



## PUBLIC SECTOR NEWSLETTER - NEW SOUTH WALES

Welcome to Edition 44 of our NSW Public Sector Newsletter. There are plans afoot to amalgamate the Federal Circuit Court and the Family Court, to form a single new Federal Circuit and Family Court of Australia. Details of the reform and its impact on litigants are addressed below.

The purpose of this newsletter is to provide government lawyers with a digestible and relevant snapshot of current news, case law and legislation. We welcome feedback or suggestions for areas of interest at any time.

### MEDIA

#### LCA: Family Law Court amalgamation announced

The Attorney General declared a shake-up of both the Family and Federal Circuit Courts on Wednesday 30 May, announcing the two would be amalgamated to form a single new Federal Circuit and Family Court of Australia (FCFCA). <https://www.lawcouncil.asn.au/media/news/family-law-court-amalgamation-announced>

#### Government statement: Court Reforms to help families save time and costs in family law disputes

Families will be helped to resolve their disputes more quickly as a result of Turnbull Government reforms to the handling of family law matters in the federal court system. <https://www.attorneygeneral.gov.au/Media/Pages/Court-Reforms-to-help-families-save-time-and-costs-in-family-law-disputes.aspx>

#### Family and Federal Circuit Court reform details awaited

The Law Council has noted Australian Government's plans to amalgamate the Federal Circuit Court of Australia and the Family Court of Australia. The Council notes the increasing number of self-represented people appearing before the courts also contributes to the time that courts take to deal with matters and leads to unjust outcomes. <https://www.lawcouncil.asn.au/media/media-releases/family-and-federal-circuit-court-reform-details-awaited>

#### Attorney-General focuses on next key national security legislation

Following the recent release of the report of the Joint Parliamentary Committee on Intelligence and Security, Attorney - General, Christian Porter said he was now focused on securing the passage of the Foreign Influence Transparency Scheme Bill. <https://www.attorneygeneral.gov.au/Media/Pages/Attorney-General-focuses-on-next-key-national-security-legislation-8-june-2018.aspx>

#### ACMA rules kick in on telco complaints

Telco consumers can expect a better complaints-handling experience under a [new industry standard](#) and [record-keeping rules](#) announced by the Australian Communications and Media Authority. This is the [first tranche of new rules](#) announced by the ACMA in December 2017 to improve consumers' experience in migrating to the National Broadband Network (NBN). <https://www.acma.gov.au/theACMA/acma-rules-kick-in-on-telco-complaints>

#### Historic new NSW laws get tough on child sex abuse

One of the state's largest ever criminal justice reform packages was recently introduced into NSW Parliament heralding a milestone for survivors of child sex abuse and delivering tough laws to crack down on paedophiles. <http://www.justice.nsw.gov.au/Pages/media-news/media-releases/2018/historic-new-laws-on-child-sex-abuse.aspx>

#### APS Review Panel opens for comment

The Panel for the Independent Review of the Australian Public Service (APS) has called for public submissions on the future of the APS. <https://psnews.com.au/2018/06/04/aps-review-panel-opens-for-comment/>

**Note:** The closing date for submissions is Friday, 13 July and the Terms of Reference and information on how to make a submission can be accessed here: <https://www.apsreview.gov.au/>

## Review of national intelligence legislation

The Turnbull Government will undertake the most significant review of intelligence legislation in more than 40 years. The Review will consider options for harmonising and modernising the legislative framework that governs the activities of our intelligence agencies to ensure they operate with clear, coherent and consistent powers, protections and oversight. <https://www.attorneygeneral.gov.au/Media/Pages/Review-of-national-intelligence-legislation.aspx>

## Privacy watchdogs say Centrelink ruling is a failure of Australia's freedom of speech

Centrelink has been cleared of any wrongdoing after it allegedly authorised the sharing of private information to an Australian media outlet, but privacy watchdogs Digital Rights Watch, the Australian Privacy Foundation and Electronic Frontiers Australia are furious about the result. <https://itbrief.com.au/story/privacy-watchdogs-say-centrelink-ruling-failure-australias-freedom-speech/>

## Concluding statement – Centrelink release of personal information

Having carefully considered the specific public statements made by the Centrelink customer, and the specific information disclosed in response, the acting Australian Information Commissioner and acting Privacy Commissioner reached the conclusion that, in this instance, the disclosure personal information into the public domain was permitted by APP 6.2(a)(ii). <https://www.oaic.gov.au/media-and-speeches/statements/centrelink-debt-recovery-system>

## PUBLISHED - ARTICLES, PAPERS, REPORTS

### [Protection orders for domestic violence: a systematic review](#)

Christopher Dowling et al; Australian Institute of Criminology: 07 June 2018.  
This study systematically reviews research into the use and impact of protection orders, using the EMMIE framework (Effectiveness, Mechanisms, Moderators, Implementation and Economy).

