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/or a business. A judicial decision can send a person to gaol or otherwise affect a person’s liberty, reputation and family relationships. It can 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, we publish information about civil and criminal law with a focus on 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 the Deputy Chief Executive and 2 directors, is responsible for our daily operations. See pp 17–18 for their profiles and achievements.

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

Our values
Interconnection — 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 and the community
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 and judiciaries.

Our structure
The Commission has 3 operational areas — continuing judicial education, research and sentencing, and complaints. See our organisational structure on p 2 and our services delivery chart on p 3.

Our resources
Staff — 34 full-time equivalent staff at the Commission at 30 June 2017. See p 63.
Revenue — $6.766 million (last year: $3.75 million) revenue from the NSW Government. The increase in revenue was due to capital allocation for the new office fit out and the reversion of recurrent allocation following NSW Treasury cash management reforms in 2015–16. See p 85.
Other revenue — $812,000 from other revenue including $773,000 in self-generated revenue. See p 85.

Our vision
The people of NSW will have confidence in the exceptional ability and performance of judicial officers who:
2016–17 highlights

- Achieved 91% judicial satisfaction with the continuing education program. See page 23.
- Published a major study on sentencing in the Land and Environment Court of NSW. See page 33.
- Launched the pilot Integrated Criminal Case System Database for Papua New Guinea. See page 58.
- Achieved 91% staff satisfaction with employment at the Commission. See page 63.
- Held 10 Commission meetings and 4 Audit and Risk Management Committee meetings. See pages 72 and 75.
- Generated revenue of $812,000 from other sources. See page 85.

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Our cover photo is of the cityscape surrounding the St James Court Complex showing the blend of the old and the new. The Supreme Court building is in the background behind the original cupola of the old Supreme Court (1820–1829) designed by ex-convict architect Francis Greenway.
Overview of the Commission

Our organisational structure

A quick look at how the Commission works

Members of the Commission
The Commission is made up of 6 official members who include the heads of the State’s courts and the Industrial Relations Commission, the President of the Court of Appeal and 4 appointed members. Three of the 4 appointed members must have high standing in the community and 1 must be an Australian legal practitioner. The Commission members set strategic directions, appoint the executive management team, approve budgets and publications, present continuing judicial education sessions and conduct the preliminary examination of all complaints.

Chief Executive
Provides leadership and responsibility for our operations.

Audit and Risk Management Committee
Provides independent advice to the Chief Executive and reviews and monitors our workplace policies and processes.

Continuing judicial education
Provides a program of judicial education and training including conferences and seminars, computer training for judicial officers and publications.

Research and sentencing (legal information)
Provides sentencing information to the courts to achieve consistency in sentencing; informs judicial officers about criminal law changes and provides materials on practice and procedure.

Complaints
Provides a complaints function about judicial ability or behaviour.

Information management and corporate services
Provides information management and technology services, strategic planning, finance and administration, Lawcodes database and law library.
## Our services delivery

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

<table>
<thead>
<tr>
<th>Continuing judicial education</th>
<th>Induction and orientation sessions for new judicial officers to assist in their transition from legal professional to impartial adjudicator.</th>
<th>Annual conferences for all NSW courts to provide up-to-date information on specific topics and promote collegiality.</th>
<th>Skills-based workshops, seminars, field trips and distance education to enhance judicial skills, attitudes and knowledge.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Aboriginal cross-cultural awareness sessions and community visits so judicial officers are informed about Aboriginal society, customs and traditions.</td>
<td>Digital and multi-media resources, online and print publications for information and research.</td>
<td>Computer training and support.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Legal information</th>
<th>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.</th>
<th>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.</th>
<th>Research studies including monographs and <em>Sentencing Trends &amp; Issues</em> papers.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>“Recent Law” summaries of important legal developments posted on JIRS.</td>
<td>Email alerts to notify judicial officers of significant changes to the law or about sentencing methods.</td>
<td>Comprehensive information about treatment options and rehabilitation facilities for offenders.</td>
</tr>
</tbody>
</table>

| Complaints         | The examination of complaints efficiently, independently, objectively and effectively.                                                                                                           | Advising the complainant and the judicial officer involved of the outcome of the complaint.                                      | Information, publications and talks about our role and function while monitoring patterns in complaints and addressing recurring issues in our judicial education program. |
|-------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|
Our history

Our controversial beginning

The government’s announcement in September 1986 that it intended to establish a judicial commission was highly controversial, generating heated exchanges in Parliament and between the then Chief Justice of the Supreme Court, Sir Laurence Street (photo left), and the Attorney General at the time, the Honourable Terry Sheahan, now the Honourable Justice Sheahan AO.

Members of the judiciary and the legal profession, watching from the sidelines, opposed the plan or wondered whether it could work. More than thirty years on, the Commission remains a unique organisation in Australia, combining complaints and education functions.

1985

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

1986


The Long Title to the Judicial Officers Act 1986, No 100 of 1986

An Act relating to the tenure of judicial office; to constitute a Judicial Commission of New South Wales; to confer on the Commission functions relating to sentencing consistency, judicial education and certain other matters; to provide for the examination of complaints against Judges and other judicial officers; to provide for their suspension, removal and retirement in certain circumstances; and for other purposes.

1987

- The Judicial Officers (Amendment) Act 1987 changed the Commission to a statutory authority, allowing it to be independent of the executive Government. Operations commenced in October.
- Of the 220 judicial officers in NSW: 95% are men; 5% are women.

1988

- Conference, seminar and publications programs commenced to provide professional continuing judicial education.
- Development of Sentencing Information System database commenced to help judicial officers improve consistency in their approach to sentencing.
1990
• Chief Justice Gleeson, the Commission’s President, launched the Sentencing Information System.

1996
• The Sentencing Information System, re-engineered and expanded to include information relevant for all courts, was renamed the Judicial Information Research System (JIRS).

1998
• In a first, a judge addressed Parliament after a Conduct Division reported that Parliament consider his removal from office. Parliament voted not to remove the judge.
• The Judicial Officers Amendment Act 1998 increased lay membership of the Commission from 2 to 4.
• The Commission provided professional development programs to 251 judicial officers: 85% are men; 15% are women.

2007
• The Judicial Officers Amendment Act 2007 allowed for lay representation on a Conduct Division with a community representative.
• The Commission provided professional development to 278 judicial officers: 73% are men; 27% are women.

2011
• Two separate Conduct Divisions reported to the Governor that Parliamentary consideration be given to removing 2 magistrates from office. Each magistrate separately addressed Parliament. Parliament voted against removal.

2012
• The Judicial Officers Amendment Act 2012 required the Commission to provide information about a complaint against a judicial officer to the Attorney General if requested.
• The Commission ran the first Community Awareness of the Judiciary Program as a public education strategy.
• The Commission provided professional development programs to 350 judicial officers: 74% are men; 26% are women.

2016
• To promote interactive learning, a resource app was launched.
• The Commission moved to new premises at 60 Carrington Street, Sydney.

2017
• The Commission provided professional development programs to 286 judicial officers: 62% are men; 38% are women.
Results in brief and looking to the year ahead

Our programs this year promoted the highest standards of judicial behaviour, performance and decision making. Here are our results in brief and key challenges for 2016–17 and our targets for 2017–18.

Our finances

Our financial result this year was:
- a $1.24 million surplus, up from last year’s deficit of $1.347 million
- income of $7.578 million was derived from:
  - $6.766 million government contributions
  - $812,000 from provision of information management services to other jurisdictions and sale of publications.

The increase in revenue was due to capital allocation for the new office fit out and the reversion of recurrent allocation following NSW Treasury cash management reforms in 2015–16.

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

See pp 83–85 for a summary of our finances and pp 86–106 for our full financial report.

Continuing judicial education

Key results were:
- judicial skills, knowledge and attitudes were enhanced with 44 education events offered (last year: 43)
- 91% judicial satisfaction with our education program (last year: 93%).

A key challenge was:
- reinvigorating our work in Aboriginal cultural awareness (the Ngara Yura Program) and re-evaluating the program’s objectives.

Target 2017–18: we plan to review the range of published materials we provide to ensure we are supporting judicial officers with relevant information in an easily accessible format.

See pp 19–28 for more information.

Providing legal information

Key results were:
- judicial officers were informed about changes to the law, community values, court practice and procedure with 31 publications (last year: 34)
- judicial officers had access to current law to assist in their day-to-day decision making resulting in 1.614 million total page hits to the Judicial Information Research System (JIRS)
- judicial officers were promptly notified of changes in sentencing principles and practice.

A key challenge was:
- keeping up-to-date with a large volume of case law and new legislation.

Target 2017–18: we plan to publish a study on appeals to discuss developments in the law concerning the appeal process and the range, number and outcomes of appeals dealt with by the NSW Court of Criminal Appeal from 2010 until 2016.

See pp 29–40 for more information.
### Overview of the Commission

#### Examining complaints

**A key result was:**
- 72 formal complaints were examined and all complaints were acknowledged in writing within 5 days; 99% of complaints were finalised within 12 months of their receipt.

**A key challenge was:**
- explaining to complainants why their complaints were dismissed.

**Target 2017–18:** we plan 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.

See pp 41–50 for more information.

#### Our partners and the community

**Key results were:**
- we collaborated with other national and international judicial education providers and judiciaries to share resources and promote best practice
- the public was informed about our work and role in the justice system and our contribution to judicial performance
- finalising the pilot Integrated Criminal Case System Database for the National and Supreme Courts of PNG to assist the PNG justice sector to better administer its justice system.

**A key challenge was:**
- balancing our core work with requests for assistance with research and capacity-building projects.

**Target 2017–18:** we plan to continue interacting with other national and international continuing judicial education providers and judiciaries to share resources and promote best practice for judicial officers.

See pp 51–60 for more information.

#### Our people

**A key result was:**
- 91% staff satisfaction as measured in our yearly staff survey and a low 5% staff turnover.

**A key challenge was:**
- planning for and implementing our office relocation in late 2016.

**Target 2017–18:** we plan to review our internal communications strategy to ensure we are supporting our people’s information needs.

See pp 61–68 for more information.

#### Our governance, policies and processes

**Key results were:**
- a robust approach has been taken to governance with 10 Commission meetings and 4 Audit and Risk Management Committee meetings held
- achieving a 38% reduction in energy use.

**A key challenge was:**
- the review of, and compliance with, internal audit recommendations. These recommendations must be balanced with our core operations.

**Target 2017–18:** we plan to continue to comply with audit and risk management policy requirements through our Audit and Risk Management Committee.

See pp 69–82 for more information.
### Performance results 2015–17 and targets 2016–18

<table>
<thead>
<tr>
<th>Result</th>
<th>Measure</th>
<th>2015–16 result</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Continuing judicial education</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Judicial officers informed about changes to the law, community values, court practice and procedure</td>
<td>Maintain/increase number of publications</td>
<td>34 publications</td>
</tr>
<tr>
<td></td>
<td>Maintain/increase number of specialised education events offered</td>
<td>43 education events</td>
</tr>
<tr>
<td></td>
<td>Education events assisted judicial officers to reach the national standard of 5 judicial education days each year</td>
<td>5.8 days offered 5 days undertaken</td>
</tr>
<tr>
<td>Judicial skills, attitudes and knowledge enhanced</td>
<td>Maintain/increase ratings that our services provide judicially relevant and stimulating education and information</td>
<td>81% of participants satisfied that sessions relevant and applicable and 80% satisfied that sessions enhanced knowledge and capability</td>
</tr>
<tr>
<td>Judicial officers satisfied with their education</td>
<td>Maintain/improve satisfaction rates from last year</td>
<td>93% overall satisfaction</td>
</tr>
<tr>
<td>Judicial officers satisfied with skills based workshops</td>
<td>Maintain/improve satisfaction rates from last year</td>
<td>100% overall satisfaction</td>
</tr>
<tr>
<td><strong>Providing legal information</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Judicial officers had access to current law to assist in decision making</td>
<td>Maintain/increase use of Judicial Information Research System (JIRS)</td>
<td>136,324 average page hits each month</td>
</tr>
<tr>
<td>Judicial officers promptly informed about changes to criminal law and criminal practice and procedure</td>
<td>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</td>
<td>• 209 recent law items posted on JIRS • 205 summaries of select appeal decisions published on JIRS • 5 updates to Criminal Trial Courts Bench Book</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Judicial officers promptly notified of changes in sentencing law and practice</td>
<td>Maintain legal accuracy of sentencing principles and practices component of JIRS</td>
<td>3 updates to Sentencing Bench Book</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Sentencing principles in Sentencing Bench Book linked to new cases and legislation</td>
</tr>
<tr>
<td>Accurate sentencing information available to judicial officers</td>
<td>Maintain sentencing statistics on JIRS on the range and frequency of penalties imposed in similar cases</td>
<td>Sentencing data received, audited and loaded on JIRS within 4 months of receipt</td>
</tr>
<tr>
<td></td>
<td>Maintain information about sentences that other judicial officers have given in similar circumstances</td>
<td>Published 55 summaries of significant appeal decisions in the Judicial Officers’ Bulletin</td>
</tr>
<tr>
<td>Information about sentencing communicated</td>
<td>Maintain/increase publication of sentencing trends, research papers and monographs</td>
<td>2 Sentencing Trends &amp; Issues papers published</td>
</tr>
<tr>
<td>Judicial officers informed about sentencing options and rehabilitation facilities for offenders</td>
<td>Provide information in response to requests for specific sentencing issues</td>
<td>10 research requests from judicial officers and 21 non-judicial enquiries responded to</td>
</tr>
<tr>
<td></td>
<td>Maintain current information about service providers in services directory on JIRS</td>
<td>Done</td>
</tr>
<tr>
<td>JIRS improved to meet judicial officers’ needs</td>
<td>Maintain/increase number of improvements to JIRS</td>
<td>14</td>
</tr>
<tr>
<td><strong>Examining complaints</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Timely acknowledgment and completion of preliminary examination of complaints</td>
<td>Maintain/decrease time taken to conduct preliminary examination of complaints</td>
<td>Examined 78% of complaints within 3 months and 100% of complaints within 9 months</td>
</tr>
<tr>
<td></td>
<td>Maintain time taken to formally acknowledge complaints received</td>
<td>100% of complaints received acknowledged within 5 working days</td>
</tr>
<tr>
<td>High standard of judicial performance</td>
<td>Compare number of complaints to number of court matters finalised during the year</td>
<td>350 judicial officers in NSW heard around 700,000 court matters in 2015–16. 44 complaints about 38 judicial officers made</td>
</tr>
<tr>
<td></td>
<td>Compare number of complaints dismissed under section 20 of the Judicial Officers Act 1986 with complaints that require further action</td>
<td>98% of complaints were summarily dismissed under section 20 of the Judicial Officers Act 1986. No complaints required further action</td>
</tr>
<tr>
<td></td>
<td>Maintain accessible information about complaints process</td>
<td>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 441 requests for information</td>
</tr>
<tr>
<td>Independence of judicial officers maintained</td>
<td>Complaints process demonstrates integrity of complaints function</td>
<td>Commission examined all complaints according to statutory criteria and established protocols</td>
</tr>
<tr>
<td>Information gathered from the complaints process used to develop education sessions for judicial officers</td>
<td>Monitor and analyse trends in complaints to feed into education sessions</td>
<td>45% of complaints arose from allegations of failure to give a fair hearing. 25% of complaints arose from allegations of bias</td>
</tr>
</tbody>
</table>

* See Appendix 3 for explanation of national standard.
## Performance results 2015–17 and targets 2016–18 continued

<table>
<thead>
<tr>
<th>2016–17 target</th>
<th>2016–17 result</th>
<th>2017–18 target</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Continuing judicial education</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>34 publications</td>
<td>31 publications</td>
<td>34 publications</td>
<td>↓</td>
</tr>
<tr>
<td>34 education events</td>
<td>44 education events</td>
<td>34 education events</td>
<td>↑</td>
</tr>
<tr>
<td>5 days offered</td>
<td>3.5 days offered**</td>
<td>5 days offered</td>
<td>↓ ↓</td>
</tr>
<tr>
<td>5 days undertaken</td>
<td>2.2 days undertaken**</td>
<td>5 days undertaken</td>
<td>↓ ↓</td>
</tr>
<tr>
<td>80% of participants satisfied that events relevant and applicable and 70% satisfied that events enhanced knowledge and capability</td>
<td>82% of participants satisfied that events relevant and applicable and 78% satisfied that events enhanced knowledge and capability</td>
<td>80% of participants satisfied that events relevant and applicable and 70% satisfied that events enhanced knowledge and capability</td>
<td>↑ ↑</td>
</tr>
<tr>
<td>85% overall satisfaction</td>
<td>91% overall satisfaction</td>
<td>85% overall satisfaction</td>
<td>↑</td>
</tr>
<tr>
<td>85% overall satisfaction</td>
<td>91% overall satisfaction</td>
<td>85% overall satisfaction</td>
<td>↑</td>
</tr>
<tr>
<td><strong>Providing legal information</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>112,500 average page hits each month</td>
<td>134,476 average page hits each month</td>
<td>112,500 average page hits each month</td>
<td>↑</td>
</tr>
<tr>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>↑ ↑</td>
</tr>
<tr>
<td>• 3 updates to Criminal Trial Courts Bench Book</td>
<td>• 238 recent law items posted on JIRS</td>
<td>n/a</td>
<td>↑</td>
</tr>
<tr>
<td>• 244 summaries of select appeal decisions published on JIRS</td>
<td>n/a</td>
<td>n/a</td>
<td>↑</td>
</tr>
<tr>
<td>• 3 updates to Criminal Trials Courts Bench Book</td>
<td>• 3 updates to Criminal Trials Courts Bench Book</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3 updates to Sentencing Bench Book</td>
<td>4 updates to Sentencing Bench Book</td>
<td>3 updates to Sentencing Bench Book</td>
<td>↑</td>
</tr>
<tr>
<td>Sentencing principles in Sentencing Bench Book linked to new cases and legislation</td>
<td>Sentencing principles in Sentencing Bench Book linked to new cases and legislation</td>
<td>Sentencing principles in Sentencing Bench Book linked to new cases and legislation</td>
<td>n/a</td>
</tr>
<tr>
<td>1–4 months</td>
<td>Sentencing data received, audited and loaded on JIRS within 4 months of receipt</td>
<td>1–4 months</td>
<td>✅</td>
</tr>
<tr>
<td>n/a</td>
<td>Published 53 summaries of significant appeal decisions in the Judicial Officers’ Bulletin</td>
<td>n/a</td>
<td>↓</td>
</tr>
<tr>
<td>3 studies</td>
<td>1 Sentencing Trends &amp; Issues paper and 1 monograph published</td>
<td>3 studies</td>
<td>↓</td>
</tr>
<tr>
<td>n/a</td>
<td>1 research request from a judicial officer and responses to 11 non-judicial enquiries</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>n/a</td>
<td>Done</td>
<td>n/a</td>
<td>✓</td>
</tr>
<tr>
<td>5</td>
<td>10</td>
<td>5</td>
<td>↑</td>
</tr>
</tbody>
</table>

| **Examining complaints** | | | |
| Examine 90% within 6 months; 100% within 12 months | Examined 94% of complaints within 6 months and 99% of complaints within 12 months | Examine 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 | 364 judicial officers in NSW heard around 700,000 court matters in 2016–17. 75 complaints about 57 judicial officers made | n/a | n/a |
| n/a | 96% of complaints were summarily dismissed under section 20 of the Judicial Officers Act 1986 1 complaint referred to Conduct Division, 2 complaints referred to head of jurisdiction. | n/a | n/a |
| n/a | Information about the complaints process and how to make a complaint was provided in the annual report, our website, and in brochure form | n/a | ✓ |
| n/a | Responded to 265 requests for information | n/a | n/a |
| n/a | Commission examined all complaints according to statutory criteria and established protocols | n/a | n/a |
| n/a | 33% of complaints arose from allegations of failure to give a fair hearing, 24% of complaints arose from allegations of an apprehension of bias. | n/a | n/a |

** The Local Court Annual Conference was not held this financial year.

Legend

✅ target achieved

↑ target/output exceeded

↓ target not achieved

9
President’s foreword

Acknowledging 30 years of successful operations
I am very pleased to provide the foreword to the Judicial Commission’s Annual Report for 2016–17. This year marks 30 years of the Commission’s operations. For three decades the Commission has provided invaluable support services to the judicial officers of NSW through its continuing judicial education program, sentencing statistics, access to current legal information and complaints program. This year’s report presents a comprehensive summary of the Commission’s activities in education, research and complaint handling and highlights some of the achievements in these areas while also looking towards the future and the programs to be implemented in the coming year.

Judicial education is well regarded
The Commission has maintained a high satisfaction rate in the field of judicial education, with 91% of judicial officers satisfied with their program on an overall measure. The Commission continues to offer support to the education committees of each court by assisting in the development of programs, conferences and seminars. Next year, the Commission looks to deliver education sessions on the new criminal justice reforms to sentencing, parole and the motor accidents injuries scheme.

Provision of quality legal information
The Judicial Information Research System (JIRS) is one of the Commission’s success stories. It provides judicial officers with composite and linked legal information to assist at all stages of the judicial task, from committal to trial, sentencing and diversionary programs. JIRS is continuously updated to ensure judicial officers have access to current and reliable information. JIRS continued to attract a high number of users this year with an average of 134,476 page hits per month and saw the highest rate of access to publications in the last 5 financial years.

The Honourable Tom Bathurst AC
Chief Justice of NSW and President, Judicial Commission of NSW
Successful balance between accountability and independence
For three decades, the Commission has successfully balanced the need for judicial accountability with the preservation of judicial independence. An institutionalised process for examining complaints provides an independent and robust assessment of complaints against judicial officers. While the Commission has examined more complaints this year, 96% of complaints were summarily dismissed after the Commission’s independent preliminary examination, higher than the five-year summary dismissal rate of 93%.

Online training on cultural diversity launched
An online training program for judicial officers, which provides information about cultural diversity, was launched in July this year. The program is comprised of nine modules accessible from the Judicial Council on Cultural Diversity’s website. To raise judicial awareness of the training program, the Chair of the Judicial Council on Cultural Diversity, the Honourable Chief Justice of Western Australia, Wayne Martin AC, published an article in the *Judicial Officers’ Bulletin* emphasising the Council of Chief Justice’s commitment to assisting people overcome language and cultural barriers in court.

Engaging with overseas judiciaries and organisations
An important feature of the Commission's role is to engage with judiciaries and judicial education and support bodies overseas. For many years, the Commission has provided advice and support to countries in the Asia-Pacific region as an important but often understated way of promoting the rule of law. This year, the Commission signed a new memorandum of understanding with the Magisterial Services of Papua New Guinea to provide professional development and judicial training for PNG magistrates and assisted the Papua New Guinea Centre for Judicial Excellence with their magistrate’s orientation program.

Looking forward
Looking forward, the Commission aims to launch a revised strategic plan for the Ngara Yura Program, which has provided valuable Aboriginal cultural awareness for judicial officers for the last 25 years. Over this time, there has been a significant increase in the number of Aboriginal employees and lawyers within the justice system. As such, it is an ideal time to revisit and refresh the Ngara Yura Program strategy to increase our focus on offering practical ways to assist Aboriginal communities.

The Commission’s statutory remit has not changed in 30 years, however, technology has significantly altered the way the Commission can deliver its programs and information. The Commission hopes to embrace the opportunities brought about by innovative technology through the development of webinars and automated interactive learning where users can design their own programs.

My thanks and appreciation
The Commission's continued achievements are only possible due to the hard work and dedication of its staff. My particular thanks and appreciation go to Ernest Schmatt PSM, the Chief Executive, Murali Sagi PSM, the Deputy Chief Executive, Hugh Donnelly, Director, Research and Sentencing, and Una Doyle, Director, Education. I also extend my thanks to all of the judicial officers who contributed their time and energies to the Commission’s work and the Commission’s staff.

It is as a result of their efforts that I am able to congratulate the Commission on yet another year of success.

The Honourable TF Bathurst AC
Chief Justice of NSW
President, Judicial Commission of NSW
Chief Executive’s message

I am pleased to present my report on the Judicial Commission’s results for the year, including the challenges we have faced in our operating environment and strategic directions for next year.

Key focus and challenge for 2016–17
A key focus for the year, and also a challenge, was our office relocation in late 2016. The redevelopment of Wynyard Station precinct and demolition of the office block at 301 George Street meant that after more than 28 years of operations at these premises, the Commission was required to move. Planning in all its phases started in 2015 and involved finding a new location, engaging specialist architects to design the fit-out and logistical planning. I am pleased to report that, apart from delay in the relocation of some services, the move went smoothly and the Commission is now operating from bright, contemporary premises at 60 Carrington Street, Sydney.

Providing continuing judicial education
Our education program delivered 44 discrete events, a 5-year high, to enhance judicial skills and knowledge. Satisfaction with our continuing judicial education program remains at a high 91%.

While it is relatively easy to measure individual judicial satisfaction with education sessions, a challenge for our program is evaluating its success relative to our stated mission to promote the highest standards of judicial behaviour, performance and decision making.

While the Commission has confidence in the ability and behaviour of the judicial officers of NSW, tangibly demonstrating how our continuing judicial education program contributes to high judicial performance is not a straightforward metric. This observation applies to all providers of continuing judicial education internationally and in Australia. However it is important to endeavour to articulate this link because public confidence in an independent and highly-skilled judiciary is essential to the rule of law.

Public confidence needs to be continuously monitored and replenished. We can point to the yearly high dismissal rates (a 5-year average of 93%) of complaints against judicial officers as one exemplar of continuous high judicial standards. That judicial officers themselves design and deliver their continuing education program through a committee process, with guidance from our Director, Education, indicates that the design of the program is needs-based and also helps to preserve the independence of the judiciary. Concerns of the public raised in the complaints process also inform the design of the education program. Each year, allegations of failure to give a fair hearing and an apprehension of bias are the most common grounds of complaint. While these types of complaint are usually found to be without substance, our judicial orientation programs and publications include sessions and information about the relevant legal principles and effective practices to ensure a fair and unbiased hearing in court to all parties.

Providing legal information
One of our major projects this year has been the research and publication of an in-depth analysis of environmental protection and planning offences prosecuted in the Land and Environment Court of NSW (LEC). Our study examined the top 5 offences dealt with in the LEC and how the court punishes offenders. Our study discussed the charging practices of prosecution agencies and the vexed issue of costs orders in the sentencing process. The 2-volume study identified some areas of sentencing practice that may require review or Parliamentary reform to improve transparency and consistency in sentencing. There has been much interest in our research from the judicial and legal community.
Exchanging complaints
Of the complaints examined this year, 96% were summarily dismissed following the Commission’s independent preliminary examination. Although the number of complaints made has risen this year, we finalised the examination of 99% of complaints within 12 months of receipt.

Engaging with our partners and the community
A major capacity-building project has been the development of the pilot Integrated Criminal Case System Database for the National and Supreme Courts of Papua New Guinea to assist the PNG justice sector. This project was launched in September 2016 and the pilot phase commenced in March 2017. The Commission provided intensive training to PNG court staff for loading information onto the database and for users to access the information.

To further engage with the public about our work and role in the justice system, we agreed to give the Rule of Law Institute, an independent not-for-profit organisation which provides educational resources, our assistance in 2015. This has continued and during the year, we conducted seminars for high school students and provided free access to our legal information on the Judicial Information Research System (JIRS).

Our people
The staff of the Commission continue to express high satisfaction in their work with a rate of 91%. As communication continues to be the one area our staff have identified for improvement, we will review our office communication strategy to meet their expectations.

Commission membership
The Honourable Justice Michael Walton’s term as an official member of the Commission ended in December 2016 when his Honour was appointed to the Supreme Court following the restructure of the Industrial Relations Commission of NSW (IRC). I wish to thank his Honour for his valuable contribution to the Commission’s work since 2014. I welcome Mr Peter Kite SC, Chief Commissioner of the IRC, as an official member of the Commission in his capacity as head of the IRC and look forward to working with him.

Our governance, policies and processes
We have had a robust approach to governance with 10 Commission meetings and 4 Audit and Risk Management Committee (ARMC) meetings. The ARMC became fully independent on 1 March 2017. I would like to welcome Dr Colin Gellatly AO as an independent member of the ARMC.

Financial result
Our financial result was a surplus of $1.24 million. We received an unmodified audit report for our financial statements from the Auditor General of NSW. Revenue from the NSW Government increased to $6.766 million in 2016–17 from $3.755 million in the previous year. This increase was due to two factors. First, our capital allocation was increased for the new office fit out. Second, the 2015–16 recurrent allocation was reduced by approximately $1.4 million to reduce the cash at bank balance to the buffer amount set under the NSW Treasury cash management reforms.

Strategic direction for 2017–18
In October 2017, the Commission will mark 30 years of operations. We will use this anniversary to formulate our strategic direction into the next decade. Digital technology continues to alter the way we deliver our continuing education program and legal information resources. It also presents many exciting opportunities for refreshing the way we provide our services. Our continuing judicial education focus will be on reviewing the range of publications we offer to ensure they are relevant and their delivery is current. Our legal information focus will be to research and publish a study on developments in the law concerning the appeal process. We will design and deliver a revised community information program and continue to participate in the work of the International Organization for Judicial Training (IOJT) and the Commonwealth Judicial Education Institute (CJEI). Being involved in the work of the IOJT, the CJEI and other providers of judicial education allows us to share knowledge and apply world’s best practice to the continuing judicial education program in NSW.

My thanks
I extend my thanks to the Commission members for their invaluable leadership and assistance and the many judicial officers who give their time and expertise to serve on our education and bench book committees. Also those who have assisted in the design and delivery of the education program and updating our legal information are sincerely acknowledged. I also thank the Commission’s loyal staff who continue to help the Judicial Commission to realise its mission to promote the highest standards of judicial behaviour, performance and decision making.

Ernest Schmatt PSM
Chief Executive, Judicial Commission of NSW
# Judicial Commission members

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

<table>
<thead>
<tr>
<th>Official members</th>
<th>Appointed members</th>
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<tr>
<td>The heads of the State’s 4 courts and the Industrial Relations Commission as well as the President of the Court of Appeal of NSW are official members. The Chief Justice of NSW is the Judicial Commission’s President.</td>
<td>The Governor of NSW appoints 4 people. Three of those are persons who, in the Attorney General’s opinion, have high standing in the community. The fourth person is a legal practitioner appointed following consultations between the Attorney General and the Presidents of the Law Society of NSW and the Bar Association of NSW.</td>
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</tbody>
</table>

**The president**

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

Chief Justice Bathurst was admitted as a solicitor in NSW in 1972 and called 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). In 2014, the Chief Justice became a Companion of the Order of Australia. As President, the Chief Justice is responsible for presiding at meetings and has a deliberative vote.

**The official members**

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

Justice Beazley was called to the NSW Bar in 1975 and appointed Senior Counsel in NSW in 1989. Her Honour was a judicial member of the Equal Opportunity Tribunal (1984–88); an Acting NSW District Court 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 (1994–96). 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 LL.D) by the University of Sydney. On 1 March 2013, she was appointed President of the Court of Appeal of NSW.

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

The Honourable Justice Derek Price AM
Chief Judge of the Land and Environment Court of NSW — commenced 8 August 2014
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 Conference of Australia since 2002 and has been a member of the Executive Committee since 2006. Justice Price has also been a member of the Standing Committee on Environmental Law of the Law Association for Asia and the Pacific (LAWASIA) and member of the Technical Advisory Committee for the United Nations Interregional Crime and Justice Research Institute (UNICRI) Environment Project on “Combating Crimes that have Serious Impacts on the Environment”.

