

The Australian Women's Register

Entry type: Person

Entry ID: AWE5618

Hall, Marlene Ann

(1944 -)

Born	1 January, 1944
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Occupation	Lawyer, Public servant, Teacher
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Summary

Marlene Hall rose to become a highly regarded specialist in the field of aged care law, and the first person to be appointed as Special Counsel Aged Care Law in the Commonwealth Department of Health. Hall came to the law after a career as an English teacher; studying for a Bachelor of Laws degree at night school in order to graduate, she attributes her background in English language and literature, and her work at weekends in nursing homes over the years, to the later success she experienced in her dealings in complex aged care law matters. She made a significant contribution to public sector law, including through the national 'Living Longer Living Better' aged care policy reforms.

Marlene Hall was interviewed by Kim Rubenstein for the Trailblazing Women and the Law Oral History Project. For details of the interview see the National Library of Australia [CATALOGUE RECORD](#).

Details

Marlene Hall received her primary education at St Felix School in the southwestern Sydney suburb of Bankstown, before attending (with the assistance of a state bursary) Our Lady of Mercy College, Parramatta, in central western Sydney, for two years. She later graduated from the University of Sydney with a Bachelor of Arts with first class honours in English.

After marrying a fellow student, she worked as a tutor in the English Department at the University of Sydney before travelling to Europe, she and her husband intending to complete postgraduate degrees in English in the United Kingdom. Shortly before leaving Australia, however, Hall impulsively applied for scholarships for the couple to study at the Hebrew University of Jerusalem. Upon arriving in London, Hall and her husband received correspondence from the Hebrew University informing them of their success and so, in 1968, they went to Israel to begin further studies.

The year which she spent in Israel gave Hall a chance to reflect on her career and she decided she would study medicine when she came home. In March 1969 she gave birth to a son. Following her return to Australia, Hall's marriage ended. As a single parent, the option to study medicine was not possible and she returned to tutoring, this time in the English Department at the University of New South Wales. She completed a Diploma in Education by correspondence from the University of New England; she also obtained a Master of Arts degree with first class honours in English from the University of Sydney.

Over the next 16 years Hall enjoyed a rewarding career as a high school English teacher at Kincoppal Rose Bay Convent of the Sacred Heart, Newington College and Queenwood School. However, she perceived drawbacks to remaining a teacher, including the need to rely on the aged pension in retirement because of the lack of superannuation in the private school system, and she enrolled at the University of Technology Sydney in a Bachelor of Laws degree which could be undertaken part-time in the evenings.

After graduating with a Bachelor of Laws degree, Hall joined the Commonwealth Department of Health as a Graduate Administrative Assistant in 1995. A secondment to Parliament House as Departmental Liaison Officer in the Parliamentary Secretary's Office provided Hall with critical insight into how laws are made and how the Senate operates. In the Department of Health, Hall worked in Aboriginal health and the hearing services program before obtaining a Graduate Diploma in Legal Practice and moving to the Department's Legal Services Branch. Shortly afterwards she embarked upon a Master of Laws degree in public and commercial law at the Australian National University. Hall was soon invited to join the Complaints and Compliance Taskforce Legal Unit, a new taskforce which would deal with aged care compliance matters.

In the ensuing 14 years before she retired, Hall applied her expertise in aged care law, the position of Special Counsel Aged Care Law being specially created to allow her to concentrate on the more complex aged care law matters in the Department of Health. Hall's legal training enabled her to have an immediate and practical impact on the quality of life of extremely vulnerable older people, including advising on compliance action against nursing home operators who were providing poor quality care. Together with Departmental officers, members of the aged care law team and the Office of Parliamentary Counsel, Hall went on to deliver the 'Living Longer Living Better' aged care policy reforms for the nation.

The following additional information was provided by Marlene Hall and is reproduced with permission in its entirety.

If I were asked to name a book that has had the most influence on my life, it would be a brochure published in the 1950s called *Careers for Graduates of the Faculty of Arts*.

