



THE LAW SOCIETY
OF NEW SOUTH WALES

GOVERNMENT LAWYER

Newsletter of The Law Society of NSW's Government Solicitors Committee NO.51 / MAY 2013

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SAVE THE DATE
2013 GOVERNMENT
SOLICITORS CONFERENCE
AND DINNER
Tuesday 3 September 2013



Chair's Message

By Doug Humphreys

Chair, Government Solicitors Committee

Dear Colleagues,

It is a privilege to have been elected back to Council and I am really pleased to have been again appointed Chair of the Government Solicitors Committee (GSC). As a Councillor drawn from the ranks of government solicitors, I see the GSC as a key area of my responsibility. The GSC has had a busy start to 2013 and we have welcomed eight new members to the Committee. This reflects a desire to be as representative on the committee as possible of the diverse nature of the roles played by government solicitors.

A positive initiative from last year's Committee has been the introduction of the Reciprocal CPD Program for Government Lawyers which was launched in March 2013. The program was developed by the GSC in collaboration with the Australian Securities and Investments Commission and is a wonderful opportunity for government lawyers to have further options for CPD. Details regarding the program are included in this Newsletter in an article by Mr Kim Turner (Litigation Counsel, ASIC, and member of the GSC). I would again like to thank Mr Turner for all of his work in bringing this program together.

This Newsletter also includes information about a new publication to assist government lawyers explain their professional ethical obligations to their non lawyer work colleagues. *The guide to ethical obligations of government lawyers – for non lawyer colleagues* can be downloaded from the Law Society's Government Solicitors Committee webpage. I would like to thank Councillor Coralie Kenny for her work on developing this material.

The next Government Solicitors Conference will be held on 3 September 2013 at the Hilton Hotel in Sydney, to be followed by the Annual Dinner. This year, the Annual Dinner will be held at the Law Society of NSW, 170 Phillip Street, Sydney. Please keep your diary free for what is shaping up to be a very interesting program for Commonwealth, State and Local government practitioners. Details of the program will be available shortly on the Law Society website.

I would like to take this opportunity to remind government lawyers to look into and apply for the 2013 John Hennessy Research Scholarship and 2013 Excellence Award. This year the criteria for the John Hennessy Research Scholarship have been amended to support public sector solicitors to undertake a research project or further study and the Scholarship has been increased to a maximum value of \$10,000. The Committee would like to thank the Law Society for its generosity in providing this Scholarship.

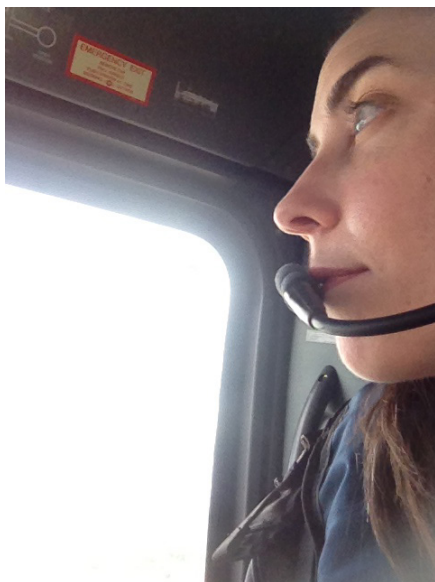
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A day in the life...

of Chantal Tipene

Deputy General Counsel, NSW Police Force



My work day begins just after 7.30am as I settle in to the train ride from Town Hall to Parramatta where part of the NSW Police Force's Office of the General Counsel is located. I take the opportunity to catch up on emails and read the recent decision of the Administrative Decisions Tribunal in respect of the relationship between the *Privacy and Personal Information Protection Act 1998 (NSW)* and the CCTV system operated by a local council. It is a matter I had some involvement in before I joined the NSW Police Force, and I have been keenly awaiting the decision to consider the impact, if any, on the NSW Police Force.

The NSW Police Force is the oldest police force in Australia and the largest police force in the Southern hemisphere. The Office of the General Counsel's role is to provide civil law advice to the NSW Police Force's executive and employees on a diverse range of legal issues relevant to our business – ranging from commercial law, IT/IP, procurement, industrial and work, health and safety matters, administrative law (including discrimination, privacy and merits review), intentional torts, coronial matters and special inquiries (such as the current Cunneen inquiry into the Catholic Church in Newcastle).

