

BRIEFING PAPER

JUDICIAL RESOURCES

THE **ESSENTIAL** MEMBERSHIP FOR
THE LEGAL PROFESSION

Prepared by the Law Society of Western Australia

lawsocietywa.asn.au

April 2019

JUDICIAL RESOURCES

Issues

A lack of resources is causing delays within the Supreme Court of Western Australia.

The delay in obtaining a trial date is an issue which the Court regards as unacceptable.

The effects of trial delays include:

- Magnification of the harm to victims by delaying vindication and closure, and protracting their engagement with the criminal justice system.
- Many of those awaiting trial are also in custody on remand. Those who are acquitted at trial may have served more than a year in prison, although found not guilty.
- Delayed trials are much less efficient due to potential problems with the location of witnesses and the fading of memories.

Background

In 2016, in the Supreme Court's *Annual Review*, the Chief Justice reported comprehensively on the pressure the Court was experiencing in dealing with sustained growth in the criminal jurisdiction which had caused criminal trial delay to increase.

The Supreme Court's 2017 *Annual Review* stated that while there were less trials in 2017, the number of criminal trial sitting days increased from 433 to 468.

Despite the Supreme Court attempting to allocate as many judicial resources as possible to crime, the number of cases in backlog increased by 34%.

In order to meet this extra demand, it has been necessary for the Court to divert judges from its civil work and, to a lesser extent, reduce the support provided for appeal work.

The Court struggles to manage its significant and complex civil litigation which requires constant judicial supervision to ensure these matters are expedited and resolved without the need for trial.

In 2017, the length of time to finalise a civil appeal was significantly reduced whilst the time to finalise criminal appeals was maintained from the previous year.

The *Court Jurisdiction Legislation Amendment Act 2018 (WA)* was passed, which altered the criminal jurisdiction boundaries between the Supreme Court, the District Court and the Magistrates Court. The District Court now has the jurisdiction to try an accused for indictable offences other than homicide offences and offences prescribed by the regulations.

This means that offences such as perjury and arson, which can hold a punishment of life imprisonment, can now be heard in the District Court. Jurisdictional changes were also made to allow more offences to be tried summarily in the Magistrates Court.¹

Two additional judges were appointed to the District Court to manage the increased workload due to the jurisdictional changes.²

Policy Position

Unless judicial resources are increased, or the workload of the Court is reduced by increasing the jurisdiction and judicial resources of the District Court, the timeliness and efficiency of the Court's work will continue to deteriorate.

NOTES

1. Government of Western Australia, 'Budget boost to District Court to ensure timely, effective justice' (Media Statement, 2 September 2017) <<https://www.mediastatements.wa.gov.au/Pages/McGowan/2017/09/Budget-boost-to-District-Court-to-ensure-timely-effective-justice.aspx>>.
2. District Court of Western Australia, '2017 Annual Review' (2017) 2 <https://www.districtcourt.wa.gov.au/_files/2017_WADC_AnnualReview%20-%20Published.pdf>

Policy Position

The Law Society of Western Australia seeks the support of all parties to:

- Maintain existing levels of judicial resources; and
- Provide additional resources to ensure that the Courts meet national standards in listing times for trials and delivering judgments.



The Law Society of Western Australia

Level 4, 160 St Georges Tce, Perth Western Australia 6000
Postal address: PO Box Z5345, Perth WA 6831 or DX 173 Perth

Phone: (08) 9324 8600 **Fax:** (08) 9324 8699

Email: info@lawsocietywa.asn.au **Website:** lawsocietywa.asn.au

