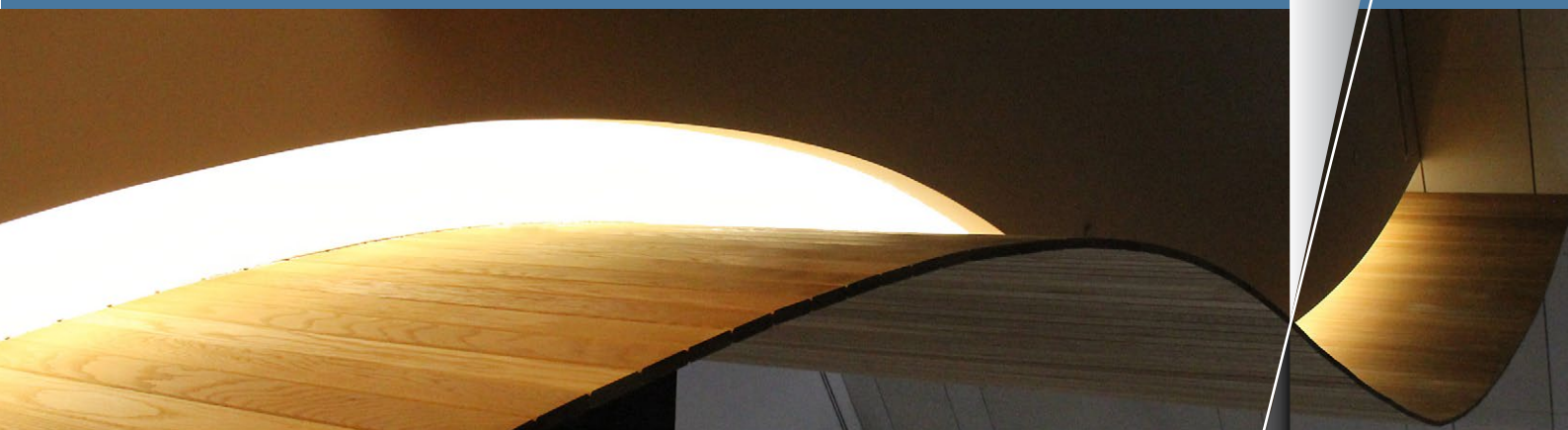




Judicial Commission
of New South Wales

Judicial Commission of NSW



Annual Report

2017–18

This annual report summarises the activities and performance of the Judicial Commission of NSW for 2017–18 measured against our goals, strategies, direction and targets. We also outline our strategic focus for 2018–19. We proudly acknowledge the 30th anniversary of our operations. This and earlier annual reports are available on our public website at www.judcom.nsw.gov.au.

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 or corporation. 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 also 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 16–20 for their profiles and achievements. An independent Audit and Risk Committee monitors our risk profile and advises the Chief Executive: see p 80 for details of the committee.

Our mission

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

Our vision

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

Have a high
calibre of judicial
knowledge
and skills

Achieve
consistency
in imposing
sentences

Behave
ethically and
impartially in their
judicial role

Our values

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 and services.

Interconnection — to work constructively and cooperatively with our partners.

Sustainability — to be aware how 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 (legal information) and complaints. See our organisational structure on p 4 and our services delivery chart on pp 4–5.

Our resources

Staff — We employed 38 people (32.6 full-time equivalent) as at 30 June 2018 and had a turnover rate of 6.8%. See p 67.

Revenue — \$5.568 million (last year: \$6.766 million) revenue from the NSW Government. The decrease in revenue was due to the reversion of recurrent allocation after last year's increase for new office relocation and fit out. See p 91.

Other revenue — \$1.041 million from other revenue including \$999,000 in self-generated revenue. See p 91.

2017–18 highlights

Celebrated our 30th anniversary at a Government House reception in October 2017. See page 2.

93% judicial satisfaction with the continuing judicial education program. See page 25.

Use of the Judicial Information Research System (JIRS) at an all time high. See page 40.

Worked with the Australian National Imam's Council to develop an explanatory note for Muslims in court. See p 60.

High level of staff satisfaction at 89%. See page 67.

Generated revenue of \$999,000 from provision of software services. See page 91.

Compliance letter to Attorney General



The Honourable Mark Speakman, SC MP
Attorney General
52 Martin Place, Sydney NSW 2000

Dear Attorney

The Judicial Commission of NSW has pleasure in presenting to you the report of its activities for the year ended 30 June 2018.

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

Yours sincerely

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

E J Schmatt AM PSM
Chief Executive
Judicial Commission of NSW

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30 years of the Commission



For legend, see p 128.

Looking at the last 5 years

	2013–14	2014–15	2015–16	2016–17	2017–18	
Continuing judicial education						
Number of judicial education days each year	1,168	1,075	1,452	667*	1,024	↑
Number of educational events	32	39	43	44	38	✓
Overall satisfaction rating with judicial education events	89%	92%	93%	91%	93%	↑
% of attendance by judicial officers at annual conferences	87%	85%	87%	77%	81%	↑
% of attendance at magistrates' induction/orientation programs	100%	100%	100%	100%	100%	✓
Average number of training days offered each judicial officer	4.6	4.3	5.8	3.5*	4.7	↑
Average number of training days undertaken by each judicial officer	4	3.7	5	2.2*	3.7	↑
% of judicial officers who attended at least 2 days of judicial training	87%	67%	78%	77%	81%	↑
Number of publications (including bench book updates, bulletins, journals, education monographs and training videos)	35	34	34	31	32	↑
Providing legal information (includes research and sentencing)						
JIRS usage (average page hits each month)	123,338	127,302	136,324	134,476	136,527	↑
% of JIRS availability	99%	99%	99%	99%	99%	✓
Number of enhancements to JIRS	5	6	14	10	7	↓
Timeliness of sentencing material on JIRS						
– Recent law items posted on JIRS	2 wks	2 wks	2 wks	2 wks	2 wks	✓
– Judgments (within number of days of receipt)	1 day	1 day	1 day	1 day	1 day	✓
– Summaries of important judgments (within number of weeks of receipt)	5 wks	5 wks	5 wks	5 wks	5 wks	✓
– Sentencing statistics loaded on JIRS (within number of months of receipt)	1–4 mths	1–4 mths	1–4 mths	1–4 mths	1–4 mths	✓
Number of <i>Sentencing Trends & Issues</i> papers and monographs	1	3	2	2	0	↓
Timely updates to the <i>Criminal Trial Courts Bench Book</i> and <i>Sentencing Bench Book</i>	6	6	8	7	6	✓
Lawcodes: % of new and amended offences coded and distributed within 4 days of commencement	100%	100%	100%	100%	100%	✓
Examining complaints						
% of complaints acknowledged within 1 week of receipt	100%	100%	100%	100%	100%	✓
% of complaints examined within 6 months of receipt	87%	100%	93%	94%	90%	✓
% of complaints examined within 12 months of receipt	100%	100%	100%	99%	100%	✓
Complaints received (number)	48	59	44	75	74	–
Complaints examined (number)	61	56	40	72	62	–
Our people						
Staff (number)	39	41	41	40	38	–
Length of service: 5 years or greater	67%	67%	77%	65%	79%	–
Our governance						
Access to information requests	0	0	0	2	0	–
Environmental sustainability						
Total energy used	472 GJ	463 GJ	449 GJ	278 GJ	291 GJ	↑
% of recycled paper used	100%	100%	100%	100%	100%	✓
Our finances						
Revenue from NSW Government	\$4.976 M	\$5.247 M	\$3.755 M	\$6.766 M	\$5.568 M	↓
Retained revenue (sale of goods & services, investment income, etc)	\$1.037 M	\$883,000	\$738,000	\$812,000	\$1.041 M	↑
Expenditure	\$5.963 M	\$6.173 M	\$5.840 M	\$6.338 M	\$6.857 M	↑

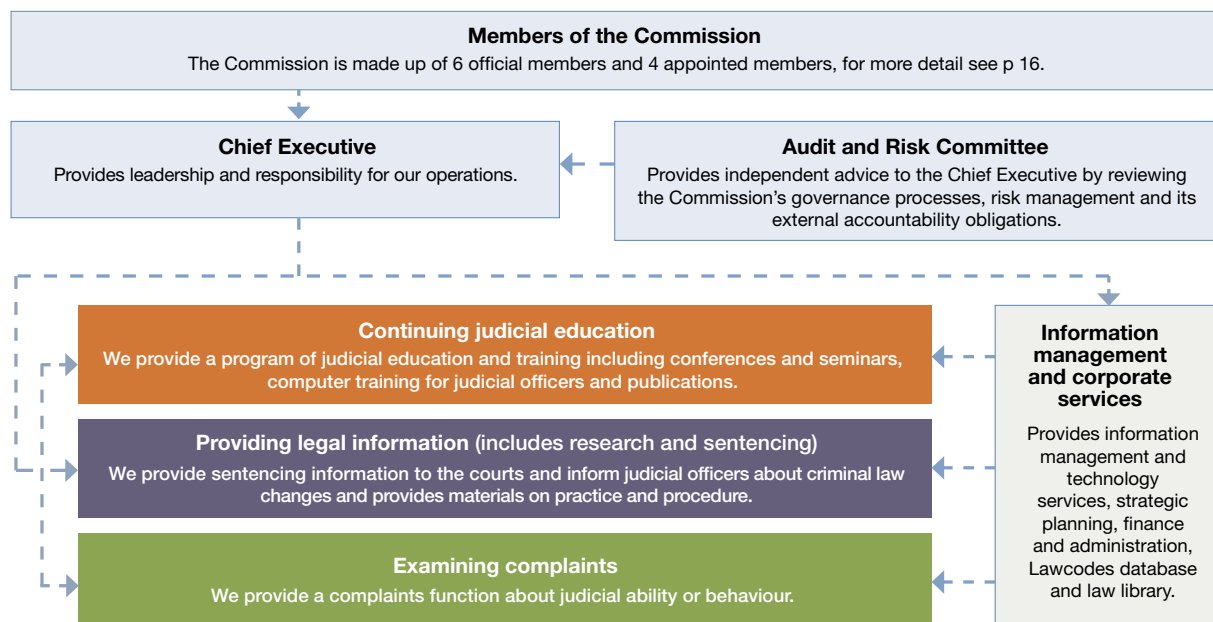
* The Local Court of NSW Annual Conference was not held in the 2016–17 financial year which accounts for the decline.

Legend

✓ target achieved ↑ target/output exceeded ↓ target not achieved

Overview of the Commission

Our organisational structure



Our services delivery

Services we provide to assist judicial officers



Continuing judicial education

Result		Strategies		Performance
Judicial officers are informed about changes to the law, community values, court practice and procedure.	Induction and orientation sessions for new judicial officers to assist in their transition from legal professional to impartial adjudicator.	Annual conferences for all NSW courts to provide up-to-date information on specific topics and promote collegiality.	Skills-based workshops, seminars, field trips and distance education to enhance judicial skills, attitudes and knowledge.	See pp 21–32 for an overview of our activities this year.
Judicial skills, attitudes and knowledge are enhanced.	Aboriginal cross-cultural awareness sessions/community visits so judicial officers are informed about Aboriginal society, customs and traditions.	Digital and multi-media resources, online and print publications for information and research.	JIRS and Ipad™ support.	See pp 21–32 for an overview of our activities this year.

Our services delivery *continued*



Providing legal information

Result	Strategies			Performance
Judicial officers had access to current law to assist in their day-to-day decision making.	The Judicial Information Research System (JIRS) is an online database to assist day-to-day judicial decision making. The components of JIRS are described on p 39.	Bench books contain major legislation and precedents which apply when conducting a civil and criminal trial, procedural guidelines, suggested jury directions, and sample orders.	Research studies.	See pp 33–44 for an overview of our activities this year.
Judicial officers were informed about changes to criminal and sentencing law and practice and procedure.	“Recent Law” summaries of important legal developments posted on JIRS.	Email alerts to notify judicial officers of significant changes to the law or about sentencing methods.	Comprehensive information about treatment options and rehabilitation facilities for offenders.	See pp 33–44 for an overview of our activities this year.

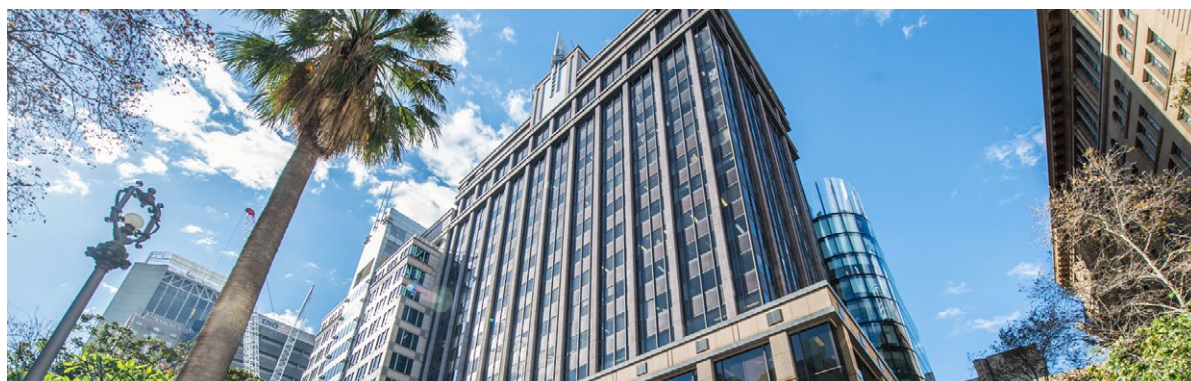


Examining complaints

Result	Strategies			Performance
People of NSW have an efficient complaints mechanism. Confidentiality and independence of judicial officers is maintained.	Examining 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/function while monitoring patterns in complaints and addressing recurring issues in our judicial education program.	See pp 45–54 for an overview of our activities this year.

Our history

- 1985 — Controversies involving judicial officers in Australia are widely reported in the media.
- 1986 — The NSW Government announced plans to establish a Judicial Commission responding to a perceived crisis in public confidence in the judiciary. The *Judicial Officers Act* 1986 commenced in December. The Commission uniquely combined a complaints function with educational and sentencing functions.
- 1987 — The *Judicial Officers (Amendment) Act* 1987 made the Commission a statutory corporation, 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 — A special reception was held in October at Government House to commemorate 20 years of operations. A brief history "From Controversy to Credibility" of the Commission was published. 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. * We changed our method of counting to include acting judicial officers.*
- 2016 — To promote interactive learning, a resource app was launched. The Commission moved to new premises at 60 Carrington Street, Sydney (our new location below).



Our history *continued*

2017 — Judicial Commission celebrates 30 years

A reception is held in October at Government House, Sydney, to commemorate 30 years of the Commission's operations and an article published: "Enduring values and evolving services: 30 years of the Judicial Commission" located at www.judcom.nsw.gov.au/about-the-commission/our-history/.

The Commission provided professional development programs to 365 judicial officers; 66% are men; 34% are women.

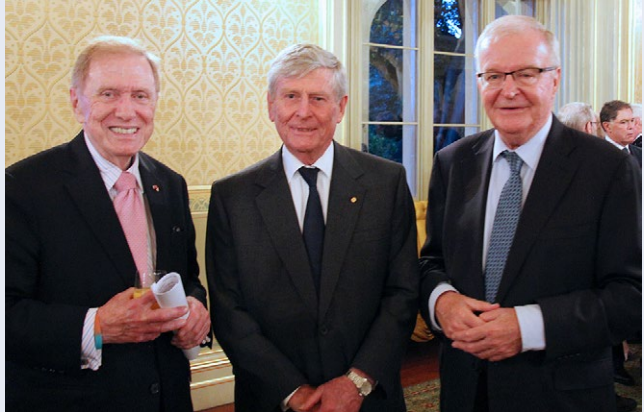


Photo top right

Distinguished guests included (l to r) the Honourable Michael Kirby AC CMG; the Honourable Murray Gleeson AC QC, former President of the Commission; and the Honourable TF Bathurst AC, current Chief Justice of NSW, President of the Judicial Commission and the host of the reception in his capacity as Lieutenant-Governor of NSW.

Photo right

Pictured (l to r) are Mr Ernest Schmatt AM PSM, Chief Executive, Judicial Commission of NSW; Mrs Judith Preston; Justice Terry Sheahan AO, the Attorney General of NSW 1984–1986 who announced the plan for a Judicial Commission in September 1986; Mr Murali Sagi PSM, Deputy Chief Executive, Judicial Commission.



2018 — Judicial Commission partners with the Judicial Council on Cultural Diversity

The Commission worked with the Judicial Council on Cultural Diversity to promote the *Recommended Standards for Working with Interpreters in Courts and Tribunals*.

Use of the Judicial Information Research System peaks at an all time high with 1.64 million page hits.

Our Chief Executive, Ernest Schmatt AM PSM, is recognised in the Australia Day Honours as a Member of the Order of Australia.

The Commission provided professional development programs to 366 judicial officers; 66% are men; 34% are women.



**Recommended National Standards
for Working with Interpreters
in Courts and Tribunals**

Results in brief and strategic direction

Our programs this year continued to promote the highest standards of judicial behaviour, performance and decision making. Below are our results in brief, key challenges faced this year and our strategic direction for 2018–19.



Our finances

Financial result	Income	Expenses
Our financial result was a deficit of \$248,000. The deficit, due to depreciation of \$252,000 as a non-cash item, was not funded from recurrent allocations. See p 91 for more information.	Income of \$6.609 million was derived from \$5.568 million in government funding and \$1.041 million in other revenue. See p 91 for more information.	Our expenses were \$6.857 million. See p 91 for more information.
We received an unmodified report for our financial statements from the Auditor-General of NSW.		
See p 91 for a summary of our finances and pp 92–116 for our full financial report.		



Continuing judicial education

Key results	Key challenge	Strategic direction
Judicial officers rated their satisfaction with the education program at 93% (last year 91%). See p 25 for more information. Judicial skills, knowledge and attitudes were enhanced with 38 education events offered (last year 44). See pp 21–32 for more information.	Unprecedented number of reforms to the criminal justice system which stretched our already limited resources. See pp 34, 37 for more information.	Developing web-based education as an alternative to in-person programs in order to assist busy judicial officers. See p 22 for more information.



Providing legal information

Key results	Key challenge	Strategic direction
31 publications to inform judicial officers about changes to the law, community values, court practice and procedure (last year 31). See p 38 for more information. Judicial officers had access to current law on the Judicial Information Research System (JIRS) to assist in their day-to-day decision making. JIRS had 1.638 million page hits (1.5% growth). See p 40 for more information.	Re-prioritising our research projects to accommodate the NSW Government's significant justice reform program. See p 37 for more information.	Updating our information to advise judicial officers about sentencing law reforms (expected to commence in September 2018); reforms to child sexual assault laws following the Child Abuse Royal Commission recommendations; and reforms to forensic mental health law. See p 34 for more information.

Results in brief and strategic direction *continued*



Examining complaints

Key results	Key challenge	Strategic direction
62 formal complaints examined and all complaints acknowledged in writing within 5 days. See p 49 for more information.	Explaining to complainants why their complaint was dismissed under statutory criteria in the <i>Judicial Officers' Act 1986</i> . See p 49 for more information.	Finalise the majority of complaints that do not require further examination within 90 days and the preliminary examination of all complaints received within 12 months. See p 49 for more information.



Engaging with our partners and the community

Key results	Key challenges	Strategic direction
<p>Collaborated closely with the Department of Justice to help communicate major justice reforms to judicial officers. See pp 37, 61 for more information.</p> <p>Publicised best practice for judicial officers working with interpreters in courts and Tribunals. See p 62 for more information.</p> <p>Provided assistance to the Australian National Imam's Council on preparing an explanatory note for Muslims in court. See p 60 for more information.</p>	<p>Commenting on and implementing the NSW Government's extensive criminal justice reforms.</p> <p>Balancing our core work with requests for research assistance and capacity-building projects. See pp 56, 61 for more information.</p>	<p>We will continue to review and implement the NSW Government's criminal justice reforms.</p> <p>We will collaborate with the Judicial Council on Cultural Diversity to implement the national framework to improve accessibility to courts for Aboriginal and Torres Strait Islander women, migrants and refugee women. See p 56 for more information.</p>



Our people

Key results	Key challenge	Strategic direction
89% staff satisfaction as measured in our yearly staff survey. See p 67 for more information.	Encouraging busy staff to balance their work commitments with training and development opportunities. See pp 66, 72 for more information.	Developing further strategies to assess and understand where the Commission's productivity can be improved. See p 66 for more information.



Our governance

Key results	Key challenges	Strategic direction
<p>10 Commission and 4 Audit Risk Committee meetings held, ensuring robust governance. See pp 79–83 for more information.</p> <p>We complied with the requirements of NSW Treasury Policy Paper TPP 15-03 directed to internal and audit and risk management policy for the NSW public sector. See p 83 for more information.</p>	<p>Reviewing and implementing internal audit recommendations which must be balanced with our core operations. See p 83 for more information.</p> <p>Managing succession planning as long-term staff approach retirement.</p>	Refining and keeping to our strategic direction while maintaining effective policies that ensure safety, security, confidentiality, access, availability, equity, risk management, integrity, compliance and assurance. See p 76 for more information.

Performance results 2016–18 and targets 2017–19

Result	Measure	2016–17 result
Continuing judicial education		
Judicial officers informed about changes to the law, community values, court practice and procedure	Maintain/increase number of publications	31 publications
	Maintain/increase number of specialised education events offered	44 education events
	Education events assisted judicial officers to reach the national standard* of 5 judicial education days each year	3.5 days offered** 2.2 days undertaken**
Judicial skills, attitudes and knowledge enhanced	Maintain/increase ratings that our services provide judicially relevant and stimulating education and information	82% of participants satisfied that events relevant and applicable and 78% satisfied that events enhanced knowledge and capability
Judicial officers satisfied with their education	Maintain/improve satisfaction rates from last year	91% overall satisfaction
Judicial officers satisfied with skills based workshops	Maintain/improve satisfaction rates from last year	91% overall satisfaction
Providing legal information (includes research and sentencing)		
Judicial officers had access to current law to assist in decision making	Maintain/increase use of Judicial Information Research System (JIRS)	134,476 average page hits each month
Judicial officers promptly informed about changes to criminal law and criminal practice and procedure	Maintain accuracy of legislation by weekly updates; update judgments on a daily basis; maintain bench books to reflect significant changes to the law; maintain email alert service	<ul style="list-style-type: none"> • 238 recent law items posted on JIRS • 244 summaries of select appeal decisions published on JIRS • 3 updates to <i>Criminal Trial Courts Bench Book</i>
Judicial officers promptly notified of changes in sentencing law and practice	Maintain legal accuracy of sentencing principles and practices component of JIRS	4 updates to <i>Sentencing Bench Book</i>
		Sentencing principles in <i>Sentencing Bench Book</i> linked to new cases and legislation
Accurate sentencing information available to judicial officers	Maintain sentencing statistics on JIRS on the range and frequency of penalties imposed in similar cases	Sentencing data received, audited and loaded on JIRS within 4 months of receipt
	Maintain information about sentences that other judicial officers have given in similar circumstances	Published 53 summaries of significant appeal decisions in the <i>Judicial Officers' Bulletin</i>
Information about sentencing communicated	Maintain/increase publication of sentencing trends, research papers and monographs	1 <i>Sentencing Trends & Issues</i> paper and 1 monograph published
	Provide information in response to requests for specific sentencing issues	1 research request from a judicial officer and responses to 11 non-judicial enquiries
Judicial officers informed about sentencing options and rehabilitation facilities for offenders	Maintain current information about service providers in services directory on JIRS	Done
JIRS improved to meet judicial officers' needs	Maintain/increase number of improvements to JIRS	10
Examining complaints		
Timely acknowledgment and completion of preliminary examination of complaints	Maintain/decrease time taken to conduct preliminary examination of complaints	Examined 94% of complaints within 6 months and 99% of complaints within 12 months
	Maintain time taken to formally acknowledge complaints received	100% of complaints received acknowledged within 5 working days
High standard of judicial performance	Compare number of complaints to number of court matters finalised during the year	364 judicial officers in NSW heard around 700,000 court matters in 2016–17 75 complaints about 57 judicial officers made
	Compare number of complaints dismissed under section 20 of the <i>Judicial Officers Act 1986</i> with complaints that require further action	96% of complaints were summarily dismissed under section 20 of the <i>Judicial Officers Act 1986</i> 1 complaint referred to Conduct Division, 2 complaints referred to head of jurisdiction
	Maintain accessible information about complaints process	Information about the complaints process and how to make a complaint was provided in the annual report, our website, and in brochure form
		Responded to 265 requests for information
Independence of judicial officers maintained	Complaints process demonstrates integrity of complaints function	Commission examined all complaints according to statutory criteria and established protocols
Information gathered from the complaints process used to develop education sessions for judicial officers	Monitor and analyse trends in complaints to feed into education sessions	33% of complaints arose from allegations of failure to give a fair hearing 24% of complaints arose from allegations of an apprehension of bias

* See Appendix 3 for explanation of national standard.

Performance results 2016–18 and targets 2017–19 *continued*

2017–18 target	2017–18 result	Status	2018–19 target
Continuing judicial education			
34 publications	32 publications	↓	34 publications
34 education events	38 education events	✓	34 education events
5 days offered 5 days undertaken	4.7 days offered** 3.7 days undertaken**	↓ ↓	5 days offered 5 days undertaken
80% of participants satisfied that events relevant and applicable and 70% satisfied that events enhanced knowledge and capability	90% of participants satisfied that events relevant and applicable and 76% satisfied that events enhanced knowledge and capability	↑ ↑	80% of participants satisfied that events relevant and applicable and 70% satisfied that events enhanced knowledge and capability
85% overall satisfaction	93% overall satisfaction	↑	85% overall satisfaction
85% overall satisfaction	94% overall satisfaction	↑	85% overall satisfaction
Providing legal information (includes research and sentencing)			
112,500 average page hits each month	136,527 average page hits each month	↑	115,000 average page hits each month
n/a	• 232 recent law items posted on JIRS	↑	n/a
n/a	• 252 summaries of select appeal decisions published on JIRS	↑	n/a
• 3 updates to <i>Criminal Trial Courts Bench Book</i>	• 3 updates to <i>Criminal Trial Courts Bench Book</i>	✓	as required for <i>Criminal Trial Courts Bench Book</i>
3 updates to <i>Sentencing Bench Book</i>	3 updates to <i>Sentencing Bench Book</i>	↑	as required for <i>Sentencing Bench Book</i>
Sentencing principles in <i>Sentencing Bench Book</i> linked to new cases and legislation	Sentencing principles in <i>Sentencing Bench Book</i> linked to new cases and legislation	n/a	Sentencing principles in <i>Sentencing Bench Book</i> linked to new cases and legislation
1–4 months	Sentencing data received, audited and loaded on JIRS within 4 months of receipt	✓	1–4 months
n/a	Published 252 summaries of significant appeal decisions in the <i>Judicial Officers' Bulletin</i>	✓	as required
3 studies	0 <i>Sentencing Trends & Issues</i> paper and 0 monograph published	✓	as required
n/a	10 research request from a judicial officer and responses to 11 non-judicial enquiries	n/a	as required
n/a	Done	✓	n/a
5	7	↑	5
Examining complaints			
Examine 90% within 6 months; 100% within 12 months	Examined 90% of complaints within 6 months and 100% 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	365 judicial officers in NSW heard around 700,000 court matters in 2017–18. 74 complaints about 68 judicial officers made	n/a	n/a
n/a	89% of complaints were summarily dismissed under section 20 of the <i>Judicial Officers Act 1986</i> 2 complaints referred to Conduct Division, 5 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 304 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	49% of complaints arose from allegations of failure to give a fair hearing. 22% 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

President's foreword



The Honourable Tom Bathurst AC

Chief Justice of NSW and President, Judicial Commission of NSW

Commemorating 30 years of the Judicial Commission

I am very pleased to provide the foreword to the Judicial Commission's Annual Report for 2017–18. The report provides a helpful summary of the Commission's activities and performance this year, as well as its strategic focus for next year. It also commemorates the Commission's 30-year anniversary with a special feature on pp 2 and 7 reviewing the Commission's operations over time, reflecting the character of this milestone as both a journey and an achievement. The anniversary culminated in a reception held in October 2017 at Government House, Sydney. It was an opportunity to reflect on the Commission's evolution from controversial beginnings to its status as an invaluable institution for the maintenance of public confidence in the NSW judiciary.

Criminal justice reform

A major focus and challenge this year for the Commission has been responding to the NSW Government's justice reform program. Significant criminal justice reforms commenced or will shortly commence in the areas of sentencing, committal procedures in the Local Court, post-sentence supervision, detention of high risk terrorist offenders, and parole. In addition, new offences have been introduced arising from the Government's response to the Royal Commission into Institutional Responses to Child Abuse. The Commission has worked tirelessly to ensure judicial officers are informed about these reforms in a timely manner through seminars, conferences, publications and updating of the relevant loose-leaf services.

Judicial education

The judicial education program is multi-faceted, providing conferences, seminars, judicial skills workshops, publications and digital resources. It is designed to continuously renew judicial skills and provide timely information about changes to the law and court practice and procedure. The program has continued to achieve high satisfaction rates, with evaluations showing 93% judicial satisfaction during the year. The Commission also launched a new web page of videos and audio podcasts of select sessions to accommodate judicial officers who are unable to attend education sessions in person. The Commission launched a

revised strategic plan for the Ngara Yura Program, an Aboriginal cultural competency program which raises judicial awareness about Aboriginal history and culture and provides an informal forum for interaction and exchanges of ideas with the Aboriginal community. Approval of this program increased to 98% satisfaction, from 90% last year.

Legal information

Since its inception in 1987, one of the Commission's principal functions is to assist the courts to achieve a consistent approach to sentencing. This assistance is provided through the Judicial Information Research System (JIRS), a database containing modules of reference material for judicial officers presiding over trials or sentencing. During the year, JIRS attracted increased use of 1.5% with an average of 136,527 page hits each month. During the year, seven major enhancements were made to JIRS in response to feedback from users. The Commission also publishes most of its resources on its free-to-view website, which has seen a 28% increase in traffic.

Balancing accountability and judicial independence

Judicial independence from the legislative and executive branches of government is a central constitutional value. In the words of former Chief Justice Gleeson, the duty of a judge is to administer justice according to law, without fear or favour, and without regard to the wishes or policy of the executive. However, independence must also come with accountability. The Commission's complaints process provides a formal way to examine complaints that the public makes about judicial ability or behaviour. This year, the Commission examined 62 complaints, 89% of which were summarily dismissed following preliminary examination.

Engaging with other organisations

The Commission has continued to build on and develop relationships with its partners both at home and abroad, including in New Zealand, Papua New Guinea, the Asia-Pacific region and some African countries. In 2017, the Commission engaged with the Australian National Imams Council which resulted in the Council issuing an explanatory note about the participation of Muslims in the judicial process. Judges have been able to refer to the note in court proceedings as a powerful statement by the leadership of Islam in Australia. The Commission also assisted the Judicial Council on Cultural Diversity to publicise

its *Recommended National Standards for Working with Interpreters in Courts and Tribunals*. This resource sets out optimal standards for assessing the need for an interpreter, conducting proceedings with an interpreter and undertaking training for working with interpreters. Effective and accurate interpreting is essential to ensure access to justice and procedural fairness for people with limited or no English proficiency in Australian courts.

Strategic direction

The Commission has had a strong track record since 1987 of combining innovative technology with judicial education. The Commission's strategic focus for 2018–19, and the future beyond, is on the possibilities that digital technology presents to deliver its programs in the most efficient ways for judicial officers of the 21st century, while maintaining the integrity and relevance of its information.

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 Ernie Schmatt, the Chief Executive, who I also congratulate for his recognition in the 2018 Australia Day Honours List as a Member of the Order of Australia for significant service to the law. I also thank Murali Sagi, Deputy Chief Executive; Pierrette Mizzi, Director, Research and Sentencing, and Una Doyle, Director, Education. I extend my thanks and congratulations to Hugh Donnelly, the Commission's Director, Research and Sentencing until his appointment as a magistrate in October 2017. Finally, I express my sincere gratitude to all the judicial officers who contributed their time, energy and expertise to the Commission's work. It is the combined effort and dedication of all these individuals that enables the Commission to deliver programs and legal information of outstanding quality and extraordinary quantity.



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

Chief Executive's message



Ernest Schmatt AM PSM

Chief Executive, Judicial Commission of NSW

Mr Ernest Schmatt AM PSM was recognised in the 2018 Australia Day Honours List as a Member of the Order of Australia. The citation was for significant service to the law in the field of legal education and review, and through the use of technology to assist the judiciary.

I am very pleased to present my report on the Judicial Commission's results for this 30th anniversary year of the Judicial Commission.

Key focus for the year: our 30th anniversary

In October 1987, the NSW government under Premier Unsworth had the foresight to establish the Judicial Commission. The announcement at the time was revolutionary. No other Australian jurisdiction had attempted to establish a judicial complaints and education body. The Chief Justice of the day, Sir Laurence Street AC KCMG QC and judicial officers were concerned that the Commission's activities would infringe on their judicial independence. The initial judicial reluctance quickly gave way to widespread enthusiasm. The revolution did not eventuate. Instead, the Commission focused on delivering quality legal information and education services to judicial officers while giving the public a forum to raise complaints about judicial ability and behaviour.

