informal language and banter in the courtroom. The committee noted that the comment of "Good luck!... You'll need it" may have been misunderstood by the complainant as a warning to the complainant about the predisposition of the trial judge or a likely outcome in the case.

The committee observed that the transcript showed that His Worship referred to the Crown Attorney as "the boss". The committee noted that His Worship's reference to the Crown Attorney in this manner may have been understood by the complainant as an indication that the Crown Attorney was in control of the proceedings and determining the outcome, rather than having the issues decided by an impartial and neutral adjudicator.

The committee observed that the transcript showed that His Worship called the complainant by his first name throughout the court proceeding. The committee noted that this may be overly familiar and disrespectful, which is not in keeping with the decorum, courtesy and respect expected of a justice of the peace in a courtroom.

The complaints committee noted that the preamble of the *Principles of Judicial Office of Justices of the Peace of the Ontario Court of Justice* includes the following:

The justices of the peace of the Ontario Court of Justice recognize their duty to establish, maintain, encourage and uphold high standards of personal conduct and professionalism so as to preserve the independence and integrity of their judicial office and to preserve the faith and trust that society places in the men and women who have agreed to accept the responsibilities of judicial office.

APPENDIX A

Case Summaries

The *Principles* also include the following:

- 1.3 Justices of the peace will endeavour to maintain order and decorum in the courtroom.

Commentaries:

Justices of the peace must strive to be patient, dignified and courteous in performing the duties of judicial office and shall carry out their role with integrity, appropriate firmness and honour.

The committee noted that the public's perceptions of the administration of justice are greatly impacted by the demeanour and comments of a justice of the peace in the courtroom. A justice of the peace's courtroom conduct symbolizes the law in action. A justice of the peace has a unique role as exemplar and guardian of the dignity of the court. In order to maintain confidence in the judiciary and in the administration of justice, every justice of the peace must be very mindful of each and every comment made, one's tone and manner in the courtroom.

The committee noted that the *Principles* also state:

- 1.1 Justices of the peace must be impartial and objective in the discharge of their judicial duties.

Commentaries:

Justices of the peace should maintain their objectivity and shall not, by words or conduct, manifest favour, bias or prejudice towards any party or interest.

The committee noted that the appearance of impartiality is important to maintain public confidence in the administration of justice. Each and every comment made by a justice of the peace, and the tone and manner used has a role in the overall impression that is left with a member of the public about how justice is administered and in ensuring impartiality and fairness.

The committee invited the justice of the peace to respond to the complaint. In his response, the justice of the peace explained that the court docket on the particular date had been very heavy and that part of the work of the justice of the peace was to lower the intensity in the courtroom. It was indicated that the particular jurisdiction was a small centre where

APPENDIX A

Case Summaries

informality was accepted by the bench and the bar as the norm. The justice of the peace said that when he used the term “good luck”, he meant it sincerely. His Worship thought that calling the complainant by his first name would make him feel more comfortable.

With respect to His Worship’s reference to the term “the boss”, His Worship indicated that he thought it would be obvious to persons in the courtroom that the term “boss” would refer to the Chief Crown Attorney who was in command of a large cohort of Crown Attorneys. The committee could see from his response that His Worship did not intend the use of “the boss” to suggest that the Crown Attorney had any authority over the justice of the peace who decides the case.

The complaints process through the Review Council is remedial in nature and through the review of one’s conduct, improvements are made as to how situations are handled and individuals are treated in the future. The complaints committee decided that in order to bring about a fuller understanding of the concerns arising from His Worship’s conduct and the potential consequences of making such comments, the appropriate disposition was to provide the justice of the peace with written advice, pursuant to section 11(15)(b) of the *Justices of the Peace Act*. Under the Review Council’s Procedures, a complaints committee provides advice to a justice of the peace in circumstances where the conduct complained of does not warrant another disposition, there is some merit to the complaint, and advice is, in the opinion of the committee, a suitable means of informing the justice of the peace that his or her conduct was not appropriate.

The committee decided to provide His Worship with a letter of written advice to reinforce the importance of a justice of the peace maintaining a professional demeanour in the courtroom. The committee advised His Worship to be mindful of the risk of negative perceptions that can arise if a relaxed, casual, and informal manner is used by a justice of the peace in addressing defendants or their lawyers in the courtroom. A perception of neutrality and fairness is better achieved if comments by a justice of the peace are made with an appropriate level of courtesy, professionalism and formality. Calling parties by their first names or referring to a Crown Attorney as “the boss” can give rise to a greater risk of a misinterpretation of a justice of the peace’s level of impartiality and objectivity towards parties. Other defendants who may be first time offenders or lawyers from out of

APPENDIX A

Case Summaries

town may feel as though their cases would not receive as favourable a treatment because of the absence of familiarity with the justice of the peace.

After the committee provided its advice, the file was closed.

CASE NO. 27-040/16

The complainant appeared before Her Worship for a trial on a charge of failing to stop at a red light. She originally wrote to the Council while her appeal was underway. She was advised of the Council's policy that an investigation will not generally be commenced while a matter was still before the courts so as not to be seen or perceived to be seen as interfering in the case. After the appeal was concluded, she resubmitted her letter.

The complainant indicated that she adjourned a first trial date because she had just gotten a paralegal and he needed more time to prepare. On the date of the second appearance, she went to the wrong location and was 45 minutes late for court. She said that she was then ready to proceed but the court adjourned the matter. On the next trial date, the complainant, who was a student, had an exam so she asked for an adjournment. The next trial date was before the justice of the peace who was the subject of her complaint.

She alleged that Her Worship was "holding on to my case for dear life". The complainant said that if the trial had started, she would think nothing of it but since it had not, "it is clear that she had targeted me and my case before she even met me".

She said that her trial started much later than the scheduled start time, based upon when the prosecutor called her up. She indicated that her paralegal brought a section 11(b) motion under the *Charter* for delay and the justice of the peace said no time could be counted because all of the time lost was the fault of the complainant.

The complainant was of the view that the police officer had his whole story written down, which she perceived to be unfair. She believed that if she tried to do the same thing, she would have been viewed as a liar.

She alleged that throughout the whole trial, the justice of the peace was rude, disrespectful and she was "beginning to feel like I was on trial for murder. There was much verbal and emotional abuse thrown at me as most likely can be seen in the transcripts."

APPENDIX A

Case Summaries

The complainant alleged that at the end of the police officer's cross-examination, the justice of the peace said she was going to adjourn the case to another date and she said that "the prosecutor had already proven their case". The complainant says, "She found me guilty already." The complainant alleged that by adjourning the case, the justice of the peace wasted the complainant's time and money. "I feel if she was going to put in a guilty verdict, she should have just done so then and there."

She alleged that on the next trial date, the trial again did not start until close to two hours after the scheduled time. She indicated that her lawyer brought another section 11(b) motion arguing unreasonable delay, and the justice of the peace saw the petition for section 11(b) beforehand and declined it even before the trial began. She said that her lawyer had to point out that she had not given him a chance to argue it, and then Her Worship did so reluctantly. The complainant alleged that Her Worship allocated a portion of the delay to the complainant. The complainant alleged that when the justice of the peace was telling the lawyer that the complainant had been late for court, Her Worship "was screaming with hate and disdain to be sure I knew she hated me. Every time she spoke to my counsel and said 'your client' it was said in this manner." The complainant said that the way that Her Worship used the months before the trial against her was unjust.

The complainant disagreed with Her Worship's comments in relation to the evidence about the colour of the traffic light. The complainant believed that the light was green when she drove through the intersection. She alleged that the justice of the peace was biased.

She expressed concern that starting her trial so late two times made her lose two entire days with her children.

She alleged that on the last court date, she was visibly freezing and no-one asked if she was okay or if they could see about turning the heat up. She alleged that throughout the trial, the justice of the peace kept forgetting her name and referred to her by "Ms." The complainant prefers the title "Mrs."

She described the process as "emotional and psychological torture". She alleged that the justice of the peace was "unfair, incompetent, full of runarounds and excuses, and just plain unprofessional".

APPENDIX A

Case Summaries

The complaints committee read the letter from the complainant and ordered and reviewed the transcripts and the audio recordings of the proceedings. The committee noted that it is the responsibility of the prosecutor to determine the order in which cases are called in the courtroom.

The committee noted that the decisions made by Her Worship on the applications brought under section 11(b) of the *Charter* and her assessment of the evidence and findings of fact were matters of decision-making outside the jurisdiction of the Council.

The committee observed that the transcript and audio recording showed that there was no evidence to support the allegations that Her Worship screamed with hate, that she personally attacked the complainant, or that she was sarcastic.

The committee observed that while Her Worship's tone appeared to show frustration with the complainant's portrayal of the history of events that had resulted in the case not been heard on an earlier date, Her Worship remained restrained and professional. She was not disrespectful or rude. Her Worship's tone appeared to be emphatic in an effort to express her view of what had actually occurred in the past.

The record did not support the allegations that Her Worship gave the complainant a runaround or excuses, or that Her Worship was unfair or incompetent.

The committee noted that a justice of the peace does not control the temperature in a courtroom.

The committee was of the view that a mistake in stating the name of the complainant or using the term "Ms." Instead of "Mrs." was not judicial misconduct. With the number of cases that are before a justice of the peace, such mistakes would be understandable.

The committee dismissed the complaint and closed the file.

CASE NO. 27-042/16

The complainant appeared before the justice of the peace in Intake Court to request that criminal process be issued. The subject justice of the peace sent the matter forward to a pre-enquête hearing.

APPENDIX A

Case Summaries

The complainant alleged that the justice of the peace improperly guided the wording and dates of the offences. He alleged that the justice of the peace's guidance had nullified a joint information, caused credibility issues, and resulted in a single count information being quashed. He further alleged that the justice of the peace who conducted the pre-enquête agreed that there had been some form of guidance by the subject justice of the peace.

The complaints committee reviewed the complaint letter and ordered and reviewed the transcript of the proceeding before the subject justice of the peace and the transcript of the pre-enquête hearing that was before another justice of the peace.

After the review of the court record, the complaints committee was of the view that there was no evidence in the transcript that the justice of the peace inappropriately guided the complainant when he appeared before her in Intake Court to request that criminal process be issued. The committee found that the justice of the peace was polite and helpful, provided the complainant with a copy of the *Criminal Code* to clarify what charges he sought to have laid and asked questions to ensure she was capturing the essence of what he was saying to her.

