

Report on

governance and administration of the Court

Governance

Advisory committees

Following a review of the Court's committees in 2006, the Chief Federal Magistrate and the Chief Executive Officer established a range of new advisory committees, and in some cases continued existing committees. The committees aim to provide the Chief Federal Magistrate and Chief Executive Officer with advice and to assist them to fulfil their respective obligations. All of the committees comprise federal magistrates and some administrative staff.

The committees operating in 2006-07 included:

Policy and planning advisory committee

This committee provides advice to the Chief Federal Magistrate and the Chief Executive Officer in relation to the Court's overall strategies for the delivery of court services.

Finance committee

This committee primarily assists the Chief Executive Officer to provide advice on the financial management of the Court and its underlying financial systems, ensuring efficient, effective and ethical use of the Court's resources.

Audit committee

In accordance with the Federal Magistrates Court Act, this committee supports the Chief Executive Officer to ensure that the Court's financial accounts are in accordance with the Finance Minister's Orders and give a true and fair description of the Court's financial position.

Legal committee

This committee provides advice to the Chief Federal Magistrate and federal magistrates in relation to the Court's Rules and makes recommendations on amendments to the Rules. It also monitors legislative developments in jurisdiction of the Court and provides advice to its judicial officers.

Security committee

This committee considers and provides advice to the Chief Federal Magistrate and Chief Executive Officer in relation to security issues including physical, personal and information technology security.

Judicial education committee

This committee makes recommendations to the Chief Federal Magistrate in relation to judicial education strategy and policy, as well as the judicial education needs of federal magistrates.

Practice and procedures committee

This committee provides advice to the Chief Federal Magistrate and the Chief Executive Officer in relation to practice and procedures of the Court and its underlying systems.

Administration of the Court

The Court's Chief Federal Magistrate is Mr John Pascoe AO. Mr John Mathieson is the Chief Executive Officer.

Section 89 of the Act provides that the Chief Federal Magistrate is responsible for the administrative affairs of the Court. The Chief Federal Magistrate continues to be responsible for the day-to-day management of the business of the Court (Section 12).

The Chief Federal Magistrate is assisted by the Chief Executive Officer, who can exercise powers on his behalf in relation to the Court's administrative affairs (Section 96). The Chief Executive Officer has the responsibilities and powers of an agency head for the purposes of the *Public Service Act 1999* and *Financial Management and Accountability Act 1997*.

Corporate and operational planning

During 2006-07 the Chief Federal Magistrate and the Chief Executive Officer engaged Des Simple & Associates to undertake a review of the Court's Melbourne National Administration Office (NAO) in view of the substantial growth in the Court's jurisdiction and size in recent years. The review undertook an analysis of the NAO's current responsibilities and proposed changes in the Court's administrative structure to provide a more effective and efficient level of support to the Court's judicial officers.

The review recommended that the Court's strategic policy and planning and senior management be located in the Sydney National Office, closely aligned to both the Chief Federal Magistrate and to the Chief Executive Officer. The review also recommended that the Court establish a regional network of court services and judicial support closely linked to the regional based Coordinating Federal Magistrates. The review recommended that the Melbourne National Office retain responsibility for corporate transactional processing and report to senior management based in the Sydney National Office.

The Court has considered the review and endorsed most of its recommendations. It is anticipated that the bulk of the review's recommendations will be implemented in 2007-08.

Working with the Federal Court and the Family Court

The Federal Court and the Family Court continued to provide to the Federal Magistrates Court a range of services under memoranda of understanding. Both superior federal courts carry out a range of functions on behalf of the Federal Magistrates Court, including making staff available for the work of the Federal Magistrates Court, and share their registries and other facilities, including courtrooms. The Family Court also provides information technology infrastructure and support services to the Federal Magistrates Court.

Work continued on the development of new memoranda of understanding between the Federal Magistrates Court and the two superior federal courts, but could not be concluded following commencement of discussions between the courts on funding transfers from the superior federal courts to the Federal Magistrates Court to better reflect the value of actual resources use and needs.

The Family Law Courts Board, comprised of the heads of jurisdiction and chief executives of the Family Court and Federal Magistrates Court, met regularly throughout the year. The Board oversees the coordination and management of the shared arrangements and services of the Family Law Courts, including issues arising out of the Combined Registry Project.

The Chief Executives of the Federal Court, Family Court and Federal Magistrates Court met regularly throughout the year to discuss common issues and concerns and opportunities for cooperation.

Risk management, fraud control and internal audit

The Court's Audit Committee oversees the internal audit program, fraud control plan and risk management plan. The Court has reviewed its risk management plan, areas of risk and their rating. A risk treatment plan has been developed and is being implemented.

In 2006-07 the Court continued the engagement of Deloitte Touche Tohmatsu to provide internal audit services. Internal reviews conducted during the year included a review of Court expenses and employee entitlements. The Court's internal auditors also assisted with the establishment of procedures to provide assurance under the Commonwealth Certificate of Compliance.

