



GUIDELINES FOR JUDICIAL CONDUCT 2019

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A. PREFACE

1. This publication is intended to provide practical guidance to members of the judiciary in New Zealand. It revises the last set of Guidelines issued in 2013. The general principles it identifies underpin the legitimacy of judicial function which is essential to any society organised by law. As such, the general principles can readily be accepted as standards all judges agree to live by when accepting appointment. The public of New Zealand is entitled to expect judges to follow the principles identified.
2. In practice, the application of the principles to circumstances as they arise every day is not always as clear cut as agreement on the general principles might suggest. The application of a principle may be novel or may be affected by changing community values. In some cases, whether the principle is engaged at all in the particular circumstances may be a matter of reasonable differences of view. In other cases, there may be reasonable differences of opinion as to whether particular conduct by a judge affects the judicial function or whether it is private.
3. For these reasons, the guidance provided in these statements and comments is not intended to be a code of conduct. Rather, it is advice designed to assist judges to make their own choices, informed by a checklist of general principles and illustrations drawn from experience.
4. These guidelines illustrate the difficult choices confronting individual judges from time to time. In the end, the legitimacy of judicial function and the independence of the judiciary depend upon public confidence. Stripping away the mystique attached to what judges do and making explicit the process by which ethical dilemmas are confronted respects the community's vital interest in judicial standards and their maintenance.
5. Advice such as is provided here can never hope to be definitive. It must evolve to meet the changing expectations the community reasonably has of its judiciary. So the standards discussed are in part tentative and subject to reconsideration. In some cases they may require modification where the court consists of a panel of judges where different considerations may apply.
6. The acceptance of judicial office has implications for the family of a judge. The constraints that a judge accepts upon appointment are not directly applicable to family members. But the conduct of family members may, for example, give rise to an apprehension of bias on the part of the judge, or suggest that the judge has made inappropriate disclosures or statements.
7. These Guidelines provide some guidance to judges in relation to conduct by family members that might raise issues for the judge. It is the responsibility of a judge to bring such matters to the attention of family members.

B. RELATIONSHIP WITH THE JUDICIAL COMMISSIONER AND JUDICIAL CONDUCT PANEL ACT 2004

8. (a) Under the Judicial Commissioner and Judicial Conduct Panel Act 2004, a member of the public may make a complaint to the Judicial Conduct Commissioner about the conduct of a judge. These guidelines do not identify misconduct. They are not intended to bind or limit in any way the Commissioner's discretion in dealing with any such complaint as he or she thinks fit. Nor are they intended to extend the Commissioner's jurisdiction.
- (b) A complaint about the "conduct" of a Judge does not include dissatisfaction with the legality or correctness of judicial decisions. The Commissioner must dismiss the complaint where the complaint is about a judicial decision or other judicial function that is or was subject to a right of appeal or right to apply for judicial review.¹

C. THE BANGALORE PRINCIPLES

9. *The Bangalore Principles of Judicial Conduct* were initiated by the United Nations in 2001 and, after wide consultation, were endorsed at the 59th session of the United Nations Human Rights Commission at Geneva in 2003.

10. Their stated intention is:

"To establish standards for ethical conduct of judges. They are designed to provide guidance to judges and to afford the judiciary a framework for regulating judicial conduct. They are also intended to assist members of the Executive and Legislature, and lawyers and the public in general, to better understand and support the judiciary".

11. In summary, the principles are:

- a. **Judicial independence** is a prerequisite to the rule of law and a fundamental guarantee of a fair trial. A judge shall therefore uphold and exemplify judicial independence in both its individual and institutional aspects.
- b. **Impartiality** is essential to the proper discharge of the judicial office. It applies not only to the decision itself but also the process by which the decision is made.
- c. **Integrity** is essential to the proper discharge of the judicial office.
- d. **Propriety**, and the appearance of propriety, are essential to the performance of all the activities of the judge.
- e. **Ensuring equality of treatment** to all before the courts is essential to the due performance of the judicial office.
- f. **Competence and diligence** are prerequisites to the due performance of judicial office.

