



# Office of the Director of Public Prosecutions



## Annual Report 2019/2020

# Letter of transmittal

OUR REFERENCE

**DIRECTOR'S CHAMBERS**



**ODPP**  
New South Wales

YOUR REFERENCE

DATE

12 October 2020

Hon Mark Speakman SC MP  
Attorney General  
GPO Box 5341  
SYDNEY NSW 2001

Dear Attorney-General,

## **2019-2020 Annual Report**

I am pleased to forward to you the 33<sup>rd</sup> Annual Report for the Office of the Director of Public Prosecutions (ODPP) for presentation to Parliament. This report encompasses the ODPP's financial statements and performance review for the financial period 2019-2020.

This report has been prepared in accordance to section 34 of the *Director of Public Prosecutions Act 1996* and in compliance with the guidelines from the *Annual Reports (Departments) Act 1985*, *Annual Reports (Departments) Regulation 2015* and the *Public Finance and Audit Act 1983*.

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'Lloyd Babb'.

**Lloyd Babb SC**  
**Director of Public Prosecutions**

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# Highlights of the year



## A Dynamic Prosecution Service recognised for its Excellence and Leadership

 <p>73.6% Early Resolution</p>	 <p>Efficient management of ODPG response to COVID-19</p>	 <p>89.6% Finding of Guilt</p>
 <p>Excellence Awards presented to 1 manager, 3 teams &amp; 5 individuals</p>	 <p>74% increase in CCA conviction appeals; 23% in sentence appeals</p>	 <p>33 staff 10 Year Award 38 staff 20 Year Award 10 staff 30 Year Award</p>
 <p>13 Crown Prosecutors appointed, 54% internal promotions</p>	 <p>1 Crown Prosecutor, 1 solicitor &amp; 3 senior managers appointed Magistrates</p>	 <p>21 Solicitor Advocates appointed, 90% internal promotions</p>
 <p>35.9% of matters resolved in the Local Court</p>	 <p>854 court days saved in participation in District Court Special Call Overs</p>	 <p>39% of Private Briefing to women</p>

# Report of the Director of Public Prosecutions

## Introduction

The Office of the Director of Public Prosecutions has almost 800 staff spread over ten offices. The Crown Prosecutors, solicitors, legal support staff, Witness Assistance Officers and those in Corporate Services are all committed to providing a fair, just and independent prosecution service to the people of New South Wales. This year 89.6% of those matters that were prosecuted in the District and Supreme Courts resolved in a finding of guilt, either by plea or verdict of guilty.

This year also saw the introduction of a number of legislative amendments which impacted on the Office's day to day work including the *Evidence Amendment (Tendency and Coincidence) Act 2020* and the *Crimes Amendment (Special Care Offences) Act 2020*. My Office continues to actively engage in policy and law reform by participating on many interagency committees and responding to government calls for submissions.

This was a year of upheaval, but the work of the criminal justice system is not like some other work, in that it cannot suspend without dire consequences for those awaiting the outcome of the proceedings. I am pleased to say that the introduction of the *COVID-19 Legislation Amendment (Emergency Measures) Act 2020*, as well as my Office's response contributed to the work of the criminal justice system continuing as efficiently and effectively as possible.

## COVID-19

On 22 March 2020, the declaration of the COVID-19 pandemic changed the criminal justice system in fundamental ways. Practically overnight, courts and offices like this one had to accommodate physical distancing by instituting flexible work arrangements and the use of audio visual links (AVL) in almost all communication. Four days later the Chief Justice of the Supreme Court and the Chief Justice of the District Court announced the suspension of all jury trials which has resulted many trials being rescheduled since that time.

In response to the emerging situation my Office established a Central Recovery Team (CRT) of senior executives which monitored and acted on the advice of NSW Health in relation to all court procedures. The CRT also formulated the ODPP's COVID-19 policies which enabled staff to work remotely and provide them with technological and health and safety support.

While primarily working from home since mid-March 2020 my prosecutors managed to continue to charge certify matters, attend case conferences and participated in Readiness Hearings in the District Court. We have achieved the unthinkable and appeared remotely in courtrooms all around the State.

## Performance

This reporting year, 73.6% of matters were resolved early; either finalised in the Local Court or committed for sentence to a higher court. A marked indicator that the Early Appropriate Guilty Plea (EAGP) regime is functioning well. The special call overs also continue to be effective mechanisms for resolving matters prior to trial with 854 days of court time saved during this reporting period.

During 2019 and 2020 my Office finalised 11 matters arising out of referrals by the Royal Commission into Institutionalised Responses to Child Sexual Abuse (the Royal Commission). A further nine prosecutions remain active. There have been a total of 66 ODPP prosecutions as a consequence of referrals or evidence given at the Royal Commission.

### EAGP

During the 2019/2020 financial year my Office certified 4,563 EAGP matters. The majority of all potential trial matters were resolved at the case conference stage and there was a continuing trend of pleas of guilty being entered earlier in the proceedings. The higher rate of early appropriate guilty pleas has resulted in only 5% of pleas of guilty on the first day listed for trial.

## Senior appointments

Holly Kemp, Crown Prosecutor, Janine Lacy, Deputy Solicitor for Public Prosecutions, Lisa Viney and Michael Love, Managing Solicitors were appointed Magistrates. Tanya Smith SC was appointed Acting Senior Crown Prosecutor (from February 2020) and Helen Roberts Acting Deputy Director (from March 2020). This year also saw the appointment of 13 new Acting Crown Prosecutors.

## Business improvement

In April 2019 the Child Sexual Offences Evidence Pilot transitioned into a Program with ongoing funding. The Program now operates in Sydney and Newcastle District Courts. Between 1 July 2019 and 30 June 2020, 127 new matters entered the Program and pre-recordings were completed with complainants in 249 matters. The Program continues to be monitored by the Program Implementation and Monitoring Group which meets regularly.

## Recognising outstanding contribution

This year Natalie Weeks, Managing Solicitor was awarded the Director's Service Excellence Management Award for her encouragement, support, flexibility and mentoring of staff. Miiko Kumar, Sally Shrub and Louise O'Neil were also awarded the Director's Service Excellence Team Award for their dedication and hard work in an exceedingly complex historical sexual assault trial. Another Director's Service

Excellence Team Award was awarded to the solicitors involved in the prosecution of Leonard Warwick (Emily Bennett and Eilish Copelin) for their commitment to one of the most complex trials this Office has ever conducted. A final Director's Service Excellence Team Award was given to the Newcastle Legal Support 'Senior' Team (Wendy Brann, Graeme Roxby and Petra Stoeger) for their consistent high level of service and commitment to this Office over many years.

Individual Director's Awards for Excellence were also awarded to the following staff:

- Monika Knowles, Crown Prosecutor
- Kate Austen, Managing Solicitor
- Ashley Ward, Solicitor
- Shannon Richards, Solicitor
- Dieke Burge, Legal Support Officer.

I thank my Deputy Directors Peter McGrath SC, Huw Baker SC, Tanya Smith SC and Helen Roberts for the ongoing support and dedication to the ODPP. I also thank the Solicitor for Public Prosecutions, Craig Hyland, and the other members of the Solicitor's Executive, Christopher Maxwell QC for his leadership of the Crown Prosecutors and each of the Directors of Corporate Services.

## Looking forward

I look forward to the new challenges and opportunities that next year will bring the ODPP. The COVID-19 pandemic has

accelerated this Office's transition to digital working, AVL appearances and flexible work practices.

Our priorities for the year ahead include:

- maintaining our commitment to negotiating early appropriate guilty pleas
- maintaining the continuity of senior prosecutors in the settling of the appropriate charges and conducting prosecutions
- improving our digital capability through our intranet and case management system
- moving towards a more paperless workplace
- remaining up to date with systems and technologies to enable digital working and flexible work practices.

## Conclusion

It has been a year of unprecedented change and disruption to the usual way of doing business at the ODPP. Nevertheless, we have achieved outstanding results and my staff's dedication to getting on with the job during uncertain times is truly commendable.

**Lloyd Babb SC**  
**Director of Public Prosecutions**

# Report of the Solicitor for Public Prosecutions

Unsurprisingly the year has been one of challenges across the justice sector as it responded, from March 2020, to the coronavirus pandemic and the necessary restrictions imposed on movements and gatherings. The delivery of criminal prosecutions moved to a greater digital medium with the passing of the *COVID-19 Legislation Amendment (Emergency Measures) Act 2020* No 1 which facilitated the taking of evidence through expanded use of pre-recorded hearings of victims and witnesses; increased incidence of judge alone trials; and the extensive use of audio visual links in the presentation of matters before the courts. The Office of the Director of Public Prosecutions (ODPP) having recently undergone extensive structural change as detailed in the past two years Annual Reports, in readiness for the Early Appropriate Guilty Plea Reform (EAGP), was well placed to pivot in a rapidly changing world and prosecution environment. The ODPP's response has enabled us to continue with our service delivery and achieve laudable results in the context of a global pandemic.

## COVID-19

The ODPP's response to the *Public Health (COVID-19 Restrictions on Gathering and Movement) Orders* (PHO) is detailed further in this report however the most notable features of our response were the successful implementation of flexible working arrangements across all ten sites and the rapid transition to a more digital working environment, with appearances via audio visual link and the digitisation

of some of the ODPP's processes. The speed of the transition has paved the way for continuing digital improvements in our work and the ODPP will agitate for continuance of remote appearances by witnesses and staff as there have been demonstrated cost efficiencies in both travel for staff and witnesses, and in witness and staff convenience. Digital means were used internally to ensure continuation of the professional development of all staff; and for managers to remain connected with their groups while staff worked from home. Technology was used in innovative ways to maintain staff engagement and ensure the health and well being of all staff who were remotely working away from the office.

## Results

Despite the challenges, the results for the year are testament to the ODPP's ability to continue its service delivery in difficult circumstances. The historical upward trend continued with a finding of guilt in 89.6% of matters (which was slightly higher than last year); early resolution was achieved in 73.6% of matters (being either finalised in the Local Court or committed for sentence to a higher court); 35% of matters resolved in the Local Court; with 37.1% committed for sentence; and 26.4% committed for trial. The percentage of matters committed for trial was on par with the previous year and 10% fewer than in the 2017/2018 year, testament to the success of the Early Appropriate Guilty Plea Reform (detailed later in this report).



As a consequence of the PHOs, jury trials were suspended in the first half of 2020 which resulted in fewer trial completions (although the number of judge alone trials increased); there were increased sittings in the Court of Criminal Appeal; increased finalisation of sentences in Sydney and Campbelltown District Courts; increased finalisation of District Court Appeals State-wide; and increased finalisation of matters in the Local Court. With fewer matters being listed in the first half of 2020, clearance rates in both the Local and District Courts were however lower than in recent years.

Demand for the services of the Witness Assistance Service continued during the year with additional complexities in service delivery caused by the pandemic. There were 2,922 new referrals, of which 72% related to sexual assault offences. Aboriginal and Torres Strait Islander victims comprised 13% of registered victims.

### **Acknowledgements**

It has been a difficult and challenging year at the ODPP responding and adapting to emergency legislation; changing Public Health Orders; and working in the complex context of the individual responses of stakeholders in the criminal justice system to the pandemic (the courts, Corrective Services, the Office of the Sheriff and Courts, Tribunals and Service Delivery). I thank all staff in the Solicitor's Office for their professionalism and dedication and their commitment to continuing exemplary work in the face of uncertain times through their agility and adaptability.

I thank the Director of Public Prosecutions, Lloyd Babb SC and his Deputy Directors, Peter McGrath SC, Huw Baker SC, Tanya Smith SC, Helen Roberts and the Senior Crown Prosecutor, Christopher Maxwell QC, for their commitment to the ODPP and their guidance to all. I thank all Crown Prosecutors and staff in Corporate Services and the Director's Chambers for their tireless work and dedication.

And finally, I thank my team of Executives and support staff for their efforts over the year to ensure continuance of service delivery to the people of New South Wales.

**Craig Hyland**  
**Solicitor for Public Prosecutions**



# Report of the Senior Crown Prosecutor

The first NSW Crown Prosecutor was appointed in 1830. Today, the Crown Prosecutors of NSW make up the largest 'floor' of criminal barristers in the State. They are counsel who, as Statutory Office holders under the *Crown Prosecutors Act 1986*, appear in criminal proceedings on behalf of the Director of Public Prosecutions instructed by solicitors employed by the Solicitor's Office. In addition, they find bills of indictment in respect of indictable offences, advise the Director in respect of many and varied aspects of criminal law and procedure and carry out other functions of counsel when briefed to do so by the Director.

The majority of criminal jury trials in the District and Supreme Courts and criminal appeals in this State are prosecuted by a Crown Prosecutor. Occasionally they appear at coronial inquests, inquiries under Part 7 of the *Crimes (Appeal and Review) Act 2001* and in unusually complex summary hearings and committal proceedings.

The Crown Prosecutors are some of the most experienced and able criminal barristers in Australia. Their chambers encourage substantial interaction in the finest traditions of the bar and they take great pride in being able to apply their considerable expertise to represent the community of New South Wales independently and fearlessly.

The quality of their performance has been recognised over the years when Crown Prosecutors have been seconded to such organisations as the former Police Integrity Commission, the Independent Commission Against Corruption and the

Public Defenders Chambers. They have also been called upon to work in international humanitarian law arenas, including the Solomon Islands, Afghanistan and the former Yugoslavia. In addition, there are a significant number of former Crown Prosecutors who are Magistrates of the Local Court and Judges of the District and Supreme Courts.

Crown Prosecutors, like all other barristers, are required to hold a current practising certificate issued by the NSW Bar Association. Crown Prosecutors have from time to time been elected to the Bar Council, the executive arm of that body. As members of the Association, Crown Prosecutors contribute to its collegiate life. They participate in continuing professional development programs as advocacy coaches in the Bar Practice Course and sit from time to time on the Council's various committees, including the Professional Conduct Committee.

Crown Prosecutors have Chambers in Sydney, Campbelltown, Dubbo, Gosford, Lismore, Newcastle, Parramatta, Penrith, Wagga Wagga and Wollongong which reflects the spread of trial work throughout the State. Crown Prosecutors in the country often travel long distances to service various circuit sittings of the courts.

There are 101 Crown Prosecutors in NSW. There are 33 female Crown Prosecutors (32.7%).

There were 13 new appointments of Acting Crown Prosecutors during the year.

The following Crown Prosecutors took up appointments during the year:

- Tanya Smith SC, Acting Deputy Director as Acting Senior Crown Prosecutor (from February 2020).
- Helen Roberts, Acting Deputy Senior Crown Prosecutor as Acting Deputy Director of Public Prosecutions (from March 2020).

The COVID-19 pandemic has had a significant impact on the way Crown Prosecutors conduct trials and the number of trials that have been able to take place in the first half of 2020. Jury trials across NSW were temporarily suspended from 16 March 2020, resuming in some locations on 15 June 2020. The Crown Prosecutors have had to continually adapt to the necessary changes to the normal trial procedures, due to the public health measures and the international and interstate travel restrictions. The effort by the Crown Prosecutors during this time has been substantial with the trial listings particularly in Sydney District and Supreme Courts sittings returning to numbers not far short of those in pre-COVID times.


Their performance at this time is emblematic of the enduring efforts of all of the Crown Prosecutors in serving the people of New South Wales.

**Christopher Maxwell QC**  
**Senior Crown Prosecutor**



# Our Vision

A dynamic  
prosecution service  
recognised for its  
excellence and  
leadership



# The Office and the criminal justice system

The Office of the Director of Public Prosecutions (ODPP) is the independent prosecuting authority of New South Wales (NSW).

The Office was created in 1987 by the *Director of Public Prosecutions Act 1986* (the Act) and is responsible for the prosecution of all serious offences committed against the laws of the State on behalf of the people of NSW. Key provisions of the Act are contained in Appendix B.

The Director of Public Prosecutions (DPP) acts independently and impartially. The principal functions of the ODPP are to institute and conduct prosecutions for indictable offences in the Local, District and Supreme Courts; and to conduct appeals arising from those prosecutions, including as the responding party, in any court.

The ODPP advises in, institutes and conducts proceedings in the public interest in accordance with the Director's Prosecution Guidelines. Decisions about criminal prosecutions are made free of inappropriate influence of political, individual or other sectional interests.

The ODPP does not investigate crime – that is the role of investigative agencies such as the NSW Police Force.

The ODPP Head Office is in Sydney. There are three western Sydney offices – Campbelltown, Parramatta and Penrith – and six regional offices – Dubbo, Gosford, Lismore, Newcastle, Wollongong and Wagga Wagga. Solicitors appear and also instruct Crown Prosecutors in courts across NSW in a wide range of matters including:

- trials and pleas of guilty in the District and Supreme Courts
- committal proceedings in the Local Court
- some summary hearings in the Local Court
- appeals in the District Court, Court of Appeal, Court of Criminal Appeal and the High Court.

The ODPP also has a Witness Assistance Service (WAS) in each office. WAS Officers provide information, support and assistance to victims of crime and witnesses in the matters we prosecute.

In the performance of its functions, the DPP and the ODPP operate within the context of the following legislation:

- *Bail Act 2013* (NSW)
- *Children (Criminal Proceedings) Act 1987* (NSW)
- *Crimes (Appeal and Review) Act 2001* (NSW)
- *Crimes (Domestic and Personal Violence) Act 2007* (NSW)
- *Crimes (Sentencing Procedure) Act 1999* (NSW)
- *Crimes Act 1900* (NSW)
- *Criminal Appeal Act 1912* (NSW)
- *Criminal Procedure Act 1986* (NSW)
- *Director of Public Prosecutions Act 1986* (NSW)
- *Drug Court Act 1988* (NSW)
- *Drug Misuse and Trafficking Act 1985* (NSW)
- *Evidence Act 1995* (NSW).



# The ODPP Executive

## **Lloyd Babb SC BA MA LLB** **Director of Public Prosecutions**

Appointed Director of Public Prosecutions in July 2011. Before appointment as DPP, practised as a barrister for 16 years. Worked as a solicitor in private practice and for the ODPP before admission as a barrister. Appointed Crown Prosecutor in 1998. Seconded as Director of the Criminal Law Review Division of the Attorney General's Department between 2003 and 2005 and was an Acting Public Defender 2006 to 2007. Appointed Senior Counsel and Crown Advocate in 2007. Member of the Bar Council of the Bar Association of NSW between 1995 and 2000. NSW's third DPP.

## **Peter McGrath SC BA LLB** **Deputy Director of Public Prosecutions**

Appointed Deputy Director of Public Prosecutions in April 2018. In 1984 commenced at the Commonwealth DPP and then went into practice at the private bar for 20 years, appearing for both defence and prosecution in criminal trials. Appeared in coronial proceedings and before the Police Integrity Commission as counsel assisting or for affected parties. Junior counsel for Corrective Services during ICAC's inquiry into the use of prison informers and appeared for the NSW Police Force during the Wood Royal Commission. Appointed Crown Prosecutor in 2012 and Deputy Senior Public Defender in January 2017. Member of the NSW Bar Association's Professional Conduct Committee and Wellbeing Committee and an instructor with the Australian Advocacy Institute.

## **Huw Baker SC BA Dip Law (LPAB)** **Deputy Director of Public Prosecutions**

Appointed Deputy Director of Public Prosecutions in June 2019. Has been with the ODPP since 1993, when he started as a Legal Clerk in the ODPP Secretariat. Moved on to work as a solicitor and then as a Trial Advocate in both the Sydney and Western Sydney offices. Appointed Crown Prosecutor in 2005 and appeared in some of the ODPP's most complex jury trials in the District and Supreme Courts and as junior counsel in the Supreme Court, Court of Criminal Appeal and the High Court. Appointed Senior Counsel in September 2017 and Acting Deputy Director of Public Prosecutions in March 2018. Prior to his appointment as Acting Deputy Director, was appearing in the Supreme Court and the Court of Criminal Appeal. Has more recently been appearing in the High Court.

## **Tanya Smith SC LLB (First class Hons) BSC** **Acting Deputy Director of Public Prosecutions** (January 2019-February 2020)

Appointed Acting Deputy Director of Public Prosecutions in January 2019. Has been with the ODPP for more than 20 years, starting as a solicitor at Parramatta in April 1998. Has been running trials for more than 14 years and was appointed Crown Prosecutor in January 2007. Was a Deputy Senior Crown Prosecutor for the last three years and has spent a number of years in the Court of Criminal Appeal Unit. Prior to being appointed Acting Deputy Director, was appearing in the Supreme Court and the Court of Criminal Appeal. Appointed Acting Senior Crown Prosecutor in February 2020.

## **Helen Roberts** **Acting Deputy Director of Public Prosecutions**

Appointed Acting Deputy Director of Public Prosecutions in March 2020. Commenced with the ODPP as a Level 1 solicitor in the Advising Unit over 20 years ago. She then held positions as Solicitor Advocate with the NSW Crown Solicitor's Office; Deputy Coroner for the Northern Territory; and Crown Prosecutor with the NT ODPP, before returning to the NSW ODPP. Appointed Crown Prosecutor in July 2010 and ran trials in the District and Supreme Courts for over 10 years, before moving to specialise in appellate work. Appointed Acting Deputy Senior Crown Prosecutor in February 2019. Prior to her appointment as Acting Deputy Director, appointed Acting Deputy Senior Crown Prosecutor with responsibility for the CCA Unit.

## **Christopher Maxwell QC** **Senior Crown Prosecutor**

Appointed Senior Crown Prosecutor in March 2018. Held the position of Deputy Senior Crown Prosecutor (Sydney) for 13 years. Appointed the Chief International Prosecutor for the United Nations Mission in Kosovo between July 2002 and July 2005.

## **Craig Hyland BJURIS LLB GDPA** **Solicitor for Public Prosecutions**

Appointed Solicitor for Public Prosecutions (NSW) in February 2015. In 2009, appointed Solicitor for Public Prosecutions in Victoria. Previously a solicitor, a manager and Senior Executive in the ODPP NSW. Has over 30 years' experience in the criminal justice system. Graduated from the University of NSW with a Bachelor of Laws and a Bachelor of Jurisprudence in May 1985. Holds post graduate qualifications in Public Administration conferred by the University of Sydney in 2007.

# Overview

The legal and strategic direction of the ODPP is set by the Director of Public Prosecutions, who is assisted by three Deputy Directors, the Senior Crown Prosecutor, the Solicitor for Public Prosecutions (SPP), the Executive Board and the Management Committee.

## Director's Chambers and Secretariat

The Director's Chambers comprises a small team of experienced solicitors and legal support staff who provide high level advice and recommendations to the Director and his Deputies. Among the legal matters considered by the Director's Chambers are the termination of prosecutions, possible appeals against judicial rulings or sentences, approval of plea negotiations, the sanction of ex officio counts or the determination of claims for legal professional privilege.

## Crown Prosecutors Chambers

The Crown Prosecutors Chambers is led by the Senior Crown Prosecutor and 14 Deputy Senior Crown Prosecutors (DSCPs). The DSCPs are briefed in the most complex matters. The Sydney Crown Prosecutors Chambers has ten DSCPs. A DSCP based at Parramatta oversees Crown Prosecutors in Greater Western Sydney. Crown Prosecutors at Newcastle, Gosford and Dubbo are led by the Newcastle DSCP, Crown Prosecutors at Wollongong and Wagga Wagga are led by a DSCP based at Wollongong. A DSCP is also based at Lismore.

The Sydney Crown Prosecutors Chambers incorporates a specialised team of Crown Prosecutors who undertake appellate work in the higher courts. The Sydney Crown Prosecutors Chambers also services the work from the Specialised Prosecutions and Public Sector Prosecutions Groups.

## The Solicitor's Office

The Solicitor's Office, which is headed by the SPP, is structured into four regional areas; Sydney, Greater Western Sydney, Northern and Southern. Each of those regions has a Deputy Solicitor who is responsible for the management of the offices, solicitors and legal support staff.

The Greater Western Sydney region comprises the Campbelltown, Parramatta and Penrith offices; the Northern Region the Gosford, Lismore and Newcastle offices; and the Southern Region the offices at Dubbo, Wagga Wagga and Wollongong as well as the Targeted Assistance Group, which provide State-wide assistance.

Each office has local Crown Prosecutors, Solicitor Advocates, solicitors, paralegals, legal support officers and Witness Assistance Officers. The solicitors are responsible for the prosecution of trials, Local Court committals, sentences and District Court appeals in the courts at their office location as well as the circuit District Courts at Albury, Armidale, Bathurst, Bega, Bourke, Broken Hill, Coffs Harbour, Coonamble, Goulburn, Grafton, Griffith, Katoomba, Moree, Nowra, Orange, Parkes, Port Macquarie, Queanbeyan, Tamworth and Taree. ODPP solicitors appear at Local Courts across the State.

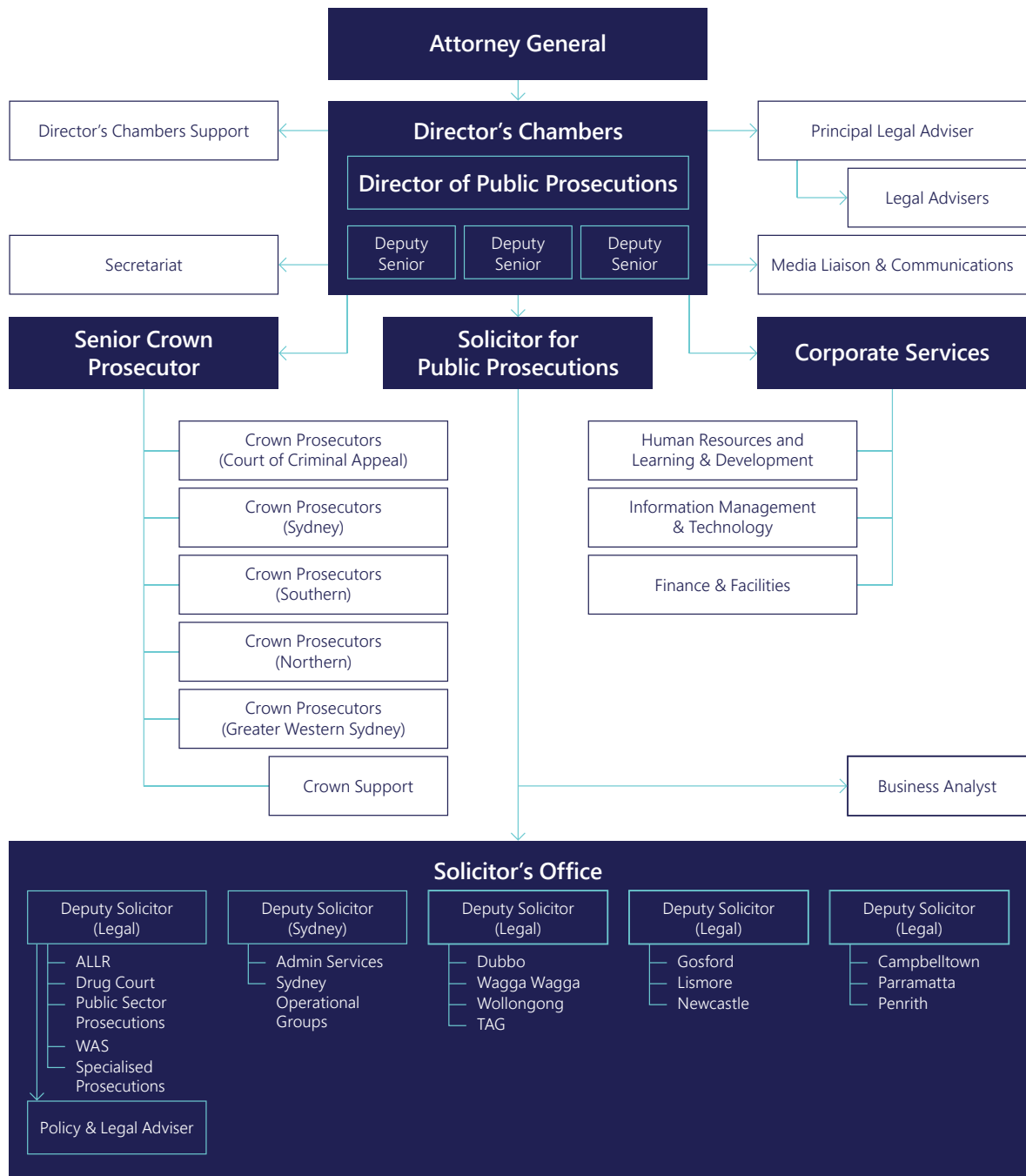
The Solicitor's Office also has several specialised groups located in Sydney, led by the Deputy Solicitor (Legal). Those are the Witness Assistance Service; the Public Sector Prosecutions Unit which prosecutes referrals from ICAC and undertakes confiscation of assets arising from ICAC investigations; the Specialised Prosecutions Group, which prosecute serving police officers, referrals from the Law Enforcement Conduct Commission and high-profile

matters; and the Appellate Litigation and Legal Resources (ALLR) Groups, which prosecute appeals, provide high level legal advice to the Director and represent the Director in interlocutory and other litigation. The Legal Resources and Library is also managed within the ALLR Groups, maintaining a legal library and internet based legal resources. The Deputy Solicitor (Legal) is also responsible for the Drug Court Team, which services the Drug Courts at Parramatta, Sydney and Toronto.

## Corporate Services

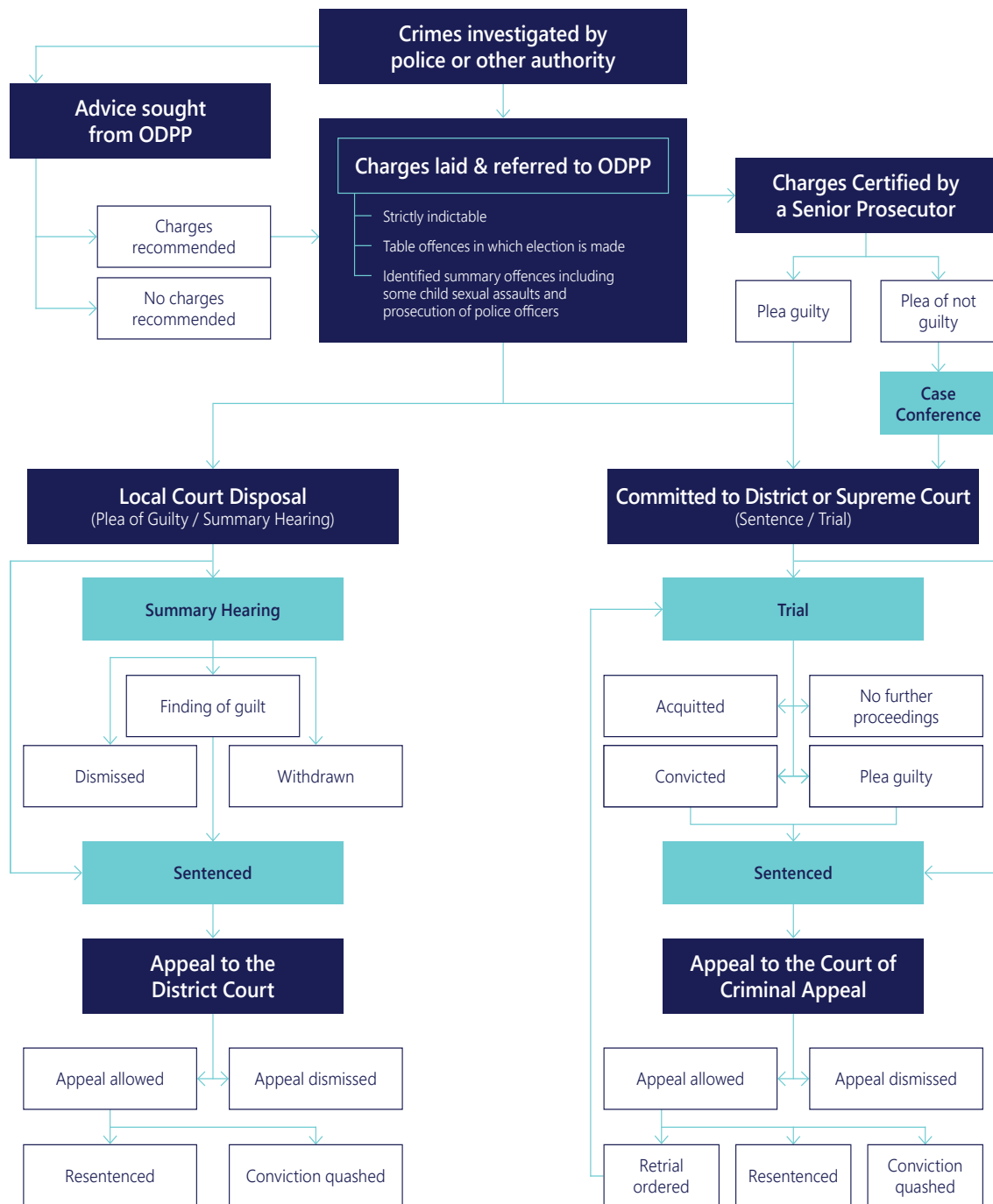
The Office is supported by a Corporate Services Division comprising three groups each led by a Director. Those groups are Human Resources, which includes Learning and Development; Information Management and Technology; and Financial Services and Procurement and Facilities Management. All Corporate Services staff are located in Head Office in Sydney.

