



Judicial Commission of NSW  
*Annual Report*  
2014–15



This annual report summarises the Judicial Commission's activities and performance for 2014–15. We also outline our strategic focus for 2015–16.

Our performance is measured against our statutory functions contained in the *Judicial Officers Act 1986*, our Strategic Plan, Operational Plan and targets.

This is our 28th annual report. Last year's annual report received a Gold Award in the 2015 Australasian Reporting Awards.

This annual report and previous reports are available on our website at [www.judcom.nsw.gov.au](http://www.judcom.nsw.gov.au)



Judicial Commission of New South Wales

The Honourable Gabrielle Upton, MP  
Attorney General  
52 Martin Place, Sydney NSW 2000

Dear Attorney

The Judicial Commission of NSW has pleasure in presenting to you the report of its activities for the year ended 30 June 2015.

This report is submitted in accordance with section 49 of the *Judicial Officers Act 1986* and section 12 of the *Annual Reports (Departments) Act 1985*. It is required to be laid before both Houses of Parliament.

Yours sincerely

A handwritten signature in black ink, belonging to The Honourable T Bathurst AC.

The Honourable T Bathurst AC  
Chief Justice of NSW  
President, Judicial Commission  
of NSW

A handwritten signature in black ink, belonging to E J Schmatt PSM.

E J Schmatt PSM  
Chief Executive  
Judicial Commission  
of NSW

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Cover and current page: Convict architect Francis Greenway designed the Supreme Court of NSW building. Constructed between 1819 and 1829, the first court sittings were held in 1824. Features of this historic court house are shown throughout our annual report.

## Contents

2014–15 highlights .....	2	<b>Part 3: Engaging with our partners.</b> .....	51
<b>Part 1: Overview of the Commission.</b> .....	3	Results in brief .....	52
Our profile .....	4	Challenges for 2014–15 .....	52
Our history .....	5	The year ahead .....	53
The year in brief .....	6	Listening to our partners .....	54
The year ahead .....	7	Why we inform the public about our work and role and exchange knowledge and expertise with other organisations .....	55
Performance results 2013–15 .....	8	Evaluating our performance .....	56
President's foreword .....	10	Case studies .....	59
Chief Executive's message .....	12	<b>Part 4: Our organisation</b> .....	61
Judicial Commission members .....	14	<b>Our people</b> .....	61
Our executive team .....	17	Results in brief .....	62
<b>Part 2: Our performance</b> .....	19	Challenges for 2014–15 .....	63
Measuring our performance .....	20	The year ahead .....	63
Financial performance .....	20	Performance and satisfaction .....	64
Service delivery: providing for judicial officers of NSW ..	21	<b>Our governance, policies, and processes</b> .....	68
<b>Program 1: Providing continuing judicial education</b> .....	22	Results in brief .....	68
Results in brief .....	22	Challenges for 2014–15 .....	69
Challenges for 2014–15 .....	22	The year ahead .....	69
The year ahead .....	23	Our governance practices .....	70
Listening to judicial officers .....	24	Our policies .....	73
Why we deliver continuing judicial education .....	25	Our processes and technology .....	75
Evaluating the program's performance .....	26	Sustainability .....	76
Case studies .....	30	<b>Part 5: Our finances</b> .....	77
<b>Program 2: Providing research and sentencing information</b> .....	32	Results in brief .....	78
Results in brief .....	32	Challenges for 2014–15 .....	78
Challenges for 2014–15 .....	32	The year ahead .....	78
The year ahead .....	33	Financial summary .....	79
Listening .....	34	Financial report .....	81
Why we provide sentencing information and resources .....	34	Certification of financial statements .....	81
Evaluating the program's performance .....	36	Independent Auditor's Report .....	81
Case studies .....	40	Financial statements .....	83
<b>Program 3: Examining complaints</b> .....	42	<b>Part 6: Endmatter</b> .....	101
Results in brief .....	42	Appendices .....	102
Challenges for 2014–15 .....	42	Glossary .....	121
The year ahead .....	43	Index .....	122
Feedback .....	44	Looking at the last 5 years .....	125
Why we examine complaints .....	44		
Evaluating the program's performance .....	45		
Complaints received and examined during the year ..	46		
Case studies .....	50		

# 2014–15 highlights

Everyone at the Commission is committed to supporting our mission, vision and values. Here are some of our highlights for the year:

Use of the Judicial Information Research System

exceeded  
150,000 hits

in a single month for the first time in March 2015. Page 37 has more information.

Published a well-  
received study

on cross-jurisdictional comparison of sentencing levels and the use of full-time imprisonment for serious offences throughout Australia. Page 38 has more information.

conducted a  
significant  
campaign

at short notice to inform judicial officers about major changes to the bail regime introduced in January 2015, following a government review. Page 40 has more information.

Delivered a highly  
regarded Community  
Awareness of the Judiciary

Program in October–November 2014. Page 55 has more information.

shared our  
expertise

and experience in delivering the Magistrates' Orientation Program in Port Moresby in February 2015. Page 59 has more information.

Achieved a  
high staff  
satisfaction

of 93%. Page 64 has more information.

Investment in staff learning and development through training saw a

52% increase compared to 2013–14. Page 66 has more information.





# Part 1

## Overview of the Commission

### Contents

Our profile. ....	4
Our history . ....	5
The year in brief . ....	6
The year ahead. ....	7
Performance results 2013–15 . ....	8
President’s foreword. ....	10
Chief Executive’s message. ....	12
Judicial Commission members . ....	14
Our executive team . ....	17

# Our profile

## Who we are

The Judicial Commission of NSW is an independent statutory corporation established under the *Judicial Officers Act 1986*. We report to the Parliament of NSW.

## What we do

Judicial officers make decisions each day which can have a profound impact on a person and on business. A judicial decision can send a person to gaol or otherwise affect a person's liberty, reputation and family relationships, or prevent or create financial hardships.

To ensure that judicial decision making is based on current law and that judicial knowledge and skills are of the highest calibre, we provide a continuing education program for the judicial officers of NSW, and publish information about the criminal law and sentencing to assist the courts to achieve consistency in imposing sentences. We examine complaints about a judicial officer's ability or behaviour. We also share our knowledge and experience with the global network of judiciaries and judicial education providers.

## Our governance

An independent Commission of 10 members provides governance and examines all complaints. The Chief Executive, supported by 3 directors, is responsible for our daily operations. See p 14 for their profiles and achievements.

## Our vision

The people of NSW will have confidence in the exceptional ability and performance of judicial officers.

## Our mission

To promote the highest standards of judicial behaviour, performance and decision making.

## Our values

Connecting — to work constructively and cooperatively with our partners.

Professionalism — to be recognised for our integrity, independence, and the high quality services we deliver.

Enhancement — to continually evaluate and improve the way we deliver our programs.

Sustainability — to be aware of the way our operations and programs impact on people, the environment and the economy.

## Our partners

We provide services to the judicial officers and people of NSW, the courts, the legal profession, other justice sector agencies, law libraries and law students. We share our experience with other Australasian and overseas judicial education providers.

## Our structure

The Commission has 3 operational areas — continuing judicial education, research and sentencing, and complaints. See our organisation chart below.

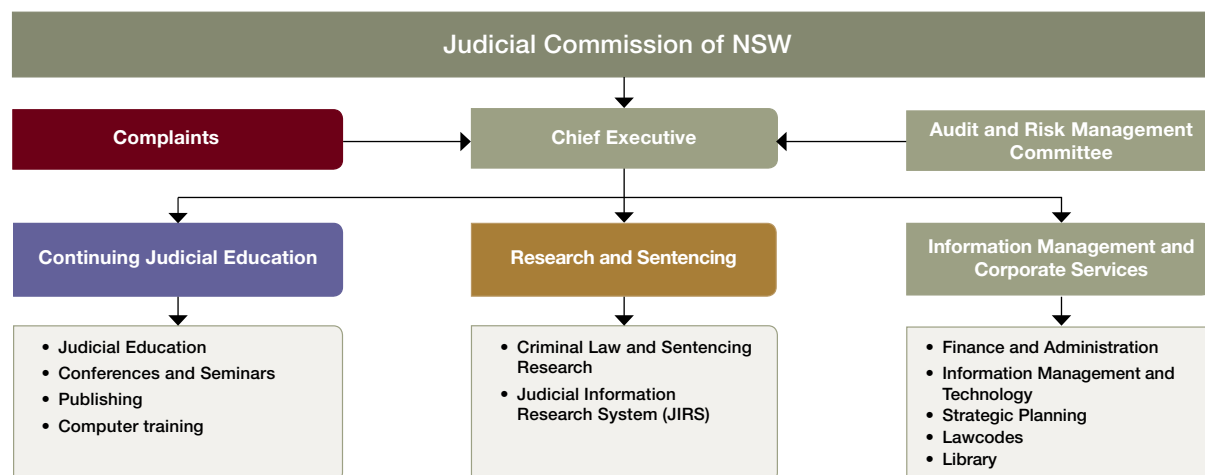
## Our resources

34.9 full-time equivalent staff at the Judicial Commission at 30 June 2015.

\$5.247 million revenue from the NSW government.

\$883,000 from other revenue including \$745,000 in self-generated revenue.

Figure 1. Organisation structure as at June 2015. See p 14 for more detail about the Commission members and p 17 for the Chief Executive's and the directors' biographies.





# Our history

1985

Controversies involving judicial officers in Australia are widely reported in the media.

1986

Professor Vinson's report on sentencing published. The report raised claims that a District Court of NSW judge was unjustifiably lenient in sentencing offenders and there was systematic disparity in sentences imposed for drug offenders.

NSW Government announced plans to establish a Judicial Commission in response to a perceived crisis in public confidence in the judiciary. *Judicial Officers Act 1986* commenced in December 1986. Commission combines a complaints function with educational and sentencing functions.

1987

*Judicial Officers Act 1986* amended to establish the Commission as an independent statutory corporation. Parliament now directly finances Commission's budget and Commission reports annually to Parliament. Operations commence in October.

The Commission planned its professional development programs for 220 judicial officers in NSW; 95% are men; 5% are women.

1988

Conference and seminar program commenced and first issue of the monthly *Judicial Officers' Bulletin* published.

Commenced development of Sentencing Information System (SIS), a database to help judicial officers improve consistency in approach to sentencing.

1990

Chief Justice Gleeson, the Commission's President, launched SIS.

1996

SIS re-engineered and expanded to include information relevant for all courts. SIS renamed the Judicial Information Research System (JIRS).

1998

For the first time, a judge addressed Parliament after a Conduct Division reported to the Governor recommending Parliamentary consideration of his removal from office. Parliament voted not to remove the judge.

*Judicial Officers Act 1986* amended to increase lay membership of Commission from 2 to 4.

The Commission provided professional development to 251 judicial officers; 85% are men; 15% are women.

2001

Lord Justice Robin Auld, senior presiding judge for England and Wales, in a report to the United Kingdom Parliament, described JIRS as a "world leader in this field".

2006

*Sentencing Bench Book* and *Equality Before the Law Bench Book* published.

2007

*Judicial Officers Act 1986* amended to provide for lay representation on a Conduct Division. Parliament to nominate 2 lay members to sit on Conduct Divisions when established by Commission.

*Civil Trials Bench Book* published.

Commission programs provided professional development to 278 judicial officers; 73% are men; 27% are women.

2010

All Commission bench books are now publicly accessible on our website.

2011

Two separate Conduct Divisions reported to the Governor that they had formed the opinion that Parliamentary consideration be given to removal of 2 magistrates from office. Each magistrate separately addressed Parliament. Parliament voted against removal.

2012

NSW Government issued all magistrates with iPads™. Commission developed the JIRS app for Apple® iPad™ users.

First Community Awareness of the Judiciary Program run as a public education strategy.

The Commission provided professional development to 350 judicial officers; 74% are men; 26% are women.

2013

Bench books and other publications now only available online for magistrates.

2014–15

The Commission provided services to 346 judicial officers; 68.5% are men; 31.5% are women.

# The year in brief

The Commission plays a key role in fostering excellence in judicial performance through 3 program areas: continuing judicial education, research and sentencing and examining complaints.

## Financial result

Our financial result was a small deficit of \$43,000.

The Commission received an unqualified report for our financial statements from the Auditor General of NSW.

See pp 20, 77–100 for more information.

## Program 1

### Providing continuing judicial education

Key results were:

- judicial skills, knowledge and attitudes were enhanced with 39 education sessions offered
- 92% judicial satisfaction with our continuing education program
- judicial officers were informed about changes to the law, community values, court practice and procedure with 34 publications produced (last year: 35).

A key challenge was:

- designing appropriate education sessions to meet judicial needs and take into account information from multi-agency justice groups in relation to legislative amendments to domestic and family violence.

See pp 22–31 for more information.

## Program 2

### Providing research and sentencing information

Key results were:

- judicial officers had access to current law to assist in their day-to-day decision making with 1.53 million total page hits to the Judicial Information Research System
- judicial officers were informed about changes to criminal law and criminal practice and procedure
- judicial officers were promptly notified of changes in sentencing principles and practice.

A key challenge was:

- auditing sentencing data received from the courts prior to loading this on the Judicial Information Research System.

See pp 32–41 for more information.

## Program 3

### Examining complaints

Key result was:

- timely acknowledgment and completion of preliminary examination of complaints with 82% of complaints examined within 3 months and 100% of complaints examined within 6 months.

A key challenge was:

- explaining to disappointed complainants why their complaints were dismissed.

See pp 42–50 for more information.

## Engaging with our partners

Key results were:

- the public was informed about our work and role in the justice system and our contribution to judicial performance
- government agencies had access to our statistical and legal information and shared our knowledge
- we provided capacity-building assistance to Chinese, Pacific, Papua New Guinea, South East Asian and African jurisdictions
- the Commission shared knowledge and experience with other judicial education providers.

A key challenge was:

- balancing our core work with requests for assistance from other jurisdictions.

See pp 51–60 for more information.

## Our people

Key results were:

- 93% staff satisfaction as measured in our annual internal staff survey
- staff turnover rate remained low at 6%, reducing the risk of losing highly-skilled professionals
- a safe workplace with no workers' compensation claims or work health and safety breaches.

A key challenge was:

- encouraging busy staff to take up training and development opportunities.

See pp 62–67 for more information.

## Our governance, policies and processes

Key results were:

- the Commission had robust governance: 10 Commission meetings and 4 Audit and Risk Management Committee meetings were held, and 2 internal audit reviews conducted
- the Audit and Risk Management Committee successfully settled and accepted the Internal Audit Plan 2014–15
- organisational responses to internal audit recommendations were well advanced
- the Commission had effective policies that ensured safety, security, confidentiality, access, availability, equity, risk management, integrity, compliance and assurance
- 8.6% reduction in our energy use over the last 5 years.

A key challenge was:

- preparing for future office relocation.

See pp 68–76 for more information.

See pp 77–100 for audited financial statements.



# The year ahead

As set out in the *Judicial Officers Act 1986*, the functions that drive the Commission's strategic and operational planning are to:

1. provide a continuing judicial education program
2. assist the courts to achieve a consistent approach to sentencing in criminal cases
3. examine complaints against judicial officers
4. give advice to the Attorney General on matters the Commission thinks are appropriate
5. engage with our partners in connection with any of these functions
6. enter into commercial arrangements connected with our expertise in education and information technology.

Outcomes we expect to achieve within these key statutory focus areas for 2015–16 are outlined below.

## Strategic planning process

The Chief Executive and executive team (the membership is described on p 17) continuously plan and monitor the performance of the Commission's operations:

- ensuring that we carry out our functions efficiently and effectively and that we are accountable for our actions
- reviewing the results and services that we have planned to achieve at the end of each month
- ensuring that risk management and auditing processes are properly understood and managed
- setting and report on strategic goals
- monitoring commercial arrangements we have entered into.

The Chief Executive meets with the Commission (the membership is described on p 14) once a month to report on the progress of operations, outcomes and targets.

Outcomes expected and activities planned for 2015–16 for our key program areas are as follows.

## Providing continuing judicial education

- designing and delivering cultural diversity training for judicial officers with other Australian judicial education providers
- offering a series of field trips to NSW correctional centres to provide judicial officers with an opportunity to learn about gaol reception and classification procedures
- examining the feasibility of delivering electronic publications for other courts, following the successful online transition for the Local Court of NSW
- conducting judicial education about child sexual assault trials
- publishing educational reference material to keep judicial officers informed about case law and legislative developments and changes to practice, procedure and community values
- organising a community visit to the Wiradjuri community at Bathurst as part of our Aboriginal cultural awareness program for judicial officers
- surveying judicial officers to determine their needs regarding Aboriginal cultural awareness to further develop the program.

## Providing research and sentencing information

- maintaining the currency, accuracy and relevance of JIRS to inform judicial officers and legal practitioners of legal developments in criminal law, practice and procedure
- developing an interactive learning environment to be incorporated as a component of JIRS, as well as a stand-alone mobile app
- publishing a research study on appeals in NSW, including appeals against the severity or leniency of a sentence
- publishing 2 *Sentencing Trends & Issues* papers and regular updates to the *Criminal Trial Courts Bench Book* and the *Sentencing Bench Book* so that judicial officers have access to the latest sentencing principles, practice and procedure, and jury directions.

## Examining complaints

- finalising the majority of complaints that do not require further examination within 90 days and the preliminary examination of all complaints within 12 months
- monitoring trends in complaints to develop education sessions covering procedural fairness, avoiding bias, judicial communication, court craft, domestic violence and sexual assault hearings, and cultural diversity.
- finalising 2 complaints referred to a Conduct Division.

## Advice to the Attorney General

- providing advice to the Attorney General on matters the Commission thinks appropriate when they arise as part of the complaints process.

## Assisting other government agencies

- responding to requests for research and sentencing information from NSW government agencies such as the NSW Sentencing Council and the NSW Law Reform Commission.

## Engaging with our partners

- conducting a fourth Community Awareness of the Judiciary Program to raise public awareness of the work of judicial officers and the courts in NSW
- working with international partners including the Asia Pacific Judicial Reform Forum, the International Organization for Judicial Training, the Commonwealth Judicial Education Institute, and the Commonwealth Secretariat.

## Entering into commercial arrangements

- continuing to host and maintain the Queensland Sentencing Information Service, the Commonwealth Sentencing Database, the ACT Sentencing Database, the Papua New Guinea Sentencing Database, and the NSW Drug Court and Forum Administration Systems.
- finalising the feasibility study and establishing the pilot Papua New Guinea integrated criminal case system database.

# Performance results 2013–15

Result	Measure	2013–14 result
<b>Program 1: Providing continuing judicial education</b>		
Judicial officers informed about changes to the law, community values, court practice and procedure	Maintain/increase number of publications	34 publications
	Maintain/increase number of specialised education sessions offered	32 education sessions
	Education sessions assisted judicial officers to reach the national standard* of 5 judicial education days each year	4.6 days offered 4 days undertaken
Judicial skills, attitudes and knowledge enhanced	Maintain/increase ratings that our services provide judicially relevant and stimulating education and information	78% of participants satisfied that sessions relevant and applicable and 71% satisfied that sessions enhanced knowledge and capability
Judicial officers satisfied with their continuing education	Maintain/improve satisfaction rates from last year	91% overall satisfaction
Judicial officers satisfied with skill-based workshops	Maintain/improve satisfaction rates from last year	94.5% overall satisfaction
<b>Program 2: Providing research and sentencing information</b>		
Judicial officers had access to current law to assist in decision making	Maintain/increase use of Judicial Information Research System (JIRS)	123,338 average page hits each month
Judicial officers promptly informed about changes to criminal law and criminal practice and procedure	Maintain accuracy of legislation by weekly updates; update judgments on a daily basis; maintain bench books to reflect significant changes to the law; maintain email alert service	<ul style="list-style-type: none"> <li>• 206 recent law items posted on JIRS</li> <li>• 161 summaries of select appeal decisions published on JIRS</li> <li>• 6 updates to bench books</li> </ul>
Judicial officers promptly notified of changes in sentencing law and practice	Maintain legal accuracy of sentencing principles and practices component of JIRS	3 updates to <i>Sentencing Bench Book</i>
		Sentencing principles in <i>Sentencing Bench Book</i> linked to new cases and legislation
Accurate sentencing information available to judicial officers	Maintain sentencing statistics on JIRS on the range and frequency of penalties imposed in similar cases	Sentencing data received, audited and loaded on JIRS within 4 months of receipt
	Maintain information about sentences that other judicial officers have given in similar circumstances	Published 55 summaries of significant appeal decisions in the <i>Judicial Officers' Bulletin</i>
Information about sentencing communicated	Maintain/increase publication of sentencing trends, research papers and monographs	1 research monograph
	Provide information in response to requests for about specific sentencing issues	10 research requests from judicial officers and 33 non-judicial enquiries responded to
Judicial officers informed about sentencing options and rehabilitation facilities for offenders	Maintain current information about service providers in services directory on JIRS	Done
JIRS improved to meet judicial officers' needs	Maintain/increase number of improvements to JIRS	5
<b>Program 3: Examining complaints</b>		
Finalised majority of complaints received during the year	Maintain percentage of complaints examined and finalised during the year	Examined 89% of complaints received during the year
Timely acknowledgment and completion of preliminary examination of complaints	Maintain/decrease time taken to conduct preliminary examination of complaints	Examined 61% of complaints within 3 months and 87% of complaints within 6 months
	Maintain time taken to formally acknowledge complaints received	100% of complaints received acknowledged within 5 working days
High standard of judicial performance.	Compare number of complaints to number of court matters finalised during the year	350 judicial officers in NSW heard around 700,000 court matters in 2013–14. 48 complaints made about 37 judicial officers
	Compare number of complaints dismissed under section 20 with complaints that require further action	95% of complaints (58 of 61) were summarily dismissed under section 20 of the <i>Judicial Officers' Act</i> . Only 3 complaints required further action
	Maintain accessible information about complaints process	Information about the complaints process and how to make a complaint was provided in the annual report, on our website, and in brochure form
		Responded to 352 requests for information.
Independence of judicial officers maintained	Complaints process demonstrates integrity of complaints function	Commission examined all complaints according to statutory criteria and established protocols
Information gathered from the complaints process used to develop education sessions for judicial officers	Monitor and analyse trends in complaints to feed into education sessions	46% of complaints arose from allegations of failure to give a fair hearing.
		21% of complaints arose from allegations of bias

\* See p 107 for explanation of national standard.



2014–15 target	2014–15 result	2015–16 target	Status
34 publications	34 publications	34 publications	✓
35 education sessions	39 education sessions	35 education sessions	✓
5 days offered 5 days undertaken	4.3 days offered 3.7 days undertaken	5 days offered 5 days undertaken	x x
80% of participants satisfied that sessions relevant and applicable and 70% satisfied that sessions enhanced knowledge and capability	80% of participants satisfied that sessions relevant and applicable and 76% satisfied that sessions enhanced knowledge and capability	80% of participants satisfied that sessions relevant and applicable and 70% satisfied that sessions enhanced knowledge and capability	↑
85% overall satisfaction	92% overall satisfaction	85% overall satisfaction	✓
85% overall satisfaction	93.5% overall satisfaction	85% overall satisfaction	✓
110,000 average page hits each month	127,302 average page hits each month	112,500 average page hits each month	↑
n/a	<ul style="list-style-type: none"> <li>218 recent law items posted on JIRS</li> <li>163 summaries of select appeal decisions published on JIRS</li> <li>13 updates to bench books</li> </ul>	n/a	↑ ↑ ↑
3 updates to <i>Sentencing Bench Book</i>	3 updates to <i>Sentencing Bench Book</i>	3 updates to <i>Sentencing Bench Book</i>	✓
Sentencing principles in <i>Sentencing Bench Book</i> linked to new cases and legislation	Sentencing principles in <i>Sentencing Bench Book</i> linked to new cases and legislation	Sentencing principles in <i>Sentencing Bench Book</i> linked to new cases and legislation	n/a
1–4 months	Sentencing data received, audited and loaded on JIRS within 4 months of receipt	1–4 months	✓
	Published 55 summaries of significant appeal decisions in the <i>Judicial Officers' Bulletin</i>		✓
3 studies	2 <i>Sentencing Trends &amp; Issues</i> papers and 1 research monograph published	2 studies	✓
n/a	15 research requests from judicial officers and 25 non-judicial enquiries responded to	n/a	n/a
n/a	Done	n/a	✓
6	6	5	✓
	Examined 95% of complaints received during the year		↑
Examined 90% of complaints within 6 months; 100% within 12 months	Examined 82% of complaints within 3 months and 100% of complaints within 6 months	90% within 6 months; 100% within 12 months	↑
100% of complaints received acknowledged within 5 working days	100% of complaints received acknowledged within 5 working days	100% of complaints received acknowledged within 5 working days	✓
n/a	350 judicial officers in NSW heard around 700,000 court matters in 2014–15. 59 complaints about 50 judicial officers made	n/a	n/a
n/a	89% of complaints (49 of 55) were summarily dismissed under section 20 of the <i>Judicial Officers' Act</i> Only 6 complaints required further action	n/a	↑
	Information about the complaints process and how to make a complaint was provided in the annual report, on our website, and in brochure form		✓
n/a	Responded to 523 requests for information	n/a	↑
n/a	Commission examined all complaints according to statutory criteria and established protocols	n/a	n/a
n/a	42% of complaints arose from allegations of failure to give a fair hearing 29% of complaints arose from allegations of bias	n/a	n/a

Legend

✓ target achieved   x target not achieved   ↑ target/output increased

# President's foreword

I am pleased to present the foreword to the Judicial Commission's annual report for 2014–15.



## **The Honourable Tom Bathurst AC**

Chief Justice of NSW and President, Judicial Commission of NSW

It is a pleasure to provide this year's foreword to the Judicial Commission's 2014–15 Annual Report. The Judicial Commission is a vital institution that helps safeguard public confidence in the judiciary. Both through the handling of complaints and the running of ever extensive education and research projects, the Commission ensures the judiciary is accountable and informed. This year's report is a detailed and comprehensive summary of the Commission's activities in furthering those ends and

highlights some of the achievements of the Commission in its key areas of education, research and complaint handling.

### **Continuing judicial education**

The Commission's excellent work in judicial education continued unabated this year. The Commission exceeded its target for educative sessions, organising 39 in the year.



The number of sessions, quite apart from their excellent and interactive content, demonstrates the Commission's commitment to servicing the State's judicial officers' needs for education on recent legal developments and issues.

## Research and sentencing information

The increasing reliance the judiciary has on the Commission's work is also evident by the constant and widespread use of sites such as the Judicial Information Research System (JIRS). The use of the site continued to grow this year. In March 2015 alone the site was accessed 150,000 times. Given the relatively small proportion of users, this is a phenomenal figure. The consistent growth in the use of JIRS over several years is no doubt testament to the work the Commission undertakes each year to ensuring the site's resources remain as accessible and user friendly to judicial officers as possible. This year was no different with enhancement work focusing on improvements to the mobile and tablet platforms.

Consistent with its track record of combining innovative technology with judicial education the Commission has also commenced developing interactive learning modules on bail and sentencing to be incorporated into JIRS and as a stand-alone mobile app. I anticipate the coming year will see a continuation in the Commission's endeavours and developments in this area.

## Publications

In accordance with the Commission's mandate for performing independent research, the Commission this year met its publication target, producing several research papers. These included a cross-jurisdictional comparison of full-time sentencing imprisonment rates for particular offences and a report on sentencing for child sexual abuse in institutional contexts. These and the many other research projects the Commission was part of in the last year are instrumental in ensuring there is accessible, accurate and current data on key issues concerning the judicial system. Without such information, public confidence can quickly be lost. Fortunately however, the Commission's excellent research this year provided members of the judiciary and community alike with up-to-date information on highly pertinent issues the community is currently concerned with.

## Community engagement

The Commission's close work with the community also continued this year through such programs as the Ngara Yura Program and the Community Awareness of the Judiciary Program. The program for the third Community Awareness of the Judiciary Program was restructured with great success as reflected by the fact that on the last day participants gave an overall satisfaction rating of 100%. The aim of this program is to provide to members of the community with little or no legal background, accurate insights into the work of judges and magistrates and the complexities of the judicial task. Encouragingly, the work of the Commission appears to be increasingly known, with media enquiries more than doubling.

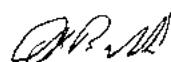
## Engagement with partners

This year has also seen the Commission continue to develop ties with partners nationally and overseas. The Commission is committed to promoting judicial training programs in the region and, to that end, signed a memorandum of understanding with the Solomon Islands Judiciary to provide judicial education programs for magistrates. The Commission also conducted a week-long orientation program for recently appointed magistrates with the Magisterial Services of Papua New Guinea. On a national level, the Commission is developing, in partnership with the Judicial College of Victoria, the National Judicial College, the Australasian Institute for Judicial Administration and the Family Court of Australia, a cultural diversity training package for judicial officers. The focus of the package will be on ensuring there is a more effective and consistent administration of justice across our multi-cultural society for people with culturally and linguistically diverse backgrounds.

## My thanks

As this year's report makes clear, the Commission's work throughout the year is to be commended. So too are the Commission's staff who make it all possible. I wish to particularly thank the Commission's principal officers, Mr Ernest Schmatt PSM, Chief Executive; Ms Ruth Windeler, Education Director; Mr Hugh Donnelly, Director, Research and Sentencing; and, Mr Murali Sagi PSM, Director, Information Management and Corporate Services. I would also like to express my thanks to the many judicial officers who continue to make an invaluable contribution to the Commission.

Finally, I would like to note that last year's Annual Report received a Gold Award at the 2015 Australasian Reporting Awards. This year's report is of an equally exceptional standard. I commend this year's report to you and thank all those involved in its creation and the work of the Commission.



The Honourable Tom Bathurst AC  
Chief Justice of NSW  
President

# Chief Executive's message

I am pleased to present my report on the Commission's performance and progress for 2014–15, and identify directions for the year ahead.



**Ernest Schmatt PSM**

Chief Executive, Judicial Commission of NSW

## Key focus and challenge for the year

Today's era of constant technological evolution means the Commission's greatest challenge is to remain innovative in the way we design, store and deliver our computerised sentencing data, legal information and continuing education programs. Sophisticated technology creates many opportunities to maximise the impact of our accumulated knowledge, but also creates a constant challenge to keep

pace with change and maintain data security. The need to innovate coincides with tight budgetary restraint, priorities which point in opposite directions.

A key focus this year has been on the design and testing of interactive learning modules on bail and sentencing. These will be incorporated as a component of JIRS and will be available on a stand-alone app.

## Our performance this year in key program areas

Performance in our 3 program areas has been consistent (an upward trend in most measures as detailed below) and we met or exceeded most of the targets set last year.

### Providing continuing judicial education

Our continuing judicial education program aims to inform judicial officers about changes to the law, community values, court practice and procedure. Fostering judicial capacity ensures that the people of NSW can be confident that justice has been dispensed correctly and fairly. The delivery of 39 discrete education sessions (last year: 32 sessions) meant that judicial officers had access to the equivalent of 4.3 education days for each judicial officer in NSW. Judicial officers also avail themselves of courses that other judicial education bodies provide throughout the year to supplement their professional development. I am pleased to report that satisfaction with our program has grown, with judicial officers who provided evaluations reporting a 92% overall satisfaction rate. Satisfaction with our Magistrates' Orientation Program is excellent, with a 99% rating. Our focus continues to be on designing and delivering specialised, interactive sessions to cater for specific judicial needs.

### Providing research and sentencing information

Use of our computerised sentencing and legal information, stored in the Judicial Information Research System (JIRS), has recorded a 3.2% growth over the year. Public use of our free-to-view legal information on our website has continued to grow at an overall rate of 12% (last year: 9%).

We published a major research study that compared sentencing levels for 5 serious offences in NSW with other States in Australia and overseas. The comparative analysis showed that sentences for a range of serious offences in NSW are among the most severe in Australia. The study is an important contribution to the ongoing debate about sentencing law in NSW.

### Examining complaints

The Commission has consistently met its time standards for examination of complaints over the last 5 years. The majority of complaints examined and finalised (89%) were dismissed under criteria for which the Commission must dismiss a complaint. This included where the complainant had a right of appeal or due to the fact that no judicial misconduct or incapacity was found. The average dismissal rate over 5 years is 92%. This year, 82% of complaints were examined within 3 months (last year: 61%) and all preliminary examinations were completed within 6 months.

### Engaging with our partners

A highlight of our capacity-building work was the Papua New Guinea Magistrates' Orientation Program, held in Port Moresby in February 2015. The Commission worked with the Local Court of NSW and the Magisterial Services of Papua New Guinea to design and deliver orientation for 18 new PNG magistrates. Feedback we received from participants was very positive: participants' satisfaction with the program rated at 99%.

## Our people

I am pleased to report that staff turnover remains low at 6%: this means the Commission retains highly-skilled professionals and high productivity. Staff satisfaction, as measured in our yearly staff survey, remains high at 93%.

## Our governance, policies and processes

The Honourable Reginald Blanch AM retired as Chief Judge of the District Court of NSW and as a member of the Commission on 7 August 2014. I thank Justice Blanch for his valuable contribution to the Commission's work since 1994. I welcome the new Chief Judge, the Honourable Justice Derek Price AM, as a member of the Commission.

## Our finances

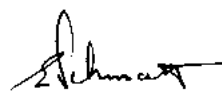
Our financial result was a small deficit of \$43,000. Self-generated revenue from the provision of information management services remained strong at \$745,000.

## Looking to 2015–16

Our aim for the year ahead will be on developing specialised education sessions to cater for judicial needs. Building on sustained interest, we will offer a series of field trips for judicial officers to NSW correctional centres. The Aboriginal cultural awareness program, the Ngara Yura Program, will feature a community visit to Bathurst. Our research, and sentencing focus will be on publishing a study that analyses appeals in NSW, including appeals against the severity or leniency of a sentence. We will also ensure that JIRS remains innovative in this era of rapid technological change. We will continue to share our expertise and experience with other jurisdictions in the Asia Pacific region.

## My thanks

I would like to thank the many judicial officers who generously give their time and share their experience to assist in the design and delivery of our education sessions and to update publications. I also thank the Commission members who provide guidance and leadership. I am indebted to the Commission's dedicated staff who deliver high quality services for the judicial officers and people of NSW.



Ernest Schmatt PSM  
Chief Executive, Judicial Commission of NSW



# Judicial Commission members

The Commission members provide the leadership necessary to achieve our strategic directions and goals. The Commission has 6 official members and 4 appointed members.

## Official members

The heads of the State's 5 courts as well as the President of the Court of Appeal of NSW are the official members. The Chief Justice of NSW is the Judicial Commission's President.

## Appointed members

The Governor of NSW appoints 3 people who, in the Attorney General's opinion, have high standing in the community. The fourth is a legal practitioner appointed following consultations between the Attorney General and the Presidents of the Law Society of NSW and Bar Association of NSW. The responsibilities of the Judicial Commission's members are outlined on p 70.

Figure 2 on p 18 illustrates the link between the Commission and the executive team.

## Our president



**The Honourable Tom Bathurst AC**  
Chief Justice of NSW — commenced 1 June 2011

The Chief Justice was admitted as a solicitor in NSW in 1972 and admitted to the NSW Bar in 1977. He was appointed Queen's Counsel in 1987 and Chief Justice of NSW in 2011. He was President of the Australian Bar Association 2008–09 and President of the NSW Bar Association 2010–11. The Chief Justice was also a Member of the Commonwealth Takeovers Panel, 2008–11.

The Chief Justice became a Companion of the Order of Australia in 2014.

As President, the Chief Justice is responsible for presiding at meetings and has a deliberative vote.

## Our official members



**The Honourable Justice Margaret Beazley AO**  
President of the Court of Appeal of NSW — commenced 1 March 2013

Justice Beazley was admitted to the NSW Bar in 1975 and appointed Senior Counsel in NSW in 1989. She was a judicial member of the Equal Opportunity Tribunal 1984–88; an acting District Court of NSW Judge 1990–91; and Assistant Commissioner of the Independent Commission Against Corruption 1991–92.

Justice Beazley was appointed a judge of the Federal Court of Australia 1993–96, an additional Judge of the Supreme Court of the Australian Capital Territory 1994–97, and a judge of the Industrial Relations Court of Australia 1994–1996. In 1996, she was appointed a Judge of Appeal of the Court of Appeal of NSW. In 2008 her Honour was awarded Doctor of Laws honoris causa (Hon LLD) by the University of Sydney. On 1 March 2013 she was appointed President of the Court of Appeal of NSW. In 2012, her Honour was one of the inaugural winners of *The Australian Financial Review* and Westpac "100 Women of Influence" Awards.

Her Honour became an Officer of the Order of Australia in 2006.



**The Honourable Justice Michael Walton**

**President of the Industrial Relations Commission of NSW — commenced 3 February 2014**

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Justice Walton is the President of the Industrial Court of NSW and the Industrial Relations Commission of NSW. He was appointed to that position in early 2014 after 15 previous years serving as the Vice-President of the Court. His Honour has served as a Governing Council member of the Judicial Conference of Australia since 2003 and as an executive member of the same since 2006. Justice Walton is called upon regularly to speak on general law issues as well as industrial and employment law. He has published widely in legal and other publications. He is presently a member of the Editorial Committee of the *Australian Journal of Labour Law*.



**The Honourable Justice Brian Preston**

**Chief Judge of the Land and Environment Court of NSW — commenced 14 November 2005**

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Justice Preston was admitted to the Bar in 1987, appointed Senior Counsel in 1999 and Chief Judge of the Land and Environment Court of NSW in 2005. He holds academic and editorial positions and has authored over 90 publications on environmental, administrative and criminal law. He has also been involved in a number of international environmental law consultancies and capacity-building programs for the judiciaries in Indonesia, Kenya, China, Trinidad and Tobago, Thailand and Sri Lanka. He is a member of numerous legal professional committees and Chair of the Standing Committee on Environmental Law of the Law Association for Asia and the Pacific (LAWASIA).



**The Honourable Justice Reginald Blanch AM**

**Chief Judge of the District Court of NSW — commenced 13 December 1994; retired 7 August 2014**

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Justice Blanch was admitted to the Bar in 1972 and appointed Queen's Counsel in 1981. He served as a Public Defender, as the State's Crown Advocate and the State's first Director of Public Prosecutions. He was appointed a judge of the Supreme Court of NSW in February 1994 and Chief Judge of the District Court of NSW in 1994.

Justice Blanch has held several Board positions including Chairman of the NSW Medical Tribunal and Chairman of the Board of New College at the University of NSW.

His Honour became a Member of the Order of Australia in 2004.



**The Honourable Justice Derek Price AM**

**Chief Judge of the District Court of NSW — commenced 8 August 2014**

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Justice Price worked as a solicitor in Sydney and in Dubbo, becoming a partner with Peacocke, Dickens and King in 1974. In 1988, his Honour was appointed a magistrate of the Local Court of NSW. He was appointed an acting judge of the District Court of NSW in 1999 and this appointment became permanent in 2000. In 2002, his Honour was appointed Chief Magistrate of the Local Court of NSW during which time he served as a member of the Judicial Commission. In 2006, his Honour was appointed a judge of the Supreme Court of NSW. His Honour has also been a member of the Governing Council of the Judicial Conference of Australia (1997–2000). His Honour was appointed the Chief Judge of the District Court of NSW on 8 August 2014 and remains a judge of the Supreme Court of NSW.

His Honour became a Member of the Order of Australia in 2010.



**His Honour Judge Graeme Henson**

**Chief Magistrate of the Local Court of NSW — commenced 28 August 2006**

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Judge Henson was admitted to the Bar in 1980 and served as Deputy Solicitor for Public Prosecutions in the Office of the Director of Public Prosecutions (NSW). He was appointed a magistrate in 1988, Deputy Chief Magistrate in 1994, Chief Magistrate of the Local Court of NSW in 2006, and a judge of the District Court of NSW in 2010.

Judge Henson is a member of the Executive Committee of the Judicial Conference of Australia; the Advisory Committee, Faculty of Law, Australian Catholic University; and the Advisory Board of the Faculty of Law at the University of Wollongong.

## Our appointed members



**Dr Judith Cashmore AO** BA (Hons) Dip Ed, M Ed, PhD

Appointed 1 December 2004; reappointed for 3 years from 19 August 2009; reappointed 7 November 2012 for 3 years

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Dr Cashmore is currently Professor of Socio-legal Research and Policy, Faculty of Law, University of Sydney and Adjunct Professor at Southern Cross University (Division of Arts). Dr Cashmore has chaired or served on numerous non-government and State and Commonwealth government committees concerning child sexual assault, child protection, child deaths, children's rights and family law. As a research academic, she has a keen interest in the application of research to policy and practice, particularly in relation to legal and administrative decision making and children's involvement in legal proceedings.

Dr Cashmore became an Officer of the Order of Australia in June 2010.



**Professor Brian McCaughan AM** MB BS

Appointed 16 May 2010 for 3 years; reappointed 30 October 2013 for 3 years

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Professor McCaughan is a cardiothoracic surgeon based at the Royal Prince Alfred Medical Centre, Sydney and Clinical Associate Professor in the Faculty of Medicine at the University of Sydney. Professor McCaughan has served as Chair of the NSW State Royal Australasian College of Surgeons Committee, President of the NSW Medical Board and Chair of the Sustainable Access Health Priority Taskforce. He has served as a Director of Surgical Services at the Royal Prince Alfred Hospital, Sydney and Area Director of Cardiovascular Services, Central Sydney Area Health Service. He is Chair of Boards of the Clinical Excellence Commission and the Agency for Clinical Innovation.

Professor McCaughan became a Member of the Order of Australia in 2009.



**Mr Nihal Gupta**

Appointed 19 August 2012 for 3 years

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Mr Gupta is Chairman of the Special Broadcasting Service (SBS) — Australia's multicultural television and radio public broadcaster. He is also Chair of the NSW Multicultural Business Advisory Panel, Deputy Chair of the National Aboriginal Islander Skills Development Association (NAISDA) Foundation Limited, board member of the Asia Society Australia, Trustee of the Board of Sydney Cricket and Sports Ground Trust and board member of Parramasala, an international contemporary arts festival that celebrates the global impact of Asian arts and cultures.

Mr Gupta has been variously called upon to represent and strengthen Australia's global position particularly in Asia. He has extensive experience in international business management as well as trade and investment throughout Australia and the Asia Pacific region, with more than 30 years working in global consumer electronics, home entertainment and technology sectors. Mr Gupta is the owner and director of consultancy firm Digital Electronics Corporation Australia Pty Ltd.



**Mr David Giddy** BA LLB

Appointed 7 November 2012 for 3 years

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Mr Giddy was admitted to the Supreme Court in 1978 and practised as a solicitor in general practice until 1990. Since 1990 he has practised exclusively in criminal law and is an accredited specialist in criminal law. In 1996, he became a member of the Criminal Law Committee of the Law Society of NSW. He has represented the Law Society on many panels, committees and commissions. In July 2009, he was awarded the Inaugural Law Society President's Medal in recognition of his significant personal and professional contributions to the betterment of law and justice as a solicitor in NSW.



# Our executive team

The executive team is responsible for our operations and ensuring we achieve our statutory goals.



**Ernest Schmatt PSM** Dip Law (BAB) is our Chief Executive

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Mr Schmatt commenced as Chief Executive on 17 April 1989. Prior to his appointment, he was the first Deputy Chief Executive of the Judicial Commission, appointed in 1987. He previously held senior legal and management positions in the public sector. He was admitted to the Bar in 1979 and is a solicitor of the Supreme Court of NSW and the High Court of Australia.

Mr Schmatt was awarded the Public Service Medal in the 1997 Queen's Birthday Honours List for service to public sector management and reform, public sector industrial relations and judicial education in NSW. He was elected to the Board of Governors of the International Organisation for Judicial Training (IOJT) in 2009 and to the Executive Committee of the IOJT in 2011. He was re-elected to this position in 2013. Since 1994, he has been a member of the Advisory Board of the Commonwealth Judicial Education Institute and serves on the management committee of the Asia Pacific Judicial Reform Forum.

Mr Schmatt is also an Honorary Associate in the Graduate School of Government, the University of Sydney. He has been involved in judicial capacity-building programs in China, Indonesia, Cambodia, Sri Lanka, Malaysia, the Philippines, Turkey and Papua New Guinea.

Mr Schmatt is responsible for our operations.



**Ruth Windeler BSc** is our Education Director

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Ms Windeler commenced as Education Director on 15 May 1996. She has over 40 years' experience in professional education having started her career in Canada in 1975. She has held positions in a number of Commonwealth countries: she served as Director of the Canadian Advocates' Society Institute; Co-ordinator and Instructional Design Administrator for the Institute of Professional Legal Studies in New Zealand; Director of Standards and Development for the Law Society of Hong Kong; Secretary to the Advocacy Institute of Hong Kong; and Head of the Department of Continuing Medical Education and Re-certification for the Royal Australasian College of Surgeons.

She has been a consultant to a number of professional education institutions throughout the world and has a keen interest in induction and orientation training, court craft, and assisting judicial officers to improve their communication skills. Ms Windeler has led significant training in this area throughout Australasia, Canada, the United States of America, the West Indies, Papua New Guinea and Japan.

