



# Annual Report 2017-2018

SUPREME COURT OF TASMANIA



The Chief Justice's  
Annual Report  
For the Supreme Court of Tasmania  
2017–18

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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## CONTENTS

Year at a Glance	2
Message from the Chief Justice	3
The Supreme Court Judiciary	7
Performance	11
Probate Jurisdiction	27
Office of the Sheriff	31
Judges Chambers	33
Corporate Services	34
The Year Ahead	37
About the Court	38
Financial Statements	41



## YEAR AT A GLANCE

Jurisdiction	Lodgments	Appeals	Finalised First instance	Finalised Appeals	Bail Applications
Criminal	576	35	493	33	356
Civil	605	67	711	48	N/A
<b>Total</b>	<b>1,180</b>	<b>102</b>	<b>1,204</b>	<b>81</b>	<b>356</b>
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	31	50	81	



## MESSAGE FROM CHIEF JUSTICE



### The Supreme Court of Tasmania in 2017/2018: Some observations

In my previous annual report, I said that the Court faced two major challenges in relation to its workload – a substantial backlog of pending criminal cases, and an increasing quantity of appeals and applications by remand prisoners seeking bail. In the year ending 30 June 2018 both problems became significantly worse.

#### Backlog of 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 2014	348
30 June 2015	388
30 June 2016	381
30 June 2017	448
30 June 2018	524

The number of such cases finalised during the reporting year was 493, as compared to 437 the previous year. That was an increase of nearly 13%. However the number of new cases increased by over 12%, from 512 to 575.

The number of cases that have been pending in the Supreme Court for more than 12 months increased from 130 (about 29% of the pending cases) at the end of the previous year to 185 (about 35% of the pending cases) at the end of the reporting year, as the following table shows:

Date	Number of Cases Pending for more than 12 months
30 June 2014	92
30 June 2015	107
30 June 2016	110
30 June 2017	130
30 June 2018	185

The following steps were taken to address the problem of the workload in the criminal jurisdiction:

- Five part-time acting judges, appointed in early 2017, sat in the criminal jurisdiction at various times in Hobart, Launceston and Burnie.
- Two judges sat in the criminal jurisdiction in Launceston for five weeks commencing on 4 September 2017 as a “concentrated trial period” with a view to making inroads on the backlog there.
- An acting judge conducted directions hearings in about 100 of the oldest criminal cases in Hobart and Launceston during November 2017 with a view to advancing them towards finalisation.
- In Hobart, a concentrated trial period of 11 weeks commencing on 23 April 2018 was arranged. Criminal trials were conducted in two courtrooms, with minimal interruptions, during that period. The fortnight commencing 28 May 2018 was an appeal term, but all appeals during that fortnight were heard in the civil courts. During the concentrated trial period, the civil courts were used for a number of criminal trials, and a great deal of other criminal work, particularly pleas of guilty, bail appeals, and directions hearings.



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- Throughout the reporting year the Court maintained its policy of conducting directions hearings in relation to pending matters as a matter of routine, with a view to expediting their finalisation.

Before the swearing in of the acting judges in February and April 2017, this Court had six serving judges. That figure does not include the Associate Judge, who is not empowered to sit as a judge in the criminal jurisdiction. The acting judges were appointed for only two years. During the reporting year, the Court had sufficient judicial resources to deal with all the criminal trials that the State and Commonwealth Directors of Public Prosecutions were able to prepare for trial. It is fair to say that the Court could have made more use of the acting judges and disposed of more criminal trials if both the Tasmanian Director of Public Prosecutions and the Legal Aid Commission had had greater resources and had therefore been able to bring more matters to trial.

Three things need to be done in order to overcome the backlog in criminal cases and return the Court to a situation where criminal cases are finalised in a timely manner:

- Further resources need to be provided to the Director of Public Prosecutions and the Legal Aid Commission.
- The Court's judicial resources need to be increased. There is a need for a seventh judge to be appointed, and for a number of part-time acting judges to continue in office.
- There is a need for legislative changes to reduce the number of bail matters coming before the Court, and to redistribute criminal work by reducing the caseload of the Supreme Court and increasing the caseload of the Magistrates Court.

## The number of judges

Following the establishment of the Court as the Supreme Court of Van Diemen's Land in 1824, the number of judges was increased from time to time. The Honourable Algernon Montagu was appointed as the first puisne judge in 1833. From 1984, when the Honourable Peter Underwood was appointed as a puisne judge, the Court had seven judges. The Supreme Court Act 1887 provides for the Court to consist of a Chief Justice and six puisne judges. However, since September 1995 the Court has been operating with one judge less than its full legislative strength. Having regard to the workload of the Court, this is without justification. The under resourcing of the Court undermines the Constitutional convention in this State requiring the observance of the doctrine of separation of powers.

The workload of the Court is so great that it is unlikely that seven full-time judges will be able to reduce the delays in criminal cases to an acceptable level without the assistance of part-time acting judges. It is also desirable for part-time acting judges from other States to hold standing appointments in order to avoid the need for ad hoc appointments on occasions when most or all of the full-time Tasmanian judges are disqualified from sitting on particular cases.

The workload of the judges is totally unsustainable. For the sake of the judges' health and wellbeing, and for the avoidance of the risk of burn-out and/or untimely early retirement, it is imperative that a seventh full-time judge be appointed without delay. As a result of legislative changes in 1999, the judges of this Court are not entitled to judicial pensions. They rely on accumulating superannuation entitlements over their years of service. In that context, any forced early retirement due to burn-out, or the fear of it, could only result in unfairness.

## The distribution of criminal business

Criminal prosecutions constitute roughly 80% of the work of the judges. Only about 20% of the sentences imposed by the judges are sentences of imprisonment for two years or longer. It must therefore be appropriate to reduce the Supreme Court's workload by making legislative changes that result in a greater proportion of the State's criminal work being disposed of in the Magistrates Court.

There is a related problem in relation to the fragmentation of proceedings. Sometimes, in relation to a single escapade, an offender is charged with a mixture of indictable offences, which are dealt with in the Supreme Court, and summary offences, which are dealt with in the Magistrates Court.

It is desirable that a number of legislative changes be considered with a view to reducing the Supreme Court's workload and reducing the fragmentation problem. The following changes are proposed for consideration:



- A widening of the scope of s 308 of the Criminal Code, which empowers judges to remit criminal matters to the Magistrates Court in limited circumstances.
- A widening of the scope of s 385A of the Criminal Code, which permits a judge to dispose of proceedings that are pending against a person in the Magistrates Court after that person has been convicted or acquitted of a crime in the Supreme Court.
- The conferral on magistrates of a discretion not to commit a defendant charged with an indictable offence to the Supreme Court when there are one or more related summary charges and the matter could be more appropriately dealt with in the Magistrates Court.
- An expansion of the categories of crimes which defendants may elect to have dealt with in the Magistrates Court.
- Amendments to the legislation relating to bail, to restrict the circumstances in which appeals or applications to the Supreme Court may be lodged.

The introduction of a shared database, which could be used by Supreme Court staff to find information about pending charges in the Magistrates Court, would no doubt facilitate the use of s 385A in the future.

### **Retirements and appointments**

The Honourable Shan Eve Tennent resigned as a judge of the Court with effect from 3 November 2017. A Ceremonial Sitting was held on 2 October 2017.

The Honourable Gregory Peter Geason was sworn in as a judge of the Court on 16 November 2017.

Two legal practitioners were appointed as senior counsel during the reporting year, namely Sandra Taglieri and Linda Anne Mason. They were appointed with effect from 30 April 2018. A ceremonial sitting of the Court to celebrate their appointments was held on 31 May 2018.

### **Attorneys-General**

The Honourable Dr Vanessa Goodwin MLC resigned from the position of Attorney-General as a result of illness on 2 October 2017 and passed away on 3 March 2018. She made an enormous contribution to the law in this State, and is greatly missed.

Dr Goodwin was replaced as Attorney-General by the Premier, the Honourable Will Hodgman MP, from 2 October 2017 until 21 March 2018. He was then replaced as Attorney-General by the Honourable Elise Archer MP. Mrs Archer has also been the Minister for Justice since the resignation of Dr Goodwin in October 2017.

### **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 to receive judicial pensions on retirement. 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.

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 the nature of the judicial superannuation arrangements.



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## **Criminal caseload backlog**

### **Bail appeals and applications**

The number of bail appeals and applications coming before the Court has continued to grow, from 100 in 2013/14, to 356 in 2017/18.



The Hon Alan Blow AO  
Chief Justice of Tasmania  
21 November 2018



# 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 four 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 AO

The full-time Puisne Judges:

- The Honourable Helen Marie Wood
- The Honourable Stephen Peter Estcourt AM
- The Honourable Robert William Pearce
- The Honourable Michael Joseph Brett
- The Honourable Gregory Peter Geason

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 Bongiorno QC



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## 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:

- Made the opening speech at the Conference of the Australian Association of Criminal Prosecutors in Hobart on 6 July 2017.
- Took part in a Science Week presentation entitled "Science in the Courtroom". The Supreme Court hosted that session in the Criminal Court on 16 August 2017.
- Spoke at a public forum on 24 August 2017 at the University of Tasmania entitled "Does Our Justice System Work? Perspectives from the Bench".
- Attended a ceremonial sitting of the Supreme Court of Victoria on the retirement of the Chief Justice of Victoria, the Hon Marilyn Warren AC on 27 September 2017.
- Attended the National Police Remembrance Day Service at the Police Academy at Rokeby on 29 September 2017.
- Attended the Annual Colloquium of the Judicial Conference of Australia on 6-8 October. Chief Justice Blow spoke at the annual dinner on 7 October 2017.
- Attended a ceremonial sitting of the Supreme Court of Victoria on the swearing of the new Chief Justice of Victoria, the Hon Anne Ferguson on 12 October 2017.
- Attended the Andrew Inglis Clark lecture at the University of Tasmania on 18 October 2017.
- Attended meetings of the Council of Chief Justices of Australia and New Zealand in Adelaide on 25 October 2017 and in Canberra on 9 April 2018.
- Spoke at the Law Society Litigation Convention in Strahan on 11 and 12 November 2017.
- Attended the Supreme and Federal Courts Judges' Conference in Sydney in January 2018.

