

# Appendices

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## Appendix 1

# Complaints against judicial officers: guidelines

### 1. Overview

The objective of the Commission's complaint function is to ensure that complaints about the ability and behaviour of judicial officers are investigated in a timely and effective manner in order to:

- a) enhance public confidence in the judiciary of New South Wales; and
- b) promote good practices and high standards of judicial performance.

The *Judicial Officers Act* 1986 provides a means for people to complain about the conduct of a judicial officer and to have those complaints examined by an independent body. An important role of the Commission is not only to receive and examine complaints made against judicial officers, but to determine which complaints require further action.

These guidelines are designed to assist people to understand the Commission's complaint function, including the principles and procedures adopted by the Judicial Commission. The detailed provisions of the complaint function are to be found in Part 6 of the legislation.

### 2. Who is a judicial officer?

- 2.1 A "judicial officer" under the *Judicial Officers Act* means a:
  - judge or associate judge of the Supreme Court
  - member (including a judicial member) of the Industrial Relations Commission
  - judge of the Land and Environment Court
  - judge of the District Court
  - magistrate, or
  - the president of the Administrative Decisions Tribunal.
- 2.2 The definition of "judicial officer" includes acting appointments to a judicial office but does not include arbitrators, registrars, chamber registrars, assessors, members of tribunals or legal representatives.
- 2.3 The Commission has no power to examine complaints against federal judicial officers or a person who is no longer a judicial officer.

### 3. Making a complaint

- 3.1 *Who can make a complaint?*  
A complaint may be made to the Commission by any person or may be referred to the Commission by the Attorney General.

### 3.2 Legislative requirements

The *Judicial Officers Act* requires that a complaint is in writing and that it identifies the complainant and the judicial officer concerned. The *Judicial Officers Regulation* requires that particulars of a complaint are verified by statutory declaration and that the complaint is lodged with the Chief Executive to the Commission.

### 3.3 Assistance to complainants

If a person cannot write, he or she may contact the Commission and assistance will be provided to put the complaint in writing. If interpreting or translation assistance from another language to English is required, the Commission will make arrangements.

### 3.4 Advice to the public

The Commission provides further advice to the public about the complaints process through:

- its website which provides an easy to understand guide to the Commission's complaints process, detailed information about possible outcomes of complaints, and a complaints form for downloading
- a plain English brochure outlining the complaints process
- assistance to potential complainants with translation and interpreting services
- responding to telephone and face-to-face enquiries, and
- giving talks on the complaints process to interested groups.

### 3.5 Acknowledge receipt of complaints

All complaints submitted to the Commission in proper form will be acknowledged in writing within one week of receipt.

## 4. Complaints not within the Commission's jurisdiction

- 4.1 The Commission does not review a case for judicial error, mistake, or other legal ground. Reviews of those matters are the function of appellate courts.
- 4.2 Allegations of corruption against a judicial officer are required to be referred by the Judicial Commission to the Independent Commission Against Corruption for investigation by that body.

## 5. Investigating a complaint

### 5.1 *Receipt of a complaint*

On receiving a complaint, the Commission will conduct a preliminary examination into the matter. In every case, the judicial officer is advised of the fact that a complaint has been made and provided with a copy of the complaint documentation.

### 5.2 *Preliminary examination*

The preliminary examination of all complaints must be undertaken by Commission members at a properly constituted meeting of the Commission. The quorum for a meeting is seven members, of whom at least one must be an appointed member.<sup>1</sup> The Commission cannot delegate the preliminary examination of a complaint except to a committee, which must consist entirely of members and include at least one appointed member.

The initial investigation will often involve an examination of transcripts, sound recordings, judgments, court files and other relevant material. It may also involve taking statements from relevant persons. If necessary, a response to the complaint is sought from the judicial officer.

### 5.3 *Confidentiality*

The preliminary examination of a complaint by the Commission will be conducted, as far as practicable, on a confidential basis. The legislative requirement of confidentiality protects the judiciary from unjust criticism and protects those who furnish information to the Commission in the course of its examination of a complaint.

The proceedings of the Commission and all information and materials, written or oral, obtained by the Commission in the course of its preliminary examination are confidential.

### 5.4 *Time standards for finalisation of investigations*

The Commission aims to finalise the investigation of 90% of complaints within six months of receipt and 100% within 12 months of receipt.

## 6. Complaints against a judicial member of the Commission

A judicial member of the Commission will not participate in any discussions or decisions involving complaints against him or her.

## 7. Action following preliminary examination

Following its preliminary examination, the Commission must take one of the following actions:

- summarily dismiss the complaint;
- refer the complaint to the relevant head of jurisdiction; or
- refer the complaint to the Conduct Division.

The Commission will act in accordance with the principles of natural justice in conducting its examination of a complaint. Before referring a matter to the head of jurisdiction or the Conduct Division, the Commission provides the judicial officer with an opportunity to respond to the complaint and to present additional information that may assist the Commission in its investigation into the matter.

## 8. Summary dismissal

8.1 A complaint must be summarily dismissed if one or more of the grounds under section 20(1) of the Act exist, whether or not it appears to be substantiated. These grounds are:

- the complaint is one that the Commission is required not to deal with
- the complaint is frivolous, vexatious or not in good faith
- the subject matter of the complaint is trivial
- the matter complained about occurred at too remote a time to justify further consideration
- 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
- the person who is the subject of the complaint is no longer a judicial officer, or
- in all the circumstances further consideration of the complaint is unnecessary or unjustifiable.

8.2 Where a complaint is summarily dismissed the Commission will, as soon as practicable after its determination is made, inform the complainant in writing and provide the reasons for dismissing the complaint. This will include a reference to the relevant provisions of the legislation that have been applied in the handling and determination of the complaint. The judicial officer will also be advised in writing of the Commission's determination.

8.3 Many of the complaints that are dismissed by the Commission, because they disclose no misconduct, are nonetheless helpful in the improvement of the judicial system. The feedback from the examination of complaints has provided valuable information for the further development of judicial education programs conducted by the Commission.

8.4 The Commission may declare a person to be a vexatious complainant, if the person habitually and persistently, and mischievously or without any reasonable grounds, makes complaints. This section applies whether the complaints are about the same or different judicial officers.

The Commission may disregard any complaint made by the person while the declaration is in force.

<sup>1</sup> Appointed members are persons appointed by the Governor on the nomination of the Minister and who, in the opinion of the Minister, have high standing in the community.

## 9. Reference to a head of jurisdiction

- 9.1 Where a complaint has not been dismissed following the preliminary examination by the Commission, but in its opinion it does not justify reference to the Conduct Division, the Commission may refer the matter to the relevant head of jurisdiction.
- 9.2 The Commission will notify the head of jurisdiction in writing of its decision and will formally refer the matter, including all relevant material, for attention.
- 9.3 In referring a complaint to the head of jurisdiction the Commission may include recommendations as to what steps might be taken to deal with the complaint, such as counselling by the head of jurisdiction.
- 9.4 Where a complaint is referred to the relevant head of jurisdiction the Commission will, as soon as practicable after the decision is made, advise the complainant and judicial officer of the action taken.

## 10. Reference to the Conduct Division

- 10.1 Where a complaint has not been dismissed following the preliminary examination by the Commission, and has not been referred to the head of jurisdiction, it must be referred to the Conduct Division.
- 10.2 The function of a Conduct Division is to examine and deal with a particular complaint that has been referred to it by the Commission.
- 10.3 A Conduct Division is constituted by a panel of two judicial officers (one of whom may be a retired judicial officer) and one of the two community representatives nominated by Parliament. The membership of the Conduct Division will be determined by the Commission. The Commission will also appoint one member of the Conduct Division as Chairperson.
- 10.4 Where a complaint is referred to the Conduct Division the Commission will, as soon as practicable after the decision is made, advise the complainant and the judicial officer of the action taken. The Commission will also advise the Attorney General of its decision and, in each case, request the appointment of a legal practitioner or practitioners to assist the Conduct Division as counsel.

## 11. Examination of a complaint by the Conduct Division

- 11.1 The Conduct Division must conduct an examination of the complaint referred to it (section 23).
- 11.2 In conducting the initial examination or investigation of a complaint referred to it by the Commission the legislation requires that, as far as practicable, this will take place in private (section 23(3)).

### 11.3 *Meetings of the Conduct Division*

The initial examination of a complaint will involve the members of the Conduct Division and may include counsel assisting in its meetings. As part of this initial process a venue and timetable for the investigation will be determined.

