

COUNTY
COURT OF
VICTORIA

ANNUAL REPORT 2018–19

ABOUT THE COUNTY COURT

The County Court is Victoria's principal trial court.

Led by Chief Judge Peter Kidd, County Court judges hear more than 11,000 cases a year across three divisions – Criminal, Commercial and Common Law.

County Court judges sit as the heads of jurisdiction at the Magistrates' Court, Coroners Court and Children's Court. They also sit at the Victorian Civil and Administrative Tribunal as vice-presidents.

The Court has original jurisdiction in all civil cases and criminal cases, except a small number of charges such as treason and murder. The Court also hears appeals from the criminal jurisdiction of the Magistrates' Court and the criminal and family divisions of the Children's Court.

Proceedings are open to the public, except when a judge closes a courtroom in the interests of justice.

The Court operates on circuit at 11 regional locations across Victoria and encompasses the entirety of the Court's jurisdiction. The County Koori Court operates in four locations across Victoria and ensures greater participation of the Aboriginal community in the sentencing processes.

The Court is supported in its delivery of justice by its Administration – a group of mostly corporate functions – and its Registry, which is public-facing and deals with documents, filing and fees.

The Chief Judge and the County Court's 68 other judges are supported by approximately 270 staff.



The County Court acknowledges Aboriginal and Torres Strait Islander peoples as the traditional custodians of the land and acknowledges and pays respect to their Elders, past and present.

Aboriginal and Torres Strait Islander readers are advised that this document includes photos, quotations and/or names of people who are deceased.

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REPORT OF THE CHIEF JUDGE

‘The Court has worked hard to improve the way we serve the Victorian community in the administration of justice.’



Chief Judge Peter Kidd
County Court of Victoria

This past year, the County Court has made great strides towards achieving the plan for improvement detailed in our *Court Directions 2017–22*. This has occurred despite unprecedented – and growing – demand on the Court’s services and judicial resources.

Across each of the Court’s Divisions – Criminal Law, Common Law and Commercial Law – the Court has worked hard to improve the way we serve the Victorian community in the administration of justice.

The experience of court users has been at the forefront of our improvement work. For example, a substantial redesign of our website was completed in the second half of 2018. Website content is now organised according to the needs of our users – such as witnesses, victims, lawyers or students – so visitors to our website can find the information they need quickly and easily.

Engagement with the community has been another key focus of the Court’s work throughout the year.

In October 2018, the Court held its inaugural Community Engagement Day, bringing together community leaders and judges, for a series of activities and a two-way discussion on the work of the Court. The day represented an invaluable opportunity for both participants and judges to share their experiences and learn from one another.

As part of Law Week, Courts Open Day saw a range of free public events held at the County Court, with a record attendance. As I noted at the launch of Law Week, in effect every day is courts open day. Apart from in rare circumstances, members of the community can enter into any courtroom at the County Court and watch proceedings. To help visitors, this year the Court published a brochure providing practical guidance on such things as how to go through security and the do's and don'ts inside a courtroom.

In March 2019 I allowed the sentencing in DPP v Pell to be broadcast live. Alongside meeting the community interest in that case, the broadcast provided a way to demonstrate to the community the work of the Court and the challenging task of sentencing that our judges face every day. I commend all of our Court staff and security personnel for ensuring that, while the eyes of the world may have been on our Court, the needs of all of our Court users continued to be met, without disruption or disturbance.

Addressing the particular needs of the Victorian community has been an integral part of the Court's work, and in November 2018 we celebrated the 10th anniversary of the County Koori Court sitting at Latrobe Valley. Established in 2008, the Koori Court remains the only sentencing court for Aboriginal and Torres Strait Islander offenders in an Australian higher jurisdiction.

Technology in our courtrooms and other spaces continues to be upgraded, improving the experience of court users, including jury members, and helping our facilities move closer to becoming fully digital end to end. Work is also underway on the infrastructure necessary to facilitate such things as the future livestreaming of matters, including sentencing decisions.

The role of a modern judicial officer is multifaceted. In addition to our essential work hearing and determining cases, judges of the County Court undertake a wide range of responsibilities, both for the Court, Court Services Victoria (CSV), and a number of external agencies and bodies. For example, judges sit on the Court's Board of Management, on CSV Portfolio Committees, and on both the Adult and Youth Parole Boards.

Additionally, many judges give of their time – outside of work hours – to activities such as mentoring, teaching the Bar Readers' Course, sitting on advisory bodies, and participating in community engagement. These additional responsibilities often go unrecognised.

In light of these many demands, and the increasing demands of our core work, there has been a continued focus this year on the issue of judicial wellbeing, and indeed the wellbeing of all Court staff.

I would like to commend all of the judges and staff of the Court for their hard work, dedication and their service to the Victorian community. I would also like to thank them for their commitment to continually embracing change and supporting innovation across all of our work.

Chief Judge Peter Kidd

County Court of Victoria

REPORT OF THE CHIEF EXECUTIVE OFFICER

‘The dedication of staff and judiciary help make the high ideal of court excellence a reality for Victorians.’



Fiona Chamberlain
CEO, County Court of Victoria

Each year, for more than 160 years, the County Court has delivered justice on behalf of Victorians.

It's long been my view that justice is, as Nobel Laureate Aleksandr Solzhenitsyn so keenly observed, the conscience of the entire community.

Nowadays the Court deals with upwards of 11,000 matters per year.

Against each one of those matters a judge of the Court discharges a profound responsibility – to hear and determine it with independence, impartiality and the greatest diligence – and in doing so safeguard the Victorian community's confidence in their justice system.

I am especially proud the Court achieves this exacting standard and this high ideal as the busiest trial court in Victoria.

This past year the Court demonstrated a continued commitment to excellence, distinguishing itself as an exemplar of performance and innovation and providing an exceptional standard of justice to Victoria. This report bears this out.

The achievements detailed here would not be possible without the dedication, passion and persistence of the staff, and the commitment, professionalism, and tenacity of the judiciary.

The Court has solid foundations of judge-led governance, an exceptional organisational culture and a strong record of investment in staff capability. And from our foundations we've built against the seven leading objectives set out by *Court Directions 2017–22*, our roadmap for reform.

Foremost of those objectives is improving the experience of court users. Against this objective the Court has sought to improve its Registry processes, its digital performance, its development of and investment in specialist courts, and the quality of its engagement with the public, among many other areas of activity.

Twice a year, as a best practice per the *International Framework for Court Excellence*, the Court runs its user surveys to help improve how court users experience the Court and how the Court can improve its overall performance.

I am very pleased to report our surveys continue to attract more and more participants – survey on survey – and that our recent results show the highest ever rate of satisfaction among County Court users.

The Court had cause for celebration on several occasions this past year. Notably, it was the 10-year anniversary of the County Koori Court at Latrobe Valley. We also reached key milestones against *Court Directions*, particularly with our digital transformation and the evidence-informed reform efforts with long trial case management and our support of self-represented litigants.

This past year also witnessed the Court's inaugural Community Engagement Day and saw us further improve our media and community engagement platforms and processes. Much of this effort is detailed in this report.

The efforts of the Court also received external recognition, including a special commendation in the Department of Justice and Regulation's Risk and Resilience Awards 2018 for our Critical Incident Reporting Framework.

While it is important for the Court to take stock of its achievements of the past 12 months, our attention remains firmly fixed on the challenges and opportunities ahead of us. Foremost among these are the need to secure long-term accommodation for the Court in Melbourne's CBD, the perennial challenge of improving performance through experimentation and innovation, the limitations our digital technology and legacy platforms impose on service and performance improvement, and the pressing need to improve data quality and accessibility.

As I've identified, *Court Directions* provides the Court with its roadmap for these challenges and for the future more generally. It is the ability of the Court's judges and its staff to intelligently, strategically apply *Court Directions* over the past few years that has led to our successes.

The achievements I've identified represent a collaboration of the Court's people, including the judges and staff at the Court.

The delivery of justice in an independent, efficient and sustainable way over the long term is reliant on the people, the contributions they make and the relationships they build.

I firmly believe – and evidence from recent years bears this out – that the Court performs best when the workforce is engaged and empowered to build capacity and skills while also being supported in appropriate and sometimes specialised ways.

Our most valuable resource at the Court is our people.

This has been my fifth year as Chief Executive Officer of the County Court.

Over that time I have been humbled to see the organisation realise a breadth of strategic objectives and I am truly grateful to the dedicated staff and judiciary who make these achievements possible.

Their dedication and contributions help make the high ideal of court excellence a reality for Victorians and give me great confidence in how this very fine institution faces the future.

It remains my great honour to serve at the County Court.

Fiona Chamberlain

CEO, County Court of Victoria

COURT STRUCTURE

The County Court's 69 judges and its operations are supported by approximately 270 staff. The Court deals with matters through its three divisions: Criminal, Common Law and Commercial. Judges also hear cases at the Court's 11 circuit locations.

CRIMINAL DIVISION

Head of the Criminal Division	Judge Gamble
Judge in Charge of the General Crime List	Judge Gamble
Judge in Charge of the Sexual Offences List	Judge Higham
Judge in Charge of the Koori Court	Judge Lawson

COMMON LAW DIVISION

Head of the Common Law Division	Judge Misso
Judge in Charge of the General List	Judge Misso
Judge in Charge of the Serious Injury List	Judge Misso
Judges in Charge of the Medical List	Judge Saccardo and Judge Tsalamandris
Judge in Charge of the Defamation List	Judge Smith
Judge in Charge of the Family Property List	Judge Kings
Judge in Charge of the Confiscation List	Judge Murphy
Judges with Responsibility for Adoption and Substitute Parentage Applications	Judge Pullen and Judge Hampel
Judge in Charge of the WorkCover List	Judge Wischusen
Judge with Responsibility for Self-Represented Litigants	Judge Saccardo
Judge with Responsibility for s134AB Costs Applications	Judge Tsalamandris
Judge with Responsibility for the Approval of All Infant and Other Compromises	Judge K Bourke

COMMERCIAL DIVISION

Head of the Commercial Division	Judge Cosgrave
Judge in Charge of the General List	Judge Cosgrave
Judge in Charge of the Banking and Finance List	Judge Cosgrave
Judge in Charge of the Expedited Cases List	Judge Cosgrave
Judge in Charge of the Building Cases List	Judge Cosgrave

CIRCUITS

Head of Circuits	Judge Mullaly
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YEAR AT A GLANCE

TOTAL COUNTY COURT CASES

	2017–18	2018–19	% change
Commenced	11,760	11,377	-3.3%
Finalised	11,274	11,063	-1.9%
Pending	9,891	9,812	-0.8%
Overall County Court Clearance Ratio (%)	96%	97%	
% Disposed Within 12 Months	71%	72%	

COMMENCED

Number of cases committed or direct indicted during the reporting period (including supervision order cases).

FINALISED

Number of cases completed during the reporting period. Cases no longer active.

PENDING

Number of active/open cases as at the end of the reporting period.

CLEARANCE RATE

The number of finalised cases as a proportion of the number of initiations expressed as a percentage.

TOTAL COMMERCIAL DIVISION

Commenced	2,020	2,152	6.5%
Finalised	2,208	2,141	-3.0%
Pending	2,187	2,123	-2.9%
Clearance Ratio (%)	109%	99%	
% Disposed Within 12 Months	53%	54%	

TOTAL COMMON LAW DIVISION

Commenced	3,920	3,832	-2.2%
Finalised	3,733	3,558	-4.7%
Pending	4,663	4,688	0.5%
Clearance Ratio (%)	95%	93%	
% Disposed Within 12 Months	52%	53%	

TOTAL CRIMINAL CASES (INCLUDING APPEALS)

Commenced	5,820	5,393	-7.3%
Finalised	5,333	5,364	0.6%
Pending	3,041	3,001	-1.3%
Overall Criminal Clearance Ratio (%)	92%	99%	8.5%
% Disposed Within 12 Months	92%	85%	-7.6%

CRIMINAL TRIALS AND PLEAS

Commenced	2,566	2,468	-3.8%
Finalised	2,130	2,273	6.7%
Pending	2,067	2,228	7.8%
Trials and Pleas Clearance Ratio (%)	83%	92%	
% Disposed Within 12 Months	82%	71%	

CRIMINAL APPEALS

Commenced	3,254	2,925	-10.1%
Finalised	3,203	3,091	-3.5%
Pending	974	773	-20.6%
Appeals Clearance Ratio (%)	98%	106%	
% Disposed Within 12 Months	97%	96%	

TOTAL ADOPTION LIST CASES

Applications Considered	54	58	7.4%
Adoption Orders Made	41	58	41.5%
Applications Pending	14	13	-7.1%

These figures apply statewide.

COURT DIRECTIONS 2017–22 AND OUR ACHIEVEMENTS

In mid-2017 the Court announced Court Directions 2017–22 as a roadmap for its next five years.

Court Directions outlines the top seven priorities of the Court and is a publicly available expression of the Court's commitment to improvement and pursuit of excellence. By identifying a strategic vision, the Court has clarity of purpose and an articulated roadmap to success.

Court Directions reflects the critical values of impartiality, fairness, independence, transparency and accessibility, and the important business characteristics of engagement, efficiency and timeliness. The Court recognises its obligation to the community and all Victorians in this regard. The aspirations set out in *Court Directions* are ambitious, but necessarily so given the complex and changing environment in which the Court operates, civic expectation and the changing face of justice in a modern society.


The Court is experiencing an unremitting growth in its caseloads and a significant expansion of supervisory responsibilities driven by population growth, an active law reform agenda, increased reporting and growing investment in community safety. This projected growth is forecast to exceed the Court's service capacity, with the number of judges at the Court being the primary capacity determinant. These issues, in conjunction with a progressively complex caseload and the increasing vulnerability of parties coming before the Court, place significant pressures on the system and the judiciary. This increase in demand and complexity has been felt across the Criminal, Common Law and Commercial divisions of the Court. While opportunities for increased efficiency and productivity exist, improvements are constrained by interdependencies across the justice system, an inflexible asset base, legacy technology systems and finite judicial and other resources insufficient to meet projected demand.

Court Directions is about ensuring the capacity of the Court to remain agile, anticipate and meet future challenges and risks and ensure the Victorian community is provided with the highest quality of justice.


Despite the aforementioned challenges, the Court continues to explore opportunities within existing resource parameters to modernise, improve the court user experience and enhance the effective and timely delivery of justice. This is achieved through investment in digital transformation, community engagement, workforce capacity building and the implementation of proven productivity, communication, and service initiatives.

By establishing a roadmap for the future, *Court Directions* articulates a vision and outlines the strategic and pragmatic requirements to successfully recognise this vision over the coming four years.

The Court's key achievements during the 2018–19 reporting period reflect our commitment in this respect. They are identified in the following pages.

