



Annual Report
2016-2017



© South Australian Crown

2016-2017 Judicial Conduct Commissioner Annual Report
Published September 2017

Level 1, 55 Currie Street
Adelaide SA 5000
(08) 8207 8311
GPO Box 11066
Adelaide SA 5001

jcc.sa.gov.au

ISSN: 2208-3022

ISBN: 978-0-6481591-1-7

Read this annual report online:
<https://jcc.sa.gov.au/content/publications>

Contents

2 LETTERS OF TRANSMITTAL

5 *Commissioner's Report*

**6 ESTABLISHMENT OF THE OFFICE OF THE
JUDICIAL CONDUCT COMMISSIONER**

7 COMPLAINTS

8 NUMBER OF COMPLAINTS

10 KEY PERFORMANCE INDICATORS

11 NOTICE FROM JURISDICTIONAL HEADS

12 EDUCATION INITIATIVES

13 LEGISLATIVE CHANGE

**15 *The Office of the Judicial
Conduct Commissioner***

16 STRATEGIC GOALS

17 CORE VALUES

17 THE ORGANISATION

18 WORKFORCE STATISTICS

21 *Financial Statements*



Letters of Transmittal

LETTER OF TRANSMITTAL

**The Honourable the President of the
Legislative Council**

**The Honourable the Speaker of the
House of Assembly**

In accordance with section 27(3) of the *Judicial Conduct Commissioner Act 2015* (SA), I present the first annual report of the Judicial Conduct Commissioner for the year ended 30 June 2017.

Section 27(4) of the *Judicial Conduct Commissioner Act 2015* (SA) requires that you lay the annual report before your House of Parliament on the first sitting day after receiving it.

Yours sincerely



The Hon. Bruce Lander QC
JUDICIAL CONDUCT COMMISSIONER

29 September 2017



LETTER OF TRANSMITTAL

The Honourable John Rau SC MP
Deputy Premier
Attorney-General

In accordance with section 12(1) of the *Public Sector Act 2009* (SA), I present the first annual report of the Judicial Conduct Commissioner for the year ended 30 June 2017.

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

Yours sincerely



The Hon. Bruce Lander QC
JUDICIAL CONDUCT COMMISSIONER

29 September 2017





Commissioner's Report



Commissioner's Report

The Judicial Conduct Commissioner Act 2015 (SA) (JCC Act) commenced on 5 December 2016. The office of the Judicial Conduct Commissioner opened its doors on the same day.

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

All complaints that have been dealt with during the reporting period have either been dismissed or had no further action taken.

Since the commencement of the JCC Act, I have provided information and education resources to judicial officers, the legal profession and the public about my new role. I will continue to do so next year.

I have been mindful of the need to be accountable for the efficient and effective use of public resources. Efficiencies have been gained by leveraging off the infrastructure and technology base provided by the office of the Independent Commissioner Against Corruption, which I also occupy.

My office functions largely in a digital environment, aligning with the South Australian Government's Digital Transformation Strategy. Complaints about the conduct of judicial officers are maintained as a permanent record and I have established an operational records disposal schedule to manage the information into the future.

ESTABLISHMENT OF THE OFFICE OF THE JUDICIAL CONDUCT COMMISSIONER

Following my appointment on 11 August 2016, I employed a small project team to assist me in establishing the new office. It comprised a legal officer from the Crown Solicitor's Office and employees of the Independent Commissioner Against Corruption. I made minor use of contractors and consultants as required.

I worked with the project team to prepare all that was necessary to enable me to receive and deal with complaints made in accordance with the JCC Act.

This was no small task. It involved the preparation of detailed policies, procedures and guidelines for the office, as well as training staff of the Office for Public Integrity on the processes to be adopted for the receipt of complaints and responses to anticipated enquiries. An electronic content management system was configured to meet the needs of the new office. Branding and a website were also established.