¹ Judicial Commissioner and Judicial Conduct Panel Act 2004, ss 8(2) and 16(1)(f).

12. These guiding principles overlap to some degree but are designed to enhance public confidence in the independence and impartiality of the judiciary. These principles are discussed further in the material which follows.

D. JUDICIAL INDEPENDENCE

13. Judicial independence is sometimes mistakenly perceived as a privilege enjoyed by judges. In fact, it is a cornerstone of our system of government in a democratic society and a safeguard of the freedom and rights of the citizen under the rule of law.
14. There are two aspects of this concept that are important for present purposes: constitutional independence and independence in the discharge of judicial duties.

Constitutional Independence

15. The principle of the separation of powers requires that the judiciary must be, and be seen to be, independent of the legislative and executive branches of government.
16. The independence of the judiciary from the legislative and executive arms of government is fundamental to the constitutional balance under the Constitution Act 1986 as well as to the principle of legality which underlies it and the rights and freedoms recognised by the New Zealand Bill of Rights Act 1990.
17. It is secured by ancient guarantees of security of tenure and salary, now to be found in ss 23 and 24 of the Constitution Act 1986, and by constitutional conventions which prevent the executive directing the judiciary or criticising judges. Parliament directs the judiciary only by legislation. To reflect the separation of the judiciary from the other branches of government, judges are not “employed” by the government or the Ministry of Justice.
18. The independence of the judiciary imposes reciprocal obligations upon the judges to respect the proper role of Parliament and the executive. Judges cannot avoid entering upon politically contentious matters if properly brought before them in legal proceedings (although comments should be measured). But extra-judicial statements upon politically contentious matters are not appropriate if the judge’s involvement could reasonably undermine confidence in his or her impartiality on a matter that could come before the court, if it might unnecessarily expose the judge (and the judiciary) to political attack, or if the status of judicial office is used.

Independence in the discharge of judicial duties

19. Judges are independent in the performance of judicial function not only from the other branches of government, but from each other. Judicial decision-making is the responsibility of the individual judge, even in a collegiate appellate court. The Chief Justice or Head of Bench has no authority over the discharge of judicial function by other judges.
20. Judges should always take care that their conduct, official or private, does not undermine their institutional or individual independence, or the public appearance of independence. Judges should bear in mind that the principle of judicial independence

extends beyond the traditional separation of powers and requires the judge to be, and be seen to be, independent of all sources of power or influence in society, including the media and commercial interests. Judges should protect independence by rejecting any attempts to influence them except by public advocacy in the courtroom.

21. Illustrations of issues relating to judicial independence are set out in section G *Activities outside the courtroom* below.

E. IMPARTIALITY

22. Impartiality is the essential quality required of the judge. That is made explicit by the judicial oath which requires judges to act “without fear or favour, affection or ill-will”. Even the constitutional requirement of judicial independence is essentially a means to the end of impartiality.
23. Impartiality must exist both as a matter of fact and as a matter of reasonable appearance. Reasonable appearance of partiality can be impossible to dispel, leaving a sense of injustice which is deeply destructive of confidence in judicial decisions.
24. The appearance of impartiality is measured by the standard of a fair-minded and properly informed observer. This objective standard supports public confidence in the judicial system.
25. The appearance that a judge is not impartial can be given by apparent conflict of interest, by judicial behaviour on the bench, and by associations and activities off the bench. Whether such appearance could reasonably be given is often extremely difficult to judge in advance or at the time. A judge will need to be careful about expressions of views which might give the appearance of bias, particularly in relation to differences arising from culture, race, religious belief or gender.
26. From time to time judges will err in concluding that no reasonable apprehension of partiality or bias could be taken from the circumstances. A conclusion that there was a reasonable apprehension of bias by an appellate or reviewing court does not of itself entail criticism of the judge’s conduct or ethics. Such a conclusion simply reflects the appellate court’s disagreement with what the circumstances objectively require and casts no personal aspersion on the judge concerned. That is not however a distinction always appreciated by lay litigants. Some vigilance on the part of the judge is warranted by the sensitivity of the issue and its capacity to erode confidence in the judiciary.
27. The requirement of impartiality does not mean that judges cannot have sympathies or opinions about matters of public interest. But they should recognise and suppress their own views in doing right according to law with an open mind in the particular case.
28. In certain circumstances, a judge may be obliged to disqualify himself or herself from sitting in a particular case. This topic is dealt with in the recusal guidelines published on Courts of New Zealand for each court.

