



CROWN LAW ANNUAL REPORT

2021-22

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2021-22 AT A GLANCE

176,781

HOURS SPENT
ON LEGAL
MATTERS

CLIENT
SATISFACTION

4.72

OUT OF 5

74%

OF OUR STAFF
ARE FEMALE

106%

PRODUCTIVITY

3,237

NEW LEGAL
MATTERS
CREATED

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CROWN SOLICITOR'S MESSAGE

The 2021-22 financial year has proven to be another successful one for Crown Law. There have been many outstanding achievements by officers in Crown Law and as a collective, the practice has much to be proud of. We have again reported strong financial results, achieved many strategic business outcomes and most crucially, continued to deliver high quality legal services to our clients in a timely and professional manner.

Crown Law took on a variety of complex and significant legal matters affecting the State of Queensland during the 2021-22 financial year. Key pieces of work undertaken included:

- advising on various matters relating to the COVID-19 vaccination requirements at the Commonwealth and State levels
- advising on matters regarding the Brisbane 2032 Olympic Games from corporate governance agreements to copyright issues
- advising on the landmark historical abuse case of *Willmont v State of Queensland*
- acting for the State in native title claims including the expansive and complex claim relating to the entirety of the Cape York Land Council native title representative body region
- advising and representing the State in various planning and environment matters including large-scale residential subdivisions, the proposed development of a new mine, vegetation clearing and koala habitat protection.

We continued to deliver high-quality legal training for our clients through a combination of online and face-to-face sessions. We delivered 23 training workshops on key public sector issues to more than 500 government officers. The Annual Legal Conference is

usually a fixture on our calendar, however due to a surge in COVID-19 cases in early 2022 this year's event was cancelled. Instead, we released recorded legal presentations to our clients to view online.

Other key highlights from the 2021-22 financial year include:

- achieving a client satisfaction rating of 4.72 out of 5
- implementing an inaugural First Nations Legal Clerkship Program for Aboriginal and/or Torres Strait Islander law students
- exceeding the Law Council of Australia's equitable briefing target of female barristers receiving at least 30% of all briefs
- being highly commended for our contribution to the Queensland Government's strong response to COVID-19 through the provision of critical and often urgent legal advice at the Department of Justice and Attorney-General's Staff Excellence Awards.

I would also like to acknowledge and thank our clients. Our clients' needs are the primary focus of our business and without their continued support and trust, we would not be the practice we are today. Thank you for continuing to engage and trust us.

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 the highest standard of legal services that protect and support the government in the public interest. With a total workforce of 246, including 155 lawyers, 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 for specific areas of law to the Queensland Government, which means Crown Law competes for this business.

Our services

Crown Law's core expertise spans 19 major areas of law, with a host of speciality areas also offered to clients. Our primary areas of law are:

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

Crown Law also provides legal education through workshops, information sessions and legal briefings.

Vision, purpose and values

Crown Law's vision, purpose and core values provide the foundation for a dynamic, focussed and more efficient government legal practice.

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.

Core values

Integrity – Absolute impartiality and honesty

Excellence – Total attention to detail, consistency and client needs

Respect – Treating people as you would want to be treated

Responsibility – Everyone taking responsibility for their own work and doing their best.

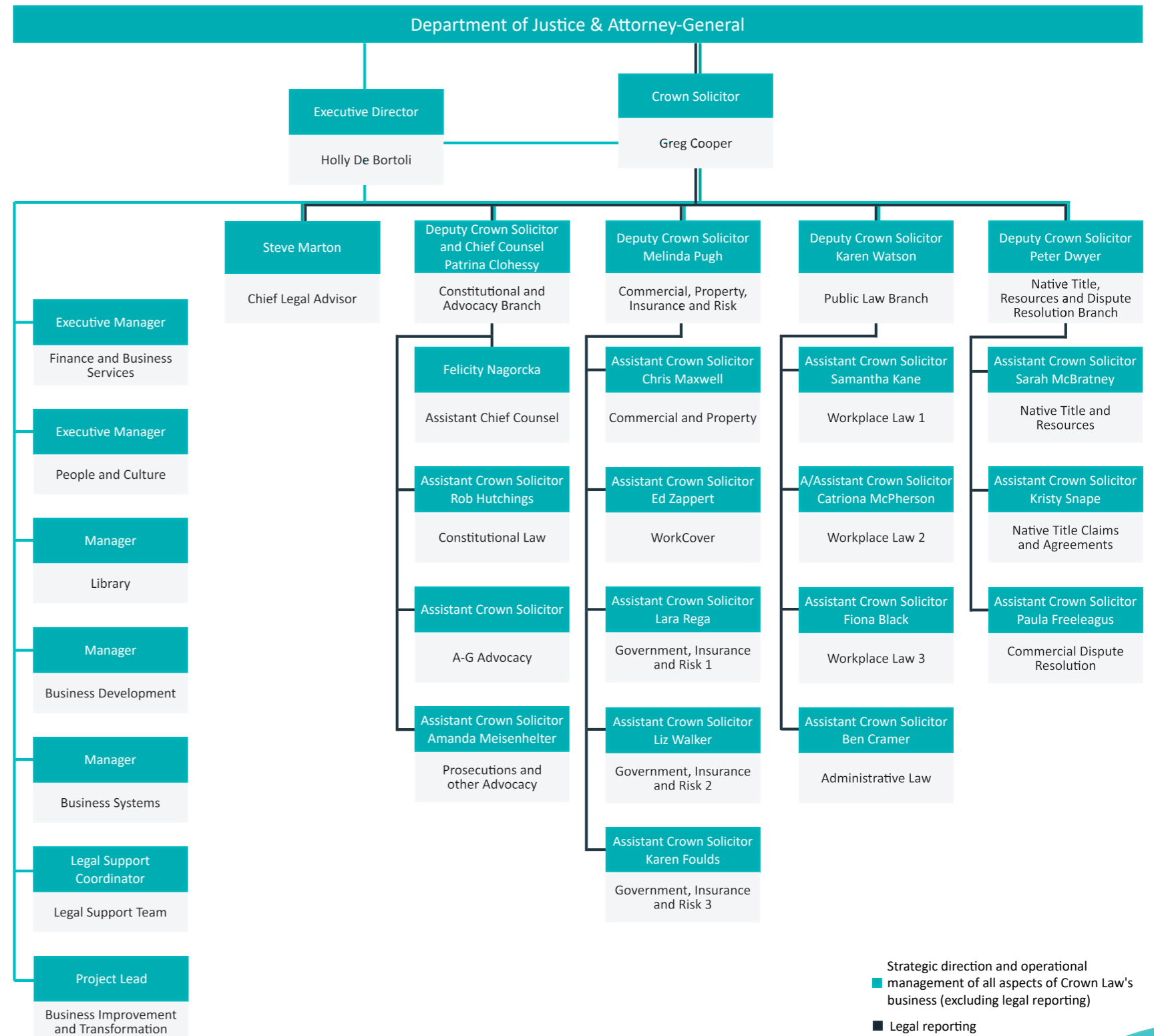
Our values reinforce Crown Law's commitment to providing exceptional client service and maintaining a professional internal culture. We value our reputation for integrity and place an emphasis on providing the highest standards of fairness, honesty and openness for our clients.

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 Assistant Crown Solicitors who are 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. Led by the Executive Director, the Practice Management Branch provides corporate and operational support to the practice to allow lawyers to focus on their core business.



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

Legal reporting

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.

The Strategic Leadership Team is 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 for setting the professional and ethical standards of the Crown Law office.



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 five 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.



HOLLY DE BORTOLI

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.

Holly was appointed Executive Director in March 2019.

She is a Certified Practising Accountant and a Fellow to CPA Australia.



