

# **Judicial Council on Cultural Diversity**

**Meeting at Federal Court, 184 Phillip Street, Sydney**

**Thursday 12 March 2015**

**Time: 12 noon AEDT**

**Chair:** Chief Justice Wayne Martin AC

**Participants:** Justice Jenny Blokland; Magistrate Bernadette Boss; Mr Nigel Browne; Ms Samantha Burchell; Magistrate Anne Goldsbrough; Justice Emiliios Kyrou; Justice Lucy McCallum; Ms Leisha Lister; Justice Melissa Perry; Judge Nick Samios; Mr Ernie Schmatt; Ms Carla Wilshire; Justice Helen Wood

**Apologies:** Justice David Berman; Ms Maria Dimopoulos; Professor Greg Reinhardt; Judge Rauf Soulio; Judge Josephine Willis

## **Outcomes**

### **1. Chair's welcome and endorsement of minutes from previous meetings**

- Chair opened the meeting, acknowledged apologies and welcomed new member Mr Nigel Browne.
- Members approved the minutes of the previous meeting.

### **2. Presentation by the Family Court on the Online Training Package**

- Ms Leisha Lister and Ms Theresa Layton presented on the Family Court's cultural competency online training package. This has been developed for use by court staff in order to give them the knowledge and skills necessary to assist culturally diverse clients.
- The program assesses cultural competency before and after taking the course and 12 months later. This is through a combination of self-assessment and objective measurements.
- The program collects details of staff, eg, what staff level, how much client contact the staff members have with clients. It is envisaged that in the future this will be used as a management tool. Individual results are not given.
- Members discussed adapting the program in two separate projects.
- Firstly, adapting the program for use by court staff in other jurisdictions. This would require a scoping exercise to examine what should be kept from the existing program and what changes should be made.
- Secondly, members agreed that such an online learning tool would be beneficial to judicial officers. It was suggested that such a project could be undertaken by a collaboration of the various judicial education bodies. Mr Schmatt and Ms Burchell agreed to raise this at the next meeting of the judicial education bodies. They requested a short presentation to support this.
- Chief Justice Martin will report on the proposal at the next meeting of the Council of Chief Justices.

**Action: Mr Schmatt to arrange for Ms Lister and Ms Layton to present at the next meeting of judicial educators.**

**Action: Chief Justice Martin to raise the proposed online training packages for the judiciary and court staff at the next meeting of the Council of Chief Justices.**

### **3. Presentation on the access to justice for culturally and linguistically diverse women project**

- Ms Wilshire presented an overview of the grant received from the Office for Women to fund a project on access to justice for migrant women.
- Members agreed that the project should encompass the issues faced by both migrant and Indigenous women.
- There are three proposed components of the project – national consultations with migrant and Indigenous women and the judiciary; development of a national framework for use by courts; and training packages for judicial officers and court administrators.
- It was proposed that JCCD members could sit in on consultations.
- The particular issues to be examined will be family violence and family breakdown. However, members recognised that the consultation process may raise further issues to be examined.
- The development of a national framework will focus on developing resources for the judiciary.
- Members agreed that an online training model would be an appropriate form for the training package to take.
- A sub-committee was formed to lead the project, comprising of Justice David Berman, Ms Maria Dimopoulos, Magistrate Anne Goldsbrough, Ms Leisha Lister and Judge Josephine Willis. Chief Justice Martin nominated Ms Maria Dimopoulos to convene the sub-committee. Magistrate Goldsbrough volunteered to assist.

**Action: Secretariat to organise a meeting of the sub-committee.**

### **4. Discussion on the development of a translating and interpreting protocol**

- Professor Sandra Hale and the Hon Dean Mildren RFD QC AM joined the meeting to discuss the development of the protocol.
- Chief Justice Martin outlined the four areas that the JCCD would like the protocol to cover: the circumstances in which an interpreter is required; minimum standards to be met by court interpreters; the provision of adequate working conditions for interpreters; and guidelines in relation to conflicts of interest.
- Professor Hale provided an overview of a recent report by the INT Project Team for NAATI, which recommended changes to accreditation levels. These changes would involve creating specialist interpretation levels, including one for legal interpreting. In addition, it recommended compulsory training for interpreters and translators prior to accreditation.
- Professor Hale recommended raising the standard of interpreters and providing incentives to encourage interpreters to become more qualified.
- Justice Mildren noted the lack of accredited interpreters in Aboriginal languages and the difficulties this gives rise to.

- Members discussed the poor pay, working conditions and lack of support currently given to interpreters. In particular, members noted the lack of briefings given to interpreters prior to trial.
- Members also discussed how to identify when an interpreter is required. They noted the issues in relying on lawyers informing the court, as lawyers may not always recognise the need for an interpreter. Further, the person may be self-represented and be unaware of their need for an interpreter.
- Members agreed that the protocol should cover both civil and criminal cases.
- Members agreed that the protocol should be flexible enough to accommodate the variety of matters that come before the courts and the different resources of different courts, particularly courts in more remote areas.
- It was also suggested that the protocol should address how to deal with complaints.
- Members agreed to form an advisory sub-committee. The Secretariat will call for expressions of interest.
- It was agreed that the project will take approximately one year. Professor Hale and Justice Mildren will present to the JCCD at the next meeting before finalising the report.

**Action: Secretariat to call for expressions of interest via email for participating in the sub-committee.**

**Action: Secretariat to liaise with Professor Hale and Justice Mildren to begin work on the project.**

## **5. Update on the draft scoping study**

- Ms Wilshire noted that the document is currently being simplified and made more user-friendly. It will be limited to more of a focus on the courts.
- The next iteration of the draft will be distributed to members for approval, after which it can be presented to geographical jurisdictions.
- It was noted that the material included will, over time, become out of date and this raised the question of how to ensure the material is kept current.
- Members agreed that the document could be reviewed on annual basis, but that it should also be made clear on the website that the document is correct as at the time of publication.

## **6. Discussion of forward work plan**

- The current projects are:
  - Finalising the scoping study;
  - Developing an interpreter protocol;
  - Access to justice for migrant and Indigenous women;
  - Cultural competency training for court staff and judicial officers.
- Members agreed to discuss the proposed survey on community attitudes to the courts at the next meeting. There are two components to this:
  - Firstly, using the courts to survey their own users. Members noted that any court about to undertake user surveys should be encouraged to include questions specifically focused at culturally diverse court users.

- Secondly, an external survey examining community attitudes to courts.
- It was agreed to modify the work plan to make the online training module the primary project under judicial education.
- Any members with suggestions for projects to add to the work program are encouraged to send these through to Chief Justice Martin or Ms Wilshire.

**Action: Secretariat to make amendments to the work plan.**

## **7. Cultural Diversity and the Law conference**

- Ms Wilshire reported on the progress of the Cultural Diversity and the Law conference.
- Approximately 150 delegates have registered. There is a mix of judicial officers, lawyers (including legal aid and CLCs), and settlement sector employees attending.
- Peak community leaders from NSW will be attending the Harmony Day Dinner for the Courts as guests. Chief Justice French will be giving a toast to harmony on behalf of the courts, and Peter Scanlon will give a response on behalf of the settlement sector.
- Ms Wilshire noted that it would be beneficial for members to reflect on the conference presentations and discussions in the margins as a way of informing the work of the Council.
- The papers from the conference will be circulated to members.

## **8. Next meeting date**

- Members agreed to meet at 10am on Friday 14 August in Melbourne.

**Meeting closed**