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ANNUAL REPORT



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2017-2018 Judicial Conduct Commissioner Annual Report  
Published September 2018

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# Contents

Letters of Transmittal	3
<b>Commissioner's Report</b>	<b>5</b>
Complaints	8
COMPLAINTS PROCESS	8
NUMBER OF COMPLAINTS	9
Key Performance Indicators	13
Notice from Jurisdictional Heads	14
Education Initiatives	15
Legislative Change	15
Proposed Legislative Change	15
Strategic Goals	17
Organisational Values	18
The Organisation	19
COMMISSIONER	19
Workforce Statistics	20
Unacceptable Conduct	21
PUBLIC COMPLAINTS	21
Freedom of Information	21
<b>Financial Statements</b>	<b>23</b>

**The Honourable the President of the Legislative Council  
The Honourable the Speaker of the House of Assembly**

In accordance with section 27(3) of the *Judicial Conduct Commissioner Act 2015* (SA) (JCC Act), I present the second annual report of the Judicial Conduct Commissioner for the year ended 30 June 2018.

Section 27(4) of the JCC Act requires that you lay the annual report before your House of Parliament on the first sitting day after receiving it.

Yours sincerely

A handwritten signature in black ink that reads "Bruce Lander". The signature is written in a cursive style with a large initial 'B'.

The Honourable Bruce Lander QC  
Judicial Conduct Commissioner

28 September 2018



**The Honourable Vickie Chapman MP  
Deputy Premier  
Attorney-General**

In accordance with section 12(1) of the *Public Sector Act 2009* (SA), I present the second annual report of the Judicial Conduct Commissioner for the year ended 30 June 2018.

I have provided the report to the President of the Legislative Council and the Speaker of the House of Assembly for tabling in their respective Houses of Parliament, in accordance with section 27 of the *Judicial Conduct Commissioner Act 2015* (SA).

Yours sincerely



The Honourable Bruce Lander QC  
Judicial Conduct Commissioner

28 September 2018



## Letters of Transmittal





# Commissioner's Report





THE HON. BRUCE LANDER QC  
JUDICIAL CONDUCT COMMISSIONER

The *Judicial Conduct Commissioner Act 2015 (SA)* (JCC Act) commenced on 5 December 2016. The office of the Judicial Conduct Commissioner (the Commissioner) has now been in operation for 19 months.

The Commissioner's function is to receive and deal with complaints about the conduct of judicial officers. The Commissioner is not subject to the direction of any person in relation to the manner in which that function is exercised and it is a matter for the Commissioner as to the priority that the Commissioner gives any particular matter.

The majority of complaints that I have dealt with during the reporting period have either been dismissed or have not required any further action to be taken.

It would seem that the public appears to misunderstand my role. Most of the complaints I received during the reporting period were issues related to a judicial decision.

The JCC Act prohibits me from challenging or calling into question the legality or correctness of a judicial decision, order or judgment. My role is concerned with the *conduct* of judicial officers which relates to judicial functions and duties but my role is not related to a judicial officer's judicial decision making.

A number of complaints were made to me about the conduct of officers who are not South Australian State judicial officers. Those complaints are outside of my jurisdiction. Where possible I redirected those complainants to the appropriate forum.

During this period I referred two complaints to the jurisdictional head of the relevant court for appropriate counselling of a judicial officer. In both of those matters the judicial officers engaged in inappropriate conduct in Court. Both of those judicial officers were counselled.

My office functions largely in a digital environment, aligning with the South Australian Government's digital transformation strategy. I have continued to leverage off the infrastructure and technology base provided by the office of the Independent Commissioner Against Corruption, which I also occupy, and the Office for Public Integrity (OPI), in my endeavour to ensure the efficient and effective use of public resources.



# Complaints

## COMPLAINTS PROCESS

My primary function as the Judicial Conduct Commissioner is to receive and deal with complaints about the conduct of serving judicial officers. A complaint can relate to any act or omission of a judicial officer, whether occurring in the course of carrying out functions as a judicial officer or not, and whether resulting from illness or incapacity or not, provided that the impugned conduct bears upon their judicial functions or judicial duties.

I am obliged to conduct a preliminary examination of each complaint and then determine how I will deal with it. The purpose of the preliminary examination is to determine which complaints will proceed further and those that will not. To conduct the preliminary examination, I must determine whether:

- ▶ the complaint raises a reasonable suspicion that it relates to conduct that involves corruption in public administration, such that it should be referred to the OPI; or

- ▶ further consideration of the complaint would, in all the circumstances, be unjustified, such that I should exercise the power to take no further action in respect of the complaint; or
- ▶ at least one of the grounds in section 17 of the JCC Act is met, such that I must dismiss the complaint.

If the complaint is to proceed further, I can deal with it in one of the following ways:

- ▶ recommend that the judicial officer's jurisdictional head<sup>1</sup> takes specified action;
- ▶ make a recommendation to the Attorney-General to appoint a judicial conduct panel; or
- ▶ make an immediate report to Parliament.

<sup>1</sup>The jurisdictional head is the judicial officer who has primary responsibility for the administration of the court: *Courts Administration Act 1993* (SA) section 27A.