I discussed the role of the Judicial Conduct Commissioner with the following stakeholders and explained how I expected the JCC Act to operate in practice:

- the Chief Justice
- the former Chief Judge of the District Court
- the Chief Magistrate
- the Senior Judge of the Youth Court
- the Senior Judge of the Environment, Resources and Development Court
- the Senior Judge of the Industrial Relations Court (who is also the President of the South Australian Employment Tribunal)



- the President of the South Australian Civil and Administrative Tribunal
- the State Coroner
- the Licensing Court Judge.

I also delivered presentations to judicial officers, barristers, solicitors and public officers for the purpose of educating them as to my role as the Judicial Conduct Commissioner and the requirements of the JCC Act. I have described those presentations and the mechanisms through which I have communicated with the public later in this report.

COMPLAINTS

COMPLAINTS PROCESS

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

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

To conduct the preliminary examination, I must determine whether:

- the complaint raises a reasonable suspicion that it relates to conduct that involves corruption in public administration, such that it should be referred to the Office for Public Integrity
- further consideration of the complaint would, in all the circumstances, be unjustified, such that I may exercise the power to take no further action in respect of the complaint
- at least one of the grounds in section 17 of the JCC Act is met, such that I must dismiss the complaint.

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

- recommend that the judicial officer's jurisdictional head¹ takes specified action
- make an immediate report to Parliament
- make a recommendation to the Attorney-General to appoint a judicial conduct panel.

¹The jurisdictional head is the judicial officer who has primary responsibility for the administration of the court: *Courts Administration Act 1993* (SA) s 27A; *Judicial Conduct Commissioner Act 2015* (SA) s 4(1).



NUMBER OF COMPLAINTS

Prior to the commencement of the JCC Act, I expected that there would be an initial flurry of complaints. On the first day of operations, however, I did not receive any complaints and, on the second day, I only received one.

I consider that this may have been due to the statutory requirement for the complainant to identify himself or herself. Anecdotal evidence suggests that this may have created reluctance on the part of lawyers to complain.

Between 5 December 2016 and 30 June 2017, I received 23 complaints and had another nine complaints brought to my attention by jurisdictional heads for noting.

As at 30 June 2017, six complaints of the 23 complaints had not been finalised.

Some complaints raised more than one issue or related to more than one judicial officer. Of the 23 complaints received, 70 separate issues were identified.

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

NUMBER OF COMPLAINTS RECEIVED BY THE JUDICIAL CONDUCT COMMISSIONER: **23**

General nature of those complaints:

Failure to exercise power / carry out function	2
Inappropriate conduct in court or in chambers	15
Failure or delay in delivering judgment / making a decision	1
Judicial decision / order	3
Non-SA State court judicial officer	2

NUMBER OF COMPLAINTS DEALT WITH BY THE TAKING OF NO FURTHER ACTION UNDER SECTION 16 OF THE JCC ACT: **10**

General nature of those complaints:

Failure to exercise power / carry out function	1
Inappropriate conduct in court or in chambers	8
Failure or delay in delivering judgment / making a decision	1

NUMBER OF COMPLAINTS WHICH WERE DISMISSED UNDER SECTION 17 OF THE JCC ACT: **7**

General nature of those complaints:

Inappropriate conduct in court or in chambers	2
Non-SA State court judicial officer	2
Judicial decision / order	2
Failure to exercise power / carry out function	1

NUMBER OF COMPLAINTS REFERRED TO A JURISDICTIONAL HEAD UNDER SECTION 18 OF THE JCC ACT:

General nature of those complaints:

0
N/A

Number of complaints about the conduct of judges of South Australian State courts²

5

NUMBER OF COMPLAINTS THAT RESULTED IN A REPORT TO PARLIAMENT UNDER SECTION 19 OF THE JCC ACT:

General nature of those complaints:

0
N/A

Number of complaints about the conduct of magistrates of South Australian State courts³

15

NUMBER OF COMPLAINTS THAT RESULTED IN A RECOMMENDATION TO APPOINT A JUDICIAL CONDUCT PANEL UNDER SECTION 20 OF THE JCC ACT:

General nature of those complaints:

0
N/A

Three complaints received in the reporting period were about the conduct of persons who were not judicial officers for the purposes of the JCC Act.

