



Annual Report
2016-2017

SUPREME COURT OF TASMANIA

The Chief Justice's
Annual Report
For the Supreme Court of Tasmania
2016–17

This report is submitted in accordance with section 194H of the Supreme Court Civil Procedure Act 1932, pursuant to which the Chief Justice is to provide a report to Parliament. This report is to include details as to the administration of justice in the Court during the current year and any other matters that the Chief Justice considers appropriate.

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YEAR AT A GLANCE

Jurisdiction	Lodgments	Appeals	Finalised First instance	Finalised Appeals	Bail Applications
Criminal	512	22	437	29	304
Civil	761	85	771	77	N/A
Total	1,273	107	1,208	106	304
Jurisdiction	Lodgments	Caveats	Application for Reseal	Correspondence	Total
Probate	2,419	32	33	122	2,606
Jurisdiction	Conducted	Settled at Conference	Settled within 30 days of conference	Total Settled	
Mediation	134	44	35	79	

MESSAGE FROM CHIEF JUSTICE



The Supreme Court of Tasmania in 2016/2017: Some observations

During the reporting year the Court faced two major challenges in relation to its workload. It was necessary to address a substantial backlog of pending criminal cases, and it was necessary for the judges to spend more and more of their time dealing with appeals and applications by remand prisoners seeking bail.

Backlog in criminal cases

The number of first instance criminal cases awaiting finalisation has grown to an unacceptable level, as the following table shows:

Date	Cases Pending
30 June 2013	316
30 June 2014	348
30 June 2015	388
30 June 2016	381
31 December 2016	457
30 June 2017	448

The number of such cases finalised during the reporting year was 437, as compared to 436 the previous year. However the number of new cases increased by about 14%, from 449 to 512. New drug cases increased from 58 to 94, an increase of about 62%.

The number of cases that have been pending in the Supreme Court for more than 12 months has increased steeply, as the following table indicates:

Date	Number of Cases
30 June 2012	46
30 June 2013	79
30 June 2014	92
30 June 2015	107
30 June 2016	110
30 June 2017	130

During the reporting year the Government arranged the appointment of five part-time acting judges with a view to relieving the backlog problem. Four of them were sworn in on 27 February 2017. The fifth followed on 10 April 2017.

Arrangements were made to extend the criminal sittings in Hobart and Launceston with effect from April 2017. Originally eight criminal sittings, each of four weeks' duration, had been scheduled for Hobart and Launceston in the 2017 calendar year. For each sittings, two judges were allocated to sit in crime in Hobart and one in Launceston. It was announced that, with effect from 10 April 2017, each criminal sittings would be extended by one week, with one judge sitting in Hobart and one in Launceston during the fifth week. Arrangements were also made for two part-time acting judges to sit in Hobart, and one in Launceston, during the winter recess (10 to 21 July 2017). However it became apparent that, because of limited resources, the Director of Public Prosecutions was not able to get enough cases ready to make full use of all the judicial sitting days that had become available. Some criminal matters were dealt with during "fifth weeks" commencing on 10 April 2017 and 29 May 2017. The arrangement for an acting judge

to sit in Launceston during the July recess had to be cancelled. As at 30 June 2017, only one trial had been listed for hearing in Hobart during the July recess.

With a view to reducing the criminal backlog, the judges decided to introduce tighter case management in the criminal jurisdiction. With effect from 13 June 2017, arrangements were made for directions hearings to be conducted in pending criminal matters, as a matter of routine, so that the judges can enquire as to the state of readiness of pending matters and give directions for the purpose of avoiding unnecessary delays.

Prior to 13 June 2017, the listing arrangements for the first day of each criminal sittings resulted in large numbers of accused persons attending court at the same time, making case management difficult, and sometimes creating security difficulties. The judges decided that matters should be listed only when their listing was desirable for case management purposes, and that the lists should be rearranged in order to make more time available for the conducting of directions hearings.

With those objectives in mind, new arrangements were made, as follows:

- As a general rule, each new matter is now listed on the first day of a criminal sittings, and the accused is required to attend. The warnings required by s 331B(2)(c) and (d) of the *Criminal Code* as to alibi evidence and expert evidence are ordinarily given on that first appearance.
- After the first appearance, directions hearings are listed as required. The practice of listing most pending matters on the first day of each sittings was discontinued. However, as a general rule, the list for the first day of each sittings includes directions hearings in relation to every trial that is expected to proceed during the sittings.
- In both Hobart and Launceston, on the first day of each sittings, different categories of cases are listed at different times of the day, so that judges no longer face an almost unmanageable number of matters listed for 10am.
- The third Wednesday of each sittings in Hobart and Launceston is allocated as a miscellaneous day, when pleas of guilty and a limited number of directions hearings are listed. Directions hearings may also be listed at other times at the discretion of the presiding judge.

A number of other strategies have been employed for the purpose of addressing the criminal backlog. The judges have continued to encourage the making of applications for appropriate cases to be remitted to the Magistrates Court under s 308 of the *Criminal Code*. Judges have appointed and conducted directions hearings in a number of cases that have been pending for more than 12 months. Preparations were made for two judges to sit in Launceston for five weeks commencing on 4 September 2017 as a “concentrated trial period” with a view to making substantial inroads on the backlog there. Discussions as to possible legislative changes relating to the division of criminal work between the Supreme Court and the Magistrates Court have been continuing.

Bail appeals and applications

The Court has a number of sources of jurisdiction in relation to bail matters. Under s 125C of the Justices Act 1959, every defendant who unsuccessfully applies for bail before a magistrate has a right of appeal to a judge. Under s 304 of the *Criminal Code*, every person charged with a crime under that Code has the right to apply to a judge for bail, even if his or her case is to be dealt with in the Magistrates Court.

The number of bail appeals and applications coming before the Court has continued to grow, from 110 in 2014/15, to 244 in 2015/16, and to 304 in 2016/17.

The vast majority of these appeals and applications are unsuccessful. Many have no merit at all. They are time consuming. Most take 30 to 60 minutes, in addition to the time needed for a judge to read the relevant papers and make administrative arrangements for the matter to be listed. Most bail applications are listed for hearing outside the Court’s normal sitting hours, usually after 4pm. The result of the increase in the number of bail matters is that the time available for the judges to work on reserved decisions during ordinary working hours has continued to diminish significantly.

With effect from 24 August 2016, the judges have been wearing robes and wigs in all bail proceedings, as they do in all other criminal proceedings. Individuals sometimes become very emotional and aggressive when bail is refused. It was therefore considered that bail proceedings should be conducted with the same level of formality as other proceedings in the criminal jurisdiction.

Appointments

The Honourable Michael Joseph Brett was sworn in as a judge of the Court on 11 July 2016.

On 25 July 2016, the Honourable David McCartin Michael Byrne QC, a retired judge of the Supreme Court of Victoria, the Honourable Acting Justice Arthur Robert Emmett, an acting judge of the New South Wales Court of Appeal and formerly a judge of the Federal Court of Australia, and the Honourable Justice Hugh Baron Fraser, a judge of the Queensland Court of Appeal, were sworn in as part-time acting judges of the Court until the determination of an appeal in the matter of *Retirement Benefits Fund Board v Wood* and any applications for consequential orders. Their Honours held office until 19 October 2016.

On 31 January 2017, Her Excellency the Governor appointed four retired judges as part-time acting judges of the Court, each for a term of two years. They were sworn in on 27 February 2017. The four appointees were:

The Honourable Brian Ross Martin AO QC, a former Chief Justice of the Northern Territory. The Honourable Shane Raymond Marshall, a former judge of the Federal Court of Australia. The Honourable Lautalatoa Pierre William Slicer AO QC, a former judge of this Court.

The Honourable David James Porter QC, a former judge of this Court.

On 21 March 2017, Her Excellency the Governor appointed the Honourable Bernard Daniel Bongiorno AO QC, a former judge of the Victorian Court of Appeal, to be a part-time acting judge of the Court for a term of two years. He was sworn in on 10 April 2017.

No legal practitioners were appointed as Senior Counsel during the reporting year. However a ceremonial sitting of the Court was held on 15 August 2016 to celebrate the appointment of Christopher Gunson as senior counsel. He was appointed on 20 June 2016.

Attorney-General

Throughout the reporting year the Honourable Dr Vanessa Goodwin MLC was the Attorney-General and Minister for Justice. However Dr Goodwin became extremely ill on 25 March 2017. Thereafter the Honourable Mathew Groom MP took her place as Acting Attorney-General and Acting Minister for Justice. Dr Goodwin was an excellent, talented and conscientious Attorney-General. She had a close working relationship with the Court, and was responsive to law reform proposals put forward by the judges. Her illness is a tragedy. She will be greatly missed.

Judicial retirement benefits

Each Australian State and territory has a Supreme Court. The Supreme Court of Tasmania is the only Supreme Court in the country whose serving judges will not be eligible for judicial pensions. Instead they are entitled to superannuation benefits. The Tasmanian Government pays superannuation contributions at the rate applicable to employees in the Tasmanian State Service, currently 9.5% of gross salary. Substantially higher percentages are paid by the Commonwealth for the benefit of judges of the Federal Circuit Court of Australia, and by the Government of New Zealand for the benefit of that country's judges.

During the reporting year there was litigation between a judge of this Court and the Retirement Benefits Fund Board of Tasmania. The judge had formerly held office as a magistrate, and in that capacity had been a member of the contributory scheme administered by the RBF Board. That scheme was closed to new entrants in May 1999. Subsequently, when the judge was appointed to this Court, the RBF Board contended that she lost the right to be a member of its contributory scheme, and became a member its accumulation scheme, which was substantially less generous. In March 2016, the Honourable Acting Justice Heerey held that the judge retained her status as a

member of the contributory scheme: *Wood v Retirement Benefits Fund Board* [2016] TASSC 15. The RBF Board appealed. On 19 October 2016 the Full Court, constituted by three acting judges, held that the judge was not entitled to remain a member of the contributory scheme after resigning as a magistrate: *Retirement Benefits Fund Board v Wood* [2016] TASFC 9.

There are a small number of members of the RBF's contributory scheme who could potentially seek appointment as judges of this Court. They include magistrates and legal practitioners who became members of that scheme prior to its closure to new entrants in 1999. The outcome of the litigation therefore had the potential to affect the recruitment of Supreme Court judges. On 11 October 2016, whilst the Full Court's decision was reserved, the Government introduced legislation that included provisions that would ensure that any member of the contributory scheme subsequently appointed as a judge could not remain a member of that scheme. The relevant statute, the *Public Sector Superannuation Reform (Consequential and Transitional Provisions) Act 2016*, had its second reading after the Full Court decision. Although the legislative changes had the potential to adversely affect the recruitment of judges, they were introduced without the Court being consulted.

It seems inevitable that the recruitment and retention of talented judges will become more and more difficult as a result of the judges' increasing workload and nature of the judicial superannuation arrangements.



The Hon Alan Blow OAM
Chief Justice of Tasmania
29 November 2017

THE SUPREME COURT JUDICIARY



JUDGES

Judges of the Supreme Court are appointed by the Governor on the advice of the Executive Council (comprising the Premier of Tasmania and State Ministers) and from the ranks of barristers and solicitors with at least ten years' standing in their profession.

The Bench of the Supreme Court consists of the Chief Justice and a number of other judges, known as Puisne (subordinate) judges. Currently there are five full-time puisne judges and five part-time acting judges.