### 11.4 *Preliminary matters*

Preliminary matters necessary prior to the commencement of a hearing, including:

- interviewing the complainant and other potential witnesses
- taking statements
- gathering documents and other material, and
- preparing a brief of evidence,

will be undertaken by counsel assisting the Division. This will be under the direction of the Division.

### 11.5 *Medical or psychological examination*

Where the Conduct Division is of the opinion that a judicial officer about whom a complaint has been made may be physically or mentally unfit to exercise efficiently the functions of a judicial office, it may request the officer to undergo a medical or psychological examination (section 34).

## 12. Hearings by the Conduct Division

- 12.1 The legislation provides that the Conduct Division may hold hearings in relation to a complaint and that a hearing may be held in public or in private, as the Conduct Division may determine (section 24(2)).
- 12.2 *Release of information*
- The Conduct Division has power to give directions preventing the public disclosure of evidence given at its hearings (section 36(1)).
- 12.3 *Royal Commissions Act 1923*
- The function of the Conduct Division is to inquire further into the complaint about the judicial officer. In doing so the Conduct Division has the functions, protections and immunities conferred by the *Royal Commissions Act 1923* on commissioners appointed under that Act. The *Royal Commissions Act* applies to any witness summoned by or appearing before the Conduct Division.

### 13. Reports of the Conduct Division

#### 13.1 *Report to Governor and others*

If the Division has formed an opinion that the matter could justify parliamentary consideration of the removal of the judicial officer complained about from office, it must present to the Governor a report setting out its findings of fact and that opinion. A copy of the report must also be furnished to the Commission, the Attorney General and to the complainant. The copy to the complainant is provided only after it has been laid before each House of Parliament.

#### 13.2 *Report to the head of jurisdiction*

If the Division forms an opinion that the matter is wholly or partly substantiated but does not justify parliamentary consideration of the removal of

the judicial officer complained about from office, it must send a report to the relevant head of jurisdiction setting out its conclusions. The report may also include recommendations as to what steps might be taken to deal with the complaint. A copy of this report is also provided to the judicial officer and the Commission.

### 14. Annual Report

The *Judicial Officers Act* 1986 requires that certain information, including statistics and information about complaints disposed of during the year, be reported to Parliament. This information appears in the Annual Report of the Commission. The Report is available in hard copy from the Commission or can be found on its website ([www.judcom.nsw.gov.au](http://www.judcom.nsw.gov.au)).

## Appendix 2

# Conduct Division: guidelines for examination of complaints

### 1. Introduction

These guidelines have been formulated by the Judicial Commission to assist a Conduct Division in the exercise of its function in the examination of complaints against judicial officers.

The Conduct Division is not a standing body but is appointed by the Judicial Commission when a particular complaint or reference under Part 6A of the Act is referred to it for examination.

The relevant provisions of the legislation relating to the Conduct Division are contained in Division 3 of Part 6 and Part 6A of the *Judicial Officers Act* 1986. These include:

- a) the constitution of a Conduct Division
- b) the examination of complaints
- c) hearings by the Conduct Division
- d) powers of the Conduct Division, and
- e) reports.

### 2. Referral of complaints to the Conduct Division

- 2.1 Following the preliminary examination of a complaint by the Judicial Commission, if the complaint is not summarily dismissed under one or more of the grounds under section 20(1) of the Act, the Commission may either refer the complaint to the relevant head of jurisdiction (section 21(2)) or refer the matter to a Conduct Division.

- 2.2 The function of a Conduct Division is to examine and investigate a particular complaint that has been referred to it by the Commission.

- 2.3 A Conduct Division is constituted by a panel of two judicial officers (one of whom may be a retired judicial officer) and one of the two community representatives nominated by Parliament. The membership of the Conduct Division will be determined by the Commission. The Commission will also appoint one member of the Conduct Division as Chairperson.

- 2.4 A formal instrument of delegation appointing a Conduct Division (including the Chairperson) will be executed by the members of the Commission.

- 2.5 Where a complaint is referred to a Conduct Division the Commission will, as soon as practicable after that decision is made, advise the complainant and the judicial officer of the action taken. The Commission will also advise the Attorney General of its decision and, in each case, request the appointment of a legal practitioner or practitioners to assist the Conduct Division as counsel.

### 3. Referrals under Part 6A – Suspected impairment of judicial officers

The Conduct Division has the same functions in relation to the examination of a matter referred to it under Part 6A of the Act as it has in relation to the examination of a complaint (section 39F(2)).

#### 4. Examination of complaint by the Conduct Division

4.1 The Conduct Division must conduct an examination of the complaint referred to it (section 23).

4.2 In conducting the initial examination or investigation of a complaint referred to it by the Commission the legislation requires, that as far as practicable, this will take place in private (section 23(3)).

##### 4.3 *Meetings of the Conduct Division*

The initial examination of a complaint will involve the members of the Conduct Division and may include counsel assisting in its meetings. As part of this initial process a venue and timetable for the investigation will be determined.

##### 4.4 *Minutes*

The legislation requires that the Conduct Division will keep full and accurate minutes of the proceedings of each meeting of the Division (clause 5, Schedule 3, *Judicial Officers Act*).

##### 4.5 *Preliminary matters*

Preliminary matters necessary prior to the commencement of a hearing, including:

- interviewing the complainant and other potential witnesses;
- taking statements;
- gathering documents and other material; and,
- preparing a brief of evidence,

will be undertaken by counsel assisting the Division. This will be under the direction of the Division.

##### 4.6 *Medical or psychological examination*

Where the Conduct Division is of the opinion that a judicial officer about whom a complaint has been made may be physically or mentally unfit to exercise efficiently the functions of a judicial office, it may request the officer to undergo a medical or psychological examination (section 34).

#### 5. Hearings by the Conduct Division

The legislation provides that the Conduct Division may hold hearings in relation to a complaint and that a hearing may be held in public or in private, as the Conduct Division may determine (section 24(2)).

##### 5.1 *Public or private hearings*

If the Conduct Division decides to conduct hearings into a complaint, it has to consider whether the hearings should be held in public or private or both.

In exercising its discretion in relation to hearings and as to whether hearings should be held in

public or in private or partly in public and partly in private, the main criteria the Division should consider include:

- a) is it in the public interest to hold the hearing or part of the hearing in public or in private?
- b) does the type of allegation under consideration (eg ability, behaviour, delay, impairment) require confidential treatment?
- c) is it desirable, because of the confidential nature of any evidence or matter, to hold a hearing or part of a hearing in private?
- d) is there a need to protect a person who provides information to the Conduct Division as part of its investigation?
- e) would public confidence in the authority of the judiciary be undermined by a public or private hearing?
- f) is it necessary to close a hearing to protect the reputation of a judicial officer from untested or unverified evidence?

##### 5.2 *Persons who may be present at private hearings*

If a hearing or part of a hearing is to take place in private, the Conduct Division may determine the persons who may be present. As a general guide these may include:

- a) the judicial officer complained about;
- b) the legal representatives of the judicial officer;
- c) counsel assisting the Conduct Division;
- d) support staff assisting the Conduct Division;
- e) any person referred to in section 24(6)(b) and their legal representatives; and,
- f) witnesses including expert witnesses.

##### 5.3 *Release of information*

The Conduct Division has power to give directions preventing the public disclosure of evidence given at its hearings (section 36(1)).

##### 5.4 *Royal Commissions Act 1923*

The function of the Conduct Division is to inquire further into the complaint about the judicial officer. In doing so the Conduct Division has the functions, protections and immunities conferred by the *Royal Commissions Act 1923* on commissioners appointed under that Act. The *Royal Commissions Act* applies to any witness summoned by or appearing before the Conduct Division.

##### 5.5 *Record of proceedings*

A transcript of proceedings should be made and kept whenever the Conduct Division meets as a body to receive evidence, hear testimony, or hear the arguments of counsel regarding matters before the Division.

## 6. Legal representation before the Conduct Division

- 6.1 The Attorney General will appoint a legal practitioner or practitioners to assist the Conduct Division and to present the case against the judicial officer. This assistance is provided by senior and junior counsel and a solicitor (usually the Crown Solicitor).
- 6.2 The judicial officer being complained about will in most instances appear at the hearing and be represented by senior and junior counsel and a solicitor. Funding of the legal representation is subject to approval by the Attorney General.
- 6.3 The Conduct Division may also give permission for other people including a complainant to appear at the hearing and have legal representation.
- 6.4 The right to legal representation for persons appearing at a hearing of the Conduct Division is a matter for the discretion of the Division. Consistent with procedural fairness, the Commission is of the view, that as a general guide and wherever it is practicable to do so, the Conduct Division should consent to legal representation for persons appearing at its hearings.
- 6.5 In exercising its discretion to consent to legal representation, the main criteria the Division should consider include:
- is the witness incapable of representing him or herself?
  - is the matter likely to affect an individual's rights or interest?