On 11 October 2017, we celebrated 30 years of operations with a special reception at Government House in the presence of his Excellency the Honourable TF Bathurst AC, Lieutenant-Governor and Mrs Robyn Bathurst. Reviewing 30 years, it is apparent that the way we deliver our services has significantly evolved. The digital age has meant we can harness new technologies to deliver services, achieve changes in teaching and learning processes, and communicate with judicial officers and our partners efficiently and effectively. What has remained the same in 30 years are our core values: to promote the highest standards of judicial performance and foster judicial capacity, thereby improving the quality of justice and maintaining public confidence in the rule of law in NSW. I believe that this annual report attests to the legitimacy and public acceptance of the Judicial Commission as a means to attain our core values.

Providing continuing judicial education

For 30 years, quality judicial education has been a way to foster judicial performance and capacity. A consistent practice has been the direct involvement of judicial officers in the design and delivery of their education program. This involvement ensures the maintenance of judicial independence, its relevance and acceptance. Judicial participants are able to evaluate each education session we offer so that we can monitor satisfaction with the program and ensure it is meeting the education needs of judicial officers. The satisfaction rate this year was 93% compared to an average satisfaction rate since 1995 (when we first began collecting this data) of 90%.

Providing legal information

One reason for the Commission's establishment 30 years ago was public disquiet with sentencing decisions. Without doubt, sentencing is the most complex and challenging of judicial tasks. A perception that sentences are too lenient is a worldwide phenomena but one that can be countered with accurate reporting and analysis of sentences imposed. The Commission has provided this data for 30 years through our Judicial Information Research System (JIRS) and sentencing specific publications in line with our statutory remit to assist the courts to achieve consistency in imposing sentences. In recent years, our reporting has evolved to include quantitative and qualitative analysis of sentences. We are constantly refining data collated on JIRS so that judicial officers can refer to what and why sentences have been imposed in like cases.

The Commission's Director, Research and Sentencing, Hugh Donnelly, was appointed a magistrate in October 2017 and was replaced by Pierrette Mizzi, the Commission's Acting Director, Research and Sentencing. I congratulate Hugh and Pierrette on their appointments and thank Hugh for his contribution to the Commission's legal information program since 2003.

Examining complaints

Judicial acceptance of the complaints function, while initially resisted 30 years ago, can be attributed to our provision of quality legal information and education services. Each year in our annual report, we report on the relatively small number of complaints compared to the number of judicial officers and high volume of litigation as an exemplar of continuous high judicial standards. This year, we examined 62 complaints compared to around 700,000 matters filed in NSW courts. Of those complaints, 85% were dismissed according to the criteria for summary dismissal in the *Judicial Officers Act* 1986. The 30-year average dismissal rate is 87%, meaning most complaints have been found not to warrant further action. Five complaints this year were referred to the head of jurisdiction for further action. Two complaints were referred to a Conduct Division and the examination is ongoing. The Conduct Division is convened for the purpose of investigating a complaint. In the Commission's 30-year history, 22 Conduct Divisions have been formed.

Engaging with our partners and the community

Since our inception, we have engaged with other judicial education providers to learn about and implement best practice in judicial education. We have also focused on sharing our accumulated knowledge with the judiciaries of other countries and on capacity-building projects. A decade ago, the Honourable Justice Peter McClellan AM acknowledged this work as providing a significant

contribution to promoting the rule of law in the Asia Pacific region. "Our partners" on p 55 outlines our continuing work in this area.

Our governance

The Judicial Commission met 10 times during the year to examine complaints, monitor our strategic direction and approve budgets and publications. Dr Colin Gellatly AO was appointed Chair of the Audit Risk Committee (ARC) commencing 1 July 2017. Ms Jan McClelland AM will replace outgoing ARC member Mr Alex Smith AM in July 2018.

Financial result

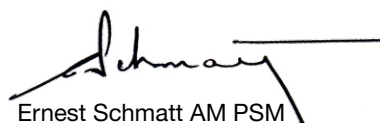
Our financial result was a deficit of \$248,000. Government funding and other revenue was \$6.609 million. Our expenses were \$6.857 million. We received an unmodified report for our financial statements from the NSW Auditor General. The deficit, due to depreciation of \$252,000 as a non-cash item, is not funded from recurrent allocations.

Strategic direction 2018–19 and beyond

Our 30-year anniversary has provided the opportunity to review our operations and refresh our strategic plan for the next decade. We will continue to refine JIRS to provide intelligent decision support and harness new technology such as data analytics and artificial intelligence. We will focus on providing a connected web of information that can be readily accessed on the "internet of things" in the future. We anticipate that our education programs will increasingly offer a bespoke approach while continuing to provide the traditional blend of conferences and seminars with workshops and orientation programs for newly appointed judicial officers. Our publications program will continue the transition from print to online services. We will continue to participate in international judicial exchanges and capacity-building projects to foster the rule of law in the region and public confidence in judicial systems.

My thanks

Thirty years of successful operations could only have been achieved with the support and hard work of many dedicated people. Commission members and staff past and present gathered together at Government House on 11 October 2017 to celebrate our 30 years. I thank everyone who has contributed to the Commission's success, the Commission members for their ongoing leadership and assistance, and the many judicial officers who have given their time and expertise.



Ernest Schmatt AM 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.

Official members

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.

Appointed members

The Governor of NSW appoints 4 people. The Attorney General nominates 4 people who have high standing in the community. One 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.

Figure 1 on p 20 illustrates the relationship between the Commission members and the executive team.

Our president

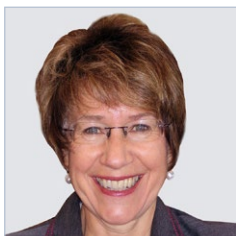


The Honourable Tom Bathurst AC

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.

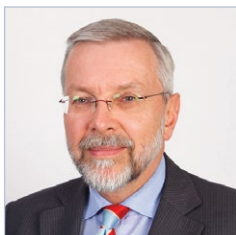
Our official members



The Honourable Justice Margaret Beazley AO

President of the Court of Appeal of NSW — commenced 1 March 2013

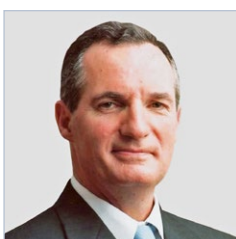
Justice Beazley was called to the NSW Bar in 1975 and appointed Senior Counsel in NSW in 1989. Her Honour was a judicial member of the Equal Opportunity Tribunal (1984–88); an acting judge of the District Court of NSW (1990–91); and, Assistant Commissioner of the Independent Commission Against Corruption (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 LLD) 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.



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 123 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 Interim Governing Committee for the Global Judicial Institute on the Environment.



The Honourable Justice Derek Price AM

Chief Judge of the District 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 Commission. In 2006, his Honour was appointed a judge of the Supreme Court of NSW. His Honour has also been a member of the Governing Council of the Judicial Conference of Australia (1997–2000). His Honour was appointed Chief Judge of the District Court of NSW and President of the Dust Diseases Tribunal of NSW on 8 August 2014 and remains a judge of the Supreme Court of NSW. His Honour became a Member of the Order of Australia in 2010.



His Honour Judge Graeme Henson 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.

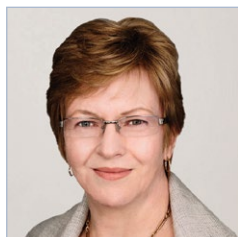


Chief Commissioner Peter Kite SC

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 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.

Our appointed members



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

Appointed 1 December 2004; reappointed 19 August 2009 for 3 years; 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 was 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. 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.

Our executive team

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



Chief Executive

Mr Ernest Schmatt AM PSM Dip Law (BAB)

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 became a member of the Order of Australia in 2018 for his significant service to the law in the field of legal education and review, and through the use of technology to assist the judiciary. He 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 appointed to the IOJT Board of Executives in 2011. He was reappointed to this position in 2013, 2015 and 2017. Since 1994, he has been a member of the Advisory Board of the Commonwealth Judicial Education Institute and has served on the management committee of the Asia Pacific Judicial Education Forum and 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.



Deputy Chief Executive

Mr Murali Sagi PSM BEng GradCertPSM MBA FACS MIEAust Dip Law (LPAB)

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 the "Chief Information Officer – Government" of the year at the 2003 National IT&T awards and is a Fellow of the Australian Computer Society.



Director, Education

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

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.

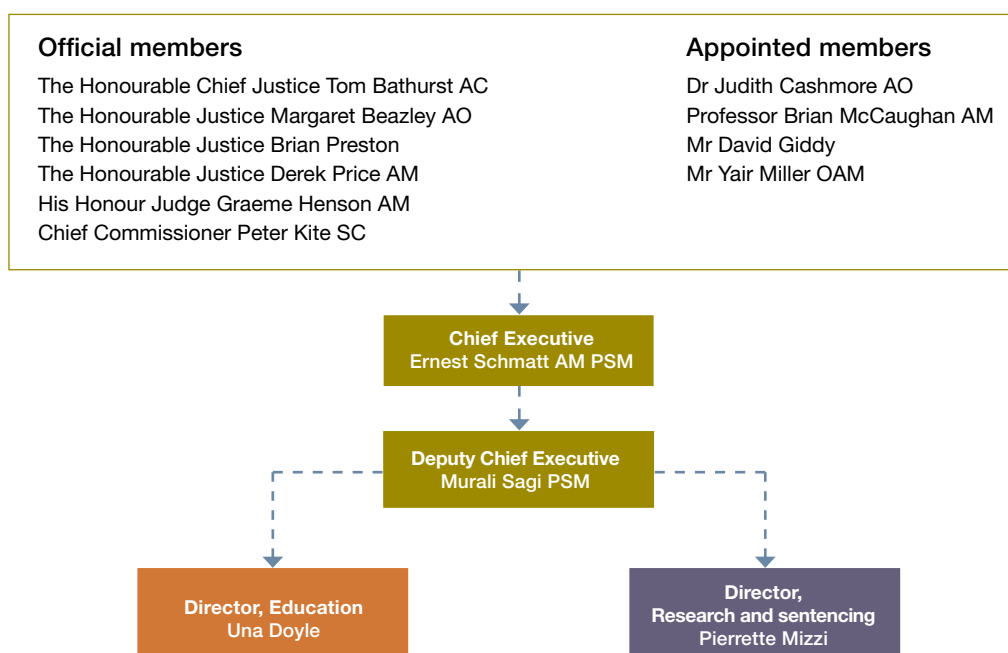


Director, Research and Sentencing

Ms Pierrette Mizzi LLB (University of Technology, Sydney)

Ms Pierrette Mizzi is responsible for the Commission's research program and the content on the Judicial Information Research System (JIRS). Ms Mizzi was appointed acting Director, Research and Sentencing in October 2017 and Director in May 2018. Ms Mizzi was admitted as a legal practitioner in 1996 and her prior experience includes nine years as a Principal Legal Officer at the Commonwealth Director of Public Prosecutions, and eight years as Manager of the Commission's Research and Sentencing Division. Ms Mizzi is the author of several publications on sentencing law, including *Sentencing Commonwealth drug offenders* (2014) and *Sentencing offenders convicted of child pornography and child abuse material offences* (2010).

Figure 1. Commission members and executive team as at 30 June 2018





Continuing judicial education

Judicial officers were informed about changes to the law, community values, court practice and procedure through 38 education events held this year in 2017–18.

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Listening to judicial officers	24
Satisfaction with our continuing education program	25
Designing and delivering continuing judicial education	31



Results, challenges and strategic direction in brief

Results 2017–18

- ▶ **Judicial officers rated their satisfaction with the education program at 93%: see p 25.**
- ▶ **Judicial skills, knowledge and attitudes were enhanced with 38 education events offered: see p 25.**
- ▶ **We expanded our orientation program to include pre-bench training for District Court judges: see p 27.**
- ▶ **We launched a new web page of video resources for our judicial officers and a new interactive learning application based on gaming technology: see p 27.**
- ▶ **98% judicial satisfaction with the Ngara Yura Program (Aboriginal cultural awareness): see p 28.**
- ▶ **Evaluation shows our program continues to be highly relevant and judicial officers were satisfied with the personal and practical benefits of sessions: see p 31.**

Challenges 2017–18

- ▶ **Unprecedented number of reforms to the criminal justice system has stretched already limited resources.**
- ▶ **Encouraging judicial officers to attend our target of 5 days a year of professional development, as our education sessions are voluntary, and judicial officers have high workloads.**
- ▶ **Continuing to transition from providing paper-based seminar materials to online delivery.**

Strategic direction 2018–19

- ▶ **Continue to streamline our publishing processes and avail of new technologies to ensure we can provide the most up-to-date information online.**
- ▶ **Focus on web-based education will continue as an alternative to in person programs in order to assist busy judicial officers.**
- ▶ **Implement the findings of our governance review to ensure that our volunteer committees are continually supported and refreshed.**

Photo previous page: Jessica Ahearn (l), Program Support Officer with Sarah Collins, Manager, Programs and Tanya Su, Senior Conference Coordinator (background), help deliver the continuing judicial education program.



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 2017–18. 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 continuing judicial education

Result	Measures	Performance
Judicial officers were informed about changes to the law, community values, court practice and procedure.	Maintain or increase number of reviewed publications.	Monthly Judicial Commission meetings and/or bench book committees and experts reviewed publications.
		Publications output was maintained and included 19 bench book and handbook updates, 11 bulletins and 2 journal issues. See p 38.
	Maintain or increase number of specialised education events offered.	Maintained the number of education events offered with 38 education events held (last year: 44). See p 25.
	Education sessions offered assisted judicial officers to reach the national standard* of 5 judicial education days each year.	Offered 4.7 education days this year for each judicial officer (last year 3.5).** See p 31.
Judicial skills, attitudes and knowledge were enhanced.	Maintain or increase ratings that our services provide judicially relevant and stimulating education and information.	Evaluations show 90% of participants (last year: 82%) agreed that education events were applicable to their work; and 76% (last year: 78%) agreed they enhanced their knowledge and capability. See p 25.
	Maintain number of skills-based workshops.	7 workshops (last year: 5) offered throughout the year. See p 26.
	Information in the <i>Equality Before the Law Bench Book</i> is current and addresses access and diversity issues.	<i>Equality Before the Law Bench Book</i> updated – latest information about access to justice for minorities and people with special needs.
Judicial officers were satisfied with our education program.	Maintain or improve satisfaction rates from last year.	Evaluations of all education sessions show we maintained our performance with 93% satisfaction with our continuing education program (last year: 91%). See p 25.
	Maintain or increase voluntary attendance rates.*	Attendances rates increased to 3.7 average training days undertaken by each judicial officer (last year: 2.2 days).** See p 31.
We responded to concerns about judicial performance raised in the complaints process.	Design education events based on specific concerns raised in complaints.	Programs held addressed bias; requirements for a fair and courteous hearing; and judicial conduct in and out of court. See Appendix 5 (Conference topics).
Expenditure was within budget.	According to budget plan.	As at 30 June 2018, judicial education expenditure was \$3.57 million, or 52% of overall expenditure.

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

** The overall average attendance rate and education days offered were lower because the Local Court annual conference was not held in the last financial year.



Listening to judicial officers

Judicial officers feedback shows how relevant they find our programs.

“As usual, a brilliant, useful, practical, informative session presented in an easily understood manner.” — Local Court Conference, August 2017

“Interesting talk – the speaker was able to break down complicated issues into easily understandable, useful information that will greatly assist how I conduct matters.” — Local Court Conference, August 2017

“Overall, the conference was relevant, topical and informative, although a couple of presentations were less so. As always much of the positive came from spending time with colleagues.” — Local Court Conference, August 2017

“The amount of effort put into designing, preparing and running the conference is evident.” — Local Court Conference, August 2017

“Very relevant to contemporary legal issues. Well-presented by a highly articulate speaker.”
— Supreme Court Conference, August 2017

“Wonderful and thought-provoking presentation. The highlight of the conference. It was a great privilege to hear such an inspiring speaker.”
— Supreme Court Conference, August 2017

“Very engaging. Presented thought provokingly, stimulating – excellent choice for after lunch and a great, hilarious peroration.” — Supreme Court Conference, August 2017

“A wonderful achievement in explaining the consultation process.” — Ngara Yura Seminar “The Uluru Statement”, October 2017

“Very helpful and will provide assistance in a present case.” — Ngara Yura Seminar March 2018

“Well prepared and delightfully presented paper of highly relevant material.” — District Court Annual Conference, April 2018

“This was the best of the sessions for a number of years, and the paper is very useful.” — District Court Annual Conference, April 2018

“This was my first opportunity to attend the court conference, the topic selection and presentation of lectures was excellent. I feel very privileged to be so welcomed to join such an interesting capable team.” — Land and Environment Court, May 2018

“Very interesting array of topics. Some very specific to me, but all met the needs across the skills in the group. Gained a great deal from personal interactions.” — Land and Environment Court, May 2018



Satisfaction with our continuing judicial education

93% judicial satisfaction with the 38 events that comprised the education program in 2017–18.

Evaluating our continuing judicial education program

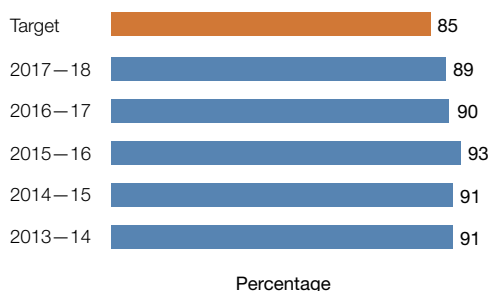
Our mission is to promote the highest standards of judicial behaviour, performance and decision making. The education program we offer is tailored to enhance judicial skills, knowledge and attitudes. So that we know what judicial officers need from our program, we invite feedback on each education event offered including its 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 p 49 for details about complaints made during the year.

On an overall measure of satisfaction, judicial officers were 93% satisfied with the continuing education program (last year: 91%), which comprised 38 discrete events. Ninety per cent of participants agreed that the education sessions were applicable to their work and 76% agreed that they enhanced their knowledge and capability.

Satisfaction remains high with annual conference program

Judicial officers were 89% satisfied (last year: 90%) with their annual conference as shown in Figure 2. An annual conference was held for each of the State's courts and the Industrial Relations Commission. The education committee of each court, working with the Director, Education, developed specialised sessions for the specific needs of the court 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.

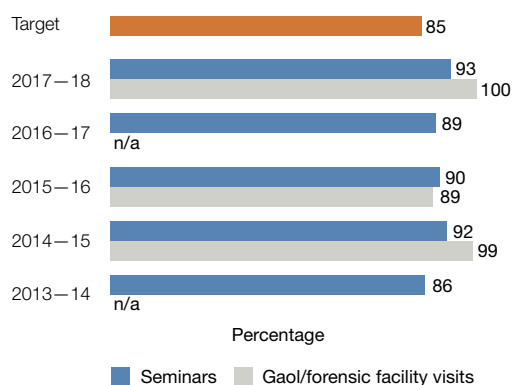
Figure 2. Satisfaction with annual conference program 2012–17



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. As shown in Figure 3, participants were 93% satisfied (last year 89%) with the seminar program. Discrete sessions were held during the year that covered a range of educational topics for judicial officers. A selected list of topics can be found in Appendix 5.

Figure 3. Satisfaction with seminars and gaol/forensic visits 2012–17



High satisfaction maintained with skills-based workshops

Magistrates remained highly satisfied (94%) with their workshops as shown in Figure 4.

Figure 4. Satisfaction with workshops 2012–17

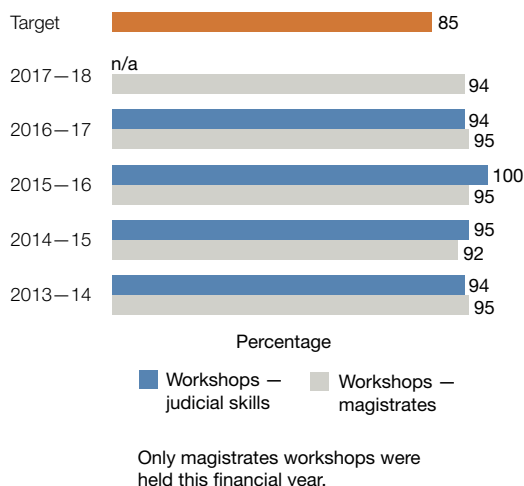
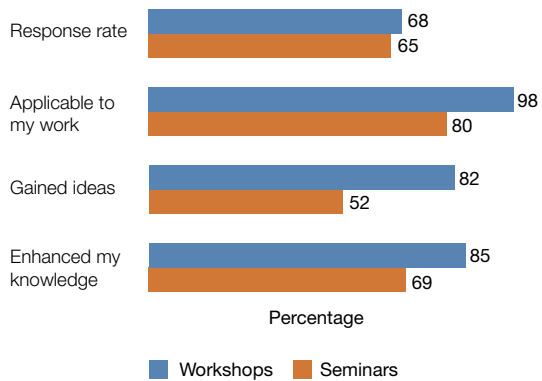




Figure 5 shows that the majority of magistrates were satisfied with the professional and practical benefits of these sessions with 98% finding the workshop was applicable to their work and 85% finding the session enhanced their knowledge and capability.

Figure 5. Rating of professional and practical benefits of 2017–18 workshops and seminars



Case study: Field trip for Land and Environment Court judges and commissioners to Port Kembla

Field trips are an invaluable way for Land and Environment Court (LEC) judges and commissioners to see development issues “on the ground”.

A field trip in May 2018 for the LEC to Port Kembla, including the BlueScope Steelworks founded in 1928, and the Calderwood development, provided insight into two issues that regularly come before the court: development applications and environmental impact assessment issues.

Participants were provided a history of the Environment Protection Authority’s (EPA) involvement in the region. In 2010 the NSW State Government granted the Calderwood Urban Development Project Concept Plan to develop around 4,800 residential dwellings, 50 hectares of mixed use land, open space, environmental lands, external roads, service infrastructure and community facilities.

The visitors drove through West Dapto to learn about the challenges for the suburb arising from the Calderwood development, revealing the failures of strategic planning that has not been coordinated with other government decision making.

BlueScope Steelworks, which the EPA regulates via an Environment Protection Licence, is an important and complex site in the Port Kembla region, providing 3,500 direct jobs with flow on employment benefits and \$3.3 billion in gross regional product. The history of EPA involvement in the region and the pollution reduction programs were of considerable interest to participants.

Participants on this field trip gave it an overall satisfaction rating of 87%.



BlueScope Steel works, Port Kembla NSW.



Judicial officers learn more about the operation of BlueScope Steel.



Providing for interactive and distance education

Judicial officers can hone their decision-making skills using an interactive learning application that we developed based on gaming technology. Users can simulate a courtroom in selected criminal scenarios and make decisions about the use of context, tendency and background evidence in criminal trials. Our interactive learning application based on gaming technology was rolled out to Apple and Android devices during the year.

To cater for judicial officers who are unable to attend education sessions in person, we post videos and audio podcasts of select sessions on the Judicial Information Research System (JIRS) (see p 40 for information about JIRS). During the year, we developed a new web page to showcase our video resources. We also provide a program materials database, a rich, educational resource where all available papers and presentations from our conference and seminar program are published. During the year, we published 62 new papers and presentations on this database.

Induction and orientation sessions for new judicial officers

During the year, we provided 18 judicial orientation packages (last year: 25), access to the Judicial Information Research System (JIRS) and computer support (if required) for new judicial officers. In partnership with the Local Court, we provided 12 pre-bench sessions (last year: 13) and 2 week-long orientation programs to assist new magistrates in their transition to judicial office. The magistrate's program had a focus on knowledge and fundamental judicial skills about court craft, decision-making, sentencing, judicial administration and judicial conduct. This year we commenced pre-bench sessions for newly appointed District Court judges, providing an opportunity for them to benefit from the knowledge and experience of senior judges. Newly appointed judges may also choose a mentor as part of the program.

We also introduced training sessions on JIRS for Supreme Court tipstaves to assist them with providing research support to judges.

The National Judicial Orientation Program (NJOP), conducted with our national partners, is a week-long induction and orientation program for newly-appointed judges. The NJOP addresses the significant requirements of the judicial role as well as the personal implications of becoming a judicial officer and standards of behaviour required. The program run this year received positive feedback: 75% of participants rated the program's usefulness and relevance as excellent and 25% as very good. Sessions covered in these programs are listed in Appendix 5. The Judicial Commission, the Australasian Institute of Judicial Administration and the Judicial College of Victoria assisted the National Judicial College of Australia to present this program.

Case study: Judicial visit to Malabar Forensic Hospital

The Malabar Forensic Hospital is a high security mental health facility in Sydney. The hospital accommodates up to 135 forensic patients (persons found not guilty of an offence by reason of mental illness or are unfit to plead because of mental illness); correctional patients (sentenced and remanded inmates who become mentally ill while in custody and require treatment in a mental health facility) and other patients who require care in a high security environment.

Supreme Court judges attended a field trip to the Forensic Hospital in October 2017. The visit started with an overview presentation about the Forensic Hospital, who is housed there and the nature of assessments, care and treatment given. Participants were then taken on a tour highlighting the different areas of the hospital. This visit provided judges with a clearer picture about available treatment facilities and processes for forensic patients.

Judicial satisfaction with this field trip was 100%.



Malabar Forensic Hospital.



Orientation sessions give judicial officers the opportunity to gain skills in court craft, decision-making, sentencing, administration and judicial conduct. Pictured above is one of the court rooms at the District Court of NSW, Sydney.



High satisfaction with Ngara Yura Program

Approval of our Aboriginal cultural competency program, the Ngara Yura Program, increased this year. Participants who provided feedback were 98% satisfied (last year: 90%) as shown in Figure 6.

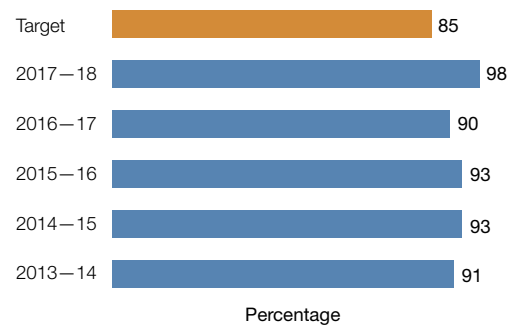
The Ngara Yura Program is offered to raise judicial awareness about Aboriginal history and culture, Aboriginal interactions with the criminal justice system, and to provide an opportunity for judicial officers to meet and exchange ideas with Aboriginal people.

Our Aboriginal Project Officer works with a committee to develop and implement a range of strategies, including tailored education activities. The Ngara Yura Program adopts a multi-faceted approach, with partnerships, community visits, seminars and publications designed to promote inter-cultural communication and understanding. The program is based on Recommendations 96 and 97 of the Royal Commission into Aboriginal Deaths in Custody (see Appendix 9 and at www.judcom.nsw.gov.au/education/ngara-yura-program/ngara-yura-committee-terms-of-reference/).

During the year, the committee developed a strategic plan for the program, and began to implement new directions. These include increasing our level of engagement with partner organisations, developing new resources and refreshing our web presence. More information is found on our public website and committee membership is listed in Appendix 4.

Some of the initiatives included partnering with the NSW Bar Association and the courts to introduce an Indigenous Clerkship program, with a highly successful pilot conducted in February 2018. We also restructured the information about diversionary programs that we provide online which resulted in a 33% increase in judicial use.

Figure 6. Satisfaction with Ngara Yura Program 2012–17



Of the judicial officers who attended the community visits and events held throughout the year, 75% found that the visits enhanced their knowledge and capability and 87.5% found the information was applicable and relevant to their judicial work.

See the case studies on pp 29–30.

Youth engagement

In October last year we supported the Law Society of NSW Young Lawyers with its “Young Justice” initiative. This program for school students in years 7 and 8 focuses on social justice issues including human rights and access to justice matters. The Commission assisted with the development of a revised program and content and workshop material.

Case study: Advising judicial officers about Aboriginal sorry business and estate distribution orders

“Sorry business” is a term Indigenous Australians use to refer to the mourning process following the death of a family or community member. When an Aboriginal person dies without leaving a will in NSW, the law allows a family member to apply to the court for orders to distribute their estate. Guidance as to who is a “family member” and the proof required of kinship in these cases was given in a landmark case in 2017 in *Re Estate Wilson, Deceased*.^{**} To raise judicial awareness about sorry business and the guidance from this case, we organised a panel discussion including the Honourable Justice Geoff Lindsay who wrote the decision in *Re Estate Wilson*.

We also updated information about Indigenous estate distribution orders in our *Equality Before the Law Bench Book* (accessible on the Judicial Information Research System) and refreshed information on our website.

Participants who attended the panel discussion were 100% satisfied that the information they obtained was applicable to their work.

^{**} Reported at (2017) 93 NSWLR 119



Case study: Judicial visit to Darkinjung Country on the NSW Central Coast



Judicial officers visited Pearl Beach on the NSW Central Coast as part of a Ngara Yura community visit in July 2017.

Community visits enable judicial officers to meet and interact with Aboriginal people and learn about local issues in an informal setting. A community visit to Darkinjung Country on the NSW Central Coast allowed judicial officers to learn about the area's rich history and culture as well as innovative programs and services available for local Aboriginal people.

Judicial officers visited Pearl Beach, the site where first contact occurred between Captain Arthur Phillip, his officers and the Darkinjung people on 2 March 1788. The visitors viewed ancient axe grinding grooves and rock engravings of creation stories in Bulgandry Place before sitting down with locals for a "yarn-up". The yarn up canvassed issues of concern for local people including lack of access to legal representation, housing and high rates of youth unemployment. The visitors met Judge Matthew Myers AM, a judge of the Federal Circuit Court of Australia and the Commissioner leading an inquiry into the high incarceration rates of Aboriginal and Torres Strait Islander peoples.*

Of particular interest to judicial officers was learning about the Indigenous Justice Program that the Regional Youth Support Services operates.

Judicial officers who attended were 100% satisfied with this education session and 100% agreed that the session enhanced their knowledge and was applicable to their work.

* Australian Law Reform Commission, *Pathways to Justice, inquiry into the incarceration rate of Aboriginal and Torres Strait Islander Peoples*, ALRC Report No 133, March 2018.



Pictured (l-r) are Justice Lucy McCallum; Chair, Ngara Yura Committee with Uncle Gavi Duncan and Justice François Kunc of the Supreme Court of NSW .



Uncle Gavi Duncan explains how golden wattle can be used to make bread and soap.



Case study: Field trip to Sydney Observatory to learn about Aboriginal astronomy and culture

Long before Captain James Cook navigated to the South Pacific to observe the transit of Venus, the Cadigal people had mapped, through stories, the night sky above Sydney (Warrane). For Aboriginal people, the night sky is a source of ceremony, a navigational aid, a guide for food and water, a way to survey country and keep track of seasonal changes. The darkness within the Milky Way is a giant emu which helps to predict the seasons. The Pleiades star cluster (named for the seven daughters of Atlas) are also the Seven Sisters, a story embedded in many Indigenous cultures around the world.

Judicial officers and their families experienced some of the rich knowledge of Aboriginal astronomy at Sydney Observatory as part of a Ngara Yura Program event. The highest natural vantage point in Sydney, the Observatory has been a significant site for the Cadigal people. Naval astronomer William Dawes installed a telescope near the present site and met with Petyegarang, a young Cadigal woman, to share their respective astronomical learning. In the early days of the colony, the hill housed a windmill (until 1806), a fort (1804–1806), a signal station (1810–1939) to alert Sydney's inhabitants to the arrival of ships, and then an observatory (1858–1982). Since 1982, the Museum of Applied Arts and Sciences (MAAS) has administered the site as a museum and public observatory.

The field trip also commemorated Mabo Day. In 2015, the Observatory named a star from the Sydney Southern Star Catalogue for Uncle Eddie Koiki Mabo. On 31 May 2018, a second star was dedicated to honour the contribution of Aunty Bonita Mabo. Aunty Gail Mabo, daughter of Uncle Eddie and Aunty Bonita spoke at the event about her parent's unique contribution to the development of Australia's common law and her mother's gratitude and surprise to be acknowledged in this stellar way. Judicial officers were then able to view both stars through the Observatory's telescope and view an installation commemorating Uncle's life, curated in 2017, to mark the 25th anniversary of the High Court's landmark *Mabo* decision.

Field trips and community visits provide judicial officers with the opportunity to engage with Aboriginal people and raise judicial awareness of Aboriginal cultural knowledge.

Judicial officers who attended the Observatory field trip were 98% satisfied.



Completed in 1858, Sydney Observatory serves as both a public observatory and a museum.



Aunty Gail Mabo, centre, with Joanne Selfe, Judicial Commission Ngara Yura Project Officer (l) and Aunty Donna Ingram (r) commemorating Mabo Day.



Designing and delivering continuing judicial education

The NSW public expects judicial officers to be impartial, independent, to know the law and perform to the highest professional standard. Judicial officers come to their role as highly-skilled 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 in order to maintain judicial independence from the other arms of government. 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 4.7 days of education for each judicial officer (last year 3.5 days). This figure and the overall average attendance rate of 3.7 judicial education days a year is slightly lower than the national benchmarking standard of 5 days a year, although judicial officers can also meet this standard by 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 judicial officers' availability to attend and participate in education sessions.

