



FIFTEENTH ANNUAL REPORT 2021

JUSTICES OF THE PEACE
REVIEW COUNCIL

ONTARIO

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The Honourable Lise Maisonneuve

**CHIEF JUSTICE
ONTARIO COURT OF JUSTICE
CHAIR, JUSTICES OF THE PEACE REVIEW COUNCIL**



April 20, 2022

The Honourable Doug Downey
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 Fifteenth Annual Report of the Justices of the Peace Review Council concerning its operations in 2021, in accordance with s. 9(7) of the *Justices of the Peace Act*.

The period of time covered by this Annual Report is from January 1, 2021 to December 31, 2021.

Respectfully submitted,



Lise Maisonneuve
Chief Justice
Ontario Court of Justice



CONTENTS

1. Introduction	5
2. Composition and Terms of Appointment.....	6
3. Members	7
4. Administrative Information	9
5. Functions of the Review Council.....	10
6. Council Procedures	10
7. Communications	11
8. Education Plan	12
9. Standards of Conduct.....	12
10. Applications for Accommodation	13
11. Overview of the Complaints Process	13
i. Who may file a complaint?	13
ii. Does the Council have the legal authority to consider the complaint?	14
iii. What happens in the complaints process?.....	14
a) Preliminary Investigation and Review.....	14
b) Interim Recommendations	15
c) Dispositions by Complaints Committees	16
d) Public Hearings.....	18
12. Compensation for Legal Costs.....	20
13. Summary of Complaints	21
14. Summaries - Complaint Files Closed In 2021	26
15. Extra-Remunerative Work Applications	38

1. INTRODUCTION

The period covered by this Annual Report is from January 1, 2021 to December 31, 2021. This report is the Fifteenth Annual Report on the work of the Justices of the Peace Review Council (“Review Council” or “Council”).

The Review Council is an independent body established by the Province of Ontario under the *Justices of the Peace Act*, R. S. O. 1990, c. J.4 (“*Justices of the Peace Act*” or the “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 *Justice of the Peace Act* provisions establishing and governing the Council are available on the government’s e-Laws website at:

- <https://www.ontario.ca/laws/statute/90j04>

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.

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

This Fifteenth Annual Report of the Review Council provides information on the Council’s membership, its functions and procedures, and its work during 2021. The Annual Report also includes information on the procedures used to address complaints. Finally, applications by justices of the peace for approval to engage in extra-remunerative activities are included, 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 several other judicial functions, such as issuing search warrants. Justices of the peace perform difficult, important work in the justice system. A justice of the peace may be the only judicial officer that a citizen will encounter in their lifetime.

During the period covered by this report, the Review Council had jurisdiction over approximately 371 provincially appointed justices of the peace, including those working full-time, part-time and *per diem*. In 2021, Ontario justices of the peace presided over provincial offences matters, such as traffic offences, bail hearings, and intake and assignment courts. Given the ongoing public health emergency of the COVID-19 pandemic, many of these proceedings were conducted remotely, including by video or audio appearances. Limited in-person proceedings also took place in accordance with health and safety measures implemented by the Ministry of the Attorney General.



During 2021, the Council received nine new complaints about justices of the peace and carried over 16 complaint files from previous years. Information about the 14 complaint files completed and closed in 2021 is also included in this Report. Decisions made in public hearings during the year are posted on the Council’s website on the webpage “Public Hearings Decisions”.

We invite you to find out more about the Review Council by reading this Annual Report, and by visiting its website at <https://www.ontariocourts.ca/ocj/jprc/>. On the website, you will find:

- ◆ the Council’s current policies and procedures;
- ◆ updates about any public hearings that are in progress or that were completed in 2021;
- ◆ decisions made in public hearings, the *Principles of Judicial Office of Justices of the Peace of the Ontario Court of Justice*; the Education Plan; and links to the governing legislation.

2. 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 several 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 the following members:

- ◆ 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 community representatives 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 balance in gender identity, is 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.

3. MEMBERS

The membership of the Review Council in the year covered by this report (January 1, 2021 to December 31, 2021) was as follows:

Ontario Court of Justice Members

- ◆ The Honourable Lise Maisonneuve, Chief Justice of the Ontario Court of Justice (Chair)
- ◆ The Honourable Sharon Nicklas, Associate Chief Justice Co-Ordinator of Justices of the Peace of the Ontario Court of Justice

Two judges appointed by the Chief Justice of the Ontario Court of Justice:

- ◆ The Honourable Justice Lisa Cameron (Lindsay)
(Until February 20, 2021)
- ◆ The Honourable Justice Diane Lahaie (Ottawa)
(Until June 19, 2021)
- ◆ The Honourable Justice Enzo Rondinelli (Toronto)
(Effective February 22, 2021)
- ◆ The Honourable Justice Marlyse Dumel (Ottawa)
(Effective June 21, 2021)

Regional Senior Justice of the Peace appointed by the Chief Justice of the Ontario Court of Justice:

- ◆ Regional Senior Justice of Peace Melanie Bremner (Toronto)

Three justices of the peace appointed by the Chief Justice of the Ontario Court of Justice:

- ◆ Her Worship Kristine Diaz (London)
- ◆ Her Worship Liisa Ritchie (Peel Region)

- ◆ Her Worship Christine Smythe (Toronto)

Members appointed by the Attorney General

Law Society Member

- ◆ S. Margot Blight, Lawyer/Advocate (Mississauga)
(Until June 12, 2021)
Note: Position vacant June 13, 2021 - December 31, 2021

Community Members

- ◆ Leonore Foster, Former Councillor of the City of Kingston (Kingston)
(Until May 28, 2021)
- ◆ Dr. Michael S. Phillips, Consultant, Mental Health and Justice (Gormley)
(Until May 28, 2021)
- ◆ Lauren Rakowski, Lawyer, Gardiner Roberts LLP (Toronto)
- ◆ John Tzanis, Paralegal, Continental Legal Services Professional Corporation
(Markham)
- ◆ Naomi Solomon, Lawyer, BMO Financial Group (Toronto)
(Effective June 24, 2021)
- ◆ George Nikolov, Professional Engineer (Toronto)
(Effective December 16, 2021)

Temporary Members:

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 to sit on a complaints committee or hearing panel when it is necessary in order to meet the requirements of the *Act*. During the period covered by this report, the following members were appointed as temporary members:

- ◆ The Honourable Justice Diane Lahaie (Ottawa)
- ◆ The Honourable Justice Timothy Lipson (Toronto)
- ◆ The Honourable Justice Joseph De Filippis (St. Catharines)
- ◆ Her Worship Holly Charyna (Owen Sound)

4. ADMINISTRATIVE INFORMATION

Office space is shared by both the Ontario Judicial Council and the Justices of the Peace Review Council. The Councils use financial, human resources and technology support staff in the Office of the Chief Justice, as needed.

The office of the Council is used for Council meetings and for meetings with judicial officers that may result as part of the disposition of complaints. The Councils have a shared reception, toll-free number and fax number.

