



CHIEF JUSTICE'S CHAMBERS
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Dr Warren Mundy
Productivity Commission
GPO Box 1428
Canberra City ACT 2600

Dear Dr Mundy

Civil Dispute Resolution System

I refer to your letter of 23 June 2014.

In my view, the appropriate body to coordinate analysis in the evaluation of different case management approaches is the Australian Institute of Judicial Administration. The Institute has strong links with universities and a greater focus on judicial administration than the National Judicial College of Australia. In particular, its membership includes administrators. The links with academic institutions are also valuable. It is important to enlist outside expertise to identify and compare judicial and legal practices for the purposes of drawing some conclusions as to the way in which practitioners respond to different judicial management techniques.

The State Courts Administration Council of South Australia is in the process of preparing a business case for the introduction of an electronic case management service which will both facilitate the recording, movement and disposition of matters within the Court and allow greater access through information technology portals for practitioners and litigants. The Council is also drawing up a Strategic Information Technology Plan. Interactive electronic forms of communications with practitioners and litigants is actively being considered. The publication of cause lists through smart phone apps and the provision of interactive programs to demonstrate how court processes can be invoked and managed are under active consideration.

The Commissioner of Police in South Australia is promoting the introduction of audio visual recording technology for police so that evidence can be collected on the spot and transmitted electronically to prosecutors and then the Courts. There is no doubt that the technology which is already available and its rapid uptake as part of the ordinary day to day life of almost the entire Australian community makes great efficiencies possible.

In preparing the business case for a new electronic case management system in this State, the Council has surveyed the systems available interstate. There continue to be marked differences in the systems adopted in the States. A national program to facilitate and coordinate the technology that is used would be of benefit. If the State and Federal Courts were to adopt systems that were compatible, the collection of data and the comparison of that data would also be facilitated.

Court governance

There are a variety of court governance structures. The creation of independent court administration authorities is seen as an aspect of judicial independence. It is true that the existence of an authority can bolster judicial independence but a number of caveats must be made. First, the existence of an independent authority in itself does little to promote judicial independence unless it is adequately

funded. If the authority is inadequately funded, the effect is simply that the judiciary are forced to make cuts to services themselves. The creation of an independent authority also moves expertise and political responsibility for adequate judicial services outside of the executive branch. It creates significant tensions in the anglo-Australian constitutional model of responsible government. In some jurisdictions a higher level of judicial control over administrative resourcing has been achieved without the existence of an independent courts administration authority.

Of greater importance is recognition by government of the value of a properly resourced independent judicial system as an integral part of the socio-economic infrastructure which is necessary to promote economic growth and provide a secure society in which fundamental human values are protected. There must be a debate about the level of resourcing which is necessary to achieve that end.

Furthermore, there needs to be a constant process of communication between the judiciary and the executive about the reform of court rules and procedures which maximise the benefit of the resources allocated.

Yours sincerely

The Honourable Chris Kourakis
Chief Justice of South Australia