

Government Lawyer

Newsletter of The Law Society of NSW's Government Solicitors Committee



The Law Society
of New South Wales

Chair's Message

By Mary Macken
Chair, Government Solicitors
Committee



The Government Solicitors' Committee held The Twelfth Annual CLE Convention on Tuesday 30th October 2007 at the Premier's Reception Room in Governor Macquarie Tower. The Attorney General, the Hon. John Hatzistergos MLC, opened the Convention and spoke on a number of initiatives promoting access to justice. A report on the day is provided later in this publication.

The CLE Convention was followed by the Annual Government Solicitors Dinner held in the Strangers' Dining Room of NSW Parliament House. Ms Anna Katzmann SC, Vice-President of the NSW Bar Association delivered the after dinner speech. A copy of Ms Katzmann's speech will be reproduced in the December edition of the *Law Society Journal*.

As I was unable to attend this year I would like to extend my sincere thanks and gratitude to Mr Greg Ross for chairing the day and the Dinner and to Mr Greg Williams for taking on the role of Co-Chair. I have been advised that the day was most successful and provided a great opportunity for government solicitors to learn and socialise outside of their usual networks. I would also like to thank

Number 39, December 2007

- *Chair's Message*
- *Committee 2007.*
- *Government Solicitors CLE Conference – 30 October 2007*
- *Annual Government Solicitors Dinner*
- *How good was the 2007 Government Solicitors Conference?*
- *The Lucky Country*
- *The Fiji Judiciary at a Crossroads: Judicial Independence and the Rule of Law*
- *Are you in the business of making law?*
- *What is COAT?*

the Committee which assisted with the planning and preparation of the Conference throughout the year.

In other news the Committee is in the final stages of drafting a publication entitled *A Government Lawyer's Guide to Rules on Ethical Issues*.

The purpose of the Guide is to assist Government Lawyers identify Rules which apply to them and lists a number of resources that provide further information relating to a Rules application. It is anticipated that the publication will be launched early in the New Year.

I wish you all the compliments of the season and best wishes for 2008!

2007 Government Solicitors Committee

Chair:

Ms Mary Macken
State Transit Authority of NSW,
Councillor, Law Society of NSW

mary_macken@sta.nsw.gov.au

Committee Members:

Margaret Bateman
Susai Benjamin
Lyndsay Brooker
Michael Donohoe
Elizabeth Espinosa
Charles Guillan
Adam Johnston
Nathan Laird
Peter Michie
Timothy Postma
Peter Robinson
Greg Ross
Brad Row
Jenny Stathis
William Steenson
Greg Williams
Executive Officer:
Sarah Sherborne-Higgins

margaret_bateman@agd.nsw.gov.au
susai.benjamin@osr.nsw.gov.au
lyndsay.brooker@legalaids.nsw.gov.au
michael.donohoe@ags.gov.au
eespinosa@ssc.nsw.gov.au
charles.guillan@ato.gov.au
adamdj@westnet.com.au
nathan.laird@dnr.nsw.gov.au
pmichie@odpp.nsw.gov.au
timothy.postma@cdpp.gov.au
Peter_robinson@rta.nsw.gov.au
ross@eakin.com.au
brad_row@agd.nsw.gov.au
jenny.stathis@acc.gov.au
william.steenson@workcover.nsw.gov.au
gwilliams@ombo.nsw.gov.au
ssh@lawsoocnsw.asn.au

Government Solicitors CLE Conference – 30 October 2007

The Conference was attended by nearly 160 people and was, this year, held in the Premier's Reception Room in Governor Macquarie Tower.

The Conference was opened by the Hon. John Hatzistergos MLC, Attorney General for New South Wales.