Objectives	Description	Key achievements during 2018–19
<p>IMPROVE THE COURT USER EXPERIENCE</p> 	<p>Enhance services and programs to meet the needs of court users and improve justice outcomes.</p>	<p>COURT USER SURVEY</p> <p>Applying methodology from the <i>International Framework for Court Excellence</i>, the Court continued the successful application of the biannual Court Users Survey. This initiative, designed to measure and subsequently improve the experience of the court user, attracted a large number of participants and the results continue to demonstrate a high rate of satisfaction among court users. Results during the most recent reporting period included an overall court user satisfaction rate of 82 per cent.</p> <p>IMPROVEMENT TO SELF-REPRESENTED LITIGANT SUPPORT</p> <p>The Court has made substantive efforts to improve the support available to self-represented litigants. This work has resulted in the implementation of a range of new initiatives such as plain language and accessible information, services to link litigants with free legal assistance and improved use of technology with streamlined processes to increase accessibility to file relevant documentation. Examples include online materials, visual guides to simplify complex procedural steps, a dedicated section in the Court's website and accessible how-to guides.</p> <p>A court referral scheme is also being piloted with the Victorian Bar, enabling judge-ordered requests for pro bono assistance from volunteer barristers, where it is considered in the public interest for the due administration of justice.</p>

COURT DIRECTIONS 2017–22 AND OUR ACHIEVEMENTS

Objectives	Description	Key achievements during 2018–19
<p>ENGAGE WITH THE COMMUNITY</p> 	<p>Improve transparency and the accessibility of information to build understanding of the Court and its processes.</p>	<p>COURTS OPEN DAY</p> <p>On 18 May 2019 the County Court opened its doors to the public as part of the annual Courts Open Day during Law Week. Nearly 1400 people attended the free program of tours, talks and exhibitions. The program for 2019 was the Court's biggest offering to date and included the inaugural 'Talk to the Judge' event, which invited community members to speak directly to judicial officers outside of a courtroom.</p> <p>FIRST COMMUNITY ENGAGEMENT DAY</p> <p>Judges came together with community leaders in October for a day of discussion and education. The inaugural County Court Engagement Day event, created in partnership with Victoria University's Sir Zelman Cowen Centre, allowed participants to learn about the Court and its processes; gain crucial skills and resources to share their knowledge with their communities; and challenge their thinking about the legal system, in particular the role of judges in sentencing. Throughout the day, participants observed real court hearings, worked in groups on mock sentences and engaged one on one with judges.</p> <p>WEBSITE</p> <p>The redeveloped website, launched in 2018, has increased and improved transactions between the Court and court users. New website features include an interactive subpoena calculator that enables users to lodge their requests online, educational resources for Victorian Certificate of Education (VCE) students, the publication of sentencing remarks for cases of note and a feedback function on all webpages.</p> <p>EDUCATIONAL RESOURCES FOR SCHOOL STUDENTS</p> <p>The Court shared its comprehensive suite of free education resources with students and teachers engaged in the VCE through education networks. The resources, available on the County Court of Victoria website, include short films, VCE Legal Studies fact sheets, a virtual tour of the Court, and a teachers' study guide.</p> <p>ENHANCED ENGAGEMENT WITH MEDIA</p> <p>The Court has developed a strategy for greater media engagement, including training sessions for cadet journalists and meetings with regional media. The media team has also developed new resources for media, such as the Protocol for the Immediate Publication of Sentencing Remarks and the digitisation of two commonly used paper forms.</p>

Objectives	Description	Key achievements during 2018–19
<p>EXPAND AND EXPLORE SPECIALISATION</p>	<p>Specialise to better meet the needs of specific court user groups.</p>	<p>KOORI COURT EXPANSION</p> <p>The County Koori Court continued to ensure greater participation of the Aboriginal community in the sentencing process through the role played in that process by the Aboriginal Elders or Respected Persons.</p> <p>Following the successful expansion to Shepparton, the Court was successful in obtaining Aboriginal Justice Agreement funding to expand the County Koori Court to Warrnambool, Geelong, Wodonga and Bendigo over the next four years.</p> <p>The County Koori Court also celebrated the 10-year anniversary of the Latrobe Valley County Koori Court.</p> <p>COURT INTEGRATED SERVICES PROGRAM EXPANSION PILOT</p> <p>In response to the growing pressure on the Victorian prison system, community safety issues and increased prevalence of recidivist offenders with complex support needs, funding has been secured for a pilot expansion of the Court Integrated Services Program (CISP) to the County Court. CISP offers a coordinated approach to the assessment and treatment of accused at the pre-trial or bail stage. It links accused to support services.</p> <p>The expansion of CISP will provide the County Court with additional tools to address risk and reduce potential harm on community, while ensuring relevant individuals are supported to engage in rehabilitation and be subsequently diverted from the justice system.</p>

COURT DIRECTIONS 2017–22 AND OUR ACHIEVEMENTS

Objectives	Description	Key achievements during 2018–19
<p>SUPPORT JUDGES AND STAFF</p> 	<p>Strengthen capability, and support the wellbeing of judges and staff.</p>	<p>STAFF AND JUDICIAL WELLBEING</p> <p>The Court has further strengthened its focus on staff and judicial wellbeing and has developed strategies and frameworks to ensure that wellbeing is embedded as a core function of court operations.</p> <p>Led by Chief Judge Peter Kidd and CEO Fiona Chamberlain, the Court has also continued efforts to build a productive and positive workplace culture by delivering programs that promote respectful relationships, mental health first aid, inclusiveness, integrity and accountability.</p> <p>STAFF ENGAGEMENT ACTION PLAN</p> <p>The Court undertook a process of engaging with staff via a series of engagement sessions, the purpose of which was to gain a deeper understanding of certain aspects of the workplace culture and to identify any areas requiring improvement. A total of 190 staff attended the sessions.</p> <p>Overall, the outcome from the forums was very positive, indicating that the workforce is highly engaged in the work they do.</p> <p>The feedback identified a number of key themes which formed the basis of the Staff Engagement Action Plan. Delivery of the plan has commenced and will continue to be implemented over 2018–2022.</p>
<p>REFORM BASED ON EVIDENCE</p> 	<p>Implement improvement initiatives based on best practice and strong evidence.</p>	<p>CRIMINAL DIVISION REDESIGN</p> <p>The Court commenced exploring reform of the Criminal Division's judicial work systems in mid-2018. Through the design and testing of an active case management system, the Court has sought to improve efficiency in the pre-trial process and enhance productivity, thereby enabling judges to focus on the value work of hearing and determining matters. The Court will continue working together with the relevant stakeholders, judges and court staff to expand the pilot for a further 12 months.</p>

Objectives	Description	Key achievements during 2018–19
<p>HARNESS NEW TECHNOLOGY</p> 	<p>Embrace new technology and rethink systems to enhance transparency, improve service and increase productivity.</p>	<p>IN COURT TECHNOLOGY RENEWAL</p> <p>The Court has continued to explore opportunities to improve service and efficiency through the use of technology. Improvements this year include technology upgrades to court, jury and remote witness rooms through modernised recording, playback and video conferencing facilities and enhanced writing tools and speech-to-text technology to support the work of the judiciary.</p> <p>DIGITAL TRANSFORMATION</p> <p>The Court has undertaken infrastructure upgrades including the refreshment of all network equipment and implementation of the base environment to deploy wi-fi and Voice over Internet Protocol technology, enabling more efficient mobility across the court facility. A court-wide printer/scanner upgrade was also performed which further supports our electronic court initiatives, and confidentiality of paper documents.</p>
<p>COLLABORATE WITHIN THE JUSTICE SYSTEM</p> 	<p>Contribute to the overall performance and effectiveness of the justice system.</p>	<p>CASE MANAGEMENT OF LONG TRIALS</p> <p>Now in its second year, the Long Trial Case Management List Pilot has managed 82 cases and successfully implemented an alternative pre-trial case management process. A 12-month evaluation of the pilot identified that in addition to saving approximately 107 weeks of court time through early resolution of relevant cases, the pilot had decreased the trial duration for cases which proceed to trial, assisted in the efficient allocation of judicial resources and provided trial date and trial judge certainty.</p>

WORK OF THE COURT

The County Court Act (1958) establishes that the judges of the Court are to report to the Governor on the operation of the Court on an annual basis.

The following reports have been prepared by the judges and judicial registrars and detail the work of the Court over the reporting period 2018–19.

REPORT FROM THE HEAD OF THE CRIMINAL DIVISION JUDGE GAMBLE

CRIMINAL DIVISION STRUCTURE

In August 2018, I took over from her Honour Judge Hannan as Head of the Criminal Division and Judge in Charge of the General List. Judge Hannan was the Head of the Criminal Division for four years and Judge in Charge of the General List for 10 years. The Division thanks Judge Hannan for her tireless efforts and leadership over that period.

In January 2019, his Honour Judge Higham took over from her Honour Judge Meryl Sexton as Judge in Charge of the Sexual Offences List. The Division thanks Judge Sexton for her many years of dedicated and hard work as the Judge in Charge of the Sexual Offences List. The Division also congratulates Judge Higham on his appointment to the position.

In May 2019, her Honour Judge Lawson took over from his Honour Judge Grant as Judge in Charge of the County Koori Court. The Division thanks Judge Grant for his significant contribution to the County Koori Court during the three years he was the Judge in Charge of the County Koori Court. The Division also congratulates Judge Lawson on her appointment to the position.

This year I have been supported in my new role as Head of the Criminal Division by the Criminal Division Executive Committee ('Executive Committee') comprised of the Judge in Charge of the Sexual Offences List, the Judge in Charge of the County Koori Court, and the Head of Circuits (Judge Mullaly). The Executive Committee met regularly to discuss and consider issues faced by the Division, changes to process and procedure, and to report on performance across the various areas of the Division.

As the new Head of the Criminal Division, I look forward to continuing working with the Executive Committee, the Judges of the Court and court staff to maximise the performance and efficiency of the Division based on best practice, strong evidence and in line with the *Court Directions 2017–22*.



Judge Gamble

APPOINTMENTS AND RETIREMENTS

This year, the Criminal Division farewelled a number of experienced judges who retired over the course of the year. His Honour Judge Hicks retired in August 2018, his Honour Judge Allen retired in January 2019, his Honour Judge Mason retired in April 2019 and his Honour Judge Grant retired in May 2019. The collective wealth of knowledge and expertise of the retired judges is a loss to the Division and the Division thanks each of those judges for their many years of dedicated service to the Court.

This year, the Criminal Division gained and welcomed six new judges, all of who bring fresh experience to the Court. Her Honour Judge Dawes, his Honour Judge Johns, his Honour Judge David Sexton and her Honour Judge Marich were appointed in August 2018, and her Honour Judge Brimer and his Honour Judge Georgiou were appointed in April 2019. The Division congratulates each judge on their appointment to this Court.

ENGAGEMENT WITH THE COMMUNITY

Courts Open Day

As with previous years, the Division contributed to the Courts Open Day. This year's program was the Court's biggest offering to date and included the inaugural sell-out event 'Talk to the Judge', which allowed members of the community to speak directly to judges outside of a courtroom. The session provided members of the community with factual information about judicial work and sentencing and promoted public understanding of the County Court.

Other events included the 'Day in the Life of an Accused' tour, which combined the cells tour with a mock plea hearing; an interactive 'Women in Crime' panel session where some of Victoria's most experienced female judges and lawyers detailed their experiences and how they see the future for women in the law; Victorian Criminal Bar's mock bail application; a presentation by her Honour Judge Chambers, President of the Children's Court, on sentencing children and young people; and 'Parole: You Decide!' an interactive mock parole hearing presented by former County Court Judge Peter Couzens (Chairperson of the Adult Parole Board) and an expert panel chaired by her Honour Judge Pullen.

Publication of sentences

The Criminal Division continues to promote public understanding of the reasons for sentences through the publication of sentencing remarks. At a sentencing hearing, a judge delivers the sentence and states the reasons for that sentence. Sentencing remarks generally include:

- a summary of the offence including aggravating or mitigating circumstances of the offending;
- relevant factors about the offender including his or her personal circumstances and prospects for rehabilitation;
- the impact of the offence on the victim;
- the relevant sentencing factors the Judge must take into account as required by legislation; and
- the principles and purpose a sentence is intended to achieve.

Sentencing remarks assist an offender, practitioners and the community in understanding the process and reasons for a sentence.

The publication of sentencing remarks is one of the ways in which the Court seeks to enhance the community's understanding of the sentencing process and thereby facilitate a more informed discussion of this important aspect of the Court's work.

COLLABORATION WITHIN THE JUSTICE SYSTEM

Stakeholder engagement

This year, the Division continued to cultivate strong relationships with the profession, stakeholders and the broader community. Judges of the Division continued to meet regularly with representatives of organisations including Victoria Legal Aid, the Criminal Bar Association, the Law Institute of Victoria, the Office of Public Prosecutions, the Commonwealth Director of Public Prosecutions and Corrections Victoria. The meetings continued to provide a forum for stakeholders and the Court to discuss issues arising in the Division, changes to Court practice and procedure, changes within any of those organisations and legislative reform.

DIVISION MAJOR PROJECTS

Long Trial Case Management List Pilot

The Long Trial Case Management List Pilot was established in February 2018 to manage criminal trials with an estimated trial duration of 25 days or more. Now in its second year, the pilot has managed 82 cases and has implemented an alternative pre-trial case management process which focuses on:

- proactive analysis of cases in advance of the trial date;
- comprehensive discussion with parties about the trial and pre-trial issues as well as the prospects of resolution;
- early completion of pre-trial applications and hearings where the outcome of such hearings may have a significant impact on the trial; and
- the pre-allocation of trials, and providing preparatory material, to trial judges in advance of the trial date.

This year, a weekly directions hearing list, sitting every Friday morning, was created to facilitate the regular management of cases included in the pilot. The directions hearings are generally heard after a court ordered milestone, for example, the filing of documents, to enable practitioners to meaningfully discuss the progression of a case with the directions hearing list judge.

Judge Mullaly, who heads the Long Trial Case Management List, has this year been supported by the Honourable Chief Judge Kidd, his Honour Judge O'Connell and her Honour Judge Marich, who have each managed cases in the long trials directions hearing list.

A one-year evaluation of the pilot was completed in February 2019. Key outcomes of the Long Trial Case Management List Pilot as identified in that evaluation include the below.

- The pilot has facilitated the early resolution of cases where appropriate. The pilot has saved approximately 107 weeks of court time through early resolution of such cases. On average, these cases have resolved 4.8 weeks prior to the trial date.
- The pilot, through effective case management, has decreased the trial duration for cases that proceed to trial. The pilot has, to date, saved the Court six weeks of trial time for cases that have proceeded to trial.
- The pilot has assisted the efficient allocation of judicial resources. Judges who were allocated long trial cases that ultimately resolved were made available to hear other trials listed in the Criminal Division.
- The pilot has provided trial date and trial judge certainty. Judges have been allocated to long trial cases in advance of the trial date. This has consequentially given practitioners the opportunity to engage with the trial judge in advance of the commencement of the trial.

The pilot is also exploring alternative case management options to improve productivity and efficiency, providing options such as case conference hearings in appropriate cases. This year, the Chief Judge conducted the first case conference hearing in the Long Trial Case Management List Pilot. The case conference hearing subjected a long trial case to the following processes prior to the trial:

- close analysis of the issues;
- full, frank and informed discussion between the parties; and
- enabled the parties to draw on the objective guidance of the Chief Judge in respect of the issues.

The process garnered a number of benefits for both the parties and the Court with the case resolving shortly after the case conference hearing. The pilot will seek to expand the operation of case conference hearings to appropriate long trial cases.

Criminal Division Case Management Redesign Pilot

In mid-2018, the Court commenced exploring reform of the Criminal Division's judicial work system to address greater demand in the Criminal Division. This reform was an extension of the Blue Sky Listing Project and the Long Trial Case Management List Pilot. Through the design and testing of an active case management system, the Court has sought to improve efficiency in the pre-trial process and enhance productivity through more delegation by judges of less complex functions. This active case management system is intended to enable judges to focus on the higher value work of hearing and determining matters. A pilot of the active case management system commenced in September 2018.

The Criminal Division, and the Criminal Division Redesign team, worked in collaboration with Victoria Legal Aid and the Office of Public Prosecutions to pilot an active case management system for a select number of cases that entered the jurisdiction as a plea of not guilty. These cases were actively case managed by the Criminal Division Redesign team to ensure cases resolved at the earliest opportunity where appropriate and to identify and narrow issues in dispute for those cases that did not resolve.

In May 2019, the Court received government funding to expand the pilot of the active case management system for a further 12 months. The Court will be working together with the relevant stakeholders, judges and court staff to expand the pilot. The Court will evaluate the reforms at the conclusion of the pilot to ensure they are appropriate and measured.

Grouping of Sentence-Only Appeals Pilot

In February of this year, the Criminal Division commenced a six-month pilot program in relation to the grouping of sentence-only appeals that are listed for hearing each day. The pilot has sought to place appropriate appeals into groups of two or three, one week out from the appeal hearing date. The purpose of the pilot is to facilitate earlier briefing of counsel by the prosecution and thereby enable them to provide a greater level of assistance to the Court.

The Division will continue to monitor the effectiveness of the pilot with a view to evaluating the pilot at its conclusion.

Practice note

The Criminal Division practice note underwent revision this year to ensure it accords with changes to legislation and reflects current practice, procedure and expectations of practitioners. In particular, the chapter relating to supervision orders was re-drafted, in consultation with stakeholders, to reflect the legislative reforms as provided by the *Serious Offenders Act 2018*.

Electronic filing of indictments

At the end of April 2019, the Division changed its processes to enable indictments to be filed electronically through eLodgment, the Court's online filing system.

This procedure accords with the amendments that were made to the *County Court Criminal Procedure Rules 2009*.

Enabling the filing of electronic indictments provides a number of potential benefits, including:

- as soon as an indictment is signed by an authorised person, it can be filed immediately electronically with the Court; and
- when an indictment is required on circuit, for example, a fresh indictment that is signed by an authorised person in Melbourne, it can be filed immediately electronically thereby making the indictment immediately accessible by the judge on circuit to enable an accused to be arraigned.

