



ANNUAL REPORT 2017-18

This report is a formal document that details Crown Law's corporate performance during the 2017-18 financial year.

www.crownlaw.qld.gov.au



2017-18

AT A GLANCE



23
NEW LAWYERS
JOINED THE PRACTICE

PRODUCTIVITY
100.4%
percent



131,818
HOURS SPENT ON
LEGAL MATTERS

CLIENT
SATISFACTION
4.66
out of 5



3,047
NEW LEGAL MATTERS
CREATED

PROFIT
\$656
thousand



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“ I would like to **acknowledge our clients.**
Your support, trust and input are vital
components to our business. ”

Greg Cooper, Crown Solicitor

CROWN SOLICITOR'S MESSAGE

The 2017/18 financial year was another highly successful 12 months for Crown Law, full of change and progress.

As we continue to navigate a highly competitive legal marketplace, Crown Law again achieved all business objectives and financial targets for the fiscal year, thanks in large measure to the exceptional service and commitment to clients provided by the practice.

My extended gratitude and congratulations to all our staff on a successful year. Crown Law is constantly evolving and improving as a business and without the contribution of enthusiastic, driven and passionate people, we would not be in the strong position we find ourselves in today.

The growth and progress we have enjoyed in recent years has been underpinned by a resolute focus on our core organisational values: integrity, excellence, respect and responsibility. These values, which have been embedded in our collective professional culture for over 150 years, guide the practice on a daily basis and contribute to our continued success, positive financial outcomes and of course, first-rate client service.

Crown Law continued to manage a broad range of legal matters this year, many of which were complex, sensitive and involved multiple agencies.

A few key highlights from the 2017/18 financial year included:

- acting for the State of Queensland as one of three defendants for the ongoing Queensland Floods Class Action;
- a series of strategic advices to Government which informed its policy response to the Crime and Corruption Commission's recommendations from

- the Operation Belcarra report;
- providing advice concerning the application and scope of landmark work health and safety provisions under the *Work Health and Safety and Other Legislation Amendment Act 2017*; and
- a series of advices on policy initiatives relating to Institutional Responses to Child Sexual Abuse, including the abolition of limitation periods.

Crown Law's event calendar remained busy in the past 12 months, with the practice hosting 35 events for more than 900 government officers. Two legal conferences were conducted in this period, with 237 attendees in combined attendance. The 2018 conference also saw the launch of a mobile, tablet and web app, which navigated users electronically through the day.

Looking across other areas of the business, a key focus over the past 12 months has been the beginning of Crown Law's transformation into a paper light practice. After an extensive analysis of current procedures, Crown Law now has a transition roadmap which will result in increased efficiency through digitisation and automation.

The past year also demonstrated our exceptional client service and standing as a premium provider of government legal services, with clients rating Crown Law's services an outstanding 4.66 out of 5. This is the highest annual score Crown Law has received under the five-point scoring system. Our five-year average is an impressive 4.59 out of 5.

Finally, I would like to acknowledge and thank our clients. Your support, trust and input are vital components to our business. We look forward to working in partnership with you well into the future.



ABOUT US

Crown Law operates as a self-funded business unit of the Department of Justice and Attorney-General, providing advice and legal representation in all areas of law affecting the public sector and State of Queensland.

Crown Law works exclusively for State Government, meaning all resources and skills are focused on the government's priorities and legal needs. Our extensive pool of experienced lawyers aim to provide first-rate legal services that protect and support the government in the public interest.

Employing 133 legal staff and 108 support staff, Crown Law offers a broad range of legal services to all Queensland State Government entities. Our practice is structured to provide government agencies with relevant, informed legal advice and representation.

Our services

Crown Law's core expertise spans 16 major areas of law, with a host of speciality areas also offered to clients. Our primary areas of law are:

- advocacy
- anti-discrimination
- commissions of inquiry
- constitutional law
- corporate and commercial
- debt recovery
- dispute resolution
- employment law
- health law
- information and communication technology
- insurance and risk
- intellectual property
- native title
- planning and environment
- property law
- WorkCover.

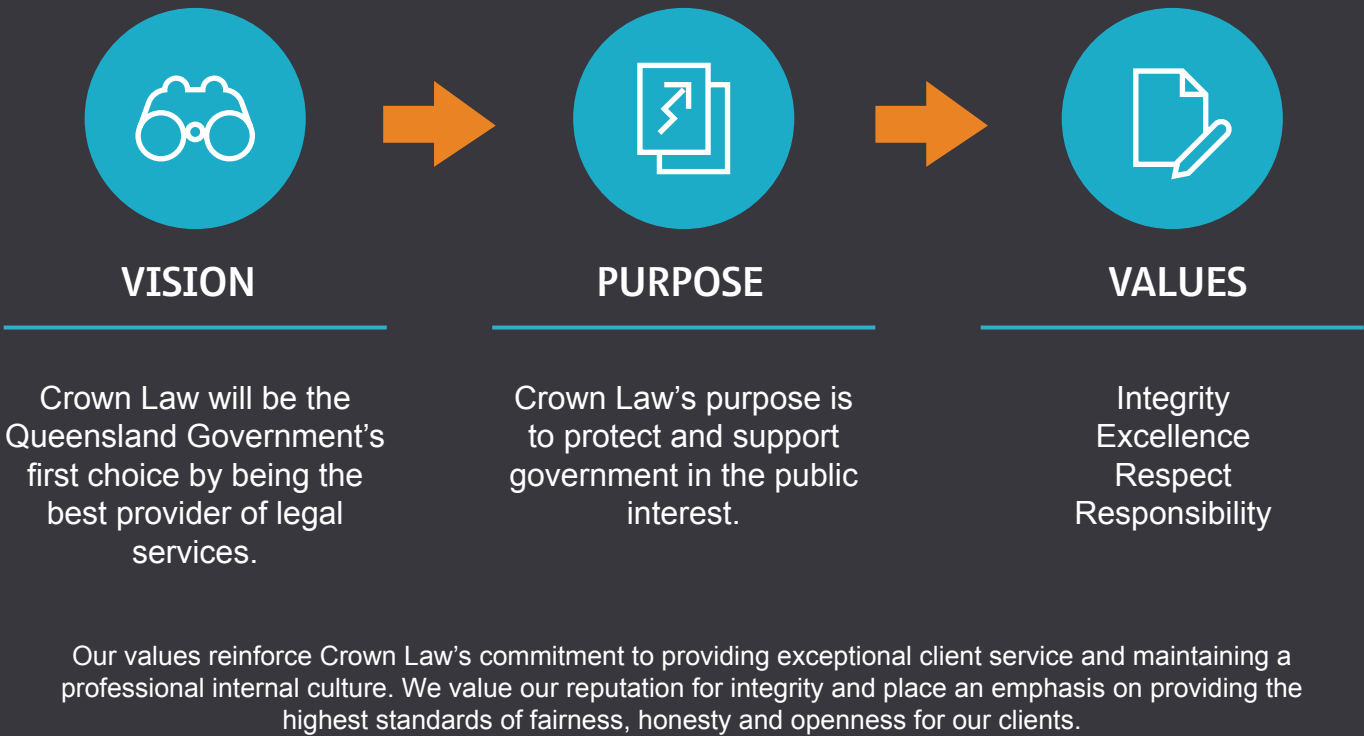
Crown Law is practised at evolving to the changing needs of government and maintaining an unrivalled understanding of the risks and circumstances that impact on all of our clients. Our broader role includes providing legal education training through workshops, information sessions, legal briefings and an annual legal conference.