In accordance with the Commonwealth Fraud Control guidelines the Federal Magistrates Court has a fraud control plan in place to prevent and detect fraud. There were no cases of fraud reported in the Court in 2006-07.

Management of human resources

Staff turnover and retention rates

The Court's separation rate includes resignations from the APS, moving to another APS agency and voluntary early cessation of a non-ongoing contract. The overall separation rate for the Court over the 2006-07 period was 21 per cent. This was down on the 32.8 per cent separation rate for the 2005-06 reporting period.

Collective agreement

A new collective agreement under the work choices provisions of the *Workplace Relations Act 2006* was completed by November 2006, replacing the FMS Certified Agreement 2003-2006. The Federal Magistrates Court of Australia Collective Agreement 2006-2009 was lodged with the Office of the Employment Advocate on 12 December 2006. The new collective agreement will run for three years and will provide for non-salary benefits, including increases in access to health and well-being programmes, as well as flexible and family-friendly work practices, such as flex-time, time off in lieu, and emergency child care costs. The agreement also reinforced Court's commitment to staff through initiatives that foster staff and career development.

Australian workplace agreements

During 2006-07, the Court engaged suitably qualified and experienced legal professionals to perform the statutory functions of registrar on a sessional basis to deal primarily with undefended dissolution of marriage proceedings (excluding certain orders relating to children). 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. Eleven sessional registrars were a party to Australian Workplace Agreements as at 30 June 2007. Thirty AWA's are in place with staff that have specialist skills or experience.

Workplace diversity

The Court values the significant contributions that people from diverse backgrounds make to all divisions. Twenty four per cent of the Courts staff were born overseas, and nine per cent of staff have a first language other than English.

Disability strategy

The Court continues to be committed to meeting the requirements of the *Disability Discrimination Act 1992*, including recruitment, performance monitoring, training and development. The Court has a range of policies and initiatives to support this policy. These include guidelines on eliminating workplace harassment, providing recruitment information in a range of forms to ensure that all persons have equal access to this 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 continued its commitment to consultation on occupational health and safety (OHS) 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 the year included the expansion of the health and well being programmes for staff.

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 2006-07.

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-ongoing 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.

The APS code of conduct

The Court encourages staff to observe the Australian Public Service Code of Conduct and appropriate action is taken if it is determined a possible breach has occurred. Court staff are aware that breaches of the Code of Conduct will be taken seriously and may result in disciplinary action.

Staff commencing with the Court are provided with a copy of the Australian Public Service Code of Conduct and APS Values. The induction training programs include information on ethics and values. Information sessions on the Values and Code of Conduct were delivered to new federal magistrates commencing with the Court and court staff including associates to federal magistrates.

Senior appointments

At 30 June 2007 the principal executive group of the Federal Magistrates Court comprised:

■ John Mathieson, Chief Executive Officer

Mr Mathieson was appointed as Chief Executive Officer of the Federal Magistrates Court on 26 April 2005. The Chief Executive Officer assists the Federal Magistrates Court in the conduct of the Courts administrative affairs. The Chief Executive Officer has the power of an agency head under the *Public Service Act 1999* and the responsibilities of a chief executive of an agency under the *Financial Management and Accountability Act 1997*.

■ Glenn Smith, Deputy Chief Executive Officer, Court Services

The Deputy CEO, Court Services has the responsibility for the operations of court services such as the regional managers, the policy/strategic secretariat, public affairs, dispute resolution and human resources.

■ Anne Hicking, Executive Director, Corporate Services

The Executive Director, Corporate Services has the overall strategic responsibility for financial, information and facility management functions as well as Chief Finance Officer responsibilities.

■ Adele Byrne, Principal Registrar

The Court's Principal Registrar supports the judicial functioning of the Court through the provision of high level legal and procedural advice within the Court.

Remuneration

The Remuneration Tribunal determines remuneration for federal magistrates and the Chief Executive Officer. There were two employees at the Senior Executive Service level.

The performance management program for staff of the 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 2006-07 were paid following the end of the reporting period. The aggregate amount of performance pay was \$49,436 in relation to twenty nine employees. Details by classification 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 2006-07 was \$39 million (2005-06 \$31.5 million). Other revenue, mainly relating to transfer of leave balances from other public sector agencies, amounted to \$0.3 million (2005-06 \$0.08 million).

During 2006-07 operating expenses were \$37.4 million (2005-06 \$26.2 million). This resulted in an operating surplus of \$1.98 million (2005-06 \$5.3 million). The increase in both appropriations and operating expenses is largely a consequence of the Government's decision in the 2006-07 budget to provide funding for additional federal magistrates for family law.

The major expenses in 2006-07 were \$23.9 million in respect of employee expenses, \$12.9 million relating to supplier payments, and \$0.6 million in asset depreciation and amortisation.

