



Crown
Solicitor's
Office

NSW Crown Solicitor's Office

Annual Report

for the period ended 30 June 2018



**Crown
Solicitor's
Office**

19 October 2018

The Hon Mark Speakman SC MP
Attorney General
Level 18, 52 Martin Place
SYDNEY NSW 2000

Dear Attorney General,

I have pleasure in presenting to you the annual report of the Crown Solicitor's Office for the period 1 July 2017 to 30 June 2018.

The report has been prepared in accordance with the *Annual Reports (Departments) Act 1985* and the *Public Finance and Audit Act 1983* for presentation to Parliament.

Yours faithfully,

Lea Armstrong
Crown Solicitor

Contents

Crown Solicitor's message	1
Agency overview	2
Management & structure	6
Summary review of operations	11
Management & activities	19
Financial performance	22
Human resources	23
Work, health & safety	27
Appendix 1 Financial Statements	29
Appendix 2 Accounts payment performance	66
Appendix 3 Consultant expenditure	68
Appendix 4 Promotion – overseas visits by officers & employees.....	68
Appendix 5 Risk management & insurance	69
Appendix 6 Internal audit & risk management policy attestation	70
Appendix 7 Digital information security policy attestation statement.....	71
Appendix 8 <i>Government Information (Public Access) Act 2009</i>	72
Appendix 9 <i>Privacy and Personal Information Protection Act 1998</i>	72
Appendix 10 Public interest disclosures	73
Appendix 11 Legal change.....	73
Appendix 12 Disability inclusion action plan	73
Appendix 13 Sustainability	74
Appendix 14 Consumer Response	74
Appendix 15 Report production costs & access	75

CONTACT

NSW Crown Solicitor's Office

Level 5, 60-70 Elizabeth St
Sydney NSW 2000

GPO Box 25
Sydney NSW 2001

e crownsol@csso.nsw.gov.au

t 02 9224 5000

f 02 9224 5011

Monday to Friday, 8am to 5.30pm

CROWN SOLICITOR'S MESSAGE



The 2017-18 financial year was a positive one for my Office, with continued focus on our objective to fulfil the NSW Government's need for a strong legal advisor committed to serving the State, and the wider public interest. My solicitors and I worked on matters at the forefront of legal developments, and with important implications for the State of NSW.

My Office also supported clients with a range of no-cost and low-cost value added services, including highly-rated specialised training to assist NSW Government agency clients to understand and meet their obligations under the *Government Information (Public Access) Act 2009*, and training on NSW privacy legislation.

We attracted high attendance rates at our free, monthly CLE seminars for clients, receiving consistently positive feedback about the quality and relevance of the seminars.

Workplace Modernisation

The CSO embarked on a major Workplace Modernisation program in 2017. With several components, including the roll out of new or upgraded software and hardware, the program aims to enhance the delivery of quality legal services through the improvement of systems, processes and infrastructure.

As part of the program, and in response to the NSW Government's office fit-out guidelines, we are refitting our office to move to more open plan spaces. Now well underway, the fit out is scheduled to be completed by January 2019.

Financial performance

The Office achieved a net surplus of \$9.5M, \$8.1M better than the budgeted \$1.4M. This operational result comprised revenue that was \$7.4M greater than budget – new matters under the *Terrorism (High Risk Offenders) Act 2017*, and the Public Inquiry under the *Charitable Fundraising Act 1991* (in relation to the Returned Services League of Australia), uncontested child adoption matters and historical child sexual abuse matters contributed to the higher than budgeted workload.

These results continue a positive trend for the CSO, since the Office became an Executive Agency in February 2014.

Looking ahead

As the Office continues to realise the benefits of its Workplace Modernisation project, particularly in the technology space, I look forward to building on our strengths and increasing our capabilities in delivering effective and relevant quality legal services to the State of NSW.



Crown Solicitor

AGENCY OVERVIEW

The Crown Solicitor's Office (CSO) is a Public Service Executive Agency headed by the NSW Crown Solicitor. The Crown Solicitor and her Office provide legal services to Ministers, NSW Government agencies and statutory bodies, and other persons approved by the NSW Attorney General.

Legal services are provided to the clients of the Crown Solicitor through 11 specialist legal practice groups. The Crown Solicitor heads a small legal practice group that focuses on selected whole-of-government and/or high profile legal issues. The other 10 legal practice groups are organised into four legal divisions, with each division headed by an Assistant Crown Solicitor. Each legal practice group is headed by an executive lawyer at director level. The CSO's Corporate Services division is headed by the Practice Manager.

Charter

The CSO is an executive agency, related to the Department of Justice and headed by the Crown Solicitor. The Crown Solicitor is responsible to the Attorney General for the operations of the CSO.

Under the *Legal Profession Uniform Law Application Act 2014*, the Crown Solicitor may act as solicitor for:

- the State of New South Wales
- a person suing or being sued on behalf of the State of New South Wales
- a Minister of the Crown in his or her official capacity as such a Minister
- a body established by an Act or other law of New South Wales
- an officer or employee of the Public Service or any other service of the State of New South Wales or of a body established by an Act or other law of New South Wales
- a person holding office under an Act or other law of New South Wales or because of the person's appointment to that office by the Governor or a Minister of the Crown
- any other person or body, or any other class of persons or bodies, approved by the Attorney General.

"Core legal work", as defined in Premier's Memorandum 2016-04, must be referred to the Crown Solicitor, and is performed on a cost recovery basis.

The Crown Solicitor's legal fees and disbursements for core legal work are met from the Attorney General's Legal Fund (previously the Core Fund) comprising an appropriation administered by Department of Justice, unless some other source of funding is available, such as the Treasury Managed Fund ("TMF").

The CSO is considered a not-for-profit entity, as approximately 65% of its work is core legal work and is performed at cost recovery rates only.

The Crown Solicitor competes with the private sector for non-core legal work.

Aims & objectives

The Crown Solicitor provides legal services to the State Government of NSW and the other entities specified in s. 44 of the *Legal Profession Uniform Law Application Act 2014*. The Crown Solicitor is the solicitor on record for the purpose of legal proceedings.

Through her Office, the Crown Solicitor is the largest provider of legal services to the NSW Government and its agencies, and the sole provider of legal services in all matters which are regarded as core legal work. The Crown Solicitor manages thousands of legal matters each year, many of which are long-running matters involving significant litigation.

Under the Premier's Memorandum 2016-04, the Crown Solicitor must be engaged by government agencies (subject to that Memorandum) to perform core legal work, being legal services in respect of a matter where:

- the best interests of the NSW Government as a whole require a single source of authoritative legal advice and central management; or
- it relates to the statutory or common law functions of the Attorney General.

The Crown Solicitor also competes with the private legal profession to perform non-core legal work for government agencies, accounting for approximately 35% of fees revenue. This work is priced in accordance with competitive neutrality principles and generates a surplus from which the CSO makes its financial distribution payment and funds its capital expenditure.

CSO officers understand the sensitivities that attend the functions of the NSW State Government, and work diligently to build positive working partnerships with clients. They use their unique knowledge to provide high quality legal advice and services, while maintaining integrity and professional independence.

The Crown Solicitor does not provide legal services to the general public.

As an executive agency related to the Department of Justice, the CSO's business initiatives are linked to Department's goals and directions in terms of the delivery of quality client services and responsiveness to the needs of the NSW Government and its agencies.

The CSO complies with all NSW Government directions and policies and endeavours to understand clients' objectives, challenges and how they operate.

The CSO exists to serve the public interest and endeavours to ensure that its legal services provide good value for money.

Our values

We share common values with the rest of the NSW Public Service, as articulated in the Ethical Framework published by the Public Service Commissioner. These values are:

- integrity
- trust
- service
- accountability.

Our services

Constitutional & Administrative Law	Advised on all areas of State administrative law, and provided representation and advice on access to government information and privacy matters. Also advised and represented the State in relation to matters arising under the Commonwealth Constitution.
Child Protection	Provided litigation and advice services on all aspects of child protection law and practice and other areas of law relating to children.
Commercial Law	Undertook commercial (including taxation and revenue) litigation and managed matters relating to commercial advice, transactions and agreements, including asset divestments and long-term leasing, and intellectual property.
Community Law	Provided advice and representation in a wide range of areas of law including charitable trusts, non-employment related discrimination, public interest immunity, guardianship and relator actions.
Criminal Law	Advised and represented clients in courts and tribunals, and provided advice and litigation services in matters including those relating to summary and regulatory prosecutions, applications for apprehended violence orders, sentencing, parole, contempt of court and high-risk offender applications.
Employment Law & Industrial Relations	Delivered advice on employment and industrial law at Federal and State levels and acted for agencies in a wide range of employment issues including work, health and safety prosecutions and dispute resolution whether by informal discussion, conciliation or mediation.
Government Law	Advised the executive government, Parliament and statutory office-holders on a range of significant and high profile matters, including those involving State constitutional law, electoral law, parliamentary law, public finance, as well as on government reform and restructure projects.
Inquiries	Assisted and represented clients at inquests and all forms of inquiry in relation to matters involving investigatory processes, assisted the State Coroner in complex coronial inquests and represented interested parties and assisted in special commissions.
Property & Native Title Law	Provided representation in property-related matters and advice on property transactions and Crown land. Advised and represented clients on issues relating to native title and land claims.
Torts Justice/ Enforcement Agencies	Undertook all aspects of defence and settlement of civil claims; in particular, those involving law enforcement agencies and claims for intentional torts.
Torts – Service/ Regulatory Agencies	Undertook all aspects of the defence and settlement of civil claims involving other State agencies, including conduct of litigation at first instance and at all stages of appeal.
Corporate Services	Provided internal administrative and business support to legal practice groups and clients through the following areas: Finance & Support Services; Human Resources; Information Services; Information Technology; Marketing & Communications.

Value added services

In addition to delivering legal services, the Office provided a range of value-add services to its government clients. In the 2018 financial year, the CSO:

- delivered monthly seminars/webinars to a total of over 1,000 client contacts
- distributed three issues of the client newsletter to over 3,000 clients
- provided specialised training on the *Government Information (Public Access) Act 2009* and NSW Privacy legislation to staff from 32 NSW departments and agencies.

CLE seminars/webinars

Monthly seminars/webinars addressed issues of current relevance to government departments and agencies. They helped clients make informed decisions about their matters and operations, reduce risk, and manage compliance with relevant legislation.

Specialised training

Full-day training sessions helped clients understand and meet their obligations under the GIPA Act, and appropriately manage disclosure of government information. NSW privacy legislation training sessions helped clients understand the full implications of NSW privacy legislation in their workplace

Tailored training & education

The CSO delivered tailored training and educational seminars to specific clients on key legal issues relevant to their organisations.

Matter reporting

Monthly reports provided clients with critical information to track active matters and help inform decision-making. Reports highlighted key indicators, including accrued costs for the period.

Client newsletters

Clients were kept abreast of the latest legal developments and significant cases with regular newsletters.

Online Client Centre

The CSO's online Client Centre gave clients access to a wealth of free resources, including copies of seminar papers on legal topics relevant to State Government, recordings of CLE webinars, and an archive of newsletters.

MANAGEMENT & STRUCTURE

As at 30 June 2018, the CSO Executive comprised the Crown Solicitor, as head of the agency, four Assistant Crown Solicitors, and the Practice Manager:

- **Lea Armstrong, Crown Solicitor**
- **Cheryl Drummy, Assistant Crown Solicitor**
Richard Kelly was temporarily assigned to this role between October and December 2017. Fiona Read was temporarily assigned to the role between August and October 2017.
- **James Lonsdale, Assistant Crown Solicitor**
- **Naomi Malhotra, Assistant Crown Solicitor**
Emma Sullivan has been temporarily assigned to this role since February 2018. Natalie Marsic was temporarily assigned to the role from January to February 2018.
- **John McDonnell, Assistant Crown Solicitor**
- **Tom Gilmartin, Practice Manager**

Approximately 400 legal and support people were employed to deliver services.

CSO Executive: Profiles



LEA ARMSTRONG, CROWN SOLICITOR

Lea Armstrong was appointed Crown Solicitor in June 2015. Lea has over 25 years' experience in government and commercial law, gained in both the public and private sectors. She has extensive experience in leading and directing the provision of legal services to NSW Government agencies across a wide range of areas. Prior to taking up her appointment as Crown Solicitor, Lea occupied the role of General Counsel at the NSW Treasury, providing legal advice to the Secretary and across that department on the leasing of electricity networks, financial management reform, and a range of significant commercial and structural reforms.

During a previous period of employment at the CSO, she worked in several executive legal roles, including as General Counsel with a focus on major commercial transactions and reform projects for NSW Government clients. She advised the State of NSW, for example, on bulk water reform, the long-term leasing of its major ports, the sale of State-owned electricity assets, national energy market reform, the corporatisation of the Forestry Commission and the long-term licensing of NSW Lotteries to the private sector.

Lea also has substantial experience in managing and delivering complex legislative projects, having worked extensively with key stakeholders (from both government and the private sector) and parliamentary counsel on innovative legislation at both the State and intergovernmental level.

Qualifications: BA (Hons), LLB (Hons), LLM



CHERYL DRUMMY, ASSISTANT CROWN SOLICITOR

Cheryl was appointed Assistant Crown Solicitor in April 2018, leading the Civil Law division, and was acting in the role from January 2018.

A solicitor at the CSO since 2002, Cheryl's previous roles at the CSO include five years as the Director of the Child Protection practice group. Her experience in children's law matters including those relating to the protection of children (State care and protection and Family Law proceedings), federal location and recovery orders, and Supreme Court adoption applications and *parens patriae* proceedings relating to children, including applications for medical treatment and secure accommodation orders.

As Director of the Community Law practice group, Cheryl had responsibility for the provision of public interest immunity advice and representation to NSW Government agencies. She has had carriage of significant matters, including Court of Appeal and Court of Criminal Appeal decisions dealing with the interplay between public interest immunity and the open justice principle.

Cheryl was Special Counsel assisting the Special Commission of Inquiry into the Greyhound Racing Industry in NSW, which ran from February 2015 to July 2016.

Qualifications: BA(Politics), LLB(Hons)



JAMES LONSDALE, ASSISTANT CROWN SOLICITOR

James joined the CSO in 2016 as Assistant Crown Solicitor, leading the Commercial & Property Law division. He has over 20 years' experience in government and private practice in a wide range of commercial law matters, with a particular focus on major procurement, construction, property and environmental planning work for government and quasi-government entities across Australia.

Significant projects he has advised on include the development and construction of gas-fired power stations; demolition and re-purposing of industrial and commercial land; the construction of pipelines, roads and electricity assets; the restructure of the state-owned electricity distribution businesses; and the development and disposal of significant commercial properties.

In addition to his expertise in supporting State agencies in commercial and property related matters, James has significant in-house experience, most recently in the NSW State owned electricity businesses. As General Counsel and Company Secretary for Essential Energy, James gained substantial experience in matters relating to corporate governance and directors' duties. He has also held prior roles the public sector, with roles in the then NSW Attorney General's Department and the then Department of Industry, Planning and Natural Resources.

Qualifications: LLB, LLM



NAOMI MALHOTRA, ASSISTANT CROWN SOLICITOR

Naomi leads the Inquiries & Criminal Law division.

She has extensive experience advising and representing NSW Government clients in high-profile and significant criminal and inquisitorial matters. She worked in, and then led (as Director), the CSO's Criminal Law practice group. Naomi acted for the prosecutor in regulatory prosecutions and provided complex advice in relation to a range of criminal-law related issues, including investigatory processes.

Skilled in conducting and supervising complex, large-scale litigation in both the public and private sectors, Naomi (as Special Counsel) led the CSO team representing the State of NSW in the Royal Commission into Institutional Responses to Child Sexual Abuse, coordinating a whole-of-government response and providing ongoing advice to numerous government agencies. Her experience also includes assisting coroners and representing interested parties in complex coronial inquests, including matters concerning the adequacy of medical treatment and cold-case/suspected homicides.

Prior to joining the CSO, Naomi worked in private practice, running inter-jurisdictional litigation and investigations as a Senior Associate in the dispute resolution group at King & Wood Mallesons, Perth. She also spent over four years at the State Solicitor's Office, WA, which included a secondment to WA Police as in-house counsel. Naomi also completed a placement at the Office of the WA Director of Public Prosecutions.

Qualifications: BA, LLB (Hons)



JOHN MCDONNELL, ASSISTANT CROWN SOLICITOR

John leads the Public Law, Employment & Child Protection division.

A solicitor at the CSO since 1985, John is a specialist in all areas of public law. In 2001, he was appointed to head the CSO's Administrative Law practice group, and has expertise in representing NSW government agencies in relation to administrative law, statutory interpretation, FOI/GIPA and privacy.

Between 2014 and 2016, John was involved in supervising several challenges to the interpretation and validity of the Independent Commission Against Corruption's legislation (including the Duncan and Cunneen litigation). Since 2015, John has been advising the NSW Government on legal issues in relation to the amalgamation of local government areas, and acted for the State of NSW in the resulting legal challenges.