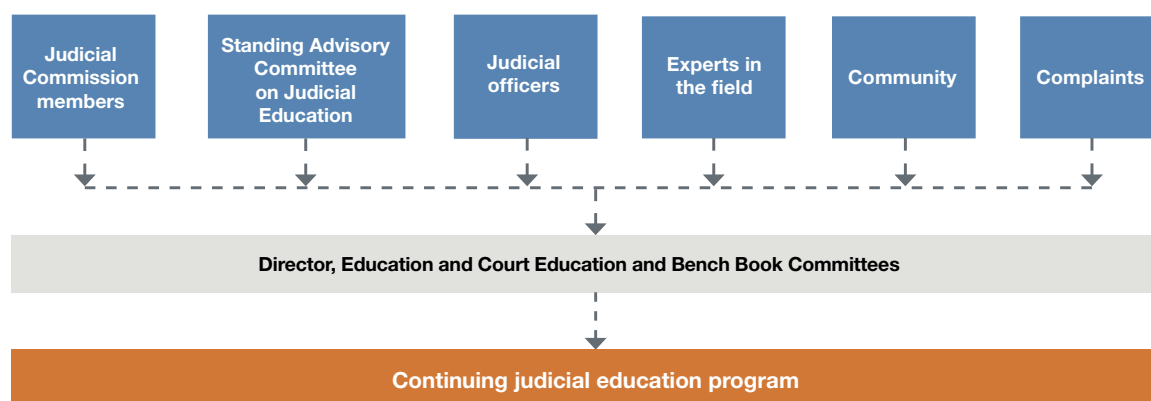
Services delivered during the year include:

- induction and orientation sessions for new judicial officers
- annual conferences for all NSW courts and the Industrial Relations Commission
- 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 38 for details about our published legal information program
- device training and support
- a monthly e-newsletter advising judicial officers about upcoming seminars, conferences, and recent conference papers available to download.

Leveraging judicial expertise

The Director, Education and her team 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 designing courses to their delivery. 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. Judicial involvement ensures that the program is relevant and acceptable to judicial officers and maintains the need for judicial independence from the other arms of government.

Figure 7. Continuing judicial education design process





Case study: Informing judicial officers about climate change litigation



The rise of climate change litigation led the Commission to organise a seminar to consider Australian and international developments.

Australia has been at the forefront of litigation about adapting to the impacts of climate change and limiting greenhouse gas emissions. Australia has had more climate-related cases than any jurisdiction in the world outside the United States, and has led the world in cases addressing adaptation concerns. Most cases in Australia have focused on local and State-based land use and environment, questions about coal-fired power plants or community development choices. The existence of specialised environmental courts and planning tribunals at State level has encouraged the litigation's more local focus. Unlike the United States, Australia lacks a comprehensive environmental statutory regime at the federal level with strong third party enforcement provisions. As innovative forms of litigation emerge around the world, questions arise over how Australian climate change litigation might develop in the future. What lessons can it learn from other jurisdictions? What forms might a "next generation" of climate litigation take?

To address these questions, we organised a seminar for judicial officers presented by academic experts in the field, Professor Jacqueline Peel, Melbourne University Law School and Dean Hari Osofsky, Pennsylvania State University. The seminar also considered future pathways based on Australia's legal system and comparisons with other jurisdictional approaches.

We also published an article on the subject in the *Judicial Officers' Bulletin*, a monthly newsletter sent to all judicial officers and available on the Judicial Information Research System.

75% of participants who attended the seminar considered the seminar enhanced their judicial knowledge and capability.



Professor Jacqueline Peel, Melbourne University Law School was co-presenter at our seminar on climate change litigation.



Dean Hari Osofsky, Pennsylvania State University was co-presenter of this session.



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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Why we provide legal information and resources	36
We provide accurate, current legal information.	37



Results, challenges and strategic direction in brief

Results 2017–18

- ▶ **31 publications to inform judicial officers about changes to the law, community values, court practice and procedure (last year 31): see p 38.**
- ▶ **Judicial officers and JIRS users were informed about changes to criminal law, procedure and sentencing through 9 updates to bench books (last year: 7): see p 38.**
- ▶ **232 recent law news items published on JIRS to inform judicial officers about new legislation and significant cases (last year 238): see p 38.**
- ▶ **Information about sentencing options and rehabilitation facilities revised: see p 38.**
- ▶ **Judicial officers had access to current law on the Judicial Information Research System (JIRS) to assist in their day-to-day decision making. JIRS had 1.64 million page hits (1.5% growth): see p 40.**
- ▶ **Engaged with judicial officers through presentations about the use of JIRS and sentencing: see p 41.**
- ▶ **7 enhancements were made to JIRS to ensure its currency, relevance and accuracy (last year 10): see p 42.**

Challenges 2017–18

- ▶ **Re-prioritising our research projects to accommodate the NSW State Government's significant justice reform program.**
- ▶ **Keeping up to date with changes in the law, updating our loose-leaf services and online information in conjunction with the NSW Government's extensive criminal justice reforms with limited resources.**
- ▶ **Updating the *Local Court and Sentencing Bench Books* to outline new committal procedures and compulsory case conferencing.**
- ▶ **Balancing core work with requests for sentencing information and advice from other criminal justice agencies.**

Strategic direction 2018–19

- ▶ **Publish information and update our loose-leaf and online services to advise judicial officers about sentencing law reforms (expected to commence in September 2018); reforms to child sexual assault laws following the recommendations of the Royal Commission into Institutional Responses to Child Abuse and other reforms including forensic mental health law (expected to commence in December 2018). These reforms provide a significant challenge for us in terms of their breadth and timing given our limited resources and the extent to which they will require changes to our education programs, loose-leaf and online services.**
- ▶ **Develop and launch an automated way to generate scenarios from our loose-leaf services, using multi-media technology.**
- ▶ **Begin to review the current format of our loose-leaf services to assess their relevance for judicial officers.**
- ▶ **Continue to revise the systems we currently use to collect and disseminate sentencing statistics.**
- ▶ **Continue to publish information about changes to the law on the Judicial Information Research System (JIRS) and in our loose-leaf services.**
- ▶ **Implement new governance procedures underpinning the work of our volunteer committees.**

Photo previous page: Amanda Jamieson, Senior Research Officer (Legal), with Brandi Baylock, Research Officer (Statistics) help deliver the Legal Information program.



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 2017–18.

Table 2. Results for the legal information program

Result	Measures	Performance
Judicial officers and JIRS users had access to current law to assist in their day-to-day decision making.	Maintain or increase use of Judicial Information Research System (JIRS).	1.5 % increase in use of JIRS throughout 2017–18 with 1.64 million total page hits. See p 40.
	Maintain access to current law on JIRS.	JIRS was available 99% of the time.
Judicial officers and JIRS users were promptly informed about changes to criminal law and criminal practice and procedure.	Maintain accuracy of legislation by weekly updates; update judgments on a daily basis; maintain bench books to reflect significant changes to the law; maintain email alert service.	232 Recent Law items posted on JIRS throughout the year. See p 38. 252 summaries of select appeal decisions published on JIRS. See p 38. Recent Law flyer sent monthly to judicial officers. 3 updates published for <i>Criminal Trial Courts Bench Book</i> .
Judicial officers and JIRS users were promptly notified of changes in sentencing law and practice.	Maintain legal accuracy of Sentencing Information Principles and Practice component of JIRS.	3 updates to the <i>Sentencing Bench Book</i> to reflect legislative reforms and case law during the year. See p 38.
		Sentencing principles in <i>Sentencing Bench Book</i> linked to new cases and legislation. See p 38.
Accurate sentencing information was available to judicial officers.	Maintain sentencing statistics on JIRS on the range and frequency of penalties imposed in similar cases.	Sentencing data was received, audited and loaded on JIRS within 4 months of receipt. See p 41.
	Maintain information that explains why a sentence was passed.	Access provided to case details from sentencing graphs, including sentencing remarks in all appeal cases and District Court cases published on Caselaw site. This provides detailed information as to why the specific sentence was imposed.
	Maintain information about sentences that other judicial officers have given in similar circumstances.	Published summaries of significant appeal decisions on JIRS and in the <i>Judicial Officers' Bulletin</i> . See p 37.
Information about sentencing was communicated.	Maintain or increase publication of <i>Sentencing Trends & Issues</i> papers, research papers and monographs.	We had to defer research for a <i>Sentencing Trends & Issues</i> paper on appeals due to the scale of the NSW Government's criminal justice reforms. See case study p 37.
	Provide information in response to requests for specific sentencing issues.	Responded to 10 research requests. See p 41.
Judicial officers were informed about sentencing options and rehabilitation facilities for offenders.	Maintain current information about service providers in services directory on JIRS.	Information and contact details in the Services Directory regularly monitored, updated and hyperlinked throughout the year.
JIRS was improved to meet judicial officers' needs.	Implement improvements to JIRS.	7 major enhancements were made to JIRS to respond to feedback. See p 42.
Expenditure was within budget.	According to budget plan.	As at 30 June 2018, legal information expenditure was \$2.27 million, representing 33% of overall expenditure.



Listening to feedback

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

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*.

The Chief Justice of NSW* has acknowledged the benefits of our legal information and research program:

“[t]he Commission has proven itself to be an invaluable institution for the maintenance of public confidence in the NSW Judiciary. It significantly enhances the capacity of the Judiciary to administer the law in an accountable and informed way, through ... providing up-to-date research and sentencing information. I am proud to say that I have personally benefited from both the education and training opportunities provided by the Commission, as well as the research it has conducted, including that available on the Judicial Information Research site (JIRS), and in bench books and papers on sentencing trends and issues.”

* The Honourable Tom Bathurst AC, Chief Justice of NSW, “Welcome address to the 30th anniversary of the Judicial Commission” Government House, 11 October 2017.

Judicial officers also commented:

“The Civil Trials Bench Book is very useful to us, mostly for the Law of Evidence.”

“These [research monographs] are accurate and thorough. The coverage is good, the difficulty is finding the time to read them.”

“The Sentencing Bench Book is a staple part of my work and is enormously useful.”

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 discretion in the following ways:

- sending email alerts to judicial officers advising of significant legal changes
- posting “Recent law” items on JIRS when there are important changes to the law
- issuing Special Bulletins about relevant legal developments
- adding summaries of legal and procedural changes and specialist articles in the *Judicial Officers’ Bulletin*
- incorporating new criminal or evidence law changes into the relevant bench book
- publishing sentencing statistics on JIRS
- researching sentencing trends in our in-depth studies
- providing information about sentencing and rehabilitation options on JIRS.



We provide accurate, current 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. Judicial officers and JIRS users are promptly advised via electronic means of important High Court decisions or legislation that have made substantive 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 assented to or proclaimed by 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

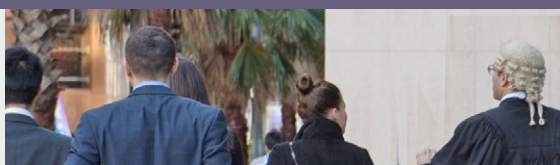
- all cases where the standard non-parole provisions were applied
- other selected appeals which involved discussion of a sentencing principle
- cases with an impact on the work of magistrates in the Local and Children’s Courts
- all legislation which affects criminal practice and procedure.

“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.

Case study: Informing judicial officers about major NSW criminal justice reforms



In April 2018, a new process for committing people for trial for indictable offences and a mandatory sentencing discount scheme began in NSW. The reforms are aimed at reducing the backlog of cases finalised in the District Court which has been a growing problem in the criminal justice system in NSW. The reforms:

- replaced the system for committal proceedings so that the prosecutor now certifies the offences proceeding to trial
- introduced compulsory case conferencing. This is designed to encourage the person charged with an offence to plead guilty at an early stage of the process before the matter is listed for a trial

- replace the judicial discretion to fix a sentencing discount for a guilty plea with a mandatory system of sentencing discounts depending on the timing of the person’s plea
- introduced a new committal procedure for juvenile offenders charged with certain offences.

As a consequence of these reforms, a magistrate no longer decides whether there is enough evidence to commit an accused person for trial. A magistrate now needs to be satisfied that the prosecution and defence have conducted a case conference and certified that there is enough evidence for the matter to proceed to trial.

To prepare for the implementation of these changes, we worked closely with the Department of Justice over many months. We have organised seminars, updated our loose-leaf services, including the *Local Court Bench Book*, and published information about the reforms on the Judicial Information Research System (JIRS) database.



Review of our legal information program for 2017–18

- We published 19 updates to the bench books and handbooks (last year: 16). A major challenge this year was updating the *Local Court Bench Book* for magistrates arising from significant reforms to the committal process in the Local Court (see case study on p 37) and the *Sentencing Bench Book* for the guilty plea sentencing discount scheme. This was partly due to work involved in commenting on and preparing for other reforms being introduced and implemented during 2018.

Bench books are loose-leaf and online services that 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. Committees or our in-house researchers update and review the bench books. Considerable effort is required to maintain the bench books' currency to ensure that changes are reported quickly and accurately.

- We updated the *Equality Before the Law Bench Book* to incorporate the recommended national standards for working with interpreters in courts and tribunals this year which the Judicial Council on Cultural Diversity published in late 2017.

- 232 recent law items were posted on JIRS to explain important cases and legislation (this included all items concerning key court decisions and NSW legislation which were generally posted within 2 days of receipt) (last year: 238 items).
- A special bulletin was sent to all judicial officers about an important High Court decision confirming that accidental killing or intentional self-killing is not murder for the purposes of the NSW *Crimes Act*: see case study on p 42.
- 252 summaries of significant sentence appeal decisions were published on JIRS and in the *Judicial Officers' Bulletin* (last year: 244).
- 11 issues of the *Judicial Officers' Bulletin* were published. This is published monthly to inform judicial officers of important developments to case law and legislation and current legal issues.
- 2 issues of *The Judicial Review* were published: 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.
- We revised the web page and updated online information about sentencing options and rehabilitation facilities on JIRS.

More details of these publications are found in Appendix 8.

Case study: Advising judicial officers about reforms to anti-terrorism laws in NSW



Since 11 September 2001, the Commonwealth and State governments have enacted laws aimed to combat the threat of terrorism in Australia. Releasing an offender from prison who remains radicalised or who becomes radicalised serving their sentence, impacts counter-terrorism efforts. The Council of Australian Governments on Counter-Terrorism meeting on 5 October 2017 agreed to stricter laws to deal with these high risk offenders.

One new law for NSW is the *Terrorism (High Risk Offenders) Act 2017*. The object of this law is to provide for the extended supervision and continuing detention of offenders who are found to pose an

unacceptable risk of committing future serious terrorism offences and to ensure the safety and protection of the community. It enables the Supreme Court of NSW to make orders in relation to offenders who have been convicted in NSW of terrorist offences, or are a member of a terrorist organisation, after they serve their sentences of imprisonment. Before making the order, the court must be satisfied the person poses "an unacceptable risk" of committing serious terrorism offences if not kept under supervision or in detention. The State may apply to the Supreme Court for an extended supervision order, so the offender can be closely supervised in the community, or a continuing detention order, to keep the offender in custody, for up to 3 years.

We forewarned judicial officers of these amendments in an alert on JIRS and posted a news item on JIRS when the Act commenced. We also published an article in the *Judicial Officers' Bulletin* outlining the reforms and amended the *Sentencing Bench Book*.



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 hyperlinked-text 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

Description	What we do	JIRS Component
Early notice of important legal developments.	<ul style="list-style-type: none"> identify significant decisions and legislative changes extract core principles of case law and legislation and post online prepare and distribute monthly <i>Recent Law</i> flyer. 	Announcements and Recent Law
Statistics on the range and frequency of penalties imposed in similar cases.	<ul style="list-style-type: none"> 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.	<ul style="list-style-type: none"> 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, District Court of NSW and Local Court of NSW post judgments within 1 working day of receipt prepare and publish recent law items as quickly as our resources permit for important decisions prepare important NSWCCA case summaries for sentence appeals as quickly as our resources permit link cases and summaries to sentencing principles and practice component and the <i>Criminal Trial Courts</i> and <i>Civil Trials Bench Books</i>. 	Case law
Concise commentary on sentencing principles.	<ul style="list-style-type: none"> 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 (<i>Sentencing Bench Book</i>), Recent Law
Practice and procedure manuals for the various courts containing current statements of relevant legal principles, sample orders and suggested jury directions.	<ul style="list-style-type: none"> identify significant decisions and legislative changes which impact on the content of the particular 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.	<ul style="list-style-type: none"> 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, <i>Sentencing Trends & Issues</i> , <i>Judicial Officers' Bulletin</i> , <i>The Judicial Review</i> .	<ul style="list-style-type: none"> 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.	<ul style="list-style-type: none"> identify relevant service providers maintain currency of information. 	Services directory



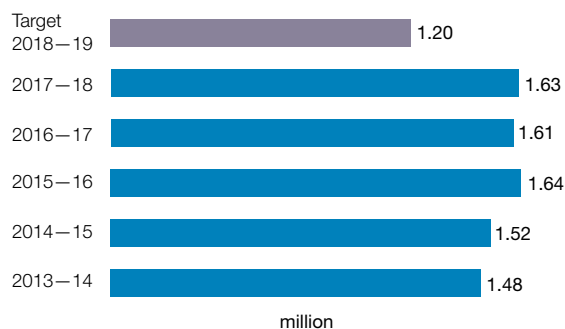
Maintaining JIRS

JIRS is constantly updated so that judicial officers and other JIRS users 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 and JIRS users 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 higher courts' data received from the NSW Bureau of Crime Statistics and Research.

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 below. There has been a 1.5% increase in the overall use of JIRS during the year (last year: 1.4% decrease) with total page hits of 1,638,327. There was an average of 136,527 page hits each month.

Figure 9. Number of JIRS pages accessed 2013–18



Judicial officers and their support staff in the Supreme, District and Local Courts accounted for 37.9% of the use of JIRS in 2017–18. Supreme Court use increased 10.4%, District Court use increased 3.7%, and Local Court use increased 17.9%. 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 accounted for 70.8% of all judicial use this year.

There has been a 6.8% decrease in Government agencies' use of JIRS, accounting for 41.1% 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' use decreased 7.4% and private law firms' use of JIRS increased 0.1%. These accounted for 21% of overall use of JIRS in 2017–18.

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 are shown in Figure 9.

Table 3. Overall JIRS use 2013–18

Users	2013–14 hits	JIRS %	2014–15 hits	JIRS %	2015–16 hits	JIRS %	2016–17 hits	JIRS %	2017–18 hits	JIRS %	Change %
Supreme Court	48,191	3.3	25,339	1.7	23,078	1.4	25,446	1.6	28,090	1.7	+10.4 ↑
District Court	143,068	9.7	146,396	9.6	164,662	10.1	146,172	9.1	151,650	9.3	+3.7 ↑
Local Court	323,920	21.9	329,774	21.6	357,797	21.9	373,497	23.1	440,373	26.9	+17.9 ↑
Land and Environment Court*	579	0.0	598	0.0	424	0.0	409	0.0	1,512	0.1	+269.7 ↑
Government agencies**	645,077	43.6	713,717	46.7	779,661	47.7	721,568	44.7	672,548	41.1	-6.8 ↓
Professional associations***	46,453	3.1	43,611	2.9	37,018	2.3	39,017	2.4	36,122	2.2	-5.4 ↓
Other subscribers****	270,259	18.3	266,739	17.5	273,086	16.7	307,605	19.1	308,019	18.8	+0.1 ↑
Total	1,480,051	100.0	1,527,630	100.0	1,635,894	100.0	1,613,715	100.0	1,638,327	100.0	+1.5 ↑

* The increase may be attributed to iPad™ training in the use of JIRS.

** 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.



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. While the timeliness and quality of sentencing data received from the courts has improved, we are still required to selectively 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 partly measured through specific requests for research assistance. We responded to 10 research requests and gave 3 conference and seminar presentations about our research program which the judicial and legal community responded to favourably. Information about these presentations is found in Appendix 15.

Case study: Advising judges about the impact of guilty pleas for federal offences



Mr Xiao was convicted and sentenced after pleading guilty to two federal offences of insider trading. He was sentenced to a jail term of 8 years and 3 months, with a non-parole period of 5 years, 6 months. The sentencing judge found that Mr Xiao was not entitled to a discount for pleading guilty. A discount for saving time and the cost of a trial did not apply to federal offences.

Mr Xiao appealed to the NSW Court of Criminal Appeal (NSWCCA). Five judges sat on the appeal to determine whether the sentencing judge was wrong in not applying the discount. Mr Xiao submitted that the early plea saved the community the cost of a lengthy and complex trial, the inconvenience to jurors and allowed for a relatively

swift resolution of the criminal charges, which would increase public confidence in the administration of justice.

The NSWCCA found the sentencing judge had made an error. The court said that one of the matters the court must have regard to when sentencing for a federal offence is the fact that the person convicted has pleaded guilty to the charge. The utilitarian value of the plea of guilty should be taken into account in addition to any relevant subjective factors such as contrition or remorse. Earlier authority to the contrary was not followed.

The court allowed the appeal and applied a 15% plea discount for each offence, re-sentencing the applicant to an overall term of 7 years, and non-parole period of 4 years, 6 months. This decision resolves the divergence of authorities on the question of whether the utilitarian value of a guilty plea is a relevant consideration for federal offences.

This decision has resulted in a number of appeals against sentence where the relevant discount was not applied.

Following this decision,* we posted a recent law item on JIRS explaining the court's decision. We updated the "General sentencing principles" chapter of the *Sentencing Bench Book* to reflect the decision and published a summary of the case in the *Judicial Officers' Bulletin*.

* *R v Xiao* (2018) 96 NSWLR 1.



Improving JIRS

Seven enhancements to JIRS were made during the year in response to feedback from our users. Improvements included:

- a new NSWCCA sentence appeals component of JIRS. This can be used to quickly access judgments of comparable cases where a sentence was reviewed in the NSWCCA, irrespective of the result of the appeal. Where a sentence changed on appeal, the corrected results are shown
- a new interactive “Sentencing Remarks Checklist” for judicial officers. Some of the offences commonly appearing in the NSWCCA are included here with points for consideration and links to authorities. Users can annotate the checklist which includes sample text that can be edited for use in preparing a sentencing judgment
- statistics back to 2008 for the District and Supreme Courts are now available as well as a statutory alternative/substituted verdict plea option
- enhancements to the offence packages component of JIRS. Offence packages are a compilation of relevant material for particular criminal offences dealt with summarily or on indictment
- a trial of an improved version of the statistics viewer. The new version of the viewer displays the menu options such as offender characteristics and penalty options on one screen making it easier to navigate the statistics. Prior to selection of options, the number of cases to be shown can be seen which avoids unnecessary drilling down to empty options
- a “What is JIRS?” document outlining efficient use of JIRS.

Case study: Informing judicial officers about jury directions concerning self-murder



Emergency services were called after a fire broke out in a home in Ryde, NSW. Police officers found a woman and a badly-burned man inside. The man died in hospital 10 days later from his injuries. A faulty gas burner was likely to have started the fire. Police found drug-making paraphernalia, including the gas burner, in the house and a large commercial quantity of methylamphetamine (ice). It was not clear whether the man or the woman lit the burner.

The woman was charged with murder, or alternatively manslaughter, by reason of her involvement in the joint criminal enterprise with the man to manufacture the ice. The trial judge

directed the jury to acquit the woman. The NSW Court of Criminal Appeal overturned this decision on the basis that the woman was a primary participant in a joint criminal enterprise. The act of lighting the burner was within the scope of this enterprise. The woman appealed to the High Court.

In a split decision, five of the seven justices of the High Court allowed the woman’s appeal.* Three of the justices said the Crown case failed because the Crown could not disprove the possibility that the man had lit the burner and caused his own death; therefore the woman could not be liable for killing another person. Two of the justices said that since self-murder or suicide was no longer a crime, if the man in fact had lit the gas ring, his act was not an element of the crime of murder in NSW. The High Court said the trial judge was correct to direct the jury to acquit the woman of the murder and manslaughter charges.

We posted a news item on JIRS and published a Special Bulletin and emailed this to all judges. We also amended the commentary and suggested directions concerning joint criminal liability and constructive murder in the *Criminal Trial Courts Bench Book*.

* *IL v The Queen* (2017) 91 ALJR 764



JIRS use of our publications continues to grow

The total number of pages viewed on JIRS grew from 139,331 in 2016–17 to 139,679 in 2017–18, an increase of 0.2% as shown in Table 4. This is the highest rate of access noted in the last 5 financial years while there has been a 45.6% increase in PDF downloads as shown in Table 5.

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 shows PDF downloads have increased for 8 of 10 publications. The *Civil Trials Bench Book* recorded the largest increase followed by the *Sexual Assault Trials Handbook*. 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 use (judicial officers and the legal profession) (see Table 4)
- website use (public viewing) (see Table 5 and Table 6).
- Informit viewings (academic use).

Informit viewings of our publications slightly decreased

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 slight decrease of 1.6% in total viewings from the previous year (last year: 41% increase). The most popular articles accessed concerned Aboriginal issues, particularly about intergenerational trauma, juvenile justice and technology and the law.

Table 4. JIRS use of online information 2013–18

Publication	2013–14 hits	2014–15 hits	2015–16 hits	2016–17 hits	2017–18 hits	Change %
Sentencing Bench Book	55,118	48,234	44,709	43,782	38,568	-11.9 ↓
Criminal Trial Courts Bench Book	44,741	42,992	41,851	42,786	44,976	+5.1 ↑
Civil Trials Bench Book	2,643	2,613	2,664	3,402	3,329	-2.1 ↓
Local Court Bench Book	31,829	24,773	38,925	41,612	45,810	+10.1 ↑
Sexual Assault Trials Handbook	3,721	4,308	3,335	3,137	2,548	-18.8 ↓
Equality Before the Law Bench Book	218	276	307	431	373	-13.5 ↓
Children's Court of NSW Resource Handbook†	1,740	1,514	1,306	1,511	1,398	-7.5 ↓
Education monographs*	169	81	63	46	48	+4.8 ↑
Judicial Officers' Bulletin*	2,702	3,124	2,326	2,375	2,149	-9.5 ↓
The Judicial Review*	275	137	119	217	409	+88.5 ↑

* 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 2013–18

Publication	2013–14	2014–15	2015–16	2016–17	2017–18	Change %
Sentencing Bench Book	3,075	3,519	3,467	4,260	5,621	+31.9 ↑
Criminal Trial Courts Bench Book	5,733	6,079	6,056	6,666	7,370	+10.6 ↑
Research monographs*	21,157	34,751	27,689	8,241	12,613	+53.1 ↑
Sentencing Trends & Issues*	9,419	6,912	5,786	2,765	4,433	+60.3 ↑
Civil Trials Bench Book	3,554	4,846	4,000	4,138	9,361	+126.2 ↑
Local Court Bench Book	2,947	3,051	3,273	2,922	3,354	+14.8 ↑
Sexual Assault Trials Handbook	1,549	1,662	1,841	5,585	8,693	+55.6 ↑
Equality Before the Law Bench Book	757	530	829	1,826	2,079	+13.9 ↑
Children's Court of NSW Resource Handbook†	1,014	993	1,035	552	286	-48.2 ↓

* 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.



Public website usage records growth

There has been a 28.2% increase in the use of our publicly available online resources: (see Table 6 below). The most accessed resources were the *Civil Trials Bench Book* and the *Criminal Trial Courts Bench Book*. There has been over 25% 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 *Criminal Trial Courts Bench 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 *Sentencing Bench Book* had 24.6% growth. This resource provides information and legal principles relevant to sentencing law in NSW and for Commonwealth offences that NSW courts decide. More information about our published resources is found in Appendix 8.

Table 6. Website use of our resources 2013–18

	2013–14 hits/mth	2014–15 hits/mth	2015–16 hits/mth	2016–17 hits/mth	2017–18 hits/mth	Change %
Civil Trials Bench Book	24,230	26,532	30,839	38,435	49,531	28.9 ↑
Criminal Trial Courts Bench Book	18,618	19,668	21,451	27,702	34,818	25.7 ↑
Sentencing Bench Book	20,082	22,069	23,919	29,682	36,982	24.6 ↑
Local Court Bench Book	8,634	11,458	12,176	16,347	21,934	34.2 ↑
Equality Before the Law Bench Book	171	208	303	817	1,684	106.1 ↑
Sexual Assault Trials Handbook	2,035	2,207	2,151	3,249	3,010	-7.4 ↓
Sentencing Trends & Issues	4,449	5,200	4,741	759	2,030	167.4 ↑

Case study: Explaining what “beyond reasonable doubt” means in a criminal trial

Before someone can be convicted of a criminal offence, the prosecutor must prove to the jury (or judge in a judge-alone trial) the accused’s guilt beyond reasonable doubt based on the evidence put before the jury.

During a murder trial, the trial judge directed the jury that the Crown Prosecutor was required to satisfy them of guilt “not beyond any doubt, but beyond reasonable doubt” and that a doubt held by a jury is, by definition, a reasonable doubt. The accused was convicted of murder and he appealed. The Victorian Court of Appeal decided that the trial judge’s gloss on the meaning of a reasonable doubt was a mistake and ordered a retrial. The Crown appealed to the High Court of Australia.

The High Court found the Victorian Court of Appeal was in error and reinstated the original conviction.

The High Court said that a trial judge should generally avoid directing a jury in terms which contrast proof beyond reasonable doubt with proof beyond any doubt. However, in the circumstances of this case, it was not a mistake to do so and did not result in a substantial miscarriage of justice.

The High Court said that if a trial judge does mention the distinction, the question is whether the words spoken are such that the jury would have derived a

false perception of the basis for deciding whether the Crown has proved its case. That question can be decided by taking the trial judge’s summing up as a whole and as a jury listening to it might understand it.

In this case, the jury could not have been left in any uncertainty as to the true meaning of the need for proof beyond reasonable doubt. At the outset of the trial, the judge had correctly explained that proof beyond reasonable doubt is the highest standard of proof known to the law, requiring a much higher standard of satisfaction than the proof required in civil trials (on the balance of probabilities). The High Court encouraged judges to contrast the standard of proof beyond reasonable doubt with the lower civil standard of proof. The High Court said making this distinction is an effective means of conveying to a jury that being satisfied of guilt beyond reasonable doubt does not simply mean concluding that the accused may have committed the offence charged, or even that it is more likely than not that the accused committed the offence charged. What is required is a much higher standard of satisfaction, the highest known to the law: proof beyond reasonable doubt.

We published a summary of this decision* on JIRS and in the *Judicial Officers’ Bulletin*.

* *The Queen v Dookhea* (2017) 91 ALJR 960



Examining complaints

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

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Results, challenges and strategic direction in brief

Results 2017–18

- ▶ **Independence of judicial officers was maintained: see p 47.**
- ▶ **High standards of judicial performance maintained: 89% of complaints summarily dismissed: see p 49.**
- ▶ **65 complaints finalised in 2017–18: see p 49.**
- ▶ **90% of complaints were finalised within 6 months, 100% of complaints finalised within 9 months of receipt: see p 49.**
- ▶ **Gave informal advice to 304 potential complainants: see p 50.**
- ▶ **Information gathered from the complaints process used to develop judicial education sessions: see p 51.**

Challenges 2017–18

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

Strategic direction 2018–19

- ▶ **Examine all 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.**
- ▶ **The complaints process will inform the design of education sessions.**
- ▶ **Monitor and report on trends in complaints.**

Photo previous page: The Law Courts Building, located on Macquarie Street, Sydney, accommodates the court's registries and is where all civil and appeals cases are heard.