## NUMBER OF COMPLAINTS

As at 30 June 2017, six of the 23 complaints that I had received in the 2016-17 financial year remained open. I closed five of those complaints during this reporting period with one remaining open. That matter has now been finalised.

Between 1 July 2017 and 30 June 2018, I received 21 complaints and had another six complaints brought to my attention by jurisdictional heads for noting. I chose on my own initiative to treat three of those notifications as complaints: section 12(8) JCC Act. That meant that the total number of complaints received in the reporting period was 24.

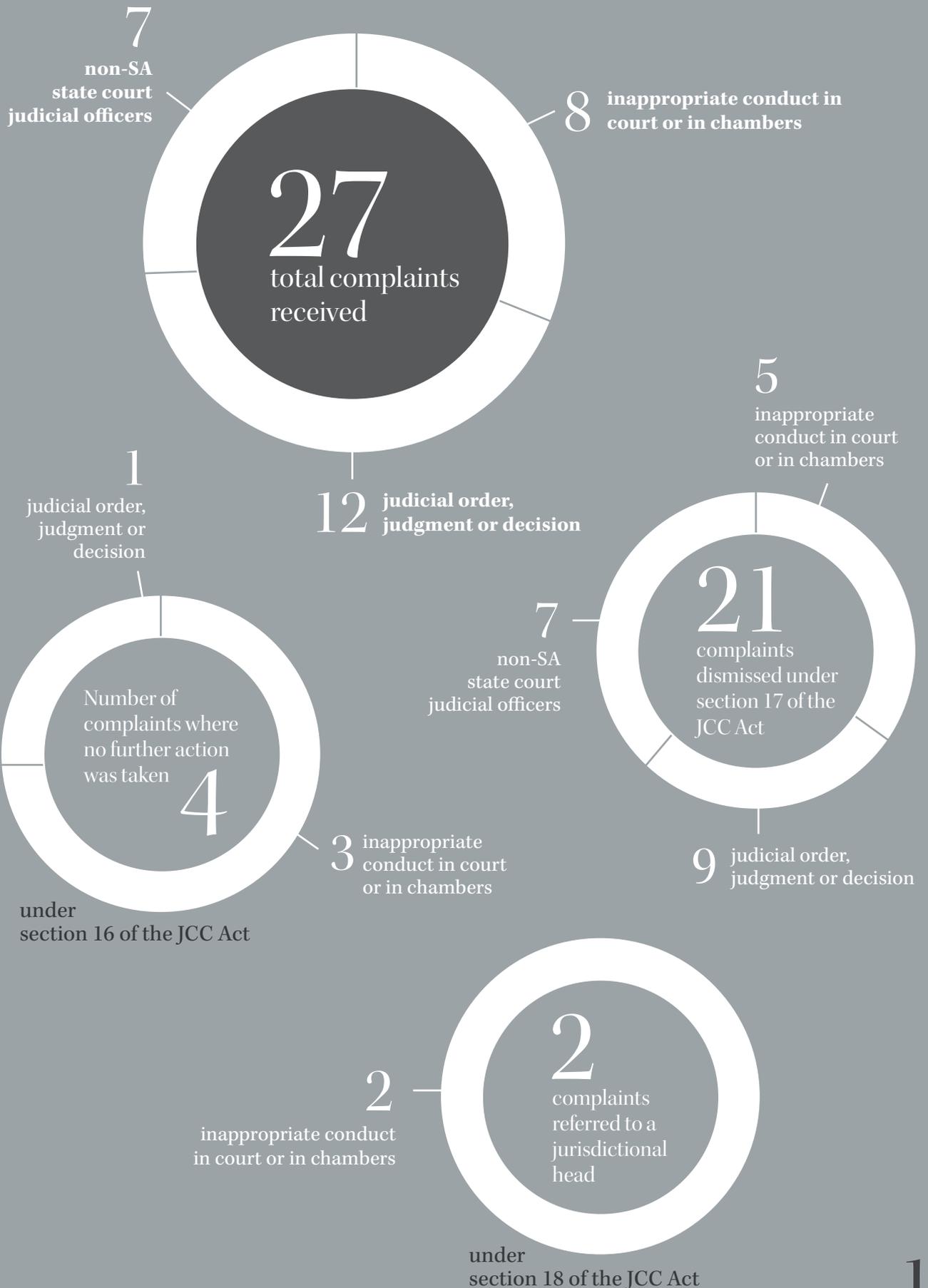
That meant I had 30 complaints to deal with during this reporting period. I dealt with and closed 27 of those matters while three matters remained open at 30 June 2018.

Some complaints raised more than one issue or related to more than one judicial officer. Of the 27 complaints that I dealt with, 71 separate issues were identified.

The following statistics relate to the primary issue raised in each complaint.



# NUMBER & GENERAL NATURE OF COMPLAINTS 2017-18





## Number of complaints:

- ▶ that resulted in a report to Parliament under section 19 of the JCC Act: 0
- ▶ that resulted in a recommendation to appoint a judicial conduct panel under section 20 of the JCC Act: 0
- ▶ not yet finalised, including a complaint made in 2016-17 but not finalised in that year: 3
- ▶ provided by jurisdictional heads for noting under section 27C(4) of the *Courts Administration Act 1993* (SA): 6
- ▶ dealt with about the conduct of judges of South Australian State courts: 4
- ▶ dealt with about the conduct of Magistrates of South Australian State courts: 12
- ▶ dealt with which were not about the conduct of a judicial officer of a South Australian State Court [some complaints were not about the conduct of any judicial officer but about the conduct of the Court's administration]: 11

The number of complaints received this year is quite low. The number of complaints that related to South Australian judicial officers was even lower.