Ms Windeler is responsible for our continuing judicial education program.



**Hugh Donnelly BA, LLB, LLM** is our Director, Research and Sentencing

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Mr Donnelly commenced as Director, Research and Sentencing on 13 July 2007. He was admitted as a legal practitioner in 1992 and his prior experience includes 4 years as Principal Research Lawyer and 3 years as High Court Lawyer at the Office of the Director of Public Prosecutions (NSW). He is the author of several publications on evidence and sentencing law, including the highly regarded *Sentencing Bench Book*.

Mr Donnelly is responsible for our research and sentencing program and for the Judicial Information Research System (JIRS).

## Our executive team *continued*



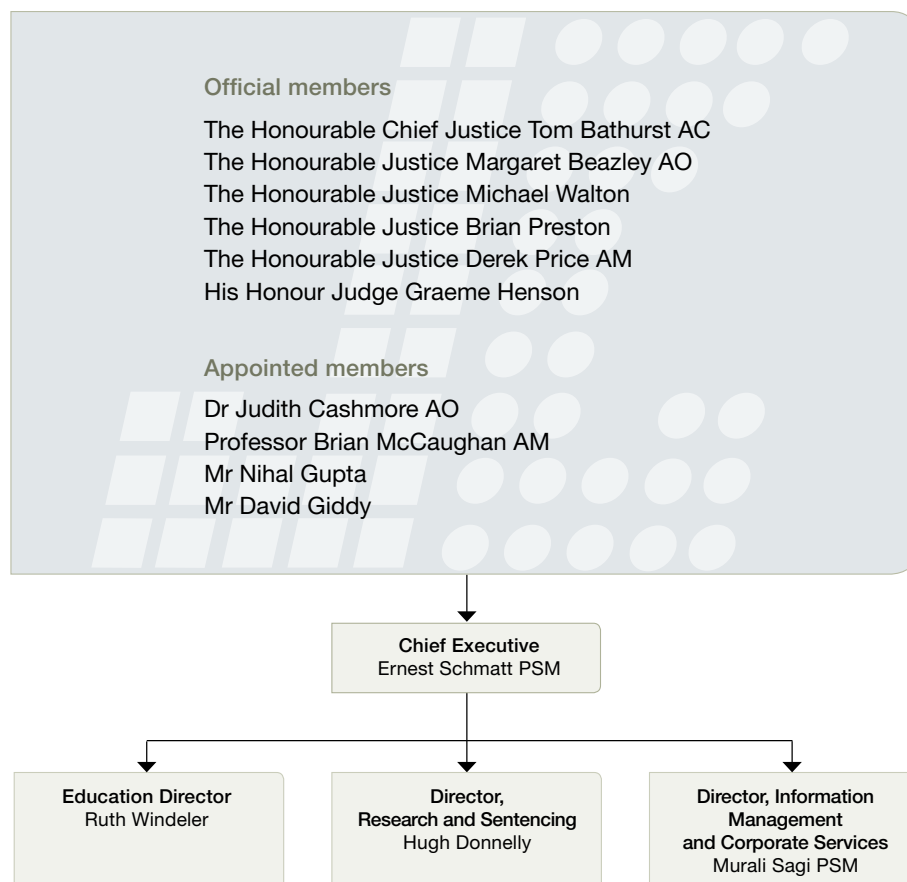
**Murali Sagi PSM** BEng GradCertPSM MBA FACS MIEAust Dip Law (LPAB) is our Director, Information Management and Corporate Services

Mr Sagi commenced as Director, Information Management and Corporate Services on 1 July 2007. He joined the Commission in 1992 and was appointed Director, Information Systems in 2000. He has over 25 years' experience in managing complex information technology projects and has provided technical expertise to AusAID, the United Nations Development Program, Asian Development Bank and the Commonwealth Secretariat, London, for capacity building projects in Indonesia, Cambodia, India, Sri Lanka and Papua New Guinea.

Mr Sagi was awarded the Public Service Medal in the 2007 Queen's Birthday Honours List for outstanding service to the Judicial Commission, particularly in the provision of information technology.

Mr Sagi is responsible for information management, corporate services and the Lawcodes program.

Figure 2. Commission members and executive team as at 30 June 2015





# Part 2

## Our performance

### Contents

Measuring our performance . . . . .	20
Financial performance . . . . .	20
Service delivery: providing for judicial officers of NSW . . . . .	21
Program 1 – Providing continuing judicial education . . . . .	22
Program 2 – Providing research and sentencing information . . . . .	32
Program 3 – Examining complaints . . . . .	42



# Measuring our performance

Since 1987, the Judicial Commission has been the primary provider of continuing judicial education in NSW. As an innovator, the Commission is regarded as a world leader in computerised legal information management. Our unique role in combining continuing judicial education and sentencing information with a complaints function means that we have a key role in:

- ensuring that judicial officers have the necessary skills and knowledge to promote public confidence in the judiciary
- responding to community values and expectations of the judiciary by ensuring that information received through the complaints process informs the continuing judicial education program
- connecting and collaborating with the global network of judicial education providers and benchmarking our performance against these partner organisations
- advising and assisting other jurisdictions in Australia through sharing information.

As well as reporting to the NSW Parliament in our annual report, our performance is monitored through:

- monthly executive reports and briefings to the Judicial Commission to assist with governance and decision making
- regular internal audits as part of our risk management and accountability processes
- annual external auditing of financial statements.

## Financial performance

Our financial result this year was a small deficit of \$43,000. We received an unqualified report for our financial statements from the Auditor General of NSW.

As shown in Table 1, income was \$6.13 million (last year: \$6.013 million), comprising \$5.247 million in Government contributions and \$0.883 million from other revenue sources.

We spent a total of \$6.173 million (last year: \$5.963 million). There was a 1.9% increase in revenue and a 3.5% increase in expenditure. Sales of our information management services at \$745,000 were lower than last year's \$995,000. Investment and other revenue totalling \$138,000 were higher than last year's revenue of \$42,000.

See pp 77–100 for our full financial report including the Independent Auditor's Report and the Chief Executive's certification of the financial report.

**Table 1. Financial summary 2013–15**

	2012–13	2013–14	2014–15	Change	Budget 2014–15
	\$'000	\$'000	\$'000	%	\$'000
<b>Revenue</b>					
Government contributions	5,321	4,976	5,247	5.4 ↑	5,276
Revenue from other sources	709	1,037	883	-14.9 ↓	876
<b>Total revenue</b>	<b>6,030</b>	<b>6,013</b>	<b>6,130</b>	<b>1.9 ↑</b>	<b>6,152</b>
<b>Expenditure</b>					
Employee-related expenses	4,247	4,364	4,295	-1.6 ↓	4,374
Other operating expenses	1,380	1,302	1,338	2.8 ↑	1,335
Depreciation and amortisation	94	97	85	-12.4 ↓	104
Grants and subsidies	–	–	6	0	–
Conduct Division	287	200	449	124.5 ↑	302
<b>Total expenditure</b>	<b>6,008</b>	<b>5,963</b>	<b>6,173</b>	<b>3.5 ↑</b>	<b>6,115</b>
<b>Net result</b>	<b>22</b>	<b>50</b>	<b>(43)</b>	<b>-186.0 ↓</b>	<b>37</b>

# Service delivery: providing for judicial officers of NSW

In their judicial role, judicial officers are required to:

- know, interpret and apply the current law to adjudicating disputes, awarding remedies, deciding criminal prosecutions, and sentencing people and corporations convicted of an offence
- make decisions about evidence and the credibility of witnesses
- be skilled in court control, case management and use of information technology
- be aware of gender, diversity and cultural issues and other potential barriers to access to justice such as disabilities and sexuality
- be aware of the social and cultural context in which decisions are made
- explain the reasons for judicial decisions in accessible language
- be independent and make decisions without bias or pre-judgment
- deliver equal justice according to the law and procedural fairness
- manage people who do not have legal representation
- have the required attitudes to perform the judicial role including authority, respect for people appearing in the courtroom, ability to control the courtroom and court processes.

To assist judicial officers to perform their role, we provide the following services:

## Continuing judicial education

- induction and orientation sessions for new judicial officers to assist in their transition from legal practitioner to impartial adjudicator
- annual conferences for all NSW courts to provide up-to-date information on specific topics and promote collegiality
- skills-based workshops, seminars, field trips and distance education to enhance judicial skills, attitudes and knowledge
- Aboriginal cultural awareness sessions and community visits so judicial officers are informed about Aboriginal society, customs and traditions
- digital and multi-media resources, online and print publications for information and research
- computer training and support.

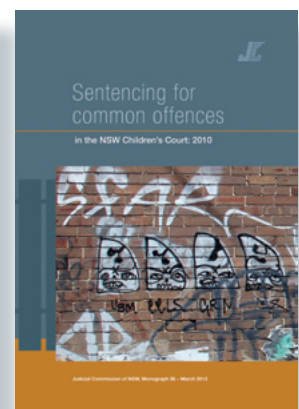
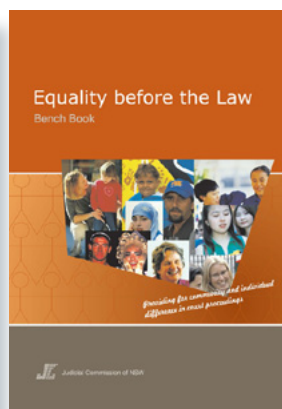
## Research and sentencing information

- the Judicial Information Research System (JIRS), an online database to assist day-to-day judicial decision making. The components of JIRS are described on p 35

- bench books which set out in logical order the major legislation and precedents which apply when conducting a criminal trial, procedural guidelines, suggested jury directions, and sample orders
- research studies including monographs and *Sentencing Trends & Issues* papers
- “Recent Law” summaries of important legal developments posted on JIRS
- email alerts to notify judicial officers of significant changes to the law or about sentencing methods
- comprehensive information about treatment options and rehabilitation facilities for offenders.

## Examining complaints

- the examination of complaints efficiently, independently, objectively and effectively
- advising the complainant and the judicial officer involved of the outcome of the complaints examination
- information, publications and talks about our role and function
- informal advice over the telephone, face-to-face and by letter and email
- monitoring patterns in complaints and addressing recurring issues in our judicial education program.



We produce a range of publications each year to inform judicial officers and legal practitioners about legal developments and changes to court practice and procedure.

# Program 1

## Providing continuing judicial education

### Results in brief

92% judicial  
satisfaction

with our continuing education  
program: see p 26.

We responded  
to concerns

about judicial performance raised  
in the complaints process: see p  
26.

Judicial skills, knowledge  
and attitudes were

enhanced as

a result of our continuing  
education program: see p 28.

judicial officers  
were informed

about changes to the law,  
community values, court practice  
and procedure: see p 29.

### Challenges for 2014–15

- Tailoring education programs for specific judicial needs requires ongoing information gathering from judicial officers, then design of the session, often including training the presenter.
- Designing appropriate education sessions to meet judicial needs and take into account information from other justice agencies in relation to legislative amendments to bail, domestic and family violence.





Magistrates from across NSW attended the Local Court of NSW annual conference in July 2014 to participate in 3 days of court-specific education sessions and updates on legal and procedural developments.

## The year ahead

- A key focus will be on judicial education about conducting child sexual assault trials.
- With other Australian judicial education providers, we will design and implement a pilot cultural diversity training program for judicial officers.
- We will develop specialised judicial education sessions. This approach recognises that judicial officers have different learning styles and obtain most benefit from a combination of learning methods. Smaller, interactive sessions encourage greater learning. We can accomplish this by training presenters to design their education sessions to include more interaction, aim for small group activities, and maximise the use of the audience response system as an effective way to promote interaction.
- We will continue to offer a series of field trips to NSW correctional centres to provide judicial officers with an opportunity to learn about gaol reception and classification procedures, and the programs that the Department of Corrective Services operate for inmates.
- We will regularly publish educational reference material to keep judicial officers informed about case law and legislative developments and changes to practice, procedure and community values.
- We will survey judicial officers to determine their needs regarding Aboriginal cultural awareness programing.

## Listening to judicial officers

Each education session we offer is evaluated so we know what judicial officers think of the programs we provide. Here is a snapshot of feedback we received during the year.

*“One of the benefits of these conferences, in addition to the information conveyed, is the time to reflect more broadly on personal attitudes and approaches to our work.”*

Local Court of NSW Annual Conference, July 2014

*“Good to hear about things that are not ‘every day’ legal issues but have the potential to impact our work.”*

Land and Environment Court of NSW Seminar on Social Media, July 2014

*“Very useful and instructive workshop, which will change entirely the way I write and deliver judgments.”*

Judgment Writing Workshop for the Local Court of NSW, August 2014

*“An informative, stimulating and most enjoyable weekend.”*

Ngara Yura Program Community Visit: Walgett, September 2014

*“Already I can see how I can make changes to my sentencing options to help improve outcomes.”*

Ngara Yura Program: Visit to St Heliers Correctional Centre, February 2015

*“This type of seminar is excellent. It is important we look at what we do through opposite and different perspectives.”*

District Court of NSW Seminar: Child Victims of Sexual Assault, September 2014

*“Thank you for this opportunity — couldn’t have come to terms with the changes without it.”*

Local Court of NSW Seminar: The Bail Amendment Act 2014, November 2014

*“One of the best Southern Conferences I have attended. Great location and good papers and presenters. Congratulations to the organisers and presenters — a job very, very well done.”*

Local Court of NSW Southern Regional Conference, March 2015

*“Many thanks again to all at the Judicial Commission for professional planning and execution.”*

District Court of NSW, Annual Conference, April 2015

*“Conferences at the Judicial Commission are always run beautifully. The staff make the process/day seamless and they are enthusiastic, attentive and friendly.”*

Children’s Court of NSW Section 16 Meeting, May 2015

*“It was a powerful and moving reminder of the importance of human connection and understanding in all of the work we do.”*

Ngara Yura Program Seminar: Violence at Home is Everybody’s Business: Legal Responses to Family Violence, June 2015

*“Visits like this should be compulsory for all judges.”*

Visit to the Long Bay Correctional Complex, May 2015

*“Shorter presentation and greater topics eg one hour presentation for each topic which would allow for more subjects to be covered.”*

Local Court of NSW Annual Conference, July 2014

*“Continue with the good work. More topics — no more than one hour.”*

Local Court of NSW Northern Regional Conference, April 2015

*“Very good scenarios. Demonstrates the need for more such practical exercises to promote greater consistency of sentencing.”*

District Court of NSW Annual Conference, April 2015

## Why we deliver continuing judicial education

The NSW public expects judicial officers to be impartial, independent, to know the law, and perform to the highest professional standard. Judicial officers come to their role as highly skilled barristers and solicitors, so our program is designed to assist new judicial officers in their transition from practitioner to impartial adjudicator. From there, we aim to continuously renew judicial skills and provide information about changes to the law, court practice and procedure, and community values.

Our continuing judicial education program is not compulsory. The level of voluntary attendance is a good measure of how well judicial officers accept the need for professional development and how relevant they find the education sessions to their judicial role. Table 2 below shows that the Commission offered judicial officers 4.3 days of education for each judicial officer (last year 4.6 days). The overall attendance rate of 3.7 judicial education days a year provided a good start for judicial officers to meet the national standard of 5 days a year, which can also be met by attending other judicial education providers' programs. This benchmarking standard was designed for all Australasian courts. The Council of Chief Justices of Australia and national and State judicial education bodies have adopted the standard. (See Appendix 3 on p 107 for further details about the national standard.)

The education program provides a range of services and resources to cater for varied learning styles and the availability of judicial officers to attend and participate in education sessions. Services delivered include:

- induction and orientation sessions for new judicial officers
- annual conferences for all NSW courts
- skills-based workshops
- seminars
- field trips
- distance education
- Aboriginal cultural awareness sessions and community visits
- digital and multi-media resources
- online and print publications
- computer training and support.

### Designing the education program

The judicial education program is judge-led and judge-run. The Commission's Education Director, Ms Ruth Windeler and her staff work with the Standing Advisory Committee on Judicial Education, the education committees of each court, and the committees of judicial officers that oversee our publications to develop the program. Judicial officers are involved in every stage, from planning of courses to their presentation. Figure 3 below shows how this process works and Appendix 4 on p 108 gives details about our committees. Judicial officers who serve on these committees generously give their time and expertise. Concerns raised by the public in the complaints process also inform this design process.

Figure 3. Judicial education design process

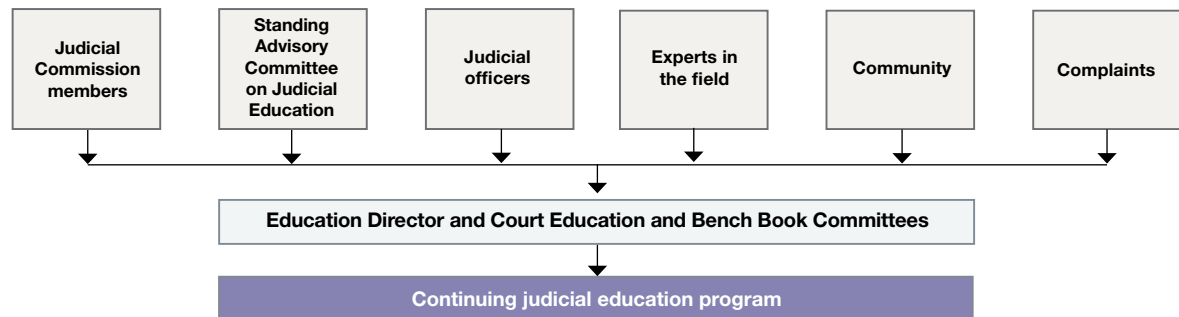


Table 2: Attendance at education sessions 2010–15\*

Measures	2010–11 result	2011–12 result	2012–13 result	2013–14 result	2014–15 target	2014–15 result	2015–16 target
% of judicial officers who attended annual conferences*	93%	77%**	90%	87%	90%	85%	90%
% of attendance at magistrates' induction/orientation programs	100%	100%	100%	100%	100%	100%	100%
% of judicial officers who attended at least 2 days of judicial training*	93%	82%	90%	87%	90%	67%†	90%
Average number of training days offered per judicial officer**	5.3	4	5	4.6	5	4.3	5
Number of judicial education days each year	1,389	870**	1,232	1,168	1,400	1,075†	1,200
Average number of training days undertaken at Judicial Commission programs (national standard is 5 days from all providers)*	4.7	3**	4	4	5	3.7†	5

\* These figures do not include acting judicial officers.

\*\* The Local Court of NSW Annual Conference was not held in 2011–12 so magistrates were only offered 2 Local Court specific education days, not 5.

† The 2015 District Court of NSW Annual Conference was reduced to one day to allow judges to attend the 3-day biennial District and County Court Judges' Conference in Melbourne.

Note: A day of education is based on 5–6 instructional hours attended by a judicial officer. It is calculated by multiplying the number of judicial officers in attendance at judicial education sessions by the duration of that educational session: eg 18 participants x 2 days = 36 education days.

## Evaluating the program's performance

An assessment of the program's results shown in Table 3 demonstrates that our continuing judicial education program performed well in 2014–15. The table shows the evidence for each identified result as well as details of each measure we have put in place to achieve our objectives.

Table 3. Results for continuing judicial education

Result	Measures	Performance
Judicial officers were informed about changes to the law, community values, court practice and procedure.	Maintain or increase number of reviewed publications.	Monthly Judicial Commission meetings and/or bench book committees and experts reviewed publications.
		Publications output increased and included 18 bench book updates, 2 major research papers, 11 bulletins, 2 journal issues, and 1 DVD.
	Maintain or increase number of specialised education sessions offered.	Increased the number of education sessions offered with 39 education events held (last year: 32).
	Education sessions offered assisted judicial officers to reach the national standard* of 5 judicial education days each year.	We offered 4.3 education days per year for each judicial officer.
Judicial skills, attitudes and knowledge were enhanced.	Maintain or increase ratings that our services provide judicially relevant and stimulating education and information.	Evaluations show 80% of participants (last year: 78%) agreed that education sessions were applicable to their work; and 76% (last year: 71%) agreed they enhanced their knowledge and capability.
	Maintain number of skills-based workshops.	6 workshops (last year: 7) offered throughout the year.
Judicial officers were satisfied with our continuing education program.	Maintain or improve satisfaction rates from last year.	Evaluations of all education sessions show we improved our performance with 92% satisfaction with continuing education program (last year: 89%).
	Maintain or increase voluntary attendance rates.*	Attendances rates slightly declined to 3.7 average training days undertaken by each judicial officer (last year: 4 days).
We responded to concerns about judicial performance raised in the complaints process.	Design education sessions based on specific concerns raised in complaints.	Education sessions in orientation programs held in 2014–15 addressed bias; requirements for a fair and courteous hearing; judicial conduct in and out of court.
	Information in the <i>Equality Before the Law Bench Book</i> is current and addresses access and diversity issues.	Update to the <i>Equality Before the Law Bench Book</i> published in June 2015.
Expenditure was within budget.	According to budget plan.	As at 30 June 2015, judicial education expenditure was \$3.2 million, or 52% of overall expenditure.

\* The national standard for attendance is 5 days a calendar year. The national standard was developed by the National Judicial College of Australia and endorsed by the Council of Chief Justices of Australia and national and State judicial education bodies: see Appendix 3 on p 107 for more information.



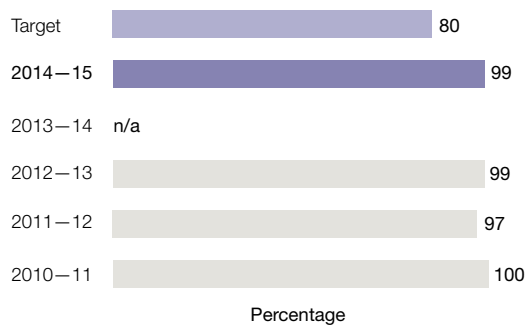
## Performance of induction and orientation sessions

Induction and orientation sessions are designed to assist legal practitioners in their transition to the judicial role.

Our induction and orientation program for magistrates and the National Judicial Orientation Program (NJOP) for judges address the significant requirements of the judicial role as well as the personal implications of becoming a judicial officer and standards of behaviour required. Two week-long orientation programs were held during the year with both programs meeting their specified learning objectives and participants rating their approval of the programs as excellent or very high. Sessions covered in these programs are listed in Appendix 5 on p 109. The Commission jointly presented the NJOP with the National Judicial College of Australia, the Australasian Institute of Judicial Administration, and the Judicial College of Victoria.

Judicial skills, attitudes and behaviour were also addressed at a week-long orientation program for newly appointed magistrates from the Local Court of NSW. Magistrates from other States also participated in this program. Participants rated their overall approval of this program at 99% which is a good measure of its relevance to the judicial role. See Figure 4.

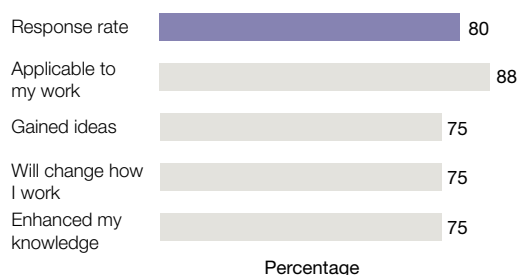
**Figure 4. Satisfaction with Magistrates' Orientation Program**



During the year we provided 12 judicial orientation packages, access to the Judicial Information Research System (JIRS) (see p 35) and computer support for new judicial officers (last year: 15). In partnership with the Local Court, we provided 7 pre-bench training sessions for new magistrates (last year: 6).

A good indication of whether the orientation programs provided professional and practical benefits to the judicial role was obtained from individual evaluations. Of the magistrates who provided feedback, 88% found it was applicable to their work and 75% said the program enhanced their knowledge and capability as a judicial officer: see Figure 5.

**Figure 5. Rating of professional and practical benefits of 2014–15 Magistrates' Orientation Program**



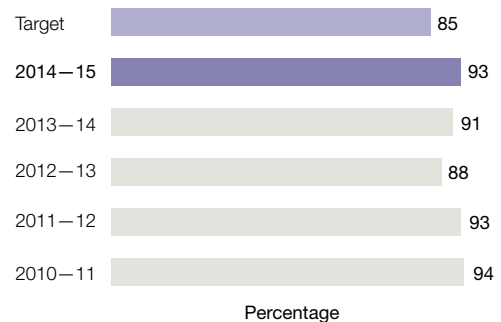
## Performance of Aboriginal cultural awareness: the Ngara Yura Program

“Ngara Yura” means “to hear and listen to the people” in Eora, one of the original languages of the Gadigal people who lived around Sydney Harbour. The program grew out of recommendations of the Royal Commission into Aboriginal Deaths in Custody in 1991: these can be found at Appendix 9 on p 115. The Ngara Yura Program is offered to raise judicial awareness about Aboriginal culture and raise consciousness about Aboriginal interactions with the criminal justice system.

We employ an Aboriginal Project Officer, Ms Joanne Selfe, who works with a committee to develop education and training activities. Committee membership is found in Appendix 4 on p 108. The program adopts a multi-faceted approach, with community visits, seminars and publications designed to promote intercultural communication and understanding.

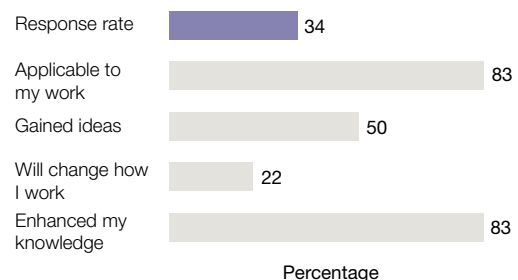
Approval of the Ngara Yura Program increased this year with participants who provided feedback 93% satisfied with the program (last year: 91% satisfaction) as shown in Figure 6 below.

**Figure 6. Satisfaction with Ngara Yura Program**



Of the judicial officers who attended Ngara Yura community visits and events, 83% found that the visit was both relevant to their work and enhanced their knowledge and capability as shown in Figure 7.

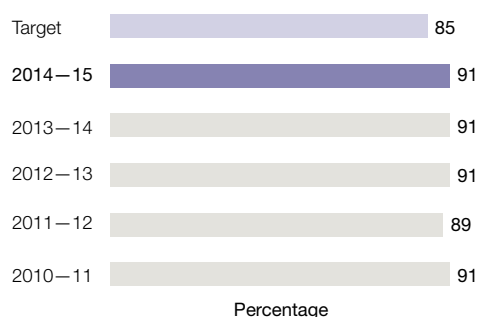
**Figure 7. Rating of professional and practical benefits of 2014–15 Ngara Yura Program**



## Performance of annual conference program

An annual conference was held for each of the 5 courts in NSW during 2014–15. Figure 8 shows that satisfaction with the annual conference program was maintained with participants being 91% satisfied with their annual conference (last year: 91%). The education committee of each court, working with the Education Director of the Commission, developed specialised sessions for the specific needs of the court and its judicial officers and invited suitable judicial or expert presenters to facilitate these. Based on evaluations received from participants, judicial officers feel that their education needs continue to be met through annual conferences which also promote court collegiality. The full list of sessions offered at each court is found in Appendix 5 on p 109.

**Figure 8. Satisfaction with annual conference program**

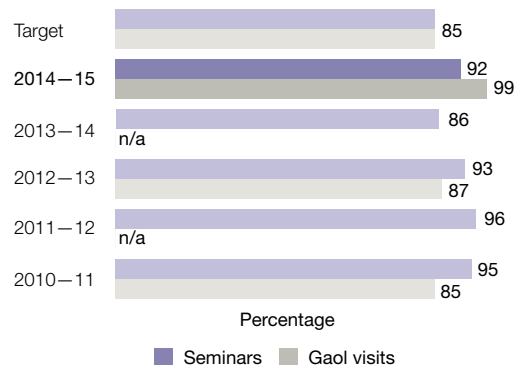


## Performance of workshops, seminars and gaol visits

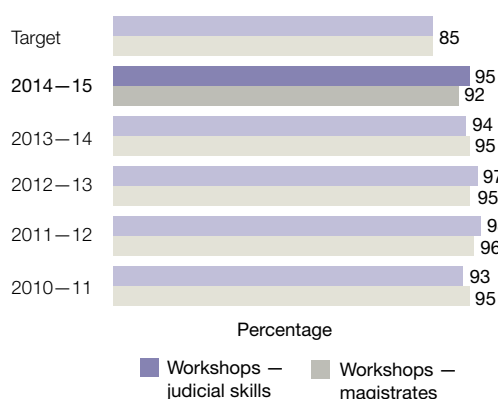
Seminars, workshops and gaol visits are offered throughout the year. These are specialised sessions which address specific educational needs of judicial officers identified through the education design process. During the year, 28 sessions were held, covering a range of educational topics for judicial officers: the full list of topics can be found in Appendix 5 on p 109.

Judicial officers expressed high satisfaction with these sessions, with participants rating their approval at 92% for seminars, 95% for judicial skills workshops, 92% for magistrates' workshops, and 99% for gaol visits as shown in Figures 9 and 10 below. Figure 11 shows that the majority of judicial officers were satisfied with the professional and practical benefits of these sessions.

**Figure 9. Satisfaction with seminars and gaol visits**

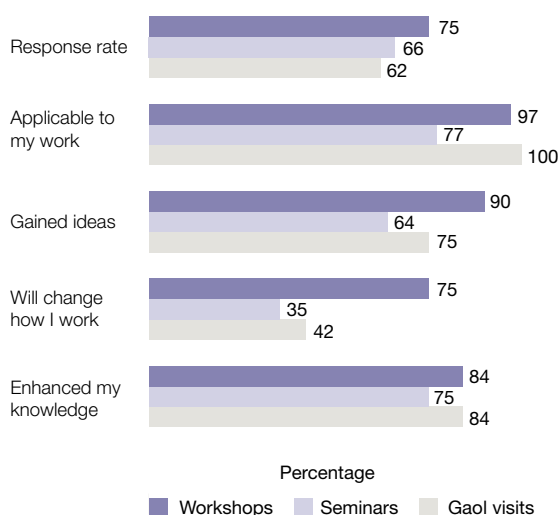


**Figure 10. Satisfaction with workshops**



Participants at the Metropolitan Seminar Series for magistrates held in February 2015.

**Figure 11. Rating of professional and practical benefits of 2014–15 workshops, seminars and gaol visits**



## Performance of distance education

To respond to the online education needs of judicial officers, the Commission has developed a conference paper database which is available through the Judicial Information Research Service (JIRS: see p 35). The database is a rich, educational resource in which all available papers and presentations from our conference and seminar program are published. Audio podcasts and videos of select seminars are also posted so that judicial officers who cannot attend an event can listen to or watch the presentation in their own time. During the year, we published 86 new papers and presentations on the database (last year: 68).

## Performance of online and print publications, digital and multi-media resources

The Commission's publishing program informs judicial officers, subscribers, and the public about current law, practice and procedure, social context issues and changes to the law. Our publications are regularly updated and published in print, on the Judicial Information Research System (JIRS) and our website. Free access to publications on our website is a means of promoting public confidence in the justice system through providing accurate and current information and informed analysis about the work and role of judicial officers.

The impact of our publications is measured in several ways:

- through their use on JIRS (judicial and legal profession use) (see Table 4 below)
- through their use on our website (public viewing) (see Table 13 on p 57)
- Informit viewings (academic use) (see Figure 12 below).

Use of our publications through JIRS has increased this year for 4 of 9 publications and decreased for 5. Use of the *Local Court Bench Book* (a resource for magistrates), the *Sexual Assault Trials Handbook* and the *Judicial Officers' Bulletin*

**Table 4. Publications accessed on JIRS (page hits) 2012–15**

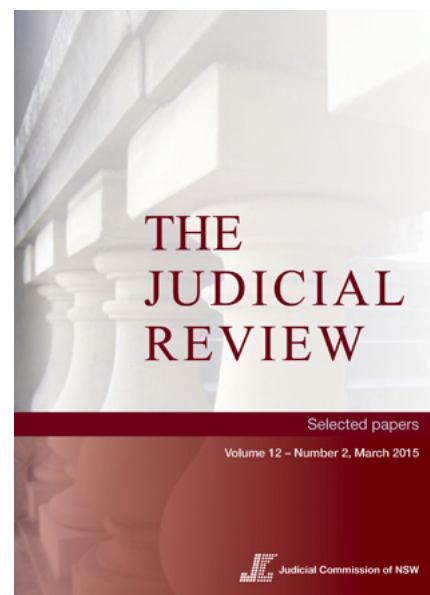
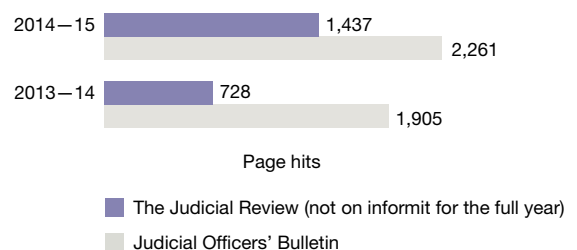
Publication	2012–13 hits	2013–14 hits	2014–15 hits	Change %
Civil Trials Bench Book*	2,585	2,643	2,613	-1.1% ↓
Local Court Bench Book	27,658	31,829	34,773	+9.2% ↑
Sexual Assault Trials Handbook	3,947	3,721	4,308	+15.8% ↑
Equality Before the Law Bench Book*	203	218	276	+26.6% ↑
Children's Court of NSW Resource Handbook	26	1,740	1,514	-13.0% ↓
Education monographs*	79	169	81	-52.1% ↓
Judicial Officers' Bulletin*	2,789	2,702	3,124	+15.6% ↑
The Judicial Review*	142	275	137	-50.2% ↓

\* Printed copies also sent to judicial officers.

has shown strong growth and this demonstrates high impact in terms of their use for judicial and legal professional reference material. The relatively high use of the *Local Court Bench Book* can be attributed to magistrates accessing this publication through iPads™ after this publication became online-only from 1 July 2013. Table 4 below shows the trends in JIRS use of our publications during the year. Access to our publications from our website grew at an overall rate of 12% (last year: 9% growth).

Informit is an extensive collection of databases, providing access to peer-reviewed and specialist journals published in Australia. Inclusion of our *Judicial Officers' Bulletin* and *The Judicial Review* demonstrates that Informit considers these publications to be of a scholarly standard. Viewings of both our publications saw a 40.45% increase from the previous year as shown in Figure 12 below. This demonstrates the growing impact of our published work.

**Figure 12. Informit viewings of our publications**



*The Judicial Review* is published twice a year and is a selection of the best of the Commission's conference papers, as well as other legal conferences throughout Australasia. The Review informs judicial officers about legal developments; the art and craft of judging; a particular topic of interest to judicial officers that may not otherwise receive exposure; and adds directly to the body of knowledge of law or practice available to judicial officers.

The full list of our publications is found in Appendix 8 on p 113 and the list of articles published this year is found in Appendix 7 on p 113. Our publications in 2014–15 included:

- 18 bench book updates: these loose-leaf reference books assist judicial officers to conduct trials. They contain relevant legislation, case law, sentencing principles, procedural guidelines, suggested jury directions and sample orders. Bench books promote a consistent judicial approach and help reduce the risk of error. The bench books are updated and reviewed by committees, made up of current and retired judicial officers and Commission staff. Considerable effort is required to maintain their currency to ensure that changes are reported quickly and accurately. Bench books are available online through the Judicial Information Research System (JIRS), our website and as a hard copy publication for many judicial officers.
- 1 training video: to inform judicial officers about amendments to bail laws that came into operation in January 2015
- 1 research monograph: to advise judicial officers about comparative sentencing levels throughout Australia for particular offences (see p 38 for more information)
- 1 study of sentencing for environmental and planning offences prosecuted in the Local Court of NSW (see p 38 for more information)
- 11 issues of the *Judicial Officers' Bulletin*: a monthly newsletter that informs judicial officers of important developments to case law and legislation and current legal issues
- 11 issues of the e-newsletter: a monthly newsletter that informs judicial officers about upcoming seminars, conferences, and recent conference papers available to download
- 2 issues of *The Judicial Review*: this is a peer-reviewed journal bringing together conference papers to inform readers of technical and topical matters, court craft, and social context issues.

## Providing computer training and support

An ongoing upward trend is the judicial take up of iPad™ technology. This has significantly changed the type of requests the Judicial Commission's help desk fielded during the year. We offer help desk support to assist judicial officers achieve high standards of judicial performance.

While our focus has primarily been on providing training, it has now moved almost exclusively to a mobile device support role.

Many judicial officers now have their own iPads™, or similar tablets. The iPads™ have required a security application called MobileIron to be installed so that corporate emails can safely be received and sent from the iPad™, and to provide a document-secure working environment for users. Installation of this application can be time consuming, and the Judicial Commission help desk has greatly assisted in this process. We also ensure that each iPad™ is satisfactorily set up to easily access the Judicial Information Research System (JIRS), as well as any other research sites that users require. While some of these installations are completed at conferences, many are completed in chambers, at a time to suit the individual judicial officer.

Magistrates have recently been issued with new iPads™ that must be set up in such a way that effectively replicates the appearance of their previous devices. This requires a one-to-one approach and can be very time consuming.

More than 40 visits have been provided to individual judicial officers in their chambers during the year. We also responded to 450 phone calls and email requests for support (last year: 402).

## Case studies

### Field trips to correctional centres

Field trips to correctional centres have been a popular initiative for judicial officers this year. In partnership with Corrective Services NSW, the field trips are held to highlight the realities of sentencing, the prisoner classification system, and to raise judicial awareness of programs and facilities available to promote rehabilitation and vocational training.

In February 2015, judicial officers visited St Heliers Correctional Centre. This minimum security institution for males, many of them Aboriginal, is situated on the outskirts of Muswellbrook in the Hunter Valley. The visitors learned about the Gundi Program offered at St Heliers. This program fosters practical skills to reintegrate inmates and reduce the risk of further offending through community-focused construction

work. Some inmates engaged on the Gundi Program build houses for remote Aboriginal communities and more recently, modular prison cells due to the growing prison population.

A field trip to the Long Bay Correctional Complex in May 2015 included tours of the Metropolitan Special Programs Centre and Long Bay Hospital for forensic inmates. These include patients who have been found unfit to plead or not guilty by reason of a mental illness.

Judicial officers who attended these field trips were invited to evaluate their experience: the overall satisfaction rating was 85%; participants said the trip was 100% relevant to their work and 84% said it enhanced their knowledge and capability.



## Raising awareness of family violence

Family violence is an insidious problem increasingly in the headlines. Understanding of the nature and causes of family violence has changed significantly over the last 25 years. In June 2015, the Judicial Commission, the NSW Bar Association, and the NSW Law Society jointly sponsored a seminar for judicial officers and members of the legal profession to raise awareness of family violence. The seminar focused on the nature of family violence, and the impact on those directly involved and those working with victims and offenders in the legal system.

Ms Rosie Batty, Australian of the Year for 2015, shared her personal account of the death of her 11-year-old son at the hands of her former partner and her frustrations with the court system. Ms Cheryl Orr, Indigenous Lawyer of the Year 2014, spoke of her experience helping return Indigenous children to their families after their removal

by the Department of Community Services and the balance that has to be struck between removal issues and domestic violence problems. Both speakers, along with Ms Dixie Link-Gordon of Rape and Domestic Violence Services Australia, emphasised the need to tackle domestic violence issues at a grass roots level, helping the community to enforce the message that domestic violence is not acceptable.

Justice Hilary Hannam, a Family Court judge, spoke about the vulnerability of children to family violence, and emphasised that much could be done within the legal system to protect children. The opportunity to hear about this problem from the perspective of the 4 speakers, including a judge and a victim/survivor, gave those in attendance the opportunity to consider the complexities of this problem.



Pictured (from l-r) Cheryl Orr (Cheryl Orr Family Law), Dixie Link-Gordon (Rape and Domestic Violence Services Australia); the Honourable Justice Hilary Hannam (Family Court); Rosie Batty, (Australian of the Year 2015); and Joanne Selfe, (Ngara Yura Project Officer from the Judicial Commission of NSW). Photo courtesy of Law Society of NSW.

## Connecting judicial officers with Aboriginal communities and culture

Community visits are a feature of the Ngara Yura Program, established in 1992 to respond to recommendations of the Royal Commission into Aboriginal Deaths in Custody.

In September 2014, we organised a visit to Walgett, a remote community in north-western NSW with the assistance of funding from the National Judicial College of Australia. During the 2-day visit, the judicial visitors were briefed about the impact of the "Tackling Violence" prevention program that uses regional rugby league clubs to promote change in attitude and behaviour within the community about domestic violence. Informal meetings were also held with Elders and families from the Gingie community, on the site of a former Aboriginal mission.

Judicial officers, their families and Commission staff also attended a half-day field trip to Bundeena to see the Jibbon Beach rock engravings. An Aboriginal Discovery Ranger shared his knowledge of the local Dharawal people and their continuing cultural practices in the area. The visit aimed to share the history, stories and culture of the Dharawal people through their rock engravings, the oldest surviving human art form.

The cross-cultural understanding that comes from these visits is invaluable to both the Aboriginal communities and judicial officers as it provides the opportunity to learn from and listen to one another in an informal setting.

Our website has information about the Ngara Yura Program, including biographies of committee members, details of community visits, seminars and conferences. This can be accessed at [www.judcom.nsw.gov.au](http://www.judcom.nsw.gov.au).



Robert Young, an Aboriginal Discovery Ranger, addresses judicial officers at Jibbon Beach, Bundeena, about Aboriginal cultural practices.

## Program 2

# Providing research and sentencing information

### Results in brief

Judicial officers had  
**access to  
current law** to  
assist in their day-to-day decision  
making: see p 36.

Judicial officers were promptly  
**informed about  
changes** to criminal  
law and criminal practice and  
procedures: see p 36.

**accurate  
sentencing  
information** was  
available to judicial officers and  
information about sentencing  
was communicated: see p 36.

Judicial officers were  
**promptly  
notified** of changes in  
sentencing law and practice:  
see p 36.

Judicial officers were informed  
about **sentencing  
options** and  
rehabilitation facilities for  
offenders: see p 36.

The Judicial Information Research  
System (JIRS) was  
**improved**  
to meet judicial officers' needs:  
see p 36.

### Challenges for 2014–15

- Keeping up-to-date with changes in the law
- Balancing core work with requests for sentencing information from the NSW Sentencing Council, the Royal Commission into Institutional Responses to Child Abuse and NSW criminal justice agencies.
- Maintaining accuracy and timeliness of JIRS sentencing data.



We publish original research on aspects of sentencing in a series of research monographs. These are distributed to judicial officers and others with an interest in the criminal justice system.

## The year ahead

- Our core research focus is to ensure that Judicial Information Research System (JIRS) remains current and accurate so that judicial officers and practitioners are kept informed about changes to the criminal law.
- Our technology focus will be to develop interactive learning modules on sentencing and bail. These will be incorporated as a component of JIRS and will be available on a stand-alone app.
- Our goal for next year will be to focus on smarter methods for accessing legal and statistical information from JIRS.
- We will produce 2 studies: one will examine sentencing for environmental offences dealt with in the Land and Environment Court of NSW. The second will analyse appeals in NSW, including appeals against the severity or leniency of a sentence.
- We will publish 3 updates to the *Sentencing Bench Book* and *Criminal Trial Courts Bench Book*.
- We will conduct a substantial review of our data collection process and the legal categories used in our sentencing statistics.

## Listening

As we provide legal information for judicial officers and the legal profession, we need to understand whether our service is regarded as relevant and effective.

*"This exceptional report is a valuable resource for many people working in the criminal justice area. It is carefully researched and rigorously analysed. The collation and consideration of vast amounts of relevant information is simply outstanding."*

Public Defenders' response to report on Sentencing for Child Sexual Abuse in Institutional Contexts to the Royal Commission

*"The new entry [on procedure for fitness to be tried and mental illness cases] in the Criminal Trial Courts Bench Book is ground-breaking."*

Professor Dan Howard SC, President NSW Mental Health Review Tribunal

*"A helpful 2010 publication\*, issued by the Judicial Commission of New South Wales, observed that intermediate appellate courts had recognised that the prevalence of child pornography offences justified strongly deterrent sentences, and that the Internet accounts for the increase in offending."*

*R v Porte* [2015] NSWCCA 174

\*Judicial Commission of NSW, *Sentencing Offenders Convicted of Child Pornography and Child Abuse Material Offences*, Research Monograph 34, 2010.

*"See also the very useful discussion of sentencing participants in a joint criminal enterprise in A Dyer and H Donnelly, 'Sentencing in complicity cases — Part 1: Joint criminal enterprise', Sentencing Trends & Issues, No 38, Judicial Commission of NSW, 2009."*

*Imnetu v R* [2014] NSWCCA 99

## Why we provide sentencing information and resources

When a person pleads not guilty to an offence, the criminal trial must be conducted according to law, ensuring fairness to the accused person. When a court sentences a person convicted of a criminal offence, it must follow settled principles and apply them in a consistent way. One of our functions is to assist the courts to achieve a consistent approach to sentencing.

