Towards Better Judicial Mentoring

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Executive Summary

Project: Towards Better Judicial Mentoring

Highlights: Consultations with Chief Justices, Judges and Judicial Educators in all major common law countries and representative civil law countries

Conclusions

Australian judges, and consequently the Australian community, would benefit from the courts and judicial colleges revising their approach to judicial mentoring. In recent years, there has been a steady movement towards mentoring as a means of helping people change themselves for the better. Mentoring has been widely adopted in many areas in Australia, including the corporate sphere, academia and the public service. It has been used only sparingly in Australia as to judges. Its potential value warrants it being used much more.

While it is accepted that the extent of future change may be limited by problems with difficulties as to resources, enthusiasm and incentive, it is proposed that there should be a greater focus of courts and judicial educators on, at least:

- Attending to the personal needs of the mentee, particularly on induction;
- Maximising the role of the mentee in the selection of the mentor;
- Training mentors and mentees in the skills of effective mentoring;
- Including at least modest monitoring and evaluation components in judicial mentoring programs.

Future implementation measures will include:

- Disseminating this report widely
- Encouraging further debate in judicial circles as to the issues raised in this report
- Supporting the taking of measures to achieve the suggested changes through further consultations with judges and judicial educators
My aim and interviews
This Churchill Fellowship project has as its focus the mentoring of judges. In recent years, there has been a steady movement towards mentoring as a means of helping people change themselves for the better. Mentoring has been widely adopted in many areas, including the corporate sphere, academia and the public service. Mentoring is given different meanings in different contexts. It is often used to cover almost any form of help given by one person to another. My current concept of mentoring is: where two people develop a trusting relationship with regular interaction, and one, by listening and questioning, makes use of experience to assist the other, particularly to learn skills and generally to develop more ably and quickly.

Some background in legal and judicial education attracted my interest in why the movement towards mentoring for judges seemed to be, not steady progress, but more of a drift, with ebbs and flows. In February 2008, I reached the age of compulsory retirement. I was moved to apply for a Churchill Fellowship. My aim was to learn what was happening in some other parts of the world as to mentoring for judges, with a view to reporting back with recommendations as to what might be done in Australian courts to move more quickly towards better judicial mentoring. I spent most of September and October 2008 travelling westwards around the world. I obtained particularly valued information from Belgium, Canada, England, France, New Zealand, Scotland and the USA. I interviewed judges and judicial educators who were willing to talk with me. I made many enquiries in Australia before and after the travel, and conducted many interviews with judges here on return, focusing on judges who had recently acted as mentors or mentees.

I mention two matters I noted that I found intriguing. The first is that, while there is a movement generally towards establishing and improving judicial mentoring programs, there are many places where such programs are accorded a low priority. In some courts, there is no attempt to encourage even the most informal mentoring. In many, there is little more than a token mentoring process. Some jurisdictions have available a form of “off-the-shelf” process that a particular court can put in place. Others have a program which looks as if it has been structured with attention to detail. The second matter is that, as noted elsewhere in this report, I had great difficulty obtaining an evaluation report on any particular judicial
mentoring program, even a seemingly successful well-structured one.

**Recommendations**
Australian courts and judicial colleges should consider modifying their attitudes to judicial mentoring with these aims:

1. To view mentoring as a valuable additional means of alleviating judicial stress during particularly stressful periods, and of enhancing collegiality.

2. To increase the focus on the personal needs of the mentee, particularly on induction.

3. To maximise the role of the mentee in the selection of the mentor, and resist assigning judges who lack the requisite mentoring skills as mentors.

4. To train mentors and mentees in the skills of effective mentoring.

5. To include at least modest monitoring and evaluation components in any mentoring program.

6. To make mentoring an accepted ingredient of judicial culture.

Several other suggestions as to possible changes are made in the report. Where there exists a combination of enthusiasm, incentive and resources, a judicial mentoring program has the potential to increase the capacity of a court to be, and to be seen as, a leading court, rather than one of the pack. Even where the incentive and resources are not available, the capacity of a court to reduce the stress of its new judges could still be enhanced by making use of whatever enthusiasm is available, by increasing the focus on addressing the personal needs of the new judges, and by introducing, even relatively informally, the basic elements of good mentoring.