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 has practised for over 22 years, primarily in the areas of criminal law, mental health law, dangerous prisoners litigation and the conduct of public inquiries.

Prior to joining Crown Law in October 2015, Patrina gained considerable criminal advocacy experience over a period of 18 years with the Office of the Director of Public Prosecutions, reaching the rank of Senior Crown Prosecutor.

As Deputy Crown Solicitor and Chief Counsel, Patrina leads an experienced legal branch comprising of barristers and solicitors who provide specialist 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. He 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.



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.

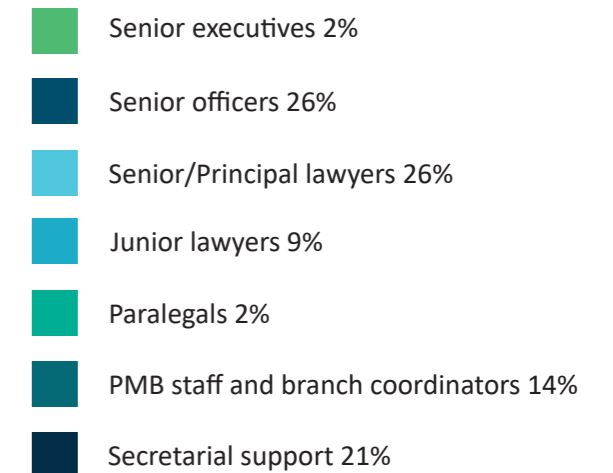
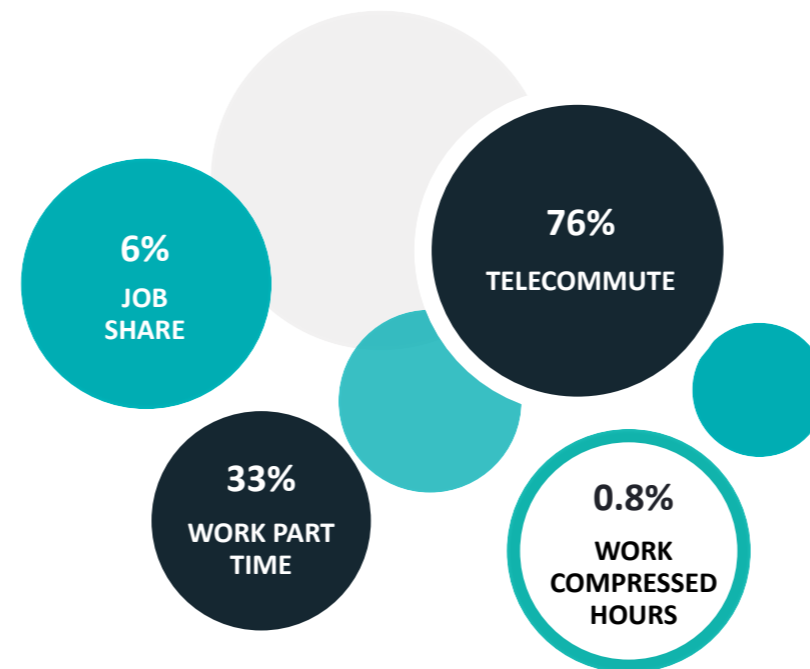
In her current role, Karen is responsible for teams in workplace and administrative law and provides advice on sensitive and significant workplace law matters to the highest levels of government.

OUR PEOPLE

Crown Law is committed to attracting and retaining experienced staff who contribute to our continued success, viability and the high level of service we deliver to our clients.

Our practice currently employs 155 lawyers and 55 secretarial support staff. In addition, there are 36 staff 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.



Equal opportunity measures

Crown Law is committed to supporting equal opportunity in our workplace. Employees from diverse backgrounds including non-English speaking backgrounds, people with a disability, women, Aboriginal people and Torres Strait Islander people are supported and encouraged at Crown Law.

Crown Law's Strategic Leadership Team and all teams across the practice have a strong female presence. Seventy-four per cent of our staff are women and make up two-thirds of our leadership team.

Crown Law also supports the Law Council of Australia's equitable briefing policy which was adopted by the Queensland Government. The policy's target aims to see female barristers receiving 30% of all briefs. Crown Law exceeded this target over the past twelve months with female barristers receiving more than 33% of all Crown Law briefs.

During the 2021-22 financial year, Crown Law advertised two First Nations Legal Clerkships that were identified for filling by Aboriginal and/or Torres Strait Islander students. The legal clerkship program is an initiative to support the Queensland Government's Aboriginal and Torres Strait Islander Cultural Capability Framework. The program aims to provide a practical and meaningful experience to first nations university law students by providing an opportunity to gain valuable skills, knowledge, and a network within the legal industry.

Health and wellbeing

Crown Law is committed to prioritising the health and wellbeing of staff. The Strategic Leadership Team strongly encourages Crown Law staff to engage in health and wellbeing initiatives available across the practice to help live productive, healthy and happier working lives.

Health and wellbeing initiatives conducted in 2021-22 included:

- three Queensland Law Society led workshops focusing on resilience and wellbeing
- twice-weekly virtual meditation sessions to assist with emotional wellbeing and overall health
- influenza vaccination program
- publishing regular links to health and wellbeing blogs and articles for staff
- ergonomic assessments.

Vicarious trauma training

Crown Law is committed to supporting staff with the necessary skills, knowledge and resources to actively manage the risk of vicarious trauma through their work. Crown Law has a framework and processes in place to promote and maintain a healthy work environment, which assists in the prevention and management of vicarious trauma by reducing risk factors and enhancing protective factors that have been demonstrated to influence vicarious trauma.

Domestic violence

Crown Law is committed to taking action to end domestic and family violence in Queensland.

Crown Law is a business unit of the Department of Justice and Attorney-General which supports and maintains a White Ribbon Australia workplace accreditation. The accreditation recognises the department's commitment to prevent violence, support employees affected by domestic and family violence, and promote safe and respectful workplace cultures.

It is a mandatory requirement for all staff to complete an online course about domestic violence and the workplace. The course provides an overview of domestic and family violence and increases awareness, understanding and skills to deal with situations related to domestic and family violence that may arise in the workplace.



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 regular formal reporting between the Client Relationship Managers within the practice and the Strategic Leadership Team on the services delivered to 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 all client service issues raised are addressed.

Client Relationship Managers are usually at the Assistant Crown Solicitor level or higher and are allocated at least one key client. Their 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 Client Relationship Manager is to ensure a consistently high level of client service.

Client Relationship Managers 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. 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 fees are reviewed annually, in accordance with Queensland Government's annual government indexation rate for fees and charges. Untied fees are reviewed annually in accordance with Crown Law's judgement of the market.

Tied and untied work

At the close of the 2021-22 financial year, approximately 11 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 managed claims.

Legal work in the tied category includes:

- Queensland Government Insurance Fund 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.

AREAS OF LAW

Administrative law

Crown Law's administrative law experts have extensive experience in the application and operation of administrative law in the public sector, particularly the *Judicial Review Act 1991* and the *Right to Information Act 2009*.

Our breadth of experience, coupled with a detailed understanding of the operation of government, allows Crown Law to provide responsive and practical advice on a broad range of administrative law issues including:

- advice and representation in matters involving the *Judicial Review Act 1991*
- advice and representation in matters involving the *Right to Information Act 2009*
- administrative law appeals and reviews, including appeals before the Queensland Civil and Administrative Tribunal (QCAT)
- statutory interpretation and preparing new legislation
- sound decision-making and statements of reasons.

