

CROWN LAW

Annual Report

2018-19

This report is a formal document that details Crown Law's corporate performance during the 2018-19 financial year.



Queensland
Government

2018-19 AT A GLANCE



104%
PRODUCTIVITY



CLIENT
SATISFACTION

4.65
OUT OF 5



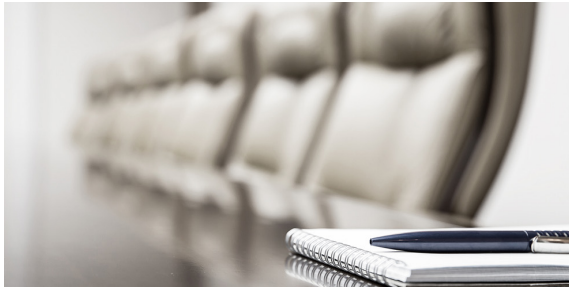
142,757

HOURS SPENT ON
LEGAL MATTERS



4

GRADUATE
LAWYERS
JOINED THE
PRACTICE



2,626

NEW LEGAL
MATTERS CREATED

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CROWN SOLICITOR'S MESSAGE

The 2018-19 financial year was another busy year for the practice, filled with an array of outstanding results and challenges. Our strong results are reflective of the hard work and commitment of our staff in delivering legal services to Queensland Government, and ultimately Advancing Queensland's Priorities to keep communities safe.

Many achievements have contributed to Crown Law's strong overall performance. In the past year, Crown Law has:

- advised and represented the State in many complex and significant legal matters, including:
 - the New Generation Rollingstock Train Commission of Inquiry
 - the development and implementation of the *Human Rights Act 2019*
 - the High Court challenge of the validity of amendments to Queensland's electoral laws banning political donations from property developers
 - the challenge to the validity of the decision by the Native Title Registrar to register an indigenous land use agreement between the registered native title claimant, Adani Mining Pty Ltd and the State
- welcomed four new graduate lawyers to the practice
- presented 54 training sessions to more than 900 government officers including the highlight of our events calendar – the annual Crown Law Legal Conference
- implemented a comprehensive Health and Wellbeing Program for staff
- continued to implement significant process and system improvements for Crown Law, including ongoing activities towards a paper light office
- maintained an overall client satisfaction rating above 4.5 out of 5.

Crown Law is practised at evolving to the changing needs of government. In December 2018, the Director-General of the Department of the Justice and Attorney-General approved a revised organisational structure following staff and union consultation. The changes included the appointment of Ms Patrina Clohessy to the role of Deputy Crown Solicitor and Chief Counsel of the restructured Constitutional and Advocacy Branch.

Late 2018 also marked my 10 years as Crown Solicitor. I took the occasion to reflect on the many things that have changed in those 10 years. The structure of the practice has changed as have the leaders of the various legal and administrative units. Those changes have occurred as a result of the changing nature of our workload and workforce and the environment in which we operate. Since beginning operations under our current financial model in January 1997, Crown Law has grown from an \$8 million revenue organisation to a \$35 million revenue practice. We have certainly come a long way.

I extend my sincere thanks to all of Crown Law's clients for their continuing support and commitment. Crown Law considers itself an integral part of your teams and I also wholeheartedly thank my team in Crown Law for their hard work and dedication over the past year.

I look forward to Crown Law's continued partnership with our clients to provide the best possible legal services to support the Queensland Government into the future.

Greg Cooper
Crown Solicitor



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 the Queensland 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 155 legal staff and 105 support staff, Crown Law offers a broad range of legal services to all Queensland State Government entities.

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 services

Crown Law's core expertise spans 17 major areas of law, with a host of speciality areas also offered to clients. Our primary areas of law are:

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

Crown Law keeps abreast to the changing needs of government and maintains an unrivalled understanding of the risks and circumstances that impact our clients. Our broader role includes providing legal education training through workshops, information sessions, legal briefings and an annual legal conference.



OUR ORGANISATION

Vision, purpose and values

VISION | Crown Law will be the Queensland Government's first choice by being the best provider of legal services.

PURPOSE | Crown Law's purpose is to protect and support government in the public interest.

VALUES

- Integrity** – absolute impartiality and honesty
- Excellence** – total attention to detail, consistency and client needs
- Respect** – treat people as you would want to be treated
- Responsibility** – everyone is to take responsibility for their own work and do their best.

Our values reinforce Crown Law's commitment to providing exceptional client service and maintaining a professional internal culture. We value our reputation for integrity and place an emphasis on providing the highest standards of fairness, honesty and openness for our clients.

