

**2010-11**  
**ANNUAL REPORT**

**SENTENCING  
ADVISORY  
COUNCIL**



**INFORM ENGAGE ADVISE**



















# SENTENCING ADVISORY COUNCIL

## What is the Sentencing Advisory Council?

The Sentencing Advisory Council is an independent statutory body established in December 2010 by amendment to the *Penalties and Sentences Act*.

The aim of the Council is to improve consistency and transparency of sentencing in Queensland, leading to increased public confidence in sentencing.

The Council takes into account the views of the community, the courts and the government in its reporting, and informs members of the public about sentencing issues through community engagement and consultation.

The Council is funded through the Department of Justice and

Attorney-General (DJAG) and staffed by a Secretariat of 12, who are employed by DJAG.

## What does the Council do?

The Council has six statutory functions under section 200 of the *Penalties and Sentences Act*, which are to:

- provide its views on the giving or review of guideline judgments prepared by the Court of Appeal
- if requested, provide advice to the Attorney-General on sentencing matters
- provide information to the community to enhance knowledge and understanding of matters relating to sentencing
- publish information relating to sentencing
- research matters relating to sentencing and publish the results, and

- seek the community’s views on sentencing matters.

## Who we are - the Council

### COMPOSITION OF THE COUNCIL

As outlined in section 202 of the *Penalties and Sentences Act*, the Council consists of 12 part-time members appointed by the Governor in Council on the recommendation of the Attorney-General. The legislation outlines that Council members will have expertise or experience relevant to the functions of the Council in relation to:

- victims of crime
- justice matters relating to Aboriginal or Torres Strait Islander people
- justice matters relating to domestic and family violence
- vulnerable persons facing the criminal justice system
- law enforcement
- crime prevention
- criminal prosecutions
- criminal defence representation
- civil liberties
- corrective services, including offender rehabilitation
- juvenile justice matters
- criminal justice policy
- criminal law, including sentencing, or
- criminology.

Members of the Council have been appointed in their private capacity based on their expertise and experience.

Members of the Council were appointed following an open, merit-based process, which included public advertisements calling for members of the public to nominate their interest in the position

### TOTAL NUMBER OF WOMEN ON THE SENTENCING ADVISORY COUNCIL

Number of members: 12

Number of women: 4

Percentage of women: 33%

### MEETINGS OF THE COUNCIL

Name	Meetings attended
G Mackenzie (Chair)	6
N Tucker (Deputy Chair)	7
J Allen	7
K Anderson	7
B Atkinson	5
J Bush	6
K Cocks	5
B Colless	6
B Crosby	7
J Hunter	5
C McGuire	5
T Moynihan	5

### REMUNERATION

The remuneration for all members of the Council during the financial year was \$26,352. In addition to Council meetings, the Chair and members were paid for special assignments as provided for under the DJAG policy *Remuneration of Part-time Chairs and Members of Government Boards, Committees and Statutory Authorities*.

# SENTENCING ADVISORY COUNCIL MEMBERS



**PROFESSOR GERALDINE MACKENZIE (CHAIR)**

Professor Mackenzie is the Dean, Faculty of Law and the Pro Vice-Chancellor (Research) at Bond University. She holds a practising certificate as a Barrister-at-Law. Professor Mackenzie has written five books on criminal law and sentencing and numerous articles and papers. Her PhD is in sentencing law from UNSW.



**NICHOLAS TUCKER (DEPUTY CHAIR)**

Mr Tucker is the Chairperson of the community agency providing support to children giving evidence in the Queensland Courts (Protect All Children Today). Mr Tucker is also a barrister, with over 20 years experience in advocating for the safety and rights of children. As well as other qualifications, Mr Tucker is also a Certified Management Consultant with experience in management, mentoring and organisational structure.



**JOHN ALLEN**

Mr Allen has been a barrister since 1986. After more than 20 years in private practice, mainly in criminal law, he took up the position of Public Defender at Legal Aid Queensland in 2011.



**JEFF HUNTER SC**

Mr Hunter is one of Queensland's leading criminal barristers and has extensive experience practising in the criminal law area. He worked for a number of years as Deputy Public Defender at Legal Aid Queensland. He has also been a Crown Prosecutor in the Office of the Director of Public Prosecutions. Mr Hunter moved to the private Bar in 1999.