While Crown Law is the Government's own legal unit, departments and agencies are not obliged to use our services for certain areas of law. Law firms in the private sector can also provide services to Queensland Government, which means Crown Law competes for this business.



OUR ORGANISATION

Vision, Purpose and Values



Strategic Planning

Crown Law's 2018-19 Strategic Business Plan was finalised on 19 July 2018 following extensive consultation across the practice.

As outlined in the Business Plan, Crown Law's key objectives for 2018/19 are:

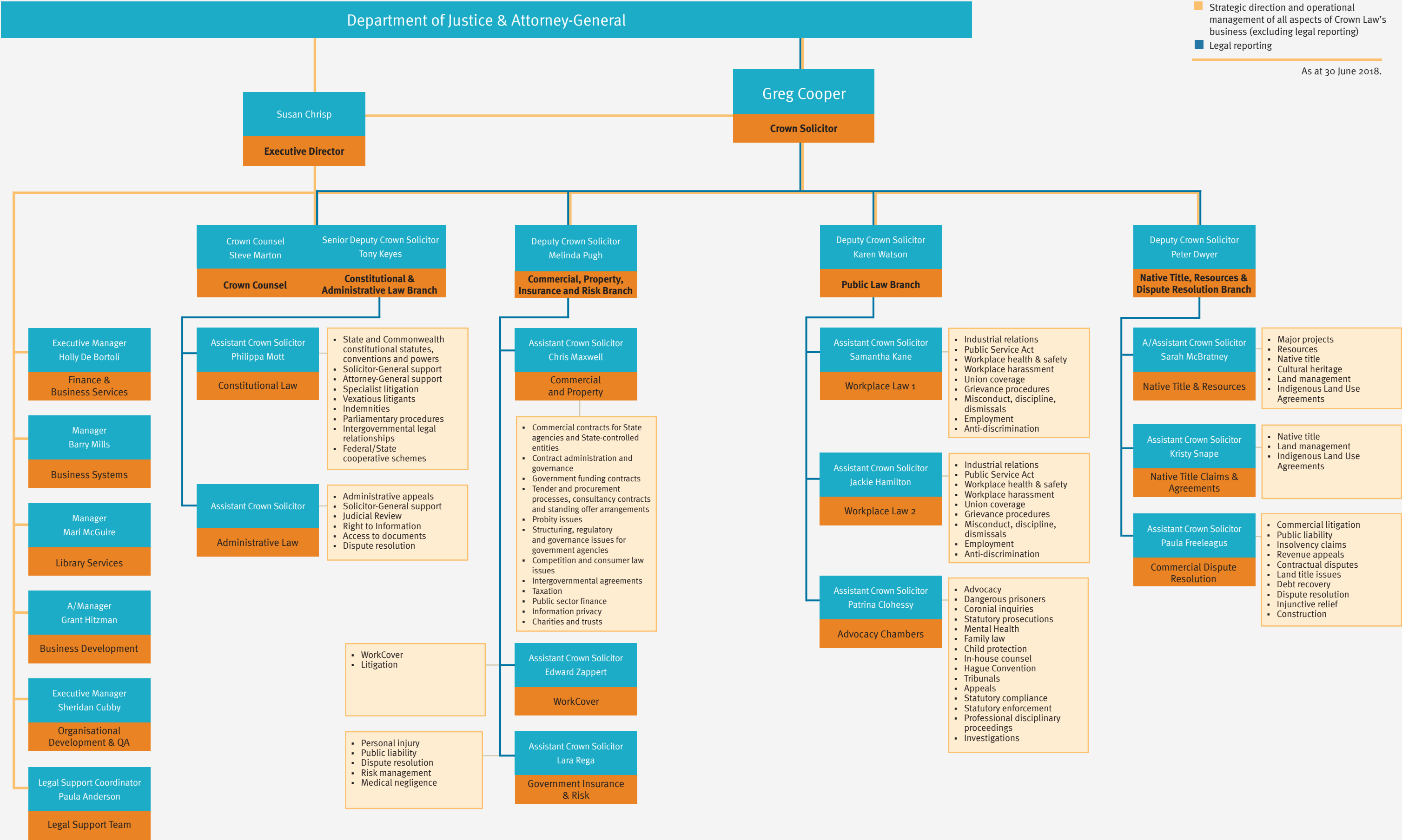
- maintaining profitability
- improve client partnerships
- our people and culture
- innovation.

Organisational Structure

Crown Law is led by the Crown Solicitor, the most senior officer in the practice. Acting as the solicitor for the State, the Crown Solicitor is responsible for providing legal advice to senior departmental officers as well as the Premier, Attorney-General, Ministers and Directors-General.

The Executive Director reports directly to the Crown Solicitor and is accountable for business operations, performance and the strategic direction of the practice.

Crown Law's four legal branches are led by the Senior Deputy Crown Solicitor or Deputy Crown Solicitors. The legal teams within each branch are managed by an Assistant Crown Solicitor who is responsible for the supervision of legal matters and the lawyers in their team. Assistant Crown Solicitors receive expert legal support from Special Counsel, who manage more complex matters. All lawyers in Crown Law are supported by the Practice Management Branch, comprising of six teams, each led by a manager.



Strategic direction and operational management of all aspects of Crown Law's business (excluding legal reporting)

Legal reporting

As at 30 June 2018.

Our Leadership Team

The Strategic Leadership Team (SLT) is comprised of six experienced senior Crown Law executives who provide direct leadership to the practice.

These members include:

- the Crown Solicitor
- the Executive Director
- the Senior Deputy Crown Solicitor
- three Deputy Crown Solicitors.

SLT are primarily responsible for developing and executing business strategies within Crown Law and ensuring that the practice continues to provide all government clients with exemplary legal services.



GREG COOPER
Crown Solicitor

Greg was appointed Queensland's 22nd Crown Solicitor on 1 November 2008.

Over his four decades in the Queensland Public Sector, Greg has accumulated a wealth of experience practising in public law, common law and constitutional law.

Prior to his current appointment, Greg spent four years as Deputy Crown Solicitor of Crown Law's Litigation Branch. He has also held positions in the former Solicitor-General's Office and as Legal Counsel to the Parliamentary Committee on Subordinate Legislation and deputised for the Solicitor-General at national meetings of the Standing Committee of Solicitors-General.

In his role as Crown Solicitor, Greg acts as the solicitor on the record for the State and provides independent legal advice to the Cabinet, the Premier, the

Attorney-General, Ministers, Directors-General and departmental officers on matters of significance to the Government. Greg is also responsible for resolving conflicts of interest in any legal matter being handled by Crown Law and is responsible for setting the professional and ethical standards of the Crown Law office.

Led by Crown Solicitor, Greg Cooper, SLT also included the following officers at 30 June 2018.



SUSAN CHRISP
Executive Director

Susan was appointed Executive Director of Crown Law in August 2007.

Susan has a breadth of executive management experience in several roles across State Government agencies, including the Department of the Premier and Cabinet, the Department of Health, Queensland Treasury, Transport, Family Services and Arts Queensland.

Susan was previously the Department of Justice and Attorney-General's Director of Finance and has also served as the Assistant Director-General.

In her current role, Susan is primarily responsible for Crown Law's business operations and strategic direction, reporting directly to the Crown Solicitor.



TONY KEYES
Senior Deputy Crown Solicitor

Tony was appointed Senior Deputy Crown Solicitor of the Constitutional and Administrative Law Branch in January 2009.

