



# Judicial Commission of NSW

Annual Report  
2018–19



## Judicial Commission of New South Wales

This annual report summarises the results and performance of the Judicial Commission of NSW for 2018–19 measured against our strategies and targets. We also outline our strategic focus for 2019–20. This and earlier annual reports are available on our public website at [www.judcom.nsw.gov.au](http://www.judcom.nsw.gov.au).

### Compliance letter to the Attorney General



Judicial Commission  
of New South Wales

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 2019.

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

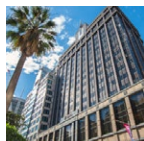
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# Contents

Our vision	2
Our values	2

## Overview 3



Our structure, strategic direction, services delivery, performance and achievements enable us to promote the highest standards of judicial behaviour, performance and decision making.

About the Commission	4
2018–19 highlights and key events	5
Looking at the last 5 years	6
Our history	7
Overview of the Commission	8
Our services delivery	9
Results in brief and strategic direction	10
Performance results 2017–19 and targets 2018–20	12
President's foreword	14
Chief Executive's message	16
Judicial Commission members	18
Our executive team	21

## Program 1: Delivering continuing judicial education 23



Our strategy and education program delivery informs judicial officers about changes to law, court practice and procedure and community values.

1.1 Performance results 2018–19	24
1.2 Listening to judicial officers	26
1.3 Satisfaction with our continuing judicial education	27
1.4 How we design and deliver continuing judicial education	32

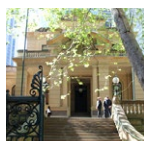
## Program 2: Providing legal information 35



Our provision of current, accurate and timely legal and statistical information assists judicial officers in their day-to-day decision making

2.1 Performance results 2018–19	36
2.2 Listening to feedback	38
2.3 Key focus and challenge for the year	38
2.4 Why we provide legal information and resources	39
2.5 We provide accurate and current legal information	39

## Program 3: Examining complaints 47



Our complaints function has efficient and timely procedures to ensure high standards of judicial performance.

3.1 Performance results 2018–19	48
3.2 Why we examine complaints	50
3.3 Complaints received and examined during the year	51
3.4 Identifying complaint patterns 2018–19	53
3.5 How we deal with complaints and enquiries	54

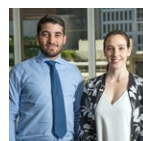
## Our partners and the community 57



We exchange knowledge, expertise and experience with the NSW public, government law agencies and national and international jurisdictions to promote the rule of law.

Performance results 2018–19	58
Listening to our partners and the community	60
We inform the public about what we do and exchange knowledge and expertise with other organisations	61

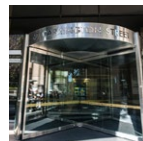
## Our people 67



Our highly skilled staff contribute to our services delivery and support our mission to promote high standards of judicial performance.

Performance results 2018–19	68
Performance and satisfaction	70

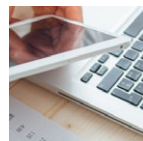
## Our governance and ethics 79



The Commission consisting of official and appointed members, our independent Audit and Risk Committee and our executive operate within a robust governance framework.

Performance results 2018–19	80
Our governance framework and ethics	82
Acknowledging human rights	93
Sustainability	94

## Our finances 95



Our financial result underpins the performance of our statutory functions.

Performance results 2018–19	96
Financial overview	97
Financial Report	98

## Supplementary materials 125

Appendices	126
Table of case studies	138
Table of figures	138
Table of tables	138
Glossary	139
Index	140

## 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.





# Overview

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

About the Commission .....	4
2018–19 highlights and key events.....	5
Looking at the last 5 years .....	6
Our history .....	7
Overview of the Commission .....	8
Our services delivery.....	9
Results in brief and strategic direction .....	10
Performance results 2017–19 and targets 2018–20 ..	12
President’s foreword .....	14
Chief Executive’s message.....	16
Judicial Commission members.....	18
Our executive team .....	21



## About the Commission

**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 vision and values are set out on p 2.

### 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 18–22 for their profiles and achievements. An independent Audit and Risk Committee monitors our risk profile and advises the Chief Executive: see p 85 for details of the committee.

### Our mission

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

### 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 8 and our services delivery chart on p 9.

### Our resources

**Staff** — We employed 32 people (30.4 full-time equivalent) as at 30 June 2019 and had a turnover rate of 12%. See pp 70, 73.

**Revenue** — \$6.89 million (last year: \$5.568 million) revenue from the NSW Government. Supplementary government funding was required during the year due to expenses for Conduct Divisions. See p 96.

**Other revenue** — \$1.123 million from other revenue including \$937,000 in self-generated revenue. See p 96.



## 2018–19 highlights and key events

### Delivering continuing judicial education



- 90% judicial satisfaction with the continuing judicial education program. See p 27.
- Our publications have kept judicial officers up-to-date with significant sentencing law changes. See p 28.
- Convened a successful forum on the Uluru Statement from the Heart. See p 30.
- *Equality before the Law Bench Book* awarded International Best Award from the Association for Continuing Legal Education. See p 34.

### Providing legal information



- Published a well-received analysis of the sentencing reforms in the *Judicial Officers' Bulletin*. See p 28.
- Published information about the new community-based sentences in the *Sentencing Bench Book* and *Local Court Bench Book* before they commenced. See p 40.

### Examining complaints



- Examined 68 complaints in reporting period. See p 51.
- Held an unprecedented 3 Conduct Divisions. See p 52.

### Our partners



- Liaised with the Australian National Imams Council to discuss strategies to raise judicial awareness about the participation of Australian Muslims in court processes. See p 61.
- Renewed 2 Memoranda of Understanding with the Supreme and National Courts of PNG for the PNG Sentencing Database and the PNG Integrated Criminal Case System database. See p 63.

### Our people



- High level of staff satisfaction at 94%. See p 70.
- Developed and shared expertise through secondments. See p 75.

### Our governance and ethics



- Annual Report receives ninth consecutive gold award from Australasian Reporting Awards. See p 77.
- Successfully implemented our revised Business Continuity and Disaster Recovery Plan when there was a power failure to the Commission's premises. See p 89.

### Our finances



- Ended financial year with a deficit of \$7,000, a better overall performance against budget than previous year. See p 96.



## Looking at the last 5 years

	2014–15	2015–16	2016–17	2017–18	2018–19	Trend
<b>Delivering continuing judicial education</b>						
Number of judicial education days each year	1,075	1,452	667*	1,024	1,191	↑
Number of educational events	39	43	44	38	41	↑
Overall satisfaction rating with judicial education events	92%	93%	91%	93%	90%	↓
% of attendance by judicial officers at annual conferences	85%	87%	77%	81%	87%	↑
% of attendance at magistrates' induction/orientation programs	100%	100%	100%	100%	100%	=
Average number of training days offered each judicial officer	4.3	5.8	3.5*	4.7	4.4	↓
Average number of training days undertaken by each judicial officer	3.7	5	2.2*	3.7	3.8	↑
% of judicial officers who attended at least 2 days of judicial training	67%	78%	77%	81%	94%	↑
Number of publications (including bench book updates, bulletins, journals, education monographs and training videos)	34	34	31	32	39	↑
<b>Providing legal information (includes research and sentencing)</b>						
JIRS usage (average page hits each month)	127,302	136,324	134,476	136,527	138,531	↑
% of JIRS availability	99%	99%	99%	99%	99%	=
Number of enhancements to JIRS	6	14	10	7	4	↓
Timeliness of sentencing material on JIRS						
– Recent law items posted on JIRS	2 wks	2 wks	2 wks	2 wks	3–4 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 &amp; Issues</i> papers and monographs	3	2	2	0	0	=
Timely updates to the <i>Criminal Trial Courts Bench Book</i> and <i>Sentencing Bench Book</i>	6	8	7	6	7	↑
Lawcodes: % of new and amended offences coded and distributed within 4 days of commencement	100%	100%	100%	100%	100%	=
<b>Examining complaints</b>						
% of complaints acknowledged within 1 week of receipt	100%	100%	100%	100%	100%	=
% of complaints examined within 6 months of receipt	100%	93%	94%	90%	94%	↑
% of complaints examined within 12 months of receipt	100%	100%	99%	100%	99%	↓
Complaints received (number)	59	44	75	74	63	↓
Complaints examined (number)	56	40	72	62	68	↑
<b>Our people</b>						
Staff (number)	41	41	40	38	32	↓
Length of service: 5 years or greater	67%	77%	65%	79%	76%	↓
<b>Our governance and ethics</b>						
Access to information requests	0	0	2	0	0	=
<b>Environmental sustainability</b>						
Total energy used	463 GJ	449 GJ	278 GJ	291 GJ	311 GJ	↑
% of recycled paper used	100%	100%	100%	100%	100%	=
<b>Our finances</b>						
Revenue from NSW Government	\$5.247 M	\$3.755 M	\$6.766 M	\$5.568 M	\$6.890 M	↑
Retained revenue (sale of goods & services, investment income, etc)	\$883,000	\$738,000	\$812,000	\$1.041 M	\$1.123 M	↑
Expenditure	\$6.173 M	\$5.840 M	\$6.338 M	\$6.857 M	\$8.020 M	↑

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

### Legend

= same/no change ↑ increased ↓ decreased



## 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 achieve consistency in their approach to sentencing.
  - ▶ **1990** — Chief Justice Gleeson, the Commission's President, launched the Sentencing Information System.
  - ▶ **1991** — A Conduct Division reported to the Governor that Parliament consider removal of a magistrate from office. The magistrate resigned before Parliament considered the matter.
  - ▶ **1996** — The Sentencing Information System, re-engineered and expanded to include information relevant for all courts, was renamed the Judicial Information Research System (JIRS).
  - ▶ **1997** — A Conduct Division reported to the Governor that Parliament consider removal of a magistrate from office. The magistrate resigned before Parliament considered the matter.
  - ▶ **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.
  - ▶ **2006** — A complete review of the *Judicial Officers Act* was undertaken. One of the most important amendments was to remove the classification of complaints as "minor" or "serious".
  - ▶ **2007** — A special reception was held in October at Government House to commemorate 20 years of operations. A brief history of the Commission, "From Controversy to Credibility" 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 each reported to the Governor that Parliament consider removal of a magistrate 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** — The Commission moved to new premises at 60 Carrington Street, Sydney.
  - ▶ **2017** — The Commission celebrated 30 years with a special reception at Government House. The Australian National Imams Council, with the assistance of the Commission, prepared an "Explanatory Note on the Judicial Process and Participation of Muslims".
  - ▶ **2019** — Two separate Conduct Divisions each reported to the Governor, that Parliament consider removal of a judicial officer (a magistrate and a District Court judge) from office. Both resigned before Parliament considered the matters.

## Overview of the Commission

Figure 1. Our organisational structure

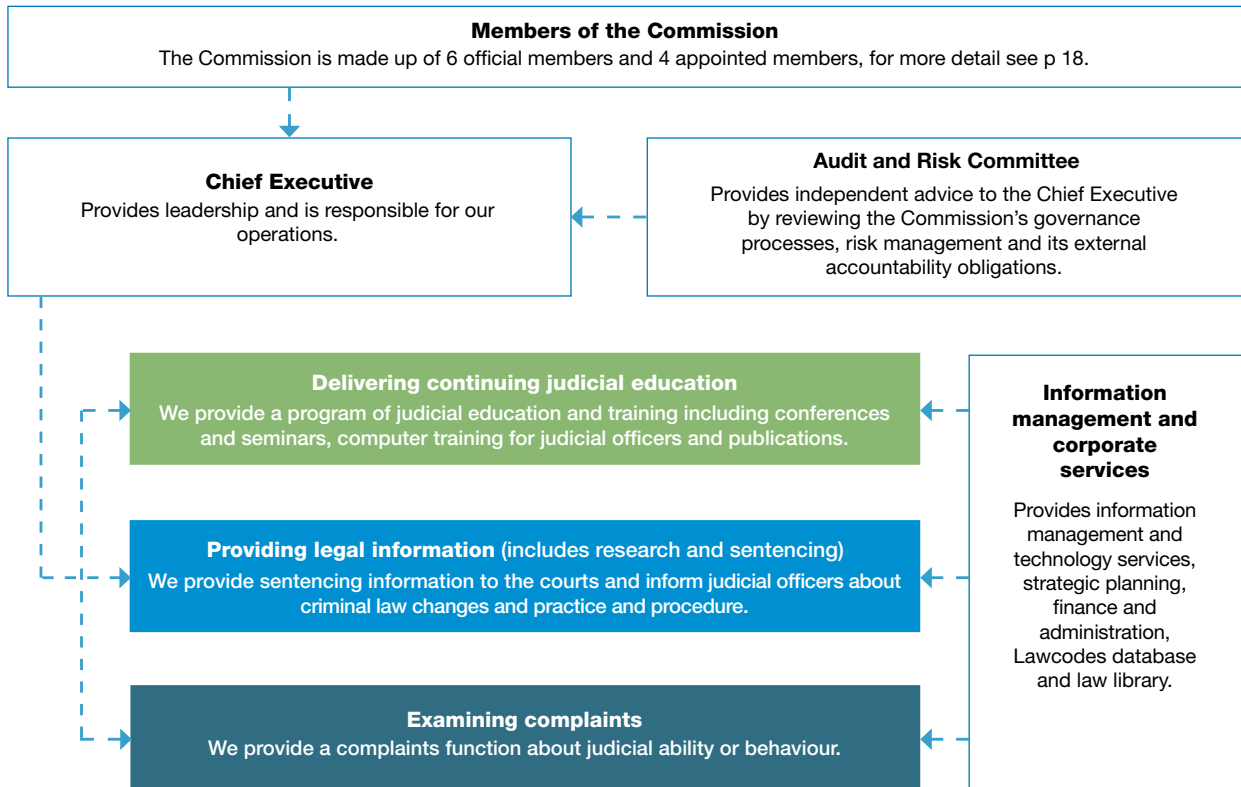
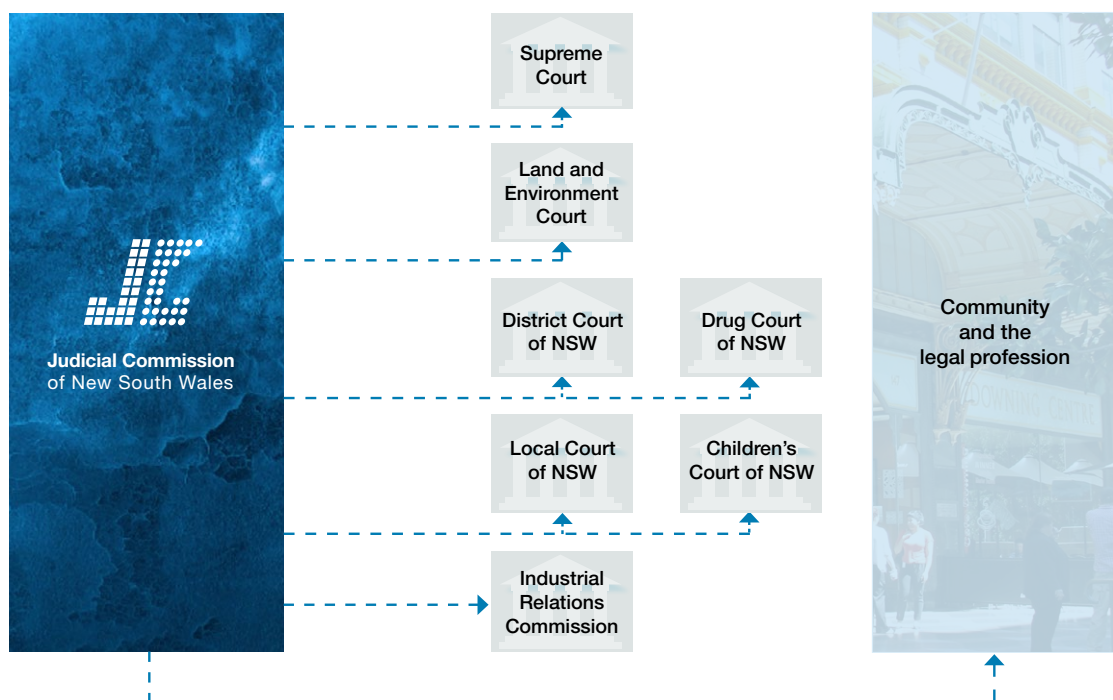


Figure 2. Who we provide our services to in the justice system







## Our services delivery

### Services we provide



#### Delivering continuing judicial education

Result	Strategies			Performance
Judicial officers are updated about changes to the law, court practice and procedure and community values.	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 23–34 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 23–34 for an overview of our activities this year.



#### 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 41.	Bench books contain major legislation and precedents which apply when conducting civil and criminal trials, procedural guidelines, suggested jury directions, and sample orders.	In-depth research studies.	See pp 35–46 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 35–46 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 are maintained.	Examining complaints efficiently, independently, objectively and effectively.	Informing the complainant and the judicial officer involved of the outcome of the Commissions examination of a 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 47–56 for an overview of our activities this year.

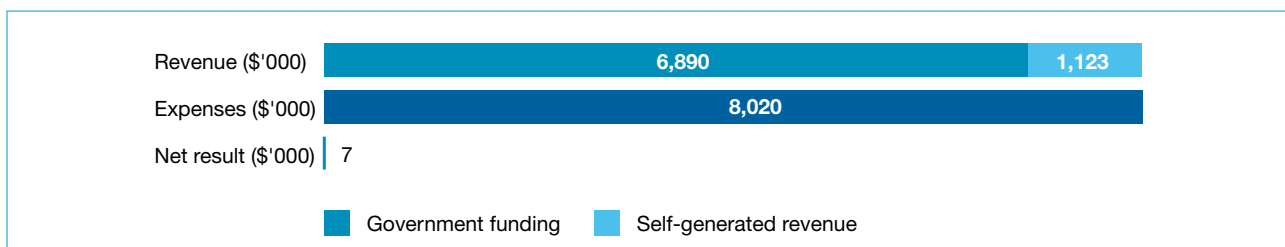
## Results in brief and strategic direction

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 2019–20.

### \$ Our finances

We received an unmodified report for our financial statements from the Auditor-General of NSW. Supplementary government funding was required during the year due to the unusually high number of Conduct Divisions. Looking ahead, we will proactively maintain our self-generated income streams. See Our finances from p 95.

Figure 3. 2019 revenue, expenses and net result



### 📄 Delivering continuing judicial education

Key results	Key challenge	Strategic direction
<p>Judicial officers rated their satisfaction with the education program at 90%. See p 27.</p> <p>Judicial skills, knowledge and attitudes were enhanced with 41 education events offered. See pp 23–34.</p> <p>The <i>Equality before the Law Bench Book</i> received an international outstanding achievement award from the Association for Continuing Legal Education in its Public Interest category. See p 34.</p>	<p>Partnering with the courts to ensure that judicial officers are supported during the ongoing implementation of the significant reforms to sentencing laws enacted in September 2018. See p 28.</p>	<p>Conduct a strategic review of our publications to ensure they continue to meet contemporary judicial needs.</p> <p>Build on the findings of our joint research initiative into vicarious trauma by developing appropriate educational responses.</p>

### ⚖️ Providing legal information

Key results	Key challenge	Strategic direction
<p>39 publications to inform judicial officers about changes to the law, court practice and procedure and community values. See p 40.</p> <p>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 1.662 million page hits (1.5% growth), again an all-time high. See p 43.</p>	<p>Updating our information to inform judicial officers about sentencing law reforms (commenced September 2018); reforms to child sexual assault laws following the Child Abuse Royal Commission recommendations; and reforms to forensic mental health law. See pp 28, 40, 46.</p>	<p>Focus on engagement with judicial officers to ensure JIRS meets their needs and liaison with the legal profession to keep them informed of developments in the presentation of the sentencing statistics on JIRS.</p>



## Results in brief and strategic direction continued



### Examining complaints

Key results	Key challenge	Strategic direction
<p>68 formal complaints examined. Examination of 99% of complaints finalised within 12 months of receipt. All complaints acknowledged in writing within 5 days.</p> <p>Two Conduct Divisions finalised and a third commenced. See p 51–52.</p>	<p>Funding of unusually high number of Conduct Divisions in one reporting year. See p 97.</p> <p>Explaining to complainants why their complaint was dismissed under statutory criteria in the <i>Judicial Officers Act 1986</i>. See p 53.</p>	<p>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.</p>



### Engaging with our partners and the community

Key results	Key challenges	Strategic direction
<p>Partnered with professional bodies to host the third Exchanging Ideas Symposium, focussing on the processes behind the 2017 Uluru Statement from the Heart. See pp 30, 61.</p> <p>Continued to collaborate closely with Papua New Guinea to assist with capacity-building. See p 62.</p> <p>Collaborated closely with the Department of Justice to help communicate major reforms to judicial officers. See p 63.</p>	<p>Commenting on and implementing the NSW Government's extensive criminal justice reforms. See p 63.</p> <p>Balancing our core work with requests for research assistance and capacity-building projects. See p 43.</p>	<p>Continue to provide assistance to law and justice sectors of other countries in our region.</p> <p>Continue to provide assistance to other Australian jurisdictions and institutions, and work with other judicial education providers.</p>



### Our people

Key results	Key challenge	Strategic direction
<p>94% staff satisfaction as measured in our yearly staff survey. See p 70.</p>	<p>Encouraging busy staff to balance their work commitments with training and development opportunities. See p 74.</p>	<p>Developing further strategies to assess and understand where the Commission's productivity can be improved.</p>



### Our governance and ethics

Key results	Key challenges	Strategic direction
<p>10 Commission and 4 Audit Risk Committee meetings held, ensuring robust governance. See pp 84, 88.</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 88.</p>	<p>Reviewing and implementing internal audit recommendations which must be balanced with our core operations. See p 89.</p> <p>Managing succession planning as long-term staff approach retirement. See p 90.</p>	<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.</p>



## Performance results 2017–19 and targets 2018–20

Result	Measure	2017–18 result
<b>Delivering continuing judicial education</b>		
Judicial officers informed about changes to the law, community values, court practice and procedure	Maintain/increase number of publications	32 publications
	Maintain/increase number of specialised education events offered	38 education events
	Education events assisted judicial officers to reach the national standard of 5 judicial education days each year, see Note 1	4.7 days offered 3.7 days undertaken
Judicial skills, attitudes and knowledge enhanced	Maintain/increase ratings that our services provide judicially relevant and stimulating education and information	90% of participants satisfied that events relevant and applicable and 76% satisfied that events enhanced knowledge and capability
Judicial officers satisfied with their education	Maintain/improve satisfaction rates from last year	93% overall satisfaction
Judicial officers satisfied with skills-based workshops	Maintain/improve satisfaction rates from last year	94% overall satisfaction
<b>Providing legal information</b>		
Judicial officers had access to current law to assist in decision making	Maintain/increase use of Judicial Information Research System (JIRS)	136,527 average page hits each month
Judicial officers promptly informed about changes to criminal law and criminal practice and procedure	Maintain accuracy of legislation by weekly updates; update judgments on a daily basis; maintain bench books to reflect significant changes to the law; maintain email alert service	<ul style="list-style-type: none"> <li>• 232 recent law items posted on JIRS</li> <li>• 252 summaries of select appeal decisions published on JIRS</li> <li>• 3 updates to <i>Criminal Trial Courts Bench Book</i></li> </ul>
Judicial officers promptly notified of changes in sentencing law and practice	Maintain legal accuracy of Sentencing Information Principles and Practices component of JIRS	3 updates to <i>Sentencing Bench Book</i>
		Sentencing principles in <i>Sentencing Bench Book</i> linked to new cases and legislation
Accurate sentencing information available to judicial officers	Maintain sentencing statistics on JIRS on the range and frequency of penalties imposed in similar cases	Sentencing data received, audited and loaded on JIRS within 4 months of receipt
	Maintain information about sentences that other judicial officers have given in similar circumstances	Published 252 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	0 <i>Sentencing Trends &amp; Issues</i> paper and 0 monograph published
	Provide information in response to requests for specific sentencing issues	10 research requests from judicial officers and responses to 11 non-judicial enquiries
Judicial officers informed about sentencing options and rehabilitation facilities for offenders	Maintain current information in the Diversionary Programs database on JIRS	Done
JIRS improved to meet judicial officers' needs	Maintain/increase number of improvements to JIRS	7
<b>Examining complaints</b>		
Timely acknowledgment and completion of preliminary examination of complaints	Maintain/decrease time taken to conduct preliminary examination of complaints	Examined 90% of complaints within 6 months and 100% 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, see Note 6	365 judicial officers in NSW heard around 700,000 court matters in 2017–18. 74 complaints about 68 judicial officers made
	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 were summarily dismissed under section 20 of the <i>Judicial Officers Act</i> 1986 2 complaints referred to Conduct Division, 5 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 304 requests for information
Independence of judicial officers maintained	Complaints process demonstrates integrity of complaints function, see Note 6	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, see Note 6	49% of complaints arose from allegations of failure to give a fair hearing 22% of complaints arose from allegations of an apprehension of bias

Note 1. 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 and national and State judicial education bodies, see Appendix 3.

Note 2. From 2018–19, satisfaction levels for “skills-based workshops” are not separated out from “education”.

Note 3. It is not possible to determine a target number of recent law items, summaries, and bench book updates as these items are responsive to court and legislative developments. As variables external to the Commission, they are outside the Commission's control. All recent law items, summaries and bench book updates are produced because they address relevant changes to the law.



2018–19 target	2018–19 result	Status	2019–20 target
34 publications	39 publications	↑	34 publications
34 education events	41 education events	↑	34 education events
5 days offered 5 days undertaken	4.4 days offered 3.8 days undertaken	↓ see Note 1	n/a, see Note 1
80% of participants satisfied that events relevant and applicable and 70% satisfied that events enhanced knowledge and capability	81% of participants satisfied that events relevant and applicable and 77% 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	90% overall satisfaction	↑	85% overall satisfaction
85% overall satisfaction	see Note 2	n/a, see Note 2	n/a, see Note 2
115,000 average page hits each month	138,531 average hits each month	↑	115,000 average page hits each month
See Note 3 n/a update as required for <i>Criminal Trial Courts Bench Book</i> , see Note 3	<ul style="list-style-type: none"> <li>214 recent law items posted on JIRS</li> <li>175 summaries of select appeal decisions published on JIRS</li> <li>4 updates to <i>Criminal Trial Courts Bench Book</i></li> </ul>	✓	See Note 3 See Note 3 as required for <i>Criminal Trial Courts Bench Book</i> , see Note 3
as required for <i>Sentencing Bench Book</i>	3 updates to <i>Sentencing Bench Book</i>	✓	update as required for <i>Sentencing Bench Book</i> , see Note 3
Sentencing principles in <i>Sentencing Bench Book</i> linked to new cases and legislation	Sentencing principles in <i>Sentencing Bench Book</i> linked to new cases and legislation	✓	Sentencing principles in <i>Sentencing Bench Book</i> linked to new cases and legislation
1–4 months	Sentencing data received, audited and loaded on JIRS within 4 months of receipt	✓	1–4 months
as required	Published 175 summaries of significant appeal decisions in the <i>Judicial Officers' Bulletin</i>	✓	as required
as required, see Note 4	0 <i>Sentencing Trends &amp; Issues</i> paper and 0 monograph published	✓	as required, see Note 4
as required, see Note 4	41 research requests	✓	as required, see Note 4
n/a, see Note 5	Done	✓	n/a, see Note 5
5	4	↓	5
Examine 90% within 6 months; 100% within 12 months	Examine 94% within 6 months; 99% 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
See Note 6	378 judicial officers in NSW heard around 700,000 court matters in 2018–19. 63 complaints about 56 judicial officers made	✓	n/a, see Note 6
See Note 6	97% of complaints were summarily dismissed under section 20 of the <i>Judicial Officers Act 1986</i> 1 complaint referred to Conduct Division, 1 complaint referred to head of jurisdiction	✓	n/a, see Note 6
See Note 6	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, see Note 6
See Note 6	Responded to 309 requests for information	✓	n/a, see Note 6
See Note 6	Commission examined all complaints according to statutory criteria and established protocols	✓	n/a, see Note 6
See Note 6	32 of 63 complaints arose from allegations of failure to give fair hearing (51%) and 13 of 63 complaints from allegations of an apprehension of bias (21%)	✓	n/a, see Note 6

Note 4. Publication of sentencing trends, research papers, and monographs and responding to specific requests for information are dependent on external variables, ie changes to the law, which cannot be predicted for quantitative target setting.

Note 5. Because this target is absolute, no other numerical target is set.

Note 6. The measure of these targets is qualitative, ongoing, and subject to external variables to which the Commission can only respond. As such, no numerical measure is articulated.

#### Legend

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



## President's foreword

It is a pleasure to provide this year's foreword to the Judicial Commission's 2018–19 Annual Report.

The Judicial Commission is a vital institution which promotes the highest standards of judicial behaviour, performance and decision making. These standards are fundamental to the public's confidence in the judicial arm of our democracy.

An essential ingredient of the Commission's success in performing this role has been its independence from other branches of government. It is critical that members of the executive do not see or treat the Commission as a mere branch of a governmental department, but rather, as an independent statutory body performing the functions allocated to it by the legislature.

This report provides an account of the ways in which the Commission dedicates its resources in performing these functions, through its education programming, provision of accurate statistical and legal information, and its procedures for examining complaints made in relation to judicial officers in NSW. The report records the Commission's activities and performance as well as setting out its strategic view for the year ahead and beyond.

### Major focus on sentencing law reform

A major focus of the Commission over the last 12 months has been to inform judicial officers about significant sentencing law reforms to the community-based penalty options which may be imposed on eligible convicted offenders. The Commission communicated these changes through seminars, workshops, publications and updates to

bench books to which judicial officers refer in their day-to-day decision making. This multi-faceted process was underway before the commencement of the new laws in September 2018 and the reforms have continued to be a focus as they have become integrated into sentencing practice and procedure.

### Judicial education

The Commission's education program is designed to foster ongoing renewal of judicial skills and provide timely information about changes to law, court practice and procedure as well as community values and cultural knowledge. It includes conferences, workshops, print publications and digital resources, including videos and, for the first time this year, a series of co-produced podcasts on the sentencing law reforms.

In a year where there has been a large number of District Court appointments, pre-bench and orientation initiatives to assist new judicial officers adapt to their roles have featured more prominently in the events calendar. A significant measure of the success of the year's 41 events is the high judicial satisfaction ratings recorded in attendee evaluations (90%).

The Commission has also continued to offer the Ngara Yura Program, which aims to raise judicial awareness about Aboriginal history and culture, and provides a useful way for judicial officers and Aboriginal people to interact with each other and exchange ideas in an informal setting. I am very pleased with the strong support for this program shown by the judiciary, and I hope that this ongoing engagement with the Aboriginal community will assist all judicial officers who come into contact with Aboriginal people through the justice system.





## Legal information

There has been an increase in the number of publications the Commission issued this year, as well as new content incorporated into existing works. The impetus for this activity has come from legal change, such as the sentencing reforms mentioned earlier, as well as the Commission's commitment to providing accurate, timely and relevant legal information resources for judicial officers in their day to day work.

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 its highest levels of usage since its inception with an average of 138,531 page hits each month, representing an increase of 1.5% on last year. The Commission also publishes most of its resources on its free-to-view website for the use and benefit of the public, and this year has seen a 5.1% increase in web traffic.

## Balancing accountability and judicial independence

The separation of judicial, executive and legislative powers is a fundamental concept of the rule of law. It is the right of the people to have a judiciary that is free from political interference. The Commission's formal complaints process is one of the ways in which the independent judiciary is held accountable to the public of NSW.

This year, the Commission examined 68 complaints of which 97% were summarily dismissed following the Commission's preliminary examination. Where the Commission finds a complaint warrants further attention, and chooses not to refer the matter to the relevant head of jurisdiction, the complaint must be referred to a Conduct Division specifically convened for its examination.

Two Conduct Divisions were finalised this year, each forming the opinion that the complaint could justify Parliamentary consideration of the judicial officer's removal. In each instance, the judicial officer resigned before this occurred. A third Conduct Division commenced hearing evidence in a complaint but ceased examination when the judicial officer concerned resigned.

## Engaging with other organisations

This year again saw the Commission engaging with other organisations in various ways.

As part of its other functions, the Commission provides considerable assistance to Papua New Guinea. This includes capacity-building in the areas of judicial education as well as in the use of the sentencing database and the criminal case management system which the Commission developed and hosts for PNG. The Commission also welcomed visiting delegations from China, the Philippines, South America and Nepal. In the year ahead, the Commission will continue to build and develop relationships with the law and justice sectors of other countries.

One of the Commission's key functions is to share its technical expertise in judicial education services, computerised sentencing information and building and managing judicial support and case management systems. The Commission works with organisations such as the Continuing Legal Education Association of Australasia and the International Organization for Judicial Training to further

the objective of continuing judicial education in both domestic and international spheres.

As part of its long-standing support of the Drug Court of NSW, this year the Commission assisted in the delivery of the Court's 20th Anniversary conference in February 2019.

The third Exchanging Ideas Symposium, with a focus on the processes that produced the Uluru Statement from the Heart, held in Sydney in June, was a collaboration between the Commission and the professional associations of NSW solicitors and barristers.

The Commission continues to maintain Lawcodes, which enable justice sector agencies to electronically exchange information about Commonwealth and State offences with accuracy and efficiency.

## Strategic direction

Looking to the future, the Commission remains focused on ensuring judicial decision-making draws on current and accurate information and skills, delivered in the most relevant and efficient ways. Some of the initiatives with which the Commission will be occupied in the year ahead include identifying the possibilities, challenges and implications of ever-evolving technology for judicial officers, preparing an issues paper addressing the complexities of bail, and delivering educational responses to concerns emerging from vicarious trauma research. In every case, the overriding goal of the Commission is to be responsive to the needs of judicial officers by providing them with the resources required to perform their work fairly and efficiently.

## My thanks and appreciation

In February, the Honourable Margaret Beazley AO QC resigned from the Court of Appeal prior to taking up appointment as Governor of NSW. As such, the new President of the Court of Appeal, the Honourable Justice Andrew Bell, became an official member of the Commission. I express my gratitude and acknowledge her Excellency's contribution to the work of the Commission and welcome Justice Bell.

I also express my sincere gratitude to all the other judicial officers who contributed their time, energy and expertise to the Commission's endeavours. It is the dedicated effort of all these individuals that enables the Commission to deliver programs and legal information so successfully for the benefit of the judicial officers of NSW and the public which they serve.

Finally, the Commission would not have been able to perform its functions over the past year without the hard work and dedication of its staff. I would like to acknowledge the importance of their efforts to achieving the objectives of the Commission, and their commitment to maintaining the fair and efficient administration of justice in NSW. I would like to extend particular thanks to Ernie Schmatt AM PSM, the Chief Executive; Murali Sagi PSM, Deputy Chief Executive; Pierrette Mizzi, Director, Research and Sentencing; and Una Doyle, Director, Education.

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



## Chief Executive's message

I am very pleased to present my report on the Judicial Commission's results for 2018–19.

### Key focus for the year

A key focus of the Commission's work this reporting year has been informing judicial officers of significant sentencing law reform in NSW. Major changes to sentencing legislation commenced in September 2018, altering the community-based penalty options that a judicial officer may impose when sentencing an eligible convicted offender.

Staff across the Commission have been engaged with communicating the reforms using various delivery channels. Activities began well before the amendments commenced, including working with the NSW Department of Justice and judicial officers, and continued beyond the commencement date. We updated our *Sentencing Bench Book* and other loose-leaf services and published information about the reforms in the *Judicial Officers' Bulletin* and on the Judicial Information Research System (JIRS) database. We delivered seminars for the courts and developed a workshop series of interactive sentencing exercises and case studies to illustrate the changes. In a first for our education program, we initiated a podcast series with Corrective Services NSW to clarify some aspects of the changes. The dedication of the Commission's time and resources to these sentencing reforms is directly connected to our stated mission to promote the highest standards of judicial decision making and our statutory mandate to provide sentencing information.

### Providing continuing judicial education

Our education program delivered 41 discrete events to enhance judicial skills and knowledge. Satisfaction with our continuing judicial education program remains high at 90%. In a year where an unprecedented number of new District Court appointments were made, our events have included an emphasis on equipping appointees with the practical skills necessary in their roles and providing opportunities for mentorship between new and more experienced judicial officers.

We saw an increase in our publishing output for the year (39 publications) including updates to bench books, journals, bulletins and videos. The *Equality before the Law Bench Book* was significantly enhanced with a new chapter on "Older people and the law".

I am proud to report that the *Equality before the Law Bench Book* received an international outstanding achievement award from the Association for Continuing Legal Education in its Public Interest category. The award acknowledges the calibre of the Commission's ongoing commitment to equality in the administration of justice in NSW.

### Providing legal information

Our major legal information focus was to communicate the sentencing reforms, referred to above, to judicial officers. Our research and sentencing team was also required to respond to an unprecedented number of complex research



requests from NSW Government agencies and judicial officers: 41 this year compared to 10 in the previous year. Overall usage of the JIRS platform increased again this year by 1.5% to over 1.6 million total page hits, an all-time high.

### Examining complaints

Of the complaints examined in 2018–19, 97% were summarily dismissed following the Commission's independent preliminary examinations. The Commission examined 68 complaints and we finalised the examination of 99% of complaints within 12 months of receipt.

Three Conduct Divisions were held during the year. Two Conduct Divisions formed the opinion that the complaint could justify Parliamentary consideration of the judicial officer's removal. In each case, the judicial officer resigned after the report was tabled in Parliament. A third Conduct Division ceased its examination of a complaint due to the resignation of the judicial officer concerned.