The Honourable Justice Michael Walton
President of the Industrial Court and the Industrial Relations Commission of NSW — commenced 3 February 2014–7 December 2016
Justice Walton was called to the Bar in 1989 and appointed a judge and Vice-President of the Industrial Relations Commission of NSW in 1998. He was appointed President of the Industrial Court of NSW and the Industrial Relations Commission in 2014. His Honour has served as an executive member of the Governing Council of the Judicial Conference of Australia since 2002 and has been a member of the Executive Committee 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. His Honour is presently a member of the editorial committee of the Australian Journal of Labour Law. His Honour was appointed a judge of the Supreme Court of NSW on 8 December 2016.

The Honourable Justice Brian Preston
Chief Judge of the Land and Environment Court of NSW — commenced 14 November 2005
Justice Preston was called 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 102 publications on environmental, administrative and criminal law. His Honour 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, Chair of the Standing Committee on Environmental Law of the Law Association for Asia and the Pacific (LAWASIA) and member of the Technical Advisory Committee for the United Nations Interregional Crime and Justice Research Institute (UNICRI) Environment Project on “Combating Crimes that have Serious Impacts on the Environment”.

The Honourable Justice Michael Walton
Chief Judge of the District Court of NSW — commenced 3 February 2014–8 December 2016
Justice Preston was called 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 102 publications on environmental, administrative and criminal law. His Honour 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, Chair of the Standing Committee on Environmental Law of the Law Association for Asia and the Pacific (LAWASIA) and member of the Technical Advisory Committee for the United Nations Interregional Crime and Justice Research Institute (UNICRI) Environment Project on “Combating Crimes that have Serious Impacts on the Environment”.

His Honour Judge Graeme Henson AM
Chief Magistrate of the Local Court of NSW — commenced 28 August 2006
Judge Henson was called to the Bar in 1980 and served as Solicitor for Public Prosecutions in the Office of the Director of Public Prosecutions (NSW) from 1986 to 1988. 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. He is also a Member of the Advisory Committees, Faculty of Law, of the Australian Catholic University and the University of Wollongong. In 2017, Judge Henson became a Member of the Order of Australia.

Chief Commissioner Peter Kite SC
Industrial Relations Commission of NSW — commenced 1 May 2017
Chief Commissioner Kite was appointed Chief Commissioner on 3 April 2017. He is the first Chief Commissioner of the Industrial Relations Commission. He was previously Acting Deputy President and acting judge of the Commission, appointed between 2 December 2014 and 2 June 2015. Chief Commissioner Kite came to the Industrial Relations Commission after over 30 years as a barrister specialising in industrial law. He was appointed Senior Counsel in November 1996 and was the NSW Bar Association’s representative on the NSW Industrial Relations Advisory Council between November 2010 and December 2014. He also served as Chair of the Executive of the Federal Litigation and Dispute Resolution Section of the Law Council from October 2002 to October 2008. Between 2000 and 2014, Chief Commissioner Kite was also a Director of Camp Quality Limited, a national children’s cancer charity.
The 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; reappointed 9 December 2015 for 3 years

Dr Cashmore is currently Professor of Socio-Legal Research and Policy, University of Sydney Law School. She 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. In 2010, Dr Cashmore became an Officer of the Order of Australia.

Professor Brian McCaughan AM  MB BS
Appointed 16 May 2010 for 3 years; reappointed 30 October 2013 for 3 years, reappointed 30 October 2016 for 3 years

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 Australian 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 the Boards of the Clinical Excellence Commission and the Agency for Clinical Innovation, and has been appointed to the Board of the Chris O’Brien Lifehouse Cancer Centre. In 2009, Professor McCaughan became a Member of the Order of Australia.

Mr David Giddy  BA LLB
Appointed 7 November 2012 for 3 years; reappointed 9 December 2015 for 3 years

Mr Giddy was admitted to the Supreme Court of NSW 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 that area of 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.

Mr Yair Miller OAM  BA
Appointed 28 October 2015 for 3 years

Mr Miller has worked at board and senior management level for over 15 years in the corporate, not-for-profit and government sectors. He has served as a Community Member of the NSW State Parole Authority and President of the NSW Jewish Board of Deputies. He also sits on the Board of Governors for numerous international organisations including the Memorial Foundation for Jewish Culture and the International School of Jewish Leadership. Mr Miller has a BA in Social Sciences and International Studies, with a Major in Middle Eastern Politics, from the University of Technology Sydney and an Advanced Diploma in Public Safety (Emergency Management) from the Australian Emergency Management Institute, a division of the Australian Federal Attorney-General’s Department. In 2017, Mr Miller was awarded the Medal of the Order of Australia.
Overview of the Commission

Our executive team

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

Mr Ernest Schmatt PSM Dip Law (BAB) — Chief Executive

Mr Ernest Schmatt is responsible for all of the Commission’s operations. He has input into all aspects of the Commission’s work, from financial management to research, complaints, information systems management and education activities. Mr Schmatt held senior legal and management positions in the public sector before his appointment, in October 1987, as the first Deputy Chief Executive of the Judicial Commission. In March 1989, he was appointed to the position of Chief Executive of the Judicial Commission.

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. Mr Schmatt was elected to the Board of Governors of the International Organization for Judicial Training (IOJT) in 2009 and to the Executive Committee (now Board of Executives) of the IOJT in 2011. He was re-elected to this position in 2013 and 2015. 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 of 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 Murali Sagi PSM BEng GradCertPSM MBA FACS MIEAust Dip Law (LPAB) — Deputy Chief Executive

Mr Murali Sagi works in close partnership with the Chief Executive, providing leadership and ensuring that internal governance, planning, policies and systems enhance the Commission’s capability and capacity. He contributes to the development and implementation of strategic decisions and provides guidance as a member of the Executive, to achieve the Commission’s objectives and service outcomes. In addition, he is responsible for information management, corporate services and deputises for the Chief Executive in his absence.

Mr Sagi commenced employment with the Commission in 1992 and has over 25 years of experience in managing complex programs and policy challenges in both the government and private sectors. He has provided technical assistance to many organisations including AusAID, United Nations, Asian Development Bank and the Commonwealth Secretariat, London, for capacity-building projects in the legal sectors of Indonesia, West Bank and Gaza, Cambodia, India, Sri Lanka and Papua New Guinea.

Mr Sagi is a qualified engineer, computer specialist, management professional and a lawyer. 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. He was also named as the “Chief Information Officer – Government” of the year at the 2003 National IT&T awards and is a Fellow of the Australian Computer Society.
Mr Hugh Donnelly  BA LLB LLM — Director, Research and Sentencing

Mr Hugh Donnelly is responsible for the Commission’s research program and the Judicial Information Research System (JIRS). He was appointed Director, Research and Sentencing in July 2007. He was admitted as a legal practitioner in 1992 and his prior experience includes 3 years as High Court lawyer at the Office of Director of Public Prosecutions (NSW), and 3 years as Manager of the Commission’s Research and Sentencing Division. Mr Donnelly is the author of several publications on evidence and sentencing law, including the Sentencing Bench Book.

Ms Una Doyle  BCL (University College Cork and National University of Ireland), LLM (Syd) — Director, Education

Ms Una Doyle is responsible for the Commission’s judicial education program. She works closely with the Education Committees of each court to plan and organise all Commission conferences and seminars, and is also responsible for the Commission’s publishing program. Ms Doyle has held the position of Director, Education since December 2015. She has worked for over 20 years in legal education. Prior to joining the Judicial Commission, Ms Doyle was the Head of Professional Development, Membership and Communications, at the Law Society of NSW and the Director of Continuing Professional Education at the College of Law. She is the Immediate Past President of ACLEA, the International Association for Continuing Legal Education, and co-chaired ACLEA’s International Committee from 2007–2009. She was President of the Continuing Legal Education Association of Australasia from 2005–2007, and has served as a member of its Executive for 5 terms.
Continuing judicial education

Judicial officers were informed about changes to the law, community values, court practice and procedure through 44 education events conducted during 2016–17.

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Designing and delivering continuing judicial education ... 26
Results 2016–17

Judicial skills, knowledge and attitudes were enhanced as a result of 44 education events: see p 23.

Majority of judicial officers were satisfied with the professional and practical benefits of the workshops and seminars: see p 23.

Judicial officers were 91% satisfied with their education program: see p 23.

Evaluation shows we continue to provide a high quality and relevant service: see p 23.

90% of judicial officers were satisfied with the Ngara Yura Program: see p 24.

Information was provided to judicial officers about changes to the law, community values, court practice and procedure: see p 26.

Challenges 2016–17

- Reinvigorating our work in Aboriginal cultural awareness (the Ngara Yura Program) and re-evaluating the program’s objectives.
- Working to ensure our presenters are equipped with the skills and knowledge they need to deliver good outcomes.

The year ahead 2017–18

- We will ensure judicial officers are informed about proposed significant legislative reforms to sentencing and parole as they occur.
- Throughout the year, we will review the range of published materials we provide to ensure we are supporting judicial officers with the most relevant information in an easily accessible format.
- We will reinforce our commitment to our Ngara Yura program by implementing a revised strategic plan.
- During the year, we will offer a series of field trips to NSW Correctional Centres to provide judicial officers with an opportunity to learn about gaol procedures and the programs that the Department of Corrective Services operate for inmates.
- Our focus on web-based education will increase as we harness new technologies to facilitate live streaming of our programs.

Prominent image previous page: Uncle Kevin “Gavi” Duncan at a Ngara Yura community visit explaining how Indigenous people used the Sydney golden wattle.
Evaluating the program’s performance

An assessment of the program’s results shown in Table 1 demonstrates that our judicial education program performed well in 2016–17. 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 1. Results for judicial education

<table>
<thead>
<tr>
<th>Result</th>
<th>Measures</th>
<th>Performance</th>
</tr>
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<tbody>
<tr>
<td>Judicial officers were informed about changes to the law, community values, court practice and procedure.</td>
<td>Maintain or increase number of reviewed publications.</td>
<td>Monthly Judicial Commission meetings and/or bench book committees and experts reviewed publications.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Publications output was maintained and included 16 bench book and handbook updates, 2 major research papers, 11 bulletins and 2 journal issues.</td>
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<tr>
<td></td>
<td>Maintain or increase number of specialised education events offered.</td>
<td>Increased the number of education events offered with 44 education events held (last year: 43).</td>
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<tr>
<td></td>
<td>Education sessions offered assisted judicial officers to reach the national standard* of 5 judicial education days each year.</td>
<td>We offered 3.5 education days this year for each judicial officer.**</td>
</tr>
<tr>
<td>Judicial skills, attitudes and knowledge were enhanced.</td>
<td>Maintain or increase ratings that our services provide judicially relevant and stimulating education and information.</td>
<td>Evaluations show 82% of participants (last year: 81%) agreed that education events were applicable to their work; and 78% (last year: 80%) agreed they enhanced their knowledge and capability.</td>
</tr>
<tr>
<td></td>
<td>Maintain number of skills-based workshops.</td>
<td>5 workshops (last year: 6) offered throughout the year.</td>
</tr>
<tr>
<td></td>
<td>Information in the Equality Before the Law Bench Book is current and addresses access and diversity issues.</td>
<td>Amendments planned for the Equality Before the Law Bench Book.</td>
</tr>
<tr>
<td>Judicial officers were satisfied with our education program.</td>
<td>Maintain or improve satisfaction rates from last year.</td>
<td>Evaluations of all education sessions show we maintained our performance with 91% satisfaction with our continuing education program (last year: 93%).</td>
</tr>
<tr>
<td></td>
<td>Maintain or increase voluntary attendance rates.*</td>
<td>Attendances rates decreased to 2.2 average training days undertaken by each judicial officer (last year: 5 days).**</td>
</tr>
<tr>
<td>We responded to concerns about judicial performance raised in the complaints process.</td>
<td>Design education events based on specific concerns raised in complaints.</td>
<td>Education events in orientation programs held in 2016–17 addressed bias; requirements for a fair and courteous hearing; judicial conduct in and out of court.</td>
</tr>
<tr>
<td>Expenditure was within budget.</td>
<td>According to budget plan.</td>
<td>As at 30 June 2017, judicial education expenditure was $3.54 million, or 56% of overall expenditure.</td>
</tr>
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* 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 New Zealand and national and state judicial education bodies; see Appendix 3 for more information.

** The overall average attendance rate and education days offered are lower than last year because the Local Court annual conference was not held in this financial year. However, the conference will be held early in the new financial year.
Listening to judicial officers

Feedback from judicial officers gives a good indication of the relevance of our programs.

“I think we have barely scratched the surface – I’m keen to hear + learn more.”
(Accommodating Muslims in Court, May 2017)

“This was an excellent seminar on a relevant topic, I would have loved to have more discussion on this.”
(Accommodating Muslims in Court, May 2017)

“Very important topic, addressed by the expert.”
(Recent Developments in the Law of Evidence, March 2017)

“Should be regular.”
(Recent Developments in the Law of Evidence, March 2017)

“This was a fascinating piece of research – No doubt of great value to me, judges and will be helpful to those reading from amongst the public.”
(Sentencing in the Land and Environment Court 2000–2015, November 2016)

“Always enjoy the Ngara Yura Program so eye opening, interesting and fun.”
(Clean Slate Without Prejudice, October 2016)

“The film evening was in my view, a huge success. The format was excellent, with the brief introduction, followed by the film, and then the discussions, both group and individual. It was a friendly atmosphere, and the photo opportunities were also a good idea. Well done to the organisers.”
(Screening of the MotorKite Dreaming movie, March 2017)

“Engaged the participants in an interesting discussion on a complex and difficult issue.”
(“Pay Equity”, Industrial Relations Commission Annual Conference, September 2016)

“All the staff were attentive, friendly, encouraging and helpful. The Commission has an excellent team.”
(Judicial Commission Support, Land and Environment Court Annual Conference, September 2016)

“The usual high degree of efficient, effective and willing assistance ensuring participants get the most from the conference.”
(Judicial Commission Support, Industrial Relations Commission Annual Conference, September 2016)

“Absolutely outstanding. Discreet, professional, proactive and effective. The staff had clearly considered all possibilities and prepared for them well.”
(Judicial Commission Support, Industrial Relations Commission Annual Conference, September 2016)

“I enjoyed meeting other judicial officers from other jurisdictions and their families and also members from the Judicial Commission staff. Thank you to … the Ngara Yura committee and Judicial Commission for arranging this experience. And thank you to Muru for having us and the warm welcome we all received.”
(Muru Mittigar field trip, Penrith, November 2016)

“I … felt uplifted by the experience at Muru and [we] learnt a lot about the stressors which confront Aboriginal members of our community as well as non-Aboriginal members on a daily basis … I learnt about the availability of the programme and other services, such as the financial counselling service in Penrith, including the arrangement with SDRO – all of which I may be able to use in my work.”
(Muru Mittigar field trip, Penrith, November 2016)

“Excellent communicator. More helpful than some other sessions because of inclusion of ‘in practice’ tips.”
(Land and Environment Court Annual Conference, May 2017)

“Brilliant presentation. Engaging, relevant and lively (required for a late afternoon presentation), slides were good, informative and relevant. 10/10 in all respects.”
(Land and Environment Court Annual Conference, May 2017)

“This was an excellent session. Interesting, well presented, engaging and of real assistance.”
(“Judicial Stress and Well-being”, District Court Annual Conference, April 2017)
Continuing judicial education

Satisfaction with our continuing judicial education

91% judicial satisfaction with the 44 events that comprised the education program in 2016–17.

Evaluating our continuing judicial education program

Our mission is to promote the highest standards of judicial behaviour, performance and decision making so it is crucial that the education program we offer is tailored to enhance judicial skills, knowledge and attitudes. So that we know what judicial officers need from our program, we invite feedback on each education event offered including the professional and practical benefits. The Commission’s complaints process also provides the people of NSW the opportunity to raise concerns about the ability or behaviour of a judicial officer. The number of complaints we receive each year is very low compared to the high volume of matters that judicial officers hear. This attests to the high standard of judicial ability and performance in NSW: see pp 45–46 for details about complaints made during the year.

On an overall measure of satisfaction, judicial officers were 91% satisfied with their continuing education program (last year: 93%), which comprised 44 events.

Satisfaction remains high with annual conference program

Judicial officers were 90% satisfied with their annual conference (last year: 93%) as shown in Figure 2. An annual conference was held for 3 of the 4 State’s courts and the Industrial Relations Commission. An annual conference for the Local Court was not held this financial year, but will be held early in the new financial year. The education committee of each court, working with the Director, Education, 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, 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 conference is found in Appendix 5.

High satisfaction with seminar program

Seminars are offered throughout the year to address the specific educational needs of judicial officers identified through the education design process. Participants were 89% satisfied with the seminar program with 18 sessions held during the year covering a range of educational topics for judicial officers as shown in Figure 3. A selected list of topics can be found in Appendix 6. No gaol visits were conducted this financial year.

Satisfaction maintained with skills-based workshops

Judicial officers expressed high satisfaction with their approval at 94% for judicial skills workshops and 95% for magistrates’ workshops as shown in Figure 4.
Figure 5 shows that the majority of judicial officers were satisfied with the professional and practical benefits of these sessions.

Conducted with our national partners, the National Judicial Orientation Program (NJOP), a week-long induction and orientation program for newly-appointed judges, addresses the significant requirements of the judicial role as well as the personal implications of becoming a judicial officer and standards of behaviour required. This year, the orientation program received very positive feedback: 85% of participants rating the usefulness and relevance as very high. Sessions covered in these programs are listed in Appendix 5. The National Judicial College of Australia was assisted by the Commission, the Australasian Institute of Judicial Administration and the Judicial College of Victoria with the presentation of the program.

High satisfaction maintained with Ngara Yura Program

High approval of the Ngara Yura Program was maintained with participants who provided feedback 90% satisfied with the program (last year: 93%) as shown in Figure 6.

The Ngara Yura Program is offered to raise judicial awareness about Aboriginal culture and raise consciousness about Aboriginal interactions with the criminal justice system.

Our Aboriginal Project Officer works with a committee to develop a range of strategies, including tailored education activities. More information is found on our public website and Appendix 4. The program adopts a multi-faceted approach, with partnerships, community visits, seminars and publications designed to promote intercultural communication and understanding. The program is based on Recommendations 96 and 97 of the Royal Commission into Aboriginal Deaths in Custody (see Appendix 9).

Of the judicial officers who attended the 5 community visits and events held throughout the year, 84% found that the visits enhanced their knowledge and capability.

Providing for distance education

The education program materials database which is available on the Judicial Information Research System (JIRS) responds to the online education needs of judicial officers, which is available through JIRS (see pp 35–36, 38). 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 52 new papers and presentations.

Induction and orientation sessions are designed to assist in the transition to a judicial role

During the year, we provided 25 judicial orientation packages (last year: 13), access to the Judicial Information Research System (JIRS) (see pp 35–36, 38) and computer support for new judicial officers. In partnership with the Local Court, we provided 13 pre-bench education sessions for new magistrates (last year: 2). Our annual Magistrates Orientation program did not take place as no appointments had been made in the first half of the financial year.
Field trip to Muru Mittigar

The Muru Mittigar Aboriginal Cultural and Education Centre is located in Darug country at the base of the Blue Mountains on the outskirts of Sydney. During the year, we organised a field trip to Muru Mittigar for judicial officers.

Field trips and site visits are a feature of our Aboriginal cultural awareness training — the Ngara Yura Program.

Muru is a leading Indigenous-owned social enterprise and has three main areas of focus — youth, offenders and job seekers. Initiatives include:

- Turning Point — a project to assist incarcerated Aboriginal women inmates with specialist microfinance counselling and support when approaching release.
- Caring for Country — restoration of the bushlands at Western Sydney Parklands Trust (the Plough and Harrow sites).
- Memorandum of Understanding with the proposed Sydney Zoo (a major new zoological park being developed at Blacktown in Western Sydney) — working together to train Aboriginal people in roles as rangers to deliver Aboriginal cultural tours, bush regeneration and animal care.
- Muru Mittigar Provenance Nursery — a wholesale and retail nursery specialising in growing Indigenous native provenance stock in forestry tubes. This is the only accredited Aboriginal-run nursery in NSW and endeavours to employ and train local Indigenous people.

Of particular interest to judicial officers was an employment pathway program for incarcerated Aboriginal women designed to help prepare Category 3 offenders for future employment. To date, 11 Aboriginal women have successfully completed the program.

Financial workshops are also offered, together with financial counselling. Practical assistance is also available, for example those who have fines or debts with the State Debt Recovery Office can benefit from a $50 credit against their debt if they attend a Muru Mittigar financial counselling workshop.

After homemade damper and jams, Aboriginal Ranger and Cultural Tour Guide, Uncle Karl shared some of his experiences. As a young man, he had been before the courts and served time, struggling with addiction and its unhappy consequences. Now, some years later, he was happy to share his story with members of the judiciary.

Judicial officers who attended this field trip gave it a satisfaction rating of 83% and 80% found it informative and useful for their work.

The Commission’s website at www.judcom.nsw.gov.au has comprehensive information about the Ngara Yura Program including committee membership, details of community visits and resources.
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 professionals, so our program is designed initially to assist new judicial officers in their transition to the role as an 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 continuing professional development and how relevant they find the education sessions to their judicial role. This year the Commission offered 3.5 days of education for each judicial officer (last year 5.8 days). This figure and the overall average attendance rate of 2.2 judicial education days a year is lower than last year because the Local Court annual conference was not held in the financial year and so could not be counted. Judicial officers can also meet the national benchmarking standard of five days a year through attending other continuing judicial education providers’ programs. The Council of Chief Justices of Australia and New Zealand and national and State judicial education bodies have adopted the standard. (See Appendix 3 for further details.)

The Commission’s continuing 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 during the year include:
• induction and orientation sessions for new judicial officers
• annual conferences for all NSW courts (except the Local Court) and the IRC
• skills-based workshops
• seminars
• field trips
• distance education including live web streaming and webinars
• Aboriginal cultural awareness sessions and community visits (the Ngara Yura Program)
• digital and multi-media resources
• online and print publications. See p 40 for details about our publications program.
• computer training and support.

Leveraging judicial expertise

The Director, Education 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 courses to their presentation. Figure 7 below shows how this process works and Appendix 4 gives details about our current 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 the design of the continuing education program.

Demand for computer training and support has declined

Requests for both in-chambers training and help desk assistance has declined. Mainly, this is a positive outcome, resulting from the years of on-going Judicial Commission support that has better equipped judicial officers to problem solve issues themselves and to become more comfortable with technology. It is also a reflection of a more technologically proficient generation. This is notably the case with tablet mobile devices. These tools have become increasingly popular for immediate on-the-bench research plus access to research resources, such as JIRS, when away from the court environment.

All other help is provided either via the help desk phone line or email support. This service continues to be made available after hours, in addition to standard working hours.

Figure 7. Continuing judicial education design process

![Diagram of the continuing judicial education design process]
Advising judicial officers about Aboriginal intergenerational trauma

The trauma one generation experiences individually and collectively, if untreated, can be passed onto subsequent generations, resulting in a complex matrix of physical and mental health issues. The reasons why Aboriginal people are overrepresented in their interactions with the criminal justice system are often understood in terms of social and economic disadvantage. Yet this presents only part of the picture.

There is growing awareness that an appreciation of the effects of intergenerational trauma provides the context for negative interactions with the criminal justice system.

To raise awareness about the impact of trauma, we organised a seminar with the NSW Bar Association and Law Society of NSW. Dr Robyn Shields AM (pictured) explained that from the time of colonisation to today, Aboriginal people have suffered ongoing psychological distress. This is due to the loss of country, language and cultural identity, protectionist policies and continuing social and economic disadvantage for Aboriginal communities. Complex psychological trauma is manifested, for example, in family violence, child abuse, and drug and alcohol abuse. Trauma needs to be effectively addressed and treated through recognising the losses and hurt caused to Aboriginal people over two centuries.

It is crucial that Aboriginal communities design and take ownership of their own services. Understanding the impact of intergenerational trauma and effective therapies will contribute to improved justice outcomes for Aboriginal people.

Judicial officers who attended this seminar gave it an overall satisfaction rating of 91% and found it informative and useful for their work.

Field trips for Land and Environment Court judges and commissioners

The Old Clare Hotel at Chippendale, Sydney, transformed two heritage listed buildings — a former pub and the Carlton & United Breweries Administration Building — into boutique accommodation. The project garnered a heritage award in the 2016 NSW Architecture Awards. Judges and commissioners from the Land and Environment Court visited the site and gave this field trip an overall satisfaction rating of 100%.

Urban Growth NSW provided a second popular field trip to the historic Female Factory in the grounds of Cumberland Hospital, Parramatta, home to some of the most significant heritage sites in Australia. The Female Factory, built in 1820 by convict architect Francis Greenway, is a rare example of a convict establishment for women which adapted over the years to accommodate changing philosophies about the care of prisoners and the mentally ill.

A third field trip toured the iconic Hyde Park in Sydney. The City of Sydney arborist discussed the measures taken to protect and maintain the fig trees in the park, the process of replacement as well as their significance to Sydney's identity. Evaluations of this field trip were very positive with a satisfaction rating of 97%.
Informing judicial officers about FASD

Foetal alcohol spectrum disorder (FASD) describes a range of disabilities caused by prenatal exposure to excessive alcohol consumption. A person with FASD, depending on the severity, may have cognitive and behavioural deficits including mental retardation, learning difficulties, hyperactivity, attention deficits and poor social skills. Those with FASD typically are impulsive and have difficulty foreseeing the consequences of their actions. They may have a poor sense of personal boundaries, lack judgment and be susceptible to peer pressure.

In a landmark case† in 2016, the Western Australia Court of Appeal recognised that the moral culpability of an offender diagnosed with FASD after he was sentenced was reduced because of his mental condition. Until this decision, only one other case in Australia has acknowledged the impact of a diagnosis of FASD on an offender’s behaviour.

We organised a seminar about FASD for judicial officers with the NSW Bar Association and NSW Law Society. June Oscar AO (pictured), the CEO of Marninwarntikura Fitzroy Women’s Resource Centre, spoke about the “small and immensely important revolution” that has occurred since 2007 when the women of the Fitzroy Valley worked with the local Police Commissioner to impose liquor restrictions on the community. These have now been in place for nine years.

Ms Oscar outlined the study of FASD prevalence conducted in partnership with Royal Far West since 2009. The study has shown that 1 in 5 children in the community has FASD, one of the highest rates in the world. The overwhelming problem for teachers and carers of children with FASD is the difficult behaviours that will predispose these children to school failure, contact with juvenile justice and the risk of incarceration.

We also updated information about FASD and its relevance to court proceedings in our publications, the Sentencing Bench Book and the Equality Before the Law Bench Book. A link to a training video about FASD is available on our Judicial Information Research System (JIRS).

Judicial officers who attended this seminar gave it an overall satisfaction rating of 95%.

† LCM v State of Western Australia [2016] WASCA 164.

Reforming the justice system: lessons from the American experience

The Institute for the Advancement of the American Legal System (IAALS) is a national, independent research centre dedicated to facilitating continuous improvement and advancing excellence in the American legal system. Founded in 2006 in response to concerns about the American legal system, IAALS focuses on the development and application of innovative solutions for the toughest problems facing the courts and profession, and does this by working with experts and groups around the country. As a part of a major research university, IAALS conducts comprehensive analysis, including original empirical and legal research; and also compiles existing research.

Justice Rebecca Love Kourlis (pictured), the Executive Director of the IAALS, spoke about the Institute’s work at a seminar we organised in conjunction with the University of Newcastle. For the first time, the seminar was also webcast for those unable to attend in person.

Justice Kourlis discussed some of the Institute’s work, including research into judicial evaluation. She also addressed current issues of concern in the United States, such as recent moves to limit judicial independence, attacks on the judiciary and their impact on the balance of powers.
Providing legal information

We provided current, timely and accurate legal information using web-based technology to promote the highest standard of judicial performance.

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Results 2016–17

Our mission is to promote the highest standards of judicial performance and decision-making and consistency in sentencing.

Our online information provides a basis for current, timely and accurate judicial decision-making: see p 33.

We published a 2-volume monograph on sentencing for environmental crime and a major study on sentencing in the Local Court: see p 33.

1.614 million total page hits indicate the substantial usage of JIRS: see p 36.

JIRS is constantly enhanced and replenished to ensure its currency and accuracy: 10 enhancements were implemented during the year: see p 38.

Judicial officers were informed about changes to criminal law, procedure and sentencing through 7 updates to bench books: see p 40.

238 Recent Law news items were published on JIRS to inform judicial officers about new legislation and significant cases: see p 40.

Challenges 2016–17

- Keeping up with the sheer volume of case law and legislation.
- Completing a large-scale study of sentencing for environmental crime.

The year ahead 2017–18

- Communicating the significant and impending legislative reforms to sentencing law
- Substantially revising our internal systems used to collect and disseminate sentencing statistics
- Balancing core work with requests for sentencing information and advice from other criminal justice agencies
- Keeping abreast with the law, posting recent law items on JIRS and the consequent updates to the bench books.
Providing legal information

Evaluating the program’s performance

An assessment of the program’s results shown in Table 2 demonstrates that our online legal information program performed well in 2016–17.

Table 2. Results for the legal information program

<table>
<thead>
<tr>
<th>Result</th>
<th>Measures</th>
<th>Performance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Judicial officers had access to current law to assist in their day-to-day decision making.</td>
<td>Maintain or increase use of Judicial Information Research System (JIRS). Maintain access to current law on JIRS.</td>
<td>1.4% decrease in use of JIRS throughout 2016–17 with 1,614 million total page hits. (We attribute the decrease to the system being briefly offline during our office relocation.) Throughout the year JIRS was available over 99% of the time.</td>
</tr>
<tr>
<td>Judicial officers were promptly informed about changes to criminal law and criminal practice and procedure.</td>
<td>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.</td>
<td>• 238 Recent Law items posted on JIRS throughout the year (last year: 209). • 244 summaries of select appeal decisions published on JIRS (last year: 205). • Recent Law flyer sent monthly to judicial officers. • 3 updates published for Criminal Trial Courts Bench Book.</td>
</tr>
<tr>
<td>Accurate sentencing information was available to judicial officers.</td>
<td>Maintain legal accuracy of Sentencing Information Principles and Practice component of JIRS.</td>
<td>4 updates to the Sentencing Bench Book. Sentencing principles in Sentencing Bench Book linked to new cases and legislation.</td>
</tr>
<tr>
<td>Information about sentencing was communicated.</td>
<td>Maintain or increase publication of Sentencing Trends &amp; Issues papers, research papers and monographs. Provide information in response to requests for specific sentencing issues.</td>
<td>1 Sentencing Trends &amp; Issues paper (last year: 2) and a 2-volume research monograph were published (last year: 1 monograph). Advised the Royal Commission into Institutional Responses to Child Sexual Abuse. Responded to 1 substantial research request from a judicial officer (last year: 10) and 11 non-judicial enquiries (last year: 21).</td>
</tr>
<tr>
<td>Judicial officers were informed about sentencing options and rehabilitation facilities for offenders.</td>
<td>Maintain current information about service providers in services directory on JIRS.</td>
<td>Information and contact details in the Services Directory regularly monitored, updated and hyperlinked throughout the year.</td>
</tr>
<tr>
<td>JIRS was improved to meet judicial officers’ needs.</td>
<td>Maintain or increase number of improvements to JIRS.</td>
<td>During 2016–17, 10 enhancements (last year: 14) were made to JIRS to respond to feedback.</td>
</tr>
<tr>
<td>Expenditure was within budget.</td>
<td>According to budget plan.</td>
<td>As at 30 June 2017, legal information expenditure was $2.29 million, representing 36% of overall expenditure.</td>
</tr>
</tbody>
</table>
Listening to feedback

As we provide detailed legal information for judicial officers and, in particular, sentencing information for the courts, we need to understand whether our service is regarded as relevant and effective. Here are some judicial responses received during the year to the new JIRS site search function rolled out during the year and about one of our flagship publications, the Sentencing Bench Book.