Our research and sentencing program is designed to provide timely and relevant information to assist judicial officers in their day-to-day work as they conduct criminal trials and sentence convicted offenders. We achieve this without interfering with a judicial officer's independence by:

- providing sentencing information and explaining criminal law developments through online and print platforms. Our bench books and original research studies are published in hard copy and online through the Judicial Information Research System (JIRS) and on our website. Bench books set out in logical order relevant case law and legislation which apply when conducting a criminal trial, procedural guidelines, suggested jury directions, and sample orders
- providing detailed information on sentencing principles and practice in the *Sentencing Bench Book* supplemented by recent law items and easy-to-follow statistical information published on JIRS
- providing guidance on the sentences that other judicial officers have given in similar circumstances by publishing sentencing statistics and summaries of appeal decisions on JIRS and in the monthly *Judicial Officers' Bulletin*. The Bulletin is sent to all judicial officers and government law and justice agencies in NSW
- researching and publishing information on sentencing trends in print and online. Our original research studies include monographs and papers that analyse sentencing trends and issues
- publishing changes to the criminal law (case law and legislation) on the "Recent Law" component of JIRS. A major part of our work is preparing recent law items for this component. We summarise all significant criminal High Court decisions; every NSW Court of Criminal Appeal decision where the court altered the sentence/s imposed at first instance; important interstate appellate decisions concerning Commonwealth sentencing, the interpretation of evidence law, and cases that have the potential to affect the conduct of criminal trials; all cases where the standard non-parole provisions were applied; other selected appeals which involved discussion of a sentencing principle; cases which have an impact on the work of magistrates in the Local and Children's Courts; and all legislation which affects criminal practice and procedure
- notifying judicial officers by email alert about significant changes to the law or about sentencing methods.



## How we delivered our program: the Judicial Information Research System

The Judicial Information Research System (JIRS) is an online database for judicial officers and legal practitioners. Figure 13 visually depicts the components of JIRS and shows how the information flow works to support independent judicial decision making. JIRS provides rapid and easy access to the courts' decisions and to legislation. The database is the first of its kind in Australia and is a world leader in the field of legal databases. It is an extensive, interrelated and hypertext-linked resource that provides modules of reference material for judicial officers presiding over trials or sentencing.

## Maintaining JIRS

JIRS is maintained so that judicial officers have access to current and accurate case law, legislation, practice and procedure. We continually monitor the law and update the database to keep judicial officers informed of current law to assist in their decision making.

We check the currency of all legislation on JIRS each week and on a daily basis monitor developments in case law, legislation and government policy. These developments are analysed and added to our database and publications. To ensure the integrity of our statistics, we audit all higher courts' data received from the NSW Bureau of Crime Statistics and Research (BOCSAR).

Figure 13: The Judicial Information Research System (JIRS): a complete judicial decision support system

Description	What we do	JIRS Component
Early notice of important legal developments.	<ul style="list-style-type: none"> <li>identify significant decisions and legislative changes</li> <li>extract core principles of case law and legislation and post online</li> <li>print and distribute monthly <i>Recent Law</i> flyer.</li> </ul>	Announcements and Recent Law
Statistics on the range and frequency of penalties imposed in similar cases.	<ul style="list-style-type: none"> <li>receive data from BOCSAR</li> <li>audit data</li> <li>process and load data on JIRS within 1–4 months of receipt.</li> </ul>	Sentencing statistics
Full text of judgments and case summaries for selected cases.	<ul style="list-style-type: none"> <li>receive cases from High Court, NSW Court of Criminal Appeal (NSWCCA), NSW Court of Appeal, Supreme Court of NSW, NSW Land and Environment Court, NSW Industrial Relations Commission, NSW District Court and NSW Local Court</li> <li>advance notes supplied by Office of the Director of Public Prosecutions</li> <li>post judgments within 1 working day of receipt</li> <li>prepare recent law items within 14 days of receipt for important decisions</li> <li>prepare important NSWCCA case summaries within 2 weeks of receipt</li> <li>link cases and summaries to sentencing principles and practice component and the <i>Criminal Trial Courts</i> and <i>Civil Trials Bench Books</i>.</li> </ul>	Case law
Concise commentary on sentencing principles.	<ul style="list-style-type: none"> <li>take sentencing principles from new cases and legislation and post as recent law items</li> <li>link principles in bench book to case law and legislation.</li> </ul>	Sentencing principles and practice ( <i>Sentencing Bench Book</i> ), Recent Law
Practice and procedure manuals for the various courts containing current statements of relevant legal principles, sample orders and suggested jury directions.	<ul style="list-style-type: none"> <li>identify significant decisions and legislative changes which impact on the content of the bench book</li> <li>bench book committees consider content and draft amendments and special bulletins</li> <li>publish updates on JIRS and in hard copy.</li> </ul>	Bench books
All NSW and Commonwealth Acts and Regulations.	<ul style="list-style-type: none"> <li>receive legislation from NSW Parliamentary Counsel's Office and Commonwealth Attorney General's Department</li> <li>process and load legislative changes within 24 hours of receipt</li> <li>alert users to commencement date of criminal legislation via recent law items</li> <li>link legislation to relevant case law and sentencing statistics</li> <li>verify currency of legislation weekly.</li> </ul>	Legislation
Monographs, <i>Sentencing Trends &amp; Issues</i> , <i>Judicial Officers' Bulletin</i> , <i>The Judicial Review</i> .	<ul style="list-style-type: none"> <li>identify relevant topic or research area</li> <li>commission author</li> <li>edit and typeset manuscript</li> <li>publish in hard copy and online.</li> </ul>	Publications
Essential information on treatment options and rehabilitation facilities.	<ul style="list-style-type: none"> <li>identify relevant service providers</li> <li>maintain currency of information.</li> </ul>	Services directory

## Evaluating the program's performance

An assessment of the program's results shown in Table 5 demonstrates that our research and sentencing program performed well in 2014–15. The table shows the evidence for each identified result as well as details of each measure we have put in place to achieve our objectives.

**Table 5: Results for research and sentencing program**

Result	Measures	Performance
Judicial officers had access to current law to assist in their day-to-day decision making.	Maintain or increase use of Judicial Information Research System (JIRS).	3.2% increase in use of JIRS throughout 2014–15 with 1.53 million total page hits.
	Maintain access to current law on JIRS.	99% of JIRS was available throughout the year.
Judicial officers were promptly informed about changes to criminal law and criminal practice and procedure.	Maintain accuracy of legislation by weekly updates; update judgments on a daily basis; maintain bench books to reflect significant changes to the law; maintain email alert service.	<ul style="list-style-type: none"> <li>• 218 recent law items posted on JIRS throughout the year (last year: 206).</li> <li>• 163 summaries of select appeal decisions published on JIRS (last year: 161).</li> <li>• Recent Law flyer sent monthly to judicial officers.</li> <li>• 13 updates to bench books published.</li> <li>• 5 email alerts sent to judicial officers.</li> </ul>
Judicial officers were promptly notified of changes in sentencing law and practice.	Maintain legal accuracy of Sentencing Principles and Practices component of JIRS.	3 updates to the <i>Sentencing Bench Book</i> .
		Sentencing principles in <i>Sentencing Bench Book</i> linked to new cases and legislation.
Accurate sentencing information was available to judicial officers.	Maintain sentencing statistics on JIRS on the range and frequency of penalties imposed in similar cases.	Sentencing data was received, audited and loaded on JIRS within 4 months of receipt.
	Maintain information that explains why a sentence was passed.	Access provided to case details from sentencing graphs including sentencing remarks in all District Court of NSW and appeal cases published on Caselaw site provide detailed information as to why the specific sentence was imposed.
	Maintain information about sentences that other judicial officers have given in similar circumstances.	Published 55 summaries of significant appeal decisions in the <i>Judicial Officers' Bulletin</i> .
Information about sentencing was communicated.	Maintain or increase publication of <i>Sentencing Trends &amp; Issues</i> papers, research papers and monographs.	2 <i>Sentencing Trends &amp; Issues</i> papers and 1 research monograph published (last year: 1 monograph).
		Sentencing project for the Royal Commission into Institutional Responses to Child Sexual Abuse was substantially completed and will be published in July 2015.
	Provide information in response to requests for about specific sentencing issues.	Responded to 15 substantial research requests from judicial officers (last year: 10) and 25 non-judicial enquiries (last year: 33).
Judicial officers were informed about sentencing options and rehabilitation facilities for offenders.	Maintain current information about service providers in services directory on JIRS.	Information and contact details in services directory regularly updated throughout the year and hyperlinked.
JIRS was improved to meet judicial officers' needs.	Maintain or increase number of improvements to JIRS.	During 2014–15, 6 modifications (last year: 5) were made to JIRS to respond to specified needs.
Expenditure was within budget.	According to budget plan.	As at 30 June 2015, research and sentencing expenditure was \$2.08 million, representing 33.7% of overall expenditure.

## Use of Judicial Information Research System (JIRS) continues to grow

A good measure of the value of JIRS is the rising use of this resource over the last 5 years as shown in Figure 14. There was a 3.2% overall growth in the use of JIRS during the year (last year: 8.5% growth) with an average of 127,302 hits each month, peaking at almost 150,000 hits in a single month in May 2015.

Judicial officers and their support staff in the Supreme, District and Local Courts accounted for 33% of the use of JIRS in 2014–15. This represented a slight increase in usage for most courts, compared to 2013–14. Use by Supreme Court staff in 2014–15 returned to more typical long-term levels after the completion of a research project to enhance the NSW Court of Appeal website. Magistrates have access to selected sentencing information through the JIRS Resources iPad™ app as an alternative to using JIRS, yet their use of JIRS increased by 1% over the financial year. Magistrates accounted for two-thirds of all judicial use in 2014–15.

There has been an 11% increase in Government agencies' use of JIRS, accounting for 47% of the use of JIRS overall in 2014–15. Government agencies include the Office of the Director of Public Prosecutions, Police Prosecutors, the Public Defenders, and Legal Aid NSW. Professional associations' and private law firms' use of JIRS has declined slightly (down 3%) and accounted for 20% of overall use of JIRS in 2014–15. In part, this may reflect the public availability of JIRS content, for example, bench books on the Commission's website, as well as bench books, selected legislation, and articles about recent changes in criminal law and sentencing in the freely available JIRS Resources app that the Commission publishes. These public resources have reduced the need for some practitioners to subscribe to the full JIRS website.

Table 6 below shows how the use of JIRS is split and the change in use over a 4-year period. The overall growth in use is shown in Figure 14.

We met our target to post all NSW and High Court judgments on JIRS within 24 hours of receipt. We also met our target (of within 1–4 months) to load sentencing statistics on JIRS for all courts. There is an ongoing challenge to meet our target to load statistical information due to problems with the timeliness and quality of sentencing data received from the courts. The quality continues to improve, but we are still required to audit the data received to ensure its accuracy before loading onto JIRS.

## Improving JIRS

During the year, we met our target to add 6 enhancements to JIRS. These were:

- additional search help
- making restricted NSW Supreme Court judgments available for selected JIRS users
- improving the accessibility of bench books on mobile devices
- simplifying the menu structure of the services directory component of JIRS to make it quicker to locate relevant services
- updating a significant number of offence packages to be more informative
- developing a new statistics viewer prototype which is currently under testing by selected users.

We also commenced developing interactive learning modules on bail and sentencing to be incorporated as a component of JIRS, and will be available on a stand-alone mobile app.

Figure 14: Number of JIRS pages accessed 2010–15

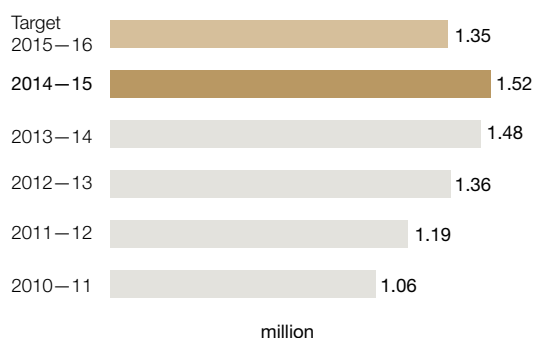


Table 6. Overall JIRS use 2012–15

Users	2011–12 hits	%	2012–13 hits	%	2013–14 hits	%	2014–15 hits	%	Change %
Supreme Court of NSW	13,452	1.1	18,649	1.4	48,191	3.3	25,339	1.7	-47.4 ↓
NSW District Court	128,238	10.8	128,709	9.4	143,068	9.7	146,396	9.6	2.3 ↑
NSW Local Court	175,649	14.8	286,335	21.0	323,920	21.9	329,774	21.6	1.8 ↑
NSW Land and Environment Court	2,102	0.2	609	0.0	579	0.0	598	0.0	3.3 ↑
NSW Industrial Relations Commission	592	0.0	546	0.0	2,504	0.2	1,456	0.1	-41.9 ↓
Government agencies*	571,143	48.0	603,630	44.3	645,077	43.6	713,717	46.7	10.6 ↑
Professional associations**	54,562	4.6	50,749	3.7	46,453	3.1	43,611	2.9	-6.1 ↓
Other subscribers***	244,321	29.5	274,763	20.1	270,259	18.3	266,739	17.5	-1.3 ↓
<b>Total</b>	<b>1,190,059</b>	<b>100.0</b>	<b>1,363,990</b>	<b>100.0</b>	<b>1,480,051</b>	<b>100.0</b>	<b>1,527,630</b>	<b>100.0</b>	<b>3.2 ↑</b>

\* Includes staff of the NSW and Commonwealth DPP, Department of Justice, Legal Aid NSW, NSW Police Prosecutors, and other State or federal public sector agencies, excluding judicial officers and their associates.

\*\* The Bar Association of NSW and Law Society of NSW libraries.

\*\*\* Includes law firms, universities, libraries and community organisations.

## Performance of publications program

Access to our research and sentencing publications is delivered through JIRS. Our publications can also be downloaded in PDF directly from our website, or using the JIRS Resources app on iPads™. Publications are also provided in hard copy to judicial officers and are available for purchase at [www.shop.nsw.gov.au](http://www.shop.nsw.gov.au).

Overall in 2014–15, there were modest decreases in access to publications from JIRS compared to the previous year's growth as shown in Figure 15, but strong growth in PDF downloads as shown in Table 7.

### Our publications for the year included a major research monograph

#### *Sentencing in NSW: A cross-jurisdictional comparison of full-time imprisonment rates*

This study compared sentencing levels in NSW with those in other jurisdictions in Australia. Focussing on 5 specific offence categories that permitted robust comparison: sexual assault; child sexual assault; dangerous/culpable driving causing death; robbery; and break and enter/burglary, the study found that sentences imposed in NSW

for the selected offences are among the most severe across the eastern seaboard States of Australia. Despite some small differences in statutory maximum penalties (and putting to one side partially suspended sentences), NSW had:

- higher full-time imprisonment rates than Queensland and Victoria for the 5 offence categories examined
- longer median head sentences than both Queensland and Victoria for the offences of child sexual assault, robbery, and break, enter/burglary.

The sentencing patterns presented in this study closely resemble those the Judicial Commission reported in a 2007 study. That study concluded that media calls for more severe sentences in NSW, at least comparatively speaking, were "pushing an open door". Our broader 2015 study confirmed that observation.

### Sentencing Trends & Issues papers

#### *Environmental planning and protection offences prosecuted in the NSW Local Court*

This paper analysed environmental planning and protection offences prosecuted in the NSW Local Court for the period 2009–13. Focussing on the 7 most common environmental offences, the paper identified recent trends in penalties for these offences. As prosecution of environmental crime is a complex and wide-ranging area of law, the study provides a useful benchmark against which future sentencing levels for these offences can be measured.

#### *Sentencing for the offence of sexual intercourse with a child under 10*

This publication focused on sentencing for the offence of sexual intercourse with a child aged under 10 (s 66A Crimes Act 1900) for the period 1 January 2008 to 31 December 2014. It compared past and present sentencing practices. Part I of the study sets out the legislative history of the offence, the complex litigation concerning the standard non-parole period legislation, and a description of how the courts approach the sentencing task. Part II of the study provides a statistical analysis of offenders, the circumstances of offending, victims, sentencing outcomes and appeals.

Figure 15. Most commonly accessed publications on JIRS (page hits) 2012–15

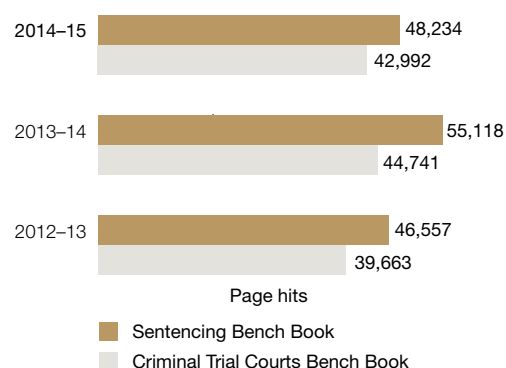


Table 7. PDF publication downloads from JIRS, Commission's website and JIRS app 2014–15

Publication	2012–13	2013–14	2014–15	Change %
Sentencing Bench Book	1,687	3,075	3,519	14.4 ↑
Criminal Trial Courts Bench Book	2,336	5,733	6,079	6.0 ↑
Research monographs*	n/a	21,157	34,751	64.3
Sentencing Trends & Issues*	n/a	9,419	6,912	-26.6 ↓
Civil Trials Court Bench Book	1,621	3,554	4,846	36.4 ↑
Local Court Bench Book	1,453	2,947	3,051	3.5 ↑
Sexual Assault Trials Handbook	849	1,549	1,662	7.3 ↑
Equality Before the Law Bench Book	401	757	530	-30.0 ↓
Children's Court of NSW Resource Handbook†	10	1,014	993	-2.1 ↓

\* Not available via JIRS Resources app.

\*\* Not available from Commission's website.

† This was only available for a couple of days in 2012–13.

### Other publications for 2014–15

- 13 updates to bench books (last year: 14)
- 218 items on JIRS news page about important cases and legislation (last year: 206 items). This included all items concerning High Court decisions and NSW legislation being posted within 2 days of receipt
- 55 summaries of significant appeal decisions on JIRS and in the *Judicial Officers' Bulletin*
- 163 sentencing summaries on JIRS (last year: 161)
- 1 *Special Bulletin* (last year: 5) to inform judicial officers about amendments to the bail regime.

More details of these publications are found in Appendix 8 on p 113.



## Performance of research assistance program

Judicial officers, the courts, government agencies and the legal profession have a high regard for JIRS and our independent research. This can be measured through the increasing use of JIRS, shown in Figure 14 above, and specific requests for research assistance. During the year we responded to 15 requests for research information from judicial officers (last year: 10) and 25 non-judicial enquiries (last year: 33). We gave 2 conference and seminar presentations about our research program (last year: 4) which the legal community responded to favourably. Information about these presentations is found in Appendix 15 on p 118.

## Report on sentencing for child sexual abuse in institutional contexts

We provided substantial assistance this year to the Royal Commission into Institutional Responses to Child Sexual Abuse. We were a member of the Criminal Justice Working Group. We also co-authored a report into historic sentencing practices titled "*Sentencing for child sexual*

*abuse in institutional contexts*". Emeritus Professor Arie Freiberg from Monash University, Hugh Donnelly from the Judicial Commission and Dr Karen Gelb, a consultant criminologist, were the report's authors.

The report deals with all aspects of charging and sentencing issues for sexual assault as well as issues that are peculiar to historical and institutional abuse cases. The report grapples with the problem of sentencing a person by reference to sentencing principles and practices as they existed when the offence(s) was committed. It sets out a literature review of sexual assault studies, conducts its own empirical analysis in relation to institutional abuse cases, and details the literature concerning the public perception of sentencing. The report then examines sentencing law and practice, the principles of sentencing, sentencing standards and the range of non-sentencing statutory measures available to detain offenders in custody, as well as restrictions and monitoring of their movement. It also considers organisational responsibility for child sexual assault and the sanctions that may be imposed upon institutions. It does not endorse a particular response to institutional child sexual assault. Rather, we highlight the approaches adopted both in jurisdictions around Australia and overseas.

A press release from the NSW Attorney General welcomed our 2015 sentencing study:\*

Preventing or Reporting Crime

Victims Services & Support

Courts & Tribunals

Corrective Services

Juvenile Justice

For Students & Legal Profession

Legal Information & Services

Life Events

Justice Home > Media & news > Ministerial Media releases

Listen

Normal

Media & news

News

Ministerial Media releases

2014

2013

2012

2011

Departmental Media statements & releases

For the Record

### New study shows NSW is tough on criminals

Issued: Wednesday, 27 May 2015

NSW Attorney General Gabrielle Upton has today welcomed the released of a study which shows sentencing in NSW is tougher than in Victoria and Queensland.

The Judicial Commission of NSW study *Sentencing in NSW: A cross-jurisdictional comparison of full-time imprisonment* compares sentences imposed in NSW with those in Victoria and Queensland.

Ms Upton said the study shows criminals in NSW are more likely to receive tougher sentences that are more in line with community expectations.

"The community rightly expects people who do the crime, will do the time. Sentences must align with the community's expectations of justice if the community is to have confidence in the justice system. This study shows criminals in NSW are more likely to spend time behind bars for a longer time than Victoria and Queensland," Ms Upton said.

The study focused on five common offence categories including sexual assault, child sexual assault, dangerous/culpable driving causing death, robbery and break and enter/burglary. These three States have very similar maximum penalties for these offences.

Key findings of the study include;

- NSW had a higher rate of imprisonment than Victoria and Queensland for all five offence categories examined;
- NSW had longer median head sentence (84 months) than both Victoria (48 months) and Queensland (72 months) for sexual assault of a child under 10;
- NSW had a longer median head sentence (44 months) than both Victoria (36 months) and Queensland (36 months) for robbery;
- NSW had a longer median head sentence for break and enter/burglary (36 months) than both Victoria (24 months) and Queensland (24 months).

Ms Upton added the NSW Government is doing more to ensure sentencing aligns with community expectations.

"This study is encouraging but there is more to do to ensure our community is safe and has confidence in our justice system. We have introduced tough new laws into Parliament that will better protect and deliver justice for victims of child sexual assault," Ms Upton said

Issued Wednesday, 27 May 2015 from the NSW Attorney General, The Honourable MP Gabrielle Upton.



\* *Sentencing in NSW: A cross-jurisdictional comparison of full-time imprisonment rates*, 2015.

## Case studies

### Advising judicial officers about new evidentiary procedures for domestic violence complainants

Domestic violence is increasingly in the headlines and there is growing community awareness of the causes and effects of this complex and insidious problem. In June 2015, the NSW Parliament enacted new laws for a complainant in a domestic violence offence to give evidence. The new procedures enable a complainant to give her or his evidence in chief by way of a recorded video or audio statement taken by a police officer as soon as possible after the offence. The amendments aim to encourage a complainant's participation in criminal proceedings, while also protecting a defendant's right to a fair trial.

For the first time, a complainant's recorded evidence may now be admitted as evidence-in-chief and this will be viewed or heard by the court. A complainant whose evidence-in-chief is wholly or partly in the form of a

recorded statement must nevertheless be available for cross-examination and re-examination. The recorded evidence will be admissible in the trial if it complies with the specific requirements for access and service. In the trial, the judge must warn the jury not to draw any inference adverse to the accused or give the complainant's statement any greater or lesser weight because it is recorded rather than oral.

To explain the new procedures, we posted a news item in the "Recent Legislation" section of JIRS, published a comprehensive article in the June issue of the *Judicial Officers' Bulletin*, inserted a new section in the *Local Court Bench Book* for magistrates and amended the "Evidence given by alternative means" section in the *Criminal Trial Courts Bench Book* for the higher courts.

### Explaining amendments to the Bail Act

The NSW Parliament made changes to the bail regime in January 2015, requiring an accused person charged with specific offences to "show cause" why his or her detention is not justified. If the accused person shows cause, the bail authority must then decide whether the accused is an unacceptable risk. The bail authority is required to assess any bail concerns before making a bail decision. The court must consider the nature and seriousness of the offence, the accused's criminal history, and the bail conditions that could reasonably be imposed to address any bail concerns.

We sent an email to judicial officers with a Special Bulletin explaining the amendments one week before the amendments commenced. We also amended the *Local Court Bench Book*, posted recent law items on JIRS of Supreme Court of NSW and NSW Court of Appeal decisions which interpreted the amendments. We also prepared a 15-minute training video that summarised the amendments for magistrates making bail decisions. The video was sent to all magistrates on a USB memory stick and made available on JIRS.

### Explaining when to give directions in a sexual assault case

Sexual offences are often committed when only the accused person and the victim are present. In a criminal trial, a judge must not warn a jury, or make any suggestion to a jury, that complainants as a class are unreliable witnesses (section 294AA(1) of the *Criminal Procedure Act* 1986). This prohibition includes warning a jury of the danger of convicting on the uncorroborated evidence of any complainant (section s 294AA(2)). If there is no jury, the judge is to take the warning into account.

In a judge-alone trial, the accused person was convicted of sexual intercourse without consent. There were no witnesses to the alleged assault. He appealed his conviction to the NSW Court of Criminal Appeal.\* He submitted that the trial judge should have directed himself that it was necessary to scrutinise the

uncorroborated evidence of the complainant with great care before proceeding to a conviction, according to the decision of *R v Murray* (1987) 11 NSWLR 12.

The NSW Court of Criminal Appeal dismissed the appeal because it was only the absence of corroboration that was said to give rise to the requirement for the judge to give himself a *Murray* direction. Such a direction was not required and was also prohibited by section 294AA(2).

We sent an email to all judicial officers explaining the decision a day after it was delivered. A more detailed summary of the case was posted on JIRS. We also amended the *Criminal Trial Courts Bench Book* shortly after the decision.

\**Ewen v R* [2015] NSWCCA 117

## Providing guidance for fitness to be tried and mental illness cases

An accused person with a mental illness or mental condition may raise the question of their fitness to stand trial and/or a mental illness defence in criminal proceedings.

The *Mental Health (Forensic Provisions) Act 1990* ("the MHFP Act") prescribes procedures for the Supreme Court of NSW and District Court of NSW to follow in these cases. There are 2 relevant parts of the MHFP Act. Part 2 deals with fitness to plead and Part 4 with verdicts of not guilty on the ground of mental illness.

During the year, we included new material relating to fitness and mental illness in the *Criminal Trial Courts Bench Book*. This material informs judicial officers and practitioners as to how and when information and/or recommendations may be sought from Justice Health and the Forensic Mental Health Network, and/or the Mental Health Review Tribunal. The new material was produced by a committee convened by the DPP(NSW). The committee also had representatives from Justice Health, the Department of Justice, the Forensic Mental Health Network, the Mental Health

Review Tribunal and the Judicial Commission of NSW. The new material provides:

- a sequential procedural explanation of fitness with reference to specific provisions
- how and when information and/or recommendations may be sought from Justice Health, the Forensic Mental Health Network, and/or the Mental Health Review Tribunal
- links to draft orders under the MHFP Act.

Professor Dan Howard SC, President of the Mental Health Review Tribunal, and Dr Tobias Mackinnon, Statewide Clinical Director for Forensic Mental Health, presented a seminar for Supreme and District Court judges on the new entry in the *Criminal Trial Courts Bench Book* and the benefits of obtaining an independent psychiatric report from the Forensic Mental Health Network before setting bail conditions or deciding whether to grant conditional release to a person who has been found not guilty by reason of mental illness.

## Advising magistrates about the mandatory alcohol interlock program

Since 2003, magistrates have had the option to order drivers convicted of high or middle range drink-driving offences to participate in an interlock program. An alcohol interlock device is an electronic breath-alcohol analyser, with a microcomputer and internal memory, wired into a vehicle's ignition system. This will prevent the vehicle from starting if alcohol is detected. On 1 February 2015, the NSW Parliament amended the *Road Transport Act 2013* to introduce a mandatory alcohol interlock program. This applies to all offenders who are convicted of:

- a high range drink-driving (PCA) offence committed for the first time

- all second or subsequent offenders convicted of novice, special, low or middle range drink-driving or driving under the influence of alcohol or a drug
- refusing a breath analysis.

An email was sent to all magistrates 2 days before the amendments commenced. A recent legislation item was posted on JIRS with links to the provisions and relevant extrinsic material. The Road Transport section of the *Local Court Bench Book* (accessible via the Bench Books component of JIRS) was also amended. An article about the amendments was also published in the February 2015 edition of the *Judicial Officers' Bulletin*.



## Program 3

# Examining complaints

### Results in brief

high  
standard of judicial  
performance and conduct in  
NSW: see p 44.

expenditure was  
within  
budget: see p 45.

Information gathered from the  
complaints process used to  
develop education  
sessions for judicial  
officers: see p 45.

timely  
acknowledgement and  
completion of preliminary  
examination of  
complaints: see p 46.

The majority of  
complaints  
received during the year were  
finalised: see p 46.

independence  
of judicial officers was  
maintained:  
see p 48.

### Challenges for 2014–15

- Explaining to a disappointed complainant why their complaint was dismissed.





Since 1987, the Commission has provided a complaints function so that anyone may complain to the Commission about a matter that concerns or may concern the ability or behaviour of a judicial officer. (Location: Queens Square, Sydney)

## The year ahead

- Complaints will be examined efficiently, independently, objectively and effectively.
- We will aim to finalise the majority of complaints that do not require further examination within 90 days and the preliminary examination of all complaints within 12 months.
- Information gathered from the complaints process will be fed into education sessions covering procedural fairness, avoiding bias, judicial communication, court craft, conducting domestic violence and sexual assault hearings, and cultural diversity.
- Finalising 2 complaints referred to the Conduct Division.

## Feedback

Our reputation for integrity was recognised this year.

*“Over the three decades of its existence the Judicial Commission has gained widespread acceptance as an effective body for receiving and resolving complaints against judicial officers, without impinging on the independence of the judiciary.”*

The Hon R Sackville AO QC “Judicial ethics and judicial misbehaviour: two sides of the one coin?”  
(2015) 89 ALJ 244

## Why we examine complaints

The *Judicial Officers Act* 1986 provides for a complaints function in NSW. Anyone may complain to the Commission about a matter that concerns or may concern the ability or behaviour of a judicial officer.

The Commission’s complaints function is protective. We have no power to discipline judicial officers, only to protect the public from judicial officers who are not fit for office or who lack the capacity to discharge their duties. The function also protects the judiciary from unwarranted intrusions into their judicial independence.

We fulfil our statutory function by:

- examining complaints efficiently, independently, objectively and effectively
- advising the complainant and the judicial officer involved of the outcome of the complaints

- providing information, publications and talks about our role and function
- providing informal advice over the telephone and face-to-face
- monitoring patterns in complaints and addressing recurring issues in our judicial education program.

There are about 350 judicial officers in NSW who handled more than 700,000 matters during 2014–15. The number of complaints we receive each year is low compared to the high volume of matters handled: see Figure 18 on p 47. This demonstrates the high standard of judicial ability and conduct in NSW and the community’s willingness to accept decisions if they are made in accordance with the due process of law.



Part of Executive Assistant Cheryl Condon’s role is to provide members of the public with information about the Commission’s complaints function.

## Evaluating the program's performance

An assessment of the program's results shown in Table 8 demonstrates that our complaints function performed well in 2014–15. The table shows the evidence for each identified result as well as details of each measure we have put in place to achieve our objectives.

Table 8. Results for examining complaints

Result	Measures	Performance
Finalised majority of complaints received during the year.	Maintain number of complaints examined and finalised during the year.	Commission examined 95% of complaints received during the year (last year: 89%). See p 46.
Timely acknowledgment and completion of preliminary examination of complaints.	Maintain or decrease time taken to conduct preliminary examination of complaints.	Improved performance with Commission examining 82% of complaints within 3 months (last year: 61%) and 100% of complaints within 6 months (last year: 87%). See p 46.
	Maintain time taken to formally acknowledge complaints received.	100% of complaints received were acknowledged within 5 working days.
High standard of judicial performance.	Compare number of complaints to number of court matters finalised during the year.	350 judicial officers in NSW heard around 700,000 court matters in 2014–15. Only 59 complaints about 50 judicial officers were made to the Commission. See p 44.
	Compare number of complaints dismissed under section 20 with complaints that require further action.	89% of complaints (49 of 55) were summarily dismissed under section 20 of the <i>Judicial Officers Act 1986</i> . Only 11% of complaints required further action. See p 46.
	Maintain accessible information about the complaints process.	Information about the complaints process and how to make a complaint was provided in the annual report, on our website, and in brochure form. We responded to 523 requests for information. See p 47.
Independence of judicial officers was maintained.	Maintain confidentiality of complaints process.	Commission examined all complaints according to statutory criteria and established protocols. See p 48.
Information gathered from the complaints process has been used to develop education sessions for judicial officers.	Monitor and analyse trends in complaints to feed into education sessions.	42% of complaints arose from allegations of failure to give a fair hearing. 29% of complaints arose from allegations of bias. Education sessions held and publications produced during the year addressed these issues. See p 47.
Expenditure was within budget.	According to budget.	As at 30 June 2015, complaints expenditure was 0.88 million or 14.25% of overall expenditure.



## Complaints received and examined during the year

Fifty-three people made 59 complaints about 50 judicial officers. One complainant made 3 complaints and another 4 complainants made 2 complaints each. The rest of the complaints were lodged individually. Eleven complaints were pending as at 30 June 2015. During the year the Commission examined 55 complaints (last year: 61), including the 8 complaints pending as at 30 June 2014.

Table 9 shows how we have dealt with all complaints received and examined over the last 5 years.

### Complaints examined and summarily dismissed

A consistent trend over the last 5 years is that, following the preliminary examination, most complaints were summarily dismissed under section 20. This year, 89% of complaints (49) examined were summarily dismissed. The average 5-year dismissal rate is 91%. Section 20 of the *Judicial Officers Act* sets out 8 criteria under which the Commission must dismiss a complaint whether or not it appears to be substantiated. Table 10 shows how the 49 complaints summarily dismissed were dealt with under section 20 this year.

### High consistency in timely examination of complaints

Within 5 working days, the Commission acknowledged all complaints received in writing. During 2014–15, we finalised 100% of complaints within 6 months, improving the time taken last year. Within 3 months, we had conducted the preliminary examination of 82% of all complaints finalised during the year. Table 11 compares the timeliness standards over 5 years and demonstrates that the Commission responds to all complaints received within a reasonable time.

**Table 9. Particulars of complaints examined 2011–15**

	2010–11	2011–12	2012–13	2013–14	2014–15
Complaints pending at 30 June	22	26	39	21	8
Complaints made during the year	60	110	71	48	59
<b>Total number of complaints</b>	<b>82</b>	<b>136</b>	<b>110</b>	<b>69</b>	<b>67</b>
Complaints examined and dismissed	50	79	79	58	49
Complaints referred to head of jurisdiction	3	7	4	1	4
Complaints referred to Conduct Division	0	4	2	2	2
Complaints withdrawn	3	7	4	0	1
<b>Total number of matters finalised</b>	<b>56</b>	<b>97</b>	<b>89</b>	<b>61</b>	<b>56</b>
Complaints pending at 30 June	26	39	21	8	11

### Referred 4 complaints to the relevant head of jurisdiction

The Commission referred 4 complaints that were not summarily dismissed to the relevant head of jurisdiction (last year: 1). This action was taken because, in the Commission's opinion, while the complaints did not justify the attention of a Conduct Division, the complaint was wholly or partially substantiated. The complainant and the judicial officer concerned were advised of this action.

### Referred 2 complaints to a Conduct Division

Following preliminary examination, the Commission referred 2 complaints to a Conduct Division under section 21(1) of the *Judicial Officers Act*. The Conduct Division's examination commenced during the year and is continuing.

The Conduct Division appointed to examine these complaints comprises the Honourable Justice Rein, the Honourable Roger Boland and Ms Rosemary Sinclair AO.

The Crown Solicitor and Junior and Senior Counsel were instructed to assist the Conduct Division. The NSW Government approved financial assistance for the judicial officer to meet the legal costs and expenses of appearing before the Conduct Division.

**Table 10. Criteria for dismissing complaints under section 20**

Criteria	Section	Number of complaints
The complaint is not one that the Commission is required to deal with.	20(1)(a)	1
The complaint is frivolous, vexatious or not in good faith and having regard to all the circumstances of the case, further consideration of the complaint would be or is unnecessary or unjustifiable.	20(1)(b) & (h)	1
The complaint relates to the exercise of a judicial or other function that is or was subject to adequate appeal or review rights and having regard to all the circumstances of the case, further consideration of the complaint would be or is unnecessary or unjustifiable.	20(1)(f) & (h)	25
The person complained about is no longer a judicial officer.	20(1)(g)	3
Having regard to all the circumstances of the case, further consideration of the complaint would be or is unnecessary or unjustifiable.	20(1)(h)	19
<b>Total number of complaints dismissed under s 20</b>		<b>49</b>

**Table 11. Time taken to conduct preliminary examination of complaints**

	3 mths	6 mths (target 90%)	9 mths	12 mths (target 100%)
	%	%	%	%
<b>2010–11</b>	39	95	98	100
<b>2011–12</b>	26	68	97	100
<b>2012–13</b>	22	78	93	98
<b>2013–14</b>	61	87	97	100
<b>2014–15</b>	82	100	100	100



## Other Conduct Division work

The Commission referred 2 complaints about a judicial officer to a Conduct Division in April 2014. The examination of those complaints was finalised during the year. Following a private hearing, the Conduct Division found that the complaints did not justify Parliamentary consideration of the judicial officers' removal from office and the complaints were referred back to the relevant head of jurisdiction under section 28(1)(b) of the *Judicial Officers Act*.

## Attorney General referred 1 matter

The Attorney General of NSW may refer a matter to the Commission under section 16(1) of the *Judicial Officers Act* and this is treated as a complaint. The Commission received 1 reference from the Attorney General this year (last year: 0).

## Responded to informal enquiries

We responded to 523 telephone, face-to-face and written enquiries from potential complainants, members of the legal profession and the media (last year: 352).

We are usually able to help people by providing information, referring them to another agency, or advising them of the process for making a complaint to the Commission. Providing informal advice often avoids an unnecessary formal complaint being made. Enquiries often relate to matters that should be dealt with on appeal to a higher court and, in these cases, we advise the person to seek independent legal advice.

## Monitoring trends in complaints

Figure 15 shows the 5-year patterns in the type and volume of complaints. Monitoring trends in complaints helps to identify areas that may need to be addressed in our judicial education program. Information gathered from complaints is used to develop education sessions on topics such as providing a fair hearing and avoiding bias, avoiding inappropriate comments and discourtesy, domestic violence and sexual assault issues, and cultural awareness training.

In 2014–15, we identified the following patterns

### Common causes of complaint

Allegations of failure to give a fair hearing and an apprehension of bias continue to be the most common grounds of complaint. In 2014–15, these 2 categories accounted for 69% of complaints (last year: 66%). An unsuccessful party to legal proceedings or a person who represented him or herself in court often makes this type of complaint. Complaints of bias are usually accompanied by particular allegations about the judicial officer's conduct.

### Substitution for appeals

A complaint is often made that a judicial officer made a wrong decision. This type of complaint is usually made when a party to litigation is aggrieved by an unfavourable decision but, for one reason or another, does not wish to appeal to a higher court. Instead, a personal complaint against the judicial decision maker is made to the Commission, frequently alleging bias or incompetence. Such a complaint is dealt with on its merits, but the Commission cannot correct an allegedly wrong decision. A court of appeal is the appropriate avenue for determining whether the judicial officer made an error in law or fact or if there was a miscarriage of justice.

### Incompetence

There were 4 complaints (7%) alleging judicial incompetence this year (last year: 0).

### Inappropriate comments and discourtesy

Eight complaints alleged that a judicial officer made inappropriate comments and 6 complaints alleged discourtesy. These 2 categories accounted for 24% of all complaints received this year (last year: 21%).

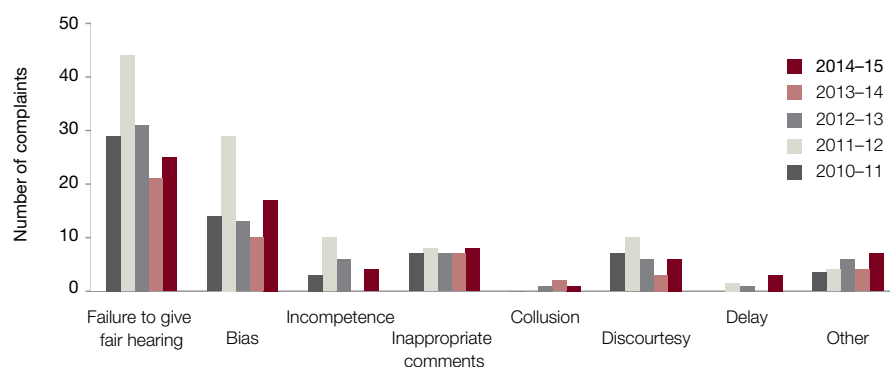
### Complaints arising from AVO proceedings

Some complaints arise out of proceedings involving applications for apprehended violence orders (AVOs). In many instances, the complaints arose from a misunderstanding of the nature of the hearing. The trend has increased this year with 25% of complaints arising from AVO proceedings (last year: 14%).

### Self-represented litigants making complaints

Another trend we have noted is the high proportion of complaints that self-represented people make. This year, self-represented litigants made 40% of all complaints (last year: 37%).

Figure 15: Common causes of complaint: basis of allegation



## How to make a complaint

Anyone may make a complaint about the ability or behaviour of a judicial officer. A formal complaint must:

- be in writing
- identify the judicial officer concerned and the complainant
- be supported by a statutory declaration that verifies the particulars of the complaint
- be lodged with the Chief Executive of the Commission.

We will assist complainants with translation and interpreting services if required. There is no fee and legal representation is not required.

Our website provides information to help people understand the types of complaints we deal with, possible outcomes, how to make a complaint, and a complaints form for downloading. For those without internet access, we provide a hard copy plain English brochure *Complaints against judicial officers* and a complaints form.

Our website is at [www.judcom.nsw.gov.au](http://www.judcom.nsw.gov.au).

## How we deal with complaints and enquiries

### Examining the complaint

Figure 16 visually depicts how the complaints process works. Within 5 working days, we acknowledge in writing any complaint received which is in the required form. If the complaint relates to a court matter, we obtain sound recordings and a transcript of the proceeding. The Commission conducts the preliminary examination of the complaint in private to decide if it requires further action. In all cases, we advise the judicial officer that a complaint has been made and provide the judicial officer with the complaint documents. The Commission is required to summarily dismiss a complaint if it is of the opinion that it falls under criteria set out in section 20 of the *Judicial Officers Act*. We explain to the complainant in writing why the complaint was dismissed.

### Complaints that require further action

The Commission may decide that some complaints warrant further examination as the matter may affect or have affected the judicial officer's performance of judicial or official duties. If the complaint shows conduct which is lawful but not appropriate, the Commission may refer the complaint to the relevant head of jurisdiction and provide all supporting material. The Commission may recommend some action to prevent the problem occurring again or that the judicial officer be counselled. The complainant and the judicial officer complained about are advised of the action taken.

### Complaints referred to a Conduct Division

If the Commission does not summarily dismiss a complaint, or refer it to the relevant head of jurisdiction, it must refer the complaint to a Conduct Division. This is not a standing body but is a panel especially convened for this purpose. A Conduct Division has the same functions, protections and immunities as a Royal Commission. In the Commission's 28-year history, 20 Conduct Divisions have been formed. The Commission decides on the 3 members of a Conduct Division — 2 are judicial officers (one may be a retired judicial officer) and the other one is chosen from 2 community representatives the NSW Parliament has nominated.

A Conduct Division's hearings may be held in public or in private. The judicial officer being investigated has, in all cases to date, been provided with financial assistance by the NSW Government for their legal representation before a Conduct Division. The Crown Solicitor and Senior and Junior Counsel are instructed to assist a Conduct Division.

A Conduct Division's work involves gathering evidence about the complaint, holding hearings and deciding whether a complaint is partly or wholly substantiated. A Conduct Division does not have the power to remove a judicial officer; the Governor of NSW, acting on the advice of Parliament, bears this ultimate responsibility. The power to remove a judicial officer is protective and not punitive.

If a Conduct Division forms an opinion that a complaint could justify Parliamentary consideration of the judicial officer's removal, the Conduct Division must present to the Governor of NSW a report setting out its findings of fact and its opinion. A copy of the report must be given to the judicial officer concerned, the Commission, the Attorney General and, after the Attorney General lays the report before both Houses of Parliament, the complainant. The judicial officer may be invited to address Parliament to show cause why Parliament should not request the Governor to remove the judicial officer from office. Parliament then considers and votes on whether the conduct justifies removal.

If the Parliamentary vote is in favour of removal, the Governor then removes the judicial officer from office on the ground of proven misbehaviour or incapacity. To date, this has never occurred.