Along with my classmates in third year (year 9) at St Felix School, Bankstown, I had undertaken a vocational guidance test conducted by the Vocational Guidance Service and I had nominated nursing as my chosen career. Nursing was an attainable career for working class girls from Bankstown with the Intermediate Certificate awarded at the end of third year. We knew (or thought we knew) what nurses did and nurses were trained on the job and were paid while they trained.

When we received the results of our vocational guidance tests, other girls who had nominated nursing received packages of information about how to apply for training positions. I received a letter stating: "While your own choice of nursing is well within your capabilities, we suggest that you consider careers available to graduates of the Faculty of Arts". Enclosed was a brochure setting out information about careers such as teaching and journalism and, crucially for me, matriculation requirements for entry to Sydney University.

I had only ever met one person who had been to university – Sister Justinian, who taught our class in first year (year 7). Sister Justinian had taken me aside one day and suggested that I should consider going to university. She explained that I would need to study Latin, as it was an entry requirement, and offered to teach me Latin at lunch time while she supervised the tuckshop queue. I had turned up hopefully a few times for the promised Latin lessons, but it appeared that she had forgotten our conversation. (It became increasingly evident, as the year wore on and the first year classroom became more and more chaotic, that Sister Justinian was suffering from early stage dementia.)

I had kept alive for a few months the hope of attending university by borrowing a book called *Teach Yourself Latin* from Bankstown Municipal Library and working my way through the exercises, but eventually I had to face the fact that I would not be able to reach matriculation standard by my own unaided efforts. Now, two years later, reading *Careers for Graduates of the Faculty of Arts*, I found to my surprise that Latin was no longer a matriculation requirement. (It had ceased to be a requirement in 1945.)

A new potential stumbling block presented itself. At least one science subject was required for matriculation and St Felix

School, along with many other parish schools for Catholic girls in the 1950s, lacked the resources to teach any science subjects. There was a window of opportunity, however, in that geography would be taken to meet this requirement for a few more years – just long enough, as it happened, for me to meet the matriculation requirements if I sat for the Leaving Certificate in 1961. Our third year teacher, Sister Bonaventure, was willing to teach geography after school to any girl who chose to sit for the externally examined Intermediate Certificate with the aim of winning a state bursary. I studied geography after school with the wonderful, irascible, Sister Bonaventure, sat for the external Intermediate Certificate and was awarded a state bursary to pay for two more years of schooling.

The bursary paid my school fees at Our Lady of Mercy College, Parramatta. I sat for the Leaving Certificate in 1961 and obtained what used to be called a 'maximum pass'. With financial support from a Commonwealth scholarship and a state bursary awarded on the basis of my Leaving Certificate results, I enrolled in the Faculty of Arts at Sydney University to study English, modern history and philosophy.

On the eve of my enrolment my father, who was a factory worker, suggested that I study medicine. I didn't think this would be possible given that (geography notwithstanding) I had not studied any science subjects. The thought of studying law never crossed my mind. I don't think anyone I knew had ever met a lawyer. Although there must have been lawyers practising in Bankstown, I don't recollect ever walking past a lawyer's office. In the years I spent at Sydney University, law students were not part of the campus milieu because the Sydney University law school was located down town, in Phillip Street. This meant that informal opportunities to get to know what was involved in the study of law, such as discussions with law students over coffee in the Union, did not exist.

I graduated with first class honours in English, married a fellow student and we both worked as tutors (ie associate lecturers) in English at Sydney University before setting off for Europe with the idea of completing postgraduate degrees in English in the UK. Shortly before embarking on the Galileo Galilei, however, I saw a notice in the Sydney Morning Herald about scholarships to study at the Hebrew University of Jerusalem. On a whim, I submitted applications for both of us. After back-packing from Genoa to London we found, waiting at Poste Restante in Trafalgar Square, letters from the Hebrew University offering us scholarships. The lure of adventure was too great and, abandoning plans to study in England, we consulted an atlas in a public library to ascertain where Israel was and set off on our pilgrimage to Jerusalem.

