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Judicial impartiality critical to procedural fairness

The Law Council of Australia welcomes the recommendations contained in the Australian Law Reform Commission's report 'Without Fear or Favour: Judicial Impartiality and the Law on Bias' which was publicly released today.

"This report calls for some significant changes that the Law Council has long been advocating for," Law Council of Australia President, Mr Tass Liveris said.

"In particular, we support the ALRC's call for the establishment of a Federal Judicial Commission.

"Since 2006, the Law Council has advocated for the creation of a standalone Federal Judicial Commission to provide a clear and structured framework for responding to complaints directed to the judiciary.

"As recommended by the ALRC, this body would also play a critical role in supporting judicial impartiality and public confidence in the administration of justice."

The ALRC report notes that establishing a Federal Judicial Commission would be a significant reform which requires its own policy development process, including further broad consultation. The Law Council calls for the Government to support the establishment of a Federal Judicial Commission, to establish a consultation process regarding its design, and to ensure that it is adequately resourced to enable it to carry out its functions efficiently and effectively.

The Law Council also notes the ALRC's recommendations relating to improved procedures and guidance to assist federal courts and parties to address potential bias issues as they arise. This is an important step in fostering confidence in the independence of the judiciary.

"It is critical that there be clarity and transparency on procedures relating to bias, to assure court users that such issues can be dealt with in a fair and effective manner," Mr Liveris said.

"The Law Council also strongly supports the report's recommendations aimed at increasing transparency in the judicial appointment process, promoting diversity in the judiciary and improving cultural competency.

"We look forward to further considering Recommendation 6 and working with the Council of Chief Justices of Australia and New Zealand to review relevant rules and guidance on conduct in light of the High Court of Australia's decision in *Charisteads v Charisteads* [2021] HCA 29."

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The Law Council of Australia is the national voice of the legal profession, promoting justice and the rule of law.