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Judicial Commission of NSW

# Annual Report 2021-2022



Judicial Commission  
of New South Wales



## Judicial Commission of New South Wales

This annual report summarises the results and performance of the Judicial Commission of NSW for 2021–22 measured against our strategies and targets. We also outline our strategic focus for 2022–23. 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



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 2022.

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 Andrew Bell  
Chief Justice of NSW  
President  
Judicial Commission of NSW  
Dated: 2 November 2022

U Doyle  
Chief Executive  
Judicial Commission of NSW

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### Application for extension of time

Pursuant to section 16(3) of the *Annual Reports (Departments) Act 1985*, the Chief Financial and Operations Officer of NSW Treasury has extended the deadline for the Judicial Commission to submit its 2021–22 annual report until 11 November 2022. The extension was sought due to the Audit Office's advice that the audit opinion on the Commission's 2021–22 financial statements may be signed as late as 21 October 2022.

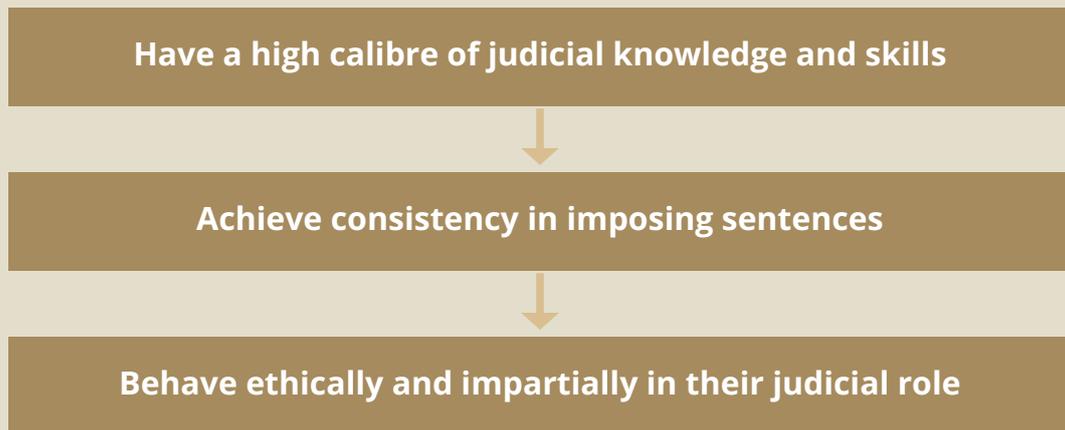
Cover: The Commission is entering a new phase of its operations with a new President and new Chief Executive. This is a time of transformation for the Commission, as we explore new strategies to pair with our core statutory functions and review how we may position ourselves for a long-term sustainable future. The cover imagery and throughout the report depicts native Australian flora, symbolising growth and transformation. Further, a major project over the past year has focused on judicial wellbeing, culminating in the Judicial Wellbeing Portal (see p 29) with resources to promote physical and mental wellness. The flora emerging, captured in a state of growth, represents this wellness focus.

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## Our vision

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



## 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.

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## 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 criminal and civil 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 18–23 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 30 people (27.6 full-time equivalent) as at 30 June 2022 and had a staff turnover rate of 13.3%. See pp 69, 74.

Revenue — \$5.077 million (last year: \$5.355 million) revenue from the NSW Government. See p 97.

Other revenue — \$1.281 million from self-generated revenue including \$1.103 million from sale of goods and services. See p 97.

### Our key focus this year and next year is renewal

The pandemic continued to have an impact on the Commission's activities with the COVID-19 (Omicron) wave peaking in July 2022. This necessitated further periods of remote working and learning during the second lockdown. Lessons learned from the previous year meant embedding hybrid work arrangements and the delivery of online education and information services. Our primary goal was to ensure that pandemic-initiated changes meant judicial officers continued to be well supported and kept up to date with current, timely and accurate legal information.

The retirement of our President in March 2022 and Chief Executive in February 2022 and the appointment of a new leadership team has provided the opportunity to review how the Commission positions itself for a long-term sustainable future. Our key focus will be to review our service delivery and strategic direction by building on our strong foundations.

## 2021–22 highlights and key events

### Delivering continuing judicial education



- 90% judicial satisfaction with the continuing judicial education program. See p 30.
- Published our new *Handbook for Judicial Officers* which won international recognition with an award of Professional Excellence from ACLEA in the “Best Publication” category. See p 34.

### Providing legal information



- Prepared judicial officers for the commencement of the sexual consent legislative reforms with information published on JIRS, an article in the *Judicial Officers' Bulletin*, and detailed updates to the Bench Books. See p 38.
- Produced *Sentencing Trends & Issues 48: Sentencing for domestic violence in the Local Court*, an important resource for judicial officers and others. See 46.
- Provided assistance to the interagency Committee of lawyers and mental health professionals in preparation of the *Practitioners Guide for Mental Health*. See p 61.

### Examining complaints



- Examined 41 complaints in reporting period. See p 51.
- Ensured the Commission remained accessible for potential complainants in accordance with COVID-19 public health regulations.

### Engaging with our partners and the community



- Collaborated with other agencies to provide a suite of drug court webinars to the Maldives. See p 62.
- COVID-19 offence information was provided efficiently, including coding of offences in Lawcodes database, to criminal justice agencies. See p 63.
- Collaborated with other agencies to advise the profession about mental health legislative changes. See p 61.

### Our people



- High level of staff engagement (100%), low turnover and high retention. See pp 69, 74.
- All respondents to the survey said they felt engaged with and understood how their work contributed to the Commission's purpose and mission
- Higher uptake of professional development at a lower cost as staff embraced online learning while working from home in accordance with COVID-19 public health orders. See p 76.

### Our governance and ethics



- Internal audit reviewed the Commission's record keeping systems in 2021–22 and has resulted in a move to a digital record keeping system. See p 81.
- Australasian Reporting Awards recognised the Commission for sustained quality of reporting with 12th consecutive gold award received for *Annual Report 2020–21*. See p 86.



### Our finances



- Ended financial year with overall surplus of \$210,000 compared to budgeted deficit of \$212,000. Total expenditure for the reporting period was under budget. See p 96.

## Looking at the last 5 years

	2017-18	2018-19	2019-20	2020-21	2021-22	Trend
<b>Delivering continuing judicial education</b> <span style="float: right;">see pp 25-34</span>						
Number of judicial education days each year	1,024	1,191	885	1063	1214	↑
Number of educational events	38	41	26	37	37	=
Overall satisfaction rating with judicial education events	93%	90%	92%	92%	90%	↓
% of attendance by judicial officers at annual conferences	81%	87%	91%	93%	89%	↓
% of attendance at magistrates' induction/orientation programs	100%	100%	100%	100%	100%	=
Average number of training days offered to each judicial officer	4.7	4.4	3.5	3.7	4.1	↑
Average number of training days undertaken by each judicial officer	3.7	3.8	2.8	3.3	3.7	↑
% of judicial officers who attended at least 2 days of judicial training	71%*	84%*	59%	75%	72%	↓
Number of publications (bench book and handbook updates, bulletins, flyers, journals, videos and podcasts)	32	39	43	56	45	↓
<b>Providing legal information (includes research and sentencing)</b> <span style="float: right;">see pp 35-46</span>						
JIRS usage (average page hits each month)	136,527	138,531	131,817	123,366	112,609	↓
% of JIRS availability	99%	99%	99%	99%	99%	=
Number of enhancements to JIRS	7	4	5	4	8	↑
<b>Timeliness of sentencing material on JIRS</b>						
- Legislation (within days of receipt)	7 days	7 days	1 day	1 day	1 day	=
- Judgments (within days of receipt)	1 day	=				
- Sentencing statistics loaded on JIRS (within months of receipt)	1-4 mths	1-4 mths	1-4 mths	1-8 mths	1-8 mths	=
Number of <i>Sentencing Trends &amp; Issues</i> papers and <i>Sentencing Snapshots</i>	0	0	1	1	2	↑
Timely updates to the major bench books <sup>†</sup>	12	14	13	16	11	↓
Lawcodes: % of new and amended offences coded and distributed within 4 days of commencement	100%	100%	95%	98%	98%	=
<b>Examining complaints</b> <span style="float: right;">see pp 47-56</span>						
% of complaints acknowledged within 1 week of receipt	100%	100%	100%	97%	100%	↑
% of complaints examined within 6 months of receipt	90%	94%	71%	78%	73%	↓
% of complaints examined within 12 months of receipt	100%	99%	100%	94%	98%	↑
Complaints received/referred (number)	74	63	57	57	43	↓
Complaints examined (number)	62	68	48	72	41	↓
<b>Our people</b> <span style="float: right;">see pp 65-78</span>						
Staff (number)	38	32	33	32	30	↓
Length of service: 5 years or greater	79%	76%	78%	73%	76%	↑
<b>Our governance and ethics</b> <span style="float: right;">see pp 79-94</span>						
Access to information requests	0	0	0	0	0	=
<b>Environmental sustainability</b>						
Total energy used	291 GJ	311 GJ	267 GJ	281 GJ	310 GJ	↑
% of recycled paper used	100%	100%	100%	100%	100%	=
<b>Our finances</b> <span style="float: right;">see pp 95-120</span>						
Revenue from NSW Government	\$5.568 M	\$6.890 M	\$4.907 M	\$5.355 M	\$5.077 M	↓
Retained revenue (sale of goods & services, investment income, etc)	\$1.041 M	\$1.123 M	\$1.090 M	\$1.098 M	\$1.281 M	↑
Expenditure	\$6.857 M	\$8.020 M	\$6.370 M	\$6.734 M	\$6.414 M	↓

\* Correction to 2017-18 and 2018-19 reports due to calculation error.

† We changed our method of counting this year to include the 4 major bench books.

Legend = same/no change ↑ increased ↓ decreased



## Our history

- ▶ **1985** — Controversies involving judicial officers in Australia were 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.
- ▶ **1990** — Chief Justice Gleeson, the Commission's President, launched the Sentencing Information System database, designed to help judicial officers achieve consistency in their approach to sentencing.
- ▶ **1991** — A Conduct Division reported 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 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. The *Judicial Officers Amendment Act 2007* allowed for lay representation on a Conduct Division with a community representative. The Commission provided professional development to 278 judicial officers: 73% are men; 27% are women.
- ▶ **2011** — Two separate Conduct Divisions reported to the Governor that Parliamentary consideration be given to removing 2 magistrates from office. Each magistrate separately addressed Parliament. Parliament voted against removal.
- ▶ **2012** — The *Judicial Officers Amendment Act 2012* required the Commission to provide information about a complaint against a judicial officer to the Attorney General if requested. The Commission 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 reported to Parliament that Parliamentary consideration be given to removing 2 judicial officers (a magistrate and a District Court judge) from office. Both resigned before Parliament considered the matters.
- ▶ **2020** — From mid-March 2020, staff worked remotely to minimise spread of COVID-19.
- ▶ **2021** — Sydney entered a second pandemic-induced lockdown in June 2021, staff recommenced working from home in compliance with public health orders. Our Ngara Yura Program took on a special focus in recognition of the 30-year anniversary of the release of the Final Report of the Royal Commission into Aboriginal Deaths in Custody.
- ▶ **2022** — Commission's Chief Executive Ernest Schmitt AM PSM retired in February 2022; Chief Justice Bathurst AC retired in March 2022. Chief Justice Bell becomes President of the Commission in March 2022; new Chief Executive Una Doyle appointed 1 July 2022. Our *Handbook for Judicial Officers* won international recognition in Best Publication category of the ACLEA awards.

# Overview of the Commission

**The Judicial Commission is comprised of 6 official and 4 appointed members. The Chief Executive is responsible for all the Commission’s operations. The Audit and Risk Committee provides the Chief Executive with independent advice on governance and risk. See pp 18, 85.**

Figure 1. Our organisational structure

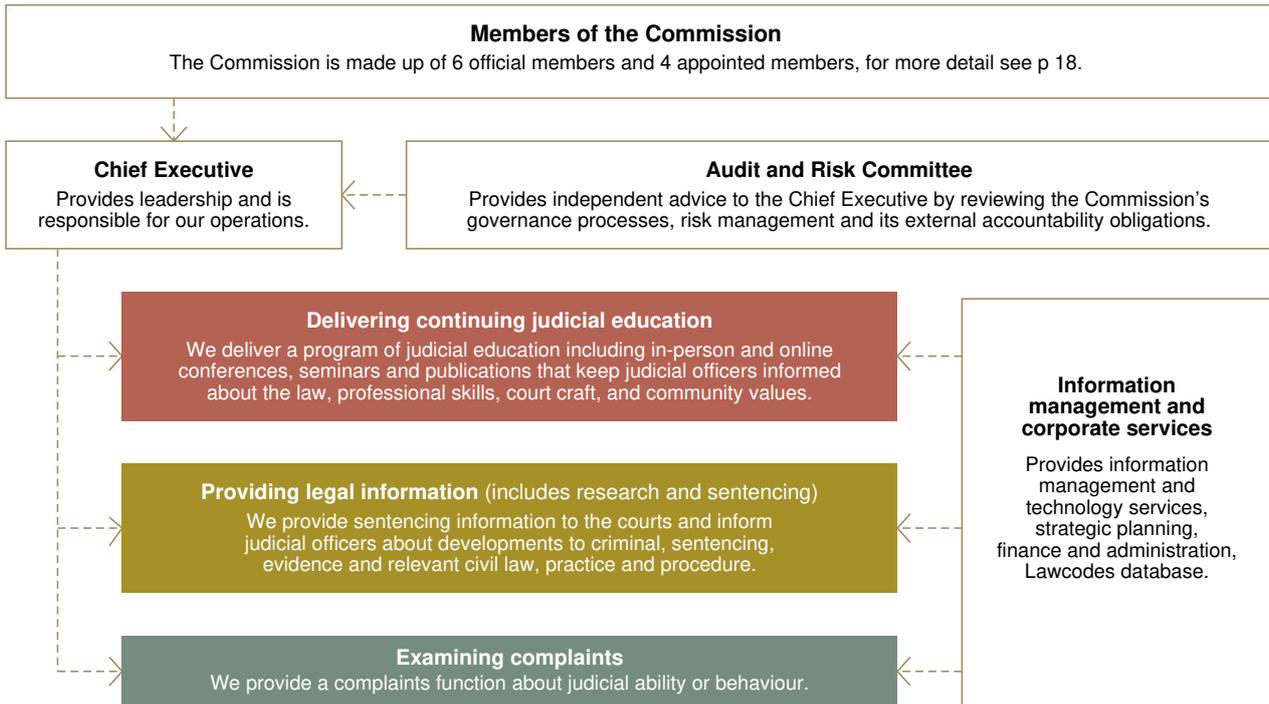
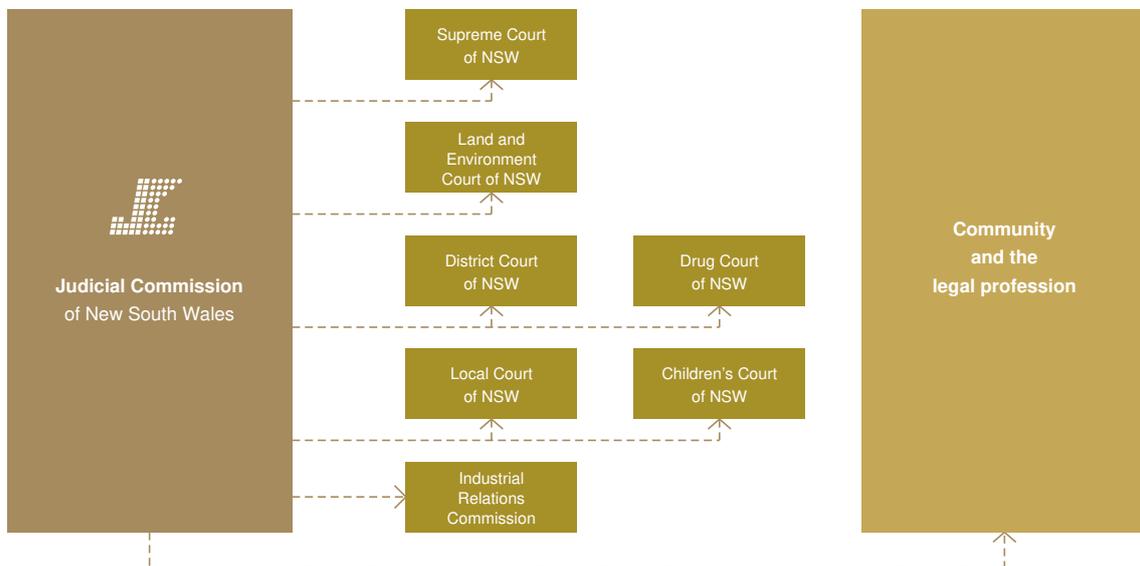


Figure 2. Who we provide our services to in the justice system



## Our services delivery

Programs were reconfigured for online delivery due to the ongoing pandemic.

### 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 (subject to COVID-19 public health regulations).	Skills-based workshops, seminars, field trips, webinars and other digital and distance education to enhance judicial skills, attitudes and knowledge.	See pp 25–34 for an overview of our activities this year.
Judicial skills, attitudes and knowledge are enhanced.	First Nations cross-cultural awareness sessions/community visits so judicial officers are informed about First Nations society, traditions and contemporary issues.	Digital and multi-media resources, online and print publications for information and research. JIRS and iPad™ support.	Judicial Wellbeing portal.	See pp 25–34 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 42.	Bench books contain major legislation and precedents which apply when conducting criminal and civil 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.	<i>Recent Law</i> summaries of important legal developments posted on JIRS. A dedicated COVID-19 resources page 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 Commission's 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.



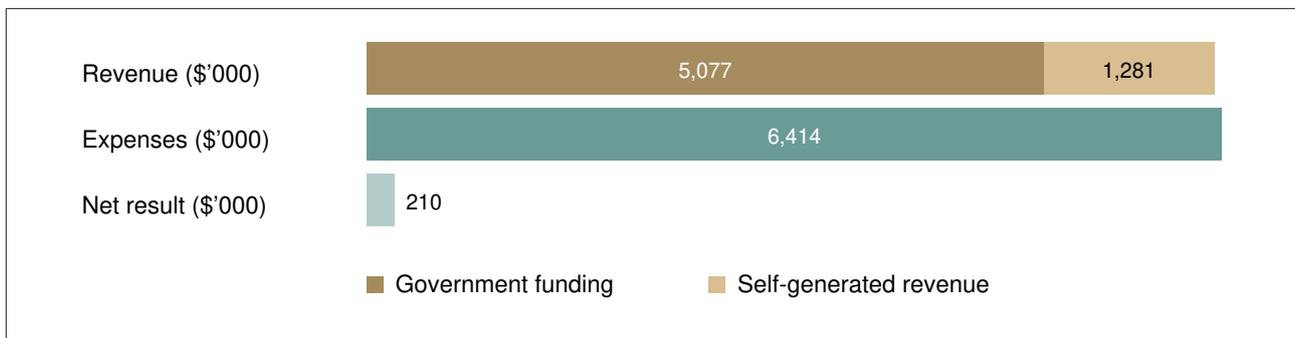
## Results in brief and strategic direction

**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 2022–23.**

### Our finances

We received an unmodified report for our financial statements from the Auditor-General of NSW. Looking ahead, we will proactively maintain our self-generated income streams. See “Our finances” chapter from p 95.

Figure 3. 2021–22 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 30.</p> <p>Judicial skills, knowledge and attitudes were enhanced with 37 education events offered. See pp 25–34.</p>	<p>The ongoing pandemic continued to impact delivery of our education program. Where possible, in-person programs were re-configured for online delivery, with staff employing skills learned from previous year’s adaptation to new platforms and software programs. See p 33.</p>	<p>Enhance the scope of our programs, using new delivery platforms and technology we have acquired.</p>



### Providing legal information

Key results	Key challenges	Strategic direction
<p>45 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 1.35 million page hits (8.7% decrease). See p 41.</p>	<p>Managing the continuing impact of the pandemic which affected the rate and volume at which legal information was produced by courts and legislature. See p 38.</p> <p>Managing the significant work associated with the sexual consent reforms. See p 39.</p>	<p>Planning for the commencement of the anticipated coercive control legislation.</p> <p>Continue the systematic review of the <i>Sentencing Bench Book</i> and <i>Criminal Trial Courts Bench Book</i> to improve information for currency and accessibility.</p>

## Examining complaints

Key results	Key challenges	Strategic direction
<p>41 formal complaints examined. Examination of 98% of complaints finalised within 12 months of receipt. 100% of complaints acknowledged in writing within 5 days.</p> <p>Two complaints referred to head of jurisdiction. No complaints referred to a Conduct Division. See pp 51–52.</p>	<p>Ensuring that the continuing impact of the pandemic did not compromise the accessibility and operation of the complaints function.</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>Continue to examine all complaints efficiently, effectively, independently and objectively.</p> <p>Engage a Principal Legal Officer to assist the Chief Executive to manage the complaints function.</p>

## Engaging with our partners and the community

Key results	Key challenges	Strategic direction
<p>Efficiently coded rapidly-changing public order offences in the Lawcodes database and distributed them to agencies in the justice system. See p 63.</p> <p>Collaborated with other agencies to advise the profession of mental health legislative changes. See p 61.</p> <p>Collaborated with other agencies to provide a suite of drug court webinars to the Maldives. See p 62.</p> <p>Responded to requests for research assistance from government departments and agencies, and members of the legal profession. See p 62.</p>	<p>Developing our platforms and delivery avenues introduced in response to COVID-19 with regard to our work with courts, the legal profession, government departments and agencies.</p> <p>Ensuring criminal justice agencies, in particular NSW Police and Revenue NSW, were provided with COVID-19 offence information as soon as it became law. See p 63.</p> <p>Continuing to provide assistance to government departments and other jurisdictions within our limited resources. See p 43.</p>	<p>Continue to provide online legal information (including access to bench books and research studies) for the public as part of our community engagement strategy.</p> <p>Support the development and rollout of the technology curriculum for District and County Courts of Australia and New Zealand.</p> <p>Continue our work with the Drug Court of NSW to adapt the current case management system in line with the court's expansion to regional centres.</p>

## Our people

Key results	Key challenges	Strategic direction
<p>100% staff engagement as measured in our yearly staff survey. See p 69.</p>	<p>Building teamwork and encouraging cooperation within and between teams, as well as across the whole organisation, particularly in the context of remote working as a result of COVID-19 public health regulations.</p> <p>Key personnel unexpectedly retired at the same time causing challenges for succession planning.</p>	<p>Develop further strategies to assess and understand where our productivity can be improved, thereby helping us to meet key performance indicators.</p> <p>Value and support our staff, while working with the budgetary challenge of the whole of Government savings directive.</p>

## Our governance and ethics

Key results	Key challenges	Strategic direction
<p>9 Commission and 4 Audit Risk Committee meetings held, ensuring robust governance. See pp 84, 89.</p> <p>We complied with the requirements of NSW Treasury Policy Paper TPP 20-08 directed to internal audit and risk management policy for the NSW public sector. See p 88.</p>	<p>Ensuring integrity of governance and management of risks while providing continuity of our operations during the disruption and uncertainty that the pandemic continued to cause. See p 81.</p>	<p>Revise our strategic direction to incorporate updated key performance indicators and targets.</p> <p>Conduct a detailed review of our operations.</p> <p>Manage our transition to digital record keeping system.</p>

## Performance results 2020–22 and targets 2021–23

Result	Measure	2020–21 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	56 publications
	Maintain/increase number of specialised education events offered	37 education events
	Education events assisted judicial officers to reach the national standard of 5 judicial education days each year, see Note 1	3.7 days offered 3.3 days undertaken
Judicial skills, attitudes and knowledge enhanced	Maintain/increase ratings that our services provide judicially relevant and stimulating education and information	78% of participants satisfied that events relevant and applicable and 80% satisfied that events enhanced knowledge and capability
Judicial officers satisfied with their education	Maintain/improve satisfaction rates from last year	92% 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)	123,366 average 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>• 239 <i>Recent Law</i> items posted on JIRS</li> <li>• 133 summaries of select appeal decisions published on JIRS</li> <li>• 5 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 8 months of receipt
	Maintain information about sentences that other judicial officers have given in similar circumstances	Published 68 summaries of significant appeal decisions in the <i>Judicial Officers' Bulletin</i>
Information about sentencing communicated	Maintain/increase publication of sentencing trends, sentencing snapshots and research papers	0 <i>Sentencing Trends &amp; Issues</i> papers 1 <i>Sentencing Snapshots</i>
	Provide information in response to requests for specific sentencing issues	41 research requests
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	4 enhancements
<b>Examining complaints</b>		
Timely acknowledgment and completion of preliminary examination of complaints	Maintain/decrease time taken to conduct preliminary examination of complaints	Examine 78% within 6 months; 94% within 12 months
	Maintain time taken to formally acknowledge complaints received	97% of complaints received acknowledged within 5 working days
High standard of judicial performance	Compare number of complaints to number of court matters heard during the year, see Note 4	384 judicial officers in NSW heard around 700,000 court matters in 2020–21 57 complaints about 46 judicial officers made, 0 complaint referred by the Attorney General
	Compare number of complaints dismissed under section 20 of the <i>Judicial Officers Act 1986</i> with complaints that require further action	100% of complaints were summarily dismissed under section 20 of the <i>Judicial Officers Act 1986</i> 0 complaints referred to Conduct Division, 0 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 319 requests for information
Independence of judicial officers maintained	Complaints process demonstrates integrity of complaints function, see Note 4	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 4	28 of 57 complaints received arose from allegations of failure to give fair hearing (49%) and 12 of 57 complaints from allegations of an apprehension of bias (21%)

**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.** 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.

2021-22 target	2021-22 result	Status	2022-23 target
34 publications	45 publications	↑	34 publications
34 education events	37 education events	↑	34 education events
n/a, see Note 1	4.1 days offered 3.7 days undertaken	✓	n/a, see Note 1
80% of participants satisfied that events relevant and applicable and 70% satisfied that events enhanced knowledge and capability	77% of participants satisfied that events relevant and applicable and 69% 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
125,000 average page hits each month	112,609 average hits each month	↓	125,000 average page hits each month
See Note 2 See Note 2 as required for <i>Criminal Trial Courts Bench Book</i> , see Note 2	<ul style="list-style-type: none"> <li>• 223 <i>Recent Law</i> items posted on JIRS</li> <li>• 174 summaries of select appeal decisions published on JIRS</li> <li>• 2 updates to <i>Criminal Trial Courts Bench Book</i></li> </ul>	✓	See Note 2 See Note 2 as required for <i>Criminal Trial Courts Bench Book</i> , see Note 2
update as required for <i>Sentencing Bench Book</i> , see Note 2	2 updates to <i>Sentencing Bench Book</i>	✓	update as required for <i>Sentencing Bench Book</i> , see Note 2
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 generally within 4 months of receipt, 2 exceptions within 8 months due to changes in data provided by BOCSAR	↓	1-4 months
as required	Published 55 summaries of significant appeal decisions in the <i>Judicial Officers' Bulletin</i>	✓	as required
as required, see Note 3	0 <i>Sentencing Trends &amp; Issues</i> papers 2 <i>Sentencing Snapshots</i>	✓	as required, see Note 3
as required, see Note 3	38 research requests	✓	as required, see Note 3
as required	Done	✓	as required
5 enhancements	8 enhancements	↑	5 enhancements
Examine 90% within 6 months; 100% within 12 months	Examine 73% within 6 months; 98% within 12 months	↓ ↓	Examine 90% within 6 months; 100% within 12 months
100% of complaints received acknowledged within 5 working days	100% of complaints received acknowledged within 5 working days	✓	100% of complaints received acknowledged within 5 working days
n/a, see Note 4	397 judicial officers in NSW heard around 355,000 court matters in 2021-22 43 complaints about 40 judicial officers made, 0 complaints referred by the Attorney General	✓	n/a, see Note 4
n/a, see Note 4	95% of complaints were summarily dismissed under section 20 of the <i>Judicial Officers Act 1986</i> 0 complaints referred to Conduct Division, 2 complaints referred to head of jurisdiction	✓	n/a, see Note 4
n/a, see Note 4	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 4
n/a, see Note 4	Responded to 415 requests for information	✓	n/a, see Note 4
n/a, see Note 4	Commission examined all complaints according to statutory criteria and established protocols	✓	n/a, see Note 4
n/a, see Note 4	21 of 43 complaints received arose from allegations of failure to give fair hearing (49%) and 9 of 43 complaints from allegations of an apprehension of bias (21%)	✓	n/a, see Note 4

**Note 3.** Publication of sentencing trends, sentencing snapshots and research papers, 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 4.** 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 ↑ target/output exceeded ↓ target not achieved



## President's foreword

I am pleased to present the foreword to the Judicial Commission's Annual Report for 2021–22.

It has been a significant year for a host of reasons, not least of which has been the emergence from the pandemic and the return to in-person interaction both within the Commission and in the Commission's engagements with the judiciary of NSW on all levels.

This report details the Commission's activities and performance over the past year in furthering its aims of education and accountability and disseminating sentencing and legal information and outlines its strategic direction for the following year and the next 5 years.

### The year in review

It has been an extremely significant year in terms of the Commission's leadership. First and foremost, the year saw the retirement of Ernest Schmitt PSM AM after 35 years of distinguished service as Chief Executive of the Commission, a tour of duty spanning all of the Commission's existence. It also saw the retirement of Cheryl Condon, Mr Schmitt's long-time personal and extraordinarily dedicated assistant. We have also seen the retirement of Pierrette Mizzi as Director, Research and Sentencing. Pierrette's work for the Commission has been exceptional and central to the success of JIRS and the Commission's Criminal Trial and Sentencing Bench Book programs.

The year also marked the retirement in early March 2022 of my distinguished predecessor, the Honourable Tom Bathurst AC KC, as Chief Justice of NSW and thus as President of the Commission. His

wisdom, sound judgment and diligence have served the Commission exceptionally well as a vital part of the justice system in NSW, ensuring high standards of judicial education and conduct, and fostering the community's trust in and respect for the State's judiciary. The JIRS program continues to be a vital tool in the administration of criminal justice, providing up to date and accurate information and practical guidance to the hundreds of judicial officers working tirelessly in our criminal justice system.

### Key challenge for the year

The key challenge over the past year continued to be the impact of the pandemic which saw another lengthy lockdown for Sydney between June and October 2021 with a third wave of the pandemic over the December/January period. This meant in-person education sessions were reconfigured to online delivery and public access to the Commission was modified in response to the public health orders.

### Continuing judicial education

Notwithstanding these constraints, the Commission's continuing judicial education continued apace with the 37 separate educational events being offered, equivalent to the previous year. Almost half were webinars; the dual-mode practice of online and face-to-face sessions is now firmly embedded in the education system, allowing for greater flexibility and accessibility to the program. The overall average number of training days undertaken by judicial officers increased to 3.7 from 3.3 days last year. Judicial satisfaction with the Commission's work remained high at 90%.



### The importance of Lawcodes

The pandemic has also highlighted the importance of Lawcodes, a database of unique codes that the Commission hosts and operates. Lawcodes enables all NSW justice sector agencies electronically to exchange information efficiently and accurately. Throughout the pandemic, it has been imperative for criminal justice agencies, in particular Police and Revenue NSW, to be provided with COVID-19 offence information as soon as it became law.

### Highlights for the year

During the course of the year, the Commission's Ngara Yura Aboriginal Cultural Awareness Program had a special focus on the 30th anniversary of the High Court's landmark *Mabo* decision (*Mabo v Queensland (No 2)* (1992) 175 CLR 1) and this was observed with an specially commissioned article in the *Judicial Officers' Bulletin* by the Honourable James Allsop AO, Chief Justice, Federal Court of Australia and Barrister Andrew Smith and a session at the Local Court annual conference presented by Uncle Shane Phillips, CEO, Tribal Warrior Aboriginal Corporation and Ms Lily Miles, Team Leader, H.O.M.E. Program, Tribal Warrior Aboriginal Corporation.

Other important work of the Commission during the course of the year included providing judicial officers briefings in relation to the consent reforms (*Crimes Legislation Amendment (Sexual Consent Reforms) Act 2021*) which substantially reformed the definitions of consent and provided directions to be given to juries regarding misconceptions about consent. A multi-pronged approach was adopted with the publication of an article in the *Judicial Officers' Bulletin*; updates to the bench books including revised directions in the *Criminal Trial Courts Bench Book* and education sessions at the District Court and Local Court annual conferences. The Commission also published an important Sentencing Trends & Issues paper, *Sentencing for Domestic Violence in the Local Court*.

A significant innovation was the launch of the "Judicial Wellbeing" portal on JIRS to provide judicial officers with resources to assist them to maintain and sustain a healthy judicial life. The portal complements published research by University of NSW researchers into judicial trauma and work-related stress. In this context, the Commission also published a new chapter, "Trauma-informed courts", in the *Equality before the Law Bench Book* to raise judicial awareness about the nature and impact of trauma and its prevalence and how to apply trauma-informed principles in the task of judicial decision-making.

The Commission also published a new online resource *Handbook for Judicial Officers* which achieved an award by the Association for Continuing Legal Education in the Best Publication category in 2022. The Handbook is a rich compendium of articles curated from a broad selection of judicial speeches and recent papers published in *The Judicial Review* and the *Judicial Officers' Bulletin*, as well as articles by legal academics. The Handbook is principally directed to

new judicial officers, but also provides guidance to all judicial officers on all aspects of the judicial role. The Commission also obtained a gold award from the Australasian Reporting Awards for its 2020–21 Annual Report.

### Community and international engagement

In terms of community and international engagement, while the pandemic continued to affect this aspect of the Commission's work, it nevertheless was able to continue with its capacity-building assistance to Papua New Guinea. A delegation from the Supreme and National Courts of Papua New Guinea, led by the Chief Justice of PNG, the Honourable Sir Gibbs Salika GCL, KBE, CSM, visited the Judicial Commission in April 2022 to sign an MOU regarding the PNG Sentencing Database and the Integrated Criminal Case System Database for a further three years.

### Governance

The Judicial Commission welcomed the Honourable Justice Julie Ward who, as President of the Court of Appeal, joined the Commission in March 2022, and his Honour Judge Peter Johnstone in his capacity as the new Chief Magistrate in September 2021. The Honourable Graeme Henson AM, who retired in August 2021, was also farewelled after 15 years.

### Future direction

Going forward, a new leadership team presents an opportunity to review the Commission's operations and service delivery. This is a time of change and renewal under the dynamic leadership of our newly appointed Chief Executive, Ms Una Doyle, who will bring vitality to the work of the Commission. The Commission's strategic plan will be revised to incorporate updated key performance indicators and targets. The continuing judicial education focus will be on the anticipated coercive control reforms and continuing to support and promote judicial well-being.

### My thanks

My thanks go to all of the hard-working staff of the Commission, to the members of the Commission, as well as to all the current and retired judicial officers who assist the Commission on its various workstreams. I particularly acknowledge the work of Mr Murali Sagi PSM who was acting Chief Executive Officer of the Commission for most of the financial year 2021–2022 and Ms Una Doyle, our new Chief Executive.

The Honourable Andrew Bell  
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 operations and results for 2021–22.

### Looking back

Like many other organisations, the pandemic and ensuing public health measures have significantly changed the way the Commission operates. However, we have continued to perform our core functions with minimal disruption, albeit using contemporary digital methods.

This achievement is testament to the flexibility and resilience of the Commission and its dedicated staff who have worked productively and effectively through this period of considerable disruption. The challenges to our usual modes of working have also brought benefits and innovations, such as the development of new skills and increased familiarity with a range of technologies.

### Delivering continuing judicial education

Having adapted to delivering our education program in new ways — to ensure we adhered to public health order requirements and kept our staff and participants safe, we continued to expand the scope of our offerings and explore new technologies. We were also able to return to in-person programming in the first half of 2022 while maintaining our online offerings. Judicial officers' satisfaction with the program continues to remain high at 90%. This year, our Aboriginal cultural awareness program, Ngara Yura, focused on the landmark 30th anniversary of the High Court's *Mabo* decision as well as celebrating a return to in-person community visits — in May 2022 the Dharawal community of La Perouse warmly welcomed a judicial visit.

### Providing legal information

Our publishing output increased this year with 223 Recent Law items posted on JIRS together with 174 summaries of select appeal decisions. Updates to bench books, journals, bulletins, videos and podcasts continued. We produced a significant study, *Sentencing Trends & Issues 48: Sentencing for domestic violence in the Local Court*, and launched a new publication in October 2021, the *Handbook for Judicial Officers*. This contains a collection of articles curated from a broad range of judicial speeches and recent papers and, pleasingly, was selected for an Award of Professional Excellence in 2022 in the category of "Best Publications" from the Association for Continuing Legal Education's 2022 "Best Awards".

The *Crimes Legislation Amendment (Sexual Consent Reforms) Act 2021* significantly reformed the law relating to consent: this commenced in June 2022. We spent significant time preparing for this with information published on JIRS, an article in the *Judicial Officers' Bulletin*, and detailed updates to the *Criminal Trial Courts Bench Book*, *Sentencing Bench Book*; and *Local Court Bench Book*.

### Examining complaints

In line with previous years, we finalised a majority of complaints received during the year. Of the 41 complaints the Commission examined in 2021–22, 95% of complaints (39) examined were summarily dismissed. This is consistent with the average 5-year dismissal rate of 95.2%. There were no referrals to a Conduct Division this year.

### Engaging with our partners and the community

Notwithstanding the limits necessitated by public health orders, we continued to engage with the broader community around Australia and internationally. Although we were unable to host visitors and delegations



throughout the year due to border closures, we welcomed our first visitors from the Supreme and National Courts of Papua New Guinea, led by the Chief Justice of PNG, in April 2022.

Continuing our tradition of collaborating with other agencies, Judicial Commission staff were part of an advisory committee who prepared a Practitioners Guide for Mental Health and also edited the Guide to assist lawyers and registry staff to understand and navigate the new mental health forensic processes.

Our Ngara Yura Committee (overseeing our Aboriginal cultural competency program) continued to partner with the NSW Bar Association and Law Society of NSW to offer the Speaker Series of webinars, a celebration of First Nations' culture and identity through a series of talks featuring authors, researchers, creators, innovators, knowledge holders and storytellers.