Evaluating the program's performance

An assessment of the results shown in Table 7 demonstrates that our complaints function performed well in 2017–18. 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

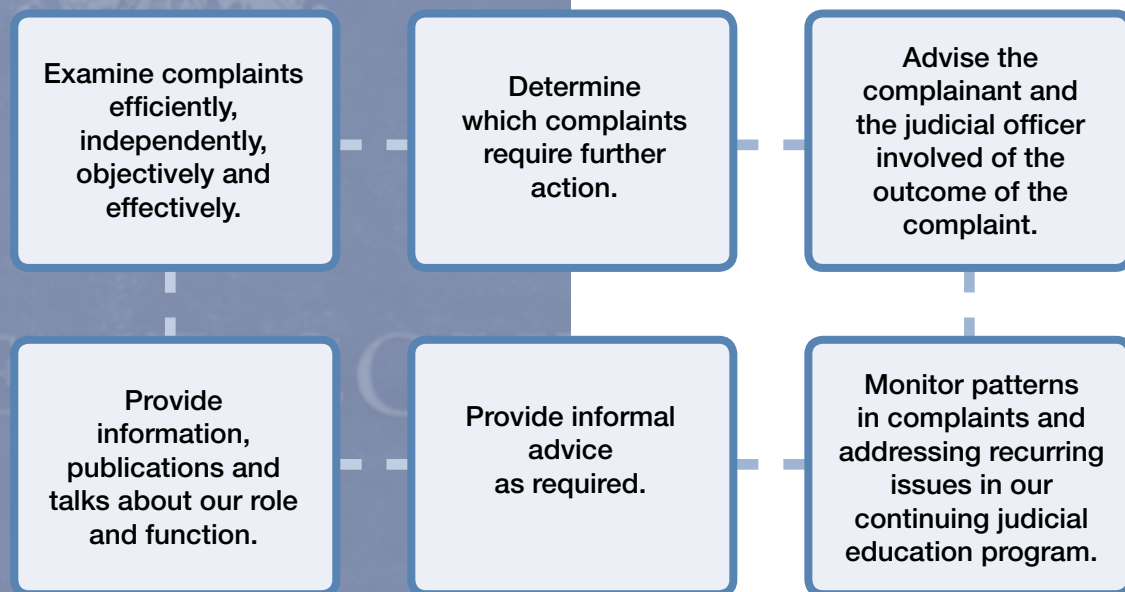
Result	Measures	Performance
Finalised majority of complaints received during the year.	Maintain the number of complaints examined and finalised during the year.	Commission examined 62 complaints during the year (last year 72). See p 49.
Timely acknowledgment and completion of preliminary examination of complaints.	Maintain or decrease the time taken to conduct preliminary examination of complaints.	Commission examined 73% of complaints within 3 months (last year: 69%), 90% within 6 months and 100% of complaints within 9 months (last year: 99%). See p 49.
	Maintain the time taken to formally acknowledge complaints received.	100% of complaints received were acknowledged within 5 working days. See p 49.
High standard of judicial performance.	Compare number of complaints to the number of court matters finalised during the year.	365 judicial officers in NSW heard more than 700,000 court matters in 2017–18. 74 complaints about 68 judicial officers were made to the Commission. See p 49.
	Compare number of complaints dismissed under section 20 of the <i>Judicial Officers Act</i> 1986 with complaints that require further action.	89% of complaints (55 of 62 examined) were summarily dismissed under section 20 of the <i>Judicial Officers Act</i> 1986 (last year 96%). Seven complaints required further action, 5 referred to head of jurisdiction and 2 to Conduct Division (last year 1). See p 49.
	Maintain accessible information about the complaints process.	Information about the complaints process and how to make a complaint was provided in the annual report, on our public website, and in brochure form. We responded to 304 requests for information. See p 50.
Information gathered from the complaints process has been used to develop education sessions for judicial officers.	Monitor and analyse trends in complaints to feed into our education events.	49% of complaints arose from allegations of failure to give a fair hearing. 22% of complaints arose from allegations of an apprehension of bias. Education sessions held and resources produced during the year addressed these issues. See p 51.
Independence of judicial officers was maintained.	Maintain confidentiality of complaints process.	Commission examined all complaints according to statutory criteria and established protocols. See pp 52 and 53.
Expenditure was within budget.	According to budget.	As at 30 June 2018, complaints expenditure was \$1.02 million or 15% of overall expenditure.



Why we examine complaints



How we fulfil our statutory function



The *Judicial Officers Act* 1986 provides for a complaints function about NSW judicial officers. Anyone may complain to the Commission about a matter that concerns or may concern the ability or behaviour of a judicial officer. This is not restricted to ability or behaviour in court.

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.

There are 365 judicial officers in NSW who heard more than 700,000 court matters during 2017–18. The number of complaints we receive each year is low compared to the high volume of matters handled: see Table 8 on p 49. 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.



Complaints received and examined during the year

During 2017–18, 50 people made 74 complaints about 68 judicial officers (last year: 75 complaints about 57 judicial officers). Five complainants each made 2 complaints; 4 complainants each made 3 complaints; 1 complainant made 4 complaints and 1 complainant made 9 complaints. The rest of the complaints were lodged individually. We finalised 65 complaints including 17 complaints pending as at 30 June 2017. Twenty-six complaints were pending as at 30 June 2018.

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 a preliminary examination, most complaints were summarily dismissed under section 20 of the *Judicial Officers Act* 1986. This year, 89% of complaints (55 of 62) examined were summarily dismissed. This is lower 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 the Commission that the complaint is substantiated. For example, if the person complained about is no longer a judicial officer (because they have retired, resigned or are deceased), the Commission cannot examine the complaint. Table 9 shows how the 55 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. Ninety per cent of the 65 matters were finalised within 6 months and 100% of complaints were finalised within 9 months of their receipt. 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 8. Particulars of complaints examined 2013–18

	2013–14	2014–15	2015–16	2016–17	2017–18
Complaints pending at 30 June 2017	21	8	11	14	17
Complaints made during the year	48	59	44	75	74
Total number of complaints	69	67	55	89	91
Complaints examined and dismissed	58	49	40	69	55
Complaints referred to head of jurisdiction	1	4	0	2	5
Complaints referred to Conduct Division	2	2	0	1	2
Complaints withdrawn	0	1	1	0	3
Total number of matters finalised	61	56	41	72	65
Complaints pending at 30 June 2018	8	11	14	17	26

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

Criteria	Section	Number of complaints
The complaint is one that the Commission 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.	20(1)(a) & (h)	1
The complaint is frivolous, vexatious or not in good faith and having regard to all the circumstances of the case, further consideration of the complaint would be or is unnecessary or unjustifiable.	20(1)(b) & (h)	2
The complaint relates to the exercise of a judicial or other function that is or was subject to adequate appeal or review rights and having regard to all the circumstances of the case, further consideration of the complaint would be or is unnecessary or unjustifiable.	20(1)(f) & (h)	24
Having regard to all the circumstances of the case, further consideration of the complaint would be or is unnecessary or unjustifiable.	20(1)(h)	28
Total number of complaints dismissed under s 20		55

Table 10. Time taken to conduct preliminary examination of complaints 2013–18

	3 mths	6 mths (target 90%)	9 mths	12 mths (target 100%)
	%	%	%	%
2013–14	61	87	97	100
2014–15	82	100	100	100
2015–16	78	93	100	100
2016–17	69	94	99	99
2017–18	73	90	100	100



Five complaints referred to the relevant head of jurisdiction

Five complaints were referred this year to the relevant head of jurisdiction under s 21(2) of the *Judicial Officers Act* (last year: 2). 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.

Two complaints referred to a Conduct Division

Two complaints about two judicial officers were referred to two separate Conduct Divisions this year under s 21(2) of the *Judicial Officers Act* (last year: 1). Information about the role of a Conduct Division is found on p 52.

The Conduct Divisions' examination of the one complaint referred last year and the two complaints referred this year have commenced.

For the complaint referred last year, the Commission appointed a Conduct Division comprising:

- The Honourable Justice Robert Macfarlan, Supreme Court of NSW
- The Honourable Acting Justice Arthur Emmet AO, Supreme Court of NSW
- Mr Ken Moroney AO APM

This year, the Commission appointed the first Conduct Division comprising:

- The Honourable Justice Nigel Rein, Supreme Court of NSW
- The Honourable Acting Justice Jane Mathews AO, Supreme Court of NSW
- Professor Nalini Joshi

The second Conduct Division comprises:

- The Honourable Justice Anthony Payne, Supreme Court of NSW
- His Honour Judge Roger Dive, District Court of NSW
- Mr Ken Moroney AO APM.

The Crown Solicitor and Senior and Junior Counsel were instructed to assist the 3 Conduct Divisions. In each case, the Attorney General approved financial assistance for the judicial officers to meet the legal costs and expenses of appearing before the inquiries.

Commission declared a complainant vexatious

The Commission has power under the *Judicial Officers Act* to declare a complainant vexatious. This year, the Commission declared vexatious a complainant, who over a 13-month period, made 11 complaints about 4 judicial officers, including 7 against one judicial officer. All the complaints were dismissed for lack of substance. The effect of the declaration is that the Commission may disregard any further complaint from the vexatious complainant until the declaration is revoked.

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

We are 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.



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



Identifying complaint patterns 2017–18

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 2017–18, 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, alleging bias or incompetence. Such a complaint is dealt with on its merits, but the Commission cannot correct an allegedly wrong decision. Twenty-four of the 62 complaints finalised this year were summarily dismissed on the basis that the complaint related to the exercise of a judicial or other function that is or was subject to adequate appeal or review rights. 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

Four complaints (6%) alleged judicial incompetence this year (last year: 7%).

Inappropriate comments and discourtesy

Two complaints alleged that a judicial officer made inappropriate comments and 5 complaints alleged discourtesy.

Table 11. Common causes of complaint: basis of allegation — by individual category

Type of allegation	2017–18	%
Bias	16	21.7
Collusion	2	2.7
Delay	3	4.0
Discourtesy	5	6.7
Failure to give fair hearing	36	48.7
Impairment	1	1.4
Inappropriate comments	2	2.7
Incompetence	4	5.4
Other	5	6.7
Total	74	100

Complaints arising from AVO and DV 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. Eighteen complaints (24%) arose from AVO proceedings (last year: 17%). Five complaints (7%) arose from domestic violence proceedings.

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 58% of all complainants (last year: 56%).

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 2017–18, these 2 categories combined accounted for 52 or 70% of complaints (last year: 57%). An unsuccessful party to legal proceedings or a person who was self-represented 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.



How we deal with complaints and enquiries

Examining the complaint

Figure 10 (on p 53) 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 a copy of 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 inappropriate, 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, 22 Conduct Divisions have been formed. The Commission decides on the 3 members of a Conduct Division — 2 are judicial officers (one may be a retired judicial officer) and the other one is chosen from 2 community representatives the NSW Parliament has nominated.

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

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

If 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, after the Attorney General lays the report before both Houses of Parliament, the complainant. The judicial officer may be invited to address Parliament to show cause why Parliament should not request the Governor to remove the judicial officer from office. Parliament then considers and votes on whether the conduct justifies removal.

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

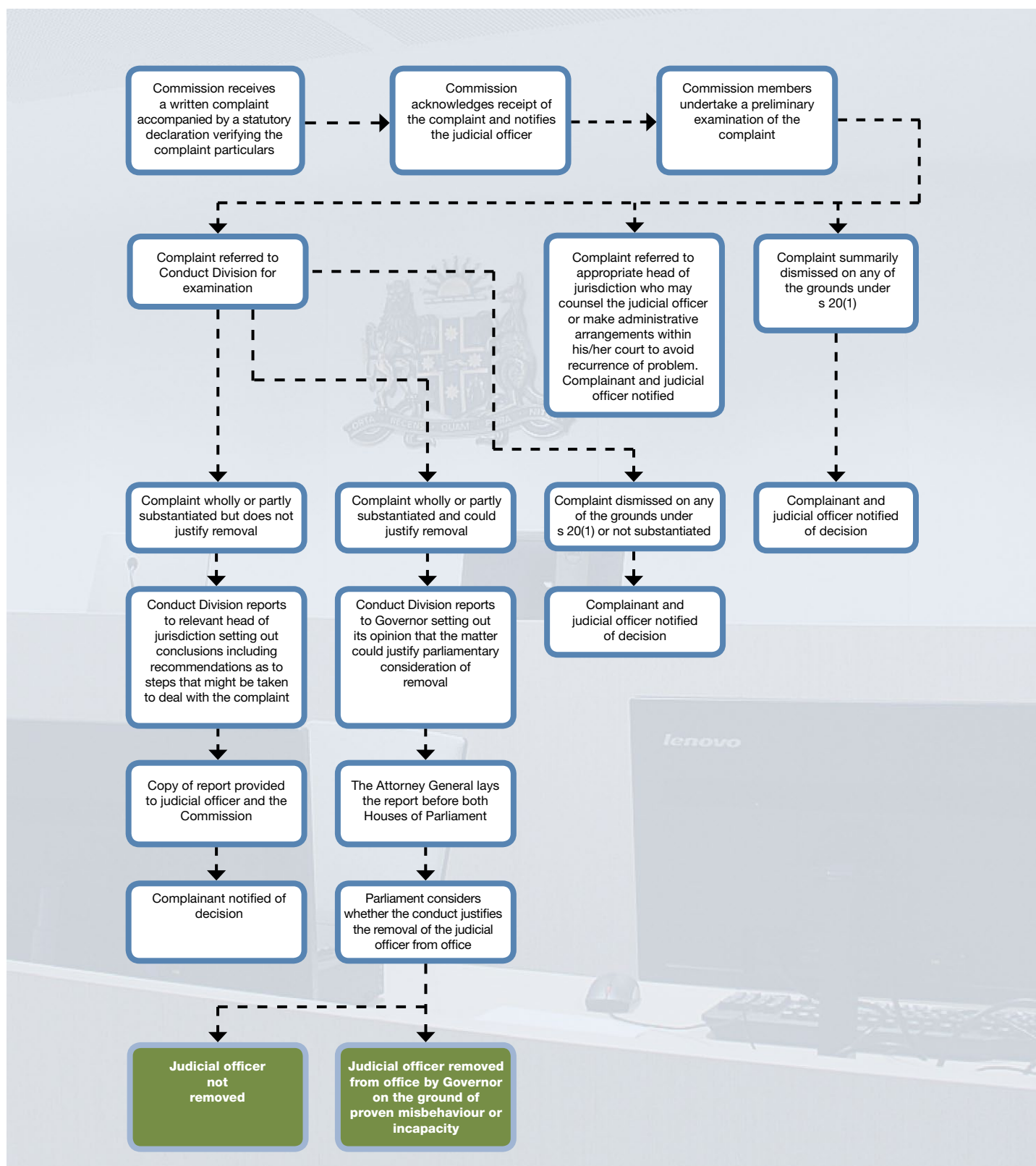
If the Conduct Division forms the opinion that a wholly or partly substantiated complaint does not justify Parliamentary consideration of the judicial officer's removal from office, it must send a report to the relevant head of jurisdiction, the Commission, and the judicial officer concerned, setting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

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, legal representatives or court staff.

Figure 10. 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 2017* and 2 documents, *Complaints against judicial officers: guidelines 2017–18* (see Appendix 1) and *Conduct Division: guidelines for examination of complaints 2017–18* (see Appendix 2).



Case studies

Delay in delivery of judgment

The complaint

The complainant, who was not a party to the proceedings, complained to the Commission that there had been a delay of over 2 years in the delivery of a judgment by a court. While not a party, the complainant did have an interest in the outcome of the proceedings.

The Commission's examination

Following established procedures, the Commission advised the judicial officer of the complaint and provided a copy of it for information. The Commission requested the judicial officer to provide a response to the complaint to assist the preliminary examination. Before the examination was complete the judge delivered the judgment and provided a response to the complaint.

In the response to the Commission the judge expressed regret for the delay and apologised to the parties for any inconvenience as a consequence of the delay.

The Commission determined that the complaint should not be dismissed and referred it to the head of jurisdiction to deal with.

The Commission advised the complainant of the outcome of its examination and conveyed the judge's apology.

explained to the complainant how the proceedings would be conducted and gave her such assistance as was appropriate for a self-represented person. There was no evidence from the sound recording that the magistrate had denied the complainant natural justice or had failed to give an opportunity to present evidence to support the application. At all times during the hearing, the magistrate treated the complainant in a courteous and judicial manner.

Following its examination, the Commission was of the opinion that the complaint had not been substantiated and there was no misconduct on the part of the judicial officer. The Commission also noted that there was an adequate right of appeal available to the complainant. Having regard to these findings the Commission was required to dismiss the complaint. The complainant and the judicial officer were advised of the Commission's reasons.

Substitution for appeal

The Complaint

The complainant, who was self-represented in proceedings before the Local Court, alleged that the magistrate was biased against him, did not listen to his side of the story, was rude towards him and the decision was wrong.

The Commission's examination

The Commission dismissed the complaint after reviewing the sound recording of the proceedings. The Commission found no evidence of rudeness and was of the view that the complainant had an adequate right of appeal to the District Court against the magistrate's decision.

People who are not satisfied with the outcome of a case often make a complaint to the Commission about the judicial decision maker 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 or law. That is a matter for courts of appeal and is recognised in the provisions of section 20 of the *Judicial Officers Act 1986*. This requires the Commission to dismiss complaints summarily where there is an avenue of appeal or review available.

Self-represented complainant alleged denial of natural justice

The complaint

The complainant represented herself to make an application for annulment of a penalty imposed for a traffic infringement notice. She alleged that the magistrate denied her natural justice, did not hear her application on its merits and failed to give her an opportunity to present evidence.

The Commission's examination

The Commission reviewed the sound recording of the proceedings and considered the complainant's submissions. The examination showed that at the commencement of the hearing the magistrate



Our partners and the community

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

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Results, challenges and strategic direction in brief

Results 2017–18

- ▶ **Worked with the Supreme Court, Federal Court and NSW Bar Association to introduce an Indigenous Clerkship program for law students: see p 59.**
- ▶ **Informed the public about our role in the justice system to help promote trust and confidence in the judiciary: see p 60.**
- ▶ **As part of our commitment to community engagement, supported the development of the inaugural NSW Young Lawyers “Young Justice” for Year 7 and 8 students: see p 60.**
- ▶ **Provided assistance to the Australian National Imams Council (ANIC) to develop an “Explanatory Note on the Judicial Process and Participation of Muslims”: see p 60.**
- ▶ **Provided free-to-view legal resources on our website: 28% increase in page views of our website: see p 61.**
- ▶ **Worked closely with the Department of Justice to help communicate major justice reforms to judicial officers: see p 61.**
- ▶ **Provided capacity-building assistance to judiciaries of other nations: see p 61.**
- ▶ **Developed a user-friendly interface for Lawcodes to improve the way criminal law agencies in NSW electronically communicate with each other: see p 61.**
- ▶ **Publicised best practice for judicial officers working with interpreters in courts and Tribunals: see p 62.**

Challenges 2017–18

- ▶ **Balancing our core work with requests for comment from NSW Government about major criminal justice legislative reform simultaneously with implementing other reforms that have taken effect this year.**

Strategic direction 2018–19

- ▶ **Provide online legal information for the public as part of our community engagement strategy.**
- ▶ **Provide online legal information and seminars for law students as part of our community engagement strategy.**
- ▶ **Work with the Judicial Council on Cultural Diversity to publicise the national framework to improve accessibility to courts for Aboriginal and Torres Strait Islander women and migrant and refugee women.**
- ▶ **Maintain the Lawcodes database, a vital database of unique codes for NSW and Commonwealth criminal offences to enable justice sector agencies to electronically exchange information.**
- ▶ **Continue to actively participate with other national and international providers of continuing judicial education to share resources and promote best practice for judicial officers.**
- ▶ **Work with the Drug Court to reconfigure its current case management system with the planned expansion of the court to regional centres.**
- ▶ **Continue our involvement with the International Organization for Judicial Training, a body dedicated to promote the rule of law through international cooperation in judicial education.**
- ▶ **Continue our involvement with the Association for Continuing Legal Education (ACLEA) – an international body established to improve continuing legal education worldwide.**

Photo previous page: Court officers from the Supreme and National Courts of PNG attended our office in November 2017 for training on the integrated criminal case system database that we have developed for the court.

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 2017–18. 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

Result	Measures	Performance
The public was informed about our work and role in the justice system and our contribution to judicial performance.	Maintain or increase publicly-accessible information on our website; through presentations and community engagement.	<p>Commission staff gave 24 presentations about our work and role throughout the year (see Appendix 15). See p 60.</p> <p>Engaged with the community through seminars, multi-media channels, and supporting the Indigenous Clerkship program. See pp 59–60.</p> <p>Responded to 304 enquiries from potential complainants. See p 60.</p> <p>New publications uploaded on our website for free-to-view service; existing publications updated throughout the year. See p 44 and Appendix 8.</p> <p>Website use of our online information grew at an overall rate of 28% (last year: 16%).</p>
Government agencies had access to our statistical and legal information and shared our knowledge.	Maintain information service for Government agencies.	<p>41% of JIRS usage was from Government agencies. See p 40.</p> <p>Responded to enquiries from government agencies. See p 61.</p>
We provided capacity-building assistance to Chinese, South East Asian, Papua New Guinea, Pacific and African jurisdictions.	Maintain or increase our capacity-building assistance.	We hosted visitors and delegations throughout the year and provided substantial assistance to the Papua New Guinea judiciary. See p 61 and Appendix 12.
We shared knowledge, resources and experience with other judicial education providers.	Maintain or increase exchanges throughout the year.	See p 61.
We provided advice to other Australian jurisdictions and institutions.	Maintain advice on an “as requested” basis.	<p>Provided support to the Australian National Imams Council: see p 60.</p> <p>Engaged with the Judicial Council on Cultural Diversity. See p 62.</p>
The Commission provided contractual services to partners and the community.	Maintain or increase revenue obtained from contractual services.	16% of our income was self-generated to supplement funds from consolidated revenue. See p 91 in Our finances.



Listening to our partners and the community

Our partners appreciate the assistance, services and information we provided during the year.

“JIRS information is very reliable and very current. I like the thoroughness of all cases, principles and statistics.”

Public Defender’s Office lawyer

“... today, the Judicial Commission is well established and highly regarded ... a number of its programs ... have been adopted as a model in other jurisdictions.”

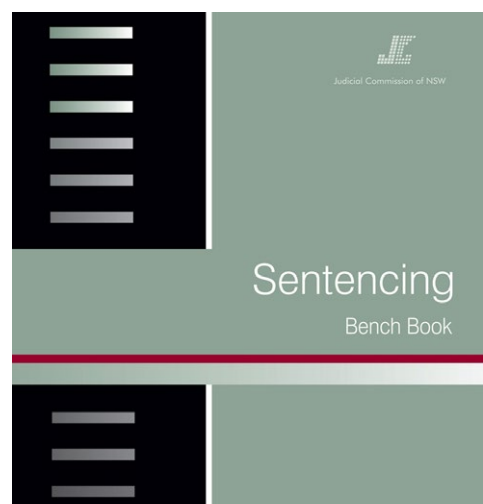
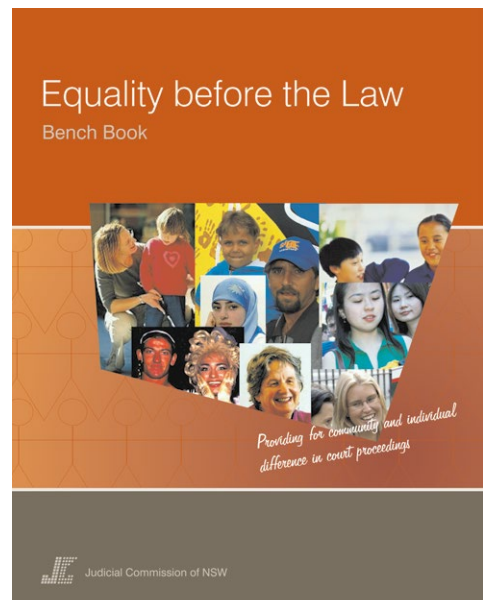
Editorial, (2017) 91 *Australian Law Journal* 947

“[Your publications] are a fantastic style ... because they pull together statistics and a thorough discussion of the law. Can absolutely be relied on.”

Legal Aid Lawyer

The Commission publishes a suite of bench books: the covers of two of our highly regarded bench books are shown on this page.

Bench books are 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.





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

The Commission provides accessible information about our 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 aim 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.

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 2017–18, we worked with other organisations and judiciaries to:

- cooperate and exchange knowledge with government agencies in NSW
- assist with capacity-building projects in developing jurisdictions
- provide advice and assistance in other jurisdictions
- share resources and exchange ideas with other Australian and international providers of judicial education services
- share expertise developed in the exercise of our functions through contractual arrangements with other jurisdictions.

See Appendices 10–14 for complete details about how we shared our knowledge and expertise during the year.

Case study: Indigenous clerkship program for law students

Law firms have traditionally offered summer clerkships to law students nearing the end of their university studies. The clerkships give the students the opportunity to sample professional legal life and are often a stepping stone for recruitment into the firm.

The inaugural NSW Bar Indigenous Clerkship program took place in early 2018. The three-week program is similar to a summer vacation clerkship at a law firm, providing valuable experience for university students considering a career as a Solicitor or Barrister. The program was an initiative of the the Federal Court of Australia, Supreme Court of NSW and the NSW Bar Association. The Commission through our Ngara Yura (Aboriginal Cultural Awareness) Program provided support.



Pictured at the Federal Court reception (l–r) are the Honourable Justice Jayne Jagot and the Honourable Justice John Griffiths, Federal Court of Australia; the Honourable Justice Lucy McCallum, Supreme Court of NSW; and students Mr Ryan Barratt, Ms Kate Sinclair and Mr Tyrone Kelly.



Performance of our public information and community engagement role

The Commission provides free legal educational resources to schools and university students on our website. There has been a 28% growth this year of our free-to-view legal information. Our publications are listed on university reading lists and regularly referred to as indispensable publications for law students. As part of our commitment to community engagement, we supported the development of the inaugural NSW Young Lawyers “Young Justice” for Year 7 and 8 students. This education program is held at the Law Society of NSW.

We worked with the Australian National Imams Council to develop an *Explanatory Note on the Judicial Process and Participation of Muslims in Court*. The explanatory note has been published on our Judicial Information Research System and information about it in the *Judicial Officers’ Bulletin*. See the case study below.

Commission officers’ presentations about our work and role

Commission staff delivered 24 presentations during the year to community groups, government agencies, and court staff about the Commission’s role in the

NSW justice system, 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. See Appendix 15 for list of presentations for 2017–18.



Our Aboriginal project officer, Joanne Selfe, presents to a visiting delegation from the Vietnamese Committee for Ethnic Minority Affairs about our Aboriginal cultural awareness program.

Case study: Providing guidance about etiquette and behaviours for Australian muslims in court



In late 2017, the Australian National Imams Council (ANIC) issued an “Explanatory Note on the Judicial Process and Participation of Muslims”. The note is designed to give practical guidance on etiquette and behaviours for Australian Muslims to observe when engaging in court processes. The note provides information for Muslims and judicial officers on Islamic practices as they relate to matters which may be raised in connection with Muslims participating in court processes.

We published the Explanatory Note on JIRS and updated commentary in the *Equality Before the Law Bench Book*, a loose-leaf service that provides information for judicial officers about cultural diversity, access to justice issues for minority groups, and vulnerable people’s potential special needs in court.

In the sentencing decision of *R v Alou*,* the Honourable Justice Peter Johnson confirmed, with reference to the Explanatory Note, that there is no prohibition or restraint on a Muslim standing up for a judicial officer as a sign of respect nor any prohibition or restraint on a Muslim, when

entering or leaving a courtroom, to stand and lower their head in a mark of respect. Justice Johnson described the explanatory note as “a powerful statement by the leadership of Islam in Australia concerning the approach to judicial proceedings”. The judge noted that the offender’s lack of respect for the court affected the issue of contrition and remorse and his prospects of rehabilitation.

In separate District Court civil proceedings, a woman applied to give her evidence wearing a veil known as a niqab. The judge refused the application as the judge found that seeing the woman’s face would assist in the assessment of her credibility. The woman unsuccessfully appealed this decision to the Court of Appeal. The Court of Appeal** said that the District Court judge had correctly decided the appellant could not give her evidence with her face covered by a niqab. The Court of Appeal referred to the “Explanatory Note on the Judicial Process and Participation of Muslims” which observes that it is not contrary to Sharia law for a woman to uncover her face when giving evidence in court.

We published a summary of the Court of Appeal’s decision** on JIRS and in the *Judicial Officers’ Bulletin*. We also updated commentary in the *Equality Before the Law Bench Book*.

* *R v Alou (No 4)* [2018] NSWSC 221

** *Elzahed v State of NSW* [2018] NSWCA 103



Public use of our information continues to grow

Use of our online publications grew at an overall rate of 28% (last year: 16% growth). The *Civil Trials Bench Book* has been the most accessed publication with an average 49,531 hits each month and 29% 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 44 and in Appendix 8. The continuing growth over a 5-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 44.

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 20 research enquiries (last year: 11), including from:

- NSW Police Force
- Department of Justice
- NSW Crown Solicitor's Office
- Director of Public Prosecutions
- Aboriginal Legal Service, Legal Aid NSW and the NSW Public Defender.

We also worked with:

- the NSW Legislative Assembly Committee on Law and Safety. We provided extensive information to the Committee on sentencing for offences committed against emergency services personnel
- the Department of Justice on their communications strategy to inform judicial officers about significant justice reforms that commenced incrementally in late 2017 and 2018. These include reforms to: the committal process in the Local Court and the introduction of compulsory case conferencing; parole for serious and juvenile offenders; community sentencing options; driver licence disqualification periods; and the introduction of a new scheme to extend supervision and continuing detention for high risk and terrorist offenders
- the Department of Justice to support and maintain the Forum Administration System until its closure in May 2018. This program was 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 the Commission developed
- the NSW Domestic Violence Death Review Team (DVDRT), Department of Justice, to support the recommendations of the DVDRT reports
- the Aboriginal Legal Service to support the Bugmy Evidence Project Steering Committee. This project is working to create community reports of social disadvantage evidence.

Appendix 11 contains the full list of the organisations the Commission supported and exchanged information with during the year.

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 Lawcodes administration interface, rolled out internally in March 2018. The new interface provides administrators of the Lawcodes database a more user-friendly system for creating law part codes, removing many of the redundant steps inherent in the older administrative interface.

Performance of our capacity-building role

Consistent with section 11(1)(b) of the *Judicial Officers Act*, 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 Deputy Chief Executive presented at the Bangladesh Judicial Training and Research Program in June 2018 on the use of technology in judicial work
- the Chief Executive addressed a delegation of Thai court officers on the use of technology to assist with sentencing decisions
- we made improvements to the Papua New Guinea (PNG) Sentencing Database which we developed and host further to the memorandum of understanding signed in 2016
- we liaised with PNG project staff to improve the pilot Integrated Criminal Case System Database (ICCSDB) for the Supreme and National Courts of PNG. This is now operating in three provinces of PNG. PNG court officers attended the Commission in November 2017 for further training on the database
- the Deputy Chief Executive presented to the Indonesian Judicial Reform Forum on judicial knowledge management
- we hosted delegations of judicial officers and visitors to our Sydney office including from China, Vietnam, Singapore, Papua New Guinea and Bangladesh. Full details of these visits can be found in Appendix 12.



Case study: Informing courts about recommended standards for working with interpreters



More than 300 languages are spoken in Australian households so people coming before the courts may need the services of an interpreter. Effective and accurate interpreting is essential to ensure access to justice and procedural fairness for people with limited or no English proficiency in Australia's courts.

In late 2017, the Judicial Council on Cultural Diversity (JCCD) published a resource for courts and judicial officers to help them achieve best practice in working with interpreters. The resource, the *Recommended National Standards for working with interpreters in Courts and Tribunals*, sets out optimal standards for assessing the need for an interpreter,

conducting proceedings with an interpreter and undertaking training for working with interpreters.

It is important that judicial officers raise the topic of working with an interpreter in a sensitive manner. There are a number of reasons a person appearing in court might say they do not want to work with an interpreter, including ignorance of an interpreter's role, past negative experiences with interpreters, shame that their English is "not good enough", or not wanting others to know about their business. Judicial officers are well-placed to assist an interpreter in a number of ways including briefing the interpreter, ensuring the interpreter has adequate materials to perform their job properly and allowing the interpreter adequate breaks. The Recommended National Standards covers all aspects of an interpreter's work and how judicial officers can assist in achieving optimal practice.

To advise judicial officers about the Recommended National Standards, we published an article about the resource in the *Judicial Officers' Bulletin*; updated our *Equality Before the Law Bench Book*; and provided a link to the resource on our website.

Collaborating with NSW courts and other Australian jurisdictions

The Chief Executive is a member of the national Judicial Council on Cultural Diversity. The Council launched its Recommended National Standards for working with interpreters in courts and tribunals this year to promote best practice for working with interpreters. We incorporated the standards into our relevant publications (see case study above). The Council has also published a national framework to improve accessibility to courts for Aboriginal and Torres Strait Islander women and migrant and refugee women. We are working with the Council on how best to implement this framework in our publications.

The Commission continued to host the cultural diversity e-learning program launched last year that we developed for the Judicial Council on Cultural Diversity.

During the year, we worked with the NSW Court of Appeal on the relaunch of their website. The Commission hosts the website from our JIRS platform and the Court of Appeal maintains the content.

Performance of contractual services

Revenue from our information technology contractual services at \$999,000 was higher than last year's \$773,000. The increase is due to a full year software licence and maintenance fee.

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 (closed in May 2018)
- the PNG Sentencing Database
- the PNG pilot Integrated Criminal Case System Database
- the Queensland Sentencing Information System.

Responding to enquiries

Our Chief Executive responded to 4 media enquiries about our work (last year: 7) and attended to 304 telephone, face-to-face and written enquiries from potential complainants (last year: 265).



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 Chief Executive and Director, Education attended the International Organization for Judicial Training's 8th International Conference on the Training of the Judiciary, Judicial Education 2025: *Core Values and Future Innovations in Manila*, the Philippines (see case study on p 64)
- assisting the National Judicial College of Australia to present the National Judicial Orientation Program with the Judicial College of Victoria and the Australasian Institute for Judicial Administration

- our Director, Education in the role of President of the Association for Continuing Legal Education (ACLEA) in 2017. ACLEA is 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 meeting of the Asia Pacific Judicial Educators Forum in February 2018
- our Chief Executive in the role of a member on the Executive Board of the International Organization for Judicial Training, and member of the Advisory Board of the Commonwealth Judicial Education Institute.