Section 2 of the Supreme Court Act 1887 provides that the Court consists of a maximum of seven judges (excluding acting judges). Eleven judges currently constitute the Court:

The Chief Justice:

- The Honourable Alan Michael Blow OAM

The full-time Puisne Judges:

- The Honourable Shan Eve Tennent
- The Honourable Helen Marie Wood
- The Honourable Stephen Peter Estcourt
- The Honourable Robert William Pearce
- The Honourable Michael Joseph Brett

The acting Judges:

- The Honourable Brian Ross Martin AO QC
- The Honourable Shane Raymond Marshall
- The Honourable Lautalatoa Pierre William Slicer AO QC
- The Honourable David James Porter QC
- The Honourable Bernard Daniel Bongiorno AO QC

ASSOCIATE JUDGES

The Governor appoints the Associate Judge of the Supreme Court in the same manner as a judge.

The Associate Judge:

- assists the judges in conducting the civil jurisdiction of the Court
- deals with interlocutory (procedural) applications in civil matters before they come on for trial
- can hear and determine many cases that formerly could only be heard by a judge. This legislative change has helped the Court manage its caseload.

The Associate Judge:

- The Honourable Stephen James Holt

JUDICIAL ACTIVITY

In addition to performing their judicial functions in court and in chambers, the Judges also engaged in a range of professional development seminars.

Chief Justice Blow attended:

- Annual Conference of the International Society for the Reform of Criminal Law in Halifax, Nova Scotia (July 2016).
- Seminar conducted by Tasmania Law Reform Institute (August 2016).
- Annual Colloquium of the Judicial Conference of Australia in Canberra (October 2016).
- Australian Institute of Judicial Administration's Appellate Judges' Conference, Melbourne (October 2016).
- Australian Bar Association and Victorian Bar National Conference, Melbourne (October 2016).
- South Australian Bar Association Annual Dinner in Adelaide (November 2016).
- Supreme and Federal Courts Judges' Conference in Perth (January 2017).
- Court Management Conference in Melbourne (March 2017).
- Meetings of the Council of Chief Justices of Australia and New Zealand in Perth (November 2016) and Brisbane (April 2017).
- Represented the Court at ceremonial sittings of the High Court for the retirement of French CJ (December 2016) and the swearing-in of Kiefel CJ and Edelman J (January 2017).

Justice Tennent attended:

- Supreme and Federal Courts Judges' Conference, Perth.

Justice Wood attended:

- Asia Pacific Regional Conference of the International Association of Women Judges, Sydney
- Cultural Sensitivity in the Courtroom Workshop, Melbourne
- Judicial Council on Cultural Diversity (including the speaker program), Alice Springs
- National Conference of the Australian Association of Women Judges, Sydney.

Justice Wood was also a guest lecturer at the University of Tasmania for the Sentencing Unit and gave a presentation to legal studies students in Hobart.

Justice Estcourt attended:

- Australian Bar Association and Victorian Bar National Conference, Melbourne.

Justice Pearce attended:

- Australian Institute of Judicial Administration's Appellate Judges Conference, Melbourne
- Cultural Sensitivity in the Courtroom Workshop, Melbourne
- Judicial Council on Cultural Diversity, Sydney
- Law Society of Tasmania Criminal Law Seminar, Hobart.

Justice Brett attended:

- Supreme and Federal Courts Judges' Conference, Perth
- Continuing Legal Education lecture to the Northern Young Lawyers Association, Launceston.

Education and community engagement

The Court continued to engage with educational and research institutions. It participated in:

- The National Jury Sentencing Research Project, organised by academics from the University of Tasmania. In cases where offenders were found guilty of sexual crimes and certain crimes of violence. Jurors were invited to take part in surveys about their attitudes to sentencing. This project builds on the Tasmania Jury Sentencing Project, which was conducted from 2007 to 2009
- Open House Hobart (November 2016), organised by the Australian Institute of Architects. This event provides the public with access to architecturally significant buildings in and around Hobart. Two judges and the architect of the Court buildings, Peter Partridge, led the tours.
- A research project into pre-recording of child witness evidence under the provisions of the Evidence (Children and Special Witnesses) Act 2001 S6A.

Information and communication resources continue to be enhanced. Apart from the information video for jurors, projects initiated have included developing website information for self-represented probate applicants, and establishing the Court's twitter account.

Courtrooms are provided for the University of Tasmania Law School's moots. There is a regular intake of work-experience students from local schools and colleges, which provides a training opportunity for students interested in business administration and considering a career in the law.

Judges routinely preside over litigation and advocacy exercises for trainees undertaking the Tasmanian Legal Practice Course.

Legislative amendments

During the reporting year the legislative changes relating to the work of the Court included the following:

- The Sentencing Amendment (Drug Treatment Orders) Act 2016 amended the Sentencing Act 1997 to extend the operation of the Court Mandated Drug Diversion program to the Supreme Court.
- The Sentencing Amendment (Fines without Recording Convictions) Act 2017 amended the Sentencing Act 1997 to expand the sentencing powers of courts by allowing courts to impose a fine on an offender without recording a conviction.
- The Sentencing Amendment (Racial Motivation) Act 2017 amended the Sentencing Act 1997 to introduce a statutory basis for the courts to take into account racial hatred or prejudice as an aggravating circumstance in relation to an offender.
- The Sentencing Amendment (Sexual Offences) Act 2016 amended the Sentencing Act 1997 by setting out matters that courts are and are not to take into account when determining an appropriate sentence for offenders convicted of certain sexual offences.
- The Crimes (Miscellaneous Amendments) Act 2016 amended the Criminal Code, Criminal Justice (Mental Impairment) Act 1999 and Sentencing Act 1997 in various ways. It removes a prohibition on Crown Counsel making a closing speech to a jury when an unrepresented accused does not call witnesses. It introduced a power for judges to make interim orders in mental impairment cases.

Subordinate Legislation:

- Amendments to the Supreme Court Rules 2000 affect the vacation period and the rules on offers of compromise.
- The reform of the Probate Rules is nearly complete. The Office of Parliamentary Counsel and the Court are finalising the Rules, and they should begin in November 2017.

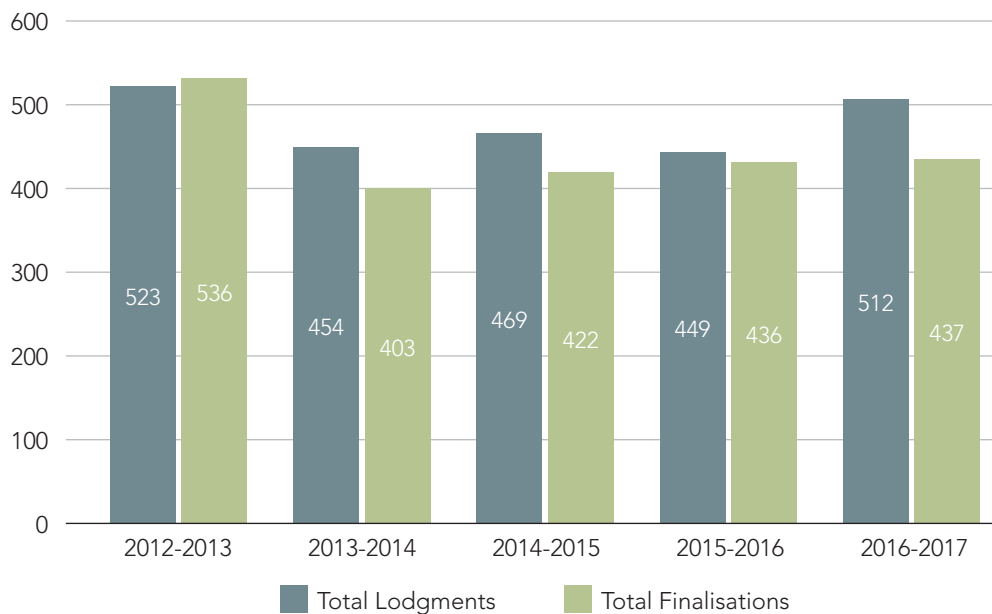
PERFORMANCE

CRIMINAL JURISDICTION

The Criminal Registry receives and processes:

- documents lodged by the Director of Public Prosecutions (Tasmanian and Commonwealth), which initiate criminal proceedings, and lists criminal trials, sentencing and other hearings
- appeals and applications for leave to appeal and prepares appeal documentation for use by the Court of Criminal Appeal
- applications to review decisions from the Magistrates Court and statutory tribunals.

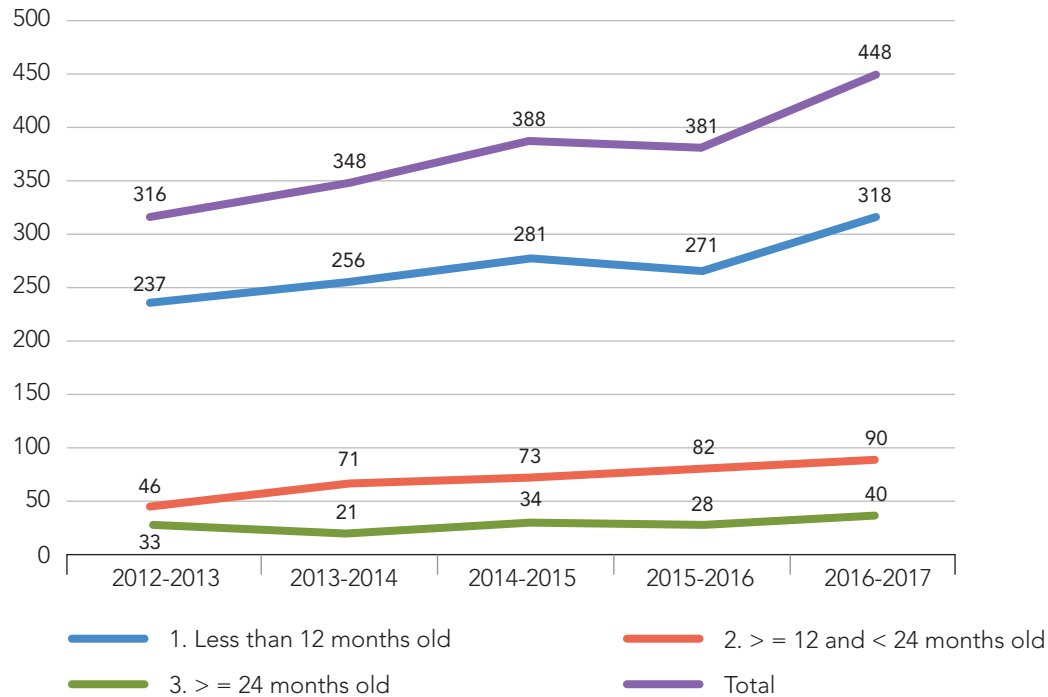
Criminal Lodgments and Finalisations - 5 Year Trend



Lodgments	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017
Burnie	99	88	99	90	105
Hobart	292	234	222	241	254
Launceston	132	132	148	118	153
Total	523	454	469	449	512

Finalisations	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017
Burnie	102	90	77	78	91
Hobart	287	189	224	217	218
Launceston	147	124	121	141	128
Total	536	403	422	436	437

Criminal Pending – 5 Year Trend



	30-Jun-13	30-Jun-14	30-Jun-15	30-Jun-16	30-Jun-17
1. Less than 12 months old	237	256	281	271	318
2. >= 12 and < 24 months old	46	71	73	82	90
3. >= 24 months old	33	21	34	28	40
Total	316	348	388	381	448

Criminal (non-appeal) lodgments for 2016/17 increased significantly, reaching 512 compared to the 2015/16 total of 449. This figure excludes bail applications.