Our important role in maintaining the Lawcodes database was in the spotlight as staff were on call to code new offences relating to the administrative emergency measures put in place to deal with the COVID-19 pandemic and rapid changes to public health orders.

### Our people

Our dedicated staff are our organisation's most valuable asset and, pleasingly, in our annual staff survey, we achieved a rating of 100% of staff who felt engaged with their work and understood how their work contributed to the Commission's purpose and mission. We continue to enjoy high retention and low turnover rates, and, despite the challenges of the pandemic, our people embraced training and education with staff take-up of training at a significantly higher level than in the past.

### Our governance and ethics

The Honourable Tom Bathurst AC retired as Chief Justice of NSW and President of Judicial Commission in early March 2022. I would like to express my sincere gratitude for his valuable leadership of Commission over the past 11 years. My thanks also to former Chief Magistrate, the Honourable Graeme Henson AM, who retired in August 2021.

The Commission's long-serving Chief Executive, Mr Ernest Schmatt AM PSM, also retired during the reporting period. Under his leadership, the Commission has gained a world-wide reputation for being a leader in judicial education. I acknowledge his significant role in developing the solid foundations and enviable reputation the Commission enjoys today.

The Honourable Andrew Bell, Chief Justice of NSW, was appointed in March 2022 and accordingly became President of the Judicial Commission. We also welcomed the Honourable Justice Julie Ward as an official member of the Commission in her capacity as President of the Court of Appeal (March 2022) and his Honour Judge Peter Johnstone in his capacity as the new Chief Magistrate (September 2021).

Additionally, Professor Judy Cashmore AO, Mr David Giddy, and Mr Yair Miller OAM, three of the four appointed members of the Commission, were each re-appointed for a three-year term.

The Judicial Commission met 9 times during the year to examine complaints, monitor our strategic direction and approve budgets and publications. Four audit and risk committee meetings were held.

### Financial result

Our financial result for the year was a surplus of \$210,000, compared to a forecast deficit \$212,000. The surplus was due to lease arrangements being removed from the balance sheet as at 30 June 2022, following advice from NSW Treasury, resulting in a derecognition of financial assets measured at amortised cost. There was a decrease in expenditure of 4.75% and a decrease in revenue of 1.48% from 2021. Our total income was \$6.358 million, of which \$5.077 million was government funding. We are operating in an environment of government fiscal constraint. The Commission's self-generated revenue of \$1.281 million was slightly higher than last year's result. This 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.

### Looking ahead to 2022–23 and beyond

To continue our mission to promote the highest standards of judicial behaviour, performance and decision-making, our approach will necessitate some changes. The COVID-19 pandemic brought many challenges, but also benefits and innovations. As the courts in NSW have adapted and evolved, so too must we. Guided by a new strategic plan, we will review our work across the Commission, examining how we can enhance our delivery of information, further develop our work in continuing judicial education, renew links with current partners, forge links with new partners and streamline our complaints process to further improve response times.

Going forward, I am excited about the opportunity for the Commission to innovate and adapt its functions to fulfil its statutory obligations and support the NSW judiciary.

### My thanks

As we exit a challenging year, I would like to acknowledge those who have contributed to our success. The support and hard work of staff and stakeholders has made this possible. I am fortunate to lead a highly talented and diligent team of people who go above and beyond to deliver high quality services for the judicial officers and people of NSW. Without the skills of our people, our work would not be possible. I am also indebted to our Commission members who provide wise and steady leadership and the many judicial officers who give their time and expertise to serve on our education and bench book committees.

Una Doyle  
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 24 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; retired 5 March 2022

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. In October 2016 the Chief Justice was elected as an Honorary Bencher of Middle Temple. As President, the Chief Justice is responsible for presiding at meetings and has a deliberative vote.



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

Chief Justice of NSW — commenced 7 March 2022

Chief Justice Bell was called to the NSW Bar in 1995, appointed Senior Counsel in 2006 and was sworn in as President of the NSW Court of Appeal in February 2019. He succeeded the Honourable Tom Bathurst AC QC as Chief Justice of NSW in March 2022. His Honour completed undergraduate degrees in Arts and Law at the University of Sydney, both with First Class Honours and the University Medal, and then a Bachelor of Civil Law (for which he was awarded the Vinerian Scholarship) and a Doctor of Philosophy at the University of Oxford. Prior to his appointment to the Bench, his Honour served as Senior Vice-President (2018–19) and Treasurer (2017–18) of the NSW Bar Association and was the Editor of *Bar News* from 2005 to 2012. Chief Justice Bell has published extensively and 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. In his prior capacity as President of the Court of Appeal, the Chief Justice was a member of the Commission from March 2019.

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



## Official members



### **The Honourable Justice Julie Ward**

President, NSW Court of Appeal — commenced 7 March 2022

Justice Ward studied arts/law at the University of Sydney, graduating in law in 1982 with First Class Honours and the University Medal. Her Honour was admitted as a solicitor of the Supreme Court in 1982. Following graduation, Justice Ward worked for a year as the associate to Sir Nigel Bowen, the first Chief Justice of the Federal Court. Justice Ward worked for Stephen Jaques Stone James (now King & Wood Mallesons) for two years, then completed a BCL with first class honours at Oxford University, having won a post-graduate scholarship from Sydney University. Justice Ward was made a partner of Mallesons in 1988. At that time she was the youngest female partner to be appointed at that firm. Her Honour was appointed to the Supreme Court of NSW in September 2008. She was the first female solicitor directly appointed to the Supreme Court bench. She sat in the Equity Division of the Court, until her appointment to the Court of Appeal in November 2012. She was appointed Chief Judge in Equity in March 2017 and President of the Court of Appeal in March 2022.



### **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 over 30 years. He is currently a Visiting Professor at Durham University (UK), an Adjunct Professor at the University of Sydney, Western Sydney University and Southern Cross University and former Visiting Fellow at Corpus Christi College and Magdalen College at Oxford University (UK). He has authored over 140 publications on environmental, administrative and criminal law. His Honour has been involved in numerous capacity-building programs for the judiciaries in Asia, Africa and Europe. He is a member of various international environmental law committees and advisory boards, including Chair of the Environmental Law Committee of the Law Association for Asia and the Pacific (LAWASIA) and member of the Governing Council and Vice President for Oceania for the Global Judicial Institute on the Environment (GJIE).



### **The Honourable Justice Derek Price AO**

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 and continues to sit in the Court of Criminal Appeal. His Honour became a Member of the Order of Australia in 2010 and was appointed an Officer of the Order of Australia in 2020.

**His Honour Judge Graeme Henson AM**

Chief Magistrate of the Local Court of NSW — commenced 28 August 2006, retired 27 August 2021

Judge Henson was called to the Bar in 1980 and served as Deputy Solicitor for Public Prosecutions in the Office of the Director of Public Prosecutions (NSW) from 1987 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. 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. Mr Henson retired as Chief Magistrate of the Local Court and as a judge of the District Court on 27 August 2021.

**His Honour Judge Peter Johnstone**

Chief Magistrate of the Local Court of NSW — commenced 6 September 2021

Judge Johnstone was appointed Chief Magistrate in 2021. He was formerly President of the Children's Court of NSW, appointed to that role in 2012. Judge Johnstone was admitted to legal practice in 1973. He was a partner at Dawson Waldron law firm, appointed an Acting District Court judge in 1997 then a full-time judge of the District Court in 2006.

**Chief Commissioner Nichola Constant**

Industrial Relations Commission of NSW — commenced 2 March 2020

Chief Commissioner Constant was admitted as a solicitor in NSW in 2000. She was appointed a Commissioner of the NSW Industrial Relations Commission in July 2018 and appointed Chief Commissioner on 2 March 2020. Prior to her appointment to the Industrial Relations Commission, Chief Commissioner Constant was the Assistant Crown Solicitor/Director for Employment Law at the Crown Solicitor's Office. Over her career, she has held a number of roles in private sector law firms and banking, and was a member of the NSW Workers Compensation and Work Health and Safety Council. Chief Commissioner Constant holds degrees from the University of Sydney and the University of New England.



## Appointed members



### **Professor 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; reappointed 15 December 2021 for 3 years

Professor Cashmore is Professor of Socio-Legal Research and Policy, 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 concerning their care and protection, adoption, and the prosecution of child sexual abuse. In 2010, Professor Cashmore became an Officer 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; reappointed 4 March 2022 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.



### **Professor Brian McCaughan AM** MB BS FRACS

Appointed 16 May 2010 for 3 years; reappointed 30 October 2013 for 3 years; reappointed 30 October 2016 for 3 years; reappointed 30 October 2019 for 3 years

Professor McCaughan is an Emeritus Cardiothoracic Surgeon based at the Royal Prince Alfred Medical Centre, Sydney, and was a 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. Until recently he was Chair of the Boards of the Clinical Excellence Commission and the Agency for Clinical Innovation, and was appointed to the Board of the Chris O'Brien Lifehouse Cancer Centre. In 2009, Professor McCaughan became a Member of the Order of Australia.



### **Mr Yair Miller OAM** BA

Appointed 28 October 2015 for 3 years; reappointed 28 October 2018 for 3 years; reappointed 15 December 2021 for 3 years

Mr Miller has worked at board and senior management level for over 20 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 — retired 25 February 2022

**Mr Ernest Schmatt AM PSM** Dip Law (BAB)

As Chief Executive Mr Ernest Schmatt was responsible for all of the Commission's operations. He had 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 and retired in February 2022.

He was admitted to the Bar in 1979 and is a solicitor of the Supreme Court of NSW and the High Court of Australia. Mr Schmatt became a member of the Order of Australia in 2018 for his significant service to the law in the field of legal education and review, and through the use of technology to assist the judiciary. He was awarded the Public Service Medal in the 1997 Queen's Birthday Honours List for service to public sector management and reform, public sector industrial relations and judicial education in NSW. Mr Schmatt was elected to the Board of Governors of the International Organization for Judicial Training (IOJT) in 2009 and appointed to the IOJT Board of Executives in 2011. He was reappointed to this position in 2013, 2015, 2017 and 2019. In June 2021 he was appointed Deputy Secretary General of the IOJT. 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 also 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, West Bank and Gaza, Cambodia, Sri Lanka, Malaysia, the Philippines, Turkey and Papua New Guinea.



### Chief Executive — appointed 1 July 2022

**Ms Una Doyle** BCL (University College Cork and National University of Ireland), LL.M (Syd)

Ms Una Doyle was appointed Director, Education at the Commission in December 2015 and Chief Executive of the Commission on 1 July 2022. Ms Doyle has worked for over 25 years in law, legal education and executive management. 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 was a member of the leadership team both at the College of Law and Law Society of NSW, with responsibilities including governance, financial oversight and high-level strategic planning. She is a past President of ACLEA, the International Association for Continuing Legal Education (2016–2017) 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 five terms, including as Treasurer from 2019 to 2021.

As Chief Executive, Ms Doyle is responsible for all the Commission's operations. She has input into all aspects of the Commission's work, from financial management to research, complaints, information systems management and education activities.



### 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 her absence. Mr Sagi commenced employment with the Commission in 1992 and has over 30 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 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 Sydney and the University of Technology Sydney to provide mentoring for their students.

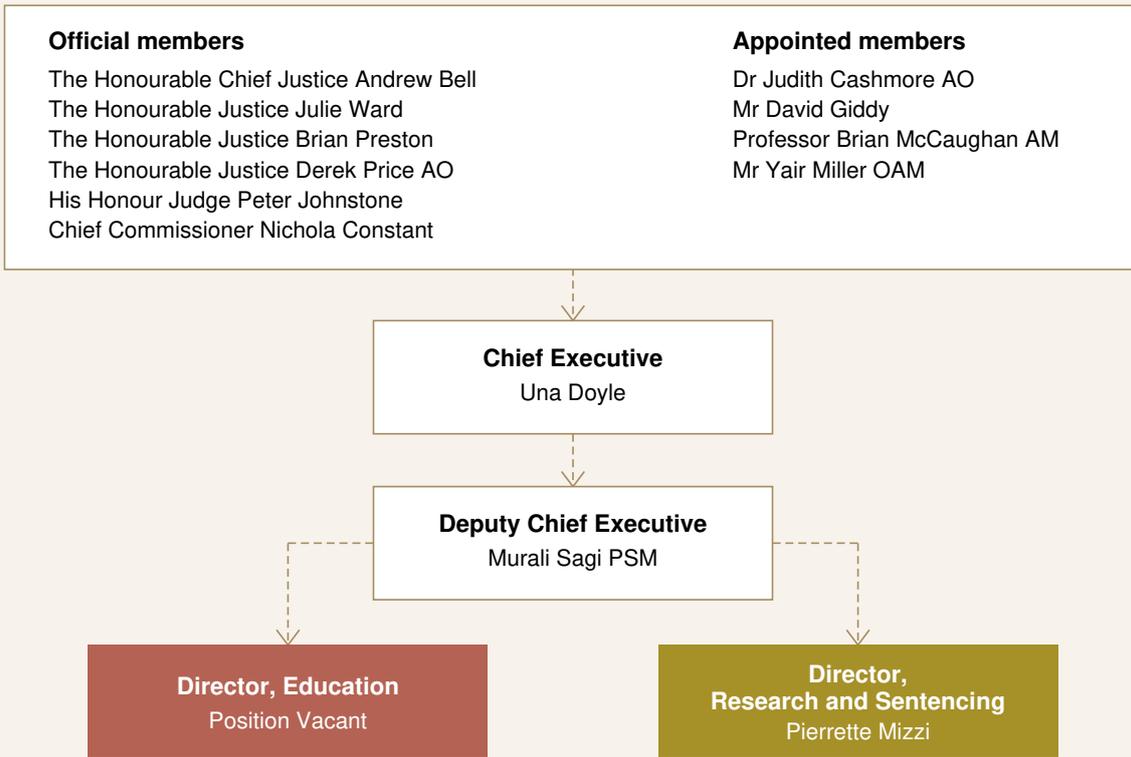


### Director, Research and Sentencing

**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 Director, Research and Sentencing 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 for the offence of sexual intercourse with a child under 10 (2016), Sentencing Commonwealth drug offenders (2014) and Sentencing offenders convicted of child pornography and child abuse material offences (2010). She is also the author of a number of articles concerning recent areas of legislative reform, including the sentencing reforms which commenced in September 2018 and the reforms to the law related to consent in sexual offences in 2022.

Figure 4. Commission members and executive team as at 30 June 2022

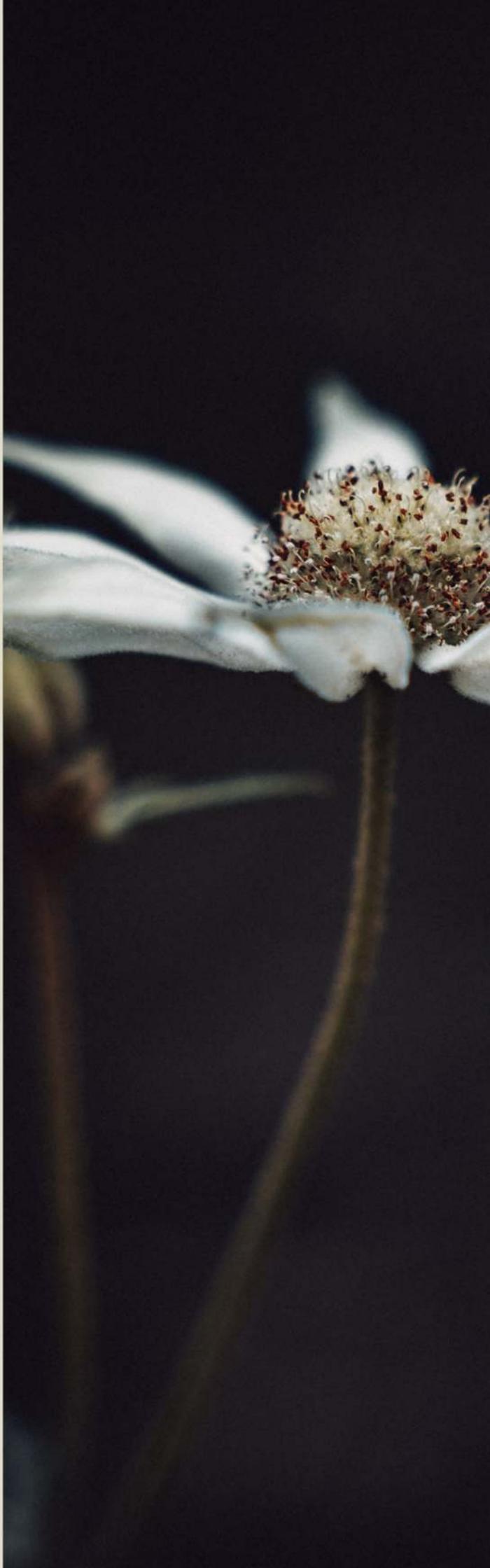


# Program 1

## Delivering continuing judicial education

**Judicial officers were informed about changes to the law, court practice and procedure, and community values through 37 education events held in 2021–22. Our 2021–22 education program was delivered via a combination of online and in-person, in keeping with COVID-19 restrictions.**

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## 1.1 Performance results 2021–22

An assessment of the results shown in Table 1 demonstrates that our continuing judicial education program performed well in 2021–22 notwithstanding the impact of the COVID-19 pandemic. 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>45 publications</p> <p>34 education events</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 does not set targets but is guided by the standard. See Appendix 3 for more information.



Performance	Status	
<p>45 publications, including 21 bench book and handbook updates, 2 <i>Sentencing Snapshots</i>, 11 bulletins, 1 <i>Recent Law</i> flyer (comprised of 11 issues), 1 journal issue, 9 videos: see p 40</p> <p>Monthly Judicial Commission meetings and/or bench book committees and experts reviewed publications</p> <p>37 events offering the option to attend online or in-person to address the ongoing COVID-19 pandemic: see pp 30, 31</p> <p>4.1 education days offered, 3.7 days undertaken: see p 33</p>	<p>✓</p> <p>↑</p> <p>✓</p>	<p><b>Challenges 2021–22</b></p> <ul style="list-style-type: none"> <li>● The continuing uncertainty with the ongoing global pandemic continued to impact delivery of our education program. Where possible, in-person programs were re-configured for online delivery, with staff quickly adapting to new platforms and software programs.</li> <li>● Navigating the uncertainty and caution given the safety concerns of gathering in person following the COVID-19 lock-down. Postponement and cancellation of large programs necessitated renegotiation of contracts with venues and service providers. In addition, adherence to frequently changing public health orders had to be carefully managed.</li> <li>● In line with public health advice, publishing and programs staff worked from home, requiring technology upskilling for many, especially in a changed working environment.</li> </ul> <p>Judicial education expenditure: \$3.5 million as at 30 June 2022 (55.1% of overall expenditure).</p> <p><b>Looking ahead 2022–23</b></p> <ul style="list-style-type: none"> <li>● Building on the work we have done throughout 2021 to enhance the scope of our programs, using new delivery platforms and technology we have acquired.</li> <li>● Working with courts to ensure that judicial officers are supported during the expected introduction of new coercive control laws in 2022–23.</li> <li>● Continuing to update bench books in time to capture high volume, significant reforms.</li> <li>● Reviewing our programs and publications as part of the development of our new organisational strategic plan.</li> <li>● Hosting our fourth “Exchanging Ideas Symposium”, again focused on facilitating social and professional interaction between judicial officers and First Nations community members.</li> </ul>
<p><b>HIGHLIGHT</b> We published our new <i>Handbook for Judicial Officers</i> which won international recognition in Best Publication category of theACLEA awards. See case study on p 34</p>		
<p>77% satisfied that events were relevant and applicable and 69% satisfied enhanced knowledge and capability: see p 30</p> <p>5 skills-based workshops: see p 30</p> <p><i>Equality before the Law Bench Book</i> was updated to include a new chapter on “Trauma-informed courts” examining the adverse physical and psychological health problems in adulthood that may arise due to unresolved early life trauma.</p>	<p>↓</p> <p>↓</p> <p>✓</p> <p>✓</p>	
<p><b>HIGHLIGHT</b> We published information on the new consent reforms to assist the judiciary including relevant directions regarding misconceptions about consent in sexual assault trials</p>		
<p>Evaluations of education sessions show satisfaction with our continuing education program was 90%: see p 30</p> <p>Attendance rates increased to 3.7 average training days undertaken by each judicial officer, with the option to attend online or in-person due to COVID-19 restrictions: see p 33</p>	<p>↑</p> <p>↑</p>	
<p><b>HIGHLIGHT</b> We continued work addressing recommendations in the <i>Family Is Culture Review Report: Independent Review of Aboriginal Children and Young People in OOHC</i>, publishing information in numerous Bench Books.</p>		
<p>Programs addressed appropriate judicial behaviour, including sexual harassment prevention education for the judiciary: see Appendix 5 for list of topics</p>	<p>✓</p>	
<p><b>HIGHLIGHT</b> Following the publication of outcomes of the vicarious trauma research project, in partnership with UNSW, we implemented a Wellbeing Portal: see case study on p 29</p>		

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.

"Most illuminating and reasoning and thought provoking. Excellent analysis and presentation."

District Court of NSW Annual Conference April 2022

"Her Honour's presentation was excellent and well directed. The range of materials and help from the Judicial Commission and JIRS is fantastic and her Honour's overview of that was very well done. It highlighted the important resources available in the limited time available. Again, I enjoyed this session too. Thank you."

Local Court of NSW Metropolitan Series I, February 2022

"Great topic of relevance to the work of the court, and delivered in a way that recognised its direct and specific application to the work of the commissioners."

Land and Environment Court Annual Conference, May 2022

"The First Nations speaker series is a great initiative and one I've personally gained from. Karlie Noon's session was a standout for her enthusiasm and knowledge."

Ngara Yura Program Webinar: First Nations Speaker Series, August 2021

"This was an exceptional presentation. Very interesting. Interesting to hear developments on miscarriage of justice provision."

District Court of NSW Annual Conference, April 2022

"I can't speak highly enough of the program. It has been so good, useful and the timing of doing it after having been on the bench is perfect."

Local Court of NSW Magistrates' Orientation Program, November 2021

"I can't live without JIRS. Great presentation and more sessions would be appreciated."

Local Court of NSW Metropolitan Series II, November 2021

"Helpful and well presented and important. Should be a permanent feature."

District Court of NSW Annual Conference, April 2022

"Although no doubt it is not easy to carry out via the internet this was an excellent program and well presented. The papers are excellent. Thank you to all involved in what I felt was a very enjoyable, relevant and well put together program in difficult circumstances with COVID in the background still. Thank you to all involved and a huge thank you to the presenters."

Local Court of NSW Metropolitan Series I, February 2022

"Possibly the most important presentation in this year's conference. Very useful/interesting"

Land and Environment Court Annual Conference, May 2022

"It was an extremely powerful presentation. I was moved to tears on a number of occasions and I particularly loved the yarning session. It was helpful to understand the power of listening and giving people the chance to tell their stories as a part of the healing process. Thank you so much for organising the session."

Ngara Yura Program Webinar: Ngara Yura Program and Francis Forbes Society Webinar: Making the Past Visible: The Legacies of the Protectionist Legislation, November 2021

"Excellent presenter. Very easy to relate to. Great style of presentation."

Land and Environment Court of NSW Seminar: Recent Decisions of the Court of Appeal and Court of Criminal Appeal, April 2022

"The program has significant relevance to my appreciation of the courage and resilience of the Aboriginal people, notwithstanding the profound impact of their long term, and inter-generational experience of indefensible discrimination."

Ngara Yura Program Seminar: A Story of Resistance: Fred Maynard and the Australian Aboriginal Progressive Association, March 2022

"Delivered with great skill and flair. Very interesting to hear the insights of such a principled person grappling with the system."

District Court of NSW Annual Conference, April 2022



## Case study

### Promoting judicial wellbeing

During the past year, the Judicial Commission developed a Wellbeing Portal as a one-stop resource that judicial officers can readily access. The Portal is the Judicial Commission's major 2021 initiative to support judicial wellbeing by providing a private bespoke Portal hosted on the Judicial Information Research System. The Portal encompasses the most current resources including services available for judicial officers and their colleagues, family and friends.

The Judicial Commission was instrumental in the successful realisation of the University of NSW 2019 study into the psychological health of 205 NSW judicial officers. The study was conducted by Professors Jill Hunter and Prue Vines, Professor Richard Kemp and clinical psychologist Kevin O'Sullivan. The findings of this study and Ms Carly Schrever's 2019 research of 152 judicial officers from five Australian courts were well publicised in the *Judicial Officers' Bulletin* and via webinar (now on JIRS — see Judicial Wellbeing) and the Wellbeing Portal is a product of the reflection on this research.

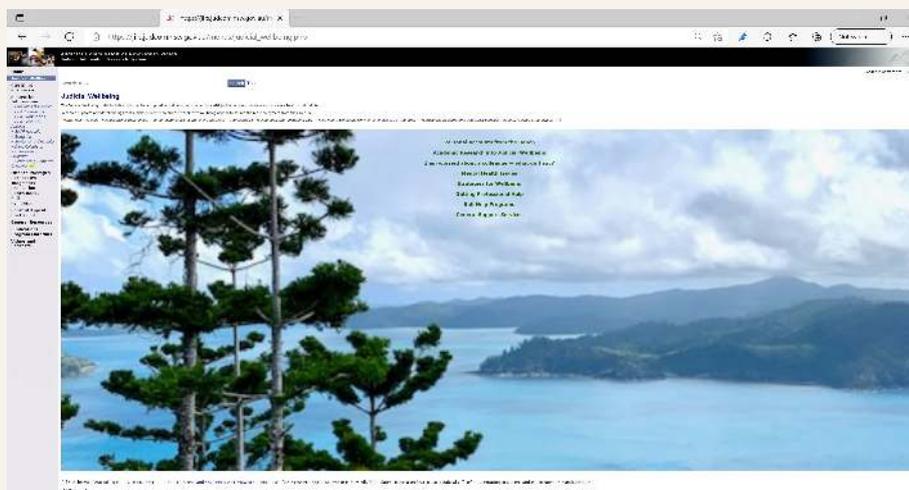
The NSW study briefly mentioned three areas where improvements could be made to the working lives of judicial officers in order to mitigate and manage risk (see pp 38-39 **Traumatic stress in judicial officers — prevalence and impact** by O'Sullivan, Hunter, Kemp and Vines):

- safety
- access to well-designed and acceptable wellbeing services
- systemic workplace issues.

As Magistrate Erin Kennedy said in launching the portal in a promotional article in the *Judicial Officers' Bulletin*:

So whether it is mindfulness, meditation education or information or psychological and scientific studies and explanations the portal will have something for you. It might be that you are coping well in your judicial space, and other life stressors cause you some distress like parenting, your relationship, or dealing with aged, frail or demented parents. The portal has some ideas to help. It might be that managing your judicial judgment load is a current difficulty. Again, the portal can help. It might be you would like to know how to support colleagues, again there is information and suggestions. All of this found in one place, and very easy to navigate. It is practical and it has been designed for you.

\* E Kennedy, "Introducing solutions for maintaining positive psychological health: the judicial wellbeing portal" (2021) 33 *JOB* 111.



The Judicial Wellbeing Portal on JIRS is evolving and responsive and the Commission welcomes suggestions from our judicial officers regarding additional information they would like to see added.



## 1.3 Satisfaction with our continuing judicial education

### 90% judicial satisfaction with the 37 events that comprised the education program in 2021–22.

#### 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 members of public the opportunity to raise concerns about the ability or behaviour of a NSW judicial officer. The number of complaints we receive each year is very low compared to the high volume of matters that judicial officers hear. This attests to the high standard of judicial ability and performance in NSW: see p 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: 92%), which comprised 37 discrete events (nb, only 28 events were evaluated). Programs offered in 2021–22 were delivered in many ways, due to the COVID-19 pandemic and in line with public health regulations. Seventy-seven per cent of respondents agreed that the education sessions were applicable to their work and 69% agreed that they enhanced their knowledge and capability. There was 99% satisfaction rating for support received from Commission staff.

#### Satisfaction remains high with annual conference program

Judicial officers who provided feedback on events were 90% satisfied (last year: 90%) with their annual conference as shown in Figure 5. Usually, an annual conference is held for each of the State’s courts, however in 2021–22 only three court conferences could be held due to the pandemic. 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 from courts who were able to proceed with an annual conference, feel that their education needs continue to be met through these events which also promote court collegiality. The full list of sessions offered at the three annual conferences is found in Appendix 5.

#### High satisfaction with seminar program

Seminars and webinars 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 88% satisfied (last year: 90%) with the seminar program. Discrete

sessions were held during the year that covered a range of educational topics for judicial officers. Due to the pandemic we offered a combination of online and in-person programs throughout the reporting period. A full list of topics can be found in Appendix 6.

#### High satisfaction maintained with skills-based workshops

Magistrates who provided feedback remained highly satisfied (94%) with their workshops as shown in Figure 7. Five workshops were held this year (last year: 4). 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 2017–22

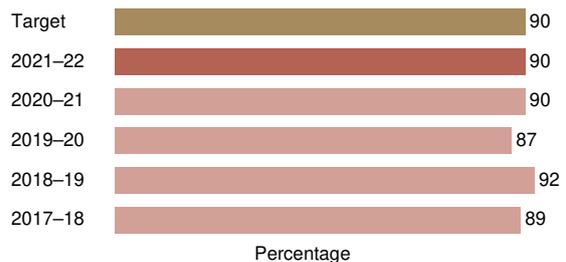


Figure 6. Satisfaction with seminars and gaol/forensic visits 2017–22

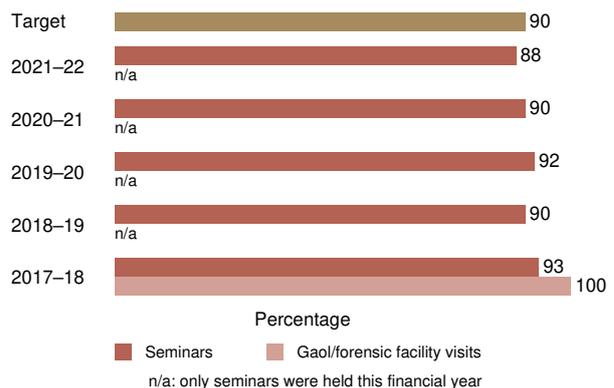


Figure 7. Satisfaction with magistrates workshops 2017–22

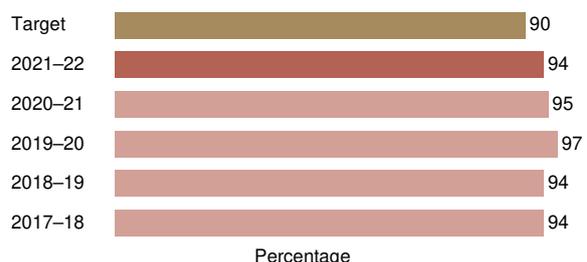
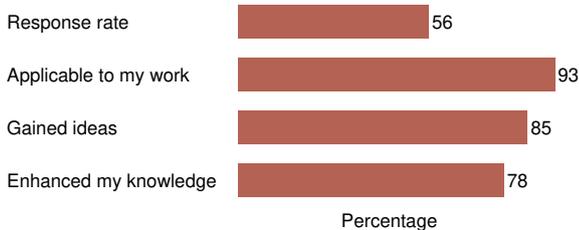




Figure 8 shows that the majority of magistrates who provided feedback were satisfied with the professional and practical benefits of these sessions with 93% finding the workshop was applicable to their work (last year: 93%) and 78% finding the session enhanced their knowledge and capability (last year: 91%).

Figure 8. Rating of professional and practical benefits of 2021–22 workshops



We do not set quantitative targets for these ratings.

### Online offerings

Throughout 2021–22 we continued to offer programs online and by webinar. Historically, judicial officers in regional and metropolitan areas have benefited the most from programs delivered online. However, the value of this medium for delivering education was highlighted throughout the reporting period when the COVID-19 pandemic necessitated the cancellation of most in-person events.

In addition, judicial officers who are unable to participate in live education sessions can catch up with videos of select sessions available on the Judicial Information Research System (JIRS) (see p 39 for information about JIRS). During the past year we published 9 videos and podcasts (last year: 17) on a range of topics including the compellability of family members under section 18 of the *Evidence Act* 1995 and legislative changes to mental health and cognitive impairment.

We also maintain 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 63 new papers and presentations on this database.

We continue to offer interactive learning applications to Apple™ and Google 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 new judicial officers

During the year, we provided 23 judicial orientation packages (last year: 13), access to JIRS and computer support (if required) for new judicial officers.

In partnership with the Local Court, we provided 6 pre-bench sessions (last year: 5) and a week-long orientation program to assist new magistrates in their transition to judicial office. The program had a focus on knowledge and fundamental judicial skills about court craft, decision making, sentencing, judicial administration and judicial conduct. All attendees

reported that the program had enhanced their knowledge and capability and as a result, expected to make changes to the way they work.

The Commission also held 1 pre-bench session for newly appointed District Court judges (last year: 4, due to the high number of appointments that year), providing an opportunity for them to benefit from the knowledge and experience of senior judges.

We again delivered training sessions on JIRS to Supreme Court tipstaves to assist them with providing research support to judges. Mr Mark Zaki, Managing Lawyer, Research and Sentencing, continues to deliver these training sessions via webinar. JIRS logins are also issued to tipstaves to assist them with supporting judges.

The National Judicial Orientation Program (NJOP), conducted with our national partners, is a week-long induction and orientation program for newly-appointed judges. The NJOP addresses the significant requirements of the judicial role as well as the personal implications of becoming a judicial officer and standards of behaviour required. Due to restrictions, all in person programs were cancelled in the second half of 2021, however an orientation program was eventually held in April 2022. The Judicial Commission assisted the National Judicial College of Australia to present this program.

### High satisfaction with Ngarra Yura Program

Participation in our First Nations cultural competency program remains steady and satisfaction is high. Participants who provided feedback were 89% satisfied (last year: 93%) as shown in Figure 9. The Ngarra Yura Program is offered to raise judicial awareness about First Nations history and culture, First Nations interactions with the criminal justice system, and to provide an opportunity for judicial officers to meet and exchange ideas with First Nations people.

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

Throughout 2021–22 we continued to implement our strategic plan for the Ngarra Yura program. Due to restrictions imposed by the pandemic, we were unable to hold many programs in-person, but we proceeded to offer a range of webinars on significant topics. Additionally, we worked to increase the level of interaction between judiciary and community by expanding our level of engagement with external organisations. For example, in October 2021, along with the NSW Department of Communities and



Justice, we signed an Accord with the NSW Coalition of Aboriginal Regional Alliances (NCARA). The key objective is to reduce the number of Aboriginal young people coming into contact with the justice system.

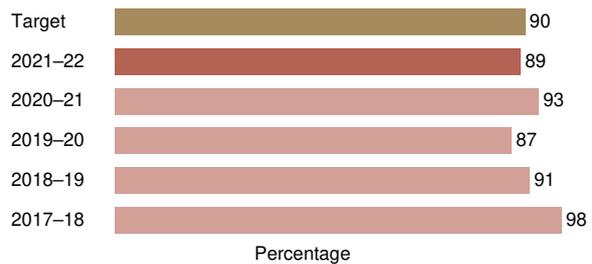
During the year, we hosted a First Nations Speaker Series and a seminar series with guest speakers as part of our regular joint program with the NSW Bar Association and the Law Society of NSW. In March 2022, we hosted “A Story of Resistance: Fred Maynard and the Australian Aboriginal Progressive Association” and in May we hosted “Wellbeing Toolkit: Dadirri a culturally sensitive practice for recovering from trauma”.

A visit to the Dharawal community of La Perouse, which was cancelled the previous year due to COVID-19 concerns, was held in May 2022. The visit provided judicial officers with a greater understanding of contemporary First Nations society, customs and traditions, and of the challenges First Nations people face in the legal system. See case study below.

More information about the program is found on our public website and committee membership is listed in Appendix 4.

Of the judicial officers who attended the community visit and webinars held throughout the year and provided feedback, 85% found that the sessions enhanced their knowledge and capability and 87.5% found they provided opportunities for reflection on cultural values, beliefs and attitudes and how they impact on interaction with First Nations cultures.

Figure 9. Satisfaction with Ngarra Yura Program 2017–22



## Case study

### Judicial visit to Dharawal community at La Perouse

The Ngarra Yura Program organised a visit to the Dharawal community of La Perouse in May, 2022. Mr Ray Ingrey, Chairperson of Gujaga and CEO of the La Perouse Local Aboriginal Land Council, hosted the visit which focused on the importance of culture and family to Aboriginal communities and cultural communication. The key insight for the visitors is that Aboriginal communities will not function to their fullest potential if culture and Country are not healthy. The group was joined by Elders and representatives of local Aboriginal organisations and members of the La Perouse Aboriginal Community Alliance.



The judicial visitors learned about the importance of culture and family to Aboriginal communities. Pictured are the Chair of the Ngarra Yura Committee, the Honourable Justice Dina Yehia (centre) with the Honourable Justice Natalie Adams, Supreme Court (l) and the Honourable Justice Julia Lonergan, Supreme Court (r).

Aboriginal people have inhabited the La Perouse area for millennia. When the First Fleet arrived at Botany Bay in 1788, it has been estimated that around 1,500 Aboriginal people lived between Broken Bay and Botany Bay. Many descendants of the families continue to live within the La Perouse Aboriginal community where they maintain their cultural connection to the coastal Sydney region. The La Perouse Aboriginal Community is the longest functioning and only discrete Aboriginal community in Sydney.

Participants heard first from Mr Chris Ingrey, who spoke about the work of the La Perouse Aboriginal Community Alliance, an impressive initiative connecting Aboriginal community-controlled organisations that provide services to the community. The success of this model was borne out by presentations by Uncle Lloyd Walker, Ms Carrine Liddell and Ms Sally Walker who explained how the community is addressing access to a range of core functions including education, housing, child care and even burial rights. In addition to the types of services provided, the group heard about future plans for the La Perouse community and the significant work to preserve the local language. Two short workshops were then offered, one on weaving and the other on language. In the words of one judicial officer, “we left feeling inspired and positive for the future”.