Comments from judicial officers:

“... it’s a great thing. Many thanks to whoever came up with that …”

“It looks really helpful, useful and straightforward!”

“... fantastic ... I have been wanting this for years ... it is beneficial for prompt judgments to have access to this convenient research tool.”

“... I found the new search option very helpful. I like the fact that one can search the entire database and that search can be filtered further per jurisdiction. It is more efficient.”

The legal profession also benefits:

“I am just writing to commend you for the Sentencing Bench Book, I have found it very enlightening and educational. As a criminal lawyer in NSW it is certainly one of my go-to sites whenever I have a hearing or so forth. It is invaluable. Thank you for your efforts putting this information together and updating it. It is worth the time and resources. It helps justice to be seen, understood and accepted.”

Why we provide legal 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 for a criminal offence, it must follow settled principles and apply them in a consistent way.

One of our principal functions is to assist the courts to achieve a consistent approach to sentencing. Our legal information is designed to provide timely and relevant sentencing information and explain criminal law changes 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 in the following ways:

• sending out email alerts to judicial officers detailing significant legal changes
• posting a “Recent law” item on JIRS where there is an important change to the law
• issuing Special Bulletins about relevant legal developments
• adding summaries of changes and specialist articles in the Judicial Officers’ Bulletin
• incorporating new criminal or evidence law changes into the relevant bench book
• researching sentencing trends in our in-depth studies
• collating easy-to-follow statistical information from case law and providing it online.
We take great care to provide accurate, up-to-date legal information

We provide legal information, with an emphasis on sentencing law, and explain criminal and civil law developments through the Judicial Information Research System (JIRS) and our public website. JIRS is an online database specifically designed for judicial officers and legal practitioners. Select publications are published in hard copy, including our bench books. For important High Court decisions or legislation that has made substantive changes, an email alert or Special Bulletin is prepared to promptly inform judicial officers. The alert or Bulletin details the decision or legislation and, where possible, examines the impact of the changes.

Case summaries of appeal decisions and “Recent Law” news items are prepared as soon as possible after a decision is handed down or legislation introduced into Parliament. Items of particular importance are also published in the monthly Judicial Officers’ Bulletin. This is sent to all judicial officers and key criminal justice agencies in NSW. A major part of our work is preparing these summaries and items which include:

- 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
- all legislation which affects criminal practice and procedure.

“Recent Law” items and case summaries feed into the relevant bench books. The bench books are set out in logical order and provide a useful, constantly-updated compendium of the relevant case law and legislation that applies when conducting a criminal case. This detailed information on practice is supplemented with procedural guidelines, suggested jury directions and sample orders.

Guidance on the sentences that other judicial officers have given in similar circumstances is also provided by publishing sentencing statistics on JIRS. Great care is taken to provide statistical information that is accurate, verified and easy to access. Enhancing how statistics are accessed and used regarding cases before various courts is another major part of our research and sentencing program.

We are in a unique position to take into account criminal law changes and sentencing statistics to provide in-depth studies into sentencing trends. Our original research studies include monographs and issues papers that analyse sentencing trends. Our latest study concerned a detailed analysis of sentencing for environmental protection and planning offences in the NSW Land and Environment Court (see case study below).

Case study

Sentencing for environmental protection and planning offences

Sentencing is one of the most difficult and complex tasks that the courts perform, often attracting debate in the media about perceived leniency and allegations of inconsistency. This year our major research focus has been on sentencing in the Land and Environment Court (LEC) and how to assist that court to achieve a consistent approach to sentencing.

Using a database developed with the LEC, we studied sentences imposed on environmental offenders over a 15-year period from 2000 to 2015. Our study examined the top 5 offences dealt within the LEC and discussed the charging practices of prosecution agencies and the vexed issue of costs orders in the sentencing process. The two-volume study identified some areas of sentencing practice that may require review or Parliamentary reform to improve transparency and consistency in sentencing. For example, we discussed the impact of there being no requirement to specify costs when a sentence is imposed as costs are typically reported as “agreed or assessed”. Without costs being known, there may be a false impression of how the court punishes environmental offenders with a public perception that fines imposed in the LEC are low.

There has been much interest in our research. As well as publishing the two-volume study on JIRS and our website, the authors presented their findings to judges and commissioners of the LEC and the legal community (in July 2017) as a continuing professional development course. Feedback about those seminars was very positive.
Keeping judicial officers informed about how evidence may be used in sexual assault trials

Hughes was convicted of 10 sexual offences against four different girls, each aged under 16 at the time of the offences.

During his trial, the judge accepted evidence that Hughes had a sexual interest in girls and a tendency to act on that interest by engaging in sexual activity opportunistically, despite a high risk of detection.

He appealed his conviction to the NSW Court of Criminal Appeal (NSWCCA), arguing that the evidence of his tendencies should not have been admitted as it lacked an “underlying unity” or “pattern of conduct” said to be required for the evidence to be significant enough to assist in proving the offences. This argument was consistent with the Victorian case of Velkoski v R (2014) 45 VR 680.

The NSWCCA dismissed his appeal and Hughes appealed to the High Court of Australia. The High Court’s important decision† clarified when tendency evidence may be admitted. Evidence about Hughes’ conduct had been correctly admitted into evidence and the Victorian decision was wrong. The court said that it was not necessary for Hughes’ tendencies to show an “underlying unity” or “pattern of conduct” to the conduct charged in the indictment. It was sufficient if the tendency evidence, together with other evidence, made any facts which formed the basis of the offence charged significantly more likely to be true.

The NSWCCA was correct to find that the tendency evidence, considered together, provided strong support to show Hughes’ tendency to engage opportunistically in sexual activity with underage girls despite a high risk of detection. The fact that Hughes expressed his sexual interest in underage girls in a variety of ways did not take away the significance of this evidence. In child sexual assault trials, it is common for the complainant’s account to be challenged on the basis that it is fabricated. Proof that the accused is a person sexually interested in children and has a tendency to act on that interest is likely to influence the question whether the complainant has misconstrued innocent conduct or fabricated his or her account.

Following this decision, we posted a “Recent Law” item on JIRS explaining the High Court’s decision. We updated the “Tendency, coincidence and background evidence” chapter of the Criminal Trial Courts Bench Book to reflect the decision and published a summary of the case in the Judicial Officers’ Bulletin.

† Hughes v The Queen [2017] HCA 20.
Delivering information through the Judicial Information Research System (JIRS)

Figure 8 below visually depicts the components of our online database — the Judicial Information Research System (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.

Figure 8. The Judicial Information Research System (JIRS): a complete judicial decision support system

<table>
<thead>
<tr>
<th>Description</th>
<th>What we do</th>
<th>JIRS Component</th>
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| Early notice of important legal developments.         | • identify significant decisions and legislative changes  
• extract core principles of case law and legislation and post online  
• print and distribute monthly Recent Law flyer.                                                                                                                          | Announcements and Recent Law               |
| Statistics on the range and frequency of penalties imposed in similar cases. | • receive data from BOCSAR  
• audit data  
• process and load data on JIRS within 1–4 months of receipt.                                                                                                             | Sentencing statistics                       |
| Full text of judgments and case summaries for selected cases. | • 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  
• advance notes supplied by Office of the Director of Public Prosecutions  
• post judgments within 1 working day of receipt  
• prepare recent law items within 14 days of receipt for important decisions  
• prepare important NSWCCA case summaries within 2 weeks of receipt  
• link cases and summaries to sentencing principles and practice component and the Criminal Trial Courts and Civil Trials Bench Books. | Case law                                   |
| Concise commentary on sentencing principles.           | • take sentencing principles from new cases and legislation and post as recent law items  
• link principles in bench book to case law and legislation.                                                                                                                | Sentencing principles and practice (Sentencing Bench Book, Recent Bench Book). | Case law                                  |
| Practice and procedure manuals for the various courts containing current statements of relevant legal principles, sample orders and suggested jury directions. | • identify significant decisions and legislative changes which impact on the content of the bench book  
• bench book committees consider content and draft amendments and special bulletins  
• publish updates on JIRS and in hard copy.                                                                                                                                | Bench books                                |
| All NSW and Commonwealth Acts, Regulations and Rules. | • receive legislation from NSW Parliamentary Counsel’s Office and Commonwealth Attorney-General’s Department  
• process and load legislative changes within 24 hours of receipt  
• alert users to commencement date of criminal legislation via recent law items  
• link legislation to relevant case law and sentencing statistics  
• verify currency of legislation weekly.                                                                                                                                     | Legislation                                 |
| Monographs, Sentencing Trends & Issues, Judicial Officers’ Bulletin, The Judicial Review. | • identify relevant topic or research area  
• commission author  
• edit and typeset manuscript  
• publish in hard copy and online.                                                                                                                                           | Publications                                |
| Essential information on treatment options and rehabilitation facilities. | • identify relevant service providers  
• maintain currency of information.                                                                                                                                                                                                 | Services directory                         |
Maintaining JIRS

JIRS is constantly updated so that judicial officers have access to current and accurate case law, legislation, and materials on 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).

Use of JIRS

A good measure of the value of JIRS is the high level of use over the last 5 years as shown in Figure 9. While there has been a slight 1.4% decrease in the overall use of JIRS during the year (last year: 7.1% growth), total page hits were 1,613,715, exceeding our 1.35 million target set for 2016–17. We attribute the slight decrease to the system being offline for a brief period during our office relocation. There was an average of 134,476 page hits each month, peaking at an all-time high of 163,864 hits in a single month in March 2017.

Judicial officers and their support staff in the Supreme, District and Local Courts accounted for 33.8% of the use of JIRS in 2016–17. Supreme Court use increased 10.3% whereas District Court use decreased 11.2%. Magistrates have access to selected sentencing information through the JIRS Resources iPad™ app as an alternative to when they are unable to connect to JIRS. Magistrates’ use of JIRS increased by 4.4% over the financial year. Magistrates accounted for 68.5% of all judicial use this year.

There has been a 7.5% decrease in Government agencies’ use of JIRS, accounting for 44.7% of the use of JIRS overall this year. Government agencies include the Office of the Director of Public Prosecutions, police prosecutors, the Public Defenders, and Legal Aid NSW. In part, this may reflect the general availability of certain JIRS content on our public website as well as other material on the freely available JIRS Resources app that the Commission publishes. When topics covered in the Bench Books are searched on Google™, they often come up as one of the top search results. These publicly available resources have reduced the need for some practitioners to subscribe to the full JIRS database. Professional associations’ and private law firms’ use of JIRS has increased and accounted for 21.5% of overall use of JIRS in 2016–17.

Table 3 below shows how the use of JIRS is split and the change in use over a 5-year period. The overall trends in use is shown in Figure 9.

We met our target to post all NSW courts 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.

Providing high-level research assistance

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 specific requests for research assistance. We gave 6 conference and seminar presentations about our research program (last year: 3) which the judicial and legal community responded to favourably. Information about these presentations is found in Appendix 15.

Figure 9. Number of JIRS pages accessed 2012–17

Table 3. Overall JIRS use 2013–17

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<td></td>
</tr>
<tr>
<td>Supreme Court</td>
<td>48,191</td>
<td>3.3</td>
<td>25,339</td>
<td>1.7</td>
<td>23,078</td>
<td>1.4</td>
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<td>1,613,715</td>
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<td>-1.4</td>
</tr>
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</table>

* The fall in IRC use may be attributed to the restructure at the IRC and fewer members.
** Includes staff of the NSW and Cth DPP, Justice Dept, Legal Aid NSW, NSW Police Prosecutors, and other State or federal public sector agencies, excluding judicial officers and their associates.
*** The NSW Bar Association and Law Society of NSW libraries.
**** Includes barristers, law firms, universities, libraries and community organisations.
Case study

Advising judicial officers about important changes to sentencing practices

Kilic had been in a domestic relationship with his partner who was pregnant with their baby. They both used the drug “ice”. After she left him, Kilic doused her with petrol and set her alight. She suffered horrendous injuries and her pregnancy was terminated at 20 weeks.

Kilic pleaded guilty in the County Court of Victoria to intentionally causing serious injury. He was sentenced to 15 years’ imprisonment with a non-parole period of 11 years.

Kilic successfully appealed this sentence to the Court of Appeal of Victoria. That court allowed his appeal on the basis that there was a disparity between his sentence and “current sentencing practices” as illustrated by other cases and there was a breach of the principle of equal justice. His sentence was reduced to 10 years and 10 months. The Crown appealed this decision to the High Court of Australia.

The High Court† said that the Victorian Court of Appeal was in error in describing Kilic’s offence as being in the “worst category”. The High Court said that courts should avoid using the expression “worst category” and instead state whether the offence is or is not so grave as to warrant the maximum penalty. The High Court said that where the offence is not so grave as to warrant the maximum penalty being imposed, a court is bound to consider where the facts of the particular offence and offender lie on the “spectrum” that extends from the least serious instance to the worst.

Cases of intentionally causing serious injury by fire are not common. The cases mentioned by the parties could not properly be regarded as providing a sentencing pattern. There were too few cases, one dealt with a different offence, one was more than 12 years old, and the circumstances of the offending in each case were too different, including the fact that some were not committed in the context of domestic violence against a woman in abuse of a relationship of trust.

The High Court recognised a societal shift in relation to domestic violence. The High Court said that Kilic’s offence was in a category of its own. It surpassed understanding that a man, even one as young as 22 years of age, could set alight the mother of his unborn child. Given the nature and gravity of the offence, the dire consequences for the victim and the personal circumstances of Kilic, the sentence was reasonable.

Following the High Court’s decision, we amended the Sentencing Bench Book to reflect the High Court’s new observation that judicial officers should avoid the expression “worst category”. We also revised commentary in the bench book about consistent sentencing and sentencing for domestic violence offences. We also published a Recent Law item on JIRS and a summary in the Judicial Officers’ Bulletin.

† The Queen v Kilic [2016] HCA 48.
Improving JIRS
Ten enhancements with regard to JIRS usage were made during the year. Improvements included:

- **A whole of JIRS site search.** This allows a user to search over the majority of JIRS in one place with results including in-context information. This also shows the number of matches in particular areas of JIRS, each of which can then be drilled down further. Documents in the results can be quickly previewed with highlights.

- **A redesign of bench books and handbook menus.** This allows for a significant improvement in navigation.

- **JIRS MyNotes for judicial officers.** This allows each judicial officer to insert their own annotations for future reference in specific sections of legislation, judgments and paragraphs in any bench book. If the judicial officer wishes he or she can share their MyNotes with other judicial officers within the jurisdiction.

- **Links to related Recent Law items and bench books at the top of each judgment.** This provides users ready access to the principles that have been extracted from the judgment. This includes the law relating to evidence, jury directions and sentencing principles.

- **“Explaining the Statistics” revised.** Sentencing statistics are collected and compiled — “Explaining the Statistics” — was substantially revised. The NSW Court of Criminal Appeal implored practitioners to “read the document before relying upon statistics in any court” in Why v R [2017] NSWCCA 101.

- **Links to Lawcodes.** Lawcodes (see p 56) has been enhanced to provide easier integration with JIRS.

- **Interactive Learning Resource modules.** A large number of training modules which have been generated this year for the Judicial Commission Interactive Learning Resource modules. By automatically generating content from our bench books, we are able to ensure that the training modules are always up-to-date and relevant. Selected scenarios have been made available to the public, with more currently being available to select users as part of a testing phase.

Impact of our online publications
Access to our online legal information is through JIRS. Our publications can also be downloaded in PDF directly from JIRS, our website or by using the JIRS Resources app on an iPad™. Table 5 records PDF downloads over the last five years, showing an increase in the downloading of 6 of the 10 publications. Select publications are also provided in hard copy to judicial officers and are available for purchase at www.shop.nsw.gov.au.

The impact of our online publications is measured by:

- **JIRS usage (judicial officers and the legal profession) (see Table 4)**
- **website use (public viewing) (see Table 5).**
- **Informit viewings (academic use) (see Figure 10 on p 40).**

**JIRS usage**

There has been a 2.72% increase in access to publications from JIRS compared to the previous year’s growth as shown in Table 4. This is the highest rate of access noted in the last 5 financial years while there has been a 31.5% decline in PDF downloads as shown in Table 5. The decline may, in part, be a result of moving to a new website.

### Table 4. JIRS use of online information 2012–17

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</table>

* Not available via JIRS Resources app.
† Not available from Commission’s public website.

### Table 5. PDF publication downloads from JIRS, Commission’s website and JIRS app 2012–17

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<tr>
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* Not available via JIRS Resources app.
† This was only available for 2 days in 2012–13 and is not available from the Commission’s public website.

38
Providing legal information

Explaining when a warning to the jury can be given about a child's evidence and the effect of delay in a criminal trial

In a sexual assault trial, there is often a long delay between when an offence is alleged to have occurred and when it is reported to police. The accused person may make an application that the judge direct the jury about the disadvantage he or she may suffer as a result of delay. The accused person may be at a disadvantage due to the death or inability to locate any potential witness or the loss or unavailability of any potential evidence.

During the year, the NSW Court of Criminal Appeal\(^1\) explained the circumstances where a direction can be given about such a disadvantage to the accused person.

The focus of the direction to the jury is on the disadvantage to the accused person. The jury cannot make a generalised assumption about the reliability of the complainant's evidence because of the delay. The judge must inform the jury of the nature of the disadvantage and the need to take that disadvantage into account when considering the evidence only when the judge is satisfied that the defendant has suffered a significant forensic disadvantage. The judge cannot suggest that it would be dangerous or unsafe to convict the accused person solely because of the delay or the disadvantage.

Whether there has been a significant forensic disadvantage depends on the nature of the complaint and the extent of the delay in the circumstances of the case. The test is the consequences of the delay, not the extent of delay.

In another important decision,\(^2\) the NSW Court of Criminal Appeal clarified the circumstances in which a trial judge may give a warning about the reliability of a child's evidence in a criminal trial.

Any warning can only focus on matters relevant to the particular child complainant in the specific circumstances of the case and not upon the mere fact that the witness is a child or an inherent feature of children more generally. A judge may decline to give a warning for matters evident to the jury which the jury can assess without assistance.

To advise judges about these important court decisions, we amended the commentary and relevant directions in the *Criminal Trial Courts Bench Book*. We also summarised the decisions and published these as news items on JIRS.

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\(^1\) *TO v R* [2017] NSWCCA 12.

\(^2\) *AL v R* [2017] NSWCCA 34.
Informit viewings

Informit is an extensive Australian 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 these publications saw a 41% increase from the previous year as shown in Figure 10 (last year: 12% increase). This demonstrates the growing impact of our published work. The most popular articles accessed concerned Aboriginal issues, cultural diversity and managing litigants in person.

Figure 10. Informit viewings of our publications 2013–17

Public website usage

The most accessed resources on our public website are the Civil Trials Bench Book and the Sentencing Bench Book. There has been 24% growth for both these bench books. The Civil Trials Bench Book provides information about all aspects of running civil proceedings and rules about evidence admitted in civil trials. The Sentencing Bench Book provides information and legal principles relevant to sentencing law. The Criminal Trial Courts Bench Book had an increase of 29% in usage. This book provides a constantly updated compendium of the relevant case law and legislation that applies when conducting a criminal case. The detailed information on practice is supplemented with procedural guidelines, suggested jury directions and sample orders. The Equality Before the Law Bench Book recorded the most growth with an increase of 170%. More information about our published resources is found in Appendix 8.

Our redesigned website was launched this year providing a contemporary, easy-to-access platform. Due to the redesigned website and different metrics for counting page hits, it is not possible to compare overall website use this year with previous years for monographs. See Table 6.

Table 6. Website use of our resources 2013–17

<table>
<thead>
<tr>
<th></th>
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<td>Civil Trials Bench Book</td>
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<td>Local Court Bench Book</td>
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<td>12,176</td>
<td>16,347</td>
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<td>Equality Before the Law Bench Book</td>
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<td>5↑</td>
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<td>2,151</td>
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<td>5↑</td>
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<td>Sentencing Trends &amp; Issues</td>
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<td>759</td>
<td>-84.0↓</td>
<td>5↑</td>
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Highlights of the legal information program for 2016–17

- 16 updates to the bench books and handbooks (last year: 19). 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.
- A research monograph that provides an in-depth analysis of environmental protection and planning offences prosecuted in the Land and Environment Court of NSW. See case study on p 33.
- 1 research study that reports the sentences imposed in the Local Court of NSW for the most common offences in 2015.
- 238 Recent Law items posted on JIRS which explained important cases and legislation (this included all items concerning High Court decisions and NSW legislation which were posted within 2 days of receipt) (last year: 209 items).
- 244 summaries of significant appeal decisions on JIRS and in the Judicial Officers’ Bulletin (last year: 205).
- 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 articles and papers to inform judicial readers of technical and topical matters, court craft, and social context issues.

More details of these publications are found in Appendix 8.
Examining complaints

Our complaints process ensures high standards of judicial performance and protects judicial officers from unwarranted intrusions into their judicial independence.

Results 2016–17 ........................................... 42
Challenge 2016–17 ........................................ 42
The year ahead 2017–18 ................................. 42
Evaluating the complaints function ................. 43
Why we examine complaints .......................... 44
Complaints received and examined during the year... 45
Identifying complaint patterns 2016–17 ............... 47
How we deal with complaints and enquiries .......... 48
Results 2016–17

- Independence of judicial officers was maintained: see p 44.
- Timely acknowledgment and completion of preliminary examination of complaints: see p 45.
- 94% of complaints finalised within 6 months of receipt: see p 45.
- 72 complaints were examined in the 2016–17 financial year: see p 45.
- Give informal advice to 265 potential complainants: see p 46.
- Information gathered from the complaints process was used to develop judicial education sessions for judicial officers: see p 47.

Challenge 2016–17
- Explaining to a disappointed complainant why their complaint was dismissed.

The year ahead 2017–18
- Continue to examine complaints efficiently, effectively, independently and objectively.
- 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.
- Continue to develop education sessions from information gathered from the complaints process.
Evaluating the complaints function

An assessment of the results shown in Table 7 demonstrates that our complaints function performed well in 2016–17. Table 7 shows the evidence for each identified result as well as details of each measure we have put in place to achieve our objectives.

### Table 7. Results for examining complaints

<table>
<thead>
<tr>
<th>Result</th>
<th>Measures</th>
<th>Performance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Finalised majority of complaints received during the year.</td>
<td>Maintain the number of complaints examined and finalised during the year.</td>
<td>Commission examined 72 complaints during the year. See p 45.</td>
</tr>
<tr>
<td>Timely acknowledgment and completion of preliminary examination of complaints</td>
<td>Maintain or decrease the time taken to conduct preliminary examination of complaints.</td>
<td>Commission examined 69% of complaints within 3 months (last year: 78%) and 94% of complaints within 6 months (last year: 93%). See p 45.</td>
</tr>
<tr>
<td></td>
<td>Maintain the time taken to formally acknowledge complaints received.</td>
<td>100% of complaints received were acknowledged within 5 working days. See p 45.</td>
</tr>
<tr>
<td>High standard of judicial performance.</td>
<td>Compare number of complaints to the number of court matters finalised during the year.</td>
<td>364 judicial officers in NSW heard around 700,000 court matters in 2016–17. Only 75 complaints about 57 judicial officers were made to the Commission. See p 44.</td>
</tr>
<tr>
<td></td>
<td>Compare number of complaints dismissed under section 20 of the Judicial Officers Act 1986 with complaints that require further action.</td>
<td>96% of complaints (69 of 72 examined) were summarily dismissed under section 20 of the Judicial Officers Act 1986. Three complaints required further action. See p 45.</td>
</tr>
<tr>
<td></td>
<td>Maintain accessible information about the complaints process.</td>
<td>Information about the complaints process and how to make a complaint was provided in the annual report, on our public website, and in brochure form. We responded to 265 requests for information. See p 46.</td>
</tr>
<tr>
<td>Independence of judicial officers was maintained.</td>
<td>Maintain confidentiality of complaints process.</td>
<td>Commission examined all complaints according to statutory criteria and established protocols. See pp 48 and 49.</td>
</tr>
<tr>
<td>Information gathered from the complaints process has been used to develop education sessions for judicial officers.</td>
<td>Monitor and analyse trends in complaints to feed into our education events.</td>
<td>33% of complaints arose from allegations of failure to give a fair hearing. 24% of complaints arose from allegations of an apprehension of bias. Education sessions held and publications produced during the year addressed these issues. See p 47.</td>
</tr>
<tr>
<td>Expenditure was within budget.</td>
<td>According to budget.</td>
<td>As at 30 June 2017, complaints expenditure was $510,000 or 8% of overall expenditure.</td>
</tr>
</tbody>
</table>
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.
- Determining which complaints require further action.
- Advising the complainant and the judicial officer involved of the outcome of the complaint.
- 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 continuing judicial education program.

There are 364 judicial officers in NSW who heard around 700,000 court matters during 2016–17. The number of complaints we receive each year is low compared to the high volume of matters handled: see Table 8 on p 45. 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.
During 2016–17, 53 people made 75 complaints about 57 judicial officers. Seven complainants each made 2 complaints; 2 complainants each made 3 complaints; 2 complainants each made 4 complaints and 1 complainant made 6 complaints. The rest of the complaints were lodged individually. We finalised 72 complaints including 13 complaints pending as at 30 June 2016. Seventeen complaints were pending as at 30 June 2017.

Table 8 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 five years is that, following the preliminary examination, most complaints were summarily dismissed under section 20 of the *Judicial Officers Act* 1986. This year, 96% of complaints (69 of 72) examined were summarily dismissed. This is higher than the average 5-year dismissal rate of 93%. 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 9 shows how the 69 complaints summarily dismissed were dealt with under section 20 this year.

**High consistency in timely examination of complaints**

Within five working days, the Commission provided written acknowledgements of all complaints received. During 2016–17, we finalised 94% of complaints within 6 months, and 99% of complaints within 12 months of their receipt. One complaint could not be finalised during the year due to delays in receiving information. Last year, we finalised 100% of complaints within nine months. Table 10 compares the timeliness standards over 5 years and demonstrates that the Commission continues to respond to all complaints received within a reasonable time.

### Table 10. Time taken to conduct preliminary examination of complaints 2012–17

<table>
<thead>
<tr>
<th></th>
<th>3 mths</th>
<th>6 mths (target 90%)</th>
<th>9 mths</th>
<th>12 mths (target 100%)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>2012–13</td>
<td>22</td>
<td>78</td>
<td>93</td>
<td>98</td>
</tr>
<tr>
<td>2013–14</td>
<td>61</td>
<td>67</td>
<td>97</td>
<td>100</td>
</tr>
<tr>
<td>2014–15</td>
<td>82</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td>2015–16</td>
<td>78</td>
<td>93</td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td>2016–17</td>
<td>69</td>
<td>94</td>
<td>99</td>
<td>99</td>
</tr>
</tbody>
</table>

Table 8. Particulars of complaints examined 2012–17

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Complaints pending</td>
<td>39</td>
<td>21</td>
<td>8</td>
<td>11</td>
<td>14</td>
</tr>
<tr>
<td>at 30 June</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Complaints made</td>
<td>71</td>
<td>48</td>
<td>59</td>
<td>44</td>
<td>75</td>
</tr>
<tr>
<td>during the year</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total number of</td>
<td>110</td>
<td>69</td>
<td>67</td>
<td>55</td>
<td>89</td>
</tr>
<tr>
<td>complaints</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Complaints examined</td>
<td>79</td>
<td>58</td>
<td>49</td>
<td>40</td>
<td>69</td>
</tr>
<tr>
<td>and dismissed</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Complaints referred</td>
<td>4</td>
<td>1</td>
<td>4</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>to head of</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>jurisdiction</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Complaints referred</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>to Conduct Division</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Complaints withdrawn</td>
<td>4</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Total number of</td>
<td>89</td>
<td>61</td>
<td>56</td>
<td>41</td>
<td>72</td>
</tr>
<tr>
<td>matters finalised</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Complaints pending</td>
<td>21</td>
<td>8</td>
<td>11</td>
<td>14</td>
<td>17</td>
</tr>
<tr>
<td>at 30 June</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Table 9. Criteria for dismissing complaints under section 20 of the *Judicial Officers Act* 1986

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Section</th>
<th>Number of complaints</th>
</tr>
</thead>
<tbody>
<tr>
<td>The complaint is one that is required not to deal with and having regard to all the circumstances of the case, further consideration of the complaint would be or is unnecessary or unjustifiable.</td>
<td>20(1)(a) &amp; (h)</td>
<td>5</td>
</tr>
<tr>
<td>The complaint is frivolous, vexatious or not in good faith and the complaint relates to the exercise of a judicial or other function that is or was subject to adequate appeal or review rights and further consideration of the complaint would be or is unnecessary or unjustifiable.</td>
<td>20(1)(b), (f) &amp; (h)</td>
<td>1</td>
</tr>
<tr>
<td>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.</td>
<td>20(1)(b) &amp; (h)</td>
<td>8</td>
</tr>
<tr>
<td>The matter complained about occurred at too remote a time to justify further consideration, and having regard to all the circumstances of the case, further consideration of the complaint would be or is unnecessary or unjustifiable.</td>
<td>20(1)(d) &amp; (h)</td>
<td>3</td>
</tr>
<tr>
<td>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.</td>
<td>20(1)(f) &amp; (h)</td>
<td>30</td>
</tr>
<tr>
<td>The person complained about is no longer a judicial officer.</td>
<td>20(1)(g)</td>
<td>1</td>
</tr>
<tr>
<td>Having regard to all the circumstances of the case, further consideration of the complaint would be or is unnecessary or unjustifiable.</td>
<td>20(1)(h)</td>
<td>21</td>
</tr>
<tr>
<td>Total number of complaints dismissed under s 20</td>
<td></td>
<td>69</td>
</tr>
</tbody>
</table>
Two complaints referred to the relevant head of jurisdiction

Two complaints were referred this year to the relevant head of jurisdiction (last year: 0). The Commission has the power to refer a complaint which, while it does not justify the attention of a Conduct Division, warrants some further action.

The complainant and the judicial officers concerned were advised of this outcome.

One complaint referred to a Conduct Division

One complaint about a judicial officer was referred to a Conduct Division this year (last year: 0). Information about the role of a Conduct Division is found on p 48.

The Conduct Division’s examination will commence in the next financial year.

No referrals from the Attorney General

The Attorney General of NSW may refer a matter to the Commission under section 16(1) of the Judicial Officers Act 1986 and this is treated as a complaint. The Commission received no references from the Attorney General this year (last year: 0).

Responded to informal enquiries

During the year, we responded to 265 telephone, face-to-face and written enquiries from potential complainants, members of the legal profession and the media (last year: 441).

