



PUBLIC SECTOR NEWSLETTER - NEW SOUTH WALES

MEDIA

\$35 Million to extend the Federal Court's jurisdiction to corporate crime

The jurisdiction of the Federal Court of Australia will expand to include corporate crime. The expansion and funding will ensure that those who engage in financial sector criminal misconduct are prosecuted and face the appropriate punishment for their actions in a timely manner. <https://www.attorneygeneral.gov.au/Media/Pages/35-Million-to-extend-the-Federal-Courts-jurisdiction-to-corporate-crime.aspx>

Channel Seven breaches children's privacy

Channel Seven Melbourne Pty Ltd breached the Commercial Television Code of Practice in Seven News and Sunday Night episodes broadcast on 5 July and 5 August 2018. An ACMA investigation has found broadcasts containing mobile phone footage of alleged schoolyard bullying invaded the privacy of several children. <https://www.acma.gov.au/theACMA/channel-seven-breaches-childrens-privacy>

Legal Assistance Reviews

The Australian Government has today released two reports on legal assistance: the review of the National Partnership Agreement on Legal Assistance Services 2015-20 (NPA) and the review of the Indigenous Legal Assistance Program (ILAP). Both reviews were conducted to independently assess the effectiveness, efficiency and appropriateness of the current NPA and ILAP in achieving their objectives and outcomes. <https://www.attorneygeneral.gov.au/Media/Pages/Legal-assistance-reviews.aspx> To view the reports [Click here](#)

2GB breaches decency requirements

Harbour Radio Pty Ltd – the licensee of radio station 2GB – breached the Commercial Radio Code of Practice in an Alan Jones Breakfast Show segment broadcast on 23 August 2018. An ACMA investigation examined Alan Jones's use of a racially charged phrase and found it offended against generally accepted standards of decency. <https://www.acma.gov.au/theACMA/2gb-breaches-decency-requirements>

WFA calls for advertisers to hold digital platform providers to account

WFA said members, which collectively spend 90 per cent of global marketing communications budget worldwide, should put pressure on platforms to do more to prevent their services and algorithms from being hijacked by those with malicious intent. <https://www.cmo.com.au/article/659328/will-digital-platforms-finally-held-account-wfa-calls-advertisers-put-pressure/>

Facebook to ban white nationalism and white separatism following NZ terror attack

Facebook will extend a ban on hate speech to halt the promotion of white nationalism and separatism, a decision that is praised as "long overdue" by human and civil rights groups. <https://www.abc.net.au/news/2019-03-28/facebook-to-ban-white-nationalism-and-white-separatism/10946990>

PFAS compensation settled for Oakey landowner in Australian first

The Federal Government has settled its first compensation case over the contamination of land by toxic firefighting foams at Defence Department facilities. As part the settlement the Defence Department would not be making any admissions of liability. <https://www.abc.net.au/news/2019-03-27/australias-first-pfas-compensation-settled/10944048>

AMA calls for age of criminal responsibility to be raised to 14 years of age.

The new policy was passed at the AMA Federal Council meeting in Canberra last week. The age of criminal responsibility is the age at which a child is considered capable of being dealt with by the criminal justice system. Currently, children aged 10 can be charged, prosecuted, and imprisoned. <https://ama.com.au/media/ama-calls-age-criminal-responsibility-be-raised-14-years-age>

OAIC welcomes increased enforcement powers to keep Australians' personal information safe online

The proposed changes to the Privacy Act, along with new rules for digital platforms that trade in personal information, are an important step in meeting community expectations that personal information will be handled in a way that is transparent and accountable. <https://www.oaic.gov.au/media-and-speeches/statements/oaic-welcomes-increased-enforcement-powers-to-keep-australians-personal-information-safe-online>

Tougher penalties to keep Australians safe online

Attorney-General, Christian Porter and Minister for Communications and the Arts, Mitch Fifield, announced the new penalty regime under the Privacy Act and other measures to ensure Australians were protected online and that major social media companies took action to protect the personal information they collect about Australians, particularly children. <https://www.attorneygeneral.gov.au/Media/Pages/Tougher-penalties-to-keep-australians-safe-online-19.aspx>