²One complaint was about the conduct of two judges.

³Three complaints were about the conduct of more than one magistrate.

NUMBER OF COMPLAINTS NOT YET FINALISED:

General nature of those complaints:

Judicial decision / order

6
1

Inappropriate conduct in court or in chambers

5

NUMBER OF COMPLAINTS PROVIDED BY JURISDICTIONAL HEADS FOR NOTING UNDER SECTION 27C(4) OF THE *COURTS ADMINISTRATION ACT 1993* (SA)

9



Although I did not ultimately take further action in relation to any of the complaints which were finalised during the 2016-17 period, I continue to believe that the role of the Judicial Conduct Commissioner is a very important one. The mere existence of the office serves a purpose. It acts as a deterrent and thereby enhances public confidence in the judicial system. It establishes, for the first time, a dedicated and independent mechanism for the receipt and consideration of complaints about the conduct of judicial officers.

KEY PERFORMANCE INDICATORS

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

Key Performance Indicator	2016-2017 Result (Average Business Days)
1 Register all new complaints in our electronic system within an average of three business days from receipt of the complaint.	1.26
2 Determine whether there is reasonable suspicion of corruption in public administration within an average of 10 business days after registration of the complaint.	6.15
3 For all complaints which do not raise a reasonable suspicion of corruption in public administration, complete a preliminary examination of the complaint within an average of 15 business days after registration of the complaint.	6.41

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

I can conduct a preliminary examination in any manner that I think fit, but in doing so, I must act in accordance with the principles of procedural fairness. Those principles, of course, include the right of the judicial officer to be heard.

The time within which the preliminary examination can be completed depends upon whether I need to obtain further information to determine if allegations can be substantiated and whether I need to provide the judicial officer with an opportunity to make submissions.

I have found audio recordings and transcripts of the relevant proceedings to be very useful. I am grateful for the cooperation that I have received from the staff of the Courts Administration Authority in providing audio recordings and transcripts in a timely manner.

In relation to some complaints, it was necessary to request information from people who were present in the courtroom during the hearing in which the alleged conduct was said to have occurred. Waiting for responses to those requests increased the time in which those complaints could be determined.

If the complaint clearly fell within a ground in section 17 of the JCC Act such that I was bound to dismiss it, or the complaint was of such a nature that on the face of it I would not take any further action, I saw no need for the judicial officer to be heard, as the outcome of the complaint could not have adversely affected the judicial officer. I was able to complete the preliminary examination of some complaints very quickly because it was evident, on their face, that they had to be dismissed or, in the exercise of my discretion, it was appropriate to take no further action.



Many complainants have not understood the distinction between the conduct of a judicial officer and his or her judicial decisions. As a result, they have mistakenly viewed my role as that of an appeal court. The JCC Act makes it clear that that is not my role.

I am required to dismiss any complaint which ‘is about a judicial decision, or other judicial function, that is or was subject to a right of appeal or right to apply for judicial review’.⁴ I am also required to dismiss any complaint which would otherwise require me ‘to challenge or call into question the legality or correctness of any instruction, direction, order, judgment, or other decision given or made by a judicial officer in relation to any legal proceedings’.⁵ As allegations of this nature are often not categorised as the primary issue in a complaint which contains multiple issues, the significance of this misunderstanding is not reflected by the statistics set out earlier.

Towards the end of the reporting period, the nature and relevance of the complaints improved such that they were more likely to fall within jurisdiction. In respect of these complaints, I more often needed to request further information in order to conduct a preliminary examination and, in respect of some complaints, it was necessary to accord the judicial officer procedural fairness. As a result, those later complaints took longer to deal with because a greater proportion of them contained allegations which, on their face, fell within my jurisdiction. As at 30 June 2017, I was still dealing with a number of complaints of that nature.