The total lodgments were the highest volume of criminal non-appeal lodgments experienced since 2012/13 (523). An increase in lodgments was seen in each region; however the biggest increase was experienced in Launceston, rising from 118 lodgments in 2015/16 to 153 in 2016/17.

The increase in lodgments (an additional 63 more than the previous year) was reflected in increases in the following crime types when compared to 2015/16: Homicide related increase by 14, Acts intended to cause injury increased by 13, Theft related offences doubled to 42, and Illicit drug related offences increased by 36.

Criminal (non-appeal) finalisations have remained relatively consistent for three years running, which can be attributed to courts regularly sitting for longer hours, often dealing with shorter matters (such as directions hearings and most significantly bail applications) before and after normal sitting times

The backlog has increased for the following reasons:

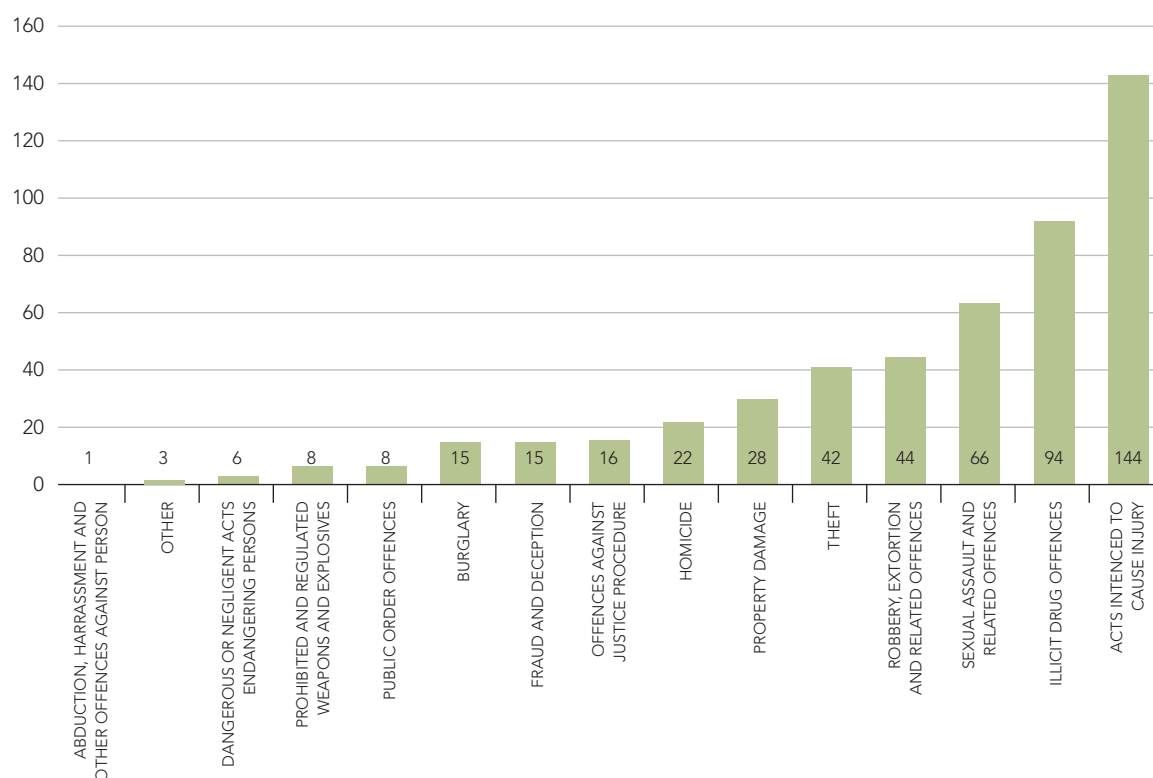
- complexity and length of trials increasing with greater use of expert witnesses and complex scientific evidence such as DNA evidence
- more applications made during the course of trials; for example, applications to have a witness declared unfavourable under section 38 of the Evidence Act 2001

-
- the introduction of special hearings to pre-record evidence of witnesses declared as special witnesses under the Evidence (Children and Special Witnesses) Act 2001; and applications for children to give evidence in Court in some cases, rather than remotely from the protected witness room
 - more applications made for leave to adduce tendency evidence
 - an increased amount of surveillance device evidence, and forensic analysis of financial records
 - evidentiary rules relating to consent in sexual offence matters, with the requirement to seek leave to cross-examine on certain issues
 - more disputes as to cross-admissibility of tendency and coincidence evidence in cases involving multiple charges.

Clarification is required of some apparent minor discrepancies between the caseload and backlog data included in this Report compared with data published in the Annual Report of the Director of Public Prosecutions. The explanation lies in the counting rules used by each organisation which each maintain their own databases and records. For example:

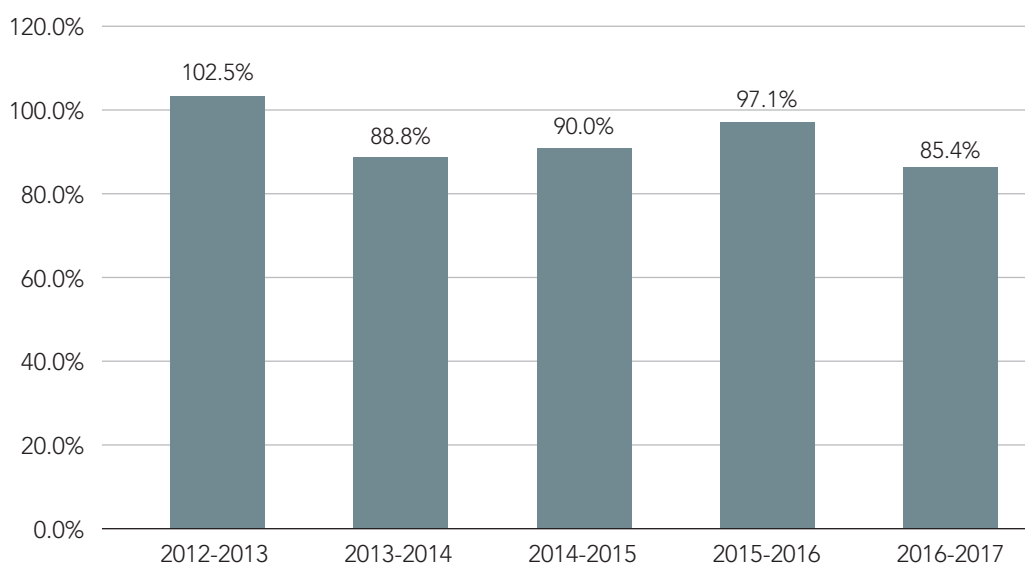
- The Supreme Court excludes from the count of pending criminal cases all those in which a Warrant for Arrest has been issued following the failure of an accused to attend Court as directed. As it is not known if, or when, the accused will be arrested (eg. he or she may have absconded from Tasmania); the Court considers those cases to be no longer actively pending. However, the Director of Public Prosecutions does not exclude those cases from his count.
- The number of lodgments counted by the Court and by the Director of Public Prosecutions can vary depending on assumptions made at the time of lodgment about how many Indictments will likely be filed in relation to the charges upon which the accused person has been committed. In some cases, the charges on one or more Complaints arise from a single course of conduct and are reflected in a single Indictment; in other cases, the charges arise from more than one course of conduct and result in more than one Indictment. Each organisation makes its own assumptions upon lodgment, and may link files at a later stage when all relevant information has been received.
- The period during which a matter is pending before finalisation is affected by the counting rules relating to commencement and finalisation. For example, the Supreme Court counts the commencement of a file by reference to the date of committal made by a Magistrate (and also includes the subsequent period when matters are referred back to the Magistrates Court for preliminary proceedings). The Court also counts the finalisation date as the date of sentence or discharge. By contrast, the DPP counts finalisation by reference to the date of completion of administrative tasks on a file after sentence or discharge.

Criminal Case Lodgments Breakdown 2016–2017



Lodgments by Offence Category	Number
Abduction, harassment and other offences against person	1
Other	3
Dangerous or negligent acts endangering persons	6
Prohibited and regulated weapons and explosives offences	8
Public order offences	8
Burglary	15
Fraud and deception	15
Offences against justice procedure	16
Homicide	22
Property damage	28
Theft	42
Robbery, extortion and related offences	44
Sexual Assault and related offences	66
Illicit drug offences	94
Acts Intended to cause injury	144
Total	512

Criminal Case Clearance Rates First Instance



	2012-13	2013-14	2014-15	2015-16	2016-17
First Instance Clearance Rate	102.5%	88.8%	90.0%	97.1%	85.4%

The 14% increase in lodgments compared to the consistent volume of finalisations has meant that the clearance rate of the Supreme Court's Criminal Jurisdiction has decreased to 85% from 97%. The lowest clearance rate prior to the rate achieved in 2016/17 was in 2013/14 (88.8%).

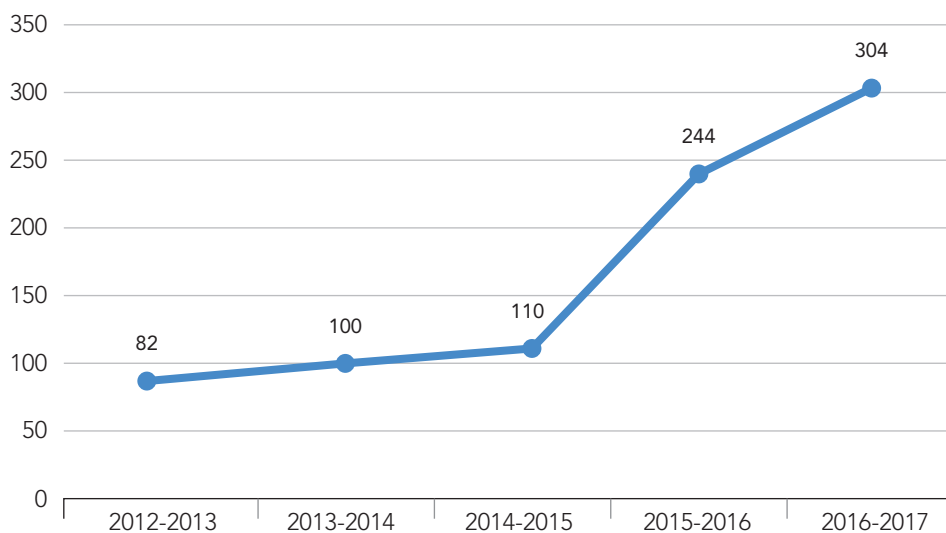
The Supreme Court has put in place various strategies to allow better management of the criminal (non -appeal) caseload to be achieved, including as follows:

- Appointment of five part-time acting judges to complement the existing 6 full-time permanent judges,
- Implementing tighter case management procedures involving greater use of Directions Hearings,
- Additional criminal courts to sit, primarily in Hobart and Launceston to ensure that the backlog is managed,
- Allocation of acting Judges to sit on appeals to allow existing permanent judges some increased time to prepare judgments, sentences etc.

Bail applications

Due to the impact of a significant increase in the number of bail applications, data relating to bail matters are now reported separately from other criminal matters.

