



PUBLIC SECTOR NEWSLETTER - NEW SOUTH WALES

One of the key themes in the media this past fortnight has been the announcement of a Royal Commission into Aged Care Quality and Safety, set to run for 18 months. The Royal Commission terms of reference and appointment of Commissioners was revealed by Prime Minister, Scott Morrison.

MEDIA

Terms of referenced for Aged Care Royal Commission revealed

<https://www.ag.gov.au/About/RoyalCommissions/Pages/acrc.aspx>

<http://www.abc.net.au/news/2018-10-09/terms-of-reference-released-for-aged-care-royal-commission/10354672>

Security of Facebook accounts

The Office of the Australian Commissioner (OAIC) has been advised by Facebook of an incident involving the security of Facebook accounts. The OAIC is making inquiries with Facebook about the facts, including the number of Australians who may have been impacted by the incident.

<https://www.oaic.gov.au/media-and-speeches/statements/security-of-facebook-accounts>

Defence Tribunal appoints

The Government has announced the appointment of the Hon Justice John Alexander Logan and the Hon Justice Melissa Anne Perry to the Defence Force Discipline Tribunal (the Tribunal).

<https://www.attorneygeneral.gov.au/Media/Pages/Defence-Tribunal-appointments-27-September-2018.aspx>

Appointments of Chief Justice and Deputy Chief Justice of the Family Court of Australia

The Government has announced the appointment of the new Chief Justice and Deputy Chief Justice of the Family Court of Australia.

<https://www.attorneygeneral.gov.au/Media/Pages/appointments-of-chief-justice-and-deputy-chief-justice-of-the-family-court-of-australia-27-september-2018.aspx>

Legal barriers dismantled for child sex survivors in NSW

New civil litigation laws will be introduced into Parliament today paving the way for thousands of survivors to sue institutions responsible for child abuse. Limitation periods have already been removed for claims relating to death or personal injury because of child abuse, including against a perpetrator or negligent institution

<https://www.justice.nsw.gov.au/Pages/media-news/media-releases/2018/legal-barriers-dismantled-for-child-sex-survivors.aspx>

You have a right to know

The Department of Justice has joined the Information and Privacy Commission of NSW as an official champion during 'Right to Know Week'. All NSW citizens have a legally enforceable right to access most information held by NSW government and agencies. The right to access government-held information is protected by the Government Information (Public Access) Act 2009.

<https://www.justice.nsw.gov.au/Pages/media-news/news/2018/Right-to-Know-Week.aspx>

Historic criminal justice reforms delivered

The final piece of the NSW Government's 'tough and smart' Criminal Justice Reform Package will come into force tomorrow, with new sentencing laws to improve community safety by driving down reoffending

<https://www.justice.nsw.gov.au/Pages/media-news/media-releases/2018/historic-criminal-justice-reforms-delivered.aspx>

HRLC: Our exciting plan for a better and fairer Australia

HRLC: We need a Charter of Rights so everyone's human rights are properly protected and people have the power to hold governments to account

<https://www.hrlc.org.au/news/2018/9/21/our-exciting-plan-for-a-better-and-fairer-australia>

LCA: My Health Record amendments must protect children from DV

The Law Council of Australia has told a Senate inquiry into the My Health Records system amendments were needed to the definition of parental responsibility under the My Health Record Act to ensure a child's My Health Record could not be accessed by a parent subject to a domestic violence, restraining order, personal protection order or any other ordering requiring they spend supervised time with that child

<https://www.lawcouncil.asn.au/media/news/my-health-record-amendments-must-protect-children-from-dv>

LCA: Senate forces committee to extend inquiry time into Court merger bills

The Law Council strongly welcomed the extended inquiry dates, having fiercely advocated to parliamentarians for the need for more time to consider one of the biggest structural changes to Australia's justice system in decade

<https://www.lawcouncil.asn.au/media/news/senate-forces-committee-to-extend-inquiry-time-into-court-merger-bills>

Food contamination penalties pass Parliament

Tougher penalties to deal with acts of food contamination have been passed by the Australian Parliament. Attorney-General, Christian Porter, said the tougher penalties send a strong signal to those who put the safety of individuals

<https://www.attorneygeneral.gov.au/Media/Pages/food-contamination-penalties-pass-parliament-20-september-2018.aspx>

ICAC finds former NGO principal offer corrupt

The ICAC has found that that Eman Sharobeem, the former principal officer of two non-government organisations (NGOs) established to assist immigrant women's health and non-English speaking women's housing needs, engaged in serious corrupt conduct by misapplying up to \$773,000 in public funds to benefit herself and members of her family

<http://www.icac.nsw.gov.au/media-centre/media-releases/article/5369>

PUBLISHED - ARTICLES, PAPERS, REPORTS

[Who reports domestic violence to police? A review of the evidence](#)

Isabella Voce, Hayley Boxall; Australian Institute of Criminology: 25 September 2018

This analysis found that victims who are female, non-white, experiencing frequent violence and who have been abused in the past are more likely to report.