F. CONDUCT AT COURT

(a) Behaviour in court

29. The primary obligation of a judge is to determine the case before him or her according to law without being deflected from that obligation by desire for popularity or fear of criticism.
30. The judge must hear a case in accordance with the principles of natural justice and on the evidence in the case. Communication between the judge and any party in the absence of the other party to the case is not permissible, except in proceedings properly heard *ex parte*.
31. It is important for judges to maintain a standard of behaviour in court that is consistent with the status of judicial office and does not diminish the confidence of litigants, and the public in general, in the ability, integrity, impartiality and independence of the judge.
32. It is therefore necessary to display such personal attributes as punctuality, courtesy, patience, tolerance and good humour. Any trial is a serious matter but that does not mean that occasional humour is out of place in a courtroom, provided it does not embarrass a party or witness or give the impression to a litigant that his or her case is not being taken seriously. Indeed, it sometimes relieves tension and thereby assists the trial process.
33. Nevertheless, the entitlement of everyone who comes to court, whether counsel, litigants or witnesses, is to be treated in a way that respects their dignity. Bullying by the judge is unacceptable. Judges must conduct themselves with courtesy to all and must require similar courtesy from those appearing in court. Judges should be alert to protect parties or witnesses from discourtesy or displays of prejudice based on racial, sexual, religious or other impermissible grounds. It is worth remembering that a number of complaints to the Judicial Conduct Commissioner have had as their foundation remarks or conduct of judges in the course of proceedings. The absence of any intention to offend does not lessen the impact on counsel, witnesses or litigants.
34. A judge must be firm in maintaining proper conduct during a hearing. Intervention is appropriate but should be moderate. It is important a judge does not appear from interventions to have reached a conclusion prematurely or, in the case of criminal trials before a jury, to have reached a view of guilt or innocence. Judges should bear in mind the impact their conduct may have on the perception of a fair hearing.
35. A judge should remember that informal exchanges between the judge and counsel may convey an impression that the judge and counsel are treating the proceedings as if they were an activity of an exclusive group. This should be kept in mind, particularly in the case where there is an unrepresented litigant, but the caution extends to all cases.

(b) Private communications

36. Once a case is underway, there should be no communication or discussion between the judge and one of the parties (or the legal advisers or witnesses of a party). Any communication should be with all parties unless the other party has given previous consent to the communication.
37. On some occasions counsel may correspond with judges associates about fixtures and other routine matters. Judges should ensure that their associates understand what is and is not permitted. Neither lawyers nor litigants are permitted to seek guidance from the judge on practical or procedural points that arise in relation to a particular case, other than with the consent of the other parties or on notice to the other parties.

(c) Diligence in discharge of official functions

38. Judges should diligently and faithfully discharge their judicial functions. The obligation covers not only intellectual honesty in judging and prompt disposal of work, but willingness to undertake a fair share of the work of the court.

(d) Correction of oral judgments

39. A judge should not alter the substance of reasons for decisions given orally. The correction of slips or poor expression, including citations omitted at the time of oral judgments, is acceptable. A judge may advise parties of intention to correct expression but need not do so.

(e) Correction of transcript of summing up

40. The transcript of a summing up to a jury should not be altered unless it does not correctly record what the judge actually said.

