

PART FOUR: ADMINISTRATION AND GOVERNANCE

Governance

Section 89 of the *Federal Magistrates Act 1999* requires the Federal Magistrates Court to administer its own affairs. Currently, all federal magistrates are collectively responsible for the administration of the Court.

The *Migration Litigation Reform Bill 2005*, however, proposes a number of amendments to the governance structure of the Federal Magistrates Court to make the Chief Federal Magistrate responsible for managing the administrative affairs of the Court. These arrangements will then be aligned with the arrangements currently in place in the Federal Court and the Family Court.

This proposed change reflects the growth of the Federal Magistrates Court since its establishment and provides a more practical arrangement for the management of the Court's administrative affairs.

To further facilitate the administration of the Court, standing committees provide recommendations and guidance in the following areas:

- ~ Governance
- ~ Audit
- ~ Court users and systems
- ~ Finance
- ~ Judgments
- ~ Judicial education
- ~ Legal (Rules)

Other committees or working parties are established from time to time to deal with particular issues.

Governance committee

The Governance committee has been established as the primary committee responsible for the administration of the Court. The committee comprises the Chief Federal Magistrate, the Chief Executive Officer and a number of federal magistrates that broadly represent the work of the Court in terms of location and jurisdiction. The committee

meets on a monthly basis to review court performance, consider management issues and policies, and review issues of strategic importance to the Court.

Audit committee

The *Financial Management and Accountability Act 1997* requires the Chief Executive of each Commonwealth agency to establish an Audit Committee to assist the Chief Executive in the financial governance of their agency. The Court's audit committee comprises two federal magistrates, an executive of the Court and an independent (external) chair. The committee also invites Australian National Audit Office representatives to attend audit committee meetings as observers.

The committee met on three occasions during 2004-05. The main issues it considered included; assessing the adequacy of the Court's internal audit program, scrutinising the results of the various audits that were carried out on the Court's administrative activities, and monitoring management performance in implementing auditors' recommendations. The committee also monitored the Court's adoption of and compliance with appropriate frameworks for risk management, fraud control and financial reporting.

Court users and systems committee

This committee assists in the development of policies relating to court services. The committee met on an ad hoc basis during 2004-05 to consider issues such as policies for developing court circuits to regional areas; improving forms used for applying for divorce, and guidelines for the use of video-conferencing.

Finance committee

The role of the finance committee is to provide a forum whereby federal magistrates can effectively oversee the financial administration of the Court while not being engaged in day to day financial management issues. The committee met on eight occasions during the year to consider a range of budgetary and financial issues.

Judgments committee

This committee oversees the management of the Court's judgments and provides recommendations on which decisions should be published. The Court aims to have all written decisions available in electronic form through key legal research websites. The Court is grateful to the Australasian Legal Information Institute for providing a readily accessible and comprehensive online library of the Court's decisions.

Judicial education committee

The primary role of the judicial education committee is to foster the continuing professional development of federal magistrates and oversee appropriate access to information resources necessary to undertake the judicial function.

Legal (Rules) committee

The role of the legal (Rules) committee is to review the Court's Rules ensuring that they continue to assist the Court to operate informally and efficiently. The Rules are regularly reviewed to accommodate new areas of jurisdiction. The committee also considers issues relating to the jurisdiction of the Court generally.

Strategic planning

Federal magistrates meet biannually to consider strategic planning issues and to review strategic directions for the Court. Key strategic goals adopted for the next five years include:

- ~ Delivering affordable, user friendly and accessible justice for all parties
- ~ Being a broadly-based, multi-jurisdictional court, dealing with less complex federal matters
- ~ Achieving the growth necessary to meet increasing demand during this developmental period
- ~ Developing robust court-wide practices, procedures and systems to benefit all users.

Corporate plan

The 2004-06 corporate plan of the Federal Magistrates Court has as its overall goal, provision of a simple and accessible venue for the resolution of less complex federal law disputes. It identifies four key result areas:

- ~ Delivery of dispute resolution services
- ~ Building organisational capacity
- ~ Effective use and management of resources
- ~ Developing relationships with key stakeholders.

Priorities identified within these key result areas are:

- ~ Developing systems to manage high workloads
- ~ Providing regional services
- ~ Managing stakeholder expectations
- ~ Developing the relationship between the judiciary and the staff of the Court
- ~ Maintaining the independence of the Court.

Organisational objectives of the Court are linked to individual performance of staff through the performance management program.

Arrangements with the Federal Court and the Family Court

During 2004-05 the Federal Magistrates Court has worked closely with the Family Court through the Combined Registry Project (see page 6). Specifically, the two courts will continue to work together to establish a single point of entry, harmonise court rules, create one initiating form and to generally develop processes that will establish simpler, quicker and less expensive ways of dealing with family law cases.