The Ngarra Yura Committee organises a regular program of visits to Aboriginal communities in NSW to provide judicial officers with a greater understanding of contemporary Aboriginal society, customs and traditions, and of the challenges Aboriginal people face in the legal system. The visits also enable community members to meet judicial officers outside the courtroom and learn about the judicial role.



## 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 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.

The national benchmarking standard is 5 days a year. The Council of Chief Justices of Australia and New Zealand and national and State judicial education bodies have adopted the standard. In addition to attending our programs, judicial officers can also meet this standard by attending other continuing judicial education providers' programs or by self-directed professional development.

As the restrictions imposed by COVID-19 continued throughout 2021, suspension of our in-person program offerings continued. However, we increased our online offerings and consequently we offered 4.1 days of education for each judicial officer compared with 3.7 days last year. The overall average attendance rate of 3.7 judicial education days a year (last year: 3.3 days) is also reflective of this.

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.

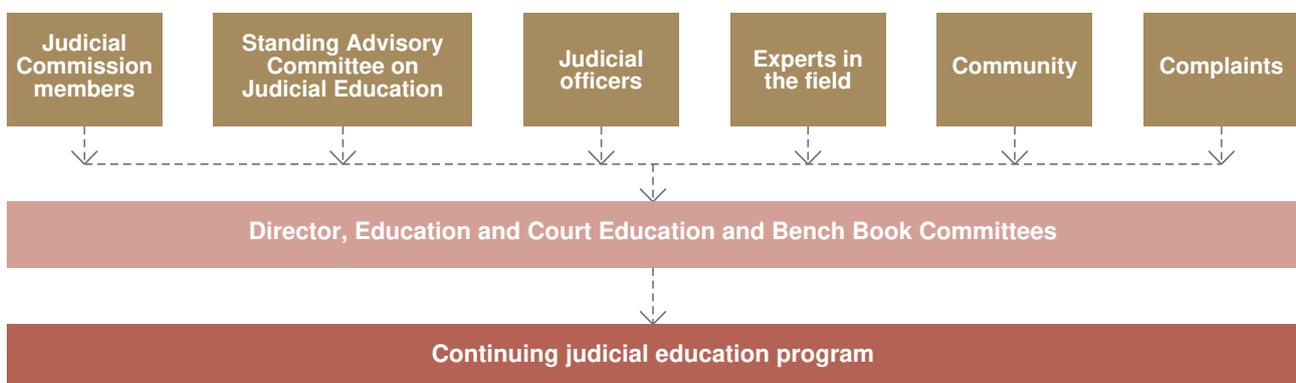
Services delivered during the year include:

- induction and orientation sessions for new judicial officers
- annual conferences for three NSW courts
- skills-based workshops
- seminars
- webinars
- field trips
- distance education including videos and live web streaming
- First Nations cultural competency sessions and community visits (the Ngarra 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 regular e-newsletter advising judicial officers about upcoming seminars, conferences, and recent conference and seminar 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 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.

Figure 10. Delivering continuing judicial education design process





## Case study

### Ngara Yura Program and Francis Forbes Society webinar: making the past visible: the legacies of the protectionist legislation

First Nations children are vastly overrepresented in NSW State-care and to a large degree, the causes for this lie in the enduring legacy of protectionist era policies and laws.

The legacy is visible on both a societal and cultural level as well as from a legal perspective. Generations of Aboriginal families have been impacted by protectionist legislation, namely the *Aborigines Protection Act 1909*, enabling the forcible removal of Aboriginal children from their families, which was only repealed in 1969.

In November 2021, the Ngara Yura Committee, together with the Francis Forbes Society for Australian Legal History, held a jointly hosted webinar: “Making the Past Visible: The Legacies of the Protectionist Legislation”.

This program involved a conversation with Kinchela Boys Home survivors and Mr Richard Weston, inaugural Deputy Children’s Guardian for Aboriginal Children and Young People in NSW, on the continuing impact of past policies, truth telling and current government reforms that aim to address the stark over-representation of Indigenous children in State care.

Participants then viewed a moving animated film “The Kinchela Boys” made by the Kinchela Boys Home Aboriginal Corporation. Then followed a conversation between Kinchela Boys Home (KBH) survivor Uncle Michael “Widdy” Welsh and co-host of the webinar, the Honourable Justice James Allsop AO. Uncle Widdy stressed the importance of truth telling, being able to tell his story of being forcibly removed from his family at the age of eight and sent to the notorious “home” which has resulted in ongoing trauma for him and his fellow survivors and their families.

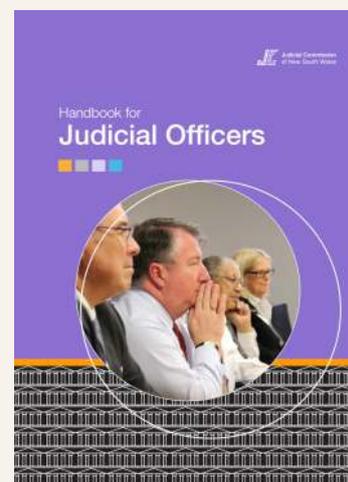
## Case study

### Our new Handbook for Judicial Officers has won an international award

The *Handbook for Judicial Officers* is an online resource tailored for both new and experienced judicial officers as they navigate the complex task of judging. The *Handbook* contains articles curated from a broad selection of judicial speeches and recent papers published in two of the Commission’s stable, *The Judicial Review* and the *Judicial Officers’ Bulletin*, as well as articles by legal academics. The *Handbook* provides guidance on all aspects of the judicial role.

The *Handbook* has won international recognition with the Association for Continuing Legal Education (ACLEA) presenting an Award of Professional Excellence to the Judicial Commission for the Handbook in the “Best Publication” category.

The award is one of only 10 annual awards granted to competitors representing more than 300 organisations. No Australian organisation has won this award previously.



# 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.**

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## 2.1 Performance results 2021–22

An assessment of the results shown in Table 2 demonstrates that our legal information program performed well in 2021–22. 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	125,000 page hits each month JIRS available 99% of the time
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 below, 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  <i>Note 1:</i> It is not possible to determine a target for <i>Recent Law</i> items, summaries and bench book updates as these are responsive to outcomes delivered by the courts or by Parliament as a result of government reform. As external variables, they are outside the Commission's control.
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 was communicated	Publish information and update our online and loose-leaf services to advise judicial officers about sentencing and sentencing law reform  Maintain/increase publication of <i>Sentencing Trends &amp; Issues</i> , <i>Sentencing Snapshots</i> and research papers  Provide information in response to requests for specific sentencing issues	As required, see Note 1 above  As required, see Note 2 below  As required, see Note 1 above  <i>Note 2:</i> Publication of <i>Sentencing Trends &amp; Issues</i> , <i>Sentencing Snapshots</i> and research papers, 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.
Judicial officers were informed about sentencing options and rehabilitation facilities for offenders	Maintain current information about service providers in Diversionary Programs database on JIRS	As required
JIRS was improved to meet judicial officers' needs	Maintain/increase number of improvements to JIRS	5 enhancements



Performance	Status	Challenges 2021-22
112,609 average hits each month: see p 41	↓	<p><b>Challenges 2021-22</b></p> <ul style="list-style-type: none"> <li>● Managing the continuing impact of the COVID-19 pandemic which affected the rate and volume at which legal information was produced by courts and legislature.</li> <li>● Maintaining the use of JIRS at levels consistent with that of previous years.</li> <li>● Managing the significant work associated with the sexual consent reforms and the <i>Sentencing Trends &amp; Issues 48: Sentencing for domestic violence in the Local Court</i>, together with keeping judicial officers informed about legislation and case law, while under resourcing pressures.</li> </ul> <p>Legal information expenditure: \$2.5 million as at 30 June 2022 (38.2% of overall expenditure).</p> <p><b>Looking ahead 2022-23</b></p> <ul style="list-style-type: none"> <li>● Continue the systematic review of the <i>Sentencing Bench Book</i> and <i>Criminal Trial Courts Bench Book</i> to improve information for currency and accessibility, given increased complexity of criminal law.</li> <li>● Planning for the commencement of the new coercive control reforms currently released as an exposure draft Bill which will include significant amendments to the <i>Criminal Trial Courts Bench Book</i>, <i>Sentencing Bench Book</i>; and <i>Local Court Bench Book</i> drafting an article in the <i>Judicial Officers' Bulletin</i>, and further large-scale education programs about these reforms.</li> <li>● Commence work on a further <i>Sentencing Trends &amp; Issues</i> publication to build on our previous work analysing caselaw, sentencing patterns and statistics.</li> <li>● Continue to collaborate across teams within the organisation to improve the presentation of legal information on JIRS, including sentencing statistics.</li> <li>● Continue to engage with judicial officers to ensure JIRS meets their needs and to liaise with the legal profession to keep them informed of developments in the presentation of the sentencing statistics and other information on JIRS.</li> </ul>
JIRS was available 99% of the time	✓	
Updating demonstrated by: <ul style="list-style-type: none"> <li>• 223 <i>Recent Law</i> items posted on JIRS throughout the year</li> <li>• 174 summaries of select appeal decisions published on JIRS</li> <li>• <i>Recent Law</i> flyer sent monthly to judicial officers</li> <li>• 2 updates published to the <i>Criminal Trial Courts Bench Book</i></li> <li>• 2 updates published to the <i>Sentencing Bench Book</i></li> <li>• 3 updates published to the <i>Local Court Bench Book</i></li> </ul>	✓	
Revised commentary in bench books linked to new cases and legislation	✓	
<b>HIGHLIGHT</b> We prepared judicial officers for the commencement of the sexual consent legislative reforms with information published on JIRS, an article in the <i>Judicial Officers' Bulletin</i> , and detailed updates to the Bench Books: see p 38		
Sentencing data received, audited and loaded on JIRS generally within 1-4 months of receipt, two exceptions within 5 and 8 months due to a new data collection system and issues overlaying BOCSAR data over corrected data: see p 41	↓	
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 174 summaries of significant appeal decisions on JIRS and 55 in the <i>Judicial Officers' Bulletin</i> : see p 40	✓	
<b>HIGHLIGHT</b> We produced <i>Sentencing Trends &amp; Issues 48: Sentencing for domestic violence in the Local Court</i> , an important resource for judicial officers and others: see p 46		
We communicated information about specific criminal and sentencing law, for example, by: <ul style="list-style-type: none"> <li>• updating commentary, publishing <i>Recent Law</i> summaries and <i>Judicial Officers' Bulletin</i> articles, and conducting programs about the sexual consent reforms: see case study on p 43</li> <li>• updating commentary and suggested jury directions in <i>Criminal Trial Courts Bench Book</i> to address reforms to sexual consent law: see case study on p 43</li> </ul>	✓	
2 <i>Sentencing Snapshots</i> published: see p 44	✓	
Responded to 38 research requests: see p 43	✓	
<b>HIGHLIGHT</b> We provided assistance to the interagency Committee of lawyers and mental health professionals in preparation of the <i>Practitioners Guide for Mental Health</i> published in February 2022: see p 61		
Updated General Resources and information regarding Diversionary Programs on JIRS	✓	
8 major enhancements were made to JIRS to respond to feedback: see p 44	↑	

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



## 2.2 Listening to feedback

### Our programs and publications are regarded as relevant, informative and helpful.

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 responses received about our Judicial Information Research System (JIRS) and other resources during the year:

"The [*Civil Trials*] Bench Book is a very valuable resource, and I applaud the work that the Commission does."

Magistrate's feedback, August 2021

"Just wanted to let you know that I thought the latest *Bulletin* you sent out was a cracker. Well done!"

Feedback on *Judicial Officers' Bulletin*, August 2021

"Firstly, congratulations on a fantastic resource that I use daily. It is my portal to just about everything."

Judge's feedback on JIRS, October 2021

"The *Sexual Assault Trials Bench Book* and *Equality before the Law Bench Book* are of great significance. The *Assault* handbook is a comprehensive guide and does not only contain intricacies of legal framework but also has a substantial section dedicated to non-legal literature to educate judicial officers regarding the societal context of sexual assault. ... [E]mphasis on continuing legal education and development of practical judicial skills in Australia ... is an admirable model for learning."

From *Judicial Misogyny* by A Rawat and D Chaudhary published in (2021) 18 GNLU Law Review

"The range of materials and help from the Judicial Commission and JIRS is fantastic."

Magistrate's feedback on *Research Resources Refresher* session at the Local Court of NSW Metropolitan Series 1, February 2022

"It's all about accessibility when we need it. I'd only skimmed the JIRS surface but now I recognise that there are amazing resources available."

Magistrate's feedback on *Research Resources Refresher* session at the Local Court of NSW Metropolitan Series 1, February 2022

"I rely on the JIRS Bench Books and other resources every minute of every working day — such wonderful, practical, up to date and extensive resources!"

Newly appointed magistrate's feedback, March 2022

"There is no doubt that JIRS (and the range of other electronic facilities available for Judges in this State) constitute the benchmark in Australia. I would not have been able to perform my duties as a Judge effectively without access to these invaluable resources."

Retiring judicial officer's feedback, June 2022

The Judicial Commission's sentencing statistics "... can be helpful when the decisions behind the statistics are identified." Following an examination of the sentencing statistics on JIRS, an appeal to the Court of Criminal Appeal was upheld and the applicant was re-sentenced

N Adams J (with Brereton JA agreeing) in *Davidson v R* [2022] NSWCCA 153 at [287]–[288]

## 2.3 Key focus and challenge for the year

The COVID-19 pandemic and its impacts continued to be a key focus and challenge in this reporting period for the Commission. We continued to provide the following legal information specifically in relation to the pandemic:

- *Recent Law* items for cases addressing impacts of the COVID-19 pandemic on court processes and the administration of justice

- a separate section on the Judicial Information Research System (JIRS) where all pandemic-related material was available for ready access
- a new section for the *Sentencing Bench Book* addressing sentencing issues which continue to arise as a result of the pandemic.

An ongoing challenge concerned implementing our program to substantially review and rewrite content in the *Sentencing Bench Book*. An existing senior

research officer position was filled in February 2022 which assisted in continuing this project. A project of this kind is resource intensive as it requires careful consideration of how particular legal issues have developed and changed over time and the associated rewriting that results. Resourcing continued to be a challenge because this substantial project was being completed while other large projects (consent reforms and domestic violence study) and the day-to-day work continued. Notwithstanding the resourcing impacts, we rewrote a number of chapters of the Book including those related to: assistance to authorities, murder, forms 1, aggravating and mitigating factors, and fraud (the significant updates to the latter two chapters are due for publication in late August 2022).

Another major focus was preparing judicial officers for the introduction of the new *Crimes Legislation Amendment (Sexual Consent Reforms) Act 2021* which substantially reformed the definitions of consent, and provided directions to be given to juries regarding misconceptions about consent, for particular sexual offences: see case study on p 43. This multi-faceted

task required significant resourcing. A further update to the *Criminal Trial Courts Bench Book* regarding the consent reforms is planned for the next reporting period.

The preparation of the *Sentencing Trends & Issues 48: Sentencing for domestic violence in the Local Court*, which will be published in July 2022, was another main focus in the reporting period: see case study on p 61, as was the assistance provided in preparation of the interagency *Practitioners Guide for Mental Health* published in February 2022.

We also delivered multiple presentations including:

- JIRS training for Supreme Court tipstaves in March and June 2022 (3 sessions)
- multiple personalised presentations to new judges of the Supreme Court and District Court regarding the use of JIRS (8 sessions), and
- multiple personalised presentations to new magistrates of the Local Court regarding the use of JIRS (8 sessions).

## 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 by:

- 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
- providing 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 of a criminal offence, it must follow settled principles and apply those principles consistently. 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 other 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
- the majority of 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 the online and loose-leaf bench books that assist judicial officers to conduct trials and sentencing proceedings. 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.

### Review of our legal information program for 2021–22

We published 45 publications (last year: 56) as well as standalone *Recent Law* items and case summaries on JIRS. We published:

- 21 updates to the bench books and handbooks (last year: 25), including significant updates on reforms to sexual consent legislation and sentencing trends for domestic violence in the Local Court: see case studies on pp 43, 46
- 223 *Recent Law* items on JIRS to explain important cases and legislation
- 174 summaries of significant sentence appeal decisions on JIRS, 55 of which also appeared in the *Judicial Officers' Bulletin*

- 11 issues of the *Judicial Officers' Bulletin*. This is published monthly to inform judicial officers of important developments to case law and legislation and current legal issues
- 1 *Recent Law* flyer (comprised of 11 issues)
- 1 issue of *The Judicial Review*, a peer-reviewed journal bringing together articles and papers to inform readers of technical and topical matters, court craft, and social context issues
- 2 *Sentencing Snapshots: Common Offences in the Local Court* and *Common Offences in the District and Supreme Courts*.

We launched the *Handbook for Judicial Officers* in October 2021. The *Handbook* contains a collection of articles curated from a broad range of judicial speeches and recent papers published in *The Judicial Review* and the *Judicial Officers' Bulletin*, as well as articles by legal academics. While principally directed to new judicial officers, the *Handbook* provides guidance to all judicial officers on all aspects of the judicial role. The *Handbook* was selected for an **Award of Professional Excellence** in 2022 in the category of "Best Publications" from the Association for Continuing Legal Education's 2022 "Best Awards".

We also published 9 videos on JIRS:

- 3 on First Nations' issues
- 2 on climate and environmental issues
- 1 on grant of conditional approval
- 1 on *Mental Health and Cognitive Impairment Forensic Provisions Act 2020*
- 1 on compellability of family members (section 18 *Evidence Act 1995*), and
- 1 on maximising the law courts resources.

More details of these publications are found in Appendix 8.

### Delivering information through JIRS

Figure 12 on p 42 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.

### 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. Developments in case law, legislation and government policy are monitored on a daily basis. These require analysis and assessment by our experienced legal staff before

being added to our database and publications. To ensure the integrity of our statistics, we conduct targeted audits of higher courts' sentencing data received from BOCSAR.

### Use of JIRS declined due to the pandemic

The use of JIRS remained affected by the COVID-19 pandemic. Over the year the number of page hits was down by 8.7% (last year: 6.4% decrease). This may possibly be attributed to pandemic-related delays in hearings and the ensuing backlog of cases. 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, using this as part of the basis of our JIRS enhancement program.

Judicial officers and their support staff in the Supreme, District and Local Courts accounted for 42.9% of the use of JIRS in 2021–22. Magistrates on their own accounted for 27.4%. Despite the impact of the pandemic on overall use of JIRS, usage actually increased significantly for District Court judges and their associates by 13.9% during 2021–22.

In a similar vein, the 15.6% decrease in the use of JIRS by Government agencies (including the Office of the Director of Public Prosecutions, the Public Defenders, and Legal Aid NSW, as well as the Aboriginal Legal Service) may be a result of government agency staff still being required to work from home and needing individual JIRS accounts, rather than having access to a single corporate account where staff are automatically logged into JIRS when they access it. A number of lawyers at government agencies requested their own accounts — an indication of the importance of JIRS to government lawyers as they prepare submissions for court. However, on returning to the office, some staff may have continued with their working from home practices using other resources, including the Commission's public website where there is no need for a login. The 23.9% decrease in the use of JIRS by

professional associations may also reflect the need for users to stay at home rather than being able to conduct research in libraries.

Table 3 shows the overall trends, how the use of JIRS is split and the change in use over a 5-year period. In addition to reporting on JIRS usage, we have included usage of some of our key legal information components on JIRS in Table 4 on p 42. This table shows that while the key components continue to prove popular, their usage has declined over the last year, which we attribute to the slowdown in court activities due to COVID-19. See also Figure 11.

All published judgments from NSW courts and the High Court are automatically loaded onto JIRS on receipt. We generally met our target (of within 1–4 months) to load sentencing statistics on JIRS for all courts. The two exceptions to this during the reporting period (within 5 and 8 months) were due to the implementation of a new data collection system and associated issues overlaying the BOCSAR data over our corrected data. 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.

Figure 11. Number of JIRS pages accessed 2017–22

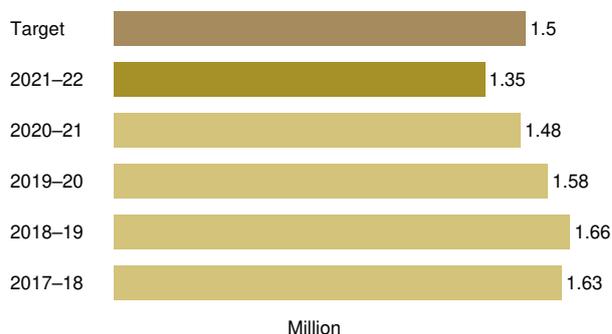


Table 3. Overall JIRS use 2017–22 (hits per year)

Users	2017–18 hits	JIRS %	2018–19 hits	JIRS %	2019–20 hits	JIRS %	2020–21 hits	JIRS %	2021–22 hits	JIRS %	Change %
Supreme Court	28,090	1.7	24,181	1.5	25,002	1.6	23,816	1.6	20,619	1.5	-13.4 ↓
District Court	151,650	9.3	175,292	10.5	184,477	11.7	164,156	11.1	187,045	13.8	-13.9 ↑
Local Court	440,373	26.9	402,682	24.2	362,074	22.9	425,291	28.7	370,859	27.4	-12.8 ↓
Land and Environment Court	1,512	0.1	232	0.0	1,100	0.1	331	0.0	555	0.0	67.7 ↑
Government agencies*	672,548	41.1	701,745	42.2	630,785	39.9	524,632	35.4	442,626	32.8	-15.6 ↓
Professional associations†	36,122	2.2	33,753	2.0	27,243	1.7	18,285	1.2	14,068	1.0	-23.1 ↓
Other subscribers‡	308,019	18.8	324,376	19.5	351,097	22.2	323,886	21.9	315,537	23.4	-2.6 ↓
<b>Total</b>	<b>1,638,327</b>	<b>100.0</b>	<b>1,662,376</b>	<b>100.0</b>	<b>1,581,806</b>	<b>100.0</b>	<b>1,480,397</b>	<b>100.0</b>	<b>1,351,309</b>	<b>100.0</b>	<b>-8.7 ↓</b>

\* Includes staff of the NSW and Cth DPP, Department of Communities and Justice, 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.



Figure 12. The Judicial Information Research System (JIRS): a complete judicial decision support system

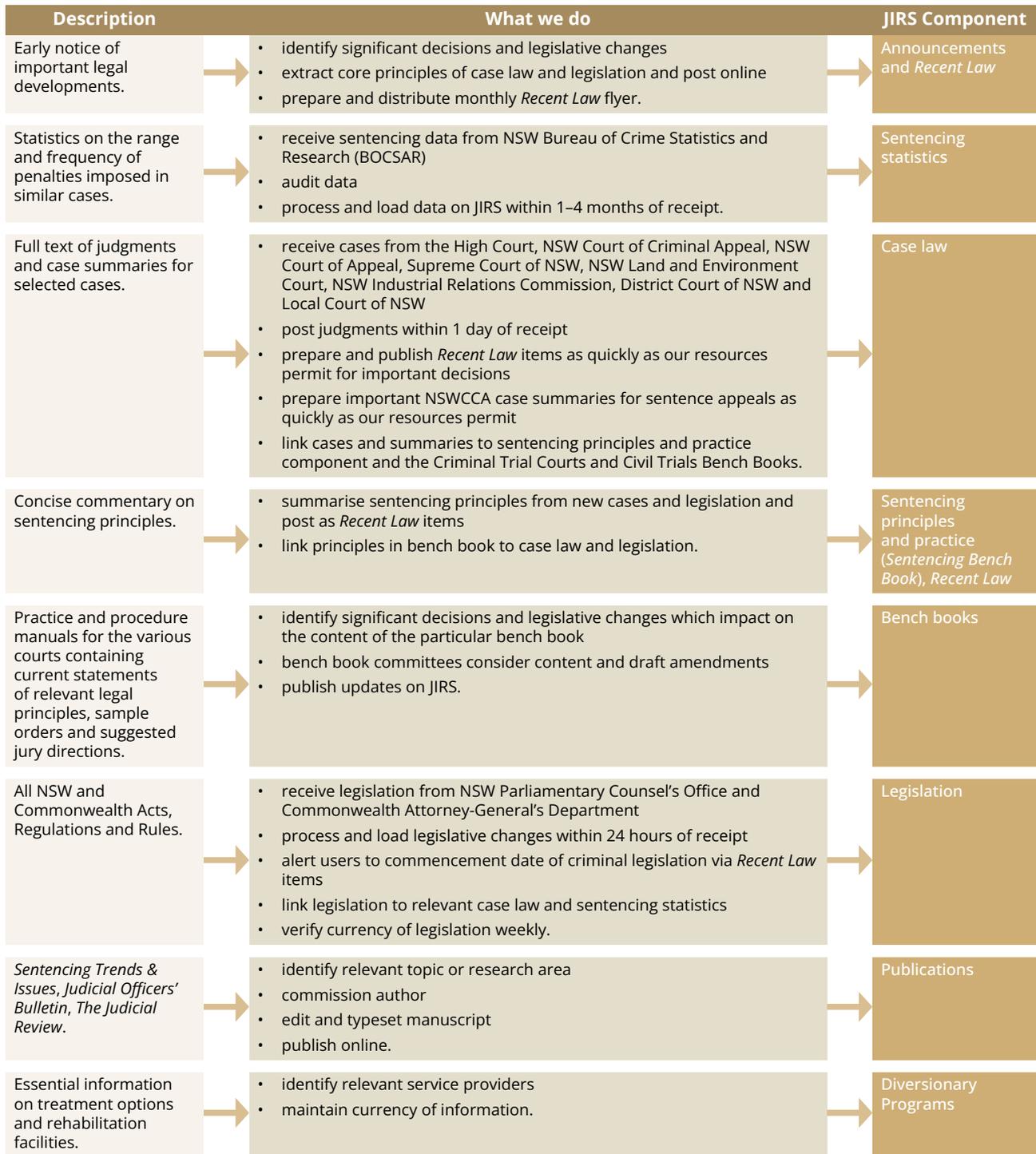


Table 4. Key legal information component usage on JIRS 2017–22 (hits per year)

JIRS component	2017–18	2018–19	2019–20	2020–21	2021–22	Change %
Sentencing statistics	175,110	195,666	196,262	177,464	157,528	-11.2 ↓
Recent law articles	65,416	69,729	73,354	65,817	59,971	-8.9 ↓
Summaries of judgments	14,535	17,908	13,976	6,019	4,599	-23.6 ↓



## 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 38 research requests

(last year: 41) and gave multiple presentations about our research program at conferences, seminars, and to individual judicial officers upon request, which the judicial and legal community responded to favourably.

Information about these presentations is found in Appendix 15.

## Case study

### Informing judicial officers about reforms to the law of consent

The NSW Law Reform Commission (NSWLRC) conducted a review of the law of consent in sexual assault law and made recommendations in its *Report 148: Consent in relation to sexual offences*, September 2020. The recommendations were followed by the *Crimes Legislation Amendment (Sexual Consent Reforms) Act 2021*, which commenced 1 June 2022. The amending Act made significant changes to the *Crimes Act 1900*, amending the definition of consent and the circumstances in which knowledge of the absence of consent is demonstrated, and to the *Criminal Procedure Act 1986* by inserting new jury directions concerning misconceptions about consent.

To prepare for the implementation of these significant reforms, the Judicial Commission worked with the NSW Department of Communities and Justice to ensure we had sufficient time to prepare and inform judicial officers before the reforms commenced. We published information about the reforms in our monthly publication, the *Judicial Officers' Bulletin* and on the Judicial Information Research System (JIRS) database in advance. This included two detailed Recent Law legislation items summarising the amendments and an article written by Pierrette Mizzi, Director, Research and Sentencing, and the Honourable Justice Robert Beech-Jones titled "The law on consent in sexual assault is changing" in the *Judicial Officers' Bulletin*, published in February 2022.

The process of educating judicial officers about the reforms required a multi-pronged approach. Commission staff from our Research and Education teams worked collaboratively, saving resources and optimising efficiency and impact. We developed educational events concerning the reforms to support judicial officers including a session for the District Court Annual Conference "New Consent Laws" with the Honourable Justice Helen Wilson and a similar session for the Local Court Annual Conference presented by the Honourable Justice Beech-Jones. In the next 12 months, further training will be conducted with judicial officers across all jurisdictions to ensure a holistic understanding of these reforms.

We also updated our resources, including the *Criminal Trial Courts Bench Book* and *Sexual Assault Trials Handbook* so they contained material addressing the new law.

The Commission's *Criminal Trial Courts Bench Book* contains a number of suggested jury directions for criminal trials. Given the complexity and significance of the reform to the law, the commentary and directions in the Book were drafted and revised by our Director, Research and Sentencing, in consultation with the judicial officers who serve on the *Criminal Trial Courts Bench Book* Committee. Existing case law needed to be assessed in light of the new legislative provisions. The collaboration between Committee members combines their extensive expertise and ensures the material in our publications is legally accurate and easy to comprehend. The commentary and suggested directions in the *Criminal Trial Courts Bench Book* benefits significantly from the practical experience of the Committee members, who regularly conduct criminal trials, and from their thorough understanding of the operation of the law. The insights and contributions of the Bench Book Committee are highly valued and we appreciate that the work done by Committee members in assisting us with bench books is additional to their day-to-day duties as judicial officers.

"Great overview and in-depth discussion on consent law changes."

Magistrate's feedback, Local Court  
Southern Regional Conference, March 2022



## Improving JIRS during the year

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

- the Bail page on JIRS was revised and reissued to better present the latest resources, cases and material in respect of bail
- the ability to download suggested directions in the *Criminal Trial Courts Bench Book* on JIRS to editable Microsoft Word documents to facilitate the process of drafting trial directions for juries
- a noter-up function has been added to JIRS for the *Sentencing Bench Book*, *Criminal Trials Court Bench Book* and *Local Court Bench Book*. The bench books now have a “recent developments” button to alert judicial officers and other users to recent cases and legislation that may impact on the text in the Bench Book
- a step-by-step guide to better utilise the “My JIRS Notes” function (only available to judicial officers) was created and placed on JIRS with an accompanying announcement
- two new computer-generated publications, *Sentencing Snapshots: Common Offences in the District and Supreme Courts* and *Sentencing Snapshots: Common Offences in the Local Court*, illustrating sentencing patterns, was produced from our sentencing statistics. A further publication, *Sentencing Snapshot: Domestic Violence Offences in the Local Court* was revised and updated
- a new “My Account” page has been added to JIRS allowing users to change their password, see their account information and track recent login activity

- the Judicial Wellbeing portal was added to JIRS, which includes both mental and physical wellbeing information to assist judicial officers maintain and sustain a healthy judicial life, and
- improvements to assist in searching for program materials, judgments, legislation and legal phrases were made.

## Looking ahead

- We will review how particular content on JIRS is presented in consultation with key stakeholders. A new Drug Court of NSW page will be published this year as part of that review. The Magistrates’ Resources and General Resources pages on JIRS will be reviewed and updated.
- Further review of the Bail Resources page is required as a result of changes to the *Bail Act 2013* and associated decisions of the Court of Criminal Appeal and Supreme Court.
- The presentation of Sentencing Statistics on JIRS will continue to be enhanced, including the Land and Environment Court of NSW sentencing statistics, where additional information regarding the cases making up the statistics will be provided.
- We continue to consider more efficient means of presenting the content of our bench books to improve accessibility to legal information in an online environment.

## Interactive learning resource app on JIRS

We have developed an interactive mobile/tablet learning app based on gaming technology. 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.

Table 5. Use of our publications on JIRS 2017–22 (hits per year)

Publication	2017–18	2018–19	2019–20	2020–21	2021–22	Change %
Local Court Bench Book	45,810	45,810	47,053	46,916	39,022	-16.8 ↓
Criminal Trial Courts Bench Book	44,976	48,752	42,160	46,086	37,435	-18.8 ↓
Sentencing Bench Book	38,568	45,514	42,145	33,558	28,371	-15.5 ↓
Civil Trials Bench Book	3,329	3,279	3,263	3,607	2,832	-21.5 ↓
Judicial Officers’ Bulletin	2,149	2,511	2,087	2,462	2,735	+11.1 ↑
Sexual Assault Trials Handbook	2,548	3,525	2,689	3,121	2,598	-16.8 ↓
Children’s Court of NSW Resource Handbook	1,398	1,491	1,351	1,411	1,527	+8.2 ↑
Handbook for Judicial Officers*					1,081	
Equality before the Law Bench Book	373	529	527	447	425	-4.9 ↓
The Judicial Review†	409	182	206	261	152	-41.8 ↓
<b>Total</b>	<b>139,560</b>	<b>154,724</b>	<b>141,481</b>	<b>137,869</b>	<b>116,247</b>	<b>-15.7 ↓</b>

\* First published October 2021.

† Only available to judicial officers and Office of the Director of Public Prosecutions (NSW).

Table 6. PDF downloads of publications from JIRS, public website and JIRS Resources app 2017–22 (hits per year)\*

Publication	2017–18	2018–19	2019–20 <sup>†</sup>	2020–21	2021–22	Change %
Research monographs <sup>‡</sup>	12,613	14,657	27,814	26,969	21,683	-19.6 ↓
Criminal Trial Courts Bench Book	7,370	8,228	8,420	6,123	6,012	-1.8 ↓
Sexual Assault Trials Handbook	8,693	8,351	7,362	6,053	4,772	-21.2 ↓
Sentencing Trends & Issues <sup>‡</sup>	4,433	5,115	5,271	5,862	4,488	-23.4 ↓
Civil Trials Bench Book	9,361	10,893	10,630	6,234	4,417	-29.1 ↓
Sentencing Bench Book	5,621	5,789	4,668	3,474	3,407	-1.9 ↓
Local Court Bench Book	3,354	2,827	3,610	2,901	3,070	+5.8 ↑
Equality before the Law Bench Book	2,079	2,504	3,105	1,861	2,762	+48.4 ↑
Children's Court of NSW Resource Handbook	286	374	2,702	1,892	1,615	-14.6 ↓
Handbook for Judicial Officers <sup>§</sup>					1,411	
<b>Total</b>	<b>53,810</b>	<b>58,738</b>	<b>73,582</b>	<b>61,369</b>	<b>52,226</b>	<b>-14.9 ↓</b>

\* **Important note:** in late December 2018 the Commission's website was relocated to a remote host on the Internet. This move resulted in our usage data for six months of 2018–19 and the first month of 2019–20 being incomplete. The usage of JIRS and the JIRS app were not affected by this change, only the usage of the Commission's website ([www.judcom.nsw.gov.au](http://www.judcom.nsw.gov.au)). As a consequence, we have estimated the usage of the Commission's website resources for the financial years 2018–19 and 2019–20 on a pro rata basis using the data available.

† Correction to totals from 2019–20 report: counting methods changed for Research monographs to include monographs 1–19 from the Commission's website, which were not available on JIRS, and for *Children's Court of NSW Resource Handbook* to include downloads from the Commission's website.

‡ Not available via JIRS Resources app.

§ First published October 2021.

## Use of our publications on JIRS continues at a high level

With the impact of COVID-19 on court hearings, the total number of pages of our publications viewed on JIRS has decreased 15.7% from 2020–21, with some publications increasing in use while others decreased or stayed the same, as is shown in Table 5 on p 44. There has also been a decrease in PDF downloads of our publications as shown in Table 6 above.

## 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 Apple<sup>™</sup> and Google Android<sup>™</sup> devices. Table 6 shows PDF downloads have generally decreased for our publications. *Sentencing Trends & Issues* increased on account of the release of *Navigating the Bail Act 2013* in June 2020.

The impact of our online publications is measured by:

- JIRS use (judicial officers and the legal profession) (see Table 5 on p 44)
- Informit viewings (academic use)
- website use (public viewing) (see Table 6 above and Table 7 on p 46).

## 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 89.7% in total viewings from the previous year (last year: 12.9% increase). The most popular articles accessed concerned First Nations issues, *Civil Procedure Act 2005* and Uniform Civil Procedure Rules 2005, access to justice, and artificial intelligence. The dramatic increase in total viewings indicates a growing interest in the broader community in the range of practical and topical articles in these publications, and also reflects a growing global trend towards conducting research online.

## Public website usage of our publications declined

The total number of pages viewed decreased from 122,581 per month in 2020–21 to 116,316 per month in 2021–22, a decrease of 5.1% in the use of our publicly available online resources: see Table 7 on p 46. We attribute the drop in publications use over the past year on our website to the general slowdown in activities due to COVID-19.

The most accessed resources were the *Civil Trials Bench Book*, the *Sentencing 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 *Sentencing Bench Book* provides information and legal principles relevant to sentencing law in NSW and for Commonwealth



offences that NSW courts decide. 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. More information about our published resources is found in Appendix 8.

Table 7. Public website usage of our publications 2017–22 (hits per month)<sup>†</sup>

Publication	2017–18	2018–19	2019–20	2020–21	2021–22	Change %
Civil Trials Bench Book	49,531	56,456	47,776	40,275	38,548	-4.3 ↓
Sentencing Bench Book	36,982	36,054	34,062	30,488	29,323	-3.8 ↓
Criminal Trial Courts Bench Book	34,818	36,557	34,362	27,555	27,333	-0.8 ↓
Local Court Bench Book	21,934	22,305	20,097	17,859	14,403	-19.4 ↓
Equality before the Law Bench Book	1,684	1,696	3,226	2,641	2,408	-8.8 ↓
Handbook for Judicial Officers <sup>†</sup>					1,633	
Sexual Assault Trials Handbook	3,010	3,088	2,581	2,505	1,510	-39.7 ↓
Sentencing Trends & Issues	2,030	1,504	1,894	1,258	1,159	-7.9 ↓
<b>Total</b>	<b>149,989</b>	<b>157,660</b>	<b>143,998</b>	<b>122,581</b>	<b>116,316</b>	<b>-5.1 ↓</b>

\* **Important note:** in late December 2018 the Commission's website was relocated to a remote host on the Internet. This move resulted in our usage data for six months of 2018–19 and the first month of 2019–20 being incomplete. The usage of JIRS and the JIRS app were not affected by this change, only the usage of the Commission's website ([www.judcom.nsw.gov.au](http://www.judcom.nsw.gov.au)). As a consequence, we have estimated the usage of the Commission's website resources for the financial years 2018–19 and 2019–20 on a pro rata basis using the data available.