Significant matters

Witthahn & Ors v Chief Executive of Hospital and Health Services and Director General of Queensland Health; Johnstone & Ors v Commissioner of Police & Ors [2021] QCA 282

Johnston & Ors v Commissioner of Police & Anor; Witthahn & Ors v Chief Executive of Hospital and Health Services and Director General of Queensland Health & Ors [2021] QSC 275

The *Johnston* applicants (a group of police officers and staff members) commenced proceedings seeking judicial review of the Queensland Police Service Commissioner's direction that they be vaccinated. The *Witthahn* applicants (a group of health service employees and Queensland Ambulance Service employees) commenced proceedings seeking judicial review of vaccination directives issued by the Chief Executive of Queensland Health and the Acting Commissioner of the Queensland Ambulance Service, respectively.

On 26 October 2021, Dalton J delivered judgment on a separate question as to the jurisdiction of the Supreme Court to hear the applications. Her Honour held that the conferral of exclusive jurisdiction to hear industrial matters on the Queensland Industrial Relations Commission under s 450 of the *Industrial Relations Act 2016* meant that the Supreme Court did not have jurisdiction under Part 3 of the *Judicial Review Act 1991*: see *Johnston & Ors v Commissioner of Police & Anor; Witthahn & Ors v Chief Executive of Hospital and Health Services and Director General of Queensland Health & Ors* [2021] QSC 275.

The applicants in each matter subsequently appealed Her Honour's decision. The appeals were heard by the Court of Appeal on 8 December 2021.

On 14 December 2021, the Court of Appeal found for the appellants in *Witthahn & Ors v Chief Executive of Hospital and Health Services and Director General of Queensland Health; Johnstone & Ors v Commissioner of Police & Ors* [2021] QCA 282. In doing so, the Court unanimously set aside Dalton J's decision that the conferral of exclusive jurisdiction to hear industrial matters on the Queensland Industrial Relations Commission under s 450 of the *Industrial Relations Act 2016* meant that the Supreme Court did not have jurisdiction under Part 3 of the *Judicial Review Act 1991*.

Ishiyama & Ors v Dr Peter Aitken, Former Chief Health Officer & Ors; Baxter & Ors v Dr John Gerrard, Chief Health Officer & Anor; Hunt & Ors v Dr John Gerrard, Chief Health Officer & Anor [2022] QSC 41

On 5 April 2022, Dalton J dismissed an application in each proceeding for an order requiring the Chief Health Officer to provide a statement of reasons for his decisions to issue various public health directions under s 362B of the *Public Health Act 2005*, namely the:

- Workers in a Healthcare Setting (COVID-19 Vaccination Requirements) Direction (No. 3)
- Public Health and Social Measures Linked to Vaccination Status Direction (No. 2) and (No. 3)
- COVID-19 Vaccination Requirements for Workers in a High-risk Setting Direction (No. 1) and (No. 2).

Her Honour found that the decision to give each of the public health directions was a decision of a legislative character and therefore not a decision to which s 31 of the *Judicial Review Act 1991* applies. Her Honour's decision also has the consequence that the decision is not one to which part 3 of the *Judicial Review Act 1991* applies.

The applicants in each matter subsequently appealed Her Honour's decision. The Court of Appeal heard these appeals on 25 July 2022. Judgment is reserved.

Electoral Commission of Queensland v Palmer Leisure Australia Pty Ltd [2022] QSC 169

On 2 December 2020, the Electoral Commission of Queensland commenced proceedings seeking declarations under the *Electoral Act 1992* against Palmer Leisure Australia Pty Ltd. On 16 July 2021, Palmer Leisure Australia Pty Ltd applied for summary judgment against the Electoral Commission of Queensland. That application was heard by His Honour Martin SJA on 6 June 2022. On 18 August 2022, His Honour delivered judgment dismissing Palmer Leisure Australia Pty Ltd's summary judgment application.



Justice Martin held that:

- The fact that Palmer Leisure Australia Pty Ltd had only made one relevant planning application did not, of itself, preclude it from falling within the definition of a 'property developer' for the purposes of s 273(2) of the *Electoral Act 1992*: [38].
- Section 273(2) does not require that a business last for any particular time or involve planning applications for different parcels of land to be captured by the provision: [39].
- The time for determining whether an unlawful donation has been made, the status of the donor and the donee are assessed at the time of the relevant donation: [40].

In order to grant summary judgment His Honour would have had to be satisfied that Palmer Leisure Australia Pty Ltd's construction of s 273(2) was so obviously correct that the Electoral Commission of Queensland had no prospect of establishing that Palmer Leisure Australia Pty Ltd was a property developer. His Honour did not come to that conclusion for the reasons set out above: [44].

Saunders v Department of Housing and Public Works [2022] QCAT 159

On 10 May 2022, the Queensland Civil and Administrative Tribunal dismissed the applicant's purported referral of his privacy complaint to the Tribunal on the basis that it had not been requested 'as soon as possible' within the meaning of s 38(4) of the *Acts Interpretation Act 1954*.

The Tribunal accepted the department's submissions that in the absence of an express time period in which an applicant must seek to refer their complaint to the Tribunal, s 38(4) of the *Acts Interpretation Act 1954* requires that they do so 'as soon as possible'. Such an argument had not previously been advanced before the Tribunal.

This decision may have implications for all agencies as it means complainants must move promptly in requesting their complaints be referred to the Tribunal.

Advocacy

Crown Law's advocacy experts comprise court-going advocates, barristers and solicitors. We provide advice and representation to Queensland's Attorney-General on:

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

Significant matters

[Attorney-General \(Qld\) v Doolan \[2021\] QSC 143; \(2021\) 290 A Crim R 290; \(2021\) 8 QR 208 \(17 June 2021\)](#)

The issue in this matter was the exercise of judicial power under s 22 of the *Dangerous Prisoners (Sexual Offenders) Act 2003* (DPSOA) where that power arises as a result of a contravention of a supervision order. Davis J heard the matter on 11 June 2021. In proceedings brought by the Attorney-General under s 22 for contravention of supervision order by the respondent prisoner, there was no issue (and the evidence showed) that the prisoner had contravened the order. Orders were sought enabling the prisoner to be released to supervision order when supported independent living accommodation assessed as suitable by Queensland Corrective Services (QCS) became available. Until then it was proposed he remain in custody. His Honour held that prisoners incarcerated through the criminal justice system are generally subject to the exercise of judicial and administrative power.

The scheme of the DPSOA was that a court could make a continuing detention order or supervision order against the prisoner and then control of the prisoner would pass to executive government. Once a prisoner is released back upon the supervision order, the executive government, through QCS, would determine where the supervised prisoner should live. By s 22(7) of the DPSOA, the Court exercised judicial power in determining whether, when the prisoner has contravened, the adequate protection of the community could, despite the contravention, be ensured by his release under the supervision order. The Court could not exercise this power to make the orders proposed and leave to the executive through QCS, a later assessment that the accommodation to be obtained is appropriate in the sense of reducing risk. This differed from a scenario where at some point the prisoner in the community under the supervision order might have to move to other accommodation approved by QCS which would lead to consideration of giving a direction under s 16B of the DPSOA, an exercise of administrative power. As arrangements for supported independent living accommodation were imminent it was appropriate to adjourn the application to enable that to occur.

Subsequently, supported independent living accommodation became available. Findings were made that the contravention was proved and, notwithstanding, the adequate protection of the community ensured by his re-release under the supervision order. Orders were made accordingly on 22 July 2022.

Antidiscrimination

Discrimination on a range of attributes (which can be actual or presumed) is unlawful in Queensland. Crown Law provides representation and advice in cases involving discrimination, sexual harassment and victimisation in both the State and Federal jurisdictions. Our lawyers assist clients at all stages of matters involving alleged discrimination including:

- identifying that a breach of the *Anti-Discrimination Act 1991* has occurred
- whether it constitutes direct or indirect discrimination
- whether any of the exemptions under the Act may apply to excuse the State (and its employees) from a finding of liability
- whether conduct is capable of constituting sexual harassment
- whether the State can be found to be vicariously liable for the actions of its employees.

