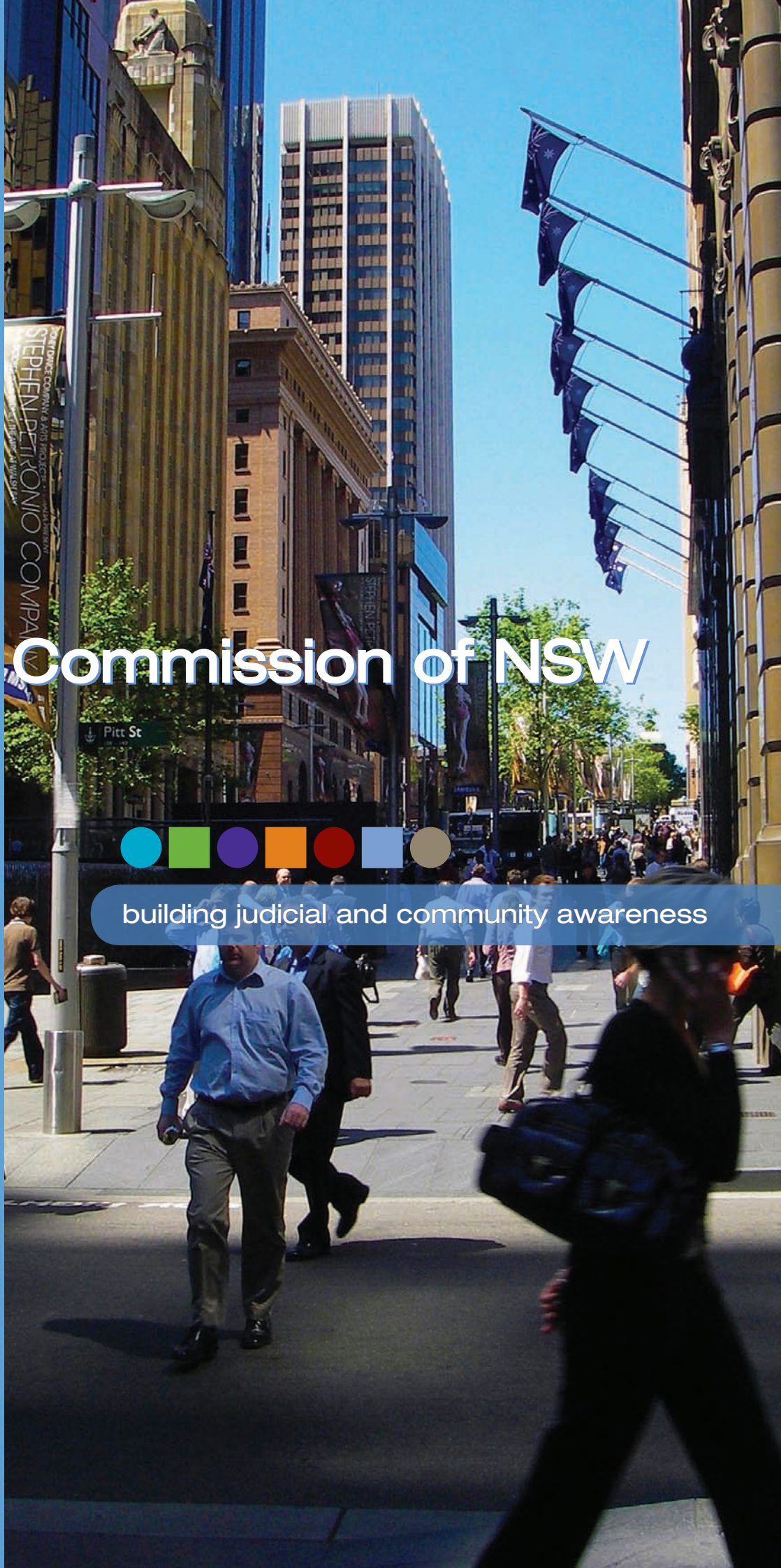
Judicial Commission of NSW

2009–10
Annual Report



building judicial and community awareness

About this report

This annual report reviews our performance and activities during the 2009–10 financial year based on the key goals in our Business Improvement Plan and against our targets for 2009–10. It shows our commitment to building judicial and community awareness and connecting with our partners.

Last year's annual report won the Gold Award in the 2010 Premier's Public Sector Annual Reports Awards and a silver award from the Australasian Reporting Awards.

This is our 23rd annual report. This report and other Judicial Commission publications can be downloaded from our website at www.judcom.nsw.gov.au.

Printed copies may be obtained by contacting us on +61 2 9299 4421.

Participants in the Ngara Yura Program community visit to Taree and Forster in June 2010 sharing a "journey to respect": see p 20.

Year at a glance

This year, a special focus was sharing ideas and experiences between judicial officers and Indigenous communities through our Ngara Yura Program. Another focus was public education, with the production of a DVD about sentencing Aboriginal offenders through the Circle Sentencing program and the online release of the *Local Court Bench Book*, a resource about practice and procedure in the State's largest court.

The reliability, accuracy and timeliness of sentencing data we received from the courts proved to be a significant challenge for us. We worked with the NSW Bureau of Crime Statistics and Research (BOCSAR) and the Department of Justice and Attorney General to address these problems and entered into a formal agreement with BOCSAR to clearly define each organisation's obligations about how this vital data is processed and audited.

Despite this challenge, the commitment of our people, working with the judicial officers who serve on our committees, meant that we achieved the following outcomes:

Providing training and continuing judicial education

- provided 39 education sessions (last year: 38) (p 15)
- produced 23 publications (last year: 24) (pp 5, 17)
- met last year's promise to conduct a major study into judicial officers' needs about domestic violence matters (p 19)
- met last year's promise to launch an online database of our conference papers (p 17)

Assisting the courts to avoid error and achieve consistency in sentencing

- recorded the highest ever use of our online Judicial Information Research System (JIRS) (p 24)
- met last year's promise to publish a major sentencing study on the impact of the standard non-parole period sentencing scheme (p 29)
- provided publications and resources to inform judicial officers about all major changes to sentencing and criminal law (pp 5, 29)
- created an online sentencing resource "Offence Packages" to provide ready information for judicial officers about the most common offences (p 29)
- made 11 enhancements to our online sentencing and research database (last year: 8) (p 29)

Examining complaints

- examined all complaints within 13 months, just short of our performance target of 12 months (p 34)
- examined 64 complaints (last year: 49) (p 38)
- responded to 398 requests for advice and information about the complaints process (last year: 380) (p 39)

The Honourable John Hatzistergos MLC
Attorney General and Minister for Justice
Governor Macquarie Tower, Sydney NSW 2000

Dear Attorney

The Judicial Commission of NSW has pleasure in presenting to you the report of its activities for the year ended 30 June 2010.

This report is submitted in accordance with section 49 of the *Judicial Officers Act* 1986 and section 12 of the *Annual Reports (Departments) Act* 1985. It is required to be laid before both Houses of Parliament.

Yours sincerely

J J Spigelman AC
President

E J Schmatt PSM
Chief Executive

Connecting with our partners

- publicly released the *Local Court Bench Book* online (p 45)
- continued to host and maintain the Queensland Sentencing Information System and Commonwealth Sentencing Database (p 46)
- provided pro bono assistance to PNG and Sri Lankan judiciaries (p 46)
- signed a new Memorandum of Understanding with the Magisterial Service of PNG (p 46)
- signed Memoranda of Understanding with BOCSAR and with NSW Police Force (p 48)
- connected all NSW justice agencies with the Lawcodes database (p 48)

Strengthening our organisation

- 93% employee satisfaction (p 52)
- employee turnover of 3% was the lowest in five years (p 53)
- staff training days increased by 10% (p 54)
- State Records Authority approved our functional retention and disposal authority (p 57)
- reduced energy consumption by 5.27% and recycled all waste paper and toner cartridges (p 59)

Commission governance

- three new Commission members appointed to replace retiring members (p 67)
- settled and accepted our Internal Audit Plan (p 72)

Financial management

- Our income was $5,631 million, comprising $4,944 million in Government contributions and $687,000 from other revenue. We spent a total of $5,655 million. Excess expenditure of $24,000 was funded by income earned from previous years. Revenue and expenditure increased by 5.8% and 3.4% respectively, mainly because of the formation of two Conduct Divisions. See Table 1 and pp 76–101.

Table 1 Financial summary

Financial summary	2008–09 $'000	2009–10 $'000	Change %
Revenue			
Government contributions	4,645	4,944	6.4 ▲
Revenue from other sources	678	687	1.3 ▲
Total revenue	**5,323**	**5,631**	**5.8 ▲**
Expenditure			
Employee-related expenses	3,868	3,986	3.0 ▲
Other operating expenses	1,504	1,302	-13.4 ▼
Depreciation and amortisation	99	87	-12.1 ▼
Conduct division	–	280	–
Total expenditure	**5,471**	**5,655**	**3.4 ▲**

Looking ahead

Our focus in 2010–11 will be on:

- **public education** with a community awareness project to develop understanding about the role and work of judicial officers and the courts
- **judicial education** with the delivery of our continuing education, research and sentencing program and the publication of a major study on conviction appeals to identify patterns of error and success rates
- **communication and training** within our organisation
- **reducing our carbon footprint** by conducting an office energy assessment.

Contents

Our organisation

Who we are

The Judicial Commission of NSW is an independent statutory corporation established under the *Judicial Officers Act* 1986. We report to the Parliament of NSW.

What we do

We provide educational services to judicial officers, conduct an extensive research program into sentencing law and practice, and provide sentencing information to the courts and government agencies. We also examine complaints made about a judicial officer's ability or behaviour.

We provide assistance and advice to judiciaries in Australia and the Asia Pacific region and other judicial education providers.

Our vision

To make the people of NSW confident that they have exceptional judges and magistrates.

Our mission

To promote public confidence in the judicial system by providing continuing education for judicial officers, promoting consistency in sentencing and equality of access to justice, examining complaints about judicial officers, and educating the public about what judicial officers do.

Our values

Connecting

We value our partners and work cooperatively with them.

Professionalism

We are recognised for our independence, our integrity, and the high quality services we deliver.

Enhancement

We continually improve the way we do business.

Sustainability

We use environmental resources responsibly to reduce our carbon footprint.

Our partners

We provide services to the people of NSW, judicial officers, the courts, the legal profession, other justice sector agencies, law libraries and law students. We share our experience with other Australian and overseas judiciaries and judicial education providers.

Our people

We employed the equivalent of 38 full-time staff.

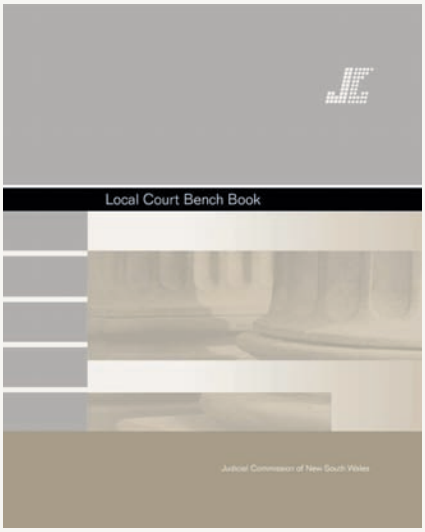
Our structure

The Commission has three divisions — education, research and sentencing, and complaints. See our organisation chart on p 70.

Governance

An independent Commission of 10 members guides our strategic direction and examines all complaints. The Chief Executive, supported by three directors, manages our daily operations. See pp 63–69 for their profiles and achievements.

We value our connection with the Subordinate Courts of Singapore and invite judges of that court to attend our education programs. Judge John Ng attended the Magistrates' Orientation Program in May 2010.



An important part of our mission is to promote public confidence in the judicial system. An effective way to achieve this is to provide public access to our resources. This year we launched an online version of the Local Court Bench Book which gives information about the practice and procedure of the State's largest court.

Our history

For 23 years, the Judicial Commission of NSW has been promoting excellence in judicial performance.

1985

Controversies involving judicial officers in Australia are reported in the media.

1986

NSW Government announces it will establish a Judicial Commission in response to a perceived crisis in public confidence in the judiciary. Judicial Commission to have a unique combination of a complaints function and educational and sentencing consistency roles. *Judicial Officers Act* 1986 commences in December 1986.

1987

Judicial Officers Act is amended to establish the Commission as an independent statutory authority with power to employ staff directly and set wages and conditions. Commission commences operations in October 1987.

1988

First issue of the monthly *Judicial Officers' Bulletin* is published and sent to all NSW judicial officers.

1990

Sentencing Information System (SIS) is launched by Chief Justice Gleeson to help judicial officers improve consistency in their approach to sentencing.

1996

SIS becomes part of the Judicial Information Research System (JIRS). JIRS is an online sentencing resource that provides linked modules of reference material.

1998

A judge addresses Parliament after a Conduct Division of the Commission recommends that the Governor consider his removal. Parliament votes not to remove the judge.

Criminal Trial Courts Bench Book is published online.

Lay membership of the Commission increases from two to four.

2001

JIRS is described as a "world leader in this field" by Lord Justice Robin Auld, senior presiding judge for England and Wales.

2006

Following a major review of the *Judicial Officers Act*, new provisions for complaint handling and investigating the suspected impairment of judicial officers are added to the Act.

*Sentencing Bench Boo*k and *Equality Before the Law Bench Book* are published.

2007

Judicial Officers Act is amended to provide for lay representation on a Conduct Division.

The Commission celebrates 20 years of successful operations at a special Government House ceremony.

2010

Local Court Bench Book is published on the Commission's website. All Commission's bench books are now publicly accessible.

The Judicial Commission commenced operations in October 1987 in the historic Chief Secretary's Building on the corner of Bridge and Macquarie Streets, Sydney.

In 2007, the Judicial Commissioin celebrated its 20th anniversary at a special function at Government House attended by the Attorney General, the Honourable John Hatzistergos MLC (pictured centre), the Chief Justice of NSW, the Honourable JJ Spigelman AC, senior members of the judiciary and former Commission members.

Our performance

Our operations are guided by the statutory goals contained in The *Judicial Officers Act* 1986, our Business Improvement Plan, our Strategic Plan and our Results and Services Plan. We assess our performance by comparing our key results and services for the year with the targets set the preceding year.

Key results

An overview of performance targets and results relating to the Commission's core responsibilities

Strategies	Measures	2008–09 result	2009–10 target	2009–10 result	2010–11 target
Key result area: Judicial education					
Desired result: A better informed and professional judiciary					
• Develop appropriate judicial skills and values • Promote high standards of judicial performance • See pp 8–21	% of voluntary attendance at annual conferences	86%	90%	90%	90%
	% of voluntary attendance at magistrates' induction/orientation programs	100%	100%	100%	100%
	Overall satisfaction rating with judicial education	90%	85%	91%	85%
	% of judicial officers who attended at least 2 days of judicial training	86%	90%	90%	90%
	Average number of training days offered per judicial officer per court (excluding orientation programs)	5	5	5.2	5
	Number of timely updates to the *Civil Trials Bench Book* and *Local Court Bench Book*	8*	7*	7*	7*
Key result area: Research and sentencing					
Desired result: Improved consistency in sentencing and reduced errors					
• Improve sentencing consistency • Provide timely and relevant information about sentencing patterns • See pp 22–31	Number of timely updates to the *Sentencing Bench Book* and *Criminal Trial Courts Bench Book*	10*	6*	7	6
	JIRS usage (average page hits per month)	77,684	65,000	84,312	80,000
	% of users who are satisfied with JIRS or found it helpful	97%	n/a	n/a	n/a
Key result area: Complaints					
Desired result: Judicial accountability through effective examination of complaints against judicial officers					
• Provide complainants with accurate and helpful information and advice • Investigate complaints in an effective manner • See pp 32–41	Number of informal enquiries attended to from potential complainants	380	n/a†	398	n/a†
	Number of complaints examined in reporting period	49	n/a†	64	n/a†

* We changed our measure to include *Criminal Trial Courts Bench Book* updates in Research and sentencing: see p 29.

† We do not set quantitative targets as we examine each complaint made to the Commission: see p 35.

Key services

An overview of performance targets and results relating to the Commission's delivery of services

Program area	Service measures	2008–09 result	2009–10 target	2009–10 result	2010–11 target
Key result area: Judicial education					
Conference and seminar program for judicial officers: see p 15	Number of judicial education days per year	1,396	1,300	1,554	1,400
	Average number of training days undertaken per judicial officer (national standard is 5 days)	4.8	5	5.3	5
Publications: see p 17	Number of bench book updates, bulletins, journals, education monographs, and training DVDs	24*	24*	23*	21*
Computer support: see p 19	Number of computer training sessions	67	n/a†	43	n/a†
Key result area: Research and sentencing					
Judicial Information Research System (JIRS): see pp 26–30	% of JIRS availability	99%	95%	98%	95%
	Number of enhancements to JIRS	8	3	12	6
	Timeliness of sentencing material on JIRS – Recent Law items posted on JIRS (within number of weeks of receipt)	2 weeks	2 weeks	2 weeks	2 weeks
	– Judgments (within number of days of receipt)	1 day	1 day	1 day	1 day
	– Summaries of important judgments (within number of weeks of receipt)	4 weeks	4 weeks	4 weeks	4 weeks
	– Sentencing statistics loaded on JIRS (within number of months of receipt)	Not achieved	3 months	1–4 months‡	1–4 months
Original research and analysis: see p 29	Number of sentencing trends papers, monographs, *Sentencing Bench Book* and *Criminal Trial Courts Bench Book* updates	12*	10*	9*	10*
Research assistance to judicial officers: see p 29	% of requests resolved within 2 days	90%	90%	90%	90%
Lawcodes database: see p 48	Code and distribute new and amended offences within 4 days of commencement	100%	100%	100%	100%
	% of user enquiries resolved within 24 hours	100%	100%	100%	100%
Key result area: Complaints					
Timely and efficient examination of complaints: see p 34	% of complaints acknowledged within 1 week of receipt	100%	100%	100%	100%
	% of complaints examined within 6 months of receipt	92%	90%	91%	90%
	% of complaints examined within 12 months of receipt	100%	100%	98%	100%

* We changed our measure to include *Criminal Trial Courts Bench Book* updates in Research and sentencing: see p 29.

† We changed our measure to reflect the changing needs of judicial officers: see p 18.

‡ See discussion about the difficulties with timeliness of sentencing data at p 26.

President's foreword

The Judicial Commission of NSW has 23 years of experience and accumulated knowledge as a judicial education and training provider, a source of sentencing research and information, and a complaints handling body. The Commission's work is highly regarded by its beneficiaries and participants: judicial officers, government agencies, legal practitioners, academics and students and other judicial bodies within Australia and the international community.

A highlight of this year has been national acknowledgement of the Commission's work and reputation. In December 2009, the Senate Legal and Constitutional Affairs Reference Committee published a significant report about Australia's judicial system, recommending that the Commonwealth government establish a federal judicial commission based on the NSW model.

The Commission's success and influence is based on its long-standing acceptance by the judicial officers of this State. The relationship between the judiciary and the Commission is premised on the Commission's independence from the executive government and is strengthened by the high quality of training, education and sentencing information that the Commission provides to judicial officers and the courts. This year has been no exception.

Achieving consistency in sentencing

Sentencing is a judicial task which frequently engages the interest, and sometimes passion, of the public. The importance and complexity of sentencing is a topic I have written about on many occasions. Public attitudes to the sentencing process have a significant influence on public confidence in the administration of justice generally. This underlies the importance of sentencing and the Commission's work to promote an informed and consistent approach to sentencing. Through the Judicial Information Research System (JIRS) and various publications, the Commission assists the judiciary by providing efficient and reliable access to information about relevant court practice and legislation. Indeed, the Commission's work in this area has been recognised internationally as worlds' best practice.

Examining complaints

This year there has been, for no obvious reason, an increase in the number of complaints received. However, consistent with previous years, following examination by the Commission, an overwhelming majority of claims have been dismissed for disclosing no judicial misconduct.

Those complaints that are not dismissed or referred to the head of the court are subject to investigation by a Conduct Division, comprising a retired judicial officer, a serving judicial officer and a community representative. This year two separate Conduct Divisions were established to examine complaints. Their investigations are ongoing because of their complex nature.

Improving judicial performance

The value of intellectual exchange and endeavour for judicial officers cannot be underestimated. A creative and flexible approach, rather than a narrow vocational focus, is required to promote judicial professional development. This year the Commission has continued to improve its education program by responding to feedback from the many judicial officers who participate and incorporating the assistance of judges and magistrates throughout the design and delivery of the education program. A highlight of the program in the last year has been the success of the Commission's work in engaging the judiciary with Indigenous communities.

Assisting international judiciaries to promote the rule of law

There is little doubt that the realities of globalisation have led to greater exchanges between the judiciaries of nations. The Commission is well placed to play an important role in promoting the rule of law in the global community through sharing its expertise on judicial education and reform.

This year, the Commission provided training assistance and mentoring to the judiciaries of Papua New Guinea and Sri Lanka. During the year, numerous international visitors and delegations visited the Commission to learn about the education program, JIRS and the Commission's complaints function.

Additionally, the involvement of members of the Commission in global judicial initiatives facilitates cooperation and promotes the role of the Commission. The Chief Executive was elected to the Board of Governors of the International Organisation for Judicial Training (IOJT) and continued in his role as a member of the Asia Pacific Judicial Reform Forum Secretariat. The Education Director worked on the local organising committee for the IOJT conference in Sydney which attracted 220 delegates from 48 countries.

The year ahead

The Commission's strategic direction includes continuing its leadership role in national and international judicial exchanges and achieving greater cooperation with other State government justice sector agencies. It is anticipated that a greater sharing and consolidation of resources and expertise between agencies, combined with continuing innovation in program delivery, will see greater efficiencies in the administration of criminal justice in this State.

Public confidence in the judiciary and justice system must be continually earned and replenished. By promoting community awareness about, and excellence in, the administration of justice the Commission will continue to play a key role in maintaining public confidence in the judiciary.

On behalf of the Commission, I thank the judicial officers and staff who have, as always, carried out their roles in a dedicated and diligent manner.

JJ Spigelman AC
President

Chief Executive's report

It is my pleasure to present my report for 2009–10. Two highlights deserve a special mention. They are the production of a training DVD about the Indigenous Circle Sentencing program and the online launch of the *Local Court Bench Book* — a valuable resource about practice and procedure in the State's largest court. The annual report provides further details on these and other initiatives.

While this year had some significant challenges, we met most of our targets and performed very well in all our key performance areas.

Providing training and continuing judicial education

During the year, judicial officers attended an average 5.3 days of continuing education and training. This exceeds the national standard of 5 days. Commission staff have worked hard to continually refine the content, usefulness and style of the education sessions offered by inviting and analysing feedback from all participating judicial officers.

Achieving a consistent approach to sentencing

A highlight of the Commission's research and sentencing program was the publication of an important study into the standard non-parole period sentencing scheme in NSW, in operation since 2003. The study makes an important contribution to the debate about sentencing law in this State.
A continuing significant challenge has been the timeliness and accuracy of sentencing data received from the courts which has affected our time targets for publishing statistical information on the Judicial Information Research System (JIRS). It has also required the allocation of additional resources to the process of auditing the data before it can be used for sentencing purposes. Our research and IT staff are working with the courts, the Department of Justice and Attorney General, and the Bureau of Crime Statistics and Research to resolve this challenge.

Complaints activity has increased

This year has seen a 27% increase in the number of complaints received and a 24% increase in the number of complaints examined. Five matters were referred to the Conduct Division. Although the increase in complaints work has put pressure on our resources, the Commission has carried out this work in an efficient and timely manner.

Connecting with the community and our partners

An important part of our mission is to strengthen public confidence in the administration of justice and an effective way to do this is to provide information about the work of the courts and judicial officers. With the online launch of the *Local Court Bench Book* on our website, all of the Commission's bench books are now publicly available. We have continued to work closely with other justice sector agencies by supplying sentencing information to them and hosting and maintaining the Lawcodes database and case management systems.

Strengthening our organisation

In this year of sustainability, we have looked carefully at the way the Commission uses energy and resources. I believe that greater commitment is required to improve our sustainability measures and we will monitor this and provide regular information to staff to raise their awareness about environmental matters.

An organisational highlight this year has been a staff turnover rate of 3%, a five-year low. The Commission has been successful in recruiting and retaining high calibre staff who are focused on supporting judicial officers in their important role.

Responsible financial management

The Commission managed its budget responsibly by containing expenses to a rise of only 3.4%. Excess expenditure of only $24,000 was funded by income earned from previous years.

Managing organisational risk

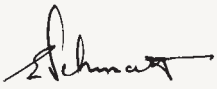
The Commission's Audit and Risk Management Committee continued to provide me with advice on risk management, internal audit and control functions. The Committee met regularly throughout the year and focused on occupational health and safety, the quality of sentencing data received from the higher courts, implementation of internal audit recommendations, and the business continuity and disaster recovery plan.

Looking ahead

Next year, our educational focus will be on the needs of regional and rural judicial officers. We will develop more online and distance learning resources to complement our conference paper database. More skills-based workshops will be offered to promote effective court communication. Our research and sentencing focus will be on sentencing patterns for Commonwealth offences which are increasingly being brought before the State's courts. An innovative community awareness project will aim to raise public awareness about the role and work of judicial officers and the courts.

My thanks

The Commission's success can be attributed to the involvement of many judicial officers in our education programs, our professional staff, the Commission members' guidance and leadership, and an innovative approach to our work. I thank everyone for their excellent contributions.



EJ Schmatt PSM
Chief Executive

Providing training and continuing judicial education

We want to ensure that judicial officers perform to the highest professional standard.

The Northern Regional Conference for Local Court magistrates in March 2010 provided an opportunity for participants to develop their judicial knowledge and skills through discussion and peer-based learning.

Outcomes 2009–10

- Provided 39 education programs and 23 publications
- Conducted a major study of judicial education needs for domestic violence matters
- Continued our successful 360 degree feedback program
- Organised three highly successful field trips
- Launched the online conference paper database
- Launched a DVD about alternative sentencing of Aboriginal offenders
- Organised two weekend visits to Indigenous communities
- Updated all our publications to report on changes to the law and judicial practice

Targets 2010–11

- Provide 35 education programs and 21 publications
- Increase interactive sessions in all programs
- Provide more educational opportunities for regional judicial officers
- Develop more online and distant learning resources

Contents

Satisfaction

Judicial officers are very satisfied with our education and training services



We use a range of interactive methods to engage participants in judicial education. From left, magistrates practise their court craft skills at the Magistrates' Orientation Program; Deputy Chief Magistrate Paul Cloran discusses the participant results from an exercise conducted at the Fourth International Conference on the Training of the Judiciary; and Magistrate Geraldine Beattie facilitates a scenario-based session on hearsay evidence at the Northern Regional Conference.

As we serve judicial officers, we need to understand how they rate our continuing education program.

We invite each judicial officer who attends a session to rate its usefulness, content and style, and whether it met the specified learning objectives. On average, 81% of judicial officers responded to the surveys. The results show that we continue to meet their expectations.

On an overall measure of satisfaction, 91% of judicial officers who responded were satisfied with the program (last year: 90%). This is consistent with the last five years (see Table 2) and exceeds our target of 85%. Most judicial officers were very positive about the interactive and practical sessions we offer and less enthusiastic about lecture-based sessions.

The results of the surveys highlight a continuing need for:

- high quality and engaging presenters
- smaller groups
- interactive practical sessions, relevant for specific courts
- sufficient time for group discussion at the end of sessions
- a written paper to be provided at each session for future reference.

Table 2 Satisfaction ratings 2005–10

PROGRAM	2005–06	2006–07	2007–08	2008–09	2009–10
	%	%	%	%	%
Annual conferences	86	87	89	88	87
Orientation programs	91	93	97	99	100
Workshops — regional and metropolitan magistrates	90	86	94	92	95
Children's Court conferences	–	–	–	–	92
Workshops — judicial skills	92	96	92	95	96
Supreme Court seminars	n/a	n/a	n/a	90	91
Industrial Relations Commission seminars	84*	–	90	91	100
Land and Environment Court seminars	–	–	–	88	89
District Court seminars	81*	78*	89	91	90
Cross-jurisdictional seminars	89	–	90	95	95
Ngara Yura Program	–	–	89	87	90
Gaol visits	n/a	91	–	95	86
Average satisfaction rating	87	90	91	90	91

n/a No formal evaluation undertaken.

* Result not statistically valid due to a low response rate.

The Magistrates' Orientation Program gives participants an important opportunity to explore ways of dealing with some of the stresses of being a magistrate. Magistrate Nell Skinner assists presenter Magistrate David Heilpern to record some of the suggestions.

Orientation sessions rate very highly

Sixteen new magistrates who attended a week-long orientation session gave this an overall satisfaction rating of 100% (last year: 99%).

Annual court conferences continue to impress

The overall satisfaction with the annual court conference program was 87% (last year: 88%).

Publications are well regarded

We surveyed 210 District and Local Court judicial officers to measure how useful they find one of our core loose leaf publications, the *Civil Trials Bench Book,* and 30 judicial officers responded. Of these, 76% said they found the publication very useful or useful. Judicial officers were very positive about information we provided on evidence, procedure and proceedings, costs and contempt. They felt we could improve the sections on damages and juries.

Skills-based workshops rate highly

Two judgment writing workshops gained an overall satisfaction rating of 96% (last year: 95%). A workshop for the Land and Environment Court on delivering oral judgments gained a satisfaction rating of 99%. Two workshops on online legal research for Land and Environment Court judges and commissioners gained an overall satisfaction rating of 96%.

360 degree feedback program is valuable

We continued this interactive program for eight judicial officers from the Supreme, Land and Environment, District and Local Courts to provide them with confidential constructive feedback on their communication, demeanour, courtesy and working relationships. The participants found the program and the professional facilitator's one-on-one advice to be very helpful.

Regional programs rate very well

A regional cross-jurisdictional seminar gained an overall satisfaction rating of 100%. Our regular regional Local Court conferences gained an overall satisfaction rating of 96%.

Field trips are well regarded

Supreme and District Court judges who attended two field trips to correctional centres gave these visits an overall satisfaction rating of 86% and noted how useful they were for learning about gaol reception procedures. Judges also benefited from a field trip to the new Malabar Forensic Hospital which they gave an overall satisfaction rating of 89%.

Seminar program rates highly

Overall, our seminar program for judicial officers gained a satisfaction rating of 93% (last year: 91%).

Aboriginal Cultural Awareness program is well received

Two judicial visits to Indigenous communities gained an overall satisfaction rate of 89% (last year: 87%), and an Indigenous issues seminar was rated at 91%.

Comments by judicial officers show how we can improve:

"The field trip to Silverwater was sanitised by the prison authorities. We would have preferred to have more contact with inmates and see ordinary parts of the prison not just special units."

"The Damages section in the Civil Trials Bench Book is very minimal."

"The seminar was too academic and not of enough practical value."

Attendance at our program compares favourably with other State and national bodies

We assess our overall performance by comparing attendance at our judicial education program with the national standard for judicial professional development of five days a year. Although attendance at our program is voluntary, participation this year was reasonably high with each judicial officer attending an average of 5.3 days training a year. This is at a five-year high and slightly exceeds the national standard and last year's target of five days: see Table 3 on p 12.

We are a member of the Australian and New Zealand Judicial Educators Group. The Group is developing performance benchmarks to compare the five member organisations' satisfaction ratings. This year, we participated in five meetings and continued to share benchmarks, information and experience.

Justice Michael Walton delivered a well received workload and case management update at the 2009 Industrial Relations Commission Annual Conference.

Judge Graeme Henson addressing participants at the May 2010 Magistrates' Orientation Program.

"If knowledge is power then as a Court we have been well and truly empowered by over two decades of outstanding commitment [from the Judicial Commission] to assisting in the professional and personal development of the judiciary."

