

MEDIA RELEASE

Who should run the courts? AIJA report widens the debate

The best way to safeguard judicial independence and maximise the efficiency of the courts is to introduce management reforms resulting in greater autonomy, a major report into the administrative arrangements of Australia's courts has concluded.

The report, commissioned by the Australian Institute of Judicial Administration, is the first time the most effective way of running the courts has been considered from a management perspective.

Launching the report, the Chief Justice of Victoria, Justice Marilyn Warren, described it as a very valuable contribution to the current debate on getting the best out of the court system, while safeguarding its independence.

"I entirely agree with the report that the governance of the courts is a crucial contributor to the quality of justice in our society, and by extension to the health of democracy," Chief Justice Warren said. "In the past the debate has tended to be seen as a conflict between efficiency and justice.

"This report shows that proper court management arrangements, no longer based on 19th century models, can achieve both justice and efficiency."

The report, *Governance of Australia's Courts – A Managerial Perspective*, was written for the AIJA by Professor Philip Williams, assistant director of the Melbourne Business School, Professor John Alford, and Dr Royston Gustavson.

It examines the criteria and principles of court governance; the appointing, paying and removal of judges; court finances; court staff and infrastructure; and the role of the Chief Judicial Officer in court governance.

The President of the AIJA, Justice John Byrne, said the AIJA was confident that the report would make an important contribution to debate and discussion about court governance.

The report examines various Australian court systems and concludes that the traditional departmental model, the most common approach, is no longer the most effective for modern courts. Under this model, the courts' budgets are controlled by government.

"Judicial independence has the potential to be compromised by the lack of control that courts under the traditional model have over the money, staff and infrastructure they need to carry out their work," the report says.

The report concludes that the most suitable arrangements result from the Executive employing judges and providing a global budget to the courts, with the judiciary having clear control over the remaining functions of court administration.

“This has the effect of both ensuring that judicial independence, impartiality and the rule of law are upheld, while also contributing to efficiency by better aligning authority and responsibility,” the report says.

“Even if the current arrangements seem to ‘work’, in the sense that they have not given rise to major catastrophes or dysfunctions, there is no reason why they could not be made to work even better. Good people can make bad structures work. But good people can work even better within good structures.

“It would be valuable to the community, for instance, if more or better quality justice could be dispensed at the same cost to taxpayers, or if the currently high quality of justice could be maintained at less cost. If governance arrangements can contribute to these aims, then it is worth considering how they might be improved.”

Clearly there will be ongoing debate about court governance; and there will be disagreement about the best way forward. The AIJA sees the report as a start in a process that should include a seminar to examine the models and practices closely.

A copy of the executive summary of the report is available on the AIJA’s website: www.aija.org.au The full text is available from the AIJA.

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