OVERVIEW OF STATEWIDE CRIMINAL CASES

This year, a total of 5393 criminal cases commenced in the Court across the state.

Of those 5393 cases:

- 1186 were committed for trial (plea of not guilty);
- 1048 were pleas;
- 2925 were appeals; and
- 234 involved matters pertaining to direct indictments, severed indictments, mental impairment, supervision orders and restricted evidence applications.

The Criminal Division finalised 5364 criminal cases across the state.

Of those 5364 cases:

- 332 proceeded to trial and returned a verdict;
- 1652 were pleas;
- 3091 were appeals; and
- 289 involved other finalisation types.¹

¹ Other finalisation types include absconded at trial, mistrial – dismissed/ hung jury, *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997* matters, supervision order matters, matter transferred to the Supreme Court, matter transferred to the Magistrates' Court, extradition/extension, discontinuance, breach finalisations, breach of supervision order finalisations, diversion orders, stay of proceedings.

DIVISION CHALLENGES

Case complexity and duration and listings

The Division continues to face growing demands and pressures. Resource and funding constraints combined with increased case complexity and duration have a direct impact on the Court's resources and workload as well as a consequential flow on effect to the number of 'not reached' cases and time to trial delays.

The rapid pace of legislative reform, in particular the major reforms to the *Bail Act 1977* and to the *Sentencing Act 1991*, have added complexities for judges to consider before making decisions in relation to bail and sentences. Some factors that may impact on the complexity and duration of cases include:

- cases where there are multiple accused;
- legislative reform to criminal procedure, evidence, offences and sentencing;
- increasing use of technology in evidence;
- the type of evidence relied upon; and
- complex forensic evidence.

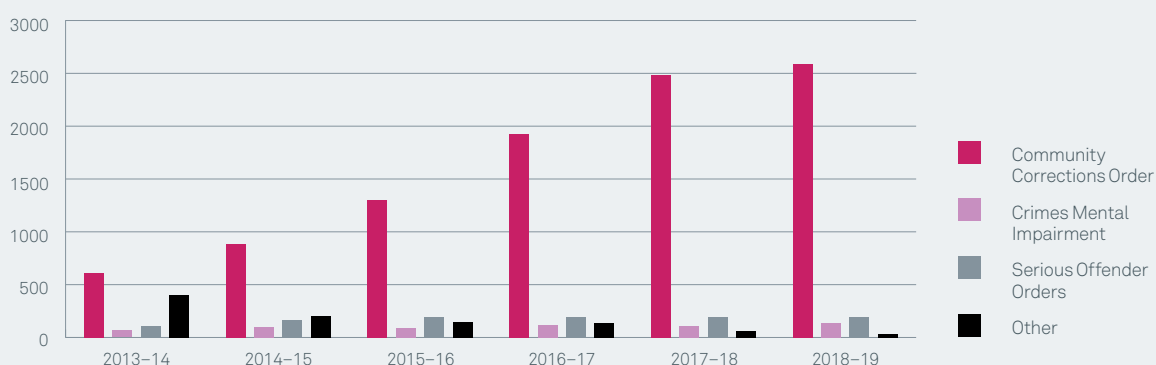
Generally, the more complex a case, the longer the duration of the hearing and this impacts on the capacity of the Division to hear other cases, and the time to trial.

The Division over-lists trials to ensure where a matter resolves, there is another trial for the judge to hear in order to efficiently utilise judicial resources and time. There is no formula to accurately predict how many cases will resolve in any given week. The Senior Associate to the Reserve List, Christopher Chapman, has played an integral role in managing cases in the Reserve List (where there is no available judge to hear a case), facilitating the flow of work to available judges and reducing the number of 'not reached' cases. The Division is conscious of the financial, emotional and logistical impacts of 'not reached' cases and continues to monitor and manage the listing of cases to minimise those impacts.

Post-sentence management of offenders

Data shows that the number of post sentence judicial management of offender (PSJMO) hearings have remained significantly higher compared to the number of PSJMO hearings from five years ago. Applications for, and review of, supervision orders made pursuant to the *Serious Offenders Act 2018*, judicial monitoring included as a condition on community corrections orders (CCO), contraventions of CCOs, and review hearings for supervision orders made pursuant to the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997* continues to consume significant judicial time.

POST SENTENCE JUDICIAL MANAGEMENT



Post Sentence Judicial Management note:

The CCO column includes applications to vary/cancel a CCO, CCO judicial review and contravention of a CCO.

The Crimes Mental Impairment column includes applications to vary/revoke a supervision order and review hearings under the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997*.

The Serious Offender Orders includes applications for: an interim supervision order, renewal of a supervision order, revoking a supervision order, and breaches and reviews of supervision orders made pursuant to the *Serious Offences Act 2018* (and previously the *Serious Sexual Offender (Detention and Supervision) Act 2009*).

The Other column includes other post-sentence judicial management such as contraventions of suspended sentences, community based orders and intensive corrections orders (now clearly unavailable as a sentencing option). The column also includes contraventions of undertakings and fine conversion orders.

Special hearing reforms

On 3 March 2019, the reforms that repealed committals in all sexual offence matters involving a complainant who is a child or person with a cognitive impairment ('special hearing matters') commenced.

As a result, judges of the Division will now be required to hear:

- applications for pre-trial cross-examination of a witness (other than the complainant) for all special hearing matters committed to this Court; and
- the pre-trial cross-examination hearing if the application is granted.

Consequently, these reforms will increase the number of hearings in the Division and therefore impact on the Court's judicial resources and time. The resultant increase in listing pressures on the Court will need to be carefully monitored so as to gauge the extent of the impact and the need for any additional resourcing in the future.

Judicial and staff wellbeing

Judges of the Division and their staff are exposed to confronting and traumatic cases on a daily basis as well as being faced with the increasing burden and pressures of complex and growing caseloads.

The Division continues to monitor and manage the various issues faced by the Division while also ensuring judicial and staff wellbeing.

LEGISLATIVE REFORM

This year, the Division commented on various pieces of legislative reform, all of which directly impact on the resources and work of the Court:

- *The Justice Legislation Miscellaneous Amendment Act 2018* abolished committals in the Magistrates' Court for all sexual offence matters involving a complainant who is a child or person with a cognitive impairment at the time proceedings commenced. An accused person is now required to make an application to the trial court for cross-examination of a witness other than the complainant. This Act also introduced statutory minimum sentences regarding offences against emergency workers, and created mandatory treatment and monitoring orders.
- *The Serious Offenders Act 2018* ('*Serious Offenders Act*') repealed the *Serious Sex Offenders (Detention and Supervision) Act 2009*. The *Serious Offenders Act* expanded the post-sentence scheme to include offenders who have been convicted and sentenced for serious violent offences in a higher court.
- *The Justice Legislation (Police and Other Matters) Act 2019* made changes to the quantities of drugs and created new offences involving firearms. The reform also included consequential amendments to the *Bail Act 1977* and *Sentencing Act 1991*.
- *The Justice Legislation Amendment (Family Violence Protection and Other Matters) Act 2018* made amendments to family violence legislation to provide for own motion interim intervention orders, and expanded the definition of family violence.
- *The Open Courts and Other Acts Amendment Act 2019* made amendments to the *Open Courts Act 2013* to implement recommendations of the Open Courts Act review of Victoria's suppression laws. These reforms require courts to give reasons when imposing suppression orders, unless certain exceptions apply.
- *The Victims and Other Legislation Amendment Act 2018* amends the *Sentencing Act 1991* and *Jury Directions Act 2015* to implement a number of recommendations made by the Victorian Law Reform Commission's 2016 report, *The Role of Victims of Crime in the Criminal Trial Process*. These include new jury directions in relation to child witnesses, and changes to victim impact statements and their admissibility.

REPORT FROM THE JUDGE IN CHARGE OF THE GENERAL CRIME LIST JUDGE GAMBLE

LIST JUDGES

This year in the General List, I was supported by Judges Hannan, Grant, Taft, Cotterell, Meredith, Dean, Gwynn and Wraight and their staff. The General List sits each day at 9am and 10.30am. The 9am list hears matters including initial and final directions hearings, mentions and various types of uncontested applications. The 10.30am list hears matters including bail applications and appeals as well as manages trials, pleas, appeals and other matters in the Reserve List.

MELBOURNE GENERAL LIST CASES

This year, the percentage of cases that commenced in the General List² comprised of the following:

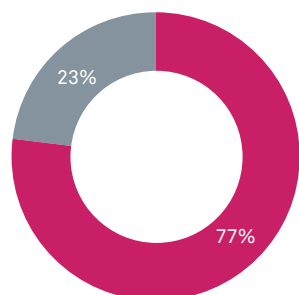
- 51 per cent commenced as a plea of guilty;
- 49 per cent commenced as a plea of not guilty.³

INITIAL DIRECTIONS HEARINGS IN THE GENERAL LIST

In all Melbourne trials where an accused person has pleaded not guilty and has been committed for trial the Court hears an initial directions hearing (IDH) within 24 hours of the case being committed. The IDH commences the active case management of a trial in the Criminal Division. This year, 819⁴ cases commenced in the Court as a plea of not guilty. Of those 819 cases, 627 (77 per cent) were listed in the General List and 192 (23 per cent) were listed in the Sexual Offences List.

General List v Sexual Offences List

General List
Sexual Offences List

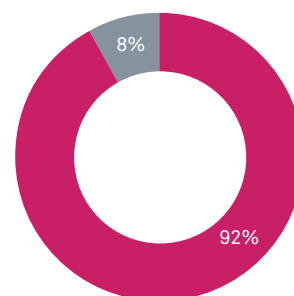


Of the 627 cases listed in the General List:

- 92 per cent were prosecuted by the State Office of Public Prosecutions and 8 per cent were prosecuted by the Commonwealth Director of Public Prosecutions.

State v Federal Prosecutions

State (OPP)
Federal (CDPP)



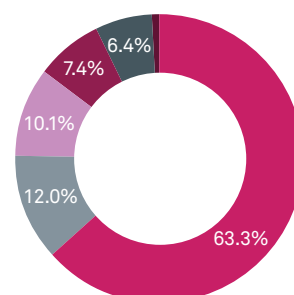
OUTCOME OF MATTERS THAT COMMENCED IN THE GENERAL LIST

This year, of all of the cases that commenced in the General List⁵ as a trial, regardless of what year they commenced:

- 63.3 per cent resolved and the accused pleaded guilty;
- 12 per cent proceeded to trial and returned a guilty verdict;
- 10.1 per cent proceeded to trial and returned a not guilty verdict;
- 7.4 per cent were discontinued;
- 6.4 per cent were remitted to the Magistrates' Court; and
- 0.7 per cent were dealt with under the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997*.

Outcome of Matters listed in the General List – Melbourne 2018–19*

Pleaded guilty
Guilty verdict
Not guilty verdict
Discontinued
Remitted
Crimes Mental
Impairment
Act Order (0.7%)



² The General List includes Melbourne matters only and excludes sexual offence cases, which are listed in the Sexual Offences List.

³ The data for the number of cases that commenced as a plea of guilty and that commenced as a plea of not guilty excludes cases commenced by way of direct indictment, severed indictment, re-trial, application for restricted evidence and supervision order matters.

⁴ The number of cases refers to Melbourne matters only and excludes circuit matters.

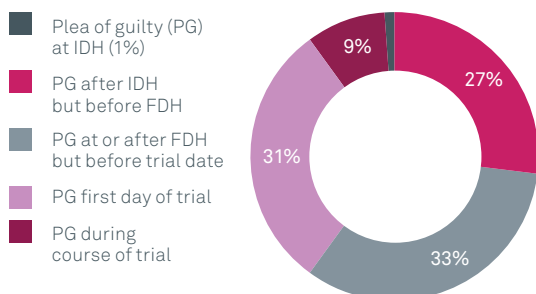
⁵ The General List includes Melbourne matters only and excludes sexual offence cases which are listed in the Sexual Offences List.

* Figures are rounded up.

Of the 63 per cent of cases that resolved and where a plea of guilty was ultimately entered, the stage at which those cases resolved are as follows:

- 1 per cent at the IDH;
- 27 per cent after the IDH but before the final directions hearing (FDH);
- 33 per cent at or after the FDH but before the trial date;
- 31 per cent on the first day of the trial; and
- 9 per cent during the course of the trial.

Melbourne General List – Stage of Resolution*



* Figures are rounded up.

This year, the rate of resolution:

- at the IDH has decreased by 4 percentage points (from 5 per cent in 2017–18);
- after the IDH but before the FDH has increased by 3.6 percentage points (from 23.4 per cent in 2017–18);
- after the FDH but before the trial date has increased by 2.4 percentage points (from 30.6 per cent in 2017–18);
- on the first day of trial has decreased by 6.2 percentage points (from 37.2 per cent in 2017–18); and
- during the course of the trial has increased by 5.2 percentage points (from 3.8 per cent in 2017–18).

The rate of resolution at the IDH has decreased by 80 per cent, and the rate of resolution during the course of the trial has increased by more than double, compared to the respective resolution rates of the previous year. These significant changes highlight the need for ongoing adequate resources to intensively case manage the pre-trial process in order to facilitate early resolution where appropriate and to narrow the issues for those cases that are not able to be resolved.

The early resolution of cases, where appropriate, have a number of benefits which include:

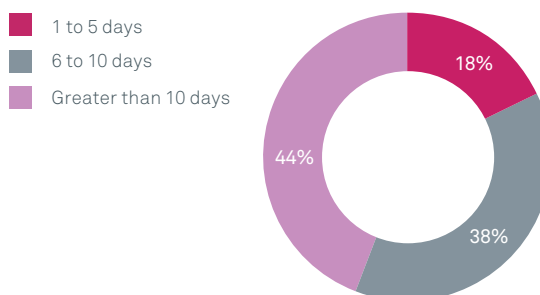
- sparing witnesses the necessity of giving evidence;
- saving the community the expense of pre-trial and trial hearings; and
- facilitating the administration of justice.

Where cases are not able to be resolved, intensive case management will assist in narrowing the issues which will in turn enable more accurate trial estimates and reduce the length of the trial.

This year, of all of the cases that commenced in the General List⁶ as a trial, regardless of what year they commenced:

- 18 per cent had a trial length of between one and five days;
- 38 per cent had a trial length of between six and 10 days; and
- 44 per cent had a trial length greater than 10 days.

GENERAL LIST TRIAL LENGTH



⁶ The General List includes Melbourne matters only and excludes sexual offence cases which are listed in the Sexual Offences List.

REPORT FROM THE JUDGE IN CHARGE OF THE SEXUAL OFFENCES LIST JUDGE HIGHAM

LIST JUDGES

At the beginning of 2019, his Honour Judge Higham took over as Judge in Charge of the Sexual Offences List from her Honour Judge Meryl Sexton who was in charge of the List for almost nine years – an initial term of four and a half years and then a further term of four years. The Sexual Offences List thanks Judge M Sexton for her many years of leadership in the List.

The Sexual Offences List was supported by Judges Gwynn, M Sexton, Cannon, O'Connell, Quin, Pullen, Marich and D Sexton.

SEXUAL OFFENCES LIST ACTIVITY 2018–19

This year, 363 cases were commenced in the Sexual Offences List. Of those 363 cases:

- 192 cases were committed for trial (plea of not guilty) and listed for an initial directions hearing (IDH);
- 94 cases were pleas; and
- 77 cases involved matters pertaining to direct indictments, severed indictments, retrials and supervision order matters.

Again this year, sexual offences comprised almost one quarter of all IDHs heard in the Criminal Division in Melbourne.

OUTCOME OF CASES THAT COMMENCED AS A TRIAL IN THE SEXUAL OFFENCES LIST

During the 2018–19 year, 163 matters that originally commenced by way of IDH in the Sexual Offences List, regardless of what year they commenced, were finalised. Of those 163 cases:

- 77 (47 per cent) proceeded to trial and returned a verdict;
- 55 (34 per cent) resolved to a plea of guilty; and
- 31 (19 per cent) involved matters dealt with under the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997*, a discontinuance, were transferred to the Magistrates' Court or involved a stay of proceedings.

Of the 77 cases that proceeded to trial:

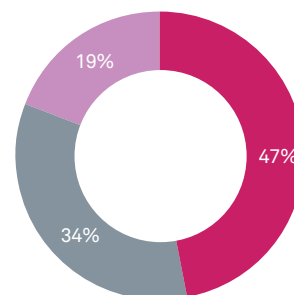
- 48 per cent returned a verdict of guilty; and
- 52 per cent returned a verdict of not guilty.