### Our partners and the community

The Commission has continued to build and develop strong relationships with our partners and the broader community around Australia and internationally. We hosted visitors and delegations throughout the year and provided substantial assistance to the Papua New Guinea law and justice sector.

Our Ngara Yura Committee (our Aboriginal cultural competency program) partnered with the NSW Bar Association, Law Society of NSW and Museum of Applied Arts and Science to produce a one-day conference on the processes behind the 2017 Uluru Statement from the Heart. We received very positive feedback about the event from the judicial officers, lawyers and Aboriginal community members who attended.

### Our people

The staff of the Commission continue to express high satisfaction in their work with a rating of 94%. The stable and engaged nature of the Commission's staff as a whole is demonstrated by the high proportion of individuals with more than 10 years' service, and our high retention and low turnover rates.

### Our governance and ethics

The Honourable Justice Margaret Beazley AO QC resigned from her role as President of the Court of Appeal in late February 2019 to take up appointment as Governor of NSW. I wish to thank her Excellency for her valuable contribution to the Commission's work over the past six years. I welcome the Honourable Justice Andrew Bell as an official member of the Commission in his capacity as President of the Court of Appeal.

Three of the four appointed members of the Commission were re-appointed for three-year terms: Dr Judith Cashmore AO, Mr David Giddy and Mr Yair Miller OAM.

The Judicial Commission met 10 times during the year to examine complaints, monitor our strategic direction and approve budgets and publications. Four audit and risk committee meetings were held. Our revised Business Continuity and Disaster Recovery Plan was successfully implemented in circumstances where our premises were unexpectedly subject to a power outage.

### Financial result

Our financial result was a modest deficit of \$7,000, a considerable improvement on both the forecast deficit for the year (\$193,000) and last year's actual deficit (\$248,000). Our total income was \$8.013 million, of which \$6.89 million was government funding. Supplementary government funding was required during the course of the year due to the unusually high number of Conduct Divisions.

The Commission's self-generated revenue of \$1.123 million was also higher than both budget and last year's result (\$1.041 million). It is derived primarily through contractual arrangements for goods and services for computerised case management, software development and educational services.

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

### Strategic direction 2019–20 and beyond

In the context of whole of Government savings, a key challenge for the Commission next year will be finding savings from our recurrent allocation without significantly limiting our ability to perform our core functions. We will continue to generate revenue through our contractual arrangements and review how to increase our productivity and curate our services to best meet the changing needs of the judiciary.

In the context of increasing workloads for judicial officers, we will conduct a strategic review of our publications to ensure they continue to meet contemporary judicial needs. We will build on findings of our joint research initiative with the University of NSW into vicarious trauma by developing appropriate educational responses and implement a strengthened mentoring program for new magistrates to facilitate the transition into their judicial roles.

Our research and sentencing program will focus on engagement with judicial officers to ensure JIRS meets their needs and liaison with the legal profession to keep them informed of developments in the presentation of the sentencing statistics on JIRS. We propose to present a seminar on sentencing and the use of statistics in sentence proceedings for the legal profession. We also plan to publish an issues paper about bail, a complex area that is dealt with daily, particularly by magistrates in the Local Court.

### My thanks

The Commission's successful performance this year is the product of dedicated effort and support from many people. I extend my thanks to the Commission members for their invaluable leadership and assistance and the many judicial officers who give their time and expertise to serve on our education and bench book committees. I also thank the Commission's staff who continue to assist the Judicial Commission to realise its mission to promote the highest standards of judicial behaviour, performance and decision making.

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 4 on p 22 illustrates the relationship between the Commission members and the executive team.

### 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. In October 2016 the Chief Justice was elected as an Honorary Benchers of Middle Temple.

### Official members



#### **The Honourable Justice Margaret Beazley AO**

**President of the Court of Appeal of NSW — commenced 1 March 2013, resigned 27 February 2019**

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. Her Honour resigned from the Court of Appeal to take up her appointment as Governor of NSW.

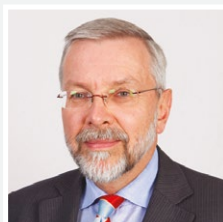




### **The Honourable Justice Andrew Bell**

**President of the Court of Appeal of NSW — commenced 28 February 2019**

Justice Bell was called to the NSW Bar in 1995, appointed Senior Counsel in 2006 and appointed President of the NSW Court of Appeal in February 2019. Prior to joining the Bar, his Honour completed undergraduate degrees in Arts and Law at the University of Sydney, and then a Bachelor of Civil Law and a Doctor of Philosophy at the University of Oxford. His Honour has served as Senior Vice-President (2018–19) and Treasurer (2017–18) of the NSW Bar Association. His Honour was also the Editor of *Bar News* from 2005 to 2012. His Honour has held a number of academic positions, including as Adjunct Professor at the University of Sydney Law School. In 2012, his Honour was named a Fellow of the Australian Academy of Law.



### **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 and appointed Senior Counsel in 1999 and Chief Judge of the Land and Environment Court of NSW in 2005. He is a Fellow of the Australian Academy of Law, Fellow of the Royal Society of NSW and Honorary Fellow of the Environment Institute of Australia and New Zealand. He was awarded an honorary Doctor of Letters by Macquarie University in 2018. He has lectured in post-graduate environmental law for nearly 30 years. He is currently an Adjunct Professor at the University of Sydney, Western Sydney University and Southern Cross University. He has authored over 130 publications on environmental, administrative and criminal law. His Honour has been involved in numerous capacity-building programs for the judiciaries in Asia. He is a member of various international environmental law committees and advisory boards, including 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 3 April 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.



## 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; reappointed 9 December 2018 for 3 years

Dr Cashmore is currently Professor of Socio-Legal Research and Policy, University of Sydney Law School and Professorial Research Fellow in the School of Education and Social Work at the University of Sydney. She has chaired or served on numerous non-government and State and Commonwealth government committees concerning child sexual assault, child protection and children in out-of-home care, 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 Lifecare 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; reappointed 9 December 2018 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; reappointed 28 October 2018 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.

Mr Schmatt 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. He has been a member of the Advisory Board of the Commonwealth Judicial Education Institute since 1994, a member of the Executive Committee of the Asia Pacific Judicial Educators Forum and has served on the management committee of the Asia Pacific Judicial Reform Forum. Mr Schmatt was an Honorary Associate of the Graduate School of Government, the University of Sydney (2003–2017). He has been involved in judicial capacity-building programs in China, Indonesia, Cambodia, Sri Lanka, Malaysia, the Philippines, Turkey, West Bank, Gaza 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. Mr Sagi has been invited as a guest speaker to deliver the Occasional Addresses to new graduates at University of Wollongong and Western Sydney University. He has also been requested by the University of Technology to provide mentoring for its students.

## Our executive team *continued*



### 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 a 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 6 terms.

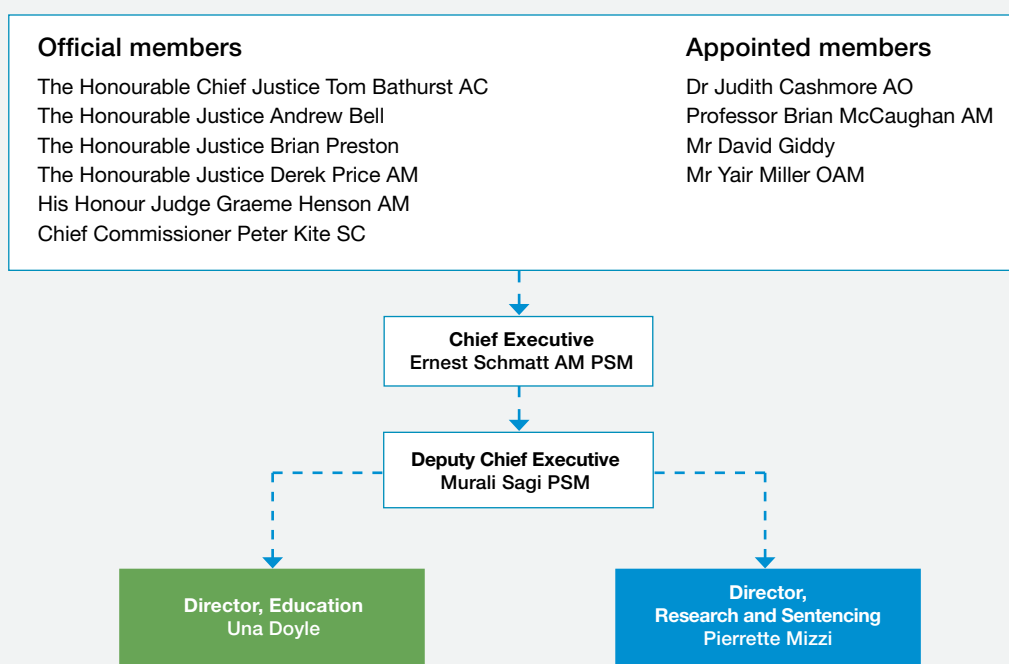


### Director, Research and Sentencing

**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 4. Commission members and executive team as at 30 June 2019







# Program 1

## Delivering continuing judicial education

Judicial officers were informed about changes to the law, community values, court practice and procedure through 41 education events held this year in 2018–19.

1.1 Performance results 2018–19 .....	24
1.2 Listening to judicial officers .....	26
1.3 Satisfaction with our continuing judicial education .....	27
1.4 How we design and deliver continuing judicial education .....	32



## 1.1 Performance results 2018–19

An assessment of the results shown in Table 1 demonstrates that our continuing judicial education program performed well in 2018–19. Table 1 shows the evidence for each identified result as well as details of each measure we have put in place to achieve our objectives, program highlights, challenges, and forward direction.

Table 1. Results for delivering continuing judicial education

Results	Measures	Target
Judicial officers were informed about changes to the law, community values, court practice and procedure	<p>Maintain or increase number of reviewed publications, in response to major legislative reforms</p> <p>Maintain or increase number of specialised education events offered</p> <p>Education sessions assisted judicial officers to reach the national standard* of 5 judicial education days each year</p>	<p>34 publications</p> <p>34 education events</p> <p>5 days offered* 5 days undertaken*</p>
Judicial skills, attitudes and knowledge were enhanced	<p>Maintain or increase ratings that our services provide judicially relevant and stimulating education and information</p> <p>Provide relevant number of skills-based workshops and content</p> <p>Information in the <i>Equality before the Law Bench Book</i> is current and addresses access and diversity issues</p>	80% of participants who provide feedback are satisfied that events were relevant and applicable and 70% of participants satisfied that events provided enhanced knowledge and capability
Judicial officers were satisfied with our education program	<p>Maintain or improve satisfaction rates</p> <p>Maintain or increase voluntary attendance rates*</p>	85% overall satisfaction from participants who provide feedback
We responded to concerns about judicial performance raised in the complaints process	Design education events based on specific concerns raised in complaints	

\* 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. Our continuing judicial education program is not compulsory. Given the education days are voluntary, the Commission no longer sets targets but is guided by the standard. See Appendix 3 for more information.



Performance	Status	Challenges 2018–19
<p>Extensive amendments to bench books arising from the sentencing reforms: see p 40</p> <p>39 publications, including 20 bench book and handbook updates, 11 bulletins, 2 journal issues, 6 videos: see p 40</p> <p>Monthly Judicial Commission meetings and/or bench book committees and experts reviewed publications.</p> <p>Increased to 41 events in response to sentencing reforms and high level of new judicial appointments: see p 27</p> <p>4.4 education days offered: see p 32</p> <p>3.8 days undertaken: see p 32</p> <p><b>HIGHLIGHT</b> Through our Ngara Yura Committee, we partnered with the NSW Bar Association, Law Society of NSW and Museum of Applied Arts and Sciences to organise a third Exchanging Ideas symposium: see p 30</p>	<p>↑</p> <p>↑</p>	<p>Working with courts to ensure that judicial officers are supported during the ongoing implementation of the significant reforms to the criminal justice system enacted in late 2018.</p> <p>Updating bench books in time to capture high volume, significant reforms.</p> <p>Developing bespoke programs for specific jurisdictions with limited resources.</p>
<p>81% satisfied that events were relevant and applicable and 77% satisfied enhanced knowledge and capability: see p 32</p> <p>7 skills-based workshops: see p 27</p> <p><b>HIGHLIGHT</b> We continued to expand our pre-bench and orientation initiatives to support new judicial officers and their staff: see p 29</p>	<p>↑</p> <p>↑</p>	<p>Judicial education expenditure: \$3.26 million as at 30 June 2019 (41% of overall expenditure).</p>
<p><i>Equality before the Law Bench Book</i> was:</p> <ul style="list-style-type: none"> <li>– comprehensively revised regarding gender diverse people and people born with diverse sex characteristics</li> <li>– updated with a new chapter “Older people and the law”</li> <li>– updated for latest information about access to justice for minorities and people with special needs</li> </ul> <p><b>HIGHLIGHT</b> <i>Equality before the Law Bench Book</i> received an international outstanding achievement award from the Association for Continuing Legal Education. See p 34</p>	<p>✓</p>	<p><b>Looking ahead 2019–20</b></p> <ul style="list-style-type: none"> <li>Against the backdrop of an increasing workload for the bench, conduct a strategic review of our publications to ensure they continue to be appropriate and meet the needs of today’s judicial officer.</li> </ul>
<p>Evaluations of all education sessions show satisfaction with our continuing education program was 90%: see p 27</p> <p>Attendance rates increased to 3.8 average training days undertaken by each judicial officer: see p 32</p> <p><b>HIGHLIGHT</b> 91% judicial satisfaction with the Ngara Yura Program (Aboriginal cultural competency): see p 31</p> <p>Evaluation shows our program continues to be highly relevant and judicial officers were satisfied with the personal and practical benefits of sessions: see p 28</p>	<p>↑</p> <p>↑</p>	<ul style="list-style-type: none"> <li>Continue to work with the District Court of NSW to support a conference in 2020 for all District and County Court judges including New Zealand, focussing on the challenges and opportunities brought about by innovation and technology.</li> <li>Build on the findings of our joint research initiative into vicarious trauma by developing appropriate educational responses.</li> </ul>
<p>Programs held addressed bias; requirements for a fair and courteous hearing; and judicial conduct in and out of court. See Appendix 5 for list of topics</p> <p><b>HIGHLIGHT</b> Our article on judicial bullying, written by a senior barrister and published in the <i>Judicial Officers’ Bulletin</i>, received favourable feedback</p>	<p>✓</p>	<ul style="list-style-type: none"> <li>Strengthen the mentoring program for new Local Court magistrates to facilitate their transition to the bench.</li> </ul>

## Legend

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



## 1.2 Listening to judicial officers

**Judicial officers' feedback shows how relevant they find our programs.**

“Best talk of the conference – lucid, helpful and with real understanding of issues in this court.”

District Court Annual Conference,  
April 2019

“It is very important to be reminded of the human face of the people we see every day — more please next year.”

Local Court Annual Conference, August 2018

“This was a unique experience and enjoyed the presentation. I would have liked a greater emphasis on programs and practical solutions that may be able to be implemented in regional areas.”

Local Court Annual Conference, August 2018

“Interesting, intellectually difficult; sound practical applications; cheerful, engaging speaker.”

Supreme Court Annual Conference, August 2018

“The visit provided self-reflection on my cultural values, beliefs and attitudes and how they impact on interaction with Indigenous cultures.”

Ngara Yura Program Community Visit: Redfern,  
October 2018

“Excellent, practical overview for strategy in getting children back into community, safe. Very impressive.”

Children's Court Section 16 Meeting, November 2018

“I found this so valuable and comprehensive, the handouts are invaluable. This session has given me more confidence in using the new legislation and sentencing.”

Local Court Metropolitan Series I, February 2019

“Of excellent assistance for new judge[s] – doing my first country circuit soon – this has been invaluable.”

District Court seminar: Conducting stress-free circuit courts, February 2019

“Interesting but very theoretical. Greater emphasis on practical application etc would have been more helpful especially in context of young people in criminal system.”

Children's Court Section 16 Meeting, May 2019

“One of the best ones I've been to in terms of relevance and content.”

Land and Environment Court Conference, May 2019

“Great session to focus on biases and reflect on them.”

Local Court Magistrates' Orientation Program, May 2019

“There is not much direct application to our day-to-day work. Nevertheless, it helps to understand what constructive things are happening. Giving the opportunity to understand the struggle helps us understand Aboriginal and Torres Strait Islander people and their concerns.”

Ngara Yura Exchanging Ideas Symposium, June 2019

“A brilliant presentation.  
Lots of take-home  
advice and things to  
think about.”

Local Court Annual Conference, August 2018





## 1.3 Satisfaction with our continuing judicial education

**90% judicial satisfaction with the 41 events that comprised the education program in 2018–19.**

### 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, on one measure, attests to the high standard of judicial ability and performance in NSW: see p 51 for details about complaints made during the year.

On an overall measure of satisfaction, judicial officers who provided feedback on events were 90% satisfied with the continuing education program (last year: 93%), which comprised 41 discrete events (last year: 38). Eighty-one per cent of respondents agreed that the education sessions were applicable to their work and 77% agreed that they enhanced their knowledge and capability. There was 98% satisfaction rating for support received from Commission staff.

### Satisfaction remains high with annual conference program

Judicial officers who provided feedback on events were 92% satisfied (last year: 89%) with their annual conference as shown in Figure 5. 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.

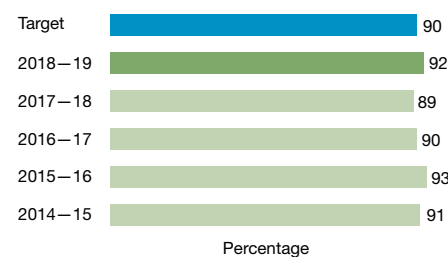
### High satisfaction with seminar program

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 6, participants who provided feedback on events were 90% satisfied (last year: 93%) with the seminar program. Discrete sessions were held during the year that covered a range of educational topics for judicial officers, for example seminars addressed the criminal procedure and sentencing reforms which commenced in 2018 (see case study at p 28). A full list of topics can be found in Appendix 6.

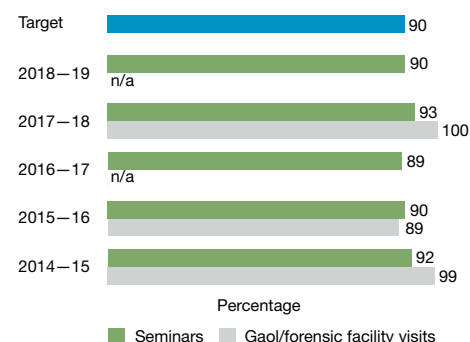
### High satisfaction maintained with skills-based workshops

Magistrates who provided feedback were highly satisfied (94%) with their workshops as shown in Figure 7. Seven workshops were held this year (last year: 7). In some instances, skills workshops for judicial officers are now held in partnership with other judicial education organisations to avoid duplication of offerings.

**Figure 5. Satisfaction with annual conference program 2014–19**



**Figure 6. Satisfaction with seminars and gaol/forensic visits 2014–19**



**Figure 7. Satisfaction with workshops 2014–19**

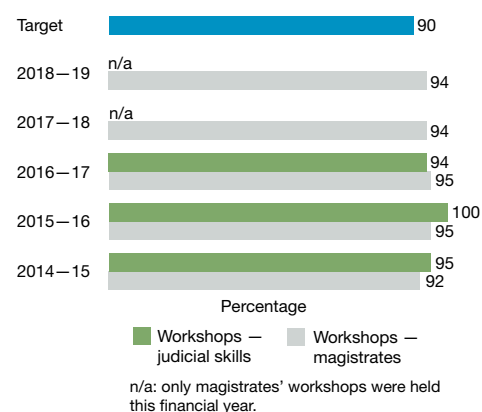
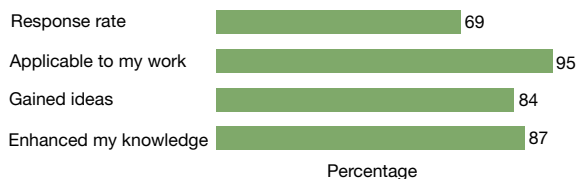




Figure 8 shows that the majority of magistrates who provided feedback were satisfied with the professional and practical benefits of these sessions with 95% finding the workshop was applicable to their work (last year: 98%) and 87% finding the session enhanced their knowledge and capability (last year: 85%).

Figure 8. Rating of professional and practical benefits of 2018–19 workshops



We do not set quantitative targets for these ratings.

## Case study

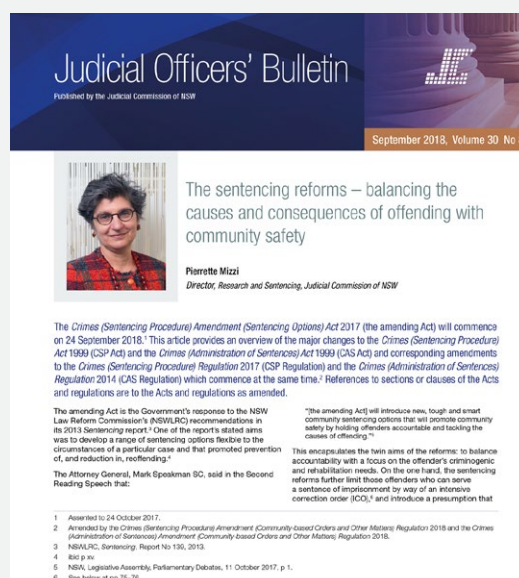
### Informing judicial officers about major sentencing reforms

Major changes to sentencing law in NSW commenced on 24 September 2018. The amendments significantly altered the community-based penalty options that a judicial officer may impose when sentencing an eligible convicted offender. The law now balances an individual offender's accountability with their likelihood to re-offend and their rehabilitation needs.

An important objective of the reforms was also to “help offenders receive the supervision and programs that address their offending behaviour, resulting in less crime and fewer victims”. Subject to certain limitations, the amendments provide judicial officers with a degree of flexibility in nominating conditions for community-based orders to meet the particular needs of an individual offender.

To prepare for the implementation of these significant changes, we worked with the Department of Justice and judicial officers. We updated our loose-leaf services, including the *Sentencing Bench Book* and the *Local Court Bench Book*, and published information about the reforms in the *Judicial Officers' Bulletin* and on the Judicial Information Research System (JIRS) database.

We also developed a number of educational events to support judicial officers, including seminars for the District and Supreme Courts. For the Local Court, we developed a workshop series of interactive sentencing exercises and case studies to illustrate the changes. All magistrates had the opportunity to participate in these practical workshops and found them very beneficial. Following the reforms, we collaborated with Corrective Services NSW to initiate a podcast series to clarify some aspects of the changes.



We advise judicial officers about current law and reforms as soon as they commence through publications such as the *Judicial Officers' Bulletin* and bench books (pictured).



### Providing for interactive and distance education

To assist 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 39 for information about JIRS). We also stream seminars live where possible and continue to add to our web page of video resources. During the year we published 6 videos including 4 about the criminal procedure reforms which commenced in 2018. 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 53 new papers and presentations on this database.

Last year, we rolled out interactive learning applications to Apple and Android devices, based on gaming technology. These enable judicial officers to hone their decision-making skills using an interactive learning application.

### Conducting induction and orientation sessions for large number of new judicial officers

During the year, we provided 29 judicial orientation packages (last year: 18), access to the Judicial Information Research System (JIRS) and computer support (if required) for new judicial officers. The State Government appointed an unprecedented 13 District Court judges this year to address delays in that court. This explains the sharp increase in orientation packages overall.

In partnership with the Local Court, we provided 5 pre-bench sessions (last year: 12) and a week-long orientation program 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. We have also worked with the Local Court to refresh and strengthen the mentoring scheme for new magistrates, see case study below.

The Commission also held pre-bench sessions for the 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.

For the second year, we delivered training sessions on JIRS to Supreme Court tipstaves to assist them with providing research support to judges. Ms Georgia Brignell, Principal Research Officer, delivered a well-received training session in 2019. JIRS logins have also been issued to tipstaves. See case study on p 74.

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 with 91% of participants rating the program's usefulness and relevance as excellent or very good. Sessions covered in these programs are listed in Appendix 5. The Judicial Commission and the Australasian Institute of Judicial Administration assisted the National Judicial College of Australia to present this program which was held in Glenelg, South Australia in April 2019.

## Case study

### Focussing on judicial stress and well being

A judicial officer's heavy workload and the often-challenging nature of work on the bench can place enormous pressure on individuals. In recognition of this, the Commission seeks to assist with the practical and technical complexities associated with judicial work. We take a multi-faceted approach to supporting these professionals at all stages of their careers. This year, we put a greater strategic focus on stress and well being.

There were an unprecedented 13 appointments to the District Court of NSW in 2018–19. We provided support to the judges by assisting with a dedicated two-day pre-bench program covering fundamental aspects of court craft and procedure. We also ran short information sessions during the year that specifically addressed various practical challenges that can commonly arise. For example, "Conducting stress free circuit courts" focused on the some of the hurdles and unique stresses that District Court judges encounter on circuit. These peer-to-peer sessions were well-received.

We conducted a two-day pre-bench program for new appointments to the Local Court and a longer

residential course for magistrates in their first year. The residential program built on existing experience and encouraged critical self-reflection in the context of a peer group. An important focus was identifying the stresses of being a magistrate and highlighting ways to deal with them.

On a broader level, we began a review of mentoring in the Local Court. The outcome will be a redeveloped program to support new magistrates' transition into the role, build resilience and reach their full potential.

We also informed judicial officers about the latest research in mental health and wellbeing. At our Local Courts Annual Conference, we showcased Australia's first empirical research into judicial stress by Carly Schreier, Judicial Wellbeing Advisor, Judicial College of Victoria. This was followed up with an article about this research published in the *Judicial Officers' Bulletin*. We also commenced a partnership with the University of NSW to develop a research project into the effect of vicarious trauma. We expect to identify future events, programs and other means to support judges and magistrates through such initiatives.



## Strong support of Ngara Yura Program

Participation in our Aboriginal cultural competency program increased by 3.3% this year, which may be attributed to the number of new judicial appointments. Participants who provided feedback were 91% satisfied (last year: 98%) as shown in Figure 9. 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.

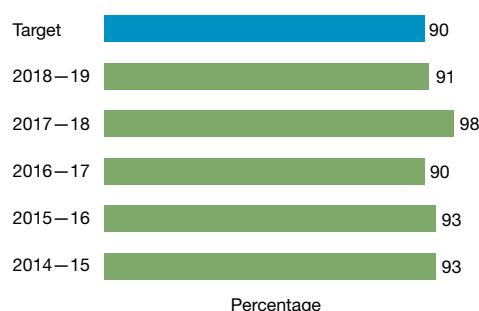
Our Ngara Yura Project Officer works with a committee to develop and implement a range of strategies, including tailored education activities. The Ngara Yura Program adopts a multi-faceted approach, with partnerships, community visits, seminars and publications designed to promote inter-cultural communication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

Following the development of a strategic plan for the program in 2018, we began implementation of the plan. Examples this past year include broadening our reach (eg joint seminars with partners are now live streamed and recordings of past programs are available on our JIRS system); increasing our level of engagement with partner organisations (eg the Museum of Applied Arts

and Science now partners with us on a number of key events); and increasing the number of Indigenous topics and presenters at annual court conferences. We have also identified “champions” who will inform their networks of current Ngara Yura initiatives. More information is found on our public website and committee membership is listed in Appendix 4.

Of the judicial officers who attended the community visits and events held throughout the year and provided feedback, 95% found that the visits enhanced their knowledge and capability and 65% found the information was applicable and relevant to their judicial work. See the case studies below and opposite.

Figure 9. Satisfaction with Ngara Yura Program 2014–19



## Case study

### Exchanging Ideas: First Nations consensus in constitutional reform, nation building and treaty making processes

The Uluru Statement from the Heart (Uluru Statement) was the outcome of the 2017 First Nations’ National Constitutional Convention. Over 250 Indigenous leaders attended the convention to discuss approaches to constitutional reform. The Uluru Statement set out the aspirations for Aboriginal people for Constitutional recognition, agreement making and truth telling about Indigenous history.

The Commission’s Ngara Yura Committee partnered with the NSW Bar Association, the Law Society of NSW, and Museum of Applied Arts and Sciences (MAAS) in June 2019 to run a one-day conference on the Uluru Statement for judicial officers and the legal profession. This was an opportunity to hear directly from the Indigenous delegates (the authors of the Uluru Statement) on the background to the Uluru Statement, mechanisms already used to enliven Indigenous sovereignty, and what future structural reform might include.

Over 100 Judicial officers, lawyers and Aboriginal community members came together to discuss the making of the Uluru Statement, the mechanisms used to engage in dialogue and processes of nation building and treaty making. The discussion also canvassed the challenges of designing processes that can be inclusive and facilitate community consensus.

The symposium increased knowledge, facilitated understanding and provoked thoughtful conversation. This significant forum was a meaningful event for all present.



The Commission’s Ngara Yura Project Officer, Joanne Selfe (l) set the tone for the Uluru Statement Conference with a moving acknowledgement in language attributed to the Eora people, followed by Professor Megan Davis (r) delivering the opening address.





## Case study

### Ngara Yura Program community visit to Redfern

“Ngara Yura” derives from language of the Eora people of the Gadigal nation and means “to hear and listen to the people”.

It’s also the name of our Aboriginal Cultural Awareness program, designed to increase judicial awareness about historic and contemporary Aboriginal social and cultural issues, and interactions of Aboriginal people with the justice system.

Community visits are an important part of the program because they enable judicial officers to meet Aboriginal people and learn about community issues in an informal setting.

In October 2018, the Commission hosted judicial officers, their partners and family members on a community visit to Redfern. The judicial officers came from various NSW and federal courts. They met with Redfern Elders and community members for a “Yarn’up” in the heart of the Block at the Hugo Street Community Centre.

Participants heard about the “Empowered communities plan” in the first session that Mr Shane Phillips (Chief Executive, Tribal Warrior Association) and the Honourable Justice Lucy McCallum (Chair, Ngara Yura Committee) convened. The plan was formed in 2013 when Indigenous leaders from 8 regions across Australia met together to develop a new way to shape how Indigenous policies and programs are designed and delivered. The plan is directed towards Indigenous communities driving their own priorities in partnership with government and corporate Australia.

In the second session, Magistrate Sue Duncombe gave an overview of the Youth Koori Court and its expansion to Surry Hills Children’s Court. Judge Dina Yehia led a discussion on the proposed pilot of a District Koori Court in NSW (Walama Court).

Mr Shane Phillips and Inspector Stuart Trevallion, NSW Police, led a walk around the Block, pointing out areas earmarked for community development and the historic context for the rejuvenation.

Participants then heard from community leaders about various Aboriginal programs and services in Redfern designed to mentor and empower Aboriginal people. The programs included ID Know yourself (Mr Isaiah Dawes), Inside Out (Keenan and Carly Mundine), Clean Slate Without Prejudice (Shane Phillips and Inspector Stuart Trevallion) and Weave’s Creating Futures Justice Program (Melissa Merritt).

It was a day of constructive discussion, sharing stories and making connections, well-received by all involved.



Shane Phillips (l) with Inspector Stuart Trevallion, NSW Police, led a walk around the Block for judicial officers participating in the Redfern community visit.



Participants met community members and Redfern Elders and were shown areas marked for community development.



## 1.4 How we design and deliver continuing judicial education

The NSW public expects judicial officers to be impartial, independent, to know the law and perform to the highest professional standard. Judicial officers come to their role as highly-skilled 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 voluntary and 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 4.4 days of education for each judicial officer (last year: 4.7 days). This figure and the overall average attendance rate of 3.8 judicial education days a year (last year: 3.7 days) is slightly lower than the national benchmarking standard of 5 days a year. Judicial officers can also meet this standard by attending other continuing judicial education providers' programs or by self-directed professional development. The Council of Chief Justices of Australia and New Zealand and national and State judicial education bodies have adopted the standard. Our Continuing Judicial Education Policy is published on the Commission's website: see Appendix 3.

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.

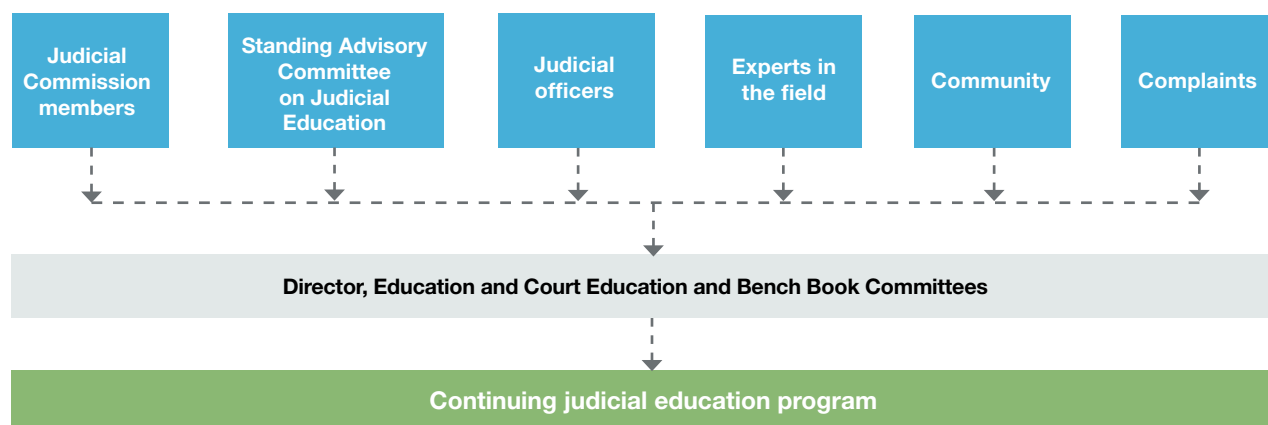
Services delivered during the year include:

- 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 podcasts and live web streaming
- Aboriginal cultural competency sessions and community visits (the Ngara Yura Program)
- digital and multi-media resources
- online and print publications. See p 40 for details about our published legal information program
- technology 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 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 10 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 10. Delivering continuing judicial education design process





## Case study

### LEC judges and commissioners enjoy informal learning outside the courtroom

Taking the judges and commissioners of the Land and Environment Court (LEC) into the natural and cultural environments of NSW is a powerful vehicle for ongoing judicial education. Field trips have been a significant element in the Commission's programming this year.

Two field trips demonstrate the breadth of the Commission's events calendar. A walking tour focussed on the benefit of public art took place in December. In May, a visit to Kamay Botany Bay National Park and the Sydney Desalination Plant was designed around the theme of "environmental challenges".

Eva Rodriguez Riestra, the City of Sydney's Public Art Program Manager, led the walking tour on a route from Wynyard towards Circular Quay, Sydney. The tour took in numerous and diverse artworks and memorials. These included "Reflection" in Martin Place, a memorial to the victims of the Lindt Street cafe siege, and "Edge of the trees", which captures the historic moment when First Nations people and the people of the First Fleet first encountered each other.

The May field trip took LEC judges and commissioners to the outskirts of Sydney. Kamay Botany Bay National Park is a place resonant with historic and natural significance. It is the traditional country of the Gweagal people and where the Gweagal watched Lieutenant James Cook and his landing party come ashore from the Endeavour in April 1770.

Yuin man and National Parks and Wildlife ranger, Dean Kelly led the tour, sharing his knowledge of the enduring spiritual, cultural and environmental values of Kamay. It was an opportunity to learn about the site and the plans and aspirations of First Nations and white people for the 250th anniversary of Cook's landing in 2020.

From there, the group was shown around the neighbouring 45-hectare Sydney desalination plant at Kurnell by Operations Manager, Mr Matt Blaikie.

The desalination plant converts sea water from the Tasman Sea into high quality drinking water. The process involves water under high pressure pumped through 36,000 reverse osmosis membranes to remove particles. The water must meet Australian Drinking Water Guidelines so fluoride and chlorine are added before it enters Sydney Water's main water supply. The plant had been mothballed when dam levels were high but was turned on again in January 2019 when Sydney's dam levels dropped to 60%.

These diverse field trips provided opportunities for informal learning and were engaging for attendees.



The public art walking tour took in the exhibition "Forgotten Songs", installed at Angel Place, Sydney by the artist Michael Thomas Hill. This haunting visual and sound exhibition of empty bird cages depicts the extinction toll that urbanisation has caused on native bird species.



Dean Kelly, National Parks and Wildlife Ranger, led a tour at Kamay Botany Bay National Park.



Matt Blaikie, Operations Manager, Sydney Desalination Plant, explained the process of providing drinking water to Sydney through its Kurnell desalination plant.





## Case study

### Our publication about equality before the law picks up an international award

This year, one of the Judicial Commission's flagship publications, the *Equality before the Law Bench Book* (EBLBB), received an international Best Award from the Association for Continuing Legal Education (ACLEA). The EBLBB was selected for an Award of Outstanding Achievement in the category of Public Interest. This category is for "publications that support the public interest and/or provision of legal services to historically marginalized and underrepresented populations". The award acknowledges the calibre of the Commission's ongoing commitment to equality in the administration of justice in NSW.

The EBLBB is published online on our website and is freely available to the public. It focusses on the needs of specific sections of the community when participating in the justice system, including various age, cultural and religious demographics as well as sex, gender and biologically-diverse identities. It recognises that "injustice inheres as much in treating unequals the same, as it does in treating equals differently", to use the words of then-Chief Justice Spigelman in the Foreword.