If the Conduct Division forms the opinion that a wholly or partly substantiated complaint does not justify Parliamentary consideration of the judicial officer's removal from office, it must send a report to the relevant head of jurisdiction, the Commission, and the judicial officer concerned, setting out its conclusions. The report may be given to the complainant unless the Conduct Division advises in writing that this should not occur. The report may include recommendations about the steps that might be taken to deal with the complaint. The Conduct Division can also dismiss a complaint on any of the grounds in section 20 or if the complaint has not been substantiated.

### Formal complaints governance

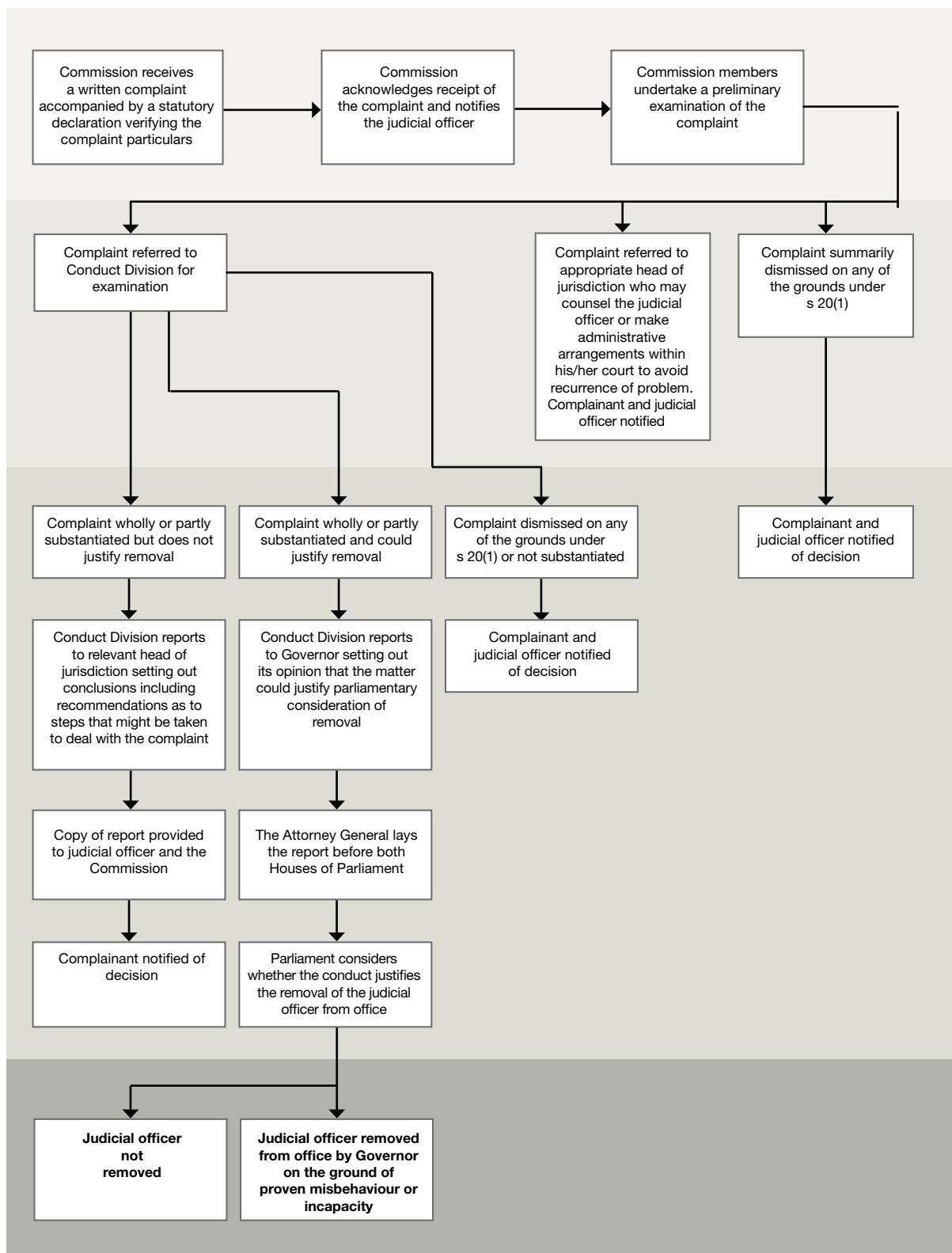
The *Judicial Officers Act* 1986 governs the Commission's formal complaints work as well as the *Judicial Officers Regulation* 2012 and 2 documents, *Complaints against judicial officers: guidelines* (see Appendix 1 on p 103) and *Conduct Division: guidelines for examination of complaints* (see Appendix 2 on p 105).

### What we cannot deal with

The complaints function is only concerned with examining complaints about a judicial officer's ability or behaviour. We do not have the power to:

- investigate allegations of criminal or corrupt conduct as these are matters for the police or the Independent Commission Against Corruption
- review a case for judicial error, mistake or other legal grounds
- discipline or sanction a judicial officer
- examine complaints about retired judicial officers, federal judicial officers, arbitrators, assessors, registrars, members of tribunals or legal representatives.

Figure 16. How the complaints process works



## Case studies

### Judge delayed giving judgment

#### The complaint

The complainant alleged that there had been substantial delay in delivering a judgment.

The particular court's policy in regard to reserved judgments is that if a party or legal representative becomes concerned that a reserved judgment has been outstanding for a period in excess of 3 months, a written enquiry should be directed to the Chief Judge.

In accordance with that policy, the complainant's solicitor wrote to the Chief Judge. The Chief Judge spoke to the judge concerned and responded to the solicitor, setting a date when the judgment would be delivered. It was not delivered and the solicitor wrote a second time. Advice was provided by the Chief Judge to the solicitor setting a

further date, which was also not met. The complainant then complained to the Commission.

#### The Commission's examination

The Commission advised the judge of the complaint and sought a response to it. The judge responded to the Commission and subsequently delivered the judgment several days later.

The Commission, after considering the court's policy and the judge's response, was of the opinion that the delay of almost 17 months was unacceptable. It determined that the complaint should not be dismissed and referred the matter to the Chief Judge to deal with.

### Complainant had right to appeal

#### The complaint

The complainant represented himself in apprehended violence order proceedings. He alleged that a magistrate had refused to look at facts and case law presented to him, and had refused to comply with binding precedents. Further, he alleged that the magistrate had exercised power where no judicial power existed.

#### The Commission's examination

The Commission dismissed the complaint after reviewing the sound recording of the proceedings. The Commission was of the opinion the magistrate gave careful consideration to all matters before him. It further

noted that the complainant had a right of appeal to the District Court of NSW against the magistrate's decision.

People who are not satisfied with the outcome of a case often make a complaint to the Commission instead of lodging an appeal. The Commission's role is to examine complaints about ability or behaviour. It does not have authority to review judicial decisions, including findings of fact and law. That is a matter for courts of appeal and is recognised in the provisions of section 20 of the *Judicial Officers Act*, which requires the Commission to dismiss complaints summarily where there is an avenue of appeal or review available. The complainant and judicial officer were advised of the Commission's reasons for dismissing the complaint.

### Complaint about inappropriate comments

#### The complaint

The complainant, who represented herself in apprehended violence order proceedings, alleged that a magistrate made disparaging comments about her during the hearing and would not let her speak.

#### The Commission's examination

The Commission reviewed the sound recording of the hearing and considered the submissions contained in the complaint. The examination revealed that the magistrate dealt with the matter in an objective and fair manner and provided appropriate assistance to the complainant as a self-represented person.

The Commission's examination of the sound recording revealed no evidence of the comments alleged to have been made. It was also revealed that on a number of occasions after the judicial officer had made his decision the complainant had asked if she could say something. The magistrate declined to allow her to do so as he had already made his decision.

In the Commission's opinion there was no misconduct on the part of the judicial officer. The Commission also noted that there was an adequate right of appeal available to the complainant. In those circumstances it was required to dismiss the complaint. The complainant and judicial officer were advised of the Commission's reasons for dismissing the complaint.





# Part 3

## Engaging with our partners

### Contents

Results in brief . . . . .	52
Challenges for 2014–15 . . . . .	52
The year ahead . . . . .	53
Listening to our partners . . . . .	54
Why we inform the public about our work and role and exchange knowledge and expertise with other organisations . . . . .	55
Evaluating our performance . . . . .	56
Case studies . . . . .	59

# Engaging with our partners

## Results in brief

The public was informed about our work and role in the justice system and our contribution to judicial performance: see p 55.

Government agencies had access to our statistical and legal information and shared our knowledge: see p 57.

We provided capacity-building assistance to Chinese, Pacific, Papua New Guinea, South East Asian and African jurisdictions: see p 57.

We shared knowledge and experience with other judicial education providers: see p 58.

We provided advice to other Australian jurisdictions to assist them in establishing a judicial complaints function: see p 58.

The Commission provided contractual services to partners on a commercial basis: see p 58.

## Challenges for 2014–15

- Responding to requests for sentencing information from other government agencies required a substantial research effort. This work has to be balanced with our core research and sentencing work.



In September 2014, Chief Magistrate of Papua New Guinea, Nerrie Eliakim, and Ernest Schmatt PSM, Chief Executive of the Judicial Commission, signed a memorandum of understanding to provide assistance with professional development and judicial training programs for Papua New Guinea magistrates.

## The year ahead

- We will work with the National Judicial College of Australia, the Judicial College of Victoria, and the Australasian Institute of Judicial Administration to develop a judicial training package on cultural diversity. This is part of our engagement with the Judicial Council on Cultural Diversity to promote access to justice for court users from culturally diverse communities.
- We will finalise the feasibility study for the development stage of the Papua New Guinea Integrated Case Management System.
- We will continue to actively participate as a member of the Asia Pacific Judicial Reform Forum, a member of the Executive and Board of Governors of the International Organization for Judicial Training and a member of the Advisory Board of the Commonwealth Judicial Education Institute.
- The Commission will offer a fourth Community Awareness of the Judiciary Program in late 2015 to inform the public about the role of judicial officers, the courts and the Commission in the justice system.

## Listening to our partners

Here is a snapshot of what our partners thought of the services we provided throughout the year.

*"NJOP [the National Judicial Orientation Program] was fabulous — if I can ever assist with any Jud Com courses or programs, you know you can ask me as I would be only too happy to help."*

Judicial participant at the NJOP, June 2015

*"Thoroughly enjoyable and informative day. Dispelled some long held beliefs."*

Participant at Community Awareness of the Judiciary Program, October 2014

*"Overall the entire workshop is very informative, refreshing and also active in which all participants and facilitators have enjoyed it. The style and settings are perfect."*

Participant at Papua New Guinea Magistrates' Orientation Program, February 2015

*"The program is so relevant to the works of a magistrate that it was riveting. I learnt so much from others. This will improve my work."*

Participant at Papua New Guinea Magistrates' Program, February 2015

*"Wonderfully paced day. Very appreciative of the presenters' time. Very interpersonal experience that really changed perspectives of the judiciary and the system they work in."*

Participant at Community Awareness of the Judiciary Program, October 2014

*"A fantastic opportunity and very relevant for me both personally and for work and the organisations that I work with. The knowledge gained through the 3 days more than met my expectations."*

Participant at Community Awareness of the Judiciary Program, October 2014



Robert Leslie, Aboriginal community development worker, Blacktown City Council and Margaret Tipper, Manager, Community Resource Network, attended the Community Awareness of the Judiciary Program held in October 2014.



## Why we inform the public about our work and role and exchange knowledge and expertise with other organisations

Providing accessible information about the Commission's functions and how our work contributes to judicial performance:

- informs the public of their right to complain about a judicial officer's ability or behaviour
- helps to promote public and professional awareness of the courts, the justice system, and the work of judicial officers
- provides information about the Commission's contribution to judicial performance.

Throughout the year we provided free-to-view information on our website, publications, talks and presentations, and the Community Awareness of the Judiciary Program. See Appendices 7 and 8 on p 113 for full details of our publications.

Since 2004, the Commission has provided free access to most of our resources and publications on our website. Our intention is to promote public confidence in the courts through providing accurate and current information and informed analysis. Readers today can access most of our monographs, videos, *Sentencing Trends & Issues* papers, handbooks and bench books in html and PDF for free download to personal computers and e-book readers. Bench books are loose-leaf reference works that set out legislation, case law, principles, procedural guidelines, suggested jury directions and sample orders. Judicial officers use bench books to assist them to conduct trials, but they also contain invaluable guidance for the legal profession, government agencies, academics and law students.

### Developing our services

In our 28 years of operation, we have developed expertise in judicial education services, computerised sentencing information, and building and maintaining judicial support and case management systems. In 2014–15, we worked with other organisations and judiciaries to:

- cooperate and exchange knowledge with government agencies in NSW
- assist with capacity-building projects in developing jurisdictions
- provide advice and assistance in other jurisdictions
- share resources and exchange ideas with other Australian and international providers of judicial education services
- provide contractual services on a commercial basis.

### Performance of public information role

#### Community Awareness of the Judiciary Program

The third Community Awareness of the Judiciary Program was run with assistance from the courts in October–November 2014 in a revised 3-day format. The format was compressed from its original schedule in response to the high participant drop-out rate experienced in the first 2 years. The revised format achieved its aim to retain participants with 16 of the 18 participants attending all sessions. The program provided community representatives with the opportunity to learn about the justice system through interacting with judicial officers, attending court as observers, and participating in group information sessions. It was anticipated that community representatives then shared information in their respective communities. This year, the focus was on key aspects of the work of judicial officers, including judicial independence, judicial conduct, self-represented litigants, bail and sentencing.

Participants were asked to evaluate each day of the program. From the evaluation comments received from participants and presenters, it is clear that the objectives of the program were met and participants and presenters gained great benefits from their involvement. Participants gave an overall satisfaction rating for the 3 days at 91%, 98% and 100% respectively.

#### Commission officers' presentations about our work and role

Commission staff delivered 27 presentations during the year (last year: 31). The presentations gave details about the role and functions of the Commission, the Judicial Information Research System (JIRS), the development of the JIRS app and its functionality, specific research projects recently undertaken, adult learning principles, judicial communication, and different learning styles. Appendix 15 on p 118 provides a list of all presentations given during the year.

#### Responding to enquiries

Our Chief Executive, Ernest Schmatt PSM, responded to 10 media enquiries about our work (last year: 4) and attended to 523 telephone, face-to-face and written enquiries from potential complainants (last year: 352).

## Evaluating our performance

An assessment of the results shown in Table 12 demonstrates that our engagement with partners performed to expectation in 2014–15. The table below shows the evidence for each identified result as well as details of each measure we have put in place to achieve our objectives.

**Table 12. Results for engagement with partners**

Result	Measures	Performance
The public was informed about our work and role in the justice system and our contribution to judicial performance.	Maintain or increase publicly accessible information on our website; through presentations and the Community Awareness of the Judiciary Program; and by responding to telephone and written enquiries.	Community Awareness of the Judiciary Program successfully run in October 2014. See p 55.
	Maintain or increase public access to information on our website.	Commission staff gave 27 presentations about our work and role throughout the year (see Appendix 15 on p 118 for details of these) and we responded to 523 enquiries from potential complainants.
	Maintain or increase number of specialised education sessions offered.	3 new publications uploaded on our website for free-to-view service; existing publications updated throughout the year: see p 57 and Appendix 8 on p 113.
		Overall participant satisfaction with Community Awareness of the Judiciary Program was 96% (last year: 95%): see p 55.
		Website use of our online information grew at an overall rate of 12% (last year: 9%).
Government agencies had access to our statistical and legal information and shared our knowledge.	Maintain research service to Government agencies.	We responded to 25 substantial research enquiries (last year: 33): see p 57.
We provided capacity-building assistance to Chinese, South East Asian, Papua New Guinea, Pacific and African jurisdictions.	Maintain or increase our capacity-building assistance.	We hosted 10 visitors and 5 delegations throughout the year (last year: 17) and provided substantial assistance to Papua New Guinea and Solomon Islands judiciaries.
We shared knowledge, resources and experience with other judicial education providers.	Maintain or increase exchanges throughout the year.	Provided substantial advice to ACT Government regarding establishment of ACT Judicial Council: see p 58.
We provided advice to other Australian jurisdictions to assist them in establishing a judicial complaints function.	Maintain advice on an “as requested” basis.	As at 30 June 2015, judicial education expenditure was \$3.2 million, or 52% of overall expenditure.
The Commission provided contractual services to partners on a commercial basis.	Maintain or increase revenue obtained from contractual services.	14% of our income was self-generated to supplement funds from consolidated revenue: see p 83 in the Financial section.

## Informing the public of website resources

Website use of our online publications grew at an overall rate of 12% (last year: 9% growth). This exceeds our target of 5% growth. More information about our published resources is on p 29 and our catalogue is listed at Appendix 8 on p 113. Table 13 shows that the sustained growth over a 4-year period in the use of our publicly available resources is meeting a need for information about the Commission's work and role in the justice system.

We distributed 87 free copies of our educational DVDs on request (last year: 642) and 138 free copies of our research monographs to law libraries, community organisations, teachers and students (last year: 92).

## Working with government agencies

### Providing research assistance to government agencies

Government agencies routinely request that the Commission provide legal information and analyses of the statistics that we hold on the Judicial Information Research System. During the year, we responded to 25 research enquiries (last year: 33), including from the following:

- the NSW Sentencing Council
- the Royal Commission into Institutional Responses to Child Sexual Abuse. Our Director, Research and Sentencing, Hugh Donnelly, is a member of the Royal Commission's Criminal Justice working group.

We also worked with:

- the Department of Justice to support and maintain the Forum Administration System, offered at 13 locations for the Local Court in NSW
- the NSW Drug Court and Compulsory Drug Treatment Correctional Centre to host, maintain and support their case management systems.

Appendix 14 on p 117 contains the full list of the organisations the Commission exchanged information with during the year.

### Operating the Lawcodes database

All NSW justice sector agencies are able to electronically exchange information using the Lawcodes database of unique codes for NSW and Commonwealth criminal offences dealt with in NSW courts. The Commission developed and

maintains this database. General access to the database is provided on our website. During the year, we:

- coded and distributed all new and amended State and Commonwealth offences within 4 days of their commencement
- responded to all enquiries from Lawcodes users within 24 hours
- added 2 additional bail flags to the database.

The NSW Police Force requested 2 additional identifiers (flags) to the Lawcodes database to assist them in enforcing the new bail requirements when section 16B was inserted into the *Bail Act* 2013 on 18 January 2015. The project involved close liaison with the NSW Police Force and all other users who had incorporated Lawcodes into their computer systems as the addition of the 2 flags involved a change to the database structure. After extensive communication with all users, the 2 new flags were rolled out well in advance of the proposed commencement of section 16B.

## Performance of capacity-building role

The Commission is committed to sharing our expertise and experience with countries in the Asia-Pacific region to assist them to develop the capacity and performance of their judicial officers. During the year, the Commission:

- conducted a week-long orientation program with the Papua New Guinea Centre for Judicial Excellence for newly appointed PNG magistrates further to a memorandum of understanding signed in September 2014. See the case study below
- finalised development of the Papua New Guinea Sentencing Database
- commenced a feasibility study to create an integrated criminal case management/tracking system for Papua New Guinea
- hosted 5 delegations of judicial officers and 10 visitors (last year: 12) to our Sydney office including from the Court of Appeal of Nigeria; the Jianagsu Provincial People's Procuratorate; the Chief Justice and Chief Magistrate of Papua New Guinea; the Chief Justice of the Solomon Islands; the High Courts of Kenya; the Judicial Service Commission of Kenya; the Supreme Court of Fiji; the Malaysian Court of Appeal; and the Tokyo District Court. Full details of these visits can be found in Appendix 12 on p 116
- signed a memorandum of understanding with the Solomon Islands Judiciary for the Commission to provide judicial education programs for magistrates.

Table 13. Website use of our resources

	2010–11 hits/mth	2011–12 hits/mth	2012–13 hits/mth	2013–14 hits/mth	2014–15 hits/mth	Change %	Target %
Civil Trials Bench Book	10,159	16,741	22,009	24,230	26,532	9.5 ↑	5 ↑
Criminal Trial Courts Bench Book	9,988	12,794	18,221	18,618	19,668	5.6 ↑	5 ↑
Sentencing Bench Book	7,902	14,034	16,871	20,082	22,069	9.9 ↑	5 ↑
Local Court Bench Book	4,872	5,849	8,282	8,634	11,458	32.7 ↑	5 ↑
Sentencing Trends & Issues	1,937	3,372	4,086	4,449	5,200	16.9 ↑	5 ↑
Sexual Assault Trials Handbook	1,516	1,948	1,935	2,035	2,207	8.5 ↑	5 ↑
Research monographs	365	539	531	446	438	-1.8 ↓	5 ↑
Equality Before the Law Bench Book	157	192	208	171	208	21.3 ↑	5 ↑
DVDs	136	191	194	340	298	-12.3 ↓	5 ↑
Education monographs	567	1,210	1,876	2,013	2,432	20.8 ↑	5 ↑

## Working with other judicial education providers

Sharing knowledge and experience with Australian and international judicial education bodies is mutually beneficial and an effective way for the Commission to be aware of the latest developments in judicial education.

During the year, we participated in a number of high-level forums, committees, conferences and steering groups in connection with our judicial education role. Some highlights were:

- participating in a National Judicial Orientation Program organised jointly with the National Judicial College of Australia, the Australasian Institute of Judicial Administration and the Judicial College of Victoria: see case study on p 60
- high-level meetings with the Asia-Pacific Judicial Educator's Group to discuss education programs and exchange ideas.

Appendix 11 on p 116 has full details of our activities with other organisations.

## Assisting other Australian jurisdictions

Courts in other States regularly seek our advice and assistance to develop their own programs and systems.

In November 2014, the ACT government decided to establish a Judicial Council to examine complaints about ACT judges and magistrates for low and medium level complaints. The new Council will have the power to receive, report and investigate complaints and take action to address any substantiated complaints which don't merit consideration of removal from office. The Commission met with representatives from the ACT government and

courts to share our experience in dealing with complaints, including the practices and procedures the Commission has used. The legislation establishing the Judicial Council is modelled closely on the complaints function of the Judicial Commission.

Promoting access to justice for Australia's multicultural population is a high priority for the courts. In 2014, the Judicial Council on Cultural Diversity was established to look at ways to foster access to justice. The Commission's Chief Executive, Ernest Schmatt PSM, is a member of the council.

During the year, we participated in planning meetings for the council as it considers introducing specialised training for judicial officers and court staff to recognise and respond to the particular needs of court users from culturally diverse communities.

## Performance of commercial role

Sales of our information management services at \$745,000 were lower than last year's \$995,000. The variation is due to a decrease in software development work as these projects have moved from the development to maintenance phase.

The Commission provided services on a commercial basis for the following projects:

- the Commonwealth Sentencing Database
- the Papua New Guinea Sentencing Database
- the Queensland Sentencing Information System
- the ACT Sentencing Database
- NSW Drug Court Case Management System and Forum Administration customisation for the Department of Justice.



Hetty Johnson AM, Founder and CEO of Bravehearts, and Karen Lindley, from Bravehearts, were among the 18 community representatives to attend the Community Awareness of the Judiciary Program held at the Commission in October–November 2014.



## Case study

### Assisting our northern neighbour with judicial education and development

Maintaining law and order is a complex challenge for Papua New Guinea. The capacity of the courts to manage disputes and impose sanctions for violence is being developed.

Since 2007, the Commission has provided capacity-building assistance to develop PNG magistrates' skills and knowledge. Partnering with the Local Court of NSW and the PNG Centre for Judicial Excellence, the Commission helped to run a week-long orientation program in Port Moresby in February 2015. The Australian Government, through the PNG-Australian Law and Justice Partnership, funded the training.

The program, tailored for 18 recently appointed magistrates, covered all required judicial skills including communication, sentencing, alternative dispute resolution, ethical considerations, bail and judicial practice. The highlight of the week was the sentencing scenarios where each magistrate role-played and delivered judgment based on a hypothetical situation, and then received feedback on his or her performance.

Satisfaction with the program was very high: magistrates who participated rated the orientation program at 100% for usefulness and relevance; 99% for content and materials; and 98% for design and style.



Eighteen new magistrates from Papua New Guinea attended the Papua New Guinea Magistrates' Orientation Program in Port Moresby in February 2015 provided by the Judicial Commission in partnership with the Magisterial Services of Papua New Guinea.

## Case study

### Working with Australasian judicial education bodies to provide orientation

Judicial officers come to the Bench as already experienced legal practitioners, so training to be a new judge or magistrate focuses on their transition to the Bench, on the particular skills required to be an impartial adjudicator, and the high standards of behaviour required of a judicial officer in and out of court.

Since 1994, the Commission has worked jointly with other judicial education bodies to offer training in all aspects of the judicial role as part of the National Judicial Orientation Program (NJOP). The NJOP is offered each year to newly-appointed judicial officers from around Australia who attend on a voluntary basis. The inaugural program was held in October

1994 and since then, the program has been offered once or twice a year.

The 25<sup>th</sup> NJOP was held in June 2015 for 30 newly appointed judicial officers from around Australia. The steering committee put together an interactive 5-day program which developed practical skills in communication, judgment writing, managing the court-room and self-represented litigants, as well as personal issues such as managing stress and judicial conduct.

Participants were resoundingly satisfied with the NJOP, with the majority rating the program as excellent.



Asia Pacific judicial educators met at the Commission in April 2015 to share experiences and ideas. Pictured (l-r) are Judicial Commission Education Director, Ruth Windeler; Liza Rybak, Chief Executive Officer, National Judicial College of Australia; Samantha Burchell, Chief Executive Officer of the Judicial College of Victoria; Janine McIntosh, Director of the New Zealand Institute of Judicial Studies; and Professor Greg Reinhardt, Executive Director of the Australasian Institute of Judicial Administration.



# Part 4

## Our organisation

### Contents

Our people .....	62
Results in brief .....	62
Challenges for 2014–15 .....	63
The year ahead.....	63
Performance and satisfaction .....	64
Our governance, policies and processes. . .	68
Results in brief .....	68
Challenges for 2014–15 .....	69
The year ahead.....	69
Our governance practices .....	70
Our policies .....	73
Our processes and technology .....	75
Sustainability .....	76

# Our people

## Results in brief

93% staff  
satisfaction as  
measured in our internal yearly  
staff survey: see p 64.

The Commission

employed  
41 people

who work in the areas of continuing  
judicial education, legal research,  
complaints, information technology,  
and corporate services: see p 64.

staff turnover

was a low 6% reducing  
our risk of losing highly-skilled,  
experienced, professional  
people: see p 65.

59% of our people

furthered their  
professional training

and development, adding to the  
Commission's knowledge and skills  
base: see p 66.

There was a 52%  
increase in investment  
for staff training showing our  
commitment to ensuring staff are  
highly skilled: see p 66.

our workplace

was safe with no worker's  
compensation claims or work  
health and safety breaches:  
see p 66.

Our workplace is culturally and  
linguistically diverse,

meeting NSW  
Government

benchmarks:  
see p 66.

Our EEO Management plan

2012–2015 fostered equity  
and diversity:  
see p 66.





German law graduates training to be judicial officers are required to undertake part of their practical training as a “referendar”. This involves 2 years of practical work in German courts or legal practice, or it may be served internationally. German referendar, Lasse Conradt (r), pictured with Hugh Donnelly, Director, Research and Sentencing, spent 3 months at the Commission in late 2014 in the Research and Sentencing area.

## Challenges for 2014–15

- Encouraging busy staff to balance their work commitments with training and development opportunities.
- Building teamwork and cooperation within the organisation.

## The year ahead

- With the Commission’s possible relocation in 2016, staff will continue planning and implementing our office relocation strategy.
- Managers will encourage staff to identify personal training opportunities during their yearly performance reviews. We are committed to ensuring that staff maintain and improve their skills and knowledge.
- Under our EEO Management Plan, we will continue to foster a workplace culture that supports employment equity and diversity and is aligned with the NSW Government’s Public Sector Workforce Strategy 2012–15.

## Performance and satisfaction

### 93% staff satisfaction at the Commission

Our annual internal staff survey measured how committed, stimulated and supported our people felt. This year, we received a 66% response rate (last year: 38%).

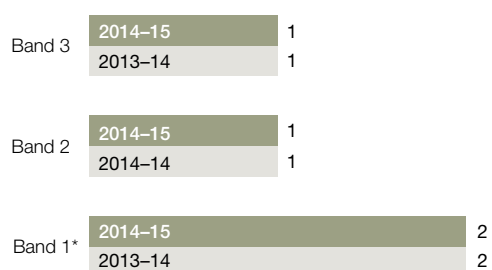
Overall satisfaction with our organisation remains high. 93% of staff who responded were positive about the Commission (last year: 93%). Our people feel highly valued, with 85% strongly agreeing or agreeing that their work directly contributes to our achievements and success. Most staff (96%) understand how their work contributes to the Commission's mission and purpose, and 93% feel engaged in their current role. Our commitment index is high, with 100% of staff who responded willing to put in extra effort to achieve a professional result in their work.

93% of staff consider that their working environment is safe, secure and comfortable. Ninety-six per cent of staff believe they achieve a work/life balance with our flexible work practices (see p 65). Eighty-nine per cent of staff believe they have the resources and time to undertake their work (last year: 100%). There was 81% satisfaction with training opportunities (last year: 87%).

The survey has shown an improvement in teamwork and cooperation with 93% staff satisfaction.

The majority of staff (78%) agree that there is effective communication of information with 11% expressing dissatisfaction (last year: 13%).

**Figure 17. Executive positions**



Equivalent to the NSW Public Service Senior Executive Bands.

\* 1 female and 1 male in Band 1

**Table 14. Executive remuneration**

Band	Range	Average remuneration		
		2012-13	2013-14	2014-15
Band 3	299,751-422,500	358,650	366,850	373,748
Band 2	238,301-299,750	255,500	261,300	266,213
Band 1	167,100-238,300	197,744	209,800	213,744

24.85% of the Commission's employee-related expenditure in 2015 was related to senior executives, compared to 24.01% in 2014 (restated).

### Remuneration of senior management

The Judicial Commission determines senior executive remuneration in accordance with section 6 of the *Judicial Officers Act*. Remuneration packages are equivalent to the relevant rates for NSW Public Service Senior Executives. Figure 25 shows the number of executive positions at the Commission and their equivalent remuneration levels for Public Service Senior Executives. Table 14 shows the average total remuneration package of senior executives within the band and this expenditure as a percentage of total employee-related expenditure.

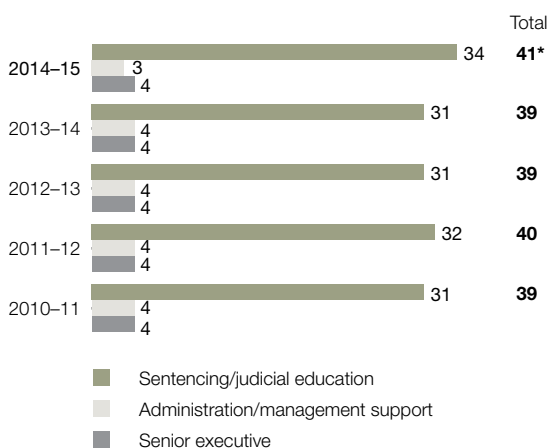
### Our staff

Our staff are essential to the Judicial Commission's success and to ensuring we meet our goals and deliver our services.

The Commission employed 41 people (full-time equivalent 34.9) in judicial education, legal research, complaints, information technology and administrative roles (last year: 39). Figure 18 shows the average number of employees in these roles over a 5-year period. Our small staff numbers means that retired judicial officers sometimes assist with specialised tasks such as maintaining bench books and examining complaints.

Serving judicial officers also help by generously giving their time to serve on our various committees. Appendix 4 on p 108 provides details of all our committees.

**Figure 18. 5-year comparison of average number of employees by employment category**



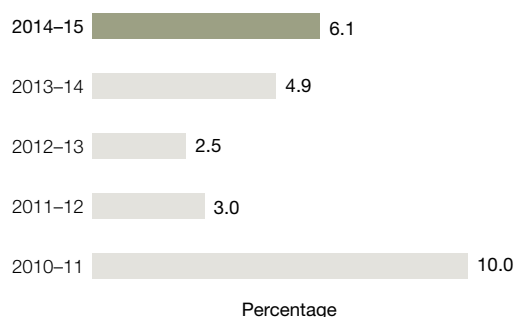
\* 34.9 full-time equivalent

## Retaining our staff

The turnover rate for permanent staff increased this year to 6.1% (last year: 4.9%). This rate is still being maintained at well below our acceptable turnover rate of 15%, suggesting that we are an employer of choice for the majority of our people: see Figure 19.

Our retention rate is very high with more than half our staff having 10 or more years' service (59%) and a further 8% of staff having 5 or more years' service. This result means that the Commission retains highly-skilled and experienced people.

**Figure 19: Staff turnover 2010–15**



## Satisfactory staff attendance

During 2014–15:

- no industrial action occurred
- average sick leave was 6 days per employee (last year: 8 days).

## Consultants

This year we engaged no consultants.

## Setting wages and conditions

The Commission is an employer under the *Judicial Officers Act 1986*. Conditions of employment mirror those of the NSW Public Service and there were no changes to these conditions this year. Public Service officers who accept a position with the Commission retain their superannuation rights and other benefits.

Staff received a 2.27% salary increase from 1 July 2014 which reflected the increase provided to public sector employees under the *Crown Employees (Public Sector-Salaries 2008) Award*. Senior executives received a 1.88% increase from 1 July 2014.

The Commission contributed an amount equivalent to 9.5% of each employee's salary to First State Super or a superannuation fund of choice. This contribution is not made for executive staff who receive a total remuneration package. In addition, employees have the option to salary sacrifice contributions to their funds.

## Providing flexible work arrangements

The Commission has a “flexible working practices agreement” in place to assist employees to balance work with personal and family obligations. All requests for flexible working arrangements are assessed on their merits in line with this policy. Staff also benefit from our “flexible working hours” policy that provides options for people to arrange their working hours. Our staff survey showed that 96% of employees agreed that the organisation provides them with a good work/life balance.

Our working arrangements are published on the staff intranet and are in line with the NSW Department of Premier and Cabinet's flexible work practices policy and guidelines.

## Communicating with our employees

Round table meetings for all staff are held throughout the year and are an opportunity for staff to learn about work-related activities and developments. A staff member usually gives a presentation about business developments or special projects. Minutes of the meetings are published on our intranet.

Our employees are informed about policies and procedures via our intranet and notice-boards. Directors have an open-door policy and publish monthly reports about his or her department's progress. Departmental managers have regular meetings with employees to discuss workflow and work-related issues.

## Community involvement

Commission staff engage with the community in a variety of ways. Throughout the year, staff have given presentations about the Commission's role, provided information to students and community groups and have hosted national and international visitors to the Commission. Details about presentations given during the year are found in Appendix 15 on p 118 and details about visitors to the Commission are found in Appendix 12 on p 116. Commission staff are also involved in Aboriginal cultural awareness as a way to promote cross-cultural communication: see p 27 for more information. During the year, Commission staff supported a Community Awareness of the Judiciary Program: p 55 has more information about this.

## Inducting new staff

The Commission's Chief Executive and the relevant Director welcome all new employees to the Commission.

Managers guide new staff through an induction process so that they are aware of and acknowledge:

- the Commission's role and statutory functions
- office facilities and workplace health and safety information and procedures
- key policies and procedures that ensure acceptable behaviour
- conditions of employment and entitlements
- our Code of Conduct.

## Providing professional training and development

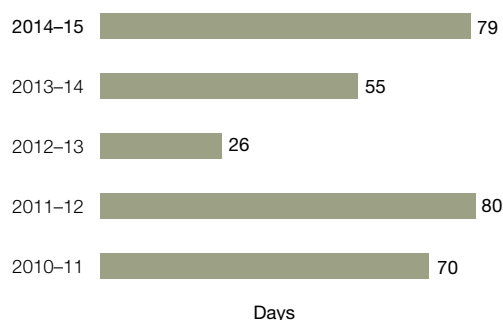
Employees identify their training and development needs in relation to their current job and career plan as part of their yearly performance review. Managers encourage staff to take up training opportunities through skills development courses, leadership courses, tertiary study assistance and work secondments. Our target is for employees to spend at least 2 days each year on training and development.

This year's result has seen staff take-up of training opportunities increase. Twenty-four staff members (59%) attended 79 training days at a cost of \$31,623 (last year: 55 training days at a cost of \$20,811): see Figure 20. Staff attended a variety of training opportunities including:

- conferences and seminars to further professional development in areas such as sentencing law, continuing legal education and current legal issues
- systems and IT workshops (web directions and network administration).

Commission staff have access to the Judicial Information Research System (JIRS) to keep up to date with legal developments. Our employees also attended educational activities provided for judicial officers, including in-house seminars on legal developments and visits to Aboriginal communities as part of the Ngara Yura Program: see p 27 for information about this program.

Figure 20. Staff training days 2010–15



## Conducting performance reviews

Our performance management system provides for regular reviews between supervisors and employees as well as formal annual employee appraisals. Constructive feedback is given and employees have the opportunity to provide feedback to their manager. Employees are encouraged to identify their training needs and work with their manager to develop an individual training plan.

## Providing for workforce diversity

We are committed to providing a diverse, fair and safe workplace for our people. Our corporate planning for equal opportunity is aligned with the NSW Government's Public Sector Workforce Strategy 2012–2015. Almost three quarters of our people are women (71%) and 18% are from culturally diverse backgrounds: see Figure 21. We ensure:

- a workplace culture that has fair practices and behaviours

- a workplace free from discrimination, harassment and disadvantage. We publish policies about these on our intranet. There was 1 discrimination complaint lodged with the Anti-Discrimination Board of NSW that has been successfully resolved (last year: 0), and no harassment complaints (last year: 0)
- flexible work arrangements for staff with family and personal obligations
- information is available about the NSW Government's Spokeswoman's Program, and the Government's employment and development strategy "Making the public sector work better for women".

A Workforce Diversity Plan was developed in November 2012 to identify and remove any systemic barriers that prevent diverse groups participating and being promoted in employment.

The percentages in Figure 21 reflect staff numbers excluding casual staff as at 30 June 2015. A benchmark level has not been reported for people with a disability or people with a disability requiring a work-related adjustment (target is 1.5%). The Commission has no staff member employed in these categories.

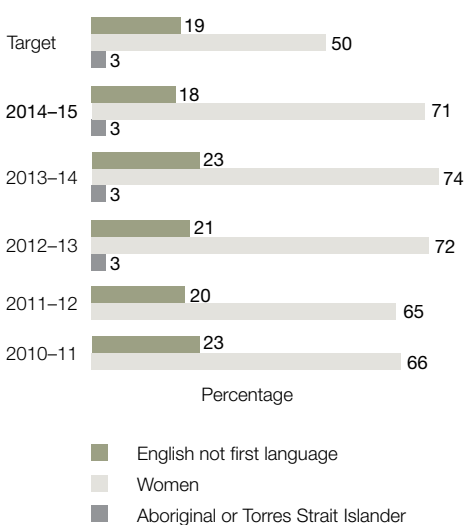
## Ensuring a safe working environment

The work health and safety (WHS) of our employees is a high priority. Our Audit and Risk Management Committee oversees our work, health and safety compliance see p 71. This year, we focused on:

- identifying hazards
- minimising risks
- conducting emergency evacuation drills.

We have a trained WHS representative who conducts quarterly safety inspections of the premises. Two employees are trained as fire wardens and their training is regularly updated by the building management. All staff participate in evacuation drills.

Figure 21. 5-year trends in workforce diversity





Three employees are trained to deliver first aid, CPR and defibrillation. We maintain first aid kits in the workplace.

No workers' compensation claims were lodged this year (last year: none). There were no work-related illnesses or prosecutions under the *Work Health and Safety Act 2011* (last year: none).

We encourage staff to receive influenza immunisation and reimburse the cost of the booster. Ergonomic assessments of workstations are undertaken when a need for this is identified. During the year we provided stand-up desks for staff in response to research that shows long periods of sitting down at a desk have a negative impact on circulation and posture.

## Recognising our achievements

Commission staff attended the Australasian Reporting Awards held in June 2015 in Melbourne to accept a gold award for our 2013–14 Annual Report.



During the year the Commission provided standing workstations. Shown at one of the new workstations is Ryan Ahearn, a Trainee Systems Officer.



The Commission received a gold award at the 2015 Australasian Reporting Awards: (l-r) Antonia Miller, Senior Legal Editor; Ernest Schmitt PSM, Chief Executive; and Kate Lumley, Publishing Manager were there to accept the award.

# Our governance, policies and processes

## Results in brief

The Commission had a

**robust** approach to  
**governance:**

10 Commission meetings and 4 Audit and Risk Management Committee meetings were held, and 2 internal audit reviews conducted: see p 70.

The Audit and Risk Management Committee successfully

**settled** and

accepted the **Internal  
Audit Plan  
2014–15**: see p 72.

Organisational

**responses to**  
**internal audit**

recommendations were

**well advanced**  
by the Commission: see p 72.

Our processes ensured the

**delivery of**  
**high quality**  
**services** in a safe

and efficient workplace:  
see p 73.

The Commission had

**effective**  
**policies** that ensured

safety, security, confidentiality, access, availability, equity, risk management, integrity, compliance and assurance: see p 73.

We reduced our energy use: over 5 years, we have

achieved an **8.6%**  
**reduction in**  
**our energy**

consumption: see p 76.



The Audit and Risk Management Committee assists the Chief Executive, Ernest Schmatt PSM, Chief Executive of the Commission (r) to manage and control our risk exposures. Alex Smith AM (l) is the independent Chair of the Committee. He is assisted by committee member Peter Whitehead (centre), Murali Sagi PSM, Director, Information Management and Corporate Services (second from r).

## Challenges for 2014–15

- Review of and compliance with internal audit recommendations must be balanced with our core operations: see p 72.
- A major challenge for the library services continues to be the high cost of online access to legal subscription services. This puts pressure on the Commission's small library budget: see p 75.

## The year ahead

- The Audit and Risk Management Committee will comply with the requirements of the new NSW Treasury Policy Paper TPP 15-03: Internal Audit and Risk Management Policy for the NSW Public Sector.
- We will continue to maintain a disclosure log to record information about any access applications made to us as required by the *Government Information (Public Access) Act 2009*.
- As a sustainability measure, we will regularly brief staff on our energy consumption and ways to reduce waste.

## Our governance practices

Through good governance, effective policies and processes, we realise our vision, carry out our mission, hold to our values, and achieve our goals.

Our governance practices ensure that:

- we fulfil our statutory functions effectively and efficiently
- we are accountable for our actions
- risk management and auditing processes are properly understood and managed
- our leadership helps us to realise our vision, carry out our mission, hold to our values and achieve our goals.

### Responsibilities of official and appointed Commission members

The Commission members set strategic directions, appoint the executive management team, approve budgets and publications, present judicial education sessions, and conduct the preliminary examination of all complaints. The official members who are judicial officers provide valuable information about judicial officers' education needs and bring their significant experience of the judicial role to determining complaints. The appointed members provide useful information about community expectations of judicial officers and have input into the education program.

Commission members are informed about operational issues by:

- the Chief Executive's monthly report that covers functional and financial matters
- briefings on issues as they arise
- contact with senior executives as required.

### Commission functions

The Commission may delegate any of its functions to a Commission member, officer or committee except the examination of complaints. The Commission has delegated functions to the Chief Executive, including its function as an employer and its access to information obligations. The Commission has established committees to assist carrying out designated responsibilities. Appendix 4 on p 108 has details about these committees. The Commission seeks independent professional advice when necessary to perform certain functions.

### Conflicts of interest

Official members are judicial officers and this could result in a conflict of interest if a member were the subject of a complaint. Commission policy is that a judicial member will not participate in any discussion or decision involving a complaint against him or her. No member will participate in any discussion or decision where that member has a possible conflict of interest.

### Remuneration arrangements for members

Appointed members receive a fee for fulfilling their responsibilities including attending meetings, examining complaints, setting strategic directions, and approving budgets and publications. Their annual rate of remuneration is \$27,500 and this is determined by the Statutory and Other Offices Remuneration Tribunal in accordance with section 50 of the *Judicial Officers Act 1986*. No fees are paid to official members who are judicial officers.

### Commission meetings

Ten Commission meetings were held during the year (last year: 10). Table 15 gives details of each member's attendance. Members are required to attend each meeting, unless leave of absence is granted. The quorum for a meeting is 7 members, and at least one must be an appointed member. The Chief Executive attends all meetings to report on the Commission's operations. Meeting papers are circulated one week before the meeting to allow sufficient time for members to review agenda items and seek further information.

**Table 15. Commission members' meeting attendance**

	Meetings attended	Meetings eligible to attend
<b>Official members</b>		
Hon Chief Justice T Bathurst AC	10	10
Hon Justice M Beazley AO	7	10
Hon Justice M Walton	7	10
Hon Justice B Preston	9	10
Hon Justice D Price AM	8	9
His Hon Judge G Woods QC*	1	1
His Hon Judge G Henson	10	10
<b>Appointed members</b>		
Dr J Cashmore AO	10	10
Prof B McCaughan AM	10	10
Mr N Gupta	8	10
Mr D Giddy	10	10

\* Acting Chief Judge, District Court of NSW, March 2015.