[Australia's second Open Government national action plan 2018-20](#)

Department of the Prime Minister and Cabinet (Australia): 21 September 2018

This document, the second such plan devised for the nation, outlines the Australian government's aspirations for enhancing access to information, civic participation and public accountability in the digital age.

[Trusted Digital Identity Framework](#)

Digital Transformation Agency (Australia): 21 September 2018

The Trusted Digital Identity Framework (TDIF) is a set of rules and standards that accredited members of the digital identity federation must follow. It is an attempt to ensure that Australians have a safe, secure, consistent and reliable way to use government services online

CASES

[Balnaves Foundation Pty Ltd v Minister for Planning \[2018\] NSWLEC 152](#)

JUDICIAL REVIEW: whether an extension of time within which to commence judicial review proceedings was required – applicant seeking to set aside condition of consent – extension of time to commence proceedings required – applicant was two years out of time – reason for delay was due to the applicant misguidedly seeking to resolve dispute by a Class 1 appeal – no evidence of intentional delay of use of Class 1 proceedings to circumvent time limit within which to commence judicial review proceedings – no prejudice to parties – application not opposed – public interest demonstrated – fairly arguable case – finely balanced but time extended – applicant to pay respondents' costs.

[Webb v Port Stephens Council \[2018\] NSWCATAP 224](#)

APPEAL – ADMINISTRATIVE LAW – access to information about consultations by Council about objections to development applications – public interest considerations against disclosure – reasons in McEwan decision apply to important factor relied upon against disclosure – other decisions that Council did not hold information sought – no justification for leave to appeal such decisions

[Speer v NSW State Emergency Service \[2018\] NSWCATAD 226](#)

ADMINISTRATIVE REVIEW - Administrative Law – Government Information – overriding public interest against disclosure - personal information - information provided to the agency during an investigation - prejudice supply of information - prejudice exercise of agency's functions – reasonableness of searches.

Privacy and Personal Information Protection Act 1998

[CJU v Northern Sydney Local Health District \[2018\] NSWCATAD 223](#)

The respondent's decision to refuse to deal with the access application is affirmed.

GOVERNMENT INFORMATION PUBLIC ACCESS-refusal to deal with access application-substantial and unreasonable diversion of resources-application for order to restrain further access applications without leave

Government Information Public Access Act 2009;;
Privacy and Personal Information Protection Act 1998

[Smith v Independent Liquor and Gaming Authority \[2018\] NSWCATAD 224](#)

ADMINISTRATIVE LAW – where respondent refused application for packaged liquor licence – assessment of overall social impact of granting the licence – whether that impact will not be will not be detrimental to the well-being of the local or broader community – role of Tribunal – nature of evidence

[Place v Department of Finance, Services and Innovation \(No 2\) \[2018\] NSWCATAD 220](#)

ADMINISTRATIVE LAW – government information – response to a complaint – prejudice to legitimate business interests – prejudice supply of confidential information – prejudice effective exercise of agency’s functions – prejudice the detection or investigation of a possible contravention of the law – personal factors – motive

PRACTICE AND PROCEDURE

[High Court of Australia](#)

High Court of Australia Bulletin [2018] HCAB 07

Review of national arrangements for the protection and management of identity information

Terms of reference: The Review will consider ways to enhance or strengthen arrangements for the protection, use and management of identity information in Australia. Public submissions will be received until 26 October. The review is to report by the end of November

<https://www.homeaffairs.gov.au/about/reports-publications/discussion-papers-submissions/review-protection-management-identity>

Law Council of Australia submissions

24 September 2018— Law Council

[My Health Records Amendment \(Strengthening Privacy\) Bill 2018](#)

27 September 2018—Law Council

[Fair Work Amendment \(Family and Domestic Violence Leave\) Bill 2018](#)

Recommended national standards for working with interpreters

The Judicial Council on Cultural Diversity has released Recommended National Standards for Working with Interpreters in Courts and Tribunals. The standards have been developed over a number of years and are an important advocacy tool for representing people from culturally or linguistically diverse backgrounds

[Read the standards](#)

[OAIC Net Issue 28 September 2018](#)

In this issue: Right to Know Day 2018; Appointment of Angelene Falk as Australian Information Commissioner and Privacy Commissioner; Open Government National Action Plan 2018-20; iappANZ annual Privacy Summit; Recent IC review decisions

AAT Bulletins 2018

Issue No. 37/2018, 24 September 2018 <http://www.aat.gov.au/AAT/media/AAT/Files/AAT%20Bulletins/37-18.pdf>

Issue No. 36/2018, 17 September 2018 <http://www.aat.gov.au/AAT/media/AAT/Files/AAT%20Bulletins/36-18.pdf>

Attorney - General Reviews

[Legal assistance review](#)

In 2018, separate and concurrent reviews will be undertaken of the [National Partnership Agreement on Legal Assistance Services 2015-2020](#) (NPA) and the [Indigenous Legal Assistance Program](#) (ILAP). The reviews will assess the effectiveness, efficiency and appropriateness of the NPA and the ILAP as mechanisms for achieving their respective objectives and outcomes within available resources, and identify best practice and opportunities for improvement.

