



## Queensland Justices Association (QJA) Annual Conference

16 May 2022

### Chief Justice Helen Bowskill

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Good evening everyone, wherever you may be zooming in from. My thanks to Scott Patterson, President of the Queensland Justice Association for inviting me to speak to you this afternoon. It is my pleasure to do so.

I acknowledge the traditional owners of the land where I am, here in Brisbane, and across Queensland, and pay my respects to their Elders, those who have spoken for the land in the past and who do so today.

I am greatly honoured to have been asked to become the Patron of the Queensland Justices Association, following the retirement of your most recent Patron, and our former Chief Justice, the Honourable Catherine Holmes AC.

Like many within the community, I have benefited from the important voluntary services provided by JPs when I have needed formal documents to be certified or witnessed. But until recently, I had not delved into the history of your organisation, or properly considered the significant breadth of the roles and responsibilities of justices of the peace and commissioners for declarations. I was particularly interested to read the history of the Queensland Justices Association in the publication “Across the Generations”, in honour of the centenary celebration of the Association in 2018. I look forward to learning more about the organisation through my involvement as Patron of the Queensland Justices Association.

The theme of your conference for this year is “Towards the Future – Together”, which is apt, as the association embarks upon its second century.

The program for this annual conference mentions three broad themes:

- embracing and dealing with **diversity**, including from the Indigenous, multicultural and disablement perspectives;

- embracing **virtual technology** – including in relation to online witnessing; and
- engaging with “**Gen Z**”.

These are themes the courts are similarly seeking to embrace and engage with.

In relation to **diversity**, I have the privilege to be a member of the Judicial Council on Cultural Diversity, which is an advisory body, established in 2014 by the Council of Chief Justices, to assist Australian courts, judicial officers and administrators to positively respond to our community’s diverse needs.

Australia is one of the most ethnically, culturally and linguistically diverse countries in the world.

According to 2016<sup>1</sup> ABS Census data:

- Nearly 800,000 Aboriginal and Torres Strait islander people live in Australia (around 3.3% of the population);
- Nearly 7 million Australians (28.5%) were born overseas;
- 21% of Australians spoke a language other than English at home, with over 600,000 having very limited English proficiency or no proficiency at all; and
- There are over 300 languages, including Indigenous languages, spoken in Australian households.

This diversity has benefited Australia enormously, both in economic and social terms. However, it has also presented challenges – particularly in relation to issues of access to justice.

Access or accessibility to justice includes having access to the important public service that you provide. As an indication of the broad scope of potential activity for members of your organisation in the lives of Queenslanders, a brief search of the Queensland legislation website for the term “justice of the peace” reveals that it is referred to in 88 Acts now in force.

In thinking about embracing and dealing with diversity within our community, one of the particular respects in which you, as justices of the peace or commissioners for declarations, may need to be alert to this is **language**, and the ability of the person seeking your service to understand the document they are signing and what you are saying.

To take an affidavit or statutory declaration, for example, the task of “witnessing” such a document includes:

- to witness the signing of the document; and

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<sup>1</sup> 2021 Census data will not start to be released until June 2022.

- for an affidavit – to administer an oath or affirmation for the affidavit; and
- for a statutory declaration – to administer the declaration.<sup>2</sup>

The JCCD has undertaken significant work in relation to the development of standards for working with interpreters. It has also developed an app, called “Legal Literate”, which is essentially a glossary of legal terms with plain English explanations, which might be useful to you in some situations. Another upcoming project is the preparation of posters, with QR codes, which would be displayed in court and tribunal registries, or even on documents provided to people before they have to attend a court or tribunal (such as a notice to appear) which a person can use to access information, in their own language, about some basic practical things you might need to know before going to court. In preparing to speak to you today, it occurred to me that this kind of thing might be really helpful for the Queensland Justices Association as well, to address language as a barrier to accessing the services you provide.

In relation to **virtual technology**, as we all know there have been profound changes in many aspects of life as a result of Covid-19. It is interesting to reflect on how quickly we adapted – when we had to – to different ways of doing things.