The Ontario Judicial Council and the Justices of the Peace Review Council share a staff consisting of a Registrar, a Counsel/Deputy Registrar, two Assistant Registrars and an Administrative Assistant:

- ◆ Marilyn E. King – Registrar – retired May 31, 2021
- ◆ Alison Warner – Registrar – started May 1, 2021
- ◆ Shoshana Bentley-Jacobs – Counsel & Deputy Registrar
- ◆ Michelle Boudreau – Assistant Registrar – until April 31, 2021
- ◆ Philip Trieu – Assistant Registrar – started October 17, 2021
- ◆ Ana Brigido – Assistant Registrar
- ◆ Ingrid Richards – Administrative Assistant (September 2020 to March 2021)
- ◆ Astra Tantalo – Administrative Assistant – started April 1, 2021

The period covered by this report saw a number of staffing changes. Marilyn King, who acted as Registrar since 2008, retired after a distinguished career in the Ontario public service. In addition, the Assistant Registrar, Michelle Boudreau, accepted a secondment opportunity at the Office of the Public Guardian and Trustee.

The Council welcomed a new Administrative Assistant, Astra Tantalo, on April 1, 2021, a new Registrar, Alison Warner, on May 1, 2021, and a new Assistant Registrar, Philip Trieu, on October 17, 2021.

In 2021, Council staff provided ongoing support in relation to three, multi-day public hearings before hearing panels of the Justices of the Peace Review Council. Council staff also supported two full meetings of the Review Council and facilitated numerous complaints committee meetings throughout the year, in addition to responding to numerous phone calls and letters from complainants and members of the public. In addition, Council staff supported the work of the Ontario Judicial Council.

5. FUNCTIONS OF THE REVIEW COUNCIL

The *Justices of the Peace Act* sets out the functions of the Review Council:

- ◆ to establish complaints committees from amongst its members to receive and investigate complaints about justices of the peace, and decide upon dispositions under s. 11(15);
- ◆ to hold hearings under s. 11.1 when hearings are ordered by complaints committees pursuant to s. 11(15);
- ◆ to review and approve standards of conduct;
- ◆ to consider applications under s. 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 legal issues, they may pursue available legal remedies through the courts, such as an appeal.

6. COUNCIL PROCEDURES

Under s. 10(1) of the *Justices of the Peace Act*, the Review Council may establish rules of procedure for complaints committees and hearing panels, and the Review Council must make the rules available to the public. The Review Council has established procedures governing the complaints process which are posted on its website under the link, “Policies and Procedures” at:

- www.ontariocourts.ca/ocj/jprc/policies-and-procedures/

In 2021, the Council continued to refine and develop its procedures and policies. Several amendments were made to clarify and improve the hearing process:

- ◆ Section 4.4 of the Procedures was amended to provide that, where a complaint is referred to a public hearing, the hearing panel has authority to request that a copy of the unredacted letter of complaint be filed as part of the public record and to invite submissions from the parties as to why the unredacted letter should not be filed.

Additional amendments to the Procedures were made to address the following issues:

- ◆ Section 7.22 was amended to allow a complaints committee to consider a justice of the peace's disposition history when it receives a new complaint file, excluding dismissed complaints to which the justice of the peace was not invited to respond;
- ◆ Section 7.24 was amended to clarify that a complaint may be disposed of in accordance with the views of a *majority* of a 3-person complaints committee;
- ◆ Section 7.7 was amended to provide that a complaints committee may, in making an interim recommendation of non-assignment or re-assignment, provide the regional senior justice with any previous complaint and disposition history that the subject justice of the peace has had with the Review Council which the complaints committee considers relevant to their interim recommendation;
- ◆ Section 5.6 was amended to clarify that if a complainant brings a civil action or judicial review application in relation to a complaint to the Review Council, the Council may release to the lawyer retained by the Council to defend the proceeding any letters to and from the complainant.
- ◆ Section 19.7 was amended to clarify that any recommendation for compensation for legal costs following the disposition of a complaint must include the statement(s) of account issued to the justice of the peace by legal counsel.

The Council's current procedures that incorporate the amendments made in 2021 are posted on the Review Council's website at the link provided above.

7. COMMUNICATIONS

The website of the Justices of the Peace Review Council includes information about the Council, including the most current version of its 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 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 Council's website no later than thirty days after it has been sent to the Attorney General at:

- <https://www.ontariocourts.ca/ocj/jprc/annual-report/>

8. EDUCATION PLAN

The Associate Chief Justice Coordinator of Justices of the Peace of the Ontario Court of Justice is required by s. 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 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 Coordinator of Justices of the Peace as Chair (*ex officio*) and justices of the peace nominated by the Associate Chief Justice Coordinator of Justices of the Peace and by the Association of Justices of the Peace of Ontario.

An Advisory Committee on Education of the Court reviews the education programs and may make recommendations to the Associate Chief Justice-Coordinator of Justices of the Peace on changes and additions to existing programs, and on the content and format of new programs as they are being proposed and developed. Any proposed changes are submitted to the Review Council for review and approval.

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/

9. STANDARDS OF CONDUCT

The Associate Chief Justice Coordinator of Justices of the Peace may, under s. 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 s. 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 should subscribe. These principles are not exhaustive. Intended to assist justices of the peace in addressing ethical and professional dilemmas, they also serve to assist the public in understanding the standards expected of justices of the peace in the performance of their 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 set out a general



framework of values and considerations that are relevant to evaluating allegations of improper conduct by a justice of the peace.

The Principles of Judicial Office for Justices of the Peace of the Ontario Court of Justice can be found on the Council’s website under the link for “Principles of Judicial Office” at:

- <https://www.ontariocourts.ca/ocj/jprc/policies-and-procedures/>

10. APPLICATIONS FOR ACCOMMODATION

A justice of the peace who believes that they are unable, because of a disability, to perform the essential duties of the office unless their needs are accommodated may apply to the Council under s. 5.2 of the *Justices of the Peace Act* for an order that such needs be accommodated to enable them to perform their essential duties.

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. For the Council to properly consider applications for accommodation, the applicant justice of the peace must 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 wishes to make an application to the Council, they must provide a copy of all documentation from the Ministry’s application process, including medical evidence and decisions.

The Council’s Procedures include its policy governing applications for an order of accommodation at:

- <https://www.ontariocourts.ca/ocj/jprc/policies-and-procedures/>

No applications for orders of accommodation to enable performance of essential duties were received in 2021.

11. OVERVIEW OF THE COMPLAINTS PROCESS

i. Who may file a complaint?

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 does not provide the Review Council with authority to act on anonymous complaints or to initiate inquiries into the conduct of a judicial officer on its own accord. Rather, an investigation conducted by the Review Council must be in response to a specific complaint about a justice of the peace. Most of the complaints received by the Review Council are from



members of the public, although some are received on behalf of organizations and members of the judiciary.

ii. 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 may have legal remedies through the courts, such as an appeal. Only a court can change a decision or order of a justice of the peace.

All correspondence sent to the Review Council is reviewed to determine whether a complaint is within the jurisdiction of the Review Council. In 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.

If a 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 they may wish to consult legal counsel to determine what, if any, remedies may be available through the courts.

If an individual is complaining about a lawyer or paralegal, a police officer, a Crown Attorney, or another office, the complainant is generally given the contact information of the appropriate body that may address their concerns.

iii. 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. If a complaint is ordered to a public hearing, certain provisions of the *Statutory Powers Procedure Act* also apply. The complaints procedure is outlined below.

a) Preliminary Investigation and Review

As soon as reasonably 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 raises allegations of conduct about a justice of the peace who is presiding over a court proceeding, the Council will generally not 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.