The annual Best Awards are highly competitive and winning projects represent the highest level of achievement for the staff and volunteers involved. The EBLBB is a work that the Commission continually updates in consultation with experts across a range of disciplines.

During the year, we published a new chapter on older people. The chapter provides information and practical advice for judicial officers and those working in the

justice sector about demographics, elder abuse, barriers to accessing justice, capacity and competence, and issues that might arise in the courtroom when older people appear as plaintiffs, defendants or witnesses, and best practice in communication.

The Commission maintains a watching brief to ensure that EBLBB remains a high-quality and relevant resource for judicial officers, the legal profession and the people of NSW at large.



We were honoured to receive an award for our *Equality Before the law Bench Book* in June this year. Senior legal editor Anne Murphy (l) with Kate Lumley, Manager, Publications and Communications, work together on updating commentary in the *Equality before the Law Bench Book*.

## Case study

### Addressing leadership issues in court



Pre-bench orientation sessions help new appointees to familiarise themselves with the court environment.

Continuing judicial education addresses the substantive content of law, the procedural rules by which law is practised in the courtroom, and the professional skills that judicial officers require to perform their role.

The Commission's education program focuses on those skills for new appointees through pre-bench and orientation sessions. Other sessions are designed to strengthen those skills for judicial officers throughout their careers.

In April, a twilight seminar on leadership issues in court was presented to judges and commissioners of the Land and Environment Court by the Honourable Justice James Stevenson. The short format discussion proved well-matched to the subject matter. The feedback from attendees was very positive in terms of the seminars' usefulness and relevance. The seminar also scored very highly in terms of its design and style and the opportunities it created for interaction with colleagues.





## Program 2

### Providing legal information

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

2.1 Performance results 2018–19 .....	36
2.2 Listening to feedback .....	38
2.3 Key focus and challenge for the year .....	38
2.4 Why we provide legal information and resources .....	39
2.5 We provide accurate and current legal information .....	39



## 2.1 Performance results 2018–19

An assessment of the results shown in Table 2 demonstrates that our legal information program performed well in 2018–19. Table 2 shows the evidence for each identified result as well as details of each measure we have put in place to achieve our objectives, program highlights, challenges, and forward direction.

Table 2. Results for providing legal information

Results	Measures	Target
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) Maintain access to current law in JIRS	115,000 page hits each month Regular updating
Judicial officers and JIRS users were promptly informed about changes to criminal law and criminal practice and procedure, and changes to sentencing law and practice	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  Maintain legal accuracy of Sentencing Information Principles and Practice component of JIRS	See Note 1, update as required for <i>Criminal Trial Courts Bench Book</i> and <i>Sentencing Bench Book</i>  Sentencing principles in <i>Sentencing Bench Book</i> linked to new cases and legislation
Accurate sentencing information was available to judicial officers	Maintain sentencing statistics on JIRS showing range and frequency of penalties imposed for particular offences Maintain information that explains why a sentence was passed  Maintain information about sentences that other judicial officers have given in similar circumstances	1–4 months  as required  as required
Information about sentencing law reform was communicated	Publish information and update our loose-leaf and online services to advise judicial officers about: <ul style="list-style-type: none"> <li>• sentencing law reforms (commenced September 2018)</li> <li>• reforms to child sexual assault laws following the recommendations of the Royal Commission into Institutional Responses to Child Abuse</li> <li>• other reforms including forensic mental health law (partial commencement in December 2018)</li> </ul> Maintain/increase publication of <i>Sentencing Trends &amp; Issues</i> , research papers and monographs Provide information in response to requests for specific sentencing issues	as required, see Note 1     as required, see Note 2  as required, see Note 1
Judicial officers were informed about sentencing options and rehabilitation facilities for offenders	Maintain current information about service providers in Diversionary Programs database on JIRS	See Note 3
JIRS was improved to meet judicial officers' needs	Maintain/increase number of improvements to JIRS	5

Note 1. It is not possible to determine a target number of recent law items, summaries and bench book updates as these items are responsive to outcomes delivered by the courts. As variables external to the Commission, they are outside the Commission's control. All recent law items, summaries and bench book updates are produced because they address relevant changes to the law.

Note 2. Publication of sentencing trends, research papers, and monographs and responding to specific requests for information are dependent on external variables, ie changes to the law, which cannot be predicted for quantitative target setting.

Note 3. Because this target is absolute, no other numerical target is set.

Photo previous page: The operations of the coronial jurisdiction were relocated to the newly constructed Forensic Medicine and Coroners Court at Lidcombe, Sydney in January 2019.



Performance	Status	Challenges 2018–19
138,531 average hits each month. 1.5% increase in use of JIRS throughout 2018–19 with 1,662,376 total page hits: see p 42 JIRS was available 99% of the time	↑	<ul style="list-style-type: none"> <li>Maintaining the use of JIRS at, or above, the levels of previous years.</li> </ul>
Updating demonstrated by: <ul style="list-style-type: none"> <li>214 Recent Law items posted on JIRS throughout the year</li> <li>175 summaries of select appeal decisions published on JIRS</li> <li>Recent Law flyer sent monthly to judicial officers</li> <li>4 major updates published for <i>Criminal Trial Courts Bench Book</i></li> <li>3 major updates to the <i>Sentencing Bench Book</i> to reflect legislative reforms and case law during the year</li> </ul> Sentencing principles in <i>Sentencing Bench Book</i> linked to new cases and legislation	✓  ✓	<ul style="list-style-type: none"> <li>Keeping up-to-date with changes in the law, updating loose-leaf services and online information to coincide with the staged commencement of the NSW Government's extensive criminal justice and sentencing reforms.</li> </ul>
<b>HIGHLIGHT</b> We published information about the new community-based sentences in the <i>Sentencing Bench Book</i> and <i>Local Court Bench Book</i> before they commenced		Legal information expenditure: \$2.25 million as at 30 June 2019 (28% of overall expenditure).
Sentencing data was received, audited and loaded on JIRS within 4 months of receipt: see p 43  Access provided to case details from sentencing graphs, including judgments in all appeal cases and sentencing reasons in District Court cases published on Caselaw site. These provide detailed information as to why the specific sentence was imposed  Published 175 summaries of significant appeal decisions on JIRS and in the <i>Judicial Officers' Bulletin</i> : see p 40	✓ ✓ ✓	<b>Looking ahead 2019–20</b> <ul style="list-style-type: none"> <li>Publish information about changes to the law on JIRS and in our loose-leaf services.</li> <li>Publish an issues paper about bail, an area of complexity that magistrates in particular deal with on a daily basis.</li> <li>Engage with judicial officers to ensure JIRS meets their needs and liaise with the legal profession to keep them informed of developments in the presentation of the sentencing statistics on JIRS.</li> <li>Present a seminar on sentencing and the use of statistics in sentence proceedings for the legal profession.</li> <li>Continue to develop enhancements to the sentencing statistics component of JIRS.</li> </ul>
We published an extensive update to the <i>Sentencing Bench Book</i> in September 2018, following significant changes to sentencing options prior to their commencement  An article was published in the <i>Judicial Officers Bulletin</i> by the Director, Research and Sentencing outlining the extensive changes to sentencing options  0 <i>Sentencing Trends &amp; Issues</i> papers 0 monographs published  Responded to 41 research requests: see p 43	✓	
Information and contact details in the Diversionary Programs database regularly monitored, updated and hyperlinked throughout the year	✓	
4 major enhancements were made to JIRS to respond to feedback: see pp 43–44	↓	

## Legend

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



## 2.2 Listening to feedback

**Feedback from judicial officers provides some 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 regarding an article about the major sentencing reforms published in the September issue of the *Judicial Officers' Bulletin*:

"Your *Judicial Officers' Bulletin* article is brilliant! I have already quoted it in court, especially with regard to your query about whether an ICO will continue to always be regarded as a substantial punishment to meet the purposes of sentence in s 3A. This follows your distillation of the Second Reading Speech, the incoming legislation and existing authority."



Our twilight seminar on the Aboriginal Land Rights System in NSW provided information on issues likely to affect judicial officers and Land and Environment Court Commissioners, September 2018.

"A sophisticated and most essential analysis. Well done! I am commending the article to all judges."

"The article is excellent in every respect and I very much appreciate the work put in to it by [the author] who should be commended for her efforts. I will indeed find it very useful in navigating through these changes to sentencing."

We received positive feedback about information we published on the Judicial Information Research System (JIRS):

"Thank you for the Sentencing Remarks checklist. Having regard to it now for a s 112 matter. I love the annotation option, and the fact that the links open automatically (and quickly)."

"A very practical tool — I appreciate it."

## 2.3 Key focus and challenge for the year

An ongoing challenge this year, given our limited resources and the pace of legislative change, was to ensure our publications were updated as quickly as possible and our written material was clear, succinct and legally accurate. A significant challenge for the *Sentencing Bench Book* and the *Local Court Bench Book* arose from the sentencing reforms and the reforms about the presentation of victim impact statements in sentencing

proceedings: see case study on p 46. This required extensive liaison with the Department of Justice so that information about the reforms was published just prior to when the legislation commenced. There was a co-ordinated education program for the Local and District Courts in the months leading up to the commencement of the relevant legislation.





## 2.4 Why we provide legal information and resources

**Under the *Judicial Officers Act*, we are required to assist the NSW courts to achieve consistency in imposing sentences and to provide for the continuing education and training of judicial officers.**

Legal information published on our online database, the Judicial Information Research System (JIRS), 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 or summary hearings 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, civil, sentencing or evidence law changes into the relevant bench book
- publishing sentencing statistics on JIRS
- publishing studies about complex areas of the law or analysing sentencing trends for particular types of offences
- providing information about sentencing and rehabilitation options on JIRS.

When a person pleads not guilty to an offence, the criminal trial must be conducted according to law, ensuring fairness to the accused person. The suggested directions in the *Criminal Trial Courts Bench Book* assist judicial officers in preparing directions appropriate to an individual case which reflect the relevant law. When a court sentences a person convicted for a criminal offence, it must follow settled principles and apply those principles consistently. Sentencing has been described as "the most difficult of judicial tasks". The *Sentencing Bench Book* summarises the relevant principles across a range of areas related to this complex area.

## 2.5 We provide accurate and current legal information

Judicial officers and other users of the Judicial Information Research System (JIRS) are promptly advised via electronic means of important decisions and relevant legislation to criminal law.

Subject to resourcing, case summaries of appeal decisions and "Recent Law" news items are prepared as soon as possible after a decision is handed down or when Parliament assents to or proclaims legislation. 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 and relevant 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 with 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.

Legal practitioners appearing before the courts regularly use the case summaries of appeal decisions published on JIRS. By providing access to this content, we help equip practitioners to best present their cases and to assist the court to avoid appealable error.

"Recent Law" items and case summaries feed into loose-leaf and online bench books that assist judicial officers conduct trials. Bench books are constantly updated compendiums of relevant legislation, case law, sentencing principles, procedural guidelines, suggested jury directions and sample orders. They promote a consistent judicial approach to trials and sentencing proceedings which helps reduce the risk of error. Committees or our in-house researchers update and review the bench books to ensure that important changes are reported quickly and accurately.

Guidance on the sentences that other judicial officers have given in similar circumstances is also provided by publishing sentencing statistics on JIRS. While it is not possible for the Commission to audit all the sentencing information provided by the NSW Bureau of Crime Statistics and Research, great care is taken to provide statistical information that is accurate, verified and easy to access. Enhancing how the statistics are accessed and used regarding cases before the various courts is another major part of our research and sentencing program.



## Case study

### Advising judicial officers about reforms to child sexual abuse laws in NSW



In the wake of the Royal Commission into Institutional Responses to Child Sexual Abuse, the NSW Government passed major criminal justice reforms in 2018.\* The reforms also responded to recommendations of the Child Sexual Offences Review and, more broadly, the way the criminal justice system has dealt with victims of sexual assault. The NSW Attorney General, the Honourable Mark Speakman SC, said the reforms were intended to “improve the chances of successful prosecution of child sexual offences”.

The amendments:

- restructured sexual assault offences in the *Crimes Act 1900* and modernised the language used to define the types of sexual conduct associated with particular offences
- introduced a new requirement that sentencing for offences of historical child sexual assault be done in accordance with current sentencing patterns and practice (not those at the time of the offending)
- changed certain procedural requirements relating to sexual assault trials, and
- introduced provisions aimed at decriminalising certain sexual acts of children.

We informed judicial officers of these amendments before their commencement, published an article in the *Judicial Officers Bulletin* and updated our loose-leaf services, including the *Local Court Bench Book* and the *Sexual Assault Trials Handbook*. We will continue to revise suggested jury directions for the new offences in the *Criminal Trial Courts Bench Book*.

\* *Criminal Legislation Amendment (Child Sexual Abuse) Act 2018*.

### Review of our legal information program for 2018–19

We published 39 publications (last year: 32) as well as standalone “Recent Law” items and case summaries on JIRS.

- We published 20 updates to the bench books and handbooks (last year: 19). A major challenge this year was updating the *Local Court Bench Book* for magistrates and the *Sentencing Bench Book* arising from the major sentencing reforms which commenced in September 2018 (see case study on p 28)
- We published a new chapter in the *Equality before the Law Bench Book* on older people, designed to assist judicial officers with any issues that may arise in the courtroom when older people appear as plaintiffs, defendants or witnesses. We also revised and renamed the chapter on gender diverse people and people born with diverse sex characteristics.
- 214 “Recent Law” items were posted on JIRS to explain important cases and legislation.
- 175 summaries of significant sentence appeal decisions were published on JIRS and in the *Judicial Officers' Bulletin*.

- 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.
- 1 issue of *The Judicial Review* was published. This is a peer-reviewed journal bringing together articles and papers to inform readers of technical and topical matters, court craft, and social context issues.
- We partnered with the International Organization for Judicial Training (IOJT) to publish Issue 6 of the journal, *Judicial Education and Training* (December 2018)
- We revised and updated online information about diversionary services and rehabilitation facilities on JIRS.
- We published 6 videos on JIRS:
  - 4 on Early Appropriate Guilty Plea (EAGP) reforms
  - 1 on Aboriginal Land Rights in NSW, and
  - 1 on conducting stress free circuit courts (District Court).

More details of these publications are found in Appendix 8.



## Delivering information through JIRS

Figure 11 below visually depicts the components of our online database JIRS and shows how the information flow works to support independent 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 11. The Judicial Information Research System (JIRS): a complete judicial decision support system

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



## Case study

### Informing judicial officers about directions given to juries in criminal trials

An accused pleaded not guilty to a charge of murder.\* At the end of the prosecution case, the trial judge gave a *Prasad* direction over the Crown's objection. The *Prasad* direction is a direction to the jury that they may return a verdict of not guilty at any time after the close of the Crown case if they consider the evidence is insufficient to support a finding of guilt beyond reasonable doubt (so named from *R v Prasad* (1979) 23 SASR 161). At the close of the defence case, the judge reminded the jury of the continuing operation of the *Prasad* direction and the jury returned a verdict of not guilty to both murder and manslaughter.

On appeal to the Victorian Court of Appeal, the court held that the direction was given in appropriate circumstances and in accordance with the law. The Director of Public Prosecutions appealed to the High Court.

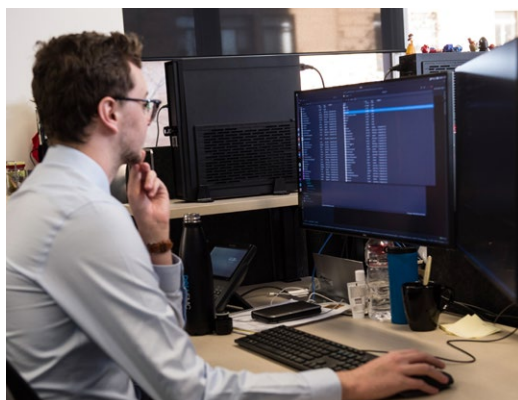
The High Court held that a *Prasad* direction is contrary to law and should never be given. The dangers of giving a *Prasad* direction include that the jury will react adversely to the perceived pressure to acquit or that they will be influenced by the perception that the judge considers the proper verdict to be not guilty. It was decided that, regardless of the care with which the direction is framed, it is difficult to overcome the risk of the latter perception and there remains the risk that the direction encroaches on the adversarial nature of the trial.

Following this decision, we posted a "Recent law" item on JIRS explaining the court's decision. We also updated the "Outline of trial procedure" chapter of the *Criminal Trial Courts Bench Book* to reflect the decision and published a summary of the case in the *Judicial Officers' Bulletin*.

\* *DPP Reference No 1 of 2017* [2019] HCA 9

## 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 have automated systems which check the currency of all legislation on JIRS. On a daily basis, we 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 conduct targeted audits of higher courts' sentencing data received from the NSW Bureau of Crime Statistics and Research.

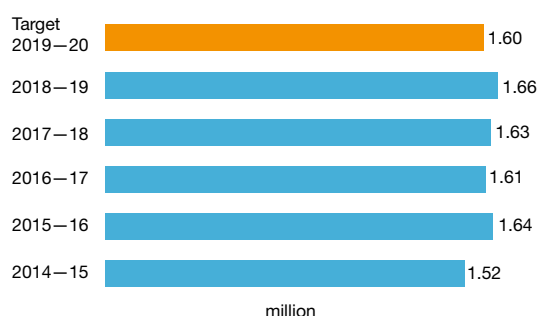


We constantly update our database JIRS so that users have access to the most current and accurate information. Ryan Christensen, pictured, is one of our systems officers.

## 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 12 below. There has been a 1.5% increase in the overall use of JIRS during the year (last year: 1.5% increase) with total page hits of 1,662,376. There was an average of 138,531 page hits each month. However, usage is only one measure and the feedback we receive may be a more reliable indicator of the value of the information we provide. We respond to feedback as swiftly as possible and use this in our JIRS enhancement program.

Figure 12. Number of JIRS pages accessed 2014–19



million





Judicial officers and their support staff in the Supreme, District and Local Courts accounted for 36.2% of the use of JIRS in 2018–19. Supreme Court use decreased 13.9%, District Court use increased 15.6%, and Local Court use decreased 8.6%. Magistrates have access to selected sentencing information through the JIRS Resources iPad™ app as an alternative when they are unable to connect to JIRS. Magistrates accounted for 24.2% of all judicial use this year.

There has been a 4.3% increase in Government agencies' use of JIRS, accounting for 42.2% 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 as well as the Aboriginal Legal Service. 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 6.6% and private law firms' use of JIRS increased 5.3%. These accounted for 19.5% of overall use of JIRS in 2018–19.

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

All NSW courts and High Court judgments on JIRS are automatically loaded to JIRS within 48 hours. We generally 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 41 research requests (last year: 10) and gave 3 conference and seminar presentations about our research program which the judicial and legal community responded to favourably.

In this reporting year, there was an unprecedented number of appointments to the District Court. The Director, Education and the Director, Research and Sentencing participated in the induction program organised in January 2019 to provide the new judges with an opportunity to familiarise themselves with the resources available to them through JIRS. The Director, Research and Sentencing also met with a majority of the new judges to provide them with an outline of the key features of JIRS and to discuss with them ways they could maximise their use of the available materials.

Information about these presentations is found in Appendix 15.

## Improving JIRS

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

- As part of a long-term plan to improve JIRS, new versions of the login screen and statistics viewer were released. The login facility offers the ability to log out of JIRS, rather than relying on an automatic timeout, as well as providing the ability to request and receive passwords automatically. The login screen and statistics viewer are mobile friendly, allowing for consistency in look and feel across devices. The statistics viewer now includes a sidebar containing "case characteristics" and "penalties" for ease of navigation as well as new ways of viewing the data, including wall charts, pie or circular charts and a summary table that links to case details.

Table 3. Overall JIRS use 2014–19

Users	2014–15 hits	JIRS %	2015–16 hits	JIRS %	2016–17 hits	JIRS %	2017–18 hits	JIRS %	2018–19 hits	JIRS %	Change %
Supreme Court	25,339	1.7	23,078	1.4	25,446	1.6	28,090	1.7	24,181	1.5	-13.9 ↓
District Court	146,396	9.6	164,662	10.1	146,172	9.1	151,650	9.3	175,292	10.5	+15.6 ↑
Local Court	329,774	21.6	357,797	21.9	373,497	23.1	440,373	26.9	402,682	24.2	-8.6 ↓
Land and Environment Court	598	0.0	424	0.0	409	0.0	1,512	0.1	232	0.0	-84.7 ↓
Government agencies*	713,717	46.7	779,661	47.7	721,568	44.7	672,548	41.1	701,745	42.2	+4.3 ↑
Professional associations**	43,611	2.9	37,018	2.3	39,017	2.4	36,122	2.2	33,753	2.0	-6.6 ↓
Other subscribers***	266,739	17.5	273,086	16.7	307,605	19.1	308,019	18.8	324,376	19.5	+5.3 ↑
<b>Total</b>	<b>1,527,630</b>	<b>100.0</b>	<b>1,635,894</b>	<b>100.0</b>	<b>1,613,715</b>	<b>100.0</b>	<b>1,638,327</b>	<b>100.0</b>	<b>1,662,376</b>	<b>100.0</b>	<b>+1.5 ↑</b>

\* 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.



- As has been the case with Commonwealth legislation, NSW legislation is now automatically updated nightly after receipt, rather than weekly, and each piece of NSW legislation now includes a link to download the authorised version for print or reading.
- A range of new materials was added to JIRS to assist judicial officers dealing with adoption matters in September 2018. A new search facility has been set up on JIRS under “General Resources” entitled “Supreme Court Adoption Matters” where users can search or simply view the most recent cases.
- The JIRS Resources app was also updated to utilise features of the latest mobile devices.

### Interactive learning resource App on JIRS

We have developed an interactive mobile/tablet learning App based on gaming technology. During the year, we enhanced this to comply with new operating system requirements. An automated way of generating scenarios from the bench books has been developed and is being used with the suggested jury directions and other parts of the bench books. We have received informal feedback from judicial officers who find the app useful. A new

voice-based interface to bench books using Google personal assistant™ is also being tested.

### Use of our publications on JIRS continues to grow

The total number of pages viewed on JIRS grew from 139,608 in 2017–18 to 154,784 in 2018–19, an increase of 10.9% as shown in Table 4. This is the highest rate of access noted in the last 5 financial years while there has been a 9.2% 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 Apple™ and Android™ devices. Table 5 shows PDF downloads have increased for 7 of 9 publications. The *Children’s Court of NSW Resource Handbook* recorded the largest increase followed by the *Equality before the Law Bench Book*. Select publications are also provided in hard copy to judicial officers and are available for purchase at [www.shop.nsw.gov.au](http://www.shop.nsw.gov.au).

Table 4. JIRS use of online information 2014–19

Publication	2014–15 hits	2015–16 hits	2016–17 hits	2017–18 hits	2018–19 hits	Change %
Sentencing Bench Book	48,234	44,709	43,782	38,568	45,514	+18.0 ↑
Criminal Trial Courts Bench Book	42,992	41,851	42,786	44,976	48,752	+8.4 ↑
Civil Trials Bench Book	2,613	2,664	3,402	3,329	3,279	-1.5 ↓
Local Court Bench Book	24,773	38,925	41,612	45,810	48,941	+6.8 ↑
Sexual Assault Trials Handbook	4,308	3,335	3,137	2,548	3,525	+38.3 ↑
Equality Before the Law Bench Book	276	307	431	373	529	+41.8 ↑
Children’s Court of NSW Resource Handbook	1,514	1,306	1,511	1,398	1,491	+6.7 ↑
Education monographs*	81	63	46	48	60	+25.0 ↑
Judicial Officers’ Bulletin*	3,124	2,326	2,375	2,149	2,511	+16.8 ↑
The Judicial Review*	137	119	217	409	182	-55.5 ↓
<b>Total</b>	<b>138,502</b>	<b>135,605</b>	<b>139,299</b>	<b>139,608</b>	<b>154,784</b>	<b>+10.9 ↑</b>

\* 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 2014–19

Publication	2014–15	2015–16	2016–17	2017–18	2018–19	Change %
Sentencing Bench Book	3,519	3,467	4,260	5,621	5,789	+3.0 ↑
Criminal Trial Courts Bench Book	6,079	6,056	6,666	7,370	8,228	+11.6 ↑
Research monographs*	34,751	27,689	8,241	12,613	14,657	+16.2 ↑
Sentencing Trends & Issues*	6,912	5,786	2,765	4,433	5,115	+15.4 ↑
Civil Trials Bench Book	4,846	4,000	4,138	9,361	10,893	+16.4 ↑
Local Court Bench Book	3,051	3,273	2,922	3,354	2,827	-15.7 ↓
Sexual Assault Trials Handbook	1,662	1,841	5,585	8,693	8,351	-3.9 ↓
Equality Before the Law Bench Book	530	829	1,826	2,079	2,504	+20.4 ↑
Children’s Court of NSW Resource Handbook	993	1,035	552	286	374	+30.8 ↑
<b>Total</b>	<b>62,343</b>	<b>53,976</b>	<b>36,955</b>	<b>53,810</b>	<b>58,738</b>	<b>+9.2 ↑</b>

\* Not available via JIRS Resources app.



The impact of our online publications is measured by:

- JIRS use (judicial officers and the legal profession) (see Table 4 on p 44)
- Informit viewings (academic use)
- website use (public viewing) (see Table 5 on p 44 and Table 6 below).

### Informit viewings of our publications increased

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 an increase of 7.4% in total viewings from the previous year (last year: 1.6% decrease). The most popular articles accessed concerned Aboriginal issues, technology and the law, and juvenile justice.

### Public website usage records growth

The total number of pages viewed increased from 149,989 per month in 2017–18 to 157,660 per month in 2018–19, an increase of 5.1% 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*. 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 regularly 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 a 2.5% decrease in use. 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.



Helping to deliver the Legal Information program are Amanda Jamieson, Senior Research Officer (Legal), with Brandi Baylock, Research Officer (Statistics).



Public use of our free-to-view resources on our website has recorded a 5% increase during the year.

Table 6. Website use of our resources 2014–19\*

Publication	2014–15 hits/mth	2015–16 hits/mth	2016–17 hits/mth	2017–18 hits/mth	2018–19 hits/mth	Change %
Civil Trials Bench Book	26,532	30,839	38,435	49,531	56,456	+14.0 ↑
Sentencing Bench Book	22,069	23,919	29,682	36,982	36,054	-2.5 ↓
Criminal Trial Courts Bench Book	19,668	21,451	27,702	34,818	36,557	+5.0 ↑
Local Court Bench Book	11,458	12,176	16,347	21,934	22,305	+1.7 ↑
Sexual Assault Trials Handbook	2,207	2,151	3,249	3,010	3,088	+2.6 ↑
Equality Before the Law Bench Book	208	303	817	1,684	1,696	+0.7 ↑
Sentencing Trends & Issues	5,200	4,741	759	2,030	1,504	-25.9 ↓
<b>Total</b>	<b>87,342</b>	<b>95,580</b>	<b>116,991</b>	<b>149,989</b>	<b>157,660</b>	<b>+5.1 ↑</b>

\* Important note: in late December 2018 the Commission relocated its public website to a remote host on the Internet. It had previously been hosted on a server at the Commission. This move resulted in our usage data for 2018–19 being incomplete. As a consequence, we have estimated the usage of our public website resources for the whole year on a pro rata basis.



## Case study

### Advising judicial officers about changes to victim impact statements

The NSW Sentencing Council made a range of recommendations in its 2017 review of victims in the sentencing process. The NSW Government introduced reforms to respond to these recommendations.\* These amendments, which commenced in December 2018, introduced measures to protect certain witnesses giving evidence in child sexual abuse proceedings as recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse.

Further important amendments commenced on 27 May 2019 and involved changes to the treatment of victim impact statements (VIS), extending VIS provisions to additional victims, introducing a right for all victims to have a support person present when reading a VIS and introducing new provisions related to VIS in mental health and cognitive impairment forensic proceedings in courts and before the Mental Health Review Tribunal.

Under the previous provisions, statements could only include particulars of actual bodily harm or psychological or psychiatric harm suffered by a primary victim, or in the case of a family victim, the impact of the primary victim's death on their immediate family.

Now, a victim may prepare a VIS containing particulars of other types of harm suffered by them, or members of their immediate family, as a direct result of the offence including emotional suffering or distress, relationship harm and particular economic loss/harm.

Previously, a court had a discretion as to whether to receive and consider a VIS from a primary victim, but was required to do so when a VIS was from a family member of a victim who had died. Now a court *must* receive, acknowledge and consider a VIS from primary victims and family members and comment as appropriate.

We liaised closely with the Chief Magistrate's Office about these changes given their immediate impact in the Local Court, advised all judicial officers of these amendments by publishing a summary of the amending legislation on JIRS and published an update to the *Sentencing Bench Book* to coincide with the commencement of the amending legislation.

\* *Crimes Legislation Amendment (Victims) Act 2018*

## Case study

### Providing support for victims in forensic mental health matters

The way in which the criminal justice system responds to people with mental health and cognitive impairments is being reformed. The first of these changes commenced on 28 November 2018 and it is anticipated the process of reform will continue into early 2020.

The two significant reforms for victims of forensic patients which have already commenced are:

- the establishment of a Specialist Victims Support Service (SVSS) to support victims navigating the forensic mental health system, including through the court process, and then during the Mental Health Review Tribunal (the Tribunal) process, and
- the provision of greater rights and voice for victims in the Tribunal process.

These changes represent the start of a series of reforms affecting the way in which the criminal justice system responds to offenders with mental health and cognitive impairments as well as providing a stronger voice for victims in Tribunal hearings.

We advised judicial officers of these amendments and outlined the help provided for courts in deciding issues of placement of forensic patients and future changes planned in an article published in the *Judicial Officers' Bulletin*.



People in NSW with a mental health disorder are  
**3 to 9 times more likely to be in prison**  
than their non-disabled counterparts in the general population

Words from the Mental Health Commission of NSW





## Program 3

### Examining complaints

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

3.1 Performance results 2018–19 .....	48
3.2 Why we examine complaints .....	50
3.3 Complaints received and examined during the year .....	51
3.4 Identifying complaint patterns 2018–19 .....	53
3.5 How we deal with complaints and enquiries ...	54



### 3.1 Performance results 2018–19

**An assessment of the results shown in Table 7 demonstrates that our complaints function performed well in 2018–19. 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, program highlights, challenges, and forward direction.**

Table 7. Results for examining complaints

Results	Measures	Target
Finalised majority of complaints received during the year	Maintain the percentage of complaints examined and finalised during the year	See Note 1
Timely acknowledgment and completion of preliminary examination of complaints	Maintain the time taken to formally acknowledge complaints received  Maintain or decrease the time taken to conduct preliminary examination of complaints	100% of complaints received acknowledged within 5 working days  Examine 90% within 6 months; 100% within 12 months
High standard of judicial performance	Compare number of complaints to the number of court matters finalised during the year  Compare number of complaints dismissed under section 20 of the <i>Judicial Officers Act</i> 1986 with complaints that require further action  Maintain accessible information about the complaints process	See Note 1
Information gathered from the complaints process has been used to develop education sessions for judicial officers	Monitor and analyse trends in complaints to inform our education program	See Note 1
Independence of judicial officers was maintained	Maintain confidentiality of complaints process	See Note 1

Note 1. The measure of these targets is qualitative, ongoing, and subject to external variables to which the Commission can only respond. As such, no numerical measure is articulated.

Photo previous page: Only criminal matters are heard at the Central Local Court on Liverpool Street, Sydney, a jurisdiction which continues to see sustained growth in its workload.



Performance	Status	
<b>HIGHLIGHT</b> <b>Commission examined 68 complaints during the year of the 89 total complaints (received and pending from last year): see p 51</b>	✓	<b>Challenges 2018–19</b> <ul style="list-style-type: none"> <li>Explaining to a disappointed complainant why their complaint was dismissed.</li> <li>Unusually high number of Conduct Divisions (3) held during the year.</li> </ul>
100% of complaints received were acknowledged within 5 working days: see p 51  Commission examined 94% within 6 months and 99% within 12 months: see p 51	  ✓	
<b>HIGHLIGHT</b> <b>Unprecedented number (3) of Conduct Divisions run during the course of the year: see p 52</b>		Complaints expenditure: \$2.51 million as at 30 June 2019 (31% of overall expenditure).
378 judicial officers in NSW heard around 700,000 court matters in 2018–19. 63 complaints about 56 judicial officers were made to the Commission: see p 51  97% of complaints (66 of 68 examined) were summarily dismissed under section 20 of the <i>Judicial Officers Act</i> 1986  Two complaints required further action: 1 referred to head of jurisdiction and 1 to Conduct Division (last year: 2), see p 52  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 309 requests for information: see p 54	✓	<b>Looking ahead 2019–20</b> <ul style="list-style-type: none"> <li>Examine all complaints efficiently, effectively, independently and objectively.</li> <li>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.</li> <li>The complaints process will inform the design of education sessions.</li> <li>Monitor and report on trends in complaints.</li> </ul>
51% of complaints arose from allegations of failure to give a fair hearing.  21% of complaints arose from allegations of an apprehension of bias. Education sessions held and resources produced during the year addressed these issues: see p 53 and Appendices 5 and 6	✓	
Commission examined all complaints according to statutory criteria and established protocols: see pp 54–55	✓	

## Legend

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

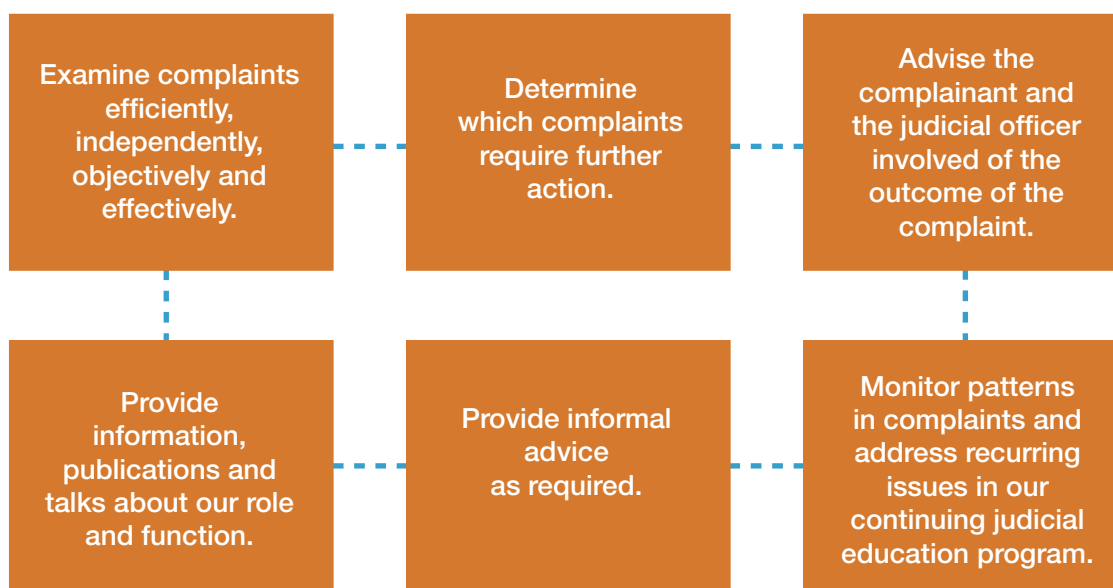


## 3.2 Why we examine complaints

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.

### How we fulfill our statutory function



There are 378 judicial officers in NSW who dealt with more than 700,000 court matters during 2018–19. The number of complaints we receive each year is low compared to the high volume of matters handled: see Table 8 on p 51. 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.

### 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* and *Conduct Division: guidelines for examination of complaints* (see Appendices 1 and 2).





### 3.3 Complaints received and examined during the year

During 2018–19, 55 people made 63 complaints about 56 judicial officers (last year: 74 complaints about 68 judicial officers). Five complainants each made 2 complaints; 1 complainant made 4 complaints. The rest of the complaints were lodged individually. We examined 68 complaints including 26 complaints pending as at 30 June 2018. Twenty complaints were pending as at 30 June 2019. 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 5 years is that, following a preliminary examination, most complaints were summarily dismissed under section 20 of the *Judicial Officers Act* 1986. This year, 97% of complaints (66 of 68) examined were summarily dismissed. This is higher than the average 5-year dismissal rate of 93.5%. 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 66 complaints summarily dismissed were dealt with under section 20 this year.

#### High consistency in timely examination of complaints

Within 5 working days, the Commission wrote to each complainant to acknowledge their complaint had been received. Ninety-four per cent of the 69 matters were finalised within 6 months and 99% of complaints were finalised within 12 months of their receipt. One matter could not be finalised within 12 months because the Commission had difficulty obtaining some information to complete the examination due to circumstances beyond its control. 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 2014–19

	2014–15	2015–16	2016–17	2017–18	2018–19
Complaints pending at 30 June 2018	8	11	14	17	26
Complaints made during the year	59	44	75	74	63
<b>Total number of complaints</b>	<b>67</b>	<b>55</b>	<b>89</b>	<b>91</b>	<b>89</b>
Complaints examined and dismissed	49	40	69	55	66
Complaints referred to head of jurisdiction	4	0	2	5	1
Complaints referred to Conduct Division	2	0	1	2	1
Complaints withdrawn	1	1	0	3	1
<b>Total number of matters finalised</b>	<b>56</b>	<b>41</b>	<b>72</b>	<b>65</b>	<b>69</b>
Complaints pending at 30 June 2019	11	14	17	26	20

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 it is required not to deal with.	20(1)(a)	1
The complaint is frivolous, vexatious or not in good faith, and having regard to all the circumstances of the case, further consideration of the complaint would be or is unnecessary or unjustifiable.	20(1)(b) & (h)	5
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)	27
The person complained about is no longer a judicial officer.	s 20(1)(g)	2
Having regard to all the circumstances of the case, further consideration of the complaint would be or is unnecessary or unjustifiable.	20(1)(h)	31
<b>Total number of complaints dismissed under section 20</b>		<b>66</b>

Table 10. Time taken to conduct preliminary examination of complaints 2014–19

	3 mths	6 mths (target 90%)	9 mths	12 mths (target 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
<b>2018–19</b>	<b>54</b>	<b>94</b>	<b>99</b>	<b>99</b>



### One complaint referred to the relevant head of jurisdiction

One complaint was referred to the relevant head of jurisdiction under section 21(2) of the *Judicial Officers Act* (last year: 5). 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.