Tony offers Queensland Government clients the benefit of an extensive and varied career in law. He has advised jointly with Solicitors-General on a range of complex, often sensitive legal and constitutional issues, including parliamentary privilege, public inquiries, criminal justice system reforms, Commonwealth and State electoral laws, health system reforms and Crown succession.

Prior to joining Crown Law, Tony served four years as Executive Director of Law and Justice Policy in the Department of the Premier and Cabinet.

In his current role, Tony provides expert representation and advice on complex questions of government law.



KAREN WATSON
Deputy Crown Solicitor

Karen was appointed Deputy Crown Solicitor of the Public Law Branch in 2010.

As a long serving employee of Crown Law, Karen has an unsurpassed knowledge of Queensland Government public law, employment and discrimination law, management of disciplinary matters, and statutory interpretation.

Karen's experience in workplace and employment law began in 1998 when she became team leader of workplace law.

In her current role, Karen is responsible for teams in workplace law and advocacy and provides advice on sensitive and significant workplace law matters to the highest levels of government.



PETER DWYER
Deputy Crown Solicitor

Peter was appointed Deputy Crown Solicitor in early 2010, currently leading the Native Title, Resources and Dispute Resolution Branch.

Peter has expertise across a range of legal practice areas including commercial and contract law, corporate governance, dispute resolution, native title and resources law, employment law and intellectual property.

Prior to joining Crown Law, Peter held a senior legal position at Queensland Health and practised commercial and property law in the private sector. Peter also held an in-house corporate role overseas.

In his current role, Peter provides strategic and solutions-focused advice to client agencies on complex and sensitive matters.



MELINDA PUGH
Deputy Crown Solicitor

Melinda was appointed Deputy Crown Solicitor of the Commercial, Property, Insurance and Risk Branch in July 2017.

Melinda's key expertise is her strategic advice and guidance on matters related to government business, particularly where they involve complex regulatory, competition or statutory interpretation issues.

Prior to joining Crown Law, Melinda gained a solid reputation in health law during her 10 years with Queensland Health.

In her current role, Melinda is responsible for three teams specialising in all aspects of government commercial law, property, planning and environment law, WorkCover claims, as well as personal injury claims against the State, including civil litigation.



Legal Branches and Teams

Constitutional and Administrative Law Branch

The Constitutional and Administrative Law Branch delivers specialist advice and representation in all aspects of constitutional and administrative law and statutory interpretation.

Constitutional Law Team

With significant experience advising clients on complex topics in relation to constitutional law and statutory interpretation, Crown Law's Constitutional Law Team provides a range of legal services and advice which include:

- advising the Attorney-General on the conduct of and intervention in constitutional litigation
- providing support to the Solicitor-General when representing the State Government in litigation
- advising the State on complex constitutional law issues
- advising on the validity and effectiveness of draft legislation, if enacted
- advising on issues involving Cabinet and Parliament
- advising the Attorney-General in relation to the first law officer's functions and powers including pardons, indemnities, contempt of court and matters involving judicial officers
- advising on complex questions of statutory interpretation.

Administrative Law Team

Specialising in the operation and application of public sector administrative law, Crown Law's Administrative Law Team has unique expertise in advising and representing the State in matters under the *Judicial Review Act 1991*, the *Right to Information Act 2009* and the *Information Privacy Act 2009*.

The Administrative Law Team provides a range of services including:

- advice and representation in matters involving the *Judicial Review Act 1991*
- statutory decision-making and statements of reasons
- advice and representation in matters involving the *Right to Information Act 2009* and the *Information Privacy Act 2009*
- representation in administrative law appeals including in the Queensland Civil and Administrative Tribunal.

Public Law Branch

The Public Law branch specialises in employment and discrimination law and the provision of advocacy services. Our advocates advise and represent clients in statutory prosecution work, matters relating to Dangerous Prisoner Sexual Offenders and Mental Health proceedings.

Workplace Law Team

Working closely with other specialists across Crown Law, the Workplace Law Team provides advice and legal services in workplace relations and employment law, including practice areas which are unique to government.

Their legal services include:

- advising government agencies on their statutory powers and functions, including under the *Public Service Act 2008*, such as discipline and ill health retirement
- preparing correspondence for and on behalf of decision makers in ill health retirement and discipline processes
- advising agencies on policies and risk management
- advising on industrial relations, including the implications of the *Fair Work Act 2009*
- acting for government agency employers in WorkCover appeals and applications for review concerning psychological injuries
- acting for and advising in relation to complaints of unlawful discrimination, sexual harassment, victimisation and public interest disclosures
- advising and assisting agencies in relation to the preparation of appeals against discipline decisions under the *Public Service Act 2008*
- advising and representing clients in work health and safety matters
- advising and representing the State in unfair dismissal, adverse action, industrial disputes and other proceedings under the *Industrial Relations Act 2016*
- drafting and advising on all aspects of employment contracts, including appointments, discipline and termination, dispute settlement and representation.

Advocacy Chambers

An essential responsibility of many government agencies is the enforcement of regulations and legislation to protect the public from incompetent and improper conduct.

Crown Law's Advocacy Chambers play a central role in providing representation for and advising numerous agencies on the conduct of criminal, regulatory and enforcement proceedings and activities of professional, administrative, industrial and disciplinary boards and tribunals.

The team provides representation and advice to the Queensland Government on all aspects of prosecution proceedings and general advocacy, including:

- matters under the *Dangerous Prisoners (Sexual Offenders) Act 2003*
- Mental Health Review Tribunal and Mental Health Court proceedings in relation to forensic orders
- coronial inquests
- commissions of inquiry
- statutory prosecution of indictable offences in relation to:
 - work health and safety matters relevant to mining, gas, petroleum and explosives
 - maritime safety prosecutions and enforcements
 - workers compensation fraud
 - local government and planning
 - public health, drugs and poisons
 - food safety standards
 - education and care services national law
 - public housing and residential services
 - fair trading and consumer protection
 - contempt proceedings
- Queensland Civil and Administrative Tribunal (QCAT) general administrative reviews
- disciplinary tribunals and appeals.

Native Title, Resources and Dispute Resolution Branch

Specialising in native title, resources law and Aboriginal and Torres Strait Islander cultural heritage and in the conduct, and resolution, of a broad range of litigation on behalf of the State including commercial and contractual disputes, debt recovery, negligence and nuisance claims and claims for false imprisonment.

Commercial Dispute Resolution Team

This team advises and represents the State in matters brought before QCAT and responds to notices of non-party disclosure, subpoenas and summonses issued from all State courts in both civil and criminal matters.

Our lawyers specialise in all forms of alternate dispute resolution, having successfully negotiated the resolution of numerous disputes on behalf of client departments through mediation and participation in without prejudice conferences. The team also provides advice and representation on a range of matters including:

- commercial and contractual disputes
- debt recovery
- negligence claims
- nuisance claims
- land title fraud
- breaches of the Australian Consumer Law
- false imprisonment and malicious prosecution claims
- injunctive relief.

Native Title

Our Native Title practice comprises two teams – Native Title Claims and Agreements and Native Title and Resources.

Crown Law has been the State’s foremost legal advisor on native title and cultural heritage since the historic Mabo decision in 1992.

Specifically, lawyers across our two native title teams specialise in:

- the conduct of native title determination applications filed in the Federal Court
- negotiating and drafting indigenous land use agreements
- proceedings in the Federal Court for review of registration test decisions
- right to negotiate and other proceedings in the National Native Title Tribunal
- advising on the extinguishment of native title and the ‘future act’ regime under the *Native Title Act 1993* (Cth)
- advising on:
 - native title issues relating to proposed legislation
 - native title and Aboriginal and Torres Strait Islander cultural heritage issues relevant to major infrastructure projects
 - the operation of mining and petroleum legislation.

