



Review of the Magistrates Court of Tasmania

Department of Justice

January 2017





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Executive Summary

Department of Justice - Review of the Magistrates Court of Tasmania

September 2016

Executive Summary

This report has been prepared in order to provide the Attorney General with recommendations to improve service delivery at the Magistrates Court of Tasmania, and access to justice. This includes streamlining the administrative and electronic systems and processes to ensure that the Magistrates Court is operating effectively.

The recommendations in this review have particular reference to removing any legislative or administrative impediments to the efficient operations of the court in order to ultimately both reduce the backlog of cases in the Magistrates Court and reduce the amount of time that a matter is before the court.

These recommendations span a variety of areas including structural, technological, legislative and organisational.

The objectives and scope of this report were outlined in the Terms of Reference of this engagement, as established by the Steering Committee.

In summary, the core objectives of this review are to identify opportunities for the Magistrates Court to:

- Improve service delivery and access to justice;
- Streamline the administrative and electronic systems and processes to ensure the most effective utilisation of the current resourcing;
- Redefine its organisational structure or staffing profile to support any recommendations to improve service delivery and administrative systems and processes; and
- Remove the structural, legislative or resourcing gaps or barriers to the Court in meeting its statutory responsibilities and managing the business of the court in a timely and efficient manner.

A high level summary of the recommendations are provided on the following page.

Executive Summary

	Observations	Recommendations
Process	<ol style="list-style-type: none"> 1. The appearance of some matters before the court is not efficient 2. Multiple appearances without progress create a burden on the court 3. Manually intensive processes are inefficient 	<ol style="list-style-type: none"> 1. Streamline processes within the courts and administration 2. Take simple matters out of the court 3. Separate coronial matters from the Magistrates Court.
Technology	<ol style="list-style-type: none"> 4. The use of technology is outdated and inefficient 	<ol style="list-style-type: none"> 4. Implement a single standard system for criminal, civil and coronial case management 5. Increase use of video conferencing
Structure	<ol style="list-style-type: none"> 5. Multiple operating structures duplicate roles and resources 	<ol style="list-style-type: none"> 6. Implement a single registry for all locations across the state 7. Implement a standard structure for all locations 8. Consolidate the Burnie and Devonport court houses
Skills, Capability & Culture	<ol style="list-style-type: none"> 6. Culture, capability and leadership requires development 	<ol style="list-style-type: none"> 9. Implement resource development and sharing 10. Build and develop a client/stakeholder focused culture 11. Implement whole of court performance reporting
Stakeholders	<ol style="list-style-type: none"> 7. Lack of transparency on court process and information for stakeholders 	<ol style="list-style-type: none"> 12. Provide stakeholders with timely access to information on court operations and processes
Facilities	<ol style="list-style-type: none"> 8. Some facilities are outdated and not suitable for contemporary court operations 	<ol style="list-style-type: none"> 13. Create fit for purpose facilities



Background, Scope & Approach

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Background

In 2008, the Auditor General investigated timeliness in the Magistrates Court, including the efficiency and effectiveness of managing court waiting times, reporting systems, and how the courts measure and manage operational performance. This report provided recommendations around the use of the CRIMES system, which could be used to better record and manage court waiting times.

In 2014, the Deputy Secretary commissioned an analysis of the administrative support and operations of the Magistrates Court, in response to concerns around administration and financial performance (such as long-running deficits) and in the context of a reduction in the number of criminal and civil lodgments across all registries by between 11 and 33%.

This reduction in criminal and civil lodgments may be attributed to a number of factors including:

- A reduction in the number of operational police officers
- A reduction in crime rates
- Changes to prosecution policy
- Reduced recidivism rates due to the success of diversionary courts.

Whilst the reason for the overall reduction was not clear, the courts responded to the report by committing to further business process analysis in order to enhance operational efficiencies and financial sustainability.

To build on this work to date, the Department of Justice has engaged KPMG to conduct a review to continue the exploration of these challenges and issues.

Scope

The objectives and scope of this report are outlined in the Terms of Reference, as established in the RFQ, by the Steering Committee. This includes particular reference to improving finalisations, clearance rates, attendances and backlog indicators in the Magistrates Court of Tasmania.

More specifically the objectives of the review are to:

- a) Utilise work already undertake to analyse and map the current administrative systems and processes in the various Divisions of the Court, but with particular focus on the Criminal, Civil and Coronial Divisions
- b) Analyse and identify options for improving service delivery to court users and the efficiency of the administrative systems and processes, including in-court processes carried out by staff of the Magistrates Court
- c) In the context of potential changes to the workload, footprint and administrative processes of the Magistrates Court as a result of the single tribunal project, Magistrate Courts legislative package and the Devonport Living City Project, assess the resourcing required to enable the Court to meet and discharge its statutory responsibilities and manage its work in a timely and efficient manner.

The scope of these recommendations include examination of the following:

- Systems, processes used in the operations of the Magistrates Court
- The organisational structure of the Magistrate Court to support any of the recommendations
- Other structural, legislative or organisational gaps and barriers to the Court in meeting its responsibilities and managing the business of the court in a timely and efficient manner.

This report is provided to the Attorney General for the purpose of advising Cabinet on any reforms to support improved service outcomes.

Approach

Approach

In light of the terms of reference and the background context for this review, KPMG approached the review through the application of lean process principles to the Magistrate Courts operational structure and processes as a basis for the development of the recommendations.

In particular, the following aspects of the Magistrates Courts operations were considered:

1. What is important from the perspective of internal and external court users
2. What are the specific activities required to finalise a matter appearing before the Magistrates Court and what are the skills required to complete them to the required level of quality
3. What is the sequence of activities and information as a matter moves through the Magistrates Court
4. How are activities within the Magistrates Court activated, by who and when
5. What processes are in place to measure and improve performance throughout the Magistrates Court operations

The approach for this review consisted of the following activities:

- Visits to each registry, for observation and consultations with staff and Magistrates
- Stakeholder consultations with external court user groups.
- Desktop review of current literature and relevant studies, and
- Background research into the historical performance of the Magistrates Court.

KPMG also received submissions and held consultations with interested stakeholders, largely those who were external court user groups.

These stakeholders included the:

- Tasmanian Law Reform Institute
- Tasmanian Law Society
- Tasmanian Bar Association
- Written submissions were also received from Community Corrections



Current State Overview

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Overview of the Magistrates Court

This section provides an overview of the footprint of the court, as well as each division of the court and an analysis of current performance. Whilst this review is not intended to provide a complete summary of the court's operations, the relevant points have been discussed which apply to the recommendations.

The Magistrates Court of Tasmania is a statutory body created as a Court of record by the *Magistrates Court Act 1987* section 3A that comprises of a Chief Magistrate, a Deputy Chief Magistrate and other Magistrates.

Statutory provision is made for the Court to sit in the following Divisions:

- Civil Division
- Coronial Division
- Youth Justice Division
- Children's Division
- Administrative Appeals Division
- Mining Division

The Magistrates Court of Tasmania sits at four locations across Tasmania, and employs approximately 58 full time equivalent staff. In addition, there are 13 Magistrates, and 2.5 of these Magistrates also sit as Coroners. As per the *Magistrates Court Act 1987*, Magistrates are appointed by the Governor, either on a permanent full-time or part-time basis (five year maximum term).

The legislation also requires that:

- The Chief Magistrate is appointed by the Governor, and is responsible for the administrative co-ordination and allocation of work between the Magistrates and other justices.
- The Administrator is appointed by the Minister for Justice, and is responsible to the Secretary of the Department for the control and direction of staff of the lower courts.