John is also highly experienced in constitutional law, and has appeared in Local, District, Land and Environment, Supreme and Federal Court matters. He has instructed Counsel and the Solicitor General in numerous High Court matters, including *Ha v State of NSW* (1997) 189 CLR 465 (s. 90 excises) and *Re Residential Tenancies Tribunal; Ex parte Defence Housing Authority* (1997) 190 CLR 410 (the State's power to bind the Commonwealth).

Qualifications: BA, LLB



TOM GILMARTIN, PRACTICE MANAGER

As the CSO's Practice Manager, Tom leads the Corporate Services division, which spans risk management, human resources, learning and development, finance and support services, business systems support, information services, and marketing and communications.

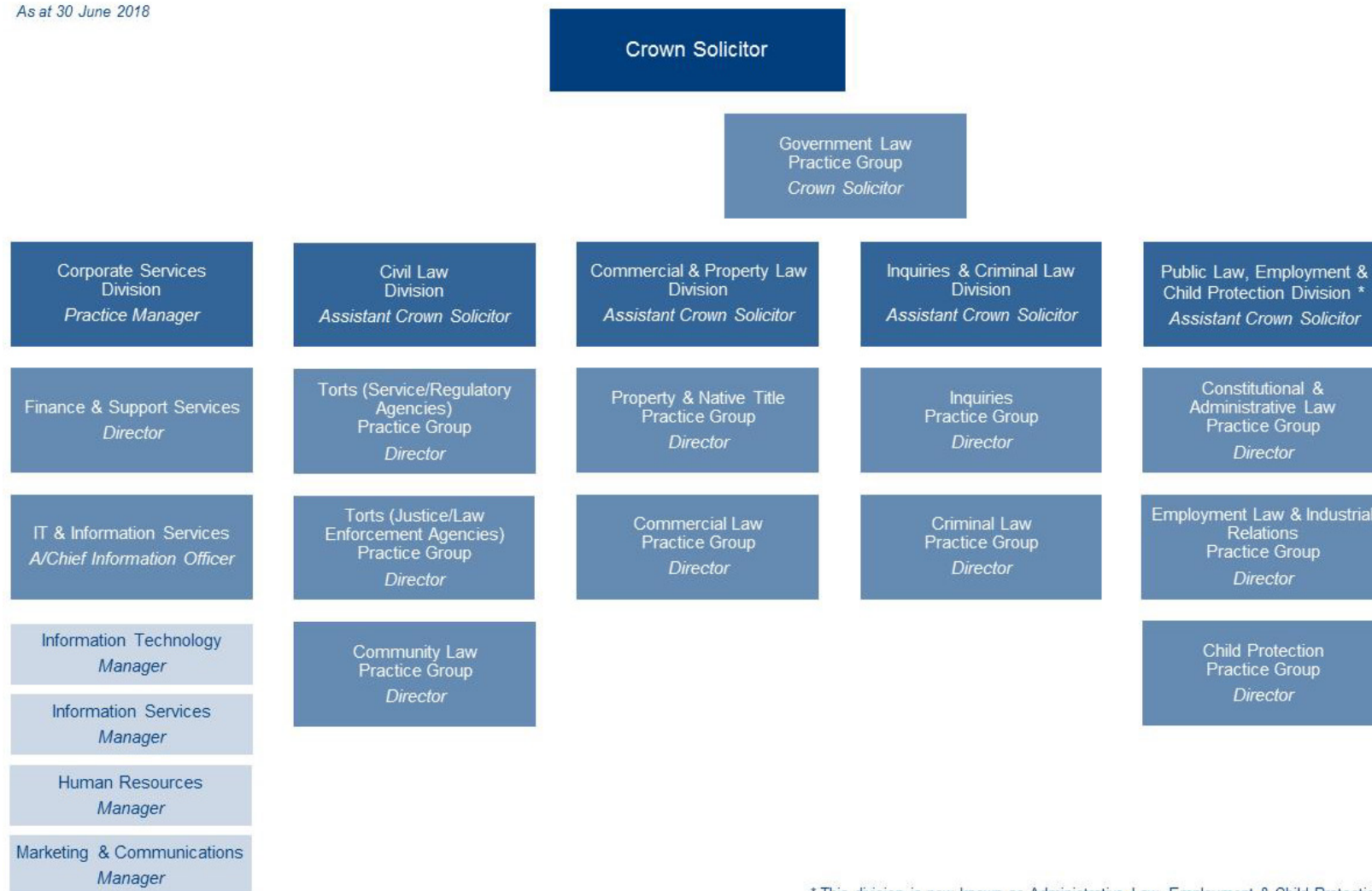
Prior to joining the CSO, Tom was the Chief Operating Officer at NSW Treasury, where he drove the highly successful move to agile working at 52 Martin Place, implemented new information communication technologies to support the new ways to work, and introduced a culture and workforce program and a new Human Capital management system.

Tom also had a career in the private sector as the Chief Financial Officer at law firm, Clayton Utz, and Head of Shared Services at KPMG, where he managed the finance and administration departments and developed and implemented strategies to successfully deliver on the vision of the firm.

Qualifications: FCCA, NDB

Organisation chart

As at 30 June 2018



* This division is now known as Administrative Law, Employment & Child Protection

SUMMARY REVIEW OF OPERATIONS

Legal matters

In the 2017/18 financial year, the Crown Solicitor accepted instructions in 4,104 new matters, ranging from routine to significant, and often high profile.

For example, the Office acted for the Premier, Transport for NSW and Roads and Maritime Services (RMS) in the recent appeal of a NSW Civil and Administrative Tribunal decision, which found that RMS, as a statutory corporation, was a separate “person” to the Office of Environment and Heritage, such that legal professional privilege had been waived over certain documents.

The office was instructed in several water prosecution matters by the newly established Natural Resources Access Regulator (NRAR), an independent regulatory body that commenced operations in April 2018. The matters involved various allegations, including water theft, illegal construction and use of water supply works (e.g. pumps and channels) and taking water without a properly functioning meter. This is a complex area of law and these are serious crimes that can have significant and irreparable negative impacts for other water users and the environment.

The Office was engaged on several major infrastructure projects, such as the WestConnex motorway, and proposals for the construction of new stadiums.

The Office also completed its work acting for the State in the Royal Commission into Institutional Responses to Child Sexual Abuse, which delivered its final report and recommendations in December 2017.

Significant High Court matters in which the Crown Solicitor was instructed included those involving constitutional challenges to legislative provisions, including on the basis of the implied freedom of political communication (*Brown v Tasmania* [2017] HCA 43).

A selection of some of the more significant matters is set out on the following pages.

Legal services panels

The CSO continued to deliver services under several panel arrangements: the NSW State Insurance Corporation Treasury managed Fund Legal Services Panel (since 2012); the NSW whole-of-government Legal Service Panel (since 2016); and the NSW Treasury Managed Fund (TMF)/NSW Health Medical Liability Legal Services Panel (since 2016).

Selected matter summaries

The following matter summaries are a sample of some of the significant and/or unique legal matters undertaken by legal officers on behalf of the Crown Solicitor during FY2018.

First applications seeking orders under the *Crimes (Serious Crimes Prevention Orders) Act 2016*

Commissioner of Police v Bowtell (No. 2); Commissioner of Police v Cole [2018] NSWSC 520 and [2018] NSWSC 517

In these two proceedings, the Commissioner sought orders under the provisions of the *Crimes (Serious Crimes Prevention Orders) Act 2016* (the Act) against the defendants, who were members, respectively, of the Nomads and the Finks outlaw motorcycle gangs (OMCGs).

Contravention of an order made under the Act is an offence carrying a term of imprisonment. The applications were the first under the Act, and arose against the background of a long-running conflict between the rival OMCGs in the Hunter Valley area. Recent incidents included drive-by shootings using military grade ammunition.

The Commissioner sought the imposition of strict conditions against each of the defendants, restricting their association, and imposing curfews and limits on the use of encrypted communication devices, social media, and on the display of OMCG insignia.

Rather than rely upon the defendants' previous convictions, the Commissioner took the approach of establishing that each defendant was involved in "serious crime related activity" for which they had not been convicted. Under s. 4 of the Act, "serious crime related activity" means anything done by a person that is, or was at the time, a serious criminal offence, whether or not the person has been charged with the offence. A person is involved in serious crime related activity if that person has engaged in "serious crime related activity", or engaged in conduct that has facilitated another person engaging in serious crime related activity.

The essence of the application was that the defendants were members of a "criminal group" (as statutorily defined), being a group that has as its objective committing serious violence offences. The Commissioner relied upon expert evidence from officers of Strike Force Raptor, including evidence about club rules and constitutions, the hierarchical structure of OMCGs, and representations of senior OMCG office holders as to the control of club members.

Justice Davies accepted the Commissioner's case in each of the proceedings. In the Nomads proceedings, his Honour rejected the evidence of all but one of the defendants, finding that they "lied constantly". His Honour imposed conditions against each of the defendants in accordance with the conditions sought by the Commissioner, with some slight amendments. The orders were made for a term of 12 months, and were a significant outcome for the Commissioner of Police.

The first extended supervision order under the *Terrorism (High Risk Offenders) Act 2017*

State of New South Wales v Ceissman [2018] NSWSC 508

The first substantive hearing under the *Terrorism (High Risk Offenders) Act 2017* proceeded in the Supreme Court in *State of New South Wales v Ceissman* [2018] NSWSC 508, in which the Crown Solicitor acted for the State.

Greg Ceissman was serving a sentence for an indictable offence which was not terrorism-related. During his incarceration, Mr Ceissman converted to Islam. The State alleged that Mr Ceissman had then told a fellow prisoner of his plans, upon his release, to travel to Syria to undertake training and expressed a threat to behead police officers and to explode a bomb at the Bankstown Shopping Centre. As Mr Ceissman's current custody was about to expire, an interim supervision order (ISO) was sought pending the making of final orders.

In April 2018, Rothman J conducted a preliminary hearing, after which His Honour made an ISO for 28 days. As this was the first application of its type, Rothman J considered a number of the threshold provisions of the Act, noting the obvious similarities with the provisions of the *Crimes (High Risk Offenders) Act 2006*. His Honour accepted that the allegation against Mr Ceissman, if proved, would result in horrific loss of life, and concluded that the probability of such an event was not insignificant and was therefore an unacceptable risk for the purposes of the Act.

Six days after the imposition of the ISO, Mr Ceissman was charged with failing to comply with the ISO by virtue of having numerous undeclared communication applications on his phone, disobeying directions in relation to his internet use and resisting police. He was returned to custody, and upon a search of his phone, police located photos which allegedly showed him performing the ISIS salute.

On 26 and 27 June 2018, the final hearing of the application came before Rothman J. Evidence was called from the informant to whom Mr Ceissman had made the alleged comments, the author of the risk assessment report and the two court-appointed experts. Dr Rodger Shanahan, a terrorism expert gave evidence regarding the significance of the ISIS salute and the material found in Mr Ceissman's phone.

On 18 July 2018, Rothman J made an order for an ESO for two years. As at the time of writing this Annual Report, this decision is yet to be published.

Malicious prosecution claim: *Gordon Wood v State of New South Wales*

Gordon Wood v State of New South Wales [2018] NSWSC 1247

Following an extensive police investigation (Strike Force Irondale), the plaintiff, Gordon Wood, was charged in May 2006 with the murder of Caroline Byrne, who was found dead at the base of The Gap in Watsons Bay in 1995. In 2008, Mr Wood was convicted of her murder and sentenced to 17 years and 4 months; in 2012, Mr Wood's conviction was quashed and a verdict of acquittal entered (*Wood v R* (2012) 84 NSWLR 581).

Mr Wood sought damages against the defendant, the State of NSW, for alleged malicious prosecution arising from his arrest and prosecution for Ms Byrne's murder. The three named prosecutors were Detective Paul Jacob, the Commander of Strike Force Irondale, Associate Professor Cross, the expert physicist who prepared six reports for the prosecution, and Mark Tedeschi QC, the Senior Crown Prosecutor who provided advice to the DPP about the sufficiency of evidence to bring a prosecution for murder against Mr Wood, and who was the Crown Prosecutor during the Mr Wood's committal and two trials (the first trial having been aborted due to juror misconduct).

On 10 August 2018, after a six week trial, Justice Fullerton entered a verdict for the State in respect of the claim for malicious prosecution, finding that Mr Tedeschi was the only relevant prosecutor. While concluding there was an objective absence of reasonable and probable cause for the prosecution, due to the expert evidence of Mr Cross being fundamentally flawed, her Honour was not satisfied that the plaintiff had proven to the requisite standard that Mr Tedeschi had prosecuted him maliciously, that is, for a "dominant purpose" other than the proper invocation of the criminal law. Although her Honour identified numerous departures from prosecutorial standards, she considered that Mr Tedeschi's conduct was better explained by his lack of insight into the flaws in his approach to the prosecution, rather than a determination on his part to press for a conviction. The plaintiff has filed a Notice of Intention to Appeal.

Obeid & Ors v Lockley & Anor

Obeid & Ors v Lockley and Anor [2018] NSWCA 71

The Crown Solicitor acted for the second respondent, ICAC investigator Paul Grainger. The plaintiffs brought a claim for alleged misfeasance in public office against the NSW Independent Commission Against Corruption (ICAC) and various ICAC officials for filming documents, which were ultimately not seized, during the execution of search warrant.

The plaintiffs lost at trial ([2016] NSWSC 1376), the trial judge dismissing the claims on the basis that the respondents were not "public officers". In an amended notice of appeal, the appellants challenged the primary judge's conclusion that the respondents were not public officers, his conclusion that the respondents "did not know, were not reckless as to whether and could not reasonably have foreseen their videotaping of the documents would or might cause damage to the appellants", and his conclusion on causation and damage.

Judgment was handed down on 12 April 2018. The Court of Appeal held that the test of what constitutes a "public officer" for the tort of misfeasance in public office is now broader. The mental element of the tort requires either an awareness of likely harm or reckless indifference to likely harm; reasonable foreseeability of likely harm is insufficient. Having lost a trial and appeal, the plaintiffs have now applied to the High Court for special leave to appeal. The parties are awaiting High Court decision on leave. The case has attracted intense media attention. If the High Court grants leave to appeal, issues to be determined will include which officials are a public officer, and the appropriate test for finding "malice" for the purposes of the cause of action.

Lawfulness of proposed acquisition notices: *Roads and Maritime Services v Desane Properties Pty Ltd*

Desane Properties Pty Ltd v State of New South Wales [2018] NSWSC 553

The plaintiff, Desane, sought to challenge the validity of a proposed acquisition notice (PAN) issued to it by Roads and Maritime Services (RMS) in relation to the compulsory acquisition of Desane's property at Lilyfield Road, Rozelle. Desane sought declarations that the PAN was invalid or void on various grounds. Desane also alleged that the State, RMS and Sydney Motorway Corporation (SMC) had each engaged in misleading or deceptive conduct, in contravention of the *Australian Consumer Law*; the claims against the State and SMC were resolved during the hearing, and RMS remained as the only active defendant.

At first instance, the Supreme Court held that a PAN must, among other things, state the public purpose for which land is proposed to be acquired and strictly comply with the terms of *Land Acquisition (Just Terms Compensation) Act 1991* (JTC Act). The Court also held that: the approved form of the PAN had ceased to be a form which would validly invoke the machinery of the JTC Act because it had not been updated to reflect amendments to the JTC Act that became effective in 2017; the PAN issued to Desane was of no statutory effect, because it departed sufficiently from the approved form to render it invalid; and, having regard to the uncertainty of the design of the Rozelle Interchange and whether it would proceed, as against the "public and unequivocal" commitment to provide 10 hectares of open space and parkland, RMS' dominant purpose in acquiring the property was the provision of open space and green parkland, which was an improper purpose, not a purpose under the *Roads Act 1993*.

The Crown Solicitor acted for the State of NSW.

Roads and Maritime Services v Desane Properties Pty Ltd [2018] NSWCA 196

RMS successfully appealed the decision to the Court of Appeal. The Court confirmed the validity of an acquisition of strategic importance to government, and clarified a number of points of general application, including that:

- a breach of the pre-acquisition notice procedures set out in the JTC Act may not give rise to invalidity of a PAN
- a PAN is not required to state the public purpose of the proposed acquisition.

The Crown Solicitor acted for RMS in the appeal.

Western Bundjalung native title consent determination

On 27 June 2018, the Federal Court handed down judgment in the Western Bundjalung native title consent determination. The decision is the second of a two part native title claim covering a large area bordered by the Clarence River in the south to Grafton, Casino and Tenterfield.

The consent determination recognises native title rights and interests within the claim area, such as hunting, fishing, camping, cultural activities and rights to protect the land and be consulted in accordance with traditional laws and customs.

