



Annual Report 2007–08

Judicial Commission of New South Wales

Promoting excellent judicial performance

About the Commission

Our vision

Excellence in judicial performance.

Our purpose

To assist judicial officers attain excellence in judicial performance.

Our values

Integrity. Teamwork. Trust. Responsiveness.
Impartiality. Fairness. Confidentiality. Transparency.
Innovation. Professionalism. Continuous
Improvement. Consistency.

Our role

The Commission is an independent statutory corporation and part of the judicial arm of government. Our primary goals are:

- a better informed and more professional judiciary
- improved consistency in sentencing
- effective examination of complaints against judicial officers.

Our work promotes excellence in judicial performance, enhances public confidence in the judiciary, and improves the quality and efficiency of judicial decision-making.

An important part of the NSW justice sector, we work closely with the judiciary, and exchange information with the courts, the Attorney General's Department, the Office of the Director of Public Prosecutions, the Legal Aid Commission, the Sentencing Council and other justice sector agencies to improve the delivery of justice to the people of NSW. The Commission is a recognised world leader in judicial education, sentencing research and judicial support systems, and has been used as a model for similar Australian and international organisations.

The Commission is funded by the NSW Parliament and is required to report annually to Parliament.

Who we serve

The Commission provides its services to NSW judicial officers, the courts, other justice sector agencies, and the public of NSW.

Meeting community expectations

The community expects judicial officers to be competent and to conduct themselves in a professional manner. We assist judicial officers to meet these expectations by:

1. receiving input on community values through:
 - the community members on the Commission
 - staff representation on interagency committees
 - approaches from interest groups
 - presentations by independent experts at educational sessions
2. providing a formal procedure for the community to complain about the ability or behaviour of judicial officers and have their concerns examined
3. incorporating information gathered from complaints into our education sessions and publications.

13 October 2008

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

Dear Attorney

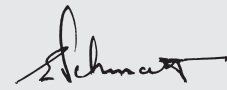
The Judicial Commission of New South Wales has pleasure in presenting to you the report of its activities for the year ended 30 June 2008.

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

Promoting excellent judicial performance

Contents

20 years of the Commission

The Judicial Commission was established by the NSW Parliament under the *Judicial Officers Act 1986* in response to calls for a formal mechanism to review sentences and sentencing practice, and to give effect to judicial accountability. Amendments to the Act in 1987 established the Commission as a statutory corporation to give it independence from Executive Government and to provide for staff to be employed to carry out the Commission's work.

In October 2007, the Judicial Commission celebrated 20 years of achievement in promoting excellence in judicial performance. Over that period, the Commission's work has contributed to:

- improved judicial performance through the provision of a comprehensive continuing judicial education program
- increased public confidence in the administration of justice and sentencing decisions through enhancing the skills of judicial officers
- improved efficiency and more effective use of judicial resources through the development of an online judicial decision-support system (JIRS)
- improved consistency of approach to sentencing and reduced sentencing errors through the provision of accurate sentencing information
- improved access to justice for the public through the provision of transparent and accessible sentencing information
- enhanced administration of justice through improved resolution of complaints against judicial officers.

The Commission looks forward to continuing to build on its achievements and developing innovative ways to provide judicial education and sentencing information.

For more information on the Commission's history, see K Lumley, "From controversy to credibility: 20 years of the Judicial Commission of New South Wales" (2007) 19(9) *Judicial Officers' Bulletin* 73, also available at www.judcom.nsw.gov.au.

About the Commission

Vision, purpose, values, role and history inside front cover

2007–08 at a glance

Resources, achievements, challenges and future directions 2

President's foreword

Overview of our strategic directions 4

Chief Executive's report

Overview of operational and management issues 6

Key results

Summary of performance targets and results relating to our core responsibilities 8

Service measures

Summary of performance targets and results relating to our service delivery 9

Judicial education

Judicial education activities, including conferences, seminars and publications, and how they contribute to high standards of judicial performance 10

Research and sentencing information

Research and sentencing activities, including JIRS, sentencing publications, sentencing support and analysis of sentencing trends, and how they promote consistency of approach to sentencing 20

Complaints against judicial officers

Complaints process, including details of complaints received, how they were resolved, and how our work promotes judicial accountability through effective complaint handling 28

Our organisation

Organisational structure, management practices and operational performance 36

Financial management

Financial position, including audited financial report . . 48

Appendices 72

Glossary 94

Index 95

Five years at a glance inside back cover

2007–08 at a glance

Highlights

Judicial education

- Piloted a 360 Degree Feedback Program to provide judicial officers with constructive feedback on their performance: see page 12.
- Finalised a study of magistrates' educational needs which will help us design more relevant and practical professional development programs: see page 16.
- Revitalised the Ngara Yura Program to increase awareness among judicial officers about the impact of cultural issues on Aboriginal people in the justice system: see page 17.
- Achieved the target of publishing two substantial new resources, the *Civil Trials Bench Book* and the *Sexual Assault Handbook*, to assist judicial officers with the challenges of managing and conducting trials: see page 18.

Research and sentencing

- Launched two new sentencing databases, one for Commonwealth offences and one for environmental crimes dealt with by the Land and Environment Court, to assist in achieving consistency of sentencing: see page 21.
- Made JIRS available to a wider audience, including NSW police prosecutors: see page 23.

- Increased usage of JIRS by 24% which will result in more reliable information in court and contribute to a more efficient criminal justice system: see page 23.
- Provided judicial officers with detailed information about sentencing practice through three publications: a monograph examining the diversion of mentally disordered persons from the criminal justice system; a paper comparing trends in full time imprisonment rates across jurisdictions; and a monograph addressing sentencing factors for environmental crimes: see page 25.

Complaints against judicial officers

- Determined 99% of complaints within six months of receipt, ensuring that complaints are resolved in a timely and efficient manner and enhancing community confidence in the administration of justice: see page 29.

Corporate operations

- Reviewed human resources practices and procedures and improved internal structures, processes and record keeping to better support service delivery: see page 43.
- Maintained a consistent standard of annual reporting, with our 2006–07 *Annual Report* receiving a Silver Award from the Australasian Reporting Awards.

Financial summary	2006–07 \$'000	2007–08 \$'000	Change %
Revenue			
Government contributions	4,763	4,757	-0.13 ▼
Revenue from other sources	702	598	-14.81 ▼
Total revenue	5,465	5,355	-2.01 ▼
Expenditure			
Judicial education	2,025	2,167	7.01 ▲
Sentencing information	2,505	2,680	6.99 ▲
Examination of complaints	494	528	6.88 ▲
Total expenditure	5,024	5,375	6.99 ▲



Key challenges faced

- Increasing demand for education programs, new bench books and sentencing information, without an associated increase in resources, has required the Commission to prioritise its activities and carefully manage its budget. Budgetary constraints have led to the postponement to 2008–09, of some initiatives, such as the production of the circle sentencing training DVD, a survey of JIRS users and planned publications.
- The Commission faced difficulty in attracting experienced legal staff for its research program because of industry-wide demand for those skills. This was mitigated to an extent by putting in place secondment arrangements with other NSW justice sector agencies.
- Frequent changes to the law during the reporting period required the Commission to make significant adjustments to our education, publishing and research programs at short notice. With the limited resources available, it was also a challenge to monitor and capture the information and disseminate it to judicial officers in a timely manner.
- Availability of timely and accurate sentencing statistics from the courts remains a major challenge for the Commission.
- Increasing requests for sentencing information from other organisations, such as the Sentencing Council, has an impact on the Commission's resources which cannot be easily estimated.

Our governance

An independent Commission consisting of 10 members sets strategic directions for the organisation and conducts the preliminary examination of all complaints. The Chief Executive, supported by three directors, oversees the Commission's day-to-day management: see pages 37–39 for profiles of Commission members and the Executive. In 2007–08 the Commission employed 39 staff.

Celebrating 20 years of the Judicial Commission



Many of the architects of the Judicial Commission, along with past and present staff and members of the judiciary, attended a reception at Government House on 3 October 2007 to commemorate the Commission's 20th anniversary.

President's foreword



In my foreword to the *Annual Report* for 2006–07, I outlined progress made by the Judicial Commission in the areas of judicial education, the provision of sentencing information and complaint handling over the first 20 years of its operation.

I mentioned how the independence of the Commission and its focus on judge-led programs is central to its ability to carry out all three of its functions in an effective and efficient way. During the course of the 2007–08 year the Commission has responded to the changing demands on the judiciary by providing high quality judicial education programs and sentencing information.

Finding innovative ways to deliver its programs is always a challenge but is one the Commission has met successfully. This has enabled several new initiatives to be implemented in 2007–08 which are detailed in the report.

As a result of its accumulated expertise the Commission has assumed the role of a leading judicial education provider in the Asia Pacific Region. A much greater level of exchange between the judiciaries of countries in the region has developed over recent years. The Commission regularly hosts visits to Sydney from Asian Pacific judges and actively supports the Asia Pacific Judicial Educators Forum and the Asia Pacific Judicial Reform Forum. This year the Commission has signed a Memorandum of Understanding with the Magisterial Service of Papua New Guinea to develop and deliver a continuing judicial education program for that jurisdiction.



The Commission has also shared its expertise with other Australian jurisdictions which has resulted in some significant partnerships which continue today. These include:

- the design and construction of the Queensland Sentencing Information Service in collaboration with the Queensland Department of Justice and Attorney General, launched in 2007
- the design and construction of the Commonwealth Sentencing Database in collaboration with the National Judicial College of Australia and the Commonwealth Director of Public Prosecutions.

This year two judicial members of the Commission have retired, Justice Keith Mason AC and Justice Lance Wright. On behalf of the Commission I thank them for their outstanding and significant contribution to its work.

The work of the Commission is greatly assisted by the contribution made by many judicial officers who give generously of their time to serve on the various Committees of the Commission. On behalf of the Commission I thank them for their contribution. I also express the collective appreciation of the members of the Commission to the dedicated and diligent staff whose professionalism and confidence attracts the admiration of the entire body of judicial officers in this State.

Finally, I wish to take this opportunity to thank the other members of the Commission for the contribution to the public interest each of them makes by their participation in the management of the affairs of the Commission.

J J Spigelman AC
President

Chief Executive's report



This *Annual Report* details the Commission's performance in 2007–08 and the strategies employed to ensure that its services are delivered successfully.

Achievements

I am very pleased that this year the Commission has met or exceeded most of its performance targets and implemented a number of important initiatives across all three areas of the Commission's operations.

Judicial education

The satisfaction rating of judicial officers for the Commission's conference program has steadily increased over the past five years and this year it is 91%. This reflects the efforts the Commission has put into ensuring that programs are relevant, practical and respond to the identified education needs of judicial officers.

The publishing program continues to expand to cater for the demand for information to assist judicial officers with all aspects of their work, including managing and conducting trials. This year the Commission has added two new publications, the *Civil Trials Bench Book* and the *Sexual Assault Handbook*. These essential reference sources are in daily use by judicial officers and form a very important part of the Commission's support work designed to reduce the possibility of error.

The piloting of the 360 Degree Feedback Program and the engagement of an Aboriginal Project Officer to organise the Ngara Yura Program are other important initiatives implemented during the year.



Sentencing information

This year the Commission has expanded the sentencing information available to judicial officers and the justice system in general. Compared to last year the Commission achieved an increase in usage of the Judicial Information Research System (JIRS) by 24%. It is a reflection of enhancements made to JIRS to ensure it better meets users' needs and is available to a wider audience. The end result is more reliable information being used in courts and greater consistency in approach to sentencing.

During the year the Commission launched two new databases on JIRS: the Land and Environment Court Sentencing Database and the Commonwealth Sentencing Database. These new databases will increase the availability of valuable sentencing information, both in NSW and in Australia. Their launch is of considerable national significance and will go a long way to minimising inconsistency.

Complaints

It is pleasing to note that the procedures in place to ensure complaints are examined in a timely and effective manner are working well, as measured by the fact that 99% of complaints are finalised within six months of receipt.

It is also noted in the report that the vast majority of complaints examined by the Commission were dismissed because they disclosed no misconduct, and only 8% of complaints required further action.

Operational and management capability

This year the Commission has continued to improve its operational and management capability to better support its core functions. This has included reviewing all personnel and human resources policies, and evaluating the improved performance management system implemented in 2006–07. Work has also continued on updating the business continuity plan and improving the electronic backup systems.

The year ahead

In addition to the plans detailed in the report it is the Commission's intention to continue to maintain strong partnerships and work collaboratively with other judicial education bodies, justice agencies and community organisations in order to share knowledge and further develop our programs.

Acknowledgements

The high productivity this year and the fact that the Commission has met the majority of its targets, with limited resources, is an indication of the commitment and dedication of the staff. I thank all staff for their support.

In conclusion I would like to thank the President and Commission members for their leadership, support and guidance at all times and particularly throughout this year.

E J Schmatt PSM
Chief Executive

Key results

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

Key result area	Measures	2006–07 result	2007–08 target	2007–08 result	2008–09 target
Better informed and professional judiciary					
- Develop appropriate judicial skills and values - Promote high standards of judicial performance - See pages 10–19	% of voluntary attendance at annual conferences	92%	90%	88%	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	92%	90%	88%	90%
	Average number of training days offered per judicial officer per court (excluding orientation programs)	5.1	5	4.9	5
Consistency in sentencing					
- Improve sentencing consistency - Provide timely and relevant information about sentencing patterns - See pages 20–27	Updates to <i>Sentencing Bench Book</i>	2	3	5	3
	JIRS usage (average page hits per month)	45,898	45,000	56,722	45,000
	% of users who are satisfied with JIRS	n/a	80%	not measured [†]	80%
Effective complaint handling					
- Complainants have access to accurate and helpful information and advice - Complaints are investigated in a timely and effective manner - See pages 28–35	% of complaints finalised within 12 months	100%	100%	100%	100%
	% of complaints for which further action required (future projections based on past experience)	10%	10%	8%	10%

[†] The planned online user survey was not conducted in 2007–08 due to staff movements and competition for resources to undertake the task.

Service measures



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

Program area	Service measures	2006–07 result	2007–08 target	2007–08 result	2008–09 target
Judicial education					
Offering an extensive conference and seminar program for judicial officers: see page 11	Number of judicial education days per annum	1,486	1,300	1,294	1,300
	Average number of training days undertaken per judicial officer (national standard is 5 days)	5	5	4.4	5
Publishing professional reference material: see page 18	Number of publications (including bench book updates, bulletins, journals, education monographs, training DVDs)	24	27	30	29
Providing computer training and help desk: see page 19	Number of computer training sessions	120	150	105	120
	% of help desk calls resolved within 15 minutes	80%	80%	80%	80%
Research and sentencing					
Providing online statistical and legal information through the Judicial Information Research System (JIRS): see page 21	% of JIRS availability	99%	95%	99%	95%
	Number of enhancements to JIRS	4	3	6	3
	Timeliness of sentencing material on JIRS				
	– Recent Law items posted on JIRS (within number of weeks of receipt)	–	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)	3 weeks	4 weeks	1–4 weeks	4 weeks
Undertaking original research and analysis of aspects of sentencing: see page 25	– Sentencing statistics loaded on JIRS (within number of months of receipt)	1–3 months	2 months	2 months	2 months
	Number of sentencing trends papers, monographs and <i>Sentencing Bench Book</i> updates	6	6	8	6
Providing research assistance to judicial officers: see page 26	% of calls resolved within 2 days	80%	80%	80%	80%
Maintaining and developing the Lawcodes database: see page 27	Code and distribute new and amended offences before their commencement	100%	100%	100%	100%
	% of user enquiries resolved within 24 hours	100%	100%	100%	100%
Complaints against judicial officers					
Examining complaints in a timely and efficient manner: see page 31	% of complaints acknowledged within 1 week of receipt	100%	100%	100%	100%
	% of complaints finalised within 6 months of receipt	97%	90%	99%	90%
	% of complaints finalised within 12 months of receipt	100%	100%	100%	100%

Judicial education

Promoting excellent judicial performance through judicial education

2007–08 at a glance

Desired result	• Better informed and professional judiciary
Key services	• Annual conference for each court • Seminars for judicial officers • Professional reference material • Aboriginal cultural awareness activities (Ngara Yura program) • Computer training and help desk
Priority	• Publish the <i>Civil Trials Bench Book</i> • Increase Aboriginal cultural awareness activities • Evaluate the educational needs of judicial officers and recommend ways to meet those needs • Develop additional distance learning tools
Achievements	• Piloted a 360 Degree Feedback Program for Supreme Court judges: see page 12 • Conducted skills workshops concentrating on judgment writing and decision making: see page 12 • 88% voluntary attendance on average at annual conferences: see page 12 • Conducted 12 seminars tailored to the needs of judicial officers: see page 12 • Assisted with the development of training programs for judicial officers in the Asia Pacific Region: see page 13 • Judicial officers attended 1,294 days of face-to-face judicial education across 34 different programs: see page 15 • Achieved a 91% satisfaction rating for our conference and seminar program: see page 15 • Finalised a study of magistrates' educational needs which will guide us in designing more relevant and practical professional development programs: see page 16 • Revitalised the Ngara Yura Program for judicial officers: see page 17 • Published the new <i>Civil Trials Bench Book</i>: see page 18 • Launched an online <i>Sexual Assault Handbook</i>: see page 18 • Kept judicial officers informed about legal issues through a range of publications: see page 18 • Revised our Style Guide to promote consistency in all our publications: see page 18 • Provided a help desk service and answered 685 computer related queries: see page 19
Year ahead	• Continue to evaluate the educational needs of judicial officers and identify ways to meet those needs • Evaluate the effectiveness of the pilot 360 Degree Feedback Program to determine if it should be offered more broadly • Develop additional distance learning tools • Maintain the enthusiasm for Ngara Yura activities

OVERVIEW

The Commission's judicial education program:

- promotes high standards of judicial performance
- assists in the development of appropriate judicial skills and values, resulting in a better informed and more professional judiciary
- keeps judicial officers up-to-date with current legal developments and emerging trends.