Legislation key to the daily work of both teams includes the *Native Title Act 1993* (Cth), *Aboriginal Cultural Heritage Act 2003* and the *Torres Strait Islander Cultural Heritage Act 2003*.



Government Insurance and Risk

Crown Law’s personal injury civil litigation outside WorkCover matters is managed in the Government Insurance and Risk Team.

In addition to complex and often contentious personal injury matters, the team also provide legal services in dispute resolution, risk management and public liability. Core work for the Government Insurance and Risk Team includes:

- conducting complex civil proceedings including personal injury, medical negligence and stress claims
- providing high-level complex legal advice on a wide range of personal injury matters
- dispute resolution including negotiating settlements, conducting mediations, directions hearings and settlement conferences
- conducting and preparing for complex trials in all jurisdictions
- identification and evaluation of risk management in personal injuries litigation
- conducting insurance and public liability litigation
- appearing as an advocate at applications, callovers, taxations and directions hearings.

Legislation key to their daily work includes the *Personal Injuries Proceedings Act 2002* and the *Civil Liabilities Act 2003*.

The Team also includes specialist lawyers working on historical child sexual abuse claims.

Commercial, Property, Insurance and Risk Branch

This branch consists of three teams specialising in all aspects of government commercial law, property, planning and environment law, WorkCover claims, as well as personal injury claims against the State, including civil litigation.

Commercial and Property Team

The Commercial and Property Team provides a broad range of practical and concise advice on, and specialist drafting for:

- commercial contracts for State agencies and State-controlled entities
- contract administration and governance
- government funding contracts
- tender and procurement processes, consultancy contracts and standing offer arrangements
- probity issues
- structuring, regulatory and governance issues for government agencies
- competition and consumer law issues
- intergovernmental agreements
- taxation
- public sector finance
- information privacy
- charities and trusts.

The Team also advises and acts for agencies in all real property transactions.

The Commercial and Property Team also includes the planning and environment practice, which provides advice to clients on requirements under State and Commonwealth legislation, represents government agencies in various courts and advises on a plethora of planning and environment issues.

WorkCover

Crown Law’s WorkCover Team advises and acts for WorkCover Queensland, State Government departments and other public sector entities in the management of common law workers’ compensation claims.

These include claims on behalf of emergency services personnel such as police, corrective services, ambulance and fire officers, who may have sustained an injury during the course of their work, as well as claims arising from incidents at building sites, in national parks and at schools.

Lawyers in this team also specialise in managing psychiatric injury claims arising from bullying and harassment, trauma, excessive workloads and asbestos exposure.

They advise on the involvement of third parties, such as CTP insurers, matters of liability, quantum and evidence, and liaise with client agencies on the conduct of matters and resolution of claims.

Work the team regularly undertakes includes:

- identification and evaluation of risk management in personal injuries litigation
- conducting and preparing for complex trials in all jurisdictions
- dispute resolution including mediations, conducting conferences and negotiating settlements
- conducting complex civil proceedings.

Lawyers from our WorkCover Team have represented the State in the District, Supreme and High Courts in some of Queensland’s largest and most complex WorkCover litigation cases.

Practice Management Branch

Led by the Executive Director, the Practice Management Branch (PMB) provides corporate and operational support to the practice to allow lawyers to focus on their core business. Efficiently streamlined into six teams, each led by a manager, PMB provides a myriad of unique corporate services to Crown Law.

Finance and Business Services

Responsible for finance and asset management including coordination of client billing, expenses and disbursements, travel arrangements, accommodation, furnishings and other general stores and inventory, along with records management, archiving, retention and disposal and copy room services to the practice.

Business Systems

Crown Law’s dedicated IT support is responsible for providing hardware and software services and support in coordination with DJAG’s IT Services. Business Systems is also responsible for operating Crown Law’s independent help desk service, which provides software training, remote access support and an out of hours service.

Business Development

Business Development is responsible for maintaining the practice’s online presence, communications, events, legal service tenders, publications and corporate design and image. To maintain excellent client communications, Business Development is responsible for client relationship management through the Client Management Framework and feedback from client satisfaction surveys.

Organisational Development and Quality Assurance

Organisational Development provides human resource services to Crown Law in areas of recruitment and selection, learning and development, performance management, workplace health and safety, health and well-being and quality assurance. The team also manages staff feedback and business improvements across the practice.

Library Services

The Crown Law Library maintains the library intranet site, provides reference and research services and training, and maintains the library collection.

Legal Support Team

The Legal Support Staff Team leads the coordination of all secretarial and administrative support in Crown Law.

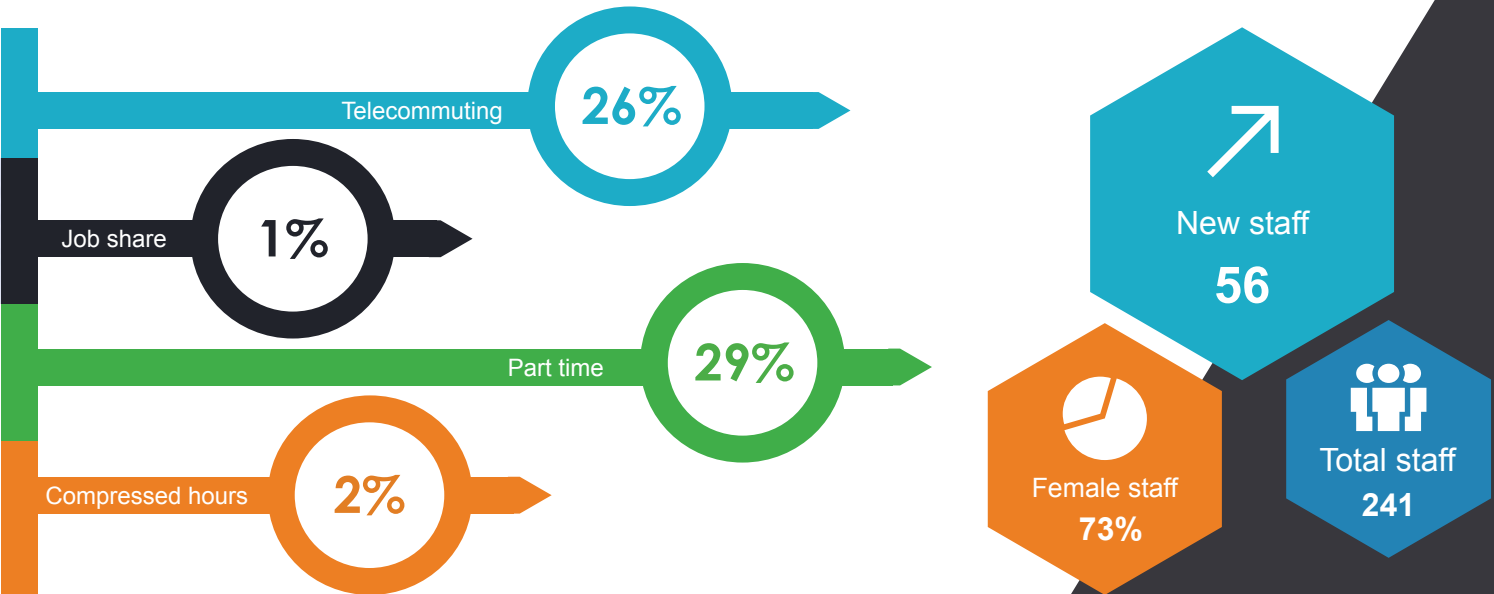
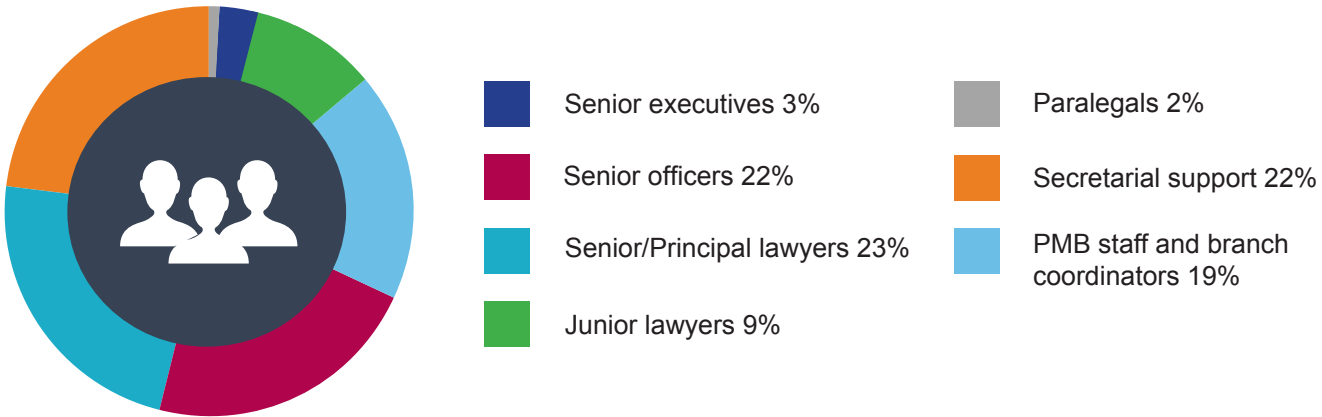