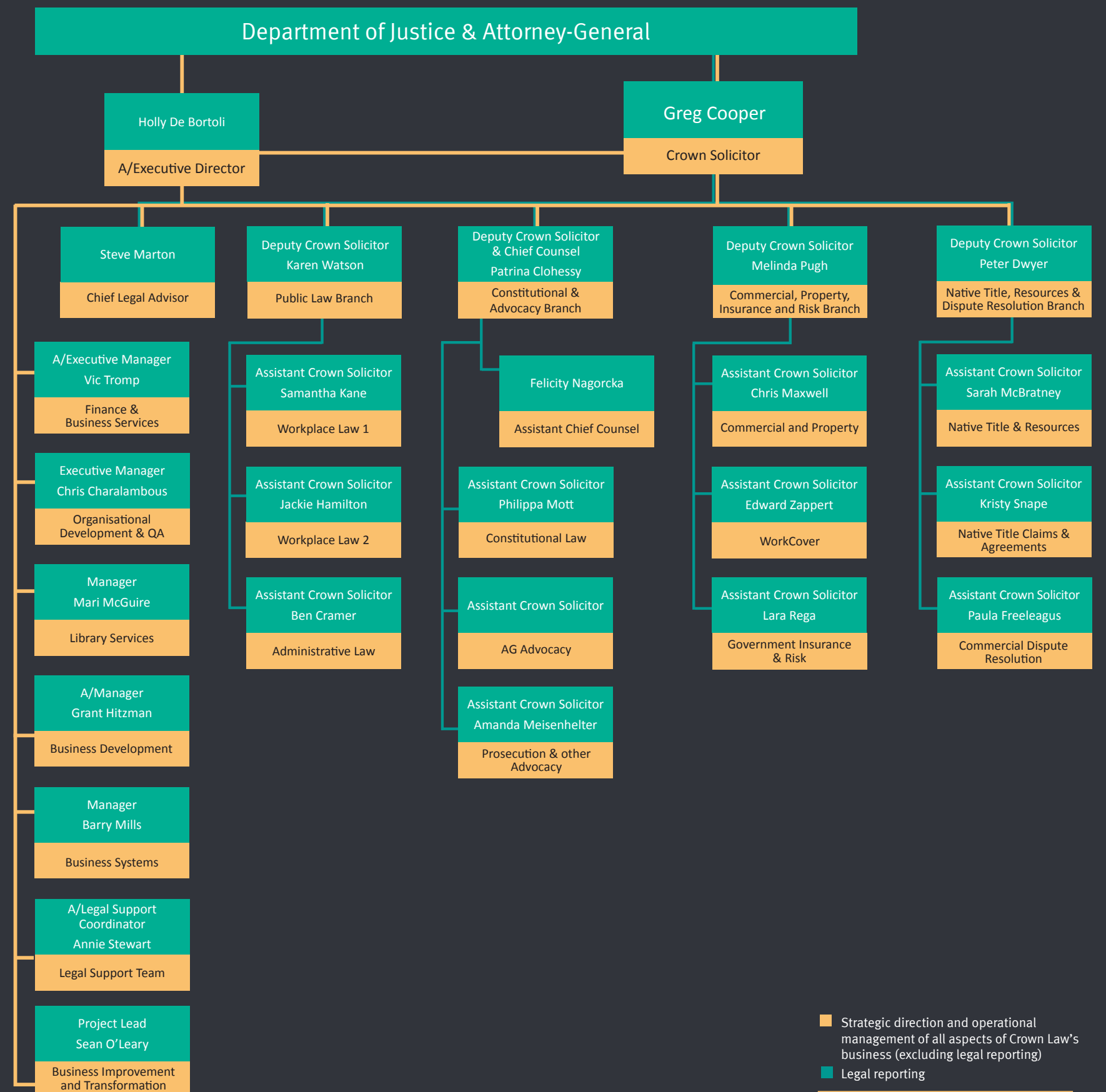
Organisational structure

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 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 seven teams, each led by a manager.

Crown Law Organisational Structure Chart



Our Leadership Team

The Strategic Leadership Team 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 and four Deputy Crown Solicitors including the Deputy Crown Solicitor and Chief Counsel.

The Strategic Leadership Team 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.

Led by Crown Solicitor, Greg Cooper, Strategic Leadership Team also included the following officers at 30 June 2019:

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.



HOLLY DE BORTOLI A/Executive Director

Holly is currently acting in the position of Executive Director.

Since joining the Queensland Government in 1999, Holly has held a variety of positions within Queensland public service agencies including Queensland Shared Services, Queensland Health and the Department of Justice and Attorney-General. Prior to this, she worked for 13 years within the private sector, in both Chartered Accounting and Commercial industry roles.

Holly joined Crown Law in February 2008 as Manager of Finance and Business Services.

This experience has provided Holly with a broad range of skills including leadership, project and operational management skills and vast experience in leading and implementing change within the work environment.



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.

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 and administrative law and provides advice on sensitive and significant workplace law matters to the highest levels of government.



PATRINA CLOHESSY Deputy Crown Solicitor and Chief Counsel

Patrina was appointed Deputy Crown Solicitor and Chief Counsel of the Constitutional and Advocacy Branch in March 2019.