(f) Reserved judgments

41. A judge should deliver reserved judgments within a reasonable time. If other work commitments prevent a judge from completing a reserved judgment, it is the responsibility of the judge to raise the matter with the scheduling judge or the Head of Bench so that opportunity for completion of the judgment can be provided.
42. A judge should be mindful of the adverse impact on litigants of delay in delivering judgment, and of the erosion of public confidence in the administration of justice such delay can cause. Unacceptable delay, without a good explanation, can amount to judicial misconduct. The matter should not be left until the number of judgments involved and the delay involved have become a significant concern. The Heads of Bench are required to periodically publish information about judgments outstanding beyond a reasonable time.

(g) Critical comments

43. Care should be taken to avoid unnecessary criticism in the exercise of the judicial function. This includes taking care about comments made in court (see F(a) *Conduct at court, Behaviour in court* above) and observations made in reasons for judgment or

in remarks on sentence. The legitimate privacy interests of those involved in litigation and of third parties should also be borne in mind.

(h) Communication with appellate court

44. A judge should not communicate with an appellate court where an appeal is taken from the judge's determination unless a report is called for by the appellate court.

G. ACTIVITIES OUTSIDE THE COURTROOM

Illustrations of issues relating to judicial independence

(a) Communication with executive or Parliament on behalf of the judiciary

45. Communication with the executive on behalf of the judiciary is usually the responsibility of the Chief Justice or (if only one jurisdiction is affected) the Head of Bench. Such communication should be open and formal.
46. Communication with political parties, Members of Parliament or any appearance of political lobbying (such as through signing petitions) is inappropriate.

(b) Membership of political organisations

47. Membership of, or association with, political organisations is generally not consistent with judicial independence.

(c) Voting

48. In the past, judges have taken the view that they should abstain from voting in general elections. The more general view now is that judges should not feel precluded from exercising the general privileges and responsibilities of citizenship.

(d) Submissions or evidence to Parliamentary Select Committees

49. Subject to [51]–[52], a judge is not precluded from making a submission or giving evidence before a parliamentary select committee on a matter affecting the legal system. However, caution is recommended. It is important to avoid entering upon matters of a political nature and to bear in mind the need to maintain judicial independence from the legislative and executive branches of government. It is important for the Chief Justice to be consulted before embarking upon a submission.

(e) Participation in public debate/media/judicial writing

50. If a matter of public controversy calls for a response from the judiciary or a particular court, it should come from the Chief Justice or Head of Bench or with his or her approval. In other cases it may be beneficial to public debate for judges to provide information relating to the administration of justice and the functions of the judiciary. Such participation is desirable but requires care. In particular a judge should avoid political controversy. It is important to avoid using judicial office to promote personal views and to avoid the appearance of capture by particular organisations or causes. Judges should avoid expressing opinions on matters which may arise in litigation and which may lead to concern about the impartiality of the judge.

51. Considerable care should be exercised to avoid using the authority and status of the judicial office for purposes for which they were not conferred. Points to bear in mind when considering whether it is appropriate to contribute to public debate on any matter include the following:
- a. The place at which, or the occasion on which, a judge speaks may cause the public to associate the judge with a particular organisation, group or cause;
 - b. There is a risk that the judge may express views, or be led in the course of discussion to express views, that will give rise to issues of bias or prejudice in cases that later come before the judge even in areas apparently unconnected with the original debate. A distinction might be drawn between opinions and comments on matters of law or legal principle, and the expression of opinions or attitudes about issues or persons or causes that might come before the judge;
 - c. Expressions of views on private occasions must also be considered carefully as they may lead to the perception of bias;
 - d. Other judges may hold conflicting views, and may wish to respond accordingly, possibly giving rise to a public conflict between judges which may bring the judiciary into disrepute or could diminish the authority of a court;
 - e. A judge, subject to the restraints that come with judicial office, has the same rights as other citizens to participate in public debate;
 - f. A judge who joins in community debate cannot expect the respect that the judge would receive in court and cannot expect to join and to leave the debate on the judge's terms.
52. Publication in legal journals or presentations at legal seminars is not objectionable but requires care to avoid expressing firm views about matters which may come before the court for determination.