CONFERENCES AND SEMINARS

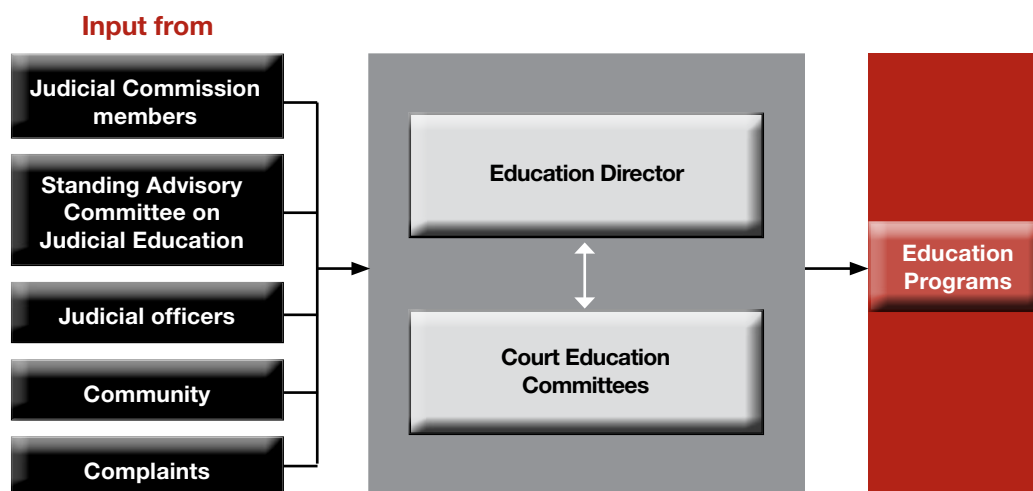
The Commission runs a comprehensive conference and seminar program tailored to the differing needs of the courts and individual participants. Ranging from induction and orientation courses to annual conferences, the program covers a diverse range of topics, including criminal law, sentencing, judicial skills and social awareness issues such as ethnicity, gender and the needs of particular cultural groups. Our professional educator guides the curriculum development process and receives input from a variety of sources about the content and format of the programs: see Figure 1 for an overview of the design process.

Major achievements

- **Educational needs of judicial officers:** In order to design more relevant and practical professional development programs, we finalised the results of our survey of magistrates' educational needs (see page 16 for a discussion of the results) and conducted a workshop for Education Committee members on key requirements for designing relevant, practical and intellectually stimulating judicial education. Professor Brett Dawson, Academic Director of the National Judicial Institute in Canada, shared the Institute's innovative approach which has resulted in more effective judicial education. We plan to implement some of the strategies outlined in the workshop in future programs.

"Tremendous insight into educational purpose, practical theory, as well as effective strategies." participant, A Journey in Judicial Education, March 2008

Figure 1 Judicial education design process



- 360 Degree Feedback Program:** Piloted this program in the Supreme Court to provide seven judges with candid feedback on their verbal and non-verbal communication, demeanour and courtesy, and working relationships with judicial colleagues, court staff, peers and practitioners. Each participant chose approximately 20 people to provide feedback on how they carry out their roles by means of a confidential electronic survey. Once the results were collated and anonymised, each participant received a 90 minute one-on-one debriefing session with a psychologist. The program will be evaluated in July 2008 to determine if the participants found it valuable and whether it should be offered more broadly.
- Skills workshops:** Conducted two very successful judgment writing workshops, including an advanced cross-jurisdictional master class for judicial officers who had attended one of the “basic” judgment writing workshops offered in previous years. Participants in the innovative master class benefited from the experience of both judges and professional writers employed as facilitators. These interactive workshops help participants develop and refine the ability to write clear, concise, well-structured judgments. Both workshops were oversubscribed and will be offered again in 2008–09.

“I expect this workshop to dramatically change my approach to judgment writing.” participant, Judgment Writing Workshop for District Court, August 2007



Participants at the judgment writing workshop held for the District Court in September 2008 learned valuable tips for improving the process of judgment writing.

- Annual conferences:** Conducted an annual conference for each of the five courts in NSW. A total of 260 judicial officers attended their court’s annual conference in 2007–08. The average rate of attendance of 88% would have been higher save for unavoidable requirements to finalise trials and attend to other court commitments. Sessions covered a broad range of areas with an emphasis on interactive learning: see Appendix 5 for a list of conference topics.

“I found the conference of great benefit. Many of the sessions were of significant practical value.” participant, Local Court Annual Conference, 2007



The Right Honourable the Lord Robert Walker of Gestingthorpe presented a session at the 2007 Supreme Court Annual Conference on “The UK approach to human rights”. He is pictured here with the Honourable Justice Gzell.

- Seminars:** Conducted eight occasional seminars tailored to the needs of individual courts and four cross-jurisdictional seminars. Each seminar explored a topical issue in depth and provided judicial officers with a valuable opportunity for collegiate discussion: see Appendix 6 for a full list of seminars conducted in 2007–08.

- **Magistrates' orientation:** Conducted a five-day residential program to consolidate fundamental judicial skills and disposition. Topics included court craft, decision making, sentencing, judicial ethics, judicial administration and conduct. Eleven NSW magistrates and three interstate magistrates attended the 2008 orientation program. Participants greatly benefited from the opportunity to analyse and compare different judicial attitudes and approaches.

"This program was extremely valuable to me. I have learnt much which will assist me in the future. The sentencing workshops were excellent." participant, Magistrates' Orientation Program, June 2008
- **Assistance to Asia Pacific neighbours:** The Commission shared its expertise in judicial education with our colleagues in the Asia Pacific Region through:
 - signing a Memorandum of Understanding with the Magisterial Service of Papua New Guinea on 28 August 2007 to provide assistance with professional development and judicial training programs for PNG magistrates
 - conducting a week-long orientation program for magistrates in Port Moresby in November 2007 in conjunction with the Local Court of NSW. As part of the week PNG magistrates were trained to conduct future programs. The program was highly successful and will be repeated in 2008
 - providing the PNG Magisterial Service's Training Officer with work experience at the Commission in March 2008 to assist with his professional development
 - entering an arrangement with the Subordinate Courts of Singapore to enable judges of that court to attend some of our education programs in 2008. As a result, one District Court judge attended the Local Court Southern Regional Conference in March 2008 and one magistrate attended the Local Court Northern Regional Conference in April 2008
 - providing logistical support to the Judicial Seminar on Commercial Litigation hosted by the Supreme Court of NSW and the High Court of Hong Kong in Sydney in April 2008. Attended by 32 judges from the region, the seminar provided a working forum for participants to exchange ideas and experiences in relation to best practice in the management of commercial and corporate litigation
 - participating in the Asia Pacific Judicial Reform Forum and Asia Pacific Judicial Educators Forum: see page 87
 - briefing visiting delegations on our work: see page 47.



The signing of a Memorandum of Understanding between the Judicial Commission and the Magisterial Service of Papua New Guinea has strengthened the relationship between the two jurisdictions. Left: Mr John Numapo, Chief Magistrate of Papua New Guinea, with Ms Ruth Windeler, the Commission's Education Director, and Mr Ernest Schmatt PSM, the Commission's Chief Executive. Right: Participants and faculty at the first Magistrates' Orientation Program held in Port Moresby in November 2007.

Major challenges

The Commission is facing increasing demand from judicial officers for interactive and tailored education programs because they result in better outcomes and more likelihood of learning. These programs are more resource intensive and impact on our ability to continue to provide our already extensive

program. Competition for resources has delayed the development of an electronic conference paper database and additional distance learning material for judicial officers in rural areas, which will be a priority in 2008–09.

Program evaluation

Table 1 Conference and seminar activity 2003–08

	2003–04	2004–05	2005–06	2006–07	target 2007–08	actual 2007–08	target 2008–09
Days of education ¹	1,267	1,718	1,300	1,486	1,300	1,294	1,300
Number of different programs	22	35	35	28	30	34	30
Annual conferences	5	5	4	5	5	5	5
Workshops — country & metropolitan magistrates	6	4	3	4	4	4	4
Workshops — judgment writing	—	3	2	4	2	2	2
Pre-bench training sessions ²	1	5	9	7	4	10	5
Week-long orientation programs ³	2	1	3	3	2	2	2
Cross-jurisdictional seminars	5	2	6	0	4	4	4
Ngara Yura Program	2	3	0	0	2	5	4
Seminars for new magistrates	0	1	0	0	2	0	0
Supreme Court occasional seminars	—	—	3	3	2	1	2
Industrial Relations Commission occasional seminars	—	—	2	0	2	3	2
District Court occasional seminars	2	7	5	7	5	4	4
Drug Court Practitioners' Conference	—	1	1	0	1	1	1
Gaol visit	—	—	1	1	1	0	1

1 Note: 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 programs by the duration of that educational 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 the National Judicial Orientation Program, jointly conducted with the National Judicial College of Australia and the Australian Institute of Judicial Administration.



The 2008 Land and Environment Court Annual Conference provided participants with information on a range of issues relevant to the court, including urbanisation, water catchment, judicial conduct, administrative law and case law developments.

Benchmarking comparison of performance

We evaluate our performance in judicial education against both internal targets (see “Performance indicators and program evaluation” below) and against the national standard for professional development for Australian judicial officers, developed by the National Judicial College of Australia and endorsed by the Council of Chief Justices of Australia, the Judicial Commission and other Australian judicial education organisations. The standard recommends five days of judicial education per judicial officer annually (including self-directed professional development). In 2007–08, NSW judicial officers undertook an average of 4.4 training days conducted by the Commission. In May 2008 the Australian and New Zealand Judicial Educators Group agreed to develop performance benchmarks so that informative comparisons between the organisations can be made in the future.

significant number representing more intensive training in smaller groups over an increased number of programs (34 different programs in 2007–08 compared with 28 programs in 2006–07).

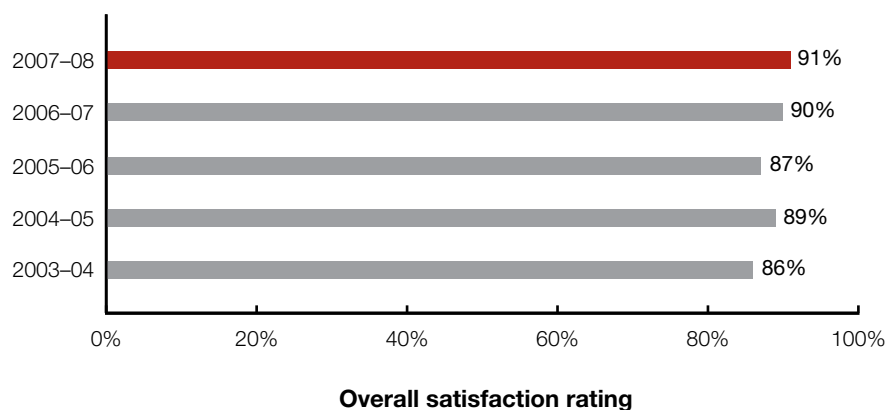
All participants are encouraged to complete a qualitative evaluation form for each program to help gauge if the educational objectives were met, measure the program’s usefulness, content and delivery, and improve future programs. In 2007–08 the overall satisfaction rating was 91%, which exceeded our performance target of 85% and reflected the additional efforts put into defining participant’s educational needs: see page 11. The Education Director attends all seminars and conferences, and provides an evaluation report concerning the usefulness and relevance of the program, noting any recommendations for improvements based on input from participants and presenters.

Performance indicators and program evaluation

All educational sessions are evaluated through both qualitative and quantitative methods. Internally, we measure our performance against a quantitative target of conducting 1,300 days of face-to-face education per annum: in 2007–08 we conducted 1,294 days. Although this is fewer education days than in 2006–07, it is still a

“Best conference I have attended in many years. Presenters were fabulous. Topics extremely relevant. Topics taken outside the conference room and discussed further over lunch/dinner. Well done to all.” participant, Local Court Southern Regional Conference, March 2008

Figure 2 Participant evaluation of education programs 2003–08



Survey of magistrates' educational needs

In conjunction with the Local Court, we surveyed all magistrates about our judicial education program to:

- evaluate its effectiveness
- gauge its long-term impact on behaviour
- identify any specific needs and future topics
- identify preferred delivery methods.

The survey results clearly indicate that the majority of respondents believe that they become more efficient as a direct result of professional development sessions. In many instances participants indicated they changed the way in which they perform a particular skill in court as a result of educational sessions. Factors identified as impacting on the benefit of educational sessions include the topic, presentation style, whether the magistrate is located in the city or country, and the number of years the magistrate has been on the bench. Respondents also noted a number of areas within their work that should be addressed by future sessions.

The results of the follow up face-to-face interviews indicated:

- that distance learning methods (such as live streaming of seminars held in Sydney and on-line interactive sessions) would increase learning options and be beneficial, particularly for country magistrates
- the importance of education sessions focused on improving knowledge in difficult areas of legal practice
- the need for skills workshops on topics such as judgment writing, sentencing and using computers
- the need for a variety of teaching methods to maximise learning and address individual learning preferences.

Voluntary versus mandatory continuing judicial education

Although attendance at Commission educational sessions is voluntary, the majority of judicial officers attend some form of continuing professional development each year and 100% of newly appointed magistrates and most judges attend an orientation program.

Times and venues of sessions are chosen to encourage attendance, including evenings and weekends. The high participation rate and favourable evaluations indicate that judicial officers are motivated to keep up to date with developments, and find our conference and seminar program valuable, effective and beneficial to improving their performance.

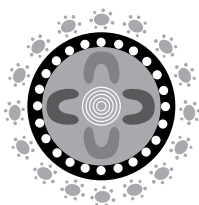
Suggestions of mandatory continuing judicial education lie contrary to the concept of judicial independence. The key factor in any successful educational program is motivation. Mandating education is more likely to decrease motivation than to increase it. When attendance rates at voluntary judicial education programs are already very high it could create resentment and a subsequent decrease in motivation if a mandatory component were imposed.

The year ahead

In 2008–09, the conference and seminar program will focus on:

- furthering the development of an electronic conference paper database
- developing additional distance learning resources to meet identified needs
- delivering interactive education sessions tailored to the work of judicial officers in a range of formats to meet different learning preferences
- conducting skills workshops on fundamental aspects of court craft and procedure
- evaluating the pilot 360 Degree Feedback Program and assessing whether to develop a program of peer support and constructive feedback to assist judicial officers in meeting the demands of a socially and culturally diverse society
- providing educational sessions on social context issues, particularly Aboriginal issues
- sharing our expertise in developing judicial training programs with our neighbours in the Asia Pacific Region.

NGARA YURA PROGRAM



One of the Commission's key priorities in 2007–08 was to increase awareness among judicial officers about contemporary Aboriginal society, customs and traditions, and their effect on Aboriginal people in the justice system.

Major achievements

- **Project officer:** Appointed a part-time Aboriginal project officer to organise Aboriginal cultural awareness activities.
- **New name:** Renamed the program Ngara Yura, meaning “to hear or listen to the people” in the Eora language of the inner Sydney region.
- **New logo:** Designed a logo for the program representing a “circle of trust” and the need to have faith in the judicial system. The logo symbolises cultural differences, a “journey of learning”, and the importance of gathering within the circle to discuss matters of importance.
- **Community visits:** Organised judicial visits to Kempsey in November 2007 and Dubbo in May 2008. Judicial officers learned about Aboriginal culture, contemporary issues and the challenges Aboriginal people face in the legal system. The participants found the visits very relevant to their work in court.
- **Twilight seminars:** Conducted two twilight seminars on Aboriginal-specific topics. The first seminar on First Nation Courts in Canada provided judicial officers with insights into the way in which the Canadian criminal justice system is responding to the challenge of dealing with Aboriginal crime and incarceration. The second seminar canvassed the possibility of greater involvement of Indigenous elders in the criminal justice system: see Appendix 6 for a full list of seminars conducted in 2007–08.
- **Education resources:** Developed a range of resources including an Information Guide for Aboriginal Community Visits, an Aboriginal Speakers' Directory, and an Aboriginal Language Directory. We also prepared a script for a training DVD for judicial officers and other participants in circle sentencing.
- **Integration:** Incorporated Aboriginal cultural awareness issues into education activities, for example, through publishing two themed issues of the *Judicial Officers' Bulletin*, implementing a regular column in the Bulletin devoted to news about significant Aboriginal issues, and developing a protocol kit to assist with the inclusion of a Welcome to Country at all annual conferences.

“Having participated in the program, my awareness/ understanding of the challenges faced by Aboriginal people, in both the criminal and care jurisdictions, has deepened significantly.” participant, Judicial Visit to Kempsey, November 2007

The year ahead

In 2008–09 the Ngara Yura Program will target a wider audience by developing an online Aboriginal education section, producing the circle sentencing training DVD, and organising community visits and seminars.



The judicial visit to the Dubbo community in May 2008 provided participants with the opportunity to learn about Aboriginal culture and the challenges faced in the legal system.

PUBLICATIONS

The Commission's publishing program provides judicial officers with a range of professional reference material about sentencing, criminal law, civil law, judicial administration, practice and procedure, and social context issues: see also page 25.