Patrina is a barrister of the Supreme Court of Queensland who provides representation and advice to the Queensland Government on all aspects of prosecution proceedings and advocacy.

Prior to joining Crown Law in October 2015, Patrina gained considerable advocacy experience over a period of eighteen years with the Office of the Director of Public Prosecutions.

In her current role, Patrina leads an experienced legal branch comprising of barristers and solicitors who provide advice and advocacy services on behalf of the State of Queensland.



PETER DWYER Deputy Crown Solicitor

Peter was appointed Deputy Crown Solicitor in early 2010 and leads 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.



LEGAL BRANCHES AND TEAMS

Public Law Branch

The Public Law Branch specialises in employment and discrimination law, and in the operation and application of public sector administrative law.

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
- acting and advising on industrial relations, including the implications of the *Fair Work Act 2009*, protected industrial action, bargaining and arbitrations in relation to certified agreements
- acting for and advising government agency employers in WorkCover appeals, applications for review and responses concerning injured employees
- 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, promotion appeals 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.

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.



Constitutional and Advocacy Branch

The Constitutional and Advocacy Branch provide specialist advice and representation in all aspects of constitutional law and advocacy services. Our advocates advise and represent clients in statutory prosecution work, matters relating to dangerous prisoner sexual offenders and mental health proceedings.

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.

AG Advocacy Team

The AG Advocacy Team is made up of court-going advocates, barristers and solicitors. The team provides advice and representation:

- on proceedings under the *Dangerous Prisoners (Sexual Offenders) Act 2003* (DPSOA)
- on proceedings under the *Mental Health Act 2016* including proceedings in the Mental Health Court and Mental Health Review Tribunal
- on cy-pres applications in the Supreme Court for amendments to charitable trusts
- to the Attorney-General in relation to her role as the First Law Officer, including:
 - ministerial correspondence concerning DPSOA and mental health matters
 - parens patriae jurisdiction.

Prosecutions and other Advocacy Team

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 Prosecutions and other Advocacy Team 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:

- coronial investigations and inquests
- matters where the Attorney-General elects to appear as amicus curiae
- statutory prosecutions 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 general administrative reviews
- disciplinary tribunals and appeals
- appeals in the District Court pursuant to s 222 of the *Justices Act 1886*.

Commercial, Property, Insurance and Risk Branch

The Commercial, Property, Insurance and Risk Branch consists of three teams specialising in all aspects of government commercial law, property, planning and environment law, WorkCover claims and 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 a 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 wide range of planning and environmental issues.

Government Insurance and Risk Team

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.

WorkCover Team

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 comprehensive third party 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.





Native Title, Resources and Dispute Resolution Branch

The Native Title, Resources and Dispute Resolution Branch specialises 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.

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
- the conduct of applications for compensation filed in the Federal Court
- advising on the compensation liability of government with respect to native title and calculating quantum
- 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 projects across the State
 - the interaction between native title and other interests, such as Aboriginal and Torres Strait Islander land, the protected area estate and resources tenure.
 - mining and petroleum legislation, including as it relates to native title, environmental regulation and land access.

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*.

Commercial Dispute Resolution Team

The Commercial Dispute Resolution Team advises and represents the State in all jurisdictions. The team principally acts for clients in Supreme and District Court proceedings as well as advises and represents clients in the Magistrates Court, Queensland Civil and Administrative Tribunal and Federal Court proceedings. They also regularly advise on and respond to notices of non-party disclosure, subpoenas and summonses issued out of all jurisdictions.

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 provides advice and representation on a range of legal matters including:

- commercial disputes
- construction disputes/sub-contractors charges
- real property disputes/fraud on title claims
- repossession
- debt recovery
- insolvency
- property damage claims
- injunctive relief
- trespass, property damage, nuisance and negligence claims (other than personal injuries)
- trade practices disputes/consumer law disputes
- defamation
- public officer superannuation recoveries
- revenue recovery and appeals
- false imprisonment and malicious prosecution claims.





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 seven teams, each led by a manager, PMB provides a myriad of unique corporate services to Crown Law. There is also a business improvement and transformation project being run under the Executive Director looking to implement process and system improvements, with the view to moving the office to a paper light environment.

Finance and Business Services

The Finance and Business Services teams are responsible for finance and asset management including coordination of client billing, expenses and disbursements, travel arrangements, accommodation, furnishings, along with records management, archiving, retention and disposal, and copy room services to the practice.

Business Systems

Crown Law's dedicated IT support team is responsible for providing hardware and legal practice 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. To uphold high standard client services, 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, workplace health and safety, performance management and health and well-being. The team also manages staff feedback and quality assurance of business processes across the practice.

Library Services

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

Legal Support Team

The Legal Support Team coordinates all secretarial and administrative support within Crown Law.