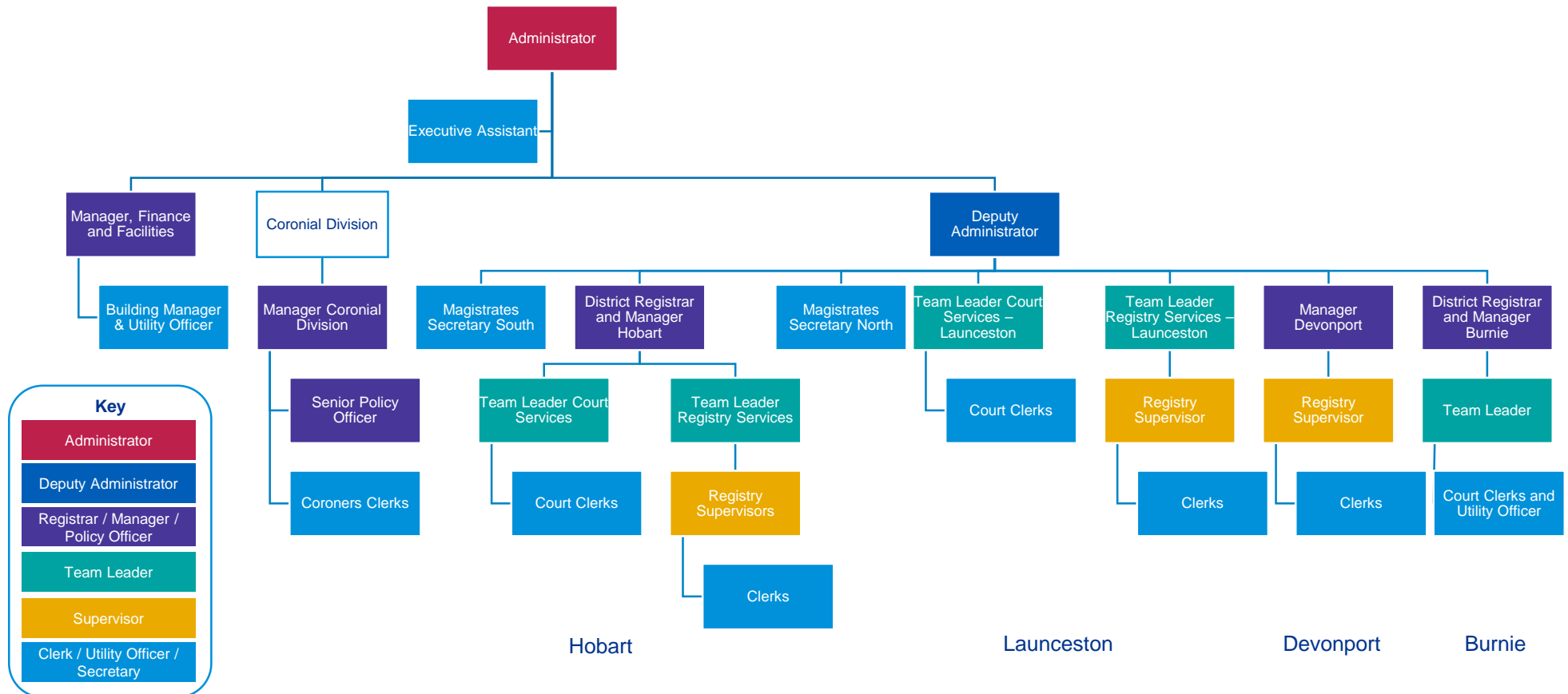
The Magistrates Court has a five year strategic plan that encompass the following principles:

- Determine cases expeditiously and efficiently
- High quality customer service and court administration
- Promote the Court's role in the community
- Promote effective leadership and highly trained persons
- Provide facilities that are modern, accessible, secure and safe

These principles have been considered and explored in our analysis of the current state, and are also reflected in the recommendations.

Overview of the Magistrates Court

The current administrative structure of the Magistrates Court indicates there are different management layers in each region. The organisational chart illustrated below (high level adaptation) shows how the different staffing management levels and structure are not aligned state-wide or applied consistently. Hobart operates with four layers under the Deputy Administrator where as the North and North West operate with two to three layers. The hierarchy of these levels are also not consistent across each registry; some have a manager, a team leader, supervisors and staff and others go from manager to supervisor or Deputy Administrator to team leader, with no manager in between.



Overview of the Magistrates Court

The Court sits in four locations across Tasmania, in Hobart, Launceston, Burnie and Devonport. In addition to these permanent Magistrates Court facilities, there are also circuit court sittings at Queenstown, Smithton, Currie, Whitemark, Scottsdale, St Helens, and Huonville, which operate on a periodic basis with staff from the four main courts.

In Hobart, staff are separated by function in either criminal, civil, coronial divisions, and there is overarching shared services and management. In Launceston, Burnie and Devonport courts, staff operate on a local level and due to the smaller size of these courts, are not separated by division. An overview of the profiles and core operational differences of the courts are summarised below.

Burnie

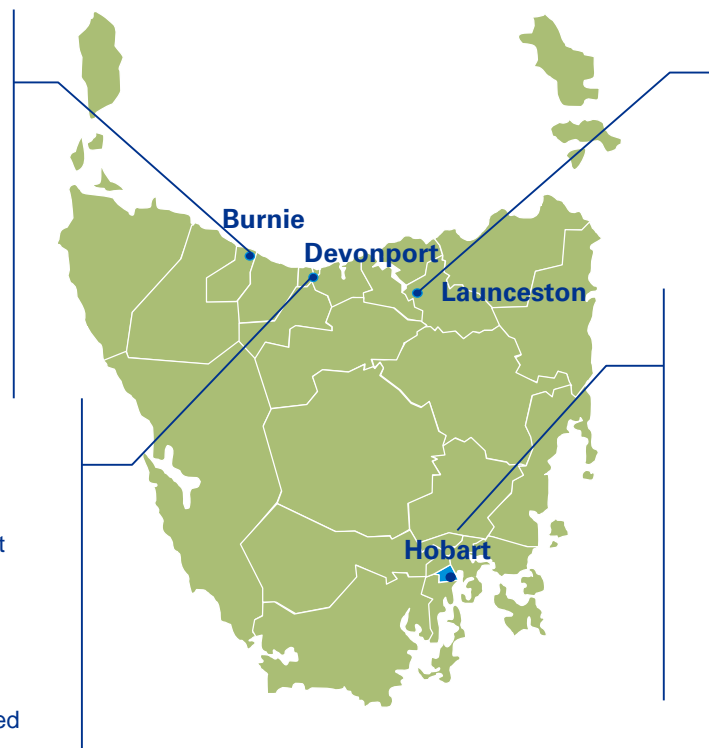
FTE: 4.7 Magistrates: 1

- The Burnie courts service the area west of Penguin, as well as the Queenstown and King Island regional courts.
- The condition of the Burnie courts are sub-optimal.
- The pressures on current staffing levels are the greatest issues for this registry.

Devonport

FTE: 7.5 Magistrates: 2

- The Devonport Courts service east of Penguin to Launceston, as well as Smithton (due to a conflict of interest by the Magistrates sitting in Burnie).
- The Devonport courts are in good condition.
- The main challenges stem from the difficulties of listing matters, managing leave with limited resources, and the large amount of time consumed at the front desk doing justice of the peace work.



Launceston

FTE: 10.7 Magistrates: 3

- The Launceston courts service the greater Launceston area, and the north-east of Tasmania including Flinders Island.
- The Launceston courts are in need of redevelopment.

Hobart

FTE: 31.1 Magistrates: 8 including a Chief and a magistrate with full time Coronial duties

- The Hobart courts service southern Tasmania, and run 6 courts, with additional after-hours courts and specialised courts as required.
- The Hobart courts themselves are in good condition, and are connected to the remand centre/Police headquarters.
- Hobart is the only court with a Bail room.
- The Hobart court is siloed in structure, and it deals with the largest case load in the state which requires a heavy administrative load.