Judge Higham

OUTCOME OF CASES THAT COMMENCED AS A TRIAL

- Proceeded to verdict
- Resolved to a plea of guilty
- Other outcome

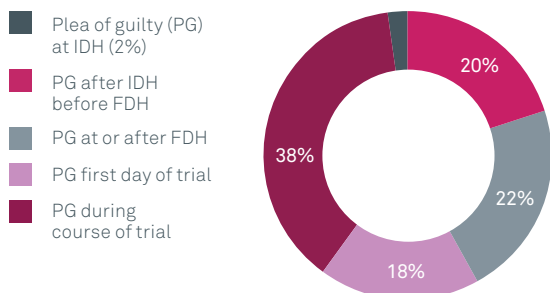


STAGES OF RESOLUTION

Of the 55 cases that resolved to a plea of guilty:

- 2 per cent resolved at the IDH;
- 20 per cent resolved after the IDH but before the final directions hearing (FDH);
- 22 per cent resolved at or after the FDH;
- 38 per cent resolved on the first day of the trial; and
- 18 per cent resolved during the course of the trial.

MELBOURNE SEXUAL OFFENCES LIST – STAGE OF RESOLUTION



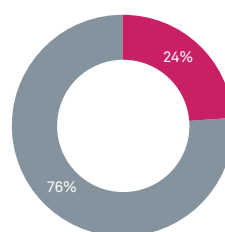
Of interest are the changes to the stages of resolution from the previous year (consistent with what has occurred in the General List this year):

- the rate of resolution at the IDH has fallen by almost half compared to the respective resolution rate of the previous year (from 3.7 per cent in the 2017–18 financial year);
- the rate of resolution on the first day of the trial has decreased by 12 percentage points compared to the respective resolution rate of the previous year (from 50 per cent in the 2017–18 financial year); and
- the rate of resolution during the course of the trial has increased by more than double compared to the respective resolution rate of the previous year (from 7.4 per cent in the 2017–18 financial year).

CHILD AND COGNITIVELY IMPAIRED WITNESS CASES

Of the 363 cases commenced in the Sexual Offences List this year, 88 (24 per cent) involved a witness who was a child or person with a cognitive impairment.

WITNESS TYPES IN SEXUAL OFFENCES MATTERS



- Child/person with a cognitive impairment witness
- No child/person with a cognitive impairment witness

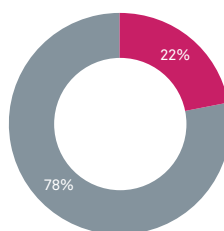
This year, of the cases commenced in the Sexual Offences List and that involved a witness who was a child or person with a cognitive impairment:

- 22 per cent commenced as a plea of guilty;
- 32 per cent commenced via an IDH (plea of not guilty); and
- 6 per cent involved a direct indictment, severed indictment, re-trial or a supervision order under the *Serious Offences Act 2018*.

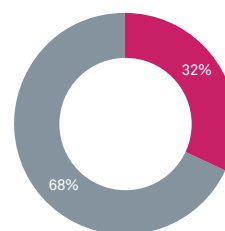
This year, for sexual offence cases that went to trial and involved a witness who was a child or person with a cognitive impairment:

- 44 per cent recorded a conviction; and
- 56 per cent did not record a conviction.

WITNESS TYPES – COMMENCEMENT AS A PLEA OF GUILTY



WITNESS TYPES – COMMENCEMENT AS A PLEA OF NOT GUILTY



- Child/person with a cognitive impairment witness
- No child/person with a cognitive impairment witness

SPECIAL HEARING REFORMS

The *Justice Legislation Miscellaneous Amendment Act 2018* commenced on 3 March 2019 and abolished committals in the Magistrates' Court for all sexual offence matters involving a complainant who is a child or person with a cognitive impairment at the time proceedings commenced. An accused person is now required to make an application to the trial court for cross-examination of a witness other than the complainant.

The Court has worked together with stakeholders including the Magistrates' Court, Victoria Legal Aid, the Office of Public Prosecutions, the Commonwealth Director of Public Prosecutions, the Criminal Bar Association, the Law Institute of Victoria and Victoria Police to develop new procedures and practices in order to implement the changes and achieve the legislative intentions of the Act. The Court will continue to work together with stakeholders to ensure the new procedures and practices are appropriate.

INTERMEDIARIES

The Intermediaries Pilot Program (IPP) commenced on 1 July 2018 and has now completed its first year of operation. Her Honour Judge M Sexton continued to lead the County Court's contribution to the pilot program.

The Chief Judge and Judge M Sexton, contributed to the video, produced by the Judicial College of Victoria, that provided best practice examples of how to conduct a ground rules hearing with and without an intermediary. The Court also worked together with the Supreme, Children's and Magistrates' Courts to publish a Multi-Jurisdictional Court Guide for the IPP which provided the profession with information about the IPP and a practical guide for ground rules hearings and directions relating to questioning of vulnerable witnesses.

The Court will continue to engage with the IPP Advisory Committee, chaired by the Department of Justice and Community Safety, to provide its feedback on the effectiveness of the IPP.

SERIOUS SEX OFFENDER APPLICATIONS

The *Serious Sex Offender (Detention and Supervision) Act 2009* was repealed and replaced with the *Serious Offenders Act 2018*, which expanded the post-sentence scheme to include offenders who have been convicted and sentenced for serious violent offences in a higher court in addition to offenders who have been convicted and sentenced for serious sexual offences.

Applications, reviews and breaches of supervision orders under the *Serious Offenders Act 2018* continue to take up considerable judicial time. The Court continued to meet with those firms involved in these applications to ensure that best practice is achieved.

SEXUAL OFFENCES LIST USER GROUP

The Sexual Offences List User Group continued to meet regularly this year to discuss issues relevant to sexual offence matters in the County Court. The meetings also served as a useful forum to disseminate information, and to draw upon the expertise and feedback of its members to positively reform practice and procedure for sexual offence matters. The group comprised of representatives from County Court judges, associates and registry staff, the Office of Public Prosecutions, the Commonwealth Director of Public Prosecutions, Victoria Legal Aid, the Victorian Government Solicitor's Office, the Criminal Bar Association, the Child Witness Service, the Law Institute of Victoria and private firms engaged in serious sex offender applications.

REPORT FROM THE HEAD OF THE COUNTY KOORI COURT JUDGE LAWSON



Judge Lawson

The County Koori Court brings to Victoria more than a decade of experience, having celebrated its 10-year anniversary in November 2018. It remains the only Koori Court operating in the higher jurisdiction in Australia.

The Court's success is due to its close working relationship with Elders and Respected Persons, the Aboriginal community and legal practitioners.

In the County Koori Court we celebrate each of the Elders and Respected Persons who work with us. They play a pivotal role in the Koori Court Sentencing Conversation, engaging with offenders to strengthen their cultural identity, family and community connections. Elders and Respected Persons within our Court acknowledge the harm caused to victims, are future focused and strive to give offenders cause for hope. Importantly, they condemn the behaviour but not the person.

The relationship between judicial officers and Elders and Respected Persons is one of great respect and mutual responsibility, with an emphasis on two-way learning. From its beginnings, the County Koori Court has drawn great guidance and support from its Elders and Respected Persons.

SPOTLIGHT ON MILDURA COUNTY KOORI COURT AND UMALEK BALIT

Following amendments to *County Court Act 1958* increasing the Koori Court Division jurisdiction to hear family violence matters, May 2019 heralded the launch of the Umalek Balit Pilot Program in the Mildura Magistrates' and County Koori Courts. 'Umalek Balit' means 'give strength' in the Woiwurrung language.

Mildura is currently the only County Koori Court location gazetted to hear family violence matters. Umalek Balit is a culturally safe court-based Koori family violence and victim support program that is designed to scaffold the expansion of the jurisdiction. Police, registry staff, magistrates, judges and community organisations can make referrals to Umalek Balit, which comprises a Koori women's and Koori men's specialised family violence practitioner. This program stems from findings of the Royal Commission into Family Violence, which identified that the reintroduction of a culturally appropriate service has the potential to make a significant contribution toward the long-term goal of improving Victorian Aboriginal communities' confidence in the courts and justice system.

There are currently 23 Elders and Respected Persons sitting on the County Koori Court across its four locations. Since its inception the County Koori Court has grown significantly. It currently sits in Melbourne, Latrobe Valley (Morwell and Bairnsdale), Mildura and Shepparton. The Warrnambool County Koori Court will be launched on 23 October 2019.

May 2019 also heralded the retirement of His Honour Judge Paul Grant from the Court, as well as his position as Judge in Charge of the County Koori Court. Judge Grant was present at the formation of the division and presided over its expansion to Shepparton in July 2018. Judge Grant's deep reserves of energy and commitment to the Koori Court will not be forgotten.

The Court will continue to prioritise the provision of proper support for the Elders and Respected Persons whose work underpins the success of the Division. Looking to the future, our challenge is for the Court to continue to build capacity and ensure effective and culturally tailored services are provided that address each offenders' needs and promote rehabilitation. Further expansion is planned to Geelong, Bendigo and Wodonga.

NUMBER OF SITTINGS DURING 2018–19 IN EACH REGION WHERE THE COUNTY KOORI COURT SITS

Melbourne	Latrobe Valley	Mildura	Shepparton
35	11	7	7



County Koori Court Elders and Respected Persons with Judge Lawson and the County Koori Court administration team.



Koori Elders, County Koori Court staff and community members farewell Judge Grant.

HISTORICAL BACKGROUND OF THE COUNTY KOORI COURT

The 1991 report of the *Royal Commission into Aboriginal Deaths in Custody* highlighted the link between the high level of disadvantage suffered by Australia's Aboriginal people and their over representation in Australia's criminal justice system.

The Royal Commission made it clear any effective response to over representation would need to address drivers of disadvantage and at the same time, reform specific programs and practices in the justice system. The importance of listening to and working with Aboriginal communities was emphasised.

In Victoria one such response was the Victorian Aboriginal Justice Agreement (VAJA). The first of such agreements was made in May 2000. It is a joint agreement between the Victorian Government and representatives of the Victorian Koori Community. The agreement established the Aboriginal Justice Forum (AJF).

The Koori Courts initiative is a key project that was developed and endorsed by the AJF. This led to the establishment of Koori Courts initially in the Magistrates' Court and following the success of the pilot the program was extended to the Children's Court and the County Court of Victoria.

OCTOBER 2002

Shepparton Magistrates' Koori Court launched.

SEPTEMBER 2005

Children's Koori Court launched.

SEPTEMBER 2006

Chief Judge Michael Rozenes and Andrew Jackomos, the Director of the Indigenous Issues Unit met to discuss the possibility of applying the Koori Court model to the County Court of Victoria.

A workshop held to bring together key stakeholders endorsed the establishment of the proposed Koori Court division. The County Koori Court Reference Group was established to develop the Court in consultation with the AJF and relevant government bodies and extensive consultation with the Aboriginal community.

SEPTEMBER 2008

County Koori Court established with legislation enacted namely the *County Court Amendment (Koori Court) Act 2008*.

The Latrobe Valley was selected as the initial site to conduct a pilot program.

On 19 November 2008 the County Koori Court was launched. A smoking ceremony was performed by the late Uncle Albert Mullet, a respected Gunnai Kurnai Elder.

2009

Sittings commenced in early 2009. Hearings took place in Morwell and Bairnsdale.

An evaluation was conducted between 2009 and 2011 by Clear Horizon Consulting on behalf of the County Court of Victoria and the Department of Justice. The evaluation supported the further development of the Koori Court in the County Court of Victoria.

AUGUST 2013

Melbourne County Koori Court launched.

MARCH 2016

The Royal Commission into Family Violence report was tabled in Parliament. Following this, the Court was granted jurisdiction to hear a contravention of a Family Violence Intervention Order or a Family Violence Safety Notice under the *Family Violence Protection Act 2008* at the County Koori Court sitting at Mildura.

AUGUST 2016

Mildura County Koori Court launched. Uncle Peter Peters, a respected Barkindji Elder, performed the smoking ceremony.

JULY 2018

Shepparton County Koori Court launched. Aunty Pamela Pedersen, a respected Yorta Yorta Elder, welcomed everyone to Yorta Yorta and Bangerang Country.

MAY 2019

The County Koori Court sitting at Mildura, as part of a pilot program, is gazetted to hear matters involving a contravention of a Family Violence Intervention Order or a Family Violence Safety Notice under the *Family Violence Protection Act 2008*, or an offence arising out of the same conduct as that from which the contravention arose.



SPOTLIGHT ON AUNTY JOAN VICKERY (DECEASED)

The late Aunty Joan Vickery was a proud Gunditjmara woman and a strong proponent for the establishment of the County Koori Court. She played an active role in its establishment and was present at all the meetings that led to the implementation of the Koori Court. She also provided valuable cultural support to the Elders and Respected Persons who participated in the Latrobe Valley pilot program.

Aunty Joan sat as an Elder on both the Broadmeadows Magistrates' Court and the Melbourne County Koori Court. She was also a strong advocate for improving Aboriginal health issues. Her exceptional work in the assisting Aboriginal people in the justice and health systems has significantly improved outcomes for Aboriginal people and helped build greater awareness and understanding of the issues Aboriginal communities face in Victoria. She held a master's degree in public health and was made an Officer of the Order of Australia in 2005. In acknowledgment of Aunty Joan's passing on 20 September 2018, we express our gratitude for her dedication to the Victorian Aboriginal community and her significant contribution to the County Koori Court.

REPORT FROM THE HEAD OF THE COMMON LAW DIVISION JUDGE MISSO



Judge Misso

The Common Law Division of the County Court has unlimited monetary jurisdiction in proceedings seeking damages in industrial and transport accident claims, medical negligence, defamation and damages arising from a range of other causes of action. A significant proportion of matters issued in the Division are applications to seek leave to commence a damages proceeding where there has been a workplace or transport accident, referred to as ‘serious injury applications’.

COMMON LAW DIVISION STRUCTURE

The management of the Common Law Division is comprised of the following judges in charge and judges with specific responsibilities:

Judge Misso	The General, Applications and Serious Injury Lists
Judge Saccardo and Judge Tsalamandris	The Medical List
Judge Smith	The Defamation List
Judge Kings	The Family Property List
Judge Murphy	The Confiscation List
Judge Wischusen	The WorkCover List
Judge Saccardo	Responsibility for Self-Represented Litigants
Judge Tsalamandris	Responsibility for s134AB Costs Applications
Judge K Bourke	Responsibility for the Approval of Infant and Other Compromises

In August 2018, Judge O'Neill stood down as the head of the Common Law Division and I became the Judge in Charge of the Common Law Division.

I thank Judge O'Neill for constructing an excellent practice note, liaising with interest groups and for all his hard work and dedication in redefining the work of the Common Law Division.

APPOINTMENTS

The Division welcomed Judge Philip Ginnane to the Court as a Common Law judge after a long career at the Bar and the Magistracy.

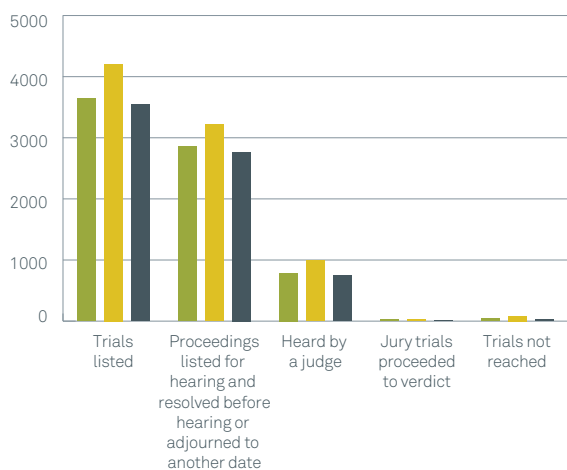
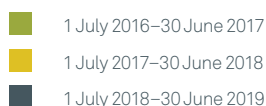
DIVISION ACTIVITY 2018–19

Over the last 12 months, 30 per cent of all Melbourne initiations within the Court commenced in the Division – representing 56 per cent of all matters commencing in the civil jurisdiction. The number of matters commenced decreased from 3429 in 2017–18 to 3358 in 2018–19: a decrease of 2.1 per cent. Finalisations have decreased from 3256 in 2017–18 to 3118 in 2018–19: a decrease of 4.2 per cent.

Trial listings

Trial dates have been available between three to 10 months from the date of request for trial. This year saw 14 jury trials proceed to verdict, with these trials running for an average of 11 days.