Justice Estcourt attended:

- Special Seminar – Artificial Intelligence, Big Data and the Quantum Leap, Sydney



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Justice Pearce:

- Attended the Judicial Conference of Australia Colloquium in Hobart between 6 and 8 October 2017;
- Delivered a paper to the Magistrates' Court Conference in Hobart on 20 October 2017;
- Attended the Opening of the Legal Year on 2 February 2018;
- Attended the National Judicial College Sentencing Conference in Canberra between 2 and 4 March 2018;
- Tutored in Trial Advocacy at the Centre for Legal Studies on 20 April 2018

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 2017), 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 Court Security Act 2017 replaced the Admissions to Court Act 1916. It provides for security and good order in all courts and tribunals in Tasmania and expands the powers given to security staff.
- The Family Violence Reforms Act 2017 amended the Family Violence Act 2004 by allowing the Court to record family violence offences as such on a person's criminal record and by amending the Evidence (Children and Special Witnesses) Act 2001 to allow the Court to declare victims of family violence to be special witnesses.
- The Justice and Related Legislation (Miscellaneous Amendments) Act 2017 amended the Bail Act 1994 to give power to the Registrar and an officer of the Supreme Court appointed by the Registrar to witness various documents relating to bail.
- The Criminal Code (Dangerous Driving) Act 2017 amended the Criminal Code 1924 to include offences relating to dangerous driving causing death or grievous bodily harm.



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Subordinate legislation:

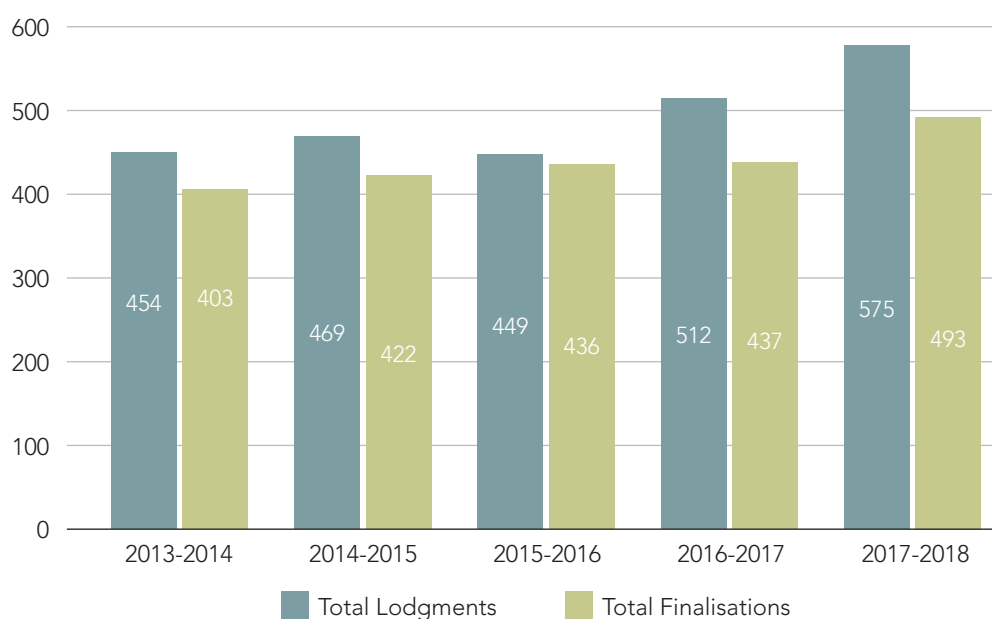
- The rules relating to service of documents outside of Tasmania in the *Supreme Court Rules 2000* were amended by the *Supreme Court Amendment Rules 2017*.
- The *Probate Rules 2017* replaced the *Probate Rules 1936*. The associated forms and information kits to assist applicants are located on the Court's website.



# PERFORMANCE

## CRIMINAL JURISDICTION - First Instance

### Criminal Lodgments and Finalisations - 5 Year Trend

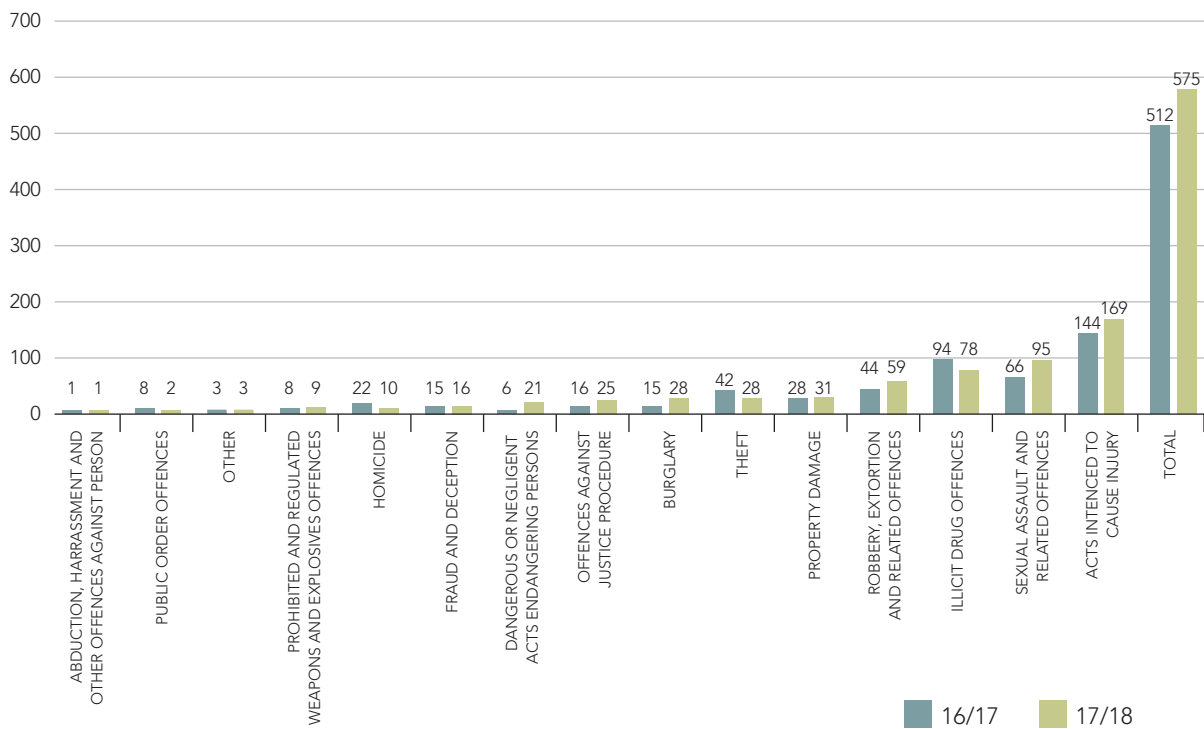


Lodgments	2013-14	2014-15	2015-16	2016-17	2017-18
Burnie	88	99	90	105	124
Hobart	234	222	241	254	276
Launceston	132	148	118	153	175
<b>Total</b>	<b>454</b>	<b>469</b>	<b>449</b>	<b>512</b>	<b>575</b>

Finalisations	2013-14	2014-15	2015-16	2016-17	2017-18
Burnie	90	77	78	91	91
Hobart	189	224	217	218	254
Launceston	124	121	141	128	148
<b>Total</b>	<b>403</b>	<b>422</b>	<b>436</b>	<b>437</b>	<b>493</b>