If there is no ongoing court proceeding, and the complaint is within the Council's jurisdiction, a complaints committee 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 or lawyer member. Complaints are not generally assigned to judicial members from the same region where the justice of the peace who is the subject of the complaint presides. This avoids any perception of bias or conflict of interest between a member of Council and the justice of the peace.

Apart from hearings ordered under s. 11(15)(c) of the *Justices of the Peace Act*, 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 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 and 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 s. 8(15) of the Act, to assist the committee by interviewing witnesses with information concerning the allegations. Legal advice from the Registrar/Deputy Registrar and/or external counsel may also be obtained.

The complaints committee will determine whether the subject justice of the peace should be invited to respond to the complaint. If a justice of the peace is asked to respond to a complaint, the justice of the peace will be provided with a letter setting out the allegations. The letter may also set out any particular concerns arising from the complaint. The justice of the peace will also be provided with a copy of the complaint letter and any other relevant materials, such as transcripts, considered by the committee in its investigation. The justice of the peace may seek independent legal advice or assistance before responding to a complaint.

b) Interim Recommendations

The investigating complaints committee will also consider whether the allegations warrant making an interim recommendation of non-assignment or re-assignment. Under s. 11(11) of the Act, the committee may make an interim recommendation to the Regional Senior Justice where the justice of the peace presides that the justice of the peace be non-assigned work or reassigned to another court location pending the final disposition of the complaint.

A Regional Senior Justice has discretion to accept or reject a complaints committee's interim recommendation. If the Regional Senior Justice decides to not assign work to the justice of the peace pending the final disposition of the complaint, pursuant to the legislation, the justice of the peace will continue to be paid. If the Regional Senior Justice decides to reassign the justice of the peace, the legislation requires that the justice of the peace must consent to the reassignment.

In deciding whether to make an interim recommendation, a complaints committee shall



consider whether any of the following non-exhaustive factors are present:

- ◆ 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;
- ◆ allowing the justice of the peace to continue to preside would likely bring the administration of justice into disrepute;
- ◆ the complaint is of sufficient seriousness that there are reasonable grounds for investigation by law enforcement agencies;
- ◆ it is evident to the complaints committee that the justice of the peace is suffering from a mental or physical impairment that cannot be remedied or reasonably accommodated.

Where a complaints committee is considering making an interim recommendation, it may (but is not required to) provide the justice of the peace with an opportunity to make written submissions before making its decision.

Particulars of the factors upon which the complaints committee's interim recommendation is based are provided to both the Regional Senior Judge receiving the interim recommendation and to the justice of the peace, who is copied on the letter to the Regional Senior Justice.

The Procedures of the Review Council recognize that an exception to the general requirement of confidentiality in the complaints process is warranted where an interim recommendation of non-assignment or re-assignment has been made and the complaint has been referred to a public hearing. In such circumstances, once the Notice of Hearing has been filed and the complaints process has become public, the Review Council's website informs the public that the justice of the peace has been unassigned from work or has been reassigned to a different location as a result of an interim recommendation.

Of the files closed in 2021, two subject justices of the peace were non-assigned work pending the final disposition of the complaints process.

c) Dispositions by Complaints Committees

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

- ◆ dismiss the complaint if it is 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.

The Review Council has developed criteria in its Procedures to assist complaints committees in determining the appropriate disposition of a complaint:

- ◆ **Dismissal:** A complaints committee will dismiss a complaint after reviewing the complaint if the complaints committee believes: (i) it is frivolous or an abuse of process; (ii) it falls outside the Review Council's jurisdiction because it is a complaint about the exercise of judicial discretion and does not include an allegation of judicial misconduct; (iii) if it does include an allegation of judicial misconduct, the allegation is unproven or unfounded, or the conduct does not rise to the level of misconduct that requires further action on the part of the Review Council.
- ◆ **Provide advice:** A complaints committee will provide advice to a justice of the peace, in person or by letter, or both, 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.
- ◆ **Referral to the Chief Justice:** A complaints committee will refer a complaint to the Chief Justice of the Ontario Court of Justice in circumstances where the conduct 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. A complaints committee may impose conditions on their referral to the Chief Justice if, in its opinion, there is some course of action or remedial training of which the subject justice of the peace could take advantage.
- ◆ **Order a hearing:** A complaints committee will order a hearing into a complaint where there has been an allegation of judicial misconduct that the complaints committee believes has a basis in fact and which, if believed by the finder of fact, could result in a finding of judicial misconduct.



Through the Annual Report, complaints committees report to the Review Council and the public on their decisions. Except where a formal hearing is ordered, the report does not identify the names of the complainant or the justice of the peace who is the subject of the complaint.

After the complaints process is completed, the Review Council communicates its decision to the complainant and, in most cases, to the justice of the peace. A justice of the peace may waive receiving notice of a complaint where it has been dismissed (and the Council did not invite a response from the justice of the peace). In accordance with the Procedures, if the Review Council decides to dismiss a complaint, brief reasons will be provided in a disposition letter sent to the complainant and in a case summary that appears in the Annual Report.

d) Public Hearings

When the complaints committee orders a public hearing, under s. 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 community member.

Complaints committee members who participated in the investigation of a complaint do not participate or form part of the hearing panel.

The legislation provides authority for the Chief Justice of the Ontario Court of Justice to appoint judicial members as “temporary members” of the Council where it is necessary to achieve quorum to meet the requirements of the Act. This also provides a means to ensure that none of the three hearing panel members were involved in the investigation of the complaint.

The Review Council engages legal counsel, called presenting counsel, for the purposes of preparing and presenting the case about the justice of the peace to the hearing panel. The legal counsel engaged by the Review Council operates independently of the Review Council. The duty of 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 their own behalf in any hearing under this procedure.

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



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

A hearing under s. 11.1 of the Act is public unless the Review Council determines, in accordance with criteria established under the *Statutory Powers Procedure Act*, that it should proceed in private because the hearing concerns matters involving public security that may be disclosed or because intimate financial, personal or other matters may be disclosed which are of such a nature 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. If a complaint involves allegations of sexual misconduct or sexual harassment, the hearing panel will, at the request of the complainant or 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.

After hearing the evidence and submissions, under s. 11.1(10) of the 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.

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 recommends to the Attorney General under s. 11.2 that the justice of the peace be removed on one or more the following grounds:

- ◆ they have 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;

- ◆ they have engaged in conduct that is incompatible with the execution of the office; or
- ◆ they have failed to perform the duties of his or her office.

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

12. COMPENSATION FOR LEGAL COSTS

When a complaints committee has disposed of a complaint, s. 11(16) of the *Justices of the Peace Act* permits the committee to consider an application by the subject justice of the peace for compensation for legal costs incurred in connection with the investigation. The complaints committee may recommend to the Attorney General that the justice of the peace be compensated for all or part of the costs of legal services incurred in connection with the investigation.

Where a hearing into a complaint is ordered, s. 11.1(17) allows a hearing panel to consider an application by the subject justice of the peace for compensation for legal costs incurred in connection with both the investigation and the hearing. Where a recommendation for removal from office is made in response to a complaint received on or after July 8, 2020, a hearing panel shall not recommend compensation: s. 11.1(17.2).