**BOB ATKINSON APM**

Mr Atkinson has been Queensland Commissioner of Police since 2000. With over 40 years policing experience, he was sworn in in 1968. Mr Atkinson has served throughout the State in operational and managerial roles. He was a detective for 20 years and in charge of country Criminal Investigation Branch and Juvenile Aid officers. Mr Atkinson was involved in the post-Fitzgerald QPS change management from 1990.



**JONTY BUSH**

Ms Bush has personal experience of the consequences of lethal violence, and is a victims' advocate who has worked to enhance victims' participation in the criminal justice system. Named Young Australian of the Year in 2009 for her work supporting victims of crime, Ms Bush is completing a Masters (Hons) in Criminology and Criminal Justice at Griffith University.



**KELVIN ANDERSON**

Mr Anderson was appointed Queensland Corrective Services Commissioner in February 2009 after serving as Director-General from December 2008. He served as Commissioner of Corrections in Victoria from 2002-09.



**BOB COLLESS**

Uncle Bob Colless, of Cairns, is the current Deputy Chair and Manager of Gumba Gumba, the Cairns and District Aboriginal and Torres Strait Islander Corporation for Elders and the Cairns Community Justice Group. The group operates programs to support the Indigenous community and has strong links with the Aboriginal and Torres Strait Islander Legal Service. Bob is also involved with the Cairns Murri Court as an Elder.



**BERYL CROSBY**

Ms Crosby was the president and spokesperson for the former Bundaberg Hospital Patient Support Group. She was awarded the Lawyers Alliance Civil Justice Award in 2006 in recognition for her work as a victims' advocate. She is currently a member of the Bundaberg Health Community Council and Health Consumers Queensland (a consumer advisory body to the Minister for Health).



**KEVIN COCKS AM**

Mr Cocks is the Anti-Discrimination Commissioner of Queensland. Formerly the Director of Queensland Advocacy Incorporated, Kevin is an advocate for disadvantaged people, particularly those with a disability. In 2005, he was awarded the Human Rights Medal by the Human Rights and Equal Opportunity Commission.



**CHRISTY MCGUIRE**

Ms McGuire has been appointed as a community representative who has experience with victims of crime. She is the co-ordinator of the Zig Zag Young Women's Resource Centre. Before this, she provided support to female victims of sexual assault, and was involved with the Immigrant Women's Support Service.



**TONY MOYNIHAN SC**

Mr Moynihan has been Director of Public Prosecutions since 2008. He has previously held the positions of Crown Prosecutor within the Office of the Director of Public Prosecutions and the Deputy Public Defender with Legal Aid Queensland.







Justice and Attorney-General and the Department of Community Safety (Queensland Corrective Services).

Timely access to good-quality data is essential for the Council to perform its research and advisory functions. The Council is conscious that its need for data from other agencies creates significant workload demands on these agencies. The Council and the Secretariat have developed close working relationships with source agencies to enable the Council to deliver its advice to government within project timelines.

**TIMELINES AND WORKLOAD**

Consistent with its broad functions of informing, engaging and advising on sentencing matters, the Council must balance the time needed to respond to Attorney-General References against the time needed for the other components of its work program. The Council has identified a range of projects that will require future research to better inform key stakeholders and the community about sentencing issues. More information about work in 2011–12 is provided below under ‘Our future work’.

**RAISING AWARENESS OF THE ROLE OF THE COUNCIL**

In the first year of operation, the Council has raised awareness about its role and functions. In the months after the Council’s establishment, the Chair of the Council held meetings with the heads of jurisdiction of

Queensland’s criminal courts to discuss the Council’s role. Both the Chair and the Director have delivered a number of presentations to provide information to key stakeholders about the Council and its work. The Council also had a presence at Law Week, which attracts many members of the public.

In addition, there has been ongoing development of the Council’s website to provide information and enable feedback from the community about the Council’s work. The launch of the Council in December 2010, and the statewide consultation process on minimum standard non-parole periods from 10 June 2011, provided media coverage about the Council and its first Terms of Reference. The first two e-newsletters of an ongoing series also went out to more than 600 key stakeholders to promote the Council’s work. More information can be found under ‘Our performance: community engagement’.