When I commenced in this role I expected to receive more complaints than I have. I also expected to receive complaints about judicial officers delaying in providing decisions in relation to trials and applications over which the judicial officers have presided. In the reporting period I did not receive a single complaint of that kind. Indeed I have only received one complaint of that kind since the office commenced.

I also expected to receive complaints from members of the legal profession but in this year I received only one which is the only one I have received since the office commenced.

The legal practitioner complained about the conduct of a Magistrate when she was calling over her list. I listened to the audio of that application and obtained a transcript of the exchange between the Magistrate and the legal practitioner. I concluded that the Magistrate's conduct was not inappropriate in the circumstances.

Most of the complaints have been made by persons who were unrepresented and who had appeared in the Magistrates Court. Some of these complainants had appeared in the Small Claims Division of that Court.



Judicial officers frequently find unrepresented persons more difficult to manage than persons who are represented by legal practitioners.

Most persons who are unrepresented have little experience in the Courts and are unfamiliar with the Court's procedures.

Many also feel threatened by the process and are guarded in their interaction with the judicial officer. They do not understand that the judicial officer has an obligation to dispose of the proceedings expeditiously and in a way that puts all parties to the least possible cost. To achieve that result the judicial officer must, where necessary, assume control over and manage the proceedings which will often mean requiring a party to confine themselves to matters relevant to the proceedings.

The judicial officer and the unrepresented party will often have different views of relevance.

Proceedings in the Small Claims Division of the Magistrates Court usually have two unrepresented parties which adds a further layer of difficulty for the judicial officer.

In those cases the judicial officer has an obligation to bring about a settlement of the proceedings if that can be done by calculation.

In doing so the judicial officer is likely to make known his or her preliminary views. Some persons mistake comments of that kind as prejudgment or bias. The system requires the active intervention of the judicial officer and he or she cannot be criticised for making statements that are designed to assist the parties to resolve the matter without the need for a trial.

However in doing so the judicial officer must attempt to explain the process patiently and treat the parties with appropriate respect.

The small number of complaints in total and the single complaint of a legal practitioner might tend to suggest that the South Australian judiciary behaves well and is largely efficient. I hope that is the case but I think it is too early to reach that conclusion.

I think that the existence and purpose of my office is still not widely known. It would be better to postpone making a conclusion of that kind for perhaps another two or so years. However it can be said that it does look promising.



## Key Performance Indicators

One objective of the office of the Judicial Conduct Commissioner is to establish and maintain business processes consistent with the JCC Act. I have established three key performance indicators for this objective.

For the reasons set out below, my ability to meet the third key performance indicator depends in part upon the nature and quality of the complaints that I receive.

The time within which the preliminary examination can be completed depends upon whether there is a need to obtain further information to determine whether allegations can be substantiated and whether the judicial officer needs to be given an opportunity to be heard.

A small number of matters this year were complex and required a large amount of information to be gathered before I could make an informed decision about how to progress the complaint. Those few matters contributed to making the average number of days for this key performance indicator greater than I would have liked. Given that it is an average it does not reflect that the majority of preliminary examinations were completed in much shorter timeframes.

KEY PERFORMANCE INDICATOR	AVERAGE TIME (BUSINESS DAYS)
1. Register all new complaints in our electronic system within an average of three business days from receipt of the complaint.	2
2. Determine whether there is reasonable suspicion of corruption in public administration within an average of 10 business days after registration of the complaint.	10
3. For all complaints which do not raise a reasonable suspicion of corruption in public administration, complete a preliminary examination of the complaint within an average of 15 business days after registration of the complaint.	40



I continue to be grateful for the cooperation that I have received from the staff of the Courts Administration Authority in providing audio recordings and transcripts in a timely manner.

A transcript of an exchange sometimes does not provide the best evidence of the conduct of the persons involved. For that reason I prefer to listen to the audio recording of the proceedings to gain an appreciation of the manner of the exchange.

I am required to dismiss any complaint which 'is about a judicial decision, or other judicial function, that is or was subject to a right of appeal or right to apply for judicial review'<sup>2</sup>. I am also required to dismiss any complaint which would otherwise require me 'to challenge or call into question the legality or correctness of any instruction, direction, order, judgment, or other decision given or made by a judicial officer in relation to any legal proceedings'<sup>3</sup>.

Many complainants do not understand the distinction between the conduct of a judicial officer and his or her judicial decisions. They mistakenly view my role as that of an appeal court. The JCC Act makes it clear that is not my role. Whilst my website clearly explains my true role, I nevertheless continue to receive complaints about judicial decisions and I expect that I will continue to receive that kind of complaint from unrepresented litigants. Unfortunately the JCC Act presently requires me to notify the particular judicial officer when I dismiss a complaint on the ground that it relates to a judicial decision.