NOTICE FROM JURISDICTIONAL HEADS

Under section 27C(4) of the *Courts Administration Act 1993* (SA), the jurisdictional heads are required to provide me with notice of any complaint made to them in relation to the conduct of a judicial officer. That referral, however, does not constitute a ‘complaint’ under the JCC Act unless the jurisdictional head categorises it as such.

As mentioned, I received notice from jurisdictional heads of nine complaints during the reporting period.

I considered it appropriate on my own initiative to treat some of the complaints that were brought to my attention by jurisdictional heads as complaints under section 12(8) of the JCC Act, which in particular allowed me to conduct a preliminary examination of those complaints. Others I simply noted but wrote to the complainant to inform him or her of my role as the Judicial Conduct Commissioner and invited him or her to make a complaint to me under the JCC Act.

⁴*Judicial Conduct Commissioner Act 2015* (SA) s 17(1)(e).

⁵*Judicial Conduct Commissioner Act 2015* (SA) ss 6(3), 17(1)(e).





Committee, the Crown Solicitor's Office and the law schools of the University of Adelaide, Flinders University and the University of South Australia.

I appreciate the cooperation that I have received from representatives of those courts and organisations to assist me to distribute the brochures. I am particularly grateful for the role that the Chief Justice played in that process.

The brochure, titled 'Making a complaint about a judicial officer', describes the role and powers of the Judicial Conduct Commissioner and explains the process for making a complaint.

I have also published an article in the December edition of the Law Society Bulletin, explaining my powers and functions, and how I anticipated the JCC Act would operate in practice.

Between October 2016 and the end of the reporting period, I delivered presentations about my role as the Judicial Conduct Commissioner to:

- judicial officers of South Australian State courts who attended the Judicial Development Day
- members of the South Australian Bar Association
- legal practitioners who attended the Law Society Forum
- managing partners of medium firms who attended an event organised by the Law Society
- staff from the Office of the Director of Public Prosecutions, the Crown Solicitor's Office and the Legal Services Commission
- public sector employees who attended an 'On the Couch' session run by the South Australian division of the Institute of Public Administration Australia
- attendees at an event organised by the South Australian chapter of the Australian Institute of Administrative Law.

EDUCATION INITIATIVES

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

I have attempted to reach out to the community by distributing hard copy and electronic brochures to South Australian State courts, the South Australian Civil and Administrative Tribunal, the South Australian Employment Tribunal, the Legal Services Commission, the Office of the Director of Public Prosecutions and the South Australian Bar Association.

I have also provided electronic brochures to other organisations involved in the judicial system, including the Law Society, the Aboriginal Legal Rights Movement, the Women Lawyers' Committee, the Young Lawyers'

The opening of the office of the Judicial Conduct Commissioner received print, radio and television coverage. I have also used the Independent Commissioner Against Corruption's social media channels to educate the public about the Judicial Conduct Commissioner via Twitter and LinkedIn.

The office of the Judicial Conduct Commissioner also performs an educational function by responding to enquiries. During the 2016-17 period, the office received and responded to 25 enquiries.

LEGISLATIVE CHANGE

When the JCC Act commenced on 5 December 2016, there was no provision to deal with a complaint about a jurisdictional head in circumstances where the complaint was not considered so serious as to warrant consideration of removal of the judicial officer.

The JCC Act was amended three days after it came into operation to allow complaints about jurisdictional heads to be referred to the Chief Justice.





*The Office of the Judicial
Conduct Commissioner*



Strategic Goals

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

While the Strategic Plan was formalised in March 2017, staff working on the establishment of the office and managing complaints for the first few months were guided by the goals and objectives outlined in the Judicial Conduct Commissioner Implementation Project Brief, and established policies and procedures in existence on the commencement date of 5 December 2016.



The Judicial Conduct Commissioner's Strategic Plan contains the following goals and objectives:

Goal 1

To be accessible, so that anyone who believes a judicial officer has acted inappropriately is able to make a complaint to us.

Goal 2

To deal with all complaints before us in a fair and efficient manner.

Objective 1

To establish and maintain business processes consistent with the JCC Act.

