



PUBLIC SECTOR NEWSLETTER - NEW SOUTH WALES

Welcome to Issue 53 of our NSW public sector newsletter. This edition includes media coverage relating to discrimination against LGBT kids, the Royal Commission into Aged Care Quality & Safety and much more.

In addition, we cover the appointment of new Race Discrimination Commissioner, Mr Chin-Leong Tan and the appointment of Mr Michael Wheelahan QC as a Judge of the Federal Court of Australia.

MEDIA

LCA: No blanket exception for private schools to expel kids for their sexuality exists - and nor should there be

No blanket exception to anti-discrimination laws currently exists to allow private schools to expel students on the basis of their sexual orientation or gender identity – and no such exemption should ever be introduced, according to the Law Council of Australia

<https://www.lawcouncil.asn.au/media/media-releases/no-blanket-exception-for-private-schools-to-expel-kids-for-their-sexuality-exists-and-nor-should-there-be>

HRLC: It's time to remove outdated discrimination against LGBT kids

Anna Brown, director of legal advocacy with the Human Rights Law Centre said "The Religious Freedoms Review has brought to light the need for our anti-discrimination laws to be comprehensively modernised and consolidated in line with community standards"

<https://www.hrlc.org.au/news/2018/10/12/its-time-to-remove-outdated-discrimination-against-lgbt-kids>

High Court asked whether bans on protesting near abortion clinics are unconstitutional

The High Court hears laws banning anti-abortion campaigners from protesting near clinics where terminations are offered go too far, and target lawful and peaceful protests

<https://www.abc.net.au/news/2018-10-09/high-court-abortion-challenge/10353010>

ACMA: Telstra breaches priority assistance obligations

The ACMA has directed Telstra to commission an independent audit of compliance with its priority assistance obligations for customers with life-threatening medical conditions. Telstra must also implement a range of systems, processes and reporting to assure the future reliability and effectiveness of priority assistance

<https://www.acma.gov.au/theACMA/telstra-breaches-priority-assistance-obligations>

New security Framework locks in Agencies

The Attorney-General's Department has released a new Protective Security Policy Framework (PSPF) to assist Australian Government entities protect their people, information and assets at home and overseas

<https://www.protectivesecurity.gov.au/Pages/default.aspx>

New Race Discrimination Commissioner appointed

Australia's new Race Discrimination Commissioner will take up the position on Monday, 8th October 2018. Mr Chin-Leong Tan has been appointed to the position for a term of five years

<https://www.attorneygeneral.gov.au/Media/Pages/new-race-discrimination-commissioner-5-october-2018.aspx>

LCA: Royal Commission into Aged Care Quality and Safety

The LCA has welcomed the Australian Government's decision to establish a Royal Commission into Aged Care Quality and Safety (the Royal Commission). The decision to consult with the community, including residents, their families and aged care providers, prior to settling the Royal Commission's detailed Terms of Reference, was also welcomed

<https://www.lawcouncil.asn.au/media/news/terms-of-reference-royal-commission-into-aged-care-quality-and-safety>

ALRC: Review of the Family Law System Discussion Paper released

The Australian Law Reform Commission (ALRC) has released a Discussion Paper, Review of the Family Law System (DP 86), and is calling for comments and feedback on its proposals for reform. The Terms of Reference for this Inquiry ask the ALRC to consider reform in relation to range of issues outlined here <https://www.alrc.gov.au/news-media/alrc-news/media-release-review-family-law-system-discussion-paper-released>

Appointment to the Federal Court of Australia

Mr Michael Wheelahan QC has been appointed as a judge of the Federal Court of Australia and commenced in the Melbourne Registry on 3 October 2018 <https://www.attorneygeneral.gov.au/Media/Pages/appointment-to-the-federal-court-of-australia-2-october-2018.aspx>

PUBLISHED - ARTICLES, PAPERS, REPORTS**Composition of Australian parliaments by party and gender: a quick guide**

[APH Research Paper](#): 10 October 2018

[Governing Artificial Intelligence: uploading human rights and dignity](#)

Mark Latonero; Data & Society Research Institute: 10 October 2018

This report assesses how human rights can be applied in the governance of AI and offers initial recommendations for stakeholders, including technology companies, governments, intergovernmental organizations, civil society groups, academia and the United Nations

[Estimating the costs of serious and organised crime in Australia 2016-17](#)