OUR PEOPLE

Crown Law is committed to attracting and retaining experienced staff who strive to deliver outstanding client service to the Queensland Government.

Our practice currently employs 133 legal officers with 57 secretarial support staff. In addition, there are 51 staff across six teams in the Practice Management Branch.

Crown Law prides itself on workforce diversity, equal opportunity and flexible work/life balance options. Crown Law puts this belief into practice by offering employees flexible working arrangements such as compressed hours, job share arrangements, part-time employment and telecommuting. In addition to work/life balance benefits, approximately 73 per cent of our 241 staff are women.





OUR CLIENTS

Client service Charter

Crown Law's Client Service Charter is aligned with our vision, purpose and core values. The charter guides all staff in the provision of client service that is:

- accessible
- accurate
- timely and responsive
- solution focussed
- value for money
- commercially attuned.

Client Management Framework

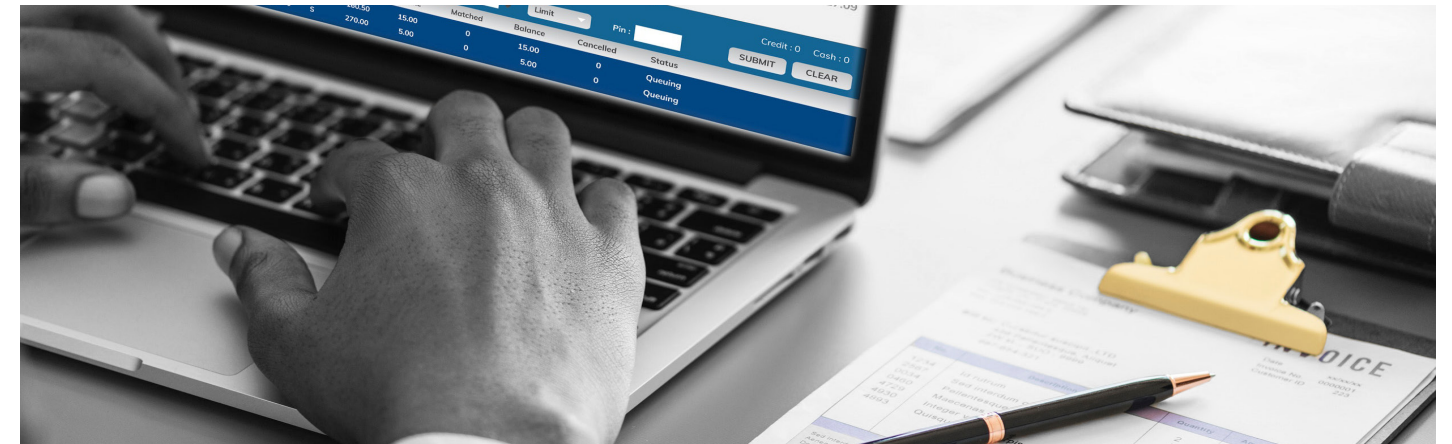
Crown Law implemented the Client Management Framework in 2008 to improve consistency in client service by providing a formal reporting structure between Client Relationship Managers (CRMs) in the practice and the Strategic Leadership Team. The reporting structure is intended to make CRMs more accountable for the service delivered to their individual clients.

The roles and responsibilities within the framework create a pathway for implementing strategic business development activities based on shared and individual client needs and service expectations.

The Strategic Leadership Team is responsible for the overall management of the framework and setting the strategic direction for improving client service within the practice. Overall service quality is monitored and, where necessary, client service issues addressed.

CRMs are usually at the Assistant Crown Solicitor level or higher and are allocated at least one key client. The CRM role is designed to be a single point of contact – on behalf of all of Crown Law – for that client. The key responsibility of a CRM is to ensure a consistently high level of client service.

CRMs are expected to take a pro-active approach to managing client expectations on a day-to-day basis and matching service delivery to their needs.



FEE STRUCTURE

Fees

Crown Law provides legal services to Queensland Government departments and agencies, statutory bodies, government-owned corporations, commercialised business units, disciplinary boards and tribunals. These services are categorised into 'tied' and 'untied' legal work. Untied work is open to competition from private legal firms.

Crown Law's tied and untied fees were increased by 3.5 per cent from 1 July 2018. The fees are set in accordance with Queensland Treasury's annual government indexation rate for fees and charges.

Tied and untied work

At the close of the 2017-18 financial year, approximately 16 per cent of Crown Law's revenue was derived from legal work in the 'untied' category. This was a decrease of three per cent on the previous year.

Areas of law which fall into the category of **untied** work are:

- statutory prosecutions
- coronial inquiries
- commercial litigation which includes but is not limited to:
 - insolvency
 - revenue appeals
 - contractual disputes
 - land title/real property claims
 - debt recovery
 - construction litigation
- planning and environment court litigation
- compulsory acquisition/compensation claims

- land valuation appeals
- personal injury matters excluding Queensland Government Insurance Fund (QGIF) managed claims.

Legal work in the **tied** category includes:

- QGIF-managed claims
- workplace law
- Right to Information
- Judicial Review
- native title and cultural heritage
- legal advice and representation in relation to child welfare and protection
- WorkCover
- matters arising from the special position at law of the Attorney-General, including matters which the Attorney-General in the role as first law officer of the State, directs that these be dealt with by Crown Law
- legal advice on matters pertaining to the role and powers of the Governor, Parliament or Cabinet
- legal advice underpinning a Cabinet submission
- legal advice on all constitutional law issues
- agreements that are to be approved by Cabinet and agreements which involve unique or major considerations which are of a special policy or operational significance for a department or agency of the State
- matters confidential and sensitive to government or have government-wide implications, including legal advice or representation between or on behalf of two or more government agencies
- matters involving judicial officers, indemnities and public inquiries.