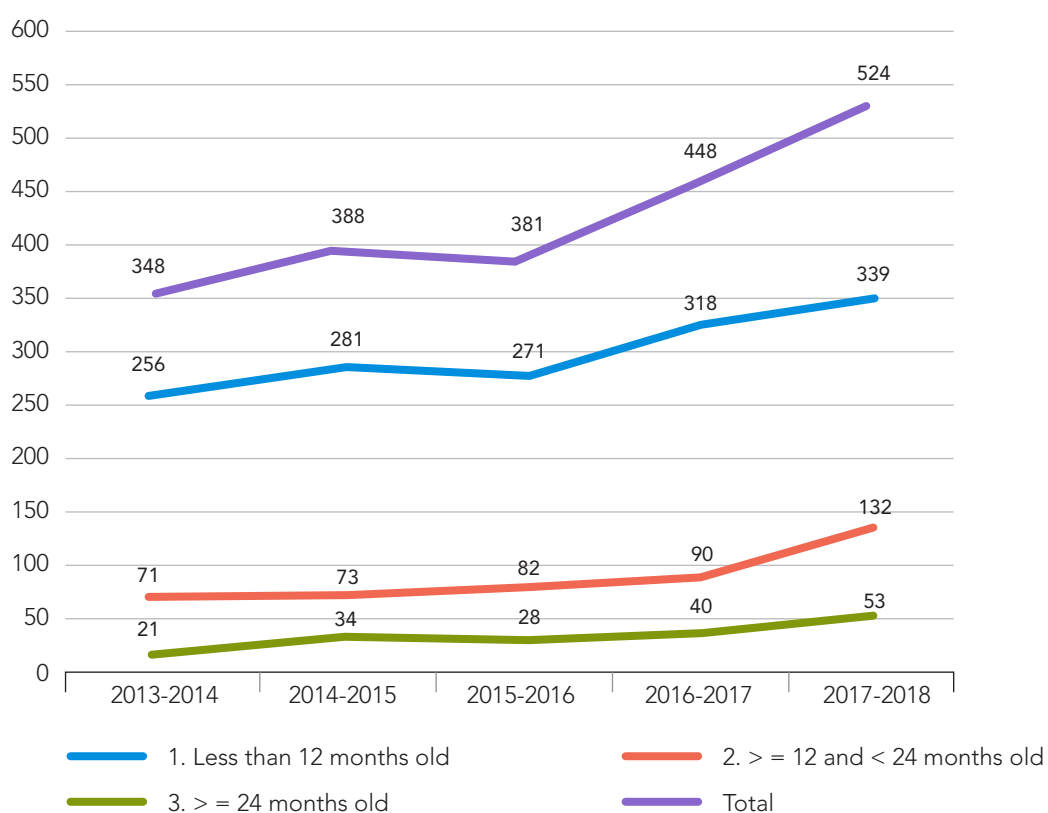
## Criminal Case Lodgments Breakdown



Description	16/17	17/18	Variation	% change
Abduction, harassment and other offences against person	1	1	0	0%
Public order offences	8	2	-6	-75%
Other	3	3	0	0%
Prohibited and regulated weapons and explosives offences	8	9	1	13%
Homicide	22	10	-12	-55%
Fraud and deception	15	16	1	7%
Dangerous or negligent acts endangering persons	6	21	15	250%
Offences against justice procedure	16	25	9	56%
Burglary	15	28	13	87%
Theft	42	28	-14	-33%
Property damage	28	31	3	11%
Robbery, extortion and related offences	44	59	15	34%
Illicit drug offences	94	78	-16	-17%
Sexual Assault and related offences	66	95	29	44%
Acts Intended to cause injury	144	169	25	17%
<b>Total</b>	<b>512</b>	<b>575</b>	<b>63</b>	<b>12%</b>



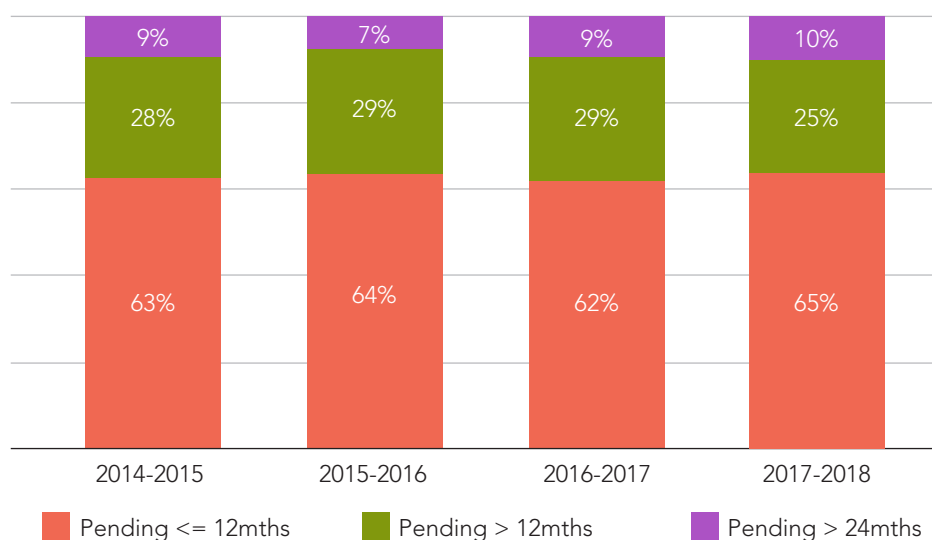
## Criminal Pending – 5 Year Trend



Criminal Pending	2013-14	2014-15	2015-16	2016-17	2017-18
1. Less than 12 months old	256	281	271	318	339
2. >= 12 and < 24 months old	71	73	82	90	132
3. >= 24 months old	21	34	28	40	53
<b>Total</b>	<b>348</b>	<b>388</b>	<b>381</b>	<b>448</b>	<b>524</b>



## Criminal Backlog Indicator: Criminal First instance



	2014-15	2015-16	2016-17	2017-18
Pending <= 12 months	63%	64%	62%	65%
Pending > 12 months < 24 months	28%	29%	29%	25%
Pending > 24 months	9%	7%	9%	10%

### Notes:

Criminal (Non Appeal) lodgments for 2017/18 increased significantly, reaching a total of 575 compared to the 2016/17 total of 512 (a 12% increase). There has been a steady increase in the number of finalisations of the past five years. The total lodgments was the highest volume of criminal non-appeal lodgments experienced by the Supreme Court since 2010/11. An increase in lodgments was seen in each region however the biggest increase was experienced in Launceston, rising 14% from 153 lodgments in 2016/17 to 175 in 2017/18.

The increase in lodgments displays an increase in the following crime types when compared to 2016/17:

- Dangerous or negligent acts endangering persons (+15) – increase of 250%
- Burglary (+13) – increase of 87%
- Offences against justice procedures (+9) – increase of 56%
- Sexual Assault and related offences (+29) – increase of 44%
- Robbery, extortion and related offences (+15) – increase of 34%

There was a decrease in the following crime types:

- Homicide (-12) – decrease of 55%
- Theft (-14) – decrease of 33%



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Criminal (non-appeal) finalisations have increased substantially from 437 in 2016/17 to 493 in 2017/18, which is the most finalisations since 2012/13. During 2014/15 422 matters were finalised and 436 matters were finalised in 2015/16, and 437 in 2016/17. This consistency has been achieved despite the following factors:

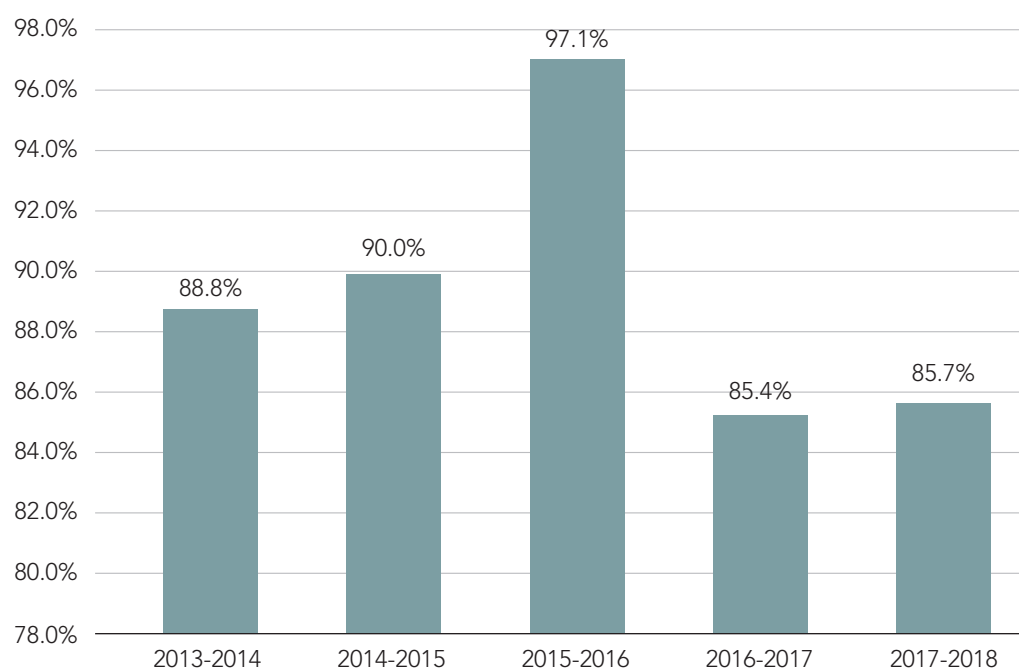
- Complexity and length of trials increasing with greater use of expert witnesses and complex scientific evidence such as DNA evidence;
- More applications made during the course of trials, e.g. applications to have a witness declared unfavourable under s.38 Evidence Act 2001;
- The introduction of special hearings (around 10) 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 financial records; and
- Evidentiary rules relating to consent in sexual offence matters, with the requirement to seek leave to cross-examine on certain issues.