Needless to say I have found my role at the NSW Police Force to be incredibly interesting and challenging to date – the legal issues are diverse and often have a high media profile (which many Government lawyers would be used to).

I'm a relatively new addition to the team, having joined the NSW Police Force as the Deputy General Counsel in August 2012. Prior to joining the NSW Police Force, I was a senior associate in a private law firm, specialising in government and administrative law, and I had the benefit of undertaking a secondment to the NSW Police Force's administrative law team so I had some insight into the range of issues the Office of the General Counsel gives advice on before making the move from private practice to an in-house role in a large government organisation.

Once in the office I spend my morning checking in with my team (I have day-to-day supervisory responsibility for the Commercial Law Unit) and progress a number of advices on my desk ranging from the terms of a sponsorship agreement with a private sector partner, a memorandum of understanding with another State government agency and a contract between the NSW Police Force and a production company which wants to produce a reality television series about NSW police officers.

At 11.00am I head out to meet with the NSW Police Force's Aviation Support Branch which is one of the specialist business units assisting the Commissioner to reduce crime in NSW by providing aerial support. One of the issues we discuss relates to a piece of specialist technology installed on PolAir 4 – a helicopter in the NSW Police Force's aviation fleet and after the meeting I'm given a safety briefing and take up the offer to ride in one of the regular pre-scheduled flights around Sydney Harbour, the benefit of which is that I can see the capability of the technology we are looking at purchasing – it goes without saying the view of the harbour was impressive!

Safely back in the office that afternoon I have back to back meetings with a number of other business units, including a meeting with the manager of the Information Access and Subpoena Unit (which manages the 9,500 subpoenas and 7,000 access applications under the *Government Information (Public Access) Act* the Commissioner receives annually) to discuss how we can better assist our employees manage their responses to such applications.

The day ends with a review of my calendar to get across the following day's meetings and 15 minutes setting out my 'to do' list for tomorrow before I leave the office for the day.

Needless to say I have found my role at the NSW Police Force to be incredibly interesting and challenging to date – the legal issues are diverse and often have a high media profile (which many government lawyers would be used to). It is also personally and professionally rewarding to provide legal support to the executive and police officers in providing an essential service to the community. As a government lawyer it has also been enlightening to provide legal advice in an in-house capacity outside of the law firm environment – I have the ability to see my advice applied in an operational context which I am confident will better enable me to continue to develop my legal skills as a government lawyer. ■

Reciprocal CPD Program for Government Lawyers

By **Kim Turner** Litigation Counsel, ASIC, and member of the Government Solicitors Committee



Justice Michael Pembroke (sitting), ASIC litigation counsel Kim Turner (back right) and Law Society CEO Michael Tidball.

Government agencies are working together to provide more CPD opportunities for their in-house lawyers

The Government Solicitors Committee in collaboration with the Australian Securities and Investments Commission (ASIC) and other participating agencies has launched a Reciprocal CPD Program for in-house government lawyers. This exciting initiative allows government solicitors from NSW based Commonwealth and State agencies to register for in-house CPD programs hosted by other government agencies.

The program was launched by the CEO of the NSW Law Society, Mr Michael Tidball, on 19 March 2013, at a presentation delivered by The Hon. Justice Michael Pembroke, Justice of the Supreme Court of NSW, on Current Developments in Litigation. The seminar was the first in a series presented by 12th Floor Wentworth Selborne Chambers, hosted by ASIC, at its Sydney Regional Office, as part of its Civil Litigation Community of Practice professional development program.

“As well as providing important opportunities for CPD the program creates opportunities to foster collegiality and enhance networks across government legal teams” Michael Tidball, CEO NSW Law Society, launching the Reciprocal CPD Program for Government Lawyers.

The Reciprocal CPD Program for Government Lawyers is designed to tap into the many professional development training opportunities that already exist for staff within government agencies. However, not all government lawyers have the same access to in-house CPD. Agencies vary in size. Some agencies may have many lawyers, some may only have a few, and opportunities to attend quality CPD events, particularly in times of fiscal restraint, can, for many of our colleagues, be limited. For obvious reasons, not all in-house training is suitable for staff from other agencies, but much of it is, and where space allows, by working together, we can greatly improve access to professional development opportunities for government lawyers.