Other sessions throughout the day included:

- Mr Paul Monaghan, senior ethics solicitor, who spoke about the relationship between ethics and law, ethical outlooks and common ethical problems.
- Mr Chris Wheeler, NSW Deputy Ombudsman, Vicki Telfer, General Manager, Strategy and Policy Division, Workcover and His Honour Judge Kevin O'Connor AM spoke on different aspects of Freedom of Information legislation.
- Ms Tracey Burgess, Director, Legal Management Services, discussed the Legal Management Service and the Legal Managers' Forum.
- Mr Nicholas Cowdrey AM QC, NSW Director of Public Prosecutions and Mr John Thornton, First Deputy Director, Commonwealth Director of Public Prosecutions both discussed the expansion of Commonwealth Criminal legislation and the subsequent effect on Commonwealth and State agencies.

- Mr David Mills, Assistant Parliamentary Counsel, spoke on the law making process.
- Ms Marcia Doheny, Corporate Counsel, Department of Commerce provided an insight into how Government procurement operates and highlighted the some specific areas where legal pitfalls can arise.
- A group work session kicked off the final session of the day by asking attendees to identify 5–10 issues that they believed affected Government Solicitors. The exercise identified a number of standout topics that will be considered by the Government Solicitors Committee when it begins planning for 2008.
- Mr Michael Astill, Partner, Blake Dawson Waldron and Mr Jeff Smith, CEO, Environmental Defenders Office both spoke on their experiences being a Government Solicitor and what led them there.

Overall the day was highly successful and the change in surroundings provided an interesting alternative to the Theatre. Reports on the Dinner and the how delegates enjoyed the Conference are included later in this publication.

Sarah Sherborne-Higgins
Executive Officer
Government Solicitors Committee

Annual Government Solicitors Dinner – Strangers' Dining Room, NSW Parliament House

Eighty people attended the Dinner, slightly less than in previous years possibly due to the proximity to the Law Society's Annual Dinner. The evening went well and the serving of dessert after the speeches/presentations meant that the evening concluded earlier than usual which was appreciated by many delegates. The after dinner speech by Ms Anna Katzmann SC, Senior-Vice President, NSW Bar Association was well received and will be published in the December issue of the Law Society Journal.

Excellence Awards

The Excellence in Government Legal Service was awarded to Louise Sutherland from the New South Wales Legal Aid Commission for designing and running a Community Legal Education Crime Prevention Project on Young People and Group Offences. The core aim of the project was crime prevention by explaining the law and penalties rather than telling young people how to behave. Ms Sutherland conducted 74 workshops at



17 schools including 2543 students in total. As Ms Sutherland was unable to attend the Dinner the award was accepted on her behalf by Ms Teresa O'Sullivan, Senior Solicitor, Children's Legal Service, Legal Aid. The Award and \$1500 in prize money, donated by the Law Society, were presented by the Hon. John Hatzistergos MLC.

John Edmund Hennessy Travelling Fellowship

No nominations were received for the 2007 award.

Sarah Sherborne-Higgins
Executive Officer, Government Solicitors Committee

How good was the 2007 Government Solicitors Conference?

The evaluation forms asked for an overall category rating for aspects of the conference, with the opportunity to make specific comments on any aspect and any other additional comment. The responses, 36 in total, have been collated and have provided some really interesting information about how participants felt about the venue, the program, the catering and the relevance of the speakers. As always, we received a range of comments, many of them diametrically opposed, about each aspect of the conference.

It was clear that several participants felt that this year's venue, the Premier's Reception Room, was superior to the Parliament House Theatre. On the other hand, a similar number of comments said that the Theatre was better. The chairs at the Reception Room were described as 'uncomfortable' by three participants.

My comments or explanations appear in square brackets. I was not able to prepare a report on the 2006 conference, so any reference to the 'last report' refer to that on the 2005 conference

Topic 1 was not scored by one respondent. This accounts for the total being 35.

1. Effectiveness of the speakers

Excellent 5 / Good 23 / Satisfactory 5 / Poor 2
No. = 35

The 'approval rating' for the speakers was down this year. With 5 'excellent' out of 35 this rating was given by only 14%. Last report just under 30% of respondents rated the speakers as 'excellent' and the year before it was about 50%. The committee shall examine this decline very closely.