- would the granting of representation enhance the fairness of the proceedings?
- would the proceedings be conducted with more efficiency and expedition if representation were or were not granted?
- would the cost of the Inquiry be reduced if representation were granted?

## 7. Reports

### 7.1 *Report to Governor and others*

If the Division has formed an opinion that the matter could justify parliamentary consideration of the removal of the judicial officer complained about from office, it must present to the Governor a report setting out its findings of fact and that opinion. A copy of the report must also be furnished to the Commission, the Attorney General and to the complainant. The copy to the complainant is provided only after it has been laid before each House of Parliament.

### 7.2 *Report to the head of jurisdiction*

If the Division forms an opinion that the matter is wholly or partly substantiated but does not justify parliamentary consideration of the removal of the judicial officer complained about from office, it must send a report to the relevant head of jurisdiction setting out its conclusions. The report may also include recommendations as to what steps might be taken to deal with the complaint. A copy of this report is also provided to the judicial officer and the Commission.

## Appendix 3

# Continuing judicial education policy

### Guiding principles

Pursuant to s 9(1) of the *Judicial Officers Act* 1986 the Judicial Commission may organise and supervise an appropriate scheme for the induction, orientation and continuing education and training of judicial officers. The purpose of this scheme is to assist judicial officers in the performance of their duties by:

- enhancing their professional expertise
- facilitating development of their judicial knowledge and skills
- promoting the pursuit of juristic excellence.

### Services

The Commission is sensitive to the need to provide a range of education services to meet the differing needs of each court and individual judicial officers.

The scheme of continuing judicial education should be structured to be of benefit to all judicial officers in each jurisdiction and to address the differing needs of judicial officers throughout the duration of their careers.

Specifically, the education program should apply the Commission's resources in the most effective delivery of services defined by content (law, procedure, management and administration, and judicial skills) and level of application (induction, update, experience exchange, specialisation and refresher).

These services may include:

1. inducting new appointees with comprehensive training and orientation
2. updating all judicial officers on important recent changes in law, procedure and practice
3. producing bench books for each court, with a process for regular updating
4. publishing the *Judicial Officers' Bulletin* on a regular basis to inform judicial officers of current law and to promote the consideration of important judicial issues
5. promoting the development of an improved scheme for indexing and accessing important judgments
6. facilitating continuing judicial education through the exchange of experience and discussion of topical issues, assisting meetings and discussion groups, and publishing articles and other papers
7. providing refresher services to meet the needs of judicial officers
8. providing special education services to meet the needs of isolated judicial officers both in the suburbs and country, and on circuit/rotation; specifically relating to improved access to legal information

8. promoting the supply of computer support facilities and supplying appropriate training
10. providing an extended range of education services for the assistance of judicial officers, including interdisciplinary and extra-legal courses, where appropriate. The delivery of this scheme should integrate conference, publication and computer support services, in order to facilitate the access to and the use of education services in an effective and convenient manner for judicial officers
11. promoting and conducting the research and development of educational practices to enhance the effectiveness of continuing judicial education.

### Roles and responsibilities

The Judicial Commission has ultimate responsibility to define its policy and strategies in relation to the provision of the above-mentioned services and to determine the direction and the priority of all activity undertaken in the name of the Commission.

The Standing Advisory Committee on Judicial Education (which comprises the chairpersons of the Education Committees of each of the State's courts, or their representatives) has responsibility to advise the Commission on matters of continuing judicial education, to implement Commission policy and strategy and, where appropriate and as requested, to co-ordinate the activities of the respective Education Committees of each court.

The Education Committees of each court, subject to the head of jurisdiction, shall have responsibility to develop and manage the program of educational activities conducted by each court.

The staff of the Commission have the responsibility to advise and assist each of the above bodies, and to act on their instruction to administer and implement the continuing judicial education program.

### Evaluation

The Commission will evaluate the effectiveness of its program of continuing judicial education activities in order to:

- ensure that it provides useful assistance and benefits to judicial officers in the performance of judicial duties
- provide feedback to presenters to ensure their sessions meet the needs of judicial officers.

## Appendix 4

# Committees

### Education Committees

Education Committees have been established in each court and meet on a regular basis to discuss:

- content and design of judicial education programs
- evaluation results of judicial education programs
- recommendations for change.

The Standing Advisory Committee on Judicial Education comprises the chairpersons of the Education Committees of each of the State's courts or their representatives. It advises the Commission on matters of continuing judicial education, implements Commission policy and strategy, and, where appropriate, co-ordinates the activities of the Education Committees.

The Education Director, Ms Ruth Windeler, convenes Education Committee and Standing Advisory Committee meetings, and provides professional input to the committees.

### Standing Advisory Committee on Judicial Education

- The Honourable Justice Ipp AO (Chair)
- The Honourable Justice Schmidt
- The Honourable Mr Justice Lloyd
- His Honour Judge Phegan (until April 2008)
- His Honour Judge Nicholson SC (from April 2008)
- His Honour Deputy Chief Magistrate Cloran
- Ms R Windeler

### Supreme Court Education Committee

- The Honourable Justice Santow AO (until December 2007)
- The Honourable Justice Ipp AO (Chair)
- The Honourable Justice McColl AO
- The Honourable Justice Basten (Acting Chair from mid December 2007 – 2 June 2008)
- The Honourable Justice Bell
- The Honourable Justice Gzell
- The Honourable Justice Nicholas
- The Honourable Justice Hislop
- The Honourable Justice White (until January 2008)
- The Honourable Justice Johnson
- Ms M Greenwood, Chief Executive Officer, Supreme Court
- Ms R Windeler

### Industrial Relations Commission Education Committee

- The Honourable Justice Walton
- The Honourable Justice Schmidt (Chair)
- Commissioner P Connor
- Commissioner J McLeay
- Mr M Grimson, Industrial Registrar
- Ms R Windeler

### Land and Environment Court Education Committee

- The Honourable Mr Justice Lloyd (Chair)
- Commissioner T Bly
- Ms S Dixon, Registrar
- Ms R Windeler

### District Court Education Committee

- His Honour Judge Knight (Chair)
- His Honour Judge Geraghty (until December 2007)
- Her Honour Judge Sidis
- Her Honour Judge Murrell SC
- His Honour Judge Phegan (until April 2008)
- Her Honour Judge Ashford (from May 2008)
- His Honour Judge Puckeridge QC
- His Honour Judge Williams (until February 2008)
- Her Honour Judge Gibson (until May 2008)
- His Honour Judge Nicholson SC
- His Honour Judge Knox SC
- Her Honour Judge Sweeney (from May 2008)
- His Honour Judge Zahra SC (from May 2008)
- His Honour Judge Cogswell SC (from May 2008)
- Mr C Smith, Director, Court Services
- Ms R Windeler

### Local Court Education Committee

- His Honour Deputy Chief Magistrate Cloran (Chair)
- His Honour Magistrate MacPherson (until March 2008)
- Her Honour Magistrate Fleming (from March 2008)
- His Honour Magistrate Dillon (until March 2008)
- Her Honour Magistrate Huber
- Her Honour Magistrate Schurr
- His Honour Magistrate Heilpern
- His Honour Magistrate Prowse (from March 2008)
- Her Honour Magistrate Hannam

- His Honour Magistrate Zdenkowski (until December 2007)
- His Honour Magistrate Lerve
- Her Honour Magistrate Freund (from March 2008)
- Ms R Windeler

#### **Ngara Yura Committee**

- His Honour Judge Norrish QC (Chair)
- His Honour Judge Nicholson SC
- His Honour Judge Dive (until August 2007)
- Her Honour Deputy Chief Magistrate Syme
- His Honour Magistrate Dick
- Mr Stan Jarrett (until December 2007)
- Mr Terry Chenery
- Ms Joanne Selfe (until January 2008)
- Mr E Schmatt PSM
- Ms R Windeler

#### **Bench Book Committees**

The day-to-day work of revising the content of bench books is delegated to individual Bench Book Committees, acting on behalf of the Commission.