**My biases**
What are the factors about me that might help you to better gauge my recommendations? I am Victorian born and oriented. I do not have work-life balance. I am a workaholic. I greatly enjoyed being
a judge, and before that a media law solicitor. I did not want to retire last year at 70. I had then been a judge for just over twenty years. My colleagues would have discounted many of my views on court reform on the basis that I was, as I am, an over-enthusiastic innovator. I have had my periods of stress. The first was on induction. I was the first solicitor appointed to the Supreme Court of Victoria. I never expected that I could be a judge. Ten days after being asked to accept appointment, I was sitting on my first case, ill prepared. Years later, I had a low period of over twelve months when I foolishly volunteered not to preside over trials, but to administer a case management clean-out of all my court’s civil cases. Overall, I was conscious of being particularly grumpy in two sets of circumstances. One was occasionally when I got unduly behind with my civil judgment writing. The other was routinely when I was preparing a charge to a criminal jury.

In this report, I will cover 21 areas in alphabetical order, using a question and answer format.

**Age, Culture and Personality**
If judicial mentoring has potential benefits for judges, why has its adoption not been more widespread? Given the substantial endorsement of mentoring in academic, bureaucratic and corporate contexts, why has there been a reluctance to expand mentoring in the judicial context?

I can only speculate. I offer these suggestions:

- Judges, at least judges appointed in common law countries, are appointed at an older age than applies in most other contexts, and from a group of people who have demonstrated a potential to be particularly self-reliant;
- The value that judges place on independence and autonomy can tend to make them isolationist and non-collegiate;
- Judges, and particularly common law judges, want to do maximally, the work of judging and minimally, related tasks like administering and teaching and being taught;
- Judges are particularly capable in all aspects of defensive reasoning. Judicial independence is readily invoked to resist change. The notion that judges may benefit from being educated in any way has only recently been widely accepted;
- Some judges perceive asking for any help as a weakness;
• Judges are particularly sensitive about being evaluated or monitored in any way.

**Collegiality**
What are the factors influencing whether a court is more or less collegiate? Is establishing a good mentoring program a means of assisting to make a court more collegiate?

One factor affecting collegiality is numbers. How many judges make up the court? Another is workload. How many judges does the workload of the court justify? What is the gap between the numbers that the court has and ideally should have? Then there is the matter of geography. In how many locations and divisions does the court sit? There are other matters more difficult to measure. Is the emphasis of the court on intellectual rigour as against productivity? What is the personality, and what are the priorities, of the head of jurisdiction? Do the judges meet socially? Are there occasions when they meet to be addressed by non-judges and, if so, how frequently? Are there frequent (or any) internal discussion groups where views on common problems are exchanged? Is allowance made in setting the judicial workload for judges to participate in such activities?

Perhaps mentoring alone will not greatly improve collegiality. However, my suggestion is that a court which maintains an effective mentoring program will add to its capacity to enhance its collegiality, particularly for those judges who are more prone to have the quality or quantity of their judicial work impaired by stress.

**Confidentiality**
What steps should a mentor take if a mentee confides in the mentor a matter of an illegal or unethical nature as to the mentee?

A well-structured mentoring program for judges needs to pay particularly close attention to the subject of confidentiality. This is an area where there can be some value in reading the literature on mentoring generally. It is a particularly sensitive one for judges. In England, the Judicial Studies Board has devoted considerable attention to preparing a formulation directed to where the lines as to confidentiality are most appropriately drawn. I commend it as at least a starting point for any court or judicial college.
**Enthusiasm**
Why is enthusiasm so important?

I came across plenty of *judicial educators* who were enthusiastic about mentoring. There were not so many enthusiastic *judges*. I did interview one very enthusiastic judge. She is a Canadian judge who, through her infectious enthusiasm, has for many years made a modest mentoring program work superbly in her court at minimal cost. Later interviews served to confirm that, even without resources, a mildly enthusiastic head of jurisdiction assisted by just one enthusiastic judge can achieve a great deal.