TRIALS



Summary of trial listings (1 July 2018–30 June 2019)

Number of trials listed	3542
Resolved or adjourned to another date before commencement of the trial	2769
Trials commenced before a judge	741
Trials not reached	26

Reserve List matters

There is a continuing high rate of settlement across juries, causes and serious injury applications. The Division over lists the number of proceedings for trial on the day in order to ensure there are a sufficient number of trials listed and to enhance efficient use of judicial resources. In the reporting period, 78 per cent of trials listed were vacated before the hearing date, when the proceeding settled or was adjourned.

Given trials are often listed between six to 12 months from the date of issue, sometimes more trials remain listed on that day than there are judges available to hear the matters. When this occurs, these matters are placed in the Reserve List. As judges become available during the day, these matters are then allocated to a judge to be heard. Sometimes a judge is not available on the day to hear the trial. It is then said to be 'not reached'.

All efforts are made to minimise the disappointment and inconvenience that a 'not reached' trial brings. Where a judge was not available, those trials not reached were re-fixed for a trial date within three months or earlier.

Of the 3542 trials listed, 26 (or 1 per cent) were not reached on the day.

Judgments delivered

In 2018–19, in excess of 222 judgments and rulings were delivered. 82 per cent of judgments were delivered within 60 days and 91 per cent were delivered within 90 days.

Interlocutory hearings

The hearing of interlocutory applications assists parties to resolve issues in dispute as parties prepare for trial or settlement. More than 1400 interlocutory applications were listed in the Common Law Division. The majority of these applications were heard and determined by a judge or judicial registrar. Parties are also encouraged to resolve disputes and many orders are made 'on the papers' without requiring the need for an attendance.

Communication

Regular channels of communication are maintained through stakeholder meetings with the Law Institute Litigation user group, WorkSafe user group, Transport Accident Commission user group and the Common Law Bar user group. Topics discussed at these meetings included: trial listings, submission of material and court books electronically, use of technology in the Court to facilitate ease of appearance and other issues of concern to stakeholders.

Court craft practitioner sessions in conjunction with the Supreme Court

The County Court and the Supreme Court jointly presented two seminars to assist new practitioners.

In October 2018, Justice John Dixon and I presented a seminar with panellists, Judge Tsalamandris and Julia Frederico of the Victorian Bar, on the topic 'Paperless trials and in court technology'.

In May 2019, Chief Justice Ferguson, Judge O'Neill, Victorian Bar consultant psychologist Bernadette Healy, principal lawyer at Gordon Legal Victoria Keays, and Arushan Pillay of the Victorian Bar, presented on the topic 'Wellbeing for young practitioners: Dealing with vicarious trauma'.

These free continuing professional development sessions are very well attended and book out well prior to the event. The seminars can also be streamed online on the Supreme and County Court websites. Further sessions will continue to be held.

DIVISION PROJECTS

Civil trial report

In August 2018, the Civil Trial Report was launched. Developed by Kate Alberico, Senior Administrator for the Common Law Division, in response to judicial requests for detailed data concerning trials, this electronic report will provide data to support evidence-based reform.

The electronic, web-based report requires associates to complete a report at the conclusion of each hearing, be it a trial, serious injury or other application.

The report records, among other things, details of the length of trial, the stage at which proceedings adjourn or settle, the gender of counsel, whether a party was self-represented or whether any rulings were required.

Still undergoing further enhancements, the report will provide information useful to improve case management, report on judicial workloads and provide data to judges in charge of Lists, the self-represented litigant coordinators and other relevant interested parties.

Electronic court books

Electronic court books (eCourt Books) are increasingly being used by judges and practitioners during trials. Initial data from the Civil Trial Report shows that in 56 hearings, judges used eCourt Books and in 28 hearings the judge and all counsel used them.

Anecdotal evidence from judges is that this innovation is saving significant time and cost.

Jabber Guest

Jabber Guest is a software technology similar to Skype that can be downloaded onto an iPad or a desktop computer and allows a witness to give evidence from a remote location in the same way as a video link. It is most useful where no video conference facility is available. Judge O'Neill, Judge Tsalamandris and I have used it in court and the image and sound was very clear.

DIVISION CHALLENGES

Subpoena Records Group workload

The Subpoena Records Group continued to manage a very large volume of documents throughout this reporting period, with 8462 subpoenas issued (both Common Law and Commercial Divisions). 2900 appointments were made to inspect records returned under subpoena.

Further work will continue to be done to improve processes in the Subpoena Records area.

REPORT FROM THE JUDGE IN CHARGE OF THE GENERAL LIST JUDGE MISSO

The General List comprises the largest proportion of cases in the Common Law Division. It primarily consists of damages actions heard by a judge and jury of six, or a judge sitting alone.

GENERAL LIST ACTIVITY 2018–19

The General List has again seen the largest number of matters initiated in the Division. Initiations in this list comprised 49 per cent of the Division.

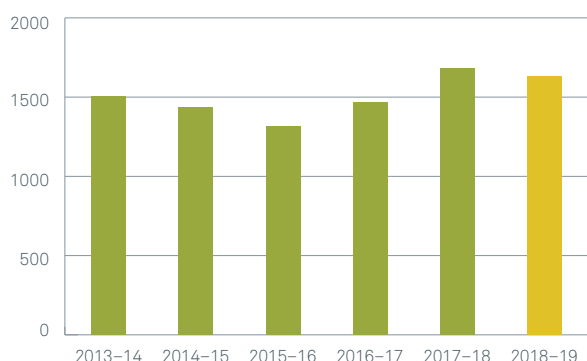
The number of initiations this year has decreased by 2.7 per cent but the graph below demonstrates a gradual increase in the last four years.

Of the 1474 proceedings finalised in the 2018–19 year, 1171 or 79 per cent resolved before trial.

Orders for mediation form part of the timetabling orders for proceedings issued in the List and, together with other forms of dispute resolution, contribute substantially to the rates of resolution.

Thirty proceedings went to judgment or verdict.

GENERAL LIST INITIATIONS



REPORT FROM THE JUDGE IN CHARGE OF THE SERIOUS INJURY LIST JUDGE MISSO

Applications by plaintiffs for leave to bring Common Law proceedings under the provisions of the *Accident Compensation Act 1985*, the *Workplace Injury Rehabilitation and Compensation Act 2013* and the *Transport Accident Act 1986* are issued in the Serious Injury List.

SERIOUS INJURY LIST ACTIVITY 2018–19

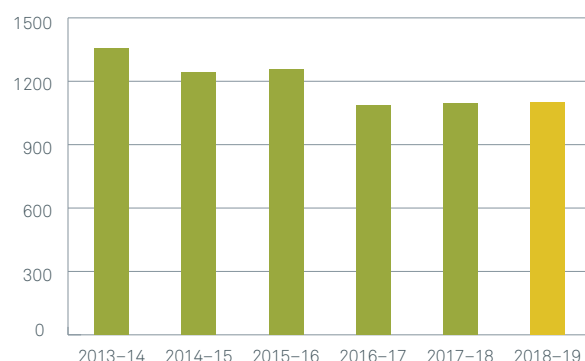
Applications for leave to sue for common law damages comprised 33 per cent of matters commenced in the Division.

The number of initiations increased slightly, resulting in 1101 applications made in the reporting period.

The trend over the past three financial years shows the number of initiations in this List has decreased. This reflects a change in the management of applications made to WorkSafe.

Of the 985 proceedings finalised in the 2018–19 year, 554 or 56 per cent resolved before commencing as a trial, and 192 judgments were written for serious injury applications.

SERIOUS INJURY LIST INITIATIONS



REPORT FROM THE JUDGES IN CHARGE OF THE MEDICAL LIST JUDGE SACCARDO AND JUDGE TSALAMANDRIS



Judge Saccardo



Judge Tsalamandris

The Medical List consists of matters involving actions arising from allegations of medical negligence. These types of matters are often complex proceedings involving overseas and interstate expert witnesses.

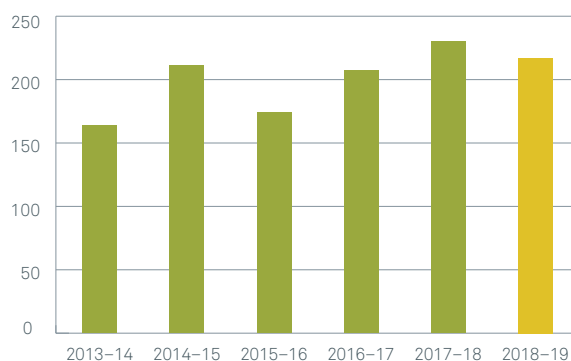
MEDICAL LIST ACTIVITY 2018–19

This year has seen an 5.7 per cent decrease in the number of matters issued in the Medical List, and the List ranks as the third largest in the Division. A total of 199 proceedings finalised, representing a 7.6 per cent increase from the previous reporting period.

During the year, his Honour Judge Saccardo and her Honour Judge Tsalamandris have closely monitored the pre-trial steps in every proceeding in the List to ensure there are no avoidable delays in having matters ready for trial.

As a consequence of this judicial management of the proceedings, together with the skill and diligence of the practitioners in these matters, during the period of this report only one matter was determined by trial, all other matters in the List were finalised without the need for a trial – more often than not through a formal mediation process. No cases were adjourned on the day of trial, thus avoiding unnecessary costs by the parties and the Court.

MEDICAL LIST INITIATIONS



REPORT FROM THE JUDGE IN CHARGE OF THE DEFAMATION LIST JUDGE SMITH

The Defamation List consists of any proceeding commenced by writ that includes a claim for defamation.

DEFAMATION LIST ACTIVITY 2018–19

The Defamation List continues to represent a small proportion of matters issued in the Division. This year saw a 27 per cent increase in the number of matters initiated in the List, up to 28.

Finalisation of defamation proceedings remained constant, with 19 matters completed – the same as the previous reporting period.

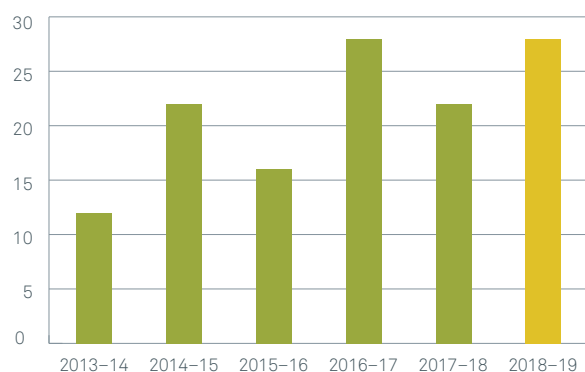
As with other Lists in the Division, each standard timetabling order in the Defamation List contains a direction that the parties must mediate the dispute. Mediation and other forms of dispute resolution contribute to the very high rate of resolution of matters in this List.

The number of self-represented litigants involved in defamation proceedings continues to grow, as does the weekly number of interlocutory applications.



Judge Smith

DEFAMATION LIST INITIATIONS



REPORT FROM THE JUDGE IN CHARGE OF THE FAMILY PROPERTY LIST JUDGE KINGS



Judge Kings

The Family Property List hears Testators' Family Maintenance claims brought under the provisions of Part IV of the *Administration and Probate Act 1958*, and domestic partnership proceedings under the *Relationships Act 2008*.

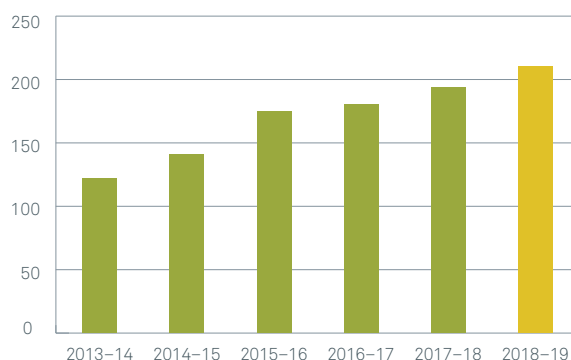
FAMILY PROPERTY LIST ACTIVITY 2018–19

The List comprises a relatively small portion of the work of the Common Law Division. The work in this list is increasing with an 8.2 per cent increase in the number of matters initiated.

Of the 181 proceedings finalised in the 2018–19 year, 157 or 87 per cent resolved before trial.

In the interests of keeping legal costs to a minimum, the proceedings are managed on the 'papers'. Dispute resolution procedures are available with an option to attend a judicial settlement conference or private mediation. In the last year, 145 judicial settlement conferences were listed. The vast majority of the cases settle at or before the dispute resolution stage. The pre-trial management and conduct of the judicial settlement conferences is managed by Judge Kings with the assistance of the Common Law Judicial Registrar.

FAMILY PROPERTY LIST INITIATIONS



REPORT FROM THE JUDGE IN CHARGE OF THE CONFISCATION LIST JUDGE MURPHY

The Confiscation List is a specialist List, dealing with applications by prosecuting agencies, the Commissioner of the Australian Federal Police and the Victorian Office of Public Prosecutions to restrain assets connected with criminal activity, to secure assets of offenders for future compensation orders and to determine claims that those restrained assets were lawfully obtained.

CONFISCATION LIST ACTIVITY 2018–19

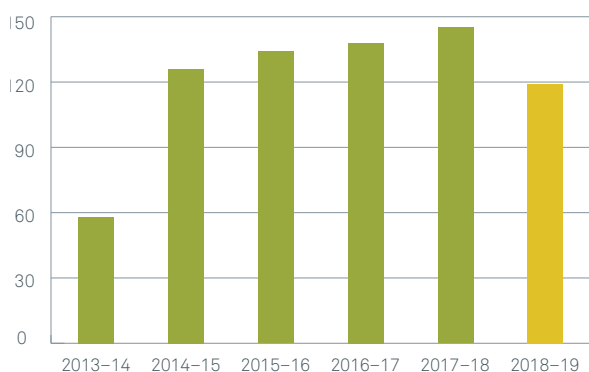
In the last reporting period, there has been a decrease in the number of initiations, resulting in 119 proceedings commenced. Confiscation List proceedings are often the subject of a number of hearings and applications to exclude assets from an order before final orders to forfeit assets are made. In this past financial year, 408 additional applications were made. As in previous years, there were only a limited number of final hearings.

An order restraining assets is generally the first step in the confiscation process. The reporting period saw 117 restraining orders made over assets.



Judge Murphy

CONFISCATION LIST INITIATIONS



REPORT FROM THE JUDGE IN CHARGE OF THE WORKCOVER LIST JUDGE WISCHUSEN

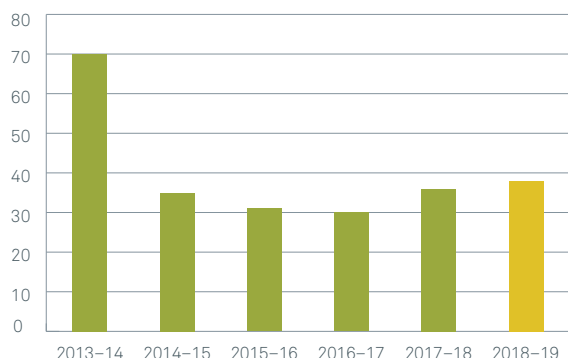
The WorkCover List comprises claims relating to statutory benefits under the *Accident Compensation Act 1985*, the *Workers Compensation Act 1958* and the *Workplace Injury Rehabilitation and Compensation Act 2013*.

WORKCOVER LIST ACTIVITY 2018–19

This year has seen a slight increase in the number of WorkCover List matters issued in the Court, with 38 proceedings commenced. Of these, a significant proportion are dependency claims which have a potential value well in excess of \$555,000.

The majority of statutory benefit claims are now issued in the Magistrates' Court, which has 'mirror image' jurisdiction in relation to the 1985 and 2013 Acts. The overwhelming majority of cases in the List resolve by consent between the parties.

WORKCOVER LIST INITIATIONS



MEDICAL PANEL REFERRALS IN SERIOUS INJURY PROCEEDINGS

The List also manages applications to refer medical questions to a Medical Panel under s274 of the *Workplace Injury Rehabilitation and Compensation Act 2013* in serious injury proceedings. Where a party seeks to refer questions to a medical panel, the matter is listed for a directions hearing in this list.

In the 2018–19 year, questions were referred to a medical panel in 74 matters, nearly all of them serious injury proceedings. In the great majority of these matters, after the opinion of the medical panel was received, the parties resolved the proceeding and filed consent orders.