### One complaint referred to a Conduct Division

One complaint about a judicial officer was referred to a Conduct Division this year under section 21(2) of the *Judicial Officers Act* (last year: 2). The complaint involved his Honour Judge Peter Maiden SC, who was already the subject of a complaint then being examined by a Conduct Division, originally established in November 2017.

Information about the role of a Conduct Division is found on pp 54–55.

### Finalisation of Conduct Division inquiries

#### Three Conduct Division inquiries were completed this year.

The Commission referred the first matter concerning her Honour Magistrate Dominique Burns to the Conduct Division in December 2017. The Conduct Division comprised:

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



Any person may complain to the Commission about a matter that concerns or may concern the ability or behaviour of a judicial officer both inside and out of the courtroom.

The Conduct Division finalised its report on 21 December 2018. The Conduct Division formed the opinion that the complaint justified Parliamentary consideration of the magistrate's removal from office. The report was tabled on 10 January 2019. The magistrate resigned on 31 May 2019 before Parliament considered the Conduct Division's report.

The second matter concerned 2 complaints about his Honour Judge Peter Maiden SC; one complaint was referred in November 2017 and the second in August 2018.

For the examination of these complaints, the Conduct Division comprised:

- the Honourable Justice Robert Macfarlan, Supreme Court of NSW
- the Honourable Acting Justice Arthur Emmett AO, Supreme Court of NSW
- Mr Ken Moroney AO APM.

The Conduct Division finalised its report on 26 March 2019. The Conduct Division formed the opinion that the complaints justified Parliamentary consideration of the judge's removal from office. The report was tabled on 8 May 2019. The judge resigned his office on 11 July 2019 before Parliament considered the Conduct Division's report.

The Commission referred the third matter in December 2017. The Conduct Division comprised:

- the Honourable Justice Peter Johnson, Supreme Court of NSW
- the Honourable Roger Boland
- Professor Nalini Joshi.

After 9 days of hearing, the judicial officer complained about resigned and the Conduct Division ceased dealing with the matter.

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.

### 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).



## 3.4 Identifying complaint patterns 2018–19

### Monitoring trends in complaints

Figure 13 below shows the type and number of complaints received during the year (total: 63, last year: 74). 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 2018–19, 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-seven of the 68 complaints (40%) examined 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 of law or fact or if there was a miscarriage of justice.

#### Further examination unnecessary or unjustifiable

Thirty-four (52%) of the 66 complaints were dismissed following the preliminary examination on the basis that, having regard to all the circumstances of the case, further consideration of the complaint was unnecessary or unjustifiable (last year: 51%).

### Incompetence

Four complaints alleged judicial incompetence this year (last year: 4).

### Inappropriate comments and discourtesy

Five complaints alleged that a judicial officer made inappropriate comments (last year: 2) and 3 complaints alleged discourtesy (last year: 5).

### Complaints arising from AVO proceedings

Some complaints arise out of proceedings involving applications for apprehended violence orders (AVOs). In many instances, the complaints arose from a misunderstanding of the nature of the hearing. Six complaints (10%) arose from AVO proceedings (last year: 24%). The Commission notes that the decreasing trend may, in part, be due to an emphasis on AVO proceedings in our education program.

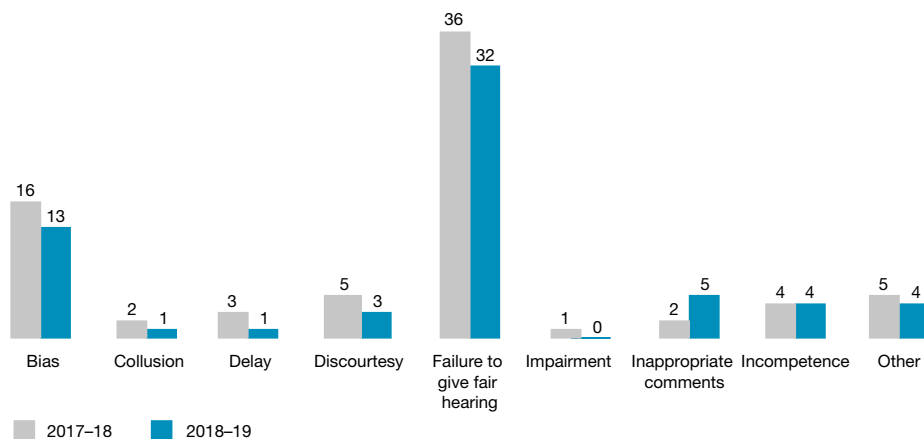
### Self-represented litigants making complaints

A trend we have noted is the high proportion of complaints that self-represented people make. This year, self-represented litigants made 49% of all complaints (last year: 58%).

### 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 2018–19, these 2 categories accounted for 45 (71%) of complaints examined (last year: 70%). 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.

Figure 13. Common causes of complaint: basis of allegation — by individual category 2017–19





## 3.5 How we deal with complaints and enquiries

### Responses to informal enquiries

During the year, we responded to 309 telephone, face-to-face and written enquiries from potential complainants, members of the legal profession and the media (last year: 304).

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.

### 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](http://www.judcom.nsw.gov.au).

### Examining the complaint

Figure 14 (on p 55) 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 32-year history, 24 Conduct Divisions have been formed. The Commission decides on the 3 members of a Conduct Division — 2 are judicial officers (1 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.

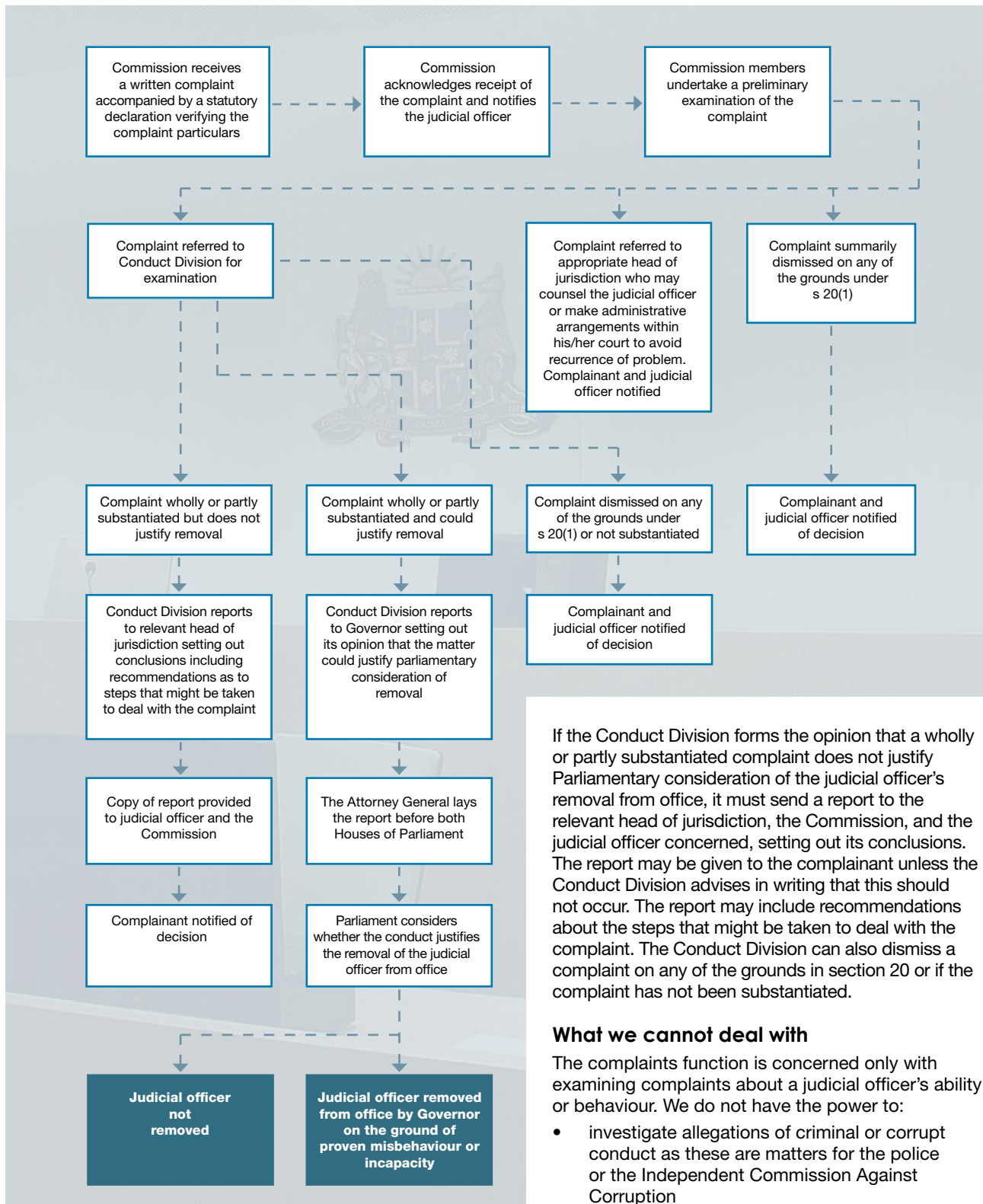
If the Conduct Division, as part of its examination of a complaint, forms the opinion that a judicial officer may be physically or mentally unfit to exercise efficiently the functions of a judicial officer, the Conduct Division may request the officer undergo a medical or psychological examination. If 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.





Figure 14. How the complaints process works



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.



## Case studies

### Failure to act in a judicial manner

#### The complaint

The complainant was a respondent to an application for an apprehended violence order before the Local Court. When the matter came before the court for mention, both parties appeared without legal representation. The complainant, who had appeared previously before the magistrate, said he did not want the magistrate to deal with the application. Following a heated exchange, the magistrate charged the complainant with contempt in the face of the court and sentenced him to 5 days' imprisonment. The complainant lodged a notice of appeal and sought bail. This was refused. The appeal was subsequently withdrawn as the complainant had completed his sentence. The complaint was that the magistrate's action was not just and fair.

#### The Commission's examination

The Commission reviewed the sound recording and transcript of the hearing. It also considered a response to the complaint received from the judicial officer. After examining the information before it, the Commission was of the view that the judicial officer's conduct in the circumstances, was inappropriate. It was determined that the complaint was substantiated and should not be dismissed. The matter was referred to the Chief Magistrate as the relevant head of jurisdiction to deal with.

### Complainant had a right to appeal

#### The complaint

After a hearing in the Local Court, an order was made against the complainant, who was self-represented in the proceedings. He claimed that the magistrate was biased against him and had a dislike for him, which resulted in the adverse order being made.

#### The Commission's examination

The Commission dismissed the complaint after reviewing the sound recording of the proceedings. The Commission was of the view that the magistrate gave careful consideration to all matters before him. In the Commission's opinion, the magistrate dealt fairly and equally with both parties and there was no evidence to support the allegations made in the complaint. It further noted that the complainant had a 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 instead of lodging an appeal. The Commission's role is to examine complaints about ability or behaviour. It does not have authority to review judicial decisions, including findings of fact and law. That is a matter for

courts of appeal and is recognised in the provisions of section 20 of the *Judicial Officers Act*, which requires the Commission to dismiss complaints summarily where there is an avenue of appeal or review available. The complainant and judicial officer were advised of the Commission's reasons for dismissing the complaint.

### Complaint by vexatious complainant

The Commission has power under section 38 of the *Judicial Officers Act* to declare a complainant vexatious. The effect of the declaration is that the Commission may disregard any further complaint from the person until the declaration is revoked.

#### Complainant declared vexatious

The complainant was declared a vexatious complainant in November 2006. The Commission had not revoked the declaration. After being declared vexatious, the complainant has continued to lodge complaints against judicial officers.

#### The Commission's consideration

A further complaint was made against a magistrate in criminal proceedings during the reporting period. Included with the complaint was a large volume of material and detailed submissions.

After its preliminary consideration, the Commission determined that the complaint be disregarded and not examined. The complainant was advised accordingly.

### Complaint about a retired judicial officer

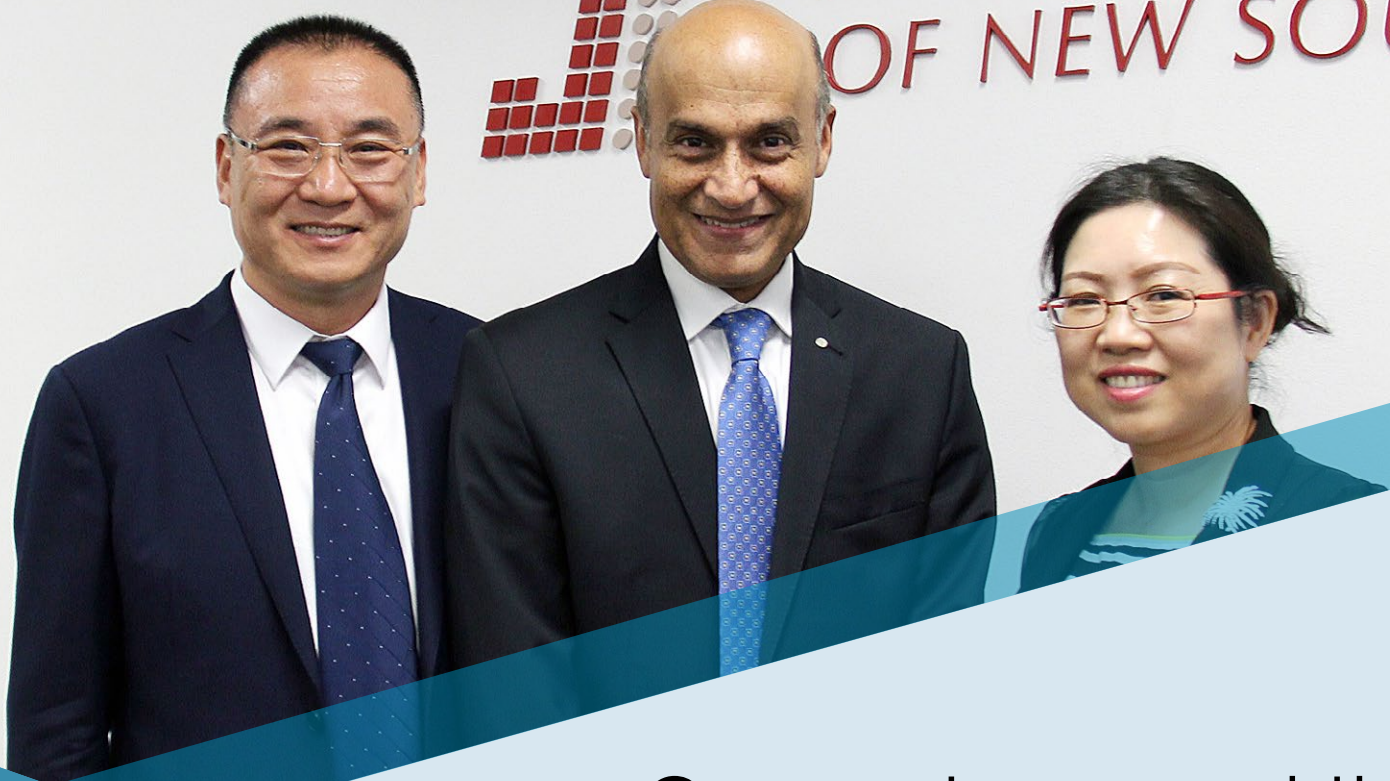
#### The complaint

The Commission received a complaint that alleged a judge in the Supreme Court had failed to follow proper procedure and give the complainant a fair hearing. The hearing relevant to the complaint had been several years before the complaint was made.

#### The Commission's examination

The complaint received by the Commission was in proper form, however, the examination was not commenced because the Commission was aware that the judge had retired and had not been re-appointed in an acting capacity. In those circumstances, the Commission could not investigate the complaint.

The Commission has no jurisdiction over a former judicial officer. The *Judicial Officers Act* required the Commission to dismiss the complaint as the person complained about was no longer a judicial officer. While this outcome may be disappointing for a complainant, the Commission has no power to do more about the concerns raised with it.



## 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.

Performance results 2018–19 .....58

Listening to our partners and the community .....60

We inform the public about what we do and exchange knowledge and expertise with other organisations .....61



## Performance results 2018–19

An assessment of the results shown in Table 11 demonstrates strong engagement with our partners and the community in 2018–19. 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 11. Results for engagement with our partners and the community

Results	Measures	Performance	Status
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  Maintain number of presentations that Commission staff give to inform the public and community groups about role in the justice system  Maintain or increase our community engagement role through collaborations with other organisations	5% increase in page views of free-to-view legal resources on our website: see p 45  20 presentations about our work and role throughout the year: see Appendix 15  New publications uploaded on our website for free-to-view service: see pp 45, existing publications updated throughout the year: see p 40 and Appendix 8  Demonstrated by collaborations with Law Society of NSW and NSW Bar Association (see case study p 30); delivery of seminars, multi-media channels, support for the Indigenous Clerkship program  Responded to 309 enquiries from potential complainants and other enquiries: see p 65  <b>HIGHLIGHT</b> <b>Liaised with the Australian National Imams Council to discuss strategies to raise judicial awareness about the participation of Australian Muslims in court processes. See p 61</b>	✓
Government agencies had access to our statistical and legal information and shared our knowledge	Maintain information service for Government agencies	42% of JIRS usage was from Government agencies: see p 43  Significant productivity enhancement of Lawcodes to assist with the compilation and presentation of JIRS sentencing statistics, making it easier to populate and display the sentencing statistics menu pages on JIRS  Responded to detailed research enquiries from government agencies: see p 43	✓
We provided capacity-building assistance to other nations	Maintain or increase our capacity-building assistance	We hosted visitors and delegations throughout the year and provided substantial assistance to the Papua New Guinea law and justice sector. See case study p 62 and Appendix 12	✓
We shared knowledge, resources and experience with other judicial education providers	Maintain or increase exchanges throughout the year	Worked closely with the Department of Justice to help communicate major justice reforms to judicial officers: see p 63  Supported the Continuing Legal Education Association of Australasia (CLEAA) in designing and delivering its Annual Conference in October 2018  <b>HIGHLIGHT</b> <b>Partnered with the International Organization for Judicial Training to publish Issue 6 of the IOJT's journal, <i>Judicial Education and Training</i>, in December 2018: see p 40</b>	✓
We provided advice and support to other Australian jurisdictions and international institutions	Maintain advice on an "as requested" basis	Engaged with the Judicial Council on Cultural Diversity: see p 64  <b>HIGHLIGHT</b> <b>Renewed 2 Memoranda of Understanding with the Supreme and National Courts of PNG for the PNG Sentencing Database and the PNG Integrated Criminal Case System database: see p 63</b>  <b>Supported research by the University of NSW into vicarious trauma: see p 65</b>	✓
The Commission provided contractual services to partners and the community	Maintain or increase revenue obtained from contractual services	\$937,000 (12% of our income) was self-generated to supplement funds from consolidated revenue (last year: \$999,000). See p 97 in Our finances	↓
Legend ✓ target achieved    ↑ target/output exceeded    ↓ target not achieved			

Photo previous page: The Commission regularly hosts overseas visitors who are keen to learn about our role and function, including the complaints process, in NSW's justice system. The Commission's Deputy Chief Executive, Murali Sagi PSM (middle) meets with a delegation from the Chinese Law Society, November 2018.





## Challenges 2018–19

- Balancing our core work with requests for assistance from the NSW Government about major criminal justice legislative reform simultaneously with implementing other reforms that have taken effect this year.
- Being able to balance our core work with requests for assistance from other jurisdictions.

## Looking ahead 2019–20

- Review how to increase productivity and curate our services to meet changing needs of stakeholders, for example, through JIRS enhancement projects.
- Continue to provide online legal information for the public as part of our community engagement strategy.
- 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 our involvement with the International Organization for Judicial Training (IOJT), 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.
- 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.
- Assist the Special Commission of Inquiry into the Drug “Ice” with design and delivery of surveys of judicial officers to inform the work of the Inquiry.
- Explore opportunities to develop case management software with new partners.



## Listening to our partners and the community

**Our partners appreciate the assistance, services and the sharing of information and experience we provided during the year.**

“We are very much impressed by the work of Judicial Commission of NSW. Thank you for sharing the work of the Judicial Commission and we look forward to future co-operation.”

Delegation from National Judicial Academy, Nepal, June 2019

“The [Judicial Commission of NSW] model of a body that both offers judicial education and ... is responsible for reviewing the conduct of judges has proven very successful.”

Editorial, (2019) 93 *Australian Law Journal* 159

“The wealth of knowledge involved in your team gives me enormous hope for our First Nations People, present and future, which also inspires me to want to be a better Ngunnawal/Darug nations man.”

Participant in the Ngara Yura Exchanging Ideas Symposium,  
June 2019



## 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

For over 30 years, we have developed expertise in judicial education services, computerised sentencing information, processes for examining complaints and building and maintaining judicial support and case management systems.

In 2018–19, we worked with other organisations and judiciaries to:

- co-operate 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.

### Performance of our public information and community engagement role

During the year, we collaborated with the NSW Bar Association, the Law Society of NSW and Museum of Applied Arts and Sciences to present a one-day symposium on the call for constitutional recognition of Aboriginal people enshrined in the Uluru Statement from the Heart. See the case study on p 30.

The Commission provides free legal educational resources to schools and university students on our website. There has been a 5% 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.

During the year, our Chief Executive and Director, Education met with advisors from the Australian National Imams Council to discuss strategies to raise judicial awareness about the participation of Australian Muslims in court processes.

The Commission has shared its experience in the area of judicial education and the handling of complaints through presentations and meetings with delegations from abroad.

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

Commission staff delivered 20 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 2018–19.

### Public use of our information continues to grow

Use of our online publications grew at an overall rate of 5% (last year: 28% growth). The *Civil Trials Bench Book* has been the most accessed publication with an average 56,456 hits each month and 14% yearly growth. This resource provides information and legal principles relevant to all aspects of running civil proceedings and about evidence admitted in civil and criminal trials. More information about our published resources is found on p 40 and in Appendix 8. The continuing growth over a 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 45.





## Case study

### How we assisted the PNG law and justice sector this year with judicial education and the provision of case management software

The Commission has provided capacity-building assistance to the law and justice sector of Papua New Guinea (PNG) since 2007. We have liaised and shared expertise and experience with PNG to assist them to develop their judicial officers' performance and skills. Together, we have worked towards promoting judicial excellence, professional development, and use of new technologies and databases for better decision making. This upholds our vision of fostering an awareness of judicial administration, developments in the law, and social and cultural issues, with other countries in the Asia-Pacific region.

The Chief Justice of PNG, Sir Gibbs Salika KBE CSM OBE, visited the Commission this year, along with the Registrar, Supreme and National Courts of PNG; the Secretary, National Judicial Staff Services; and other senior officers. The main topics for discussion with our Chief Executive, Mr Ernest Schmatt AM PSM and Mr Murali Sagi PSM, our Deputy Chief Executive, were the Integrated Criminal Case System Database (ICCSDB) and the PNG Sentencing Database (PNGSD). The Commission has developed both databases which we continue to maintain and host.

The ICCSD is able to track and monitor cases, and record information every step of the way, from when police charge an offender to when the penalty is given to convicted offenders for all types of criminal cases including appeals. Information is also available from the

ICCSDB for corrective services. The ICCSD is available in 3 PNG provinces and is being expanded to other provinces. Further improvements continue to be made to the system to provide management reports.

The PNGSD, which is based on the Commission's Judicial Information Research System (JIRS), reduces unjustified disparities in criminal sentencing. Built under the guidance of PNG's Chief Justice, the database has provided PNG judges with statistics, similar cases and other reference materials to assist them with their decisions. Both databases have significantly improved data quality, currency of information and the way criminal cases are managed in PNG. The ICCSD and PNGSD agreements signed in October 2018 will run until 30 June 2022.

In June, 2 officers from the PNG Centre for Judicial Excellence (PNGCJE) spent a two-week secondment at our office. Ms Arabella Owen and Ms Vali Kilma, program officers in the Magisterial Services branch at PNGCJE, learned about our judicial education programs and activities, and gained experience in planning and executing a workshop. They were also introduced to the Commission's publications library and observed how the various publications supplemented our continuing education program. The implementation of online-only services at the Commission and the use of iPads among Local Court Magistrates were particular points of interest.



(l-r) Arabella Owen and Vali Kilma, program officers in the Magisterial Services branch at PNGCJE, met with Joanne Selfe, Ngara Yura Project officer at the Commission to learn about our Aboriginal cultural awareness program, June 2019.





## 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 41 research enquiries (last year: 10), including from:

- Director of Public Prosecutions (NSW and Cth)
- Legal Aid NSW
- NSW Public Defender
- Department of Justice
- NSW Police Force
- NSW Special Commission of Inquiry into the Drug “Ice”.

We also worked with:

- the Department of Justice on their communications strategy to inform judicial officers about significant justice reforms that commenced incrementally in 2018. These included major reforms to community sentencing options and sentencing for child sexual abuse offences. As part of this, we developed a series of educational videos to inform judicial officers about the early appropriate guilty plea reforms which commenced in 2018
- the Department of Justice, participating in various working groups to advise about the NSW government’s proposals for legislative reform
- Corrective Services NSW to develop educational resources to assist magistrates with understanding the changes to community-based orders
- the NSW Public Defender on a project to provide evidence of Aboriginal disadvantage in court, mostly for judicial officers to take into account in sentencing proceedings
- the NSW Drug Court and Compulsory Drug Treatment Correctional Centre to host, maintain and support their case management systems, which the Commission developed
- the Department of Justice, Domestic Violence Death Review Team (DVDRT), to support recommendations of the DVDRT annual reports
- the Aboriginal Legal Service to support a project to create Aboriginal community reports (known as *Bugmy* 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
- significantly enhanced Lawcodes to assist with the compilation and presentation of the JIRS sentencing statistics. This productivity enhancement will make it easier to populate and display the sentencing statistics menu pages on JIRS with reduced manual intervention.

## Performance of our capacity-building role

Consistent with section 11(1)(b) of the *Judicial Officers Act*, the Commission is liaising and sharing our expertise and experience with countries in the Asia-Pacific region to assist them to develop the capacity and performance of their judicial officers. During the year:

- the Commission continued to work with the Papua New Guinea (PNG) law and justice sector to operate the PNG Sentencing Database (PNGSD) and the Integrated Criminal Case System Database (ICCSDB). The Commission successfully developed the sentencing database for PNG which is now fully operational. The pilot ICCSD was initially tested in 3 provinces. Following successful completion of the pilot phase and renewal of the MOU, the ICCSD is now being expanded to 4 more provinces of PNG. The system has been designed to track and monitor cases from the point of being charged by the police to the point of dispensation of penalty for all types of criminal cases including appeals. All vital information will be shared among law and justice agencies of PNG and will be readily accessible through this single source allowing for significant improvement in data quality, currency of information and the way criminal cases are managed. See case study on p 62
- we signed 2 Memoranda of Understanding for the Commission to host and maintain the ICCSD and the PNGSD
- we hosted 2 staff members of the Papua New Guinea Centre for Judicial Excellence (PNGCJE) for a two-week skills exchange, focussing on planning and executing workshops for judicial officers: see case study on p 62
- we assisted staff members of the Papua New Guinea Centre for Judicial Excellence (PNGCJE) by providing judicial ethics materials for a judicial orientation program
- we continued to train PNG staff on 3 occasions to maintain the PNGSD and ICCSD databases
- we hosted delegations of judicial officers and visitors to our Sydney office including from Papua New Guinea, China, the Philippines, South America and Nepal. Full details of these visits can be found in Appendix 12.



## Collaborating with NSW courts and other Australian jurisdictions

The Chief Executive is a member of the Judicial Council on Cultural Diversity. The Council published an addendum to its report on Recommended National Standards for Working with Interpreters in Courts and Tribunals in May 2019 and we incorporated these updates into our material. We continue to work to implement this framework through our programs and publications.

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

To promote a better understanding by judicial officers of Islamic concepts and practices as they relate to Muslims participating in court processes, we worked with the Australian National Imams Council (ANIC).

During the year, we continued to host the NSW Court of Appeal database from our JIRS platform. The Court of Appeal maintains the content.

We worked closely with the Supreme Court and the Department of Justice to develop a series of short video clips for judicial officers addressing the early appropriate guilty plea (EAGP) reforms, which were recorded in August 2018 and then made available on JIRS.

We met regularly with Corrective Services NSW to share feedback from judicial officers about the sentencing reforms and collaborate on a podcast project to assist with clarifying aspects of the reforms.

In order to increase support to newly appointed magistrates we assisted the Local Court with a review of its peer mentoring program.

## Case study

### Helping to celebrate the 20th Anniversary of the Drug Court of NSW



The Attorney General, the Honourable Mark Speakman SC (l) opened the conference. He is pictured with his Honour Judge Roger Dive (r), who collaborated with the Commission to produce the event.

The Drug Court of NSW first opened its doors on 8 February 1999. This specialist court works with drug-dependent offenders who are eligible for the program according to specific criteria. The court's aim is to reduce a person's dependence on drugs so that their need to resort to criminal activity is reduced and they can better function in the community.

Since the court first sat, 670 participants have graduated from the program, and, in the last 10 years, 51% (of over 2,000 graduating and non-graduating participants) were not required to return to custody at the end of their program.

To mark these highly successful 20 years, a one-day Drug Court Practitioners' Conference was planned for 2019.

The Commission has played an instrumental role in the Drug Court operations since its inception. We have provided vital technical expertise in the form of case management systems for the smooth running of the court. We have also assisted by delivering regular conferences for the court and its practitioners.

To ensure that the anniversary conference was a success, we worked closely with Senior Judge Roger Dive to design and deliver a comprehensive event. The key focus was on enhancing the expertise of partners and practitioners in the delivery of treatment and management programs for repeat offenders with complex issues.

For the faculty, we chose a mix of presenters including judicial officers, academics, practitioners, independent experts and representatives from other government organisations.

The conference was held at the Novotel Parramatta on Friday 22 February 2019 with 126 participants.

The Honourable Mark Speakman SC MP, Attorney General of NSW, opened the conference. Renowned therapeutic justice expert, Judge Peggy Hora (ret), President of the Justice Speakers Institute, gave the Keynote Address, "Looking Back and Moving Forward", which set the theme for the day. One highlight was an interview that Ms Sue Jefferies, Clinical Nurse Consultant at the Drug Court, conducted with a family who successfully completed the Drug Court program. Their poignant and uplifting story brought home to all in attendance the true value of the work of the court and its partners.

The evaluation results indicated a very high regard for the conference, with the overall satisfaction rated at 93% (up from 92% in 2017). The usefulness and relevance of the conference was rated at 93% (up from 90% in 2017). The design and style of the conference rated at 92% (up from 90% in 2017) and the "opportunity for interaction with colleagues" rated at 88% (up from 87% in 2017). We believe that the day rated so highly as it provided practical assistance for those working in the program.



### Performance of contractual services

Revenue from our information technology contractual services at \$937,000 (12% of total income) was slightly lower than last year's \$999,000.

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
- the PNG Sentencing Database
- the PNG 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: 4) and attended to 305 telephone, face-to-face and written enquiries from potential complainants (last year: 304).

### Working with other judicial education providers and universities

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

In 2018, we collaborated with Professor Jill Hunter, UNSW and Dr Kevin O'Sullivan, adjunct academic and psychologist, UNSW on a research proposal into the effects of vicarious trauma on judicial officers. There is a lack of psychological research on judicial officers' stress-related risks arising from their work on the bench, particularly in the area of vicarious trauma. The initial step in the research is to seek to establish the incidence of direct and vicarious trauma, including its impact on judicial officers.

To this end, we established a steering committee consisting of representatives from the courts. The committee provided guidance as to the direction, including review of the draft questionnaire and testing of the survey prior to dissemination. The Commission designed a secure, dedicated survey platform to ensure that responses were maintained in the strictest confidence. Based on the outcomes of the research, we may consider establishing an evidence-based judicial education program. We also recognise that the incidence of vicarious trauma may arise given the anticipated rise in prosecutions stemming from the Royal Commission into Institutional Responses to Child Sexual Abuse.

We agreed to support a research project "Judicial Education in Australia — A Study of Current Practices", which aims to provide a comprehensive survey and analysis of contemporary practices of judicial education in Australia. The project team is Professor Gabrielle Appleby (UNSW), Professor Suzanne Le Mire (University of Adelaide), Professor Andrew Lynch (UNSW) and Professor Brian Opeskin (UTS).

During the year, we also 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 attended the Board of Executives meeting of the International Organization for Judicial Training (IOJT) in Paris, France
- assisting the National Judicial College of Australia to present the National Judicial Orientation Program with the Australasian Institute of Judicial Administration
- our Director, Education attended in the role of Chair, Nominations Committee of the Association for Continuing Legal Education (ACLEA) in 2018. 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
- our Chief Executive and Director, Education, attended meetings of the Asia Pacific Judicial Educators Forum in Melbourne in November 2018 and Canberra in June 2019
- our Manager, Programs as a member of the Family Violence Working Group, focussing on 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.

We also partnered with the IOJT to publish Issue 6 of the journal, *Judicial Education and Training*, in December 2018.

Appendix 10 has details of how we assisted other organisations.



The Commission's Deputy Chief Executive, Murali Sagi PSM (l) provides information about the JIRS sentencing database to delegates from the Chinese Law Society in November 2018.





## Case study

### Sharing our knowledge with the judiciaries of other nations

The Commission has a statutory mandate to promote the highest standards of judicial performance in NSW. We engage with the judiciaries of other nations to share the accumulated knowledge and experience we have gained from over 3 decades in operation. 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.

In November 2018, a study group of Chinese lawyers and officials from the China Law Society visited the Commission. The China Law Society is the official national organisation for the Chinese legal academic profession. The study group's focus was the issues affecting judicial officers in the performance of their role. The 22 delegates were keen to learn about the Commission and its role in the NSW justice system and to hear how the complaints function operates.

In June, we hosted a six-person delegation from the National Judicial Academy of Nepal (NJA). Established in 2004, the NJA has 3 core activities: serving the training needs of judges, lawyers and others directly involved in the administration of justice; researching and publishing information in respect of law reform and the use of new technology; and collaborating with other local professional bodies for the advancement of the Nepalese judicial system.

During the visit, Commission executive officers and the delegates discussed the role and function of the Commission, our publications program, how we assist NSW judicial officers through the use of technology and the seminar and training components of our respective continuing judicial education programs.



Members of the Commission's executive met with a delegation from the National Judicial Academy of Nepal in June 2019. The visitors were keen to learn about our role and function, including the complaints process, in NSW's justice system.





## Our people

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

Performance results 2018–19 .....	68
Performance and satisfaction .....	70



## Performance results 2018–19

An assessment of the results shown in Table 12 demonstrates that our talented and skilled people performed well in 2018–19. Table 12 shows the evidence for each identified result as well as details of each measure we have put in place to achieve our objectives, highlights for the year, challenges, and forward direction.

Table 12. Results for our people

Results	Measures	Performance	Status
Deliver services and meet functions as set out in <i>Judicial Officers Act</i>	Employed qualified and skilled staff to efficiently deliver statutory functions (ie our core programs), working in collaborative teams	32 people work in judicial education, legal research, complaints, information technology and corporate services: see p 70 Communication within the Commission improved: • higher satisfaction in our staff survey results: see p 70 • new office monthly newsletter, <i>JUDCOMmunications</i> : see case study on p 78	✓
	Staff equipped to perform functions through induction and ongoing professional development	Provision of induction program for new staff, and performance review, professional training and development and community engagement opportunities Highly skilled and well-trained staff: 58% of staff furthered their professional training: see p 74	✓
	External recognition of staff performance	Judicial officers continue to be highly satisfied with the support they receive from Commission staff in delivery of annual conferences and workshops: 98%: see p 27 <b>HIGHLIGHT</b> <b>Developed and shared expertise through secondments: see p 75</b>	↑
Staff are engaged, valued and satisfied working at the Commission	Low turnover and high retention in staff, keeping skills and knowledge within the Commission.	Low turnover: 12% mostly through retirement: see p 73. This is below benchmark of 15%	✓
	Satisfaction ratings in staff surveys	<b>HIGHLIGHT</b> <b>High retention: 59% staff are of 10+ years' service: see p 73</b> <b>High staff satisfaction rating of 94% in Commission annual survey: see p 70</b>	✓
		NSW Government 2019 People Matter Employee Survey, Commission ratings high across themes compared with overall public sector: see p 70	
Our workforce is culturally and linguistically diverse and we have a dedicated Aboriginal project officer	Compliance with NSW government practices, policies and guidelines	Valued gender equity in the workplace and in senior roles: see p 92 Valued staff diversity: Our workplace is culturally and linguistically diverse, meeting NSW Government benchmarks: see p 72 Flexible work arrangements available: see p 72	✓
Our workplace is safe and we minimise risks to health and safety in the workplace	Compliance with government practices, policies and guidelines	Valued staff safety: Our workplace was safe with no worker's compensation claims and no work, health and safety prosecutions: see p 76 Amended Commission's Injury Management and Return to Work Policy to comply with the State Insurance Regulatory Authority (*SIRA) guidelines by deadline of 31 May 2019	✓

### Legend

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

Photo previous page: We employ 32 people in our Sydney office who ensure that we meet our goals and deliver our services to the judicial officers and people of NSW. Two of our staff are pictured: Vince Puglia, Analyst Programmer and Jessica Ahearn, Support Officer, Programs.