† First published October 2021.

## Case study

### We produced a study to address the important issue of domestic violence

A major focus this year has been producing the Sentencing Trends & Issues paper, *Sentencing for domestic violence in the Local Court*. This important resource about domestic violence offences aims to inform judicial officers, legal practitioners and the community about developments in sentencing law, and provide a picture of the sentences imposed for such offences in the Local Court. Domestic violence is a serious, prevalent and persistent issue in NSW that denies its victims the right to live free from violence, and the opportunity to reach their full potential. The legislature and the judiciary both have a role to play in addressing this scourge on our community. Of significance, magistrates impose tens of thousands of sentences in domestic violence matters each year.

Our study, to be published in July 2022, builds on the Commission's previous study about domestic violence — this was published in 2016. It considers legislative changes enacted to reduce domestic violence offending and improve the protections for domestic violence complainants, and summarises some of the relevant legal principles distilled from recent case law. It also analyses the sentences imposed for particular domestic violence offences dealt with in the Local Court and on appeal to the District Court, and their correlation to legislation and government policy.

Many challenges had to be overcome in producing this study. These included addressing the accuracy of recorded data for the domestic violence offences analysed. To ensure the accuracy of the analysis, extensive corrections had to be made to the appeals data. Our legal research trainees assisted with the verification of data. Publication of the study was achieved through close and collaborative working relationships between the Research and Sentencing, Publishing, and Systems teams at the Commission. The Commission approved the publication of *Sentencing for domestic violence in the Local Court* and acknowledged the work of the authors in producing this comprehensive publication.

# Program 3

## Examining complaints

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

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## 3.1 Performance results 2021–22

An assessment of the results shown in Table 8 demonstrates that our complaints function performed well in 2021–22. Table 8 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 8. 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 heard during the year  Compare number of complaints dismissed under section 20 of the <i>Judicial Officers Act 1986</i> 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.

Performance	Status	Challenges 2021-22
<b>HIGHLIGHT</b> Commission examined 41 complaints from a total of 54 complaints (received and pending from last year): see p 51	✓	<ul style="list-style-type: none"> <li>Explaining to a complainant why the Commission dismissed their complaint according to our statutory criteria.</li> <li>Working to ensure that the continuing impact of the pandemic did not compromise the accessibility of the complaints function.</li> </ul> <p>Complaints expenditure: \$0.4 million as at 30 June 2022 (6.7% of overall expenditure).</p> <p><b>Looking ahead 2022-23</b></p> <ul style="list-style-type: none"> <li>Continue to examine all complaints efficiently, effectively, independently and objectively.</li> <li>A Principal Legal Officer will be engaged to assist the Chief Executive with managing the complaints function.</li> <li>We will aim to finalise the majority of complaints that do not require further examination within 90 days and the preliminary examination of all complaints within 12 months.</li> <li>We will endeavour to ensure that the complaints process better informs the content of our education sessions.</li> <li>Monitor and report on trends in complaints.</li> </ul>
100% of complaints received were acknowledged within 5 working days: see p 51	✓	
The Commission examined 73% within 6 months and 98% within 12 months: see p 52	↓ ↓	
397 judicial officers in NSW heard around 355,000 court matters in 2021-22. 43 complaints about 40 judicial officers were made to the Commission: see p 51	✓	
95% of complaints (39 of 41 examined) were summarily dismissed under section 20 of the <i>Judicial Officers Act</i> 1986: see p 51	✓	
Two complaints required further action: 2 referred to head of jurisdiction (last year: 0) and 0 to Conduct Division (last year: 0): 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 415 requests for information: see p 53	✓	
49% 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 52 and Appendices 5 and 6	✓	
The Commission examined all complaints according to statutory criteria and established protocols: see pp 53-55	✓	

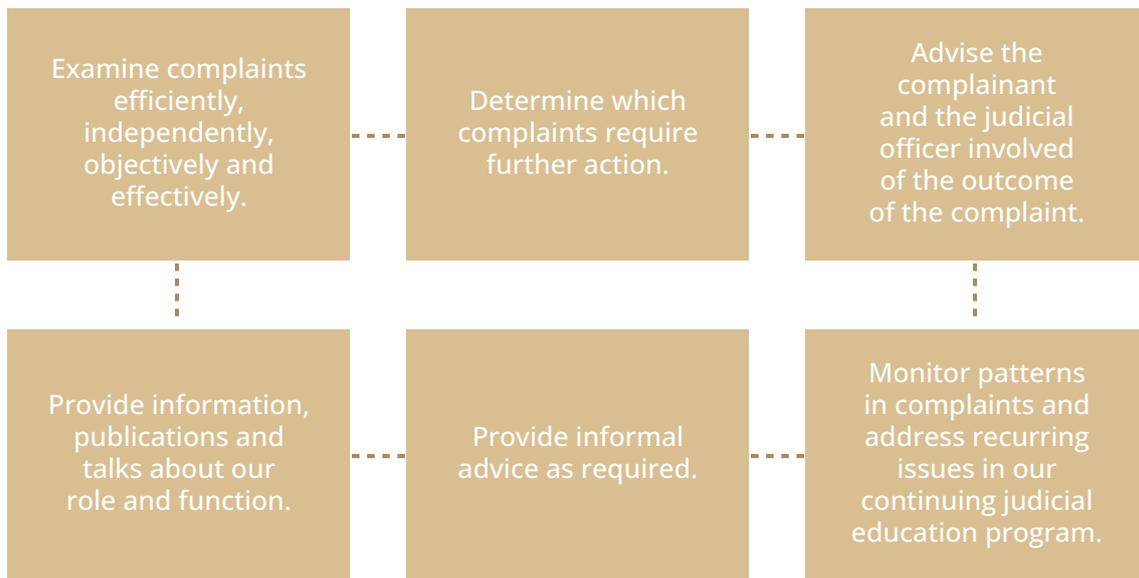
Legend ✓ target achieved ↑ target/output exceeded ↓ target not achieved

## 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 fulfil our statutory function



There are 397 judicial officers in NSW who heard around 355,000\* court matters during 2021–22. The number of complaints we receive each year is low compared to the high volume of matters handled: see Table 9 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 two documents, *Complaints against judicial officers: guidelines* and *Conduct Division: guidelines for examination of complaints* (see Appendices 1 and 2).

\* This number refers to matters finalised between 1 July 2020–30 June 2021 based on Productivity Commission data. Previously we have reported all matters lodged and finalised.

### 3.3 Complaints received and examined during the year

During 2021–22, 35 people made 43 complaints about 40 judicial officers (last year: 57 complaints about 46 judicial officers). Four complainants each made two complaints and two complainants made three complaints. The rest of the complaints were

lodged individually. We examined 41 complaints including 11 complaints pending as at 30 June 2021. Thirteen complaints were pending as at 30 June 2022. Table 9 shows how we have dealt with all complaints received and examined over the last 5 years.

Table 9. Particulars of complaints examined 2017–22

	2017–18	2018–19	2019–20	2020–21	2021–22
Complaints pending as at 30 June	17	26	19*	27	11
Complaints made during the year	74	63	57	57	43
<b>Total number of complaints</b>	<b>91</b>	<b>89</b>	<b>76</b>	<b>84</b>	<b>54</b>
Complaints examined and dismissed	55	66	45	72	39
Complaints referred to head of jurisdiction	5	1	3	0	2
Complaints referred to Conduct Division	2	1	0	0	0
Complaints withdrawn	3	1	1	0	0
<b>Total number of matters finalised</b>	<b>65</b>	<b>69</b>	<b>49</b>	<b>73</b>	<b>41</b>
Complaints pending as at 30 June	26	20†	27	11	13

\* Amended opening balance of the number of complaints pending at 30 June 2019 to remove error caused by prior count of complaints.

† Incorrectly reported as 20 instead of 19. Caused by an error in prior count of complaints.

Table 10. 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)	2
The complaint relates to the exercise of a judicial or other function that is or was subject to adequate appeal or review rights.	20(1)(f)	2
The complaint relates to the exercise of a judicial or other function that is or was subject to adequate appeal or review rights, and having regard to all the circumstances of the case, further consideration of the complaint would be or is unnecessary or unjustifiable.	20(1)(f) & (h)	19
The person complained about is no longer a judicial officer.	20(1)(g)	1
Having regard to all the circumstances of the case, further consideration of the complaint would be or is unnecessary or unjustifiable.	20(1)(h)	15
<b>Total number of complaints dismissed under section 20</b>		<b>39</b>

#### 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, 95% of complaints (39 of 41) examined were summarily dismissed. This is consistent with the average 5-year dismissal rate of 95.2%. 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 10 shows how the 39 complaints summarily dismissed were dealt with under section 20 this year.

#### Timely examination of complaints

Within 5 working days, the Commission wrote to 100% of complainants to acknowledge their complaint had been received (last year: 97%). Seventy-three per cent of the 41 matters were finalised within 6 months and 98% of complaints were finalised within 12 months of their receipt. Table 11 compares the timeliness standards over 5 years and demonstrates that the Commission continues to respond to all complaints

received within a reasonable time, notwithstanding some potential short-term impacts of COVID-19 in the last half of 2021.

**Two complaints referred to the relevant head of jurisdiction**

Two complaints were referred to the relevant head of jurisdiction under section 21(2) of the *Judicial Officers Act* (last year: 0). The Commission has the power to refer a complaint which, while it does not justify the attention of a Conduct Division, warrants some further action.

**No complaints referred to a Conduct Division**

No complaints about a judicial officer were referred to a Conduct Division this year under section 21(1) of the *Judicial Officers Act* (last year: 0).

Information about the role of a Conduct Division is found on pp 53–55.

**No complaints 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).

Table 11. Time taken to conduct preliminary examination of complaints 2017–22

	3 mths	6 mths (target 90%)	9 mths	12 mths (target 100%)
	%	%	%	%
2017–18	73	87	100	100
2018–19	54	94	99	99
2019–20	29	71	96	100
2020–21	43	78	86	94
<b>2021–22</b>	<b>34</b>	<b>73</b>	<b>90</b>	<b>98</b>

### 3.4 Identifying complaint patterns 2021–22

**Monitoring trends in complaints**

Figure 13 on p 53 shows the type and number of complaints received during the year (total: 43). 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 2021–22, 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-one (54%) of the 39 dismissed complaints were done so 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**

Fifteen (38%) of the 39 dismissed complaints were done so 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: 1).

**Inappropriate comments and discourtesy**

No complaints alleged that a judicial officer made inappropriate comments (last year: 4). Five complaints alleged discourtesy (last year: 6).

**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. Five (11.6%) complaints received arose from AVO proceedings (last year: 23%).

**Self-represented litigants making complaints**

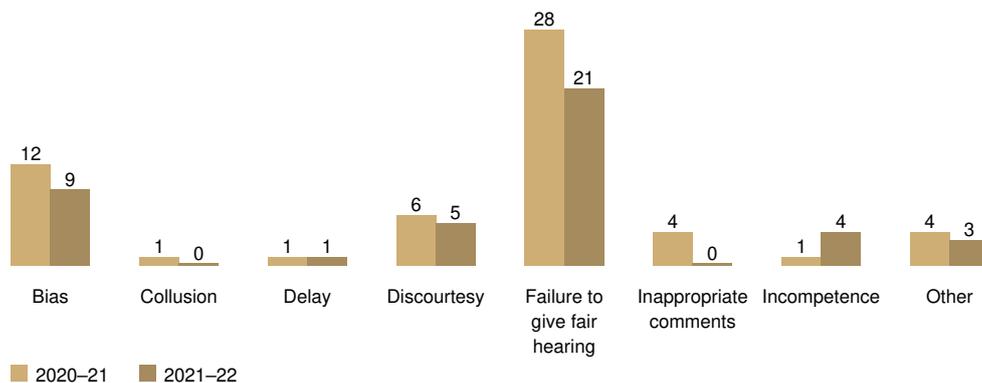
A trend we have noted is the high proportion of complaints that self-represented people make. This year, the trend increased with 30 self-represented litigants (out of 43 complaints) making 70% of all complaints (last year: 49%).

### 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 2021–22, these 2 categories accounted for 30 (70%) of the 43 received complaints (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 2020–22



## 3.5 How we deal with complaints and enquiries

### Responses to informal enquiries

During the year, we responded to 415 telephone, face-to-face and written enquiries from potential complainants, members of the legal profession and the media (last year: 319).

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 aim to acknowledge in writing any complaint received which is in the required form. If the complaint relates to a court matter, we obtain sound recordings or 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 of the correspondence 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 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 35-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's Office and Senior and Junior Counsel are usually instructed to assist a Conduct Division.

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

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

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

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

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

### What we cannot deal with

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

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



In 2021–22, the continuing impact of the pandemic meant that complainants could visit the Commission's premises in Sydney by appointment only. However, information about the complaints process is available on our public website and our phone system has been set up with Interactive Voice Response.

Figure 14. How the complaints process works



## Case studies

### Examining complaints

#### Complaint relates to incompetence

##### The complaint

The complainant alleged that a judicial officer made several errors in a number of trials and sentence hearings. The complainant also asserted that these cases involved the judicial officer making public criticism (and in some cases, strong public criticism) and was unfair in his approach to the accused and defence counsel representing the accused.

##### The Commission's examination

The Commission's review of the complaint, the judicial officer's response and appellate decisions showed that the errors in the judicial officer's approach were corrected on appeal. The Commission noted that in one matter, the judicial officer was presented with a vast amount of material which it was simply impractical for the judicial officer to absorb within the time available to the court on the day of the hearing. In another matter with a history of long delays, the judicial officer tried very hard to bring the trial to an efficient conclusion but his efforts were constantly frustrated. After careful consideration, the Commission determined that its findings did not demonstrate a pattern or tendency in the judicial officer's conduct sufficient to support a conclusion that the complaint should be referred to a Conduct Division of the Commission and determined that the complaint should be referred to the relevant head of jurisdiction. The judicial officer acknowledged the criticisms of his conduct by appellate courts and accepted to consult with the head of jurisdiction on the matters raised in the complaint and to attend such judicial education as considered appropriate.

#### Complaint relates to discourtesy

##### The complaint

The complainant, a self-represented party who was also a solicitor, alleged that a judicial officer was aggressive and rude to her, which gave her the wrong perception of the behaviour expected of a judicial officer.

##### The Commission's examination

The Commission's review of the sound recording of the proceedings showed that the judicial officer did not treat the complainant with the courtesy and respect to which she was entitled. The Commission determined that the complaint should not be dismissed and referred it to the head of jurisdiction to deal with under section 21(2) of the *Judicial Officers Act*. The judicial officer subsequently apologised to the complainant.

#### Complaint relates to inappropriate comments

##### The complaint

The complainant alleged that a magistrate in his reasons for judgment, made a number of legal errors such as in relation to matters of onus of proof, personal observations of the law and unhelpful anecdotes. It was also asserted by the complainant that, as a result of the magistrate's decision, he incurred significant financial costs, inconvenience and stress.

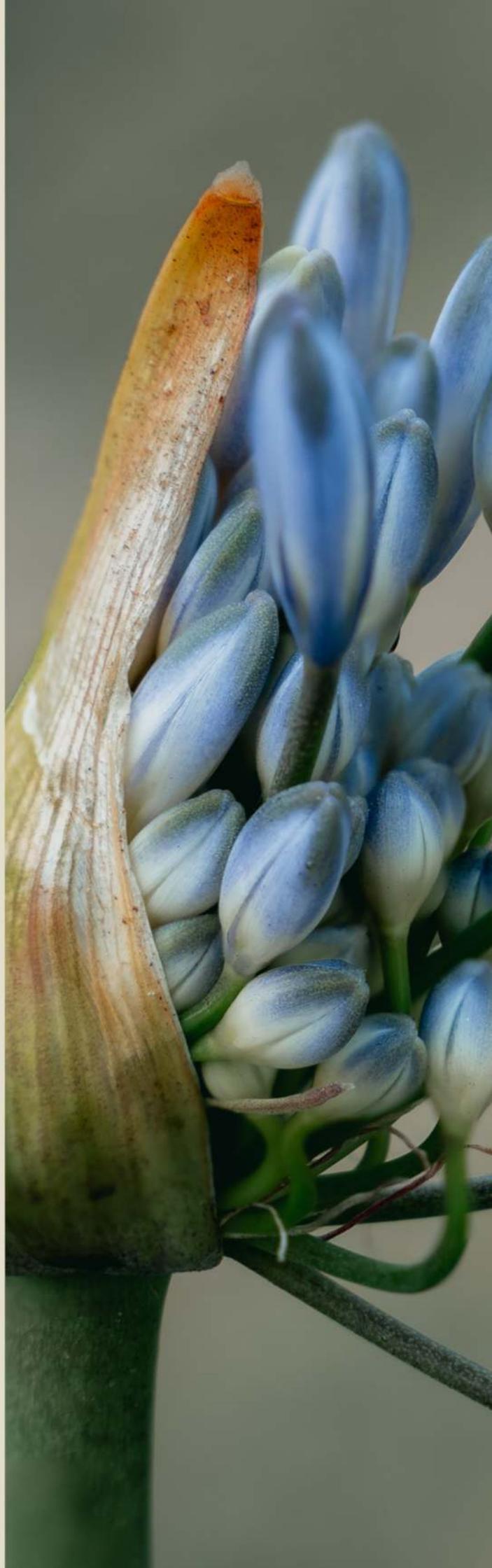
##### The Commission's examination

The Commission reviewed the sound recording and transcript of the proceedings in the first instance court, the transcript and judgment of the appellate hearing, as well as the detailed response provided by the judicial officer. The review found that, to the extent of legal error in the judicial officer's reasons such as in relation to matters of onus of proof, those errors were redressed by the appellate judgment when the complainant successfully exercised his appeal rights. Regarding personal observations and unhelpful anecdotes, the judicial officer conceded that these were probably unnecessary, and noted the appeal judge's criticisms and indicated that he would be conscious not to express himself in this manner in the future. The Commission determined that simply because the appellate court reversed the finding and quashed the conviction, it did not follow that the judicial officer engaged in misconduct which falls within the remit of the *Judicial Officers Act*. In those circumstances and for those reasons, the Commission dismissed the complaint under ss 20(1)(f) and 20(1)(h) of the *Judicial Officers Act*.

# Engaging with our partners and the community

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

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## Performance results 2021–22

**An assessment of the results shown in Table 12 demonstrates strong engagement with our partners and the community in 2021–22, despite the impact of the COVID-19 public health orders. The table below shows the evidence for each identified result as well as details of each measure we have put in place to achieve our objectives and how we performed.**

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

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	5.1% decrease in page views of free-to-view legal resources on our website: see p 61	↓
	Maintain number of presentations that Commission staff give to inform the public and community groups about role in the justice system	27 presentations about our work and role throughout the year: see Appendix 15 Existing publications updated throughout the year on our website for free-to-view service: see p 45 and Appendix 8	✓
	Maintain or increase our community engagement role through collaborations with other organisations	Demonstrated by collaborations with like organisations including the National Judicial College of Australia; Judicial College of Victoria; the District and County Courts of Australia and New Zealand; delivery of seminars, multimedia channels Responded to 415 enquiries from potential complainants and members of the legal profession: see p 53	✓
Government agencies had access to our statistical and legal information and shared our knowledge	Maintain information service for Government agencies	33% of JIRS usage was from Government agencies: see p 41 Continued audit of Lawcodes data facilitating the generation of JIRS sentencing statistics; revision and refining many of its processes as the pace of legislative change quickens, as it did particularly towards the end of the 2021 calendar year. Responded to detailed research enquiries from government agencies: see p 62	✓
We provided capacity-building assistance to other nations	Maintain or increase our capacity-building assistance	We hosted a suite of drug court seminars requested by Australia Awards designed to assist judges in the Maldives. We provided assistance to the Papua New Guinea law and justice sector. <b>HIGHLIGHT</b> Collaborated with other agencies to provide a suite of drug court webinars to the Maldives: see case study on p 62	✓
We shared knowledge, resources and experience with other judicial education providers	Maintain or increase exchanges throughout the year	We engaged with the Judicial College of Victoria, the National Judicial College of Australia and the Australian Human Rights Commission to develop training on sexual harassment prevention education in the judiciary. Engaged with University of NSW to review the impact of the <i>Bugmy Bar</i> book. <b>HIGHLIGHT</b> Collaborated with other agencies to advise the profession of mental health legislative changes: see case study on p 61	✓
We provided advice and support to other Australian jurisdictions and international institutions	Maintain advice on an “as requested” basis	We continued to respond to recommendations from the independent <i>Family is Culture</i> report by Professor Megan Davis including publishing information in various bench books. Continued alliance between our Ngara Yura Committee and the Francis Forbes Society to deliver relevant seminars: see case study on p 34	✓
The Commission provided contractual services to partners and the community	Maintain or increase revenue obtained from contractual services	\$1.103 million (17.3% of our income) was self-generated to supplement funds from consolidated revenue (last year: \$1.063 million): see p 97	↑

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

## Challenges 2021–22

- Developing our platforms and delivery avenues introduced in response to COVID-19 with regard to our work with courts, the legal profession, government departments and agencies.
- Ensuring criminal justice agencies, in particular NSW Police and Revenue NSW, were provided with COVID-19 offence information as soon as it became law.
- Ensuring work with our partners continues to thrive within the limitations imposed by COVID-19 public health regulations.
- Continuing to provide assistance to government departments and other jurisdictions within our limited resources.

## Looking ahead 2022–23

- Continue to provide online legal information (including access to bench books and research studies) for the public as part of our community engagement strategy.
- Support the development and rollout of the technology curriculum for District and County Courts of Australia and New Zealand.
- Maintain and enhance the Lawcodes database, a vital database of unique codes for NSW and Commonwealth criminal offences to enable justice sector agencies to electronically exchange information.
- Closer liaison with NSW Government departments to ensure they provide final drafts of up-and-coming major legislative changes so we can pre-code offences prior to commencement.
- Continue our work with the Drug Court of NSW to adapt the current case management system in line with the court's expansion to regional centres which was delayed last year.
- Work with the Supreme and National Courts of PNG to support the establishment of a PNG Legal Information Network (PngLIN) to replace PaCLII, transforming the PNG Sentencing Database into a broader resource.
- Continue to actively participate with other national and international providers of continuing judicial education to share resources and promote best practice for judicial officers.



## 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.

“Our collaboration assists both of our organisations to provide a greater level of support to judicial officers.”

Executive Director, Australasian Institute of Judicial Administration (AIJA)

“Thank you — an incredibly valuable program. Exceptionally well thought out and well run — I don’t think I’ve ever been to something of that length where every session ran to time and was so thoroughly engaging and worthwhile”

Re our collaboration with the National Judicial College of Australia re National Judicial Orientation Program in April 2022

“Thank you for all you help this past year, I couldn’t have got through any of it without your support.”

Re Lawcodes team support to Revenue NSW, December 2021

“...thanks for all your team’s help. It hasn’t gone unnoticed that you are assisting us at all hours and very promptly”

Re Lawcodes liaison with NSW Police regarding of rapid changes due to new COVID-19 restrictions

“You guys are the best”

Re Systems support for ACT Sentencing Database

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

The Commission provides accessible information to our resources and publications, 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 *Sentencing Trends & Issues* papers, monographs, bench books and handbooks 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 2021–22, 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 to other jurisdictions
- share resources and exchange ideas with other Australian and international providers of judicial education services
- share expertise developed in the exercise of our functions through contractual arrangements with other jurisdictions.

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



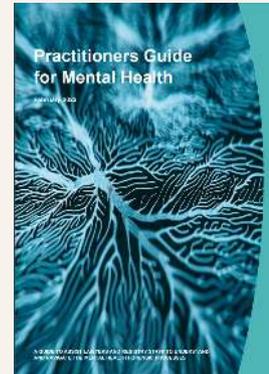
## Case study

We collaborated with an inter agency committee of lawyers and mental health professionals to develop a Guide to explain mental health legislation changes

Judicial Commission staff were part of an advisory committee who prepared a *Practitioners Guide for Mental Health*. Commission staff also edited the Guide to assist lawyers and registry staff to understand and navigate the new mental health forensic processes.

The NSW Law Reform Commission (NSWLRC) had considered the mental health forensic legislative framework in 2012–2013 in Reports 135 and 138. Following the NSWLRC's Report, there was extensive stakeholder consultation before the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020* was passed by the NSW Parliament in July 2020. The Act commenced on 27 March 2021 and provides a mechanism to divert people with mental illness and cognitive impairments from the criminal justice system into the health system.

The Guide was published in February 2022 and is available from the Public Defenders website.



In March 2021, the new Mental Health and Cognitive Impairment Forensic Provisions Act commenced. The Commission worked with an interagency committee to develop a Guide for mental health practitioners.

## Performance of our public information and community engagement role

The Commission provides free legal educational resources to schools and university students on our website. There has been an 5.1% decrease this year in our key free-to-view legal publications, a continuing decline from last year's 14.9% decrease which we attribute to the general slowdown in activities due to COVID-19. Our publications are listed on university reading lists and regularly referred to as indispensable publications for law students.

The Commission shared its experience in the area of judicial education and the handling of complaints through virtual presentations and meetings. On 20 April 2022, a delegation from the Supreme and National Courts of Papua New Guinea visited to sign an MOU regarding the PNG Sentencing Database and the Integrated Criminal Case System Database for a further three years. The Sentencing Database is to be renamed as PNG Legal Information Network (PNGLIN), transforming the PNG Sentencing Database into a broader resource for the judiciary and legal profession in PNG towards the end of 2022.



A delegation from the Supreme and National Courts of Papua New Guinea led by the Chief Justice of PNG visited the Judicial Commission in April 2022.

## Commission officers' presentations about our work and role

Commission staff delivered 27 presentations (last year: 20) during the year; around half of these were delivered online due to ongoing COVID-19 restrictions. Presentations, both virtual and in person, were given to judicial officers, 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 new *Bail Assistant* app and its functionality, specific research projects recently undertaken, continuing judicial education, judicial communication, and different learning styles. With the ability to host meetings online, the number of presentations remained high, despite the constraints imposed by COVID-19 public health regulations. See Appendix 15 for the list of presentations for 2021–22.



## Case study

### Collaborating with the Maldives Drug Court and Magistrates Court of WA

Due to COVID-19 border restrictions, a planned visit from the Maldives Drug Court became a series of three webinars organised through the auspices of Australia Awards (on behalf of the Department of Foreign Affairs and Trade (DFAT)). The Magistrates Court of WA also collaborated.

The program with the Maldives Drug Court was designed to expose their court to a therapeutic model of dealing with drug offenders, medical models of dealing with drug use as opposed to a legal framework and the particular issues of women offenders. The program challenged the traditional way the court had operated and opened them to consider a trauma-informed approach with offenders and other key stakeholders.

For the first webinar, Senior Judge Jane Mottley provided *A day in the life* of the NSW Drug Court and Deputy Chief Magistrate Woods from the Magistrates Court of WA highlighted the differences in the WA model. Magistrate Macpherson from Victoria showcased the first of its kind in Australia Family Drug Treatment Court which is a judicially monitored, therapeutic 12-month program designed to engage parents whose children have been removed from their care due to parental substance misuse or dependence with the aim of achieving safe and sustainable family reunification.

Dr Alex Wodak AM, Emeritus Consultant, Alcohol and Drug Service, St Vincent's Hospital, Sydney, provided a thoughtful alternative to the legal model and explored global trends tackling the drug problem in therapeutic, trauma-informed ways rather than drug prohibition and incarceration. The final webinar dealt with the rising numbers of women in custody and the particular issues this creates for intergenerational recidivism and trauma.

Next steps include the court virtually observing the Australian courts in action as well as an in-person study trip when borders reopen.

The ability to continue our international outreach via the virtual platform has revolutionised the way in which legal education and learning will progress in the future.

#### Public use of our information declined during COVID-19

Use of our online publications decreased at an overall rate of 5.1% (last year: 14.9% decrease). The *Civil Trials Bench Book* has been the most accessed publication with an average 40,275 hits each month, although it has decreased by 15.7% compared with last year. This resource provides information and legal principles relevant to all aspects of running civil proceedings and about evidence admitted in criminal and civil trials. More information about our published resources is found on p 40 and in Appendix 8.

The decline in public use is not surprising in the context of the COVID-19 public health regulations. Until the start of the pandemic, there had been growth in the public use of our resources. The volume at which our resources are used, notwithstanding the overall decline from the impact of COVID-19, suggests that we are meeting a strong demand for information about our work and role in the justice system. See Table 7 on p 46.

#### Working with government agencies

During the year, we responded to 38 research enquiries (last year: 41), including from government departments such as:

- Director of Public Prosecutions (NSW and Cth)

- Legal Aid NSW
- Public Defenders
- Department of Communities and Justice
- NSW Police Force.

We also worked with:

- the Department of Communities and Justice, participating in various working groups to advise about the NSW government's proposals for legislative reform. In the last 12 months we provided feedback for proposed legislation including: the Crimes (Sentencing Procedure) Amendment Bill 2022 (which expands the operation of section 25AA of the *Crimes (Sentencing Procedure) Act 1999*), the *Crimes Legislation Amendment (Assaults on Frontline Emergency and Health Workers) Act 2022*, a justice miscellaneous bill, and the remaking of the *Crimes (Sentencing Procedure) Regulation*
- the Australian Human Rights Commission in relation to sexual harassment prevention training for the judiciary
- the Community of Practice — Asia Pacific Judicial Educators group regarding the sexual harassment prevention program and other programs
- Sydney University Law School in their development of some resources entitled "Indigenous Perspectives on Law".



A code of practice between the Judicial Commission and the NSW Bureau of Crime Statistics and Research (BOCSAR) was gazetted in 2021. Made in accordance with Part 3, Division 1 of the *Privacy and Personal Information Protection Act 1998*, the Code of Practice covers the Judicial Commission of NSW in relation to its activities of monitoring or assisting in monitoring sentences that courts impose, and disseminating information and reports on sentences that courts impose for the purpose of assisting courts to achieve consistency in imposing sentences.

Appendix 11 contains the full list of the organisations the Commission collaborated with.

### Operating the Lawcodes database

The Lawcodes database of unique codes, called law part 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. For example, a law part code must be included in a court attendance notice (CAN). The NSW Police Force and other prosecuting authorities use a CAN to commence criminal proceedings or it is issued when a person elects to challenge a penalty notice. The Commission developed and maintains this database and general access to it is provided through our website. During the year, Lawcodes staff:

- coded and distributed 98% of new and amended NSW offences within 4 days of their commencement and Commonwealth offences within 7 days of receiving the official Commonwealth compilation (last year: 98%).
- updated all public health orders (Ministerial directions made under section 10 of the *Public Health Act 2010*) on the JIRS COVID-19 Resources web page (100%) within 12 hours of issue irrespective of time of order's release (last year: 24 hours)
- responded to all enquiries (100%) from Lawcodes users within 24 hours.

The creation of law part codes requires substantial preparation, focusing on the penalties involved (both court and infringement penalties), jurisdiction for the offences, relevant statute of limitation provisions, the application of the Australian and New Zealand Standard Offence Classification (ANZSOC) codes and a number of related pieces of legislation. This information is then passed on to all Lawcodes users via links to update files or the entire Lawcodes database in a notification which is sent out weekly (Wednesday morning of each week).

Five new pieces of Commonwealth legislation were added to the Lawcodes database at the request of the Australian Federal Police and we anticipate creating substantive application law part codes for section 22B(1) of the *Bail Act 2013* upon a request from the NSW Department of Communities and Justice. Generally, application law parts are not added until requested by an agency.

### Importance of Lawcodes during COVID-19

Throughout the COVID-19 period it was imperative that criminal justice agencies, in particular Police and Revenue NSW, were provided with COVID-19 offence information as soon as it became law. The need for such timeliness often led to the issuing of "Special Updates" (updates issued outside the regular weekly update timeframe) in order to accurately reflect the law relating to COVID-19. In addition, changes resulting from the freeing up of COVID-19 restrictions in time for the 2021 Christmas break led to a number of law part codes being end-dated in mid-December. We worked closely with NSW Police and Revenue NSW to ensure that the Computerised Operational Policing System (COPS) and the Revenue NSW Handbooks accurately reflected the end date information as the restrictions were lifted.

### Revising and refining Lawcodes procedures

Lawcodes continues to revise and refine many of its processes as the pace of legislative change quickens, as it did particularly towards the end of the 2021 calendar year. At that time a number of NSW Acts received assent and a number of regulations commenced in key areas, such as in energy, and environmental planning and assessment. Major amendments were also made to selected Commonwealth legislation, particularly a substantial number for the *Civil Aviation Safety Regulations 1998* (which involved the creation of hundreds of law part codes).

*Future plans:* Provide scope for internal staff to work within the Lawcodes Team and receive training on its processes for periods when capacity is stretched and support is quickly needed.

### Performance of our capacity-building role

Consistent with section 11(1)(b) of the *Judicial Officers Act 1986*, 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)
- liaised with the Australian Government's Australia Awards program in South Asia to provide information relating to education programs for drug courts and explored opportunities for a virtual study tour in 2021–22.

We could not host any international visitors this year due to COVID-19 public health regulations. See Appendix 12 for full details of local visits to the Commission.

### Collaborating with other jurisdictions

In March 2022, a series of three webinars organised through the auspices of Australia Awards (on behalf of DFAT) were conducted with the Maldives Drug Court in lieu of a planned visit to the NSW Drug court which



was abandoned due to COVID-19 border restrictions. This grew to involve a productive collaboration with the Magistrates Court of WA: see case study on p 62.

### Working with the legal profession

We continue to collaborate with the Law Society of NSW and NSW Bar Association celebrating First Nations culture and identity in a joint online program, the First Nations Speaker Series. This comprises a series of insightful talks featuring authors, researchers, creators, innovators, knowledge holders and storytellers. These webinars provide an opportunity to learn about the cultural perspectives, and experiences of First Nations Peoples across a range of disciplines: see case study on p 73.

During the past year, we worked with the Law Society of NSW, the DPP, the Public Defenders Office, Legal Aid, ALS and the Bar Association in relation to consent reforms. Uniquely, we provided each of these a copy of the new consent directions from the bench book since the legislation would impact trials from the day of commencement.

### Performance of contractual services

Revenue from our information technology contractual services at \$1.103 million (17.3% of total income) was slightly higher than last year's \$1.063 million.

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 415 telephone, face-to-face and written enquiries from potential complainants and members of the legal profession (last year: 319). There were no media enquiries about our work this year (last year: 0).

### Working with other judicial education providers and universities

Collaborating with other similar organisations both in Australia and beyond allows us not only to share our experience and knowledge with judicial education bodies, learn from their insights and be aware of the latest developments in continuing judicial education.

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. Due to health concerns and travel restrictions necessitated by the pandemic, only one program was held this year (April 2022, Gold Coast). The program received

exceptionally positive feedback: of the participants who provided feedback, 100% rated the program's usefulness and relevance as excellent or very good. The Judicial Commission assisted the National Judicial College of Australia to present this program.

During the pandemic, we continued to work collaboratively by video conference with judicial educators in Australia and New Zealand and we hosted an online meeting in June 2021. Representatives from the National Judicial College of Australia (NJCA), Australasian Institute of Judicial Administration (AIJA), Judicial College of Victoria (JCV) and Te Kura Kaiwhakawā (Institute of Judicial Studies) shared information and explored opportunities for further collaboration.

We continued our work with the University of NSW by responding to recommendations of the vicarious trauma research project findings published in February 2021; see case study on p 29. 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:

- assisting the National Judicial College of Australia to present the National Judicial Orientation Program (NJOP)
- contributing to the meetings, decision making and programs of the Judicial Council on Cultural Diversity (JCCD), including participation in a Working Group to give feedback on a proposed course outline for the JCCD's *Recommended National Standards for working with interpreters in courts and Tribunals*
- co-chairing the International Committee of the Association for Continuing Legal Education (ACLEA)
- participating in the activities of the Advisory Board of the Commonwealth Judicial Education Institute (CJEI).

Appendix 10 has details of how we assisted other organisations.



In April 2022, the Commission supported the National Judicial College of Australia's National Judicial Orientation Program, a week-long residential program to assist newly-appointed judicial officers from all States and territories with their transition to judicial office. Newly appointed judicial officers Hament Djanji and Samantha Marks were in attendance.

# Our people

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

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## Performance results 2021–22

**An assessment of the results shown in Table 13 demonstrates that our talented and skilled people performed well in 2021–22, notwithstanding the COVID-19 global pandemic. 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, highlights for the year, challenges, and forward direction.**

Table 13. Results for our people

Results	Measures	Performance	Status
Deliver services and meet functions as set out in <i>Judicial Officers Act</i>	Employ qualified and skilled staff to efficiently deliver statutory functions (ie our core programs), working in collaborative teams	30 people worked in judicial education, legal research, complaints, information technology and corporate services as at 30 June 2022: see p 69  Communication within the Commission to perform required work is strong, shown in high satisfaction in our staff survey results: see p 69	✓
	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: 47% of staff furthered their professional training: see p 76  Developed and shared expertise through secondments	✓
	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: 99%: see p 30	✓
		<b>HIGHLIGHT</b> High up-take of training, 47% of staff acquired new skills through webinars and online courses while working from home as required by COVID-19 public health regulations: see p 76	
Staff are engaged, valued and satisfied working at the Commission	Low turnover and high retention in staff, keeping skills and knowledge within the Commission  Engagement ratings in staff survey	Low turnover: 13.3%: see p 74. This is below our benchmark of 15%  High retention: 56.2% staff have 10+ years' service and a further 19.8% staff of 5+ years: see p 74	✓
		<b>HIGHLIGHT</b> High staff engagement rating: of staff who responded, 100% of staff in Commission annual survey feel engaged and valued: see p 69	✓
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 equality 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 71  Flexible work arrangements available: see p 74	✓
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 is safe with no workers compensation claims and no work, health and safety prosecutions: see p 77	✓

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

## Challenges 2021–22

- Managing the continuing impact of the COVID-19 pandemic on Commission staff as they worked remotely in accordance with public health orders and the transition to hybrid working arrangements at both home and the office following the end of the 2021 lockdown.
- Building teamwork and encouraging cooperation within and between teams, as well as across the whole organisation, particularly in the context of remote working as a result of COVID-19 public health regulations.
- Managing staff leave balances during the pandemic.
- Developing further strategies to assess and understand where the Commission can improve efficiency.
- Encouraging busy staff to balance their work commitments with training and development opportunities.
- The Chief Executive was on extended leave and retired in February 2022; the Deputy Chief Executive took on the role of Acting Chief Executive in addition to his substantive role until the position was filled.
- Key personnel unexpectedly retired at the same time causing challenges for succession planning.