(f) Taking part in conferences

53. Judges may deliver papers without a fee at legal conferences. Reasonable reimbursement of travel and accommodation expenses directly associated with the conference is acceptable.
54. Participation in, or the giving of papers without a fee at, non-legal conferences, is not objectionable. It is advisable to avoid speaking or writing on controversial or politically sensitive topics. A judge who is asked to speak at a non-legal conference should make sure that there is no risk of the judge appearing to be associated with the organisers or others who share the platform with the judge, if such association is likely to be controversial. Reasonable reimbursement of travel and accommodation expenses directly associated with the conference is acceptable.

(g) Comments on judicial decisions

55. Judgments must stand without further clarification or explanation. Where a decision is subject to inaccurate comment, any appropriate response should be from the Chief Justice or Head of Bench. Generally, the most effective response is to get the full text of the judgment into the public arena promptly. In major or high-profile cases, a short explanatory media release may be appropriate to accompany a judgment along the lines sometimes adopted by the Supreme Court.

(h) Judges explaining the legal system

56. Judges are often asked to speak to community groups and organisations to improve community understanding of the administration of justice. The precautions identified in [51] should be noted.

(i) Writing for newspapers or periodicals; appearing on television or radio

57. There is no objection to articles in news outlets (online or paper) or non-legal periodicals and other contributions intended to inform the public about the law and about the administration of justice generally. Before agreeing to write such an article, the judge should consult with the Head of Bench.

58. Occasionally a judge may be invited to contribute to public discussion on matters of public interest. Such contribution might be written comment, by radio, television or via the internet. There is no objection in principle to this, but the precautions identified in [52] should be considered and the Head of Bench should be consulted. Contribution via the media requires particular care. A court media officer should ensure that the host understands and will observe the limits on judicial participation and should be consulted about the making of necessary arrangements.

(j) Threats to independence in the discharge of judicial duty

59. Sometimes judges receive letters or other communications containing threats to the safety or welfare of themselves or members of their family in an attempt to influence a judicial decision. Conduct of this nature will not influence the judge but, where appropriate, it may be prudent to report any such threat to the Head of Bench and to the Ministry of Justice security personnel or to the police. Except where there are immediate concerns, a judge should consult with the Head of Bench or a senior colleague before reporting a matter to the police.

Extra-judicial activities

60. Guidance on extra-judicial employment and offices can be found in the [Chief Justice's 2017 Protocol](#) on those topics.
61. For other activities, the days are past when appointment to the judiciary compelled social and civic isolation. Effective judges should not be isolated from the communities they serve. Judges are also entitled to private and civic lives which are not disadvantaged by office.

62. On the other hand, a judge's conduct, both in and out of court, inevitably attracts closer public scrutiny than that of other members of the community. And the standing of the judiciary is adversely affected by conduct which, for others, might not attract serious criticism. Judges must therefore accept some restrictions on conduct and activities as a consequence of appointment.

63. Where the balance should be struck is a matter of reasonable difference of opinion but, as a general principle, a judge should try to ensure that his or her conduct in public and in private, maintains and enhances public confidence in the integrity of the judge and of the judiciary generally. Here is some Guidance in respect of specific activities.

(a) Membership of discriminatory organisations

64. A judge should not be a member of any social organisation which discriminates on the basis of race, sex, religion or national origins.

(b) Personal integrity

65. Lack of integrity or propriety in private dealings and financial affairs, such as would expose the judge to the censure of reasonable, fair minded and informed persons, may be viewed as incompatible with judicial office.

(c) Personal behaviour

66. Personal and social relationships, if exploitative or abusive may be incompatible with judicial office.

(d) Alcohol or drug use

67. Judges who abuse alcohol or other drugs are likely to be impaired in the discharge of their judicial functions. For judges who deal with the effects of alcohol and drug abuse this likely would also be seen to compromise their impartiality.