## Challenges 2018–19

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

## Looking ahead 2019–20

- Continue to value our staff, while working with the budgetary challenge of whole of Government savings directive.
- Develop further strategies to assess and understand where our productivity can be improved.
- 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.
- Maintain our staff retention rate below benchmark.
- Continue to foster a productive workplace where our people feel valued and satisfied in their work.
- Continue to foster a workplace culture that supports diversity and is aligned with the workforce strategies of the NSW public sector.
- Continue to have in place policies and strategies to ensure a safe workplace and minimise risks to workplace health and safety.



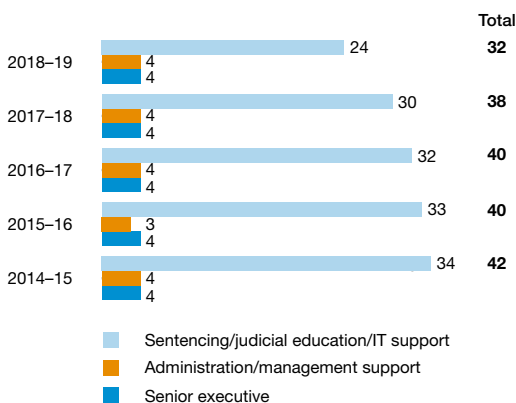
## Performance and satisfaction

### Our staff

Our staff are essential to our success and to ensuring we meet our goals and deliver our services. The Commission employed 32 people (30.4 full-time equivalent) in judicial education, legal research, complaints, information technology and administrative roles (last year: 38). Figure 15 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 15. 5-year comparison of average number of employees by employment category



### Our people have a high level of satisfaction

Our yearly internal staff survey measured how committed, stimulated and supported our people felt. We received a 51.5% response rate, with 17 of 33 staff responding (last year: 61%, 23 of 38). We achieved a 94% overall staff satisfaction rating. All results were an improvement on, or strongly consistent with, last year.

100% of staff who responded agreed or strongly agreed:

- they were willing, when required, to put in extra effort to achieve a professional result (last year: 100%)
- they understood how their work contributed towards the Commission's mission and purpose (last year: 91%)
- they felt there is good teamwork and cooperation within Commission projects (last year: 87%)
- they were provided with sufficient resources and time to undertake their work (last year: 96%)
- they considered their working environment was safe, secure and comfortable (last year: 96%).

Communication of information also improved again with 88% of staff feeling there was good and effective communication of what they need to know in the workplace (last year: 78%). A monthly newsletter was introduced during the course of the year to promote intra-office communication: see case study on p 78. This result suggests the newsletter is achieving its objective.

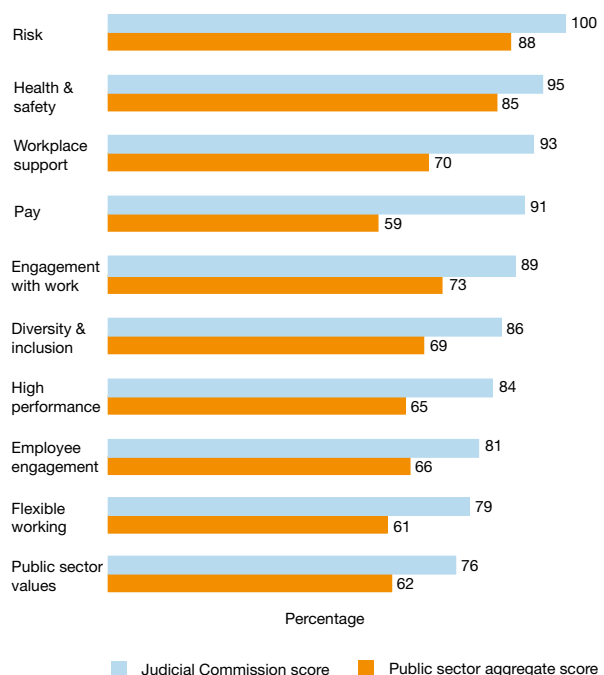
The following percentage of staff also agreed or strongly agreed:

- 94% felt engaged with their work at the Commission (last year: 87%) and were able to balance work with their personal life (last year: 91%)
- 82% felt their requests for professional development training were supported (last year: 83%) and felt trusted and valued at the Commission (last year: 83%).

### Commission rates highly in NSW Government 2019 People Matter Employee Survey

The Public Service Commission conducted a People Matter Employee Survey in 2019. The survey measured employee engagement, senior managers, communication, engagement with work, high performance, public sector values, and diversity and inclusion. Figure 16 shows that, with a 63% response rate, the Commission rated very highly across themes as well as in comparison to the overall public sector.

Figure 16. Top 10 Commission results in People Matter Survey 2019







## 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.

Commission staff are also involved in Aboriginal cultural awareness, the Ngara Yura Program, as a way to promote cross-cultural communication: see p 30 for more information.

The Commission is planning a judicial education program to increase judicial officers' understanding of the Qur'an and Muslim faith. Discussions have been held with the Australian National Imams Council and the Muslim Legal Network, with various initiatives anticipated in the 2019–20 reporting year.

Details about visitors to the Commission are found in Appendix 12 and presentations given during the year are listed 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 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. See case study on p 78.

## 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 70). We have also implemented 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.

High performing staff 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.



Our busy Programs team helps design and deliver continuing judicial education for the judicial officers of NSW. Pictured (l-r) are Sarah Collins (manager), Tanya Su, Michael Jones and Joanne Selfe.



Law student, Amelia Loughland, is part of the Commission's trainee program.



## Providing for workforce diversity

We provide a diverse, fair and safe workplace for our people. Our Workforce Diversity Plan was developed in November 2012 to identify and remove any systemic barriers that prevent staff from diverse groups participating and being promoted in employment.

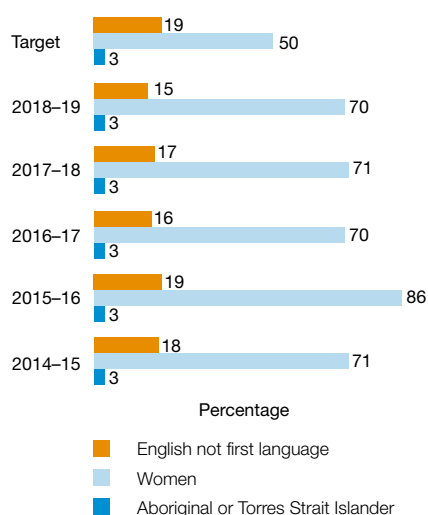
The majority of our people are women (23 or 70%) and 6 people (24%) are from a culturally diverse background: see Figure 17. We ensure:

- 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 17 reflect staff numbers excluding casual staff as at 30 June 2019. A benchmark level has not been reported for people with a disability or people with a disability requiring a work-related adjustment. The Commission has no staff member employed in these categories. The Commission is not a prescribed public authority under the *Disability Inclusion Regulation 2014* and is not required to have a disability inclusion action plan.

Staff numbers also include those who identify as Aboriginal and/or Torres Strait Islander (1 or 3%). This percentage meets one of the aspirational 2021 targets of the NSW Public Sector Aboriginal Employment Strategy 2019–2025 of 3% ATSI identified people in the workplace.

Figure 17. 5-year trends in workforce diversity



## Our multicultural policies and services program (MPSP) report

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 (MPSP). This financial year, we are reporting against 3 themes: improving outcomes for women leadership; provision of language services; and services for humanitarian entrants.

The Commission's activities are centred on providing services to judicial officers, not directly to members of the public. Therefore, we have limited capacity to address multicultural services issues.

Six of our staff are from culturally and linguistically diverse (CALD) backgrounds, 4 of whom are women. Two of these women are in leadership positions and roles. There is strong representation of women in the Commission's executive (50%). There was no expenditure on leadership training for women of CALD backgrounds in the reporting year.

One staff member is a participant in the Community Language Assistance Scheme (CLAS).

This year, the Commission:

- provided accredited interpreters for overseas delegations who visited us during the year, when this was required: see Appendix 12
- employed a Project Officer to advise on Aboriginal cultural awareness through the Ngara Yura Program. Information about the Program and its activities during the year is found on pp 30–31
- provided interpreting and translation services for complainants where required
- worked closely with the Judicial Council on Cultural Diversity (JCCD) to promote the "Recommended National Standards for Working with Interpreters in Courts and Tribunals" to judicial officers in NSW. These Standards are intended to provide guidance to courts, tribunals, judicial officers, interpreters and members of the legal profession and to optimise practices for Australia
- participated in the delivery of the National Judicial Orientation Program (NJOP) for newly appointed judicial officers. The program involves delivery of a module designed to assist with managing cultural diversity challenges and the use of interpreters in court
- was represented on the JCCD and worked with the Council to raise awareness about its work to better inform courts around operational actions they can take to improve accessibility for migrants and refugees. An example is the "National framework to improve accessibility to Australian courts for Aboriginal and Torres Strait Islander women and migrant and refugee women"
- provided access to information about culturally and linguistically diverse groups in our *Equality before the Law Bench Book*
- met with the Australian National Imams Council (ANIC) to discuss how ANIC could assist with implementing an ongoing judicial education program designed to promote better understanding of the Qur'an and Muslim faith.



The Commission's expenditure on provision of language services totalled \$1,438 (interpreting services: \$26; interpreter language allowance: \$1,412).

### Summary of MPSP strategies and activities planned for next reporting year

- We will continue to support the NJOP and the magistrates' orientation program to ensure that new judicial officers appreciate the impact of cultural and religious differences and understand how language and culture influences behaviour, attitude and witnesses.
- We will maintain our representation on the JCCD and actively promote its work and publications addressing migrants and refugees in the court process.
- Our award-winning publication, the *Equality before the Law Bench Book*, will be reviewed to expand and update coverage of information pertaining to the chapter on people from culturally and linguistically diverse backgrounds and Aboriginal people. The publication is freely available on the Commission's website.
- We shall also continue to assist complainants with translation and interpreting services, if this is required, and provide accredited interpreters for overseas delegations who visit us during 2019–20.

See also our workplace diversity report on p 72.

### 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

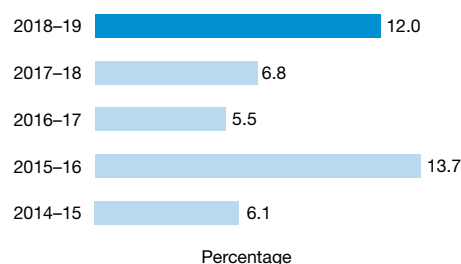
hours" policy that provides options for people to arrange their working hours. Our staff survey showed that 94% of employees agreed that the organisation provides them with a good work/life balance.

Our working arrangements are published on the staff intranet and are in line with the NSW Public Service Commission's 2018 flexible working policy.

### Retaining our staff

The turnover rate for permanent staff increased this year to 12% (last year: 6.8%) with 4 staff members leaving. Three of these were retirements of long-term staff members. Remy Ripoll retired after 22 years at the Commission. She was part of the Corporate Services team as Management Accountant. Lorraine Beal and Roslyn Cook were both long-serving staff members of the Publishing team who also retired: see case study below. This turnover rate remains well below our acceptable rate of 15%, suggesting that we are an employer of choice for the majority of our people: see Figure 18. Our retention rate is very high with over 59% of our staff having 10 or more years' service and a further 16% having 5 or more years' service. For an example of our succession planning strategies: see case study on p 90.

Figure 18. Staff turnover 2014–19



## Case study

### Saying farewell to long term Publishing staff

For many years, the Commission has enjoyed a low staff turnover and high retention rate with the majority of our people having 10 or more years' experience at the Commission. We can proudly claim to be an employer of choice for our people.

During this financial year, we had to say goodbye to two of our long-term staff from the Publishing team. Lorraine Beal, (left) our Senior Graphic Designer, retired after 17 years' service and Roslyn Cook, (right) an editor, retired after 21 years' service.

Lorraine and Ros were farewelled at special morning teas where the Chief Executive thanked them for their exemplary service to supporting the judicial officers of NSW.



Long term staff Lorraine Beal (above) and Ros Cook (right) were farewelled during the year from the publishing team.





## Satisfactory staff attendance

During 2018–19:

- no industrial action occurred
- average sick leave was 4.6 days per employee (last year: 8 days).

## 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 a confidential 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

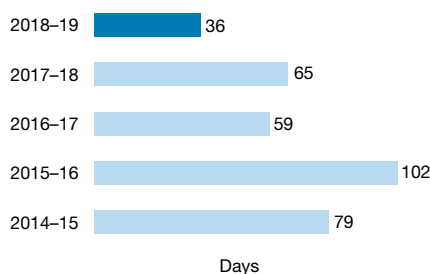
Employees identify their training and development needs in relation to their performance improvement plan as part of their yearly performance review. Managers encourage staff to take up training opportunities through skills development courses, leadership courses, tertiary study assistance and work secondments. 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 at a lower level due to budget constraints. Nineteen staff members (58%) attended 36 training days at a cost of \$25,249 (last year: 65 training days at a cost of \$30,986): see Figure 19. 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.

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 seminars and visits to Aboriginal communities as part of the Ngara Yura Program.

Figure 19. Staff training days 2014–19



## Case study

### Developing professional skills — training for tipstaves

In late January, Georgia Brignell, the Commission's Principal Research Officer (Legal), attended the Supreme Court of NSW to introduce the latest cohort of tipstaves to the Judicial Information Research System (JIRS). JIRS is the Commission's platform on which judicial officers rely for current and accurate statistical and legal information.

A tipstaff is typically a recent law graduate who is appointed to work for a particular judge for a 12-month period. Their responsibilities include legal research and supporting their judge, inside and outside the courtroom. It is important that tipstaves can quickly and accurately find legal information. This is the second year that the Commission has run a JIRS session for these newest members of judges' chambers.

Georgia's day-to-day work involves the legal research which underpins JIRS. Addressing a courtroom of over 55 tipstaves, associates and other court staff was an opportunity for her to extend and develop other professional skills.

Georgia presented complex information to a diverse audience in a limited timeframe. She made new connections with court staff and offered future support to tipstaves in their use of JIRS. Georgia came away from the session with a strong sense of how the Commission can support tipstaves in their research and greater experience herself in doing so.



Georgia Brignell provided JIRS training to the latest cohort of tipstaves who work in judges' chambers for a year after graduating from their law degrees.





## Case study

### Development and sharing expertise through secondments

Secondments are professional development opportunities that bring benefits to all parties involved. They promote knowledge sharing and relationship building between the person seconded, the secondee's organisation and the host organisation.

The Commission has successfully participated in two secondment arrangements this year. Ms Joanne Selfe, the Commission's Ngara Yura Project Officer, was seconded to the Museum of Applied Arts & Sciences (MAAS) in October 2018 for a six-month period. Joanne's secondment followed a judicial visit to the Sydney Observatory in May 2018 at which her knowledge and storytelling impressed the MAAS leadership team. The secondment's objective was to share Joanne's unique understanding of the local community, in particular connection to country and its interplay with Indigenous knowledge systems. A key feature of this project was documenting the importance of the location and positioning of the Observatory from an Indigenous point of view.

The project work brought about mutual benefits for the Commission and MAAS. It fitted well with the Commission's Ngara Yura Strategic Plan which prioritises building relationships with appropriate cultural bodies. It also provided Joanne with an ideal

opportunity to broaden her skills and knowledge.

These new skills are of direct relevance to the design, development and implementation of the Commission's Indigenous education program. The MAAS benefitted from having access to an expert skilled in local knowledge and saw it as an opportunity to develop a relationship with the Commission, illustrated by MAAS' part in the Exchanging Ideas Symposium we convened in June 2019 (see p 30).

From mid-January 2019, Mr Mark Zaki, a senior lawyer from Legal Aid, was seconded to the Commission as the Managing Lawyer of the Research Division for 12 months.

Mark's secondment to the Commission also related directly to the Commission's functions and objectives. We must produce legally accurate publications for judicial officers and practitioners in which information is relevantly presented and accessible. We can more readily achieve this when we have staff in Research and Sentencing whose experiences in practice can inform our work.

Mark has a strong background in criminal law. He brings a fresh and practical perspective through his experience in the Local Court, which is the busiest NSW court and probably the most diverse in terms of the range of criminal cases which come before it. Mark's secondment helps us ensure our work is firmly grounded in criminal law practice and focusses on the important issues which need to be addressed. It also builds on our already strong relationship with other criminal justice agencies, particularly those at the front-line in dealing with individuals brought into the criminal justice system.



Joanne Selfe was seconded to the Museum of Applied Arts & Sciences, Sydney, for 6 months in late 2018.



Mark Zaki was seconded from Legal Aid to the Commission for 12 months.



## 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.

During the year, we held a performance review workshop conducted by our internal auditors, to provide transparent information for all staff about the performance review process and its objectives.

## 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. In November, the librarian organised a training session on LexisNexis' new platform "LexisNexis Advance" for interested staff members.

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).

The number of reference enquiries fell this year by 30.9% (last year: 2.6% decrease). Requests for interlibrary loan and document delivery have been diminishing and the volume of material the librarian obtained externally decreased by 64% (last year: 150% increase). Sixteen items were catalogued during this financial year.

## 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 the first full pay period after 1 July 2018 which reflected the increase provided to public sector employees under the Crown Employees (Public Sector — Salaries 2018) Award. Senior executive remuneration packages were adjusted by the Commission from 1 July 2018 in line with the 2018 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 92.

## 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 88. This year, we focussed 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, and the building management regularly updates training. 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.

In 2017, the State Insurance Regulatory Authority (SIRA) developed guidelines for workplace return to work programs. All return to work programs were required to comply with these guidelines by 31 May 2019. A review of the Commission's Injury Management and Return to Work policy was undertaken by our WHS representative, and amendments were made to ensure compliance by the deadline. The amended policy is available on our 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. A new informal newsletter has been introduced this year. *JUDCOMmunications* is circulated monthly to all staff: see case study on p 78.

## 2017–18 Annual Report wins gold award

The Commission received a gold award from the Australasian Reporting Awards for its 2017–18 Annual Report. This is our ninth consecutive gold award: see case study below.

## Case study

### Commission receives ninth consecutive gold award for its Annual Report



Chief Executive, Ernest Schmatt AP PSM, and Manager, Communications and Publications, Kate Lumley accepted the gold award at the Australasian Reporting Awards Presentation Dinner.

The Commission's *Annual Report 2017–18* received a gold award in the 2019 Australasian Reporting Awards (ARA). Our Chief Executive, Ernest Schmatt AM PSM, and Manager, Communications and Publications, Kate Lumley, attended the Presentation Dinner in Melbourne in June. This is the Commission's ninth consecutive gold award.

The Commission was very pleased to again have the calibre of our Annual Report acknowledged among a diverse pool of over 180 entries in this benchmarking process.

The ARA has a long-established objective to improve the standards of financial reporting and promote transparent communication. It provides an opportunity for organisations to have their reports benchmarked against best practice in annual reporting as well as receive recognition for excellence. The status of the ARA was evident this year in the interest and success of organisations from both Australia and abroad, including Hong Kong, Malaysia and New Zealand.

This gold award was the culmination of the co-ordinated efforts of Commission staff members from various departments in compiling the report. The work begins even before the end of the reporting period and draws on a wide range of skills, including statistical analysis, financial reporting, writing, editing and graphic design. The consistent production of reports which conform with best practice is testament to the commitment and talents of our staff.

Our Annual Report is an opportunity to communicate to the public our operations and performance for the year. Our values of professionalism, enhancement, interconnection and sustainability are on show in the report as is our service delivery in support of judicial officers through education, sentencing information and the examination of complaints.

In addition to submitting our Annual Report to the ARA benchmarking process, a number of Commission staff have also acted as adjudicators for the ARA since 2009–10. In this capacity, we give feedback and advice to other organisations in our "industry" sector which also strive to produce award-winning annual reports.





## Case study

### How we improved communications with *JUDCOMmunications*, our monthly newsletter

The Commission conducts a survey each year to measure how satisfying our people find their work. One of the questions in the survey focusses on communication within the workplace. This year's overall satisfaction result for that question was 88% (last year: 78%).

We can point to a specific initiative when considering this year's improved results, the Commission's new monthly newsletter, *JUDCOMmunications*. Its explicit goal, as declared in the first issue in February, is "to keep (staff members) informed on all the latest news from the Judicial Commission."

Jessica Ahearn (pictured) from our conferences team, skilfully collates news from around the Commission and clearly presents it in an easy-to-read and uncluttered format. The choice of email over paper circulation is consistent with the Commission's preference for sustainably using resources.

*JUDCOMmunications'* tone is informative and informal. The title has a certain playfulness: "judcom" is the Commission's domain name, as well as "com" being the first three letters of both "Commission" and "communication". There is a dedicated portion of the newsletter for each section of the organisation, as well as for news about the executive and visitors to the Commission. The newsletter makes staff movements transparent by noting periods of leave as well as staff appointments and departures. The final heading of each issue declares Jessica's humorous hand: "Fun (and possibly inaccurate) Fact of the Month!"

*JUDCOMmunications* facilitates real-life interactions between Commission staff. It foreshadows the regular morning tea held to mark birthdays. It also facilitates engagement with community events, such as the Australia's Biggest Morning Tea (through which the Commission raised over \$400 for the Cancer Council this year). We look forward to seeing even greater staff satisfaction levels in relation to communication as *JUDCOMmunications* becomes a more established information channel within the Commission.



Our yearly staff survey has shown that staff satisfaction with office communication has improved by 10% since launching our newsletter *JUDCOMmunications*. Jessica Ahearn updates staff on the latest news from the Commission.

## Case study

### Providing professional guidance and experience for law students



The Commission provides a unique experience for law students to sample professional legal life. As a final-year Journalism/Law student at the University of Technology, Sydney, the Commission has offered valuable experience in interpreting case law and legislation. It has also provided a deeper insight into the nature and operation of the judicial system.

The sustained mentoring by staff in both Research and Sentencing and in Publishing has significantly developed my critical thinking and legal writing skills, which has subsequently assisted my university studies. It is an honour to work alongside an encouraging staff in a positive work environment.

Words by Elie Choueifaty (pictured), law student at University of Technology, Sydney and Editorial Assistant, Judicial Commission.





# Our governance and ethics

**The Commission has robust governance and an independent Audit and Risk Committee.**

Performance results 2018–19 .....	80
Our governance framework and ethics .....	82
Acknowledging human rights .....	93
Sustainability .....	94



## Performance results 2018–19

An assessment of the Commission's performance in Table 13 demonstrates our diligence with respect to governance and ethics. Table 13 shows the evidence for each identified result as well as details of each measure we have put in place to achieve our objectives, program highlights, challenges and forward direction.

Table 13. Performance of good governance and ethics

Results	Measures	Performance	Status
Maintain robust governance	Hold regular Commission and Audit and Risk Committee meetings	10 Commission meetings and 4 audit and risk committee meetings held: see pp 88–89	✓
Our corporate behaviour was ethical and responsible	Protect the Commission's reputation so that the people of NSW have the confidence in the ability and performance of the judicial officers Ensure compliance with the Commission's Code of Conduct	Our staff are properly inducted, qualified, highly skilled and their training is replenished  Our staff behave with integrity, respect and accountability and abide by our Code of Conduct	✓
Maintain and enhance registers for contracts, conflict of interests and mitigating risks	Ensure the registers are kept current and evaluated for any risk	We kept the registers of contracts and conflict of interest updated No risks were found	✓
Provide effective support to our key stakeholders	Provide continuing judicial education and legal information to judicial officers  Protect the public by examining complaints regarding judicial officers  Provide assistance to NSW government agencies	See "Delivering continuing judicial education" at p 23 See "Providing legal information" at p 35  See "Examining complaints" at p 47  See "Our partners and the community" at p 57	✓ ✓ ✓
Complied with NSW Government audit and risk management processes.	Ensure the adequacy and quality of our internal control structure Comply with risk management strategies and respond effectively to internal audits	Two internal audits conducted <i>HR &amp; Payroll</i> and <i>Fiduciary Review</i> and  <b>HIGHLIGHT</b> <b>Successful implementation of our revised Business Continuity and Disaster Recovery Plan: see p 89</b>	✓
Reduction in energy use	Entrench sustainability policies and behaviours entrenched in our workplace in line with NSW Government plan to be carbon neutral by 2020	Over 5 years: 32.8% decrease in energy use 311 GJ energy use in 2018–19 (last year: 291 GJ)  <b>HIGHLIGHT</b> <b>We recycled 0.962 tonnes of wastepaper, and purchased less paper than in 2017–18: see p 94</b>	↓  ↑
Legend ✓ target achieved    ↑ target/output exceeded    ↓ target not achieved			

Photo previous page: Our premises at 60 Carrington Street, Sydney is conveniently located in the city, and accessible to key locations such as the Supreme and District Courts.



## Challenges 2018–19

- Review of, and compliance with, internal audit recommendations, which must be balanced with core activities.
- Ensuring our HR processes are robust.
- Maintenance of ongoing disclosure, as well as annual conflict of interest declarations.
- Encouraging the judiciary to move from paper-based to online research products.

## Looking ahead 2019–20

- Continue to review and comply with internal audit recommendations.
- Continue to promote diversity, access and equality through our programs.
- Remaining vigilant about potential conflicts of interest.
- Maintain our robust approach to governance.
- Continue to impart power-saving ideas at staff meetings to encourage less energy and water consumption after hours (eg all computers and screens to be turned off at the end of the day).
- Encouraging the judiciary to move from paper-based to online research products.



## Our governance framework and ethics

**Through good governance and 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 of the 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 3 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.

The *Judicial Officers Regulation* 2017 requires 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 and 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”. It is also available on request from the Commission.

### Changes to legislation

The *Government Sector Finance Act* 2018 (NSW) (GSF Act) implementation is underway. The Commission is categorised as a “separate GSF [Government Sector Finance] Agency”. The GSF Act commenced in stages from 1 December 2018 and 1 July 2019, with the reporting arrangements commencing progressively over 3 years, 2019–21. The GSF Act will require greater focus on performance, transparency, accountability and efficiency with respect to financial management in the government sector once Division 7.3 of the GSF Act, relating to Annual Reporting, commences next

financial year. Cognate legislation, the *Government Sector Finance Legislation (Repeal and Amendment) Act* 2018 has also partially commenced. This will repeal and rename the *Public Finance and Audit Act* 1983 as the *Government Sector Audit Act* 1983 when it commences upon proclamation.

### 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 the Chief Executive has approved and is aligned to the objects of the *Judicial Officers Act* 1986.
3. An Audit and Risk Committee which 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 32 years of accumulated knowledge and experience. We have revised 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 updated strategic plan is published on our website at [www.judcom.nsw.gov.au/wp-content/uploads/2018/10/Strategic-Plan-Judicial-Commission.pdf](http://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*, the *Public Finance and Audit Regulation 2015* and the *Government Sector Finance Act 2018*
- establishing and maintaining internal controls relevant to the preparation of the financial report
- the adequacy of digital information, and information systems security obligations
- workplace health and safety
- receipt of all complaints against judicial officers.

### 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 direction, 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 examining 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). Table 14 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 2018–19, Commission members:

- examined 68 complaints made about judicial officers (last year: 62)
- approved publications including papers for an issue of *The Judicial Review* and the *Annual Report 2017–18*
- noted the Chief Executive's reports on education programs, publications, complaints status and financial performance
- 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 Commission members, including the President, the official members and the appointed members can be found at pp 18–20. Our organisational structure is on p 8.

Table 14. Commission members' meeting attendance for 2018–19

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*	6	5
The Honourable Justice A Bell	4	4
The Honourable Justice B Preston	10	9
The Honourable Justice D Price AM	10	8
His Honour Judge P Zhara SC**	1	1
His Honour Judge G Henson	10	10
Chief Commissioner P Kite SC	10	8
<b>Appointed members</b>		
Dr J Cashmore AO	10	10
Professor B McCaughan AM	10	9
Mr D Giddy	10	10
Mr Y Miller OAM	10	7

\* The Honourable Justice Margaret Beazley AO resigned prior to taking up appointment as Governor of NSW and the Honourable Justice Andrew Bell was appointed as President of the Court of Appeal.

\*\* His Honour Judge Peter Zhara SC attended the May 2019 meeting in lieu of the Honourable Justice Derek 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), Ms Robyn Gray and Ms Jan McClelland AM (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 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.

**Ms Robyn Gray BA LLB GAICD** was appointed independent member for 3 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 the Office of the NSW Director of Public Prosecutions and the Legal Aid NSW Audit and Risk Committee.

**Ms Jan McClelland AM BA (Hons) B Leg S Dip AICD** was appointed independent member for 3 years from 1 July 2018. Ms McClelland 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.

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 (Chief Audit Executive); the Manager, Corporate Services, Mr Malcolm Hozack; Mr Phil O'Toole of Centium Services; and Mr Chris Harper of the Audit Office of NSW.

## 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. Terms of reference for the *Civil Trials Bench Book* and the *Criminal Trial Courts Bench Book* were developed and approved by the Commission in this reporting year. The Standing Advisory Committee on Judicial Education is established to provide advice on judicial education 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 3.6 of the <i>Government Sector Finance Act 2018</i>	The adequacy and quality of the internal control structure	Financial statements and reporting
	Compliance with NSW Treasury Guidelines	Management responses to audit reports	Risk management strategies: their effectiveness and internal results



## Case study Cyber security at the Commission

The Commission maintains up-to-date antivirus software on all staff computers. We regularly remind our people that the first line of defence is staff vigilance. The most common vector of infection for malware, like the cryptolocker ransomware, is unsuspecting staff members of organisations clicking on the wrong link and downloading the wrong file. Such malware can spread quickly and cause large disruptions in organisations, usually requiring all affected data to be restored from secure backups.

At a special presentation, we reminded Commission staff to be aware of where documents and files originate, particularly regarding unsolicited emails. We provided staff with guidelines and easy steps to secure online information, a website to check the strength of their current passwords and reminded staff that they should aim to make a memorable password which is not related to personal information that might be easily guessed.

We also implemented changes to our password policy, including minimum password requirements.

## 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 Commission's complaints function and the legitimacy of our education and legal information programs. We have worked hard for 32 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
- delivering timely, accurate, current legal information to assist judicial officers in their decision making and to ensure consistency in sentencing
- 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 read, 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 maintained our contracts register. The registers are 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 our 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 273 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 99). The independent Audit and Risk Committee (ARC) reviews budgets and the financial statements. The ARC meets 4 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 3 key operational areas. The Chief Executive reports monthly to the Commission on all the Commission's operations. Financial statements are prepared each month and measured against budgets.

### 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 nine consecutive gold awards from the Australasian Reporting Awards.

### Public access to Government information

Section 125 of the *Government Information (Public Access) Act 2009* (the GIPA Act) requires that the Commission reports 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 2017–18*
- 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*

### Access applications

We received no formal access applications, including withdrawn applications (last year: 0). 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. Table 10 on p 51 shows our targets and the time taken to examine complaints over a 5-year period. If a complaint is dismissed and a complainant seeks to clarify the reasons for this, we respond promptly.

## Delivering our services and publications electronically

We provide a range of online services using 2 platforms, the Judicial Information Research System (JIRS) (see p 39) and our public website at [www.judcom.nsw.gov.au](http://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 2018–19.

## Principle 6: Supporting our stakeholders

Our key stakeholders are:

- judicial officers of NSW for whom we deliver continuing judicial education services (see p 23) and provide research and sentencing and legal information (see p 35)
- the NSW public: see “Examining complaints” at p 47 and “Our partners and the community” at p 61
- NSW government agencies: see “Our partners and the community” at p 63
- other judicial education providers: see “Our partners and the community” at p 65.

## 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 2018–19, the executive team 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.

A workshop was held in August 2018 with the internal auditors and senior executives to review the Risk Register. This was updated with a number of recommendations, including changes to a number of risk ratings.

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 more information about these.

## Audit and Risk Committee activities 2018–19

The Audit and Risk Committee (ARC) met 4 times during the year (last year: 4) and reported to the Chief Executive. Table 15 provides details of attendance at those meetings.

Table 15. Meeting attendance by Audit and Risk Committee (ARC) 2018–19

Committee member	Meetings attended	Meetings eligible to attend
Dr Colin Gellatly AO	4	4
Robyn Gray	4	4
Jan McClelland AM	4	4
Invitees	Meetings attended	Invited to attend
Ernest Schmatt AM PSM	4	4
Murali Sagi PSM	4	4
Malcolm Hozack	4	4
Chris Harper	4	4
Phil O’Toole	2	2
Yas Wickramasekera	2	2
Penny Corkhill	2	2

The ARC monitored our risk management policy and provided independent advice. The committee monitored and provided advice about the following four areas:

1. Compliance with Treasury Guidelines
2. Internal audit
3. Risk management and business continuity
4. External audit

### 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 Policy attestation is on p 91. 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 2018–19. The ARC monitored:

- the results of the 2018–19 Internal Audit program that involved two internal audits, being:
  - HR & Payroll Review** — the objective of this review was to provide reasonable assurance that the internal controls over the Commission's human resources and payroll activities are designed effectively and are operating as intended. It was also designed to identify opportunities where systems or processes may be improved.
  - Fiduciary Review** — the objective of this review was to provide Commission management with reasonable assurance that controls in relation to specific financial and administrative topics are well designed and operating effectively to facilitate effective, economical expenditure, as well as safeguard against fraud. Specifically, the audit included an assessment of controls to provide reasonable assurance that:
    - there is compliance with relevant legislation, policies and procedures
    - common opportunities for minor fraud in specific financial and administrative functions are restricted to the lowest practicable level.

During the year, the ARC also:

- used recently developed control self-assessment review reports of risk mitigation
- monitored the performance of the outsourced internal audit service provider, Centium
- used the recently developed Audit Recommendations Progress Report.

## 3. Risk management and business continuity

The ARC:

- monitored the currency of the Commission's Business Continuity and Disaster Recovery Plan and assessed the results of the annual scenario testing
- monitored the quarterly financial performance
- monitored the insurance risk and cover
- reviewed the updated Risk Register
- monitored the impact of Treasury Circulars and Policy Papers issued during the year.

## 4. External Audit

The ARC liaised with the external auditor, the Audit Office of NSW, and monitored the NSW Audit Client Service Plan for 2018–19. The ARC also reviewed the observations on early close procedures that the Commission performed prior to 30 June 2019.

## Forward plan

In 2019–20 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 2018–19

The Internal Audit Plan for 2018–19 included recommendations for controlled improvements as a result of the HR & Payroll Review and Fiduciary Review.

The HR & Payroll Review found 9 key positive controls and only 4 low risk key findings for suggested improvement. Two of the key recommendations in relation to recruitment panelists' training and managing staff leave in excess of 30 days through the performance review process have already been addressed. The Fiduciary Review found 7 key positive controls with only 3 low risk key findings. One recommendation regarding Travel Policy has been implemented.

## Case study

### We successfully implemented our revised Business Continuity and Disaster Recovery Plan

On 28 November 2018, our building suffered an extended power outage due to an extreme weather event. Apart from lack of access to our office for security reasons, all our electronic services including email, phone system, public website, the Judicial Information Research System (JIRS) and other services provided for external clients were not available until power was restored. This resulted in a loss of ability to communicate effectively with our people and external users.

While such a situation may be a rare occurrence, we learned from it. We conducted a review and took immediate steps to mitigate the situation should another extreme weather event recur. This included creating an alternate means of communication with

staff and external users, hosting the public website externally and strengthening the Commission's Business Continuity and Disaster Recovery Plan.

Our premises lost power again on Sunday 17 March 2019. This time, our renewed Business Continuity and Disaster Recovery Plan was put into action immediately. All staff and external users were informed, instructed and frequently updated on the situation according to the plan. JIRS users were requested to access the Commission's externally hosted website for access to bench books and other publications in the interim. All systems were recovered and business resumed as usual by 8:30am on Monday 18 March 2019.



## Case study

### Succession risk — ensuring that knowledge is transferred

The Commission has in place a succession planning process, so that existing employees are developed to fill key roles and control organisational risk.

The Lawcodes database provides unique codes for all NSW and Commonwealth criminal offences that the NSW courts deal with. The provision and use of these codes enables NSW justice sector agencies to exchange information and improve the integrity of information about offences.

After 15 years managing Lawcodes for the Commission, the current manager is looking to transition to retirement.

The loss of such an experienced and specialised staff member can impact greatly on maintaining the efficient functioning of Lawcodes.

To ensure the smooth transition of knowledge and functions, the Commission has commenced cross-training an existing Research and Sentencing team member to assist on a part-time basis. By organising the training and mentoring now, the Commission has addressed the risk and will have available an experienced and capable employee to assume this role.

### Cyber security policy

Our cyber 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 NSW Government Cyber Security Policy that require our digital information to be available, safeguarded and lawfully used. The policy and Cyber Security Annual Attestation Statement 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 Cyber Security Annual Attestation Statement for 2018–19 is shown below.

### Safeguarding JIRS technology

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 41 and enhancements made to JIRS throughout the year are reported at pp 43–44.