Major achievements

- **Civil Trials Bench Book:** Published in July 2007, this new bench book was developed in response to the important changes introduced into civil court procedure in NSW by the *Civil Procedure Act 2005* and the Uniform Civil Procedure Rules. It enables judicial officers to quickly find information about managing and conducting civil trials, including statements of applicable legal principles, legislation and sample orders. The bench book is being published in stages and a number of additional chapters are planned. It is available in looseleaf format and on JIRS, and will be released on our website in 2008–09.
- **Sexual Assault Handbook:** Published in December 2007, this new online resource is designed to assist judicial officers to deal with the challenges of conducting sexual assault trials. The handbook includes checklists of relevant procedural requirements, a practical guide to case management, a checklist of jury directions, resource materials for important directions, sentencing resources, and links to relevant legislation, case law, articles and suggested jury directions on JIRS. The handbook is available on JIRS and the Commission's website and is regularly updated.
- **Statutory interpretation: Principles and pragmatism for a new age:** Published in July 2007, this collection of essays analyses the principles and practice of statutory interpretation from a variety of perspectives — judicial, academic, Australian and international — to provide a detailed exploration of the topic. This monograph helps judicial officers grapple with the difficult task of interpreting and applying statutes.
- **Criminal Trial Courts Bench Book:** Ensured that the suggested jury directions reflected changes to the law by publishing three updates and two special bulletins detailing, in particular, important changes relating to sexual assault trials and the law of consent.
- **Responded to developments in the law:** Exceeded our publishing targets by publishing a range of informative publications in print and online, including the *Local Courts Bench Book*, *Equality before the Law Bench Book*, *Judicial Officers' Bulletin*, *Recent Law* flyer, and *The Judicial Review*: see Appendix 7 for a list of articles published.
- **Orientation resources:** Provided all new judicial officers on appointment with a package of information to assist them with their transition to the bench. Publications include the *Criminal Trial Courts* or *Local Courts Bench Books*, *Civil Trials Bench Book*, *Sentencing Bench Book* and *Equality before the Law Bench Book* which are all essential aids for judicial officers.
- **Style Guide:** Implemented a revised and expanded Style Guide to promote consistency in our publications.

"... a good companion for judicial officers for the most frequent legal function they now have to perform." The Honourable Justice Michael Kirby AC CMG (2007) 19 Judicial Officers' Bulletin 49



The new Sexual Assault Handbook is an invaluable resource for judges dealing with this difficult and controversial area of the law. The NSW Attorney General, the Honourable John Hatzistergos MLC, launched the handbook at the District Court on 3 December 2007. Pictured from left: Mr Ernest Schmatt PSM, the Honourable John Hatzistergos MLC, the Honourable Justice Blanch AM, Chief Judge of the District Court, and His Honour Judge Ellis, one of the handbook's authors.

Major challenges

Since 2006, the Commission has published four new looseleaf services: the *Sentencing Bench Book*, *Equality Before the Law Bench Book*, *Civil Trials Bench Book* and *Sexual Assault Handbook*. This has been achieved without a corresponding increase in staff. A major challenge for the Commission is to maintain the currency of these looseleaf services and report on legal developments promptly. The increased workload has been managed through the greater use of technology, which has improved the production workflow, and by introducing better methods to monitor changes to the law.

The year ahead

In 2008–09, our priority will be to:

- keep judicial officers informed through our publishing program, in particular, through regular updates to our bench books
- complete the *Civil Trials Bench Book* and publish it on our website.

Major achievements

- **Computer training:** Presented 105 personalised training sessions, concentrating on problem solving and effective use of computers in the court environment. This includes 24 court visits to judicial officers in regional NSW. These visits help resolve computer-related difficulties and are a very important aspect of the support we offer judicial officers.
- **Help desk:** Responded to 685 enquiries from judicial officers needing assistance with using JIRS, email, word processing, software programs, portals, transcript analysis and the internet for research. The 18% increase in enquiries over the previous year can be attributed to a rise in network-related problems. The computer help desk service for judicial officers is provided from 7:30 am to 7:30 pm Monday to Friday over the telephone and via email.

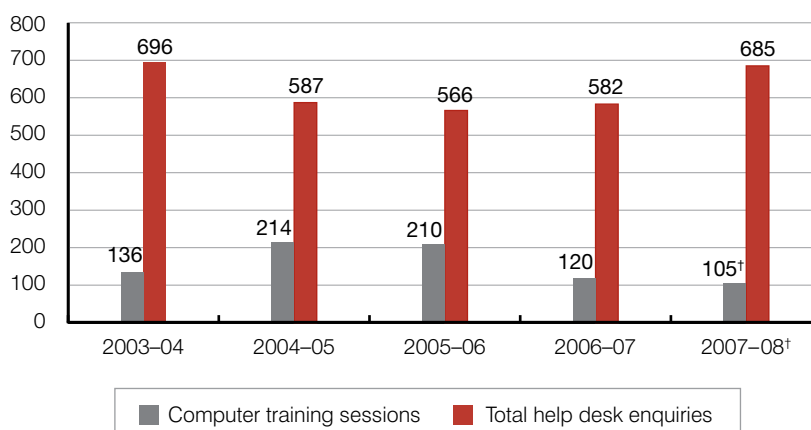
The year ahead

Computer support activities in 2008–09 will continue to respond to the training needs of judicial officers, particularly those in regional areas who do not have ready access to administrative support and therefore rely heavily upon their computers. In addition, the Commission has offered to conduct introductory group sessions for District Court judges to explain the mechanics of the planned JusticeLink system and facilitate its introduction to the judiciary.

COMPUTER SUPPORT

The Commission provides information technology support for the judiciary, through computer training sessions and a help desk service. Computer support is now primarily based upon responding to individual requests from judicial officers, in order to more effectively accommodate their varied training needs.

Figure 3 Computer support 2003–08



† In 2007–08 computer training figures decreased due to short-term staffing constraints which reduced the Commission's ability to provide computer training and may have led to an increase in help desk calls which rose by 18% over the same period.

Research and sentencing information

Promoting consistency of approach to sentencing

2007–08 at a glance

Desired result

- Consistency in sentencing

Key services

- Online statistical and legal information on JIRS
- Original research and analysis of sentencing trends
- *Sentencing Bench Book*
- Lawcodes database

Priority

- Launch a sentencing statistics database for the Land and Environment Court
- Maintain currency and accuracy of *Sentencing Bench Book* and *Criminal Trial Courts Bench Book*
- Launch a sentencing database for Commonwealth offences
- Review judicial directions to juries
- Monitor the impact of the standard non-parole period offence legislation

Achievements

- Launched a sentencing database for environmental offences dealt with by the Land and Environment Court: see page 21
- Launched a sentencing database for Commonwealth offences: see page 21
- Maintained the currency of information on JIRS and kept judicial officers informed about legal developments: see page 21
- Provided accurate and timely sentencing statistics: see page 23
- Usage of JIRS increased by 24%: see page 23
- Published five updates for the *Sentencing Bench Book* and three updates for the *Criminal Trial Courts Bench Book*: see page 25
- Published three research studies to provide judicial officers with information about sentencing trends: see page 25
- Audited and maintained statistics for offences subject to the standard non-parole period and maintained a comprehensive appeal database for those offences: see page 26
- Concluded a major review of judicial directions to juries: see page 26
- Maintained the Lawcodes database: see page 27

Year ahead

- Provide up to date information about developments in the criminal law by posting material on JIRS and updating the *Sentencing Bench Book* and *Criminal Trial Courts Bench Book*
- Publish original research about the impact on sentencing of the standard non-parole period statutory scheme
- Publish research into conviction appeals for the period 2001–07
- Ensure Lawcodes information remains synchronised among all users

OVERVIEW

The Commission's research and sentencing program:

- assists the courts to achieve consistency of approach in imposing sentences
- informs judicial officers about major changes to sentencing law and practice
- is tailored to the differing needs of judicial officers across all courts
- monitors sentences and disseminates information to judicial officers through the online Judicial Information Research System (JIRS), sentencing publications and bench books.

JUDICIAL INFORMATION RESEARCH SYSTEM (JIRS)

JIRS is an online decision support system for judicial officers. It contains information on all aspects of sentencing law including case law, legislation and sentencing statistics: see Figure 4. It is designed to provide judicial officers with timely information to assist in decision making. Updated regularly and used daily by many judicial officers and legal practitioners, JIRS is the most effective and direct method of communicating information about the latest developments in the law. A considerable proportion of research effort is devoted to maintaining and updating the legal reference material. The system operates as an intranet and is available via the Attorney General's Department's wide area network. Access is also available on the internet for judicial officers and subscribers.

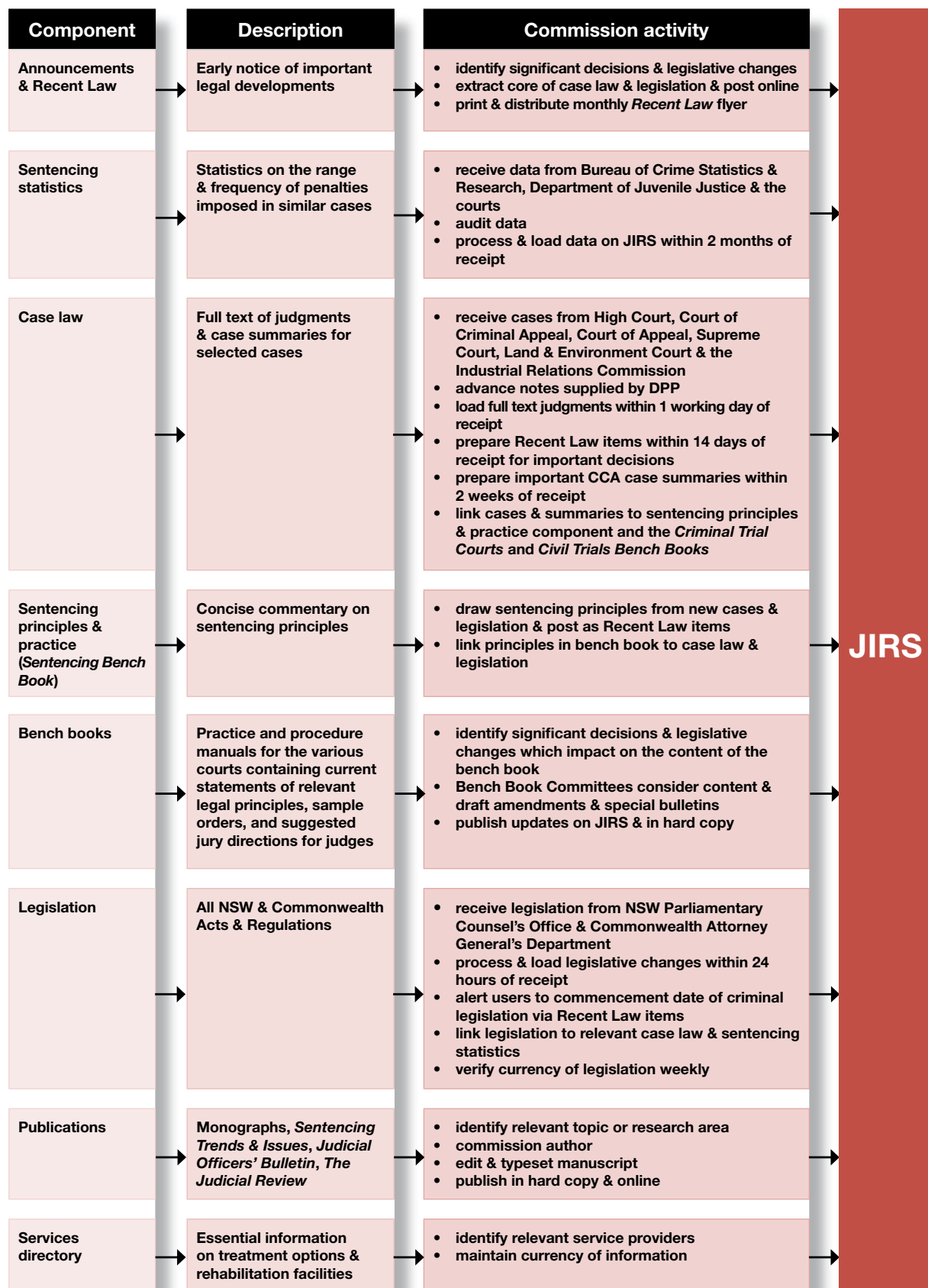
Major achievements

- **Land and Environment Court sentencing database:** Launched in April 2008 by the Attorney-General, the Honourable John Hatzistergos MLC, this database is designed to provide judicial officers and practitioners with reliable and current information on penalties imposed for all criminal matters dealt with by the Land and Environment Court. A joint project between the Commission and the court, the database improves the accessibility and transparency of sentencing

matters dealt with by the court, and will help promote consistency. It includes an extensive range of objective and subjective features peculiar to environmental offences.

- **Commonwealth sentencing database:** Launched in February 2008 by the Minister for Home Affairs, the Honourable Bob Debus, this database contains information about sentences imposed for Commonwealth offences across all Australian jurisdictions. A joint project between the Commission, the National Judicial College of Australia and the Commonwealth Director of Public Prosecutions, this database significantly improves the availability of sentencing information for Commonwealth offences and will contribute to sentencing consistency Australia-wide.
- **Currency of information:** Kept judicial officers abreast of changes in the law by posting 110 items on the Announcements/Recent Law component of JIRS dealing with the topics of sentencing law, jury directions, High Court criminal decisions, significant criminal statutes and evidence law. The items posted on JIRS are collected at the end of each month and published in hard copy in the form of a one page *Recent Law* flyer.
- **Case law:** Ensured that judicial officers had easy access to the most recent case law by loading new judgments onto JIRS within 24 hours of receipt.
- **Case summaries:** Published 149 summaries on JIRS within our target of 14 days from the date of receipt of the judgment. Successful severity appeals, Crown appeals and all other sentencing appeals where the standard non-parole period legislation applies are summarised. The summaries record essential details of the case including the Court of Criminal Appeal's reasons for decision.

Figure 4 JIRS — A complete judicial decision-support system



- **Sentencing statistics:** Promoted consistency of approach to sentencing by providing accurate and timely sentencing statistics on JIRS. The sentencing statistics component provides information on the statistical range of sentences imposed for particular offences. These statistics are used and relied upon by the courts and practitioners on a daily basis. We met the set target of loading the higher court statistics within two months of receipt in three of the four quarters and were marginally late for the remaining quarter. Accuracy and timeliness of the raw data from the courts still remains an issue.
- **Enhancements:** Made a number of enhancements to JIRS to better reflect user needs, including:
 - developing a new component which collects research material relating to common offences
 - expanding the Court of Appeal judgments component to include scanned archived judgments dating back to 1988
 - enhancing the legislation component by allowing the user to navigate and browse more efficiently around an Act
 - adding a database which allows users to look up defined terms across all State and Commonwealth legislation
 - expanding the material available on JIRS by adding the new *Civil Trials Bench Book* and *Sexual Assault Handbook*
 - adding an alphabetical menu of Acts and Regulations to the sentencing statistics component which enables users to more easily access statutory offences
 - improving offence details for both local and higher court sentencing statistics.
- **Usage of JIRS:** Increased by 24%, from an average of 45,898 page hits per month in 2006–07 to an average of 56,722 pages hits in 2007–08: see Figures 5 and 6. This reflects the efforts put into enhancing the content on JIRS, in particular, the addition of two new sentencing databases. Usage of JIRS is split between judicial officers (30%), the Office of the Director of Public Prosecutions (38%), subscribing legal practitioners (14%), professional associations (2%) and others (16%), including State and federal government agencies, Aboriginal Legal Services and university research centres. The main growth in usage in 2007–08 was from magistrates (up 45%), the District Court (up 31%), and other government agencies (up 23%). Commission staff also use JIRS extensively to answer enquiries and undertake research projects: see Figure 7 for information on the most used components.

Figure 5 Number of JIRS pages accessed by users each year, 2003–08

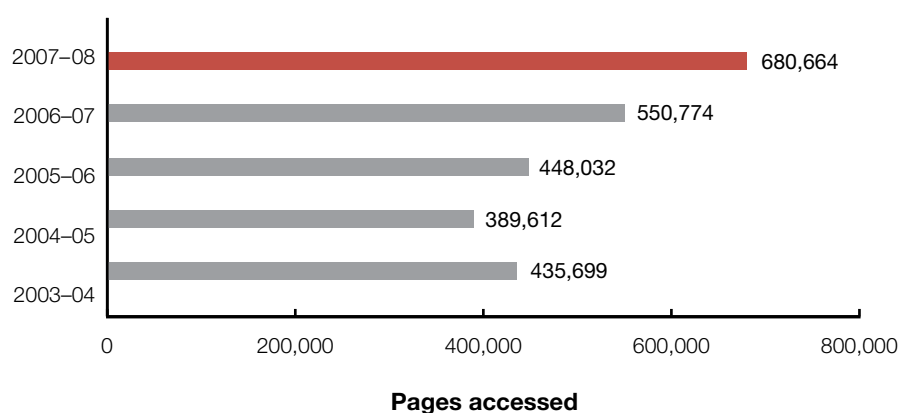
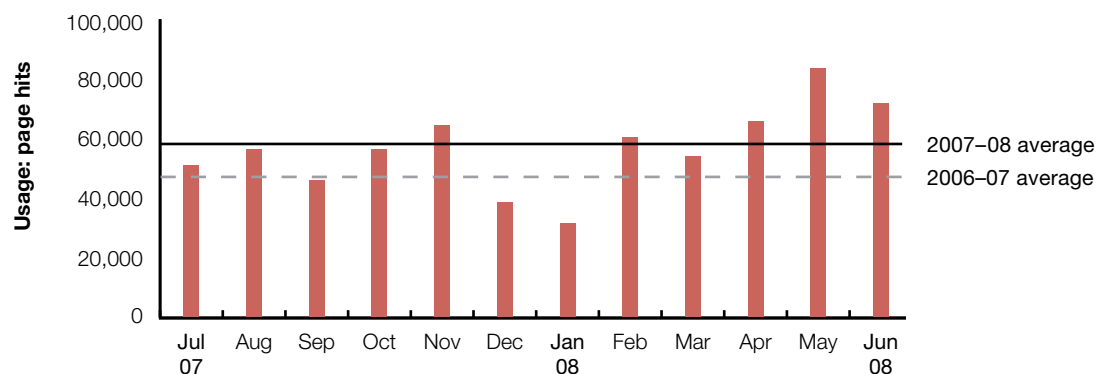
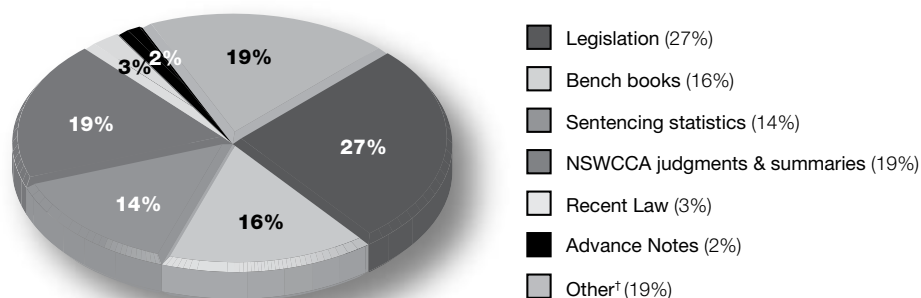


Figure 6 Number of JIRS pages accessed by users each month, July 2007–June 2008**Figure 7 Most used components of JIRS**

† Other includes announcements, publications, judgments and summaries from courts other than the NSWCCA, evidence, conferences, home page and sentencing calculator usage.