Divisional Overview

Criminal

The criminal division processes the largest number of matters at the Magistrates Court. Currently, the Court Mandated Drug Program, Mental Health Diversion List and Youth Court also operate as individual therapeutic courts, within the Criminal Division. In 2014-15, over 20,000 criminal matters were lodged at the Magistrates Court.

For criminal matters, police files are currently delivered in hardcopy to the courts, as well as an electronic data feed to the courts in Hobart, for validation and listing into CRIMES, the electronic case management system. CRIMES is used to record and store all details for criminal matters in the Magistrates Court, including appearance dates, charge details, and outcomes. The electronic files are then verified to the hard copy by the administration staff in the Criminal division. CRIMES also links to MPES to record any monetary penalties that may be imposed by the court.

CRIMES users not only include court staff, but also those external to the Court. There is a web interface, which lists the charges and bail conditions, however access is currently limited to some lawyers.

Civil

Magistrates have a broad jurisdiction to hear and determine a range of civil matters up to a value of \$50,000 or an unlimited amount with the consent of the parties. Matters up to \$5,000 are processed as Minor Civil Claims and undergo simplified procedures.

In order to file a claim with the court, the claimant must fill out a hard copy form at the front counter, and pay the corresponding fees. Once this is filed and the relevant fees are paid, civil staff enter the claim form into the CRMS system. All orders must be served by hardcopy.

There has been significant success in the utilisation of mediations and currently 78-80% of matters are being settled at these meetings. This has reduced the time taken to finalise these cases, as well as reduced the time and cost for the courts to deal with these matters. This has been a major shift in the operation of the courts in the last decade, and they ensure that the case only reaches court when a decision needs to be made in front of a Magistrate.

Divisional Overview

Coronial

The Coroners Court undertakes investigations into sudden or unexpected deaths, as well as conducting inquests. Inquests generally span a much longer time period, and their frequency and nature is sometimes mandated by legislation or is at the discretion of the Coroner.

Following a review into the work of the coronial division in 2013, a new judicial structure was agreed and implemented in 2014. The review identified several areas where improvements could be made, most notably, a need for a dedicated State Coroner's Office to replace the disparate structure that operated previously in order to increase specialisation. It is noted that this was an internal review that did not consider funding arrangements of the proposed new structure. The proposed benefits of the new structure were the enhanced capacity of the Coroners to manage matters more efficiently and reduce the time previously taken to hear/resolve matters.

Following this review, the Coroner's office was established and is currently occupied by a full time Coroner and three part time Coroners, who are not required to be Magistrates by the legislation. The Coroners are supported by 2.8 FTE Coroner's associates between Launceston and Hobart, and around 3-4 administrative assistants who share the roles of the Coroner's clerk, data entry, and customer service on an as needs basis. There is also a part-time medico-legal expert, whose role it is to develop relationships with hospitals and the medical profession more broadly, bridging the legal and medical perspectives for coronial matters.

The Coroner's office utilise a separate case management system to the rest of the Court called MUNCCI, a system developed by Monash

University which has been customised to the Tasmanian context. MUNCCI is used in several other jurisdictions around Australia .

Many of the coronial processes rely on the timeliness of external parties- such as the police in collecting the relevant files, and the pathologists and medical staff performing and concluding the relevant medical tests. The demands on the coronial office is therefore subject to fluctuation, which also reflects the agility needed to respond to particular circumstances. Other key roles in the operations of the coronial division who are not employed by the court also include:

- The mortuary ambulance which is currently outsourced. Responsibilities include attending to deaths around the state and transporting these people to Hobart or Launceston General hospitals for autopsies.
- Forensic pathologists, who are responsible for performing autopsies within 24-48 hours, and preparing an interim report in the following days. The final report is issued up to six weeks later, once final results from other tests have been concluded. These pathologists are employed by the Department of Health and Human Services, and also perform other roles within the hospital.

The broader role of the coronial division includes educating the public and coordinating with other stakeholders around coronial matters, and there is still scope to expand and develop this role in the community. It is acknowledged that the courts are undertaking work in this area, and a short term contractor is currently documenting the coronial processes as a starting point for developing these communication tools. These tools would provide stakeholders such as nursing homes and the primary health care sector with appropriate information around the coronial process, to ensure that deaths only enter the system when they are genuine matters for the Coroner.

Current Performance

In 2015, the Productivity Commission released a Report on the Government Services, which included analysis of court performance around Australia. This report highlighted how Tasmania performed in relation to other jurisdictions. This report identified that Tasmania had the worst case backlog of all jurisdictions. In particular, this report included the following statistics for 2013-14 Tasmania¹:

- The second highest case backlog in the Magistrates Court for criminal matters greater than 12 months, at 11.8%.
- Highest backlog of civil matters greater than 6 months at 42.7%.
- Highest backlog of matters in the Coroner's Court over 12 months, at 36.4%.
- The lowest clearance rate for criminal matters at 94%, indicating that fewer cases were finalised than were lodged
- Greater than average net recurrent expenditure per finalisation for criminal matters

This report seeks to provide analysis around the drivers of this backlog, and recommends initiatives that will drive court performance, considering the quality of court outcomes as the key determinant of success.

Court backlog is driven by a variety of factors inside and outside the Court's control. For example, delays can be caused by witnesses being unavailable, referrals to other courts or tribunals, cases relating to other cases or dealing with co-accused, and other family law matters. The following national standards for Magistrates Courts are below:

- No more than 10 per cent of lodgements pending completion are to be greater than 6 months old
- No lodgements pending completion are to be greater than 12 months old.

Based on the latest performance data, The Magistrates Court has not been meeting these national standards.

1. <http://www.pc.gov.au/research/ongoing/report-on-government-services/2015/justice/courts/rogs-2015-volume-c-chapter7.pdf>



Observations & Findings

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Overview

This section of the report provides a summary of the key observations and findings from analysing the operations of the Magistrates Court and consultations with stakeholders. Bearing in mind the lean principles identified at page 9, this section discusses the current issues, challenges, and pain points experienced by the courts. It also explores the key drivers of these issues that have informed our recommendations.

This section of the report is organised under the following headings:



Challenges prior to first appearance - This acknowledges the bottlenecks that are contributing to the case backlog before a case appears in court.



Observations from first appearance - Our observations have been summarised into eight categories;