Arrangements were made in 2000 by the Chief Federal Magistrate for the Federal Court and the Family Court to carry out certain functions on behalf of the Federal Magistrates Court. Supporting arrangements have been made, under section 100 of the *Federal Magistrates Act 1999*, for staff of the superior courts to be made available for the purposes of the Federal Magistrates Court.

In addition, arrangements have been made to use the courtrooms and to share the registries and other facilities of those courts. The Family Court also provides information technology infrastructure and support services to the Federal Magistrates Court. A memorandum of understanding with each of the superior courts supports these arrangements.

Risk management, fraud control and internal audit

The Federal Magistrates Court has implemented a risk management policy and plan.

A fraud control plan is also in place based on a fraud risk assessment covering all aspects of the work of the Federal Magistrates Court. The plan was revised in 2004 based on an updated fraud risk assessment. The fraud control plan includes appropriate fraud

prevention, detection, investigation, and reporting procedures and processes that meet the needs of the Federal Magistrates Court and comply with the Commonwealth Fraud Control Guidelines, see certification at Appendix G.

Internal audit services are provided by Deloitte Touche Tohmatsu. Audits were conducted during 2004-05 relating to; expenses, leave entitlements, employee entitlements, fixed assets and GST administration. No control or compliance deficiencies involving unacceptable risk were identified.

The APS code of conduct

The APS values and code of conduct are central to the terms and conditions of staff of the Federal Magistrates Court as reflected in the Court's Certified Agreement 2003-06.

The APS values and code of conduct are also promoted in the Federal Magistrates Court through induction, on the intranet, and through a performance management and development program linked to values associated with professionalism, integrity, teamwork and innovation.

Senior appointments

The Chief Executive Officer assists the Federal Magistrates Court in the conduct of its administrative affairs. The Chief Executive Officer has the power of a secretary under the *Public Service Act 1999* and the responsibilities of the chief executive of an agency under the *Financial Management and Accountability Act 1997*.

As noted earlier, John Mathieson was appointed as Chief Executive Officer on 26 April 2005. At 30 June 2005, the principal executive group of the Federal Magistrates Court comprised:

Adele Byrne, Registrar

Brian Scammell, Chief Finance Officer

Maureen Ahearne, Coordinator of Court Services (acting)

Susan Cibau, Coordinator of Primary Dispute Resolution Services.

Remuneration

The Remuneration Tribunal determines remuneration for federal magistrates and the Chief Executive Officer. There are no employees at the Senior Executive Service level.

The performance management program for staff of the Federal Magistrates Court provides for performance linked advancement within a salary range at various levels. The higher pay point then becomes the employee's nominal salary. If employees are at the top point of the salary range for their level there is no further advancement in salary, but those employees are eligible for a three per cent performance based bonus. Performance bonuses for 2004-05 were paid following the end of the reporting period. The aggregate amount of performance pay was \$37,472 in relation to 24 employees. Details by classifications are included in Appendix D.

Financial performance

The Federal Magistrates Court is a prescribed agency under the *Financial Management and Accountability Act 1997*.

Operating revenues and expenses

The major source of revenue for the operations of the Federal Magistrates Court is an appropriation from government. The appropriation amount for 2004-05 was \$23.8 million (2003-04 \$15.7 million). Other revenue, mainly relating to transfer of leave balances from other public sector agencies, amounted to \$0.3 million (2003-04 \$0.1 million)

During 2004-05, operating expenses were \$22.7 million (2003-04 \$14.9 million). This resulted in an operating surplus of \$1.4 million (2003-04 \$0.9 million). The increase in both appropriations and operating expenses is largely a consequence of the Government's decision in the 2004-05 budget context to provide funding for additional federal magistrates and associated support resources as part of the migration litigation reforms.

The major expenses in 2004-05 were \$14.3 million in respect of employee expenses, \$7.7 million relating to supplier payments, and \$0.7 million in depreciation and asset revaluations.

Resources received free of charge

The Federal Magistrates Court relies on infrastructure and support provided by the Family Court and the Federal Court. Both courts have supplied estimates of resources provided free of charge to the Federal Magistrates Court, which total \$19.2 million (2003-04 \$17.4 million) and are reflected in the Federal Magistrates Court financial statements as notional revenues and expenses.

Administered revenues and expenses

The Federal Magistrates Court receives revenue on behalf of the Commonwealth (administered revenue not available to offset Federal Magistrates Court operating costs), mainly for court fees. The amount received in 2004-05 was \$12.2 million (2003-04 \$11.2 million). The main reasons for the variation are the increased volume of applications to the Court and a biennial increase in fees, based on movement in the Consumer Price Index, as set by regulation.