## Notice from Jurisdictional Heads

Under section 27C(4) of the *Courts Administration Act 1993* (SA), the jurisdictional heads are required to provide me with notice of any complaint made to them in relation to the conduct of a judicial officer. However, that referral does not constitute a 'complaint' under the JCC Act unless the jurisdictional head categorises it as such, or, per section 12(8) of the JCC Act I determine to treat the notification as a complaint.

As mentioned already, I received notice from jurisdictional heads of six complaints during the reporting period. I considered it appropriate to treat three of those notifications as complaints which allowed me to conduct a preliminary examination of those complaints. Others I simply noted and wrote to each complainant to inform him or her of my role as the Judicial Conduct Commissioner and to invite him or her to make a complaint to me under the JCC Act. Of those to whom I wrote, only one complainant took up the invitation to lodge a complaint.

<sup>2</sup> *Judicial Conduct Commissioner Act 2015* (SA) section 17(1)(e).

<sup>3</sup> *Judicial Conduct Commissioner Act 2015* (SA) sections 6(3) & 17(1)(e).

## Education Initiatives

I engage with the public, the judiciary and the legal profession through my website ([www.jcc.sa.gov.au](http://www.jcc.sa.gov.au)). The website includes information about my role, the complaint process and responses to frequently asked questions. A link to my website appears on the Courts Administration Authority of South Australia's website.

Over the course of the past year the website has received:

1,004  
unique visitors

+

2,300  
page views

+

174  
documents were downloaded  
from the site

The office of the Judicial Conduct Commissioner performs an educational function by responding to enquiries. During the 2017-18 period, the office received and responded to 22 written enquiries and 38 telephone enquiries.

## Legislative Change

As a result of an amendment to the JCC Act, which commenced on 11 July 2017, my conduct in the administration, or purported administration, of the JCC Act is now open to independent review in accordance with Schedule 4 of the *Independent Commissioner Against Corruption Act 2012 (SA)*<sup>4</sup>.

## Proposed Legislative Change

On 6 June 2018 the Government introduced into the House of Assembly the *Judicial Conduct Commissioner (Miscellaneous) Amendment Bill 2018* which contained proposed amendments that I had suggested. In the second reading speech the Deputy Premier and Attorney-General said:

*The amendments contained in this bill were requested by the commissioner. They operate to clarify some important aspects of the act and improve the efficiency of the judicial complaints process. The bill allows the commissioner to investigate if further information enlivens a complaint that would otherwise have been dismissed and also allows the commissioner to summarily dismiss complaints that could be dismissed under section 17. This would occur without the need to conduct a preliminary examination or to give notice of the complaint to the judicial officer concerned or to the jurisdictional head.*

(see over)

<sup>4</sup> *Independent Commissioner Against Corruption (Miscellaneous) Amendment Act 2016 (SA)* schedule 1 part 2; *Judicial Conduct Commissioner Act 2015 (SA)* sections 29A.

*It is true that, from time to time, we have frivolous and vexatious claims made not just against the judiciary but against public officers at a number of levels, and in circumstances where that has occurred, particularly repeated similar claims, this would enable the commissioner to formally dismiss the complaint, if he were satisfied that it should be summarily dismissed, without the need for the preliminary examination. This government is reducing the administrative burden placed on the commissioner.*

*The bill provides that the identity of the complainant need not be provided to the judge concerned or to the relevant jurisdictional head, unless the complainant consents to the disclosure or the commissioner is of the opinion that the disclosure of the complainant's identity is necessary in order to ensure that a proper response to the complaint is filed. This is essential to facilitate complaints to be made to the commissioner, especially coupled with an amendment to make it clear that any acts of victimisation from a judge towards a complainant can itself be the subject of a complaint. Lawyers should not be dissuaded from making complaints due to fears of retaliation when they next appear before that judge.*

*The definition of 'relevant jurisdictional head', where the person, the subject of the complaint, is themselves a jurisdictional head, has been amended to refer to the Chief Justice of the Supreme Court, meaning that complaints about a jurisdictional head are referred to the Chief Justice. The bill also makes several minor points of clarification, including:*

- 1. Requiring a copy of the report of the Judicial Conduct Panel to be provided to the commissioner;*
- 2. Providing that, where the commissioner*

*is also the Independent Commissioner Against Corruption, as is currently the case, a person employed under section 12 of the Independent Commissioner Against Corruption Act 2012 and directed to perform duties under the Judicial Conduct Commissioner Act [sic] a person seconded to assist the commissioner be included as a 'member of the Commissioner's staff'; and*

- 3. Making it clear that that the commissioner has the explicit power to consider conduct that occurs prior to the commencement of the Judicial Conduct Commissioner Act.*

*Finally, the bill makes an amendment to address the circularity of the current section 33, which provides that a person must not, except as authorised, publish information relating to a complaint if the publication is prohibited. The section has been amended to clarify that the information cannot be published, unless authorised by the commissioner.*

*The provisions in this bill have the purpose of clarifying the commissioner's powers and assisting him in the discharge of his statutory duties. I thank the commissioner for bringing these matters to the government's attention and providing his explanation for the same. After consultation, I now commend the bill to members and table the explanation of clauses.*

The amendments would, as the Deputy Premier said, improve the efficiency of the complaints process and in particular when, on the face of the complaint, it must be dismissed under section 17 of the JCC Act.