Objective 2

To increase awareness of the existence and role of the Judicial Conduct Commissioner.

Objective 3

To ensure the process for making complaints is readily accessible.

Objective 4

To ensure that we have appropriately skilled people and the necessary resources to meet the demands of the office.



The Organisation

I make use of the services provided by staff of the Office for Public Integrity and the Independent Commissioner Against Corruption, under an arrangement I established as the Judicial Conduct Commissioner.

In particular, I have received executive assistance and support in relation to legal services, complaints management and corporate services.

Work was carried out by contractors to supply services to establish the information management framework for the office of the Judicial Conduct Commissioner.

Core Values

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

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

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

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

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

ORGANISATION CHART



The Organisation

THE COMMISSIONER

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

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

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

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

LEGAL OFFICER

The legal officer appointed by me is a qualified legal practitioner who holds a practising certificate. The legal officer supports me to conduct the preliminary examination of each complaint and provides me with the information necessary to determine how to deal with each complaint.

In addition to Judicial Conduct Commissioner duties, the legal officer has provided assistance to me in my capacity as the Independent Commissioner Against Corruption.



Workforce Statistics

EMPLOYEES

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

I employ one person. The employee is female and, as at 30 June 2017, she was in the age bracket of 25-29 years. She was the only employee recruited to the office of the Judicial Conduct Commissioner during the 2016-17 financial year, and no employees separated from the office of the Judicial Conduct Commissioner during that period. The salary of the sole employee is not within the executive band. She did not take any days of sick leave, family carer's leave or special leave with pay during the reporting period.

As at 30 June 2017, the sole employee was not on approved leave without pay and she did not have a disability according to the definition in the *Disability Discrimination Act 1992* (Cth). The employee has undertaken a performance review and potential process which was documented and will be reviewed within the next six months to ensure continued high level performance.



CONSULTANTS

Consultant	Purpose of Consultancy	Total \$
Info-Osmosis	Consulting and providing advice for the Judicial Conduct Commissioner's Business Classification Scheme and Records Disposal Schedule	\$1,950

During the 2016-17 period:

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

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

PUBLIC COMPLAINTS

During the reporting period, no complaints were received that expressed dissatisfaction with service received from the Judicial Conduct Commissioner.

In assessing public complaints, I would consider the quality and delivery of service, behaviour of employees, and service access, process and procedures.

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

Workforce Statistics

UNACCEPTABLE CONDUCT

I have adopted the following approaches to managing unacceptable conduct:

- A governancy framework including policies, procedures and guidelines
- Endorsement and adoption of the South Australian Public Sector Fraud and Corruption Control Policy
- A corporate risk register and associated controls
- Completion of a pecuniary interest declaration, annually on or soon after 30 June, by me and the sole employee
- Investment in continuing education about and reinforcement of the importance of ethical behaviour underpinned by the core values and the Code of Ethics for the South Australian Public Sector.

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



Financial Statements

for the year ended 30 June 2017





Level 9
State Administration Centre
200 Victoria Square
Adelaide SA 5000
DX 56208
Victoria Square
Tel +618 8226 9640
Fax +618 8226 9688
ABN 53 327 061 410
audgensa@audit.sa.gov.au
www.audit.sa.gov.au

To the Judicial Conduct Commissioner Judicial Conduct Commissioner

As required by section 31(1)(b) of the *Public Finance and Audit Act 1987*, I have audited the financial report of the Judicial Conduct Commissioner for the financial year ended 30 June 2017.

Opinion

In my opinion, the accompanying financial report gives a true and fair view of the financial position of the Judicial Conduct Commissioner as at 30 June 2017, its financial performance and its cash flows for the year then ended in accordance with the Treasurer's Instructions promulgated under the provisions of the *Public Finance and Audit Act 1987* and Australian Accounting Standards.