(e) Breaches of the law

68. Any breaches of the law, (other than trivial or technical) are incompatible with the judicial obligation to uphold the law.

(f) Harassment (including sexual harassment)

69. Comment or conduct (including sexual comment or conduct) by a judge that is inappropriate, insulting, intimidating, degrading or offensive is incompatible with judicial office.

(g) Protection of personal interests

70. Judges are not denied the right to act in protection of rights of property and other personal interests. Nor should they lightly be denied the freedoms of association and expression secured for all citizens.

71. But judges should be circumspect about involvement in litigation personally, even if the litigation is in another court. Good sense must prevail and although this does not

mean that a judge should abandon the legitimate pursuit or defence of private interests, their protection needs to be conducted with great caution to avoid creating any impression that the judge is taking improper advantage of his or her position. The judge should consider also the possibility of an adverse finding, and the impact of that if it occurs.

(h) Management of own investments

72. Judges are not precluded from managing their own investments and those of their immediate families or family trusts provided they do not distract from judicial duties. Some caution is necessary if the investments are substantial or of a nature which is likely to give rise to controversy. In such cases it may be preferable for the judge to be removed from direct management.

(i) Legal advice and representation

73. Judges should not give legal advice except without compensation for close family members. The source of the advice must remain confidential to those advised. [See [79].² A judge is not precluded from acting for himself or herself in legal matters but should not, in so acting, abuse the standing of judicial office to advance the interests of the judge or the judge's family. The judge cannot act as advocate or negotiator for a family member in a legal manner.
74. A judge should not accept free legal advice or representation. All professional services from lawyers should be paid for at the lawyer's usual charge-out rate.

(j) Acceptance of gifts and expenses

75. A distinction is necessary between accepting gifts in a personal capacity unrelated to judicial office, eg from family or close friends, and gifts which in some way relate, or appear to relate, to judicial office. It is only in the latter category that acceptance of gifts or other benefits needs careful consideration.
76. Acceptance of small gifts for participating in a public or private function is not objectionable. Some care is necessary in accepting payment of expenses.
77. There is generally no objection to judges receiving travel and accommodation in return for providing papers at conferences or similar occasions. If the host organisation is a university or a legal organisation, there will generally be no problem. If, however the organisation is a private one associated with a particular cause or which is a potential litigant before the courts, or if the arrangements are unusually lavish, consultation with the Chief Justice or Head of Bench before accepting is advisable.

² He cannot have family member saying that "the Judge has advised [A, B & C]".

78. Caution is necessary in respect of any significant benefit. There are two risks:
- (i) any suggestion of exploitation of the standing of judicial office to obtain benefit.
 - (ii) anything which might be interpreted as an attempt to influence the judge in performance of judicial work.
- (k) Social contact with members of the legal profession**
79. Social contact between members of the bench and bar is a long-standing tradition. Care should be taken to avoid private social contact with practitioners who are engaged in current cases before the judge. A judge may accept invitations to speak at law firms or barristers' chambers but should be careful to avoid any perception of a lack of impartiality.
- (l) Other social contacts**
80. Judges should be careful about being present in circumstances where a gathering on premises may not be conducted in accordance with law or where they may risk associating with people who are involved in criminal activities.
- (m) Use of Judicial Office**
81. A judge should not use judicial office for personal advantage or for the benefit of the judge's family or friends.
- (n) Use of judicial stationery in personal business dealings**
82. In personal business dealings the judge should not use judicial stationery and should be careful to avoid the appearance of using the standing of judicial office for advantage.
83. A judge should be mindful that email correspondence might identify the writer as a judge, and if so, that is equivalent to using judicial letterhead.
- (o) Letters of recommendation**
84. Judges should be cautious about providing references or letters of recommendation. There is no objection to letters of recommendation arising out of the personal knowledge of the judge, but caution is necessary in the use of judicial letterheads. Generally speaking, judicial stationery should be used for recommendations only where the personal knowledge of the person recommended is acquired in the course of judicial work. That is the case, for example, with recommendations for scholarships or employment for former clerks.
- (p) Evidence in court**
85. While a judge may give evidence when summonsed by a party, care needs to be taken not to invoke the standing of judicial office. Heads of Bench should be advised.