The amount of compensation recommended by a complaints committee or hearing panel is based on a rate for legal services that does not exceed the maximum rate normally paid by the Government of Ontario for similar services, in accordance with s. 11(17) and s. 11.1(18) of the Act. Compensation requests are submitted to the Council after the complaints process has concluded, along with a copy of the lawyer's statement of account(s).

In 2021, five recommendations for compensation for legal costs were made to the Attorney General by complaints committees or hearing panels.



13. SUMMARY OF COMPLAINTS

The Justices of the Peace Review Council works hard to administer an efficient and timely process to review complaints against provincial judges that fall within its jurisdiction.

In 2021, the Review Council received, reviewed and responded to 42 letters of complaint. In addition, Council staff responded to several hundred phone calls from complainants and members of the public.

Many complaints received by the Review Council involve matters that are outside of its jurisdiction. For example, the Council receives a number of complaints that are about the decisions of justices of the peace rather than about their conduct. In addition, the Council receives complaints about federally appointed judges, police, lawyers or Crown Attorneys, and complaints concerning administrative law proceedings. Council staff review all such correspondence and provide written responses to complainants advising them of the appropriate body to which they may wish to direct their complaints. Depending on the nature of the complaint, Council staff may also provide information about legal resources that could possibly assist.

When the Council receives a complaint raising allegations that may be within its jurisdiction to investigate, a complaint file is opened and the complaint is assigned to a three-member complaints committee of the Council for review and investigation. During the reporting period, 9 new complaint files were opened and assigned to complaints committees of the Council. In addition, 9 complaint files were carried forward from 2020, 3 files from 2019, 3 files from 2018, and 1 file from 2017 for a total of 25 open complaint files under consideration by the Council during 2021.

In 2021, the Review Council closed 14 complaint files, of which 3 complaint files were opened in 2018 (these three complaints were ordered to a public hearing); 2 complaint files were opened in 2019 (these complaints were ordered to a public hearing); 6 complaint files were opened in 2020; and 3 complaint files were opened in 2021.

DISPOSITIONS OF CASES CLOSED: 2021

Disposition	Number of Cases
Dismissed – Out of Jurisdiction	4
Dismissed – Unsubstantiated or did not amount to judicial misconduct	2
Advice Letter	2
Advice – In Person	0
Referred to Chief Justice	0
Loss of Jurisdiction	4
Public Hearing	2

TYPES OF CASES CLOSED: 2021

Types of cases closed	Number of Cases	% of Caseload
Provincial Offences Court	3	21%
Intake Court	2	14%
Bail Court	5	36%
Peace bond application	0	N/A
Pre-enquêtes	0	N/A
Other – Outside of Court	4	29%
TOTAL	14	100%

CASELOAD IN CALENDAR YEARS

	2016	2017	2018	2019	2020*	2021*
New files opened during year	47	37	43	39	17	9
Files continued from previous year	22	29	35	33	29	16
Total open files during year	69	66	78	72	46	25
Files closed during year	40	31	45	43	30	14
Files continued into next year	29	35	33	29	16	11

*The number of new complaints received in 2020 and 2021 is likely lower due to the impact of the COVID-19 pandemic on court proceedings. Court proceedings were adjourned due to health risks associated with the pandemic. Most complaints arise from proceedings in court.

FORMAL HEARINGS 2021

Of the files closed in 2021, three complaints about the conduct of justices of the peace were the subject of public hearings. A public hearing is ordered pursuant to s. 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.

Hearing decisions are posted on the Review Council’s website on the webpage “Public Hearings Decisions” at:

- <https://www.ontariocourts.ca/ocj/jprc/public-hearings-decisions/>

Hearing about the conduct of Justice of the Peace Paul Welsh

The Review Council received two complaints about the conduct of Justice of the Peace Paul Welsh. However, on March 5, 2021 His Worship Welsh fully retired from office.

Jurisdiction to proceed with the hearing was lost. The hearing dates were vacated. A summary of this matter is found in the [next section](#) of this report.

Hearing about the conduct of Justice of the Peace Margot McLeod

Following a hearing into two complaints about the conduct of Her Worship Margot McLeod, the hearing panel made multiple findings of judicial misconduct, including that Her Worship made highly inappropriate written comments on a defendant's reopening application, including, "don't blame your girlfriend for having a miscarriage". The panel found that such comments were intemperate, lacking in judgment and propriety, disrespectful, undignified, hostile and insulting. The hearing panel concluded that Her Worship's comments and behaviour, considered collectively, demonstrated a lack of impartiality and objectivity, and that her persona in the courtroom and her manner of communication reflected a failure to demonstrate respect for the rule of law, due process and her role as a judicial officer.

The panel imposed a combination of dispositions consisting of a warning, a reprimand, an order to write letters of apology, and a requirement that Her Worship continue with education and mentoring as assigned by the Chief Justice, including monthly meeting with a mentor, as a condition of continuing to sit as a justice of the peace.

Judicial Review of Hearing Panel's decision re: Justice of the Peace Julie Lauzon

As noted in the Annual Report of 2020, following a hearing into 3 complaints about the conduct of Her Worship Julie Lauzon, a majority of the hearing panel recommended to the Attorney General that Her Worship be removed from office. Her Worship filed an application for judicial review, which was dismissed by the Divisional Court in reasons reported at *Lauzon v. Justices of the Peace Review Council*, 2021 ONSC 6174 and available at <https://canlii.ca/t/jj90l>. Her Worship filed a motion for leave to appeal this decision to the Court of Appeal for Ontario. This motion was still pending at the time when this Report was written.

Ongoing Hearings

At the time this report was written, public hearings were ongoing arising from complaints about the conduct of Justice of the Peace Dianne Ballam and Justice of the Peace Anna Gibbon.

Updates on ongoing hearings are provided on the Review Council's website at:

- <http://www.ontariocourts.ca/ocj/jprc/public-hearings/>

14. SUMMARIES - COMPLAINT FILES CLOSED IN 2021

Case Nos. 29-021/18 and 29-034/18

The Review Council received two complaints about the conduct of Justice of the Peace Paul Welsh. The complaints were investigated by a complaints committee and His Worship was invited to respond to the complaints.

The complaints committee ordered the complaints to a hearing. The allegations of misconduct, which were set out the Notice of Hearing filed in the hearing process, are briefly summarized below:

His Worship interacted inappropriately with police, including providing legal advice to a police officer; receiving and granting applications and making Orders outside of normal court processes, including in chambers, in a parking lot, and at a police station. His Worship granted applications for search warrants and related Orders without thoroughly reviewing them, and in a manner contrary to the statutory and Constitutional requirements. After His Worship was informed by a Regional Senior Justice that he was non-assigned from work until the final disposition of a complaint to the JPRC, he went to the police station, received and granted a Sealing Order and a final Report to Justice, and delivered them for police to the courthouse. His Worship's conduct showed preferential treatment or favouritism towards police officers and gave rise a perception of a conflict of interest.

A Hearing Panel was appointed by the Chief Justice to hear evidence in relation to the allegations and determine whether there should be a finding(s) of judicial misconduct and, if so, determine the appropriate disposition of the complaints.