**Euphemisms and meanings**
Why do we at times prefer to use euphemisms, and at others prefer precision in meaning?

There are times when it is helpful to use euphemisms, such as to avoid an inappropriate perception. For that kind of reason, a word like *training* might not be used, with words like *judicial studies* and *professional development* being preferred. In one Australian court, the judges do not having mentor *training* by a *psychologist*. The judges engage in a mentoring *conversation* with an *organisational consultant*.

The word *mentoring* itself means many different things to different judges. I have come to use it very flexibly as it was used by many of the judges whom I interviewed. I found that *judicial educators* familiar with the mentoring literature were much more disposed to be more precise than *judges* in discussing mentoring. They would want to distinguish *mentoring* from *coaching* and *using buddies* and the like, distinctions which can be important. The weight of argument in the mentoring literature has led to my using, in this report, *mentee* rather than protégée. The mentoring programs for some courts use *new judge*. In the report I have used: *head of jurisdiction*, rather than Chief Justice, Chief Judge, Chief Magistrate; *presiding judge* for lesser leadership roles, rather than *deputy* or *principal judge*; *judicial college* and *judicial educator*, because they appeal to me euphemistically, and because the two expressions are used routinely in the Australian context.
Heads of Jurisdiction
What role can heads of jurisdiction play in promoting mentoring for judges?

I found no head of jurisdiction negative about mentoring, but there was a varying level of both enthusiasm for, and awareness of, what other heads of jurisdiction were doing. I take it as a given both that heads of jurisdiction are already over-committed with matters that warrant higher priority than being closely engaged in the development of mentoring, and that even those who have the skills to act as mentors or mentoring co-ordinators would struggle to find the time.

I would encourage more heads of jurisdiction to enhance judicial mentoring in their jurisdiction using any of the following approaches that have been adopted by heads of jurisdiction to whom I spoke. Some of the approaches I encountered were:

- delegating to another judge the role of expanding judicial mentoring along with other aspects of judicial education;
- encouraging the court’s judicial college to take an increased role in the development of mentoring;
- doing all possible to find resources for the development of mentoring. I note that such an exercise may not be so arduous given the extensive use of mentoring in many a government department serving the courts;
- recognising the problems that can arise from the head assigning a mentor to each mentee, as distinct from creating a scenario which maximises the role of the mentees in selecting an appropriate mentor or mentors for themselves;
- fostering collegiality in other ways that have the potential to increase the prospect of developing more and better mentoring relationships.

I could see major advantages to a head of jurisdiction in delegating to a judge a leadership role, recognised with a special name, as to all matters of collegiality, including mentoring. Perhaps a “Presiding Collegiate Judge”?

Incentive
Why does the existence of the right incentive make a vast difference?
In England, judicial mentoring has become very important very quickly. The reason is that there exists there a very important incentive. It is that recorders and part-time District Court Judges must agree to be mentored. Effectively the only way to become a District Court Judge is to serve for a period as a part-time District Court Judge. To serve for a period as a recorder is not the only step towards being a judge in a higher court, but it is the step usually taken by any barrister who aspires to be a judge in a higher court. The Judicial Studies Board of England and Wales has recently been given the resources to provide mentoring for recorders. It has also solid recent experience that assists it in doing so. This came initially through the Board establishing a mentoring program for tribunal members. Later, the Board assisted with the provision of a mentoring program for part-time District Court Judges. Even if it were desirable, it would not be possible to create in another country any system comparable to the English recorder system. Perhaps a different kind of incentive for mentoring could be developed elsewhere. In the public service and corporate contexts, appointments to a more senior position can be made dependent upon participation in a mentoring program. With the continuing expansion of courts has come the greater need for judges, under the head of jurisdiction, to lead divisions, specialist lists and the like. Leadership programs have started to appear on the schedules of judicial colleges. Such programs could readily be enhanced by the addition of a mentoring program. It could be made known that those judges who aspired to lead must first both attend the college’s program and participate in mentoring. That would not be unlike what is required of aspirants in other fields. Aspiring barristers in Victoria must do the reader’s course and be mentored.

**Induction Processes**

Why, at least for common law judges, is judicial mentoring routinely linked to the induction processes required of, or generally made available for, new judges? What is best practice in relation to those induction processes?