Challenges

Sentencing law has been transformed by the introduction of several significant pieces of legislation and consequent case law. An important challenge facing the Commission is to keep abreast of such changes in order to produce relevant and useful information for judicial officers within strict time frames and budgetary limits. Competition for resources meant that the planned survey of JIRS users was not undertaken this year. The introduction of the new JusticeLink system may have an effect on the timeliness and quality of the data we receive from the Bureau of Crime Statistics and Research.

The year ahead

In 2008–09, we will:

- develop a new sentencing date calculator
- design a sentencing database for occupational health and safety offences dealt with by the Industrial Relations Commission
- enhance the services directory to improve access by judicial officers to information on diversionary programs and sentencing options
- ensure that the quality of sentencing data is maintained by assisting in a smooth transition to the new JusticeLink system, in particular, by realigning the sentencing statistics component to data provided by the new system
- continue to provide high quality and timely legal information for judicial officers by regularly posting Recent Law items on JIRS
- conduct an online survey of JIRS users to gauge their level of satisfaction with JIRS and receive any suggested improvements
- add civil judgments from the High Court of Australia and investigate the feasibility of adding authorised citations of civil cases to JIRS.

ORIGINAL RESEARCH

The Commission conducts original research into sentencing law and practice to provide judicial officers with information about changes in sentencing law and trends in sentencing patterns that will help promote consistency in sentencing.

Major achievements

- **Sentencing Bench Book:** Maintained the currency and accuracy of this publication by publishing five updates which incorporated commentary on the seven aggravating matters and 11 new standard non-parole period offences created by the *Crimes (Sentencing Procedure) Amendment Act 2007*; substantially revised the sections on sexual assault, drug offences, suspended sentences, concurrent/consecutive sentences, and detain for advantage/kidnapping; and added new sections for murder, fraud offences and public justice offences, including bribery and contempt. The bench book is available online on JIRS and our website, and as a hard copy looseleaf service for judicial officers.

- **Research studies:** Published two major research studies and one sentencing trend paper:
 - *Diverting mentally disordered offenders in the NSW Local Court (Research Monograph 31)* examines magistrates' use of s 32 of the *Mental Health (Criminal Procedure) Act 1990* and identified a number of issues including deficiencies relating to non-compliance; legislative ambiguity about the duration of s 32 orders; the relationship between s 32 orders and fitness to be tried; the efficacy of treatment plans; and the ambit of mental disorders covered by s 32. The monograph was quoted authoritatively in the Intellectual Disability Rights Service's *Enabling Justice* report and assisted the NSW Law Reform Commission with its mental health reference.
 - *Achieving consistency and transparency in sentencing for environmental offences (Research Monograph 32)* describes the development of a sentencing database for crimes dealt with by the Land and Environment Court, how the system works and its benefits. It also revisits the legal debate about the utility of sentencing statistics, and sets out some of the benefits and limitations of statistics.
 - *Trends in the use of full-time imprisonment 2006–2007 (Sentencing Trends & Issues No 36)* confirmed that the use of full-time imprisonment in Australia remains at historically high levels. Comparing imprisonment rates per 100,000, the study found that imprisonment rates in NSW remain higher than the Australian average as well as some overseas jurisdictions.

"Deputy Chief Magistrate Paul Cloran describes the ... Sentencing Bench Book as an 'absolutely invaluable tool' to assist judicial officers in their most difficult task." (2007) 19(9) Judicial Officers' Bulletin 73



The Land and Environment Court Sentencing Database will help achieve consistency in sentencing matters dealt with by the court. It was launched by the NSW Attorney General, the Honourable John Hatzistergos MLC.

- **Research assistance:** Answered 70 research enquiries from judicial officers, legal practitioners and criminal justice agencies.
- **Standard non-parole period offences:** Continued to monitor the standard non-parole period legislation and related case law. Consequently, the 11 new offences added to the principal Act by the *Crimes (Sentencing Procedure) Amendment Act 2007* were promptly included in the *Sentencing Bench Book*, and the schedule of standard non-parole period sentencing appeals and first instance murder cases on JIRS was updated bi-monthly. In the coming year the Commission will analyse whether sentencing patterns have increased since the introduction of the legislation.
- **Reviewed judicial directions to juries:** This substantial review of suggested jury directions resulted in the redrafting of ten directions related to sexual assault trials and the drafting of new directions and notes in light of the changes to the law of consent. The revised directions were published in the *Criminal Trial Courts Bench Book*: see page 18.
- **NSW Sentencing Council:** Assisted the Sentencing Council by providing information and advice on a range of issues, including quarterly sentencing statistics for standard

non-parole period offences; statistical material for the Council's *Review of Periodic Detention* report published in December 2007; and statistical analyses of sentencing data for the Council's review of penalties for sexual offences. The Commission's Principal Research Officer (Statistics) co-authored *Judicial perceptions of fines as a sentencing option: A survey of NSW magistrates*, a Sentencing Council monograph which formed part of a wider evaluation of the effectiveness of fines as a sentencing option.

- **Successful conviction appeals:** Conducted research into successful conviction appeals between 2001–2007. By recording every legal error resulting in a new trial or acquittal over seven years this study will provide the most reliable empirical account of appeals in NSW.

Challenges

The Commission faces increasing requests for sentencing information from other organisations and has to balance these requests with our primary function of providing judicial officers with information. Another challenge in the forthcoming year will be to obtain reliable sentencing data for the study of standard non-parole period sentencing patterns.

The year ahead

In 2008–09, we will:

- regularly update the *Sentencing Bench Book* and *Criminal Trial Courts Bench Book* to reflect the latest developments in the criminal law
- publish original research about the impact on sentencing of the standard non-parole period statutory scheme
- publish research into conviction appeals for the period 2001–07.

LAWCODES

The Lawcodes database provides standard codes to describe offences in NSW. Used by all justice system agencies in NSW, the codes facilitate the exchange of information between agencies and improve the integrity of information about offences. Public access to the Lawcodes database is provided on the Commission's website. In 2007–08 we:

- recoded all 1,100 offences under the new Australian road rules legislation in a major joint project with the NSW Roads and Traffic Authority, NSW Police and State Debt Recovery Office
- coded all offences in the amended liquor legislation
- refined the Lawcodes system software to enable bulk processing of information and efficient querying to increase the productivity of users
- answered all enquiries from Lawcodes users within 24 hours
- coded and distributed all new and amended offences within four days of their commencement.

The year ahead

In 2008–09, we will:

- implement an arrangement with justice sector agencies for a twice yearly update of the entire database to ensure Lawcodes information remains synchronised
- enhance the Lawcodes system software to improve productivity
- respond to the challenge of coding new legislative changes.



Ms Maree D'Arcy and Mr Stephen Cumines are responsible for maintaining the Lawcodes database.

Complaints against judicial officers

Promoting judicial accountability through effective complaint handling

2007–08 at a glance

Desired result

- Judicial accountability and enhanced public confidence in the administration of justice

Key services

- Advice to the public about the complaints function
- Timely and efficient examination of complaints

Priority

- Further improve the procedure for examining complaints

Achievements

- Drafted new guide for complainants: see page 29
- Exceeded our time standard: see page 29
- Provided advice to the public about the complaints process: see page 29
- Received 66 complaints and finalised 66 complaints: see page 32
- Finalised 99% of complaints within six months: see page 33

Year ahead

- Publish a new guide for complainants
- Meet or exceed the time standard for finalising complaints

OVERVIEW

The Commission's complaint-handling activities are focused on:

- ensuring complaints about the ability and behaviour of judicial officers are investigated in a timely and effective manner
- enhancing public confidence in the administration of justice
- promoting good practices and high standards of judicial performance.

THE COMPLAINTS FUNCTION

The *Judicial Officers Act 1986* provides a means for people to complain about the ability or behaviour of judicial officers (but not their decisions): see Figure 8 and Appendix 1. An important role of the Commission is not only to receive and examine complaints but to determine which complaints require further action.

The complaints process provides a level of judicial accountability in addition to traditional forms, such as proceedings being conducted in public, the requirement to give reasons for judicial decisions and decisions being subject to appellate review. Information from the examination of complaints is incorporated in the Commission's education programs.

Major achievements

- **New guide for complainants:** Drafted a guide to help complainants better understand the types of complaints the Commission deals with and possible outcomes. We will publish this guide on our website in 2008–09.
- **Complaint enquiries:** Responded to an increasing number of telephone and face-to-face enquiries from potential complainants. This advice role is an important part of the complaints work.
- **Complaints finalised:** Exceeded our time standard and finalised 99% of complaints within six months of receipt and 100% within eight months of receipt.



Ms Cheryl Condon, Executive Assistant, assists complainants with enquiries about the complaint process and the progress of their complaints.

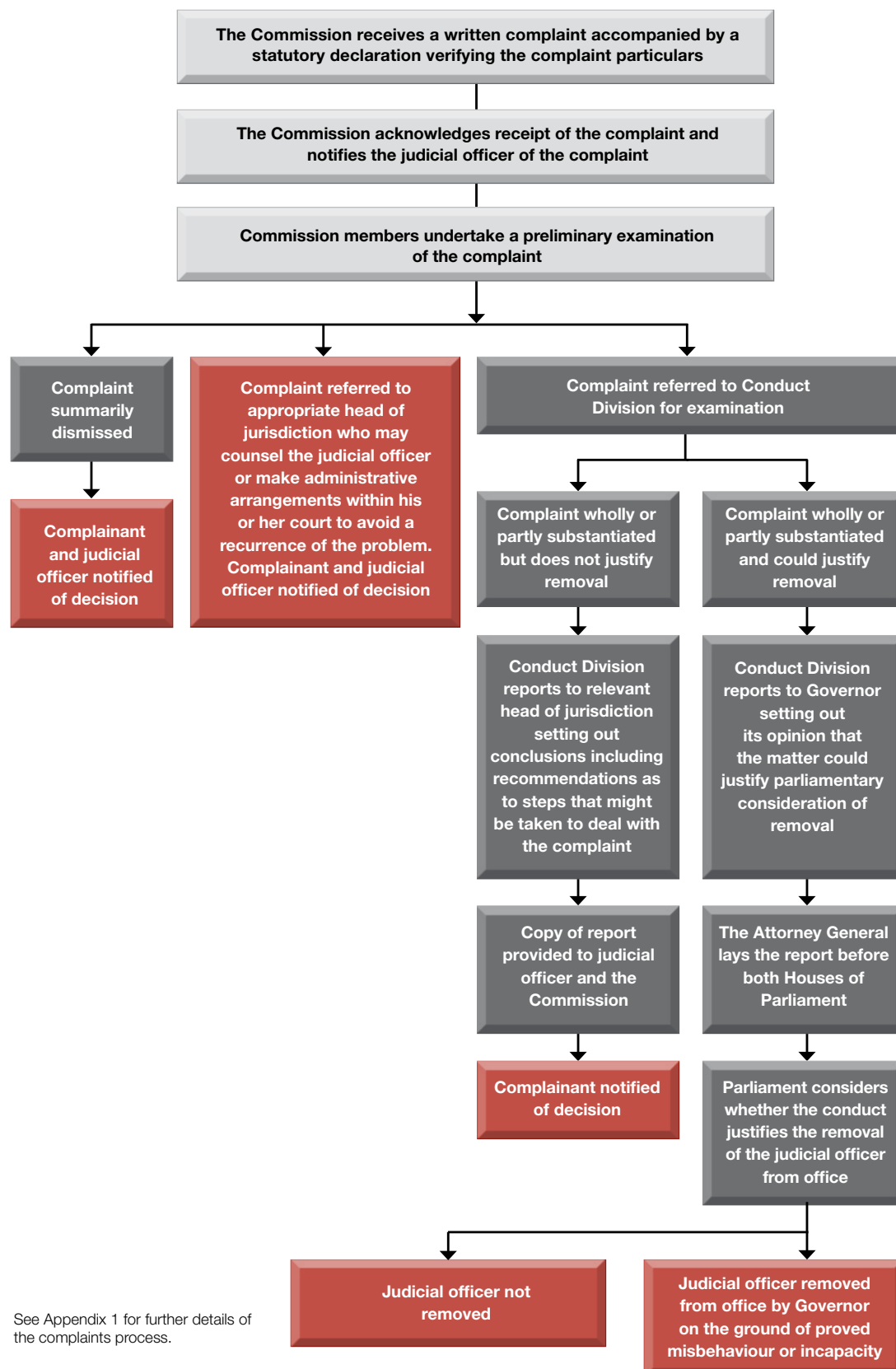
Advice to the public

We publicise information about the complaints process:

- on our website which provides an easy to understand guide to the Commission's complaints process and a complaints form for downloading
- in our plain English brochure *Complaints against judicial officers*
- by assisting potential complainants with translation and interpreting services
- by responding to telephone and face-to-face enquiries
- through talks to interested groups
- in the *Annual Report*.



Figure 8 The complaints process[†]



[†] See Appendix 1 for further details of the complaints process.

COMPLAINTS RECEIVED AND FINALISED

In any consideration of the statistics of the complaints dealt with by the Commission it must be remembered that there are approximately 300 judicial officers in NSW who in the relevant period dealt with in excess of 500,000 matters. As can be seen from Figure 9, the number of complaints we receive is few.

- Complaints received:** In 2007–08, 59 individual complainants made a total of 65 complaints about 51 judicial officers: see Table 2. One complainant made three complaints and four complainants submitted two complaints each. The balance of complaints were submitted individually. In addition the Commission received one reference from the Attorney General under section 16(1) of the *Judicial Officers Act*. A reference is treated as a complaint under the legislation. As can be seen from Figure 9, the number of complaints received increased by 25% during the period.
- Complaints examined and dismissed:** 92% of finalised complaints were dismissed under section 20 of the *Judicial Officers Act* because the examination disclosed no misconduct: see Table 3.
- Complaints referred to head of jurisdiction:** The Commission referred five complaints to the head of jurisdiction following a preliminary examination. This action was taken because in the opinion of the Commission the complaints did not warrant the attention of the Conduct Division. In each case the Commission formally notified the head of jurisdiction in writing of its decision and provided all relevant material. The complainant and judicial officer were also advised of the action taken.
- Complaints referred to Conduct Division:** No complaints were referred to a Conduct Division.

Figure 9 Number of complaints received and finalised by the Commission 2003–08

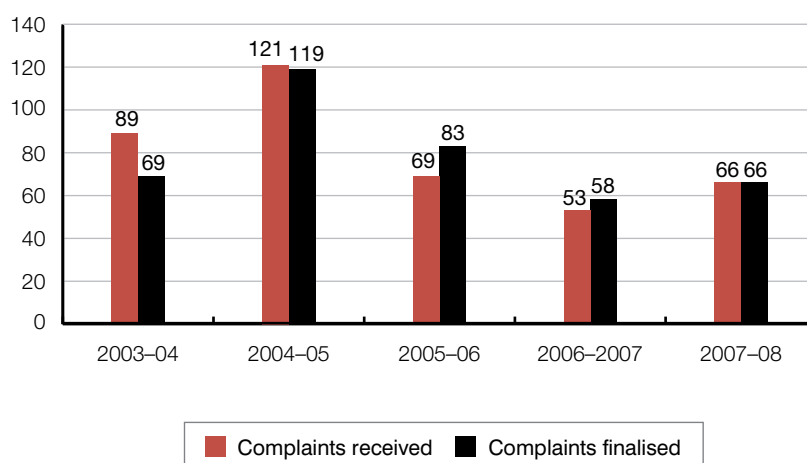


Table 2 Complaint particulars

Complaints pending at 30 June 2007	10
Complaints made during the year	66
Total number of complaints	76
Complaints examined and dismissed under sections 18 and 20 of the Act	61
Complaints referred to head of jurisdiction	5
Complaints referred to Conduct Division	0
Complaints withdrawn	0
Total number of matters finalised	66
Complaints pending at 30 June 2008	10

Table 3 Criteria adopted for dismissing complaints

Criteria	Section	Number of complaints
The complaint was frivolous, vexatious or not in good faith	20(1)(b)	5
The complaint was frivolous, vexatious or not in good faith and related to the exercise of a judicial or other function that is or was subject to adequate appeal or review rights	20(1)(b) & (f)	1
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) & (h)	2
The complaint was frivolous, vexatious or not in good faith and related to the exercise of a judicial or other function that is or was subject to adequate appeal or review rights. Having regard to all the circumstances of the case, further consideration of the complaint would be or is unnecessary or unjustifiable	20(1)(b), (f) & (h)	1
The matter complained about occurred at too remote a time to justify further consideration and having regard to all the circumstances of the case, further consideration of the complaint would be or is unnecessary or unjustifiable	20(1)(d) & (h)	1
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) & (h)	26
The person complained about was no longer a judicial officer	20(1)(g)	1
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

Table 4 Time taken to finalise complaints

	3 months	6 months (target 90%)	12 months (target 100%)
2003–04	76%	100%	–
2004–05	83%	97%	100%
2005–06	72%	95%	100%
2006–07	48%	97%	100%
2007–08	73%	99%	100%

Benchmarking comparison of performance

NSW is the only jurisdiction in Australia that has an organisation to examine complaints against judicial officers. The Commission benchmarks its time standard externally against the Canadian Judicial Council, which performs a similar function in a comparable legal environment, and internally against its own performance targets. In 2007–08, the Canadian Judicial Council finalised 80% of all complaints within three months and 95% within six months, which is comparable to our results (73% in three months and 99% in six months). The time taken to finalise complaints at the Commission has remained consistent over the past five years: see Table 4.