Bail Applications – 5 Year Trend



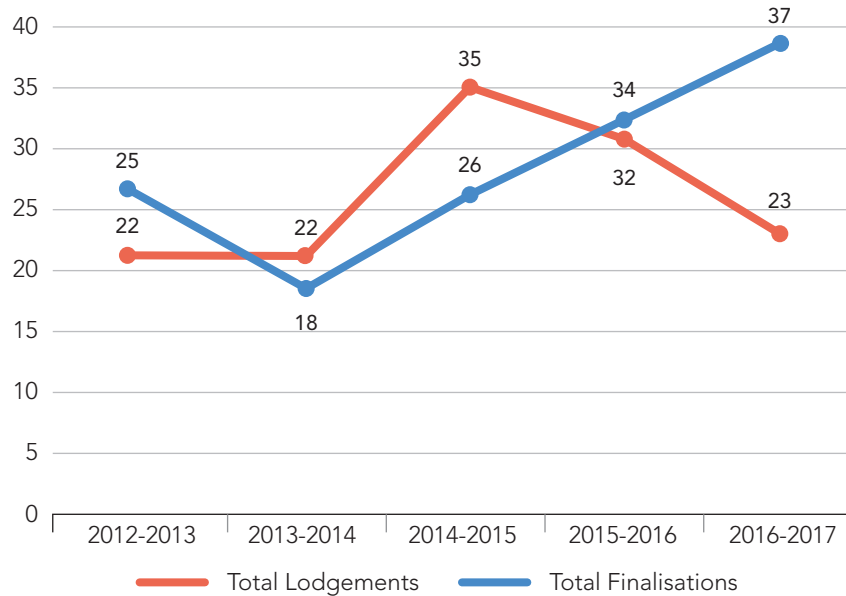
	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017
Total	82	100	110	244	304

Prisoners refused bail by a magistrate may appeal to a judge of the Supreme Court under section 125C of the Justices Act 1959. A bail application relating to proceedings under the Criminal Code may be made to a judge, even when the case is pending in the Magistrates Court (section 304 of the Criminal Code).

This year there were 304 bail matters (up from 244 last year). This is a sustained and consistent rise in activity that has placed Court resources under significant pressure.

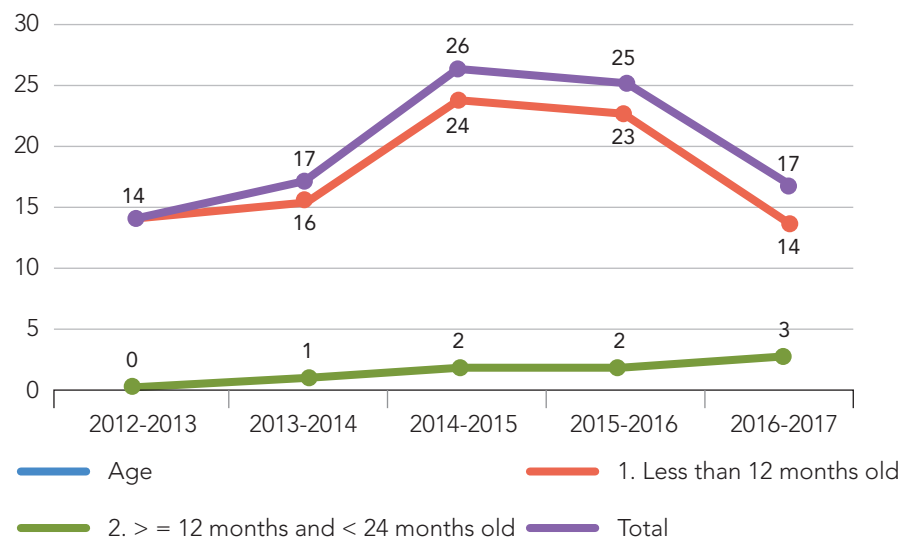
Bail matters are invariably dealt with urgently. They place a great burden on the staff in the Magistrates Court and the Office of the Director of Public Prosecutions, especially when the appellant or applicant is facing multiple charges in the Magistrates Court, since it is necessary to acquaint the judge with details of all pending charges, the strength of the evidence relating to the charges, the applicant's prior convictions, and the matters leading up to a refusal of bail.

Court of Criminal Appeal Lodgments and Finalisations – 5 Year Trend



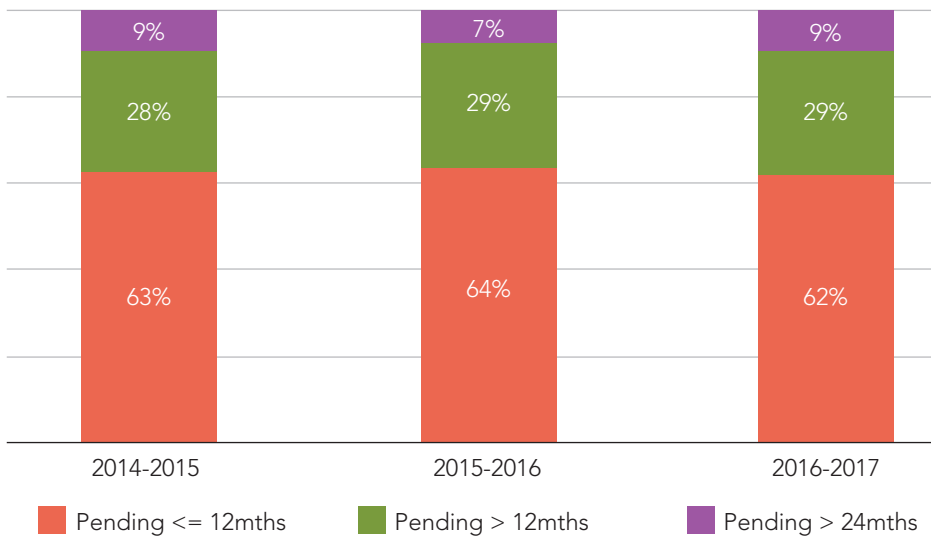
	2012-13	2013-14	2014-15	2015-16	2016-17
Total Lodgments	22	22	35	32	23
Total Finalisations	25	18	26	34	37

Court of Criminal Appeal Pending – 5 Year Trend



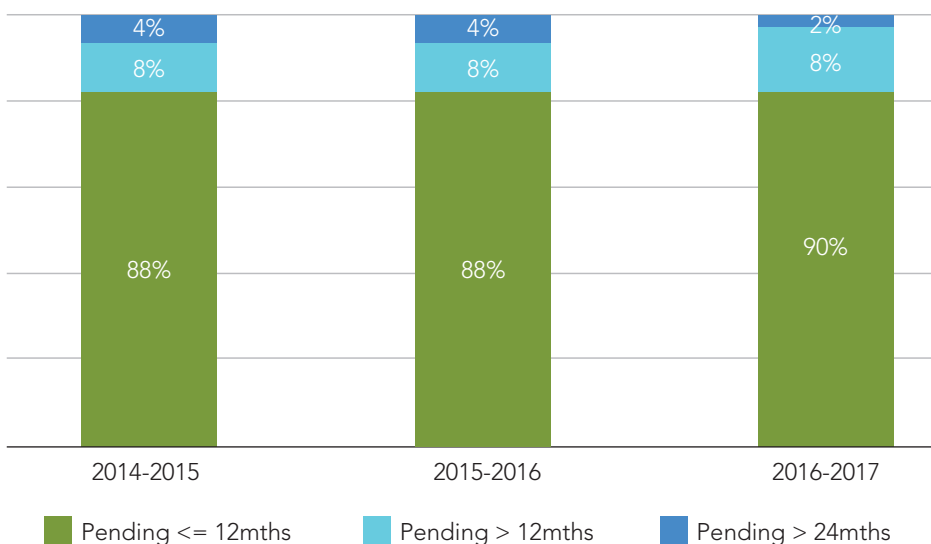
	2012-13	2013-14	2014-15	2015-16	2016-17
Age					
1. Less than 12 months old	14	16	24	23	14
2. >= 12 months and < 24 months old	0	1	2	2	3
Total	14	17	26	25	17

Criminal Backlog Indicator: Criminal First instance



	2014-15	2015-16	2016-17
Pending <=12mths	63%	64%	62%
Pending >12mths	28%	29%	29%
Pending >24mths	9%	7%	9%

Backlog Indicator: Criminal Appeals



	2014-15	2015-16	2016-17
Pending <=12mths	88%	88%	90%
Pending >12mths	8%	8%	8%
Pending > 24mths	4%	4%	2%

The Court continues to focus on finalising older cases in the age groups greater than 12 and greater than 24 months. The backlog of criminal cases appears to be the result of many factors, including the complexity and length of trials.

In order to deal with the criminal case load, there have been a number of occasions when criminal trials have proceeded simultaneously in both of the Court's Launceston courtrooms. On a number of occasions, Commonwealth criminal trials have been heard in Court 1 in Hobart, while State criminal matters have proceeded in Courts 7 and 8. The use of Court 1 is not ideal as it involves allocating a Judge who would otherwise be sitting in civil matters or writing judgments, because of the security issues relating to defendants in custody, and because the jury room in Court 1 is designed only for a seven-member civil jury. Significantly, there is no secure means to transfer remandees from the holding cells to the Court so that Tasmanian Prison Service staff have to escort the remandee through the public areas of the Court. There is no dock, and there are no security screens as in the dedicated criminal courts. These issues are being addressed.

The Court is reviewing aspects of its criminal case management practices. Reform of the remand day system has been implemented, where a large number of accused people formerly attended court on the same day for a brief review of their cases.

CIVIL JURISDICTION

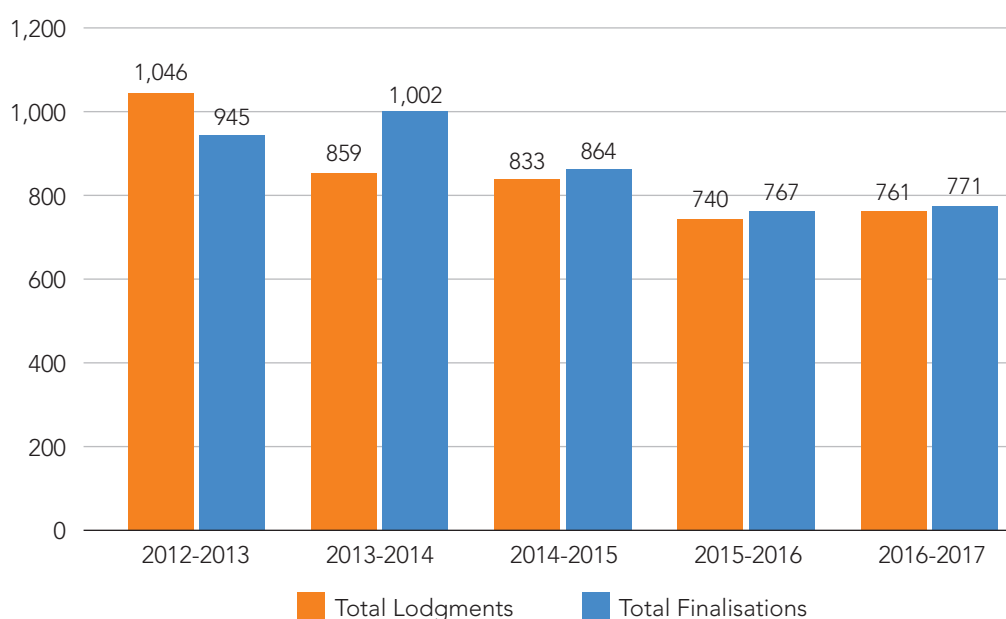
The Civil Registry receives and processes:

- all documents lodged in the civil jurisdiction of the Court
- appeals to the Full Court and single judge appeals.

It is also:

- the first point of reference for enquiries from the public and the legal profession
- responsible for managing the Court's records, and the listing and case management functions for the Court's civil and appellate jurisdictions.