Business Improvement and Transformation Team

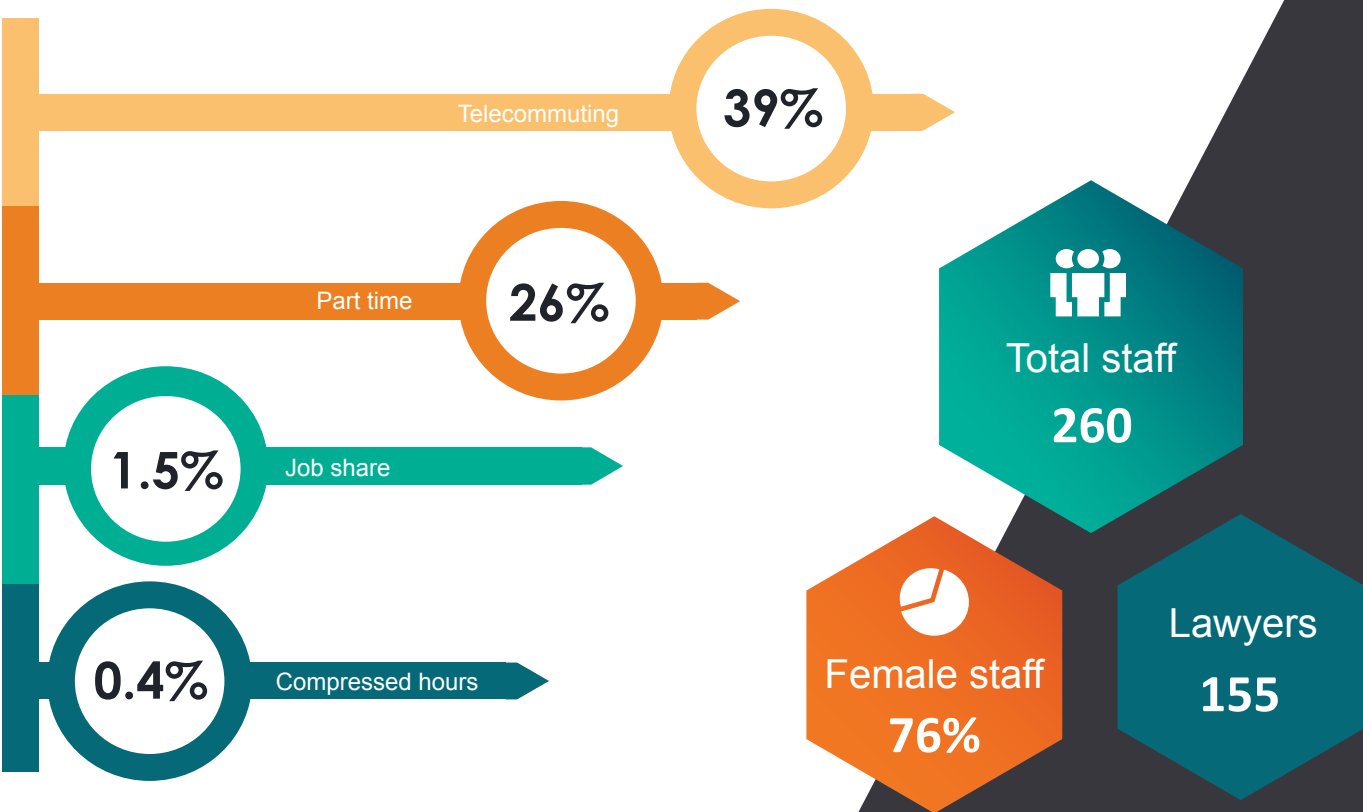
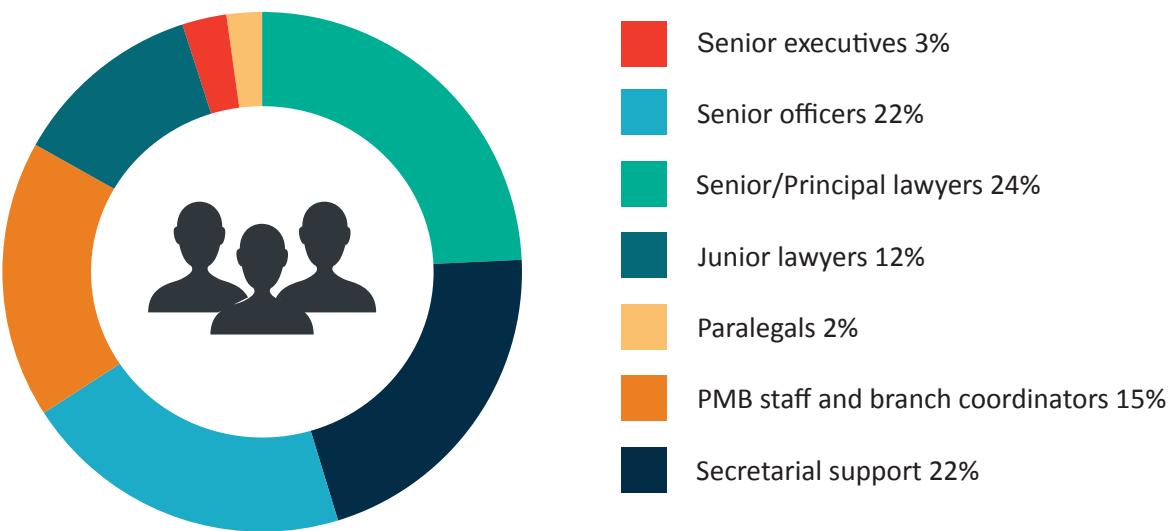
The Business Improvement and Transformation Project Team is responsible for the implementation of process and system improvements for Crown Law, with the aim to move the practice to a paper light environment.