# ODPP NSW organisational structure






# Outline of the prosecution process



# Goal 1

Deliver a high  
quality, independent  
and professional  
prosecution service



## Strategies

- Develop and implement ways to provide continuity of representation, active case management and the early disposition of matters
- Develop and implement quality standards to support the prosecution process
- Improve our collection and measurement of data



## Response to COVID-19

**The core business of the ODPP was interrupted by the coronavirus pandemic (COVID-19) in a number of significant ways; scheduled trials and hearings were adjourned, circuit courts were cancelled; all jurisdictions issued new Practice Notes to facilitate remote appearance by solicitors and witnesses; and in accordance with the Stage 3 restrictions introduced, ODPP staff who did not need to be in the office were directed to work from home.**

The ODPP established a core team of senior executives in February 2020 who met weekly to proactively manage the ODPP's response to COVID-19. The Central Recovery Team (CRT), chaired by the Director, monitored and acted on advice from NSW Health and in relation to changed court procedures across all jurisdictions.

In addition, the CRT formulated and constantly reviewed, updated and communicated internal ODPP COVID-19 related policies, available technology and court procedures. This information was communicated through the introduction of a dedicated COVID-19 web page as a central point for all related issues, including health advice and court practices and procedures.

The Director introduced a weekly video message to all staff to keep them updated on recent developments and policy changes.

To ensure the essential services to the courts were maintained and the safety of our staff protected during the pandemic, the ODPP Business Service Delivery Continuity Plan was activated at the beginning of March 2020.

The ODPP Pandemic Service Delivery Continuity Plan, approved in March 2020, outlined processes to be undertaken in the event of suspected exposure. A priority of the CRT was to ensure that the details of this plan were communicated to all staff and consistently implemented across the ODPP.

The ODPP introduced appropriate hygiene and social distancing practices in line with NSW Health advice in relation to cleaning standards for premises and cars and procedures for court appearances in person. Personal protective equipment was purchased and distributed to all offices. A detailed register of all COVID-19 related incidents and potential contacts was maintained to facilitate contact tracing.

A policy addressing external visitors to ODPP premises was introduced. The policy sought to minimise the number of external visitors, and ensure mitigation of any potential risk of infection. Further, staff from other offices were required to seek pre-approval to attend another office for work related purposes. Non-essential face to face meetings were to be conducted digitally and the office actively promoted the use of virtual communication channels for staff meetings and witness conferences.

To support working from home wherever possible, Guidelines for Flexible Working Arrangements were introduced. This included the requirement, for all operational staff, to enter a weekly work plan to ensure that their workload, wellbeing, connection and support were reviewed regularly.

Working from home and the rapid transition from traditional appearances in court in person to appearances by AVL (audio visual link) created its own set of challenges for ODPP staff.

Most ODPP solicitors and WAS Officers were already equipped with laptops and were able to quickly set up home offices. Where additional equipment to improve the ergonomic set up of home offices, such as keyboards and monitors was available, it was provided. However extra laptops and desktop computers had to be procured to facilitate working from home for some staff.

Several meeting rooms and offices across the State were re-purposed and fitted out with AVL facilities to enable virtual court appearances. The experience of appearing in courts by AVL was initially marred by problems with the capacity of the AVL network, as the rapid and significant increase of use by courts, the ODPP and defence lawyers was not envisaged in the original design. Prosecutors not only had to master the technical aspects of connecting to court rooms remotely, they also needed to learn a new type of courtroom etiquette, such as when to speak, when to mute the microphone and how to tender a document. Changes to requirements or processes for virtual court appearances issued by each jurisdiction were communicated and a dedicated resource to assist with any technical AVL issue was available.

The COVID-19 pandemic has also accelerated the ODPP's transition to digital working. Many aspects of ODPP work are digital but other parts are paper based. Working from home saw an increase in the demand to create digital briefs across the Office. In some cases, digital briefs were required by the court, for instance the Court of Criminal Appeal changed its practice to using electronic appeal books. Conversely, some courts required remote appearances and the filing of paper documents in the court registry.

The pandemic also brought a number of challenges for ODPP solicitors and WAS Officers in relation to our interaction with complainants, victims and witnesses. Some

of the challenges, such as how to support complainants giving evidence via AVL, went beyond technical challenges and involved consideration of new ways to perform crucial aspects of the Office's work. The way the Office conducted witness conferences, provided information and updates, and prepared witnesses for court were other areas in which significant adjustment was needed, and made. Lock downs and travel bans, especially where interstate or overseas-based witnesses were involved, and decreased access to court facilities and to dedicated remote witness rooms, presented very great logistical hurdles that could, on occasion, not be overcome. The pandemic also presented challenges related to access to technology for those giving evidence and this, along with a need for professional, in-person support meant that some sexual assault and child sexual assault matters particularly could not proceed at the height of the pandemic.

A short recruitment freeze was implemented and then lifted to align with the imposition and removal of Stage 3 Restrictions with most of the recruitment activity undertaken remotely using new software rather than in person. The process of remote recruitment has demonstrated some efficiency gains and its continued use will be considered in the new year.

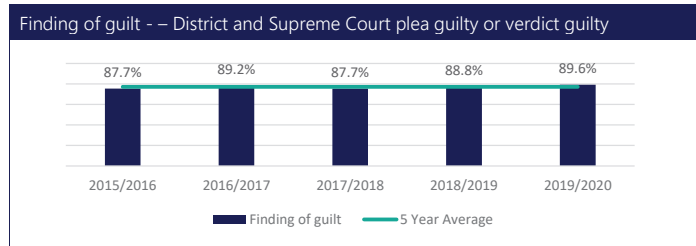
In response to the announcement of the staggered recommencement of jury trials from June 2020, the CRT released a comprehensive Jury Trial Preparation Guide to assist staff and Crown Prosecutors prepare and appear at trials, whilst minimising the risk of exposure to COVID-19 and maintain social distancing throughout the trial. The guide informed procedures for the management of exhibits, appearances of victims and witnesses via AVL and in person, in court procedures and guidance as to procedures to be followed in respect of suspected COVID-19 exposure.

The CRT will continue to meet regularly and provide transparent and timely advice to our staff in respect to changes required to procedures and processes in line with updated NSW Health and government recommendations.

# Achievements

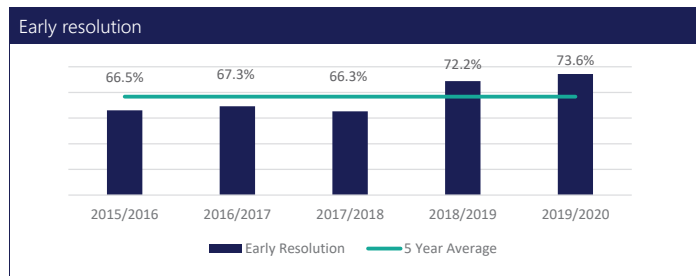
## Finding of guilt

In this reporting period, 89.6% of matters in the District and Supreme Courts resolved in a finding of guilt, either by a plea or verdict of guilty. This is consistent with conviction rates for the previous five years.



## Early resolution

This year, 73.6% of matters were resolved early; either finalised in the Local Court or committed for sentence to a higher court. There has also been a continued increase in Local Court disposal, with the five year average being 69.2%.



## Continuance of the Early Appropriate Guilty Plea Reform

### Background

On 30 April 2018, the Early Appropriate Guilty Plea (EAGP) reform was introduced. The EAGP reform package fundamentally changed the procedures for dealing with committal matters in the Local Court and introduced a statutory sentencing regime in the higher courts. The aim of the reform was to facilitate the entering of appropriate guilty pleas in the early stages of a prosecution.

In preparation for the reform (prior to April 2018) the Office conducted significant internal consultation with staff and established an EAGP Implementation Team which recommended a new staffing structure to be aligned to EAGP processes; underwent a significant workforce restructure in mid-2018; and introduced comprehensive new internal operating procedures covering all aspects of EAGP

operations from registration through brief receipt, file allocation, charge screening and certification to briefing.

The initial wave of EAGP matters received after 30 April 2018 progressed through the Local Court in mid to late 2018. Matters began to be committed for trial or sentence to the higher courts from September 2018. The first EAGP trial was listed in April 2019.

In the past year, the proportion of EAGP matters being conducted by the ODPP has continued to increase to the point where, at 30 June 2020, the proportion of matters on hand which were EAGP matters was 98% of committal, 71% of trial and 91% of sentence matters.

At the same time the ODPP has continued to manage the prosecution of a significant number of legacy matters (matters which were changed under the previous system). At the end of June 2020, 43 legacy committal matters remained in the Local Court, 103 legacy sentence matters and 508 legacy trial matters remained in the District and Supreme Courts.

Over the past twelve months, the ODPP has focussed on refining its operations and workforce structure to support the EAGP system. In so doing it has worked closely with criminal justice stakeholders, both on interagency committees and informally, to streamline and hone the EAGP processes which affect all our agencies.

### EAGP in action

The five key elements of the reform are:

#### 1. Early disclosure of a simplified brief of evidence

At the start of EAGP, an Agreement was signed with NSW Police Force setting out the requirements for the service of an EAGP Brief. Pursuant to the Agreement, police prosecutors appear in a matter until a compliant brief is served. The matter is then adjourned for the filing of a charge certificate, when an ODPP solicitor will appear. As at 30 June 2020, the ODPP had 4,546 EAGP Local Court files on hand.

#### 2. Charge Certification

The certification of charges by a senior prosecutor at an early stage in the proceedings, coupled with the retention

of the matter by the same legal team until completion, aims to produce greater charge certainty and a more positive victim experience throughout the life of a matter. This element of the reform commenced impacting the Office from July 2018. During the financial year, the ODPP has certified 4,563 matters.

### 3. Mandatory criminal case conferencing

Once a charge certificate has been filed, the matter is adjourned for a mandatory criminal case conference attended by prosecution and defence representatives, usually conducted via AVL. For the ODPP, this will involve the attendance of both the solicitor with carriage and the Charge Certifier, usually a Crown Prosecutor or Solicitor Advocate. ODPP and defence solicitors use JUSTConnect, a web-based booking system, to enable video conferencing via AVL studios located in correctional centres. Some matters require more than one case conference. During the financial year approximately 3,800 case conferences were conducted.

### 4. Case management and continuity

Two further features of the EAGP reform are greater case management of matters in the Local Court (replacing the committal decision previously made by a Magistrate) and the continuity of legal representatives from both defence and the prosecution throughout the life of a matter. These features are of particular importance in matters which proceed to trial. During the financial year 1,363 EAGP matters had been committed for trial and 446 EAGP trials had been completed.

### 5. Sentencing discounts

The final element of the EAGP reform is the introduction of a system of fixed sentence discounts in the higher courts based on the timing of the plea. The maximum discount is 25% which is only available to accused persons who enter a plea prior to the committal. Once the matter is in the higher court, the available

discount is 10% where the plea is entered 14 days prior to the first day of trial, or 5% in all other cases. In matters involving extreme culpability, the ODPP can notify the accused at the case conference of an intention to oppose the granting of the level of discount which would ordinarily be available. At the end of this financial year, 1,705 EAGP committal for sentence matters had been completed.

## Internal Monitoring and Advisory Groups

To ensure the success of the EAGP reform, the ODPP established three internal Monitoring and Advisory Groups (MAGs) to track and review the Office's performance in the following key areas:

- Internal Process, Training and Stakeholder Interaction
- Information Management and Technology, Key Performance Indicators and Reporting
- Workload, Workforce, Funding and Recruitment.

The make-up of the MAGs comprises a Deputy Director, members of the Solicitor's Executive, Crown Prosecutors, Managing Solicitors, the Director of Human Resources and staff from support services and the IM&T Branch. The work of the MAGs is overseen by an Executive Leadership Group (ELG), headed by the DPP. Throughout the financial year, the three MAGs have met regularly. Their role is to consider and formulate solutions for issues raised by staff or stakeholders, to monitor EAGP processes, key performance indicators and trends and to report any identified risks or issues to the ELG.

## External stakeholder interaction

The Office plays a key role at an interagency level as a member of both the EAGP Working Group and Steering Committee. In

addition, informal discussions are regularly conducted at senior management level with the NSW Police Force, Legal Aid and the Law Society and others to identify and resolve issues concerning EAGP processes. The ODPP provides the NSW Police Force with a regular bi-monthly report detailing the level of compliance of EAGP briefs served on the ODPP with the Agreement, to assist with training.

## Key Performance Indicators

To assist in monitoring the success of EAGP, the ODPP provides quarterly statistics on various elements of the reform to the Department of Communities and Justice including:

- the proportion of matters requiring additional brief items to be served by police prior to charge certification
- the median number of days between service of a compliant EAGP brief and the filing of the charge certificate
- the number of case conferences held per matter
- the proportion of total matters where ODPP legal representatives have not changed
- the proportion of trials that proceed on the original listing date
- the proportion of trial adjournments due to a party not being ready.

## Results

This financial year 35.9% of matters resolved in the Local Court; 37.1% of matters were committed for sentence and 26.4% of matters were committed for trial. These signs point to the continued success of charge certification and case conferencing in resolving matters at an early stage.

## Local Court workload and outcomes

In 2019/2020, 6,232 committal files were registered, an 18.5% increase on the number registered the previous year. The increase is in part attributable to co-offenders being separately registered for analytical purposes.

A total of 5,340 committal matters were completed in the same year. Of significance is the manner of disposal; 1,918 matters (35.9%) were finalised in the Local Court, 2,066 (37.6%) were committed for sentence to the District Court after the accused pleaded guilty and 1,344 (25.2%) matters were committed for trial to the District Court. The remaining 72 matters (1.3%) were committed for sentence or trial to the Supreme Court.

In comparison, the previous year 33.4% of matters were finalised in the Local Court; 38.8% were committed for sentence to the District Court and 27.8% were committed to the District Court for trial.

Over the last five years, the ODPP has achieved a clearance rate of 98% for Local Court committal matters.

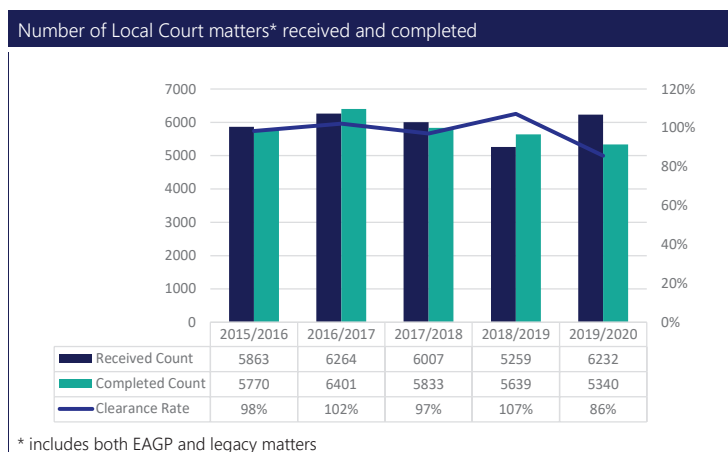
During the 2019/2020 financial year the ODPP had carriage of 491 summary prosecutions. Of the total, 272 matters were less serious child sexual assaults. Under a Memorandum of Understanding with NSW Police Force, the ODPP conducts the prosecution of sexual assault summary matters involving complainants under the age of 16 years.

The average of 91% has been achieved over a five year period for the clearance of summary prosecutions in the Local Court.

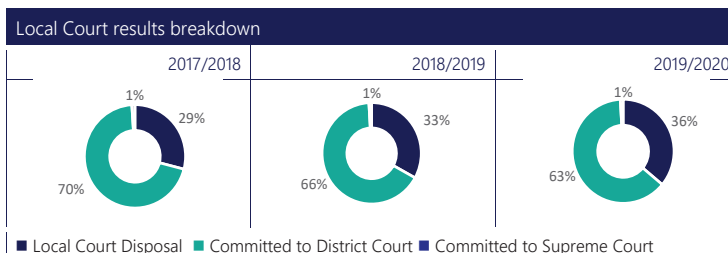
The NSW Police Force referred 4,030 matters in 2019/2020 to the ODPP to consider whether to elect to prosecute them in the District Court instead of proceeding summarily in the Local Court.

EAGP results	2017/2018	2018/2019	2019/2020
Local Court disposal	28.9%	33.4%	35.9%
Committed for sentence*	33.1%	38.8%	37.1%
Committed for trial*	37.9%	27.8%	26.4%

\* includes committal to both District and Supreme Courts



Local Court results		No	%
Local Court disposal	Plea of guilty	1014	19%
	Withdrawn	256	4.8%
	Sentenced following summary hearing	7	0.1%
	Returned to Police	580	10.9%
	Dismissed by the Local Court	33	0.6%
	Referred to the Drug Court	28	0.5%
	<b>Sub total</b>	<b>1918</b>	<b>35.9%</b>
Committed to the District Court	Sentence	2006	37.6%
	Trial	1344	25.2%
	<b>Sub total</b>	<b>3350</b>	<b>62.7%</b>
Committed to the Supreme Court	Sentence	7	0.1%
	Trial	65	1.2%
	<b>Sub total</b>	<b>72</b>	<b>1.3%</b>
<b>Total</b>	<b>5640</b>	<b>100%</b>	





The determination of an election is made by Managing Solicitors by applying the criteria set out in Prosecution Guideline 8 and the Protocol between the NSW Police Force and the ODPP concerning Table 1 and Table 2 Offences. The number of elections referred was an 7% increase on the previous financial year. The ODPP elected in 1,326 matters and took over a further 673 matters on discretionary grounds. These additional matters included the prosecution of serving police officers and serious indictable crimes committed by young persons.

## Inroads into the District Court backlog

### Trials received and completed

A total of 1,228 new trials were registered in the NSW District Court across all venues during the reporting period. This is a decrease from the 1,436 matters the previous year, an overall drop of 14%.

The number of trials completed in the same period was 1,451, that is, 223 (18%) more matters were completed than received. The ODPP has achieved an average clearance rate of 105% over the last five year period for District Court trials.

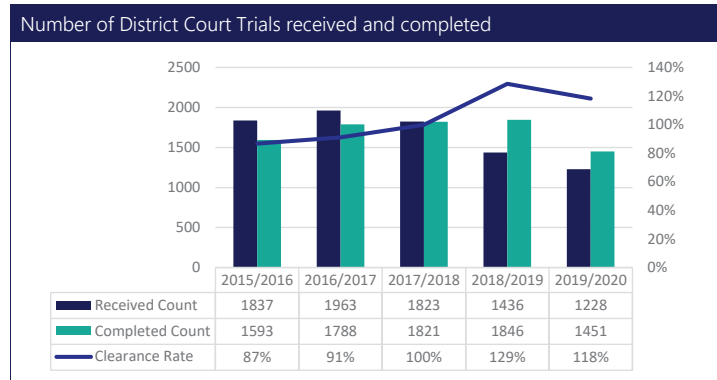
At the end of the financial year, there are 1,928 trials pending in the District Court.

### Trial outcomes

Of the 1,451 matters completed, a total of 749 matters (51.6%) were resolved by way of plea in the District Court; trials proceeded in 548 matters (37.8%); 140 matters (9.6%) were discontinued; and 14 (1%) were dealt with in other ways.

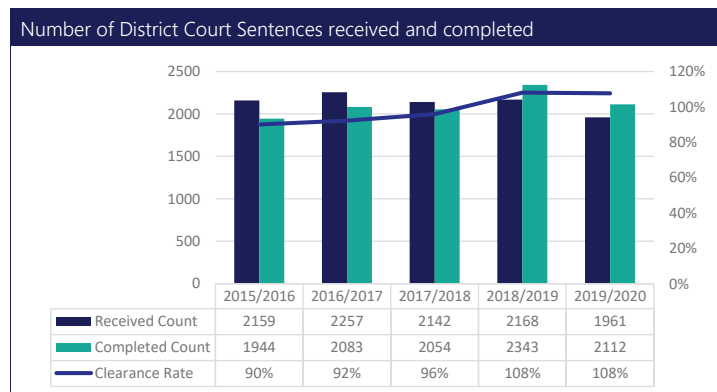
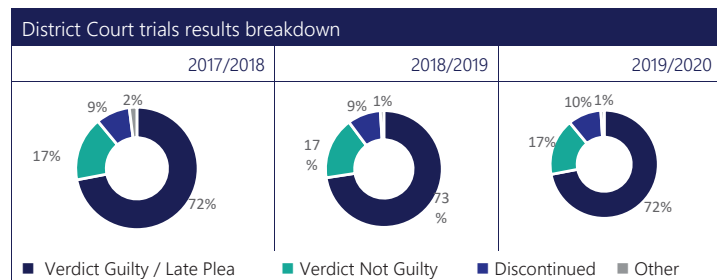
### Special Call Overs

Special Call Overs commenced in 2015 as a District Court initiative to facilitate appropriate pleas of guilty being entered before the first day of trial. The venues for



**Results of District Court trials**

	No	%	
Late plea	749	51.6%	
Trial	Verdict Guilty	299	20.6%
	Verdict Not Guilty	246	17.0%
	Verdict by direction	3	0.2%
Discontinued	140	9.6%	
Other	14	1.0%	
<b>Total</b>	<b>1451</b>	<b>100%</b>	





the call overs are determined by reviewing the number of trials and the delay in obtaining a trial date at venues across the State. Identified trials that appear to have some prospect of negotiation are listed before a designated District Court Judge, usually over the course of a week. A Deputy Director of Public Prosecutions and appointed Public Defenders review the matters, take instructions and engage in discussions to either resolve matters or attempt to narrow issues where possible. The ODPP when entering such discussions, complies with its obligations by consulting and seeking the views of both police and victims.

The benefits of the call overs are that matters are resolved earlier, resources are saved and trial dates freed up in the court diary to list other matters that will proceed to trial, thereby shortening delays and contributing to the reduction in the backlog of trials. Resources that would have been expended on trial preparation by both the prosecution and the defence can be redirected to other matters. Early pleas facilitate a better use of judicial and other resources including those of court registries, the NSW Police Force and Corrective Services. Victims and witnesses are spared the stress of preparing for and giving evidence at a trial. The accused also benefits from an early resolution of matters. Savings in other costs associated with the conduct of trials include payment of jurors and witness expenses.

Seven Special Call Overs were conducted during the reporting period. Through the participation in Special Call Overs, a total of 854 days of District Court time were saved.

### Sentences in the District Court

In this reporting period, 1,961 District Court sentences were registered. In the same period, 2,112 sentences were completed, which is 151 or 7.7% more than received.

The increase in the completion of sentences was due in part to the focused effort of the District Court to process sentence matters whilst jury trials were suspended, particularly in Sydney District Court.

Over the last five years, the ODPP has achieved an average clearance rate of 99% for District Court sentences.

### Appeals from the Local Court to the District Court

The ODPP appears as the respondent in appeals against convictions and sentences imposed by the Local Court. These appeals are heard by a District Court judge.

In 2019/2020, 828 conviction appeals were lodged and 913 finalised across the State. Over the last five years, the ODPP achieved an average 100% clearance rate.

Appeals against the severity of the sentence imposed by the Local Court numbered 4,999, with 5,348 matters disposed of during the year. The five year average clearance rate of severity appeals is 102%.

The Crown lodged appeals against the leniency of the sentence of nine offenders dealt with in the Local Court. One of the appeals was successful, one was withdrawn and the other seven dismissed. Matters are referred to the ODPP for consideration of an appeal by the NSW Police Force.

### District Court case management

The District Court continues to introduce new initiatives and Practice Notes in efforts to increase the efficiency of the parties.

District Court Practice Notes 18 and 19 commenced on 6 April 2020 and applies to all matters committed for trial to the District Court after that date. Practice Note 18 applies to all metropolitan and regional venues that have a full time or permanent Judge residing. Practice Note 19 applies to the remaining circuit sittings.

The Practice Notes were designed to encourage both the Crown and the defence to actively identify and narrow the issues for trial at a much earlier stage of the proceedings. The court case manages the trials to better facilitate this early preparation.

The Practice Notes dictate that an arraignment is to take place four weeks after committal, with the Crown filing a Crown Case Statement and (intended) Indictment, ten days prior.

Readiness Hearings are to be conducted eight weeks before trial with the Crown required to serve a Notice of Prosecution Case six weeks before the Readiness Hearing. Parties are to conduct a pre-trial conference at least two weeks prior to the Readiness Hearing and in response, the Crown is to file a Pre-Trial Conference Form and a Key Issues Statement.

Practice Note 20 commenced on 1 June 2020 and applies to all proceedings committed to the District Court for sentence on or after that date.

The Practice Note sets out procedures for the listing of an arraignment, entering of a plea and the listing for sentence. Standard directions require:

- the Crown to file and serve the Crown Sentence Bundle no later than two weeks prior to the sentence date
- the defence to file and serve any documentary material, including expert reports, to be relied upon on at sentence no later than seven days prior to the sentence date
- the Crown and the defence to file and serve any further documents they rely on and an outline of submissions no later than three days prior to the sentence date.

## Supreme Court workload and outcomes

A total of 72 homicide prosecutions were committed to the Supreme Court in 2019/2020; 65 for trial and seven for sentence. During the same period, 47 matters – 38 trials and nine sentences – were completed. The majority of trials were conducted at the Sydney Supreme Court with trials conducted in the regional centres of Coffs Harbour, Newcastle and Port Macquarie.

ODPP records indicate that there are 85 trials pending in the Supreme Court at the end of the financial year.

The ODPP has achieved an average clearance rate over the last five year period of 94% for Supreme Court trials and 115% for Supreme Court sentences.

## Supreme Court bail applications

Group 8 in the Sydney office conducts bail applications before the Supreme Court of NSW. The applications, heard by a single Supreme Court Judge, are a review of bail determinations made by the lower courts. This financial year the ODPP appeared in 1,977 Supreme Court bail applications. Each bail application is listed in a call over to ascertain if the parties are ready to proceed prior to the court fixing the matter for hearing. This case management practice has resulted in a marked decrease in the number of bail applications ODPP solicitors are ultimately required to prepare and appear in. There was a 10.5% decrease in bail applications heard on the previous financial year.

The Supreme Court, in response to COVID-19, required all submissions to be filed electronically.

## Court of Criminal Appeal

The ALLR Groups had conduct of 287 appeals listed in the Court of Criminal Appeal (CCA) in the reporting period. The Crown was the respondent in 86% of cases; 36 appeals were filed against conviction and sentence; 68 appeals against conviction only (an increase of 74% on the previous year); and 188 appeals against only the sentence imposed by the District Court (an increase of 23% on the previous year). This increase is explained by increased court sittings, each day of the week, during June 2020.

The Crown appealed against the inadequacy of the sentence imposed in the lower court in 19 matters. Of those, 37% were successful and 31% were abandoned.

An interlocutory appeal against a judge's determination during a trial may be brought under s5F of the *Criminal Appeal Act 1912* by either the Crown or defence. These appeals are generally listed with urgency before the CCA to allow the trial to continue without delay. This financial year, eleven s5F appeals were heard (up from six last year), with five lodged by the Crown and six lodged by defence. The Crown was successful in two of its five appeals; defence in two of the other six.

In response to COVID-19, the CCA started sitting almost exclusively via AVL in late March 2020. Appeal books were also filed digitally.

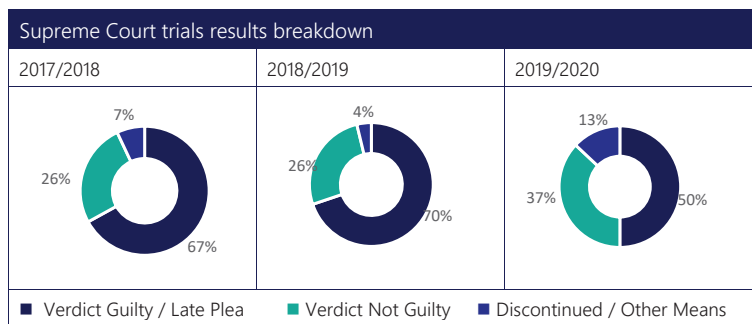
## High Court of Australia workload

This financial year the ODPP was a party to 17 Applications for Special Leave to Appeal to the High Court of Australia (High Court), all made by an offender.

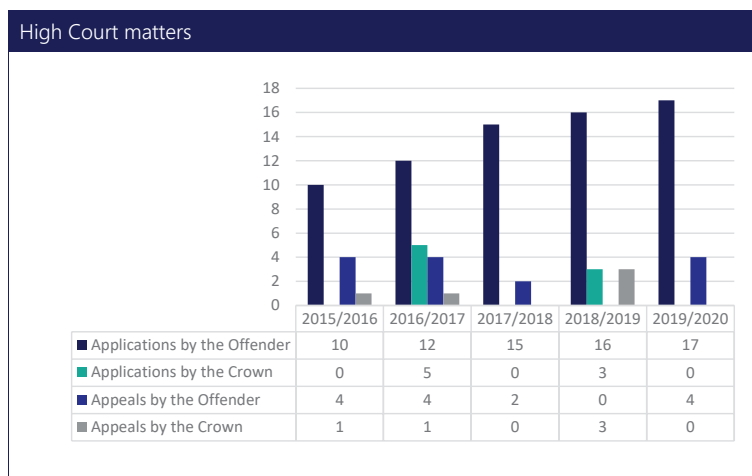
The High Court also delivered judgment in seven appeals in which the ODPP appeared. Those matters were:

- *The Queen v A2; The Queen v Magennis and The Queen v Vaziri* [2019] HCA 35, in which the High Court clarified the terms of the offence of female genital mutilation, allowed the Crown's appeals against the CCA's judgment acquitting each respondent of that offence and remitted each matter to the CCA for further determination.
- *HT v The Queen* [2019] HCA 40, in which the High Court held that the CCA's denial of access by the appellant to confidential evidence taken into account in determining a Crown appeal against the appellant's sentence amounted to a denial of procedural fairness.
- *Kadir v The Queen and Grech v The Queen* [2020] HCA 1, in which the High Court clarified the terms of s 138(3)(h) of the *Evidence Act 1995* in relation to the admissibility of unlawfully or improperly obtained evidence.
- *Swan v The Queen* [2020] HCA 11, in which the High Court held that it was open to a jury to conclude that the appellant had caused the victim's death for the purposes of a charge of murder when the victim's poor quality of life as a result of an attack by the appellant and a co-offender resulted in a decision not to have life-saving surgery after a later incident.

Results of Supreme Court trials		No	%
Late plea		7	18.4%
Trial	Verdict guilty	12	31.6%
	Verdict not guilty	14	36.8%
Discontinued		2	5.3%
Other		3	7.9%
Total		38	100%



Completed Court of Criminal Appeal matters	
Crown s5F appeals	5
Defence s5F appeals	6
Crown inadequacy appeals	17
Defence conviction and sentence appeals	78
Defence sentence appeals	140



## Trial Developmental List

The Trial Developmental List (D-List) continues to support the development of solicitors by providing skills and experience to conduct short and less complex trials in the District Court. As in past years, a fresh expression of interest was called for to refresh the list of solicitors available to be briefed. A significant number of applications were received which is reflective of the interest among the Office in this initiative. As a result of the expression of interest and following consideration of those applications by a panel, a number of new solicitors were added to the list replacing those who were promoted in this period to the Solicitor Advocate role.

There are D-List solicitors in all ten office locations as well as dedicated mentors ranging from Crown Prosecutors to Deputy Directors. The briefing protocol implemented last period strives to ensure consistency and transparency in briefing practices.

A new training program was developed in the second half of this period focusing on the specific skills and knowledge required of this level of advocate. The training program involves multiple sessions delivered monthly throughout the year as opposed to one full day training in previous years. The implementation of the timetable was unfortunately delayed due to the COVID-19 restrictions however is expected to proceed in the next reporting period.

There were fewer suitable matters to brief to D-List solicitors this year. There were two main factors in the reduction of simpler trials considered appropriate for this group of advocates. The first was the EAGP reform which encourages early resolution and secondly, the changes to the Table Offences in the *Criminal Procedure Act 1996* which resulted in more matters being prosecuted summarily.