The pandemic continued to affect working practices for our staff this financial year as people worked remotely in the second half of 2021 and then under a hybrid arrangement following the end of lockdown. Staff have embraced public health measures including mask wearing in public areas and in meetings.

## Looking ahead 2022–23

- Continue to value and support our staff, while working with the budgetary challenge of the whole of Government savings directive and in circumstances where working in physically separate locations has become part of working practice.
- Develop further strategies to assess and understand where our productivity can be improved, thereby helping us to meet key performance indicators.
- 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 embrace a workplace culture that supports diversity and is aligned with the workforce strategies of the NSW public sector.
- Continue to implement policies and strategies to ensure a safe workplace and minimise risks to workplace health and safety.
- Commence integrating the work of teams to facilitate a smoother workflow and enhance communications.



Our yearly staff survey measures how committed, stimulated and supported our people felt. All respondents to the survey said they felt engaged with and understood how their work contributed to the Commission's purpose and mission. Pictured are Brandi Baylock, Statistician (l); Antonia Miller, Senior Lawcodes Officer (centre); and Georgia Brignell, Senior Research Officer (r).

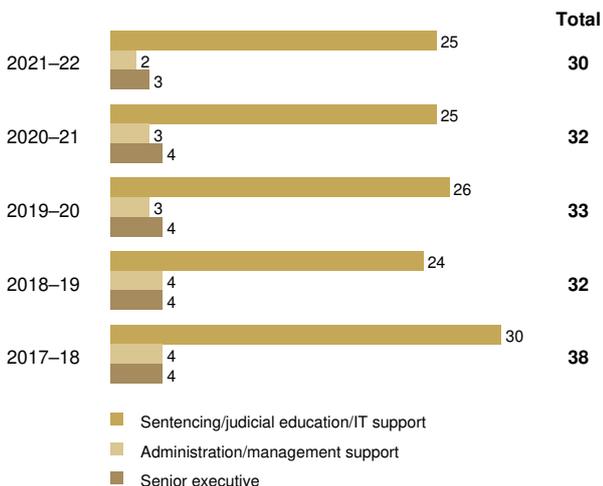
## Performance and satisfaction

### Our staff

Our staff are essential to our success and to ensuring we meet our goals and deliver our services. As at 30 June 2022, the Commission employed 30 people (27.6 full-time equivalent) in judicial education, legal research, complaints, information technology and administrative roles (last year: 32). 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

This year, our yearly internal staff survey measured how committed, stimulated and supported our people felt. Out of the 15 of 30 staff (permanent and temporary) who responded (last year: 69%, 22 of 32), we achieved a rating of 100% of staff who felt engaged with their work and understood how their work contributed to the Commission’s purpose and mission (last year: 100%).

100% of staff who responded agreed or strongly agreed:

- they understood how their work contributed towards the Commission’s mission and purpose (last year: 100%)
- they feel engaged with their work at the Commission (last year: 100%)
- they were willing, when required, to put in extra effort to achieve a professional result (last year: 100%)
- considered their working environment was safe, secure and comfortable (last year: 96%).

The following percentage of staff also agreed or strongly agreed:

- 87% felt they were provided with sufficient resources and time to undertake their work (last year: 96%), 94% felt able to balance work with their personal life (last year: 96%), 93% felt there is good teamwork and co-operation within Commission projects (last year: 96%)
- 93% felt there is good and effective communication of what they need to know to do their work (last year: 92%) and felt trusted and valued at the Commission (last year: 92%)
- 93% felt their requests for professional development training were supported (last year: 84%).

While the result for sufficient resources and time has declined from 96% to 87%, the result can be attributed to two staff members giving a neutral response in the survey. Further, in all questions where staff did not agree, they gave a neutral response to the question.

Looking ahead, the Commission will continue to encourage staff to engage with online professional development opportunities.

### Commission rates highly in NSW Government 2021 People Matter Employee Survey

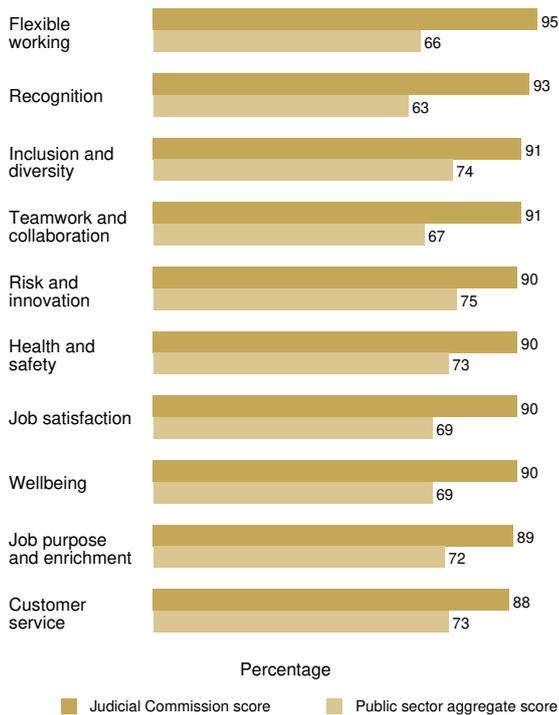
The Public Service Commission conducted the “People Matter” NSW Public Sector Employee Survey in 2021. The survey measured various aspects of employment including job satisfaction, wellbeing, senior managers, communication, employee engagement with work, high performance, public sector values, diversity and inclusion, teamwork and collaboration. Figure 16 on p 70 shows that, with a 54% response rate, the Commission rated very highly across themes as well as in comparison to the overall public sector. Some key highlights of the survey showed that 100% of staff who responded felt:

- people in their team work collaboratively to achieve goals
- there is good team spirit in their work group
- there are people at work who care about them
- that they belong in the Commission.

The Commission improved across several key areas since the last survey including satisfaction with staff feeling:

- change is managed well in the Commission, 23% increase
- the Commission inspires them to do the best in their job, 14% increase
- their manager provides recognition for their work, 13% increase
- their manager encourages them to learn from mistakes, 13% increase
- the Commission is making improvements to meet future challenges, 9% increase.

Figure 16. Top 10 Commission results in People Matter Survey 2021



### Connecting with communities

Commission staff engage with the community in various ways. Throughout the year, staff gave 27 presentations about the Commission’s work and role in the justice system. These included presentations to judicial officers, associates and tipstaves; the Commonwealth DPP; BOCSAR; the Department of Communities and Justice; Safe Work Australia; law firms; a delegation led by the Chief Justice of Papua New Guinea; Downing Centre Staff; university students; and community groups. The Commission has also given virtual presentations due to the COVID-19 global pandemic that prevented hosting national and international visitors in-person for the second half of 2021.

Commission staff are also involved in Aboriginal cultural awareness through the Ngarra Yura Program as a way to promote cross-cultural communication: see p 31 for more information. The Project Officer of the Ngarra Yura Program, Ms Joanne Selfe, is dedicated to enhancing cultural understanding of First Nations People. Ms Selfe works with the judiciary on cross-cultural awareness and understanding and organises for the judiciary to visit First Nations’ communities. She gave a presentation to Sydney University law students on the topic of “Indigenous perspectives”; a presentation on “Warura (string) Theory Workshop” to the inner west residents and community group, Gunawirra; a presentation to the local community, Firestories, on First Nations’ astronomy, “Yanada Gili — Moon Light”; and during Reconciliation Week, she gave a presentation to the Downing Centre Staff on the subject, “Be Brave, Make Change”.

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

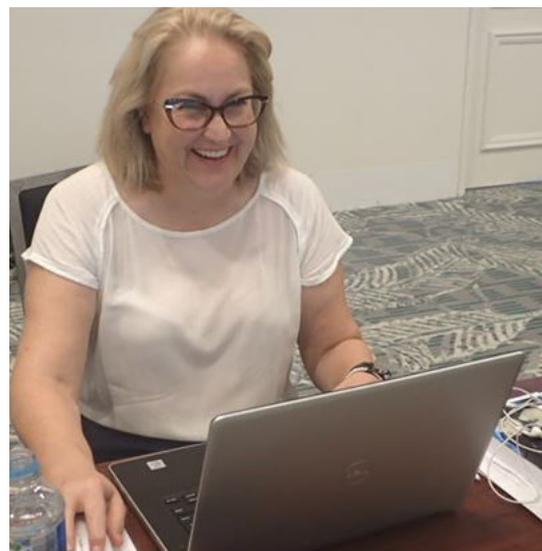
The Commission’s Chief Executive and the relevant Director welcome all new employees to the Commission. Managers guide new staff through an induction process so that they are aware of and acknowledge:

- 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.

Due to the pandemic and working from home arrangements, inductions took place online in the second half of 2021.

### New roles and changes in employment

We employed an Education Projects Manager to co-ordinate work flow and publishing deadlines ahead of the 1 June 2022 commencement of the *Crimes Legislation Amendment (Sexual Consent Reforms) Act 2021* (the Consent reforms). As judicial officers needed to be aware of the Consent reforms well ahead of their commencement, new project management tools were utilised to manage the extensive changes resulting from the reforms. Multiple resources needed updating including the bench books, the Judicial Information Research System (JIRS) and our public website. We also commissioned a special explanatory article in the *Judicial Officers’ Bulletin* written by our Research Director and a Supreme Court justice.



Catherine Kenny was appointed as an Education Projects Manager to assist with the Judicial Wellbeing portal and managing projects such as the significant legislative changes arising from the *Crimes Legislation Amendment (Sexual Consent Reforms) Act 2021*.

The Education Projects Manager also curated and coordinated the launch of the Commission's new Judicial Wellbeing portal on JIRS which includes both mental and physical wellbeing information to assist judicial officers maintain and sustain a healthy judicial life. For further information, see p 29.

The managing lawyer of the Research Division, Mark Zaki, after a period of secondment from Legal Aid NSW, has been employed with the Commission on an ongoing basis. Mark's legal practice and leadership skills, which he developed throughout his time as a senior lawyer at Legal Aid, are of benefit to the Research Division in respect of the management of the team, and the preparation, review and provision of legal information to judicial officers.



Mr Mark Zaki finished his secondment from Legal Aid NSW and has been appointed Managing Lawyer, Research and Sentencing team.

### 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.

### 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 69). 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.

### Providing for workforce diversity

We provide a diverse, fair and safe workplace for our people. The Commission demonstrates our commitment to these values through policies such as our Diversity and Multicultural Policy published on our intranet, which includes measures such as:

- ongoing support for cultural diversity
- addressing barriers for employment that exist for First Nations Peoples
- meeting the needs of people with a disability and increasing accessibility to information, services and the workplace
- encouraging staff to undertake training on respect, diversity and cultural competence, and disability support
- eliminating discrimination on the basis of gender and providing opportunities for leadership and professional training for all women
- supporting the availability of flexible working arrangements
- opportunities to act in higher positions.

There is zero-tolerance for harassment of any kind in the workplace, as expressed in our harassment and sexual harassment policies. 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).

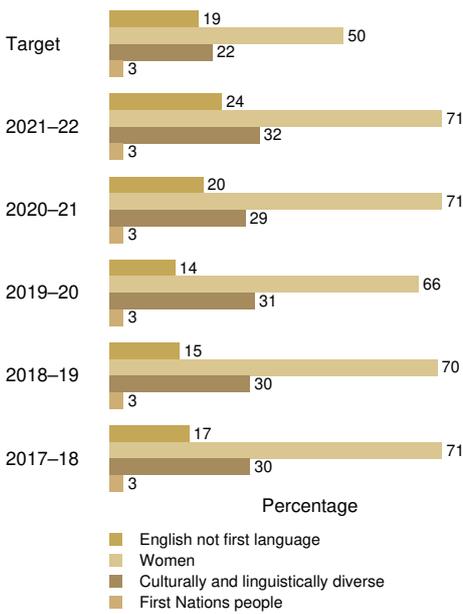
The majority of our people are women (24 or 70.59%) and 11 people (32.35%) are from a culturally diverse background: see Figure 17. The percentages in Figure 17 reflect staff numbers as at 30 June 2022 excluding temporary staff.

The *Disability Inclusion Act 2014* and *Disability Inclusion Regulation 2014* do not require the Commission to report a benchmark level for people with a disability or people with a disability requiring a work-related adjustment. However, the Commission will make reasonable adjustments in the work place for staff who require this as ensuring an inclusive workplace is a priority; this year, the Commission had no staff members reporting a disability or requirement for a disability-related adjustment.

Our staff numbers meet the target of the NSW Public Sector Aboriginal Employment Strategy 2019–2025 of 3% First Nations' employees.

*Next year* we will continue to foster a workplace culture that supports diversity and is aligned with the workforce strategies of the NSW public sector.

Figure 17. 5-year trends in workforce diversity



### Our multicultural plan

The Judicial Commission is committed to the equitable and respectful delivery of our services for the people of NSW and to removing any barriers that might prevent full access to these for people from culturally and linguistically diverse backgrounds. We have also embedded training about cultural diversity in judicial orientation programs to ensure that new judicial officers appreciate the impact of cultural and religious differences and understand how language and culture influence behaviour, attitude and witnesses. When planning our programs, service delivery, and in our operations generally, we do so in line with the requirements of the *Multicultural NSW Act 2000* and the NSW Multicultural Policies and Services Program (MPSP).

This year, we report how our service delivery, planning, leadership and engagement have delivered outcomes consistent with our multicultural plan.

### Service delivery

Our service delivery comprises a complaints function for members of the public, a continuing judicial education program and the provision of legal and sentencing information; this is free-to-view on our website. See further “Our services delivery” on p 9.

During the year, we addressed the specific needs of people from culturally and linguistically diverse (CALD) backgrounds in the following ways:

- we worked with the NSW Department of Communities and Justice, AbSec, and independent researchers to implement the recommendations of the *Family Is Culture Review Report: Independent Review of Aboriginal Children and Young People in Out-of-Home Care* (2019, Professor M Davis, chair)
- we provided interpreting and translation services where required for complainants and advice about the complaints process for potential complainants.

We ensure that people from diverse backgrounds are aware of alternative NSW Government services, programs and functions if their complaint falls outside our jurisdiction

- we promoted the *Recommended National Standards for Working with Interpreters in Courts and Tribunals*, developed and updated by the Judicial Council on Cultural Diversity (JCCD) to establish optimal practices for working with interpreters, in the *Equality before the Law Bench Book* and *Handbook for Judicial Officers*
- we supported the JCCD to develop an online course, “Working with Interpreters for Legal Practitioners” designed to give legal practitioners a working understanding of the *Recommended National Standards for Working with Interpreters in Courts and Tribunals*.

The Commission’s expenditure on provision of language services totalled \$1,530 (interpreting services: \$55; interpreter language allowance: \$1,475), last year: \$1,586 (interpreting services: \$138; interpreter language allowance: \$1,448).

Next year we will continue to provide interpreting and translation services as required for complainants and continue our collaboration with the JCCD.

The following publications were designed to educate judicial officers about the specific needs of CALD people:

- we extensively updated the *Children’s Court Resource Handbook*, the Children’s chapter in the *Equality before the Law Bench Book*, and the Children’s Court chapters in the *Local Court Bench Book* to incorporate new material responding to the recommendations of the *Family Is Culture Review Report*
- we published an article on “Beyond placement: realising the promise of the Aboriginal and Torres Strait Islander Child Placement Principle” by the senior researcher at Jumbunna House of Learning, Dr Paul Gray, and an article on “Significance of Culture to Wellbeing, Healing and Rehabilitation” by her Honour Judge Sophie Beckett, in the *Judicial Officers’ Bulletin*
- we published the new *Handbook for Judicial Officers* which contains chapters on communication, diversity, therapeutic jurisprudence and the trauma-informed court to educate newly appointed judicial officers and raise awareness of these issues among judicial officers
- we published a new chapter, “Trauma-informed courts”, in the *Equality before the Law Bench Book* with a section addressing “Migrants, refugees and asylum seekers”
- we assisted in editing a guide prepared by an interagency committee of lawyers and mental health professionals to assist lawyers and registry staff to understand and navigate the mental health forensic processes
- we revised the mental health resources on the Public Defenders website.

## Case study

### First Nations Speaker Series

The Ngara Yura committee conceived and developed the First Nations Speaker Series, presented in August and September 2021. Three online talks were presented over several weeks. The object of the Speaker Series is to celebrate First Nations culture and identity through a series of talks featuring authors, researchers, creators, innovators, knowledge holders and storytellers.

The first speaker, Dr Tyson Yunkaporta is a thought leader, artist, poet and the author of the book, *Sand Talk: how Indigenous thinking can save the world*, published by Text Publishing in 2019. Dr Yunkaporta belongs to the Apalech Clan from western Cape York and is a senior lecturer in Indigenous Knowledges at Deakin University. He explained the Aboriginal custom of sand talk, the drawing of images in the sand “to bring clarity to complexity”.

The second speaker was the innovative astrophysicist, Ms Karlie Noon. Ms Noon is a Gamilaraay woman and the first Indigenous woman in Australia to graduate with a double degree in maths and physics. She has won multiple awards and is currently a PhD candidate in astronomy and astrophysics at the Australian National University. Her research involves observing and simulating the galactic centre and has drawn on her understanding of the sophisticated astronomical knowledge embedded within First Nations culture.

The last speaker was Uncle Bruce Pascoe, best known for his celebrated work *Dark Emu: Aboriginal Australia and the birth of agriculture*, published by Magabala Books in 2014, which re-examines colonial accounts of Aboriginal people’s existence in Australia to debunk the myth of the nomadic hunter gatherer. Relying upon historical evidence of pre-colonial agriculture, engineering and building works by First Nations people, he explored sophisticated examples of grain cultivation, well construction and aquaculture.

#### Planning

Planning for our service delivery takes into consideration the needs of CALD people and people with disabilities. Our planning is evidence-driven and we collaborate with other judicial education providers, government departments and agencies to share research and resources.

Planning for future publications and seminars include:

- Multicultural NSW’s review of “People from a culturally and linguistically diverse background” in the *Equality before the Law Bench Book*, and “People with disabilities” with the intention of updating and expanding the information contained in the chapter
- a guide on disability-informed practice in child protection is to be included in *Children’s Court Resource Handbook*
- a review of the structure and content of the Diversionary programs menu and assessment of new material
- the Walama List Service Resources — an extensive list of organisations and rehabilitation programs
- the consideration of a separate stand-alone booklet with information about diversionary programs
- a session on cultural planning in Out-of-Home Care is being designed for the Children’s Court conference in 2022 to address various of the recommendations in the *Family is Culture Review Report*.

#### Leadership

The recognition of diversity and equitable access is embedded in our service delivery and work practices. Since 1992, in line with recommendations of the Royal Commission into Aboriginal Deaths in Custody, we have run an Aboriginal Cultural Awareness program, the Ngara Yura Program, for judicial officers. Our staff often participate in this program. See p 31 for more details on this program.

During the year we:

- hosted the First Nations Speaker Series to celebrate First Nations culture and identity through a series of talks featuring authors, researchers, creators, innovators, knowledge holders and storytellers
- notified judicial officers about the Walama List in the District Court, commenced 31 January 2022, as an alternative sentencing procedure for eligible Aboriginal and Torres Strait Islander offenders and that aims to reduce re-offending
- hosted a webinar “Dadirri: a culturally sensitive practice for recovering from trauma” for judicial officers and staff to learn about the ancient Aboriginal practice to enhance wellbeing, and assist participants in their understanding of First Nations mindfulness-based stress management techniques. A recording of the webinar was made available on the Videos and Podcasts menu accessible from the JIRS homepage.
- updated the *Equality before the Law Bench Book* to include new sections on “The cultural importance of Aboriginal and Torres Strait Islander languages”,

new information about the impact of incarceration on First Nations women; updated information on intergenerational trauma, the Walama List in the District Court, the Protocol at the NSW Coroner's Court for dealing with inquiries into the deaths of First Nations people; and a new section discussing the Aboriginal child placement principles.

- organised a visit to the Dharawal community of La Perouse which focused on the importance of culture and family to Aboriginal communities and cultural communication.



The Ngarra Yura Program organised a visit to the Dharawal community in La Perouse, Sydney, to learn about the importance of culture and family to Aboriginal communities.

*Next year* we will continue to support the National Judicial Orientation Program and our magistrates' orientation program to ensure that new judicial officers appreciate the impact of cultural and religious differences and understand how language and culture influence behaviour, attitude and witnesses. We will also expand the information provided in all our programs to better inform judicial officers as to the increasing diversity in the legal profession. The First Nations Speaker Series will be continued.

### Engagement

During the year we collaborated with diverse communities directly or indirectly in the following ways:

- supported the work of the Department of Communities and Justice in reaching an Accord with the NSW Council of Aboriginal Regional Alliances regarding strategies to reduce the number of young First Nations people being breached on bail following non-violent offences
- continued to make judicial officers aware of the Australian National Imams Council "Explanatory Note on the Judicial Process and Participation of Muslims" which we host on JIRS
- presented to a delegation led by the Chief Justice of Papua New Guinea on the topic of decision-support technologies such as JIRS
- held workshops with the Maldives Judicial Academy on the topics of the NSW Drug Court and Victorian Family Drug Court Systems; Australia's experience in regulating drug use; and women in the criminal justice system
- our Project Officer of the Ngarra Yura Program gave a presentation with the community group, Gunawirra, on "Warura (string) Theory Workshop" and a presentation with the local community, Firestories, on First Nations astronomy, "Yanada Gili — Moon Light".



A delegation led by the Chief Justice of Papua New Guinea visited the Commission in April 2022 to sign a new MoU with the Commission and learn more about decision-support technologies.

*Next year* we plan to update information specific to judicial officers about communicating with CALD people by using, and assessing the need for, interpreters in court in the *Handbook for Judicial Officers*. This award-winning publication is freely available on the Commission's website.

### Providing flexible work arrangements

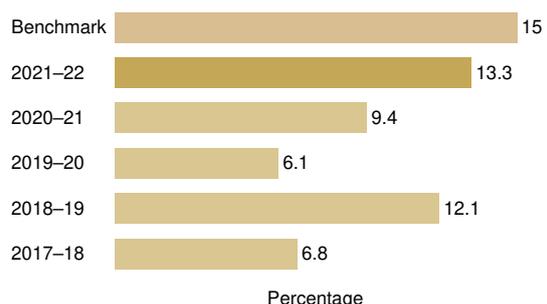
The Commission has a "flexible working practices agreement" in place to assist employees to balance work with personal and family obligations. All requests for flexible working arrangements are assessed on their merits in line with this policy. Staff also benefit from our "flexible working hours" policy that provides options for people to arrange their working hours. Our yearly staff survey showed that 94% of respondents agreed that the organisation provides them with a good work/life balance (see p 69).

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 13.3% (last year: 9.4%) with 4 staff members retiring or leaving. This turnover rate is below our acceptable rate of 15%, suggesting that we are an employer of choice for the majority of our people; see Figure 18. Two of the 4 staff members who left were long-term Commission employees who had reached retirement age. Our retention rate is very high with over 56.2% of our staff having 10 or more years' service and a further 19.8% having 5 or more years' service.

Figure 18. Staff turnover 2017–22



## Case study

### Retirement of the Commission's second Chief Executive, Mr Ernest Schmatt AM PSM

Mr Schmatt joined the executive team of the fledging Commission in 1987 as deputy to District Court judge Barrie Thorley AM. When the latter left in 1989, Mr Schmatt was appointed Chief Executive.

Many of the programs and bench books developed during Mr Schmatt's time have been used as models within Australia and internationally, and the Commission has gained a world-wide reputation for being a leader in judicial education.

Mr Schmatt has contributed to educating judicial officers both at home and abroad, having been 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. In June 2021 he was appointed Deputy Secretary General of the IOJT. Since 1994, he has been a member of the Advisory Board of the Commonwealth Judicial Education Institute and served on the management committee of the Asia Pacific Judicial Reform Forum. He has been involved in judicial capacity-building programs in China, Indonesia, Cambodia, Sri Lanka, Malaysia, the Philippines, Turkey, Papua New Guinea, West Bank and Gaza.

In his retirement speech at the Commission on 24 February 2022, Mr Schmatt said he regarded one of his most important contributions as overseeing the establishment of Aboriginal cultural awareness, now the Ngarra Yura Program, following recommendations of the 1992 Royal Commission into Aboriginal Deaths in Custody that judicial officers receive education on matters relating to Aboriginal customs, culture, traditions and society.

Mr Schmatt became a member of the Order of Australia in 2018 for 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.



Former Chief Executive, Mr Ernest Schmatt, (l) former Executive Assistant, Ms Cheryl Condon and Acting Chief Executive, Mr Murali Sagi (r) at a special farewell function for Mr Schmatt and Ms Condon held at the Commission in February 2022.

### Satisfactory staff attendance

During 2021–22:

- no industrial action occurred
- average sick leave was 9.4 days per employee (last year: 7.21 days). The increase was due to two staff members requiring extended sick leave. Excluding these staff members, the average was 6.33 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 wellbeing tools such as a mental health microsite, Total Wellbeing Index, SMART goals and exercise. The newsletter addresses a number of important holistic issues such as mental health, resilience, healthy habits and fitness.

### Providing professional training and development

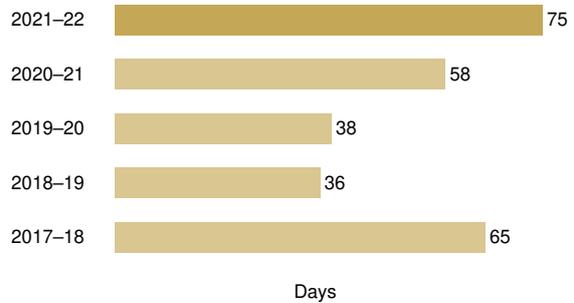
As an education provider itself, the Commission strongly encourages all staff to undertake regular professional development. Employees identify their training and development needs in relation to their performance improvement plan as part of their yearly performance review. Managers encourage staff to 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.

Due to COVID-19, the working from home environment has required staff to learn new skills and as a result, many have embraced the opportunity to take part in more webinars and online courses. This has seen staff take-up of training at a significantly higher level and with lower cost. Sixteen staff members (47%) attended 75 training days at a cost of \$2,601 (last year: 58 training days at a cost of \$2,654); 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
- webinars and online courses covering topics such as health and safety for remote workers, leadership, indigenous issues, mindfulness, judging, child protection and Youth Koori Court
- cyber security
- systems and IT workshops
- in-house training eg First Nations Speaker series.

In addition, Commission staff have access to JIRS to keep up-to-date with legal developments. Our employees also attended educational activities provided for judicial officers, including in-house seminars on legal developments, and visits to First Nations communities as part of the Ngara Yura Program.

Figure 19. Staff training days 2017–22



### 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.

### Library services for staff

In 2021–22, the library maintained corporate membership of the Australian Library and Information Association, the Australian Law Librarians Association, the Australasian Institute of Judicial Administration, and the International Association of Law Libraries.

Historically, the library has provided 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.

Online access to a wide range of legal subscription services are available to all staff, relative to the library’s budget. Subscriptions to core materials of relevance to Commission staff were maintained throughout the year. Electronic copy has proved its worth as it can be accessed from anywhere and a wide range of material can be sourced quickly online.

Our use of online services has become part of our normal working day. This change in working practices, which started as a result of the COVID-19 pandemic, has contributed to the decrease in demand for in-person library services. The Commission has decided, as a consequence, not to employ a librarian to replace our former librarian who retired in April 2021 and we have an arrangement to access research services at the University of New England.

## Case study

### Retirement of Ms Cheryl Condon, Executive Assistant

Ms Cheryl Condon, a long-serving employee of the Judicial Commission, retired in March 2022. Cheryl was one of the original officers appointed when the Commission commenced operations in October 1987.

Cheryl has been an outstanding Executive Assistant to two Chief Executives for over 35 years. Prior to joining the Commission, Cheryl had been Private Secretary to the Public Trustee.

Cheryl gained an immense corporate knowledge of the Judicial Commission's procedures and practices which all staff and Commission members greatly benefited from. One of Cheryl's roles was to provide members of the public with information about the Commission's complaints process. In 2012, the then Premier of NSW, Mr Barry O'Farrell awarded Cheryl the NSW Meritorious Service Medallion.



#### 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 2.04% salary increase from the first full pay period after 1 July 2021 which reflected the increase provided to public sector employees under the Crown Employees (Public Sector — Salaries 2021) Award. There was a 2.5% adjustment for senior executives during 2021–22.

The Commission contributed an amount equivalent to 10% of each employee's salary to Aware 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 89. 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 Health and Safety Representative who conducts safety inspections of the premises. Four 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 were:

- no workplace injury claims 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 complaints lodged (last year: 0).



Masked staff and staff via zoom attended the farewell function for the Commission's Chief Executive and his executive assistant in February 2022.

We encourage staff to receive influenza and COVID-19 immunisations and reimburse the cost of the booster. The Commission has set up a Vaccination Register for employees to submit evidence of their vaccination to Corporate Services. Details of the status are kept confidential. Staff wear masks in public areas and during meetings to protect against the spread of the COVID-19 virus in accordance with public health orders.

Ergonomic assessments of workstations for new staff are undertaken to help them use their stand-up desks in the office effectively. The Commission provides large monitors for staff working at home and reimburses the cost to staff of purchasing office stationery and equipment to use at home.

### 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.

### 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. Virtual meetings are held for staff working from home.

Our employees are informed about policies and procedures on our intranet and via Teams.

Directors have an open-door policy and publish monthly reports about their department's progress.

Departmental managers have frequent meetings with employees to discuss workflow, work-related issues, and also to promote their wellbeing.

Our in-house newsletter, *JUDCOMmunications*, is circulated monthly to all staff.

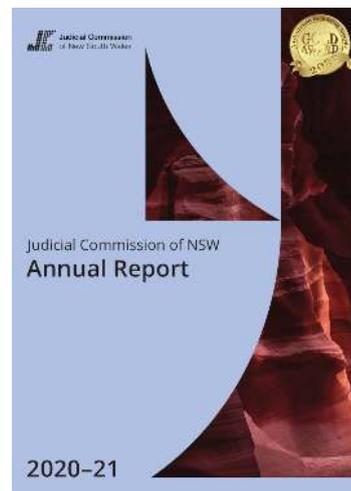
### Facilitating teamwork and enhanced communications

Educational enhancement meetings occur regularly to promote open discussion between the Commission's teams. These meetings are a forum to discuss improvements to work practices and facilitate a streamlined workflow. Some of the initiatives raised and implemented as a direct consequence of the Educational enhancements meetings have been improvements to the XML publishing system; downloading suggested directions in the bench books; educating the Publishing team to upload new content onto JIRS; the annual publishing schedule with automated reminders; creation of the Judicial Wellbeing portal; enhancements to the program materials section of JIRS and automatic updating of legislation links in bench books.

### 2020–21 Annual Report wins gold award

The Commission received a gold award from the Australasian Reporting Awards for our 2020–21 Annual Report. This, our 12th consecutive gold award, acknowledges the consistent high quality of our reporting.

The Commission has produced high quality annual reports for many years with a track record of 12 gold, 8 silver, and 5 bronze awards since 1994 with the annual Australasian Reporting Awards (ARA). The focus of last year's report was the Commission's engagement with First Nations' issues, specifically through the Commission's Ngarra Yura Program, in the 30th anniversary year since the Royal Commission into Aboriginal Deaths in Custody Final Report was released.

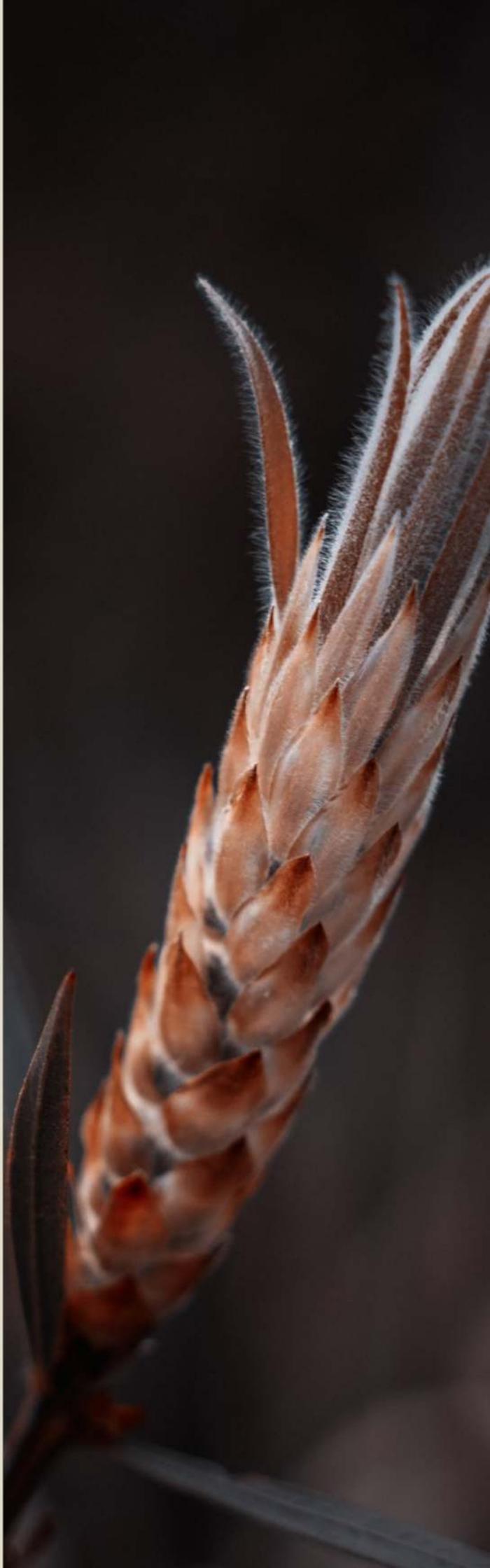


# Our governance and ethics

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

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# 07





## Performance results 2021–22

An assessment of the Commission’s performance in Table 14 demonstrates our diligence with respect to governance and ethics. Table 14 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 14. Performance of good governance and ethics

Results	Measures	Performance	Status
Maintain robust governance	Hold regular Commission and Audit and Risk Committee meetings	9 Commission meetings and 4 Audit and Risk Committee meetings held: see pp 84, 89	✓
Our corporate behaviour was ethical and responsible	Protect the Commission’s reputation so that members of the public have confidence in the ability and performance of judicial officers	Our staff are properly inducted, qualified, highly skilled and their training is replenished: see p 76	✓
	Ensure compliance with the Commission’s Code of Conduct	Our staff behave with integrity, respect and accountability and abide by our Code of Conduct: see p 87	✓
Maintain and enhance registers for contracts, conflict of interests and mitigating risks	Ensure the registers are kept current and evaluated for any risk	We keep the register 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	See “Delivering continuing judicial education” chapter from p 25 See “Providing legal information” chapter from p 35	✓
	Protect the public by examining complaints regarding judicial officers	See “Examining complaints” chapter from p 47	✓
	Provide assistance to NSW government agencies	See “Engaging with our partners and the community” chapter from 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	<b>HIGHLIGHT</b> A review of the Commission’s record keeping was the subject of an internal audit in 2021–22 and has resulted in a move to a digital record keeping system.	✓
Reduction in energy use	Entrench sustainability policies and behaviours in our workplace consistent with NSW Government policy	Over 5 years: 2% increase in energy use 310 GJ energy use in 2021–22 (last year: 281 GJ), this is below our benchmark of 300 GJ We recycled 0.226 tonnes of wastepaper, and purchased less paper than in 2020–21: see p 94	✓

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

## Challenges 2021–22

- Ensuring integrity of governance and management of risks while providing continuity of our operations during the disruption and uncertainty that the COVID-19 pandemic continued to cause.
- Planning for and managing succession at a time when senior staff are approaching retirement or retired during the reporting period.
- Review of, and compliance with, internal audit recommendations, which must be balanced with core activities.
- Maintenance of ongoing disclosure, as well as annual conflict of interest declarations.

## Looking ahead 2022–23

- Revise our strategic plan to incorporate updated key performance indicators and targets.
- Manage transition to digital record keeping system.
- Maintaining integrity of governance and management of risks while adapting to the environmental uncertainty which is a legacy of the COVID-19 pandemic
- Continue to review and comply with internal audit recommendations.
- Continue to promote diversity, access and equality through our programs.
- Remain vigilant about potential conflicts of interest.

## Case study

### Applying lessons learned from the COVID-19 pandemic

While the COVID-19 pandemic has caused major disruptions to business and government since March 2020, it has also provided the opportunity to review how we work and whether measures implemented during lockdown should become permanent. During the past reporting year, we have assessed whether online learning, digital delivery of publications and hybrid work arrangements promote efficiencies in our work practices.

Continuing to offer a hybrid work arrangement for staff has been universally acceptable both for staff morale and wellbeing, given continuing high rates of COVID-19 transmission in the community. We revised our Return to Office Plan in keeping with NSW Department of Health guidelines to ensure the wellbeing of staff and business continuity in the event of staff members contracting COVID-19.

Our continuing judicial education program has incorporated webinars as part of our delivery strategy. Webinars have proved to be an effective way to reach out to judicial officers remotely who otherwise would not have the time or proximity to attend regular in-person events.

During lockdown, we switched our publications' delivery to be 100% digital and have maintained this practice in the interests of environmental sustainability and being able to deliver information more immediately to our judicial officers and subscribers.