Resources received free of charge

The Federal Magistrates Court relies on infrastructure and support provided by the Federal Court and the Family Court. Both courts have supplied figures of resources provided free of charge to the Federal Magistrates Court, which total \$24.4 million, (\$23.1 million in 2005-06). The ANAO also provided resources free of charge of \$35,000, for the audit of financial statements. All resources provided free of charge are reflected in the Court's financial statement as notional revenues and expenses.

Administered revenue and expenses

The Court received revenue on behalf of the Commonwealth (administered revenue is not available to offset Federal Magistrates Court operating cost), mainly for court fees. The amount received in 2006-07 was \$15.7 million (\$13.4 million in 2005-06). The main variations when compared to 2005-06 relate to an increase in applications filed and fee increases, based on movement in the Consumer Price Index, as set by regulation.

The Court administers an appropriation on behalf of the Government to source primary dispute resolution services from community-based organisations. In 2006-07, the appropriation was \$0.8 million (\$0.7 million in 2005-06) and expenses were \$0.4 million (\$0.6 million in 2005-06).

Financial position

The major change in the Court's financial position as at 30 June 2007 related to additional appropriation in the 2006-07 Budget of \$3.625 million for additional federal magistrates for family law and \$1.222 million for capital injection for federal magistrates.

The Court's fees

Fees for filing and other services in the Federal Magistrates Court have historically been set by Regulation at a lower rate than the equivalent fees in the Federal Court and the Family Court. Fees are normally increased biennially by government regulation, based on movements in the consumer price index, with the next biennial increase on 1 July 2008.

Under the regulations, an exemption from payment of fees may be granted to people who are eligible for legal aid or qualify for certain government social security benefits. Fees may be waived if they would cause financial hardship. The value of exemptions and waivers in 2006-07 was \$9,095,870 million or 36.7 per cent of the total value of fees collectible by the Court.

Details of fees and eligibility criteria for exemption or waiver are available on the Court's website.

Property and environmental management

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

During 2006-07 the Federal Magistrates Court commenced a lease for 167 Macquarie Street Sydney from 1 March 2007 and it also exercised the option with the NSW Attorney-General's Department to lease additional courtrooms and chambers at John Maddison Tower in Sydney to the period ending 30 October 2009. The Federal Magistrates Court also leases court and administration offices Commonwealth Law Court Buildings in Brisbane and Adelaide.

Information technology and records management

The Court continues to develop and improve technological service delivery to people who use the Court's services.

The Court has worked closely with the Federal Court to enable federal law clients to fully access electronic services and participate in the Electronic Filing System (eFiling) which is part of the Federal Court's eCourt strategy. The aim of electronic filing is to develop and maintain a system that enables court users to file documents electronically, improving access by clients to court services.

The Court has also commenced work with the Family Court of Australia and the Family Court of Western Australia to develop an electronic filing system in the family law jurisdiction. The development of this builds upon the electronic services of eSearch and eFiles which have already been introduced by the Commonwealth Courts. The development of the Commonwealth Courts Portal is currently underway and aims to support the delivery of electronic services to clients of participating Commonwealth Courts. For more information on this project refer to page 4.

Other information technology projects which the Court undertook during 2006-07 included the introduction of a new management information system, research into a network wide internet based training methodology, and the redesign of the Court's online application form for divorce.

INTERPRETER AND TRANSLATION POLICY

There have been some minor amendments to the Federal Magistrates Court Interpreter and Translation Policy which is available on the Court's website. The policy now specifically provides for the use of AUSLAN interpreters and CART (Communication Access Real-Time Translation) service providers to assist clients who are deaf, hearing impaired and/or speech impaired. During the year officers of the Court met with relevant HREOC staff to discuss any issues of practice and procedure.

INFORMATION, RECORDS AND DOCUMENT MANAGEMENT

The continued growth of the Court during 2006-07 reaffirmed the Court's commitment to efficient management of the Court's corporate information and records.

The Court launched its intranet in 2006-07 which contributed significantly to efficient information retrieval and maximises knowledge sharing. A new decentralised content management method was introduced to help keep the intranet content up to date. This translated into increased accuracy, readiness and value of the information required by federal magistrates, chambers and administrative staff.

A full review of policies, practices and procedures in the records area was undertaken during the year. Training courses and training materials were developed and distributed to federal magistrates and staff to help them understand record management principles, systems used by the Court and to help staff to adhere to record keeping responsibilities.

During 2006-07 the Court received approval for its Step A submission of the Designing and Implementing Recordkeeping Systems (DIRKS) methodology within the National Archives of Australia (NAA). The Court has submitted its DIRKS Step B documentation to the NAA and has started working on Step C.

CATEGORIES OF DOCUMENTS

Under arrangements made with the respective courts, certain Federal Court and Family Court registries maintain the following categories of documents for and on behalf of the Federal Magistrates Court:

- documents relating to matters heard by the Court including applications, affidavits, transcripts, orders and copies of judgments
- registers and indexes of matters coming to the Court
- general correspondence.

The Federal Magistrates Court maintains the following categories of documents:

- general correspondence
- documents concerning the development and implementation of policy
- documents concerning administration and financial aspects of the operation of the service.