



CHAIR'S MESSAGE



congratulate all for their contributions. The completion of this work is an important contribution to this approach.

Government Lawyers' Annual Dinner

The Government Lawyers' Annual Dinner attended by 115, was held that evening hosted by Jennifer Jackson, a member of the Government Solicitors' Committee. The President of the Law Society, Robert Benjamin introduced the guest speaker The Honourable Justice Margaret Beazley, NSW Court of Appeal.

Justice Beazley spoke of the implications of recent decisions and recent trends and the question of what the implications are of the case law of recent years and the increasing trend for greater prescriptive regulation.

Government Lawyers' CLE Convention & Annual Dinner

The Government Solicitors' Committee held The Eighth Annual CLE Convention and Annual Dinner on Tuesday 9th September at NSW Parliament House, the theme being "Thriving in a Changing World". Mr Michael Sexton QC, NSW Solicitor General opened the Convention. This most successful day was enjoyed by 162 attendees. A full report on the programme for the day is contained in this issue.

A review of the comments on the CLE follows with an article by Greg Williams, a member of the Government Solicitors' Committee who I understand made quite an impact on the audience with his introductions of the guest speakers.

Guidance on Ethical Issues for Government Solicitors

One of the highlights of the day was the launch by Howard Bell, a member of the Government Solicitors' Committee of the "Guidance on Ethical Issues for Government Solicitors".

Howard acknowledged the invaluable contributions of a number of people who have added value to the publication at every twist and turn of its evolution. These included the NSW Crown Solicitor Mr Ian Knight and his staff, the Director-General of the NSW Attorney-General's Department Mr Laurie Glanfield AM, the Director of Public Prosecutions Mr Nick Cowdrey AM QC, other Government Legal Heads as well as a wide range of government officials, legal officers and specialists.

These diverse inputs were distilled by Hugh Roberts, formerly the NSW Crown Solicitor and the Special Consultant on the project. Hugh's insight and experience are reflected in the Guidelines and have added enormous value to its practical use.

The Ethics Sub-Committee was chaired by Brian Doyle and included Brad Row, John Murn, Rita Felton, Claire Giroto and Greg Williams. These people provided extensive input from their broad spectrum of experience as government legal practitioners.

Virginia Shirvington, Senior Ethics Lawyer, at The Law Society provided very effective input into the technical content of the Guidance together with Law Society Liaison Officers who kept its progress on track and moving along the pathway to production.

As Chair of the Government Solicitors' Committee, I am delighted to see the Guidance as a living document created by Government lawyers, for use by Government Lawyers who will ultimately see that its great value arises from its readiness for effective application day by day.

As President of the Law Society, last year, the proactive pursuit of objectives which highlight the value of lawyers in their ethical approach to their professional activities was a focus and I



Justice Margaret Beazley (NSW Court of Appeal)

She told guests of the differing outcomes on the same issue highlighting a matter of critical importance for the judicial officer – in times of such rapid change, in societies that are increasingly complex and pluralistic, in times when the context in which cases are decided is not confined by and to the local law - what are the principles that guide the judge? How does a judge reach a result that is both impartial and neutral without injecting personal beliefs into the equation – regulation is no guarantee of a prescribed outcome.

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STOP PRESS

**MEMBERS SUPPORT COUNCIL REFORMS.
Government solicitors gain 2 seats on
the Council of The Law Society.**

For further information see the back page of this publication.

2003 GOVERNMENT SOLICITORS COMMITTEE

Chair

Ms Kim Cull
Director, Office of Employment, Equity and Diversity

Committee Members

Mr Howard Bell
NSW Police Services

Mr Gavin Bowman
Australian Broadcasting Authority

Mr Patrick Duffy
Campbelltown

Ms Elizabeth Espinosa
Sutherland Shire Council

Ms Rita Felton
Australian Taxation Office

Ms Claire Giroto
NSW Director of Public Prosecutions

Mr Charles Guilan
Australian Taxation Office

Ms Jennifer Jackson
Australian Government Solicitor

Mr Mark Richardson
Law Society of New South Wales

Mr Greg Ross
Secretary CAPSL

Mr Brad Row
Crown Solicitor's Office

Ms Liz Ryan
Office of the Director of
Public Prosecutions (Cwth)