REPORT FROM THE JUDGE IN CHARGE OF SELF-REPRESENTED LITIGANTS JUDGE SACCARDO

Proceedings within the Common Law Division (excluding the Defamation and Family Property Lists) in which there is at least one party who is self represented are intensely case managed by Judge Saccardo. Due to the lack of legal expertise of self-represented litigants, these cases pose many challenges for the Court and parties alike.

Management of these matters involves a dedicated weekly Directions List, collaboration with the Self-Represented Litigant Case Managers from Registry and a large amount of work in chambers, processing correspondence and other material from parties to these proceedings, as well as the production of guides and information sheets to be provided to stakeholders.

The aim of this intense case management is to:

- prevent unnecessary delays in the preparation of litigation for trials, thereby reducing the number of trials which are adjourned on the day of trial;
- increase efficiency in such matters therefore reducing costs to parties and the Court
- ensure self-represented litigants understand pre-trial and trial processes together with their obligations to the Court and other parties to the proceeding;
- promote access to justice for all parties involved in self-represented litigation; and
- encourage efficient, fair and timely resolution of cases involving one or more self-represented party.

SELF-REPRESENTED LITIGATION 2018–19

There were approximately 66 proceedings at any one time in the Division involving a self-represented litigant in 2018–19.

Judge Saccardo (or his delegate) has held a total number of 38 dedicated Directions List days in this period, with an average of 3.5 matters heard on each day.

The Self-Represented Litigant Case Managers worked with approximately 30 self-represented litigants each month.

Six matters have proceeded to trial in this period.

A considerable number of matters have been successfully mediated by Judicial Registrar Gurry, therefore reducing costs to parties and time in Court by judges.

Only one trial involving a self-represented litigant was adjourned on the day of trial in this period. That proceeding was on the Reserve List and given a special fixture within two months of the adjourned trial date.

As a result of the intense case management and associated procedures implemented by Judge Saccardo, together with the Self-Represented Litigant Case Managers, proceedings involving a self-represented litigant are being thoroughly prepared and finalised in a timely manner.

REPORT FROM THE JUDGES IN CHARGE OF THE ADOPTION AND SUBSTITUTE PARENTAGE LIST JUDGE PULLEN AND JUDGE HAMPEL



Judge Pullen



Judge Hampel

The Adoption and Substitute Parentage List is responsible for hearing applications for adoptions, discharge of previous adoptions orders, substitute parentage orders and registration of interstate substitute parentage orders. Twenty-five judges supported the Adoption and Substitute Parentage List during the 2018–19 reporting period.

ADOPTION AND SUBSTITUTE PARENTAGE LIST ACTIVITY 2018–19

In the 2018–19 reporting period, a total of 58 applications were considered by judges in the List. This included 43 adoption and 15 substitute parentage applications. The 43 adoption applications included three applications for Discharge of Adoptions. At the close of the reporting period, there were 13 pending adoption and substitute parentage applications.

We hear stories of women who have struggled with infertility or with the inability to carry a pregnancy to term, and men who want to become fathers, who are then able to have a family through the adoption and substitute parentage process, and we feel fortunate to play a role in the heart-warming outcomes.

THANK YOU LIONS AUSTRALIA

Adoption and Substitute Parentage List cases are marked by the gift of a Lions Australia teddy bear to young children. The Court extends its appreciation and thanks to Lions Australia for continuing to provide these gorgeous teddy bears to symbolise this very important event for the child. Sometimes families come back to court for the formalising of a second adoption or surrogacy. Often the older child brings their teddy and they and their parents delight in telling us how meaningful the gift has been to them.

ADOPTION AND SUBSTITUTE PARENTAGE IN THE COURT

An adoption order legally transfers parental rights and responsibilities, guardianship and custody to the adoptive parents. This effectively makes them the child of the adoptive parents and may include legal claims to their will after the parent dies.

Adoptions are a happy and exciting event. In many cases, babies who have come through inter-country adoption have been with their adoptive parents for one or two years, so it marks the end of a long and often difficult process for the family.

However, inter-country adoptions and cases of Australian babies being adopted are relatively few. Adoptions usually occur within a family, for example, when a person remarries and the parent wishes for their partner to be registered as a parent of their child or children.

Adoptions are now subject to strict controls to ensure the best interests of the child are paramount. Past adoption practices did not always result in a happy outcome for a child. The *Adoption Act 1984* permits adoptions to be discharged in special circumstances. This can enable a person to have their identity as the child of the birth parents recognised or reinstated. Although the circumstances that led to a discharge application often reflect an unhappy past, a discharge order is a significant and meaningful event, allowing a person to put that behind them and celebrate the restoration of their identity as the child of the biological parents.

Substitute parentage orders are made after a child has been born as a result of an authorised altruistic surrogacy arrangement. At birth, a child is legally the child of the surrogate mother. Like an adoption order, a substitute parentage order legally transfers parental rights and responsibilities, guardianship and custody to the commissioning parents. The court must be satisfied it is in the best interests of the child to make a substitute parentage order, recognising the commissioning parents as the legal parents of the child. Surrogacy has enabled many people who otherwise would not be able to have children to form a family of their own.

The path to a successful surrogacy can be long and arduous. Making a substitute parentage order is a joyous occasion. Surrogacy allows people who cannot otherwise conceive and carry a pregnancy to term to enjoy parenthood in the same way those who can conceive and give birth themselves can. The commissioning parents and the baby attend. Often the surrogate mother, her partner and her other children do too. Extended families, including other children of the commissioning parents, who attend add to the sense of celebration.

Judges and court staff who are involved in these cases often comment on the pleasure they derive from being part of this good news part of the Court's work.

REPORT FROM THE HEAD OF THE COMMERCIAL DIVISION JUDGE COSGRAVE



Judge Cosgrave

The Commercial Division of the Court provides quick resolutions for commercial disputes. Trials are normally heard by specialist commercial judges.

Proceedings in the Commercial Division are case managed to trial by two judicial registrars and a rotating duty judge, with a focus on reducing unnecessary interlocutory hearings and keeping costs in proportion to the amount in dispute. The Commercial Division offers certain trial dates within six months of a proceeding's first administrative mention and a fast turnaround of judgments.

THE WORK OF THE DIVISION

The Commercial Division is the newest division of the Court, having been recognised as a division in April 2014. The Commercial Division has gone from a pilot of 52 cases in July 2006 to more than 2000 initiations per year.

In July 2018, the Court Registry redesign created a dedicated Commercial Registry team to provide valuable support for the Division. This has further enhanced and streamlined the dispute-resolution service offered to commercial litigants.

The Court's Commercial Division has unlimited monetary jurisdiction and, subject to some exclusion, its jurisdiction is effectively the same as the Supreme Court of Victoria's. The proceedings the Commercial Division deals with are varied, and factually and legally complex. Amounts in dispute may range from \$100,000 to many millions of dollars. Judgments can have significant ramifications for the parties' financial affairs, homes, livelihoods, relationships and businesses.

The Commercial Division provides a quick, cost effective resolution of commercial disputes. The standard practice of the Commercial Division is to provide trials with specialist commercial judges and certain trial dates within six months of the first administrative mention. Proceedings are also subjected to targeted case management by the judicial registrars.

Nearly 40 per cent of all civil initiations in the Court are now within the Commercial Division. It is a high-volume jurisdiction, with more than 2000 initiations in the Commercial Division each year.

The five full-time members of the Commercial Division are Judge Cosgrave (Head of the Commercial Division), Judge Macnamara, Judge Marks, Judge Woodward and Judge A Ryan. In addition, a judge with experience in commercial law rotates into the Commercial Division each six months. In 2018–19, these judges were Judges Lewitan and Smith. The Commercial Division is also supported by two judicial registrars, with Judicial Registrar Burchell and Judicial Registrar Tran both taking up full-time positions this year.

The Commercial Division has published a new comprehensive Commercial Division practice note, which is available on the Court's website. The new practice note replaces eight previous practice notes. The Commercial Division continuously reviews its procedures to enhance the administration of justice. Further reviews are currently being conducted in relation to the Court's management of self-represented litigants, processes for Order 67 oral examinations, processes for subpoenas and expert witnesses, and procedures for the Building Cases List.

A central feature of the Commercial Division is the provision of trial-date certainty. There have been no cases since February 2017 marked 'not reached' in the Commercial Division because a judge was not available to hear the trial on the day. The judges of the Commercial Division also worked hard to ensure that trial judgments are delivered as quickly as possible, consistent with the interests of justice.

The Commercial Division finalised 2121 cases in 2018–19. This amounted to 40 per cent of total civil finalisations in the Court's Melbourne Registry and 23 per cent of all of the Court's Melbourne Registry finalisations.

In 2018–19, 383 cases in the Commercial Division had trials listed at some stage during the year. A total of 38 trials ran to conclusion. In addition, the judges and judicial registrars heard 932 interlocutory applications, directions hearings and objections hearings, of which 531 were heard by a duty judge and 401 were heard by a judicial registrar.

On 14 December 2018, changes to the structure of court fees were made, with the requirement to pay the setting down for trial fee delayed and new fees for the first day of hearing and judicial mediation.

TRIALS

	2016–17	2017–18	2018–19
Trials Listed ¹	351	358	383
Trial Events Listed ²	1,718	1,705	1,747
Total	2,069	2,063	2,060

DIVISION CHALLENGES

Over the 2018–19 year, the Commercial Division averaged 130 active proceedings that involved a self-represented litigant (SRL), 65 per cent of all civil proceedings involving an SRL.

The Commercial Division has implemented a number of initiatives in relation to SRLs over the last four years, including the use of judicial resolution conferences, the SRL Case Managers, the Victorian Bar pro bono protocol, the Justice Connect pro bono assistance pilot and the SRL program.

These initiatives are resulting in significant improvements in outcomes of SRL proceedings, with a decrease in the number of active proceedings, a large increase in the number of finalisations and a decrease in the percentage of trials that involve SRLs.

On 23 August 2018, the Bar Council resolved to approve the Court's pilot protocol for referrals for pro bono assistance between the Court (Commercial Division and Common Law Division) and the Victorian Bar. The pilot protocol is now being used as the model for protocols adopted in the Coroners Court and is being considered for the Supreme Court and the Victorian Civil and Administrative Tribunal.

On 1 October 2018, the Commercial Division launched the SRL program. Appropriate proceedings will be entered into the program and assigned to a judicial registrar for case management.

The Justice Connect self-representation service pilot commenced in early 2019. Justice Connect is familiarising itself with the Court's practices through meetings with registry staff and the judicial registrars.

It is important this work continues, particularly if the Commercial Division sees an increase in debt-related initiations this year. Ongoing projects include the SRL program, which sees SRL proceedings actively case managed by a judicial registrar; creation of an SRL manual for judicial officers and their support staff; improvements to the Court's website; improvement of SRL data and performance measures; and creation of an SRL management plan that clearly defines the role of the SRL Case Managers and the approach of the Court as a whole to the management of SRL proceedings. After additional funding from the Government to support SRL resources, two SRL Case Managers were appointed by the Court in 2018.

IMPROVED USE OF TECHNOLOGY

The iManage workflow system has now been rolled out for use in all 2017, 2018 and 2019 Commercial Division files for orders on the papers, ex parte applications on the papers, and Registry enquiries. The system has also been extended further in Registry to teams such as the subpoenas team.

All court books must now be provided to the Court electronically, with paper copies also available on request.

The judicial registrars are working with the SRL Case Managers to improve procedures for electronic filing of documents by SRLs.

The new iManage e-files have enabled the judicial registrars to increase their capacity to provide efficient case management and there has been an increase in disposing of directions hearings and orders on the papers. In 2018–19, 1920 orders were made on the papers.

¹ This data is a total count of all cases with Civil Trials (CITR) listed in CLMS. Includes vacated trial events.

² This data is a total count of all events with Civil Trials (CITR) listed in CLMS. Includes vacated events.

REPORT OF THE JUDGE IN CHARGE OF THE GENERAL LIST JUDGE COSGRAVE

The General List handles the bulk of the work of the Commercial Division. The Court has unlimited monetary jurisdiction in civil matters and cases in the General List frequently raise complicated legal and factual issues.

Targeted case management is utilised by the duty judge and judicial registrars in order to reduce the need for interlocutory appearances, avoid overly long interlocutory disputes and get cases ready for trial in an expeditious manner.

GENERAL LIST ACTIVITY 2018–19

There were 1430 initiations in the General List in 2018–19. This was an increase of 6.8 per cent on the number of initiations in 2017–18. There were 1447 cases finalised. Cases ranged from monetary claims for less than \$100,000 (typically where other relief is also sought) to one claim for more than \$5 million. Approximately 90 per cent of cases were resolved in less than 18 months and 95 per cent were resolved in less than two years.

Time to finalisation in the General List was affected by the *Deputy Commissioner of Taxation v Buzadzic* [2019] VSC 141 decision, with many tax-related proceedings delayed pending the determination of an appeal by the Deputy Commissioner of Taxation to the Court of Appeal on the question of whether the conclusive evidence provision under the *Income Tax Assessment Act 1936* (Cth) wrongly interferes with the exercise of federal judicial power.

REPORT OF THE JUDGE IN CHARGE OF THE EXPEDITED CASES LIST JUDGE COSGRAVE

The Expedited Cases List performs two functions. First, parties may request entry of a proceeding into the Expedited Cases List where an expedited hearing is sought or the case requires more intensive case management.

Secondly, the Commercial Division utilises the Expedited Cases List as a case management tool. Judges or judicial registrars are able to transfer a proceeding into the Expedited Cases List where intensive case management of the proceeding or an earlier trial date is required.

EXPEDITED CASES LIST ACTIVITY 2018–19

There were 131 initiations in the Expedited Cases List in 2018–19, a decrease of 2.2 per cent from the 2017–18 financial year. A new fee for entry into the Expedited Cases List was introduced in December 2018. This does not appear to have resulted in a significant decrease in initiations in the Expedited Cases List. There were 136 finalisations. Trial dates were typically available within four to five months of the entry of an appearance, sometimes earlier if required. Claims made ranged from less than \$100,000 to more than \$1 million. More than 84 per cent of cases were resolved within 18 months.

REPORT OF THE JUDGE IN CHARGE OF THE BANKING & FINANCE LIST JUDGE COSGRAVE

The Banking and Finance List provides a specialist list for cases relating to transactions involving the provision of financial accommodation, including proceedings involving claims for the possession of land.

BANKING AND FINANCE LIST ACTIVITY 2018–19

There were 472 initiations in the Banking and Finance List in 2018–19. This is an increase of 6.5 per cent more than in 2017–18. It is expected initiations will continue to increase after a reduction in initiations last year following the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry. There were 449 finalisations.

REPORT OF THE JUDGE IN CHARGE OF THE BUILDING CASES LIST JUDGE COSGRAVE

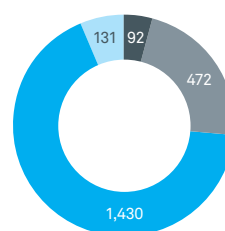
The building and construction industry is vital to the economic health of the State of Victoria. This multibillion-dollar industry cannot operate effectively without timely, efficient and fair procedures for the resolution of building and construction disputes.

Building disputes are inherently complex, involving technical issues requiring complicated expert evidence and often numerous parties and multiple claims and cross claims. The legislation in this area can also be detailed and complex. The Building Cases List provides targeted case management procedures for the resolution of building and construction disputes.

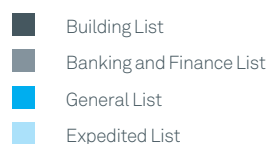
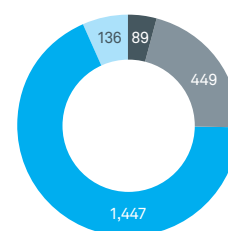
BUILDING CASES LIST ACTIVITY 2018–19

In 2018–19, 92 cases were issued in the list – an increase of 10.8 per cent since the last financial year. Eighty-nine cases were finalised – an increase of 18.7 per cent since the last financial year. The majority of cases were for less than \$500,000, with 12 claims between \$500,000 and \$5 million, and 25 claims in which the amount sought was not specified. More than 74 per cent of proceedings were finalised in less than 18 months.

INITIATIONS
BY LIST 2018–19



FINALISATIONS
BY LIST 2018–19



REPORT OF THE JUDICIAL REGISTRARS BURCHELL AND TRAN



Sharon Burchell
Judicial Registrar



My Anh Tran
Judicial Registrar

The judicial registrars reduce the burden on the judges of the Commercial Division by determining less complicated interlocutory disputes, making orders on the papers, hearing enforcement applications and objections to subpoenas, conducting judicial mediations called Judicial Resolution Conferences (JRCs) and assisting with the administration of the Commercial Division.