### [Disability support services: services provided under the National Disability Agreement 2016–17](#)

Australian Institute of Health and Welfare: 01 June 2018.  
While the National Disability Insurance Scheme (NDIS) is expected to largely replace the current provision of services to people with disability under the National Disability Agreement (NDA), many people were still receiving support under the NDA in 2016–17.

### [Inquiry into class action proceedings and third-party litigation funders: discussion paper](#)

Australian Law Reform Commission: 31 May 2018.  
The ALRC invites submissions in response to the proposals, commentary, analysis and questions in this discussion paper, which examines the increased prevalence of class action proceedings; the importance that costs in these matters are appropriate and proportionate; and the need to protect the interest of plaintiffs and class members.

## CASES

### [Tomislav & Ranka Divljak \(trading as DTR Ceilings\) v Workers Compensation Commission & Ors \[2018\] NSWSC 760](#)

ADMINISTRATIVE LAW – judicial review – implied statutory obligation to give reasons – inadequate reasons – error of law on the face of the record. ADMINISTRATIVE LAW – judicial review – determination of Appeal Panel of Workers Compensation Commission – appeal from Medical Assessor – failure to respond to grounds of appeal – procedural fairness – constructive failure to exercise jurisdiction – determination quashed – matter remitted to fresh appeal panel.

### [Shoebridge v Commissioner of Police, NSW Police Force \(No. 3\) \[2018\] NSWCATAD 110](#)

ADMINISTRATIVE LAW - Government Information (Public Access) Act 2009 – Government Information – Access – Confidential information – Cabinet material – Position Minister has taken is taking will take is considering taking to Cabinet – Deliberative process – Process concluded – Weight of evidence when process concluded.

### [CME v The University of Technology Sydney \[2018\] NSWCATAD 113](#)

Administrative Law – Privacy – publication of tribunal decision – collection - use – disclosure - the “open-court” principle - whether non-compliance is lawfully authorised or required - whether publication of a decision relates to the judicial function of tribunal.

## PRACTICE AND PROCEDURE

### [OAIC: Information Publication Scheme – 2018 Survey of Australian Government agencies](#)

The 2018 Information Publication Scheme (IPS) Survey of Australian Government agencies that are subject to the Freedom of Information Act 1982 (Cth) has commenced. If you have any questions or require further information about the IPS Survey, contact Mabel Dela Cruz of ORIMA Research at [surveys@orima.com](mailto:surveys@orima.com)

### [Human rights and technology](#)

New challenges to our basic rights and freedoms in an age of big data, artificial intelligence and social media, will be explored by leaders in industry, government and academia at a landmark event in Sydney. The Australian Human Rights Commission's Human Rights and Technology conference will take place on 24 July 2018, at the Four Seasons Hotel in Sydney.

### [ALRC Discussion Paper: Class Action Proceedings and Third-Party Litigation Funders \(DP 85\)](#)

The ALRC invites submissions in response to the proposals, questions and analysis in the Discussion Paper, which is available on the ALRC website: [www.alrc.gov.au/inquiries/class-action-funding](http://www.alrc.gov.au/inquiries/class-action-funding).  
Submissions are due to the ALRC by 30 July, 2018.

### [Reminder: Mandatory data reporting update](#)

A number of certifying authorities are already reporting data, and each of the three reporting options (API, SFTP and mobile app) are available and in use. Councils and certifiers

should be preparing for the 1 July 2018 mandatory reporting date. The Board will have an education focus for the first six months after this date.

More information:

[API and SFTP specifications](#): BPB's website will always have the latest version

[April 2018 roadshow presentation](#)

[Certification data reporting](#) and [FAQs](#)

#### OAIC Key dates

[Australian Government Agencies Privacy Code](#)

Commences 1 July 2018.

#### NSW

[NSW Privacy Commissioner: New Open Data online resource promotes Open Data release during Information Awareness Month](#)

NSW Information Commissioner and Open Data Advocate, Elizabeth Tydd, has launched a new Open Data e-learning resource in collaboration with the Department of Finance, Services and Innovation (DFSI) during Information Awareness Month 2018 (IAM).

#### [Defamation law reforms](#)

The NSW Attorney General has announced that NSW will "lead a push to modernise" Australia's defamation law and improve the justice system's engagement with digital media cases. The Attorney's announcement follows the release of a [new report by the NSW Department of Justice](#) containing 16 recommendations.