Just to give one simple example, in February 2020 I was managing a court list which involved brief, procedural hearings in relation to court proceedings that were not going as quickly or efficiently as we would like. I had just revised and updated the practice direction about how these would be dealt with – which included the statement that parties, or their lawyers, were expected to attend court in person, and leave (or permission) to appear by telephone would only be granted in exceptional circumstances. Well, just a month later, we had the exceptional circumstance of a generation, in the form of the pandemic, and all appearances were by telephone or audio-visual link. And we coped.

In fact, in short procedural hearings such as those, it was much more efficient doing it that way – it saved the lawyers’ time and, importantly, the clients’ money – so it was a good thing, covid or no covid. As the proverb goes “necessity is the mother of invention”.

Another example of an innovation – that people would have had in the “too hard” basket until the pandemic hit – is the availability of **online witnessing of documents**. There are definitely challenges associated with this, but in terms of accessibility, it is an essential innovation.

Now almost all judges, and many lawyers, will say that conducting substantive court hearings remotely should not become the norm; that there is simply no substitute for all involved being present, in person, in the court room. I agree with that. Technology

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<sup>2</sup> See s 11 of the *Oaths Act 1867*.

is a tool, to be utilised in appropriate circumstances when that is in the interests of the administration of justice, but should never become the default. But what necessity showed us is that, when needed, it can be done, and the wheels of commerce and the justice system do not have to stop, or slow down.

I was interested to read, in the “president’s page” for the Autumn 2022 edition of your publication, QJA Quarterly, a similar sentiment expressed by Scott Patterson – that the most significant part of the job you do is being able to meet face-to-face with your clients; that meeting personally can alleviate the anxiety people experience, and make it easier to explain the complexities of documentation, something that is not possible with any online transaction. Again, that demonstrates that the use of virtual technology should not become the default. But the fact that it is available as an option is a good thing, because there will be circumstances in which a person would not be able to access the essential services you provide if that was not available.

And so to the third theme - **engaging with Gen Z**, the people born between 1997 and 2012, so aged 10 to 25. Well, being someone who lives with three Gen Z young women, I’d love some tips on engaging with them!

But more broadly, and linking back to the first theme – diversity – we are all familiar with the description of Australia’s population as an ageing one. According to data available from the Australian Bureau of Statistics, Australia’s population has doubled in the past 50 years, and in that time, the median age has increased by more than 10 years, from 27.5 in 1971 to 38.2 in 2021. Population ageing is the result of declining fertility and lower mortality: people are living longer and having fewer babies. However, the arrival of younger overseas migrants, and their subsequent children, has partly offset the ageing population.<sup>3</sup>

Another interesting statistic is that, as at May 2021, most young Australians aged 15 to 24 were doing some work or study or a combination of both: 81% were working full time, studying full time, or doing both; and a further 10% were working and/or studying part time. Just in relation to studying, 65% of young people aged 15-24 were studying in 2021, including school students and people engaged in vocational education and training or at university.<sup>4</sup>

So in terms of how you engage with this younger generation, to encourage active involvement in the work of your organisation, information and education programs in schools, TAFE colleges and universities would be a good idea, although that might already be occurring. I had a quick look at the syllabus for the Legal Studies course

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<sup>3</sup> <https://www.abs.gov.au/articles/50-years-estimated-resident-population>

<sup>4</sup> <https://www.abs.gov.au/statistics/people/education/education-and-work-australia/latest-release>

that is offered in year 11 and 12, and could not see any reference to justices of the peace or commissioners for declarations – perhaps that would be a worthy addition?

Thank you again for inviting me to speak to you this afternoon. I look forward to our continuing association in the years to come, and wish you all the best for what is sure to be an interesting and stimulating conference over the course of the week. The topics you will be discussing are contemporary and relevant – not just to your association, but within the broader community as well – and will be of great benefit as you move towards the future, together.