“As well as providing important opportunities for CPD the program creates opportunities to foster collegiality and enhance networks across government legal teams”

Michael Tidball, CEO NSW Law Society

On the heels of the program launch at ASIC, CPD events suitable for lawyers from other agencies to attend are already being offered by the Australian Taxation Office, the Commonwealth Director of Public Prosecutions and the Australian Government Solicitor in June and July. Details of participating agencies, the CPD events on offer and how to register, can be found on the [“Government”](#) webpage. Additional events will be offered as they are advised.

Chair’s Message

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The GSC held a seminar on Legal Professional Privilege on 6 March 2013, presented by Ms Frances Moffitt (Regulatory Compliance Support Solicitor, Professional Standards, Law Society of NSW). We will be continuing this seminar series later in the year.

A continuing theme of the GSC’s work is developing a range of benefits that are available and specifically tailored to members’ needs and provide clear value for money for members of the Law Society. I welcome any suggestions for how we may be able to improve current services and trial new ideas. I rely in this regard on the market telling us what it needs not the Committee guessing. So if you have an idea please take the time to let us know what it is. The worst that could happen is that we might even give it a go. ■

Support this worthwhile initiative

All government agencies that are committed to providing quality CPD opportunities for their legal staff are encouraged to participate in this worthwhile initiative. Where a forthcoming CPD event is considered suitable for lawyers from other agencies to attend, agencies are invited to make available any potentially empty seats for colleagues in other government agencies.

There is no cost for participating agencies. On the contrary, this initiative will save valuable training dollars, provide opportunities for those who may not otherwise have ready access to quality CPD and promote collegiality. Bring this worthwhile initiative to the attention of your training staff and senior managers. If your agency has a CPD session to offer, you can do so by notifying the Law Society by [email](#).

Legal services coordination unit update

Legal Services Coordination – Working towards a more coordinated approach to legal services within the NSW Government

Legal Services Coordination (LSC) promotes whole of government coordination and oversight of legal services across the NSW public sector. Located within the Department of Attorney General & Justice, LSC plays a key role in coordinating the whole of government approach to legal services policy and reform and promoting greater collaboration amongst government departments and agencies. Specifically, LSC plays an important part in supporting and working closely together with the sector to identify and develop best practice in order to maintain high quality, consistent and appropriate legal services.

LSC's role originated from the Legal Services Blueprint which outlined six areas of reform designed to institutionalise better practices leading to a strategic whole of government focus and greater transparency and efficiency in legal services expenditure. LSC has been working with departments and agencies towards reforms in procurement, fee arrangements, in-house legal services, measurement and monitoring, information sharing and a whole of government framework for legal services policy.

2013 is a particularly exciting time as Legal Services Coordination works in conjunction with NSW Government department and agency general counsels and legal directors to progress a number of legal services projects such as:

- Establishing a strategic advisory group for government comprising general counsels and legal directors of key departments and agencies.
- Strengthening the Legal Managers Forum as a strategic forum within NSW government. The Forum provides legal and practice managers an opportunity to collaborate with peers across government.
- A whole of government focus on purchasing legal services through the roll out of Informed Purchaser training for government legal officers.
- Developing an online legal services portal to allow the sharing of documents, advices, precedents and internal training opportunities.

If you would like more information about Legal Services Coordination's projects, please contact Catherine Tat at catherine_tat@agd.nsw.gov.au ■

Inside In-house Legal Teams

Report on a survey of corporate and government lawyers

This Law Society report presents new research on corporate and government lawyers working in NSW. It sets out the findings of a survey of in-house members and includes information on the work they do, private practice experience and accessibility of flexible working arrangements, mentoring options and opportunities for career progression. The Law Society is grateful to all the in-house lawyer members who contributed to this research by completing the survey.

[Click here](#) for a copy of the report.

Guide to ethical obligations of government lawyers - for non-lawyer colleagues

Government lawyers face challenges that do not arise in private practice. One of these challenges is seeking to have work colleagues, who are not lawyers, appreciate the professional ethical obligations that lawyers who practice in-house are required to abide by.

To assist government lawyers engage on this issue with their non-lawyer work colleagues, a set of slides has been released by the Government Solicitors Committee which can be used to inform non-lawyers about these ethical obligations.

[Click here](#) to access the slides from the Law Society's website.

SAVE THE DATE

2013 Government Solicitors Conference and Dinner Tuesday 3 September 2013, Hilton Hotel, Sydney

The Government Solicitors CPD Conference will be held this year at the Hilton Hotel, 488 George Street, Sydney on Tuesday 3 September 2013. Following the Conference, the Government Solicitors Conference Dinner will be held at the Law Society of NSW, Level 2, 170 Phillip Street, Sydney.

