

This resource was developed for the

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NATIONAL JUDICIAL WORKSHOP**

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OPTIONS TO IMPROVE LAWYERING AND NON-COMPLIANCE

Session 2: Court Management & Delay

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Options to Improve Lawyering and Non-compliance

Options to improving the quality of lawyering

1. The Chief Justice and President of the Law Society on behalf of the profession meet quarterly to talk about matters that require particular attention and strategies to improve;
2. The court hosts regular discussions around particular areas of practice e.g.: the drafting of pleadings;
3. The court organises presentations by high level legal educational specialists to present on a particular area of law;
4. Where relations are strained between the court and lawyers, consider engaging an external facilitator to help with communication and co-operation;
5. Lawyers need to know the probable actions in response to lawyer non-compliance with deadlines or other requirements;
6. Lawyers need to be treated consistently in their requests e.g.: for adjournments. Here policy statements are helpful;
7. Gear rules and procedures to require the full preparation of cases prior to filing;

Case specific approaches for non-compliance on application

A judge on the application of a party or at the judge's own initiative may:

1. Reject incomplete or non-compliant filings;
2. List the matter for trial despite non-compliance;
3. Express annoyance on the court record;
4. Seek an apology;
5. Make an "unless" order, for example: "Unless the statement is filed by the XXX costs will be payable in the amount of XXX to be paid forthwith";
6. Move the case to a special 'non-compliance list' overseen by the Chief Justice;
7. Deem the matter resolved and move to completed matters;
8. Drop the case to the bottom of the list;
9. Caution the lawyer in open court in front of the client;
10. Threaten costs against the party;
11. Threaten costs against the lawyer personally;
12. Threaten contempt of court proceedings;
13. Impose costs against the party;
14. Impost costs against the lawyer personally;
15. Complain to the law society and request action; and
16. Only after other approaches have been tried and in the most exceptional of circumstances, take action for contempt of court.