Appendix 10 has full details of our activities with other organisations.

Case study: Sharing our knowledge with the judiciaries of other nations

Our mission is to promote the highest standards of judicial performance. We have a statutory mandate to do this in NSW. Globally, we engage with the judiciaries of other nations to share the accumulated knowledge and experience we have gained from 30 years of operations. Through these engagements, we are able to assist other judiciaries to develop the capacity and performance of their judicial officers and also learn about judicial best practice in other countries.

During the year, we hosted a delegation of senior court officials from Nanjing Municipal Procuratorate, Jiangsu Province, China. Commission staff gave presentations to the delegation about the Commission's education and complaints functions and our legal information program.

A delegation of 15 senior officials from the Vietnamese Ministry of Justice also visited the Commission to learn about our role in the justice system of NSW and our work in judicial education and the examination of complaints.



Our Director, Education, Una Doyle (back row, 3rd from l) with representatives from the NSW Law Reform Commission and the Rule of Law Institute, are pictured with a delegation from the Vietnamese Ministry of Justice. The visitors were interested in learning about the Judicial Commission and the justice system in NSW.



Case study: Benchmarking best practice with our international partners



Chancellor Adolfo S Azcuna of the Philippines Judicial Academy welcomes delegates to the 8th International Conference on the Training of the Judiciary held in Manila, November 2017.



Board members of the International Organization for Judicial Training, including Mr Ernest Schmatt AM PSM, on a visit to the Philippine Judicial Academy as part of the 8th IOJT International Conference on the Training of the Judiciary, November 5–9, 2017 in Manila, the Philippines.

The Judicial Commission is part of a global network of judicial education and training organisations that have been established in civil and common law jurisdictions since the 1960s. The International Organization for Judicial Training (IOJT) has 131 institutions from 81 developed and developing countries as members. Established in 2002, the IOJT aims to promote the rule of law through international cooperation. This mission is realised by providing opportunities for members to network and exchange professional strategies, and by assisting members to develop curricula and the capacity of their training faculty.

The Judicial Commission has been a member of the IOJT since 2004. Being an IOJT member means the Commission is engaged with best practice in judicial education trends globally and can share its considerable accumulated experience with other members. The IOJT's General Assembly is convened once every two years. Between these meetings, the Board of Executives and Board of Governors direct and operate the organisation. The Chief Executive is a member of the Board of Executives of the IOJT.

The need for an international umbrella group was recognised in 1997 at a judicial training conference in Sao Paulo, Brazil. Conferences are held every two years. The IOJT publishes an international journal, *Judicial Education and Training*, and provides access

to resources and online courses on its website at www.iojt.org. One of the benefits of the IOJT is the assistance that better-resourced members such as Australia, Canada, France, Germany, Israel, the United Kingdom and the United States, can provide to judicial education bodies in developing countries to support the consolidation of an independent judiciary.

In November 2017, the Chief Executive, Ernest Schmatt AM PSM and the Commission's Director, Education, Una Doyle, attended the IOJT's 8th International Conference on the Training of the Judiciary, *Judicial Education 2025: Core Values and Future Innovations* in Manila, the Philippines. Members of the IOJT unanimously resolved at the conference to adopt the *Declaration of Judicial Training Principles*. The principles apply to all 131 diverse member judicial training institutions.

The Judicial Commission of NSW has long incorporated many of these principles in its continuing judicial education policy, originally settled in 1991. The Commission has, for example, embraced the innovative use of technology in the delivery of its judicial education program, reflecting principle 10, directed towards the optimal use of new technologies, distance/online learning, and electronic media.



Our people

Our people helped to realise our mission to promote the highest standards of judicial behaviour, performance and decision making.

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Performance and satisfaction.67



Results, challenges and strategic direction in brief

Results 2017–18

- ▶ **Strong teams, acting together: 38 people work in judicial education, legal research, complaints, information technology and corporate services: see p 67.**
- ▶ **High staff satisfaction: 89% staff satisfaction as measured in our yearly staff survey: see p 67.**
- ▶ **Valued gender equity in the workplace and in senior roles: see p 70.**
- ▶ **Valued staff diversity: Our workplace is culturally and linguistically diverse, meeting NSW Government benchmarks: see p 70.**
- ▶ **Engaged staff: A low 6.8% staff turnover, reducing our risk of losing highly-skilled, experienced and professional people: see p 72.**
- ▶ **Highly skilled and well-trained staff: 50% of staff furthered their professional training, adding to the Commission's knowledge and skills base: see p 72.**
- ▶ **Valued staff safety: Our workplace was safe with no worker's compensation claims and no work, health and safety prosecutions: see p 74.**

Challenges 2017–18

- ▶ **Encouraging busy staff to balance their work commitments with training and development opportunities.**
- ▶ **Building teamwork and cooperation within the organisation.**
- ▶ **Developing further strategies to assess and understand where the Commission's productivity can be improved.**

Strategic direction 2018–19

- ▶ **Managers will continue to encourage staff to identify personal training opportunities during their yearly performance reviews. We are committed to ensuring that our people 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 our productivity can be improved.**
- ▶ **Under our Equal Employment Opportunity 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.**

Photo previous page: Fleur Findlay (l) is a senior legal editor in our Publishing team and Karlana Fuata is our editorial assistant.

Performance and satisfaction

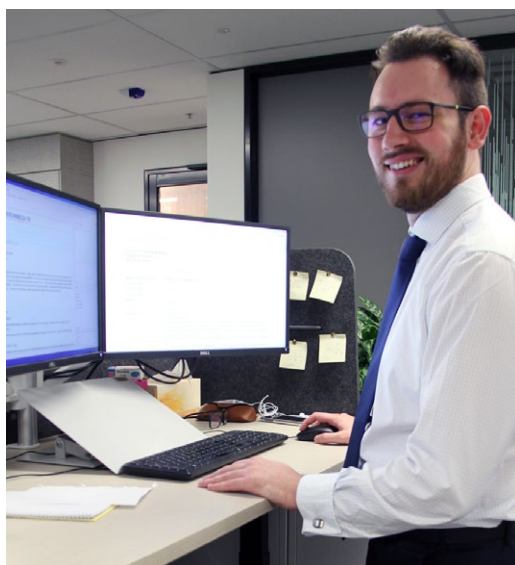
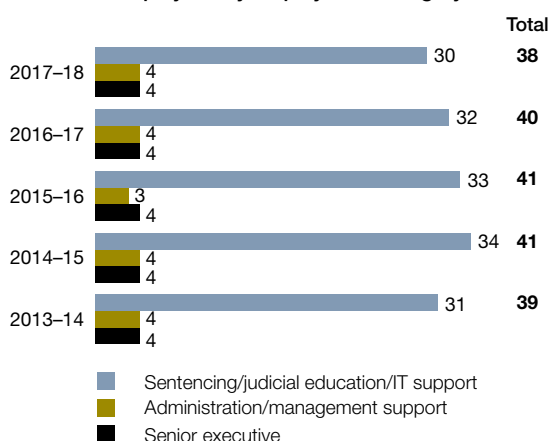
Our staff

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

The Commission employed 38 people (32.6 full-time equivalent) in judicial education, legal research, complaints, information technology and administrative roles (last year: 40). Figure 11 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.

Figure 11. 5-year comparison of average number of employees by employment category



The Commission offers employment opportunities for law students. Peter Zivikovic, one of our Research Trainee's works for our Research and Sentencing section, see p 68.

Staff retain a high level of satisfaction

Our yearly internal staff survey measured how committed, stimulated and supported our people felt. This year, we received a 61% response rate (23 of 38). Staff again unanimously this year agreed or strongly agreed they were willing, when required, to put in extra effort to achieve a professional result (last year: 100%). Communication of information also improved with 78% of staff feeling there was good and effective communication of what they need to know in the workplace (last year: 73%). The following percentage of staff also agreed or strongly agreed:

- 96% were provided with sufficient resources and time to undertake their work (last year: 91%) and considered their working environment was safe, secure and comfortable (last year: 95%): see p 74
- 91% understood how their work contributed towards the Commission's mission and purpose (last year: 100%) and were able to balance work with their personal life (last year: 100%)
- 87% felt engaged with their work at the Commission (last year: 91%) and there is good teamwork and cooperation within Commission projects (last year: 86%)
- 83% felt their requests for professional development training were supported (last year: 91%) and they felt trusted and valued at the Commission (last year: 86%).

Commission rates highly in NSW Government 2018 People Matter Employee Survey

The Public Service Commission conducted a People Matter Employee Survey in 2018. The survey measured employee engagement, senior managers, communication, engagement with work, high performance, public sector values, and diversity and inclusion. Figure 12 shows that, with a 41% response rate (16 of 39), the Commission rated very highly in 7 specific areas compared to the overall public sector.

Figure 12. Commission results in People Matter Employee Survey 2018

Percentage	Themes	Difference from Public Sector
82%	Diversity and inclusion	+ 14
87%	Engagement with work	+ 15
81%	High performance	+ 17
80%	Flexible working satisfaction	+ 21
76%	Communication	+ 14
84%	Public sector values	+ 22
78%	Senior managers	+ 29



Commission staff often attend Ngara Yura community visits to learn more about Aboriginal society, customs and traditions. Pictured above, Uncle Gavi Duncan, an elder from Darkinjung country, explains the historical significance of Ettalong (NSW Central Coast) to participants.

Community involvement

Commission staff engage with the community in various ways. Throughout the year, staff have given presentations about the Commission's work and role in the justice system through seminars to university students and community groups. The Commission regularly hosted national and international visitors to our Sydney office (see Appendix 12).

Commission staff are also involved in Aboriginal cultural awareness, the Ngara Yura Program, as a way to promote cross-cultural communication: see p 28 for more information. Details about visitors to the Commission are found in Appendix 12, presentations given during the year are found in Appendix 15.

Inducting new staff

The Commission's Chief Executive and the relevant Director welcome all new employees to the Commission. Managers guide new staff through an induction process so that they are aware of and acknowledge:

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

Providing training opportunities for law students

The Commission employs law students as trainees in our Research and Sentencing and Publishing teams. Students gain solid experience in interpreting case law and legislation. Many of our trainees have gone on to work as judge's associates or solicitors who specialise in criminal practice.

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 67). 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 yearly 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 83.

Developing further strategies to assess and understand where the Commission's productivity can be improved is one of our challenges for 2018–19. High performing staff already take responsibility for being proactive in developing more streamlined workflows and providing valuable feedback to managers. One challenge is to encourage staff who are working to constant deadlines to take timely breaks and other forms of stress release. The Commission also provides confidential and free access to an Employee Assistance Program service.



Case study: Opportunity to act in a higher position



Ms Pierrette Mizzi, our new Director, Research and Sentencing

Ms Pierrette Mizzi was appointed the Commission's Director, Research and Sentencing and is now responsible for the Commission's research program and content on the Judicial Information Research System (JIRS), including the *Local Court Bench Book*, the *Sentencing Bench Book* and the *Criminal Trial Courts Bench Book*. This was an internal appointment after a rigorous interview process was conducted, attracting a number of key Australian and international criminal law academics and criminal legal practitioners. This appointment brings the female gender proportion of the executive to a balanced gender equity of 50% in senior roles (two out of four executive staff are now female).

Previously, Ms Mizzi was Manager of the Commission's Research and Sentencing Division for eight years and then Acting Director for the Division for eight months. Her prior experience includes nine years as a Principal Legal Officer at the Commonwealth Director of Public Prosecutions. She is also the author of several publications on sentencing law, including *Sentencing Commonwealth drug offenders* (Research Monograph 38, 2014) and *Sentencing offenders convicted of child pornography and child abuse material offences* (Research Monograph 34, 2010).

Case study: Engaging with law students and law professionals

The Commission realised in the early days of its operations that information technology could be used as a catalyst for transforming judicial education. Information technology was seen as a means to achieve intentional changes in learning and teaching processes to attain the best outcome for judicial officers, as well as a way to gain efficiency.

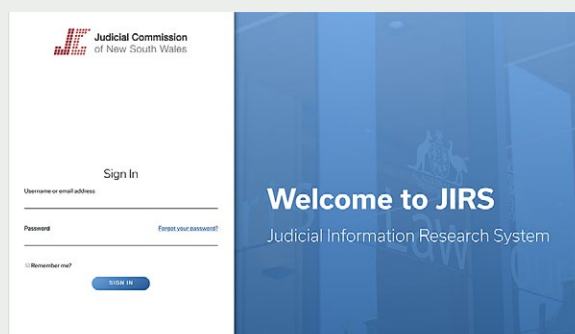
Our Deputy Chief Executive, Mr Murali Sagi, presented a continuing professional development session on "Intelligent Systems and Justice: the Judicial Commission experience" on 23 March 2018 at the State Library of NSW for the Commercial Law Association. The session was presented at the invitation of the School of Law at the University of Notre Dame Australia's Sydney campus and the University's Institute for Ethics and Society.

Mr Sagi outlined how we have learned to transformatively harness information technology. He provided a demonstration of the Judicial Information Research System (JIRS), how the Commission uses artificial intelligence for searching and supervised learning algorithm-based decision making tools and how we are in the process of developing chat bots for interactive voice interface.

The presentation attracted very positive feedback from those who attended.



Mr Murali Sagi PSM presented a continuing professional development session on "Intelligent Systems and Justice" at the State Library NSW, March 2018.



Judicial officers access legal information through JIRS.



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.

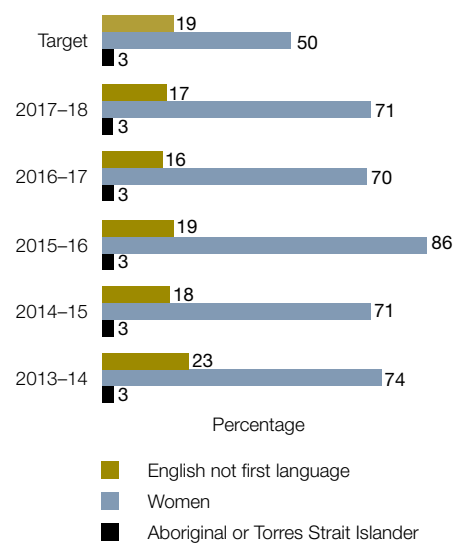
The majority of our people are women (26 or 71%) and 6 people (17%) are from a culturally diverse background: see Figure 13. We ensure:

- 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)
- there are opportunities to act in higher positions
- flexible work arrangements for staff with family and personal obligations
- information is available about the NSW Government's employment and development strategy "Making the public sector work better for women".

The percentages in Figure 13 reflect staff numbers excluding casual staff as at 30 June 2018. 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.

Staff numbers also include those who identify as Aboriginal and/or Torres Strait Islander (2.63%). This percentage exceeds one of the aspirational 2021 targets of the NSW Public Sector Aboriginal Employment Strategy 2014–2017 of 1.8% ATSI identified people in the workplace.

Figure 13. 5-year trends in workforce diversity



Case study: Commission staff meet the authors

Ms Amelia Loughland, one of our Research interns, was part of the editorial board of *The University of New South Wales Law Journal*. She worked as the Editor for Issue 41(2), on a voluntary basis, spending many weekends in 2018 crafting a strong issue of the Journal. The Journal, which is student-run, featured high quality scholarship from authors that aptly reflect the diversity of the legal profession: PhD scholars, barristers, professors and a former High Court justice, the Honourable Michael Kirby AC CMG. Members of the Research team were invited to attend the launch of the Journal, where the panel of speakers included the Hon Michael Kirby AC CMG, who has also contributed articles to the Judicial Commission's *The Judicial Review*, and the Honourable Justice Lucy McCallum of the NSW Supreme Court, who is also the Chair of the Judicial Commission's Ngara Yura Committee.



The Honourable Michael Kirby AC CMG contributed articles to the University of NSW Law Journal as well as the Commission's *The Judicial Review*.



Multicultural policies and services program

We consider the needs of a culturally diverse society when planning our programs and service delivery.

To promote community harmony, access and equity, our multicultural plan is in line with the NSW Multicultural Policies and Services Program. This financial year we:

- provided advice and disseminated the Australian National Imam's Council's code of acceptable conduct for Muslims in court in various publications (see case study on p 60)
- provided accredited interpreters for overseas delegations who visited us during the year, when this was required: see Appendix 12
- updated 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.

Our key multicultural strategies for 2018–19 will include:

- providing a cultural diversity training package for judicial officers when required
- 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 2018–19.

See also our workforce diversity report on p 70.

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.

Case study: Recognising our achievements

Australia Day honours for our Chief Executive

The Commission's Chief Executive, Mr Ernest Schmatt AM PSM, has been recognised in the 2018 Australia Day Honours List as a Member of the Order of Australia. The citation is for significant service to the law in the field of legal education and review, and through the use of technology to assist the judiciary. Mr Schmatt is particularly proud of our world-wide reputation. In a media interview, he commented:

“many of the programs we have developed have been used as models not only within Australia, but also internationally.”

Directions given by judges to juries, which are found in the Commission's *Criminal Trial Courts Bench Book*, have been copied in a number of jurisdictions, including England and Wales.

Mr Schmatt also noted that one of the Commission's major achievements is its work in Aboriginal cultural awareness, following recommendations of the Royal Commission into Aboriginal Deaths in Custody in 1991.

Mr Schmatt's exemplary contribution was previously recognised in 1997 when he was awarded a Public Service Medal in the Queen's Birthday Honours List.



Mr Ernest Schmatt AM PSM is recognised for significant service to the law in the field of legal education.



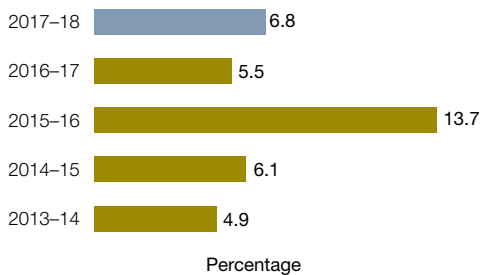
Retaining our staff

The turnover rate for permanent staff increased this year to 6.8% (last year: 5.5%) with 3 staff members leaving (2 were retirements and one was appointed as a judicial officer). 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 14. Our retention rate is very high with 21 people (64%) having 10 or more years' service and a further 5 (15%) having 5 or more years' service.

In this financial year, two of our long-term employees have retired after a long and productive work life at the Commission. Remy Ripoll had been at the Commission for 22 years since 1996. She was part of the Corporate Services Team as Management Accountant. Joy Blunt was at the Commission for 25 years since 1993. She was part of the Information Management Team as a Systems Officer Trainer.

For an example of our succession planning strategies: see Case study on p 69.

Figure 14. Staff turnover 2013–18



Satisfactory staff attendance

During 2017–18:

- no industrial action occurred
- average sick leave was 8 days per employee (last year: 7 days).

A likely reason for this increase in sick leave was the influenza pandemic which affected eastern states in 2017.

Consultants

This year we engaged no consultants.

Employee Assistance Program

Our Employee Assistance Program (EAP) facilitates professional counselling to help staff deal with a range of issues and learn ways of dealing with stress. 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 well-being 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.

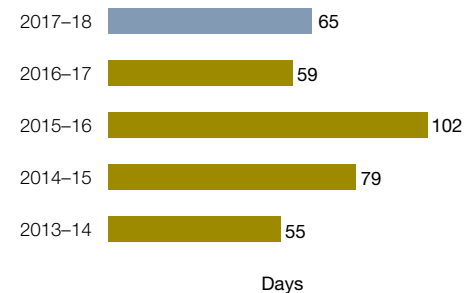
Providing professional training and development

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 (50%) attended 65 training days at a cost of \$30,986 (last year: 59 training days at a cost of \$21,937): see Figure 15. 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 criminal and civil legal issues
- systems and IT workshops
- in-house training.

Figure 15. Staff training days 2013–18



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 28 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.



Providing library support to staff

The library provides bibliographical 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 staff skills in using online legal information and to maximise the Commission's investment in legal information resources.

Major concerns are the high cost of online access to legal subscription services. However, subscriptions to core materials are being maintained. Hardcopy volumes of legislation (both Commonwealth and NSW jurisdictions), maintained by the library, are being regularly utilised by Research and Lawcodes staff as authoritative online sources are proving imperfect in some instances.

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). In June 2018, the librarian attended the 49th Annual Study Conference of BIALL (British & Irish Association of Law Librarians) which was held in Birmingham, United Kingdom.

The number of reference enquiries remained fairly steady with a small drop of 2.6% (last year: 66% decrease). Although requests for interlibrary loan and document delivery have been seen to be steadily diminishing, the volume of material the librarian obtained externally increased by 150% (last year: 49% decrease) as not all legal materials are readily accessible nor freely available online. Forty-seven items were catalogued during this financial year.



Maree D'Arcy is the Commission's librarian.

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. 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 2017 which reflected the increase provided to public sector employees under the Crown Employees (Public Sector — Salaries 2017) Award. Senior executive remuneration packages were adjusted by the Commission from 1 July 2017 in line with the 2017 determination of the Statutory and Other Offices Remuneration Tribunal.

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. Information about remuneration for senior executive staff is found on p 87.

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. Our Audit and Risk Committee oversees our work, health and safety compliance: see p 83. This year, we focused on:

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

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: 0)
- no work-related illnesses or prosecutions under the *Work Health and Safety Act 2011* (last year: 0)
- no grievance complaint lodged (last year: 0).

We encourage staff to receive influenza immunisation and reimburse the cost of the booster. Ergonomic assessments of workstations for new staff are undertaken to help them use their stand-up desks effectively.



Work health and safety policy

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

Communicating with our employees

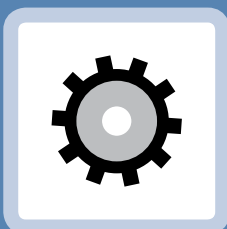
Round table meetings for all staff are held throughout the year and are an opportunity for staff to learn about work-related activities and developments. A staff member usually gives a presentation about business developments or special projects. Minutes of the meetings are published on our intranet.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

2016–17 Annual Report wins gold award

Commission staff attended the Australasian Reporting Awards (ARA) held in June 2018 in Sydney to accept a gold award for our 2016–17 Annual Report. This was our eighth consecutive gold award. This report was also one of five finalists for the 2018 Report of the Year. For the third year running, the Annual Report has also been nominated for the Governance Reporting special award. The ARA has a long-established objective to improve the standards of financial reporting and promote transparent communication. Each year, a dedicated team of adjudicators review between around 300 annual reports, judging the content against a comprehensive and exacting criteria. A number of Judicial Commission staff have acted as adjudicators since 2009–10, giving feedback and advice to other organisations in our "industry" sector seeking to help create award-winning annual reports.



Pictured at the ARA awards ceremony are (l–r) Kate Lumley, Manager, Publications and Communications; Ernest Schmitt AM PSM, Chief Executive; Antonia Miller, Senior Legal Editor and Murali Sagi PSM, Deputy Chief Executive.



Our governance

The Commission had a robust governance and an independent Audit and Risk Committee.

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Results, challenges and strategic direction in brief

Results 2017–18

- ▶ **Robust governance: 10 Commission and 4 Audit and Risk Committee meetings conducted:** see pp 79, 83.
- ▶ **Our corporate behaviour was ethical and responsible:** see p 81.
- ▶ **Registers for contracts, conflict of interests and mitigating risks maintained and enhanced:** see p 81.
- ▶ **We provided effective support to our key stakeholders:** see p 83.
- ▶ **Recommendations accepted for two Internal Audits concerning the maintenance and publication of the Commission's Bench Books and the Research Monographs and Sentencing Trends papers:** see p 83.
- ▶ **We have complied with NSW Government audit and risk management processes:** see p 85.
- ▶ **We have achieved a 4.68% reduction in our energy use over 5 years:** see p 88

Challenges 2017–18

- ▶ **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.**
- ▶ **Finalising our draft Privacy Code of Practice and a draft Privacy Management Plan.**

Strategic direction 2018–19

- ▶ **Refine and keep to our strategic direction while maintaining effective policies that ensure safety, security, confidentiality, access, availability, equity, risk management, integrity, compliance and assurance.**
- ▶ **Comply with the 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 Committee.**
- ▶ **Deliver high quality services in a safe and efficient workplace.**
- ▶ **Promote diversity, access and equality through our multicultural policies and services program.**
- ▶ **Review and maintaining the Conflict of Interests Register and the Contracts Register.**
- ▶ **Maintain our robust approach to governance.**

Photo previous page: Ryan Christiansen (l), Victor Poliakov and Ryan Ahearn (r) are part of the Commission's busy Information Management team. The team supports good governance by ensuring the Commission's technology enables us to fulfil all our statutory functions effectively and efficiently.

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.

Our governance framework is modelled on the core ASX Corporate Governance principles. These ensure that:



Governance framework Judicial Commission of NSW*

Core principles



* Principles based on the ASX Corporate Governance Principles and Recommendations.



Principle 1: Management and oversight

Our 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 each year 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 (the Act) and the *Judicial Officers Regulation* 2017. Our three principal functions under the 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

Parliament has assented to the Government Sector Finance Bill 2018. The Commission has noted key developments with regard to the financial restructure of government sector agencies. The Commission is monitoring the impact of the Bill with its cognate legislation and draft regulations. This will substantially change the framework for government sector financial and resource management. The impact of the legislation includes that all agencies, including the Commission, are required to have an accountable authority responsible for the performance and financial management of the agency. The Judicial Commission will be categorised as a “separate GSF [Government Sector Finance] agency”.

Under cognate legislation (the Government Sector Finance Legislation (Repeal and Amendment) Bill 2018), the *Public Finance and Audit Act* 1983 will be renamed the *Government Sector Audit Act* 1983 and the following relevant legislation will be repealed:

- *Annual Reports (Departments) Act* 1985
- *Annual Reports (Statutory Bodies) Act* 1984
- *Public Authorities (Financial Arrangements) Act* 1987.

The Bill, as at the end of the 2017–18 financial year, is awaiting assent. Subject to amendments, it will commence upon proclamation.

The *Judicial Officers Regulation* 2017 commenced on 1 September 2017. This replaces the repealed *Judicial Officers Regulation* 2012. The regulation primarily concerns the lodging and verification of complaints. Clause 4 provides that a complaint is to be in the form approved by the Commission and is to be lodged with the Chief Executive of the Commission. Clause 5 provides that the complaint must be accompanied by particulars of the matter on which the complaint is founded and those particulars must be verified by statutory declaration. The “Complaint Form and Instructions” is available as a pdf on the Judicial Commission website under “Forms and feedback”.

Legislation compliance framework

Through our legislative compliance framework, we ensure the operations of the Commission are conducted in accordance and comply with legal and internal policy requirements. The framework is part of the Commission’s commitment to a compliance culture and consists of:

1. A commitment from the Chief Executive to promote effective compliance practices across the organisation.
2. A compliance policy approved by the Chief Executive and aligned to the objects of the *Judicial Officers Act* 1986.
3. An Audit and Risk Committee provides independent assistance to the Chief Executive by overseeing and monitoring the risk and control frameworks, and its external accountability requirements.
4. A Chief Audit Officer (Deputy Chief Executive) who is responsible for overseeing the implementation of the Compliance Framework.
5. A Legislative Compliance Register created to identify and record the key compliance requirements for and within the Commission and that assigns relevant responsibilities for these obligations.
6. A Chief Risk Officer (Manager, Corporate Services) who is responsible for the management of compliance obligations which affect the Commission’s area of responsibility. This includes workplace health and safety and equity obligations.
7. A process of continuous improvement undertaken with any reporting of non-compliance matters.
8. A regular review of the Compliance Framework that is in line with legal requirements and public sector standards.

Our legislative compliance framework is published on the Commission’s intranet.

Strategic plan

Our strategic plan sets out our core statutory functions and how we plan to achieve these based on 31 years of accumulated knowledge and experience. This year, we began the process of revising our strategic plan to lead us through the next decade. Overall, we plan to develop organisational capabilities and efficiencies through continued work in our core statutory functions and engagement with the community and our national and international partners. Our strategic plan is published on our website at www.judcom.nsw.gov.au/wp-content/uploads/2018/10/Strategic-Plan-Judicial-Commission.pdf



Principle 2: Structure of Judicial Commission

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

Role of the Chief Executive

The Chief Executive is responsible for:

- all of the Commission's operations
- 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*
- establishing and maintaining internal controls relevant to the preparation of the financial report
- 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.

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.

There are 10 members. Six official members are judicial officers. They provide valuable information about judicial officers' education needs and bring their significant experience of the judicial role to determining complaints. The 4 appointed members are community leaders who provide useful information about community expectations of judicial officers and have input into the education program. One appointed member is a lawyer.

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 17 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 2017–18, Commission members:

- examined 62 complaints made about judicial officers
- approved publications including papers for two issues of *The Judicial Review*
- noted the Chief Executive's reports on education programs, publications and delegations
- approved remuneration packages for the Senior Executive.

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.

The profiles of the Judicial Commission members, including the President, the official members and the appointed members can be found at pp 16–18. See also our organisational structure on p 4.

Figure 17. Commission members' meeting attendance for 2017–18

Official member	Meetings eligible to attend	Attended
The Honourable T Bathurst AC Chief Justice of NSW (President)	10	9
The Honourable Justice M Beazley AO	10	8
The Honourable Justice B Preston	10	9
The Honourable Justice D Price AM	10	9
His Honour Judge P Zhara SC*	1	1
His Honour Judge G Henson	10	10
Chief Commissioner P Kite SC	10	9
Appointed members		
Dr J Cashmore AO	10	9
Professor B McCaughan AM	10	10
Mr D Giddy	10	10
Mr Y Miller OAM	10	9

* His Honour Judge P Zhara SC attended the May 2018 meeting in lieu of the Honourable Justice D Price AM.



Our Audit and Risk Committee

The independent Audit and Risk Committee (ARC) monitors and provides advice about the following areas:

- compliance with NSW Treasury Guidelines
- internal audit
- risk management and business continuity
- external audit
- financial statements and reporting risk management.

The members of the ARC are Dr Colin Gellatly AO (chair), Mr Alex Smith AM and Ms Robyn Gray (independent members). Their qualifications and details are outlined below. The ARC is fully independent in accordance with NSW Government requirements in TPP 15-03: Internal Audit and Risk Management Policy for the NSW Public Sector.

Dr Colin Gellatly AO was appointed independent member on 1 March 2017 and is Chair 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 Alex Smith AM was appointed independent member from 1 July 2009 until 30 June 2014, appointed independent Chair on 1 July 2014 until 30 June 2016, and independent member from 1 July 2017 until his retirement on 30 June 2018. Mr Smith is the former Deputy Director General NSW, Department of Premier and Cabinet, 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.

Ms Robyn Gray BA LLB GAICD was appointed independent member for 2 years 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 AM PSM; Deputy Chief Executive, Mr Murali Sagi PSM; the Manager, Corporate Services, Mr Malcolm Hozack; Mr Phil O'Toole of Centium Services; Mr David Daniels and Mr Robert Hayek of the Audit Office of NSW.

Ms Jan McClelland AM was also invited to attend one meeting. From 1 July 2018, Ms McClelland will be commencing as an independent member of the ARC. She has more than 15 years' experience as a Chair and non-executive director in government, commercial, industry association and not-for-profit enterprises. Ms McClelland is Deputy Chancellor of the University of New England and Chair of the Audit and Risk Committee and Governance Committee, as well as a member of the Council, of the University of New England and former Director General of the Department of Education.

Standing Advisory Committee, education committees and bench book committees

The Commission has established committees for each court which have oversight of the education activities each year. These committees meet regularly with the Director, Education to plan, identify presenters, and monitor evaluations from each session. Bench book committees comprising judicial officers and Commission staff provide oversight of the content of our online and loose-leaf services. During the year we developed and commenced introduction of a Charter for each committee to clearly outline governance procedures for these. The Standing Advisory Committee on Judicial Education met twice last year to oversee our publications and provide advice on judicial activities. Membership of all our committees is found in Appendix 4.

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

The ARC is responsible for monitoring:	Internal audit and control functions, including assessing effectiveness, and compliance with section 11 of the <i>Public Finance and Audit Act</i> 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



Principle 3: Ethical and responsible behaviour

Protecting the Commission's reputation

Our vision is that the people of NSW will have confidence in the exceptional ability and performance of the judicial officers of NSW. We can only realise this vision through public and judicial acceptance of the Judicial Commission's complaints function and the legitimacy of our education and legal information programs. We have worked hard for 30 years to develop and maintain a reputation:

- for delivering an independent and confidential complaints function that protects the public from judicial officers who lack the capacity to discharge their judicial duties and that protects the judiciary from unwarranted intrusions into their independence
- for delivering timely, accurate, current legal information to assist judicial officers in their decision making and to ensure consistency in sentencing
- for delivering a world class professional continuing judicial education program.

To protect our reputation, we ensure that our staff

- are properly inducted, qualified, highly skilled and their training is replenished through a performance management system and continuing professional education
- behave with integrity, respect and accountability in abiding by our ethical framework and Code of Conduct.

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*
- *State Records Act 1998*.