To register your interest in receiving a copy of the program and registration details when finalised, please send an email with your contact details (including agency/department) to events2013@lawsociety.com.au

John Hennessy Research Scholarship

The John Hennessy Research Scholarship has been established by the Government Solicitors Committee to support public sector solicitors to undertake:

- a research project into legal systems in another jurisdiction and to make recommendations for the improvement of the legal system in NSW (at the Commonwealth, State or local level)
- specialist accreditation
- specialist continuing legal education, or
- further postgraduate study (maximum 12 months).

The Scholarship is an 'occasional scholarship' that will be offered from time to time and covers travel, study and other approved expenses up to a maximum value of \$10,000.

The Scholarship is open to both individuals and groups.

WHO CAN APPLY?

All NSW based Federal, State or local government solicitors holding a current NSW Practising Certificate who are members of the Law Society of NSW.

HOW TO APPLY

Applications should include a curriculum vitae, the names and contact details of two referees, a description of the research project or study (including a breakdown of costing) to be funded in full or in part by the Scholarship. All applications must be typed and should outline:

- the budget/cost feasibility and timetable for the proposal
- the candidate's experience and interest in the area which is the subject of the application

- the Project Sponsor's details, and
- a brief statement by the Sponsor on the research project or study which should confirm support.

Applications to undertake a research project should also outline:

- the relevance and potential benefit of the project to the legal system in NSW, and
- the potential for the project to produce improvements in the operation of the legal system in NSW.

REFEREES

The applicant must include the names, addresses, telephone and email addresses of TWO referees as well as the name and consent of the Project Sponsor (please see next column).

PROJECT REPORT

The successful applicant is required to submit a final project report (of around 1000 words) to the GSC not later than six months after the grant of the Scholarship or such other period of time as may be agreed with the GSC.

Where a research project has been undertaken, the final report should make recommendations to improve the operations of the Sponsor government legal department and/or the legal system in NSW.

At the request of the GSC, the final report may be published in the Law Society Journal and/or the Government Lawyer Newsletter. The successful applicant may also be required to present a report at the annual Government Solicitors Conference in the year following the award of the Scholarship.

PROJECT SPONSOR

Each applicant must have a Project Sponsor within the government (including local government) legal sector in NSW. The role of the Project Sponsor is to:

- assess the usefulness of the project to the particular public sector department/s (to be attached to the application)
- provide the applicant with assistance and support where necessary, in completing the research project or study, and
- document the assessment in a one page report which is to be attached to the final project report.

Where the applicant is undertaking a research project, the Project Sponsor is also required to:

- assess the usefulness of the project to the NSW legal system (to be attached to the application).

LODGMET OF APPLICATION

Applications are to be lodged no later than close of business on Friday 2 August 2013.

It is anticipated that any successful applicants will be announced at the Annual Government Solicitors Dinner on 3 September 2013 at the Law Society of NSW, 170 Phillip Street, Sydney NSW 2000.

Please forward applications to:

Government Solicitors Committee
Law Society of New South Wales

170 Phillip Street, Sydney NSW 2000
DX 362 Sydney

Email:

governmentlawyers@lawsociety.com.au

Profile of NSW Government Solicitors

Each year, the Law Society publishes a Profile of the Solicitors of NSW, prepared by Urbis.

The Profile provides a demographic snapshot of NSW solicitors by drawing on information stored on the Law Society's database as well as practitioners' responses to the annual Practising Certificate Survey.

The newly-published Profile for 2012 tells us that on 3 October 2012, there were 25,493 solicitors holding NSW practicing certificates. Of these 2,901 (11.4%) were government solicitors, working across 168 government organisations. Note that this figure only includes solicitors holding a government practising certificate. Local government lawyers are issued with corporate or non-lawyer entity certificates.

The table below is reproduced from the 2012 Profile, and sets out information about government solicitors alongside comparative data for the whole profession, including in relation to gender, location and years since admission. The most interesting point of difference may be that while female representation falls just short of parity for the profession overall (with 47.2% women), it is well-exceeded in the government sector (with 63.2% women).