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 155 legal officers and 78 secretarial support staff. In addition, there are 27 staff across seven teams in the Practice Management Branch.

Crown Law prides itself on workforce diversity, equal opportunity and flexible work/life balance options. Employees have access to flexible working arrangements such as compressed hours, job share arrangements, part-time employment and telecommuting. Approximately 76 per cent of our 260 staff are women.



Graduate Program

Crown Law’s Graduate Program has been comprehensively designed to provide law graduates with the practical skills and experience they need to develop as confident, knowledgeable public sector lawyers.

In February 2019 we welcomed four new graduates.

Our graduates participate in a rotation schedule across Crown Law’s four legal branches. From the outset, they are exposed to a range of matters, including complex high level cases, but always under the watchful eyes of senior lawyers. From experience, we have seen the benefits of this direct exposure to ‘real world’ legal matters in developing invaluable technical skills and confidence across the areas of law that are directly relevant to Queensland Government departments and agencies. While most of our graduates do choose to continue their legal careers with Crown Law, our aim is to provide the best possible start for young lawyers to take with them on their professional journeys, regardless of where that may take them.

Graduates who join Crown Law can expect to experience:

- access to a wide variety of legal work
- the opportunity to work directly with clients
- real legal challenges affecting the State of Queensland
- the benefit of guidance and mentoring from some of the State’s most experienced lawyers.

Health and Wellbeing Program

Crown Law is committed to prioritising the health and wellbeing of staff. A working group has implemented a tailored health and wellbeing program within the workplace to help staff live productive, healthy and happy working lives.

The Strategic Leadership Team strongly encourages all staff to participate in the Health and Wellbeing Program that includes regular meditation sessions, educational seminars, first aid training, yoga and corporate massages.

The health and wellbeing initiatives implemented in 2018-19 were:

- educational seminars for all staff on the following topics:
 - Building resilience – this workshop provides

strategies for managing high workloads and dealing with stress both inside and outside of the workplace

- Energy hit - an interactive workshop held by Corporate Bodies International Wellness that explores the impact of fatigue and investigates a number of strategies to improve sleep quality, boost energy levels and manage fatigue
- onsite first aid training, conducted by St John’s Ambulance
- weekly meditation sessions to assist with stress relief and improve focus
- corporate yoga sessions
- corporate massages
- walking group.



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's Client Management Framework aims to improve consistency in client service and includes a formal reporting structure between the Client Relationship Managers (CRMs) within the practice and the Strategic Leadership Team (SLT). Regular reporting occurs between the CRMs and SLT on the services 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 under a user-pays model. The fees are set in accordance with Queensland Treasury's annual government indexation rate for fees and charges.

Legal services are categorised into 'tied' and 'untied' legal work. Legal matters that fall into the tied category are undertaken solely by Crown Law unless specifically exempted by the government to ensure the continuing protection of the Attorney-General's role as the first law officer and legal adviser to Cabinet. Untied work is open to competition from private legal firms.

Tied and untied work

At the close of the 2018-19 financial year, approximately 16 per cent of Crown Law's revenue was derived from legal work in the 'untied' category, the same as 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 LEGAL MATTERS

Human Rights Act

The *Human Rights Act 2019* was passed on 1 March 2019 and is expected to commence operation fully on 1 January 2020. The Act follows the model of the Victorian *Charter of Human Rights and Responsibilities* as well as the ACT Human Rights Act, in adopting a dialogue model for human rights protection.

Under this model, the parliament has a role in protecting human rights by scrutinising new legislation for compliance with human rights and issuing statements of compatibility (ss 38 and 39). The courts then have an obligation to interpret legislation, so far as it is possible to do so, compatibly with human rights (s 48), and have a power to issue a declaration of incompatibility in the event that they are unable to do so (s 53). If legislation is found to be incompatible with human rights, the Minister responsible for administering the relevant legislation then has a role in responding to the declaration (s 56). The executive is also required to act in a way that is compatible with human rights (s 58). In this way, the *Human Rights Act* requires the three branches of government to engage in a dialogue about human rights.