Mr Gregory Williams
Office of the Ombudsman

Executive Member

Ms Robyn Davies
Law Society of NSW
DX 362
Sydney
Ph: (02) 9926 0276
Fax: (02) 9223 1496
E-mail: rad@lawsocnsw.asn.au

(Chair's Message continued from page 1)

Excellence Award

The Excellence Award in Government Legal Service was presented at the dinner and I extend my congratulations to the Legal Representation Office which appeared for the families of the victims and the injured at the "Waterfall Rail" Special Commission of Inquiry. The team comprised Gareth Lewis (senior solicitor), Annette Sinclair (senior solicitor) and Grea Korting (office manager). The inquiry into one of Australia's worst Rail disasters was the subject of intense media, Government and Departmental attention and it is anticipated the Commissioner's report will have wide reaching implications for the public transport system of New South Wales.



From Left: Gareth Lewis, Annette Sinclair, and Grea Korting (Legal Representation Office)

A Highly Commended Award was also presented to the Vanuatu Legal Sector Strengthening Program Team. The program is aimed at promoting good governance in Vanuatu through enhancing the capacity of the three Vanuatu public legal offices; the State Law Office, Public Prosecutor's Office and Public Solicitor's Office. As the only AusAID funded project managed solely by a government department, the program provided a unique opportunity for the NSW Justice sector to showcase its leadership and expertise at a national and international level.

The program represents a model for other NSW public sector agencies with an interest in managing foreign aid projects. The program also provides practical assistance and guidance to a developing nation within our region.

Once again I would like to thank Thomson Legal & Regulatory Limited for their continued sponsorship of the Award and to Anita Sibrits, General Manager, General Law Publishing and Wendy Palmer, Editor Law Publishing, for attending and presenting the financial prize.

I would like to thank everyone on the Committee for their efforts in achieving yet another successful CLE Day and for their efforts in achieving success with the launch of the Guidance on Ethical Issues for Government Solicitors.

Government Legal Department Heads

The bi-annual Government Legal Department Heads meeting was held on Wednesday 8th October. The first guest speaker for the morning was The Minister for Justice, The Hon. John Hatzistergos MLC, speaking on his Ministerial title "Justice" and as Minister responsible for Corrective Services. He spoke of the correctional programs in place to reduce re-offending, of the excellent results achieved in the Oberon Young Offenders Correctional Centre, the alcohol and drug rehabilitation service for North Coast Aborigines and the International Transfer of Prisoners Scheme and "Beyond Punishment" a joint initiative of the Department of Corrective Services and the Institute of Criminology, University of Sydney Law School.

The Attorney General, The Hon Robert Debus, MP, spoke on the work of his department in developing a draft model litigant policy for New South Wales – a discussion paper is being developed to explore the public interest and legal practice issues involved in the development of the policy and is intended to provide a point of focus for consultation and discussion with government agencies, the legal profession and the community; the Commonwealth's Model Litigant Policy; and the NSW Premier's Memoranda governing the conduct of litigation and the provision of legal services in the NSW public sector.

The Director, Legislation and Policy, Attorney General's Department, Ms Maureen Tangney gave a very interesting overview of the work of the Legislation and Policy Division, the Criminal Law Review Division and an overview of the Bills currently going before Parliament.

The final guest speaker was the newly appointed Chief Judge of the Land and Environment Court, The Hon. Justice Peter McClellan who spoke on his plans to streamline the court process of the Land and Environment Court. We were indeed fortunate to have these distinguished guests at our meeting to present their in-depth and thought provoking views of their respective portfolios.

I would like to thank all our guests who gave their time to make presentations and also those who contributed by way of attendance.

Government Solicitors' Committee

At the Government Solicitors' Committee meeting held in August, the Committee further progressed the strategy to develop a national forum for Government Lawyers by participating in a teleconference. Present with the Government Solicitors' Committee were Timothy Beale, Principal Lawyer, Crown Law Queensland representing the Government Lawyers Committee, **Queensland Law Society**, Caroline Quinn, Research Officer, **ACT Law Society** and David Janson, John Benson, Amie Herdman, Karen Hermann, Florence Kaur, Andrew Liston, Jenny Morris, Martin Taylor, Sidra de Zoysa from the Government Lawyers Committee, **Law Institute of Victoria**.