In summary, 72 trials were identified as being suitable for solicitors on this list. Accused persons entered guilty pleas in 28 of those matters; 16 trials ran to verdict, which provided developmental experience to the solicitors involved. Of those matters that ran to verdict, 50% resulted in guilty verdicts. Although not all the trials ran to verdict, there is much learning to be gained from the preparation of a trial, consideration of the issues in the trial context and through working with an experienced mentor.

## Targeted Assistance Group

This year, the Targeted Assistance Group (TAG) which comprises eight experienced solicitors working full-time, has continued to provide invaluable support to ODPP offices both in metropolitan areas and in the regions. TAG assistance is sought by offices where they are unable to cover court and other commitments due to periods of heightened workload or staff absences. Often, TAG solicitors will be asked to conduct a District Court circuit, instruct a Crown Prosecutor in all of the trials listed at that sitting and appear in Short Matters. TAG solicitors regularly spend extended periods away from home, either working from a regional office or based in the town while a circuit is running. They need to be able to deal with the demands of a previously unknown practice in a busy office, or a circuit, often in challenging environments where they do not have access to the kind of office back-up or collegial support which they are used to.

From mid-March 2020 until June, when the State was locked down due to COVID-19, a decision was made for all TAG solicitors to return to their home offices. They continued to provide much needed assistance to regional and other metropolitan offices remotely, conducting court work online and working on files which were sent to them electronically. When they were permitted to travel again, TAG solicitors responded

positively, and within a short time were once again spread out across the State filling placements at regional offices. Contact is maintained between group members and with their manager by the weekly 'TAG round up', an online team meeting when everyone dials in from their remote location, and by regular messaging on a chat forum.

In total, TAG has provided 377 weeks of assistance to ODPP offices in the past financial year. This is an increase of 90 weeks (31%) on the assistance provided in the last financial year.

## Panel of Non-Salaried Crown Prosecutors

The ODPP continues to brief Non-Salaried Crown Prosecutors (NSCP) that are on the approved NSCP panel created in January 2019. Generally, only those barristers on the approved list are briefed on behalf of the Crown. Some private barristers have been briefed in circuit sittings at regional venues and others have accepted a retainer from the Director for a period of time. In a small number of matters private barristers who did not express an interest have been briefed to ensure the ODPP can service all its court sittings.

Private barristers can now apply to be placed onto the NSCP panel at any time, through the ODPP website.

The ODPP remains committed to the principles of the Equitable Briefing Policy developed by the Law Council. The Policy was adopted by this Office in 2016 and all efforts are being made to contribute to the ultimate aim of briefing women in at least 30 per cent of all matters by 2020. This year, the ODPP briefed 54 private barristers. Of those, 21 (39%) were briefed to women.

## Multimedia Support Unit

The Multimedia Support Unit (MSU), comprising three digital technicians, is based in Sydney Operations and forms part of the Administrative Services Team. The MSU has centralised the editing, conversion and enhancement of all digital material. In response to COVID-19, the MSU's function and service to the organisation has adapted to facilitate remote working conditions. During this time, the sharing of digital material within the organisation had become a logistical challenge, due to the necessity of social distancing and remote working arrangements.

To address these issues, the MSU technicians were set up to operate remotely and arrangements were also made to enable staff to forward requests remotely. The MSU encouraged and facilitated the use of the Multimedia Workspace platform as a content sharing tool. Staff upload material and request a link, which is then shared with other ODPP staff. This approach continues to be invaluable for teams of ODPP staff working on the same matter from different physical locations. This innovation is expected to operate beyond the COVID -19 period.

This year MSU has been involved in the Secure Timeboxed View Project. This IM&T initiative, which uses the Microsoft SharePoint platform, allows the ODPP to remotely share digital material with external parties in a secure way. The MSU's involvement includes preparing material in a compatible format, as well as assisting in administrating the system.

In the financial year, MSU logged a total 5,124 requests. This constituted a reduction of 4% compared to the previous year when a total of 5,335 requests were received. This reduced volume of edit and conversion requests, especially in the second quarter of the year, correlates directly with the suspension of jury trials and the ODPP's response to COVID-19.

The majority of requests this year were made by Head Office (2,470). This number varied only slightly from the 2,475 requests logged in the previous year. One reason for this was because despite a large number of jury trials being suspended, judge alone trials and pre-recording of evidence from child witnesses continued throughout the COVID period in Sydney.

The next highest volume of requests were received from Newcastle (693) and Parramatta (611). However the MSU workload from these two offices increased by approximately 8% and 13% respectively. There were a number of factors that contributed to this increase including a greater confidence of staff in the reliability and speed of the services provided by MSU and also more proactive case management of matters.

In 2019/2020 again the highest number of requests were received in relation to child sexual assault matters (1,474), constituting approximately 29% of total requests. The comparative volume of child sexual assault matter requests remains consistent with 2018/2019, when 1,635 requests were logged. The next two highest volume of requests were received in charge categories of assault (772) and sexual assault (734).

This year, an update to the Multimedia Workspace application was developed, which provides functional improvements to the system and increased storage capacity for multimedia data. The roll-out of this update will be in late October 2020, with additional data migration and infrastructure changes following thereafter. The MSU remains committed to developing efficient systems and improving the quality of service.

# Confiscation of Proceeds of Crime

The ODPP is empowered, pursuant to the *Confiscation of Proceeds of Crime Act 1989* (CoPoCA), to apply for the forfeiture of 'tainted' property or funds proven to be the proceeds of crime. Forfeiture Orders (FO), Pecuniary Penalty Orders (PPO) or Drug Proceeds Orders (DPO) against an accused are pursued by the ODPP.

Applications under CoPoCA must be made within six months of the sentence. In practice, the ODPP makes applications at the same time as the sentence proceedings. The most common types of property forfeited are cash and motor vehicles.

CoPoCA applications - Number, type or order and success rate					
	2015/2016	2016/2017	2017/2018	2018/2019	2019/2020
Number of Orders Applied for (FO, PPO and DPO)	372	433	482	638	352
Number of Orders Granted	360	414	468	626	345
Number of Forfeiture Orders (FO)	346	396	440	594	303
Number of Pecuniary Penalty Orders (PPO)	2	2	6	8	1
Number of Drug Proceeds Orders (DPO)	12	16	22	21	19
Percentage of matters where application was successful	97%	96%	97%	98%	98%
Total estimated value of property confiscated (millions)	\$3.7	\$3.4	\$6.2	\$5.7	\$5.8

# Costs awarded against the Crown

Costs may be awarded against the prosecution in circumstances provided for by various statutes, including the *Criminal Procedure Act 1986*, *Costs in Criminal Cases Act 1967* and the *Crimes (Appeal and Review) Act 2001*.

The common law line of authority from the decision in *R v Mosely* (1992) 29 NSWLR 735 also allows the court to seek an undertaking from the prosecution to pay the accused's reasonable costs in circumstances where the Crown seeks an adjournment of a trial.

The total value of orders made in the below table does not include values under the *Costs in Criminal Cases Act 1967* since, pursuant to that Act, the court does not make an order as to the required amount.

Matters where costs awarded against ODPP					
	2015/2016	2016/2017	2017/2018	2018/2019	2019/2020
<i>Criminal Procedure Act 1986</i>	48	37	17	24	19
<i>Costs in Criminal Cases Act 1967</i>	6	17	24	21	32
Mosely Orders	1	3	3	5	7
<i>Crimes (Appeal and Review) Act 2001</i>	0	0	1	1	8
<i>Crimes (Domestic and Personal Violence) Act 2007</i>	0	0	0	0	2
Total number of orders	55	57	45	51	68
Total value of orders made	\$726,540	\$634,057	\$466,739	\$939,503	\$1,448,271
Number of matters registered by ODPP in period	18,280	19,021	18,167	17,466	16,215
Number of costs awarded where fault of prosecution	9	17	7	6	11
Percentage of matters where costs orders were made due to the conduct of the prosecution	0.05%	0.09%	0.04%	0.03%	0.07%

Matters where costs were awarded on adjournment					
	2015/2016	2016/2017	2017/2018	2018/2019	2019/2020
Mosely Orders	1	3	3	5	7
Adjournment because full brief not served - <i>Criminal Procedure Act 1986</i>	11	2	5	1	0
<i>Criminal Procedure Act 1986</i> - other adjournments	0	0	0	6	6
Other costs orders	43	52	37	39	55
<b>Total</b>	<b>55</b>	<b>57</b>	<b>45</b>	<b>51</b>	<b>68</b>

# Goal 2

Provide a fair, just  
and timely service  
to victims and  
witnesses



## Strategies

- Ensure the services we provide to victims and witnesses are at the core of our work
- Uphold the Charter of Victims' Rights
- Engage in timely communications with victims and witnesses to inform them of the prosecution process

## Witness Assistance Service

The Witness Assistance Service (WAS) is an established part of the ODPP and works closely with legal staff and Crown Prosecutors to assist victims and witnesses involved in the prosecution of criminal offences. The Service is staffed by Witness Assistance Officers who are social workers, psychologists and counsellors based in each of the ODPP offices. The Service assists victims and witnesses of violent or sexual crime and vulnerable witnesses. WAS has developed a range of services to meet the broader needs of victims and witnesses. These include the provision of information about the criminal justice process, victims' rights and crisis counselling; assessment and referral to other agencies; the preparation of witnesses for court; and liaison with ODPP solicitors. WAS Officers aim to reduce re-traumatisation and work to ensure that victims and witness can give their best evidence.

### Interagency activities and networks

WAS values the relationship with external services and has continued its partnership with key agencies including Victims Services, the NSW Police Force, Family and Community Services, sexual assault counselling services, the Education Centre Against Violence and Multicultural Services Australia, among others.

The Service works in close partnership with court support agencies to ensure that comprehensive support is provided to victims and witnesses. These agencies include:

- Victims and Witnesses of Crime Court Support
- Homicide Victims' Support Group
- Mission Australia
- SAMSUN (Survivors & Mates Support Network)
- Victims of Crime Assistance League.

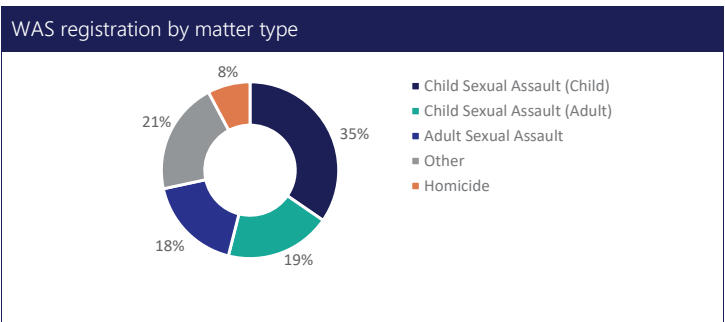
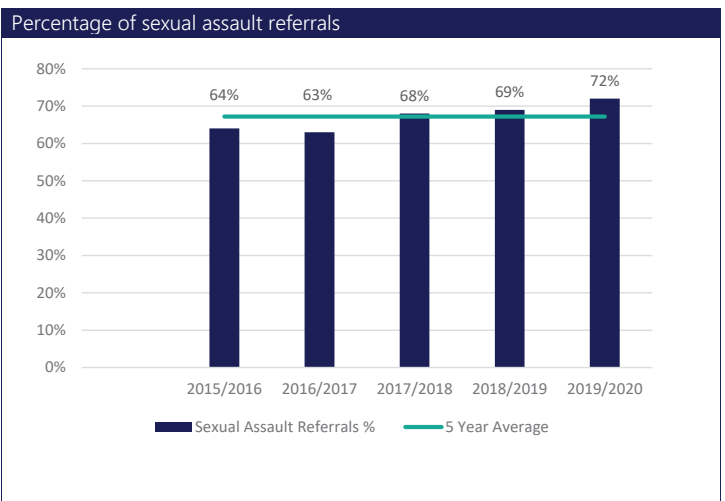
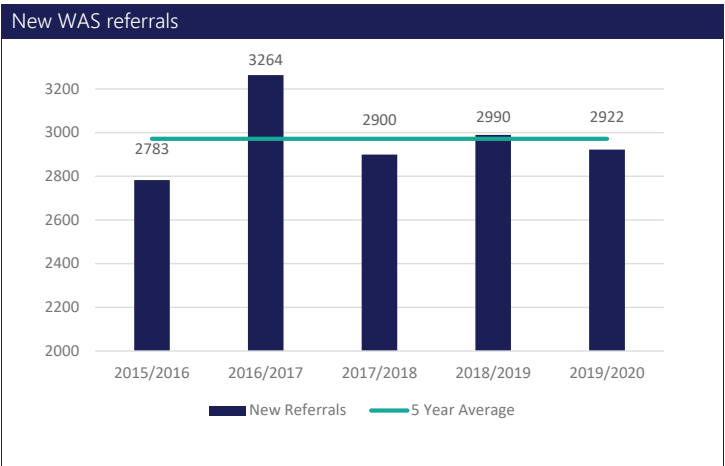
WAS has been part of several taskforces and interagency networks including the Sexual Assault Review Committee, Victims of Crime Interagency Group and the Domestic Violence Reforms Consultation Group.

### National WAS Conference

In August 2019, the Biennial National WAS Conference was held in Darwin, Northern Territory. The aim of the Conference was to explore and develop strategies to enhance the work of WAS across the country. The Conference provided each State the opportunity to discuss how they were responding to the Royal Commission into Institutional Responses to Child Sexual Abuse and to share new models for working. NSW WAS presented on the restructure of WAS and the implementation of two new teams: the Intake team and the Aboriginal and Torres Strait Islander team.

### WAS workload

During the reporting period, there were 2,922 new referrals to WAS, of which 72% related to sexual assault. Identified Aboriginal and Torres Strait Islander victims accounted for 13% of all victims registered.



# Child Sexual Offence Evidence Program

The Child Sexual Offence Evidence Pilot began in March 2016. In April 2019, the Pilot transitioned into a Program and received further funding to June 2022. The Program operates in the Sydney and Newcastle District Courts.

The Program is designed to reduce the stress and trauma of participating in the trial process for child sexual offence complainants and child witnesses who will give evidence for the prosecution. The Program does this in two ways. The child's evidence, including their cross examination, is pre-recorded without a jury being present and well before the remainder of the trial begins. This pre-recorded evidence is then played when the remainder of the trial takes place in lieu of the child attending. Secondly, the child is assessed by a Witness Intermediary who prepares a report on the child's communication needs and then, based on the recommendations made in the report, assists the child to communicate when giving evidence at the pre-recorded hearing.

A pre-recording of a child's evidence is in a less formal setting than a trial court and usually occurs months, or even a year, before the remainder of the trial is listed to begin. This greatly reduces the stress children suffer and lifts the burden of giving evidence at court much earlier than would otherwise be the case.

The use of Witness Intermediaries has enabled child complainants and witnesses to give the best evidence they can and has reduced the stress and distress inherent in giving evidence, including when being cross examined.

The Program continues to be monitored, and its operation improved, by the Program Implementation and Monitoring Group, which meets regularly. Since its inception, there have been several legislative and practical changes to the Program, all designed to better the children's experience of the court system.

Between 1 July 2019 and 30 June 2020, 127 new matters entered the Program; 62 in Sydney and 65 in Newcastle. Pre-recorded hearings were completed by complainants and child witnesses in 249 matters during the year.

Additionally, the NSW Police Force used Witness Intermediaries to assist at the police interview stage 1,040 times during the reporting period. While not all these matters will enter the Program (as some will proceed through courts outside the catchment areas), the use of Witness Intermediaries enables police to conduct the best interviews possible with child complainants and child witnesses.

The ODPP also uses and funds Witness Intermediaries in out of Program matters where the complainant or victim is particularly vulnerable and requires assistance to give the best evidence they can. As such, Witness Intermediaries have assisted complainants in matters that fall outside the Program catchment areas or are not heard in the District Court. Approval is given for the complainant or victim to be assessed by a Witness Intermediary and a report commissioned. The ODPP then applies to have the recommendations in the report reflected in subsequent questioning at trial or hearing. In a small number of matters, the ODPP has also applied to have the Witness Intermediary

assist the complainant or victim when they give evidence in court. Matters within the Program take precedence over out of Program referrals and the granting of an ODPP application is at the discretion of the court. Out of Program referrals have assisted many complainants across the State, who would otherwise not be assisted in this way. This year a total of 53 out of Program referrals were granted by the court in matters prosecuted by the ODPP and 63 matters prosecuted by the NSW Police Force.

Witness Intermediaries were allocated to complainants, victims and witnesses giving evidence in matters conducted in Bega, Broken Hill, Campbelltown, Coffs Harbour, Gosford, Goulburn, Grafton, Lismore, Mt Druitt, Parramatta, Penrith, Queanbeyan, Raymond Terrace, Tamworth, Taree, Wagga Wagga, Wentworth and Wollongong. Witness Intermediaries have also been engaged in matters conducted in the Program locations - Sydney and Newcastle - which fall outside the Program entry criteria.

# Royal Commission Prosecutions

During the year, the Office finalised 11 matters arising from referrals by the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission) to the NSW Police Force.

In those matters, advice was provided in one matter and returned to the NSW Police Force. One offender was deceased. Two offenders were sentenced in the District Court after pleading guilty. Trials were held in six matters, with all offenders found guilty and sentenced in the District Court. One matter had no further proceedings directed.

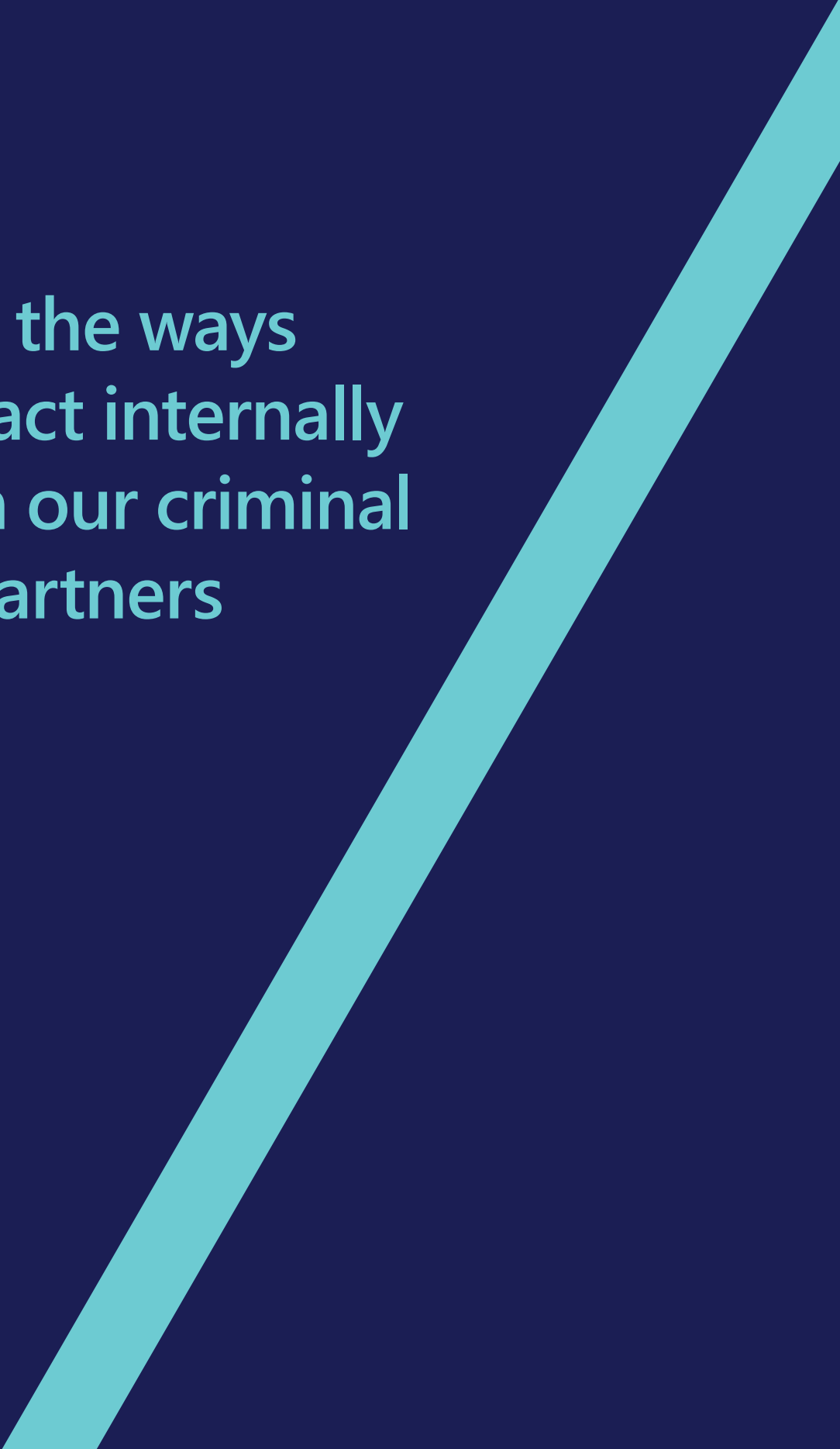
A further nine prosecutions remain active. The Royal Commission commenced hearings in May 2013. There have been 66 ODPF prosecutions as a consequence of referrals from, or evidence given to, the Royal Commission.

Royal Commission prosecutions	2014/2015	2015/2016	2016/2017	2017/2018	2018/2019	2019/2020
Sentenced after trial			1	1	8	6
Sentenced after plea of guilty (LC)			2	1	1	
Sentenced after plea of guilty (DC)	1	2	7	2	9	2
Offender Deceased			1	1		1
No Further Proceedings Directed					2	1
Permanent Stay of Proceedings Granted	1		1		1	
Dismissed / Verdict Not Guilty		1	1			
Returned to Police			1			1
Warrant Issued			1			
Total	2	3	15	5	21	11



# Goal 3

Improve the ways  
we interact internally  
and with our criminal  
justice partners



# Strategies

- Develop and implement better knowledge sharing across the ODPP
- Engage in proactive and strategic communications internally and with the courts, police and defence
- Work with our criminal justice partners to maximise efficiency and innovation
- Engage with government in law and policy reform

## Law Reform

This year the ODPP has worked towards the implementation of a number of legislative amendments that impact on the Office's day to day work. For example:

- The *Evidence Amendment (Tendency and Coincidence) Act 2020* No 8 amended the Evidence Act 1995 in relation to tendency evidence and coincidence evidence. The significant reforms to facilitate the admission of tendency and coincidence evidence in criminal proceedings arise out of recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse.
- The *Justice Legislation Amendment Act 2019* No 10 was assented to on 26 September 2019. The Act contained a number of amendments to a variety of Acts of importance to the ODPP. These included an amendment to the *Crimes (Sentencing Procedure Act) 1999* so that the standard non-parole period for the bushfire arson offence was increased to nine years and an amendment to the *Crimes Act 1900* which clarified that, where there is uncertainty about when a sexual offence occurred and, because of a change in the law/age of the child, the alleged conduct would have constituted more than one sexual offence during the period of the alleged conduct, a person may be prosecuted under whichever offence has the lesser maximum penalty (this was the current law) or, where the offences have the same maximum penalty, under either offence.
- The *Justice Legislation Amendment Act (No 2) 2019* No 20 was assented to on 22 November 2019. The Act contained a number of amendments to a variety of Acts of importance to the ODPP.

These included amendments to the *Crimes Act 1900* included clarifying that a person may commit an offence that involves participation in a criminal group whether or not the person is a member of the criminal group; and extending certain offences related to the theft of motor vehicles and vessels to include trailers. Amendments to the *Criminal Procedure Act 1986* extended the definition of 'prescribed sexual offence' to include the offence of female genital mutilation and an offence of concealing a serious indictable offence if the concealed offence is a prescribed sexual offence. Amendments to the *Criminal Appeal Act 1912* provided a right of appeal for the Crown to the Court of Criminal Appeal in relation to a sentence imposed in respect of a 'back-up' offence; and a new provision was inserted into the *Witness Protection Act 1995* to provide for a person who is or has been a participant in a witness protection program to give evidence by audio-visual link.

- The *Crimes Amendment (Special Care Offences) Act 2020* received assent on 23 June 2020. The Act implemented the recommendations made by the Legislative Council Standing Committee on Law and Justice in its Report No. 66, *Adequacy and scope of special care offences* in August 2019. These amendments expand and clarify the relationship types between young persons and adults to ensure that young people in relationships with adults that involve a power imbalance due to the adult's position of authority relative to the young person are suitably protected; and that innocent, consensual relationships between young people who are over

the age of consent and adults who may be only a few years older than the young person, which do not involve a power disparity due to the adult's position of authority relative to the young person, are not criminalised.

- The *COVID-19 Legislation Amendment (Emergency Measures) Act 2020* No 1 made a number of amendments to criminal legislation to facilitate the conduct of proceedings during the pandemic, including:
  - pre-recorded hearings in the District and Supreme Courts for complainants of a prescribed sexual offence, or a domestic violence offence, or for a serious indictable offence or a complainant or witness whom the court considers to be at significantly greater risk from the COVID-19 pandemic.
  - judge alone trials may be made by a court on its own motion, to order that an accused person be tried by a judge alone only if the accused person (or accused persons in a joint trial) consent and has received legal advice and, if the prosecution objects, if the court considers it is in the interests of justice.
  - the *Evidence (Audio and Audio Visual Links) Act 1998* was amended to make special provisions during the prescribed period for the increased use of audio visual links in court proceedings. The appearance of an accused person is to take place by way of AVL unless the court otherwise directs.

As it does every year, the Office also put forward a number of law reform proposals for consideration by the NSW Parliament. These proposals are identified in a variety



of ways, including being raised by individual ODPP staff members or in conjunction with partner agencies, through the work of committees or working parties, or via case law.

This year the ODPP also made submissions on a range of topics, which included:

#### **Joint Committee on the Independent Commission Against Corruption**

- Reputational impact on an individual being adversely named in the ICAC's investigations

#### **Department of Communities and Justice**

- Review of section 293 *Criminal Procedure Act 1986*
- *Crimes (Sentencing Procedure) Act 1999* section 68 (anomalies raised in *Abel v R* [2020] NSWCCA 82)
- Statutory Review of the *Young Offenders Act 1997*
- Administrative review of the *Bail Act 2013*
- Statutory Review of *Crimes (Serious Crime Prevention Orders Act) 2016*
- Discussion Paper: *Reform to Recognise the Loss of an Unborn Child as a Result of a criminal act.*

The Office participated in many interagency committees, court user groups and working parties, with the aim of progressing the reform of criminal law and implementing new legislation. The interagency fora included:

- Audio Visual Links (AVL) Governance Board
- AV Strategy and Business Links Working Group
- Bail Act Monitoring Group
- Body Worn Video Implementation Committee
- Child Sexual Offence Evidence Program Implementation and Monitoring Group

- Data Analytics Steering Committee
- District Court Backlog Senior Officers Group
- Domestic Violence Review Committee
- EAGP Steering Committee
- EAGP Working Group
- Law Society of NSW Criminal Law and Childrens Law Committees
- Law Society of NSW Diversity and Inclusion and Government Solicitor Committees
- Legislative and Policy review Development Group for Harmful Sexual Behaviours
- Local Court Rule Committee
- Mental Health Forensic Provisions Working Group
- NSW Legal Assistance Forum Working Group on Doli Incapax
- ODPP/Police Liaison Group Meetings (both parent and regional meetings)
- Joint Agency Working Party on Review of the *Child Protection (Offender Registration) Act 2000*
- Sexual Assault Review Committee
- Stronger Communities Diversity and Inclusion Council
- Extremist Material Reforms Agency Review
- Victims Advisory Board.

Additionally, the Office participated in a number of specific interagency meetings designed to address and progress individual law reform proposals, procedural changes, or specific change implementation. These related to areas as diverse as proposals relating to court procedure and the transference of charges between jurisdictions; the design of EAGP related evidence proforma documents; to improvements in interagency understanding of evidence gathering and provision in child abuse material matters. The Office also holds regular meetings with major partner agencies such as NSW Health.



## Interaction

In addition to formal stakeholder engagement, members of senior management regularly correspond and meet with their counterparts in stakeholder agencies including defence, the courts and police to discuss issues of mutual interest and concern. Similarly, local managers frequently engage formally and informally with representatives of courts, local police, police prosecutors and defence in their area of operations. Building these relationships is an essential means of creating an environment of consultation and cooperation which assists the Office in delivering services to the community in an efficient and well-coordinated fashion.

### Training conducted by ODPP solicitors

As in previous years, and prior to the restrictions imposed by the COVID-19 pandemic, senior solicitors at the ODPP conducted regular training for police officers at their dedicated training programs held at the Goulburn Police Academy and at the training unit at Hurstville. The presentations covered such topics as brief preparation, sexual assault prosecutions, interviewing suspects and the role of the ODPP.

ODPP solicitors continued to conduct localised training at regional centres on brief preparation.

Consultation with partner agencies and cross-agency information sharing and training continued in relation to improving the contents of EAGP briefs of evidence and the quality of 'short-form' evidentiary reports.

### Specific COVID-19 interaction

Due to COVID-19, the ODPP also engaged with the Sheriff, court registries and Corrective Services NSW in an effort to understand the challenges the pandemic presented to this area of justice. Regular

information sharing and updating occurred so that ODPP solicitors were fully informed before attending court in relation to bail release and detention applications.

The pandemic also required closer engagement with the NSW Police Force in relation to specific COVID-19 measures they introduced. This included learning about the measures implemented at police stations to keep visitors safe and changes in procedure designed to keep staff safe.

### External engagements

The ODPP also, where able, continued to accept invitations to participate in panels on criminal law and attend Career Fairs at the Universities of NSW, Southern Cross and Newcastle. An ODPP manager attended the Western Sydney High Achievers Awards night in August 2019 and we contributed to the University of Sydney Careers Guide 2020.

### International visitors

The ODPP did not host any international visitors this financial year.

# Committees

## Executive Board

The Executive Board comprises the Director (Chair), three Deputy Directors, Senior Crown Prosecutor, Solicitor for Public Prosecutions, Director Finance and Facilities and Chief Finance Officer, Director Human Resources. The two independent members are Ms Robyn Gray and Mr Kenneth Dixon. The Board meets bi-monthly and minutes of proceedings are kept.

The Board's role is to:

- advise the Director on administrative and managerial aspects of the ODPP to ensure that it operates in a coordinated, effective, economic and efficient manner
- advise the Director on issues relating to strategic planning, management improvement and monitoring performance against strategic plans
- monitor the budgetary performance of the ODPP and advise the Director on improving cost effectiveness
- identify and advise the Director on initiatives for change and improvement in the criminal justice system and
- provide periodic reports on its operations to the Attorney General and report to the Attorney General upon request on any matter relating to the exercise of its functions, or, after consultation with the Attorney General, on any matters it considers appropriate.

## Management Committee

The Management Committee comprises the Director (Chair), three Deputy Directors, Senior Crown Prosecutor, Solicitor for Public Prosecutions, five Deputy Solicitors (Operations and Legal), Director Finance and Facilities and Chief Finance Officer, Director Human Resources and Director Information Management and Technology (IM&T). The Committee meets monthly and minutes of proceedings are kept.

Its primary functions are:

- to report, discuss and determine action on operational and management issues affecting the ODPP, including (but not limited to) workload and resource allocation
- to consider monthly Financial, Human Resources, Information Management and Technology, Facilities, Crown Prosecutor and Solicitor's Office reports and to initiate action where activity related funding and resourcing issues are identified
- to discuss issues affecting major policy decisions and other matters requiring referral to the ODPP Executive Board and
- to serve as a forum for discussion by senior management of any matter affecting the operations of the ODPP, including the activities, challenges and initiatives of the various areas within the Office.

## Audit and Risk Committee

The Audit and Risk Committee, established in accordance with Treasury Policy TPP 15-03, *Internal Audit and Risk Management Policy for the NSW Public Sector*, comprises three independent members selected from the Prequalification Scheme, Audit and Risk Committee Independent Chairs and Members. The members of the Committee are Mr Ian Gillespie (Independent Chair), Mr Alex Smith AM and Ms Robyn Gray (Independent Members).

The Committee's primary objective is to provide independent assistance to the Director by monitoring, reviewing and providing advice on the ODPP's governance processes; risk management and control frameworks; and its external accountability obligations.

The Committee held six meetings during the year. The Deputy Director of Public Prosecutions in his capacity as the Chief Audit Executive, the Deputy Solicitor for Public Prosecutions (Sydney) in her capacity as Chief Risk Officer, the Director, Finance and Facilities and Chief Finance Officer and representatives from the Audit Office of NSW attended the meetings.

In addition, the Director, Human Resources, the Director, Information Management and Technology and the Wellbeing Coordinator attend meetings by invitation.