**COUNCIL MEMBERSHIP**

As outlined above, the Council is a mix of people with significant criminal law, criminal justice and service delivery backgrounds drawn from the community and the professions. This diversity of backgrounds forms a significant strength, providing an opportunity for the Council to more effectively perform its functions.









which matches air supply to the actual load, not the peak load; a night purge is programmed and fresh air dampers are shut during early morning warm-up to reduce the air conditioning load, and

- automatic energy saving settings on office equipment such as printers and computers, which turn off when idle for more than 20 minutes.

#### WASTE MANAGEMENT

The Council follows industry best practice in terms of waste disposal in the office environment. Minimisation of paper waste (for example, by double-sided printing) and conserving toner and cartridges by printing to black and white as a default option are followed. In addition, the Secretariat makes use of recycling programs for paper and toner cartridges.

Individual bins and waste streams are provided throughout the building to maximise recycling. The cleaning staff collect the separated waste and deliver it to dedicated storage facilities in the basement. Facilities are provided to recycle glass, paper, plastics, cans and e-waste. Collection points for each of these waste streams are provided in a variety of locations.







# Sentencing Advisory Council



FORMER ATTORNEY-GENERAL AND MINISTER FOR INDUSTRIAL RELATIONS, THE HONOURABLE CAMERON DICK, AND SENTENCING ADVISORY COUNCIL CHAIR, PROFESSOR GERALDINE MACKENZIE, AT THE LAUNCH OF THE SENTENCING ADVISORY COUNCIL IN DECEMBER 2010.



### April 2011

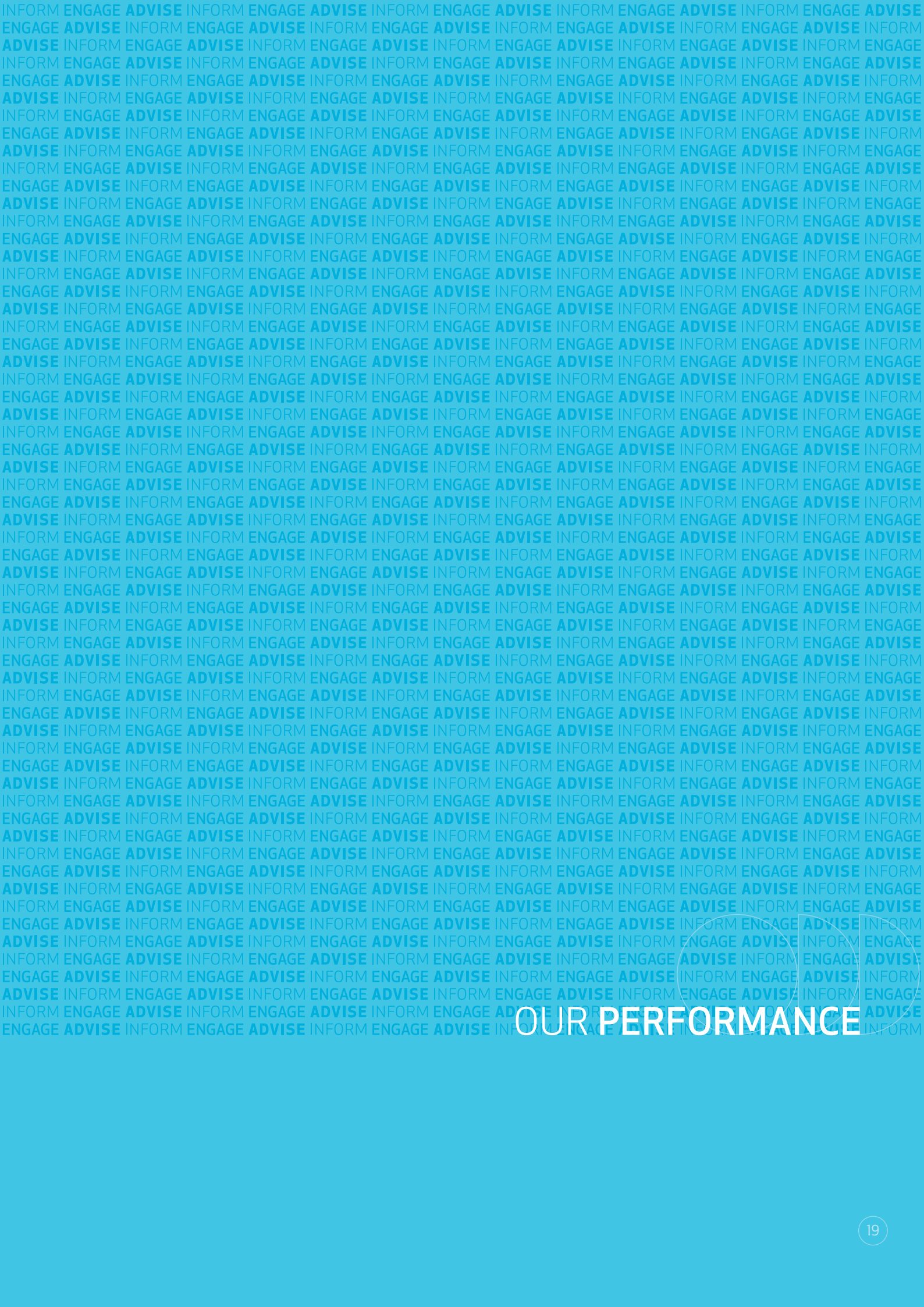
- Council members attend a strategic planning day