GOVERNMENT SOLICITORS IN 2012

	Government solicitors		Whole profession
	N	%	%
Gender			
Male	1,069	36.8%	52.8%
Female	1,832	63.2%	47.2%
Total	2,901	11.4%	100.0%
Mode of employment *			
Full time	849	74.4%	75.3%
Part time	193	16.9%	14.8%
Other	99	8.7%	9.9%
Location			
City	1,676	57.8%	51.5%
Suburbs	844	29.1%	31.4%
Rural NSW	341	11.8%	12.8%
Interstate	28	1.0%	0.5%
Overseas	12	0.4%	3.8%
Age			
< 30	403	13.9%	17.2%
30-39	966	33.3%	31.1%
40-49	700	24.1%	21.7%
50-59	606	20.9%	18.2%
60-69	191	6.6%	9.5%
70+	17	0.6%	1.9%
N/A	18	0.6%	0.5%
Years since admission			
< 1 year	196	6.8%	10.1%
1-5 years	601	20.7%	19.4%
6-10 years	754	26.0%	21.5%
11-14 years	368	12.7%	12.2%
15+ years	982	33.9%	36.8%
Estimated mean income*	\$110,000		\$127,300

Source: Law Society Data as at 3 October 2012. *Data taken from the 2012-13 Practising Certificate Survey.

Excellence in Government Legal Service Award 2013

Tuesday 3 September

Since 1992 the Law Society of New South Wales Government Solicitors Committee has been administering the Excellence Award in Government Legal Service which recognises the outstanding achievements of public sector solicitors.

The award is given to a solicitor or legal team who has performed 'above and beyond the call of duty'.

Lawyers employed in New South Wales by Commonwealth, New South Wales or Local Governments are eligible for nomination for the 2013 Excellence in Government Legal Service Award if their legal work:

- makes a contribution to the community that is worthy of notice
- enhances the standing of the government legal service
- contributes to good government

The Award is presented at the annual Government Solicitors Dinner which will be held this year on Tuesday, 3 September 2013.

Nominations are now open for the 2013 Excellence Award. You can nominate your own work or that of a colleague or staff member.

Rules & Conditions: The Excellence Award rules and conditions and nomination forms are available [here](#).

Queries and nominations should be submitted by email to governmentlawyers@lawsociety.com.au

The closing date for nominations is Friday 2 August 2013

Human Rights Update

Prepared for The Government Lawyer by The Human Rights Committee of the Law Society of NSW.

The issue of homelessness continues to be a key project of the Human Rights Committee this year. The Committee is continuing to monitor the progress of the Homelessness Bill through the Federal Parliament. The Committee made a detailed submission on the exposure draft, in which it urged that the Bill, if it is to become law, should contain a legally enforceable right to housing.

The Committee now has representation on the NSW Legal Assistance Forum (NLAF) Housing Working Group which is convened by the Public Interest Advocacy Centre (PIAC). The working group also has representatives from the Tenants Union, the Homeless Persons Legal Service (HPLS), the Community Legal Centres, the Public Interest Clearing House (PILCH, NSW), Legal Aid and MHCC.

Other human rights matters occupying the attention of the Committee include liaison with the Law Council in relation to practice guidelines for the Royal Commission into Child Sexual Abuse. The Government released the Letters Patent for the Royal Commission on 11 January 2013. The first sitting day of the Commission was on 3 April 2013. On the same day the Government announced that a free national legal advisory service will be provided for

people seeking to engage with the Royal Commission.

The Law Society has recently made a detailed submission to the Standing Committee on Law and Justice on the topic of racial vilification law in New South Wales, calling for the maintenance of the criminal offence under section 20D of the *Anti-Discrimination Act 1977* (NSW). Although there have not been any successful prosecutions to date under this section, the Committee is of the strong view that the offence should remain as law, subject to certain amendments. This is consistent with international obligations to criminalise the dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, acts of violence or incitement to such acts against any race or group or persons of another colour or ethnic origin and the provision of any assistance to racist activities. These obligations arise under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), to which Australia is a signatory. The Chair of the Human Rights Committee, Mr Kirk McKenzie, recently appeared before the Standing Committee and addressed it at length on the Law Society's position as outlined above. The Society's written submission is available [here](#). ■

2013 Government Solicitors Committee

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doug.humphreys@vrb.gov.au

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kim.turner@asic.gov.au

REMINDER

How to gain an unrestricted practising certificate

Solicitors are encouraged to apply to amend their practising certificate if they have completed the required period of supervised practice (two years of continuous full time or part time equivalent on a restricted practising certificate). Click [here](#) for details