

# JOURNAL OF JUDICIAL ADMINISTRATION

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## ARTICLES

### **Proposed reforms for the cross-examination of child witnesses and the reception and treatment of their evidence – *David Caruso***

Leading questions should not be permitted in cross-examining child complainants of sexual offending. Experts should be available to assist the presiding judge to monitor and respond to the effect of examination on child complainants throughout the course of their testimony. Child complainants should be directed by the presiding judge to interrupt their questioning and alert the court to any difficulties they experience while giving evidence. This article argues for reform which adopts these proposals. Part 1 begins that task by showing why there is a need for reform, or more accurately, further reform. The need arises because recent legislative reform in Australia designed to address the difficulties attending the reception and treatment of child evidence does not address the reasons for the difficulties, nor introduce improvements to existing practice for the child witness, counsel or court. Part 2 argues that the three reforms proposed above would be effective on these fronts, where present reform is not, and would consequently bring about effective reform for the taking and treatment of child evidence. Implementation of each reform is further supported by analysis based on the fundamental purposes and aims of witness examination and the trial process, empirical psychological studies, effective use of expert evidence, practicality and cost effectiveness. .... 191

### **Mediator stories of tribunal practice: Flexible and fluid to meet parties' needs – *Kathy Douglas***

Mediation is largely framed around models for both training and accreditation. However, in the literature there is speculation that mediators often deviate from models, improvising around model structures. In recent research into mediation practice it was found that mediators did not necessarily adhere to set models. The research was undertaken in late 2009 with 16 mediators at the Victorian Civil and Administrative Tribunal. Views were sought about a range of mediation practice issues. This article discusses the views of mediators about models of practice and the degree to which mediators improvise around a model. The findings show that all the mediators in this study improvised in their practice in order to be flexible and fluid to meet parties' needs. .... 237

### **Unbundling our way to outcomes: QPILCH's Self Representation Service at QCAT, two years on – *Andrea de Smidt* and *Kate Dodgson***

Provision of legal representation has been determined to be a right in certain criminal matters; and in civil matters, representation can be a determining factor in reaching a successful outcome. The reality is, however, that not everyone can be represented by a lawyer on their day in court. Our legal resources are not limitless. Funding of community legal centres and Legal Aid is not adequate, and the generosity of private practitioners working on a pro bono basis cannot fill the whole gap. Following on from an earlier article published in this journal, "Queensland's Self-representation Services: A Model for Other Courts and Tribunals" (2011) 20 JJA 225, this article considers "unbundling" or "discrete

task assistance”, and how this approach to legal practice is continuing to be utilised by the Queensland Public Interest Law Clearing House, now in the Queensland Civil and Administrative Tribunal, to achieve the best outcomes for clients with the minimum of resources. ....	246
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