

# JOURNAL OF JUDICIAL ADMINISTRATION

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## ARTICLES

### **What is a quality judiciary?** – *Steven Rares*

A quality judiciary is an essential institution in every society. The role of a judiciary is to adjudicate the lawful outcome of disputes. The judiciary has a fundamental role in safeguarding the crucial human right of every member of a society to be protected by the rule of law. The author discusses the need for a quality judiciary to adhere to the core values of independence, impartiality, integrity, fairness, transparency and diligence. The author also argues that the real work or quality of courts cannot be measured by arbitrary business tools such as key performance indicators. Rather, he maintains that courts should aim to do justice according to law and maintain public confidence in the judicial system. To do so a quality judiciary should adapt its practices and procedures to meet the demands of the times. The author goes further to suggest possible solutions to problems arising from the growth of litigation and its increasing complexity. .... 133

### **The self-represented litigant: A challenge to justice** – *Richard Stewart*

This article looks at the self-represented litigant as a class of litigant, and the challenges that this particular class of litigant presents for the court. The role of the court in society is discussed at some length, together with the rule of law. It is suggested that the rule of law directly impacts on the court and the way in which it discharges its primary societal function. It is advanced that the rule of law requires the court to abide by the principles of independence, impartiality and fairness. The article explores the ways in which the court's capacity to discharge its societal function is impaired when it engages with the self-represented litigant, thus preventing strict compliance with the rule of law. Ultimately, it is suggested that the self-represented litigant can properly be viewed as a challenge to justice. .... 146

### **Accommodating culture in family dispute resolution: What, why and how?** – *Susan Armstrong*

This article contributes to the recent revival of interest in the role of culture in family law processes, and family dispute resolution (FDR) in particular. After discussing the meanings that are attached to accommodating culture, the author considers some of the reasons why it is important to consider culture in the context of FDR. These are: to address some of the challenges of neutrality in the FDR process; to maximise party control over the process; and to support children's best interests, particularly their right to enjoy their culture. The article then draws upon recent empirical research to illustrate the existing good practice of FDR processes and practitioners to respectfully explore and accommodate clients' cultural contexts in FDR where this is possible and consistent with the above objectives, and with legal, ethical and human rights obligations. .... 167

**Issues of mandate and practice for non-adversarial adjudication – Alison Christou**

This article examines the continuing rise in importance of non-court public adjudication both within Australia and abroad. This reality has led to two core challenges related to the position and legitimacy of those required to undertake this form of dispute resolution. First, an ambiguous mandate can lead to inconsistency of outcomes and therefore uneven justice for those who utilise these services. The second related problem is the largely inadequate training made available to public adjudicators across the course of their careers, which both hampers sector development and contributes to the noted problem of outcome quality. This article proposes some avenues for approaching these challenges. Underpinning these is the argument that clearer delineation and recognition of the bounds of non-court public adjudication will assist in the unification, development and ongoing improvement of this key growth sector within dispute resolution. .... 178

**Judging in the land of the chaotic – Roger Dive**

Judicial supervision has been identified as a key component in the success of drug court programs. There are two aspects to that role – the judge’s role as the leader of a diverse team, and the judge’s role in the courtroom and with the participants. In this article the author sets out the structural arrangements at the Drug Court of New South Wales which support this innovative program, and the techniques used with participants to assist them in their recovery from long-term addictions. .... 185

**BOOK REVIEW**

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