#### **Criminal Trial Courts Bench Book Committee**

- The Honourable Justice Howie (Chair)
- The Honourable Justice Johnson
- His Honour Judge Berman SC
- His Honour Judge Hulme SC
- Mr H Donnelly (Convenor)

#### **Local Courts Bench Book Committee**

- His Honour Deputy Chief Magistrate Cloran
- His Honour Magistrate Heilpern
- Her Honour Magistrate Freund
- Ms Bridget Thomson (Project Officer)
- Ms Roslyn Cook (Convenor)

#### **Civil Trials Bench Book Committee**

- The Honourable James Wood AO QC (Chair)
- The Honourable David Hunt AO QC
- The Honourable Michael Campbell QC
- The Honourable Hal Sperling QC (until February 2008)
- The Honourable Justice Hoeben AM RFD
- The Honourable Justice Hislop
- Her Honour Judge Sidis
- His Honour Judge Rein SC (until May 2008)
- His Honour Judge Johnstone (from May 2008)
- His Honour Magistrate Lulham (until February 2008)
- His Honour Magistrate Dillon (until May 2008)
- His Honour Magistrate Heilpern (from February 2008)
- Mr E Schmatt PSM
- Ms R Windeler

#### **Equality before the Law Bench Book Committee**

- The Honourable Justice Beazley AO (Chair)
- The Honourable Justice Basten
- The Honourable Justice Rothman AM
- Her Honour Judge Ainslie-Wallace
- His Honour Judge Norrish QC
- Her Honour Deputy Chief Magistrate Syme
- Her Honour Magistrate Orchiston (until November 2007)
- Dr M Dodson AM
- Dr J Cashmore
- Mr E Schmatt PSM
- Ms R Windeler

#### **Sexual Assault Handbook Committee**

- Her Honour Judge Murrell SC (Chair)
- His Honour Judge Ellis
- His Honour Judge Knox SC
- Ms R Windeler

## Appendix 5

### Conference topics

#### **Supreme Court Annual Conference, August 2007**

- Organisation of Courts in Crime
- Conducting Long Trials
- Developments in Criminal Trials
- The Nature of a Beneficiary's Equitable Interest in a Trust
- Contempt
- A Historical Perspective on Review of Merits and Legality
- What it is like to be an Arab–Christian Judge on the Supreme Court of Israel
- Historical and Other Truths
- The Approach of the Bombay High Court to Human Rights Disputes
- The UK Approach to Human Rights

#### **Industrial Relations Commission Annual Conference, September 2007**

- State Industrial Relations — A View From the West
- Economics for Judges
- Dealing with Depression
- Corporate Social Responsibility
- Anti-Discrimination in the Workplace
- Covert Workplace Surveillance: Use and Abuse
- Review of the Commission's Work 2004–2007
- Experience of Referral Agreements
- Collaborative Practice

#### **Land and Environment Court Annual Conference, May 2008**

- Practice and Procedure Update
- Urbanisation in the Catchment: Challenges and Solutions
- Field trip to Warragamba Dam & Catchment
- Judicial Conduct, Ethics and Bias
- Administrative Law Update
- Case Law Update
- Sitting can be a Pain in the Back

#### **District Court Annual Conference, March 2008**

- Court of Appeal Review
- The Serious Offenders Review Council
- Criminal Law Update including Evidence, Sentencing and Other Matters

- Civil Law Update including Damages — Three Different Schemes, Commercial Law Update and Other Matters
- Mental Health (Criminal Procedure) Act
- Dealing with Difficult Litigants

#### **Local Court Annual Conference, August 2007**

- Judicial Conduct In and Out of Court
- Civil Law Update
- Criminal Law Update
- Hindsight Bias in Expert Evidence
- Effectiveness of Sentencing Options — What Works?
- Media and the Courts
- Family Law Update
- Occupational Health and Safety for Magistrates
- Superannuation — One Month On

#### **Local Court Southern and Northern Regional Conferences, March & April 2008**

- Coronial Matters — From the Beginning
- The National Coroners Information System
- Managing Lists
- Committal Proceedings
- Digital ERISP Technology
- Criminal and Care Proceedings — Update
- Section 38 of the *Evidence Act*
- Amendments to Apprehended Violence Legislation
- Bail on Appeal
- Privilege Against Self-Incrimination Under the *Evidence Act*, s 128
- The Commonwealth Criminal Code
- Using the Sentencing Bench Book
- Giving Reasons for Judgment

#### **Magistrates' Orientation Programme, June 2008**

- Judicial Attributes
- Ethics: Without Fear or Favour, Affection or Ill Will
- Judicial Attitudes
- Judicial Practice
- Unrepresented Litigants
- Judicial Communication
- Decision Making/Judgments

- Ex Tempore Judgments Workshop
- Group Sentencing Exercises
- Bail
- Court Craft in Practice
- Sentencing Principles
- Sentencing Exercises
- Managing Child Witnesses
- Stress Management
- Meditation/Relaxation
- Sentencing Exercises
- Everything You Wanted to Know But Were Afraid to Ask

### **National Judicial Orientation Program, October 2007 (joint program with AIJA and NJCA)**

- Judicial Conduct In and Out of Court
- Sentencing
- Expert Evidence in Civil Proceedings
- Court Craft
- Maintaining Psychological and Physical Health
- Judgment Writing
- Assessing the Credibility of Witnesses
- Interpreters and Ethnicity
- Court Craft – The Trial From Hell
- Litigants in Person
- Contempt

## Appendix 6

### Judicial education seminars and workshops

#### **Supreme Court**

- “Overview of the *Surveillance Devices Act 2007* and Demonstration of Surveillance Devices” presented by Superintendent Col Roddan, Inspector Steve Reynard, Inspector Stefan Kent, Senior Sergeant Stuart Davis, State Technical Investigation Branch, NSW Police, and Acting Inspector Jodie Shepherd, Prosecutions Processing. Twilight Seminar, March 2008.

#### **Industrial Relations Commission**

- “Developing a New Employment Model across Australia, Canada, the UK and the US” presented by Professor Judy Fudge, Lansdowne Chair in Law, University of Victoria, BC Canada. Breakfast Seminar, February 2008.
- “Judicial Dispute Resolution” presented by Professor Brettel Dawson, Academic Director, National Judicial Institute, Canada. Breakfast Seminar, March 2008.
- “The Missing Link in the Labour Trade Debate: The Impact of Globalisation on Domestic Regulatory Systems” presented by Professor Katherine Stone, UCLA School of Law. Breakfast Seminar, May 2008.

#### **District Court**

- “Judgment Writing Workshop” presented by Professor James Raymond, August 2007.
- “The Impact of the New Super System on Judges” presented by Mr Daryl Dixon, Executive Chairman, Dixon Advisory & Superannuation Services. Twilight Seminar, September 2007.

- “Australia’s Anti-Terrorism Laws — Where They Stand and What’s Next?” presented by Dr Andrew Lynch, Deputy Director of the Gilbert and Tobin Centre of Public Law. Breakfast Seminar, November 2007.
- “International Criminal Tribunal for the Former Yugoslavia” presented by The Honourable David Hunt AO QC. Twilight Seminar, February 2008.
- “Computer Forensics” presented by Mr Matthew Westwood-Hill, Principal Computer Forensic Examiner, Forensic Digital Services Pty Ltd. Breakfast Seminar, May 2008.

#### **Local Court Metropolitan Seminar Series II, November 2007**

- “Criminal and Care Proceedings — Update” presented by His Honour Senior Children’s Magistrate Scott Mitchell.
- “Committal Proceedings” presented by His Honour Magistrate Peter Dare SC.
- “Digital ERISP Technology” presented by Sergeant John Mares, NSW Police Force.
- “Section 38 of the Evidence Act” presented by Her Honour Magistrate Jane Culver.
- “Amendments to Apprehended Violence Legislation” presented by His Honour Magistrate Bernie Kennedy.

#### **Local Court Metropolitan Seminar Series I, February 2008**

- “Privilege Against Self-Incrimination Under the *Evidence Act*, s 128” presented by His Honour Magistrate Roger Brown RFD.

- “Managing Lists ” presented by His Honour Magistrate Allan Moore.
- “The Commonwealth Criminal Code” presented by His Honour Magistrate Ian Guy.
- “Using the Sentencing Bench Book” presented by Mr Hugh Donnelly, Director, Research and Sentencing, Judicial Commission of NSW.
- “Giving Reasons for Judgment” presented by His Honour Magistrate Hugh Dillon.
- “Bail on Appeal” presented by His Honour Magistrate David Heilpern.