Conflicts of interest

Official members of the Judicial Commission are judicial officers and this could result in a conflict of interest if a member were the subject of a complaint. Commission policy is that a judicial member will not participate in any discussion or decision involving a complaint against him or her. No member 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 maintained this financial year. We have also established and maintained a contracts register. The registers will be reviewed and updated progressively on an ongoing basis.

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 Privacy Code of Practice and Privacy Management Plan 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".

Ensuring confidentiality of Commission meeting papers

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, with further volumes currently in preparation for binding. Confidentiality of these is paramount and they are kept in secure premises.



Principle 4: Integrity and compliance in reporting

Financial reporting

The Auditor-General of NSW is responsible for auditing our financial statements. We received an unmodified report this year (see p 93). The independent Audit and Risk Committee (ARC) reviews budgets and the financial statements. The ARC meets four times a year.

Performance reporting

Monthly departmental reports were submitted to the Chief Executive throughout the year. These report on key performance indicators and progress towards yearly targets in our three key operational areas. The Chief Executive reports monthly to the Judicial Commission on all the Commission's operations. Financial statements are prepared each month and measured against budgets. The NSW Auditor-General audits our annual financial statements and these are published in our annual report.

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.

Principle 5: Timely and balanced disclosure

Award-winning annual report

Our annual report discloses our activities and performance results each year measured against our goals, strategies and targets. The report makes full disclosure of our financial statements as well as data about the complaints function.

In recognition of the high standard of our annual reporting, we have received eight consecutive gold awards from the Australasian Reporting Awards and have been a finalist in the Governance Reporting Award for the government and not-for-profit sectors for 4 consecutive years.

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 subscribers. Judicial officers receive all our publications for free. 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 2016–17
- 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*
 - *Sexual Assault Trials Handbook*
 - *Children's Court of NSW Resource Handbook*
 - *Land and Environment Court Commissioner's Handbook*

Access applications

We received no formal access applications, including withdrawn applications (last year: 2). We refused no formal access applications, either wholly or 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 1 of the GIPA Act). See Appendix 16.

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 49 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 two platforms, the Judicial Information Research System (JIRS) (see p 39) 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. Updates to resources published on our free-to-view website were uploaded during 2017–18.

Principle 6: Supporting our stakeholders

Our key stakeholders are:

- judicial officers of NSW: see “Providing continuing judicial education”, p 21 and “Providing legal information” at p 33
- the NSW public: see “Examining complaints”, p 45 and “Our partners and the community” at p 55
- NSW government agencies: see “Our partners and the community” at p 55
- other judicial education providers: see “Our partners and the community” at p 55.

Principle 7: Recognising and managing risk

Our risk management framework has been developed to comply with the NSW Treasury Policy Paper TPP 15-03: Internal Audit and Risk Management Policy for the NSW Public Sector.

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. In 2017–18, the senior executives with the assistance of internal auditors, identified, considered and rated new risks. The risk register feeds into the Internal Audit Plan which was finalised after discussion between the Chief Executive and the internal auditors. The risk register of low and medium rated risks is published on the Commission’s intranet and is reviewed on an annual basis. There were no major changes to our risk profile during 2017–18.

A strategic overview of the major risks and mitigating strategies has been compiled relating to the following significant information management projects that we maintain:

- Commonwealth Sentencing Database (run jointly with the Commonwealth Director of Public Prosecutions and the National Judicial College of Australia)
- ACT Sentencing Database
- Queensland Sentencing Information Service
- Drug Court Database (Department of Justice)
- PNG Sentencing Database
- PNG Integrated Case Management System.

See Appendix 10 for information about these.

Audit and Risk Committee activities 2017–18

The Audit and Risk Committee (ARC) met 4 times during the year and reported to the Chief Executive. The ARC monitored our risk management policy and provided independent advice to the Chief Executive about the following four areas:

1. Compliance with treasury guidelines

The ARC ensured compliance with NSW Treasury Policy Paper TPP 15-03: Internal Audit and Risk Management Policy for the NSW Public Sector. The Commission’s Internal Audit and Risk Management Attestation for 2017–18 is on p 85.

The ARC also monitored the continuing impact of the Treasury cash management reforms.

2. Internal audit

The ARC settled and accepted the Internal Audit Plan for 2017–18. The committee monitored the following:

- the internal audit recommendations made in December 2017 for maintenance and publication of the *Local Court Bench Book*, *Civil Trials Bench Book* and the *Sexual Assault Trials Handbook*
- maintenance and publication of Research Monographs and *Sentencing Trends and Issues*.

The ARC also:

- dealt with certain outstanding matters in last financial years’ internal audit on records management
- made use of a risk and control self-assessment report to identify and analyse potential risks and relevant control processes
- used the Internal Audit Recommendations Progress Report
- monitored performance of the outsourced internal audit service provider, Centium.

Last financial year’s internal audit on records management is awaiting a response. Issues arose as to compliance with the *State Records Act 1998* and finding the best strategy for digital records management compliance. We aim to progress this as soon as possible.

3. Risk management and business continuity

The ARC:

- monitored the currency of the Commission’s Business Continuity Plan and assessed the results of the annual scenario testing
- monitored the quarterly financial performance
- monitored the insurance risk and cover
- considered and approved the draft
- considered the review of the updated risk register and considered an overview of major risks and mitigating strategies for projects maintained by the Information Management team
- monitored the impact of Treasury Circulars and Policy Papers issued during the year
- considered the risks involved in relocating the office and the resultant move.

The ARC also considered the ongoing impact of the Government Sector Finance Bill 2018 and the Government Sector Finance Legislation (Repeal and Amendment) Bill 2018, where the Commission will be classified as a separate GSF agency which will “be responsible for the performance and financial management of the agency in accordance with the requirements of the proposed Act” (from the Explanatory note, p 3).



4. External audit

The ARC 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 early close procedures the Commission performed prior to 30 June 2018.

Forward plan

In 2018–19, the ARC 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 the Internal Audit Plan in 2017–18

The Internal Audit Plan for 2017–18 included recommendations for controlled improvements as a result of the Internal Audit of the maintenance and publication of the Commission's Bench Books, Research Monographs and Sentencing Trends papers.

All judicial officers interviewed as part of the review indicated that the currency, accuracy and relevance of the publications were satisfactory and that our currency and internal controls were mostly effective. The report recommended that alternative delivery methods be explored and a number of recommendations were made to further improve these valuable resources. The recommendations were accepted and the Commission agreed to implement actions designed to address the findings commencing next year.

Recommendations of the Internal Audit of Records Management Review, part of the 2016–17 Internal Audit Plan, were agreed to in principle, subject to availability of resources and budget constraints. In particular, the recommendation to implement an electronic record keeping system is currently being evaluated.

Case study: Succession risk — search for new Director of Research and Sentencing as former Director takes up magisterial role



Hugh Donnelly was the Commission's Director, Research and Sentencing from 2007 to October 2017 when he was appointed a magistrate of the Local Court of NSW.

After 16 years of writing and developing criminal law material for judicial officers, former Director of Research and Sentencing, Mr Hugh Donnelly, was appointed a magistrate of the Local Court of NSW in October 2017.

During his time as Director, Mr Donnelly's knowledge in criminal law and sentencing has seen the Research and Sentencing Division continually develop its research depth, ensuring the bench books were maintained with accuracy and in a timely fashion and that the intensively researched Research Monographs and Sentencing Trends & Issues papers were written to a high standard.

The loss of a highly specialised director was substantial, but addressed by a number of risk mitigation strategies including encouraging staff to take on higher duties, staff rotation and use of staff from other teams.

Over the years, the Research and Sentencing team of writers, statisticians and researchers were honed into a team that kept abreast of the latest developments in criminal law. Each member was given varied tasks and responsibilities that helped them develop and enhance their ability to take on segments of writing or analysis with the Director overseeing their work and giving detailed feedback. When the Director left, there was already available an internal candidate who was able to take on an Acting Director role until a rigorous interview process was conducted. Various other levels of the team were given the opportunity to step up to higher managerial positions. In this way, the Research and Sentencing Team were able to productively continue during a period of rapid substantive legislative changes and a high output of cases from the NSW Court of Criminal Appeal until a permanent replacement Director was appointed. See case study on p 69.

Internal Audit and Risk Management Attestation for the 2017–18 Financial Year for the Judicial Commission of NSW

I, Ernest John Schmatt, AM PSM, Chief Executive, am of the opinion that the Commission has internal audit and risk management processes in operation that are, excluding the exceptions or transitional arrangements described below, compliant with the eight (8) core requirements set out in Treasury Policy Paper TPP 15-03 Internal Audit and Risk Management policy for 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 Committee

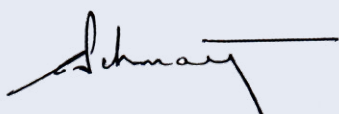
- 3.1 An independent Audit and Risk Committee with appropriate expertise has been established — Compliant
- 3.2 The Audit and Risk Committee is an advisory committee providing assistance to the agency head on the agency's governance processes, risk management and control frameworks, and its external 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:

- Dr Colin Gellatly AO, Independent Chair — appointed Independent Member on 1 March 2017 until 30 June 2017, appointed Independent Chair on 1 July 2017 for a period of three years.
- Mr Alex Smith AM, Independent Member — appointed Independent Member on 1 July 2009 until 30 June 2014, appointed Independent Chair on 1 July 2014 until 30 June 2017, and appointed Independent Member on 1 July 2017 for one year.
- Ms Robyn Gray, Independent Member — appointed Independent Member on 1 July 2017 for a period of three years.

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 AM PSM
Chief Executive
Judicial Commission of NSW
Dated: 20 September 2018



Murali Sagi PSM
Agency Contact Officer
Deputy Chief Executive



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.

Our Digital Information Security Annual Attestation Statement for 2017–18 is shown below.

Safeguarding JIRS technology

The Judicial Information Research System (JIRS) is built using open-source software and utilises some of the latest web technologies.

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 a number of levels 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 39 and enhancements made to JIRS throughout the year are reported at p 42.

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 \$65,198 comprising a Workers Compensation premium of \$59,068 and a general insurance premium of \$6,130 (total last year of \$21,725).

Digital Information Security Annual Attestation Statement for the 2017–2018 Financial Year for Judicial Commission of NSW

I, Ernest John Schmatt AM PSM, 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 AM PSM
Chief Executive, Judicial Commission of NSW
Date: 21 September 2018

Principle 8: Remuneration is fair and reasonable

Remuneration arrangements for Commission members

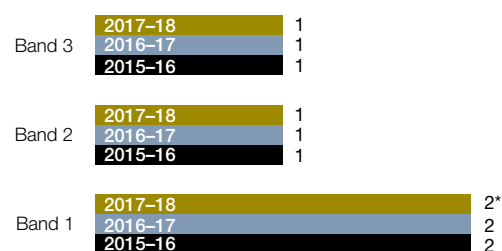
Appointed members receive a fee for fulfilling their responsibilities including attending meetings, examining complaints, setting strategic directions, and approving budgets and publications. Their annual rate of remuneration is \$27,500 as determined by the Statutory and Other Offices Remuneration Tribunal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

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. Senior executive remuneration packages were adjusted by the Commission from 1 July 2017 in line with the 2017 determination of the Statutory and Other Offices Remuneration Tribunal.

Figure 16 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 2017–18 was related to senior executives. A comparison is made with the percentage rate in 2017.

Figure 16. Executive positions 2015–18



Equivalent to the NSW Public Service Senior Executive Bands.

* 2 females in Band 1

Table 13. Senior executive remuneration 2013–18

Band	Range	Average remuneration				
		2013–14	2014–15	2015–16	2016–17	2017–18
Band 3	320,901–452,250	366,850	373,748	383,092	392,669	425,320
Band 2	255,051–320,900	261,300	266,213	272,868	279,690	307,500
Band 1	178,850–255,050	209,800	213,744	219,088	224,565	230,179

25.72% of the Commission's employee-related expenditure in 2017–18 was related to senior executives, compared to 24.05% in 2016–17.



The Commission's executive team (l–r) is Murali Sagi PSM, Una Doyle, Pierrette Mizzi and Ernest Schmatt AM PSM. Their profiles are on pp 19–20.

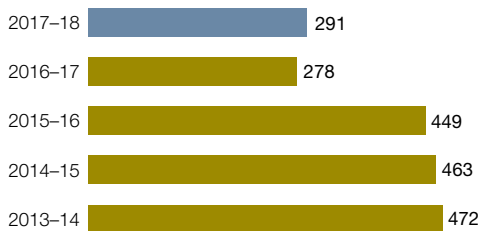


Sustainability

We reduced our environmental footprint

We have achieved a 4.68% reduction in energy use over 5 years: see Figure 17 (last year: 38.1% reduction). The dramatic decrease last year can be attributed to our move to new, more energy efficient premises. We are committed to reducing our carbon footprint and being part of the NSW Government's plan to be carbon neutral by 2020.

Figure 17. 5-year trend in energy use



The Commission is committed to encouraging staff to be aware of waste. Recycling bins have been made available in our kitchen area for different types of waste.


Greenhouse performance improved

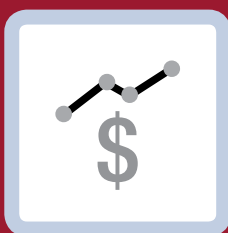
Our new premises at 60 Carrington Street, Sydney, NSW, 2000, has a 4 Star Nabers Energy Rating.

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 1.032 tonnes of waste paper (last year 1.045 tonnes) and bought 397 reams of 100% recycled paper (last year: 402). 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
- transitioning to publishing our bench books online.

Next year: we will  encourage staff to recycle plastic bags in line with our corporate commitment to reduce our environmental footprint.



Our finances

Our financial result was a deficit of \$248,000, with \$6.609 million from government funding and other revenue, and our expenses were \$6.857 million.

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Results, challenges and strategic direction in brief

Results 2017–18

- ▶ **Strong, consistent support from the NSW government: \$6.609 million revenue, including \$5.568 million in government funding: see p 91.**
- ▶ **Proactive in finding other income streams: \$1,041,000 self generated revenue from other sources: see p 91.**
- ▶ **Successful in providing innovative services: \$999,000 from goods and services compared to last financial year's \$812,000: see p 91.**
- ▶ **Effectively contained our financial deficit: \$248,000 deficit compared to a budgeted deficit of \$238,000: see p 91.**
- ▶ **Received less government funding as we have now relocated our office: 12.8% decrease in revenue compared to last financial year's 68.7% increase: see p 91**
- ▶ **Keeping our expense increase steady from year to year: 8.2% increase in expenses compared to last financial year's 8.5% increase: see p 91.**
- ▶ **Modest decrease in our total assets due to normal operations: \$285,000 decrease in total assets compared to last financial year's \$1.648 million: see p 91.**
- ▶ **Receipt of an unmodified report for our financial statements from the NSW Auditor-General: see p 93.**

Challenges 2017–18

- ▶ **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.**

Strategic direction 2018–19

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

Photo previous page: (l-r) Jenny Zhang, Finance and Payroll Analyst and Annie Wang, Management Accountant.



Financial summary

Our financial result was a deficit of \$248,000, with \$6.609 million from government funding and other revenue, and our expenses were \$6.857 million. We received an unmodified report for our financial statements.

Revenue

Figure 18 shows that our principal source of revenue is government contributions of \$5.568 million (12.8% decrease) compared to last year of \$6.766 million. This decrease of around \$1.2 million is due to two factors:

- The 2016–17 recurrent allocation was increased by around \$0.52 for Conduct Division expenditure.
- The 2017–18 capital allocation was decreased by around \$1.7 million for the new office fit out done in 2017.

Overall, we received \$1.041 million from other sources (last year: \$812,000). Other revenue items were \$999,000 from contractual arrangements for the provision of software services (last year: \$773,000) and \$42,000 from other sources (last year: \$39,000).

Expenditure

Figure 19 shows that our expenses this financial year totalled \$6.857 million (last year: \$6.338 million), being an 8.2% increase (\$519,000) compared to the last financial year's 5.4% decrease.

Employee-related expenses were \$4.640 million or 67.67% of total expenses (last year: 73.57%).

Assets

Total assets decreased by \$285,000.

Liabilities

Total liabilities decreased by \$37,000 mainly due to a decrease in accruals and provisions.

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.

Figure 18. Revenue

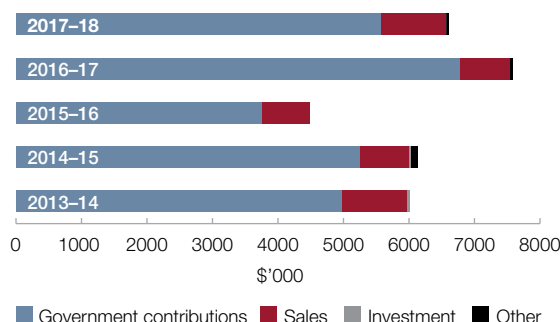


Figure 19. Expenses

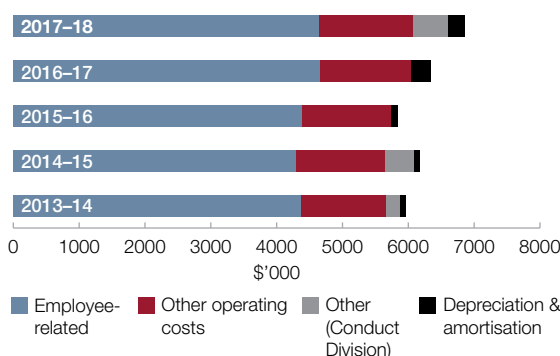


Table 14. Aged analysis at the end of each quarter

	Current (within due date)	<30 days overdue	30–60 days overdue	60–90 days overdue	>90 days overdue
Quarter	\$	\$	\$	\$	\$
Sep 2017	188,600	nil	nil	nil	nil
Dec 2017	147,008	nil	nil	nil	nil
Mar 2018	130,588	nil	nil	nil	nil
Jun 2018	147,916	nil	nil	nil	nil

Table 15. Accounts paid on time within each quarter

Quarter	Total accounts paid on time			Total amount paid
	Target %	Actual %	\$	\$
Sep 2017	100	100	1,059,782	1,059,782
Dec 2017	100	100	1,084,805	1,084,805
Mar 2018	100	100	784,409	784,409
Jun 2018	100	100	1,131,100	1,131,100



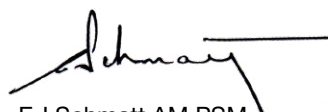
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Statement by Chief Executive

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 2018 and financial performance of the Judicial Commission of New South Wales for the year ended 30 June 2018; and
- (c) there are no circumstances which would render any particulars included in the financial statements to be misleading or inaccurate.



E J Schmatt AM PSM
Chief Executive
Dated: 29 August 2018



Independent Auditor's report



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 Comprehensive Income for the year ended 30 June 2018, the Statement of Financial Position as at 30 June 2018, the Statement of Changes in Equity and the Statement of Cash Flows, for the year then ended, notes comprising a Statement 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 2018, 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 *continued*

Other Information

Other information comprises the information included in the Commission's annual report for the year ended 30 June 2018, other than the financial statements and my Independent Auditor's Report thereon. The Chief Executive of the Commission is responsible for the other information. At the date of this Independent Auditor's Report, the other information I have received comprise the Statement by Chief Executive.

My opinion on the financial statements does not cover the other information. Accordingly, I do not express any form of assurance conclusion on the other information.

In connection with my audit of the financial statements, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit, or otherwise appears to be materially misstated.

If, based on the work I have performed, I conclude there is a material misstatement of the other information, I must report that fact.

I have nothing to report in this regard.

Chief Executive's Responsibilities 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 Chief Executive determines is necessary to enable the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Chief Executive is responsible for assessing the Commission's ability to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting except where the Commission's operations will cease as a result of an administrative restructure.

Auditor's Responsibilities 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.

A description of my responsibilities for the audit of the financial statements is located at the Auditing and Assurance Standards Board website at: www.auasb.gov.au/auditors_responsibilities/ar4.pdf. The description forms part of my auditor's report.

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
- about any other information which may have been hyperlinked to/from the financial statements.

Chris Harper
Director, Financial Audit Services

30 August 2018
SYDNEY



Financial Statements

Start of audited financial statements

Judicial Commission of New South Wales

Statement of comprehensive income for the year ended 30 June 2018

	Notes	Actual 2018 \$'000	Budget 2018 \$'000	Actual 2017 \$'000
Continuing operations				
Expenses excluding losses				
Employee related expenses	2(a)	4,640	4,686	4,663
Operating expenses	2(b)	1,434	1,379	1,369
Depreciation and amortisation	2(c)	252	314	306
Grants and subsidies	2(d)	–	6	–
Other expenses	2(e)	531	400	–
Total Expenses excluding losses		6,857	6,785	6,338
Revenue				
Appropriations	3(a)	5,484	5,486	6,629
Acceptance by the Crown Entity of employee benefits and other liabilities	3(d)	84	151	137
Sales of goods and services	3(b)	999	851	773
Investment revenue	3(c)	–	1	–
Other revenue	3(e)	42	58	39
Total Revenue		6,609	6,547	7,578
Net Result	18	(248)	(238)	1,240
Other comprehensive income		–	–	–
TOTAL COMPREHENSIVE INCOME		(248)	(238)	1,240

The accompanying notes form part of these financial statements



Judicial Commission of New South Wales

Statement of financial position as at 30 June 2018

	Notes	Actual 2018 \$'000	Budget 2018 \$'000	Actual 2017 \$'000
ASSETS				
Current Assets				
Cash and cash equivalents	7	4	167	100
Receivables	8	143	25	108
Total Current Assets		147	192	208
Non-Current Assets				
Plant and equipment	9	1,752	1,798	1,967
Intangible assets	10	4	4	12
Total Non-Current Assets		1,756	1,802	1,979
Total Assets		1,903	1,994	2,187
LIABILITIES				
Current Liabilities				
Payables	11	377	626	420
Provisions	12	566	530	559
Other current liabilities	13	–	–	–
Total Current Liabilities		943	1,156	979
Non-Current Liabilities				
Provisions	12	214	–	214
Total Non-Current Liabilities		214	–	214
Total Liabilities		1,157	1,156	1,193
Net Assets		746	838	994
EQUITY				
Accumulated funds	16	746	838	994
Total Equity		746	838	994

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 2018

	Accumulated Funds \$'000	Total \$'000
Balance at 1 July 2017	994	994
Net Result for the year	(248)	(248)
Total other comprehensive income	–	–
Total comprehensive income for the year	(248)	(248)
Balance at 30 June 2018	<u>746</u>	<u>746</u>
Balance at 1 July 2016	(246)	(246)
Net Result for the year	1,240	1,240
Total other comprehensive income	–	–
Total comprehensive income for the year	1,240	1,240
Balance at 30 June 2017	<u>994</u>	<u>994</u>

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 2018

	Notes	Actual 2018 \$'000	Budget 2018 \$'000	Actual 2017 \$'000
CASH FLOWS FROM OPERATING ACTIVITIES				
Payments				
Employee related		(4,547)	(4,524)	(4,435)
Other		(2,297)	(1,897)	(1,647)
Total Payments		(6,844)	(6,421)	(6,082)
Receipts				
Appropriations		5,484	5,486	6,629
(Transfers to the Crown Entity)		–	–	–
Sale of goods and services		1,250	851	1,139
Interest received		–	1	–
Other		42	237	39
Total Receipts		6,776	6,575	7,807
NET CASH FLOWS FROM OPERATING ACTIVITIES	18	(68)	154	1,725
CASH FLOWS FROM INVESTING ACTIVITIES				
Purchases of plant and equipment		(28)	(150)	(1,797)
NET CASH FLOWS FROM INVESTING ACTIVITIES		(28)	(150)	(1,797)
NET INCREASE/(DECREASE) IN CASH AND CASH EQUIVALENTS		(96)	4	(72)
Opening Cash and Cash Equivalents		100	163	172
CLOSING CASH AND CASH EQUIVALENTS	7	4	167	100

The accompanying notes form part of these financial statements



Judicial Commission of New South Wales

Notes to the financial statements for the year ended 30 June 2018

1. STATEMENT 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 2018 have been authorised for issue by the Chief Executive on 16 August 2018.

(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 (AAS) (which include Australian Accounting Interpretations);
- the requirements of the *Public Finance and Audit Act 1983*; and *Public Finance and Audit Regulation 2015*; and
- 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, except where specified otherwise.

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 which is the entity's presentation and functional currency.

(c) Statement of Compliance

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

(d) Accounting for the Goods and Services Tax (GST)

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

- amount of GST incurred by the entity as a purchaser that is not recoverable from the Australian Taxation Office is recognised as part of an asset's cost of acquisition 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.

(e) Comparative information

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

(f) Changes in accounting policies, including new or revised Australian Accounting Standards

(i) Effective for the first time in 2017–18

The accounting policies applied in 2017–18 are consistent with those of the previous financial year except as a result of new or revised accounting standards that have been applied for the first time in 2017–18. The adoption of these standards has not caused any material adjustments to the reported financial position, performance, or cash flows of the entity.

(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 Australian Accounting Standards have not been applied and are not yet effective.

- * AASB 9 *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 *Income of Not-for-Profit Entities*
- * AASB 2016-7 *Amendments to Australian Accounting Standards – Deferral of AASB 15 for Not-for-Profit Entities*
- * AASB 2016-8 *Amendments to Australian Accounting Standards – Australian Implementation Guidance for Not-for-Profit Entities*
- * AASB 2017-3 *Amendments to Australian Accounting Standards – Clarifications to AASB 4*
- * AASB 2017-6 *Amendments to Australian Accounting Standards – Prepayment Features with Negative Compensation*

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.

**Judicial Commission of New South Wales**

Notes to the financial statements for the year ended 30 June 2018

	2018 \$'000	2017 \$'000
2. EXPENSES EXCLUDING LOSSES		
(a) Employee related expenses:		
Salaries and wages (including recreation leave)	3,954	3,981
Superannuation – defined benefit plans	112	108
Superannuation – defined contributions plans	299	298
Long service leave	(31)	26
Workers' compensation insurance	59	15
Payroll tax and fringe benefit tax	247	235
	<u>4,640</u>	<u>4,663</u>
(b) Other operating expenses include the following:		
Operating lease rental expense – minimum lease payments	534	437
Fees for services	52	44
Contractors	115	212
Conferences	194	156
Printing	50	46
Member fees	110	110
Stores and equipment	9	13
Books and periodicals	64	64
Postal and telephone	41	52
Training	33	24
Travel expenses	37	33
Electricity	28	28
Insurance	6	6
Auditor's remuneration – audit of the financial statements	25	25
Recruitment	14	1
Maintenance	2	6
Other	120	112
	<u>1,434</u>	<u>1,369</u>
<i>Reconciliation – Total maintenance</i>		
Maintenance expense – contracted labour and other (non-employee related), as above	2	6
Employee related maintenance expense included in Note 2(a)	–	–
Total maintenance expenses included in Note 2(a) + 2(b)	<u>2</u>	<u>6</u>

Recognition and Measurement*Maintenance expense*

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

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.

Operating leases

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.



Judicial Commission of New South Wales

Notes to the financial statements for the year ended 30 June 2018

	2018 \$'000	2017 \$'000
(c) Depreciation and amortisation expense		
Depreciation		
Computer equipment	90	81
Office furniture	115	195
Office equipment	39	21
	244	297
Amortisation		
Intangible assets	8	9
	252	306
(d) Grants and subsidies		
Aboriginal program expenditure review efficiency contribution	–	–
	–	–
(e) Other expenses		
Conduct Division (refer Note 17)	531	–
	531	–

	2018 \$'000	2018 \$'000	2017 \$'000	2017 \$'000
	Appropriation	Expenditure	Appropriation	Expenditure
3. REVENUE				
Recognition and Measurement				
Income is measured at the fair value of the consideration or contribution received or receivable. Comments regarding the accounting policies are discussed below.				
(a) Appropriations and Transfers to the Crown Entity				
Summary of Compliance				
Original budget per Appropriation Act	5,486	5,484	7,138	6,629
Other Appropriations/Expenditure				
– Additional Appropriations	–	–	–	–
– Treasurer's Advance	–	–	–	–
Total Appropriations/Expenditure/Net Claim on Consolidated Fund	5,486	5,484	7,138	6,629
Appropriation drawn down		5,484		6,629
Liability to Consolidated Fund (refer Note 13)		–		–
<i>Comprising:</i>				
Appropriations (per Statement of Comprehensive Income)		5,484		6,629
<i>Appropriations:</i>				
Recurrent appropriations	5,336	5,456	5,238	4,838
Capital appropriations	150	28	1,900	1,791
	5,486	5,484	7,138	6,629

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'.

**Judicial Commission of New South Wales**

Notes to the financial statements for the year ended 30 June 2018

	2018 \$'000	2017 \$'000
Recognition and Measurement		
<i>Parliamentary appropriations and contributions</i>		
Except as specified below, parliamentary appropriations and contributions from other bodies (including grants and donations) are recognised as income when the entity obtains control over the assets comprising the appropriations/contributions. Control over appropriations and contributions is normally obtained upon receipt of cash.		
Appropriations are not recognised as income in the following circumstances:		
<ul style="list-style-type: none"> Unspent appropriations are recognised as liabilities rather than income, as the authority to spend the 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. 		
(b) Sale of goods and services		
Sale of goods	142	135
Rendering of services	857	638
	<u>999</u>	<u>773</u>
Recognition and Measurement		
<i>Sale of Goods</i>		
Revenue from 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.		
<i>Rendering of Services</i>		
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).		
(c) Investment revenue		
Interest	–	–
Recognition and Measurement		
<i>Interest Income</i>		
Interest income is recognised using the effective interest rate 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 net carrying amount of the financial asset.		
(d) Acceptance by the Crown Entity of employee benefits and other liabilities		
The following liabilities and/or expenses have been assumed by the Crown Entity or other government entities:		
Superannuation – defined benefit	109	105
Long service leave	(31)	26
Payroll tax	6	6
	<u>84</u>	<u>137</u>
(e) Other revenue		
Miscellaneous revenue	42	39
4. GAIN (LOSSES) ON DISPOSAL	<u>–</u>	<u>–</u>



Judicial Commission of New South Wales

Notes to the financial statements for the year ended 30 June 2018

	2018 \$'000	2017 \$'000
5. OTHER GAINS (LOSSES)	–	–
Recognition and Measurement		
Impairment losses		
Impairment losses may arise on assets held by the entity from time to time. Accounting for impairment losses is dependent upon the individual asset (or group of assets) subject to impairment. Accounting Policies and events giving rise to impairment losses are disclosed in the following notes:		
Receivables – Note 8		
Plant and equipment – Note 9		
Intangibles – Note 10		
6. PROGRAM GROUPS OF THE COMMISSION		
Education, Sentencing, and Complaints		
Service Description: This program 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 program group. The expenses, income, assets and liabilities of the program group are presented in the primary financial statements.		
7. CURRENT ASSETS – CASH AND CASH EQUIVALENTS		
Cash at bank and on hand	4	100
	<u>4</u>	<u>100</u>
For the purposes of the Statement of Cash Flows, cash and cash equivalents include cash at bank and cash on hand.		
Cash and cash equivalent assets recognised in the Statement of Financial Position are reconciled at the end of the financial year to the Statement of Cash Flows as follows:		
Cash and cash equivalents (per Statement of Financial Position)	4	100
Cash and cash equivalents (per Statement of Cash Flows)	<u>4</u>	<u>100</u>
Refer Note 19 for details regarding credit risk, liquidity risk and market risk arising from financial instruments.		

**Judicial Commission of New South Wales**

Notes to the financial statements for the year ended 30 June 2018

	2018 \$'000	2017 \$'000
8. CURRENT ASSETS – RECEIVABLES		
Sale of goods and services	91	70
Other receivables	–	–
Accrued income	–	–
Prepayments	52	38
	<u>143</u>	<u>108</u>

Details regarding credit risk of trade debtors that are neither past due nor impaired, are disclosed in Note 19.

Recognition and Measurement

Receivables, including trade receivables, prepayments etc. are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market.

Receivables are initially recognised at fair value plus any direct attributable transaction costs. Subsequent measurement is 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 where the effect of discounting is immaterial.

Impairment

Receivables are subject to an annual review for impairment. These 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.

The entity first assesses whether impairment exists individually for receivables that are individually significant, or collectively for those that are not individually significant. Further, receivables are assessed for impairment on a collective basis if they were assessed not to be impaired individually.

The amount of the allowance is the difference between the asset's carrying amount and the present value of estimated future cash flows, discounted at the original 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, if objectively related to an event occurring after the impairment was recognised. Reversals of impairment losses cannot result in a carrying amount that exceeds what the carrying amount would have been had there not been an impairment loss.



