

## **Panel Discussion: Judicial Well-being**

- 1 The topic for this session is well-being in a court. At the risk of being somewhat legalistic, I think it is helpful at the outset to at least define the parameters of the topic.
- 2 When we speak of well-being in this context there is a tendency to think in terms of mental health. That is probably the most significant aspect of the topic and, until a few years ago, it was the silent grim reaper. There are, however, other aspects of well-being, including physical well-being; emotional well-being and something that I will call collegiate well-being. If all those things are functioning well in each and every individual at the same time, this topic won't have to appear on any conference agenda ever again.
- 3 Can I also throw the cat amongst the pigeons a little and indicate that there is a risk that with this topic, like discussions on gender, that the saturation point can be reached very quickly. There is only so much that can be said about it,
- 4 I should also put this topic into a particular context. The job we have is very privileged. We have tenure. We have a comfortable salary that is not performance based. We have extraordinary leave arrangements. And we have control of our court rooms where are accorded respect – mostly.
- 5 I propose, as my contribution to this panel session, to pose a number of questions that the panel members may care to comment upon or not, at their will, or that you may wish to think about.
- 6 The questions that come to my mind (and they are not the only questions that might be asked in this area) are:
- 7 First, what are the causes of an absence of well-being? We talk about it but are we simply relying on anecdotal stories. Is there empirical evidence and if so, what is it? And what has it revealed about judicial well-being?

- 8 Secondly, what is the evidence that there is any significant absence of well-being in the judiciary?
- 9 Thirdly, is there a disconnect between the leadership in the court and the members of the court that is either a cause of or indicative of an absence of well-being? If so:
- Is this a matter of communication and relationship skills for which the leader should have training?
  - How do the judges of the court communicate to a leader of the court a perception that the leader either doesn't pull his or her weight or doesn't understand the workload of the individual judges?
  - How should a discussion around workload be facilitated?
- 10 Fourthly, is there sufficient orientation or up front training of judicial officers as to what the job entails, including efficient delivery of judgments; equable temperament in court; and specific aspects of judging such as dealing with self-represented litigants, who, it must be remembered, are exercising a legal right?
- 11 Fifthly, to what extent is judicial stress, both as to its type and effect, court dependent? Or is it person dependent? My sense is that in the trial courts at all levels, the degree of stress is likely to be higher than in the appellate courts. The stress at the appellate level I would suggest is in respect of workload and “judicial block” – a form of writers’ block. In the latter respect it is perhaps person dependent. At the trial level the stress is multifaceted; is this sufficiently understood? And if I am correct, what are the programs or systems that should be in place to deal with the type of stress that is experienced by judges?