No judge is likely to be more open to learning than a new judge. The prospect of going onto the bench carries with it the capacity to make mistakes. The new judge wants to make as few mistakes as possible, and to learn the new skills required to preside competently as soon and as well as possible. Then there are measures needed to assist the new judge to adapt to a very different environment. Both
the new judge, and those designing the induction programs for new judges, ought to collaborate as to those measures. In all common law jurisdictions, the vast majority of new judges come from the ranks of barristers. An increasing number come from the ranks of solicitors, academics and judges elevated from lower courts. In discussions with such elevated judges, I was intrigued to learn that they found the stress on elevation greater than that on initial appointment.

As noted elsewhere in this report, the vast expansion in judicial education in recent years has been patchy. The same applies as to induction processes. In many courts still, new judges are expected to start hearing cases almost immediately after appointment, and are given little more than token help to adapt to the new environment. Where courts have at least moderate resources available to them, most provide a reasonably comprehensive induction program. The most comprehensive program I came across was in the Washington DC Superior Court. Four weeks are set aside for the induction of each new judge. During those four weeks, the new judge is exposed to a faculty of experienced judges who have had training in mentoring. The exposure is through presentations, workshops and discussions facilitated by those judges. The new judge is made aware that, as a mentee-to-be, he or she has the chance to select a mentor from the faculty. That process seemed to me likely to maximise the prospect of getting a good match.

In my interviews of a number of recently appointed Australian judge mentees as to their judicial mentoring, they spoke positively of their experience because the mentoring was linked to a good induction program. In those interviews, I was given a variety of different opinions on issues as to the design of the program, questions which had obviously attracted the attention of judicial educators overseas. I note two such issues.

1. How much of the induction program should be generic and how much tailored to the personal needs of the new judge? I will return later to the matter of personal needs.

2. If there are resources to provide for two weeks, should the two weeks be straight after appointment, or should there be one week then and one week some months later, when the new judge has a better idea of what the areas are as to which he or she would like to know more?
International – Non Common Law

What, as to judicial mentoring, can be learned from continental Europe?

There are many interesting developments in the training of continental European judges. On the face of it, there is little happening as to judicial mentoring. I was not told of any continental European court or judicial college that had a judicial mentoring program as such in place. That does not mean that there is nothing to be learned there. It is difficult to explain summarily why and how that is so, because of the vast differences in judicial structures and in judicial education. The non-common law countries have, for a long time, valued judicial education more than common law countries. The French Ecole Nationale de la Magistrature (ENM) was established in 1958, more than twenty years before the Judicial Studies Board of England and Wales.

The way in which judges are trained in continental European countries is fundamentally different from how it is done in common law countries. The method of training and the judicial colleges also differ significantly from country to country. The judicial colleges in the different countries are very different. There are also great differences between how each country’s judiciary interacts with the other arms of government. I was provided with a book in English compiled in 2005 by an Italian academic, Dr Giuseppe Di Federico that made an enormous difference to my appreciation of some of the differences. The title to the book is: Recruitment, Professional Evaluation and Career of Judges and Prosecutors in Europe: Austria, France, Germany Italy, The Netherlands and Spain. The full text is on the website www.irsig.cnr.it. Given all the differences, it is difficult to be accurate when I generalise, as I am about to do.

From a mentoring comparison viewpoint, it makes a great difference that most of the potential continental European judges are roughly half the age of judges appointed in common law countries, and that they are required to spend over two years in training, part in a judicial college and part in courts to which they are assigned. In the judicial colleges, most of the judicial educators are judges. There are continuing efforts to effect progressive changes within the judicial colleges. The earlier focus on teaching black letter law subjects has yielded to the teaching of judging skills and matters of
social context. There has long been the recognition of the value of placing would-be judges in locations where they are likely to be exposed to opportunities to work with experienced judges. Linked to that exposure there is often a requirement for evaluation. My interviews with judges in the continental European countries revealed an awareness of the desirability of learning from the experiences of other countries, allowing for the differences. The French have had occasion recently to review their judicial training programs as a result of an enquiry directed by Jacques Chirac following events in the town of Outreau. Those interested in the detail could go to the Wikipedia piece on Outreau. In short, an inexperienced graduate of the ENM, whose first posting was to Outreau chose to proceed in a way that proved to be quite inappropriate with sexual offence charges against 18 residents of Outreau. His mistakes might well have been avoided if he had had an experienced mentor to consult.