SIGNIFICANT MATTERS

BHP Coal Pty Ltd and Others v Treasurer and Minister for Trade and Investment

BHP and Mitsubishi entities challenged the Treasurer's assessment of mining royalties and interest in the order of \$329 million dollars on a number of grounds. The matter involved complex issues under the *Mineral Resources Act 1989* including the issue of transfer pricing by the BHP entities for coal sold to their Singapore marketing subsidiaries.

The trial was set down for one week and was due to commence 28 May 2018. The matter was successfully negotiated between the parties and a resolution reached on a confidential basis on the eve of the trial.

***Wilmar Sugar Pty Ltd v Blackwood* [2018] QCA 138**

Wilmar Sugar Pty Ltd challenged a decision of the Workplace Health and Safety Regulator to reject an enforceable undertaking Wilmar had proposed under the *Work Health and Safety Act 2011* in relation to a workplace fatality incident at its sugar plant. Crown Law advised the Regulator both in settling the statement of reasons for the original rejection and in the ensuing legal challenges.

Wilmar's judicial review application was dismissed at first instance in the Supreme Court, and it appealed to the Court of Appeal on the basis that both the Regulator and the Supreme Court at first instance had erred in failing to take into account a relevant consideration, that Wilmar had no relevant compliance history under the Act. The Court of Appeal unanimously dismissed the appeal. The Regulator's statement of reasons withstood scrutiny in relation to that and other grounds throughout the course of the litigation.

***Attorney-General for the State of Queensland v Van Hassell* [2017] QSC 315**

Patrick Van Hassell was first subject to orders under the *Dangerous Prisoners (Sexual Offenders) Act 2013* when released to a supervision order on 28 November 2011. When first released to a supervision order he was an inpatient at The Park – High Secure Unit and spent a year there before transitioning in August 2012 to a medium secure unit and then to the Wacol Precinct in October 2012. His transition to the community was not successful and in December 2012 he contravened his supervision order. The finalisation of the contravention was protracted due to Mr Van Hassell's deterioration in mental health and acute psychosis. When the contravention was finally dealt with by the courts in February 2015 the evidence presented was that Mr Van Hassell was too acutely unwell to be released on a supervision order and that it is unlikely that the respondent would be able to comply with a supervision order.

At the annual review in late 2017, the psychiatric evidence was that Mr Van Hassell should not remain in custody under a continuing detention order as there are limitations to the treatment he can receive, but that given his serious mental health issues, his institutionalisation and need for substantial support a supervision order must involve a comprehensive, multi-agency risk management plan to facilitate his release from custody so that he can receive appropriate treatment and move in stages, if and when appropriate, into supported community accommodation. The Wacol precinct was deemed inappropriate.

This matter brought to light the need for greater interaction and cohesiveness between the mental health regime and those offenders on orders under the *Dangerous Prisoners (Sexual Offenders) Act 2013*. It involved significant input and extended communication with Queensland Health and Dr John Reilly, the Chief Psychiatrist to determine a proposed pathway for treatment and suitable accommodation for Mr Van Hassell.

The issue for Mr Van Hassell's transition from custody into the mental health system was that he did not fit into a particular health service area, which takes responsibility for meeting their ongoing treatment needs in terms of both inpatient and community treatment, and as a result there were difficulties in negotiating a transition plan for him. Dr Reilly proposed that investigations would be undertaken to identify a possible bed in a secure mental health rehabilitation unit for Mr Van Hassell and depending on where that was located, that would inform his transition plan.

Her Honour Justice Bowskill, in her judgment delivered on 5 December 2017, considered that, on the evidence before the court, Mr Van Hassell's circumstances were such that in order to try to address his serious mental health concerns, he required specialised treatment, and a careful transition. Further, that the adequate protection of the community would not be ensured if the respondent were released directly into the community, even under a stringent supervision order. But equally, the court considered that his continued detention in custody was not justified in circumstances where his clinical needs for psychiatric treatment were not able to be properly met in that environment, which is both a burden to the respondent, as well as to Corrective Services staff.

For those reasons the Court was satisfied that the continuing detention order could appropriately be rescinded, and a supervision order made in its place, provided that the supervision order provided, among other suitable conditions, for the release of the respondent in the first instance to the Secure Mental Health Rehabilitation Unit at The Park, as proposed to the court by the Chief Psychiatrist, Dr Reilly.

***Attorney-General (Qld) v Jackway* [2018] QSC 137**

This matter was an annual review of a continuing detention order made under section 27 of the *Dangerous Prisoners (Sexual Offenders) Act 2003* (the Act). The matter was heard before his Honour Justice Crow in the Supreme Court of Queensland on 16 April 2018.

The Solicitor-General, Mr P Dunning QC, with Mr JB Rolls of Counsel appeared for the applicant, the Attorney-General, and were instructed by Crown Law. Mr JJ Allen QC, with Ms CR Smith of Counsel, instructed by Legal Aid Queensland, appeared for the respondent, Mr Douglas Brian Jackway.

On 28 February 2012, Acting Supreme Court Justice O'Brien was satisfied the respondent was a serious danger to the community in the absence of an order under Division 3 of the Act. It was further ordered the respondent be detained in custody for an indefinite term for care, control and treatment. That decision has been affirmed at subsequent annual reviews conducted pursuant to the Act on 20 December 2013, 9 February 2015, 7 April 2016, and most recently, on 22 May 2017 with the respondent remaining subject to a continuing detention order.

The applicant submitted that the respondent continue to be subject to a continuing detention order. The respondent submitted that the adequate protection of the community could be ensured by the respondent's release from custody subject to a supervision order at this present time. The respondent conceded that he is a serious danger to the community in the absence of a Division 3 order. However, the respondent submitted that the respondent's risk could be managed by the requirements of a supervision order.

Psychiatric evidence was before the Court in the form of reports from Dr Donald Grant and Dr Andrew Aboud. Both doctors were required for cross examination during the proceedings.

Ultimately, the doctor's opined that the respondent is a high risk of sexual and general violence, but that this risk could be reduced by a supervision order. However, the doctor's maintained their opinion as expressed during the 2017 annual review, that the respondent ought to demonstrate for a period of 12 months whereby he is able to control himself by not engaging in behaviour which constitutes a breach and should also subject himself to the ordinary stressors of prison life outside a Detention Unit. In this regard, it was noted that the respondent had not yet achieved this milestone; his last breach was recorded on 20 July 2017, whereby he threatened to assault a Corrective Services Officer. It was further noted that his most recent period in a Detention Unit only ceased on 26 September 2017.

While both doctors conceded there is little doubt that the respondent has made some general improvements in his behaviour (program participation, reduced level of breaches etc.), both doctors, to varying degrees, expressed little confidence that the respondent would comply with the requirements of a supervision order at the present time. Justice Crow affirmed the continuing detention order which will continue to be further reviewed in accordance with the Act.



***Hytch v O'Connell* [2018] QSC 75**

In April 2013, the State Coroner directed the Central Coroner to investigate the suspected death of Ms Antonio. An inquest was held on various dates in 2014 and 2015. In his findings on 28 July 2016, the Coroner concluded that Ms Antonio died shortly after 7:00 pm on 25 April 1998 as a result of an altercation with Mr Hytch. Mr Hytch then secreted her body and later disposed of it.

In this judicial review proceeding Hytch sought to set aside the coroner's findings on two grounds:

1. The inquest was heard and determined under the *Coroners Act 2003* (Qld) when it should have been conducted in accordance with the *Coroners Act 1958* (Qld).
2. The Coroner erred in law in making the findings, or they were an improper exercise of power, because they were not supported by probative evidence. The findings were said to be conjecture, not inferences of fact that were open on the available evidence.