The criminal (non-appeal) pending caseload (also referred to as backlog) has increased by 17% during the reporting year, from 448 in 2016 -17 to 524 in 2017-18. The backlog has increased by:

- 21 (or 7%) in cases aged less than 12 months
- 42 (or 46%) in cases aged between 12 and 24 months
- 13 (or 32%) in cases greater than 24 months



## Criminal Case Clearance Rates First Instance



	2013/14	2014/15	2015/16	2016/17	2017/18
First Instance Clearance Rate	88.8%	90.0%	97.1%	85.4%	85.7%

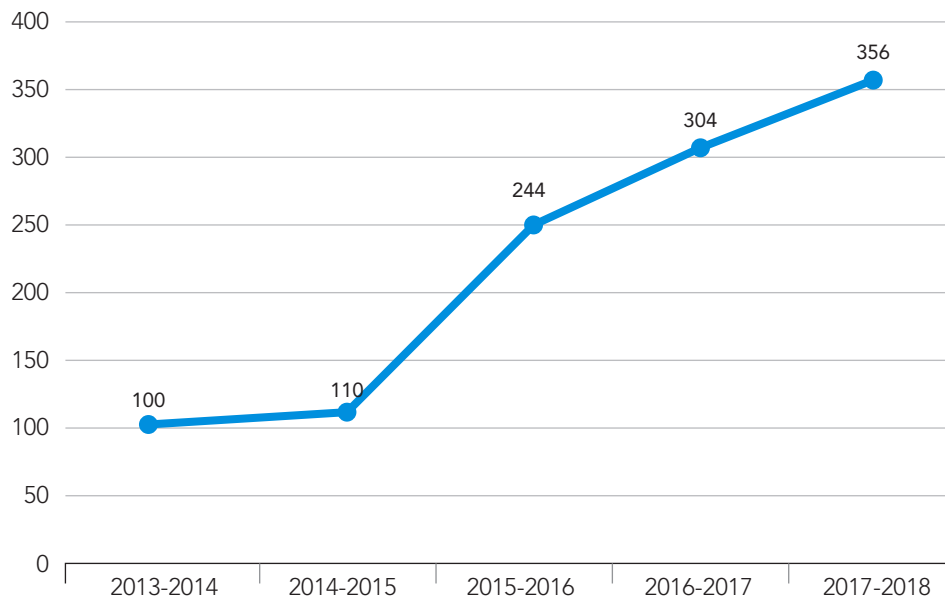
The 12% increase in lodgments matched to the 13% increase in the volume of finalisations has meant that the clearance rate of the Supreme Court's Criminal Division has remained static at approximately 85%.

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

- The continued appointment of four part-time acting judges to complement the existing 6 full-time permanent judges,
- Scheduling 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 – 5 Year Trend



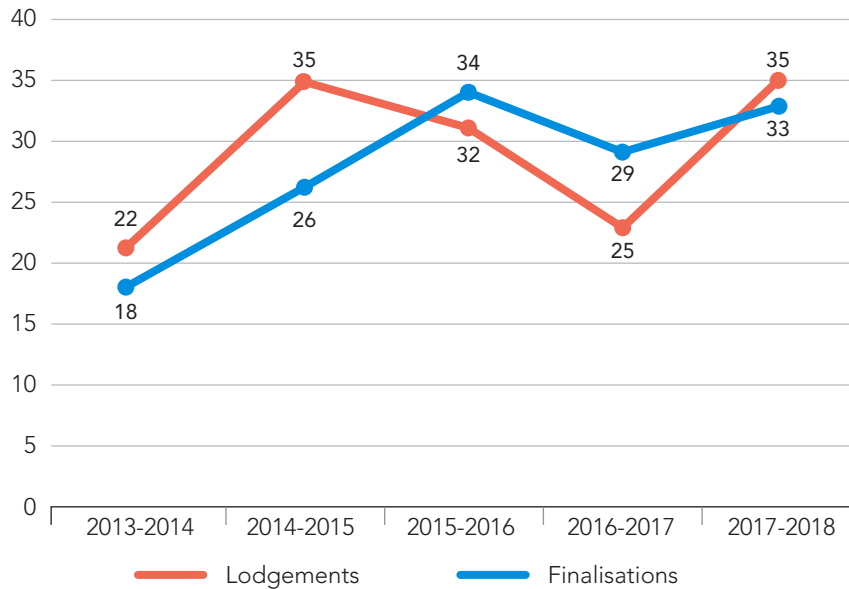
	2013/2014	2014/2015	2015/2016	2016/2017	2017/2018
Total	100	110	244	304	356

Applications for bail continue to rise and present a workload challenge for the Court. Many are held outside of normal sitting times and in the case of a contested application can take a considerable amount of time to hear.



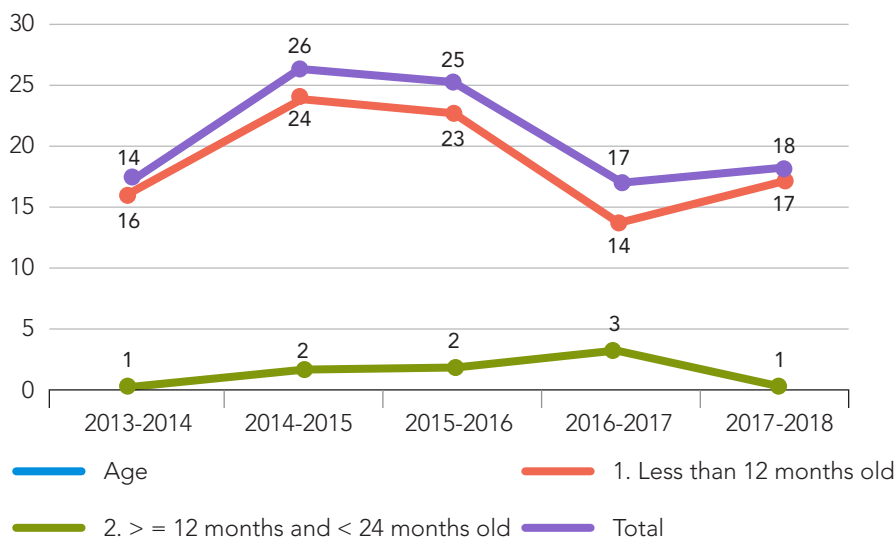
## CRIMINAL JURISDICTION – COURT OF CRIMINAL APPEAL (CCA)

### Court of Criminal Appeal Lodgments and Finalisations – 5 Year Trend



	2012-13	2013-14	2014-15	2015-16	2017-18
Total Lodgments	22	35	32	23	35
Total Finalisations	18	26	34	29	33

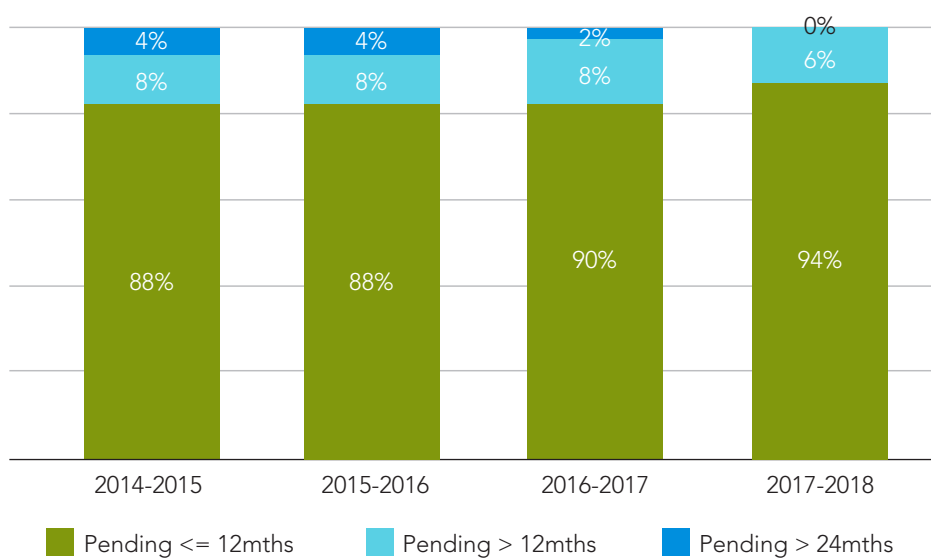
### Court of Criminal Appeal Pending – 5 Year Trend



	2013-14	2014-15	2015-16	2016-17	2017-18
Age					
1. Less than 12 mths old	16	24	23	14	17
2. >= 12 mths and < 24 mths old	1	2	2	3	1
Total	17	26	25	17	18



## Backlog Indicator: Criminal Appeals

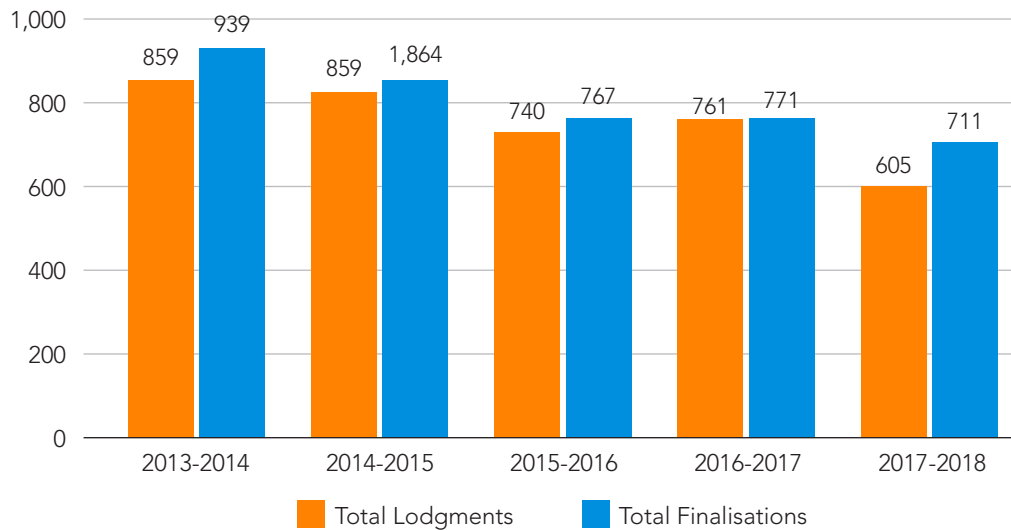


	2014-15	2015-16	2016-17	2017-18
Pending <= 12 months	88%	88%	90%	94%
Pending >12 months	8%	8%	8%	6%
Pending >24 months	4%	4%	2%	0%