The Bill also provides for a level of protection for complainants as the Deputy Premier explained.

## Strategic Goals

In March 2017, I approved a strategic plan for the first three years of operation. The Judicial Conduct Commissioner's Strategic Plan formalises the vision, mission, values, goals and objectives of me and my staff.

The Strategic Plan contains the following goals and objectives:

I believe that we are on track to fulfil the goals and objectives we identified in 2017. I am confident that over the next 12 months the office will continue to make process and procedure amendments that will facilitate quicker outcomes for both complainants and judicial officers. I will endeavour to promote the work and existence of the office through speaking engagements.

### GOALS

1. **To be accessible**, so that anyone who believes a judicial officer has acted inappropriately is able to make a complaint to us.
2. To deal with all complaints before us in a **fair and efficient manner**.

### OBJECTIVES

1. To establish and maintain business processes consistent with the JCC Act.
2. To increase awareness of the existence and role of the Judicial Conduct Commissioner.
3. To ensure the process for making complaints is readily accessible.
4. To ensure that we have appropriately skilled people and the necessary resources to meet the demands of the office.





## Organisational Values

It is critical that staff assisting me act in accordance with the highest levels of integrity and hold values commensurate with the important work undertaken.

The core values underpin the governance framework of my office and guide the processes carried out in dealing with complaints.

### FAIRNESS

We ensure just and unbiased treatment of all complaints and always act in accordance with the principles of procedural fairness.

### INDEPENDENCE

Our decisions are made in accordance with law, free from influence and without fear or favour.

### EXCELLENCE

We act professionally, efficiently and effectively and we continuously strive to improve.

## The Organisation

I make use of the services and staff of the Office for Public Integrity and the Independent Commissioner Against Corruption under an arrangement I established as the Independent Commissioner Against Corruption. In particular, I have received executive assistance and support in relation to legal services, complaints management and corporate services.

### **COMMISSIONER**

I was appointed as the Judicial Conduct Commissioner on 11 August 2016.

I was admitted as a barrister and solicitor of the Supreme Court of South Australia in March 1969. I practiced as a solicitor until 1981 when I signed the Bar Roll. In 1986, I was appointed Queen's Counsel.

I served as a judge of the Supreme Court of South Australia from 1994 until 2003 when I was appointed as a judge of the Federal Court of Australia. I also served as an additional judge of the Supreme Court of the Australian Capital Territory and as a judge of the Supreme Court of Norfolk Island. Additionally, I was a Deputy President of the Administrative Appeals Tribunal.

On 2 September 2013, I resigned all my judicial appointments on being appointed South Australia's first Independent Commissioner Against Corruption. I hold this appointment concurrently with my appointment as the Judicial Conduct Commissioner.



## Workforce Statistics

I do not receive remuneration for my appointment as the Judicial Conduct Commissioner.

During the reporting period I employed one person who was a female and, as at 30 June 2018, was in the age bracket of 30-34 years. She was the only employee recruited to the office of the Judicial Conduct Commissioner during the 2016-17 and 2017-18 financial years. She separated from the office of the Judicial Conduct Commissioner on 5 September 2017. Her salary was not within the executive band. She did not take any days of sick leave, family carer's leave or special leave with pay during the reporting period.

After that employee's separation I continued to use staff of the Office for Public Integrity and Independent Commissioner Against Corruption to assist me in the performance of my functions. Those officers receive remuneration from the ICAC and accordingly, will be reported as employees in the Annual Report of the ICAC.

In this reporting period:

- ▶ there was no leadership/management training costed to the Judicial Conduct Commissioner;
- ▶ there were no Work Health and Safety prosecutions, notices or corrective action taken;
- ▶ there was no workers compensation expenditure;
- ▶ there were no occasions on which public interest information was disclosed to the responsible officer of the agency under the *Whistleblowers Protection Act 1993 (SA)*;
- ▶ there were no employment opportunity programs that were relevant; and
- ▶ there were no disability access and inclusion plans that were relevant.

My activities are supported by the Independent Commissioner Against Corruption's established work health safety programs and injury management processes.

## Unacceptable Conduct

I have adopted the following approaches to managing unacceptable conduct:

- ▶ The corporate risk register and associated controls.
- ▶ Endorsement and adoption of the South Australian Public Sector Fraud and Corruption Control Policy.
- ▶ I am required to sign a pecuniary interest declaration annually on or soon after 30 June.

- ▶ Investment in continual education about and reinforcement of the importance of ethical behaviour underpinned by the core values and the Code of Ethics for the South Australian Public Sector.

I do not have any knowledge of actual, suspected or alleged fraud affecting the office of the Judicial Conduct Commissioner.

### PUBLIC COMPLAINTS

CATEGORY OF COMPLAINTS BY SUBJECT 2017-18	NUMBER
Service Quality / Delivery	0
Behaviour of Staff	0
Service Access / Processes / Procedures	0
Other Complaints	0
<b>Total Complaints</b>	<b>0</b>

*The above table does not include complaints made by people that may be aggrieved with a decision or outcome in relation to a complaint made to the Judicial Conduct Commissioner about the conduct of a judicial officer.*

*It only includes complaints that express dissatisfaction with the service received, or the conduct of employees, secondees, contractors or other staff working for the Judicial Conduct Commissioner.*

## Freedom of Information

The Judicial Conduct Commissioner is an exempt agency under the *Freedom of Information Act 1991* (SA).