**Judicial educators and colleges**

Is judicial mentoring an aspect of judicial education or of a particular court’s collegiality? Should the initiative as to mentoring come from the court or from the judicial college? How close are the links between the courts and the judicial colleges?

Judicial education has made enormous strides in the past few decades, and particularly the last five years. This is not the place to do much more than note that the pace of development has varied enormously from country to country. Both generally, and as to Australia in particular, I commend the writings of Liv Armytage. One indicator is the year when the country set up its judicial college or colleges. It is possible to obtain detailed information as to some judicial colleges, but little as to others. In almost all of the countries that I visited, there are judicial colleges. While there are many similarities between the judicial colleges in each country, there are often considerable differences. The links between the courts and the judicial colleges differ, sometimes markedly, particularly in the USA and in Europe. In some countries, like Australia, there are no judges staffing the judicial college. The judges provide their input into the judicial college’s program schedule and content through committees. In others, particularly in continental Europe, a substantial use is made of judges. In others, including Canada, England and Scotland, a judge takes time off the bench to run the college.
I was not always able to trace whether the initiative for a court’s mentoring program came from the court or the judicial college or both. It may not matter. It may be a matter of resources. It may be a matter of enthusiasm. I have referred earlier to the busy but enthusiastic Canadian judge, who volunteered to coordinate mentoring in her court, essentially to improve the court’s collegiality, and did so with great success. Sometimes, as in that and other cases, particularly in the USA, it seems that the initiative has come solely from within the particular court. Commonly, the judicial college is ready to respond to a request from a court to assist in establishing a mentoring program. Whether the court or the judicial college makes the first move, the most common scenario appears to be that a mentoring program is a joint effort of court and judicial college, and that it is linked into the court’s induction program.

Matching of mentors and mentees
What is best practice as to the matching of mentor and mentee?

The mentoring literature has plenty of helpful information as to how to go and not go about such matching. One common theme is that it is highly desirable to avoid matching by the assignment of a “line manager”. Translated into the judicial context, that means that the matching should not be by the head of jurisdiction or some deputy or presiding judge assigning the mentor. My interviews served to confirm the relatively poor success rate when that is the process adopted. In the light of my discussions, particularly in the USA and Australia, I have developed a number of preferences. The central one is that, to the maximum possible extent, the choice of mentor be left to the mentee. The mentee can choose to select one, or more than one, mentor, and of a gender of the mentee’s choice. Close attention should be given to maximising the prospect that the mentee will be given a reasonably wide circle from within which to choose. The aim should be to develop a group of natural mentor types, who have agreed to be trained as mentors. This might be the judicial education faculty as in parts of the USA or a panel of potential mentors as in one court in Australia.
Mentor and mentee training
Should mentors and mentees be trained as to how to best develop a sound mentoring relationship? If so, who trains them?

I have recently read book after book on mentoring, and many handbooks from courts on their mentoring programs. Having done so, I can see the benefits of learning to be an assertive mentee, one who focuses on learning as much as possible, working out what time of day it will suit the mentor to talk, not feeling guilty about intruding regularly, and preparing for each meeting with a list as to the matters on which help is needed. On the other hand, I do not know how well I would rate as a mentor. I am not confident that I am a natural mentor type. I am conscious of the specialised character of the skills, particularly as to listening and questioning, required of a mentor. One Australian court trains its volunteer mentors by arranging a mentoring conversation for half an hour with an organisational consultant. The judges who had engaged in such conversations gave me nothing but positive feedback. My initial enthusiasm for investigating judicial mentoring was sparked by a psychologist. My continuing enthusiasm for judicial mentoring owes a lot to those judges that I saw recently, and to a later very positive discussion that I had with the psychologist who had guided them. What I heard as the preference of mentors and mentees was that there be only a little training. What I heard, and read, as the preference of all the mentoring consultants, was that there should be quite extensive training. In the end, I recognise that a balance will have to be struck.

Mentoring literature
What mentoring literature is available?