Judge Graeme Henson, Chief Magistrate, Local Court, opening remarks to the Local Court Annual Conference, June 2010

Table 3 Attendance at education sessions 2005–10

Measures	2008–09 result	2009–10 target	2009–10 result	2010–11 target
% of judicial officers who attended annual conferences	86%	90%	90%	90%
% of voluntary attendance at magistrates' induction/orientation programs	100%	100%	100%	100%
% of judicial officers who attended at least 2 days of judicial training	88%	90%	90%	90%
Average number of training days offered per judicial officer per court (excluding orientation programs)	5.0	5.0	5.2	5.0
Number of judicial education days per year	1,396	1,300	1,554	1,400
Average number of training days undertaken per judicial officer (national standard is 5 days)	4.8	5.0	5.3	5.0

Challenge

Matching or bettering the national standard for judicial professional development and encouraging more judicial officers to fit voluntary continuing education into their busy schedules.

Looking ahead

During 2010–11, we will:

- continue to survey judicial officers' satisfaction with our conferences and seminars
- survey judicial officers' satisfaction with our flagship bulletin, the *Judicial Officers' Bulletin*
- complete the damages and juries sections in the *Civil Trials Bench Book.*

Designing effective programs

Encouraged the use of interactive education

A core task of the Judicial Commission is to deliver continuing education for judicial officers in NSW. It is essential that our programs are well designed and effective.

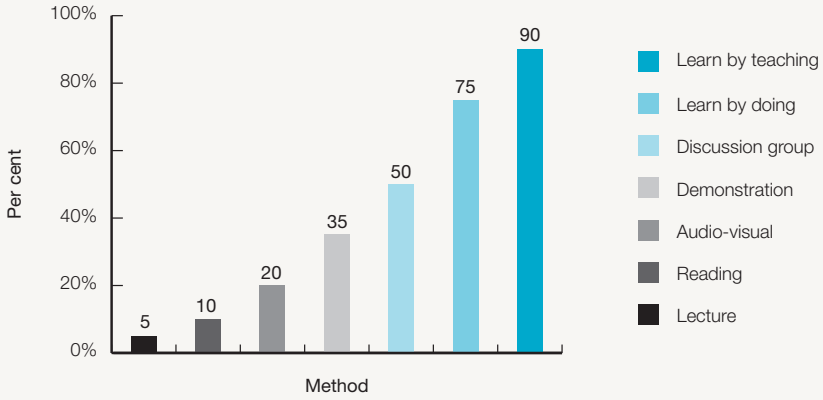
Research has shown that the best way to learn and retain knowledge and skills is through interactive education (see Figure 1). This approach engages participants and involves them in the learning process. This year, we designed and printed a guide to assist our presenters to deliver more effective interactive sessions.

We also joined a working group led by the National Judicial College of Australia to design faculty development programs for judicial officers in Australia and New Zealand. The program's goal is to develop judicial officers' capacity to design and develop educationally sound, interactive judicial education programs.

Our Education Director, Ruth Windeler, identifies judicial training needs and develops materials and courses by working with the Standing Advisory Committee on Judicial Education, the education committee of each court, and the committees which oversee our publications. We also receive input from experts in the field and are guided by concerns raised by the public in the complaints process. Figure 2 shows how this process works and Appendix 4 on p 109 gives details about our committees. Judicial officers who serve on these committees generously give their time and expertise.

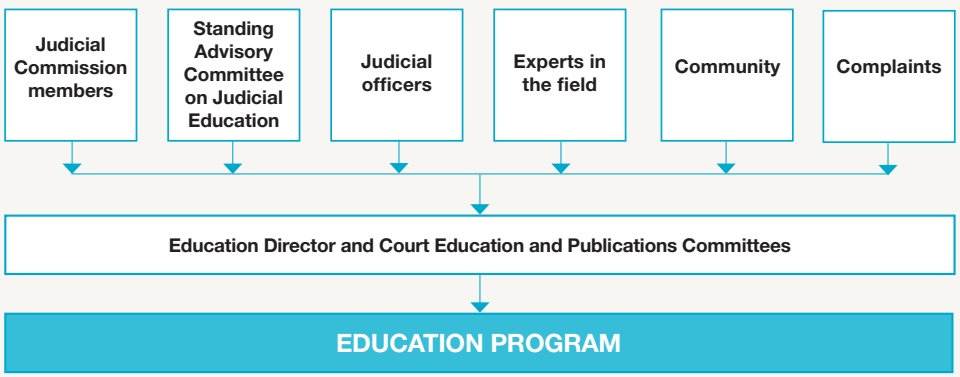
Our continuing judicial education policy (shown at Appendix 3 on p 108) incorporates the national standard for judicial professional development.

Figure 1 Learning retention by different teaching methods



Source: NTL Institute for Applied Behavioral Science; adapted by R Windeler.

Figure 2 Judicial education design process



From left: Magistrate David Heilpern, Ms Ruth Windeler and Deputy Chief Magistrate Paul Cloran presenting their session on interactive skills training for judicial officers at the Fourth International Conference on the Training of the Judiciary.

Case study

Demonstrating interactive skills training

Our Education Director, Ruth Windeler, and two senior magistrates, Deputy Chief Magistrate Paul Cloran and Magistrate David Heilpern, demonstrated interactive skills training for judicial officers at the *Fourth International Conference on the Training of the Judiciary* held in Sydney in October 2009. Their well received session challenged participants to consider the impact of their personal and professional attitudes, values and biases on their work and to develop suitable responses to them. The session encouraged participants to consider how to adapt and apply interactive education in their respective courts.

Challenges

Promoting interactive learning methods to judicial officers.

Designing sessions to meet the needs of a diverse group of judicial officers.

Looking ahead

In 2010–11, we will:

- continue to incorporate more interactive sessions into our judicial education program
- continue to work with the National Judicial College of Australia and other Australian and New Zealand judicial education bodies to design a faculty development program. Ruth Windeler, Education Director, Ruth Sheard, Manager, Conferences and Communication, and a representative from each NSW court will attend a three-day workshop
- review our education policy following the review of the national standard by the National Judicial College.

Professionalism: skilled, informed, independent

Conducted 39 education sessions and produced 23 resources

We want to ensure the NSW public is confident that their judicial officers perform to the highest professional standard and are impartial and independent. Judicial officers must be skilled in all aspects of the judicial role and continually informed about changes to the law, procedure and community values.

To achieve this goal, we provided orientation and induction programs for new judicial officers and a comprehensive continuing professional education program for existing judicial officers to develop their skills, attitudes and knowledge. We delivered 39 sessions (last year: 38) and provided 23 resources (last year: 24) including conferences, regional seminars, topical seminars, field trips, skills-based workshops, digital and multi-media resources, and online and print publications.

Regional conferences allow discussion of particular problems confronting regional magistrates and facilitate the development of appropriate skills and knowledge to deal with those problems. For example, one of the sessions at the 2010 Northern Regional Conference addressed the "New Coroners Act: what has changed and how does it affect country magistrates?".

Table 4 Conference and seminar activity 2005–10

	2005–06	2006–07	2007–08	2008–09	target 2009–10	actual 2009–10	target 2010–11
Days of education[1]	1,300	1,486	1,294	1,396	1,300	1,554	1,400
Number of different programs	35	28	34	38	30	39	35
Annual conferences	4	5	5	5	4	5	6
Workshops — regional and metropolitan magistrates	3	4	4	4	4	4	4
Workshops — judgment writing	2	4	2	2	2	2	1
Pre-bench training sessions[2]	9	7	10	4	5	9	6
Week-long orientation programs[3]	3	3	2	3	1	4	2
Cross-jurisdictional seminars	6	0	4	1	4	1	2
Ngara Yura Program	0	0	5	4	3	3	3
Supreme Court occasional seminars	3	3	1	1	2	2	2
Industrial Relations Commission occasional seminars	2	0	3	2	2	3	3
Land and Environment Court occasional seminars	–	–	–	5	6	7	6
District Court occasional seminars	5	7	4	4	4	3	4
Children's Court seminars	–	–	–	–	2	2	2
Drug Court Practitioners' Conference	1	0	1	1	1	0	1
Gaol visit	1	1	0	2	1	3	2

1 A day of education is based on 5–6 instructional hours attended by a judicial officer. It is calculated by multiplying the number of judicial officers in attendance at judicial education sessions by the duration of the session: eg 18 participants x 2 days = 36 education days.

2 The number of pre-bench training sessions is determined by the number of appointments to the Local Court each year.

3 Includes participants from NSW at the National Judicial Orientation Program, jointly conducted with the National Judicial College of Australia and the Australasian Institute of Judicial Administration, and the PNG Magistrates' Orientation Program.

Dr Mick Dodson AM (left) and the Hon JJ Spigelman AC, Chief Justice of NSW, at the launch of a popular educational DVD about circle sentencing.

Judge Robison chaired a session on preparing and structuring oral decisions at the 2010 District Court Annual Conference.

Magistrates at the 2009 Local Court Annual Conference appreciated the opportunity for stimulating discussion about issues affecting the Local Court.

Major achievements

Training new judicial officers

This year, we provided orientation packages to 23 new judicial officers (last year: 13).

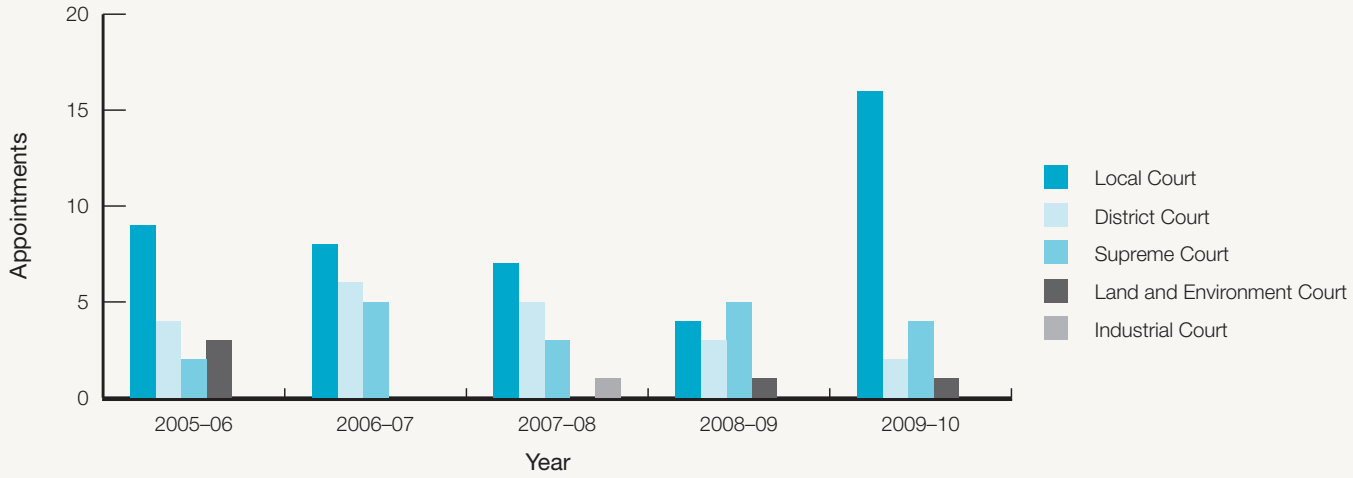
We worked with the Local Court to provide pre-bench induction training for 16 new magistrates (last year: 4). All new magistrates spent a week observing other magistrates and attended an individual briefing session with our Chief Executive and Education Director to learn about the Judicial Commission and how we can support them. New magistrates attended a week-long orientation session during their first 18 months on the bench. These sessions use interactive techniques such as role playing and practical, comparative exercises to develop the judicial skills, attitudes and knowledge that magistrates require in the Local Court.

As part of their induction, we connected all new judicial officers to our online Judicial Information Research System (JIRS) and supported them with a help desk service. Figure 3 shows the numbers of new judicial officers we have supported over a five-year period.

Informing judicial officers at their annual court conferences

We conducted five annual court conferences (last year: five) and helped organise two conferences with our

Figure 3 Judicial appointments 2005–10



national partners (see p 49). This year, the Local Court of NSW turned 25 and this was celebrated at a successful three-day conference that included well received interactive sessions on:

- the practical issues involved in being a magistrate
- effective court communication
- an evidence hypothetical
- an open Q&A forum.

> *"Excellent and relevant presentation. It achieved the objectives set." "Informative and entertaining — which meant more 'sunk in'".*
>
> *"Terrific, greatly practical. More please!" "A dry subject brought to life. Relevant and well-presented."*

Providing access to our conference papers

We launched an online database of all the conference papers given at our programs from 2007 onwards. This rich educational resource for judicial officers in city and regional locations brings together a wealth of knowledge and experience in an easy-to-search database.

Educating through film

Last year, we engaged a production company to produce a DVD, *Circle Sentencing in NSW*. A circle court is a specialised criminal court for Aboriginal offenders and has been rolled out by the NSW Government to nine locations in the State. The DVD informs judicial officers, police prosecutors, defence lawyers, project officers and Aboriginal Elders about circle sentencing — what it is, how it works, how to conduct it, and its advantages. This year, Australian of the Year and Commission member Professor Mick Dodson AM launched the DVD at the Supreme Court of NSW in the presence of the Chief Justice of NSW, the Honourable JJ Spigelman AC, and 70 guests and judicial officers. Demand for this resource has been very high: we have distributed the DVD to all judicial officers as well as community organisations, academics and students. The DVD is part of our commitment to developing confidence in the justice system in Indigenous communities.

Communicating change through our publishing program

Regular online and print publications are an efficient way to report change to judicial officers. This year, the Australian Research Council placed our flagship publications, the *Judicial Officers' Bulletin* and *The Judicial Review* on its Excellence in Research list. These publications are now nationally recognised as scholarly, peer-reviewed journals. We met our target to publish 11 issues of the Bulletin and two issues of the Review to inform judicial officers about contemporary legal issues and changes to judicial and court practice. Articles published in these are detailed in Appendix 8 on p 115.

This year, we published 16 updates to our bench books to report on changes to the law and judicial practice (target: 17). The bench books are practical reference works to assist judicial officers to conduct trials. They include relevant legislation, case law, sentencing principles, procedural guidelines, suggested jury directions and sample orders. Bench books help improve consistency of approach and reduce the risk of appealable error. They are written and updated by committees comprised of current and retired judicial officers, executive members of the Commission and their staff. Considerable effort is required to maintain their currency to ensure that changes are reported quickly and accurately. Bench books are available online through JIRS and our website, and as a hardcopy looseleaf service for judicial officers.

Highlights from our bench book program this year include:

- rewriting the appeals section in the *Sentencing Bench Book* to explain the meaning of "double jeopardy" in the context of sentencing law (see the case study on p 31).
- substantially revising commentary and directions on advising a self-represented accused in the *Criminal Trial Courts Bench Book*
- rewriting the evidence chapter in the *Civil Trials Bench Book* to inform judicial officers about major reforms to this area of the law
- updating the *Equality Before the Law Bench Book*, an important publication designed to inform judicial officers about social context issues
- launching an online version of the *Local Court Bench Book* on our website, enabling public access to this important resource (see p 45).

Details of all our publications are in Appendix 8 on p 115.

Refining communication skills

Excellent and authoritative oral and written communication skills are essential for judicial office and these are a focus of the week-long magistrates' orientation sessions that we offered twice this year. We also organised two judgment writing workshops for judicial officers conducted by an international expert (last year: two) and two workshops on delivering oral judgments (last year: none) presented by a retired judge. A qualified speech and drama consultant conducted two interactive skills workshops on effective communication in court.

Sharpening research skills

We ran two online legal research workshops for the Land and Environment Court (last year: none). The first was an introduction to legal research and the second an advanced workshop.

Judges from the Supreme and District Courts were keen to learn about the operations of the correctional system by attending field trips to Silverwater Women's Correctional Centre (left) and Windsor Correctional Centre (right). Windsor photo courtesy of Department of Corrective Services.

Providing more distance education

Last year, we worked on assessing the best way to deliver distance education for regional judicial officers. This year, we continued to develop a plan for future delivery. Part of that plan is to conduct more cross-jurisdictional seminars at regional locations. We ran two successful regional conferences for the Local Court. We also organised a very well received seminar in Wollongong about witnesses' memories presented by two expert forensic psychologists.

Conducting more field trips

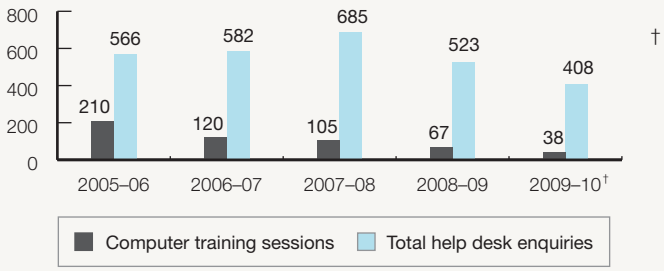
This year, we conducted three field trips (last year: two). With the Department of Corrective Services, we organised a visit for Supreme and District Court judges to the maximum security Silverwater Correctional Centre and the medium security Windsor Correctional Centre. We also partnered with Justice Health to organise a field trip for Supreme Court judges to the new Forensic Hospital at Malabar.

Highlights from our occasional seminar program

We conducted 17 seminars for judicial officers from all courts (last year: 16).

- A professional mediator presented a seminar on transforming conflict through negotiation. This interactive session for the Land and Environment Court focused on building the skills of participants to deal with common conflict situations faced in this court.
- The President of the Mental Health Review Tribunal presented two seminars for Supreme and District Court judges which dealt with changes to the treatment, care, detention and release of persons found not guilty or unfit for trial by reason of mental illness.
- The Chair of the Parole Authority presented a very well received seminar which described the work, practices and procedures of the Authority. District Court judges who attended found it useful to connect this information with their work.
- The Chief Judge at Common Law presented a practical seminar for Supreme Court judges to exchange information and ideas with them about the new concurrent method of receiving expert evidence in trials.

Figure 4 Computer support 2005–10



† The downward trend in the number of training sessions reflects the increasing skill level of judicial officers in this area. The Commission is considering ways to restructure its computer support services to best meet the changing needs of judicial officers.

Providing computer training and support

We responded to 408 enquiries made to our help desk (last year: 523) from judicial officers needing support with JIRS, emails, word processing, software programs, portals, transcript analysis and the internet for research. The help desk service is provided Monday to Saturday from 7.30 am to 7.30 pm.

We provided 106.5 hours of computer training for judicial officers. We made 38 visits to judicial officers' chambers in response to individual requests for assistance (last year: 67) and provided five group sessions of face-to-face training (last year: none). The demand for training continues the downward trend of the last three years and reflects the increasing computer skill levels of judicial officers. This is illustrated in Figure 4 on p 18, which compares the demand for computer support over a five-year period.

Challenges

Providing an increasing number of superior educational programs with limited resources.

Providing effective resources for judicial officers in regional and rural locations.

Looking ahead

In 2010–11, we will:

- continue to meet the training and information needs of newly appointed and existing judicial officers. We will support them with publications, education sessions, computer services and help desk support
- encourage judicial officers to attend more education sessions by informing them what judicial officers in other courts are attending, providing more programs for judicial officers in regional and metropolitan areas, conducting additional surveys to determine their needs, and tailoring our sessions to judicial officers' identified needs
- develop more online and distance learning resources
- launch an online handbook for Land and Environment Court commissioners
- continue to expand our conference paper database by adding new papers and back capturing other papers as resources permit
- co-sponsor with the Land and Environment Court the *Australasian Conference of Planning and Environment Courts and Tribunals*
- present more skills-based workshops focusing on court communication and delivering oral judgments
- examine ways to implement recommendations made by the domestic violence project.

Case study

Understanding what judicial officers need to know about domestic violence matters

The Department of Justice and Attorney General provided a grant to research domestic violence matters. We wanted to identify what resources judges, magistrates and others in the justice system need to promote a consistent approach to managing and sentencing domestic violence matters and to develop an understanding of how judicial decisions affect the victims of domestic violence. We conducted a needs analysis across the Local and District Courts and examined the effectiveness of various educational tools and modes of delivery. The project identified a gap in the understanding of the roles and responsibilities of many of the services, agencies and organisations involved in domestic violence matters. The project made a number of recommendations to address this gap and these will be reviewed to determine how best to progress in this area of training.

Aboriginal cultural awareness: the Ngara Yura Program

Organised two community visits

The community visit to Taree and Forster in June 2010 provided an opportunity for judicial officers, community members and representatives from government agencies to come together and hear each other's stories. Community members found that the interest shown by the visitors encouraged local pride in their culture and identity.

Ngara Yura Program

We are committed to connecting with Indigenous communities so that judicial officers can better understand Aboriginal culture and some of the disadvantage that Indigenous people face.

The Ngara Yura Program grew out of recommendations made by the Royal Commission into Aboriginal Deaths in Custody in 1991: these can be found at Appendix 9 on p 116. We employ an Aboriginal Project Officer, Tammy Wright, who works with a committee to develop the program.

Major achievements

- Community visits are an important part of the program and these are designed to promote cross-cultural understanding. We organised two visits this year (last year: one) to the Far South Coast in November 2009 and to Taree and Forster in June 2010. Elders and community members from these regions met judicial officers to exchange concerns and ideas. Judicial officers were entertained with cultural performances and learned about Aboriginal culture, history and Indigenous programs in the communities. Judicial officers were reminded of the struggle Indigenous people face in securing educational and employment opportunities, accessing services, confronting racism and discrimination, holding onto cultural identity and developing it for later generations.

  We reported on the visits in the *Judicial Officers' Bulletin,* which was sent to all NSW judicial officers, justice sector agencies and university law libraries.
- A seminar on domestic violence issues in Aboriginal communities explored the Indigenous context in which family violence and sexual assaults occur. The seminar examined how Indigenous women and children could better engage with and access the justice system.
- We developed protocol guidelines for judicial officers to organise cultural ceremonies and a "Welcome to Country" or "Acknowledgement of Country" at the opening of court proceedings. The protocol will be loaded on the Ngara Yura component of the Judicial Information Research System (JIRS).
- A meeting with the National Indigenous Drug and Alcohol Committee (NIDAC) explored how we can best inform judicial officers about NIDAC's research.

Challenges

Encouraging busy judicial officers to attend weekend community visits.

Inspiring judicial officers to say an "Acknowledgement of Country" at the start of court sessions.

Looking ahead

In 2010–11, we will:

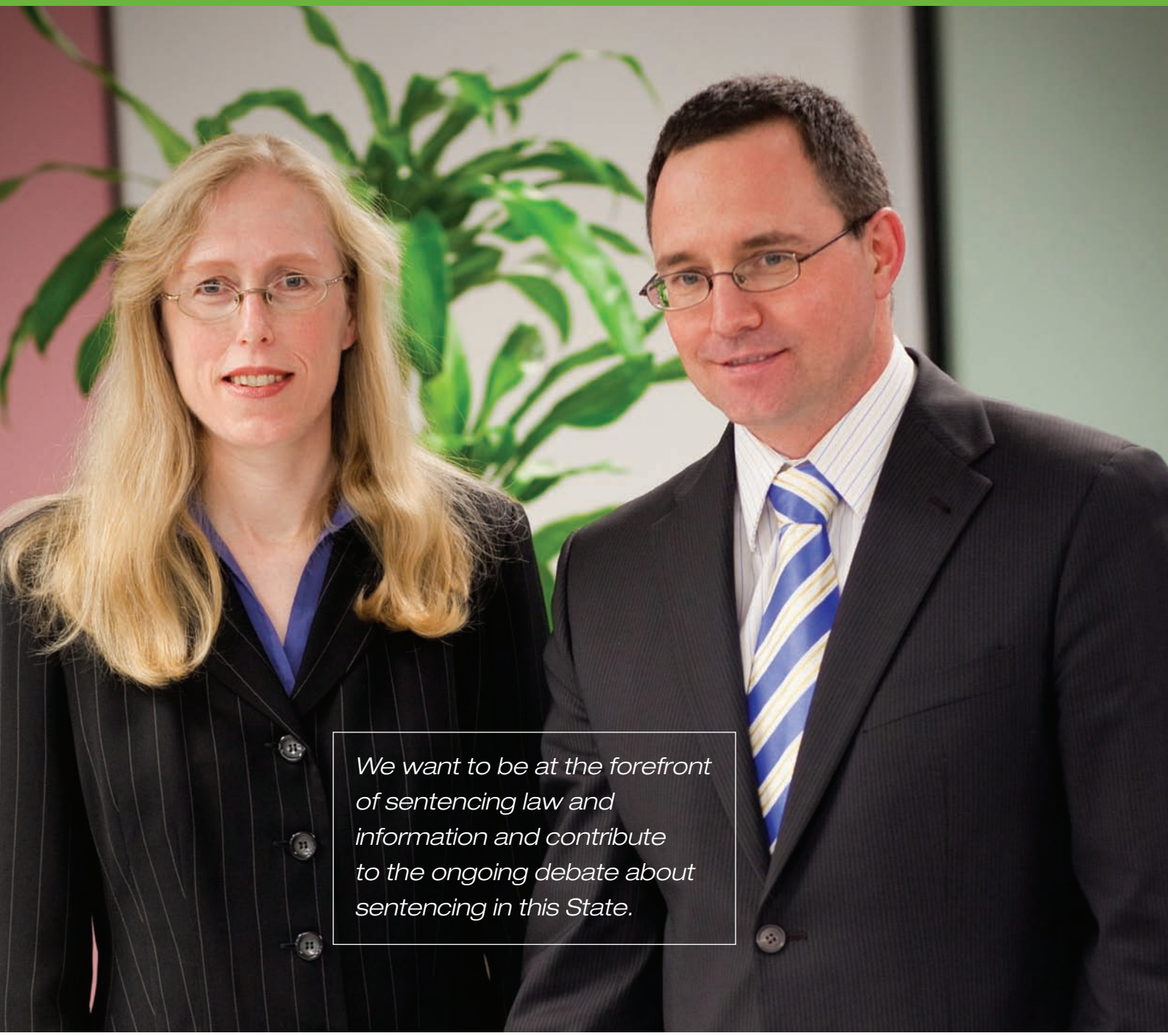
- launch a Ngara Yura component on JIRS and our website to promote our Aboriginal cultural awareness program to judicial officers and the wider community
- organise another community visit for judicial officers
- conduct another seminar on Indigenous issues.

"I wish to thank … the Commission for a most valuable visit and forum weekend which has allowed for considerable hope and a good response from Indigenous folk of this region."

Sister Laurel Clare Lloyd-Jones, Executive Director, Elm Grove Sanctuary Trust, Dalmeny, near Narooma

Participants at the Wallaga Lake and Narooma Community visit, November 2009. Judicial officers came away with a better understanding of the challenges for Aboriginal society and culture in the modern world, as well as greater knowledge about rehabilitation programs available for use by courts as alternatives to incarceration.

Assisting the courts to avoid error and achieve consistency in sentencing



We want to be at the forefront of sentencing law and information and contribute to the ongoing debate about sentencing in this State.

Rowena Johns, Principal Research Officer and Hugh Donnelly, Director, Research and Sentencing.

Outcomes 2009–10

- Published two major sentencing studies acknowledged in the media and by senior judges and politicians
- Provided resources to inform judicial officers and legal practitioners about all major developments in sentencing and criminal law
- Completed research into a problematic area of sentencing law: child pornography offences
- Completed research into all successful conviction appeals made between 2001 and 2007 that resulted in a new trial or acquittal
- Made 11 enhancements to JIRS
- Answered 15 substantial research enquiries from judicial officers

Targets 2010–11

- Publish two research monographs, one on conviction appeals and one on sentencing offenders charged with child pornography offences
- Publish a study about taking aggravating factors into account at sentence
- Continue to meet high standards of publishing on JIRS
- Conduct research into sentencing patterns for Commonwealth drug offences
- Publish significant interstate appellate decisions that explain the Commonwealth Criminal Code
- Publish regular updates to our looseleaf resources

Contents

Satisfaction

Satisfaction with our online resources is very high

It is important for us to understand how helpful users find our independent research and sentencing information and where we can improve on its content and presentation.

We surveyed users of our online resources in May 2009 and received 768 responses. The results showed an overall satisfaction rate of 97%. This year, we analysed the 36 suggestions made to assess how best to improve our system.

Our analysis showed that we could upgrade the following:

- search facilities for case law, legislation and reference books
- access to some of our restricted resources
- access to our collections of conference papers and publications
- information on how to use the sentencing statistics.

We responded by making enhancements to our online resources; these are detailed at pp 29–30.

Our independent research makes an impact

We monitored the media reception of a major research study we published this year about the impact of standard non-parole periods on sentencing patterns in NSW. The study attracted a front page article and editorial in a major Sydney newspaper, an editorial in a major interstate newspaper and three other online and print articles. Our analysis of the media coverage shows that the study has made a significant contribution to the debate about sentencing in this State.

The courts regard our research publications as authoritative

This year, two important Court of Criminal Appeal decisions favourably referred to our research study examining issues about the sentencing of secondary participants to crime.

"There is a useful discussion of issues relating to the sentencing of secondary participants to crimes, including sexual assault offences, in Sentencing Trends & Issues No 39 … It is apparent from the discussion of authorities there that there is no 'bright line rule' for assessing the culpability of secondary participants and that each case must be determined according to its own individual circumstances."

King v R [2010] NSWCCA 33 at [50]

Use of our online sentencing resources has increased

We measure the monthly use of our online resources. This year, more than 100,000 hits were made for two consecutive months on our online Judicial Information Research System (JIRS). This exceeds all previous use for the past five years and this growth is shown in Figures 5 and 6 on p 25. Overall, use grew by 8.5% and there was an average of 84,312 hits per month, which reflects the increasing use of JIRS by police prosecutors to prepare for sentencing hearings.

The Court of Criminal Appeal expressly referred to JIRS statistics in 80 judgments delivered during the year. In one case, the court found that "the statistics strengthen the view … already taken, that the sentence should be set aside and the applicant resentenced" (*Nguyen v R* [2010] NSWCCA 132 at [52]).

For the first time, we also measured the website use of our online sentencing and criminal law resources. Almost 41,000 page views were made of the *Criminal Trial Courts Bench Book* and 34,369 page views were made of the *Sentencing Bench Book* in the period February to June 2010: see Figure 7.

Source: courtesy of the Sydney Morning Herald

Comparing our results with other providers

We do not compare our user satisfaction with other State, national or international providers of sentencing information as, at this stage, either no other provider has a directly comparable online system or information about similar systems is not available.

Figure 5 Number of JIRS pages accessed by users each year, 2005–10

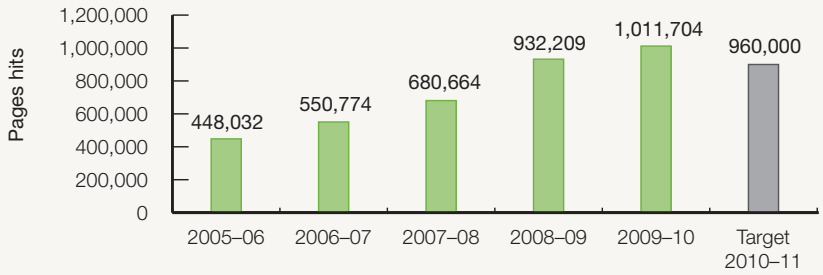


Figure 6 Number of JIRS pages accessed by users each month

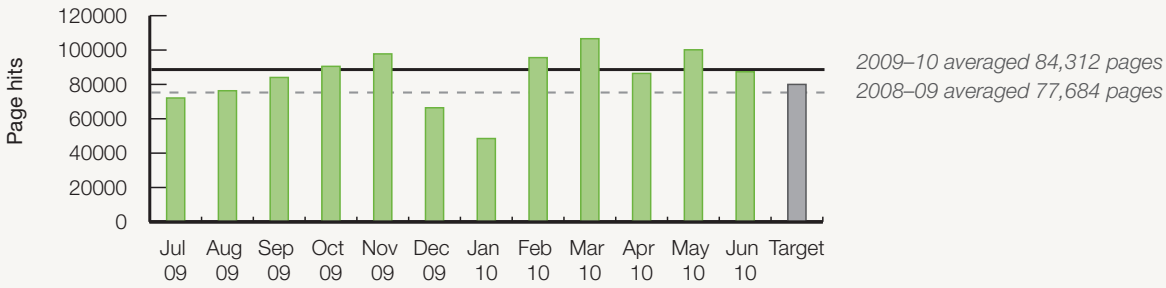
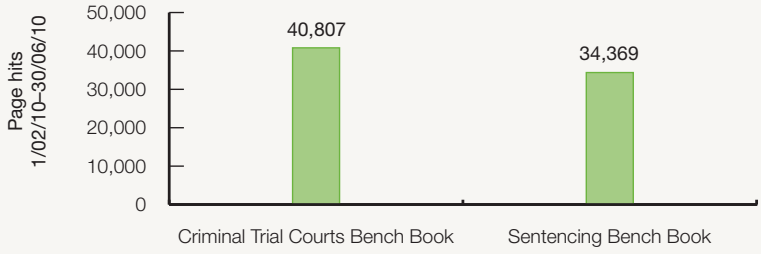


Figure 7 Number of web pages accessed by users for Criminal Trial Courts and Sentencing Bench Books



Challenge

Matching high volume work with high standards to meet the expectations of judicial officers.