Some speakers were identified as meeting or exceeding expectations, while others were labelled as underachievers. Those specific comments will not be published, but the committee will note them. Other comments made about the speakers included – 'Varied somewhat, did not enjoy ethics'; 'mainly self-serving and uninformative'; 'Some speakers mumbled, so hard to pay attention' [I found that the microphone had to be placed directly before the speaker's mouth otherwise audibility suffered greatly. This was previously not a problem at the Theatre] 'Most speakers were well prepared & had something interesting to say'; 'More dynamic and interactive please. Too much droning on in monotone. More panels please' [Forward planning is underway for next year and two possible panel sessions have been identified.]; 'Microphone difficulties in afternoon session'; 'Variable – the focussed achieve better than the "scattered"'; 'Too many speakers appeared

relatively under-prepared, perhaps reflecting lack of clarity of topics'; 'More time or active prompting of questions/discussions with audience' [We are going to work on this!]; 'Speakers should know how to operate the PowerPoint slides' [Unfortunately the venue requirements meant that our normally instantaneous technical back-up was in the foyer 42 floors below for most of the conference].

2. Relevance of topics

Excellent 12 / Good 17 / Satisfactory 7 / Poor 0
No.= 36

The committee is faced with that perennial problem that you can't please all of the people all of the time. Public sector lawyers come from all three tiers of government and their interests are generally divergent. This gives rise to comments such as 'Cth criminal legislation topic likely not relevant to most NSW lawyers'. That, and the converse, would be true and neither might suit local government lawyers or public sector lawyers not practising in criminal law. The committee tried to set a topic about the expansion of Commonwealth criminal legislation that would be relevant to Commonwealth and NSW lawyers. Alas, it seemed not to have worked for that participant.

The other individual comments included: 'Low standard content'; 'Variable to my needs'; 'Enjoyed the FOI segment & potential pathways for govt solicitors'; 'Range of topics was broad. This approach seems appropriate to ensure day appeals to diverse range of government lawyers.'; 'Topics not as interesting as last year'; [which contrasts nicely with the following comment] 'Much better than previous years'; 'Mostly relevant, Crim law not for me but maybe for others'.

One comment about the relevance of topics started with the sensibly philosophical approach that 'some were, some weren't' and then went on to propose this solution, 'Perhaps more consultation to determine which agencies are interested then group them together for those with similar professional interests & run several more specialised seminars, e.g. criminal, child protection, business, civil etc'. While this suggestion has several good points about it, my personal view is that over specialisation might encourage Government lawyers to increasingly occupy very limited silos. I think that a conference with some spread of topics keeps participants aware of fields of public sector law different to that in which they operate. Nevertheless, the committee will consider if it is possible to build specialisation while also catering to public sector lawyers as a whole. Some use of concurrent sessions perhaps?

How good was the 2007 Government Solicitors Conference?

3. Standard of catering

Excellent 9 / Good 18 / Satisfactory 7 / Poor 2
No.= 36

The catering was generally well received. Due to the new venue, the committee was not alert to the possibility of problems that had been ironed out long in the past in regard to the Theatre. For instance, one assessment that the catering was excellent was qualified by the comment 'but no water at the end of lunch!' [The committee apologises, we are aware that participants have a thirst for more than knowledge!]

Other comments were: 'Nice sandwiches'; 'I was pleased that vegetarian options were available' [They are every year]; 'Food is always great'; 'Not enough choice – healthy food please'; 'Food good, staff unfriendly' [identification of alleged unfriendly staff member deleted]; 'Not enough food, long queues for coffee'.

Each year we receive at least one comment from a frustrated restaurant reviewer. This year's was – 'Scones should have had jam & cream. Some hot food would have been nice'. [Of course one problem would be that the provision of jam and cream could arouse the healthy food promoters. What is that old saying? 'One man's meat is another man's poison'.]

4. Suggested topics and speakers for future seminars

There are some topics that are always suggested because of their near universal relevance, such as legal professional privilege, Freedom of Information and privacy law. The committee tries to cast a wider net, even though one of these topics is generally included in each year's conference.