The Act recognises a number of human rights (in Part 2), primarily drawn from the International Covenant on Civil and Political Rights. In addition, the Bill recognises rights to education and health services which derive from the International Covenant on Economic, Social and Cultural Rights, as well as the distinct cultural rights of Indigenous Queenslanders, which draws upon the UN Declaration on the Rights of Indigenous Peoples.

Importantly, the Act acknowledges that these human rights are not absolute. Section 13 states that human rights may be subject to limits, provided those limits are reasonable and justified under the proportionality test set out in clause 13(2). In broad terms, that means that legislation or executive action may limit human rights if it does so for a compelling reason and the benefit of achieving that compelling reason outweighs the negative impact on the human right.

For government departments, the most relevant impact will be:

- interpreting the legislation they administer in a way that is compatible with human rights (s 48)
- the new obligations to act or make a decision in a way that is compatible with human rights, and to consider human rights when making a decision (s 58).

There is no new cause of action for breaching human rights. However, if a person has an independent cause of action (for example judicial review), they can add human rights unlawfulness under s 58 to their existing legal proceeding. In Victoria, this is known as a ‘piggy-back’ cause of action.

The *Human Rights Act* also provides a mechanism for conciliating human rights complaints. The Anti-Discrimination Commission Queensland will be rebranded as the Queensland Human Rights Commission and given the role of overseeing the conciliation process.

Kipper Billy

On 4 February 1862, Aboriginal man Kipper Billy was sentenced to hang for aiding and abetting the rape of an Ipswich woman. On 5 March 1862, he was killed by guards while reputedly trying to escape Brisbane Gaol.

156 years after the alleged crime, Kipper Billy was found innocent after new evidence emerged from a witness who claimed he saw Kipper Billy four miles from the crime scene at the time of the offence. His co-accused was pardoned for this crime soon after he was sentenced but Kipper Billy, having already been killed, was not pardoned at the same time.

Lawyers from Crown Law’s Constitutional Law Team reviewed Queensland State Archives to investigate the matter which followed on the research by veteran journalist Ken Blanch OAM years before.

Mr Blanch spent many years researching Kipper Billy’s plight and presented a petition to the Governor last year asking for the pardon. After an in-depth investigation conducted by Crown Law, the Attorney-General, the Honourable Yvette D’Ath MP and the Premier, Annastacia Palaszczuk recommended to the Governor that Kipper Billy be granted a posthumous pardon. A posthumous pardon was granted and a ceremony was held at Government House to commemorate the official pardon for the man known as Kipper Billy.

New Generation Rollingstock Train Commission of Inquiry

A Commission of Inquiry was established to determine why the new generation rollingstock trains purchased for Queensland did not comply with the relevant disability legislation and functional requirements.

The Commission sought information from; relevant public authorities, the joint venture organisation awarded the contract and its sub-contractors, consultants engaged during the procurement and design processes, and individuals. A range of individuals and organisations, including from the disability sector, provided public submissions.

Special Counsel, Gerard Sammon represented the State in the Inquiry and Assistant Crown Solicitor, Chris Maxwell was seconded to the Inquiry as Counsel Assisting.

The Final Report was delivered in December 2018. The report made 24 recommendations, all of which were accepted by the Queensland Government.

Crime and Corruption Commission Public Inquiry – TaskForce Flaxton

Over the course of 2018, the Crime and Corruption Commission (CCC) conducted a public examination and Inquiry of corruption and corruption risks in Queensland Corrective Services facilities. Taskforce Flaxton examined possible systemic issues with a view to raising standards of integrity relevant to detecting, managing and preventing corruption risks associated with Queensland Corrective Services facilities.

Public hearings were conducted over 16 sitting days between May and November, 2018. Crown Law appeared at the inquiry on behalf of Queensland Corrective Services and instructed Mr Chris Murdoch QC with in-house Counsel Patrina Clohessy.

The public hearings examined:

- Corruption and risks of corruption in Queensland corrective services facilities (including 14 prisons).
- 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 Queensland corrective services facilities.

In December 2018, the CCC issued a public report on the outcomes of Taskforce Flaxton making 33 recommendations. On 5 July 2019, the government publicly announced that it supports in-principle all 33 recommendations made by the CCC.

Spence v State of Queensland

The plaintiff challenged the validity of recent amendments to Queensland’s electoral laws prohibiting donations from property developers to political parties who promote candidates in Queensland State and local government elections. As a result of this and in response to some other constitutional litigation in Queensland, the Commonwealth Parliament amended the *Commonwealth Electoral Act 1918* to override the State laws and allow property developers to donate to political parties, if those donations were to be or could be used for federal electoral purposes.