In addition, a negotiated outcome has been documented in an Indigenous Land Use Agreement which will deliver a range of other benefits to the native title claimants, as well as provide certainty to the State in the management of national parks, state forests and Crown lands within the claim area.

Justice Jagot commended the parties for their hard work and commitment to the result achieved.

Inquiry under the *Charitable Fundraising Act 1991* into RSL NSW, RSL WBI and RSL LifeCare

In May 2017, the Government appointed retired NSW Supreme Court Judge, Patricia Bergin, to conduct an inquiry into the NSW branch of the Returned Services League (RSL), the RSL Welfare and Benevolent Institution (RSL WBI) and RSL LifeCare Limited, pursuant to the *Charitable Fundraising Act 1991* (the CF Act). Public hearings commenced on 5 September 2017, and concluded on 24 October 2017.

The Terms of Inquiry required investigation into the conduct of fundraising appeals over a ten year period (2007 to 2017) by each of the entities, with a particular focus on whether the entities had been in breach of the conditions of their respective fundraising authorities (dealing with conflicts of interest and good governance) and the CF Act.

The Report of the Inquiry (published February 2018) identified matters of concern arising out of the conduct of several individuals as members of the governing bodies for The Returned and Services League of Australia and RSL LifeCare, as well as its auditors and legal advisor. Adverse findings and recommendations in the Report included that:

- the State Councillors of RSL NSW, the Trustees of RSL WBI and the directors of RSL LifeCare failed to ensure that their respective organisations complied with the CF Act, relevant regulations and fundraising authorities during the period covered by the Terms of Inquiry
- all evidence relating to the expenses of Donald Rowe (former NSW RSL president), his resignation and its aftermath, be referred to the NSW Police Force for further investigation
- the former RSL NSW State Councillors be referred to the Australian Securities and Investments Commission (ASIC) and the Australian Charities and Not-For-Profits Commission (ACNC) for investigation regarding their involvement in covering up Mr Rowe's misuse of RSL NSW funds
- the former directors, and now-former Chief Executive Officer of RSL LifeCare, be referred to ASIC and the ACNC for investigation regarding the failure to recognise their position of conflict of interest and breaches of RSL LifeCare's Constitution.

South Australian Murray-Darling Basin Royal Commission

The Crown Solicitor is providing advice to and representation of the State of NSW in the South Australian Murray-Darling Basin Royal Commission, presided over by Commissioner Bret Walker SC. The purpose of the Royal Commission is to investigate the operations and effectiveness of the Murray-Darling Basin system.

Hearings commenced in June 2018 before the Commission, regarding the statutory construction of the *Water Act* (Cth). Further hearing dates are yet to be set. The State of NSW has not yet appeared before the Commission (and we understand neither has any other State or Territory, nor the Commonwealth). The Commission is required to provide its final report by 1 February 2019.

In June 2018, the Commonwealth and the Murray Darling Basin Authority brought legal proceedings in the High Court challenging the powers of the State-based Royal Commission. Issues included whether the Royal Commissioner has power to require Commonwealth and State public servants to attend the Commission in person to give evidence. The State of NSW intervened in the matter to support arguments of the Commonwealth on some issues, while supporting the State of SA on others. The challenge was discontinued in August, after the Royal Commission abandoned its attempt to cross-examine officials from the Commonwealth and Murray-Darling Basin Authority.

Copyright Tribunal: State of NSW Ats Copyright Agency Limited

Copyright Agency Limited (CAL) commenced proceedings against the State in the Copyright Tribunal in November 2017. CAL sought orders as to what equitable remuneration, payable by the State to CAL for the period from 1 July 2012 to 30 June 2023, is to be paid. Equitable remuneration is payable to CAL, under ss. 183 and 183A of the *Copyright Act 1968* (Cth), for Government copying and use of certain types of copyright material.

Previously, CAL and the State had engaged in negotiations to try to agree on an amount to discharge the State's retrospective and/or prospective liability. The Department of Justice completed a two-phase survey of the copying practices of over 23,000 Government employees to assist in working out the amount of equitable remuneration to be paid. The State made a good faith payment of \$1.5 million to CAL towards its retrospective and prospective liability, to be applied against any final amount determined or agreed.

The parties failed to reach agreement at a court-ordered mediation conference on 20 June 2018. The Copyright Tribunal will prepare a Protocol for the future conduct of the matter, and the parties continue to prepare for a hearing anticipated to occur in 2019.

These proceedings raise important new issues regarding the method for working out equitable remuneration to be paid to a collecting society for Government copying and use of certain types of copyright material, under ss. 183 and 183A of the Act. The proceedings are likely to have precedential significance for other States, Territories and the Commonwealth who must similarly work out or agree on equitable remuneration.

State tribunals cannot hear diversity matters: *Burns v Corbett* [2018] HCA 15

***Burns v Corbett; Burns v Gaynor; Attorney General for New South Wales v Burns; Attorney General for New South Wales v Burns; New South Wales v Burns* [2018] HCA 15**

On 19 April 2018, the High Court unanimously found invalid the provisions of the *Civil and Administrative Tribunal Act 2013* that conferred jurisdiction on the NSW Civil and Administrative Tribunal (NCAT) in discrimination matters involving parties who are residents of different states (ss. 28(2)(a) and (c), 29(1) and 32), on the basis of a newly-articulated implication in Chap. III of the *Constitution* (Cth).

The question before the High Court was whether the NCAT had jurisdiction to hear complaints under the *Anti-Discrimination Act 1977* between residents of different States. The Commonwealth, intervening, argued that there was an implication in Chap. III of the *Constitution* that precludes a State Parliament from conferring jurisdiction in respect of a matter between residents of different states on a tribunal that is not a "court of a State". Alternatively, the Commonwealth argued that a State law that conferred such jurisdiction would be inconsistent with s. 39 of the *Judiciary Act*. The State argued that, after Federation, the *Constitution* did not remove the "belongs to" jurisdiction of State courts that existed prior to Federation in respect of disputes between residents of different states, and therefore did not remove the existing jurisdiction of State tribunals.

Most significantly, the majority of the High Court (Justices Kiefel, Bell, Keane, and Gageler) held that the constitutional structure erected by Chap. III would be undermined were a State Parliament able to confer adjudicative authority with respect to any of the matters identified in ss. 75 and 76 on a State tribunal that is not a State court. In separate reasons, Justices Nettle, Gordon, and Edelman held that such a State law would be inconsistent with s. 39 of the *Judiciary Act*.

Reform of NSW public finance legislation

The NSW public sector's financial management framework is set to undergo its most substantial reform in more than 30 years, in the event that the *Government Sector Finance Bill 2018* (GSF Bill) and cognate *Government Sector Finance Legislation (Repeal and Amendment) Bill 2018* (Repeal Bill) become law.

These Bills represent a major reform in financial and resource management for the government sector in this State. The CSO has produced numerous legal opinions, over a number of years, on the current public finance regime in this State, which consists of four separate pieces of legislation (each upwards of 30 years old). The Crown Solicitor has worked closely with NSW Treasury (and other agencies) on this legislative reform project.

The objective of the GSF Bill is to replace these four pieces of legislation, and replace and streamline a range of requirements under the existing legislation, as well as legislate in some areas on which the current Acts are silent – for example, with respect to the operations of clusters, the making of act of grace payments, performance information to be provided by agencies to Treasury, and “deemed” appropriations.

The proposed legislation also aims to support new public sector banking arrangements that take into account changes in banking technology.

While the GSF Bill was enacted by the NSW Parliament on 7 June 2018, the Bill has not yet received assent by the NSW Governor; the GSF Bill is awaiting passage through Parliament of its cognate legislation, the Repeal Bill.

MANAGEMENT & ACTIVITIES

Workplace Modernisation Program

The CSO commenced a major Workplace Modernisation Program in mid-2017 to enhance delivery of high quality legal services, improve efficiency, and reduce costs. The comprehensive project addressed CSO systems, processes and infrastructure.

The major elements of the program (on-going) included:

- **accommodation:** an upgrade to the CSO workplace fit-out, and move to open plan (in line with the NSW Government Fitout Design Principles)
- **technology:** an upgrade to the CSO's IT infrastructure, systems and processes
- **practice management system:** the implementation of a new practice management system (Thomson Reuters Elite)
- **records:** the development of a contemporary storage and archiving strategy, including a "paper-less" approach.

Accommodation

The CSO commenced work on the refit of six floors of our Sydney CBD office to open plan. This reduces total office space by one floor, and it is expected that this will help improve the level of collaboration and team-work between staff.

The project has been driven, in part, by the need for the CSO to comply with the NSW Government's accommodation and fit-out principles, under their clear direction to create consistent, efficient, flexible, agile and dynamic workplaces across the whole of Government.



Architects render of the CSO's new fit-out

Technology

The CSO engaged a Chief Information Officer (CIO) in September 2017 (on a term contract) to serve as the Office's IT broker-advisor and provide the business with high level, strategic support to coordinate and implement several workplace modernisation initiatives. The role focusses on policy, governance, architecture and standards, and the provisioning of core infrastructure and commodity IT through managed services (leveraging commercial providers, where possible) to meet the Office's business objectives and security requirements.

CSO IT receives its core managed services through the Department of Justice's Digital & Technology Services (DTS) cluster model. This includes infrastructure as a service (IaaS) from GovDC, cloud IT service management via the DTS Service Portal (SNOW), and other enterprise contracts with commercial providers such as Microsoft for commodity and collaboration tools. Applications and solutions specific to the CSO are sourced, designed, implemented and operated within the same governance framework.

Projects delivered

CSO IT delivered to business objectives faster, better and cheaper through strategic prioritisation of business needs, better control over project delivery through active tracking, and stakeholder and resource management.

Key achievements in FY2018 were:

- commissioning a new communications room facilities for our Sydney CBD office, eliminating operational risk from technical debt incurred over the last decade
- establishing a network infrastructure refresh for a WiFi enabled office
- consolidating our file server and migrating to GovDC
- replacing the Office's fax machines with an e-fax cloud-based solution
- implementing and testing HP/Trim service continuity
- rolling out Service Desk and DTS Portal to over 400 CSO employees
- reducing the total number of printers in the office
- providing legal staff with laptops with remote access
- establishing and embedding agile work practices and collaboration tools within CSO IT Support and project delivery teams, with a pilot to extend tools to selected legal teams.

IT modernisation: strategic objectives

Upgrading the Office's IT systems and related processes was a high priority for the CSO in FY2018, to ensure that solicitors and other staff can continue to deliver work to NSW Government clients efficiently and cost-effectively. The "foundation phase" will establish a stable, reliable, and predictable technology platform.

Practice management system: Thomson Reuters Elite

The CSO is in the process of implementing a new practice management system, Elite, incorporating integrated financial and matter management functionality. The new system will deliver significant benefits to the CSO, including integrated systems and workflows, and the replacement of paper-based processes with on-line processes.

Elite will support the CSO's objectives of improved flexibility to meet client needs, enhanced business intelligence and reporting capabilities, and improved risk management and efficiency. Elite is expected to be in place from July 2019.

Records and storage: digital document management

A project is underway to identify a best practice information management system that integrates all major databases and allows easy and effective search capability. The delivery of this system will also significantly reduce the Office's printing needs. In tandem with this project, our policies and procedures are being revised to support the use of a primary digital file wherever possible and/or permissible (the Office is, for example, mandated to keep some types of records in hard copy only, such as some classified material).

FINANCIAL PERFORMANCE

The CSO achieved a net surplus of \$9.5M, \$8.1M better than the budgeted \$1.4M, and will make a distribution payment of \$5.8M from the distributable operating surplus as approved by the Treasurer. This operational result comprised revenue that was \$7.4M greater than budget (including a \$1.0M reversal of redundant make good provisions) and expenses that were \$0.7M less than budget.

Higher than budgeted workload included new matters under the *Terrorism (High Risk Offenders) Act 2017*, and the *Public Inquiry under the Charitable Fundraising Act 1991* (in relation to the Returned Services League of Australia), uncontested child adoption matters and historical child sexual abuse matters.

Quantitative measures

Measure	FY2017		FY2018	
	Actual	Budget	Actual	Budget
Net surplus	\$10.1M	\$2.4M	\$9.5M	\$1.4M
New matters	3,990	n/a	4,104	n/a
Employee productivity (solicitors' average daily billable hours)	5.1hrs	5.0hrs	5.1hrs	5.0hrs
% of clients rating the CSO's legal services as better than or equal to that of other law firms they use*	98%	85%	91%	85%

* Data comes from the CSO's Annual Client Service Survey

Client surveys

ANNUAL CLIENT SERVICE SURVEY

Each year, the CSO invites clients to complete a brief, confidential Annual Client Service Survey to provide quantitative and qualitative feedback on how the CSO is performing in its delivery of legal services.

The FY2018 survey incorporated benchmark questions to assess the Office's performance relative to our competitors. A total of 114 clients responded to this survey.

Ninety-one per cent of clients rated the CSO's legal services as better than or equal to that of other law firms they use.

END-OF-MATTER SURVEYS

The CSO surveys a random selection of clients for which the Crown Solicitor has acted in the previous two months to gather quantitative and qualitative feedback on the legal service provided. During FY2018, 148 clients responded to these end of matter surveys, of which 81% rated the quality of our legal work on their matter as "Excellent" (on a five-point rating scale of excellent, good, average, poor, very poor).

HUMAN RESOURCES

Number of officers & employees by category

The figures below are estimates compiled from the Annual Workforce Profile, showing the current reporting period plus the previous three years for comparison.

Occupation classification (ANZSCO)	FY2015	FY2016	FY2017	FY2018
Managers	2	4	2	2
Professionals	183	186	208	245
Technicians and Trades Workers	3	2	2	1
Clerical and Administrative Workers	135	140	115	152

Note: These figures do not include agency staff numbers.

Exceptional movements in wages, salaries or allowances

Employees of the CSO are covered by the Crown Employees (Public Sector – Salaries 2018) Award. The Award provided for a 2.5% per cent salary increase from the commencement of the first full pay period on or after 1 July 2018.

Section 240 of the *Statutory and Other Offices Remuneration Act 1975* requires the Statutory and Other Offices Remuneration Tribunal to make a determination of remuneration packages for senior executives on and from 1 July each year.

Personnel policies and practices

During the reporting period, the CSO recruited an HR Business Partner with expertise in and responsibility for updating HR policies and practices.

Industrial relations policies and practices

In 2017/18, no new industrial relations policies or practices were required to be implemented at the CSO.

During the reporting period, the CSO regularly consulted and communicated with employees and their industrial representatives in relation to the changes arising from and the CSO's review of legal support services.

The Office also regularly consulted and communicated extensively with employees and their industrial representatives in relation to the changes arising from the Accommodation project and People Matter Employee Survey project.

Senior executives

Number of senior executives by band and gender

Band		FY2017		FY2018	
		Female	Male	Female	Male
Band 4	(Secretary)	-	-	-	-
Band 3	Crown Solicitor (Agency Head equivalent)	1	-	1	-
Band 2	Assistant Crown Solicitors & Practice Manager (Executive Director equivalent)	2	3	2	3
Band 1	Directors & Special Counsel	12	3	12	5
	Total	15	6	15	8
		21		23	

Average total remuneration package for senior executives

Band		Average remuneration		
		FY2017	FY2018	Range
Band 4	(Secretary)	-	-	-
Band 3	Crown Solicitor (Agency Head equivalent)	\$396,113	\$405,998	\$362,113 to \$405,998
Band 2	Assistant Crown Solicitors & Practice Manager (Executive Director equivalent)	\$281,716	\$285,731	\$262,669 to \$304,782
Band 1	Directors & Special Counsel	\$216,060	\$217,912	\$185,061 to \$247,706

Percentage of total employee-related expenditure that relates to senior executives

The percentage of total employee-related expenditure in 2017/18 associated with senior executives was 14.9% (13.7% including agency staff expenses, which were significant in 2018/19), compared with 8.5% for the previous year. The lower expenditure in the 2016/17 year was the result of a staged implementation of the new senior executive structure.

Workforce diversity

Statistical information on EEO target groups

TRENDS IN THE REPRESENTATION OF EEO GROUPS¹

EEO group	Benchmark/ target	% of total employees (by Financial Year)					
		2013	2014*	2015	2016	2017	2018
Women	50%	N/A	73.1%	73.8%	73.6%	73.3%	75.1%
Aboriginal people & Torres Strait Islanders	2.6% ²	N/A	1.6%	1.4%	1.1%	0.6%	0.8%
People whose first language was not English	19% ³	N/A	15.2%	15.4%	13.5%	16.6%	13.4%
People with a disability	N/A ⁴	N/A	2.9%	3.4%	2.63%	2.1%	1.8%
People with a disability requiring work-related adjustment ⁵	1.1% (2011) 1.3% (2012) 1.5% (2013) 1.5% (2015)	N/A	2.4%	1.1%	1.6%	0.3%	0.8%

Notes

¹ The benchmark of 50% for representation of women across the sector is intended to reflect the gender composition of the NSW community.