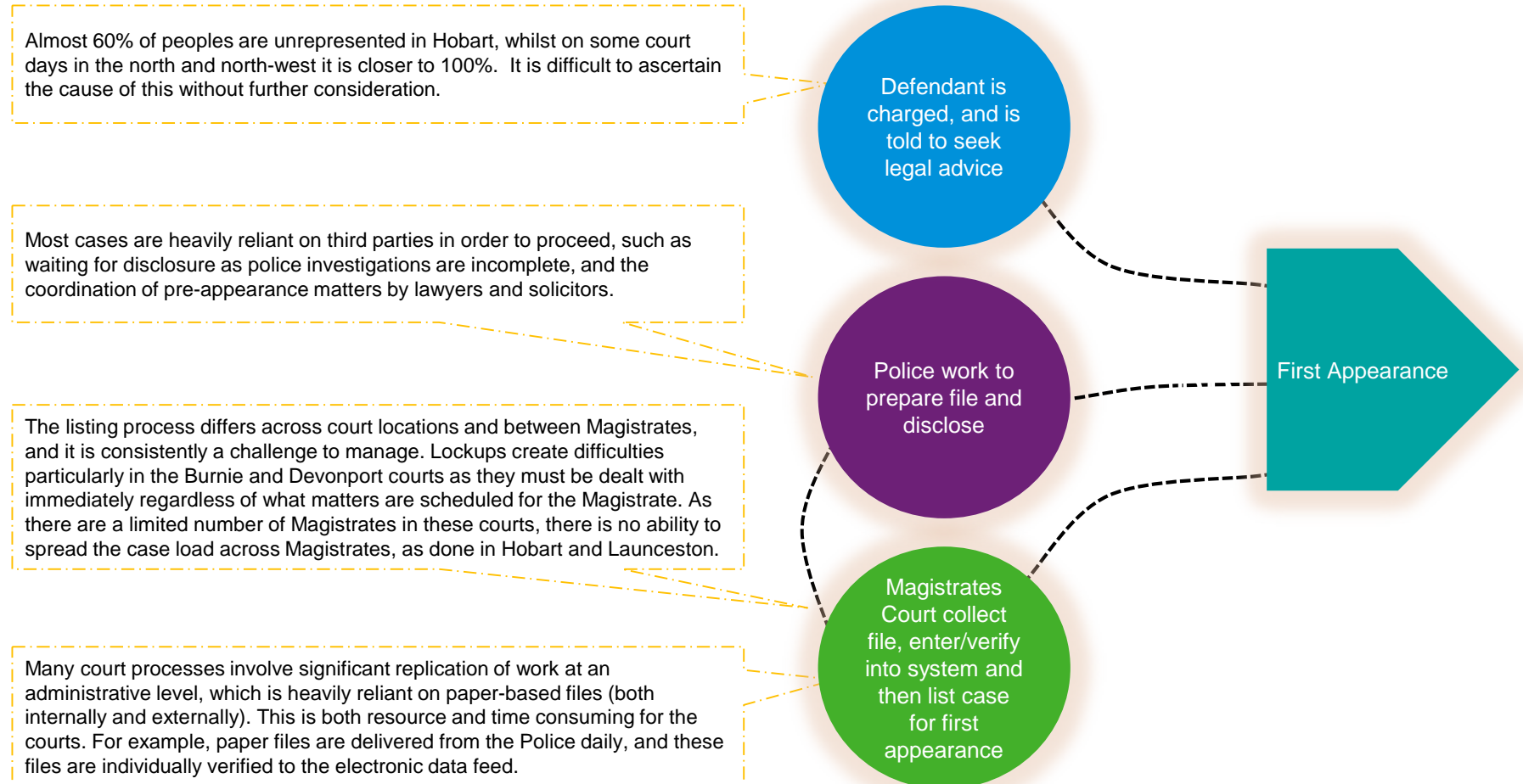
1. The appearance of some matters before the court is not efficient
2. Multiple appearances without progress create a burden on the court
3. Manually intensive processes are inefficient
4. Use of technology is outdated and inefficient
5. Multiple operating structures duplicate roles and resources
6. Culture, capability and leadership requires development
7. Lack of transparency on court process and information for stakeholders
8. Not all facilities are fit for purpose

Interaction between the Magistrates Court and third parties is also considered, where relevant to these areas. Whilst out of the scope of this review, it is acknowledged that these stakeholders are an important determinant of the effectiveness and efficiency of court processes. This review therefore considers how the Magistrates Court can encourage better interaction with these stakeholders.



Challenges prior to first appearance

This section acknowledges that challenges exist in the processes prior to matters appearing in the Magistrates Court. A simplified, typical pathway for a person charged with a criminal offence to enter the court system is depicted below, as well as an introduction to some of the challenges that are further explored in the following pages.





Observations

#1: The appearance of some matters before the court is not efficient

Whilst it is not the scope of this review to identify a comprehensive set of the particulars, it is clear that there are some limitations to operations that are mandated by the legislation. This includes the following pieces of legislation:

- *Justices Act 1959*
- *Magistrates Court Act 1987*

It is acknowledged that an internal Steering Committee has been drafting a new suite of legislation, that is aimed at expediting the criminal litigation process, whilst protecting the fundamental rights to a fair trial. It is understood that this new framework will include initiatives such as a new case management procedures, a new prosecution and defence disclosure framework, and a range of other initiatives aimed to increase the powers for the court to control its own processes, to both deliver a more modern, integrated and efficient court system for Tasmania.

In the process of reviewing and amending the legislation in the future, the following points should be considered.

- There are a large number of minor criminal and civil matters being brought before the Magistrates. Some of these matters could more efficiently be dealt with by Police through an extension in the provision of infringement notices, or the granting of orders.
 - In 2014-15 there were over 900 applications to grant, vary, revoke or extend Police and court-granted family violence orders. Whilst some of these are initially administered through the Police and all have to appear in court in order to vary or revoke a family violence order.
 - Small civil claims are currently appearing before Magistrates

- Magistrates are limiting their ability to transfer fines into community service orders.
- The legislation requires hardcopy lodgement of forms and serving of warrants. This should be amended to allow for the implementation of electronic forms and signatures.
- The legal fees and charges that are outlined for civil claims do not reflect current market rates and therefore in the settlement of a claim, the legal reimbursement to the claimant does not cover the fees actually incurred.

In addition, nearly all criminal matters are required to be heard by a Magistrate in order to progress through the system

- For example the granting of adjournments, or the listing of a hearing date.
- There are currently some minor offences such as driving whilst suspended that arise from non-payment of fines, which come before the Magistrates. These are essentially civil matters, dealt with through MPES. There are also matters being heard such as interim hearing matters that have little value for court users alike. These appearances are costly and time-consuming for court users, lawyers, and Magistrates alike. It is noted that first appearance adjournments are done in front of a Justice of the Peace in Launceston, Burnie and Devonport, but not in Hobart.
- Civil matters in the north-west of the state are currently under-served, due to the current backlog of criminal matters

Based on our observations, the current legislation restricts improvement opportunities such as a requirement for paper based operations. Changes to bring it in to line with modern technology platforms and operating processes would contribute significantly to a more efficient court operation.



Observations

#2: Multiple appearances without progress create a burden on the court

Managing the days listing is a challenge, given the difficulties in managing non-appearances, failure of disclosure and adjournments.

- The court currently has no way of knowing whether cases will go ahead until the day, which makes it even more difficult to prepare the court lists and maximise the use of Magistrates' time most efficiently. In the Devonport and Burnie courts, the Police are responsible for giving people first appearance dates.
- Quite often, more than the recommended number of cases are listed, because of the lack of real-time information that is shared between stakeholders.
- This means that the Magistrates Court has no control over a critical process which drives the daily operations of the court.
- As a result, some cases may not be heard and have to be rescheduled, or the courts progress out of hours, or defendants will leave before they are heard because they have been waiting for an extended period of time
- The number of adjournments continues to contribute to workload and effort for both in-court and out of court processes.

Other adjournments are due to delays from court users or lawyers, such as the inability to engage legal representation. Each visit to the court triggers a new matter, which must be actioned and recorded, and seen again in front of a Magistrate. This leads to more matters being scheduled, creating a further backlog in the court system, driving the number of appearances before a plea is entered, or a case is finalised

In recent times the use of SMS reminders of court dates has been successful in reducing the amount of non-appearances, however this communication is one-way only.