#### BOCSAR Publication Releases

06 June 2018 [NSW Recorded Crime Statistics quarterly update March 2018](#).

In the 24 months to March 2018, two of the 17 major offences were increasing, three were trending downward and the remaining 12 offences were stable.

29 May 2018 [NSW Criminal Courts Statistics 2017](#)

28 May 2018 [No 'Wave of Violence' according to the NSW Bureau of Crime Statistics and Research](#)

#### Consent in relation to sexual assault offences: Consultation

The Attorney General has asked us to review s 61HA of the Crimes Act 1900 (NSW) which deals with consent in relation to sexual assault. The deadline for preliminary submissions is 29 June 2018. See the [Terms of reference](#) and [Making a preliminary submission](#).

## LEGISLATION

### COMMONWEALTH

#### [National Redress Scheme for Institutional Child Sexual Abuse Bill 2018](#)

Introduced with the National Redress Scheme for Institutional Child Sexual Abuse (Consequential Amendments) Bill 2018, the bill implements the joint response of the Commonwealth Government, the government of each participating state and territory, and each participating non-government institution

to recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse's Redress and Civil Litigation Report by: establishing the National Redress Scheme for Institutional Child Sexual Abuse to operate for a 10-year period from 1 July 2018; providing a payment of up to \$150 000 to survivors; providing access to counselling and psychological services to survivors; and providing an option for survivors to receive a direct personal response from the responsible institution.

#### [National Redress Scheme for Institutional Child Sexual Abuse \(Consequential Amendments\) Bill 2018](#)

Introduced with the National Redress Scheme for Institutional Child Sexual Abuse Bill 2018, the bill amends the Administrative Decisions (Judicial Review) Act 1997 to exempt decisions made under the national redress scheme from judicial review; Freedom of Information Act 1982 to exempt protected information from disclosure under the Act; Social Security (Administration) Act 1999 to enable the use and disclosure of protected information if it is done for the purposes of the national redress scheme; and Age Discrimination Act 2004 to enable the exclusion of children applying to the national redress scheme if they will not turn 18 during the life of the scheme.

#### NSW

#### Bills introduced Government – 08 June 2018

[Crimes Amendment \(Publicly Threatening and Inciting Violence\) Bill 2018](#)

[Criminal Legislation Amendment \(Child Sexual Abuse\) Bill 2018](#)

[Victims Rights and Support Amendment \(Statutory Review\) Bill 2018](#)

#### Bills passed by both Houses of Parliament – 08 June 2018

[Miscellaneous Acts Amendment \(Marriages\) Bill 2018](#)

[Public Health Amendment \(Safe Access to Reproductive Health Clinics\) Bill 2018](#)

[Statute Law \(Miscellaneous Provisions\) Bill 2018](#)

#### Proclamations commencing Acts

[Child Protection \(Working with Children\) Amendment \(Statutory Review\) Act 2018 No 14 \(2018-224\)](#) – published LW 1 June 2018.

#### Bills assented to

Electoral Funding Act 2018 No 20 – Assented to 30 May 2018.

For the full text of Bills, and details on the passage of Bills, see [Bills](#).

## KEY CONTACTS

### PANEL RELATIONSHIP CONTACTS

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

Instructions may be emailed to [nswgovtlegal@tglaw.com.au](mailto:nswgovtlegal@tglaw.com.au) at anytime.

**Mark Feetham**

Partner  
+61 2 8248 5847  
+61 414 908 225  
[mfeetham@tglaw.com.au](mailto:mfeetham@tglaw.com.au)

**Loretta Reynolds**

Partner, Markets  
+61 3 8080 3705  
+61 403 069 819  
[lreynolds@tglaw.com.au](mailto:lreynolds@tglaw.com.au)

If you would like to receive a Contact Card with full list of contacts please email us.

### NEWSLETTER EDITOR

**Sylvia Fernandez**

Partner  
+61 2 8248 3499  
+61 418 340 118  
[sfernandez@tglaw.com.au](mailto:sfernandez@tglaw.com.au)

### LIBRARY RESOURCE

**Adeline Tran**

Lawyer  
+61 2 9020 5709  
[resourcecentre@tglaw.com.au](mailto:resourcecentre@tglaw.com.au)

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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](mailto: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 email address will be monitored during normal business hours (9.00 am to 5.00 pm (EST), Monday to Friday).

Thomson Geer will use its best endeavours to provide the Help Desk Services within one business day of the query being logged.

## 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