We advise clients across Queensland Government on reasonable steps to prevent sexual harassment and discrimination in the workplace and how to deal with complaints.

Significant matters

[Peter Ryan v Sunshine Coast Hospital and Health Service \[2021\] FCCA 1537](#)

Mr Ryan brought a claim of indirect impairment discrimination alleging the new Sunshine Coast University Hospital did not comply with disability access standards regarding signage and access for those with visual impairments.

On 6 July 2021, Judge Jarrett found the design and construction of the hospital imposed upon Mr Ryan requirements or conditions in respect of both signage and access, with which Mr Ryan was unable to comply because of his vision impairment. Judge Jarrett was not persuaded that the presence and use of volunteers is a reasonable response to the requirements that were imposed upon Mr Ryan and others with a similar impairment, nor was he satisfied that, having regard to the building cost and the annual maintenance costs, the rectification work would impose an unjustifiable hardship on the respondent.

The case provides significant guidance for the State in ensuring that matters relevant to disability access are adequately considered and addressed when designing and constructing public hospitals.

[Hattabi v State of Queensland & Ors \[2022\] QCAT 8](#)

The Applicant made a complaint under the *Anti-Discrimination Act 1991* on 23 March 2018 to the then Anti-Discrimination Commission Queensland alleging Queensland Police Service officers had discriminated against him when they spoke to Mr Hattabi during the course of an investigation into a bomb threat. The Applicant alleged discrimination on the basis of race.

Member Paratz AM dismissed the complaint on the basis that there was no evidence to support the Applicant's assertions that he was approached due to his race. Rather, the Member was satisfied that the actions of police were justified having regard to the information they had available at the time and their duty to investigate a matter which was potentially of immediate public danger. The Member

further held he was satisfied the Applicant had not been treated less favourably than a person who was of similar appearance (but a different race) to the Applicant.

Under section 66 of the *Queensland Civil and Administrative Tribunal Act 2009*, Member Paratz made an order prohibiting the publication of the contents of any document produced or provided to, or filed in, the Tribunal, by any health professional in relation to Mr Hattabi (other than as referred to in the decision).

On 6 June 2022 the Applicant appealed Member Paratz's decision.

[Mizner v State of Queensland \(Queensland Corrective Services\) and Smith \[2022\] QCAT 245](#)

The substantive proceeding is a discrimination and human rights complaint in the Queensland Civil and Administrative Tribunal regarding Mr Mizner's claim of impairment discrimination for not being provided with a single cell in prison (for which he does not meet the criteria).

In May 2022, Mr Mizner applied for an interim injunction to prevent him being moved into a dual occupancy cell (as he was fortunate enough to be residing in a single cell at the time, and there were renovation works proposed to install a bunk bed).

An interim injunction was granted by Member Fitzpatrick on Friday, 6 May 2022, without seeking the Respondents' submissions, where the injunction was to operate until such time as a decision could be made on submissions. We have applied for leave to appeal this decision.

Member Fitzpatrick then allowed the respondent to make submissions on the interlocutory injunction. This decision was issued on 6 July 2022, which was to grant the injunction, to operate until a decision could be made on the substantive discrimination proceedings. The respondent has also applied for leave to appeal this decision.



Commissions of inquiry

Crown Law has a long history of assisting Commissions of Inquiry and acting for the Queensland Government in inquiries and royal commissions.

Significant matters

[State representation for the Disability Royal Commission](#)

The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability was established on 4 April 2019 by the Governor-General of the Commonwealth of Australia.

The Royal Commission was originally slated to run over a three-year period however in June 2021 the period was extended by a further period of 17 months. Crown Law acts on behalf of the State of Queensland. A final report is due by no later than 29 September 2023.

Constitutional Law

Crown Law has significant experience advising clients in constitutional law and addressing complex questions involving statutory interpretation.

We provide a broad range of legal services, including:

- advising on complex questions of statutory interpretation
- advising on complex constitutional law issues (State and Commonwealth)
- advising the Attorney-General about intervention in constitutional litigation
- providing support to the Solicitor-General when he represents the State in litigation and provides advice on significant matters
- advising on whether draft legislation, if enacted, will be valid and will meet the client's requirements
- advising the Attorney-General in relation to matters involving judicial officers
- advising in relation to issues involving Cabinet and Parliament.

Corporate and commercial

Crown Law's corporate and commercial law practice comprises experienced lawyers with a thorough understanding of the accountability standards and governance framework applicable to the Queensland Government. We offer clients concise and realistic legal advice on mitigating risk in commercial ventures and specialise in advising about and drafting documents 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.

Significant corporate and commercial work undertaken in 2021-22 included:

- advising the Department of Communities, Housing and Digital Economy on a trial of virtual property inspections for public housing
- advising the Department of Energy and Public Works about whether office building lease terms allow the lessor to impose restrictions on entry to base building areas by contractors who have not been vaccinated against COVID-19
- advising the Organising Committee of the Olympic Games corporate governance arrangements for the Department of the Premier and Cabinet
- drafting new template funding agreement terms for the provision of capital funding to community housing providers for the Department of Communities, Housing and Digital Economy
- drafting procurement and contract documentation for the procurement of fire appliance vehicles by Queensland Fire and Emergency Services and the procurement of financial services by the Public Trustee of Queensland
- carrying out a privacy impact assessment for the Department of Transport and Main Roads Digital Identity Service.

Debt recovery

Crown Law specialises in the conduct of debt recovery and insolvency matters, including bankruptcy and winding up proceedings, preference payment disputes and legal costs recovery.

Our debt recovery specialists advise clients in Queensland Government on all aspects of debt recovery including:

- drafting claims and statements of claim and all documents up to and including judgement and enforcement proceedings
- advising on alternative methods of recovery, including company winding up proceedings, bankruptcy proceedings and instalment arrangements
- advising on alternative dispute resolution of disputed claims and conducting negotiations with debtors and/or their representatives in mediation or settlement conferences
- legal costs recovery at the conclusion of litigation.

Dispute resolution

The breadth of experience and collective government knowledge of Crown Law's specialist dispute resolution lawyers enables them to provide immediate expert advice and representation in relation to any type of claim arising out of:

- commercial and contractual disputes
- injunctive relief
- trade practices breaches
- consumer law breaches
- defamation
- land title fraud claims
- state revenue and recovery appeals
- false imprisonment and malicious prosecution
- trespass claims
- negligence claims
- alternative dispute resolution
- non-party disclosure and subpoenas.

We have significant experience in providing advice and representation in all courts on various matters including commercial disputes, claims for damages alleging negligence, nuisance, false imprisonment and malicious prosecution, claims alleging breaches of the Australian Consumer Law, compensation claims under the *Land Title Act 1994* and injunctions.

We also advise and represent departments and the State in a range of matters brought before the Queensland Civil and Administrative Tribunal.

Our dispute resolution experts provide advice and representation to a number of departments responding to notices of non-party disclosure, subpoenas and summonses issued from all state courts in both civil and criminal matters, the Federal Court, the Family Court, the Queensland Civil and Administrative Tribunal and requests issued out of courts from other States.

Our lawyers also specialise in all forms of alternative dispute resolution. They have successfully negotiated the resolution of numerous disputes on behalf of their client departments, through mediation and participation in without prejudice conferences.

Significant matters

[Queensland Licenced Taxi Operator v State of Qld S 2387/19](#)

Supreme Court proceedings were commenced against the State on behalf of the Queensland Licenced Taxi Operators in March 2019, as a consequence of the State's alleged actions in allowing rideshare drivers to carry passengers for reward without a taxi licence.

