



## **Annual Report**

2018-19





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# **Queensland Law Reform Commission**

**Annual Report  
2018–19**

August 2019



## **Commission members<sup>1</sup>**

Chairperson:	<b>The Hon Justice David Jackson</b>
Part-time members:	<b>The Hon Margaret Wilson QC Ms Penelope White Dr Nigel Stobbs Ms Ruth O’Gorman</b>

## **Secretariat**

Director:	<b>Mr David Groth</b>
Assistant Director:	<b>Mrs Cathy Green</b>
Commission Secretary:	<b>Mrs Jenny Manthey</b>
Senior Legal Officers:	<b>Ms Anita Galeazzi Mrs Elise Ho Ms Paula Rogers</b>
Administrative Officer:	<b>Ms Kahren Giles</b>

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<sup>1</sup>

On 15 September 2017, The Hon Justice David Jackson (Chair) and The Hon Margaret Wilson QC were re-appointed (after initially being appointed on 1 August 2014). The following new members were appointed: Ms Penelope White, Dr Nigel Stobbs and Ms Ruth O’Gorman.





6 September 2019



The Honourable Yvette D'Ath MP  
Attorney-General and Minister for Justice and  
Leader of the House  
1 William Street  
BRISBANE QLD 4000

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Dear Attorney

I am pleased to submit for tabling in Parliament the *Queensland Law Reform Commission Annual Report 2018-19*. The reporting period ending 30 June 2019 covers work undertaken by the Commission, or key milestones that occurred, in respect of several reviews you have referred to the Commission under section 10(3) of the *Law Reform Commission Act 1968*.

On 16 July 2018, the Commission's Report No 76 on its review of termination of pregnancy laws (together with its draft Termination of Pregnancy Bill 2018) was tabled in Parliament. The reforms recommended by the Commission provided a blueprint for significant and historic reforms to bring Queensland's termination laws into the 21st century. The Commission was pleased that its draft Bill was adopted by the Government (with only minor amendment). It was introduced on 22 August 2018, passed by Parliament on 17 October 2018 and the legislation commenced on 3 December 2018.

On 24 July 2018, you gave the Commission two new reviews: a review into the issue of modernising Queensland's laws relating to civil surveillance and the protection of privacy in the context of current and emerging technologies; and a review into the issue of privacy protections for workers in the context of current and emerging surveillance devices in workplaces. The Commission is pleased that you value its contribution to the development of reforms on these significant and complex issues.

Finally, the Commission notes that the *Guardianship and Administration and Other Legislation Amendment Act 2019*, which implements a number of recommendations from the Commission's Report No 67, *A Review of Queensland's Guardianship Laws*, was passed by Parliament on 26 March 2019.

The other members of the Commission and I look forward to continuing the Commission's important contribution to law reform in this State.

Yours sincerely

A handwritten signature in black ink, appearing to read "David Jackson", with a long horizontal flourish extending to the right.

**David Jackson**  
Chair



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# Overview of the Commission

## Constitution

The Queensland Law Reform Commission is an independent statutory body, and is constituted under the *Law Reform Commission Act 1968* (the ‘Law Reform Commission Act’).

## Function

The function of the Commission, as provided in section 10(1) of the Law Reform Commission Act, is to review the law applicable to Queensland with a view to its systematic development and reform, including, in particular:

- (a) codifying laws;
- (b) eliminating anomalies;
- (c) repealing obsolete and unnecessary enactments;
- (d) reducing the number of separate enactments; and
- (e) generally, simplifying and modernising the law.

## Statutory duties

The Commission’s key statutory duties, as provided in section 10(3) of the Law Reform Commission Act, include duties to:

- undertake law reform reviews referred to it from time to time by the Attorney-General;<sup>2</sup>
- prepare and submit to the Attorney-General for review and approval a proposed program of law reform reviews, in order of priority;<sup>3</sup> and
- undertake any approved program of law reform reviews, subject to any variations made by the Attorney-General in terms of the proposed reviews or their order of priority.<sup>4</sup>

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<sup>2</sup> *Law Reform Commission Act 1968* (Qld) s 10(3)(b) and (e).

<sup>3</sup> *Law Reform Commission Act 1968* (Qld) s 10(3)(c).

<sup>4</sup> *Law Reform Commission Act 1968* (Qld) ss 10(3)(d) and 10(4).

## Organisational objectives

The Commission aims to meet the needs of the Queensland community by reviewing areas of the law in need of reform and by making recommendations for reform. These recommendations are based on extensive research, public consultation and the principles of impartiality, equity and social justice. They are published in its final reports, which are presented to the Attorney-General for tabling in Parliament in accordance with the requirements of section 16 of the Law Reform Commission Act.

## Members and staff

### *Commission Members*

Members of the Commission are appointed by the Governor in Council on the advice of the Attorney-General. The Law Reform Commission Act provides that the Commission must consist of at least three members, who may be full-time or part-time members.<sup>5</sup>

Each person appointed to be a Commission member must be a person appearing to the Governor in Council to be suitably qualified by the holding of judicial office or by experience as a barrister or as a solicitor or as a teacher of law in a University.<sup>6</sup>

As currently constituted, the Commission has five part-time members, including the Chair.