² The NSW Public Sector Aboriginal Employment Strategy 2014 – 17 introduced an aspirational target of 1.8% by 2021 for each of the sector's salary bands. If the aspirational target of 1.8% is achieved in salary bands not currently at or above 1.8%, the cumulative representation of Aboriginal employees in the sector is expected to reach 3.3%.

³ A benchmark from the Australian Bureau of Statistics (ABS) Census of Population and Housing has been included for people whose first language spoken as a child was not English. The ABS Census does not provide information about first language, but does provide information about country of birth. The benchmark of 23.2% is the percentage of the NSW general population born in a country where English is not the predominant language.

⁴ Work is underway to improve the reporting of disability information in the sector to enable comparisons with population data. For this reason, no benchmark has been provided for People with a Disability.

⁵ Work is underway to improve the reporting of disability information in the sector to enable comparisons with population data. For this reason, no benchmark has been provided for People with a Disability Requiring Work-Related Adjustment.

TRENDS IN THE DISTRIBUTION OF EEO GROUPS

Distribution Index ¹ (based on employee numbers as at 30 June)							
EEO group	Benchmark/ target	FY2013 ²	FY2014	FY2015	FY2016	FY2017	FY2018
Women	100	--	91	92	96	101	296
Aboriginal people & Torres Strait Islanders	100	--	N/A	N/A	N/A	N/A	N/A
People whose first language was not English	100	--	93	86	90	87	53
People with a disability	100	--	N/A	N/A	N/A	N/A	N/A
People with a disability requiring work-related adjustment	100	--	N/A	N/A	N/A	N/A	N/A

Notes

¹ A Distribution Index of 100 indicates that the centre of the distribution of the workforce diversity group across salary levels is equivalent to that of other employees. Values less than 100 mean that the workforce diversity group tends to be more concentrated at lower salary levels than is the case for other employees. The more pronounced this tendency is, the lower the index will be. In some cases, the index may be more than 100, indicating that the workforce diversity group is less concentrated at lower salary levels. The Distribution Index is not calculated where workforce diversity group or non-workforce diversity group numbers are less than 20.

² Data for the CSO is available only from 2014 onwards. Prior to February 2014, the CSO was part of the Department of Justice.

Diversity & multiculturalism at the CSO

The CSO's diversity framework supports our workforce diversity strategy. Key areas of focus are:

- Indigenous Australians
- cultural and linguistic diversity
- multi-generational workforce
- disability and accessibility.

To support and develop workplace diversity, the CSO actively promotes to all employees:

- the e-learning module, Valuing Diversity (developed by members of the Alliance), which aims to enhance understanding of the value of diversity in the workplace
- flexible working arrangements
- reasonable adjustments in the workplace
- career development opportunities through office-wide expressions of interest.

During the reporting period, the CSO celebrated its multicultural community through participation in Harmony Day, including hosting an organisation-wide lunch. CSO employees contributed international dishes highlighting the diversity of cultures that make up the CSO. The CSO also recognised National Reconciliation Week, hosting a staff morning tea event, with guest speaker Uncle Allen Madden, who gave an insight into our shared history. Staff donated \$212 to the Indigenous Literacy Foundation.

The CSO continues to be a member of the Department of Justice Equity and Diversity Alliance. The Office was also invited to attend the Multicultural Coordinators Forum NSW meetings.

WORK, HEALTH & SAFETY

The CSO recognises the importance of maintaining the health and safety of our people. This is reflected in the continued implementation of the CSO Work Health and Safety (“WHS”) Management System Framework. WHS policies and procedures continue to be developed and/or reviewed as part of the Framework’s continuation. The CSO continues to improve and imbed its work health and safety system within the organisation including updating legislative requirements.

The procedure implemented for WHS Consultation, Cooperation and Coordination is proving to be effective, with WHS issues being raised and resolved within specified timeframes.

Work health & safety statistics

The CSO responded to four workplace injuries in FY2017 that resulted in workers compensation claims (medical expenses only) for 2017/18. Only one claim remains open.

Work health & safety risk management

The CSO continued to manage risk related to workplace ergonomics. The Office provided workstation assessments, recommended ergonomic equipment and, where needed, rehabilitation case management services to help manage complex workplace issues and injuries.

The CSO continued to ensure that all staff remained alert to ergonomic risks, and that they were assessed annually, at a minimum, to reduce the potential for harm through particular musculoskeletal injuries.

Health & wellbeing

The CSO continued to invest in and promote health and wellbeing programs and early intervention strategies to promote working safely and maintaining a healthy lifestyle, as well as increasing awareness of mental health.

As national statistics show, almost half of Australians aged 16-85 years will have a mental illness or disorder in their lifetime ([National Survey of Mental Health and Wellbeing: Summary of Results](#), 2007, Australian Bureau of Statistics.). To mitigate the financial and resourcing impact that mental illness has, the CSO recognises the importance of providing all employees with a safe and supportive environment, and actively supports employees and managers with regular information and education programs on mental health in the workplace.

Health & wellbeing initiatives

Health and wellbeing initiatives were, as always, well received across the office. We offered all employees a broad program of activities, including:

- mental health awareness training for employees, provided by leading mental health consultant and trainer, Robyn Bradey, who works through the Law Society of NSW, spanning topics such as:
 - building employee resilience
 - mindfulness
 - managing psychological injury for managers
 - tough talk
 - dealing with change
 - successful leadership
- vicarious trauma briefing sessions for employees, delivered by Kate Turner through Birchtree Counselling, to help employees to understand and conceptualise vicarious resilience, and provide a wellbeing check-in; vicarious trauma briefings continue to be rolled out within the CSO for employees in specific work areas
- confidential on-site/off-site counselling service through an approved provider
- free flu vaccinations
- subsidised corporate seated massages.

APPENDIX 1

FINANCIAL STATEMENTS



Crown Solicitor's Office

Annual Financial Statements

for the year ended 30 June 2018

**Crown Solicitor's Office
Financial Statements**

for the year ended 30 June 2018

TABLE OF CONTENTS

Statement by the Crown Solicitor	1
Independent Auditor's Report	2
Statement of Comprehensive Income	4
Statement of Financial Position	5
Statement of Changes in Equity	6
Statement of Cash Flows	7
1. STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES	8
2. EXPENSES EXCLUDING LOSSES	10
3. REVENUE	12
4. GAINS/(LOSSES) ON DISPOSAL	13
5. OTHER GAINS/(LOSSES)	13
6. FINANCIAL DISTRIBUTION TO THE CROWN ENTITY	14
7. PROGRAM GROUP OF THE ENTITY	14
8. CURRENT ASSETS - CASH AND CASH EQUIVALENTS	14
9. CURRENT ASSETS - RECEIVABLES	15
10. CURRENT - OTHER FINANCIAL ASSETS	16
11. PLANT AND EQUIPMENT	16
12. INTANGIBLE ASSETS	20
13. CURRENT/NON-CURRENT ASSETS – OTHER	21
14. CURRENT LIABILITIES - PAYABLES	21
15. CURRENT LIABILITIES – FINANCING ACTIVITIES	22
16. CURRENT/NON-CURRENT LIABILITIES - PROVISIONS	22
17. EQUITY.....	26
18. COMMITMENTS FOR EXPENDITURE	26
19. CONTINGENT LIABILITIES AND CONTINGENT ASSETS.....	27
20. BUDGET REVIEW.....	27
21. RECONCILIATION OF OPERATING CASH FLOWS TO NET RESULT	29
22. TRUST FUNDS	29
23. FINANCIAL INSTRUMENTS	29
24. RELATED PARTY DISCLOSURES	34
25. EVENTS AFTER THE REPORTING PERIOD	35

Crown Solicitor's Office
Financial Statements
for the year ended 30 June 2018

Crown Solicitor's Office

Financial Statements for the year ended 30 June 2018

Statement by the Crown Solicitor

Pursuant to Section 45F of the *Public Finance and Audit Act 1983*, I state that:

- (a) The accompanying financial statements have been prepared in accordance with applicable Australian Accounting Standards (which include Australian Accounting Interpretations), the provisions of the *Public Finance and Audit Act 1983*, the Public Finance and Audit Regulation 2015 and Financial Reporting Directions issued by the Treasurer.
- (b) The financial statements exhibit a true and fair view of the financial position as at 30 June 2018 and financial performance of the Crown Solicitor's Office for the year then ended.
- (c) As at the date of this statement, I am not aware of any circumstances which would render any particulars included in the financial statements to be misleading or inaccurate.



Lea Armstrong
Crown Solicitor
13 September 2018

Crown Solicitor's Office
Financial Statements
for the year ended 30 June 2018

Independent Auditor's Report



INDEPENDENT AUDITOR'S REPORT

Crown Solicitor's Office

To Members of the New South Wales Parliament

Opinion

I have audited the accompanying financial statements of the Crown Solicitor's Office (the Office), which comprise the Statement of Comprehensive Income for the year ended 30 June 2018, the Statement of Financial Position as at 30 June 2018, the Statement of Changes in Equity and the Statement of Cash Flows, for the year then ended, notes comprising a Statement of Significant Accounting Policies and other explanatory information.

In my opinion, the financial statements:

- give a true and fair view of the financial position of the Office as at 30 June 2018, and of its financial performance and its cash flows for the year then ended in accordance with Australian Accounting Standards
- are in accordance with section 45E of the *Public Finance and Audit Act 1983* (PF&A Act) and the Public Finance and Audit Regulation 2015.

My opinion should be read in conjunction with the rest of this report.

Basis for Opinion

I conducted my audit in accordance with Australian Auditing Standards. My responsibilities under the standards are described in the 'Auditor's Responsibilities for the Audit of the Financial Statements' section of my report.

I am independent of the Office in accordance with the requirements of the:

- Australian Auditing Standards
- Accounting Professional and Ethical Standards Board's APES 110 'Code of Ethics for Professional Accountants' (APES 110).

I have fulfilled my other ethical responsibilities in accordance with APES 110.

Parliament promotes independence by ensuring the Auditor-General and the Audit Office of New South Wales are not compromised in their roles by:

- providing that only Parliament, and not the executive government, can remove an Auditor-General
- mandating the Auditor-General as auditor of public sector agencies
- precluding the Auditor-General from providing non-audit services.

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

Other Information

Other information comprises the information included in the Office's annual report for the year ended 30 June 2018, other than the financial statements and my Independent Auditor's Report thereon. The Crown Solicitor is responsible for the other information. At the date of this Independent Auditor's Report, the other information I have received comprise the Statement by the Crown Solicitor.

Crown Solicitor's Office Financial Statements

for the year ended 30 June 2018

My opinion on the financial statements does not cover the other information. Accordingly, I do not express any form of assurance conclusion on the other information.

In connection with my audit of the financial statements, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit, or otherwise appears to be materially misstated.

If, based on the work I have performed, I conclude there is a material misstatement of the other information, I must report that fact.

I have nothing to report in this regard.

The Crown Solicitor's Responsibilities for the Financial Statements

The Crown Solicitor is responsible for the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards and the PF&A Act, and for such internal control as the Crown Solicitor determines is necessary to enable the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Crown Solicitor is responsible for assessing the Office's ability to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting except where the Office's operations will cease as a result of an administrative restructure.

Auditor's Responsibilities for the Audit of the Financial Statements

My objectives are to:

- obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error
- issue an Independent Auditor's Report including my opinion.

Reasonable assurance is a high level of assurance, but does not guarantee an audit conducted in accordance with Australian Auditing Standards will always detect material misstatements. Misstatements can arise from fraud or error. Misstatements are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions users take based on the financial statements.

A description of my responsibilities for the audit of the financial statements is located at the Auditing and Assurance Standards Board website at: www.auasb.gov.au/auditors_responsibilities/ar4.pdf. The description forms part of my auditor's report.

My opinion does not provide assurance:

- that the Office carried out its activities effectively, efficiently and economically
- about the assumptions used in formulating the budget figures disclosed in the financial statements
- about the security and controls over the electronic publication of the audited financial statements on any website where they may be presented
- about any other information which may have been hyperlinked to/from the financial statements.



Chris Harper
Director, Financial Audit Services

17 September 2018
SYDNEY

Crown Solicitor's Office
Financial Statements

for the year ended 30 June 2018

Start of Audited Financial Statements

Statement of Comprehensive Income

	Notes	Actual 2018 \$'000	Budget 2018 \$'000	Actual 2017 \$'000
Expenses excluding losses				
Employee related expenses	2(a)	40,688	41,534	39,090
Other operating expenses	2(b)	13,486	13,224	11,254
Depreciation and amortisation	2(c)	738	909	624
Finance costs	2(d)	36	109	22
Total expenses excluding losses		54,948	55,776	50,990
Revenue				
Sale of goods and services	3(a)	62,530	56,030	59,665
Investment revenue	3(b)	523	368	559
Other revenue	3(c)	1,096	57	922
Acceptance by the Crown Entity of employee benefits	3(d)	375	698	164
Total revenue		64,524	57,153	61,310
Operating Result		9,576	1,377	10,320
Gains/(losses) on disposal	4	(54)	-	(210)
Net result		9,522	1,377	10,110
Other comprehensive income				
<i>Items that will not be reclassified to net result in subsequent periods</i>				
Superannuation actuarial gain/(loss)		-	-	11,143
Total other comprehensive income		-	-	11,143
Total comprehensive income		9,522	1,377	21,253

The accompanying notes form part of these financial statements.

Crown Solicitor's Office
Financial Statements

As at 30 June 2018

Statement of Financial Position

	Notes	Actual 2018 \$'000	Budget 2018 \$'000	Actual 2017 \$'000
Assets				
Current assets				
Cash and cash equivalents	8	33,801	10,399	32,016
Receivables	9	10,737	21,526	12,639
Other financial assets	10	9,493	-	8,395
Other current assets	13	7,231	6,924	5,860
Total current assets		61,262	38,849	58,910
Non-current assets				
Property, plant and equipment	11			
- plant and equipment		1,075	864	840
- leasehold improvements		4,304	12,903	246
Total property, plant and equipment		5,379	13,767	1,086
Intangible assets	12	2,232	4,556	699
Other non-current assets	13	629	-	510
Total non-current assets		8,240	18,323	2,295
Total assets		69,502	57,172	61,205
Liabilities				
Current liabilities				
Payables	14	7,116	7,355	6,185
Provisions	16	17,975	12,064	15,070
Total current liabilities		25,091	19,419	21,255
Non-current liabilities				
Provisions	16	2,321	1,627	1,556
Total non-current liabilities		2,321	1,627	1,556
Total liabilities		27,412	21,046	22,811
Net assets		42,090	36,126	38,394
Equity				
Accumulated funds	17	42,090	36,126	38,394
Total equity		42,090	36,126	38,394

The accompanying notes form part of these financial statements.

**Crown Solicitor's Office
Financial Statements**
For the year ended 30 June 2018
Statement of Changes in Equity

	Notes	Accumulated funds \$'000
Balance at 1 July 2017		38,394
Net result for the year		9,522
Other comprehensive income		<u>-</u>
Total other comprehensive income		<u>-</u>
Total comprehensive income for the year		<u>9,522</u>
Transactions with owners in their capacity as owners		
Distribution payable to Crown Entity	6	<u>(5,826)</u>
Balance at 30 June 2018		<u>42,090</u>
		Accumulated funds \$'000
Balance at 1 July 2016		8,984
Net result for the year		10,110
Other comprehensive income		
Superannuation actuarial gain/(loss)		<u>11,143</u>
Total other comprehensive income		<u>11,143</u>
Total comprehensive income for the year		<u>21,253</u>
Transactions with owners in their capacity as owners		
Distribution payable to Crown Entity	6	<u>(5,200)</u>
Increase/(decrease) in net assets from equity transfers	17	<u>13,357</u>
Balance at 30 June 2017		<u>38,394</u>

The accompanying notes form part of these financial statements.

**Crown Solicitor's Office
Financial Statements**
For the year ended 30 June 2018
Statement of Cash Flows

		Actual 2018 \$'000	Budget 2018 \$'000	Actual 2017 \$'000
	Notes			
Cash flows from operating activities				
Payments				
Employee related		(39,129)	(39,877)	(38,652)
Suppliers for goods and services		(18,612)	(12,285)	(14,983)
Total payments		(57,741)	(52,162)	(53,635)
Receipts				
Legal Fees from clients		63,063	55,984	60,025
Interest received		808	435	508
Other		4,026	492	4,768
Total receipts		67,897	56,911	65,301
Net cash flows from operating activities	21	10,156	4,749	11,666
Cash flows from investing activities				
Purchases of plant and equipment		(1,678)	(13,755)	(254)
Purchases of intangible assets		(1,493)	(2,860)	(505)
Net cash flows from investing activities		(3,171)	(16,615)	(759)
Cash flows from financing activities				
Financial distribution to the Crown Entity	6	(5,200)	(7,725)	(5,435)
Net cash flows from financing activities		(5,200)	(7,725)	(5,435)
Net increase / (decrease) in cash and cash equivalents		1,785	(19,591)	5,472
Opening cash and cash equivalents		32,016	29,990	26,544
Closing cash and cash equivalents	8	33,801	10,399	32,016

The accompanying notes form part of these financial statements.