[Australian Government response to the House of Representatives Standing Committee on social policy and legal affairs report](#)

On 7 December 2017, the House of Representatives Standing Committee on Social Policy and Legal Affairs released its report entitled A better family law system to support and protect those affected by family violence. The report makes 33 recommendations. The Australian Government’s response to the report was tabled in Parliament on 19 September 2018.

Human Rights and Technology Issues Paper 2018: consultation

Feedback in response to the Australian Human Rights Commission project on the relationship between human rights and technology closes on 02 October 2018. The consultation paper is available [here](#). The submission form and details on the submission process, as well as further information about the Human Rights and Technology Project, can be found at: <https://tech.humanrights.gov.au/>

NSW

[ICAC: Operation Skyline public inquiry adjourned to 19 November 2018](#)

The Operation Skyline public inquiry into allegations concerning the Awabakal Local Aboriginal Land Council is adjourned until Monday 19 November 2018

[ICAC: Prosecution briefs with the DPP and outcomes](#)

Tables summarising information about briefs that are with the DPP, and prosecution outcomes.

[ICAC: Operation Dasha public inquiry](#)

The Operation Dasha public inquiry into allegations concerning the former Canterbury City Council will next sit for two weeks from 8 October 2018

[JUDCOM Sentencing Bench Book: Update 42, September 2018](#)

Available sentencing options have significantly changed following the commencement of the Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017 of 24 September 2018. As a result, there has been a major revision of the sections of the Sentencing Bench book dealing with community-based sentencing options.

New sentencing legislation commences 24 September 2018

On 24 September, the Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017 commences.

Material about the reforms can also be found on the Public Defenders website: <https://www.publicdefenders.nsw.gov.au/>

[NSW Justice: Task Force - Terms of Reference](#)

The Task Force is established with the objective of assessing the circumstances and CSNSW's subsequent investigation and management of a number of inappropriate relationships between CSNSW staff and offenders.

[Strengthening child sexual abuse laws in NSW](#)

The NSW Government has prepared a discussion paper that identifies issues and poses questions about possible options for child sexual abuse law reform. The paper considers the recommendations made by the Royal Commission and the recommendations of the NSW Parliament's Joint Select Committee on Sentencing of Child Sexual Assault Offenders. Submissions close 6 October 2017.

LEGISLATION

[Civil Law and Justice Legislation Amendment Bill 2017](#)

HR Introduced and read a first time 17/09/2018

Amends the: Acts Interpretation Act 1901 and Legislation Act 2003 to clarify the validity of ministerial acts and the operation of provisions about the management of compilations prepared for the Federal Register of Legislation

NSW

Regulations and other miscellaneous instruments

[Civil Liability \(Non-economic Loss\) Amendment Order 2018](#)

(2018-557) — published LW 28 September 2018

[National Redress Scheme for Institutional Child Sexual Abuse \(Commonwealth Powers\) Regulation 2018](#)

(2018-559) — published LW 28 September 2018

[Crimes \(Administration of Sentences\) Amendment \(Community-based Orders and Other Matters\) Regulation 2018](#)

(2018-536) — published LW 21 September 2018

[Crimes \(Sentencing Procedure\) Amendment \(Community-based Orders and Other Matters\) Regulation 2018](#)

(2018-537) — published LW 21 September 2018

[Criminal Appeal \(Amendment No 1\) Rule 2018](#)

(2018-538) — published LW 21 September 2018

The amendment enables the court to extend the period of time within which a notice of appeal, or a notice of application for leave to appeal, may be filed

Bills introduced Government - 21 September

[Community Gaming Bill 2018](#)

[Criminal Legislation Amendment \(Consorting and Restricted Premises\) Bill 2018](#)

Non-Government - 21 September

[Crimes \(Appeal and Review\) Amendment \(Double Jeopardy\) Bill 2018](#)

Bills passed by both Houses of Parliament - 21 September

[Criminal Procedure Amendment \(Pre-trial Disclosure\) Bill 2018](#)

Bills introduced Government

[Civil Liability Amendment \(Organisational Child Abuse Liability\) Bill 2018](#)

Non-Government - 28 September

[Workers Compensation \(Firefighters' Presumptive Rights to Compensation\) Bill 2018](#)

Bills passed by both Houses of Parliament - 28 September

[Criminal Legislation Amendment \(Consorting and Restricted Premises\) Bill 2018](#)

KEY CONTACTS

PANEL RELATIONSHIP CONTACTS

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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 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