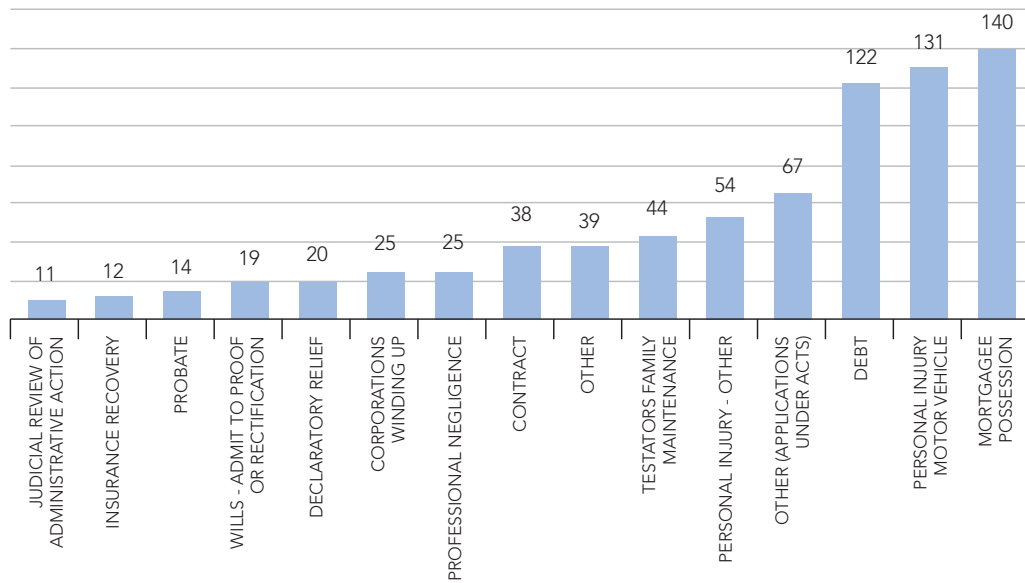
Civil Lodgments and Finalisations – 5 Year Trend



	2012-13	2013-14	2014-15	2015-16	2016-17
Total Lodgments	1,046	859	833	740	761
Total Finalisations	945	1,002	864	767	771

Access to justice in the civil jurisdiction of the Court has continued to be efficient and timely. The Court engages in active case management processes which focus on ensuring that cases are ready for trial, following mediation if appropriate. Once cases are ready for trial there is usually little delay in listing them before a judge. The delay between listing and trial is usually less than three months, but much depends on the availability of counsel, the parties, and their witnesses.

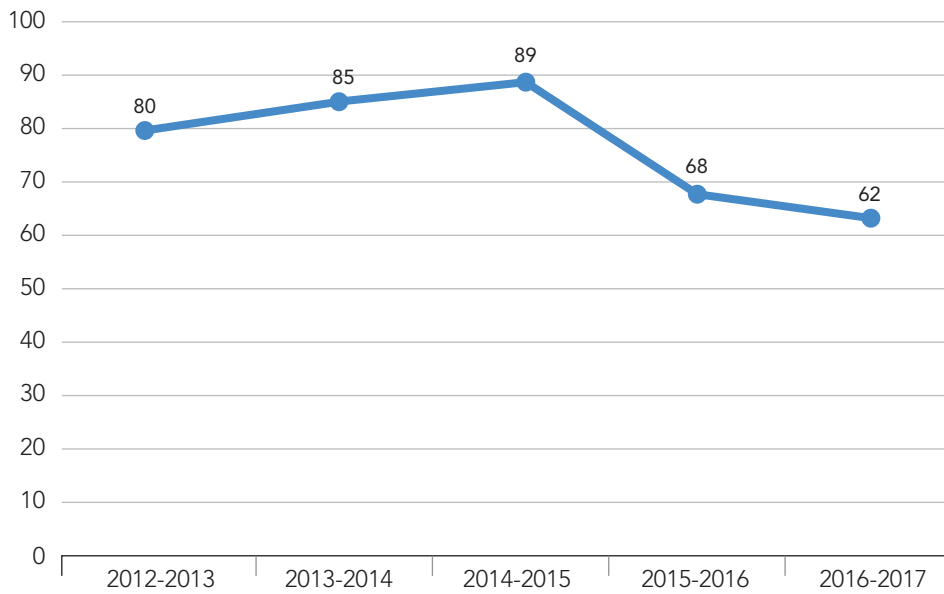
Civil Case Lodgments by File Type 2016-2017



File Type	Lodgments
Judicial Review of Administrative Action	11
Insurance Recovery	12
Probate	14
Wills - Admit to Proof or Rectification	19
Declaratory Relief	20
Corporations Winding Up	25
Professional Negligence	25
Contract	38
Other	39
Testators Family Maintenance	44
Personal Injury - Other	54
Other (Applications Under Acts)	67
Debt	122
Personal Injury - Motor Vehicle	131
Mortgagee Possession	140
Total	761

The clearance rate in civil cases remained constant at 101.3%, meaning more cases were finalised than were begun.

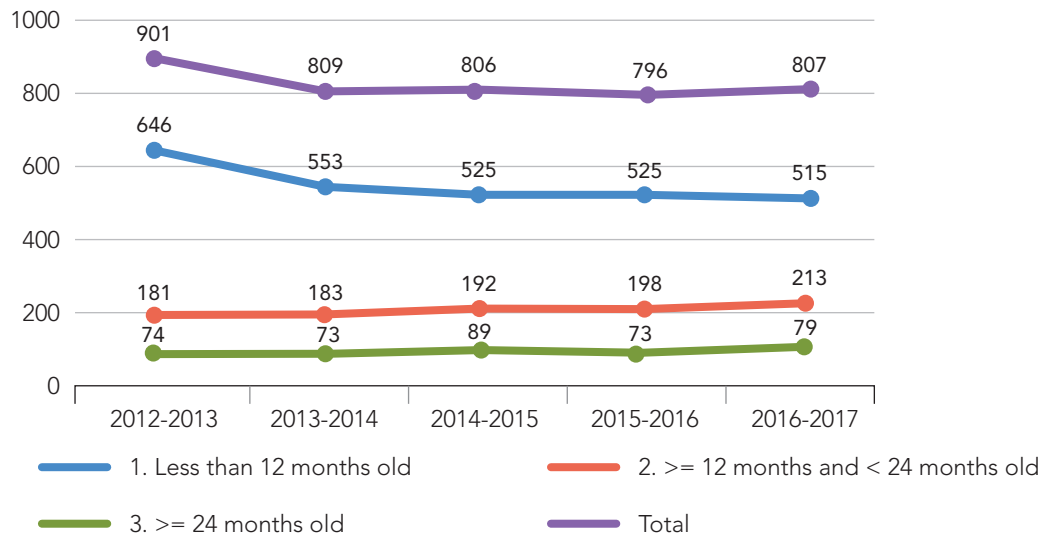
Admissions to Practice – 5 Year Trend



	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017
Total	80	85	89	68	62

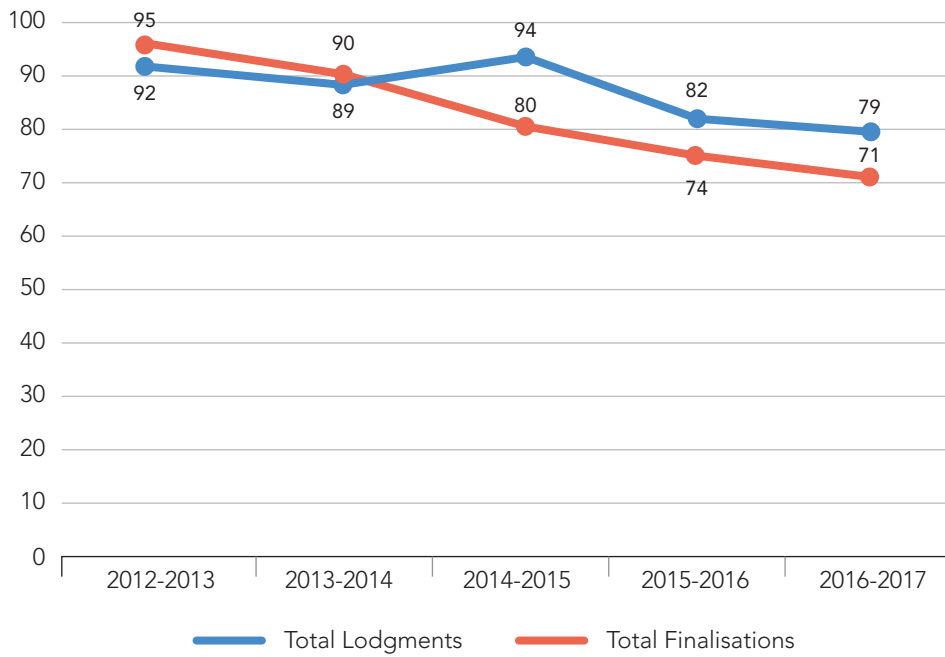
These figures reflect the replenishment rate of the Tasmanian legal profession with law graduates, having completed an approved practical legal training program applying for admission to practice. A significant amount of registry staff time is spent on checking each application prior to its listing in Court. The Court has maintained a roll of practitioners since 1824 containing the names of all Barristers and Solicitors admitted in Tasmania.

Civil Pending – 5 Year Trend



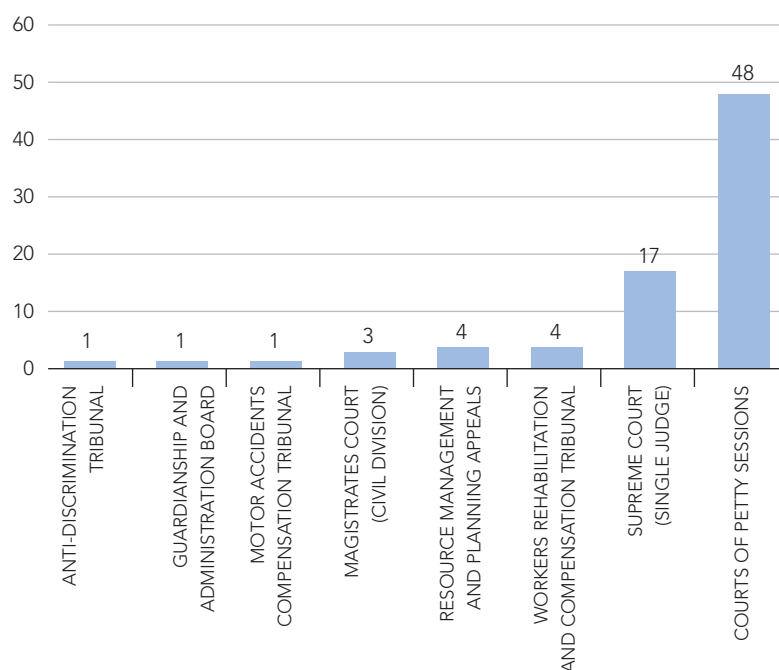
Age Months	2012-13	2013-14	2014-15	2015-16	2016-17
1. Less than 12 months old	646	553	525	525	515
2. >= 12 months and < 24 months old	181	183	192	198	213
3. >= 24 months old	74	73	89	73	79
Total	901	809	806	796	807

Civil Appeal Lodgments and Finalisations (Full Court of Appeal and Lower Court of Appeal) – 5 Year Trend