The Supreme Court did not accept either argument. It concluded that the Coroner had jurisdiction to proceed under the 2003 Act to investigate the suspected death of Ms Antonio. It also concluded that a reasonable decision-maker in the Coroner's position was entitled to reject key aspects of Hytch's evidence, and to conclude that he gave deliberately false evidence. Each finding was supported by probative evidence, had an evident and intelligible justification and was open so a reasonable decision-maker could reach on the evidence which the Coroner accepted. The application for judicial review was dismissed.

Tow.Com Pty Ltd v State of Queensland

The dispute arose out of a Managed Services Deed (MSD) entered into between the State of Queensland through the Queensland Police Service (QPS) and Tow.Com (Tow) on 29 April 2014. Through the MSD, QPS sought to engage a single 'total managed service' provider for all impoundment services in Queensland. These included towing, storage, release, sale and disposal of vehicles pursuant to the *Police Powers and Responsibilities Act 2000* (the PPRA) ('impoundment services'). Tow performed impoundment services pursuant to the MSD. The dispute between Tow and QPS concerned payment for the impoundment services under the MSD and the PPRA.

On 3 October 2017 proceedings were commenced by Tow against the State claiming an amount of \$14,476,305.34 in damages. The State issued a counter-claim against Tow for payment of monies owing to it under the MSD. Attempts at mediation have so far been unsuccessful.

On 14 June 2018, the State sought an urgent injunction against Tow and its director Dominic Holland as a result of threats to sell personal and confidential information of persons whose cars had been impounded which information had been provided to it by the State under the terms of the MSD. The sale of such information was in direct contravention of the terms of the MSD. The injunction was successfully obtained. Mr Baskerville was appointed liquidator to Tow on 23 June 2018. The litigation is on foot but remains on hold pending the liquidator's investigation of the litigation.

Minogue v Victoria

In this matter, Dr Minogue challenged provisions of the *Corrections Act 1986* (Vic) which precluded the Adult Parole Board from granting parole to persons convicted of the murder of a police officer except in very limited circumstances which did not apply to him. Among other grounds, Dr Minogue asserted that the provisions contravened constitutional assumptions about the rule of law. Queensland and other States intervened in support of Victoria's defence of the provisions. On 20 June 2018, the Court unanimously dismissed Dr Minogue's challenge, but did not find it necessary to address Dr Minogue's rule-of-law arguments.

Coronial Inquest into the 'Thunder River Rapids' ride deaths at the Dreamworld

Crown Law is instructed by the Office of the Industrial Relations (Work Health and Safety) to appear on their behalf in relation to the Inquest into the deaths of Kate Goodchild, Luke Dorsett, Roozi Araghi and Cindy Low who died on the Thunder River Rapids Ride at Dreamworld Theme Park on 25 October 2016. The Office of Industrial Relations is one of the parties who have sought leave to appear, amongst fourteen other parties, including Counsel for the individual families of the deceased and Ardent Leisure (the company that owns Dreamworld).

Ken Flemming QC, juniorled by Rhiannon Helsen of Counsel, are Counsel Assisting the inquest.

Queensland Police Service were the lead investigators following the incident, with Work Health and Safety also completing an investigation.

The first part of the inquest was heard before Coroner McDougal at the Coroners Court of Queensland at Southport from 18 June to 29 June 2018 and examined the immediate circumstances surrounding the incident leading to the deaths, as well as the maintenance, safety and history of modifications made to the ride. The inquest heard evidence about previous incidents of a like nature where rafts collided and flipped or just collided on the Thunder River Rapids Ride at Dreamworld since 2001. The emergency response and training to Dream world staff were issues also the subject of evidence.

The second and third part of the inquest scheduled for late 2018 will examine the regulatory framework and whether recommendations ought be made to prevent similar deaths from occurring again.



Crime and Corruption Commission Public Inquiry - Taskforce Flaxton

The Crime and Corruption Commission (CCC) has commenced a public examination of corruption and corruption risks in Queensland Corrective Services (QCS) facilities. Taskforce Flaxton is examining possible systemic issues with a view to raising standards of integrity relevant to detecting, managing and preventing corruption risks associated with QCS facilities.

The public hearing is examining:

- Corruption and risks of corruption in QCS facilities (including 14 prisons (two managed under private contracts) and work camps).
- Features of the legislative, policy and operational environment that may enable corrupt conduct to occur or are vulnerable to corrupt conduct.
- Reforms to better prevent, detect and deal with corrupt conduct within QCS facilities.

Public hearings were conducted over two and a half weeks in May, 2018. Crown Law appeared at the inquiry on behalf of QCS and instructed Mr Chris Murdoch QC with in-house Counsel Patrina Clohessy.

The public hearings will reconvene in late August and the CCC will subsequently issue a public report on the outcomes of Taskforce Flaxton.

Electoral Commission of Queensland v Awabdy

The matter was heard on 23 February 2018. Jackson J handed down his decision on 1 March 2018. His Honour declared that there was no inconsistency between sections 290 and 291 of the *Electoral Act 1992* (Old) and sections 314AB and 314AC of the *Commonwealth Electoral Act 1918* (Cth) within the meaning of section 109 of the *Constitution*. His Honour held that the two sets of provisions had 'different but overlapping' subject matters, but nothing in the subject matter of the laws supported a 'negative implication' in the operation of the Commonwealth law to exclude a State law from requiring disclosure of gifts made for a Commonwealth electoral purpose. Ms Awabdy has appealed against the decision and at the time of writing the appeal had yet to be heard.

Uhlmann v Harris

Justice Jackson handed down final judgment on 26 February 2018, dismissing the application for an order for recovery of possession of land in New South Wales. His Honour largely accepted the Attorney-General's submissions to the effect that the Supreme Court of Queensland is prevented from hearing a claim to title or possession of land in another State due to the rule in *British South Africa Co v Companhia de Mocambique* [1893] AC 602, and that the cross-vesting scheme does not operate to cross-vest in the Supreme Court of Queensland the federal jurisdiction invested in the Supreme Court of New South Wales.



EDUCATION AND TRAINING

As part of our commitment to keep Queensland Government officers informed about current and emerging legal topics, Crown Law provides ongoing workshops and seminars on key public sector issues that improve our clients' legal skills.

Crown Law has maintained a formal program of legal education for government for over 20 years. We take pride in the quality and relevance of our training, which is provided to all levels of government in a variety of free and paid formats.

Annual Legal Conference

During the 2017/18 financial year, Crown Law hosted two legal conferences.

In total, 237 clients from 40 agencies across government attended the conferences held on Thursday 3 August 2017 and Wednesday 20 May 2018.

2017 Conference topics

1. Acting in the public interest – A touchstone for government lawyers
2. *Dangerous Prisoners (Sexual Offenders) Act 2003*
3. Conduct of proceedings before QCAT
4. Government liability for native title compensation
5. The new *Planning Act 2016*
6. Commercial negotiations in property matters
7. Indemnities and legal assistance for government legal officers

2018 Conference topics

1. Yang decision and how to performance manage a public servant
2. Applying the *Public Service Act 2008*
3. Delegations — risks and consequences
4. What to expect when you're expecting a WorkCover Claim
5. Update on government liability for native title compensation
6. Aboriginal and Torres Strait Islander cultural heritage — important considerations for major projects
7. A defamation refresher — what to do when you receive a 'concerns notice'
8. Child abuse claims
9. QGIF — coverage overview
10. Information privacy — practical problems
11. Use of drones — challenges and opportunities for law enforcement and regulatory agencies
12. Panel session: Significant High Court cases and future trends

Legal training

The practice hosted a total of 35 events for 908 government officers during 2017/18.