In 2014–15, Commission members:

- examined 59 complaints made about judicial officers
- referred 4 complaints to the relevant head of jurisdiction
- referred 2 complaints to a Conduct Division
- approved publications, including *The Judicial Review* (2 issues); Research Monograph 39, *Sentencing in NSW: A cross-jurisdictional comparison of full-time imprisonment*; and *Sentencing Trends & Issues*, No 44, “Sentencing for the offence of sexual intercourse with a child under 10”
- approved a memorandum of understanding with the Solomon Islands Judiciary for the Commission to provide assistance with judicial education programs
- approved a memorandum of understanding with the Magisterial Service of Papua New Guinea to provide assistance in conducting judicial education programs.

## Role of Chief Executive

The Chief Executive is responsible for all of the Commission’s operations and for the preparation of the financial report in accordance with Australian Accounting Standards, the *Public Finance and Audit Act 1983* and the *Public Finance and Audit Regulation 2010*. This includes establishing and maintaining internal controls relevant to the preparation of the financial report. The Chief Executive is also responsible for the adequacy of digital information, and information systems security obligations. Our Digital Information Security Annual Attestation Statement for 2014–15 is on p 74.

## Appointment of Chief Executive

The Chief Executive is appointed on a contract under section 6(1) of the *Judicial Officers Act 1986*. Commission members review the Chief Executive’s performance each year.

## Code of Conduct

The Commission’s Code of Conduct applies to staff members, and to anyone engaged to provide services, information or advice to the Commission. The Code is published on the Commission’s intranet and new employees, having received a copy of this in their induction package, are required to acknowledge and sign the Code. The Code is based on the premise that staff members will act with integrity, honesty, fairness, conscientiousness, compassion and loyalty to the public interest. Staff members are expected to uphold the Code which outlines principles in relation to confidential information, suspected corrupt conduct, acceptance of gifts or benefits, personal and professional behaviour, public comment and the use of official information, proper use of Commission facilities and equipment, outside employment, political participation, discrimination and harassment, fairness and equity and conduct expected of former employees.

Minor amendments were made to the Code of Conduct in 2014–15 and these were published on our intranet.

## Relationship with the NSW Government

The *Judicial Officers Act 1986* established the Commission as an independent statutory corporation. The NSW Government provides the majority of our funding and we are required to report annually to Parliament. The Commission may give advice to the Attorney General on appropriate matters and the Attorney General may refer a complaint about a judicial officer to the Commission. The Attorney General may request information about a complaint and the Commission must provide this information unless it is not in the public interest to do so. The Commission must also notify the Attorney General when a complaint has been referred to the Conduct Division and how and when the complaint is finalised.

## Legislative charter

We operate under the *Judicial Officers Act 1986* and the *Judicial Officers Regulation 2012*. Our 3 principal functions under the *Judicial Officers Act* are to:

- organise and supervise an appropriate scheme for the continuing education and training of judicial officers
- assist the courts to achieve consistency in imposing sentences
- examine complaints against judicial officers.

We also:

- give advice to the Attorney General on such matters as the Commission thinks appropriate
- liaise with persons and organisations in connection with the performance of our statutory functions
- enter into and carry out contractual arrangements for the supply of property or services that make use of our information technology, expertise, or other goods or services that the Commission has developed in the exercise of its functions.

## No changes to legislation

There were no amendments to the *Judicial Officers Act 1986* or *Judicial Officers Regulation 2012* during the financial year.

## Audit and risk management

The Chief Executive has overall accountability and responsibility for the Commission’s operations. The Audit and Risk Management Committee provides independent advice and support to the Chief Executive on risk management, control and governance processes. The committee operates under a charter that the Commission has approved and is responsible for reviewing:

- internal audit and control functions, including assessing their effectiveness and compliance with section 11 of the *Public Finance and Audit Act 1983*
- the adequacy and quality of the internal control structure
- financial statements and reporting
- financial and operational management
- management responses to audit reports
- internal audit results
- risk management strategies: their effectiveness and internal results.

The Audit and Risk Management Committee comprises Mr Peter Whitehead (external member), Mr Alex Smith AM (independent Chair) and Mr Murali Sagi PSM (internal member). Their qualifications and details are below.

**Mr Alex Smith AM** was appointed independent member on 1 July 2009 until 30 June 2014 and appointed independent Chair on 1 July 2014 for 2 years. Mr Smith is the former Deputy Director General, Department of Premier and Cabinet, NSW and has had 40 years' experience in the NSW public sector having held senior positions in the Department of Premier and Cabinet and the Department of Land and Water Conservation.

**Mr Peter Whitehead** BA LLB TEP was appointed independent Chair on 31 July 2008 until 30 June 2014 and appointed independent member on 1 July 2014 for 2 years. He is currently the Client Director, the Myer Family Company and until 30 June 2009 was the NSW Public Trustee.

**Mr Murali Sagi PSM**, Director, Information Management and Corporate Services, Judicial Commission. Mr Sagi's qualifications and biography are found on p 18.

Others invited to attend the committee meetings included the Chief Executive, Mr Ernest Schmatt PSM; the Director of Research and Sentencing, Mr Hugh Donnelly; Manager, Corporate Services, Mr Malcolm Hozack; and Mr Rob McKimm, Mr Phil O'Toole, Ms Margaret Palmer of IAB Services; Mr David Daniels and Mr Gearoid Fitzgerald of the Audit Office of NSW.

## Committee outcomes 2014–15

Four meetings of the Audit and Risk Management (ARM) Committee were held during the year (last year: 4). Table 16 provides details of attendance at those meetings. The committee monitored and provided advice about the following 4 areas.

### 1. Compliance with Treasury Guidelines

The committee ensured compliance with Treasury Guidelines TPP09-5. The Commission's Internal Audit and Risk Management Policy attestation is on p 73.

**Table 16. Meeting attendance by Audit and Risk Management Committee**

	Meetings attended	Meetings eligible to attend
<b>Committee member</b>		
Peter Whitehead	4	4
Alex Smith AM	4	4
Murali Sagi PSM	4	4
<b>Invitees</b>		
Ernest Schmatt PSM	4	4
Hugh Donnelly	1	1
Malcolm Hozack	4	4
Gearoid Fitzgerald	1	1
Rob McKimm	2	2
David Daniels	2	2
Phil O'Toole	1	1
Margaret Palmer	1	1

## 2. Internal audit

The committee settled and accepted the Internal Audit Plan for 2014–15. The committee monitored:

- the results of the 2014–15 Internal Audit program that reviewed the *Office Relocation* and *Information Security, Data Privacy and Business Continuity Plan*
- the recently developed control self-assessment review of risk mitigation
- the performance of the outsourced internal audit service provider, IAB Services.

### Organisational responses to Internal Audit program

- The recommendations of the *Payroll and Leave Processes* internal audit conducted in 2014 were substantially accepted and the Commission agreed to implement actions designed to address the findings. The Commission had already made improvements to the payroll leave processes and policies. The report was welcomed in improving and standardising practices.
- The recommendations of the *Non-electronic publishing processes* internal audit conducted in 2014 were substantially accepted and the Commission agreed to implement actions designed to address the findings. A review of publishing procedures was undertaken and will be implemented in 2015–16.
- The *Office Relocation* internal audit conducted in 2015 identified risks within functional areas that had been adequately considered in the extensive preparatory work. Project management is well under way with documented evidence of significant work undertaken over an extended period of time. The Commission has already sought and received approval for the relocation budget from NSW Treasury and for it to continue in a CBD location.

## 3. Risk management and business continuity

The committee:

- monitored the level of accuracy of the sentencing data from the courts and suggested steps to improve accuracy
- monitored the currency of the Commission's Business Continuity Plan and assessed the results of the annual scenario testing
- monitored the quarterly high level financial performance
- monitored the insurance risk and cover
- reviewed the updated risk register
- reviewed the *Proposed Three Year Internal Audit Plan 2015–2017*
- considered the ongoing impact of the *Government Sector Employee Act 2013*
- monitored the impact of Treasury Circulars and Policy Papers issued during the year
- considered the risks involved relocating the office which is imminent next year.

## 4. External audit

The committee liaised with the external auditor, the Audit Office of NSW, and monitored the NSW Audit Client Service Plan for 2014–15. The Committee also reviewed the observations on early close to financial procedures that the Commission performed prior to 30 June 2015.

## Forward plan

In 2015–16, the ARM Committee will ensure compliance with the requirements of NSW Treasury Policy Paper TPP 15-03: Internal and Audit and Risk Management Policy for the NSW Public Sector.

## Internal Audit and Risk Management Attestation for the 2014–15 Financial Year for the Judicial Commission of NSW

I, Ernest John Schmatt PSM, Chief Executive, am of the opinion that the Commission has internal audit and risk management processes in operation that are, in all material respects, compliant with the core requirements set out in Treasury Circular NSW TC 09/08 *Internal Audit and Risk Management Policy*. These processes provide a level of assurance that enables the senior management of the Commission to understand, manage and satisfactorily control risk exposures.

In determining the model for internal audit service delivery, the Commission has considered the size of the agency in terms of both staffing levels and budget and the need to provide assurance, independent from operational management on risk management, control and governance processes and has outsourced the function.

I, Ernest John Schmatt PSM, Chief Executive, am of the opinion that the Audit and Risk Committee for the Commission is constituted and operates in accordance with the independence and governance requirements of Treasury Circular NSW TC 09/08.

The Chair and Members of the Audit and Risk Committee are:

- Mr Alex Smith AM, independent Chair — Appointed independent member on 1 July 2009 until 30 June 2014 and appointed independent Chair on 1 July 2014 for 2 years
- Mr Peter Whitehead, independent member — Appointed independent Chair on 31 July 2008 until 30 June 2014 and appointed independent member on 1 July 2014 for 2 years
- Mr Murali Sagi PSM, non-independent member, Director, Information Management — Appointed on 31 July 2008.

These processes provide a level of assurance that enables the senior management of the Commission to understand, manage and satisfactorily control risk exposures.



E J Schmatt PSM  
Chief Executive, Judicial Commission of NSW  
Date: 26 August 2015

## Our policies

Our policies manage our risks and promote ethical practices

### Risk management policy

The Commission is committed to protecting our employees, visitors, contractors and their property as well as the broader community and environment from unnecessary injury, loss or damage.

Our risk management policy is based on a risk register which we regularly review. The senior executives with the assistance of internal auditors identify, consider and rate new risks. The risk register feeds into the Internal Audit Plan which is finalised after discussion between the Chief Executive and internal auditors. The Audit and Risk Management Committee reports to the Chief Executive and monitors our risk management policy. Committee membership and meeting details are provided on p 71.

The risk register is published on the Commission's intranet. There were no major changes to our risk profile during the year.

### Work health and safety policy

Our WHS policy is based on ensuring that our staff and other people who are at the Commission's place of work are not exposed to risks to their health or safety. The Chief Executive retains ultimate responsibility for WHS risk management in our day-to-day operations. Our WHS policy is published on the Commission's intranet.

A WHS trained representative carries out a quarterly inspection and any recommendations are attended to without delay.

### Digital information security policy

Our digital information security policy enables the Commission to protect the confidentiality and integrity of our information and to provide a reliable service to staff and the public. The policy is designed to comply with the core requirements set out in the *Digital Information Security Policy for the NSW Public Sector* that require our digital information to be available, safeguarded and lawfully used. The policy and Digital Information Security Attestation Statement (see over) provide assurance to Parliament and the people of NSW that the information we hold is appropriately protected and handled. The policy is published on our intranet.

## Digital Information Security Annual Attestation Statement for the 2014–15 Financial Year for Judicial Commission of NSW

I, Ernest John Schmatt PSM, am of the opinion that Judicial Commission of NSW had an Information Security Management System in place during the 2014–15 financial year that is consistent with the Core Requirements set out in the *NSW Government Digital Information Security Policy*.

The controls in place to mitigate identified risks to the digital information and digital information systems of the Judicial Commission of NSW are adequate.



E J Schmatt PSM  
Chief Executive, Judicial Commission of NSW  
Date: 3 September 2015

### Multicultural policies and services program

We consider the needs of a culturally diverse society when planning our programs and service delivery. To promote community harmony, access and equity, and in line with the NSW Multicultural Policies and Services Plan, this year we:

- employed 7 people (18%) from a non-English speaking background
- updated information for judicial officers about the needs of people from culturally and linguistically diverse backgrounds who face potential barriers when participating in court proceedings. This information, contained in the *Equality Before the Law Bench Book*, is also publicly available on our website.
- provided accredited interpreters for overseas delegations who visited us during the year, when this was required: see Appendix 12 on p 116 for the list of visitors and delegations
- conducted sessions on interpreters and cultural diversity for the “Cultural barriers in the courtroom” sessions at the National Judicial Orientation Program in June 2015 (a joint program with the National Judicial College of Australia, the Australasian Institute of Judicial Administration and the Judicial College of Victoria)
- provided information about our Ngara Yura (Aboriginal Cultural Awareness) program on our website, in our annual report, and as part of the Community Awareness of the Judiciary Program run in 2014: see p 27
- employed an Aboriginal Project Officer, Ms Joanne Selfe, to advise on Aboriginal cultural awareness through the Ngara Yura Program
- provided interpreting and translation services for complainants.

Our key multicultural strategies for 2015–16 will include:

- developing a pilot cultural diversity training package for judicial officers with the National Judicial College of Australia, the Judicial College of Victoria, and the Australasian Institute of Judicial Administration
- assisting complainants with translation and interpreting services, if this is required
- conducting a fourth Community Awareness of the Judiciary Program. Prominent community leaders from Aboriginal and culturally and linguistically diverse backgrounds will be invited to participate in this program

- providing sessions on cultural diversity in our judicial education program
- updating information on people from culturally and linguistically diverse backgrounds in the *Equality Before the Law Bench Book*
- providing accredited interpreters for overseas delegations who visit us during 2014–15.

### Insurance

We are a member of the NSW Treasury Managed Fund, a mandatory self-insurance scheme for government agencies. This provides comprehensive cover for physical assets such as plant and equipment, motor vehicles and miscellaneous matters. The managed fund provides coverage for staff through workers’ compensation and for the public through public liability cover.

The premium calculated is based on past performance. The premium for this year was \$20,979, comprising Workers Compensation premium of \$13,949 and general insurance premium of \$7,030 (last year total of \$21,901).

### Privacy management plan

During the year, we conducted no reviews under Part 5 of the *Privacy and Personal Information Protection Act 1998*.

The draft Privacy Code of Practice and a draft Privacy Management Plan are being finalised. The documents are designed to deal with the unique issues that arise from our complaints-handling function and the provision of sentencing information.

### Public access to Government information

Section 125 of the *Government Information (Public Access) Act 2009* (the GIPA Act) requires that the Commission report each year on our GIPA Act obligations.

The Commission is authorised, under section 7(1) of the GIPA Act, to publicly release our information unless there is an overriding public interest against disclosure. The Commission’s complaint handling, investigative and reporting functions are “excluded information” under Schedule 2 of the GIPA Act. This means that an access application to this information is not available.



## Review of proactive release program

Our program to proactively release information involves reviewing information as it is published, and making it available online without charge as soon as practical or in print for a fee. The Commission may also make further information available about our administrative, research, sentencing and education functions unless it would be contrary to the public interest to provide that information.

During the year we released the following information:

- Annual Report 2013–14
- Research Monograph No 39, *Sentencing in NSW: A cross-jurisdictional comparison of full-time imprisonment*
- *Sentencing Trends & Issues* No 44: (Environmental and Planning Offences Prosecuted in the NSW Local Court)

- updates to the following bench books and handbooks both in PDF and html format: *Civil Trials Bench Book*, *Criminal Trial Courts Bench Book*, *Equality Before the Law Bench Book*, *Local Court Bench Book*, *Sentencing Bench Book*, *Sexual Assault Trials Handbook*, and the *Children's Court of NSW Resource Handbook*.

## Access applications

We received no formal access applications, including withdrawn applications (but not invalid applications). We refused no formal access applications, either wholly or partly, because the application was for information for which there is a conclusive presumption of an overriding public interest against disclosure (information listed in Schedule 1, Clause 13 to the GIPA Act).

# Our processes and technology

Efficient processes and use of technology help us to build a safe and strong organisation for our people and deliver high quality services for judicial officers and the people of NSW.

## Providing library services

Our library provides support for our research, education and publishing programs. The librarian sources, gathers and distributes legal and related information, and undertakes research and publishing tasks. The librarian also organises training to improve the online legal research skills of staff and to maximise the Commission's investment in legal information resources.

This year:

- 43 items (last year: 129) were added to the online catalogue
- there was a 17% increase in reference enquiries (last year: 64% increase)
- we participated in the NSW Justice Consortium. During the year, the Consortium negotiated a 3-year contract with 2 of the largest legal publishers, with a consistent pricing structure over that period. This will give some certainty to this library's expenditure. While subscriptions to core materials are being maintained, some expensive overseas print journals have had to be cancelled
- we renewed corporate membership of the Australian Library and Information Association, the Australasian Institute of Judicial Administration, and the International Association of Law Libraries. The librarian is also a member of the Australian Law Librarians Association
- our librarian attended the International Federation of Library Associations (IFLA) Congress in Lyon in August 2014
- our librarian prepared for binding 9 volumes (bringing to 236 volumes) of the confidential meeting papers of the Commission, a significant historical archive
- the librarian began preparations for the Commission's move to new premises.

## Guaranteeing our service and consumer response

We guarantee to investigate complaints about judicial officers in a timely and effective manner and to inform complainants about the progress of their complaints. Page 46 shows our targets and the time taken to examine complaints over a 5-year period. If a complaint is dismissed and a complainant seeks to clarify the reasons for this, we respond promptly.

## Delivering our services and publications electronically

We provide a range of online services, including:

- the Judicial Information Research System (JIRS): see p 35
- information about the Commission and complaints process: see p 48
- a complaint form which may be printed
- Lawcodes: see p 57
- bench books and handbooks, including the *Criminal Trial Courts Bench Book*, the *Sentencing Bench Book*, the *Civil Trials Bench Book*, the *Equality Before the Law Bench Book*, the *Local Courts Bench Book*, the *Sexual Assault Trials Handbook*, the *Children's Court of NSW Resource Handbook* and the *Land and Environment Court of NSW Commissioner's Handbook*: see p 29
- research and education publications: see pp 29, 38
- publication orders on the NSW Government's online shop at [www.shop.nsw.gov.au](http://www.shop.nsw.gov.au)
- a Publication Guide and Access Application Form for the purposes of the GIPA Act: see p 119
- media releases, fact sheets and media statements
- our current and previous annual reports.

## Managing our records

No files were disposed of under our functional retention and disposal authority. The records management policy is published on our intranet. This provides a framework and outlines responsibilities for the operation of the Commission's records management program. This applies to records in all formats, including electronic records.

## Maintaining JIRS technology

The Judicial Information Research System (JIRS) is built using open-source software and utilises some of the latest web technologies. The underlying technologies currently include a Linux operating system, Apache web server, PostgreSQL database with search engine and XMLMind editing software. PHP and JavaScript are also widely used in JIRS.

The system is modular in design to ensure that it is adaptable to future changes in both technology and processes. JIRS can be easily adapted to incorporate and integrate a wide variety of data sources and can be easily reconfigured as required.

Access to the information in JIRS is monitored and controlled with regard to NSW laws and regulations. Security is reviewed regularly and implemented at the operating system, web server and application layers to prevent unauthorised disclosure, modification or removal of information, and audit trails are maintained and monitored. Staff are trained in the handling of sensitive data and where sensitive data is exchanged, various encryption methods are used. A disaster recovery plan is in place and tested regularly. More information on JIRS can be found on p 35 and modifications made to JIRS throughout the year are reported at p 37.

## Sustainability

We achieved an 8.6% reduction in energy use over 5 years.

We are committed to reducing our carbon footprint and being part of the NSW Government's plan to be carbon neutral by 2020.

This year, we achieved a 2% reduction in our energy consumption (last year: 1% reduction). Figure 22 graphically shows that over 5 years, we have achieved an 8.6% reduction in our energy consumption.

In line with the NSW Government's Waste Reduction and Purchasing Policy (WRAPP), we focused on reducing waste and increasing the purchase of recycled paper and office consumables. This year we recycled 1.3 tonnes of waste paper (last year 1.7 tonnes) and bought 511 reams of 100% recycled paper (last year: 672).

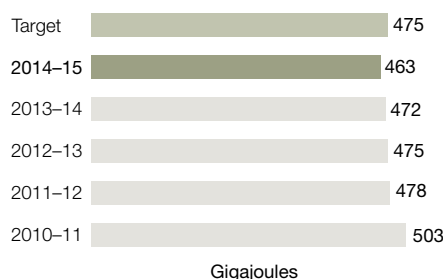
Other sustainability measures included:

- reducing waste generation by recycling all paper, cardboard, toner cartridges and computer equipment
- providing information about environmental matters as a standing item at staff meetings
- reducing the impact of carbon emissions by offsetting carbon when purchasing air tickets for domestic and international travel
- reducing the impact of carbon emissions by preferring carbon neutral conference venues
- using 100% power-saving computers and screens
- minimising energy consumption after hours
- using 100% recycled paper with double-sided printing
- using online research platforms
- using online payment of accounts received and rendered
- publishing internal policies on our intranet
- providing conference papers electronically rather than in print.



Vince Puglia, a Systems Officer, only uses 100% recycled paper as part of the Commission's sustainability measures to reduce our carbon footprint.

**Figure 22. 5-year trend in energy use**





# Part 5

## Our finances

### Contents

Results in brief .....	78
Challenges for 2014–15 .....	78
The year ahead.....	78
Financial summary .....	79
Financial report.....	81
Certification of financial statements.....	81
Independent Auditor's Report .....	81
Financial statements .....	83

# Our finances for 2014–15

## Results in brief

Revenue was

**\$6.13 million**

including \$5.247 million in Government revenue: see p 79.

Expenses increased by

**\$210,000** due to

Conduct Divisions: see p 79.

Self-generated revenue was

**\$745,000** from

sale of goods and services:  
see p 79.

Total assets increased by

**\$203,000**

mainly due to increase to cash at  
bank balance: see p 79.

Our financial result was a small  
deficit of

**\$43,000**: see p 83.

## Challenges for 2014–15

- Maintaining operations and service levels in an environment of tight budgetary restraint.
- Continuing to generate significant revenue to make up for the shortfall between government contribution and expenses.

## The year ahead

- We will continue to generate revenue through the sale of goods and services for computerised case management, software development and educational services.



## Financial summary

Our financial result was a negative of \$43,000 (last year: \$50,000 surplus)

### Revenue

Figure 23 shows that our principal source of revenue is government contributions of \$5.247 million, compared to last year of \$4.976 million.

Other revenue items were \$745,000 from the sale of goods and services (last year: \$995,000) and \$138,000 from interest and other sources (last year: \$42,000). Total retained revenue was \$883,000.

Revenue from the sale of goods and services decreased this year due to annual variations of software development services. This is made up of a yearly maintenance charge, and development work, the latter of which is volatile from year to year.

### Expenditure

Figure 24 shows that our expenses this financial year totalled \$6.173 million, being an increase of \$210,000 from last financial year. Increases are due to the convening of Conduct Divisions to investigate complaints: see p 46 for details about the Conduct Divisions. Employee-related expenses declined to \$4.295 million or 69.58% of total expenses.

### Assets

Total assets increased by \$203,000.

### Liabilities

Total liabilities increased by \$246,000 mainly due to a slight increase in payables: see Table 17.

### Payment of accounts

Table 18 shows that we paid all accounts on time and were not required to pay any penalty interest on any account.

### Consultants

We did not engage any consultants this year.

### Credit card certification

The Chief Executive certifies that credit card usage in the Commission has met best practice guidelines in accordance with the Premier's Memorandum and Treasury Directions.

Figure 23. Revenue

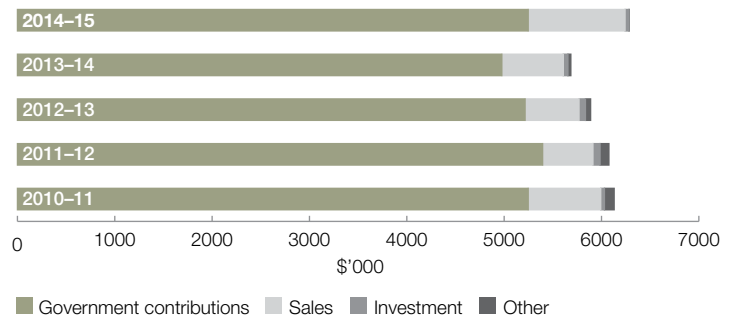


Figure 24. Expenses

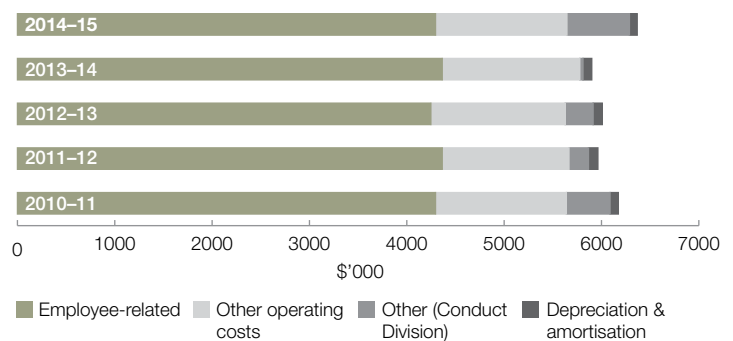


Table 17. Aged analysis at the end of each quarter

	Current (within due date)	Less than 30 days overdue	Between 30 and 60 days overdue	Between 60 and 90 days overdue	More than 90 days overdue
Quarter	\$	\$	\$	\$	\$
Sep 2014	45,965	nil	nil	nil	nil
Dec 2014	137,215	nil	nil	nil	nil
Mar 2015	71,467	nil	nil	nil	nil
Jun 2015	64,384	nil	nil	nil	nil

Table 18. Accounts paid on time within each quarter

	Total accounts paid on time			Total amount paid
Quarter	Target %	Actual %	\$	\$
Sep 2014	100	100	939,908	939,908
Dec 2014	100	100	836,764	836,764
Mar 2015	100	100	773,853	773,853
Jun 2015	100	100	781,325	781,325

## Financial report contents

Certification of Financial Statements . . . . .	81
Independent Auditor's Report . . . . .	81
Statement of comprehensive income. . . . .	83
Statement of financial position. . . . .	84
Statement of changes in equity . . . . .	85
Statement of cash flows . . . . .	86
Summary of compliance with financial directives . . . . .	87
Notes to the financial statements. . . . .	88
1. Summary of significant accounting policies . . . . .	88
2. Expenses excluding losses . . . . .	92
3. Revenue. . . . .	93
4. Gain/(loss) on disposal . . . . .	93
5. Other gains/(losses). . . . .	93
6. Service groups of the Commission . . . . .	94
7. Current assets — cash and cash equivalents . . . . .	94
8. Current assets — receivables . . . . .	94
9. Non-current assets — plant and equipment. . . . .	95
10. Intangible assets . . . . .	96
11. Current liabilities — payables . . . . .	97
12. Current/non-current liabilities — provisions . . . . .	97
13. Current liabilities — other . . . . .	97
14. Commitments for expenditure. . . . .	97
15. Contingent liabilities and contingent assets . . . . .	98
16. Budget review . . . . .	98
17. Reconciliation of net cash flows from operating activities to net result . . . . .	98
18. Financial instruments. . . . .	98
19. Events after the reporting period. . . . .	100

# Financial report

## Certification of Financial Statements

Pursuant to section 45F of the *Public Finance and Audit Act 1983*, I state that:

- (a) the Judicial Commission's Financial Statements are a general purpose financial report which has been prepared in accordance with applicable Australian Accounting Standards (which include Australian Accounting Interpretations) and other mandatory professional reporting requirements, the requirements of the *Public Finance and Audit Act 1983*, the requirements of the finance reporting directives published in the Financial Reporting Code for Budget Dependent General Government Sector Agencies, the *Public Finance and Audit Regulation 2010* and the Treasurer's Directions;
- (b) the financial statements exhibit a true and fair view of the financial position and transactions of the Judicial Commission of New South Wales for the year ended 30 June 2015; and
- (c) there are no circumstances which would render any particulars included in the financial statements to be misleading or inaccurate.



E J Schmatt PSM  
Chief Executive, Judicial Commission of NSW  
Dated: 26 August 2015

## Independent Auditor's Report



### INDEPENDENT AUDITOR'S REPORT

#### Judicial Commission of New South Wales

To Members of the New South Wales Parliament

I have audited the accompanying financial statements of the Judicial Commission of New South Wales (the Commission), which comprise the statement of financial position as at 30 June 2015, the statement of comprehensive income, statement of changes in equity, statement of cash flows and summary of compliance with financial directives for the year then ended, notes comprising a summary of significant accounting policies and other explanatory information.

#### Opinion

In my opinion the financial statements:

- give a true and fair view of the financial position of the Commission as at 30 June 2015, and of its financial performance and its cash flows for the year then ended in accordance with Australian Accounting Standards
- are in accordance with section 45E of the *Public Finance and Audit Act 1983* (PF&A Act) and the *Public Finance and Audit Regulation 2010*.

My opinion should be read in conjunction with the rest of this report.

#### Chief Executive's Responsibility for the Financial Statements

The Chief Executive is responsible for preparing financial statements that give a true and fair view in accordance with Australian Accounting Standards and the PF&A Act, and for such internal control as the Chief Executive determines is necessary to enable the preparation of financial statements that give a true and fair view and are free from material misstatement, whether due to fraud or error.

## Independent Auditor's Report *continued*

### Auditor's Responsibility

My responsibility is to express an opinion on the financial statements based on my audit. I conducted my audit in accordance with Australian Auditing Standards. Those standards require that I comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including an assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation of the financial statements that give a true and fair view in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

I believe the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

My opinion does *not* provide assurance:

- about the future viability of the Commission
- that it carried out its activities effectively, efficiently and economically
- about the effectiveness of the internal control
- about the assumptions used in formulating the budget figures disclosed in the financial statements
- about the security and controls over the electronic publication of the audited financial statements on any website where they may be presented
- about other information that may have been hyperlinked to/from the financial statements.

### Independence

In conducting my audit, I have complied with the independence requirements of the Australian Auditing Standards and relevant ethical pronouncements. The PF&A Act further promotes independence by:

- providing that only Parliament, and not the executive government, can remove an Auditor-General
- mandating the Auditor-General as auditor of public sector agencies, but precluding the provision of non-audit services, thus ensuring the Auditor-General and the Audit Office of New South Wales are not compromised in their roles by the possibility of losing clients or income.



David Daniels  
Director, Financial Audit Services

31 August 2015  
SYDNEY



**Judicial Commission of NSW**

## Statement of comprehensive income for the year ended 30 June 2015

	Notes	Actual 2015 \$'000	Budget 2015 \$'000	Actual 2014 \$'000
<b>Expenses excluding losses</b>				
Operating expenses				
Employee related	2(a)	4,295	4,374	4,364
Other operating expenses	2(b)	1,338	1,335	1,302
Depreciation and amortisation	2(c)	85	104	97
Grants and subsidies	2(d)	6	–	–
Other expenses	2(e)	449	302	200
<b>Total Expenses excluding losses</b>		<b>6,173</b>	<b>6,115</b>	<b>5,963</b>
<b>Revenue</b>				
Recurrent appropriation	3(a)	5,061	4,914	4,796
Capital appropriation	3(a)	102	150	45
Acceptance by the Crown Entity of employee benefits and other liabilities	3(d)	84	212	135
Sales of goods and services	3(b)	745	682	995
Investment revenue	3(c)	38	46	41
Other revenue	3(e)	100	148	1
<b>Total Revenue</b>		<b>6,130</b>	<b>6,152</b>	<b>6,013</b>
<b>Net Result</b>	17	<b>(43)</b>	<b>37</b>	<b>50</b>
<b>Other comprehensive income</b>		<b>–</b>	<b>–</b>	<b>–</b>
<b>TOTAL COMPREHENSIVE INCOME</b>		<b>(43)</b>	<b>37</b>	<b>50</b>

The accompanying notes form part of these financial statements

**Judicial Commission of NSW**

Statement of financial position as at 30 June 2015

	Notes	Actual 2015 \$'000	Budget 2015 \$'000	Actual 2014 \$'000
<b>ASSETS</b>				
<b>Current Assets</b>				
Cash and cash equivalents	7	1,781	1,474	1,584
Receivables	8	73	49	85
<b>Total Current Assets</b>		<b>1,854</b>	<b>1,523</b>	<b>1,669</b>
<b>Non-Current Assets</b>				
Plant and equipment	9	283	317	277
Intangible assets	10	12	–	–
<b>Total Non-Current Assets</b>		<b>295</b>	<b>317</b>	<b>277</b>
<b>Total Assets</b>		<b>2,149</b>	<b>1,840</b>	<b>1,946</b>
<b>LIABILITIES</b>				
<b>Current Liabilities</b>				
Payables	11	463	270	281
Provisions	12	470	389	508
Other	13	103	–	–
<b>Total Current Liabilities</b>		<b>1,036</b>	<b>659</b>	<b>789</b>
<b>Non-Current Liabilities</b>				
Provisions	12	12	–	13
<b>Total Non-Current Liabilities</b>		<b>12</b>	<b>–</b>	<b>13</b>
<b>Total Liabilities</b>		<b>1,048</b>	<b>659</b>	<b>802</b>
<b>Net Assets</b>		<b>1,101</b>	<b>1,181</b>	<b>1,144</b>
<b>EQUITY</b>				
Accumulated funds		1,101	1,181	1,144
<b>Total Equity</b>		<b>1,101</b>	<b>1,181</b>	<b>1,144</b>

The accompanying notes form part of these financial statements

**Judicial Commission of NSW**

## Statement of changes in equity for the year ended 30 June 2015

	Accumulated Funds \$'000	Total \$'000
<b>Balance at 1 July 2014</b>	1,144	1,144
<b>Net Result for the year</b>	(43)	(43)
<b>Total other comprehensive income</b>	–	–
<b>Total comprehensive income for the year</b>	(43)	(43)
<b>Balance at 30 June 2015</b>	1,101	1,101
<b>Balance at 1 July 2013</b>	1,094	1,094
<b>Net Result for the year</b>	50	50
<b>Total other comprehensive income</b>	–	–
<b>Total comprehensive income for the year</b>	50	50
<b>Balance at 30 June 2014</b>	1,144	1,144

The accompanying notes form part of these financial statements

**Judicial Commission of NSW**

## Statement of cash flows for the year ended 30 June 2015

	Notes	Actual 2015 \$'000	Budget 2015 \$'000	Actual 2014 \$'000
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>				
<b>Payments</b>				
Employee related		(4,239)	(4,162)	(4,185)
Other		(1,873)	(1,816)	(1,771)
<b>Total Payments</b>		(6,112)	(5,978)	(5,956)
<b>Receipts</b>				
Recurrent appropriation		5,164	4,914	4,796
Capital appropriation (excluding equity appropriations)		102	150	45
(Transfers to the Crown Entity)		–	–	–
Sale of goods and services		1,004	682	1,263
Interest received		41	46	42
Other		100	327	2
<b>Total Receipts</b>		6,411	6,119	6,148
<b>NET CASH FLOWS FROM OPERATING ACTIVITIES</b>	17	299	141	192
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>				
Purchases of plant and equipment		(102)	(150)	(45)
<b>NET CASH FLOWS FROM INVESTING ACTIVITIES</b>		(102)	(150)	(45)
<b>NET INCREASE/(DECREASE) IN CASH</b>		197	(9)	147
Opening Cash and Cash Equivalents		1,584	1,483	1,437
<b>CLOSING CASH AND CASH EQUIVALENTS</b>	7	1,781	1,474	1,584

The accompanying notes form part of these financial statements



## Judicial Commission of NSW

### Summary of compliance with financial directives

	2015				2014			
	Recurrent Appropriation	Expenditure/ Net Claim on Consolidated Fund	Capital Appropriation	Expenditure/ Net Claim on Consolidated Fund	Recurrent Appropriation	Expenditure/ Net Claim on Consolidated Fund	Capital Appropriation	Expenditure/ Net Claim on Consolidated Fund
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
<b>ORIGINAL BUDGET/ APPROPRIATION EXPENDITURE</b>								
Appropriation Act	4,914	4,914	150	102	4,996	4,796	150	45
	4,914	4,914	150	102	4,996	4,796	150	45
<b>OTHER APPROPRIATIONS/ EXPENDITURE</b>								
Treasurer's Advance	–	–	–	–	–	–	–	–
Transfers from another entity (per section 32 of the Appropriation Act)	250	147	–	–	–	–	–	–
<b>Total Appropriations/ Expenditure/Net Claim on Consolidated Fund (includes transfer payments)</b>	5,164	5,061	150	102	4,996	4,796	150	45
<b>Amount drawn down against Appropriation</b>		5,164		102		4,796		45
<b>Liability to Consolidated Fund*</b>		103		–		–		–

The Summary of Compliance is based on the assumption that Consolidated Fund moneys are spent first (except where otherwise identified or prescribed).

\* Liability to Consolidated Fund represents the difference between the "Amount drawn down against Appropriation" and the "Total Expenditure/Net Claim on Consolidated Fund".

## Judicial Commission of NSW

### Notes to the financial statements for the year ended 30 June 2015

#### 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

##### (a) Reporting Entity

The Judicial Commission of New South Wales (the Commission) is a NSW government agency which does not have any entities under its control.

The Commission is a corporation set up under the *Judicial Officers Act 1986*. The Commission is a not-for-profit entity, as profit is not its principal objective and it has no cash generating units. The reporting entity is consolidated as part of the NSW Total State Sector Accounts.

These financial statements for the year ended 30 June 2015 have been authorised for issue by the Chief Executive on 26 August 2015.

##### (b) Basis of Preparation

The entity's financial statements are general purpose financial statements which have been prepared in accordance with:

- applicable Australian Accounting Standards (which include Australian Accounting Interpretations);
- the requirements of the *Public Finance and Audit Act 1983* and *Public Finance Audit Regulation 2010*; and
- the Financial Reporting Directions published in the Financial Reporting Code for NSW General Government Sector entities or issued by the Treasurer.

Plant and equipment are measured at fair value. Other financial statement items are prepared in accordance with the historical cost convention.

Judgements, key assumptions and estimations, management has made are disclosed in the relevant notes to the financial statements.

All amounts are rounded to the nearest one thousand dollars and are expressed in Australian currency.

##### (c) Statement of Compliance

These financial statements and notes comply with Australian Accounting Standards, which include Australian Accounting Interpretations.

##### (d) Insurance

The entity's insurance activities are conducted through the NSW Treasury Managed Fund Scheme of self-insurance for Government entities. The expense (premium) is determined by the Fund Manager based on past claims experience.

##### (e) Accounting for the Goods and Services Tax (GST)

Income, expenses and assets are recognised net of the amount of GST, except that:

- the amount of GST incurred by the entity as a purchaser that is not recoverable from the Australian Taxation Office is recognised as part of the cost of acquisition of an asset or as part of an item of expense and
- receivables and payables are stated with the amount of GST included.

Cash flows are included in the cash flow statement on a gross basis. However the GST components of cash flows arising from investing activities which is recoverable from, or payable to, the Australian Taxation Office are classified as operating cash flows.

##### (f) Income Recognition

Income is measured at the fair value of the consideration or contribution received or receivable. Comments regarding the accounting policies for the recognition of income are discussed below.

##### (i) Parliamentary appropriations and contributions

Except as specified below, parliamentary appropriations and contributions from other bodies (including grants and donations) are generally recognised as income when the Commission obtains control over the assets comprising the appropriations/contributions. Control over appropriations and contributions are normally obtained upon the receipt of cash.

Appropriations are not recognised as income in the following circumstances:

- 'Equity appropriations' to fund payments to adjust a for-profit entity's capital structure are recognised as equity injections (i.e. contribution by owners) on receipt and equity withdrawals on payment to a for-profit entity. The reconciliation between the statement of comprehensive income, statement of summary of compliance with financial directives and the total appropriations is disclosed in Note 3(a).
- Unspent appropriations are recognised as liabilities rather than revenue, as the authority to spend money lapses and the unspent amount must be repaid to the Consolidated Fund. The liability is disclosed in Note 13 as part of 'Current Liabilities – Other'. The amount will be repaid and the liability will be extinguished next financial year.

##### (ii) Sale of Goods

Revenue from the sale of goods is recognised as revenue when the entity transfers the significant risks and rewards of ownership of the assets.

##### (iii) Rendering of Services

Revenue is recognised when the service is provided or by reference to the stage of completion (based on labour hours incurred to date).

##### (iv) Investment Revenue

Interest revenue is recognised using the effective interest method as set out in *AASB 139 Financial Instruments: Recognition and Measurement*.

##### (g) Assets

##### (i) Acquisition of assets

Assets acquired are initially recognised at cost. Cost is the amount of cash or cash equivalents paid or the fair value of the other consideration given to acquire the asset at the time of its acquisition or construction or, where applicable, the amount attributed to that asset when initially recognised in accordance with the requirements of other Australian Accounting Standards.

Assets acquired at no cost, or for nominal consideration, are initially recognised at their fair value at the date of acquisition.

Fair value is the price that would be received to sell an asset in an orderly transaction between market participants at measurement date.

Where payment for an asset is deferred beyond normal credit terms, its cost is cash price equivalent, i.e. deferred payment is effectively discounted over the period of credit.

## Judicial Commission of NSW

### Notes to the financial statements for the year ended 30 June 2015

#### (ii) Capitalisation thresholds

Plant and equipment and intangible assets costing \$1,000 and above individually (or forming part of a network costing more than \$1,000) are capitalised. Individual items of computer or office equipment costing over \$500 and above and having a useful life of more than one year are also capitalised.

#### (iii) Revaluation of property, plant and equipment

Physical non-current assets are valued in accordance with the "Valuation of Physical Non-Current Assets at Fair Value" Policy and Guidelines Paper (TPP 14-01). This policy adopts fair value in accordance with *AASB 116 Property, Plant and Equipment* and *AASB 13 Fair Value Measurement*.

Plant and equipment is measured on an existing use basis, where there are no feasible alternative uses in the existing natural, legal, financial and socio-political environment. However, in the limited circumstances where there are feasible alternative uses, assets are valued at their highest and best use.

Fair value of plant and equipment is determined based on the best available market evidence, including current market selling prices for the same or similar assets. Where there is no available market evidence, the asset's fair value is measured at its market buying price, the best indicator of which is depreciated replacement cost.

As the entity does not own land, building or infrastructure assets, management does not believe that the revaluation of physical non-current assets every five years is warranted, unless it becomes aware of any material difference in the carrying amount of any class of assets.

Most of the entity's assets are non-specialised assets with short useful life and are therefore measured at depreciated historical cost, as a surrogate for fair value.

#### (iv) Impairment of plant and equipment

As a not-for-profit entity with no cash generating units, impairment under *AASB 136 Impairment of Assets* is unlikely to arise. This is because *AASB 136* modifies the recoverable amount test to the higher of fair value less costs to sell and depreciated replacement cost. This means that for an asset already measured at fair value, impairment can only arise if selling costs are material. Selling costs are regarded as immaterial.

#### (v) Depreciation of plant and equipment

Depreciation is provided for on a straight-line basis for all depreciable assets so as to write off the depreciable amount of each asset as it is consumed over its useful life to the entity.

All material separately identifiable components of assets are depreciated over their shorter useful lives.

The estimated useful lives of the asset classes are:

Computer Equipment	3 years
Furniture and Fittings	15 years
Office Equipment	5 or 10 years

#### (vi) Maintenance

Day-to-day servicing costs or maintenance are charged as expenses as incurred, except where they relate to the replacement of a part or component of an asset, in which case the costs are capitalised and depreciated.

#### (vii) Leased assets

A distinction is made between finance leases which effectively transfer from the lessor to the lessee substantially all the risks and benefits incidental to ownership of the leased assets, and operating leases under which the lessor effectively retains all such risks and benefits.

Where a non-current asset is acquired by means of a finance lease, the asset is recognised at its fair value at the commencement of the lease term. The corresponding liability is established at the same amount. Lease payments are allocated between the principal component and the interest expense.

Operating lease payments are recognised as an expense on a straight-line basis over the lease term.

#### (viii) Intangible assets

The entity recognises intangible assets only if it is probable that future economic benefits will flow to the entity and the cost can be measured reliably. Intangible assets are measured initially at cost. Where an asset is acquired at no or nominal cost, the cost is its fair value as at the date of acquisition.

All research costs are expensed. Development costs are only capitalised when certain criteria are met.

The useful lives of intangible assets are assessed to be finite.

Intangible assets are subsequently measured at fair value only if there is an active market. As there is no active market for the entity's intangible assets, the assets are carried at cost less any accumulated amortisation.

The entity's intangible assets are amortised using the straight line method over a period of three (3) years.