### *Commission Secretariat*

The Secretariat of the Commission comprises the Director, the Assistant Director, three senior legal officers, a part-time Commission Secretary and a part-time administrative officer. Secretariat staff are employed by the Department of Justice and Attorney-General under the *Public Service Act 2008* (Qld).

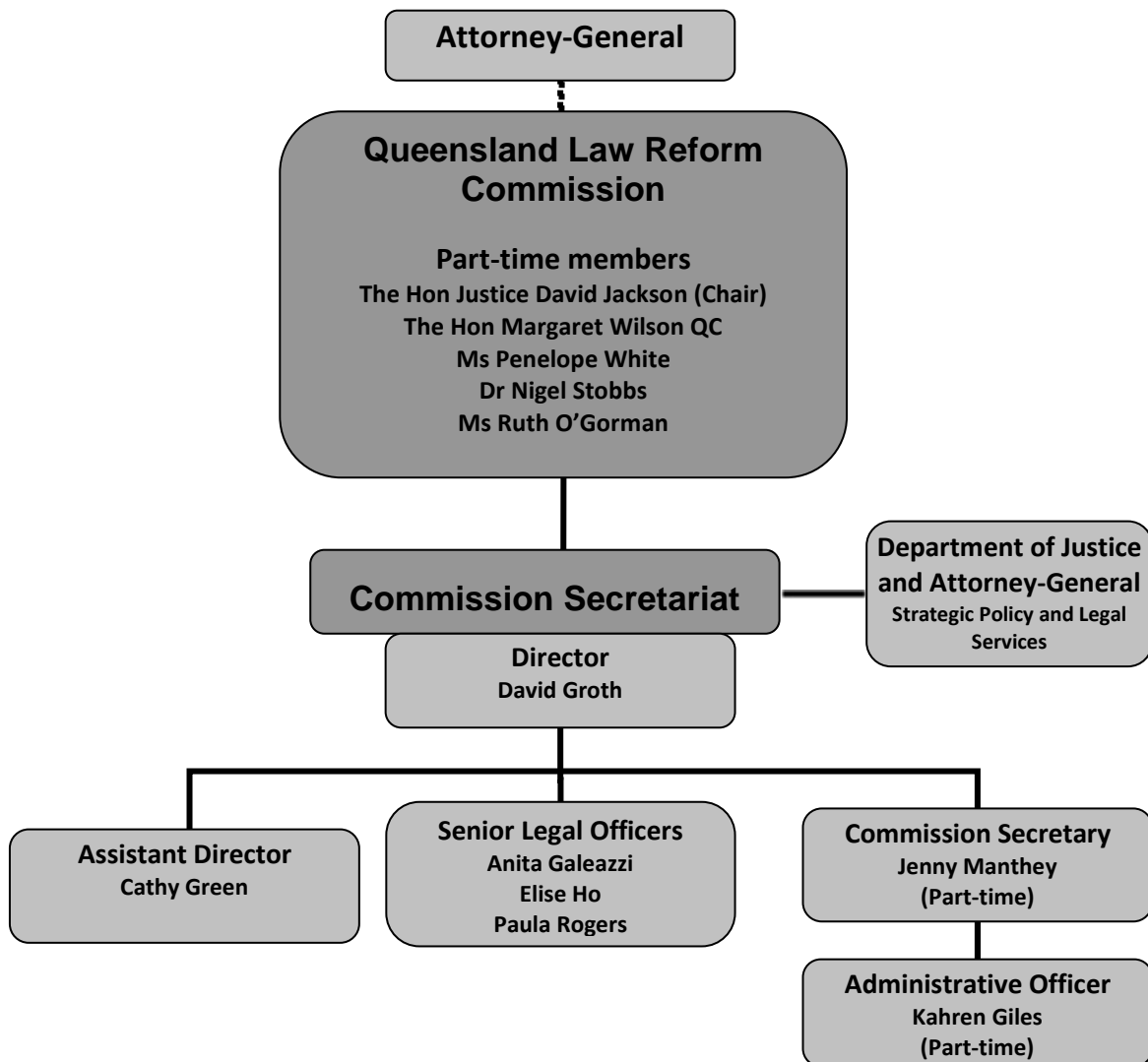
The staff of the Secretariat have the day-to-day responsibility for the carriage of the Commission's reviews, including undertaking research and consultation. The Secretariat also provides the Commission with administrative and secretarial support. This includes the management of corporate governance, human resources and financial matters relating to the Commission and the staff of the Secretariat.

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<sup>5</sup> *Law Reform Commission Act 1968* (Qld) s 3(2).

<sup>6</sup> *Law Reform Commission Act 1968* (Qld) s 4(1)(a).

## Organisational chart



## Meetings of the Commission

During the reporting period, the Commission held 10 Commission meetings.

## Remuneration of Commission Members

Part-time members of the Commission are remunerated in accordance with the Queensland Government policy, *Remuneration procedures for Part-time Chairs and Members of Queensland Government Bodies*.<sup>7</sup>

The total remuneration paid to part-time members in 2018—19 was \$27 101.25.<sup>8</sup>

<sup>7</sup> By virtue of s 13 of the *Law Reform Commission Act 1968* (Qld), the Chair of the Commission, as a judicial member, does not receive any salary for performing the duties of a member of the Commission.