The transcript of the pre-enquête showed that although the complainant said that the first subject justice of the peace had guided him, the justice of the peace who presided at the pre-enquête did not agree or comment on that.

The complaints committee noted that the decision of the justice of the peace as to the charges that should be the subject of the pre-enquête was a matter of judicial decision-making outside of the jurisdiction of the Council.

The complaints committee found no evidence of judicial misconduct on the part of Her Worship and dismissed the complaint on the basis that it was not supported by the evidence. The file was closed.

CASE NO. 27-043/16

The complainant entered a guilty plea before the subject justice of the peace on a provincial offences matter. He alleged that "whether he had contempt for my looks,

APPENDIX A

Case Summaries

ethnicity or demeanor; or just labelling me as a yokel he could have fun with, I found the hostility on his part was instantaneous.”

The complainant also alleged that, “Further, in a lame attempt at sarcasm, he in summation capping with that he found it rather ‘disturbing’ that I was hitting pedestrians with my car.” The complainant said that no one laughed at His Worship’s misrepresentation of his testimony. He said that the justice of the peace should have developed the ability to listen to people’s testimony “before taking the job,” instead of “revising testimony on the bench....so to have it fit his preconception of people to sentence them.”

The complaints committee read the complainant’s letter and ordered and reviewed the transcript of the appearance. The committee observed that the transcript showed that the justice of the peace permitted the complainant to make his comments and listened attentively throughout the whole proceeding. The committee found that His Worship was polite and respectful towards the complainant.

The committee observed that the transcript provided no evidence to support that the justice of the peace was contemptuous, that he made fun of the complainant, that he was sarcastic or that his conduct was discriminatory.

The complaints committee concluded that there was no support for the allegations and dismissed this complaint. The file was closed.

CASE NO. 27-044/16

The complainant wrote to the Council on behalf of himself and his son, after they appeared on two provincial offence charges against his son before His Worship. The complainant stated that he had been in an accident and had requested accommodation from the prosecution because he could not sit too long and had needs arising from disabilities.

The complainant indicated that the prosecutor acknowledged his needs and said that they would have their matter heard as early as possible. He indicated that the prosecutor also indicated to him that there was an assistive device that he could use when the matter proceeded.

APPENDIX A

Case Summaries

The complainant indicated that there appeared to be over 60 items on the court docket. He stated that the justice of the peace made it very clear that the prosecutor was in control of the docket and should decide when matters would be heard and in what order.

The complainant alleged that they were told before lunch that their matter would be heard at 1:15 p.m. but when they returned, court was in session and another matter was proceeding. He alleged that it was clear that other cases, which in his view were less serious in nature, took precedence over their matters despite both written and verbal assurances by the court manager and the prosecutor that his needs arising from disabilities would be accommodated. The complainant alleged that the court and prosecutors made a commitment to hear his *Charter* submission at 1:45 p.m., and this was “a verbal contract”.

The complainant alleged that sitting there all day in pain and at risk of physical complications, while other cases which he felt were less serious in nature were treated with priority, was demeaning and impacted his health.

The complainant alleged that the prosecution deliberately delayed the court from hearing their *Charter* application to make a point they were in control. The complainant and his son felt they were being vindictive because the complainant lawfully submitted a large *Charter* application. He made other allegations about the prosecution deliberately ignoring the *Ontario Disability Act*.

With respect to the justice of the peace, the complainant alleged:

- ◆ The justice of the peace made him feel uncomfortable and unsettled by immediately asking him how long his submission was (it was about 100 pages) and that His Worship subsequently told him to shorten it.
- ◆ As a result, he did not feel comfortable before the court and felt rushed so he wasn't able to present his case the best he could.
- ◆ The justice of the peace's ruling denied all of his *Charter* submissions.
- ◆ The justice of the peace made a statement that the complainant found “offensive, unlawful and discriminatory against disabled people”. The complainant alleged that His Worship said something to the effect that they could have asked for a delay in the matter. The complainant understood the ruling to say that persons living with

APPENDIX A

Case Summaries

disabilities are not entitled to accommodation, and that instead of inconveniencing the court with their disability, the disabled person should delay their matter until they are not disabled or until it is more convenient for the court.

- ◆ He also alleged that His Worship called him “vexatious”. He stated that it was not good conduct or professional for a justice of the peace to call a citizen annoying.

The complainant alleged that the justice of the peace’s ruling did not make sense, it was unlawful and unfair, and it was biased against persons living with disabilities. He also alleged that His Worship’s ruling and behaviour was unprofessional and unethical.

The complaints committee read the letter from the complainant and ordered and reviewed the transcripts of the proceedings.

The committee noted that, in the Council’s letter acknowledging his complaint, the complainant was informed that the Council has no jurisdiction over the conduct of prosecutors or court managers and he was referred to the appropriate offices to pursue those concerns.

The committee noted that it is the responsibility of the prosecutor, not the justice of the peace, to determine the order in which cases are called in the courtroom.

The committee noted that the decisions made by His Worship on the *Charter* application brought by the complainant and his assessment of the evidence and findings of fact were matters of decision-making outside the jurisdiction of the Council.

The committee observed that the transcript showed that the justice of the peace permitted the complainant one and a half hours to make his submissions, that His Worship exercised patience and acted professionally, and that his treatment of the complainant and his opening comments towards the complainant were very respectful and polite. The committee noted that the transcript showed that the justice of the peace offered the complainant a number of accommodation options, in a manner respectful of the complainant’s needs arising from disabilities.

The committee observed that the transcript provided no support or reasonable basis to support the allegations that the justice of the peace made comments that were offensive or discriminatory.

APPENDIX A

Case Summaries

The committee found no evidence to support the allegations of judicial misconduct and dismissed the complaint. The file was closed.

CASE NO. 27-046/16

The complainant wrote on behalf of a legal organization. She alleged that during a bail hearing, the subject justice of the peace asked questions and made comments that were rooted in cultural stereotypes that have no place in the courts. The complainant alleged that the comments made by His Worship called into question his ability to be impartial in the execution of his duties, and she referred to the *Principles of Judicial Office for Justices of the Peace*. She alleged that the comments and questions raised concerns about His Worship's ability to preside over bail hearings of persons with cultural/racial backgrounds different from his own.

The complainant indicated that the Crown Attorney had raised the issue of whether His Worship's comments raised concerns about a reasonable apprehension of bias and submitted that His Worship should not continue the hearing. His Worship then struck the proceedings and recused himself. The complainant expressed the view that His Worship ought to have recused himself at the outset and thereby afforded the defendant the opportunity to have a fair hearing before an impartial jurist.

The complainant alleged that as a result of His Worship's actions, the defendant spent additional days in custody.

Before a final determination could be made on the complaint, the Review Council received confirmation that His Worship was no longer a justice of the peace. As he was no longer a justice of the peace, the Review Council lost jurisdiction to continue its complaints process in relation to the complaint. The files was administratively closed due to a loss of jurisdiction.

CASE NO. 27-047/16

The complainant, a licensed paralegal, appeared on behalf of his client in provincial offences court before a justice of the peace. In his letter, the complainant alleged that Her Worship "made a series of out-of-norm errors both in dealing with my client and myself."

APPENDIX A

Case Summaries

Included with his letter, the complainant submitted an Affidavit from his client that was prepared for an appeal. As the complainant's appeal of the above matter was ongoing before the courts, staff informed him that the Council's policy is to hold a complaint in abeyance until the court proceeding and any appeal or other related legal proceeding has been completed. This is to ensure that any investigation by the Council is not interfering or perceived to be interfering with any on-going court matters.

Subsequently, the complainant wrote again to confirm that the matter was no longer before the court and requested that his complaint be investigated. The allegations included the following:

- ◆ Many pieces of the conversations were missing from the transcript. When his representative requested an "unpurged" version of the transcript, the court coordinator demanded the copy of the transcript be handed in before she could hand over the "correct copy".
- ◆ Her Worship's attitude towards his paralegal representative and the defendant was not that of an impartial adjudicator. Her Worship interrupted the complainant "with harsh comments and surprisingly, transcripts were purged of most of her interruptive interventions." He notes that one of the interruptions was made during his representative's closing submissions.
- ◆ Her Worship reduced the complainant's competence drastically through repeated interruptions and redundant warnings such as "I am warning you", "Be careful", "You don't know what you are doing." He stated that a review of the transcript revealed how actively Her Worship kept interrupting his representative, to the point that he was out of breath and asked for a moment. He alleged that most of these instances are skipped in the transcript.
- ◆ When Her Worship heard the defendant's application for a stay, she "tried to share the onus of confusion and delay among the court, the prosecutor and the defense. She failed to provide clear reasons for such assumption." Contrary to what Her Worship alleged, availability of an earlier date was never established in any of the prior appearances.
- ◆ Her Worship failed to approach the case with total impartiality.

APPENDIX A

Case Summaries

A

- ◆ Although an adjournment was requested, as the defendant’s spouse was ill and he had his infant with him, and he was obviously distracted and distraught, Her Worship ordered that he could still stand as a witness.
- ◆ Her Worship “interfered with the proceeding with bias and prejudice in several instances”, including: refusing to allow an adjournment; not allowing his representative to submit the defence of necessity; deliberately “grounded my representative vehemently by interrupting him too often”; wrapped up the trial by asking the complainant to make his closing submission first, which was against the procedures; and not allowing “the prosecutor to submit her closing.”
- ◆ In Her Worship’s reasons for judgment, Her Worship “confused her role with that of the prosecutor on several occasions when she included evidence on some points which were never brought up by either the prosecutor or the defence.” Her Worship made her own inferences and assumptions.

The complaints committee reviewed the letter from the complainant, his enclosures, the transcript and excerpts of the audio recording of the court proceeding.

The committee received confirmation from court services staff that Her Worship did not request, receive or edit the court transcript. The committee observed that there was no support for the allegations that the court transcript was “tampered and purged”.

The committee noted that decisions made by Her Worship and her reasons were matters of judicial decision-making outside the jurisdiction of the Review Council.

The committee noted that the preamble to the *Principles of Judicial Office of Justices of the Peace of the Ontario Court of Justice* states:

The justices of the peace of the Ontario Court of Justice recognize their duty to establish, maintain, encourage and uphold high standards of personal conduct and professionalism so as to preserve the independence and integrity of their judicial office and to preserve the faith and trust that society places in the men and women who have agreed to accept the responsibilities of judicial office.