The financial report comprises:

- a Statement of Comprehensive Income for the year ended 30 June 2017
- a Statement of Financial Position as at 30 June 2017
- a Statement of Changes in Equity for the year ended 30 June 2017
- a Statement of Cash Flows for the year ended 30 June 2017
- notes, comprising significant accounting policies and other explanatory information
- a Certificate from the Judicial Conduct Commissioner.

Basis for opinion

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

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

Responsibilities of the Judicial Conduct Commissioner for the financial report

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

Auditor's responsibilities for the audit of the financial report

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

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

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

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

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

A handwritten signature in black ink, appearing to read 'A. Richardson', with a long horizontal stroke extending to the right.

Andrew Richardson

Auditor-General

22 September 2017

Annual Financial Statements

for the year ended 30 June 2017





Judicial Conduct Commissioner Certification of the Financial Statements

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

- comply with relevant Treasurer's Instructions issued under section 41 of the *Public Finance and Audit Act 1987*, and relevant Australian Accounting Standards
- are in accordance with the accounts and records of the Judicial Conduct Commissioner
- present a true and fair view of the financial position of the Judicial Conduct Commissioner as at 30 June 2017 and the results of its operations and cash flows for the financial year.

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



The Hon. Bruce Lander QC
Judicial Conduct Commissioner

Date: 22 September 2017

Judicial Conduct Commissioner
Statement of Comprehensive Income
for the year ended 30 June 2017

	Note	2017 \$'000
Expenses		
Employee benefits	4	66
Supplies and services	5	35
Other expenses	6	5
Total expenses		106
Income		
Recoveries	7	71
Total income		71
Net cost of providing services		35
Net result		(35)
Net result and total comprehensive result		(35)

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

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

Judicial Conduct Commissioner
Statement of Financial Position
as at 30 June 2017

	Note	2017 \$'000
Current assets		
Cash and cash equivalents	8	-
Receivables	9	1
Total current assets		<u>1</u>
Total assets		<u>1</u>
Current liabilities		
Payables	10	20
Employee benefits	11	10
Total current liabilities		<u>30</u>
Non-current liabilities		
Employee benefits	11	6
Total non-current liabilities		<u>6</u>
Total liabilities		<u>36</u>
Net assets		<u>(35)</u>
Equity		
Contributed capital		-
Retained earnings		(35)
Total equity		<u>(35)</u>

The total equity is attributable to the SA Government as owner

Unrecognised contractual commitments	15
Contingent assets and liabilities	16

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

Judicial Conduct Commissioner
Statement of Changes in Equity
for the year ended 30 June 2017

	Retained Earnings
	\$'000
Balance at 30 June 2016	-
Net result for 2016-17	(35)
Total comprehensive result for 2016-17	(35)
 Balance at 30 June 2017	 (35)

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

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

Judicial Conduct Commissioner
Statement of Cash Flows
for the year ended 30 June 2017

		2017
	Note	\$'000
Cash flows from operating activities		
Cash outflows		
Employee benefits		(50)
Supplies and services		<u>(21)</u>
Cash used in operations		<u>(71)</u>
Cash inflows		
Recoveries		<u>71</u>
Cash generated from operations		<u>71</u>
Net increase in cash and cash equivalents		-
Cash and cash equivalents at the beginning of the period		<u>-</u>
Cash and cash equivalents at the end of the period	8	<u><u>-</u></u>

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

Judicial Conduct Commissioner
Notes to and forming part of the financial statements
for the year ended 30 June 2017

Note 1. Objectives of the Judicial Conduct Commissioner

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

Note 2. Significant accounting policies

2.1 Statement of compliance

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

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

As the Commissioner is a not-for-profit entity, Australian Accounting Standards that are applicable for not-for-profit entities have been applied.