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.

Case study

Complainant had a right to appeal

The complaint

An order was made against the complainant who had been involved in litigation before the Local Court. He claimed that the magistrate was not impartial and had taken a dislike to him, which resulted in the adverse order being made.

The Commission’s examination

The Commission dismissed the complaint after reviewing the sound recording of the proceedings. The Commission was of the view that the magistrate gave careful consideration to all matters before her. In the Commission’s opinion, the magistrate dealt fairly and equally with both parties and there was no evidence to support the complainant’s allegations. It further noted that the complainant had a right of appeal to the Land and Environment Court 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 1986, 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.
Identifying complaint patterns 2016–17

Monitoring trends in complaints
Table 11 shows the type and number of complaints. Monitoring trends in complaints helps to identify areas that may need to be addressed in our continuing judicial education program. Information gathered from complaints is used to develop continuing judicial 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 2016–17, we identified the following patterns:

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 appeal to a higher court. In some cases, 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 5 complaints (7%) alleging judicial incompetence this year (last year: 11%).

Inappropriate comments and discourtesy
Four complaints alleged that a judicial officer made inappropriate comments and 9 complaints alleged discourtesy.

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. Thirteen complaints (17%) arose from AVO proceedings (last year: 16%).

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 56% of all complaints (last year: 48%).

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 2016–17, these 2 categories accounted for 57% of complaints (last year: 64%). 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.

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 public 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 complaint form.

Our website is at www.judcom.nsw.gov.au.

Table 11. Common causes of complaint: basis of allegation

<table>
<thead>
<tr>
<th>Type of allegation</th>
<th>Number of complaints</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bias</td>
<td>12</td>
<td>16</td>
</tr>
<tr>
<td>Bias, discourtesy &amp; failure to give fair hearing</td>
<td>1</td>
<td>1.3</td>
</tr>
<tr>
<td>Bias, discourtesy &amp; inappropriate comments</td>
<td>1</td>
<td>1.3</td>
</tr>
<tr>
<td>Bias &amp; failure to give fair hearing</td>
<td>2</td>
<td>2.7</td>
</tr>
<tr>
<td>Bias &amp; impairment</td>
<td>2</td>
<td>2.7</td>
</tr>
<tr>
<td>Collusion</td>
<td>1</td>
<td>1.3</td>
</tr>
<tr>
<td>Delay</td>
<td>2</td>
<td>2.7</td>
</tr>
<tr>
<td>Discourtesy &amp; inappropriate comments</td>
<td>2</td>
<td>2.7</td>
</tr>
<tr>
<td>Discourtesy</td>
<td>7</td>
<td>9.3</td>
</tr>
<tr>
<td>Failure to give fair hearing</td>
<td>22</td>
<td>29.4</td>
</tr>
<tr>
<td>Impairment</td>
<td>2</td>
<td>2.7</td>
</tr>
<tr>
<td>Impairment &amp; incompetence</td>
<td>1</td>
<td>1.3</td>
</tr>
<tr>
<td>Inappropriate comments</td>
<td>1</td>
<td>1.3</td>
</tr>
<tr>
<td>Impairment</td>
<td>22</td>
<td>29.4</td>
</tr>
<tr>
<td>Incompetence</td>
<td>4</td>
<td>5.3</td>
</tr>
<tr>
<td>Other allegations</td>
<td>15</td>
<td>20</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>75</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>
How we deal with complaints and enquiries

Examining the complaint
Figure 11 (on p 49) 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 proceedings. 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* 1986. We explain to the complainant in writing why the complaint was dismissed and provide a copy to the judicial officer.

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 any 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 30-year history, 21 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 of 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 the Conduct Division, as part of its examination of a complaint, forms the opinion that a judicial officer may be physically or mentally unfit to exercise efficiently the functions of a judicial office, the Conduct Division may request the officer to undergo a medical or psychological examination. If the judicial officer refuses or fails to undergo the medical or psychological examination, the Conduct Division may, having regard to that refusal or failure and to any other relevant factors, and if it considers the matter to be sufficiently serious, form an opinion that the matter could justify parliamentary consideration of the removal of the judicial officer from office.

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 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 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.

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.
Examining complaints

Commission receives a written complaint accompanied by a statutory declaration verifying the complaint particulars.

Commission acknowledges receipt of the complaint and notifies the judicial officer.

Commission members undertake a preliminary examination of the complaint.

Complaint referred to Conduct Division for examination.

Complaint wholly or partly substantiated but does not justify removal.

Conduct Division reports to relevant head of jurisdiction setting out conclusions including recommendations as to steps that might be taken to deal with the complaint.

Copy of report provided to judicial officer and the Commission.

Complainant notified of decision.

Judicial officer not removed.

Complaint wholly or partly substantiated and could justify removal.

Conduct Division reports to Governor setting out its opinion that the matter could justify parliamentary consideration of removal.

The Attorney General lays the report before both Houses of Parliament.

Parliament considers whether the conduct justifies the removal of the judicial officer from office.

Judicial officer removed from office by Governor on the ground of proven misbehaviour or incapacity.

Complaint dismissed on any of the grounds under s 20(1) or not substantiated.

Commission referred to appropriate head of jurisdiction who may counsel the judicial officer or make administrative arrangements within his/her court to avoid recurrence of problem. Complainant and judicial officer notified.

Complainant and judicial officer notified of decision.

Complaint summarily dismissed on any of the grounds under s 20(1).

Complaint referred to Governor setting out its opinion that the matter could justify parliamentary consideration of removal.

Conduct Division reports to Governor setting out its opinion that the matter could justify parliamentary consideration of removal.

Conduct Division reports to relevant head of jurisdiction setting out conclusions including recommendations as to steps that might be taken to deal with the complaint.

Copy of report provided to judicial officer and the Commission.

Complainant notified of decision.

Judicial officer not removed.

Complaint wholly or partly substantiated and could justify removal.

Conduct Division reports to Governor setting out its opinion that the matter could justify parliamentary consideration of removal.

The Attorney General lays the report before both Houses of Parliament.

Parliament considers whether the conduct justifies the removal of the judicial officer from office.

Judicial officer removed from office by Governor on the ground of proven misbehaviour or incapacity.

Complaint dismissed on any of the grounds under s 20(1) or not substantiated.

Commission referred to appropriate head of jurisdiction who may counsel the judicial officer or make administrative arrangements within his/her court to avoid recurrence of problem. Complainant and judicial officer notified.

Complainant and judicial officer notified of decision.

Complaint summarily dismissed on any of the grounds under s 20(1).

Complaint referred to Conduct Division for examination.

Complaint wholly or partly substantiated but does not justify removal.

Conduct Division reports to relevant head of jurisdiction setting out conclusions including recommendations as to steps that might be taken to deal with the complaint.

Copy of report provided to judicial officer and the Commission.

Complainant notified of decision.

Judicial officer not removed.

Complaint wholly or partly substantiated and could justify removal.

Conduct Division reports to Governor setting out its opinion that the matter could justify parliamentary consideration of removal.

The Attorney General lays the report before both Houses of Parliament.

Parliament considers whether the conduct justifies the removal of the judicial officer from office.

Judicial officer removed from office by Governor on the ground of proven misbehaviour or incapacity.

Complaint dismissed on any of the grounds under s 20(1) or not substantiated.

Commission referred to appropriate head of jurisdiction who may counsel the judicial officer or make administrative arrangements within his/her court to avoid recurrence of problem. Complainant and judicial officer notified.

Complainant and judicial officer notified of decision.

Complaint summarily dismissed on any of the grounds under s 20(1).

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Complaint wholly or partly substantiated but does not justify removal.

Conduct Division reports to relevant head of jurisdiction setting out conclusions including recommendations as to steps that might be taken to deal with the complaint.

Copy of report provided to judicial officer and the Commission.

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Judicial officer not removed.

Complaint wholly or partly substantiated and could justify removal.

Conduct Division reports to Governor setting out its opinion that the matter could justify parliamentary consideration of removal.

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Complaint dismissed on any of the grounds under s 20(1) or not substantiated.

Commission referred to appropriate head of jurisdiction who may counsel the judicial officer or make administrative arrangements within his/her court to avoid recurrence of problem. Complainant and judicial officer notified.

Complainant and judicial officer notified of decision.

Complaint summarily dismissed on any of the grounds under s 20(1).

Figure 11. How the complaints process works

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 2016–17 (see Appendix 1) and Conduct Division: guidelines for examination of complaints 2016–17 (see Appendix 2).
Case studies

The judicial officer made inappropriate comments

The complaint
The complainant was the mother of a young person who appealed to the Local Court against the suspension of her provisional driver's licence. She was 17 years of age at the time of the hearing, self-represented and accompanied at court by her mother. She alleged that the magistrate made inappropriate comments, and bullied and belittled her daughter while she was trying to present her case to the court.

The Commission's examination
The Commission reviewed the sound recording of the hearing and considered the complainant's submissions. It also considered the judicial officer's response. After examining the information before it, the Commission was of the view that, while the conduct did not amount to bullying and belittling behaviour, the comments made to the young person were inappropriate, insensitive and discourteous. The Commission was further of the view that the judicial officer's attempt at humour was out of place in a courtroom. It was determined that the complaint was substantiated and should not be dismissed. The matter was referred to the Chief Magistrate.

Allegation of failure to give a fair hearing

The complaint
The complainant was a respondent to an application for an apprehended violence order heard in the Local Court. He represented himself and complained that the magistrate had been rude and angry towards him. Further, it was alleged that the complainant did not have the opportunity to adequately present his case to the court.

The Commission's examination
The Commission dismissed the complaint after reviewing the sound recording and transcript of the hearing. The investigation confirmed that the judicial officer had given the complainant such assistance as was appropriate for a self-represented person. The magistrate had allowed the complainant every opportunity to put his case and to challenge the evidence brought by the prosecution. The Commission found no suggestion, in either the transcript or sound recording, that the judicial officer was in any way rude or angry with the complainant. In the Commission's opinion, the magistrate had acted objectively and judicially at all times during the proceedings. The Commission found no wrong conduct and also noted that an appeal was available to the District Court. In those circumstances, the Commission was required by its legislation to dismiss the complaint.

Complaint about a retired judicial officer

The complaint
The complainant alleged a magistrate in civil proceedings in the Local Court had not given the complainant a fair hearing and had failed to follow proper procedure. The hearing was conducted several years before the complaint was made.

The Commission's examination
Although the complaint was received by the Commission in proper form, the examination did not commence because the Commission was advised that the magistrate had retired and had not been re-appointed in an acting capacity. In those circumstances, the Commission could not investigate the complaint.

The Commission has no jurisdiction over a former judicial officer. The Judicial Officers Act 1986 requires the Commission to dismiss a complaint if the person complained about is no longer a judicial officer. While this outcome may be disappointing for a complainant, the Commission has no statutory power to deal with the complaint.

For more information about the complaints process and how to make a complaint, see our public website at www.judcom.nsw.gov.au.
Our partners and the community

We exchanged our knowledge, experience and expertise with the NSW public, government law agencies and with national and international jurisdictions to promote the rule of law in the region and confidence in the judiciary.

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Listening to our partners and the community .... 54
Why we inform the public about what we do and exchange knowledge and expertise with other organisations ......................................... 55
Results 2016–17

The public was informed about our role in the justice system to assist in promoting confidence in the judiciary: see p 55.

Government law agencies had access to our online legal information to assist them in their daily work: see p 56.

We collaborated with other judicial education providers to share resources and promote best practice: see p 57.

We shared our accumulated knowledge and experience with emerging jurisdictions to promote the rule of law: see p 57.

We finalised the pilot Integrated Criminal Case System Database for the National and Supreme Courts of PNG: see p 58.

The Commission provided contractual services to other jurisdictions to assist them to capture and use legal data: see p 58.

Challenge 2016–17

• Balancing our core work with requests for research and capacity-building projects.

The year ahead 2017–18

• Continue to actively participate with other national and international providers of continuing judicial education to share resources and promote best practice for judicial officers.

• The Commission will participate in the International Organization for Judicial Training conference in Manila, the Philippines in November 2017. Participating in this conference allows the Commission to share knowledge gained from 30 years’ experience and apply world’s best practice to continuing judicial education programs in NSW.

• We will introduce a new series of programs designed to educate the community about the role of a judicial officer, the courts and the Commission.

• Continue our involvement with the Association for Continuing Legal Education Administrators (ACLEA) — an international body established to improve continuing legal education worldwide. Our Director, Education is the Immediate Past President of ACLEA.

Prominent image previous page: As part of the Land and Environment Court of NSW Annual Conference, a field trip was organised to the Australian Botanical Gardens at Mount Annan. The Curator Manager, Mr John Siemon (left), spoke to participants as they strolled through the Stolen Generations Memorial Walk.
Evaluating our performance

An assessment of the results shown in Table 12 demonstrates that engagement with our partners and the community performed to expectation in 2016–17. 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 and how we performed.

Table 12. Results for engagement with our partners and the community

<table>
<thead>
<tr>
<th>Result</th>
<th>Measures</th>
<th>Performance</th>
</tr>
</thead>
<tbody>
<tr>
<td>The public was informed about our work and role in the justice system and our contribution to judicial performance.</td>
<td>Maintain or increase publicly-accessible information on our website; through presentations and community engagement.</td>
<td>Commission staff gave 19 presentations about our work and role throughout the year (see Appendix 15). See p 55. Commission conducted seminars for Rule of Law Institute and by responding to telephone and written enquiries.</td>
</tr>
<tr>
<td></td>
<td>Maintain or increase public access to information on our website.</td>
<td>We responded to 265 enquiries from potential complainants. See p 55.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>New publications uploaded on our website for free-to-view service; existing publications updated throughout the year: see p 40 and Appendix 8.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Website use of our online information grew at an overall rate of 16% (last year: 9%).</td>
</tr>
<tr>
<td>Government agencies had access to our statistical and legal information and shared our knowledge.</td>
<td>Maintain research service to Government agencies.</td>
<td>We responded to 11 substantial research enquiries (last year: 21): see p 56.</td>
</tr>
<tr>
<td>We provided capacity-building assistance to Chinese, South East Asian, Papua New Guinea, Pacific and African jurisdictions.</td>
<td>Maintain or increase our capacity-building assistance.</td>
<td>We hosted 2 visitors and 6 delegations throughout the year and provided substantial assistance to the Papua New Guinea judiciary: see p 57 and Appendix 12.</td>
</tr>
<tr>
<td>We shared knowledge, resources and experience with other judicial education providers.</td>
<td>Maintain or increase exchanges throughout the year.</td>
<td>See p 55.</td>
</tr>
<tr>
<td>We provided advice to other Australian jurisdictions and institutions.</td>
<td>Maintain advice on an “as requested” basis.</td>
<td>Provided assistance to Rule of Law Institute and Judicial Council on Cultural Diversity: see pp 54, 58.</td>
</tr>
<tr>
<td>The Commission provided contractual services to partners and the community.</td>
<td>Maintain or increase revenue obtained from contractual services.</td>
<td>11% of our income was self-generated to supplement funds from consolidated revenue: see p 85 in Our finances.</td>
</tr>
</tbody>
</table>
Listening to our partners and the community

Here are some observations from our partners and the community about the assistance, services and information we provided during the year.

“I was really excited about the innovative developments that you and your team have introduced. Your work is not only trendsetting but the judiciary on the whole, will indeed be able to benefit from it.”

The Right Honourable Sir Dennis Byron, Chair of the Commonwealth Judicial Education Institute, March 2017

“We appreciated this training which has proven to be very helpful and educational to our current tasks and duties as magistrates.”

Participant at the PNG Magistrates’ Orientation Program, June 2017

“This program was one of the best and I will never forget the great lessons I picked up from it.”

Participant at the PNG Magistrates’ Orientation Program, June 2017

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Case study

Providing cultural diversity training for judicial officers

Legal language and processes can be difficult to comprehend at the best of times. People not familiar with the English language and Australian court processes can face additional language and cultural barriers in court. As well as the potential for misunderstanding and misinterpretation, underlying assumptions or attitudes based on race, religion, ideology or lifestyle may influence a judicial officer’s attitudes.

Recognising these issues, the Judicial Council on Cultural Diversity requested that the Judicial Commission and partner organisations help develop an online training program to raise judicial awareness of the barriers that people from culturally diverse backgrounds can face in court.

The online training program was launched this year. Judicial officers can access the program from the Judicial Council’s website and direct themselves through 9 modules at their own pace. The modules are designed to go beyond a simple awareness of cultural diversity and provide judicial officers with practical skills to perform their duties in a culturally informed manner. The training program is designed for judicial officers to:

- encourage a high level of cultural awareness in the courtroom
- identify when intercultural misunderstandings may have occurred
- understand how to use plain English principles to aid multicultural communication
- assess the need for interpreting assistance
- work effectively with interpreters
- apply cultural awareness principles in practice.

The e-learning program is accessible from our website to the host Judicial Council’s website at www.jccd.org.au.
Our partners and the community

Why we inform the public about what we do and exchange knowledge and expertise with other organisations

We provide accessible information about the Commission’s functions and how our work contributes to judicial performance:

• so the public know of their right to complain about a judicial officer’s ability or behaviour
• to promote public and professional awareness of and confidence in the courts, the justice system, and the work of judicial officers
• to raise awareness of the Commission’s contribution to judicial performance.

Throughout the year we provided free-to-view information about our publications, talks and presentations to community organisations, students and legal professionals. See Appendices 7 and 8 for full details of our publications and Appendix 15 for details of our presentations.

The Commission provides free access to resources and publications on our website. Our intention is to promote public confidence in the courts through providing accurate and current legal 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, and they also contain invaluable guidance for the legal profession, government agencies, academics and law students.

Sharing our technical expertise

During our 30 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 2016–17, we worked with other organisations and jurisdictions 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
• share expertise developed in the exercise of our functions through contractual arrangements with other jurisdictions.

See Appendices 10–15 for complete details about our activities during the year.

Performance of public information role: engaging with the Rule of Law Institute

The Commission agreed to provide the Rule of Law Institute, an independent not-for-profit organisation which provides legal educational resources to schools, with our assistance in 2016–17. During the year, we conducted seminars for high school students and provided free access to our legal information on the Judicial Information Research System (JIRS). See Appendix 10 for more information.

Commission officers’ presentations about our work and role

Commission staff delivered 19 presentations during the year (last year: 18). 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, continuing judicial education, judicial communication, and different learning styles. Appendix 15 provides a list of all presentations given during the year.

Responding to enquiries

Our Chief Executive, Ernest Schmatt PSM, responded to 7 media enquiries about our work (last year: 8) and attended to 265 telephone, face-to-face and written enquiries from potential complainants (last year: 441).

Informing the public through our website

Our website was completely revised and relaunched during the year for a contemporary, easy-to-access platform. Use of our online publications grew at an overall rate of 16% (last year: 9% growth). This exceeds our target of 5% growth. The Civil Trials Bench Book has been the most accessed publication with 38,435 hits each month and 25% yearly growth. This resource provides information and legal principles relevant to all aspects of running civil proceedings and about evidence admitted in civil and criminal trials. More information about our published resources is found on p 40 and in Appendix 8. The continuing growth over a 4-year period in the use of our publicly-available resources shows that we are meeting a need for information about our work and role in the justice system. See Table 6 on p 40.
Working with government agencies

Government agencies routinely request that the Commission provides legal information and analyses of the statistics that we hold on the Judicial Information Research System (JIRS). During the year, we responded to 11 research enquiries (last year: 21), including from the following:

- the NSW Sentencing Council
- the Department of Justice
- the Royal Commission into Institutional Responses to Child Sexual Abuse. Our Director, Research and Sentencing, 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 that the Commission developed. This is 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, which were developed by the Commission.
- the NSW Domestic Violence Death Review Team, Department of Justice, to support the recommendations of the DVDRT reports.
- the Department of Justice to contribute to the Government Response to the Bowraville Report.

Operating the Lawcodes database

The Lawcodes database of unique codes for NSW and Commonwealth criminal offences plays a vital role in the NSW criminal justice system. It enables all NSW justice sector agencies to electronically exchange information efficiently and accurately. The Commission developed and maintains this database and general access to it is provided through our website. During the year, we:

- coded and distributed all new and amended NSW offences within 4 days of their commencement and Commonwealth offences where a proclamation date is provided
- responded to all enquiries from Lawcodes users within 24 hours
- redeveloped the website version of Lawcodes and rolled this out to users in July 2016. The new interface provides more user-friendly navigation and additional functionality such as being able to view law part codes by:
  1. the penalty imposed
  2. specified imprisonment terms, and
  3. standard non-parole period offences.

The interface has also improved accessibility on tablets and mobile devices.

Case study

Exchanging information and experience with Commonwealth judicial education providers

The Commonwealth Judicial Education Institute (CJEI) is a network of Commonwealth judicial education providers. Established in 1994, the CJEI provides support and links, encourages the sharing of information and resources and conducts research to support judicial reform in Commonwealth countries.

Our Chief Executive, Ernest Schmatt PSM, is a member of the CJEI Advisory Board. He attended the CJEI’s 8th Biennial Meeting in Cochin, India in November 2016 to discuss the changing role and function of the judge. Mr Schmatt gave a presentation on new directions in designing and delivering judicial education including using electronic games as a teaching tool.
Performance of our capacity-building role

The Commission is committed to liaising and 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:

- participated in a symposium on “Legal error v judicial misconduct” in Jakarta, Indonesia at the invitation of the Judicial Commission of Indonesia
- signed a new memorandum of understanding with the Magisterial Services of PNG to provide professional development and a judicial training program for PNG magistrates
- exchanged information with the Judicial Commission of Indonesia to promote mutual cooperation and to share expertise and experience
- hosted 6 delegations of judicial officers and 2 visitors to our Sydney office including from PNG, Bangladesh, Nepal and China. Full details of these visits can be found in Appendix 12
- continued to maintain the Papua New Guinea (PNG) Sentencing Database, further to the memorandum of understanding signed last year
- continued to develop the pilot Integrated Criminal Case System Database (ICCSD) for the Supreme and National Courts of PNG, further to the memorandum of understanding renewed last year.

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 continuing judicial education.

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

- Our Director, Education participating as President of the Association for Continuing Legal Education Administrators (ACLEA), an international body established in 1964 with a focus on improving continuing legal education worldwide. ACLEA’s core values reflect what it prioritises: community, professionalism and volunteerism.
- Hosting a “train the trainer” program with the National Judicial College of Australia (NJCA) for judicial participants involved in the delivery of judicial education programs.
- Assisting the NJCA to present a National Judicial Orientation Program with the Judicial College of Victoria and the Australasian Institute for Judicial Administration.
- Attending and participating in the Commonwealth Judicial Education Institute (CJEI) Biennial meeting in Cochin, India. See case study on p 56.
- Participating in the CJEI hosted Commonwealth Chief Justices Meeting. Our Chief Executive is a member of the CJEI Advisory Board and presented a paper on the Commission’s work, the use of learning management systems and the use of technology to assist NSW judicial officers.
- Hosting a taskforce from the China Council for International Cooperation on Environment and Development to learn about our environmental law sentencing information. See case study on p 59.
- Hosting a meeting of the Asia Pacific Judicial Educators Forum.

Appendix 11 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.

During the year, we worked with the Judicial Council on Cultural Diversity to develop a specialised judicial training program for judicial officers to recognise and respond to the particular needs of court users from culturally diverse communities. This will be rolled out in July 2017 nationally and available from a link on our website at www.judcom.nsw.gov.au. See the case study on p 54.

Performance of contractual services

Revenue from our information technology contractual services at $773,000 was higher than last year’s $726,000. The increase is due to the PNG pilot Integrated Criminal Case System Database moving from development to pilot phase.

The Commission provided information technology services developed in the exercise of our functions for the following projects:

- the ACT Sentencing Database
- the Commonwealth Sentencing Database
- NSW Drug Court Case Management System and Forum Administration System for the NSW Department of Justice
- the PNG Sentencing Database
- the PNG pilot Integrated Criminal Case System Database
- the Queensland Sentencing Information System.

Launching the pilot Integrated Criminal Case System Database

Maintaining law and order is a complex challenge for PNG as in most emerging jurisdictions. One way the Commission has been able to assist the PNG justice system is through technology support.

In September 2016, our Deputy Chief Executive, Murali Sagi PSM, travelled to Port Moresby for the launch of the pilot Integrated Criminal Case System Database (ICCSD). The launch was the culmination of a request from the Chief Justice of PNG that the Commission develop the ICCSD for the PNG justice sector. The database is designed to improve the way criminal cases have been managed and dealt with in PNG.

The database will be able to track and monitor cases from the point of when police charge an offender to when a penalty is imposed and the matter moves to Corrective Services. All vital information will be shared among law and justice agencies and be accessible through this single source. The aim of the database is to improve the quality, currency of information and the way criminal cases are managed in PNG.

The pilot database will operate for 2 years in 3 provinces. It has been initially implemented in the National, Supreme and District Courts of PNG and will be rolled out for Police, Correctional Services and community-based corrections.

In October 2016 and May 2017, the Commission provided intensive training at our Sydney office for officers of the PNG National and Supreme Courts for loading information onto the database and for users to access the information.

Feedback we have received indicates that the pilot is meeting expectations to improve the administration of criminal cases.

Case study

Officers from the PNG National and Supreme Courts attended the Commission for training in loading information onto the ICCSD database in Sydney. They are pictured with Chief Executive Ernest Schmatt PSM (3rd from left) and Deputy Chief Executive Murali Sagi PSM (2nd from right).
Case study

High level Chinese delegation learns about our support for the courts and sentencing information for environmental offences

The China Council for International Cooperation on Environment and Development (CCICED) is a high-level advisory body established in 1992 to strengthen cooperation and exchange information between China and the international community in the field of environment and development. The Vice Premier of China hosts the Council. The Council's role is to conduct research and provide policy recommendations about sustainable development to the Chinese Government.

During the year, we hosted a taskforce of Chinese and international experts who advise the Council on environmental law and its implementation.

Members of the taskforce were very interested to learn about the Commission’s support for the courts. Of particular interest was the information we publish on the Judicial Information Research System (JIRS), including the Land and Environment Court sentencing database. The database records the factors which the Land and Environment Court considers when sentencing environmental offenders. Our Research Director also spoke about a new research project (see p. 33) which will assist the Land and Environment Court with transparent and consistent sentencing.

A taskforce of Chinese and international experts was set up by the Chinese Council for International Cooperation on the Environment to advise the Chinese Government on environmental law. The taskforce visited the Commission on 20 July 2016 and are pictured above with Chief Executive, Ernest Schmidt PSM.
Assisting our northern neighbour with magistrates’ professional training

Since 2007, the Judicial Commission has provided capacity-building assistance to help develop PNG magistrates’ skills and knowledge. In June this year, we partnered with the Local Court of NSW and the PNG Centre for Judicial Excellence to run a week-long orientation program in Port Moresby. The Australian Government, through the Justices Services and Stability for Development Program, funded the training.

Our Director, Education, Una Doyle, with PNG and NSW Local Court senior magistrates, facilitated the program for 20 newly appointed PNG magistrates. The training covered all required judicial skills including judicial decision-making and communication, sentencing, alternative dispute resolution, family violence, bail and judicial practice.

Satisfaction was very high: magistrates who attended were 97% satisfied with the orientation program and 100% satisfied with its usefulness and relevance.
Our people helped to realise our mission to promote the highest standards of judicial behaviour, performance and decision making.

Results 2016–17 .......................... 62
Challenges 2016–17 ...................... 62
The year ahead 2017–18 ................. 62
Performance and satisfaction .......... 63
Results 2016–17

We employed 40 people to work in judicial education, legal research, complaints, information technology and corporate services: see p 63.

91% staff satisfaction as measured in our yearly staff survey: see p 63.

Our workplace is culturally and linguistically diverse, meeting NSW Government benchmarks: see p 65.

A low 5.5% staff turnover, reducing our risk of losing highly-skilled, experienced and professional people: see p 65.

51% of staff furthered their professional training, adding to the Commission’s knowledge and skills base: see p 66.

Our workplace was safe with no workplace injury claim and no work-related health and safety breaches: see p 68.

Challenges 2016–17

• Planning for and implementing our office relocation in late 2016.
• Encouraging busy staff to balance their work commitments with training and development opportunities.
• Incorporating lean management processes into our management system.
• Building teamwork and cooperation within the organisation.
• The development of further strategies to assess and understand where the Commission’s productivity can be improved.

The year ahead 2017–18

• Under our EEO Management Plan, we will continue to foster a workplace culture that supports employment equity and diversity and is aligned with the workforce strategies of the NSW Public Sector.
• Managers will continue to encourage staff to identify personal training opportunities during their yearly performance reviews. The Commission is committed to ensuring that staff maintain and improve their skills and knowledge.
• The Commission will continue to value its staff and investigate opportunities to refresh inter-office communication.
• The development of further strategies to assess and understand where the Commission’s productivity can be improved.
Performance and satisfaction

Our staff

Our staff are essential to our success and to ensuring we meet our goals and deliver our services.

The Commission employed 40 people (34 full-time equivalent) in judicial education, legal research, complaints, information technology and administrative roles (last year: 41). Figure 12 shows the average number of employees in these roles over a 5-year period. Our small staff numbers mean that retired judicial officers sometimes help us with specialised tasks such as updating bench books and examining complaints.

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

Staff satisfaction at a high 91%

Our annual internal staff survey measured how committed, stimulated and supported our people felt. This year, we received a 55% response rate (22 of 40).

Overall satisfaction with the Commission as an employer remains very high. 100% of the staff who responded strongly agree or agree that:

- their work directly contributes to the Commission’s mission and purpose (last year: 100%)
- they are willing to put in extra effort to achieve a professional result (last year: 100%)
- they achieve a work/life balance with the Commission’s flexible work practices (last year: 100%).

The majority of staff (16) agree that there is effective communication of information and there has been an improvement since last year. Two people expressed dissatisfaction and 4 were neutral.

Other results are:

- 95% of staff consider that their working environment is safe, secure and comfortable (last year: 96%): see p 68
- 91% are engaged in their current role (last year: 100%)
- 91% are provided with sufficient resources and time to undertake their work (last year: 100%)
- 91% of staff felt that their requests for training to meet their professional development needs were well supported (last year: 96%)
- 86% of staff felt there were good levels of teamwork and cooperation within projects that they were required to work on at the Commission (last year: 96%)
- 86% of staff felt trusted and valued at the Commission (last year: 91%).

Commission rates highly in NSW Government 2017 People Matter Employee Survey

The Public Service Commission conducted a People Matter Employee Survey in 2017. The survey measured employee engagement, senior managers, communication, engagement with work, high performance, public sector values, and diversity and inclusion. Figure 13 shows that, with a 50% response rate, the Commission rated very highly in 7 specific areas compared to the overall public sector.