The judicial registrars were initially appointed in May 2015 for a three-year term. In May 2018, the Governor-in-Council appointed Judicial Registrars Tran and Burchell for a further five-year term. The appointment was made in such a way that the Chief Judge has the flexibility to respond to greater demands in the Commercial Division by increasing the hours of the judicial registrars to a full-time capacity. This has enabled the judicial registrars to increase their availability to conduct JRCs.

JUDICIAL REGISTRAR ACTIVITY 2018–19

In 2018–19, the judicial registrars heard 401 interlocutory applications, directions hearings and objections hearings. They also conducted 89 Judicial Resolution Conferences (JRCs), of which 59 settled. In addition, the judicial registrars processed many hundreds of consent and ex parte orders on the papers, relieving practitioners and parties from the cost and inconvenience of unnecessary court appearances.

There has been a 61 per cent increase in the number of JRCs completed this year (from 55 per cent last year to 89 this year). In the Commercial Division, the usual expectation is that parties will fund a private mediation. JRCs are reserved for complex and difficult cases, such as those involving self-represented litigants, long trials, where multiple interlocutory hearings or significant delays have occurred or where there are issues of insolvency. Many of the proceedings in which JRCs are conducted have been mediated previously, sometimes several times.

The judicial registrars presided over two contested trials. One involved a determination over whether a warehouseman's lien, pursuant to legislation, can take priority over a security interest within the meaning of the *Personal Property Securities Act 2009 (Cth)*. The other involved a claim for specific performance of Heads of Agreement in relation to the sale of a property. After a three-day trial, the judicial registrar determined that the Heads of Agreement was not binding and dismissed the proceeding.

The judicial registrars also provided written reasons concerning an objection by subpoenaed party to inspection by a party. Consideration was given to sections 118 and 119 of the *Evidence Act 2008 (Vic)*, the Court's discretion to inspect documents and the interplay with common law principles.

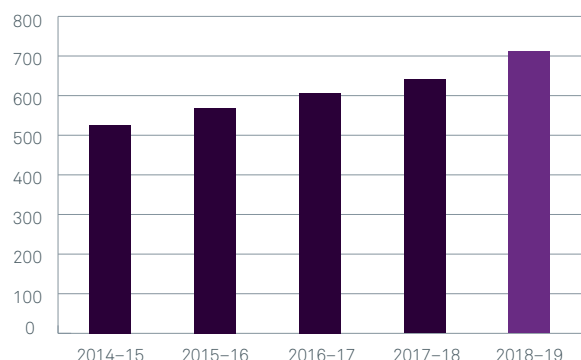
REPORT OF THE HEAD OF CIRCUITS JUDGE MULLALY



Judge Mullaly



CRIMINAL INITIATIONS – CIRCUIT MATTERS



During the 2018–19 financial year, 70 criminal and 25 civil circuits of varying length proceeded at the County Court’s 11 regional locations: Bairnsdale, Ballarat, Bendigo, Geelong, Horsham, Latrobe Valley (Morwell), Mildura, Shepparton, Wangaratta, Warrnambool and Wodonga.

Every month, County Court judges and their staff travel to a number of the Court’s circuit locations for criminal circuits (comprised of criminal trials, pleas and appeals from both the Magistrates’ and Children’s Courts) and civil circuits (comprised of serious injury applications and civil trials).

During the 2018–19 reporting period, 632 criminal circuit matters, 845 circuit appeals and 458 civil circuit matters were finalised. While the majority of the Court’s regional work was committed, appealed or commenced at the larger regional centres of Ballarat, Bendigo, Geelong and the Latrobe Valley, a number of circuits were scheduled across regional Victoria to ensure access to justice for all Victorians.

CRIME

Circuit directions hearings

The County Court conducts circuit directions hearings and appeal (first listing) hearings fortnightly at each of its 11 regional locations. These hearings involve multiple videolinks connecting parties located in regional Victoria with the presiding judge who generally sits at Melbourne. During the 2018–19 reporting period, approximately 800 circuit directions hearings and more than 200 appeal (first listing) hearings were conducted for cases committed to regional County Court locations.

These hearings are essential to not only ensure all pre-trial issues and prospects of resolution are discussed prior to the commencement of the circuit, but to also determine the appropriate venue for the listing of the trial or appeal.

Nature of the work on circuit

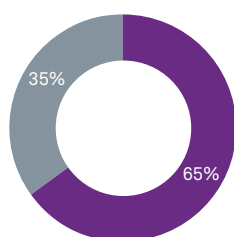
There was a 10.9 per cent increase in criminal initiations at the County Court's regional locations in the 2018–19 reporting period, compared with an 8.7 per cent decrease in criminal initiations at Melbourne. Such a significant increase poses challenges for both the pre-trial management of such matters, as well as the timely listing of the substantive hearings. While the listing of trials takes priority, this must be balanced with the need to call on pleas and appeals within a reasonable period of time.

Of the 711 criminal matters committed to a regional location during this reporting period, 21 per cent (149) were committed to the Latrobe Valley, 16.6 per cent (118) to Ballarat, 14.5 per cent (103) to Geelong and 12.2 per cent (87) to Bendigo. While the County Court sits at the Latrobe Valley, Ballarat and Geelong throughout the legal year, the pressure on the criminal lists in these locations is immense and time to trial is increasing. Approaches such as the listing of pre-trial argument and pre-recording of evidence at Melbourne does assist in progressing these matters, however the Court is mindful of the need for many of these matters to be heard locally.

A further challenge facing the Court is the management of trials involving allegations of sexual offending. During this reporting period, 65 per cent of matters that proceeded to verdict at regional locations involved allegations of sexual offending.

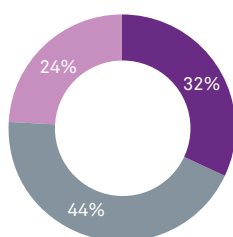
Appeal initiations, conversely, dropped from 899 in the 2017–18 reporting period to 796 in the 2018–19 reporting period, a reduction of 11.5 per cent. There was a 22 per cent reduction in pending appeals for the same reporting period.

PROPORTION OF CIRCUIT MATTERS THAT RAN TO VERDICT BY CASE TYPE – 2018–19



Sexual offences
General List

TOTAL CIRCUIT FINALISATIONS (CRIMINAL, APPEAL AND CIVIL MATTERS)



Criminal
Appeals
Civil

CIVIL

Nature of the work on circuit

The number of civil matters commenced at a regional County Court location dropped 3.3 per cent from the last reporting period. Of the 493 civil matters that commenced in the 2018–19 reporting period, 21.5 per cent (106) were initiated at Geelong, 15.2 per cent (75) at Ballarat, 14 per cent (69) at the Latrobe Valley and 11.4 per cent (56) at Bendigo. Serious Injury Applications accounted for 56 per cent of civil matters initiated at a circuit location.

High rates of settlement across regional civil matters saw a number of civil circuits conclude earlier than scheduled.

CHALLENGES

Courtroom availability

Higher jurisdiction courtroom availability, particularly at Ballarat, Bendigo, Geelong and the Latrobe Valley, continues to challenge the Court's ability to schedule sufficient circuits to manage the increasing pending criminal workload in a timely manner. Investigations will be undertaken during the 2019–20 reporting period to determine whether a more flexible approach to the rostering of higher jurisdiction circuits can be implemented.

Fixed date listings

Due to the nature of circuit listings, fixed hearing dates cannot be provided for the vast majority of matters. This lack of date certainty is challenging for parties to proceedings to navigate and creates difficulties with practitioner availability.

CONCLUSION

I am grateful to Judge Gwynn for her assistance in managing circuits, and to the judges who sat in the Circuit List during the reporting period. The hard work of Circuit Administrators in Melbourne – Amelia Webster, Libby Ayre and Ashlee Guerra ensured that the work of the Court was well managed and efficient. They deserve recognition and thanks. Thank you to all the judges and their staff who sat at our circuit locations during the reporting period, and to the regional registrars who provide invaluable support both during and between circuits.

JUDGES, RESERVE JUDGES AND JUDICIAL REGISTRARS

Judges	Date appointed
His Honour Chief Judge Peter Barrington Kidd	28 Sep 2015
Her Honour Judge Marilyn Blanche Harbison	5 Feb 1996
Her Honour Judge Rachelle Ann Lewitan AM	16 May 2001
His Honour Judge John Arthur Smallwood	20 Aug 2001
Her Honour Judge Susan Michele Cohen	20 Aug 2001
Her Honour Judge Meryl Elizabeth Sexton	20 Aug 2001
Her Honour Judge Frances Elizabeth Hogan	2 Oct 2001
Her Honour Judge Irene Elizabeth Lawson	26 Mar 2002
His Honour Judge Michael Patrick Bourke	10 Sep 2002
Her Honour Judge Elizabeth (Liz) Mary Gaynor	10 Sep 2002
His Honour Judge Phillip James Coish	10 Sep 2002
Her Honour Judge Wendy Anne Wilmoth	8 Apr 2003
Her Honour Judge Frances Millane	2 Dec 2003
Her Honour Judge Sandra Sabrina Davis	26 Oct 2004
Her Honour Judge Felicity Pia Hampel	9 Feb 2005
Her Honour Judge Jeanette Gita Morrish	9 Aug 2005
Her Honour Judge Susan Elizabeth Pullen	22 Aug 2006
Her Honour Judge Lisa Anne Hannan	3 Oct 2006
His Honour Judge Michael Damian Murphy	24 Oct 2006
His Honour Judge Christopher Miles O'Neill	24 Jul 2007
His Honour Judge Philip Gerard Misso	11 Dec 2007
Her Honour Judge Katherine Louise Bourke	11 Dec 2007
His Honour Judge Peter Michael Edward Wischusen	15 Apr 2008
His Honour Judge Paul Gregory Lacava	27 May 2008
His Honour Judge Frank Robert Gucciardo	27 May 2008
His Honour Judge Philip Mark Taft	29 Sep 2008
His Honour Judge Frank Saccardo	2 Feb 2009
His Honour Judge Mark Andrew Gamble	3 Feb 2009
His Honour Judge Gerard Paul Mullaly	7 Apr 2009
Her Honour Judge Kathryn Elizabeth Kings	4 Nov 2009
His Honour Judge James Lloyd Parrish	17 Nov 2009
His Honour Judge Michael Harry Tinney	16 Mar 2010
Her Honour Judge Gabriele Therese Cannon	30 Mar 2010
His Honour Judge Mark Edward Dean	28 Sep 2010
His Honour Judge John Francis Carmody	7 Jun 2011
His Honour Judge Richard Hunter Smith	22 Jul 2011
His Honour Judge Michael Francis Macnamara	7 Feb 2012
His Honour Judge William (Bill) Evan Stuart	28 Feb 2012
His Honour Judge David George Brookes	7 Aug 2012
His Honour Judge John Anthony Jordan	1 Feb 2013
His Honour Judge Christopher James Ryan	26 Mar 2013
His Honour Judge Paul James Cosgrave	7 May 2013
His Honour Judge Gavan Frederick Meredith	28 May 2013
His Honour Judge Robert William Dyer	6 Nov 2013

Judges	Date appointed
Her Honour Judge Claire Marie Quin	25 Feb 2014
Her Honour Judge Sara Louise Hinchey	26 May 2015
Her Honour Judge Amanda Jane Chambers	9 Jun 2015
Her Honour Judge Andrea Josephine Tsalamandris	2 Feb 2016
His Honour Judge Peter Henry Lauritsen	24 May 2016
Her Honour Judge Samantha Lee Marks	3 Oct 2016
His Honour Judge Gregory John Lyon	18 Oct 2016
His Honour Judge Edward (Ted) Winslow Woodward	2 May 2017
Her Honour Judge Carolene Rhonda Gwynn	9 May 2017
His Honour Judge Douglas (Doug) Andrew Trapnell	14 Jun 2017
His Honour Judge Michael O'Connell	25 Jul 2017
Her Honour Judge Aileen Ryan	15 Aug 2017
His Honour Judge Paul Higham	15 Aug 2017
His Honour Judge Trevor Wraight	31 Oct 2017
Her Honour Judge Patricia Riddell	8 Nov 2017
Her Honour Judge Julie Condon	12 Dec 2017
Her Honour Judge Amanda Fox	8 May 2018
His Honour Judge Michael Cahill	29 May 2018
Her Honour Judge Sarah Kingsley Dawes	14 Aug 2018
His Honour Judge Scott Robert Johns	14 Aug 2018
His Honour Judge David Andrew Sexton	14 Aug 2018
Her Honour Judge Martine Evelyn Marich	14 Aug 2018
His Honour Judge Philip John Ginnane	11 Sep 2018
Her Honour Judge Elizabeth (Liz) Mary Brimer	16 Apr 2019
His Honour Judge George Antony Georgiou	18 Apr 2019

Reserve Judges (as at 30 June 2019)	Date appointed
His Honour Judge Michael Gerard McInerney	21 Jun 1994
Her Honour Judge Carolyn Dianne Douglas	7 Oct 1997
Her Honour Judge Pamela Dawn Jenkins	21 Apr 1999
His Honour Judge John Richard Bowman	20 Feb 2001
Her Honour Judge Jane Anne Campton	22 Oct 2002
His Honour Judge Roy Francis Punshon	8 Apr 2003
His Honour Judge Duncan Leslie Allen	21 Aug 2007
His Honour Judge Howard Thomas Mason	3 Feb 2009

Retirements	Date retired
His Honour Judge Graeme Geoffrey Hicks	4 Aug 2018
His Honour Judge Paul Douglas Grant	14 May 2019
His Honour Judge Howard Thomas Mason	26 Apr 2019
His Honour Judge Duncan Leslie Allen	18 Jan 2019

Judicial Registrars	Date appointed
Judicial Registrar Sharon Alexandra Burchell	5 May 2015
Judicial Registrar My Anh Tran	5 May 2015
Judicial Registrar James Gurry	29 Sep 2016

COURT ADMINISTRATION

The Court is supported in its delivery of justice by its Administration team, which is integral to the Court hearing and determining matters in a timely, efficient and accessible way.

Guided by the Chief Executive Officer, functions of the Court Administration team include steering the governance and policy of the Court, managing IT, delivering strategic programs, managing the Court's finances and assets, providing support services to judiciary, managing media and community engagement, and looking after the Court's most important resource – its people.

Registry – the public-facing part of the Court that deals with documents, filing and fees – is also managed by Court Administration.

Administration is led by the Court's Executive Leadership team who, along with the Chief Judge and the Council of Judges, guides the strategic direction of the County Court of Victoria.

FIONA CHAMBERLAIN

Chief Executive Officer

The CEO is a statutory appointment responsible for leading the County Court's Administration and providing support to the Chief Judge as the head of jurisdiction.

KATIE O'KEEFFE

Deputy Chief Executive Officer, Principal Registrar

Leads the operations of the Court including leading a team that delivers necessary judicial support services such as an adequate number of trained and capable associates and tipstaves, who are required for the effective operation of the Court. Oversees the operation of the County Koori Court and leads the sustainable delivery of Registry services to the judges of the Court, their staff and those involved in court proceedings in Melbourne and regional Victoria.

JO RAINFORD

Director, Governance

Leads a diverse team that supports the Court to discharge a range of corporate governance obligations including risk and audit, compliance and integrity, and supports the activities of the Court's Audit and Risk Committee and its independent chair. Leads the team responsible for Communications (including media, digital and community engagement) and supporting the judges in the areas of law reform and policy, research services, professional development and publication of decisions. Also manages the Senior Administrators in the Criminal and Common Law Divisions.

BRADLEY MEDCROFT

Director, Strategy and Program Delivery

Leads the Court's strategic, planning, performance reporting and project management systems. This includes managing the Court improvement program – a group of system improvement and change management projects, which aim to improve the capacity of the Court to deliver excellent outcomes.

DON RITCHIE

Principal Advisor to the Chief Judge

Supports the Chief Judge in relation to his roles as head of the County Court, chair of the Court's board of management and member of the Courts Council. Manages the Chief Judge's chambers and provides advice on strategy, policy and governance issues.

KEITH KIRKHAM

Director, Corporate Services

Leads the provision of a range of support services including facility and fleet management, security, procurement, contract management and information technology, and provides leadership in the finance function.