The Audit and Risk Committee Charter and the Internal Audit Charter have been reviewed and endorsed by the Committee and signed by the Director. In compliance with its Charter and obligations, the Committee's review and advice includes consideration of the following areas:

- risk assessment and management
- endorsement of internal audit plans cognisant of risk assessments
- implementation of internal and external audit recommendations
- financial performance and financial statements
- governance and business continuity frameworks
- workplace health and safety matters
- information management and technology
- emerging statutory requirements and policies and procedures.

During the year, the Risk Management Register continued to be reviewed and a Business Continuity Risk Register was established, specifically to address COVID-19 related issues. The Audit and Risk Committee undertook regular reviews of the risks and the resultant development of necessary controls and actions. The Audit and Risk Committee reviewed the findings arising from internal and external audits and monitored progress in implementing recommendations. The

current endorsed Internal Audit Plan, covers a three-year period to 30 June 2021. Assessment of governance and compliance frameworks included reviews of the Fraud and Corruption Control Plan; the draft Legislative Compliance Framework and related Register; the Work Health and Safety Policy and related Action Plan; and the Cyber Security Action Plan.

The Internal Audit and Risk Management Attestation for 2019/2020 for the ODPP is Appendix F of this Annual Report.

## Information Management Technology Committee

The Information Management Technology Committee (IMTC) is a sub-committee of the ODPP Management Committee and comprises the Director Information Management and Technology (Chair), Solicitor for Public Prosecutions, Director Finance and Facilities and Chief Finance Officer, Deputy Solicitor for Public Prosecutions (Legal), Deputy Solicitor for Public Prosecutions (Sydney), a nominated Crown Prosecutor representative and IM&T Information Security Officer. Minutes of proceedings are kept and published on the ODPP intranet.

The IMTC has the overall responsibility to promote and ensure effective management of information, technology and information security across the ODPP.

The Committee meets quarterly and is the management body convened to:

- assist with the development of corporate and technology strategies and plans to promote and ensure security and the effective use of information and technology in support of the ODPP Digital Working Strategy
- establish and approve information management and technology projects, endorse funding proposals and provide support for allocation of resources for approved projects
- provide advice and recommendations on significant information and communication technology issues
- approve ODPP wide information security policies, guidelines and procedures and ensure that these are adopted within the ODPP
- ensure all critical operational and security issues reported through the incident report process are resolved in a timely manner and avoid recurrence and
- provide senior management support for the development, implementation, ongoing operations and continuous improvement of an operational Information Security Management System.

# Requests and disclosure of information

## Privacy and personal information

In 2019/2020 the ODPP did not receive any applications for access or amendment to personal information and received one privacy internal review under s53 of the *Privacy and Personal Information Protection Act 1998*.

All ODPP staff who received induction training were trained on the practical application of the Act to the prosecution process.

## Public Interest Disclosure

The ODPP has a Public Interest Disclosure Policy in place. There were no disclosures made in 2019/2020 under this Policy.

## Government Information (Public Access) Act 2009

### Agency Name

Office of the Director of Public Prosecutions

### Principal Department

Solicitor's Executive

### Reporting Period

2019/2020

## Obligations under the Government Information (Public Access) Act 2009

### Review of proactive release program – Clause 7(a)

Under section 7 of the *Government Information (Public Access) Act 2009*

(NSW) (the Act), agencies must review their programs for the release of government information to identify the kinds of information that can be made publicly available. This review must be undertaken at least once every 12 months.

Our agency's program for the proactive release of information involves review of material that may be published on the ODPP website. The *ODPP Publication Guide* is available on our website. It details ODPP publications that are available upon request.

### Number of access applications received – Clause 7(b)

During the reporting period, our agency received one formal access application (including withdrawn applications but not invalid applications).

### Number of refused applications for Schedule 1 information – Clause 7(c)

During the reporting period, our agency refused no access applications either wholly or in part because the information requested was information referred to in Schedule 1 to the Act.

### Statistical information about access applications – Clause 7(d) and Schedule 2

During the reporting period, our agency granted one application in part to a member of the public.

There were 19 invalid applications which were requests for excluded information of the agency (s43 of the Act); 16 of those applications were made by a legal representative on behalf of a member of the public.

There were no instances of conclusive presumption of overriding public interest against disclosure, as listed in Schedule 1 of the Act.

No applications were made that required other public interest considerations against disclosure, as listed in the table to s14 of the Act.

All applications were decided within the statutory time frame of 20 days plus any extension.

There were no applications for review under Part 5 of the Act from applicants for access applications or persons to whom information the subject of the access application related (s54 of the Act).

## Obligations under the Terrorism (High Risk Offenders) Act 2017


The primary objective of the *Terrorism (High Risk Offenders) Act 2017* is to provide for the extended supervision and continuing detention of offenders who pose an unacceptable risk of committing serious terrorism offences. The NSW Attorney General may, pursuant to s58 of the Act, request information regarding an offender.

During the reporting period the ODPP received and processed 16 requests for information under this section.



# Goal 4

Develop, recognise  
and celebrate the  
knowledge, skills and  
commitment of our  
people






# Strategies




- Develop and implement a performance management system based on quality standards
- Build a training and development plan to ensure our people have the tools they need to deliver a high quality service
- Develop and implement a mentoring program
- Coach staff in how to manage and lead

# Our People

## Our People

	<ul style="list-style-type: none"> <li>• 798 equivalent full time staff</li> <li>• 12% of staff working part time</li> </ul>
	<ul style="list-style-type: none"> <li>• 67% of staff are women</li> <li>• 32.7% of Crown Prosecutors are women</li> </ul>
	<ul style="list-style-type: none"> <li>• 33 staff received 10 Year Service Awards</li> <li>• 38 staff received 20 Year Service Awards</li> <li>• 19 staff received 30 Year Service Awards</li> </ul>

## Recruitment and Retention of Quality Staff

	<ul style="list-style-type: none"> <li>• 83 new employees; 73% of which are legal support officers</li> <li>• 22% of new starters under the age of 25</li> <li>• 32 years was the average age of new starter</li> </ul>
	<ul style="list-style-type: none"> <li>• 13 Crown Prosecutors were appointed during the year; 7 promotions from within the Solicitor's Office</li> <li>• 21 Solicitor Advocates were appointed during the year; 19 promotions from within the Solicitor's Office</li> </ul>
	<ul style="list-style-type: none"> <li>• 12 staff involved in secondments</li> <li>• Our staff attended 6,825 hours of learning and development</li> </ul>

## Staff numbers

Staff Numbers	30 June 2016	30 June 2017	30 June 2018	30 June 2019	30 June 2020
Statutory appointed and Senior Executive	100	104	108	118	118
Solicitors	370	389	420	454	418
Legal Support Officers*	211	226	237	273	262
<b>Total</b>	<b>681</b>	<b>719</b>	<b>765</b>	<b>845</b>	<b>798</b>

Recruitment Statistics	2015/2016	2016/2017	2017/2018	2018/2019	2019/2020
Senior Executive	2	0	0	1	0
Statutory appointments	1	0	2	1	1
Crown Prosecutors	11	5	7	7	6
Solicitors	44	54	26	58	15
Legal Support Officers*	61	61	59	105	61
<b>Total</b>	<b>119</b>	<b>127</b>	<b>98</b>	<b>172</b>	<b>83</b>

\* Includes Witness Assistance Officer, Legal Development Program Graduates and Corporate Services staff

\*\* As per Workforce Profile, all new starters within the financial year (excludes internal promotions)

## Learning and Development

The ODPP Signature Behaviour, '*Never Stop Learning*', continues to underpin the importance of our people adopting and maintaining a commitment to ongoing learning and development.

COVID-19 impacted the way learning and development was able to be delivered for the second half of the year. Innovative approaches had to be quickly developed and implemented to ensure learning opportunities continued.

### Learning in Action

The Learning and Development intranet site was redesigned and renamed LiA (Learning in Action) with the aim of providing a more contemporary look and user-friendly experience. LiA houses the learning resources, recordings and information needed to ensure our staff continue to develop their legal and business skills and capabilities. LiA is an evolving site that will enable our staff to keep up to date with their professional development.

## Professional development

The major events held throughout the year were the:

- Professional Development Workshops which covered thirteen topic areas including *Ethics & COVID*; *Charge Certification Reports and Identifying Criminal Responsibility*; *Confiscations 101 - Tips on traps for young players*; and *Working with WAS and communicating with victims of crime and vulnerable witnesses - a trauma informed approach*
- Solicitors' Conference – covered a range of topics including *Conferencing: What Really Should You Do?*; *Scientific Investigations of past, present and future drug cooks*.

### Learning Delivery

Prior to the restrictions imposed as a result of the Public Health Orders, NSW Health, most learning delivery involved in person attendances supported by Skype technology to regional offices and individuals. As a

result of the restrictions, the Learning and Development team (the L&D team) implemented various technologies such as Microsoft Teams, Zoom and e-learning content development to deliver learning events. Feedback has been overwhelmingly positive. One of the significant pieces of e-learning content was the development of eight modules designed for new starters to provide corporate induction information accessible from the day of commencement. Another opportunity was the creation and implementation of a suite of professional development resources for legal support and administrative officers. This is now available to all our people on the LiA site.

### Leadership and Management Development Program

The ODPP Leadership and Management Development Program commenced in mid-2019 with the availability of a suite of online resources, Harvard ManageMentor (HMM), from the Harvard Business School. HMM provides access to a diverse range of online learnings with a focus on improving management practices and brings together the latest thinking and proven practices



Learning and Development Category	Sessions	Attendees*	Hours
Advocacy	1	6	30
Business Skills	12	132	733
Solicitors' Conference	8	274	1918
Corporate/Induction	8	112	776
Continuing Professional Development (CPD)	7	77	112
External	36	80	350
Leadership & Management Development	11	162	603
Professional Development	20	2021	2303
<b>Total</b>	<b>103</b>	<b>2,864</b>	<b>6,825</b>

\* Attendee figures include multiple attendance at learning activities including the Professional Development Workshops

Studies Assistance	
Number of studies assistance participants	6
Total study leave days taken	111
Total study assistance reimbursement	\$24,777

from world renown management experts and thought leaders. These resources have also been made available to the Executive and Human Resources managers and business partners.

Developing Managers, was launched in October 2019 with 25 participants including Managing Solicitors, Managers Legal Support, Senior Witness Assistance Officers and Corporate Services managers. The program is aimed at developing the capabilities of people in their first management role and the second program, Emerging Managers, was launched in April 2020 with 26 participants from roles across all areas of the Office for those who wish to move into a management position.

## Health and wellbeing

Throughout the COVID-19 pandemic, the ODPP prioritised the health and safety of staff and all decisions in relation to the ongoing operations of the Office were undertaken with staff safety and wellbeing being the major focus.

The Office closely followed expert advice available from NSW Health and sought advice from senior NSW Health experts on issues specific to the operations of the Office as the pandemic evolved.

### Mental Health First Aid Training

As part of our ongoing commitment to supporting safety and wellbeing across the Office, mental health training was provided to identified staff. The Professional Development Lawyer completed accreditation to become a certified Mental Health First Aid Trainer and delivered training using a combination of learning methods including online workshops and e-learning modules to several members of the ODPP Wellbeing Taskforce. The program will continue to be rolled out more broadly across the Office.

### Wellbeing Taskforce

The Wellbeing Taskforce (WT) was restructured in early 2020. The WT is a cross section of staff from all areas of the Office who provide ongoing advice and feedback around mental health and

wellbeing to the Director. The WT guides future wellbeing related initiatives and activities and the management of emerging issues. The purpose of the WT has also been substantially expanded with all members to undertake Mental Health First Aid training to form a peer-support network for the ODPP. The WT members are to be a first point of contact for colleagues and help facilitate access to support services. This has the dual benefit of providing local resources to staff and providing an objective base of information about the types of issues being raised to enable additional support to be provided as necessary.

### WellCheck Program

The first program in 2018 was very successful and identified several key areas that informed our mental health information and education programs for 2019. The challenge was to maintain a high level of engagement and embed the WellCheck Program into the culture of the ODPP, which was based on initial feedback that the program should not be a 'one off' event.



The 2019 WellCheck Program was again very well received with similar overall participation. One issue that emerged, particularly among junior staff, was the lack of job security. This was subsequently addressed by a number of staff being appointed on an ongoing or permanent basis in late 2019.

Some other key action items following the 2019 WellChecks were:

- more structured support to managers to enable them to provide informed advice about the program to their staff
- the psychologists involved in the program to review previous WellCheck summaries for participants and discuss progress made to facilitate an ongoing conversation around wellbeing and mental health
- the WT to be utilized to promote and encourage increased local participation
- improve mental health awareness for managers and leaders with an emphasis on being able to have wellbeing conversations with staff
- continue to provide detailed information and training in the area of vicarious trauma. Workshops have been very successful but vicarious trauma is and will remain an ongoing risk for the ODPP to manage.

Vicarious Trauma (VT) workshops have been further developed with three modules available including an introductory session; primarily for induction groups and those who have not attended a VT workshop previously; a secondary workshop for those who wish to understand more about vicarious trauma and how to manage it; and a module targeted at managers and executives.

## Healthy Lifestyles Program

The Healthy Lifestyles Program continues to have strong participation. The greatest interest this year was for the flu vaccination program which provided a total of 425 vaccinations across the Office (compared to 350 last year).

The Fitness Passport Program remains popular, despite having been suspended for several months due to COVID-19 restrictions, with some ongoing restrictions remaining. Currently 292 staff members have a Fitness Passport membership (down slightly from 301 last year). The familial aspect of the program has remained steady with 243 family members (partners and dependants) also engaged. Research has shown that if family members are involved in regular exercise participants are more likely to stick to their exercise plans.

## Workers compensation

The Office continues to emphasise prevention and early intervention strategies to effectively manage workers compensation claims.

There has been an increase in the number of claims made in 2019/2020 with seven new claims lodged. There has been no consistent theme or pattern to the injuries, with most being exacerbations of existing injuries.

## Workplace support

Average sick leave for the Office for this year was 5.41 days, consistent with last year (which remains below the public sector average).

The Office continues to ensure that injured workers are returned to work as soon as they are deemed medically fit to resume duties and has maintained its 100% record

with respect to managing injured workers within statutory time frames during the reporting period.

## People Matter Employee Survey

The L&D team worked with the Director to facilitate a series of presentations on the People Matter Employee Survey (PMES) results across all ODPP offices and coordinated a collection of PMES action planning workshops. These workshops provided local staff the opportunity to participate in the development of local action plans to address areas of greatest concern.

## Awards for Excellence

Natalie Weekes, Managing Solicitor was awarded the Director's Service Excellence Management Award for her contributions of encouragement, support, flexibility and mentoring of staff.

The team involved in the prosecution of Anthony Donovan (Miiko Kumar, Crown Prosecutor, Sally Shrub, solicitor and Louise O'Neill, Senior Witness Assistance Officer) were awarded the Director's Service Excellence Team Award for their dedication and hard work in the prosecution of a complex historical child sexual assault trial. The offences occurred during the 1970s and 1980s and involved 11 complainants from an extended Aboriginal family on the NSW North Coast.

The team involved in the prosecution of Leonard Warwick (solicitors Emily Bennett and Elish Copelin) were awarded the Director's Service Excellence Team Award for their professionalism, dedication and commitment in the conduct of one of the most complex trials, the 'family court bomber', the Office has ever prosecuted.

The Newcastle Legal Support 'Senior' Team (Wendy Brann, Graeme Roxby and Petra Stoeger) were awarded the Director's

Service Excellence Team Award for their consistent high level of service to the Office over many years (with more than 90 years of combined service between them).

Individual Director's Service Excellence Awards were presented to the following staff:

- Monika Knowles, Crown Prosecutor in recognition of her exceptional work, continued commitment to mentoring and leading by example in her work ethic, demeanour and approachability
- Kate Austen, Solicitor Parramatta, for her dedication and commitment to improving the knowledge and skills of junior solicitors
- Ashley Ward, Solicitor Penrith, for managing her committal practice, instructing and conducting Short Matters and the Bathurst court practice, whilst maintaining a positive outlook
- Shannon Richards, Solicitor Sydney, for his mentoring and providing training sessions to colleagues and management of a large complex practice
- Dieke Burge, Legal Support Officer EAGP Project Team for her ingenuity, dedication and innovation with complex EAGP reporting and her high standard of work exceeding expectations.

## Service Awards

We are proud of the 90 staff who were awarded recognition for their service to the Office:

- 33 staff received a 10 Year Service Award
- 38 staff received a 20 Year Service Award
- 19 staff received a 30 Year Service Award.

## Appointments to the Bench

In the year Holly Kemp, Crown Prosecutor; Janine Lacy, Deputy Solicitor for Public Prosecutions; Lisa Viney and Michael Love, Managing Solicitors and Jill Kiely solicitor, were appointed as Magistrates.

## Crown Prosecutor appointments

Thirteen new Crown Prosecutors were appointed during the year, seven (54%) of these were promotions from within the Solicitor's Office.

## Solicitor Advocate appointments

During the year, 21 Solicitor Advocates were appointed, 19 (90%) of these were promotions from within the Solicitor's Office.

## Secondments

The Office continues to actively promote, support and encourage staff to participate in secondment opportunities where available. During the year, 12 staff were involved in secondments across the public sector. The benefits of the different perspectives and experiences have allowed these staff to develop capabilities, skills and knowledge that can be shared more broadly upon their return through internal training and mentoring sessions.



# Diversity and Inclusion and Statutory Compliance

## Diversity and Inclusion

In this period, the ODPP continued to work towards becoming a diverse and inclusive organisation.

The ODPP Diversity and Inclusion Working Group (the Working Group) met regularly throughout the year and welcomed a number of new members following an expression of interest.

The Working Group has driven several key initiatives to promote diversity and inclusion at the ODPP. The Working Group also met with external stakeholders to obtain expert advice and to work on collaborations to promote diversity more broadly.

The ODPP continues to meet its commitment to the Multicultural Policies and Services Program (MPSP) by providing high quality accessible services to the people of NSW. In line with the MPSP, the Office's key strategies were informed by the four identified focus areas: Service Delivery, Planning, Leadership and Engagement.

The ODPP is pleased to report the following achievements from the Working Group from this period:

### Reconciliation Action Plan

The Working Group continued to deliver on the Office's inaugural Reconciliation Action Plan (RAP). The implementation of the RAP was a significant step in the ODPP's path towards reconciliation.

The artwork commissioned for the RAP from Aboriginal man Luke Penrith named *Lore, Culture, Language* is a story depicting the intertwining journey of customary lore and mainstream law. The original painting is hung in the Sydney office and duplicates

are displayed in each office together with a plaque acknowledging the artist. The Working Group commenced work on a new RAP for the Office throughout this period to further build on the achievements to date. It is anticipated that the new RAP will be ready for implementation in the next period.

### Aboriginal Cultural Awareness training

Aboriginal Cultural Awareness training was implemented in the last reporting period pursuant to the outcome deliverables in the RAP. Further sessions were conducted in this period allowing more staff to participate in the face to face training. The Learning and Development team worked with the Working Group throughout the year to develop the next phase of Aboriginal Cultural Awareness training which will focus on communication.

### Disability Awareness training

In line with the ODPP's commitment to building an inclusive and safe workplace for people with disability, eLearning modules were developed. These training modules were based on material provided by the Public Service Commission and are available to all staff on demand. There are separate modules for managers and for team members.

### Culturally significant events

This year we participated in National Reconciliation Week by distributing information, resources and promotional material. The Working Group sent out promotional posters to all ODPP offices and implemented an email banner displayed on all emails throughout the week. An article was also posted on the Intranet

acknowledging the significance of the celebration and providing details of online events being hosted by Reconciliation Australia.

NAIDOC week was celebrated in a similar way with promotional resources being sent to each office and an email banner being added to our email signatures to create greater awareness. An intranet article with links to events being held throughout the State was also posted as well as a link to the *'Uluru Statement from the Heart'* which is the source of the elements of the 2019 theme *'Voice, Treaty, Truth'*.

We were also pleased to host Welcome to Country ceremonies at both the annual Solicitor's Professional Development Workshops and Solicitors Conference. Arranging those presentations are in line with the Welcome to Country Protocol which was released last reporting period.

### International Women's Day event

The Office held an International Women's Day celebration again this year with a breakfast event. The event was hosted by Tanya Smith SC, Deputy Director who shared her own experiences around the theme of *'Each for Equal'*. An inspiring keynote address was delivered by Judge Dina Yehia SC who was appointed a Judge of the District Court of NSW in 2014. Her Honour is Chairperson of the Walama Court Working Group and Diverse Women in Law, as well as a Council Member of the Australian Institute of Judicial Administration and the National Judicial College of Australia. The address was broadcast to all regional offices who held simultaneous events.

## International Day of People with Disability

International Day of People with Disability (IDPwD) was celebrated on 3 December 2019. IDPwD is sanctioned by the United Nations and aims to increase public awareness, understanding and acceptance of people with disability and celebrate their achievements and contributions.

The theme for International Day of People with Disability for 2019 was '*Promoting the participation of persons with disabilities and their leadership: taking action on the 2030 Development Agenda*'. The theme focuses on the empowerment of persons with disabilities for inclusive, equitable and sustainable development.

In support of IDPwD, a banner was placed under all ODPP email signatures and members of the Working Group attended two events centred around disability and inclusive practices. These events were hosted by the Public Service Commission and NSW Law Society respectively and provided useful information and context that will inform the drafting of the ODPP's Disability Inclusion Action Plan. This plan was worked on by the Working Group this period and is expected now to be launched in the next period.

## Diversity and Inclusion intranet page

The Diversity and Inclusion intranet page continue to be developed this period. This page contains a calendar with various cultural events and occasions. The page also contains links to relevant policies, the RAP and image of the artwork.

## Supply Nation

The Office prioritised the use of Supply Nation organisations and Aboriginal and Torres Strait Islander suppliers across a number of disciplines including construction and maintenance, training, stores and catering.

## NSW Women Lawyers Achievement Awards

This year the ODPP actively promoted the NSW Women Lawyers Achievement Awards, which recognise and celebrate the achievements of outstanding women lawyers, mentors and firms that have achieved excellence in their area of practice. Two solicitors from the ODPP were nominated and were finalists for these awards.

## Learning and Development

The ODPP's eLearning content guidelines have now been designed to ensure that staff with vision impairment are able to access the content of any learning module produced.

Induction training throughout the year included information on the ODPP's policies on *Dignity and Respect in the Workplace* and *Workplace Relations (Building a Harassment Free Workplace)*.

## Witness Assistance Service

WAS recognises the unique needs of Aboriginal and Torres Strait Islanders victims and witnesses within the legal system. Culturally appropriate service and support is achieved through the provision of Aboriginal Witness Assistance Officers across NSW.

All witnesses and victims are entitled to access free interpreter services and the Office consistently ensures that these entitlements are met. Victims and witnesses with disability are an important group prioritised by WAS, which continues to provide case management services to those with identified disabilities. The Office is also committed to providing training for all staff to ensure they are familiar with the law, so that victims and witnesses with disability are given every opportunity available.

## Consumer response

The ODPP has comprehensive, published written policies for decision making and consultation with victims and police, including the Charter of Victims' Rights, Prosecution Guideline 19 and s35A of the *Crimes (Sentencing Procedure) Act 1999*. A Complaints Policy, the formal procedure for handling complaints, is published on the ODPP's website.

A record is kept of all complaints made about the Office. During the year 29 complaints were received. Of those, eleven related to the conduct of a member of staff, nine related to the outcome of proceedings, two were requests for the reasons for a decision, two requested that a decision be reviewed, two related to communication, and there were single complaints about a Prosecution Guideline, breach of the Victims' Charter and a trial not proceeding due to COVID-19.

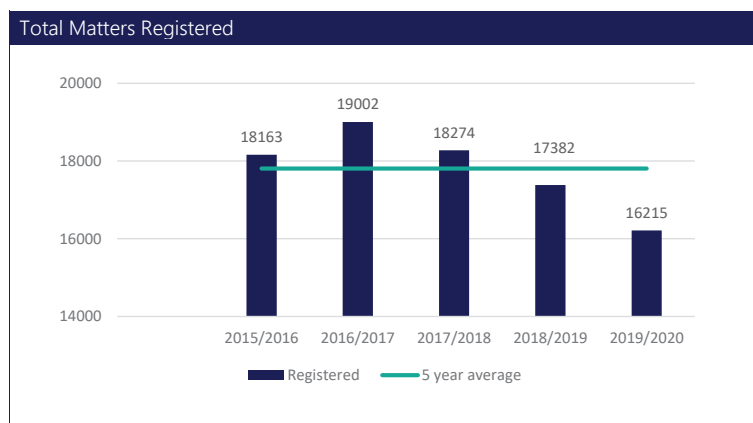
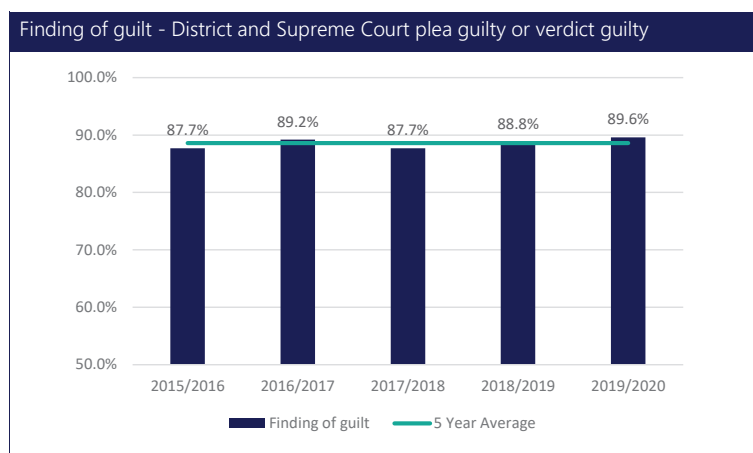
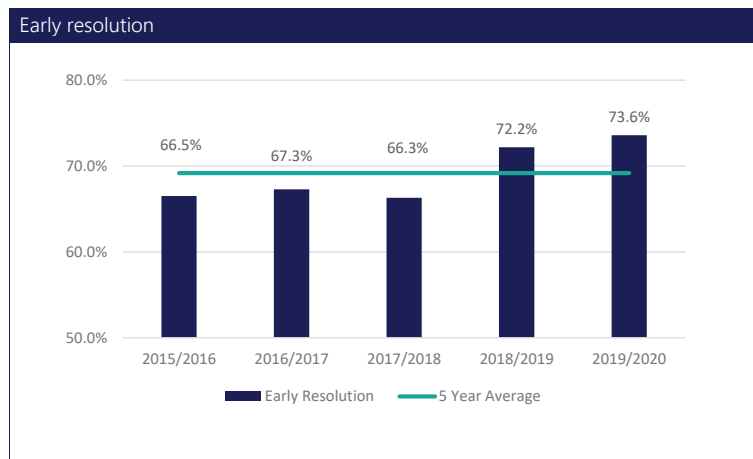
All complaints received were dealt with internally in accordance with the Complaints Policy and responses sent to those who made complaints. During the reporting period it was not necessary to amend any procedures in response to a complaint.



# Appendix

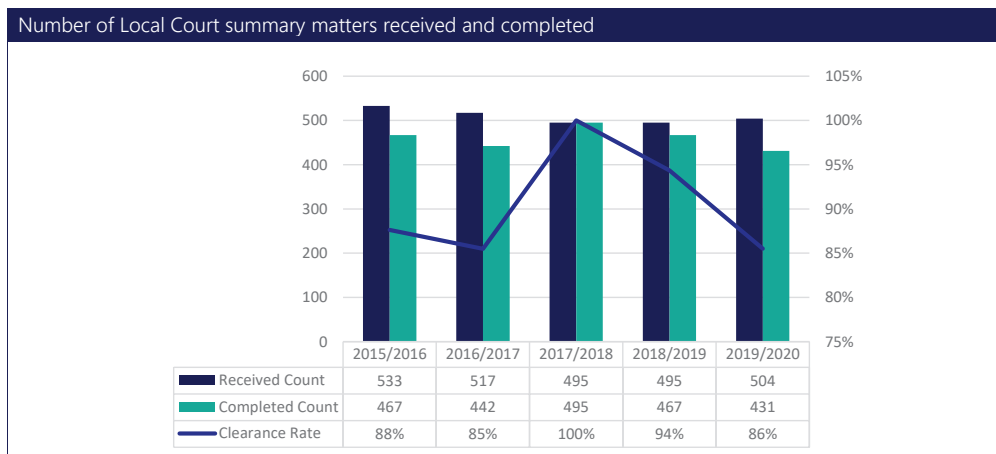
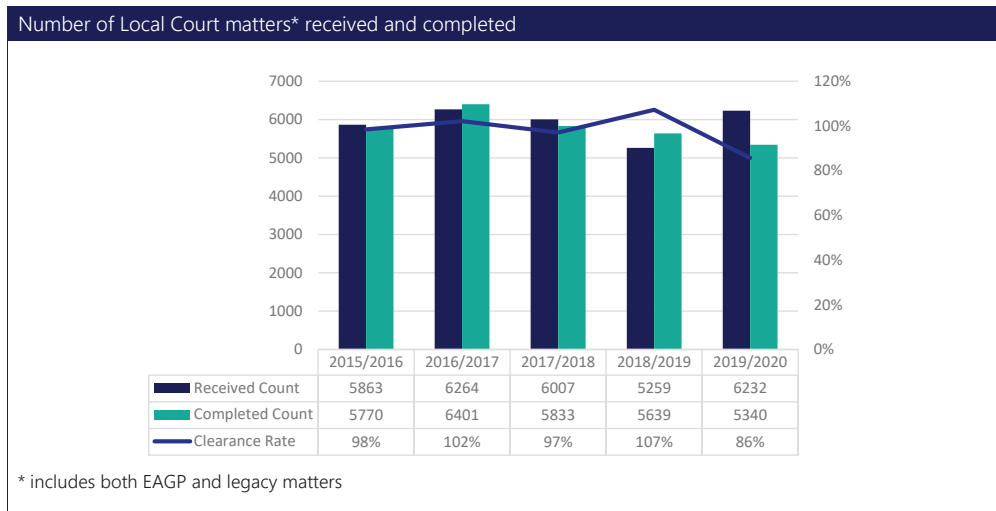
# Appendix A

## Productivity statistics



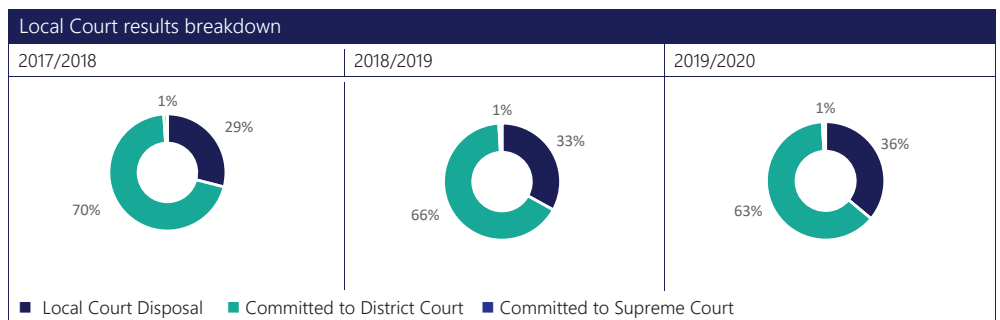
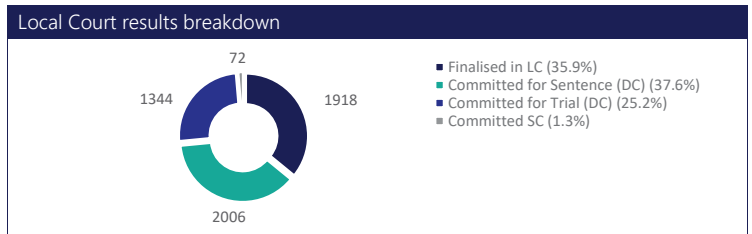
EAGP results	2017/2018	2018/2019	2019/2020
Local Court disposal	28.9%	33.4%	35.9%
Committed for sentence*	33.1%	38.8%	37.1%
Committed for trial*	37.9%	27.8%	26.4%

