



THE CONDUCT OF JUDGES

and the role of the
Canadian Judicial Council

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CANADIAN JUDICIAL COUNCIL

The Canadian Judicial Council is made up of 39 members and is chaired by the Chief Justice of Canada. Membership consists of the chief justices, associate chief justices and some senior judges from provincial and federal superior courts across the country. The Council collectively has authority over a body of more than a thousand federally appointed judges. The Council meets twice a year. In the meantime, it is through committees that the Council does much of its work. Some of these are permanent, standing committees; others are formed to deal with specific issues or projects.

The operation of Canadian justice relies on the existence of a highly trained, professional and independent judiciary.

Canadians rightly demand a high degree of professionalism and good conduct from their judiciary. They also need a judiciary that is independent and able to render judgments without fear of reprisal. To that end, Parliament created the Canadian Judicial Council in 1971, giving it power under the *Judges Act* to investigate and rule on complaints about the conduct of federally appointed judges.

THE CONDUCT OF JUDGES

Every year, federally appointed judges in Canada make thousands of decisions on matters that range from procedural questions to the most fundamental interests of those appearing before them.

Judges can make mistakes. When one side or the other in a legal dispute thinks that a judge has come to the wrong **decision**, our system of justice allows that person to appeal the decision to a higher court. Appeal courts can reverse or vary the decisions made by other judges. The fact that an appeal court has overturned a judge's decision does not mean that the judge's conduct was improper or that grounds exist for removal of the judge from the bench.

Whether judges are correct or incorrect in their decisions, a high standard of personal **conduct** is expected of them. When someone believes that a judge's behaviour is of serious concern, or that a judge is not fit to sit on the bench, here too our system of justice provides for a remedy. In such cases, a complaint may be addressed to the Canadian Judicial Council.

AN IMPORTANT DIFFERENCE

When issues arise concerning a judge's role in a trial, the distinction between *decision* and *conduct* is fundamental in deciding where you should go for remedy.

| Issue | Remedy |
|-----------------------------------------|-----------------------------------------------------------------------|
| A judge's <i>decision</i> is questioned | Appeal – a higher court reviews the decision |
| A judge's <i>conduct</i> is questioned | Complaint – the Canadian Judicial Council reviews the judge's conduct |

The Council's Judicial Conduct Committee is responsible for reviewing judicial conduct in a way that is fair, objective and effective. It must also guarantee a prompt and fair hearing for judges who are accused of misconduct. In all cases, judicial independence – the foundation stone of Canadian justice – is central to the process.



The Complaints Process

Canadians can have confidence in their judges. From the tens of thousands of judicial hearings that take place every year in Canada's superior courts comes a very low number of complaints. Although the Minister of Justice or a provincial Attorney General may generate an inquiry, most complaints come from the general public, and around half relate to cases in family law.

- If you wish to make a complaint, you do not need to be represented by a lawyer. Simply make your complaint *in writing* to the Canadian Judicial Council at:

Canadian Judicial Council
Ottawa, Ontario
K1A 0W8

Your letter should include:

- Your name and address
- Name of the judge, court, date and circumstances of the conduct in question
- Detailed description of the conduct

- A member of the Canadian Judicial Council's Judicial Conduct Committee examines the complaint and determines whether the judge in question should be contacted. If necessary, an independent counsel may be appointed to make further inquiries. If more than one perspective is needed, a panel made up of Council members and puisne judges (that is, ordinary judges, not chief justices or associate chief justices) may be struck.
- If the matter is very serious, or if the complaint comes from a provincial Attorney General or the Minister of Justice of Canada, an Inquiry Committee may be appointed to hold a public hearing, after which the matter goes on for discussion by the full Council.
- After considering the report of an Inquiry Committee, the Council may recommend to Parliament (through the Minister of Justice) that the judge be removed from office.

- The Council's only power is to recommend to Parliament that a judge be removed from office. Parliament has never had to face such a situation, although sometimes judges retire or resign before the matter gets that far. Where appropriate, the Council may express concerns about a judge's conduct where the matter is not serious enough to recommend that the judge be removed.
- When your complaint has been considered and determined, the Council will advise you of the decision in writing.

Authority of the Canadian Judicial Council

The Council has authority only over federally appointed judges – that is, those presiding over the courts listed below. A complaint about a provincial or territorial court judge should be directed to the judicial council in your province or territory.

Canada

Supreme Court of Canada

Federal Court of Appeal

Federal Court

Court Martial Appeal Court of Canada

Tax Court of Canada

Newfoundland

Supreme Court, Court of Appeal

Supreme Court, Trial Division

Prince Edward Island

Supreme Court, Appeal Division

Supreme Court, Trial Division

Nova Scotia

Court of Appeal

Supreme Court

New Brunswick

Court of Appeal

Court of Queen's Bench

Quebec

Court of Appeal

Superior Court

Ontario

Court of Appeal

Superior Court of Justice

Manitoba

Court of Appeal

Court of Queen's Bench

Saskatchewan

Court of Appeal

Court of Queen's Bench

Alberta

Court of Appeal

Court of Queen's Bench

British Columbia

Court of Appeal

Supreme Court

Yukon

Supreme Court

Northwest Territories

Supreme Court

Nunavut

Court of Justice