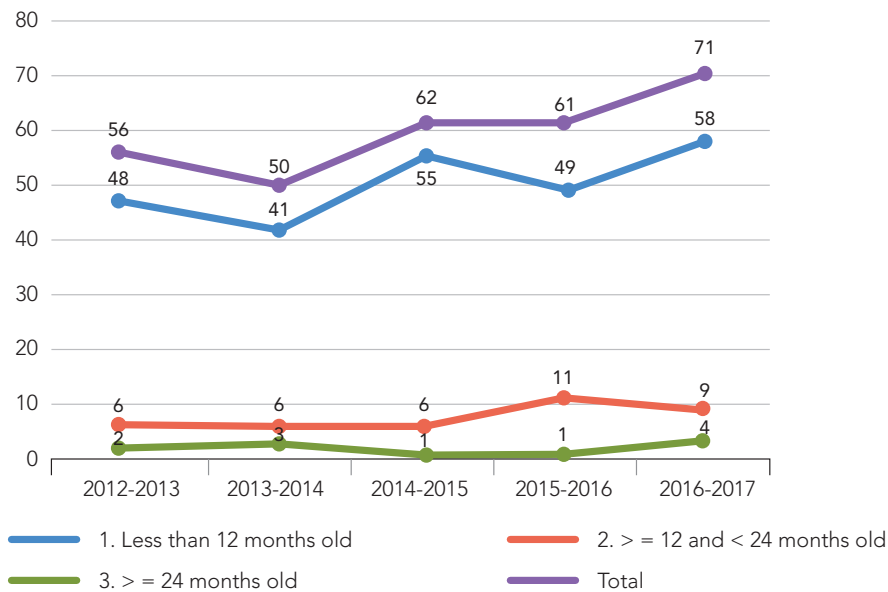
	2012-13	2013-14	2014-15	2015-16	2016-17
Total Lodgments	92	89	94	82	79
Total Finalisations	95	90	80	74	71

Civil Appeal Lodgments by Origin 2016-2017



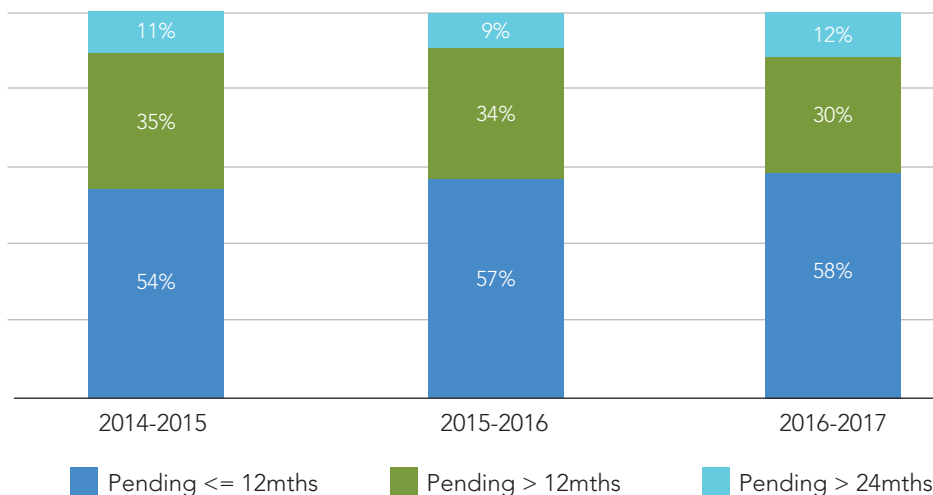
Origin	Number
Anti-Discrimination Tribunal	1
Guardianship and Administration Board	1
Motor Accidents Compensation Tribunal	1
Magistrates Court (Civil Division)	3
Resource Management and Planning Appeals Tribunal	4
Workers Rehabilitation and Compensation Tribunal	4
Supreme Court (Single Judge)	17
Courts of Petty Sessions	48
Total	79

Civil Appeal Pending (Full Court Appeals and Lower Court Appeals) – 5 Year Trend



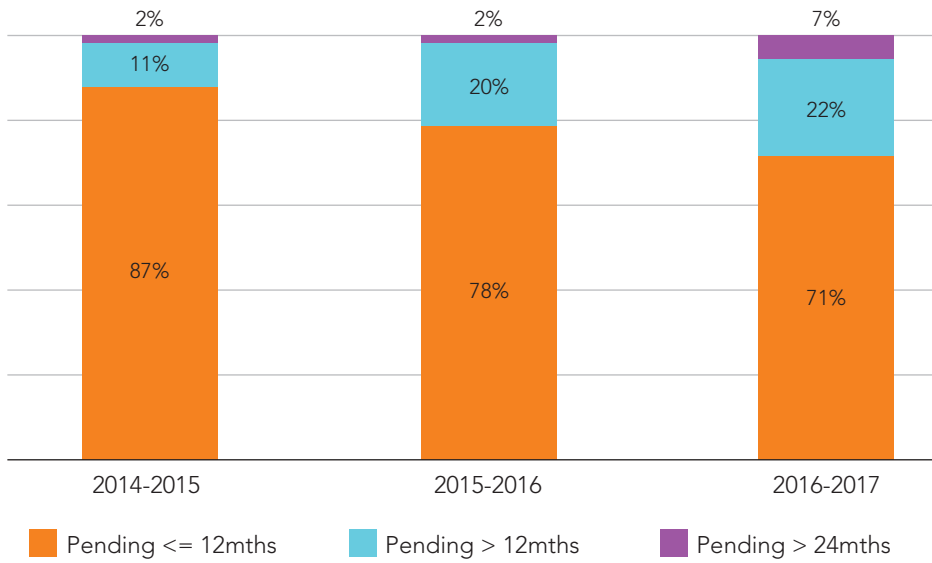
Age	2012-13	2013-14	2014-15	2015-16	2016-17
1. Less than 12 months old	48	41	55	49	58
2. >= 12 and < 24 months old	6	6	6	11	9
3. >= 24 months old	2	3	1	1	4
Total	56	50	62	61	71

Civil Backlog Indicator – First Instance



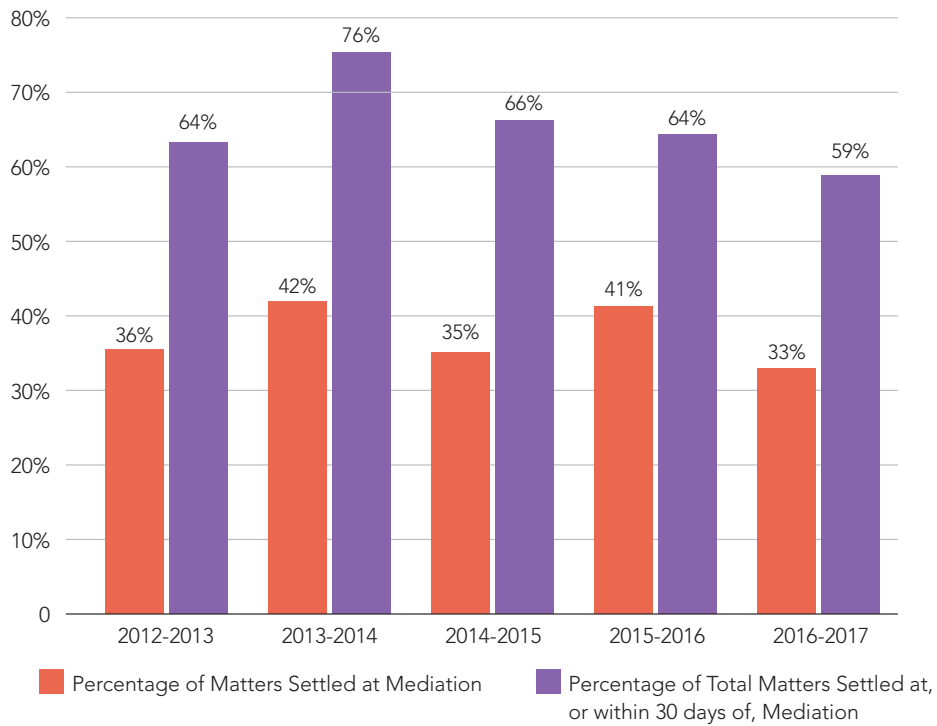
	2014-15	2016-16	2016-17
Pending <= 12 months	54%	57%	58%
Pending >12 months	35%	34%	30%
Pending >24 months	11%	9%	12%

Civil Appeals Backlog Indicator – First Instance



	2014-15	2016-16	2016-17
Pending <= 12 months	87%	78%	71%
Pending > 12 months	11%	20%	22%
Pending > 24 months	2%	2%	7%

Mediation Statistics Summary - 5 Year Trends as at 30 June 2017



Financial Year	2012-13	2013-14	2014-15	2015-16	2016-17
Mediations Conducted	157	131	148	143	134
Matters Settled at Mediation	56	55	52	59	44
Percentage of Matters Settled at Mediation	36%	42%	35%	41%	33%
Total Matters Settled at, or within 30 days of, Mediation	100	99	98	92	79
Percentage of Total Matters Settled at, or within, 30 days of Mediation	64%	76%	66%	64%	59%

Mediation continues to be an effective method of dispute resolution in civil cases. The Court has the power to direct that a case be referred to mediation before it will be listed for trial. It provides expedition, saves costs and enables the parties to achieve a mutually acceptable resolution of the dispute. It is also now fully accepted by the legal profession as an essential step in proceedings. Without it, the Court would not be able to cope with its caseload.

Only a very small percentage of civil cases require resolution by a hearing in the court. Far more civil cases settle at mediation, or by negotiation between the parties.

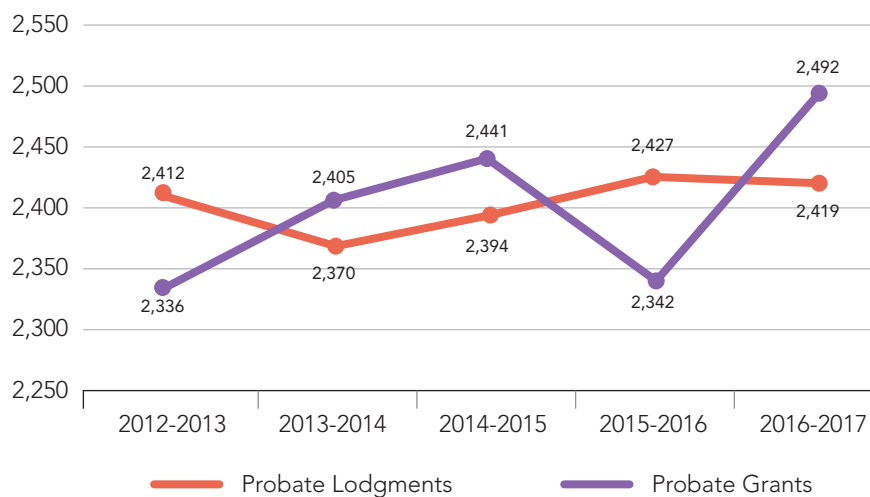
This year the settlement rate at mediation was 59% (down from 64% last year). However, many matters were settled in the period after mediation as a result of the information discussed at mediation.

The mediators are the Registrar, other court officers, and selected legal practitioners where necessary.

PROBATE JURISDICTION

The Probate Registry issues grants appointing legal personal representatives (executors or administrators) to administer the estates of deceased persons.