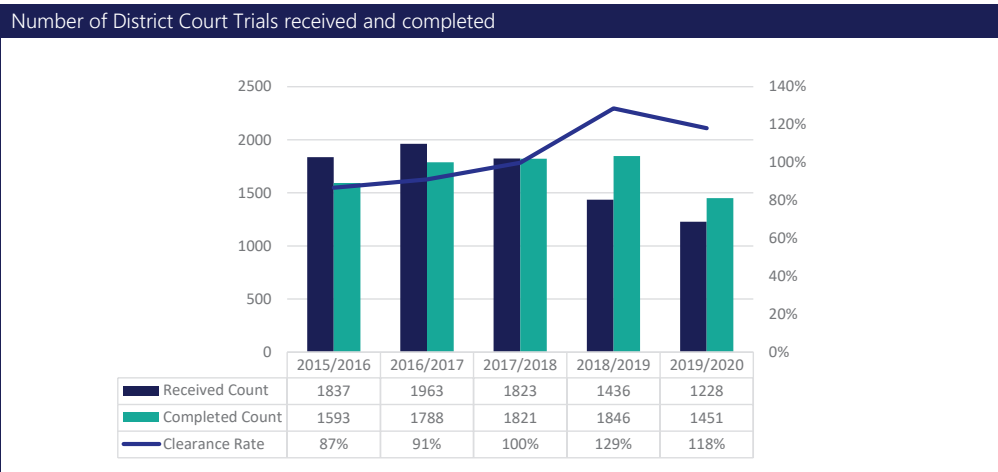
\* includes committal to both District and Supreme Courts





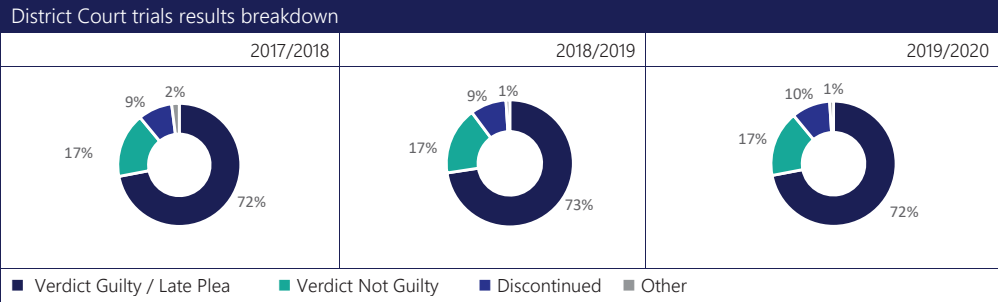
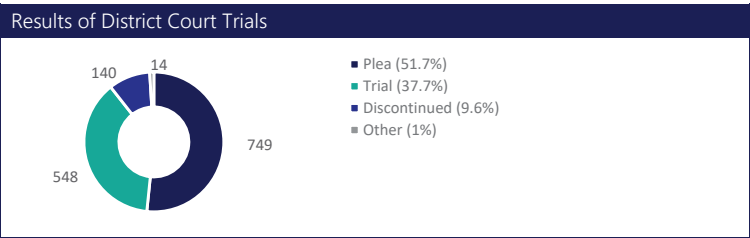
Local Court results		No	%
Local Court disposal	Plea of guilty	1014	19%
	Withdrawn	256	4.8%
	Sentenced following summary hearing	7	0.1%
	Returned to Police	580	10.9%
	Dismissed by the Local Court	33	0.6%
	Referred to the Drug Court	28	0.5%
	<b>Sub total</b>	<b>1918</b>	<b>35.9%</b>
Committed to the District Court	Sentence	2006	37.6%
	Trial	1344	25.2%
	<b>Sub total</b>	<b>3350</b>	<b>62.7%</b>
Committed to the Supreme Court	Sentence	7	0.1%
	Trial	65	1.2%
	<b>Sub total</b>	<b>72</b>	<b>1.3%</b>
<b>Total</b>	<b>5640</b>	<b>100%</b>	



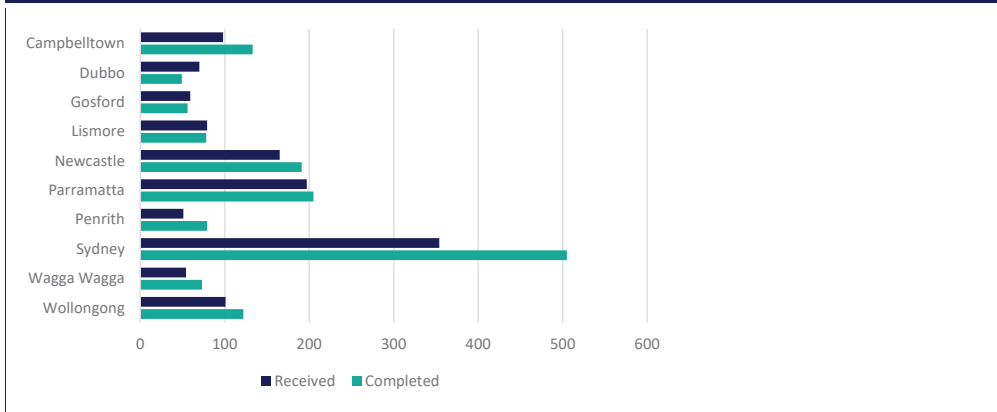


### Results of District Court trials

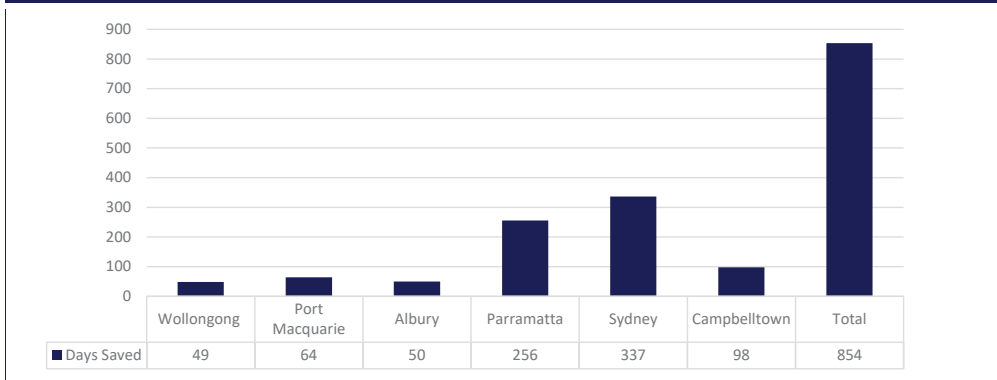
		No	%
Late plea		749	51.6%
Trial	Verdict Guilty	299	20.6%
	Verdict Not Guilty	246	17.0%
	Verdict by direction	3	0.2%
Discontinued		140	9.6%
Other		14	1.0%
<b>Total</b>		<b>1451</b>	<b>100%</b>



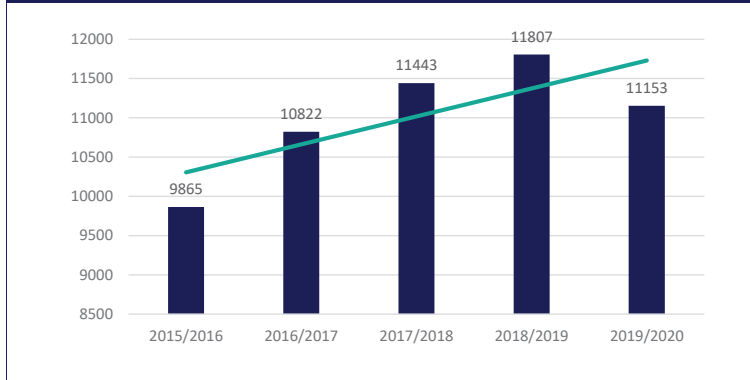
Number of District Court Trials received and completed (by location)

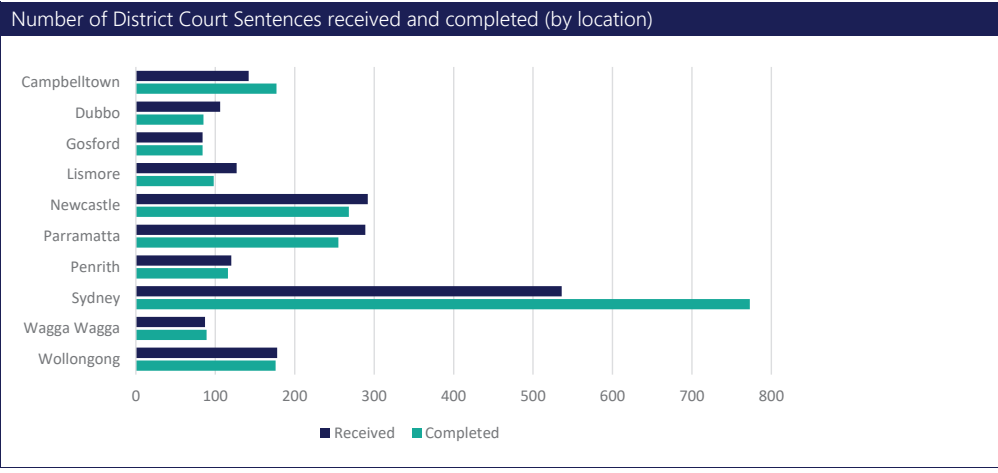
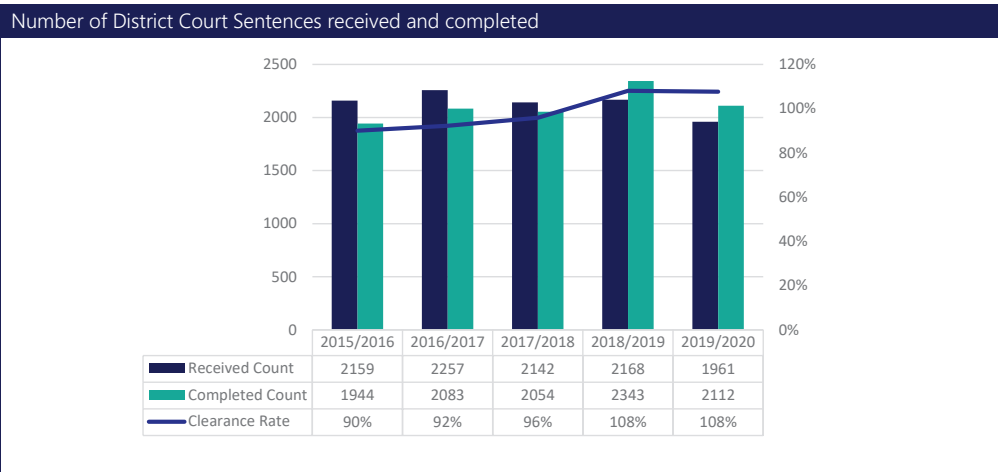


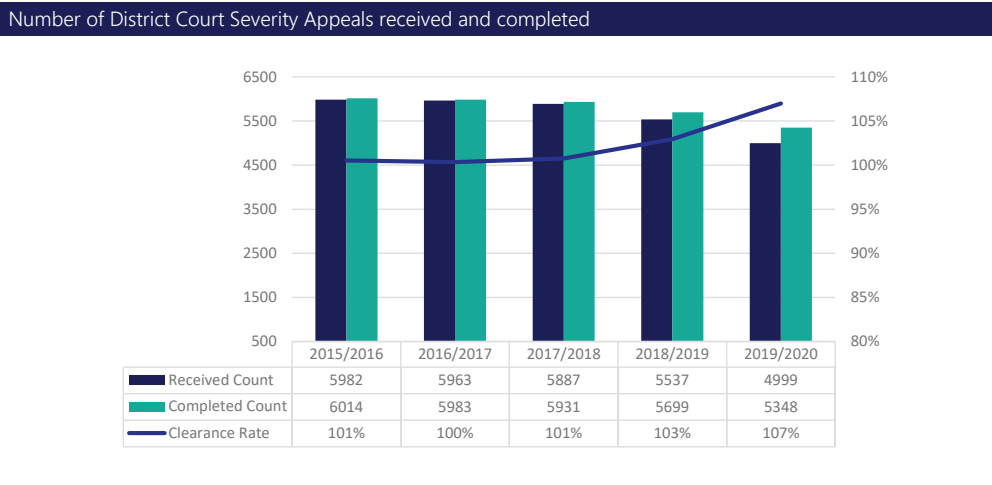
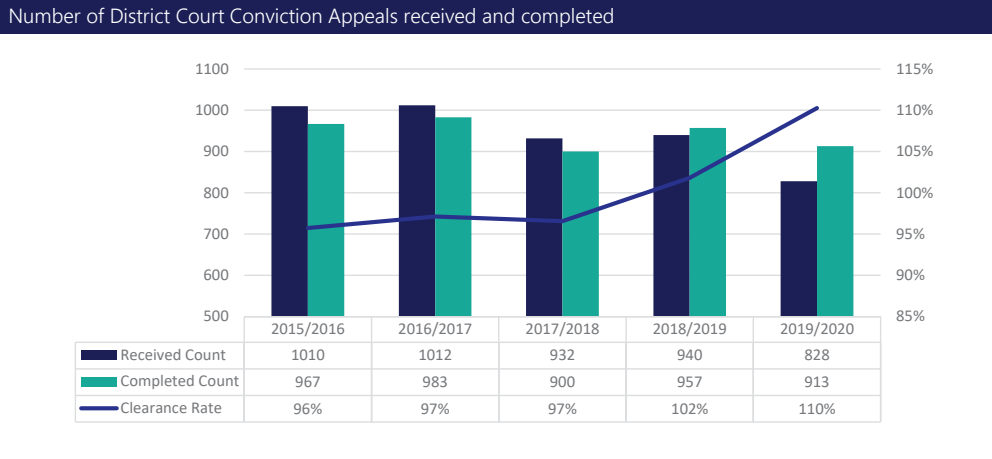
Special Call Overs – District Court Days Saved

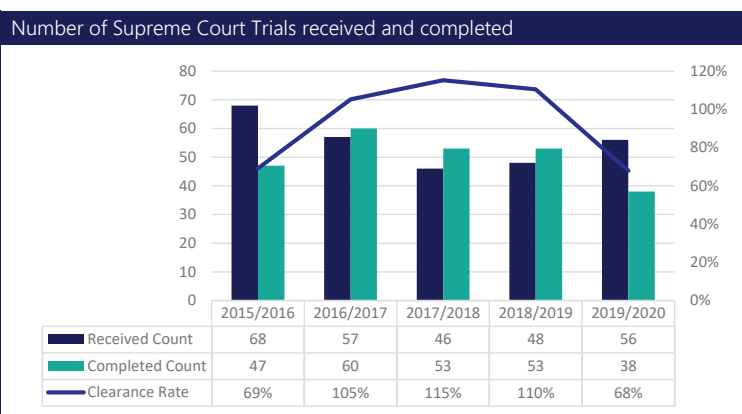
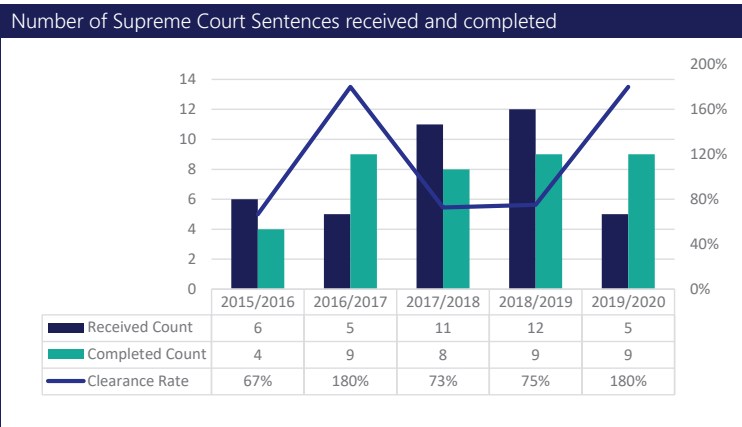


(Actual) Court Sitting Days

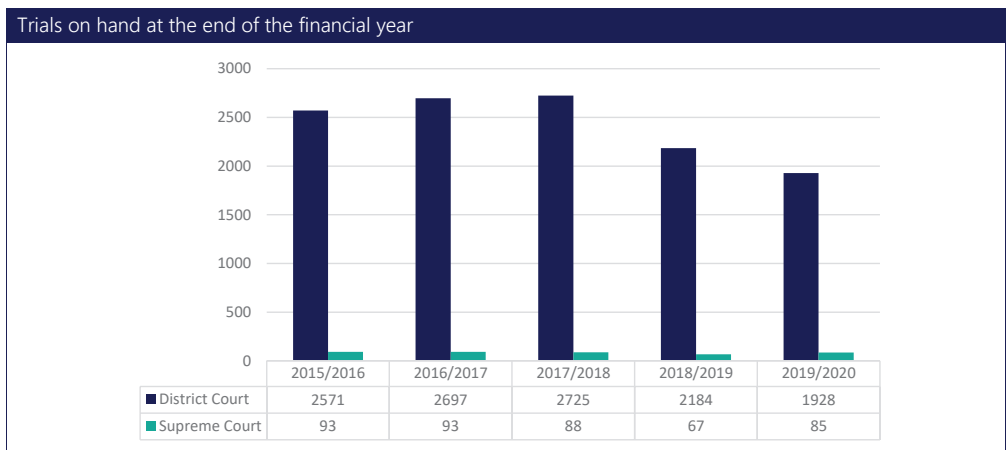
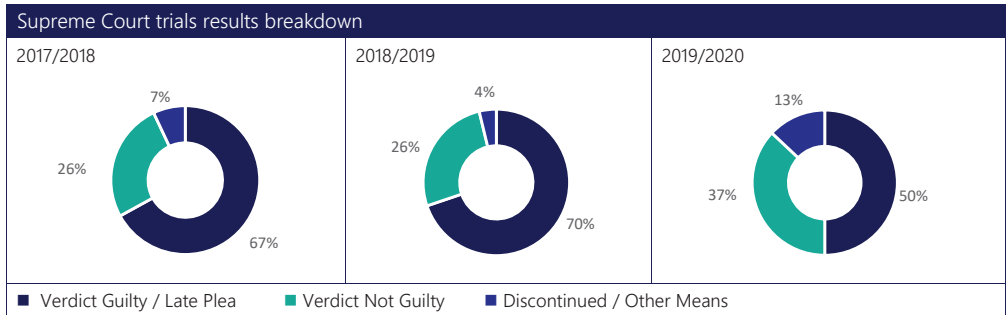






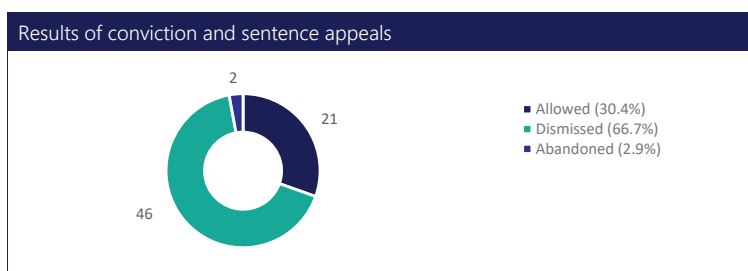


Results of Supreme Court trials		No	%
Late plea		7	18.4%
Trial	Verdict guilty	12	31.6%
	Verdict not guilty	14	36.8%
Discontinued		2	5.3%
Other		3	7.9%
<b>Total</b>		<b>38</b>	<b>100%</b>

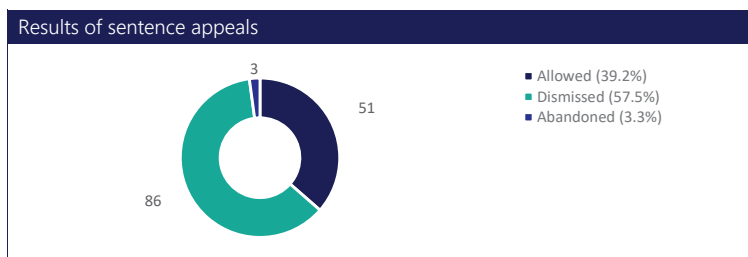


Completed Court of Criminal Appeal matters	
Crown s5F appeals	5
Defence s5F appeals	6
Crown inadequacy appeals	17
Defence conviction and sentence appeals	78
Defence sentence appeals	140

Results of conviction and sentence appeals		
Allowed	Retrial	10
	Remitted to the District Court	3
	Acquittal	7
	Sentence varied	1
Abandoned		2
Dismissed		46

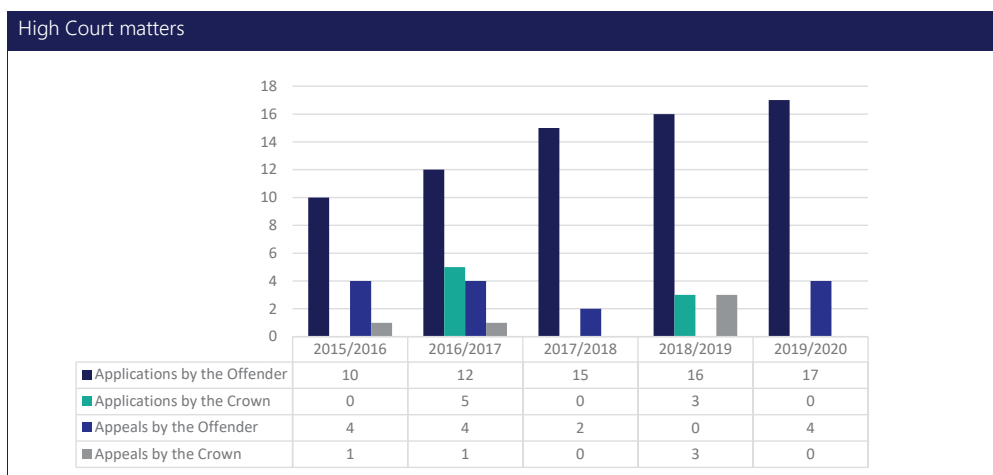


Results of sentence appeals	No
Abandoned	3
Allowed	51
Dismissed	86





High Court Special Leave Applications and appeals					
	2015/2016	2016/2017	2017/2018	2018/2019	2019/2020
Completed Applications for Special Leave to Appeal					
Applications by the offender	10	12	16	16	17
Applications by the Crown	0	5	0	3	0
Hearings conducted after grant of Special Leave					
Appeals by the offender	4	4	2	0	4
Appeals by the Crown	1	1	0	3	0



# Appendix B

## Key provisions of the DPP Act

The *Director of Public Prosecutions Act 1986* was enacted to create the Office of Director of Public Prosecutions, to confer functions on the Director and for related purposes.

For the period 1 July 2019 to 30 June 2020 there were no significant amendments made to the Act.

### **s4 Director**

The Director is responsible to the Attorney General for the exercise of his functions but that does not affect or derogate from the authority of the Director in respect of the preparation, institution and conduct of any proceedings.

### **s7 Principal Functions**

The principal functions of the Director are to: (a) institute and conduct prosecutions for indictable offences in the District Court and Supreme Court; (b) conduct appeals in any court for any such prosecution and (c) conduct, as the responding party, any appeal in any court for any such prosecution: s7(1). The Director has the same functions as the Attorney General in relation to: (a) finding a bill of indictment or determining that no bill of indictment be found for an indictable offence where the person charged has been committed for trial; (b) directing that no further proceedings be taken against a person committed for trial or sentence; and (c) finding an ex officio indictment where the person has not been committed for trial: s7(2).

### **s8 Instituting Other Proceedings**

The Director can institute and conduct committal proceedings for indictable offences, proceedings for summary offences in any court and summary proceedings for those indictable offences which can be dealt with summarily in the Local Court.

### **s11 Consents**

The power to consent, authorise or sanction various prosecutions is delegated to the Director.

### **s12 Coroners**

The Director can, with the Coroner's consent, assist a coroner in any inquest or inquiry.

### **s13 Guidelines to Crown Prosecutors by Director**

The Director can provide written guidelines to the Deputy Directors, the Solicitor for Public Prosecutions and Crown Prosecutors concerning the prosecution of offences but Guidelines are not issued in relation to cases.

### **s14 Recommendations and Guidelines to Police by Director**

The Director can recommend to the Commissioner of Police and certain others that proceedings be instituted in respect of an offence and can issue guidelines to the Commissioner of Police regarding the prosecution of offences, but not in relation to specific cases.

### **s15 Provisions relating to Guidelines**

Guidelines issued by the Director are required to be published in the Office's Annual Report.

### **s15A Disclosures by Law Enforcement Officers**

Police have a duty to disclose, to the Director, all relevant material obtained during an investigation that might reasonably be expected to assist the prosecution or defence case.

### **s18 Request for assistance from Police by Director**

The Director may request police assistance in investigating a matter that the Director may institute or take over.

### **s19 Indemnities and Undertakings**

The Director may request the Attorney General to grant indemnities and give an undertaking that an answer or statement will not be used in evidence.

### **s24 Offences under Commonwealth Laws**

Where an officer, with the consent of the Attorney General, holds an authority to prosecute Commonwealth offences, that officer may institute and conduct prosecutions for such offences.

### **s25 Consultation**

Consultation between the Director and the Attorney General is provided for.

### **s26 Guidelines by Attorney General**

The Attorney General may provide guidelines to the Director but not in relation to a case. Guidelines furnished are required to be published in the Government Gazette and laid before both Houses of Parliament.

### **s27 Attorney General to notify Director of bills and no bills**

The Attorney General is obliged to notify the Director whenever the Attorney exercises any of the following functions: (a) finding a bill of indictment, or determining that no bill of indictment be found for an indictable offence where the person concerned has been committed for trial; (b) directing that no further proceedings be taken against a person committed for trial or sentence; (c) finding a bill of indictment for an indictable offence where the person has not been committed for trial; and (d) appealing under s5D of the Criminal Appeal Act 1912 to the Court of Criminal Appeal against a sentence. The Director is required to include in the Annual Report, information on notifications received from the Attorney General under this section during the period to which the report relates.

### **s29 Director may make request to Attorney General**

If the Director considers it desirable, in the interests of justice, that he not exercise certain functions in relation to a particular case, the Director may request the Attorney General to exercise the Attorney General's corresponding functions.

### **s30 Attorney General's powers not affected**

Nothing in this Act affects any functions of the Attorney General that the Attorney General has apart from this Act.

### **s33 Delegation**

The Director may delegate to an officer, a Crown Prosecutor or a person approved by the Attorney General, the exercise of any of the Director's functions other than this power of delegation.

# Appendix C

## Delegations

The Attorney General has delegated to the Director, by orders published in the Gazette, authority to consent to prosecutions for particular offences by virtue of section 11(2) of the *Director of Public Prosecutions Act 1986*. This notification of the giving or refusing of consent under the authorisation is made pursuant to section 11(6).

Consent was **given** for the commencement of proceedings for the following offences:

<i>Crimes Act 1900 (NSW)</i>	
Section	Total
• Sexual intercourse with person with cognitive impairment by person responsible for care: s66F(2)	6
• Sexual intercourse by taking advantage of person with cognitive impairment: s66F(3)	8
• Reliance on s66F(6):	
o Aggravated sexual touching: s61KD(2)	9
o Aggravated sexual act: s61KF(1)	1
o Aggravated indecent assault: s61M(1)	15
o Aggravated act of indecency: s61O(1A)	3
• Incest: s78A	22
• Attempted Incest: s78B	1

<i>Surveillance Devices Act 2007 (NSW)</i>	
Section	Total
• Installation, use and maintenance of listening devices: s7	5
• Installation, use and maintenance of tracking devices: s9	8

Consent for the commencement of proceedings was **declined** for the following offences:

<i>Surveillance Devices Act 2007 (NSW)</i>	
Section	Total
• Installation, use and maintenance of tracking devices: s9	5
• Possession of a surveillance device with the intention of using it: s13	2

# Appendix D

## Independence and accountability

No guideline under section 26 of the *Director of Public Prosecutions Act 1986* has been received from the Attorney General, nor has notice been received from him of the exercise by him of any of the functions described in section 27. No request has been made to the Attorney General pursuant to section 29.

# Appendix E

## Internal Committees

Committee	ODPP Representatives	
Executive Board	Lloyd Babb SC ( <i>Chair</i> ) Peter McGrath SC Huw Baker SC Tanya Smith SC Chris Maxwell QC	Craig Hyland Sandra Jones Nigel Richardson Kenneth Dixon ( <i>Independent member</i> ) Robyn Gray ( <i>Independent member</i> )
Management Committee	Lloyd Babb SC ( <i>Chair</i> ) Peter McGrath SC Huw Baker SC Tanya Smith Chris Maxwell QC Craig Hyland Johanna Pheils Sashi Govind	Paula McNamara Melinda Graczol Janine Lacy (last meeting 19 September 2019) Anne Whitehead (first meeting 21 November 2019) Nigel Richardson Brendan Oldham Sandra Jones
Audit & Risk Committee	Ian Gillespie ( <i>Independent Chairperson</i> ) (8 October 2018 – 7 October 2021) Alexander Smith AM ( <i>Independent member</i> ) (8 October 2018 – 7 October 2021) Robyn Gray ( <i>Independent member</i> ) (1 February 2018 – 31 January 2021)	Peter McGrath SC ( <i>Chief Audit Executive</i> ) (from 3 April 2018) Sashi Govind ( <i>Chief Risk Officer</i> ) (from 19 May 2016)
Information Management Technology Committee	Brendan Oldham ( <i>Chair</i> ) Sashi Govind Sandra Jones	Tarik Abdulhak ( <i>alt Alex Morris</i> ) Craig Hyland Johanna Pheils Rajiv Nandan
Deputy Senior Crown Prosecutors' Committee Meeting	Chris Maxwell QC ( <i>Chair</i> ) Madeline Gilmore Patrick Barrett John Bowers Craig Everson Brendan Campbell Lee Carr SC	Richard Herps Mark Hobart SC Phil Hogan Ken McKay Helen Roberts David Scully Frank Velto

Committee	ODPP Representatives	
PSA / Management Joint Consultative Committee	ODPP Representatives Nigel Richardson ( <i>Chair</i> ) Craig Hyland Sashi Govind Sandra Jones	ODPP PSA Representatives Fiona Horder Susan Ayre Rhonda Dodd Amanda-Lee James (first meeting 26 February 2020)  PSA Industrial Officer Monika Wunderlin Alex Sala (first meeting 20 November 2019)
Workplace Wellbeing Taskforce (first meeting held 26 February 2020)	Lloyd Babb SC (Chair) Adelle Hudson Catherine Kirkpatrick Edna Udovich Jean Marshall Jillian Walshe John Doohan Joshua Hanna Julie Booth Karen Vaughan Keith Dawson	Liam Shaw Megan Heywood Mel Graczol Michael Reville Natalie Weekes Nigel Richardson Peter McGrath SC Rennae Gee Sharon Wills Sophie Norman Yvette Prowse

# Appendix F

## Internal Audit and Risk Management Attestation

OUR REFERENCE

**DIRECTOR'S CHAMBERS**



**ODPP**  
New South Wales

YOUR REFERENCE

DATE

16 November 2020

### **Internal Audit and Risk Management Attestation for the 2019-2020 Financial Year for the Office of the Director of Public Prosecutions**

I, Lloyd Babb SC am of the opinion that the Office of the Director of Public Prosecutions has internal audit and risk management processes in operation that are, excluding the exceptions or transitional arrangements described below, compliant with the eight (8) core requirements set out in the *Internal Audit and Risk Management Policy for the NSW Public Sector*, specifically:

<b>Core Requirements</b>	<b>Compliance Status</b>
<b>Risk Management Framework</b>	
1.1 The agency head is ultimately responsible and accountable for risk management in the agency	Compliant
1.2 A risk management framework that is appropriate to the agency has been established and maintained and the framework is consistent with AS/NZS ISO 31000:2009	Compliant
<b>Internal Audit Function</b>	
2.1 An internal audit function has been established and maintained	Compliant
2.2 The operation of the internal audit function is consistent with the International Standards for the Professional Practice of Internal Auditing	Compliant
2.3 The agency has an Internal Audit Charter that is consistent with the content of the 'model charter'	Compliant
<b>Audit and Risk Committee</b>	
3.1 An independent Audit and Risk Committee with appropriate expertise has been established	Compliant
3.2 The Audit and Risk Committee is an advisory committee providing assistance to the agency head on the agency's governance processes, risk management and control frameworks, and its external accountability obligations	Compliant

175 Liverpool Street Sydney NSW 2000, Locked Bag A8 Sydney South NSW 1232, DX 11525 Sydney Downtown  
Telephone: (02) 9285 8888 Facsimile: (02) 9285 8601 TTY: (02) 9285 8646  
[www.odpp.nsw.gov.au](http://www.odpp.nsw.gov.au)



3.3	The Audit and Risk Committee has a Charter that is consistent with the content of the 'model charter'	Compliant
-----	---	-----------

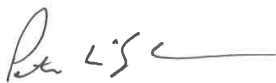
***Membership***

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

- Ian Gillespie, Independent Chairperson (8 October 2018 – 7 October 2021)
- Alexander Smith, Independent Member (8 October 2018 – 7 October 2021)
- Robyn Gray, Independent Member (1 February 2018 – 1 February 2021)



**Lloyd Babb SC**  
**Director of Public Prosecutions**



**Department Contact Officer/ Chief Audit Executive (Audit and Risk)**  
**Peter McGrath SC**  
**Deputy Director of Public Prosecutions**

# Appendix G

## Risk management and insurance activities

### **Risk management**

The Office's Audit and Risk Committee Charter and the Internal Audit Charter were reviewed and endorsed by the ODPP's Audit and Risk Committee and signed by the Director. The Committee provides independent assistance to the Director by monitoring, reviewing and providing advice on the ODPP's governance processes; risk management and control frameworks; and its external accountability obligations.

