



PUBLIC SECTOR NEWSLETTER - NEW SOUTH WALES

Welcome to Issue 55 of our NSW public sector newsletter. This edition includes media coverage relating to recent appointments to the Administrative Appeals Tribunal and Federal Court, reform regarding transparency in cases where mercy is granted, Australia's facial-matching system and digital identity program.

MEDIA

Australian facial-matching system prone to errors against people of colour, experts warn

Australia's vast new facial-matching system would be prone to errors against people of colour, experts have warned. The system will be used to identify unknown persons in real-time and is aimed at helping "to identify suspects or victims of terrorists or other criminal activity, and help to protect Australians from identity crime"
<https://www.theguardian.com/australia-news/2018/nov/09/australian-facial-matching-system-prone-to-errors-against-people-of-colour-experts-warn>

NSW delivering transparency to mercy decisions

The use of an ancient power to pardon offenders for their crimes will be made more transparent, Attorney General Mark Speakman has announced. In cases where mercy is granted, the reform will enable the Attorney General to publish a document that summarises mercy petitions
<https://www.justice.nsw.gov.au/Pages/media-news/media-releases/2018/delivering-transparency-to-mercy-decisions.aspx>

Attorney-General: Appointments to Administrative Appeals Tribunal

The Government has announced 13 appointments to the Administrative Appeals Tribunal (AAT). All of the appointees have been appointed for a period of between five and seven years and are highly qualified to undertake the important task of conducting merits review of government decisions
<https://www.attorneygeneral.gov.au/Media/Pages/AAT-appointments-5-November-2018.aspx>

Attorney-General: Federal Court appointment

Mr Paul Anastassiou QC has been appointed as judge of the Federal Court of Australia and will commence in the Melbourne Registry on 1 February 2019

<https://www.attorneygeneral.gov.au/Media/Pages/federal-court-appointment-2-november-2018.aspx>

Testing time for digital identity

The Digital Transformation Agency (DTA) has begun testing its digital identity program (myGovID) with real people and real services. The DTA said it had been working across Government to deliver a safe and secure digital identity program which included the Commonwealth's digital identity provider, myGovID
<https://beta.dta.gov.au/news/testing-digital-identity>

LCA: Review of National Arrangements for the Protection and Management of Identity Information

Law Council representatives at the Roundtable discussed for example the need for: a clearer definition of the problem statement; articulation of the difference between identity and entitlement to transact, receive service of benefit; and issues about reliance on biometric data and in particular the privacy risks
<https://www.lawcouncil.asn.au/media/news/review-of-national-arrangements-for-the-protection-and-management-of-identity-information>

Law Council makes submission on human rights and technology

The Law Council has provided the Australian Human Rights Commission with a submission in relation to its consultation on human rights and technology. In its submission, the Law Council considered the potential of various new technologies, including Artificial Intelligence, to both to promote and threaten the protection of human rights
<https://www.lawcouncil.asn.au/media/news/law-council-makes-submission-on-human-rights-and-technology>

Australian Financial Complaints Authority recognised as an External Dispute Resolution scheme under the Privacy Act

The Australian Information Commissioner has recognised the Australian Financial Complaints Authority (AFCA) as an external dispute resolution (EDR) scheme under s 35A of the Privacy Act 1988 (Cth) <https://www.oaic.gov.au/media-and-speeches/news/australian-financial-complaints-authority-recognised-as-an-external-dispute-resolution-scheme-under-the-privacy-act>

Election of Australian Information Commissioner and Privacy Commissioner to the ICDPPC Executive Committee

Australian Information Commissioner and Privacy Commissioner, Angelene Falk, was elected to the Executive Committee of the International Conference of Data Protection and Privacy Commissioners (ICDPPC) in Brussels last week <https://www.oaic.gov.au/media-and-speeches/statements/election-of-australian-information-commissioner-and-privacy-commissioner-to-the-icdppc-executive-committee>

OAIC: Preventing data breaches should be business as usual

The Office of the Australian Information Commissioner has been notified of 245 data breaches affecting personal information between July and September 2018, its latest report shows. Australian Information Commissioner and Privacy Commissioner Angelene Falk said training staff on how to identify and prevent privacy risks needs to be part of business as usual <https://www.oaic.gov.au/media-and-speeches/media-releases/preventing-data-breaches-should-be-business-as-usual>

The ABA rejects the recent analysis of Federal Court judges' productivity

The Australian Bar Association (ABA) is concerned by recent attacks on Federal Court of Australia judges' productivity which portrays the process of justice in too simplistic terms <http://austbar.asn.au/news-media/the-aba-rejects-the-recent-analysis-of-federal-court-judges-productivity>

Extra District Court judges to ease pressure on NSW judiciary

Seven extra permanent judges will be appointed to the District Court of New South Wales to ease pressure on the judiciary and help cut through a mounting backlog of cases. Attorney-General Mark Speakman said it was "unacceptable" victims, witnesses and accused involved in contested trials were waiting an average of 690 days between arrest and sentencing <https://www.abc.net.au/news/2018-10-29/extra-judges-for-nsw-district-court/10442426>

NSW Custody Statistics quarterly update September 2018

New figures released by the NSW Bureau of Crime Statistics and Research (BOCSAR) show that the NSW prison population is starting to show signs of decline. https://www.bocsar.nsw.gov.au/Pages/bocsar_media_releases/2018/mr-NSW-Custody-Statistics-Sept-2018.aspx

PUBLISHED - ARTICLES, PAPERS, REPORTS

[The children's report](#)

Freyana Irani, Amy Lamoin, Krista Lee-Jones; Australian Child Rights Taskforce: 01 November 2018

In this integrated report, the views of children and young people across Australia sit in close association with the contributions of 93 non-government organisations (NGOs) and subject matter experts committed to improving the protection, promotion and fulfilment of the rights of all children and young people in Australia.

Notifiable Data Breaches Quarterly Statistics Report: 1 July - 30 September 2018

Office of the Australian Information Commissioner: 30 October 2018

The quarterly statistics report on the Notifiable Data Breaches (NDB) scheme indicates 57 per cent of incidents were caused by malicious or criminal attack, and 37 per cent resulted from human error. 20 per cent of data breaches over the quarter occurred when personal information was sent to the wrong recipient, by email, mail, fax or other means. The report can be found at www.oaic.gov.au/ndbreport

[Restitution and Compensation Orders: Report](#)

Sentencing Advisory Council: 25 October 2018

In its advice to government, the Council makes eight recommendations for reform to restitution and compensation orders in Victoria. This advice follows a request by the Attorney-General for the Council to examine whether restitution and compensation orders should become sentencing orders or remain as orders in addition to sentence

[NSW Custody Statistics: Quarterly Update Sept 2018](#)

BOSCAR: Released on 29 October 2018

The number of adult prisoners in custody has steadily dropped over the last four months to 13,372, its lowest point in six months

Australian Tribunals and Alternative Dispute Resolution: A Procedural Justice Perspective

Therese MacDermott, Denise Meyerson (2018) 37(4) Civil Justice Quarterly 443

This article explores the meaning of the concept of procedural justice in the context of the alternative dispute resolution (ADR) procedures of tribunals. It argues that procedural justice should be regarded as informing such procedures, and this can be achieved not simply by transposing the legal rules of procedural fairness as they are currently constructed, but by viewing these procedures through the lens of relational factors