Looking ahead

In 2010–11, we will

- conduct a survey to measure satisfaction with our *Sentencing Bench Book*
- examine whether it is possible to compare our user satisfaction with other national and international providers of sentencing information.

Providing a current, accurate, timely and accessible system

Connected judicial officers to major changes in the law within 24 hours of receipt

It is essential to the rule of law that a judicial officer's discretion to make decisions is independent. Our research and sentencing work is designed to facilitate informed judicial decision-making without interfering with a judicial officer's independence.

A core task of the Judicial Commission is to assist the courts to avoid error in criminal trials and to encourage a consistent approach to sentencing. We do this by:

- providing information on sentencing principles and practice in the *Sentencing Bench Book* and the online Judicial Information Research System (JIRS)
- providing suggested jury directions for all stages of the criminal trial
- providing guidance on the sentences that other judicial officers have given in similar circumstances by publishing sentencing statistics and summaries of appeal decision on JIRS
- researching and publishing information on sentencing trends and issues in print and online
- publishing changes to the criminal law on JIRS and in our legal reference books.

JIRS is the first of its kind in Australia and is a world leader in the field of computerised sentencing databases. It is an extensive, interrelated and hypertext linked sentencing resource that provides discrete modules of reference material: see Figure 8 on p 27. JIRS provides rapid and easy access to the courts' collective wisdom to assist in making a sentencing decision.

JIRS is central to how we communicate sentencing information and changes to the criminal law. It is crucial that we continuously monitor the law and modify JIRS to ensure its currency, accuracy, timeliness and accessibility.

Currency and accuracy

We check the currency of all legislation on JIRS each week and constantly monitor developments in case law, new legislation and government policy to add to our databases and publications. To ensure the integrity of our statistics, we audit all unprocessed data received from the NSW Bureau of Crime Statistics and Research (BOCSAR).

Timeliness

We met our target to post all judgments on JIRS within 24 hours of receipt. Within two weeks, we posted summaries of important cases on JIRS and also summarised:

- every Court of Criminal Appeal decision where the court altered the sentence or sentences imposed at first instance
- all cases where the standard non-parole provisions were applied
- other selected appeals which involved a sentencing principle.

We also published a selection of these summaries in the monthly *Judicial Officers' Bulletin*.

We met our target to load statistics within two months of receipt for the Local Court and Children's Court. We were unable to meet our target of three months for the other courts due to ongoing problems with the timeliness and quality of sentencing data received. The quality is improving but a significant error rate and delay in receipt of information remain. Additional resources are required to validate the data and this has affected our targets for loading statistical information onto JIRS. We responded to this challenge by:

- working with the Department of Justice and Attorney General and BOCSAR to provide training to court staff responsible for recording sentencing data and to provide assistance and feedback
- working closely with the State and Commonwealth Directors of Public Prosecutions to ensure accurate charge information can be collected from indictments presented in the District and Supreme Courts
- entering a formal agreement with BOCSAR to clearly define each organisation's obligations about how the vital sentencing data is processed and audited.

Accessibility

We use a variety of online and print platforms to communicate sentencing information and criminal law developments. We provide easy-to-follow statistical information and sentencing patterns on JIRS. Our bench books and original research studies are published in hardcopy and online through JIRS and our website. Bench books set out in logical order the major legislation and precedents to apply when conducting a criminal trial, as well as procedural guidelines, suggested jury directions and sample orders. Our original research studies are edited in plain English and statistical information is presented in easy-to-read charts and graphs.

Use of JIRS is split between:

- judicial officers: 32%
- the Office of the Director of Public Prosecutions (ODPP): 32%
- subscribing legal practitioners: 16%
- professional associations: 2%
- State and federal government agencies, Aboriginal Legal Services and university research centres: 18%.

The main growth in 2009–10 was from government agencies other than the ODPP (30%), private or community-based legal firms (14%), magistrates (13%), and the Supreme Court (10%). Commission staff also use JIRS extensively to answer enquiries and undertake research projects: see Figure 9 on p 28 for information on the most used components.

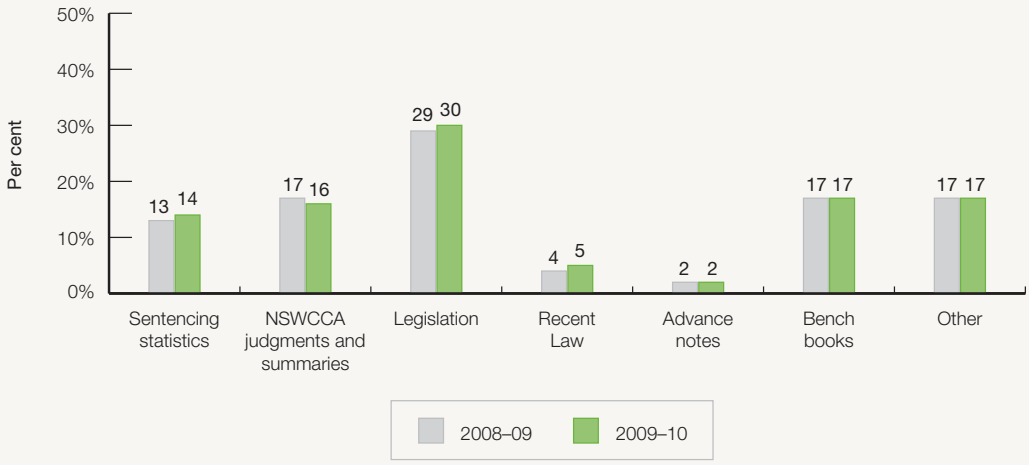
Figure 8 JIRS: a complete judicial decision support system

Description	What we do	JIRS Component
Early notice of important legal developments	— identify significant decisions and legislative changes — extract core of case law and legislation and post online — print and distribute monthly Recent Law flyer	Announcements and Recent Law
Statistics on the range and frequency of penalties imposed in similar cases	— receive data from NSW Bureau of Crime Statistics and Research, Department of Juvenile Justice and the courts — audit data — process and load data on JIRS within 2–4 months of receipt	Sentencing statistics
Full text of judgments and case summaries for selected cases	— receive cases from High Court, Court of Criminal Appeal (CCA), Court of Appeal, Supreme Court, Land and Environment Court, Industrial Relations Commission, District Court and Local Court — advance notes supplied by Office of the Director of Public Prosecutions — load full text judgments within 1 working day of receipt — prepare Recent Law items within 14 days of receipt for important decisions — prepare important CCA case summaries within 2 weeks of receipt — link cases and summaries to sentencing principles and practice component and the *Criminal Trial Courts* and *Civil Trials Bench Books*	Case law
Concise commentary on sentencing principles	— take sentencing principles from new cases and legislation and post as Recent Law items — link principles in bench book to case law and legislation	Sentencing principles and practice (*Sentencing Bench Book*)
Practice and procedure manuals for the various courts containing current statements of relevant legal principles, sample orders and suggested jury directions	— identify significant decisions and legislative changes which impact on the content of the bench book — Bench book committees consider content and draft amendments and special bulletins — publish updates on JIRS and in hard copy	Bench books
All NSW and Commonwealth Acts and Regulations	— receive legislation from NSW Parliamentary Counsel's Office and Commonwealth Attorney General's Department — process and load legislative changes within 24 hours of receipt — alert users to commencement date of criminal legislation via Recent Law items — link legislation to relevant case law and sentencing statistics — verify currency of legislation weekly	Legislation
Monographs, *Sentencing Trends & Issues*, *Judicial Officers' Bulletin*, *The Judicial Review*	— identify relevant topic or research area — commission author — edit and typeset manuscript — publish in hard copy and online	Publications
Essential information on treatment options and rehabilitation facilities	— identify relevant service providers — maintain currency of information	Services directory

"… one of the most sophisticated yet unobtrusive systems of its kind in the world … It is probably the world leader in this field."

Lord Justice Robin Auld, Review of the Criminal Courts of England and Wales (2001) at 603

Figure 9 Most used components of JIRS

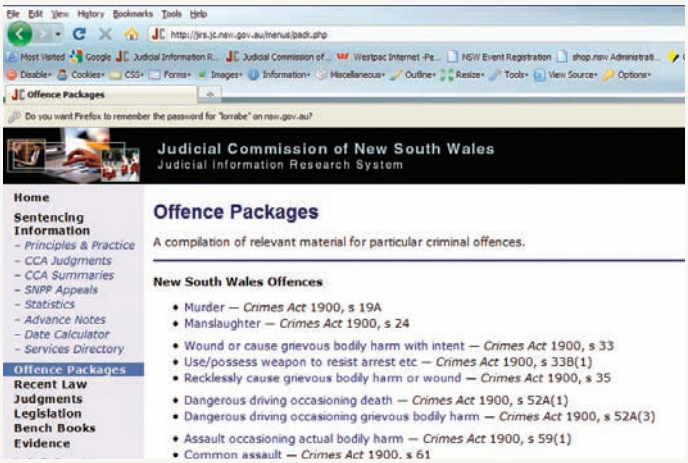


Challenge

Significant problems with the quality and timeliness of sentencing data received: see p 26 under “Timeliness”.

Looking ahead

In 2010–11, we will continue to work with the Bureau of Crime Statistics and Research and the Department of Justice and Attorney General to resolve the serious problems with the quality and timeliness of sentencing data provided to the Commission.



A judicial officer wanting to find compiled information about a particular common offence in NSW can easily locate this through the “Offence Packages” menu on JIRS. This is a new, easy-to-use resource which we created this year to assist judicial officers with their research.

Decision-making: informed and independent

Informed judicial officers about all developments in criminal and sentencing law

We want to ensure that judicial officers in NSW are connected to everything they need to know about sentencing law and practice and are informed of all criminal law developments.

To achieve this goal, we:

- completed four and published two major research studies
- communicated all major criminal and sentencing law reform online and in print
- created one new major sentencing resource on JIRS
- made 11 enhancements to JIRS
- answered 15 substantial research enquiries from judicial officers.

Major achievements

Conducting research projects

We met all but one of our research targets, a pleasing result given we were a researcher short. We published two major studies:

- *The impact of the standard non-parole period sentencing scheme on sentencing patterns in New South Wales*, Research Monograph No 33 (see case study on p 31)
- "Sentencing in complicity cases — Abettors, accessories and other secondary participants", *Sentencing Trends & Issues* No 39. This study examined the principles to apply when sentencing offenders who are secondary participants to a crime or are an accessory after the fact to an offence.

We conducted research in addition to what we promised last year about sentencing offenders convicted of child pornography offences. This is a difficult area of sentencing law and there has been an increase in the number of offenders dealt with by the courts. Most child pornography is possessed in digital form and many offenders have had thousands of images stored on a few computer devices. The fact-finding process and assessing the objective seriousness of the offence are complex. The study, which was completed this year, provides all the relevant information to assist in promoting a consistent approach to the sentencing task and will publish in late 2010.

> *"… the sentencing judge too readily dismissed from consideration the need to convey the very serious manner in which courts view possession of child pornography."*
>
> *R v Booth [2009] NSWCCA 89 at [44]*

This year, we also completed research into conviction appeals to provide a sound empirical source of errors in criminal trials. We analysed every case where a new trial or acquittal was ordered between 2001 and 2007. The study was promised for publication last year but competing priorities delayed its production. It will publish in late 2010.

Communicating criminal law developments

We kept judicial officers and legal practitioners up-to-date with major legal changes. We:

- posted 133 items on the "Announcements/Recent Law" component of JIRS about important cases, new legislation and sexual assault cases and legislation
- published 151 summaries of important sentencing judgments on JIRS
- published seven updates to our bench books: three to the *Sentencing Bench Book* and four to the *Criminal Trial Courts Bench Book*. We exceeded our publishing target of six updates.

Creating and improving sentencing resources on JIRS

This year, we created a major sentencing resource on JIRS and made 11 enhancements, three more than last year and seven more than the target. Most of these enhancements were made in response to the JIRS user survey (see p 24).

Major resources

- The new "Offence Packages" resource on JIRS provides users with ready access to information about the most common offences. The page for each offence consolidates information found in the various menu options on JIRS and directs the user to all the key parts of JIRS with information about the offence being researched.
- We improved the "standard non-parole period sentencing appeals table" by the use of colour coding. This enables judicial officers and the profession to easily identify each case that has been appealed to the Court of Criminal Appeal by the principal offence with a standard non-parole period. This routinely used table is an important resource because the standard non-parole period sentencing scheme, operating since 2003, remains difficult to apply as shown by the high number of appeals to the Court of Criminal Appeal.

Highlights of JIRS enhancements

We improved JIRS by:

- creating broader access for magistrates to a range of materials covering Local Court procedures, common legal issues in Local Court cases, and information about programs available at Local Courts around the State

- creating access to judgments from the various State and federal criminal courts from a single page and providing a new facility for searching the titles of judgments. This helps searching in several different jurisdictions
- improving the legislation menu to help users navigate voluminous lists according to whether an Act is the principal Act and whether it is repealed
- improving the search pages to feature an easy to use "date picker" (a pop-up, clickable calendar) to help users select and enter dates and date ranges correctly
- enhancing "Advance notes" to display the abstract of the Advance note. Links to the referred legislation and judgment have also been improved
- providing a more detailed table of contents to the *Criminal Trial Courts Bench Book*
- checking links daily, moving JIRS to new servers and software platforms, and enhancing the usage-tracking system.

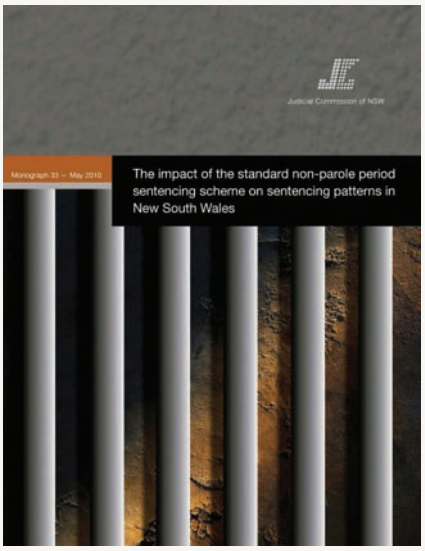
Challenge

The research effort to maintain our information about sentencing and criminal law is considerable and must be balanced with undertaking new research within strict time frames and budgetary limits.

Looking ahead

In 2010–11, we will:

- publish two studies, one on conviction appeals and one on sentencing offenders charged with child pornography offences
- continue to add value to JIRS by providing statistics for drug offences aggregating the various drug types
- publish a study about taking aggravating factors into account at sentence
- conduct research into sentencing patterns for Commonwealth drug offences
- publish three updates each to the *Sentencing Bench Book* and the *Criminal Trial Courts Bench Book*.



Our independent study of the standard non-parole period sentencing scheme, published in June 2010, found that the lengths of sentences in NSW had dramatically increased since the scheme was introduced in 2003. The study makes an important empirical contribution to the debate about sentencing law and practice in NSW.

Case studies

Responding to major criminal law developments

Assessing the impact of the standard non-parole period sentencing scheme on sentencing patterns in NSW

In 2003, NSW became the only Australian State to introduce standard non-parole periods for a broad range of serious offences. The scheme requires a judge to use a specified standard non-parole period in a statutory table for sentencing an offender. We wanted to establish whether the new statutory scheme promoted a more consistent approach to sentencing and increased the use of full-time imprisonment and lengths of sentences. We compared sentences imposed before and after the introduction of the 2003 scheme. We also examined appeal results for standard non-parole period offences. Overall, we found that the scheme created a more uniform approach to sentencing. The study also confirmed that the lengths of sentences of full-time imprisonment in NSW had dramatically increased.

Our independent empirical study is a major contribution to the ongoing debate about sentencing law and practice in this State.

Explaining new double jeopardy laws

The NSW Parliament passed a law in September 2009 to abolish a sentencing principle known as "double jeopardy". In a Crown appeal against the claimed leniency of the sentence imposed, the principle allowed a court to take into account, in the offender's favour, the double jeopardy involved in the offender being sentenced again. The new law was silent as to the meaning and scope of "double jeopardy". We posted an announcement on JIRS and published an article in the monthly *Judicial Officers' Bulletin* to outline the new law and the background to its enactment. The Court of Criminal Appeal convened a five-judge bench in December 2009 to interpret the phrase "double jeopardy". The court said that it is limited to the distress and anxiety that a person being resentenced will suffer from being exposed to the possibility of a more severe sentence. At the time of writing, the court had not decided how the new law affected sentencing for Commonwealth offences.

To explain the court's decision* and how appellate judges should apply the law in future appeals, we published a summary of the decision on JIRS and in the *Judicial Officers' Bulletin*. We then inserted new commentary in the *Sentencing Bench Book*.

* *R v Carroll* (2010) 267 ALR 57.

Explaining how to direct a jury about the effect of delay in a sexual assault trial

A victim may not complain to police until many years after an alleged sexual assault. When there is a lengthy delay between the alleged offence and the trial, the law requires a judge to warn a jury about how delay could disadvantage the person on trial. A District Court judge conducted a trial where there was a six to 14-year-delay between the alleged offences and when the police laid charges. The judge directed the jury that she was required to "caution" the jury about the lengthy delay and the jury's use of the complainant's evidence. The jury found the offender guilty. The offender appealed to the Court of Criminal Appeal and asked that court to find that the District Court judge made an error by cautioning rather than warning the jury. The Court of Criminal Appeal said the judge had correctly applied the law. It was not necessary that the judge use the word "warning" when directing the jury as long as the direction was an authoritative warning about the danger of a delay in a sexual assault trial.

To explain this decision* and its impact on future sexual assault trials, we published a timely announcement on JIRS and a summary of the decision in the *Judicial Officers' Bulletin*. We then rewrote commentary and reviewed jury directions in two court resources, the *Criminal Trial Courts Bench Book* and the *Sexual Assault Handbook*.

* *TJ v R* [2009] NSWCCA 257.

Examining complaints

We promote high standards of judicial conduct.

Chief Executive Ernest Schmatt PSM and former Chief Magistrate Ian Pike AM gather and consider all the information necessary for the Commission to examine complaints.

Outcomes 2009–10

- Received 70 formal complaints about 60 judicial officers
- Examined 64 complaints
- Dealt with all complaints within 13 months
- Provided advice and information to the public about the complaints process

Targets 2010–11

- Examine the majority of complaints within three months
- Examine all complaints received within 12 months

Contents

Satisfaction

Examined 91% of complaints within six months

Majority of complaints examined within eight months

This year, we exceeded our target to examine 90% of complaints within six months. All preliminary examinations were completed within eight months except for one that took 13 months due to delays in receiving information. Because of this, we fell just short of our target to examine all complaints within 12 months. Table 5 compares the time taken to examine complaints over a five-year period against our targets.

We met our target to acknowledge all complaints in writing within one week of receiving them.

Benchmarking our results with other organisations

The Judicial Commission is, to date, the only organisation in Australia that examines complaints against judicial officers. We benchmark with the Canadian Judicial Council and the Office for Judicial Complaints in the United Kingdom. These organisations aim to finalise the majority of complaints that do not require further investigation within three months. This year, we finalised 61% of complaints within three months (last year: 66%).

Complaints function is nationally recognised

This year, a Senate committee acknowledged the success of the Commission's complaints function in a significant report about Australia's judicial system and the role of judges.

> *"The committee recommends that the Commonwealth government establish a federal judicial commission modelled on the Judicial Commission of New South Wales."*
>
> *Senate Legal and Constitutional Affairs References Committee, Australia's Judicial System and the Role of Judges, 2009, Recommendation 10*

Table 5 Time taken to examine complaints 2005–10

	3 months	6 months (target 90%)	9 months	12 months (target 100%)
2005–06	72%	95%	98%	100%
2006–07	48%	97%	100%	–
2007–08	73%	99%	100%	–
2008–09	66%	92%	100%	–
2009–10	61%	91%	98%	98%

Challenge

Examining the majority of complaints within three months without extra resources.

Looking ahead

We will continue to benchmark our performance against international judicial complaints bodies.

> *"Any person may complain to the Commission about a matter that concerns or may concern the ability or behaviour of a judicial officer."*
>
> *Section 15 of the Judicial Officers Act 1986*

Providing an effective complaints process

Promoted high standards of judicial conduct

Members of the public and court users have the right to expect that judges and magistrates will behave impartially, courteously, ethically and to the highest standards of conduct.

A core task of the Judicial Commission is to deal with complaints about a judicial officer's ability or behaviour. We do this by:

- examining complaints quickly, independently, objectively and effectively
- keeping a complainant fully informed of the progress of the complaint
- providing information, publications and talks about our role and function
- providing informal advice over the telephone and face-to-face
- monitoring patterns in complaints and addressing recurring issues in our judicial education program.

How to make a complaint

Anyone may make a complaint about the ability or behaviour of a judicial officer. A formal complaint must:

- be in writing
- identify the judicial officer concerned and the complainant
- be supported by a statutory declaration that verifies the particulars of the complaint
- be lodged with the Chief Executive of the Commission.

We will assist complainants with translation and interpreting if they need this. There is no fee and legal representation is not required.

Our website provides information to help people understand the types of complaints we deal with, possible outcomes and how to make a complaint. We also provide a hardcopy plain English brochure *Complaints against judicial officers* and a complaints form for downloading from our website.

How we deal with complaints and enquiries

Examining the complaint

We acknowledge in writing within one week any complaint received. If the complaint relates to a court matter, we obtain sound recordings and a transcript of the proceeding. The Commission investigates the complaint in confidence to decide if it requires further action. In all cases, we advise the judicial officer that a complaint has been made and provide the complaint documents.

Executive Assistant Cheryl Condon provides information to the public about complaints.

If the examination shows no wrong conduct, the Commission dismisses the complaint and explains in writing to the complainant why the complaint was dismissed. Table 6 shows the criteria adopted for dismissing complaints and the number of complaints dismissed this year.

Table 6 Criteria for dismissing complaints

Criteria	Section of Judicial Officers Act	Number of complaints
The complaint was frivolous, vexatious or not in good faith	20(1)(b)	2
The complaint was frivolous, vexatious or not in good faith and having regard to all the circumstances of the case, further consideration of the complaint would be or is unnecessary or unjustifiable	20(1)(b) and (h)	8
The complaint related to the exercise of a judicial or other function that is or was subject to adequate appeal or review rights	20(1)(f)	3
The person complained about was no longer a judicial officer	20(1)(g)	2
The complaint related to the exercise of a judicial or other function that is or was subject to adequate appeal or review rights and having regard to all the circumstances of the case, further consideration of the complaint would be or is unnecessary or unjustifiable	20(1)(f) and (h)	17
Having regard to all the circumstances of the case, further consideration of the complaint would be or is unnecessary or unjustifiable	20(1)(h)	24

Complaints that require further action

If the complaint shows conduct which is lawful but not appropriate, the Commission may refer the complaint to the head of jurisdiction and provide all relevant material. The Commission may recommend some action to prevent the problem occurring again or that the judicial officer be counselled. The Commission may also refer a complaint for examination to a panel known as the Conduct Division which is specially convened for this purpose. The complainant and the judicial officer complained about are advised of the action taken.

The Commission's formal complaints work is governed by the *Judicial Officers Act* 1986 and two strategic documents, the *Complaints against judicial officers: guidelines* (see Appendix 1 on p 104) and the *Conduct Division: guidelines for examination of complaints* (see Appendix 2 on p 106). Figure 10 on p 37 explains how the complaints process works.

Informal enquiries

We also deal with informal enquiries from members of the public and the legal profession.

We are usually able to help people by providing information or an explanation, referring them to another agency, or advising them of the process for making a complaint to the Commission. Enquiries often relate to matters that should be dealt with on appeal to a higher court and, in these cases, we advise the person to seek independent legal advice.

What we cannot deal with

Our complaints function is only concerned with investigating complaints about a judicial officer's ability or behaviour. We do not have power to:

- examine allegations of criminal or corrupt conduct as these are matters for the police or the Independent Commission Against Corruption
- review a case for judicial error, mistake or other legal grounds
- discipline or sanction a judicial officer
- examine complaints about a retired judicial officer.

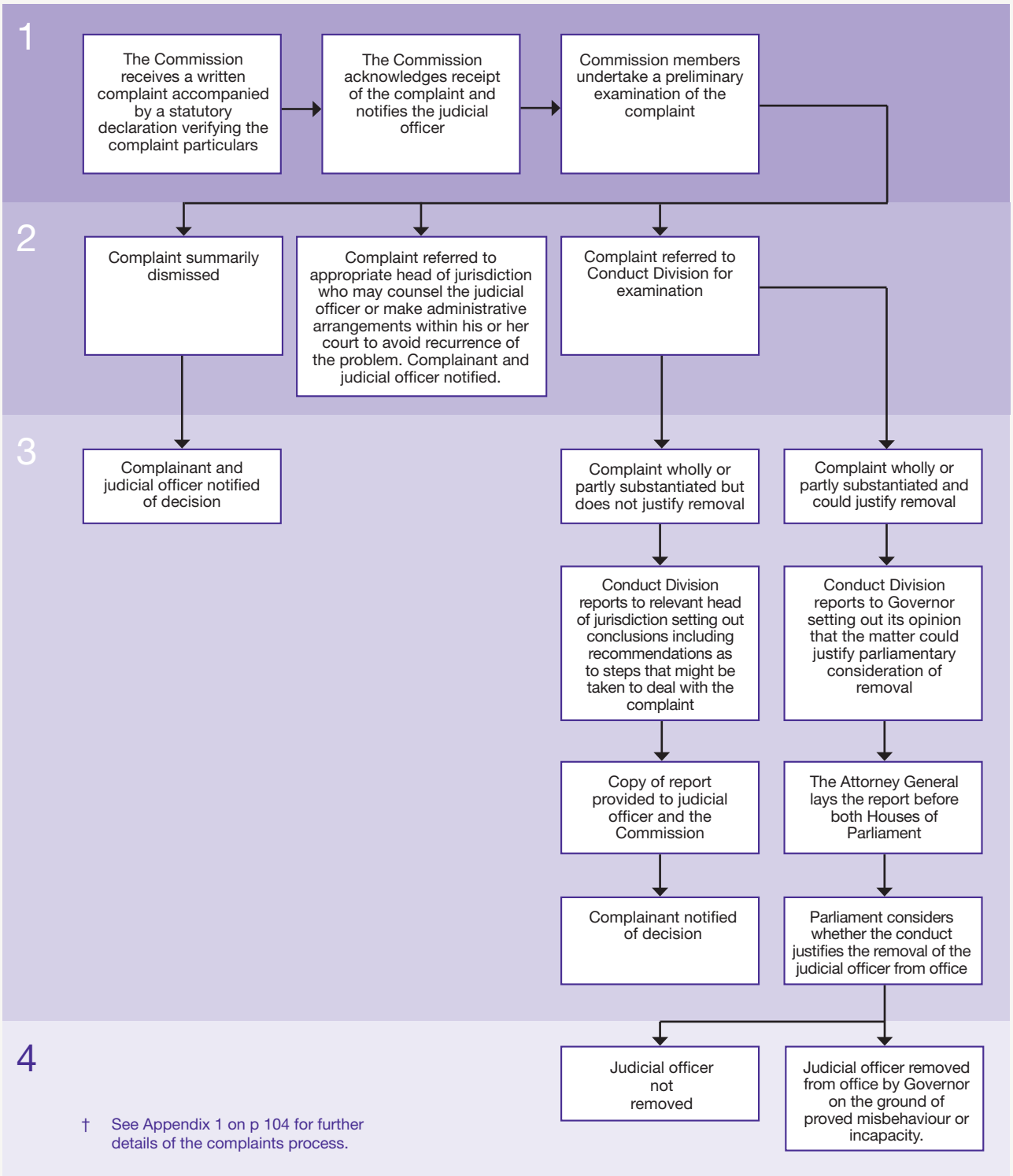
Challenge

Explaining to a complainant unhappy with a judicial decision that the Commission only deals with judicial conduct and cannot review a case for judicial error, mistake, or other legal grounds.

Looking ahead

We will review our publicly available information about the complaints process to ensure it is accessible and easy to follow.

Figure 10 How the complaints process works†



† See Appendix 1 on p 104 for further details of the complaints process.

Judicial accountability: complaints received and examined

Complaints increased by 27% this year

There are 295 judicial officers in NSW who handled more than 500,000 matters during 2009–10. This year, complaints rose by 27%, the biggest increase over the last five years. There is no apparent reason for this rise.

The small number of complaints from year to year compared to the number of judicial officers and the high volume of litigation indicates the high standard of judicial conduct in NSW and the community's willingness to accept decisions if they are made in accordance with the due process of law.

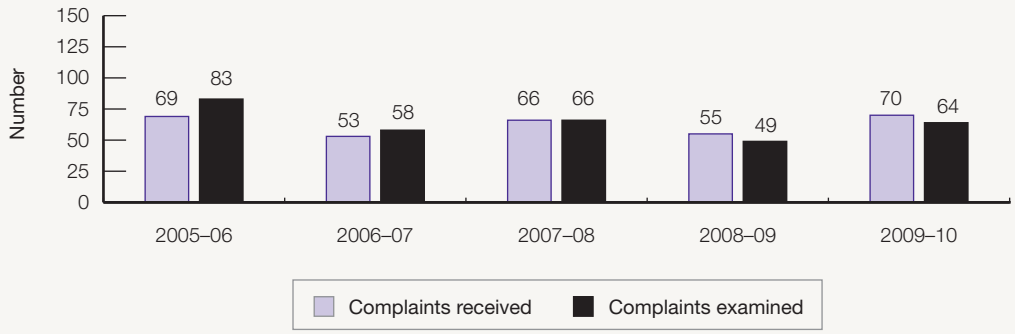
Complaints received

This year, 67 individuals made 70 complaints about 60 judicial officers. One complainant made three complaints and two complainants submitted two complaints each. The rest of the complaints were lodged individually. Sixteen complaints were carried over from last year. We finalised 64 complaints (last year: 49). Twenty-two complaints were pending at 30 June 2010. Table 7 shows how we dealt with all complaints during the year and Figure 11 compares the numbers of complaints received and examined over the past five years.

Table 7 Complaint particulars

Complaints pending at 30 June 2009	**16**
Complaints made during the year	**70**
Total number of complaints	**86**
Complaints examined and dismissed under sections 18 and 20 of the *Judicial Officers Act*	**56**
Complaints referred to head of jurisdiction	**2**
Complaints referred to Conduct Division	**5**
Complaints withdrawn	**1**
Total number of matters examined	**64**
Complaints pending at 30 June 2010	**22**

Figure 11 Number of complaints received and examined 2005–10



Complaints examined and dismissed

The Commission examined and dismissed 87.5% of complaints (56) under section 20 of the *Judicial Officers Act* because the examination disclosed no wrong conduct. This is consistent with last year but slightly less than the five-year average of 93%. This is because we determined that seven complaints required further action. Table 8 shows the percentage of complaints dismissed under section 20 over a five-year period compared with all finalised complaints.

Referred two complaints to the head of jurisdiction

The Commission referred two complaints to the relevant head of jurisdiction following a preliminary examination under section 21(2) of the Act. This action was taken because, in the Commission's opinion, the complaints did not warrant the attention of the Conduct Division. The complainants and the judicial officers concerned were advised of this action.