The Audit and Risk and Internal Audit Charters comply with the Internal Audit and Risk Management Policy for the NSW Public Sector Policy TPP 15-03.

### **Insurance activities**

#### **Motor vehicles**

The Office's 2019/2020 motor vehicle claims totalled twenty seven (27), the total cost was \$91,786. This represents an average damage/loss net cost in claim payments of \$3,399. This was an increase of four (4) claims and a decrease in the average net damage/loss of \$494 per claim compared to the 2018/2019 financial year

#### **Property**

In 2019/2020, there were four (4) property claims finalised for the ODPP in the amount of \$78,845. In the previous financial year there were three (3) property claims for the Office totalling the amount of \$3,565.

#### **Miscellaneous**

The Office had one (1) miscellaneous claim for \$1,181 in the 2019/2020 reporting year.

# Appendix H

## Cyber Security Policy Attestation

Cyber Security Annual Attestation Statement for the 2019-2020 Financial Year for Office of the Director of Public Prosecutions, NSW

I, Lloyd Babb SC, am of the opinion that the Office of the Director of Public Prosecutions NSW has managed cyber security risks in a manner consistent with the mandatory requirements set out in the NSW Government Cyber Security Policy.

Governance is in place to manage the cyber-security maturity and initiatives of Office of the Director of Public Prosecutions NSW.

Risks to the information and systems of Office of the Director of Public Prosecutions NSW have been assessed and are managed.

The cyber incident response and security processes are incorporated within the ODPP IT Disaster Recovery and Business Continuity Plan which has been tested during the reporting period.

To continuously improve the management of cyber security governance and resilience, Office of the Director of Public Prosecutions NSW has an Information Security Management System (ISMS) in place.



Lloyd Babb SC

Director of Public Prosecutions

18 August 2020

# Appendix I

## Chief Executive Officer Statement of Performance

The Director of Public Prosecutions is a statutory appointment under Section 4 of the *Director of Public Prosecutions Act 1986*. The Director is responsible to Parliament and there is no annual performance review under the *Government Sector Employment Act 2013*.

### **Lloyd Babb SC**

Period in Position: 1 July 2019 to 30 June 2020  
Position and Level: Director of Public Prosecutions  
Remuneration: \$481,225 pa (salary plus allowance as at 30 June 2020)

### **Senior Executive Performance Statement**

Nil to report.

# Appendix J

## Chief Executive Service and Senior Executive Service

SES Band	30 June 2019					30 June 2020				
	Total Number	Male	Female	Average Remuneration	% of Total Employee Related Expenditure	Total Number	Male	Female	Average Remuneration	% of Total Employee Related Expenditure
<b>Band 1</b>	10	3	7	228,712	2.04	11	4	7	232,339	2.24
<b>Band 2</b>	-	-	-	-	-	-	-	-	-	-
<b>Band 3</b>	-	-	-	-	-	-	-	-	-	-
<b>Band 4</b>	-	-	-	-	-	-	-	-	-	-

In addition to the Senior Executive roles shown in the above table, the ODPP also has the Director of Public Prosecutions, three Deputy Directors of Public Prosecutions and the Solicitor for Public Prosecutions who are statutory appointees, appointed under the *Director of Public Prosecutions Act 1986*.

# Appendix K

## Overseas travel

There was no overseas travel during the year ended 30 June 2020.

# Appendix L

## Consultants

Engagements greater than \$50,000			
Consultant	Category	Name of project and purpose	Cost ex GST
BDO	Organisational Review	Workforce Review and Organisational Realignment Project	\$103,600

Engagements less than \$50,000		
Category	Total number of engagements	Cost ex GST
Information Technologies	One	\$41,335
Total consultancies each engagement costing less than \$50,000		\$41,335

# Appendix M

## Accounts payment performance

### 1 July 2019 to 30 June 2020

Ageing of accounts payable at the end of each quarter					
Quarter	Current (within due date) \$	<30 days overdue \$	30-60 days overdue \$	60-90 days overdue \$	> 90 days overdue \$
September					
All suppliers	\$1,273,309	-	-	\$2,399	-
Small business suppliers	\$4,070	-	-	-	-
December					
All suppliers	\$620,815	\$10,822	\$682	\$52	-
Small business suppliers	\$3,533	\$9,361	-	-	-
March					
All suppliers	\$224,400	-	-	-	-
Small business suppliers	\$10,489	-	-	-	-
June					
All suppliers	\$27,816	\$3,762	-	-	-
Small business suppliers	\$858	-	-	-	-



Details of accounts due for payment				
	September	December	March	June
Number of accounts due for payment				
All suppliers	1,954	1,888	1,707	1,372
Small business suppliers	99	90	86	134
Number of accounts paid on time				
All suppliers	1,815	1,784	1,583	1,254
Small business suppliers	87	78	72	110
Actual percentage of accounts paid on time (based on number of occasion)				
All suppliers	93%	94%	93%	91%
Small business suppliers	88%	87%	84%	82%
Dollar amount of accounts due for payment				
All suppliers	\$8,927,383	\$8,674,161	\$7,613,107	\$9,674,250
Small business suppliers	\$425,920	\$433,994	\$479,913	\$816,204
Dollar amount of accounts paid on time				
All suppliers	\$8,625,540	\$8,488,913	\$7,349,275	\$9,470,403
Small business suppliers	\$381,633	\$402,242	\$438,499	\$727,423
Actual percentage of accounts paid on time (based on dollar amount of accounts)				
All suppliers	97%	98%	97%	98%
Small business suppliers	90%	93%	91%	89%
Number of payments for interest on overdue accounts				
All suppliers	-	-	-	-
Small business suppliers	-	-	-	-
Interest paid on late accounts				
All suppliers	-	-	-	-
Small business suppliers	-	-	-	-

Small business payment terms changed effective 1 December 2019 from 20 working days to 5 working days after receipt of a correctly rendered invoice.

#### Reasons for accounts not paid on time

The main reasons for late payment are delays in approving invoices for payment, or misplacement of invoices and/or invoices lost in transit

# Appendix N

## Financial accounts

**Office of the Director of Public Prosecution**

**Financial Statements  
for the year ended 30 June 2020**

**Office of the Director of Public Prosecutions  
Statement by Director for the year ended 30 June 2020**

Pursuant to Section 45F of the *Public Finance and Audit Act 1983*, I state that:

- (a) the accompanying financial statements and notes have been prepared in accordance with applicable Australian Accounting Standards (which include Australian Accounting Interpretations), the requirements of the *Public Finance and Audit Act 1983 (Act)*, and *Public Finance and Audit Regulation 2015* and Treasurer's Directions issued under the Act;
- (b) the statements and notes exhibit a true and fair view of the financial position as at 30 June 2020 and financial performance of the Office of the Director of Public Prosecutions for the period then ended; and
- (c) I am not aware of any circumstances which would render any particulars included in the financial statements to be misleading or inaccurate.



Lloyd Babb SC  
Director of Public Prosecutions

Sydney  
12 October 2020



## INDEPENDENT AUDITOR'S REPORT

### Office of the Director of Public Prosecutions

To Members of the New South Wales Parliament

#### Opinion

I have audited the accompanying financial statements of the Office of the Director of Public Prosecutions (the Office), which comprise the Statement of Comprehensive Income for the year ended 30 June 2020, the Statement of Financial Position as at 30 June 2020, the Statement of Changes in Equity and the Statement of Cash Flows for the year then ended, notes comprising a Statement of Significant Accounting Policies and other explanatory information.

In my opinion, the financial statements:

- give a true and fair view of the financial position of the Office as at 30 June 2020, and of its financial performance and its cash flows for the year then ended in accordance with Australian Accounting Standards
- are in accordance with section 45E of the *Public Finance and Audit Act 1983* (PF&A Act) and the Public Finance and Audit Regulation 2015.

My opinion should be read in conjunction with the rest of this report.

#### Basis for Opinion

I conducted my audit in accordance with Australian Auditing Standards. My responsibilities under the standards are described in the 'Auditor's Responsibilities for the Audit of the Financial Statements' section of my report.

I am independent of the Office in accordance with the requirements of the:

- Australian Auditing Standards
- Accounting Professional and Ethical Standards Board's APES 110 'Code of Ethics for Professional Accountants (including Independence Standards)' (APES 110).

I have fulfilled my other ethical responsibilities in accordance with APES 110.

Parliament promotes independence by ensuring the Auditor-General and the Audit Office of New South Wales are not compromised in their roles by:

- providing that only Parliament, and not the executive government, can remove an Auditor-General
- mandating the Auditor-General as auditor of public sector agencies
- precluding the Auditor-General from providing non-audit services.

I believe the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

#### Other Information

The Office's annual report for the year ended 30 June 2020 includes other information in addition to the financial statements and my Independent Auditor's Report thereon. The Director of Public Prosecutions (the Director) is responsible for the other information. At the date of this Independent Auditor's Report, the other information I have received comprise the Statement by the Director.

My opinion on the financial statements does not cover the other information. Accordingly, I do not express any form of assurance conclusion on the other information.

In connection with my audit of the financial statements, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit, or otherwise appears to be materially misstated.

If, based on the work I have performed, I conclude there is a material misstatement of the other information, I must report that fact.

I have nothing to report in this regard.

#### **The Director's Responsibilities for the Financial Statements**

The Director is responsible for the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards and the PF&A Act and for such internal control as the Director determines is necessary to enable the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Director is responsible for assessing the Office's ability to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting.

#### **Auditor's Responsibilities for the Audit of the Financial Statements**

My objectives are to:

- obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error
- issue an Independent Auditor's Report including my opinion.

Reasonable assurance is a high level of assurance, but does not guarantee an audit conducted in accordance with Australian Auditing Standards will always detect material misstatements. Misstatements can arise from fraud or error. Misstatements are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions users take based on the financial statements.

A description of my responsibilities for the audit of the financial statements is located at the Auditing and Assurance Standards Board website at: [www.auasb.gov.au/auditors\\_responsibilities/ar4.pdf](http://www.auasb.gov.au/auditors_responsibilities/ar4.pdf). The description forms part of my auditor's report.

The scope of my audit does not include, nor provide assurance:

- that the Office carried out its activities effectively, efficiently and economically
- about the assumptions used in formulating the budget figures disclosed in the financial statements
- about the security and controls over the electronic publication of the audited financial statements on any website where they may be presented
- about any other information which may have been hyperlinked to/from the financial statements.



Chris Harper  
Director, Financial Audit

Delegate of the Auditor-General for New South  
Wales

14 October 2020  
SYDNEY

**Office of the Director of Public Prosecutions**  
**Statement of Comprehensive Income for the year ended 30 June 2020**

	Notes	Budget 2020 \$'000	Actual 2020 \$'000	Actual 2019 \$'000
<b>Continuing operations</b>				
<b>Expenses excluding losses</b>				
Employee-related expenses	2(a)	138,120	136,156	133,086
Operating expenses	2(b)	17,328	15,563	26,221
Depreciation and amortisation	2(c)	12,967	12,386	4,005
Finance costs	2(d)	1,241	869	-
Other expenses	2(e)	<u>4,084</u>	<u>3,420</u>	<u>4,031</u>
<b>Total expenses excluding losses</b>		<u>173,740</u>	<u>168,394</u>	<u>167,343</u>
<b>Revenue</b>				
Appropriation	3(a)	147,337	137,533	125,909
Sale of goods and services from contracts with customers	3(b)	87	50	-
Grants and other contributions	3(c)	19,740	19,382	29,718
Acceptance by the Crown Entity of employee benefits and other liabilities	3(d)	7,035	7,643	9,840
Other income	3(e)	<u>37</u>	<u>142</u>	<u>177</u>
<b>Total revenue</b>		<u>174,236</u>	<u>164,750</u>	<u>165,644</u>
<b>Operating result</b>		<u>496</u>	<u>(3,644)</u>	<u>(1,699)</u>
<b>Gains / (losses) on disposal</b>	4	5	(16)	(6)
<b>Other gains / (losses)</b>	5	<u>-</u>	<u>(3,414)</u>	<u>(1,484)</u>
<b>Net result from continuing operations</b>		<u>501</u>	<u>(7,074)</u>	<u>(3,189)</u>
<b>Net result</b>		<u>501</u>	<u>(7,074)</u>	<u>(3,189)</u>
<b>Other comprehensive income</b>		<u>-</u>	<u>-</u>	<u>-</u>
<b>Total other comprehensive income</b>		<u>-</u>	<u>-</u>	<u>-</u>
<b>TOTAL COMPREHENSIVE INCOME</b>		<u>501</u>	<u>(7,074)</u>	<u>(3,189)</u>

The accompanying notes form part of these financial statements.

**Office of the Director of Public Prosecutions  
Statement of Financial Position as at 30 June 2020**

	Notes	Budget 2020 \$'000	Actual 2020 \$'000	Actual 2019 \$'000
<b>ASSETS</b>				
<b>Current assets</b>				
Cash and cash equivalents	7	3,095	5,952	3,302
Receivables	8	<u>4,927</u>	<u>3,227</u>	<u>3,218</u>
<b>Total current assets</b>		<u>8,022</u>	<u>9,179</u>	<u>6,520</u>
<b>Non-current assets</b>				
Plant and equipment	9	7,464	7,722	8,589
Right-of-use assets	10	34,310	33,916	-
Intangible assets	11	<u>3,082</u>	<u>1,228</u>	<u>992</u>
<b>Total non-current assets</b>		<u>44,856</u>	<u>42,866</u>	<u>9,581</u>
<b>Total assets</b>		<u>52,878</u>	<u>52,045</u>	<u>16,101</u>
<b>LIABILITIES</b>				
<b>Current liabilities</b>				
Payables	12	1,869	2,520	1,714
Borrowings	13	8,716	8,278	-
Provisions	14	12,496	15,588	14,562
Other current liabilities	15	<u>176</u>	<u>4,399</u>	<u>1,862</u>
<b>Total current liabilities</b>		<u>23,257</u>	<u>30,785</u>	<u>18,138</u>
<b>Non-current liabilities</b>				
Borrowings	13	26,935	30,363	-
Provisions	14	2,978	3,468	3,460
Other non-current liabilities		<u>294</u>	<u>-</u>	<u>-</u>
<b>Total non-current liabilities</b>		<u>30,207</u>	<u>33,831</u>	<u>3,460</u>
<b>Total liabilities</b>		<u>53,464</u>	<u>64,616</u>	<u>21,598</u>
<b>Net liabilities</b>		<u>(586)</u>	<u>(12,571)</u>	<u>(5,497)</u>
<b>EQUITY</b>				
Accumulated funds		<u>(586)</u>	<u>(12,571)</u>	<u>(5,497)</u>
<b>Total equity</b>		<u>(586)</u>	<u>(12,571)</u>	<u>(5,497)</u>

The accompanying notes form part of these financial statements.



**Office of the Director of Public Prosecutions  
Statement of Changes in Equity for the year ended 30 June 2020**

	<b>Accumulated Funds</b>	<b>Total</b>
	<b>\$'000</b>	<b>\$'000</b>
<b>Balance at 1 July 2019</b>	(5,497)	(5,497)
<b>Net result for the year</b>	<u>(7,074)</u>	<u>(7,074)</u>
<b>Total comprehensive income for the year</b>	<u>(7,074)</u>	<u>(7,074)</u>
<b>Balance at 30 June 2020</b>	<u>(12,571)</u>	<u>(12,571)</u>

	<b>Accumulated Funds</b>	<b>Total</b>
<b>Balance at 1 July 2018</b>	(2,308)	(2,308)
<b>Net result for the year</b>	<u>(3,189)</u>	<u>(3,189)</u>
<b>Total comprehensive income for the year</b>	<u>(3,189)</u>	<u>(3,189)</u>
<b>Balance at 30 June 2019</b>	<u>(5,497)</u>	<u>(5,497)</u>



**Office of the Director of Public Prosecutions  
Statement of Cash Flows for the year ended 30 June 2020**

	Notes	Budget 2020 \$'000	Actual 2020 \$'000	Actual 2019 \$'000
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>				
<b>Payments</b>				
Employee related		(131,448)	(126,318)	(122,391)
Finance costs		(1,241)	(869)	-
Suppliers for goods and services		<u>(23,742)</u>	<u>(21,591)</u>	<u>(34,291)</u>
<b>Total payments</b>		<u>(156,431)</u>	<u>(148,778)</u>	<u>(156,682)</u>
<b>Receipts</b>				
Appropriations (excluding equity appropriations)		147,337	140,070	127,771
Sale of goods and services		87	36	116
Grants and other contributions		19,740	19,300	30,655
Other		<u>2,367</u>	<u>2,954</u>	<u>3,273</u>
<b>Total receipts</b>		<u>169,531</u>	<u>162,360</u>	<u>161,815</u>
<b>NET CASH FLOWS FROM OPERATING ACTIVITIES</b>	20	<u>13,100</u>	<u>13,582</u>	<u>5,133</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>				
Proceeds from sale of plant and equipment		5	-	-
Purchase of plant and equipment		(2,075)	(1,953)	(2,349)
Purchase of intangible assets		<u>(983)</u>	<u>(662)</u>	<u>(738)</u>
<b>NET CASH FLOWS FROM INVESTING ACTIVITIES</b>		<u>(3,053)</u>	<u>(2,615)</u>	<u>(3,087)</u>
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>				
Payment of principal portion of lease liabilities		<u>(8,224)</u>	<u>(8,317)</u>	<u>-</u>
<b>NET CASH FLOWS FROM FINANCING ACTIVITIES</b>		<u>(8,224)</u>	<u>(8,317)</u>	<u>-</u>
<b>NET INCREASE / (DECREASE) IN CASH AND CASH EQUIVALENTS</b>		1,823	2,650	2,046
Opening cash and cash equivalents		<u>1,272</u>	<u>3,302</u>	<u>1,256</u>
<b>CLOSING CASH AND CASH EQUIVALENTS</b>	7	<u>3,095</u>	<u>5,952</u>	<u>3,302</u>

The accompanying notes form part of these financial statements.

**Office of the Director of Public Prosecutions**  
**Notes to the Financial Statements for the year ended 30 June 2020**

**Index to the notes to the financial statements**

1	Statement of Significant Accounting Policies
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12	Current Liabilities - Payables
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15	Current Liabilities - Other
16	Equity
17	Commitments
18	Contingent Liabilities and Contingent Assets
19	Budget Review
20	Reconciliation of Net Cash Flows from Operating Activities to Net Result
21	Financial Instruments
22	Related Party Disclosures
23	Events after the Reporting Period

**Office of the Director of Public Prosecutions  
Notes to the Financial Statements for the year ended 30 June 2020**

**1 Statement of Significant Accounting Policies**

**a) Reporting entity**

The Office of the Director of Public Prosecutions (the Office) is a NSW government entity and is controlled by the State of New South Wales, which is the ultimate parent. The Office is a not-for-profit entity (as profit is not its principal objective) and it has no cash generating units.

These financial statements for the year ended 30 June 2020 have been authorised for issue by the Director on 12 October 2020.

**b) Basis of preparation**

The Office's financial statements are general purpose financial statements which have been prepared on an accruals basis and in accordance with:

- applicable Australian Accounting Standards (AAS) (which include Australian Accounting Interpretations)
- the requirements of the *Public Finance and Audit Act 1983* and *Public Finance and Audit Regulation 2015* and
- Treasurer's Directions issued under the Act.

While the Office has negative net assets at reporting date, the financial statements have been prepared on a going-concern basis, after considering future funding from government appropriations. Cash flow forecasts demonstrate that with future appropriation funding, the Office will have enough funds to pay its debts as and when they are due for at least the next 12 months from date of audit opinion.

Property, plant and equipment are measured at fair value. Other financial statement items are prepared in accordance with the historical cost convention except where specified otherwise.

Judgements, key assumptions and estimations management has made are disclosed in the relevant notes to the financial statements.

All amounts are rounded to the nearest one thousand dollars and are expressed in Australian currency, which is the Office's presentation and functional currency.

**c) Statement of compliance**

The financial statements and notes comply with Australian Accounting Standards, which include Australian Accounting Interpretations.

**d) Accounting for the Goods and Services Tax**

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

- amount of GST incurred by the Office as a purchaser that is not recoverable from the Australian Taxation Office (ATO) is recognised as part of an asset's cost of acquisition or as part of an item of expense; and
- receivables and payables are stated with the amount of GST included.

Cash flows are included in the Statement of Cash Flows on a gross basis. However, the GST components of cash flows arising from investing and financing activities which are recoverable from, or payable to, the Australian Taxation Office are classified as operating cash flows.

**e) Comparative information**

Except when an Australian Accounting Standard permits or requires otherwise, comparative information is presented in respect of the previous period for all amounts reported in the financial statements.

**f) Changes in accounting policy, including new or revised Australian Accounting Standards**

(i) Effective for the first time in 2019-20

The Office applied AASB 15 *Revenue from Contracts with Customers*, AASB 1058 *Income of Not-for-Profit Entities*, and AASB 16 *Leases* for the first time. The nature and effect of the changes as a result of adoption of these new accounting standards are described below.

Several other amendments and interpretations apply for the first time in FY2019-20, but do not have an impact on the financial statements of the Office.



**Office of the Director of Public Prosecutions  
Notes to the Financial Statements for the year ended 30 June 2020**

**1 Statement of Significant Accounting Policies (cont'd)**

**(f) Changes in accounting policy, including new or revised Australian Accounting Standards (cont'd)**

(i) Effective for the first time in 2019-20 (cont'd)

**AASB 15 Revenue from Contracts with Customers**

AASB 15 supersedes AASB 111 *Construction Contracts*, AASB 118 *Revenue* and related Interpretations and it applies, with limited exceptions, to all revenue arising from contracts with customers. AASB 15 establishes a five-step model to account for revenue arising from contracts with customers and requires that revenue be recognised at an amount that reflects the consideration to which an entity expects to be entitled in exchange for transferring goods or services to a customer.

AASB 15 requires entities to exercise judgement, taking into consideration all of the relevant facts and circumstances when applying each step of the model to contracts with their customers. The standard also specifies the accounting for the incremental costs of obtaining a contract and the costs directly related to fulfilling a contract. In addition, the standard requires relevant disclosures.

In accordance with the transition provision in AASB 15, the Office has adopted AASB 15 retrospectively with the cumulative effect of initially applying the standard recognised at the date of initial application, i.e. 1 July 2019.

The adoption of AASB 15 did not have an impact on the Financial Statements for the financial year.

**AASB 1058 Income of Not-for-Profit Entities**

AASB 1058 replaces most of the existing requirements in AASB 1004 *Contributions*. The scope of AASB 1004 is now limited mainly to contributions by owners (including parliamentary appropriations that satisfy the definition of a contribution by owners), administrative arrangements and liabilities of government departments assumed by other entities.

AASB 1058 applies to income with a donation component, i.e. transactions where the consideration to acquire an asset is significantly less than fair value principally to enable a not-for-profit entity to further its objectives; and volunteer services. AASB 1058 adopts a residual approach, meaning that entities first apply other applicable Australian Accounting Standards (e.g. AASB 1004, AASB 15, AASB 16, AASB 9, AASB 137) to a transaction before recognising income.

Not-for-profit entities need to determine whether a transaction is/contains a donation (accounted for under AASB 1058) or a contract with a customer (accounted for under AASB 15).

AASB 1058 requires recognition of receipt of an asset, after the recognition of any related amounts in accordance with other Australian Accounting Standards, as income:

- when the obligations under the transfer is satisfied, for transfers to enable an entity to acquire or construct a recognisable non-financial asset that will be controlled by the Office.
- immediately, for all other income within the scope of AASB 1058.

In accordance with the transition provisions in AASB 1058, the Office has adopted AASB 1058 retrospectively with the cumulative effect of initially applying the standard at the date of initial application, i.e. 1 July 2019.

The adoption of AASB 1058 did not have an impact on the Financial Statements for the financial year.

**Office of the Director of Public Prosecutions  
Notes to the Financial Statements for the year ended 30 June 2020**

**1 Statement of Significant Accounting Policies (cont'd)**

**(f) Changes in accounting policy, including new or revised Australian Accounting Standards (cont'd)**

- (i) Effective for the first time in 2019-20 (cont'd)

**AASB 16 Leases**

AASB 16 supersedes AASB 117 *Leases*, Interpretation 4 *Determining whether an Arrangement contains a Lease*, Interpretation 115 *Operating Leases - Incentives* and Interpretation 127 *Evaluating the Substance of Transactions Involving the Legal Form of a Lease*. The standard sets out the principles for the recognition, measurement, presentation and disclosure of leases and requires lessees to recognise most leases on the Statement of Financial Position.

*Lessor accounting*

Lessor accounting under AASB 16 is substantially unchanged from AASB 117. Lessors will continue to classify leases as either operating or finance leases using similar principles as in AASB 117. The Office does not have any leases where the Office is the lessor.

*Lessee accounting*

AASB 16 requires the Office to account for all leases under a single on-balance sheet model similar to the accounting for finance leases under AASB 117. As the lessee, the Office recognises a lease liability and right-of-use asset (ROUA) at the inception of the lease. The lease liability is measured at the present value of the future lease payments, discounted using the interest rate implicit in the lease, or the lessee's incremental borrowing rate if the interest rate implicit in the lease cannot be readily determined. The corresponding right-of-use asset is measured at the value of the lease liability adjusted for lease payments before inception, lease incentives, initial direct costs and estimates of costs for dismantling and removing the asset or restoring the site on which it is located.

The Office has adopted the partial retrospective option in AASB 16, where the cumulative effect of initially applying AASB 16 is recognised on 1 July 2019 and the comparatives for the year ended 30 June 2019 are not restated.

In relation to leases that had previously been classified as 'operating leases' under AASB 117, a lease liability is recognised at 1 July 2019 at the present value of the remaining lease payments, discounted using the lessee's incremental borrowing rate at the date of initial application. The weighted average lessee's incremental borrowing rate applied to the lease liabilities on 1 July 2019 was 1.41% for leases up to 5 years, 1.87% for leases between 5 years and 10 years and 2.30% for leases above 10 years.

The corresponding right-of-use asset is initially recorded on transition at an amount equal to the lease liability, adjusted by the amount of any prepaid or accrued lease payments relating to that lease recognised in the Statement of Financial Position as at 30 June 2019. The exception is right-of-use assets that are subject to accelerated depreciation. These assets are measured at their fair value at 1 July 2019.

The Office elected to use the practical expedient to expense lease payments for lease contracts that, at their commencement date, have a lease term of 12 months or less and do not contain a purchase option (short-term leases), and lease contracts for which the underlying asset is valued at \$10,000 or under when new (low-value assets).

**Office of the Director of Public Prosecutions  
Notes to the Financial Statements for the year ended 30 June 2020**

**1 Statement of Significant Accounting Policies (cont'd)**

**(f) Changes in accounting policy, including new or revised Australian Accounting Standards (cont'd)**

(i) Effective for the first time in 2019-20 (cont'd)

In applying AASB 16 for the first time, the Office has used the following practical expedients permitted by the standard:

- not reassess whether a contract is, or contains, a lease at 1 July 2019, for those contracts previously assessed under AASB 117 and Interpretation 4
- applying a single discount rate to a portfolio of leases with reasonably similar characteristics
- relying on its previous assessment on whether leases are onerous immediately before the date of initial application as an alternative to performing an impairment review
- not recognise a lease liability and right-of-use asset for short-term leases that end within 12 months of the date of initial application
- excluding the initial direct costs from the measurement of the right-of-use asset at the date of initial application
- using hindsight in determining the lease term where the contract contained options to extend or terminate the lease

The effect of adoption AASB 16 as at 1 July 2019 (increase/ (decrease) is, as follows:

	<b>\$'000</b>
<b>Assets</b>	
Right-of-use assets	<u>46,901</u>
<b>Total assets</b>	<u>46,901</u>
<b>Liabilities</b>	
Borrowings	<u>46,901</u>
<b>Total liabilities</b>	<u>46,901</u>
<b>Equity</b>	
Accumulated funds	<u>-</u>

The lease liabilities as at 1 July 2019 can be reconciled to the operating lease commitments as of 30 June 2019, as follows:

	<b>\$'000</b>	
Operating lease commitments as at 30 June 2019 (GST included)	33,788	
(Less): GST included in operating lease commitments	<u>(3,072)</u>	
Operating lease commitments as at 30 June 2019 (GST excluded)	30,716	
Weighted average incremental borrowing rate as at 1 July 2019	<u>1.56</u>	%
Discounted operating lease commitments as at 1 July 2019	30,244	
Add: Lease payments relating to renewal periods not included in operating lease commitments as at 30 June 2019	16,670	
(less): adjustments relating to changes in the index or rate affecting variable payments	<u>(13)</u>	
<b>Lease liabilities as at 1 July 2019</b>	<u><b>46,901</b></u>	

(ii) Issued but not yet effective

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

The following new Australian Accounting Standards have not been applied and are not yet effective. The possible impact of these standards in the period of initial application was assessed that there will be no impact on the Statement of Comprehensive income and Statement of Financial Position.

- AASB 17 *Insurance Contracts*

**Office of the Director of Public Prosecutions  
Notes to the Financial Statements for the year ended 30 June 2020**

**1 Statement of Significant Accounting Policies (cont'd)**

**(f) Changes in accounting policy, including new or revised Australian Accounting Standards (cont'd)**

(i) Effective for the first time in 2019-20 (cont'd)

- AASB 1059 *Service Concession Arrangements: Grantors*
- AASB 2018-5 *Amendments to Australian Accounting Standards – Deferral of AASB 1059*
- AASB 2018-6 *Amendments to Australian Accounting Standards – Definition of a Business*
- AASB 2018-7 *Amendments to Australian Accounting Standards – Definition of Material*
- AASB 2019-1 *Amendments to Australian Accounting Standards – References to the Conceptual Framework*
- AASB 2019-2 *Amendments to Australian Accounting Standards – Implementation of AASB 1059*
- AASB 2019-3 *Amendments to Australian Accounting Standards - Interest Rate Benchmark Reform*
- AASB 2019-7 *Amendments to Australian Accounting Standards – Disclosure of GFS Measures of Key Fiscal Aggregates and GAAP/GFS Reconciliations.*

**Office of the Director of Public Prosecutions  
Notes to the Financial Statements for the year ended 30 June 2020**

**2 Expenses Excluding Losses**

	2020	2019
	\$'000	\$'000
<b>(a) Employee related expenses</b>		
Salaries and wages (including annual leave)*	110,404	105,466
Superannuation - defined benefit plans	1,237	1,563
Superannuation - defined contribution plans	9,454	8,807
Long service leave	6,655	8,681
Workers' compensation insurance	389	334
Payroll tax and fringe benefit tax	6,761	6,566
On-cost on long service leave	267	355
Temporary staff	989	1,314
	<u>136,156</u>	<u>133,086</u>

\* Employee related costs of \$0.315 million (2019: \$nil) have been capitalised in intangible assets, and therefore excluded from the above.

	2020	2019
	\$'000	\$'000
<b>(b) Operating expenses include the following:</b>		
Auditor's remuneration - audit of the financial statements	67	63
Cleaning	546	517
Consultants	145	-
Insurance	1,105	844
Motor vehicle expenses	198	188
Telephone	938	1,000
Operating lease rental expense - minimum lease payments	-	9,028
Stores and equipment	1,010	1,354
Training	300	380
Travel	1,964	2,052
Other expenses	841	1,197
Outgoings	1,748	1,438
Books and online services	638	614
Fees - private barristers	2,624	4,391
Fees - practising certificates	459	431
Fees - security	275	280
Gas and electricity	365	428
Postage	148	168
Maintenance*	2,192	1,848
	<u>15,563</u>	<u>26,221</u>
* Reconciliation - Total maintenance		
Maintenance expense - contracted labour and other (non-employee related), as above	2,192	1,848
Employee related maintenance expense included in Note 2(a)	621	600
Total maintenance expenses included in Note 2(a) + 2(b)	<u>2,813</u>	<u>2,448</u>

**Recognition and Measurement**

**Maintenance expense**

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

**Insurance**

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



**Office of the Director of Public Prosecutions  
Notes to the Financial Statements for the year ended 30 June 2020**

**2 Expenses Excluding Losses (cont'd)**

**Lease expense (up to 30 June 2019)**

**Operating leases**

Up to 30 June 2019, operating lease payments are recognised as an operating expense in the Statement of Comprehensive Income on a straight-line basis over the lease term. An operating lease is a lease other than a finance lease.