## CIVIL JURISDICTION – First Instance

### Civil Lodgments and Finalisations – 5 Year Trend

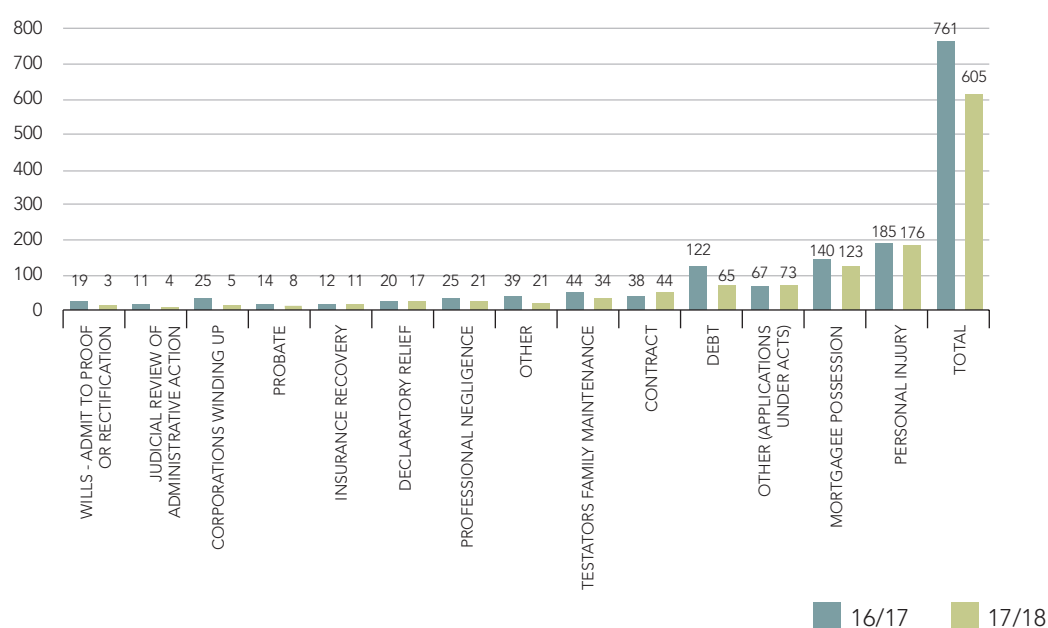


	2013-14	2014-15	2015-16	2016-17	2017-18
Total Lodgements	859	833	740	761	605
Total Finalisations	939	864	767	771	711

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.



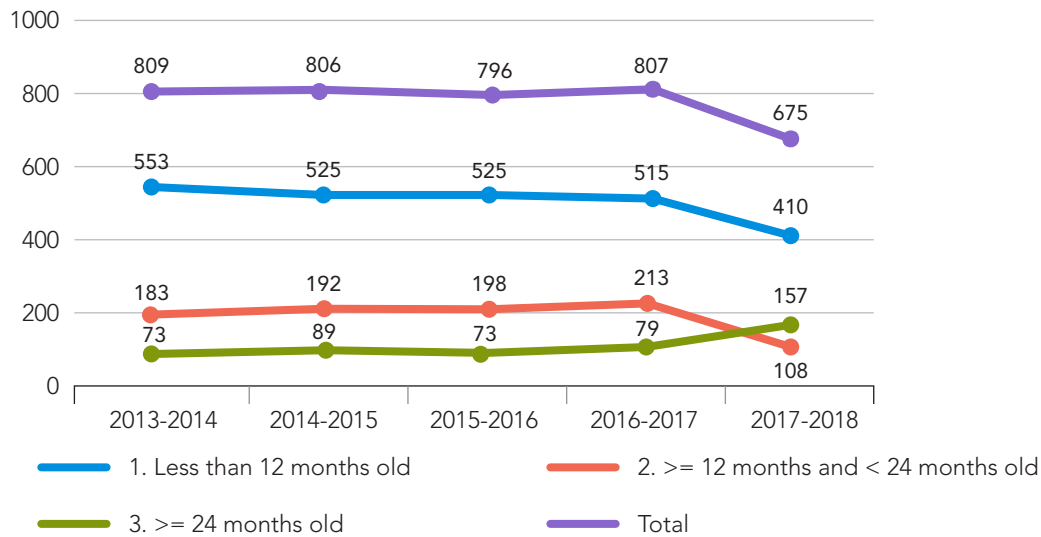
## Civil Case Lodgments by File Type 2017-2018



Lodgement	2016-17	2017-18	Variation	%
Wills - Admit to Proof or Rectification	19	3	-16	-84%
Judicial Review of Administrative Action	11	4	-7	-64%
Corporations Winding Up	25	5	-20	-80%
Probate	14	8	-6	-43%
Insurance Recovery	12	11	-1	-8%
Declaratory Relief	20	17	-3	-15%
Professional Negligence	25	21	-4	-16%
Other	39	21	-18	-46%
Testators Family Maintenance	44	34	-10	-23%
Contract	38	44	6	16%
Debt	122	65	-57	-47%
Other (Applications Under Acts)	67	73	6	9%
Mortgagee Possession	140	123	-17	-12%
Personal Injury	185	176	-9	-5%
Total	761	605	-156	-20%



### Civil Pending – 5 Year Trend



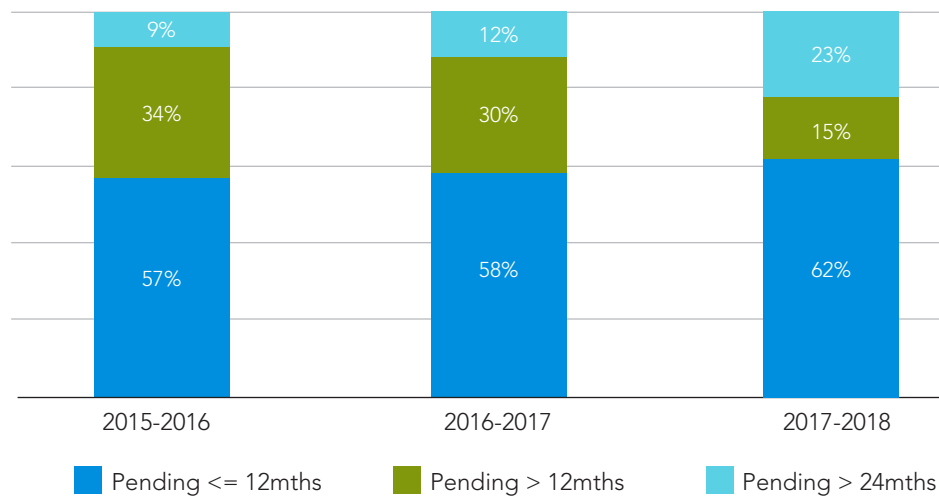
Age Months	2013-14	2014-15	2015-16	2016-17	2017-18
1. Less than 12 months old	553	525	525	515	410
2. > = 12 months and < 24 months old	183	192	198	213	108
3. > = 24 months old	73	89	73	79	157
Total	809	806	796	807	675

#### Notes:

1. Civil lodgments decreased from 761 in 2016-17 to 605 in 2017-18 (a decrease of 20%).
2. Finalisations decreased from 771 in 2016-17 to 711 in 2017-18 (a decrease of 7.8%).
3. Pending cases have decreased from 807 in 2016-17 to 675 in 2017-18 (a decrease of 14%).
4. The number of Debt lodgments has decreased from 122 in 2016-17 to 65 in 2017-18 (a decrease of 46%).
5. The number of Corporations Act winding up lodgments has decreased from 25 in 2016-17 to 55 in 2017-18 (a decrease of 80%).



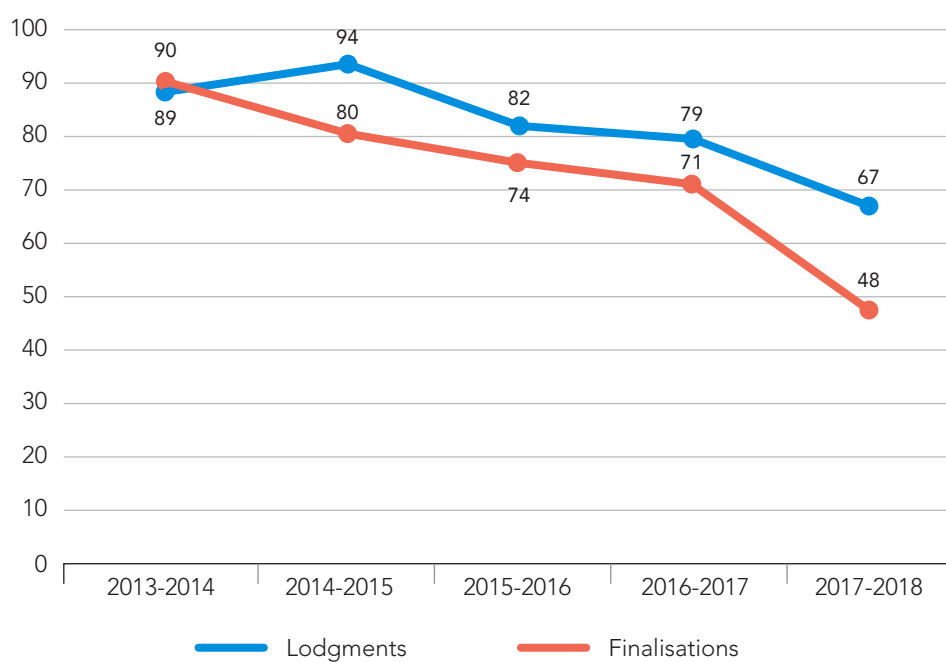
### Civil Backlog Indicator – First Instance