Commission welcomes National Plan on elder abuse

Age Discrimination Commissioner Dr Kay Patterson this week participated in the launch of the Federal Government's National Plan to Respond to the Abuse of Older Australians (2019-2023). <https://www.humanrights.gov.au/news/stories/commission-welcomes-national-plan-elder-abuse>

PUBLISHED - ARTICLES, PAPERS, REPORTS

[Bias crime policing: 'The Graveyard Shift'](#)

Gail Mason, Leslie Moran; International Journal for Crime, Justice and Social Democracy: 22 March 2019
Bias crime is crime that is motivated by prejudice or bias towards an attribute of the victim, such as race, religion or sexuality. Police have been criticised for failing to take bias crime seriously, and there is a pressing need to understand the reasons for this failure. This article presents the results of the first empirical study of bias crime policing in New South Wales Bias crime policing: 'The Graveyard Shift'

[Where is your data going?](#)

Quinn Grundy et al; University of Sydney: 22 March 2019
Researchers are calling for greater regulation and transparency as analysis of medicines-related apps found most directly shared user data - including sensitive health data - with third parties, posing an unprecedented privacy risk.

[Report of the Family Violence Reform Implementation Monitor as at 1 November 2018](#)

Family Violence Reform Implementation Monitor: 21 March 2019. The Monitor's annual report to Parliament outlines how effective the Victorian government and its agencies are in implementing the family violence reform measures.

[Data sharing practices of medicines related apps and the mobile ecosystem: traffic, content, and network analysis](#)

Quinn Grundy, Kellia Chui, Fabian Held, Andrea Continella, Lisa A. Bero, Ralph Holz; BMJ: 21 March 2019
Researchers call for greater regulation and transparency as analysis of medicines-related apps found most directly shared user data - including sensitive health data - with third parties, posing an unprecedented privacy risk.

[Independent review of the APS: priorities for change](#)

Department of the Prime Minister and Cabinet (Australia): 19 March 2019. This report reflects what the Australian Public Service (APS) Review Panel has learned from their initial investigations and what changes the panel believes are needed to build an APS that is fit for the future.

[Best practice guide to applying data sharing principles](#)

Department of the Prime Minister and Cabinet (Australia): 19 March 2019. The Australian government holds vast amounts of public sector data that it collects from individuals and businesses, or generates through administrative functions of government agencies. This guide has been written to assist agencies holding Australian government data (data custodians) to safely and effectively share the data they are responsible for by using five data sharing principles (the Principles).

CASES

[Hillyer v Rural Fire Service \[2019\] NSWCATAD 52](#)

ADMINISTRATIVE LAW – Government Information (Public Access) Act – GIIPA – consultation – whether consultation required-sufficiency of evidence to establish factors against disclosure - weight to apply significantly to factors against disclosure.

[Sandy v Kiama Municipal Council \[2019\] NSWCATAD 49](#)

ADMINISTRATIVE LAW – government information – form of access – whether reproducing information would infringe copyright.

[Kate Singleton Pty Ltd and SJ Connelly CPP Pty Ltd t/as Planners North v Department of Planning and Environment \[2019\] NSWCATAD 50](#)

ADMINISTRATIVE LAW – administrative review - government information – personal information – no issue of principle.

[Miskelly v Secretary, Department of Education \[2019\] NSWCATAD 48](#)

ADMINISTRATIVE LAW- freedom of information- government information public access-public interest considerations- Government Information (Public Access) Act 2009 (NSW).

[Bailey v Ku-ring-gai Council \[2019\] NSWLEC 35](#)

JUDICIAL REVIEW – planning proposal to make local environmental plan – amendment to plan to remove properties as listed heritage items – variation of planning proposal to retain and not remove a listed heritage item – whether denial of procedural fairness – whether failure to consider relevant matter – whether manifest unreasonableness.

[Webb v Port Stephens Council \[2019\] NSWCATAD 47](#)

ADMINISTRATIVE LAW- freedom of information- government information public access-public interest considerations-open access information s6 Government Information (Public Access) Act 2009 (NSW).

[Kendrick v Secretary of the Department of Education NSW \[2019\] NSWCATAD 45](#)

ADMINISTRATIVE LAW- Education and Care Services National Law – review of a decision to refuse to cancel a prohibition notice under section 182 National Law – Objects and Principles of National Law – Children – Childcare Services – Administrative review jurisdiction – correct and preferable decision - whether the Tribunal should uphold the decision or substitute a decision – correct and preferable decision is to confirm the decision of the Regulatory Authority.