Referred five complaints to the Conduct Division

This year, the Commission referred five complaints about two judicial officers to two separate Conduct Divisions under section 21(1) of the Act. The examinations commenced during the reporting period and are continuing.

The Commission appointed the first Conduct Division comprising:

- the Honourable Michael Campbell QC
- her Honour Deputy Chief Magistrate Jane Mottley
- Ms Martha Jabour.

The second Conduct Division comprises:

- the Honourable Justice Carolyn Simpson
- the Honourable David Lloyd QC
- Mr Ken Moroney AO.

The Crown Solicitor and Senior and Junior Counsel were instructed to assist both Conduct Divisions. In each case, the Attorney General approved financial assistance for the judicial officers to meet the legal costs and expenses of appearing before the Inquiries.

Attorney General referred no matters

A reference under section 16(1) of the *Judicial Officers Act* is treated as a complaint. This year, the Commission received no references from the Attorney General.

Declared a complainant vexatious

The Commission has power under the *Judicial Officers Act* to declare a complainant vexatious. This year, the Commission declared vexatious a complainant who made eight complaints about eight judicial officers over two years. All the complaints were dismissed for lack of substance. The effect of the declaration is that the Commission may disregard any further complaint from the vexatious complainant until the declaration is revoked.

Responded to informal inquiries

We attended to 398 telephone, face-to-face and written enquiries from potential complainants (last year: 380).

Monitored complaints to identify patterns

We monitor patterns in the nature and scope of complaints to identify areas that may need to be addressed in our judicial education program. Figure 12 on p 40 provides an overview of patterns in complaints over the past five years. Information gathered from complaints is used to develop education sessions on topics such as avoiding inappropriate comments and discourtesy, domestic violence, sexual assault issues and cultural awareness training.

Table 8 Complaints examined and dismissed 2005–10

2005–06		2006–07		2007–08		2008–09		2009–10	
Complaints examined	Complaints dismissed under s 20	Complaints examined	Complaints dismissed under s 20	Complaints examined	Complaints dismissed under s 20	Complaints examined	Complaints dismissed under s 20	Complaints examined	Complaints dismissed under s 20
68	66	51	50	65	61	49	43	64	56
	97%		**98%**		**94%**		**88%**		**87.5%**

In 2009–10, we identified the following patterns:

Common causes of complaint: allegations of failure to give a fair hearing and an apprehension of bias continue to be the most common grounds of complaint. In 2009–10, these two categories accounted for 63% of complaints (last year: 71%). This type of complaint is often made by an unsuccessful party to legal proceedings and by a person who represented him or herself in court. Complaints of bias are often accompanied by allegations of particular conduct by the judicial officer concerned.

Substitution for appeals: some matters amount to a complaint that a judicial officer made a wrong decision. These complaints are often made instead of an appeal to a higher court. They are usually made when a party to litigation is aggrieved by an unfavourable decision but, for one reason or another, does not wish to appeal. Instead, a personal complaint against the judicial decision-maker is made to the Commission, usually alleging bias or incompetence. Such a complaint is dealt with on its merits, but the Commission cannot correct an allegedly wrong decision.

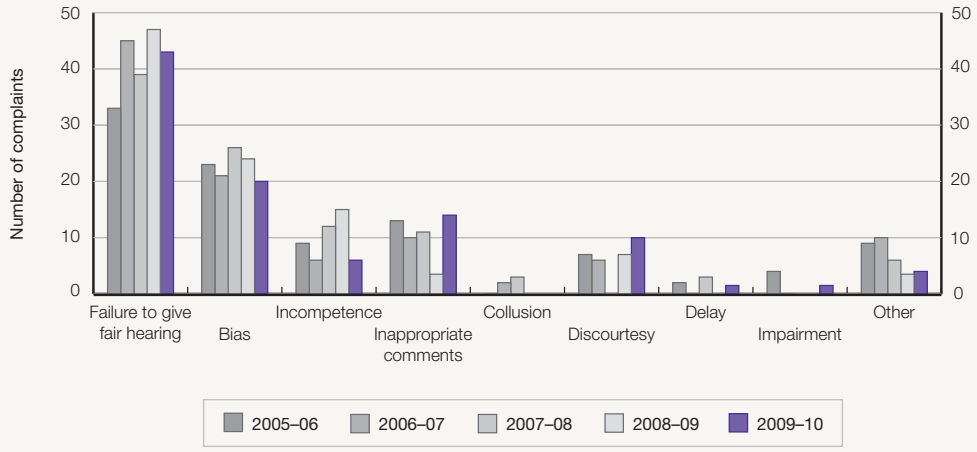
Inappropriate comments and discourtesy: 10 complaints alleged that a judicial officer made inappropriate comments and seven complaints alleged discourtesy. These two categories accounted for nearly 24% of all complaints received this year (last year: 11%).

Delay and impairment: we received one complaint about delay in dealing with a hearing and one complaint of alleged impairment of a judicial officer (last year: none).

Complaints arising from AVO proceedings: in past years, a high proportion of complaints arose out of proceedings involving applications for apprehended violence orders (AVOs). The trend has reduced this year with 14% of complaints arising from AVO proceedings (last year: 22%). In many instances, the complaints arose from a misunderstanding of the judicial role.

Complaints by unrepresented litigants: a further trend we have noted is the high proportion of complaints made by persons who have conducted their own litigation before the courts. This year, 37% of all complaints were made by self-represented litigants (last year: 40%).

Figure 12 Common causes of complaint: basis of allegation



Challenge

Two Conduct Divisions and a 27% increase in complaints have greatly increased our workload.

Looking ahead

In 2010–11, we will continue to monitor complaints and feed information into our education program.

Case studies

Inappropriate conduct towards a witness

Complaint

A Crown Prosecutor complained that a judge conducted himself towards a young witness in a trial in an inappropriate manner. He alleged the judge raised his voice in a loud and angry way. The witness was so upset that she ran from the remote witness facility and had to be coaxed to return and complete her evidence.

The Commission's examination

The Commission reviewed the sound recording and transcript of the proceedings and the judge's response to the complaint.

The Commission determined that the complaint should not be dismissed and referred it to the Chief Judge to deal with in an appropriate manner.

The judge acknowledged that his manner of dealing with the witness was inappropriate and he apologised for his conduct towards her.

The Commission advised the complainant of the outcome of its examination and requested that the young witness be made aware of the judge's apology.

Failure to give a fair hearing

Complaint

A solicitor complained that, during an AVO hearing, a magistrate conducted himself towards her in a confrontational manner and attempted to have her client change his instructions.

The Commission's examination

The Commission reviewed the sound recording of the hearing, and the judicial officer's response to the complaint. The investigation confirmed the substance of the complaint and the Commission determined that it should not be dismissed. The Commission referred the complaint to the Chief Magistrate to deal with in an appropriate manner.

The magistrate unreservedly apologised to the solicitor for the discourtesy shown towards her.

Judicial officer retired during course of examination

Complaint

The complainant had appeared without legal representation in the Local Court. He alleged that a magistrate had treated him unfairly during the proceedings.

The Commission's examination

The Commission obtained a sound recording and transcript of the proceedings from the court. Before the examination was completed, the Commission was advised that the magistrate had recently retired.

The Commission has no jurisdiction over former judicial officers and was required by the *Judicial Officers Act* to dismiss the complaint as the person complained about was no longer a judicial officer. While this outcome may be disappointing for the complainant, the Commission had no power to do more about the concerns raised.

Substitution for appeal

Complaint

The complainant represented himself in AVO proceedings. He alleged that a magistrate did not listen to his side of the story and made an order not based on the evidence before the court.

The Commission's examination

The Commission dismissed the complaint after reviewing the sound recording of the proceedings. The Commission noted that the complainant had a right of appeal to the District Court against the magistrate's decision.

People who are dissatisfied with the outcome of a case often make a complaint to the Commission instead of lodging an appeal. The Commission's role is to examine complaints about ability or behaviour. It does not have authority to review judicial decisions, including findings of fact and law. That is a matter for courts of appeal and is recognised in the provisions of section 20 of the *Judicial Officers Act*, which requires the Commission to dismiss complaints summarily where there is an avenue of appeal or review available.

Allegation of bias during a criminal trial

Complaint

The complainant alleged that a District Court judge in a jury trial had displayed bias and unfairness towards him.

The Commission's examination

The Commission reviewed the trial transcript, the judgment and sentencing remarks and dismissed the complaint.

The examination revealed that the judge had been scrupulously fair and objective throughout the entire proceedings. The Commission noted that the complainant was represented by counsel at the trial. Many of the concerns expressed in the complaint were matters that could have been raised directly with the judge at the time and dealt with then.

The Commission also noted that the complainant had the right of appeal or review to the Court of Criminal Appeal.

Connecting with our partners

Magistrate Daniel Ainga (left) receives his certificate of participation from Deputy Chief Magistrate Steven Oli in the week-long Magistrates' Orientation Program in Papua New Guinea.

Outcomes 2009–10

- Launched an online publication about practice and procedure in the Local Court of NSW
- Provided substantial research assistance to 34 individuals and agencies
- Signed Memoranda of Understanding with the NSW Bureau of Crime Statistics and Research, NSW Police Force and Magisterial Service of PNG
- Helped organise a study tour of Australia and New Zealand for Chinese judges and academics
- Gave pro bono assistance to Papua New Guinean and Sri Lankan judiciaries
- Added three major enhancements to Lawcodes database to connect all NSW justice sector agencies
- Supported and maintained the Queensland Sentencing Information System
- Exchanged information with 90 organisations
- Received 28 visitors and three delegations to the Commission from interstate and overseas partners

Targets 2010–11

- Coordinate a community awareness campaign about the role and work of judicial officers and the courts
- Restructure our website to better reflect the Commission's work and role

Contents

Satisfaction

Our partners are very satisfied with our assistance, advice and information

In our 23 years of operation, we have established a reputation as a world leader in our field. Our programs and resources, including the complaints process, the Judicial Information Research System (JIRS) and our legal reference books, have been used as models by other Australian and international organisations.

Chief Magistrate appreciates two decades of our assistance

> *"Without the Commission's hard work, this court would not be what it is today."*
>
> *His Honour Judge Graeme Henson, Chief Magistrate, Local Court of NSW*

Academics recognise the quality of our resources

> *"I consider the [Concurrent Evidence] DVD to be an excellent teaching resource."*
>
> *Professor Penny Cooper, The City Law School, City University, London*

> *"I have used the Judicial Commission DVD 'Circle Sentencing in NSW' in my class teaching. And I would like to use it again in my teaching online ... as I believe it is a valuable resource."*
>
> *Sydney legal academic*

Legal agencies appreciate access to our resources

> *"The [Local Court Bench Book] is an important access to justice measure and will enable practitioners to assist the magistracy in improving the quality of justice rendered in the Local Court."*
>
> *Mr Jeremy Styles, Deputy Principal Solicitor, Central South Eastern Zone, Aboriginal Legal Service (NSW/ACT) Ltd*

Young lawyers acknowledge sentencing presentation

Our Research and Sentencing Director, Hugh Donnelly, gave a paper to the Law Society of NSW *Young Lawyers Annual One Day Seminar: Criminal Law* about the standard non-parole period legislation. Participants rated the presentation as "excellent" and "highly relevant".

International judicial educators appreciate interactive skills training session

Our Education Director, Ruth Windeler, presented a session with Deputy Chief Magistrate Paul Cloran and Magistrate David Heilpern to over 50 international judicial educators at the *Fourth International Conference on the Training of the Judiciary*. Participants rated the stimulating presentation "well designed, conceived and delivered".

Victorian government acknowledges our complaints function

This year, the Victorian government announced that it plans to establish a judicial commission based on our organisation.

> *"… the success of the NSW model provides a powerful argument in favour of the establishment of a similar system in Victoria."*
>
> *Department of Justice, Victoria, Investigating Complaints and Concerns Regarding Judicial Conduct, Discussion Paper, November 2009, p 35*

Looking ahead

To further improve our high satisfaction ratings with our partners, we will continue to invite feedback on our services.

Connecting with the NSW public and community groups

Promoted community confidence in the judiciary

It is vital that the NSW public has confidence in the courts and the judicial system.

This year, we worked on building public confidence by:

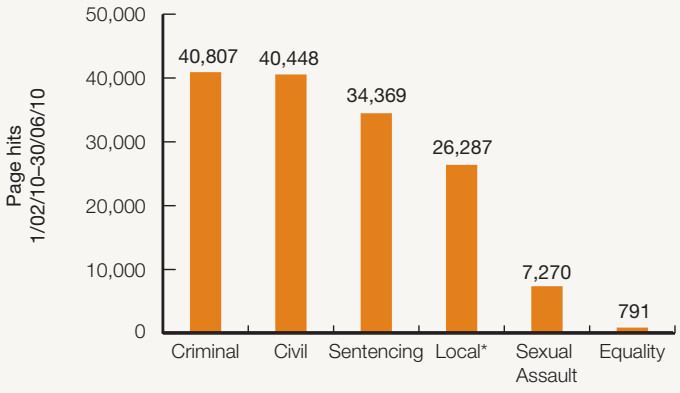
- providing information, publications and talks about our role and judicial officers' work
- providing informal advice to the public and media
- connecting with Indigenous communities through our Ngara Yura Program.

Providing public access to our resources

This year, we launched an online version of the *Local Court Bench Book* on our website to provide access to information about this court's practice and procedure. Our six major legal reference books are now available online and are updated regularly throughout the year. For the first time, we measured the online use of our publicly available reference books. In the period February to June 2010, more than 40,000 page views were made of two bench books: see Figure 13. Details of our publishing program are on p 17.

We distributed 119 free copies of our educational DVDs and 172 free copies of our research monographs to law libraries, community organisations, teachers and students. See Appendix 8 on p 115 for details of our publicly available resources.

Figure 13 Website use of our bench books



* Local Court Bench Book was added 17/3/2010

Providing information and advice

We attended to 398 telephone, face-to-face and written enquiries from the public (last year: 380). Our Chief Executive, Ernest Schmatt PSM, gave four radio interviews and responded to 12 media enquiries about our work.

Connecting with Indigenous communities

As part of our Ngara Yura Program, the Commission organised two successful weekend visits (last year: one) for judicial officers to meet Indigenous communities to promote cross-cultural understanding. Judicial officers and some of our senior staff travelled to Wallaga Lake and Narooma in November 2009 and Forster and Taree in June 2010. For information about our Ngara Yura Program, see p 20.

> *"… the visit encouraged local pride in identity and enhanced the confidence of Aboriginal people in judicial attitudes to Aboriginal people."*
>
> *Will Paulson, community member, Forster*

Challenge

Raising community awareness about the work of judicial officers and the courts.

Looking ahead

In 2010–11, we will:

- coordinate a public awareness program about the courts and judicial officers
- redevelop our website as a step towards raising public awareness about our role.

Engaging with other jurisdictions

Provided pro bono services and entered into commercial arrangements with other Australian and overseas jurisdictions



The Commission regularly assists other judiciaries to develop their own judicial education programs and we have strong links with other judicial education providers. From left, Chief Executive, Ernest Schmatt PSM with Justice David Wong of the High Court of Sabah and Sarawak; Education Director, Ruth Windeler, with participants at the National Judicial Orientation Program at Broadbeach, Queensland; PNG magistrates at their week-long orientation program; and Ernest Schmatt with a visiting delegation of judges from the Supreme People's Court of the People's Republic of China.

We have developed a high level of expertise in judicial education, sentencing research, building and maintaining judicial support and case management systems. Judicial officers and distinguished visitors from interstate and overseas regularly seek our advice and assistance to develop similar programs and systems.

This year, our assistance to other jurisdictions increased by 40% (see Appendix 10 on p 116).

Providing professional development for PNG magistrates

We entered into a Memorandum of Understanding to provide pro bono professional development and training for PNG magistrates. Our Education Director, Ruth Windeler, travelled to PNG with Deputy Chief Magistrate Paul Cloran and Magistrate David Heilpern to deliver a week-long orientation program for new magistrates. The Magisterial Service of PNG organised the AusAID funded visit.

Supporting Sri Lankan courts

The Commonwealth Secretariat, on behalf of the Sri Lankan judiciary, invited our Chief Executive, Ernest Schmatt PSM, and Murali Sagi PSM, our Information Management Director, to Sri Lanka in June 2010. They provided pro bono advice and assessed the judiciary's needs for education programs, computerised case management systems and judicial support databases.

Prior to their visit, a high level Sri Lankan delegation visited the Judicial Commission in Sydney to learn about our role in the NSW justice system.

Assisting the Supreme People's Court of China

The Supreme People's Court of the People's Republic of China asked for our assistance to organise a study tour of Australia and New Zealand for eight Chinese judges and academics. The visitors were part of a Judicial Efficiency Project and were particularly interested in learning about the Small Claims Division of the Local Court. The delegation met with the Chief Justice of the Supreme Court, the Chief Judge of the District Court, the Chief Magistrate of the Local Court and visited the Judicial Commission and the High Court of Australia.

Advancing judicial reform in the region

We are a member of the Secretariat to the Asia Pacific Judicial Reform Forum (APJRF), an organisation that aims to advance judicial reform in the Asia Pacific region. This year, the Secretariat worked with the Supreme People's Court of the People's Republic of China to arrange the next Round Table Meeting of the APJFR to be held in Beijing in October 2010.

Supporting courts' case management systems

We continued to host, maintain and support the:

- case management systems for the NSW Drug Court, the Compulsory Drug Treatment Correctional Centre and the NSW Youth Drug and Alcohol Court
- Queensland Sentencing Information System for Queensland Department of Justice and Attorney General
- Commonwealth Sentencing Database.

We had talks with the Chief Magistrate of the Australian Capital Territory Magistrates' Court about the possibility of developing a judicial support database for the ACT.

Visitors and delegations to the Commission

During the year, we received 28 official visitors and three delegations (last year: 21). We briefed visitors about our education and research programs, JIRS and the complaints function. Details about these visits can be found in Appendix 12 on p 118.

Providing information to the Victorian government

The Victorian Government announced in June 2010 that it would establish a judicial commission modelled on our system. During the year, our Chief Executive provided information about our role and work to the Victorian Attorney General and officers from the Department of Justice, Victoria.

During the year, we received many distinguished international visitors and delegations from around the globe and provided pro bono assistance to the judiciaries of Sri Lanka and Papua New Guinea. Source: Google maps.

Challenge

Providing assistance to others without affecting our core responsibilities.

Looking ahead

In 2010–11, we will:

- continue to support the Magisterial Service of PNG with training needs
- co-sponsor with the Land and Environment Court of NSW the *Australasian Conference of Planning and Environment Courts and Tribunals*
- continue to support the Sri Lankan judiciary with advice and assistance
- actively participate as a member of the Asia Pacific Judicial Reform Forum.

Working with other justice sector agencies

Every justice sector agency in NSW is connected through Lawcodes

As part of the NSW justice system, we provide assistance to other criminal justice agencies and exchange information with them.

Maintaining and enhancing Lawcodes database

All NSW justice sector agencies electronically exchange information using our Lawcodes database of unique codes for NSW and Commonwealth criminal offences dealt with in NSW. General access to the database is provided on our website.

This year, we:

- coded and distributed all new and amended offences upon or within four days of their commencement
- responded to all enquiries from Lawcodes users within 24 hours
- provided access to copies of the entire Lawcodes database as well as the regular updates to all justice sector agencies on a weekly basis. This allows agencies to upload either the entire database or the weekly updates
- completed the programming changes required to convert the offence classification system in Lawcodes from the Australian Standard Offence Classification 1997 to Australian Standard Offence Classification 2008. The new classification system has been successfully operating for almost 12 months
- began to prepare for the proposed consolidation of the NSW road transport legislation
- updated the majority of the integrity and audit programs.

Providing substantial research assistance to agencies

We answered 34 substantial research enquiries, mainly from NSW criminal justice agencies including the:

- Sentencing Council (see case study on p 49)
- Criminal Law Review Division of the Department of Justice and Attorney General
- Law Reform Commission
- Office of the Director of Public Prosecutions
- Public Defenders Office (see case study on p 49)
- Sexual Offences Working Party
- legal practitioners who we assist in certain exceptional circumstances.

Entering MOUs

We signed a Memorandum of Understanding with the NSW Bureau of Crime Statistics and Research to collect, audit and exchange raw sentencing data on matters determined in the Children's Court, the Local Court, the District and Supreme Courts and with respect to intervention and diversion programs and the operation of specialist courts.

We also signed a Memorandum of Understanding with the NSW Police Force to exchange information and established access and service level requirements for the exchange.

Supporting the Forum Sentencing Program

In late 2009, the Department of Justice and Attorney General asked the Commission to conduct a feasibility and requirements study for a new case management system to support their Forum Sentencing Program. We finalised an agreement in March 2010 and began customising our existing core case management system for them. The project is scheduled for release in November 2010. We demonstrated staged releases every three weeks to the Forum Sentencing Program team and our improvements and progress have been met with great enthusiasm.

Challenge

Balancing research and information requests from other criminal justice agencies with our core work.

Looking ahead

In 2010–11, we will:

- continue to maintain the timeliness and accuracy of the legislative information contained on Lawcodes
- investigate the conversion of the remaining large scale integrity checking programs into a more user friendly database language for Lawcodes
- work on a system to build an interface with JusticeLink
- complete the Forum Sentencing Program case management system.

Case studies

Working with the Sentencing Council

The Attorney General requested that the Sentencing Council review personal violence cases finalised in the Local Court. The review included assessing whether the Local Court's jurisdictional limit was sufficient to deal with violent offenders. The Sentencing Council formally requested our assistance to obtain information about these offences.

We prepared a report with the information sorted by case names, court location and sentence dates, offence date, number of offences, plea, prior record and age group together with explanatory notes.

Assisting the Public Defender

The Public Defenders Office asked us to provide statistics about appeal success rates in NSW in 2007–08. We provided information about how many sentencing appeals the Court of Criminal Appeal had allowed. The Office used these statistics to analyse trends in the appeal success rates. This analysis contributed to the debate about sentencing law in this State and occasioned a front page article in a major Sydney newspaper.

Linking with other judicial education providers

We are part of a global network of judicial education bodies

We have built strong links with Australian and overseas judicial education bodies, sharing knowledge and experience with these organisations and assisting them with advice and planning.

This year, we participated in a number of programs, committees and steering groups in connection with our judicial education role. Appendix 11 on p 117 has full details of these. We attended:

- the *Fourth International Conference on the Training of the Judiciary*, an excellent opportunity to share approaches to the design and delivery of judicial education and connect with our network of national and international judicial educators. The conference attracted 220 delegates from 48 countries
- the General Assembly meeting of the International Organisation for Judicial Training. Our Chief Executive, Ernest Schmatt PSM, was elected to the Board of Governors for the International Organisation for Judicial Training
- a one-off National Meeting of Judicial Educators. The participants discussed the recommendations contained in the strategic review of the National Judicial College, particularly with a view to the various judicial education bodies working together with greater cooperation. Many suggestions were made and a number of issues were referred to the Australian and New Zealand Judicial Educators Group for further discussion and development
- two National Judicial Orientation Programs organised jointly with the Australasian Institute of Judicial Administration and the National Judicial College of Australia. Eight judicial officers from NSW attended
- meetings of the Australian and New Zealand Judicial Educators Group. The Group met five times to share information and experiences about benchmarking and standards, Indigenous cultural awareness programs, and planning for training programs. It considered the faculty development program proposed by the National Judicial College
- the Commonwealth Judicial Education Institute Biennial meeting in Kuala Lumpur. The meeting's theme was "Developing judicial education programs to respond to contemporary needs". Twenty-three Commonwealth countries were represented at this meeting.

Challenge

Balancing our core work with assistance to other judicial education providers.

Looking ahead

In 2010–11, we will:

- assist the National Judicial College with a Faculty Development Program and invite a representative from each NSW court to participate. The program will focus on developing course design skills, building a cohort of judicial officers who will have ongoing responsibility for course design and passing those skills on to other judicial officers. Our Education Director, Ruth Windeler, will be one of the facilitators
- continue to actively participate as a member of the International Organisation for Judicial Training and the Commonwealth Judicial Education Institute.

Strengthening our organisation

Roslyn Cook is an editor who has worked in the Commission's Publishing section for over 10 years.

Outcomes 2009–10

- High staff satisfaction
- Low staff turnover rate of 3%
- Implemented regular staff meetings
- Granted a 4% salary increase to employees and 1.6% to executive staff
- Staff training days increased by 10%
- Recycled all waste paper and toner cartridges

Targets 2010–11

- Promote more training opportunities for staff
- Focus on environmental sustainability and assess our energy use
- Upgrade our publishing system

Contents

Staff satisfaction

Staff enjoy working at the Commission

This year we conducted a staff survey to measure how committed, stimulated and supported our people are.

We received a 77% response rate.

On an overall measure of satisfaction, 93% of people were positive about the Commission, a very pleasing result. Forty-five per cent of people "strongly agreed" and 48% "agreed" that they enjoyed working at the Commission with no staff expressing dissatisfaction (7% expressed no opinion).

Most staff feel well supported and valued. Eighty-nine per cent consider that their working environment is safe, discrimination-free and comfortable. Ninety-two per cent believe they achieve a work/life balance with our flexible work practices (see p 54). Most staff (89%) feel they have the resources to manage their workload and enhance productivity and 74% strongly agree or agree that they are provided with adequate training.

Our people feel highly valued, with 100% strongly agreeing or agreeing that their work directly contributes to our achievements and success. The majority of staff (75%) feel accountable for the quality of their work and 89% believe they are using their skills and knowledge in their current role.

The survey has shown that we need to focus on building more effective communication and teamwork. While 85% of staff strongly agree or agree that they receive constructive feedback about their individual performance, 26% expressed some dissatisfaction with how information and knowledge are shared in the organisation. Eleven per cent of people were dissatisfied with the level of teamwork and co-operation.

Conference assistant, Virginia Henson helps to organise our conference and seminar programs.

Looking ahead

We will identify and implement ways to enhance communication and teamwork and promote training opportunities.

People

Staff turnover only 3%

Our people are essential to our organisation's success and to ensuring we meet our goals and deliver our services.

The Commission employed 38 people in judicial education, sentencing and research, information technology and administrative roles (last year: 39). Table 9 shows the average number of employees in these roles over a five-year period. Our small staff numbers mean that retired judicial officers sometimes help us in specialised tasks such as developing new bench books and examining complaints.

Serving judicial officers also assist in our work by generously giving their time to serve on our various committees. Appendix 4 on p 109 provides details of all our committees.

Retaining our staff

Our turnover rate for permanent staff this year was 3% (last year: 9%). This five-year low suggests that we are an employer of choice for our people: see Figure 14.

Long service rates are very high with 73% of staff having five or more years' service and 52% have 10 or more years' service.

High staff attendance

During 2009–10:

- no industrial action occurred
- average sick leave was 4.3 days (last year: 5.3 days).

Consultants

This year we engaged no consultants.

Setting wages and conditions

We are an employer under the *Judicial Officers Act* 1986. Conditions of employment mirror those of the NSW Public Service and this year there were no changes to these conditions. Public Service members who accept a position with us retain their superannuation rights and benefits.

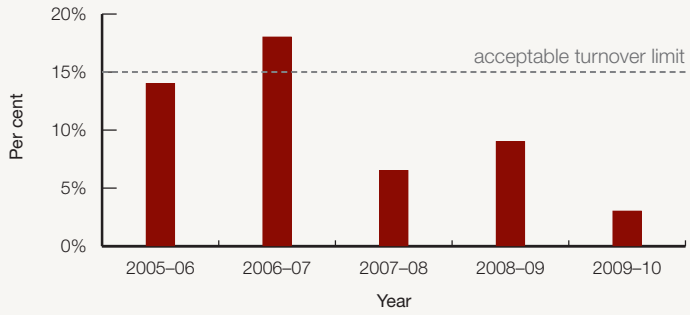
Staff were awarded a 4% salary increase from 1 July 2009 which reflected the increase provided to public sector employees under the *Crown Employees (Public Sector — Salaries — 2008) Award*. Senior executives were awarded a 1.6% increase from 1 October 2009.

We contribute 9% of each employee's salary to First State Super or a superannuation fund of his or her choice. Employees have the option to contribute from their salary and to salary sacrifice contributions to their fund.

Table 9 Five-year comparison of average number of employees by employment category

	2005–06	2006–07	2007–08	2008–09	2009–10
Senior Executive	3	4	4	4	4
Sentencing/ judicial education	29	30	31	31	30
Administration/ management support	6	5	4	4	4
Total	**38**	**39**	**39**	**39**	**38**

Figure 14 Staff turnover 2005–10



Providing flexible work arrangements

We recognise the importance of flexible work arrangements for successful performance and to help our employees balance work with family and personal obligations.

We provide flexible hours for all permanent employees and assess requests for flexible working arrangements in line with our "flexible working hours agreement" which is published on the staff intranet.

Informing our employees

This year, we implemented regular round table meetings for all staff. Each meeting included a special presentation about business developments or special projects. Minutes of the meetings were published on our intranet.

Our employees are informed about work-related developments, policies and procedures via our intranet and noticeboards. This year, our policies were reviewed and updated as required. Managers have an open-door policy and publish monthly reports about their department's progress. Departmental managers have regular meetings with employees to discuss workflow and work-related issues.

Inducting new staff

All new employees are welcomed to the Commission by the Chief Executive and their Director on their first day and are acknowledged at their first staff meeting.

New staff are guided through an induction process. During the year, we refined our induction program so that staff are aware of and acknowledge:

- the Commission's role and profile
- office facilities and occupational health and safety information and procedures
- key policies and procedures that ensure acceptable behaviour
- conditions of employment and entitlements
- our Code of Conduct.

Providing professional training and development

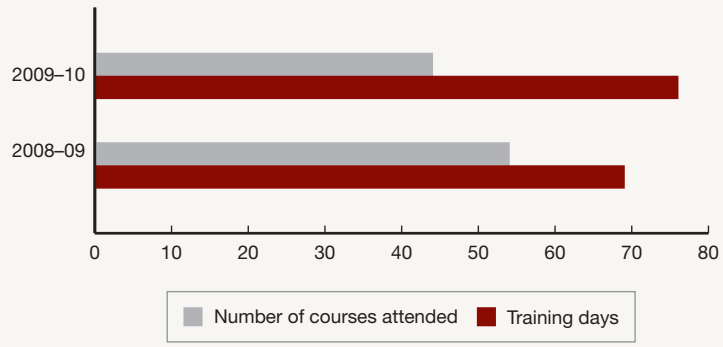
We are committed to providing training opportunities through training and skills development courses, leadership courses, tertiary study assistance and work secondments.

Employees prepare a training plan as part of their yearly performance review. Working with their manager, staff identify their training and development needs in relation to their current job and career plan.

This year, staff training days increased by 10% (see Figure 15). Twenty employees (53%) attended 76 training days at a cost of $26,000 (last year: 69 training days). Staff participated in an average of two days of formal training and development (last year: 1.76 days):

- seven managers attended 16 conferences and seminars to further their professional development in areas such as sentencing law, continuing legal education and current legal issues
- one manager completed four undergraduate subjects
- one manager attended 12 training sessions and workshops about government compliance, systems development and workplace regulation
- two publishing employees attended two courses on web training and structural editing
- four publishing employees attended three seminars on current legal developments
- two systems employees attended a seminar on project management
- one administrative employee attended two training courses on fringe benefits tax and e-recruitment
- one research employee attended a continuing legal education session
- our librarian attended the Australian Law Librarians' Conference in Darwin
- two employees attended first aid training
- one employee attended in-house fire warden training.

Figure 15 Staff training 2008–10



Our research and publishing staff have daily access to JIRS (see pp 26–27), which they follow at their own pace to keep up to date with legal developments. Our employees also attended many of the educational activities provided for judicial officers, including seminars on legal developments and community visits for the Ngara Yura Program (see p 20).

Offering traineeships to students

We are committed to mentoring law students and providing training opportunities for them. This year, we employed three trainees in our research and judicial education areas.