The suggestions made on this topic will be considered along with those generated in the group work session. It may be possible for some rough plan for the conference to be developed earlier than usual next year, so that some topics might be able to canvassed through the Government Lawyers Newsletter.

At this point the incoming committee will be advised of the well supported requests for more interactive sessions dealing with topics of wide interest (perhaps with the possibility of some specialisation at some point.

Keep in mind that it is not always easy to get presenters, particularly eminent ones on topics that we may want. We appreciate that our presenters give their time, at no cost, to enable the convention to provide a full day's CLE at a very economical fee.

We do ask speakers to prepare papers for distribution at the conference, but we are not in a position to be at all vehement in our requests.

5. Other comments

This category also was a bit of a mixed basket.

In last year's evaluation I commented that 'we cannot be certain of obtaining the Parliament Theatre for next year's convention'. I wish my crystal ball was as accurate with Melbourne Cup winners because, as you all know, we were obliged to substitute the Premier's Reception Room this year. The 'view from the top' is magnificent, but we were advised that it could only cater for 120 participants, some 40 or so down on the Theatre's capacity. We apologise to those who missed out, particularly as there seemed to be room for at least two more rows of seats, so we could have accepted more.

While we're on the topic of seats, those provided failed to impress several respondents – 'Seating was very uncomfortable'; 'Chairs very uncomfortable for long periods of sitting'; 'No paper provided for taking notes. Uncomfortable chairs. No desks to use to support us when taking notes' [I don't think we have ever had desks available]; The chairing of the day received some comment – 'Too much time wasted by introductions and talking about speakers' backgrounds; [This was a consequence of not having papers, with a 'bio' of the speaker, available on the day for distribution. Without these the Chair is obliged to give some introduction to each speaker. I drastically pruned some voluminous bios and added to those that were excessively modest or otherwise skimpy, and I suspect that Greg Ross did the same].

Every year I find one comment that stands out, generally because it shows a certain dedication to maximising the enjoyment (and practical returns) of the conference. Generally the comments advocate a giant leap in the quality (and expense) of the food provided (such as suggesting that seafood platters would be nice). This year's award goes to – 'Where's the showbag including list of papers, freebies i.e. pen & paper'. This reminded me that we did have something like this in 2005, I think. I shall make it my personal quest to re-instate the showbag for next year!

The runner-up was the participant (not me!) who had the courage/temerity to comment 'Greg Williams an excellent moderator'. (Please identify yourself and I'll slip a cheque into the mail).

6. Membership of Law Society

Membership of the Law Society among government lawyers is in excess of 90%. The response to this question showed that similar ratio (89%) applied to those who attended the conference (and filled in their comments form). Out of 34 responses, 32 were from members of the law Society while 4 were from non-members.

See you next year!

Greg Williams, Government Solicitors Committee

The Lucky Country

Australia is very much a lucky country, so we have regularly heard said. Events in a number of other Commonwealth Countries, such as Fiji and Pakistan, remind us how, despite whatever frustrations we here might have in providing legal services in the public sector, we have a relatively easy time.

The following email from a Pakistani lawyer in context of the recent declaration of emergency and

the following précis of a paper delivered by Fiji lawyer Graham Leung at the recent Commonwealth Law Conference in Nairobi gives chilling insights into a very different world, and one which public sector lawyers must seek to avoid ever taking root here.

**Introduction by Greg Ross.
Secretary and Acting Chair, Commonwealth Association
of Public Sector Lawyers
Government Solicitors Committee**

-----Original Message-----

To: Commonwealth Lawyers Association

Subject: Imposition of Martial Law against Judiciary

My dear [Secretary General of the Commonwealth Lawyers Association],

On last Saturday the 3rd of November we had worst kind of Martial Law promulgated by the Chief of Army Staff General Pervez Musharraf as Commander of the Armed Forces. It has been nomenclatured as an emergency but a provisional constitution order (P.C.O) has been issued abrogating the Constitution of Pakistan. It is a severe blow to the judiciary. In fact the strangest phenomena I have seen that in comparison with global regime of military take over; that this Martial Law addresses only the judiciary and has been imposed to eliminate and trample the institution which was seized of a case determining General Musharraf's eligibility to hold the post of President and to continue in office and to contest for the next term.