Crown Law represented the State in this matter which settled at mediation on terms favourable to the State.

[Knowles and Ors. v Commonwealth of Australia and Ors. – Federal Court of Australia VID579/2021](#)

The Commonwealth, most States (including Queensland, but excluding South Australia), and the Australian Capital Territory (the participating parties) applied for summary dismissal of this Federal Court proceeding which challenged the legality of certain COVID-19 related actions taken by the Commonwealth, States and Territories. On 27 June 2022, the Federal Court delivered its judgment on the applications for summary dismissal. The Court gave summary judgment in favour of the participating parties.

Employment law

Crown Law provides legal services on all aspects of employment and workplace relations, including:

- advising Queensland Government agencies on policies and risk management
- advising government agencies on their statutory powers and functions, including under the *Public Service Act 2008*, such as discipline and ill health retirement
- drafting and advising on all aspects of employment contracts, including appointments, discipline and termination, dispute settlement and representation
- advising and representing the State in unfair dismissal cases
- advising on industrial relations issues, including the implications of the *Industrial Relations Act 1999* and the *Fair Work Act 2009* (Cth)
- advising clients about workplace health and safety matters
- acting for State Government employers in WorkCover appeals and applications for review concerning psychological injuries, including applications to intervene.

Significant matters

[Margaret Gilbert v Metro North Hospital & Health Service \(First Respondent\), Michele Gardner \(Second Respondent\), State of Queensland \(Third Respondent\) Mr Silven Simmons \(Fourth Respondent\)](#)

Crown Law is acting for Metro North Hospital and Health Service (MNHHS) and the State (Queensland Health) and others in respect of an application lodged by the Applicant in the Queensland Industrial Relations Commission in which she alleged she had been subject to adverse action pursuant to the *Industrial Relations Act 2016* (IR Act) and unlawful contravention of her human rights pursuant to the *Human Rights Act 2019*.

The Applicant is employed as a Deputy Nurse Manager at the Prince Charles Hospital, MNHHS and is a member of the Nurses Professional Association of Queensland (NPAQ). The Applicant claimed that the Respondents took adverse action against her because she was an officer or a member of NPAQ and because she engaged in industrial activity by organising and promoting on behalf of NPAQ.

On 27 July 2021, Vice President O'Connor issued his decision and dismissed the Applicant's application. The Commission held that NPAQ was not an industrial association in accordance

with the IR Act as the reference to association of employers in s 279(b) of the IR Act makes it clear that what is contemplated is a group of individual employees rather than a single corporate or similar entities. The Commission also rejected the argument that NPAQ was a trade union for the purposes of the IR Act as its legal personality, corporate status and its history is not in any sense typical of a trade union. The decision is helpful in clarifying the status of NPAQ, and other similar organisations.

The Applicant alleged that her right to freedom of expression in relation to the issuing of the show cause notice was contravened. The Commission found the evidence did not support a conclusion that her right to freedom of expression had been infringed.

On 17 August 2021 the Applicant lodged an appeal to the Industrial Court of Queensland. The appeal was heard before Justice Davis, President and the decision is pending.

Brasell-Dellow & Ors v State of Queensland (Queensland Police Service) [2021] QIRC 356 – Queensland Industrial Relations Commission, Appeal (D/2021/130 and D/2021/131)

The matter concerned two applications (heard concurrently at hearing) brought by approximately 60 Queensland Police Service employees. The applications concerned the lawfulness of a direction issued by Queensland Police Commissioner Katarina Carroll (Commissioner), to all front-line and front-line support staff of the QPS directing them to be vaccinated against the COVID-19 virus (the Direction).

Both applications specified the following three grounds:

1. The Commissioner failed to consult with employees before making the Direction, in breach of the relevant awards that covered the employees.
2. The Commissioner failed to consult with employees before making the Direction, in breach of the *Work Health and Safety Act 2011*.
3. There was no power in the Commissioner to make the Direction without seeking a variation of the relevant award or the relevant certified agreement.

Importantly the grounds in support of the applications did not allege that the Direction was unreasonable or did not challenge the reason for making the Direction. Each ground failed.

Ground 1 failed because the Full Bench said the provisions relied upon concern changes in the way in which work is done, such as changes that can lead to an erosion of job security through redundancy.

In relation to ground 2, the applicants stated the Queensland Police Service failed to consult with all employees regarding the Direction, as required by the *Work Health and Safety Act 2011*. The evidence showed Queensland Police Service's direct engagement and consultation with all employees through emails and communication on Intranet sites, and consultation with the relevant employee unions. The five unions, between them, had total coverage of the workforce of the Queensland Police Service. The Full Bench noted it is well-established that trade unions may negotiate with employers, not only on behalf of their members, but also on behalf of workers who are eligible for membership. Here, the unions agreed with the directive. In other words, the consultation reached the level where the directive was not a matter of contention. No breach of the *Work Health and Safety Act 2011* had been established. Ground 2 failed.

Ground 3 failed because the Commissioner had the power under the *Police Service Administration Act 1990* to issue the Direction and a direction given to an employee does not, without more, become a term or condition of employment. To argue the Commissioner did not have power to issue the Direction is inconsistent with the nature and structure of the Queensland Police Service as established under the *Police Service Administration Act 1990* and is contrary to well-established principles of industrial law which recognise an employer's right to direct employees within proper legal constraints.

Brasell-Dellow has been followed by the Queensland Industrial Relations Commission in numerous public service appeals against vaccine mandates.

Jeff Hunt v State of Queensland (Department of Agriculture and Fisheries) [2022] QIRC 162

Mr Jeff Hunt, a former Deputy Director-General, Department of Education, appealed a decision to find allegations about his conduct substantiated and to make disciplinary findings against him under the *Public Service Act 2008*.

The allegations against Mr Hunt related to his inappropriate involvement in the recruitment process for the foundation principal for the Brisbane South State High School. The recruitment process had been the subject of a Crime and Corruption Investigation. Critically Mr Hunt had suggested and arranged a meeting between the recommended candidate and Ms Jackie Trad, the then Deputy Premier.

Mr Hunt was suspended with full pay from May 2020.

Mr Hunt was found by the decision maker during the disciplinary process to have:

1. Involved himself inappropriately, including making decisions, in the recruitment process. Mr Hunt was not a member of the selection process or the delegation for the recruitment process.
2. Misled the recommended candidate during the recruitment process.
3. Failed to accurately record the reasons for the decision to re-advertise the principal role and misled the Director-General as to the reasons for the re-classification and re-advertisement.
4. Increased the student enrolment number from 1,500 to 1,600 or 1,650 for an inappropriate purpose.
5. Inappropriately instructed the documentation referring to student enrolment numbers be changed and attempted to conceal this instruction.
6. Provided misleading and inaccurate information to the Director-General in November 2019, resulting in the Director-General issuing a media statement which contained inaccuracies.

Mr Hunt maintained throughout the investigation and disciplinary process that as Senior Responsible Officer for the project which included the building of the school, he had authority to do what he did. In making his decision, Vice President O'Connor found the disciplinary findings fair and reasonable.

Mr Hunt also challenged the findings as a breach of his human rights, namely his right to privacy and reputation. Vice President O'Connor found there had been no unlawful or arbitrary interference with Mr Hunt's privacy or reputation, noting the regime under Chapter 6 of the *Public Service Act 2008* (which contains the provisions for disciplinary processes) is intended to protect the public, maintain proper standards of conduct by public service employees and protect the reputation of the public service and therefore imposed a reasonable limit on human rights that can be demonstrably justified.

Mr Hunt resigned from his employment with the department from 11 July 2022.

Algahamdi v State of Queensland (Queensland Health) [2022] ICQ 019

On 17 June 2022 the Industrial Court delivered a decision ordering the Ms Algahamdi pay the State's costs of and incidental to the appeal.