The committee observed that in the *Principles of Judicial Office*, the standard of excellence expected includes:

APPENDIX A

Case Summaries

“Justices of the peace must strive to be patient, dignified and courteous in performing the duties of judicial office...”

The committee noted that a justice of the peace has a unique role as exemplar and guardian of the dignity of the court. The conduct and comments of a justice of the peace set the tone for the environment in the courtroom. Each and every comment made by a justice of the peace, and the tone and manner used, can affect how a justice of the peace is perceived by persons who appear before him or her, and whether he or she is perceived to remain impartial. The tone and manner of a justice of the peace can result in other persons responding in the same manner.

The committee observed that an impatient tone or a perceived unwillingness to fully hear an argument gives rise to a greater risk of a misinterpretation of a justice of the peace’s motivation. Comments must be made with an appropriate level of courtesy, respect and civility. It is always important for a justice of the peace to be aware of how parties may perceive the process and of how his or her comments and conduct are viewed and understood by those appearing before him or her.

The committee understood that provincial offences court is very busy, with many defendants. While the committee appreciated the demands upon a justice of the peace, the committee noted that regardless of how busy a court is, there is an obligation on every justice of the peace to take the requisite time to listen to individuals before him or her, and to convey a patient, courteous and neutral tone.

The committee noted that the *Principles* outline the duty to remain impartial and objective, in both words and conduct:

- 1.1 Justices of the peace must be impartial and objective in the discharge of their judicial duties.

Commentaries:

Justices of the peace should maintain their objectivity and shall not, by words or conduct, manifest favour, bias or prejudice towards any party or interest.

The committee noted that to preserve public confidence in the judiciary and in the administration of justice, it is important not only that a justice of the peace is impartial; he

APPENDIX A

Case Summaries

or she must also be perceived as impartial. Justice must not only be done, it must be seen to be done.

The committee observed that the transcript showed that Her Worship's tone and manner appeared to be abrupt and impatient during the matter. The committee noted that the court transcript and the audio recordings conveyed an apparent impatient, discourteous, dismissive, angry, annoyed and/or condescending tone.

The committee noted that the audio recording also showed that Her Worship spoke extremely quickly, and that as a result, it may have been difficult for the defendant and his paralegal representative to understand or follow her.

The court record indicated that during Her Worship's delivery of her decision, she made a number of derogatory comments relating to the paralegal representative that may have left the complainant and the defendant with a perception that her decision was based on her frustration with the paralegal rather than an objective determination based on the facts and law.

The committee invited Her Worship to respond to the complaint. The committee reviewed Her Worship's response and observed that Her Worship had reviewed the transcript and the audio recording. After this review, Her Worship indicated that the committee's concerns became very clear to her and caused her to re-evaluate how she copes with stress. Her Worship indicated she had taken steps to help develop better strategies to help her appropriately handle stress. The committee could see that Her Worship had gained insight into what she should have done differently. She had a better understanding of how the complainant and his client, and perhaps others, perceived her conduct and the comments that she made. The committee observed that Her Worship had learned significantly from the complaints process and that she had taken steps so that such conduct would not be repeated. The committee could see that Her Worship sincerely regretted her conduct towards the complainant and through the committee, she conveyed her apologies to the complainant and to his client.

The complaints process through the Review Council is remedial in nature and through the review of one's conduct, improvements are made as to how situations and individuals are treated and handled in the future. The committee concluded that no further steps were necessary and the file was closed.

APPENDIX A

Case Summaries

CASE NO. 28-001/17

The Review Council received a letter of complaint arising from a provincial offences trial. The complainant alleged that the justice of the peace had a relationship with the police officer who was a witness at the trial. The complainant said that His Worship interrupted the officer's testimony and said that he had performed the officer's wedding ceremony. It was alleged that His Worship also said that the officer had showed him baby pictures earlier that day. The complainant was of the view that the effect was that the justice of the peace could not be impartial.

The complainant also alleged that the justice of the peace made interventions when the defendants tried to cross-examine prosecution witnesses, frequently interrupted the defendants' efforts and "stymied" their efforts to explore evidence. It was alleged that His Worship was impatient with the defendants, ignored evidence in his reasons for judgment, was vague, ignored issues of credibility, and ignored specific facts and witness testimony.

Before a final determination was made on the complaint, the Review Council received information that the subject of the complaint was no longer a justice of the peace. The file was administratively closed due to a loss of jurisdiction.

CASE NO. 28-002/17

The complainant appeared before His Worship for a trial in a provincial offences court. He was convicted. His appeal was dismissed.

He alleged that a Conservation Officer lied under oath when he gave evidence but in His Worship's ruling, His Worship found the evidence of the Conservation Officer to be credible.

The complainant alleged that when His Worship found out that the complainant was appealing the conviction, His Worship sent a letter to the court asking to have a particular statement retracted from the transcript. The complainant included an excerpt from the transcript that showed that the statement was in the transcript. The complainant asserted that there were several other factors that were ignored by His Worship when he convicted the complainant of the offence.

APPENDIX A

Case Summaries

The complaints committee read the letter from the complainant and the excerpt of the transcript and ordered and reviewed the full transcript of the proceeding. The committee also requested and read the transcript of the appeal.

The committee noted that the decision made by His Worship, and his assessment of the evidence including findings of credibility and fact, were matters of decision-making outside the jurisdiction of the Council. The committee observed that, in the letter acknowledging the complaint, the complainant was informed that the Council's legal authority is limited to the investigation and review of complaints about conduct, and that the Council does not have the legal authority to change a decision of a justice of the peace or to determine whether it was a correct decision. The committee observed that, in the letter acknowledging receipt of the complaint, the complainant was also informed that if a person disagrees with a justice of the peace's decision, the proper way to proceed is by remedies through the courts.

With respect to the allegation that His Worship "retracted" a statement from the court record, the committee observed that the statement was in fact included in the court transcript. Court staff confirmed for the complaints committee that His Worship did not send a letter to court requesting that any change be made to the transcript. The committee noted that there was no evidence to support the allegation that His Worship tampered with, or attempted to tamper with, the court record.

The committee observed from the court record that His Worship conducted the proceedings in a fair and impartial manner throughout the proceedings.

The committee dismissed the complaint on the basis that there was no evidence of judicial misconduct and the allegations related to judicial decision-making were outside the jurisdiction of the Council. The file was closed.

CASE NO. 28-005/17

The complainant appeared before the subject justice of the peace for a pre-enquête to determine whether an Information should be laid against a person at the request of the complainant. The complainant divided his complaint into three categories:

APPENDIX A

Case Summaries

1. *Dismissal of the criminal complaint for incorrect name*

The complainant alleged that the justice of the peace told him that the name of the accused against whom the complainant sought to have a charge laid was incorrect on the court document. The complainant said that when he was in Intake Court previously, he didn't know the name of the accused other than a partial name and the clerk of the court recorded the name on the application form. He indicated that if there was any discrepancy in the name, it may have been due to a shortened version of the name but it was the same person.

He also alleged that the instruction of the justice of the peace in the courtroom for the complainant to obtain a lawyer to retrieve the name of the accused was "dubious, if not judicially dishonest."

He stated, "My allegation is misconduct of the Justice of the Peace, in that, the action should not have been dismissed by her because of an incorrect name. The name of the accused was recorded by the Clerk of the Justice of the Peace which had been given to her by the Police."

2. *Reprimanded by the Justice of the Peace*

The complainant alleged that when he was on the witness stand, the justice of the peace berated him for trying to lay a charge against the accused.

Further, he stated that Her Worship said words to the effect that a public mischief charge is a very serious offence and the accused can be arrested and incarcerated. He alleged that her comments were "insensitive and improper, and tend to favour the accused, and blame the victim."

He alleged that the Crown Attorney said that if the accused was to escalate his anti-social conduct, that would become grounds for action, but when the complainant tried to introduce new evidence of escalation, he was not permitted to do so.

APPENDIX A

Case Summaries

The complainant stated that his complaint was about the justice of the peace's conduct, not her decision. He alleged that Her Worship's "unjustified reprimand" undermined the integrity of the Court, and gave the appearance the Court lacked objectivity and impartiality.

3. *Reprimand from the Justice of the Peace for Asking Questions*

The complainant indicated that after he left the courtroom, he made inquiries in relation to the clerk recording the name of the accused. He indicated that he went to the Court Information Office and was informed that the Justice of the Peace Clerk would explain the misunderstanding. He alleged that when he arrived at the clerk's office, the subject justice of the peace was there and "issued me a stern rebuke, paraphrasing, for me to stop roaming the Court House asking questions."

He said in this letter that, "It is my democratic and *Charter* Rights to ask questions, especially questions that concern my legal rights in the in the course of justice."

The complaints committee reviewed the letters from the complainant and ordered and reviewed the transcript and the audio recording of the proceeding before the justice of the peace.

With respect to the complainant's first allegation, the complaints committee concluded that the justice of the peace's determination that there was not sufficient evidence to satisfy the requirement of identifying the accused person, her decisions on the evidence and her dismissal of the case were matters of judicial decision-making outside the jurisdiction of the Council. Justices of the peace have decision-making independence in accordance with the *Constitution Act, 1867*. The Council's legislated jurisdiction is limited to the conduct of justices of the peace. If a person is of the view that a justice of the peace erred in his or her rulings or decision, a higher level court is the body with jurisdiction to determine whether there was an error in law and, if so, to change the decision.

The committee observed that the transcript showed that near the end of the proceeding, Her Worship said that he could seek some legal advice. The committee was of the view that this appeared to be a suggestion and it was not judicial misconduct.

APPENDIX A

Case Summaries

In relation to the allegation that the justice of the peace reprimanded the complainant, the complaints committee noted that the justice of the peace's tone was terse in dealing with the complainant but the transcript and audio recording did not support a finding that Her Worship reprimanded him. The committee observed that a comment by Her Worship to the complainant that it was a "really serious charge" appeared to be information provided to him by way of explanation after he said that he didn't want the person to go to jail.

The committee noted that while a Crown Attorney has jurisdiction to decide to intervene in pre-enquête proceeding, the Crown Attorney generally has a very limited role. In this case, the record showed that the Crown Attorney was actively interventionist and appeared to try to run the proceeding. The committee noted that a justice of the peace has a responsibility to manage the courtroom and to ensure that a complainant's matter is fully heard. The committee concluded that while Her Worship could have intervened to assist the self-represented litigant and to exercise more control over the proceeding, there was no judicial misconduct.