Almost simultaneously a campaign of terror had been let loose. Thirteen judges of the Supreme Court out of eighteen are in house arrest. Only five have been administered oath of loyalty with the Commander in Chief. Likewise in Karachi 2/3rd of the judges have not taken oath. More than fifteen judges in Lahore and Peshawar have lost their jobs as they did not offer to take the oath of allegiance under the PCO.

I myself am being hunted for arrest as would be indicated from the front page of a story carried out by "The News" of Sunday the 4th of November. I am sending as an attachment a press review as to what has happened.

The government has raided my house in Islamabad and Lahore by officials of the intelligence agencies in plain clothes. I managed to make good my way to Islamabad taking necessary precautions to avoid being caught unnecessarily. Mr. Aitzaz Ahsan, President of the Supreme Court Bar Association and few other active members of the community have already been arrested.

[...] I solicit your kind and gracious indulgence to circulate this to all council/executive members, the other lawyer's institutions and advise how would you kindly response to this SOS call.

I look forward for your guidance, help and assurance.

Please advise if visit to London, Geneva would make any difference.

I look forward for hearing from you

With respectful regards,
Sincerely

The Fiji Judiciary at the Crossroads: Judicial Independence and the Rule of Law

Précis of remarks by Graham Leung as presented at the Commonwealth Lawyers Conference Nairobi, Kenya, 12 September 2007.

Judges, magistrates and lawyers have a critical role to play in supporting the rule of law, Lord Atkin has said: "Justice is not a cloistered virtue: she must be allowed to suffer the scrutiny and the respectful even though outspoken comments of ordinary men", and

I might add, in this age of political correctness, women!

The expression "rule of law" is somewhat clichéd and almost meaningless, thanks to ideological abuse and overuse. The 17th century philosopher John Locke said "Where ever law ends, tyranny beings."

The preamble to the Universal Declaration of Human Rights 1948 states that "it is essential if a man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected

by the rule of law.”

In *Prasad v Republic of Fiji* [2000] FJHC 121 Justice Gates commenting on the oaths that Judges take said:

“Because a judge may be called upon to pronounce upon the legality of executive action when an instance of supra-constitutionality occurs, it is a wise counsel for a judge, indeed for the Bench of Judges, to make no public statement on the matter.”

It is of fundamental importance that judges themselves should set a good example by prescribing and observing the highest ethical standards. This is essential for the judges’ moral authority.

The Bangalore Principles of Judicial Conduct adopted by the Judicial Group on Strengthening Judicial Integrity in 2002 recognize that the concept of judicial independence is at the heart of the rule of law.

In 2002 the Fiji Judiciary adopted the *“Guideline Principles for Judicial Officers”* based on the Bangalore declaration. Chief Justice Daniel Fatiaki said the guidelines were established after a lengthy gestation since they were first mooted in 2000.

It sits as a principle of judicial independence and as a pre-requisite to the rule of law and a fundamental guarantee of a fair trial.

A judge is required to exercise the judicial function independently on the basis of the judge’s assessment of the facts and in accordance with a conscientious understanding of the law, free of any extraneous or impermissible influences, inducements, pressures, threats or interference, direct or indirect, from any quarter or for any reason.

In the Takiveikata case, a high profile politician was convicted on four counts of incitement to mutiny before in the High Court before Justice Gates, now the Acting Chief Justice. Takiveikata appealed against his conviction on the grounds that the trial judge was biased against him. He alleged that Justice Gates had passed comment at the social function where the judge reportedly said he “would put Takiveikata away” or words to that effect. Evidence was adduced before the court of appeal from the Brodies the couple who had overheard Justice Gates comments. The appeal court set aside a finding of guilt of the accused by the trial judge. Their Lordship’s opinion indicate that the test of bias is whether in the mind of a fair

independent observer seated at the back of the courtroom, the accused would receive a fair trial because of the appearance of prejudgment.