There are many books and much research literature on mentoring generally at hand. There is relatively little available as to mentoring for judges. I would not expect any judge, but would expect any judicial educator enthusiastic about judicial mentoring, to become familiar with at least the 1999 Maureen Conner monograph on “Mentoring in the Judiciary” and one of the David Clutterbuck books on mentoring generally, such as “Everyone Needs a Mentor”. The basics of the mentoring programs of some courts are reasonably readily available through the internet. Many more were provided to me. I have no doubt that they could be made available to others on request to the court or judicial college.
For details of other sources, email me. My email addresses are: bernard.teague@justice.gov.vic.au, or bernardteague@hotmail.com

**Monitoring and Evaluation**

What factors inhibit the monitoring and evaluation of judicial mentoring programs?

To me, relative to mentoring, monitoring involves a judicial educator (or better still a judge) keeping in regular contact with both mentors and mentees to check that the mentoring is proceeding without problems that might be overcome with a little outside help. Evaluation involves calling in an independent judicial educator or mentoring consultant to meet with mentors and mentees individually to discuss aspects where the program could be improved. The mentoring literature recommends that mentoring be well monitored and well evaluated. During and after my interviews around the world, I asked for evaluation reports, particularly when told that the feedback within a court was that the judicial mentoring program in place was working well. I ultimately received only two evaluation reports, a favourable one on a structured English pilot program, and an unfavourable one on an informal program in an Australian court. The limited response is discouraging.

I am aware of the sensitivity of judges to being evaluated, based understandably on “thin end of the wedge” concerns as to judicial independence. I asked a mentoring consultant who had helped establish a major mentoring program in a number of courts, why the reluctance to evaluate judicial mentoring programs. She suggested that the absence of evaluations does not necessarily mean that mentoring has not been successful. Her thinking was that: the concern to maintain judicial independence creates a reluctance to evaluate; an absence of evaluation seems to be commonplace in judicial education; as the group of judges is relatively small, there may be a sense that the results of the mentoring are essentially a private matter. I suggest that some of the difficulties might be addressed if a particular existing committee of judges of the court, like an Education Committee, supervised the monitoring and evaluation. Better still would be to have a small Mentoring Committee that might need to meet only twice a year.
Natural Mentor Types
How does one go about determining who would make a good mentor?

Any good mentor must have particularly good listening skills. Most, if not all, experienced judges would believe, and confidently state, that they have developed good listening skills. I thought that way about myself. I have changed my mind after my interviews, and reading the mentoring literature, and watching a DVD produced by the Judicial Studies Board of England and Wales. The listening skills developed in the courtroom context are very different from those needed to communicate in a personal way.

The informal judicial mentoring which has been so much the norm in Australia has proceeded on certain assumptions. One is that it is good enough to assign an experienced judge as mentor at the same time that the new judge is being welcomed. That is not good practice. In my opinion, it is not desirable that judges who are not natural mentor types are either assigned or available to be selected to be mentors. Another assumption which appears to have been made commonly in informal mentoring is that neither the mentor nor the mentee need any training. I have been told routinely that too often the judges who are assigned as mentors lack the requisite skills.

My interviews suggest that there are sound long-term solutions. There is also a better way of dealing with the matter in the short term. One Australian court asked a judicial educator from a judicial college to carry out an informal review of its informal process of assigning untrained mentors to new judges. The review revealed that good mentoring relationships rarely resulted. A mentoring consultant was called in and suggested the option of calling for volunteers. The head of jurisdiction asked all judges of the court whether some would volunteer to act as mentors. There was a catch. The volunteers had to agree to submit to some training in the skills of mentoring. Only the volunteers would be on the list of names provided to any new judge when asked to select a mentor, or two. Those relatively simple and cheap measures were implemented. The feedback suggests that good mentoring relationships have been the norm rather than the exception. For the long term, there are at least two options. One is the testing option. I am assured that there are psychometric tests capable of reliably
measuring those likely to be natural mentor types. I can understand why there might be reluctance on the part of judges to submit to such tests. There is also the faculty option that I summarised above under “Induction Processes”, which would have to be adapted to suit the context.

**Personal Needs**
Should there be a change in approach to judicial education to favour a greater focus on the personal needs of the judge?