Figure 12. 5-year comparison of average number of employees by employment category

<table>
<thead>
<tr>
<th>Year</th>
<th>Total</th>
<th>Senior executive</th>
<th>Administration/management support</th>
<th>Sentencing/judicial education</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016-17</td>
<td>32</td>
<td>4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2015-16</td>
<td>33</td>
<td>4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2014-15</td>
<td>34</td>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2013-14</td>
<td>31</td>
<td>4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2012-13</td>
<td>39</td>
<td>4</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Figure 13. Commission results in People Matter Employee Survey 2017

<table>
<thead>
<tr>
<th>Percentage</th>
<th>Themes</th>
<th>Difference from Public Sector</th>
</tr>
</thead>
<tbody>
<tr>
<td>88%</td>
<td>Diversity and inclusion</td>
<td>+ 20</td>
</tr>
<tr>
<td>87%</td>
<td>Engagement with work</td>
<td>+ 15</td>
</tr>
<tr>
<td>78%</td>
<td>High performance</td>
<td>+ 15</td>
</tr>
<tr>
<td>75%</td>
<td>Employee engagement</td>
<td>+ 10</td>
</tr>
<tr>
<td>74%</td>
<td>Communication</td>
<td>+ 14</td>
</tr>
<tr>
<td>74%</td>
<td>Public sector values</td>
<td>+ 13</td>
</tr>
<tr>
<td>62%</td>
<td>Senior managers</td>
<td>+ 15</td>
</tr>
</tbody>
</table>

63
Community involvement
Commission staff throughout the year engage with the community in a variety of ways. Throughout the year, staff have given presentations about the Commission’s work and role in the justice system. We provided information to students through our relationship with the Rule of Law Institute (see p 55) and community groups. The Commission regularly hosted national and international visitors to our Sydney office (see case study on p 59).

Commission staff are also involved in Aboriginal cultural awareness, the Ngara Yura Program, as a way to promote cross-cultural communication; see p 24 for more information. Details about about visitors to the Commission are found in Appendix 13, presentations given during the year are found in Appendix 15.

Assessing and promoting productivity
The Commission knows that what really drives productivity is a clear operating framework, the provision of space for innovation and the retention of highly-skilled people who enjoy their work and feel valued. Our internal staff survey shows that staff are satisfied with these measures (see p 63). We are also looking at other proactive ways to assess and promote productivity, including:

- tailoring our performance management system to provide for regular reviews between supervisors and employees as well as formal annual employee appraisals
- encouraging constructive feedback to be given between the executive, managers and employees
- implementing a regular reporting framework of productivity measured against targets conducted each month, with the Commission monitoring this at their monthly meetings
- incorporating the Commission’s steps to improve productivity into the yearly internal audit program, see p 76.

The development of further strategies to assess and understand where the Commission’s productivity can be improved is one of our challenges for 2017–18.
Providing for workforce diversity

We provide a diverse, fair and safe workplace for our people. 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 majority of our people are women (27 or 71%) and 6 people (16%) are from a culturally diverse background: see Figure 14. 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 and there were no discrimination complaints lodged with the Anti-Discrimination Board of NSW (last year: 0) nor were there any harassment complaints made (last year: 0).
- opportunities to act in higher positions
- flexible work arrangements for staff with family and personal obligations
- information is available about the NSW Government Spokeswomen’s Program, and the government’s employment and development strategy “Making the public sector work better for women”.

The percentages in Figure 14 reflect staff numbers excluding casual staff as at 30 June 2017. A benchmark level has not been reported for people with a disability or people with a disability requiring a work-related adjustment (the target is 1.5%). The Commission has no staff member employed in these categories.

Retaining our staff

The turnover rate for permanent staff decreased this year to 5.5% (last year: 13.7%) with only 2 staff members leaving. This remains well below our acceptable turnover rate of 15%, suggesting that we are an employer of choice for the majority of our people: see Figure 15.

Our retention rate is very high with 20 people (58%) having 10 or more years’ service and a further 6 (17.44%) having 5 or more years’ service.

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 100% 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.
Satisfactory staff attendance
During 2016–17:

- no industrial action occurred
- average sick leave was 7 days per employee (last year: 6 days).

Consultants
This year we engaged no consultants.

Providing professional training and development
Employees identify their training and development needs in relation to their performance improvement 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 financial year’s result has seen staff take-up of training opportunities remain steady. Nineteen staff members (51%) attended 59 training days at a cost of $21,937 (last year: 102 training days at a cost of $34,602): see Figure 16. 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)
- in-house training on using legal search engines.

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 24 for information about this program).

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.

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.

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 benefits.

Staff were awarded a 2.5% salary increase from 1 July 2016 which reflected the increase provided to public sector employees under the Crown Employees (Public Sector — Salaries 2016 Award. Senior executives received a 2.5% increase from 1 July 2016.

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.

Figure 16. Staff training days 2012–17
Recognising our achievements
Commission staff attended the Australasian Reporting Awards held in June 2017 in Melbourne to accept a gold award for our 2015–16 Annual Report. This was our seventh consecutive gold award. Our report was also nominated as a finalist in the governance reporting special award.
Remuneration of senior management

The Commission determines senior executive remuneration in accordance with section 6 of the Judicial Officers Act 1986. Remuneration packages are equivalent to the NSW Public Service Senior Executive Bands. Figure 17 shows the number of executive positions at the Commission and their equivalent remuneration levels for Public Service Senior Executives. Table 13 shows the average total remuneration package for senior executives within the appropriate band and includes a percentage indicating what amount of the Commission’s employee-related expenditure in 2016–17 was related to senior executives. A comparison is made with the percentage rate in 2013–16.

Figure 17. Executive positions 2014–17

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<tbody>
<tr>
<td>Band 3</td>
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</tr>
<tr>
<td>Band 2</td>
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</tr>
<tr>
<td>Band 1</td>
<td>2</td>
<td>2</td>
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</tbody>
</table>

24.05% of the Commission’s employee-related expenditure in 2016–17 was related to senior executives, compared to 25% in 2015–16.

Table 13. Senior executive remuneration

<table>
<thead>
<tr>
<th>Band</th>
<th>Range</th>
<th>Average remuneration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Band 3</td>
<td>320,901–452,250</td>
<td>366,850</td>
</tr>
<tr>
<td>Band 2</td>
<td>255,051–320,900</td>
<td>261,300</td>
</tr>
<tr>
<td>Band 1</td>
<td>178,850–255,050</td>
<td>209,800</td>
</tr>
</tbody>
</table>

Ensuring a safe working environment

The work health and safety (WHS) of our employees is a high priority. The Commission adopts a risk management approach to identifying and assessing health and safety risks in the workplace: this approach is reflected in our work health and safety policy available on our intranet (see p 78). Our Audit and Risk Management Committee oversees our work, health and safety compliance: see p 74. This year, we focused on:

- identifying hazards
- minimising risks
- conducting the yearly emergency evacuation drill
- reviewing the contents of first aid kits maintained in the workplace.

We have a trained WHS representative who conducts quarterly safety inspections of the premises. Five employees are trained as fire wardens with training being regularly updated by the building management. All staff participate in evacuation drills. Three employees are trained to deliver first aid, CPR and defibrillation. Our first aid kits are well maintained. There was:

- no workplace injury claim lodged this year (last year: 1)
- no work-related illnesses or prosecutions under the Work Health and Safety Act 2011 (last year: none).
- no grievance complaint lodged (last year: 1).

We encourage staff to receive influenza immunisation and reimburse the cost of the booster. Ergonomic assessments of workstations in the new premises were undertaken to help staff tailor and use their new stand-up desks effectively.

Employee Assistance Program

Our Employee Assistance Program (EAP), initiated last year, facilitates professional counselling to help staff deal with a range of issues like trauma experienced during the course of business and learn ways of dealing with stress, anger and passive aggression. The Commission is committed to providing an EAP for employees if the need arises. Employees also have access to the EAP provider’s monthly e-flyer and portal, which gives interactive information on a number of wellbeing tools such as a Wellbeing Screener and a Smoking Cessation Planner. The newsletter addresses a number of important holistic issues such as how to tackle stress at home and at work.

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 their department’s progress. Departmental managers have regular meetings with employees to discuss workflow and work-related issues. As noted in our yearly staff survey, how we communicate at the Commission will be reviewed. We will be looking at implementing a monthly staff newsletter and a suggestion box for people to suggest ways of engaging with each other more effectively.
Our governance, policies and processes

The Commission had a robust approach to governance with active Commission members and an independent Audit and Risk Management Committee.

Results 2016–17 .................................. 70
Challenges 2016–17 .............................. 71
The year ahead 2017–18 ......................... 71
Our governance framework .................... 71
Audit and risk management ..................... 74
Our governance policies ........................ 78
Our processes and technology ................. 80
Sustainability .................................... 82
Results 2016–17

- 10 Commission meetings and 4 Audit and Risk Management Committee meetings ensured robust governance: see pp 72, 75.
- We have established and are maintaining a Contracts Register: see p 73.
- We have established and are maintaining a Conflict of Interests Register: see p 73.
- The Audit and Risk Management Committee is compliant with the requirements of the NSW Treasury Policy Paper TPP 15-03: see p 76.
- An Internal Audit Plan reviewed the payroll and leave processes and records management: see p 76.
- Considered and finalised the internal audit recommendations on data integrity: see p 76.
- Our processes ensured the delivery of high quality services in a safe and efficient workplace: see p 78.
- Our multicultural policies and services program promoted diversity, access and equity: see p 78.
- Our policies ensured safety, security, confidentiality, access, availability, equity, risk management, integrity, compliance and assurance: see p 78.
- Relaunched our new public website: see p 81.
- Planned and prepared for the successful relocation of the office to more energy efficient premises: see p 82.
- We far exceeded our sustainability objective and over 5 years have achieved a 41.5% reduction in our energy consumption: see p 82.
Challenges 2016–17

- Review of, and compliance with, internal audit recommendations, which must be balanced with our core operations.
- The continuing high cost of online access to legal subscription services continues to put pressure on our law library’s small budget.

The year ahead 2017–18

- The Commission will continue to comply with requirements of the NSW Treasury Policy Paper TPP 15-03: Internal Audit and Risk Management Policy for the NSW Public Sector through our Audit and Risk Management Committee.
- The Commission will continue to maintain effective policies that ensure safety, security, confidentiality, access, availability, equity, risk management, integrity, compliance and assurance.
- The Commission will continue to ensure the delivery of high quality services in a safe and efficient workplace.
- The Commission will continue to promote diversity, access and equality through our multicultural policies and services program.
- The Commission will review and maintain the Conflict of Interests Register.
- The Commission will review and maintain the Contracts Register.
- The Commission will continue its robust approach to governance.

Our governance framework

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

<table>
<thead>
<tr>
<th>Our governance framework ensures that:</th>
<th>We fulfil our statutory functions effectively and efficiently.</th>
<th>Risk management and auditing processes are properly understood and managed.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Our leadership helps us to realise our vision, carry out our mission, hold to our values and achieve our goals.</td>
<td>We are accountable for our actions.</td>
<td></td>
</tr>
</tbody>
</table>
Governance responsibilities

The Chief Executive has overall accountability and responsibility for the Commission’s operations. The Judicial Commission meets monthly to make and review governance decisions and set strategic directions. The Audit and Risk Management (ARM) Committee provides independent advice to the Chief Executive on risk management, control and governance processes.

Responsibilities of official and appointed Commission members

The Commission members set strategic directions, appoint the executive management team, approve budgets and publications, contribute to 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 meetings

Ten Commission meetings were held during the year (last year: 10). Figure 18 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 1 must be an appointed member. The Chief Executive attends all meetings to report on the Commission’s operations. Meeting papers are circulated 1 week before the meeting to allow sufficient time for members to review agenda items and seek further information.

In 2016–17, among other matters, Commission members:

- examined 72 complaints made about judicial officers
- approved publications, including The Judicial Review (2 issues) and Research Monograph, No 40, “Transparent and consistent sentencing in the Land and Environment Court of NSW: orders for costs as an aspect of punishment”
- approved a memorandum of understanding with the Magisterial Services of Papua New Guinea (PNG) for 2 years to provide professional development and training programs for PNG magistrates including orientation and exchange programs
- approved office relocation to 60 Carrington Street Sydney and monitored whether there were any risks that would require further monitoring and management.

Figure 18.  Commission members’ meeting attendance for 2016–17

<table>
<thead>
<tr>
<th>Member</th>
<th>Meetings attended</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hon Chief Justice T Bathurst AC</td>
<td></td>
</tr>
<tr>
<td>Hon Justice M Beazley AO</td>
<td></td>
</tr>
<tr>
<td>Hon Justice B Preston</td>
<td></td>
</tr>
<tr>
<td>Hon Justice M Walton</td>
<td></td>
</tr>
<tr>
<td>Hon Justice D Price AM</td>
<td></td>
</tr>
<tr>
<td>Her Hon Judge P Hock*</td>
<td></td>
</tr>
<tr>
<td>Hon Judge G Henson AM</td>
<td></td>
</tr>
<tr>
<td>Deputy Chief Magistrate J Mottley**</td>
<td></td>
</tr>
<tr>
<td>Chief Commissioner Kite SC</td>
<td></td>
</tr>
<tr>
<td>Dr J Cashmore AO</td>
<td></td>
</tr>
<tr>
<td>Prof B McCaughan AM</td>
<td></td>
</tr>
<tr>
<td>Mr D Giddy</td>
<td></td>
</tr>
<tr>
<td>Mr Y Miller</td>
<td></td>
</tr>
</tbody>
</table>

Meetings attended
Meetings eligible to attend

* Acting Chief Judge, District Court of NSW – November 2016, June 2017.
** Acting Chief Magistrate, Local Court of NSW – September and October 2016.
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 education committees to assist in carrying out designated responsibilities. Appendix 4 has details about these committees. The Commission seeks independent professional advice when necessary to perform certain functions.

A list of the Judicial Commission members, including the President, the official members and the appointed members can be found at pp 14–16. See our organisational structure on p 2 for more details.

Conflicts of interest
Official members are judicial officers therefore 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 participates in any discussion or decision where that member has a possible conflict of interest.

A register of conflicts of interest for Commission staff has been created and maintained in this financial year. We have also established and maintained a contracts register. The registers will be reviewed and updated progressively on an ongoing basis.

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.

Role of the 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 2015. 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.


Appointment of the 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 all staff members, and to anyone engaged to provide services, information or advice to the Commission. The Code, modelled on the Code of ethics and conduct for NSW government sector employees, is published on the Commission’s intranet and website. New employees receive a copy of the Code in their induction package and are required to acknowledge and sign the document.

The Code of conduct 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.

The Code of conduct also sets out what legislation applies to Commission staff apart from the Judicial Officers Act 1986. Such legislation includes:

- Anti-Discrimination Act 1977
- Crimes Act 1900
- Government Information (Public Access) Act 2009
- Independent Commission Against Corruption Act 1988
- Industrial Relations Act 1996
- Privacy and Personal Information Protection Act 1998
- Public Interest Disclosures Act 1994
- Public Finance and Audit Act 1983
Relationship with the NSW Government

The Judicial Officers Act 1986 established the Judicial Commission of NSW 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 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.

Changes to legislation

The Industrial Relations Amendment (Industrial Court) Act 2016 (commenced 8 December 2016) amended the Judicial Officers Act 1986 to:

• amend the definition of a judicial officer. This amendment changed the official membership of the Judicial Commission. With the dissolution of the Industrial Court, the new head of jurisdiction of the Industrial Relations Commission of NSW (IRC) is the Chief Commissioner who replaces the former President of the IRC as both the head of the IRC and an official member of the Judicial Commission.
• amend the definition of a judicial officer so that a member of the IRC no longer includes a judicial member as the IRC no longer has judicial members.

The Regulatory and Other Legislation (Amendments and Repeals) Act 2016 (commenced 14 November 2016) amended the Judicial Officers Act. This minor amendment corrected a clerical error and did not affect our operations.

Audit and risk management

The Audit and Risk Management (ARM) Committee operates under a charter that the Commission has approved.

The ARM Committee is responsible for monitoring:

- 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
- Compliance with NSW Treasury Guidelines
- Management responses to audit reports
- Internal audit results
- Risk management strategies: their effectiveness and internal results
Our Audit and Risk Management Committee

The ARM Committee is Mr Alex Smith AM (Chair), Mr Peter Whitehead (external independent member), Mr Murali Sagi PSM (internal member until 1 March 2017) and Dr Colin Gellatly AO (independent member from 1 March 2017). Their qualifications and details are outlined below. On 1 March 2017, the ARM committee became fully independent in accordance with NSW Government requirements in TPP 15-03: Internal and Audit and Risk Management Policy for the NSW Public Sector: Policy and Guidelines Paper.

Mr Alex Smith AM was appointed independent member on 1 July 2009 until 30 June 2014 and appointed independent Chair on 1 July 2014 until 30 June 2016. The Chair from 1 July 2017 will be taken by Dr Colin Gellatly and Mr Smith will continue as an independent member until 30 June 2018. Mr Smith is the former Deputy Director General, Department of Premier and Cabinet, NSW and has had over 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 Murali Sagi PSM, Deputy Chief Executive, Judicial Commission, internal member until 1 March 2017. Mr Sagi’s qualifications and biography are found on p 17.

Dr Colin Gellatly AO was appointed an independent member on 1 March 2017 and will be the Chair as from 1 July 2017 for 3 years. Dr Gellatly has had extensive experience in the public service and local government, having been Director General of the NSW Department of Premier and Cabinet and is the independent Chair of the Newcastle City Council’s Audit and Risk Committee.

Mr Peter Whitehead BA LLB TEP was appointed independent Chair on 31 July 2008 until 30 June 2014, appointed independent member on 1 July 2014 until 30 June 2016, and renewed for 1 year from 1 July 2016. He is currently the Client Director of the Myer Family Company, and until 30 June 2009 was the NSW Public Trustee.

In June 2017, Ms Robyn Gray BA LLB GAICD, was appointed as an independent member for 2 years effective from 1 July 2017. Ms Gray is Deputy Chair of the Commonwealth Director of Public Prosecutions Audit Committee and an independent member of the Executive Board of Office of the NSW Director of Public Prosecutions and the Legal Aid NSW Audit and Risk Committee.

Others invited to attend the committee meetings throughout the year included the Chief Executive, Mr Ernest Schmatt PSM (see biography on p 17); the Manager, Corporate Services, Mr Malcolm Hozack; Deputy Chief Executive, Mr Murali Sagi PSM (from 1 March 2017); Mr Phil O’Toole of IAB Services; and, Mr David Daniels of the Audit Office of NSW.

ARM Committee outcomes 2016–17

Four meetings of the ARM Committee were held during the year (last year: 4). Figure 19 provides details of attendance at those meetings. The ARM Committee monitored and provided advice about the following 4 areas:
1. Compliance with Treasury Guidelines
2. Internal audit
3. Risk management and business continuity
4. External audit.

Figure 19. Meeting attendance by Audit and Risk Management Committee 2016–17
1. Compliance with Treasury Guidelines
The ARM Committee ensured compliance with NSW Treasury Policy Paper TPP 15-03: Internal and Audit and Risk Management Policy for the NSW Public Sector.

The Commission’s Internal Audit and Risk Management Attestation for 2016–17 is on p 77. The ARM Committee also monitored the continuing impact of the Treasury cash management reforms.

2. Internal audit
The ARM Committee noted the Internal Audit Plan for 2016–17 consisted of the review of the:
• payroll and leave processes
• records management.

The Committee also:
• used recently developed control self-assessment review reports of risk mitigation
• monitored performance of the outsourced internal audit service provider, Centium
• considered and finalised the Internal Audit of Data Integrity early in the reporting year.

3. Risk management and business continuity
The ARM Committee:
• 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 2015–17
• monitored the impact of Treasury Circulars and Policy Papers issued during the year
• considered the risks involved relocating the office and the resultant move.

4. External audit
The ARM Committee liaised with the external auditor, the Audit Office of NSW, and monitored the NSW Audit Client Service Plan for 2016–17. The Committee also reviewed the observations on early close procedures the Commission performed prior to 30 June 2017.

Forward plan
In 2017–18, the ARM Committee will continue to ensure compliance with the requirements of the NSW Treasury Policy Paper TPP 15-03: Internal Audit and Risk Management Policy for the NSW Public Sector.

Organisational responses to Internal Audit Plan
The Internal Audit Plan for 2016–17 included recommendations for control improvements of the:
• Internal Audit of Payroll and Leave Processes
  These recommendations were accepted and the Commission agreed to implement actions designed to address the findings. Prior to the internal audit taking place, the Commission’s management had already made many improvements to payroll and leave activities and controls.
• Internal Audit of Records Management Review
  These recommendations were accepted and the Commission has been agreed to implement actions designed to address the findings, subject to availability of resources and budget constraints. Prior to the audit taking place, management had already made many improvements to processes and controls.
Internal Audit and Risk Management Attestation for the 2016–17 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 aspects, compliant with the eight (8) core requirements set out in Treasury Policy Paper TPP15-03 Internal Audit and Risk Management Policy for the NSW Public Sector, specifically:

Core requirements
Risk Management Framework
1.1 The agency head is ultimately responsible and accountable for risk management in the agency — Compliant
1.2 A risk management framework that is appropriate to the agency has been established and maintained and the framework is consistent with AS/NZS ISO 31000:2009 — Compliant

Internal Audit Function
2.1 An internal audit function has been established and maintained — Compliant
2.2 The operation of the internal audit function is consistent with the International Standards for the Professional Practice of Internal Auditing — Compliant
2.3 The agency has an Internal Audit Charter that is consistent with the content of the ‘model charter’ — In transition

Audit and Risk Management Committee
3.1 An Independent Audit and Risk Committee with appropriate expertise has been established — Compliant
3.2 The Audit and Risk Committee is an advisory committee providing assistance to the agency head on the agency’s governance processes, risk management and control frameworks, and its external accountability obligations — Compliant
3.3 The Audit and Risk Committee has a Charter that is consistent with the content of the ‘model charter’ — Compliant

Membership
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, Deputy Chief Executive — Appointed on 31 July 2008.

These processes demonstrate that the Judicial Commission of NSW has established and maintained frameworks, including systems, processes and procedures for appropriately managing audit and risk within the Judicial Commission of NSW.

E J Schmatt PSM
Chief Executive
Judicial Commission of NSW
Dated: 21 September 2017

Murali Sagi PSM
Agency Contact Officer
Deputy Chief Executive
Our governance policies

Our governance policies manage our risks and ensure 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 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.

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

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 Annual Attestation Statement below provides assurance to the Parliament and people of NSW that the information we hold is appropriately protected and handled. The policy is published on our intranet.

Multicultural policies and services program
We are committed to providing a diverse, fair and safe workplace for our people. 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 financial year we:

• developed a cultural diversity training package for judicial officers
• conducted cross-jurisdictional seminars on multicultural issues such as “Accommodating Muslims in Court”
• provided accredited interpreters for overseas delegations who visited us during the year, when this was required: see Appendix 12
• provided information about our Ngara Yura (Aboriginal Cultural Awareness) program on our website and in our annual report
• employed an Aboriginal Project Officer to advise on Aboriginal cultural awareness through the Ngara Yura Program
• provided interpreting and translation services for complainants where required.


I, Ernest John Schmatt, Chief Executive, am of the opinion that the Judicial Commission of NSW had an Information Security Management System in place during the financial year being reported on 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: 21 September 2017
Our key multicultural strategies for 2017–18 will include:

- maintaining the cultural diversity training package for judicial officers
- providing face-to-face 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*
- assisting complainants with translation and interpreting services, if this is required
- providing accredited interpreters for overseas delegations who visit us during 2017–18.

See also our workplace diversity report in the “Our people” section on p 65.

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 $21,725, comprising Workers Compensation premium of $14,505 and a general insurance premium of $7,220 (last year total of $20,754).

Privacy management plan

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

Our draft Privacy Code of Practice and a draft Privacy Management Plan are in the process of 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. A privacy complaint form, which is an application for internal review under the PPIP Act can be downloaded from the Commission’s website under “Privacy policy” or under “Forms and feedback”.

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 cannot be made for this information under the GIPA Act.

For other information in relation to the Commission’s administrative, research, sentencing and education functions, an access application form can be downloaded from the Commission’s website under “Access to information” or from “Forms and feedback”.

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 2015–16
- Research Monograph No 40, “Transparent and consistent sentencing in the Land and Environment Court of NSW: orders for costs as an aspect of punishment”
- updates to the following bench books and handbooks in various formats:
  - *Civil Trials Bench Book*
  - *Criminal Trial Courts Bench Book*
  - *Equality before the Law Bench Book*
  - *Local Court Bench Book*
  - *Sentencing Bench Book*
  - *Children’s Court of NSW Resource Handbook*.

Access applications

We received 2 formal access applications, including withdrawn applications (but not invalid applications). We granted access in part to both applications. For 1 application, we refused the formal access application in part because the information was already available. For 1 application, we refused the formal access application in part 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 of the GIPA Act). See also Appendix 16.
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 support
The library provides support for the Commission’s research, education and publishing programs. Legal and other related information is gathered and distributed, materials are sourced and supplied, and legal research tasks are undertaken. Training is organised to increase the skills of our staff in using online legal information and to maximise the Commission’s investment in legal information resources.

A major concern is the high cost of online access to legal subscription services, which have made great inroads into the library’s small budget and the Commission’s expanded research and publishing programs which have put pressure on slim resources. While subscriptions to core materials are being maintained there was 1 cancellation in this reporting period. We have completed the third year of a 3-year contract negotiated by the NSW Justice Consortium with 2 of the largest legal publishers. This guaranteed a consistent pricing structure for the 3-year period and gave some certainty to the library’s expenditure.

The Commission’s move to smaller premises necessitated a reduction of almost 45% of the library’s holdings. Ceased journals, gazettes and parliamentary Hansard were disposed of as all of these materials were available online. The book collection was not culled and 6 new items were added (last year: 30) to the online catalogue during the 2016-17 financial year.

The library currently holds corporate membership of the Australian Library and Information Association (ALIA), the Australian Law Librarians’ Association (ALLA), the Australasian Institute of Judicial Administration (AIJA) and the International Association of Law Libraries (IALL).

One of the librarian’s responsibilities is to prepare and oversee the binding of the confidential Meeting Papers of the Commission, a significant and historical archive which now contains 266 volumes.

There was a 66% reduction in reference enquiries (last year: 290% increase). This drop is primarily due to responsibility for full verification of references in The Judicial Review articles being transferred in this reporting period to the publishing team.

The volume of material obtained externally decreased by 49%. This steady decrease mirrors a corresponding increase in more material, especially periodicals, being made available online, together with the ongoing digitisation of historical texts and treatises. Consequently, requests for interlibrary loan and document delivery are diminishing.

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 45 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 using 2 platforms, the Judicial Information Research System (JIRS) (see p 35) and our public website at www.judcom.nsw.gov.au. JIRS is an online database for judicial officers and the courts. It is provided to legal practitioners in their offices or chambers on a subscription basis. We launched a new, free-to-view user-friendly version of our website in July 2016. Our website includes:

- information about the Commission and the complaints process on our public website: see p 49
- a complaint form with instructions for lodging a complaint about a judicial officer, which may be printed
- Lawcodes: see p 56
- 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 Children’s Court of NSW Resource Handbook and the Land and Environment Court of NSW Commissioner's Handbook: see p 31
- publication orders on the NSW Government’s online shop at www.shop.nsw.gov.au
- an access application form for the purposes of the GIPA Act which may be printed: see p 79
- our current and previous annual reports.
Managing our records
Approved 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 enhancements made to JIRS throughout the year are reported at p 38.

Case study

Relaunching our new public website
In mid-2015, we set to work to modernise the Commission’s public website. A big driver was making the website’s interface device compatible, so that the website could be used effectively on mobiles and tablets.

As with any move to upgrade older underlying technologies containing many different types of information, there were multiple issues to resolve and complexities. Challenges included importing and exporting a large amount of data, checking links and maintaining the integrity of the original document, which was only available in a much older format.

Hours were spent reviewing and revising forms, governance documents and introductory material. The revised public website was launched in July 2016 and has been well received. Website usage has had an overall increase of 22% over the last financial year.
Sustainability

We have achieved a 41.5% 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. Our environmental sustainability report is available on our intranet site.

Figure 20 graphically shows that since the last financial year, we have achieved a 38.1% reduction in our energy consumption (last year: 3% reduction). 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 1.045 tonnes of waste paper (last year 1.1 tonnes) and bought 402 reams of 100% recycled paper (last year: 434). 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 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 seminar and conference papers electronically.

Case study

Relocation to new premises

The relocation to new premises was a major focus and challenge during the 2016–17 year. After 29 years at 301 George Street, above Wynyard Station, new premises were sourced and fitted out. A tight timeframe emerged as the departure date was brought forward and was non-negotiable. 301 George Street was to be demolished as part of a $1 billion redevelopment of the Wynyard precinct.

The Commission engaged and worked closely with a firm of specialist architects and project managers to realise our vision for a contemporary office space. The entire staff of the Commission mobilised to help. Visits to the new premises were conducted and staff were given a chance to voice opinions about their new office space. This was also an opportunity to provide staff with new, adjustable desks, ergonomic chairs, much more light and the latest in technology with each staff member gaining 2 computer screens. Space was also at a premium but consultation with staff initiated an extensive clear-out of outdated documents, technologies and books.

Staff focused on lessening the clutter that had accumulated over many years in the one office.

Formal training sessions were provided on work health and safety in relation to packing, unpacking and lifting weights.

Our IT department worked long hours and over several weekends to make the transition to the new premises seamless. The audio and visual system for the conference space offered some challenges but all steps were taken to ensure that the fit out budget was not exceeded. Staff now enjoy a modern, efficient work space and the Commission has received a number of compliments about the conference space from visiting delegations and judicial officers attending our seminars.

Our new premises, 60 Carrington Street, Sydney, NSW, 2000, has a current Building Energy Efficiency Certificate with a 4 Star Nabers Energy Rating. The certificate is issued under the Building Energy Efficiency Disclosure Act 2010 (Cth). This Act encourages energy efficiency in a disclosure affected building. The building features an efficient commercial lighting control system and new energy efficient lighting.
Our financial result was $1.24 million surplus, with $7.578 million from government contributions and other revenue, and our expenses were $6.338 million.
Results 2016–17

Revenue was $7.578 million including $6.766 million in government revenue: see p 85.

Surplus of $1.24 million compared to a budgeted surplus of $1.44 million: see p 85.

68.7% increase in revenue compared to previous financial year’s decrease of -26.7%: see p 85.

Expenses contained with a 8.5% increase, compared to last year’s -5.4% decrease: see p 85.

Self-generated revenue of $773,000 from contractual arrangements for the provision of goods and services: see p 85.

Total assets increased by $1.647 million: see p 85.

Challenges 2016–17

- 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 2017–18

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

Image on previous page: Mr Malcolm Hozack, Manager, Corporate Services, oversees the administration of the Commission’s payroll, finances and corporate services.
Financial summary

Our financial result this year was a $1.24 million surplus, up from last financial year’s deficit of $1.347 million. Our income of $7.578 million was derived from government contributions of $6.766 million and the remaining $812,000 from the provision of information management services to other jurisdictions and the sale of publications.

Revenue
Figure 21 shows that our principal source of revenue is government contributions of $6.766 million (68.7% increase) compared to last year of $3.755 million. This increase of around $3.01 million is due to 2 factors:

• The 2015–16 recurrent allocation was reduced by around $1.4 million to reduce the cash at bank balance to the buffer amount as set under the NSW Treasury cash management reforms. Recurrent allocation has reverted this year.
• The 2016–17 capital allocation was increased by around $1.6 million for the new office fit out.

Other revenue items were $773,000 from contractual arrangements for the provision of goods and services (last year: $726,000) and $39,000 from other sources (last year: $12,000).

Expenditure
Figure 22 shows that our expenses this financial year totalled $6.338 million, being an increase of $498,000 from last financial year (last year $5.84 million). Employee-related expenses were $4.663 million or 73.57% of total expenses.