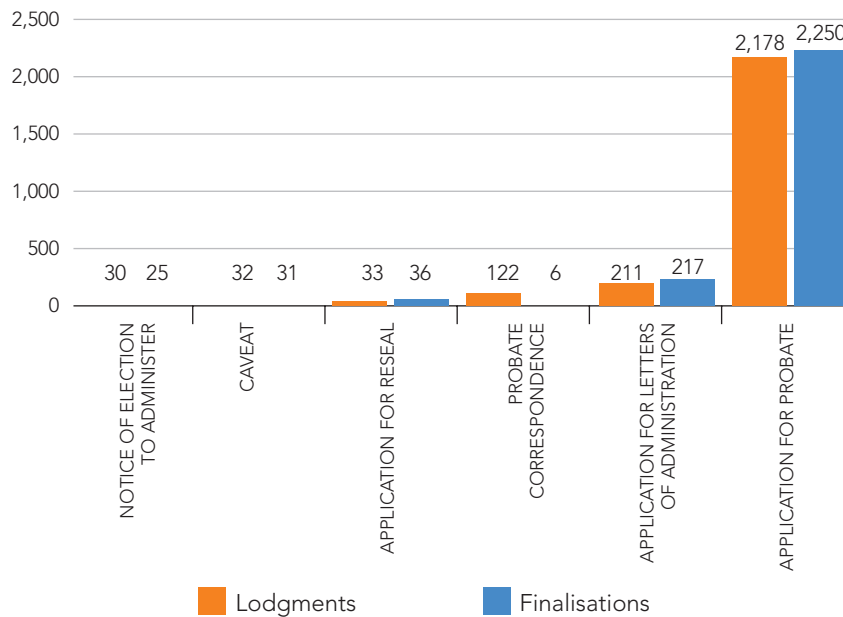
Probate Lodgments and Grants – 5 Year Trend



	2012-13	2013-14	2014-15	2015-16	2016-17
Probate Lodgments*	2,412	2,370	2,394	2,427	2,419
Probate Grants	2,336	2,405	2,441	2,342	2,492

*Count includes Probates, Applications for Letters of Administration and Notices of Election to Administer

Lodgments and Finalisations 2016-2017



Activity Type	Lodgments	Finalisations
Notice of Election to Administer	30	25
Caveat	32	31
Application for Reseal	33	36
Probate Correspondence	122	6
Application for Letters of Administration	211	217
Application for Probate	2,178	2,250
Total	2,606	2,565

The most common grants are for:

- probate (where an executor applies to prove a will)
- letters of administration with the will annexed (where there is no executor to prove the will and a person with a financial interest in the estate under the terms of the will applies)
- letters of administration (where there is no will and a person entitled to benefit under intestate succession law applies).

This year there were 2,467 grants issued:

- 2,250 grants of probate
- 217 grants of letters of administration
- 25 elections to administer low value estates.

There were also:

- 31 caveats and other miscellaneous applications
- 36 reseals of grants from other jurisdictions.

These grants are made in response to non-contentious applications. Once filed, these applications are reviewed by Probate staff to ensure all necessary documentary evidence (details about the deceased, the will if any, the assets and liabilities of the estate, the executors or administrators, and beneficiaries) has been submitted to ensure that the authority to administer the deceased person's estate is granted to the person legally entitled to the grant.

The number of applications in person to the Probate Registry continues to increase. The Court continues to improve the information available to all applicants, as part of its project to modernise the Probate Rules that apply to this jurisdiction. Upgrades to the Court's website aim to help practitioners and applicants-in-person when dealing with the Probate Registry. It remains a concern that some applicants-in-person do not appear to fully comprehend the task of administering estates.

The Court continues to improve the time taken to process ordinary applications for grants. Changes to practice and procedure and increased resourcing have reduced the time taken to process ordinary grants, from 6 weeks to 3 weeks.

Amendments to the schedule of fees and the quantum of fees under the Probate Rules 1936 were made this year.

The Probate Rules 1936 remain in force. They are being replaced by more modern rules. The revised Probate Rules were approved by the Rule Committee in November 2015 and forwarded to the Office of Parliamentary Counsel for drafting. After a number of iterations of the proposed Rules were reviewed, and the final draft was approved and sent to the Office of Parliamentary Counsel in July 2017.

DISTRICT REGISTRIES

The Court maintains district registries in Launceston and Burnie to deal with civil and criminal matters.

OFFICE OF THE SHERIFF

The Office of the Sheriff in Tasmania was created by the Charter of Justice published by Letters Patent in 1823 (which also established the Supreme Court). The Sheriff is a statutory officer appointed pursuant to the Sheriff Act 1873. The Sheriff also currently holds office as Registrar of the Supreme Court. The Charter of Justice enables the Sheriff to appoint deputies, and the Sheriff is represented at the Principal and District Registries by his deputies.

The functions of the Sheriff are prescribed by statute and include:

- administration of the Juries Act 2003
- service and execution (enforcement) of court orders and judgments
- court security.

JURIES

Juries are an integral part of the judicial system. By providing 'trial by one's peers', they form the link between the community and the criminal justice system.

Jury service is a vital component of civic participation in our democracy and the criminal justice system. For many people it is the most direct contact they will have with this important community responsibility. In Tasmania, juries are used almost exclusively in criminal trials of serious indictable offences. Juries are only occasionally empanelled in civil trials in Tasmania.

The Sheriff is responsible for the administration of juries in accordance with the Juries Act 2003. This involves:

- maintaining the roll of potential jurors
- determining each registry's jury districts from which jurors are drawn
- issuing juror summonses
- determining applications for exemption or deferral
- instructing jurors on their role within the justice system
- administering juror expense claims
- handling general enquiries.

The Court's jury list is sourced from the electoral Roll maintained by the Tasmanian Electoral Commission, and jurors are selected at random by computer. Juror summonses are issued which require jurors to attend Court unless they are exempted or have their jury service deferred.

Registry	Jurors summonsed	Jurors attended	Jurors Empanelled	Number of Trials
Hobart	4,158	1,134	544	44
Launceston	5,412	1,201	301	26
Burnie	2,560	556	215	18
Total	12,130	2,891	1,060	88

This year there were no civil jury trials conducted.

Payment to jurors for loss of income, attendance and expenses totaled \$520,121.

ENFORCEMENT OF COURT ORDERS

Writs to enforce judgments and orders of the Court are received by the Sheriff for immediate execution.

Execution of court orders outside the immediate precincts of the Hobart, Launceston and Burnie registries is usually entrusted to bailiffs (who are often Tasmania Police officers) by rule 903 of the Supreme Court Rules 2000.

If circumstances require, the Sheriff or his officers may execute any Writ within the State. The number of writs of execution filed with the Court has increased slightly this year from 52 (2015-2016) to 54.

- 39 were writs of possession (up from 36 last year)
- 15 were writs of fieri facias – or writs of delivery (same as last year)
- 0 writs of Venditioni Exponas (same as last year)

This year there were 177 applications for orders for possession of premises, pursuant to section 146 of the Land Titles Act 1980 (down from 200 last year).

COURT SECURITY

Court security officers continue to provide support to the Court to ensure the safety and security of everyone who attends court.

Security officers are appointed as authorised officers (pursuant to section 1B of the Admissions to Court Act 1916) with powers to require:

- people entering the Court to be identified
- people entering the Court to deposit with the officer placards, instruments, devices or things that could engender violence or create a breach of the peace
- someone to leave or not enter the Court; or remove someone from the Court.

A new Court Security Bill — enhancing security officers' powers and providing better clarity in the exercising of those powers — is expected in late 2017.

Security monitoring devices used in the Court include walk-through metal detectors, hand-held metal detectors, X-ray baggage machines at court building entrance, and closed-circuit television surveillance equipment.

JUDGES CHAMBERS

JUDGES' LIBRARY

The Judges' Library is essential to the efficient performance of the judicial function and the writing of judgments. The main library collection, located in Judges' Chambers in Hobart, comprises:

- printed law reports from most common law jurisdictions, textbooks, periodicals, serials, journals and legislation
- online legal resources, law reports and texts
- copies of earlier unreported judgments of previous judges of the Court.

The Library:

- publishes the Court's judgments on its website, and manages the Court's external and internal websites
- provides library services to judges when sitting in Launceston and Burnie, which have limited hard copy collections
- provides training in legal information research skills.

As part of the departmental changes to library services, a new resourcing structure has been implemented within the Judges' Library. A librarian is present during mornings, and available to attend from the Andrew Inglis Clark Law library during afternoons.

The Supreme Court has been the repository for the originals of all Tasmanian statutes since the Executive Council began to enact them in 1833. The oldest statutes were written on vellum. The storage conditions have been far from ideal.

Following an amendment in 2013 to the Legislation Publication Act 1996, custody of these very important documents is being transferred to the State Archivist.

A project is underway to conserve and catalogue these historic documents. The fragile nature of some of these documents, and the need for special storage folders and boxes, has led to the project's expected completion date being revised. The first half of the project, covering the years 1833 to 1900, was completed in this year. It is estimated the transfer of the remaining documents should be achieved in 2018.

JUDICIAL SUPPORT

The Judiciary utilise the following support services:

- Judges' Associates
- Executive Support Officers
- Legal Research Officer
- Judges' Attendants
- Judges' Librarian.

CORPORATE SERVICES

STAFF INFORMATION

Notable Achievements

- Launceston District Registrar Chris Nason achieved his 25 years' Service Award

Appointments:

- Catherine Broadbent: Probate
- Andrew Haas: Registry, Burnie

Retirements:

- Jan Weekes: Registry, Burnie
- Gaylene Wells: Registry, Burnie

INFORMATION COMMUNICATION TECHNOLOGY

The Court increasingly relies on information technology to perform its functions. This year saw significant progress in all facets of the Court's technology and information management systems.

The Court developed an ICT strategic asset management plan for all integrated technological elements of the state's eight courts and three protected witness room's systems and infrastructure.

This strategy is crucial to:

- ensuring the Court maintains contemporary and reliable systems to eliminate failures
- providing strategic navigation for future technical opportunities.

The strategy is underpinned by industry specialist advice derived from audit recommendations. Each year, the strategy forms the basis of seeking funds to implement the initiatives identified.

It details the current state and future strategic direction of installed systems in a categorised manner. Each technology element features a life-cycle plan and therefore ascertains items requiring review and/or replacement based on this principle.

This year, the strategy identified several projects that were successfully implemented, including:

- upgrading Launceston Court 1 and 2, removing dual audio capture systems, reducing hardware complexity and potential audio failures, using industry best practice hardware and configuration; leading to superior audio quality for transcribing and playback purposes
- redesigning the Launceston protected witness room, including new TV screens and a room fit out
- redesigning the Hobart protected witness room: relocating TV screens, improving the court's vision of the interviewee
- installing electronic law lists in all court foyers, producing daily live listing information
- undertaking audio and visual audits of all Hobart Supreme Courts, producing recommendations that will start implementation during 2018.

Other technological aspects of the Court include case management systems. In the latter part of the year, the civil and probate jurisdictions were migrated to a new software platform resulting in a more supported and contemporary case management system. The new platform will facilitate improved system performance and features, plus enhanced reporting mechanisms for the judiciary and executive management.

The replacement of the Court's Criminal Case Management System is ongoing, with several options currently being considered. This project forms a part of a larger Department of Justice initiative that will see interoperability with other criminal justice agencies.

TRANSCRIBING SERVICES

The Court has an experienced transcribing service to produce transcripts of selected court proceedings for judges, counsel and parties to litigation.

Transcripts are prepared without charge to the parties in most criminal trials, and at cost in those civil proceedings where the parties have requested a transcript. They can be provided as a daily transcript if required during a trial, or at a later stage if required for appeals or other purposes.

The Court also provides transcribing services to external parties, including some tribunals and the Tasmanian Industrial Commission.

Digital audio-recording technology now enables high-quality audio-visual recording of courtroom proceedings to be transmitted in real time to transcribing typists based at the local Court location; or if assistance is required, to any of the other transcribing typists based in the other Court locations in the State.