The scholarships were designed to give recipients the opportunity to experience life in Israel rather than to obtain a formal postgraduate qualification. We were encouraged to take an intensive course in Hebrew and to enrol in any other subject that appealed to us. I chose to take a course in American social history taught by a visiting professor from Columbia University. This course has influenced my thinking ever since.

The year in Israel gave us an opportunity to take stock and we decided not to pursue academic careers in English but to change direction and study medicine when we returned to Australia. We also decided that the time was right to have a child and our son was born in Jerusalem in March 1969.

On our return to Australia, I became a high school English teacher to support my husband while he studied medicine. The plan was that, when he graduated, he would support me while I studied medicine. Our marriage broke up, however, and as a single parent who needed to work full time I had no real prospect of being able to study medicine, although I did commence studying science by correspondence in the hope that I might be able to work out a way to do so.

I became a tutor in the English department at the University of New South Wales, completed a Diploma in Education by correspondence from the University of New England, Armidale, and commenced work towards a Master of Arts in English at Sydney University. I was awarded a Master of Arts degree with first class honours.

One of my colleagues in the English department at UNSW was Michael Crennan. His wife, Susan, had been an English teacher and was completing a law degree at Sydney University. It was through Sue Crennan that I became interested in studying law. She invited me to accompany her to a Women in the Law lunch and I realised that a career in law might be possible. I made enquiries about enrolling in the Solicitors Admissions Board course by correspondence, but I was told that the correspondence option was only available to students who did not live in the Sydney metropolitan area. I would have had to attend evening lectures, but as my son was too young to be left alone at night this was not an option.

For the next twelve years I had an interesting and rewarding career as a high school English teacher, becoming head of English at Newington College and at Queenwood School. I realised, however, that there were virtually no opportunities for progression beyond head of department level in the private school system for a teacher without a religious affiliation. In addition, with no access to a superannuation scheme in the private school system, I would need to rely on the aged pension in retirement if I continued in my teaching career. I again explored the possibility of studying law while continuing in my very demanding full time job.

I found that the University of Technology Sydney (UTS) offered a law degree that could be studied part time in the evenings. The information booklet stipulated, however, that students must be able to attend classes on at least one afternoon each week in addition to evening lectures. This would not have been possible for me because the school at which I taught had a rotating timetable. Even if I had been able to negotiate a free afternoon it would have been on a different day each week.

It occurred to me that the requirement to attend on one afternoon each week might not be quite as rigid as the information booklet suggested. I rang the UTS switchboard and asked to be put through to any lecturer in the law faculty who was available. I asked the lecturer whether it would be possible to complete a law degree at UTS without attending any afternoon

classes. He said that he thought that it would be possible, but it might restrict my choice of units.

On that basis I enrolled in the LLB course at UTS. I spent the next four years working full time each day teaching English and attending evening classes at law school from 5pm to 9pm on three or four nights each week. On arriving home, I would mark English essays and prepare lessons until midnight, then take my law books to bed and read, often until 2 or 3am. Weekends were spent marking English essays and completing law assignments.

Despite the rigours of this regime, I loved what I was doing. I loved the way the common law worked by analogy, from precedent to precedent. It was like poetry. I loved the logic and precision of legislative drafting and the dry wit of judicial judgments. My fellow students were a bunch of desperadoes with whom I could empathise – ABC presenters preparing for the day when their contracts would not be renewed, politicians whose careers could end at the next election and legal secretaries who had come to realise that they were more intelligent than the men from whom they took dictation.

I graduated from UTS and joined the Commonwealth Department of Health in 1995 as a Graduate Administrative Assistant (GAA). This gave me the opportunity to learn the ropes by moving around the department and learning how things are done in the public service. When there was a change of government in 1996, I was sent across to Parliament House as Departmental Liaison Officer in the Parliamentary Secretary's office. This was an immensely valuable experience as it gave me an insider's perspective on how the Senate works – how political deals are done and laws are made.