## ***Right to Information Act 2009***

In accordance with the requirements of the *Right to Information Act 2009* (Qld), the Commission's website includes a Publication Scheme. That scheme describes and categorises information routinely available from the Commission and the terms on which the information will be made available.

## ***Public Sector Ethics Act 1994***

Section 10(1) of the *Public Sector Ethics Act 1994* (Qld) ('the Public Sector Ethics Act') provides that 'in recognition of the ethics principles and values for public service agencies, public sector entities and public officials, codes of conduct are to apply to those agencies, entities and officials in performing their official functions'.

Section 10(2) of the Public Sector Ethics Act provides that the purpose of a code of conduct is to provide standards of conduct for public service agencies, public sector entities and public officials consistent with the ethics principles and values.

### ***Commission Members***

The Commission, as a public sector entity, has an approved code of conduct<sup>9</sup> that applies to the members of the Commission in their capacity as public officials. The Commission's Code of Conduct is available on the Commission's website.

### ***Commission Secretariat***

The staff of the Commission Secretariat, as employees of the Department of Justice and Attorney-General, are covered by the *Code of Conduct for the Queensland Government Public Service*.

Section 12K of the Public Sector Ethics Act requires public officials of a public service agency to be given access, including at regular intervals during their employment, to appropriate education and training about public sector ethics covering:

- the operation of the Public Sector Ethics Act;
- the application of ethics principles and obligations to the public officials;
- the contents of the approved code of conduct for public service agencies; and
- any approved standard of practice.

During the reporting period, all officers of the Secretariat undertook annual 'Workplace Ethics' refresher training from the Department of Justice and Attorney-General.

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<sup>8</sup> See *Appendix 1* to this report.

<sup>9</sup> The *Queensland Law Reform Commission Code of Conduct* was approved on 2 September 2015 by the then Attorney-General and Minister for Justice and Minister for Training and Skills, the Hon Yvette D'Ath MP.



## The work of the Commission<sup>10</sup>

### Law reform reviews referred to the Commission by the Attorney-General

The reporting period covers work undertaken by the Commission or key milestones that occurred in respect of several reviews referred to it by the Attorney-General under section 10(3) of the Law Reform Commission Act.

#### *Termination of pregnancy laws*

On 16 July 2018, the Commission's Report No 76 on its review of termination of pregnancy laws (together with its draft Termination of Pregnancy Bill 2018) was tabled in Parliament.

At the time the termination of pregnancy review was referred to the Commission, it was a crime in Queensland under sections 224, 225 and 226 of the Criminal Code to 'unlawfully' terminate a woman's pregnancy except in limited circumstances.

Women and health practitioners who failed to meet the criteria for a lawful termination faced the threat of criminal prosecution and conviction. A lack of certainty under the criminal law as to when a termination might be 'lawful' resulted in fear and stigma for women, and reluctance by some health practitioners to provide termination services. In addition to the uncertainty, other issues that impacted on the accessibility and availability of termination services in Queensland included the location and cost of the services, a health practitioner's conscientious objection to termination and the conduct of persons in or near premises that provide termination services, which may have deterred women and service providers seeking to access those services or premises.

In Australia, most jurisdictions have amended their laws to decriminalise termination of pregnancy in particular circumstances, although the approach taken on a range of issues including the appropriate legal grounds, gestational limits, procedural requirements, and the appropriate ambit of the health practitioner's right to conscientiously object and the right to protest, varies.

The least restrictive approach is taken in the Australian Capital Territory, which provides that termination is lawful, irrespective of the gestation period, if carried out by a medical practitioner in an approved medical facility. Victoria has adopted a similar approach, but imposes additional requirements for termination of a pregnancy of more than 24 weeks

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<sup>10</sup>

The Commission prepares its own annual reports pursuant to s 15(2) of the *Law Reform Commission Act 1968*. Section 15(1) of the Act also requires that the annual report of the Department of Justice and Attorney-General 'must include a report about the operations of this Act during the year'.

gestation. Tasmania, the Northern Territory, Western Australia and New Zealand<sup>11</sup> have adopted various combinations of legal grounds, gestational limits and procedural requirements to define the circumstances in which termination performed by a qualified person is lawful. In contrast, South Australia retains criminal offences with legislative exceptions where a termination is performed on particular grounds and where particular procedural requirements are met.<sup>12</sup> New South Wales continues to treat termination of pregnancy as a criminal offence with limited exceptions.<sup>13</sup>

The Commission made 28 recommendations. Its recommendations were guided by a number of key principles, including that:

- Generally, termination should be treated as a health issue rather than as a criminal matter;
- Women’s autonomy and health (including access to safe medical procedures) should be promoted, recognising that:
  - at the earlier stages of pregnancy, a woman’s autonomy has greatest weight, and termination is lower risk and safe for the woman;
  - at the later stages of pregnancy, the interests of the fetus have increasing weight, and termination involves higher risk for the woman and greater complexity;
- The law should align with relevant international human rights obligations, including enabling reasonable and safe access to termination services;