It is an unenviable situation for any judge to defend his integrity and be cross-examined in the witness box and have his credibility questioned by an appellate bench. The case suggests that restraint, discretion and aloofness are virtues for one holding judicial office.

RECENT EVENTS IN FIJI

In May 2006, Fiji’s ruling SDL party was returned for a second five year term in national parliamentary elections.

On 5th December 2006, members of the Fijian military placed members of the government under house arrest. The Commander of the Republic Fiji Military Forces (“the RFMF”) Commodore Bainimarama, purported to “assume” executive power as Acting President of Fiji. The Prime Minister, President and Vice President were dismissed.

On 3 January 2007 the Chief Justice Fatiaki and Chief Magistrate were told by members of the RFMF to take immediate “voluntary” leave.

It was Gates J. who made the following remarks in *Jokapeci Koroi & ors v Commissioner of Inland Revenue & the Attorney-General* Lautoka High Court, Civil Action No 0179/2001L:

“Unruly persons are unlikely to seek validation for their usurpations from judges. Nor should the courts give their sanction when application is eventually made under the doctrine of effectiveness, for there is no such force behind it. In this regard, I respectfully differ from Kelsen. Judges should expect and anticipate that the usurpers will see them removed. So be it. Judges do not represent the law. The doctrine of effectiveness has no moral underpinning, and judges do no honourable business therefore in according lawfulness to de facto administration.”

In accepting appointment as acting Chief Justice, Gates J. is perceived by some to have lent the appearance of collaborating with the military, the perpetrators of a coup that removed the country’s elected government.

It is one thing to espouse the principles. The real test is whether during a constitutional crisis, judges can perform to the very standards that they publicly espouse.

Fiji’s judiciary has taken some hard knocks in both 2000 and 2006. There is no question that as an institution the judiciary has haemorrhaged and is continuing to bleed as a result of a succession of political crises in the country since 1987.

Never before has it come under such searching, prolonged and open criticism. Since May 2000, collegiality among the judges of the High Court has

been more apparent than real. The contrasting approaches adopted in dealing with those events were subsequently reinforced by personal differences and factionalism to the ultimate detriment of the judiciary.

Chief Justice of Australia Murray Gleeson commenting on the judiciary's reputation said: *"that reputation is our principal asset. It represents capital that has been built up by generations of judicial officers. We hold it on trust. It is not ours to fritter away as we please."*

In countries Fiji, Pakistan and Zimbabwe where the rule of law is under threat and being undermined in one form or another, there is a greater burden on the judiciary to reinforce constitutionalism and respect for democratic principles and constitutional government. Ultimately it is the judiciary more than any other of the other branches of government that carries the greatest responsibility of ensuring that democratic values are reinforced and promoted. A fragile and fractured judiciary represents a threat to the rule of law. Ultimately it is the judiciary more than any other branch of government that carries the greatest responsibility of ensuring that democratic values are reinforced and promoted.

When judicial officers are unable to deal professionally with one another and where differences of opinion are personal, spiteful and longstanding, judicial collegiality is compromised and the integrity of the institution as a whole is tarnished. Unprincipled politicians who care little about judicial ethics or the rule of law, more driven by expedient and partisan goals are likely to exploit these vulnerabilities in a manner that encroaches on the independence of the judiciary. In a country such as Fiji where coups are a way of life, this threat to the institutions of justice is unlikely to disappear overnight. Lawyers and the organized profession have a duty to assist the building of a credible and independent bench of judges.

The response of Fiji lawyers to the suspension of the Chief Justice has not matched the robustness of their Pakistani counterparts who have demonstrated greater mettle and courage. The suspension of the Chief Justice has been met with a curious lethargy seeming to attract little outrage or anger.

