



**NATIONAL
JUDICIAL
COLLEGE**
of Australia

30 April 2009

Mr Peter Hallahan
Committee Secretary
Standing Committee On Legal And Constitutional Affairs
Parliament House
CANBERRA ACT 2600

Dear Mr Hallahan

Inquiry into Australia's judicial system and the role of judges

Thank you for your letter of 23 March 2009 inviting the College to make a submission to the above mentioned inquiry.

The National Judicial College is limited by its Constitution to professional development for the judiciary. For this reason it is not appropriate that the College make a submission on the broad issues covered by the Committee's terms of reference.

However the College wishes to take the opportunity to draw the Committee's attention to the importance of judicial education to some of the issues the Committee is considering.

Judges in Australia are usually appointed from the ranks of very experienced legal practitioners. It is often assumed that their experience prior to appointment fully equips them to undertake the role of a judge, or that new skills can be learnt once they sit on the bench. In general this view has now been rejected by the judiciary who accept they have an obligation to undertake continuing professional development to equip themselves to perform their role.

There is a connection between judicial education and access to justice, and in particular the cost and efficiency of the justice system, because many of the issues this College addresses in its training programs are aimed, with varying degrees of connection, to improving the efficiency of the court process by improving the efficiency of judges and magistrates. Taking programs on judgment writing as an example, improvements in that area pay real efficiency dividends in terms of time, public cost and the efficacy of appellate processes.

Professional development activities are particularly important to longer serving judges. Unless they are encouraged to renew their skills and open themselves to new ideas, judges may lose motivation and retire early. The consequential costs to the community in appointing and training new judges is significant.

In general Federal and State governments do not provide funds to courts in Australia to enable their judicial officers to participate in professional development activities. In recommending the establishment of this College the Australian Law Reform Commission stated:

“Professional education is expensive. The time taken for education is time away from active case management or decision making. There are significant costs associated with developing and producing materials and paying the salaries of education support staff. In federal courts and tribunals, in particular, the travel costs alone associated with bringing judges and members together for education and training programs can be substantial.

However, the corollary is also true -- that instances of poor judicial performance are very expensive, both in terms of actual dollars and the loss of public confidence in the quality and integrity of the legal system. have pointed out that if judicial education programs can have even a small effect on reducing delays in judgment writing, in management of court lists, and in minimising errors which result in appeals, the savings involved should greatly outweigh the outlays. Comparable common law jurisdictions such as Canada, England, New Zealand and Singapore, and within Australia the State of New South Wales, have all made the calculation that judicial education is of such importance that the commitment of public funding for this purpose (beyond the normal allocation for the operation of the courts) is well justified.”

ALRC Report 89 MANAGING JUSTICE: Review of the Federal Civil Justice System [2000] paragraphs 2.199 – 2.200

If it is appropriate, the Committee may wish to take the above into account in the course of its inquiry.

Yours sincerely

**The Hon Wayne Martin
Chief Justice of Western Australia
and Chair of the NJCA Council**