The State of Queensland challenged the validity of the Commonwealth law and defended its own laws. The Commonwealth Attorney-General and the Attorneys-General of every other State and the ACT intervened in the proceedings. The case involved a consideration of a number of complex constitutional issues including:

- the implied freedom of political and government communication
- whether there exists an exclusive Commonwealth legislative power to legislate with respect to federal elections
- inconsistency between Commonwealth and State laws
- implied intergovernmental immunities such as the Melbourne Corporation principle
- the respective capacities of the Commonwealth and States to legislate in ways that affect participants in each other’s elections.

Crown Law’s constitutional law experts appeared for the State of Queensland in the High Court on this matter. The High Court upheld the validity of Queensland’s electoral law banning political donations from property developers and wholly struck down the impugned Commonwealth provision.

Attorney-General for the State of Queensland v Fardon

In 2003, Fardon was the first prisoner to be made subject to an order under the *Dangerous Prisoners (Sexual Offenders) Act 2003* (the Act), and as a result, his court appearances generated a high level of media interest.

On 18 June 2018, an application was filed with the Brisbane Supreme Court for a further supervision order under Division 4A of the Act with respect to Robert John Fardon. Fardon’s supervision order was due to expire on 3 October 2018.

The application came on for preliminary hearing in the Brisbane Supreme Court before his Honour Justice Jackson on 20 July 2018.

The then Solicitor-General, Mr P Dunning QC, with Mr JB Rolls of Counsel appeared for the applicant, Attorney-General, and were instructed by this office. The application was ultimately dismissed by Jackson J on 27 August 2018.

Following a successful appeal in relation to the decision to dismiss the application at preliminary hearing, the application was finally heard before Bowskill J on 30 November 2018. Judgment was delivered in the Brisbane Supreme Court on 9 January 2019. Her Honour dismissed the application.

The Attorney-General publicly announced on 16 January 2019 once the non-publication order ceased that that were no grounds to successfully appeal the final decision to not extend his dangerous prisoner supervision order.

It was also publicly announced on 16 January 2019 that Fardon is now automatically subject to reporting requirements under the *Child Protection (Offender Reporting) Act 2004* (CPOR), as per recent amendments made to that piece of legislation on 20 September 2018, which were specifically designed to allow police to further monitor sex offenders who have been released from the dangerous prisoner scheme.

Under the CPOR Act, Fardon was required to report details of his name and residence to police within 24 hours of the supervision order ceasing, and will be required to report these details for periodic intervals thereafter, or when there is any change.

Fardon will be subject to the reporting requirements of the CPOR Act for life. Further, if the Commissioner of Police considers that Fardon is displaying any concerning conduct, i.e. any act or omission posing a risk to the lives or sexual safety of a child or children generally, then there is the ability for police to apply to a Magistrates Court for an offender prohibition order which can include conditions such as wearing a tracking device, submitting to treatment, having exclusion zones around schools and playgrounds and prohibiting contact with specific people.

EDUCATION AND TRAINING

Annual legal conference

Crown Law's 2019 legal conference was our largest conference to date with more than 183 attendees from 32 agencies across government. The Attorney-General and Minister for Justice, The Honourable Yvette D'Ath MP opened the conference and delivered the keynote address.

This year's event offered a full day of legal discussion with Crown Law's most experienced lawyers on the following topics:

- Human Rights Act overview
- Coronial investigations/inquests – in practice
- PIPA and WorkCover pre-court procedures – same same but different
- Overview of industrial manslaughter and work health and safety duties of officers
- Privacy law update
- Management of grant funding – tips
- How legislation is made: from policy to Act.

The conference also included a panel discussion on trending topics in constitutional law. Three masterclass sessions were run concurrently, allowing attendees to choose the session most relevant to their role, between:

- Prosecutions and advocacy
- Difficult conversations in the workplace: a guide for managers in the Queensland Public Service
- Legal professional privilege; public interest privilege; parliamentary privilege and waiver.



Continuing Legal Education

Crown Law's Continuing Legal Education (CLE) Program continued throughout 2018-19 with legal staff and clients attending presentations on:

- Delegations and authorisations
- Information privacy
- How to make an Act of Parliament: a practical overview of the Bill to Act process
- Assessment of quantum in personal injuries claims.

Legal training

The practice also continued its commitment to support Queensland Government clients throughout 2018-19 by delivering 54 training presentations to more than 900 government officers. Notable training sessions held throughout the year included:

- Statutory interpretation training – 11 presentations for 175 clients
- Sound decision making training – four workshops for 44 clients
- Commercial and Property CPD update – 38 clients from 16 agencies covering the following topics:
 - procurement – issues arising in tender processes
 - contract law – clauses allocating risk – indemnities – limitation of liability – insurance
 - intellectual property – the Crown statutory licence provision
 - planning – what you need to do before undertaking development
 - property – the review of Queensland Property Law
- Queensland Information Technology Contracting training – three workshops for 62 clients.

