

*Session 10.0*

*Enhancing Judicial Performance*

*360 Degree Feedback Programs – Chief Justice Marilyn Warren, Judicial College of Victoria (Australia) and Ms Marianne Mooney (Full Circle Feedback, Australia)*

- 1 Warren: This morning we Victorians are going to present a dual performance, because there is a lot to tell you both from a judicial perspective and a psychological perspective.
- 2 But let me go back a little. As judges, it is a very lonely isolated life that we lead. We sit on the bench day in day out, and from the very beginning everyone is very polite in court. Our staff is very polite, but no one ever tells us how we are going, how we are performing. If we sit at an appellate level, of course our colleagues may give helpful hints, make comments on a draft judgment, but usually judges are too polite to tell someone that they are not projecting their voice sufficiently, that they are being too shy in court, that they are asking too many questions, that they are being terse with counsel, all those sorts of things. We have, as judges, no feedback.
- 3 In Victoria, we thought about this very carefully. We also reflected upon what happens in the business/corporate world these days. In the corporate sector virtually no one works in that world without having feedback – from colleagues, from superiors, from those who work lower than they do. Developing that feedback concept a little further, we investigated and realised that the judiciary was very unusual in that we did not undergo what is now called a ‘360 Degree Review’. That is, a review on an anonymous but candid basis by those who work with us, those who work for us, and those for whom we work.
- 4 So, the Judicial College of Victoria, with the assistance of an organisational consultant Maryanne Mooney, the lady to my right, we developed a program whereby as judges we were given the opportunity to nominate peers who would review our performance as judges. The peer group we selected was cross-dimensional. It consisted of fellow judges, our immediate personal staff, counsel who regularly appear before us, lawyers who instruct in cases, administrators who interact with us. This was entirely innovative and, I have to say, for the judiciary in Victoria extremely challenging – to put ourselves out and say to another, ‘tell me how I am performing’.
- 5 The key to the success of this program, of which you will hear about in a moment, was for the heads of jurisdiction to say, ‘I will put my hand up and I will engage in the program. I will be the test case’. In Victoria, all the heads of jurisdiction have undergone the 360 Degree review, and I have to say, from a personal perspective, which I will elaborate on shortly, it has been an extraordinary experience. Marianne Mooney will speak in a moment, about the technical, psychological and organisational side of the program, but first of all what we would like to do is for you to hear from some of my judicial colleagues as to what they thought about the 360 Degree program.

6 [audio-visual presentation: available on the Internet at:

7 <http://www.judicialcollege.vic.edu.au/judicial-education/view-video-colleges-pioneering-court-craft-program>

8 Warren: Now, I will invite Marianne Mooney to give you some detail of the technical and organisational side of the program.

9 Mooney: Yes. Thank you. I think the key message here that has been already covered both in the video and the opening remarks is that the process is actually about development. It is not an appraisal process. The very first step of the process is actually helping people understand: what's this all about, how does it work, what's my role, what can I actually get from the process. We work very hard at getting people in a learner mode rather than a performer mode. That is the key message. Really, what we are helping people understand is that it is a tool, a very structured, robust, rigorous process, whereby we help people get a more accurate perception of self.

10 What we know is that we cannot do that in isolation from feedback from others. We all have, and judicial officers are no exception, a picture of ideal self. The College put an enormous emphasis on a very rigorous, robust process – and a safe process, it is very constructive – to help people undertake what is really a self-awareness exercise.

11 So, key issues like confidentiality are obviously very important, not just for the participants but for the people giving the feedback. At the beginning everyone is briefed. The raters are contacted individually by the College, which to be honest is a large task. It is an onerous task but it is a very, very important task. In this sector this is considered quite unusual. Whilst it is a very exciting and innovative program it also can be quite daunting, not only to the people receiving the feedback but the people giving it. It is anonymous, it is confidential. After taking the survey online what happens is that everyone gets a report and is individually debriefed by myself at the end. We take an hour and a half to sit down with people and to really get a sense of where they are at in their career as a judicial officer, how they are experiencing the role, how they currently view themselves, and then we make sense together of the data.

12 A little bit about the survey: it has been designed in consultation with judicial officers and the key word here is fact that it is *behaviourally* focused. We are very clear with the judicial officers at the very beginning that we are not actually assessing their competence, technical competence, as judicial officers. As the Chief Justice mentioned in her opening, this is really about the how, and it is very difficult for people in this role to get feedback around some of these issues that relate to how they execute their role and the impact they have.

13 For example, it is very difficult to give a judicial officer feedback about the fact that they may not be a great listener, or they appear unprepared, so the questions are really quite confronting.