### May 2011

- Council establishes a display and provides information at Law Week. The Director makes a public presentation on the role and function of the Sentencing Advisory Council
- The Chair and Council member Kevin Cocks participate in the Law Week Hypothetical conducted by Legal Aid Queensland

### June 2011

- Release of SNPP Consultation Paper and a companion research paper, *Sentencing of serious violent offences and sexual offences*, on 10 June
- Submissions on SNPPs open and consultation meetings across Queensland begin



# OUR PERFORMANCE





# OUR PERFORMANCE

## References from the Attorney-General 2010–11

On 20 December 2010, the Council received its first Terms of Reference when the Attorney-General asked it to examine and report on the introduction of minimum standard non-parole periods (SNPPs) in Queensland, including:

- what serious violent offences and sexual offences a minimum SNPP should apply to, and
- the appropriate length of the minimum SNPP for each offence identified.

The Council was also asked to consider a range of related issues, including whether the NSW SNPP approach should be adopted in Queensland.

The Council approached the project in the following stages:

- An initial series of roundtable discussions were held with key legal and community stakeholders in Brisbane in February 2011. These discussions enabled the Council to seek the initial views of key stakeholders and provided an opportunity for attendees to raise issues to inform the Council in conducting research and preparing material for a Consultation Paper.
- A public Consultation Paper was developed with a separate Executive Summary for members of the community. The Consultation Paper was accompanied by a research paper entitled *Sentencing of serious violent offences and sexual offences in Queensland*. A CD containing





in the new project management framework, and

- working with the Department of Justice and Attorney-General and the Department of Community Safety (Queensland Corrective Services) to establish appropriate data access.

### Key statistics 2010–11

The Council published a research paper on the sentencing of serious violent offences and sexual offences to support its work on the SNPP Reference. This paper presented information collected by the Department of Justice and Attorney-General and maintained by the Office of Economic and Statistical Research. Information in the paper related to sentences imposed by the Queensland higher courts between 2005–06 and 2009–10.

The key findings of the research paper were:

- The majority of offenders with a serious violent offence or sexual offence<sup>2</sup> as their most serious offence were sentenced to a term of imprisonment (either full-time imprisonment or a partially suspended sentence).
- The majority of cases with a most serious offence of ‘manslaughter’ (99%), ‘acts intended to cause grievous bodily harm and other malicious acts’ (98%), ‘maintaining a sexual relationship with a child’ (98%), ‘attempted murder’

(96%), ‘rape’ (97%), ‘torture’ (91%), ‘attempted rape’ (89%), ‘grievous bodily harm’ (81%) and ‘incest’ (81%) received a term of imprisonment.