### Cross Jurisdictional Seminars

- “Testing the Competence of Children to Give Evidence” presented by Professor Ray Bull, Chair in Forensic Psychology, University of Leicester. Twilight Seminar, July 2007.
- “A UK Perspective on Human Rights ‘Judging’” presented by The Right Honourable the Lord Robert Walker of Gestingthorpe, the House of Lords. Twilight Seminar, August 2007.
- “Judgment Writing Master Class Workshop” presented by Professor James Raymond, September 2007.

- “A Journey in Judicial Education” presented by Professor Brett Dawson, Academic Director, National Judicial Institute, Canada. Afternoon Seminar, March 2008.
- “Manitoba’s Domestic Violence Courts” presented by The Honourable Raymond Wyant, Chief Judge, Provincial Court of Manitoba. Twilight Seminar, May 2008.

### Ngara Yura Programme

- “The Tsuu T’ina Peacemaking Court and Siksika Court in Canada” presented by The Honourable Mr Justice Leonard Mandamin, Federal Court of Canada. Twilight Seminar, September 2007.
- “Social Context Education” presented by Professor Brett Dawson, Academic Director, National Judicial Institute, Canada for the Ngara Yura Committee, March 2008.
- “Using a Process Like Circle Sentencing in the Bail Process” presented by Mr Mark McMillan, Senior Lecturer, Jumbanna Indigenous House of Learning, University of Technology. Twilight Seminar, May 2008.

## Appendix 7

### Articles published by the Commission

- Magistrate Doug Dick, “Judicial officers’ visit to Kempsey Aboriginal communities” (2007) 19(11) JOB 97
- Mr Daryl Dixon, “The new super and the judiciary” (2007) 19(6) JOB 51
- Professor Mick Dodson, “Customary law and the sentencing of Indigenous offenders” (2008) 20(5) JOB 37
- Mr Ross Gittins, “Economics for judges” (2008) 8(4) TJR 489
- Chief Justice Murray Gleeson AC, “A core value” (2007) 8(3) TJR 329
- Chief Justice Murray Gleeson AC, “Some legal scenery” (2008) 8(4) TJR 415
- Justice Rod Howie, “Criminal law update 2007” (2007) 19(8) JOB 65
- Justice Rod Howie, “Sentencing discounts: Are they worth the effort?” (2008) 8(4) TJR 473
- Justice P Johnson, “Claims for possession of land following mortgage default — a rising tide” (2008) 20(2) JOB 9
- Justice Michael Kirby AC CMG, “Statutory Interpretation: Principles and pragmatism for a new age” (2007) 19(6) JOB 49
- Justice Michael Kirby AC CMG, “Computers and law: The first quarter century” (2008) 8(4) TJR 429
- Sir Igor Judge, “The Woolf reforms after nine years: is litigation quicker and cheaper in the High Court?” (2007) 19(10) JOB 89
- Ms Kate Lumley, “From controversy to credibility: 20 years of the Judicial Commission of New South Wales” (2007) 19(9) JOB 73
- Ms Kate Lumley, “Dubbo community welcomes judicial officers” (2008) 20(5) JOB 41
- Justice Brian Preston and Mr Hugh Donnelly, “Environmental crime sentencing database is a world first” (2008) 20(4) JOB 27
- Justice R Sackville, “Three issues facing the judiciary” (2008) 20(3) JOB 17
- Mr Ernest Schmatt PSM, “Vale to Kenneth Grenville Gee” (2008) JOB
- Judge Margaret Sidis, “Civil law update” (2007) 19(7) JOB 58
- The Hon JJ Spigelman AC, “Judicial independence” (2007) 8(3) TJR 343
- Lord Robert Walker of Gestingthorpe, “A United Kingdom perspective on human rights judging” (2007) 8(3) TJR 295

- Ms Laura Wells, “Criminal Procedure Amendment (Vulnerable Persons) Act 2007 commences” (2007) 19(10) JOB 91
- Ms Laura Wells, “Recent statutory reform of consent in sexual offences” (2008) 20(1) JOB 1
- Justice A Whealy, “Contempt: Some contemporary thoughts” (2008) 8(4) TJR 441
- Justice A Whealy, “The impact of terrorism related laws on judges conducting criminal trials” (2007) 8(3) TJR 353
- Ms Ruth Windeler, “An opportunity to speak at the École Nationale de la Magistrature” (2008) 20(1) JOB 3
- Mr James Wood AO QC, “Publication of Civil Trials Bench Book” (2007) 19(7) 57
- Magistrate G Zdenkowski, “Magistrates’ courts and public confidence” (2007) 8(3) TJR 385

TJR — *The Judicial Review*JOB — *Judicial Officers’ Bulletin*

## Appendix 8

### Publications list

Many of the Commission’s publications are available to download from the Commission’s website at [www.judcom.nsw.gov.au](http://www.judcom.nsw.gov.au). All Commission publications can be purchased through the NSW Government’s online shop at [www.shop.nsw.gov.au](http://www.shop.nsw.gov.au).

#### Education Monographs

- 1 Fragile bastion: Judicial independence in the nineties and beyond, 1997
- 2 A matter of judgment: Judicial decision-making and judgment writing, 2003
- 3 The role of the judge, 2004
- 4 Statutory Interpretation: Principles and pragmatism for a new age, 2007

#### Research monographs

- 1 The use of custodial sentences and alternatives to custody by New South Wales magistrates, 1990 (available only as a photocopy)
- 2 Community service orders: Views of organisers in New South Wales, 1991
- 3 Community service orders and periodic detention as sentencing options: A survey of judicial officers in New South Wales, 1991
- 4 Sentencing juvenile offenders and the *Sentencing Act 1989* (NSW): The impact of legislative and administrative changes in the Children’s Court 1982–1990, 1991
- 5 A critical review of periodic detention in New South Wales, 1992
- 6 Sentencing drug offenders: Analysis of sentences imposed in the higher courts of New South Wales, 25 September 1989–31 December 1991, 1992
- 7 “Special circumstances” under the *Sentencing Act 1989* (NSW), 1993
- 8 Alcohol as a sentencing factor: A survey of attitudes of judicial officers, 1994
- 9 Sentence Indication Hearings Pilot Scheme, 1994

- 10 Sentenced homicides in New South Wales 1990–1993, 1995
- 11 The evidence of children, 1995
- 12 Judicial views about pre-sentence reports, 1995
- 13 The *Sentencing Act 1989* and its effect on the size of the prison population, 1996
- 14 Magistrates’ attitudes to drink-driving, drug-driving and speeding, 1997
- 15 Child sexual assault, 1997
- 16 Sentencing disparity and the gender of juvenile offenders, 1997
- 17 Sentencing disparity and the ethnicity of juvenile offenders, 1998
- 18 Periodic detention revisited, 1998
- 19 Sentencing drug offenders: Analysis of sentences imposed in the higher courts of New South Wales, 1 January 1992–31 December 1997, 1999
- 20 Apprehended violence orders: A survey of magistrates, 1999
- 21 Sentencing dangerous drivers in New South Wales: Impact of the *Jurisc* guidelines on sentencing practice, 2002
- 22 Circle sentencing in New South Wales: A review and evaluation, 2003
- 23 Sentenced homicides in New South Wales 1994–2001, 2004
- 24 MERIT — A survey of magistrates, 2004
- 25 Sentencing offenders convicted of child sexual assault, 2004
- 26 The nexus between sentencing and rehabilitation in the Children’s Court of NSW, 2005
- 27 Crown appeals against sentence, 2005
- 28 Partial defences to murder in NSW 1990–2004, 2006
- 29 Full-time imprisonment in New South Wales and other jurisdictions: A national and international comparison, 2007

- 30 Sentencing robbery offenders since the *Henry* guideline judgment, 2007
- 31 Diverting mentally disordered offenders in the NSW Local Court, 2008
- 32 Achieving consistency and transparency in sentencing for environmental offences, 2008