[ZKB v ZKC \[2019\] NSWCATAP 60](#)

APPEAL – whether Tribunal failed to make relevant findings of fact – whether Tribunal breached the rules of procedural fairness

[Quach v New South Wales Civil and Administrative Tribunal \[2019\] NSWCA 49](#)

JUDGMENTS AND ORDERS – Court of Appeal – Judges of Appeal – Appointment, tenure and remuneration – Whether Court of Appeal invalidly constituted so as to invalidate orders – Whether s 72 Commonwealth Constitution governs the maximum permissible age of judges of State Supreme Courts

IN PRACTICE AND COURTS

Law Council of Australia Submissions

[Combatting Child Sexual Exploitation Legislation Amendment Bill 2019](#)

Attorney General Court Appointments

[Appointments to the Federal Circuit Court of Australia](#)
[Appointments to the Family Court of Australia](#)

[Attorney General: The amendments to the Privacy Act will:](#)

- Provide the OAIC with new infringement notice powers backed by new penalties of up to \$63,000 for bodies corporate and \$12,600 for individuals for failure to cooperate with efforts to resolve minor breaches
- Expand other options available to the OAIC to ensure breaches are addressed through third-party reviews, and/or publish prominent notices about specific breaches and ensure those directly affected are advised

Legislation will be drafted for consultation in the second half of 2019.

Current Senate Inquiries

[National Integrity Commission Bill 2018 \[Provisions\], National Integrity \(Parliamentary Standards\) Bill 2018 \[Provisions\], and National Integrity Commission Bill 2018 \(No. 2\)](#)

The Senate has referred both Bills to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 5 April 2019.

[Resolution of disputes with financial service providers within the justice system](#)

On 14 February 2019, the Senate referred the resolution of disputes with financial service providers within the justice system matter to the Legal and Constitutional Affairs References Committee for inquiry and report by 8 April 2019.

[Review of Model Defamation Provisions: Discussion paper](#)

The purpose of defamation law is to balance protection from reputational damage with freedom of speech, and the release of information that's considered public interest. Each state and territory enacted legislation to implement the provisions to ensure greater national consistency. The Review of Model Defamation Provisions Discussion Paper includes specific questions about the Model Defamation Provisions for your consideration; however, you are invited to comment on any other matters related to the provisions. Submissions close on 30 April 2019. The Model Defamation Provisions are available on the Australasian Parliamentary Counsel's Committee website at www.pcc.gov.au.

AAT Bulletins 2019

The AAT Bulletin is a weekly publication containing a list of recent AAT decisions and information relating to appeals against AAT decisions

[Issue No. 12/2019, 25 March 2019](#)

[Issue No. 11/2019, 18 March 2019](#)

[2019 COAT National Conference](#)

The 2019 Council of Australasian Tribunals (COAT) National Conference will be held 6 – 7 June in Melbourne.

Current Consultations

[Review of the Telecommunication and Other Legislation Amendment \(Assistance and Access\) Act 2018](#), Parliamentary Joint Committee on Intelligence and Security. This review is in addition to two separate statutory reviews, amendments to include a review due to commence by April 2019.

[Reminder: Parliamentary Scrutiny of Delegated Legislation](#)

On 29 November 2018, the Senate referred the following matter to the Senate Standing Committee on Regulations and Ordinances for inquiry and report by 3 April 2019.

NSW

[ICAC: Operation Dasha public inquiry witness list - week beginning 1 April 2019](#)

Witness list for the Operation Dasha public inquiry into allegations concerning the former Canterbury City Council, week beginning 1 April 2019. Please note that this list is subject to change.

New ICAC website

The ICAC is pleased to advise that it launched a new website. The website address remains the same - www.icac.nsw.gov.au.

[Public Consultation: Review of Model Defamation Provisions](#)

The Defamation Working Party is seeking feedback on defamation law in Australia, to assess how the legal principles apply in the digital age and identify areas for national reform. Submissions close on 30 April 2019
[Review of Model Defamation Provisions](#).