Intangible assets are tested for impairment where an indicator of impairment exists. If the recoverable amount is less than its carrying amount the carrying amount is reduced to recoverable amount and the reduction is recognised as an impairment loss.

#### (ix) Loans and receivables

Loans and receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. These financial assets are recognised initially at fair value, usually based on the transaction cost or face value. Subsequent measurement is at amortised cost using the effective interest method, less an allowance for any impairment of receivables. Any changes are recognised in the net result for the year when impaired, derecognised or through the amortisation process.

Short-term receivables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

## Judicial Commission of NSW

### Notes to the financial statements for the year ended 30 June 2015

#### (x) Impairment of financial assets

All financial assets, except those measured at fair value through profit and loss, are subject to an annual review for impairment. An allowance for impairment is established when there is objective evidence that the entity will not be able to collect all amounts due.

For financial assets carried at amortised cost, the amount of the allowance is the difference between the asset's carrying amount and the present value of estimated future cash flows, discounted at the effective interest rate. The amount of the impairment loss is recognised in the net result for the year.

#### (xi) De-recognition of financial assets and financial liabilities

A financial asset is derecognised when the contractual rights to the cash flows from the financial assets expire; or if the entity transfers the financial asset:

- where substantially all the risks and rewards have been transferred or
- where the entity has not transferred substantially all the risks and rewards, if the entity has not retained control.

Where the entity has neither transferred nor retained substantially all the risks and rewards or transferred control, the asset is recognised to the extent of the entity's continuing involvement in the asset.

A financial liability is derecognised when the obligation specified in the contract is discharged or cancelled or expired.

#### (xii) Other Assets

Other assets are recognised on a cost basis.

#### (h) Liabilities

##### (i) Payables

These amounts represent liabilities for goods and services provided to the entity and other amounts. Payables are recognised initially at fair value, usually based on the transaction cost or face value. Subsequent measurement is at amortised cost using the effective interest method. Short-term payables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

##### (ii) Employee benefits and other provisions

###### a. Salaries and wages, annual leave, sick leave and on-costs

Salaries and wages (including non-monetary benefits), and paid sick leave that are due to be settled wholly within 12 months after the end of the period in which the employees render their services are recognised and measured at the undiscounted amount of the benefits.

Annual leave is not expected to be settled wholly before twelve months after the end of the annual reporting period in which the employees render the related service. As such, it is required to be measured at present value in accordance with *AASB 119 Employee Benefits* (although short-cut methods are permitted.) Actuarial advice obtained by Treasury has

confirmed that the use of an approach using nominal value of annual leave plus annual leave on the nominal liability (using 7.9% of the nominal value of annual leave) can be used to approximate the present value of the annual leave liability. The entity has assessed the actuarial advice based on the entity's circumstances and has determined that the effect of discounting is immaterial to annual leave.

Unused non-vesting sick leave does not give rise to a liability as it is not considered probable that sick leave taken in the future will be greater than the benefits accrued in the future.

The outstanding amounts of payroll tax, workers' compensation insurance premiums and fringe benefits tax, which are consequential to employment, are recognised as liabilities and expenses where the employee benefits to which they relate have been recognised.

##### b. Long service leave and superannuation

The entity's liabilities for long service leave and defined benefit superannuation are assumed by the Crown Entity. The entity accounts for the liability as having been extinguished resulting in the amount assumed being shown as part of the non-monetary revenue item described as "Acceptance by the Crown Entity of employee benefits and other liabilities".

Long service leave is measured at present value in accordance with *AASB 119 Employee Benefits*. This is based on the application of certain factors (specified in NSWTC 15/09) to employees with five or more years of service, using current rates of pay. These factors were determined based on an actuarial review to approximate present value.

The superannuation expense for the financial year is determined by using the formulae specified in the Treasurer's Directions. The expense for certain superannuation schemes (i.e. Basic Benefit and First State Super) is calculated as a percentage of the employees' salary. For other superannuation schemes (i.e. State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employees' superannuation contributions.

##### c. Other Provisions

Other provisions exist when: the entity has a present legal or constructive obligation as a result of a past event; it is probable that an outflow of resources will be required to settle the obligation; and a reliable estimate can be made of the amount of the obligation.

##### (i) Fair Value Heirachy

A number of the entity's accounting policies and disclosures require the measurement of fair values, for both financial and non-financial assets and liabilities. When measuring fair value, the valuation technique used maximises the use of relevant observable inputs and minimises the use of unobservable inputs.



## Judicial Commission of NSW

### Notes to the financial statements for the year ended 30 June 2015

#### (j) Equity and reserves

- (i) The category 'Accumulated Funds' include all current and prior period retained funds.
- (ii) Separate reserve accounts are recognised in the financial statements only if such accounts are required by specific legislation or Australian Accounting Standards.

#### (k) Budgeted Amounts

The budgeted amounts are drawn from original budgeted financial statements presented to Parliament in respect of the reporting period. Subsequent amendments to the original budget are not reflected in the budgeted amounts. Major variances between the original budgeted amounts and the actual amounts disclosed in the primary financial statements is explained in Note 16.

#### (l) Comparative information

Except when an Australian Accounting Standard permits or requires otherwise, comparative information is disclosed in respect of the previous period for all amounts reported in the financial statements.

#### (m) New Australian Accounting Standards issued but not effective

The following new Accounting Standards have not been applied and are not yet effective.

- AASB 9, AASB 2010-7, AASB 2013-9 (Part C), AASB 2014-1 (Part E), AASB 2014-7, and AASB 2014-8 regarding financial instruments
- AASB 15 and AASB 2014-5 regarding Revenue from Contracts with Customers
- AASB 2014-4 regarding acceptable methods of depreciation and amortisation
- AASB 2015-1 regarding annual improvements to Australian Accounting Standards 2012-14 cycle
- AASB 2015-2 regarding amendments to AASB 101 disclosure requirements
- AASB 2015-3 regarding materiality

The Commission does not expect the adoption of these Standards in the future periods to materially impact the financial statements.

## Judicial Commission of NSW

Notes to the financial statements for the year ended 30 June 2015

	2015 \$'000	2014 \$'000
<b>2. EXPENSES EXCLUDING LOSSES</b>		
(a) Employee related expenses:		
Salaries and wages (including recreation leave)	3,766	3,792
Superannuation – defined benefit plans	96	91
Superannuation – defined contributions plans	214	206
Long service leave	(18)	39
Workers' compensation insurance	14	14
Payroll tax and fringe benefit tax	223	222
	<u>4,295</u>	<u>4,364</u>
(b) Other operating expenses include the following:		
Operating lease rental expense – minimum lease payments	519	486
Fees for services	47	50
Contractors	128	130
Conferences	126	151
Printing	65	46
Member fees	110	101
Stores and equipment	15	5
Books and periodicals	64	64
Postal and telephone	56	53
Training	32	21
Travel expenses	19	28
Electricity	30	33
Insurance	6	6
Auditor's remuneration – audit of the financial statements	21	20
Recruitment	1	2
Maintenance	8	7
Other	91	99
	<u>1,338</u>	<u>1,302</u>
<i>Reconciliation – Total maintenance</i>		
Maintenance expense – contracted labour and other (non-employee related), as above	8	7
Employee related maintenance expense included in Note 2(a)	–	–
Total maintenance expenses included in Note 2(a) + 2(b)	<u>8</u>	<u>7</u>
(c) Depreciation and amortisation expense		
Depreciation		
Computer equipment	60	64
Office furniture	22	22
Office equipment	2	7
	<u>84</u>	<u>93</u>
Amortisation		
Intangible assets	1	4
	<u>85</u>	<u>97</u>
(d) Grants and subsidies		
Aboriginal program expenditure review efficiency contribution	6	–
	<u>6</u>	<u>–</u>
(e) Other expenses		
Conduct Division	449	200
	<u>449</u>	<u>200</u>

## Judicial Commission of NSW

Notes to the financial statements for the year ended 30 June 2015

		2015 \$'000	2014 \$'000
<b>3. REVENUE</b>			
(a)	<b>Appropriations and Transfers to the Crown Entity</b>		
	<b>Recurrent Appropriations</b>		
	Total recurrent draw-downs from NSW Treasury (per Summary of Compliance)	5,164	4,796
	Less: Liability to Consolidated Fund (per Summary of Compliance)	103	–
		<u>5,061</u>	<u>4,796</u>
	<i>Comprising:</i>		
	Recurrent appropriations (per Statement of comprehensive income)	<u>5,061</u>	<u>4,796</u>
	<b>Capital appropriations</b>		
	Total capital draw-downs from NSW Treasury (per Summary of Compliance)	102	45
	Less: Liability to Consolidated Fund (per Summary of Compliance)	–	–
		<u>102</u>	<u>45</u>
	<i>Comprising</i>		
	Capital appropriations (per Statement of comprehensive income)	<u>102</u>	<u>45</u>
(b)	Sale of goods and services		
	Sale of goods	113	100
	Rendering of services	632	895
		<u>745</u>	<u>995</u>
(c)	Investment revenue		
	Interest	<u>38</u>	<u>41</u>
(d)	Acceptance by the Crown Entity of employee benefits and other liabilities		
	The following liabilities and/or expenses have been assumed by the Crown Entity or other government entities:		
	Superannuation — defined benefit	97	91
	Long service leave	(18)	39
	Payroll tax	5	5
		<u>84</u>	<u>135</u>
(e)	Other revenue		
	Miscellaneous revenue	<u>100</u>	<u>1</u>
<b>4. GAIN/(LOSS) ON DISPOSAL</b>		–	–
<b>5. OTHER GAINS/(LOSSES)</b>		–	–

## Judicial Commission of NSW

Notes to the financial statements for the year ended 30 June 2015

	2015 \$'000	2014 \$'000
<b>6. SERVICE GROUPS OF THE COMMISSION</b>		
<b>Judicial Education, Research &amp; Sentencing, and Examination of Complaints</b>		
Service description: This service group covers the provision of education services to promote a better informed and professional judiciary, sentencing information to ensure consistency in sentencing, and the effective examination of complaints in accordance with statutory provisions.		
The Commission operates a single service group. The expenses, income, assets and liabilities of the service group are presented in the primary financial statements.		
<b>7. CURRENT ASSETS – CASH AND CASH EQUIVALENTS</b>		
Cash at bank and on hand	1,781	1,584
	<u>1,781</u>	<u>1,584</u>
For the purpose of the statement of cash flows, cash and cash equivalents include cash at bank and cash on hand.		
Cash and cash equivalent assets recognised in the statement of financial position are reconciled at the end of the financial year to the statement of cash flows as follows:		
Cash and cash equivalents (per statement of financial position)	1,781	1,584
Closing cash and cash equivalents (per statement of cash flows)	<u>1,781</u>	<u>1,584</u>
Refer Note 18 for details regarding credit risk, liquidity risk and market risk arising from financial instruments		
<b>8. CURRENT ASSETS – RECEIVABLES</b>		
Sale of goods and services	–	14
Other receivables	–	8
Interest receivable	18	21
Prepayments	55	42
	<u>73</u>	<u>85</u>

Details regarding credit risk, liquidity risk and market risk, including financial assets that are either past due or impaired, are disclosed in Note 18.



## Judicial Commission of NSW

Notes to the financial statements for the year ended 30 June 2015

### 9. NON-CURRENT ASSETS – PLANT AND EQUIPMENT

#### At 1 July 2014 – fair value

	Plant and Equipment \$'000	Total \$'000
Gross carrying amount	1,506	1,506
Accumulated depreciation and impairment	(1,229)	(1,229)
Net carrying amount	277	277

#### At 30 June 2015 – fair value

	Plant and Equipment \$'000	Total \$'000
Gross carrying amount	1,595	1,595
Accumulated depreciation and impairment	(1,312)	(1,312)
Net carrying amount	283	283

#### Reconciliation

A reconciliation of the carrying amounts of plant and equipment at the beginning and end of the current and previous financial year are set out below.

#### Year ended 30 June 2015

	Plant and Equipment \$'000	Total \$'000
Net carrying amount at start of year	277	277
Additions	89	89
Disposals	–	–
Depreciation	(83)	(83)
Net carrying amount at end of year	283	283

#### At 1 July 2013 – fair value

	Plant and Equipment \$'000	Total \$'000
Gross carrying amount	1,480	1,480
Accumulated depreciation and impairment	(1,155)	(1,155)
Net carrying amount	325	325

#### At 30 June 2014 – fair value

	Plant and Equipment \$'000	Total \$'000
Gross carrying amount	1,506	1,506
Accumulated depreciation and impairment	(1,229)	(1,229)
Net carrying amount	277	277

#### Reconciliation

Reconciliations of the carrying amounts of plant and equipment at the beginning and end of the current and previous financial year are set out below.

#### Year ended 30 June 2014

	Plant and Equipment \$'000	Total \$'000
Net carrying amount at start of year	325	325
Additions	45	45
Disposals	–	–
Depreciation	(93)	(93)
Net carrying amount at end of year	277	277

## Judicial Commission of NSW

Notes to the financial statements for the year ended 30 June 2015

### 10. INTANGIBLE ASSETS

#### As at 1 July 2014 – fair value

	Software \$'000	Total \$'000
Gross carrying amount	98	98
Accumulated amortisation and impairment	(98)	(98)
Net carrying amount	–	–

#### As at 30 June 2015 – fair value

	\$'000	\$'000
Gross carrying amount	111	111
Accumulated amortisation and impairment	(99)	(99)
Net carrying amount	12	12

#### Reconciliation

Reconciliations of the carrying amounts of intangibles at the beginning and end of the current and previous financial year are set out below.

#### Year ended 30 June 2015

	Software \$'000	Total \$'000
Net carrying amount at start of year	–	–
Additions	12	12
Disposals	–	–
Amortisation	–	–
Net carrying amount at end of year	12	12

#### As at 1 July 2013 – fair value

	Software \$'000	Total \$'000
Gross carrying amount	98	98
Accumulated depreciation and impairment	(94)	(94)
Net carrying amount	4	4

#### As at 30 June 2014 – fair value

	\$'000	\$'000
Gross carrying amount	98	98
Less: Accumulated amortisation and impairment	(98)	(98)
Net carrying amount — at fair value	–	–

#### Reconciliation

Reconciliations of the carrying amounts of intangibles at the beginning and end of the current and previous financial year are set out below.

#### Year ended 30 June 2014

	Software \$'000	Total \$'000
Net carrying amount at start of year	4	4
Additions	–	–
Disposals	–	–
Amortisation	(4)	(4)
Net carrying amount at end of year	–	–

## Judicial Commission of NSW

Notes to the financial statements for the year ended 30 June 2015

	2015 \$'000	2014 \$'000
<b>11. CURRENT LIABILITIES — PAYABLES</b>		
Creditors	341	152
Accrued salaries, wages and on-costs	116	104
Other (including GST payable)	6	25
	<u>463</u>	<u>281</u>
Details regarding credit risk, liquidity risk and market risk, including a maturity analysis of the above payables are disclosed in Note 18.		
<b>12. CURRENT/NON-CURRENT LIABILITIES — PROVISIONS</b>		
<b>Employee benefits and related on-costs</b>		
<b>Current</b>		
Recreation leave	237	268
On-costs	233	240
	<u>470</u>	<u>508</u>
<b>Non-Current</b>		
On-costs	12	13
	<u>12</u>	<u>13</u>
<b>Aggregate employee benefits and related on-costs</b>		
Provisions — current	470	508
Provisions — non-current	12	13
Accrued salaries, wages and on-costs (refer Note 11)	116	104
	<u>598</u>	<u>625</u>
<b>Expected settlement of current employee benefits and related on-costs</b>		
No later than 12 months	385	433
Later than 12 months	85	75
	<u>470</u>	<u>508</u>
<b>13. CURRENT LIABILITIES — OTHER</b>		
Liability to Consolidated Fund	103	—
	<u>103</u>	<u>—</u>
<b>14. COMMITMENTS FOR EXPENDITURE</b>		
<b>Operating lease commitments</b>		
Future non-cancellable operating lease rentals not provided for and payable:		
Not later than one year	531	545
Later than one year and not later than five years	176	196
Later than five years	—	—
Total (including GST)	<u>707</u>	<u>741</u>
Operating lease commitments, which relate to rent and motor vehicles, are not recognised in the financial report as liabilities. The total commitments for expenditure as at 30 June 2015 include input tax credits of \$64,000 (\$67,000 in 2014) which are recoverable from the Australian Tax Office.		

## Judicial Commission of NSW

Notes to the financial statements for the year ended 30 June 2015

### 15. CONTINGENT LIABILITIES AND CONTINGENT ASSETS

The entity has an operating lease agreement ending on 31 October 2015, which contains a "make good" clause. However the "make good" in the contract refers to a "first occupation date" which is 31 October 2010. This effectively means that there would be negligible cost, as the office was established before that date, and only minor alterations have been made to the leased property since that first occupancy date. Additionally, the Commission has accepted the offer of a one year extension to the lease from 1 November 2015. Therefore the entity has not made any provision for make good costs and is deemed to have no quantifiable contingent liabilities (2014: nil) or contingent assets (2014: nil) as at 30 June 2015.

### 16. BUDGET REVIEW

#### Net Result

The actual net result is under budget by \$80,000. This is mainly due to lower capital drawdown of \$102,000 compared to the budget of \$150,000, due to less computer equipment replacement and updates required. Investment revenue received of \$38,000 is lower than budget of \$46,000 due to lower interest rates. Conduct Division incurred expenditure of \$449,000 against budget treasury drawdown of \$302,000 plus additional drawdown of \$147,000, due to the formation of a third conduct division during the year.

#### Assets and Liabilities

Non-current Assets are under budget by \$22,000. This is mainly due to lower than expected Capital purchases.

Current Liabilities are over budget by \$377,000 mainly due to increased employee provisions by \$81,000; accounts payable increase of \$193,000 due to accrued legal expenses of \$100,000, PAYG tax owed of \$35,000 and payroll tax of \$17,000; and Crown Liability of \$103,000.

#### Cash Flow from Operating Activities

Net Cash Flows from operating activities resulted with a positive \$299,000. This is mainly due to lower operating and other expenses and high own generated revenue.

### 17. RECONCILIATION OF NET CASH FLOWS FROM OPERATING ACTIVITIES TO NET RESULT

	2015 \$'000	2014 \$'000
Net cash used on operating activities	299	192
Decrease/(increase) in Crown Entity Liability	(103)	–
Depreciation	(85)	(97)
Decrease/(increase) in provisions	40	(28)
Increase/(decrease) in receivables and prepayments	(12)	(18)
Decrease/(increase) in creditors	(182)	(49)
Cash transfers to Consolidated Fund	–	50
<b>Net Result</b>	<b>(43)</b>	<b>50</b>

### 18. FINANCIAL INSTRUMENTS

The entity's principal financial instruments are outlined below. These financial instruments arise directly from the entity's operations or are required to finance the entity's operations. The entity does not enter into any trade financial instruments, including derivative financial instruments, for speculative purposes.

The entity's main risks arising from financial instruments are outlined below, together with the entity's objectives, policies and processes for measuring and managing risk. Further quantitative and qualitative disclosures are included throughout these financial statements.

The Chief Executive has overall responsibility for the establishment and oversight of risk management and reviews and agrees policies for managing each of these risks. The Audit and Risk Management Committee assists the Chief Executive in fulfilling these responsibilities. Risk management policies are established to identify and analyse the risks faced by the entity, to set limits and controls and to monitor risks. Compliance with policies is reviewed by the internal auditors on a continuous basis.



## Judicial Commission of NSW

## Notes to the financial statements for the year ended 30 June 2015

(a) Financial instrument categories			Carrying Amount	
	Note	Category	2015 \$'000	2014 \$'000
<b>Financial Assets</b>				
Cash and cash equivalents	7	N/A	1,781	1,584
Receivables <sup>1</sup>	8	Loans and receivables (at amortised cost)	18	41
<b>Financial Liabilities</b>				
Payables <sup>2</sup>	11	Financial liabilities measured at amortised cost	463	281

## Notes

1. Excludes statutory receivables and prepayments (i.e. not within scope of AASB 7).

2. Excludes statutory payables and unearned revenue (i.e. not within scope of AASB 7).

## (b) Credit Risk

Credit risk arises when there is the possibility of the entity's debtors defaulting on their contractual obligations, resulting in a financial loss to the entity. The maximum exposure to credit risk is generally represented by the carrying amount of the financial assets (net of any allowance for impairment).

Credit risk arises from the financial assets of the entity, including cash, receivables, and authority deposits. No collateral is held by the entity. The entity has not granted any financial guarantees.

Credit risk associated with the entity's financial assets, other than receivables, is managed through the selection of counterparties and establishment of minimum credit rating standards.

*Cash*

Cash comprises cash on hand and bank balances within the NSW Treasury Banking System. Interest is earned on daily bank balances at the monthly average NSW Treasury Corporation (TCorp) 11am unofficial cash rate, adjusted for a management fee to NSW Treasury. This rate was 2.00 per cent at 30 June 2015 (2.40 per cent at 30 June 2014).

*Receivables — Trade Debtors*

All trade debtors are recognised as amounts receivable at balance date. Collectability of trade debtors is reviewed on an ongoing basis. Procedures as established in the Treasurer's Directions are followed to recover outstanding amounts, including letters of demand. Debts which are known to be uncollectible are written off. An allowance for impairment is raised when there is objective evidence that the entity will not be able to collect all amounts due. This evidence includes past experience, and current and expected changes in economic conditions and debtor credit ratings. No interest is earned on trade debtors. Sales are made on 30 days terms.

The entity is not materially exposed to concentrations of credit risk to a single trade debtor or group of debtors. Based on past experience, debtors that are not past due (2015: \$0; 2014: \$0) or are 12 months past due (2015: \$0; 2014: \$0) are not considered impaired and together these represent 100% of the total trade debtors.

The only financial assets that are past due or impaired are 'sales of goods and services' in the 'receivables' category of the statement of financial position.

	Total	Past due but not impaired	Considered impaired
		\$'000	\$'000
<b>2015</b>			
< 3 months overdue	—	—	—
3 months – 6 months overdue	—	—	—
> 6 months overdue	—	—	—
<b>2014</b>			
< 3 months overdue	—	—	—
3 months – 6 months overdue	—	—	—
> 6 months overdue	—	—	—

## Judicial Commission of NSW

### Notes to the financial statements for the year ended 30 June 2015

(c) Liquidity Risk

Liquidity risk is the risk that the entity will be unable to meet its payment obligations when they fall due. The entity continuously manages risk through monitoring future cash flows and maturities planning to ensure adequate holding of high quality liquid assets.

During the current and prior years, there were no defaults or breaches on any loans payable. No assets have been pledged as collateral. The entity's exposure to liquidity risk is deemed insignificant based on prior periods' data and current assessment of risk.

The liabilities are recognised for amounts due to be paid in the future for goods or services received, whether or not invoiced. Amounts owing to suppliers (which are unsecured) are settled in accordance with the policy set out in NSW TC 11/12. For small suppliers, where specified, payment is made no later than 30 days from the date of receipt of a correctly rendered invoice. For other suppliers, if trade terms are not specified, payment is made no later than the end of the month following in which an invoice or statement is received. For small business suppliers, where payment is not made within the specified time period, simple interest must be paid automatically unless an existing contract specifies otherwise. For payments to other suppliers the Head of an authority may automatically pay the supplier simple interest.

(d) Market Risk

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. The Commission does not have any investments or interest bearing liabilities and therefore has minimal exposure to market risk.

(e) Fair Value compared to carrying amount

Financial instruments are recognised at amortised cost, which approximate fair value because of their short-term nature.

#### 19. EVENTS AFTER THE REPORTING PERIOD

There are no events subsequent to balance date which affect the financial report.

#### End of audited financial statements

# Part 6

## Endmatter



### Contents

Appendices .....	102
Glossary .....	121
Index .....	122
Looking at the last 5 years .....	125

## Appendices contents

Appendix 1	
Complaints against judicial officers: guidelines 2014–15	103
Appendix 2	
Conduct Division: guidelines for examination of complaints 2014–15	105
Appendix 3	
Continuing judicial education policy 2014–15	107
Appendix 4	
Education Committees 2014–15	108
Appendix 5	
Conference topics 2014–15	109
Appendix 6	
Judicial education seminars, workshops and field trips 2014–15	112
Appendix 7	
Articles that we published	113
Appendix 8	
Publications list	113
Appendix 9	
Ngara Yura Program	115
Appendix 10	
Assistance to other jurisdictions and organisations	115
Appendix 11	
Working with other organisations	116
Appendix 12	
Visitors to the Commission	116
Appendix 13	
Overseas visits	117
Appendix 14	
Exchange of information	117
Appendix 15	
Commission officers' presentations 2014–15	118
Appendix 16	
Access to government information	119
Appendix 17	
Other compliance matters	121

# Appendices

## Appendix 1

### Complaints against judicial officers: guidelines 2014–15

#### 1 Overview

The objective of the Commission's complaint function is to ensure that complaints about the ability and behaviour of judicial officers are investigated in a timely and effective manner in order to:

- (a) enhance public confidence in the judiciary of NSW, and
- (b) promote good practices and high standards of judicial performance.

The *Judicial Officers Act* 1986 provides a means for people to complain about the conduct of a judicial officer and to have those complaints examined by an independent body. An important role of the Commission is not only to receive and examine complaints made against judicial officers, but to determine which complaints require further action.

These guidelines are designed to assist people to understand the Commission's complaint function, including the principles and procedures adopted by the Judicial Commission. The detailed provisions of the complaint function are in Part 6 of the Act.

#### 2 Who is a judicial officer?

- 2.1 A "judicial officer" under the *Judicial Officers Act* means:
  - a judge or associate judge of the Supreme Court of NSW
  - a member (including a judicial member) of the NSW Industrial Relations Commission
  - a judge of the Land and Environment Court of NSW
  - a judge of the District Court of NSW
  - the President of the Children's Court of NSW
  - a magistrate, or
  - the President of the Civil and Administrative Tribunal.
- 2.2 The definition of "judicial officer" includes acting appointments to a judicial office but does not include arbitrators, registrars, assessors, members of tribunals or legal representatives.
- 2.3 The Commission has no power to examine complaints against federal judicial officers or a person who is no longer a judicial officer.

#### 3 Making a complaint

- 3.1 *Who can make a complaint?*  
A complaint may be made to the Commission by any person or may be referred to the Commission by the Attorney General.
- 3.2 *Legislative requirements*  
The *Judicial Officers Act* requires that a complaint is in writing and that it identifies the complainant and the judicial officer concerned. The *Judicial Officers Regulation* 2012 requires that particulars of a complaint are verified by statutory declaration and that the complaint is lodged with the Chief Executive of the Commission.
- 3.3 *Assistance to complainants*  
If a person cannot write, he or she may contact the Commission and assistance will be provided to put the complaint in writing. If interpreting or translation assistance from another language to English is required, the Commission will make arrangements.

#### 3.4 Advice to the public

The Commission provides further advice to the public about the complaints process through:

- its website which provides an easy to understand guide to the Commission's complaints process, detailed information about possible outcomes of complaints, and a complaints form for downloading
- a plain English brochure outlining the complaints process
- assistance to potential complainants with translation and interpreting services
- responding to telephone and face-to-face enquiries, and
- giving talks on the complaints process to interested groups.

#### 3.5 Acknowledge receipt of complaints

All complaints submitted to the Commission in proper form will be acknowledged in writing within 1 week of receipt.

#### 4 Complaints not within the Commission's jurisdiction

- 4.1 The Commission does not review a case for judicial error, mistake, or other legal ground. Reviews of those matters are the function of appellate courts.
- 4.2 Allegations of corruption against a judicial officer are required to be referred by the Judicial Commission to the Independent Commission Against Corruption for that body to investigate.

#### 5 Investigating a complaint

- 5.1 *Receipt of a complaint*  
On receiving a complaint, the Commission will conduct a preliminary examination into the matter. In every case, the judicial officer is advised of the fact that a complaint has been made and provided with a copy of the complaint documentation.
- 5.2 *Preliminary examination*  
The preliminary examination of all complaints must be undertaken by Commission members at a properly constituted meeting of the Commission. The quorum for a meeting is 7 members, of whom at least 1 must be an appointed member.<sup>1</sup> The Commission cannot delegate the preliminary examination of a complaint except to a committee, which must consist entirely of members and include at least 1 appointed member.  
  
The initial investigation will often involve an examination of transcripts, sound recordings, judgments, court files and other relevant material. It may also involve taking statements from relevant persons. If necessary, a response to the complaint is sought from the judicial officer.
- 5.3 *Confidentiality*  
The preliminary examination of a complaint by the Commission will be conducted, as far as practicable, on a confidential basis. The legislative requirement of confidentiality protects the judiciary from unjust criticism and protects those who furnish information to the Commission in the course of its examination of a complaint.  
  
The proceedings of the Commission and all information and materials, written or oral, obtained by the Commission in the course of its preliminary examination are confidential.

<sup>1</sup> The Governor of NSW appoints members. They are persons appointed on the nomination of the Minister who, in the opinion of the Minister, have high standing in the community.



**Appendix 1: Complaints against judicial officers: guidelines 2014–15** *continued***5.4 Time standards for finalisation of investigations**

The Commission aims to finalise the investigation of 90% of complaints within 6 months of receipt and 100% within 12 months of receipt.

**6 Complaints against a judicial member of the Commission**

A judicial member of the Commission will not participate in any discussions or decisions involving complaints against him or her.

**7 Action following preliminary examination**

Following its preliminary examination, the Commission must take one of the following actions:

- summarily dismiss the complaint
- refer the complaint to the relevant head of jurisdiction, or
- refer the complaint to the Conduct Division.

The Commission will act in accordance with the principles of natural justice in conducting its examination of a complaint. Before referring a matter to the head of jurisdiction or the Conduct Division, the Commission provides the judicial officer with an opportunity to respond to the complaint and to present additional information that may assist the Commission in its investigation into the matter.

**8 Summary dismissal**

8.1 A complaint must be summarily dismissed if one or more of the grounds under section 20(1) of the Act exist, whether or not it appears to be substantiated. These grounds are:

- the complaint is one that the Commission is required not to deal with
- the complaint is frivolous, vexatious or not in good faith
- the subject matter of the complaint is trivial
- the matter complained about occurred at too remote a time to justify further consideration
- in relation to the matter complained about, there is or was available a satisfactory means of redress or of dealing with the complaint or the subject-matter of the complaint
- the complaint is about a judicial decision, or other judicial function, that is or was subject to a right of appeal or right to apply for judicial review
- the person who is the subject of the complaint is no longer a judicial officer, or
- in all the circumstances further consideration of the complaint is unnecessary or unjustifiable.

8.2 Where a complaint is summarily dismissed the Commission will, as soon as practicable after its determination is made, inform the complainant in writing and provide the reasons for dismissing the complaint. This will include a reference to the relevant provisions of the legislation that have been applied in the handling and determination of the complaint. The judicial officer will also be advised in writing of the Commission's determination.

8.3 Many of the complaints that are dismissed by the Commission, because they disclose no misconduct, are nonetheless helpful in the improvement of the judicial system. The feedback from the examination of complaints has provided valuable information for the further development of judicial education programs conducted by the Commission.

8.4 The Commission may declare a person to be a vexatious complainant, if the person habitually and persistently, and mischievously or without any reasonable grounds, makes complaints. This section applies whether the complaints are about the same or different judicial officers.

The Commission may disregard any complaint made by the person while the declaration is in force.

**9 Reference to a head of jurisdiction**

9.1 Where a complaint has not been dismissed following the preliminary examination by the Commission, but in its opinion it does not justify reference to the Conduct Division, the Commission may refer the matter to the relevant head of jurisdiction.

9.2 The Commission will notify the head of jurisdiction in writing of its decision and will formally refer the matter, including all relevant material, for attention.

9.3 In referring a complaint to the head of jurisdiction the Commission may include recommendations as to what steps might be taken to deal with the complaint, such as counselling by the head of jurisdiction.

9.4 Where a complaint is referred to the relevant head of jurisdiction the Commission will, as soon as practicable after the decision is made, advise the complainant and judicial officer of the action taken.

**10 Reference to the Conduct Division**

10.1 Where a complaint has not been dismissed following the preliminary examination by the Commission, and has not been referred to the head of jurisdiction, it must be referred to the Conduct Division.

10.2 The function of a Conduct Division is to examine and deal with a particular complaint that has been referred to it by the Commission.

10.3 A Conduct Division is constituted by a panel of 2 judicial officers (one of whom may be a retired judicial officer) and one of the 2 community representatives nominated by Parliament. The membership of the Conduct Division will be determined by the Commission. The Commission will also appoint one member of the Conduct Division as Chairperson.

10.4 Where a complaint is referred to the Conduct Division the Commission will, as soon as practicable after the decision is made, advise the complainant and the judicial officer of the action taken. The Commission will also advise the Attorney General of its decision and, in each case, request the appointment of a legal practitioner or practitioners to assist the Conduct Division as counsel.

**11 Examination of a complaint by the Conduct Division**

11.1 The Conduct Division must conduct an examination of the complaint referred to it (section 23).

11.2 In conducting the initial examination or investigation of a complaint referred to it by the Commission the legislation requires that, as far as practicable, this will take place in private (section 23(3)).

**11.3 Meetings of the Conduct Division**

The initial examination of a complaint will involve the members of the Conduct Division and may include counsel assisting in its meetings. As part of this initial process a venue and timetable for the investigation will be determined.

**11.4 Preliminary matters**

Preliminary matters necessary prior to the commencement of a hearing, including:

- interviewing the complainant and other potential witnesses
- taking statements
- gathering documents and other material, and
- preparing a brief of evidence,

will be undertaken by counsel assisting the Conduct Division. This will be under the direction of the Conduct Division.

- 11.5 *Medical or psychological examination*  
Where the Conduct Division is of the opinion that a judicial officer about whom a complaint has been made may be physically or mentally unfit to exercise efficiently the functions of a judicial office, it may request the officer to undergo a medical or psychological examination (section 34).
- 12 Hearings by the Conduct Division**
- 12.1 The legislation provides that the Conduct Division may hold hearings in relation to a complaint and that a hearing may be held in public or in private, as the Conduct Division may determine (section 24(2)).
- 12.2 *Release of information*  
The Conduct Division has power to give directions preventing the public disclosure of evidence given at its hearings (section 36(1)).
- 12.3 *Royal Commissions Act 1923*  
The function of the Conduct Division is to inquire further into the complaint about the judicial officer. In doing so the Conduct Division has the functions, protections and immunities conferred by the *Royal Commissions Act 1923* on commissioners appointed under that Act. The *Royal Commissions Act* applies to any witness summoned by or appearing before the Conduct Division.

## 13 Reports of the Conduct Division

- 13.1 *Report to Governor and others*  
If the Conduct Division has formed an opinion that the matter could justify Parliamentary consideration of the removal of the judicial officer complained about from office, it must present to the Governor a report setting out its findings of fact and that opinion. A copy of the report must also be furnished to the Commission, the Attorney General and to the complainant. The copy to the complainant is provided only after it has been laid before each House of Parliament.
- 13.2 *Report to the head of jurisdiction*  
If the Conduct Division forms an opinion that the matter is wholly or partly substantiated but does not justify Parliamentary consideration of the removal of the judicial officer complained about from office, it must send a report to the relevant head of jurisdiction setting out its conclusions. The report may also include recommendations as to what steps might be taken to deal with the complaint. A copy of this report is also provided to the judicial officer and the Commission.

## 14 Annual Report

The *Judicial Officers Act 1986* requires that certain information, including statistics and information about complaints disposed of during the year, be reported to Parliament. This information appears in the Annual Report of the Commission. The Report is available in hard copy from the Commission or can be found on its website at [www.judcom.nsw.gov.au](http://www.judcom.nsw.gov.au).

## Appendix 2

### Conduct Division: guidelines for examination of complaints 2014–15

#### 1 Introduction

These guidelines have been formulated by the Judicial Commission to assist a Conduct Division in the exercise of its function in the examination of complaints against judicial officers.

The Conduct Division is not a standing body but is appointed by the Judicial Commission when a particular complaint or reference under Part 6A of the Act is referred to it for examination.

The relevant provisions of the legislation relating to the Conduct Division are contained in Division 3 of Part 6 and Part 6A of the *Judicial Officers Act 1986*. These include:

- the constitution of a Conduct Division
- the examination of complaints
- hearings by the Conduct Division
- powers of the Conduct Division, and
- reports.

#### 2 Referral of complaints to the Conduct Division

- 2.1 Following the preliminary examination of a complaint by the Judicial Commission, if the complaint is not summarily dismissed under one or more of the grounds under section 20(1) of the Act, the Commission may either refer the complaint to the relevant head of jurisdiction (section 21(2)) or refer the matter to a Conduct Division.
- 2.2 The function of a Conduct Division is to examine and investigate a particular complaint that has been referred to it by the Commission.

- 2.3 A Conduct Division is constituted by a panel of 2 judicial officers (one of whom may be a retired judicial officer) and one of the 2 community representatives nominated by Parliament. The membership of the Conduct Division will be determined by the Commission. The Commission will also appoint one member of the Conduct Division as Chairperson.
- 2.4 A formal instrument of delegation appointing a Conduct Division (including the Chairperson) will be executed by the members of the Commission.
- 2.5 Where a complaint is referred to a Conduct Division the Commission will, as soon as practicable after that decision is made, advise the complainant and the judicial officer of the action taken. The Commission will also advise the Attorney General of its decision and, in each case, request the appointment of a legal practitioner or practitioners to assist the Conduct Division as counsel.

#### 3 Referrals under Part 6A — Suspected impairment of judicial officers

The Conduct Division has the same functions in relation to the examination of a matter referred to it under Part 6A of the Act as it has in relation to the examination of a complaint (section 39F(2)).

#### 4 Examination of complaint by the Conduct Division

- 4.1 The Conduct Division must conduct an examination of the complaint referred to it (section 23).
- 4.2 In conducting the initial examination or investigation of a complaint referred to it by the Commission the legislation requires, that as far as practicable, this will take place in private (section 23(3)).

## Appendix 2: Conduct Division: guidelines for examination of complaints 2014–15 *continued*

### 4.3 *Meetings of the Conduct Division*

The initial examination of a complaint will involve the members of the Conduct Division and may include counsel assisting in its meetings. As part of this initial process a venue and timetable for the investigation will be determined.

### 4.4 *Minutes*

The legislation requires that the Conduct Division will keep full and accurate minutes of the proceedings of each meeting of the Division (clause 5, Schedule 3, *Judicial Officers Act* 1986).

### 4.5 *Preliminary matters*

Preliminary matters necessary prior to the commencement of a hearing, including:

- interviewing the complainant and other potential witnesses
- taking statements
- gathering documents and other material, and
- preparing a brief of evidence,

will be undertaken by counsel assisting the Division. This will be under the direction of the Division.

### 4.6 *Medical or psychological examination*

Where the Conduct Division is of the opinion that a judicial officer about whom a complaint has been made may be physically or mentally unfit to exercise efficiently the functions of a judicial officer, it may request the officer to undergo a medical or psychological examination (section 34).

## 5 *Hearings by the Conduct Division*

The legislation provides that the Conduct Division may hold hearings in relation to a complaint and that a hearing may be held in public or in private, as the Conduct Division may determine (section 24(2)).

### 5.1 *Public or private hearings*

If the Conduct Division decides to conduct hearings into a complaint, it has to consider whether the hearings should be held in public or private or both.

In exercising its discretion in relation to hearings and as to whether hearings should be held in public or in private or partly in public and partly in private, the main criteria the Division should consider include:

- (a) is it in the public interest to hold the hearing or part of the hearing in public or in private?
- (b) does the type of allegation under consideration (eg ability, behaviour, delay, impairment) require confidential treatment?
- (c) is it desirable, because of the confidential nature of any evidence or matter, to hold a hearing or part of a hearing in private?
- (d) is there a need to protect a person who provides information to the Conduct Division as part of its investigation?
- (e) would public confidence in the authority of the judiciary be undermined by a public or private hearing?
- (f) is it necessary to close a hearing to protect the reputation of a judicial officer from untested or unverified evidence?

### 5.2 *Persons who may be present at private hearings*

If a hearing or part of a hearing is to take place in private, the Conduct Division may determine the persons who may be present. As a general guide these may include:

- (a) the judicial officer complained about
- (b) the legal representatives of the judicial officer
- (c) counsel assisting the Conduct Division
- (d) support staff assisting the Conduct Division
- (e) any person referred to in section 24(6)(b) and their legal representatives, and
- (f) witnesses including expert witnesses.

### 5.3 *Release of information*

The Conduct Division has power to give directions preventing the public disclosure of evidence given at its hearings (section 36(1)).

### 5.4 *Royal Commissions Act 1923*

The function of the Conduct Division is to inquire further into the complaint about the judicial officer. In doing so the Conduct Division has the functions, protections and immunities conferred by the *Royal Commissions Act* 1923 on commissioners appointed under that Act. The *Royal Commissions Act* applies to any witness summoned by or appearing before the Conduct Division.

### 5.5 *Record of proceedings*

A transcript of proceedings should be made and kept whenever the Conduct Division meets as a body to receive evidence, hear testimony, or hear the arguments of counsel regarding matters before the Division.

## 6 *Legal representation before the Conduct Division*

6.1 The Attorney General will appoint a legal practitioner or practitioners to assist the Conduct Division and to present the case against the judicial officer. This assistance is provided by senior and junior counsel and a solicitor (usually the Crown Solicitor).

6.2 The judicial officer being complained about will in most instances appear at the hearing and be represented by senior and junior counsel and a solicitor. Funding of the legal representation is subject to approval by the Attorney General.

6.3 The Conduct Division may also give permission for other people including a complainant to appear at the hearing and have legal representation.

6.4 The right to legal representation for persons appearing at a hearing of the Conduct Division is a matter for the discretion of the Division. Consistent with procedural fairness, the Commission is of the view, that as a general guide and wherever it is practicable to do so, the Conduct Division should consent to legal representation for persons appearing at its hearings.

6.5 In exercising its discretion to consent to legal representation, the main criteria the Division should consider include:

- (a) is the witness incapable of representing him or herself?
- (b) is the matter likely to affect an individual's rights or interest?
- (c) would the granting of representation enhance the fairness of the proceedings?
- (d) would the proceedings be conducted with more efficiency and expedition if representation were or were not granted?
- (e) would the cost of the Inquiry be reduced if representation were granted?

## 7 *Reports*

### 7.1 *Report to Governor and others*

If the Division has formed an opinion that the matter could justify Parliamentary consideration of the removal of the judicial officer complained about from office, it must present to the Governor a report setting out its findings of fact and that opinion. A copy of the report must also be furnished to the Commission, the Attorney General and the complainant. The copy to the complainant is provided only after it has been laid before each House of Parliament.

### 7.2 *Report to the head of jurisdiction*

If the Division forms an opinion that the matter is wholly or partly substantiated but does not justify Parliamentary consideration of the removal of the judicial officer complained about from office, it must send a report to the relevant head of jurisdiction setting out its conclusions. The report may also include recommendations as to what steps might be taken to deal with the complaint. A copy of this report is also provided to the judicial officer and the Commission.

## Appendix 3

### Continuing judicial education policy 2014–15

#### Guiding principles

Pursuant to section 9(1) of the *Judicial Officers Act 1986* the Judicial Commission may organise and supervise an appropriate scheme for the induction, orientation and continuing education and training of judicial officers. The purpose of continuing professional development for judicial officers is to:

- enhance their professional expertise
- facilitate development of their judicial knowledge and skills, and
- promote the pursuit of juristic excellence.

#### National standard for judicial professional development

A national standard or benchmark for the amount of time that should be available for each member of the Australian judiciary for professional development has been developed by the National Judicial College of Australia and endorsed by the Council of Chief Justices of Australia, chief judges, chief magistrates, the Judicial Conference of Australia, the Association of Australian Magistrates, and judicial education bodies throughout Australia:

The standard, which was reviewed in late 2010, is that each judicial officer should be able to spend at least 5 days each calendar year participating in professional development activities relating to the judicial officer's responsibilities.

This standard need not be met in each year but can be met on the basis of professional development activities engaged in over a period of 3 years.

This standard can be met, in part, by self-directed professional development.

Judicial officers should be released from court duties to enable them to meet this standard. However, judicial officers should commit some private time to meet the standard.

#### Services

The Commission is sensitive to the need to provide a range of education services to meet the differing needs of each court and individual judicial officers.

The scheme of continuing judicial education should be structured to be of benefit to all judicial officers in each jurisdiction and to address the differing needs of judicial officers throughout the duration of their careers.

Specifically, the education program should apply the Commission's resources in the most effective delivery of services defined by content (law, procedure, management and administration, and judicial skills) and level of application (induction, update, experience exchange, specialisation and refresher).