Online learning

To assist lawyers and non-lawyers in the Queensland Government develop and maintain their legal knowledge, Crown Law offers a free online Continuing Professional Development (CPD) Training Program. 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 legal and non-legal officers with a clearer understanding of the legal framework of government and the principles that guide it.

During the 2018-19 year, there were 75 enrolments in the online CPD program from officers in 31 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.

BUSINESS IMPROVEMENT AND TRANSFORMATION

At the beginning of the 2018-19 financial year, Crown Law's Strategic Leadership Team endorsed a roadmap for the implementation of process and system improvements for Crown Law, with the aim to move the practice to a paper light environment.

In its first twelve months, the Business Improvement and Transformation Project Team successfully implemented a number of paper light initiatives across the practice, including:

- deployment of a paper free billing process from the practice management software, Elite 3E
- implementation of a new disbursement approval process within Elite 3E, replacing the manual paper-based process
- transition to online staff timesheets, replacing paper Excel timesheets
- adding functionality to review matter related invoices online to the workflow and approval process, eliminating the requirement to physically sign off hard copy invoices
- amendments to the procedure for the early disposal of records which allows the digitisation of some temporary legal matters.

Other business improvements include:

- implementation of a Bpoint webpage that clients can use to pay bills by credit card
- implementation of Skype for Business webinar recordings for all training sessions, allowing clients to remotely connect via laptop and listen to the presentation while viewing the presentation slides. This has been particularly useful for regional clients who are unable to attend face-to-face training
- development of electronic brief templates that can be used with pdfDocs Binder software to automate the brief creation process and enables simpler management of brief documents.



CROWN LAW LIBRARY

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

For example, the Library provided research assistance to the lawyers in Crown Law's Constitutional Law Team in their preparation of a number of significant matters, including:

- the posthumous pardon of Kipper Billy where the Library was able to locate historical materials including news articles from the 1860s
- sourcing a number of historical Acts and legislation from Queensland, other Australian States and the United Kingdom for the matter of *Spence v The State of Queensland*.

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

- 551 research hours spent on 5,418 reference services requests
- 5867 print and electronic items supplied responding to requests
- 3315 texts circulated within Crown Law Library.

The Library also conducted 74 training sessions in the 2018-19 financial year and distributed 49 issues each of the electronic Current Awareness Bulletin and info@library bulletin.

CROWN LAW CHOIR

The Crown Law Choir has been singing since 2002 and consists of a group of volunteer singers from across the legal system. At its inception, the Choir was made up almost exclusively of Crown Law staff, but has now grown to include members from the Department of Justice and Attorney-General, the Law Courts and the private Bar.

The Choir performed 10 times in the 2018-19 financial year, including a performance at the Department of Justice and Attorney-General's Staff Awards and the Opening of the Law Year Ecumenical Church Service at The Salvation Army Brisbane City Temple.

Each year during December, the Crown Law Choir performs a repertoire of Christmas carols in several prominent government and legal buildings within Brisbane city including the State Law Building, the Supreme Court, 1 William Street and 400 George Street. Donations were collected at these performances with funds raised going to the Australian Children's Music Foundation.

The Choir also sang at the 1 William Street premises as part of its Easter celebrations, with donations collected going to the St Vincent de Paul Townsville Flood Appeal.





PERFORMANCE AND ACCOUNTABILITY

Crown Law monitors and reports on staff performance to remain accountable at all times. The following priority areas from Crown Law’s strategic business plan direct our efforts and support continuous improvement:

- maintain profitability
- improve client partnerships
- develop our people and culture
- innovation.

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 the 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.

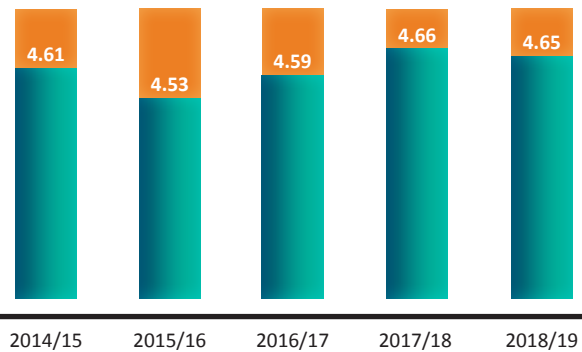
Client satisfaction surveys

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 2018-19 based on these surveys was 4.65 out of 5.

Client satisfaction survey ratings 2015–19



Growth and productivity

Crown Law reported a total of 135.2 full-time equivalent (FTE) legal staff for 2018-19. This was a 20.65% increase on the previous financial year. The practice also reported 104% productivity for the fiscal year, an increase of 4% from the 2017-18 financial year.

FTE legal staff growth

2014-15	2015-16	2016-17	2017-18	2018-19
106.32	114.83	100.86	112.06	135.2

Annual productivity comparison

2014-15	2015-16	2016-17	2017-18	2018-19
96%	98%	97%	100%	104%

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