



The Australasian Institute of  
Judicial Administration Incorporated

## **PROTOCOL FOR THE CONDUCT OF AUSTRALASIAN INSTITUTE OF JUDICIAL ADMINISTRATION RESEARCH PROJECTS**

### **Referrals**

Proposals for research to be undertaken under the auspices of the AIJA may be received from:

- (i) external individuals or bodies;
- (ii) members or officers of the AIJA

In the ordinary course such proposals may be referred directly to the Project and Research Committee by the Executive Director, Board of Management or Council of the AIJA for preliminary consideration by the Project and Research Committee. All referrals to the Project and Research Committee should be made through the Executive Director or the Assistant Director.

### **Preliminary Inquiries**

The Executive Director/Assistant Director may provide the Project and Research Committee on an initial reference with advice as to the extent to which the proposal is, is likely to be, or has been covered by work done:

- (i) by the AIJA itself;
- (ii) by Law Reform Commissions, special inquiries or other bodies within Australia.

If, when a research proposal is first considered by the Project and Research Committee advice is not to hand relating to existing or projected work by other bodies, the Committee may request the Assistant Director to make those inquiries.

After preliminary consideration of a research proposal, the Project and Research Committee may request the proponent to provide further detail or suggest that a varied proposal would be further considered. The Committee may request the proponent or the Assistant Director to cast the proposal into the form of a draft in accordance with the specifications of this protocol.

The outcome of the Project and Research Committee's consideration of a research proposal will be a recommendation to the AIJA Council.

### **Form of Proposals**

In making a recommendation to the Council for adoption of a research project, the Project and Research Committee will ensure that the project is formulated in terms which include:

- (i) a background statement;
- (ii) a statement of the objectives of the project;

- (iii) a statement of the scope of the proposed research;
- (iv) a statement of the project methodology;
- (v) identification of the proposed researchers, if they have been identified;
- (vi) a statement of proposed project management arrangements if they have been determined;
- (vii) a provisional budget statement, if this has been determined;
- (viii) a statement of the likely duration of the project;
- (ix) a statement of the project outcome - i.e. whether by way of a report containing recommendations published by the Institute or otherwise.

The draft proposal to be submitted to Council by the Project and Research Committee will also contain a statement of the priority to be assigned to the project and recommendations to the Council concerning its proposed advisory committee in accordance with the succeeding provisions of this protocol.

### **Approval**

Terms of reference for AIJA Research Projects are approved by, or in accordance with the views of, the AIJA Council. Where a research project has been proposed by an external individual or body, prompt notification of the fact of its consideration by the Project and Research Committee and of the outcome of its consideration by Council should be given.

For each project, the Council appoints an Advisory Committee. The following establishes a protocol for the respective roles of Advisory Committees and the Executive Director/Assistant Director in the conduct of each research project.

### **Advisory Committees**

A convenor is appointed by the Council for each Advisory Committee. Ideally, that convenor should be resident in, or able to readily visit, the city in which the principal research for the project will be conducted, in order to facilitate meetings with those commissioned to undertake the project on behalf of the AIJA. It would be desirable that the convenor be a member of Council.

The Executive Director/Assistant Director is an ex officio member of each Advisory Committee.

At least two other members of Council who express a particular interest in the subject of the research project are appointed to each Advisory Committee. However, the convenor of the Advisory Committee is empowered to co-opt other members of the Council, members of the Institute or other relevant persons to join an Advisory Committee from time to time, whether as members, consultants or observers.

If not otherwise the convenor or a member of an Advisory Committee, the President of the AIJA Council is nevertheless entitled to attend meetings and participate in the work of each Advisory Committee.

The role of the Advisory Committee and of each member thereof is as follows:

- \* as appropriate, to settle the terms of reference for the project in accordance with the views of Council;
- \* to ensure that the selected researcher/research team has a clear understanding of the extent and limits of those terms of reference;

- \* periodically to review the progress of the project against the timetable for its completion, and to report progress to each meeting of Council;
- \* to be available to the researcher/research team to provide advice, assistance and direction and, if appropriate, to facilitate access to members of the judiciary, court administrators, the bureaucracy or other relevant groups so as to advance the research; and
- \* to examine draft outlines of research reports for the purpose of providing comment to researchers on content, to assess the quality of proposed reports to ensure they meet the standards expected by and of the AIJA and to make recommendations to Council on the publication of reports.
- \* to consider and recommend to Council as to what strategies should be adopted to promote official consideration of the relevant issues/recommendations arising from the report (see Follow-up, below).

It is the responsibility of the convenor of an Advisory Committee to request the Executive Director/Assistant Director to convene meetings of an Advisory Committee (whether in person or by conference telephone) as often as is necessary to fulfil the above role. Any member of an Advisory Committee may request the convenor to convene a meeting of that Advisory Committee. Whenever necessary or desirable, meetings of Advisory Committees should be scheduled for the evening prior to or morning before meetings of Council, or immediately thereafter such meetings. Where appropriate, meetings of Advisory Committees can be held by video conference, using the video conferencing facilities of the Federal Court of Australia.

The role of the Executive Director/Assistant Director, as ex officio member and convenor of each Advisory Committee, is as follows:

- \* to advise Council on the suitability of potential researchers for each proposed research project;
- \* to settle with researchers, subject to the direction of Council, the terms and conditions upon which researchers are engaged or commissioned;
- \* to maintain regular contact with researchers in order to assess compliance with timetables, and to assess the quality of work being undertaken and its relevance to approved terms of reference;
- \* to alert the convenor of the Advisory Committee to any concerns they might hold on such matters;
- \* to arrange for the preparation of draft outlines of research reports in order that such can be assessed by the members of Advisory Committees, and for the purpose of the proposed reports so that members may assess their quality against the standards expected of and by the AIJA (and so that each draft contains marked up changes sufficient to inform the Advisory Committee of changes that have been made to earlier drafts); and
- \* upon approval of final reports, to arrange printing, publication and distribution as agreed by the Council.