The meeting agreed to explore and progress a forum between the states; draft a mission statement, identify common issues, aims and objectives, identify the training needs of government lawyers for each participating state, to nominate two representatives from each state and to form a sub-committee to work on these projects in 2004.

Howard Bell and Brad Row are the nominees to the sub-committee.

2003 has been a busy and productive year for the Government Solicitors' Committee. I would like to extend my thanks to all the committee members for their hard work Howard Bell, Gavin Bowman, Patrick Duffy, Elizabeth Espinosa, Rita Felton, Claire Giroto, Charles Guillan, Jennifer Jackson, Greg Ross, Greg Ross, Liz Ryan and to the Law Society staff Barbara and Robyn for their efforts for another year of contribution and commitment to Government Lawyers.

*Kim Cull
Chair*

THE 2003 CLE CONVENTION AND DINNER

Mr Michael Sexton, SC NSW Solicitor General opened the CLE day.

Howard Bell had the pleasant task of launching, on behalf of the Government Lawyers Committee, the **Guidance on Ethical Issues for Government Solicitors**.

In Howard's address he remarked that ethics itself has evolved itself throughout history. It has assumed singular importance to some writers. Research and writing on Ethics is an activity which Governments themselves have not necessarily always been comfortable with.

An example of the discomfort it can cause to an entire regime is to be found in Berlin towards the end of WW2. On the day of his arrest on

5 April 1943 in Berlin, Dietrich Bonhoeffer was in the throes of compiling his seminal work on Ethics. His work, and his delivery of any public address on the subject, were banned by the Gestapo. Bonhoeffer had of course been guilty of only one "crime" that of producing an ethical framework which embraced a range of human dimensions including Christian precepts, human achievement, learning from history and the acceptance of the call to duty on a range of levels.

Ethics as a field lies at the very heart of all effective professional activity. Clients usually, if not always, suspend critical capacity when receiving the advice of their professionals. They do not stop and consider the ethical orientation of their legal advisors any more than they question how their lawyer got to be a lawyer. They just assume that their legal advisor carries around, in his/her toolbox the knowledge, skills and attitudes necessary to perform their role effectively, thoroughly and in accordance with the applicable ethical principles however esoteric they may be. It is hoped that the current Guidance will form a new and complimentary addition to the toolbox carried around by the lawyer advising the Crown.

The production of the Guidance represents the evolution of two things. First, the standardization of previously random solutions to a range of potential dilemmas facing lawyers advising those complex organs of government. Secondly, the creation of a valuable benchmarking tool. The Guidance underpins a system of thinking about ethical issues affecting legal practitioners supporting the government.

The new Guidance comprises a template for the effective management of a wide range of situations not only in relation to conflict of interest, which appears in Section 6, but also in other areas including confidentiality (Section 4), client identity (Section 2), independence (Section 3) and outsourcing (Section 8).

The Guidance documents a great deal of accumulated professional wisdom in relation to the unique position of government legal work. Two examples highlight this; Guides 3.1 and 3.2 provide simple and readily applied assistance in determining the required level of independence and focus of legal service delivery to client agencies. Again, Guides 5.1 and 5.2 provide a sound operating base for government lawyers who must, on the one hand firmly, properly and enthusiastically uphold and protect the interests of their client agency.

The Guidance is a living document created by Government Lawyers, for use by government lawyers who will ultimately see that its great value arises from its readiness for effective application day by day.

Howard commended this valuable, user-friendly and very practical product as a highlight of the Committee's business during 2002-2003 and launched the Guidance on behalf of the President, the Council of the Law Society and the Government Solicitors' Committee.

The International Criminal Court and the Changing System of International Justice

Steven Freeland, the keynote speaker is a Lecturer in International Law at the University of Western Sydney, where he teaches both undergraduate and post graduate students in Human Rights Law, International Criminal Law, Public International Law and Commercial Aspects of Space Law. He is also responsible for the International Law Mooting Program undertaken by the University and is on the Executive Committee of a number of national and international law associations and journals.