# Financial Statements

For the year ended  
30 June 2018



## INDEPENDENT AUDITOR'S REPORT



Government of South Australia  
Auditor-General's Department

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### To the Judicial Conduct Commissioner Judicial Conduct Commissioner

As required by section 31(1)(b) of the *Public Finance and Audit Act 1987*, I have audited the financial report of the Judicial Conduct Commissioner for the financial year ended 30 June 2018.

### Opinion

In my opinion, the accompanying financial report gives a true and fair view of the financial position of the Judicial Conduct Commissioner as at 30 June 2018, its financial performance and its cash flows for the year then ended in accordance with the Treasurer's Instructions issued under the provisions of the *Public Finance and Audit Act 1987* and Australian Accounting Standards.

The financial report comprises:

- a Statement of Comprehensive Income for the year ended 30 June 2018
- a Statement of Financial Position as at 30 June 2018
- a Statement of Changes in Equity for the year ended 30 June 2018
- a Statement of Cash Flows for the year ended 30 June 2018
- notes, comprising significant accounting policies and other explanatory information
- a Certificate from the Judicial Conduct Commissioner.

### Basis for opinion

I conducted the audit in accordance with the *Public Finance and Audit Act 1987* and Australian Auditing Standards. My responsibilities under those standards are further described in the 'Auditor's responsibilities for the audit of the financial report' section of my report. I am independent of the Judicial Conduct Commissioner. The *Public Finance and Audit Act 1987* establishes the independence of the Auditor-General. In conducting the audit, the relevant ethical requirements of APES 110 Code of Ethics for Professional Accountants have been met.

I believe that the audit evidence obtained is sufficient and appropriate to provide a basis for my opinion.

## **Responsibilities of the Judicial Conduct Commissioner for the financial report**

The Judicial Conduct Commissioner is responsible for the preparation of the financial report that gives a true and fair view in accordance with the Treasurer's Instructions issued under the provisions of the *Public Finance and Audit Act 1987* and the Australian Accounting Standards, and for such internal control as management determines is necessary to enable the preparation of the financial report that gives a true and fair view and is free from material misstatement, whether due to fraud or error.

## **Auditor's responsibilities for the audit of the financial report**

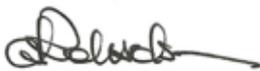
My objectives are to obtain reasonable assurance about whether the financial report as a whole is free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Australian Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of this financial report.

As part of an audit in accordance with Australian Auditing Standards, I exercise professional judgement and maintain professional scepticism throughout the audit. I also:

- identify and assess the risks of material misstatement of the financial report, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control
- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Judicial Conduct Commissioner
- evaluate the overall presentation, structure and content of the financial report, including the disclosures, and whether the financial report represents the underlying transactions and events in a manner that achieves fair presentation.

My report refers only to the financial report described above and does not provide assurance over the integrity of electronic publication by the entity on any website nor does it provide an opinion on other information which may have been hyperlinked to/from the report.

I communicate with the Judicial Conduct Commissioner about, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during the audit.



Andrew Richardson

**Auditor-General**

24 September 2018



**Judicial Conduct Commissioner**  
**Certification of the Financial Statements**  
*for the year ended 30 June 2018*

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I certify that the attached general purpose financial statements for the Judicial Conduct Commissioner:

- comply with relevant Treasurer's Instructions issued under section 41 of the *Public Finance and Audit Act 1987*, and relevant Australian Accounting Standards
- are in accordance with the accounts and records of the Judicial Conduct Commissioner
- present a true and fair view of the financial position of the Judicial Conduct Commissioner as at 30 June 2018 and the results of its operations and cash flows for the financial year.

I certify that the internal controls employed by the Judicial Conduct Commissioner for the financial year over its financial reporting and its preparation of the general purpose financial statements have been effective throughout the reporting period.



The Hon. Bruce Lander QC  
Judicial Conduct Commissioner

24 September 2018

**Judicial Conduct Commissioner**  
**Statement of Comprehensive Income**  
*for the year ended 30 June 2018*

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	Note	2018 \$'000	2017 \$'000
<b>Expenses</b>			
Employee benefits	3	2	66
Supplies and services	4	20	35
Other expenses	5	8	5
<b>Total expenses</b>		<b>30</b>	<b>106</b>
<b>Income</b>			
Recoveries	6	61	71
<b>Total income</b>		<b>61</b>	<b>71</b>
<b>Net cost of providing services</b>		<b>( 31)</b>	<b>35</b>
<b>Net result</b>		<b>31</b>	<b>( 35)</b>
<b>Total comprehensive result</b>		<b>31</b>	<b>( 35)</b>

The net result and total comprehensive result are attributable to the SA Government as owner.

The above statement should be read in conjunction with the accompanying notes.