Vexatious complaints

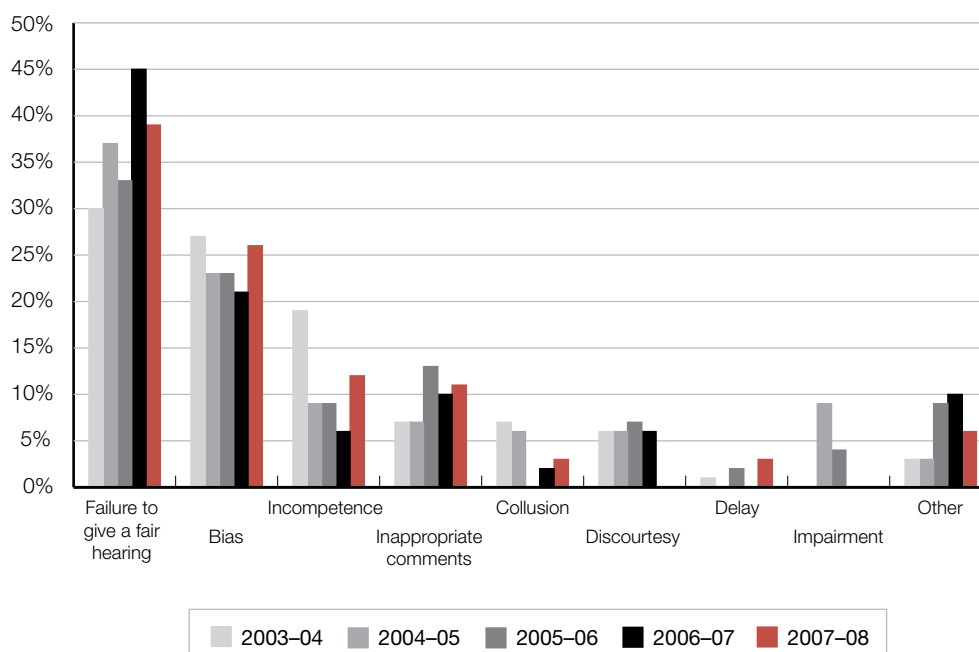
The Commission has power under its Act to declare a person a vexatious complainant. One such declaration was made this year for a complainant who had made six complaints about six judicial officers over a period of approximately four years. All complaints involved proceedings arising out of the same set of circumstances and all were dismissed for lack of substance. The effect of the declaration is that the Commission may disregard any further complaint from the complainant until the declaration is revoked.

PATTERNS IN THE NATURE AND SCOPE OF COMPLAINTS

The Commission monitors patterns in the nature and scope of complaints received, in order to identify any areas that may need to be addressed through judicial education programs: see Figure 10 for an overview of patterns in complaints over the past five years. Information gathered from complaints has been used to develop education programs on domestic violence, cultural awareness training and sexual assault issues. From a positive point of view, the small number of complaints (relative to the number of judicial officers in the State and the huge volume of litigation) is an encouraging indication of the high standard of judicial conduct and the general community's willingness to accept decisions if they are made in accordance with due process of law. In 2007–08, we identified the following patterns:

- Common causes of complaint:** There has been little variation in the type of complaints received in recent years. The most common grounds of complaint continue to be allegations of failure to give a fair hearing and apprehension of bias. In 2007–08, these two categories accounted for 65% of complaints compared to 67% in the previous year. Many complaints of this type were made by unsuccessful parties to legal proceedings and by persons who conducted their own litigation before the courts. Complaints of bias are frequently accompanied by allegations of particular conduct which is said to show evidence of bias by the judicial officer concerned.
- Substitution for appeals:** As reported in previous years, some complainants, in essence, allege that a judicial officer made a wrong decision. These complaints are often made in apparent substitution of appeals to a higher court. They are usually made in circumstances where 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 complaints are dealt with on their merits, but the Commission is not an appellate tribunal with a function of correcting allegedly erroneous decisions.

- **Inappropriate comments:** Seven complaints alleged that a judicial officer made inappropriate comments. In total these complaints accounted for approximately 11% of all complaints received this year, a similar number to the previous year.
- **Allegations of collusion:** Two complaints dealt with during the year concerned allegations of collusion between a judicial officer and another person involved in the court process. Following investigation both complaints were found to be baseless.

Figure 10 Common causes of complaint: Basis of allegations

Case study: Substitution for appeal

Complaint

The complainant, a solicitor, alleged that a magistrate in criminal proceedings gave a decision which did not reflect the evidence presented before the court and reached a wrong determination in convicting his client.

Examination by the Commission

The Commission dismissed the complaint after reviewing the sound recording of the hearing, including the magistrate's summing up of the evidence.

It is not uncommon that people who are dissatisfied with the outcome of a case before a court make a complaint to the Commission instead of an appeal. The role of the Commission 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 Act which requires the Commission to summarily dismiss complaints where there is an avenue of appeal or review available.

Case study: Complaint referred to head of jurisdiction

Complaint

The complainant, a solicitor, alleged that a magistrate was aggressive and rude to him in front of his client, which gave the client the wrong perception of the behaviour expected of a judicial officer.

Examination by the Commission

The Commission's review of the sound recording of the proceedings showed that the magistrate did not treat the solicitor with the courtesy and respect to which he was entitled. The Commission determined that the complaint should not be dismissed and referred it to the Chief Magistrate to deal with as the relevant head of jurisdiction.

Case study: Complaint by an unrepresented litigant

Complaint

The complainant, a self-represented party, alleged that a magistrate had demonstrated bias against him in proceedings before the Local Court and accused him of telling lies when giving evidence.

Examination by the Commission

The Commission's review of the transcript and sound recording of the hearing showed that the magistrate took into account that the complainant was unrepresented and allowed him substantial leeway in the presentation of his case. The Commission found there was no evidence of bias and dismissed that part of the complaint. The examination of the transcript did, however, reveal that during an exchange with the complainant the magistrate said "I think you're telling me a pack of porkies". In his response to the complaint, the magistrate acknowledged that his comment was inappropriate and that the complainant was understandably upset. The Commission was of the view that the concern expressed by the complainant was well raised, but the actions of the magistrate did not constitute misconduct and the complaint was dismissed. In its letter to the complainant the Commission conveyed the magistrate's regret and apology.

Case study: Clerical miscalculation in judgment

Complaint

The complainants were self-represented parties in the Small Claims Division of the Local Court who believed that a magistrate was in error in certain findings including calculations made in his determination. The complainants had raised their concerns with the magistrate but the decision was not corrected.

Examination by the Commission

The Commission examined the material provided by the complainants and the relevant court file, and asked the magistrate to provide comments about the complaint.

The review showed that the magistrate had dealt with the statement of claim in chambers based on the evidence submitted in written form by the parties. This is usual procedure in these matters. Following receipt of the magistrate's judgment the complainants wrote to him disputing findings and arithmetic calculations in the judgment. The reply from the court registrar advised that the judicial officer did not propose to re-visit the matter. The registrar omitted to advise of the availability of review procedures.

Following its examination the Commission was of the opinion that the acceptance or rejection of evidence by the judicial officer were matters within his competence and did not raise questions of misconduct under the *Judicial Officers Act*. In advising the complainants of its findings the Commission noted that there are procedures to correct an error arising from an accidental clerical slip in a judgment and that the complainants might seek independent advice about the matter.

Our organisation

*Enhancing operational performance
through better management*

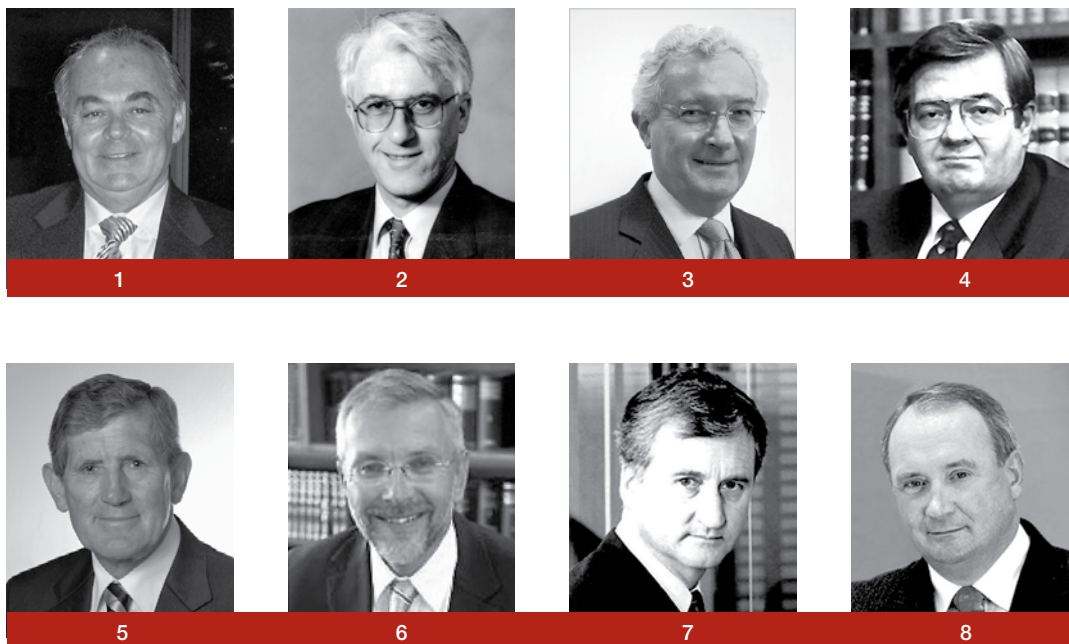
Contents

Members of the Judicial Commission	37
Executive management	39
Commission governance	40
Our staff	41
Access and equity	43
Environmental issues	45
Library operations	45
Operating environment	46
Liaison and visitors	47

MEMBERS OF THE JUDICIAL COMMISSION

As prescribed by the *Judicial Officers Act 1986*, the Judicial Commission consists of six official members, being the heads of jurisdiction of the State's five courts and the President of the Court of Appeal, and four members appointed by the Governor of NSW. The President of the Commission is the Chief Justice of NSW.

Official Members



- 1 The Honourable Chief Justice James Spigelman AC** was appointed Chief Justice of NSW on 25 May 1998 and has occupied the position of President of the Commission from that date. *[attended 7 meetings]*
- 2 The Honourable Justice Keith Mason AC** was appointed President of the Court of Appeal on 4 February 1997, became a member of the Commission on 1 January 2004 and retired on 30 May 2008. *[attended 8 meetings]*
- 3 The Honourable Justice James Allsop** was appointed President of the Court of Appeal on 2 June 2008. *[attended 1 meeting]*
- 4 The Honourable Justice Lance Wright** was appointed President of the Industrial Relations Commission on 22 April 1998 and retired on 22 February 2008. *[attended 6 meetings]*
Alternate: The Honourable Justice Michael Walton. *[attended 1 meeting]*
- 5 The Honourable Justice Roger Boland** was appointed President of the Industrial Relations Commission on 9 April 2008. *[attended 2 meetings]*
Alternate: The Honourable Justice Michael Walton. *[attended 1 meeting]*
- 6 The Honourable Justice Brian Preston** was appointed Chief Judge of the Land and Environment Court on 14 November 2005. *[attended 9 meetings]*
- 7 The Honourable Justice Reginald Blanch AM** was appointed Chief Judge of the District Court on 13 December 1994. *[attended 9 meetings]*
Alternate: His Honour Judge Ronald Solomon. *[attended 1 meeting]*
- 8 His Honour Chief Magistrate Graeme Henson** was appointed Chief Magistrate on 28 August 2006. *[attended 7 meetings]*
Alternate: Her Honour Deputy Chief Magistrate Helen Syme. *[attended 2 meetings]*

The Commission thanks the retiring members, the Honourable Justice Mason and the Honourable Justice Wright, for their significant contributions to the Commission's work.

Appointed Members



- 1 Ms Margaret Hole AM**, a legal practitioner, was appointed a member of the Commission for three years from 24 May 2006 following consultation by the Minister with the Presidents of the Law Society and Bar Association: *Judicial Officers Act 1986*, s 5(5)(a). She is an accredited specialist in property law and a judicial member of the Administrative Decisions Tribunal. She has held many professional appointments, including President of the NSW Law Society, Councillor of the Law Council of Australia, Chair of the Property Law Committee, and Founding Member and Chair of the Aboriginal Justice Committee. She was admitted in the Supreme Court of NSW as a Barrister in 1974 and as a Solicitor and Proctor in 1980. *[attended 7 meetings]*
- 2 Dr Michael Dodson AM BJurisprudence LLB (Monash)[†]** has been a member of the Commission since 4 April 2001 and was reappointed for three years from 16 May 2007. 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 an honorary Doctor of Letters from the University of Technology Sydney and an honorary Doctor of Laws from the University of NSW. *[attended 8 meetings]*
- 3 Mr Alan Cameron AM BA LLM (Syd)[†]** has been a member of the Commission since 8 August 2001 and was reappointed for two years from 8 August 2007. He has a keen interest in regulatory affairs concerning the legal profession. He was chairman of ASIC from 1993–2000, Commonwealth Ombudsman 1991–92, and managing partner of the law firm Blake Dawson Waldron during 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 Limited, a consultant to Blake Dawson, a director of the Public Interest Advocacy Centre, Deputy Chancellor of the Senate of the University of Sydney, and Chair of the Sydney Peace Foundation. *[attended 9 meetings]*
- 4 Dr Judith Cashmore BA Hons, Dip Ed (Adel), M Ed (Newcastle), Ph D (Macquarie)[†]** has been a member of the Commission since 1 December 2004 and was reappointed for two years from 8 August 2007. She 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 is currently Associate Professor, Faculty of Law, University of Sydney, and Adjunct Professor at Southern Cross University (Division of Arts) as well as an Honorary Research Associate, Social Policy Research Centre, UNSW. She has a PhD in developmental psychology and a Masters degree in education. She has chaired or served as a member of a number of non-government and State and Commonwealth government committees concerning child sexual assault, child protection, child deaths, children's rights, family law and research related to these areas. *[attended 10 meetings]*

[†] Dr Dodson, Mr Cameron and Dr Cashmore are persons who, in the opinion of the Minister, have high standing in the community. They were appointed following consultation by the Minister with the Chief Justice: *Judicial Officers Act 1986*, s 5(5)(b).

EXECUTIVE MANAGEMENT



*The Commission's executive management team.
From left: Mr Hugh Donnelly, Ms Ruth Windeler, Mr Ernest Schmatt PSM and Mr Murali Sagi.*

Chief Executive

Mr Ernest Schmatt PSM Dip Law (BAB) was appointed in 1989 and is responsible for all of the Commission's operations, from financial management to research, complaints, information systems management and education activities. 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.

Education Director

Ms Ruth Windeler BSc (University of Toronto, Canada) was appointed in May 1996 and is responsible for the Commission's judicial education program, including conferences, seminars and publications. She has over 30 years experience in professional education, including appointments 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; and Head of the Department of Continuing Medical Education and Re-certification for the Royal Australasian College of Surgeons.

Director, Research and Sentencing

Mr Hugh Donnelly BA (Melb) LLB (UNSW) LLM (Syd) was appointed in July 2007 and is responsible for the Commission's research program and for JIRS. He was admitted as a legal practitioner in 1992 and his prior experience includes five 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 has authored several publications on evidence and sentencing law including the *Sentencing Bench Book*.

Director, Information Management and Corporate Services

Mr Murali Sagi PSM BEng MBA (CSU) GradCertPSM (UWS) FACS was appointed in January 2000 and is responsible for information management, corporate services and the Lawcodes project. He has over 20 years experience in managing complex IT projects in both the government and private sectors, and has provided technical expertise to AusAID, UNDP and Asian Development Bank for capacity building projects in Indonesia, Cambodia and India. 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. In November 2007 he was elected Fellow of the Australian Computer Society.

COMMISSION GOVERNANCE

Role of Commission members

The Commission members set strategic directions for the organisation, appoint the executive management, approve budgets and publications, and conduct the preliminary examination of all complaints. The official members provide valuable information about the education needs of judicial officers and bring significant experience about the judicial role to the determination of complaints. The appointed members provide useful information about community expectations of judicial officers and have input into the education programs. Members are informed about operational issues through a monthly report by the Chief Executive covering functional and financial matters, briefings on issues as they arise, and day-to-day contact with the senior executive.

Conflicts of interest

The main area in which a possible conflict of interest could arise for a Commission member is in the examination of complaints. The Commission's policy is that a judicial member will not participate in any discussion or decision involving complaints against him or her. No member will participate in any discussion or decision where that member has a possible conflict of interest.

Commission functions

The Commission may delegate any of its functions to a member, officer or Committee of the Commission. 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 in the discharge of some of its responsibilities: see Appendix 4. The Commission seeks independent professional advice when necessary to enable it to carry out its functions.

Members' remuneration

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

Role of executive management

The Chief Executive and Directors are responsible for the day-to-day operations of the Commission. They provide advice and expertise to ensure that the Commission's 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*. This includes establishing and maintaining internal controls relevant to the preparation of the financial report.

Appointment of Chief Executive

The Chief Executive is appointed for a term of five years under section 6(1) of the *Judicial Officers Act*. He is engaged on a contract and undergoes an annual performance review by Commission members at a Commission meeting.

Meetings of the Commission

In 2007–08, the Commission met 10 times. All members attended each meeting, unless leave of absence was granted: see pages 37–38 for the number of meetings attended by each member. The quorum for a meeting is seven members, one of whom must be an appointed member. The Chief Executive attended all meetings to report on the operations of the Commission.