Steven's subject was 'The International Criminal Court and the Changing System of International Justice'. He spoke about the recent establishment of the International Criminal Court and outlined the crimes within the jurisdiction of the Court - Genocide, Crimes Against Humanity, War Crimes and the (yet to be defined) crime of Aggression – and the temporal and geographical restrictions on the exercise of its competence.

Despite its limitations and the political compromises that shaped the structure eventually agreed by States when drafting the Court's Statute, Steven stressed the important step that the establishment of the Court represented in the context of addressing gross violations of human rights. Yet, as he indicated, the Court faces significant

opposition from several important States, most notably the United States. Steven described the various actions undertaken or led by the United States that have had the effect of undermining the activities of the Court, at least in relation to any potential crimes within its jurisdiction that may be committed by American nationals. These actions included the sponsoring of Security Council Resolutions 1422/1487, which effectively give immunity from investigation for personnel from non-parties to the ICC Statute engaged in United Nations authorised missions, the extremely wide immunity provisions of Security Council Resolution 1497 (which authorises a United Nations Stabilization Force in Liberia) and its own domestic legislation (The American Service Members Protection Act 2002), which gives the President very wide powers designed to counter co-operation by other States with the Court.

In this regard, the United States has been applying significant diplomatic and financial pressure on many States to enter into so-called 'Article 98' Bilateral Immunity Agreements, under which they would agree not to surrender American nationals to the Court. Despite the unanswered legal concerns that these agreements raise, there have been over 60 such agreements concluded thus far. Whilst most of the States that have so far reached an agreement with the United States are developing States heavily dependent on United States financial, military and political support, there are reports that the Australian Government is still considering a request from the United States to also conclude an agreement.

Steven's address gave the audience many pertinent issues to digest and challenges that may face Australia and the world community in the future.

Plain language: the "voice" of the brand: why it matters to lawyers.

Christopher Balmford from Cleardocs Pty Ltd (see www.cleardocs.com) provided a plain-language training session. The session included a group exercise to dramatically rewrite a letter to someone who has been granted an arbitration hearing before a government commission.

Benefits

Christopher spoke:

- (a) on the social benefits of clear legal communication, improving access to justice, and enabling consumers to make more informed decisions;
- (b) on the benefits that plain-language can deliver in business and in government by improving efficiency, effectiveness and customer satisfaction;
- (c) on the fact that plain language is about being clear and reader-friendly as well as being accurate, certain and precise; and
- (d) on how plain language can help an organisation make sure its documents live up to and enhance its brand.

Christopher cited examples of major Australian law firms becoming committed to using plain language and rewriting their precedents in plain language and training their lawyers in plain-language skills.

Plain language in other countries

Plain language has spread internationally; in the United States many law schools offer a legal writing subject focusing on clear communication. One highlight was President Clinton's Memorandum, issued on June 1 1998, directing all Executive Departments and Agencies to use plain language. In Canada many government agencies are pushing for plain language and in the United Kingdom the Plain English Campaign and the Plain Language Commission have been leading the charge and providing rewriting services and training for many years. Phil Knight, a plain language advisor from Canada, was the advisor for the Constitutional Assembly to draft South Africa's new Constitution. In New Zealand, the Government is rewriting tax legislation in plain language and some major law firms provide plain-language services.

Plain language has come of age and more.



Steven Freeland (University of Western Sydney) and Howard Bell (Government Solicitors' Committee).

Dispute Resolution: Harvard 7 elements in principled negotiation

Alan Limbury, Strategic Resolution, (expert@strategic-resolution.com), has practised as a lawyer since 1964 primarily in trade practices and intellectual property and as a mediator since 1987. Alan spoke of using the Harvard "7 elements of principled negotiation" to resolve disputes by agreement, as in mediation. His preparation checklist gives the 7 questions to put to clients when preparing for the mediation.

1. ALTERNATIVES: assuming no settlement is reached, what is the best thing your client could do and what are the realistic prospects of success?
2. What are the client's INTERESTS that any settlement should satisfy?
3. What might be some objective criteria by which the LEGITIMACY of any settlement may be judged by the client's constituency?
4. What might be some tentative OPTIONS for a possible settlement?
5. Do the parties have an interest in continuing or terminating their RELATIONSHIP?
6. What authority will the decision-maker have and what sort of COMMITMENT is possible if the mediation is successful?
7. What sort of COMMUNICATION is most likely to facilitate agreement at the mediation?