Recognising employees' achievements

The Forster Local Aboriginal Land Council made a special presentation to our Aboriginal Project Officer, Tammy Wright, for her outstanding commitment and work in organising the judicial community visit in June 2010: see p 20.

Providing equal employment opportunity

More than half our people are women (58%) and we exceed the NSW Government's target for employing women (see Table 10). We are committed to providing:

- a workplace free from discrimination and harassment. We publish policies about these on our intranet and there were no complaints of discrimination or harassment this year (last year: none)
- opportunities for staff to act in higher positions
- flexible work arrangements for staff with family and personal obligations
- information about the NSW Government's Spokeswoman's Program.

Table 10 Five-year trends in the representation of EEO groups[1]

	% of total staff[2]					
EEO Group	Benchmark/ target	2005–06	2006–07	2007–08	2008–09	2009–10
Women	50	63	67	73	61	58
Aboriginal people and Torres Strait Islanders	2.6	0	0	2	2	0[3]
People whose first language is not English	19	26	22	16	17	18
People with a disability	12	0	0	0	0	0
People with a disability requiring work-related adjustment	7	0	0	0	0	0

1. These percentages reflect staff numbers as at 30 June 2010.
2. Excludes casual staff.
3. The Commission has one Aboriginal identified position filled on a casual basis.

Note: The distribution index is not calculated when EEO group or non-EEO group numbers are less than 20. As a result, we are unable to publish the details of trends in the distribution of salary levels of EEO group members.

Meeting the needs of a multicultural society

We consider the needs of a culturally diverse society when planning our programs and service delivery. To promote community harmony, access and equity, this year we:

- employed an Aboriginal Project Officer, Tammy Wright, to guide our Aboriginal Cultural Awareness Program: see p 20
- employed six people (16%) from a non-English speaking background
- revised and updated our *Equality Before the Law Bench Book*. This publicly available resource for judicial officers provides information to help them understand and be aware of the needs of people from culturally diverse backgrounds who face potential barriers when participating in court proceedings
- communicated with four potential complainants from a non-English speaking background using the Translating and Interpreting Service for assistance with interviews, written translations and phone calls
- provided accredited interpreters for overseas delegations who visited us during the year: see p 47 and Appendix 12 on p 118
- conducted a session on cultural diversity in our education program "Cultural barriers in the courtroom" at the National Judicial Orientation Program held in November 2009 and April 2010 (a joint program with the National Judicial College of Australia and the Australasian Institute of Judicial Administration).

This year, we introduced a special presentation at our regular staff meetings to promote communication at the Commission. Solutions architect, Matthew Wheeler, is pictured explaining to staff the Forum Sentencing case management system that he has project managed throughout the year.

Looking ahead

In 2010–11, we will:

- update information in the *Equality Before the Law Bench Book*
- conduct a review of staff training needs and further develop our employees' skills through relevant training initiatives
- provide translating and interpreting services as required for complainants
- include sessions on cultural diversity in our education program.

Workplace systems and technology

Maximising efficiency in our organisation

Efficient systems and use of technology help us build a safe and strong organisation for our people and deliver quality services.

Ensuring a safe working environment

The health and safety of our employees is a priority. Our Audit and Risk Management Committee oversees our occupational health and safety (OH&S) compliance (see p 72). This year, we have focused on:

- hazard identification
- risk minimisation
- conducting emergency evacuation drills.

We have a trained OH&S representative who conducts a safety inspection of the premises every three months. Three employees are trained as fire wardens and their training is regularly updated by the building management. All staff participate in evacuation drills.

Three employees are trained to deliver first aid, CPR and defibrillation, and two employees received first aid refresher training this year. We maintain first aid kits in the workplace.

No workers' compensation claims were lodged this year (last year: one). There were no work-related illnesses or prosecutions under the *Occupational Health and Safety Act* 2000 (last year: none).

We encourage staff to receive influenza immunisation and reimburse the cost of the booster.

Conducting performance reviews

Our performance management system provides for regular reviews between supervisors and staff as well as formal annual appraisals for employees. Constructive feedback is given and employees have the opportunity to provide feedback to their manager. Employees are encouraged to identify their training needs and work with their manager to develop an individual training plan.

Guaranteeing our service and consumer response

We guarantee to investigate complaints about judicial officers in a timely and effective manner and to regularly inform complainants about the progress of their complaints. Page 34 shows our targets and time taken to examine complaints over a five-year period. If a complaint is dismissed and a complainant seeks to clarify the reasons for this, we respond promptly to such requests.

Delivering our services and publications electronically

We provide a range of online services, including:

- information about the Judicial Commission, the complaints process and the complaints form: see pp 35–37
- the Judicial Information Research System (JIRS): see p 26
- Lawcodes: see p 48
- bench books, including the *Criminal Trial Courts Bench Book*, the *Sentencing Bench Book*, the *Civil Trials Bench Book*, the *Equality Before the Law Bench Book*, the *Local Court Bench Book* and the *Sexual Assault Handbook*: see p 17
- research publications: see p 29
- publication orders on the NSW Government's online shop at www.shop.nsw.gov.au.

A major achievement this year was to update and improve our publishing style guide so that the publications we deliver electronically are consistent in style and written in plain English.

We also improved the search applications for all our online publications (see p 29).

Providing library services

Our library services support our research, education and publishing programs.

This year:

- 170 items (last year: 423) were added to the online catalogue so that 93% of the library's holdings are now electronically available
- reference enquiries rose 156% (last year: no rise). Resources borrowed from other libraries increased by 280% (last year: 9%). The dramatic rise is attributable to the Judicial Domestic Violence Project (see p 19) and proved to be a great challenge for the librarian to provide the extensive support needed for this Project, given time and resource constraints
- we renewed corporate membership of the Australian Library and Information Association and the International Association of Law Libraries
- we continued to participate in the NSW Justice Consortium. This negotiates lower pricing structures with legal publishers and helps us to achieve a better resourced library with increased online access to overseas and local databases while saving on subscription costs
- our librarian attended the annual Australian Law Librarians' Association Conference in Darwin in September 2009
- our librarian prepared for binding the 200th volume of the confidential *Meeting Papers of the Commission*, a significant historical archive.

Managing our records

During the year we worked on developing our record-keeping system to improve our ability to capture and track information and retrieve and dispose of our paper and electronic documents. Our "functional retention and disposal authority" was approved by the Board of the State Records Authority in December 2009.

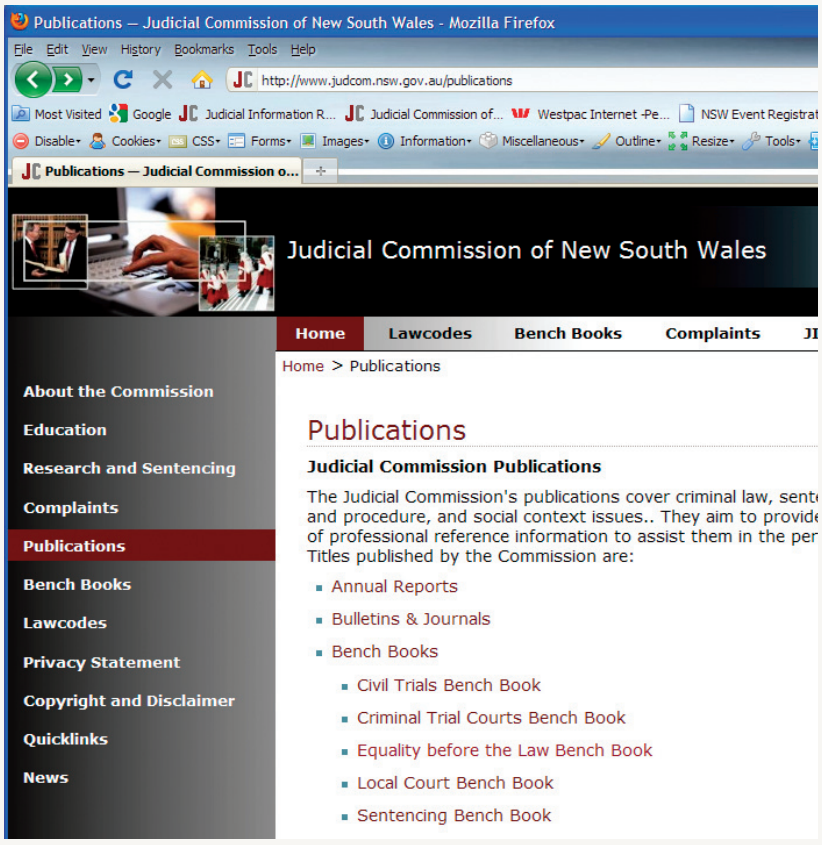
Challenges

Continuing challenges for the library services are the high cost of online access to legal subscription services, expanded research and publishing programs, and hosting special projects. These have a big impact on the library's small budget.

Looking ahead

In 2010–11, we will:

- upgrade our publishing system. This will lead to a more efficient publishing process, a uniform look for our publications, and will improve the ability to support our publishing system in the future
- train staff in our records management policy.



We provide electronic access to a range of our publications and resources. This year, for the first time, we measured the online public use of our bench books and were impressed to find that there were more than 40,000 page views for two of our bench books between February and June 2010.

Environmental sustainability

Reduced energy usage by 5.27%

In this year of sustainability, we worked to raise staff awareness about how they can help our organisation be part of the NSW Government's commitment to being carbon neutral by 2020.

This year, we reduced our energy use by 5.27%. Figure 16 shows a five-year comparison of the Commission's energy use.

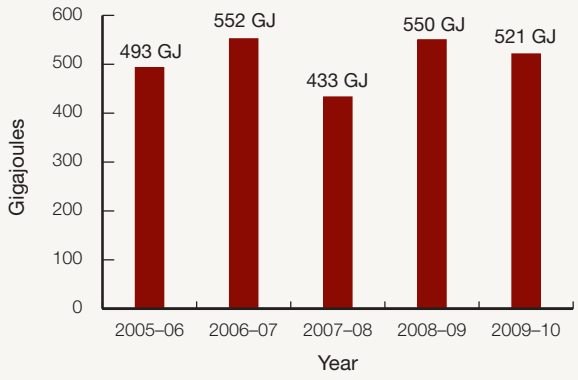
In line with the NSW Government's Waste Reduction and Purchasing Policy, we focused on reducing waste and increasing the purchase of recycled paper and office consumables. This year, we recycled 2.02 tonnes of waste paper and bought 600 reams of 100% recycled paper (last year: 450). The increase is due to a greater workload with:

- 10 more judicial appointments (see p 16)
- an increase in our research and publishing program (see pp 17, 29).

Our other sustainability measures included:

- reducing waste generation by recycling all paper, cardboard, toner cartridges and computer equipment
- using 20% E10 fuel for the Commission's vehicles
- using 100% power-saving computers and screens
- replacing overhead lighting with energy efficient globes
- minimising energy consumption after hours
- using double-sided printing
- using online payment of accounts received and rendered
- publishing internal policies on our intranet.

Figure 16 Five-year trend in energy use



Looking ahead

We will:

- assess the office energy use
- develop and publish on our intranet clearer guidelines for reducing our energy consumption
- regularly brief staff on our energy consumption and ways to reduce waste
- monitor quantities of paper used.

Systems officer Ming Yang is responsible for recycling our toner cartridges. We recycled 2.02 tonnes of waste paper and purchased 100% recycled paper. Although we are a small organisation, we are committed to reducing our carbon footprint.

Commission governance

Providing leadership and strategic direction

Pictured are the President and members of the Judicial Commission and the Chief Executive.

Outcomes 2009–10

- Three new members appointed to Commission
- Settled our Internal Audit Plan
- Introduced procedure for regular reviews of Commission's policies

Targets 2010–11

- Conduct a risk management workshop for senior management
- Establish a control framework for a review of policies and procedures

Contents

Members of the Judicial Commission

The Commission has six official and four appointed members. The heads of the State's five courts as well as the President of the Court of Appeal are the official members. The Governor of NSW appoints three people who, in the opinion of the Attorney General of NSW, have high standing in the community. The fourth is a legal practitioner appointed following consultations between the Attorney General and the Presidents of the Law Society and Bar Association.

Official members






1	2	3
4	5	6

1. The Honourable Chief Justice James Spigelman AC
2. The Honourable Justice James Allsop
3. The Honourable Justice Roger Boland
4. The Honourable Justice Brian Preston
5. The Honourable Justice Reginald Blanch AM
6. His Honour Judge Graeme Henson

The Honourable Chief Justice James Spigelman AC

President

was appointed Chief Justice and Lieutenant Governor of NSW on 25 May 1988 and has been the President since that date.

The Chief Justice was admitted to the Bar in 1976 and was appointed a Queen's Counsel in 1986. He was a member of the Australian Law Reform Commission 1976–79. He became a Companion of the Order of Australia for service to law and the community in 2000 and received the Centenary Medal in 2003.

The Chief Justice has extensive community involvement and service to the arts in numerous roles including Chairman of the Australian Film Finance Corporation, Deputy Chairman and member of the Board of the Art Gallery of NSW, member of the Board of the Brett Whiteley Foundation, President of the Museum of Applied Arts and Sciences and member of the Council of the National Gallery of Australia. He is currently Chair of the Council of the National Library of Australia.

The Honourable Justice James Allsop

Official member

was appointed President of the Court of Appeal of NSW on 2 June 2008 and has been an official member since that date.

The Honourable Justice Allsop was admitted to the NSW and High Court Bar in 1981. He was appointed Senior Counsel in NSW in 1994, Queen's Counsel to the Western Australian Bar in 1998, a judge of the Federal Court of Australia in 2001 and an additional judge of the ACT Supreme Court in 2003.

The Honourable Justice Allsop is an Adjunct Professor at the Faculty of Law, University of Sydney and a member of the Board of the Australian Maritime Museum. He was a member of the Board of Governors of the World Maritime University in Malmo, Sweden.

The Honourable Justice Roger Boland

Official member

was appointed President of the Industrial Relations Commission on 9 April 2008 and has been an official member since that date.

The Honourable Justice Boland was admitted to the Bar in 1983 and appointed a judge of the Industrial Court of NSW and a Deputy President of the Industrial Relations Commission in 2000.

He served as Executive Director for the Australian Industry Group, National Industrial Advocate for the Metal Trades Industry Association and has served on the NSW Parliamentary Remuneration Tribunal.

The Honourable Justice Brian Preston

Official member

was appointed Chief Judge of the Land and Environment Court on 14 November 2005 and has been an official member since that date.

The Honourable Justice Preston was admitted to the Bar in 1987 and was appointed Senior Counsel in 1999.

He has lectured in postgraduate law for over 18 years and is an Adjunct Professor of the Faculty of Law, University of Sydney. He holds editorial positions and has authored many publications on environmental, administrative and criminal law. He is a member of numerous legal professional committees and Chair of the Standing Committee on Environmental Law of the Law Association for Asia and the Pacific.

The Honourable Justice Reginald Blanch AM

Official member

was appointed Chief Judge of the District Court on 13 December 1994 and has been an official member since that date.

The Honourable Justice Blanch was admitted to the Bar in 1972 and was appointed Queen's Counsel in 1981. He served as a Public Defender, as the State's Crown Advocate and the State's first Director of Public Prosecutions. He was appointed a judge of the Supreme Court in February 1994.

The Honourable Justice Blanch has held several Board positions including Chairman of the NSW Medical Tribunal and Chairman of the Board of New College at the University of NSW.

His Honour Judge Graeme Henson

Official member

was appointed Chief Magistrate of the Local Court of NSW on 28 August 2006 and has been an official member since that date.

His Honour was admitted to the Bar in 1980 and served as the Deputy Solicitor at the Office of the Director of Public Prosecutions before being appointed a magistrate and then Deputy Chief Magistrate.

His Honour is a member of the Governing Council of the Judicial Conference of Australia, a member of the Uniting Care Northern Sydney Regional Aged Care Board and a member of the Advisory Board of the Faculty of Law at the University of Wollongong.

Appointed members






1	2	3
4	5	6

1. Dr Michael Dodson AM
2. Mr Alan Cameron AM
3. Dr Judith Cashmore AO
4. Dr John Grifiiths SC
5. Ms Renata Kaldor AO
6. Professor Brian McCaughan AM

Dr Michael Dodson AM

Appointed member

was appointed a Commission member on 4 April 2001 and reappointed for three years from 16 May 2007. His appointment expired on 15 May 2010.

Dr Dodson was named Australian of the Year in 2009. He became a Member of the Order of Australia in 2003.

He is a vigorous advocate of the rights and interests of the Indigenous peoples of the world. He is the Director of the National Centre for Indigenous Studies at the Australian National University in Canberra, Chairperson of the Australian Institute of Aboriginal and Torres Strait Islander Studies and a Director of Dodson, Bauman and Associates, Legal and Anthropological Consultants. Professor Dodson was Australia's first Aboriginal and Torres Strait Islander Social Justice Commissioner with the Human Rights and Equal Opportunity Commission. He holds undergraduate degrees in Jurisprudence and Law, an honorary Doctor of Letters from the University of Technology, Sydney and an honorary Doctor of Laws from the University of NSW.

Mr Alan Cameron AM

Appointed member

was appointed a Commission member on 8 August 2001 and reappointed for two years from 8 August 2007. His appointment expired on 7 August 2009.

Mr Cameron became a Member of the Order of Australia in 1997. He has a keen interest in regulatory affairs concerning the legal profession and the financial services sector. He was chairman of ASIC 1993–2000, Commonwealth Ombudsman 1991–92, and managing partner of the law firm Blake Dawson Waldron (now Blake Dawson) in the 1980s. During that time, he was also a judicial member of the NSW Equal Opportunity Tribunal, and Chairman of the Business Law Section of the Law Council of Australia. He is now chair of Cameron Ralph Pty Ltd, a consultant to Blake Dawson, Deputy Chancellor of the University of Sydney, and Chair of National E-conveyancing Development Ltd. He holds an undergraduate degree in Arts and a Masters degree in Law.

Dr Judith Cashmore AO

Appointed member

was appointed a Commission member on 1 December 2004 and reappointed for three years from 19 August 2009.

Dr Cashmore is a research academic with a keen interest in the application of research to policy and practice, particularly in relation to children's involvement in legal proceedings. She became an Officer of the Order of Australia in June 2010.

She is currently Associate Professor, Faculty of Law, University of Sydney and Adjunct Professor at Southern Cross University (Division of Arts). Dr Cashmore has chaired or served on numerous non-government and State and Commonwealth government committees concerning child sexual assault, child protection, child deaths, children's rights and family law.

Dr Cashmore holds a Masters degree in Education and a PhD in developmental psychology from Macquarie University.

Dr John Griffiths SC

Appointed member

was appointed a Commission member on 1 July 2009 for three years.

Dr Griffiths is a barrister, admitted in 1994 and appointed Senior Counsel in 2001. He was previously a partner of Blake Dawson Waldron for seven years and Director of the Federal Administrative Review Council providing independent administrative law advice to the federal Attorney General. He was a Fellow and Director of Studies in Law at Emmanuel College, Cambridge University. Dr Griffiths is currently Chair of the NSW Bar Association's Human Rights Committee. He has published numerous articles and papers on administrative and constitutional law issues and is a leading administrative law advocate.

Dr Griffiths holds undergraduate degrees in Arts and Law, Masters degrees in Arts and Law and a PhD from Cambridge University.

Ms Renata Kaldor AO

Appointed member

was appointed a Commission member on 19 August 2009 for three years.

Ms Kaldor became an Officer of the Order of Australia in 2002 and received the Centenary Medal in 2003. She is currently a Director of Australian Stationery Industries Pty Ltd. She has extensive community involvement through numerous Board and committee memberships including Chair of the NSW Women's Advisory Council, the Board of the Sydney Symphony Orchestra, the Sydney Olympic Bid Committee and the Board of the State Rail Authority. She has served in educational roles for more than 20 years and is an Honorary Fellow of the Senate of the University of Sydney. She was the Deputy Chancellor of the University of Sydney 2000–2003 and a Fellow of the Senate 1989–2003. She is currently a member of the Children's Hospital Westmead Area Health Advisory Council, a Trustee of the Sydney Opera House Trust and a member of the Advisory Council for Alzheimer's Australia NSW.

Ms Kaldor has an undergraduate degree in Arts and a postgraduate diploma in Education.

Professor Brian McCaughan AM

Appointed member

was appointed a Commission member on 16 May 2010 for three years.

Professor McCaughan became a Member of the Order of Australia in 2009. He is a cardiothoracic surgeon based at the Royal Prince Alfred Hospital, Sydney and Clinical Associate Professor in the Faculty of Medicine at the University of Sydney. He is recognised as an expert in the management of lung cancers.

Professor McCaughan has served on a number of non-government and government committees and Boards including Chair of the NSW State Royal Australasian College of Surgeons Committee, the NSW Medical Board, the Ministerial Advisory Committee on Quality in Health Care, and Chair of the Sustainable Access Health Priority Taskforce. He has served as Director of Surgical Services at the Royal Prince Alfred Hospital, Sydney and Area Director of Cardiovascular Services, Central Sydney Area Health Service.

Professor McCaughan holds honours undergraduate degrees in medicine and science and is a Fellow of the Royal Australasian College of Surgeons.

Our executive management team

1	2
3	4

1. Ernest Schmatt PSM
2. Ruth Windeler
3. Hugh Donnelly
4. Murali Sagi PSM

Ernest Schmatt PSM Dip Law (BAB)

Chief Executive

was appointed in 1989 and is responsible for our operations. He previously held senior legal and management positions in the public sector and was appointed the first Deputy Chief Executive of the Judicial Commission in 1987. He was admitted to practice as a lawyer in 1979 and is a solicitor of the Supreme Court of NSW and the High Court of Australia.

Mr Schmatt was awarded the Public Service Medal in the 1997 Queen's Birthday Honours List for service to public sector management and reform, public sector industrial relations and judicial education in NSW. He was elected to the Board of Governors of the International Organisation for Judicial Training in 2009. He is a member of the Advisory Board of the Commonwealth Judicial Education Institute and serves on the management committee of the Asia Pacific Judicial Reform Forum Secretariat. Mr Schmatt is also an Honorary Associate in the Graduate School of Government, the University of Sydney.

Ruth Windeler BSc (University of Toronto)

Education Director

was appointed in May 1996 and is responsible for our judicial education program, including conferences, seminars and publications. She has over 30 years' experience in professional education and has had positions in a number of Commonwealth countries. She has been Director of the Canadian Advocates' Society Institute; Co-ordinator and Instructional Design Administrator for the Institute of Professional Legal Studies in New Zealand; Director of Standards and Development for the Law Society of Hong Kong; Secretary to the Advocacy Institute of Hong Kong; Head of the Department of Continuing Medical Education and Re-certification for the Royal Australasian College of Surgeons; and a consultant to a number of professional education institutions throughout the world.

Hugh Donnelly BA (Melb) LLB (UNSW) LLM (Syd)

Director, Research and Sentencing

was appointed in July 2007 and is responsible for our research program and for the Judicial Information Research System. He was admitted as a legal practitioner in 1992. His prior experience includes six years as Principal Research Lawyer and three years as High Court Lawyer at the Office of the Director of Public Prosecutions (NSW) and three years as Manager of the Commission's Research and Sentencing Division. He is the author of several publications on evidence and sentencing law, including the highly regarded *Sentencing Bench Book*.

Murali Sagi PSM BEng MBA (CSU) GradCertPSM (UWS) FACS

Director, Information Management and Corporate Services

was appointed in January 2000 and is responsible for information management, corporate services and Lawcodes. He has over 20 years' experience in managing complex IT projects and has provided technical expertise to AusAID, the United Nations Development Program and the Asian Development Bank for capacity building projects in Indonesia, Cambodia, India and Sri Lanka. Mr Sagi was awarded the Public Service Medal in the 2007 Queen's Birthday Honours List for outstanding service to the Judicial Commission, particularly in the provision of information technology.

Our governance practices

Our governance framework ensures that:

- we fulfil our statutory functions effectively and efficiently
- we are accountable for our actions
- our leadership helps us to realise our vision, carry out our mission, hold to our values and achieve our goals.

Role of Commission members

The Commission members set strategic directions for the organisation, appoint the executive management, approve budgets and publications, present judicial education sessions and conduct the preliminary examination of all complaints. The official members provide valuable information about judicial officers' education needs and bring their significant experience of the judicial role to determining complaints. The appointed members provide useful information about community expectations of judicial officers and have input into the education program.

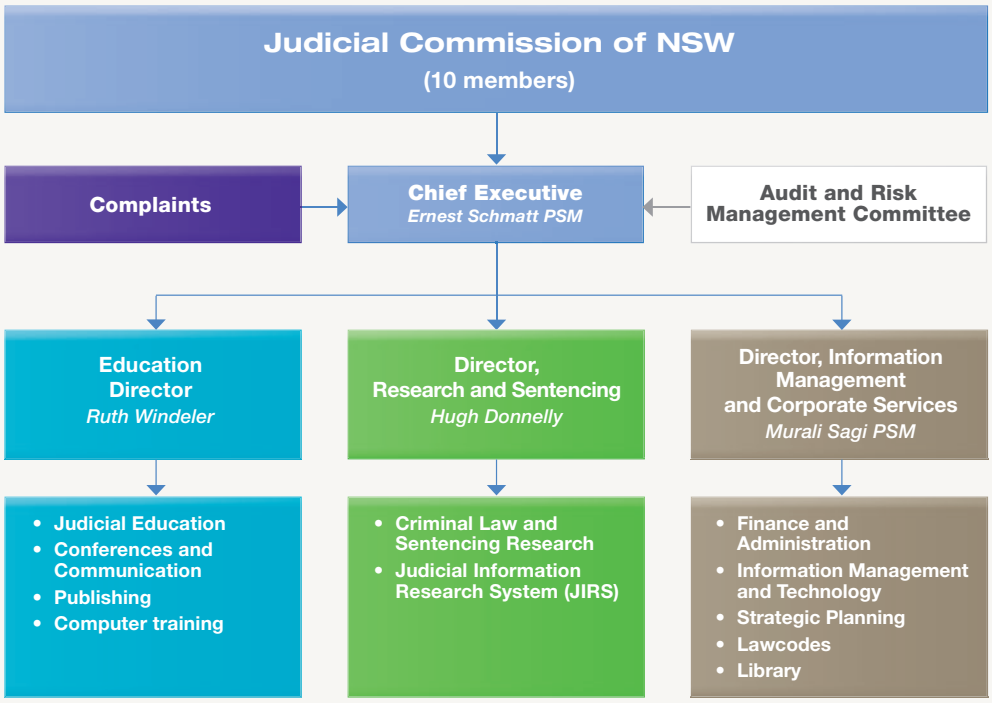
Members are informed about operational issues by:

- the Chief Executive's monthly report covering functional and financial matters
- briefings on issues as they arise
- contact with senior executives as required.

Conflicts of interest

Official Commission members are judicial officers and this could result in a conflict of interest if a member were the subject of a complaint. Commission policy is that a judicial member will not participate in any discussion or decision involving a complaint against him or her. No member will participate in any discussion or decision where that member has a possible conflict of interest.

Figure 17 Our structure



Commission functions

The Commission may delegate any of its functions to a Commission member, officer or committee. The Commission has delegated certain functions to the Chief Executive, including its function as an employer and its freedom of information obligations, and has established committees to assist carrying out designated responsibilities. Appendix 4 on p 109 has details about these committees. The Commission seeks independent professional advice when necessary to perform certain functions.

Remuneration arrangements

For the members

Appointed members receive a fee for fulfilling their responsibilities including attending meetings, examining complaints, setting strategic directions, and approving budgets and publications. Their annual rate of remuneration is $27,500 and this is determined by the NSW Statutory and Other Offices Remuneration Tribunal in accordance with section 50 of the *Judicial Officers Act*. No fees are paid to official members.

For senior management

Senior executive remuneration is determined by the Judicial Commission in accordance with section 6 of the *Judicial Officers Act* and is equivalent to the Chief and Senior Executive Service (CES/SES) in the NSW Public Service. Table 11 shows the number of executive positions at the Commission and their equivalent remuneration levels to the CES/SES.

Role of executive management

The Chief Executive and directors are responsible for our day-to-day operations (see Figure 17 on p 70). They ensure that our principal functions are carried out efficiently and effectively. The Chief Executive is responsible for the preparation of the financial report in accordance with Australian Accounting Standards and the *Public Finance and Audit Act* 1983. This includes establishing and maintaining internal controls relevant to the preparation of the financial report.

Table 11 Executive positions

	2008–09		2009–10	
Level*	Total	Female	Total	Female
6	1	0	1	0
3	1	0	1	0
2	2	1	2	1
Total	**4**	**1**	**4**	**1**

* Equivalent to CES and SES levels in the NSW Public Service

Appointment of Chief Executive

The Chief Executive is appointed on a five-year contract under section 6(1) of the *Judicial Officers Act.* Commission members review the Chief Executive's performance annually.

Commission meetings

Eight Commission meetings were held during the year. Table 12 gives details of each member's attendance. Members are required to attend each meeting, unless leave of absence is granted. The quorum for a meeting is seven members, and one must be an appointed member. The Chief Executive attends all meetings to report on the Commission's operations. Meeting papers are circulated one week before the meeting to allow sufficient time for members to review agenda items and to seek further information.

Table 12 Meeting attendance by Commission members

	Meetings attended	Meetings eligible to attend
Official members		
Hon JJ Spigelman AC	7	8
Hon Justice Allsop	8	8
Hon Justice Boland	8	8
Hon Justice Preston	7	8
Hon Justice Blanch AM	7	8
His Honour Judge Henson	8	8
Appointed members		
Dr M Dodson	6	7
Dr J Cashmore	6	8
Mr J Griffiths SC	8	8
Ms R Kaldor AO	5	7
Prof B McCaughan AM	1	1
Mr Alan Cameron AM	0	0

In 2009–10, Commission members:

- approved four research studies (see p 29)
- examined all complaints made about judicial officers (see pp 38–40)
- referred five complaints about two judicial officers to the Conduct Division for further examination (see p 39)
- approved in principle to coordinate a community awareness project (see p 45).

Relationship with NSW Government

We are an independent statutory corporation established by the *Judicial Officers Act* 1986. We are funded by the NSW Parliament and are required to report annually to Parliament. The Commission may give advice to the Attorney General on appropriate matters and the Attorney General may refer a complaint about a judicial officer to the Commission.

Audit and Risk Management Committee

The Audit and Risk Management Committee comprises Mr Peter Whitehead (independent Chair), Mr Alex Smith AM (external member) and Mr Murali Sagi PSM (internal member). Mr Smith replaced Ms Dianne Barden who retired from the committee in September 2009. Their qualifications and details are provided in Appendix 4 on p 110. The Chief Executive, Ernest Scmatt PSM, the Manager of Corporate Services, Peter Reid, and the internal and external auditors, Phil O'Toole and Chris Guimelli, attended the committee meetings by invitation.

The Audit and Risk Management Committee reports to the Chief Executive who has overall accountability and responsibility for the Commission's operations. The committee operates under a charter approved by the Commission. The committee provides advice and support to the Chief Executive by reviewing:

- internal audit and control functions, including assessing their effectiveness and compliance with section 11 of the *Public Finance and Audit Act* 1983
- the adequacy and quality of the internal control structure
- financial statements and reporting
- financial and operational management
- management responses to audit reports
- internal audit results
- risk management strategies: their effectiveness and internal results.

Table 13 Meeting attendence by Audit Committee

	Meetings attended	Meetings eligible to attend
Committee member		
Peter Whitehead	3	3
Dianne Barden	1	1
Alex Smith AM	2	2
Murali Sagi PSM	3	3
Invitees		**Invited to attend**
Ernest Schmatt	3	3
Peter Reid	3	3
Chris Guimelli	2	3
Phil O'Toole	3	3

Major achievements

Three meetings were held during the year. Table 13 gives details of attendance at those meetings. The committee monitored and provided advice about the following four areas.

1. Compliance with Treasury Guidelines

The committee ensured that compliance with Treasury Guidelines TPP09-05 is well advanced. The committee also completed a review of its compliance and updated its charter, established a risk management standard and developed an internal audit manual consistent with the standard set by the Guidelines. The Commission's internal audit and risk management policy attestation is on p 75.