86. A judge is not compellable to give evidence in respect of the judge's conduct as a judge.
87. A judge cannot be compelled to give evidence about matters of which the judge became aware relating to and as a result of the performance of judicial functions. This immunity extends to all aspects of judicial decision-making.

(q) Social media

88. A judge may participate in online social networking, provided he or she acts in accordance with these Guidelines. Care is needed to avoid any compromise to judicial independence or impartiality through expressions of opinion or online activities. This could include links through social media such as for example friending a litigant that may give rise to conflicts of interest or a perception of bias.

H. FAMILY AND RELATIVES

89. Issues involving a judge's relatives, especially close relatives, can give rise to issues for the judge. A judge must accept the restraints that flow from the principles identified in these Guidelines. The relatives of a judge need not. They are entitled to pursue their own careers and businesses, and to lead their own lives.
90. However situations may arise in which the activities or careers of relatives attract consideration of the principles identified here.
91. The response of a judge will depend on the particular circumstances. Matters affecting a partner's career or appointment will, for example, call for consideration of public attitudes or perceptions to the kind of activity the partner engages in, and the other persons participating in it. Matters involving children are likely to turn on the age of the children, their ability to observe confidentiality, and whether they still reside with the judge.
92. A judge must consider whether and how any such situation might reflect adversely on the judge or the judiciary or might diminish public confidence in them and act appropriately.

I. GENERAL MATTERS

(a) Support for judicial independence

93. In their discharge of judicial functions judges should be mindful of the obligation to maintain the independence of the judiciary. That includes the independence of the institution and respect and support for judicial colleagues. Judges should not criticise or denigrate other judges publicly or privately including, for example, to members of the legal profession. The court system means that an appellate court will need to correct decisions in lower courts from time to time and the appellate court should not shrink from doing so where necessary. However, any criticism of the lower court should be expressed in moderate terms. Collegiate support is important to the maintenance of judicial independence.

(b) Support for colleagues

94. A judge should treat judicial colleagues with courtesy and consideration.
95. In addition to judges observing high standards of conduct personally, they should also encourage and support their judicial colleagues to do the same, as questionable conduct by one judge reflects on the judiciary as a whole.
96. Judges also have opportunities to be aware of the conduct of their judicial colleagues. If a judge is aware of evidence which, in the judge's view, is reliable and indicates a strong likelihood of unprofessional conduct by another judge, serious consideration should be given as to what action the judge should take, having regard to the public interest in the due administration of justice. This may involve counselling, making inquiries of colleagues, or informing the Chief Justice or Head of Bench of the relevant court.
97. A court is a collegial institution. Members of a court can be expected to care about the welfare of their colleagues, particularly if a colleague's health or wellbeing might affect the discharge of his or her duties.
98. It will usually be appropriate to inform the Head of Bench if there is cause for concern about the welfare of a colleague. There may be situations in which, before doing so or as well as doing so, it will be appropriate to offer assistance to the colleague in question.
99. A judge whose ability to discharge judicial duties is adversely affected by the judge's health or welfare must raise the matter with the Head of Bench.

(c) Professional development

100. A judge should take advantage of professional development opportunities provided.

(d) Relationship with staff

101. A judge must be professional and treat all court and judicial staff courteously and considerately. A judge must bear in mind the power imbalance which exists between them and staff. Court and judicial staff may feel unable to differ from the judge. Criticism by a judge may have greater impact than the judge intended.

(e) Harassment of staff (including sexual harassment)

102. A judge must not subject court or judicial staff to comment or conduct that is inappropriate, insulting, intimidating, degrading or offensive.