Alan Limbury (Strategic Resolution)

How public sector ethics can impact on public sector lawyers

This is an abridged version of the paper presented by the Ombudsman, Bruce Barbour, at the Government Lawyers CLE Convention on 9 September 2003. Some editorial comment is included in this article]

The Ombudsman's presentation was timely, as it coincided with the official launch at the Convention of the Law Society's publication 'Guidance on Ethical Issues for Government Solicitors' and preceded the release in late September of the Ombudsman's publication 'Good Conduct and Administrative Practice – Guidelines for state and local

government' (the Contents and Foreword of the publication can be accessed on the Ombudsman's website www.ombo.nsw.gov.au. Copies of the publication can be obtained from the Ombudsman at a cost of \$49.95. Further information about orders can be obtained by calling 9286-1000).

The theme of the paper was that government lawyers, like other public officials, have a pre-eminent duty to identify and protect the public interest.

Many government as well as private sector lawyers feel they are over-regulated and that there is too much external scrutiny in relation to the performance of their duties. Government lawyers are subject to: the duties to the legal system that flow from their positions as officers of the Supreme Court; the requirements of the legislation applying to lawyers (*the Legal Professional Act 1987* and the *Legal Profession Regulation 2002*), rules of conduct and ethics issued by the NSW Law Society (the Professional Conduct and Practice Rules issued under the *Legal Profession Act* and the Statement of Ethics of November 1994.)

In addition to these obligations, government lawyers and the employing agencies are also subject to an elaborate system of public accountability. One of the most important functions of the Ombudsman's office is the provision of information and educative materials to public authorities about the proper way to fulfil their responsibilities.

The following topics were addressed by the Ombudsman.

The public interest – All public sector agencies and officials should perform their official functions and duties and exercise any discretionary powers in ways that promote or preserve the public interest. Public officials must determine the public interest as it applies to them by reference to the purposes for which their employing agency has been established or the functions it is required or permitted to perform through enabling legislation or consequent to government policy. Public sector lawyers, particularly because of their involvement in interpreting such legislation, often play a pivotal and sometimes unrecognised role in shaping the public authority's conception of the public interest that it serves. Public sector lawyers therefore must act, and must advise their employing agency and its staff to act, within both the letter and spirit of the law. The obligation to act in the public interest may at times require a government lawyer to give advice that is unpalatable or disadvantageous to the lawyer's client.

Conflict of interests/conflict of duties – Public officials should not allow the pursuit of private interests to interfere with the proper discharge of their public duties. Likewise, conflict of duties is either unacceptable and to be avoided, or at least a problem to be carefully managed. Such circumstances would include where a public official holds a position in, or otherwise performs duties for, more than one public sector agency. [The recent media coverage of the Ombudsman's findings regarding the conflict that arose because of the multiple positions held by Mr Chris Puplick (the former Privacy Commissioner, President of the Anti-Discrimination Board and Chair of an Area Health Board) provides an example of the dangers that a public official may fall into because of possible conflicting demands of different offices.]

The role of the Ombudsman – The Ombudsman is an independent officer of the NSW Parliament who, inter alia, investigates the administrative conduct of Government departments, NSW statutory authorities, local councils, and deals with certain complaints concerning police. The office is accountable to the Parliament through a Parliamentary Joint Committee and is completely independent of the Executive.

Client professional privilege – The Ombudsman's use of this term in preference to the older 'legal professional privilege' underlined that the privilege in fact belongs to the client, who has sole discretion, preferably after considering legal advice, to waive the privilege.

Client professional privilege and FOI – Client professional privilege is frequently cited as the basis for a public authority refusing access to documents sought under the FOI Act. The privilege should not automatically be claimed just because it is lawful to do so. It is often reasonable and appropriate to disclose legal advice, even if client

professional privilege can be claimed. There should, as in any decision, be sound reasons for refusing to disclose legal advice, particularly where there is something to be gained by disclosure – for instance, avoiding the escalation of a dispute.

Client professional privilege and the Ombudsman - The Ombudsman has restricted power to obtain information that is claimed to be privileged. The Ombudsman may formally require the provision of a statement of information, or the production or giving of a document or the answering of any question, but must set the requirement aside if a claim of privilege can be made that would be accepted by a court in legal proceedings.