2. Internal audit

The committee settled and accepted the Internal Audit Plan for 2009–10. The committee monitored:

- progress of the Salary and Leave Record Confirmation
- progress of the Information Technology Security review
- recommendations and performance of the outsourced internal audit service provider, IAB Services.

3. Risk management and business continuity

The committee assessed the results of the regular occupational health and safety inspection for any risks discovered, action taken to mitigate those risks, and monitored compliance with relevant legislation.

The committee identified the lack of timely and accurate sentencing data received from the courts as a major risk. It monitored the level of inaccuracy of the latest set of data from the courts and suggested steps to improve this situation including developing a Memorandum of Understanding with the NSW Bureau of Crime Statistics and Research.

The committee continued to monitor the currency of the Commission's Business Continuity Plan and assessed the results of the periodic information technology recovery testing.

The committee reviewed the currency of the Commission's financial delegations and policies and instituted a procedure to regularly review all policies.

4. External audit

The committee liaised with the external auditor, the Audit Office of NSW, and monitored the NSW Audit Client Service Plan for 2009–10.

Risk management policy

Our risk management policy is based on the Commission acting as a responsible corporate citizen committed to protecting employees, consultants, customers, contractors and their property, as well as the broader community and environment from unnecessary injury, loss or damage.

Our risk management policy is based on a risk register which we regularly review. New risks are identified, considered and rated by the senior executives with the assistance of internal auditors. The risk register feeds into the internal audit plan which is finalised after discussion between the Chief Executive and internal auditors. Our risk management policy is monitored by the Audit and Risk Management Committee which reports to the Chief Executive.

OH&S policy

Our occupational health and safety policy is based on ensuring that our staff and other people who are at the Commission's place of work are not exposed to risks to their health or safety. The Chief Executive retains ultimate responsibility for OH&S risk management in our day-to-day operations.

Insurance

We are a member of the NSW Treasury Managed Fund of self insurance for government agencies. This provides comprehensive cover for physical assets such as plant and equipment, motor vehicles and miscellaneous matters. The managed fund provides coverage for staff through workers' compensation and for the public through public liability cover.

The premium determined is based on past performance. The premium for this year was $22,120, a 3.25% increase from last year.

Challenge

As a small agency, complying with NSW Government requirements for audit committees creates a major impact on our resources and budget.

Looking ahead

In 2010–11, the Audit and Risk Management Committee will:

- hold a half-day workshop for senior management with the assistance of the Internal Audit Bureau to examine key risks and confirm their currency and severity. The exercise will also identify any new risks that have emerged
- update the Commission's risk register based on the workshop's findings
- develop a control framework for self-assessment. This educational and management tool will direct closer auditing of the Commission's key risks so that the need for internal auditing is reduced.

Legislative charter

We operate under the *Judicial Officers Act* 1986 and the *Judicial Officers Regulation* 2006. Our principal functions under the *Judicial Officers Act* 1986 are to:

- organise and supervise an appropriate scheme for the continuing education and training of judicial officers
- assist the courts to achieve consistency in imposing sentences
- examine complaints against judicial officers.

We also:

- give advice to the Attorney General on such matters as the Commission thinks appropriate
- liaise with persons and organisations in connection with the performance of our functions
- enter into and carry out contractual arrangements for the supply of services that make use of information technology, expertise, or other things developed by the Commission in the exercise of our functions.

Changes to legislation

This year, the *Judicial Officers Act* was amended by:

- the *NSW Trustee and Guardian Act* 2009 — consequential amendments made to provisions concerning the capacity of appointed members to hold office commenced on 1 July 2009
- the *Judicial Officers Amendment Act* 2009 — amendments made to provide for the temporary transfer of judicial officers between NSW courts and corresponding courts in other jurisdictions commenced on 14 December 2009.

Privacy management plan

During the year, we conducted no reviews under Part 5 of the *Privacy and Personal Information Protection Act* 1998.

Our Privacy Code of Practice and Privacy Management Plan are designed to deal with the unique issues that arise from our complaint handling function and the provision of sentencing information.

Freedom of Information

We received no applications under the *Freedom of Information Act* 1989 for access to documents, and we have had no applications in the past three years.

During this year:

- 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 had no significant impact on the Commission's activities.

See also Appendix 16 on p 120.

Looking ahead

We will respond to the requirements of the *Government Information (Public Access) Act* which commenced on 1 July 2010. The Commission's complaints function is excluded from the requirements of this Act.

Internal Audit and Risk Management Statement

Internal Audit and Risk Management Statement for the 2009–10 Financial Year for the Judicial Commission of NSW

I, Ernest John Schmatt, Chief Executive, am of the opinion that the Judicial Commission has internal audit and risk management processes in place that are, in all material respects, compliant with the core requirements set out in Treasury Circular NSW TC 09/08 Internal Audit and Risk Management Policy.

In determining the model for internal audit service delivery, the Judicial Commission has considered the size of the agency in terms of both staffing levels and budget and the need to provide assurance, independent from operational management on risk management, control and governance processes and has outsourced the function.

I, Ernest John Schmatt, Chief Executive, am of the opinion that the Audit and Risk Committee for the Judicial Commission is constituted and operates in accordance with the independence and governance requirements of Treasury Circular NSW TC 09-0. The Chair and Members of the Audit and Risk Committee are:

- Mr Peter Whitehead, independent Chair
  (Appointed on 26 September 2008 and renewed on 1 July 2009 for two years)
- Mr Alex Smith AM, independent Member
  (Appointed on 1 December 2009 for two years)
- Mr Murali Sagi PSM, non-independent Member
  Director, Information Management
  (Appointed on 1 December 2008)

These processes provide a level of assurance that enables the senior management of the Judicial Commission to understand, manage and satisfactorily control risk exposures.

E J Schmatt
Chief Executive
Judicial Commission of NSW

Dated: 6 September 2010

Financial management

Remy Ripoll is our Senior Finance Officer.

Outcomes 2009–10

- Revenue increased by 5.8%
- Expenses contained to an increase of 3.4%
- Excess expenditure of $24,000 funded by income earned from previous years

Targets 2010–11

- Maintain expenditure at 2009–10 levels

Contents

Financial summary

Revenue

Our principal source of revenue is government contributions ($4.944 million compared with $4.645 million in 2008–09). Other revenue items were $418,000 from sales of goods and services and $269,000 from interest and other sources: see Table 14.

Expenditure

Expenses totalled $5.655 million, an increase of $184,000 from 2008–09. Employee-related expenses were $3.986 million or 70.5% of total expenses (last year: 70.7%). See Table 15 on p 79.

Assets

Total assets decreased marginally with decreases in receivables and non-current assets offset by a small increase in cash and cash equivalents.

Liabilities

The $245,000 increase in liabilities from 2008–09 is due to increases in payables and provisions.

Table 14 Revenue

	2005–06	2006–07	2007–08	2008–09	2009–10
	$'000	$'000	$'000	$'000	$'000
Government contributions	4,922	4,763	4,757	4,645	4,944
Sale of goods and services	692	627	456	449	418
Investment revenue	18	51	73	61	56
Other revenue	–	24	69	168	213
Total	**5,632**	**5,465**	**5,355**	**5,323**	**5,631**

Challenge

Increasing revenue from software development, maintenance services and subscriptions to our publications and the Judicial Information Research System.

Looking ahead

We will look at raising revenue by pursuing opportunities where there is a demand for the Commission's expertise in software development, case management and educational services.

Table 15 Expenditure

	2005–06	2006–07	2007–08	2008–09	2009–10
	$'000	$'000	$'000	$'000	$'000
Employee-related	3,332	3,400	3,673	3,868	3,986
Other operating expenses	1,334	1,430	1,594	1,504	1,302
Other expenses (Conduct Division)	139	104	–	–	280
Depreciation and amortisation	78	90	108	99	87
Total	**4,883**	**5,024**	**5,375**	**5,471**	**5,655**

Figure 18 Service group expenditure 2009–10†

2009–10

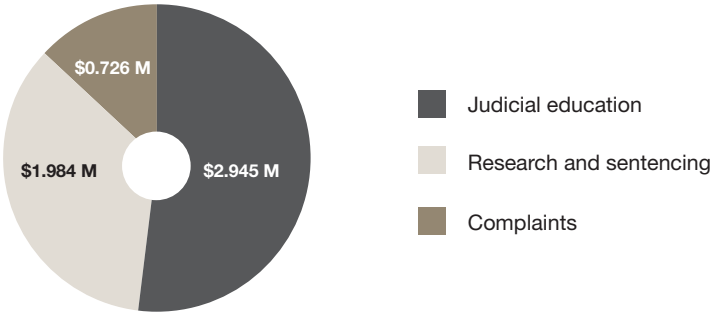
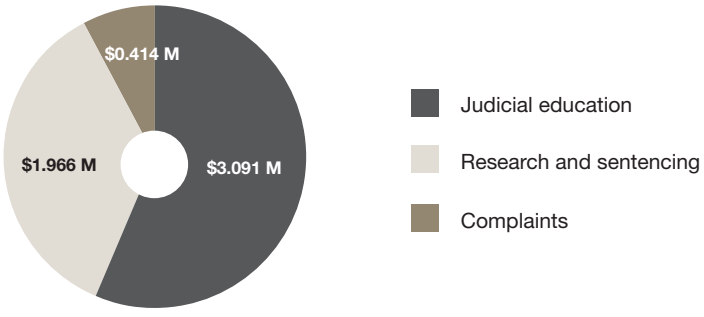


Figure 19 Service group expenditure 2008–09†

2008–09



† Comparison data before 2008–09 is unavailable due to the implementation of a new accounting method in 2008–09, which changed the way expenditure is allocated between service groups thereby making comparison with previous years invalid.

Financial performance

Payment of accounts

We paid all accounts on time and were not required to pay penalty interest on any account: see Tables 16 and 17.

Consultants

We did not engage any consultants this year.

Credit card certification

The Chief Executive certifies that credit card usage in the Commission has met best practice guidelines in accordance with Premier's Memoranda and Treasury Directions.

Review of finance system

We engaged the Internal Audit Bureau to undertake a finance and payroll system post-implementation review. The report found that in general the controls over the finance system and associated processes are appropriate. In particular, authorisations over payments are well controlled. However, it was suggested that an assets stocktake be undertaken and that the fixed asset register data be validated. This recommendation was implemented. Overall the risks associated with the new finance and payroll system were rated as low.

Table 16 Aged analysis at the end of each quarter

Quarter	Current (within due date)	Less than 30 days overdue	Between 30 and 60 days overdue	Between 60 and 90 days overdue	More than 90 days overdue
	$	$	$	$	$
September 2009	46,467.87	nil	nil	nil	nil
December 2009	94,097.01	nil	nil	nil	nil
March 2010	35,880.68	nil	nil	nil	nil
June 2010	40,765.91	nil	nil	nil	nil

Table 17 Accounts paid on time within each quarter

Quarter	Total accounts paid on time			Total amount paid
	Target %	Actual %	$	$
September 2009	100	100	46,467.87	46,467.87
December 2009	100	100	94,097.01	94,097.01
March 2010	100	100	35,880.68	35,880.68
June 2010	100	100	40,765.91	40,765.91

Financial report

GPO BOX 12
Sydney NSW 2001

INDEPENDENT AUDITOR'S REPORT

Judicial Commission of New South Wales

To Members of the New South Wales Parliament

I have audited the accompanying financial statements of Judicial Commission of New South Wales (the Commission), which comprises the statement of financial position as at 30 June 2010, the statement of comprehensive income, statement of changes in equity, statement of cash flows, service group statements and a summary of compliance with financial directives for the year then ended, a summary of significant accounting policies and other explanatory notes.

Auditor's Opinion

In my opinion, the financial statements:

- present fairly, in all material respects, the financial position of the Commission as at 30 June 2010, and its financial performance for the year then ended in accordance with Australian Accounting Standards (including the Australian Accounting Interpretations)
- are in accordance with section 45E of the *Public Finance and Audit Act 1983* (the PF&A Act) and the Public Finance and Audit Regulation 2010

My opinion should be read in conjunction with the rest of this report.

Chief Executive's Responsibility for the Financial Statements

The Chief Executive is responsible for the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards (including the Australian Accounting Interpretations) and the PF&A Act. This responsibility includes establishing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

Auditor's Responsibility

My responsibility is to express an opinion on the financial statements based on my audit. I conducted my audit in accordance with Australian Auditing Standards. These Auditing Standards require that I comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal controls relevant to the Commission's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Chief Executive, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

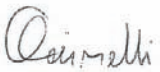
My opinion does *not* provide assurance:

- about the future viability of the Commission,
- that it has carried out its activities effectively, efficiently and economically,
- about the effectiveness of its internal controls, or
- on the assumptions used in formulating the budget figures disclosed in the financial statements.

Independence

In conducting this audit, the Audit Office of New South Wales has complied with the independence requirements of the Australian Auditing Standards and other relevant ethical requirements. The PF&A Act further promotes independence by:

- providing that only Parliament, and not the executive government, can remove an Auditor-General, and
- mandating the Auditor-General as auditor of public sector agencies but precluding the provision of non-audit services, thus ensuring the Auditor-General and the Audit Office of New South Wales are not compromised in their role by the possibility of losing clients or income.



Chris Giumelli
Director, Financial Audit Services

27 August 2010
SYDNEY

Certification of financial report

Pursuant to section 45F of the *Public Finance and Audit Act* 1983, I state that:

(a) the Judicial Commission's Financial Report is a general purpose financial report which has been prepared in accordance with applicable Australian Accounting Standards and other mandatory professional reporting requirements, the requirements of the *Public Finance and Audit Act* 1983, the requirements of the finance reporting directives published in the Financial Reporting Code for Budget Dependent General Government Sector Agencies, the *Public Finance and Audit Regulation* 2010 and the Treasurer's Directions;

(b) the financial report exhibits a true and fair view of the financial position and transactions of the Judicial Commission of New South Wales for the year ended 30 June 2010; and

(c) there are no circumstances which would render any particulars included in the financial report to be misleading or inaccurate.

E.J. SCHMATT
Chief Executive
Dated: 24 August 2010

JUDICIAL COMMISSION OF NEW SOUTH WALES

Statement of comprehensive income

for the year ended 30 June 2010

	Notes	Actual 2010 $'000	Budget 2010 $'000	Actual 2009 $'000
Expenses Excluding Losses				
Operating expenses				
Employee related	2(a)	3,986	3,774	3,868
Other operating expenses	2(b)	1,302	1,394	1,504
Depreciation and amortisation	2(c)	87	102	99
Other expenses	2(d)	280	–	–
Total Expenses Excluding Losses		5,655	5,270	5,471
Less:				
Revenue				
Sales of goods and services	3(a)	418	403	449
Investment revenue	3(b)	56	68	61
Grants and contributions	3(c)	164	–	–
Other revenue	3(d)	49	155	168
Total Revenue		687	626	678
Net Cost of Services	17	4,968	4,644	4,793
Government Contributions				
Recurrent appropriation	4	4,602	4,323	4,275
Capital appropriation	4	65	150	84
Acceptance by the Crown Entity of employee benefits and other liabilities	1(h)(ii)(b) & 5	277	210	286
Total Government Contributions		4,944	4,683	4,645
SURPLUS/(DEFICIT) FOR THE YEAR		(24)	39	(148)
Other comprehensive income		–	–	–
TOTAL COMPREHENSIVE INCOME FOR THE YEAR		(24)	39	(148)

The accompanying notes form part of these financial statements.

JUDICIAL COMMISSION OF NEW SOUTH WALES

Statement of financial position

as at 30 June 2010

	Notes	Actual 2010 $'000	Budget 2010 $'000	Actual 2009 $'000
ASSETS				
Current Assets				
Cash and cash equivalents	7	1,618	1,372	1,381
Receivables	8	66	49	49
Total Current Assets		1,684	1,421	1,430
Non-Current Assets				
Plant and equipment	9	268	348	298
Intangible assets	10	–	1	3
Total Non-Current Assets		268	349	301
Total Assets		1,952	1,770	1,731
LIABILITIES				
Current Liabilities				
Payables	11	278	220	220
Provisions	12	387	405	405
Other	13	205	–	–
Total Current Liabilities		870	625	625
Non-Current Liabilities				
Provisions	12	10	10	10
Total Non-Current Liabilities		10	10	10
Total Liabilities		880	635	635
Net Assets		1,072	1,135	1,096
EQUITY				
Accumulated funds		1,072	1,135	1,096
Total Equity		1,072	1,135	1,096

The accompanying notes form part of these financial statements.

JUDICIAL COMMISSION OF NEW SOUTH WALES

Statement of changes in equity

for the year ended 30 June 2010

	Accumulated funds $'000	Total $'000
Balance as at 1 July 2009	1,096	1,096
Surplus/(deficit) for the year	(24)	(24)
Total other comprehensive income	–	–
Balance as at 30 June 2010	1,072	1,072
Balance as at 30 June 2008	1,244	1,244
Surplus/(deficit) for the year	(148)	(148)
Total other comprehensive income	–	–
Balance as at 30 June 2009	1,096	1,096

The accompanying notes form part of these financial statements.

JUDICIAL COMMISSION OF NEW SOUTH WALES

Statement of cash flows

for the year ended 30 June 2010

	Notes	Actual 2010 $'000	Budget 2010 $'000	Actual 2009 $'000
CASH FLOWS FROM OPERATING ACTIVITIES				
Payments				
Employee related		(3,717)	(3,564)	(3,525)
Other		(1,759)	(1,573)	(1,628)
Total Payments		(5,476)	(5,137)	(5,153)
Receipts				
Sale of goods and services		636	403	713
Interest received		46	68	82
Grants and contributions		164	–	–
Other		49	334	168
Total Receipts		895	805	963
Cash Flows from Government				
Recurrent appropriation		4,807	4,323	4,275
Capital appropriation (excluding equity appropriations)		65	150	84
Net Cash Flows from Government	17	4,872	4,473	4,359
NET CASH FLOWS FROM OPERATING ACTIVITIES		291	141	169
CASH FLOWS FROM INVESTING ACTIVITIES				
Purchases of Plant and Equipment		(54)	(150)	(94)
NET CASH FLOWS FROM INVESTING ACTIVITIES		(54)	(150)	(94)
NET INCREASE/(DECREASE) IN CASH		237	(9)	75
Opening cash and cash equivalents		1,381	1,381	1,306
CLOSING CASH AND CASH EQUIVALENTS	7	1,618	1,372	1,381

The accompanying notes form part of these financial statements.

JUDICIAL COMMISSION OF NEW SOUTH WALES

Supplementary financial statements

Service group statements* for the year ended 30 June 2010

COMMISSION'S EXPENSES & INCOME	Service Group 1*		Service Group 2*		Service Group 3*		Not Attributable		Total	
	2010 $'000	2009 $'000	2010 $'000	2009 $'000	2010 $'000	2009 $'000	2010 $'000	2009 $'000	2010 $'000	2009 $'000
Expenses Excluding Losses										
Operating expenses										
Employee related	2,063	2,008	1,589	1,565	334	295	–	–	3.986	3,868
Other operating expenses	835	1,029	359	360	108	115	–	–	1,302	1,504
Depreciation and amortisation	47	54	36	41	4	4	–	–	87	99
Other expenses	–	–	–	–	280	–	–	–	280	–
Total Expenses Excluding Losses	**2,945**	**3,091**	**1,984**	**1,966**	**726**	**414**	**–**	**–**	**5,655**	**5,471**
Revenue										
Sales of goods and services	16	22	402	427	–	–	–	–	418	449
Investment revenue	–	–	–	–	–	–	56	61	56	61
Grants and contributions	64	–	100	–	–	–	–	–	164	–
Other revenue	33	127	8	31	8	10	–	–	49	168
Total Revenue	**113**	**149**	**510**	**458**	**8**	**10**	**56**	**61**	**687**	**678**
Net Cost of Services	**2,832**	**2,942**	**1,474**	**1,508**	**718**	**404**	**(56)**	**(61)**	**4,968**	**4,793**
Government contributions**	150	155	116	119	12	12	4,666	4,359	4,944	4,645
SURPLUS/(DEFICIT) FOR THE YEAR	(2,682)	(2,787)	(1,358)	(1,389)	(706)	(392)	4,722	4,420	(24)	(148)
Total other comprehensive income	–	–	–	–	–	–	–	–	–	–
TOTAL COMPREHENSIVE INCOME	**(2,682)**	**(2,787)**	**(1,358)**	**(1,389)**	**(706)**	**(392)**	**4,722**	**4,420**	**(24)**	**(148)**
COMMISSION'S ASSETS & LIABILITIES										
Current Assets										
Cash and cash equivalents	–	–	–	–	–	–	1,618	1,381	1,618	1,381
Receivables	35	27	28	20	3	2	–	–	66	49
Total Current Assets	**35**	**27**	**28**	**20**	**3**	**2**	**1,618**	**1,381**	**1,684**	**1,430**
Non-Current Assets										
Plant and equipment	145	162	112	124	11	12	–	–	268	298
Intangible assets	–	2	–	1	–	–	–	–	–	3
Total Non-Current Assets	**145**	**164**	**112**	**125**	**11**	**12**	**–**	**–**	**268**	**301**
TOTAL ASSETS	**180**	**191**	**140**	**145**	**14**	**14**	**1,618**	**1,381**	**1,952**	**1,731**
Current Liabilities										
Payables	150	119	116	92	12	9	–	–	278	220
Provisions	189	205	173	174	25	26	–	–	387	405
Other	–	–	–	–	205	–	–	–	205	–
Total Current Liabilities	**339**	**324**	**289**	**266**	**242**	**35**	**–**	**–**	**870**	**625**
Non-Current Liabilities										
Provisions	6	6	4	4	–	–	–	–	10	10
Total Non-Current Liabilities	**6**	**6**	**4**	**4**	**–**	**–**	**–**	**–**	**10**	**10**
TOTAL LIABILITIES	**345**	**330**	**293**	**270**	**242**	**35**	**–**	**–**	**880**	**635**
NET ASSETS	**(165)**	**(139)**	**(153)**	**(125)**	**(228)**	**(21)**	**1,618**	**1,381**	**1,072**	**1,096**

* The names and purposes of each service group are summarised in Note 6.

** Appropriations are made on an agency basis and not to individual service groups. Consequently, appropriations must be included in the 'Not Attributable' column.

JUDICIAL COMMISSION OF NEW SOUTH WALES

Summary of compliance with financial directives for the year ended 30 June 2010

Supplementary financial statement

	2010				2009			
	Recurrent Appropriation	Expenditure/ Net Claim on Consolidated Fund	Capital Appropriation	Expenditure/ Net Claim on Consolidated Fund	Recurrent Appropriation	Expenditure/ Net Claim on Consolidated Fund	Capital Appropriation	Expenditure/ Net Claim on Consolidated Fund
	$'000	$'000	$'000	$'000	$'000	$'000	$'000	$'000
ORIGINAL BUDGET/ APPROPRIATION EXPENDITURE								
Appropriation Act	4,323	4,323	150	65	4,278	4,275	150	84
Additional appropriations	(1)	(1)			(3)			
	4,322	4,322	150	65	4,275	4,275	150	84
OTHER APPROPRIATIONS/ EXPENDITURE								
Treasurer's Advance	485	280	–	–	–	–	–	–
Total Appropriations/ Expenditure/ Net Claim on Consolidated Fund (includes transfer payments)	4,807	4,602	150	65	4,275	4,275	150	84
Amount drawn down against Appropriation		4,807		65		4,275		84
Liability to Consolidated Fund*		205		–		–		–

The Summary of Compliance is based on the assumption that Consolidated Fund moneys are spent first (except where otherwise identified or prescribed).

* Liability to Consolidated Fund represents the difference between the "Amount drawn down against Appropriation" and the "Total Expenditure/Net Claim on Consolidated Fund".

JUDICIAL COMMISSION OF NEW SOUTH WALES

Notes to and forming part of the financial statements for the year ended 30 June 2010

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

(a) Reporting Entity

The Judicial Commission of New South Wales (the Commission) is a reporting entity which does not have any entities under its control.

The Commission is a statutory authority set up under the *Judicial Officers Act* 1986. The Commission is a not-for-profit entity, as profit is not its principal objective. The reporting entity is consolidated as part of the NSW Total State Sector Accounts.

This financial report for the year ended 30 June 2010 has been authorised for issue by the Chief Executive on 24 August 2010.

(b) Basis of Preparation

The Commission's financial report is a general purpose financial report which has been prepared in accordance with:

- applicable Australian Accounting Standards (which include Australian Accounting Interpretations);
- the requirements of the *Public Finance and Audit Act* 1983 and Regulation; and
- the Financial Reporting Directions published in the Financial Reporting Code for Budget Dependent General Government Sector Agencies or issued by the Treasurer.

Plant and equipment are measured at fair value through profit and loss. Other financial statement items are prepared in accordance with the historical cost convention.

Judgements, key assumptions and estimations management has made are disclosed in the relevant notes to the financial statements.

All amounts are rounded to the nearest one thousand dollars and are expressed in Australian currency.

(c) Statement of Compliance

These financial statements and notes comply with Australian Accounting Standards, which include Australian Accounting Interpretations.

(d) Insurance

The Commission's insurance activities are conducted through the NSW Treasury Managed Fund Scheme of self insurance for Government agencies.

The expense (premium) is determined by the Fund Manager based on past claim experience.

(e) Accounting for the Goods and Services Tax (GST)

Income, expenses and assets are recognised net of the amount of GST, except that:

- the amount of GST incurred by the Commission as a purchaser that is not recoverable from the Australian Taxation Office is recognised as part of the cost of acquisition of an asset or as part of an item of expense and
- receivables and payables are stated with the amount of GST included.

Cash flows are included in the cash flow statement on a gross basis. However the GST components of cash flows arising from investing activities which is recoverable from, or payable to, the Australian Taxation Office are classified as operating cash flows.

(f) Income Recognition

Income is measured at the fair value of the consideration or contribution received or receivable. Additional comments regarding the accounting policies for the recognition of revenue are discussed below.

(i) Parliamentary Appropriations and Contributions

Except as specified below, parliamentary appropriations and contributions from other bodies (including grants and donations) are generally recognised as income when the Commission obtains control over the assets comprising the appropriations/contributions. Control over appropriations and contributions is normally obtained upon the receipt of cash. Appropriations are not recognised as income in the following circumstances:

- "Equity appropriations" to fund payments to adjust a for-profit entity's capital structure are recognised as equity injections (i.e. contribution by owners) on receipt and equity withdrawals on payment to a for-profit entity. The reconciliation between the statement of comprehensive income, statement of summary of compliance with financial directives and the total appropriations is disclosed in Note 4.
- Unspent appropriations are recognised as liabilities rather than revenue, as the authority to spend the money lapses and the unspent amount must be repaid to the Consolidated Fund. The liability is disclosed in Note 11 as part of "Current liabilities — Other". The amount will be repaid and the liability will be extinguished next financial year.

(ii) Sale of Goods

Revenue from the sale of goods is recognised as revenue when the Commission transfers the significant risks and rewards of ownership of the assets.

(iii) Rendering of Services

Revenue is recognised when the service is provided or by reference to the stage of completion (based on labour hours incurred to date).

(iv) Investment Revenue

Interest revenue is recognised using the effective interest method as set out in AASB 139 *Financial Instruments: Recognition and Measurement*.

(g) Assets

(i) Acquisitions of assets

The cost method of accounting is used for the initial recording of all acquisitions of assets controlled by the Commission. Cost is the amount of cash or cash equivalents paid or the fair value of the other consideration given to acquire the asset at the time of its acquisition or construction or, where applicable, the amount attributed to that asset when initially recognised in accordance with the requirements of other Australian Accounting Standards.

Assets acquired at no cost, or for nominal consideration, are initially recognised at their fair value at the date of acquisition.

Fair value is the amount for which an asset could be exchanged between knowledgeable, willing parties in an arm's length transaction.

Where payment for an asset is deferred beyond normal credit terms, its cost is the cash price equivalent, i.e. deferred payment amount is effectively discounted at an asset-specific rate.

(ii) Capitalisation thresholds

Plant and equipment and intangible assets costing $5,000 and above individually (or forming part of a network costing more than $5,000) are capitalised. Individual items of computer or office equipment costing $500 and above and having a useful life of more than one year are also capitalised.

(iii) Revaluation of property, plant and equipment

Physical non-current assets are valued in accordance with the "Valuation of Physical Non-Current Assets at Fair Value" Policy and Guidelines Paper (TPP 07–1). This policy adopts fair value in accordance with AASB 116 *Property, Plant and Equipment* and AASB 140 *Investment Property*.

Plant and equipment is measured on an existing use basis, where there are no feasible alternative uses in the existing natural, legal, financial and socio-political environment. However, in the limited circumstances where there are feasible alternative uses, assets are valued at their highest and best use.

Fair value of plant and equipment is determined based on the best available market evidence, including current market selling prices for the same or similar assets. Where there is no available market evidence, the asset's fair value is measured at its market buying price, the best indicator of which is depreciated replacement cost.

As the Commission does not own land, building or infrastructure assets, management does not believe that the revaluation of physical non-current assets every five years is warranted, unless it becomes aware of any material difference in the carrying amount of any class of assets.

Most of the Commission's assets are non-specialised assets with short useful lives and are therefore measured at depreciated historical cost, as a surrogate for fair value.

(iv) Impairment of property, plant and equipment

As a not-for-profit entity with no cash generating units, the Commission is effectively exempted from AASB 136 *Impairment of Assets* and impairment testing. This is because AASB 136 modifies the recoverable amount test to the higher of fair value less costs to sell and depreciated replacement cost. This means that, for an asset already measured at fair value, impairment can only arise if selling costs are material. Selling costs are regarded as immaterial.

(v) Depreciation of plant and equipment

Depreciation is provided for on a straight-line basis for all depreciable assets so as to write off the depreciable amount of each asset as it is consumed over its useful life to the Commission.

All material separately identifiable components of assets are depreciated over their shorter useful lives.

The estimated useful lives of the asset classes are:

Computer Equipment — 3 years
Furniture and Fittings — 15 years
Office Equipment — 5 or 10 years

(vi) Maintenance

Day-to-day servicing costs or maintenance are charged as expenses as incurred, except where they relate to the replacement of a part or component of an asset, in which case the costs are capitalised and depreciated.

(vii) Leased assets

A distinction is made between finance leases which effectively transfer from the lessor to the lessee substantially all the risks and benefits incidental to ownership of the leased assets, and operating leases under which the lessor effectively retains all such risks and benefits.

JUDICIAL COMMISSION OF NEW SOUTH WALES

Notes to and forming part of the financial statements for the year ended 30 June 2010

Operating lease payments are charged to the operating statement in the periods in which they are incurred.

(viii) Intangible assets

The Commission recognises intangible assets only if it is probable that future economic benefits will flow to the Commission and the cost of the asset can be measured reliably. Intangible assets are measured initially at cost. Where an asset is acquired at no or nominal cost, the cost is its fair value as at the date of acquisition.

All research costs are expensed. Development costs are only capitalised when certain criteria are met.

The useful lives of intangible assets are assessed to be finite.

Intangible assets are subsequently measured at fair value only if there is an active market. As there is no active market for the Commission's intangible assets, the assets are carried at cost less any accumulated amortisation.

The Commission's intangible assets are amortised using the straight line method over a period of three (3) years.

Intangible assets are tested for impairment where an indicator of impairment exists. If the recoverable amount is less than its carrying amount the carrying amount is reduced to recoverable amount and the reduction is recognised as an impairment loss.

(ix) Loans and receivables

Loans and receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. These financial assets are recognised initially at fair value, usually based on the transaction cost or face value. Subsequent measurement is at amortised cost using the effective interest method, less an allowance for any impairment of receivables. Any changes are accounted for in the surplus/(deficit) for the year when impaired, derecognised or through the amortisation process.

Short-term receivables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

(x) Impairment of financial assets

All financial assets, except those measured at fair value through profit and loss, are subject to an annual review for impairment. An allowance for impairment is established when there is objective evidence that the entity will not be able to collect all amounts due.