<sup>11</sup> On 27 February 2018, the New Zealand Minister of Justice, the Hon Andrew Little, asked the New Zealand Law Commission to provide a briefing paper advising what alternative approaches could be taken in New Zealand’s legal framework to align with a health approach to abortion. The Law Commission outlined three alternative models to align with the Minister’s proposed policy change of treating abortion as a health issue, but did not recommend a particular model. ‘Model C’ would permit an abortion without the need to satisfy a statutory test up to a gestational limit of 22 weeks, after which the health practitioner who intends to perform the abortion must reasonably believe that the abortion is appropriate in the circumstances, having regard to the woman’s physical and mental health and well-being. On 5 August 2019, the Abortion Legislation Bill 2019 was introduced in the NZ Parliament by the New Zealand Minister of Justice, the Hon Andrew Little. The Bill effectively adopts ‘Model C’ but has a lower gestational limit up to 20 weeks, and after 20 weeks a health practitioner must be satisfied that the abortion is appropriate in the circumstances having regard to the woman’s physical health, mental health, and well-being. The Bill also establishes a safe area around premises of abortion service providers and prohibits certain behaviours around such premises. The Bill also requires a medical practitioner who has a conscientious objection to performing an abortion to inform the person considering an abortion at the earliest opportunity and to provide information on how to access abortion services. The Bill has been referred to the Parliament’s Abortion Legislation Committee for report by 8 February 2020.

<sup>12</sup> On 26 February 2019, the South Australian Law Reform Institute (SALRI), an independent law reform body based at the University of Adelaide, was asked by the South Australian Attorney-General, the Hon Vickie Chapman MP, to examine South Australia’s termination laws. The SALRI is completing its report, which was due to be finalised by 31 August 2019. On 27 August 2019, SALRI announced that its Report will be released by the end of October 2019.

<sup>13</sup> On 1 August 2019, the Reproductive Health Care Reform Bill 2019, was introduced in the NSW Legislative Assembly by Mr A H Greenwich MP, as a co-sponsored private members’ bill. The Second Reading speech explains that the Bill is based on legislation in Queensland [*Termination of Pregnancy Act 2018* (Qld)] and Victoria [*Crimes Act 1958* (Vic) and *Abortion Law Reform Act 2008* (Vic)] and amongst other things, removes terminations of pregnancy from the *Crimes Act 1900* (NSW) and allows for terminations up to 22 weeks, and after that with the approval of two doctors. The Bill was passed by the NSW Legislative Assembly on 8 August 2019, and introduced into the NSW Legislative Council on 20 August 2019 by the Hon Penny Sharpe MLC. The Bill is being debated.

- The law should be consistent with contemporary clinical practice and health regulation; and
- The law should achieve reasonable consistency with other Australian jurisdictions that have modernised their termination laws.

The reforms recommended by the Commission and the draft Bill provided a clear and practical blueprint for significant and historic reforms to modernise Queensland's termination laws by delivering a balanced, evidence-based, healthcare focused approach to the law relating to terminations.

Specifically, the Commission's draft Bill:

- repeals the previous offences in the Criminal Code criminalising termination and inserts new offences relating to unqualified persons;
- allows terminations on request up to a gestational limit of 22 weeks;
- allows a termination after 22 weeks gestation where two medical practitioners agree that it should be performed, taking into account all relevant medical circumstances, the woman's current and future physical, psychological and social circumstances, and the professional standards and guidelines applicable to the medical practitioner in the performance of terminations;
- provides for registered health practitioners to conscientiously object to advising about, assisting in or performing a termination but requires objecting health practitioners to disclose their objection and refer the woman, or transfer her care, to another health practitioner who does not conscientiously object or to a health service provider at which the requested service can be provided;
- establishes 'safe access zones' of 150 metres (or as otherwise prescribed) around premises where termination services are ordinarily provided, to protect the safety and well-being, and to respect the privacy and dignity, of people accessing termination services and employees and others who need to access those premises in the course of their duties or responsibilities; and
- creates offences for engaging in 'prohibited conduct' in a safe access zone and for making, publishing or distributing a 'restricted recording' of a person in, entering or leaving termination services premises.<sup>14</sup>

A number of factors informed the Commission's recommendation for a gestational limit of 22 weeks. A limit earlier than 22 weeks could operate as a barrier to access to terminations, especially for vulnerable and disadvantaged women; and a limit later than 22 weeks would be out of step with Queensland's current clinical framework. As well as recognising that terminations after 22 weeks involve greater complexity and higher risk to the woman, a limit of 22 weeks:

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<sup>14</sup> The *Termination of Pregnancy Act 2018* (Qld), which gives effect to the Commission's recommendations, commenced on 3 December 2018. On 13 March 2019, Queensland's first conviction of a person unlawfully protesting inside a safe access zone, outside a termination clinic, was recorded.

- represents the stage immediately before the 'threshold of viability' under current clinical practice;
- aligns with the relevant Queensland Health requirement for terminations from 22 weeks to be performed at particular hospitals; and
- aligns with the approval process at the Royal Brisbane and Women's Hospital.

The Commission's review was conducted against a backdrop of polarised public debate, and generated intense media and community interest.