Can lawful conduct be wrong? - Whilst the pursuit, identification and use of a loophole may be an acceptable strategy for lawyers in private practice, it is not appropriate for government lawyers. It is vital for government lawyers to be aware that s.26 of the *Ombudsman Act 1974* allows the Ombudsman to find conduct that is 'in accordance with any law or established practice to be wrong conduct if it is, or may be, 'unreasonable, unjust, oppressive or improperly discriminatory'.

Lawyers and apologies – The Ombudsman pointed to the protection now accorded to apologies by the *Civil Liability Act 2002*. The Act provides in Part 10 that :- "An apology made by or on behalf of a person in connection with any matters alleged to have been caused by the person: (a) does not constitute an express or implied admission of fault or liability by the person in connection with that matter, and (b) is not relevant to the determination of fault or liability in connection with that matter".

More specifically, s.69 of the Act provides that: - "Evidence of an apology made by or on behalf of a person in connection with any matter alleged to have been caused by the person is not admissible in any civil proceedings as evidence of the fault or liability of the person in connection with that matter."

The Ombudsman encouraged government lawyers to be more willing to advise their agencies to make appropriate early use of apologies as a way of defusing complaints and preventing their escalation.

Current Privacy Law – from a regulator's perspective

Anna Johnston, Deputy Privacy Commissioner spoke on the current Privacy Law from a regulator's perspective, about Privacy, the challenges and trends in 2003. Anna gave an overview of the work of the Privacy Commission:- giving advice on compliance with the PPIP Act, advice on other privacy issues, how informal enquiries are handled, complaints – investigation and conciliation and internal and external reviews.

Anna spoke about the 12 Information Protection Principles that are the key to The PPIP Act. The Principles are legal obligations which describe what NSW government agencies, statutory bodies and local councils must do when they collect, store, use and disclose personal information.

The New Health Records & Information Privacy Act (HRIP) which is not due to commence until 2004 will regulate health information privacy, it covers all NSW State and local government agencies, all private sector health service providers and also some private sector large businesses. There are 15 Health Privacy Principles in the regulation covering collection, retention, use, disclosure, access and amendment as well as electronically linked records.

Anna concluded by speaking of the challenges for public sector agencies: the sheer volume and variety of personal information held by state and local governments; weighing competing interests; the public interest in open government; how it is becoming harder to protect privacy by default; and the new technologies that are forever appearing.

Current Privacy Law from an agency perspective

Nicholas Cowdery AM QC, Director of Public Prosecutions, spoke about the Privacy and Personal Information Protection Act 1998 (PPIP) and the litigation experience of the NSW Office of the Director of Public Prosecutions.

Mr Cowdrey stated that the NSW office of the DPP has been involved in litigation under the Privacy and Personal Prosecutions Act 1998 (the Privacy Act) on four occasions. It has been asserted by three accused persons and by one police witness that the ODPP has contravened Information Protection Principles (IPP's) relating to collection, retention, alteration, use and/or disclosure of personal information. Results to date have been mixed: one matter was settled, one matter is to be heard at the end of September 2003, one matter has been heard and judgment is reserved and the fourth was decided in favour of the ODPP.

Mr Cowdrey discussed the lessons learnt from the experience so far and that many of the issues raised in the litigation against the ODPP are common to other agencies and hopefully that other agencies can benefit from the ODPP experiences so far.

Four issues to be addressed in the process of analysis are:-

1. Does the conduct involve "personal information"? This is the first question to ask when it is asserted that your agency has breached an IPP. "Personal Information" is defined in very broad terms in section 4 of the Act.
2. Identify the relevant IPP. This states the obvious but some complaints cover a lot of ground, not all of it concerned with the conduct proscribed by the Privacy Act. Identify which of the IPP's your agency is said to have breached and in what way/s.
3. Identify the exemptions applicable to your agency. The Act contains many exemptions from the IPP's, some exemptions apply to all agencies and others apply to a class of agencies while some apply to specific agencies only.
4. Consider whether the exemption applies to the relevant conduct. Much of the litigation in which the ODPP has been involved has turned on this issue.