With these issues noted, there are a significant number of instances whereby the following occurs;

- Right to adjournment on first appearance
 - There are a large amount of first adjournments as a result of the inability to list and manage cases through the courts. For example, first appearances with multiple charges can be granted an adjournment for all outstanding matters.
- Police investigations are not always completed by the time defendant first appears in court.
 - It is common for police investigations not to have been completed at the time the defendant first appears in court to face charges.
 - In those circumstances if the defendant pleads not guilty the matter must be adjourned in order for the investigation to be completed which may include the collection of witness statements. Charges may differ at first appearance from those originally notified to the defendant, leading to an adjournment for the defendant to consider their plea and seek further information and advice.
- Non-appearances by the defendant or legal counsel
 - Currently, people can be waiting to see a Magistrate for hours, and there is a lack of transparency or communication around the listing of these matters. This means that many people may leave the court before being heard.
- The prosecution and/or defence are not ready to deal with the matter



Observations

#3: Manually intensive processes are inefficient

In addition to processes within the court room, the courts rely on supporting functions to perform a range of activities for the operations and day-to-day running of the court.

Key observations around these operational processes are summarised below.

- Court processes are largely manual, paper-based and as a result, are resource-intensive and time consuming.
 - In some areas this is a result of CRIMES which is an outdated, error-prone system, and in other areas it is a result of legacy and outdated legislation.
 - CRIMES and other systems are effectively used as a secondary record keeping system rather than for integrated case management.
 - This slows matters progressing through the courts, as it delays the transfer of information and retrieval of data, and requires multiple handling of information. This includes processes within the courts, as well as in the back office.
- Regional court sittings are not efficient:
 - Magistrates currently travel to regional courts in Huonville, Smithton, Queenstown and King Island, which often do not involve a days worth of cases.
 - The current state of the videolink facilities means that these cannot be all done via videolink conveniently.
- Transcription of matters and decisions:
 - Some matters heard in the Magistrates Court are required to be transcribed, and this role is under-staffed across the State.
- The current Dictaphone application (Dragon) is not meeting the needs of the Magistrates, and as a result, Magistrates are typing their own decisions, or hand writing, taking up more administrative time when they could be in court making judgements and hearing matters.
- The collection of fees over the counter presents challenges for staff and court users alike.
 - There are difficulties in producing receipts out of the Finance system and as a result these are done over multiple systems and are not attached to criminal files.
 - The Burnie courts also do not have eftpos facilities, and have to telephone Hobart in order to process these transactions. This is very time consuming and inefficient, and creates additional risk through the large amounts of cash handled through the courts.
- In Hobart, people are being asked to wait in the bail room, and files are transferred from the court room to the data processing team for processing.
 - This is double-handling of information which requires additional processing and creates frustration for those who must wait for their documents to be processed. In the regional courts, the court clerks often have capacity to process the relevant documents and forms in real-time in court through CRIMES, which means that people get their documents immediately when they leave court.



Observations

#4: The use of technology is outdated and inefficient

Technology is utilised in varying levels across the four registries, as well as between the divisions of the court. Core observations on the technology utilised at the Magistrates Court include:

- Multiple technology platforms
 - The criminal, civil and Coroners courts currently utilise separate technology platforms, which increases the operational complexity of the court.
- CRIMES and other systems are being used as secondary record keeping systems in addition to the manual paper files, rather than for integrated case management
- CRIMES is not meeting the current needs of the criminal court.
 - The system is not intuitive for users, and there is not a level of integration required for data sharing between stakeholders
 - Requires users to access multiple screens for basic data input
 - No standard documentation is generated within CRIMES (rather they are all generated separately in Microsoft Word outside of CRIMES)
 - Large amounts of paper files are delivered to the Magistrates Court every day for processing into the system, which is time-consuming, inefficient and has multiple inherent risks.
- Inability of CRIMES to streamline multiple matters
 - Those who are listed for court often get their court date wrong, are unaware of their charges, and may have to appear on different days for different charges. This is partly a result of the inability in CRIMES to streamline multiple matters for one person on the same day, and partly due to the lack of communication from the courts.
- This leads to non-appearances, and matters consequently take longer to be processed. Initiatives such as SMS reminders which are being used in Hobart, have proven successful in reducing non-appearances, however there is still scope to improve this process, such as using email, and publishing court dates in advance online.
- Videolinks have been working throughout the state successfully, however there are still issues with accessibility and reliability.
 - For instance, each court can only utilise videolink for a dedicated time slot each day. There is significant opportunity to gain more efficiencies from making videolink more available to the courts, to alleviate high work loads and some of the challenges around overflow management. This could also alleviate the need and associated cost for Magistrates and staff to travel to rural courts and the need to transport defendants in remand across the state.
- The Magistrates Court website is not meeting the needs of the court users and stakeholders (noting that a new website is about to be launched)
 - Only the current day's listing for court is published on the Magistrates Court website. The website does provide some links to information but it is difficult to navigate, and is not user friendly.
- Legislation does not allow for electronic signatures, and the serving of orders and lodgement of forms must be in hard copies.
 - The limitations of CRIMES also means that staff are continually having to print, sign, scan and email documents to key stakeholders. This is incredibly time consuming and is outdated by today's standards.



Observations

#5: Multiple operating structures duplicate roles and resources

Multiple Registries

Currently, each of the four court locations operate as separate registries.

- This means that there is little integration between the registry offices which leads to the duplication of roles and processes.
- There is a widespread feeling amongst staff that they are under-resourced.
- This has a consequent impact on organisational culture and staff productivity
- There are also practical implications from the lack of integration - for example, staff in the north west currently find it difficult to manage leave, and as a result, training and development time is problematic to cover and backfill.

Operating Structure

The organisational structure of the courts is hierarchical, and siloed in structure between function and location.

- This is most notable in Hobart, with designated separate criminal, civil and coronial divisions and roles within the back-office staff.
- In the regional courts however, there is much more job sharing, largely out of necessity due to their very small staff base, and long serving employees understand all aspects of the courts operations.
- Each of the registries operate under a different management structure.

The Magistrates in the Burnie and Devonport courts share similar challenges as a result of the difference in the profile of court users to the urban courts, and much lower rates of representation. Some of the current issues being experienced in these regional courts include:

- Being limited to the small number of Magistrates means that it is difficult spread the case load in light of unexpected circumstances. For example, this includes cases where there may be conflicts of interest, or there are a large amount of lockups that require immediate processing on top of a full day of matters.
- In these courts, the case load can fluctuate and is unpredictable, making it difficult to optimise the use of the Magistrates' time.
- Key person dependencies arise as a result of the smaller staff base in each location. Staff particularly in Burnie are feeling under-resourced as a result of staff departures and the state government freeze on all contracts. This is particularly difficult when it comes to managing leave, and Magistrates are currently under-supported from an administrative perspective.



Observations

#5: Multiple operating structures duplicate roles and resources (continued)

Coronial Court Structure

The Coronial Court currently operates as a division of the Magistrates Court, with Magistrates appointed as Coroners and cases appearing within the current Magistrates Court and using the facilities and processes of the court. This potentially increases the operating cost of the Coronial Court.

There is no requirement for this to be the case.