Judicial Commission of New South Wales

Notes to the financial statements for the year ended 30 June 2018

9. NON-CURRENT ASSETS — PLANT AND EQUIPMENT

At 1 July 2017 – fair value

	Plant and Equipment \$'000	Total \$'000
Gross carrying amount	2,440	2,440
Accumulated depreciation and impairment	(473)	(473)
Net carrying amount	1,967	1,967

At 30 June 2018 – fair value

Gross carrying amount	2,393	2,393
Accumulated depreciation and impairment	(641)	(641)
Net carrying amount	1,752	1,752

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:

Year ended 30 June 2018

Net carrying amount at start of year	1,967	1,967
Additions	29	29
Disposals	–	–
Depreciation	(244)	(244)
Net carrying amount at end of year	1,752	1,752

At 1 July 2016 – fair value

Gross carrying amount	1,522	1,522
Accumulated depreciation and impairment	(1,242)	(1,242)
Net carrying amount	280	280

At 30 June 2017 – fair value

Gross carrying amount	2,440	2,440
Accumulated depreciation and impairment	(473)	(473)
Net carrying amount	1,967	1,967

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:

Year ended 30 June 2017

Net carrying amount at start of year	280	280
Additions	1,984	1,984
Disposals	–	–
Depreciation	(297)	(297)
Net carrying amount at end of year	1,967	1,967



Judicial Commission of New South Wales

Notes to the financial statements for the year ended 30 June 2018

Recognition and Measurement

Acquisition of plant and equipment

Plant and equipment are measured at cost and subsequently revalued at fair value less accumulated depreciation and impairment. 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, where applicable, the amount attributed to that asset when initially recognised in accordance with the requirements of other Australian Accounting Standards.

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 amount is effectively discounted over the period of credit.

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

Capitalisation thresholds

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

Depreciation of plant and equipment

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

All material identifiable components of assets are depreciated separately 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

Restoration costs

The present value of the expected cost for the restoration or cost of dismantling of an asset after its use is included in the cost of the respective asset if the recognition criteria for a provision are met.

Finance 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 does not transfer substantially all the 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 its fair value or, if lower, the present value of the 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.

Plant and equipment acquired under finance leases are depreciated over the asset's useful life. However, if there is no reasonable certainty that the lessee entity will obtain ownership at the end of the lease term, the asset is depreciated over the shorter of the estimated useful life of the asset and the lease term.

The Commission does not have any finance leases.



Judicial Commission of New South Wales

Notes to the financial statements for the year ended 30 June 2018

Revaluation of 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 13 Fair Value Measurement, AASB 116 Property, Plant and Equipment and AASB 140 Investment Property.

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 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 reasonable higher restricted alternative use.

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

As the entity does not hold any 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 measured at depreciated historical cost, which approximates fair value. The entity has assessed that any difference between fair value and depreciated historical cost is unlikely to be material.

The residual values, useful lives and methods of depreciation of plant and equipment are reviewed at each financial year end.

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. Since plant and equipment is carried at fair value or an amount that approximates fair value, impairment can only arise in rare circumstances such as where the cost of disposal are material.

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.

**Judicial Commission of New South Wales**

Notes to the financial statements for the year ended 30 June 2018

10. INTANGIBLE ASSETS**At 1 July 2017**

Cost (gross carrying amount)	28	28
Accumulated amortisation and impairment	(16)	(16)
Net carrying amount	12	12

Software \$'000	Total \$'000
28	28
(16)	(16)
12	12

At 30 June 2018

Cost (gross carrying amount)	28	28
Accumulated amortisation and impairment	(24)	(24)
Net carrying amount	4	4

28	28
(24)	(24)
4	4

Reconciliation

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

Year ended 30 June 2018

Net carrying amount at start of year	12	12
Additions	—	—
Disposals	—	—
Amortisation (recognised in 'depreciation and amortisation')	(8)	(8)
Net carrying amount at end of year	4	4

Software \$'000	Total \$'000
12	12
—	—
—	—
(8)	(8)
4	4

At 1 July 2016

Cost (gross carrying amount)	126	126
Accumulated amortisation and impairment	(105)	(105)
Net carrying amount	21	21

Software \$'000	Total \$'000
126	126
(105)	(105)
21	21

At 30 June 2017

Cost (gross carrying amount)	28	28
Accumulated amortisation and impairment	(16)	(16)
Net carrying amount — at fair value	12	12

\$'000	\$'000
28	28
(16)	(16)
12	12

Reconciliation

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

Year ended 30 June 2017

Net carrying amount at start of year	21	21
Additions	—	—
Disposals	—	—
Amortisation (recognised in 'depreciation and amortisation')	(9)	(9)
Net carrying amount at end of year	12	12

Software \$'000	Total \$'000
21	21
—	—
—	—
(9)	(9)
12	12



Judicial Commission of New South Wales

Notes to the financial statements for the year ended 30 June 2018

	2018 \$'000	2017 \$'000
<p>The entity recognises intangible assets only if it is probable that future economic benefits will flow to the entity and the cost of the asset can be measured reliably. Intangible assets are measured initially at cost. Where an asset is acquired at no or nominal cost, the cost is its fair value as at the date of acquisition.</p> <p>Following initial recognition, intangible assets are subsequently measured at fair value only if there is an active market. If there is no active market for the entity's intangible assets, the assets are carried at cost less any accumulated amortisation and impairment losses.</p> <p>The useful lives of intangible assets are assessed to be finite.</p> <p>The entity's intangible assets are amortised using the straight-line method over a period of three (3) years.</p> <p>The amortisation period and the amortisation method for an intangible asset with a finite useful life are reviewed at least at the end of each reporting period.</p> <p>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.</p>		
11. CURRENT LIABILITIES – PAYABLES		
Creditors	300	344
Accrued salaries, wages and on-costs	18	16
Other (including GST payable)	59	60
	<u>377</u>	<u>420</u>
Details regarding liquidity risk, including a maturity analysis of the above payables are disclosed in Note 19.		

Recognition and Measurement

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.

Payables are financial liabilities at amortised cost, initially measured at fair value, net of directly attributable transaction costs. These are subsequently measured at amortised cost using the effective interest method.

Gains and losses are recognised in the net result when the liabilities are derecognised as well as through the amortisation process.



Judicial Commission of New South Wales

Notes to the financial statements for the year ended 30 June 2018

	2018 \$'000	2017 \$'000
12. CURRENT/NON-CURRENT LIABILITIES – PROVISIONS		
Employee benefits and related on-costs		
Current		
Recreation leave	264	257
On-costs	302	302
	<u>566</u>	<u>559</u>
Non-Current		
Make Good Provision	188	188
On-costs	26	26
	<u>214</u>	<u>214</u>
Aggregate employee benefits and related on-costs		
Provisions — current	566	559
Provisions — non-current	26	26
Accrued salaries, wages and on-costs (refer Note 11)	18	16
	<u>610</u>	<u>601</u>
Expected settlement of current employee benefits and related on-costs	2017 \$'000	2017 \$'000
Not later than 12 months	514	513
Later than 12 months	52	46
	<u>566</u>	<u>559</u>
Movements in provisions (other than employee benefits)	Make Good \$'000	Total \$'000
2018		
Carrying amount at July 2016	188	188
Additional provisions recognised	—	—
Amounts used	—	—
Unused amounts reversed	—	—
Unwinding/change in the discount rate	—	—
Carrying amount at 30 June 2018	<u>188</u>	<u>188</u>



Judicial Commission of New South Wales

Notes to the financial statements for the year ended 30 June 2018

Recognition and Measurement

Employee benefits and related on-costs

Salaries and wages, annual leave and sick leave

Salaries and wages (including non-monetary benefits) and paid sick leave that are expected to be settled wholly within 12 months after the end of the period in which the employees render the service are recognised and measured at the undiscounted amounts 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 nominal annual leave balance plus the annual leave entitlements accrued while taking annual 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 where 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.

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 the 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.

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.

Other provisions

Provisions are recognised 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 an obligation; and a reliable estimate can be made of the amount of the obligation. When the entity expects some or all of provision to be reimbursed, for example, under an insurance contract, the reimbursement is recognised as a separate asset, but only when the reimbursement is virtually certain. The expense relating to a provision is presented net of any reimbursement in the Statement of Comprehensive Income.

**Judicial Commission of New South Wales**

Notes to the financial statements for the year ended 30 June 2018

	2018 \$'000	2017 \$'000
13. CURRENT LIABILITIES – OTHER		
Liability to Consolidated Fund	–	–
	–	–
14. COMMITMENTS		
Operating lease commitments		
Entity as lessee		
Future minimum rentals payable under non-cancellable operating leases as at 30 June, are as follows:		
Within one year	624	602
Later than one year and not later than five years	1,546	2,081
Later than five years	–	–
Total (including GST)	2,170	2,683

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 2018 include input tax credits of \$197,000 (\$244,000 in 2017) 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. EQUITY**Recognition and Measurement*****Accumulated Funds***

The category 'Accumulated Funds' includes all current and prior period retained funds.



Judicial Commission of New South Wales

Notes to the financial statements for the year ended 30 June 2018

	2018 \$'000	2017 \$'000
--	----------------	----------------

17. BUDGET REVIEW

The budgeted amounts are drawn from the original budgeted financial statements presented to Parliament in respect of the reporting period, except for the budget cash flow statement, which is derived from the Treasury reporting system.

Subsequent amendments to the original budget (e.g. adjustment for transfer of functions between entities as a result of Administrative Arrangement Orders) are not reflected in the budgeted amounts. Major variances between the original budgeted amounts and the actual amounts disclosed in the financial statements are explained below.

Net Result

The actual net loss exceeds the budgeted loss by \$10,000.

This is mainly due to \$72,000 higher expenses, combined with \$62,000 higher own generated income.

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 Conduct division expenditure of \$531,000 compared to the budget of \$400,000, with three Conduct Divisions formed in the year. A net cost of services adjustment of \$118,000 was approved to cover most of the excess Conduct Division expenses. This was funded by drawing down \$118,000 from the unused capital allocation.

Assets and Liabilities

Non-Current Assets are under budget by (\$46,000). This is mainly due to lower than expected Capital purchases. Current Liabilities are under budget by (\$213,000) mainly due to: Payables decrease of \$249,000 (including PAYG tax).

Cash Flows

The Net Cash Flows from operating activities resulted with a negative (\$68,000).

This was primarily as a result of increased expenses of \$423,000 less the increase of \$201,000 in total receipts.

18. RECONCILIATION OF CASH FLOWS FROM OPERATING ACTIVITIES TO NET RESULT

Reconciliation of cash flows from operating activities to net result as reported in the Statement of Comprehensive Income as follows:

Net cash flows from operating activities	(68)	1,725
Decrease/(Increase) in Crown Entity liability	–	–
Depreciation and amortisation expense	(252)	(306)
Decrease/(Increase) in provisions	(5)	(76)
Increase/(Decrease) in receivables and prepayments	35	41
Decrease/(Increase) in creditors	42	(144)
Cash transfers to Consolidated Fund	–	–
Net Result	(248)	1,240



Judicial Commission of New South Wales

Notes to the financial statements for the year ended 30 June 2018

19. 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 Committee assists the Chief Executive in fulfilling these responsibilities. The Audit and Risk Committee provides independent assistance to the Chief Executive by monitoring, reviewing, and providing advice about the Commission's risk management and control frameworks.

(a) Financial instrument categories	Note	Category	Carrying Amount	
			2018 \$'000	2017 \$'000
Financial Assets				
Cash and cash equivalents	7	N/A	4	100
Receivables ¹	8	Loans and receivables (at amortised cost)	91	70
Financial Liabilities				
Payables ²	11	Financial liabilities measured at amortised cost	157	154

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).

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

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 or transferred control, the asset continues to be 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.

(b) Financial risks

(i) Credit Risk

Credit risk arises when there is the possibility that the counterparty will default 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.



Judicial Commission of New South Wales

Notes to the financial statements for the year ended 30 June 2018

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.

As at 30 June, the aging analysis of trade debtors is as follows:

Neither past due nor impaired

Past due but not impaired

< 3 months overdue

3 months – 6 months overdue

> 6 months overdue

Impaired

< 3 months overdue

3 months – 6 months overdue

> 6 months overdue

Total receivables-gross of allowance for impairment

2018 \$'000	2017 \$'000
91	70
–	–
–	–
–	–
91	70
–	–
–	–
–	–
–	–

(ii) 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 business suppliers, where terms are 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 Chief Executive 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.

(iii) 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.

**Judicial Commission of New South Wales**

Notes to the financial statements for the year ended 30 June 2018

(c) Fair value measurement**(i) Fair value compared to carrying amount**

Financial instruments are recognised at amortised cost, which approximate fair value because of their short-term nature.

Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The fair value measurement is based on the presumption that the transaction to sell the asset or transfer the liability takes place either in the principal market for the asset or liability or in the absence of a principal market, in the most advantageous market for the asset or liability.

(ii) Fair value recognised in the Statement of Financial Position

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.

20. RELATED PARTY DISCLOSURES

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

Short-term employee benefits:

	2018 \$'000	2017 \$'000
Salaries	1,127	1,043
Other monetary allowances	–	–
Non-monetary benefits	–	–
Post-employment benefits	66	78
Termination benefits	–	–
Total remuneration	1,193	1,121

The Commission did not enter into any transactions during the year with key management personnel, their close family members and controlled or jointly controlled entities thereof. During the year, the entity entered into transactions on arm's length terms and conditions 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.

21. EVENTS AFTER THE REPORTING PERIOD

No matters or circumstances have arisen since the end of the financial year which significantly affect or may significantly affect the operations of the Commission, the results of those operations or the state of affairs of the Commission in future financial years.

End of audited financial statements



Endmatter

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Appendices

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Photo previous page: Newcastle Court completed in
February 2016 is a modern design featuring the work of
local artists including an impressive front facade.

Appendix 1

Complaints against judicial officers: guidelines 2017–18

View Guide for Complainants online at www.judcom.nsw.gov.au/complaints/guide-for-complainants/.

Appendix 2

Conduct Division: guidelines for examination of complaints 2017–18

View Conduct Division: guidelines for the examination of
complaints online at [www.judcom.nsw.gov.au/complaints/
conduct-division-guidelines-for-examination-of-complaints/](http://www.judcom.nsw.gov.au/complaints/conduct-division-guidelines-for-examination-of-complaints/).

Appendix 3

Judicial education policy 2017–18

View Continuing Judicial Education Policy online at
[www.judcom.nsw.gov.au/education/continuing-judicial-
education-policy/](http://www.judcom.nsw.gov.au/education/continuing-judicial-education-policy/).

Appendix 4

Education Committees 2017–18

EDUCATION COMMITTEES

Standing Advisory Committee on Judicial Education

- The Honourable Justice J Basten, Court of Appeal (Chair)
- 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 (until 6 April 2018)
- Chief Commissioner P Kite SC, Industrial Relations Commission
- His Honour Deputy Chief Magistrate M Allen, Local Court (from May 2018)
- 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
- The Honourable Justice R White
- The Honourable Justice P Johnson
- The Honourable Justice I Harrison
- The Honourable Justice M Schmidt
- The Honourable Justice P Garling RFD
- The Honourable Justice A Black
- Mr C D'Aeth, Principal Registrar
- Ms U Doyle, Director, Education, Judicial Commission of NSW (Convenor).

Industrial Relations Commission Education Committee

- Commissioner J Stanton
- Commissioner J Seymour (Chair until 6 April 2018)
- Ms M Morgan, Registrar
- 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
- Senior Commissioner S Dixon (from 9 February 2018)
- Senior Commissioner R Martin (until 28 January 2018)
- Commissioner S O'Neill (until 9 February 2018)
- Commissioner D Dickson (from February 2018)
- Ms S Froh, Registrar (from February 2018)
- 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
- His Honour Judge S Huggett (from 9 August 2017)
- His Honour Judge P Whitford SC (from 9 August 2017)
- Her Honour Judge D Yehia SC
- His Honour Judge J Hatzistergos AM
- Her Honour Judge J Culver
- His Honour Judge M Dicker SC
- His Honour Judge W Hunt (from 25 May 2018)
- His Honour Judge C O'Brien (from 9 April 2018)
- Mr J Howard, Judicial Registrar
- Ms U Doyle, Director, Education, Judicial Commission of NSW (Convenor).

Local Court Education Committee

- His Honour Acting Judge G Grogin
- Her Honour Deputy Chief Magistrate J Mottley (Acting Chair from 9 April 2018– 24 May 2018, Chair from 25 May 2018)
- His Honour Deputy Chief Magistrate C O'Brien (Chair until 6 April 2018)
- His Honour Deputy Chief Magistrate M Allen
- His Honour Magistrate M Barnes (until 1 December 2017)
- 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 Antrum
- Her Honour Magistrate C Huntsman
- His Honour Magistrate P Stewart
- Ms B Delbridge, Policy Officer, Chief Magistrate's Officer (from 18 September 2017)
- Ms A Passé-de Silva, Policy Officer, Chief Magistrate's Office (until 25 August 2017)
- 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 Blewitt AM
- His Honour Magistrate A Sbrizzi
- Her Honour Magistrate T Sheedy
- Ms R Davidson, Executive Officer
- Ms R Kang, Senior Children's Registrar
- Ms E King, Research Associate to the President
- Ms U Doyle, Director, Education, Judicial Commission of NSW (Judicial Commission Representative).

Ngara Yura Committee

- The Honourable Justice L McCallum, Supreme Court (Chair)
- The Honourable J Allsop AO, Chief Justice, Federal Court of Australia
- 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
- Mr J Behrendt, Legal Executive, Chalk & Behrendt
- Ms D Link-Gordon, Senior Community Access Officer, Indigenous Women's Legal Program, Women's Legal Service NSW
- Ms U Doyle, Director, Education, Judicial Commission of NSW (Convenor)
- Mr E Schmatt AM 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 (Convenor until 13 October 2017)
- Ms P Mizzi, Acting Director, Research and Sentencing Judicial Commission of NSW (Convenor from 16 October 2017).

Civil Trials Bench Book Committee

- The Honourable Justice P Garling RFD
- The Honourable Justice F Kunc
- His Honour Judge G Neilson
- His Honour Judge R Letherbarrow SC
- His Honour Deputy Chief Magistrate C O'Brien (until 6 April 2018)
- The Honourable M Campbell QC (Chair)
- Mr E Schmatt AM PSM, Chief Executive, Judicial Commission of NSW
- Ms U Doyle, Director, Education, Judicial Commission of NSW.
- Ms F Findlay, Senior Editor, Judicial Commission of NSW (Convenor)

Local Court Bench Book Committee

- Her Honour Deputy Chief Magistrate J Mottley
- His Honour Deputy Chief Magistrate C O'Brien (until 6 April 2018)
- Ms B Delbridge, Policy Officer, Chief Magistrate's Office (from 4 December 2017)
- Ms A Passé-de Silva, Policy Officer, Chief Magistrate's Office (until 25 August 2017)
- Ms U Doyle, Director, Education, Judicial Commission of NSW (Judicial Commission Representative)
- Ms P Mizzi, Acting Director, Research and Sentencing, Judicial Commission of NSW.
- Ms R Cook, Editor, Judicial Commission of NSW (Convenor until 28 February 2018)
- Mr P Byrne, Editor, (Convenor from 28 February 2018)

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, Faculty of Law, University of Sydney
- Mr H Donnelly (until 11 October 2017)
- Ms U Doyle, Director, Education, Judicial Commission of NSW
- Ms K Lumley, Manager, Publications and Communications, Judicial Commission of NSW (Convenor).

Appendix 5

Conference topics 2017–18

ANNUAL CONFERENCES

Supreme Court of NSW Annual Conference, August 2017

- "Limitations on Freedom of Contract", Sir David Richards, Lord Justice of Appeal, High Court of Justice of England and Wales.
- "Statutory Wills", Mr Hugh Fraser, Judge of Appeal, Supreme Court of Queensland.
- "Streamed Sessions"
 - "Developments in Criminal Law", the Honourable Justice Robert A Hulme, Supreme Court of NSW.
 - "Fusion-Fission-Fusion: Pre-Judicature Equity Jurisdiction in New South Wales 1824–1972", the Honourable Justice Mark Leeming, Court of Appeal.
- "Duty of Care", the Honourable Justice Tony Meagher, Court of Appeal, the Honourable Robert McDougall, Supreme Court of NSW and the Honourable Justice Robert Beech-Jones, Supreme Court of NSW.
- "Vicarious Liability", the Honourable Susan Kiefal AC, Chief Justice, High Court of Australia.
- "Soft Law and the Liability of Public Authorities", Dr Greg Weeks, Senior Lecturer, Australian National University college of Law.
- "The Divided Brain: Asymmetry and Human Meaning", Dr Iain McGilchrist.
- "Australia's Vast Marine Estate: Pressures, Impacts, management and Future Trajectories", Dr Richard Brinkman, Research Program Leader, Australian Institute of Marine Science.

Industrial Relations Commission of NSW Annual Conference, November 2017

- "Legal Research Tips", Ms Vanessa Blackmore, Manager, Law Courts Library Services, NSW Department of Justice, Mr Michael Unwin, Reader Services Librarian, Department of Justice and Ms Larissa Reid, Reader Services Librarian, Department of Justice.
- "Software Tips and Traps — Caselaw Toolkit and Dragon Dictate", Ms Donna Reece, Caselaw Support Officer, NSW Department of Justice and Ms Christine Tana, Dragon Dictate.
- "Developments in Mediation and Dispute Resolution", Professor Laurence Boulle, Professor, Australian Catholic University.
- "Dealing with Self-represented Litigants", His Honour Magistrate Ian Guy, Local Court of NSW.
- "Cultural Diversity", The Honourable Justice Melissa Perry, Federal Court of Australia.
- "Social Media in the Courts and Update on Social Media and the Law", Mr Victor Cabello, Senior Social Media Advisor, NSW Department of Justice and Ms Elizabeth Raper, Barrister, 5 Wentworth Chambers.
- "Wellbeing", Ms Barbara Robertson, Barbara Robertson Training.

Appendix 5 — Conference topics 2017–18 *continued*

Land and Environment Court of NSW Annual Conference, May 2018

- “How can we respond to climate induced changes in the distribution of biodiversity?”, Associate Professor, James Pittcock, ANU College of Science.
- “The broader challenges of developing West Dapto”, Mr Andrew Carfield, Director Planning & Environment, Wollongong Council.
- “Field Trip — Pollution Control in the Illawarra and Cooperative Cross Boundary Planning — Tullimbar to Port Kembla”.
- “Dinner Speaker: The effects of urbanisation on spiders”, Dr Elizabeth Lowe, Postdoctoral Researcher, Macquarie University.
- “Meeting of Acting Commissioners”.
- “Judicial Review in the Land and Environment Court”, Professor Margaret Allars, University of Sydney.
- “ADR Update: International Mediation”, Ms Mary Walker, Nine Wentworth Chambers.
- “NSW’s Land Management and Biodiversity Conversation Reforms”.
- “Legal Research Tips”, Ms Larissa Reid, Reader Services Librarian, Department of Justice and Ms Vanessa Blackmore, Manager, Law Courts Library Services, NSW Department of Justice.

District Court of NSW Annual Conference, April 2018

- “Criminal Law Review”, The Honourable Justice Peter Hamill, Supreme Court of NSW.
- “Witness memory”
 - Eyewitness Memory: Adult Memory”, Professor Richard Kemp, Professor of Forensic Psychology, University of New South Wales.
 - “Empirical guidance summary of the effects of childhood sexual abuse on memory and complainant’s evidence”, Professor Jane Goodman-Delahunty, Research Professor, Charles Sturt University.
- “Depression and Anxiety: it’s closer to you than you realise”, Dr Ranil Gunewardene, Clinical Director/Consultant Psychiatrist, Mosman Private Hospital.
- “Civil Jurisdiction of the District Court”, His Honour Judge Philip Taylor SC, District Court of NSW.
- “Judicial ethics and social media panel”
 - “Hastening Slowly: why the hare and the tortoise can teach us something about social media and the judiciary”, Associate Professor Jane Johnston, Associate Professor, The University of Queensland.
 - “Judicial Ethics and Social Media”, Ms Felicity Benedikovics, Co-Ordinator, District Court of NSW.
 - “Judicial Ethics and Social Media”, The Honourable Justice Robert Beech-Jones, Supreme Court of NSW.
- “Recurring Issues in the NSW Court of Appeal”, The Honourable Justice Margaret Beazley AO, President, Court of Appeal.
- “Commonwealth Sentencing”, Ms Sarah McNaughton SC, Director, Commonwealth Director of Public Prosecutions.
- “Criminal Justice Reforms”
 - “Sentencing Reforms”, Mr Lloyd Babb SC, The Director of Public Prosecution NSW, Officer of the DPP.
 - “Early Appropriate Guilty Plea Reform Program Project”, Mr Mark Ierace SC, Senior Public Defender, The Public Defenders.

Local Court of NSW Annual Conference, August 2017

- “Welcome Address”, His Honour Judge Graeme Henson AM, Chief Magistrate of NSW.
- “Opening Address”, The Honourable Mark Speakman SC MP Attorney General of NSW.
- “Keynote Address: Crime rates are down, but do we feel safe?”, Commissioner Michael Fuller APM, Commissioner of Police, New South Wales Police Force.
- “Criminal Law Update”, The Honourable Justice Robert A Hulme, Supreme Court of NSW.
- “Expert Evidence”, The Honourable Justice Geoffrey Bellew, Supreme Court of NSW.

- “Civil Update”, The Honourable Justice Geoffrey Bellew, Supreme Court of NSW.
- “Classification of Child Abuse Material”, Mr Paul Griffiths, Victim Identification Manager Queensland Police Service and Detective Chief Superintendent John Kerlatec APM, Director — Serious Crime Directorate, State Crime Command, NSW Police Force.
- “Institutional Child Sexual Abuse”, Professor Dianna Kenny, Professor of Psychology, Professor of Music, The University of Sydney.
- “Sentencing for Environmental Crime”, The Honourable Justice Brian Preston, Chief Judge, Land and Environment Court of NSW.
- “Judicial Bullying”, Ms Rachel Clements, National Director of Psychological Services, Centre for Corporate Health Pty Ltd and Mr Jeffrey Phillips SC.
- “Management of offenders by Community Corrections and the New Sentencing Reform”, Ms Rosemary Caruana, Assistant Commissioner, Community Corrections, Corrective Services, NSW.
- “Rural Crime”, His Honour Judge Gordon Lerve, District Court of NSW
- “Open Forum”, His Honour Judge Graeme Henson AM, Chief Magistrate of NSW, Her Honour Deputy Chief Magistrate Jane Mottley, Local Court of NSW, His Honour Deputy Chief Magistrate Chris O’Brien, Local Court of NSW and His Honour Magistrate Michael Barnes, State Coroner, Coroner’s Court of NSW.

OTHER CONFERENCES

Local Court of NSW Southern Regional Conference, February 2018

- “Sentencing for more serious offences in the Local Court: joining the dots between intuitive synthesis, legislation and case law — Part 1”, His Honour Magistrate Peter Feather, Local Court of NSW, His Honour Magistrate Michael Antrum, Local Court of NSW and Her Honour Magistrate Karen Robinson, Local Court of NSW.
- “Sentencing for more serious offences in the Local Court: joining the dots between intuitive synthesis, legislation and case law — Part 2”, Her Honour Magistrate Karen Robinson, Local Court of NSW, His Honour Magistrate Michael Antrum, Local Court of NSW and His Honour Magistrate Peter Feather, Local Court of NSW.
- “Court Ordered Psychiatric Reports — how to use them”, Ms Giulia Rudge, Manager — Court Report Coordination Unit, Justice Health and Forensic Mental Health Network and Dr Gordon Elliott, Consultant Psychiatrist, Justice Health and Forensic Mental Health Network.
- “Reporting of Corrupt Conduct”, Mr Patrick Saidi, Commissioner Oversight, Law Enforcement Conduct Commission.
- “Bail; practical application and management of bail listings”, His Honour Magistrate Les Mabbutt, Local Court of NSW.
- “The new Road Transport Disqualification Scheme — a short introduction”, His Honour Deputy Chief Magistrate Chris O’Brien, Local Court of NSW.
- “Children’s Court Update”, His Honour Judge Peter Johnstone, President, Children’s Court of NSW.
- “Multidisciplinary Case Management in the Coronial System within a medical framework”, Mrs Rebecca Gigli, Operations Manager, Department of Forensic Medicine Newcastle, Dr Isabel Brouwer, Chief Forensic Pathologist, State-wide Clinical Director, Department of Forensic Medicine and Mr Danny Nugus, Acting Senior Forensic Counsellor, Department of Forensic Medicine Newcastle.
- “New Practice Note on Committals and the EAGPS”, His Honour Deputy Chief Magistrate Chris O’Brien, Local Court of NSW.

Appendix 5 — Conference topics 2017–18 *continued*

Local Court of NSW Northern Regional Conference, March 2018

- “Sentencing for more serious offences in the Local Court: joining the dots between intuitive synthesis, legislation and case law — Part 1”, His Honour Magistrate Peter Feather, Local Court of NSW, His Honour Magistrate Michael Antrum, Local Court of NSW and Her Honour Magistrate Karen Robinson, Local Court of NSW.
- “Sentencing for more serious offences in the Local Court: joining the dots between intuitive synthesis, legislation and case law — Part 2”, Her Honour Magistrate Karen Robinson, Local Court of NSW, His Honour Magistrate Michael Antrum, Local Court of NSW and His Honour Magistrate Peter Feather, Local Court of NSW.
- “Court Ordered Psychiatric Reports — how to use them”, Ms Giulia Rudge, Manager — Court Report Coordination Unit, Justice Health and Forensic Mental Health Network and Dr Gordon Elliott, Consultant Psychiatrist, Justice Health and Forensic Mental Health Network.
- “Reporting of Corrupt Conduct”, Mr Patrick Saidi, Commissioner Oversight, Law Enforcement Conduct Commission.
- “Bail; practical application and management of bail listings”, His Honour Magistrate Les Mabbutt, Local Court of NSW.
- “The new Road Transport Disqualification Scheme — a short introduction”, His Honour Deputy Chief Magistrate Chris O’Brien, Local Court of NSW.
- “Children’s Court Update”, His Honour Judge Peter Johnstone, President, Children’s Court of NSW.
- “Multidisciplinary Case Management in the Coronial System within a medical framework”, Mrs Rebecca Gigli, Operations Manager, Department of Forensic Medicine Newcastle, Dr Isabel Brouwer, Chief Forensic Pathologist, State-wide Clinical Director, Department of Forensic Medicine and Mr Danny Nugus, Acting Senior Forensic Counsellor, Department of Forensic Medicine Newcastle.
- “New Practice Note on Committals and the EAGPS”, His Honour Deputy Chief Magistrate Chris O’Brien, Local Court of NSW.

Children’s Court of NSW Section 16 Meeting, November 2017

- “DFaCS Permanency Support Reforms”, Ms Penny Hood, Director, Department of Family and Community Services.
- “Roll out of the National Disability Insurance Scheme”, Ms Loretta Allen-Weinstein, Juvenile Justice, Ms Sonia Bernardi, Director Service Delivery, NDIS Sydney Region NSW and Ms Jennifer Pospelyj, Director Service Delivery, NDIS Central NSW.
- “Reducing the rate of recidivism for young offenders”, Dr Jioji Ravulo, Western Sydney University.
- “Issues Arising in Defended Hearings”, Her Honour Magistrate

Ellen Skinner, Children’s Court of NSW and His Honour Magistrate Paul MacMahon, Children’s Court of NSW.

- “Current Issues”, His Honour Judge Peter Johnstone, President, Children’s Court of NSW.
- “Reflections on “Managing High Conflict Personalities in Legal Disputes”, Ms Edwina Hunter, Children’s Registrar, Children’s Court of NSW.
- “Multi-Systemic Therapy and Functional Family Therapy”, Dr Sylvia Rowlands, New York Foundling.

Children’s Court Section 16 Meeting, May 2018

- “Care and Protection — A District Court perspective, with a focus on expert evidence including concurrent evidence”, His Honour Judge Leonard Levy SC, District Court of NSW.
- “Early Appropriate Guilty Pleas Reforms”, Ms Phillipa Hetherington, Director, NSW Department of Justice and Ms Alexandra Sprouster, Policy Manager, Department of Justice.
- “Video presentation: “Children’s Attachment Theory and How to Use It””.
- “Decision Support Program to aid judicial officers exercising Children’s Court jurisdiction”, Her Honour Magistrate Margot Stubbs, Children’s Court of NSW.
- “Criminal Case Study”, His Honour Judge Peter Johnstone, President, Children’s Court of NSW.
- “Current Issues”, His Honour Judge Peter Johnstone, President, Children’s Court of NSW.
- “Multicultural and multi-faith Australia: Considerations for DRC’s”, Ms Rana Sabih, Children’s Registrar, Children’s Court of NSW.
- “Helping parents to engage in ADR-(P)ACE”, Ms Sue Foley, Director, NSW Children’s Court Clinic and Ms Janette Buckingham, Children’s Court of NSW.
- “Parole Reforms and Counter Terrorism Issues”, Ms Melanie Hawyes, Executive Director, Juvenile Justice, Ms Peta Lowe, Director CVE, Juvenile Justice and Mr Mike Wheaton, Acting Director, Juvenile Justice.

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. Five workshops were run on the following dates: 17–18 August 2017, 7–8 September 2017, 12–13 October 2017, 18–19 January 2018 and 12–13 April 2018.