### **Publication of Research Reports**

Prior to the publication of any research report the Project and Research Committee, in consultation with the relevant Project Advisory Committee, will consider whether it is necessary to distribute a draft copy of the report to any other person or persons for the purpose of verifying any factual findings made in the report. In determining whether it is necessary to circulate the report for this purpose, consideration will be given to ensuring confidentiality in relation to the report, the practicality of seeking verification of factual findings and any impact which circulation may have upon the validity or credibility of the report.

In any research report, there shall be included the following disclaimer:

"The views expressed in this report are those of the authors and do not necessarily represent the views of the AIJA".

When satisfied that any necessary advance circulation and verification of factual findings has taken place, the Project and Research Committee, in consultation with the relevant project advisory committee, will recommend to Council that it authorise publication of the report. The acceptance by Council of such recommendation shall not constitute an endorsement by Council of the contents of the report and the views contained in the report will be those of the authors and not necessarily represent the views of the AIJA.

and will recommend to Council accordingly.

### **Follow-up**

#### **Strategy**

The researcher, or principal researcher, involved in the preparation of a research project shall be asked to recommend to the Advisory Committee methods that may be considered by the Committee with regard to the implementation/follow-up of the report's recommendations.

Upon the completion of a research project and prior to publication of the report, the Advisory Committee will consider and recommend to Council strategies that should be adopted to promote official consideration of the relevant issues/recommendations arising from the report

The following is a list of matters that the Advisory Committee may wish to consider in the course of formulating its recommendation to Council. There may also be other matters that the Committee considers may usefully form part of its recommendation.

1. Publication of report - consideration of most appropriate format;
2. Official launch;
3. Press release;
4. Distribution of report to those who are likely to be
  - interested in
  - affected by
  - in a position to make decisions in relation to its results and recommendations;

5. Journal articles/Newspaper articles;
6. Formal recommendation of report's recommendations to appropriate institutions/organisations and possibly drafting legislative changes to give effect to recommendations;
7. Educational activities, seminars, workshops etc;
8. Whether it may also be useful to seek suggestions for follow-up activities from the Institute's members more generally. For example, in the case of recommendations of a report that have significant implications for one category of the Institute's members it may be useful to canvass the question of an approach to follow-up more extensively with those members;
9. Whether, after a period of time when a research report has been circulated, it may be appropriate to examine what has been done in each jurisdiction to implement its recommendations;
10. Whether if a Report's recommendations are subsequently implemented, it may be worthwhile following up the effect of those changes. This may take the form of a follow up study designed to ascertain whether the implementation of the Report's recommendations has had the effect that was envisaged.

In making its recommendations, the Advisory Committee should also recommend to Council the methods by which these activities might be pursued:

- Eg:
- action by Council
  - action by Secretariat
  - referral to Education Committee/Project and Research Committee
  - formation of an implementation/follow-up Committee
  - action by individual members

or any other methods the Committee considers desirable or useful.

### **Implementation/Follow-up Committee**

The formation of an Implementation/Follow-Up Committee would not be necessary in all cases, but may be desirable where follow-up is likely to be undertaken for a reasonably significant time period, or is envisaged as involving a large number of activities that may need to be co-ordinated.

Where the establishment of such a Committee is thought to be desirable the Advisory Committee shall make recommendations as to the membership of that Committee. The Executive Director or the Assistant Director shall be a member of the Implementation Committee.

In cases where it is not considered necessary to form an Implementation Committee, a recommendation should be made by the Advisory Committee as to who would be the appropriate person/body to oversee the implementation and follow-up activities recommended to Council and to report back to Council meetings. It may be that, in most cases, this would be the task of the Secretariat.

**Approval**

The Advisory Committee's recommendations shall be considered by Council and the strategy shall be finalised in accordance with Council's views.

The strategy will then be referred to the Secretariat/Implementation Committee for action to be undertaken in accordance with it.

**Reports**

Reports shall be given to Council by the Secretariat and/or the Implementation Committee on a regular basis as to progress being made in relation to that strategy.

Regular consideration of the position by Council will ensure that the strategy is reviewed from time to time as appropriate and that the Implementation Committee/Secretariat has the benefit of regular input from all Council members as to the methods which might be adopted to assist in the follow up process.

**Amendment**

It is recognised that any follow-up strategy may need to be amended or refocused from time to time in response to other developments. For example, there may be a particular legislative change introduced by a parliament that bears on the particular report's recommendations that may need to be examined, or a request for information/submission from government or other bodies. These sorts of developments may occur between Council meetings, so that formal consideration of any proposed change in emphasis will not always be possible. For this reason it is recognised that any strategy may need to be adapted to changing circumstances from time to time. (This does not affect the Secretariat's responsibility to consult with Council in relation to any significant developments, particularly those which may involve public comment or some element of controversy.)

**Measurement of the Results/Benefits of AIJA Research Reports**

The Secretariat will keep an ongoing dossier of developments in the area of judicial administration that relate to AIJA activities, and examine them from time to time with a view to assessing, so far as is possible, the extent to which those developments do result from the Institute's work.

The Secretariat shall disseminate this information to Council members, as part of the Follow-Up Report given to each meeting of Council.

29 June 2007