On returning to the department I worked in Aboriginal health, as a member of the project team setting up the Office of Hearing Services and as the legislation project officer for the introduction of Lifetime Health Cover. While working on these projects I completed a Graduate Diploma in Legal Practice at the Australian National University. On completion of the Lifetime Health Cover project, which involved working closely with legislative drafters, I was offered a position as a legal officer in the Department's Legal Services Branch.

I realised that, because I had got off to a late start in my legal career, I needed to fast track my acquisition of knowledge of public and commercial law. Therefore I enrolled in a Master of Laws degree at the Australian National University soon after joining Legal Services Branch. I found this course gave me valuable insights that I was able to draw upon on a daily basis.

Shortly after I joined Legal Services Branch, a taskforce was being formed within the department to deal with aged care compliance issues. I was asked to join the Complaints and Compliance Taskforce Legal Unit, which would be co-located with the taskforce, participate in aged care policy development and provide immediate and practical legal advice, day or night, when compliance issues arose. I jumped at the chance.

As an undergraduate at Sydney University, I had worked over the Christmas breaks in various nursing homes as an assistant in nursing. Since then, whenever I needed to earn extra money to keep on top of my mortgage, I had worked on weekends in nursing homes. I felt that the invitation to join the taskforce was an opportunity to work in an area of the law where my work could have an immediate practical impact on the quality of life of extremely vulnerable older people. For the next fourteen years, until my retirement, I specialised in aged care law. I became the section head responsible for the work of the aged care law team until the position of Special Counsel Aged Care Law was created to enable me to concentrate on the more complex aged care law matters in my final years with the Department.

The eyes of young law graduates assigned to Legal Services Branch would generally glaze over when they were offered the opportunity to join the aged care law team for a rotation. They imagined that aged care law was a sleepy backwater. This was far from being the case. Taking compliance action against a nursing home operator who was providing poor quality care often led to hard-fought challenges in the Administrative Appeals Tribunal or the Federal Court. The day to day work of an aged care lawyer included advising on multi-million dollar contracts, sorting out complex administrative law matters, drafting legislative instruments and working with the Office of Parliamentary Counsel on the reform of primary legislation. I particularly enjoyed providing legal awareness training to line officers, the department's executive and the Minister's advisers as this often helped to nip problems in the bud.

Looking back on my career as an aged care lawyer, I gain most satisfaction from the knowledge that, by working with counsel to defend the Department's compliance action in courts and tribunals, I have assisted in removing some of the worst operators from the aged care industry. Providing advice on complaints about aged care providers was also particularly rewarding. It often required lateral thinking to resolve seemingly intractable disputes and I was able to draw on my first-hand experience of working in aged care to come up with practical solutions.

Legislative reform was the focus of my work in the final years before my retirement. Legislative drafting requires a feel for the English language, for such things as the weight of a word and the effect of a parenthesis, which I had developed through my study of English literature. Drawing on these English language skills together with my knowledge of the existing aged care legislative scheme, how the legislation had been interpreted over the years by courts and tribunals and the practical realities of how aged care is delivered drew together the various strands of my academic studies and working life. Working with Departmental officers, members of the aged care law team and the Office of Parliamentary Counsel on delivering the Living Longer Living Better aged care reforms was a satisfying way to end my legal career.

Published resources

Resource

Trove, National Library of Australia, 2009

Site Exhibition

Australian Women Lawyers as Active Citizens, Trailblazing Women Lawyers Project Team, 2016,
<http://www.womenaustralia.info/lawyers>

Archival resources

National Library of Australia, Oral History and Folklore Collection

[Marlene Hall interviewed by Kim Rubenstein in the Trailblazing women and the law oral history project](#)

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Digital resources



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