**Judicial Conduct Commissioner**  
**Statement of Financial Position**  
*as at 30 June 2018*

	Note	2018 \$'000	2017 \$'000
<b>Current assets</b>			
Cash and cash equivalents		-	-
Receivables	7	-	1
<b>Total current assets</b>		<u>-</u>	<u>1</u>
<b>Total assets</b>		<u>-</u>	<u>1</u>
<b>Current liabilities</b>			
Payables	8	4	20
Employee benefits	9	-	10
<b>Total current liabilities</b>		<u>4</u>	<u>30</u>
<b>Non-current liabilities</b>			
Employee benefits	9	-	6
<b>Total non-current liabilities</b>		<u>-</u>	<u>6</u>
<b>Total liabilities</b>		<u>4</u>	<u>36</u>
<b>Net assets</b>		<u>(4)</u>	<u>(35)</u>
<b>Equity</b>			
Retained earnings		(4)	(35)
<b>Total equity</b>		<u>(4)</u>	<u>(35)</u>

**The total equity is attributable to the SA Government as owner.**

Unrecognised contractual commitments	12
Contingent assets and liabilities	13

The above statement should be read in conjunction with the accompanying notes.

**Judicial Conduct Commissioner**  
**Statement of Changes in Equity**  
*for the year ended 30 June 2018*

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	<u>Retained earnings</u>
	<u>\$'000</u>
<b>Balance at 30 June 2016</b>	-
Net result for 2016-17	(35)
<b>Total comprehensive results for 2016-17</b>	<u>(35)</u>
<b>Balance at 30 June 2017</b>	<u>(35)</u>
Net result for 2017-18	31
<b>Total comprehensive results for 2017-18</b>	<u>31</u>
<b>Balance at 30 June 2018</b>	<u><u>(4)</u></u>

**All changes in equity are attributable to the SA Government as owner.**

The above statement should be read in conjunction with the accompanying notes.

**Judicial Conduct Commissioner**  
**Statement of Cash Flows**  
*for the year ended 30 June 2018*

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	2018 (Outflows) Inflows \$'000	2017 (Outflows) Inflows \$'000
<b>Cash flows from operating activities</b>		
<b>Cash outflows</b>		
Employee benefits	(20)	(50)
Supplies and services	(41)	(21)
<b>Cash used in operations</b>	<b>(61)</b>	<b>(71)</b>
<b>Cash inflows</b>		
Recoveries	61	71
<b>Cash generated from operations</b>	<b>61</b>	<b>71</b>
<b>Net cash provided by / (used in) operating activities</b>	<b>-</b>	<b>-</b>
<b>Net increase in cash and cash equivalents</b>	<b>-</b>	<b>-</b>
Cash and cash equivalents at the beginning of the reporting period	-	-
<b>Cash and cash equivalents at the end of the reporting period</b>	<b>-</b>	<b>-</b>

The above statement should be read in conjunction with the accompanying notes.

# Judicial Conduct Commissioner

## Notes to and forming part of the financial statements

for the year ended 30 June 2018

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### 1 Basis of financial statements

#### 1.1 Statement of compliance

The Judicial Conduct Commissioner (the Commissioner) has prepared the financial statements in compliance with section 23 of the *Public Finance and Audit Act 1987* (PFAA).

The financial statements are general purpose financial statements. The accounts have been prepared in accordance with relevant Australian Accounting Standards (Reduced Disclosure Requirements) and comply with Treasurer's Instructions and Accounting Policy Statements promulgated under the provisions of the *Public Finance and Audit Act 1987*.

As the Commissioner is a not-for-profit entity, Australian Accounting Standards that are applicable for not-for-profit entities have been applied. Australian Accounting Standards and Interpretations that have recently been issued or amended but are not yet effective, have not been adopted by the Commissioner for the period ending 30 June 2018.

#### 1.2 Basis of preparation

The preparation of the financial statements requires:

- the use of certain accounting estimates and requires the Commissioner to exercise his judgement in the process of applying the accounting policies. The areas involving a higher degree of judgement or where assumptions and estimates are significant to the financial statements, are outlined in the applicable notes
- accounting policies are selected and applied in a manner which ensures that the resulting financial information satisfies the concepts of relevance and reliability, thereby ensuring that the substance of the underlying transactions or other events are reported
- compliance with Accounting Policy Statements issued pursuant to section 41 of the *Public Finance and Audit Act 1987*.

The Commissioner's Statement of Comprehensive Income, Statement of Financial Position and Statement of Changes in Equity have been prepared on an accrual basis and are in accordance with historical cost convention, except for certain assets that were valued in accordance with the valuation policy applicable.

The Statement of Cash Flows has been prepared on a cash basis.

The financial statements have been prepared based on a 12 month operating cycle and are presented in Australian currency.

All amounts in the financial statements and accompanying notes have been rounded to the nearest thousand dollars (\$'000).

Significant accounting policies are set out in the notes.

### 2 Objectives

The office of the Judicial Conduct Commissioner opened on 5 December 2016. The principal function of the Commissioner is to receive and deal with complaints made in accordance with the *Judicial Conduct Commissioner Act 2015* about serving judicial officers in relation to the conduct of those judicial officers, provided that the impugned conduct bears upon their judicial functions or judicial duties.