The Court administers an appropriation on behalf of Government to source primary dispute resolution services from community based organisations. In 2004-05, the appropriation was \$0.6 million (2003-04 \$0.6 million) and expenses were \$0.6 million (2003-04 \$0.6 million).

Financial position

The major change in the Court's financial position as at 30 June 2005 relates to a capital appropriation (equity injection) in the 2004-05 Budget of \$4.2 million for additional infrastructure costs associated with the migration litigation reform measure. The Court has initially made short-term accommodation arrangements for the additional federal magistrates appointed in Sydney to use purpose built courts and chambers leased from the NSW Attorney-General's department, pending the development of a long-term strategy for meeting the Court's accommodation requirements in the Sydney CBD. The majority of the capital appropriation has therefore not been drawn-down from the Commonwealth's Official Public Account and is reflected as a receivable in the Court's financial statements at 30 June 2005.

Property and environmental management

In general, the Federal Magistrates Court occupies accommodation that was previously occupied by the Federal Court and the Family Court. Those courts continue to be directly funded for the property costs associated with that accommodation, and therefore continue to pay the costs on behalf of the Federal Magistrates Court under the memoranda of understanding referred to previously.

As previously noted, during 2004-05 the Court entered into an agreement with the NSW Attorney-General's Department to lease existing courtrooms and chambers at John Maddison Tower in Sydney to accommodate federal magistrates appointed in 2004 as part of the Government's migration litigation reform measures. The Court has also received a transfer of funding from the Administrative Appeals Tribunal to meet the costs of chambers accommodation previously occupied by the tribunal in Brisbane but which is now occupied by the Court.

The activities of the Federal Magistrates Court do not have implications for Ecologically Sustainable Development that require reporting under section 516A of the *Environmental Protection and Biodiversity Conservation Act 1999*. However, the Federal Magistrates Court adopts measures, with other jurisdictions within Commonwealth law courts buildings, to minimise impacts on the environment. These include recycling schemes and measures to reduce energy and water consumption in those buildings.

Management of human resources

Certified agreement

The *Federal Magistrates Court of Australia Certified Agreement 2003-06* expires on 30 June 2006. Negotiations regarding a new certified agreement are planned to commence in late 2005. The agreement provided for non-salary benefits including access to performance-based bonuses or advancement, and a range of flexible and family-friendly work practices. These include flex-time, time off in lieu, and emergency child care costs, allowing staff more flexibility in planning their personal commitments. The agreement also reinforced the Court's commitment to staff through initiatives that foster staff and career development and a healthy work environment.

Australian workplace agreements

During 2004-05, the Court engaged appropriately qualified and experienced legal professionals to perform the statutory functions of registrar on a sessional basis in dealing with undefended divorce proceedings. These positions are filled on a casual basis at a level equivalent to an Executive Level 2 and under terms and conditions specified in individual Australian Workplace Agreements (AWAs). Thirteen sessional registrars were a party to AWAs as at 30 June 2005. In addition, eight AWAs are in place with staff that have specialist skills or experience.

Workplace diversity

The Court values the contributions made by people from diverse backgrounds. The Court currently has 12 per cent of its staff who were born overseas and 20 per cent of staff who have identified as having a first language other than English.

Disability strategy

The Court is committed to meeting the requirements of the *Disability Discrimination Act 1992*, particularly through recruitment, performance monitoring, training and development. The Court has a range of policies and initiatives that support this strategy. These include guidelines on eliminating workplace harassment and providing accessible recruitment information. The recruitment and selection process is transparent and fair, ensuring equitable and non-discriminatory consideration is given to all applicants.

Occupational health and safety

The Court has strengthened its commitment to consultation on occupational health and safety (OH&S) matters with staff through the staff consultation committee. Staff from all court locations are able to raise OH&S concerns through the committee. Initiatives undertaken during 2004-05 included the following:

- ~ Health and well being programmes for staff
- ~ Training was made available to all staff in 'Dealing with challenging People' as part of providing a safe and healthy work environment for staff
- ~ Provision of equipment that combats potential manual handling injuries through activities such as movement of court files
- ~ Incident notification procedures and reporting forms were revised and re-issued.

There were no accidents or dangerous occurrences during the year and no investigations were conducted. The Court was not required to give any notices under section 68 of the *Occupational Health and Safety (Commonwealth Employment) Act 1991*. No directions under section 45 or notices under sections 29, 46, 47 of that Act were given to the Court during 2004-05.

Training and staff development

Study assistance is one of the learning and development options available to employees to assist with career development. Particular support is given to studies which are relevant to achieving the Court's goals and objectives. All on-going and some non-on-going staff are eligible to apply to undertake or continue an approved course of study. The level of support is assessed on merit and based on the needs of the work area and learning outcomes identified through the personal learning and development plans.