The Commission's report and draft Bill were the culmination of extensive consultation with the community and the medical and legal professions. The Commission released a detailed consultation paper outlining the relevant legal issues in the review, and seeking submissions on a number of specific questions. The Commission received nearly 1200 submissions. In accordance with the terms of reference, the Commission also considered the submissions made to the Queensland Parliament's Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee (the 'Parliamentary Committee') during its consideration of two private members' bills, which had proposed to amend the law relating to termination of pregnancy, the transcripts of the evidence given to the Parliamentary Committee during its public hearings, and the Parliamentary Committee's two reports.<sup>15</sup>

### ***Review of Queensland's laws relating to civil surveillance and the protection of privacy in the context of current and emerging technologies***

On 24 July 2018, the Attorney-General referred to the Commission for review 'the issue of modernising Queensland's laws relating to civil surveillance and the protection of privacy in the context of current and emerging technologies'.<sup>16</sup>

The Commission's terms of reference require it to 'recommend whether Queensland should consider legislation to appropriately protect the privacy of individuals in the context of civil surveillance technologies, including to:

1. regulate the use of surveillance devices (such as listening devices, optical surveillance devices, tracking devices and data surveillance devices) and the use of emerging surveillance device technologies (including remotely piloted aircraft (or 'drones') fitted with surveillance devices) to appropriately protect the privacy of individuals;
2. regulate the communication or publication of information derived from surveillance devices;
3. provide for offences relating to the unlawful use of surveillance devices and the unlawful communication or publication of information derived from a surveillance device;

<sup>15</sup> Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee, Parliament of Queensland; Report No 24, *Abortion Law Reform (Woman's Right to Choose) Amendment Bill 2016* and *Inquiry into laws governing termination of pregnancy in Queensland* (2016); and Report No 33a, *Health (Abortion Law Reform) Amendment Bill 2016* (2017).

<sup>16</sup> The terms of reference for the review are available on the Commission's website at <https://www qlrc.qld.gov.au/ data/assets/pdf file/0004/589513/civil-surveillance-amended-tor.pdf>

4. provide appropriate regulatory powers and enforcement mechanisms in relation to the use of surveillance devices;
5. provide appropriate penalties and remedies; and
6. otherwise appropriately protect the privacy of individuals in relation to the use of surveillance devices’.

The terms of reference exclude from the review, Queensland’s existing law regulating the use of surveillance devices for state law enforcement purposes.<sup>17</sup>

The issue of whether there should be a legislative framework to regulate the surveillance of workers by employers using surveillance devices is also excluded from the review.<sup>18</sup> This issue has been referred to the Commission for review under separate terms of reference.<sup>19</sup>

On 7 December 2018, the Attorney-General amended the terms of reference, at the Commission’s request, to ask the Commission to prepare draft legislation based on its recommendations and, accordingly, to extend the reporting date from 1 July 2019 to 31 October 2019.

With the development of new and emerging surveillance technologies, surveillance devices have become increasingly affordable, available and sophisticated. However, surveillance brings with it the potential to interfere with or intrude on an individual’s privacy.

The Commission noted in its consultation paper,<sup>20</sup> there are gaps, inconsistencies and uncertainties in the current regulation of surveillance devices, and of privacy more generally. In Queensland, in particular, the *Invasion of Privacy Act 1971* (‘the Invasion of Privacy Act’) is outdated and limited in its scope. The Invasion of Privacy Act restricts the use of listening devices to overhear, record, monitor or listen to private conversations. However, it does not prohibit or restrict the use of optical surveillance devices, data surveillance devices, tracking devices or other surveillance devices.

The shortcomings of the Invasion of Privacy Act strongly suggest that a more comprehensive legislative response to the modern techniques of surveillance is required.

The other laws of relevance to surveillance and privacy that apply in Queensland are inadequate. They are fragmented and, in some instances, apply differently to individuals and corporations.

Existing state and Commonwealth information privacy legislation applies in limited circumstances and does not generally protect the privacy of individuals against surveillance. In particular, these statutes collectively:

- apply only to the collection and use of ‘personal information’;
- apply primarily to government agencies and a limited class of other entities;
- do not apply to all businesses, or to individuals acting in a private capacity;

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<sup>17</sup> See terms of reference, para E.

<sup>18</sup> See terms of reference, para F.

<sup>19</sup> The terms of reference for the review of Queensland’s laws relating to workplace surveillance are available on the Commission’s website at <[https://www qlrc qld gov au/ data/assets/pdf\\_file/0005/589514/workplace-surveillance-amended-tor.pdf](https://www qlrc qld gov au/ data/assets/pdf_file/0005/589514/workplace-surveillance-amended-tor.pdf)>

<sup>20</sup> Queensland Law Reform Commission, *Review of termination of pregnancy laws*, Consultation Paper, WP No 76 (2017).

- offer individuals a ‘right to complain’ but no civil remedy for a privacy breach—in general terms, although steps are to be taken within organisations to address a privacy issue, individuals whose privacy is breached will not ordinarily receive compensation or other similar remedy.

Criminal offences that may apply where a person breaches another person’s privacy apply only in particular circumstances. Further, they operate to punish conduct after it occurs and do not regulate or prohibit the use of a surveillance device that may be relevant to such conduct.

Whilst there are some common law actions that might indirectly protect a person’s privacy, they are not intended to specifically address breaches of privacy and provide only piecemeal and limited protection.

In most other Australian jurisdictions, surveillance devices legislation has been modernised and, in particular, has been updated to include regulation of optical surveillance devices, data surveillance devices and tracking devices.

The Commission released a consultation paper in December 2018 outlining the relevant legal issues in the review, and inviting submissions from interested parties, including the courts, legal professionals, industry groups, representative bodies and special interest groups relevant to the review, government departments, academics and members of the public on specific questions.