NSW LRC: Open Justice Review - Court and tribunal information: access, disclosure and publication

The Attorney General has asked us to review the operation of suppression and non-publication orders and access to information in NSW courts and tribunals. See the [Terms of reference](#). The deadline for preliminary submissions is 31 May 2019. Information about making a submission may be found on our website: [Making a submission](#).

LEGISLATION

Commonwealth

[Crimes \(Biological Weapons\) Regulations 2019](#)

29/03/2019 - These regulations set out the procedures and requirements to be followed in relation to the notification, storage, labelling and disposal of biological agents, toxins and weapons. The regulations also enable a person charged with an offence under the Crimes (Biological Weapons) Act 1976 in respect of a biological agent or toxin to seek an independent analysis of a sample of the substance

[Fair Work Amendment \(Modernising Right of Entry\) Regulations 2019](#)

25/03/2019 - These regulations amend the Fair Work Regulations 2009 to modernise the form of entry permits by giving the Fair Work Commission the discretion to determine the precise form of entry permits subject to certain requirements, and by amending the prescribed form for entry notices and exemption certificates to include additional information
Fair Work Amendment (Modernising Right of Entry) Regulations 2019

[Electronic Transactions Amendment \(Electoral Nominations\) Regulations 2019](#)

These regulations amend the Electronic Transactions Regulations 2000 by removing item 25(b) of Schedule 1 to ensure that electoral candidates seeking to nominate for Commonwealth elections are able to lodge their nominations electronically. Electronic Transactions Amendment (Electoral Nominations) Regulations 2019.

[User Rights Amendment \(Charter of Aged Care Rights\) Principles 2019](#)

This instrument amends the User Rights Principles 2014 and the Records Principles 2014 to introduce a single 'Charter of Aged Care Rights' and vary the responsibilities of approved providers to be consistent with the Charter User Rights Amendment (Charter of Aged Care Rights) Principles 2019

[Freedom of Information \(Charges\) Regulations 2019](#)

These regulations remake the Freedom of Information (Charges) Regulations 1982 (scheduled to sunset on 1 April 2019) with the same effect to ensure their continued operation. Minor amendments have been made to ensure fitness for purpose and consistency with current drafting practices, update various provisions to reflect the current terms of the Freedom of Information Act 1982 and remove obsolete or unnecessary provisions. These regulations do not introduce new charges or increase charges from the previous rates.

[Privacy \(Disclosure of Homicide Data\) Public Interest Determination 2019](#)

This determination applies to the disclosure of certain information by the Australian Federal Police to the Australian Institute of Criminology for the purpose of the Australian Institute of Criminology's research under the National Homicide Monitoring Program and the publication of aggregate findings.

KEY CONTACTS

PANEL RELATIONSHIP CONTACTS

Your contacts responsible for navigating our firm, connecting you with the appropriate expertise and achieving maximum efficiency.

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HELP DESK SERVICES

Thomson Geer is delighted to offer access to NSW Government to its Legal Help Desk on our usual terms of engagement and as set out below.

Scope

We are pleased to be able to work collaboratively with NSW Government to offer the following services (at no charge):

- advice regarding discrete and non-complex legal queries – up to 30 minute teleconference with a Partner, Special Counsel or relevant Senior Associate or, short written advice (max. 1 page);
- the opportunity to 'brainstorm' or discuss topical and complex legal issues with industry specialists – up to 30 minute teleconference with a Partner, Special Counsel or relevant Senior Associate; and
- advice regarding potential transactions – up to 30 minute

teleconference with a Partner, Special Counsel or relevant Senior Associate.

(Help Desk Services)

Please note that the Help Desk Services are only available in respect of any matter which is currently unallocated i.e. to this firm or any other firm.

Key Contact and Help Desk Process

You can access the Help Desk by:

- (a) Calling 02 8248 5810; or
- (b) Emailing legalhelpdesk@tglaw.com.au

Once relevant details are received from you (whether that be by email or over the phone) it will be directed to the appropriate Thomson Geer Partner, Special Counsel or Senior Associate. The Help Desk number and

SUB-PANEL APPOINTMENTS

Thomson Geer are appointed to the following NSW Government sub-panels:

1(c) Major commercial matters (incl. ICT)

2(a) Commercial and contractual matters

4(a) Employment and industrial relations law

4(f) Discrimination

6(b) General litigation and dispute resolution

6(c) Debt recovery