Assets
Total assets increased by $1.648 million.

Liabilities
Total liabilities increased by $407,000 mainly due to an increase in accruals and payment of amount owed to Treasury: see Table 14.

Payment of accounts
Table 15 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.
Financial report

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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 have been prepared in accordance with:
  • applicable Australian Accounting Standards (which include Australian Accounting Interpretations); and
  • the requirements of the Public Finance and Audit Act 1983; Public Finance and Audit Regulation 2015.

(b) the financial statements exhibit a true and fair view of the financial position as at 30 June 2017 and financial performance of the Judicial Commission of New South Wales for the year ended 30 June 2017; 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
Dated: 4 September 2017
INDEPENDENT AUDITOR’S REPORT

Judicial Commission of New South Wales

To Members of the New South Wales Parliament

Opinion

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 2017, the statement of comprehensive income, statement of changes in equity, statement of cash flows, for the year ended, notes comprising a summary of significant accounting policies and other explanatory information.

In my opinion the financial statements:

- give a true and fair view of the financial position of the Commission as at 30 June 2017, 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 2015.

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

Basis for Opinion

I conducted my audit in accordance with Australian Auditing Standards. My responsibilities under the standards are described in the ‘Auditor’s Responsibilities for the Audit of the Financial Statements’ section of my report.

I am independent of the Commission in accordance with the requirements of the:

- Australian Auditing Standards
- Accounting Professional and Ethical Standards Board’s APES 110 ‘Code of Ethics for Professional Accountants’ (APES 110).

I have fulfilled my other ethical responsibilities in accordance with APES 110. Parliament promotes independence by ensuring the Auditor-General and the Audit Office of New South Wales are not compromised in their roles 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
- precluding the Auditor-General from providing non-audit services.

I believe the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.
Independent Auditor’s report cont’d

Chief Executive’s Responsibility for the Financial Statements
The Chief Executive is responsible for the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards and the PF&A Act, and for such internal control as the Commission determines is necessary to enable the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Commission must assess the Commission’s ability to continue as a going concern except where the Commission’s operations will cease as a result of an administrative restructure. The assessment must disclose, as applicable, matters related to going concern and the appropriateness of using the going concern basis of accounting.

Auditor’s Responsibility for the Audit of the Financial Statements
My objectives are to:

• obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement; whether due to fraud or error
• issue an Independent Auditor’s Report including my opinion.

Reasonable assurance is a high level of assurance, but does not guarantee an audit conducted in accordance with Australian Auditing Standards will always detect material misstatements. Misstatements can arise from fraud or error. Misstatements are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions users take based on the financial statements.


My opinion does not provide assurance:

• that the Commission carried out its activities effectively, efficiently and economically
• 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.

David Daniels
Director, Financial Audit Services
7 September 2017
SYDNEY
Financial statements

Start of audited financial statements
Judicial Commission of New South Wales
Statement of comprehensive income for the year ended 30 June 2017

<table>
<thead>
<tr>
<th>Notes</th>
<th>Actual 2017 $'000</th>
<th>Budget 2017 $'000</th>
<th>Actual 2016 $'000</th>
</tr>
</thead>
<tbody>
<tr>
<td>2(a)</td>
<td>4,663</td>
<td>4,546</td>
<td>4,376</td>
</tr>
<tr>
<td>2(b)</td>
<td>1,369</td>
<td>1,443</td>
<td>1,354</td>
</tr>
<tr>
<td>2(c)</td>
<td>306</td>
<td>314</td>
<td>99</td>
</tr>
<tr>
<td>2(d)</td>
<td>–</td>
<td>6</td>
<td>–</td>
</tr>
<tr>
<td>2(e)</td>
<td>–</td>
<td>400</td>
<td>11</td>
</tr>
<tr>
<td></td>
<td><strong>Total Expenses excluding losses</strong></td>
<td><strong>6,338</strong></td>
<td><strong>6,709</strong></td>
</tr>
<tr>
<td>3(a)</td>
<td>6,629</td>
<td>7,138</td>
<td>3,711</td>
</tr>
<tr>
<td>3(d)</td>
<td>137</td>
<td>136</td>
<td>44</td>
</tr>
<tr>
<td>3(b)</td>
<td>773</td>
<td>826</td>
<td>726</td>
</tr>
<tr>
<td>3(c)</td>
<td>–</td>
<td>1</td>
<td>–</td>
</tr>
<tr>
<td>3(e)</td>
<td>39</td>
<td>48</td>
<td>12</td>
</tr>
<tr>
<td>3(e)</td>
<td><strong>Total Revenue</strong></td>
<td><strong>7,578</strong></td>
<td><strong>8,149</strong></td>
</tr>
<tr>
<td>17</td>
<td>1,240</td>
<td>1,440</td>
<td>(1,347)</td>
</tr>
<tr>
<td></td>
<td><strong>Net Result</strong></td>
<td><strong>1,240</strong></td>
<td><strong>1,440</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Other comprehensive income</strong></td>
<td><strong>–</strong></td>
<td><strong>–</strong></td>
</tr>
<tr>
<td></td>
<td><strong>TOTAL COMPREHENSIVE INCOME</strong></td>
<td><strong>1,240</strong></td>
<td><strong>1,440</strong></td>
</tr>
</tbody>
</table>

The accompanying notes form part of these financial statements.
## Judicial Commission of New South Wales

### Statement of financial position as at 30 June 2017

<table>
<thead>
<tr>
<th>Notes</th>
<th>Actual 2017 $'000</th>
<th>Budget 2017 $'000</th>
<th>Actual 2016 $'000</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ASSETS</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Current Assets</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash and cash equivalents</td>
<td>7</td>
<td>100</td>
<td>169</td>
</tr>
<tr>
<td>Receivables</td>
<td>8</td>
<td>108</td>
<td>34</td>
</tr>
<tr>
<td><strong>Total Current Assets</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>208</td>
<td>203</td>
<td>239</td>
</tr>
<tr>
<td>Non-Current Assets</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Plant and equipment</td>
<td>9</td>
<td>1,967</td>
<td>1,909</td>
</tr>
<tr>
<td>Intangible assets</td>
<td>10</td>
<td>12</td>
<td>15</td>
</tr>
<tr>
<td><strong>Total Non-Current Assets</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>1,979</td>
<td>1,924</td>
<td>301</td>
</tr>
<tr>
<td><strong>Total Assets</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>2,187</td>
<td>2,127</td>
<td>540</td>
</tr>
<tr>
<td><strong>LIABILITIES</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Current Liabilities</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Payables</td>
<td>11</td>
<td>420</td>
<td>368</td>
</tr>
<tr>
<td>Provisions</td>
<td>12</td>
<td>559</td>
<td>389</td>
</tr>
<tr>
<td>Other current liabilities</td>
<td>13</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td><strong>Total Current Liabilities</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>979</td>
<td>757</td>
<td>765</td>
</tr>
<tr>
<td>Non-Current Liabilities</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Provisions</td>
<td>12</td>
<td>214</td>
<td>–</td>
</tr>
<tr>
<td><strong>Total Non-Current Liabilities</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>214</td>
<td>–</td>
<td>21</td>
</tr>
<tr>
<td><strong>Total Liabilities</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>1,193</td>
<td>757</td>
<td>786</td>
</tr>
<tr>
<td><strong>Net Assets</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>994</td>
<td>1,370</td>
<td>(246)</td>
</tr>
<tr>
<td><strong>EQUITY</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accumulated funds</td>
<td>994</td>
<td>1,370</td>
<td>(246)</td>
</tr>
<tr>
<td><strong>Total Equity</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>994</td>
<td>1,370</td>
<td>(246)</td>
</tr>
</tbody>
</table>

The accompanying notes form part of these financial statements.
## Judicial Commission of New South Wales

### Statement of changes in equity for the year ended 30 June 2017

<table>
<thead>
<tr>
<th></th>
<th>Accumulated Funds $’000</th>
<th>Total $’000</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Balance at 1 July 2016</strong></td>
<td>(246)</td>
<td>(246)</td>
</tr>
<tr>
<td>Net Result for the year</td>
<td>1,240</td>
<td>1,240</td>
</tr>
<tr>
<td>Total other comprehensive income</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Total comprehensive income for the year</td>
<td>1,240</td>
<td>1,240</td>
</tr>
<tr>
<td><strong>Balance at 30 June 2017</strong></td>
<td></td>
<td>994</td>
</tr>
<tr>
<td><strong>Balance at 1 July 2015</strong></td>
<td>1,101</td>
<td>1,101</td>
</tr>
<tr>
<td>Net Result for the year</td>
<td>(1,347)</td>
<td>(1,347)</td>
</tr>
<tr>
<td>Total other comprehensive income</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Total comprehensive income for the year</td>
<td>(1,347)</td>
<td>(1,347)</td>
</tr>
<tr>
<td><strong>Balance at 30 June 2016</strong></td>
<td>(246)</td>
<td>(246)</td>
</tr>
</tbody>
</table>

The accompanying notes form part of these financial statements.
Judicial Commission of New South Wales
Statement of cash flows for the year ended 30 June 2017

<table>
<thead>
<tr>
<th>Notes</th>
<th>2017 Actual $'000</th>
<th>2017 Budget $'000</th>
<th>2016 Actual $'000</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>CASH FLOWS FROM OPERATING ACTIVITIES</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Payments</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employee related</td>
<td>(4,435)</td>
<td>(4,410)</td>
<td>(4,419)</td>
</tr>
<tr>
<td>Other</td>
<td>(1,647)</td>
<td>(1,940)</td>
<td>(1,667)</td>
</tr>
<tr>
<td><strong>Total Payments</strong></td>
<td>(6,082)</td>
<td>(6,350)</td>
<td>(6,086)</td>
</tr>
<tr>
<td><strong>Receipts</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appropriations</td>
<td>6,629</td>
<td>7,138</td>
<td>3,711</td>
</tr>
<tr>
<td>(Transfers to the Crown Entity)</td>
<td>–</td>
<td>–</td>
<td>(103)</td>
</tr>
<tr>
<td>Sale of goods and services</td>
<td>1,139</td>
<td>826</td>
<td>945</td>
</tr>
<tr>
<td>Interest received</td>
<td>–</td>
<td>1</td>
<td>18</td>
</tr>
<tr>
<td>Other</td>
<td>39</td>
<td>218</td>
<td>12</td>
</tr>
<tr>
<td><strong>Total Receipts</strong></td>
<td>7,807</td>
<td>8,183</td>
<td>4,583</td>
</tr>
<tr>
<td><strong>NET CASH FLOWS FROM OPERATING ACTIVITIES</strong></td>
<td>17</td>
<td>1,725</td>
<td>1,833</td>
</tr>
<tr>
<td><strong>CASH FLOWS FROM INVESTING ACTIVITIES</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Purchases of plant and equipment</td>
<td>(1,797)</td>
<td>(1,900)</td>
<td>(106)</td>
</tr>
<tr>
<td><strong>NET CASH FLOWS FROM INVESTING ACTIVITIES</strong></td>
<td>(1,797)</td>
<td>(1,900)</td>
<td>(106)</td>
</tr>
<tr>
<td><strong>NET INCREASE/(DECREASE) IN CASH AND CASH EQUIVALENTS</strong></td>
<td>(72)</td>
<td>(67)</td>
<td>(1,609)</td>
</tr>
<tr>
<td>Opening Cash and Cash Equivalents</td>
<td>172</td>
<td>236</td>
<td>1,781</td>
</tr>
<tr>
<td><strong>CLOSING CASH AND CASH EQUIVALENTS</strong></td>
<td>7</td>
<td>100</td>
<td>169</td>
</tr>
</tbody>
</table>

The accompanying notes form part of these financial statements
Notes to the financial statements

Judicial Commission of New South Wales
Notes to the financial statements for the year ended 30 June 2017

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

(a) Reporting Entity
The Judicial Commission of New South Wales (the Commission) is a government entity and is controlled by the State of New South Wales, which is the ultimate parent.

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.

These financial statements for the year ended 30 June 2017 have been authorised for issue by the Chief Executive on 4 September 2017.

(b) Basis of Preparation
The entity’s financial statements are general purpose financial statements which have been prepared on an accruals basis and 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 and Audit Regulation 2015; and
- the Financial Reporting Directions mandated by the Treasurer.

The financial statements have been prepared on a going-concern basis. In 2015-16, NSW Treasury introduced ‘cash management reforms’ which resulted in a reduction in the recurrent budget allocation to bring about a reduction in the Judicial Commission’s cash reserves. In future reporting periods the Judicial Commission will continue to receive government appropriations. Cash flow forecasts demonstrate that with the appropriations, the Judicial Commission will have sufficient funding to pay its debts as and when they are due for at least the next 12 months from the end of the reporting period.

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 that 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:

- 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 statement of cash flows 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 recognised as income when the Commission obtains control over the assets comprising the appropriations/contributions. Control over appropriations and contributions are normally obtained upon 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 goods, usually on delivery of the goods.

(iii) Rendering of Services
Revenue from rendering of services 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. The effective interest rate is the rate that exactly discounts the estimated future cash receipts over the expected life of the financial instrument or a shorter period, where appropriate, to the carrying amount of the financial asset.

(g) Plant and Equipment

(i) Acquisition of plant and equipment
Plant and equipment 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 the cash price equivalent, i.e. deferred payment is effectively discounted over the period of credit.

(ii) Capitalisation thresholds
Plant and equipment and intangible assets costing $1,000 or more (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 at the highest and best use by market participants that is physically possible, legally permissible and financially feasible. The highest and best use must be available at a period that is not remote and take into account the characteristics of the asset being measured, including any socio-political restrictions imposed by government. In most cases, after taking into account these considerations, the highest and best use is the existing use. In limited circumstances, the highest and best use may be a feasible alternative use, where there are no restrictions on use or where there is a feasible higher restricted alternative use.

Fair value of plant and equipment is based on a market participants’ perspective, using valuation techniques (market approach, income approach) that maximise relevant observable inputs and minimise unobservable inputs.

As the entity does not own land, building or infrastructure assets, valuations of plant and equipment are not warranted.

All of the entity’s assets are non-specialised assets with short useful lives and are therefore measured at depreciated historical cost, as an approximation for fair value. The Judicial Commission of New South Wales has assessed that any difference between fair value and depreciated historical cost is unlikely to be material.

(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 for non-cash generating assets of not-for-profit entities 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, or an amount that approximates fair value, impairment can only arise if selling costs are material. Selling costs are regarded as immaterial.

The entity assesses, at each reporting date, whether there is an indication that an asset may be impaired. If any indication exists, or when annual impairment testing for an asset is required, the entity estimates the asset’s recoverable amount. When the carrying amount of an asset exceeds its recoverable amount, the asset is considered impaired and is written down to its recoverable amount.

As a not-for-profit entity, an impairment loss is recognised in the net result to the extent the impairment loss exceeds the amount in the revaluation surplus for the class of asset.

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

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

An operating lease is a lease other than a finance lease. Operating lease payments are recognised as an operating expense in the Statement of Comprehensive Income 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 at its fair value as at the date of acquisition.

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 and impairment losses.

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.

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.
(h) **Financial Instruments**

A financial instrument is any contract that gives rise to a financial asset of one entity and a financial liability or equity instrument of another entity.

Financial assets and financial liabilities are initially measured at fair value. Transaction costs that are directly attributable to the acquisition or issue of financial assets and financial liabilities (other than financial assets and financial liabilities at fair value through profit or loss) are added to or deducted from the fair value of the financial assets or financial liabilities, as appropriate, on initial recognition. Transaction costs directly attributable to the acquisition of financial assets or financial liabilities at fair value through profit or loss are recognised immediately in net result.

The entity determines the classification of its financial assets and liabilities after initial recognition and, when allowed and appropriate, re-evaluates this at each financial year end.

(i) **Financial assets**

Financial assets are classified, at initial recognition, as financial assets at fair value through profit or loss, loans and receivables, held-to-maturity investments, available-for-sale financial assets, or as derivatives designated as hedging instruments in an effective hedge, as appropriate.

The classification depends on the nature and purpose of the financial assets and is determined at the time of initial recognition.

The Commission’s financial assets comprise of loans and receivables.

(i) **Loans and receivables**

Trade receivables, loans, and other receivables that have fixed or determinable payments that are not quoted in an active market are classified as loans and receivables. Loans and receivables are measured at amortised cost using the effective interest method, less any impairment. 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 unless the effect of discounting is material.

(ii) **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. Financial assets are considered to be impaired when there is objective evidence that, as a result of one or more events that occurred after the initial recognition of the financial asset, the estimated future cash flows have been affected.

For certain categories of financial assets, such as trade receivables, the entity first assesses whether impairment exists individually for financial assets that are individually significant, or collectively for financial assets that are not individually significant. Assets are assessed for impairment on a collective basis if they were assessed not to be impaired individually.

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 the 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.

Any reversals of impairment losses are reversed through the net result for the year, where there is objective evidence. Reversals of impairment losses of financial assets carried at amortised cost cannot result in a carrying amount that exceeds what the carrying amount would have been had there not been an impairment loss.

(iii) **Derecognition 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 transferred control, the asset is recognised to the extent of the entity’s continuing involvement in the asset. In that case, the entity also recognises an associated liability. The transferred asset and the associated liability are measured on a basis that reflects the rights and obligations that the entity has retained.

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

(j) **Financial liabilities**

Financial liabilities are classified as either ‘at fair value through profit or loss’ or ‘at amortised cost’. The Commission’s financial liabilities are classified at amortised cost.

(i) **Trade payables**

Payables represent liabilities for goods and services provided to the entity and other amounts. Short-term payables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

(k) **Employee benefits and other provisions**

a. **Salaries and wages, annual leave and sick leave**

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 using the nominal annual leave balance plus the annual leave entitlements accrued while taking leave (calculated 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.
All annual leave is classified as a current liability even when the entity does not expect to settle the liability within 12 months as the entity does not have an unconditional right to defer settlement. 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.

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 of expected future payments to be made in respect of services provided up to the reporting date. Consideration is given to certain factors based on actuarial review, including expected future wage and salary levels, experience of employee departures, and periods of service. Expected future payments are discounted using Commonwealth government bond rate at the reporting date. 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. Consequential on-costs

Consequential costs to employment are recognised as liabilities and expenses where the employee benefits to which they relate have been recognised. This includes outstanding amounts of payroll tax, workers’ compensation insurance premiums and fringe benefits tax.

(i) 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.

(m) Fair Value Measurement and Hierarchy

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. The entity does not hold financial and non-financial assets and liabilities that are valued at fair value using valuation techniques.

(n) Equity and reserves

(i) Accumulated Funds

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.

(o) 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.

(p) 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.

(q) Changes in accounting policy, including new or revised Australian Accounting Standards

(i) Effective for the first time in 2016–17

The accounting policies applied in 2016-17 are consistent with those of the previous financial year. In 2016-17, AASB 2015-6 Amendments to Australian Accounting Standards-Extending Related Party Disclosures to Not-for-Profit Public Sector Entities was applied for the first time. From 1 July 2016, the Commission has disclosed information about related party relationships, and the amount and nature of transactions with Government related entities. The disclosures are included in Note 19.

(ii) Issued but not yet effective

NSW public sector entities are not permitted to early adopt new Australian Accounting Standards, unless Treasury determines otherwise. The following new Accounting Standards have not been applied and are not yet effective.

- AASB 8 regarding Financial Instruments
- AASB 9 regarding Financial Instruments
- AASB 15, AASB 2014-5, AASB 2015-8 and AASB 2016-3 regarding Revenue from Contracts with Customers
- AASB 16 Leases
- AASB 1058 regarding Income of Not-for-Profit Entities
- AASB 2016-2 regarding Amendments to Australian Accounting Standards - Disclosure Initiative: Amendments to AASB 107
- AASB 2016-4 regarding Amendments to Australian Accounting Standards - Recoverable Amount of Non-Cash-Generating Specialised Assets of Not-for-Profit Entities
- AASB 2016-7 regarding Amendments to Australian Accounting Standards - Deferral of AASB 15 for Not-for-Profit Entities
- AASB 2016-8 regarding Amendments to Australian Accounting Standards - Australian Implementation Guidance for Not-for-Profit Entities
- AASB 2017-2 regarding Amendments to Australian Accounting Standards - Further Annual Improvements 2014-2016 Cycle

Other than AASB 16 Leases, the Commission does not expect the adoption of these Standards in the future periods to materially impact the financial statements. AASB 16 is applicable to annual reporting periods beginning on or after 1 January 2019. For leases where the Commission is the lessee, AASB 16 will require the Commission to recognise assets and liabilities on the statement of financial position where the lease term is for more than 12 months unless the underlying asset is of low value. There will be no impact on the total amount of cash flows reported.
## 2. EXPENSES EXCLUDING LOSSES

### (a) Employee related expenses:

<table>
<thead>
<tr>
<th>Description</th>
<th>2017 $’000</th>
<th>2016 $’000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries and wages (including recreation leave)</td>
<td>3,981</td>
<td>3,867</td>
</tr>
<tr>
<td>Superannuation – defined benefit plans</td>
<td>108</td>
<td>103</td>
</tr>
<tr>
<td>Superannuation – defined contributions plans</td>
<td>298</td>
<td>219</td>
</tr>
<tr>
<td>Long service leave</td>
<td>26</td>
<td>(59)</td>
</tr>
<tr>
<td>Workers’ compensation insurance</td>
<td>15</td>
<td>13</td>
</tr>
<tr>
<td>Payroll tax and fringe benefit tax</td>
<td>235</td>
<td>233</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>4,663</td>
<td>4,376</td>
</tr>
</tbody>
</table>

### (b) Other operating expenses include the following:

<table>
<thead>
<tr>
<th>Description</th>
<th>2017 $’000</th>
<th>2016 $’000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating lease rental expense – minimum lease payments</td>
<td>437</td>
<td>427</td>
</tr>
<tr>
<td>Fees for services</td>
<td>44</td>
<td>63</td>
</tr>
<tr>
<td>Contractors</td>
<td>212</td>
<td>174</td>
</tr>
<tr>
<td>Conferences</td>
<td>156</td>
<td>154</td>
</tr>
<tr>
<td>Printing</td>
<td>46</td>
<td>51</td>
</tr>
<tr>
<td>Member fees</td>
<td>110</td>
<td>101</td>
</tr>
<tr>
<td>Stores and equipment</td>
<td>13</td>
<td>10</td>
</tr>
<tr>
<td>Books and periodicals</td>
<td>64</td>
<td>63</td>
</tr>
<tr>
<td>Postal and telephone</td>
<td>52</td>
<td>55</td>
</tr>
<tr>
<td>Training</td>
<td>24</td>
<td>35</td>
</tr>
<tr>
<td>Travel expenses</td>
<td>33</td>
<td>31</td>
</tr>
<tr>
<td>Electricity</td>
<td>28</td>
<td>29</td>
</tr>
<tr>
<td>Insurance</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>Auditor’s remuneration – audit of the financial statements</td>
<td>25</td>
<td>22</td>
</tr>
<tr>
<td>Recruitment</td>
<td>1</td>
<td>8</td>
</tr>
<tr>
<td>Maintenance</td>
<td>6</td>
<td>4</td>
</tr>
<tr>
<td>Other</td>
<td>112</td>
<td>121</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>1,369</td>
<td>1,354</td>
</tr>
</tbody>
</table>

Reconciliation – Total maintenance

<table>
<thead>
<tr>
<th>Description</th>
<th>2017 $’000</th>
<th>2016 $’000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maintenance expense – contracted labour and other (non-employee related), as above</td>
<td>6</td>
<td>4</td>
</tr>
<tr>
<td>Employee related maintenance expense included in Note 2(a)</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td><strong>Total maintenance expenses included in Note 2(a) + 2(b)</strong></td>
<td>6</td>
<td>4</td>
</tr>
</tbody>
</table>

### (c) Depreciation and amortisation expense

<table>
<thead>
<tr>
<th>Description</th>
<th>2017 $’000</th>
<th>2016 $’000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Depreciation Computer equipment</td>
<td>81</td>
<td>68</td>
</tr>
<tr>
<td>Office furniture</td>
<td>195</td>
<td>21</td>
</tr>
<tr>
<td>Office equipment</td>
<td>21</td>
<td>4</td>
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<tr>
<td><strong>Total</strong></td>
<td>297</td>
<td>93</td>
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<table>
<thead>
<tr>
<th>Description</th>
<th>2017 $’000</th>
<th>2016 $’000</th>
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</thead>
<tbody>
<tr>
<td>Amortisation Intangible assets</td>
<td>9</td>
<td>6</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>306</td>
<td>99</td>
</tr>
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</table>

### (d) Grants and subsidies

<table>
<thead>
<tr>
<th>Description</th>
<th>2017 $’000</th>
<th>2016 $’000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal program expenditure review efficiency contribution</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>–</td>
<td>–</td>
</tr>
</tbody>
</table>

### (e) Other expenses

<table>
<thead>
<tr>
<th>Description</th>
<th>2017 $’000</th>
<th>2016 $’000</th>
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</thead>
<tbody>
<tr>
<td>Conduct Division</td>
<td>–</td>
<td>11</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>–</td>
<td>11</td>
</tr>
</tbody>
</table>
Judicial Commission of New South Wales
Notes to the financial statements for the year ended 30 June 2017

<table>
<thead>
<tr>
<th></th>
<th>2017 $'000</th>
<th>2017 $'000</th>
<th>2016 $'000</th>
<th>2016 $'000</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Appropriation</td>
<td>Expenditure</td>
<td>Appropriation</td>
<td>Expenditure</td>
</tr>
<tr>
<td>3. REVENUE</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) Appropriations and Transfers to the Crown Entity</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Summary of Compliance</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Original budget per Appropriation Act</td>
<td>7,138</td>
<td>6,629</td>
<td>5,946</td>
<td>3,711</td>
</tr>
<tr>
<td>Other Appropriations/Expenditure</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>– Additional Appropriations</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>– Treasurer’s Advance</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Total Appropriations/Expenditure/Net Claim on Consolidated Fund</td>
<td>7,138</td>
<td>6,629</td>
<td>5,946</td>
<td>3,711</td>
</tr>
<tr>
<td>Appropriation drawn down</td>
<td>6,629</td>
<td></td>
<td>3,711</td>
<td></td>
</tr>
<tr>
<td>Liability to Consolidated Fund (refer Note 13)</td>
<td>–</td>
<td></td>
<td>–</td>
<td></td>
</tr>
<tr>
<td>Comprising:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appropriations (per Statement of Comprehensive Income)</td>
<td>6,629</td>
<td></td>
<td>3,711</td>
<td></td>
</tr>
<tr>
<td>Appropriations:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recurrent appropriations</td>
<td>5,238</td>
<td>4,838</td>
<td>4,046</td>
<td>3,609</td>
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<tr>
<td>Capital appropriations</td>
<td>1,900</td>
<td>1,791</td>
<td>1,900</td>
<td>102</td>
</tr>
<tr>
<td>Total Appropriations/Expenditure/Net Claim on Consolidated Fund</td>
<td>7,138</td>
<td>6,629</td>
<td>5,946</td>
<td>3,711</td>
</tr>
</tbody>
</table>

Notes:
1) The summary of compliance is based on the assumption that Consolidated Fund monies are spent first (except where otherwise identified or prescribed)
2) The ‘Liability to Consolidated Fund’, represents the difference between the ‘Amount drawn down against Appropriations’ and the ‘Expenditure/Net Claim on Consolidated Fund’

(b) Sale of goods and services
<table>
<thead>
<tr>
<th></th>
<th>2017 $'000</th>
<th>2016 $'000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sale of goods</td>
<td>135</td>
<td>119</td>
</tr>
<tr>
<td>Rendering of services</td>
<td>638</td>
<td>607</td>
</tr>
<tr>
<td>Total</td>
<td>773</td>
<td>726</td>
</tr>
</tbody>
</table>

(c) Investment revenue
<table>
<thead>
<tr>
<th></th>
<th>2017 $'000</th>
<th>2016 $'000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interest</td>
<td>–</td>
<td>–</td>
</tr>
</tbody>
</table>

(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:
<table>
<thead>
<tr>
<th></th>
<th>2017 $'000</th>
<th>2016 $'000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Superannuation - defined benefit</td>
<td>105</td>
<td>97</td>
</tr>
<tr>
<td>Long service leave</td>
<td>26</td>
<td>(59)</td>
</tr>
<tr>
<td>Payroll tax</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>Total</td>
<td>137</td>
<td>44</td>
</tr>
</tbody>
</table>

(e) Other revenue
<table>
<thead>
<tr>
<th></th>
<th>2017 $'000</th>
<th>2016 $'000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Miscellaneous revenue</td>
<td>39</td>
<td>12</td>
</tr>
</tbody>
</table>

4. GAIN/(LOSS) ON DISPOSAL
<table>
<thead>
<tr>
<th></th>
<th>$'000</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>–</td>
</tr>
</tbody>
</table>

5. OTHER GAINS/LOSSES
<table>
<thead>
<tr>
<th></th>
<th>–</th>
</tr>
</thead>
</table>
Our finances

Judicial Commission of New South Wales
Notes to the financial statements for the year ended 30 June 2017

6. SERVICE GROUPS OF THE COMMISSION

<table>
<thead>
<tr>
<th>Service Group</th>
<th>2017 $’000</th>
<th>2016 $’000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Education, Sentencing, and Complaints</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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.

7. CURRENT ASSETS – CASH AND CASH EQUIVALENTS

<table>
<thead>
<tr>
<th>Description</th>
<th>2017 $’000</th>
<th>2016 $’000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash at bank and on hand</td>
<td>100</td>
<td>172</td>
</tr>
</tbody>
</table>

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:

<table>
<thead>
<tr>
<th>Description</th>
<th>2017 $’000</th>
<th>2016 $’000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash and cash equivalents (per statement of financial position)</td>
<td>100</td>
<td>172</td>
</tr>
<tr>
<td>Closing cash and cash equivalents (per statement of cash flows)</td>
<td>100</td>
<td>172</td>
</tr>
</tbody>
</table>

Refer Note 18 for details regarding credit risk, liquidity risk and market risk arising from financial instruments.