The committee was of the view that the court record did not support a conclusion that Her Worship tended to favour the accused, and blame the victim. Rather, the transcript indicated that she reached conclusions based on her interpretation and application of the law.

The committee instructed the Registrar to write to the complainant for more information with respect to his third allegation about his interaction with the justice of the peace after court concluded. The complainant provided additional information. He indicated that after the court appearance, Her Worship saw him on the second floor and asked him a question as to why he was roaming the courthouse asking questions. As well, he said that Her Worship told him that he would need to hire a lawyer to get the correct name. The committee concluded that such comments, if made, would not amount to judicial misconduct. The committee found that the allegation that Her Worship was judicially dishonest was not supported by the evidence.

For the reasons noted, this complaint was dismissed and the file was closed.

APPENDIX A

Case Summaries

CASE NO. 28-008/17 AND 28-009/17

The same complainant filed complaints about two justices of the peace.

CASE NO. 28-008/17

The complainant appeared before a justice of the peace seeking to have a full day set aside for him to argue a matter. The complainant alleged that Her Worship breached the *Criminal Code* when she said she had no power to set a date for a hearing on the particular matter he sought to schedule. He alleged that Her Worship is “intent on defrauding”.

He further alleged that Her Worship’s duty under the *Justices of the Peace Act* was breached when she refused to answer his question on how he could set a full day for the matter he sought to have scheduled. He alleged that when he asked a question, she threatened to call security. The complainant said that he told her that her comment was inappropriate and “the intent was belittling, shaming, intimidation, discrimination to commit fraud.” He expressed that Her Worship discriminated and “seemed gleefully happy about all the crimes committed against me” and that she went beyond the courtroom to ensure that his matter would not be heard. He also alleged that Her Worship mocked him when he requested her name and laughed and instructed him to do what he wants with his list of judges committing crimes.

He also indicated that Her Worship refused to send the file to Intake Court for an error to be corrected. He believed Her Worship would ask another justice of the peace not to provide a hearing date.

He alleged that Her Worship was not interested in upholding the law. He said that instead, she laughed and mocked him.

The complaints committee reviewed the correspondence from the complainant and the materials that he provided. The committee obtained and reviewed the court decisions that were referenced by the complainant. The committee noted that he was declared a vexatious litigant.

APPENDIX A

Case Summaries

The complaints committee considered all of the allegations. The committee ordered and reviewed the transcript of the proceeding before Her Worship.

The committee observed that the transcript showed that Her Worship was of the view that the Information, which was not sworn, was not properly before the court and that she did not have jurisdiction to proceed. The committee noted that the transcript indicated that when the complainant asked for her name, Her Worship said it and spelled it for him. Her Worship was polite, professional and respectful. The transcript showed that after the matter had concluded, he refused to leave and Her Worship indicated that if he would not leave, she would request security to escort him.

The committee dismissed the complaint on the basis that Her Worship's decisions were matters of judicial decision-making outside the jurisdiction of the Council and there was no evidence of judicial misconduct. The file was closed.

CASE NO. 28-009/17

The complainant alleged in his letter of complaint that he had a meeting scheduled with a justice of the peace to schedule a hearing but when he arrived for the meeting, an administrative justice of the peace was there. The administrative justice of the peace referred to a higher court decision where the complainant was found to be a vexatious litigant and informed the complainant that the meeting would not occur. His Worship wanted the complainant to leave. The complainant alleged that His Worship yelled at a police officer to assault the complainant by having him removed from the courthouse and did so in order to discriminate against him and to humiliate him. The complainant alleged that His Worship did this as a reprisal following the complainant's request for his name so that he could make a complaint about him.

The complainant alleged that His Worship lied and made a pre-meditated decision to commit fraud, that His Worship declined to sign an Information, and, that it was illegal for His Worship to prevent another justice of the peace from signing it.

The committee reviewed the complainant's correspondence and the materials that he provided. The committee noted that the court staff confirmed there was no audio recording of the interaction between His Worship and him. The committee obtained and reviewed

APPENDIX A

Case Summaries

the court decisions that were referenced by the complainant. The committee noted that he was declared a vexatious litigant.

The complaints committee considered all of the allegations.

The committee noted that the justice of the peace's decision that a hearing would not be scheduled was a matter of decision-making based upon his interpretation of the law and a decision made by a higher court. His Worship's decision that there was a security issue that warranted the assistance of the security officers was a matter of judicial decision-making. Such matters of judicial decision-making are outside the jurisdiction of the Council.

The committee concluded that the complainant's allegations about the justice of the peace were based on speculation.

The committee dismissed the complaint on the basis that the allegations related to judicial decision-making was outside the jurisdiction of the Council. The file was closed.

CASE NO. 28-010/17

The complainant appeared before His Worship for a trial on a charge of failing to stop at a sign. He alleged judicial misconduct and stated that His Worship subjected him to bias and reverse discrimination.

The complainant alleged that in the justice of the peace's decision which found him guilty of the offence, His Worship disregarded the complainant's photographic evidence, the diagram evidence, the opinions of the witness that supported the complainant's case, film footage and a photo showing no stop markings on the road. He also alleged that the scheduling of his matter to begin at the end of the list disadvantaged his case.

The complainant stated that, after the trial, he searched the internet for information about His Worship. He alleged that His Worship's involvement in the community and His Worship's personal background led to His Worship's favouritism towards a witness.

The complainant alleged that His Worship did not declare any of this, nor did he offer to recuse/disqualify himself "despite the appearance of a conflict of interest such as favouritism" to a witness due to His Worship's personal background. He alleged that this

APPENDIX A

Case Summaries

led to His Worship discounting everything the witness said in the complainant's favour, why the witness did not attend court on the next trial date, and why His Worship did not include any of the evidence presented by the complainant in his decision.

Finally, the complainant alleged that the justice of peace and the prosecutor appeared to have a close working relationship due to years of working together on many traffic and other cases which further added to the appearance of bias against the complainant.

The complaints committee read the letter from the complainant and ordered and reviewed the transcripts of the proceedings.

The committee noted that it is the responsibility of the prosecutor to determine the order in which cases are called in the courtroom, and that advising His Worship that a case may take some time is information that is appropriately relevant to case management in a court. The committee further noted that the complainant's allegations relating to the conduct of the prosecutor were outside the jurisdiction of the Council. The committee noted that complaints about the conduct of a prosecutor should be directed to the Manager/Director or Prosecutorial contact for that region of Court Services.

The committee noted that the decisions made by His Worship, and his assessment of the evidence and findings of fact, were matters of decision-making outside the jurisdiction of the Council. The committee observed that, in the letter acknowledging the complaint, the complainant was informed that the Council's legal authority is limited to the investigation and review of complaints about conduct, and that the Council does not have the legal authority to change a decision of a justice of the peace or to determine whether it was a correct decision. The committee observed that, in the letter acknowledging the complaint, the complainant was also informed that if a person disagrees with a justice of the peace's decision, the proper way to proceed is by remedies through the courts.

The committee observed that the transcript showed that there was no evidence to support the allegations that His Worship was predisposed or biased against the complainant. The committee found that the court record showed that the justice of the peace did address the complainant's defence and was patient with the complainant, even when the complainant interrupted His Worship he was while delivering his decision.

The committee further noted that the justice of the peace's personal background, past involvement with the community and/or working relationship with the prosecutor does

APPENDIX A

Case Summaries

not, in itself, lend itself to an actual conflict of interest on a court matter. The committee also observed that the justice of the peace was not a current member of the community organization that was noted by the complainant.

The committee concluded that the record did not support the allegations that the justice of the peace lacked impartiality or was biased in his conduct.

The committee dismissed the complaint on the basis that there was no evidence of judicial misconduct and closed the file.

CASE NO. 28-013/17

The complainant appeared before Her Worship for a pre-enquête. He sought to have criminal charges laid against a doctor.

In a letter of complaint sent to the Council, the complainant alleged:

- ◆ Her Worship began the hearing by asking whether the complainant had contacted the College of Physicians and Surgeons regarding the matter.
- ◆ Her Worship asked whether he had contacted a lawyer to pursue a criminal court case. He told her that he had not because the *Statute of Limitations* prevented him from doing so.
- ◆ Her Worship then asked if he still wanted to proceed. He alleged that her question inferred that to do so would not help. He said he wanted to proceed.
- ◆ No reference was made by Her Worship to anything in his information or to what he verbally delivered.
- ◆ The *Criminal Code* required Her Worship to consider whether to compel the accused to appear.
- ◆ Her Worship's conduct during the hearing began and ended with advising him on what she thought were other possible courses of action.
- ◆ The legislated purpose of section 507.1(1) of the *Criminal Code* was ignored.

APPENDIX A

Case Summaries

- ◆ At the end of the hearing, Her Worship made no statement that she had considered and accepted or rejected proceeding with the prosecution. Instead, she pursued her earlier suggestion to pursue a civil action, which was an unavailable course of action.

The complaints committee read the letter from the complainant and ordered and reviewed the transcript of the proceeding.

The complaints committee noted that the decisions of the justice of the peace, including her decision to not issue process, her interpretation of the law and the reasons for her decisions, were matters of judicial decision-making outside the jurisdiction of the Review Council. Justices of the peace have decision-making independence in accordance with the *Constitution Act, 1867*. The Review Council's legislated jurisdiction is limited to the conduct of justices of the peace. The committee observed the complainant was informed in writing that if a person disagrees with a justice of the peace's decision, the proper way to proceed is by remedies through the courts. If a person is of the view that a justice of the peace erred in his or her rulings or decision, a higher level court is the body with jurisdiction to determine whether there was an error in law and, if so, to change the decision.

The committee observed from the transcript that Her Worship's questions about whether the complainant had contacted a lawyer or the College of Physicians and Surgeons were intended to clarify the facts and assist him.

The complaints committee found no evidence of judicial misconduct and the allegations related to judicial decision-making were outside the jurisdiction of the Council. The complaint was dismissed and the file was closed.

CASE NO. 28-014/17

A letter of complaint followed a complainant's appearance before a justice of the peace for a trial. The complainant was charged and convicted of failure to stop at a stop sign under the *Highway Traffic Act*.