### Sentencing Trends and Issues

- 1 The Children's Court, March 1991
- 2 The impact of truth in sentencing: Part 1, The higher courts, March 1992
- 3 The impact of truth in sentencing: Part 2, The Local Courts, June 1992
- 4 Sentencing in the Court of Criminal Appeal, February 1993
- 5 Common offences in the Local Courts, March 1994
- 6 Common offences in the higher courts, July 1994
- 7 Sentencing homicide: The effect of legislative changes on the penalty for murder, June 1994
- 8 From murder to manslaughter: Partial defences in New South Wales, 1900 to 1993
- 9 Common offences in the Children's Court, May 1995
- 10 Sentencing drink driver offenders, June 1995
- 11 "Sentenced to the rising of the court", January 1996
- 12 The use of recognizances, May 1996
- 13 Sentencing deception offenders Part 1, The Local Courts, June 1996
- 14 Sentencing deception offenders Part 2, The higher courts, October 1996
- 15 Driving causing death: Section 52A of the *Crimes Act* 1900, May 1997
- 16 An overview of sentence and conviction appeals in the New South Wales Court of Criminal Appeal, March 1998
- 17 Kidnapping — Section 90A *Crimes Act* 1900 (NSW), July 1998
- 18 Common offences in the higher courts 1990–1997, August 1998
- 19 Sentencing offenders in the Local Courts — Effects of the *Criminal Procedure (Indictable Offenders) Act* 1995, February 2000
- 20 Sentencing female offenders in New South Wales, May 2000
- 21 Protective custody and hardship in prison, February 2001
- 22 Conviction and sentencing appeals in the NSW Court of Criminal Appeal 1996–2000, February 2002
- 23 Sentencing mentally disordered offenders: The causal link, September 2002
- 24 Bail: An examination of contemporary issues, November 2002
- 25 Sentencing methodology: Two-tiered or instinctive synthesis?, December 2002
- 26 Sentencing trends for armed robbery and robbery in company: The impact of the guideline in *R v Henry*, February 2003
- 27 Sentencing drink-driving offenders in the NSW Local Court, March 2003
- 28 Common offences in the Local Courts 2002, September 2003
- 29 Suspended sentences in New South Wales, November 2003
- 30 Common offences and the use of imprisonment in the District and Supreme Courts in 2002, March 2004
- 31 The use and limitations of sentencing statistics, December 2004
- 32 Pre-sentence custody and other constraints on liberty, May 2005
- 33 Successful completion rates for supervised sentencing options, June 2005
- 34 Trends in the use of s 12 suspended sentences, June 2005
- 35 Impact of the high range PCA guideline judgment on sentencing drink drivers in NSW, September 2005
- 36 Trends in the use of full-time imprisonment 2006–2007, November 2007

### Journals

Judicial Officers' Bulletin (Vols 1–20)  
The Judicial Review (Vols 1–8)

### Bench Books

- Civil Trials Bench Book
- Criminal Trial Courts Bench Book
- District Court Judges' Civil Guidelines
- Equality before the Law Bench Book
- Industrial Relations Commission Bench Book
- Land and Environment Court Bench Book
- Local Courts Bench Book
- Sentencing Bench Book
- Sexual Assault Handbook

### Brochures

- Complaints against judicial officers
- Disabilities information
- Format for remarks on sentencing
- Judicial Commission of New South Wales
- Judicial Information Research System
- Judicial Information Research System: An invitation to subscribe
- Presentation Pointers: Getting started and getting through your presentation
- Pro Bono Schemes in NSW
- The Judicial Review

### DVDs

- The Role of the Judge
- Concurrent Evidence: New methods with experts

## Appendix 9

### Assistance to other jurisdictions

The Commission has developed a high level of expertise in judicial education, sentencing research, and building and maintaining judicial support and case management systems. As a result other organisations, both nationally and internationally, have sought our assistance in developing similar programs and systems. In 2007–08 the Commission provided the following assistance.

#### Judicial education

- **Asia Pacific Judicial Educators Forum (APJEF):** The Commission provided APJEF members with publications and other judicial education material. The Chief Executive is a member of the APJEF's Executive Committee.
- **Asia Pacific Judicial Reform Forum (APJRF):** The APJRF aims to advance judicial reform in the Asia Pacific Region. The Commission is a member of the APJRF Secretariat, which is working to develop practical tools to assist member countries implement judicial reform programs. The APJRF has received funding from the United Nations Democracy Fund to develop a judicial reform handbook which will define good practice in a number of areas of judicial reform.
- **Council of Australasian Tribunals (COAT):** The Commission provided COAT with assistance in co-ordinating two workshops on judgment writing for 28 tribunal members in August 2007.
- **École Nationale de la Magistrature (ENM):** In 2007, the Commission agreed to work with the ENM to strengthen ties between the two organisations. The ENM, located in Bordeaux, France and with a branch in Paris, provides training for judicial officers and prosecutors. One of its focuses is to assist its students to develop an understanding of the administration of justice and judicial culture in Australia. The Commission facilitated a number of NSW judicial officers visiting France to take the

opportunity to visit the ENM to learn more about the French justice system and at the same time provide assistance to future French prosecutors and judicial officers. In addition, the Education Director visited the ENM in October 2007 and met with the new Director, Mr Jean-François Thony, as well as Ms Amanda Gedge-Wallace (Head of the Department of Languages and Cultural Studies) and Ms Florence Schmidt-Pariset (Deputy Director of the International Department).

- **Magisterial Service of Papua New Guinea:** The Commission signed a Memorandum of Understanding to provide assistance with professional development and judicial training programs for PNG magistrates: see page 13.

#### Judicial support and case management systems

- **District Court Statistics Collection System:** we continue to host, maintain and support the sentencing statistics collection and listing system for the NSW District Court. It is anticipated that this system will be replaced by the new JusticeLink system, when it becomes fully operational in 2008–09.
- **Drug Court Case Management System:** we continue to host, maintain and support case management systems for the NSW Drug Court, NSW Youth Drug and Alcohol Court, and the Compulsory Drug Treatment Correctional Centre.
- **Queensland Sentencing Information Service (QSIG):** we continue to host, maintain and support QSIG for the Queensland Government.
- **Fine Enforcement System:** we have completed a significant part of the development of this system for the NSW Office of State Revenue (OSR) and will transfer its maintenance and support to OSR in 2008–09.

## Appendix 10

### Working with other organisations

Commission staff participate in a number of committees and steering groups in connection with the Commission's role. Details of their involvements are:

#### **Mr Ernest Schmatt PSM, Chief Executive**

- Advisory Board to the Commonwealth Judicial Education Institute, Halifax, Canada
- Asia Pacific Judicial Educators Forum (Executive Member), Manila, Philippines
- Asia Pacific Judicial Reform Forum Secretariat (Management Group)
- Australia and New Zealand Judicial Educators Group
- Criminal Trial Efficiencies Working Group, NSW Attorney General
- Honorary Associate in the Graduate School of Government, University of Sydney
- National Judicial Orientation Program Steering Committee, National Judicial College of Australia
- Standing Committee of Criminal Justice System Chief Executive Officers

#### **Ms Ruth Windeler, Education Director**

- Australia and New Zealand Judicial Educators Group
- Continuing Legal Education Association of Australasia Executive Committee (until October 2007)
- National Judicial Orientation Programme Steering Committee, National Judicial College of Australia

#### **Mr Hugh Donnelly, Director, Research and Sentencing**

- Advisory Committee to Review Section 32 of the *Mental Health (Criminal Procedure) Act 1990*, New South Wales Law Reform Commission
- Directions in Jury Trials, New South Wales Law Reform Commission
- Federal Criminal Justice Forum Steering Committee
- Sexual Assault Review Committee, Office of the Director of Public Prosecutions

#### **Mr Murali Sagi, Director, Information Services and Administration**

- Justice Sector Chief Information Officers' Committee
- Justice Sector Information Exchange Co-ordinating Committee
- NSW Government Open Source Forum

#### **Ms Ruth Sheard, Manager, Conferences and Communication**

- Asia Pacific Judicial Reform Forum Secretariat (Operations Unit)

## Appendix 11

### Visitors to the Commission

#### Visitors

- Ms Hongxia Liu, Director, Asia Pacific International Development Law Organisation, 20 July 2007
- Mr Ju-Hyoung Lee, Sentencing Reform Task Force of the Korean Supreme Public Prosecutor's Office, 15 November 2007
- Mr Bong-Kyu Suh, Ministry of Justice, Republic of Korea, 15 November 2007
- Senior District Judge Richard Magnus, Subordinate Courts of Singapore, 14 December 2007
- The Honourable Justice David Wong, High Court of Malaysia, 12 February 2008
- Mr Sabin Raj Shrestha, The World Bank, 15 February 2008
- Dr Ram Krishna Timalsena, National Program Director, United Nations Development Programs, 15 February 2008
- Professor Brettel Dawson, Academic Director of the National Judicial Institute in Canada, 5–6 March 2008
- Mr Patrick Kwiwa, Training Officer, Magisterial Service Papua New Guinea, 10–20 March 2008
- Mr John Numapo, Chief Magistrate, Papua New Guinea, 6 May 2008
- Mr Bill Stefaniak, Shadow Attorney General, ACT, 5 June 2008
- Judge Wong Keen Onn, Principal District Judge, Singapore Subordinate Courts, 30 June 2008
- Judge Bala Reddy, Singapore Subordinate Courts, 30 June 2008
- Judge Francis Tseng, Singapore Subordinate Courts, 30 June 2008
- Judge Eddy Tham, Singapore Subordinate Courts, 30 June 2008