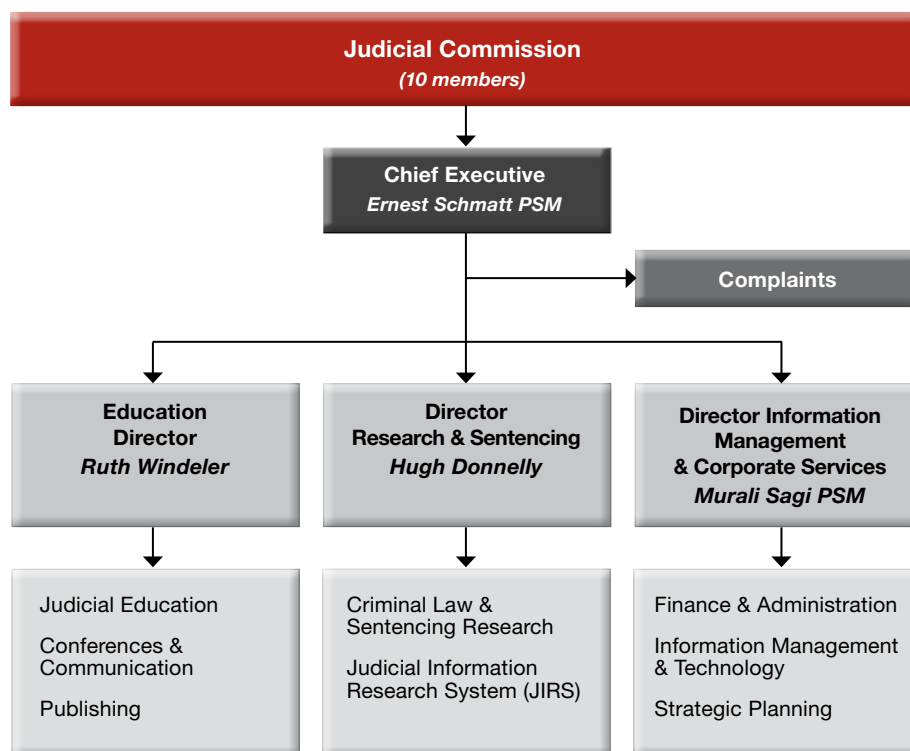
Relationship with the NSW Government

The Commission is an independent statutory corporation established by the *Judicial Officers Act*. It is funded by the NSW Parliament and is required to report annually to the 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.

Internal audit and risk management

To date, because of the Commission's small size, the internal audit function has been outsourced to the NSW Internal Audit Bureau. As recommended by the Department of Premier and Cabinet's recent review of internal audit capacity in the NSW Public Sector, in 2008–09 the Commission will establish an Internal Audit and Risk Management Committee with an independent chair and member.

Figure 11 Our structure



OUR STAFF

The Commission provides a safe, harmonious and productive working environment that offers interesting and fulfilling work, motivates staff to excel in the performance of their duties, and allows them to develop both professionally and personally.

The Commission is supported by a staff of 39, including specialists in legal education, legal research and information technology. Staff numbers have remained stable over the past five

years (see Table 5) and the small number of staff means that we sometimes call on the expertise of retired judicial officers to carry out some of our highly specialised tasks, such as developing new bench books and examining complaints.

We are also assisted in our work by a significant number of judicial officers, who give generously of their time to serve on the various committees established by the Commission: see Appendix 4.

Table 5 Five-year comparison of average number of employees by category[†]

	2003–04	2004–05	2005–06	2006–07	2007–08
Senior executive	3	3	3	3	4
Sentencing/judicial education	29	29	29	30	31
Administration/management support	5	5	6	6	4
Total staff	37	37	38	39	39

[†] The Commission has 35.8 full time equivalent employees.

Table 6 Executive positions

	2006–07		2007–08	
Level†	Total	Female	Total	Female
6	1	0	1	0
3	0	0	1‡	0
2	2	1	2	1
Total	3	1	4	1

† Equivalent to CES and SES levels in the Public Service.

‡ This position was previously classified as a senior officer.

Employment conditions

The Commission is an employer under the *Judicial Officers Act 1986*, with conditions of employment being generally equivalent to those of the New South Wales Public Service. Members of the Public Service who accept a position at the Commission retain various rights and benefits, such as superannuation and extended leave.

Personnel overview

During 2007–08:

- the average number of employees was 39
- average sick leave taken was 6.1 days per employee
- one workers' compensation claim was lodged; no days were recorded as being lost
- a 4% salary increase was awarded to staff from 1 July 2007 which mirrored the increases provided to public sector employees under the *Crown Employees (Public Sector — Salaries 2004) Award*, and a 2.5% salary increase was awarded to the senior executive from 1 October 2007
- no industrial action occurred
- 61% of staff had five or more years service and 39% of staff had ten or more years service
- the turnover rate for permanent staff was 6.5%.

Staff development and training

We recognise that our staff are our most important asset and we help them develop their full potential. During 2007–08 staff attended a number of courses that were chosen for the purposes of developing personal attributes, obtaining further professional skills or enhancing existing skills in established areas of expertise, for example:

- IT staff attended a number of conferences on application development, open source operating systems and future trends
- executive managers attended a number of conferences to further their professional development
- editorial staff attended seminars on copyright, sentencing, current legal issues, computer software programs and Indigenous issues
- conference staff attended training on computer software programs, communication and leadership
- administrative staff attended training on human resource practices, record keeping, taxation issues, and accounting and payroll software.

In addition, we supported two staff members undertaking tertiary study by providing study leave.



The Commission's traineeships provide law students with practical experience in legal research. Ms Anna Coroneo is one of our research trainees.

Human resources

A review of the Commission's human resource practices and procedures by the Internal Audit Bureau was finalised in 2007–08 and resulted in a number of recommendations. In response to that review and in order to improve our support services we:

- engaged external contractors to assess our record classification and disposal systems
- reviewed record-keeping arrangements for personnel files, audited salary records, and drafted a manual documenting all salary procedures and business rules
- developed new procedures to guide our recruitment and selection processes
- reviewed and redesigned the induction package for new staff.

Performance appraisal

Our performance management system provides for regular reviews between supervisors and staff as well as formal appraisals on an annual basis. The improved performance management system implemented in 2006–07 is being evaluated on an ongoing basis by users and appears to be working well. Future strategies in this area include the development of a formal policy that clearly specifies the criteria for accelerated incremental progression, and training for managers and supervisors in managing poor performance and disciplinary matters.

Safe working environment — Occupational Health and Safety (OH&S)

One claim for workers' compensation was lodged in 2007–08 arising from an incident in the office, the same number as in the previous year. There were no work related illnesses or prosecutions under the *Occupational Health and Safety Act 2000*.

In 2007–08, the main focus of OH&S activities was on hazard identification and risk minimisation, carrying out fire drills and continuing to monitor the work environment for any potential hazards. The Commission has a trained OH&S representative, three fire wardens who receive regular training by building management, and three qualified first aid officers.

In 2008–09, we will develop and implement procedures to:

1. ensure our practice complies with OH&S legislation and injury management obligations
2. meet the targets outlined in the Government's OH&S and injury management strategy.

ACCESS AND EQUITY

Indigenous

The Commission hosted a number of activities for staff to celebrate and recognise significant Aboriginal events. These included a screening of the National Apology to Australia's Indigenous Peoples in February 2008 and an afternoon tea held to commemorate and acknowledge National Sorry Day and National Reconciliation Week in May 2008. Staff were privileged to hear from a member of the Stolen Generation who shared her life story.



Mrs Lousie Campbell-Price shared her life story with staff during National Reconciliation Week. She is pictured with the Commission's Education Director, Ms Ruth Windeler.

Action Plan for Women

The NSW Government's Action Plan for Women aims to recognise and address women's needs in government policies and services. In 2007–08, the Commission was responsible for:

- hosting a cross-jurisdictional seminar on "Manitoba's Domestic Violence Courts" presented by the Honourable Raymond Wyant, Chief Judge, Provincial Court of Manitoba in May 2008

- contributing to improved legislation, policies and procedures aimed at reducing violence against women through representation on the Apprehended Violence Legal Issues Co-ordinating Committee and the Sexual Assault Review Committee.

Spokeswomen's Program

The Spokeswomen's Program aims to assist women enhance their knowledge and skills to enable full and equal participation in the workplace. Spokeswomen's activities in 2007–08 focused on providing staff with leadership development opportunities: two women attended the "Leadership Journey" seminar and three women attended the "Leadership Toolkit" seminar, both of which were designed to support women in positions of leadership to build and improve their leadership skills and capability within a supportive learning environment. Staff were kept informed about Spokeswomen's activities through an electronic mailing list, the intranet and a dedicated in-office notice board.

Equal employment opportunity

The Commission supports and implements the principles of equal employment opportunity, and exceeds the government's targets relating to the employment of women: see Table 7. We are committed to:

- providing a productive work environment that is free from discrimination and harassment
- fostering the professional development of staff in a manner that attracts and retains employees
- providing opportunities to staff to act in higher positions in order to gain experience.



Ms Lorraine Beal, Senior Graphic Designer and Ms Penny Howson, Conference Assistant, who both work in the education section.

Table 7 Five-year trends in the representation of EEO groups¹

EEO Group	% of total staff ²					
	Benchmark/ target	2004	2005	2006	2007	2008
Women	50	63	62	63	67	73
Aboriginal people and Torres Strait Islanders	2	3	0	0	0	2
People whose first language was not English	19	26	30	26	22	16
People with a disability	12	3	0	0	0	0
People with a disability requiring work-related adjustment	7	3	0	0	0	0

¹ These percentages reflect staff numbers as at 30 June 2008.

² Excludes casual staff.

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

Guarantee of service and consumer response

Although the Commission's main focus is to provide education and sentencing information for judicial officers, we do have a more general service delivery role in our complaints function. We guarantee to investigate complaints in a timely and effective manner, and to keep complainants informed about the progress of their complaints: see page 33 for time standards relating to complaints about judicial officers. When a complaint is dismissed, sometimes a complainant will seek clarification of the reasons for the dismissal. In each case the Commission will respond promptly to the matters raised.

The Commission is committed to providing courteous and prompt assistance in all dealings with the public. Requests for information can be made in person, over the phone or via email, and information about the Commission is available on our website at <http://www.judcom.nsw.gov.au>. Most contact from the public is about complaints, publications and sentencing information.

Electronic service delivery

In line with the NSW Government's commitment to better government access, we:

- provide information about the Commission, details about the complaints process and the complaints form on our website
- provide JIRS over the internet for judicial officers and subscribers
- make Lawcodes available over the internet
- help improve access to justice by providing publications online on our website, in particular, the *Criminal Trial Courts Bench Book*, *Sentencing Bench Book*, *Equality before the Law Bench Book* and *Sexual Assault Handbook*
- handle orders for our publications on the NSW Government's online shop at www.shop.nsw.gov.au.

During 2007–08, we redeveloped our website in order to conform with the NSW Government's style directive aimed at providing a consistent look and feel for all government websites. The website is currently being tested and will be launched in 2008–09.

ENVIRONMENTAL ISSUES

Energy management

The Commission's policy of effective energy management is implemented through three main strategies:

- purchasing energy efficient computer and office equipment
- minimising energy consumption after hours
- raising staff awareness of the need to conserve energy.

Our total energy use for 2007–08 was 433 GJ, a pleasing decrease of 21.5% over the 552 GJ used in the previous year.

LIBRARY OPERATIONS

The Commission's librarian provides bibliographical support to the research, education and publishing programs by disseminating legal and related information, sourcing material and undertaking legal research tasks. In 2007–08:

- we saved 5.3% on the library's budget mainly due to the NSW Justice Consortium's ongoing negotiations with selected legal publishers, whilst achieving a better resourced library via increased online access to overseas and local databases
- reference and research enquiries returned to more manageable proportions, decreasing by 48.3% from last year's record figures with a consequential decrease in interlibrary loans of 45.5%
- 691 items were added to the online catalogue.

Continuing challenges for the Commission are the high costs of online access to legal subscription services which make great inroads into the library's small budget, and our rapidly expanding research and publishing programs which place pressure on slim resources.

OPERATING ENVIRONMENT

Legislative charter

The Commission's 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.

The Commission may 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 its functions
- enter into and carry out contractual arrangements for supply of services that make use of information technology, expertise, or other things developed by the Commission in the exercise of its functions.

Changes to legislation

The Commission operates under the *Judicial Officers Act 1986* and the *Judicial Officers Regulation 2006*. In 2007–08, the *Judicial Officers Act* was amended by:

- the *Judicial Officers Amendment Act 2007* — amendments providing for the appointment of community representatives nominated by Parliament to Conduct Divisions commenced on 4 July 2007. The Commission may appoint a Conduct Division to examine and investigate particular complaints. Each Conduct Division consists of three members determined by the Commission: previously the members had to be either serving or retired judicial officers. This amendment requires that in future a Conduct Division will consist of two judicial officers (one may be retired) and one of the two nominated community representatives who will serve in rotation. In March 2008, Parliament nominated Mr Kenneth Moroney, NSW Commissioner of Police from 2002 to 2007 and Ms Martha Jabour, Executive Director of the Homicide Victim's Support Group, as the two community representatives. As no Conduct Division has been formed since their nomination, neither community

representative has been required to serve on a Conduct Division.

- the *Miscellaneous Acts (Casino, Liquor and Gaming) Amendment Act 2007* — amendments relating to the definition of magistrate to remove licensing magistrate commenced on 1 July 2008.

Privacy management plan

Due to the nature of the Commission's activities, in particular our complaint handling function and the provision of sentencing information, we have some unique issues to deal with in our Privacy Code of Practice and Privacy Management Plan. The Commission is still considering how best to address these unique issues and, as a result, these documents are still in draft form. We did not conduct any reviews under Part 5 of the *Privacy and Personal Information Protection Act 1998*.

Risk management and insurance

In 2007–08 we continued to implement the recommendations arising from the Internal Audit Bureau's risk assessment review of our financial, human resource and administrative support systems. The two major areas of risk identified in the review related to business continuity and financial management. In response we continue to maintain and update the business continuity plan, improve our electronic backup systems, and implemented a new finance system which allows for monthly statements of financial performance to be prepared and distributed. Work will continue in 2008–09 on testing our backup systems to ensure that files can be restored in a controlled and timely manner and that manual records stored off-site are secure.

An appropriate form and level of insurance exists in relation to all identifiable risk exposures. The Commission is a member of the Treasury Managed Fund, which 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.

LIAISON AND VISITORS

The Commission actively seeks to exchange information with other government agencies, academic institutions and individuals. We have 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.

During 2007–08, the Commission received a number of visits from judicial officers and other distinguished visitors from both interstate and overseas seeking to benefit from our experience. The visitors and delegations received demonstrations of JIRS, tours of the Commission's facilities and an explanation of the Commission's functions and activities. Many of the visitors were particularly interested in discussing our education programs, JIRS and the complaints function: see Appendices 11 and 13 for details of the organisations with which the Commission liaised and visitors to the Commission.

Mr Justice Md Ruhul Amin, Chief Justice of Bangladesh, led a delegation of judges from the Supreme Court of Bangladesh which visited the Commission in February 2008. He is pictured with the Commission's Chief Executive, Mr Ernest Schmatt PSM.



A delegation from the Supreme Court of Nepal visited the Judicial Commission in February 2008 to learn about the Commission's role, particularly its education and complaints functions.

Financial management

*Enhancing operational performance
through better financial management*

Contents

Financial performance	49
Financial summary	50
Financial report	51

FINANCIAL PERFORMANCE

Payment of accounts

As shown in Table 8, during the reporting period the Commission paid all accounts on time and was not required to pay penalty interest on any account.

Consultants

The Commission did not employ 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.

Table 8 Aged analysis at the end of each quarter

Quarter	Current (within due date)	Less than 30 days overdue	Between 30 & 60 days overdue	Between 60 & 90 days overdue	More than 90 days overdue
	\$	\$	\$	\$	\$
September 2007	88,626.68	nil	nil	nil	nil
December 2007	56,085.61	nil	nil	nil	nil
March 2008	53,967.68	nil	nil	nil	nil
June 2008	69,528.22	nil	nil	nil	nil

Table 9 Accounts paid on time within each quarter

Quarter	Total accounts paid on time			Total amount paid
	Target %	Actual %	\$	\$
September 2007	100	100	88,626.68	88,626.68
December 2007	100	100	56,085.61	56,085.61
March 2008	100	100	53,967.68	53,967.68
June 2008	100	100	69,528.22	69,528.22

FINANCIAL SUMMARY

Revenue

The principal source of revenue for the Commission is government contributions (\$4.757 million compared with \$4.763 million in 2006–07). Other revenue items were \$456,000 from the sale of goods and services, and \$142,000 from interest and other sources.

Expenditure

Expenses totalled \$5.375 million, an increase of \$351,000 from 2006–07. Employee-related expenses were \$3.673 million or 68.3% of total expenses (67.7% in 2006–07).

Assets

Total assets remained stable with small increases in cash, cash equivalents and non-current assets offset by a decrease in receivables.

Liabilities

The \$32,000 increase in liabilities from 2006–07 is due to an increase in payables.