On March 5, 2021 His Worship Welsh fully retired from office. Jurisdiction to proceed with the hearing was lost. The hearing dates were vacated.

Case No. 30-033/19

The Council received a letter of complaint from a senior employee of a federal agency. The complainant alleged that the subject justice of the peace hosted a fundraising event for a political party and solicited the attendance of others to the event.

The complainant enclosed a document showing that the event was held at a restaurant and that His Worship was among the list of attendees at the event.

The complainant referred to section 3.2 of *the Principles of Judicial Office* which provides that:



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.

The complaint was assigned to the three-person complaints committee of the Review Council, consisting of a judge, a justice of the peace and a community or lawyer member for review and investigation.

The committee reviewed the complaint letter and enclosure. The committee also retained independent investigative counsel to interview witnesses and obtain documentation relevant to the allegations. The committee reviewed the documentation and witness interview transcripts. The committee also invited the justice of the peace to respond to the allegations and reviewed His Worship's responses.

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. Accordingly, the Review Council lost jurisdiction to continue with the complaints process. The complaint file was administratively closed due to a loss of jurisdiction.

Case No. 31-007/20

The complainant attended bail court before the subject justice of the peace in his capacity as a police witness for the Crown Attorney. In his letter to the Council, the complainant alleged that the justice of the peace was racially biased towards him when he appeared in her courtroom.

The complainant stated that he attended court wearing "blue cargo pants, a t-shirt and a black leather motorcycle jacket". His hair was in cornrows. He indicated that, when he arrived in court, there was a matter being heard, so he took a seat in the courtroom and waited to speak with the Crown Attorney. The complainant said that, during a break in the proceedings, he observed white males and females dressed in suits approaching counsel table without incident.

The complainant says that he subsequently approached the Crown Attorney but, before he was able to speak, the justice of the peace yelled at him to get back to his seat, exclaiming, "you do not approach the Crown". When he attempted to show his badge to the justice of the peace, she again ordered him back to his seat. The complainant indicated that he returned to his seat without speaking to the Crown Attorney. He says he overheard one of the clerks inform the justice of the peace that he was a police officer, to which she allegedly replied, "I don't care. If he's a cop, he should know better".



The complainant wrote that he felt “belittled, racially and professionally abased before members of the justice system and members of the public”. He observed that his conduct did not appear to be different from other members of the court, “save the difference in our attire and skin colour.” He concluded by stating that, if his behaviour in court was inappropriate, he deserved an explanation of what he did wrong and how to do it better in the future.

The complaint was assigned to a three-person complaints committee of the Review Council, consisting of a judge, a justice of the peace and a community or lawyer member, for review and investigation. The committee reviewed the letter of complaint and requested and reviewed the transcript and audio recording of the proceeding in question. The committee also retained independent investigating counsel to interview one of the Crown Attorneys who was present on the date in question.

The committee was concerned that the justice of the peace made comments to the complainant that were inappropriate or lacking the level of dignity expected of a judicial officer. The committee noted in particular the following comments from the transcript:

THE COURT: ... Sir, have a seat. You can't – you can't approach the Crown. Have a seat. Sorry, I was looking down or I would have caught him before he got to you.

FEMALE VOICE FROM THE BODY OF THE COURT: No, he's a cop.

THE COURT: He's a cop, apparently. I don't care if he's a police officer. He doesn't approach the Crown. He never asked to. Apparently he's a police officer, and he should know better than. Yeah, gentleman in the green jacket.

The committee observed additional instances in the transcript where the justice of the peace made comments to other individuals in the courtroom that could be perceived as impatient and indicating a desire to rush the proceedings. The committee expressed concern that the justice of the peace also made comments that could be perceived as being inappropriate or lacking the level of dignity expected of a judicial officer.

The committee invited the justice of the peace to respond to its concerns and reviewed the response provided. In her response, Her Worship asserted that her exchange with the complainant had nothing to do with race but rather was because the complainant did not acknowledge the bench or flash his badge prior to approaching the Crown. Her Worship said that she regretted that the complainant felt that his race had any impact on their exchange and was truly sorry for the unintended impact her words had on him.

In respect of the committee's other concerns arising from the transcript, the justice of the peace indicated that she did not believe she was rushing matters, nor did she view her comments to other persons in the courtroom as impatient or inappropriate.



Based on the information gathered during its investigation, including the justice of the peace's response, the committee remained concerned that Her Worship lacked insight into her conduct, particularly the impact of her language, tone and demeanour in her capacity as a judicial officer. The committee could understand why the complainant perceived Her Worship's conduct as dismissive, potentially racist and belittling.

The complaints process through the Review Council is remedial in nature. The dispositions set out in s. 11 of the *Justices of the Peace Act* are meant to improve how justices of the peace handle situations and treat individuals in the future. The complaints committee decided that the appropriate disposition was to provide Her Worship with written advice, pursuant to s. 11(15)(b) of the Act.

In accordance with 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.

In its letter of advice, the committee communicated to the subject justice of the peace the importance of ensuring that all persons in the courtroom feel that they are being treated fairly and with respect. The committee noted that if the justice of the peace believed that the complainant did not follow proper protocol prior to approaching Crown counsel, she could have engaged with him in a more courteous and respectful manner and explained how she expected police officers or other justice system participants to approach counsel table.

The committee pointed out that, where an individual feels belittled or singled out by a judicial officer, even if unintended, the individual may be left with the impression that the judicial officer is exhibiting bias or lacks objectivity. The committee noted that the justice of the peace's apology to the Crown Attorney for not "catching" the complainant sooner could suggest that the justice of the peace viewed the complainant as a threat. In addition, the committee could understand why the complainant felt belittled by the subject justice of the peace's remark to the court clerk that she did not care if the complainant was a police officer and that he should have "known better". The committee advised the justice of the peace that making negative remarks to a court clerk about a person who is present in the courtroom could create the impression that the justice of the peace is biased.

Further, the committee emphasized the need to be sensitive to the reality of systemic racism in the legal system and in society at large, and to ensure that a judicial officer is not perceived to be operating under any implicit or unconscious bias. The committee stressed the importance of being mindful of how one's conduct and comments may be perceived by racialized individuals. The committee advised the subject justice of the peace to ensure that she participates fully in educational sessions offered by the Ontario Court of Justice on issues relating to anti-Black racism and systemic discrimination.



In respect of its additional concerns, the committee advised the justice of the peace that she should ensure that her language accords with the professionalism and dignity expected of her office. The committee further advised the justice of the peace that she should prioritize treating persons in the courtroom with patience and respect.

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

Case No. 31-009/20

The complainant is a member of the public who attended a courthouse to observe different court proceedings as part of a school assignment. Among the proceedings he observed was the subject justice of the peace presiding in bail court.

In his letter to the Review Council, the complainant raised concerns about the manner in which Her Worship presided over two matters and her conduct generally in the courtroom. The complainant alleged that Her Worship made a remark in one matter that was derogatory toward an accused who was an immigrant and, in another matter, was dismissive or insensitive toward an accused who appeared to be suffering from withdrawal or mental health issues.

