

ALRC Survey of Judicial Officers

Email invitation to participate

The Australian Law Reform Commission (ALRC) is conducting an [Inquiry](#) into ‘whether, and if so what, reforms to the law relating to impartiality and bias as they apply to the federal judiciary are necessary and desirable’. The Terms of Reference for the Inquiry are available [here](#).

As part of this, the ALRC is carrying out a survey of judicial officers from the Federal Circuit Court, Family Court and Federal Court. We would be very grateful if you would complete the survey.

Please click this link to access the survey: [\[Link removed\]](#)

This survey explores judicial officers’ experiences with recusal/self-disqualification for bias, and their views on the law and procedures associated with it. It will be the first research of its kind conducted in Australia. Your views are important to inform the ALRC’s understanding of how the law and practice currently operate and whether reform is required, and a robust response rate will greatly increase the value of the survey.

The survey will be open from **Monday 12 April 2021** to **11.59 pm AEST Tuesday 27 April 2021**.

Participation in the survey is entirely **voluntary**, and responses will be **fully anonymous**. The ALRC will not receive any identifying information, nor will it be able to identify any participant from the statistical analysis of responses, which will be used in an aggregated format. The information you provide will be reported in summary form in any subsequent publication or other communication. Responses to questions that ask for a written response may be quoted. Individual judges will not be identified and anonymity is assured.

The survey should take between **8-12 minutes** to complete, and can be completed in more than one session (on the same device) by accessing the link above. If a respondent has partially completed the survey by 11.59 pm AEST on 27 April 2021, any responses made will be recorded.

Further information about the survey is attached. Please do not hesitate to contact impartiality@alrc.gov.au if you have any queries.

JUDICIAL IMPARTIALITY



Australian Government
Australian Law Reform Commission

ALRC Survey of Federal Judicial Officers

The Australian Law Reform Commission (ALRC) has been [asked to consider](#) “whether, and if so what, reforms to the laws relating to impartiality and bias as they apply to the federal judiciary are necessary and desirable”.

Although the law on bias has been the subject of significant academic commentary, no studies have been carried out in Australia on how the law is used and how the processes for raising and determining allegations of bias are perceived. The Commonwealth courts do not collect data on recusals or reallocation of matters on bias grounds. Furthermore, issues of bias are often managed through judicial disclosure and informal objections, reasons are often not given in cases of recusal, and decisions on applications are often given *ex tempore*, so case law provides an incomplete picture of the extent to which judges do or do not recuse/disqualify themselves from proceedings and the reasons for their decisions.

The value of this survey

This survey will be the first research conducted in Australia on the frequency with which issues of bias arise, how judicial officers deal with these issues in practice, and the sources of potential bias that are most frequently raised. It will also be the first to explore the views of judicial officers on the appropriateness of the test for apprehended bias and procedures for determining disqualification applications, adequacy of existing guidance, and what is required to support judicial impartiality.

The research findings will be important to inform the recommendations made in the ALRC’s final report in the Judicial Impartiality Inquiry, and of broader significance to the judiciary, courts and academic study.

Anonymity and confidentiality

Participation in the survey is entirely **voluntary**, and responses will be **fully anonymous**. There is no tracking mechanism that in any way records the identity (directly or indirectly) of survey respondents, so the ALRC will have no way of knowing who does and does not respond. The data collected will only be used in an aggregated format and will not be able to be used to identify any participant from the statistical analysis of responses. The information provided will be reported in summary form in any subsequent publication or other communication. Responses to questions that ask for a written response may be quoted. Individual judges will not be identified and anonymity is assured.

Because responding to any or all of the survey is completely voluntary, some participants may not answer all questions. Responding only to some questions does not invalidate the survey, as the response rate for each question is part of any report on the data collected. The overall value of the survey is, of course, much greater if more people respond, as the information provided will be more comprehensive.

Methodology

The survey includes different types of questions: some are closed-ended (answered by selecting from a limited number of options), and others are open-ended (allowing respondents to write in their views or experiences). No questions are compulsory.

The survey should take between 8-12 minutes to complete. Participants can return to previous answers and make changes before submitting, without losing responses to later questions. The survey can be completed in more than one session on the same device. If a respondent has partially completed the survey by 11.59 pm AEST on 27 April 2021, any responses made to questions will be recorded.

The survey questionnaire has been developed with the advice and assistance of Professor Sharyn Roach Anleu and Emerita Professor Kathy Mack of the [Judicial Research Project](#), Flinders University.

For any questions about the survey please contact impartiality@alrc.gov.au.