	2015-16	2016-17	2017-18
Pending <= 12 months	57%	59%	62%
Pending > 12 months	34%	30%	15%
Pending > 24 months	9%	12%	23%

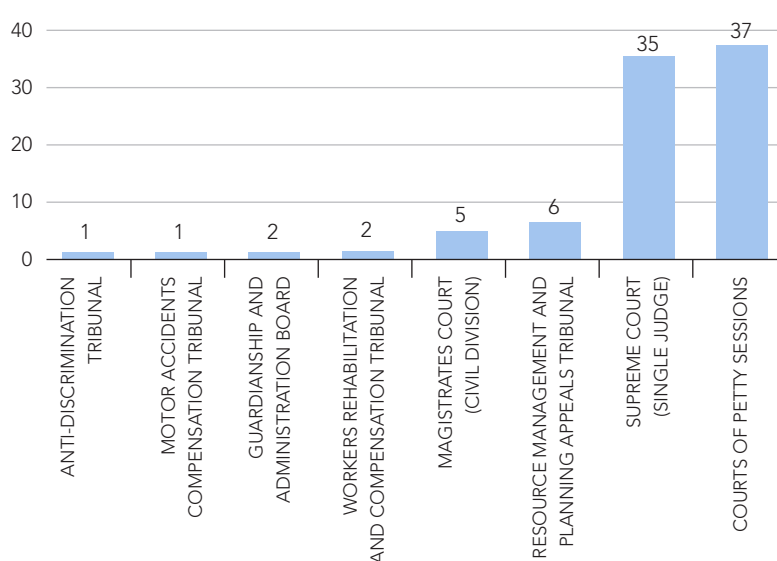


## CIVIL JURISDICTION – Appeals (Full Court of Appeal - FCA and Lower Court of Appeal - LCA)



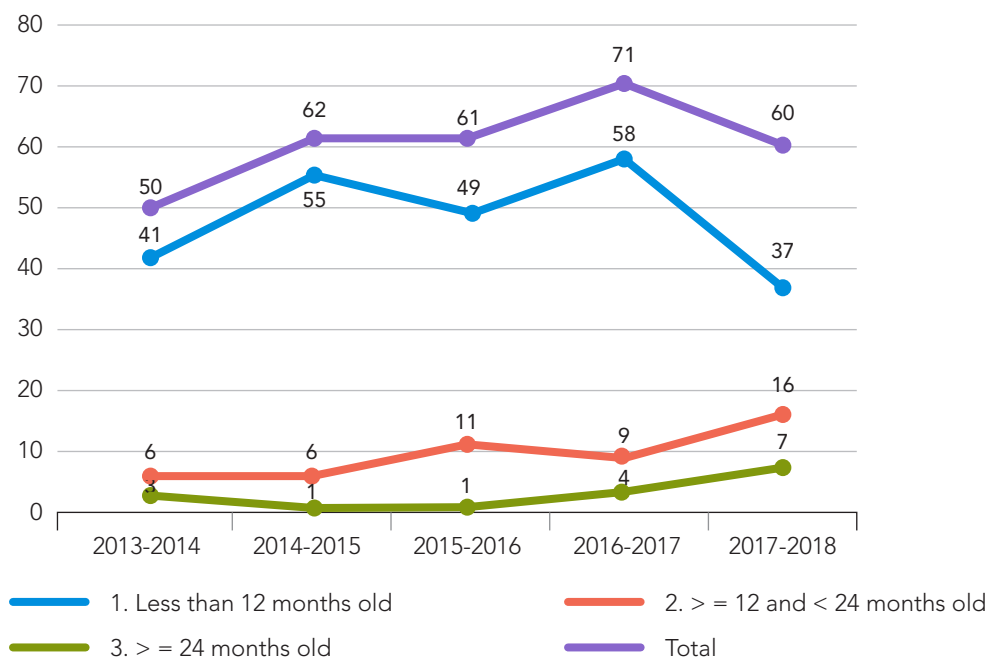
	2013-14	2014-15	2015-16	2016-17	2017-18
Total Lodgements	89	94	82	85	67
Total Finalisations	90	80	74	77	48

## Civil Appeal (FCA and LCA) Lodgments by Origin 2017-2018





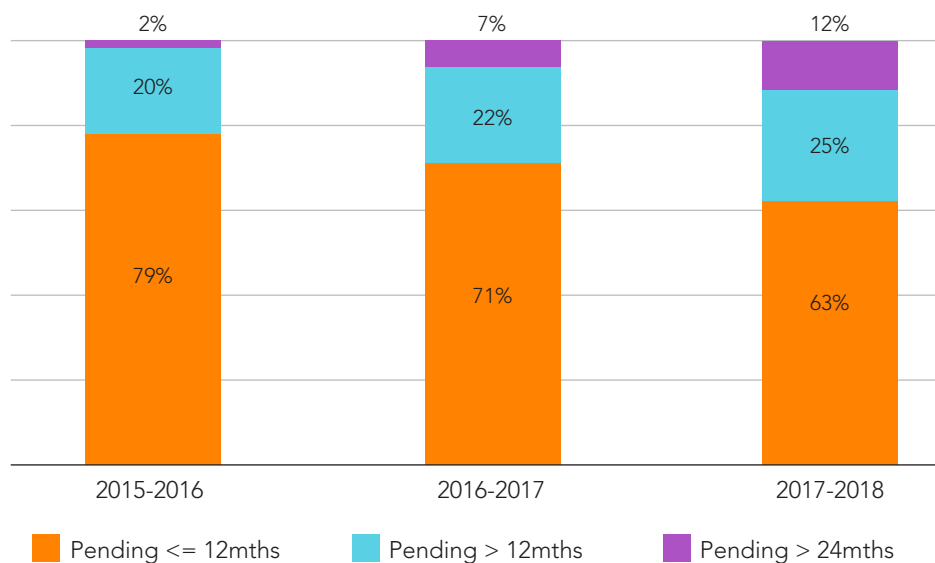
### Civil Appeal Pending (Full Court Appeals and Lower Court Appeals) – 5 Year Trend



Age	2013-14	2014-15	2015-16	2016-17	2017-18
1. Less than 12 months old	41	55	49	58	37
2. >= 12 and < 24 months old	6	6	11	9	16
3. >= 24 months old	3	1	1	4	7
Total	50	62	61	71	60



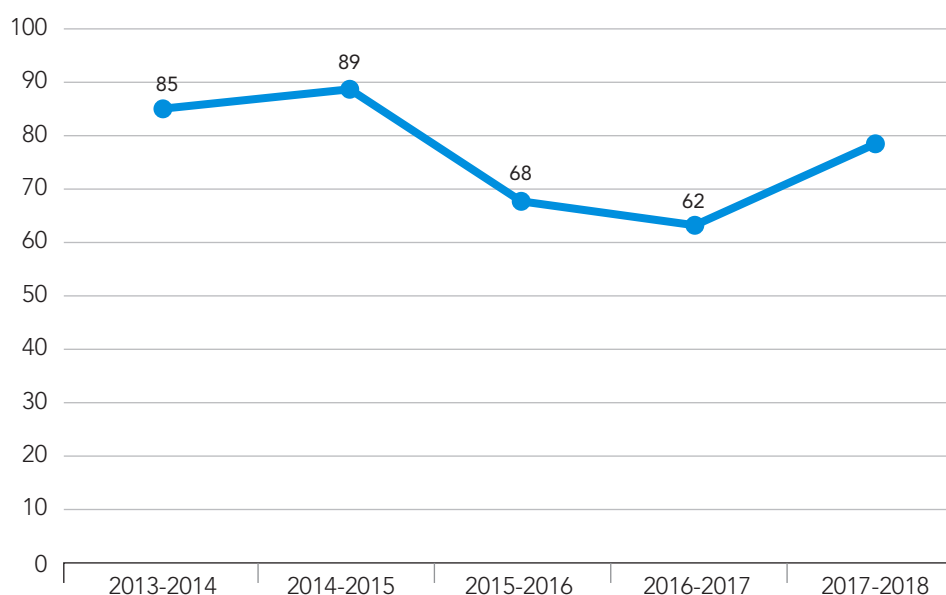
### Civil Appeals Backlog Indicator – First Instance



#### Notes:

1. LCA and FCA appeals (combined) lodgments have decreased from 85 in 2016-17 to 67 in 2017-18, a decrease of 21%.
2. LCA and FCA appeals (combined) finalisations have decreased from 77 in 2016-17 to 48 in 2017-18, a decrease of 38%.
3. LCA and FCA appeals (combined) pending matters have decreased from 71 in 2016-17 to 60 in 2017-18, a decrease of 15%.