(The full text of this address including relevant extracts from the Privacy Act (appendix A) and Privacy Act information protection principles and exemptions applicable to the ODPP (appendix B) can be viewed at www.odpp.nsw.gov.au – speeches.)



Nick Cowdrey AM QC (Director of Public Prosecutions)

We are an honourable profession

Ray Collins, Manager Professional Standards at The Law Society, in speaking on his topic 'we are an honourable profession' stated that "one of the key unifying forces for the legal profession is the profession's ethical obligations and professional responsibilities".

Ray related figures compiled by the Law Society over the period 2002/2003. During this time there were 610 complaint files opened and investigated by the Professional Standards Department, 18% less than the previous year. The most common grounds for complaint (after Unethical Conduct) involved issues of not complying with an undertaking and a failure to account. An account was also given of the statistics relating to government solicitors. There were 6 complaints received against government solicitors which represents 1% of total complaints received. Government solicitors account for 10% of the profession. Of these 6 complaints, 2 related to unethical

conduct, 2 related to a lack of communication, 1 to delay and 1 misleading. As at 30 June 2003, 5 of these complaints remained open and 1 was dismissed.

Lawyers thriving in a changing world

Hooma Mishra, Justice Branch, The Cabinet Office, Kate Sumpter, Lawyer, Henry Davis York and Justin Gisz, Associate, KPMG Legal were finalists in the Golden Gavel Competition in Law Week and provided a light touch to the final segment of the day. Hooma won the competition with her speech on "Ten billable codes every legal practice should have"; Kate's topic was "Six minutes; a current affair for lawyers and Justin spoke on the topic "When women reach the top in equal numbers of what shall we build the new ceiling".



From Left: Kate Sumpter (Henry Davis York), Justin Gisz (KPMG Legal), Hooma Mishra (Justice Branch, The Cabinet Office), and Greg Williams (Government Solicitors' Committee).

The Government Lawyers CLE Convention and Dinner has established an enviable reputation for offering worthwhile legal education at highly affordable prices. It is also an excellent opportunity to make the acquaintance of government lawyers working disciplines and agencies other than one's own and in the words of some of the attendees: "Again please, a terrific variety."; "You continue to give good topics."; and "Please more introductions by the man with the stripy socks, grey hair and beard. His jokes were very good."

*Robyn Davies
Law Society of NSW*

HOW GOOD WAS THE GOVERNMENT LAWYERS CONFERENCE?

The evaluations returned by the participants at the Government lawyers conference 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.

The evaluation forms asked for an overall category rating for aspects of the convention, with the opportunity to make specific comments on any aspect and any other additional comment.

1. Effectiveness of the speakers

Excellent	27
Good	28
Satisfactory	3
Poor	0
No. =	58

Participants indicated that they were very happy with the standard of the speakers. This general rating approach was criticised by one participant who suggested that it would be better to be able to rate individual presenters. This is something that the Government Solicitors Committee will consider for next year's conference.

However, in view of the variety of comments about individual speakers there may be little point in having individual ratings. Despite some comments that identified specific speakers as being “dull”, “tiresome, too long”, other respondents described the same speakers as being “excellent” and “[one of] the best”. It appears that the varying experience and knowledge of participants lead some to regard some presentations as being uninformative, while other participants find them very valuable.

The ‘Golden Gavel’ finalists section at the end of the day got a mixed reception. The committee thought that some light humour would be appreciated as a bridge between the legal topics and the pre-dinner drinks. Several comments agreed with this aim, while others expressed the view that it was a CLE convention and only relevant legal presentations were appropriate.

2. Standard of seminar papers

Excellent	11
Good	29
Satisfactory	9
Poor	2
No.=	51

There was a definite shift downwards in the evaluation of the quality of papers as against the quality of presentations. The individual comments suggested that the probable major cause for this was the absence, or late provision of some papers – “not all speakers had a paper”, “can’t really comment, haven’t received them all”. There was also a reduction in the number of respondents. This may have been due to the absence of an opportunity for participants to read and assess the papers – “omit this comment as no-one has had time during the day to appraise the papers”, “I did not refer to these, but will read them later”, “seen them – haven’t read them yet”, “don’t know yet – will get back to you when I see them all – if ever”.