- Coroners do not have to be Magistrates
 - In addition to the Magistrates appointed as Coroners, there are currently occasions where other legal professionals are appointed as Coroners for specific periods of time for specific cases or geographies (e.g. Antarctic cases).
- Coronial proceedings do not have to be heard in a court room
 - Proceedings can be heard in any location deemed appropriate by the Coroner



Observations

#6: Culture, capability and leadership requires development

- The organisational culture of the Magistrates Court does not encourage improvement
 - There is a tendency towards siloed operations within the operations of the court which when combined with long tenured staff who have only worked in legal (or similar) organisations, and manually intensive processes have resulted in a culture that does not encourage problem solving and new ways of thinking about the operations of the Magistrates Court.
 - In addition this has been perpetuated by the reduction in FTEs in recent times, resulting on increased load on staff to manage additional roles and responsibilities. This has lead to staff feeling under-resourced and pressured, particularly as many of the processes are repetitive and could be automated, which would empower staff to perform more value-adding roles.
- Skills and Capability
 - A large number of staff have only ever worked within the operations of the court and do not bring external perspectives or skillsets from other employment experience.
 - The leadership of the court is currently required to have legal qualifications in order to understand and manage the legal process, however this in itself does not necessarily bring the right leadership skillset.
- There is a lack of information and reporting on the performance of the Magistrates Court operations
- The Coroner's associates have limited tenure
 - Coroners associates have a central role in processing coronial matters, such as liaising with families and stakeholders, and collating the police investigations. However they are currently employed by the Police on two-year secondments, with an option to extend for another two years, resulting in high turnover, and loss of knowledge and skills. This also presents difficulties in coordinating resourcing, as the management, up skilling and development of these staff do not fall within the Magistrates Court's control.
- A lack of commercial culture means that there are no quality assurance practices amongst any division of the court.
 - Recent restraints on budgets means that there are no resources dedicated to improving service levels or generating business improvement initiatives. Whilst there is regular reporting to Magistrates, there is limited understanding of how this data is collated and what it represents, and therefore it has limited usefulness.
- There is a broadly held view across all levels and operations of the court that increased staffing numbers were the only way to address current workloads. Therefore there is an internal focus on needing to increase staffing levels rather than finding more efficient ways to perform tasks across the majority of the court operations.



Observations

#7: Lack of transparency on court process and information for stakeholders

The requirement to appear in the Magistrates Court is a daunting prospect for the majority of defendants. It is an environment that by its very nature does not easily provide transparency, to those appearing before it, on the legal process, the range of potential outcomes or the penalties that may be applied in a specific set of circumstances.

In particular, there can be a lack of understanding by defendants of the process they are to follow once they have been charged.

This contributes to the first appearance adjournments and non-appearances as some defendants don't understand when they need to access legal representation for their first appearance, or the consequences of a non-appearance.

- While there is information provided on the Magistrates Court website, this is difficult to navigate to and is not in simple language.
- It is not clear what communication the Police have with defendants at the time of being charged so we are unable to observe on that element of the process.
- Other stakeholders such as legal defence, do not have direct access to information relating to their clients in a simple easy to access way. They are reliant upon information being sent to them in a timely manner by the prosecution and/or police and contacting the registry for additional information.
- This manual process of obtaining information or lack of transparency on the court process can limit access to justice and be an obstacle for those involved in the system.

- The Court Mandated Drug Program, Mental Health Diversion List and Youth Court all operate through a therapeutic approach, which employs a problem-solving approach, as opposed to a more adversarial approach adopted in the criminal courts. This is difficult to manage due to the following reasons:

- They operate separately which can result in fragmented processes
- Do not have a firm legislative basis for driving court procedures

These difficulties are also amplified by the lack of data integration and sharing within the Justice system, such as with Police or Corrections, as well other external stakeholders.

- In the therapeutic courts, pre-sentence reports are often requested as well as other reports such as Drug Treatment Orders (pre sentence reports are also required in the general criminal division as statutory requirement and are provided by Community Corrections). There does not appear to be a consistent understanding between stakeholders as to the purpose and timing of these reports, which slows down the finalisation of cases and causes delays. This can be further delayed by the difficulty in accessing those who are currently being held in prison.



Observations

#8: Some facilities are outdated and not suitable for contemporary court operations

The condition of the Burnie and Launceston courts are sub-standard and in need of investment to bring up to a fit for purpose standard.

- Burnie and Launceston face a number of material issues regarding the court buildings
 - Waiting rooms outside of the courts are not large enough to deal with peak periods resulting in defendants and witnesses (who may be appearing against the defendant) sitting in close proximity prior to entering the court. This is having an impact on processes, as well as the safety of court users.
 - The buildings were constructed in the 1960s (or thereabouts) and appear to have undergone few upgrades since that time.
 - The buildings are aging, do not have appropriate facilities and have not been appropriately maintained to the level expected of a modern court.
 - There are limited spaces available for lawyers to liaise with clients, particularly for those clients who are in remand for defendants to meet with legal counsel.
 - In Burnie in particular, the space available for the storage of hardcopy files is inappropriate and may pose a risk in case of fire resulting in the loss of those files.
- The Devonport Court is in relatively good condition but is confirmed as a site to be part of a city redevelopment
 - The Devonport Living Cities project is set to redevelop Devonport including comprehensive relocation and construction of sites for current community and Government facilities.
 - The Devonport Magistrates Court has already been identified as a site that will move with this project.



Recommendations

Department of Justice - Review of Magistrates Court

September 2016

Summary

Our recommendations have been formulated into 13 areas that address the key challenges currently faced by the operations of the courts, revolving around access to justice and streamlining operations and processes.

The principle behind these findings is largely driven by the need to remove the operational bottlenecks in the courts, maximising the time that Magistrates can spend in court hearing and deciding cases, as well as leaving staff to perform more value-adding activities.

In summary, the recommendations are founded on the following principles, that directly relate to the focus of this review, being access to justice and streamlining processes and systems.

- There are significant opportunities to implement modern technology to streamline and automate many court processes, which would ease the current challenges for staff who must work with an outdated, manual, paper-based system, with little to no case management. Implementing a contemporary case management system and digitising a range of the court processes will decrease the current administrative burden on all court users, and increase the quality of information and the timeliness of processing cases through the courts. This ultimately flows through to court users receiving a higher quality of service, and therefore greater access to justice.
- Some of the activities in the Magistrates Court could more efficiently be serviced from outside the court room. This would provide a better service to the public, and also consume less of the courts resources, whilst utilising Magistrates' time more effectively. These need to be carefully considered in order to ensure fair and equitable access to justice is maintained, if not strengthened.

- One of the main issues driving the recurrent case backlog and the number of court appearances is the fact that many offenders as well as witnesses and other parties, do not have adequate information before coming into court. People entering the court system have incredibly diverse backgrounds and needs. Many people do not know what they are meant to do, when their first appearance is, or what the charges are, which means that they are consequently not prepared for court, and often do not seek representation prior to the court date. An efficient court system needs to be responsive to these people, and provide ways for these people to access relevant information and support. The implementation of these recommendations could have a significant impact on peoples' understanding of court systems, and therefore their court readiness. This has a flow on effect by positively impacting on how matters move through the court, reducing case backlog.
- There are structural recommendations that would impact the courts both physically and culturally. These would both assist in bringing the court facilities up to a fit-for-purpose standard, as well as streamlining the court structure to reflect a more commercial and agile business. Developing a commercial culture within the courts is key to implementing business improvement initiatives, and driving an improvement in court performance.

Each of the recommendations have been discussed in detail in this section.

Recommendations

#1: Streamline processes within the courts and administration (as per observation 1, 2 & 3)

- **1.1 Automate the listing process in order to better manage and allocate case load.**

This would provide a number of significant benefits including:

- Streamline the current day to day scheduling of matters
- Alleviate the current difficulties in spreading the load between the Magistrates, as all diaries could be accessed by all court clerks across the state
- Provide visibility over how cases are assigned to Magistrates
- Allow people with multiple matters to be heard on the one occasion rather than on multiple days
- Make it easier to list people with the same Magistrates for all appearances.

- **1.2 The courts should encourage and facilitate 'pre-trial' meetings**

This would require the prosecution and defence to meet and establish whether the case is ready to be heard in front of a Magistrate, and determine the next course of action or an appropriate date to adjourn. This is currently being utilised in Victoria. Mediations in the Civil court have the potential to be applied in the Criminal court, to realise similar efficiencies. The efficiencies to be gained from this process is that mediations do not have to be heard in front of a Magistrate, and it encourages all parties to be prepared before their court appearance, improving the flow of cases through the system. The Magistrates Court should review the Victorian model and explore whether a similar model could be adopted in Tasmania.