The complainant concluded that he was only in Her Worship's courtroom for an hour but could no longer witness her behavior:

During the time I was in the courtroom [Her Worship] appeared bored, irritated and impatient. Her tone with the defence council [*sic*] was rude and unprofessional as well, several times replying to him in a sarcastic tone. [Her Worship's] tone of voice, words and behaviour were all completely unacceptable and I only witnessed one hour of her proceedings."

The complaint was assigned to a three-person complaints committee of the Review Council, consisting of a judge, a justice of the peace and a community or lawyer member, for review and investigation. The committee reviewed the letter of complaint and ordered and reviewed the transcript of the entire afternoon tier of proceedings over which Her Worship presided. One member of the complaints committee also listened to the audio recording of the proceedings.

While the committee observed that the allegation that Her Worship made a derogatory remark about an accused who was an immigrant was not borne out by the transcript, it was concerned about other comments made by Her Worship during the proceedings. For example, the committee noted that Her Worship appeared impatient and insensitive in dealing with an accused who, as the complainant alleged, appeared to be suffering from withdrawal or mental health issues ("Mr. C"). The committee noted that the justice of the peace adjourned Mr. C's bail matter without considering what options, if any, might be available to him given there appeared to be fitness concerns.



The committee was also concerned that some of Her Worship's comments could give rise to the perception that she was rushing through the proceedings and more concerned with concluding court than the rights of the parties. In respect of Mr. C's matter, for example, Her Worship remarked that she could not deal with fitness concerns "at this time of day".

Further, the committee observed that some of Her Worship's comments to counsel and court staff could be perceived as unprofessional, inappropriate, sarcastic and lacking in the formality and dignity expected of a justice of the peace.

The committee set out its concerns in a letter to the justice of the peace and invited her to respond to its concerns. The committee noted that in her written response, Her Worship appeared to have reflected on her conduct, expressed regret for some of her comments and agreed that she could and should have handled certain situations differently.

Despite Her Worship's acknowledgements and expressions of remorse, the committee observed that, in some instances, Her Worship appeared to be rationalizing or justifying her comments and behaviour. Further, the committee was concerned that Her Worship did not sufficiently understand her obligation to maintain professional boundaries when interacting with court staff and counsel.

The complaints process through the Review Council is remedial in nature. The dispositions set out in s. 11 of the *Justices of the Peace Act* are meant to improve how justices of the peace handle situations and treat individuals in the future. The complaints committee decided that the appropriate disposition was to provide Her Worship with written advice, pursuant to s. 11(15)(b) of the Act.

In accordance with 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.

In its letter of advice, the committee advised Her Worship that she could and should have explained why it was not possible for Mr. C to participate in a fitness assessment or bail hearing that day, and why an adjournment of his matter was the only viable option under the circumstances. The committee explained that providing such information on the record may have avoided the perception, on the part of Mr. C or members of the public observing the proceedings, that Her Worship was being insensitive toward, or had failed to assist, a vulnerable accused.

Further, the committee reminded Her Worship to be mindful of how her comments in relation to the time of day could be perceived. While justices of the peace should strive to manage their dockets with efficiency, this should not be done at the expense, or the perceived expense, of the rights of the parties and the interests of justice. The committee emphasized that justice should not only be done, it should be seen to be done.



The committee also advised Her Worship to avoid making comments while presiding that could be perceived as sarcastic, flippant or offhand. The committee reminded Her Worship that there is no such thing as an “off the record” comment for a presiding justice of the peace. It is inappropriate for a justice of the peace to make whispered remarks to court staff or mutter under her breath during a proceeding, regardless of whether such comments are overheard by others. Such conduct may also undermine the dignity, impartiality and professionalism of the justice of the peace.

Further, the committee emphasized that a justice of the peace should not let personal stress or a busy docket affect her communications with counsel and court staff. While a justice of the peace should maintain a collegial and respectful relationship with her colleagues, it is important for judicial officers to maintain appropriate professional boundaries and avoid personalizing their interactions with other justice system participants. Her Worship was advised to be careful to ensure that comments made with a view to bring levity to court proceedings could not be perceived to undermine the sanctity of the proceedings or the legal process.

After the committee provided its advice to Her Worship, the file was closed.

Case No. 31-013/20

This complaint was filed by a senior administrative judge with respect to the conduct of the subject justice of the peace towards some of her judicial colleagues, including members of the administrative judiciary in her region. The complainant enclosed emails that the subject justice of the peace had sent to various judicial officers, which the complainant described as “concerning”. In the emails, the subject justice of the peace made disparaging comments about other justices of the peace and used profanity towards one in particular. The complainant also indicated that two administrative judiciaries in the region allegedly were experiencing workplace harassment by the subject justice of the peace.

The complaint was assigned to a three-member complaints committee of the Review Council, composed of a judge, a justice of the peace and a community or lawyer member, for review and investigation. The complaints committee reviewed the complaint letter and enclosures provided by the complainant. The committee also retained independent investigation counsel to interview witnesses and obtain correspondence relevant to the allegations. The committee reviewed the witness interview transcripts and related documentation obtained during the investigation. The committee also invited the justice of the peace to respond to the allegations and reviewed the response provided.

Before a final determination could be made on the complaint, the Review Council received confirmation that the justice of the peace had left judicial office. Accordingly, the Review Council lost jurisdiction to continue with the complaints process. The complaint file was administratively closed due to a loss of jurisdiction.

Case No. 31-014/20

The complainant was admitted to the hospital for a psychiatric evaluation pursuant to a Form 2 signed by the subject justice of the peace. In her letter to the Review Council, the complainant made various allegations about the police who she alleged forced her to go to the hospital and the doctors and nurses who treated her there.

Council staff advised the complainant that the jurisdiction of the Review Council is limited to the investigation and review of complaints about judicial *conduct*, not judicial decisions. The complainant was advised that the Review Council has no legal authority to consider whether a justice of the peace correctly applied the law or assessed the evidence.

Council staff also provided the complainant with the contact information for the College of Physicians and Surgeons of Ontario in respect of her allegations about the care she received while at the hospital. She was also advised that a lawyer or paralegal would be in the best position to assist her and was provided with the number and email address for the Law Society Referral Service.

The complaints committee reviewed the correspondence from the complainant. The committee observed that the complaint did not raise any allegations of misconduct against the justice of the peace. The committee observed that the jurisdiction of the Review Council is limited to the investigation and review of complaints about judicial conduct, not judicial decisions, such as the decision to sign a Form 2. Nor does the Review Council have jurisdiction to consider the conduct or actions of other professionals, such as doctors and nurses.

Accordingly, the complaint was dismissed as out of jurisdiction and the file was closed.

Case No. 31-016/20

The complainant appeared before the subject justice of the peace on a criminal matter.

In his letters to the Review Council, the complainant alleged that the justice of the peace did not state his name during the hearing or ask him (the complainant) if he was injured in any way. The complainant further alleges that he was remanded in custody, which was a breach of his *Charter* rights. He states that because the Crown Attorney had no evidence to object to his release, the justice of the peace's conduct was "corrupt".

The complaints committee reviewed the complainant's letters and ordered and reviewed the transcript of the proceeding before the subject justice of the peace. The committee observed from the transcript that the complainant did not ask that the justice of the peace provide his name, nor did the justice of the peace refuse to do so. The committee notes that justices of the peace are not mandated to state their names at the outset of every matter over which they preside.