Relevantly, the matter had originated from an application for reinstatement (Reinstatement Application) under s 74 of the *Industrial Relations Act 1999* filed by Ms Algahamdi on 28 June 2015 alleging that she had been unfairly dismissed. On 16 March 2016 O'Connor DP dismissed the Reinstatement Application on the basis that 'it would not be in the public interest for [the proceedings] to continue' noting Ms Algahamdi's non attendance at the dismissal application.

Four and a half years later, on or about 16 November 2020, Ms Algahamdi filed a Form 2 Application (Reopening Application) and supporting affidavit in respect of her Reinstatement Application. Dwyer IC dismissed Ms Algahamdi's application (the Decision), and noted he found no evidence that the interest of justice would be better served by allowing the reopening of Ms Algahamdi's reinstatement application. On the contrary, he considered that after an unexplained delay of approximately five years, with no evidence of any prejudice flowing to Ms Algahamdi, in his view the interest of justice are best served by reinforcing the finality of the matter that was achieved by the respondents in 2016.

On or around 26 June 2021, Ms Algahamdi applied to the Industrial Court of Queensland to appeal the Decision.

On 22 April 2022 Justice Davis handed down his decision, ordering that the Appeal was dismissed. Relevantly, Justice Davis determined that once it is accepted that Ms Algahamdi ignored the dismissal application and indeed ignored the whole proceedings for four and a half years, the exercise of discretion against reopening is not only well open, but almost inevitable. He further made orders for the filing of submissions in relation to whether to award costs of and incidental to the appeal.

Following the filing of submissions by the parties, in the decision of 17 June 2022, the Industrial Court relevantly found that there was no reasonable cause to bring the appeal. Justice Davis further noted that whilst Ms Algahamdi may not have realised that the appeal had no reasonable prospects of success, it should have been reasonably apparent to her. Further, the test is an objective one. He ultimately found that it was therefore unreasonable for Ms Algahamdi to appeal the decision and she should pay the State's costs. The case provides a useful precedent in resisting attempts by applicants to re-enliven Queensland Industrial Relations Commission claims which they have failed to progress in a timely manner.



Health Law

Crown Law's health law experts advise and represent government agencies and departments in many facets of health law including coronials, mental health matters, medical negligence and personal injuries.

Coronials

Crown Law provides advice and representation to government agencies and departments in relation to all stages of the coronial inquiry process. Our lawyers assist clients in the preparation of statements and material to be provided to the State Coroner, appear at pre-inquest conferences, correspond with the Coroner's Office to obtain copies of all relevant material, prepare witnesses for giving evidence before the Coroner and represent clients' interests at the coronial inquest.

Mental health matters

We represent the Attorney-General in Mental Health Review Tribunal and Mental Health Court proceedings in relation to forensic orders under the *Mental Health Act 2000* and appear in the Mental Health Court for the Director of Forensic Disability.

Medical negligence and personal injury litigation

Crown Law's medical negligence and health-related personal injury claims are managed by an experienced team of lawyers. They have developed networks of medical specialists who assist when required and can discuss issues such as liability, causation and quantum. Many of the members of the team are also members of the Queensland Medico Legal Society and attend regular medico-legal events and seminars to ensure they remain up to date with current medico-legal affairs.

Our lawyers are experienced in working under a legislative regime comprising:

- *Personal Injuries Proceedings Act 2002* (Qld)
- *Uniform Civil Procedure Rules 1999* (Qld)
- *Health Ombudsman Act 2013* (Qld)
- *Health and Hospitals Network Act 2001* (Qld)
- *Civil Liability Act 2003* (Qld)
- *Civil Liability Regulations 2003* (Qld).

We provide legal advice and representation to the Queensland Government Insurance Fund, the Hospital and Health Services and the Queensland Ambulance Service in matters such as:

- personal injury claims commenced against various Health Services and the Queensland Ambulance Service under the *Personal Injuries Proceedings Act 2002* (Qld) relating to incidents of medical negligence arising from operative procedures, childbirth, failures to diagnose and treat patients in a timely manner
- claims for dependency arising out of medical negligence incidents
- representing Hospital and Health Services and the Queensland Ambulance Service at mediations, settlement conferences and litigation commenced under the *Uniform Civil Procedure Rules 1999* (Qld)
- drafting submissions on behalf of Hospital and Health Services and representing them at conciliations arising from complaints made to the Office of the Health Ombudsman under the *Health Ombudsman Act 2013* (Qld)
- representing Hospital and Health Services in matters involving contractual indemnities and multiple respondents, including multiple State respondents.

Human Rights

The *Human Rights Act 2019* protects 23 human rights. Under the Act, public entities are required to consider human rights and to act, or make decisions, compatibly with human rights. The *Human Rights Act 2019* also requires Queensland legislation to be interpreted, so far as it is possible to do so, compatibly with human rights.

Crown Law provides representation and advice to the Attorney-General in relation to intervention in proceedings in which a human rights question arises under the Act.

For further information on the Attorney-General's intervention function under the *Human Rights Act 2019*, see the Human Rights Act Intervention Guidelines. This includes information about the factors the Attorney-General considers when deciding whether to intervene in a proceeding, and the Attorney-General's policy regarding costs.

During the 2021-22 financial year, Crown Law received, on behalf of the Attorney-General, 28 notices under s 52 of the *Human Rights Act 2019* and intervened in 10 proceedings.

Crown Law also provides advice across Queensland Government on the proper interpretation of Queensland legislation in light of the *Human Rights Act 2019*.

Our lawyers also provide representation and advice to public entities in relation to human rights complaints made to the Queensland Human Rights Commission, including identifying whether a human right has been engaged and whether the measure represents a justified limit on human rights. We advise clients across Queensland Government on reasonable steps to prevent human rights breaches and how to deal with complaints.

This work is performed by Crown Law on her behalf. Crown Law is also involved in complaints of human rights contraventions to the Queensland Human Rights Commission.

A summary of key human rights cases over the last financial year are as follows:

- In *SQH v Scott* [2022] QSC 16, the Supreme Court accepted submissions made on behalf of the Attorney-General that a decision to exercise coercive questioning powers by the Crime and Corruption Commission limits the witness's right not to incriminate themselves under s 32(2)(k) of the *Human Rights Act 2019*, but that that limit is nonetheless justified.
- In *TRKJ v Director of Public Prosecutions* (Qld) [2021] QSC 297, the Supreme Court accepted submissions made on behalf of the Attorney-General that the protected counselling communications regime under Division 2A of the Evidence Act 1977 is compatible with human rights, including the right to a fair hearing in s 31 of the *Human Rights Act 2019*.



Information and communication technology

Crown Law has been involved in some of the State's largest information and communications technology (ICT) projects and has provided advice on ICT issues associated with the cutting edge of technological change and its impact on government.

We specialise in developing and managing contracts under the Queensland Information Technology Contracting (QITC) framework including stand-alone major ICT procurement projects and standing offer arrangements. Our ICT lawyers also have extensive experience providing high-level advice to government clients on:

- cloud computing
- social media
- dispute resolution
- ICT procurement.

Our experts offer extensive information and training to clients through regular Legal Updates, training workshops and conference sessions.

Key ICT matters undertaken by Crown Law this year include:

- Drafting a QITC Comprehensive Contract for Queensland Health for the procurement of Remote Patient Monitoring Services to enable the monitoring of admitted COVID-19 patients in their home, together with the provision of related advice.
- Drafting a QITC Comprehensive Contract for the Department of Tourism, Innovation and Sport for the procurement of a Talent ID website and associated portal to enable the Queensland Academy of Sport to seek expressions of interest from young Queenslanders who believe they have the requisite skills to participate in the Brisbane 2032 Olympic Games.