Notable training sessions held throughout the year included:

- Crown Law Regional Roadshow — four full-day training seminars held in Mackay, Townsville, Cairns and Rockhampton for 163 clients
- Statutory interpretation training — nine workshops for 185 clients
- Forming ICT contracts — seven presentations for 238 clients
- Sound Decision Making training — four workshops for 66 clients
- Workplace Law Breakfast series — three presentations for 129 clients.

Continuing Legal Education

Crown Law's Continuing Legal Education (CLE) Program continued throughout 2017/18 with legal staff and clients attending presentations on:

- Employee Indemnities
- Examining experts
- Legislation enacted (or commenced) since 1 September 2016 of particular significance to the practice
- QCAT — General information
- Commissions of inquiry
- Unfair contract terms & small business contracts
- Parliamentary select committees

- Ethics for Advocates — Q&As with the Solicitor-General
- Jurisdictional Error
- The Government Lawyer as Jedi: In search of the principles underpinning professionalism
- Unfair contract terms & small business contracts
- Lessons about standing: *Lock the Gate Alliance Ltd v Minister for NRM* [2018] QCS 21 and *Lock the Gate Alliance Ltd v DEHP* [2018] QSC 22

Online learning

Crown Law offers a free online Continuing Professional Development (CPD) training program to assist officers in the Queensland Government develop and maintain their legal knowledge.

Developed by senior Crown Law lawyers, the four modules provide practical legal training that can be conducted at the user's own pace. The module content has been developed to provide officers with a clearer understanding of the legal framework of government and the principles that guide it.

During the 2017/18 year, there were 53 enrolments in the online CPD program from officers in 26 agencies.

Our four online CPD modules available free to all government officers are:

- Introduction to government law
- Model Litigant Principles
- Legal professional privilege
- Statutory interpretation.

CROWN LAW LIBRARY

The Crown Law Library is provided for business units and statutory bodies that fall under the Department of Justice and Attorney-General, including commissions of inquiries and taskforces.

During the financial year, the Crown Law Library recorded the following reference and research statistics:

- 490 research hours spent on 6,300 reference services requests
- 6169 print and electronic items supplied responding to requests
- 2196 texts circulated within Crown Law

The Library also conducted 49 training sessions for 138 clients in the 2017-18 financial year. The majority of these sessions related to legal research database training and navigating the newly updated Office of Queensland Parliamentary Counsel's Legislation website.



CROWN LAW CHOIR

Consisting of volunteer singers from across the legal system, the Crown Law Choir includes members from the Department of Justice and Attorney-General, the Law Courts, the private Bar and Crown Law.

The Choir has been operational since 2002 and fluctuates between 20-35 members. The Choir performed 10 times in the 2017-18 financial year.

On 10 July 2017, the Choir performed at the Uniting Church for the Opening of the Law Year Church Service.

Throughout December 2017, the Choir orchestrated eight Christmas Carol performances in the below locations to raise money for charity:

- State Law Building foyer
- 400 George Street foyer
- Federal Court
- Magistrates Court
- Supreme Court, Banco Court foyer
- 1 William Street foyer.

The Choir was invited to perform at the Exchange of Christmas Greetings Supreme Court session at the personal request of the Chief Justice of Queensland, the Honourable Catherine Holmes.

Supporting the 'Home for Good' program, the Crown Law Choir raised \$1,374, which will help homeless people in the inner city Brisbane area find housing.



PERFORMANCE & ACCOUNTABILITY

As part of the Queensland State Government, Crown Law monitors and reports on staff performance and remains accountable at all times.

The following priority areas from Crown Law's strategic business plan direct our efforts and support continuous improvement:

- Maintain profitability – continue to focus on providing quality legal services
- Improve client partnerships – continued engagement with clients through workshops, training sessions, industry forums and networking events
- Developing our people and culture – focus on cultivating a safe, collegiate and supportive environment for our staff
- Innovation – Business improvement and transformation plan that enables process and productivity improvement.

Quality Assurance

Crown Law has developed and implemented a quality management system based on ISO9001:2015. The ongoing maintenance of our quality management system is crucial and is consistently monitored and improved through checking processes, reviews, auditing processes and innovation through feedback mechanisms. Good record keeping, reviewing and quality auditing are key elements to our Quality Assurance process.

ISO9001:2015 signifies that Crown Law has strong management practices directed at realising clients' expectations of quality and outcomes.

ISO9001:2015 has a base set of standards and practices, adding specific requirements for legal practices including:

- knowledge, understanding and compliance with processes and standards
- demonstrating how processes add value to business and client outcomes
- evaluating ongoing results of system performance, effectiveness and outcomes
- risk assessment and management
- continuous improvement of processes based on objective management.

Crown Law's compliance with this standard is subject to an annual external audit and is further supported by our continuous improvement philosophy, based on robust client feedback mechanisms and performance management processes.

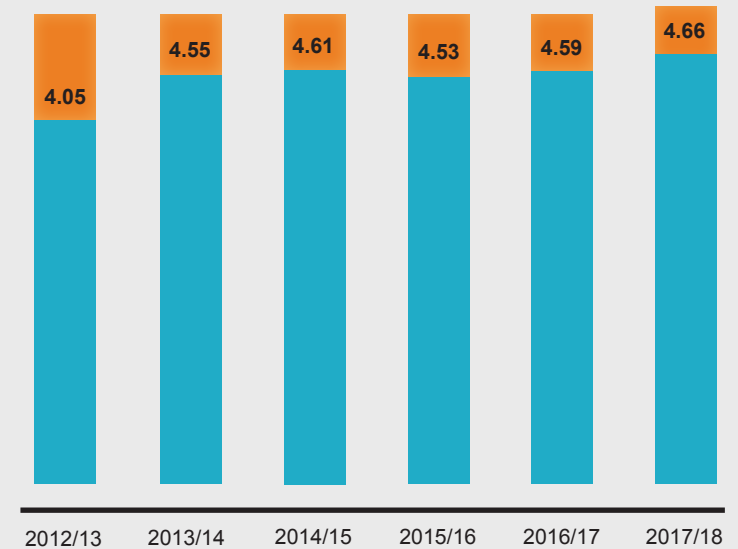
Client satisfaction surveys

To improve how we deliver legal services, client satisfaction surveys are conducted quarterly to seek client ratings and comments on the below performance measures:

- the accessibility of our lawyers
- our level of technical skill and knowledge
- our communication with clients
- promptness of service
- value for money.

Crown Law's overall satisfaction rating for 2017-18 based on these surveys was 4.66 out of 5. This is an increase from the previous financial year.

Client satisfaction survey ratings 2013–18



Operating results

Crown Law reported a profit of \$656,000 for the 2017/18 financial year, a decrease of 7.7% from the previous year. The practice also reported 100.4% productivity for the fiscal year, an increase of 3.4% from the 2016-17 financial year.

Annual profit/(loss) comparison

Year	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
Profit/loss (\$000)	416	1,517	1,235	576	711	656
Contribution to Legal Services Coordination Unit *	443	427	490	500	500	500
Dividend paid to Queensland Treasury	–	635	375	–	–	–
Funds retained by Crown Law	(27)	455	370	76	211	156

*The Legal Services Coordination Unit is not part of Crown Law

Annual productivity comparison

2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
93%	97%	96%	98%	97%	100.4%





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