In the latest Annual Report of the Judicial Studies Board of England and Wales, Judge John Phillips refers to the Board’s Judicial Training Strategy for 2009, its 30th year of operation. The first point he makes about the strategy is that “training should be tailored to the background and needs of the individual as opposed to the mass”, so that every judge can “develop a personal education plan according to his or her own needs.” My interviewing of judges left me convinced of the soundness of moving in that direction. From my perspective, this focus on individual needs is particularly important from the time the new judge is welcomed. At that time, each new judge should be able to sit down with at least a judicial educator and work out a listing of needs and assign priorities. Close attention should then be given to addressing those needs in a personal way, so far as is possible. That attention should be maintained strongly not only through the induction processes, but as part of the long-term career development of each judge. A well-structured mentoring program is clearly a desirable means of working towards that goal. It would be essential that the greater part of the additional burden arising from a much greater focus on personal needs should fall on judicial educators rather than on judges.

**Resources**
What differences come from having scant as against moderate as against ample resources?

Of course, resources must have an impact on the planning of any mentoring program. The availability of resources may depend on the setting of priorities by one or more of the court, the judicial college and the government of the day. My interviewing revealed that mentoring was often a part of the professional development assistance routinely provided to law department personnel helping to serve the judges. Sometimes that circumstance was seen as a
justifying argument for the seeking of funds to assist in the provision of a mentoring program for the judges. Some courts are funded to have a trained educator as a member of the court staff. The more common situation is that the courts rely upon trained educators on the staff of the judicial college. There are at least two areas where the availability of ample resources could make a material difference. One is to make it possible to engage specialist outside consultants to coordinate as well as plan the mentoring or at least to assist an internal mentoring co-ordinator. The other is to ensure that every stage of the mentoring program is done well and at a measured pace. By that I mean that some elements ought to be done as well as resources will allow. They are: the planning, the ensuring of judicial ownership, the selection and training of mentors, the process whereby mentee select mentors, the training of mentees, and the monitoring and evaluation of the program.

Some issues only shortly addressed
In my discussions, I found interesting issues emerged which had only partial relevance to my focus. I have opted to do no more than note five of them here as questions, with brief comments. First, are there significant benefits derived by mentors from acting as mentors? The mentoring literature says there are, and so have many of my interviewees. I did not come across one mentor who claimed that the mentoring was unduly burdensome. Secondly, is guidance available through the literature as to matters like better managing e-mentoring through use of emails and the telephone, where face-to-face meetings are not possible? There is guidance, and it is worth reading for such tips as making sure to include “niceties” like: “with warmest regards” in emails which otherwise are susceptible of critical interpretation. Thirdly, why would the international criminal courts and tribunals not welcome mentoring? It seems that has been there, more than elsewhere, a substantial degree of defensive reasoning linked to judicial independence and the inappropriateness of judicial education. Fourthly, what prospect is there of retired judges being interested in acting as mentors? The potential exists, but my experience has been that, and my interviewees tend to confirm that, save in some courts in the USA and Canada, judges of a certain age are relatively little valued by their courts. I would also add that there is the potential for mentoring being useful to assist judges approaching retirement. Finally, why does a Google search of judicial mentoring reveal several references to the provision of mentoring to judges from
developing countries? It seems that the use of *mentoring* in this context is more as a euphemism for *coaching*. It is nonetheless commendable to have help extended to judges in developing countries by arranging to expose them to experienced judges from developed countries.

**Stress**

How stressful is the work of judging, and why?

Without exception, judges that I interviewed spoke of finding the work of judging stressful. The concern most often expressed was that the pressure was unrelenting. Perhaps the best starting point for any review of factors contributing to judicial stress is to study the writings of Justice Kirby. For details, email me at bernard.teague@justice.gov.vic.au or bernardteague@hotmail.com Justice Kirby refers to cardiovascular problems as an incident of stress. My interviewing led, at one stage, to my having a concern as to the apparent disproportionate number of judicial suicides. One interviewee told me that the suicide of a judge had been the spur for that judge’s court introducing measures, including mentoring, to promote greater collegiality. By the end of my interviews, I was not satisfied that the number of suicides was disproportionate.