In his letter, he stated that he was expecting an impartial judicial officer to hear his case and to review his evidence. He alleged that this did not occur. He stated that he was willing to take a lie detector test to validate the allegations contained in his letter. He took

APPENDIX A

Case Summaries

issue with how his trial was conducted by the presiding justice of the peace. Some of the examples from his letter of complaint are:

- ◆ He believed that he should have received the bylaws as part of his disclosure and he disagreed with the justice of the peace's decision that it was not relevant to his case. He indicated that the officer's notes failed to include evidence relating to the area in which he was charged was identified as a "safety zone".
- ◆ The prosecutor incorrectly referred to the colour of the complainant's vehicle as white. The complainant indicates that an objection would have been a "petty argument that would go nowhere".
- ◆ The justice of the peace "was doing all of the arguments for [the prosecutor]".
- ◆ The officer's testimony about the video of the events were inconsistent with the facts stated in her notes.
- ◆ When the complainant attempted to explain what was being seen in the video evidence during cross-examination, the judge reprimanded the complainant by saying "Just ask the question". The complainant was of the view that, again, he was denied a fair trial as the officer was permitted to explain what she had recorded.
- ◆ The complainant alleged that when questioning the validity of evidence presented during the prosecution's case, the justice of the peace "made sure to interfere and destroy my case by throwing me off my game (which worked)". He alleged that when he questioned the distance of the warning sign, the justice of the peace said, "Could be closer or further because she did not measure." He alleged that when he wanted to say there was no warning sign, the justice of the peace said [paraphrasing by the complainant]: It would hold no bearing in his judgment but you can if you want to.
- ◆ The complainant thought that he was defending a strict liability offence.
- ◆ The complainant alleged, "At no surprise, the judge stated the credibility of the officer, twisted her words as not to make her testimony not look credible, stated the warning sign was present even though I had contradictory proof and further said that the warning sign could have been there before and is gone now. He classified my act as an absolute liability charge, and found me guilty."

APPENDIX A

Case Summaries

- ◆ The complainant was of the view that his *Charter of Rights* were violated as he was not given a fair trial. “I was expecting to have discussions with the prosecutor through testimony and evidence and instead, the judge decided to play prosecutor as well.”

Court staff confirmed the name of the justice of the peace who presided over the matter.

The complaints committee reviewed the letter of complaint and ordered and reviewed the transcript of the proceeding.

The complaints committee noted that the decisions of the justice of the peace, including his assessment of the evidence and credibility of the witnesses, decisions in the trial, interpretation of the law and the sentence he imposed, were matters of judicial decision-making outside the jurisdiction of the Review Council. Justices of the peace have decision-making independence in accordance with the *Constitution Act, 1867*. The Review Council’s legislated jurisdiction is limited to the conduct of justices of the peace. If a person is of the view that a justice of the peace erred in his or her rulings or decision, a higher level court is the body with jurisdiction to determine whether there was an error in law and, if so, to change the decision.

The committee noted that the transcript did not support the allegations that His Worship demonstrated a lack of patience. The committee found no evidence that His Worship interfered or interrupted the complainant during the course of the trial, or that His Worship acted as the prosecutor.

The complaints committee dismissed this complaint on the basis that the majority of the allegations, which were related to judicial decision-making, were outside of the jurisdiction of the Council and there was no support for the allegations of misconduct. The file was closed.

CASE NO. 28-016/17

The complainant was a person with disabilities who sought to lay an Information to obtain a peace bond without attending in person before a justice of the peace at the courthouse. In his letter, he alleged that he suffered “an illegal denial of access to justice

APPENDIX A

Case Summaries

with illegal discrimination” under the *Convention on the Rights of Persons with Disabilities* (“the *Convention*”). He said that he had physical disabilities that made him incapable of attending at the courthouse to swear his information in person before a justice of the peace. He spoke to the courthouse Accessibility Coordinator who advised him that the justice of the peace to whom the request was directed indicated that swearing or affirming information under oath must be done in person as required by law. The justice of the peace said that he was willing to review the complainant’s completed form and discuss it with the complainant by telephone as a first step to ensure it could proceed before the complainant attended the courthouse in person to continue the process.

The complainant alleged that His Worship’s decision that the complainant had to attend in person was inconsistent with the complainant’s understanding of the Convention. The complainant referred to the *Principles of Judicial Office for Justices of the Peace of the Ontario Court of Justice* which state that a justice of the peace has a duty to follow the law and a duty to maintain their professional competence in the law.

The complainant described the position of the justice the peace that the complainant must attend at the courthouse as contrary to the law, an “untenable demand”, extortion and obstruction of justice.

With his complaint, the complainant provided emails and information that indicated that the justice of the peace had offered to allow the complainant to provide his materials for His Worship’s preliminary review without requiring him to go to the courthouse for that step. His Worship reviewed the materials and agreed to set an appointment time for the complainant to reduce any waiting time for him.

To expedite the request, His Worship also offered to communicate with the complainant via Skype. The complainant was of the view that the Skype option was not acceptable as the complainant would have to lie down in front of someone and this was not respectful. His Worship offered to go to the complainant’s home. This was not acceptable to the complainant.

The complainant then said that he was going to give power of attorney to his son, and after His Worship read the Form 6B (Affidavit of Service), His Worship advised the complainant that he needed legal advice. The complainant alleged that comment was condescending, derogatory, incorrect, useless, insensitive, illegal, aggressive and inappropriate, therefore unfair in the context of a fair hearing.

APPENDIX A

Case Summaries

The complainant alleged that there had been an illegal denial of access to justice and an intentional denial of access to justice with discrimination. He said that under the *Convention*, he should have been offered a solution in reasonable accommodation. He alleged that the length of time taken to complete the matter was unreasonable and His Worship failed to show due diligence. His Worship should have taken positive steps to ensure that the complainant benefitted equally from services offered to the general public.

The complainant said that video and teleconferencing was a waste of time. He ultimately communicated with His Worship by Skype.

After reviewing all of the correspondence received from the complainant, the committee observed that the justice of the peace made an initial decision that the law required the complainant to appear in person before a justice of the peace to swear or affirm to the truth of the information relied upon to obtain a peace bond. The committee noted that was a decision outside the jurisdiction of the Review Council. Justices of the peace have decision-making independence in accordance with the *Constitution Act, 1867*. The Council's legislated jurisdiction is limited to the conduct of justices of the peace. If a person is of the view that a justice of the peace erred in his or her rulings or decision, a higher level court is the body with jurisdiction to determine whether there was an error in law and, if so, to change the decision.

The committee observed that although the process of determining an appropriate means to accommodate the needs of the complainant took many weeks, His Worship was faced with a novel situation. The committee noted that an application for a peace bond is generally made in person in Intake Court. Finding a way to meet the particular needs of the complainant to enable him to make his application, while satisfying the requirements of the law, required development of a solution on an exceptional basis. The committee concluded that His Worship continued to work collaboratively with Court Services Division and the complainant to find a way to meet the needs of the complainant while meeting the legal requirements, and ultimately an innovative solution was mutually agreed to by the parties.

The committee was of the view that the comment by the justice of the peace that the complainant needed legal advice was a statement based upon His Worship's interpretation of the law in circumstances where His Worship thought it would be in the best interest of the complainant to have the benefit of legal advice. The committee concluded that the comment was not judicial misconduct.

APPENDIX A

Case Summaries

The committee determined that there was no discrimination or judicial misconduct and closed the file.

CASE NO. 28-017/17

The complainant had not been successful in having a hearing commenced in a particular jurisdiction and wrote a letter to the justice of the peace, who presided in a different jurisdiction. The complainant sought to have His Worship intervene and order that a hearing be scheduled.

The complainant alleged that the justice of the peace did not reply and asserted that His Worship was obliged to schedule a hearing for him. The complainant alleged that the justice of the peace was “defrauding his duty” if he did not reply to the complainant. The complainant also indicated that if the Ontario Court of Justice and the Justice of the Peace Review Council did not act to assist him in having a hearing date, he would also try to prosecute those bodies.

The committee reviewed the correspondence from the complainant and the materials that he provided. The committee obtained and reviewed the court decisions that were referenced by the complainant. The committee noted that the complainant had been declared a vexatious litigant. In this particular case, the committee noted that the complainant sought to have a hearing initiated in a criminal court. When he was unsuccessful, he wrote to the subject justice of the peace, who presided in a different jurisdiction.

The committee noted that the complainant appeared to be then using the Council’s complaints process to obtain a remedy he was not successful at obtaining through the courts.

The committee noted that it was not judicial misconduct for a justice of the peace to decline to respond to out-of-court correspondence from a litigant. The committee further noted that the Council has no legal authority to compel any judicial officer to schedule a hearing and that this was a matter outside the jurisdiction of the Council.

The committee dismissed the complaint on the basis that there was no judicial misconduct and because the complaint constituted an abuse of process. The file was closed.

APPENDIX A

Case Summaries

CASE NO. 28-018/17

After he was unsuccessful in having a hearing scheduled in one jurisdiction, the complainant drove to a different jurisdiction to appear before a justice of the peace in Intake Court to try to have the hearing scheduled and to lay private Informations against persons in the justice system. He alleged that he waited about two hours to see the justice of the peace, and was then involved in a three minute altercation with His Worship. He alleged that His Worship asked why there were four Informations to which the complainant answered that it was complicated. He alleged that the subject justice of the peace then took the Informations, read through the names of each accused and “slammed the information on the table and yelled that I cannot do this.”

The complainant alleged the following:

- ◆ He told the justice of the peace that he had a right to prosecute a valid criminal offence. When the complainant was speaking, His Worship stopped him, refused to take a letter from him, pushed the papers back and refused to receive the Informations. The complainant alleged that when he told His Worship he had a duty to do so, His Worship stood up, went to the door, raised his hand in the air and asked the complainant to leave. The complainant alleged that he was belittled, berated and shamed in a disrespectful manner.
- ◆ The complainant alleged that he said to His Worship that he needed to write his name on a sheet that the complainant handed to him, and His Worship said “NO” and told him to leave.
- ◆ He alleged that he told His Worship, “okay, but there will be a complain [sic]” and His Worship said he did not care and repeated with hands in the air, that the complainant must leave. The complainant alleged that His Worship was “so aggravated and determined not to let me speak” that if the complainant tried to explain the contents of a letter in his possession, His Worship would likely have called security.

The complainant asserted that he had a right in law to the hearing and that “JPs are arresting, assaulting, discriminating and abusing me in order to defraud me.” The complainant included arguments of law in support of his argument that he had a right to have a hearing scheduled and/or to lay criminal charges.