Crown Solicitor's Office
Notes to the Financial Statements

For the year ended 30 June 2018

1. STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES

(a) Reporting entity

The Crown Solicitor's Office ("CSO") is a NSW government entity and is controlled by the State of New South Wales, which is the ultimate parent. Although the CSO is managed under the Commercial Policy Framework and is required to deliver a surplus from non-core work for which it competes with the private sector, the majority of the CSO's revenue is from core legal work delivered on a cost recovery basis only. Accordingly, the CSO is classified as a not-for-profit entity (as profit is not its principal objective). The CSO has no cash generating units.

These financial statements for the year ended 30 June 2018 have been authorised for issue by the Crown Solicitor, after recommendation by the Audit and Risk Committee, on 13 September 2018.

(b) Basis of preparation

The financial statements are general purpose financial statements which have been prepared on an accruals basis and in accordance with:

- Applicable Australian Accounting Standards (AAS) (which include Australian Accounting Interpretations);
- The requirements of the *Public Finance and Audit Act 1983* and *Public Finance and Audit Regulation 2015*; and
- Financial Reporting Directions mandated by the Treasurer.

Plant and equipment are measured at fair value. Other financial statements items are prepared in accordance with the historical cost convention except where specified otherwise.

Judgements, key assumptions and estimations that management has made are disclosed in the relevant notes to the financial statements.

All amounts are rounded to the nearest one thousand dollars and are expressed in Australian currency, which is the CSO's presentation and functional currency.

(c) Statement of Compliance

The financial statements and notes comply with Australian Accounting Standards, which include Australian Accounting Interpretations.

(d) Accounting for the Goods and Services Tax (GST)

Income, expenses and assets are recognised net of the amount of GST, except that the:

- amount of GST incurred by the CSO as a purchaser that is not recoverable from the Australian Taxation Office is recognised as part of an asset's cost of acquisition or as part of an item of expense; and
- receivables and payables are stated with the amount of GST included.

Cash flows are included in the statement of cash flows on a gross basis. However, the GST components of cash flows arising from investing and financing activities which are recoverable from, or payable to, the Australian Taxation Office are classified as operating cash flows.

Crown Solicitor's Office
Notes to the Financial Statements

For the year ended 30 June 2018

1. STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES (cont.)

(e) Comparative information

Except when an Australian Accounting Standard permits or requires otherwise, comparative information is presented in respect of the previous period for all amounts reported in the financial statements.

(f) Changes in accounting policy, including new or revised Australian Accounting Standards

(i) Effective for the first time in 2017-18

The accounting policies applied in 2017-18 are consistent with those of the previous financial year except as a result of new or revised accounting standards that have been applied for the first time in 2017-18. The adoption of these standards has not caused any material adjustments to the reported financial position, performance or cash flows of the CSO.

(ii) Issued but not yet effective

NSW public sector entities are not permitted to early adopt new Australian Accounting Standards, unless Treasury determines otherwise.

The following new Australian Accounting Standards have not been applied and are not yet effective, as per NSW Treasury Circular TC 18-01:

- AASB 9 *Financial Instruments*.
- AASB 15, AASB 2014-5, AASB 2015-8 and 2016-3 regarding *Revenue from Contracts with Customers*.
- AASB 16 *Leases*.
- AASB 1058 *Income of Not-for-profit Entities*.
- AASB 2016-7 *Amendments to Australian Accounting Standards – Deferral of AASB 15 for Not-for-Profit Entities*.
- AASB 2016-8 *Amendments to Australian Accounting Standards – Australian Implementation Guidance for Not-for-Profit Entities*.
- AASB 2017-1 *Amendments to Australian Accounting Standards – Transfer of investment Property, Annual Improvements 2014-2016 Cycle and Other Amendments*.

The impact of the new standards and interpretations on issue but not effective has been assessed and other than AASB 16 *Leases*, the impact is considered to be insignificant.

AASB 16 is applicable to annual reporting periods beginning on or after 1 January 2019. For leases where the CSO is the lessee, AASB 16 will require the CSO to recognise assets and liabilities on the statement of financial position where the lease term is for more than 12 months unless the underlying asset is of low value. There will be no impact on the total amount of cash flows reported.

**Crown Solicitor's Office
Notes to the Financial Statements**
For the year ended 30 June 2018
2. EXPENSES EXCLUDING LOSSES
(a) Employee related expenses

	2018	2017
	\$'000	\$'000
Salaries and wages (including annual leave)	34,086	32,996
Superannuation - defined benefit plans*	357	619
Superannuation - defined contribution plans	2,586	2,595
Long service leave	1,270	679
Workers' compensation insurance	110	111
Payroll tax and fringe benefit tax	2,079	2,089
Redundancy payments	200	1
	40,688	39,090

** \$464,000 in 2017 relates to expenses incurred prior to transfer of the net liability to the Crown Entity on 31 December 2016.*

\$65,000 of employee related costs (2017: \$23,000) have been capitalised to fixed asset accounts, and therefore excluded from the above.

(b) Other operating expenses

	2018	2017
	\$'000	\$'000
Auditor's remuneration		
- audit of the financial statements	63	61
- audit of the Trust Account	10	10
Operating Lease Rental Expense – minimum lease payments	4,949	4,114
Consultants	93	94
Contractors	3,437	2,103
Electricity	136	141
Fees for services rendered	1,007	1,302
Fees - other	851	830
Insurance	72	73
Printing	264	243
Publications and Subscriptions	447	497
Repairs and routine maintenance*	1,041	991
Stores & Stationery	158	200
Telephone and data	152	90
Other operating expenses	806	505
	13,486	11,254

** Reconciliation - Total maintenance*

Maintenance expense - contracted labour and other (non-employee related) as above	1,041	991
Employee related maintenance expense included in Note 2(a)	-	-
Total maintenance expenses included in Note 2(a) and Note 2(b)	1,041	991

Crown Solicitor's Office
Notes to the Financial Statements

For the year ended 30 June 2018

2. EXPENSES EXCLUDING LOSSES (cont.)

(b) Other operating expenses (cont.)

Recognition and Measurement

Maintenance expense

Day-to-day servicing costs or maintenance are charged as expenses as incurred, except where they relate to the replacement or an enhancement of a part or component of an asset, in which case the costs are capitalised and depreciated.

Insurance

The CSO's insurance activities are conducted through the NSW Treasury Managed Fund Scheme of self-insurance for Government entities. The expense (premium) is determined by the Fund Manager based on past claims experience.

Operating leases

An operating lease is a lease other than a finance lease. Operating lease payments are recognised as an operating expense in the Statement of Comprehensive Income in the periods in which they are incurred.

There are no finance lease arrangements.

(c) Depreciation and amortisation

	2018	2017
	\$'000	\$'000
Depreciation:		
Plant and equipment	261	200
Leasehold Improvements	354	298
Total depreciation	<u>615</u>	<u>498</u>
Amortisation:		
Intangible assets	123	126
Total amortisation	<u>123</u>	<u>126</u>
Total depreciation and amortisation	<u>738</u>	<u>624</u>

Refer to notes 11 and 12 for recognition and measurement policies on depreciation and amortisation.

A review of the useful remaining lives of all assets was undertaken during the year. A number of printers are now scheduled to be disposed of earlier than previously estimated for depreciation purposes. This has the effect of increasing depreciation by \$24,000 in the period ending 30 June 2018 and \$11,000 next financial year.

(d) Finance costs

	2018	2017
	\$'000	\$'000
Unwinding of discount rate on make good provisions	36	22
	<u>36</u>	<u>22</u>

Crown Solicitor's Office
Notes to the Financial Statements

For the year ended 30 June 2018

3. REVENUE

Recognition and Measurement

Income is measured at the fair value of the consideration or contribution received or receivable. Comments regarding the accounting policies for the recognition of income are discussed below.

(a) Sale of goods and services

	2018	2017
	\$'000	\$'000
Rendering of services – legal fees	62,530	59,665
	<u>62,530</u>	<u>59,665</u>

Recognition and Measurement

Rendering of services

Revenue from the provision of legal services is recognised when time is recorded on matters, as the amounts of revenue can be reliably measured and it is probable that the economic benefits will flow to the CSO.

The CSO pays disbursements on behalf of clients, while providing legal services. No economic benefits flow to the CSO as the amounts are reimbursed at cost. As a result, legal disbursements are not recognised in the CSO's Statement of Comprehensive Income.

(b) Investment revenue

	2018	2017
	\$'000	\$'000
Interest revenue	523	559
	<u>523</u>	<u>559</u>

Recognition and Measurement

Interest revenue

Interest revenue is recognised using the effective interest method. The effective interest rate is the rate that exactly discounts the estimated future cash receipts over the expected life of the financial instrument or a shorter period, where appropriate, to the net carrying amount of the financial asset.

(c) Other revenue

	2018	2017
	\$'000	\$'000
Make good provision reversal	983	-
Other services provided	113	922
	<u>1,096</u>	<u>922</u>

Crown Solicitor's Office
Notes to the Financial Statements

For the year ended 30 June 2018

3. REVENUE (cont.)

Recognition and Measurement

Make good provision reversal

Upon expiry of the accommodation leases on 15 April 2018, the CSO entered into new leases for the same premises. As the existing leases have been renewed the current make good provision was no longer relevant and the provision was reversed. The reversal of the provision has been accounted for as Other Revenue in the Statement of Comprehensive Income.

Provisions are reviewed at the end of each reporting period and adjusted to reflect the current best estimate. If it is no longer probable that an outflow of resources embodying economic benefits will be required to settle the obligation, the provision is reversed.

Other services provided

Other services provided comprises monies received from outside entities not categorised in the revenue headings above. The revenue is recognised when the fee in respect of the services provided is received or receivable and when the amount of revenue for the services performed can be reliably measured and it is probable that the economic benefits will flow to the CSO.

(d) Acceptance by the Crown Entity of employee benefits

The following liabilities and/or expenses have been assumed by the Crown Entity:

	2018	2017
	\$'000	\$'000
Superannuation – defined benefit*	375	164
	<u>375</u>	<u>164</u>

* Expense assumed by the Crown Entity from 1 January 2017.

Refer to note 16 for recognition and measurement policies on employee benefits.

4. GAINS/(LOSSES) ON DISPOSAL

	2018	2017
	\$'000	\$'000
Plant and Equipment	(48)	-
Intangible Assets	(6)	(210)
	<u>(54)</u>	<u>(210)</u>

5. OTHER GAINS/(LOSSES)

Recognition and Measurement

Impairment losses

Impairment losses may arise on assets held by the CSO from time to time. Accounting for impairment losses is dependent upon the individual asset (or group of assets) subject to impairment. Accounting Policies and events giving rise to impairment losses are disclosed in the following notes:

Receivables – Note 9
Other Financial Assets – Note 10
Plant and equipment – Note 11
Intangible Assets – Note 12

Crown Solicitor's Office
Notes to the Financial Statements

For the year ended 30 June 2018

6. FINANCIAL DISTRIBUTION TO THE CROWN ENTITY

As a government business operating under the Commercial Policy Framework, the CSO is required to make a financial distribution to owners. The CSO provides for the financial distribution on the basis of a payout ratio of 70% of the CSO's forecast distributable operating surplus for the year as at 30 April. This is the forecast net operating surplus before adjustments for material non-cash items. The operating surplus is generated mainly from legal work for which the CSO competes against the private sector. This distribution is in accordance with TPP16-04 *Financial Distributions Policy for Government Businesses*. The amount due is recognised in the year to which it relates, even though payment is made in the following year. A provision for a distribution payment of \$5,826,000 (2017:\$5,200,000) has been recognised this year in accordance with the Treasurer's approval.

7. PROGRAM GROUP OF THE ENTITY

The CSO operates under the single program group of Justice Services. The Crown Solicitor's Office provides legal services to the NSW Government. The Crown Solicitor must be engaged by government agencies to perform tied legal services described in Premier's Memorandum 2016-04. The Crown Solicitor's Office also competes with the private legal profession for non-core (general) legal work.

The expenses, revenues, assets and liabilities of the program group are presented in these financial statements.

8. CURRENT ASSETS - CASH AND CASH EQUIVALENTS

	2018	2017
	\$'000	\$'000
Cash at bank and on hand	33,801	32,016
	<u>33,801</u>	<u>32,016</u>

For the purposes of the Statement of Cash Flows, cash and cash equivalents include cash at bank and cash on hand.

Cash and cash equivalent assets recognised are the same in both the Statement of Financial Position and Statement of Cash Flows.

Refer note 23 for details regarding credit risk, liquidity risk and market risk arising from financial instruments.

Crown Solicitor's Office
Notes to the Financial Statements

For the year ended 30 June 2018

9. CURRENT ASSETS - RECEIVABLES

	2018	2017
	\$'000	\$'000
Current receivables		
Sale of goods and services	10,221	11,851
Less: Allowance for Impairment	-	-
	10,221	11,851
Prepayments	324	304
Interest receivable	3	288
GST recoverable from the Australian Taxation Office	158	165
Long Service Leave recoverable	31	31
	10,737	12,639

Movements in the allowance for impairment

Balance at 1 July	-	-
Amounts written off during the year	-	-
Increase/(decrease) in allowance recognised in net result	-	-
Balance at 30 June	-	-

Details regarding credit risk of trade debtors that are neither past due nor impaired are disclosed in note 23.

Recognition and Measurement

Receivables, including trade receivables, prepayments etc. are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market.

Receivables are initially recognised at fair value plus any directly attributable transaction costs. Subsequent measurement is at amortised cost using the effective interest method, less any impairment. Changes are recognised in the net result for the year when impaired, derecognised or through the amortisation process.

Short term receivables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

Impairment

Receivables are subject to an annual review for impairment. These are considered to be impaired when there is objective evidence that, as a result of one or more events that occurred after the initial recognition of the financial asset, the estimated future cash flows have been affected.

The CSO first assesses whether impairment exists individually for receivables that are individually significant, or collectively for those that are not individually significant. Further, receivables are assessed for impairment on a collective basis if they were assessed not to be impaired individually.

The amount of the allowance is the difference between the asset's carrying amount and the present value of estimated future cash flows, discounted at the original effective interest rate. The amount of impairment loss is recognised in the net result for the year.

Any reversals of impairment losses are reversed through the net result for the year, if objectively related to an event occurring after the impairment was recognised. Reversals of impairment losses cannot result in a carrying amount that exceeds what the carrying amount would have been had there not been an impairment loss.

**Crown Solicitor's Office
Notes to the Financial Statements**
For the year ended 30 June 2018
10. CURRENT - OTHER FINANCIAL ASSETS

	2018	2017
	\$'000	\$'000
Work in Progress	8,516	7,346
Recoverable Disbursements	977	1,049
	9,493	8,395

Refer to note 23 for further information regarding fair value measurement, credit risk and market risk arising from financial instruments.

Recognition and Measurement

Work in Progress (WIP) represents staff time measured at the rate directly chargeable to the client and which remains unbilled as at balance date. WIP is assessed annually and not carried at an amount that exceeds its net recoverable amount.

Recoverable disbursements are legal disbursements incurred on behalf of clients that will be reimbursed at cost by clients and which remain unbilled as at balance date.

11. PLANT AND EQUIPMENT

	Plant and equipment	Leasehold Improvements	Total
	\$'000	\$'000	\$'000
At 1 July 2017 - fair value			
Gross carrying amount	1,508	1,276	2,784
Accumulated depreciation and impairment	(668)	(1,030)	(1,698)
Net carrying amount	840	246	1,086
At 30 June 2018- fair value			
Gross carrying amount	1,712	4,412	6,124
Accumulated depreciation and impairment	(637)	(108)	(745)
Net carrying amount	1,075	4,304	5,379

Reconciliation

A reconciliation of the carrying amount of each class of plant and equipment at the beginning and end of the current reporting period is set out below:

	Plant and equipment	Leasehold Improvements	Total
	\$'000	\$'000	\$'000
Year ended 30 June 2018			
Net carrying amount at start of year	840	246	1,086
Additions*	544	2,557	3,101
Disposals	(48)	-	(48)
Impairment Losses	-	-	-
Depreciation expense	(261)	(354)	(615)
Make good asset additions	-	1,855	1,855
Net carrying amount at end of year	1,075	4,304	5,379

*Additions of \$3,101,000 include \$2,557,000 held in Work in Progress for a fit out.

**Crown Solicitor's Office
Notes to the Financial Statements**
For the year ended 30 June 2018
11. PLANT AND EQUIPMENT (cont.)