Judges and lawyers have a moral obligation to defend Justice and the institutions of Justice and not to seek to tear it down. This may sound elementary even redundant in established democracies. But in a

country like Fiji which has struggled with democratic government, it is a very real challenge both for judges and lawyers.

It takes a degree of courage to stand for principle. It is worth remembering, for example, that the lawyer who first advocated the fundamental credo of counsel and the right to silence was in fact hung, drawn and quartered and his head stuck on a pike on the Aldersgate in London. It was John Cooke who had the courage to act as prosecutor of the tyrant Charles I and was executed for his trouble by Charles II. It was he who had the courage to use the law to establish that even the King was not above the law.

There can be no good and clean government without respect for the rule of law, an independent and competent judiciary, as well as transparent and well-functioning financial markets.

International judges and the global profession, especially from Commonwealth countries must monitor events in Fiji and do their part in supporting a strong, fearless and independent judiciary in the country. Left to its own, the country is likely to sink further into the pit of dictatorship and tyranny.

Are you in the business of making law?

Assistant NSW Parliamentary Counsel, Mr David Mills, who addressed the participants at the Government Lawyers' CLE Conference, held on 30 October 2007, made repeated reference to the *Manual for the Preparation of Legislation* ("The Manual").

The Manual sets out the processes and procedures that one needs to know, to make all steps progress seamlessly in either making of a new piece of legislation or introducing amendments to the existing pieces of legislation, including the regulations.

It is a must for those involved in the legislation making process to understand the procedures well. Often policy development and the development of legislation are closely connected in many government agencies.

The Manual is a very useful tool for those who have recently taken up a position in the law making field in NSW and is also a handy resource for those who have been in it for sometime, in case there is any doubt.

For a copy of the Manual visit the NSW Parliamentary Counsel's website:
<http://www.pco.nsw.gov.au/publications.htm>

Susai Benjamin
Member, Government Solicitors Committee.

What is COAT?

COAT (Council of Australasian Tribunals) grew out of the inaugural meeting of the heads of various Tribunals that took place in New Zealand on 6 June 2002. The New Zealand meeting endorsed an idea that it is professionally useful to form an organisation whose membership will be open to Commonwealth, State, Territory and New Zealand Tribunals.

The purpose of the COAT is to:

- identify common interests of participating tribunals and their members;
- operate informally with decisions to be made by consensus;
- determine its priorities based on the interests of members;
- ensure practical outcomes the COAT might work towards, such as:
 - the development of best practice or model procedural rules based on collective experience of what works;
 - standards of behaviour and conduct for members;
 - increased capacity for training and support for members, particularly by smaller tribunals which might not have the resources to undertake such activities alone; and
 - the development of performance standards.

The organisation operates through a federal structure, comprising: a National Council; with State, Territory and New Zealand Chapters. Membership of National COAT is open to all tribunals however at the State and Territory level individual membership is offered.

The New South Wales Chapter is one of the more

active Chapters with close to 200 members (75% from State and 25% from Federal tribunals). One interesting aspect of the NSW organisation is that it encourages those who are not members of a Tribunal to also participate and contribute to the broad objectives of this growing organisation. Several legal practitioners, medical experts, academics and other interested persons are members of COAT NSW Chapter.

From time to time the NSW Chapter of COAT holds special programmes such as the successful "Decision Writing Workshop" conducted by Professor James Raymond. Each year in conjunction with the Annual General meeting a learned address is given and in September 2007 the speaker was Sir Anthony Mason, former Chief Justice of the High Court.

The NSW Chapter conducts an annual conference. Last year conference speakers included Justice Keith Mason (President of the Court of Appeal), David Bennett QC (Solicitor General) and Judge John O'Meally of the Dust Diseases Tribunal. The next day-long conference is scheduled for 23 May 2008.

Membership of the NSW Chapter costs \$20 per year and those who are interested to join or learn more about this organisation should visit the website: <http://www.coat.gov.au>.

Susai Benjamin
Member
Government Solicitors Committee.