#### Delegations

- Seven member delegation from the United Arab Emirates led by His Excellency Mohammed Nukhaira Al Dhaheeri, Minister for Justice, 24 July 2007
- Seven member delegation led by Mr Yue Xuanyi, Special Adviser, Ministry of Justice, People's Republic of China, 12 December 2007
- Six member delegation from the Supreme Court of Bangladesh led by Mr Justice Md Ruhul Amin, Chief Justice of Bangladesh, 8 February 2008
- Eight member delegation from the Supreme Court of Nepal led by the Honourable Mr Justice Min Bahadur Rayamajhee, 15 February 2008

## Appendix 12

### Overseas visits

- In August 2007, the Commission's Director of Information Management and Corporate Services, Murali Sagi, was invited to present a paper at the Government Insights Conference in Wellington, New Zealand. Mr Sagi shared the Commission's experience with using open source software, with an emphasis on its strategic benefits in government, and took part in a discussion on the need for a multidimensional chief information officer. The visit was organised and funded by IDC, an information technology research company.
- In September 2007, the Commission's Chief Executive, Ernest Schmitt, in his capacity as an Executive Member of the Asia Pacific Judicial Educators Forum, attended a general meeting of the forum held in Manila, Philippines. Funding to attend the meeting was provided by APJEF.
- In November 2007, the Commission's Education Director, Ruth Windeler, travelled to Port Moresby with two Local Court of NSW magistrates, Deputy Chief Magistrate Paul Cloran and Magistrate David Heilpern, to conduct a week-long orientation program for PNG magistrates. The visit was organised by the Magisterial Service of Papua New Guinea and funded by AusAID.

## Appendix 13

### Exchange of information

In 2007–08, the Commission had discussions and exchanged information with the following organisations:

#### Australian

- Aboriginal Justice Advisory Council
- Administrative Appeals Tribunal
- Administrative Decisions Tribunal
- Attorney General's Department (Cth)
- Attorney General's Department (NSW)
- Australian Agency for International Development
- Australian Bureau of Statistics
- Australian Institute of Criminology
- Australasian Institute of Judicial Administration
- Australian National University
- Bar Association of New South Wales
- Bureau of Crime Statistics and Research
- Centre for Democratic Institutions (ACT)
- College of Law
- Commonwealth Director of Public Prosecutions
- Community Relations Commission
- Continuing Legal Education Association of Australasia
- Council of Australasian Tribunals
- Criminal Law Review Division, Attorney General's Department
- Department of Commerce, Office of the Government Chief Information Officer
- Department of Corrective Services
- Department of Justice and Attorney General (Qld)
- Department of Juvenile Justice
- Domestic Violence Advocacy Service
- Federal Court of Australia
- Flinders University School of Law
- High Court of Australia
- Independent Commission Against Corruption
- Institute of Criminology, University of Sydney
- International Development Law Organisation
- Judicial College of Victoria
- Judicial Conference of Australia
- Law and Justice Foundation of New South Wales
- Law Institute of Victoria
- Law Society of New South Wales
- Legal Aid Commission
- Leo Cussen Institute (Vic)
- Macquarie University Law School

- Monash University Law School (Vic)
- National Judicial College of Australia
- New South Wales Law Reform Commission
- New South Wales Office of State Revenue
- New South Wales Police Service
- New South Wales Sentencing Council
- Office of the Director of Public Prosecutions (NSW)
- Ombudsman's Office of New South Wales
- Parliamentary Counsel's Office
- Premier's Department (NSW)
- Public Defenders Office (NSW)
- Roads and Traffic Authority
- Sentencing Advisory Council (Vic)
- Supreme Court of Western Australia
- University of Melbourne Law School (Vic)
- University of New South Wales Faculty of Law
- University of Sydney Faculty of Law
- University of Technology, Sydney
- University of Wollongong Faculty of Law
- Workers Compensation Commission

#### International

- American Judicature Society
- Asia Pacific Judicial Educators Forum, Manila
- Asia Pacific Judicial Reform Forum
- Australia–Indonesia Legal Development Facility
- Canadian Association of Provincial Court Judges
- Commonwealth Judicial Education Institute, Halifax, Canada
- Commonwealth Magistrates' and Judges' Association, United Kingdom
- Court of Appeal for Ontario, Canada
- Federal Court, Malaysia
- High Court of Delhi, New Delhi, India
- High Court of the Solomon Islands
- Institute of Judicial Studies, New Zealand
- International Association of Women Judges
- International Organisation for Judicial Training, Israel
- Judicial Commission of Indonesia, Jakarta
- Judicial Education Reference, Information and Technical Transfer (JERITT) Project, Michigan, USA
- Judicial Studies Board, London
- Magisterial Service Papua New Guinea
- Michigan Judicial Institute, United States of America
- National and Supreme Courts of Papua New Guinea

- National Association of State Judicial Educators, Michigan, United States of America
- National Center for State Courts, Virginia, United States of America
- National Judicial Academy, Bhopal, India
- National Judicial Institute, Canada
- Philippines Judicial Academy, Manila
- Research and Development Center, Supreme Court of Indonesia
- Subordinate Courts of Singapore
- Supreme Court of Bangladesh
- Supreme Court of Canada
- Supreme Court of Indonesia
- Supreme Court of Nepal
- Supreme Court of the Philippines
- Supreme People's Court, Beijing, China
- University of Windsor, Canada
- York University, Canada

## Appendix 14

### Presentations given by Commission officers

Staff at the Commission are invited to give presentations at a number of conferences and seminars. Details of these presentations are set out below:

- “Reaping the strategic benefits of open source in government”, given by Mr M Sagi at the 2nd Annual Government Insights Conference, Wellington, New Zealand, 16 August 2007.
- “The multidimensional CIO: Navigating the state of change”, given by Mr M Sagi at the 2nd Annual Government Insights Conference, Wellington, New Zealand, 17 August 2007.
- “Judicial education — The New South Wales experience”, given by Mr E Schmatt at the Asia Pacific Judicial Educators Forum Meeting, Manila, Philippines, 25 September 2007.
- “Familiarisation/orientation”, given by Ms R Windeler at the National Judicial Orientation Program, Manly, 29 October 2007.
- “Strategic benefits of open source”, given by Mr M Sagi at Open Source Software in Government: Innovation and Shared Experience, Australian Government Information Management Office, Canberra, 1 November 2007.
- “Familiarisation/orientation”, given by Ms R Windeler at the Magistrates’ Orientation Program, Port Moresby, Papua New Guinea, 25 November 2007.
- “Judicial communication”, given by Ms R Windeler at the Magistrates’ Orientation Program, Port Moresby, Papua New Guinea, 27 November 2007.
- “Sentencing appeals in New South Wales: Success rates and recent law”, given by Mr H Donnelly at the Sentencing Conference 2008 convened by the National Judicial College National Museum Canberra, 9 February 2008 (accessible at <http://njca.anu.edu.au/Professional%20Development/programs%20by%20year/2008/Sentencing%20Conference%202008/2008%20Sentencing%20Conference.htm>).
- “Innovation with open source”, given by Mr M Sagi at the April Branch Forum of Australian Computer Society, Sydney, 25 April 2008.
- “Trends in decision support and case management systems”, given by Mr E Schmatt and Mr M Sagi at the Association of Australian Magistrates Biennial Conference, Sydney, 7 June 2008.
- “Familiarisation/Orientation”, given by Ms R Windeler at the Magistrates’ Orientation Program, 1 June 2008.
- “Judicial communication”, given by Ms R Windeler at the Magistrates’ Orientation Program, 3 June 2008.
- “Judicial Information Research System — An update”, given by Mr E Schmatt and Mr M Sagi at the Law & Technology Conference, Australian Institute of Judicial Administration, Sydney, 27 June 2008.
- “Preparation and dissemination of electronic bench books”, given by Mr M Sagi and Mr H Donnelly at the Law & Technology Conference, Australian Institute of Judicial Administration, Sydney, 27 June 2008.

## Appendix 15

# Freedom of Information

As an “agency” under the *Freedom of Information Act* 1989, the Commission is required to publish particular information and to determine requests for access to, or amendment of, information that it holds.