Figure 12 Revenue (\$'000)

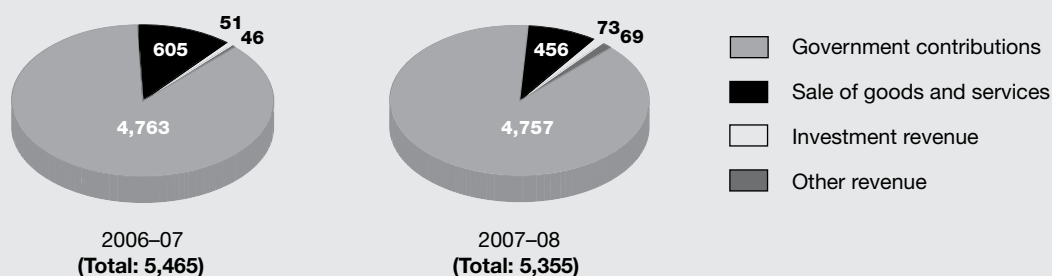


Figure 13 Expenditure (\$'000)

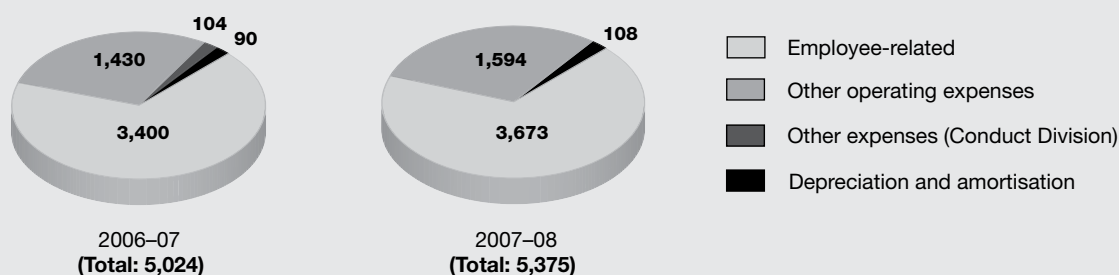
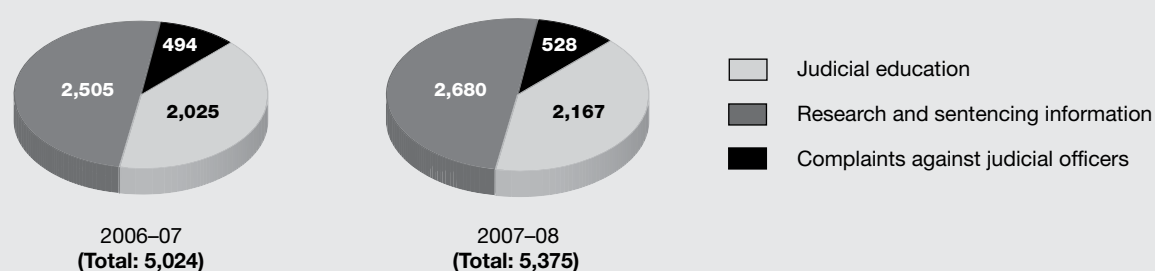


Figure 14 Program expenditure† (\$'000)



† These expenditure figures include fixed overheads and support services such as information technology and corporate services.

FINANCIAL REPORT

Independent Audit Report	52
Certification of Financial Report	53
Operating Statement	54
Statement of Recognised Income and Expense	55
Balance Sheet	56
Cash Flow Statement	57
Summary of Compliance with Financial Directives	58
Notes to and forming part of the Financial Statements	59
Note	
1. Summary of Significant Accounting Policies	59
2. Expenses Excluding Losses	64
3. Revenue	65
4. Appropriations	65
5. Acceptance by the Crown Entity of Employee Benefits and Other Liabilities	65
6. Programs/Activities of the Commission	65
7. Current Assets — Cash and Cash Equivalents	66
8. Current Assets — Receivables	66
9. Non-Current Assets — Plant and Equipment	66
10. Intangible Assets	67
11. Current Liabilities — Payables	67
12. Current/Non-Current Liabilities — Provisions	67
13. Changes in Equity	68
14. Commitments for Expenditure	68
15. Contingent Liabilities and Contingent Assets	68
16. Budget Review	68
17. Reconciliation of Cash Flows from Operating Activities to Net Cost of Services	69
18. Financial Instruments	69
19. After Balance Date Events	71
20. Joint Program with AIJA	71



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 report of the Judicial Commission of New South Wales (the Commission), which comprises the balance sheet as at 30 June 2008, and the income statement, statement of recognised income and expense, cash flow statement, and summary of compliance with financial directives for the year then ended, and a summary of significant accounting policies and other explanatory notes.

Auditor's Opinion

In my opinion, the financial report:

- presents fairly, in all material respects, the financial position of the Commission as of 30 June 2008, and of its financial performance and its cash flows for the year then ended in accordance with Australian Accounting Standards (including the Australian Accounting Interpretations)
- is in accordance with section 45E of the *Public Finance and Audit Act 1983* (the PF&A Act) and the Public Finance and Audit Regulation 2005.

Chief Executive's Responsibility for the Financial Report

The Chief Executive is responsible for the preparation and fair presentation of the financial report in accordance with Australian Accounting Standards (including the Australian Accounting Interpretations) and the PF&A Act. This responsibility includes establishing and maintaining internal control relevant to the preparation and fair presentation of the financial report that is 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 report 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 report is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial report. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial report, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Commission's preparation and fair presentation of the financial report 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 control. 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 report.

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

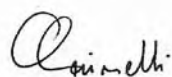
My opinion does *not* provide assurance:

- 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 report.

Independence

In conducting this audit, the Audit Office 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 are not compromised in their role by the possibility of losing clients or income.



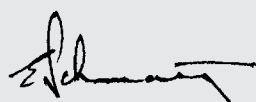
C J Giumelli
Director, Financial Audit Services

15 September 2008
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* 2005 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 2008; 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: 12 September 2008

JUDICIAL COMMISSION OF NEW SOUTH WALES**Operating Statement**

for the year ended 30 June 2008

	Notes	Actual 2008 \$'000	Budget 2008 \$'000	Actual 2007 \$'000
Expenses Excluding Losses				
Operating expenses				
Employee related	2(a)	3,673	3,664	3,400
Other operating expenses	2(b)	1,594	1,555	1,430
Depreciation and amortisation	2(c)	108	74	90
Other expenses	2(d)	–	–	104
Total Expenses Excluding Losses		5,375	5,293	5,024
Less:				
Revenue				
Sales of goods and services	3(a)	456	655	605
Investment revenue	3(b)	73	21	51
Other revenue	3(c)	69	4	46
Total Revenue		598	680	702
Gain/(Loss) on Disposal	9	(7)	–	–
Net Cost of Services	17	4,784	4,613	4,322
Government Contributions				
Recurrent appropriation	4	4,388	4,388	4,504
Capital appropriation	4	142	150	88
Acceptance by the Crown Entity of employee benefits and other liabilities	1(e)(ii) & 5	227	227	171
Total Government Contributions		4,757	4,765	4,763
SURPLUS/(DEFICIT) FOR THE YEAR		(27)	152	441

The accompanying notes form part of these financial statements.

JUDICIAL COMMISSION OF NEW SOUTH WALES**Statement of Recognised Income and Expense**

for the year ended 30 June 2008

	Notes	Actual 2008 \$'000	Budget 2008 \$'000	Actual 2007 \$'000
TOTAL INCOME AND EXPENSE RECOGNISED DIRECTLY IN EQUITY		–	–	–
Surplus/(Deficit) for the Year		(27)	152	441
TOTAL INCOME AND EXPENSE RECOGNISED FOR THE YEAR		<u>(27)</u>	<u>152</u>	<u>441</u>

The accompanying notes form part of these financial statements.

JUDICIAL COMMISSION OF NEW SOUTH WALES**Balance Sheet**

as at 30 June 2008

	Notes	Actual 2008 \$'000	Budget 2008 \$'000	Actual 2007 \$'000
ASSETS				
Current Assets				
Cash and cash equivalents	7	1,306	1,316	1,229
Receivables	8	124	222	222
Total Current Assets		1,430	1,538	1,451
Non-Current Assets				
Plant and equipment	9	299	345	269
Intangible assets	10	6	10	10
Total Non-Current Assets		305	355	279
Total Assets		1,735	1,893	1,730
LIABILITIES				
Current Liabilities				
Payables	11	143	113	111
Provisions	12	343	353	344
Total Current Liabilities		486	466	455
Non-Current Liabilities				
Provisions	12	6	5	5
Total Non-Current Liabilities		6	5	5
Total Liabilities		492	471	460
Net Assets		1,243	1,422	1,270
EQUITY				
Accumulated funds	13	1,243	1,422	1,270
Total Equity		1,243	1,422	1,270

The accompanying notes form part of these financial statements.

JUDICIAL COMMISSION OF NEW SOUTH WALES

Cash Flow Statement

for the year ended 30 June 2008

	Notes	Actual 2008 \$'000	Budget 2008 \$'000	Actual 2007 \$'000
CASH FLOWS FROM OPERATING ACTIVITIES				
Payments				
Employee related		(3,431)	(3,426)	(3,398)
Other		(1,795)	(1,734)	(1,844)
Total Payments		(5,226)	(5,160)	(5,242)
Receipts				
Sale of goods and services		566	655	867
Interest received		64	21	33
Other		268	183	268
Total Receipts		898	859	1,168
Cash Flows from Government				
Recurrent appropriation		4,388	4,388	4,504
Capital appropriation (excluding equity appropriations)		142	150	88
Cash reimbursements from the Crown Entity		17	–	120
Net Cash Flows from Government	17	4,547	4,538	4,712
NET CASH FLOWS FROM OPERATING ACTIVITIES		219	237	638
CASH FLOWS FROM INVESTING ACTIVITIES				
Purchases of Plant and Equipment		(142)	(150)	(88)
NET CASH FLOWS FROM INVESTING ACTIVITIES		(142)	(150)	(88)
NET INCREASE/(DECREASE) IN CASH		77	87	549
Opening cash and cash equivalents		1,229	1,229	680
CLOSING CASH AND CASH EQUIVALENTS	7	1,306	1,316	1,229

The accompanying notes form part of these financial statements.

JUDICIAL COMMISSION OF NEW SOUTH WALES

Summary of Compliance with Financial Directives for the year ended 30 June 2008

Supplementary financial statement

	2008				2007			
	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	4,388	4,388	150	142	4,400	4,400	150	88
	4,388	4,388	150	142	4,400	4,400	150	88
OTHER APPROPRIATIONS/ EXPENDITURE								
Treasurer's Advance	-	-	-	-	200	104	-	-
	4,388	4,388	150	142	4,600	4,504	150	88
Total Appropriations/Expenditure/ Net Claim on Consolidated Fund (includes transfer payments)								
Amount drawn down against Appropriation		4,388		142		4,504		88
Liability to Consolidated Fund*		-		-		-		-

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 2008

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 2008 has been authorised for issue by the Chief Executive on 12 September 2008.

(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. Other financial report 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 report.

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)

Revenues, expenses and assets are recognised net of the amount of GST, except where:

- 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 revenue 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 revenue 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 operating statement, 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.

JUDICIAL COMMISSION OF NEW SOUTH WALES

Notes to and forming part of the Financial Statements for the year ended 30 June 2008

(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*

Property, 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*.

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 property, 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.

Non-specialised assets with short useful lives are measured at depreciated historical cost, as a surrogate for fair value.

When revaluing non-current assets by reference to current prices for assets newer than those being revalued (adjusted to reflect the present condition of the assets), the gross amount and the related accumulated depreciation are separately restated.

For other assets, any balances of accumulated depreciation at the revaluation date in respect of those assets are credited to the asset accounts to which they relate. The net asset accounts are then increased or decreased by the revaluation increments or decrements.

Revaluation increments are credited directly to the asset revaluation reserve, except that, to the extent that an increment reverses a revaluation decrement in respect of that class of asset previously recognised as an expense in the surplus/deficit, the increment is recognised immediately as revenue in the surplus/deficit.

Revaluation decrements are recognised immediately as expenses in the surplus/deficit, except that, to the extent that a credit balance exists in the asset revaluation reserve in respect of the same class of assets, they are debited directly to the asset revaluation reserve.

As a not-for-profit entity, revaluation increments and decrements are offset against one another within a class of non-current assets, but not otherwise.

Where an asset that has previously been revalued is disposed of, any balance remaining in the asset revaluation reserve in respect of that asset is transferred to accumulated funds.

JUDICIAL COMMISSION OF NEW SOUTH WALES

Notes to and forming part of the Financial Statements for the year ended 30 June 2008

(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 property, 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 as follows:

Computer Equipment	3 years
Furniture and Fittings	15 years
Office Equipment	5 years

Prior to 2007–08 depreciation was charged at the following rates:

Computer Equipment	33.3%
Furniture and Fittings	7.5%
Office Equipment	10%

(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.

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 operating statement 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 operating statement.

JUDICIAL COMMISSION OF NEW SOUTH WALES

Notes to and forming part of the Financial Statements for the year ended 30 June 2008

(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 fall due wholly within 12 months of the reporting date 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 07/04) 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) 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 Operating Statement and the Cash Flow Statement are generally based on the amounts disclosed in the NSW Budget Papers (as adjusted above). However, in the Balance Sheet, 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 report (rather than carried forward estimates).

(j) 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.

(k) New Australian Accounting Standards Issued but Not Effective

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

- AASB 3 (March 2008), AASB 127 and AASB 2008–3 regarding business combinations;
- AASB 8 and AASB 2007–3 regarding operating segments;
- AASB 101 (Sept 2007) and AASB 2007–8 regarding presentation of financial statements;

JUDICIAL COMMISSION OF NEW SOUTH WALES

Notes to and forming part of the Financial Statements for the year ended 30 June 2008

- AASB 123 (June 2007) and AASB 2007-6 regarding borrowing costs;
- AASB 1004 (Dec 2007) regarding contributions;
- AASB 1049 (Oct 2007) regarding the whole of government and general government sector financial reporting;
- AASB 1050 (Dec 2007) regarding administered items;
- AASB 1051 (Dec 2007) regarding land under roads;
- AASB 1052 (Dec 2007) regarding disaggregated disclosures;
- AASB 2007-9 regarding amendments arising from the review of AASs 27, 29 and 31;
- AASB 2008-1 regarding share based payments;
- AASB 2008-2 regarding puttable financial instruments;
- Interpretation 4 (Feb 2007) regarding determining whether an arrangement contains a lease;
- Interpretation 12 and AASB 2007-2 regarding service concession arrangements;
- Interpretation 13 on customer loyalty programmes;
- Interpretation 14 regarding the limit on a defined benefit asset;
- Interpretation 129 (Feb 2007) regarding service concession disclosures;
- Interpretation 1038 (Dec 2007) regarding contributions by owners.

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 2008

	2008 \$'000	2007 \$'000
2. EXPENSES EXCLUDING LOSSES		
(a) Employee related expenses:		
Salaries and wages (including recreation leave)	3,087	2,969
Superannuation — defined benefit plans	101	76
Superannuation — defined contributions plans	153	156
Long service leave	103	(30)
Workers' compensation insurance	18	16
Payroll tax and fringe benefit tax	211	213
	<u>3,673</u>	<u>3,400</u>
(b) Other operating expenses:		
Operating lease rental expense — minimum lease payments	414	376
Fees for services	287	263
Conferences	255	182
Printing	77	153
Member fees	112	112
Stores and equipment	27	26
Books and periodicals	58	61
Postal and telephone	69	64
Training	43	19
Travel expenses	26	20
Electricity	17	17
Insurance	9	7
Auditor's remuneration — audit of the financial report	18	18
Recruitment	5	5
Maintenance	49	32
Other	128	75
	<u>1,594</u>	<u>1,430</u>
(c) Depreciation and amortisation expense		
Depreciation		
Computer equipment	62	61
Office furniture	13	13
Office equipment	29	14
	<u>104</u>	<u>88</u>
Amortisation		
Intangible assets	4	2
	<u>108</u>	<u>90</u>
(d) Other expenses		
Conduct Division	—	104
	<u>—</u>	<u>104</u>

JUDICIAL COMMISSION OF NEW SOUTH WALES

Notes to and forming part of the Financial Statements for the year ended 30 June 2008

	2008 \$'000	2007 \$'000
3. REVENUE		
(a) Sale of goods and services		
Sale of goods	62	55
Rendering of services	394	550
	<u>456</u>	<u>605</u>
(b) Investment revenue		
Interest	73	51
	<u>73</u>	<u>51</u>
(c) Other revenue	<u>69</u>	<u>46</u>
4. APPROPRIATIONS		
Recurrent appropriations		
Total recurrent drawdowns from NSW Treasury (per Summary of Compliance)	4,388	4,504
Less: Liability to Consolidated Fund (per Summary of Compliance)	—	—
	<u>4,388</u>	<u>4,504</u>
Capital appropriations		
Total capital drawdowns from NSW Treasury (per Summary of Compliance)	142	88
Less: Liability to Consolidated Fund (per Summary of Compliance)	—	—
	<u>142</u>	<u>88</u>
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	101	77
Long service leave	120	89
Payroll tax	6	5
	<u>227</u>	<u>171</u>
6. PROGRAMS/ACTIVITIES OF THE COMMISSION		
The Judicial Commission of New South Wales comprises only one program which is Program Number 20 Judicial Commission of New South Wales.		
Objectives: To monitor sentencing consistency, provide judicial education and training, and examine complaints against judicial officers.		