**Lease expense (from 1 July 2019)**

From 1 July 2019, the Office recognises the lease payments associated with the following types leases as an expense on a straight-line basis:

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

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

	2020 \$'000
<b>(c) Depreciation and amortisation expense</b>	
<b>Depreciation</b>	
Building and Improvements - right-of-use assets	8,849
Plant and equipment	2,007
Plant and equipment - right-of-use assets	225
Computer equipment	854
Library collection	25
Total depreciation	11,960
<b>Amortisation</b>	
Intangible assets	426
	12,386

Refer to Note 9,10 and 11 for recognition and measurement policies on depreciation and amortisation.

	2020 \$'000
<b>(d) Finance costs</b>	
Interest expense from lease liabilities	869
Total interest expense	869

**Recognition and Measurement**

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

	2020 \$'000
<b>(e) Other expenses</b>	
Allowances to witness	3,400
Living expenses of defendant non-Australian citizens	20
	3,420



**Office of the Director of Public Prosecutions**  
**Notes to the Financial Statements for the year ended 30 June 2020**

**2 Expenses Excluding Losses (cont'd)**

**(e) Other expenses (cont'd)**

Witness expenses are paid to witnesses who attend conferences with the Office and courts to give evidence in the prosecution. Witness expenses are designed to minimise financial hardship and are paid towards lost and direct out of pocket expenses such as travel expenses incurred in attending courts.

**3 Revenue**

**Recognition and Measurement**

Until 30 June 2019, income is recognised in accordance with AASB 111 *Construction Contracts*, AASB 118 *R* and AASB 1004 *Contributions*.

From 1 July 2019, income is recognised in accordance with the requirements of AASB 15 *Revenue from Contracts with Customers* or AASB 1058 *Income of Not-for-Profit Entities*, dependent on whether there is a contract with customer defined by AASB 15 *Revenue from Contracts with Customers*.

Comments regarding the accounting policies for the recognition of income are discussed below.

**(a) Appropriations and transfers to the Crown Entity**

Summary of Compliance	2020 \$'000		2019 \$'000	
	Appropriation	Expenditure	Appropriation	Expenditure
Original Budget per Appropriation Act	<u>147,337</u>	<u>137,231</u>	<u>125,546</u>	—
Other Appropriations / Expenditure				
– Additional Appropriations	<u>795</u>	<u>302</u>	<u>5,552</u>	—
<b>Total annual Appropriations / Expenditure / Net claim on Annual Appropriations (includes transfer payments)</b>	<b>148,132</b>	<b>137,533</b>	<b>131,098</b>	—
Amount drawn down against Annual Appropriations*		<u>141,932</u>		—
Liability for Lapsed Appropriations drawn down (formerly known as "Liability to Consolidated Fund") (refer Note 15)		<u>(4,399)</u>		—
* Comprising:				
Appropriations (per Statement of Comprehensive Income)**		<u>137,533</u>		—
		<u>137,533</u>		—
**Appropriations (per Statement of Comprehensive Income)				
Recurrent		<u>134,922</u>		—
Capital		<u>2,611</u>		—
		<u>137,533</u>		—

**Deemed appropriations**

Deemed appropriation money is government money that the ODPP receives or recovers (including from the Commonwealth or another entity) or a kind prescribed by the Government Sector Finance Regulation 2018 that is part of the Consolidated Fund and is not appropriated under the authority of an Act.

	2020 \$'000
Movement of section 4.7 GSF Act - deemed appropriations:	
Opening balance	1,440
Add: additions of deemed appropriations	19,478
Less: expenditure charged against deemed appropriations	<u>(19,300)</u>
Closing balance	<u>1,618</u>

**Office of the Director of Public Prosecutions  
Notes to the Financial Statements for the year ended 30 June 2020**

**3 Revenue (cont'd)**

**(a) Appropriations and transfers to the Crown Entity (cont'd)**

**Notes:**

1. The summary of compliance is based on the assumption that annual appropriations monies are spent first (except where otherwise identified or prescribed).
2. 'Expenditure' refers to cash payments. The term 'expenditure' has been used for payments for consistency with AASB 1058 *Income of Not-for-Profit Entities*.
3. Liability for lapsed appropriations drawn down (formerly known as 'Liability to Consolidated Fund'), represents the difference between the 'Amount drawn down against annual Appropriation' and the 'Expenditure / Net Claim on Annual Appropriation'.

**Recognition and Measurement**

**Parliamentary appropriations**

Until 30 June 2019, except as specified below, appropriations are recognised as income when the Office obtains control over the assets comprising the appropriations. Control over appropriations is normally obtained upon the receipt of cash.

Appropriations are not recognised as income in the following circumstance:

- Lapsed appropriations are recognised as liabilities rather than income, as the authority to spend the money lapses and the unspent amount is not controlled by the Office.
- The liability is disclosed in Note 15 as part of 'Current liabilities - Other'. The liability will be extinguished next financial year through the next annual Appropriation Act.

After AASB 15 and AASB 1058 became effective on 1 July 2019, the treatment of appropriations remains the same, because appropriations do not contain an enforceable sufficiently specific performance obligation as defined by AASB 15.

The Office receives its funding under appropriations from the Consolidated Fund / grant funding received from the Department of Communities and Justice which receives appropriations from the Consolidated Fund. Appropriations for each financial year are set out in the Appropriation Act for that year. Due to COVID-19, the State Budget and related 2020-21 Appropriation Act has been delayed and is anticipated to be tabled in Parliament in November 2020. However, pursuant to section 4.10 of the GSF Act, the Treasurer has authorised Ministers to spend specified amounts from the Consolidated Fund. This authorisation is current from 1 July 2020 until the earlier of 31 December 2020 (or another day prescribed by the regulations) or enactment of the 2020-21 annual Appropriation Act.

	<b>2020</b>	<b>2019</b>
	<b>\$'000</b>	<b>\$'000</b>
<b>(b) Sale of goods and services</b>		
Rendering of services to other agencies	50	-
	50	-

**Recognition and Measurement**

**Until 30 June 2019**

**Sales of goods**

Revenue from sale of goods is recognised as revenue when the Office transfers the significant risks and rewards of ownership of the goods, usually on delivery of the goods.

**Rendering of services**

Revenue from rendering of services is recognised when the service is provided or by reference to the stage of completion (based on labour hours incurred to date).



**Office of the Director of Public Prosecutions**  
**Notes to the Financial Statements for the year ended 30 June 2020**

**3 Revenue (cont'd)**

**(b) Sale of goods and services (cont'd)**

From 1 July 2019

**Sale of goods**

Revenue from sale of goods is recognised when the Office satisfies a performance obligation by transferring the promised goods. The payments are typically due when the customer obtains control of promised goods.

**Rendering of services**

Revenue from rendering of services is recognised when the Office satisfies the performance obligation by transferring the promised services. From time to time, Crown Prosecutors and solicitors appear in Court on behalf of the Commonwealth Director of Public Prosecution in relation to their matters. Costs for this service are charged based on an agreed payment schedule and revenue is recognised when (or as) each performance obligation is satisfied and invoiced. Services are also provided from time to time to other Government agencies as agreed and the revenue is recognised at the time the service has been provided and invoiced. No element of financing is deemed present as payments are due when service is provided.

	<b>2020</b>	<b>2019</b>
	<b>\$'000</b>	<b>\$'000</b>

**c) Grants and other contributions**

Grants without sufficiently specific performance obligations	<u>19,382</u>	<u>29,718</u>
	<b>19,382</b>	<b>29,718</b>

Grants were received from the Department of Communities and Justice for Early Appropriate Guilty Pleas Reform \$17.216 million (2019: \$18.599 million), Child Sexual Assault Reform \$2.166 million (2019: \$0.514 million).

District Court Backlog funding was provided as a grant in 2019 (\$8.581 million) and direct appropriation in 2020 (\$10.139 million).

There was no grant in 2020 for the Cases Management System Replacement project (2019: \$0.448 million).

There was no grant in 2020 for AVL assets transfer (2019: \$0.018 million).

**Recognition and Measurement**

**Until 30 June 2019**

Income from grants (other than contribution by owners) is recognised when the Office obtains control over the contribution. The Office is deemed to have assumed control when the grant is received or receivable.

Contributions are recognised at their fair value. Contributions of services are recognised when and only when a fair value of those services can be reliably determined, and the services would be purchased if not donated.

**From 1 July 2019**

Income from grants without sufficiently specific performance obligations is recognised when the Office obtains control over the granted assets (e.g. cash received or receivable).

	<b>2020</b>	<b>2019</b>
	<b>\$'000</b>	<b>\$'000</b>

**(d) Acceptance by the Crown Entity of employee benefits and other liabilities**

The following liabilities and / or expenses have been assumed by the Crown Entity or other government entities:

Superannuation - defined benefit	1,236	1,563
Long service leave provision	6,340	8,192
Payroll tax	<u>67</u>	<u>85</u>
	<b>7,643</b>	<b>9,840</b>

**Office of the Director of Public Prosecutions  
Notes to the Financial Statements for the year ended 30 June 2020**

**3 Revenue (cont'd)**

	2020	2019
	\$'000	\$'000
<b>(e) Other income</b>		
Miscellaneous Revenue	142	177
	142	177

**4 Gains / (Losses) on Disposal**

	2020	2019
	\$'000	\$'000
<b>Gain / (loss) on disposal</b>		
Written down value of assets disposed	(16)	(6)
Net gain / (loss) on disposal	(16)	(6)

**5 Other Gains / (Losses)**

	2020	2019
	\$'000	\$'000
Impairment loss on non-financial assets	-	(1,484)
Revaluation increment-Library collection	66	-
Impairment loss on ROUA	(3,480)	-
	(3,414)	(1,484)

The Library collection was revalued with a resulting increment of \$0.066 million in net asset value as at 30 June 2020.

ROU assets were reviewed for impairment at 30 June 2020. Property NSW provided advice on the assessed impact to market rents as a consequence of COVID-19. Impairment losses totalling \$3.480 million related to leased property. (see Note 10).

The Office had capitalised \$1.484 million as at 30 June 2019 in relation to an Intangible Asset in progress for an approved \$4.0 million project to replace its Case Management System. The amount capitalised as at 30 June 2018 was \$1.036 million and, based on ongoing funding, was assessed as not impaired at that time. As an outcome of the 2019-20 NSW Budget, the Office received advice in May 2019 that the funding for continuation of the project in 2019-20 was not approved. As a result, the carrying amount was assessed as fully impaired as at 30 June 2019.

**Recognition and Measurement**

***Impairment losses on non-financial assets***

Impairment losses may arise on non-financial assets held by the Office from time to time. Accounting for impairment losses is dependent upon the individual asset (or group of assets) subject to impairment. Accounting Policies and events giving rise to impairment losses are disclosed in the following notes:

Plant and equipment - Note 9

Leases - Note 10

Intangible assets - Note 11



Office of the Director of Public Prosecutions

Notes to the Financial Statements for the year ended 30 June 2020

6 Program Group Statements  
for the year ended 30 June 2020

	Program Group 1 Prosecutions *		Program Group 2 Victim and Witness Assistance *		Not Attributable		Total	
	2020 \$'000	2019 \$'000	2020 \$'000	2019 \$'000	2020 \$'000	2019 \$'000	2020 \$'000	2019 \$'000
<b>OFFICE'S EXPENSES AND INCOME</b>								
<b>Expenses excluding losses</b>								
Employee related expenses	131,013	127,764	5,143	5,322	-	-	136,156	133,086
Operating expenses	14,871	25,181	692	1,040	-	-	15,563	26,221
Depreciation and amortisation	11,680	3,781	706	224	-	-	12,386	4,005
Finance costs	819	-	50	-	-	-	869	-
Other expenses	-	-	3,420	4,031	-	-	3,420	4,031
<b>Total expenses excluding losses</b>	<b>158,383</b>	<b>156,726</b>	<b>10,011</b>	<b>10,617</b>	<b>-</b>	<b>-</b>	<b>168,394</b>	<b>167,343</b>
<b>Revenue**</b>								
Appropriation	-	-	-	-	137,533	125,909	137,533	125,909
Sale of goods and services from contracts with customers	50	-	-	-	-	-	50	-
Grants and other contributions	18,277	28,054	1,105	1,664	-	-	19,382	29,718
Acceptance by the Crown Entity of employee benefits and other liabilities	7,353	9,446	290	394	-	-	7,643	9,840
Other income	135	176	7	1	-	-	142	177
<b>Total revenue</b>	<b>25,815</b>	<b>37,676</b>	<b>1,402</b>	<b>2,059</b>	<b>137,533</b>	<b>125,909</b>	<b>164,750</b>	<b>165,644</b>
<b>Operating results</b>								
Gains / (losses) on disposal	(132,568)	(119,050)	(8,609)	(8,558)	137,533	125,909	(3,644)	(1,699)
Impairment loss on non-financial assets	(15)	(6)	(1)	-	-	-	(16)	(6)
	(3,219)	(1,401)	(195)	(83)	-	-	(3,414)	(1,484)
<b>Net result from continuing operations</b>	<b>(135,802)</b>	<b>(120,457)</b>	<b>(8,805)</b>	<b>(8,641)</b>	<b>137,533</b>	<b>125,909</b>	<b>(7,074)</b>	<b>(3,189)</b>
<b>Net result</b>	<b>(135,802)</b>	<b>(120,457)</b>	<b>(8,805)</b>	<b>(8,641)</b>	<b>137,533</b>	<b>125,909</b>	<b>(7,074)</b>	<b>(3,189)</b>
<b>Other comprehensive income</b>								
<b>Total other comprehensive income</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>TOTAL COMPREHENSIVE INCOME</b>	<b>(135,802)</b>	<b>(120,457)</b>	<b>(8,805)</b>	<b>(8,641)</b>	<b>137,533</b>	<b>125,909</b>	<b>(7,074)</b>	<b>(3,189)</b>

\* The names and purposes of each program group are summarised below.

\*\* Appropriations are made on an entity basis and not to individual program groups. Consequently, appropriations must be included in the 'Not Attributable' column.

Office of the Director of Public Prosecutions  
Notes to the Financial Statements for the year ended 30 June 2020

6 Program Group Statements  
for the year ended 30 June 2020 (cont'd)

	Program Group 1 Prosecutions *		Program Group 2 Victim and Witness Assistance *		Not Attributable		Total	
	2020 \$'000	2019 \$'000	2020 \$'000	2019 \$'000	2020 \$'000	2019 \$'000	2020 \$'000	2019 \$'000
<b>OFFICE'S ASSETS &amp; LIABILITIES</b>								
<b>Current assets</b>								
Cash and cash equivalents	5,721	3,165	231	137	-	-	5,952	3,302
Receivables	3,140	3,107	87	111	-	-	3,227	3,218
<b>Total current assets</b>	<b>8,861</b>	<b>6,272</b>	<b>318</b>	<b>248</b>	<b>-</b>	<b>-</b>	<b>9,179</b>	<b>6,520</b>
<b>Non-current assets</b>								
Plant and equipment	7,282	8,108	440	481	-	-	7,722	8,589
Right-of-use assets	31,983	-	1,933	-	-	-	33,916	-
Intangible assets	1,158	936	70	56	-	-	1,228	992
<b>Total non-current assets</b>	<b>40,423</b>	<b>9,044</b>	<b>2,443</b>	<b>537</b>	<b>-</b>	<b>-</b>	<b>42,866</b>	<b>9,581</b>
<b>TOTAL ASSETS</b>	<b>49,284</b>	<b>15,316</b>	<b>2,761</b>	<b>785</b>	<b>-</b>	<b>-</b>	<b>52,045</b>	<b>16,101</b>
<b>Current liabilities</b>								
Payables	2,404	1,624	116	90	-	-	2,520	1,714
Borrowings	7,806	-	472	-	-	-	8,278	-
Provisions	15,020	14,008	568	554	-	-	15,588	14,562
Other current liabilities	4,232	1,788	167	74	-	-	4,399	1,862
<b>Total current liabilities</b>	<b>29,462</b>	<b>17,420</b>	<b>1,323</b>	<b>718</b>	<b>-</b>	<b>-</b>	<b>30,785</b>	<b>18,138</b>
<b>Non-current liabilities</b>								
Borrowings	28,632	-	1,731	-	-	-	30,363	-
Provisions	3,330	3,317	138	143	-	-	3,468	3,460
<b>Total non-current liabilities</b>	<b>31,962</b>	<b>3,317</b>	<b>1,869</b>	<b>143</b>	<b>-</b>	<b>-</b>	<b>33,831</b>	<b>3,460</b>
<b>TOTAL LIABILITIES</b>	<b>61,424</b>	<b>20,737</b>	<b>3,192</b>	<b>861</b>	<b>-</b>	<b>-</b>	<b>64,616</b>	<b>21,598</b>
<b>NET ASSETS</b>	<b>(12,140)</b>	<b>(5,421)</b>	<b>(431)</b>	<b>(76)</b>	<b>-</b>	<b>-</b>	<b>(12,571)</b>	<b>(5,497)</b>

\* The names and purposes of each program group are summarised below.

**Office of the Director of Public Prosecutions  
Notes to the Financial Statements for the year ended 30 June 2020**

**6 Program Group Statements  
for the year ended 30 June 2020 (cont'd)**

**Program Group Descriptions**

**(a) Program Group 1 Prosecutions**

Purpose: To provide the people of New South Wales with an efficient, fair and just prosecution service.

Description: The program group covers the institution and conduct of prosecutions and related proceedings for indictable offences and summary offences under NSW laws. This includes providing advice to police and investigative agencies on evidentiary matters, participating in the law reform process and capturing the proceeds of crime.

**(b) Program Group 2 Victim and Witness Assistance**

Purpose: To provide victims and witnesses with relevant information and support in the prosecution process.

Description: This program group covers the provision of information, referral and support services to victims of violent crimes and to vulnerable witnesses who give evidence in matters prosecuted by the Director of Public Prosecutions.

**7 Current Assets - Cash and Cash Equivalents**

	2020 \$'000	2019 \$'000
Cash at bank and on hand	5,947	3,297
Permanent witness advances	<u>5</u>	<u>5</u>
	<u>5,952</u>	<u>3,302</u>

For the purposes of the Statement of Cash Flows, cash and cash equivalents include cash at bank, cash on hand and witness advances floats given to courthouses.

Cash and cash equivalent assets recognised in the Statement of Financial Position are reconciled at the end of the financial year to the Statement of Cash Flows as follows:

	2020 \$'000	2019 \$'000
Cash and cash equivalents (per Statement of Financial Position)	<u>5,952</u>	<u>3,302</u>
Closing cash and cash equivalents (per Statement of Cash Flows)	<u>5,952</u>	<u>3,302</u>

Refer note 21 for details regarding credit risk and market risk arising from financial instruments.

**8 Current Assets - Receivables**

	2020 \$'000	2019 \$'000
<b>Current Receivables</b>		
Grant revenue	940	858
Goods and Services Tax recoverable from the ATO	385	320
Prepayments	1,846	1,963
Advances	32	66
Other receivables	<u>24</u>	<u>11</u>
	<u>3,227</u>	<u>3,218</u>

Details regarding credit risk of trade debtors that are neither past due nor impaired, are disclosed in note 21.



**Office of the Director of Public Prosecutions  
Notes to the Financial Statements for the year ended 30 June 2020**

**8 Current Assets - Receivables (cont'd)**

**Recognition and Measurement**

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

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

**Subsequent measurement**

The Office holds receivables with the objective to collect the contractual cash flows and therefore measures them at amortised cost using the effective interest method, less any impairment. Changes are recognised in the net result of the year when impaired, derecognised or through the amortisation process.

**Impairment**

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

For trade receivables, the Office applies a simplified approach in calculating ECLs. The Office recognises a loss allowance based on lifetime ECLs at each reporting date. The Office has established a provision matrix based on historical credit loss experience for trade receivables, adjusted for forward looking factors specific to the receivable

**9 Plant and Equipment**

**Plant and equipment held and used by the Office**

	<b>Plan Equip</b>
<b>At 1 July 2019 - fair value</b>	
Gross carrying amount	25
Accumulated depreciation	<u>(21)</u>
Net carrying amount	<u>4</u>
<b>At 30 June 2020 - fair value</b>	
Gross carrying amount	36
Accumulated depreciation	<u>(22)</u>
Net carrying amount	<u>14</u>

**Reconciliation**

A reconciliation of the carrying amount of plant and equipment at the beginning and end of the current reporting period is set out below.

	<b>Plan Equip</b>
<b>Year ended 30 June 2020</b>	
Net carrying amount at beginning of year	<u>4</u>
Adjusted net carrying amount at beginning of year	8
Purchase of assets	1
Net revaluation increment	1
Depreciation expense - asset owned	<u>(2)</u>
<b>Net carrying amount at end of period</b>	<b><u>14</u></b>



**Office of the Director of Public Prosecutions**  
**Notes to the Financial Statements for the year ended 30 June 2020**

**9 Plant and Equipment (cont'd)**

	<b>Plant and Equipment \$'000</b>
<b>At 1 July 2018 - fair value</b>	
Gross carrying amount	30,415
Accumulated depreciation	<u>(21,078)</u>
<b>Net carrying amount</b>	<u><b>9,337</b></u>
<b>At 30 June 2019 - fair value</b>	
Gross carrying amount	29,772
Accumulated depreciation	<u>(21,183)</u>
<b>Net carrying amount</b>	<u><b>8,589</b></u>

**Reconciliation**

A reconciliation of the carrying amount of plant and equipment at the beginning and end of the previous reporting period is set out below.

	<b>Plant and Equipment \$'000</b>
<b>Year ended 30 June 2019</b>	
Net carrying amount at beginning of year	<u>9,337</u>
Adjusted net carrying amount at beginning of year	9,337
Purchases of assets	2,404
Disposals	(6)
Depreciation expense	<u>(3,146)</u>
<b>Net carrying amount at end of period</b>	<u><b>8,589</b></u>

**Recognition and Measurement**

***Acquisition of plant and equipment***

Plant and equipment are initially measured at cost and subsequently revalued at fair value less accumulated depreciation and impairment. Cost is the amount of cash or cash equivalents paid or the fair value of the other consideration given to acquire the asset at the time of its acquisition or construction or, where applicable, the amount attributed to that asset when initially recognised in accordance with the requirements of other Australian Accounting Standards.

Fair value is the price that would be received to sell an asset in an orderly transaction between market participants at measurement date.

Where payment for an asset is deferred beyond normal credit terms, its cost is the cash price equivalent; i.e. deferred payment amount is effectively discounted over the period of credit.

Assets acquired at no cost, or for nominal consideration, are initially recognised at their fair value at the date of acquisition.

***Capitalisation thresholds***

Plant and equipment and intangible assets costing \$5,000 and above individually (or forming part of a network costing more than \$5,000) are capitalised.

***Restoration costs***

The present value of the expected cost for the restoration or cost of dismantling of an asset after its use is included in the cost of the respective asset if the recognition criteria for a provision are met.

**Office of the Director of Public Prosecutions  
Notes to the Financial Statements for the year ended 30 June 2020**

**9 Plant and Equipment (cont'd)**

**Depreciation of plant and equipment**

Depreciation is provided for on a straight-line basis to write off the depreciable amount of each asset as it is consumed over its useful life to the Office.

All material identifiable components of assets are depreciated separately over their useful lives.

	<b>2020</b>	<b>2019</b>
Building improvement right-of-use assets	Lease period	N/A
Computer laptop	4 years	4 years
Computer servers	4 years	4 years
Computer equipment	4 years	4 years
Office equipment	5 years	5 years
Multifunction devices	5 years	5 years
	10 years or lease period, whichever is shorter	10 years or lease period, whichever is shorter
Office furniture and fittings		
Library books	15 years	15 years
Motor vehicles-right-of-use assets	Lease period	N/A

**Right-of-use assets acquired by lessees (under AASB 16 from 1 July 2019)**

From 1 July 2019, AASB 16 *Leases* (AASB 16) requires a lessee to recognise a right-of-use asset for most leases. The Office has elected to present right-of-use asset separately in the Statement of Financial Position.

Further information on leases is contained at Note 10.

**Revaluation of plant and equipment**

Physical non-current assets are valued in accordance with the 'Valuation of Physical Non-Current Assets at Fair Value' Policy and Guidelines Paper (TPP14-01). This policy adopts fair value in accordance with AASB 13, AASB 116 and AASB 140 *Investment Property*.

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

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

Non-specialised assets with short useful lives are measured at depreciated historical cost, which for these assets approximates fair value. The Office has assessed that any difference between fair value and depreciated historical cost is unlikely to be material. As a result, revaluation of the plant and equipment is not required.

For other assets valued using other valuation techniques, any balances of accumulated depreciation at the revaluation date in respect of those assets are credited to the asset accounts to which they relate. The net asset accounts are then increased or decreased by the revaluation increments or decrements.

Revaluation increments are recognised in other comprehensive income and credited to revaluation surplus in equity. However, to the extent that an increment reverses a revaluation decrement in respect of the same class of asset previously recognised as a loss in the net result, the increment is recognised immediately as a gain in the net result.

Revaluation decrements are recognised immediately as a loss in the net result, except to the extent that it offsets an existing revaluation surplus on the same class of assets, in which case, the decrement is debited directly to the revaluation surplus.

**Office of the Director of Public Prosecutions  
Notes to the Financial Statements for the year ended 30 June 2020**

**9 Plant and Equipment (cont'd)**

As a not-for-profit entity, revaluation increments and decrements are offset against one another within a class of non-current assets, but not otherwise.

When revaluing non-current assets using the cost approach, the gross amount and the related accumulated depreciation are separately restated. Where the income approach or market approach is used, accumulated depreciation is eliminated against the gross carrying amount of the asset and the net amount restated to the revalued amount of the asset.

Where an asset that has previously been revalued is disposed of, any balance remaining in the revaluation surplus in respect of that asset is transferred to accumulated funds.

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

**Impairment of property, plant and equipment**

As a not-for-profit entity with no cash generating units, impairment under AASB 136 *Impairment of Assets* is unlikely to arise. Since plant and equipment is carried at fair value or an amount that approximates fair value, impairment can only arise in rare circumstances such as where the costs of disposal are material.

The Office assesses, at each reporting date, whether there is an indication that an asset may be impaired. If any indication exists, or when annual impairment testing for an asset is required, the Office estimates the asset's recoverable amount. When the carrying amount of an asset exceeds its recoverable amount, the asset is considered impaired and is written down to its recoverable amount.

As a not-for-profit entity, an impairment loss is recognised in the net result to the extent the impairment loss exceeds the amount in the revaluation surplus for the class of asset.

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

**10 Leases**

**(a) Entity as a lessee**

The Office leases various properties and motor vehicles. Lease contracts are typically made for fixed periods of 3 to 10 years, but may have extension options. Lease terms are negotiated on an individual basis and contain a wide range of different terms and conditions. The lease agreements do not impose any covenants, but leased assets may not be used as security for borrowing purposes. The Office does not provide residual value guarantees in relation to leases.

Extension and termination options are included in a number of property and motor vehicle leases. These terms are used to maximise operational flexibility in terms of managing contracts. The majority of extension and termination options held are exercisable only by the Office and not by the respective lessor. In determining the lease term, management considers all facts and circumstances that create an economic incentive to exercise an extension option, or not exercise a termination option. Extension options (or periods after termination options) are only included in the lease term if the lease is reasonably certain to be extended (or not terminated). The assessment is reviewed if a significant event or a significant change in circumstances occurs which affects this assessment and that is within the control of the lessee. During the current financial year, there is no financial effect of revising lease terms to reflect the effect of exercising extension and termination options.

From 1 July 2019, AASB 16 *Leases* (AASB 16) requires a lessee to recognise a right-of-use asset and a corresponding lease liability for most leases.

**Office of the Director of Public Prosecutions  
Notes to the Financial Statements for the year ended 30 June 2020**

**10 Leases (cont'd)**

**Right-of-use assets under leases**

The following table presents right-of-use assets that do not meet the definition of investment property.

	Building \$'000	Plant and Equipment \$'000	Total \$'000
Balance at 1 July 2019	46,482	419	46,901
Depreciation expenses	(8,849)	(225)	(9,074)
Lease termination	(16)	-	(16)
Addition of right-of-use assets	-	62	62
Impairment losses (recognised in "other gains / (losses)")	(3,480)	-	(3,480)
Remeasurement	(477)	-	(477)
Balance at 30 June 2020	<u>33,660</u>	<u>256</u>	<u>33,916</u>

**Impairment Losses for Right-of-Use Assets**

The COVID-19 outbreak occurring throughout the 2019-20 financial year had an unprecedented effect on the NSW and global economies. COVID-19 significantly impacted the market rent for leased office accommodation within the Sydney and metropolitan areas and therefore the value of some lease right-of-use assets in the Statement of Financial Position.

The Office has therefore undertaken an impairment assessment for the above right-of-use assets, to determine whether the carrying amount exceeded their recoverable amount. Impacted right-of-use assets were written down to their recoverable amounts by reference to the right-of-use asset's fair value less costs of disposal and an impairment loss is recognised.

The Office recognised impairment losses for right-of-use assets during the 2019-20 financial year of \$3.480 million. Impairment losses (reversal of impairment losses) for right-of-use assets are included in Other Gains/(Losses) in the Statement of Comprehensive Income.

**Lease liabilities**

The following table presents liabilities under leases.

	Lease Liabilities 2020 \$'000
Balance at 1 July 2019	46,901
Additions	62
Interest expenses	869
Payments	(9,186)
Other	(5)
Balance at 30 June 2020	<u>38,641</u>

The following amounts were recognised in the Statement of Comprehensive Income for the period ending 30 June 2020 in respect of leases where the Office is the lessee:

Depreciation expense of right-of-use assets	9,074
Interest expense on lease liabilities	869
Impairment loss	3,480
Loss on lease termination	16
Total amount recognised in the Statement of Comprehensive Income	<u>13,439</u>

The Office had total cash outflows for leases of \$9.186 million in the period ending 30 June 2020.



**Office of the Director of Public Prosecutions  
Notes to the Financial Statements for the year ended 30 June 2020**

**10 Leases (cont'd)**

Future minimum lease payments under non-cancellable leases as at 30 June 2019 are, as follows:

	<b>Operating lease</b>
	<b>\$,000</b>
Within one year	10,251
Later than one year and not later than five years	16,377
Later than five years	<u>7,160</u>
Total (including GST)	33,788
Less: GST recoverable from Australian Tax Office	<u>3,072</u>
Total (excluding GST)	<u><b>30,716</b></u>

**Recognition and measurement (under AASB 16 from 1 July 2019)**

The Office assesses at contract inception whether a contract is, or contains, a lease. That is, if the contract conveys the right to control the use of an identified asset for a period of time in exchange for consideration.

The Office recognises lease liabilities to make lease payments and right-of-use assets representing the right to use the underlying assets, except for short-term leases and leases of low-value assets.

*i. Right-of-use assets*

The Office recognises right-of-use assets at the commencement date of the lease (i.e. the date the underlying asset is available for use). Right-of-use assets are initially measured at the amount of initial measurement of the lease liability (refer ii below), adjusted by any lease payments made at or before the commencement date and lease incentives, any initial direct costs incurred, and estimated costs of dismantling and removing the asset or restoring the site.

The right-of-use assets are subsequently measured at cost. They are depreciated on a straight-line basis over the shorter of the lease term and the estimated useful lives of the assets, as follows:

- Buildings 3 to 21 years
- Motor vehicles 2 to 3 years

If ownership of the leased asset transfers to the Office at the end of the lease term or the cost reflects the exercise of a purchase option, depreciation is calculated using the estimated useful life of the asset.

The right-of-use assets are also subject to impairment. The Office assesses, at each reporting date, whether there is an indication that an asset may be impaired. If any indication exists, or when annual impairment testing for an asset is required, the Office estimates the asset's recoverable amount. When the carrying amount of an asset exceeds its recoverable amount, the asset is considered impaired and is written down to its recoverable amount. After an impairment loss has been recognised, it is reversed only if there has been a change in the assumptions used to determine the asset's recoverable amount. The reversal is limited so that the carrying amount of the asset does not exceed its recoverable amount, nor exceed the carrying amount that would have been determined, net of depreciation, had no impairment loss been recognised for the asset in prior years. Such reversal is recognised in the net result.

*ii. Lease liabilities*

At the commencement date of the lease, the Office recognises lease liabilities measured at the present value of lease payments to be made over the lease term. Lease payments include:

- fixed payments (including in substance fixed payments) less any lease incentives receivable;
- variable lease payments that depend on an index or a rate;
- exercise price of purchase options reasonably certain to be exercised by the Office; and
- payments of penalties for terminating the lease, if the lease term reflects the Office exercising the option to terminate.