### Categories of documents held by the Commission

Official documents of the Commission are stored in files that are held on the Commission’s premises. These files fall into the following principal categories:

- *Administration* — These files cover aspects of the Commission’s internal administration, including budget and finance matters, correspondence and accommodation. Education, research and computer related files are also held within the administration group.
- *Staff matters* — These files relate to recruitment, staff training, staff personnel files and salaries.
- *Contracts and tendering* — The Judicial Information Research System has given rise to a number of documents, many of which still contain commercially sensitive material.
- *Commission matters* — Minutes, agendas and business papers relating to meetings convened by and held at the Commission.
- *Complaints* — Files and documents relating to complaints against judicial officers.

The Commission’s files are generally not available for inspection and documents in relation to complaints are subject to secrecy provisions and are thereby classed as exempt documents.

### Access to documents published by the Commission

The following documents are available for inspection and purchase from the Commission’s Freedom of Information Co-ordinator:

- the Commission’s Summary of Affairs
- the Commission’s Statement of Affairs
- the Commission’s Annual Report.

### Access to documents for the purpose of alteration

The Commission holds no personal records of any member of the public. No arrangements exist for the public to change any documents held by the Commission. Staff (including former staff) do not need to use Freedom of Information to access their personnel files.

### Applications and other details

In 2007–08 the Commission received no applications under the *FOI Act* for access to documents, and has received no applications in the previous three years.

During the reporting period:

- no Ministerial Certificates were issued
- no requests required formal consultations
- no requests were received for the amendment or notation of personal records
- there were no reviews or appeals
- the administration of FOI activities did not have any significant impact on the Commission’s activities.

Freedom of Information Report	
Name of Agency	Judicial Commission of New South Wales
Period from	1 July 2007–30 June 2008
Agency reference number	1640
Contact person	Freedom of Information Co-ordinator

## Appendix 16

## Other compliance matters

Application for extension of time	No extension applied for.
Code of conduct	The code of conduct is available to all staff on the Commission's intranet. As no amendments were made in 2007–08, the Commission is not required to reproduce the code of conduct.
Community Relations Commission, agreements with	No agreements have been entered into.
Disability plan	The Commission is not required to report on a disability plan under the <i>Public Sector Employment and Management Act</i> .
Ethnic Affairs Priorities Statement	As the Commission is a small agency, this is reported on triennially. The next report is due in 2010–11.
Events with a significant effect on the succeeding year after the balance date	No event had a significant effect after the balance date.
Executive officers, performance	Not reported because the Commission's executive officers are not employed under the <i>Public Sector Employment and Management Act 2002</i> but under the <i>Judicial Officers Act 1986</i> .
Funds granted to non-government community organisations	None.
Heritage management	Not applicable.
Implementation of price determination	Not applicable.
Land disposal	The Commission does not own and did not dispose of any property.
Major assets	The Commission does not own any major assets.
Requirements arising from employment arrangements	Not applicable.
Responses to reports of parliamentary committees and auditor-general	No significant matters requiring a response were raised.
Subsidiaries, disclosure of	The Commission has no subsidiaries.
Waste	As the Commission is a small agency, this is reported on triennially. The next report is due in 2010–11.

## Glossary

<b>AIJA</b>	– Australasian Institute of Judicial Administration.
<b>Appointed Member</b>	– A non-judicial member of the Judicial Commission: see also Official Member.
<b>Bench Books</b>	– Reference books for judicial officers.
<b>Complaint</b>	– A complaint against a judicial officer about ability or behaviour, either made by a member of the public or referred to the Commission by the Attorney General.
<b>Conduct Division</b>	– A special panel that examines a particular complaint referred to it by the Commission.
<b>Education Day</b>	– Calculated on the basis of 5 to 6 instructional hours attended by a judicial officer.
<b>Help Desk</b>	– A telephone service for judicial officers that provides assistance with all aspects of computer usage.
<b>JIRS</b>	– See Judicial Information Research System.
<b>Judicial Commission</b>	– 1. An independent statutory organisation established by the <i>Judicial Officers Act</i> 1986. 2. The appointed members and official members, collectively.
<b>Judicial Information Research System (JIRS)</b>	– An online legal reference tool for judicial officers, relevant government organisations and members of the legal profession.
<b>Judicial Officer</b>	– As defined in the <i>Judicial Officers Act</i> 1986: <ul style="list-style-type: none"><li>• a judge or associate judge of the Supreme Court</li><li>• a member (including a judicial member) of the Industrial Relations Commission</li><li>• a judge of the Land and Environment Court</li><li>• a judge of the District Court</li><li>• a magistrate</li><li>• the president of the Administrative Decisions Tribunal.</li></ul> <p>The definition of judicial officer includes acting appointments to a judicial office, but does not include arbitrators, registrars, chamber registrars, assessors, members of tribunals, legal representatives, retired judicial officers or federal judicial officers.</p>
<b>Ngara Yura Program</b>	– The Commission’s Aboriginal cultural awareness program for judicial officers.
<b>NJCA</b>	– National Judicial College of Australia.
<b>NSW</b>	– New South Wales.
<b>Official Member</b>	– A judicial member of the Judicial Commission.
<b>Pre-bench Training</b>	– An induction program for newly appointed magistrates to assist them with their transition to the bench.
<b>Vexatious complainant</b>	– The <i>Judicial Officers Act</i> empowers the Commission to declare as a vexatious complainant a person who habitually and persistently, and mischievously or without any reasonable grounds makes complaints about judicial officers. The effect of the declaration is that the Commission may disregard any further complaint from the complainant.

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## Five years at a glance

	2003–04	2004–05	2005–06	2006–07	2007–08
<b>Judicial education</b>					
Number of judicial education days per annum	1,267	1,718	1,300	1,486	1,294
Number of educational programs	22	35	35	28	34
Overall satisfaction rating with judicial education programs	86%	89%	87%	90%	91%
% of voluntary attendance at annual conferences	88%	88%	87%	92%	88%
% of voluntary attendance at magistrate's induction/orientation programs	100%	100%	100%	100%	100%
Average number of training days offered per judicial officer per court (excluding orientation programs)	–	–	–	5.1	4.9
Average number of training days undertaken per judicial officer	–	–	–	5	4.4
% of judicial officers who attended at least 2 days of judicial training	88%	88%	88%	92%	88%
Number of publications (including bench book updates, bulletins, journals, education monographs and training DVDs)	21	23	22	24	30
Number of computer training sessions	136	214	210	120	105
Total help desk enquiries	696	587	566	582	685
<b>Sentencing research</b>					
JIRS usage (average page hits per month)	36,308	32,468	47,336	45,898	56,722
% of JIRS availability	95%	99%	97%	99%	99%
Number of enhancements to JIRS	3	3	3	4	5
Timeliness of sentencing material on JIRS					
– Recent Law items posted on JIRS	–	–	–	–	2 weeks
– Judgments (within number of days of receipt)	1 day	1 day	1 day	1 day	1 day
– Summaries of important judgments (within number of weeks of receipt)	2 weeks	1–2 weeks	1–4 weeks	3 weeks	1–4 weeks
– Sentencing statistics loaded on JIRS (within number of months of receipt)	2–3 months	2 months	1–2 months	1–3 months	2 months
Number of sentencing trends papers and monographs	6	7	1	4	3
<i>Sentencing Bench Book</i> updates	n/a	n/a	n/a	2	5
Lawcodes: % of new and amended offences coded and distributed before their commencement	100%	100%	100%	100%	100%
<b>Complaints</b>					
% of complaints acknowledged within 1 week of receipt	100%	100%	100%	100%	100%
% of complaints finalised within 6 months of receipt	100%	97%	95%	97%	99%
% of complaints finalised within 12 months of receipt	n/a	100%	100%	100%	100%
% of complaints for which further action required	6%	16%	11%	10%	8%
Complaints received (number)	89	121	69	53	66
Complaints finalised (number)	69	119	83	58	66
<b>Our organisation</b>					
Inhouse staff (number)	37	37	38	39	39
Length of service: 5 years or greater	51%	51%	55%	62%	61%
Freedom of information requests	1	0	0	0	0
<b>Financial management</b>					
Revenue from Parliament	\$3.872 M	\$4.172 M	\$4.922 M	\$4.763 M	\$4.757 M
Retained revenue (sale of goods & services, investment income, etc)	\$212,000	\$156,000	\$710,000	\$702,000	\$598,000
Expenditure	\$4.124 M	\$4.240 M	\$4.880 M	\$5.024 M	\$5.375 M