## 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

<p><b>1</b></p> <p><b>Management and oversight</b></p> <p>Leadership, strategic and business plans</p>	<p><b>2</b></p> <p><b>Structure of Judicial Commission</b></p> <p>Judicial Commission, Chief Executive, key governance committees</p>	<p><b>3</b></p> <p><b>Ethical and responsible behaviour</b></p> <p>Code of conduct, ethical framework, conflicts of interest and privacy management plan</p>	<p><b>4</b></p> <p><b>Integrity and compliance in reporting</b></p> <p>Performance reporting, annual report, internal audit, external audit</p>
<p><b>5</b></p> <p><b>Timely and balanced disclosure</b></p> <p>Open access information, proactive release program</p>	<p><b>6</b></p> <p><b>Supporting our stakeholders</b></p> <p>Support to judicial officers, government agencies, community partners</p>	<p><b>7</b></p> <p><b>Recognising and managing risk</b></p> <p>Risk management framework, insurance, strategic risks, risk and control attestations</p>	<p><b>8</b></p> <p><b>Remuneration is fair and responsible</b></p> <p>Remuneration for appointed Commission members and senior executives</p>

\* 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* (the Act) 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 a Conduct Division, and how and when the complaint is finalised.

### Legislative charter

We operate under the 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

There were no amendments to the Judicial Officers Act or the *Judicial Officers Regulation 2017* during the reporting period.

The *Government Sector Finance Act 2018* (NSW) (GSF Act) commenced in stages from 1 December 2018 and 1 July 2019, with the reporting arrangements commencing progressively between 2019 and 2022. The GSF Act will require greater focus on performance, transparency, accountability and efficiency with respect to financial management in the government

sector with the enacting of Division 7.3 of the GSF Act, relating to annual reporting, which commenced this financial year.

### 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 advice to the Chief Executive by overseeing and monitoring the risk and control frameworks, and its external accountability requirements
4. a Chief Audit Executive (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 over 35 years of accumulated knowledge and experience. Next year, our strategic plan will be substantially revised to incorporate key performance indicators designed 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 current 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 is scheduled to meet 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 the strategic direction, appoint the executive management team, approve budgets and publications, contribute to judicial education sessions and conduct the preliminary examination of all complaints.

The Commission is comprised of 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

Nine Commission meetings were held during the year (last year: 10). Meetings were conducted in line with the requirements of relevant COVID-19 public health orders. Table 15 gives details of each member’s attendance. Members are required to attend each meeting, unless leave of absence is granted. The quorum for a meeting is 7 members and at least 1 must be an appointed member. The Chief Executive attends all meetings to report on the Commission’s operations. Meeting papers are circulated well in

advance of the meeting to allow sufficient time for members to review agenda items and seek further information.

In 2021–22, Commission members:

- examined 41 complaints made about judicial officers (last year: 72)
- approved publications including papers for an issue of *The Judicial Review* and the *Annual Report 2020–21*
- 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 on pp 18–21. Our organisational structure is on p 8.

Table 15. Commission members’ meeting attendance for 2021–22

Official members	Meetings eligible to attend	Meetings attended
The Honourable T Bathurst AC Chief Justice of NSW (President) (until 4 March 2022)	5	5
The Honourable Justice A Bell (until 4 March 2022) Chief Justice of NSW (President) (from 7 March 2022)	9	9
The Honourable Justice J Ward (from 7 March 2022)	4	4
The Honourable Justice B Preston	9	9
The Honourable Justice D Price AO	9	9
His Honour Judge G Henson AM (until 27 August 2021)	0	0
His Honour Judge P Johnstone (from 30 August 2021)	9	8
Chief Commissioner N Constant	9	9
Appointed members	Meetings eligible to attend	Meetings attended
Dr J Cashmore AO*	8	8
Mr D Giddy†	6	6
Professor B McCaughan AM	9	9
Mr Y Miller OAM*	7	5

\* Dr J. Cashmore and Mr Y. Miller reappointed from 15 December 2021 until 14 December 2024.

† Mr D. Giddy reappointed from 3 March 2022 until 2 March 2025.

## 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 as follows:

Dr Colin Gellatly AO was appointed independent member on 1 March 2017, Chair from 1 July 2017 for 3 years and reappointed for a further 2 years from 1 July 2020. 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 Parramatta City Council's Audit and Risk Committee.

Ms Robyn Gray BA LLB GAICD was appointed independent member for 3 years from 1 July 2017 and reappointed for a further 2 years from 1 July 2020. Ms Gray is 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 and reappointed for a further 2 years from 1 July 2021. Ms McClelland has more than 18 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 (UNE), Chair of the superannuation industry's Gateway Network Governance Body, Chair of the Life Insurance Code Compliance Committee and chair and member of audit and risk committees in government and not-for-profit organisations. Ms McClelland is a former Director General of the NSW Department of Education and Training, member of the Administrative Decisions Tribunal and chair and member of government boards and committees.

Others invited to attend the committee meetings throughout the year included the Chief Executive, Mr Ernest Schmatt AM PSM (retired February 2022); Deputy Chief Executive, Mr Murali Sagi PSM (Chief Audit Executive); the Manager, Corporate Services, Mr Malcolm Hozack; Ms Penny Corkill of Centium Services; and Mr Michael Kharzoo from the Audit Office of NSW.

The ARC is fully independent in accordance with NSW Government requirements in *TPP 20-08: Internal Audit and Risk Management Policy for the General Government Sector*.

### 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. Changes recommended to the Commission to restructure the Standing Advisory Committee on Judicial Education (SAC) were approved in April 2022. Established to provide advice on judicial education activities, the SAC will now provide advice regarding research and publishing projects. 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.**

<p>The ARC is responsible for monitoring:</p>	<p>Internal audit and control functions, including assessing effectiveness, and compliance with section 3.6 of the <i>Government Sector Finance Act 2018</i></p>	<p>The adequacy and quality of the internal control structure</p>	<p>Financial statements and reporting</p>
<p>Compliance with NSW Treasury guidelines</p>	<p>Management responses to audit reports</p>	<p>Internal audit results</p>	<p>Risk management strategies: their effectiveness and internal results</p>



## Case study

### Fostering a healthy risk management culture: the work of the Audit and Risk Committee

A key aspect of the Judicial Commission's governance framework is the (ARC). The ARC provides oversight and performance of the internal audit function, always an important role but one which came to the fore in the past year due to the extraordinary circumstances brought about by the global pandemic.

Under its Charter, the ARC's objective is to provide independent assistance to the Chief Executive of the Judicial Commission by monitoring, reviewing and providing advice about the Commission's governance processes, risk management and control frameworks and its external accountability obligations. The membership of the ARC comprises three independent members and the Commission is very fortunate to have individuals of the calibre that we have (see p 85). The Deputy Chief Executive is also the Chief Audit Executive and attends ARC meetings on a regular basis.

The ARC provides an annual report to the Chief Executive each year, addressing its operation and activities during the year. In 2021–22, the ARC performed a crucial role in reviewing the Commission's work during the ongoing pandemic. The most significant risks for the Commission, which first emerged in February 2020 and continued throughout the current reporting period, related to the COVID-19 pandemic. Like most other organisations, this created risks relating to the work, health and safety (WHS) of staff; cyber security; privacy; and effective performance management of staff. For the Commission, it also brought unique challenges including the efficient discharge of essential functions such as judicial education, complaint handling, and maintenance of accurate and up to date research resources for the judiciary.

The ARC has kept a careful watch on the Commission's risk register and the provision of internal audit services — in 2021–22 a decision was taken to conduct one external internal audit, being a review of the Commission's cyber security and record management and to engage an external review of the risk register (see p 89). The ARC also reviewed the outcomes of the previous year's external audit assessing the Commission's response to the pandemic.

## Case study

### Training staff in cyber security at the Commission

As the COVID-19 pandemic remains an ongoing concern, Commission staff worked remotely for the first half of the year in line with government guidelines. In January 2021, our people moved to a hybrid arrangement, working both remotely and onsite. Given our reliance on internet to keep us all connected, we are acutely aware of the importance of strong cyber security.

The Commission regularly reminds staff that the first line of defence is vigilance, particularly when browsing the internet and accessing emails. As an exercise in cyber security awareness, the Commission ran an internal phishing email awareness campaign designed to test how well users respond to a potential phishing email threat. The campaign involved sending all Commission staff a phishing email crafted to appear familiar and official, and recording if staff were fooled by the email into clicking a link or opening an attachment. Additionally, half of our staff participated in a cyber security essentials training course. Cyber Security NSW hosted this course which provided a broad look at common cyber security threats and how to deal with them.

We continue to maintain up-to-date antivirus software on all Commission computers as a matter of course. Technical assistance and support have been continuously available to staff throughout the reporting period when our people are working remotely or in the office.

## Principle 3: Ethical and responsible behaviour

### Protecting the Commission's reputation

Our vision is that members of the public 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 over 35 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 (the Code) 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 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 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*
- *Government Sector 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

Archiving of meeting papers with Government Records for Commission meeting papers was unable to be undertaken this reporting year due to the changed circumstances caused by the pandemic.

Confidentiality of historic volumes of the confidential Commission meeting papers 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; also our engagement with stakeholders. 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.

The 2021–22 internal audit consisted of a review of the Commission's record-keeping policy. The review observed that while the roles and responsibilities of Commission staff are well defined, the lack of a digital record keeping system affected the staff's ability to maintain good digital 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 12 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 on our website without charge as soon as practical. 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 2020–21*
- *Handbook for Judicial Officers*

- updates to the following bench books and handbooks in pdf and other digital 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 endeavour to investigate complaints about judicial officers in a timely and effective manner and to inform complainants about the progress of their complaints. Table 11 on p 52 shows our targets and the time taken to examine complaints over a 5-year period. If a complaint is dismissed and a complainant seeks to clarify the reasons for this, we respond promptly.

### Delivering our services and publications electronically

We provide a range of online services using two platforms, the Judicial Information Research System (JIRS) (see p 39) and our public website at [www.judcom.nsw.gov.au](http://www.judcom.nsw.gov.au). JIRS is an online database for judicial officers and the courts. It is also available to legal practitioners on a subscription basis. Updates to resources published on our free-to-view website were uploaded during 2021–22.

## Principle 6: Supporting our stakeholders

Our key stakeholders are:

- judicial officers of NSW for whom we deliver continuing judicial education services (see p 25) and provide research and sentencing and legal information (see p 35)
- the NSW public: see "Examining complaints" chapter from p 47 and "We inform the public about what we do and exchange knowledge and expertise with other organisations" on p 60
- NSW government agencies: see "Working with government agencies" on p 62
- other judicial education providers: see "Working with other judicial education providers and universities" on p 64.

## Principle 7: Recognising and managing risk

Our risk management framework has been developed to comply with the NSW Treasury Policy Paper *TPP 20-08: Internal Audit and Risk Management Policy for the General Government Sector*.

## Risk management policy

The Commission is committed to managing its risks effectively. Our risk management policy is based on an over-arching risk register which covers the entire operations of the Commission. This includes protecting our employees, visitors, contractors and their property as well as the broader community and environment from injury, loss or damage.

The risk register feeds into the Internal Audit Plan which was finalised after discussion between the Chief Executive and internal auditors. The risk register of low and medium rated risks is published on the Commission’s intranet and is reviewed every 2 years.

Next year, a workshop will be held with the internal auditors and senior executives to review the risk register. The Audit and Risk Committee will then review the revised risk register before it is finalised.

## Audit and Risk Committee activities 2021–22

The Audit and Risk Committee (ARC) met 4 times during the year (last year: 4) and reported to the Chief Executive. Table 16 provides details of attendance at those meetings.

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 20-08: Internal Audit and Risk Management Policy for the General Government 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 the Internal Audit Plan for 2021–22 and advised the Chief Executive accordingly. The internal audit plan for 2021–22 consisted of a review of the Commission’s cyber security policies and record keeping. A draft report has been prepared for management response.

The NSW Government’s Cyber Security Policy (CSP) has changed significantly the criteria against which cyber security maturity and compliance is rated and “raised the bar” of what is required to achieve the designated maturity ratings. The report observed that the small size and related resourcing of the Commission makes it challenging for it to reach the same level of compliance as a large organisation, however it noted that the maturity rating the Commission achieved is an impressive achievement for an organisation of its size and resourcing. The report suggested that the Commission continue to strive for a higher future

total maturity rating against the CSP. The report also indicated that more needs to be done in relation to the Essential Eight Criteria and addressing the critical points of failure identified by the audit.

Regarding the records management, the report observed that while the Commission staff knew their roles and responsibilities, which were very well defined, the lack of a digital record keeping system affected the staff’s ability to maintain good digital records. See 90.

See case study on p 81.

During the year, the ARC also:

- used the control self-assessment review reports of risk mitigation
- monitored the performance of the out-sourced internal audit service provider, Centium
- used the Audit Recommendations Progress Report to monitor implementation of recommendations.

### 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 2021–22. There were no recommendations made by the external audit in the management letter for 2020-21.

Table 16. Meeting attendance by Audit and Risk Committee (ARC) 2021–22

Committee members	Meetings eligible to attend	Meetings attended
Dr Colin Gellatly AO	4	4
Robyn Gray	4	4
Jan McClelland AM*	4	4
Invitees	Invited to attend	Meetings attended
Ernest Schmatt AM PSM	2	2
Murali Sagi PSM	4	4
Malcolm Hozack	1	1
Annie Wang	3	3
Micheal Kharzoo, Audit Office of NSW	4	4
Penny Corkill, Centium Services	4	4

\* **Jan McClelland AM** has been reappointed for a further two years from 1 July 2021.



## Forward plan

In 2022–23 the ARC will continue to ensure compliance with the requirements of the NSW Treasury Policy Paper *TPP 20-08: Internal Audit and Risk Management Policy for the General Government Sector*.

## Organisational response to the 2021–22 internal audit

In response to the cyber security review, the Commission will develop a detailed stand-alone Action Plan which identifies the various tasks involved in implementing each recommendation, and the responsible officer/s and the target dates for each task. The Action Plan will include review of priorities for implementation and the related resourcing needed.

In response to the review of our record keeping policy, the Commission has investigated the options available as well as associated related costs and is taking steps to acquire and introduce a new digital record management solution. It is anticipated that implementation of this new digital record keeping solution will commence in August 2022 and be completed next financial year. The Commission proposes to engage external expertise to assist with implementation of the new digital record keeping system and user training of staff.

## 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 provide 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.

Next year, as a part of the Judicial Commission's ongoing cyber security commitment our Information Security policy has been updated in compliance with NSW Cyber Security Policy Mandatory Requirement 2.1 to include a requirement for staff to attend at least one session of cyber security awareness training per calendar year. Cyber Security NSW provides us with access to external training which staff can attend to brush up on best practices in basic cyber security hygiene, which can be applied both in the office and at home.

Our Cyber Security Annual Attestation Statement for 2021–22 is shown below. See also case studies on pp 86, 94.

## Cyber Security Annual Attestation Statement for the 2021–22 Financial Year for the Judicial Commission of NSW

I, Una Doyle, 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.

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

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

The Judicial Commission of NSW has an Information Security policy in place and has plans in place to implement a Cyber Security Framework in the near future.

As a part of the Commission's ongoing commitment to improve cyber security, an audit of the Commission's cyber security controls and its compliance with the mandatory requirements of the NSW Cyber Security Policy (CSP), including Australian Cyber Security Centre Essential Eight Controls was conducted. In response to the findings of the audit, a cyber security action plan has been developed to address key recommendations.

Una Doyle  
Chief Executive  
Judicial Commission of NSW  
Dated: 25 August 2022

## Internal Audit and Risk Management Attestation for the 2021–22 Financial Year for the Judicial Commission of NSW

I, Una Doyle, Chief Executive, am of the opinion that the Judicial Commission of NSW has internal audit and risk management processes in operation that are, excluding the exceptions or transitional arrangements described below, consistent with the seven (7) Core Requirements set out in the *Internal Audit and Risk Management Policy for the General Government Sector*, specifically:

### Core requirements

#### Risk Management Framework

- 1.1 The Accountable Authority shall accept ultimate responsibility and accountability for risk management in the agency — consistent
- 1.2 The Accountable Authority shall establish and maintain a risk management framework that is appropriate for the agency. The Accountable Authority shall ensure the framework is consistent with AS ISO 31000:2018 — consistent

### Internal Audit Function

- 2.1 The Accountable Authority shall establish and maintain an internal audit function that is appropriate for the agency and fit for purpose — consistent
- 2.2 The Accountable Authority shall ensure the internal audit function operates consistent with the International Standards for Professional Practice for Internal Auditing — consistent
- 2.3 The Accountable Authority shall ensure the agency has an Internal Audit Charter that is consistent with the content of the 'model charter' — consistent

### Audit and Risk Committee

- 3.1 The Accountable Authority shall establish and maintain efficient and effective arrangements for independent Audit and Risk Committee oversight to provide advice and guidance to the Accountable Authority on the agency's governance processes, risk management and control frameworks, and its external accountability obligations — consistent
- 3.2 The Accountable Authority shall ensure the Audit and Risk Committee has a Charter that is consistent with the content of the 'model charter' — consistent

### Membership

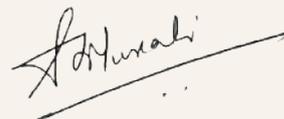
The independent chair and members of the Audit and Risk Committee are:

- 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 and reappointed for a further two years from 1 July 2020.
- Ms Robyn Gray, Independent Member — appointed Independent Member on 1 July 2017 for a period of three years and reappointed for a further two years from 1 July 2020.
- Ms Jan McClelland AM, Independent Member — appointed Independent Member on 1 July 2018 for a period of three years and reappointed for a further two years from 1 July 2021.

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.



Una Doyle  
Chief Executive  
Judicial Commission of NSW  
Dated: 5 August 2022



Murali Sagi PSM  
Agency Contact Officer  
Deputy Chief Executive  
Judicial Commission of NSW

### Safeguarding JIRS technology

The Judicial Information Research System (JIRS) is built using open-source software and utilises current 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 40 and enhancements made to JIRS throughout the year are reported on p 44.

### Insurance

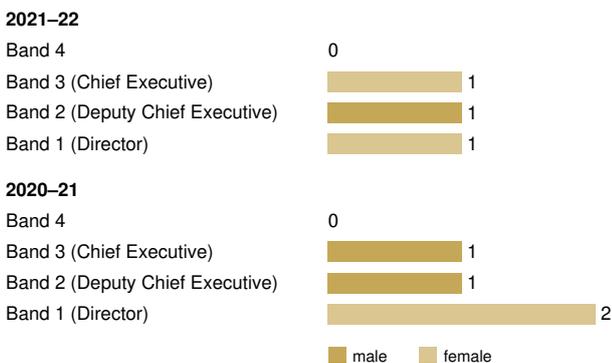
We are a member of the NSW Treasury Managed Fund, a mandatory self-insurance scheme for government agencies. This provides comprehensive cover for physical assets such as plant and equipment, motor vehicles and miscellaneous matters. The managed fund provides coverage for staff through workers compensation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

The premium for 2021–22 was \$41,000 comprising a workers compensation premium of \$24,000 (last year: \$21,927) and a general insurance premium of \$17,000 (last year: \$12,566).

Table 17. Insurance premiums 2019–22

	2019-20	2020-21	2021-22
Workers compensation	\$16,441	\$21,927	\$24,000
General insurance	\$7,400	\$12,566	\$17,000
<b>Total premium</b>	<b>\$23,841</b>	<b>\$34,493</b>	<b>\$41,000</b>

Figure 20. Gender breakdown of senior executive positions by PSSE Bands 2020–22



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

### Principle 8: Remuneration is fair and responsible

#### 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 executives

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). There was a SOORT increase of 2.5% to the total remuneration package (including superannuation) for senior executives during 2021–22.

Figure 20 shows the number of executive positions at the Commission and their equivalent remuneration levels for Public Service Senior Executives. Table 18 shows the average total remuneration package for senior executives within the appropriate band and the note describes the percentage indicating what amount of the Commission’s employee-related expenditure in 2021–22 was related to senior executives. A comparison is made with the percentage rate in 2020–21.

Table 18. Average senior executive remuneration 2020–22

Band	Range (\$)	Average remuneration (\$)	
		2020-21	2021-22
Band 4	499,251–576,700	n/a	n/a
Band 3	354,201–499,250	446,852	458,023
Band 2	281,551–354,200	323,067	331,144
Band 1	197,400–281,550	241,831	247,877

Note: 26.89% of the Commission’s employee-related expenditure in 2021–22 was related to senior executives, compared to 26.71% in 2020–21. The Commission has no positions equivalent to Band 4.



The Commission’s executive team (l–r) is Murali Sagi PSM, Pierrette Mizzi and Una Doyle. Their profiles are on pp 22–23.

## Approach to human rights

The Commission seeks to actively identify, prevent, mitigate and redress adverse human rights impacts in a variety of ways including:

- 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 25 for further information about our education program and from p 47 for information about our complaints function. On an ongoing basis, information gathered from complaints informs the design and delivery of education sessions for judicial officers.
- Our Aboriginal cultural awareness program, the Ngara Yura Program, had a special focus this year on the 30th anniversary of the High Court's landmark *Mabo* decision (*Mabo v Queensland (No 2)* (1992) 175 CLR 1) which fell in June 2022. We published a commemorative article in the *Judicial Officers' Bulletin* and included a session at the Local Court conference in June to acknowledge the anniversary and contribute to the national conversation about truth-telling, voice and treaty that the Uluru Statement from the Heart calls for. The Ngara Yura Program aims to promote intercultural communication and mitigate the adverse impacts of the criminal justice system on First Nations people by providing judicial officers with relevant information about these impacts and alternatives, where relevant, to incarceration. See p 31 for more information about the Ngara Yura Program.
- The Commission has been involved in a taskforce since 2019 to develop and implement responses to recommendations of the *Family is Culture* review report. This report examined why First Nations children in NSW are overly represented in court ordered out-of-home care (OOHC) arrangements. During the year, we continued to update relevant publications, publish resources and design seminars so judicial officers have a deep knowledge of the complex issues giving rise to children in OOHC when they make decisions affecting First Nations children. One of the webinars focused on the toxic legacy of protectionist-era legislation which saw the forced removal of First Nations children from their families into homes. See case study on p 34.
- The Commission has developed a multi-pronged educational strategy to address sexual harassment prevention including publications, webinars and discrete sessions in annual conferences.
- Judicial Commission staff were part of an advisory committee who prepared a Practitioners Guide for Mental Health. Commission staff contributed to and edited the Guide to assist lawyers and registry staff to understand and navigate the new mental health forensic processes arising from the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020*. The Act commenced on 27 March 2021 and provides a mechanism to divert people with mental illness and cognitive impairments from the criminal justice system into the health system. See case study on p 61.
- We offered a session at the Local Court conference in June 2022 on "Enhancing diversion options for people with a mental illness in custody".
- 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 alternatives.
- Three of our bench books provide guidance for judicial officers to assist them to avoid bias and discrimination. The international award-winning *Equality before the Law Bench Book*, provides further guidance on removing barriers for minority groups so they can participate effectively in court proceedings. All bench books are published on our website at [www.judcom.nsw.gov.au](http://www.judcom.nsw.gov.au). During the year, we published a new chapter in this resource: "Trauma-informed courts" to highlight for judicial officers relevant information about the different types and particular instances of trauma that many individuals before the courts have faced; and to provide guidance about how judicial officers may take account of this information in court — from the start to the conclusion of court proceedings. Our international award-winning publication, *Handbook for Judicial Officers*, published in November 2021, contains a wealth of information by distinguished authors to assist judicial officers to conduct trials and case management fairly, impartially and with an awareness of the need to manage cultural diversity challenges and appreciate 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.
- The Commission continued to provide advanced case management functionality to the Supreme and National Courts of Papua New Guinea (PNG) to better manage their case load and bring in efficiencies.
- 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 p 31 for more information about this program.



## Sustainability

### We are mindful of our environmental footprint

Although we are a small agency, we focus on the need to reduce our environmental impact. Our priorities are aligned with the NSW Government’s Resource Efficiency Policy to reduce its environmental impact through improved resource efficiency.

Our premises at 60 Carrington Street, Sydney, has a 4 Star Nabers Energy Rating and a 3.5 Star Nabers Water Rating. There was decreased usage of electricity, gas and water by the building overall in the July–September quarter of 2021, reflecting reduced occupancy because of the COVID-19 pandemic.

Our staff worked remotely in compliance with the COVID-19 public health regulations from June 2021 to year end, transitioning to a hybrid model of working from home and the office from February 2022. The Commission used 310 GJ of electricity (last year: 281 GJ) and achieved 2% increase in energy use over 5 years: see Figure 21 (last year: 37.5% reduction over 5 years). We recycled 0.226 tonnes of wastepaper (last year: 0.398 tonnes) and bought 89 reams of 100% recycled paper (last year: 153).

The pandemic gave us the opportunity to review how we deliver our publications to judicial officers and subscribers. Converting to digital-only delivery has continued on from the lockdown measures introduced in 2020. During the year, we conducted an audit of our print subscriptions and cancelled these where duplicate online subscriptions are available.

We raise the awareness of our staff about environmental issues through our monthly newsletter, *JUDCOMmunications*. It has a dedicated sustainability section to provide staff with information and strategies to reduce their environmental impact.

Other sustainability measures included:

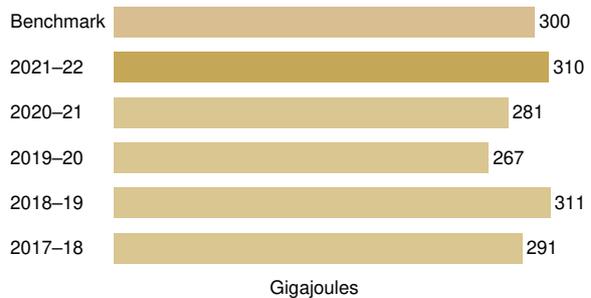
- reducing waste generation by recycling all paper, cardboard, toner cartridges and computer equipment

- reducing the impact of carbon emissions by offsetting carbon when purchasing air tickets for domestic travel
- reducing the impact of carbon emissions by preferring carbon neutral conference venues
- using power-saving computers and screens
- using 100% recycled paper with double-sided printing
- using online research platforms and cancelling print subscriptions where there is online provision
- using online payment of accounts received and rendered
- publishing internal policies on our intranet
- providing seminar and conference papers electronically
- catering for in-house events with non-plastic utensils
- making non-tangible donations on behalf of program presenters in lieu of tangible thank you gifts
- making available to staff waste/recycling sorting bins and coffee pod recycling containers.

Next year we will:

- transition our record-keeping systems to being entirely digital and obviate the need for paper collections of files. We will also examine how to digitally deliver meeting papers in a secure way.

Figure 21. 5-year trend in energy use



## Case study

### Keeping our staff up to date with cyber security skills

To ensure robust cyber security, the Commission has a cyber security framework in place as required by the NSW Government Cyber Security Policy. One aspect of this framework is to provide mandatory training for staff to ensure they are alert to cyber security risks. Staff are now required to attend at least one session of cyber security awareness training per calendar year. These are designed to replicate real-world situations and strengthen the skills staff have to defend against exploits and cyber threats. In addition to the mandatory training, our IT team organised a run of simulated emails to test the responsiveness of staff to spam and phishing. Staff who unwittingly clicked on links were notified by IT of the simulated exercise and encouraged to undertake further cyber security awareness training.

# Our finances

**Our financial result was a surplus of \$210,000, with 80% of our revenue from NSW Government funding and 20% self-generated. Our expenses were \$6.414 million.**

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## Performance results 2021–22

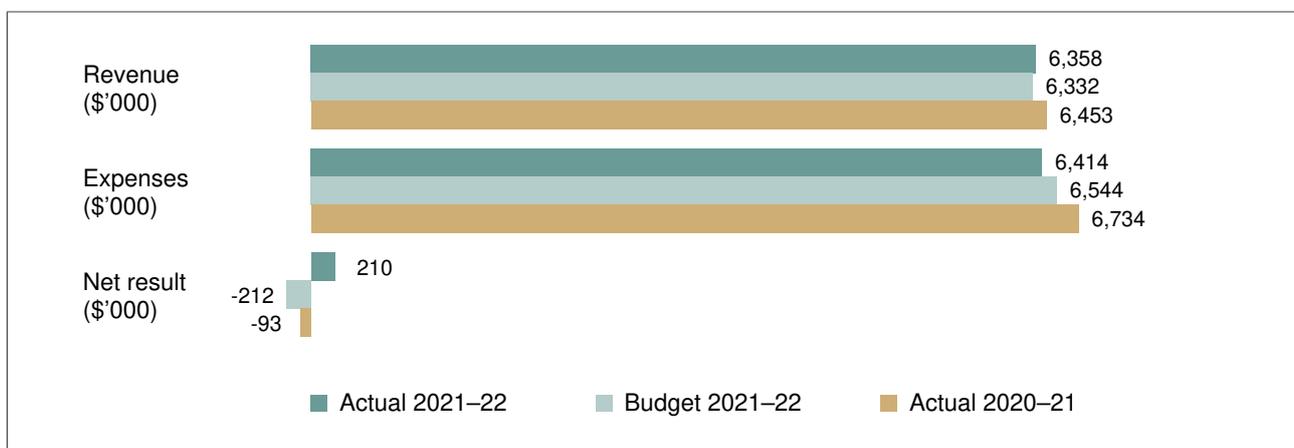
**Our financial result was a surplus of \$210,000, compared to the budgeted deficit of \$212,000. While there was a decrease in government funding in the reporting period, there was an increase in self-generated revenue, as well as a decrease in expenditure.**

Table 19. 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 \$212,000</b>	<b>Surplus: \$210,000</b>	↑
Our income adequately finances our core services and workforce We proactively generated income	<b>Our budgetary measures were:</b> <b>Income</b> \$6.332 million comprised of – Government funding: \$5.361 million – Self-generated revenue: \$971,000 – goods and services: \$909,000 – investment & other: \$62,000	<b>\$6.358 million comprised of:</b> Government funding: \$5.077 million Self-generated revenue: \$1.281 million – goods and services: \$1.103 million – other: \$178,000  <b>HIGHLIGHT</b> Self-generated revenue accounted for 20.1% of total revenue	↑
We contained our expenditure to budget level	<b>Expenditure</b> Total expenses: \$6.544 million Employee-related expenses: \$4.796 million	<b>\$6.414 million</b> Employee-related expenses: \$4.779 million (74.5% of total expenses): see Figure 24 on p 97 Total expenses were under budget by \$130,000	↑ ↑
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 20 and 21	✓
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

Figure 22. 2021–22 revenue, expenses and net results compared against budget and 2020–21 actuals



## Financial overview

Our financial result was a \$210,000 surplus, compared to the budgeted deficit of \$212,000. This outcome is due to a net gain from derecognition of financial assets measured at amortised cost. See Table 19.

The Commission receives funding from the NSW Government and this is our principal source of income. In 2021–22, our total income was \$6.358 million, of which \$5.077 million came from government funding. Another \$1.281 million (20.1% of total income, last year: 17%) was self-generated, primarily from contractual arrangements for the provision of software services and other services. This demonstrates growth of non-government sourced revenue by \$183,000 over last year. Projects included sentencing databases and case management systems for various jurisdictions: see p 64. See also Figure 23.

Expenditure was contained below budget levels. Spending was kept below capital allocation. Employee-related expenses were slightly under budget and represented 74.5% of expenditure (last year: 70.4%). We did not engage any consultants this year. See Figure 24.

Our total assets decreased by \$3.83 million mainly due to AASB 16 derecognition of right-of-use assets (last year: \$577,000 decrease). Our total liabilities decreased by \$4.04 million mainly due to AASB 16 derecognition of lease liabilities (last year: \$484,000 decrease).

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

### Key challenges

- Reduced government funding in an environment of government fiscal constraint
- Expense reduction impositions by government

### Looking ahead 2022–23

- 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

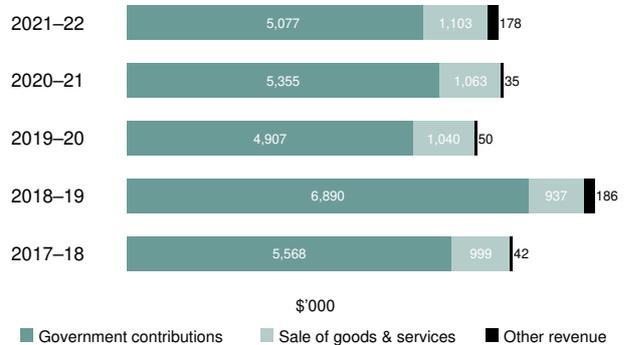


Figure 24. Expenses

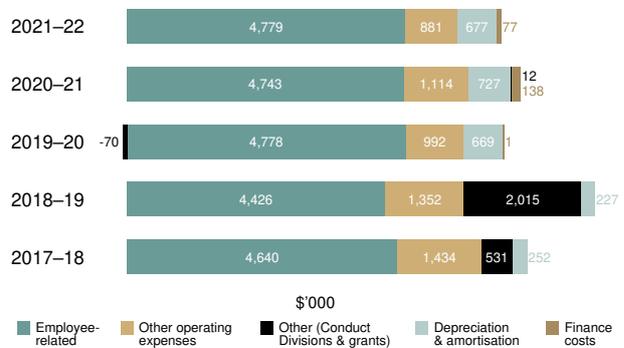


Table 20. Aged analysis at the end of each quarter

Quarter	Current (within due date)	<30 days overdue	30–60 days overdue	60–90 days overdue	>90 days overdue
	\$	\$	\$	\$	\$
Sep 2021	186,506	nil	nil	nil	nil
Dec 2021	106,128	nil	nil	nil	nil
Mar 2022	195,112	nil	nil	nil	nil
Jun 2022	85,468	nil	nil	nil	nil

Table 21. Accounts paid on time within each quarter

Quarter	Total accounts paid on time			Total amount paid
	Target %	Actual %	\$	\$
Sep 2021	100	100	720,910	720,910
Dec 2021	100	100	620,140	620,140
Mar 2022	100	100	699,509	699,509
Jun 2022	100	100	788,005	788,005

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### Statement by Chief Executive

Pursuant to section 7.6(4) of the *Government Sector Finance Act 2018* (the Act), 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 applicable requirements of the Act;
  - the requirements of the *Government Sector Finance Regulation 2018*; and
  - Treasurer's Directions issued under the Act
- (b) the financial statements present fairly the financial position, the financial performance and cash flows of the Judicial Commission of New South Wales as at 30 June 2022
- (c) there are no circumstances which would render any particulars included in the financial statements to be misleading or inaccurate.



Una Doyle  
Chief Executive  
Dated: 19 October 2022

## Independent auditor's report



### INDEPENDENT AUDITOR'S REPORT Judicial Commission of New South Wales

To Members of the New South Wales Parliament

#### Opinion

I have audited the accompanying financial statements of the Judicial Commission of New South Wales (the Commission), which comprise the Statement by the Accountable Authority, the Statement of Comprehensive Income for the year ended 30 June 2022, the Statement of Financial Position as at 30 June 2022, 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:

- have been prepared in accordance with Australian Accounting Standards and the applicable financial reporting requirements of the *Government Sector Finance Act 2018* (GSF Act), the *Government Sector Finance Regulation 2018* (GSF Regulation) and the Treasurer's Directions
- presents fairly the Commission's financial position, financial performance and cash flows.

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 (including Independence Standards)' (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 2022 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, the GSF Act, GSF Regulation and Treasurer's Directions. The Chief Executive's responsibility also includes 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.

### **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.

The scope of my audit does not include, nor 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.

Michael Kharzoo  
Director, Financial Audit

Delegate of the Auditor-General for New South Wales

20 October 2022  
SYDNEY

# Financial statements

## Start of audited financial statements

### Judicial Commission of New South Wales

Statement of Comprehensive Income for the year ended 30 June 2022

	Notes	Actual 2022 \$'000	Budget 2022 \$'000	Actual 2021 \$'000
<b>Continuing operations</b>				
<b>Expenses excluding losses</b>				
Employee-related expenses	2(a)	4,779	4,796	4,743
Operating expenses	2(b)	881	385	1,114
Depreciation and amortisation	2(c)	677	881	727
Finance Costs	2(e)	77	76	138
Grants and subsidies		-	6	-
Other expenses	2(d)	-	400	12
<b>Total expenses excluding losses</b>		<b>6,414</b>	<b>6,544</b>	<b>6,734</b>
<b>Revenue</b>				
Appropriation	3(a)	5,026	5,195	5,234
Acceptance by The Crown of employee benefits & other liabilities	3(d)	51	166	121
Sales of goods and services from contracts with customers	3(b)	1,103	909	1,063
Investment revenue	3(c)	-	1	-
Other income	3(e)	178	61	35
<b>Total revenue</b>		<b>6,358</b>	<b>6,332</b>	<b>6,453</b>
<b>Net result</b>	19	<b>(56)</b>	<b>(212)</b>	<b>(281)</b>
Gains/(losses) from reversal of make good provision	4	-	-	188
Net gains/(losses) from derecognition of financial assets measured at amortised cost	5	266	-	-
<b>TOTAL COMPREHENSIVE INCOME</b>		<b>210</b>	<b>(212)</b>	<b>(93)</b>

The accompanying notes form part of these financial statements.