For financial assets carried at amortised cost, the amount of the allowance is the difference between the asset's carrying amount and the present value of estimated future cash flows, discounted at the effective interest rate. The amount of the impairment loss is recognised in the surplus/(deficit) for the year.

(h) Liabilities

(i) Payables

These amounts represent liabilities for goods and services provided to the Commission and other amounts. Payables are recognised initially at fair value, usually based on the transaction cost or face value. Subsequent measurement is at amortised cost using the effective interest method. Short-term payables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

(ii) Employee benefits and other provisions

(a) *Salaries and wages, annual leave, sick leave and on-costs*

Liabilities for salaries and wages (including non-monetary benefits), annual leave and paid sick leave that are due to be settled within 12 months after the end of the period in which the employees render the service are recognised and measured in respect of employees' services up to the reporting date at undiscounted amounts based on the amounts expected to be paid when the liabilities are settled.

Unused non-vesting sick leave does not give rise to a liability as it is not considered probable that sick leave taken in the future will be greater than the benefits accrued in the future.

The outstanding amounts of payroll tax, workers' compensation insurance premiums and fringe benefits tax, which are consequential to employment, are recognised as liabilities and expenses where the employee benefits to which they relate have been recognised.

(b) *Long service leave and superannuation*

The Commission's liabilities for long service leave and defined benefit superannuation are assumed by the Crown Entity. The Commission accounts for the liability as having been extinguished, resulting in the amount

assumed being shown as part of the non-monetary revenue item described as "Acceptance by the Crown Entity of employee benefits and other liabilities".

Long service leave is measured at present value in accordance with AASB 119 *Employee Benefits*. This is based on the application of certain factors (specified in NSWTC 09/04) to employees with five or more years of service, using current rates of pay. These factors were determined based on an actuarial review to approximate present value.

The superannuation expense for the financial year is determined by using the formulae specified in the Treasurer's Directions. The expense for certain superannuation schemes (i.e. Basic Benefit and First State Super) is calculated as a percentage of the employees' salary. For other superannuation schemes (i.e. State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employees' superannuation contributions.

(c) *Other Provisions*

Other provisions exist when: the Commission has a present legal or constructive obligation as a result of a past event; it is probable that an outflow of resources will be required to settle the obligation; and a reliable estimate can be made of the amount of the obligation.

(i) Equity and reserves

Accumulated funds includes all current and prior period retained funds.

Seperate reserve accounts are recognised in the financial statement only if such accounts are required by specific legislation or Australian Accounting Standards.

(j) Budgeted Amounts

The budgeted amounts are drawn from the budgets as formulated at the beginning of the financial year and with any adjustments for the effects of additional appropriations, s 21A, s 24 and/or s 26 of the *Public Finance and Audit Act* 1983.

The budgeted amounts in the statement of comprehensivee income and the ststement of cash flows are generally based on the amounts disclosed in the NSW Budget Papers (as adjusted above). However, in the ststement of financial position, the amounts vary from the Budget Papers, as the opening balances of the budgeted amounts are based on carried forward actual amounts; i.e. per the audited financial ststements (rather than carried forward estimates).

(k) Comparative information

Except when an Australian Accounting Standard permits or requires otherwise, comparative information is disclosed in respect of the previous period for all amounts reported in the financial statements.

(l) New Australian Accounting Standards issued but not effective

The following new Accounting Standards have not been applied and are not yet effective.

- AASB 9 and AASB 2009–11 regarding financial instruments
- AASB 2009–5 regarding annual improvements
- AASB 2009–8 regarding share based payments
- AASB 2009–9 regarding first time adoption
- AASB 2009–10 regarding classification of rights
- AASB 124 and AASSB 2009–12 regarding related party transactions
- Interpretation 19 and AASB 2009–13 regarding extinguishing financial liability with equity instruments
- AASB 2009–14 regarding repayments of a minimum funding requirement
- AASB 2010–1 regarding AASB 7 comparatives for first time adopters.

The Commission anticipates that the adoption of these Standards and Interpretations in future periods will have no material financial impact on the financial statements.

JUDICIAL COMMISSION OF NEW SOUTH WALES

Notes to and forming part of the financial statements for the year ended 30 June 2010

		2010 $'000	2009 $'000
2.	**EXPENSES EXCLUDING LOSSES**		
(a)	Employee related expenses:		
	Salaries and wages (including recreation leave)	3,336	3,224
	Superannuation — defined benefit plans	111	104
	Superannuation — defined contributions plans	157	144
	Long service leave	160	176
	Workers' compensation insurance	16	19
	Payroll tax and fringe benefit tax	206	201
		3,986	3,868
(b)	Other operating expenses:		
	Operating lease rental expense — minimum lease payments	456	428
	Fees for services	177	272
	Conferences	187	295
	Printing	73	84
	Member fees	85	109
	Stores and equipment	8	16
	Books and periodicals	58	55
	Postal and telephone	66	62
	Training	21	15
	Travel expenses	23	18
	Electricity	23	18
	Insurance	6	6
	Auditor's remuneration — audit of the financial report	18	18
	Recruitment	1	5
	Maintenance	9	11
	Other	91	92
		1,302	1,504
	Reconciliation — Total maintenance		
	Maintenance expense — contracted labour and other (non-employee related), as above	9	11
	Employee related maintenance expense included in Note 2(a)	–	–
	Total maintenance expenses included in Note 2(a) + 2(b)	9	11
(c)	Depreciation and amortisation expense:		
	Depreciation		
	Computer equipment	47	56
	Office furniture	16	16
	Office equipment	21	24
		84	96
	Amortisation		
	Intangible assets	3	3
		87	99
(d)	Other expenses		
	Conduct division	280	–
		280	–

		2010 $'000	2009 $'000
3.	**REVENUE**		
(a)	Sale of goods and services		
	Sale of goods	61	61
	Rendering of services	357	388
		418	449
(b)	Investment revenue		
	Interest	56	61
		56	61
(c)	Grants and contributions		
	Contributions	164	–
		164	–
	The Commission received funding from the Department of Justice and Attorney General (DJAG) for the Judicial Domestic Violence project. $53,000 was expended in 2009–10.		
	The Commission recieved a grant of$100,000 from DJAG to build a Joined-up-Justice interface between the Commission and DJAG's JusticeLink system.		
	The National Judicial College of Australia provided funding for the Ngara Yura Exchanging Ideas Conference. $11,000 was spent in 2009–10.		
(d)	Other revenue	49	168
4.	**APPROPRIATIONS**		
	Recurrent appropriations		
	Total recurrent drawdowns from NSW Treasury (per Summary of Compliance)	4,807	4,275
	Less: Liability to Consolidated Fund (per Summary of Compliance)	205	–
		4,602	4,275
	Comprising:		
	Capital appropriations (per Statement of comprehensive income)	4,602	4,275
	Capital appropriations		
	Total capital drawdowns from NSW Treasury (per Summary of Compliance)	65	84
	Less: Liability to Consolidated Fund (per Summary of Compliance)	–	–
		65	84
	Comprising:		
	Capital appropriations (per Statement of comprehensive income)	65	84
5.	**ACCEPTANCE BY THE CROWN ENTITY OF EMPLOYEE BENEFITS AND OTHER LIABILITIES**		
	The following liabilities and/or expenses have been assumed by the Crown Entity or other government agencies:		
	Superannuation — defined benefit	111	104
	Long service leave	160	176
	Payroll tax	6	6
		277	286

JUDICIAL COMMISSION OF NEW SOUTH WALES

Notes to and forming part of the financial statements for the year ended 30 June 2010

		2010 $'000	2009 $'000
6.	**SERVICE GROUPS OF THE COMMISSION**		
	(a) Judicial Education		
	Purpose: A better informed and professional judiciary by providing an extensive conference and seminar program for judicial officers and by publishing professional reference material.		
	(b) Research and Sentencing		
	Purpose: Improved consistency of approach in sentencing by providing online statistical and legal information and by undertaking original research and analysis of aspects of sentencing.		
	(c) Examination of Complaints		
	Purpose: Examination of complaints against judicial officers in accordance with statutory provisions.		
	Assets, liabilities, expenses and revenues that are not directly attributable to a Service Group are apportioned according to the number of staff directly contributing to each Service Group. Government appropriations, cash and cash equivalents and investment revenue cannot be reliably attributed and are therefore included in the "Not-attributable" column.		
7.	**CURRENT ASSETS — CASH AND CASH EQUIVALENTS**		
	Cash at bank and on hand	1,618	1,381
		1,618	1,381
	For the purpose of the statement of cas flows, cash and cash equivalents include cash at bank and cash on hand.		
	Cash and cash equivalent assets recognised in the statement of financial position are reconciled at the end of the financial year to the statement of cash flows as follows:		
	Cash and cash equivalents (per statement of financial position)	1,618	1,381
	Closing cash and cash equivalents (per statement of cash flows)	1,618	1,381
8.	**CURRENT ASSETS — RECEIVABLES**		
	Sale of goods and services	11	–
	Other receivables	5	3
	Interest receivable	32	21
	Prepayments	18	25
		66	49

		2010 $'000	2009 $'000
9.	**NON-CURRENT ASSETS — PLANT AND EQUIPMENT**		
	Gross carrying amount	1,347	1,359
	Less: Accumulated depreciation and impairment	1,079	1,061
	Net carrying amount — at fair value	268	298
	Reconciliation		
	Reconciliations of the carrying amounts of plant and equipment at the beginning and end of the current and previous financial year are set out below.		
	Net carrying amount at start of year	298	299
	Additions	54	95
	Disposals	–	–
	Depreciation	84	96
	Net carrying amount at end of year	268	298
10.	**INTANGIBLE ASSETS**		
	Software		
	Cost (gross carrying amount)	82	82
	Less: Accumulated amortisation and impairment	82	79
	Net carrying amount — at fair value	–	3
	Reconciliation		
	Reconciliations of the carrying amounts of intangible assets at the beginning and end of the current and previous financial year are set out below.		
	Net carrying amount at start of year	3	6
	Additions	–	–
	Disposals	–	–
	Amortisation	3	3
	Net carrying amount at end of year	–	3
11.	**CURRENT LIABILITIES — PAYABLES**		
	Sundry creditors	167	158
	Accrued salaries, wages and on-costs	101	62
	Other (including GST payable)	10	–
		278	220

JUDICIAL COMMISSION OF NEW SOUTH WALES

Notes to and forming part of the financial statements for the year ended 30 June 2010

		2010 $'000	2009 $'000
12.	**CURRENT/NON-CURRENT LIABILITIES — PROVISIONS**		
	Employee benefits and related on-costs		
	Current		
	Recreation leave	204	222
	On-costs	183	183
		387	405
	Non-Current		
	On-costs	10	10
		10	10
	Aggregate employee benefits and related on-costs		
	Provisions — current	387	405
	Provisions — non-current	10	10
	Accrued salaries, wages and on-costs (refer Note 11)	101	62
		498	477
13.	**CURRENT LIABILITIES — OTHER**		
	Liability to Consolidated fund	205	–
		205	–
14.	**COMMITMENTS FOR EXPENDITURE**		
	Operating lease commitments		
	Future non-cancellable operating lease rentals not provided for and payable:		
	Not later than one year	478	464
	Later than one year and not later than five years	1,849	179
	Later than five years	–	–
	Total (including GST)	2,327	643

Operating lease commitments, which relate to rent and motor vehicles, are not recognised in the financial report as liabilities. The total commitments for expenditure as at 30 June 2010 includes input tax credits of $212,000 ($58,000 in 2008–2009) which are recoverable from the Australian Tax Office.

15. CONTINGENT LIABILITIES AND CONTINGENT ASSETS

The Commission has no contingent liabilities or contingent assets as at 30 June 2010.

		2010 $'000	2009 $'000
16.	**BUDGET REVIEW**		
	Net Cost of Services		
	Net Cost of Services is over budget by $324,000. This is mainly due to expenditure of $280,000 on Conduct Divisions which were commenced during the year. The Commission received a Treasurer's Advance of $485,000 to cover this expenditure.		
	Assets and Liabilities		
	Current Liabilities are $245,000 greater than budget because of unspent Conduct Division funding, $205,000 shown as a liability to the Consolidated Fund, and the timing of budget preparation and knowledge of factors at that time.		
	Cash Flows		
	Net Cash Flows from Operating Activities are $150,000 over budget as a result of the additional funding received from Treasury and contributions received.		
17.	**RECONCILIATION OF CASH FLOWS FROM OPERATING ACTIVITIES TO NET COST OF SERVICES**		
	Net cash flows from operating activities	291	169
	Cash flows from Government	(4,872)	(4,359)
	Acceptance by the Crown Entity of employee benefits and other liabilities	(277)	(286)
	Depreciation and amortisation	(87)	(99)
	Decrease/(increase) in provisions	(18)	(66)
	Increase/(decrease) in receivables	(17)	(75)
	Decrease/(increase) in payables	(58)	(77)
	Net cost of services	(4,968)	(4,793)

18. FINANCIAL INSTRUMENTS

The Commission's principal financial instruments are outlined below. These financial instruments arise directly from the Commission's operations or are required to finance the Commission's operations. The Commission does not enter into or trade financial instruments, including derivative financial instruments, for speculative purposes.

The Commission's main risks arising from financial instruments are outlined below, together with the Commission's objectives, policies and processes for measuring and managing risk. Further quantitative and qualitative disclosures are included throughout these financial statements.

The Chief Executive has overall responsibility for the establishment and oversight of risk management and reviews and agrees policies for managing each of these risks. The Audit and Risk Management Committee assists the Chief Executive in fulfilling these responsibilities. Risk management policies are established to identify and analyse the risks faced by the Commission, to set limits and controls and to monitor risks. Compliance with policies is reviewed by the internal auditors on a regular basis.

JUDICIAL COMMISSION OF NEW SOUTH WALES

Notes to and forming part of the financial statements for the year ended 30 June 2010

(a) Financial instrument categories

	Note	Category	Carrying Amount 2010 $'000	2009 $'000
Financial Assets				
Cash and cash equivalents	7	N/A	1,618	1,381
Receivables[1]	8	Loans and receivables (at amortised cost)	48	24
Financial Liabilities				
Payable[2]	11	Financial liabilities measured at amortised cost	139	133

Notes

1. Excludes statutory receivables and prepayments (ie not within scope of AASB 7).
2. Excludes statutory payables and unearned revenue (ie not within scope of AASB 7).

(b) Credit Risk

Credit risk arises when there is the possibility of the Commission's debtors defaulting on their contractual obligations, resulting in a financial loss to the Commission. The maximum exposure to credit risk is generally represented by the carrying amount of the financial assets (net of any allowance for impairment).

Credit risk arises from the financial assets of the Commission, including cash, receivables, and authority deposits. No collateral is held by the Commission. The Commission has not granted any financial guarantees.

Credit risk associated with the Commission's financial assets, other than receivables, is managed through the selection of counterparties and establishment of minimum credit rating standards.

Cash

Cash comprises cash on hand and bank balances within the NSW Treasury Banking System. Interest is earned on daily bank balances at the monthly average NSW Treasury Corporation (TCorp) 11am unofficial cash rate, adjusted for a management fee to NSW Treasury. This rate was 4.4 per cent at 30 June 2010 (2.9 per cent at 30 June 2009).

Receivables

All trade debtors are recognised as amounts receivable at balance date. Collectability of trade debtors is reviewed on an ongoing basis. Procedures as established in the Treasurer's Directions are followed to recover outstanding amounts, including letters of demand. Debts which are known to be uncollectible are written off. An allowance for impairment is raised when there is objective evidence that the entity will not be able to collect all amounts due. This evidence includes past experience, and current and expected changes in economic conditions and debtor credit ratings. No interest is earned on trade debtors.

The Commission is not materially exposed to concentrations of credit risk to a single trade debtor or group of debtors. Based on past experience, debtors that are not past due (2010: $11,000; 2009: $0) or are less than three months past due (2010: $0; 2009: $0) are not considered impaired and together these represent 100% of the total trade debtors.

	$'000		
	Total[1,2]	Past due but not impaired[1,2]	Considered impaired
2010			
< 3 months overdue	66	–	–
3 months – 6 months overdue	–	–	–
> 6 months overdue	–	–	–
2009			
< 3 months overdue	49	–	–
3 months – 6 months overdue	–	–	–
> 6 months overdue	–	–	–

Notes
1. Each column in the table reports "gross receivables".
2. The ageing analysis excludes statutory receivables, as these are not within the scope of AASB 7, and excludes receivables that are not past due and not impaired. Therefore the total will not reconcile to the receivables total recognised in the statement of finacial position.

(c) Liquidity Risk

Liquidity risk is the risk that the Commission will be unable to meet its payment obligations when they fall due. The Commission continuously manages risk through monitoring future cash flows and maturities planning to ensure adequate holding of high quality liquid assets.

During the current and prior years, there were no defaults or breaches on any loans payable. No assets have been pledged as collateral. The Commission's exposure to liquidity risk is deemed insignificant based on prior periods' data and current assessment of risk.

The liabilities are recognised for amounts due to be paid in the future for goods or services received, whether or not invoiced. Amounts owing to suppliers (which are unsecured) are settled in accordance with the policy set out in Treasurer's Direction 219.01. If trade terms are not specified, payment is made no later than the end of the month following the month in which an invoice or a statement is received. Treasurer's Direction 219.01 allows the Minister to award interest for late payment. All of the Commission's Payables are non-interest bearing and are payable within one year.

(d) Market Risk

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. The Commission does not have any investments or interest bearing liabilities and therefore has minimal exposure to market risk.

(e) Fair Value compared to carrying amount

Financial instruments are recognised at amortised cost, which approximates the fair value because of their short-term nature.

19. AFTER BALANCE DATE EVENTS

There are no events subsequent to balance date which affect the financial report.

End of audited Financial Statements

Appendices, Glossary, Index, and Five years at a glance

Contents

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
- a member (including a judicial member) of the Industrial Relations Commission
- a judge of the Land and Environment Court
- a judge of the District Court
- the president of the Children's Court
- a 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.[1] 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

1 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.

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.

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).

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 officer, 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:

a) is the witness incapable of representing him or herself?
b) is the matter likely to affect an individual's rights or interest?
c) would the granting of representation enhance the fairness of the proceedings?
d) would the proceedings be conducted with more efficiency and expedition if representation were or were not granted?
e) 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 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 continuing professional development for judicial officers is to:

- enhance their professional expertise
- facilitate development of their judicial knowledge and skills
- promote the pursuit of juristic excellence.

National standard for judicial professional development

A national standard or benchmark for the amount of time that should be available for each member of the Australian judiciary for professional development has been developed by the National Judicial College of Australia and endorsed by the Council of Chief Justices of Australia, chief judges, chief magistrates, the Judicial Conference of Australia, the Association of Australian Magistrates, and judicial education bodies throughout Australia. The standard is:

Each judicial officer should be able to spend at least five days each calendar year participating in professional development activities relating to the judicial officer's responsibilities. The standard should be reviewed in 2010.
This standard need not be met in each year but can be met on the basis of professional development activities engaged in over a period of three years.
This standard can be met, in part, by self-directed professional development.
Judicial officers should be released from court duties to enable them to meet this standard. However, judicial officers should commit some private time to meet the standard.

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
9. 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.

Feedback from judicial officers based on specified learning objectives is desirable for each educational activity. Input requested will include:

- whether or not the learning objectives are met
- the program's usefulness and relevance
- the appropriateness of the content of sessions and materials
- the delivery
- suggest improvements for future programs
- suggestions for themes or topics for future activities relevant to judicial officers.

Appendix 4
Committees

Education Committees

Education Committees for each court 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 Basten, Supreme Court (Chair)
- The Honourable Justice Schmidt, Industrial Relations Commission (until July 2009)
- The Honourable Justice Walton, Industrial Relations Commission (from July 2009)
- The Honourable Justice Lloyd, Land and Environment Court (until July 2009)
- The Honourable Justice Biscoe, Land and Environment Court (from July 2009)
- His Honour Judge Nicholson SC, District Court
- Her Honour Deputy Chief Magistrate Mottley, Local Court
- Ms R Windeler, Education Director, Judicial Commission of NSW (Convenor)

Supreme Court Education Committee

- The Honourable Justice Basten (Chair)
- The Honourable Justice Campbell
- The Honourable Justice Nicholas
- The Honourable Justice Hislop
- The Honourable Justice Hoeben AM RFD
- The Honourable Justice Johnson
- The Honourable Justice Harrison (from August 2009)
- The Honourable Justice Fullerton
- The Honourable Justice Schmidt (from July 2009)
- Ms M Greenwood, Chief Executive Officer, Supreme Court
- Ms R Windeler, Education Director, Judicial Commission of NSW (Convenor)

Industrial Relations Commission Education Committee

- The Honourable Justice Walton, Vice-President (until November 2009)
- The Honourable Justice Schmidt (Chair) (until July 2009)
- The Honourable Justice Kavanagh (Chair) (from August 2009)
- The Honourable Justice Haylen (from November 2009)
- Commissioner P Connor
- Mr M Grimson, Industrial Registrar, Industrial Relations Commission
- Ms R Windeler, Education Director, Judicial Commission of NSW (Convenor)

Land and Environment Court Education Committee

- The Honourable Justice Pain
- The Honourable Justice Biscoe (Chair)
- Commissioner Pearson
- Ms J Gray, Acting Registrar, Land and Environment Court
- Ms R Windeler, Education Director, Judicial Commission of NSW (Convenor)

District Court Education Committee

- His Honour Judge Taylor AM RFD (Chair)
- Her Honour Judge Sidis
- Her Honour Judge Ashford (Acting Chair from December 2009)
- His Honour Judge Woods QC (from December 2009)
- His Honour Judge Nicholson SC
- His Honour Judge Knox SC (until November 2009)
- Her Honour Judge Sweeney
- His Honour Judge Zahra SC
- His Honour Judge Cogswell SC
- His Honour Judge Lakatos SC (from December 2009)
- His Honour Judge Elkaim SC (from December 2009)
- His Honour Judge Colefax SC (from December 2009)
- Mr C Smith, Director, Judicial Support and Judicial Registrar
- Ms R Windeler, Education Director, Judicial Commission of NSW (Convenor)

Local Court Education Committee

- Her Honour Deputy Chief Magistrate Mottley (Chair)
- Her Honour Magistrate Fleming
- Her Honour Magistrate Huber
- Her Honour Magistrate Schurr
- His Honour Magistrate Heilpern
- His Honour Magistrate Prowse
- His Honour Magistrate Guy (from September 2009)
- Her Honour Magistrate Hannam (until August 2009)
- His Honour Magistrate Lerve
- Her Honour Magistrate Freund
- Ms A Harding, Policy Officer (from July to December 2009)
- Ms A Passe De Silva, Policy Officer (from February 2010)
- Ms R Windeler, Education Director, Judicial Commission of NSW (Convenor)

Ngara Yura Committee

- His Honour Judge Norrish QC (Chair)
- His Honour Judge Nicholson SC
- Her Honour Deputy Chief Magistrate Mottley
- His Honour Magistrate Dick
- Her Honour Magistrate Hannam (from December 2009)
- Mr T Chenery, Director, Legal, Land and Culture, NSW Department of Aboriginal Affairs
- Ms M Davis, Director, Indigenous Law Centre
- Mr E Schmatt PSM, Chief Executive, Judicial Commission of NSW
- Ms R Windeler, Education Director, Judicial Commission of NSW (Convenor)
- Mrs T Wright, Aboriginal Project Officer, Judicial Commission of NSW

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
- The Honourable Justice RA Hulme
- Mr H Donnelly (Convenor)

Civil Trials Bench Book Committee

- The Honourable J Wood AO QC (Chair)
- The Honourable M Campbell QC
- The Honourable Justice Hoeben AM RFD
- The Honourable Justice Hislop
- His Honour Judge Johnstone
- His Honour Judge Elkaim
- His Honour Magistrate Heilpern
- The Honourable David Hunt AO QC
- Mr E Schmatt PSM
- Ms R Windeler
- Ms Z Shahnawaz (Convenor until 19 December 2009)
- Ms F Findlay (Convenor from 13 January 2010)

Local Court Bench Book Committee

- His Honour Deputy Chief Magistrate Cloran
- Her Honour Deputy Chief Magistrate Mottley
- His Honour Magistrate Heilpern
- Her Honour Magistrate Freund
- Ms R Cook (Convenor)

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
- Dr M Dodson AM
- Dr J Cashmore AO
- Mr E Schmatt PSM
- Ms R Windeler
- Ms K Lumley (Convenor)

Sexual Assault Handbook Committee

- Her Honour Judge Murrell SC (Chair until 29 April 2010)
- His Honour Judge Ellis (Chair from 29 April 2010)
- His Honour Judge Knox SC
- Ms R Windeler
- Ms K Lumley (Convenor)

Audit and Risk Management Committee

- Mr Peter Whitehead BA LLB TEP, appointed 5 August 2008, renewed 1 July 2009 for two years. Mr Whitehead is the National Manager Fiduciary Solutions, Perpetual and until 30 June 2009 was the NSW Public Trustee.
- Ms Dianne Barden B Sc (Hons), appointed 26 September 2008 until 21 September 2009. Ms Barden is the Director, Management Services Division, Office of State Revenue.
- Mr Alex Smith AM, appointed 1 December 2009 for two years. Mr Smith is the former Deputy Director General, Department of Premier and Cabinet, NSW and has had 40 years' experience in the NSW public sector having held senior positions in the Department of Premier and Cabinet and the Department of Land and Water Conservation.
- Mr Murali Sagi, Director, Information Management and Corporate Services, Judicial Commission. Mr Sagi's qualifications and biography are found on p 69.

Appendix 5

Conference topics

Annual Conferences

Local Court Annual Conference, July 2009

- "Chasing Rabbits", Dr C J Lennings, LSC Psychology
- "Current Trends in Drugs", Mr Paul Dillon, Drug and Alcohol Research and Training Australia, Sydney and National Communications Manager, National Cannabis Prevention and Information Centre
- "Criminal Law Update", The Honourable Justice Rod Howie, Supreme Court of NSW
- "Oral Judgments Workshop", His Honour Judge Phil Moran, District Court of New Zealand, and Her Honour Judge Wendy Wilmoth, County Court of Victoria
  - Introduction and Opening Remarks
  - Introductory Lecture: Effective Oral Judgments
  - Workshop: Drafting the Oral Judgment
  - Simplifying and Humanising
  - Workshop: Delivering the Oral Judgment
  - Oral Judgments as Performance — Lecture and Video
- "Civil Law Update", His Honour Judge Peter Johnstone, District Court of NSW
- "Life After Prison", Ms Alison Churchill, Chief Executive Officer, Community Restorative Centre Inc; Ms Sandra Sunjic, Strategic Manager, Drug and Alcohol Post-release Care Planning Services, Justice Health; Ms Maureen Tangney, Assistant Director General, Policy and Legal, NSW Attorney General's Department
- "Open Forum", His Honour Chief Magistrate Graeme Henson, His Honour Deputy Chief Magistrate Paul Cloran and Her Honour Deputy Chief Magistrate Jane Mottley

Supreme Court Annual Conference, August 2009

- "Keynote Address: Proprietary Estoppel in Domestic and Commercial Contexts", The Right Honourable Lord Neuberger of Abbotsbury, House of Lords
- "International Conventions and Australian Domestic Law", The Honourable Robert French, Chief Justice of Australia
- "Developments in Criminal Trials", The Honourable Justice Rod Howie, Supreme Court of NSW
- "Outside the Construction Zone: Three Aspects of Practical Importance in Insurance Litigation", The Honourable Justice Nigel Rein, Supreme Court of NSW
- "Current (or is that Concurrent?) Trends in Expert Evidence and Expert Determination", The Honourable Justice McClellan, Chief Judge at Common Law; The Honourable Justice Bergin, Chief Judge in Equity; the Honourable Justice Hoeben AM RFD; and the Honourable Justice Brereton AM RFD
- "Government Liability in Tort – Public Authorities", Professor Prue Vines, Presiding Member, Faculty of Law, University of NSW
- "Running the War in Iraq", Major General (Retired) Jim Molan AO DSC
- "Ngara Yura: Exchanging Ideas", The Honourable Justice Allsop, President, Court of Appeal and The Honourable Justice McCallum, Supreme Court of NSW
- "Astronomers Behaving Badly", Professor Fred Watson AM, Astronomer in Charge of the Anglo-Australasian Astronomical Observatory, Coonabarabran

Industrial Relations Commission Annual Conference, September 2009

- "Open Forum: Workload and Case Management Update", The Honourable Justice Walton, Vice President, Industrial Relations Commission
- "The Carbon Trading Emissions Scheme", Dr Richard Denniss, Executive Director, Australia Institute
- "Court/Commission Transfer Arrangements for the Work from the Chief Industrial Magistrate: Civil Claims; Occupational Health & Safety Prosecutions", The Honourable Justice Walton, Vice President, Industrial Relations Commission
- "Industrial Relations in the Bluescope, Port Kembla Steelworks", Mr Ian Cummin, Executive General Manager, People and Organisation Performance, Bluescope Steel
- "OHS Developments in the New Federal System", Professor Michael Quinlan, School of Organisation and Management, University of NSW
- "Bluescope Procedures", Discussion led by The Honourable Justice Walton, Vice President, Industrial Relations Commission
- "The Power of Sorry", Mr Chris Wheeler, NSW Deputy Ombudsman
- "Mediation and Repeat Participants", Ms Joanna Kalowski, International Mediator
- "Stress Management — a Role for Alternative Therapies", Ms Elizabeth J Rea, Aromatherapist

District Court Annual Conference, April 2010

- "Court of Appeal Review", The Honourable Justice James Allsop, President,
- NSW Court of Appeal
- "Indigenous Offenders", Professor Mick Dodson AM
- "People with Mental Health Disorders in the Criminal Justice System", Dr Eileen Baldry, Associate Professor, School of Social Sciences and International Studies, University of NSW
- "Development of the Brain", Professor Ian Hickie AM, Executive Director, Brain & Mind Research Institute and Professor of Psychiatry, University of Sydney
- "Introduction to 360 Degree Feedback", Ms Maryanne Mooney, Director, Full Circle Feedback
- "Communicating in Court", Ms Robyn Fraser, Speech and Drama Teacher
- "Court of Criminal Appeal Review", The Honourable Justice Carolyn Simpson, Supreme Court of NSW
- "Running a CTTT Case", The Honourable Justice Peter Hall, Supreme Court of NSW
- "Delivering Oral Judgments: An Introduction and Workshop", Mr Tom Wodak
- "Q & A: Everything you wanted to know but did not like to ask", Panel: The Honourable Justice Blanch AM, His Honour Judge Ron Solomon, His Honour Judge Tony Garling, Her Honour Judge Helen Murrell SC, Her Honour Judge Ann Ainslie-Wallace, His Honour Judge Richard Rolfe, His Honour Judge Peter Berman SC

Local Court Annual Conference, June 2010

- "Opening Address", The Honourable John Hatzistergos MLC, Attorney General and Minister for Justice
- "Hypotheticals on Evidence", Mr Christopher Maxwell QC, Deputy Senior Crown Prosecutor
- "Criminal Law Update", His Honour Judge Peter Berman SC, District Court of NSW
- "NSW Caselaw Re-development Project", Ms Donna Reece, Caselaw Support Officer and Ms Megan O'Brien, Caselaw Business Analyst, NSW Department of Justice and Attorney General
- "Civil Law Update", Her Honour Judge Margaret Sidis, District Court of NSW
- "Implications for Magistrates of Cognitive Impairment in the Offender Population", Professor Susan Hayes AO, Professor of Behavioural Sciences, Head, Centre for Behavioural Sciences, University of Sydney
- "Physical Injuries and Wounds from a Forensic Pathologist's Perspective", Professor Jo Duflou, Chief Forensic Pathologist, Department of Forensic Medicine, Sydney
- "The Use of DNA Evidence", Mr Robert Goetz, Acting Deputy Director, Criminalistics, Division of Analytical Laboratories
- "Combining Justice and Treatment — Innovation and success in our Drug Court programs", His Honour Judge Roger Dive, Senior Judge, Drug Court of NSW
- "Being a Local Court Magistrate — 'What if?…'", His Honour Deputy Chief Magistrate Paul Cloran
- "Communicating in Court", Ms Robyn Fraser, Speech and Drama Teacher, Rozelle
- "Open Forum", His Honour Chief Magistrate Graeme Henson, His Honour Deputy Chief Magistrate Paul Cloran and Her Honour Deputy Chief Magistrate Jane Mottley