- Offences with the highest average sentence imposed by the higher courts were ‘attempted murder’ (11.5 years), ‘manslaughter’ (8 years), ‘rape’ (6.5 years), ‘maintaining a sexual relationship with a child’ (6 years), ‘acts intended to cause grievous bodily harm and other malicious acts’ (6 years), ‘unlawful sodomy’ (6 years) and ‘incest’ (5 years).
- A high proportion of offenders who come before the courts plead guilty (92%). Offenders with a sexual offence as their most serious offence are less likely to plead guilty (86%) than offenders with a most serious offence involving a serious violent offence (95%).
- Measures of average sentence length variability (which did not account for case variation) did not suggest there is a systemic problem with sentencing consistency in the Queensland higher courts.
- Average non-parole periods (expressed as the proportion of a sentence that must be served in custody) tended to be higher for sexual offences than for serious violent offences. The average non-parole periods for sexual offences ranged from 63 per cent to 77 per cent, compared with 33 per cent

<sup>2</sup> Data presented in the research paper are subject to some limitations, which are outlined in detail in the paper. Serious violent offences were selected from Schedule 1 – serious violent offences of the *Penalties and Sentences Act*, and sexual offences were selected from Schedule 1 of the *Corrective Services Act 2006*. Not all serious violent offences and sexual offences listed in the schedules are included in the research paper.





**Speeches and presentations**

Presentations were made to a range of individuals and stakeholder groups to raise awareness of the Sentencing Advisory Council’s role, including:

- State Government multicultural interdisciplinary committee
- Queensland Public Interest Law Clearing House (QPILCH) research student group
- Victim Services Interagency Organisation Network (VISION)
- members of the community at Law Week.

**Stakeholder contact**

Council members and the Secretariat engaged widely with stakeholders in 2010–11 in a variety of ways, including:

- meetings with stakeholders

- meetings with the heads of jurisdiction of Queensland’s criminal courts
- meetings with stakeholders in NSW to assess the success of a SNPP scheme in that State, including:
  - Corrective Services NSW and the State Parole Authority
  - the President of the Children’s Court
  - the NSW Public Defender
  - Victims Services, NSW Department of Justice and the Attorney-General
  - the Homicide Victims Support Group and the Victims of Crime Assistance League
  - the Criminal Law Committee, Law Society of NSW.