The Court employs 16 transcription typists (full-time and part-time).

BUILDING AND INFRASTRUCTURE

Hobart

Given the age of the Hobart buildings, there is a considerable need for ongoing corrective and preventative work. This includes maintaining the sandstone exterior, plumbing and electrical infrastructure; and improving the building's lighting, for better quality and energy savings.

Ongoing planning ensures the buildings will meet the needs of the Supreme Court into the future. A Structured Infrastructure Investment Review Process (SIIRP) has been begun; the planning group decided on the preferred option of redeveloping the building within the existing footprint (with provision for an additional storey to the Civil building). A detailed business case will be developed as funds permit.

Launceston

This is another old building requiring ongoing corrective and preventative maintenance. A SIIRP has been finalised for Launceston, with the chosen option being a greenfields site. This development is subject to Government priorities and funding availability.

Burnie

This combined Supreme and Magistrates Court was constructed in the 1970s and is now wholly inadequate. A SIIRP has been developed, with the chosen option a greenfields site. This process is on hold, pending a broader review of all court facilities in north and North West Tasmania. It is proposed to submit an interim SIIRP for the Burnie court complex to address pressing refurbishment needs.

SECURITY UPGRADES

Significant capital upgrades occurred at all Supreme Court locations:

- redevelopment of entrances to provide full body and baggage scanning
- increased closed-circuit television surveillance
- extensions and improvements to communications systems
- modifications to some court rooms with the installation of barriers to docks and public galleries.

DISABILITY ACCESS

Considerable work is being undertaken to improve the level of access to Court facilities for people with accessibility issues. Work to date includes:

- constructing a ramp between the Hobart civil building and the podium
- purchasing an elevating platform for Hobart criminal court 7, to provide access to the witness stand
- modifying the witness stand in Hobart civil court 1 to allow wheelchair access
- modifying the entrance to the Launceston Supreme Court to allow wheelchair access.

Planned works for the next financial year include:

- constructing a lift from Salamanca Place to the building podium. Planning approval has been obtained from Hobart City and preliminary works have begun. This project will proceed once a funding source is identified
- installing a chair lifter from the Hobart holding cells to the court rooms. This will proceed once negotiations regarding funding have been completed.

THE YEAR AHEAD

Future priorities identified by the Court are:

- improving internal and external communication
- improving the efficiency of procedures and practice for the Civil, Criminal and Probate Registries
- providing reliable in-court technology, thus reducing the travel requirement for judicial staff and members of the public who appear before the Court
- developing an integrated and contemporary Case Management System that will improve the efficiency of Court business processes
- improving the management of the Court's records and assets
- ensuring that the built assets of the Courts are maintained at an acceptable standard
- improving the level of knowledge of staff of Supreme Court issues.

ABOUT THE COURT

STRUCTURE

The Supreme Court of Tasmania, created by the Charter of Justice 1823, forms part of a multi-layered court system which exercises both Federal and State jurisdictions. The Supreme Court is the superior court of the State; it is equal in status to but independent of the Legislature and the Executive.

Unlike many other Supreme Courts, the Court is not divided into divisions. All judges hear matters at first instance and on appeal, in both jurisdictions.

Australian court systems are hierarchical with most States adopting three levels of courts:

- Magistrates (or Local) Courts
- District (or County) Courts
- Supreme Courts.

In Tasmania, there are only two levels in the court hierarchy: the Magistrates Court and the Supreme Court. The Court's work is divided into three broad areas: criminal, civil and appeal matters:

- criminal matters are those in which an accused person is charged with an indictable offence. Upon entry of a plea of not guilty, an indictable offence is tried by a judge and a jury of twelve people
- civil matters are those where the Court determines disputes involving sums in excess of \$50,000. The trials are usually conducted by a judge sitting alone, although there is provision for some cases to be tried with a jury of seven
- appeals from the decisions of a single judge, or a judge and jury, are heard by a Bench usually of three judges. This is called a Court of Criminal Appeal when sitting in criminal matters and a Full Court when sitting in civil matters. There is a provision enabling an appeal to be heard by only two judges.

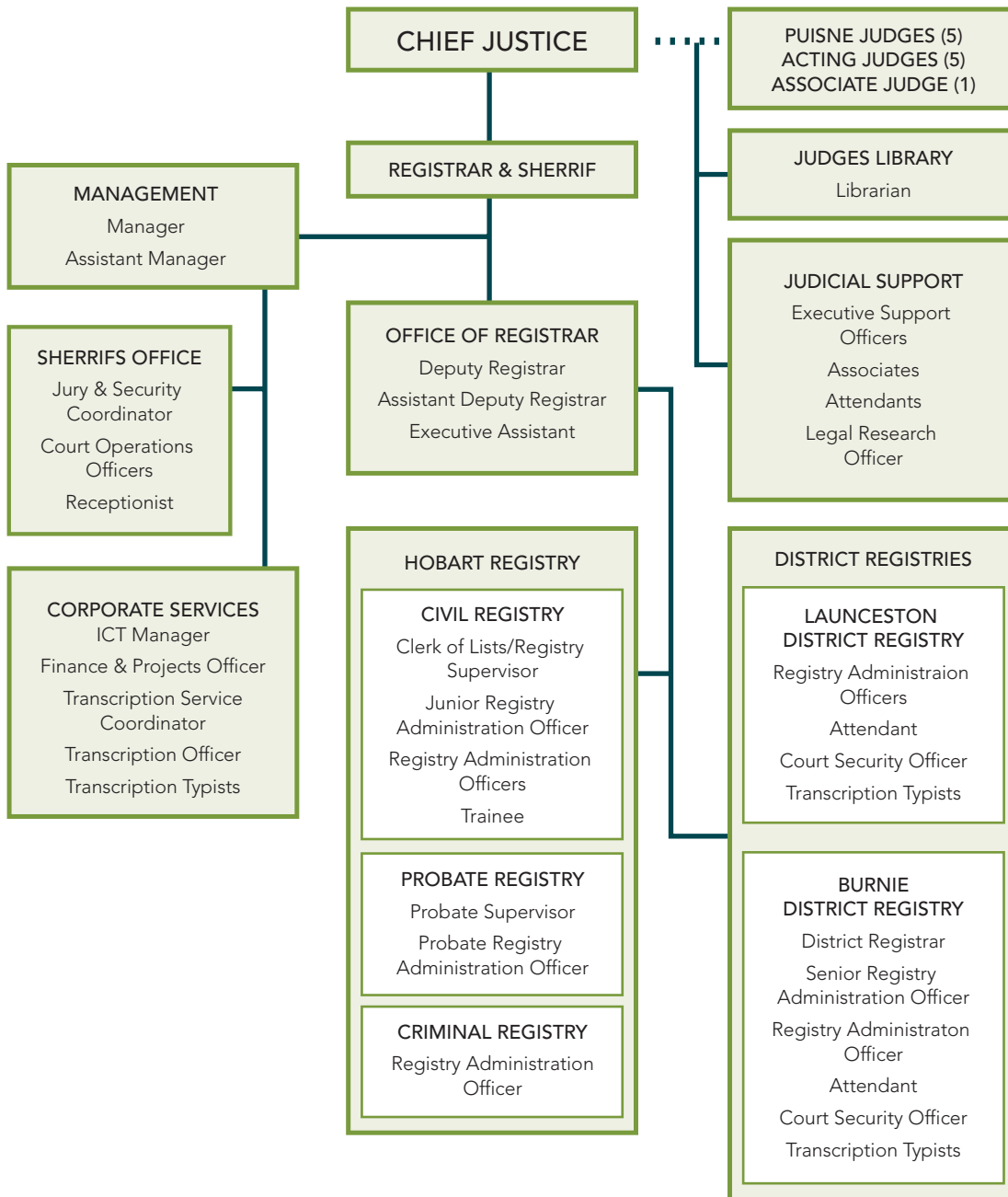
The workload of the Court is subject to fluctuations that are beyond its control. The nature of the legal process requires it to hear any matter falling within the jurisdiction of the Court that is brought before it. As the jurisdiction of the Court expands and contracts with statutory changes and social conditions, so does its workload.

JURISDICTION

The Court exercises both original and appellate jurisdictions:

- original jurisdiction is when a matter comes before the Court for a decision for the first time
- appellate jurisdiction is when the Court determines appeals from single judges, from the Magistrates Court, or from various tribunals where there exists a right to appeal to the Supreme Court.

ORGANISATIONAL CHART



Staffing	2014–15	2015–16	2016–17
Chief Justice:			
Judges and Associate Judges	7.0	7.0	7.2*
Judges' Library	1.0	0.8	0.6
Judicial Support	13.8	13.7	13.95
Registry:			
Civil	8.2	7.4	7.25
Criminal	4.6	4.5	4.4
Probate	3.1	3.1	3.1
Office of the Sheriff	4.9	4.7	6.29**
Corporate Services:			
Information Communication Technology	1.0	1.0	1.0
Transcription Services	8.5	8.3	8.65
Mediators	0.5	0.5	0.5
First Line Support Staff	3.0	3.0	3.0
Total:	55.6	54.2	55.94

* The Supreme Court has appointed a number of Acting Judges

** Security at all Supreme Court buildings has been enhanced, including additional perimeter security staff

LOCATION OF SERVICES

Hobart: 3-5 Salamanca Place

Launceston: Cameron Street

Burnie: 38 Alexander Street

FINANCIAL STATEMENTS

	FY 15-16	FY 16-17
RECEIPTS		
Recurrent appropriation	4,670,935	5,323,993
Registry fees	552,063	593,039
Provision of transcript	46,397	49,923
Probate fees & charges	1,457,993	1,654,998
Mediation fees	53,305	52,558
Sheriff's fees	13,745	58,735
Court reporting	15,081	2,391
Video conferencing	1,000	2,050
Other receipts	126,936	1,479,878
TOTAL RECEIPTS	6,937,455	9,217,566

EMPLOYEE-RELATED EXPENDITURE		
Salaries & wages	3,343,715	3,676,566
Fringe Benefits Tax	50,539	112,485
Payroll tax	0	0
Superannuation	418,503	454,441
Workers compensation insurance	83,956	162,588
Training	4,215	15,727
Other employee related expenses	39,002	63,818
TOTAL EMPLOYEE-RELATED EXPENDITURE	3,939,929	4,485,626

ADMINISTRATIVE & OTHER EXPENDITURE		
Fuel, light & power	196,370	194,607
Advertising & recruitment	837	3,238
Rental	3,568	4,176
Communications	59,959	69,408
Travel	82,992	250,850
Consultancies	58,620	27,744
Printing & stationery	57,767	63,141
Rates	134,641	172,620
Repairs & maintenance	154,056	213,951
Minor equipment	8,551	17,042

	FY 15-16	FY 16-17
Library materials	94,504	548,466
Computers & IT	331,821	397,931
Expenses of witnesses	68,618	53,007
Expenses of Jurors	471,077	484,414
Other administrative expenses	523,845	2,012,790
TOTAL ADMINISTRATIVE & OTHER EXPENDITURE	2,247,225	4,513,384

RESERVED BY LAW		
Salaries & other entitlements of Judges	3,352,988	3,106,004
Salaries & other entitlements of the Associate Judge	446,642	405,674
TOTAL RESERVED BY LAW EXPENDITURE	3,799,630	3,511,679

OVERHEAD CONTRIBUTION TO THE DEPARTMENT OF JUSTICE*	1,797,000	2,183,000
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*Covers services including:

- Human Resource Management
- Finance
- Information and Communications Technology
- Office of the Secretary