**Judicial Commission of New South Wales**  
Statement of Financial Position as at 30 June 2022

	Notes	Actual 2022 \$'000	Budget 2022 \$'000	Actual 2021 \$'000
<b>ASSETS</b>				
<b>Current Assets</b>				
Cash and cash equivalents	7	165	75	136
Receivables	8	92	16	76
<b>Total Current Assets</b>		257	91	212
<b>Non-Current Assets</b>				
Property, plant and equipment	9	1,195	1,199	1,292
Right-of-use assets	10	-	5,206	3,847
Intangible assets	11	69	-	-
<b>Total Non-Current Assets</b>		1,264	6,405	5,139
<b>Total Assets</b>		1,521	6,496	5,351
<b>LIABILITIES</b>				
<b>Current Liabilities</b>				
Payables	12	314	357	363
Provisions	13	690	697	658
Other current liabilities	14	3	812	486
<b>Total Current Liabilities</b>		1,007	1,866	1,507
<b>Non-Current Liabilities</b>				
Provisions	13	31	215	31
Other non-current liabilities	14	-	4,674	3,540
<b>Total Non-Current Liabilities</b>		31	4,889	3,571
<b>Total Liabilities</b>		1,038	6,755	5,078
<b>Net Assets</b>		483	(259)	273
<b>EQUITY</b>				
Accumulated funds	17	483	(259)	273
<b>Total Equity</b>		483	(259)	273

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 2022

	Accumulated Funds \$'000	Total \$'000
<b>Balance at 1 July 2021</b>	273	273
Net result for the year	210	210
Total other comprehensive income	-	-
Total comprehensive income for the year	210	210
<b>Balance at 30 June 2022</b>	<b>483</b>	<b>483</b>
<b>Balance at 1 July 2020</b>	366	366
Net result for the year	(93)	(93)
Total other comprehensive income	-	-
Total comprehensive income for the year	(93)	(93)
<b>Balance at 30 June 2021</b>	<b>273</b>	<b>273</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 2022

	Notes	Actual 2022 \$'000	Budget 2022 \$'000	Actual 2021 \$'000
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>				
<b>Payments</b>				
Employee-related		(4,672)	(4,610)	(4,612)
Finance costs		(77)	(76)	(138)
Other		(1,079)	(734)	(1,359)
<b>Total Payments</b>		<b>(5,828)</b>	<b>(5,420)</b>	<b>(6,109)</b>
<b>Receipts</b>				
Appropriations (excluding equity appropriations)		5,026	5,195	5,234
Reimbursements from the Crown Entity (Transfers to the Crown Entity)		-	-	-
Sale of goods and services		1,213	909	1,393
Interest received		-	1	-
Other		178	61	35
<b>Total Receipts</b>		<b>6,417</b>	<b>6,166</b>	<b>6,662</b>
<b>NET CASH FLOWS FROM OPERATING ACTIVITIES</b>	19	<b>589</b>	<b>746</b>	<b>553</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>				
Purchases of plant and equipment and intangibles		(135)	(150)	(87)
<b>NET CASH FLOWS FROM INVESTING ACTIVITIES</b>		<b>(135)</b>	<b>(150)</b>	<b>(87)</b>
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>				
Payment of principal portion of lease liabilities		(425)	(596)	(355)
<b>NET CASH FLOWS FROM FINANCING ACTIVITIES</b>		<b>(425)</b>	<b>(596)</b>	<b>(355)</b>
<b>NET INCREASE / (DECREASE) IN CASH AND CASH EQUIVALENTS</b>		<b>29</b>	<b>-</b>	<b>111</b>
Opening cash and cash equivalents		136	75	25
<b>CLOSING CASH AND CASH EQUIVALENTS</b>	7	<b>165</b>	<b>75</b>	<b>136</b>

The accompanying notes form part of these financial statements.



# Notes to the financial statements

## Judicial Commission of New South Wales

Notes to the financial statements for the year ended 30 June 2022

### 1. STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES

#### (a) Reporting Entity

The Judicial Commission of New South Wales (the Commission) is a NSW 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 2022 have been authorised for issue by the Chief Executive on 19 October 2022.

#### (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 *Government Sector Finance Act 2018* (GSF Act); and
- Treasurer's Directions issued under the GSF Act.

Property, 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 and financing activities which are 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 presented in respect of the previous period for all amounts reported in the financial statements.

#### (f) Changes in accounting policies, including new or revised AAS

##### (i) Effective for the first time in FY2021–22

The accounting policies applied in 2021–22 are consistent with those of the previous financial year except as a result of the following new or revised AAS that have been applied for the first time in 2021–22:

During the financial year 2021–22, Property and Development NSW (PDNSW) introduced changes to its Occupancy Agreement, referred to as the Client Acceptance Letter (CAL). The Standard CAL introduced "substitution right" clauses that allow PDNSW to have the ultimate right to relocate an agency to another location with due consultation process. The "substitution right" clauses effectively remove the ability of the agency to control the use of an identified office accommodation area for a specified period. These agreements should not be accounted for as a lease under AASB 16.

The change is effective from 30 June 2022. The Commission has opted for PDNSW's Standard CAL with "substitute right" clauses and has derecognised the Right-of-use assets and Lease liabilities arising from the CAL prior to changes being effective on 30 June 2022.

Several other amendments and interpretations apply for the first time in FY2021–22, but do not have an impact on the financial statements of the entity.

##### (ii) Issued but not yet effective

NSW public sector entities are not permitted to early adopt new Australian Accounting Standards, unless Treasury determines otherwise.

The following new Australian Accounting Standards have not been applied and are not yet effective.

- AASB 17 *Insurance Contracts*
- AASB 2020-1 *Amendments to Australian Accounting Standards — Classification of Liabilities as Current or Non-current*
- AASB 2020-3 *Amendments to Australian Accounting Standards — Annual Improvements 2018–2020 and Other Amendments*



- AASB 2020-6 *Amendments to Australian Accounting Standards — Classification of Liabilities as Current or Non-current — Deferral of Effective Date*
- AASB 2021-2 *Amendments to Australian Accounting Standards — Disclosure of Accounting Policies and Definition of Accounting Estimates*
- AASB 2021-5 *Amendments to Australian Accounting Standards — Deferred Tax related to Assets and Liabilities arising from a Single Transaction*
- AASB 2021-6 *Amendments to Australian Accounting Standards — Disclosure of Accounting Policies: Tier 2 and Other Australian Accounting Standards*
- AASB 2021-7a *Amendments to Australian Accounting Standards — Effective Date of Amendments to AASB 10 and AASB 128 and Editorial Corrections*
- AASB 2021-7b *Amendments to Australian Accounting Standards — Effective Date of Amendments to AASB 10 and AASB 128 and Editorial Corrections*
- AASB 2021-7c *Amendments to Australian Accounting Standards — Effective Date of Amendments to AASB 10 and AASB 128 and Editorial Corrections*

The Commission has assessed the impact of the accounting standards and interpretations on issue but not yet effective, where relevant, and considers the impact to be immaterial.

(g) Impact of COVID-19 on Financial Reporting for 2021–22

The potential impacts of COVID-19 on the end of year financial statements have been considered by the Commission. The financial impacts have been considered to be immaterial in the preparation of these financial statements.

(h) Superannuation on annual leave loading

The Commission has determined that it is not probable a liability arises to pay superannuation on annual leave loading. This position has been formed based on current enquiries, other information currently available to management, and after considering the facts from a decision in the Federal Court of Australia [2022] FedCFamC2G 409. That decision confirmed that, in relation to the industrial agreement considered in that case, annual leave loading did not form part of ordinary time earnings and therefore, did not require superannuation contributions to be made under superannuation guarantee legislation because the obligation to pay annual leave loading was not referable to ordinary hours of work or to ordinary rates of pay. Rather, it was paid by reference to the period of annual leave, and for the purpose of compensating employees for their loss of opportunity to work additional hours at higher rates during this period.

This position will be re-assessed in future reporting periods as new information comes to light on this matter.

## 2. EXPENSES EXCLUDING LOSSES

	2022 \$'000	2021 \$'000
(a) Employee-related expenses		
Salaries and wages (including recreation leave)	4,119	4,058
Superannuation — defined benefit plans	42	56
Superannuation — defined contribution plans	367	325
Long service leave	9	64
Workers' compensation insurance	20	23
Payroll tax and fringe benefit tax	222	217
	<u>4,779</u>	<u>4,743</u>

	2022 \$'000	2021 \$'000
(b) Other operating expenses include the following:		
Variable lease payments, not included in the lease liabilities	189	216
Fees for services	44	74
Contractors	115	276
Conferences	149	92
Printing	7	36
Member fees	133	152
Stores and equipment	3	10
Books and periodicals	63	68
Postal and telephone	25	36
Training	5	6
Travel expenses	4	5
Electricity	23	23
Insurance	16	14
Auditor's remuneration — audit of the financial statements	28	33
Recruitment	14	1
Maintenance	1	6
Other	62	66
	<u>881</u>	<u>1,114</u>

	2022 \$'000	2021 \$'000
<i>Reconciliation — Total maintenance expense</i>		
Maintenance expense — contracted labour and other (non employee-related), as above	1	6
Employee-related maintenance expense included in Note 2(a)	-	-
Total maintenance expenses included in Note 2(a) + 2(b)	<u>1</u>	<u>6</u>

## Recognition and Measurement

### Maintenance expense

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

### Insurance

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

### Lease expenses

The Entity recognises the lease payments associated with the following types of leases as an example on a straight-line basis:

- Leases that meet the definition of short-term. i.e. where the lease term at commencement of the lease is 12 months or less. This excludes leases with a purchase option.
- Leases of assets that are valued at \$10,000 or under when new.

Variable lease payments not included in the measurement of the lease liability (i.e. variable lease payments that do not depend on an index or rate, initially measured using the index or rate as at the commencement date). These payments are recognised in the period in which the event or condition that triggers those payments occurs.

	2022 \$'000	2021 \$'000
(c) Depreciation and amortisation expense		
Depreciation		
Computer equipment	46	37
Right-of-use asset	513	513
Office furniture	116	117
Office equipment	2	60
	677	727
Amortisation		
Intangible assets	-	-
	677	727

Refer to Note 9 and 10 for recognition and measurement policies on depreciation and amortisation.

	2022 \$'000	2021 \$'000
(d) Other expenses		
Conduct Division (refer Note 18)	-	12
	-	12
(e) Finance costs		
Interest expense from lease liabilities	77	138
	77	138

## Recognition and Measurement

Finance costs consist of interest and other costs incurred in connection with the borrowing of funds. Borrowing costs are recognised as expenses in the period in which they are incurred, in accordance with Treasury's Mandate to not-for-profit NSW GGS entities.

## 3. REVENUE

### Recognition and Measurement

Income is recognised in accordance with the requirements of AASB 15 *Revenue from Contracts with Customers* or AASB 1058 *Income of Not-for-Profit Entities*, dependent on whether there is a contract with a customer defined by AASB 15 *Revenue from Contracts with Customers*. Comments regarding the accounting policies for the recognition of income are discussed below.

#### (a) Appropriations and Transfers to The Crown

The *Appropriation Act 2021 (Appropriations Act)* and the subsequent variations, appropriates the sum of \$5,195,000 to the Minister for the Department of Justice out of the Consolidated Fund for the services of the Judicial Commission of NSW for the year 2021–22.

The responsible Minister for the Judicial Commission of NSW is taken to have been given an appropriation out of the Consolidated Fund under the authority s 4.7 of the *Government Sector Finance Act 2018*, at the time the Judicial Commission of NSW receives or recovers any deemed appropriation money, for an amount equivalent to the money that is received or recovered by the Judicial Commission of NSW.

The spending authority of the Minister from the *Appropriations Act* and that of the responsible Minister from deemed appropriation money has been delegated to officers of the Judicial Commission of NSW.

The summary of compliance has been prepared on the basis of aggregating the spending authorities of both the Minister the Department of Justice and the responsible Minister for the services of the Judicial Commission of NSW. It reflects the status at the point in time this disclosure statement is being made.

	2022 \$'000	2021 \$'000
<b>Summary of Compliance at responsible minister level</b>		
Amount Appropriated per <i>Appropriation Act</i>	5,195	5,260
Variations made to the appropriations during the financial year		
• COVID-19 pandemic and inflation (per Section 34 of the Appropriation Act)	45	-
<b>Total spending authority from parliamentary appropriations, other than deemed appropriations</b>	5,240	5,260
Add:		
The spending authority from deemed appropriations during the current year	1,391	1,428
The unutilised spending authority from deemed appropriations in prior years	137	-
Less: total expenditure out of ConFund	(6,388)	(6,551)
<b>Variance</b>	380	137
Less:		
The spending authority from appropriations lapsed at 30 June	-	-
<b>Deemed appropriations balance carried forward to following years</b>	380	137
<i>Comprising:</i>		
Appropriations (per Statement of Comprehensive Income)		
<i>Appropriations (per Statement of Comprehensive Income):</i>		
Recurrent	5,090	5,110
Capital	150	150
	5,240	5,260

## Recognition and Measurement

### Parliamentary appropriations

Income from appropriations, other than deemed appropriations (of which the accounting treatment is based on the underlying transaction), does not contain enforceable and sufficiently specific performance obligations as defined by AASB 15. Therefore, except as specified below, appropriations (other than deemed appropriations) are recognised as income when the entity obtains control over the assets comprising the appropriations. Control over appropriations is normally obtained upon the receipt of cash.

	2022 \$'000	2021 \$'000
(b) Sale of goods and services		
Sales of goods and services from contracts with customers	205	173
Rendering of services	898	890
	1,103	1,063

## Recognition and Measurement

### Sale of Goods

Revenue from sale of goods is recognised as revenue when the entity satisfies a performance obligation by transferring the promised goods. The entity typically satisfies its performance obligations when the control of the goods is transferred to the customers. The payments are typically due on 30 days settlements terms.

Revenue from these sales is recognised based on the price specified in the contract, and revenue is only recognised to the extent that it is highly probable that a significant reversal will not occur. No element of financing is deemed present as the sales are made with a short term credit term. No volume discount or warranty is provided on the sale.

### Rendering of Services

Revenue from rendering of services is recognised when the entity satisfies the performance obligation by transferring the promised services. The entity typically satisfies its performance obligations by reference to the stage of completion based on labour hours incurred to date. The payments are typically due on 30 days settlement terms.

The revenue is measured at the transaction price agreed under the contract. No element of financing is deemed present as payments are due when service is provided.

	2022 \$'000	2021 \$'000
(c) Investment revenue		
Interest income	-	-



## Recognition and Measurement

### Interest Income

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).

	2022 \$'000	2021 \$'000
(d) Acceptance by The Crown of employee benefits & other liabilities		
The following liabilities and/or expenses have been assumed by the Crown or other government entities:		
Superannuation — defined benefit	41	54
Long service leave provision	9	64
Payroll tax	1	3
	<u>51</u>	<u>121</u>
(e) Other income		
Miscellaneous revenue	<u>178</u>	<u>35</u>

## 4. GAINS / (LOSSES) ON DISPOSAL

	2022 \$'000	2021 \$'000
Gains/(losses) from reversal of make good provision	<u>-</u>	<u>188</u>

## 5. OTHER GAINS / (LOSSES)

	2022 \$'000	2021 \$'000
Derecognition of right-of-use assets and lease liabilities with Property NSW	<u>266</u>	<u>-</u>

The net gains/(losses) are recognised from the derecognition of the right-of-use asset and lease liability with Property NSW as at 30 June 2022. Refer to Note 10 for further details on the derecognition.

The net gains/(losses) from the derecognition of the right-of-use asset and lease liability as at 30 June 2022 is reconciled as below:

	2022 \$'000
<b>Right-of-use asset</b>	
Gross carrying amount	4,836
Less: accumulated depreciation and accumulated impairment provision	(1,502)
Net book value	<u>3,334</u>
Lease liability	<u>3,600</u>
<b>Net Gains/(Losses)</b>	<u>266</u>

## Recognition and Measurement

### Impairment losses on non-financial assets

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:

- Trade Receivables — Note 8
- Property, plant and equipment — Note 9
- Intangible Assets — Note 11

## 6. PROGRAM GROUPS OF THE COMMISSION

### Education, Sentencing, and Complaints

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.
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The Commission operates a single program group which supports the State Outcome to promote a better informed and professional judiciary. This State Outcome is about the provision of education services, sentencing information and effective examination of complaints.

The expenses, income, assets and liabilities of the program group are presented in the primary financial statements.

## 7. CURRENT ASSETS — CASH AND CASH EQUIVALENTS

	2022 \$'000	2021 \$'000
Cash at bank and on hand	<u>165</u>	<u>136</u>
	<u>165</u>	<u>136</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:

	2022 \$'000	2021 \$'000
Cash and cash equivalents (per Statement of Financial Position)	165	136
Cash and cash equivalents (per Statement of Cash Flows)	165	136

Refer Note 20 for details regarding credit risk and market risk arising from financial instruments.

## 8. CURRENT ASSETS — RECEIVABLES

	2022 \$'000	2021 \$'000
Trade receivables from contracts with customers	16	-
Other receivables	(10)	-
Accrued income	-	-
Prepayments	86	76
	92	76

Details regarding credit risk of trade receivables that are neither past due nor impaired, are disclosed in Note 20.

### 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

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.

### Impairment

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. The entity has established a provision matrix based on its historical credit loss experience for trade receivables, adjusted for forward-looking factors specific to the receivable.

## 9. PROPERTY, PLANT AND EQUIPMENT

	Plant and Equipment \$'000	Total \$'000
<b>At 1 July 2021 — fair value</b>		
Gross carrying amount	2,262	2,262
Accumulated depreciation and impairment	(970)	(970)
Net carrying amount	1,292	1,292
<b>At 30 June 2022 — fair value</b>		
Gross carrying amount	2,323	2,323
Accumulated depreciation and impairment	(1,128)	(1,128)
Net carrying amount	1,195	1,195

### Reconciliation

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

	Plant and Equipment \$'000	Total \$'000
<b>Year ended 30 June 2022</b>		
Net carrying amount at start of year	1,292	1,292
Additions	67	67
Disposals	-	-
Depreciation	(164)	(164)
Net carrying amount at end of year	1,195	1,195

	Plant and Equipment \$'000	Total \$'000
<b>At 1 July 2020 — fair value</b>		
Gross carrying amount	2,409	2,409
Accumulated depreciation and impairment	(989)	(989)
Net carrying amount	1,420	1,420
<b>At 30 June 2021 — fair value</b>		
Gross carrying amount	2,262	2,262
Accumulated depreciation and impairment	(970)	(970)
Net carrying amount	1,292	1,292

## Reconciliation

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

	Plant and Equipment \$'000	Total \$'000
<b>Year ended 30 June 2021</b>		
Net carrying amount at start of year	1,420	1,420
Additions	86	86
Disposals	-	-
Depreciation	(214)	(214)
Net carrying amount at end of year	1,292	1,292

## Recognition and Measurement

### Acquisition of property, plant and equipment

Property, 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

Property, 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 property, 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.

### 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 (TPP21-09) and Treasurer's Direction Valuation of Physical Non-Current Assets at Fair Value (TD21-05). TD21-05 and TP21-09 adopt fair value in accordance with AASB 13 *Fair Value Measurement*, and AASB 116 *Property, Plant and Equipment*.

Property, plant and equipment is measured at the highest and best use by market participants that is physically possible, legally permissible and financially feasible. The highest and best use must be available at a period that is not remote and take into account the characteristics of the asset being measured, including socio-political restrictions imposed by government. In most cases, after taking into account these considerations, the highest and best use is the existing use. In limited circumstances, the highest and best use may be a feasible alternative use, where there are no restrictions on use or where there is a reasonable higher restricted alternative use.

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

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

All of the entity's assets are non-specialised assets with short useful lives and are measured at depreciated historical cost, which approximates fair value. The entity has assessed that any difference between fair value and depreciated historical cost is unlikely to be material.

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

### Impairment of property, 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 property, 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.

After an impairment loss has been recognised, it is reversed only if there has been a change in the assumptions used to determine the asset's recoverable amount. The reversal is limited so that the carrying amount of the asset does not exceed its recoverable amount, nor exceed the carrying amount that would have been determined, net of depreciation, had no impairment loss been recognised for the asset in prior years. Such reversal is recognised in the net result and is treated as a revaluation increase. However, to the extent that an impairment loss on the same class of asset was previously recognised in the net result, a reversal of that impairment loss is also recognised in the net result.

## 10. LEASES

During the financial year ended 30 June 2022, the entity has accepted the changes in the office accommodation arrangements with Property NSW (PNSW). The main change is the introduction of the "substitution right" clause for PNSW to relocate the entity during the term of the agreement. The clause provides PNSW with a substantive substitution right. Therefore, the agreements are no longer accounted for as a lease within the scope of AASB 16. The corresponding right-of-use assets and lease liabilities have been derecognised on 30 June 2022, the effective date of the new clause. The net impact of the derecognition is recognised in "Other Gains/(Losses)" (refer to Note 5). From 1 July 2022, the accommodation charges will be recognised as expenses when incurred over the agreement duration.

The entity has a lease for the offices as arranged through Property NSW. The lease initial term is for 5 years and an additional 7 year term has been negotiated to commence from 1 January 2022. The entity has a small residual lease for a motor vehicle which has not been capitalised with lease payments being expensed.

The lease agreements do not impose any covenants, but leased assets may not be used as security for borrowing purposes. The entity does not provide residual value guarantees in relation to leases.

The entity has elected to recognise payments for short-term leases and low value leases as expenses on a straight-line basis, instead of recognising a right-of-use asset and lease liability. Short-term leases are leases with a lease term of 12 months or less. Low value assets are assets with a fair value of \$10,000 or less when new and comprise only motor vehicles.

### Right-of-use assets under leases

The following table presents right-of-use assets recognised by the Commission.

	Land and Buildings \$'000 2022	Land and Buildings \$'000 2021
Balance at beginning of year	3,847	4,373
Additions	-	-
Depreciation expense	(513)	(513)
Adjustments due to change in variable payments and additional extension of term	-	(13)
Derecognition of right-of-use asset	(3,334)	-
Balance at the end of the year	0	3,847

### Lease liabilities

The following table presents the liabilities under leases.

	Lease liabilities \$'000 2022	Lease liabilities \$'000 2021
Balance at beginning of year	4,026	4,396
Additions	-	-
Interest expense	77	138
Adjustments due to change in variable payments and additional extension of term	-	(16)
Payments	(503)	(492)
Derecognition of lease liabilities	(3,600)	-
Balance at the end of the year	0	4,026

The following amounts were recognised in the statement of comprehensive income during the period in respect of leases where the entity is the lessee:

	\$'000 2022	\$'000 2021
Depreciation expense of right-of-use assets	513	513
Interest expense on lease liabilities	77	138
Variable lease payments, not included in the measurement of lease liabilities	189	216
Gains or losses arising from derecognising the right-of-use assets and lease liabilities with Property NSW	(266)	-
Total amount recognised in the statement of comprehensive income	513	867



## 11. INTANGIBLE ASSETS

	Software \$'000	Total \$'000
<b>At 1 July 2021</b>		
Cost (gross carrying amount)	28	28
Accumulated amortisation and impairment	(28)	(28)
Net carrying amount	-	-
<b>At 30 June 2022</b>		
Cost (gross carrying amount)	97	97
Accumulated amortisation and impairment	(28)	(28)
Net carrying amount	69	69

### Reconciliation

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

	Software \$'000	Total \$'000
<b>Year ended 30 June 2022</b>		
Net carrying amount at start of year	-	-
Additions	69	69
Disposals	-	-
Amortisation (recognised in 'depreciation and amortisation')	-	-
Net carrying amount at end of year	69	69

	Software \$'000	Total \$'000
<b>At 1 July 2020</b>		
Cost (gross carrying amount)	28	28
Accumulated amortisation and impairment	(28)	(28)
Net carrying amount	-	-
<b>At 30 June 2021</b>		
Cost (gross carrying amount)	28	28
Accumulated amortisation and impairment	(28)	(28)
Net carrying amount	-	-

### Reconciliation

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

	Software \$'000	Total \$'000
<b>Year ended 30 June 2021</b>		
Net carrying amount at start of year	-	-
Additions	-	-
Disposals	-	-
Amortisation (recognised in 'depreciation and amortisation')	-	-
Net carrying amount at end of year	-	-

### Recognition and Measurement

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.

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

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

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.

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.

## 12. CURRENT LIABILITIES — PAYABLES

	2022 \$'000	2021 \$'000
Creditors	158	140
Accrued salaries, wages and on-costs	88	65
Other (including GST payable)	68	158
	314	363

Details regarding liquidity risk, including a maturity analysis of the above payables are disclosed in Note 20.

### 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.

### 13. CURRENT / NON-CURRENT LIABILITIES — PROVISIONS

	2022 \$'000	2021 \$'000
<b>Employee benefits and related on-costs</b>		
<b>Current</b>		
Recreation leave	382	332
On-costs	308	326
	<u>690</u>	<u>658</u>
<b>Non-Current</b>		
Make Good Provision	-	-
On-costs	31	31
	<u>31</u>	<u>31</u>

	2022 \$'000	2021 \$'000
<b>Aggregate employee benefits and related on-costs</b>		
Provisions — current	690	658
Provisions — non-current	31	31
Accrued salaries, wages and on-costs (refer Note 12)	88	65
	<u>809</u>	<u>754</u>
<b>Expected settlement of current employee benefits and related on-costs</b>		
Not later than 12 months	654	633
Later than 12 months	36	25
	<u>690</u>	<u>658</u>

Movements in provisions (other than employee benefits) 2022	Make Good \$'000	Total \$'000
Carrying amount at 1 July 2021	-	-
Additional provisions recognised	-	-
Amounts used	-	-
Unused amounts reversed	-	-
Unwinding / change in the discount rate	-	-
Carrying amount at 30 June 2022	<u>-</u>	<u>-</u>

### Recognition and Measurement

#### Employee benefits and related on-costs

##### Salaries and wages, recreation 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 8.4% 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. 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 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 Aware 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.

## 14. CURRENT / NON-CURRENT LIABILITIES — BORROWINGS

	2022 \$'000	2021 \$'000
Liability for unspent appropriations drawn down	3	-
Changes in liabilities arising from financing activities	-	486
	<u>3</u>	<u>486</u>
Lease liability — non-current (see Note 10)	-	3,540

## 15. COMMITMENTS

The Commission has no capital commitments.

## 16. CONTINGENT LIABILITIES AND CONTINGENT ASSETS

The Commission has no contingent liabilities (2021: nil) or contingent assets (2021: nil) as at 30 June 2022.

## 17. EQUITY

### Recognition and Measurement

#### Accumulated Funds

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

## 18. 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 \$156,000, excluding the gain on derecognition of leased assets.

This is mainly due to \$130,000 lower expenses including Conduct Divisions, combined with \$194,000 higher own generated income.

Other revenue items contributing to the lower loss are: Capital allocation is lower than budget by \$15,000, acceptance by the Crown of employees benefits is lower by \$115,000 and recurrent allocation lower by \$154,000.

### Assets and Liabilities

Non-Current Assets are under budget by \$5.141 million, mainly due to the derecognition of the lease asset down by \$5.206 million. There are also lower than expected capital purchases combined with the higher value to the capitalised right-of-use assets.

Current Liabilities are under budget by \$859,000 mainly due to current lease liability being lower than the budget by \$812,000.

### Cash flows

The Net Cash Flows from operating activities resulted with a positive \$589,000.

The total cash increase was \$29,000 after deducting investing activities of \$135,000 and financing activities of \$425,000.

## 19. RECONCILIATION OF CASH FLOWS FROM OPERATING ACTIVITIES TO NET RESULT

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

	2022 \$'000	2021 \$'000
Net cash from operating activities	589	553
Decrease/(Increase) in Crown Entity liability	(3)	-
Depreciation and amortisation expense	(677)	(725)
Decrease/(increase) in provisions	(32)	192
Increase/(decrease) in receivables and prepayments	18	(35)
Decrease/(increase) in payables	49	(78)
Net gains/(losses) from derecognition of financial assets measured at amortised cost	266	-
<b>Net Result</b>	<b>210</b>	<b>(93)</b>

## 20. FINANCIAL INSTRUMENTS

The entity's principal financial instruments are outlined below. These financial instruments arise directly from the entity's operations or are required to finance the entity's operations. The entity does not enter into any trade financial instruments, including derivative financial instruments, for speculative purposes.

The entity's main risks arising from financial instruments are outlined below, together with the entity's objectives, policies and processes for measuring and managing risk. Further quantitative and qualitative disclosures are included throughout these financial statements.

The Chief Executive has overall responsibility for the establishment and oversight of risk management and reviews and agrees policies for managing each of these risks. The Audit and Risk Committee assists the Chief Executive in fulfilling these responsibilities.

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

(a) Financial instrument categories	Note	Category	Carrying Amount 2022 \$'000
i. As at 30 June 2022 under AASB 9			
<b>Financial Assets</b>			
Cash and cash equivalents	7	N/A	165
Receivables <sup>1</sup>	8	Amortised cost	6
<b>Financial Liabilities</b>			
Payables <sup>2</sup>	12	Financial liabilities measured at amortised cost	164
Borrowings	14	Financial liabilities measured at amortised cost	3

### 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).

	Note	Category	Carrying Amount 2021 \$'000
ii. As at 30 June 2021 under AASB 9			
<b>Financial Assets</b>			
Cash and cash equivalents	7	N/A	136
Receivables <sup>1</sup>	8	Amortised cost	-
<b>Financial Liabilities</b>			
Payables <sup>2</sup>	12	Financial liabilities measured at amortised cost	122
Borrowings	14	Financial liabilities measured at amortised cost	4,026

*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.

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 counterparties 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.

Interest is earned on daily cash balances at the monthly average Tcorp 11am unofficial cash rate, adjusted for a management fee to NSW Treasury.

*Collectability of 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. 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.

	Current	<30 days	30-60 days	61-90 days	>91 days	30-Jun-22 \$'000 Total
Expected credit loss rate	-	-	-	-	-	-
Estimated total gross carrying amount	14	-	-	-	2	16
Expected credit loss	-	-	-	-	-	-

	Current	<30 days	30-60 days	61-90 days	>91 days	30-Jun-21 \$'000 Total
Expected credit loss rate	-	-	-	-	-	-
Estimated total gross carrying amount	-	-	-	-	-	-
Expected credit loss	-	-	-	-	-	-

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 2022.

#### 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.

*Maturity Analysis and interest rate exposure of financial liabilities*

	Weighted Average Effective Interest Rate %	Nominal Amount \$'000	Interest rate exposure			Maturity Dates		
			Fixed Interest Rate \$'000	Variable Interest Rate \$'000	Non-Interest bearing \$'000	<1 Yr \$'000	1-5 Yr \$'000	> 5 Yr \$'000
<b>2022</b>								
Payables:								
• Creditors		164	-	-	164	164	-	-
Borrowings:								
• Borrowings	1.98%	-	-	-	-	-	-	-
		164	-	-	164	164	-	-
<b>2021</b>								
Payables:								
• Creditors		122	-	-	122	122	-	-
Borrowings:								
• Borrowings	1.98%	4,357	4,357	-	-	503	2,237	1,617
		4,479	4,357	-	122	625	2,237	1,617

*Notes*

- The amounts disclosed are the contractual undiscounted cash flows of each class of financial liabilities based on the earliest date on which the entity can be required to pay. These amounts include both interest and principal cash flows and therefore will not reconcile to the amounts disclosed in the statement of financial position.
- The amounts disclosed exclude statutory payables and unearned revenue (i.e. not within scope of AASB 7).

*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.

**(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.

**21. RELATED PARTY DISCLOSURES**

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

	2022 \$'000	2021 \$'000
Short-term employee benefits:		
Salaries	1,191	1,174
Other monetary allowances	-	-
Non-monetary benefits	-	-
Post-employment benefits	94	80
Termination benefits	-	-
Total remuneration	1,285	1,254

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.

## **22. 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

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### 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

#### **Continuing 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 2021–22

#### EDUCATION COMMITTEES

##### Standing Advisory Committee on Judicial Education

- The Honourable Acting Justice J Basten, Supreme Court (Chair until 15 April 2022)
- 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 N Constant, Industrial Relations Commission
- Ms U Doyle, Chief Executive, Judicial Commission of NSW (Convenor).

##### Supreme Court Education Committee

- The Honourable Justice J Basten (Chair)
- The Honourable Justice C Hoeben AM RFD (until 31 August 2021)
- The Honourable Justice M Leeming
- The Honourable Justice A Payne
- The Honourable Justice R White
- The Honourable Justice L McCallum (until 7 March 2022)
- The Honourable Justice P Johnson SC
- The Honourable Justice I Harrison
- The Honourable Justice P Garling RFD
- The Honourable Justice A Black
- The Honourable Justice R Wright
- The Honourable Justice P Hamill (from 29 June 2022)
- Mr C D'Aeth, Principal Registrar
- Ms U Doyle, Chief Executive, 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, Chief Executive, Judicial Commission of NSW (Convenor).

##### District Court Education Committee

- Her Honour Judge P Hock (Chair until 28 April 2022)
- His Honour Judge G Lerve
- Her Honour Judge S Huggett (Chair from 29 April 2022)
- Her Honour Judge D Yehia
- His Honour Judge J Hatzistergos AM
- Her Honour Judge J Culver
- Her Honour Judge J Girdham SC
- His Honour Judge J Pickering SC
- His Honour Judge M Dicker SC

- His Honour Judge W Hunt
- His Honour Judge C O'Brien AM
- His Honour Judge R Weinstein SC
- His Honour Judge J Smith SC
- Mr J Howard, Judicial Registrar
- Ms U Doyle, Chief Executive, Judicial Commission of NSW (Convenor).

##### Local Court Education Committee

- Her Honour Deputy Chief Magistrate J Mottley AM (until 8 August 2021)
- His Honour Deputy Chief Magistrate M Allen (Chair)
- Her Honour Deputy Chief Magistrate S Freund (from 2 March 2022)
- His Honour Magistrate I Guy (until 28 January 2022)
- Her Honour Magistrate V Swain
- His Honour Magistrate L Mabbutt
- Her Honour Magistrate S McIntyre
- His Honour Magistrate M Antrum
- His Honour Magistrate R Stone
- Her Honour Magistrate C Huntsman
- Her Honour Magistrate E Kennedy
- His Honour Magistrate P Stewart
- His Honour Magistrate R Hudson
- Her Honour Magistrate N Ford (from 3 November 2021)
- Ms B Delbridge, Policy Officer, Chief Magistrate's Office (until 6 October 2021)
- Ms U Doyle, Chief Executive, Judicial Commission of NSW (Convenor).

##### Children's Court Education Committee

- His Honour Judge P Johnstone (Chair until 6 September 2021)
- Her Honour Judge E Skinner (Chair from 22 November 2021)
- His Honour Magistrate A Sbrizzi
- Her Honour Magistrate T Sheedy
- Her Honour Magistrate D Maher
- Ms R Davidson, Executive Officer
- Mr S Handebo, Registrar (until 31 December 2021)
- Ms U Doyle, Chief Executive, Judicial Commission of NSW (Judicial Commission Representative).

##### Ngara Yura Committee

- The Honourable J Allsop AO, Chief Justice, Federal Court of Australia
- The Honourable Justice L McCallum, Supreme Court (Chair until 2 March 2022)
- The Honourable Justice N Adams, Supreme Court (from 22 February 2022)
- The Honourable Justice R Pepper, Land and Environment Court

- Her Honour Judge D Yehia, District Court (Chair from 3 March 2022)
- Her Honour Judge J Mottley AM, District Court (until 31 December 2021)
- His Honour Magistrate B van Zuylen, Local Court
- Her Honour Magistrate S Duncombe, Local Court
- Acting Commissioner A Smith, Land and Environment Court
- Mr J Behrendt, Managing Director, Chalk & Behrendt
- Ms U Doyle, Chief Executive, Judicial Commission of NSW (Convenor)
- Mr E Schmatt AM PSM, Judicial Commission of NSW (until 28 February 2022).

#### **BENCH BOOK COMMITTEES**

##### Criminal Trial Courts Bench Book Committee

- The Honourable Justice RA Hulme (Chair)
- The Honourable Justice R Button
- The Honourable Justice H Wilson
- His Honour Judge P Zahra SC (until 6 May 2022)
- His Honour Judge D Arnott SC
- Her Honour Judge S Huggett
- Her Honour Judge N Noman SC
- Ms P Mizzi, Director, Research and Sentencing, Judicial Commission of NSW (Convenor).

##### Civil Trials Bench Book Committee

- The Honourable Acting Justice A Emmett AO (until 26 May 2022)

- The Honourable Justice P Garling RFD (Chair)
- The Honourable Justice R Darke
- His Honour Judge P Mahony SC
- His Honour Judge R Weinstein SC
- Her Honour Magistrate J Atkinson
- Her Honour Magistrate M Greenwood (from 28 February 2022)
- Ms U Doyle, Chief Executive, Judicial Commission of NSW
- Mr E Schmatt AM PSM, Judicial Commission of NSW (until 24 February 2022)
- Ms A Murphy, Legal Editor, Judicial Commission of NSW (Convenor).

##### Local Court Bench Book Committee

- Her Honour Judge J Mottley AM (Chair until 9 August 2021)
- His Honour Deputy Chief Magistrate M Allen
- His Honour Deputy Chief Magistrate T Tsavdaridis (Official member from 14 March 2022)
- Her Honour Magistrate T O'Sullivan
- Her Honour Magistrate S McIntyre
- His Honour Magistrate M Antrum
- Her Honour Magistrate D Maher
- Ms B Delbridge, Policy Officer, Chief Magistrate's Office (until 6 October 2021)
- Ms P Mizzi, Director, Research and Sentencing, Judicial Commission of NSW (Chair from 10 August 2021).

## Appendix 5 Conference topics 2021–22

### **ANNUAL CONFERENCES**

#### Land and Environment Court Annual Conference, May 2022

- "Judicial and tribunal review of State non-statutory executive action", The Honourable Acting Justice John Griffiths, Supreme Court of NSW
- "Opportunities and challenges in delivering the Western Parkland City", Ms Stephanie Barker PSM, MPIA, Chief City Planner, Western Parkland City Authority
- "Field Trip: Western Sydney Airport site and surrounds", Mr Philip Graus, Director of Western City Deal, UTS Design Architecture Building
- "Dinner Speaker", Dr Brad Tucker, Astrophysicist & Cosmologist, Australian National University
- "A Modern Regulations Approach to Early Intervention and Dispute Resolution" Construct NSW Reforms as a Case Study", Mr David Chandler OAM, NSW Building Commissioner, NSW Department of Customer Service
- "Remote sensing evidence: Types, uses and issues", The Honourable Justice Brian Preston, Chief Judge, Land and Environment Court of NSW
- "Urban design considerations in merit based assessments", Associate Professor Rod Simpson, Associate Professor and Director Urban Design + Urbanism Programs, The University of Sydney

- "ADR in Courts and Tribunals: Tools for working effectively with parties in mediation and conciliation", Mr Steve Lancken, Managing Director, Negocio Resolutions
- "Wellbeing: Where stress presides: Predictors and correlates of stress among Australian judges", Ms Carly Schrever, Judicial Wellbeing Advisor, Judicial College of Victoria.