	Plant and equipment \$'000	Leasehold Improvements \$'000	Total \$'000
At 1 July 2016- fair value			
Gross carrying amount	1,326	1,276	2,602
Accumulated depreciation and impairment	(540)	(732)	(1,272)
Net carrying amount	786	544	1,330
At 30 June 2017- fair value			
Gross carrying amount	1,508	1,276	2,784
Accumulated depreciation and impairment	(668)	(1,030)	(1,698)
Net carrying amount	840	246	1,086

Reconciliation

A reconciliation of the carrying amount of each class of plant and equipment at the beginning and end of the prior reporting period is set out below:

	Plant and equipment \$'000	Leasehold Improvements \$'000	Total \$'000
Year ended 30 June 2017			
Net carrying amount at start of year	786	544	1,330
Additions	254	-	254
Disposals	-	-	-
Depreciation expense	(200)	(298)	(498)
Net carrying amount at end of year	840	246	1,086

Recognition and Measurement
Acquisition of plant and equipment

Plant and equipment are initially measured at cost and subsequently revalued at fair value less accumulated depreciation and impairment. Cost is the amount of cash or cash equivalents paid or the fair value of the other consideration given to acquire the asset at the time of its acquisition or construction or, where applicable, the amount attributed to that asset when initially recognised in accordance with the requirements of other Australian Accounting Standards.

Fair value is the price that would be received to sell an asset in an orderly transaction between market participants at measurement date.

Where payment for an asset is deferred beyond normal credit terms, its cost is the cash price equivalent; i.e. deferred payment amount is effectively discounted over the period of credit.

Assets acquired at no cost, or for nominal consideration, are initially recognised at their fair value at the date of acquisition.

Crown Solicitor's Office
Notes to the Financial Statements

For the year ended 30 June 2018

11. PLANT AND EQUIPMENT (cont.)

Capitalisation thresholds

Plant and equipment and intangible assets costing \$5,000 and above individually (or forming part of a network costing more than \$5,000) are capitalised.

Restoration costs

The present value of the expected cost for the restoration or cost of dismantling an asset after its use is included in the cost of the respective asset if the recognition criteria for a provision are met.

Depreciation of plant and equipment

Depreciation is provided for on a straight-line basis for all depreciable assets so as to write off the depreciable amount of each asset as it is consumed over its useful life to the CSO.

All material identifiable components of assets are depreciated separately over their useful lives.

The depreciation rates used for each class of assets are as follows:

	% Rate
Plant & Equipment	
Make good assets	Over the term of operating lease
Computer equipment, voice and data communications and laptops	20
Desktop PCs	20
Furniture and fittings	10
Other plant and equipment	20
Leasehold improvements	Over the term of operating lease
Software projects	10% or over the useful life of the asset where that is assessed at less than 10 years

Revaluation of plant and equipment

Physical non-current assets are valued in accordance with the 'Valuation of Physical Non-Current Assets at Fair Value' Policy and Guidelines Paper (TPP 14-01). This policy adopts fair value in accordance with AASB 13 Fair Value Measurement and AASB 116 Property, Plant and Equipment.

The CSO's plant and equipment are non-specialised assets with short useful lives. They are measured at depreciated historical cost, which for these assets approximates fair value. The CSO has assessed that any difference between fair value and depreciated historical cost is unlikely to be material.

The residual values, useful lives and methods of depreciation of plant and equipment are reviewed at each financial year end.

Crown Solicitor's Office
Notes to the Financial Statements

For the year ended 30 June 2018

11. PLANT AND EQUIPMENT (cont.)

Impairment of plant and equipment

As a not-for-profit entity with no cash generating units, impairment under AASB 136 *Impairment of Assets* is unlikely to arise. Since plant and equipment is carried at fair value, or an amount that approximates fair value, impairment can only arise in the rare circumstances such as where the costs of disposal are material.

The CSO assesses, at each reporting date, whether there is an indication that an asset may be impaired. If any indication exists, or when annual impairment testing for an asset is required, the CSO estimates the asset's recoverable amount. When the carrying amount of an asset exceeds its recoverable amount, the asset is considered impaired and is written down to its recoverable amount.

As a not-for-profit entity, an impairment loss is recognised in the net result to the extent that the impairment loss exceeds the amount in the revaluation surplus for the class of asset.

After an impairment loss has been recognised, it is reversed only if there has been a change in the assumptions used to determine the asset's recoverable amount. The reversal is limited so that the carrying amount of the asset does not exceed its recoverable amount, nor exceed the carrying amount that would have been determined, net of depreciation, had no impairment loss been recognised for the asset in prior years. Such reversal is recognised in net result and is treated as a revaluation increase. However, to the extent that an impairment loss on the same class of asset was previously recognised in net result, a reversal of that impairment loss is also recognised in net result.

**Crown Solicitor's Office
Notes to the Financial Statements**
For the year ended 30 June 2018
12. INTANGIBLE ASSETS

	Software \$'000	Total \$'000
At 1 July 2017		
Cost (gross carrying amount)	1,455	1,455
Accumulated amortisation and impairment	(756)	(756)
Net carrying amount	<u>699</u>	<u>699</u>
At 30 June 2018		
Cost (gross carrying amount)	3,035	3,035
Accumulated amortisation and impairment	(803)	(803)
Net carrying amount	<u>2,232</u>	<u>2,232</u>

Reconciliation

A reconciliation of the carrying amount of each class of intangible assets at the beginning and end of the current reporting period is set out below:

	Software \$'000	Total \$'000
Year ended 30 June 2018		
Net carrying amount at start of year	699	699
Additions*	1,662	1,662
Disposals	(6)	(6)
Amortisation (recognised in "depreciation and amortisation")	(123)	(123)
Net carrying amount at end of year	<u>2,232</u>	<u>2,232</u>

*Additions of \$1,662,000 include \$1,578,000 for a new Practice Management System held in Work in Progress.

	Software \$'000	Total \$'000
At 1 July 2016		
Cost (gross carrying amount)	1,343	1,343
Accumulated amortisation and impairment	(900)	(900)
Net carrying amount	<u>443</u>	<u>443</u>
At 30 June 2017		
Cost (gross carrying amount)	1,455	1,455
Accumulated amortisation and impairment	(756)	(756)
Net carrying amount	<u>699</u>	<u>699</u>

Reconciliation

A reconciliation of the carrying amount of each class of intangible assets at the beginning and end of the prior reporting period is set out below:

	Software \$'000	Total \$'000
Year ended 30 June 2017		
Net carrying amount at start of year	443	443
Additions	592	592
Disposals	(210)	(210)
Amortisation (recognised in "depreciation and amortisation")	(126)	(126)
Net carrying amount at end of year	<u>699</u>	<u>699</u>

Crown Solicitor's Office
Notes to the Financial Statements

For the year ended 30 June 2018

12. INTANGIBLES (cont.)

Recognition and Measurement

Intangible assets are recognised only if it is probable that future economic benefits will flow to the CSO and the cost of the asset can be measured reliably. Intangible assets are measured initially at cost. Where an asset is acquired at no or nominal cost, the cost is its fair value as at the date of acquisition. Following initial recognition, intangible assets are subsequently measured at fair value only if there is an active market. If there is no active market, the assets are carried at cost less any accumulated amortisation and impairment losses.

All research costs are expensed. Development costs are only capitalised when certain criteria are met.

The useful lives of intangible assets are assessed to be finite.

The CSO's intangible assets are amortised using the straight-line method over a period ranging from three to ten years.

The amortisation period and the amortisation method for an intangible asset with a finite useful life are reviewed at least at the end of each reporting period.

Intangible assets are tested for impairment where an indicator of impairment exists. If the recoverable amount is less than the carrying amount, the carrying amount is reduced to recoverable amount and the reduction is recognised as an impairment loss.

13. CURRENT/NON-CURRENT ASSETS – OTHER

	2018	2017
	\$'000	\$'000
Crown Acceptance of long service leave liability - current	7,231	5,860
Crown Acceptance of long service leave liability – non-current	629	510
	<u>7,860</u>	<u>6,370</u>

14. CURRENT LIABILITIES - PAYABLES

	2018	2017
	\$'000	\$'000
Accrued salaries, wages and on-costs	711	172
Creditors	3,113	4,583
Accrued payables	3,292	1,430
	<u>7,116</u>	<u>6,185</u>

Details regarding liquidity risk, including a maturity analysis of the above payables, are disclosed in note 23.

Recognition and Measurement

Payables represent liabilities for goods and services provided to the CSO and other amounts. Short-term payables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

**Crown Solicitor's Office
Notes to the Financial Statements**
For the year ended 30 June 2018
14. CURRENT LIABILITIES - PAYABLES (cont.)
Recognition and Measurement (cont.)

Payables are financial liabilities at amortised cost, initially measured at fair value, net of directly attributable transaction costs. These are subsequently measured at amortised cost using the effective interest method. Gains and losses are recognised in the net result when the liabilities are derecognised as well as through the amortisation process.

15. CURRENT LIABILITIES – FINANCING ACTIVITIES

Changes in liabilities arising from financing activities:

	1 July 2017	Cash Flows	Prov'n for Distrib'n 30 June 2018	30 June 2018
	\$'000	\$'000	\$'000	\$'000
Financial Distribution payable	5,200	(5,200)	5,826	5,826
Total liabilities arising from financing activities	5,200	(5,200)	5,826	5,826

16. CURRENT/NON-CURRENT LIABILITIES - PROVISIONS

	2018 \$'000	2017 \$'000
Current		
Employee benefits and related on-costs		
Annual leave	3,146	2,721
Long service leave	7,231	5,860
Related Oncost	1,496	1,289
	11,873	9,870
Other provisions		
Make good	276	-
Distribution to the Crown Entity	5,826	5,200
	6,102	5,200
Total current provisions	17,975	15,070
Non-Current		
Employee benefits and related on-costs		
Long Service Leave	629	510
Long Service Leave - Related Oncost	94	80
	723	590
Other provisions		
Make good	1,598	966
	1,598	966
Total non-current provisions	2,321	1,556
Aggregate employee benefits and related on-costs		
Provisions – current	11,873	9,870
Provisions - non-current	723	590
Accrued salaries, wages and on-costs (note 14)	711	172
	13,307	10,632

**Crown Solicitor's Office
Notes to the Financial Statements**
For the year ended 30 June 2018
16. CURRENT/NON-CURRENT LIABILITIES - PROVISIONS (cont.)
Movements in provisions (other than employee benefits)

	Distribution Payments	Make good (current)	Make good (non-current)
2018	\$'000	\$'000	\$'000
Carrying amount at the beginning of financial year	5,200	-	966
Additional provisions recognised	5,826	276	1,579
Amounts used	(5,200)	-	-
Amounts reversed*	-	-	(983)
Unwinding/change in the discount rate	-	-	36
Net carrying amount at end of the year	5,826	276	1,598

**Refer note 3(c)*
(a) Annual Leave

The liability at 30 June 2018 was \$3,146,000 (2017: \$2,721,000). This is based on leave entitlements at 30th June using remuneration rates to be payable post 30 June.

Of this liability, the value expected to be taken within 12 months is \$2,593,000 (2017: \$2,233,000) and \$553,000 (2017: \$488,000) after 12 months. This calculation is based on the current levels of annual leave taken by staff and the minimum required to be taken to achieve the target of 30 days by June 2019.

(b) Long Service Leave

The total liability at 30th June 2018 was \$7,860,000 (2017: \$6,370,000) which is shown as current \$7,231,000 (2017: \$5,860,000) and non-current \$629,000 (2017: \$510,000). This liability comprises:

	2018 \$'000	2017 \$'000
Short term – expected to be settled within 12 months	956	800
Long term – not expected to be settled within 12 months	6,904	5,570
	7,860	6,370

The CSO contributed \$736,000 (2017:\$692,000) to the Crown Finance Entity pool account during this financial year including leave entitlement transfers received from other agencies. Reimbursements from the Crown Finance Entity because of payments to staff or transfers of entitlement to other agencies were \$624,000 (2017:\$802,000).

Recognition and Measurement
Employee benefits and related on-costs
Salaries and wages, annual leave and sick leave

Salaries and wages (including non-monetary benefits) and paid sick leave that are expected to be settled wholly within 12 months after the end of the period in which the employees render the service are recognised and measured at the undiscounted amounts of the benefits.

Annual leave is not expected to be settled wholly before twelve months after the end of the annual reporting period in which the employees render the related service. As such, it is required to be measured at present value in accordance with AASB 119 *Employee Benefits* (although short-cut methods are permitted).

Crown Solicitor's Office
Notes to the Financial Statements

For the year ended 30 June 2018

16. CURRENT/NON-CURRENT LIABILITIES - PROVISIONS (cont.)

Recognition and Measurement (cont.)

Salaries and wages, annual leave and sick leave (cont.)

Actuarial advice obtained by Treasury has confirmed that using the nominal annual leave balance plus the annual leave entitlements accrued while taking annual leave (calculated using 7.9% of the nominal value of annual leave) can be used to approximate the present value of the annual leave liability. The CSO has assessed the actuarial advice based on the CSO's circumstances and determined that the effect of discounting is immaterial to annual leave. All annual leave is classified as a current liability even where the CSO does not expect to settle the liability within 12 months as the CSO does not have an unconditional right to defer settlement.

Unused non-vesting sick leave does not give rise to a liability, as it is not considered probable that sick leave taken in the future will be greater than the benefits accrued in the future.

Long service leave and superannuation

The CSO contributes to the Agency Funded Crown LSL Pool and these payments are included in Employee Related Expenses. The amount of payments expected to be made to the employees is recognised as LSL liabilities and the amounts expected to be reimbursed by the Crown Finance entity as assets.

Long service leave is measured at the present value of expected future payments to be made in respect of services provided up to the reporting date. Consideration is given to certain factors based on actuarial review, including expected future wage and salary levels, experience of employee departures, and periods of service. Expected future payments are discounted using the Commonwealth government bond rate at the reporting date.

Superannuation not assumed by the Crown

Prior to 31 December 2016, actuarial gains and losses were recognised immediately in other comprehensive income in the year in which they occurred.

Superannuation was actuarially assessed prior to each reporting date and measured at the present value of the estimated future payments. The amount recognised was the net total of the present value of the defined benefit obligation at the reporting date, minus the fair value at the date of any plan assets out of which the obligation was to be settled directly.

The actuarial assessment of superannuation used the Projected Unit Credit Method and reflected estimated future salary increases and the benefits set out in the terms of the plan. The liabilities were discounted using the market yield rate on government bonds of similar maturity to those obligations. Actuarial assumptions were unbiased and mutually compatible and financial assumptions based on market experience for the period over which the obligations are to be settled.

All remeasurements arising from defined benefit plans were recognised in other comprehensive income in the year in which they occurred.

The CSO's net defined benefit superannuation liabilities were transferred to the Crown on 31 December 2016. The transfer was accounted for as an equity transfer.

Crown Solicitor's Office
Notes to the Financial Statements

For the year ended 30 June 2018

16. CURRENT/NON-CURRENT LIABILITIES - PROVISIONS (cont.)

Recognition and Measurement (cont.)

Long service leave and superannuation (cont.)

Superannuation assumed by the Crown

From 1 January 2017 onwards, the CSO accounts for additional defined benefit superannuation amounts assumed by the Crown as a non-monetary revenue item described as 'Acceptance by the Crown Entity of employee benefits'. The superannuation expense for the period is determined by using the formulae specified in the Treasurer's Directions. The expense for certain superannuation schemes (i.e. Basic Benefit and First State Super) is calculated as a percentage of the employees' salary. For other superannuation schemes (i.e. State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employees' superannuation contributions.

Consequential on-costs

Consequential costs to employment are recognised as liabilities and expenses where the employee benefits to which they relate have been recognised. This includes outstanding amounts of payroll tax, workers' compensation insurance premiums and fringe benefits tax.

Other provisions

Provisions are recognised when: the CSO has a present legal or constructive obligation as a result of a past event; it is probable that an outflow of resources will be required to settle the obligation; and a reliable estimate can be made of the amount of the obligation. When the CSO expects some or all of a provision to be reimbursed, for example, under an insurance contract, the reimbursement is recognised as a separate asset, but only when the reimbursement is virtually certain. The expense relating to a provision is presented net of any reimbursement in the Statement of Comprehensive Income.

(c) Make good

Make good provisions represent estimated restoration costs that the CSO is obliged to incur to restore premises to an acceptable condition as agreed with the owners of the premises, upon expiry of operating lease arrangements. Upon expiry of the accommodation leases on 15 April 2018, the CSO entered into new leases for the same premises. As the existing leases have been renewed the current make good provision was no longer relevant and the provision was reversed (refer note 3c).

The make good provisions under the new leases have a current liability payable in 2018/19 which has not been discounted and a non-current liability payable at the expiry of the leases. The non-current provision is discounted at 2.63% which is the rate based on the market yield on Commonwealth government bonds as per TC11/17. The increase in the provision due to the passage of time (i.e. unwinding of discount rate) is recognised as a finance cost.