In its consultation paper, the Commission expressed a preliminary view that:

- considering the gaps, inconsistencies and uncertainties in the current legal framework in Queensland, a new legislative framework to protect the privacy of individuals in the context of the use of civil surveillance devices and technologies is necessary;
- the legislation should be sufficiently broad in its scope to regulate existing and emerging surveillance technologies and strike a balance between the interests in the use of surveillance and the privacy rights and interests of individuals who may be harmed or affected if surveillance is unreasonably intrusive; and
- it should also aim to achieve reasonable consistency with the regulation of civil surveillance in other Australian jurisdictions.<sup>21</sup>

The terms of reference require the Commission to provide its final report by 31 October 2019 and to prepare draft legislation based on its recommendations.

### ***Review of Queensland’s laws relating to workplace surveillance***

On 24 July 2018, the Attorney-General referred to the Commission for review ‘the issue of privacy protections for workers in the context of current and emerging surveillance devices in workplaces’.<sup>22</sup>

The Commission’s terms of reference require it to ‘recommend whether Queensland should consider legislation to appropriately protect the privacy of workers in the context of current and emerging surveillance device technologies in workplaces, including to:

<sup>21</sup> Queensland Law Reform Commission, *Review of termination of pregnancy laws*, Consultation Paper, WP No 76 (2017) 48-49.

<sup>22</sup> The terms of reference for this review are available on the Commission’s website at [https://www qlrc qld gov au/ data/assets/pdf\\_file/0005/589514/workplace-surveillance-amended-tor.pdf](https://www qlrc qld gov au/ data/assets/pdf_file/0005/589514/workplace-surveillance-amended-tor.pdf)

1. regulate the surveillance of workers by employers using surveillance devices (such as optical surveillance devices, tracking devices, listening devices and data surveillance devices);
2. regulate the communication or publication of information derived from surveillance devices;
3. provide for offences relating to the unlawful use of surveillance devices and the unlawful communication or publication of information derived from a surveillance device;
4. provide appropriate regulatory powers and enforcement mechanisms in relation to the use of surveillance devices;
5. provide appropriate penalties and remedies; and
6. otherwise appropriately protect the privacy of workers in relation to the use of surveillance devices’.

Surveillance devices in workplaces most commonly include optical surveillance in and around workplaces, data surveillance devices to monitor computer and internet use by employees and tracking devices to monitor the location of employees. Employers use these devices for a number of legitimate reasons, including to protect property and detect possible fraud, monitor employee performance and to ensure employee health and safety. The use of surveillance devices in workplaces must, however, be balanced against an employee’s reasonable expectations of privacy.

The terms of reference require the Commission to provide its final report by 31 August 2020 and to prepare draft legislation based on its recommendations.

### ***Review of Queensland’s guardianship laws***

The *Guardianship and Administration and Other Legislation Amendment Act 2019* (‘the Act’) was passed by Parliament on 26 March 2019.<sup>23</sup> The Act implements a number of recommendations from the Commission’s Report No 67, *A Review of Queensland’s Guardianship Laws*,<sup>24</sup> namely recommendations that strengthen the focus on contemporary practice and human rights for adults with impaired capacity; enhance safeguards for adults with impaired capacity; and improve the efficiency and clarity of Queensland’s guardianship system.<sup>25</sup>

## **Commission publications**

A list of the Commission’s Reports, Working Papers and Miscellaneous Papers is available on its website at <<http://www qlrc.qld.gov.au/publications>>. Copies of the Commission’s recent

<sup>23</sup> The Guardianship and Administration and Other Legislation Amendment Bill 2017 lapsed on the dissolution of the 55th Parliament on 29 October 2017. On 15 February 2018, the Guardianship and Administration and Other Legislation Amendment Bill 2018 was reintroduced into Parliament and was referred to the Legal Affairs and Community Safety Committee to report back to the Parliament by 9 April 2018. The Committee’s report, Report No. 7, tabled on 23 March 2018, recommended that the Bill be passed.

<sup>24</sup> The Commission’s Report No 67, September 2010, was tabled on 12 November 2010.

<sup>25</sup> The Commission did not recommend a complete overhaul of the existing guardianship system, but made 317 recommendations across a broad range of areas relevant to Queensland’s guardianship system.

publications, and most of its older publications, are also available on its website. The Commission's website also details legislative action taken on Commission reports.

## Who's who at the Commission

### Commission members

#### **The Hon Justice D S Jackson, Chair**

1 August 2014—Current

Justice Jackson was appointed a Judge of the Trial Division of the Supreme Court of Queensland on 8 October 2012 and is a Commercial List Judge.

He was admitted to the Queensland Bar in 1977 and was appointed as Queen's Counsel for the State of Queensland in 1990. He was a member of the Council of the Bar Association of Queensland and the Supreme Court Library Committee.

He is a member of the Australian Academy of Law.

His Honour was appointed Chair of the Commission on 1 August 2014 and was re-appointed on 15 September 2017.

#### **The Hon M A Wilson QC BA LLB (Hons)**

1 August 2014—Current

Ms Wilson is a graduate of The University of Queensland.

She completed articles of clerkship with Feez Ruthning and Co, Solicitors and was admitted as a solicitor in 1978. She was admitted as a barrister in March 1979 and became a Queen's Counsel in 1992. She practised at the Queensland Bar continuously from her admission until her appointment to the Bench.