2.2 Basis of preparation

The preparation of the financial statements requires:

- the use of certain accounting estimates and requires the Commissioner to exercise his judgement in the process of applying the accounting policies. The areas involving a higher degree of judgement or where assumptions and estimates are significant to the financial statements, are outlined in the applicable notes; and
- accounting policies are selected and applied in a manner which ensures that the resulting financial information satisfies the concepts of relevance and reliability, thereby ensuring that the substance of the underlying transactions or other events are reported.
- compliance with Accounting Policy Statements issued pursuant to section 41 of the *Public Finance and Audit Act 1987*. In the interest of public accountability and transparency the Accounting Policy Statements require the following note disclosures, which have been included in the financial statements:
 - a) expenses incurred as a result of engaging consultants;
 - b) employee targeted voluntary separation package information;
 - c) employees whose normal remuneration is equal to or greater than the base executive remuneration level (within \$10 000 bandwidths) and the aggregate of the remuneration paid or payable or otherwise made available, directly or indirectly, by the entity to those employees.

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

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

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

The accounting policies set out below have been applied in preparing the financial statements for the year ended 30 June 2017.

2.3 Reporting entity

The Commissioner must, before 30 September in each year, prepare a report on the operations of the Commissioner as required by section 27 of the JCC Act. The report encompasses the operations of the Commissioner.

Judicial Conduct Commissioner
Notes to and forming part of the financial statements
for the year ended 30 June 2017

Note 2. Significant accounting policies (continued)

2.4 Comparative information

As the Commissioner was established on 5 December 2016 there are no comparative amounts shown in this first set of financial statements.

2.5 Rounding

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

2.6 Taxation

The Commissioner is not subject to income tax. The Commissioner is liable for payroll tax, fringe benefits tax and goods and services tax (GST). GST collections and payments are carried out by the Attorney-General's Department (AGD) on behalf of the Commissioner. GST in relation to the Commissioner is reported in the AGD Controlled Financial Statements.

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

- when the GST incurred on a purchase of goods or services is not recoverable from the Australian Taxation Office (ATO), in which case the GST is recognised as part of the cost of acquisition of the asset or as part of the expense item applicable.
- receivables and payables, which are stated with the amount of GST included.

The net amount of GST recoverable from, or payable to, AGD is included as part of receivables or payables in the Statement of Financial Position.

Unrecognised contractual commitments and contingencies are disclosed net of the amount of GST recoverable from, or payable to the ATO. If GST is not payable to, or recoverable from the ATO, the commitments and contingencies are disclosed on a gross basis.

2.7 Events after the reporting period

Adjustments are made to amounts recognised in the financial statements, where an event occurs after 30 June and before the date the financial statements are authorised for issue, where those events provide information about conditions that existed at 30 June.

Note disclosure is made about events between 30 June and the date the financial statements are authorised for issue where the events relate to a condition which arose after 30 June and which may have a material impact on the results of subsequent years.

2.8 Current and non-current classification

Assets and liabilities that are to be sold, consumed or realised as part of the normal operating cycle event when they are not expected to be realised within 12 months after the reporting date have been classified as current assets or current liabilities. All other assets and liabilities are classified as non-current.

2.9 Liabilities

Employee benefits

These benefits accrue for employees as a result of services provided up to the reporting date that remain unpaid. Long-term employee benefits are measured at the present value and short-term employee benefits are measured at nominal amounts.

a) *Salaries, wages, annual leave and sick leave*

The liability for salary and wages is measured as the amount unpaid at the reporting date at remuneration rates current at reporting date.

Where the annual leave liability is expected to be payable within 12 months, the liability has been measured at the undiscounted amount expected to be paid.

Judicial Conduct Commissioner
Notes to and forming part of the financial statements
for the year ended 30 June 2017

Note 2. Significant accounting policies (continued)

No provision has been made for sick leave as all sick leave is non-vesting and the average sick leave taken in future years by employees is estimated to be less than the annual entitlement for sick leave.

b) Long service leave

The liability for long service leave is measured at the present value of expected future payments to be made in respect of services provided by employees up to the end of the reporting period using the projected unit credit method.

The estimated liability for long service leave is based on actuarial assumptions over expected future salary and wage levels, experience of employee departures and periods of service. These assumptions are based on employee data over SA Government entities.

Expected future payments are discounted using market yields at the end of the reporting period on government bonds with durations that match, as closely as possible, the estimated future cash outflows.