(d) Distribution Payable to the Crown Entity

A provision for financial distribution to the Crown Entity of \$5,826,000 (2017:\$5,200,000) is made based on the Treasurer's approval dated 14 June 2018 of the Crown Solicitor's recommendation for the 2017-2018 financial year (refer note 6).

Crown Solicitor's Office
Notes to the Financial Statements

For the year ended 30 June 2018

17. EQUITY

Recognition and Measurement

Accumulated Funds

The category "Accumulated funds" includes all current and prior period retained funds.

Increase/Decrease in Net Assets from Equity Transfers

	2018	2017
	\$'000	\$'000
Acceptance of defined benefit superannuation by the Crown Entity	-	13,357
	<u>-</u>	<u>13,357</u>

On 31 December 2016, the Crown Entity accepted the liability for the State defined benefit superannuation schemes that previously resided with the CSO.

Equity transfers – Recognition and Measurement

The transfer of net assets between entities as a result of an administrative restructure, transfers of programs / functions and parts thereof between NSW public sector entities and 'equity appropriations' are designated or required by Australian Accounting Standards to be treated as contributions by owners and recognised as an adjustment to 'Accumulated Funds'. This treatment is consistent with AASB 1004 *Contributions* and Australian Interpretation 1038 *Contributions by Owners Made to Wholly-Owned Public Sector Entities*.

Transfers arising from an administrative restructure involving not-for-profit and for-profit government entities are recognised at the amount at which the assets and liabilities were recognised by the transferor immediately prior to the restructure. Subject to below, in most instances this will approximate fair value.

All other equity transfers are recognised at fair value, except for intangibles. Where an intangible has been recognised at (amortised) cost by the transferor because there is no active market, the CSO recognises the asset at the transferor's carrying amount. Where the transferor is prohibited from recognising internally generated intangibles, the CSO does not recognise that asset.

18. COMMITMENTS FOR EXPENDITURE

(a) Capital Commitments

	2018	2017
	\$'000	\$'000
Aggregate capital expenditure for the acquisition of a new Practice Management System and the fit out of leased premises contracted for at balance date and not yet provided for:		
Within one year	12,888	1,505
Later than one year and not later than five years	305	-
Later than five years	-	-
Total (including GST)	<u>13,193</u>	<u>1,505</u>

Crown Solicitor's Office
Notes to the Financial Statements

For the year ended 30 June 2018

18. COMMITMENTS FOR EXPENDITURE (cont.)

(b) Operating Lease Commitments

	2018	2017
	\$'000	\$'000
(b) CSO as lessee		
Future minimum rentals payable under non-cancellable operating lease as at 30 June are:		
Within one year	6,478	3,682
Later than one year and not later than five years	23,448	-
Later than five years	33,742	-
Total (including GST)	63,668	3,682

These operating lease commitments relate to leases currently held in relation to the occupancy of office premises. New leases commenced 15 April 2018 after the expiry of the existing leases.

Total Commitments for capital expenditure and operating lease include input tax credits of \$6,970,000 (2017:\$472,000) that are expected to be recoverable from the Australian Taxation Office.

19. CONTINGENT LIABILITIES AND CONTINGENT ASSETS

The CSO has no contingent liabilities or contingent assets at 30 June 2018. There were no contingent liabilities or contingent assets at 30 June 2017.

20. BUDGET REVIEW

The budgeted amounts included in the Statement of Comprehensive Income and the Statement of Financial Position are drawn from the original budgeted financial statements presented to Parliament in respect of the reporting period. Subsequent amendments to the original budget (e.g. adjustment for transfer of functions between entities as a result of Administrative Arrangements Orders) are not reflected in the budgeted amounts. The budgeted Statement of Cash Flows was not reported to Parliament in 2017-18 Budget Paper No.3 and instead was drawn from the original budget submitted to Treasury.

Major variances between the original budgeted amounts and the actual amounts disclosed in the financial statements are explained below.

Net result

The net surplus for the year of \$9,522,000 is \$8,145,000 greater than budget of \$1,377,000.

Revenue of \$64,524,000 is \$7,371,000 greater than budget of \$57,153,000. \$6,500,000 of this variance arises from legal services revenue attributable to significant and unbudgeted increased activity for the year including core legal work referred to the Crown Solicitor under the Premier's Memorandum *2016-04 Government Core Legal Work Guidelines*. Other Revenue positive variance of \$1,039,000 includes \$983,000 for the unbudgeted reversal of redundant make good provisions. Investment revenue was \$155,000 more than budget due to delay in capital expenditure. Revenue from acceptance by the Crown Entity of defined benefit superannuation liabilities was \$323,000 less than budget reflecting lower number of scheme members.

Crown Solicitor's Office
Notes to the Financial Statements

For the year ended 30 June 2018

20. BUDGET REVIEW (cont.)

Net result (cont.)

Employee related expenditure of \$40,688,000 is \$846,000 less than budget of \$41,534,000 but is offset by agency staff expenditure (contractor expense) of \$3,437,000 that is \$2,922,000 greater than budget. Overall, employee related expenditure and agency staff expense is \$2,076,000 greater than budget. This variance is attributable to a higher number of staff than budgeted aligned with workload and revenue as well as an adjustment of \$534,000 to contributions to the Crown Long Service Leave pool.

Other operating costs of \$13,486,000 are \$262,000 greater than budget of \$13,224,000; \$2,922,000 higher in agency staff offsetting under-expenditure in other overhead items of \$2,660,000. Operating lease payments were \$920,000 less than budget due to decision to remain at current premises rather than relocate. Other under-expenditure/savings included: reduction in service charges to Department of Justice of \$363,000; lower repairs and maintenance charges of \$470,000 mainly reflecting lower than budgeted software costs and GovDC charges; \$182,000 in staff training; \$90,000 delay in expenditure on removalists due to changed accommodation assumptions; and, \$138,000 savings against budgeted other fees.

Depreciation of \$738,000 is \$171,000 less than budget of \$909,000 due to change in planned capital expenditure relating to accommodation fit out.

Finance costs of \$36,000 represent the unwinding of the discount rate on the make good provision in respect of leased premises. This is \$73,000 less than the budget as a result of the changed assumptions in relation to make good provisions.

Assets and liabilities

Total assets of \$69,502,000 are \$12,330,000 greater than budget of \$57,172,000; \$22,413,000 higher in current assets offset by \$10,083,000 lower in non-current assets. Cash is \$23,402,000 greater than budget arising from above-budget operational result for the year combined with a delay in capital expenditure mainly caused by changed accommodation assumptions and the decision to remain at the current premises rather than relocate. Receivables and other financial assets (Work in Progress and unbilled disbursements) of \$20,230,000 are \$1,296,000 less than budget of \$21,526,000 as a result of lower outstanding payments from Department of Justice for core work at the end of the year. Non-current assets of \$8,240,000 are \$10,083,000 less budget of \$18,323,000 mainly arising mainly from a delay in planned capital expenditure as outlined above.

Total liabilities of \$27,412,000 are \$6,366,000 greater than budget of \$21,046,000; \$5,672,000 higher in current liabilities including increased leave provisions of \$2,001,000 and unbudgeted \$4,862,000 increase in provision for financial distribution; and \$694,000 higher in non-current liabilities due to the increase in make good provision under the new leases.

Cash flows

Cash increased by \$1,785,000 compared to budgeted reduction of \$19,591,000 mainly due to a combination of better than budgeted operational performance combined with less than budgeted capital expenditure.

Crown Solicitor's Office
Notes to the Financial Statements

For the year ended 30 June 2018

21. RECONCILIATION OF OPERATING CASH FLOWS TO NET RESULT

Reconciliation of cash flows from operating activities to the net result as reported in the Statement of Comprehensive Income as follows:

	2018	2017
	\$'000	\$'000
Net cash inflow from operating activities	10,156	11,666
Depreciation and amortisation expense	(738)	(624)
Allowance for impairment	-	-
Net capital movements	-	(24,500)
Decrease/(increase) in provisions	(3,044)	27,824
Increase/(decrease) in prepayments and other assets	4,304	(3,675)
Decrease/(increase) in payables	(1,102)	(371)
Net gain/(loss) on disposal of assets	(54)	(210)
Net result	9,522	10,110

22. TRUST FUNDS

The Crown Solicitor operates a Trust Account in accordance with the *Legal Profession Uniform Law Application Regulation 2015*. As the CSO performs only a custodial role in respect of these monies, and because the monies cannot be used for the achievement of the CSO's own objectives, these funds are not recognised in the financial statements. Interest earned on funds held in the Crown Solicitor's trust account is retained by NSW Treasury.

	2018	2017
	\$'000	\$'000
Cash balance at the beginning of the financial year	7,470	19,376
Add: Receipts	12,593	50,609
Less: Expenditure	18,397	62,515
Cash balance at the end of the financial year	1,666	7,470

23. FINANCIAL INSTRUMENTS

The CSO's principal financial instruments are outlined below. These financial instruments arise directly from the CSO's operations. The CSO does not enter into or trade financial instruments, including derivative financial instruments, for speculative purposes.

The CSO's main risks arising from financial instruments are outlined below, together with the CSO's objectives, policies and processes for measuring and managing risk. Further quantitative and qualitative disclosures are included throughout these financial statements.

The Crown Solicitor has overall responsibility for the establishment and oversight of risk management and reviews and agrees policies for managing each of these risks. Risk management policies are established to identify and analyse the risks faced by the CSO, to set risk limits and controls and to monitor risks. Compliance with policies is reviewed by the CSO on a regular basis.

Crown Solicitor's Office
Notes to the Financial Statements

For the year ended 30 June 2018

23. FINANCIAL INSTRUMENTS (cont.)

(a) Financial instrument categories

Class	Note	Category	2018 \$'000 Carrying Amount	2017 \$'000 Carrying Amount
Financial Assets				
Cash and cash equivalents	8	N/A	33,801	32,016
Receivables ¹	9	Loans and receivables (at amortised cost)	10,255	12,170
Other financial assets	10	Receivables (at amortised cost)	9,493	8,395
			53,549	52,581
Financial Liabilities				
Payables ²	14	Financial liabilities measured at amortised cost	7,109	6,168
			7,109	6,168

Notes

1. Excludes statutory receivables and prepayments (i.e. not within scope of AASB 7).
2. Excludes statutory payables and unearned revenue (i.e. not within scope of AASB 7).

The CSO determines the classification of its financial assets and liabilities after initial recognition and, when allowed and appropriate, re-evaluates this at each financial year end.

(b) Derecognition of financial assets and financial liabilities

A financial asset is derecognised when the contractual rights to the cash flows from the financial assets expire; or if the CSO transfers the financial asset:

- where substantially all the risks and rewards have been transferred; or
- where the CSO has not transferred substantially all the risks and rewards, if the CSO has not retained control.

Where the CSO has neither transferred nor retained substantially all the risks and rewards or transferred control, the asset is recognised to the extent of the CSO's continuing involvement in the asset. In that case, the CSO also recognises an associated liability. The transferred asset and the associated liability are measured on a basis that reflects the rights and obligations that the CSO has retained.

A financial liability is derecognised when the obligation specified in the contract is discharged or cancelled or expires.

(c) Offsetting financial instruments

Financial assets and financial liabilities are offset and the net amount is reported in the Statement of Financial Position if there is a currently enforceable legal right to offset the recognised amounts and there is an intention to settle on a net basis, or to realise the assets and settle the liabilities simultaneously.

Crown Solicitor's Office
Notes to the Financial Statements

For the year ended 30 June 2018

23. FINANCIAL INSTRUMENTS (cont.)

(d) Financial Risks

(i) Credit risk

Credit risk arises when there is the possibility that the counterparty will default on their contractual obligations, resulting in a financial loss to the CSO. The maximum exposure to credit risk is generally represented by the carrying amount of the financial assets (net of any allowance for impairment).

Credit risk arises from the financial assets of the CSO, including cash and receivables. No collateral is held by the CSO. The CSO has not granted any financial guarantees.

Cash and cash equivalents

Cash comprises cash on hand and bank balances within the NSW Treasury Banking System. Interest is earned on daily bank balances at the monthly average NSW Treasury Corporation (TCorp) 11am unofficial cash rate, adjusted for a management fee to NSW Treasury.

Receivables – trade debtors

All trade debtors are recognised as amounts receivable at balance date. Collectability of trade debtors is reviewed on an ongoing basis. Debts, which are known to be uncollectable are written off, only after all avenues of debt collection have been exhausted. An allowance for impairment is raised when there is objective evidence that the CSO will not be able to collect all amounts due. This evidence includes past experience, current and expected changes in economic conditions and debtor credit ratings. No interest is earned on trade debtors. Payment terms are between 14 and 30 days.

The CSO is not materially exposed to credit risk to a single debtor or groups of debtors. The CSO's debtors are primarily other NSW government entities and credit risk is assessed as very low.

As at 30 June, the ageing analysis of trade debtors is as follows:

	2018	2017
	\$'000	\$'000
Neither past due nor impaired	4,663	4,961
Past due but not impaired		
< 3 months overdue	667	301
3 months – 6 months overdue	25	15
> 6 months overdue	-	-
	5,355	5,277
Impaired		
< 3 months overdue	-	-
3 months – 6 months overdue	-	-
> 6 months overdue	-	-
	5,355	5,277
Total receivables – gross of allowance for impairment	5,355	5,277

Notes: The ageing analysis excludes statutory receivables, as these are not within the scope of AASB 7. Therefore the 'total' will not reconcile to the receivables total in Note 9.

Crown Solicitor's Office
Notes to the Financial Statements

For the year ended 30 June 2018

23. FINANCIAL INSTRUMENTS (cont.)

(d) Financial risks (cont.)

(ii) Liquidity risk

Liquidity risk is the risk that the CSO will be unable to meet its payment obligations when they fall due. The CSO continuously manages risk through monitoring future cash flows, which coordinates the payment of creditors with cash receipts from debtors.

The CSO has effective billing and debtor management policies and procedures in place to maintain levels of debt within established KPIs and to ensure that work in progress is billed in a timely fashion.

During the current year and prior year, there were no defaults of loans payable. No assets have been pledged as collateral. The CSO's exposure to liquidity risk is deemed insignificant based on prior periods' data and current assessment of risk.

The liabilities are recognised for amounts due to be paid in the future for goods or services received, whether or not invoiced. Amounts owing to suppliers (which are unsecured) are settled in accordance with the policy set out in NSW TC 11/12. For small business suppliers, where terms are not specified, payment is made not later than 30 days from date of receipt of a correctly rendered invoice. For other suppliers, if trade terms are not specified, payment is made no later than the end of the month following the month in which an invoice or a statement is received. For small business suppliers, where payment is not made within the specified time period, simple interest must be paid automatically unless an existing contract specifies otherwise. For payments to other suppliers, the payment of simple interest is at the discretion of the Crown Solicitor. Interest incurred this year was \$2,431 (2017:\$2,092) and the rate of interest applied during the year was an average of 9.73% (2017:9.83%).

The table below summarises the maturity profile of the CSO's financial liabilities based on contractual undiscounted payments, together with the interest rate exposure.

Maturity analysis and interest rate exposure of financial liabilities

	Weighted average effective interest rate	\$'000			Maturity Dates			
		Interest Rate Exposure						
		Nominal Amount	Fixed Interest Rate	Variable Interest Rate	Non-interest bearing	< 1 year	1 -5 years	> 5 years
2018								
Payables	-	7,109	-	-	7,109	7,109	-	-
	-	7,109	-	-	7,109	7,109	-	-
2017								
Payables	-	6,168	-	-	6,168	6,168	-	-
	-	6,168	-	-	6,168	6,168	-	-

The amounts disclosed are the contractual undiscounted cash flows of each class of financial liabilities based on the earliest date on which the CSO can be required to pay.

Crown Solicitor's Office
Notes to the Financial Statements
For the year ended 30 June 2018
23. FINANCIAL INSTRUMENTS (cont.)
(d) Financial risks (cont.)
(iii) Market risk

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. The CSO has no exposure to foreign currency risk and does not enter into commodity contracts.

Interest rate risk

Exposure to interest rate risk arises primarily through the CSO's interest bearing assets. The sensitivity analysis is performed based on a reasonably possible change of +/- 0.25 per cent (2017:0.4%), consistent with current trends in interest rates (based on official RBA interest rate volatility over the last five years). The basis will be reviewed annually and amended where there is a structural change in the level of interest rate volatility. The CSO's exposure to interest rate risk is set out below.