The committee observed that the justice of the peace may have introduced himself at the beginning of the court day, prior to the complainant's matter being called. In any event, the committee concluded that a justice of the peace failing to identify himself by name, particularly in the absence of any request, would not constitute judicial misconduct.

The committee also found that the transcript did not support the allegations that the justice of the peace was corrupt. In particular, the decision of the justice of the peace to remand the complainant into custody was a matter 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 jurisdiction is limited to the investigation of complaints about the conduct, not decisions, of a justice of the peace.

The committee concluded that the allegations regarding the justice of the peace's conduct were not supported by the record and did not constitute misconduct, and the allegations concerning the justice of the peace's decision-making were outside the jurisdiction of the Review Council. The complaint was dismissed, and the file was closed.

Case No. 31-017/20

The complainant was the former spouse of an accused who appeared before the justice of the peace for a bail hearing. In her letter to the Council, the complainant criticized the decision of the subject justice of the peace to release her ex-husband from custody. She also suggested that His Worship (and others) treated her ex-husband favourably because of his sex and, in the case of His Worship, a shared ancestry.

In a follow-up letter to the Council, the complainant advised that her ex-husband was now deceased, and that the subject justice of the peace should not have released him to the custody of his parents. She asserted that as a result of His Worship's decision, her ex-husband "spiralled out of control and descended into extreme criminal activity and consistent alcohol and drug use...". The complainant alleged that His Worship was not qualified to preside over bail court hearings.

The complaint was assigned to a complaints committee of the Review Council, consisting of a judge, a justice of the peace and a lawyer or community member, for review and investigation. The complaints committee reviewed the correspondence from the complainant and the transcript of the complainant's ex-husband's appearance before the justice of the peace.

The committee observed from the transcript that the complainant's ex-husband was released on consent of the Crown prosecutor and duty counsel. The justice of the peace accepted the release conditions proposed by counsel, including the condition that the accused not have any contact or communication with the complainant.

The committee observed that the decision of the justice of the peace was a matter of judicial decision-making outside the jurisdiction of the Review Council. The Review



Council has jurisdiction over the conduct, not decisions, of justices of the peace. Only a higher court can assess whether a justice of the peace erred in law.

The committee further observed that the transcript did not support the complainant's allegations of sexism and discrimination on the part of His Worship. The committee concluded that the allegations of misconduct were not borne out by the transcript and the allegations about His Worship's decision-making were outside the jurisdiction of the Review Council. The complaint was dismissed, and the file was closed.

Case No. 32-004/21

The complainant appeared before the subject justice of the peace to set a trial date. In her letter of complaint, she alleged that during this appearance, the justice of the peace was biased, treated her unfairly, had a conflict of interest and "made unprofessional, derogatory uncalled [sic] mean comments". The complainant further alleged that the justice of the peace mocked a higher court's bail variance and told her to "buzz out" of her daughter's affairs. She stated that the justice of the peace acted like a bully, made her feel guilty and "biasedly" expressed disapproval of her bail variance. After sending in her letter of complaint, the complainant provided various follow-up emails and documents to the Council regarding her allegations and various court matters.

The complaint was assigned to a three-person complaints committee of the Review Council, composed of a judge member, a justice of the peace member and a lawyer or community member, for review and investigation. The complaints committee reviewed the letter of complaint, as well as the audio recording of the proceeding and the additional correspondence and materials provided by the complainant. The committee also reviewed the transcript of the proceeding before the justice of the peace.

The committee observed from the transcript that the justice of the peace remarked on a variation of the complainant's bail conditions made during a previous appearance. The justice of the peace stated, "And I must admit, and although it's none of my business and I probably shouldn't say anything, I'm not impressed with condition H." His Worship went on to discuss why, in his view, condition H should not have been removed: "I just don't see it as being an overly broad term. I see it being very directed, that this lady [i.e. the complainant] in the simplest terms is to buzz out, period...".

The committee noted that it was not necessary for His Worship to express his personal views on the bail variance since this was an issue that was not before the court. The committee observed that, in any event, the justice of the peace could have used more tempered language to express his views. Judicial officers must be mindful of how their tone and comments in the courtroom affect public perceptions of the administration of justice. If a justice of the peace expresses personal views on the merits of an issue that they do not need to decide, this could negatively affect the perceived objectivity, integrity and professionalism of the judicial officer.



While the committee could appreciate why the complainant felt that the justice of the peace was biased against her, it concluded that his comments did not cross the line into judicial misconduct warranting a remedial disposition under the *Justices of the Peace Act*. The committee noted that the justice of the peace was not making any substantive determination affecting the complainant at the set date appearance during which the comments were made. Further, the committee observed that the justice of the peace did not tell the complainant to “buzz out” of her daughter’s affairs as alleged, but rather, was interpreting the impugned bail condition in this manner.

Finally, the committee concluded that the remaining allegations of misconduct were not borne out by the transcript. For instance, the committee found no evidence to support the allegations that the justice of the peace had a conflict of interest, acted like a bully or otherwise unprofessionally toward the complainant. The complaint was dismissed on the basis that the allegations were not substantiated and the justice of the peace’s conduct did not require further action on the part of the Review Council.

Case No. 32-001/21

The complainant was the mother of a teenaged boy who had been an excellent athlete, but then started using drugs and ended up leaving home and living on the streets. The complainant took many steps to try to help her son. The complainant indicated that a police officer advised her to seek a Form 2 on her son.

The complainant alleged that the justice of the peace who reviewed the Form 2 application refused to sign the Form 2 because she felt that her son was acting “of sane mind”. The complainant further alleged that the justice of the peace said she was “the only JP” serving the surrounding area and that it was evident that she did not have time to address her son’s situation. The complainant alleged that the justice of the peace’s decision was neglectful, as it was made without her requesting the police to bring her son to the courthouse so she could see his condition herself. The complainant advised that her son died several months after she the Form 2 application was refused. The complainant requested the Council to review the justice of the peace’s actions and to determine if she was negligent or had failed in her duties.

The complaint was assigned to a three-person complaints committee of the Review Council, consisting of a judge, a justice of the peace and a community or lawyer member, for review and investigation. The committee reviewed the letter of complaint and requested and reviewed the transcript of the Form 2 Mental Health Application, which was held remotely before the justice of the peace.

The committee carefully considered whether the allegations about the justice of the peace’s decision were within its jurisdiction and whether there was evidence that would support a finding of judicial misconduct. The committee concluded that the decision made by the justice of the peace not to sign the Form 2 was a matter of judicial decision-making



outside the Review Council's jurisdiction. This is because the justice of the peace's refusal to grant the Form 2 was intricately connected to the exercise of judicial discretion.

The legislated jurisdiction of the Justices of the Peace Review Council is limited to investigating and responding to complaints about how justices of the peace of the Ontario Court of Justice have conducted themselves in court or in public and to considering whether a justice of the peace has engaged in judicial misconduct. The Review Council does not have jurisdiction to consider complaints about the decisions that justices of the peace make, including their assessment of the evidence or application of the law.

Moreover, based on its review of the transcript of the proceedings on the Form 2 mental health application, the committee found no support for the allegation that the justice of the peace said she was "the only JP serving" the surrounding region or to support the allegation that the justice of the peace had paid insufficient attention to the application involving the complainant's son.