These services may include:

1. inducting new appointees with comprehensive training and orientation
2. updating all judicial officers on important recent changes in law, procedure and practice
3. producing bench books for each court, with a process for regular updating
4. publishing the *Judicial Officers' Bulletin* on a regular basis to inform judicial officers of current law and to promote the consideration of important judicial issues
5. promoting the development of an improved scheme for indexing and accessing important judgments

6. facilitating continuing judicial education through the exchange of experience and discussion of topical issues, convening meetings and discussion groups, and publishing articles and other papers
7. providing refresher services to meet the needs of judicial officers
8. providing special education services to meet the needs of isolated judicial officers both in the suburbs and country, and on circuit/rotation; specifically relating to improved access to legal information
9. promoting the supply of computer support facilities and supplying appropriate training
10. providing an extended range of education services for the assistance of judicial officers, including interdisciplinary and extra-legal courses, where appropriate. The delivery of this scheme should integrate conference, publication and computer support services, in order to facilitate the access to and the use of education services in an effective and convenient manner for judicial officers
11. promoting and conducting the research and development of educational practices to enhance the effectiveness of continuing judicial education.

#### Roles and responsibilities

The Judicial Commission has ultimate responsibility to define its policy and strategies in relation to the provision of the above-mentioned services and to determine the direction and the priority of all activity undertaken in the name of the Commission.

The Standing Advisory Committee on Judicial Education (which comprises the chairpersons of the Education Committees of each of the State's courts, or their representatives) has responsibility to advise the Commission on matters of continuing judicial education, to implement Commission policy and strategy and, where appropriate and as requested, to coordinate the activities of the respective Education Committees of each court.

The Education Committees of each court, subject to the head of jurisdiction, shall have responsibility to develop and manage the program of educational activities conducted by each court.

The staff of the Commission have the responsibility to advise and assist each of the above bodies, and to act on their instruction to administer and implement the continuing judicial education program.

#### Evaluation

The Commission will evaluate the effectiveness of its program of continuing judicial education activities in order to:

- ensure that it provides useful assistance and benefits to judicial officers in the performance of judicial duties, and
- provide feedback to presenters to ensure their sessions meet the needs of judicial officers.

Feedback from judicial officers based on specified learning objectives is desirable for each educational activity. Input requested will include:

- whether or not the learning objectives are met
- the program's usefulness and relevance
- the appropriateness of the content of sessions and materials
- the delivery
- suggest improvements for future programs, and
- suggestions for themes or topics for future activities relevant to judicial officers.

## Appendix 4

### Education Committees 2014–15

#### Standing Advisory Committee on Judicial Education

- The Honourable Justice J Basten, Supreme Court of NSW (Chair)
- The Honourable Justice M Walton, President, NSW Industrial Relations Commission
- The Honourable Justice P Biscoe, Land and Environment Court of NSW
- His Honour Judge P Lakatos SC, District Court of NSW
- Her Honour Deputy Chief Magistrate J Culver, Local Court of NSW (until 28 October 2014)
- His Honour Deputy Chief Magistrate C O'Brien, Local Court of NSW (from 3 November 2014)
- Ms R Windeler, Education Director, Judicial Commission of NSW (Convenor)

#### Supreme Court of NSW Education Committee

- The Honourable Justice J Basten (Chair)
- The Honourable Justice C Hoeben AM RFD
- The Honourable Justice M Leeming
- The Honourable Justice R White
- The Honourable Justice P Johnson
- The Honourable Justice I Harrison
- The Honourable Justice M Schmidt
- The Honourable Justice P Garling RFD
- The Honourable Justice A Black
- Ms L Murphy, Chief Executive Officer and Principal Registrar
- Ms R Windeler, Education Director, Judicial Commission of NSW (Convenor)

#### Industrial Relations Commission of NSW Education Committee

- Commissioner I Tabbaa AM (Chair)
- Commissioner P Newall
- Mr M Grimson, Registrar (until 1 December 2014)
- Mr J Wiseman, Registrar (from 16 March 2015)
- Ms R Windeler, Education Director, Judicial Commission of NSW (Convenor)

#### Land and Environment Court of NSW Education Committee

- The Honourable Justice N Pain
- The Honourable Justice P Biscoe (Chair)
- Commissioner L Pearson
- Ms L Walton, Acting Registrar (until 13 February 2015)
- Ms J Gray, Registrar (from 16 February 2015)
- Ms R Windeler, Education Director, Judicial Commission of NSW (Convenor)

#### District Court of NSW Education Committee

- His Honour Judge G Neilson
- His Honour Judge G Woods QC
- Her Honour Judge P Hock (Chair)
- His Honour Judge P Berman SC
- His Honour Judge P Zahra SC
- His Honour Judge P Lakatos SC
- His Honour Judge M Elkaim SC
- His Honour Judge L Levy SC
- Her Honour Judge L Wells SC
- His Honour Judge G Lerve
- Her Honour Judge J Culver (from 20 November 2014)
- Mr J Howard, Judicial Registrar
- Ms R Windeler, Education Director, Judicial Commission of NSW (Convenor)

#### Local Court of NSW Education Committee

- Her Honour Deputy Chief Magistrate J Mottley
- Her Honour Deputy Chief Magistrate J Culver (Chair until 28 October 2014)
- His Honour Deputy Chief Magistrate C O'Brien (Chair from 3 November 2014)
- His Honour Magistrate Dr R Brown RFD
- His Honour Magistrate G Dunlevy
- Her Honour Magistrate J Huber
- Her Honour Magistrate J Wahlquist
- His Honour Magistrate D Heilpern
- His Honour Magistrate I Guy
- Her Honour Magistrate S Freund
- His Honour Magistrate L Mabbutt
- His Honour Magistrate G Grogan
- Ms A Passé-de Silva, Policy Officer, Chief Magistrate's Office (until 8 December 2014)
- Ms C Kim, Policy Officer, Chief Magistrate's Office (from 9 December 2014)
- Ms R Windeler, Education Director, Judicial Commission of NSW (Convenor)

#### Children's Court of NSW Education Committee

- His Honour Judge P Johnstone (Chair)
- Her Honour Magistrate J Keogh (until 5 December 2014)
- His Honour Magistrate P Mulroney (until 28 November 2014)
- His Honour Magistrate G Blewitt AM (from 1 December 2014)
- His Honour Magistrate A Sbrizzi
- His Honour Magistrate P Feather (from 1 December 2014)
- Ms R Davidson, Executive Officer
- Ms P Mackay-Sim, Research Associate to the President
- Ms J Northcote, Senior Children's Registrar
- Ms R Windeler, Education Director, Judicial Commission of NSW (Judicial Commission Representative)

#### Ngara Yura Committee

- The Honourable J Allsop AO, Chief Justice, Federal Court of Australia
- The Honourable Justice S Rothman AM, Supreme Court of NSW (Chair)
- The Honourable Justice R Pepper, Land and Environment Court of NSW
- His Honour Judge A Haesler SC, District Court of NSW
- Her Honour Deputy Chief Magistrate J Mottley, Local Court of NSW
- Her Honour Magistrate T O'Sullivan, Local Court of NSW
- Her Honour Magistrate S Duncombe, Local Court of NSW
- Mr T Chenery, Chief Executive Officer, Link-Up (NSW) Aboriginal Corporation
- Professor M Davis, Director, Indigenous Law Centre, Faculty of Law, University of NSW
- Mr E Schmatt PSM, Chief Executive, Judicial Commission of NSW
- Ms R Windeler, Education Director, Judicial Commission of NSW (Convenor)

#### Bench Book Committees

The day-to-day work of revising the content of bench books is delegated to individual Bench Book Committees, acting on behalf of the Commission.

#### Criminal Trial Courts Bench Book Committee

- The Honourable R Howie QC (Chair)
- The Honourable Justice P Johnson
- The Honourable Justice RA Hulme
- His Honour Judge D Arnott SC (from March 2014)
- His Honour Judge P Lakatos SC
- Mr H Donnelly, Director, Research and Sentencing, Judicial Commission of NSW (Convenor)



#### Civil Trials Bench Book Committee

- The Honourable M Campbell QC (Chair)
- The Honourable Justice P Garling (Supreme Court of NSW)
- The Honourable Justice F Kunc (Supreme Court of NSW) (from May 2014)
- His Honour Judge M Elkaim SC (District Court of NSW)
- His Honour Judge G Nielson (District Court of NSW)
- His Honour Deputy Chief Magistrate C O'Brien (Local Court of NSW) (from Sept 2014)
- Mr E Schmatt PSM, Chief Executive
- Ms R Windeler, Education Director
- Ms F Findlay.

#### Local Court Bench Book Committee

- Her Honour Deputy Chief Magistrate J Culver (until October 2014)
- Her Honour Deputy Chief Magistrate J Mottley
- Her Honour Magistrate J Baptie (until August 2014)
- His Honour Deputy Chief Magistrate C O'Brien
- Ms C Kim, Policy Officer, Chief Magistrate's Office (from December 2014)
- Ms Alison Passe-de Silva (until December 2014)
- Ms R Cook, Editor (Convenor)

#### Equality Before the Law Bench Book Committee

- The Honourable Justice M Beazley AO (Chair)
- The Honourable Justice J Basten
- The Honourable Justice S Rothman AM
- His Honour Judge S Norrish QC
- Dr J Cashmore AO
- Mr E Schmatt PSM, Chief Executive
- Ms R Windeler, Education Director
- Ms K Lumley, Publishing Manager (Convenor)

#### Sexual Assault Trials Handbook Committee

- His Honour Judge R Ellis (Chair)
- Her Honour Judge S Huggett
- His Honour Judge S Norrish QC
- Dr J Cashmore AO
- Mr H Donnelly, Director, Research and Sentencing
- Ms R Windeler, Education Director
- Ms P Buckland, Senior Legal Editor (Convenor)

#### Audit and Risk Management Committee

- Mr Alex Smith AM, independent Chair, appointed independent Member on 1 July 2009 until 30 June 2014 and appointed independent Chair on 1 July 2014 for 2 years. Mr Smith's qualifications and experience are found on p 72.
- Mr Peter Whitehead, independent Member, appointed independent Chair on 31 July 2008 until 30 June 2014 and appointed independent Member on 1 July 2014 for 2 years. Mr Whitehead's qualifications and experience are found on p 72.
- Mr Murali Sagi PSM, non-independent Member, Director, Information Management, appointed on 31 July 2008). Mr Sagi's qualifications and experience are found on p 72.

## Appendix 5

### Conference topics 2014–15

#### ANNUAL CONFERENCES

##### Supreme Court of NSW Annual Conference, July 2014

- "Keynote Address: Sausages and the Judicial Process — Limits to Transparency", The Right Honourable Lord David Neuberger of Abbotsbury, President, Supreme Court of the United Kingdom.
- "The Impact of Special Commissions of Inquiry/Crime Commissions on Criminal Trials", The Honourable Justice Mark Weinberg, Supreme Court of Victoria.
- "Developments in Criminal Law", The Honourable Justice Robert A Hulme, Supreme Court of NSW.
- "End-of-Life Issues", The Honourable Malcolm McLelland QC.
- "Judicial Engagement with Exogenous Knowledge: Beyond Expert Opinions and Notice", Professor Gary Edmond, Professor and Australian Research Council Future Fellow, University of NSW and Mr David Hamer, Associate Professor, University of Sydney.
- "The Influence of Common-Law Techniques on the United Nations Enquiry on North Korea", The Honourable Michael Kirby AC CMG.
- "The Fundamental Concepts of the Internet", Mr Daniel Clarke, Technical Resource Manager, Google.

##### Industrial Relations Commission of NSW Annual Conference, October 2014

- "Judicial Bullying", The Honourable Keith Mason AC QC, Visiting Professorial Fellow, University of NSW, and Dr Robert Fisher, Head of Department of Psychiatry and Psychological Services, St Vincent's Private Clinic and Private Hospital.
- "The Future of Industrial Relations in NSW", The Honourable Andrew Constance MP, Treasurer and Minister for Industrial Relations.
- "Self-represented Litigants — the Federal Circuit Court Experience", His Honour Judge Stephen Scarlett RFD, Federal Circuit Court.

- "Conducting Successful Conciliation Conferences", Ms Joanna Kalowski, Mediator and Facilitator.
- "Conciliation Conferences: Panel Discussion", The Honourable Patricia Staunton AM and Ms Janice McLeay, Janice McLeay Consulting.
- "Kindly Leave The Stage", The Honourable Justice Glenn Martin AM, President, Industrial Court of Queensland.
- "Eight Months On: Is the Government Sector Employment Act Working?", Mr Graeme Head, Public Service Commissioner, Mr Peter Remfrey, Secretary, Police Association of NSW and Mr Mark Gibian, Barrister.
- "Is Your Voice Doing You Justice?", Ms Lucy Cornell, Voice Coach.
- "The Future Role of Industrial Tribunals", Professor Anthony Forsyth, Director, Juris Doctor Programs, RMIT University.

##### Land and Environment Court of NSW Annual Conference, May 2015

- "Economic Valuation of the Environment", The Honourable Justice Brian Preston, Chief Judge, Land and Environment Court of NSW.
- "Statutory Interpretation", The Honourable Justice Stephen Gageler SC, High Court of Australia.
- "The UN Report on North Korea: How the United Nations Met the Common Law", The Honourable Michael Kirby AC CMG.
- "Field Trip: Manly's Aboriginal and Natural Heritage", Ms Karen Smith, Education Officer, Aboriginal Heritage Office, Mr Phil Hunt, Archaeologist, Aboriginal Heritage Office, Mrs Monique Nichols, Team Leader Sustainability, Manly Council and Mr Eduard McPeake, Manager Environmental Programs, Landuse and Sustainability, Manly Council.
- "The NSW Civil and Administrative Tribunal: Practice and Procedure", The Honourable Justice Robertson Wright, Supreme Court of NSW.
- "E-planning: Progress to Date and Challenges Ahead", Mr Peter Holt, Manager ePlanning, Legal and Policy, Department of Planning and Environment.

## Appendix 5: Conference topics *continued*

- “Recent Developments in Administrative Law”, The Honourable Justice John Basten, NSW Court of Appeal and The Honourable Justice Mark Leeming, NSW Court of Appeal.
- “Some Interesting Recent Developments in Criminal Law”, The Honourable Justice Richard Button, Supreme Court of NSW.
- “Mediation and Conciliation Workshop”, Commissioner Linda Pearson, Land and Environment Court of NSW.
- “The Ngara Yura Program and Aboriginal Culture”, Ms Joanne Selfe, Project Officer Ngara Yura Program, Judicial Commission of NSW.

### District Court of NSW Annual Conference, April 2015

- “Recurring Issues in the NSW Court of Appeal”, The Honourable Justice Margaret Beazley AO, President, Court of Appeal of NSW.
- “Unrepresented Litigants: What Can Be Done?”, The Honourable Justice Robert Benjamin, Family Court of Australia.
- “Civil Issues”:
  - “Dealing with Medical Negligence Cases”, His Honour Judge Leonard Levy SC, District Court of NSW.
  - “Basics of Personal Injury Damages”, His Honour Judge Michael Bozic SC, District Court of NSW.
- “Wellness and Resilience on the Bench”, Dr Nigel Prior, Psychiatrist, The Wentworth Clinic.
- “Court of Criminal Appeal Review”, The Honourable Justice Robert A Hulme, Supreme Court of NSW.
- “Sentencing Workshop”, His Honour Judge Gordon Lerve, District Court of NSW.

### Local Court of NSW Annual Conference, July 2014

- “Opening of Conference”, The Honourable Bradley Hazzard MP, Attorney General and Minister for Justice NSW.
- “Evidence Act Hypothetical”, His Honour Judge Andrew Haesler SC, District Court of NSW, Mr Mark Ierace SC, Senior Public Defender, The Public Defenders and Mr John Pickering SC, Deputy Director of Public Prosecutions, Office of the Director of Public Prosecutions.
- “Criminal Law Update and Q&A”, The Honourable Justice Robert A Hulme, Supreme Court of NSW.
- “The Querulant Litigant”, Dr Grant Lester, Forensic Psychiatrist, Victorian Institute of Forensic Mental Health.
- “How Should the NSW Correctional System Respond to Aboriginal Offenders?”, Mr Luke Grant, Assistant Commissioner, Corrective Services NSW.
- “Civil Law Update”, His Honour Judge Michael Elkaim SC, District Court of NSW.
- “The Impact of Sexual Assault on Children”, Dr Judith Cashmore AO, Associate Professor, The University of Sydney.
- “Organised Crime”, Mr Phillip Bradley.
- “Unconscious Judicial Bias and Decision Making”, Dr Hayley Bennett, Barrister.
- “The Ngara Yura Program”, Ms Joanne Selfe, Project Officer Ngara Yura Program, Judicial Commission of NSW and His Honour Magistrate Douglas Dick, Local Court of NSW.
- “Open Forum”, His Honour Judge Graeme Henson, Chief Magistrate, Her Honour Deputy Chief Magistrate Jane Mottley, His Honour Deputy Chief Magistrate Chris O’Brien and His Honour Magistrate Michael Barnes, State Coroner.

## OTHER CONFERENCES

### Local Court of NSW Southern Regional Conference, March 2015

- “Issues and Challenges in Coronial Cases”, His Honour Magistrate Michael Barnes, State Coroner, Coroner’s Court of NSW.
- “Recent Developments in the Children’s Court”, Her Honour Magistrate Elizabeth Ellis, Local Court of NSW.
- “Sentencing Exercises”, His Honour Magistrate Ian Guy, Local Court of NSW.
- “Courtroom Communication”, Ms Ruth Windeler, Education Director, Judicial Commission of NSW.
- “Managing AVO Applications”, Her Honour Magistrate Jacqueline Trad, Local Court of NSW.
- “Civil Revisited – 2015”, His Honour Deputy Chief Magistrate Chris O’Brien, Local Court of NSW.
- “Alcohol Interlock Program”, His Honour Deputy Chief Magistrate Chris O’Brien, Local Court of NSW.
- “Identification Evidence Workshop”, Her Honour Magistrate Harriet Grahame, Local Court of NSW.
- “Sheriff’s Office Security Overview”, Ms Tracey Hall, Sheriff of NSW and Chief Superintendent Brad Clark, NSW Department of Justice.
- “Complaints to the Judicial Commission”, Mr Ernest Schmitt PSM, Chief Executive, Judicial Commission of NSW.

### Local Court of NSW Northern Regional Conference, April 2015

- “Issues and Challenges in Coronial Cases”, His Honour Magistrate Michael Barnes, State Coroner, Coroner’s Court of NSW.
- “Recent Developments in the Children’s Court”, Her Honour Magistrate Elizabeth Ellis, Local Court of NSW.
- “Sentencing Exercises”, His Honour Magistrate Ian Guy, Local Court of NSW.
- “Courtroom Communication”, Ms Ruth Windeler, Education Director, Judicial Commission of NSW.
- “Managing AVO Applications”, Her Honour Magistrate Jacqueline Trad, Local Court of NSW.
- “An Introduction to Evernote”, Mr Philippe Doyle Gray, Barrister.
- “Alcohol Interlock Program”, His Honour Deputy Chief Magistrate Chris O’Brien, Local Court of NSW.
- “Identification Evidence Workshop”, Her Honour Magistrate Harriet Grahame, Local Court of NSW.
- “Sheriff’s Office Security Overview”, Ms Tracey Hall, Sheriff of NSW and Chief Superintendent Brad Clark, NSW Department of Justice.
- “Complaints to the Judicial Commission”, Mr Ernest Schmitt PSM, Chief Executive, Judicial Commission of NSW.
- “Civil Revisited – 2015”, His Honour Deputy Chief Magistrate Chris O’Brien, Local Court of NSW.

### Children’s Court of NSW Section 16 Meeting, October 2014

- “Child Protection Legislation Amendment Act 2014”, Mr Roderick Best PSM, Director, Legal Services, Department of Family and Community Services.
- “Interesting Scenarios in Care and Protection”, His Honour Magistrate Peter Feather, Children’s Court of NSW and Ms Mariaelena Albu, Children’s Registrar, Children’s Court of NSW.
- “Breakout Session for Children’s Magistrates — Sentencing Issues”, His Honour Magistrate Jeffrey Hogg, Children’s Court of NSW and His Honour Magistrate Terence Murphy PSM, Children’s Court of NSW.

- “Breakout Session for Children’s Registrars — Unrepresented Parents in Dispute Resolution Conferences”, Ms Edwina Hunter, Children’s Registrar, Children’s Court of NSW.
- “Families, Children and Adolescents: The Spotter’s Guide to Mental Illness”, Dr Susan Blinkhorn, Senior Staff Specialist Child and Adolescent Psychiatrist, Director Wollemi Kids (Adolescent Unit), Western NSW Local Health District, Orange Health Service.
- “Reconciliation Action Plan”, Ms Anna Jovanovic, RAP Engagement Manager, Reconciliation Australia.
- “Arresting Incarceration: Pathways Out of Indigenous Imprisonment”, Dr Don Weatherburn PSM, Director, NSW Bureau of Crime Statistics and Research.

#### Children’s Court of NSW Section 16 Meeting, May 2015

- “Discussion of Aboriginal Issues”, Her Honour Magistrate Susan Duncombe, Local Court of NSW.
- “The Young Offenders Act 1997 and Youth Justice Conferencing”, Ms Kerrie Bagnall, Director Operations Unit, NSW Department of Justice, Commander David Scrimgeour, NSW Police Force, Ms Debra Maher, Solicitor in Charge, Legal Aid NSW and Mr Peter Brock, Solicitor, Legal Aid NSW.
- “Care and Protection Reforms”, Her Honour Magistrate Elizabeth Ellis, Local Court of NSW and Mr David Croke, Children’s Registrar, Children’s Court of NSW.
- “Breakout Discussion Session for Children’s Magistrates — Sentencing Issues”, His Honour Magistrate Jeffrey Hogg, Local Court of NSW.
- “Breakout Discussion Sessions for Children’s Registrars”:
  - “Impact of the Care and Protection Reforms on the Role of the Children’s Registrars”, Ms Juliette Northcote, Senior Children’s Registrar, Children’s Court of NSW.
  - “Security Considerations for Children’s Registrars”, Ms Edwina Hunter, Children’s Registrar, Children’s Court of NSW.
- “Breakout Discussion Session for Children’s Magistrates — Recurring Issues of Concern to Children’s Magistrates”, His Honour Judge Peter Johnstone, District Court of NSW.
- “Breakout Discussion Session for Children’s Registrars — Youth Koori Court Conferencing”, Ms Nada Alamali, Children’s Registrar, Children’s Court of NSW and Ms Rebecca Kang, Children’s Registrar, Children’s Court of NSW.
- “Contact in Care Matters”, Ms Pauline O’Neill, Director, Statutory Child Protection, Family and Community Services, Ms Eloise Riches, Manager, Legal Aid NSW and Ms Lisa Robinson, Senior Solicitor, Legal Aid NSW.
- “Keeping ‘Youth on Track’ With Early Intervention”, Ms Mandy Loundar, Program Manager, Youth on Track, NSW Department of Justice.

### ORIENTATION PROGRAMS

#### National Judicial Orientation Program, June 2015 (joint program with NJCA and AIJA)

- “Familiarisation” Ms Ruth Windeler, Education Director, Judicial Commission of NSW, Ms Jenny Green, Academic Director, National Judicial College of Australia and Ms Melinda Shiell, Manager, Programs, Judicial College of Victoria.
- “Judicial Conduct In and Out of Court”, The Honourable Chief Justice Wayne Martin AC, Supreme Court of Western Australia and The Honourable Chief Justice Helen Murrell, Supreme Court of Australian Capital Territory.
- “Maintaining Psychological and Physical Health”, The Honourable Chief Justice Diana Bryant AO, Family Court of Australia, Ms Karen Inge, Dietician, Institute of Health and Fitness, Victoria and Dr Nigel Prior, Psychiatrist, Wentworth Clinic, Queensland.
- “Court Craft – The Trial from Hell”, The Honourable Alan Wilson, Supreme Court of Queensland (rtd), The Honourable Justice Roslyn Atkinson AO, Supreme Court of Queensland and The Honourable John McKechnie QC, Supreme Court of Western Australia (rtd) and Commissioner, Crime and Corruption Commission, Western Australia.

- “Unconscious Judicial Prejudice”, The Honourable Keith Mason AC QC, NSW Court of Appeal (rtd) and The Honourable Justice Steven Rares, Federal Court of Australia.
- “Assessing the Credibility and Reliability of Witnesses”, His Honour Judge Michael Boylan, District Court of South Australia and Dr Kristy Martire, University of NSW.
- “Judgment Writing”, The Honourable Justice Debra Mullins, Supreme Court of Queensland and The Honourable Alan Wilson, Supreme Court of Queensland (rtd).
- “Cultural Barriers in the Courtroom/Interpreters”, Ms Maria Dimopoulos, MyriaD Consultants, Victoria and Professor Sandra Hale, Interpreting and Translation, School of Humanities and Languages, University of NSW.
- “Courtroom Control including Contempt in the Face of the Court”, His Honour Judge Graham Anderson, County Court of Victoria and The Honourable Justice Simon Whelan, Supreme Court of Victoria, Court of Appeal.
- “Litigants in Person”, The Honourable Justice Glenn Martin AM, Supreme Court of Queensland and Dr Grant Lester, Victorian Institute of Forensic Mental Health.
- “Managing your Time and Resources”, The Honourable Justice John Byrne AO RFD, Supreme Court of Queensland.
- “The Exercise of Discretions”, The Honourable Justice Monika Schmidt, Supreme Court of NSW and The Honourable Justice Glenn Martin AM, Supreme Court of Queensland.

#### Local Court of NSW Magistrates’ Orientation Program, August 2014

- “Adult Learning Principles, Learning Styles and Learning Preferences”, Ms Ruth Windeler, Education Director, Judicial Commission of NSW.
- “Judicial Attributes”, His Honour Magistrate David Heilpern.
- “Self-represented Litigants”, His Honour Magistrate Ian Guy.
- “Judicial Attitudes”, His Honour Magistrate David Heilpern.
- “Sentencing Principles”, Her Honour Deputy Chief Magistrate Jane Culver.
- “Boiling the Frog”, Her Honour Deputy Chief Magistrate Jane Culver.
- “Judicial Practice”, Her Honour Deputy Chief Magistrate Jane Culver.
- “Judicial Communication”, Ms Ruth Windeler, Education Director, Judicial Commission of NSW.
- “Decision Making/Judgments”, Her Honour Magistrate Sharon Freund.
- “Oral Judgments Workshop”, Her Honour Magistrate Sharon Freund.
- “Group Sentencing Exercise 1”, His Honour Magistrate David Heilpern and His Honour Magistrate Ian Guy.
- “Court Craft in Practice”, Her Honour Deputy Chief Magistrate Jane Culver, His Honour Magistrate David Heilpern, His Honour Magistrate Ian Guy and Ms Ruth Windeler, Education Director, Judicial Commission of NSW.
- “Mutual Observation”, Her Honour Deputy Chief Magistrate Jane Culver.
- “Stress Management”, His Honour Magistrate David Heilpern and Mr Philip Harvey.
- “Commonwealth Sentencing”, His Honour Magistrate Ian Guy.
- “Coronial Workshop”, His Honour Magistrate Michael Barnes, State Coroner.
- “Managing Child Witnesses”, Dr Judy Cashmore AO, Associate Professor, Faculty of Law, University of Sydney.
- “Group Sentencing Exercise 2”, His Honour Magistrate David Heilpern and His Honour Magistrate Ian Guy.
- “Group Sentencing Exercise 3”, Her Honour Deputy Chief Magistrate Judge Jane Culver.
- “Everything You Wanted to Know but Were Afraid to Ask”, Her Honour Deputy Chief Magistrate Jane Culver.
- “Concluding Remarks”, Her Honour Deputy Chief Magistrate Jane Culver.

## Appendix 6

### Judicial education seminars, workshops and field trips 2014–15

#### Supreme Court of NSW

- “Sentencing Alternatives”, Ms Rosemary Caruana, Assistant Commissioner, Community Corrections, Corrective Services NSW and Mr Luke Grant, Assistant Commissioner, Corrective Services NSW, Twilight Seminar, 3 September 2014.
- “Administrative Law Update — Recent Developments in the High Court and Overseas”, The Honourable Justice John Basten, NSW Court of Appeal and The Honourable Justice Mark Leeming, NSW Court of Appeal, Twilight Seminar, 20 October 2014.
- “The Bail Amendment Act 2014 — An Overview and Some Issues Affecting the Supreme Court”, The Honourable Justice Richard Button, Supreme Court of NSW and The Honourable Justice Lucy McCallum, Supreme Court of NSW, Twilight Seminar, 10 February 2015.

#### Industrial Relations Commission of NSW

- “Judgment Writing Workshop: For the Industrial Relations Commission”, Professor James Raymond, Consultant, Legal Writing, Workshop, 27–28 August 2014.

#### Land and Environment Court of NSW

- “Social Media”, Ms Julia Virgo, Senior Counsel, Clayton Utz, Twilight Seminar, 16 July 2014.
- “Criminal Law Update”, The Honourable Justice Lucy McCallum, Supreme Court of NSW, Twilight Seminar, 24 September 2014.
- “Site Visit to One Central Park”, Mr Michael Goldrick, Director Project Management, Frasers Property Group, Twilight Seminar, 15 October 2014.
- “Conciliation and Mediation in the Land and Environment Court”, The Honourable Justice Philip Hallen, Supreme Court of NSW, Commissioner Graham Brown, Land and Environment Court of NSW, Commissioner Linda Pearson, Land and Environment Court of NSW and Ms Leonie Walton, Acting Registrar, Land and Environment Court of NSW, Twilight Seminar, 26 November 2014.
- “Statistics and Statistical Modelling”, Professor Gerry Quinn, Professor and Associate HOS (Warrnambool), School of Life and Environmental Sciences, Faculty of Science, Engineering & Built Environment, Deakin University, Twilight Seminar, 25 March 2015.
- “Field Trip to Dr Chau Chak Wing Building UTS”, Mr Daniel Beekwilder, Director of Daryl Jackson Robin Dyke Architects, Field Trip, 21 April 2015.
- “The Changing Face of Environmental Litigation”, Dr Peter Cashman, Professor (Social Justice); Director, Social Justice Program, University of Sydney, Twilight Seminar, 12 May 2015.

#### District Court of NSW

- “Child Victims of Sexual Assault”, Ms Calli Goninan, Social Worker, The Children’s Hospital at Westmead and Ms Caroline Knight, Social Worker, The Children’s Hospital at Westmead, Twilight Seminar, 16 September 2014.
- “Judicial Independence from the Executive”, Professor George Williams AO, Anthony Mason Professor, University of NSW, Twilight Seminar, 3 December 2014.
- “The Bail Amendment Act 2014 — An Overview and Some Issues Affecting the District Court”, The Honourable Justice Richard Button, Supreme Court of NSW and His Honour Judge Andrew Haesler SC, District Court of NSW, Twilight Seminar, 12 February 2015.
- “The Role of the NSW Civil and Administrative Tribunal”, The Honourable Justice Robertson Wright, President, NCAT, Twilight Seminar, 10 June 2015.

#### Local Court of NSW

- “Judgment Writing Workshop: For the Local Court”, Professor James Raymond, Consultant, Legal Writing, Workshop, 7–8 August 2014.
- Local Court of NSW Metropolitan Seminar Series II, 10–14 November 2014
  - “Sentencing”, His Honour Magistrate Ian Guy, Local Court of NSW.
  - “Courtroom Communication”, Ms Ruth Windeler, Education Director, Judicial Commission of NSW.
  - “Sheriff’s Office Security Overview”, Ms Tracey Hall, Sheriff of NSW and Chief Superintendent Brad Clark, NSW Department of Justice.
  - “An Introduction to Evernote”, Mr Philippe Doyle Gray, Barrister.
  - “Complaints to the Judicial Commission”, Mr Ernest Schmatt PSM, Chief Executive, Judicial Commission of NSW.
- “Civil Law”, His Honour Deputy Chief Magistrate Chris O’Brien, Local Court of NSW, Twilight Seminar, 26 November 2014.
- “The Bail Amendment Act 2014”, His Honour Magistrate Leslie Mabbutt, Local Court of NSW, Twilight Seminar, 28 November 2014.
- “The Bail Amendment Act 2014”, His Honour Magistrate Leslie Mabbutt, Local Court of NSW, Twilight Seminar, 12 December 2014.
- Local Court of NSW Metropolitan Seminar Series 1, 16–20 February 2015
  - “Identification Evidence Workshop”, Her Honour Magistrate Harriet Grahame, Local Court of NSW.
  - “Managing AVO Applications”, Her Honour Magistrate Jacqueline Trad, Local Court of NSW.
  - “Civil Revisited – 2015”, His Honour Deputy Chief Magistrate Chris O’Brien, Local Court of NSW.
  - “Alcohol Interlock Program”, His Honour Deputy Chief Magistrate Chris O’Brien, Local Court of NSW.

#### Ngara Yura Program

- “Community Visit: Walgett”, 13–14 September 2014.
- “Ngara Yura Program: Visit to St Heliers Correctional Centre”, Field Trip, 22–23 February 2015.
- “Violence at Home is Everybody’s Business: Legal Responses to Family Violence”, Ms Rosie Batty, Australian of the Year 2015, Ms Dixie Link Gordon, Project Worker, Rape and Domestic Violence Services Australia, The Honourable Justice Hilary Hannam and Ms Cheryl Orr, Solicitor. Held in conjunction with the NSW Bar Association and Law Society of NSW, Twilight Seminar, 2 June 2015.
- “Ngara Yura Program: Field Trip to Jibbon Beach Rock Engravings”, Field Trip, 13 June 2015.

#### Cross-jurisdictional

- “Cross-jurisdictional Seminar: Procedure for Fitness to be Tried and Mental Illness Cases”, Professor Dan Howard SC, President, Mental Health Review Tribunal and Mr Tobias Mackinnon, Statewide Clinical Director for Forensic Mental Health, Justice Health and Forensic Mental Health Network, Twilight Seminar, 29 April 2015.
- “Correctional Visit: Long Bay Complex”, Field Trip, 6 May 2015.



## Appendix 7

### Articles that we published

JOB: Judicial Officers' Bulletin

TJR: The Judicial Review

- J Basten, "Judicial education on "gender awareness" in Australia" (2014) 12(1) *TJR* 45.
- J Basten and P Johnson, "The prosecutor's role in sentencing" (2014) 26(6) *JOB* 47.
- TF Bathurst, "Community confidence in the justice system: the role of public opinion" (2014) 12(1) *TJR* 27.
- M Beazley, "The intersection of the Australian law and the Islamic faith: a selection of cases" (2015) 12(2) *TJR* 147.
- V Bell, "Section 80: the great constitutional tautology" (2014) 12(1) *TJR* 1.
- H Bennett and GAT Broe, "The neurobiology of achieving a "comfortable satisfaction"" (2014) 26(8) *JOB* 65.
- R Caruana, "Administering community service orders" (2014) 26(8) *JOB* 55.
- S Duncombe, "NSW Youth Koori Court Pilot Program commences" (2015) 27(2) *JOB* 11.
- RA Pepper and S Duxson, "Not plants or animals: the protection of Indigenous cultural heritage in NSW" (2014) 26(9) *JOB* 75.
- A George, "Mandatory alcohol interlock program commenced 1 February 2015" (2015) 27(1) *JOB* 6.
- JC Gibson, "Judges, cyberspace and social media" (2015) 12(2) *TJR* 237.
- J Hatzistergos, "Amendments to the Bail Act 2013" (2015) 27(1) *JOB* 1.
- D Howard and A Johnson, "Procedure for fitness to be tried and mental illness cases in the Criminal Trial Courts Bench Book" (2015) 27(2) *JOB* 15.
- D Kenny, "Juvenile sex offenders in the criminal justice system" (2015) 27(4) *JOB* 31.
- A Krivenkova, "New evidentiary procedures for domestic violence complainants" (2015) 27(5) *JOB* 39.
- M Leeming, "Farah and its progeny: comity among intermediate appellate courts" (2015) 12(2) *TJR* 165.
- JA Logan, "A year in the life of an Australian member of the PNG judiciary" (2014) 12(1) *TJR* 79.
- K Lumley, "Without fear or favour, affection or ill will: addressing gender bias in NSW judicial education" (2014) 12(1) *TJR* 63.
- PD McClellan, "Adults surviving child abuse: the work of the Royal Commission" (2014) 26(11) *JOB* 95.
- I Nash, "Use of the sexual assault communications privilege in sexual assault trials" (2015) 27(3) *JOB* 21.
- D Neuberger of Abbotsbury, "Sausages and the judicial process — limits to transparency" (2015) 12(2) *TJR* 131.
- GJ Reinhardt, "Aboriginal Ways of Using English: book review" (2014) 26(10) *JOB* 90.
- R Sackville, "Lawyers and judges: the fifth attribute" (2015) 12(2) *TJR* 187.
- MS Weinberg, "The impact of special commissions of inquiry/ crime commissions on criminal trials" (2015) 12(2) *TJR* 199.
- C Wheeler, "Responding to unreasonably persistent litigants" (2014) 12(1) *TJR* 101.
- R Wright, "The work of the NSW Civil and Administrative Tribunal" (2014) 26(10) *JOB* 87.

## Appendix 8

### Publications list

#### Education Monographs

1. Fragile bastion: Judicial independence in the nineties and beyond, 1997
2. A matter of judgment: Judicial decision-making and judgment writing, 2003
3. The role of the judge, 2004
4. Statutory interpretation: Principles and pragmatism for a new age, 2007
5. A matter of fact: the origins and history of the NSW Court of Criminal Appeal, 2013

#### Research Monographs

1. The use of custodial sentences and alternatives to custody by New South Wales magistrates, 1990
2. Community service orders: Views of organisers in New South Wales, 1991
3. Community service orders and periodic detention as sentencing options: A survey of judicial officers in New South Wales, 1991
4. Sentencing juvenile offenders and the *Sentencing Act* 1989 (NSW): The impact of legislative and administrative changes in the Children's Court 1982–1990, 1991
5. A critical review of periodic detention in New South Wales, 1992
6. Sentencing drug offenders: Analysis of sentences imposed in the higher courts of New South Wales, 25 September 1989, 31 December 1991, 1992
7. "Special circumstances" under the *Sentencing Act* 1989 (NSW), 1993
8. Alcohol as a sentencing factor: A survey of attitudes of judicial officers, 1994
9. Sentence Indication Hearings Pilot Scheme, 1994
10. Sentenced homicides in New South Wales 1990–1993, 1995
11. The evidence of children, 1995
12. Judicial views about pre-sentence reports, 1995
13. The *Sentencing Act* 1989 and its effect on the size of the prison population, 1996
14. Magistrates' attitudes to drink-driving, drug-driving and speeding, 1997
15. Child sexual assault, 1997
16. Sentencing disparity and the gender of juvenile offenders, 1997
17. Sentencing disparity and the ethnicity of juvenile offenders, 1998
18. Periodic detention revisited, 1998
19. Sentencing drug offenders: Analysis of sentences imposed in the higher courts of New South Wales, 1 January 1992–31 December 1997, 1999
20. Apprehended violence orders: A survey of magistrates, 1999
21. Sentencing dangerous drivers in New South Wales: Impact of the *Jurisc* guidelines on sentencing practice, 2002
22. Circle sentencing in New South Wales: A review and evaluation, 2003
23. Sentenced homicides in New South Wales 1994–2001, 2004
24. MERIT — A survey of magistrates, 2004
25. Sentencing offenders convicted of child sexual assault, 2004
26. The nexus between sentencing and rehabilitation in the Children's Court of NSW, 2005
27. Crown appeals against sentence, 2005
28. Partial defences to murder in NSW 1990–2004, 2006
29. Full-time imprisonment in New South Wales and other jurisdictions: A national and international comparison, 2007
30. Sentencing robbery offenders since the *Henry* guideline judgment, 2007



## Appendix 8: Publications list *continued*

31. Diverting mentally disordered offenders in the NSW Local Court, 2008
32. Achieving consistency and transparency in sentencing for environmental offences, 2008
33. The impact of the standard non-parole period sentencing scheme on sentencing patterns in New South Wales, 2010
34. Sentencing Offenders convicted of child pornography and child abuse material offences, 2010
35. Conviction appeals in NSW, 2011
36. Sentencing for common offences in the NSW Children's Court: 2010, 2012
37. Sentencing in fraud cases, 2012
38. Sentencing Commonwealth drug offenders, 2014
39. Sentencing in NSW: A cross-jurisdictional comparison of full-time imprisonment, 2015

### Sentencing Trends & Issues

1. The Children's Court, March 1991
2. The impact of truth in sentencing: Part 1, The higher courts, March 1992
3. The impact of truth in sentencing: Part 2, The Local Courts, June 1992
4. Sentencing in the Court of Criminal Appeal, February 1993
5. Common offences in the Local Courts, March 1994
6. Common offences in the higher courts, July 1994
7. Sentencing homicide: The effect of legislative changes on the penalty for murder, June 1994
8. From murder to manslaughter: Partial defences in New South Wales, 1900 to 1993
9. Common offences in the Children's Court, May 1995
10. Sentencing drink driver offenders, June 1995
11. "Sentenced to the rising of the court", January 1996
12. The use of recognizances, May 1996
13. Sentencing deception offenders Part 1, The Local Courts, June 1996
14. Sentencing deception offenders Part 2, The higher courts, October 1996
15. Driving causing death: Section 52A of the *Crimes Act* 1900, May 1997
16. An overview of sentence and conviction appeals in the New South Wales Court of Criminal Appeal, March 1998
17. Kidnapping — Section 90A *Crimes Act* 1900 (NSW), July 1998
18. Common offences in the higher courts 1990–1997, August 1998
19. Sentencing offenders in the Local Courts — Effects of the *Criminal Procedure (Indictable Offenders) Act* 1995, February 2000
20. Sentencing female offenders in New South Wales, May 2000
21. Protective custody and hardship in prison, February 2001
22. Conviction and sentencing appeals in the NSW Court of Criminal Appeal 1996–2000, February 2002
23. Sentencing mentally disordered offenders: The causal link, September 2002
24. Bail: An examination of contemporary issues, November 2002
25. Sentencing methodology: Two-tiered or instinctive synthesis?, December 2002
26. Sentencing trends for armed robbery and robbery in company: The impact of the guideline in *R v Henry*, February 2003
27. Sentencing drink-driving offenders in the NSW Local Court, March 2003
28. Common offences in the Local Courts 2002, September 2003
29. Suspended sentences in New South Wales, November 2003
30. Common offences and the use of imprisonment in the District and Supreme Courts in 2002, March 2004
31. The use and limitations of sentencing statistics, December 2004 [withdrawn]

32. Pre-sentence custody and other constraints on liberty, May 2005
33. Successful completion rates for supervised sentencing options, June 2005
34. Trends in the use of s 12 suspended sentences, June 2005
35. Impact of the high range PCA guideline judgment on sentencing drink drivers in NSW, September 2005
36. Trends in the use of full-time imprisonment 2006–2007, November 2007
37. Common offences in the NSW Local Court, November 2008
38. Sentencing in complicity cases — Part 1: Joint criminal enterprise, June 2009
39. Sentencing in complicity cases — Abettors, accessories and other secondary participants, February 2010
40. Common offences in the NSW Local Court: 2010, May 2012
41. Common offences in the NSW higher courts: 2010, December 2012
42. Special circumstances under s 44 of the *Crimes (Sentencing Procedure Act)* 1999, June 2013
43. Environmental planning and protection offences prosecuted in the NSW Local Court, November 2014
44. Sentencing for the offence of sexual intercourse with a child under 10, July 2015

### Journals

- Judicial Officers' Bulletin ( Vols 1–27) (1998–)
- The Judicial Review (Vols 1–12) (1992–)

### Bench Books

- Local Court Bench Book (1988–)
- Criminal Trial Courts Bench Book (1989–)
- Equality Before the Law Bench Book (2006–)
- Sentencing Bench Book (2006–)
- Civil Trials Bench Book (2007–)

### Handbooks

- Sexual Assault Trials Handbook (online only) (2007–)
- Land and Environment Court of NSW Commissioners' Handbook (online only)
- Children's Court of NSW Resource Handbook (online only) (2013–)

### Brochures

- Complaints against judicial officers (updated 2013, reissued 2004)
- Disabilities Information (2001)
- From controversy to credibility: 20 years of the Judicial Commission of NSW (2008)
- Judicial Commission of NSW (1997–)
- Judicial Information Research System (2005)
- Judicial Information Research System: An invitation to subscribe
- Presentation pointers: Getting started and getting through your presentation (2008)
- Pro-bono schemes in NSW (2004)

### DVDs

- The role of the judge (2004)
- Concurrent evidence: New methods with experts (also accessible online) (2005)
- Circle Sentencing in New South Wales (also accessible online) (2009)
- The Bail Act 2013: Selected Scenarios (2014) [withdrawn]

## Appendix 9

### Ngara Yura Program

The Judicial Commission is committed to promoting Aboriginal cultural awareness. We established a program in 1992 which was renamed the Ngara Yura Program in 2008. This program is designed to inform judicial officers about Aboriginal society, customs and traditions and promote an exchange of ideas and information. It is based on Recommendations 96 and 97 (reproduced here) of the Royal Commission into Aboriginal Deaths in Custody, *National Report*, 1991, Vol 5, Australian Government Printing Service, Canberra.