3. Relevance of topics

Excellent	10
Good	31
Satisfactory	13
Poor	0
No.=	55

The individual comments were generally very positive. There was some indication that this year’s topics were improvements on those of some previous years – “this was the most interesting Government lawyers CLE Convention I’ve been to yet, in the main, topics were very relevant and very thought provoking and & helpful”, “generally, relevance of the series (of talks) was at a top level, this year’s presentations were definitely superior to past presentations...”

4. Standard of catering

Excellent	12
Good	23
Satisfactory	19
Poor	2
No.=	56

Once again, respondents seemed to be generally quite happy with the catering. Suggestions regarding the need for greater availability of cold drinks/cold water will be taken into account for next year. There were also calls for less ‘fatty’ and ‘fried’ food. Against these were calls for more hot food/snacks. I took particular notice of two comments – “could have done with more prawns” and “a glass of wine would have added a civilised touch”. Have no fear, fellow gourmards! If I am involved with next year’s convention, I shall carry your banner and push not only for more prawns, but a selection of *fruits de mer*. And as for a glass of wine, let’s try for champagne and Grange! Of course, the registration fee would need to be tripled, but that should provide no obstacle for those who wish to be legends in their own lunchtimes.

5. Suggested topics and speakers for future seminars

There were a large number of suggestions, but no real consistency. Some regular topics (eg privacy) were suggested again, while other comments very clearly asked that past topics (eg privacy) should not appear next year.

The committee will retain the suggestions and review them in the light of legal developments in the next year when considering which topics will get a Guernsey for next year’s conference. Keep in mind that it is not always easy to get presenters 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.

6. Other initiatives the Government Solicitors’ committee should consider

Some of the comments in this section could also have been directed towards speakers or topics. The committee will consider all the comments. I, for one, am not sure to what extent the committee can consider ‘industrial issues’ such as lobbying for better salaries for Government solicitors, but I am sure that the committee will investigate the issue.

7. Other comments

This category also was a bit of a mixed basket. The committee shall consider matters where appropriate and we shall certainly keep in mind the suggestions for improving the operation of the venue. While we cannot be certain of obtaining the Parliament theatre for next year’s convention, its location, cost and convenience make it a very attractive venue. I’m sure that the committee would welcome suggestions for alternate venues.

Finally, there were three positive comments about my introductions for the afternoon speakers. I wish to express my thanks to the makers of those comments for observing our contractual arrangements. I assure them that their cheques are in the mail.

Greg Williams
Government Solicitors’ Committee

CLE LOCAL GOVERNMENT

The Government Solicitors’ Committee held a successful CLE evening on local government issues at the Law Society on Thursday 30th October 2003, attracting 36 delegates.

Elizabeth Espinosa, Corporate Lawyer for Sutherland Shire Council and a member of the Government Solicitors’ Committee, spoke on civil liability and legal professional privilege; Michael McMahon of M.E. McMahon & Associates spoke on s.149 certificates and independent assessment panel and John Webster SC spoke on recent events in the Land & Environment Court.

Robyn Davies
Law Society of NSW

REMINDER

JOHN EDMUND HENNESSY FELLOWSHIP

Applications for the John Edmund Hennessy Fellowship were extended to Friday 31st October, 2003.

The applications will be considered by the Government Solicitors' Hennessy Fellowship Sub-Committee. It is expected that the results will be published in Volume 30 of the Government Lawyer Newsletter.

MEMBERS SUPPORT COUNCIL REFORMS

Members of the Law Society supported proposals to change the composition of Council at the Society's Annual General Meeting held on 23 October 2003. The reforms, developed and refined over two years of consultation with the profession, will provide new reserved positions on the Council for corporate and government solicitors, solicitors working in large law firms, and young lawyers. The reforms also guarantee representation for solicitors working in small and medium-sized firms throughout NSW.

The reforms will be phased in over the next three years, so that by 2006 the Council will consist of eight positions and 13 reserved positions: two city, two suburban, two country, two government, two corporate, two large law firms, and one young lawyer. The result will be a Council which is more representative of the profession in New South Wales.

In putting the proposals before the Annual General Meeting, the Council believed that a governing body which is more representative of its membership would serve to unify the profession and enhance the effectiveness of the Society as a regulator and as a voice for its members.

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