	Carrying amount	\$'000			
		Impact of 0.25% Increase		Impact of 0.25% decrease	
		Net result	Equity	Net Result	Equity
2018					
<i>Financial assets</i>					
Cash and cash equivalents	33,801	85	85	(85)	(85)
Receivables	10,255	-	-	-	-
Other financial assets	9,493	-	-	-	-
<i>Financial liabilities</i>					
Payables	7,109	-	-	-	-
		Impact of 0.4% Increase		Impact of 0.4% decrease	
	Carrying amount	Net Result	Equity	Net Result	Equity
2017					
<i>Financial assets</i>					
Cash and cash equivalents	32,016	128	128	(128)	(128)
Receivables	12,170	-	-	-	-
Other financial assets	8,395	-	-	-	-
<i>Financial liabilities</i>					
Payables	6,168	-	-	-	-

(e) Fair Value measurement
(i) Fair Value compared to carrying amount

Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The fair value measurement is based on the presumption that the transaction to sell the asset or transfer the liability takes place either in the principal market for the asset or liability or in the absence of a principal market, in the most advantageous market for the asset or liability.

Financial instruments are generally recognised at cost. All of the CSO's cash is held within the Treasury Banking System and is recognised at cost. The amortised cost of financial instruments recognised in the statement of financial position approximates the fair value, because of the short term nature of the financial instruments.

Crown Solicitor's Office
Notes to the Financial Statements

For the year ended 30 June 2018

23. FINANCIAL INSTRUMENTS (cont.)

(e) Fair Value measurement (cont.)

(ii) Fair Value recognised in the Statement of Financial Position

A number of the CSO's accounting policies and disclosures require the measurement of fair values, for both financial and non-financial assets and liabilities. The CSO does not hold financial and non-financial assets and liabilities that are valued at fair value using valuation techniques.

24. RELATED PARTY DISCLOSURES

The CSO's key management personnel compensation are as follows:

Short term employee benefits:

	2018	2017
	\$'000	\$'000
Salaries	405	404
Other monetary allowances	20	20
Other long-term employee benefits	20	12
Total remuneration	<u>445</u>	<u>436</u>

The CSO did not enter into any transactions during the year with key management personnel, their close family members or controlled or jointly controlled entities thereof.

The CSO entered into transactions with other entities that are controlled/jointly controlled /significantly influenced by the NSW Government. These transactions in aggregate are a significant portion of the CSO's rendering of services and receiving of services.

The CSO provides legal services to the NSW Government and its agencies. \$42,069,000 (2017:\$40,229,000) of the CSO's fee for service revenue is related to the delivery of services on core legal matters which must be referred to the Crown Solicitor under the Premier's Memorandum 2016-04. This work is funded from the Attorney General's Legal Fund, an appropriation administered by the Department of Justice (DoJ). The remainder of CSO's revenue for services and other revenue is paid by various NSW government agencies or the Treasury Managed Fund.

The CSO receives shared services from DoJ in the areas of payroll, information and technology systems support and library services. The CSO incurred \$1,007,000 (2017:\$1,302,000) in fees to DoJ for these services.

The CSO resides in leased premises and makes payments for rent and outgoings due under the lease to Property NSW. These amounts totalled \$4,949,000 (2017:\$4,114,000).

Other transactions with entities that are controlled/jointly controlled or significantly influenced by the NSW Government that are collectively, but not individually, significant include:

- Payments to, and reimbursements from, the Long Service Leave pool in relation to CSO employees.
- Interest revenue received from the NSW Treasury banking system.
- Payments to the Government Records Repository for storage of CSO records.

Crown Solicitor's Office
Notes to the Financial Statements

For the year ended 30 June 2018

24. RELATED PARTY DISCLOSURES (cont.)

- Payments to the NSW Treasury Managed Fund for workers' compensation insurance and other insurances.
- Payments to Government Advertising in respect of the advertising of job vacancy notices.

25. EVENTS AFTER THE REPORTING PERIOD

No events have occurred between the financial reporting date and the date of these financial statements that require adjustment to, or disclosure in, these financial statements.

End of audited financial statements.

APPENDIX 2

ACCOUNTS PAYMENT PERFORMANCE

Accounts due or paid within each quarter (excl. Department of Justice)

Measure (FY2018)	Jul-Sep	Oct-Dec	Jan-Mar	Apr-Jun
All suppliers				
No of accounts due for payment	2,762	2,820	2,409	3,133
No of accounts paid on time	2,574	2,613	2,195	3,025
Actual % of accounts paid on time (based on no of accounts)	93.2%	92.7%	91.1%	96.6%
Dollar amount of accounts due for payment (\$'000)	\$14,467	\$14,866	\$9,667	\$13,159
Dollar amount of accounts paid on time (\$'000)	\$13,920	\$14,281	\$8,696	\$12,816
Actual % of accounts paid on time (based on \$)	96.2%	96.1%	90.0%	97.4%
No of payments for interest on overdue accounts	9	5	6	6
Interest paid on overdue accounts	\$715	\$558	\$525	\$633
Small business suppliers				
No of accounts due for payment	489	430	346	389
No of accounts paid on time	445	414	318	356
Actual % of accounts paid on time (based on no of accounts)	91.0%	96.3%	91.9%	91.5%
Dollar amount of accounts due for payment (\$'000)	\$2,578	\$2,321	\$1,313	\$1,766
Dollar amount of accounts paid on time (\$'000)	\$2,407	\$2,253	\$1,187	\$1,592
Actual % of accounts paid on time (based on \$)	93.4%	97.1%	90.4%	90.1%
No of payments for interest on overdue accounts	9	5	6	6
Interest paid on overdue accounts	\$715	\$558	\$525	\$633

Aged analysis at the end of each quarter

All creditor accounts payable balances are paid prior to EOM.

Quarter (FY2018)	Within due date \$'000	< 30 days overdue \$'000	30 to 60 days overdue \$'000	60 to 90 days overdue \$'000	>90 days overdue \$'000
All suppliers					
September	–	–	–	–	–
December	–	–	–	–	–
March	–	–	–	–	–
June	–	–	–	–	–
Small business suppliers					
September	–	–	–	–	–
December	–	–	–	–	–
March	–	–	–	–	–
June	–	–	–	–	–

Payment of mandatory interest to small business suppliers

The CSO paid interest during the year to declared small business suppliers as advised above. The main reasons for payment delay are misplacement of invoices and/or invoices lost in the post.

Initiatives to improve payment performance

The CSO continues to support satisfactory payment performance through:

- rollout of Purchasing Cards, where appropriate, to ensure prompt payment of small value invoices
- use of electronic funds transfer as the preferred method of paying creditors other than by Purchasing Card
- payment of major suppliers by way of consolidated invoicing
- reminding CSO employees of the payment performance requirements, and advising all new employees as part of their induction.

The CSO is implementing a new practice management system from July 2019, which will incorporate centralised receipt of supplier invoices and use of electronic workflow for approval. This initiative is expected to deliver significant improvement.

APPENDIX 3 CONSULTANT EXPENDITURE

Total consultant expenditure in FY2018 was \$102,429.

Consultant expenditure over \$50,000

Consultant name	Description of engagement	Consultancy category	Actual costs (incl. GST)
The Leading Partnership	Change management strategy – Workplace Modernisation projects	Management services	\$74,709
Total expenditure			\$74,709

Consultant expenditure under \$50,000

Number of engagements	Consultancy category	Actual costs (incl. GST)
1	Management services	\$27,720
Total expenditure		\$27,720

APPENDIX 4 PROMOTION – OVERSEAS VISITS BY OFFICERS & EMPLOYEES

Officer	Destination	Purpose
Lea Armstrong Crown Solicitor	Boston, United States	Attendance at the Leadership in Law Firms course at Harvard Law School.
James Lonsdale Assistant Crown Solicitor, Commercial & Property Law	Wellington, New Zealand	Attendance at the 2017 Australasian Crown Solicitor's Conference.
Paolo Buchberger Director, Constitutional & Administrative Law	Wellington, New Zealand	Attendance at the 2017 Australasian Crown Solicitor's Conference.

APPENDIX 5

RISK MANAGEMENT & INSURANCE

Major insurance risks for the CSO are the security of its employees, property and other assets, and the risk of work-related injuries that may result in workers' compensation insurance claims. Accordingly, the CSO has full workers' compensation, property, liability and miscellaneous insurance cover provided by the Treasury Managed Fund (TMF).

The TMF is a government-wide self-insurance scheme that provides a systematic and coordinated approach to the practice of risk management. Under this scheme, benchmarking was introduced to gauge risk management performance with insurance premiums determined by a combination of benchmarks and the CSO's claims experience.

A comprehensive insurance program covers workers' compensation, public liability, motor vehicle, property and miscellaneous liability.

QBE Insurance managed the CSO's workers' compensation insurance and GIO General Ltd managed the CSO's other insurances during the year.

To reduce the number and value of workers' compensation insurance claims, the CSO monitors its claims experience on an ongoing basis, with a focus on occupational health and safety and claims management.

Risk management policies and procedures are also continually being reviewed, with the aim of enhancing the CSO's risk management profile, thereby reducing future premiums.

APPENDIX 6

INTERNAL AUDIT & RISK MANAGEMENT POLICY ATTESTATION

Internal Audit and Risk Management Attestation Statement for the 2017-2018 Financial Year for the Crown Solicitor's Office

I, Lea Armstrong am of the opinion that the Crown Solicitor's Office has internal audit and risk management processes in operation that are, excluding the exceptions or transitional arrangements described below, compliant with the eight (8) core requirements set out in the *Internal Audit and Risk Management Policy for the NSW Public Sector*, specifically:

Core Requirements

For each requirement, please specify whether compliant, non-compliant, or in transition

Risk Management Framework

1.1	The agency head is ultimately responsible and accountable for risk management in the agency	Compliant
1.2	A risk management framework that is appropriate to the agency has been established and maintained and the framework is consistent with AS/NZS ISO 31000:2009	Compliant

Internal Audit Function

2.1	An internal audit function has been established and maintained	Compliant
2.2	The operation of the internal audit function is consistent with the International Standards for the Professional Practice of Internal Auditing	Compliant
2.3	The agency has an Internal Audit Charter that is consistent with the content of the 'model charter'	Compliant

Audit and Risk Committee

3.1	An independent and Audit and Risk Committee with appropriate expertise has been established	Compliant
3.2	The Audit and Risk Committee is an advisory committee providing assistance to the agency head on the agency's governance processes, risk management and control frameworks, and its external accountability obligations	Compliant
3.3	The Audit and Risk Committee has a Charter that is consistent with the content of the 'model charter'	Compliant

Exceptions or Transitional Arrangements

Nil.

Membership

The current chair and members of the Audit and Risk Committee are:

- Chair, Carolyn Burlew, October 2015 – October 2020
- Independent Member 1, David Antaw, November 2015 – November 2018
- Independent Member 2, Leah Fricke, November 2015 – November 2018
- Independent Member 3, Ralph Kelly, November 2015 – November 2018
- Independent Member 4, John Pearson, March 2016 – March 2019



Lea Armstrong
Crown Solicitor

APPENDIX 7

DIGITAL INFORMATION SECURITY POLICY ATTESTATION STATEMENT



10 October, 2018

ICT Board
c/o ICT Policy
Department of Finance & Services
2-24 Rawson Place
SYDNEY NSW 2000

Digital Information Security Annual Attestation Statement for the 2017-2018 Financial Year for NSW Crown Solicitor's Office

I, Lea Armstrong, NSW Crown Solicitor, am of the opinion that Department of Justice, Information Technology Services (our shared service provider) had an Information Security Management System in place during the 2017-2018 financial year that is consistent with the Core Requirements set out in the *NSW Government Digital Information Security Policy*.

The controls in place to mitigate identified risks to the digital information and digital information systems of NSW Crown Solicitor's Office are adequate with the exception of a tested Business Continuity Plan which is in process of achieving full compliance. Having recently reviewed our Emergency Incident Processes, and IT Service Continuity Plans against our operational risk appetite, NSW Crown Solicitor's Office has invested in IT systems that are documented, tested and vary in recovery reflecting their critical business application, from full high availability to next day recovery, all utilising GovDC Services, accessed via the Department of Justice network.

The NSW Crown Solicitor's Office has within its project investment portfolio to implement systems which will integrate with existing Electronic Document & Records Management System, email system and Microsoft Office for compliance with the NSW Government Information Classification Labelling and Handling Guidelines, and will continue to incorporate these changes into business processes.

There is no agency under the control of the NSW Crown Solicitor's Office which is required to develop an independent ISMS pursuant to the *NSW Government Digital Information Security Policy*.

For purpose of compliance with the *NSW Government Digital Information Security Policy*, the NSW Crown Solicitor's Office has relied on the attestation by the Department of Justice, Information Technology Services that they have maintained certified compliance with AS/NZS ISO/IEC *Information technology - Security techniques - Information security management systems - Requirements* by an Accredited Third Party during the 2017-2018 financial year.

Yours faithfully



Lea Armstrong
Crown Solicitor

APPENDIX 8

GOVERNMENT INFORMATION (PUBLIC ACCESS) ACT 2009

The CSO is declared not to be a separate agency, but is taken to be part of, and included in, the Department of Justice under clause 12 of Schedule 3 to the *Government Information (Public Access) Regulation 2009*, made pursuant to clause 6 of Schedule 4 to the *Government Information (Public Access) Act 2009* (GIPA Act). Accordingly, the CSO does not exercise functions in relation to GIPA Act applications – these are dealt with by the Department of Justice.

Total number of access applications received during the year

Not applicable.

Total number of access applications refused, wholly or in part, because of conclusive presumption against disclosure

Not applicable.

Statistical information

Not applicable.

Subsidiary agencies

The CSO has no subsidiary agencies.

APPENDIX 9

PRIVACY AND PERSONAL INFORMATION PROTECTION ACT 1998

The CSO received no requests for privacy internal reviews under the *Privacy and Personal Information Protection Act 1998* during FY2018.

The CSO is a separate agency for the purposes of the Act. No agencies have been prescribed by regulation for the purposes of s. 4B(1)(a) of the Act.

APPENDIX 10

PUBLIC INTEREST DISCLOSURES

There were no public interest disclosures (PID) to the CSO in the FY2018 reporting period.

The CSO has a PID policy in place. The policy is available to all staff, and is included in the Staff Manual and published on both the CSO's intranet and [public website](#).

APPENDIX 11

LEGAL CHANGE

None.

APPENDIX 12

DISABILITY INCLUSION ACTION PLAN

The CSO continued to apply the Department of Justice's *Reasonable Adjustments Guidelines* office-wide, to ensure that employees with disabilities can work to their full potential and have equitable access to opportunities for development within the Office. The Office monitored and supported managers to ensure that effective reasonable adjustments were implemented and maintained for five cases, three of which were long-term cases. The CSO also maintained its comprehensive training programs addressing mental health awareness.

APPENDIX 13

SUSTAINABILITY

The CSO remained committed to developing and maintaining sustainable practices in its workplace in FY2018.

As part of the organisation-wide Workplace Modernisation program, the CSO committed to investing in technology upgrades, which include systems that will support our efforts to reduce paper-use, such as switching from fax machines to efaxing. Additionally, the Office is close to completing the major project of digitising the Crown Solicitor's hard copy historical reference collection, which includes advisings, submissions and opinions of counsel, as well as 96,000 index cards. This forms part of our ongoing focus on minimising the creation and use of hardcopy reference material in favour of digital.

The CSO office accommodation refit complies with the State Government's resource efficiency policy in relation to sustainability and energy conservation.

Since 2011, the CSO has been a part of the Sustainability Advantage program, managed by the NSW Environment & Heritage. Since 2014, the CSO has been a recognised Bronze Partner in the program. Over 530 organisations participate in the program across NSW, and more than 30% of members are recognised as Bronze, Silver or Gold Partners for achieving positive environmental outcomes.

Sustainability is part of the CSO's Business Plan, and the CSO's Sustainability Committee identifies and promotes sustainability targets, and publishes its sustainability credentials and achievements on its intranet and public website.

APPENDIX 14

CONSUMER RESPONSE

There were no formal complaints in this reporting period.

The CSO's procedure for handling complaints (from clients or any other person) is outlined in the Complaints Procedure, a copy of which is publically available on the CSO website, along with the Complaints Resolution Checklist, and is available to all staff via the CSO intranet. A record is kept of all complaints received.

Client feedback

The CSO's Annual Client Service Survey gives clients the opportunity to provide feedback on how staff are performing in not only the delivery of legal services, but also more broadly in areas like communication and the provision of value added services.

The survey provides the CSO with important information to help develop and improve areas of service to better support the evolving needs of its NSW Government clients. The results help inform our business and operational plans for the next 12 months.

Clients are also invited to share feedback via two-monthly end-of-matter surveys, through which they can also request to speak with the Practice Manager if they have a complaint or issue.

APPENDIX 15

REPORT PRODUCTION COSTS & ACCESS

- No costs, other than existing salaries, were incurred in the production of this report.
- A copy of this report can be accessed:
 - via the CSO website, at http://www.cso.nsw.gov.au/Pages/cso_policy_tabled_docs/cso_tableddoc.aspx
 - on CD-ROM or via email by contacting csomarketing@cso.nsw.gov.au.