#### “Recommendation 96:

That judicial officers and persons who work in the court service and in the probation and parole services and whose duties bring them into contact with Aboriginal people be encouraged to participate in an appropriate training and development program, designed to

explain contemporary Aboriginal society, customs and traditions. Such programs should emphasise the historical and social factors which contribute to the disadvantaged position of many Aboriginal people today and to the nature of relations between Aboriginal and non-Aboriginal communities today. The Commission further recommends that such persons should wherever possible participate in discussion with members of the Aboriginal community in an informal way in order to improve cross-cultural understanding.”

#### “Recommendation 97:

That in devising and implementing courses referred to in Recommendation 96 the responsible authorities should ensure that consultation takes place with appropriate Aboriginal organisations, including, but not limited to, Aboriginal Legal Services.”

## Appendix 10

### Assistance to other jurisdictions and organisations

In 2014–15 the Commission provided assistance and advice to the following:

#### Judicial education

- The Asia Pacific Judicial Reform Forum (APJRF): The APJRF aims to advance judicial reform in the Asia Pacific region. The Commission is a member of the APJRF Secretariat together with the High Court of Australia and the Supreme Court of NSW, which is working to develop practical tools to assist member countries to implement judicial reform programs.
- The Commonwealth Judicial Education Institute (CJEL): The CJEL was established in 1994 and is a network of Commonwealth judicial educators with an interest in judicial reform. The CJEL was established to provide support and linkages among Commonwealth judicial education bodies and to encourage the sharing of information and interaction among judges and jurisdictions.
- The Commonwealth Secretariat: This London-based organisation has 53 voluntary member countries and aims to promote democracy, the rule of law, human rights, good governance and social and economic development.
- The International Organization for Judicial Training (IOJT): The IOJT was established in 2002 to promote the rule of law by supporting the work of judicial education institutions around the world. The Chief Executive was elected to the Executive Committee of the IOJT in November 2011 and re-elected in November 2013.
- The Papua New Guinea Centre for Judicial Excellence: the Judicial Commission, further to a memorandum of understanding signed with the Magisterial Services of Papua New Guinea, assisted in conducting the Papua New Guinea Magistrates’ Orientation Program in Port Moresby in February 2015. The Australian Government, through the PNG-Australian Law and Justice Partnership, funded the program.

#### Judicial support and case management systems

- Drug Court Case Management System: we continue to host, maintain and support case management systems for the NSW Drug Court and the Compulsory Drug Treatment Correctional Centre.
- Queensland Sentencing Information Service (QIS): we continue to host, maintain and support QIS. The Commission signed an MOU on 10 September 2013 with the Supreme Court Library which took over responsibility for QIS from 1 July 2013.
- Commonwealth Sentencing Database (CSD): we continue to host, maintain and support the CSD which is a joint project with the National Judicial College of Australia and the Commonwealth Director of Public Prosecutions.
- Forum Administration System: we continue to host, maintain and support the case management system for the Forum Sentencing Program for the Department of Justice.
- Papua New Guinea Sentencing Database (PNGSD): we continue to host, maintain and support the PNGSD for the National Courts of Papua New Guinea.
- Papua New Guinea Integrated Case Management System (PNGICMS): we commenced work on a feasibility study for the development stage of the PNGICMS.
- The Australian Capital Territory Sentencing Database (ACTSD): we continue to host, maintain and support the ACTSD for the Justice and Community Safety Directorate of the ACT Government.

## Appendix 11

### Working with other organisations

Our officers represent the Commission on a number of committees and steering groups. Details of their involvement are:

#### Mr Ernest Schmatt PSM, Chief Executive

Member of:

- Executive Committee and the Board of Governors of the International Organization for Judicial Training
- Advisory Board to the Commonwealth Judicial Education Institute, Halifax, Canada
- Asia Pacific Judicial Reform Forum Secretariat
- Asia Pacific Judicial Educators Group
- Honorary Associate in the Graduate School of Government, University of Sydney
- National Judicial Orientation Program Steering Committee, National Judicial College of Australia
- Judicial Council on Cultural Diversity.

#### Ms Ruth Windeler, Education Director

Member of:

- National Judicial Orientation Program Steering Committee, National Judicial College of Australia
- Australia New Zealand Judicial Educators (ANZJE)
- Asia Pacific Judicial Educators
- Continuing Legal Education Association of Australasia (CLEAA)
- Apprehended Violence Legal Issues Coordinating Committee (AVLICC) — (with Ms Antonia Miller as alternate)
- Domestic Violence Evidence in Chief (DVEC) Reforms Implementation and Monitoring Group (which reports to the Domestic Violence Justice Strategy Senior Executive Committee) — (with Ms Antonia Miller as alternate).

#### Mr Hugh Donnelly, Director, Research and Sentencing

Member of:

- Criminal Justice Working Group, Royal Commission into Institutional Responses to Child Sexual Abuse
- Forensic Patients in the Correctional System, Office of the Director of Public Prosecutions (NSW)
- Sexual Assault Review Committee, Office of the Director of Public Prosecutions (NSW).

#### Mr Murali Sagi PSM, Director, Information Services and Administration

Member of:

- Justice Sector Chief Information Officers' Committee
- Justice Sector Information Exchange Co-ordinating Committee
- Joined-up-Justice Governance Committee

Chair — NSW Fellows Committee, Australian Computer Society.

#### Ms Kate Lumley, Publishing Manager

Adjudicator — Australasian Reporting Awards.

#### Ms Antonia Miller, Senior Legal Editor

Member of:

- Apprehended Violence Legal Issues Coordinating Committee (AVLICC) — (as alternate to Ms Ruth Windeler)
- Domestic Violence Evidence in Chief (DVEC) Reforms Implementation and Monitoring Group (which reports to the Domestic Violence Justice Strategy Senior Executive Committee) — (as alternate to Ms Ruth Windeler)

Adjudicator — Australasian Reporting Awards.

#### Ms Maree D'Arcy, Librarian

Member of:

- NSW Justice Consortium.

## Appendix 12

### Visitors to the Commission

#### Visitors

- Justice Suresh Chandra, Resident Judge of Appeal of the Supreme Court of Fiji, 20 August 2014
- Justice David Wong, Malaysian Court of Appeal, 4 September 2014
- Sir Albert Palmer, Chief Justice of the Solomon Islands, 22 September 2014
- Ms Nerrie Eliakim, the Chief Magistrate of Papua New Guinea, 25 September 2014
- The Honourable Sir Salamo Injia Kt., the Chief Justice of Papua New Guinea, 21 October 2014
- Professor Dr Jimly Asshiddiqie SH, former Chief Justice of the Constitutional Court of Indonesia, 11 December 2014
- Judge Shota Watanuki of the Tokyo District Court, 12 February 2015
- Judge Asuka Homma of the Tokyo District Court, 12 February 2015
- Mr John Sossio, Director-General and Mr David Mackie, Deputy Director-General of the Queensland Department of Justice and Attorney General, 19 March 2015
- Dr Suzanne Le Mire, Senior Lecturer, Law School, University of Adelaide, 26 March 2015

#### Delegations

- Delegation of 8 senior judges from the Court of Appeal of Nigeria, 14 August 2014
- Delegation of 21 prosecutors from the Jianagsu Provincial People's Procuratorate, 25 November 2014
- Sir Salamo Injia Kt, Chief Justice of Papua New Guinea, and a delegation, 5 December 2014
- Sir Salamo Injia Kt, Chief Justice of Papua New Guinea, the Registrar of the Court, and 2 other officers, 11 June 2015
- Delegation of 14 judges of the Supreme and High Courts of Kenya, including 9 members of the Judicial Service Commission of Kenya, 15 June 2015

## Appendix 13

### Overseas visits

- On 9–10 October 2014, the Commission's Chief Executive, Mr Ernest Schmatt PSM, participated in the Sentencing Conference 2014: Trends, Tools and Technology, held in Singapore. The conference was organised by the Singapore Academy of Law and the State Courts of Singapore. Mr Schmatt presented 2 papers on sentencing and judicial education. The cost of attendance was covered by the State Courts of Singapore and the Judicial Commission.
- On 24–28 November 2014, the Commission's Director, Information Management and Corporate Services, Mr Murali Sagi PSM, travelled to Port Moresby, Papua New Guinea to demonstrate the Papua New Guinea Sentencing Database to PNG judicial officers and other law and justice agency executives. The cost for Mr Sagi was covered by the Supreme and National Courts of Papua New Guinea.
- On 23–27 February 2015, Ms Kate Lumley, travelled to Port Moresby, Papua New Guinea to attend the Papua New Guinea Magistrates' Orientation Program. The Orientation was jointly organised by the Judicial Commission of NSW and the Papua New Guinea Centre for Judicial Excellence. The Australian Government, through the PNG-Australian Law and Justice Partnership, covered the costs of Ms Lumley's travel.
- On 3–6 March 2015, the Commission's Director, Information Management and Corporate Services, Mr Murali Sagi PSM, travelled to Port Moresby, Papua New Guinea to demonstrate the Papua New Guinea Sentencing Database to PNG judicial officers and other law and justice agency executives. The cost for Mr Sagi was covered by the Supreme and National Courts of Papua New Guinea.

## Appendix 14

### Exchange of information

The Commission actively seeks to exchange information with other government agencies, academic institutions and individuals. Since its establishment, the Commission has built strong links with similar organisations in other countries in order to share knowledge and experience, particularly in the areas of judicial education and criminological research. This has proved to be a most valuable network and, as a result, the Commission now holds a wealth of information concerning these subjects.

In 2014–15, the Commission had discussions and exchanged information with the following organisations:

#### Australian

- Attorney General's Department (Cth)
- Australian Bureau of Statistics
- Australian Institute of Criminology
- Australasian Institute of Judicial Administration
- Bar Association of New South Wales
- Bureau of Crime Statistics and Research
- Centre for Democratic Institutions (ACT)
- Civil and Administrative Tribunal
- College of Law
- Office of Commonwealth Director of Public Prosecutions
- Continuing Legal Education Association of Australasia
- Corrective Services NSW
- Council of Australasian Tribunals
- Department of Aboriginal Affairs
- Department of Justice (NSW)
- Department of Justice and Attorney General (Qld)
- Department of Premier & Cabinet
- DFAT
- Federal Court of Australia
- High Court of Australia
- Independent Commission Against Corruption
- Judicial College of Victoria
- Judicial Conference of Australia
- Judicial Council on Cultural Diversity
- Law and Justice Foundation of NSW
- Law Society of NSW
- Legal Aid NSW
- Multiculturalism NSW
- National Judicial College of Australia
- NSW Law Reform Commission
- NSW Police Force

- NSW Sentencing Council
- Office of the Director of Public Prosecutions (NSW)
- Office of the Director of Public Prosecutions (Qld)
- Ombudsman NSW
- Parliamentary Counsel's Office
- Public Defenders (NSW)
- Royal Commission into Institutional Responses to Child Sexual Abuse (Cth)
- Roads and Maritime Services
- Sentencing Advisory Council (Vic)
- Supreme Court of Western Australia
- University of New South Wales Faculty of Law
- University of Sydney, Faculty of Law
- University of Western Australia
- University of Wollongong, Faculty of Law
- Workers Compensation Commission

#### International

- American Judicature Society
- Asia Pacific Judicial Reform Forum
- Canadian Association of Provincial Court Judges
- Commonwealth Judicial Education Institute, Halifax, Canada
- Commonwealth Magistrates' and Judges' Association, United Kingdom
- High Court of Malaya
- High Court of Sabah and Sarawak
- Institute of Judicial Studies, New Zealand
- International Association of Women Judges
- International Organization for Judicial Training
- Judicial Education Reference, Information and Technical Transfer (JERITT) Project, Michigan, USA
- Judicial College, (England and Wales)
- Magisterial Service of Papua New Guinea
- Supreme and National Courts of Papua New Guinea
- National Association of State Judicial Educators, Michigan, United States of America
- National Judicial Institute, Canada
- Philippine Judicial Academy, Manila
- PNG Centre for Judicial Excellence
- State Courts of Singapore
- Supreme Court of Indonesia
- Supreme Court of the Philippines
- Supreme Court of Singapore
- Supreme Court of the Solomon Islands
- Supreme People's Court, Beijing, China

## Appendix 15

### Commission officers' presentations 2014–15

- Mr M Sagi, "Sentencing Date Calculator", presentation for District Court Associates at the John Maddison Tower, Sydney, 7 and 8 July 2014
- Mr M Sagi, "Judicial Information Research System", presentation for the NSW Crown Solicitor's Office, Sydney, 20 July 2014
- Mr E Schmatt PSM, "The work of the Judicial Commission and the Judicial Information Research System", presentation at a seminar for Nigerian judges, Sydney, 14 August 2014.
- Ms R Windeler, "Orientation" facilitation at the Magistrates' Orientation Program, Kiama, 24 August 2014.
- Ms R Windeler, "Adult Learning Principles, Learning Styles and Learning Preferences" presentation at the Magistrates' Orientation Program, Kiama, 25 August 2014
- Ms R Windeler, "Judicial Communication" presentation at the Magistrates' Orientation Program, Kiama, 26 August 2014
- Ms R Windeler, "Court Craft in Practice" facilitation at the Magistrates' Orientation Program, Kiama, 27 August 2014
- Mr M Sagi, "Judicial Information Research System" presentation for the Chief Justice of Solomon Islands at the Commission's office, 26 September 2014
- Mr. E Schmatt PSM, "Sentencing and Technology", Sentencing Conference 2014: Trends, Tools & Technology, Singapore, 10 October 2014
- Mr E Schmatt PSM, "Advancing Sentencing Practice through Effective Judicial Education", Sentencing Conference 2014: Trends, Tools & Technology, Singapore, 10 October 2014
- Ms R Windeler, "Participant Introduction" facilitation at the Community Awareness of the Judiciary Program, Sydney, 30 October 2014
- Mr E Schmatt PSM, "The Judicial Commission and its place in the justice system of NSW", presentation to the Community Awareness of the Judiciary Program, Sydney, 30 October 2014
- Ms R Windeler, "Courtroom Communication" presentation at the Metropolitan Seminar Series II Program, Sydney, 10–14 November 2014
- Mr. E Schmatt PSM, "The work of the Judicial Commission and the Judicial Information Research System", presentation to a delegation from the Jiangsu Provincial People's Procuratorate, 25 November 2014
- Ms Pierrette Mizzi, "Sentencing Commonwealth Drug Offenders", presentation to lawyers at the DPP (Cth), Sydney (and by video-link to Brisbane and Melbourne), 4 February 2015
- Mr E Schmatt, "Complaints against judicial officers", presentation at a series of 5 one-day seminars for the Local Court of NSW Metropolitan Seminar Series, Sydney, 16–20 February 2015
- Ms K Lumley, "Judicial communication", presentation at the Papua New Guinea Magistrates' Orientation Program, Port Moresby, 24 February 2015
- Ms R Windeler, "Courtroom Communication" presentation at the Local Court of NSW Southern Regional Conference, Pokolbin, 12 March 2015
- Mr E Schmatt PSM, "Complaints against judicial officers", presentation to the Local Court of NSW Southern Regional Conference, Kiama, 13 March 2015
- Mr H Donnelly, "Sentencing in historical sexual abuse cases" presentation at the 14th Australasian Conference on Child Abuse and Neglect (ACCAN), Auckland, Aotearoa New Zealand 29 March–1 April 2015
- Mr H Donnelly, "Using the Judicial Information Research System effectively" presentation at the Crown Prosecutors' Annual conference, Crowne Plaza, Terrigal, 8 April 2015
- Ms R Windeler, "Courtroom Communication" presentation at the Local Court of NSW Northern Regional Conference, Kiama, 30 April 2015
- Mr E Schmatt PSM, "Complaints against judicial officers", presentation to the Local Court of NSW Northern Regional Conference, Hunter Valley, 1 May 2015
- Mr E Schmatt PSM, "The work of the Judicial Commission and the Judicial Information Research System", presentation to a delegation from the Judicial Services Commission of Kenya, Sydney, 15 June 2015
- Mr E Schmatt PSM, "The Judicial Commission of NSW", presentation for Thai judges organised by the University of NSW, Sydney, 17 June, 2015.
- Ms R Windeler (with Ms Jenny Green, Academic Director, National Judicial College of Australia and Ms Melinda Shiell, Manager, Programs, Judicial College of Victoria), "Familiarisation" presentation at the National Judicial Orientation Program, Broadbeach, 21 June 2015
- Ms R Windeler (with Justice Monika Schmidt, Supreme Court of NSW), "Wrap-up Session" presentation at the National Judicial Orientation Program, Broadbeach, 26 June 2015



## Appendix 16

### Access to government information

Table A: Number of applications by type of applicant and outcome\*

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn
Media	0	0	0	0	0	0	0	0
Members of Parliament	0	0	0	0	0	0	0	0
Private sector business	0	0	0	0	0	0	0	0
Not for profit organisations or community groups	0	0	0	0	0	0	0	0
Members of the public (application by legal representative)	0	0	0	0	0	0	0	0
Members of the public (other)	0	0	0	0	0	0	0	0

\* More than one decision can be made in respect of a particular access application. If so, a recording must be made in relation to each such decision. This also applies to Table B.

Table B: Number of applications by type of application and outcome

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn
Personal information applications*	0	0	0	0	0	0	0	0
Access applications (other than personal information applications)	0	0	0	0	0	0	0	0
Access applications that are partly personal information applications and partly other	0	0	0	0	0	0	0	0

\* A **personal information application** is an access application for personal information (as defined in clause 4 of Schedule 4 to the Act) about the applicant (the applicant being an individual).

Table C: Invalid applications

Reason for invalidity	Number of applications
Application does not comply with formal requirements (section 41 of the Act)	0
Application is for excluded information of the agency (section 43 of the Act)	0
Application contravenes restraint order (section 110 of the Act)	0
Total number of invalid applications received	0
Invalid applications that subsequently became valid applications	0

**Appendix 16: Access to government information** *continued***Table D: Conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 to Act**

	Number of times consideration used*
Overriding secrecy laws	0
Cabinet information	0
Executive Council information	0
Contempt	0
Legal professional privilege	0
Excluded information	0
Documents affecting law enforcement and public safety	0
Transport safety	0
Adoption	0
Care and protection of children	0
Ministerial Code of Conduct	0
Aboriginal and environmental heritage	0

\* More than one public interest consideration may apply in relation to a particular access application and, if so, each such consideration is to be recorded (but only once per application). This also applies in relation to Table E.

**Table E: Other public interest considerations against disclosure: matters listed in table to section 14 of Act**

	Number of occasions when application not successful
Responsible and effective government	0
Law enforcement and security	0
Individual rights, judicial processes and natural justice	0
Business interests of agencies and other persons	0
Environment, culture, economy and general matters	0
Secrecy provisions	0
Exempt documents under interstate Freedom of Information legislation	0

**Table F: Timeliness**

	Number of applications
Decided within the statutory time frame (20 days plus any extensions)	0
Decided after 35 days (by agreement with applicant)	0
Not decided within time (deemed refusal)	0
<b>Total</b>	<b>0</b>

**Table G: Number of applications reviewed under Part 5 of the Act (by type of review and outcome)**

	Decision varied	Decision upheld	Total
Internal review	0	0	0
Review by Information Commissioner*	0	0	0
Internal review following recommendation under section 93 of Act	0	0	0
Review by ADT	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>

\* The Information Commissioner does not have the authority to vary decisions, but can make recommendation to the original decision-maker. The data in this case indicates that a recommendation to vary or uphold the original decision has been made by the Information Commissioner.

**Table H: Applications for review under Part 5 of the Act (by type of applicant)**

	Number of applications for review
Applications by access applicants	0
Applications by persons to whom information the subject of access application relates (see section 54 of the Act)	0

**Table I: Applications transferred to other agencies under Division 2 of Part 4 of the Act (by type of transfer)**

	Number of applications transferred
Agency-initiated transfers	0
Application-initiated transfers	0

## Appendix 17

### Other compliance matters

Application for extension of time	No extension applied for.
Code of Conduct	The Code of Conduct is available to all staff on the Commission's intranet. As no amendments were made in 2014–15, the Commission is not required to reproduce the Code of Conduct.
Controlled entities, disclosure of	The Commission has no controlled entities.
Community Relations Commission, agreements with	No agreements have been entered into.
Credit card certification	Refer to p 79.
Disability Plan	The Commission is only required to report on a triennial basis.
Digital information security policy attestation	Refer to p 74.
Events with a significant effect on the succeeding year after the balance date	Not applicable.
Executive officers, performance and numbers	Performance not reported because the Commission's executive officers are not employed under the <i>Government Sector Employment Act 2013</i> but under the <i>Judicial Officers Act 1986</i> . Numbers are reported on p 61.
Funds granted to non-government community organisations	None.
Heritage management	Not applicable.
Implementation of price determination	Not applicable.
Land disposal	The Commission does not own and did not dispose of any property.
Major assets	The Commission does not own any major assets.
Multicultural Policies and Services Program	Refer to p 74.
Public interest disclosure (PID)	No public interest disclosures made.
Requirements arising from employment arrangements	Not applicable.
Responses to reports of parliamentary committees and Auditor General	No significant matters requiring a response were raised.
Subsidiaries, disclosure of	The Commission has no subsidiaries.
Waste	Refer to p 76 for our sustainability reporting.
Work Health and Safety	Refer to p 73.

## Glossary

<b>AIJA</b>	— Australasian Institute of Judicial Administration Incorporated.
<b>Appointed member</b>	— A non-judicial member of the Judicial Commission of NSW: see also Official member.
<b>Bench books</b>	— Reference books for judicial officers.
<b>Complaint</b>	— A complaint against a judicial officer about ability or behaviour, either made by a member of the public or referred to the Commission by the Attorney General.
<b>Conduct Division</b>	— A special panel that examines a particular complaint referred to it by the Commission.
<b>Education day</b>	— Calculated on the basis of 5 to 6 instructional hours attended by a judicial officer.
<b>Helpdesk</b>	— A telephone service for judicial officers that provides assistance with all aspects of computer usage.
<b>JIRS</b>	— Judicial Information Research System.
<b>Judicial Commission</b>	— An independent statutory organisation established by the <i>Judicial Officers Act 1986</i> . — The appointed members and official members, collectively.
<b>Judicial Information Research System (JIRS)</b>	— An online legal reference tool for judicial officers, relevant government organisations and members of the legal profession.
<b>Judicial officer</b>	— As defined in the <i>Judicial Officers Act 1986</i> : <ul style="list-style-type: none"> <li>• a judge or associate judge of the Supreme Court of NSW</li> <li>• a member (including a judicial member) of the NSW Industrial Relations Commission</li> <li>• a judge of the Land and Environment Court of NSW</li> <li>• a judge of the District Court of NSW</li> <li>• the President of the Children's Court of NSW</li> <li>• a magistrate</li> <li>• the President of the Civil and Administrative Tribunal.</li> </ul> The definition of judicial officer includes acting appointments to a judicial office, but does not include arbitrators, registrars, assessors, members of tribunals, legal representatives, retired judicial officers or federal judicial officers.
<b>Ngara Yura Program</b>	— Aboriginal cultural awareness program for judicial officers.
<b>NJCA</b>	— National Judicial College of Australia.
<b>Official member</b>	— A judicial member of the Judicial Commission of NSW.
<b>Pre-bench training</b>	— An induction program for newly appointed magistrates to assist them with their transition to the Bench.
<b>Vexatious complainant</b>	— The <i>Judicial Officers Act 1986</i> empowers the Judicial Commission of NSW to declare as a vexatious complainant a person who habitually and persistently, and mischievously or without any reasonable grounds, makes complaints about judicial officers. The effect of the declaration is that the Commission may disregard any further complaint from the complainant.

## Index

Apart from the title of publications or legislation, entries in italic indicate compliance with statutory reporting requirements.

- A**
- Aboriginal community visits . . . . . 31
  - Aboriginal Cultural Awareness Program . . . . . 13, 27, 115, 121  
see also Ngara Yura Program
  - Aboriginal Deaths in Custody, Royal Commission recommendations . . . . . 27, 31
  - Aboriginal Project Officer . . . . . 27, 74
  - access. . . . . 31, 34, 60, 71, 75, 77
  - access to government information, public. . . . . 74, 119–121
  - Advisory Board of the Commonwealth Judicial Education Institute. . . . . 53
  - aims and objectives. . . . . 4, 7
  - annual report . . . . . inside front cover, 10
  - articles 2014–15 . . . . . 113
  - Asia Pacific Judicial Reform Forum . . . . . 7, 53, 115
  - Attorney General . . . . . 39
  - audit and risk management
    - Business Continuity Plan . . . . . 72
    - committee . . . . . 6, 68, 70–74, 108
    - compliance with Treasury guidelines . . . . . 72
    - digital information security policy . . . . . 73, 74
    - external . . . . . 72
    - internal. . . . . 72
    - Internal Audit and Risk Management Statement, attestation . . . . . 73
    - policy. . . . . 73
    - work health and safety. . . . . 73
  - Audit and Risk Management Committee. . . . . 4, 71
  - Auditor's Report, Independent. . . . . 81–82
  - Australasian Institute of Judicial Administration . . . . . 53
  - Australasian Reporting Awards, Gold Award 67
- B**
- bail regime changes
    - 2014–15 highlights . . . . . 2
    - explanation of amendments. . . . . 40
  - budget review . . . . . 98
  - Bureau of Crime Statistics and Research (BOCSAR) . . . . . 32, 35
- C**
- case management systems. . . . . 57, 60
  - case studies . . . . . 30, 40, 50, 59, 60
  - certification
    - credit cards . . . . . 79, 121
    - financial statements. . . . . 82–83
  - challenges. . . . . 3, 8, 14, 24, 34, 44, 54, 65, 71, 80
  - charter. . . . . 73
  - Chief Executive
    - appointment . . . . . 73
    - certification . . . . . 83
    - complaint, lodged with. . . . . 50
    - media enquiries, response to. . . . . 67
    - message . . . . . 12–13
  - organisation structure . . . . . 4
  - risk exposure . . . . . 71
  - role . . . . . 73
  - strategic planning process. . . . . 9
  - Children's Court of NSW Resource Handbook – see publications*
  - Civil Trials Bench Book – see publications*
  - code of conduct . . . . . 71, 121
  - Commission meetings. . . . . 70
  - Commission members. . . . . 14–16
  - Commonwealth Judicial Education Institute. . . . . 7
  - Commonwealth Secretariat . . . . . 7
  - Commonwealth Sentencing Database. . . . . 58, 115
  - Community Awareness of the Judiciary Program . . . . . 53, 55, 74  
2014–15 highlights . . . . . 2
  - Community Relations Commission, agreements with . . . . . 121
  - community values . . . . . 6, 13, 23
  - community engagement . . . . . 53, 55, 65, 74
  - complaints
    - arising from AVO proceedings . . . . . 47
    - challenges 2014–15. . . . . 42
    - common causes . . . . . 47
    - complainant had right to appeal. . . . . 50
    - delay in judgment . . . . . 50
    - education sessions . . . . . 42
    - evaluation of performance . . . . . 45
    - examination guidelines 2014–15 . . . . . 105–107
    - examination of. . . . . 7, 21
    - examined. . . . . 46, 47, 48
    - expenditure . . . . . 42
    - feedback . . . . . 44
    - finalisation of . . . . . 42
    - guidelines 2014–15 . . . . . 103–105
    - high standard of performance . . . . . 42
    - highlights 2014–15 . . . . . 42
    - history . . . . . 5
    - how to make . . . . . 48
    - inappropriate comments and discourtesy 47
    - incompetence . . . . . 47
    - independence of officers . . . . . 42
    - matters that can't be examined . . . . . 48
    - monitoring trends. . . . . 47
    - officer made inappropriate comments . . . . . 50
    - performance results 2013–15 . . . . . 8–9
    - process . . . . . 49
    - reasons for examination. . . . . 44
    - received. . . . . 46, 47
    - response to . . . . . 47
    - self-represented litigants . . . . . 47
    - substitution for appeals . . . . . 47
    - timely acknowledgement of completion . . . . . 42
    - year ahead. . . . . 43
    - year in brief . . . . . 6
  - compliance
    - financial directives . . . . . 82
    - other matters. . . . . 121
    - Treasury guidelines . . . . . 74
  - conference topics . . . . . 109–112
  - consultants . . . . . 65
  - consumer response – see complaints
  - contingent assets . . . . . 98
  - contingent liabilities . . . . . 98
  - continuing judicial education see judicial education, continuing
  - controlled entities, disclosure of. . . . . 123
  - Criminal Trial Courts Bench Book – see publications*
  - current assets. . . . . 94–95
  - current liabilities. . . . . 97
- D**
- digital information security policy, attestation . . . . . 74
  - disability plan. . . . . 66
- E**
- education – see judicial education, continuing
  - electronic delivery of services and publications . . . . . 75
  - employees – see staff
  - employment – see staff
  - environmental sustainability – see sustainability
  - equal employment opportunity – see staff
  - Equality Before the Law Bench Book – see publications*
  - events after reporting period . . . . . 100
  - examining complaints – see complaints
  - executive remuneration . . . . . 64
  - executive team
    - profiles. . . . . 17–18
  - expenditure commitments. . . . . 97–98
  - expenses. . . . . 92–93
  - extension of time . . . . . 121
- F**
- financial data/information – see financial reports; *financial statements*
  - financial instruments . . . . . 98–100
  - financial management
    - challenges 2014–15. . . . . 78
    - deficit. . . . . 78
    - expenses. . . . . 78
    - highlights 2014–15 . . . . . 78
    - performance results. . . . . 20
    - revenue . . . . . 78
    - self generated revenue. . . . . 78
    - summary . . . . . 79
    - total assets . . . . . 78
    - year ahead. . . . . 78
  - financial reports
    - cash flow. . . . . 86–87
    - changes in equity. . . . . 85–86
    - comprehensive income . . . . . 83
    - financial position . . . . . 84–85
    - Independent Auditor's Report . . . . . 81–82
    - notes to and forming part of . . . . . 88–100
  - financial statements*
    - certification by CEO. . . . . 81
    - notes to and forming part of . . . . . 88–100
    - summary of compliance. . . . . 87–88

- financial summary . . . . . 20
- freedom of information – see access to government information, public*
- funding – *see revenue*
- G**
- gains and losses . . . . . 93–94
- glossary . . . . . 121
- governance
- 2014–15 highlights . . . . . 2
- challenges 2014–15 . . . . . 69
- effective policies . . . . . 68
- energy use . . . . . 68
- high quality delivery of services . . . . . 68
- highlights 2014–15 . . . . . 68
- Internal Audit Plan . . . . . 68
- organisational responses to internal audit . . . . . 68
- practices . . . . . 70–71
- year ahead . . . . . 69
- Government Information (Public Access) Act 2009* . . . . . 74
- H**
- health and safety – *see work health and safety*
- heritage management* . . . . . 121
- human resources – *see staff*
- I**
- Independent Auditor's Report . . . . . 81
- Informit . . . . . 29
- insurance . . . . . 74
- intangible assets . . . . . 96–97
- Internal Audit and Risk Management Statement* . . . . . 73
- International Organization for Judicial Training . . . . . 7, 53
- investment performance* . . . . . 90, 102
- iPad™ technology . . . . . 5, 29–30, 38
- J**
- Judicial College of Victoria . . . . . 58
- Judicial Council on Cultural Diversity . . . . . 53
- judicial education, continuing
- 2014–15 publications . . . . . 30
- annual conference program . . . . . 28
- bail regime . . . . . 2
- challenges . . . . . 22
- commercial arrangements . . . . . 7
- committees 2014–15 . . . . . 108–109
- Community Awareness of the Judiciary Program 2014–15 highlights . . . . . 2, 59
- complaints process . . . . . 22
- computer training and support . . . . . 30
- connecting officers with Aboriginal communities and culture . . . . . 31
- design process . . . . . 25
- distance education . . . . . 29
- enhancement of skills, knowledge and attitudes . . . . . 22
- evaluating program performance . . . . . 26
- family violence seminar . . . . . 31
- feedback . . . . . 24
- field trips to correctional centres . . . . . 30
- judicial officers informed about changes . . . . . 22
- online and print publications, digital and multi-media resources . . . . . 29
- organisational structure . . . . . 4
- performance results 2013–15 . . . . . 8–9
- Papua New Guinea Magistrates' Orientation Program 2014–15 highlights . . . . . 2, 59
- policy 2014–15 . . . . . 107–108
- profile . . . . . 4
- providing research and sentencing information . . . . . 7, 21
- satisfaction rate . . . . . 22
- seminars, workshops and field trips 2014–15 . . . . . 112–113
- strategic planning process . . . . . 7
- workshops, seminars and gaol visits . . . . . 28
- year ahead . . . . . 23
- Judicial Information Research System (JIRS)
- enhancements added . . . . . 37
- highlights 2014–15 . . . . . 2
- maintaining . . . . . 35
- maintenance of technology . . . . . 76
- most commonly accessed publications . . . . . 38
- publications accessed . . . . . 29
- publications program . . . . . 38
- report on child sexual abuse sentencing . . . . . 39
- research assistance program . . . . . 39
- rising use . . . . . 37
- visual explanation . . . . . 35
- Judicial Officers Act 1986* . . . . . 4, 5, 7, 40, 48, 70, 71, 88, 103–107
- Judicial Officers Regulation 2012* . . . . . 48, 71, 103
- Judicial Officers' Bulletin – see publications*
- Judicial Review – see publications*
- jury directions . . . . . 30, 34, 40, 55
- L**
- Land and Environment Court of NSW
- Commissioner's Handbook – *see publications*
- land disposal* . . . . . 121
- Lawcodes . . . . . 57
- legal form . . . . . 4, 71
- legislative charter . . . . . 71
- liability management performance* . . . . . 90–92
- library services . . . . . 69, 75
- Local Court Bench Book – see publications*
- Local Court of NSW . . . . . 14, 27, 59
- annual conference 2014 . . . . . 23–24
- location . . . . . 125
- M**
- major assets . . . . . 121
- management, structure and activities . . . . . 4, 18, 64
- President's foreword . . . . . 10–11
- mission . . . . . 4
- mobile devices . . . . . 9, 14, 32, 35
- multicultural policies and services* . . . . . 74
- N**
- National Judicial College of Australia . . . . . 53, 58
- National Judicial Orientation Program (NJOP) . . . . . 27, 58, 60, 74
- *see also* orientation programs
- net cash flows . . . . . 98
- Ngara Yura Program . . . . . 13, 24, 27, 31, 74, 108, 110, 112, 115
- *see also* Aboriginal Cultural Awareness Program
- non-current assets . . . . . 95–96
- non-current liabilities . . . . . 97
- non-government community organisations, funds* . . . . . 121
- NSW government, relationship with . . . . . 71
- NSW Treasury Managed Fund . . . . . 88
- O**
- operations . . . . . 6, 7, 9, 71–73, 80, 90
- organisation structure
- organisation chart . . . . . 4
- performance . . . . . 8–9
- profiles . . . . . 14–17
- orientation programs . . . . . 4, 15, 109
- *see also* National Judicial Orientation Program (NJOP)
- our history . . . . . 2
- overseas visits* . . . . . 117
- P**
- partners*
- access to statistical and legal information . . . . . 52
- advice to other jurisdictions . . . . . 52, 58
- Asia-Pacific region, focus on . . . . . 57
- assistance to agencies . . . . . 52
- assistance to other jurisdictions and organisations . . . . . 115–116
- Attorney General, office of . . . . . 39
- Bureau of Crime Statistics and Research (BOCSAR) . . . . . 32, 35
- challenges 2014–15 . . . . . 52
- Crown Solicitor's office . . . . . 46
- Department of Corrective Services . . . . . 23
- Department of Justice . . . . . 58
- evaluating performance . . . . . 56
- exchange of information . . . . . 117–118
- Forum Sentencing management system . . . . . 57
- highlights 2014–15 . . . . . 115
- International Organization for Judicial Training . . . . . 7, 53
- Lawcodes . . . . . 57
- NSW Drug Court case management system . . . . . 58
- NSW Sentencing Council . . . . . 32
- performance of commercial role . . . . . 58
- PNG Centre for Judicial Excellence . . . . . 59
- providing contractual services . . . . . 52
- public informed about work . . . . . 52, 55
- responding to enquiries . . . . . 55
- Royal Commission into Institutional Responses to Child Sexual Abuse . . . . . 39
- satisfaction/feedback . . . . . 54
- sharing knowledge with other judicial education providers . . . . . 52, 55, 58
- website use of resources . . . . . 29
- working with government agencies . . . . . 57
- working with other organisations . . . . . 116
- year ahead . . . . . 53



## Index — continued

- people – *see staff*
- performance . . . . . 6, 8–9, 19–50
- performance measures . . . 8–9, 26 36, 45, 56
- personnel policies – *see staff*
- Papua New Guinea Integrated Case Management System . . . . . 53
- PNG Magisterial Services . . . . . 13, 71
- PNG magistrates orientation program . . . 2, 54
- Papua New Guinea sentencing database . . 58
- PNG-Australian Law and Justice Partnership . . . . . 59
- presentations, officers . . . . . 118
- price determination . . . . . 121
- price determination, implementation . . . 121
- privacy management plan . . . . . 74
- proactive release program, release of . . . 75
- product – *see services*
- profiles
- appointed members . . . . . 16
- commission . . . . . 4
- executive team . . . . . 17–18
- official members . . . . . 14–15
- president . . . . . 14
- public access to government information . . 74
- public interest disclosure . . . . . 74, 106, 121
- publications
- bench books . . . 5, 7, 29–30, 33–34, 40, 75, 107–109, 114
- brochures . . . . . 114
- Children's Court of NSW Resource Handbook* . . . . . 29, 75
- Civil Trials Bench Book* . . . . . 24, 75
- Criminal Trial Courts Bench Book* . . . 29, 75
- DVDs . . . . . 114
- Equality Before the Law Bench Book* . . . . . 29, 75
- handbooks . . . . . 114
- journals . . . . . 114
- Judicial Officers' Bulletin* . . . . . 29
- The Judicial Review* . . . . . 29
- Local Court Bench Book* . . . . . 29, 40, 75
- performance results 2013–15 . . . . . 8–9
- Sentencing Bench Book* . . . . . 5, 33, 75
- Sentencing in NSW: A cross-jurisdictional comparison of full-time imprisonment rates* . . . . . 38, 71
- Sentencing Trends & Issues* . . . . . 7, 71, 75
- Sexual Assault Trials Handbook* . . . . 29, 75
- R**
- record management . . . . . 76
- remuneration of members . . . . . 72
- research and sentencing program
- 2014–15 highlights . . . . . 32
- advising magistrates of mandatory alcohol interlock program . . . . . 41
- challenges 2014–15 . . . . . 32
- evaluating performance . . . . . 36
- giving directions in sexual assault case . 40
- guidance for fitness to be tried . . . . . 41
- highlights 2014–15 . . . . . 32
- mental illness cases . . . . . 41
- research papers . . . . . 38
- reasons for . . . . . 34
- results . . . . . 8–9, 26, 35, 42, 45, 52, 56
- satisfaction/feedback . . . . . 34
- year ahead . . . . . 33
- revenue . . . . . 4, 13, 78, 80, 88, 90, 93
- review of operations* . . . . . 35
- risk management – *see audit and risk management*
- risk management, internal audit – *see audit and risk management*
- Royal Commission into Institutional Responses to Child Sexual Abuse . . . . . 39
- S**
- sentencing – *see research and sentencing program*
- service groups . . . . . 94
- services, key . . . . . 21
- significant accounting policies . . . . . 88–92
- significant issues – *see challenges*
- staff
- 2014–15 highlights . . . . . 2, 62
- attendance . . . . . 65
- challenges 2014–15 . . . . . 63
- communication . . . . . 65
- community involvement . . . . . 65
- diversity . . . . . 62, 66
- EEO Management plan 2012–15 . . . . . 62
- employment arrangements, requirements . . . . . 68, 121
- engagement of consultants . . . . . 65
- flexible work arrangements . . . . . 65
- induction . . . . . 65
- performance results 2013–15 . . . . . 8–9
- performance reviews . . . . . 66
- professional development . . . . . 62, 66
- recognising achievements . . . . . 67
- satisfaction . . . . . 62, 64
- satisfaction rate . . . . . 2
- training . . . . . 62, 66
- turnover . . . . . 62, 65
- wages and conditions . . . . . 65
- workcover diversity* . . . . . 66
- work health and safety . . . . . 62, 66
- year ahead . . . . . 63
- stakeholders – *see partners*
- strategic focus . . . . . 9, 25, 14–15, 32, 35, 57
- strategic progress . . . . . 8–9
- statutes, key . . . . . 4, 71
- subsidiaries, disclosure of* . . . . . 121
- Supreme Court of NSW . . . . . inside front cover
- sustainability . . . . . 6, 40, 71, 76
- T**
- technology – *see iPad™ technology; mobile devices*
- training – *see judicial education, continuing*
- Treasury Guidelines, compliance with . . . . 74
- V**
- values . . . . . 4, 70
- vision . . . . . 2, 70
- visitors to the commission . . . . . 116
- W**
- Waste Reduction and Purchasing Policy* . . . 76
- waste reduction . . . . . 69, 76
- website . . . . . inside front cover, 55, 125
- work health and safety* . . . . . 73
- Work Healthy and Safety Act 2011* . . . . . 67
- workforce diversity – *see staff*
- Y**
- year ahead . . . . . 7, 23, 33, 43, 53, 63, 69, 78

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## Looking at the last 5 years

	2010–11	2011–12	2012–13	2013–14	2014–15	
<b>Providing continuing judicial education</b>						
Number of judicial education days each year	1,389	870*	1,232	1,168	1,075	↓
Number of educational sessions	37	34	38	32	39	↑
Overall satisfaction rating with judicial education sessions	93%	95%	92%	89%	92%	↑
% of attendance by judicial officers at annual conferences	93%	77%	90%	87%	85%	↓
% of attendance at magistrates' induction/orientation programs	100%	100%	100%	100%	100%	–
Average number of training days offered each judicial officer	5.3	4	5	4.6	4.3	↓
Average number of training days undertaken each judicial officer	4.7	3.0*	4	4	3.7	↓
% of judicial officers who attended at least 2 days of judicial training	93%	82%	90%	87%	67%	↓
Number of publications (including bench book updates, bulletins, journals, education monographs and training DVDs)**	23	21	36	35	34	↓
<b>Providing research and sentencing information</b>						
JIRS usage (average page hits each month)	88,704	99,172	113,666	123,338	127,302	↑
% of JIRS availability	99%	99%	99%	99%	99%	–
Number of enhancements to JIRS	10	11	12	5	6	↑
Timeliness of sentencing material on JIRS						
– Recent law items posted on JIRS	2 wks	2 wks	2 wks	2 wks	2 wks	–
– Judgments (within number of days of receipt)	1 day	1 day	1 day	1 day	1 day	–
– Summaries of important judgments (within number of weeks of receipt)	6 wks	6 wks	5 wks	5 wks	5 wks	–
– Sentencing statistics loaded on JIRS (within number of months of receipt)	1–4 mths	1–4 mths	1–4 mths	1–4 mths	1–4 mths	–
Number of <i>Sentencing Trends &amp; Issues</i> papers and monographs	3	2	4	1	3	↑
Timely updates to the <i>Criminal Trial Courts Bench Book</i> and <i>Sentencing Bench Book</i> **	6	6	8	6	6	↓
Lawcodes: % of new and amended offences coded and distributed within 4 days of commencement	100%	100%	100%	100%	100%	–
<b>Examining complaints</b>						
% of complaints acknowledged within 1 week of receipt	98%	100%	100%	100%	100%	–
% of complaints examined within 6 months of receipt	95%	68%	78%	87%	100%	↑
% of complaints examined within 12 months of receipt	100%	100%	98%	100%	100%	–
Complaints received (number)	60	110	71	48	59	↑
Complaints examined (number)	56	90	85	61	56	↓
<b>People</b>						
Staff (number)	38	40	39	39	41	↑
Length of service: 5 years or greater	68%	58%	64%	67%	67%	–
<b>Governance policies and processes</b>						
Access to information requests	0	0	0	0	0	–
<b>Environmental sustainability</b>						
Total energy used	503 GJ	478 GJ	475 GJ	472 GJ	463 GJ	↓
% of recycled paper used	100%	100%	100%	100%	100%	–
<b>Finances</b>						
Revenue from Parliament	\$5.395 M	\$5.215 M	\$5.321 M	\$4.976 M	\$5.247 M	↑
Retained revenue (sale of goods & services, investment income, etc)	\$681,000	\$673,000	\$709,000	\$1.037 M	\$883,000	↓
Expenditure	\$6.094 M	\$5.870 M	\$6.008 M	\$5.963 M	\$6.173 M	↑

\* The Local Court of NSW Annual Conference was not held in the 2011–12 financial year.

\*\* We changed our measure to include *Criminal Trial Courts Bench Book* updates in Research and sentencing.

\*\*\* We changed our measure from 2010–11 to measure hours of computer training.





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