Variable lease payments that do not depend on an index or a rate are recognised as expenses (unless they are incurred to produce inventories) in the period in which the event or condition that triggers the payment occurs.

**Office of the Director of Public Prosecutions  
Notes to the Financial Statements for the year ended 30 June 2020**

**10 Leases (cont'd)**

The lease payments are discounted using the interest rate implicit in the lease. If that rate cannot be readily determined, which is generally the case for the Office's leases, the lessee's incremental borrowing rate is used, being the rate that the Office would have to pay to borrow the funds necessary to obtain an asset of similar value to the right-of-use asset in a similar economic environment with similar terms, security and conditions.

After the commencement date, the amount of lease liabilities is increased to reflect the accretion of interest and reduced for the lease payments made. In addition, the carrying amount of lease liabilities is remeasured if there is a modification, a change in the lease term, a change in the lease payments (e.g., changes to future payments resulting from a change in an index or rate used to determine such lease payments) or a change in the assessment of an option to purchase the underlying asset.

The Office's lease liabilities are included in borrowings.

**Recognition and measurement (under AASB 117 until 30 June 2019)**

The determination of whether an arrangement is (or contains) a lease is based on the substance of the arrangement at the inception of the lease. The arrangement is, or contains, a lease if fulfilment of the arrangement is dependent on the use of a specific asset or assets and the arrangement conveys a right to use the asset (or assets), even if that asset (or those assets) is not explicitly specified in an arrangement.

Until 30 June 2019, a lease was classified at the inception date as a finance lease or an operating lease. A lease that transferred substantially all the risks and rewards incidental to ownership to the Office was classified as a finance lease.

The Office has never had finance leases.

An operating lease is a lease other than a finance lease. Operating lease payments were recognised as an operating expense in the Statement of Comprehensive Income on a straight-line basis over the lease term.

**11 Non-Current Assets - Intangible Assets**

	<b>Total \$'000</b>
<b>At 1 July 2019</b>	
Cost (gross carrying amount)	5,039
Accumulated amortisation	<u>(4,047)</u>
<b>Net carrying amount</b>	<b><u>992</u></b>
<b>At 30 June 2020</b>	
Cost (gross carrying amount)	5,701
Accumulated amortisation	<u>(4,473)</u>
<b>Net carrying amount</b>	<b><u>1,228</u></b>
<b>Year ended 30 June 2020</b>	
Net carrying amount at beginning of year	992
Additions	662
Amortisation (recognised in "depreciation and amortisation")	<u>(426)</u>
<b>Net carrying amount at end of year</b>	<b><u>1,228</u></b>
	<b>Total \$'000</b>
<b>At 1 July 2018</b>	
Cost (gross carrying amount)	5,785
Accumulated amortisation	<u>(3,188)</u>
<b>Net carrying amount</b>	<b><u>2,597</u></b>
<b>At 30 June 2019</b>	
Cost (gross carrying amount)	5,039
Accumulated amortisation	<u>(4,047)</u>
<b>Net carrying amount</b>	<b><u>992</u></b>

**Office of the Director of Public Prosecutions**  
**Notes to the Financial Statements for the year ended 30 June 2020**

**11 Non-Current Assets - Intangible Assets (cont'd)**

	<b>Total \$'000</b>
<b>Year ended 30 June 2019</b>	
Net carrying amount at beginning of year	2,597
Additions	738
Impairment losses	(1,484)
Amortisation (recognised in "depreciation and amortisation")	<u>(859)</u>
<b>Net carrying amount at end of year</b>	<b><u>992</u></b>

**Recognition and Measurement**

The Office recognises intangible assets only if it is probable that future economic benefits will flow to the Office and the cost of the asset can be measured reliably. Intangible assets are measured initially at cost. Where an asset is acquired at no or nominal cost, the cost is its fair value as at the date of acquisition. Following initial recognition, intangible assets are subsequently measured at fair value only if there is an active market. If there is no active market for the Office's intangible assets, the assets are carried at cost less any accumulated amortisation and impairment losses.

All research costs are expensed. Development costs are only capitalised when certain criteria are met.

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

The Office's intangible assets are amortised using the straight-line method over a period of 4 years.

The amortisation period and the amortisation method for an intangible asset with a finite useful life are reviewed at least at the end of each reporting period.

Intangible assets are tested for impairment where an indicator of impairment exists. If the recoverable amount is less than its carrying amount, the carrying amount is reduced to recoverable amount and the reduction is recognised as an impairment loss.

**12 Current Liabilities - Payables**

	<b>2020 \$'000</b>	<b>2019 \$'000</b>
<b>Payables</b>		
Accrued salaries, wages and on-costs	1,501	419
Creditors	31	27
Accruals	<u>988</u>	<u>1,268</u>
	<b><u>2,520</u></b>	<b><u>1,714</u></b>

Details regarding liquidity risk including a maturity analysis of the above payables, are disclosed in Note 21.

**Recognition and measurement**

Payables represent liabilities for goods and services provided to the Office and other amounts. Short-term payables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

Payables are financial liabilities at amortised cost, initially measured at fair value, net of directly attributable transaction costs. These are subsequently measured at amortised cost using the effective interest method. Gains and losses are recognised net result when the liabilities are derecognised as well as through the amortisation process.

**13 Current / Non-Current Liabilities - Borrowings**

	<b>2020 \$'000</b>	<b>2019 \$'000</b>
<b>Current Borrowings</b>		
Lease liability (see Note 10)	<u>8,278</u>	<u>-</u>
	<b><u>8,278</u></b>	<b><u>-</u></b>



**Office of the Director of Public Prosecutions  
Notes to the Financial Statements for the year ended 30 June 2020**

**13 Current / Non-Current Liabilities - Borrowings (cont'd)**

	2020	2019
	\$'000	\$'000
<b>Non-current Borrowings</b>		
Lease liability (see Note 10)	<u>30,363</u>	<u>-</u>
	<u>30,363</u>	<u>-</u>

**Recognition and measurement**

*Financial liabilities at amortised cost*

Borrowings classified as financial liabilities at amortised cost are initially measured at fair value, net of directly attributable transaction costs. These are subsequently measured at amortised cost using the effective interest method. Gains and losses are recognised in net result when the liabilities are derecognised as well as through the amortisation process.

Finance lease liabilities were determined in accordance with AASB 117 until 30 June 2019. From 1 July 2019, lease liabilities are determined in accordance with AASB 16.

**14 Current / Non-Current Liabilities - Provisions**

	2020	2019
	\$'000	\$'000
<b>Current</b>		
<b>Employee benefits and related on-costs</b>		
Annual leave	8,876	8,216
On-cost on annual leave and long service leave	4,755	4,372
Payroll tax on-cost for annual leave and long service leave	1,951	1,791
Fringe benefits tax	<u>6</u>	<u>22</u>
	15,588	14,401
Annual leave includes \$0.795 million expected to be taken after 12 months (2019: \$0.627 million).		
<b>Other provisions</b>		
Rent adjustment reserve	-	89
Lease incentive	<u>-</u>	<u>72</u>
	<u>-</u>	<u>161</u>
<b>Total provisions - current</b>	<u>15,588</u>	<u>14,562</u>
<b>2020</b>		
	<b>\$'000</b>	<b>\$'000</b>
<b>Non-current</b>		
<b>Employee benefits and related on-costs</b>		
On-cost on long service leave	308	283
Payroll tax on-cost for long service leave	<u>170</u>	<u>156</u>
	<u>478</u>	<u>439</u>
<b>Other provisions</b>		
Restoration costs	2,990	2,709
Rent adjustment reserve	-	181
Lease incentive	<u>-</u>	<u>131</u>
	<u>2,990</u>	<u>3,021</u>
<b>Total provisions - non-current</b>	<u>3,468</u>	<u>3,460</u>

**Office of the Director of Public Prosecutions  
Notes to the Financial Statements for the year ended 30 June 2020**

**14 Current / Non-Current Liabilities - Provisions (cont'd)**

	2020 \$'000	2019 \$'000
<b>Aggregate employee benefits and related on-costs</b>		
Provisions - current	15,588	14,401
Provisions - non-current	478	439
Accrued salaries, wages and on-costs (note 12)	<u>1,501</u>	<u>419</u>
	<u>17,567</u>	<u>15,259</u>

**Movements in provisions (other than employee benefits)**

Movements in each class of provision during the financial year, other than employee benefits are set out below:

	Lease incentive \$'000	Restoration costs \$'000	Rent adjustment reserve \$'000	Total \$'000
Carrying amount at 1 July 2019	203	2,709	270	3,182
Additional provisions recognised	-	151	-	151
Reclassified on adoption of AASB 16	(203)	-	(270)	(473)
Unwinding / change in the discount rate	-	129	-	129
Carrying amount at 30 June 2020	<u>-</u>	<u>2,989</u>	<u>-</u>	<u>2,989</u>

Restoration costs refer to the present value of estimated cost of make good obligations (in accordance with AASB 137) that will arise when existing office accommodation leases expire. The provision is adjusted annually for unwinding and changes in discount rates. Any cost variations in make good expenses at the time of implementation will be recognised in the Statement of Comprehensive Income.

**Recognition and Measurement**

**Employee benefits and related on-costs**

**Salaries and wages, annual leave and sick leave**

Salaries and wages (including non-monetary benefits) and paid sick leave that are expected to be settled wholly within 12 months after the end of the period in which the employees render the service are recognised and measured at the undiscounted amounts of the benefits.

Annual leave is not expected to be settled wholly before twelve months after the end of the annual reporting period in which the employees render the related service. As such, it is required to be measured at present value in accordance with AASB 119 *Employee Benefits* (although short-cut methods are permitted).

Actuarial advice obtained by Treasury has confirmed that using the nominal annual leave balance plus the annual leave entitlements accrued while taking annual leave (calculated using 7.9% of the nominal value of annual leave) can be used to approximate the present value of the annual leave liability. The Office has assessed the actuarial advice based on the Office's circumstances and has determined that the effect of discounting is immaterial to annual leave. All annual leave is classified as a current liability even where the Office does not expect to settle the liability within 12 months as the Office does not have an unconditional right to defer settlement.

Unused non-vesting sick leave does not give rise to a liability as it is not considered probable that sick leave taken in the future will be greater than the benefits accrued in the future.

**Long service leave and superannuation**

The Office's liabilities for long service leave and defined benefit superannuation are assumed by the Crown Entity. The Office accounts for the liability as having been extinguished, resulting in the amount assumed being shown as part of the non-monetary revenue item described as 'Acceptance by the Crown Entity of employee benefits and other liabilities'.

Long service leave is measured at the present value of expected future payments to be made in respect of services provided up to the reporting date. Consideration is given to certain factors based on actuarial review, including expected future wage and salary levels, experience of employee departures, and periods of service. Expected future payments are discounted using Commonwealth government bond rate at the reporting date.

**Office of the Director of Public Prosecutions  
Notes to the Financial Statements for the year ended 30 June 2020**

**14 Current / Non-Current Liabilities - Provisions (cont'd)**

The superannuation expense for the financial year is determined by using the formulae specified in the Treasurer's Directions. The expense for certain superannuation schemes (i.e. Basic Benefit and First State Super) is calculated as a percentage of the employees' salary. For other superannuation schemes (i.e. State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employees' superannuation contributions.

**Consequential on-costs**

Consequential costs to employment are recognised as liabilities and expenses where the employee benefits to which they relate have been recognised. This includes outstanding amounts of payroll tax, workers' compensation insurance premiums and fringe benefits tax.

**Other provisions**

Provisions are recognised when: the Office has a present legal or constructive obligation as a result of a past event; it is probable that an outflow of resources will be required to settle the obligation; and a reliable estimate can be made of the amount of the obligation. When the Office expects some or all of a provision to be reimbursed, for example, under an insurance contract, the reimbursement is recognised as a separate asset, but only when the reimbursement is virtually certain. The expense relating to a provision is presented net of any reimbursement in the Statement of Comprehensive Income.

Any provisions for restructuring are recognised only when an Office has a detailed formal plan and the Office has raised a valid expectation in those affected by the restructuring that it will carry out the restructuring by starting to implement the plan or announcing its main features to those affected.

**15 Current Liabilities - Other**

	<b>2020</b>	<b>2019</b>
	<b>\$'000</b>	<b>\$'000</b>
Liability for lapsed appropriations drawn down	<u>4,399</u>	<u>1,862</u>
	<b>4,399</b>	<b>1,862</b>

**16 Equity**

**Accumulated Funds**

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

**17 Commitments**

	<b>2020</b>	<b>2019</b>
	<b>\$'000</b>	<b>\$'000</b>
Capital Commitments	-	-
Aggregate capital expenditure for the acquisition of computer equipment and library reference materials contracted for at balance date and not provided for:		
Within one year	<u>117</u>	-
Total (including GST)	<u>117</u>	-

**18 Contingent Liabilities and Contingent Assets**

The Office was not aware of any contingent assets or liabilities as at 30 June 2020 (\$nil in 2019) that may materially affect the future results of the Office.

**19 Budget Review**

The budgeted amounts are drawn from the original budgeted financial statements presented to Parliament in respect of the reporting period. Subsequent amendments to the original budget are not reflected in the budgeted amounts. Major variances between the original budgeted amounts and the actual amounts disclosed in the financial statements are explained below.

**Office of the Director of Public Prosecutions  
Notes to the Financial Statements for the year ended 30 June 2020**

**19 Budget Review (cont'd)**

**Net result**

The actual net result is higher than budget by \$7.575 million, primarily due to the following factors:

**Total Expenses excluding losses - \$5.346 million favourable to budget:**

- Employee Related Expenses are \$1.964 million favourable to budget including \$1.695 million unfavourable long service leave actuarial adjustment offset by underspend in other employee related expenses of \$3.659 million.
- Operating Expenses are \$1.765 million favourable to budget including underspend in travel, printing and other operational expenses related to court activity which was impacted by COVID-19 and the temporary cessation of jury trials.
- Depreciation is \$0.581 million less than budget mainly as a result of delay to completion and capitalisation of projects.
- Finance costs are \$0.372 million favourable to budget reflecting lower interest charge recognised on property operating leases under AASB16 Leases.
- Other Expenses are \$0.664 million under budget due to reduced witness expenses as a consequence of COVID-19 impacts on court activity.

**Gains/(Losses) - unfavourable to budget by \$3.435 million:**

- Mainly due to \$3.480 million unbudgeted impairment to right-of-use property lease assets as a consequence of assessed COVID-19 impacts on market rents. Refer to Note 5.

**Total Revenue was \$9.486 million unfavourable to budget:**

- Recurrent appropriation revenue is \$9.357 million less than budget reflecting below-budget expense result combined with increase of \$1.839 million in accruals and provisions not drawn down as cash.
- Capital appropriation is \$0.447 million less than budget as a result of delays in completion and capitalisation of projects.
- Grant revenue is \$0.358 million less than budget due to corresponding underspend.
- Crown Entity acceptance of employee benefits and other liabilities is \$0.608 million higher than budget including \$1.695 million unfavourable variance from long service leave actuarial adjustment offset by \$1.087 million lower than budget Defined Benefit Superannuation expense.

**Assets and liabilities**

Total current assets are \$1.157 million higher than budget. The increase is mainly due to an increase in cash against budget from \$3.095 million to \$5.952 million, offset by a reduction in current receivables from \$4.927 million to \$3.227 million.

Total non-current assets are \$1.990 million lower than budget. Right-of-use assets are \$0.394 million lower than budget, including the impairment loss to the right-of-use property leases (\$3.480 million), and Plant & Equipment and Intangibles are \$1.596 million lower than budget arising from capital project delays impacting capitalisation of assets.

Total current liabilities are \$7.528 million higher than budget. The increase is mainly due to the \$4.399 million lapsed appropriation, and an increase in provisions for employee benefits and related on-costs including an increase in recreation leave provision of \$0.660 million and leave related on-costs of \$0.383 million .

Total non-current liabilities are \$3.624 million higher than budget. The increase is mainly due to right-of-use property leases variance of \$3.428 million and an increase in the restoration provision of \$0.280 million.

**Office of the Director of Public Prosecutions**  
**Notes to the Financial Statements for the year ended 30 June 2020**

**19 Budget Review (cont'd)**

**Cash flows**

Net cash flows from activities are \$0.827 million higher than budget. Operating Activities net inflows are higher than budget by \$0.482 million, Investing Activities are lower than budget by \$0.438 million, and Financing Activities are higher than budget by \$0.093 million.

**20 Reconciliation of Net Cash Flows from Operating Activities to Net Result**

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

	2020 \$'000	2019 \$'000
Net cash flow from operating activities	13,582	5,133
Depreciation and amortisation expense	(12,386)	(4,005)
Non cash capital grant	-	18
Decrease / (increase) in provisions	(1,034)	(1,219)
Increase / (decrease) in prepayments and other assets	9	(737)
Decrease / (increase) in payables	(806)	973
Decrease / (increase) in other liabilities	(2,537)	(1,862)
Impairment losses on non-financial assets	(3,480)	(1,484)
Revaluation increment	66	-
Increase/(decrease) in assets	(472)	-
Net gain / (loss) on disposed assets	(16)	(6)
<b>Net result</b>	<b>(7,074)</b>	<b>(3,189)</b>

**21 Financial Instruments**

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

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

The Director has overall responsibility for the establishment and oversight of risk management and reviews and agrees policies for managing each of these risks. Risk management policies are established to identify and analyse the risks faced by the Office, to set risk limits and controls and to monitor risks. Compliance with policies is reviewed by the Office on a continuous basis.

**(a) Financial instrument categories**

Class:	Note	Category	2020 Carrying Amount \$'000	2019 Carrying Amount \$'000
<b>Financial Assets</b>				
Cash and cash equivalents	7	Amortised cost	5,952	3,302
Receivables <sup>1</sup>	8	Amortised cost	996	935
<b>Financial Liabilities</b>				
Payables <sup>2</sup>	12	Financial liabilities measured at amortised cost	2,437	1,627
Borrowings	13	Financial liabilities measured at amortised cost	38,641	-

**Office of the Director of Public Prosecutions  
Notes to the Financial Statements for the year ended 30 June 2020**

**21 Financial Instruments (cont'd)**

**(a) Financial instrument categories (cont'd)**

**Notes**

<sup>1</sup> Excludes statutory receivables and prepayments (i.e. not within scope of AASB 7).

<sup>2</sup> Excludes statutory payables and unearned revenue (i.e. not within scope of AASB 7).

The Office determines the classification of its financial assets and liabilities after initial recognition and, when allowed and appropriate, re-evaluates this at each financial year end.

**(b) Derecognition of financial assets and financial liabilities**

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

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

When the Office has transferred its rights to receive cash flows from an asset or has entered into a pass-through arrangement, it evaluates if, and to what extent, it has retained the risks and rewards of ownership. Where the Office has neither transferred nor retained substantially all the risks and rewards or transferred control, the asset continues to be recognised to the extent of the Office's continuing involvement in the asset. In that case, the Office also recognises an associated liability. The transferred asset and the associated liability are measured on a basis that reflects the rights and obligations that the Office has retained.

Continuing involvement that takes the form of a guarantee over the transferred asset is measured at the lower of the original carrying amount of the asset and the maximum amount of consideration that the Office could be required to repay.

A financial liability is derecognised when the obligation specified in the contract is discharged or cancelled or expires. When an existing financial liability is replaced by another from the same lender on substantially different terms, or the terms of an existing liability are substantially modified, such an exchange or modification is treated as the derecognition of the original liability and the recognition of a new liability. The difference in the respective carrying amounts is recognised in the net result.

**(c) Offsetting financial instruments**

Financial assets and financial liabilities are offset and the net amount is reported in the Statement of Financial Position if there is a currently enforceable legal right to offset the recognised amounts and there is an intention to settle on a net basis, or to realise the assets and settle the liabilities simultaneously.

**(d) Financial risks**

**(i) Credit Risk**

Credit risk arises when there is the possibility that the counterparty will default on their contractual obligations, resulting in a financial loss to the Office. The maximum exposure to credit risk is generally represented by the carrying amount of the financial assets (net of any allowance for impairment).

Credit risk arises from the financial assets of the Office, including cash and receivables. No collateral is held by the Office. The Office has not granted any financial guarantees.

Credit risk associated with the Office's financial assets, other than receivables, is managed through the selection of counterparties and establishment of minimum credit rating standards.

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

**Office of the Director of Public Prosecutions  
Notes to the Financial Statements for the year ended 30 June 2020**

**21 Financial Instruments (cont'd)**

**(d) Financial risks (cont'd)**

(i) Credit Risk (cont'd)

**Cash and cash equivalents**

Cash comprises cash on hand and bank balances within the NSW Treasury Banking System.

**Accounting policy for impairment of trade debtors and other financial assets**

**Receivables - trade receivables**

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

The Office applies the AASB 9 simplified approach to measuring expected credit losses which uses a lifetime expected loss allowance for all trade receivable.

Trade receivables are written off when there is no reasonable expectation of recovery. Indicators that there is no reasonable expectation of recovery include, amongst others a failure to make contractual payments for a period of greater than 90 days past due.

The expected loss rates are based on historical observed loss rates. The historical loss rates are adjusted to reflect current and forward-looking information.

The Office is not materially exposed to concentrations of credit risk to a single debtor or group of debtors as at 30 June 2020 and 2019. The Office's debtors are primarily other NSW Government entities and credit risk is assessed as very low.

(ii) Liquidity risk

Liquidity risk is the risk that the Office will be unable to meet its payment obligations when they fall due. The Office continuously manages risk through monitoring future cash flows planning to ensure adequate holding of high quality liquid assets. The objective is to maintain a balance between continuity of funding and flexibility through the use of overdrafts, loans and other advances.

During the current and prior year, there were no defaults of borrowings. No assets have been pledged as collateral. The Office's exposure to liquidity risk is deemed insignificant based on prior periods' data and current assessment of risk.

Liabilities are recognised for amounts due to be paid in the future for goods or services received, whether or not invoiced. Amounts owing to suppliers (which are unsecured) are settled in accordance with the policy set out in NSW TC 11/12. For small business suppliers, where terms are not specified, payment is made not later than 30 days from date of receipt of a correctly rendered invoice. For other suppliers, if trade terms are not specified, payment is made no later than the end of the month following the month in which an invoice or a statement is received. For small business suppliers, where payment is not made within the specified time period, simple interest must be paid automatically unless an existing contract specifies otherwise. For payments to other suppliers, the Office may automatically pay the supplier simple interest. No interest was paid during the year 2020 (2019: \$nil).

The table below summarises the maturity profile of the Office's financial liabilities based on contractual undiscounted payments, together with the interest rate exposure.

**Office of the Director of Public Prosecutions**  
**Notes to the Financial Statements for the year ended 30 June 2020**

**21 Financial Instruments (cont'd)**

**(d) Financial risks (cont'd)**

(ii) Liquidity risk (cont'd)

**Maturity analysis and interest rate exposure of financial liabilities**

	Weighted Average Effective Int. Rate	Nominal Amount	Interest Rate Exposure		Maturity Dates		
			Fixed Interest Rate	Non- interest bearing	\$'000		
					< 1 yr	1-5 yrs	> 5 yrs
<b>2020</b>							
Payables	-	2,437	-	2,437	2,437	-	-
Lease liabilities	1.41	45,194	45,194	-	9,027	12,241	23,926
		<u>47,631</u>	<u>45,194</u>	<u>2,437</u>	<u>11,464</u>	<u>12,241</u>	<u>23,926</u>

	Weighted Average Effective Int. Rate	Nominal Amount	Interest Rate Exposure		Maturity Dates		
			Fixed Interest Rate	Non- interest bearing	\$'000		
					< 1 yr	1-5 yrs	> 5 yrs
<b>2019</b>							
Payables	-	1,627	-	1,627	1,627	-	-
		<u>1,627</u>	<u>-</u>	<u>1,627</u>	<u>1,627</u>	<u>-</u>	<u>-</u>

(iii) Market risk

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. The Office has no exposure to interest rate risk, other price risks, foreign currency risk and does not enter into commodity contracts.

**(e) Fair value measurement**

(i) Fair value compared to carrying amount

Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The fair value measurement is based on the presumption that the transaction to sell the asset or transfer the liability takes place either in the principal market for the asset or liability or in the absence of a principal market, in the most advantageous market for the asset or liability.

Financial instruments are generally recognised at cost and the carrying amount is a reasonable approximation of fair value because of the short term nature of the financial instruments.

(ii) Fair value recognised in the Statement of Financial Position

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

**22 Related Party Disclosures**

The Office has determined that for the purposes of AASB 124 *Related Parties Disclosures*, Key Management Personnel (KMP) comprise;

- Director of Public Prosecutions
- Senior Crown Prosecutor
- Three Deputy Directors of Public Prosecutions



**Office of the Director of Public Prosecutions  
Notes to the Financial Statements for the year ended 30 June 2020**

**22 Related Party Disclosures (cont'd)**

- Solicitor for Public Prosecutions
- Three Directors Corporate Services

The Office's key management personnel compensation is as follows:

	<b>2020</b>	<b>2019</b>
	<b>\$'000</b>	<b>\$'000</b>
Short-term employee benefits:		
Salaries	3,328	3,107
Other monetary allowances	254	196
Other long-term employee benefits	266	259
Termination benefits	<u>-</u>	<u>15</u>
Total remuneration	<u><b>3,848</b></u>	<u><b>3,577</b></u>

The Office did not enter into any transactions on arm's length terms and conditions with any key management personnel, their close family members and controlled or jointly controlled entities thereof.

The Office entered into transactions with other entities that are controlled/jointly controlled/significantly influenced by NSW Government. These transactions in aggregate are a significant portion of the Office's revenue/sale of goods/rendering of services/receiving of services.

These transactions include:

- Long service leave and defined benefit superannuation assumed by the Crown
- Appropriations (and subsequent adjustments to appropriations)
- Employer contribution paid to defined benefit superannuation funds
- Payments into the Treasury Managed Fund for workers' compensation insurance and other insurances
- Grant revenue received from Department of Communities and Justice
- Payments to Department of Communities and Justice for maintenance of Enterprise Resource Planning (ERP) system and reimbursement of witness expenses
- Payments to NSW Police for security service and reimbursement of witness expenses
- Payments to Property NSW for rent and outgoings.

**23 Events after the Reporting Period**

On the 1st October 2020, the Industrial Relations Commission determined that salary and salary-related allowances in the Crown Employees (Public Sector – Salaries 2020) Award should be increased by 0.3% with effect from the first full pay period on or after 1 July 2020. Separate SOORT determinations dated September 2020 have resulted in no remuneration increases for Statutory Officers and Public Sector Senior Executives for the 2020-21 financial year. The Financial Statements as at 30 June 2020 assumed escalation of recreation leave and associated oncost provisions by 2.5%. This impact of this change is considered not material.

The Office is not aware of any circumstances that occurred after balance date, which would materially affect the financial statements.

End of audited financial statements



# Appendix O

## Glossary

### Acronyms

AVL	Audio visual link
CCA	Court of Criminal Appeal
CCTV	Closed-circuit television
CoPoCA	<i>Confiscation of Proceeds of Crime Act</i>
DPO	Drug Proceeds Order
DPP	Director of Public Prosecutions (NSW)
EAGP	Early Appropriate Guilty Plea
FO	Forfeiture Orders
HCA	High Court of Australia
ICAC	Independent Commission Against Corruption
IM&T	Information Management & Technology
IMTC	Information Management Technology Committee
MAG	Monitoring and Advisory Group
MSU	Multimedia Support Unit
ODPP	Office of the Director of Public Prosecutions (NSW)
PPO	Pecuniary Penalty Order
RAP	Reconciliation Action Plan
QC	Queens Counsel
SC	Senior Counsel
SOPs	Standard Operating Procedures
VIS	Victim Impact Statement
WAS	Witness Assistance Service

### Terminology

Accused	A person charged with a crime; may also be referred to as the defendant or offender
Appeal	A challenge made to a court's decision, taken to a higher court
Brief of Evidence	A collection of statements from witnesses, expert reports, photographs and other material obtained by an investigative agency and given to the ODPP
Case Conference	A conference between a prosecutor and the accused's legal representative
Charge Certificate	A document that specifies the offences that are to be the subject of proceedings against the accused person
Crown Prosecutor	Counsel that conduct and prosecute the more serious matters on behalf of the Crown

Defence	Used to refer to the accused's legal response to the prosecution; a lawful excuse for doing something; or the accused's legal team
Deputy Director	A Deputy Director of Public Prosecutions (NSW)
EAGP Brief	A simplified brief of evidence
Evidence	Material presented in court to prove or disprove a fact; it may be what a witness says or an exhibit
Judge alone trial	A trial heard before a judge without a jury
Legal Development Program	Graduates employed to provide paralegal support to solicitors and advocates in the preparation of ODPP matters
Legal Support Officers	Provide high level administrative support to ODPP staff and Crown Prosecutors
No further proceedings	A direction to end the prosecution
Offender	A person who has been found guilty of a crime
Plea	The accused's answer to the charge: guilty or not guilty
Prosecutor	An ODPP solicitor or a Crown Prosecutor, including a solicitor acting for the DPP and private counsel briefed by the DPP
Sentence	The penalty imposed by a Judge or Magistrate on an offender
Solicitor Advocate	Appear as advocates in less complex District Court trials and more difficult Local Court prosecutions
Solicitor with carriage	The ODPP solicitor who is responsible for a particular case
Summary hearing	Similar to a trial but heard before a magistrate in the Local Court or the Children's Court
Summary offence	An offence that cannot be dealt with on indictment
Table offence	An indictable offence listed in Table 1 and 2 in Schedule 1 of the <i>Criminal Procedure Act 1986</i> that is capable of being dealt with either summarily in the Local Court or on indictment in the District or Supreme Court
Trial	A hearing in a court where evidence is presented and a decision is made
Verdict	The decision of whether the accused is guilty or not guilty after a trial or hearing
Victim	A person who has suffered harm as a direct result of an act committed by another person in the course of a criminal offence
Victim Impact Statement	A statement by a victim that may be read or presented to a court before the offender is sentenced to describe the effects of the crime on the victim
Witness Assistance Service	A specialist service within the ODPP that provides assistance and support to victims and vulnerable witnesses in the criminal justice process
Witness	A person who attends court to give evidence

# Appendix P

## Office Locations

HEAD OFFICE		
Level 17, 175 Liverpool Street SYDNEY NSW 2000		
Locked Bag A8, SYDNEY SOUTH NSW 1232 DX 11525 Sydney Downtown		
Telephone	02 9285 8606	
Facsimile	02 9285 8600	
GREATER WESTERN SYDNEY		
Campbelltown Level 3, Centrecourt Building 101 Queen Street CAMPBELLTOWN NSW 2560	Parramatta 4 George Street PARRAMATTA NSW 2150	Penrith Level 2, 295 High Street PENRITH NSW 2750
PO Box 1095 CAMPBELLTOWN NSW 2560	PO Box 3696 PARRAMATTA NSW 2124	PO Box 781 Penrith Post Business Centre NSW 2750
Telephone 02 4629 2811 Facsimile 02 4629 2800	Telephone 02 9891 9800 Facsimile 02 9891 9866	Telephone 02 4721 6100 Facsimile 02 4721 4149
NORTHERN REGION		
Gosford Level 2, 107-109 Mann Street GOSFORD NSW 2250	Lismore Level 3, Credit Union Centre 101 Molesworth Street LISMORE NSW 2480	Newcastle Level 6, 317 Hunter Street NEWCASTLE NSW 2300
PO Box 1987 GOSFORD NSW 2250	PO Box 558 LISMORE NSW 2480	PO Box 779 NEWCASTLE NSW 2300
Telephone 02 4337 1111 Facsimile 02 4337 1133	Telephone 02 6627 2222 Facsimile 02 6627 2233	Telephone 02 4929 4399 Facsimile 02 4926 2119
SOUTHERN REGION		
Dubbo Ground Floor, 130 Brisbane Street DUBBO NSW 2830	Wagga Wagga Level 3, 43-45 Johnston Street WAGGA WAGGA NSW 2650	Wollongong Level 2, 166 Keira Street WOLLONGONG NSW 2500
PO Box 811 DUBBO NSW 2830	PO Box 124 WAGGA WAGGA NSW 2650	PO Box 606 WOLLONGONG EAST NSW 2520
Telephone 02 6881 3300 Facsimile 02 6882 9401	Telephone 02 6925 8400 Facsimile 02 6921 1086	Telephone 02 4224 7111 Facsimile 02 4224 7100
All offices are open Monday to Friday 9.00am to 5.00pm (excluding Public Holidays)		



- Sydney
- Greater Western Sydney
- Northern Region
- Southern Region





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