In 2006, one Australian court had an independent occupational health and safety survey of its judges carried out. The survey included an exploration of the causes of stress to the judges, and factors affecting collegiality, and recommendations as to what might be done to alleviate the stress, and improve the collegiality. In part, those recommendations led in time to my opting to apply for a Churchill Fellowship.

There are some circumstances which prompt greater stress. Where this is obvious, steps are likely to be taken to alleviate the stress. In certain courts, the work of judges who routinely have to deal with issues as to the maltreatment of young children is recognised as being particularly stressful. Measures are now taken to limit the time spent by any one judge on that kind of work. All judges will experience a degree of stress immediately after appointment. I interviewed quite a number of recently appointed judges. Not surprisingly, I found both a substantial variability in what they saw as the level of, the causes of, and the possible remedies for, the stress of their first days and months on the bench. Where they had
the chance to be part of planned induction and mentoring programs, they expressed appreciation for the benefits in terms of stress relief. They also made constructive suggestions as to how the programs might be improved. Some of the suggestions were not compatible with programs that are essentially generic. However, they might be substantially accommodated if the induction program was more tailored to personal needs and if the mentoring program was monitored to provide for more adjustment to personal needs.

**Structure**

How much structure should a court’s mentoring program have? If there are too many or too few rules, will there not be an undue risk that the rules will be disregarded? If the program is run as a pilot program, is there not an undue risk that it will not be taken seriously?

From my perspective, it is preferable to see steady progress, with fewer rather than more rules. In my assessment, there is a steady movement towards courts having improved mentoring programs. They are not to be seen as any kind of cure-all solutions. If there is no existing program, it would be desirable to work through an enthusiastic judicial educator, or if it was possible to find one, an enthusiastic judge, to get a modest program operating. If there is an informal program in place, the court’s judicial college could be asked to evaluate it with a view to retaining its better features and modifying or adding elsewhere. Once a moderately well structured program is in place, and the judges own it as theirs, the foundation is there for making improvements based on their own experience. I have no doubt that the court’s judicial college should be heavily involved. If some modest resources are available, the judicial college might be invited to involve an outsider such as an organisational consultant. The Judicial Studies Board of England and Wales did not choose peremptorily to introduce a mentoring program for recorders. The Board had had the benefit of establishing and modifying its mentoring programs, first for tribunal members, and then for District Court Judges.

**Values**

Should all mentors in a court guide their mentees in line with the same set of values?
One of my interviewees was emphatic that the answer had to be yes. There is a risk that different mentor judges may guide by quite different values. One mentor judge may have a very conservative approach, while another is strongly progressive. One judge may insist on the utmost intellectual rigour, while another values productivity at least at a comparable level. Surely, stating the values of the court is desirable if not necessary, as a prelude to getting new judges to understand what those values are, what the culture of the court is, and what are the future aspirations of the court? I asked many of my interviewees overseas whether their court had a set of values. I found that the notion of a court having its particular set of values had only exercised the mind of a few judges. I was given reasons why the process of trying to develop such a set was too difficult. The main concerns were that it was likely to finish up being a list of vague generalities, and that there was no real prospect that the judges of a court would be able to agree, either on what was to be listed, or with what priority. Perhaps the preparation of such a set of values might be a task for a committee of a court such as an Education Committee. Perhaps a starting point would be the set of values articulated by the Singapore Supreme Court, which is readily available on its website.

My thanks
I am grateful to the dozens of judges and judicial educators who put up with my questioning, around the world and back here in Australia. Many also provided me with helpful reports and handbooks. I have chosen, in order to keep the report short, not to name any interviewee in this report, even those to whom I am particularly grateful. In writing this report, I have made compromises to allow for my different audiences. The report is likely to be seen as longer than ideal from a Churchill Trust perspective, but as unduly short and not carefully reasoned and footnoted from the perspective of any judge or judicial educator.

My offer
I am grateful for my Churchill Fellowship, and enthusiastic about the potential benefits of good judicial mentoring. Subject to other calls on my time but otherwise indefinitely and wherever and without fee, I am willing to make myself available to assist in the establishing of a mentoring program, or the improving of an existing program, in any court or judicial college.