- 14 The project has been going now since 2006 and it has stood the test of time. As has been mentioned, one of the key ingredients for its success has been the courage of the College. I am often heard to say that this is my favourite project – and I work across a very wide range of corporate and public sector clients. I love this project because I think courage is critical to its success, the courage of the College to undertake something so innovative and the support of the heads of jurisdiction. Every time we run it I am so full of respect for the courage of the people that put up their hand – it is voluntary – to say, yes, I am going to participate.
- 15 It has increased in popularity. Actually, we are running two programs this year and the numbers have doubled, and there is a waiting list, and it is one of the most popular programs within the College. So, it has been well-received.
- 16 What we are doing here is looking at what has actually come through as strengths, because one of the things that we are aware of at the beginning is that people can feel a bit anxious. What is this feedback really going to say about me? The reality – and I think there is some link with the fact that participation is on a voluntary basis – is that it is a very affirming process. That is a very good thing, in an isolated, lonely role, often devoid of feedback, that people are actually getting feedback about what they are actually doing well. Without question, the people that I am debriefing are intrinsically very motivated. They all share a very strong sense of purpose, a very strong sense of public service, so it is wonderful to see that reflected in their feedback, their personal integrity.
- 17 What happens is, there is often a very good match between personal values and what the feedback is actually reflecting, things like the ability to be decisive, to take charge when things go off track; they are the sort of things that people get feedback about. And, commitment to the role. So, consistently across the four years these are the top-scoring items.
- 18 Warren: In terms of these particular items that are listed on the PowerPoint what happens is that the raters, or the peer group, are nominated by the individual judge and the judge does not know which of the nominees end up doing the rating, being the peer review group. It is done anonymously and managed very, very carefully in that respect. The rater responds to a series of questions online. The questions are, for example, as to whether the individual accepts responsibility for their own actions. The rater is able to provide a score. I am anxious to tell you that in the scores running down the right-hand side that is a score out of five, not out of ten. You will see that the Victorian judicial officers scored very well with these sorts of sample questions.
- 19 Then, what happens, as has been mentioned, there is an hour and a half with the organisational psychologist who has conducted the program, and the individual is given a booklet. I have my booklet here. I received mine in May 2008, and I have to say that it has an excellent shelf-life. About every three months or so I will pull it down off the shelf and I will actually go through the document and I will refresh my strengths but in particular my weaknesses, as were identified by my raters. It is in fact nothing to be frightened of, as my colleagues said in the film. People say genuinely lovely supportive things about one. I have asked my colleagues, who have also undergone the program, to affirm that is so. They have said that they have been

astounded at how well they are regarded and how much confidence is instilled in them, in their judicial role, through the experience of the program.

- 20 Mooney: If, over four years, people have feedback from a very high number of other individuals – typically up to thirty, which is a very high number – to get these kind of scores is quite extraordinary. It is affirming, but for every individual what we do look at as well is, what are the areas that they can work on differently and improve in future? And that is true for everyone, true for all of us.
- 21 We thought we would put this slide up just to give you a bit of a feel for the typical pattern in a group of people who tend to be very achievement-oriented, very highly focused on competence, with very high personal standards. In this slide of an overall summary individual report, the red actually reflects the self-perception. So, for this particular cohort, quite typically what we are seeing is people being too hard on themselves. So, that links back to what we were saying earlier about it being affirming and supportive, but also being real. What we are looking at, too, is, what do we need to think about differently?
- 22 Warren: The 360 Degree Review is in fact only one half of the program that our judges undertake. The other half of the program is called Courtcraft. Judges have a whole day out of court. They go into an interactive simulated ‘courtroom’ environment with four or five other judicial colleagues of mixed jurisdiction. We use two professional actors who have been trained to train others in public performance. So, we have a moot, or mock, hearing in court. Two of the judges will appear as counsel and the individual judge presiding over the moot court situation will be filmed. There will then be commentary about the interactive listening capacity of the individual judge. There will be comments made, for example, that the judge is only speaking to the counsel, the bar table, and forgetting about the people down in the back row. The actors will teach about voice projection. They will teach us about body language, the non-verbal messages that we convey to the litigants, to counsel, to those who come before our courts.
- 23 There are some very, very funny moments. Despite the fact that peer group review initially seems very confronting, our judicial colleagues in the room with us know that whilst they have the opportunity to comment on the individual judge, that judge will in turn have the opportunity to comment on them. It is highly interactive. It is a very, very positive and fun experience for judges. Of my colleagues, with whom I have shared the experience, some have adopted techniques from the program. One colleague now has a note that he puts on his desk saying ‘be quiet’ because he found, as a result of the 360 Degree Review and the Courtcraft program, that he was interrupting counsel too much and asking too many questions, something most others were too polite to tell him. Others were encouraged to interject more, and be more of an interactive listener, with counsel. Judges were told, in a very warm, supportive way, that they mumbled in court, that they could not be heard at the back of the court, that their body language was intolerant, that their body language was aggressive for others, that their body language was expressing disinterest, that they were too passive. What we endeavoured to do with the Program was provide a whole, rounded experience, not only what people say and think about the judge presiding over their hearing, but for the judge to see and hear how he or she actually interacts.

24 That completes our presentation. That is how we have approached the matter of judicial performance in Victoria. Thank you.