Insurance and risk

Crown Law has managed some of the most complex and contentious personal injuries civil litigation in recent times.

Our government insurance and risk lawyers specialise in personal injury litigation, dispute resolution and risk management arising from public liability, and medical negligence claims.

Following the recommendations of the Royal Commission into Institutional responses to Child Sexual Abuse and the removal of the limitation periods in Queensland for child abuse claims, Crown Law's government insurance and risk lawyers have managed a significant number of historical abuse claims on behalf of the State. At all times our lawyers managing these claims adhere to the Whole of Government Guidelines which set out how the State should respond to civil litigation brought against it by claimants who have been abused as children, to ensure a compassionate and consistent approach is taken to make civil litigation less traumatic for victims.

Our lawyers have defended many claims at trial and on application before the Supreme and District Courts and also on appeal before the Court of Appeal and High Court.

This year we advised on the landmark case of *Willmot v State of Queensland* [2022] QSC 167 which regarded a permanent stay of proceedings in a claim for historical abuse.

Intellectual property

Crown Law provides State Government clients with advice on all aspects of intellectual property law. Our intellectual property experts have an exceptional depth of expertise, including legal and strategic issues surrounding:

- copyright including Crown copyright
- trademarks
- confidential information
- patents
- designs
- IP management, including commercialisation, assignments, licences, consultancy, and research and development agreements
- IP protection including misleading or deceptive conduct, passing off domain names.

Significant intellectual property matters handled by Crown Law this year include providing:

- advice to the Department of Transport and Main Roads about the availability of new, shorter .au domain name suffixes
- advice to the Department of Regional Development, Manufacturing and Water about protection strategies and potential IP infringement issues related to the development of a brand for a new mobile application
- advice to the Department of Energy and Public Works about overcoming multiple issues preventing the registration of a key brand as a trademark
- advice to the Department of the Premier and Cabinet about multiple copyright issues arising under the terms of the Olympic Host Contract.

Native Title

Crown Law has been the State's foremost legal advisor on native title and cultural heritage since the historic Mabo decision in 1992. As a result of direct involvement in native title claims and advising on draft legislation and policy formulation, our native title lawyers have an intimate, thorough knowledge of the history and progress of the *Native Title Act 1993* (Cth) and issues relevant to this complex area of law.

We combine specialist expertise in native title and Indigenous cultural heritage with a practical and strategic understanding of its impact on Queensland Government agencies' projects and operations. We act for the State in native title claims and advise our clients on native title and cultural heritage issues associated with their projects.

Our legal services in this area of law include advice, representation and managing negotiations relating to:

- native title applications and extinguishment
- cultural heritage negotiations, agreements and management plans
- indigenous land use agreements (ILUAs)
- mining and other resources advice.

Our native title lawyers also have a thorough understanding of the *Aboriginal Cultural Heritage Act 2003* and the *Torres Strait Islander Cultural Heritage Act 2003* and provide advice and representation, including participation in negotiations, on a broad range of infrastructure and land tenure projects.

Significant matters:

[*Michael Ross & Ors on behalf of the Cape York United Number 1 Claim*](#)

The Cape York United Number 1 claim is significant as it relates to the entirety of the Cape York Land Council native title representative body area which covers the Cape York Peninsula and is not already subject to a native title claim or determination. The claim involves matters of some complexity due to its large area and the various Traditional Owner groups who make up the claim group.

Four areas have been determined already by consent and consent determinations have been listed for another three groups in October 2022.



Planning and environment

Crown Law's planning and environment practice offers clients at all levels across government a broad range of legal services including advising on requirements under State and Commonwealth legislation, representing government agencies in various courts and advising on planning and environment issues.

Our experience in this area of law includes advising and representing clients on:

- the roles of agencies in the development approval processes under the *Sustainable Planning Act 2009*
- development approval processes under a broad range of other State and Commonwealth legislation
- the inter-relationship between legislation administered by various agencies and the *Sustainable Planning Act 2009*
- injunctive relief relating to land use matters and development offences
- the compulsory acquisition of land under the *Acquisition of Land Act 1967*, *State Development and Public Works Organisation Act 1971* and *Transport Planning and Coordination Act 1994*
- the assessment of compensation payable for the compulsory acquisition of land
- the legislative requirements for development undertaken on behalf of the State
- state powers under the *Sustainable Planning Act 2009* including ministerial call-in powers and direction powers
- drafting and interpretation of State and local planning instruments under the *Sustainable Planning Act 2009*, including state planning policies, regional plans and state planning and regulatory provisions
- amendments to planning legislation, including amendments to the *Sustainable Planning Act 2009*
- validity of conditions imposed by state agencies in relation to development approvals
- community infrastructure designation processes
- aspects of the *Queensland Heritage Act 1994* and *Environmental Protection Act 1994*
- powers under the *Transport Infrastructure Act 1994* including powers in relation to state-controlled roads, busways, light rail and miscellaneous transport and infrastructure
- water allocations and entitlements under the *Water Act 2000*.

Our planning and environment lawyers represent departments, agencies and State Ministers in courts and tribunals including the Planning and Environment Court, Land Court, Supreme Court, Court of Appeal and the High Court of Australia.

Significant planning and environment matters handled by Crown Law this year include:

- acting for the Deputy Premier and Minister for State Development, Infrastructure, Local Government and Planning in proceedings in the Planning and Environment Court about the validity of the Minister's decision about a change application for a large-scale residential subdivision
- advising the Department of Environment and Science about the approval requirements for the development of ecotourism facilities in national parks
- advising the Department of State Development, Manufacturing, Infrastructure and Planning about the referral agency jurisdiction for a development application for the development of part of The Spit in accordance with The Spit Master Plan
- advising the Department of State Development, Manufacturing, Infrastructure and Planning about the development approval requirements for the development of a quarantine facility on land owned by the Commonwealth
- advising the Department of Transport and Main Roads about the proposed development of a new bauxite mine near Aurukun by Glencore Bauxite Resources Pty Ltd
- advising the Department of Environment and Science about the interaction of vegetation clearing and koala habitat protection provisions in s 19Q of the *Vegetation Management Act 1999* and part 10 of schedule 10 of the Planning Regulation 2017.

Property law

Crown Law has been advising the Queensland Government on property law since the State was proclaimed in 1859. Our property lawyers advise on, negotiate and draft major project agreements, property dealings by the government, and infrastructure agreements.

Our property law expertise includes:

- major infrastructure projects including roads, toll roads, busways, hospitals, port and marine facilities, hospitals and State development areas
- commercial and retail leases and residential tenancies
- dealings with Crown land including reserves and various forms of tenure under the *Land Act 1994*
- dealings with freehold land under the *Land Title Act 1994*
- easements, licences and statutory covenants
- conveyancing and title correction
- resumption and compensation agreements under the *Acquisition of Land Act 1967*
- property-related aspects of Indigenous Land Use Agreements (ILUAs)
- Indigenous management agreements under the *Aboriginal Land Act 1991* and the *Nature Conservation Act 1992*
- conservation agreements and other authorities under the *Nature Conservation Act 1992*
- regulatory framework under the *Environmental Protection Act 1994*
- all aspects of the *Planning Act 2016*, including infrastructure agreements under that Act
- all aspects of the *Queensland Heritage Act 1992*.

Significant property law matters handled by Crown Law this year include:

- acting for the Department of Education in relation to acquisition of new school sites at Springfield Central, Bellbird Park and Collingwood Park
- acting for the Department of Energy and Public Works in relation to the leasing of crisis and emergency accommodation sites across Queensland
- acting for the Department of Transport Main Roads in connection Inner Northern Busway and Eastern Busway tenure resolution.