8. CURRENT ASSETS — RECEIVABLES

<table>
<thead>
<tr>
<th>Description</th>
<th>2017 $’000</th>
<th>2016 $’000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sale of goods and services</td>
<td>70</td>
<td>2</td>
</tr>
<tr>
<td>Other receivables</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Interest receivable</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Prepayments</td>
<td>38</td>
<td>65</td>
</tr>
</tbody>
</table>

Details regarding credit risk of trade debtors that are neither past due or impaired, are disclosed in Note 18.
### 9. NON-CURRENT ASSETS — PLANT AND EQUIPMENT

<table>
<thead>
<tr>
<th></th>
<th>Plant and Equipment</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>At 1 July 2016 – fair value</strong></td>
<td>$'000</td>
<td>$'000</td>
</tr>
<tr>
<td>Gross carrying amount</td>
<td>1,522</td>
<td>1,522</td>
</tr>
<tr>
<td>Accumulated depreciation and impairment</td>
<td>(1,242)</td>
<td>(1,242)</td>
</tr>
<tr>
<td>Net carrying amount</td>
<td>280</td>
<td>280</td>
</tr>
</tbody>
</table>

| **At 30 June 2017 – fair value** | $'000   | $'000 |
| Gross carrying amount        | 2,440   | 2,440 |
| Accumulated depreciation and impairment | (473)   | (473)  |
| Net carrying amount          | 1,967   | 1,967 |

| **At 1 July 2015 – fair value** | $'000   | $'000 |
| Gross carrying amount         | 1,595   | 1,595 |
| Accumulated depreciation and impairment | (1,312) | (1,312) |
| Net carrying amount           | 283     | 283   |

| **At 30 June 2016 – fair value** | $'000   | $'000 |
| Gross carrying amount         | 1,522   | 1,522 |
| Accumulated depreciation and impairment | (1,242) | (1,242) |
| Net carrying amount           | 280     | 280   |

**Reconciliation**

A reconciliation of the carrying amount of plant and equipment at the beginning and end of the prior financial year is set out below:

<table>
<thead>
<tr>
<th></th>
<th>Plant and Equipment</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Year ended 30 June 2016</strong></td>
<td>$'000</td>
<td>$'000</td>
</tr>
<tr>
<td>Net carrying amount at start of year</td>
<td>283</td>
<td>283</td>
</tr>
<tr>
<td>Additions</td>
<td>91</td>
<td>91</td>
</tr>
<tr>
<td>Disposals</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Depreciation</td>
<td>(94)</td>
<td>(94)</td>
</tr>
<tr>
<td>Net carrying amount at end of year</td>
<td>280</td>
<td>280</td>
</tr>
</tbody>
</table>
### 10. INTANGIBLE ASSETS

<table>
<thead>
<tr>
<th></th>
<th>Software $'000</th>
<th>Total $'000</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>At 1 July 2016 – fair value</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gross carrying amount</td>
<td>126</td>
<td>126</td>
</tr>
<tr>
<td>Accumulated amortisation and impairment</td>
<td>(105)</td>
<td>(105)</td>
</tr>
<tr>
<td><strong>Net carrying amount</strong></td>
<td>21</td>
<td>21</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Software $'000</th>
<th>Total $'000</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>At 30 June 2017 – fair value</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gross carrying amount</td>
<td>28</td>
<td>28</td>
</tr>
<tr>
<td>Accumulated amortisation and impairment</td>
<td>(16)</td>
<td>(16)</td>
</tr>
<tr>
<td><strong>Net carrying amount</strong></td>
<td>12</td>
<td>12</td>
</tr>
</tbody>
</table>

#### Reconciliation

A reconciliation of the carrying amount of intangibles at the beginning and end of the current financial year is set out below:

<table>
<thead>
<tr>
<th></th>
<th>Software $'000</th>
<th>Total $'000</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Year ended 30 June 2017</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net carrying amount at start of year</td>
<td>21</td>
<td>21</td>
</tr>
<tr>
<td>Additions</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Disposals</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Amortisation (recognised in depreciation and amortisation)</td>
<td>(9)</td>
<td>(9)</td>
</tr>
<tr>
<td><strong>Net carrying amount at end of year</strong></td>
<td>12</td>
<td>12</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Software $'000</th>
<th>Total $'000</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>At 1 July 2015 – fair value</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gross carrying amount</td>
<td>111</td>
<td>111</td>
</tr>
<tr>
<td>Accumulated depreciation and impairment</td>
<td>(99)</td>
<td>(99)</td>
</tr>
<tr>
<td><strong>Net carrying amount</strong></td>
<td>12</td>
<td>12</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Software $'000</th>
<th>Total $'000</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>At 30 June 2016 – fair value</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gross carrying amount</td>
<td>126</td>
<td>126</td>
</tr>
<tr>
<td>Accumulated depreciation and impairment</td>
<td>(105)</td>
<td>(105)</td>
</tr>
<tr>
<td><strong>Net carrying amount — at fair value</strong></td>
<td>21</td>
<td>21</td>
</tr>
</tbody>
</table>

#### Reconciliation

A reconciliation of the carrying amount of intangibles at the beginning and end of the prior financial year is set out below:

<table>
<thead>
<tr>
<th></th>
<th>Software $'000</th>
<th>Total $'000</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Year ended 30 June 2016</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net carrying amount at start of year</td>
<td>12</td>
<td>12</td>
</tr>
<tr>
<td>Additions</td>
<td>14</td>
<td>14</td>
</tr>
<tr>
<td>Disposals</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Amortisation (recognised in depreciation and amortisation)</td>
<td>(6)</td>
<td>(6)</td>
</tr>
<tr>
<td><strong>Net carrying amount at end of year</strong></td>
<td>20</td>
<td>20</td>
</tr>
</tbody>
</table>
Judicial Commission of New South Wales
Notes to the financial statements for the year ended 30 June 2017

11. CURRENT LIABILITIES — PAYABLES

<table>
<thead>
<tr>
<th></th>
<th>2017 $’000</th>
<th>2016 $’000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Creditors</td>
<td>344</td>
<td>270</td>
</tr>
<tr>
<td>Accrued salaries, wages and on-costs</td>
<td>16</td>
<td>–</td>
</tr>
<tr>
<td>Other (including GST payable)</td>
<td>60</td>
<td>5</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>420</strong></td>
<td><strong>275</strong></td>
</tr>
</tbody>
</table>

Details regarding liquidity risk, including a maturity analysis of the above payables are disclosed in Note 18.

12. CURRENT/NON-CURRENT LIABILITIES — PROVISIONS

<table>
<thead>
<tr>
<th></th>
<th>2017 $’000</th>
<th>2016 $’000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee benefits and related on-costs</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Current</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recreation leave</td>
<td>257</td>
<td>252</td>
</tr>
<tr>
<td>On-costs</td>
<td>302</td>
<td>238</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>559</strong></td>
<td><strong>490</strong></td>
</tr>
</tbody>
</table>

Non-Current

<table>
<thead>
<tr>
<th></th>
<th>2017 $’000</th>
<th>2016 $’000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Make Goods Provision</td>
<td>188</td>
<td>–</td>
</tr>
<tr>
<td>On-costs</td>
<td>26</td>
<td>21</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>214</strong></td>
<td><strong>21</strong></td>
</tr>
</tbody>
</table>

Aggregate employee benefits and related on-costs

<table>
<thead>
<tr>
<th></th>
<th>2017 $’000</th>
<th>2016 $’000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provisions — current</td>
<td>559</td>
<td>490</td>
</tr>
<tr>
<td>Provisions — non-current</td>
<td>26</td>
<td>21</td>
</tr>
<tr>
<td>Accrued salaries, wages and on-costs (refer Note 11)</td>
<td>16</td>
<td>–</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>601</strong></td>
<td><strong>511</strong></td>
</tr>
</tbody>
</table>

Expected settlement of current employee benefits and related on-costs

<table>
<thead>
<tr>
<th></th>
<th>2017 $’000</th>
<th>2016 $’000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not later than 12 months</td>
<td>513</td>
<td>423</td>
</tr>
<tr>
<td>Later than 12 months</td>
<td>46</td>
<td>67</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>559</strong></td>
<td><strong>490</strong></td>
</tr>
</tbody>
</table>

Movements in provisions (other than employee benefits)

<table>
<thead>
<tr>
<th></th>
<th>Make Good $’000</th>
<th>Total $’000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carrying amount at July 2016</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Additional provisions recognised</td>
<td>188</td>
<td>188</td>
</tr>
<tr>
<td>Amounts used</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Unused amounts reversed</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Unwinding/change in the discount rate</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Carrying amount at 30 June 2017</td>
<td>188</td>
<td>188</td>
</tr>
</tbody>
</table>

13. CURRENT LIABILITIES — OTHER

<table>
<thead>
<tr>
<th></th>
<th>2017 $’000</th>
<th>2016 $’000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liability to Consolidated Fund</td>
<td>–</td>
<td>–</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>2017 $’000</th>
<th>2016 $’000</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>–</td>
<td>–</td>
</tr>
</tbody>
</table>
14. COMMITMENTS FOR EXPENDITURE

Operating lease commitments
Future minimal rentals payable under non-cancellable operating leases as at 30 June, are as follows:

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not later than one year</td>
<td>602</td>
<td>164</td>
</tr>
<tr>
<td>Later than one year and not later than five years</td>
<td>2,081</td>
<td>–</td>
</tr>
<tr>
<td>Later than five years</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Total (including GST)</td>
<td>2,683</td>
<td>164</td>
</tr>
</tbody>
</table>

Operating lease commitments, which relate to rent and motor vehicles, are not recognised in the financial statements as liabilities. The total commitments for expenditure as at 30 June 2017 include input tax credits of $244,000 ($15,000 in 2016) which are recoverable from the Australian Tax Office.

15. CONTINGENT LIABILITIES AND CONTINGENT ASSETS

The Commission has no contingent liabilities (2016: nil) or contingent assets (2016: nil) as at 30 June 2017.

16. BUDGET REVIEW

Net Result
The actual net result is under budget by $200,000.

This is mainly due to lower capital drawdown of $109,000 at $1.791 million compared to the budget of $1.90 million, due to the lower cost of the office fit out and relocation, less computer equipment replacement and updates required.

Own generated revenue is also lower by $62,000.

Investment revenue received of $nil is lower than budget of $1,000 due to interest no longer being received following Treasury’s Cash Management Reforms introduced in 2015–16.

There was no Conduct Division expenditure compared to the budget of $400,000, as no Conduct Division was formed in the year.

Assets and Liabilities
Non-Current Assets are over budget by $55,000. This is mainly due to the recognition of a new make good asset of $188,000, less the lower than expected Capital purchases.

Current Liabilities are over budget by $222,000 mainly due to: Accounts Payable increase of $33,000 (including PAYG tax); Accrued Expenses increase of $38,000 (including rent accrual from Jan/Feb); On-Costs provision increase of $64,000 (including a one-off adjustment to be in line with TC15-09 Accounting for Long Service Leave and Annual Leave); and Prepaid Income increase of $55,000 (relating to change in maintenance contract period income recognition).

Cash Flow from Operating Activities
The Net Cash Flows from operating activities resulted with a positive $1.725 million.

This was primarily as a result of capital funding of $1.791 million for the new office fit out, and a $194,000 increase in receipts from sale of goods and services.
17. RECONCILIATION OF CASH FLOWS FROM OPERATING ACTIVITIES TO NET RESULT

<table>
<thead>
<tr>
<th>Description</th>
<th>2017 $'000</th>
<th>2016 $'000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net cash used on operating activities</td>
<td>1,725</td>
<td>(1,503)</td>
</tr>
<tr>
<td>Decrease/(increase) in Crown Entity liability</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Depreciation and amortisation</td>
<td>(306)</td>
<td>(99)</td>
</tr>
<tr>
<td>Decrease/(increase) in provisions</td>
<td>(76)</td>
<td>(29)</td>
</tr>
<tr>
<td>Increase/(decrease) in receivables and prepayments</td>
<td>41</td>
<td>(6)</td>
</tr>
<tr>
<td>Decrease/(increase) in creditors</td>
<td>(144)</td>
<td>187</td>
</tr>
<tr>
<td>Cash transfers to Consolidated Fund</td>
<td>–</td>
<td>103</td>
</tr>
<tr>
<td><strong>Net Result</strong></td>
<td>1,240</td>
<td>(1,347)</td>
</tr>
</tbody>
</table>

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 risk limits and controls and to monitor risks. Compliance with policies is reviewed by the internal auditors on a continuous basis.

(a) Financial instrument categories

<table>
<thead>
<tr>
<th>Note</th>
<th>Category</th>
<th>Carrying Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>2017 $'000</td>
</tr>
<tr>
<td></td>
<td><strong>Financial Assets</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Cash and cash equivalents</td>
<td>7 N/A</td>
</tr>
<tr>
<td></td>
<td>Receivables¹</td>
<td>8 Loans and receivables (at amortised cost)</td>
</tr>
<tr>
<td></td>
<td><strong>Financial Liabilities</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Payables¹</td>
<td>11 Financial liabilities measured at amortised cost</td>
</tr>
</tbody>
</table>

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 and receivables. 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 counterparts and establishment of minimum credit rating standards.

Cash and cash equivalents
Cash comprises cash on hand and bank balances within the NSW Treasury Banking System. No interest was earned on daily bank balances due to Treasury's cash management reforms which were introduced in 2015–16.

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 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.

<table>
<thead>
<tr>
<th></th>
<th>2017 $'000</th>
<th>2016 $'000</th>
</tr>
</thead>
<tbody>
<tr>
<td>As at 30 June, the aging analysis of trade debtors is as follows:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Neither past due nor impaired</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Past due but not impaired</td>
<td></td>
<td></td>
</tr>
<tr>
<td>&lt; 3 months overdue</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>3 months – 6 months overdue</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>&gt; 6 months overdue</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Impaired</td>
<td></td>
<td></td>
</tr>
<tr>
<td>&lt; 3 months overdue</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>3 months – 6 months overdue</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>&gt; 6 months overdue</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Total receivables-gross of allowance for impairment</td>
<td>–</td>
<td>–</td>
</tr>
</tbody>
</table>
Judicial Commission of New South Wales
Notes to the financial statements for the year ended 30 June 2017

(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 year, there were no defaults 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 not 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 the month 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. No interest was applied during the year.

The Commission has no interest rate exposure on its financial liabilities.

(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. RELATED PARTY DISCLOSURES

<table>
<thead>
<tr>
<th>2017</th>
<th>$'000</th>
</tr>
</thead>
</table>

The entity’s key management personnel compensation are as follows:

Short-term employee benefits:

<table>
<thead>
<tr>
<th>Type of Benefit</th>
<th>2017 $'000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries</td>
<td>1,043</td>
</tr>
<tr>
<td>Other monetary allowances</td>
<td>0</td>
</tr>
<tr>
<td>Non-monetary benefits</td>
<td>0</td>
</tr>
<tr>
<td>Post-employment benefits</td>
<td>78</td>
</tr>
<tr>
<td>Termination benefits</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total remuneration</strong></td>
<td><strong>1,121</strong></td>
</tr>
</tbody>
</table>

During the year, the entity did not enter into any transactions with key management personnel, their close family members and controlled or jointly controlled entities thereof.

During the year, the entity entered into transactions with other entities that are controlled/jointly controlled/significantly influenced by the NSW Government. These transactions in aggregate are a significant portion of the Judicial Commission’s activities.

These transactions include:

- Long Service Leave and Defined Benefit Superannuation assumed by the Crown
- Appropriations
- Transactions relating to the Treasury Banking System
- Employer contributions paid to Defined Benefit Superannuation funds
- Payments into the Treasury Managed Fund for workers’ compensation insurance and other insurances

20. EVENTS AFTER THE REPORTING PERIOD

There were no events subsequent to balance date which affect the financial statements.

End of audited financial statements
Endmatter

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Appendix 1
Complaints against judicial officers: guidelines 2016–17

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 1986 means:
(a) a judge or associate judge of the Supreme Court of NSW
(b) a member (including a judicial member) of the NSW Industrial Relations Commission
(c) a judge of the Land and Environment Court of NSW
(d) a judge of the District Court of NSW
(e) the President of the Children’s Court of NSW
(f) a magistrate, or
(g) 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 1986 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:
(a) 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
(b) a plain English brochure outlining the complaints process
(c) assistance to potential complainants with translation and interpreting services
(d) responding to telephone and face-to-face enquiries, and
(e) 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. 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.

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.
Appendix 1: Complaints against judicial officers: guidelines 2016–17 continued

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 and the judicial officer about whom a complaint has been made, that the complaint is dismissed.

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 a 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 1 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 1 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.

Appendix 2
Conduct Division: guidelines for examination of complaints 2016-17

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:
(a) the constitution of a Conduct Division
(b) the examination of complaints
(c) hearings by the Conduct Division
(d) powers of the Conduct Division, and
(e) 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 1 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 1 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)).

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).
Appendix 2: Conduct Division: guidelines for examination of complaints 2016–17 continued

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(8)(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
Judicial education policy 2016–17

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:

<table>
<thead>
<tr>
<th>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.</th>
</tr>
</thead>
<tbody>
<tr>
<td>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.</td>
</tr>
<tr>
<td>This standard can be met, in part, by self-directed professional development.</td>
</tr>
<tr>
<td>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.</td>
</tr>
</tbody>
</table>

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 2016–17

EDUCATION COMMITTEES

Standing Advisory Committee on Judicial Education
- The Honourable Justice J Basten, Court of Appeal (Chair)
- Chief Commissioner P Kite SC (from 3 April 2017)
- The Honourable Justice M Walton, Industrial Relations Commission (until 7 December 2016)
- The Honourable Justice N Pain, Land and Environment Court
- His Honour Judge P Lakatos SC, District Court
- His Honour Deputy Chief Magistrate C O’Brien, Local Court
- Ms U Doyle, Director, Education, Judicial Commission of NSW (Convenor)

Supreme Court Education Committee
- The Honourable Justice J Basten (Chair)
- The Honourable Justice C Hoeben AM RFD
- The Honourable Justice M Leeming
- The Honourable Justice A Payne (from 3 August 2016)
- 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 A Black
- Mr C D’Aeth, Principal Registrar
- Ms U Doyle, Director, Education, Judicial Commission of NSW (Convenor)

Industrial Relations Commission Education Committee
- Commissioner J Seymour (Chair from 22 May 2017)
- Ms I Tabbaa AM (Chair until 21 May 2017)
- Commissioner J Stanton (from 22 May 2017)
- Commissioner P Newell (until 21 May 2017)
- Ms M Morgan, Industrial Registrar (from 22 May 2017)
- Ms U Doyle, Director, Education, Judicial Commission of NSW (Convenor)

Land and Environment Court Education Committee
- The Honourable Justice N Pain (Chair)
- The Honourable Justice T Moore (from 1 September 2016)
- Senior Commissioner R Martin (from 17 October 2016)
- Commissioner S O’Neill
- Commissioner J Gray (until 18 April 2017)
- Ms U Doyle, Director, Education, Judicial Commission of NSW (Convenor)

District Court Education Committee
- Her Honour Judge P Hock (Chair)
- His Honour Judge P Berman SC
- His Honour Judge P Lakatos SC
- His Honour Judge G Lerve
- Her Honour Judge D Yehia SC (from 8 August 2016)
- His Honour Judge J Hatzistergos (from 8 August 2016)
- Her Honour Judge J Culver
- His Honour Judge M Dicker SC (from 29 August 2016)
- Mr J Howard, Judicial Registrar
- Ms U Doyle, Director, Education, Judicial Commission of NSW (Convenor)

Local Court Education Committee
- Her Honour Deputy Chief Magistrate J Mottley
- His Honour Deputy Chief Magistrate C O’Brien (Chair)
- His Honour Magistrate G Grogin
- His Honour Magistrate M Barnes, Coroners’ Court
- His Honour Magistrate H Dillon (until 28 July 2016)
- His Honour Magistrate D Heilpern
- His Honour Magistrate I Guy
- Her Honour Magistrate J Keogh
- Her Honour Magistrate F Toose
- Her Honour Magistrate V Swain
- Her Honour Magistrate A Viney
- Her Honour Magistrate S McIntyre
- His Honour Magistrate M Allen
- His Honour Magistrate M Antrum
- Her Honour Magistrate C Huntsman
- His Honour Magistrate P Stewart
- Ms A Passé-de Silva, Policy Officer, Chief Magistrate’s Office
- Ms U Doyle, Director, Education, Judicial Commission of NSW (Convenor)

Children's Court Education Committee
- His Honour Judge P Johnstone (Chair)
- His Honour Magistrate G Blevitt AM
- His Honour Magistrate A Sbrizzi
- Her Honour Magistrate T Shelly (from 20 December 2016)
- Ms R Davidson, Executive Officer
- Ms R Kang, Senior Children’s Registrar
- Ms E King, Research Associate (from 13 February 2017)
- Ms P Mackay-Sim, Research Associate to the President (until 10 February 2017)
- Ms U Doyle, Director, Education, Judicial Commission of NSW (Judicial Commission Representative)

Ngara Yura Committee
- The Honourable Justice L McCallum, Supreme Court (Chair from 2 July 2016)
- The Honourable Justice R Pepper, Land and Environment Court
- Her Honour Judge D Yehia SC, District Court
- Her Honour Deputy Chief Magistrate J Mottley, Local Court
- Her Honour Magistrate T O’Sullivan, Local Court
- Her Honour Magistrate S Duncombe, Local Court
- The Honourable J Allsop AO, Chief Justice, Federal Court of Australia
- Mr J Behrendt, Legal Executive, Chalk & Behrendt (from 6 July 2016)
- Ms D Link-Gordon, Senior Community Access Officer, Indigenous Women’s Legal Program, Women’s Legal Service NSW (from 6 July 2016)
- Ms U Doyle, Director, Education, Judicial Commission of NSW (Convenor)
- Mr E Schmatt PSM, Chief Executive, Judicial Commission of NSW
BENCH BOOK COMMITTEES

Criminal Trial Courts Bench Book Committee
- The Honourable Justice P Johnson
- The Honourable Justice RA Hulme
- His Honour Judge P Lakatos SC
- His Honour Judge D Arnott SC
- The Honourable R Howie QC (Chair)
- Mr H Donnelly, Director, Research and Sentencing, Judicial Commission of NSW (Convenor)

Civil Trials Bench Book Committee
- The Honourable Justice P Garling RFD
- The Honourable Justice F Kunc
- His Honour Judge G Neilson
- His Honour Deputy Chief Magistrate C O’Brien
- The Honourable Justice M Elkaim, Supreme Court of the Australian Capital Territory
- The Honourable M Campbell QC (Chair)
- Ms F Findlay, Senior Editor, Judicial Commission of NSW (Convenor)
- Mr E Schmatt PSM, Chief Executive, Judicial Commission of NSW

Local Court Bench Book Committee
- Her Honour Deputy Chief Magistrate J Mottley
- His Honour Deputy Chief Magistrate C O’Brien
- Ms A Passé-de Silva, Policy Officer, Chief Magistrate’s Office
- Ms R Cook, Editor, Judicial Commission of NSW (Convenor)
- Ms U Doyle, Director, Education, Judicial Commission of NSW (Convenor)
- Ms P Mitzi, Manager, Research and Sentencing, Judicial Commission of NSW

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, Professor, University of Sydney Law School
- Ms U Doyle, Director, Education, Judicial Commission of NSW (Convenor)
- Mr E Schmatt PSM, Chief Executive, Judicial Commission of NSW (Convenor)

Sexual Assault Trials Handbook Committee
- His Honour Judge S Norrish QC
- His Honour Judge R Ellis (Chair)
- Her Honour Judge S Huggett
- Dr J Cashmore AO, Professor, University of Sydney Law School
- Mr H Donnelly, Director, Research and Sentencing, Judicial Commission of NSW (Convenor)
- Mr P Byrne, Legal Editor, Judicial Commission of NSW (Convenor)

Appendix 5
Conference topics 2016–17

ANNUAL CONFERENCES

Supreme Court of NSW Annual Conference, August 2016
- “Keynote address: reform of civil court structure in the UK”, Lord Justice Michael Briggs, Deputy Head of Civil Justice, Courts of England and Wales.
- “Recent Australian involvement in the public international law space: plain packaging legislation and beyond”, Mr Justin Gieson SC, Solicitor General of the Commonwealth of Australia.
- “Developments in criminal law”, The Honourable Justice Robert A Hulme, Supreme Court of NSW.
- “The in personam exception to Torrens indefeasibility?”, Professor the Honourable William Gummow AC.

Industrial Relations Commission of NSW Annual Conference, September 2016
- “A view from the south: developments in South Australia”, His Honour Judge Peter Hannon, President, Industrial Relations Commission of South Australia.
- “Collaborative workplace relations in Australia”, Professor Paul Gollan, Director of Australian Institute of Business and Economics (AIBE), University of Queensland and Dr Cathy Xu, Lecturer, Macquarie University.
- “Managing employees with depression”, Acting Justice Peter Kite SC, Industrial Relations Commission of NSW.
- “The impact of psychiatric disorders in the workplace”, Dr Armand Mostafavi, Chief Health Officer, Sydney Trains.
- “Pay equity: what happened?”, Ms Patricia Lowson, Barrister, 8th Floor Garfield Barwick Chambers.
- “Drug and alcohol testing in the workplace”, Mr Michael Reardon, General Manager, State Transit Authority, Mr Alex Claassens, Branch Secretary, NSW, Rail, Tram and Bus Union and Mr Bilal Raut, Barrister, State Chambers.
- “Dinner address: conflict challenges”, Professor Tania Sourdin, Dean, Head of Newcastle Law School, University of Newcastle.
- “Council amalgamations”, Mr John Dugas, Lecturer, The University of Newcastle.
- “Workplace investigations: legal issues”, Ms Jane Seymour, Barrister, 6 St James’ Hall Chambers.
- “Workplace investigations forum”, Ms Carol Matthews, Assistant Secretary, NSW/ACT Independent Education Union, Mr Sina Mostafavi, Senior Associate, Australian Business Lawyers and Advisors and Mrs Alison Condon, Executive Director, Transport for NSW.

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, Professor, University of Sydney Law School
- Ms U Doyle, Director, Education, Judicial Commission of NSW (Convenor)
- Ms K Lumley, Publishing Manager, Judicial Commission of NSW (Convenor)
- Mr E Schmatt PSM, Chief Executive, Judicial Commission of NSW

Sexual Assault Trials Handbook Committee
- His Honour Judge S Norrish QC
- His Honour Judge R Ellis (Chair)
- Her Honour Judge S Huggett
- Dr J Cashmore AO, Professor, University of Sydney Law School
- Mr H Donnelly, Director, Research and Sentencing, Judicial Commission of NSW (Convenor)
- Mr P Byrne, Legal Editor, Judicial Commission of NSW (Convenor)

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Conference topics 2016–17

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- “The in personam exception to Torrens indefeasibility?”, Professor the Honourable William Gummow AC.

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- “Workplace investigations forum”, Ms Carol Matthews, Assistant Secretary, NSW/ACT Independent Education Union, Mr Sina Mostafavi, Senior Associate, Australian Business Lawyers and Advisors and Mrs Alison Condon, Executive Director, Transport for NSW.
Land and Environment Court of NSW Annual Conference, May 2017

- “Planning for Western Sydney”, Professor Edward Blakely, Greater Sydney Commission and Chair, Sydney West Central Planning Panel.
- “Analyzing expert evidence: master class”, The Honourable Justice Robert McDougall, Supreme Court of NSW, Dr Ian Frecelton QC and Dr Kristy Martire, Senior Lecturer, University of New South Wales.
- “Field trip: Parramatta North Urban Transformation Program”, Mr Brian Powyer, Deputy President, Urban Growth NSW, Mr James Adcock, Senior Development Manager, Urban Growth NSW, Mr Adam Carmody, Assistant Development Director, Urban Growth NSW and Mr Rhys Haynes, Director of Communication and Engagement, Parramatta Light Rail.
- “Criminal law update”, The Honourable Justice Helen Wilson, Supreme Court of NSW.
- “ADR update”, Professor Tania Sourdin, Dean, Head of Newcastle Law School, University of Newcastle.
- “Witness and memory reliability”, Dr Kristy Martire, Senior Lecturer, University of NSW.

District Court of NSW Annual Conference, April 2017

- “Criminal law review”, The Honourable Justice Peter Johnson, Supreme Court of NSW.
- “Judicial stress and wellbeing”, Ms Carly Schrever, Judicial Wellbeing Project Advisor, Judicial College of Victoria.
- “The secret life of documents”, Mr Paul Westwood OAM, Managing Director, Forensic Document Services.
- “Civil issues”
  - “Expert evidence”, Professor Gary Edmond, Professor and Australian Research Council Future Fellow, University of NSW.
  - “Torts claims arising from the conduct of police”, The Honourable Justice Stephen Campbell, Supreme Court of NSW.
- “Intervention programs: Indigenous offenders”
  - “How can Corrective Services NSW best respond to the needs of Aboriginal offenders”, Mr Luke Grant, Assistant Commissioner, Corrective Services NSW.
  - “Miranda Program”, Ms Alison Churchill, Chief Executive Officer, Community Restorative Centre.
  - “Balund-a”, Miss Lisa O’Brien, Manager, Balund-a Program, NSW Department of Justice.
- “Ex tempore judgments”, Her Honour Judge Helen Murrell, District Court of NSW.
- “Recurring issues in the NSW Court of Appeal”, The Honourable Justice Margaret Beazley AO, President, Court of Appeal.
- “Parole and the NSW State Parole Authority”, The Honourable James Wood AO QC, NSW State Parole Authority.

OTHER CONFERENCES

Local Court of NSW Southern Regional Conference, March 2017

- “Current issues in the Children's Court”, His Honour Magistrate Graham Blewitt AM, Local Court of NSW.
- “Massaging the competing demands of interested parties in coronial cases”, His Honour Magistrate Michael Barnes, State Coroner, Coroner’s Court of NSW.
- “Judicial discretion: a practical session”, His Honour Magistrate Gregory Grogin, Local Court of NSW.
- “Mental illness defence and diversionary orders”, His Honour Magistrate Carolyn Huntsman, Local Court of NSW.
- “Costs in civil cases”, His Honour Magistrate Graeme Curran, Local Court of NSW.
- “Potpourri of problems: part II”, His Honour Magistrate Douglas Dick, Local Court of NSW.
- “Unfavourable witnesses”, His Honour Magistrate Michael Allen, Local Court of NSW.
- “Common directions in the Local Court”, His Honour Magistrate Glenn Walsh, Local Court of NSW.
- “Recent developments with AVOs”, His Honour Deputy Chief Magistrate Chris O’Brien, Local Court of NSW.

Local Court of NSW Northern Regional Conference, March 2017

- “Judicial discretion: a practical session”, His Honour Magistrate Gregory Grogin, Local Court of NSW.
- “Current issues in the Children's Court”, His Honour Magistrate Graham Blewitt AM, Local Court of NSW.
- “Recent developments with AVOs”, His Honour Deputy Chief Magistrate Chris O’Brien, Local Court of NSW.
- “Mental illness defence and diversionary orders”, Her Honour Magistrate Carolyn Huntsman, Local Court of NSW.
- “Massaging the competing demands of interested parties in coronial cases”, His Honour Magistrate Michael Barnes, State Coroner, Coroner’s Court of NSW.
- “Costs in civil cases”, His Honour Magistrate Graeme Curran, Local Court of NSW.
- “Potpourri of problems: part II”, His Honour Magistrate Douglas Dick, Local Court of NSW.
- “Unfavourable witnesses”, His Honour Magistrate Michael Allen, Local Court of NSW.
- “Common directions in the Local Court”, His Honour Magistrate Glenn Walsh, Local Court of NSW.

Children's Court of NSW Section 16 Meeting, September 2016

- “Advocate for children and young persons strategic plan”, Mr Andrew Johnson, The Advocate, Office of the Advocate for Children and Young People.
- “Children giving evidence”, Dr Judith Cashmore AO, Associate Professor, The University of Sydney.
- “Breakout discussion session for Children’s Magistrates”
  - “Current issues in the Children's Court of NSW”, His Honour Judge Peter Johnstone, President, Children’s Court of NSW.
  - “Dangerous ideas around sentencing”, His Honour Magistrate David Williams, Children's Court of NSW.
  - “Legislative Council inquiry into child protection/Police compliance with safeguards in Part 9 Law Enforcement Powers and Responsibilities Act 2002”, His Honour Judge Peter Johnstone, President, Children’s Court of NSW.
- “Breakout discussion Session for Children's Registrars”
  - “Current issues for Children's Registrars”, Ms Rebecca Kang, Senior Children’s Registrar, Children’s Court of NSW.
  - “A Registrar's perspective of the 2016 Children’s Court Clinic Symposium”, Ms Caroline Stirling, Children’s Registrar, Children’s Court of NSW and Ms Rana Sabih, Children's Registrar, Children's Court of NSW.
  - “The relevance of epigenetics to the care jurisdiction”, Mr Walter Sponza, Children’s Registrar, Children’s Court of NSW.