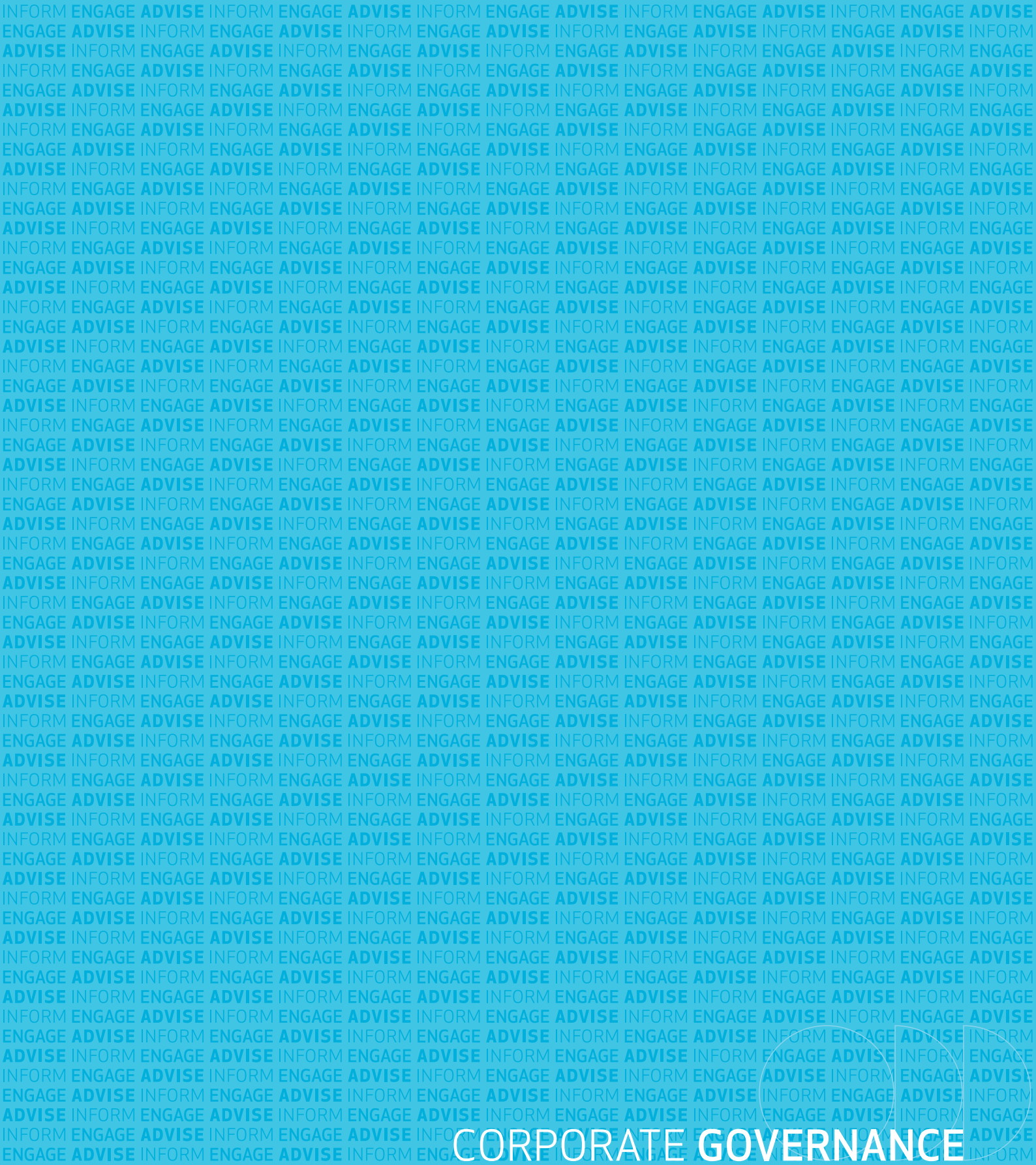




## Upcoming community engagement projects in 2011–12

The Council has committed to the following key strategies for engaging with the community in 2011–12:

- finalising a series of fact sheets containing user-friendly information about sentencing matters in Queensland such as describing the sentencing process, outlining the different sentencing orders that can be made, explaining what parole is and why it forms part of the sentencing process
- developing an information kit about the Council to distribute to members of the community which outlines the role and functions of the Council and the composition of its membership
- continuing to provide e-newsletters to members of the community and key stakeholders, to keep them informed about the work of the Council and give information about upcoming consultations and activities
- maintaining involvement in community engagement forums and events such as Law Week and NAIDOC Week
- making presentations at relevant conferences and forums to increase understanding of the Council's role and functions
- working with the key agencies to develop a school curriculum unit to increase education and awareness in schools about sentencing issues
- translation of the Council's Information Sheet and fact sheets into several languages other than English, to be made available in both hard copy and PDF format on the Council's website, and
- engaging an Aboriginal and Torres Strait Islander facilitator for key projects requiring consultation with Aboriginal and Torres Strait Islander communities.



# CORPORATE GOVERNANCE



# CORPORATE GOVERNANCE

## Human resources 2010–11

In 2010–11, the Secretariat developed and refined its corporate policies and procedures. In 2011–12, the focus will be on completing the work begun in early 2011 and embedding policies and standards into day-to-day operations. The development of the Secretariat's policy infrastructure will continue to ensure that it reflects best practice.

### ALIGNMENT WITH GOVERNMENT POLICIES

#### Code of Conduct

The Sentencing Advisory Council's Secretariat staff are public servants and must comply with the whole-of-government Code of Conduct, which establishes the ethical standards of conduct and behaviour when working with each

other, with other agencies and with members of the community.

The Code of Conduct is based on the *Public Sector Ethics Act 1994* (Qld) obligations of:

- respect for all people
- integrity
- diligence
- economy and efficiency, and
- respect for the law and system of government.

Misconduct, conflicts of interest and other such matters are dealt with through the Department of Justice and Attorney-General.

### PROMOTING STAFF EXCELLENCE

The Sentencing Advisory Council promotes the personal and professional development of its staff to achieve sustained







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**INFORM ENGAGE ADVISE**

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