Russell G. Smith; Australian Institute of Criminology: 10 October 2018

This report estimates the cost of serious and organised crime in Australia in 2016–17 to be between \$23.8b and \$47.4b

[Domestic and family violence by juvenile offenders: offender, victim and incident characteristics](#)

Karen Freeman; NSW Bureau of Crime Statistics and Research: 02 October 2018

This study of domestic violence perpetrated by juveniles has found that in the majority of cases the victim is a family member, typically the parent of the offender

[Prisoner use of information and communications technology](#)

Aysha Kerr, Matthew Willis; Australian Institute of Criminology: 02 October 2018

This paper explores some of the ways information and communications technology is being implemented in Australian prisons and internationally, and considers the challenges, risks and benefits of bridging the 'digital divide'

CASES**[Quach v NSW Health Care Complaints Commission \(No 5\) \[2018\] NSWSC 1519](#)**

ADMINISTRATIVE LAW – prohibition order sought against Crown Solicitor appearing for NSW Health Care Complaints Commission in the ACT Supreme Court – previous proceedings seeking substantially the same order dismissed as an abuse of process – these proceedings an abuse of process – no constitutional issues arising – summons dismissed with costs

[DKF v NSW Trustee & Guardian \[2018\] NSWCATAD 237](#)

ADMINISTRATIVE LAW – merits review – where NSW Trustee & Guardian decided to lease and approve repairs to the former matrimonial home of the mother (a "protected person" and subject to a financial management order) of the applicants and the second respondent – the applicants disagreed with the decision and sought to have the first respondent approve the first applicant's daughter move into the home as caretaker – the second respondent agreed with the decision of the first respondent – where paramount consideration is the welfare and interests of the protected person – correct and preferable decision.

[Zidar v Department of Justice \(No 3\) \[2018\] NSWCATAD 230](#)

ADMINISTRATIVE LAW – Government information - excluded information – conclusive presumption against disclosure - legal professional privilege - complaints handling, investigative and reporting functions

PRACTICE AND PROCEDURE**[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.

Law Council of Australia Submissions

05 October 2018 - Law Council

[Review of the National Partnership Agreement on Legal Services](#)**AAT Bulletins**

[Issue No. 39/2018](#), 8 October 2018

ALRC: [Review of the Family Law System: Discussion Paper](#)

Published on 2 October 2018 - Consultation Paper

Reminder: Australian Digital Health Agency three month "opt-out" period for My Health Record

As [announced](#) by the Australian Digital Health Agency, every Australian will be offered a My Health Record unless they choose not to have one during the three-month opt out period which has been extended to 15 November 2018. A national communications strategy will be implemented to explain the opt-out process. During the opt out period individuals who do not want a record will be able to opt out by visiting the [My Health Record website](#)

NSW[Review of the Domestic Violence Justice Strategy](#)

The Department of Justice is seeking feedback from people who have been the victim or perpetrator of a domestic or family violence incident in the last two years. Your feedback will inform our review of the Domestic Violence Justice Strategy and will help us to improve the NSW justice system's response to domestic and family violence in the coming years. You can have your say online by 28 October 2018.

[ICAC 2017-18 Annual Report](#)

The ICAC 2017-18 Annual Report was furnished to Parliament and made public on 5 October 2018.

LEGISLATION**Commonwealth**[Privacy \(Australian Honours System\) Public Interest Determination 2018](#)

12/10/2018 - This determination applies to the disclosure of certain information by the Department of Home Affairs to the Office of the Official Secretary to the Governor-General and the Department of the Prime Minister and Cabinet for the purpose of verifying the Australian citizenship and/or permanent residency status of individuals who are the subject of nominations for membership or honorary membership of the Order of Australia, or for other awards in the Australian honours system.

[Crimes Legislation Amendment \(International Crime Cooperation and Other Measures\) Regulations 2018](#)

08/10/2018 - This instrument amends six regulations, consequential to amendments made by the Crimes Legislation Amendment Act (No. 2) 2011 and the Telecommunication Interception and Intelligence Services Legislation Amendment Act 2011.

NSW**Regulations and other miscellaneous instruments**[Children \(Detention Centres\) Amendment Regulation 2018](#) (2018-576) - published LW 8 October 2018

[Companion Animals Amendment \(Access Register of Companion Animals\) Regulation 2018](#) (2018-580) - published LW 12 October 2018

[Crimes \(Administration of Sentences\) Amendment \(Restricted Associates\) Regulation 2018](#) (2018-574) - published LW 5 October 2018

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 at anytime.

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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