JUDICIAL COMMISSION OF NEW SOUTH WALES

Notes to and forming part of the Financial Statements for the year ended 30 June 2008

	2008 \$'000	2007 \$'000
7. CURRENT ASSETS — CASH AND CASH EQUIVALENTS		
Cash at bank and on hand	1,306	1,229
	<u>1,306</u>	<u>1,229</u>
For the purpose of the Cash Flow Statement, cash and cash equivalents include cash at bank and cash on hand.		
Cash and cash equivalent assets recognised in the Balance Sheet are reconciled at the end of the financial year to the Cash Flow Statement as follows:		
Cash and cash equivalents (per Balance Sheet)	1,306	1,229
Closing cash and cash equivalents (per Cash Flow Statement)	<u>1,306</u>	<u>1,229</u>
8. CURRENT ASSETS — RECEIVABLES		
Sale of goods and services	4	90
Other receivables	5	31
Interest receivable	37	28
Prepayments	78	73
	<u>124</u>	<u>222</u>
9. NON-CURRENT ASSETS — PLANT AND EQUIPMENT		
Gross carrying amount	1,490	1,463
Less: Accumulated depreciation and impairment	1,191	1,194
Net carrying amount — at fair value	<u>299</u>	<u>269</u>
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	269	279
Additions	141	78
Disposals	7	—
Depreciation	104	88
Net carrying amount at end of year	<u>299</u>	<u>269</u>

JUDICIAL COMMISSION OF NEW SOUTH WALES

Notes to and forming part of the Financial Statements for the year ended 30 June 2008

	2008 \$'000	2007 \$'000
10. INTANGIBLE ASSETS		
Software		
Cost (gross carrying amount)	96	96
Less: Accumulated amortisation and impairment	90	86
Net carrying amount — at fair value	6	10
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	10	1
Additions	—	11
Disposals	—	—
Amortisation	4	2
Net carrying amount at end of year	6	10
11. CURRENT LIABILITIES — PAYABLES		
Sundry creditors	93	42
Accrued salaries, wages and on-costs	45	62
Other (including GST payable)	5	7
	143	111
12. CURRENT/NON-CURRENT LIABILITIES — PROVISIONS		
Employee benefits and related on-costs		
Current		
Recreation leave	231	243
On-costs	112	101
	343	344
Non-Current		
On-costs	6	5
	6	5
Aggregate employee benefits and related on-costs		
Provisions — current	343	344
Provisions — non-current	6	5
Accrued salaries, wages and on-costs (refer Note 11)	45	62
	394	411

JUDICIAL COMMISSION OF NEW SOUTH WALES

Notes to and forming part of the Financial Statements for the year ended 30 June 2008

	2008 \$'000	2007 \$'000
13. CHANGES IN EQUITY		
Accumulated Funds		
Balance at the beginning of the financial year	1,270	829
Surplus/(Deficit) for the year	(27)	441
Balance at the end of the financial year	1,243	1,270
14. COMMITMENTS FOR EXPENDITURE		
Operating lease commitments		
Future non-cancellable operating lease rentals not provided for and payable:		
Not later than one year	458	445
Later than one year and not later than five years	588	996
Later than five years	–	–
Total (including GST)	1,046	1,441

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 2008 includes input tax credits of \$95,000 (\$131,000 in 2006–2007) 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 2008.

16. BUDGET REVIEW**Net Cost of Services**

Net Cost of Services is over budget by \$171,000. This is mainly due to lower than expected revenue from the sale of services to other government organisations and the timing of budget preparation and knowledge of factors at that time. Expenses are over budget by \$82,000 mainly due to increased depreciation expense resulting from a change in depreciation rates and new assets purchased.

Assets and Liabilities

Current Assets are \$108,000 less than budget due to a decrease in receivables. Non-current Assets are under budget by \$50,000 due to higher than expected depreciation expense. Current Liabilities are over budget because of the timing of budget preparation and knowledge of factors at that time.

Cash Flows

Net Cash Flows from Operating Activities are \$18,000 under budget mainly due to the decrease in revenue received from the sale of services.

JUDICIAL COMMISSION OF NEW SOUTH WALES

Notes to and forming part of the Financial Statements for the year ended 30 June 2008

	2008 \$'000	2007 \$'000
17. RECONCILIATION OF CASH FLOWS FROM OPERATING ACTIVITIES TO NET COST OF SERVICES		
Net cash flows from operating activities	219	638
Cash flows from Government	(4,547)	(4,712)
Acceptance by the Crown Entity of employee benefits and other liabilities	(210)	(51)
Depreciation and amortisation	(108)	(90)
Decrease/(increase) in provisions	–	(3)
Increase/(decrease) in prepayments and other assets	(99)	(165)
Decrease/(increase) in payables	(32)	61
Net gain/(loss) on sale of plant and equipment	(7)	–
Net cost of services	(4,784)	(4,322)

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 this financial report.

(a) Financial Instrument Categories

			Carrying Amount	
	Note	Category	2008 \$'000	2007 \$'000
Financial Assets				
Cash and cash equivalents	7	N/A	1,306	1,229
Receivables ¹	8	Loans and receivables (at amortised cost)	124	222
Financial Liabilities				
Payables ²	11	Financial liabilities measured at amortised cost	94	59

Notes

1. Excludes statutory receivables and prepayments (i.e. not within scope of AASB 7).

2. Excludes statutory payables and unearned revenue (i.e. not within scope of AASB 7).

JUDICIAL COMMISSION OF NEW SOUTH WALES

Notes to and forming part of the Financial Statements for the year ended 30 June 2008

(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 6.25 per cent at 30 June 2008 (5.25 per cent at 30 June 2007).

Receivables

All trade debtors are recognised as amounts receivable at balance date. Collectibility 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 (2008: \$4,000; 2007: \$89,000) or are less than three months past due (2008: \$0; 2007: \$1,000) are not considered impaired and together these represent 100% of the total trade debtors.

(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.

JUDICIAL COMMISSION OF NEW SOUTH WALES

Notes to and forming part of the Financial Statements for the year ended 30 June 2008

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

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.

20. JOINT PROGRAM WITH AIJA

During the reporting period, the Commission in conjunction with the Australasian Institute of Judicial Administration (AIJA) continued to operate a joint bank account within the government's financial framework.

The account was closed on 30 June 2008 with the balance distributed between the Commission and AIJA.

Opening Balance 1 July**Income**

Interest received

Total Income**Expenses**

Bank fees

Distribution

Total Expenses**Closing Balance 30 June**

	2008 \$'000	2007 \$'000
Opening Balance 1 July	14	15
Income		
Interest received	1	–
Total Income	1	–
Expenses		
Bank fees	1	1
Distribution	14	–
Total Expenses	15	1
Closing Balance 30 June	–	14

End of audited Financial Statements

Appendices

Contents

Appendix 1 — Complaints against judicial officers: guidelines	73
Appendix 2 — Conduct Division: guidelines for examination of complaints	76
Appendix 3 — Continuing judicial education policy.	79
Appendix 4 — Committees	80
Appendix 5 — Conference topics	82
Appendix 6 — Judicial education seminars and workshops	83
Appendix 7 — Articles published by the Commission.	84
Appendix 8 — Publications list	85
Appendix 9 — Assistance to other jurisdictions	87
Appendix 10 — Working with other organisations.	88
Appendix 11 — Visitors to the Commission.	89
Appendix 12 — Overseas visits	89
Appendix 13 — Exchange of information	90
Appendix 14 — Presentations given by Commission officers	91
Appendix 15 — Freedom of Information	92
Appendix 16 — Other compliance matters	93

Appendix 1

Complaints against judicial officers: guidelines

1. Overview

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

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

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

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

2. Who is a judicial officer?

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

3. Making a complaint

3.1 Who can make a complaint?

A complaint may be made to the Commission by any person or may be referred to the Commission by the Attorney General.

3.2 Legislative requirements

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

3.3 Assistance to complainants

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

3.4 Advice to the public

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

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

3.5 Acknowledge receipt of complaints

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

4. Complaints not within the Commission's jurisdiction

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

5. Investigating a complaint

5.1 *Receipt of a complaint*

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

5.2 *Preliminary examination*

The preliminary examination of all complaints must be undertaken by Commission members at a properly constituted meeting of the Commission. The quorum for a meeting is seven members, of whom at least one must be an appointed member.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 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.

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.

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 office, it may request the officer to undergo a medical or psychological examination (section 34).

5. Hearings by the Conduct Division

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

5.1 *Public or private hearings*

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

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

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

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

5.2 *Persons who may be present at private hearings*

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

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

5.3 *Release of information*

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

5.4 *Royal Commissions Act 1923*

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

5.5 *Record of proceedings*

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

6. Legal representation before the Conduct Division

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

7.2 *Report to the head of jurisdiction*

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

Appendix 3

Continuing judicial education policy

Guiding principles

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

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

Services

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

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

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

These services may include:

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

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

Roles and responsibilities

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

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

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

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

Evaluation

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

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

Appendix 4

Committees

Education Committees

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

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

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

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

Standing Advisory Committee on Judicial Education

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

Supreme Court Education Committee

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

Industrial Relations Commission Education Committee

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

Land and Environment Court Education Committee

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

District Court Education Committee

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

Local Court Education Committee

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

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

Ngara Yura Committee

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

Bench Book Committees

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

Criminal Trial Courts Bench Book Committee

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

Local Courts Bench Book Committee

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

Civil Trials Bench Book Committee

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

Equality before the Law Bench Book Committee

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

Sexual Assault Handbook Committee

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

Appendix 5

Conference topics

Supreme Court Annual Conference, August 2007

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

Industrial Relations Commission Annual Conference, September 2007

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

Land and Environment Court Annual Conference, May 2008

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

District Court Annual Conference, March 2008

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

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

Local Court Annual Conference, August 2007

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

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

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

Magistrates' Orientation Programme, June 2008

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

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

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

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

Appendix 6

Judicial education seminars and workshops

Supreme Court

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

Industrial Relations Commission

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

District Court

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

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

Local Court Metropolitan Seminar Series II, November 2007

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

Local Court Metropolitan Seminar Series I, February 2008

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

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

Cross Jurisdictional Seminars

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

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

Ngara Yura Programme

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

Appendix 7

Articles published by the Commission

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

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

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

Appendix 8

Publications list

Many of the Commission’s publications are available to download from the Commission’s website at www.judcom.nsw.gov.au. 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 *Jurisc* guidelines on sentencing practice, 2002
- 22 Circle sentencing in New South Wales: A review and evaluation, 2003
- 23 Sentenced homicides in New South Wales 1994–2001, 2004
- 24 MERIT — A survey of magistrates, 2004
- 25 Sentencing offenders convicted of child sexual assault, 2004
- 26 The nexus between sentencing and rehabilitation in the Children’s Court of NSW, 2005
- 27 Crown appeals against sentence, 2005
- 28 Partial defences to murder in NSW 1990–2004, 2006
- 29 Full-time imprisonment in New South Wales and other jurisdictions: A national and international comparison, 2007

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

Sentencing Trends and Issues

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

Journals

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

Bench Books

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

Brochures

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

DVDs

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

Appendix 9

Assistance to other jurisdictions

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

Judicial education

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

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

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

Judicial support and case management systems

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

Appendix 10

Working with other organisations

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

Mr Ernest Schmatt PSM, Chief Executive

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

Ms Ruth Windeler, Education Director

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

Mr Hugh Donnelly, Director, Research and Sentencing

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

Mr Murali Sagi, Director, Information Services and Administration

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

Ms Ruth Sheard, Manager, Conferences and Communication

- Asia Pacific Judicial Reform Forum Secretariat (Operations Unit)

Appendix 11

Visitors to the Commission

Visitors

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

Delegations

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

Appendix 12

Overseas visits

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

Appendix 13

Exchange of information

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

Australian

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

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

International

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

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

Appendix 14

Presentations given by Commission officers

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

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

Appendix 15

Freedom of Information

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

Categories of documents held by the Commission

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

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

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

Access to documents published by the Commission

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

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

Access to documents for the purpose of alteration

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

Applications and other details

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

During the reporting period:

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

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

Appendix 16

Other compliance matters

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

Glossary

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 <i>Judicial Officers Act</i> 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 <i>Judicial Officers Act</i> 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 • 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	– The Commission's 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 <i>Judicial Officers Act</i> empowers the Commission to declare as a vexatious complainant a person who habitually and persistently, and mischievously or without any reasonable grounds makes complaints about judicial officers. The effect of the declaration is that the Commission may disregard any further complaint from the complainant.

Annual Report of the Judicial Commission of New South Wales 2007–08

Published by the Judicial Commission of New South Wales 2008

ISSN 1441-8444

Cost

The total external costs incurred in the production of this report were \$6,507.

Format

The Annual Report is also available on the Commission's website at www.judcom.nsw.gov.au

Writer

Ruth Sheard

Designer

Lorraine Beal

Printer

Emerald Press

Photography

Fairfax photos, OP Oneill Photographics, Photodisc and Commission staff

Index

Entries in **bold** indicate compliance with statutory reporting requirements

- Aboriginal cultural awareness — see *Ngara Yura Program*
- access** **back cover**
- achievements . . . 1, 6, 10, 11, 17, 18, 19, 20, 21, 25, 28, 29
- Action Plan for Women** **43**
- after balance date events** **71, 93**
- aims and objectives** **inside front cover, 8, 9**
- annual report format** **94**
- bench books 2, 3, 8, 9, 10, 18, 19, 20, 22, 23, 24, 25, 26, 41, 45, 79, 81, 86, 94
- benchmarking comparison of performance 15, 33
- challenges 3, 4, 14, 19, 24, 26, 45
- charter** **1, 46**
- code of conduct** **93**
- Commission history 1
- Commission meetings** **40**
- Commission members**
- attendance at meetings** **37–38**
- conflicts of interest 40
- method and term of appointment** **37–38**
- names and qualifications** **37–38**
- remuneration** **40**
- role of** **40**
- committees** **11, 22, 41, 79, 80–81, 88**
- Community Relations Commission,**
- agreements with** **93**
- community served** **inside front cover**
- complaints** **2, 7, 28–35, 73–78**
- advice to the public 29
- benchmarking 33
- case studies 34–35
- common causes 33, 34
- Conduct Division** **30–32, 46, 75–78**
- dismissed** **30–32**
- enquiries 29
- guidelines 29, 73–78
- key results 8
- nature and scope** **33–34**
- overview 28, 29
- particulars** **32**
- process** **29, 30, 73–76**
- program expenditure 2, 50, inside back cover
- received and finalised** **29, 31–32**
- resolution of** **31–33**
- service measures 9
- time standard 32
- vexatious 33
- Conduct Division** **30–32, 46, 75–78**
- consultants** **49**
- consumer response** **45**
- controlled entities, disclosure of** **59**
- credit card certification** **49**
- disability plan** **93**
- economic or other factors** **3**
- electronic service delivery** **45**
- employment arrangements, requirements**
- arising from** **93**
- energy management** **45**
- equal employment opportunity** **44**
- ethnic affairs priorities statement** **93**
- executive officers** **39**
- numbers** **42**
- performance** **40, 93**
- extension of time** **93**
- financial performance 49
- financial report** **51–71**
- financial summary 50
- freedom of information** **92**
- funds granted to non-government community**
- organisations** **93**
- future directions 7, 16, 17, 19, 25, 26, 27
- glossary 94
- governance 2, 40
- guarantee of service** **45**
- heritage management** **93**
- highlights 2
- human resources** **42–44**
- employees by category** **41**
- employment conditions 42
- executive positions** **42**
- industrial relations** **42**
- performance appraisal 43
- personnel overview 42
- personnel policies and practices** **41–44**
- staff development and training 42
- wages, movements in** **42**
- information exchange 47, 89–91
- information technology 87
- internet address** **94, back cover**
- JIRS . . . 1, 2, 3, 7, 8, 9, 18, 19, 20, 21–25, 26, 45, 47, 94
- case law 21
- case summaries 21
- Commonwealth sentencing database . . . 2, 5, 7, 21, 23

JIRS — *continued*

components	22
currency	21
enhancements	23
Land and Environment Court sentencing database	2, 7, 21, 23, 26
overview	21, 22
sentencing statistics	23
usage	23–24
judicial education inside front cover, 1, 2, 6, 8, 9, 10–19, 33, 40, 47, 79, 80, 82–84, 87	
annual conferences	10, 12, 14, 82
assistance to Asia Pacific neighbours	4, 13, 87
attendance	12
bench books	2, 3, 8, 9, 10, 18, 19, 20, 22, 23, 24, 25, 26, 41, 45, 79, 81, 86, 94
benchmarking	15
challenges	14, 19
committees	80–81
community values	inside front cover
computer support	19
conferences	11, 12, 14, 82
design process	11
educational needs	11, 16
evaluation	14, 16, 79
judgment writing	12
judicial orientation	13, 16, 18, 79, 82–83
key results	8
overview	10–11
policy	79
program expenditure	2, 50, inside back cover
publications	18, 19, 22, 25, 84–86
seminars	12, 83
service measures	9
360 Degree Feedback Program	2, 12, 16
skills workshops	12
topics	82–84
voluntary versus mandatory	16
<i>Judicial Officers Act 1986</i> inside front cover, 1, 29, 31, 35, 37, 38, 40, 42, 46, 59, 73, 76, 77, 79, 93, 94	
judicial support system — <i>see also JIRS</i> inside front cover, 1, 2, 21, 22, 87	
key results	8
land disposal	93
Lawcodes	27
legal change	46
letter of submission	inside front cover
library	45
major assets	93

management and activities	10–47
challenges	3
nature and range of activities	inside front cover, 8–9
performance measures	8–9, 15, 33
performance review	8–9, 14, 15, 16
management and structure — <i>see also Commission members; executive officers</i>	
committees	80–81
executive officers	39
interdepartmental committees	88
organisational chart	41
Ngara Yura Program	6, 17, 43
occupational health and safety	43
organisational chart	41
overseas visits	89
presentations	91
payment of accounts	49
price determination, implementation of	93
privacy management plan	46
production costs	94
program evaluation	8, 9, 14–16, 33, 79
program expenditure	2, 50, inside back cover
publications	18, 19, 22, 25, 84–86
purpose	inside front cover
research and development	23, 25–26, 27, 45, 87
research and sentencing information — <i>see also JIRS</i> inside front cover, 1, 2, 3, 7, 8, 9, 20–27	
challenges	24, 26
key results	8
overview	20
program expenditure	2, 50, inside back cover
research assistance	26
research studies	25
<i>Sentencing Bench Book</i>	8, 9, 18, 19, 20, 22, 25, 26, 45
sentencing statistics	23
service measures	9
standard non-parole period offences	25, 26
risk management and insurance	40, 46
Sentencing Council	3, 26
service measures	9
spokeswomen's program	44
staff	41–44
statistics, five year comparison	inside back cover
subsidiaries, disclosure of	93
summary review of operations	1–50
style guide	18
values	inside front cover
vision	inside front cover
visitors to the Commission	89
waste reduction	93

Five years at a glance

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



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