Prosecutions

Crown Law provides advice and representation on all aspects of statutory prosecution proceedings including WorkCover fraud, public health, drugs, poisons and food safety standards.

Our prosecutions lawyers:

- provide advice on policy development and statutory interpretation across a diverse range of legislation including the practical implications of proposed legislative amendments
- advise on departmental and regulator responses to, and governance of, emerging or existing industry practices
- provide advice on prospects of success in disciplinary proceedings, prosecutions and appeals
- appear as advocates on behalf of government departments and agencies at all levels of the State and Federal Court systems, at Queensland Civil and Administrative Tribunal proceedings, in the Coroners and Mental Health Courts and at the Mental Health Review Tribunal.

WorkCover

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

Matters include claims on behalf of emergency services personnel such as police, corrective services, ambulance and fire officers, as well as claims arising from incidents at building sites, in national parks and at schools. We also specialise in claims relating to asbestos and dust diseases and other complex claims where, for example, psychiatric injury arising from bullying or harassment, trauma, excessive workloads or asbestos exposure has been alleged.

Matters we regularly handle include:

- conducting complex civil proceedings
- providing high-level legal advice
- dispute resolution including negotiating settlements, conducting conferences and mediations
- conducting complex trials in all jurisdictions
- identification and evaluation of risk management in personal injuries litigation.

Our lawyers have represented the State in the District, Supreme and High Courts in some of Queensland's largest and most complex WorkCover litigation cases.

Many of the claims we manage have government implications involving an important precedent or have policy or operational significance. Some of these claims have attracted media attention not only in Brisbane but also in regional Queensland. Our experience also extends to managing claims involving intra-governmental conflicts in relation to third party contributions and contractual indemnity disputes and the consideration of liability issues in this context.



EDUCATION AND TRAINING

Continuing Legal Education

Government legal officers holding practising certificates must complete ten units of Continuing Professional Development (CPD) per year. Government legal officers not holding practising certificates are strongly recommended to comply with these requirements. Crown Law's Continuing Legal Education Program continued throughout 2021-22 with legal and non-legal staff attending presentations on:

- electronic briefing of counsel
- file management, billing and narrations
- obtaining instructions from clients
- penalty privilege
- client communication and managing expectations
- historical sex abuse
- advice writing
- mediation in native title
- corporate structures
- how the *Human Rights Act 2019* impacts ethical duties of public servants and government lawyers
- Acceptance of Service Guidelines in Crown Law.

Online learning

To assist lawyers and non-lawyers within the Queensland Government to develop and maintain their legal knowledge, Crown Law offers a free online 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 nonlegal officers with a clearer understanding of the legal framework of government and the principles that guide it.

During the 2021-22 year, there were 134 enrolments in the online CPD program from officers in 46 agencies.

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

- introduction to government law
- model litigant principles
- legal professional privilege
- statutory interpretation.

Legal training

Crown Law offers our Queensland Government clients a variety of training workshops and legal briefings on key public sector issues to develop their legal skills and keep them informed about current and emerging legal topics.

Crown Law delivered 23 training presentations to more than 500 government officers in 2021-22 by offering virtual attendance at most of our training sessions. Notable training sessions held throughout the year included:

- statutory interpretation training – 10 workshops for 233 clients
- sound decision making training – six workshops for 110 clients
- *Human Rights Act 2019* training – five workshops for 73 clients.

CORPORATE RESPONSIBILITY

Crown Law is committed to developing and implementing sustainable business practices that minimise our impact on society and the environment. We aim to minimise the resources we use, and re-use or recycle resources where possible.

Key initiatives to minimise our resource usage include:

- Implementing a procedure for hot-desking to minimise the office space we occupy.
- Encouraging staff to walk or ride to work through the provision of end-of-trip facilities and secure bike and scooter storage.
- Reducing Crown Law's reliance on paper documents and the need for printing, archiving and storage. The majority of all our new legal matters are now being created as digital legal files.
- Sensor lights in all work areas which turn off when an office is unoccupied.

We strongly encourage and support recycling throughout our workplace by:

- Ensuring every work area has a recycle bin for cardboard, paper and plastic recycling.
- Repurposing or refurbishing all used IT equipment through a third party.
- Providing a collection point to recycle flat batteries, used ink pens and printer toners.
- Providing a collection point to recycle plastic bread clips and other plastics.

In addition, we seek to support local businesses and suppliers where possible.



CROWN LAW LIBRARY

The Crown Law Library provides research and reference services for business units and statutory bodies within the Department of Justice and Attorney-General, including commissions of inquiry and taskforces. The Library also delivers online access to a selection of key eBooks and legal commentary services to support Crown Law legal teams and other business units.

During the 2021-22 financial year, the Crown Law Library recorded the following reference and research statistics:

- 439 research hours spent on 6,942 reference services requests
- 5,273 print and electronic items were supplied in response to requests.

The Library also distributed 49 issues each of the electronic Current Awareness Bulletin and info@library bulletin and four issues each of the quarterly subject specialist bulletins, *Criminal Law News* and the *Courts Program and Policy Bulletin*.

The Library also conducted 48 training sessions in the 2021-22 financial year.

CROWN LAW CHOIR

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

The Choir performed ten times over the 2021-22 financial year, including a performance at the Opening of the Law Year Church Service at St Stephen's Cathedral and at the Valedictory Ceremony of the outgoing Chief Justice of the Supreme Court, Her Honour Catherine Holmes. The Crown Law Choir performed a repertoire of Christmas carols during December 2021 in several Brisbane venues 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 Ovarian Cancer Research Foundation.



PERFORMANCE AND ACCOUNTABILITY

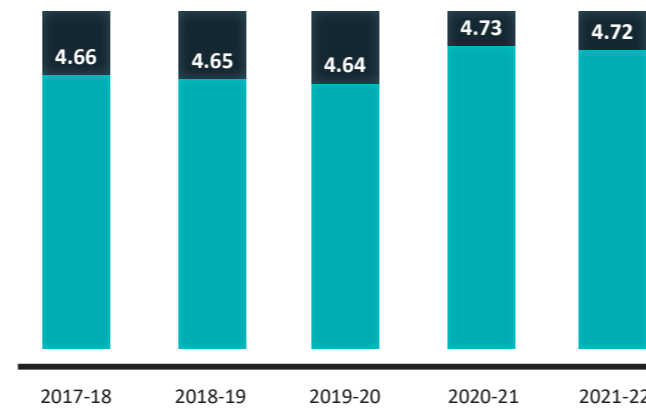
Client satisfaction surveys

To monitor and continuously improve the delivery of our legal services, online surveys are sent to all clients with current matters each quarter to ascertain their satisfaction and comments on key performance indicators. These indicators are:

- our understanding of our client’s matter and objectives
- our level of technical skill and knowledge
- our communication with clients
- value for money.

Crown Law’s overall satisfaction rating for 2021-22 based on these surveys was 4.72 out of 5.

Client satisfaction survey ratings 2018–22



Quality Assurance

Crown Law has developed and implemented a quality management system based on ISO9001:2015.

Our continued accreditation to the ISO9001:2015 standard demonstrates our strong management practices which are focused on realising clients’ expectations of quality and outcomes. Good record keeping and developing, implementing and improving processes and procedures together with quality auditing are key elements to maintaining our Quality Assurance certification.

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

Growth and productivity

Crown Law reported a total of 135.79 full-time equivalent legal staff for 2021-22. The practice reported 106% productivity for the fiscal year, a slight increase from the previous financial year.

Full-time equivalent legal staff growth


2018-19	2019-20	2020-21	2021-22
135.2	137.53	142.39	135.79


Annual productivity comparison


2018-19	2019-20	2020-21	2021-22
104%	105%	105%	106%



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