JOSHUA MARTIN

Strategist

Works with leaders at the Court to realise the organisation's long-term objectives under *Court Directions 2017–22* and improve its service delivery and corporate activities.

REPORT OF THE DEPUTY CEO – REGISTRAR KATIE O'KEEFFE



Katie O'Keeffe

The past year at the Court has seen us make real progress in improving the Registry and our judicial support functions.

In line with *Court Directions 2017–22* – the Court's roadmap for reform – our focus has been on improving court users' experience of the Court, the support we provide to judges and our work systems based on evidence.

For several years our approach has been focused on continuous improvement, and reassessing and redesigning our work systems to increase efficiency and quality. A large part of that has been to develop the Court's people – their skills and capabilities – because people are what drive the Court's performance.

In the Registry staff have continued to take a proactive approach to designing work practices. This approach is based on data, evidence and meaningful engagement of legal practitioners. Our collaborative approach helps ensure the changes we make to services will increase the value created for court users. Through the latter part of 2018 we made several significant changes in that regard: we implemented a new organisational structure for Civil Registry; our Service Delivery Team now provides a streamlined service for people attending Registry; and the Court's new website enabled the Client Engagement Team to overhaul much of the information accessed by court users and members of the public.

Work is well underway to improve the service experience of the Confiscation List, specifically to improve document lodgement processes and reduce timeframes. We are also working to improve the administration of the Family Property Division, remove wasteful work, increase the value of our work for court users, and lay the foundations for future case management. Working closely with our stakeholders is fundamental to the way the Court improves its work systems.

In mid-2018 the Court began developing reforms of the Criminal Division's judicial work system to address greater demand in the criminal jurisdiction. Under this approach the Court is now using detailed design and testing processes to develop an active case management model that significantly improves the pre-trial process. In particular, the case management model will remove wasteful steps in the process and improve the productivity of the Division's work system by enabling judges to delegate less complex activities to skilled lawyers. This in turn will enable judges to focus on their higher value work of hearing and determining cases. The Criminal Division Redesign, as this work has become known, has tested the case management model with five live cases in close collaboration with the Office of Public Prosecutions and Victoria Legal Aid. This process of experimentation has so far proven a success and the Court has secured government investment to expand the model over the 2019–20 reporting period.

The Criminal Division Redesign has transformative potential for the Court, and for other courts, in terms of how work systems can be modernised to improve efficiency and quality and reduce waste across the justice system. Certainly, it is a landmark effort for the Court, but there are further important, albeit lower profile efforts to note. In December 2018 the Court implemented a new civil fee structure, which is better aligned to the practices of the Court – there is greater emphasis on case management, early settlement and judicial mediation – and is more equitable for court users. Over the course of the year we have bolstered our support for Circuit Court sittings, especially in the areas of Occupational Health and Safety, security and technology. We have also undertaken a detailed review of the Judicial Services work system in close engagement with judicial support staff. The catalyst for this process was a series of staff engagement forums in late 2018, which identified issues in the work system around work distribution and systems. Changes to address these issues will occur in late 2019.

The Court has continued to develop its people – and value its people – because people are what drives the Court's strong performance. We have continued our focus on developing our administrative leaders and again invested in leadership development forums, most notably a two-day event in February that focused on critical thinking, diversity and self-reflection. We have also focused on building the capability of our operational leaders, their coaching skills and their understanding of role clarity and collaborative relationships.

The 'Working Together Program', the Court's own leadership program, was delivered in October for the 10th time since its inception in 2015. The program based upon experiential learning provides an opportunity for participants to put theory into practice. More than 120 people across the Court have participated since the program began.

We will also continue our partnership with the Supreme Court and Justice Connect, providing services through the pro-bono service pilot to assist self-represented litigants in civil matters.

We are working on a project to improve the subpoena process through the implementation of a portal for recipients to lodge subpoenaed documents electronically. A significant initiative is the changes we will make to our customer service area to improve service delivery and prepare us for the specialist services that will be introduced over the coming years.

As the Court looks to the years ahead I know we will continue our focus on improvement and the needs of court users.

The dedication of judges and staff to the work of the Court are a large part of what makes it an exemplar court for Victoria and a great place to work.

FINANCIAL REPORT FOR THE YEAR ENDED 30 JUNE 2019

The County Court's financial position for the year ended 30 June 2019 is published as part of Court Services Victoria's (CSV) audited accounts in the Court Services Victoria Annual Report 2018–19.

To view CSV's annual report, visit courts.vic.gov.au. Below is an abridged version of CSV's comprehensive operating statement highlighting court operations of the County Court of Victoria.

CSV was established on 1 July 2014 under the *Court Services Act 2014* (Act) as an independent statutory body to provide administrative services and facilities to support the Victorian courts and tribunals, the Judicial College of Victoria and the Judicial Commission of Victoria. CSV supports the performance of the judicial, quasi-judicial and administrative functions of the Supreme Court of Victoria, the County Court of Victoria, the Magistrates' Court of Victoria, the Children's Court of Victoria, the Coroners Court of Victoria and the Victorian Civil and Administrative Tribunal.

Consequently, the County Court is not able to publish a separate balance sheet, cash flow statement or statement in changes of equity.

Financial reports for the year ending 30 June 2019 presented include:

- Comprehensive Operating Statement;
- Comprehensive Operating Statement by Court functions; and
- Capital Program Statement.

The Comprehensive Operating Statement reports the Victorian Government appropriated revenue of \$110.349 million (\$105.733 million 2017–18) which was received by CSV for the purposes of the County Court's functions plus \$13.601 million (\$13.459 million 2017–18) to fund the County Court's capital program. A breakdown in expenditure to fund County Court operations and the capital program are provided in the following financial statements. The net result from transactions for County Court operations at year end 30 June 2019 reports a surplus of \$1.181 million (\$2.427 million 2017–18).

The accompanying notes form part of these financial statements. All amounts in the financial statements have been rounded to the nearest \$1000 unless otherwise stated.

COMPREHENSIVE OPERATING STATEMENT FOR THE YEAR ENDED 30 JUNE 2019

CONTINUING OPERATIONS	Note	2019 \$'000	2018 \$'000
Income from transactions			
Output appropriations	1a	73,180	71,290
Special appropriations	1b	37,169	34,443
Total income from transactions		110,349	105,733
Expenses from transactions			
Employee expenses and judicial officer remuneration	2	56,049	51,592
Depreciation and amortisation	3	9,839	8,186
Interest expense	4	4,832	5,972
Grants and other transfers		1	1
Capital asset charge	5	12,673	11,323
Supplies and services	6	25,773	26,232
Total expenses from transactions		109,168	103,306
Net result from transactions (net operating balance)		1,181	2,427
OTHER ECONOMIC FLOWS INCLUDED IN NET RESULT			
Net gain/(loss) on non-financial assets	7	119	109
Other gains/(losses) from other economic flows	7	(1,576)	72
Total other economic flows included in net result		(1,457)	181
Net result		(276)	2,608
OTHER ECONOMIC FLOWS – OTHER COMPREHENSIVE INCOME			
<i>Items that will not be reclassified to net result</i>			
Changes in physical asset revaluation reserve	8	16,040	19,709
Total other economic flows – other comprehensive income		16,040	19,709
Comprehensive result		15,764	22,317

CAPITAL PROGRAM STATEMENT FOR THE YEAR ENDED 30 JUNE 2019

	Note	2019 \$'000	2018 \$'000
Income from capital transactions			
Output appropriations	1a	13,601	13,459
Other income		-	-
Total income from transactions		13,601	13,459
Capital transactions			
Building leasehold improvements		62	541
Motor vehicle (leased)		7	
Office equipment, plant and cultural assets		800	610
Public Private Partnership County Court facility	9	12,733	12,299
Total capital expenses from transactions		13,601	13,450
Net result from capital transactions		0	9

NOTES TO THE COMPREHENSIVE OPERATING STATEMENT AND CAPITAL PROGRAM STATEMENT

1. **Appropriations** – once annual parliamentary appropriations are applied by the Treasurer, they become controlled by CSV and are recognised as income when applied to the purposes defined under the relevant Appropriations Act.
 - a. **Output appropriations** is defined as income for the purpose to deliver the outputs CSV and the County Court provides to the Government. Recognition of output appropriation occurs when those outputs have been delivered and the relevant minister has certified delivery of those outputs in accordance with specified performance criteria.

Output appropriations increased by \$2.032 million in 2018–19 in comparison to 2017–18 due to two contributing factors: the release of supplementation revenue from the CSV Court Fee Pool; and the funding of new initiatives including the capital program.
 - b. **Special appropriations** is defined as income recognised on a cash basis when the amount appropriated for that purpose is due and payable with the exception of long service leave and annual leave, which includes income for unpaid leave on an accrual basis.

Special appropriations increased by \$2.726 million in 2018–19 in comparison to 2017–18 due to an increase of annual indexation funding for the judiciary.
2. **Employee expenses and judicial officer remuneration** encompasses all costs related to the employment, including wages and salaries, fringe benefits tax, leave entitlements, superannuation, termination payments and WorkCover premiums.

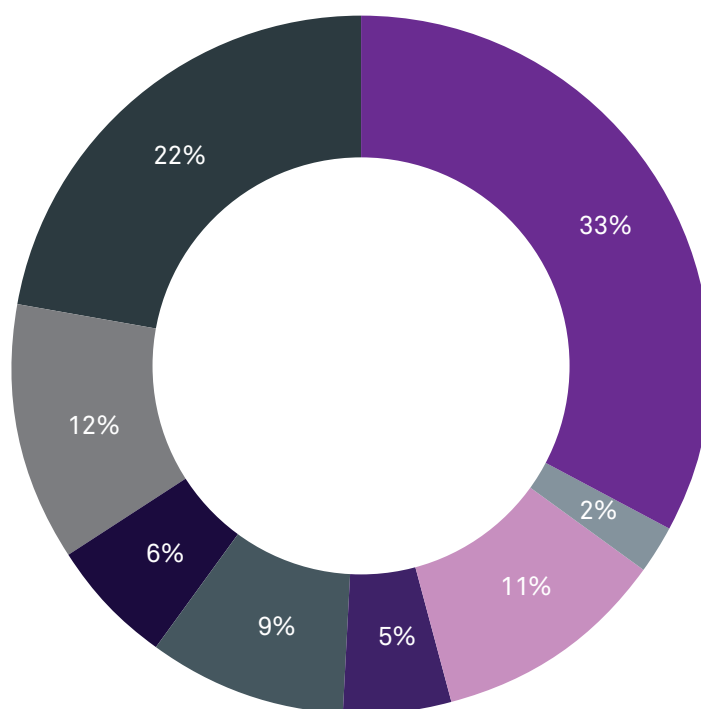
Employee expenses increased by \$4.457 million in 2018–19 in comparison to 2017–18 which was influenced by staffing resources of new initiatives and government-funded salary increases. A retrospective adjustment increase of \$0.378 million has been applied to the 2018 Actuals to incorporate staff training and development expenses.
3. **Depreciation and amortisation** is generally calculated on a straight-line basis, at rates that allocate the asset's value, less any residual value, over its estimated useful life.
4. **Interest expense** represents costs incurred in connection with borrowings for the Public Private Partnership (PPP) County Court facility. It includes interest components of finance lease repayments, and amortisation of discounts or premiums in relation to borrowings. The PPP interest payments will continue to reduce every year until May 2022 until the finance lease component will be fully paid.
5. **Capital asset charge (CAC)** is a charge levied on the written down value of controlled non-current physical assets. CAC aims to attribute a cost of capital used by the County Court in service delivery. Imposing this charge provides incentives for the County Court to identify and dispose of under-utilised or surplus non-current physical assets.
6. **Supplies and services expenses** incorporate a provision of services involving: accommodation; technology; security; building management and maintenance; office supplies and equipment; resourcing court improvement initiatives and circuit court expenses. A retrospective adjustment decrease of \$0.376 million has been applied to the 2018 Actuals to reallocate staff training and development expenses under employee expenses.
7. **Other economic flows included in net result** represents net gain/(losses) on non-financial assets are changes in volume or value of an asset or liability that do not result from transactions. Other gains/(losses) from other economic flows include the gains or losses from the revaluation of the present value of the long service leave liability due to changes in bond interest rates.
8. **Property, plant and equipment assets** are measured initially at cost and subsequently revalued at fair value less accumulated depreciation and impairment. The majority of non-financial physical assets value relates to the County Court facility.
9. **Capital transactions** represents costs incurred in connection with borrowings for the Public Private Partnership (PPP) County Court facility. It includes the finance lease repayments (a set repayment schedule), and amortisation of discounts or premiums in relation to borrowings. The PPP finance lease component payment will continue every year until May 2022 when the debt will be discharged.

COMPREHENSIVE OPERATING STATEMENT BY FUNCTION FOR THE YEAR ENDED 30 JUNE 2019

CONTINUING OPERATIONS	Note	2019 \$'000	2018 \$'000
Expenses from transactions			
Court Administration	i	6,625	8,976
Depreciation	ii	9,839	8,187
Judicial officers	iii	36,132	31,488
County Koori Court	iv	199	247
Public Private Partnership County Court facility	v	24,504	25,543
Circuits	vi	1,756	1,354
Capital asset charge	vii	12,673	11,323
Registry	viii	5,253	5,010
Tipstaves and associates	ix	12,187	11,177
Total expenses from transactions		109,168	103,306

PERCENTAGE OF EXPENSES BY FUNCTION

- Judicial officers – 33%
- Circuits – 2%
- Tipstaves and associates – 11%
- Registry – 5%
- Depreciation – 9%
- Court Administration – 6%
- Capital asset charge – 12%
- PPP County Court facility project – 22%



COUNTY COURT FUNCTIONS

The Court's Special and Output Appropriation is spent on the following functions to deliver its output services:

i. Court Administration – 6% (9% 2017–18)

Court Administration provides a range of functions including: management; corporate governance; finance, procurement and contract management; court support services; human resources; Occupational Health and Safety and risk compliance; legal research and policy interpretation; facility and court event support; media and communication services; infrastructure technology operations and development; and court improvement programs and projects.

ii. Depreciation – 9% (8% 2017–18)

Depreciation is an expense that arises from the consumption through use or time of a produced physical or intangible asset. A significant proportion of depreciation expense is related to the County Court building facility.

iii. Judicial officers – 33% (30% 2017–18)

Judicial officers' expenses are funded independently by Government through a Special Appropriation fund.

iv. County Koori Court – < 1% (<1 % 2017–18)

The County Koori Court expenses includes management of the Koori Court program, payments to the Elders and other operational costs.

v. Public Private Partnership County Court Facility – 22% (25% 2017–18)

The State of Victoria and the Liberty Group Consortium (Contractor) entered into a Court Services Agreement (CSA) in June 2000 under a Public Private Partnership Contracted project. The 20-year contract commenced in June 2002 and will conclude in May 2022.

Under the CSA the Contractor was to:

- develop and construct the facility;
- provide the County Court and court users with accommodation services at the facility; and
- provide Court Services to the County Court and court users in connection with the management and operation of the facility.

The lease payment for the 20-year life of the contract totals \$343,055,369. As at 30 June 2019, \$44.808 million remains owing. As the contract expiry term approaches, the principal payments increase while the interest payments decrease. In terms of accounting for the principal and interest, the principal component is funded as a capital item whereas interest is funded as an operating expense.

vi. Circuits – 2% (1% 2017–18)

The County Court sits at 11 major regional centres across Victoria. Judges are supported on circuit by their associate, tipstaff and the Registry staff at each regional court. Court staff attend circuits on a roster basis. It costs approximately \$1.75 million annually to resource circuits. These costs exclude employee expenses, judicial officer remuneration payments or County Koori Court expenses.

vii. Capital asset charge – 12% (11% 2017–18)

As described under Note 5, a capital asset charge has been recognised as an expense in the County Court's financial report.

viii. Registry – 5% (5% 2017–18)

Registry provides a range of services to the community and judicial officers including: receiving and processing court lodgements; preparing and publishing daily court listings; organising videolinks between the County Court and other locations; providing assistance to self-represented litigants; managing fee-waiver applications; coordinating County Court circuits in conjunction with regional registrars; and providing excellent customer service to court users.

ix. Tipstaves and associates – 11% (11% 2017–18)

Tipstaves and associates support judicial officers in the conduct of courtroom operations, judicial services and interaction with parties. Tipstaves and associates' expenses include employee costs and supplies but excludes costs incurred when staff go on circuit.



Design – Andrew Hogg Design
Cover Art – Jack Vanzet



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