## Cyber Security Annual Attestation Statement for the 2018–2019 Financial Year for the Judicial Commission of NSW

I, Ernest John Schmatt AM PSM, Chief Executive, am of the opinion that the Judicial Commission of NSW has managed cyber security risks in a manner consistent with the Mandatory Requirements set out in the NSW Government Cyber Security Policy.

Risks to the information and systems of the Judicial Commission of NSW have been assessed and are managed.

Governance is in place to manage the cyber-security maturity and initiatives of the Judicial Commission of NSW.

There exists a current cyber incident response plan for the Judicial Commission of NSW which has been tested during the reporting period.

E J Schmatt AM PSM  
Chief Executive, Judicial Commission of NSW  
Date: 2 August 2019





## Internal Audit and Risk Management Attestation for the 2018–19 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' — compliant

### 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.
- Ms Robyn Gray, Independent Member — appointed Independent Member on 1 July 2017 for a period of three years.
- Ms Jan McClelland, Independent Member — appointed Independent Member on 1 July 2018 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



## 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 2018–19 was \$22,852 comprising a Workers Compensation premium of \$15,512 (last year: \$59,068) and a general insurance premium of \$7,340 (last year: \$6,130). The prior year's workers compensation premium had included an increase of \$39,000 based on previous claim experience.

## 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 \$38,000 (effective 28 March 2019) 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 (PSSE Bands). The Commission adjusted senior executive remuneration packages from 1 July 2018 in line with the 2018 determination of the Statutory and Other Offices Remuneration Tribunal.

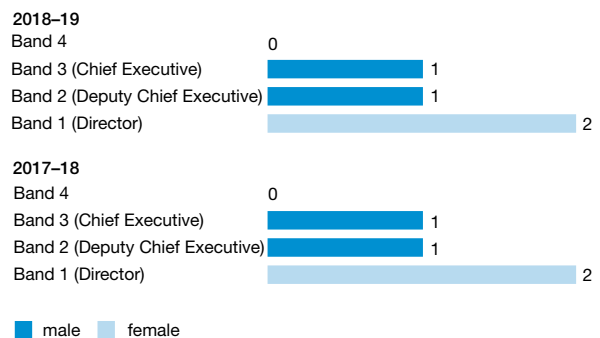
Figure 20 shows the number of executive positions at the Commission and their equivalent remuneration levels for Public Service Senior Executives. Table 16 shows the average total remuneration package for senior executives within the appropriate band and includes a percentage indicating what amount of the Commission's employee-related expenditure in 2018–19 was related to senior executives. A comparison is made with the percentage rate in 2017–18.

Table 16. Average senior executive remuneration 2017–19

Band	Average remuneration (\$)		
	Range (\$)	2017–18	2018–19
Band 4	475,151–548,950	n/a	n/a
Band 3	337,101–475,150	425,320	435,953
Band 2	268,001–337,100	307,500	315,187
Band 1	187,900–268,000	230,179	235,933

Note: 27.63% of the Commission's employee-related expenditure in 2018–19 was related to senior executives, compared to 25.72% in 2017–18. The Commission has no positions equivalent to Band 4.

Figure 20. Gender breakdown of senior executive positions by PSSE Bands 2017–19



Equivalent to the NSW Public Service Senior Executive Bands. The Commission has no executive positions in Band 4.



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 21–22.



## Acknowledging human rights

The Commission seeks to actively identify, prevent, mitigate and redress adverse human rights impacts in the following ways:

- Through our education and complaints programs, we ensure that judicial officers observe the right to a fair hearing, avoid bias, discrimination and inconsiderate treatment of minority groups. See from p 23 for further information about our education program and from p 47 for information about our complaints program. On an ongoing basis, information gathered from the complaints program informs the design and delivery of education sessions for judicial officers.
- Our international award-winning *Equality before the Law Bench Book* provides guidance for judicial officers to assist them to avoid bias, discrimination and to treat minority groups with due consideration. See case study on p 34 and p 40 for more information about this publication. This is published on our website at [www.judcom.nsw.gov.au](http://www.judcom.nsw.gov.au).
- The Commission provides advanced case management functionality to the Supreme and National Courts of Papua New Guinea (PNG) to assist them to better manage the human rights of offenders on remand in that country. See case study on p 62 and p 63 in “Our partners” for more information about the Integrated Criminal Case System database that we designed, host and maintain.
- Our participation in the delivery of the National Judicial Orientation Program (NJOP) for newly appointed judicial officers involves delivery of a module designed to assist with managing cultural diversity challenges and appreciating the impact of cultural and religious differences; avoidance of stereotypes; and how language and culture may influence the behaviour and attitudes of witnesses in court. See pp 29 and 72 for more information about this program.
- Our Aboriginal cultural awareness program, the Ngara Yura Program, aims to promote intercultural communication between judicial officers and Aboriginal people. The program also aims to mitigate the adverse impacts of the criminal justice system on Aboriginal people by providing judicial officers with relevant information about these impacts and alternatives, where relevant, to incarceration. See p 30 for more information about the Ngara Yura Program.
- The *UN Convention on the Rights of the Child* recognises the importance of diverting young offenders from the formal processes of the criminal justice system. In accordance with human rights obligations we publish and regularly update the accredited diversionary programs, as well as other drug and alcohol programs available to enable judicial awareness of the alternatives.
- Our Ngara Yura Project Officer, Ms Joanne Selfe, is an elder on the Youth Koori Court in Sydney. The Youth Koori Court program seeks to address the reasons why young Aboriginal people have offended through providing support and cultural connections which have often been missing in their lives.
- We regularly host and provide information about our work to high level delegations from other countries including China, Cambodia, Vietnam, Nepal and PNG. Through these engagements, we are able to assist other judiciaries to develop the capacity and performance of their judicial officers and promote the rule of law in the region. For further information about these delegations, see p 63 and case study on p 66 in “Our partners”.



Our Aboriginal cultural awareness program aims to promote intercultural communication between judicial officers and Aboriginal people. During the year we held a seminar about Aboriginal Land Rights. Pictured (l-r) are Nicole Courtman (Registrar), Jason Behrendt (lawyer), Justice Rachel Pepper and Chris Ingrey (Chief Executive, La Perouse ALC).



Deputy Chief Executive, Mr Murali Sagi PSM (l) presents our Annual Report to Mr Tian Fude, Executive Vice President, Law Society of Hunan Province, China (r) at a visit to the Commission in November 2018.



## Sustainability

### We reduced our environmental footprint

We have achieved 32.8% reduction in energy use over 5 years: see Figure 21 (last year: 38.35% reduction over 5 years). After a significant drop in energy use with our relocation in 2016, however, there has been an increase in year-on-year use. We are committed to reducing our carbon footprint and being part of the NSW Government's plan to be carbon neutral by 2020.

### Our premises at 60 Carrington Street, Sydney, has a 4 Star Nabers Energy Rating

Although we are a small agency, we focus on the bigger picture of reducing our environmental impact.

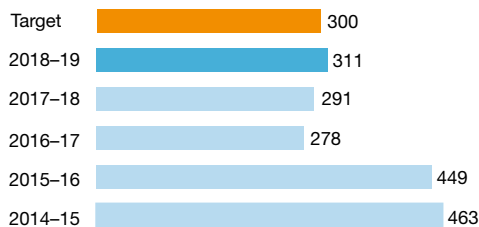
Our sustainability focus this year has been to raise the awareness of our staff about environmental issues. We have achieved this through our new monthly newsletter, *JUDCOMmunications*. We have a dedicated sustainability section in the newsletter to provide staff with information and strategies to reduce their environmental impact and save water as the drought in NSW worsens.

In line with the NSW Government's Waste Reduction and Purchasing Policy (WRAPP), we focussed on reducing waste and increasing the purchase of recycled paper and office consumables.



Keep cups and wrapping paper designed in-house, were gifts for presenters at conferences and seminars as part of the Commission's sustainability strategy on waste.

Figure 21. 5-year trend in energy use (gigajoules)



This year we recycled 0.962 tonnes of waste paper (last year: 1.032 tonnes) and bought 370 reams of 100% recycled paper (last year: 397). 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
- giving keep cups with wrapping paper (designed in-house) as thank you gifts for presenters at education seminars and conferences
- 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.

Next year: we will phase out the use of plastic utensils at in-house conference events.





# Our finances

Our financial result was a deficit of \$7,000, with \$8.013 million from government funding and other revenue. Our expenses were \$8.02 million.

Performance results 2018–19 . . . . .	96
Financial overview . . . . .	97
Financial Report . . . . .	98

## Performance results 2018–19

Our financial result was a deficit of \$7,000, a good improvement on the budgeted deficit of \$193,000. This reflects the Commission's growing self-generated revenue and controlled expenditure, despite the unexpected expense of 3 Conduct Divisions running within the reporting period. However, excluding non-funded depreciation, the result was a surplus of \$220,000 (compared to the budget excluding depreciation surplus of \$72,000).

Table 17. Results for financial performance against budget

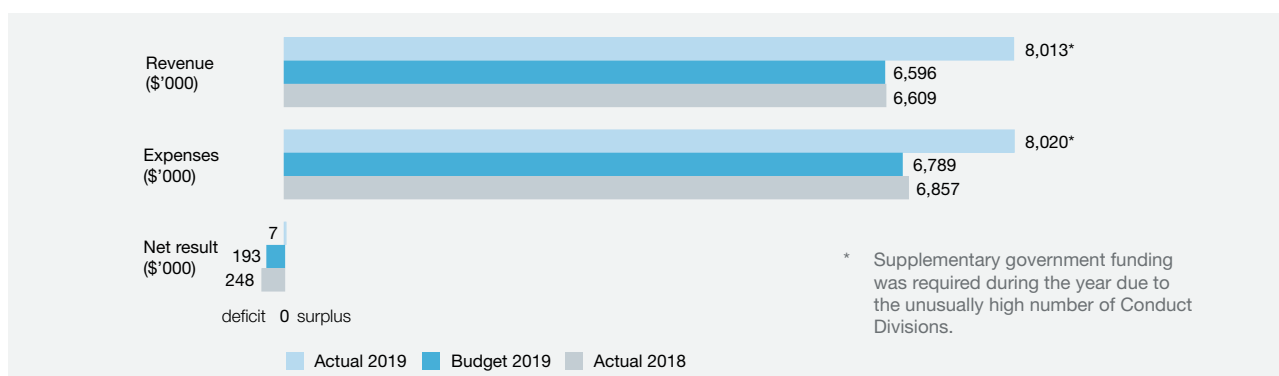
Results	Measures	Performance	Status
We perform our functions in line with budget forecast	<b>Our budgetary measure was a deficit of \$193,000</b>	<b>Deficit: \$7,000</b> <b>HIGHLIGHT</b> <b>Better overall performance against both budget and previous year</b>	↑
Our income adequately finances our core services and workforce	<b>Our budgetary measures were:</b> <b>Income</b> \$6.596 million comprised of – Government funding: \$5.658 million – Self-generated revenue: \$938,000 – goods and services: \$878,000 – investment & other: \$60,000	<b>\$8.013 million</b> comprised of: Government funding: \$6.890 million Self-generated revenue: \$1.123 million – goods and services: \$937,000 – investment & other: \$186,000 <b>HIGHLIGHT</b> <b>Proactive generation of revenue from goods and services: see Figure 23 Revenue at p 97</b>	↑
We proactively generated income			
We contained our expenditure to budget level	<b>Expenditure</b> Total expenses: \$6.789 million Employee-related expenses: \$4.8 million  Assets: \$1.878 million Liabilities: \$1.337 million Net Assets/Total equity \$541,000	<b>\$8.02 million*</b> Employee-related expenses: \$4.426 million (74% of total expenses excluding Conduct Division expenses): see Figure 24. Expenses at p 97  \$1.846 million \$1.107 million  \$739,000	↓ ↑  ↓ ↑ ↑
Accounts are paid on time	Ensure accounts are paid on time and no penalty interest paid on any account	All accounts were paid on time and no penalty interest paid on any account: see Tables 18 and 19	✓
We received an unmodified report for financial statements from NSW Auditor-General	Ensure we receive an unmodified report	Unmodified report received for financial statements	✓

Legend

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

\* Supplementary government funding was required during the year due to the unusually high number of Conduct Divisions.

Figure 22. 2019 revenue, expenses and net results compared against 2019 budget and 2017–18 actuals





## Financial overview

Our financial result was a deficit of \$7,000, significantly smaller than the budgeted deficit of \$193,000. This outcome reflects the impact of our self-generated revenue and controlled expenditure in an environment of budgetary restraint. See Table 17.

The Commission receives funding from the NSW Government and this is our principal source of income. In 2018–19, our total income was \$8.013 million, of which \$6.89 million came from government funding. Another \$1.123 million (14% of total income, last year: 16%) was self-generated, from investment and other sources and, more significantly from contractual arrangements for the provision of software services and other services. This demonstrates growth of non-government sourced revenue by \$82,000 over last year. Projects included sentencing databases and case management systems for various jurisdictions: see p 65. See also Figure 23.

### Key challenges:

- Costs of running high number of Conduct Divisions (3) required supplementary government funding
- Finding savings to meet whole of Government savings measures is a major challenge to manage without significantly limiting our ability to perform our core functions.

Excluding the actual Conduct Division expenses, expenditure was contained to below budget levels. Spending was kept below capital allocation. Employee-related expenses were below budget and represented 74% of expenditure, excluding Conduct Division expenses (last year: 73%). We did not engage any consultants this year. See Figure 24.

Our total assets decreased by \$57,000 due to normal operations (last year: \$285,000 decrease). Our liabilities decreased by \$51,000 mainly due to a decrease in accruals and provisions (last year: \$37,000 decrease).

Figure 22 on p 96 compares our actual performance this year against both the budget and last year's results.

### Looking ahead 2019–20

In the context of the whole of Government savings directive, we will proactively maintain our self-generated income streams through contractual arrangements for goods and services.

Figure 23. Revenue

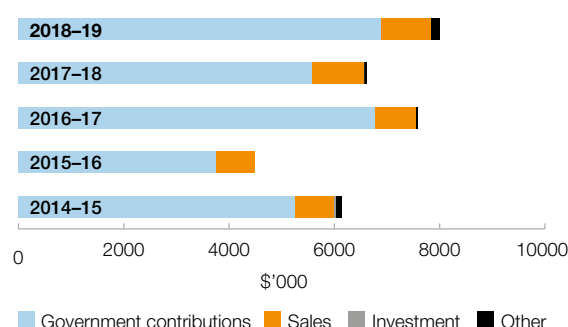


Figure 24. Expenses

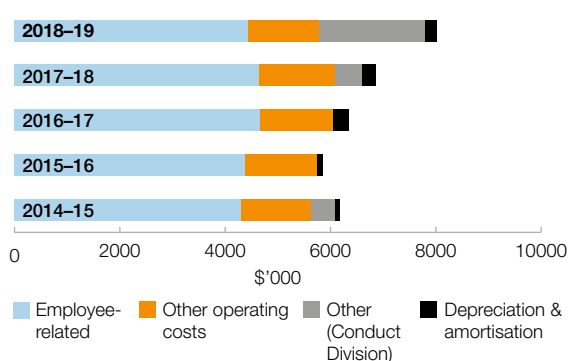


Table 18. Aged analysis at the end of each quarter

	Current (within due date)	<30 days overdue	30–60 days overdue	60–90 days overdue	>90 days overdue
Quarter	\$	\$	\$	\$	\$
Sep 2018	248,697	nil	nil	nil	nil
Dec 2018	143,973	nil	nil	nil	nil
Mar 2019	209,170	nil	nil	nil	nil
Jun 2019	106,649	nil	nil	nil	nil

Table 19. Accounts paid on time within each quarter

Quarter	Total accounts paid on time			Total amount paid
	Target %	Actual %	\$	\$
Sep 2018	100	100	1,171,678	1,171,678
Dec 2018	100	100	1,196,713	1,196,713
Mar 2019	100	100	1,098,526	1,098,526
Jun 2019	100	100	1,653,356	1,653,356

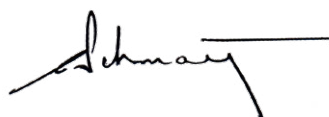
## Financial Report

Statement by Chief Executive .....	98
Independent Auditor's report .....	99
Financial statements	
Statement of comprehensive income .....	101
Statement of financial position .....	102
Statement of changes in equity .....	103
Statement of cash flows .....	104
Notes to the financial statements .....	105
1. Statement of significant accounting policies ..	105
2. Expenses excluding losses .....	107
3. Revenue .....	108
4. Gain/(losses) on disposal .....	109
5. Other gains/(losses) .....	110
6. Program groups of the Commission .....	110
7. Current assets — cash and cash equivalents ..	110
8. Current assets — receivables .....	111
9. Plant and equipment .....	112
10. Intangible assets .....	115
11. Current liabilities — payables .....	116
12. Current/non-current liabilities — provisions ..	117
13. Current liabilities — other .....	119
14. Commitments .....	119
15. Contingent liabilities and contingent assets ..	119
16. Equity .....	119
17. Budget review .....	120
18. Reconciliation of cash flows from operating activities to net result .....	120
19. Financial instruments .....	121
20. Related party disclosures .....	124
21. Events after the reporting period .....	124

## 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* (the Act); *Public Finance and Audit Regulation 2015*; and
  - Treasurer's Directions issued under the Act
- (b) the financial statements exhibit a true and fair view of the financial position as at 30 June 2019 and financial performance of the Judicial Commission of New South Wales for the year ended then ended; 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: 22 August 2019





## 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 comprises the Statement of Comprehensive Income for the year ended 30 June 2019, the Statement of Financial Position as at 30 June 2019, 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 2019, 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.

#### Other Information

The Commission's annual report for the year ended 30 June 2019 includes other information in addition to 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.



## Independent Auditor's Report *continued*

### Other Information

The Commission's annual report for the year ended 30 June 2019 includes other information in addition to 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](http://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

Delegate of the Auditor-General for New South Wales

27 August 2019  
SYDNEY



## Start of audited financial statements

### Judicial Commission of New South Wales

Statement of Comprehensive Income for the year ended 30 June 2019

	Notes	Actual 2019 \$'000	Budget 2019 \$'000	Actual 2018 \$'000
<b>Continuing operations</b>				
<b>Expenses excluding losses</b>				
Employee-related expenses	2(a)	4,426	4,800	4,640
Operating expenses	2(b)	1,352	1,324	1,434
Depreciation and amortisation	2(c)	227	265	252
Grants and subsidies	2(d)	–	–	–
Other expenses	2(e)	2,015	400	531
<b>Total Expenses excluding losses</b>		<b>8,020</b>	<b>6,789</b>	<b>6,857</b>
<b>Revenue</b>				
Appropriation	3(a)	6,956	5,503	5,484
Acceptance by Crown Entity of employee benefits and other liabilities	3(d)	(66)	155	84
Sales of goods and services	3(b)	937	878	999
Investment revenue	3(c)	–	1	–
Other income	3(e)	186	59	42
<b>Total Revenue</b>		<b>8,013</b>	<b>6,596</b>	<b>6,609</b>
<b>Net Result</b>	18	<b>(7)</b>	<b>(193)</b>	<b>(248)</b>
<b>Other comprehensive income</b>		<b>–</b>	<b>–</b>	<b>–</b>
<b>TOTAL COMPREHENSIVE INCOME</b>		<b>(7)</b>	<b>(193)</b>	<b>(248)</b>

The accompanying notes form part of these financial statements.

**Judicial Commission of New South Wales**  
Statement of Financial Position as at 30 June 2019

	Notes	Actual 2019 \$'000	Budget 2019 \$'000	Actual 2018 \$'000
<b>ASSETS</b>				
<b>Current Assets</b>				
Cash and cash equivalents	7	139	161	4
Receivables	8	141	75	143
<b>Total Current Assets</b>		<b>280</b>	<b>236</b>	<b>147</b>
<b>Non-Current Assets</b>				
Plant and equipment	9	1,566	1,639	1,752
Intangible assets	10	–	3	4
<b>Total Non-Current Assets</b>		<b>1,566</b>	<b>1,642</b>	<b>1,756</b>
<b>Total Assets</b>		<b>1,846</b>	<b>1,878</b>	<b>1,903</b>
<b>LIABILITIES</b>				
<b>Current Liabilities</b>				
Payables	11	296	619	377
Provisions	12	597	530	566
Other current liabilities	13	–	–	–
<b>Total Current Liabilities</b>		<b>893</b>	<b>1,149</b>	<b>943</b>
<b>Non-Current Liabilities</b>				
Provisions	12	214	188	214
<b>Total Non-Current Liabilities</b>		<b>214</b>	<b>188</b>	<b>214</b>
<b>Total Liabilities</b>		<b>1,107</b>	<b>1,337</b>	<b>1,157</b>
<b>Net Assets</b>		<b>739</b>	<b>541</b>	<b>746</b>
<b>EQUITY</b>				
Accumulated funds	16	739	541	746
<b>Total Equity</b>		<b>739</b>	<b>541</b>	<b>746</b>

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 2019

	Accumulated Funds \$'000	Total \$'000
<b>Balance at 1 July 2018</b>	746	746
Net result for the year	(7)	(7)
Total other comprehensive income	–	–
Total comprehensive income for the year	(7)	(7)
<b>Balance at 30 June 2019</b>	<b>739</b>	<b>739</b>
<b>Balance at 1 July 2017</b>	994	994
Net Result for the year	(248)	(248)
Total other comprehensive income	–	–
Total comprehensive income for the year	(248)	(248)
<b>Balance at 30 June 2018</b>	<b>746</b>	<b>746</b>

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 2019

	Notes	Actual 2019 \$'000	Budget 2019 \$'000	Actual 2018 \$'000
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>				
<b>Payments</b>				
Employee related		(4,463)	(4,634)	(4,547)
Other		(3,754)	(1,837)	(2,297)
<b>Total Payments</b>		<b>(8,217)</b>	<b>(6,471)</b>	<b>(6,844)</b>
<b>Receipts</b>				
Appropriations		6,956	5,503	5,484
(Transfers to the Crown Entity)		–	–	–
Sale of goods and services		1,247	877	1,250
Interest received		–	1	–
Other		185	238	42
<b>Total Receipts</b>		<b>8,388</b>	<b>6,619</b>	<b>6,776</b>
<b>NET CASH FLOWS FROM OPERATING ACTIVITIES</b>	18	<b>171</b>	<b>148</b>	<b>(68)</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>				
Purchases of plant and equipment and intangibles		(36)	(150)	(28)
<b>NET CASH FLOWS FROM INVESTING ACTIVITIES</b>		<b>(36)</b>	<b>(150)</b>	<b>(28)</b>
<b>NET INCREASE/(DECREASE) IN CASH AND CASH EQUIVALENTS</b>		<b>135</b>	<b>(2)</b>	<b>(96)</b>
Opening cash and cash equivalents		4	163	100
<b>CLOSING CASH AND CASH EQUIVALENTS</b>	7	<b>139</b>	<b>161</b>	<b>4</b>

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 2019

### 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 2019 have been authorised for issue by the Chief Executive on 22 August 2019.

#### (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 (the Act)*; and *Public Finance and Audit Regulation 2015*; and
- Treasurer's Directions issued under the Act.

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 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

Income, expenses and assets are recognised net of the amount of goods and services tax (GST), except that the:

- amount of GST incurred by the entity as a purchaser that is not recoverable from the Australian Taxation Office (ATO) 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 ATO 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 2018–19

The accounting policies applied in 2018–19 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 2018–19.

The entity has adopted AASB 9 *Financial Instruments* (AASB 9), which resulted in changes in accounting policies in respect of recognition, classification and measurement of financial assets and financial liabilities; derecognition of financial instruments; and impairment of financial assets. AASB 9 also significantly amends other standards dealing with financial instruments such as the revised AASB 7 *Financial Instruments: Disclosures* (AASB 7R).

The entity applied AASB 9 retrospectively but has not restated the comparative information which is reported under AASB 139 *Financial Instruments: Recognition and Measurement* (AASB 139). Had any adjustments arisen from the adoption of AASB 9 these would have been recognised directly in accumulated funds and other components of equity. There was no effect of adopting AASB 9 on the entity's statement of financial position as at 1 July 2018.

#### a) Classification and measurement of financial instruments

On 1 July 2018 (the date of initial application of AASB 9), the Commission's management has assessed which business models apply to the financial assets held by the Commission and has classified its financial instruments into the appropriate AASB 9 categories.

Under AASB 9, subsequent measurement of debt financial assets is based on assessing the contractual cash flow characteristics of the debt instrument and the Commission's business model for managing the instrument.

The assessment of the Commission's business model was made as of the date of initial application, 1 July 2018. The assessment of whether contractual cash flows on debts instruments are solely comprised of principal and interest was made based on the facts and circumstances as at the initial recognition of the assets.

The classification and measurement requirements of AASB 9 did not have a significant impact to the Commission. The Commission continued measuring at fair value, all financial assets previously held at fair value under AASB 139.

The following are the changes in the classification of the Commission's financial assets:

- Trade receivables classified as 'Loans and receivables' under AASB 139 as at 30 June 2018 are held to collect contractual cash flows representing solely payments of principal and interest. At 1 July 2018, these are classified and measured as debt instruments at amortised cost.
- The entity has not designated any financial liabilities at fair value through profit or loss. There are no changes in the classification and measurement for the Commission's financial liabilities.

## Judicial Commission of New South Wales

Notes to the financial statements for the year ended 30 June 2019

In summary, upon the adoption of AASB 9, the entity had the following required or elected reclassifications as at 1 July 2018:

	Measurement category		Carrying amount		
	AASB 139	AASB 9 \$'000	Original \$'000	New \$'000	Difference \$'000
Trade receivables	L & R	Amortised cost	91	91	–

### b) Impairment

The adoption of AASB 9 has changed the Commission's accounting for impairment losses for financial assets by replacing AASB 139's incurred loss approach with a forward-looking expected credit loss (ECL) approach. AASB 9 requires the Commission to recognise an allowance for ECLs for all debt instruments not held at fair value through profit or loss. There is no material impact to the Commission on adopting the new impairment model.

### (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 15, AASB 2014-5, AASB 2015-8 and AASB 2016-3 regarding *Revenue from Contracts with Customers (not-for-profits only)*
- AASB 16 Leases
- AASB 1058 *Income of Not-for-Profit Entities*
- AASB 2016-8 *Amendments to Australian Accounting Standards – Australian Implementation Guidance for Not-for-Profit Entities*
- AASB 2017-6 *Amendments to Australian Accounting Standards – Prepayment Features with Negative Compensation*
- AASB 2018-1 *Amendments to Australian Accounting Standards – Annual Improvements 2015–2017 Cycle*
- AASB 2018-3 *Amendments to Australian Accounting Standards – Reduced Disclosure Requirements*
- AASB 2018-6 *Amendments to Australian Accounting Standards – Definition of a Business*
- AASB 2018-7 *Amendments to Australian Accounting Standards – Definition of Material*
- AASB 2018-8 *Amendments to Australian Accounting Standards – Right-of-Use Assets of Not-for-Profit Entities*

### Assessment of the impact on adoption of AASB 15 *Revenue from Contracts with Customers* and AASB 1058 *Income of Not-for-Profit Entities*

AASB 15 *Revenue from Contracts with Customers* (AASB 15) is effective for reporting periods commencing on or after 1 January 2019. AASB 15 establishes a five-step model to account for revenue arising from contracts with customers. Revenue is recognised when control of goods or services is transferred to the customer at amounts that reflect the consideration to which the Commission expects to be entitled in exchange for transferring the goods or services to the customer. Revenue recognition is currently based on when risks and rewards are transferred.

AASB 1058 *Income of Not-for-Profit Entities* (AASB 1058) is effective for reporting periods commencing on or after

1 January 2019 and will replace most of the existing requirements in AASB 1004 *Contributions* (AASB 1004). The scope of AASB 1004 is now limited mainly to parliamentary appropriations, administrative arrangements and contributions by owners. Under AASB 1058, the Commission will need to determine whether a transaction is consideration received below fair value principally to enable the Commission to further its objectives (accounted for under AASB 1058) or a revenue contract with a customer (accounted for under AASB 15).

The Commission will adopt AASB 15 and AASB 1058 on 1 July 2019 through application of the full retrospective transition approach. Recognition and measurement principles of the new standards will be applied for the current year and comparative year as though AASB 15 and AASB 1058 had always applied.

Based on the impact assessments the Commission has undertaken on currently available information, the impacts to balances resulting from the adoption of AASB 15 and AASB 1058 have been assessed as not being significant.

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.

### Assessment of the impact of AASB 16 Leases

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 right-of-use 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.

The accounting for lessors under AASB 16 will not significantly change.

The Commission will adopt AASB 16 on 1 July 2019 through application of the partial retrospective approach, where only the current year is adjusted as though AASB 16 had always applied. Comparative information will not be restated. The Commission will also adopt the practical expedient whereby the fair value of the right-of use asset will be the same as the lease liability at 1 July 2019.

Based on the impact assessments the Commission has undertaken on currently available information, the Commission estimates additional lease liabilities of \$4.24 million and right-of-use assets of \$4.24 million will be recognised as at 1 July 2019 for leases in which the Commission is a lessee. Most operating leases expenses will be replaced by depreciation of the right of use asset and interest on the lease liability. The impact on the statement of comprehensive income is expected to be \$44,000.





## Judicial Commission of New South Wales

Notes to the financial statements for the year ended 30 June 2019

	2019 \$'000	2018 \$'000
<b>2. EXPENSES EXCLUDING LOSSES</b>		
(a) Employee related expense		
Salaries and wages (including recreation leave)	3,920	3,954
Superannuation – defined benefit plans	66	112
Superannuation – defined contribution plans	315	299
Long service leave	(133)	(31)
Workers' compensation insurance	16	59
Payroll tax and fringe benefit tax	242	247
	<b>4,426</b>	<b>4,640</b>
(b) Other operating expenses include the following:		
Operating lease rental expense – minimum lease payments	550	534
Fees for services	33	52
Contractors	118	115
Conferences	161	194
Printing	33	50
Member fees	121	110
Stores and equipment	4	9
Books and periodicals	64	64
Postal and telephone	36	41
Training	27	33
Travel expenses	28	37
Electricity	26	28
Insurance	7	6
Auditor's remuneration – audit of the financial statements	28	25
Recruitment	7	14
Maintenance	2	2
Other	107	120
	<b>1,352</b>	<b>1,434</b>
<i>Reconciliation – Total maintenance</i>		
Maintenance expense – contracted labour and other (non-employee related), as above	2	2
Employee related maintenance expense included in Note 2(a)	–	–
Total maintenance expenses included in Note 2(a) + 2(b)	<b>2</b>	<b>2</b>

### 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 2019

	2019 \$'000	2018 \$'000
(c) Depreciation and amortisation expense		
Depreciation		
Computer equipment	69	90
Office furniture	115	115
Office equipment	39	39
	223	244
Amortisation		
Intangible assets	4	8
	227	252
Refer to note 9 and 10 for recognition and management policies on depreciation and amortisation.		
(d) Grants and subsidies		
Aboriginal program expenditure review efficiency contribution	–	–
	–	–
(e) Other expenses		
Conduct Division (refer Note 17)	2,015	531
	2,015	531

	2019 \$'000	2019 \$'000	2018 \$'000	2018 \$'000
	Appropriation	Expenditure	Appropriation	Expenditure
<b>3. REVENUE</b>				
<b>Recognition and Measurement</b>				
Income is measured at the fair value of the consideration or contribution received or receivable. Comments regarding the accounting policies for the recognition of income are discussed below.				
<b>(a) Appropriations and Transfers to the Crown Entity</b>				
<b>Summary of Compliance</b>				
Original budget per Appropriation Act	5,503	5,341	5,486	5,484
Other Appropriations/Expenditure				
– Transfers per section 27 of the Appropriation Act	1,670	1,615	–	–
– Treasurer's Advance	–	–	–	–
<b>Total Appropriations/Expenditure/Net Claim on Consolidated Fund</b>	7,173	6,956	5,486	5,484
Appropriation drawn down		6,956		5,484
Liability for unspent appropriations drawn down (refer Note 13)		–		–
<i>Comprising:</i>				
Appropriations (per Statement of Comprehensive Income)		6,956		5,484
<i>Appropriations:</i>				
Recurrent	7,023	6,919	5,336	5,456
Capital	150	37	150	28
	7,173	6,956	5,486	5,484

**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 for unspent appropriations drawn down', represents the difference between the 'Amount drawn against Appropriation' 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 2019

	2019 \$'000	2018 \$'000
<b>Recognition and Measurement</b>		
<b>Parliamentary appropriations and contributions</b>		
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"> <li>Unspent appropriations drawn down 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.</li> <li>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.</li> </ul>		
(b) Sale of goods and services		
Sale of goods	144	142
Rendering of services	793	857
	<u>937</u>	<u>999</u>
<b>Recognition and Measurement</b>		
<b>Sale of Goods</b>		
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.		
<b>Rendering of Services</b>		
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 income	–	–
<b>Recognition and Measurement</b>		
<b>Interest Income</b>		
Interest income is calculated by applying the effective interest rate to the gross carrying amount of a financial asset except for financial assets that subsequently become credit-impaired. For financial assets that become credit impaired, the effective interest rate is applied to the amortised cost of the financial asset (i.e. after deducting the loss allowance for expected credit losses).		
(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	63	109
Long service leave provision	(133)	(31)
Payroll tax	4	6
	<u>(66)</u>	<u>84</u>
(e) Other income		
Miscellaneous revenue	186	42
<b>4. GAIN/(LOSSES) ON DISPOSAL</b>	<u>–</u>	<u>–</u>

## Judicial Commission of New South Wales

Notes to the financial statements for the year ended 30 June 2019

	2019 \$'000	2018 \$'000
<b>5. OTHER GAINS/(LOSSES)</b>	–	–
<b>Recognition and Measurement</b>		
<i>Impairment losses on non-financial assets</i>		
Impairment losses may arise on non-financial 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		
<b>6. PROGRAM GROUPS OF THE COMMISSION</b>		
<b>Education, Sentencing, and Complaints</b>		
Program 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.		
<b>7. CURRENT ASSETS – CASH AND CASH EQUIVALENTS</b>		
Cash at bank and on hand	139	4
	<u>139</u>	<u>4</u>
For the purposes of the Statement of Cash Flows, cash and cash equivalents includes cash at bank and cash on hand.		
Cash and cash equivalents (per Statement of Financial Position) 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)	139	4
Cash and cash equivalents (per Statement of Cash Flows)	<u>139</u>	<u>4</u>
Refer Note 19 for details regarding credit 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 2019

	2019 \$'000	2018 \$'000
<b>8. CURRENT ASSETS – RECEIVABLES</b>		
Sale of goods and services	76	91
Other receivables	–	–
Accrued income	–	–
Prepayments	65	52
	<b>141</b>	<b>143</b>

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

### Recognition and Measurement

All 'regular way' purchases or sales of financial assets are recognised and derecognised on a trade date basis. Regular way purchases or sales are purchases of sales of financial assets that require delivery of assets within the time frame established by regulation or convention in the marketplace.

Receivables are initially recognised at fair value plus any direct attributable transaction costs. Trade receivables that do not contain a significant financing component are measured at the transaction price.

### Subsequent measurement under AASB 9 (from 1 July 2018)

The entity holds receivables with the objective to collect the contractual cash flows and therefore measures them 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.

### Subsequent measurement under AASB 139 (for comparative period ended 30 June 2018)

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.

### Impairment under AASB 9 (from 1 July 2018)

The entity recognises an allowance for expected credit losses (ECLs) for all debt financial assets not held at fair value through profit or loss. ECLs are based on the difference between contractual cash flows and the cash flows that the entity expects to receive, discounted at the original effective interest rate.

For trade receivables, the entity applies a simplified approach in calculating ECLs. The entity recognises a loss allowance based on lifetime ECLs at each reporting date.