### Admissions to Practice – 5 Year Trend

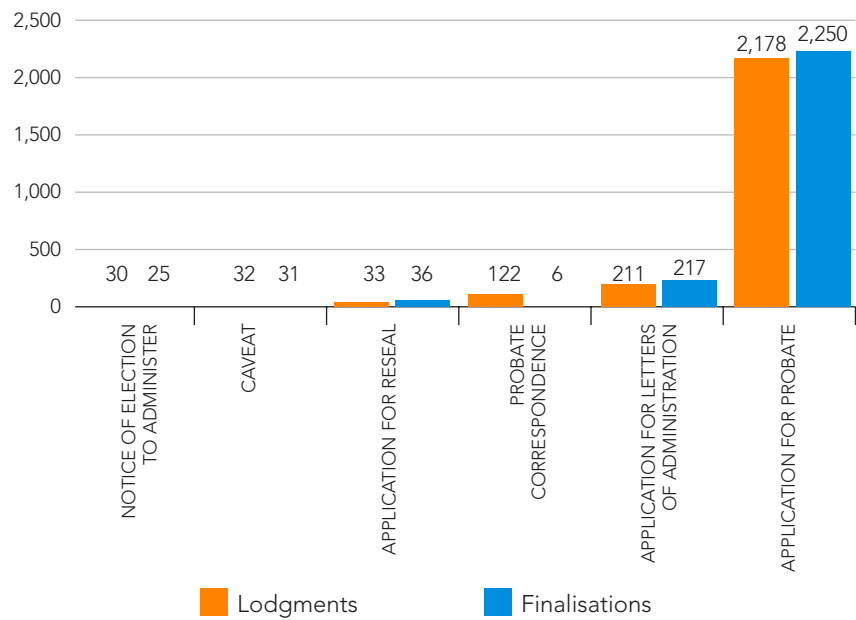


These figures reflect the replenishment rate of the Tasmanian legal profession with law graduates, having completed an approved practical legal training program applying for admission to practice. A significant amount of registry staff time is spent on checking each application prior to its listing in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



## PROBATE JURISDICTION

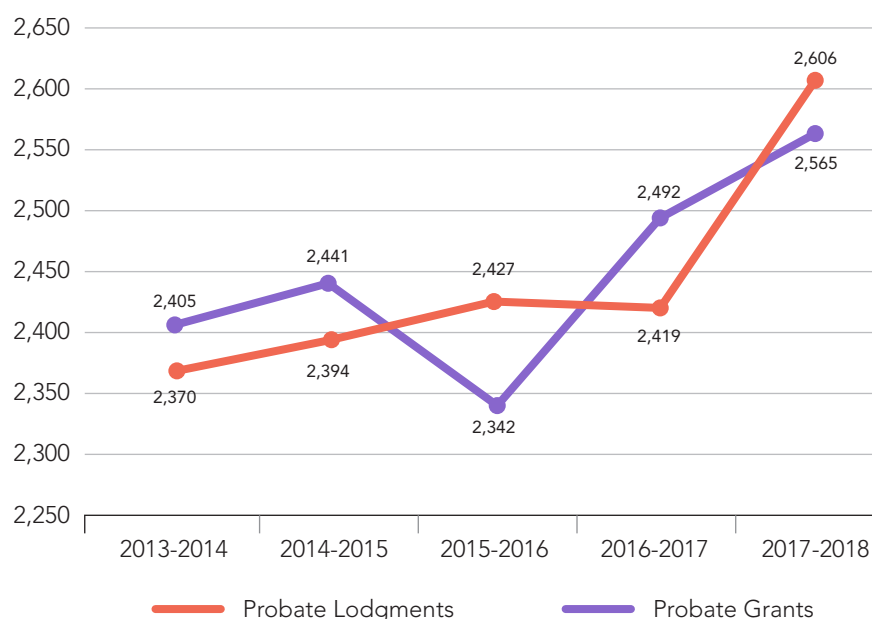
### Lodgments and Finalisations 2017-2018



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



## Probate Lodgements and Grants - 5 Year Trend



	2013-14	2014-15	2015-16	2016-17	2017-18
Probate Lodgements	2,370	2,394	2,427	2,419	2,606
Probate Grants	2,405	2,441	2,342	2,492	2,565

### Notes:

1. There was a significant increase in probate lodgments, from 2419 in 2016-17 to 2606 in 2017-18 (7.7% increase).
2. Probate grants increased from 2492 in 2016-17 to 2565 in 2017-18 (2.9% increase)

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).

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 and this level of performance is being maintained.

The Probate Rules 2017 commenced during the reporting year.



## Mediation Statistics Summary - 5 Year Trends as at 30 June 2018

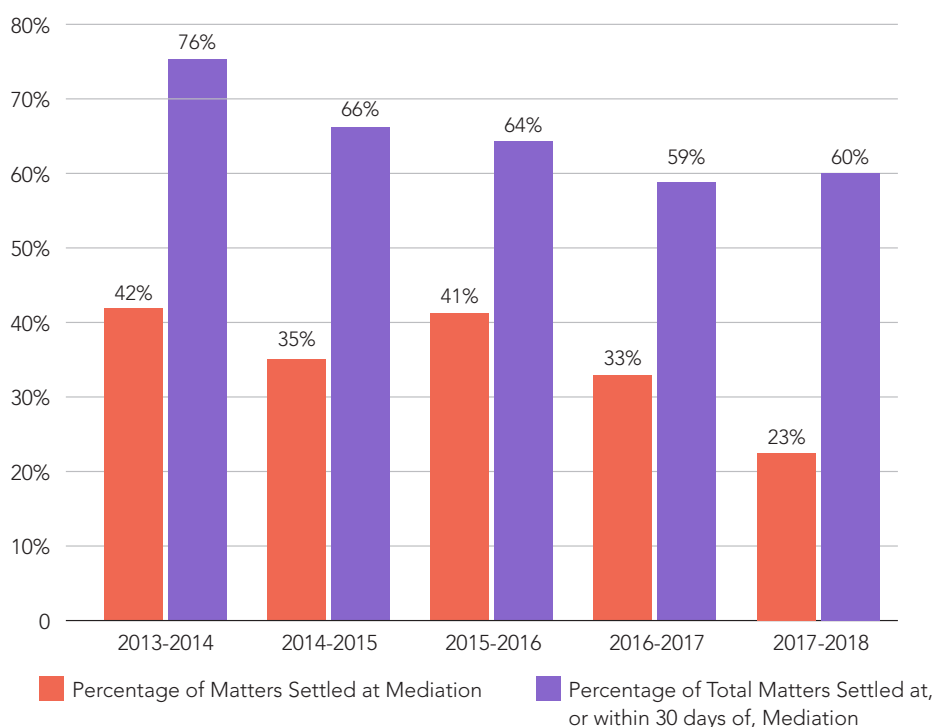
Mediation continues to be an effective method of dispute resolution in civil cases. The Court has the power to direct that a case be referred to mediation before it will be listed for trial. It provides expedition, saves costs and enables the parties to achieve a mutually acceptable resolution of the 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 60% (up from 59% last year). Note that 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.

### Mediation



Financial Year	2013-14	2014-15	2015-16	2016-17	2017-18
Mediations Conducted	131	148	143	134	134
Matters Settled at Mediation	55	52	59	44	31
Percentage of Matters Settled at Mediation	42%	35%	41%	33%	23%
Total Matters Settled within 30 days of Mediation	99	98	92	79	81
Percentage of Total Matters Settled within 30 days of Mediation	76%	66%	64%	59%	60%

\*Matter settled at conference or within 30 days of conference

Notes:

- Although the number of matters settled at conference has declined the overall percentage of matters settled at conference or within 30 days of conference has remained static.



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## SUPREME COURT REGISTRIES

### Criminal registry

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

### Civil Registry

The Civil Registry receives and processes:

- all documents lodged in the civil jurisdiction of the Court
- applications to review decisions from the Magistrates Court and statutory tribunals.
- 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.

### Probate Registry

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

### 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.

### Jury Statistics 2017-18

Registry	Jurors summonsed	Jurors attended	Jurors Empanelled	Number of Trials
Hobart	4418	1314	646	56
Launceston	5,130	1,151	375	35
Burnie	2,818	570	192	16
<b>Total</b>	<b>12,366</b>	<b>3,305</b>	<b>1,213</b>	<b>107</b>

This year there were no civil jury trials conducted.

Payment to jurors for loss of income, attendance and expenses during 2017-18 totalled \$563,029.



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## 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 decreased significantly this year from 54 (2017-2018) to 41.

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

This year there were 114 applications for orders for possession of premises, pursuant to section 146 of the Land Titles Act 1980 (down from 177 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 s 4 of the Court Security Act 2017) with powers to:

- request identification from people entering the Court
- request people entering the Court to deposit with the officer any items that falls within the definition of prohibited item under the Court Security Act
- request people entering the Court to submit to a search of their person or belongings
- direct someone to leave or not enter the Court; or remove someone from the Court
- arrest any person on Court premises committing an offence under the Court Security Act

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. Note that an additional Judges Associate has been appointed to support the Acting Judges
- Executive Support Officers
- Legal Research Officer
- Judges' Attendants
- Judges' Librarian.



# CORPORATE SERVICES

## STAFF INFORMATION

Appointments:

- Marlene Crawford: Judges Chambers, Launceston
- Karen Dean: Judges Chambers, Hobart
- Leigh Kubacki: Jury and Security, Launceston

Retirements:

- Ann-Marie Nuttall: Judges Chambers, Hobart
- Jillian Hayes: Judges Chambers, Launceston
- Annabel Cox: Judges Chambers, Hobart
- Dianne Bond: Transcribing, Hobart

## 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 Hobart Court 3 audio system to the latest technology
- Implementation of independent evidentiary recording system backups in the Burnie and Launceston courts
- Roll-out of electronic law lists in the Burnie and Launceston Supreme Courts

Other technological aspects of the Court include case management systems. As part of the broader Justice Connect project a quick-wins improvement to the Courts Criminal Case Management system was implemented. This has facilitated improved case management of criminal matters.