APPENDIX A

Case Summaries

The committee reviewed the correspondence and the materials received from the complainant. The committee obtained and reviewed the court decisions that were referenced by the complainant. The committee noted that the complainant was declared a vexatious litigant by the courts. The committee noted that he had filed complaints about five justices of the peace and appeared to be using the Council's complaints process to obtain remedies he was unsuccessful in obtaining through the courts.

The committee requested a copy of the transcript and audio recording of the appearance in Intake Court and was informed by court staff that there was no audio recording. Thus, no transcript was available. The committee noted that in the version of the events described in the complaint, it appeared that His Worship made a decision that he would not grant the complainant's request to lay criminal charges and the complainant persisted in trying to have the charges laid. Without an audio recording, the committee was unable to determine on a balance of probabilities what actually occurred.

The committee noted that His Worship's decision on the request to have charges laid was a matter of judicial decision-making outside of the jurisdiction of the Council. The committee noted that it is not judicial misconduct for a justice of the peace to decline to issue criminal charges or to request that a person leave the Intake Court after a decision has been made.

The committee further noted that the Council has no legal authority to compel any judicial officer to schedule a hearing or to require that criminal charges be laid. The complaint was dismissed and the file was subsequently closed.

CASE NO. 28-019/17

The complainant appeared before a justice of the peace in Intake Court. The justice of the peace ruled that the matters requested by the complainant were subject to an earlier order made by a higher level of court that the complainant was a vexatious litigant. The complainant attempted to raise arguments about the order made by the judge. The justice of the peace indicated that the only recourse from a decision made by a judge was by way of an appeal.

APPENDIX A

Case Summaries

The complainant alleged that Her Worship was lacking in impartiality and incompetent. He alleged that she prejudged his application for a hearing and that there was a conflict of interest and administrative mismanagement by Her Worship. He alleged that her refusal to grant his requests was criminal conduct.

He stated that when he told Her Worship that he was seeking mandamus and that the matter was before the Review Council, she asked him to leave the office.

The committee reviewed the correspondence and the materials received from the complainant. The committee obtained and reviewed the court decisions that were referenced by the complainant. The committee noted that the complainant was declared a vexatious litigant by the courts. The committee noted that he had filed complaints about five justices of the peace and appeared to be using the Council's complaints process to obtain remedies he was not successful at obtaining through the courts.

The committee concluded that that the complaint should be summarily dismissed on the basis that the allegations related to the justice of the peace's interpretation and application of the law were matters outside the jurisdiction of the Council. Similarly, the decision of the justice of the peace to request the assistance of security to have him removed from the courtroom was a matter of judicial decision-making. The complaint was dismissed and the file was closed.

CASE NO. 28-023/17

The complainant entered a guilty plea to a charge under the *Compulsory Automobile Insurance Act*. He wrote a letter of complaint arising from the fine imposed by the justice of the peace who presided over the matter.

The complainant alleged that he received disclosure which included a notation that the Crown would be seeking the minimum fine in the event the complainant elected to plead not guilty. The complainant stated that he intended to enter a plea of guilty and seek a waiver of the minimum statutory fine. He indicated that following his conviction, he advanced a request for a fee waiver, and His Worship informed him that all was well and good, but he could only waive the minimum fee. The complainant said that following His Worship's comment, the complainant was "visibly nonplussed" and at a loss for words.

APPENDIX A

Case Summaries

He alleged that His Worship elaborated upon his understanding of Section 59 of the *Act* and was quite firm in his view of his statutory powers.

The complainant indicated that he felt he was in a difficult spot after pleading guilty before being sentenced. He alleged that it was impossible for him to say anything to the contrary or to even seek clarification “as [His Worship’s] “overbearing manner and lack of patience” silenced him.

He indicated that it was not his intention to argue that the fine would cause undue financial hardship. Rather, he wished to discuss what he thought was an exceptional circumstance; that “the imposition of a \$5,000 fine would be contrary to the interests of justice”. He stated that he was stunned when His Worship explained that the only ground he was able to consider was financial hardship. The complainant stated that he had no choice but to accept His Worship’s view and pay the fine imposed.

In his letter, the complainant quoted Section 59 (2) and added that the Ontario Court of Appeal recently confirmed that justices of the peace have the power to impose less than the minimum fine or suspend sentence when imposing sentences for violations of the *Compulsory Automobile Insurance Act* in *R. v. Ade-Ajayi, 2011 ONCA 192*.

He also highlighted Section 2.4 of the *Principles of Judicial Office for Justices of the Peace*. He also alleged that “His Worship’s performance of his duties while under a grave misapprehension of his powers under the *Provincial Offences Act* calls into question this competence at the most fundamental level”. The complainant said that it (among other reasons) forebodes His Worship’s future orientation and likely response to uncounselled Indigenous defendants facing substantial fines who might wish to make submissions about exceptional circumstances that track the *Gladue* principles, which, on His Worship’s mistaken understanding, would be immaterial at any sentencing proceeding pursuant to the *Provincial Offences Act*.

The complaints committee reviewed the letter of complaint and ordered and reviewed the transcript of the proceeding.

APPENDIX A

Case Summaries

The committee noted that His Worship's decision on whether to reduce a fine constituted his interpretation and application of the law. The committee noted that this was a matter of judicial discretion made in the course of a justice of the peace's duties in adjudicating, not a matter of judicial conduct. Justices of the peace have decision-making independence in accordance with the *Constitution Act, 1867*. The Council's legislated jurisdiction is limited to the conduct of justices of the peace.

The committee noted that the transcript did not support the allegations that His Worship was overbearing or demonstrated a lack of patience. The committee found no evidence of judicial misconduct.

The complaints committee dismissed this complaint on the basis that it was outside of the jurisdiction of the Council and the file was closed.

APPENDIX B

POLICY ON EXTRA-REMUNERATIVE WORK AND APPLICATIONS CONSIDERED

Note:

This version of the procedures reflects decisions of
the Review Council up to December, 2017.

For current procedures, please see the Review Council's website at:

www.ontariocourts.ca/ocj/jprc/policies-and-procedures/extra-remunerative-work/

APPENDIX B

Policy on Extra-Remunerative Work and Applications Considered

POLICY OF THE JUSTICES OF THE PEACE REVIEW COUNCIL RE: EXTRA-REMUNERATIVE WORK

CRITERIA & PROCEDURE FOR APPROVAL

- 1) Effective January 1, 2007, all justices of the peace, whether presiding or non-presiding, are required to seek the written approval of the existing Justices of the Peace Review Council before accepting or engaging in any extra-remunerative work, in accordance with section 19 of the *Justices of the Peace Act*, as amended January 1, 2007.

s. 19; subs. 8(2)(e)

- 2) All such applications to the Justices of the Peace Review Council will be considered by the Review Council at the earliest possible opportunity and the justice of the peace will be advised of its decision, in writing.

Application Procedure

- 3) An application for such approval must be made by the justice of the peace to the Justices of the Peace Review Council, in writing, prior to accepting or engaging in other extra-remunerative work and must set out a detailed explanation of the activity for which approval is sought, an estimate of the time commitment required and the amount of the remuneration. The applicant must also address in his or her letter each of the criteria indicated below that will be considered by the Review Council.
- 4) This application must be accompanied by a letter from the relevant Regional Senior Justice of the Peace providing his or her opinion with respect to any concerns about potential impacts related to scheduling and the applicant's assignment of duties.

APPENDIX B

Policy on Extra-Remunerative Work and Applications Considered

- 5) The Council looks at two aspects in relation to remuneration associated with the work. Firstly, the Council considers whether the work gives rise to any remuneration to the applicant justice of the peace. Secondly, the Council considers that a justice of the peace is engaged in extra-remunerative work when that justice of the peace is a party to someone else's remunerative work. Once the Council has established whether there is any remuneration, the policy and criteria set out in the Council's Extra-Remunerative Policy are considered.
- 6) The following are some of the criteria which should be addressed by the applicant in the letter of application and which will be considered by the Review Council in assessing whether or not approval will be granted:
 - a) whether there is an actual, or perceived, conflict of interest between the duties as assigned and the extra-remunerative activity for which approval is sought (*examples of potential conflict of interest include: employment by government in any capacity related to the administration of justice, the courts or corrections, engagement in the practice of law, employment in a legal clinic or a law firm, etc.*);
 - b) whether the nature of the activity for which the justice of the peace seeks approval will present an intrusive demand on the time, availability or energy of the justice of the peace and his or her ability to properly perform the judicial duties assigned;
 - c) whether the activity for which the justice of the peace seeks approval is a seemingly or appropriate activity in which a judicial officer should engage, having regard to the public perceptions of judicial demeanour, independence and impartiality.

The Council has noted that the criterion in paragraph c) above must be understood in the context of the public policy encapsulated in the legislative framework set out in the *Justices of the Peace Act* R.S.O. 1990, c. J.4, as amended and, in particular, in view of the amendments that resulted from the *Access to Justice Act*, 2006, S.O. 2006, c. 21. The amendments brought about a comprehensive reform intended to strengthen public confidence in a professional bench and in the justice system.

APPENDIX B

Policy on Extra-Remunerative Work and Applications Considered

Having carefully considered the public policy underlying the current legislative framework, the objectives of the amendments underlying the *Access to Justice Act, 2006*, and the *Principles of Judicial Office of Justices of the Peace of the Ontario Court of Justice*, the Review Council has determined that it would, in general, be unseemly for full-time presiding justices of the peace to be engaged in commercial extra-remunerative work.

The Review Council has approved some applications for approval to engage in extra-remunerative work by full-time presiding justices of the peace on an exceptional basis in limited circumstances where the activity was primarily non-commercial and had other intrinsic value from an educational, patriotic, religious or creative standpoint. In accordance with the Council's procedures, an applicant who seeks approval to engage in commercial activity should address the issue of why the application for extra-remunerative work should be approved as an exception to the general policy that full-time presiding justices of the peace should not engage in extra-remunerative work that is commercial in nature.

Additional Information

- 7) If upon its review of the application, the Review Council is not satisfied that there is sufficient information, the Review Council may request such additional information as the Review Council may deem necessary and relevant, including information from the justice of the peace, the Regional Senior Justice of the Peace or any other person.