### Impairment under AASB 139 (for comparative period ended 30 June 2018)

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 2019

<b>9. PLANT AND EQUIPMENT</b>		
	<b>Plant and Equipment \$'000</b>	<b>Total \$'000</b>
<b>At 1 July 2018 – fair value</b>		
Gross carrying amount	2,393	2,393
Accumulated depreciation and impairment	(641)	(641)
Net carrying amount	1,752	1,752
<b>At 30 June 2019 – fair value</b>		
Gross carrying amount	2,403	2,403
Accumulated depreciation and impairment	(837)	(837)
Net carrying amount	1,566	1,566
<b>Reconciliation</b>		
A reconciliation of the carrying amount of plant and equipment at the beginning and end of the current financial year is set out below:		
<b>Year ended 30 June 2019</b>		
Net carrying amount at start of year	1,752	1,752
Additions	37	37
Disposals	–	–
Depreciation	(223)	(223)
Net carrying amount at end of year	1,566	1,566
<b>At 1 July 2017 – fair value</b>		
Gross carrying amount	2,440	2,440
Accumulated depreciation and impairment	(473)	(473)
Net carrying amount	1,967	1,967
<b>At 30 June 2018 – fair value</b>		
Gross carrying amount	2,393	2,393
Accumulated depreciation and impairment	(641)	(641)
Net carrying amount	1,752	1,752
<b>Reconciliation</b>		
A reconciliation of the carrying amount of plant and equipment at the beginning and end of the prior financial year is set out below:		
<b>Year ended 30 June 2018</b>		
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



## Judicial Commission of New South Wales

Notes to the financial statements for the year ended 30 June 2019

### Recognition and Measurement

#### *Acquisition of plant and equipment*

Plant and equipment are initially 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 2019

### **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* and AASB 116 *Property, Plant and Equipment*.

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 2019

<b>10. INTANGIBLE ASSETS</b>		
<b>At 1 July 2018</b>	<b>Software \$'000</b>	<b>Total \$'000</b>
Cost (gross carrying amount)	28	28
Accumulated amortisation and impairment	(24)	(24)
Net carrying amount	4	4
<b>At 30 June 2019</b>		
Cost (gross carrying amount)	28	28
Accumulated amortisation and impairment	(28)	(28)
Net carrying amount	–	–
<b>Reconciliation</b>		
A reconciliation of the carrying amount of intangibles at the beginning and end of the current financial year is set out below:		
<b>Year ended 30 June 2019</b>	<b>Software \$'000</b>	<b>Total \$'000</b>
Net carrying amount at start of year	4	4
Additions	–	–
Disposals	–	–
Amortisation (recognised in 'depreciation and amortisation')	(4)	(4)
Net carrying amount at end of year	–	–
<b>At 1 July 2017</b>	<b>Software \$'000</b>	<b>Total \$'000</b>
Cost (gross carrying amount)	28	28
Accumulated amortisation and impairment	(16)	(16)
Net carrying amount	12	12
<b>At 30 June 2018</b>	<b>\$'000</b>	<b>\$'000</b>
Cost (gross carrying amount)	28	28
Accumulated amortisation and impairment	(24)	(24)
Net carrying amount	4	4
<b>Reconciliation</b>		
A reconciliation of the carrying amount of intangibles at the beginning and end of the prior financial year is set out below:		
<b>Year ended 30 June 2018</b>	<b>Software \$'000</b>	<b>Total \$'000</b>
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

## Judicial Commission of New South Wales

Notes to the financial statements for the year ended 30 June 2019

	2019 \$'000	2018 \$'000
<b>Recognition and Measurement</b>		
<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. 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>		
<b>11. CURRENT LIABILITIES – PAYABLES</b>		
Creditors	222	300
Accrued salaries, wages and on-costs	16	18
Other (including GST payable)	58	59
	<u>296</u>	<u>377</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 2019

	2019 \$'000	2018 \$'000
<b>12. CURRENT/NON-CURRENT LIABILITIES — PROVISIONS</b>		
<b>Employee benefits and related on-costs</b>		
<b>Current</b>		
Recreation leave	288	264
On-costs	309	302
	<u>597</u>	<u>566</u>
<b>Non-Current</b>		
Make Good Provision	188	188
On-costs	26	26
	<u>214</u>	<u>214</u>
<b>Aggregate employee benefits and related on-costs</b>		
Provisions — current	597	566
Provisions — non-current	26	26
Accrued salaries, wages and on-costs (refer Note 11)	16	18
	<u>639</u>	<u>610</u>
<b>Expected settlement of current employee benefits and related on-costs</b>		
Not later than 12 months	544	514
Later than 12 months	53	52
	<u>597</u>	<u>566</u>
<b>Movements in provisions (other than employee benefits)</b>		
	<b>Make Good \$'000</b>	<b>Total \$'000</b>
<b>2019</b>		
Carrying amount at 1 July 2018	188	188
Additional provisions recognised	—	—
Amounts used	—	—
Unused amounts reversed	—	—
Unwinding/change in the discount rate	—	—
Carrying amount at 30 June 2019	<u>188</u>	<u>188</u>

## Judicial Commission of New South Wales

Notes to the financial statements for the year ended 30 June 2019

### 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.

Recreation 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 recreation leave balance plus the recreation leave entitlements accrued while taking recreation leave (calculated using 7.9% of the nominal value of recreation leave) can be used to approximate the present value of the recreation 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 recreation leave. All recreation 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.

##### *Make good provision*

The make good provision will arise if the leased offices are vacated at the end of the lease term. The lease requires that the office be returned 'back to base building' requiring the removal of all partitions and added fixtures. The cost is an estimate based on current costs.





## Judicial Commission of New South Wales

Notes to the financial statements for the year ended 30 June 2019

	2019 \$'000	2018 \$'000
<b>13. CURRENT LIABILITIES — OTHER</b>		
Liability for unspent appropriations drawn down	—	—
	—	—
<b>14. COMMITMENTS</b>		
<b>Operating lease commitments</b>		
<b>Entity as lessee</b>		
Future minimum rentals payable under non-cancellable operating leases as at 30 June, are as follows:		
Within one year	656	624
Later than one year and not later than five years	977	1,546
Later than five years	—	—
Total (including GST)	1,633	2,170

Operating lease commitments, relate to rent and motor vehicles which are not recognised in the financial statements as liabilities. The total commitments for expenditure as at 30 June 2019 include input tax credits of \$148,000 (\$197,000 in 2018) which are recoverable from the Australian Tax Office.

## 15. CONTINGENT LIABILITIES AND CONTINGENT ASSETS

The Commission has no contingent liabilities (2018: nil) or contingent assets (2018: nil) as at 30 June 2019.

## 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 2019

	2019 \$'000	2018 \$'000
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### 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 is lower than the budgeted loss by \$186,000.

This is mainly due to \$1.231 million higher expenses including Conduct Divisions offset by additional Treasury funding of \$1.67 million, combined with \$58,000 higher own generated income, and other income higher by \$127,000.

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

Conduct Division expenditure was \$2,015,000 compared to the budget of \$400,000, with three Conduct Divisions formed in the year. Net cost of services adjustments totalling \$1,670,000 were approved to cover the excess Conduct Division expenses. This was funded by drawing down an extra \$750,000 from the approved increase in Protected Funding allocation from Treasury. Further funding of \$920,000 was also required to fund the three Conduct Division expenses incurred in the year.

#### Assets and Liabilities

Non-Current Assets are under budget by (\$76,000). This is mainly due to lower than expected capital purchases. Current Liabilities are under budget by (\$256,000) mainly due to: Payables decrease of \$323,000 (including PAYG tax).

#### Cash Flows

The Net Cash Flows from operating activities resulted with a negative (\$171,000).

This was primarily as a result of increased expenses of \$1,373,000 less the increase of \$1,612,000 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 used on operating activities	171	(68)
Decrease/(increase) in Crown Entity liability	–	–
Depreciation and amortisation expense	(227)	(252)
Decrease/(increase) in provisions	(31)	(5)
Increase/(decrease) in receivables and prepayments	(2)	35
Decrease/(increase) in payables	82	42
Cash transfers to Consolidated Fund	–	–
<b>Net Result</b>	<b>(7)</b>	<b>(248)</b>



## Judicial Commission of New South Wales

Notes to the financial statements for the year ended 30 June 2019

### 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.

			Carrying amount
(a) Financial instrument categories			2019 \$'000
i. As at 30 June 2019 under AASB 9			
<b>Financial Assets</b>			
Cash and cash equivalents	7	N/A	139
Receivables <sup>1</sup>	8	Amortised cost	76
<b>Financial Liabilities</b>			
Payables <sup>2</sup>	11	Financial liabilities measured at amortised cost	240

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).

			2018 \$'000
ii. As at 30 June 2019 under AASB 139			
<b>Financial Assets</b>			
Cash and cash equivalents	7	N/A	4
Receivables <sup>1</sup>	8	Loans and receivables (at amortised cost)	91
<b>Financial Liabilities</b>			
Payables <sup>2</sup>	11	Financial liabilities measured at amortised cost	157

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 each financial year end.

#### Derecognition of financial assets and financial liabilities

A financial asset (or, where applicable, a part of a financial asset or part of a group of similar financial assets) is derecognised when the contractual rights to the cash flows from the financial assets expire; or if the entity transfers its rights to receive cash flows from the asset or has assumed an obligation to pay the received cash flows in full without material delay to a third party under a 'pass-through' arrangement and either:

- the entity has transferred substantially all the risks and rewards of the asset; or
- the entity has neither transferred nor retained substantially all the risks and rewards of the asset, but has transferred control.

## Judicial Commission of New South Wales

Notes to the financial statements for the year ended 30 June 2019

When the entity has transferred its rights to receive cash flows from an asset or has entered into a 'pass-through' arrangement, it evaluates if, and to what extent, it has retained the risks and rewards of ownership. 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 or expires. When an existing financial liability is replaced by another from the same lender on substantially different terms, or the terms of an existing liability are substantially modified, such an exchange or modification is treated as the derecognition of the original liability and the recognition of a new liability. The difference in the respective carrying amounts is recognised in the net result.

### (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 credit losses or 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.

The Commission considers a financial asset in default when contractual payments are 90 days past due. However, in certain cases, the Commission may also consider a financial asset to be in default when internal or external information indicates that the entity is unlikely to receive the outstanding contractual amounts in full before taking into account any credit enhancements held by the Commission.

#### *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.

#### *Accounting policy for impairment of trade debtors and other financial assets under AASB 9 Receivables — trade debtors*

Collectability of trade debtors is reviewed on an ongoing basis. Procedures as established in the Treasurer's Directions are followed to recover outstanding amounts, including letters of demand.

The Commission applies the AASB 9 simplified approach to measuring expected credit losses which uses a lifetime expected loss allowance for all trade debtors. To measure the expected credit losses, trade receivables have been grouped based on shared credit risk characteristics and the days past due.

The expected loss rates are based on historical observed loss rates. The historical loss rates are adjusted to reflect current and forward-looking information on macroeconomic factors affecting the ability of the customers to settle the receivables. The Commission has identified the unemployment rate, wages growth rate and CPI inflation to be the most relevant factors, and accordingly adjusts the historical loss rates based on expected changes in these factors.

Trade debtors are written off when there is no reasonable expectation of recovery. Indicators that there is no reasonable expectation of recovery include, amongst others a failure to make contractual payments.

There are no debtors which are currently past due and impaired.

The entity is not materially exposed to concentrations of credit risk to a single trade debtor or group of debtors as at 30 June 2019.

#### *Accounting policy for impairment of trade debtors and other financial assets under AASB 139 (comparative period only)*

Collectability of trade debtors is reviewed on an ongoing basis. Procedures as established in the Treasurer's Directions are followed to recover outstanding amounts, including letters of demand. Debtors 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 day terms.





## Judicial Commission of New South Wales

Notes to the financial statements for the year ended 30 June 2019

	2019 \$'000
For the comparative period 30 June 2018, the ageing analysis of trade debtors is as follows:	
Neither past due nor impaired	91
Past due but not impaired	
< 3 months overdue	–
3 months – 6 months overdue	–
> 6 months overdue	–
	91
Impaired	
< 3 months overdue	–
3 months – 6 months overdue	–
> 6 months overdue	–
Total receivables-gross of allowance for impairment	–

The ageing analysis excludes statutory receivables and prepayments, as these are not within the scope of AASB 7. Therefore, the 'total' will not reconcile to the receivables total in Note 8.

The entity is not materially exposed to concentrations of credit risk to a single trade debtor or group of debtors as at 30 June 2018.

### (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 borrowings. 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.

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 2019

### (c) Fair value measurement

#### (i) Fair value compared to carrying amount

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

Management assessed that cash, trade receivables, trade payables and other current liabilities approximate their fair values, largely due to the short-term maturities of these instruments.

The Commission 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:

Salaries

Other monetary allowances

Non-monetary benefits

Post-employment benefits

Termination benefits

Total remuneration

2019 \$'000	2018 \$'000
1,143	1,127
–	–
–	–
80	66
–	–
1,223	1,193

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

## Supplementary materials

Appendices .....	126
Table of Case studies .....	138
Table of figures .....	138
Table of tables .....	138
Glossary.....	139
Index .....	140

## Appendices

<b>Appendix 1</b>	
Complaints against judicial officers: guidelines . . .	126
<b>Appendix 2</b>	
Conduct Division: guidelines for examination of complaints . . . . .	126
<b>Appendix 3</b>	
Judicial education policy . . . . .	126
<b>Appendix 4</b>	
Education and Bench Book Committees 2018–19 . .	127
<b>Appendix 5</b>	
Conference topics 2018–19 . . . . .	128
<b>Appendix 6</b>	
Judicial education seminars, workshops and field trips 2018–19 . . . . .	130
<b>Appendix 7</b>	
Articles published 2018–19 . . . . .	130
<b>Appendix 8</b>	
Publications list . . . . .	131
<b>Appendix 9</b>	
Ngara Yura Program . . . . .	132
<b>Appendix 10</b>	
Assistance to other jurisdictions and organisations 2018–19 . . . . .	132
<b>Appendix 11</b>	
Working with other organisations 2018–19 . . . . .	132
<b>Appendix 12</b>	
Visitors to the Commission 2018–19 . . . . .	133
<b>Appendix 13</b>	
Overseas visits 2018–19 . . . . .	133
<b>Appendix 14</b>	
Exchange of information 2018–19 . . . . .	134
<b>Appendix 15</b>	
Commission officers' presentations 2018–19 . . . .	134
<b>Appendix 16</b>	
Access to government information 2018–19 . . . .	135
<b>Appendix 17</b>	
Other compliance matters . . . . .	137
<b>Table of case studies</b> . . . . .	138
<b>Table of figures</b> . . . . .	138
<b>Table of tables</b> . . . . .	138
<b>Glossary</b> . . . . .	139
<b>Index</b> . . . . .	140

### Appendix 1

#### **Complaints against judicial officers: guidelines**

View Guide for Complainants online at [www.judcom.nsw.gov.au/complaints/guide-for-complainants/](http://www.judcom.nsw.gov.au/complaints/guide-for-complainants/).

### Appendix 2

#### **Conduct Division: guidelines for examination of complaints**

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**

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 and Bench Book Committees 2018–19

#### EDUCATION COMMITTEES

##### Standing Advisory Committee on Judicial Education

- The Honourable Justice J Basten, Supreme Court (Chair)
- The Honourable Justice N Pain, Land and Environment Court
- His Honour Judge P Lakatos SC, District Court
- His Honour Deputy Chief Magistrate M Allen, Local Court
- Chief Commissioner P Kite SC, Industrial Relations Commission
- 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 AM (until 30 April 2019)
- The Honourable Justice P Garling RFD
- The Honourable Justice A Black
- The Honourable Justice R Wright (from 30 April 2019)
- Mr C D'Aeth, Principal 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
- Commissioner D Dickson
- Ms S Froh, Registrar
- 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 (until 28 January 2019)
- His Honour Judge P Lakatos SC
- His Honour Judge G Lerve
- Her Honour Judge S Huggett
- His Honour Judge P Whitford SC
- 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
- His Honour Judge C O'Brien AM
- Mr J Howard, Judicial Registrar
- Ms U Doyle, Director, Education, Judicial Commission of NSW (Convenor).

##### Local Court Education Committee

- Her Honour Deputy Chief Magistrate J Mottley
- His Honour Deputy Chief Magistrate M Allen (Chair)
- His Honour Magistrate D Heilpern
- His Honour Magistrate I Guy
- Her Honour Magistrate J Keogh (until 31 December 2018)
- Her Honour Magistrate F Toose (until 31 December 2018)
- Her Honour Magistrate V Swain
- His Honour Magistrate L Mabbutt (from 1 January 2019)
- Her Honour Magistrate A Viney (until 31 December 2018)
- Her Honour Magistrate S McIntyre
- His Honour Magistrate G Grogan (until 31 December 2018)

- His Honour Magistrate M Antrum
- His Honour Magistrate R Stone (from 1 January 2019)
- Her Honour Magistrate K Robinson (from 1 January 2019)
- Her Honour Magistrate C Huntsman
- Her Honour Magistrate E Kennedy (from 1 January 2019)
- His Honour Magistrate P Stewart
- His Honour Magistrate R Hudson (from 1 January 2019)
- Ms B Delbridge, Policy Officer, Chief Magistrate's Office
- Ms U Doyle, Director, Education, Judicial Commission of NSW (Convenor).

##### Children's Court Education Committee

- His Honour Judge P Johnstone (Chair)
- His Honour Magistrate G Blewitt AM (until 29 January 2019)
- His Honour Magistrate A Sbrizzi
- Her Honour Magistrate T Sheedy
- Her Honour Magistrate D Maher (from 30 January 2019)
- Ms R Davidson, Executive Officer
- Ms R Kang, Senior Children's Registrar
- Ms E King, Research Associate to the President (until 21 September 2018)
- Ms U Doyle, Director, Education, Judicial Commission of NSW (Judicial Commission Representative).

##### Ngara Yura Committee

- The Honourable Chief Justice, J Allsop AO, Federal Court of Australia
- The Honourable Justice L McCallum, Supreme Court (Chair)
- 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
- His Honour Magistrate B van Zuylen, Local Court (from 5 September 2018)
- Her Honour Magistrate T O'Sullivan, Local Court (until 4 September 2018)
- 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
- Mr E Schmatt AM PSM, Chief Executive, Judicial Commission of NSW
- Ms U Doyle, Director, Education, Judicial Commission of NSW (Convenor).

#### BENCH BOOK COMMITTEES

##### Criminal Trial Courts Bench Book Committee

- The Honourable Justice P Johnson
- The Honourable Justice RA Hulme
- His Honour Judge P Zahra SC (from 5 March 2019)
- His Honour Judge P Lakatos SC (until 4 March 2019)
- His Honour Judge D Arnott SC
- Her Honour Judge S Huggett (from 5 March 2019)
- The Honourable R Howie QC (Chair)
- Ms P Mizzi, Director, Research and Sentencing, Judicial Commission of NSW (Convenor).

#### Civil Trials Bench Book Committee

- The Honourable M Campbell QC (Chair until 10 April 2019)
- The Honourable Justice P Garling RFD (Chair from 11 April 2019)
- The Honourable Justice F Kunc
- His Honour Judge G Neilson (until 16 April 2019)
- His Honour Judge R Letherbarrow SC
- His Honour Judge R Weinstein SC (from 10 April 2019)
- Her Honour Magistrate S McIntyre (from 10 April 2019)
- Her Honour Magistrate J Atkinson (from 1 August 2018)
- Mr E Schmatt AM PSM, Chief Executive, Judicial Commission of NSW
- Ms U Doyle, Director, Education, Judicial Commission of NSW.

#### Local Court Bench Book Committee

- Her Honour Deputy Chief Magistrate J Mottley (Chair)
- Ms B Delbridge, Policy Officer, Chief Magistrate's Office
- Ms U Doyle, Director, Education, Judicial Commission of NSW (Judicial Commission Representative)
- Ms P Mizzi, Director, Research and Sentencing, Judicial Commission of NSW.

#### Sexual Assault Trials Handbook Committee

- His Honour Judge S Norrish QC (until 3 January 2019)
- His Honour Judge R Ellis (Chair until 3 January 2019)
- Her Honour Judge S Huggett (until 3 January 2019)
- Dr J Cashmore AO, Professor, Faculty of Law, The University of Sydney (until 3 January 2019)
- Ms U Doyle, Director, Education, Judicial Commission of NSW (until 3 January 2019)
- Ms K Lumley, Manager, Publications and Communications, Judicial Commission of NSW (until 2 July 2018).

## Appendix 5

### Conference topics 2018–19

#### ANNUAL CONFERENCES

##### Supreme Court of NSW Annual Conference, August 2018

- “Analogical reasoning by reference to statute: what is the judicial function?”, the Honourable Justice Michelle Gordon, High Court of Australia.
- “Contributory Negligence and Causation”, the Honourable Justice Mark Leeming, Court of Appeal.
- “Streamed Session”
- “Developments in Criminal Law”, the Honourable Justice Robert A Hulme, Supreme Court of NSW.
- “Resulting Trust — the consequences of rebutting a presumption of advancement”, the Honourable Joseph Campbell.
- “Legal Consequences of the UK withdrawal from the EU”, the Right Honourable Lady Justice Mary Arden DBE QC, Judge, Court of Appeal of England and Wales.
- “The New Strata Title Law”, Associate Professor Cathy Sherry, University of NSW.
- “Joint Criminal Liability”, the Honourable Justice Mark Weinberg AO, Supreme Court of Victoria.
- “Australian rivers in the Anthropocene – the debate about freshwater resources”, Professor Richard Kingsford, Director of Centre for Ecosystem Science, University of NSW.
- “Past, Present, and Future of Space in Australia”, Dr Brad Tucker, Astrophysicist / Cosmologist, Australian National University.

##### Land and Environment Court Annual Conference, May 2019

- “Opening Address: Climate Change: where are we and where are we going”, Professor Lesley Hughes, Distinguished Professor of Biology and Pro Vice-Chancellor (Research Integrity & Development), Macquarie University.
- “Contaminated Land – What is it?”, Mr Melissa Porter, Accredited Site Auditor, Senversa Pty Ltd.
- “Field Trip – Sydney Desalination Plant”, Mr Matt Blaikie, Operations Manager, Sydney Desalination Plant.
- “Field Trip – Kamay Botany Bay National Park”, Mr Dean Kelly.
- “Dinner Speaker”, the Honourable Mark Speakman SC MP.
- “Meeting of Acting Commissioners”, Senior Commissioner Susan Dixon, Land and Environment Court of NSW.
- “Court Update”, the Honourable Justice Brian Preston, Chief Judge, Land and Environment Court of NSW.
- “Coastal Habitat Restoration: State of the Science”, Associate Professor William Glamore, Principal Research Engineer, University of New South Wales.
- “Criminal Law Update”, the Honourable Justice Helen Wilson, Supreme Court of NSW.

- “Panel Discussion: existing use rights”, the Honourable Justice Tim Moore, Land and Environment Court of NSW, the Honourable Justice John Robson, Land and Environment Court of NSW and Senior Commissioner Susan Dixon, Land and Environment Court of NSW.
- “ADR Update: Restorative justice approaches in mediation”, Mr John McDonald, Managing Director and Conflict Management Specialist, ProActive ReSolutions.

##### District Court of NSW Annual Conference, April 2019

- “Criminal law review”, the Honourable Justice Robert A Hulme, Supreme Court of NSW.
- “Panel discussion – practical issues in criminal jurisdiction”
- “Useful cases and a checklist for writing a judgment”, her Honour Judge Deborah Sweeney, District Court of NSW.
- “Listing practices for criminal proceedings in the District Court of NSW at Parramatta”, his Honour Judge James Bennett SC, District Court of NSW.
- “When to discharge a jury or give the Black direction”, her Honour Judge Donna Woodburne SC, District Court of NSW.
- “Practical issues”, his Honour Judge Gordon Lerve, District Court of NSW.
- “Summing up”, his Honour Judge Stephen Hanley SC, District Court of NSW.
- “Civil jurisdiction”, his Honour Judge Ross Letherbarrow SC, District Court of NSW.
- “How forensic psychologists work and community management of sex offenders”, Dr Katie Seidler, Clinical and Forensic Psychologist, LSC Psychology: Clinical Forensic Psychology Services.
- “Recurring issues in the NSW Court of Appeal”, the Honourable Justice Mark Leeming, Court of Appeal.
- “Why is it so hard being a young person in 2019 and why it matters?”, Dr Andrew Kennedy MB BS, FRACP, The Children's Clinic.
- “Civil issues (A) – Care proceedings”, his Honour Judge Peter Johnstone, District Court of NSW.
- “Civil issues (B) – Current topics”
- “Update on commercial jurisdiction”, his Honour Judge Philip Taylor SC, District Court of NSW.
- “Online court update”, Mr James Howard, Judicial Registrar, District Court of NSW.
- “Repeat interlocutory applications”, his Honour Judge Matthew Dicker SC, District Court of NSW.
- “Indigenous justice – diversionary programs and other services”
- “Ngalarra youth justice program”, Ms Melissa Merritt, Team Leader, Creating Futures Justice Program, Weave Youth & Community Services.

- “Mother’s and children’s program”, Ms Belinda McInnes, Manager, Mothers and Children’s Program, Jacaranda Cottages, Corrective Services NSW, Department of Justice.
- “Brothers 4 recovery”, Mr Jeff Amatto, Co Founder, Brothers 4 Recovery.
- “Bullying and harassment in the court room”, Ms Jan-Marie Doogue, Chief Judge, District Court of New Zealand.

#### Local Court of NSW Annual Conference, August 2018

- “Welcome Address”, his Honour Judge Graeme Henson AM, Chief Magistrate of NSW.
- “Keynote Address: Life after prison – making a difference that counts”, Mr Keenan Mundine, Principal Consultant and Owner, Inside Out Aboriginal Justice Consultancy.
- “Criminal Law Update”, the Honourable Justice Peter Hamill, Supreme Court of NSW.
- “Evidence – Keeping the hearing moving”, the Honourable Justice Geoffrey Bellew, Supreme Court of NSW.
- “Judicial Wellbeing Research: The Findings”, Ms Carly Schrever, Judicial Wellbeing Advisor, Judicial College of Victoria.
- “A Review of the State Parole Authority Operating Practices”, the Honourable James Wood AO QC, Chair, NSW State Parole Authority.
- “Preparation of Community Corrections assessment reports and management of order conditions under the new sentencing regime”, Mr Jason Hainsworth, Director Strategy, Community Corrections, Corrective Services NSW.
- “Civil Update”, the Honourable Justice Peter Garling RFD, Supreme Court of NSW.
- “Fact Finding”, his Honour Judge Paul Lakatos SC, 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 Michael Allen, Local Court of NSW and his Honour Magistrate Les Mabbutt, State Coroner, Coroner’s Court of NSW.

#### OTHER CONFERENCES

##### Drug Court of NSW 20th Anniversary Practitioners’ Conference 2019, February 2019

- “Welcome to Country”.
- “Opening Address”, the Honourable Mark Speakman SC MP.
- “Introductory Remarks”, his Honour Judge Roger Dive, Senior Judge, Drug Court of NSW.
- “Keynote Address: Looking Back and Moving Forward”, Judge Peggy Hora.
- “Self-care”, Ms Petrea King, CEO, Quest for Life Foundation.
- “Drugs, metabolism and testing”, Dr Santiago Vazquez, Branch Director Forensic Chemistry, NSW Health Pathology.
- “Former participant interview”, Ms Sue Jefferies, Clinical Nurse Consultant, Justice Health Drug Court of NSW.
- “Can technology play a role in engaging young people – a practical look at its application”, Professor Jane Burns, Professor of Innovation & Industry, University of Sydney.
- “Hypotheticals”, his Honour Judge Paul Cloran, Drug Court of NSW.

##### Local Court of NSW Southern Regional Conference, March 2019

- “Sentencing for More Serious Offences in the Local Court”, His Honour Magistrate Philip Stewart, Local Court of NSW.
- “New Consistency in Sentencing Options – Part 1”, His Honour Deputy Chief Magistrate Michael Allen, Local Court of NSW and His Honour Magistrate Ian Guy, Local Court of NSW.
- “Managing Documents”, His Honour Magistrate Michael Connell, Local Court of NSW.
- “New Consistency in Sentencing Options – Part 2”, His Honour Deputy Chief Magistrate Michael Allen, Local Court of NSW and His Honour Magistrate Ian Guy, Local Court of NSW.
- “Management of Witnesses”, His Honour Magistrate Ross Hudson, Local Court of NSW.
- “Coronial Jurisdiction”, His Honour Magistrate Leslie Mabbutt, Local Court of NSW and Mr Don McLennan, Manager Coronial Services NSW | Executive Officer to the NSW State Coroner, Coroner’s Court of NSW.
- “Children’s Court Update”, His Honour Judge Peter Johnstone, President, Children’s Court of NSW.
- “Further updates on Community Corrections Reports”, Mr Jason Hainsworth, Director Strategy, Community Corrections, Corrective Services NSW.
- “Recent and Upcoming Legislative Amendments”, His Honour Deputy Chief Magistrate Michael Allen, Local Court of NSW.

##### Local Court of NSW Northern Regional Conference, March 2019

- “Chief Magistrate’s Address”, His Honour Judge Graeme Henson AM, District Court of NSW.
- “Sentencing for More Serious Offences in the Local Court”, His Honour Magistrate Philip Stewart, Local Court of NSW.
- “New Consistency in Sentencing Options – Part 1”, His Honour Magistrate Ian Guy, Local Court of NSW.
- “Managing Documents”, His Honour Magistrate Michael Connell, Local Court of NSW.
- “New Consistency in Sentencing Options – Part 2”, His Honour Magistrate Ian Guy, Local Court of NSW and His Honour Deputy Chief Magistrate Michael Allen, Local Court of NSW.
- “Management of Witnesses”, His Honour Magistrate Ross Hudson, Local Court of NSW.
- “Coronial session”, His Honour Magistrate Leslie Mabbutt, Local Court of NSW.
- “Children’s Court Update”, His Honour Judge Peter Johnstone, President, Children’s Court of NSW.
- “Further Updates on Community Corrections Reports”, Ms Rosemary Caruana, Assistant Commissioner, Community Corrections, Corrective Services NSW.
- “Recent & Pending Legislative Amendments”, Ms Brooke Delbridge, Policy Officer, Local Court of NSW.

##### Children’s Court of NSW Section 16 Meeting, November 2018

- “DFaCS Update”, Ms Rachael Ward, Manager, Child Law, Litigation Metro and South, Department of Family and Community Services and Ms Kathy Williamson, Department of Family and Community Services.
- “Crime Scenario”, Her Honour Magistrate Christine Haskett, Children’s Court of NSW.
- “Police Update”, Mr Joe Cassar, Assistant Commissioner, NSW Police and Mr David Roptell, Superintendent, NSW Police.
- “Their Futures Matter”, Ms Tahn O’Brien, Director, Their Futures Matter.
- “Breakout for Children’s Magistrates”, His Honour Judge Peter Johnstone, President, Children’s Court of NSW.
- “Breakout for Children’s Registrars”, Ms Rebecca Kang, Senior Children’s Registrar, Children’s Court of NSW.

##### Children’s Court of NSW Section 16 Meeting, May 2019

- “Welcome to Country”, Ms Joanne Selfe, Ngara Yura Project Officer, Judicial Commission of NSW.
- “Assessment and Treatment of Young Sex Offenders in NSW”, Mr Dale Tolliday OAM, Advisor Sexual and Violent Behaviour, NSW Health.
- “The Effects of Child Sexual Abuse on Memory and Child Complainant’s Evidence”, Professor Jane Goodman-Delahunty, Research Professor, Charles Sturt University.
- “Child Witnesses”, Dr Judith Cashmore AO, Professor, The University of Sydney.
- “Sentencing Young Offenders for Sexual Assault Offences”, His Honour Magistrate David Williams, Children’s Court of NSW.
- “For Children’s Magistrates: Current Issues”, His Honour Judge Peter Johnstone, President, Children’s Court of NSW.
- “For Children’s Registrars: Impact of the recent amendments to the Children and Young Persons (Care and Protection) Act 1998”, Ms Rebecca Kang, Senior Children’s Registrar, Children’s Court of NSW.
- Exchanging Ideas: First Nations Consensus in Constitutional Reform, Nation Building and Treaty Making Processes, June 2019.

#### ORIENTATION PROGRAMS

##### Local Court of NSW Magistrates’ Orientation Program, May 2019

- “Local Court of NSW Magistrates’ Orientation Program”.

##### National Judicial Orientation Program, March 2019

## Appendix 6

### Judicial education seminars, workshops and field trips 2018–19

#### Supreme Court of NSW

- “The New Community Corrections Reforms”, Ms Rosemary Caruana, Assistant Commissioner, Community Corrections, Corrective Services NSW, Twilight Seminar, 30 October 2018.

#### Land and Environment Court of NSW

- “Fact Finding”, His Honour Judge Paul Lakatos SC, District Court of NSW, Twilight Seminar, 14 August 2018.
- “Conflicts between urban development and bird populations: are they adequately addressed by our planning and building regulations?”, Dr Stephen Ambrose, Director, Ambrose Ecological Services, Twilight Seminar, 11 September 2018.
- “Implementing Court Managed Expert Evidence”, Member Peta Stilgoe, Queensland Land Court, Twilight Seminar, 15 October 2018.
- “Land and Environment Court of NSW Field Trip: Conflicts between urban development and bird populations”, Dr Stephen Ambrose, Director, Ambrose Ecological Services, Field Trip, 30 October 2018.
- “Field Trip: The Value of Public Art”, Ms Eva Rodriguez Riestra, Public Art Program Manager, City of Sydney Council, Field Trip, 5 December 2018.
- “Biodiversity Conservation and Land Management Reforms: The Nuts and Bolts”, Ms Kathryn Ridge, Solicitor Director, Ridge & Associates, Twilight Seminar, 12 March 2019.
- “Leadership”, Twilight Seminar, 10 April 2019.
- “Museum of Contemporary Art Exhibition Tour – Janet Laurence: After Nature”, Field Trip, 8 May 2019.
- “The Murray Darling Basin Royal Commission – what’s in the report, and what’s not”, Mr Richard Beasley SC, Barrister, 9 Wentworth Chambers, Twilight Seminar, 27 June 2019.

#### District Court of NSW

- “The New Sentencing and Community Corrections Reforms”, Ms Larisa Michalko, Director, NSW Department of Justice and Ms Rosemary Caruana, Assistant Commissioner, Community Corrections, Corrective Services NSW, Twilight Seminar, 12 September 2018.
- “Conducting Stress Free Circuit Courts”, His Honour Judge Stephen Norrish QC, District Court of NSW, Twilight Seminar, 26 February 2019.
- “Running Judge Alone Trials (and deciding when to order one)”, The Honourable Justice Lucy McCallum, Court of Appeal, Twilight Seminar, 26 March 2019.

- “Dealing with Unrepresented Litigants in Lengthy and Complex Trials”, Her Honour Judge Elizabeth Olsson SC, District Court of NSW and Her Honour Judge Leonie Flannery SC, District Court of NSW, Twilight Seminar, 8 May 2019.
- “Tendencies and Coincidences”, Mr Stephen Odgers SC, Forbes Chambers and Mr Phillip Boulton SC, Barrister, Forbes Chambers, Twilight Seminar, 11 June 2019.

#### Local Court of NSW

- Local Court of NSW Metropolitan Series II, 12–16 November 2018
- “Sentencing for More Serious Offences in the Local Court”, His Honour Magistrate Philip Stewart, Local Court of NSW.
- “New Consistency in Sentencing Options – Part 1”, His Honour Deputy Chief Magistrate Michael Allen, Local Court of NSW and His Honour Magistrate Ian Guy, Local Court of NSW.
- “Caselaw Toolkit”, Ms Donna Reece, Caselaw Support Officer, NSW Department of Justice.
- “Further updates on Community Corrections Reports”, Ms Rosemary Caruana, Assistant Commissioner, Community Corrections, Corrective Services NSW.
- Local Court of NSW Metropolitan Series I, 11–15 February 2019
- “Managing Documents”, His Honour Magistrate Michael Connell, Local Court of NSW.
- “New Consistency in Sentencing Options – Part 2”, His Honour Deputy Chief Magistrate Michael Allen, Local Court of NSW and His Honour Magistrate Ian Guy, Local Court of NSW.
- “Management of Witnesses”, His Honour Magistrate Ross Hudson, Local Court of NSW.
- “Recent and Upcoming Legislative Amendments”, His Honour Deputy Chief Magistrate Michael Allen, Local Court of NSW.

#### Ngara Yura Program

- “Introduction to the Aboriginal Land Rights System in NSW – Joint Program”, Mr Chris Ingrey, Chief Executive Officer, La Perouse Aboriginal Land Council and Ms Nicole Courtman, Registrar, Aboriginal Land Rights Act 1983, Twilight Seminar, 18 September 2018.
- “Introduction to the Aboriginal Land Rights System in NSW”, Mr Chris Ingrey, Chief Executive Officer, La Perouse Aboriginal Land Council and Ms Nicole Courtman, Registrar, Aboriginal Land Rights Act 1983, Twilight Seminar, 25 September 2018.
- “Redfern”, Community Visit, 20 October 2018.
- “Exchanging Ideas: First Nations Consensus in Constitutional Reform, Nation Building and Treaty Making Processes”, Twilight Seminar, 15 June 2019.

## Appendix 7

### Articles published 2018–19

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

- TF Bathurst, “New tricks for old dogs: the limits of judicial review of integrity bodies” (2018) 14(1) TJR 1.
- MJ Beazley, “100 years of women in the law” (2018) 30(11) JOB 105.
- D Browne, “Let’s exorcise some wordy ghosts” (2019) 31(3) JOB 25.
- R Caruana, “Community Corrections’ service delivery model: an evidence-based approach to reduce reoffending” (2018) 30(6) JOB 57.
- JR Dive, “Twenty years of the Drug Court of NSW” (2019) 31(1) JOB 1.
- M Powell and B Earhart, “Principles to enhance communication with child witnesses” (2018) 30(9) JOB 85.
- H Fraser, “Covert recordings used as evidence in criminal trials: concerns of Australian linguists.” (2018) 30(6) JOB 54.
- F Gleeson, “Proscriptive and prescriptive duties: is the distinction helpful and sustainable, and if so, what are the practical consequences?” (2018) 14(1) TJR 69.
- J Henry, “The right to die – limits of the *parens patriae* jurisdiction” (2018) 14(1) TJR 103.
- A Johnson and KS Jayawardena, “Improving the Forensic Mental Health System for victims” (2019) 31(1) JOB 4.
- J Johnston and A Wallace, “Hastening slowly: what the hare and the tortoise might teach the judiciary about social media” (2018) 30(7) JOB 63.
- H Ketley, “Domestic violence reforms commence” (2018) 30(11) JOB 110.
- C Kourakis, “The intersection of artificial intelligence and other new technologies with the judicial role” (2019) 31(4) JOB 33.
- A Linacre, “Latent DNA: ‘Seeing’ the location of DNA” (2019) 31(3) JOB 23.
- WS Martin, “Unequal justice for Indigenous Australians” (2018) 14(1) TJR 35.
- R McCullagh, “Elder law: equality before the law for older people” (2019) 31(5) JOB 44.
- P Mizzi, “The sentencing reforms – balancing the causes and consequences of offending with community safety” (2018) 30(8) JOB 73.
- P Mizzi, “Balancing prosecution with the right to a fair trial: the child sexual abuse reforms in NSW” (2019) 31(2) JOB 11.
- K Nomchong, “Judicial bullying: the view from the Bar” (2018) 30(10) JOB 95.
- C Schrever, “Australia’s first research measuring judicial stress: what does it mean for judicial officers and the courts?” (2019) 31(5) JOB 41.
- MR Speakman, “Judicial retirement age increased to 75” (2018) 30(11) JOB 109.