Ms Wilson served as a Judge of the Trial Division of the Supreme Court of Queensland between August 1998 and April 2014, when she sat on a wide range of criminal and civil trials and appeals. She was the Judge constituting the Mental Health Court for three years, a Commercial List Judge for two years, and an Additional Judge of Appeal in 2011—2012. She was a member of the Rules Committee appointed under the *Supreme Court of Queensland Act 1991* between 1999 and 2012 and a member of the Judges' Building Committee between 2006 and 2012.

Ms Wilson is a Justice of the Court of Appeal of Solomon Islands.

She was the Commissioner of the Barrett Adolescent Centre Commission of Inquiry from 14 September 2015 to 24 June 2016.

She is presently a part-time PhD candidate in the Melbourne Law School, researching *Sub Judice Contempt and the Internet*.



**Dr Nigel Stobbs BA, Dip Ed, MA (UQ), LLB (Hons) (QUT), PhD (Bond)**

15 September 2017—Current

Dr Stobbs is a senior lecturer and researcher in the Crime and Justice Research Centre at the Queensland University of Technology Faculty of Law. Prior to undertaking a full-time academic career, he practised as a criminal defence barrister at the Queensland Bar between 2001 and 2005.

Dr Stobbs has been involved in research and development work in specialist sentencing courts in Australia and the United States—particularly drug and alcohol diversion courts and Indigenous sentencing courts. His main area of research is within the field of therapeutic jurisprudence and he is the Australian representative on the Board of Trustees of the International Society of Therapeutic Jurisprudence. His book *Methodology and Practice of Therapeutic Jurisprudence* is published by Carolina Academic Press. He is the co-author of *Principles of Sentencing* (published by the Federation Press), of *Professional Responsibility and Ethics for Queensland Lawyers* (published by Thomson Reuters) and in 2019 of *Australian Sentencing* (with Prof Mirko Bagaric). In recent years he has presented on research into sentencing, criminal law and therapeutic jurisprudence at international conferences and public lectures in Vienna, London, New York, Amsterdam, Shanghai, Rome, Prague and Washington DC. His other main area of research is the Chinese legal system. In 2017, he was a visiting researcher at Harvard Law School, translating legal documents of the Tang and Qing Dynasties held in the Harvard-Yenching Library. In addition to his research work, Dr Stobbs has delivered professional development training for lawyers in professional ethics and sentencing law.

**Ms Penelope White BBus LLB**

15 September 2017—Current

Ms White was admitted as a solicitor of the Supreme Court of Queensland in 2000. She has 17 years' post admission experience as a criminal defence solicitor. She has been a Queensland Law Society Accredited Specialist in Criminal Law since 2006. She was a member of the Queensland Law Society Criminal Law Specialist Accreditation Committee from 2008 to 2010.

She has appeared extensively in all jurisdictions in Queensland as well as representing clients in the High Court of Australia.

Ms White was appointed as Counsel Assisting the Commission of Inquiry into Organised Crime in Queensland in 2015.

She was admitted as a barrister of the Supreme Court of Queensland in 2018.

**Ms Ruth O'Gorman LLB**

15 September 2017—Current

Ms O'Gorman was admitted as a solicitor of the Supreme Court of Queensland in 2006. She was admitted as a barrister of the Supreme Court of Queensland in 2009.

Her principal areas of practice include the criminal law and regulatory prosecutions.

Ms O’Gorman was a member of the Council of the Queensland Bar Association from 2013 to 2015. She has been a member of the Bar Association’s Criminal Law Committee and Pro Bono Committee since 2014.

## **Commission Secretariat**

### **David Groth BA LLB, Director**

Mr Groth graduated with a Bachelor of Laws degree from The University of Queensland in 1990. He was admitted as a barrister of the Supreme Court of Queensland in 1992. He also holds a Bachelor of Arts degree from The University of Queensland.

He has performed previous senior roles including Director of Legal Services Coordination in the Department of Justice and Attorney-General, Secretary of the Bundaberg Hospitals Commission of Inquiry/Queensland Public Hospitals Commission of Inquiry, Court Administrator of the Supreme and District Courts, and Research Director of the Parliamentary Criminal Justice Committee.

Mr Groth has performed senior policy roles in both the Department of the Premier and Cabinet and the Department of Justice and Attorney-General.

He has previously worked in various roles at the Office of the Director of Public Prosecutions including Manager of the Sentencing Unit.

Mr Groth commenced work at the Commission in April 2014.

### **Cathy Green BSc LLB, Assistant Director**

Mrs Green graduated with a Bachelor of Laws degree from the Queensland University of Technology in 1996. She was admitted to practice as a barrister of the Supreme Court of Queensland in 1996. Mrs Green also holds a Bachelor of Science degree from The University of Queensland.

Mrs Green served two periods of secondment at the Commission before being appointed as a legal officer on a permanent basis in 2002. In 2005, she was appointed as the Commission’s Principal Legal Officer and in 2008, as the Commission’s Assistant Director. She is the Commission’s Right to Information and Information Privacy Officer.

Mrs Green has previously worked as a legal officer in the Office of the Director of Public Prosecutions, as a legal officer at the Guardianship and Administration Tribunal, as a policy officer at the Office of Fair Trading, as a research officer at the Queensland Parliamentary Library and as a research scientist at the Queensland Institute of Medical Research.