Approval of Application without Conditions

- 8) If, upon its review of the application and any additional material, the Review Council is satisfied that there is sufficient information to approve the application, without conditions, the Review Council will approve the application. The applicant justice of the peace will be advised in writing of the decision of the Review Council, including brief reasons for the decision.

APPENDIX B

Policy on Extra-Remunerative Work and Applications Considered

Opportunity to Respond to Concerns

- 9) If, upon its review of the application and any additional information, the Review Council has concerns about granting the application, the Review Council will provide a letter to the applicant justice of the peace setting out its concerns. The Review Council may also suggest conditions of approval to address those concerns.
- 10) The justice of the peace will be given an opportunity to respond to the concerns of the Review Council and to respond to any suggested conditions by sending submissions in writing to the Review Council. If the justice of the peace agrees with the conditions, he or she should respond to the Review Council confirming his or her agreement with the approval being contingent upon the conditions.
- 11) The justice of the peace will be given thirty calendar days to respond from the date of the letter from the Review Council expressing its concerns. If a response is not received from the applicant justice of the peace within that time, the Review Council members considering the request will be notified and a reminder letter will be sent to the justice of the peace. If no response is received within ten calendar days from the date of the reminder letter, the Review Council will proceed in the absence of a response.

Decision

- 12) The Review Council will consider the response of the justice of the peace, if any, in making its decision. The justice of the peace will be advised in writing of the Review Council's approval of the application and of the conditions, if any, upon which the approval is contingent. In the alternative, the justice of the peace will be advised in writing that the request has not been approved. Brief reasons will be provided for the decision.

No Authority to Order Compensation for Legal Costs

- 13) The Review Council does not have legislative authority to recommend or order compensation for costs of legal services incurred as a result of an application for extra-remunerative work.

APPENDIX B

Policy on Extra-Remunerative Work and Applications Considered

Application Process in Private

- 14) Any meeting of the Review Council regarding applications for extra-remunerative work shall be conducted in private. Pursuant to section 8(18) of the *Justices of the Peace Act*, the Review Council has ordered that any information or documents relating to any meeting of the Review Council to consider an application to engage in extra-remunerative work are confidential and shall not be disclosed or made public.

subs. 8(18)

Quorum of Review Council

- 15) The usual rules for composition and quorum apply to meetings for the purposes of considering applications for extra-remunerative work. The Chief Justice of the Ontario Court of Justice, or in his or her absence, the Associate Chief Justice Co-ordinator of Justices of the Peace, shall chair meetings held for the purposes of considering applications for extra-remunerative work. Six members of the Review Council, including the chair, constitute a quorum for the purposes of dealing with an application for approval of extra-remunerative work. At least half of the members present must be judges or justices of the peace. The chair is entitled to vote, and may cast a second deciding vote if there is a tie.

subs. 8(7),(8) and (11)

Annual report

- 16) After the end of each year, the Review Council shall make an annual report to the Attorney General on its affairs including a summary of each application for approval of extra-remunerative work received or dealt with during the year and the decision of the Review Council, but the report shall not include information that might identify the justice of the peace or the Region in which he or she presides.

subs. 9(7)

Amended at Toronto, June 4, 2010.

Policy on Extra-Remunerative Work and Applications Considered

APPLICATIONS FOR APPROVAL OF EXTRA-REMUNERATIVE WORK IN 2017

Applications for approval of extra-remunerative work are given File names starting with ER indicating the nature of the application, followed by a sequential file number and by two digits indicating the calendar year in which the file was opened (i.e., File No. ER-28-001/17 was the first application for approval in calendar year 2017).

Names of applicants are not included in the case summaries.

CASE NO. ER-28-001/17

The Review Council approved an application for approval for a justice of the peace to engage in extra-remunerative work as a Commissioned Reserve Officer in Her Majesty's Canadian Forces (Royal Canadian Navy). The approval was granted subject to the following conditions:

1. Any remuneration paid to the justice of the peace is the same as that paid to other Commissioned Reserve Officers without regard to the position as a justice of the peace.
2. His Worship will seek approval for leave required for his responsibilities as a Commissioned Reserve Officer from the Associate Chief Justice of the Ontario Court of Justice.
3. His Worship will maintain his distance as a Commissioned Reserve Officer from his role and responsibilities as a judicial officer, particularly in relation to avoiding any reference to his judicial position.
4. Should the status of His Worship's participation change, His Worship will advise the Review Council in writing in order that the appropriateness of the extra-remunerative work may be reconsidered.
5. The Review Council reserved the right to revisit His Worship's request and its decision should any relevant circumstances change.

APPENDIX B

Policy on Extra-Remunerative Work and Applications Considered

CASE NO. ER-28-002/17

The Review Council approved an application for approval for a justice of the peace to engage in extra-remunerative work teaching two courses at a college.

It is the view and preference of Council that educational teachings by justices of the peace be engaged in during the evenings rather than during weekdays, so as not to present any potential impact on judicial responsibilities or pose issues relating to fulfilling scheduling obligations at a base court location.

The approval of Council of the application was granted in this instance, subject to the conditions below:

- 1) The Council's approval of the request must present no difficulties in fulfilling judicial assignments during the period of teaching.
- 2) His Worship's availability to instruct must not impact upon his availability to fulfill his primary responsibilities as a justice of the peace during assigned hours. As such, his availability to instruct must be undertaken at times when he was not otherwise assigned to judicial duties and where he had requested either vacation or compensating time off such as earned lieu days. The Council is of the view that non-presiding days should not be used for such purposes.
- 3) His Worship must maintain appropriate distance in the completion of the teaching of this course from his role and responsibilities as a judicial officer.
- 4) His Worship may accept remuneration for the teaching, but such remuneration must be the same as that paid to other instructors without regard to his position as a justice of the peace.
- 5) His Worship must refrain from using the Court's email network, computer or other resources for any purpose related to his teaching activities, as those resources are provided for purposes associated with his official responsibilities.

APPENDIX B

Policy on Extra-Remunerative Work and Applications Considered

- 6) The Review Council reserved the right to revisit the request and its decision should any relevant circumstances change.

CASE NO. ER-28-003/17

The Review Council approved an application for approval for a justice of the peace to engage in extra-remunerative work teaching at a college.

It is the view and preference of Council that educational teachings by justices of the peace should not present any potential negative impact on judicial responsibilities or principles of office or pose issues relating to fulfilling scheduling obligations at a base court location. The Council noted that the teaching activities would be restricted to weekends.

The approval of Council of the application was granted in this instance, subject to the conditions below:

- 1) The Council's approval of the request must present no difficulties in fulfilling judicial assignments during the period of teaching.
- 2) Her Worship's availability to instruct must not impact upon her availability to fulfill her primary responsibilities as a justice of the peace during assigned hours. Her Worship's teaching responsibilities will be restricted to weekends only and on a part-time occasional basis. Her Worship's availability to carry out any other tasks related to teaching must be undertaken at times when she is not otherwise assigned to judicial duties and where she has requested either vacation or compensating time off such as earned lieu days. The Council is of the view that non-presiding days should not be used for such purposes.
- 3) Her Worship must maintain appropriate distance in the completion of the teaching of this course from her role and responsibilities as a judicial officer, including in any promotional and other course materials.

APPENDIX B

Policy on Extra-Remunerative Work and Applications Considered

- 4) Her Worship may accept remuneration for the teaching, but such remuneration must be the same as that paid to other instructors without regard to her position as a justice of the peace.
- 5) Her Worship must refrain from using the Court's email network, computer or other resources for any purpose related to her teaching activities, as those resources are provided for purposes associated with her official responsibilities.
- 6) The Review Council reserved the right to revisit the request and its decision should any relevant circumstances change.

CASE NO. ER-28-004/17

The Council received an application from a justice of the peace for approval to engage in extra-remunerative work as a Commissioned Officer of the Canadian Armed Forces Reserve. The approval of Council was granted, subject to the following conditions:

1. Any remuneration paid to the justice of the peace must be the same as that paid to other Commissioned Reserve Officers without regard to His Worship's position as a justice of the peace.
2. His Worship will seek approval for any leave which may be required for his responsibilities as a Commissioned Officer from the Associate Chief Justice of the Ontario Court of Justice.
3. His Worship will maintain his distance as a Commissioned Officer from his role and responsibilities as a judicial officer, particularly in relation to avoiding any reference to his judicial position.
4. His Worship indicated that it would involve one evening per week and one weekend per month. Should the status of his participation change, he must advise the Review Council in writing in order that the appropriateness of the extra-remunerative work may be reconsidered.
5. The Review Council reserved the right to revisit the request and its decision should any relevant circumstances change.

Policy on Extra-Remunerative Work and Applications Considered

CASE NO. ER-28-005/17

The justice of the peace sought approval to continue to teach part-time at a college as a Continuing Education Instructor, The Council approved of the request, subject to the conditions set out below.

The Council's view is that the assignment of judicial duties should be the first priority and if a justice of the peace seeks to engage in extra-remunerative work, he or she should arrange the times for that activity in a manner that does not require special accommodation in judicial scheduling. This should be of prime consideration.

The Council approved of the application to teach one course in each of three 2017-2018 semesters, as well as an on-line course, on an exceptional basis as extra-remunerative work in limited circumstances as it has educational value. The approval was subject to the following conditions:

- 1) The Council's approval of the request must present no difficulties in fulfilling judicial assignments during the period of teaching.
- 2) Her Worship's availability to instruct and to carry out the associated duties and responsibilities must not affect her availability to fulfill her primary responsibilities as a justice of the peace during assigned hours and to participate in education programs for justices of the peace.

If she has office hours, meetings, training, availability for student consultation, or participation in the examination process, those must not interfere with the regular court day and should be scheduled in the evening after the approved teaching times or at times when she was not otherwise assigned to judicial duties and where she has requested either vacation or compensating time off.

The responsibilities of a Continuing Education Instructor must be carried out so as to not interfere with the regular court day and so that it does not require accommodation in judicial scheduling. The Council is of the view that non-presiding days should not be used for such purposes. The justice of the peace was referred to the

APPENDIX B

Policy on Extra-Remunerative Work and Applications Considered

Justices of the Peace Benefits Manual on the Court's intranet site, Conditions of Service-General, Judicial Year, for a description of the use of non-presiding days.