Children’s Court Section 16 Meeting, May 2017

- “The detention of children in NSW”, Ms Kerrie Bagnall, Director Operations Unit, NSW Department of Justice.
- “A discussion between Children’s Magistrates and Children’s Registrars as to the operation of DFPA”, His Honour Judge Peter Johnstone, President, Children’s Court of NSW.
- “The mental health needs of young offenders and the role of Justice Health and Forensic Mental Health Network in addressing these”, Dr Yolisha Singh, Conjoint Lecturer, Black Dog Institute and Ms Katya Issa, Manager, Justice Health and Forensic Mental Health Network.
Appendix 6
Judicial education seminars, workshops and field trips 2016–17

**Supreme Court of NSW**
- “Breakout discussion sessions”, His Honour Judge Peter Johnstone, President, Children’s Court of NSW and Ms Rebecca Kang, Senior Children’s Registrar, Children’s Court of NSW
  - “Issues arising in defended hearings (Magistrates)”,
  - “Current issues (Magistrates)”.
  - “Victorian model of conciliation (Registars)”.
- “The roll-out of JusticeLink to care matters”, Ms Amanda English, Product Owner/Change Lead JusticeLink Releases and Initiatives, Department of Justice.
- “A care and protection hypothetical scenario”, His Honour Magistrate Jeffrey Hogg, Children’s Court of NSW and Her Honour Magistrate Tracy Sheedy, Children’s Court of NSW.

**Land and Environment Court of NSW**
- “Appeals from the Land and Environment Court”, The Honourable Justice Mark Leeming, Court of Appeal, Twilight Seminar, 3 August 2016.
- “Coastal management in NSW”, Emeritus Professor Bruce Thom, Faculty of Science, University of Sydney, Twilight Seminar, 27 September 2016.
- “Field trip to the Old Clair Hotel”, Mr Tim Gree, Director, Torink Zulaikha Greer Architects, Field Trip, 11 October 2016.
- “Tour of the ‘Money Box’, 5 Martin Place”, Ms Megan Jones, TKD Architects, Field Trip, 6 June 2017.

**District Court of NSW**
- “Jury’s notions of justice: an empirical study of juror attitudes to their role”, Professor Jill Hunter, University of NSW, Twilight Seminar, 10 August 2016.
- “Drug and blood alcohol testing”, Associate Professor Anthony Moynham, Sydney Forensic Medicine and Science Network, Sydney Medical School, University of Sydney, Dr Judith Perl, Forensic Pharmacologist, Clinical Forensic Medicine Unit, NSW Police and Superintendent John Lipman, Director, Research Development and Projects, NSW Police Force, Twilight Seminar, 16 November 2016.
- “District Court Twilight: legal research on the iPad”, Ms Alison Passé-de Silva, Policy Officer, Local Court of NSW, Twilight Seminar, 23 February 2017.
- “Non-publication and suppression orders”, The Honourable Justice Peter Hamill, Supreme Court of NSW, Twilight Seminar, 20 June 2017.

**ORIENTATION PROGRAMS**

**Local Court of NSW Magistrates’ Pre-Bench**
The pre-bench training two-day workshop focuses on developing awareness of fundamental aspects of court craft and procedure: for example, dealing with an unrepresented litigant, bail, indictments, sentencing principles and decision-making. These sessions are conducted by two or three senior magistrates for one or more new magistrates and include role plays and feedback on performance as a magistrate. Eight workshops were run in the first half of 2017 on the following dates: 19–20 January 2017; 2–3 February 2017, 23–24 February 2017, 9–10 March 2017, 23–24 March 2017, 18–19 May 2017, 25–26 May 2017 and 29–30 June 2017.

**Ngara Yura Program**
- “Understanding intergenerational trauma”, Mr Brian Dowd, Trauma Therapist, The People Mechanic, Dr Robyn Shields AM, Deputy Commissioner, NSW Mental Health Commission and Her Honour Magistrate Susan Duncombe, Local Court of NSW, Twilight Seminar, 4 August 2016.
- “Aboriginal trauma, foetal alcohol spectrum disorder and the juvenile justice system: a volatile cocktail”, Ms June Oscar AO and Her Honour Judge Dina Yehia SC, District Court of NSW, Twilight Seminar, 6 October 2016.
- “Ngara Yura visit to Muru Mittigar, Penrith”, field trip, 19 November 2016.
- “Motor kile dreaming movie night”, Twilight Seminar, 7 March 2017.

**Cross-jurisdictional**
- “Cross-jurisdictional seminar: accommodating Muslims in court”, Dr Ghena Krayem, Senior Lecturer, University of Sydney, Twilight Seminar, 4 May 2017.
Appendix 7

Articles published 2016–17

- J Allsop, “Values in public law” (2016) 13(1) TJR 53
- T Bathurst, “Tweeters, posters and grammers beware: discovery and social media evidence” (2017) 29(2) NSW 11
- T Bathurst and S Schwartz, “Cost in representative proceedings, costs budgeting and fixed costs scheme” (2017) 13(2) TJR 203
- T Bathurst and S Schwartz, “Illegally or improperly obtained evidence: in defence of Australia’s discretionary approach” (2016) 13(1) TJR 79
- M Beazley, “Institutional leadership amongst equals” (2016) 28(7) JOB 65
- V Bell, “Equality, proportionality and dignity: the guiding principles for a just legal system” (2017) 13(2) TJR 167
- V Bell, “The protection of women in the administration of criminal justice in Australia” (2016) 28(9) JOB 85
- D Bennett, “New historical resource of NSW laws” (2017) 29(4) JOB 34
- H Donnelly, “JIRS and other news” (2016) 28(11) JOB
- U Doyle, “Ngara Yura Community Visit to Muru Mittigar Aboriginal Cultural and Education Centre” (2016) 28(11) JOB 103
- R French, “Legal change — the role of advocates” (2017) 13(2) TJR 133
- R French, “The fine art of giving and taking offence” (2016) 13(1) TJR 21
- K Gelb, B McKinnie and D Tait, “What is the impact of digital technology on juror deliberations?” (2016) 28(8) JOB 75
- J Hatzistergos, “Bail Amendment Act 2015 to commence” (2016) 28(10) JOB 95
- R Huime, “Recent developments in the criminal law” (2017) 29(1) JOB 1
- S Kiefel, “Good faith in contractual performance” (2016) 13(1) TJR 41
- S Kiefel, “Legal influences — across centuries and borders” (2017) 29(4) JOB 29
- S Roach Arieu and K Mack, “Impartiality and emotion in judicial work” (2017) 29(3) JOB 21
- W Martin, “Introducing the national online cultural diversity training program” (2017) 29(5) JOB 39
- W Martin, “A judge’s view of homelessness” (2017) 13(2) TJR 217
- G Nettle, “Technology and the law” (2017) 13(2) TJR 185

Appendix 8

Publications list 2016–17

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
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 NSW magistrates, 1990
5. A critical review of periodic detention in NSW, 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. Sentencing Indications Hearings Pilot Scheme, 1994
10. The evidence of children, 1995
11. Judicial views about pre-sentence reports, 1995
15. Magistrates’ attitudes to drink-driving, drug-driving and speeding, 1997
17. Periodic detention revisited, 1998
18. Sentencing disparity and the ethnicity of juvenile offenders, 1998
19. Apprehended violence orders: a survey of magistrates, 1999
22. Circle sentencing in NSW: a review and evaluation, 2003
24. MERIT: Magistrates Early Referral Into Treatment Program: a survey of magistrates, 2004
25. Sentencing offenders convicted of child sexual assault, 2004
26. Crown appeals against sentence, 2005
27. The nexus between sentencing and rehabilitation in the Children’s Court of NSW, 2005
29. Full-time imprisonment in NSW and other jurisdictions: a national and international comparison, 2007
30. Sentencing robbery offenders since the Henry Guideline judgment, 2007
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 NSW, 2010
34. Sentencing offenders convicted of child pornography and child abuse material offences, 2010
35. Conviction appeals in NSW, 2011
37. Sentencing in fraud cases, 2012
38. Sentencing Commonwealth drug offenders, 2014
40. Transparent and consistent sentencing in the Land and Environment Court of NSW: orders for costs as an aspect of punishment, 2017
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 2016–17

In 2016–17, the Commission provided assistance, advice and shared information and experience with the following:

Judicial Education
- Judicial Council on Cultural Diversity: the Council was formed under the auspices of the Council of Chief Justices and comprises judicial officers from all Australian jurisdictions, as well as other members with relevant expertise. The Council is concerned with issues arising from cultural diversity of Aboriginal and Torres Strait Islander communities, as well as those arising from migration. One of the Council’s initiatives includes judicial education to increase knowledge and understanding of cultural diversity issues. The Commission is a member of the Cultural Diversity Working Group and we worked with members to develop an online cultural diversity training template specifically designed for judicial officers. Topics include barriers to inter-cultural communication and strategies, non-verbal communication, assessing the need for interpreting assistance and how to work effectively with interpreters. The online training program was made available in June 2017.
- Magisterial Service of Papua New Guinea: the Commission continued to assist the PNG magistracy with professional development and judicial training programs, conducting a Magistrates Orientation program from 4–9 June 2017 in Port Moresby.
- Asia Pacific Judicial Educators Meeting: a meeting was held on 22 November 2016 by video conference, and again on 7 February 2017, with participants from Australia, New Zealand and Singapore. A number of collaboration opportunities were identified.

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 (Qsis): we continue to host, maintain and support Qsis. The Commission renewed the MoU with the Supreme Court Library of Queensland until 30 September 2019.
- Commonwealth Sentencing Database (Csd): we continue to host, maintain and support the CSD which is joint project with the Commonwealth Director of Public Prosecutions and the National Judicial College of Australia.
- Forum Administration System: we continue to host, maintain and support the case management for the Forum Sentencing Program for the NSW Department of Justice.
- Papua New Guinea Sentencing Database (PNGSD): we continue to host, maintain and support the PNGSD for the Supreme and National Courts of PNG.
- Papua New Guinea Pilot Integrated Criminal Case System Database (ICCSD): further to the Memoranda of Understanding signed on 16 May 2016, we commenced the pilot phase of the project from 1 March 2017.
- 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 2016–17

Our officers represent the Commission on a number of committees and steering groups. Details of their involvements are:

Mr Ernest Schmatt PSM, Chief Executive
Member of:
- Board of Executives 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

Mr Murali Sagi PSM, Deputy Chief Executive
Member of:
- Justice Cluster Working Group
- Justice Sector Chief Information Officer’s Committee
- Information Security Community of Practice
- Chair, NSW Fellows Committee, Australian Computer Society

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)
- Sentencing and Parole Change and Communications Working Group, Department of Justice
- Child Sexual Offences Review Consultation Group, Department of Justice

Ms Una Doyle, Director, Education
Member of:
- Executive Committee of the Association for Continuing Legal Education (ACLEA)
- Australia New Zealand Judicial Educators (ANZJE)
- Asia Pacific Judicial Educators
- National Judicial Orientation Program Steering Committee, National Judicial College of Australia
- Continuing Legal Education Association of Australasia (CLEAA)
- Judicial Council on Cultural Diversity – Cultural Diversity Working Group
- Domestic Violence Evidence in Chief (DVEC) Reforms Implementation and Monitoring Group (which reports to the Domestic Violence Justice Strategy Senior Executive Committee)

Ms Pierette Mizzi, Manager, Research and Sentencing
Member of:
- Driver Disqualification Licence Reform Implementation Working Group, Department of Justice
- Local Court Bench Book Committee

Ms Sarah Collins, Manager, Programs (Education)
Member of:
- International Committee of the Association for Continuing Legal Education (ACLEA)
- Continuing Legal Education Association of Australasia (CLEAA)

Ms Antonia Miller, Publishing (Education)
- Adjudicator for Australasian Reporting Awards
Appendix 12
Visitors to the Commission 2016–17

Visitors
• Sir Dennis Byron, Chair of the Commonwealth Judicial Education Institute and President, Caribbean Court of Justice, Trinidad and Tobago, 24 March 2017.
• Mr Richard Besley, Interim Director, the Judicial Commission of Victoria, 7 April 2017.

Delegations
• Taskforce of Chinese and international experts set up by the Chinese Council for International Cooperation on the Environment to advise the Chinese Government on environmental law, 20 July 2016.
• Delegation of 13 judges from Nepal and 2 UNICEF representatives, 6 October 2016.
• Delegation of 20 presidents, deputy presidents and directors of various Chinese courts, 15 December 2016.
• Delegation of 20 judges from the Fujian Province, China, 16 February 2017.
• Delegation of women judges from Papua New Guinea, 26 April 2017.
• Delegation of 12 judges from Bangladesh as part of the Bangladesh Judicial Training Program, 19 June 2017.

Appendix 13
Overseas visits 2016–17

• On 11–16 September 2016, the Commission’s Deputy Chief Executive, Mr Murali Sagi PSM, travelled to Port Moresby, Papua New Guinea to present a session on “Consistency in Criminal Sentencing” at the Pacific Judicial Conference 2016 and to participate in the launch of the PNG pilot Integrated Criminal Case System Database (ICCSD). The cost for Mr Sagi was covered by the Supreme and National Courts of PNG.
• On 7–11 November 2016, the Commission’s Deputy Chief Executive, Mr Murali Sagi PSM, travelled with the Honourable Justice Beazley AO, President, NSW Court of Appeal, to Jakarta, Indonesia, to participate and present sessions at the International Symposium on the Line Between Legal Error and Misconduct of Judges, organised by the Judicial Commission of the Republic of Indonesia. The cost for Mr Sagi was covered by Australian Aid — Australia Indonesia Partnership for Justice.
• On 11–14 November 2016, the Commission’s Chief Executive, Mr Ernest Schmatt PSM, travelled to Cochin, India to participate in the 8th Biennial Meeting of the Commonwealth Judicial Education Institute. Mr Schmatt presented papers on judicial education, complaint handling and technology and attended the CJEI Board Meeting as a member of the Advisory Board. The cost for Mr Schmatt was covered by the Commission.
• On 3–9 June 2017, the Commission’s Director, Education, Ms Una Doyle, travelled to Port Moresby, Papua New Guinea to attend the PNG Magistrate’s Orientation Program. The Orientation was jointly organised by the Judicial Commission of NSW and the PNG Centre for Judicial Excellence. The Australian Government, through the Justice Services and Stability for Development (JSS4D) program, covered the costs of Ms Doyle’s travel.

Appendix 14
Exchange of information 2016–17

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 2016–17, 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
• Department of Foreign Affairs and Trade
• 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)
Appendix 14: Exchange of information 2016–17

- 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 Wollongong, Faculty of Law
- Western Sydney University
- 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

Appendix 15
Commission officers’ presentations 2016–17

- Mr E Schmatt PSM, presentation for the Legislative Assembly Committee on Law and Justice on the role of the Judicial Commission and demonstration of JIRS, 7 November 2016.
- Mr E Schmatt PSM, “Electronic Games as a Teaching Tool” presentation to the 8th Commonwealth Judicial Education Institute Biennial Meeting, Cochin, Kerala, India, 13 November 2016.
- Mr E Schmatt PSM, panel discussion on Judicial Discipline at the 8th Commonwealth Judicial Education Institute Biennial Meeting, Cochin, Kerala, India, 13 November 2016.
- Mr E Schmatt PSM, presentation for the Legislative Assembly Committee on Law and Justice on the Judicial Information Research System, 17 February 2017.
- Mr E Schmatt PSM, Commonwealth Judicial Education Institute Commonwealth Chief Justices Meeting, Melbourne, demonstration of technology developed by the Judicial Commission to assist judicial officers and presentation of a paper on “The role and functions of the Judicial Commission of NSW”, 20 March 2017.
- Ms U Doyle, “Introduction and Communication”, presentation at the PNG Magistrate’s Orientation Program, Port Moresby, 5 June 2017.
- Mr H Donnelly, “Recent cases and improvements to the Judicial Information Research System (JIRS)”, presentation to a delegation of Supreme Court Judges, Judicial Commission of NSW, 22 June 2017.
Appendix 16
Access to government information

Table A: Number of applications by type of applicant and outcome*

<table>
<thead>
<tr>
<th></th>
<th>Access granted in full</th>
<th>Access granted in part</th>
<th>Access refused in full</th>
<th>Information not held</th>
<th>Information already available</th>
<th>Refuse to deal with application</th>
<th>Refuse to confirm/deny whether information is held</th>
<th>Application withdrawn</th>
</tr>
</thead>
<tbody>
<tr>
<td>Media</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Members of Parliament</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Private sector business</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Not for profit organisations or community groups</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Members of the public (application by legal representative)</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Members of the public (other)</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

* 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

<table>
<thead>
<tr>
<th></th>
<th>Access granted in full</th>
<th>Access granted in part</th>
<th>Access refused in full</th>
<th>Information not held</th>
<th>Information already available</th>
<th>Refuse to deal with application</th>
<th>Refuse to confirm/deny whether information is held</th>
<th>Application withdrawn</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal information applications*</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Access applications (other than personal information applications)</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Access applications that are partly personal information applications and partly other</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

* A personal information application is an access application for personal information (as defined in clause 4 of Schedule 4 to the GIPA Act) about the applicant (the applicant being an individual).

Table C: Invalid applications

<table>
<thead>
<tr>
<th>Reason for invalidity</th>
<th>Number of applications</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application does not comply with formal requirements (section 41 of the Act)</td>
<td>0</td>
</tr>
<tr>
<td>Application is for excluded information of the agency (section 43 of the Act)</td>
<td>0</td>
</tr>
<tr>
<td>Application contravenes restraint order (section 110 of the Act)</td>
<td>0</td>
</tr>
<tr>
<td>Total number of invalid applications received</td>
<td>0</td>
</tr>
<tr>
<td>Invalid applications that subsequently became valid applications</td>
<td>0</td>
</tr>
</tbody>
</table>
### Appendix 16: Access to government information

#### Table D: Conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 to Act

<table>
<thead>
<tr>
<th>Matter</th>
<th>Number of times consideration used*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Overriding secrecy laws</td>
<td>0</td>
</tr>
<tr>
<td>Cabinet information</td>
<td>0</td>
</tr>
<tr>
<td>Executive Council information</td>
<td>0</td>
</tr>
<tr>
<td>Contempt</td>
<td>0</td>
</tr>
<tr>
<td>Legal professional privilege</td>
<td>0</td>
</tr>
<tr>
<td>Excluded information</td>
<td>1</td>
</tr>
<tr>
<td>Documents affecting law enforcement and public safety</td>
<td>0</td>
</tr>
<tr>
<td>Transport safety</td>
<td>0</td>
</tr>
<tr>
<td>Adoption</td>
<td>0</td>
</tr>
<tr>
<td>Care and protection of children</td>
<td>0</td>
</tr>
<tr>
<td>Ministerial Code of Conduct</td>
<td>0</td>
</tr>
<tr>
<td>Aboriginal and environmental heritage</td>
<td>0</td>
</tr>
</tbody>
</table>

* 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

<table>
<thead>
<tr>
<th>Public interest consideration</th>
<th>Number of occasions when application not successful</th>
</tr>
</thead>
<tbody>
<tr>
<td>Responsible and effective government</td>
<td>0</td>
</tr>
<tr>
<td>Law enforcement and security</td>
<td>0</td>
</tr>
<tr>
<td>Individual rights, judicial processes and natural justice</td>
<td>0</td>
</tr>
<tr>
<td>Business interests of agencies and other persons</td>
<td>1</td>
</tr>
<tr>
<td>Environment, culture, economy and general matters</td>
<td>0</td>
</tr>
<tr>
<td>Secrecy provisions</td>
<td>0</td>
</tr>
<tr>
<td>Exempt documents under interstate Freedom of Information legislation</td>
<td>0</td>
</tr>
</tbody>
</table>

#### Table F: Timeliness

<table>
<thead>
<tr>
<th>Timeliness</th>
<th>Number of applications</th>
</tr>
</thead>
<tbody>
<tr>
<td>Decided within the statutory time frame (20 days plus any extensions)</td>
<td>2</td>
</tr>
<tr>
<td>Decided after 35 days (by agreement with applicant)</td>
<td>0</td>
</tr>
<tr>
<td>Not decided within time (deemed refusal)</td>
<td>0</td>
</tr>
<tr>
<td>Total</td>
<td>2</td>
</tr>
</tbody>
</table>

#### Table G: Number of applications reviewed under Part 5 of the Act (by type of review and outcome)

<table>
<thead>
<tr>
<th>Type of Review</th>
<th>Decision varied</th>
<th>Decision upheld</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Internal review</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Review by Information Commissioner*</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Internal review following recommendation under section 93 of Act</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Review by ADT</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Total</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

* 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)

<table>
<thead>
<tr>
<th>Type of Applicant</th>
<th>Number of applications for review</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applications by access applicants</td>
<td>0</td>
</tr>
<tr>
<td>Applications by persons to whom information the subject of access application relates (see section 54 of the Act)</td>
<td>0</td>
</tr>
</tbody>
</table>

#### Table I: Applications transferred to other agencies under Division 2 of Part 4 of the Act (by type of transfer)

<table>
<thead>
<tr>
<th>Type of Transfer</th>
<th>Number of applications transferred</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agency-initiated transfers</td>
<td>0</td>
</tr>
<tr>
<td>Application-initiated transfers</td>
<td>0</td>
</tr>
</tbody>
</table>
Appendix 17
Other compliance matters

<table>
<thead>
<tr>
<th>Application for extension of time</th>
<th>No extension applied for.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Code of Conduct</td>
<td>The Code of Conduct is available to all staff on the Commission’s intranet. As no amendments were made in 2016–17, the Commission is not required to reproduce the Code of Conduct.</td>
</tr>
<tr>
<td>Controlled entities, disclosure of</td>
<td>The Commission has no controlled entities.</td>
</tr>
<tr>
<td>Community Relations Commission, agreements with</td>
<td>No agreements have been entered into.</td>
</tr>
<tr>
<td>Credit card certification</td>
<td>Refer to p. 85.</td>
</tr>
<tr>
<td>Disability Plan</td>
<td>The Commission is only required to report on a triennial basis.</td>
</tr>
<tr>
<td>Digital information security policy attestation</td>
<td>Refer to p. 78.</td>
</tr>
<tr>
<td>Events with a significant effect on the succeeding year after the balance date</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>Executive officers, performance and numbers</td>
<td>Performance not reported because the Commission’s executive officers are not employed under the Government Sector Employment Act 2013 but under the Judicial Officers Act 1986. Numbers are reported on p. 68.</td>
</tr>
<tr>
<td>Funds granted to non-government community organisations</td>
<td>None.</td>
</tr>
<tr>
<td>Heritage management</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>Implementation of price determination</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>Land disposal</td>
<td>The Commission does not own and did not dispose of any property.</td>
</tr>
<tr>
<td>Major assets</td>
<td>The Commission does not own any major assets.</td>
</tr>
<tr>
<td>Multicultural Policies and Services Program</td>
<td>Refer to p. 78–79.</td>
</tr>
<tr>
<td>Public interest disclosure (PID)</td>
<td>No public interest disclosures made.</td>
</tr>
<tr>
<td>Requirements arising from employment arrangements</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>Responses to reports of parliamentary committees and Auditor General</td>
<td>No significant matters requiring a response were raised.</td>
</tr>
<tr>
<td>Subsidiaries, disclosure of</td>
<td>The Commission has no subsidiaries.</td>
</tr>
<tr>
<td>Waste</td>
<td>Refer to p. 82 for our sustainability reporting.</td>
</tr>
<tr>
<td>Work health and safety</td>
<td>Refer to p. 78.</td>
</tr>
</tbody>
</table>

Glossary and abbreviations

AIJA — Australasian Institute of Judicial Administration Incorporated.
Appointed member — A non-judicial member of the Judicial Commission of NSW: see also Official member.
Bench books — Reference books for judicial officers.
Complaint — 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.
Conduct Division — A special panel that examines a particular complaint referred to it by the Commission.
Education day — Calculated on the basis of 5 to 6 instructional hours attended by a judicial officer.
Helpdesk — A telephone service for judicial officers that provides assistance with all aspects of computer usage.
JIRS — Judicial Information Research System.
Judicial Commission — An independent statutory organisation established by the Judicial Officers Act 1986.
Judicial Information Research System (JIRS) — An online legal reference tool for judicial officers, relevant government organisations and members of the legal profession.
Judicial officer — As defined in the Judicial Officers Act 1986:
• 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
• the President of the Civil and Administrative Tribunal.
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.
Ngara Yura Program — Aboriginal cultural awareness program for judicial officers.
NJCA — National Judicial College of Australia.
Official member — A judicial member of the Judicial Commission of NSW.
Pre-bench training — An induction program for newly-appointed magistrates to assist them with their transition to the Bench.
Vexatious complainant — The Judicial Officers Act 1986 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.
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Apart from the title of publications or legislation, entries in italics indicate compliance with statutory reporting requirements.

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### Continuing judicial education

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of judicial education days each year</th>
<th>Number of educational events</th>
<th>Overall satisfaction rating with judicial education events</th>
<th>% of attendance by judicial officers at annual conferences</th>
<th>% of attendance at magistrates’ induction/orientation programs</th>
<th>Average number of training days offered each judicial officer</th>
<th>Average number of training days undertaken by each judicial officer</th>
<th>% of judicial officers who attended at least 2 days of judicial training</th>
<th>Number of publications (including bench book updates, bulletins, journals, education monographs and training videos)**</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012–13</td>
<td>1,232</td>
<td>38</td>
<td>92%</td>
<td>90%</td>
<td>100%</td>
<td>5</td>
<td>4</td>
<td>90%</td>
<td>36</td>
</tr>
<tr>
<td>2013–14</td>
<td>1,168</td>
<td>32</td>
<td>89%</td>
<td>87%</td>
<td>100%</td>
<td>4</td>
<td>3.7</td>
<td>87%</td>
<td>35</td>
</tr>
<tr>
<td>2014–15</td>
<td>1,075</td>
<td>39</td>
<td>92%</td>
<td>85%</td>
<td>100%</td>
<td>4</td>
<td>3.7</td>
<td>67%</td>
<td>34</td>
</tr>
<tr>
<td>2015–16</td>
<td>1,452</td>
<td>43</td>
<td>93%</td>
<td>87%</td>
<td>100%</td>
<td>5</td>
<td>5.8</td>
<td>78%</td>
<td>34</td>
</tr>
<tr>
<td>2016–17</td>
<td>667*</td>
<td>44</td>
<td>91%</td>
<td>77%</td>
<td>100%</td>
<td>3.5</td>
<td>2.2*</td>
<td>77%</td>
<td>31</td>
</tr>
</tbody>
</table>

* The Local Court of NSW Annual Conference was not held in the 2016–17 financial year which accounts for the decline.

** We changed our measure to include Criminal Trial Courts Bench Book updates.

---

### Providing legal information

<table>
<thead>
<tr>
<th>Year</th>
<th>JIRS usage (average page hits each month)</th>
<th>% of JIRS availability</th>
<th>Number of enhancements to JIRS</th>
<th>Timeliness of sentencing material on JIRS</th>
<th>Number of Sentencing Trends &amp; Issues papers and monographs</th>
<th>Timely updates to the Criminal Trial Courts Bench Book and Sentencing Bench Book**</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012–13</td>
<td>113,666</td>
<td>99%</td>
<td>12</td>
<td>2 wks</td>
<td>4</td>
<td>10</td>
</tr>
<tr>
<td>2013–14</td>
<td>123,338</td>
<td>99%</td>
<td>5</td>
<td>2 wks</td>
<td>1</td>
<td>10</td>
</tr>
<tr>
<td>2014–15</td>
<td>127,302</td>
<td>99%</td>
<td>6</td>
<td>2 wks</td>
<td>3</td>
<td>10</td>
</tr>
<tr>
<td>2015–16</td>
<td>136,324</td>
<td>99%</td>
<td>14</td>
<td>1 day</td>
<td>5</td>
<td>10</td>
</tr>
<tr>
<td>2016–17</td>
<td>134,476</td>
<td>99%</td>
<td>10</td>
<td>1 day</td>
<td>2</td>
<td>10</td>
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</tbody>
</table>

### Examining complaints

<table>
<thead>
<tr>
<th>Year</th>
<th>% of complaints acknowledged within 1 week of receipt</th>
<th>% of complaints examined within 6 months of receipt</th>
<th>% of complaints examined within 12 months of receipt</th>
<th>Complaints received (number)</th>
<th>Complaints examined (number)</th>
<th>Our people</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012–13</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>71</td>
<td>85</td>
<td>39</td>
</tr>
<tr>
<td>2013–14</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>48</td>
<td>61</td>
<td>39</td>
</tr>
<tr>
<td>2014–15</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>59</td>
<td>61</td>
<td>41</td>
</tr>
<tr>
<td>2015–16</td>
<td>100%</td>
<td>100%</td>
<td>93%</td>
<td>44</td>
<td>56</td>
<td>41</td>
</tr>
<tr>
<td>2016–17</td>
<td>100%</td>
<td>94%</td>
<td>99%</td>
<td>75</td>
<td>72</td>
<td>40</td>
</tr>
</tbody>
</table>

### Environmental sustainability

<table>
<thead>
<tr>
<th>Year</th>
<th>Total energy used</th>
<th>% of recycled paper used</th>
<th>Access to information requests</th>
<th>Environmental sustainability</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012–13</td>
<td>475 GJ</td>
<td>100%</td>
<td>0</td>
<td>475 GJ</td>
</tr>
<tr>
<td>2013–14</td>
<td>472 GJ</td>
<td>100%</td>
<td>0</td>
<td>472 GJ</td>
</tr>
<tr>
<td>2014–15</td>
<td>463 GJ</td>
<td>100%</td>
<td>0</td>
<td>463 GJ</td>
</tr>
<tr>
<td>2015–16</td>
<td>449 GJ</td>
<td>100%</td>
<td>0</td>
<td>449 GJ</td>
</tr>
<tr>
<td>2016–17</td>
<td>278 GJ</td>
<td>100%</td>
<td>2</td>
<td>278 GJ</td>
</tr>
</tbody>
</table>

### Our finances

<table>
<thead>
<tr>
<th>Year</th>
<th>Revenue from NSW Government</th>
<th>Retained revenue (sale of goods &amp; services, investment income, etc)</th>
<th>Expenditure</th>
<th>Our finances</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012–13</td>
<td>$5.321 M</td>
<td>$709,000</td>
<td>$6.008 M</td>
<td>$5.321 M</td>
</tr>
<tr>
<td>2013–14</td>
<td>$4.976 M</td>
<td>$1.037 M</td>
<td>$5.963 M</td>
<td>$4.976 M</td>
</tr>
<tr>
<td>2014–15</td>
<td>$5.247 M</td>
<td>$883,000</td>
<td>$6.173 M</td>
<td>$5.247 M</td>
</tr>
<tr>
<td>2015–16</td>
<td>$3.755 M</td>
<td>$738,000</td>
<td>$5.840 M</td>
<td>$3.755 M</td>
</tr>
</tbody>
</table>

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### Annual Report of the Judicial Commission of NSW 2016–17

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