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## 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 22 transcription typists (full-time, part-time and casual), and a Transcription Supervisor (South)

## 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.

There have been significant works undertaken to sandstone and slate rehabilitation to the external surfaces of the building. Several bathrooms and kitchens have been renovated.

Plans have been developed for modifications to the main Hobart civil courts to make them suitable for criminal trials and related matters. This includes construction of a tunnel from the cells in the criminal building to the civil courts. Currently accused persons in custody have to be led through public areas in handcuffs which is a major security risk.

All works in Hobart are supervised by the original Architect of the Hobart Supreme Court (Peter Partridge) which ensures that the renovations and improvements are sympathetic to the original design thesis.

### 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. It is not anticipated that this will occur in the near future hence the current focus has been on essential maintenance..

### 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. An interim refurbishment project has been included in the State Budget commencing FY19 and this will ensure that the key areas of the Burnie court complex are improved to a satisfactory standard for the planned operations of the Court in the short to medium term.



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## SECURITY UPGRADES

Additional upgrades have occurred at all Supreme Court locations:

- improved security officer duress alarms and communications
- increased closed-circuit television surveillance
- provision of a separate entrance for Jurors to the Hobart Court 7 jury room
- an increase in the number of casual security staff in Hobart to cater for the increased criminal jurisdictional activity.

## 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:

- installation of a chair lifter from the Hobart holding cells to the court rooms.
- preliminary works and planning approval for an external lift from Salamanca Place to the podium of the Hobart Supreme Court

Planned works for the next financial years include:

- construction of a lift from Salamanca Place to the building podium. This project will proceed once a funding source is identified.



## THE YEAR AHEAD

Future priorities identified by the Court are:

- improving internal and external communication. This will include implementation of a new Supreme Court website that is fully compliant with all access requirements including text to speech
- improving the efficiency of procedures and practice for the Civil, Criminal and Probate Registries
- provision of an integrated audio visual solution to Hobart Court 2 including video-conferencing. This will use the latest technology including vision over IP
- participation in the Justice Connect project including ancillary projects such as reporting dashboards for criminal, civil and probate activity
- improving the management of the Court's records and assets
- ensuring that the built assets of the Courts are maintained at an acceptable standard
- Planning for modifications to the civil courts to enable criminal matters (including trials) to be conducted. This will also require the construction of a secure tunnel from the holding cells to the civil courts.



# 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.

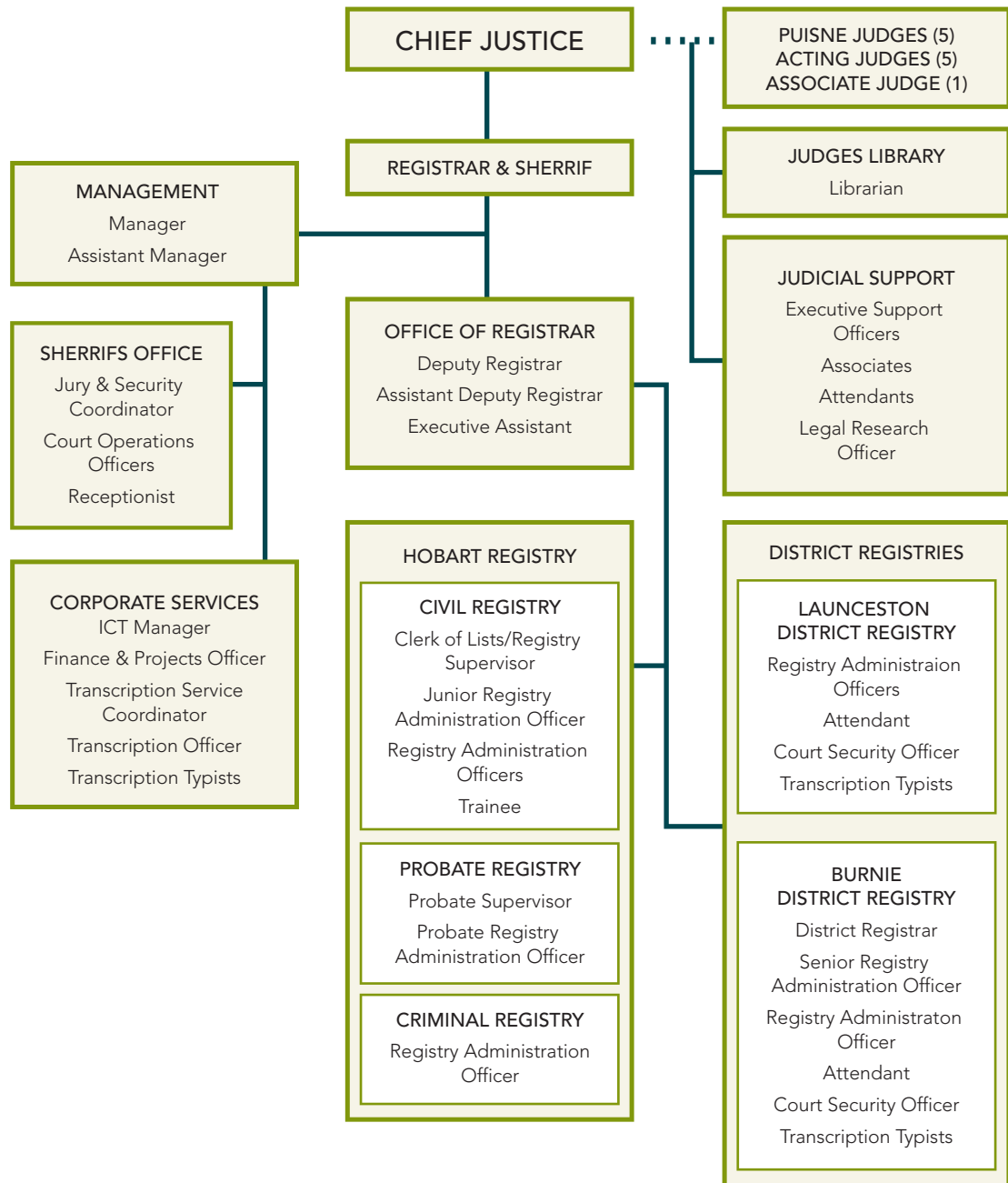
## JURISDICTION

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	2015–16	2016–17	2017-18
<b>Chief Justice:</b>			
Judges and Associate Judges	7.0	7.2	8.26*
Judges' Library	0.8	0.6	0.60
Judicial Support	13.7	13.95	15.56
<b>Registry:</b>			
Civil	7.4	7.25	6.59
Criminal	4.5	4.4	4.80
Probate	3.1	3.1	3.00
Office of the Sheriff	4.7	6.29	8.20
<b>Corporate Services:</b>			
Information Communication Technology	1.0	1.0	1.0
Transcription Services	8.3	8.65	8.81
Mediators	0.5	0.5	0.41
First Line Support Staff	3.0	3.0	3.0
<b>Total:</b>	<b>54.2</b>	<b>55.94</b>	<b>62.12</b>

\* The Supreme Court has appointed five Acting Judges

## LOCATION OF SERVICES

Hobart: 3-5 Salamanca Place

Launceston: Cameron Street

Burnie: 38 Alexander Street



## FINANCIAL STATEMENTS

	FY 16-17	FY 17-18
<b>RECEIPTS</b>		
Recurrent appropriation	5,323,993	5,974,553
Registry fees	593,039	732,806
Provision of transcript	49,923	26,396
Probate fees & charges	1,654,998	2,117,882
Mediation fees	52,558	14,767
Sheriff's fees	58,735	27,573
Court reporting	2,391	4,286
Video conferencing	2,050	0
Other receipts	1,479,878	685,195
<b>TOTAL RECEIPTS</b>	<b>9,217,566</b>	<b>9,583,457</b>

<b>EMPLOYEE-RELATED EXPENDITURE</b>		
Salaries & wages	3,676,566	3,995,231
Fringe Benefits Tax	112,485	108,309
Payroll tax	0	0
Superannuation	454,441	487,979
Workers compensation insurance	162,588	245,654
Training	15,727	24,312
Other employee related expenses	63,818	21,716
<b>TOTAL EMPLOYEE-RELATED EXPENDITURE</b>	<b>4,485,626</b>	<b>4,883,201</b>

<b>ADMINISTRATIVE &amp; OTHER EXPENDITURE</b>		
Fuel, light & power	194,607	226,414
Advertising & recruitment	3,238	1,708
Rental	4,176	3,355
Communications	69,408	68,242
Travel	250,850	307,368
Consultancies	27,744	52,426
Printing & stationery	63,141	65,761
Rates	172,620	186,546
Repairs & maintenance	213,951	535,662
Minor equipment	17,042	17,049



	FY 16-17	FY 17-18
Library materials	548,466	495,799
Computers & IT	397,931	464,383
Expenses of witnesses	53,007	121,511
Expenses of Jurors	484,414	563,029
Other administrative expenses	2,012,790	853,219
<b>TOTAL ADMINISTRATIVE &amp; OTHER EXPENDITURE</b>	<b>4,513,384</b>	<b>3,962,472</b>

<b>RESERVED BY LAW</b>		
Salaries & other entitlements of Judges	3,106,004	3,580,069
Salaries & other entitlements of the Associate Judge	405,674	416,520
<b>TOTAL RESERVED BY LAW EXPENDITURE</b>	<b>3,511,679</b>	<b>3,996,588</b>

<b>OVERHEAD CONTRIBUTION TO THE DEPARTMENT OF JUSTICE*</b>	<b>1,720,007</b>	<b>1,795,447</b>
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\*Covers services including:

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