**Judicial Conduct Commissioner**  
**Notes to and forming part of the financial statements**  
*for the year ended 30 June 2018*

**3 Employee benefits**

	<b>2018</b>	<b>2017</b>
	<b>\$'000</b>	<b>\$'000</b>
Salaries and wages	14	44
Long service leave	( 6)	6
Annual leave	( 6)	8
Employment on-costs - superannuation	-	5
Employment on-costs - other	-	3
<b>Total employee benefits expenses</b>	<b>2</b>	<b>66</b>

**Key management personnel**

Key management personnel include the Commissioner who has responsibility for strategic direction and management.

Total compensation for the Commissioner was nil.

**4 Supplies and services**

	<b>2018</b>	<b>2017</b>
	<b>\$'000</b>	<b>\$'000</b>
Shared Services SA charges	17	8
Marketing information	-	7
Subcontractors	-	4
Information and communications technology	3	4
Records management	-	3
Consumer education	-	2
Consultants	-	2
Printing	-	2
Website development	-	2
Interpreting costs	-	1
<b>Total supplies and services</b>	<b>20</b>	<b>35</b>

The number of consultancies and dollar amount paid/payable (included in supplies and services expense) that fell within the following bands:

	<b>2018</b>	<b>2018</b>	<b>2017</b>	<b>2017</b>
	<b>Number</b>	<b>\$'000</b>	<b>Number</b>	<b>\$'000</b>
Below \$10 000	-	-	1	2
<b>Total paid / payable to the consultants engaged</b>	<b>-</b>	<b>-</b>	<b>1</b>	<b>2</b>

**5 Other expenses**

	<b>2018</b>	<b>2017</b>
	<b>\$'000</b>	<b>\$'000</b>
Other expenses	8	5
<b>Total other expenses</b>	<b>8</b>	<b>5</b>

**Judicial Conduct Commissioner**  
**Notes to and forming part of the financial statements**  
*for the year ended 30 June 2018*

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**6 Recoveries**

	<b>2018</b>	<b>2017</b>
	<b>\$'000</b>	<b>\$'000</b>
Recoveries	61	71
<b>Total recoveries</b>	<b>61</b>	<b>71</b>

**7 Receivables**

	<b>2018</b>	<b>2017</b>
	<b>\$'000</b>	<b>\$'000</b>
<b>Current</b>		
GST receivable	-	1
<b>Total current receivables</b>	<b>-</b>	<b>1</b>
<b>Total receivables</b>	<b>-</b>	<b>1</b>

**8 Payables**

	<b>2018</b>	<b>2017</b>
	<b>\$'000</b>	<b>\$'000</b>
<b>Current</b>		
Creditors	-	14
Accruals	4	5
Employee on-costs	-	1
<b>Total current payables</b>	<b>4</b>	<b>20</b>
<b>Total payables</b>	<b>4</b>	<b>20</b>

**Employee on-costs**

As a result of an actuarial assessment performed by the Department of Treasury and Finance (DTF), the proportion of long service leave taken as leave has changed from the 2017 rate 40% to 41% and the average factor for the calculation of employer superannuation cost on-costs is 9.9% (2017: 10.1%). These rates are used in the employment on-cost calculation.

**Judicial Conduct Commissioner**  
**Notes to and forming part of the financial statements**  
*for the year ended 30 June 2018*

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**9 Employee benefits liability**

	2018 \$'000	2017 \$'000
<b>Current</b>		
Accrued salaries and wages	-	2
Annual leave	-	7
Long service leave	-	1
<b>Total current employee benefits</b>	<u>-</u>	<u>10</u>
<b>Non-current</b>		
Long service leave	-	6
<b>Total non-current employee benefits</b>	<u>-</u>	<u>6</u>
<b>Total employee benefits</b>	<u>-</u>	<u>16</u>

AASB 119 *Employee Benefits* contains the calculation methodology for the long service leave liability. The actuarial assessment performed by DTF has provided a set level of liability for the measurement of long service leave. AASB 119 *Employee Benefits* requires the use of the yield on long term Commonwealth Government bonds as the discount rate in the measurement of the long service leave liability. The yield on long term Commonwealth Government bonds is 2.5%.

The actuarial assessment performed by DTF used a rate of 3% for annual leave liability.

**10 Related party transactions**

The Judicial Conduct Commissioner is both independent and accountable to the Crown.

Related parties include all key management personnel and their close family members.

**Significant transactions with government related entities**

The Commissioner did not have any significant transactions with government related entities.

**Transactions with key management personnel and other related parties**

There were no individually significant transactions with key management personnel and other related parties.

**11 Financial risk management / financial instruments**

**Liquidity / funding risk**

The continual existence of the Commissioner in its present form is dependent on State Government policy and recoveries provided by the AGD.

The Commissioner has received representation from the AGD that recoveries will be provided in 2018-19 to enable the Commissioner to continue its activities.

**12 Unrecognised contractual commitments**

There are no material commitments as at 30 June 2018.

**Judicial Conduct Commissioner**  
**Notes to and forming part of the financial statements**  
*for the year ended 30 June 2018*

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**13 Contingent assets and liabilities**

The Commissioner is not aware of any contingent assets or liabilities in relation to its activities.

**14 Events after balance date**

There are no known events after balance date that affects these financial statements in a material manner.









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*[jcc.sa.gov.au](https://jcc.sa.gov.au)*

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