### **Anita Galeazzi BA LLB (Hons) GDLP, Senior Legal Officer**

Ms Galeazzi graduated with Honours in Law from The University of Queensland in 2006. She completed a Graduate Diploma in Legal Practice through the Australian National University and was admitted to the legal profession in Queensland as a lawyer in 2010.

Ms Galeazzi worked as a research officer at the Supreme Court of Queensland Library.

Ms Galeazzi commenced work as a legal officer at the Commission in January 2011. She was appointed as a senior legal officer on 21 August 2017.

### **Elise Ho BJur LLB GradDipLegalPrac LLM, Senior Legal Officer**

Mrs Ho graduated with a Bachelor of Laws degree from the Queensland University of Technology in 2008. She also holds a Bachelor of Justice degree from the Queensland University of Technology.

Mrs Ho was admitted as a legal practitioner of the Supreme Court of Queensland in September 2009. She completed her Master of Laws (Health Law) in 2012.

Mrs Ho has worked as a research assistant at the Queensland University of Technology, as a legal officer at the Office of the Director of Public Prosecutions and as a senior legal officer with the Office of the Public Advocate.

Mrs Ho commenced work at the Commission as a legal officer in February 2015. She was appointed as a senior legal officer on 21 August 2017.

### **Paula Rogers BA LLB (Hons), Senior Legal Officer**

Ms Rogers graduated with First Class Honours in Law from Griffith University in 2003, having been awarded the University Medal and the Arts Medal, and was admitted as a legal practitioner of the Supreme Court of Queensland in January 2005.

Ms Rogers worked as a judge's associate at the Supreme Court of Queensland in 2003. She completed her articles of clerkship at Allens Arthur Robinson during 2004. Ms Rogers has also worked as a senior legal officer in Strategic Policy in the Department of Justice and Attorney-General.

Ms Rogers commenced work as a legal officer at the Commission in February 2005. She was appointed as a senior legal officer on 21 August 2017.

### **Jenny Manthey BSc (Hons) Cert III Bus (Office Admin), Commission Secretary**

Mrs Manthey graduated with a Bachelor of Science from The University of Queensland in 1993. She worked as a Scientific Technician from 1992 to 1995 at CSIRO Long Pocket Laboratories and completed her Honours degree in 1998.

After gaining qualifications in Office Administration in 2000, Mrs Manthey was employed in a variety of administrative roles before commencing work at the Commission in January 2004.

### **Kahren Giles BA, Administrative Officer**

Ms Giles is responsible for a wide range of secretarial and administrative functions within the Commission. She commenced work at the Commission in October 2007.

## Appendix 1: Members, meetings and remuneration<sup>26</sup>

Position	Name	Meetings / sessions attendance	Approved annual, sessional or daily fee	Approved sub-committee fees if applicable	Actual fees received <sup>27</sup>
Chair	Hon Justice David Jackson	10	Nil <sup>28</sup>	N/A	Nil
Part-time Members <sup>29</sup>	Hon Margaret Wilson QC	8	<ul style="list-style-type: none"> <li>• Meeting (4 hrs or less): \$250</li> <li>• Meeting (more than 4hrs): \$500</li> <li>• Additional work (4 hrs or less): \$250</li> <li>• Additional work (more than 4hrs): \$500</li> </ul>	N/A	\$5,475 <sup>30</sup>
	Ms Ruth O'Gorman	12 <sup>31</sup>	As above	N/A	\$7,665.00 <sup>32</sup>
	Dr Nigel Stobbs	8	As above	N/A	\$6,843.75 <sup>33</sup>
	Ms Penny White	8	As above	N/A	\$7,117.50 <sup>34</sup>
				<b>Total fees paid</b>	<b>\$27,101.25</b>
<b>No. scheduled meetings/sessions</b>	10				
<b>Total out of pocket expenses</b>	Nil				

<sup>26</sup> The Commission is not a 'statutory body' within the meaning of s 9 of the *Financial Accountability Act 2009* as it is 'a part of a department' within the meaning of s 8(3) of that Act (given the source of its funding).

<sup>27</sup> Some fees received during the reporting period relate to meetings attended and/or additional work performed in the previous reporting period. These fees are exclusive of superannuation.

<sup>28</sup> By virtue of s 13 of the *Law Reform Commission Act 1968* (Qld), the Chair of the Commission, as a judicial member, does not receive any salary or fees for performing the duties of a member of the Commission.

<sup>29</sup> On 15 September 2017, The Hon Justice David Jackson (Chair) and The Hon Margaret Wilson QC were re-appointed, and the following new members were appointed: Ms Penelope White, Dr Nigel Stobbs and Ms Ruth O'Gorman.

<sup>30</sup> Some of these fees (\$1000) relate to a meeting attended and additional work performed in the previous reporting period.

<sup>31</sup> These meetings include three meetings attended in the previous reporting period.

<sup>32</sup> Some of these fees (\$2000) relate to three meetings attended and additional work performed during the previous reporting period.

<sup>33</sup> Some of these fees (\$1000) relate to a meeting attended and additional work performed in the previous reporting period.

<sup>34</sup> Some of these fees (\$1000) relate to a meeting attended and additional work performed in the previous reporting period.