- **1.3 Increase the use of contest mentions for criminal matters.**

Contest mentions have proven to be successful in encouraging faster clearance and finalisation rates, for limited types of cases. Increasing the use of contest mentions for more types of cases would improve the quality of access to justice. Contest mentions are also more efficient from the courts perspective as it encourages the faster resolution of matters.

- **1.4 Establish a legislative basis to enable the therapeutic courts to be managed in a holistic framework to encourage a therapeutic culture and where appropriate, facilitate more specialist training and development for staff within and outside the courts.**

This would provide an opportunity to realise operational efficiencies from streamlining these processes, and managing these cases in the most constructive manner.

- **1.5 Defendants should be able to contact the courts prior to the date, if they know that they will not be able to appear (in exceptional circumstances only)**

This will assist in reducing the amount of non-appearances. There is also an opportunity to drive efficiencies through offering incentives (such as a lower fine) to appear in court, which will reduce the amount of time wasted in court, as well as the length of finalisations.

Recommendations

#2: Take simple matters out of the court (as per observation 1, 2 & 3)

- **2.1 Simple adjournments should be heard in front of a registrar, rather than a Magistrate.**

There are many adjournments heard in front of a Magistrate which are more administrative in nature. These are currently consuming a large amount of valuable court time. Removing some of these adjournments would therefore alleviate the Magistrates' listing, and free up time for the Magistrates to hear more complex matters. This requires the appropriate resourcing of Registrars in order to allow them to hear those matters.

- **2.2 Develop scope in the legislation for minor matters to be dealt with by fine or infringement notice by Police.**

Some matters are brought before the Magistrates Court, when the offence is dealt with by a simple fine. The Magistrates Court should review the matters that could more effectively be administered outside the court.

- **2.3 Issuing of all Family Violence Orders by the police rather than them appearing before a Magistrate.**

This improves the protection for at risk members of the community by reducing the time taken for the granting of those orders.

- **2.4 Establish a body such as a small claims tribunal** to deal with minor civil matters (this should be considered in the context of the single tribunal project).

This would facilitate more matters being dealt with outside court, leaving Magistrates to deal with more complex matters and hearings. This may also be dealt with under Item 4.1 above, through the provision of a Registrar to hear those matters.

#3: Separate coronial matters from the Magistrates Court (as per observation 1, 2 & 3)

- **3.1 Appointment of legal professionals as Coroners**

Legislation allows for the appointment of Coroners who are not Magistrates. Increasing the use of Coroners who are not Magistrates has multiple implications:

- Reduces the cost of the Coroners
- Increases the time available to Magistrates to deal with criminal and civil matters

- **3.2 Utilise external facilities for Coronal Court proceedings**

Utilising facilities outside of the court may:

- Increase the time available for utilisation of the court for criminal and civil proceedings
- Increase access to coronial proceedings outside of major centers

Recommendations

#4: Implement a single standard system for criminal, civil and coronial case management (as per observation 4)

- **4.1 A single system**

There are serious issues with the reliability, accessibility and functionality of CRIMES, and as a result it is not meeting user needs. Replacing CRIMES is critical to improving the operations of the court and in doing this the functional requirements of the criminal, civil and coronial courts should also be included in order to ensure that a single system is utilised

- **4.2 Digitise and automate manual processes**

This would enable instant processing of cases and generation of relevant documentation in court, reducing the current administrative burden on staff dealing with manual paper-based processes and removing the need for a bail room in Hobart.

- Digitisation of the courts eliminates the need for filing processes and the risk of hard copy information being lost as documents change hands or are transferred between locations.

- **4.3 An accounts receivable component should be integrated into the new electronic case management system, to ease the challenges in producing and filing invoices and receipts, and eftpos facilities should be implemented at all courts.**

This would offer a better service for the public, provide a more efficient way for staff to process transactions, and also reduce the amount of cash being held at these premises.

Note:

The Federal Court of Australia's case management system is an example of how an electronic court has been implemented effectively. New South Wales has also effectively implemented an integrated database, particularly for the therapeutic courts. It is recommended that the Magistrates Court further explore these case studies and tailor a solution fit for the Tasmanian context in collaboration with other stakeholders.

Recommendations

#5: Increase use of video conferencing (as per observation 4)

- **5.1 Increase the utilisation of videolink facilities at all courts and ensure that each of the courts has reliable access, and staff are provided with sufficient training.**

Videolink is an efficient and economical tool that can be used to manage overflow throughout the state as well as having the potential to ease the challenges relating to the difficulties in managing the day's listings, and particularly dealing with lockups in the regional courts

The increased use of videolink would also reduce the need for transport around the state which is a current cost to the courts.

#6: Implement a single registry for all locations across the state (as per observation 5)

- **6.1 Combine the four registries into one state-wide registry.**

Under the *Magistrates Court Act 1987*, the Governor of Tasmania has the authority and discretion to establish the registries of the Magistrates Court. A single registry model would:

- Facilitate further resource sharing across the state
- Build knowledge across the organisation
- Ease the challenges in transferring files and other information across the state
- Reduce the duplication and fragmentation that currently exists across the state, and facilitate the streamlining of processes
- Allow for matters to be heard in all locations, removing the need for defendants held within Risdon prison to be transported between the prison and Burnie, Devonport and Launceston.

Recommendations

#7: Implement a standard structure for all locations (as per observation 5)

- **7.1 Flatten the management structure to reduce the number of levels and adopt the same structure across all registries.**

Each registry has a slightly varied structure with differing levels of management and supervisory roles. By integrating the registries into one, some of those functions are no longer required and each office location will adopt the same structure and resourcing model.

#8: Consolidate the Burnie and Devonport court houses (as per observation 5)

- **8.1 Consolidate the Burnie and Devonport courts into one justice centre, with the Supreme Court.**

Given the geographical proximity of these two courts, and the current operational and physical constraints at these courts, the consolidation of the two current courts into a single court has the potential to ease these challenges.

Whilst consolidation may occur in either Burnie or Devonport, given that the current Devonport Living Cities Project is the largest urban renewal project ever undertaken in regional Tasmania, and involves the construction of a new business/services precinct there is a significant opportunity to leverage that investment as it provides a clear and logical opportunity to update the facilities of the Magistrates Court, and provide a justice centre for the entire North-West coast as part of this project.

Recommendations

#9: Implement resource development and sharing (as per observation 6)

- **9.1 The courts should implement development plans for staff to assist them in developing skills to operate across multiple areas of the court.**

Multi-skilled staff also provides staff with variety in the work that they are doing and enhances the ability to vary resourcing levels for specific tasks during peak workloads and for periods of staff leave coverage. This development should address the skills and knowledge to perform core activities, the appropriate behaviours required to deliver a positive stakeholder experience and the further development of the leadership capability within the court operations.

- **9.2 If the Magistrates Court operates as a single registry, there is an opportunity for resource sharing between courts through the use of electronic systems.**

This applies to both registry staff and Magistrates who are able to hear cases in other locations through videolink and systems access.

- **9.3 Appoint permanent Coroner's Associates.**

Coroner's Associates are currently employed by the Police and provided to the court on a secondment basis. Therefore it is difficult for the courts to manage leave and the development of these staff. It is logical that the courts would be responsible for managing these staff, given that their role sits within the Courts.

#10: Build and develop a client/stakeholder focused culture (as per observation 6)

- **10.1 Develop a stakeholder focused commercial culture within the courts and drive business improvement.**

It is recommended that the court further develops its commercial capability and culture in order to ensure that its delivery is in line with contemporary court practices. This includes clearly understanding the needs of its stakeholders and ensuring that the drivers of those are being addressed from both an operational and legal perspective.