#### District Court Annual Conference, April 2022

- "State Parole Authority", His Honour Acting Judge David Frearson SC, District Court of NSW
- "Sentencing and summing up"
  - "Bugmy Principles and Intensive Correction Orders", The Honourable Justice Peter Hamill, Supreme Court of NSW
  - "Assessing Objective Gravity and a Balanced Summing Up", The Honourable Justice Helen Wilson, Supreme Court of NSW.
- "Criminal Law Review: Common Themes in CCA Appeals", The Honourable Justice Natalie Adams, Supreme Court of NSW
- "Significance of Culture to Well-being, Healing and Rehabilitation", Ms Vanessa Edwige and Dr Paul Gray, Associate Professor, University of Technology Sydney
- "New Consent Laws", The Honourable Justice Helen Wilson, Supreme Court of NSW

- “Some Key Decisions of Court of Appeal in 2021”, The Honourable Andrew Bell, Chief Justice of NSW
- “Respect@Work: Understanding and addressing sexual harassment in judicial settings”, Ms Kate Jenkins, Sex Discrimination Commissioner, Australian Human Rights Commission
- “Associates’ Terms of Employment”, Mr James Gordon, Director, HR Business Partner CTSD and LR & LS, Department of Communities and Justice
- “Wellbeing: Where stress presides: Predictors and correlates of stress among Australian judges”, Ms Carly Schrever, Judicial Wellbeing Advisor, Judicial College of Victoria
- “Reforms in defamation law”, Her Honour Judge Judith Gibson, District Court of NSW.

#### Local Court of NSW Annual Conference, June 2022

- “Welcome Address”, Her Excellency the Honourable Margaret Beazley AC QC, Governor of New South Wales
- “Mabo and Beyond: The importance of the 30 Year Anniversary of Mabo and the Uluru Statement from the Heart to both black and white Australians”, Uncle Shane Phillips, CEO, Tribal Warrior Aboriginal Corporation and Ms Lily Miles, Team Leader, H.O.M.E. Program, Tribal Warrior Aboriginal Corporation
- “Introduction to Windows 10 and Office 365”, Mr Hamish Salburg, Change Facilitator, Windows 10, NSW Department of Communities and Justice
- “Enhancing diversion options for people with a mental illness in custody”, Associate Professor Andrew Ellis, Consultant Forensic Psychiatrist, Medical Superintendent, The Forensic Hospital, Conjoint Academic, Faculty of Medicine, UNSW, Professor Kimberlie Dean, Clinical Academic Forensic Psychiatrist — JHFMHN, Head of Discipline (UNSW Psychiatry and Mental Health), Chair of Forensic Mental Health, University of NSW and Professor David Greenberg OAM, Consultant Forensic Psychiatrist, Clinical Director Statewide Community and Court Liaison Service, Justice Health and Forensic Mental Health Network
- “Privileges, Exclusions and Warnings under the Evidence Act 1995”, The Honourable Justice Geoffrey Bellew, Supreme Court of NSW
- “Criminal Law Update”, The Honourable Justice Robert Beech-Jones, Chief Judge at Common Law, Supreme Court of NSW
- “Panel on Women in the Criminal Justice System”, Professor Eileen Baldry AO, Deputy Vice Chancellor Equity Diversity and Inclusion and Professor of Criminology, UNSW Sydney, Ms Kelly Austin, Acting Principal Advisor Women’s Services, Corrective Services NSW, NSW Department of Communities and Justice, Ms Marisa Moliterno, Program Manager, Community Restorative Centre and Ms Peta MacGillivray, Researcher and PhD candidate, UNSW Faculty of Law and Justice
- “Mindfulness for Managing Triggers”, Ms Cathryn Urquhart, Certified Teacher, Search Inside Yourself Leadership Institute
- “Moral culpability and objective gravity”, The Honourable Justice Robert Beech-Jones, Chief Judge at Common Law, Supreme Court of NSW
- “Sentencing Issues: a panel discussion”, The Honourable Justice Robert Beech-Jones, Chief Judge at Common Law, Supreme Court of NSW, Her Honour

- Judge Sophia Beckett, District Court of NSW and His Honour Judge Christopher O’Brien AM, District Court of NSW
- “Keynote — Opening Day 3”, The Honourable Mark Speakman SC MP, NSW Attorney General
- “Civil Appeals and other Enchantments”, The Honourable Justice Julia Lonergan, Supreme Court of NSW
- “Overview of Transforming Aboriginal Outcomes at the Department of Communities and Justice”, Mr Brendan Thomas, Deputy Secretary, Aboriginal Outcomes, NSW Department of Communities and Justice
- “Respect@Work: Understanding and addressing sexual harassment in judicial settings”, Emeritus Professor Rosalind Croucher AM, President, Australian Human Rights Commission
- “Commonwealth Sentencing”, Ms Sarah McNaughton SC, Director, Commonwealth Director of Public Prosecutions.

#### OTHER CONFERENCES

##### Local Court of NSW Southern Regional Conference, March 2022

- “Opening Address”, His Honour Judge Peter Johnstone, Chief Magistrate, Local Court of NSW
- “Bail — sessions 1 & 2”, Her Honour Magistrate Vivien Swain, Local Court of NSW and His Honour Magistrate Michael Antrum, Local Court of NSW
- “Section 289VA, new procedures in domestic violence hearings”, His Honour Magistrate Les Mabbutt, Local Court of NSW
- “Legislative Update — recent and upcoming changes”, His Honour Magistrate James Gibson, Local Court of NSW
- “Research Resources Refresher”, Her Honour Magistrate Jennifer Atkinson, Local Court of NSW
- “Traffic Matters — sessions 1 & 2”, Her Honour Magistrate Karen Stafford, Local Court of NSW, His Honour Magistrate Ross Hudson, Local Court of NSW and Her Honour Magistrate Erin Kennedy, Local Court of NSW
- “The Children’s Court of NSW: Recent and Upcoming Developments”, Her Honour Judge Nell Skinner, President, Children’s Court of NSW
- “Coronial Work — practical session”, Her Honour Magistrate Elizabeth Ryan, Local Court of NSW.

##### Local Court of NSW Northern Regional Conference, March 2022

- “Opening Address”, His Honour Judge Peter Johnstone, Chief Magistrate, Local Court of NSW
- “Bail — sessions 1 & 2”, Her Honour Magistrate Vivien Swain, Local Court of NSW and His Honour Magistrate Michael Antrum, Local Court of NSW
- “Section 289VA, new procedures in domestic violence hearings”, His Honour Magistrate Les Mabbutt, Local Court of NSW
- “Legislative Update — recent and upcoming changes”, His Honour Magistrate James Gibson, Local Court of NSW
- “Research Resources Refresher”, Her Honour Magistrate Jennifer Atkinson, Local Court of NSW
- “Traffic Matters — sessions 1 & 2”, Her Honour Magistrate Karen Stafford, Local Court of NSW, His Honour Magistrate Ross Hudson, Local Court of NSW and Her Honour Magistrate Erin Kennedy, Local Court of NSW

- “Children’s Court Update”, His Honour Magistrate David Williams, Local Court of NSW
- “Coronial Work — practical session”, Her Honour Magistrate Elizabeth Ryan, Local Court of NSW.

#### ORIENTATION PROGRAMS

Local Court of NSW Magistrates’ Orientation Program, November 2021

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

## Appendix 6

### Judicial education seminars, workshops and field trips 2021–22

#### Land and Environment Court of NSW

- “Part 2: The Grant of Conditional Approval”, The Honourable Justice Brian Preston, Chief Judge, Land and Environment Court of NSW, Webinar, 21 July 2021
- “Legal Reasoning and Climate Change Evidence Part 1: Probabilistic Reasoning”, Mr Noel Hutley SC, Webinar, 21 October 2021
- “Legal Reasoning and Climate Change Evidence Part 2: Attribution Science”, Professor David Karoly, Chief Research Scientist, CSIRO, Webinar, 18 November 2021
- “LEC Field Trip: ANZAC War Memorial Hyde Park”, Field Trip, 25 November 2021
- “Recent Decisions of the Court of Appeal and Court of Criminal Appeal”, Twilight Seminar, 27 April 2022.

#### District Court of NSW

- “Mental Health and Cognitive Impairment Forensic Provisions Act 2020 — taking stock of the first six months”, The Honourable Justice Mark Ierace, Supreme Court of NSW and Ms Anina Johnson, Deputy President, Mental Health Review Tribunal, Webinar, 14 September 2021
- “Helping Courts Evaluate the Quality of Forensic Psychological Assessments”, Twilight Seminar, 29 June 2022.

#### Local Court of NSW

- “Responding to judicial stress — first steps”, Dr Robert Fisher, Consultant Psychiatrist, Webinar, 5 August 2021
- *Local Court of NSW Metropolitan Series II (online), 8–12 November 2021*
  - “Bail — sessions 1 & 2”, His Honour Deputy Chief Magistrate Michael Allen, Local Court of NSW, Her Honour Magistrate Vivien Swain, Local Court of NSW and His Honour Magistrate Michael Antrum, Local Court of NSW
  - “Section 289VA, new procedures in domestic violence hearings”, His Honour Magistrate Les Mabbutt, Local Court of NSW.
- *Local Court of NSW Metropolitan Series I (online), 14–18 February 2022*
  - “Traffic Matters — sessions 1 & 2”, Her Honour Magistrate Karen Stafford, Local Court of NSW, His Honour Magistrate Ross Hudson, Local Court of NSW and Her Honour Magistrate Erin Kennedy, Local Court of NSW
  - “Legislative Update — recent and upcoming changes”, His Honour Magistrate James Gibson, Local Court of NSW
  - “Research Resources Refresher”, Her Honour Magistrate Jennifer Atkinson, Local Court of NSW.

- “Coroner’s Court: Refresher on Vicarious Trauma and Strategies to Implement for Promoting Wellbeing”, Dr Rob Gordon, Consultant Psychologist, Webinar, 23 February 2022
- “Coroner’s Court: Vicarious Trauma Part 2: Debriefing and Reflection on General Coronial Matters”, Dr Rob Gordon, Consultant Psychologist, Webinar, 18 May 2022.

#### Children’s Court of NSW

- “Children’s Court of NSW Section 16 Meeting (online)”, Webinar, 3 September 2021
- “Children’s Court Webinar: Issues that arise for a judicial officer sitting alone in a sexual assault hearing or trial: procedure, directions and tips”, Webinar, 22 March 2022
- “Children’s Court Webinar: Sentencing Essentials — what must be considered and recorded when sentencing a young person”, Ms Belinda Baker, Deputy Senior Crown Prosecutor, NSW ODPP, Webinar, 14 June 2022.

#### Industrial Relations Commission of NSW

- “Courtcraft Part 1”, The Honourable Acting Justice Monika Schmidt AM, Supreme Court of NSW, Webinar, 7 September 2021.

#### Ngara Yura Program

- “First Nations Speaker Series: Dr Tyson Yunkaporta”, Webinar, 12 August 2021
- “First Nations Speaker Series: Ms Karlie Noon”, Webinar, 19 August 2021
- “First Nations Speaker Series: Uncle Bruce Pascoe”, Webinar, 9 September 2021
- “Ngara Yura Program and Francis Forbes Society Webinar: Making the Past Visible: The Legacies of the Protectionist Legislation”, Mr Richard Weston, NSW Deputy Children’s Guardian, Office of the Children’s Guardian, Webinar, 1 November 2021
- “A Story of Resistance: Fred Maynard and the Australian Aboriginal Progressive Association”, Emeritus Professor John Maynard, The University of Newcastle, Twilight Seminar, 15 March 2022
- “Wellbeing Toolkit: Dadirri a culturally sensitive practice for recovering from trauma”, Emeritus Professor Judy Atkinson AM, Founder/Patron/Elder/Lead Facilitator, We Al-li, Webinar, 3 May 2022
- “Ngara Yura Visit to the Dharawal community of La Perouse”, Community Visit, 14 May 2022.

#### Cross-jurisdictional

- “Cross-jurisdictional Webinar: Maximising the Law Courts Resources”, Mr Michael Unwin, Reader Services Librarian, Department of Justice, Webinar, 25 May 2022.

## Appendix 7 Articles published 2021–22

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

- J Allsop and A Smith, "Mabo 30 years on: some reflections" (2022) 34(5) *JOB* 49
- CA Warner, L Bartels and K Gelb, "Jurisdictional differences in sentencing practice: insights from the National Jury Sentencing Study" (2022) 34(3) *JOB* 27
- J Basten, "Loss of a chance" (2021) 14(4) *TJR* 361
- TF Bathurst, "Trust in the Judiciary" (2021) 14(4) *TJR* 263
- MJ Beazley, "Control, consent and respect: sexual assault, domestic violence and our criminal justice system" (2021) 14(4) *TJR* 343
- MJ Beazley, "Launch of Handbook for Judicial Officers" (2021) 33(11) *JOB* 116
- S Beckett, "The significance of culture to wellbeing, healing and rehabilitation" (2021) 33(9) *JOB* 91
- P Mizzi and RT Beech-Jones, "The law on consent in sexual assault is changing" (2022) 34(1) *JOB* 1
- A Bell, "The rise of the anti-arbitration injunction" (2021) 14(4) *TJR* 287
- V Blackmore and L Reid, "Introducing the Law Courts Library, Sydney" (2021) 33(9) *JOB* 93
- J Cashmore and R Shackel, "Research on sexual assault to inform the courts and legal professionals" (2022) 34(2) *JOB* 12
- A Cunningham and C Reichherzer, "Virtual reality in the courtroom" (2022) 34(4) *JOB* 39
- K Eagle and A Johnson, "Clinical issues with the Mental Health and Cognitive Impairment Forensic Provisions Act 2020" (2021) 33(7) *JOB* 67
- P Gray, "Beyond placement: realising the promise of the Aboriginal and Torres Strait Islander Child Placement Principle" (2021) 33(10) *JOB* 99
- E Kennedy, "Introducing solutions for maintaining positive psychological health: the judicial wellbeing portal" (2021) 33(11) *JOB* 111
- D McMillan, "Criminalising coercive control: a complex discussion" (2021) 33(6) *JOB* 57
- MR Speakman, "Defamation law reforms have commenced" (2021) 33(7) *JOB* 73
- MR Speakman, "Recognising the loss of a foetus as a criminal act" (2022) 34(3) *JOB* 33
- C Urquhart, "Mindfulness: an essential tool" (2022) 34(4) *JOB* 43
- D Weatherburn, "Imprisonment, reoffending and Australia's crime decline" (2021) 33(8) *JOB* 79
- MS Weinberg, "Juries, judges ad junk science — expert evidence on trial" (2021) 14(4) *TJR* 315
- D Yehia, "Introducing the Walama List Pilot at the District Court of NSW" (2021) 33(11) *JOB* 114.

## Appendix 8 Publications list

### Education Monographs

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

### Research Monographs

1. The Use of Custodial Sentences and Alternatives to Custody by NSW Magistrates, 1990
2. Community Service Orders: Views of Organisers in NSW, 1991
3. Community service orders and periodic detention as sentencing options: A survey of judicial officers in NSW, 1991
4. Sentencing juvenile offenders and the Sentencing Act 1989 (NSW): The impact of legislative and administrative changes in the Children's Court 1982–1990, 1991
5. A critical review of periodic detention in NSW, 1992
6. Sentencing drug offenders: Analysis of sentences imposed in the higher courts of NSW, 25 September 1989–31 December 1991, 1992
7. "Special circumstances" under the Sentencing Act 1989 (NSW), 1993

8. Alcohol as a sentencing factor: A survey of attitudes of judicial officers, 1994
9. Sentence Indication Hearings Pilot Scheme, 1994
10. Sentenced homicides in NSW 1990–1993, 1995
11. The evidence of children, 1995
12. Judicial views about pre-sentence reports, 1995
13. The Sentencing Act 1989 and its effect on the size of the prison population, 1996
14. Magistrates' attitudes to drink-driving, drug-driving and speeding, 1997
15. Child sexual assault, 1997
16. Sentencing disparity and the gender of juvenile offenders, 1997
17. Sentencing disparity and the ethnicity of juvenile offenders, 1998
18. Periodic detention revisited, 1998
19. Sentencing drug offenders: Analysis of sentences imposed in the higher courts of NSW, 1 January 1992–31 December 1997, 1999
20. Apprehended Violence Orders: A Survey of Magistrates, 1999
21. Sentencing dangerous drivers in NSW: Impact of the Jurisic guidelines on sentencing practice, 2002
22. Circle Sentencing in NSW: A Review and Evaluation, 2003
23. Sentenced Homicides in NSW 1994–2001, 2004
24. MERIT: Magistrates Early Referral Into Treatment Program: A Survey of Magistrates, 2004

25. Sentencing Offenders Convicted of Child Sexual Assault, 2004
  26. The Nexus Between Sentencing and Rehabilitation in the Children's Court of NSW, 2005
  27. Crown Appeals Against Sentence, 2005
  28. Partial Defences to Murder in NSW 1990–2004, 2006
  29. Full-time imprisonment in NSW and other jurisdictions: A national and international comparison, 2007
  30. Sentencing Robbery Offenders since the Henry Guideline Judgment, 2007
  31. Diverting mentally disordered offenders in the NSW Local Court, 2008
  32. Achieving consistency and transparency in sentencing for environmental offences, 2008
  33. The impact of the standard non-parole period sentencing scheme on sentencing patterns in NSW, 2010
  34. Sentencing offenders convicted of child pornography and child abuse material offences, 2010
  35. Conviction appeals in NSW, 2011
  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. Common offences in the higher courts, July 1994
  7. Sentencing homicide: The effect of legislative changes on the penalty for murder, June 1994
  8. From murder to manslaughter: Partial defences in NSW — 1900 to 1993, December 1994
  9. Common offences in the Children's Court, May 1995
  10. Sentencing drink driver offenders, June 1995
  11. "Sentenced to the rising of the court", January 1996
  12. The use of recognizances, May 1996
  13. Sentencing Deception Offenders: Part 1 — Local Courts, June 1996
  14. Sentencing Deception Offenders: Part 2 — Higher Courts, October 1996
  15. Driving causing death: Section 52A of the Crimes Act 1900, May 1997
  16. An overview of sentence and conviction appeals in the NSW Court of Criminal Appeal, March 1998
  17. Kidnapping — Section 90A Crimes Act 1900 (NSW), July 1998
  18. Common offences in the higher courts 1990–1997, August 1998
  19. Sentencing offenders in the Local Courts — Effects of the Criminal Procedure Amendment (Indictable Offenders) Act 1995, February 2000
  20. Sentencing female offenders in NSW, May 2000
  21. Protective custody and hardship in prison, February 2001
  22. Conviction and sentencing appeals in the NSW Court of Criminal Appeal 1996–2000, February 2002
  23. Sentencing mentally disordered offenders: The causal link, September 2002
  24. Bail: An examination of contemporary issues, November 2002
  25. Sentencing methodology: Two-tiered or instinctive synthesis?, December 2002
  26. Sentencing trends for armed robbery and robbery in company: The impact of the guideline in R v Henry, February 2003
  27. Sentencing drink-driving offenders in the NSW Local Court, March 2003
  28. Common offences in the Local Court, September 2003
  29. Suspended Sentences in NSW, November 2003
  30. Common Offences and the Use of Imprisonment in the District and Supreme Courts in 2002, March 2004
  31. The Use and Limitations of Sentencing Statistics, December 2004
  32. Pre-sentence Custody and Other Constraints on Liberty, May 2005
  33. Successful Completion Rates for Supervised Sentencing Options, June 2005
  34. Trends in the Use of s 12 Suspended Sentences, June 2005
  35. Impact of the High Range PCA Guideline Judgment on Sentencing Drink Drivers in NSW, September 2005
  36. Trends in the use of full-time imprisonment 2006–2007, November 2007
  37. Common offences in the 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
  47. Navigating the Bail Act 2013, June 2020
- Sentencing Snapshots**
- Domestic Violence Offences in the Local Court, June 2021
  - Common Offences in the Local Court, March 2022
  - Common Offences in the District and Supreme Courts, June 2022
- Journals**
- Judicial Officers' Bulletin (Vols 1–34) (1988–)
  - The Judicial Review (Vols 1–14) (1992–)



### Bench Books

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

### Handbooks

- Sexual Assault Trials Handbook (online only) (2007–)
- Land and Environment Court of NSW Commissioners' Handbook (online only) (2010–)
- Children's Court of NSW Resource Handbook (online only) (2013–)
- Handbook for Judicial Officers (online only) (2021–)

### Brochures

- Judicial Commission of NSW, 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 NSW, 2008
- Complaints against judicial officers, 2013

### DVDs

- The role of the judge, 2004
- Concurrent evidence: New methods with experts, 2005
- Circle Sentencing in NSW, 2009
- The Bail Act 2013: Selected Scenarios, 2014

## Appendix 9

### Ngara Yura Program

View Ngara Yura Committee Terms of Reference online at:

[www.judcom.nsw.gov.au/education/ngara-yura-program/ngara-yura-committee-terms-of-reference/](http://www.judcom.nsw.gov.au/education/ngara-yura-program/ngara-yura-committee-terms-of-reference/).

## Appendix 10

### Assistance to other jurisdictions and organisations 2021–22

#### Judicial education

- Support of the *Bugmy* Bar Book project: the Bar Book Project, launched in November 2019, continues to develop chapters of research as a resource for practitioners to assist in the preparation and presentation of evidence to establish the application of the *Bugmy* principles. We continue to make the *Bugmy* Bar Book available on JIRS and participate in the *Bugmy* Bar Book Committee meetings.
- Department of Communities and Justice and NSW Council of Aboriginal Regional Alliances (NCARA): we formalised our discussions and in October 2021, signed an Accord supporting strategies to reduce the number of young First Nations people being breached on bail following non-violent offences.
- Sexual Harassment Prevention Education Working Group: in July we took part in this national initiative to develop sexual harassment prevention education for judicial officers. Court Services Victoria, NJCA, JCV and the Fair Work Commission took part.
- Sydney University Law School: in February 2022 we assisted with development of a series of videos for the Law School, entitled "Indigenous Perspectives on Law", designed as teaching resources.
- Australasian Institute of Judicial Administration (AIJA): we continued our alliance between the AIJA Indigenous Committee and our Ngara Yura Committee, sharing our knowledge.
- Australian Human Rights Commission — Respect@Work Report: we worked with Kate Jenkins, Sex Discrimination Commissioner to present sessions for the District Court and Local Court of NSW on Recommendation 40 of the Report in April and June 2022.
- Parliamentary Select Committee on the Coronial Jurisdiction: In June 2022 we responded to a request from the Department of Communities and Justice for assistance with information and costs to inform a proposed government response.
- Australian Judicial Officers Association: throughout April, May and June we supported the AJOA by promoting the 2022 Colloquium to NSW judicial officers
- Assistance to the Australian Government's Australia Awards program in South Asia: in March 2022 we delivered a suite of webinars relating to drug courts for judicial officers in the Maldives.
- Judicial Council on Cultural Diversity (JCCD) — Professional Development Working Group on Recommended National Standards for Working with Interpreters in Courts and Tribunals: throughout 2022 we continued our participation in the Working Group to give feedback on a proposed course outline for the Standards.
- Department of Communities and Justice — *Family Is Culture Review Report: Independent Review of Aboriginal Children and Young People in OOHC* (2019): throughout the year we continued working with the Department to implement our response to the recommendations of this report.
- Department of Communities and Justice — NSW Government response to the Law Reform Commission's *Report 148: Consent in relation to sexual*

*offences*: throughout 2021 and 2022 we worked closely with policy staff to implement this significant reform package.

- Asia Pacific Judicial Educators Meeting: a meeting of the Australian members of the group was held in April 2022, hosted by the NJCA, the meeting and focused on reviewing proposed content for a national sexual harassment prevention training program.
- University of New England: we completed a review of our library needs and opened discussions with the University of New England (UNE) to provide a number of library services.
- District and County Courts of Australia and New Zealand Technology Committee: in May 2022, after reviewing the curriculum we agreed to assist with implementing a technology course for judicial officers designed by the committee.

#### 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 (QGIS): we continue to host, maintain and support QGIS. The MoU with the Supreme Court Library Queensland is in place until 30 September 2022.

- Commonwealth Sentencing Database (CSD): we continue to host, maintain and support the CSD which is a joint project with the Commonwealth Director of Public Prosecutions and the National Judicial College of Australia. The MoU is renewed on an annual basis.
- Papua New Guinea Sentencing Database (PNGSD): we continue to host, maintain and support the PNGSD for the Supreme and National Courts of PNG.
- Papua New Guinea Pilot Integrated Criminal Case System Database (ICCS): we successfully completed the pilot phase of the project and the Memoranda of Understanding for PNG Legal Information Network (which will replace PNGSD) and ICCS were renewed until 30 June 2025. The ICCS continues to be expanded to all provinces across the country in a phased manner.
- 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. The agreement has been extended until 30 June 2023.

#### Other

- Australasian Reporting Awards.

## Appendix 11

### Working with other organisations 2021–22

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 (retired February 2022)

Member of:

- Deputy Secretary General of the International Organization for Judicial Training
- Advisory Board to the Commonwealth Judicial Education Institute, Halifax, Canada
- Asia Pacific Judicial Educators (APJE)
- National Judicial Orientation Program Steering Committee, National Judicial College of Australia
- Judicial Council on Cultural Diversity.

**Ms Una Doyle** — Chief Executive

Member of:

- Co-Chair, International Committee 2019–21, the Association for Continuing Legal Education (ACLEA)
- Member, Austin 2021 Mid-Year Meeting Conference Planning Committee, the Association for Continuing Legal Education (ACLEA)
- Vice President and Treasurer, Executive Committee 2020–21, Continuing Legal Education Association of Australasia (CLEAA)
- Asia Pacific Judicial Educators (APJE)
- National Judicial Orientation Program Steering Committee, National Judicial College of Australia (NJCA)

- Professional Development Working Group on Recommended National Standards for Working with Interpreters in Courts and Tribunals, Judicial Council on Cultural Diversity (JCCD)
- Family is Culture Response — Lead Collective.

**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
- NSW Public Sector Community of Finance Professionals
- Chair, NSW Fellows Committee, Australian Computer Society
- Mentor, University of Technology Sydney
- Mentor, University of Sydney
- Mentor, Engineers Australia, Sydney.

**Ms Pierrette Mizzi** — Director, Research and Sentencing

Member of:

- Sexual Assault Review Committee, Office of the Director of Public Prosecutions (NSW)
- Bugmy Bar Book Committee
- Consent Implementation Working Group, Department of Communities and Justice
- Forensic Patients in the Correctional System Committee, Office of the Director of Public Prosecutions (NSW)
- Aboriginal Legal Service Bugmy Evidence Project Steering Committee.



Ms Kate Lumley — Manager, Publications and Communications

- Member of Family is Culture Response — Lead Collective.

Ms Antonia Miller — Lawcodes (Research)

- Adjudicator for Australasian Reporting Awards.

## Appendix 12

### Visitors to the Commission 2021–22

#### Visitors

There were no official visitors to the Commission in the reporting year.

#### Delegations

Sir Gibbs Salika GCL, KBE, CSM, Chief Justice of Papua New Guinea, led a delegation to the Commission on 20 April 2022 to sign the extension of the memoranda of

understanding for the PNGSD and the PNGICCD. The delegation consisted of Sir Gibbs Salika GCL, KBE, CSM, Justice Geitha, Jack Kariko (Secretary NJSS), Ian Augerea (Registrar National and Supreme Courts) and Paul Kelly (Adviser to Chief Justice).

## Appendix 13

### Overseas visits 2021–22

There were no overseas visits this year due to COVID-19 restrictions.

## Appendix 14

### Exchange of information 2021–22

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 2021–22, the Commission had discussions and / or exchanged information with the following organisations:

#### Australian

- Attorney-General's Department (Cth)
- Australasian Institute of Judicial Administration (AIJA)
- Australian Bureau of Statistics
- Australian Institute of Criminology
- Australian Law Reform Commission (ALRC)
- Bar Association of NSW
- Bureau of Crime Statistics and Research (NSW)
- College of Law
- Commonwealth Director of Public Prosecutions
- Continuing Legal Education Association of Australasia
- Corrective Services NSW
- Council of Australasian Tribunals
- Department of Aboriginal Affairs
- Department of Attorney-General and Justice (NT)
- Department of Communities and Justice (NSW)
- Department of Foreign Affairs and Trade
- Department of Justice and Attorney-General (Qld)
- Department of Premier and Cabinet (NSW)
- Fair Work Commission
- Federal Court of Australia
- High Court of Australia

- Independent Commission Against Corruption
- Judicial College of Victoria
- Judicial Commission 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 Civil and Administrative Tribunal
- 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 (NSW)
- Personal Injury Commission
- Public Defenders (NSW)
- Roads and Maritime Services
- Royal Commission into Institutional Responses to Child Sexual Abuse (Cth)
- Sentencing Advisory Council (Vic)
- Supreme Court of Western Australia
- University of New England, Faculty of Law
- University of Newcastle, Faculty of Law
- University of NSW, Faculty of Law
- University of Sydney, Faculty of Law
- University of Wollongong, Faculty of Law
- Western Sydney University.

## International

- American Judicature Society
- Association For Continuing Legal Education (ACLEA)
- British Columbia Prosecution Service
- Canadian Association of Provincial Court Judges
- Center for Judicial Education and Training, Jerusalem, Israel
- Commonwealth Judicial Education Institute, Halifax, Canada
- Commonwealth Magistrates' and Judges' Association, United Kingdom
- International Association of Women Judges
- International Organization for Judicial Training
- Judicial College, England and Wales
- Judicial Council Ireland
- Judicial Education Reference, Information and Technical Transfer (JERITT) Project, Michigan, USA
- Magisterial Service of Papua New Guinea
- National Association of State Judicial Educators, Michigan, USA
- National Judicial Institute, Canada
- Papua New Guinea Centre for Judicial Excellence
- Philippine Judicial Academy
- State Courts Singapore
- Supreme and National Courts of Papua New Guinea
- Te Kura Kaiwhakawā (Institute of Judicial Studies), New Zealand.

## Appendix 15

### Commission officers' presentations 2021–22

- Mr M Sagi PSM, "Introduction to Judicial Commission Data Tools", presentation to the Executive Director and staff, BOCSAR, virtual, 25 August 2021
- Ms P Mizzi, "Introductory JIRS session", presentation to the Honourable Justice Dhanji, Supreme Court of NSW, 1 October 2021
- Mr M Sagi PSM, "JIRS: sentencing of WHS offences", presentation to Clayton Utz and Safe Work Australia, virtual, 20 January 2022
- Ms P Mizzi, "Introductory JIRS session (Pre-Bench)", presentation to the new District Court judges, District Court of NSW, Downing Centre, 28 January 2022
- Ms V Roby and Ms L Halim, "Land and Environment Court of NSW — Tipstaff Orientation Program", presentation to the new Land and Environment Court tipstaves, virtual, 28 January 2022
- Ms J Selfe, "Indigenous perspectives", presentation to the Sydney University Law Students, Civil & Criminal Procedure, Sydney University, 1 February 2022
- Ms P Mizzi, "Introductory JIRS session", presentation to his Honour Acting Judge Allen, District Court of NSW, Downing Centre, 15 February 2022
- Mr M Zaki, "JIRS introduction", presentation to his Honour Magistrate Khan, virtual, 16 February 2022
- Ms P Mizzi, "Introductory JIRS session", presentation to his Honour Judge McGrath, District Court of NSW, Downing Centre, 17 February 2022
- Mr M Zaki, "JIRS introduction", presentation to her Honour Magistrate Samuels, virtual, 18 February 2022
- Ms V Roby, "Commonwealth Sentencing Database Statistics", presentation to the Commonwealth DPP CASEHQ Team, virtual, 25 February 2022
- Mr M Sagi PSM, "Bail Assistant Demonstration", presentation to the Law Reform and Legal Services, Department of Communities and Justice, 24 March 2022
- Mr M Zaki, "JIRS Introduction", presentation to her Honour Magistrate Manea, virtual, 1 April 2022
- Ms J Selfe, "Warura (string) Theory Workshop", presentation to the inner west residents & community, Gunawirra, Petersham Town Hall, 6 April 2022
- Ms P Mizzi, "Introductory JIRS session", presentation to the Honourable Justice Mitchelmore, Supreme Court NSW, 20 April 2022
- Mr M Sagi PSM, "PNGSD, ICCSD, JIRS and other decision support technologies", presentation to the delegation led by Chief Justice of Papua New Guinea, Judicial Commission of NSW, 20 April 2022
- Ms J Selfe, "Yanada Gili — Moon Light — First Nations Astronomy", presentation to the local community, Firestories, Cronulla Beach Park, 23 April 2022
- Ms P Mizzi, "Introductory JIRS session", presentation to the Honourable Justice Peden, Supreme Court NSW, 28 April 2022
- Mr M Zaki, "JIRS introduction", presentation to her Honour Magistrate Crofts, virtual, 18 May 2022
- Mr M Zaki, "JIRS refresher", presentation to her Honour Magistrate Robinson, virtual, 23 May 2022
- Mr M Zaki, "JIRS introduction", presentation to her Honour Magistrate Daher, virtual, 25 May 2022
- Ms J Selfe, "Be Brave, Make Change", presentation to the Downing Centre Staff, Reconciliation Week, Downing Centre, 27 May 2022
- Ms P Mizzi, "Introductory JIRS session", presentation to the Honourable Justice Kirk, Supreme Court NSW, 10 June 2022
- Mr M Zaki, "JIRS introduction", presentation to the Supreme Court associates and tipstaff, virtual, 15 June 2022
- Mr M Zaki, "JIRS introduction", presentation to the Supreme Court associates and tipstaff, virtual, 22 June 2022
- Mr M Zaki, "JIRS introduction", presentation to her Honour Magistrate Wright, virtual, 27 June 2022
- Mr M Zaki, "JIRS introduction", presentation to his Honour Magistrate Tang, virtual, 30 June 2022.

## Appendix 16

### Access to government information 2021–22

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 2021–22

Compliance with NSW Treasury Annual Report Compliance Checklist requirements (updated September 2021)

Requirement	Page No. Reference
Letter of Submission	Inside front cover
Application for extension of time	Inside front cover
Charter	pp 2, 4, 83
Aims and objectives	pp 4, 8–13
Access	Back cover
Management and structure	pp 8, 18–23, 83
Summary review of operations	See “Overview” chapter from p 3
Funds granted to non-government community organisations	None
Legal Change	p 83
Economic or other factors	Commentary on economic factors is throughout, including results tables for each chapter (pp 26–27, 36–37, 48–49, 58–59, 66–67, 80–81, 96–97) and Financial report from p 98. Commentary on the impact of the COVID-19 global pandemic is also throughout, including results tables for each chapter and specific discussion on pp 4, 38, 63 and 81
Management and activities	Results tables for each chapter (pp 26–27, 36–37, 48–49, 58–59, 66–67, 80–81, 96–97)
Research and development	Not applicable
Human resources	pp 65–78
Consultants	Statement that no consultants used: see p 76 and p 97
Workforce Diversity	p 71
Disability Inclusion Action Plans	The Commission is not required to have a disability inclusion action plan: see p 71
Land Disposal	The Commission does not own and did not dispose of any property
Promotion	See p 64 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 53–55 and case studies on p 56
Payment of Accounts	See “Our finances” chapter from p 95, including Tables 20 and 21 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 88–92
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	See “Our multicultural plan” from p 72
Agreements with Multicultural NSW	No agreements have been entered into
Work Health and Safety (WHS)	p 77
Budgets	See “Our finances” chapter from p 95 and 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 120
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: p 120 Total external costs: p 137 Website: inside front cover and back cover
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 Figure 20 and Table 18
Implementation of Price Determination	Not applicable
<i>Government Information (Public Access) Act 2009</i>	p 88 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="http://www.judcom.nsw.gov.au/publications/#annual-reports">www.judcom.nsw.gov.au/publications/#annual-reports</a>



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## Glossary

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.
BOCSAR	NSW Bureau of Crime Statistics and Research.
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.
COVID-19	A contagious novel coronavirus declared a pandemic by the World Health Organization on 11 March 2020. The Prime Minister activated the Australian Health Sector Emergency Response Plan for Novel Coronavirus (COVID-19) on 27 February 2020. From March 2020, the NSW State Government imposed public health regulations to minimise its spread. See NSW Government information at <a href="http://www.nsw.gov.au/covid-19">www.nsw.gov.au/covid-19</a> .
Education day	Calculated on the basis of 5 to 6 instructional hours attended by a judicial officer.
ICCSA	Integrated Criminal Case System Database developed and maintained by the Commission for Papua New Guinea.
JIRS	See Judicial Information Research System (JIRS).
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 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> <p>The definition of judicial officer includes acting appointments to a judicial office, but does not include arbitrators, registrars, assessors, members of tribunals, legal representatives, retired judicial officers or federal judicial officers. A Commissioner of the Land and Environment Court is not a judicial officer.</p>
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.
Ngara Yura Program	First Nations cultural awareness program for judicial officers.
NJOP	National Judicial Orientation Program.
Official member	A judicial member of the Judicial Commission of NSW: see also Appointed member.
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.

## Annual Report of the Judicial Commission of NSW 2021–22

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**Cost:** Total external cost of \$480 was incurred in the production of this report.

**Project managers:** Dominique Cornelia and Vince Puglia  
**Writers:** Philippa Breden, Fleur Findlay, Kate Lumley and Anne Murphy

**Format:** The annual report is also available on the Commission's website: [www.judcom.nsw.gov.au](http://www.judcom.nsw.gov.au)  
 The Commission's website complies with ARIA web accessibility requirements.

**Cover design:** Madeleine Lumley Prince  
**Proofreading:** Fleur Findlay and Angela Huang  
**Photography:** Archived photos, Kate Lumley and Gillianne Tedder (photograph of President).

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