## Appendix 8

### Publication list

#### Education Monographs

1. Fragile Bastion: Judicial Independence in the Nineties and Beyond, 1997
2. A Matter of Judgment: Judicial decision-making and judgment writing, 2003
3. The Role of the Judge, 2004
4. Statutory Interpretation: Principles and pragmatism for a new age, 2007
5. A matter of fact: the origins and history of the NSW Court of Criminal Appeal, 2013

#### Research Monographs

1. The Use of Custodial Sentences and Alternatives to Custody by 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 New South Wales, 1991
4. Sentencing juvenile offenders and the Sentencing Act 1989 (NSW): The impact of legislative and administrative changes in the Children's Court 1982–1990, 1991
5. A critical review of periodic detention in New South Wales, 1992
6. Sentencing drug offenders: Analysis of sentences imposed in the higher courts of New South Wales, 25 September 1989–31 December 1991, 1992
7. "Special circumstances" under the Sentencing Act 1989 (NSW), 1993
8. Alcohol as a sentencing factor: A survey of attitudes of judicial officers, 1994
9. Sentence Indication Hearings Pilot Scheme, 1994
10. The evidence of children, 1995
11. Judicial views about pre-sentence reports, 1995
12. Sentenced homicides in New South Wales 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 New South Wales, 1 January 1992–31 December 1997, 1999
21. Sentencing dangerous drivers in New South Wales: Impact of the Jurisic guidelines on sentencing practice, 2002
22. Circle Sentencing in New South Wales: A Review and Evaluation, 2003
23. Sentenced Homicides in New South Wales 1994–2001, 2004
24. MERIT: 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 New South Wales and other jurisdictions: A national and international comparison, 2007
30. Sentencing Robbery Offenders since the Henry Guideline Judgment, 2007
31. Diverting mentally disordered offenders in the NSW Local Court, 2008
32. Achieving consistency and transparency in sentencing for environmental offences, 2008
33. The impact of the standard non-parole period sentencing scheme on sentencing patterns in New South Wales, 2010
34. Sentencing offenders convicted of child pornography and child abuse material offences, 2010
35. Conviction appeals in New South Wales, 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 New South Wales — 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 New South Wales Court of Criminal Appeal, March 1998
17. Kidnapping — Section 90A Crimes Act 1900 (NSW), July 1998
18. Common offences in the higher courts 1990–1997, August 1998
19. Sentencing offenders in the Local Courts — Effects of the Criminal Procedure Amendment (Indictable Offenders) Act 1995, February 2000
20. Sentencing female offenders in New South Wales, May 2000
21. Protective custody and hardship in prison, February 2001
22. Conviction and sentencing appeals in the NSW Court of Criminal Appeal 1996–2000, February 2002
23. Sentencing mentally disordered offenders: The causal link, September 2002
24. Bail: An examination of contemporary issues, November 2002
25. Sentencing methodology: Two-tiered or instinctive synthesis?, December 2002
26. Sentencing trends for armed robbery and robbery in company: The impact of the guideline in R v Henry, February 2003
27. Sentencing drink-driving offenders in the NSW Local Court, March 2003
28. Common offences in the Local Court, September 2003
29. Suspended Sentences in New South Wales, November 2003
30. Common Offences and the Use of Imprisonment in the District and Supreme Courts in 2002, March 2004
31. The Use and Limitations of Sentencing Statistics, December 2004
32. Pre-sentence Custody and Other Constraints on Liberty, May 2005
33. Successful Completion Rates for Supervised Sentencing Options, June 2005
34. Trends in the Use of s 12 Suspended Sentences, June 2005
35. Impact of the High Range PCA Guideline Judgment on Sentencing Drink Drivers in NSW, September 2005
36. Trends in the use of full-time imprisonment 2006–2007, November 2007
37. Common offences in the NSW Local Court: 2007, November 2008
38. Sentencing in complicity cases — Part 1: Joint criminal enterprise, June 2009
39. Sentencing in complicity cases — Abettors, accessories and other secondary participants (Part 2), February 2010
40. Common offences in the NSW Local Court: 2010, May 2012
41. Common offences in the NSW higher courts: 2010, December 2012
42. Special circumstances under s 44 of the Crimes (Sentencing Procedure) Act 1999, June 2013
43. Environmental planning and protection offences prosecuted in the NSW Local Court, November 2014
44. Sentencing for the offence of sexual intercourse with a child under 10, July 2015
45. Sentencing for domestic violence, June 2016
46. Common offences in the NSW Local Court: 2015, May 2017.



## 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.

## DVDs

- The role of the judge, 2004
- Concurrent evidence: New methods with experts, 2005
- Circle Sentencing in New South Wales, 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/](http://www.judcom.nsw.gov.au/education/ngara-yura-program/ngara-yura-committee-terms-of-reference/).

## Appendix 10

### Assistance to other jurisdictions and organisations 2018–19

In 2018–19, the Commission provided assistance, advice and shared information and experience with the following:

#### Judicial Education

- Counter-Terrorism Study Visit by Philippines judiciary, 29 November 2018: The Chief Executive and Director, Research and Sentencing met with members of the Philippines judiciary to share information with them concerning the way terrorism trials are conducted in the Supreme Court of New South Wales.
- Vicarious Trauma Research Project with UNSW: we partnered with UNSW research team led by Professor by Professor Jill Hunter, UNSW and Dr Kevin O'Sullivan, adjunct academic and psychologist, UNSW to embark on a research project on the judicial officers' stress-related risks arising from their work on the bench, particularly in the area of vicarious trauma. Through this research, we expect to have a greater understanding of one of the unintended consequences of engagement in the judicial process as well as aid future evidence-based education program development.
- Special Commission of Inquiry into the Drug "Ice": we assisted the Inquiry by assisting with development and hosting of a survey of Local Court Magistrates as to the extent to which 'ice' use may be a factor in the commission of non-drug criminal offences.
- Papua New Guinea Centre for Judicial Excellence (PNGCJE) Capacity Building 6–20 June 2019: The PNGCJE Board approved staff members Ms Arabella Owen and Ms Vali Kila to spend two weeks with the Judicial Commission programs team to gain experience in planning and executing programs and learning by observation.
- Asia Pacific Judicial Educators Meeting: a meeting was held in Melbourne on 19 November, 2018, with participants from Australia, New Zealand and Singapore. A number of collaboration opportunities were identified. A second meeting was held in Canberra on 5 June 2019 with judicial educators from Australia and NZ participating.

- Indigenous Clerkship program: following the successful pilot in 2018, a mentoring program was again set up by the Supreme Court, Federal Court and NSW Bar Association, supported by the Judicial Commission. The successful program concluded on 1 March 2019.

#### 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.
- Papua New Guinea Sentencing Database (PNGSD): we continue to host, maintain and support the PNGSD for the Supreme and National Courts of PNG.
- Papua New Guinea Pilot Integrated Criminal Case System Database (ICCSD): We successfully completed the pilot phase of the project and the Memoranda of Understanding for PNGSD and ICCSD were renewed until 30 June 2022. The ICCSD continues to be expanded beyond the initial three provinces.
- 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.

#### Other

- Australasian Reporting Awards.

## Appendix 11

### Working with other organisations 2018–19

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
- 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.
- Mentor, University of Technology, Sydney.

#### Ms Una Doyle — Director, Education

##### Member of:

- Aboriginal Legal Service Bugmy Evidence Project Steering Committee
- Chair, Nominations Committee 2018, The Association for Continuing Legal Education (ACLEA)
- Executive Committee of the Continuing Legal Education Association of Australasia (CLEAA)
- Asia Pacific Judicial Educators Group
- National Judicial Orientation Program Steering Committee, National Judicial College of Australia
- 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 Monitoring Group, Department of Justice \*\*
  - Early and Appropriate Guilty Plea Reforms Monitoring Group, Department of Justice
  - Driver Disqualification Licence Reform Implementation Monitoring Group, Department of Justice \*\*\*
  - Forensic mental health reforms consultation group, Department of Justice.
- \* Mark Zaki or Georgia Brignell attend in the Director's absence
- \*\* Mark Zaki attends in the Director's absence
- \*\*\* Amanda Jamieson attends in the Director's absence.

#### Ms Sarah Collins — Manager, Programs (Education)

##### Member of:

- Chair, International Committee of the Association for Continuing Legal Education (ACLEA) 2016–18
- Continuing Legal Education Association of Australasia (CLEAA)
- 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 Kate Lumley — Manager, Publications and Communications

- Adjudicator for Australasian Reporting Awards.

#### Ms Antonia Miller — Publishing (Education)

- Adjudicator for Australasian Reporting Awards.

## Appendix 12

### Visitors to the Commission 2018–19

#### Visitors

- Chief Justice of PNG, Sir Salamo Injia, Kt GCL and Mr Paul Kelly, Advisor, Office of the Chief Justice – 12 September 2018
- Mr Robert Holo SC and Mr Sean Docker of the NSW Bar Association – 22 October 2018
- Ms Fiona Hardy, Northern Territory Attorney General's Department – 21 February 2019
- Chief Justice of PNG, Sir Gibbs Salika KBE CSM OBE – 4 March 2019.

#### Delegations

- Mr Leonel Gonzalez, Training Director of the Justice Studies Center of the Americas (JSCA), Mr Marco Fandino, Research Director (JSCA) and Mr. Jaime Arellano, Executive Director (JSCA) – 4 September 2018. Mr Gonzalez is also Deputy Vice President for South America of the International Organisation for Judicial Training.
- Delegation of 8 senior judges and court administrators from the Philippines led by the Honourable Justice Diosdado M Peralta of the Philippines Supreme Court 30 November 2018
- Delegation from the National Judicial Academy of Nepal led by Mr Shreekrishna Mulmi, Director, National Judicial Academy – 25 June 2019.

## Appendix 13

### Overseas visits 2018–19

- The Commission's Chief Executive, Mr. Ernest Schmatt, AM PSM, attended the meeting of the International Organisation for Judicial Training (IOJT) Board of Executives, held in Paris, France on 1–2 October 2018. The cost of Mr. Schmatt attending the meeting was covered by the IOJT and the Commission.

## Appendix 14

### Exchange of information 2018–19

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 2018–19, 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 2018–19

- Mr M Sagi PSM, presented enhanced JIRS features developed by the Commission to the ACT Sentencing Database representatives, Canberra, 20 July 2018.
- Mr M Sagi PSM, presented enhanced JIRS features developed by the Commission to the NJCA Sentencing Database representatives, Canberra, 20 July 2018.
- Ms J Selfe, Aboriginal Project Officer presented on "The Value of Knowledge" at the MAAS Indigenous Sciences Symposium 2018, 18 August 2018.
- Mr E Schmatt AM PSM, presentation on judicial education and the complaints function of the Judicial Commission to a delegation from the Justice Studies Center of the Americas, 4 September 2018.
- Mr M Sagi PSM, presented enhanced PNGSD and ICCSD features developed by the Commission to the Chief Justice of PNG and the accompanying delegation. Sydney, 12 September 2018.
- Mr E Schmatt AM PSM and Mr M Sagi PSM, presented further enhanced PNGSD and ICCSD features developed by the Commission to the Chief Justice of PNG and the accompanying delegation. Brisbane, 23 October 2018.
- Ms J Selfe, Aboriginal Project Officer presented on "Naminma Nanga Mi-Reveal the Dream" to the Australian Science Communicators, 12 November 2018.
- Mr E Schmatt AM PSM and Ms P Mizzi, presentation on the role and functions of Judicial Commission and the conduct of terrorism trials in the Supreme Court of NSW to members of the Philippines judiciary, 29 November 2018.
- Ms J Selfe, Aboriginal Project Officer presented on the Ngara Yura Program at the Aboriginal Studies Association Conference, 7 December 2018.
- Ms G Brignell, presented on JIRS at induction session for tipstaves at Supreme Court of NSW, 25 January 2019.

- Ms J Selfe, Aboriginal Project Officer gave the Welcome to Country at the Opening of the Youth Koori Court, 6 February 2019.
- Mr E Schmatt AM PSM, presented a paper on the Commission's role in the Justice System of NSW for the NSW Bar Association CPD Seminar Program for Barristers, 28 February 2019.
- Mr M Sagi PSM, presented JIRS, PNGSD and ICCSD developed by the Commission to the new Chief Justice of PNG and the accompanying delegation. Sydney, 4 March 2019.
- Ms U Doyle "Familiarisation" and "Wrap up" presentations at the National Judicial Orientation Program, Glenelg, South Australia, 31 March and 5 April 2019.
- Ms J Selfe, Aboriginal Project Officer gave the Welcome to Country at the Children's Court Section 16 Meeting, in Sydney, 3 May 2019.
- Ms J Selfe, Aboriginal Project Officer gave the Welcome to Country at a meeting of the National Bar Association, USA, in Sydney, 6 May 2019.
- Ms U Doyle, "Introduction" presentation at the Local Court of NSW Magistrates' Orientation Program, 26 May 2019.
- Ms U Doyle, presented the Commission's judicial education program to the visiting delegation from National Judicial Academy, Nepal, Sydney, 24 June 2019.
- Mr M Sagi PSM, Presented JIRS and other technology developed by the Commission to the visiting delegation from National Judicial Academy, Nepal, Sydney, 24 June 2019.
- Mr E Schmatt AM PSM, presentation on the role and functions of the Judicial Commission to a delegation from the National Judicial Academy of Nepal, 25 June 2019.

## Appendix 16

### Access to government information 2018–19

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

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

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

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

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

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

**Table F: Timeliness**

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

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

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

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

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

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

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

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



## Appendix 17

### Checklist of reportable requirements 2018–19

Compliance with NSW Treasury Annual Report Compliance Checklist requirements (updated September 2019)

Requirement	Page No. Reference
Letter of Submission	Inside front cover
Charter	pp 2, 4, 83
Aims and objectives	pp 4, 8–13
Access	Back cover
Management and structure	pp 8, 18–22, 84
Summary review of operations	p 3, Overview
Funds granted to non-government community organisations	None
Legal Change	p 83
Economic or other factors	Commentary throughout, including results tables for each chapter (pp 24–25, 48–49, 58–59, 68–69, 80–81, 96–97). Financial Report pp 98–124
Management and activities	Results tables for each chapter (pp 24–25, 48–49, 58–59, 68–69, 80–81, 96–97)
Research and development	Not applicable
Human resources	pp 70–77
Consultants	Statement that no consultants used: see p 74
Workforce Diversity	p 72
Disability Inclusion Action Plans	The Commission is not required to have a disability inclusion action plan: see p 72
Land disposal	The Commission does not own and did not dispose of any property
Promotion	See p 65 and Appendix 13
Consumer Response	While the Commission rarely receives complaints about its operations, it is responsive to feedback offered by participants at events, users of our publications and JIRS, and members of the general public.  Complainants can be disappointed in the results of our complaints function, due to the nature and extent of our powers to examine: see pp 54–55 and case studies on p 56
Payment of Accounts	See Our finances chapter from p 95, including Tables 18 and 19 on p 97 See financial statements from p 98
Time for Payment of Accounts	No interest was paid due to late payments: see p 97 and financial statements from p 98
Risk management and insurance activities	See “Our governance and ethics” chapter from p 79, including pp 88–89, 92
Internal audit and risk management policy attestation	p 91
Disclosure of Controlled Entities	The Commission has no controlled entities
Disclosure of Subsidiaries	The Commission has no subsidiaries
Multicultural Policies and Services Program	pp 72–73
Agreements with Multicultural NSW	No agreements have been entered into
Work Health and Safety (WHS)	p 76
Budgets	See financial statements from p 98
Financial Statements	See financial statements with audit opinion from p 98 No significant matters requiring a response to Auditor-General were raised
Identification of audited financial statements	pp 101 and 124
Inclusion of unaudited financial statements	Not applicable
Additional matters for inclusion in annual reports	Statement re <i>Privacy and Personal Information Protection Act 1988</i> : p 87 After balance date events: not applicable. Total external costs: p 137 Website: backcover
Investment performance	Not applicable
Liability management performance	Not applicable
Exemptions	Although the Commission meets the definition of “small statutory body”, it reports on an annual basis, not triennially
Numbers and remuneration of senior executives	p 92, see Table 16 and Figure 20
Implementation of Price Determination	Not applicable
Government Information (Public Access) Act 2009	p 87 and Appendix 16
Cyber Security Policy (CSP) Attestation	p 90
Public Interest Disclosures (PID)	No public interest disclosures made.
Requirements arising from employment arrangements	Not applicable
Public availability of annual reports	Annual reports starting from 2001–02 are available on the Commission’s website: <a href="https://www.judcom.nsw.gov.au/publications/#annual-reports">https://www.judcom.nsw.gov.au/publications/#annual-reports</a>

## Table of case studies

Informing judicial officers about major sentencing reforms . . . . .	28	Complaint about a retired judicial officer . . . . .	56
Focussing on judicial stress and well being . . . . .	29	How we assisted the PNG law and justice sector this year with judicial education and case management software . . . . .	62
Exchanging Ideas: First Nations consensus in constitutional reform, nation building and treaty making processes . . . . .	30	Helping to celebrate the 20th Anniversary of the Drug Court of NSW . . . . .	64
Ngara Yura Program community visit to Redfern. . . . .	31	Sharing our knowledge with the judiciaries of other nations . . . . .	66
LEC judges and commissioners enjoy informal learning outside the courtroom . . . . .	33	Saying farewell to long term Publishing staff . . . . .	73
Our publication about equality before the law picks up an international award . . . . .	34	Developing professional skills — training for tipstaves . . . . .	74
Addressing leadership issues in court . . . . .	34	Development and sharing expertise through secondments . . . . .	75
Advising judicial officers about reforms to child sexual abuse laws in NSW . . . . .	40	Commission receives ninth consecutive gold award for its Annual Report. . . . .	77
Informing judicial officers about directions given to juries in criminal trials. . . . .	42	How we improved communications with JUDCOMmunications, our monthly newsletter . . . . .	78
Advising judicial officers about changes to victim impact statements. . . . .	46	Providing professional guidance and experience for law students . . . . .	78
Providing support for victims in forensic mental health matters . . . . .	46	Cyber security at the Commission . . . . .	86
Failure to act in a judicial manner. . . . .	56	We successfully implemented our revised Business Continuity and Disaster Recovery Plan . . . . .	89
Complainant had a right to appeal. . . . .	56	Case study: Succession risk — ensuring that knowledge is transferred. . . . .	90
Complaint by vexatious complainant. . . . .	56		

## Table of figures

Chapter	Figure	Figure title	Page
Overview	1	Our organisational structure	8
	2	Who we provide our services to in the justice system	8
	3	2019 revenue, expenses and net result	10
	4	Commission members and executive team as at 30 June 2019	22
Delivering continuing judicial education	5	Satisfaction with annual conference program 2014–19	27
	6	Satisfaction with seminars and gaol/forensic visits 2014–19	27
	7	Satisfaction with workshops 2014–19	27
	8	Rating of professional and practical benefits of 2018–19 workshops	28
	9	Satisfaction with Ngara Yura program 2014–19	30
	10	Delivering continuing judicial education design process	32
Providing legal education	11	The Judicial Information Research System (JIRS): a complete judicial decision support system	41
	12	Number of JIRS pages accessed 2014–19	42
Examining complaints	13	Common causes of complaint: basis of allegation — by individual category 2017–19	53
	14	How the complaints process works	55
Our people	15	5-year comparison of average number of employees by employment category	70
	16	Top 10 Commission results in People Matter Employee Survey 2019	70
	17	5-year trends in workforce diversity	72
	18	Staff turnover 2014–19	73
	19	Staff training days 2014–19	74
Our governance and ethics	20	Gender breakdown of senior executive positions by PSSE Bands 2017–19	92
	21	5-year trend in energy use (gigajoules)	94
Our finances	22	2019 revenue, expenses and net results compared against 2019 budget and 2018 actuals	96
	23	Revenue	97
	24	Expenses	97

## Table of tables

Chapter	Table	Table title	Page
Delivering continuing judicial education	1	Results for delivering continuing judicial education	24
Providing legal education	2	Results for providing legal information	36
	3	Overall JIRS use 2014–19	43
	4	JIRS use of online information 2014–19	44
	5	PDF publication downloads from JIRS, Commission's website and JIRS app 2014–19	44
	6	Website use of our resources 2014–19	45
Examining complaints	7	Results for examining complaints	48
	8	Particulars of complaints examined 2014–19	51
	9	Criteria for dismissing complaints under section 20 of the <i>Judicial Officers Act</i> 1986	51
	10	Time taken to conduct preliminary examination of complaints 2014–19	51
Our partners and community	11	Results for engagement with our partners and the community	58
Our people	12	Results for our people	68
Our governance and ethics	13	Performance of good governance and ethics	80
	14	Commission members' meeting attendance for 2018–19	84
	15	Meeting attendance by Audit and Risk Committee (ARC) for 2018–19	88
	16	Average senior executive remuneration 2017–19	92
Our finances	17	Results for financial performance against budget	96
	18	Aged analysis at the end of each quarter	97
	19	Accounts paid on time within each quarter	97

## Glossary

ACLEA	Association for Continuing Legal Education.
Appointed member	A non-judicial member of the Judicial Commission of NSW: see also Official member.
ARC	Audit and Risk Committee.
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.
BOCSAR	NSW Bureau of Crime Statistics and Research
ICCSA	Integrated Criminal Case System Database developed and maintained by the Commission for Papua New Guinea.
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"> <li>• a judge or associate judge of the Supreme Court of NSW</li> <li>• a member (including a judicial member) of the NSW Industrial Relations Commission</li> <li>• a judge of the Land and Environment Court of NSW</li> <li>• a judge of the District Court of NSW</li> <li>• the President of the Children's Court of NSW</li> <li>• a magistrate</li> <li>• the President of the Civil and Administrative Tribunal.</li> </ul> The definition of judicial officer includes acting appointments to a judicial office, but does not include arbitrators, registrars, assessors, members of tribunals, legal representatives, retired judicial officers or federal judicial officers. A Commissioner of the Land and Environment Court is not a judicial officer.
Lawcodes	The Lawcodes database of unique codes for NSW and Commonwealth criminal offences enables all NSW justice sector agencies to electronically exchange information. The Judicial Commission developed and maintains this database and general access to it is provided through our website.
NJOP	National Judicial Orientation Program.
Ngara Yura Program	Aboriginal cultural awareness program for judicial officers.
Official member	A judicial member of the Judicial Commission of NSW.
PNGSD	Papua New Guinea Sentencing Database.
Pre-bench and orientation sessions/program	Induction training for newly-appointed magistrates to assist them with their transition to the Bench.
Tipstaves	Plural of tipstaff. A tipstaff is a recent law graduate employed for a 12-month period in a judge's chambers.
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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## Index

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

**A**

- Aboriginal community visits . . . . . 9, 30, 31
- Aboriginal Cultural Awareness Program – see *Ngara Yura Program*
- accounts, payment of . . . . . 94, 96, 97
- aims and objectives . . . . . 4, 8–13
- assistance to other organisations and jurisdictions . . . . . 43, 58, 61–66, 132–133
- Annual Reporting requirements . . . . . 137
- Association for Continuing Legal Education (ACLEA) . . . . . 5, 16, 22, 25, 34, 59, 65, 133
- Attorney General . . . . . inside front cover, 18, 40, 52, 54, 55, 64, 83
- audit and risk management
  - Audit and Risk Committee (ARC) . . . 4, 8, 17, 76, 80, 83, 84, 85, 87, 88, 89, 91, 121
  - compliance with Treasury guidelines . . . 88
  - external audit . . . . . 89
  - forward plan . . . . . 89
  - internal audit . . . . . 89
  - Internal Audit and Risk Management Attestation . . . . . 91
  - internal audit plan . . . . . 89
  - meetings . . . . . 88
  - independence . . . . . 85
  - outcomes 2018–19 . . . . . 80
- Australasian Institute of Judicial Administration . . . . . 29, 65, 76, 134
- Australasian Reporting Awards, gold award . . . . . 77, 87

**B**

- budget review . . . . . 120

**C**

- certification of financial statements . . . . . 98
- challenges . . . . . 10–11, 25, 37, 49, 59, 69, 81
- charter, legislative . . . . . 83
- Chief Executive
  - appointment and role . . . . . 84
  - executive team . . . . . 21–22
  - media enquiries, response to . . . . . 65
  - message . . . . . 16–17
- Commission meetings . . . . . 84
- Commission members – see *members*
- community engagement . . . . . 58, 61
- community values . . . . . 9, 10, 12, 14, 24, 32
- complaints
  - bias allegations . . . . . 12–13, 25, 49, 53, 56
  - challenges 2018–19 . . . . . 49
  - Conduct Division, referred to . . . . 49, 51–52, 54–55, 83
  - dismissal of, criteria for . . . . . 51
  - dismissed . . . . . 51
  - examination guidelines . . . . . 50, 54, 55, 126
  - examined . . . . . 5, 6, 11, 12–13, 15, 48–49, 51–52, 56
  - finalisation of . . . . . 11, 48–49, 51–52
  - formal complaints governance . . . . . 50, 84
  - further action, requiring . . . . . 54–55
  - highlights . . . . . 49

- informal enquiries, response to . . . . . 54
- matters that cannot be examined . . . 51, 55, 56
- outcome of, advising . . . . . 54–55
- performance results 2018–19 . . . . . 6, 48–49
- process . . . . . 55
- received . . . . . 51
- referred, to head of jurisdiction . . . . . 52
- trends . . . . . 53
- compliance
  - assurance, and . . . . . 89, 90
  - financial directives . . . . . 80
  - internal audit and control functions . . . . 84, 85, 88
  - letter to Attorney General . . inside front cover
  - Treasury guidelines . . . . . 85, 89
  - work health and safety . . . . . 76
- consultants . . . . . 74, 97
- consumer response . . . . . 54–55, 56
- cyber security . . . . . 86, 90
- Cyber Security Attestation Statement . . . . . 90

**D**

- disability inclusion action plan . . . . . 72
- distance education . . . . . 29

**E**

- economic factors . . . . . 24–25, 48–49, 58–59, 68–69, 80–81, 96–97
- education committees . . . . . 127
- employees – see *staff*
- establishment of Commission . . . . . 7–13
- ethics – see *governance and ethics*
- events after reporting period . . . . . 124

**F**

- field trips . . . . . 32–33
- financial data/information – see *financial reports; financial statements*
- financial instruments . . . . . 121
- financial management
  - assets . . . . . 92, 96, 97, 110–116
  - challenges 2018–19 . . . . . 97
  - expenses . . . . . 96, 97, 107
  - NSW Treasury cash management reforms . . . . . 120
  - performance results . . . . . 96
  - revenue . . . . . 96, 97
  - self-generated revenue . . . . . 4, 97
  - summary . . . . . 106
  - total assets . . . . . 96, 97, 102
  - year ahead 2019–20 . . . . . 97
- financial reports
  - cash flow . . . . . 104
  - changes in equity . . . . . 103
  - comprehensive income . . . . . 101–103
  - financial position . . . . . 102
- financial result
  - results 2018–19 . . . . . 17, 96, 97
- financial statements . . . . . 101–124
  - certification by CEO . . . . . 98
  - notes to and forming part of . . . . . 105–124
- freedom of information – see *government information*
- funding – see *revenue*

**G**

- glossary . . . . . 139
- governance and ethics . . . . . 4, 79
  - challenges 2018–19 . . . . . 81
  - Code of Conduct . . . . . 86
  - energy use . . . . . 94
  - environmental footprint . . . . . 94
  - framework . . . . . 82
  - highlights 2018–19 . . . . . 80
  - human rights, acknowledging . . . . . 93
  - Internal Audit Plan . . . . . 88–89
  - results 2018–19 . . . . . 80
  - year ahead 2019–20 . . . . . 81
  - sustainability . . . . . 94
- government information
  - access applications . . . . . 86, 87, 135–136
  - proactive release program, review of . . . 87
- Government Information (Public Access) Act 2009 (GIPA) . . . . . 87, 135–136

**H**

- health and safety – see *work health and safety policy*
- highlights and key events . . . . . 5
- human resources . . . . . 70–77
- human rights, acknowledging . . . . . 93

**I**

- Independent Auditor's Report . . . . . 99–100
- Internal Audit and Risk Management Attestation . . . . . 91
- investment performance . . . . . 96, 98, 137

**J**

- judicial education, continuing . . . . . 4, 5, 23–34
  - Aboriginal cultural awareness sessions and community visits . . . . . 9, 25, 30–32
  - annual conference program . . . . . 27, 32
  - attendance . . . . . 25, 32
  - challenges 2018–19 . . . . . 25
  - committees 2018–19 . . . . . 25, 32
  - connecting judicial officers with Aboriginal communities and culture – see *Ngara Yura Program*
  - design process . . . . . 27, 32
  - distance education . . . . . 29, 32
  - enhancement of skills, knowledge and attitudes . . . . . 32, 34
  - evaluating program performance . . . . . 27
  - expenditure . . . . . 25
  - feedback . . . . . 25, 26
  - field trips . . . . . 33, 130
  - highlights . . . . . 25
  - induction and orientation sessions . . . . 6, 29
  - interactive learning applications . . . . . 29
  - judicial expertise, leveraging . . . . . 32
  - judicial officers informed about changes . . . . . 12, 24–25
  - Ngara Yura Program – see *Ngara Yura Program*
  - performance results . . . . . 6, 24–25
  - pre-bench education sessions for new magistrates . . . . . 14, 25, 29, 34
  - providing research and sentencing information . . . . . see *legal information*

- satisfaction . . . . . 12, 24, 25
- seminars, workshops and field trips . . . . . 9, 27, 28, 32, 33, 130
- year ahead 2019–20 . . . . . 25
- Judicial Information Research System (JIRS) . . . . . 41
- access to . . . . . 10, 29, 40
- availability . . . . . 6, 37
- components of . . . . . 41, 42
- delivering information through . . . . . 41
- enhancements added . . . . . 43–44
- evaluating performance . . . . . 40, 43
- maintaining . . . . . 37, 42
- interactive learning app . . . . . 44
- most commonly accessed publications . . . . . 43
- publications accessed . . . . . 44, 45
- “Recent Law” items/summaries . . . . . 6, 9, 12
- research assistance program . . . . . 43
- Judicial Officers Act 1986* . . . . . inside front cover, 3, 4, 7, 11, 12–13, 39, 48, 49, 50, 51, 52, 54, 55, 56, 63, 68, 76, 83, 84, 92, 105
- Judicial Officers Regulation 2017* . . . . . 50, 83
- jury directions . . . . . 9, 39, 40, 41, 44, 45
- L**
- land disposal . . . . . 137
- Lawcodes . . . . . 6, 8, 15, 58, 59, 63, 139
- legal form of incorporation . . . . . 83
- legal information . . . . . 35–46
- case summaries . . . . . 39, 40
- challenges 2018–19 . . . . . 37
- email alerts . . . . . 9, 39
- evaluating program performance . . . . . 36–37
- feedback . . . . . 38
- highlights of program . . . . . 5, 37
- JIRS – *see* *Judicial Information Research System (JIRS)*
- offenders, treatment options and rehabilitation facilities for . . . . . 12, 36, 37, 40, 41, 93
- online information . . . . . 40, 44–45
- performance results 2018–19 . . . . . 10, 36–37
- “Recent Law” items/summaries . . . . . 6, 9, 12, 37, 39, 40, 41
- sentencing – *see* *research and sentencing program*
- year ahead 2019–20 . . . . . 37
- legislation, changes to . . . . . 83
- legislative charter – *see* *charter, legislative*
- library services . . . . . 76
- M**
- management and structure* . . . . . 8, 18–22, 84
- members . . . . . 8, 18–22
- appointed . . . . . 20
- conflicts of interest . . . . . 80, 86
- meeting attendance . . . . . 84
- official . . . . . 18–19
- remuneration arrangements for . . . . . 92
- mission . . . . . 4
- multicultural policies and services* . . . . . 72–73
- N**
- Ngara Yura Program . . . . . 14, 17, 25, 30, 31, 32, 60, 62, 71, 72, 75, 93, 130, 132
- non-government community organisations funds* . . . . . 137
- O**
- objectives, measurable . . . . . 12–13, 24–25, 36–37, 48–49, 58, 68, 80
- organisation . . . . . 4
- organisational chart . . . . . 8
- operations, summary review . . . . . 3–22
- purpose . . . . . 4
- overseas visits . . . . . 133
- overview of Commission* . . . . . 8
- P**
- partners and the community
- Asia-Pacific region . . . . . 62, 63
- challenges 2018–19 . . . . . 59
- contractual services, providing . . . . . 58, 65
- engagement with . . . . . 61, 66
- exchange of information . . . . . 61, 134
- feedback . . . . . 64
- public informed about work . . . . . 58, 61
- results 2018–19 . . . . . 58
- year ahead 2019–20 . . . . . 59
- people – *see* *staff*
- personnel policies – *see* *staff*
- presentations, officers’ . . . . . 61, 71, 134–135
- President’s foreword . . . . . 14–15
- privacy management plan . . . . . 87
- proactive release program, review of . . . . . 87
- product – *see* *services*
- profiles
- appointed members . . . . . 20
- commission . . . . . 18–22
- executive team . . . . . 21–22
- official members . . . . . 18–19
- president . . . . . 18
- public interest disclosure (PID) . . . . . 137
- publications . . . . . 131–132
- bench books . . . . . 9, 12–14, 16, 25, 28, 36, 37, 39, 40, 43, 44, 45, 61, 70, 87
- brochures . . . . . 132
- Children’s Court of NSW Resource Handbook* . . . . . 44, 87
- Civil Trials Bench Book* . . . . . 41, 44, 45, 61
- Criminal Trial Courts Bench Book* . . . . . 6, 12, 36, 44, 85, 87, 127
- DVDs . . . . . 132
- Equality before the Law Bench Book* . . . . . 5, 10, 16, 24, 25, 34, 40, 44, 45, 72, 73, 87, 93
- handbooks . . . . . 40, 61
- journals . . . . . 6, 16, 45,
- Judicial Officers’ Bulletin* . . . . . 5, 12, 13, 16, 25, 28, 29, 37, 38, 39, 40, 42, 44, 45, 46, 130
- The Judicial Review* . . . . . 40, 41, 44, 45, 84, 130
- Local Court Bench Book* . . . . . 5, 28, 37, 38, 40, 44, 45, 87
- online publications, impact of . . . . . 44
- performance results 2018–19 . . . . . 12–13
- podcasts . . . . . 14, 29, 32
- Sentencing Bench Book* . . . . . 5, 6, 12, 28, 36, 37, 38, 39, 40, 41, 44, 45, 46, 87
- Sentencing Trends & Issues* . . . . . 6, 12
- Sexual Assault Trials Handbook* . . . . . 40, 44, 45, 87
- videos . . . . . 6, 14, 16, 25, 29, 40
- purpose of annual report . . . . . inside front cover
- R**
- records management . . . . . 87
- remuneration, senior executives* . . . . . 92
- research and sentencing program . . . . . 17, 39,
- revenue . . . . . 4, 5, 6, 10, 17, 58, 65, 96, 97, 101
- risk management* – *see* *audit and risk management*
- S**
- sentencing – *see* *research and sentencing program*
- services, key . . . . . 4, 9
- significant accounting policies . . . . . 105–106
- significant issues – *see* *challenges*
- staff
- achievements, recognising . . . . . 77
- attendance . . . . . 74
- Australasian Reporting Awards . . . . . 77, 87
- challenges 2018–19 . . . . . 69
- communication . . . . . 68, 70, 78
- community involvement . . . . . 71
- Employee Assistance Program . . . . . 71, 74
- flexible work arrangements . . . . . 72
- People Matter Employee Survey . . . . . 68, 70
- performance reviews . . . . . 76
- productivity . . . . . 71
- results 2018–19 . . . . . 68
- retention of . . . . . 73
- satisfaction . . . . . 68, 70
- senior management, remuneration of . . . . . 92
- training and personal development . . . . . 74
- wages and conditions . . . . . 76
- work health and safety . . . . . 76
- workforce diversity . . . . . 72
- year ahead 2019–20 . . . . . 69
- stakeholders . . . . . 17, 59, 80, 88
- strategic direction . . . . . 10–11, 15, 17
- sustainability . . . . . 2, 6, 94
- T**
- table of case studies . . . . . 138
- table of figures . . . . . 138
- table of tables . . . . . 138
- technology . . . . . 15, 25, 29, 32, 44, 65, 66, 83, 90
- training – *see* *judicial education, continuing; staff and personal development*
- V**
- values . . . . . 2
- vision . . . . . 2
- visitors to the commission . . . . . 17, 58, 63, 66, 71, 133
- W**
- Waste Reduction and Purchasing Policy . . . . . 94
- work health and safety policy* . . . . . 68, 76
- Work Health and Safety Act 2011* . . . . . 76
- workforce diversity* – *see* *staff*
- working with other organisations . . . . . 132–133
- Y**
- year ahead 2019–20 . . . . . 12–13





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