This will require a significant culture change program in order to encourage a more collaborative and integrated approach as well as encouraging a diversity of ideas and new initiatives, including the introduction of holistic performance management mechanism (refer to Recommendation 11). This may be facilitated through expanding the focus of recruitment on skills such as project management, systems implementation and leadership supported by improvements to the staff performance management process (including more regular sessions focused on the developmental needs of registry staff).

The changes above (along with the other recommendations outlined in this report) require strong leadership, with an emphasis on strategic leadership and change management in order to foster a more consultative and empowering client focused culture.

Recommendations

#11: Implement whole of court performance reporting (as per observation 6)

• 11.1 Implement a robust reporting framework

A reporting framework that supports the development of a commercial culture in the courts would provide a focus around customer service and employee engagement, as well as the other strategic principles of the court.

The *International Framework for Court Excellence* is a widely adopted Framework, providing a quality management system designed specifically for measuring and improving court performance, reflecting the effectiveness and efficiency of the following core processes and outcomes of the court.

This includes measures around:

- Court user satisfaction
- Access fees
- Case Clearance Rate
- On-time case processing
- Pre-trial custody
- Court file integrity
- Case backlog

- Trial date certainty
- Employee engagement
- Compliance with court orders
- Cost per case

All Australian states other than Tasmania have signed up to apply the *International Framework for Court Excellence Framework*. Aiming to subscribing to this methodology should be a priority for the court, as it will enable them to gather a consistent and comparable set of information that will provide more visibility over the performance of the courts going forward.

Recommendations

#12: Provide stakeholders with timely access to information on court operations and processes (as per observation 7)

- **12.1 Establish and facilitate a formal court Support program to educate and assist people moving through the court.**
 - A case study of an interstate Court Support Program is provided on the following page, as a lead example of how such programs can be co-ordinated and what type of benefits they can create. It is recommended that the Department further explore the benefits that such a Program could deliver in Tasmania, and look at cost-effective, innovative models for which such a service could operate.
- **12.2 Develop easy-read documents or a smart phone App, that provides users with accessible and understandable information about court processes, including coronial matters.**
 - These materials would assist many people with weak literacy skills or for whom English is a second language to gain a proper understanding of the court process. These materials need to be provided to defendants by the Police when they are first charged, so they have adequate time to read and understand the materials before coming to court. The Magistrates Court website has some useful tools such as virtual tours and frequently asked questions, but these are difficult to find and navigate.

- **12.3 With the implementation of a contemporary, agile case management system designed to suit user needs, the courts could provide:**
 - Real-time access to files for all stakeholders both in court and out of court (utilising appropriate security measures)
 - Instantaneous sharing of data between stakeholders such as the Police, Supreme Court, Child Protection, Community Corrections and legal representatives.
- **12.4 Court users need to understand the purpose, and timing of various reports that are requested of the courts** (e.g. clarifying the use of pre-sentence reports).
This would assist in ensuring stakeholders can be prepared for court, and also that the documents requested meet the needs of the court.
- **12.5 Wireless networks should be implemented in each of the courts which would allow court users (both internal and external) to access information anywhere at any time.**

This is essential where Item 1.1 is implemented and courts are paperless and all information is electronic.
- **12.6. Extend the use of SMS notifications**

This should be extended to include appearance dates, location, and charges. Notifications should also be sent by email, and advance listings should be published online. This would:
 - reduce the number of non-appearances by those not knowing the details of their court appearance
 - ease the pressures on the front counter in dealing with the large amount of enquiries both over the desk and by phone.

Recommendations

Case Study: Court Network

The Court Network represent a network of volunteers in Victoria and Queensland who have developed a highly successful Court Support Program, which is supported by government-funded infrastructure. The organisation is founded on the notion that social disadvantage, inequality and marginalisation is visible in every court system, and in order to minimise the impact of these factors in determining how and whether people can meaningfully engage in the justice system, these people need to be supported².

Court Network recognises that there are significant barriers to accessing the justice system across Australia, including:

- Lack of comprehensive, understandable information
- Lack of comprehensive services which recognise the diversity of court users
- The culture and language of the court environment, and
- The financial and emotional cost of justice.

These Support programs are specifically aimed at the needs of court users- providing personal support, non-legal information and referrals for those in contact with the courts and the justice system more broadly. Volunteers assist court users in the following ways:

- Providing information about court procedures
- Provide guidance whilst they are in court to assist in explaining legal processes and providing support

- Making arrangements to ensure someone's safety when they are at court and assisting in organising other aspects such as interpreters and disabled access
- Referring to other community services or legal services

The Melbourne Magistrates Court specifically provides and facilitates relevant training for Court Network volunteers, such as mental health, drug and alcohol issues.

Victoria is also introducing applicant and respondent support workers as part of implementing recs of Royal Commission into Family Violence.

2. <https://www.Magistratescourt.vic.gov.au/jurisdictions/specialist-jurisdictions/court-network>

Recommendations

#13: Create fit for purpose facilities (as per observation 8)

- **13.1 Redevelop the Launceston court**

The redevelopment of the Launceston court in order to provide appropriate facilities for all stakeholders will reduce the current risks in that location regarding segregation of parties to a matter.

Alternative ownership models should also be considered, including opportunities for private investment in the court facilities which would reduce the initial capital expenditure outlay required the Department.

- **13.2 (as per recommendation 8.1) Consolidate the Burnie and Devonport courts into one justice centre, with the Supreme Court.**

Given the geographical proximity of these two courts, and the current operational and physical constraints at these courts, the consolidation of the two current courts into a single court has the potential to ease these challenges.

Whilst consolidation may occur in either Burnie or Devonport, given that the current Devonport Living Cities Project is the largest urban renewal project ever undertaken in regional Tasmania, and involves the construction of a new business/services precinct there is a significant opportunity to leverage that investment as it provides a clear and logical opportunity to update the facilities of the Magistrates Court, and provide a justice centre for the entire North-West coast as part of this project.



Matters outside of Scope

Department of Justice - Review of Magistrates Court

September 2016

Matters outside of Scope

Whilst the scope of this review was limited to the operations of the Magistrates Court, it is clear that the Magistrates Court is part of a Justice system that relies heavily on stakeholders in terms of how matters enter and progress through the court.

Some of the observations that arose which were out of the direct scope of the Review yet impact the operations of the court include:

There is a need to clarify and update the jurisdictions of the Courts to reflect the modern environment

- There are some instances today where matters are relayed back and forth between the Supreme Court and Magistrates Court, which can create significant delays and incurs costs. It is recommended that the Magistrates Court in collaboration with the relevant stakeholders, review and clarify the process of assigning and distinguishing cases between the Magistrates Court and Supreme Court. This would improve the flow of cases coming into the system.

Magistrates, staff and the justice system more broadly are feeling the impact of the continued unmet need for legal assistance

- Demands for legal assistance are currently not being met. In an environment where costs are continuing to increase, the demand for legal aid is expected to grow. According to the PriceWaterhouseCoopers report in 2009, legal aid provides a range of efficiency benefits to the justice system, such as having duty lawyers on hand to help self-represented clients, and the resolution of issues at earlier stages through diverting cases through other more efficient dispute resolution mechanisms.

There are issues for lawyers and the courts in accessing the Prisons

- Lawyers are finding it increasingly difficult to access their clients who are held in prison. Magistrates are dealing with this through delaying proceedings in order for lawyers to get a chance to talk to their clients via videolink, before their matter is scheduled. This is not ideal for clients, lawyers or the courts, and is at the detriment of the principle of access to justice.

These points represent further areas to consider that are critical to implementing the recommendations in this review. Whilst out the scope of this review, it is still important to acknowledge that a system-wide approach is critical in achieving an optimum result.



Appendix A Written Submissions

Department of Justice - Review of Magistrates Court

September 2016



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