Appendix 6

Judicial education seminars, workshops and field trips 2017–18

Supreme Court of NSW

- “Supreme Court of NSW — Forensic Hospital Visit”, Dr Tobias Mackinnon, Statewide Clinical Director for Forensic Mental Health, Justice Health and Forensic Mental Health Network, Field Trip, 17 October 2017.
- “Motor Accidents Legislation”, Mr Andrew Stone SC, Sir James Martin Chambers, Twilight Seminar, 15 November 2017.

Land and Environment Court of NSW

- “Environment and Resource Adjudication of China”, Mr Lui Xiaofei, Presiding Judge of Adjudication Tribunal for Environment and Resources, Supreme People’s Court of China and Mr Cai Zhousen, Judge of the Adjudication Tribunal for Environment and Resources, Supreme People’s Court of China, Twilight Seminar, 3 August 2017.

- “Legal Research on the iPad”, Ms Alison Passé-de Silva, Policy Officer, Local Court of NSW, Twilight Seminar, 9 August 2017.
- “Legal Research on the iPad”, Ms Alison Passé-de Silva, Policy Officer, Local Court of NSW, Twilight Seminar, 17 August 2017.
- “Cultural Landscapes”, Professor Sharon Sullivan AO, Twilight Seminar, 4 October 2017.
- “Legislative Updates to the NSW Planning System”, Mr Jonathon Schipp, Director, Policy and Legislation, Department of Environment and Planning, Twilight Seminar, 21 February 2018.
- “The Science of Expertise”, Dr Kristy Martire, Senior Lecturer, University of New South Wales, Twilight Seminar, 5 April 2018.
- “Criminal Law Update”, The Honourable Justice Helen Wilson, Supreme Court of NSW, Twilight Seminar, 14 June 2018.

Appendix 6 — Judicial education seminars, workshops and field trips 2017–18 *continued*

District Court of NSW

- “Tendency — what’s not to admit?”, The Honourable Justice Carolyn Simpson, Court of Appeal, Twilight Seminar, 26 July 2017.
- “Using JIRS Effectively”, Mr Hugh Donnelly, Director, Research and Sentencing, Judicial Commission of NSW, Twilight Seminar, 22 August 2017.
- “Fact Finding”, His Honour Judge Paul Lakatos SC, District Court of NSW, Twilight Seminar, 21 November 2017.
- “Admission of indistinct covert recordings as evidence in criminal trials: problems and solutions from the perspective of phonetic science”, Dr Helen Fraser, Cognitive Phonetics Specialist, Forensic Transcription Australia, Twilight Seminar, 14 March 2018.

Local Court of NSW

- Local Court of NSW Metropolitan Seminar Series II, 13–16 November 2017
 - “Sentencing for more serious offences in the Local Court: joining the dots between intuitive synthesis, legislation and case law — Part 1”, His Honour Magistrate Peter Feather, Local Court of NSW, His Honour Magistrate Michael Antrum, Local Court of NSW and Her Honour Magistrate Karen Robinson, Local Court of NSW.
 - “Court Ordered Psychiatric Reports — how to use them”, Ms Giulia Rudge, Manager — Court Report Coordination Unit, Justice Health and Forensic Mental Health Network and Dr Gordon Elliott, Consultant Psychiatrist, Justice Health and Forensic Mental Health Network.
 - “Reporting of Corrupt Conduct”, Mr Patrick Saidi, Commissioner Oversight, Law Enforcement Conduct Commission.
 - “The new Road Transport Disqualification Scheme — a short introduction”, His Honour Deputy Chief Magistrate Chris O’Brien, Local Court of NSW.
- Local Court: NJCA — Family Violence Training, 17 November 2017
- Local Court of NSW Metropolitan Series 1, 12–16 February 2018
 - “Sentencing for more serious offences in the Local Court: joining the dots between intuitive synthesis, legislation and case law — Part 2”, Her Honour Magistrate Karen Robinson, Local Court of NSW, His Honour Magistrate Michael Antrum, Local Court of NSW and His Honour Magistrate Peter Feather, Local Court of NSW.

- “Bail; practical application and management of bail listings”, His Honour Magistrate Les Mabbutt, Local Court of NSW.
- “New Practice Note on Committals and the EAGPS”, His Honour Deputy Chief Magistrate Chris O’Brien, Local Court of NSW.

Children’s Court of NSW

- “Children’s Court of NSW” NJCA — Family Violence Training”, 6 October 2017.

Ngara Yura Program

- “Darkinjung Country, Central Coast”, Mr Gavi Duncan, Manager of Cultural Services and Tourism Co-ordinator, Bara Barang, Community Visit, 22 July 2017.
- “The Uluru Statement”, Acting Commissioner Megan Davis, Land and Environment Court of NSW, Professor Rosalind Dixon, Professor, University of New South Wales, Dr Gabrielle Appleby, Associate Professor, UNSW Law; Research Director, Impact and Engagement; Co-Director, The Judiciary Project, Gilbert + Tobin Centre of Public Law, University of New South Wales and Mr Noel Pearson, Twilight Seminar, 24 October 2017.
- “Sorry Business and Wills”, The Honourable Justice Geoff Lindsay, Supreme Court of NSW, Professor Prue Vines, Faculty of Law, University of New South Wales, Ms Anne Cregan, Pro Bono Partner, Gilbert & Tobin and Mr Andrew Smith, University Chambers, Twilight Seminar, 1 March 2018.
- “Ngara Yura Visit to the Sydney Observatory”, Mr Geoff Wyatt, Manager, Museum of Applied Arts and Sciences, Field Trip, 31 May 2018.

Cross-jurisdictional

- “Cross-jurisdictional Seminar: Climate change litigation: lessons and pathways”, Professor Hari Osofsky, Robins Kaplan Professor; Faculty Director, Energy Transition Lab Director, Joint Degree Program in Law, Science, and Technology, University of Minnesota Law School and Professor Jacqueline Peel, Associate Dean, Melbourne Law Masters, Twilight Seminar, 6 December 2017.

Appendix 7

Articles published 2017–18

Legend: JOB — *Judicial Officers’ Bulletin*, TJR — *The Judicial Review*

- J Adkins, “Improving the NSW justice system’s response to rural crime” (2017) 29(9) JOB 75
- J Basten, “Personal injury — contributory negligence” (2018) 13(4) TJR 417
- TF Bathurst and S Schwartz, “Doing right by ‘all manner of people’: building a more inclusive legal system” (2017) 13(3) TJR 277
- VM Bell, “Judicial legitimacy and the limits of review” (2017) 13(3) TJR 233
- E Buxton-Namisnyk and A Butler, “What’s language got to do with it? Learning from discourse, language and stereotyping in domestic violence homicide cases” (2017) 29(6) JOB 49
- M Cain and H Donnelly, “Transparent and consistent sentencing in the Land and Environment Court” (2017) 29(7) JOB 57
- SG Campbell, “Civil claims against the police” (2018) 13(4) TJR 457
- RS French, “Rights and freedoms and the rule of law” (2017) 13(3) TJR 261
- SJ Gageler, “Evidence and truth” (2017) 13(3) TJR 249
- D Hogan-Doran, “Computer says ‘no’: automation, algorithms and artificial intelligence in Government decision-making” (2017) 13(3) TJR 345
- RA Hulme, “Criminal Law roundup for 2017” (2018) 30(1) JOB 1
- D Kenny, “The social dynamics and impacts of institutional child sexual abuse” (2017) 29(8) JOB 67
- SM Kiefel, “Vicarious liability in tort — a search for policy, principle or justification” (2018) 13(4) TJR 383
- K Lumley, “Enduring values and evolving services: 30 years of the Judicial Commission” (2017) 29(10) JOB 83
- N Marsic, “Terrorism (High Risk Offenders) Act 2017 commences” (2018) 30(1) JOB 7
- WS Martin, “Reflecting on the practice of non-adversarial justice” (2018) 13(4) TJR 397
- P McKnight and A Sprouster, “Encouraging early guilty pleas in the criminal justice system” (2018) 30(3) JOB 23
- CJ McLure, “Proportionality — the new wave” (2017) 13(3) TJR 301
- J Peel and H Osofsky, “Climate change litigation: lessons and pathways” (2017) 29(11) JOB 99
- G Pagone, “Unconscious biases and their impact on decision making” (2018) 30(5) JOB 43
- RA Pepper, “Climate change litigation: a comparison between current Australian and international jurisprudence” (2017) 13(3) TJR 329
- BJ Preston, “What’s equity got to do with the environment?” (2018) 13(4) TJR 431
- E Schmatt AM PSM, “International guiding principles for judicial education” (2018) 30(2) JOB 17
- JRT Wood, “A guide to parole including the operating practices of the NSW State Parole Authority — Part I” (2018) 30(2) JOB 13
- JRT Wood, “A guide to parole and the operating practices of the NSW State Parole Authority — Part II” (2018) 30(4) JOB 33.

Appendix 8

Publications list 2017–18

Education Monographs

1. Fragile bastion: judicial independence in the nineties and beyond, 1997
2. A matter of judgment: judicial decision-making and judgment writing, 2003
3. The role of the judge, 2004
4. Statutory interpretation: principles and pragmatism for a new age, 2007
5. A matter of fact: the origins and history of the NSW Court of Criminal Appeal, 2013

Research Monographs

1. The use of custodial sentences and alternatives to custody by NSW magistrates, 1990
2. Community service orders: views of organisers in NSW, 1991
3. Community service orders and periodic detention as sentencing options: a survey of judicial officers in NSW, 1991
4. Sentencing juvenile offenders and the Sentencing Act 1989 (NSW): the impact of legislative and administrative changes in the Children's Court 1982–1990, 1991
5. A critical review of periodic detention in NSW, 1992
6. Sentencing drug offenders: analysis of sentences imposed in the higher courts of NSW, 25 September 1989–31 December 1991, 1992
7. "Special circumstances" under the Sentencing Act 1989 (NSW), 1993
8. Alcohol as a sentencing factor: a survey of attitudes of judicial officers, 1994
9. Sentence Indication Hearings Pilot Scheme, 1994
10. The evidence of children, 1995
11. Judicial views about pre-sentence reports, 1995
12. Sentenced homicides in NSW 1990–1993, 1995
13. The Sentencing Act 1989 and its effect on the size of the prison population, 1996
14. Sentencing disparity and the gender of juvenile offenders, 1997
15. Magistrates' attitudes to drink-driving, drug-driving and speeding, 1997
16. Child sexual assault, 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
20. Sentencing drug offenders: analysis of sentences imposed in the higher courts of NSW, 1 January 1992–31 December 1997, 1999
21. Sentencing dangerous drivers in NSW: Impact of the Jurisic guidelines on sentencing practice, 2002
22. Circle sentencing in NSW: a review and evaluation, 2003
23. Sentenced homicides in NSW 1994–2001, 2004
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
28. Partial defences to murder in NSW 1990–2004, 2006
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 Local Court of NSW, 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

36. Sentencing for common offences in the NSW Children's Court: 2010, 2012
37. Sentencing in fraud cases, 2012
38. Sentencing Commonwealth drug offenders, 2014
39. Sentencing in NSW: a cross-jurisdictional comparison of full-time imprisonment, 2015
40. Transparent and consistent sentencing in the Land and Environment Court of NSW: orders for costs as an aspect of punishment, 2017

Sentencing Trends & Issues

1. The Children's Court, March 1991
2. The impact of truth in sentencing: part 1, the higher courts, March 1992
3. The impact of truth in sentencing: part 2, the Local Courts, June 1992
4. Sentencing in the Court of Criminal Appeal, February 1993
5. Common offences in the Local Courts, March 1994
6. Sentencing homicide: the effect of legislative changes on the penalty for murder, June 1994
7. Common offences in the higher courts, July 1994
8. From murder to manslaughter: partial defences in NSW — 1900 to 1993, December 1994
9. Common offences in the Children's Court, May 1995
10. Sentencing drink driver offenders, June 1995
11. "Sentenced to the rising of the court", January 1996
12. The use of recognizances, May 1996
13. Sentencing deception offenders: part 1 — Local Courts, June 1996
14. Sentencing deception offenders: part 2 — higher courts, October 1996
15. Driving causing death: section 52A of the Crimes Act 1900, May 1997
16. An overview of sentence and conviction appeals in the NSW Court of Criminal Appeal, March 1998
17. Kidnapping — Section 90A Crimes Act 1900 (NSW), July 1998
18. Common offences in the higher courts 1990–1997, August 1998
19. Sentencing offenders in the Local Courts — effects of the Criminal Procedure Amendment (Indictable Offenders) Act 1995, February 2000
20. Sentencing female offenders in NSW, May 2000
21. Protective custody and hardship in prison, February 2001
22. Conviction and sentencing appeals in the NSW Court of Criminal Appeal 1996–2000, February 2002
23. Sentencing mentally disordered offenders: the causal link, September 2002
24. Bail: an examination of contemporary issues, November 2002
25. Sentencing methodology: two-tiered or instinctive synthesis?, December 2002
26. Sentencing trends for armed robbery and robbery in company: the impact of the guideline in *R v Henry*, February 2003
27. Sentencing drink-driving offenders in the Local Court of NSW, March 2003
28. Common offences in the Local Court, September 2003
29. Suspended Sentences in NSW, November 2003
30. Common offences and the use of imprisonment in the District and Supreme Courts in 2002, March 2004
31. The use and limitations of sentencing statistics, December 2004
32. Pre-sentence custody and other constraints on liberty, May 2005
33. Successful completion rates for supervised sentencing options, June 2005
34. Trends in the use of s 12 suspended sentences, June 2005
35. Impact of the high range PCA Guideline judgment on sentencing drink drivers in NSW, September 2005
36. Trends in the use of full-time imprisonment 2006–2007, November 2007
37. Common offences in the Local Court of NSW: 2007, November 2008
38. Sentencing in complicity cases — part 1: Joint criminal enterprise,

Appendix 8 — Publications list 2017–18 *continued*

June 2009

39. Sentencing in complicity cases — abettors, accessories and other secondary participants (part 2), February 2010
40. Common offences in the Local Court of NSW: 2010, May 2012
41. Common offences in the NSW higher courts: 2010, December 2012
42. Special circumstances under s 44 of the Crimes (Sentencing Procedure) Act 1999, June 2013
43. Environmental planning and protection offences prosecuted in the Local Court of NSW, November 2014
44. Sentencing for the offence of sexual intercourse with a child under 10, July 2015
45. Sentencing for domestic violence, June 2016
46. Common offences in the Local Court of NSW: 2015, May 2017

Journals

- Judicial Officers' Bulletin (Vols 1–30) (1998–)
- The Judicial Review (Vols 1–13) (1992–)

Bench Books

- Local Court Bench Book (1988–)
- Criminal Trial Courts Bench Book (1989–)
- Equality Before the Law Bench Book (2006–)
- Sentencing Bench Book (2006–)
- Civil Trials Bench Book (2007–)

Handbooks

- Sexual Assault Trials Handbook (online only) (2007–)
- Land and Environment Court of NSW Commissioners' Handbook (online only)
- Children's Court of NSW Resource Handbook (online only) (2013–)

Brochures

- Judicial Commission of New South Wales, 1997
- Sentencing Information System: an invitation to subscribe, 2001
- Disabilities information, 2001
- Pro-bono schemes in NSW, 2004
- Judicial Information Research System, 2005
- Presentation pointers: getting started and getting through your presentation, 2008
- From controversy to credibility: 20 years of the Judicial Commission of New South Wales, 2008
- Complaints against judicial officers, 2013

Videos and podcasts

- The role of the judge, 2004
- Concurrent evidence: new methods with experts, 2005
- Circle sentencing in NSW, 2009
- The Bail Act 2013: selected scenarios, 2014.

Appendix 9

Ngara Yura Program

View Ngara Yura Committee Terms of Reference online at:

www.judcom.nsw.gov.au/education/ngara-yura-program/ngara-yura-committee-terms-of-reference/.

Appendix 10

Assistance to other jurisdictions and organisations 2017–18

In 2017–18, the Commission provided assistance, advice and shared information and experience with the following:

Judicial Education

- Law Society of NSW Young Lawyers: Young Justice Program, 17 October. This program for school students in years 7 and 8 focused on social justice issues including human rights and access to justice matters. The Commission assisted with the development of a revised program and assistance with content and workshop material.
- Sentencing and Parole Reform Workshop: 20 November 2017, organized by Department of Justice and Corrective Services NSW. Ms Doyle and Ms Mizzi attended to assist with advising on implementation of the educational aspects of the reforms.
- Asia Pacific Judicial Educators Meeting: a meeting was held on 19 February, 2018, with participants from Australia, New Zealand, PNG and Singapore. A number of collaboration opportunities were identified.
- Indigenous Clerkship program: a joint mentoring program was set up by the Supreme Court, Federal Court and NSW Bar Association, supported by the Judicial Commission. The successful pilot concluded on 23 February 2018.

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.
- The Forum Sentencing Program has closed down and consequently the agreement for the Commission to provide the Forum Administration System will terminate on 8 September 2018.
- 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 (ICCS): 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 2017–18

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

Mr Ernest Schmatt AM 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 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.

Ms Una Doyle — Director, Education

Member of:

- Aboriginal Legal Service Bugmy Evidence Project Steering Committee
- Executive Committee of Association for Continuing Legal Education (ACLEA), President, August 2016–August 2017
- Executive Committee of the Continuing Legal Education Association of Australasia (CLEAA)
- Australia New Zealand Judicial Educators (ANZJE)
- Asia Pacific Judicial Educators
- National Judicial Orientation Program Steering Committee, National Judicial College of Australia
- 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 Pierrette Mizzi — Director, Research and Sentencing

Member of:

- Aboriginal Legal Service Bugmy Evidence Project Steering Committee
- 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 Reform Steering Committee
- Driver Disqualification Licence Reform Implementation Working Group, Department of Justice
- Criminal Trial Courts Bench Book Committee
- Local Court Bench Book Committee
- Implementation and Monitoring Group for Royal Commission criminal justice reforms.
- Forensic mental health reforms consultation group, Department of Justice.

Ms Sarah Collins — Manager, Programs (Education)

Member of:

- Executive Committee of the Continuing Legal Education Association of Australasia (CLEAA)
- Chair, International Committee of the Association for Continuing Legal Education (ACLEA) 2016–18
- Family Violence Working Group, Sub-Working Group 6: Improving family violence competency of professionals working in the family law and family violence systems. This is an initiative of the Law and Crime and Community Safety Council (LCCSC), Commonwealth Attorney-General's Department and the Victorian Department of Justice and Regulation.

Ms Antonia Miller — Publishing (Education)

- Adjudicator for Australasian Reporting Awards.

Appendix 12

Visitors to the Commission 2017–18

Visitors

- Judge Liu Xiaofei, senior Judge, Supreme People's Court of the People's Republic of China and Judge Zhuosen Cai, Judge of the Intermediate People's Court of Zhejiang Province, 24 July 2017.
- Mr Doug Humphreys OAM, President of the Law Society of NSW, 16 March 2018.
- Judge Lorraine Ho, State Courts of Singapore; Professor Kwok Yan, School of Computer Science, Nanyang Technical University and Mr James Lee, Assistant Registrar, Supreme Court of Singapore, 23 May 2018.

Delegations

- A delegation of 35 Bangladeshi judges for the Bangladeshi Judicial Training Program, 10 August 2017.
- Delegation of 15 senior officials from the Vietnamese Ministry of Justice, 16 October 2017.
- Court officials from the Supreme and National Courts of PNG, 6–9 November 2017
- Delegation of 6 senior officials from Nanjing Municipal Procuratorate, Jiangsu province, 21 November 2017.
- Delegation of 20 members of the Committee for Ethnic Minority Affairs, Socialist Republic of Vietnam, 28 June 2018.

Appendix 13

Overseas visits 2017–18

- On 4–10 November 2017, the Commission's Chief Executive, Mr Ernest Schmatt AM PSM travelled to Manila, Philippines to participate in the 8th International Conference on the Training of the Judiciary. He also attended the meeting of the IOJT Board of Executives and Board of Governors. The cost for Mr Schmatt was covered by the IOJT and the Commission.
- On 4–10 November 2017, the Commission's Director, Education, Ms Una Doyle travelled to Manila, Philippines to attend the 8th International Conference on the Training of the Judiciary as a delegate and session chair. The conference was organised by the IOJT. The cost for Ms Doyle to attend the conference was covered by the Commission.

Appendix 14

Exchange of information 2017–18

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 2017–18, 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 NSW
- Bureau of Crime Statistics and Research (NSW)
- NSW 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, NSW
- 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)
- 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 NSW, 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
- Institute of Judicial Studies, New Zealand
- International Association of Women Judges
- International Organization for Judicial Training
- Judicial Education Reference, Information and Technical Transfer (JERITT) Project, Michigan, USA
- Judicial College, (England and Wales)
- Magisterial Service of Papua New Guinea
- Supreme and National Courts of Papua New Guinea
- National Association of State Judicial Educators, Michigan, United States of America
- National Judicial Institute, Canada
- Philippine Judicial Academy, Manila
- PNG Centre for Judicial Excellence
- State Courts of Singapore
- Supreme Court of Indonesia
- Supreme Court of the Philippines
- Supreme Court of Singapore
- Supreme Court of the Solomon Islands
- Supreme People's Court, Beijing, China.

Appendix 15

Commission officers' presentations 2017–18

- **Mr E Schmatt AM PSM**, address to the Probus Club of Gunnamatta on the functions of the Commission, 17 July 2017
- **Mr H Donnelly**, "Transparent and consistent sentencing in the Land and Environment Court" presentation for the NSW legal profession and judiciary, Judicial Commission of NSW, 20 July 2017
- **Ms E Schmatt AM PSM** and **Ms U Doyle**, gave a presentation on judicial education to a delegation of 30 Bangladeshi judges as part of the Bangladeshi Judicial Training Program, 10 August 2017
- **Mr M Sagi PSM**, presented on the role, function and technology developed by the Commission for the Bangladeshi Judicial Training Program, 10 August 2017
- **Mr H Donnelly**, "Using JIRS Effectively" Introduction" presentation for the District Court of NSW, 22 August 2017
- **Mr H Donnelly**, "Transparent and consistent sentencing in the Land and Environment Court" presentation for the NSW legal profession, Environmental Planning & Law Association NSW, 7 September 2017
- **Mr E Schmatt AM PSM**, "30 years of the Judicial Commission", reception at Government House, 13 October 2017
- **Ms U Doyle** (with Ms A Mornement, Director, Education, Judicial College of Victoria), "Familiarisation" presentation at the National Judicial Orientation Program, Manly, NSW, 22 October 2017
- **Ms G Brignell**, **Ms K Lumley**, presentations about the role and functions of the Judicial Commission to delegation of officials from Nanjing Municipal Procuratorate, Jiangsu Province, China, 21 November 2017
- **Mr M Sagi PSM**, Presented on the judicial system in Australia and the role, function and technology, developed by the Commission for the visiting delegation from Nanjing Municipal Procuratorate, Jiangsu Province, China, 21 November 2018
- **Ms U Doyle**, "Introduction" presentation at the Local Court of NSW Magistrates' Orientation Program, 26 November 2017
- **Mr E Schmatt AM PSM**, presented a paper on the Commission's role in examining complaints against judicial officers, Bar Association Continuing Professional Development Program, 28 November 2017
- **Ms J Selfe**, "Overview of the Ngara Yura Program, presentation at the Aboriginal Family Law Conference, Greater Sydney Family Law Pathways Network, 28 November 2017
- **Mr M Sagi PSM**, participated in panel discussion on knowledge management in the Judiciary sector, presentation to the Indonesian Judicial Reform Forum by video conference, 16 January 2018
- **Ms J Selfe**, "Overview of the Ngara Yura program", co-presentation, Wingara Mura Bunga Barrabugu (Wingara Mura Bunga Barranbugu, translates to "a thinking path — to make tomorrow" in the Cadigal language and is the name of the University's strategy which commits them to Aboriginal and Torres Strait Islander participation, engagement, education and research), 17 January 2018
- **Ms P Mizzi**, Introduction to JIRS (for new Supreme Court tipstaffs), Supreme Court of NSW, 15 February 2018
- **Mr M Sagi PSM**, CPD Session, Intelligent Systems and Justice: the Judicial Commission experience, presented to the Commercial Law Association, 23 March 2018
- **Mr E Schmatt AM PSM**, panel discussion for the Global Judicial Integrity Network, United Nations Vienna, by video conference, 9–10 April 2018
- **Mr M Sagi PSM**, presented at Western Sydney University on the role, function and technology developed by the Commission for the Bangladesh Judicial Training and Research Program, 2 May 2018
- **Ms U Doyle**, "Introduction" presentation at the Local Court of NSW Magistrates' Orientation Program, 27 May 2018
- **Mr M Sagi PSM**, presented at Western Sydney University on the role, function and technology developed by the Commission for the Bangladesh Judicial Training and Research Program, 6 June 2018
- **Mr E Schmatt AM PSM**, "The Use of Technology to Assist with Sentencing Decisions", presentation for a delegation of 45 Thai Officers, 7 June 2018
- **Ms J Selfe**, "Overview of the Ngara Yura program" presentation to the Women's Reconciliation Network Redfern, 28 June 2018
- **Mr E Schmatt AM PSM**, **Ms U Doyle** and **Ms J Selfe**, gave a presentation on the Ngara Yura program to a delegation from the Vietnamese Ministry of Ethnic Minorities, 28 June 2018.

Legend for 30 years of the Commission, p 2

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1. The Honourable Sir Laurence Street AC, KCMG, KStJ, QC, Chief Justice of New South Wales 1974–1988; first President of the Judicial Commission 1987–1988.
2. Barrie Thorley AM, first Chief Executive of the Judicial Commission 1987–89 (left), with Ernest Schmatt AM PSM, the current Chief Executive, Judicial Commission, 1989–.
3. Joseph Trazzera and Murali Sagi maintaining the commission's database in 1995.
4. (l-r) Ernest Schmatt AM PSM, Chief Executive, Ruth Windeler, Education Director and Ivan Potas, Director, Research and Sentencing in 2000.
5. Cheryl Condon, Executive Assistant, provides members of the public with information about the Commission's complaints process in 2000.
6. Murali Sagi promoting the Judicial Information Research System (JIRS) to Aria Suyudi (Supreme Court of Indonesia), at a conference in Jakarta, Republic of Indonesia in 2000.
7. The Honourable Anthony Murray Gleeson AC QC, Chief Justice of NSW 1988–1998 and President of the Judicial Commission 1988–1998.
8. Joy Blunt, Systems Officer, Training, assisting judicial officers at the Local Courts Metropolitan Seminar Series I in February 2001.
9. Linda Burney, Deputy Director General, NSW Department of Aboriginal Affairs at the Local Court of NSW Annual Conference in June 1999.
10. Pictured with the Chief Magistrate of the Local Court, Judge Graeme Henson AM (centre) are Deputy Chief Magistrates Jane Mottley (left) and Jane Culver (right) in 2012.
11. Chief Executive Ernest Schmatt AM PSM receives international delegates as part of our exchanging information program at Thakral House, 301 George Street, Sydney, the Commission's premises from 1988–2016.
12. (l-r) Mick Dodson AM FASSA with the Honourable James Spigelman AC QC, Chief Justice of NSW, 1998–2011, in 2010.
13. A meeting of Judicial Commission members in 2011.
14. "Exchanging Ideas" conference in Sydney, 2011, from (l-r) the Chief Justice of NSW, the Honourable Tom Bathurst AC; Elder Uncle Max Eulo; Ms Cathy Eulo; the Commission's Chief Executive, Ernest Schmatt AM PSM; and the Chair of the Ngara Yura Committee, Judge Stephen Norrish QC.
15. Chief Superintendent Brad Shepherd, Commander, Hurstville Local Area Command, NSW Police and Mr Ernest Schmatt AM PSM at a Community Awareness of the Judiciary Program session in 2012.
16. The Honourable Justice Peter McClellan AM, Chief Judge at Common Law, Supreme Court of NSW and Justice Kim Sathavy, Supreme Court of Cambodia, pictured at the Supreme Court of NSW annual conference in August 2011.
17. Chief Magistrate of Papua New Guinea, Nerrie Eliakim, and Ernest Schmatt AM PSM, Chief Executive, signed a memorandum of understanding to provide assistance with professional development and judicial training programs for Papua New Guinea magistrates in September 2014.
18. Participants at a Community Awareness of the Judiciary Program session in September 2015.
19. Pictured are the Honourable Justice Hilary Hannam (Family Court) and Rosie Batty (Australian of the Year 2015) at a seminar in 2015.
20. Our current Chief Justice of NSW, the Honourable Tom Bathurst AC, 2011–.

Appendix 16

Access to government information

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

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

* More than one decision can be made in respect of a particular access application. If so, a recording must be made in relation to each such decision. This also applies to Table B.

Table B: Number of applications by type of application and outcome

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn
Personal information applications*	0	0	0	0	0	0	0	0
Access applications (other than personal information applications)	0	0	0	0	0	0	0	0
Access applications that are partly personal information applications and partly other	0	0	0	0	0	0	0	0

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

Table C: Invalid applications

Reason for invalidity	Number of applications
Application does not comply with formal requirements (section 41 of the Act)	0
Application is for excluded information of the agency (section 43 of the Act)	0
Application contravenes restraint order (section 110 of the Act)	0
Total number of invalid applications received	0
Invalid applications that subsequently became valid applications	0

Annual Report of the Judicial Commission of NSW 2017–18

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 Photography: Archived photos and Joe Moreno

Appendix 16 — Access to government information *continued*

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

	Number of times consideration used*
Overriding secrecy laws	0
Cabinet information	0
Executive Council information	0
Contempt	0
Legal professional privilege	0
Excluded information	0
Documents affecting law enforcement and public safety	0
Transport safety	0
Adoption	0
Care and protection of children	0
Ministerial Code of Conduct	0
Aboriginal and environmental heritage	0

* More than one public interest consideration may apply in relation to a particular access application and, if so, each such consideration is to be recorded (but only once per application). This also applies in relation to Table E.

Table E: Other public interest considerations against disclosure: matters listed in table to section 14 of Act

	Number of occasions when application not successful
Responsible and effective government	0
Law enforcement and security	0
Individual rights, judicial processes and natural justice	0
Business interests of agencies and other persons	0
Environment, culture, economy and general matters	0
Secrecy provisions	0
Exempt documents under interstate Freedom of Information legislation	0

Table F: Timeliness

	Number of applications
Decided within the statutory time frame (20 days plus any extensions)	0
Decided after 35 days (by agreement with applicant)	0
Not decided within time (deemed refusal)	0
Total	0

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

	Decision varied	Decision upheld	Total
Internal review	0	0	0
Review by Information Commissioner*	0	0	0
Internal review following recommendation under section 93 of Act	0	0	0
Review by ADT	0	0	0
Total	0	0	0

* The Information Commissioner does not have the authority to vary decisions, but can make recommendation to the original decision-maker. The data in this case indicates that a recommendation to vary or uphold the original decision has been made by the Information Commissioner.

Table H: Applications for review under Part 5 of the Act (by type of applicant)

	Number of applications for review
Applications by access applicants	0
Applications by persons to whom information the subject of access application relates (see section 54 of the Act)	0

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

	Number of applications transferred
Agency-initiated transfers	0
Application-initiated transfers	0

Appendix 17

Other compliance matters

Application for extension of time	No extension applied for.
Code of Conduct	The Code of Conduct is available to all staff on the Commission's intranet. As no amendments were made in 2017–18, the Commission is not required to reproduce the Code of Conduct.
Controlled entities, disclosure of	The Commission has no controlled entities.
Community Relations Commission, agreements with	No agreements have been entered into.
Disability Plan	The Commission is only required to report on a triennial basis.
Digital information security policy attestation	Refer to p 86.
Events with a significant effect on the succeeding year after the balance date	Not applicable.
Executive officers, performance and numbers	Performance not reported because the Commission's executive officers are not employed under the <i>Government Sector Employment Act 2013</i> but under the <i>Judicial Officers Act 1986</i> . Numbers and remuneration are reported on p 87.
Funds granted to non-government community organisations	None.
Heritage management	Not applicable.
Implementation of price determination	Not applicable.
Land disposal	The Commission does not own and did not dispose of any property.
Major assets	The Commission does not own any major assets.
Multicultural Policies and Services Program	Refer to p 71.
Public interest disclosure (PID)	No public interest disclosures made.
Requirements arising from employment arrangements	Not applicable.
Responses to reports of parliamentary committees and Auditor General	No significant matters requiring a response were raised.
Subsidiaries, disclosure of	The Commission has no subsidiaries.
Waste	Refer to p 88 for our sustainability reporting.
Work health and safety	Refer to p 73.

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.
JIRS	— Judicial Information Research System.
Judicial Commission	— An independent statutory organisation established by the <i>Judicial Officers Act 1986</i> . — The appointed members and official members, collectively.
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 <i>Judicial Officers Act 1986</i> : <ul style="list-style-type: none"> • 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. <p>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.</p>
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 <i>Judicial Officers Act 1986</i> empowers the Judicial Commission of NSW to declare as a vexatious complainant a person who habitually and persistently, and mischievously or without any reasonable grounds, makes complaints about judicial officers. The effect of the declaration is that the Commission may disregard any further complaint from the complainant.

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Apart from the title of publications or legislation, entries in italic indicate compliance with statutory reporting requirements.

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