The current portion of long service leave reflects the portion of leave expected to be settled within the next 12 months, based on previous experience, leave bookings and expected terminations.

The unconditional portion of the long service leave provision is classified as current as the Commissioner does not have an unconditional right to defer settlement of the liability for at least seven years.

c) Employee on-costs

Employee benefit on-costs (payroll tax and superannuation) are recognised separately under payables.

2.10 Unrecognised contractual commitments and contingent assets and liabilities

Commitments include operating, capital and outsourcing arrangements arising from contractual or statutory sources and are disclosed at their nominal value.

Contingent assets and contingent liabilities are not recognised in the Statement of Financial Position, but are disclosed by way of a note and, if quantifiable, are measured at nominal value.

Note 3. New and revised accounting standards and policies

The Commissioner did not voluntarily change any of his accounting policies during the financial year.

Note 4. Employee benefits expenses

	2017
	\$'000
Salaries and wages	44
Long service leave	6
Annual leave	8
Employment on-costs - superannuation	5
Employment on-costs - other	3
Total employee benefits expenses	66

Targeted voluntary separation packages

There were no targeted voluntary separation packages paid in 2016-17.

Remuneration of employees

The number of employees whose remuneration received or receivable was \$147,000 or more was nil.

Judicial Conduct Commissioner
Notes to and forming part of the financial statements
for the year ended 30 June 2017

Note 5. Supplies and services

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

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

	2017	2017
	Number	\$'000
Below \$10 000	1	2
Total paid/payable to consultants engaged	1	2

Note 6. Other expenses

	2017
	\$'000
Other expenses	5
Total other expenses	5

Note 7. Recoveries

	2017
	\$'000
Recoveries	71
Total recoveries	71

Note 8. Cash and cash equivalents

	2017
	\$'000
Deposits with the Treasurer	-
Total cash and cash equivalents	-

Deposits with the Treasurer

Deposits at call and with the Treasurer are non-interest bearing. The carrying amount of cash and cash equivalents represents fair value.

Judicial Conduct Commissioner
Notes to and forming part of the financial statements
for the year ended 30 June 2017

Note 9. Receivables

	2017
	\$'000
Current	
GST receivable	1
Total receivables	1

Note 10. Payables

	2017
	\$'000
Current	
Creditors	14
Accruals	5
Employee on-costs	1
Total payables	20

Employee on-costs

As a result of an actuarial assessment performed by the Department of Treasury and Finance, the proportion of long service leave taken as leave is (40%) and the average factor for the calculation of employer superannuation on-cost is 10.1%. These rates are used in the employment on-cost calculation.

Note 11. Employee benefits

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

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

The actuarial assessment performed by the Department of Treasury and Finance used a rate of 3% for annual leave liability.

Judicial Conduct Commissioner
Notes to and forming part of the financial statements
for the year ended 30 June 2017

Note 12. Related party transactions

The Commissioner is both independent and accountable to the Crown.

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

Significant transactions with government related entities

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

Key management personnel

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

Total compensation for the Commissioner was nil.

Transactions with key management personnel and other related parties

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

Note 13. Financial risk management

Liquidity/funding risk

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

The Commissioner has received representation from AGD that funding will be provided in 2017-18 to enable the Commissioner to continue to fund its activities.

Note 14. Events after balance date

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

Note 15. Unrecognised contractual commitments

There are no material commitments as at 30 June 2017.

Note 16. Contingent assets and liabilities

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

[illegible]



Level 1, 55 Currie Street
Adelaide SA 5000
(08) 8207 8311
GPO Box 11066
Adelaide SA 5001

jcc.sa.gov.au

Read this annual report online:
<https://jcc.sa.gov.au/content/publications>



📞 Enquiries
(08) 8207 8311

🌐 www.jcc.sa.gov.au
🏠 Judicial Conduct
Commissioner
Level 1, 55 Currie St
Adelaide SA 5000
✉ GPO Box 11066
Adelaide SA 5001