- 3) Her Worship must maintain appropriate distance from her role and responsibilities as a judicial officer in the completion of the teaching of this course.
- 4) Her Worship may accept remuneration for the teaching, but such remuneration must be the same as that paid to other instructors without regard to her position as a justice of the peace.
- 5) Her Worship must not use the Court's email network, computer, cell phone, or other resources for any purpose related to the teaching activities, as those resources are provided for purposes associated with her official responsibilities.
- 6) The Review Council reserved the right to revisit the request and its decision should any relevant circumstances change.

CASE NO. ER-28-006/17

The justice of the peace sought approval to assist a professor by providing feedback to students in a program at a university. The justice of the peace indicated that there would be an honorarium of approximately \$100 to cover mileage and parking.

The Council sent a letter to Her Worship seeking further information, including clarification about the honorarium. Her Worship sent a further letter in which she clarified that she would only need to attend the university personally on one occasion throughout the semester. The only costs that she would be reimbursed for would be parking fees which would be paid by the University by providing Her Worship directly with a parking pass. In this way, Her Worship would not need to submit to any claim for parking.

Her Worship also indicated to the professor that she would not be asking for any reimbursement of any mileage/travel related claims so as to simplify the process and ensure no monies were paid to Her Worship by way of an honorarium.

APPENDIX B

Policy on Extra-Remunerative Work and Applications Considered

Based upon the above additional information received from Her Worship, the Council concluded that the activity would not be remunerative and it was outside of the Council's jurisdiction. Her Worship was informed that in these circumstances, Her Worship did not require the approval of the Council to engage in the activity.

CASE NO. ER-28-007/17

The Council received an application from a justice of the peace to teach at a university. The Council approved of the application subject to the conditions set out below:

- 1) The Council's approval of the request must present no difficulties in fulfilling judicial assignments during the period of teaching.
- 2) Her Worship's availability to instruct must not impact upon her availability to fulfill her primary responsibilities as a justice of the peace during assigned hours. Her availability to carry out any other tasks related to teaching must be undertaken at times when she was not otherwise assigned to judicial duties or and where she had requested either vacation or compensating time off such as earned lieu days. The Council is of the view that non-presiding days should not be used for such purposes. Her Worship indicated that the teaching would occur during approved vacation days.
- 3) Her Worship must maintain appropriate distance in the completion of the teaching of this course from her role and responsibilities as a judicial officer, including any promotional and other course materials.
- 4) Her Worship may accept remuneration for the teaching, but such remuneration must be the same as that paid to other instructors without regard to her position as a justice of the peace.
- 5) Her Worship must refrain from using the Court's email network, computer or other resources for any purpose related to the teaching activities, as those resources are provided for purposes associated with her official responsibilities.

APPENDIX B

Policy on Extra-Remunerative Work and Applications Considered

- 6) The Review Council reserved the right to revisit the request and its decision should any relevant circumstances change.

CASE NO. ER-28-008/17

The Council received an application from a justice of the peace to provide a one-day symposium addressing ethical considerations for the mental health and community support worker. Her Worship indicated that the date of the symposium would not conflict with judicial work assignments and that the date would be established once the Review Council has made a determination on the application. Her Worship also indicated that she intended to use a vacation day to conduct the symposium.

Her Worship was informed that it is the view and preference of Council that educational events or teachings by justices of the peace be engaged in during the evenings or weekends rather than during weekdays, so as not to present any potential impact on judicial responsibilities or pose issues relating to fulfilling scheduling obligations at a base court location. Her Worship indicated that a weekday symposium was required, as the participants were respective agency employees and as such are required to attend during their standard work week.

The Council approved of the application subject to the following conditions:

- 1) The remuneration would be \$1,600.00 plus expenses. The terms and conditions of engagement to provide the symposium, including the remuneration, must be the same as those that any other person would receive and must be established without regard to Her Worship's position as a justice of the peace.
- 2) The Council's approval of the request must present no difficulties in fulfilling judicial assignments.
- 3) Her Worship's work on and availability for the symposium must not impact upon her availability to fulfill her primary responsibilities as a justice of the peace during assigned hours. As such, her availability to instruct must be undertaken at times when she is not otherwise

APPENDIX B

Policy on Extra-Remunerative Work and Applications Considered

assigned to judicial duties and where she requested either vacation or compensating time off. The Council is of the view that non-presiding days should not be used for such purposes.

- 4) Her Worship must maintain distance in her work on the symposium from her role and responsibilities as a judicial officer, particularly in relation to avoiding any reference to the judicial position in the extra-remunerative work activities.
- 5) Her Worship must refrain from using the Court's email network, computer or other resources for any purpose related to the symposium, as those resources are provided for purposes associated with her official responsibilities.
- 6) Once the symposium is scheduled, Her Worship must inform the Council of the date. Approval of this application applied to this one-day symposium only and Her Worship would need to apply for approval of any other future extra-remunerative work activities.
- 7) The Review Council reserved the right to revisit the request and its decision should any relevant circumstances change.

Her Worship subsequently informed the Council of the date of the symposium.

CASE NO. ER-28-009/17

The Council received an application to teach a course at a Faculty of Law. Her Worship would receive a stipend, plus 4% vacation pay.

The Council approved of the application to teach the course as extra-remunerative work as it had educational value. The approval was subject to the following conditions:

- 1) The terms and conditions of employment, including the remuneration, must be the same as those of other instructors without regard to Her Worship's position as a justice of the peace.

APPENDIX B

Policy on Extra-Remunerative Work and Applications Considered

- 2) The Council's approval of the request must present no difficulties in fulfilling judicial assignments during the period of teaching.
- 3) Her Worship's availability to instruct must not impact upon her availability to fulfill her primary responsibilities as a justice of the peace during assigned hours. As such, her availability to instruct or carry out any duties related to teaching must be undertaken at times when she is not otherwise assigned to judicial duties and where she requested either vacation or lieu time off. Non-presiding days should not be used for such purposes.
- 4) Her Worship must maintain appropriate distance in the completion of the teaching of this course from her role and responsibilities as a judicial officer. In doing so, she must recognize that although the views she expressed are personal and do not reflect official Ontario Court of Justice policy, she must be cautious about expressing personal views that are inconsistent with her duty to apply the law as a justice of the peace.
- 5) Her Worship must refrain from using the Court's email network, computer or other resources for any purpose related to the teaching activities, as those resources are provided for purposes associated with her official responsibilities.
- 6) The Review Council reserved the right to revisit the request and its decision should any relevant circumstances change.

APPENDIX C

**PRINCIPLES
OF JUDICIAL OFFICE OF
JUSTICES OF THE PEACE
OF THE ONTARIO
COURT OF JUSTICE**

Principles of Judicial Office of Justices of the Peace of the Ontario Court of Justice

“Respect for the Judiciary is acquired through the pursuit of excellence in administering justice.”

PRINCIPLES OF JUDICIAL OFFICE OF JUSTICES OF THE PEACE OF THE ONTARIO COURT OF JUSTICE

PREAMBLE

A strong and independent judiciary is indispensable to the proper administration of justice in our society. Justices of the peace must be free to perform their judicial duties without fear of reprisal or influence from any person, group, institution or level of government. In turn, society has a right to expect those appointed as justices of the peace to be honourable and worthy of its trust and confidence.

The justices of the peace of the Ontario Court of Justice recognize their duty to establish, maintain, encourage and uphold high standards of personal conduct and professionalism so as to preserve the independence and integrity of their judicial office and to preserve the faith and trust that society places in the men and women who have agreed to accept the responsibilities of judicial office.

The following principles of judicial office are established by the justices of the peace of the Ontario Court of Justice and set out standards of excellence and integrity to which all justices of the peace subscribe. These principles are not exhaustive. They are designed to be advisory in nature and are not directly related to any specific disciplinary process. Intended to assist justices of the peace in addressing ethical and professional dilemmas, they may also serve in assisting the public to understand the reasonable expectations which the public may have of justices of the peace in the performance of judicial duties and in the conduct of their personal lives.

Principles of Judicial Office of Justices of the Peace of the Ontario Court of Justice

1. THE JUSTICE OF THE PEACE IN COURT

1.1 Justices of the peace must be impartial and objective in the discharge of their judicial duties.

Commentaries:

Justices of the peace should not be influenced by partisan interests, public pressure or fear of criticism.

Justices of the peace should maintain their objectivity and shall not, by words or conduct, manifest favour, bias or prejudice towards any party or interest.

1.2 Justices of the peace have a duty to follow the law.

Commentaries:

Justices of the peace have a duty to apply the relevant law to the facts and circumstances of the cases before the court and to render justice within the framework of the law.

1.3 Justices of the peace will endeavour to maintain order and decorum in court.

Commentaries:

Justices of the peace must strive to be patient, dignified and courteous in performing the duties of judicial office and shall carry out their role with integrity, appropriate firmness and honour.

2. THE JUSTICE OF THE PEACE AND THE COURT

2.1 Justices of the peace should approach their judicial duties in a spirit of collegiality, cooperation and mutual assistance.

2.2 Justices of the peace should conduct court business with due diligence and dispose of all matters before them promptly and efficiently having regard, at all times, to the interests of justice and the rights of the parties before the court.

2.3 Reasons for judgment should be delivered in a timely manner.

APPENDIX C

Principles of Judicial Office of Justices of the Peace of the Ontario Court of Justice

2.4 Justices of the peace have a duty to maintain their professional competence in the law.

Commentaries:

Justices of the peace should attend and participate in continuing legal and general education programs.

2.5 The primary responsibility of justices of the peace is the discharge of their judicial duties.

Commentaries:

Subject to applicable legislation, justices of the peace may participate in law related activities such as teaching, participating in educational conferences, writing and working on committees for the advancement of judicial interests and concerns, provided such activities do not interfere with their primary duty to the court.

3. THE JUSTICE OF THE PEACE IN THE COMMUNITY

3.1 Justices of the peace should maintain their personal conduct at a level which will ensure the public's trust and confidence.

3.2 Justices of the peace must avoid any conflict of interest, or the appearance of any conflict of interest, in the performance of their judicial duties.

Commentaries:

Justices of the peace must not participate in any partisan political activity.

Justices of the peace must not contribute financially to any political party.

3.3 Justices of the peace must not abuse the power of their judicial office or use it inappropriately.

APPENDIX C

Principles of Judicial Office of Justices of the Peace of the Ontario Court of Justice

- 3.4 Justices of the peace are encouraged to be involved in community activities provided such involvement is not incompatible with their judicial office.

Commentaries:

Justices of the peace should not lend the prestige of their office to fund-raising activities.