Other Conferences

Local Court Southern and Northern Regional Conferences, March 2010

- "The New Coroners Act: What Has Changed and How Does it Affect Country Magistrates? Parts 1 & 2", Her Honour Magistrate Mary Jerram, State Coroner, His Honour Magistrate Hugh Dillon, Deputy State Coroner and Mr Don McLennan, Manager, Coronial Services NSW
- "Recent Developments in Care and Criminal Jurisdictions of the Children's Court", His Honour Judge Mark Marien SC, President, Children's Court of NSW
- "Sentencing Exercises", His Honour Magistrate David Heilpern, Senior Civil Magistrate
- "Hearsay – Some Aspects and a Review", Her Honour Magistrate Geraldine Beattie
- "LEPRA", His Honour Magistrate Chris Longley
- "A Hitchhiker's Guide to the Road Transport Legislation", Her Honour Deputy Chief Magistrate Jane Mottley
- "Computer Tips and Tricks", Ms Joy Blunt, Senior Systems Officer, Training, Judicial Commission of NSW
- "Tendency/Coincidence Evidence", His Honour Magistrate Peter Dare SC
- "Dealing with the Self-represented Accused", His Honour Magistrate John Andrews
- "From Adjudication to Mediation in the Local Court", Her Honour Magistrate Sharon Freund

Children's Court Section 16 Conference, September 2009

- "Welcome and Report on the Current Status of the Wood Commission Reforms — Where Are We Now?", His Honour Judge Mark Marien SC, President, Children's Court of NSW and Ms Katherine McFarlane, Executive Officer
- "The Care Jurisdiction", His Honour Magistrate Scott Mitchell
- "Children's Court Clinic — Assessment Orders", Mr Mark Allerton, Director, Children's Court Clinic and His Honour Magistrate Scott Mitchell
- "Sentencing in the Children's Court", Her Honour Magistrate Hilary Hannam and His Honour Magistrate Gary Still
- "Unrepresented Litigants", The Honourable Justice Jan Stevenson, Family Court of Australia
- "Juvenile Justice: Bail, Youth Conduct Orders and Youth Conferencing", Mr Peter Muir, CEO, Department of Juvenile Justice
- "General Discussion: Victims and Witnesses of Crime Support and Nowra Circle Update", His Honour Magistrate Graham Blewitt AM

Children's Court Section 16 Conference, March 2010

- "Non-adversarial Courts and Tribunals and the Ethical and Practical Duties of Legal Practitioners", The Honourable Greg James QC, President, Mental Health Review Tribunal
- "The Impact of the Wood Reforms", Ms Jenny Mason, Director-General, NSW Department of Human Services
- "Child Protection and the Ombudsman's Office", Mr Steve Kinmond, Deputy Ombudsman, NSW Ombudsman's Office
- "The Youth Drug and Alcohol Court and Other Therapeutic Jurisprudence Programs", Her Honour Magistrate Hilary Hannam
- "Apart from Being Short, Vegephobic and Addicted to Technology, What Makes Kids Different?", Mr Mark Allerton, Director, Children's Court Clinic
- "Children of Imprisoned Parents", Ms Gloria Larman, SHINE for Kids and Ms Alexis Lander, A/Director, Child Protection Co-ordination and Support Unit, Corrective Services NSW

Orientation Programs

Magistrates' Orientation Program, May 2010

- Orientation
- Judicial Attributes
- Boiling the Frog
- Judicial Attitudes
- Judicial Practice
- Judgment Writing Template
- Unrepresented Litigants
- Judicial Communication
- Decision Making/Judgments
- Ex Tempore Judgments Workshop
- Group Sentencing Exercise 1
- Bail
- Court Craft in Practice
- Sentencing Principles
- Commonwealth Sentencing
- Managing Child Witnesses
- Group Sentencing Exercise 2
- Computer Tips and Tricks
- Stress Management
- Sentencing Exercise 3
- Concluding Remarks
- Everything You Wanted To Know But Were Afraid To Ask

National Judicial Orientation Program, April 2010

(joint program with NJCA and AIJA)

- Judicial Conduct In and Out of Court
- Maintaining Psychological and Physical Health
- Assessing the Credibility of Witnesses
- Court Room Control and Communication
- Court Craft — The Trial From Hell
- Judgment Writing
- Unconscious Judicial Prejudice
- Interpreters
- Cultural Barriers in the Court Room
- Litigants in Person
- Expert Evidence
- Sentencing
- Case Management

Appendix 6

Judicial education seminars, workshops and field trips

Supreme Court Seminar Series

- "*The Mental Health Legislation Amendment (Forensic Provisions) Act* 2008", The Honourable Greg James QC, President, Mental Health Review Tribunal, and Ms Sarah Hanson, Forensic Team Leader, Twilight Seminar, 20 October 2009.
- "Concurrent Evidence in the Supreme Court", The Honourable Justice Peter McClellan, Chief Judge at Common Law, and The Honourable Justice Clifton Hoeben AM RFD, Twilight Seminar, 7 December 2009.

Industrial Relations Commission Seminar Series

- "Maximising Effective Use of AustLII and Free Access to Law", Professor Graham Greenleaf, Professor of Law, University of NSW, Twilight Seminar, 18 November 2009.
- "*Kirk v Industrial Relations Commission; Kirk Group Holdings Pty Ltd v WorkCover Authority of NSW*", Professor Neil Foster, University of Newcastle, Breakfast Seminar, 3 February 2010.
- "Superannuation for Judges", Mr Daryl Dixon and Mr Alan Dixon, Dixon Superannuation and Advisory Services, Twilight Seminar, 13 May 2010.

Land and Environment Court Seminar Series

- "Biodiversity Offsets: Applying a concept within a planning and legal framework. Part 1", Acting Commissioner Dr Paul Adam, Twilight Seminar, 5 August 2009.
- "Biodiversity Offsets: Applying a concept within a planning and legal framework. Part 2", Acting Commissioner Dr Paul Adam, Twilight Seminar, 2 September 2009.
- "Online Legal Research", Ms Anna Clifton, Librarian, Land and Environment Court of NSW, Twilight Seminar, 29 September 2009.
- "Introduction to Online Legal Research", Ms Anna Clifton, Librarian, Land and Environment Court of NSW, Twilight Seminar, 17 February 2010.
- "Advanced Online Legal Research", Ms Anna Clifton, Librarian, Land and Environment Court of NSW and Ms Vanessa Blackmore, Manager of Library Services, Department of Justice and Attorney-General, Twilight Seminar, 24 February 2010.
- "Ex Tempore Judgments Workshop", Mr Tom Wodak, 8 April 2010.
- "Mastering Conflict: Concepts from Global Negotiation Insight Institute", Ms Tina Spiegel, Spiegel and Associates, Twilight Seminar, 8 June 2010.

District Court Seminar Series

- "How Does the Parole Authority Work?", Mr Ian Pike AM, Chair, State Parole Authority of NSW, Twilight Seminar, 27 August 2009.
- "The Independent Commission Against Corruption", The Honourable Jerrold Cripps QC, Breakfast Seminar, 14 October 2009.
- "*The Mental Health Legislation Amendment (Forensic Provisions) Act* 2008", The Honourable Greg James QC, President, Mental Health Review Tribunal, Twilight Seminar, 29 April 2010.

Local Court Sessions

- "Judgment Writing for the Local Court", Professor James Raymond, 10–11 September 2009.
- Local Court Metropolitan Seminar Series II, 16–19 November 2009
  - "Hearsay — Some Aspects and a Review", Her Honour Magistrate Geraldine Beattie.
  - "A Hitchhiker's Guide to the Road Transport Legislation", Her Honour Deputy Chief Magistrate Jane Mottley.
  - "LEPRA", His Honour Magistrate Chris Longley.
  - "Dealing with the Self-represented Accused", His Honour Magistrate John Andrews.
- Local Court Metropolitan Seminar Series I, February 2010
  - "Tendency/Coincidence Evidence", His Honour Magistrate Peter Dare SC.
  - "Sentencing Exercises", His Honour Magistrate David Heilpern, Senior Civil Magistrate.
  - "Computer Tips and Tricks", Ms Joy Blunt, Senior Systems Officer, Training, Judicial Commission of NSW.
  - "From Adjudication to Mediation in the Local Court", Her Honour Magistrate Sharon Freund.

Cross Jurisdictional Sessions

- "Judgment Writing Workshop: Cross-jurisdictional", Professor James Raymond, 17–18 September 2009.
- "What can Witnesses Really Remember?", Dr Helen Paterson, University of Sydney and Dr Richard Kemp, University of NSW, Twilight Seminar, 19 May 2010 (Wollongong).

Ngara Yura Program

- "Community Visit: Wallaga Lakes and Narooma Communities", 21–22 November 2009.
- "Contextualising Indigenous Family Violence — Considering Current Policies and Practices to Consider Pathways Forward", Dr Kyllie Cripps, Senior Lecturer, Faculty of Law, University of NSW, 9 March 2010.
- "Community Visit: Taree and Forster Communities", 26–27 June 2010.

Gaol Visits

- Visit to the Silverwater Correctional Complex, hosted by Mr Bob Dwyer, Security Manager, Metropolitan Reception and Remand Centre and Mr Gary McCahon, General Manager, Silverwater Women's Correctional Centre, 17 March 2010.
- Visit to the Windsor Correctional Complex, hosted by Ms Shari Martin, General Manager, Dillwynia Correctional Centre and Ms Marilyn Wright, General Manager, John Morony Correctional Centre, 31 March 2010.
- Visit to the Forensic Hospital at Malabar/ Long Bay, hosted by Ms Julie Babineau, Chief Executive, Justice Health, with presentation by the Honourable Patricia Staunton AM, Chairperson, Justice Health, 18 May 2010.

Appendix 7
Articles published by the Judicial Commission

Articles published by the Judicial Commission

- Justice James Allsop, "Appellate Judgments — The Need for Clarity" (2010) 9(4) TJR 403
- Lady Justice Arden DBE, "Human Rights and Civil Wrongs: Tort Law under the Spotlight" (2010) 9(4) TJR 353
- Dr Astrid Birgden, "A Compulsory Drug Treatment Program for Offenders in Australia: Therapeutic Jurisprudence Implications" (2009) 9(3) TJR 289
- Ms Vanessa Blackmore, "Quills to Keyboards early law reports in the Law Courts Library's Collection" (2009) 21(11) JOB 92
- Mr Bill Campbell PSM and Ms Camille Goodman, "Litigation against foreign States: the Foreign States Immunities Act 1985 (Cth)" (2009) 21(9) JOB 71
- Criminal Law Review Division, Department of Justice and Attorney General, "The Crimes (Appeal and Review) Amendment (Double Jeopardy) Act 2009" (2009) 21(10) JOB 79
- Mr Hugh Donnelly, "Offence Packages: a new feature on JIRS" (2009) 21(9) JOB 73
- Professor John Farrar, "Reasoning by Analogy in the Law" (2009) 9(3) TJR 309
- The Hon Robert French, "Remunerative employment of judges after the retirement from judicial office" (2010) 22(4) JOB 27
- The Hon Murray Gleeson AC QC, "The Judicial Method: Essentials and Inessentials" (2010) 9(4) TJR 377
- Justice Rod Howie, "Sentencing Update" (2010) 22(1) JOB 1
- Justice Rod Howie, "Making sense of the Evidence Amendment Act 2007" (2010) 22(5) JOB 35
- Justice David Ipp AO, "Maintaining the Tradition of Judicial Impartiality" (2009) 9(3) TJR 253
- Lord Igor Judge, "Judicial Independence and Responsibilities" 9(3) TJR 237
- Mr Jonathan Lee, "Criminal Procedure Amendment (Case Management) Act 2009 commences" (2010) 22(2) JOB 9
- Ms K Lumley, "Launch of Circle Sentencing DVD in NSW" (2009) 21(10) JOB 82
- Ms K Lumley, "Connecting with Far South Coast Aboriginal Communities" (2009) 21(11) JOB 89
- Ms Kathy Mack and Ms Sharon Roach-Anleu, "The Australian judiciary and professional development" (2009) 21(6) JOB 47
- Judge Helen Murrell SC, "Professional development program for District and County Court Judges" (2009) 21(8) JOB 63
- Judge Stephen Norrish QC, "Addressing the Special Needs of Particular Offenders in Sentencing" (2009) 9(3) TJR 267
- Justice Tony Pagone, "Centipedes, liars and unconscious bias" (2010) 9(4) TJR 433
- Lord Phillips of Worth Matravers, "The Rule of Law in a Global Context" (2009) 9(3) TJR 247
- Justice Brian Preston, "A Judge's Perspective on Using Sentencing Databases" (2010) 9(4) TJR 421
- Justice Brian Preston, "Avenues for litigating the effects of climate change" (2009) 21(7) JOB 55
- Professor James Raymond, "Legal Existentialism: Reasoning beyond Reason in the Law" (2009) 9(3) TJR 331
- The Hon J J Spigelman AC, "The Hague Choice of Court Convention and International Commercial Litigation" (2010) 9(4) TJR 389
- Associate Professor Alex Steel, "New fraud and identity-related crimes in NSW" (2010) 22(3) JOB 17
- Professor Prue Vines, "Straddling the Public/Private Divide: Tortious Liability of Public Authorities" (2010) 9(4) TJR 445

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. All Commission publications can be purchased through the NSW Government's online shop at 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 *Jurisic* 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
33 The impact of the standard non-parole period sentencing scheme on sentencing patterns in New South Wales, 2010

Sentencing Trends & 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
37 Common offences in the NSW Local Court, November 2008
38 Sentencing in complicity cases — Part 1: Joint criminal enterprise, June 2009
39 Sentencing in complicity cases — Abettors, accessories and other secondary participants, February 2010

Journals

- Judicial Officers' Bulletin (Vols 1–22)
- The Judicial Review (Vols 1–9)

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 Court Bench Book
- Sentencing Bench Book
- Sexual Assault Handbook

Brochures

- Complaints against judicial officers
- Disabilities information
- From controversy to credibility: 20 years of the Judicial Commission of New South Wales
- 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

DVDs

- The role of the judge
- Concurrent evidence: New methods with experts
- Circle Sentencing in New South Wales

Appendix 9
Ngara Yura Program

The Judicial Commission is committed to promoting Aboriginal Cultural Awareness. We established a program in 1992 which was renamed the Ngara Yura Program in 2008. This program is designed to inform judicial officers about Aboriginal society, customs and traditions and promote an exchange of ideas and information. It is based on Recommendations 96 and 97 of the Royal Commission into Aboriginal Deaths in Custody, National Report, 1991, Vol 5, Australian Government Printing Service, Canberra.

"Recommendation 96:

That judicial officers and persons who work in the court service and in the probation and parole services and whose duties bring them into contact with Aboriginal people be encouraged to participate in an appropriate training and development program, designed to explain contemporary Aboriginal society, customs and traditions. Such programs should emphasise the historical and social factors which contribute to the disadvantaged position of many Aboriginal people today and to the nature of relations between Aboriginal and non-Aboriginal communities today. The Commission further recommends that such persons should wherever possible participate in discussion with members of the Aboriginal community in an informal way in order to improve cross-cultural understanding."

"Recommendation 97:

That in devising and implementing courses referred to in Recommendation 96 the responsible authorities should ensure that consultation takes place with appropriate Aboriginal organisations, including, but not limited to, Aboriginal Legal Services."

Appendix 10
Assistance to other jurisdictions and organisations

In 2009–10 the Commission provided assistance and advice to the following:

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. This year, the Commission as part of the Secretariat and in conjunction with the Supreme People's Court of the People's Republic of China, has been arranging the next Round Table Meeting of the Forum to be held in Beijing in October 2010.

- **International Organisation for Judicial Training (IOJT):** The IOJT was established to promote the rule of law by supporting the work of judicial education institutions around the world. The Chief Executive was elected to the Board of Governors of the IOJT in October 2010. The Education Director was a member of the Local Organising Committee for the IOJT conference in October 2009. The Chief Executive, Education Director and Manager, Conferences and Communication attended the IOJT conference at which the Education Director presented an interactive skills session with Deputy Chief Magistrate Cloran and Magistrate Heilpern.
- **Magisterial Service of Papua New Guinea:** The Commission continues to assist the PNG magistracy with professional development and judicial training programs.
- **Sri Lanka:** The Commission was invited by the Commonwealth Secretariat on behalf of the Sri Lankan judiciary to Sri Lanka to provide advice and conduct an assessment of the judiciary's training needs, computerised case management systems and judicial support databases.

Judicial support and case management systems

- **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 (QSIS):** we continue to host, maintain and support QSIS for the Queensland Department of Justice and Attorney General.
- **Commonwealth Sentencing Database (CSD):** we continue to host, maintain and support the CSD which is a joint project with the National Judicial College of Australia and the Commonwealth Director of Public Prosecutions.
- **Forum Sentencing Management System (FSMS):** we finalised an agreement with the Department of Justice and Attorney General to customise our existing core case management system for the Forum Sentencing Program. This will be released in November 2010.

Appendix 11
Working with other organisations

Our officers participate in a number of committees and steering groups to represent the Judicial Commission. Details of their involvements are:

Mr Ernest Schmatt PSM, Chief Executive

- Board of Governors to the International Organisation for Judicial Training
- 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
- Honorary Associate in the Graduate School of Government, University of Sydney
- National Judicial Orientation Program Steering Committee, National Judicial College of Australia

Ms Ruth Windeler, Education Director

- Australia and New Zealand Judicial Educators Group
- Continuing Legal Education Association of Australasia
- National Judicial Orientation Program Steering Committee
- International Organisation for Judicial Training Local Organising Committee
- International Organisation for Judicial Training
- Magisterial Service of PNG
- National Judicial Institute of Canada

Mr Hugh Donnelly, Director, Research and Sentencing

- Directions in Jury Trials, New South Wales Law Reform Commission
- Sexual Assault Review Committee, Office of the Director of Public Prosecutions
- NSW Sexual Offences Working Party

Mr Murali Sagi, Director, Information Services and Administration

- Justice Sector Chief Information Officers' Committee
- Justice Sector Information Exchange Co-ordinating Committee
- Joined-up-Justice Governance Committee
- NSW Government Open Source Forum
- Adjudicator — Australasian Reporting Awards

Ms Ruth Sheard, Manager, Conferences and Communication

- Asia Pacific Judicial Reform Forum Secretariat (Operations Unit)

Appendix 12
Visitors to the Commission

- Dr G Mohan Gopal, Director, National Judicial Academy, India, 25 September 2009
- Ms Tamiko Nakamura, Japan Science and Technology Agency, 28 October 2009
- Dr Tsuyoshi Hondou, Japan Science and Technology Agency, 28 October 2009
- Mr Tan Siong Thye, Senior District Judge, Subordinate Courts of Singapore, 29 October 2009
- Ms Foo Tuat Yien, Principal District Judge, Subordinate Courts of Singapore, 29 October 2009
- Mr Hassan Ahmed, Director, Judicial Academy, Emirate of Abu Dhabi, 30 October 2009
- Mr Ahmed Eltinay, Judicial Department, Abu Dhabi, 30 October 2009
- Justice Mohammed Elayoubi, The High Institute for the Magistracy, Morocco, 30 October 2009
- Mr Philippe Nsoa, National School of Administration and the Magistracy, Cameroon, 30 October 2009
- Mr Christophe Nlend, National School of Administration and the Magistracy, Cameroon, 30 October 2009
- The Honourable Justice David Wangutusi, Executive Director, Judicial Studies Institute, Uganda, 30 October 2009
- The Honourable Justice John Tsekooko, Supreme Court of Uganda, 30 October 2009
- Mr Stephen Lodge, Department of Justice, Victoria, 16 December, 2009
- Ms Yasmin Neenan, Department of Justice, Victoria, 16 December, 2009
- Professor Ted Wilkes, Curtin University of Technology, 16 February 2010
- Mr Gino Vumbaca, Australian National Council on Drugs, 16 February 2010
- The Honourable Justice David Wong, High Court of Sabah and Sarawak, 26 February 2010
- The Honourable Rob Hulls, MP, Attorney General and Deputy Premier of Victoria, 16 April 2010
- Ms Mary Polis, Office of the Deputy Premier of Victoria, 16 April 2010
- Judge Yoshinora Hashiguchi, Kagoshima District Court, Japan, 20 May 2010
- His Lordship the Honourable Asoka de Silva, Chief Justice of Sri Lanka, 2 June 2010
- The Honourable Justice K T Chitrasiri, Judge of the Court of Appeal, Sri Lanka, 2 June 2010
- Mr Palitha Fernando, Additional Solicitor General, Attorney General's Department, Sri Lanka, 2 June 2010
- Ms Shirani de Fontgalland, Legal and Constitutional Affairs Division, Commonwealth Secretariat, London, 4 June 2010
- Ms Samantha Burchell, Acting Executive Director, Victoria Judicial College, 17 June 2010

Delegations

- Delegation from the High People's Court of Guangdong Province, China, led by Justice Liu, a Vice President of the High People's Court of Guangdong, 3 February 2010
- Delegation of 10 lawyers participating in the Australia-China Legal Professional Development Program, organised by the Commonwealth Attorney General's Department, 26 March 2010
- Delegation from the China Institute of Applied Jurisprudence, Supreme People's Court of China led by Mr He Xiao-rong, 1 June 2010

Appendix 13
Overseas visits

- In March 2010, the Commission's Chief Executive, Ernest Schmatt PSM, in his capacity as a member of the Advisory Board of the Commonwealth Judicial Education Institute (CJEI), attended its Biennial Meeting in Kuala Lumpur. The meeting's theme was "Developing Judicial Education Programs to Respond to Contemporary Needs". The meeting was attended by CJEI members from 23 Commonwealth countries. It provided an opportunity to exchange information about developments across the various jurisdictions and to create links with other Commonwealth judicial education providers.
- In April 2010, the Commission's Education Director, Ms Ruth Windeler, travelled to Goroka, PNG 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.
- In June 2010, the Commission's Chief Executive, Mr Ernest Schmatt PSM and the Director, Information Management, Mr Murali Sagi PSM, travelled to Sri Lanka. They were invited by the Commonwealth Secretariat on behalf of the Sri Lankan judiciary to provide mentoring and undertake an objective assessment of the Sri Lankan judical sector's needs in relation to capacity building of judicial officers and prosecutors through education programs, establishing a computerised case management system in the courts and prosecution offices and setting up judicial support databases. The visit was funded by the Commonwealth Secretariat.

Appendix 14

Exchange of information

The Commission actively seeks to exchange information with other government agencies, academic institutions and individuals. Since its establishment, the Commission has built strong links with similar organisations in other countries in order to share knowledge and experience, particularly in the areas of judicial education and criminological research. This has proved to be a most valuable network and, as a result, the Commission now holds a wealth of information concerning these subjects.

In 2009–10, the Commission had discussions and exchanged information with the following organisations:

Australian

- Administrative Appeals Tribunal
- Administrative Decisions Tribunal
- Attorney General's Department (Cth)
- Australian Agency for International Development
- Australian Bureau of Statistics
- Australian Institute of Criminology
- Australian Law Reform Commission
- 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, Department of Justice and Attorney General
- Department of Aboriginal Affairs
- Department of Commerce, Office of the Government Chief Information Officer
- Department of Corrective Services
- Department of Justice and Attorney General (NSW)
- Department of Justice and Attorney General (Qld)
- Department of Juvenile Justice
- Department of Premier & Cabinet
- 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 Force
- New South Wales Sentencing Council
- Office of the Director of Public Prosecutions (NSW)
- Ombudsman's Office of New South Wales
- Parliamentary Counsel's Office
- 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 Western 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
- Court of Appeal, Seychelles
- Federal Court, Malaysia
- High Court of Delhi, New Delhi, India
- High Court of Malaya
- High Court of Sabah and Sarawak
- High Court of the Solomon Islands
- Institute of Judicial Studies, New Zealand
- International Association of Women Judges
- International Organisation for Judicial Training, Israel
- Judicial Education Reference, Information and Technical Transfer (JERITT) Project, Michigan, USA
- Judicial Studies Board, London
- Magisterial Services of Papua New Guinea
- Malaysian Administrative Modernisation and Management Planning Unit, Prime Minister's Department, Malaysia
- 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 Judicial Academy, Bhopal, India
- National Judicial Institute, Canada
- Philippines Judicial Academy, Manila
- Subordinate Courts of Singapore
- Supreme Court of Bangladesh
- Supreme Court of Canada
- Supreme Court of Indonesia
- Supreme Court of Maldives
- Supreme Court of Nepal
- Supreme Court of the Philippines
- Supreme Court of Singapore
- Supreme Court of Sri Lanka
- Supreme People's Court, Beijing, China
- University of Toronto, Canada
- University of Windsor, Canada
- York University, Canada

Appendix 15
Presentations by Commission officers

- "Interactive Skills Training for Judges", Presentation by Ms R Windeler with Deputy Chief Magistrate Cloran and Magistrate Heilpern at the International Organisation for Judicial Training Conference Sydney, 26 October, 2009
- "Familiarisation/Orientation", Presentation by Ms R Windeler at the National Judicial Orientation Program, Glenelg, South Australia, 8 November 2009
- "A Review of Standard Non-Parole Periods and their Impact on Sentencing Trends", Presentation by Mr H Donnelly at the Law Society of New South Wales Young Lawyers Continuing Legal Education Annual One Day Seminar: Criminal Law, Sydney, 20 March 2010
- "Familiarisation/Orientation", Presentation by Ms R Windeler at the Magistrates' Orientation Program, Goroka, Papua New Guinea, 12 April 2010
- "Judicial Communication", Presentation by Ms R Windeler at the Magistrates' Orientation Program, Goroka, Papua New Guinea, 13 April 2010
- "Familiarisation/Orientation", Presentation by Ms R Windeler at the National Judicial Orientation Program, Broadbeach, Queensland, 18 April 2010
- "Familiarisation/Orientation", Presentation by Ms R Windeler at the Magistrates' Orientation Program, Hunter Valley, 2 May 2010
- "Judicial Communication", Presentation by Ms R Windeler at the Magistrates' Orientation Program, Hunter Valley, 4 May 2010
- "The Role and Function of the Judicial Commission of NSW", Presentation by Mr E Schmatt at the Judicial Service Commission, Colombo, Sri Lanka, 22 June 2010
- "The Role and Function of the Judicial Commission of NSW", Presentation by Mr E Schmatt for the Attorney General's Department, Colombo, Sri Lanka, 24 June 2010
- "Achieving Transformation in the Justice Sector Through Technology", Presentations by Mr M Sagi at the Judicial Services Commission, Colombo, Sri Lanka, 22 June 2010 and at the Attorney General's Department, Colombo, Sri Lanka, 24 June 2010

Appendix 16
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.

Freedom of Information Report

Name of Agency:	Judicial Commission of New South Wales
Period from:	1 July 2009–30 June 2010
Agency reference no:	1640
Contact person:	Freedom of Information Co-ordinator

Applications and other details

In 2009–10 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.

Appendix 17

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 2009–10, the Commission is not required to reproduce the code of conduct.
Controlled entities, disclosure of	The Commission has no controlled entities.
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 *Public Sector Employment and Management Act* 2002.
Events with a significant effect on the succeeding year after the balance date	Not applicable.
Executive officers, performance	Not reported because the Commission's executive officers are not employed under the *Public Sector Employment and Management Act* 2002 but under the *Judicial Officers Act* 1986.
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.
Multicultural Policies and Services Program	Refer to p 56.
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	Refer to p 59 for our environmental reporting.

Glossary

AIJA — Australasian Institute of Judicial Administration

Appointed Member — A non-judicial member of the Judicial Commission: see also Official Member.

Bench Books — Reference books for judicial officers.

Complaint — 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.

Conduct Division — A special panel that examines a particular complaint referred to it by the Commission.

Education Day — Calculated on the basis of 5 to 6 instructional hours attended by a judicial officer.

Help Desk — A telephone service for judicial officers that provides assistance with all aspects of computer usage.

JIRS — see Judicial Information Research System.

Judicial Commission — 1. An independent statutory organisation established by the *Judicial Officers Act* 1986.
2. The Appointed Members and Official Members, collectively.

Judicial Information Research System (JIRS) — An online legal reference tool for judicial officers, relevant government organisations and members of the legal profession.

Judicial Officer — As defined in the *Judicial Officers Act* 1986:

- a judge or associate judge of the Supreme Court
- a member (including a judicial member) of the Industrial Relations Commission
- a judge of the Land and Environment Court
- a judge of the District Court
- the president of the Children's Court
- a magistrate
- the president of the Administrative Decisions Tribunal.

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.

Ngara Yura Program — Aboriginal cultural awareness program for judicial officers.

NJCA — National Judicial College of Australia

NSW — New South Wales

Official Member — A judicial member of the Judicial Commission.

Pre-bench Training — An induction program for newly appointed magistrates to assist them with their transition to the bench.

Vexatious complainant — The *Judicial Officers Act* 1986 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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Entries in *italics* indicate compliance with statutory reporting requirements

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Five years at a glance

	2005–06	2006–07	2007–08	2008–09	2009–10
Judicial education					
Number of judicial education days per year	1,300	1,486	1,294	1,396	1,554
Number of educational programs	35	28	34	38	39
Overall satisfaction rating with judicial education programs	87%	90%	91%	90%	91%
% of voluntary attendance at annual conferences	87%	92%	88%	86%	90%
% 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	5	5.2
Average number of training days undertaken per judicial officer	–	5	4.4	4.8	5.3
% of judicial officers who attended at least 2 days of judicial training	88%	92%	88%	86%	90%
Number of publications (including bench book updates, bulletins, journals, education monographs and training DVDs)*	19	20	27	24	23
Number of computer training sessions	210	120	105	67	43
Total help desk enquiries	566	582	685	523	408
Research and sentencing					
JIRS usage (average page hits per month)	47,336	45,898	56,722	77,684	84,312
% of JIRS availability	97%	99%	99%	99%	99%
Number of enhancements to JIRS	3	4	5	8	12
Timeliness of sentencing material on JIRS					
– Recent Law items posted on JIRS	–	–	2 weeks	2 weeks	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)	1–4 weeks	3 weeks	1–4 weeks	4 weeks	4 weeks
– Sentencing statistics loaded on JIRS (within number of months of receipt)	1–2 months	1–3 months	2 months	1–3 months	1–4 months
Number of sentencing trends papers and monographs	1	4	3	2	2
Timely *Sentencing Bench Book* updates	n/a	2	5	4	3
Timely updates to the *Criminal Trial Courts Bench Book*	3	4	3	6	4
Lawcodes: % of new and amended offences coded and distributed within 4 days of commencement	100%	100%	100%	100%	100%
Complaints					
% of complaints acknowledged within 1 week of receipt	100%	100%	100%	100%	100%
% of complaints examined within 6 months of receipt	95%	97%	99%	92%	91%
% of complaints examined within 12 months of receipt	100%	100%	100%	100%	98%
Complaints received (number)	69	53	66	55	70
Complaints examined (number)	83	58	66	49	64
Our organisation					
Inhouse staff (number)	38	39	39	39	38
Length of service: 5 years or greater	55%	62%	61%	59%	73%
Freedom of information requests	0	0	0	0	0
Environmental sustainability					
Total energy used	493GJ	552GJ	433GJ	550GJ	521GJ
% of recycled paper used	80%	100%	100%	100%	100%
Financial management					
Revenue from Parliament	$4.922 M	$4.763 M	$4.757 M	$4.645 M	$4.944 M
Retained revenue (sale of goods & services, investment income, etc)	$710,000	$702,000	$598,000	$678,000	$687,000
Expenditure	$4.880 M	$5.024 M	$5.375 M	$5.471 M	$5.655 M

Judicial Commission of NSW

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