Accordingly, the complaint was dismissed as unsubstantiated and outside the jurisdiction of the Review Council and the file was closed.

Case No. 32-003/21

The complainant was a self-represented defendant in a *Provincial Offences Act* trial before the subject justice of the peace. In correspondence to the Review Council, the complainant alleged that the justice of the peace did not make a decision on his legal submissions, overruled the direction of the Chief Justice of the Ontario Court of Justice by making a decision in the proceeding before the next appearance date indicated in a notice from court administration, released a judgment without hearing from the complainant, made errors in his judgment, and was "unjust and prejudiced" against him.

The complaint was assigned to a three-person complaints committee of the Review Council, consisting of a judge, a justice of the peace and a community member, for review and investigation. The complaints committee reviewed the correspondence that the complainant provided. It also reviewed the transcript and audio of the appearances before the subject justice of the peace during the trial of the charges and at the sentencing hearing.

After reviewing these materials, the committee was of the view that there was no evidence to substantiate the allegations of misconduct. Further, the committee observed that the allegations relating to how the justice of the peace conducted the proceedings and made decisions were matters of judicial discretion and decision-making outside the jurisdiction of the Review Council.

The role of the Review Council is limited to the investigation and review of the conduct (not the decisions) of justices of the peace in the Province of Ontario. Justices of the peace are independent judicial officers and have decision-making independence in

accordance with the *Constitution Act, 1867*. If a person believes that a justice of the peace made errors in assessing the evidence or determining issues in a case, the legal remedy to pursue is an appeal or a judicial review application.

As there was no evidence to support the allegations of misconduct and the allegations were otherwise outside the jurisdiction of the Review Council, the complaints committee dismissed the complaint and closed its file.

15. EXTRA-REMUNERATIVE WORK APPLICATIONS

Under s. 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 extra-remunerative work are considered in accordance with the Council's Policy on Extra-Remunerative work, which is found on the Review Council's website at:

- <https://www.ontariocourts.ca/ocj/jprc/policies-and-procedures/extra-remunerative-work/>

The policy sets out criteria that are used in assessing applications, including:

- ◆ whether there is an actual or perceived conflict of interest between the judicial 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 fitting or appropriate activity in which a judicial officer should engage, having regard to public perceptions of judicial demeanour, independence and impartiality.

The Council considers two factors in determining whether non-judicial work is “remunerative”. First, the Council considers whether the work gives rise to any remuneration to the applicant justice of the peace directly. Second, the Council considers whether a justice of the peace is a party to someone else’s remunerative work. The Review Council has determined that there are circumstances, such as where a justice of the peace’s spouse is receiving remuneration, where a justice of the peace may be engaged in extra-remunerative work even though he or she is not receiving remuneration directly. If the Council determines that the justice of the peace is engaged in extra-



remunerative work, the policy and criteria set out by the Council for considering applications is 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 public perceptions of judicial demeanour, independence and impartiality (paragraph 6(c) of the Policy Re Extra-Remunerative Work). The Council has determined that this criterion must be understood in the context of the public policy encapsulated in the legislative framework set out in the *Justices of the Peace Act* 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, generally, it would 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 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.

In this reporting year, the Council considered and decided five applications from justices of the peace for approval to engage in extra-remunerative work.

The following are summaries of the applications that were considered in 2021.



Case No. ER-32-001-21

The Review Council approved an application to engage in extra-remunerative work as a Commissioned Reserve Officer with the Canadian Armed Forces Reserve (“CAF”). 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 of the same rank and position without regard to the position as a justice of the peace.
- 2) His Worship must ensure that his work as a Commissioned Reserve Officer would not interfere with or delay the completion of his judicial duties. In particular:
 - a. His Worship’s duties with the CAF must not interfere with or take priority over the completion of his daily court docket; and
 - b. His Worship’s duties with the CAF must not impact or delay any judgments, especially interim release decisions.
- 3) His Worship must 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 nature of his role and responsibilities with the CAF change, he must advise the Review Council in writing immediately.
- 5) The Review Council reserved the right to revisit His Worship’s request and its decision should any relevant circumstances change.

Case No. ER-32-002-21

The Review Council approved an application to engage in extra-remunerative work as a Commissioned Reserve Officer with the Canadian Armed Forces Reserve (“CAF”). 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 of the same rank and position without regard to the position as a justice of the peace.

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- 2) Her Worship must ensure that her work as a Commissioned Reserve Officer would not interfere with or delay the completion of her judicial duties. In particular:
 - a. Her Worship's duties with the CAF must not interfere with or take priority over the completion of her daily court docket; and
 - b. Her Worship's duties with the CAF must not impact or delay any judgments, especially interim release decisions.
 - 3) Her Worship must maintain her distance as a Commissioned Reserve Officer from her role and responsibilities as a judicial officer, particularly in relation to avoiding any reference to her judicial position.
 - 4) Should the nature of her role and responsibilities with the CAF change, she must advise the Review Council in writing immediately.
 - 5) The Review Council reserved the right to revisit Her Worship's request and its decision should any relevant circumstances change.

Case No. ER 32-003-21

The Review Council approved an application to engage in extra-remunerative work as a Commissioned Reserve Officer with the Primary Reserve of the Canadian Armed Forces (CAF). The applicant acknowledged having engaged in extra-remunerative work with the CAF following his appointment to the bench. The applicant advised that he immediately ceased collecting remuneration when it became apparent that prior approval of the Review Council was required before engaging in remunerative work.

The Review Council considered the applicant's candour in disclosing this error in judgement, as well as the nominal sum of remuneration he had thus far received, and the fact that the applicant ceased collecting remuneration upon realizing the error. In these circumstances, the Council decided not to take any action in relation to this breach of its policy and approved the application, 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 of the same rank and position without regard to the position as a justice of the peace.
- 2) His Worship must ensure that his work as a Commissioned Reserve Officer would not interfere with or delay the completion of his judicial duties. In particular:

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- a. His Worship's duties with the CAF must not interfere with or take priority over the completion of his daily court docket; and
 - b. His Worship's duties with the CAF must not impact or delay any judgments, especially interim release decisions.
- 3) His Worship must 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 nature of his role and responsibilities with the CAF change, he must advise the Review Council in writing immediately.
 - 5) The Review Council reserved the right to revisit His Worship's request and its decision should any relevant circumstances change.

Case No. ER 32-004-21

The Review Council approved an application to engage in extra-remunerative work teaching a college course.

The Council noted that educational teachings by justices of the peace should not present any potential negative impacts on judicial responsibilities or pose issues relating to fulfilling judicial scheduling obligations.

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.

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- 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.
 - 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-32-005-21

The Review Council approved an application to teach two courses at a community college.

The Council noted that educational teachings by justices of the peace should not present any potential negative impacts on judicial responsibilities or pose issues relating to fulfilling judicial scheduling obligations.

The approval of the Council was granted, 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) 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 daytime teaching must be undertaken on dates when he has neither a court assignment nor a non-presiding day, but rather on a scheduled vacation or lieu day.
- 3) His Worship must maintain appropriate distance in the completion of the teaching of these courses 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 judicial official responsibilities.

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