

# **LOCAL COURT OF NSW**

STRATEGIC PLAN 2023–26

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## 1. ACKNOWLEDGEMENT OF COUNTRY

The Local Court of NSW acknowledges the Traditional Custodians of the lands upon which we live and work. We recognise their continuing connection to land, waters and culture, and pay respects to their Elders past and present.

We recognise the over-representation of First Nations people in the Local Court’s jurisdiction and acknowledge that this over-representation is deeply intertwined with historical and ongoing experiences of intergenerational trauma, institutionalisation and colonisation.<sup>1</sup>

The Local Court is committed to making a positive contribution to the work being done in relation to the Closing the Gap Targets.

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<sup>1</sup> Australian Law Reform Commission, *Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander People*, Report No 133 (2018) 11.45

## 2. INTRODUCTION

### 2.1 FOREWORD

I am very pleased to present the Strategic Plan for the Local Court of New South Wales for 2023 – 2026.

The intention behind the development of a Strategic Plan for the Local Court was to create a framework for the over-arching direction of the Court for the next three years, and to provide guidance with regards to how strategies can be implemented in a tangible way to assist the Court to achieve its objectives.

In my view, this Strategic Plan is a valuable resource because it was prepared in a consultation with key stakeholders, including representatives from the Courts, Tribunals and Service Delivery Division of the Department of Communities and Justice, the Secretary, the Deputy Chief Magistrates, the President of the Children’s Court of New South Wales and the State Coroner of New South Wales, whose insights have assisted to inform its content.

I trust that this Strategic Plan provides a useful overview of the Local Court’s priorities and programme of works for the next three years, which have been developed in alignment with the vision articulated below. Attaining the outcomes set out in this Strategic Plan will only be possible through meaningful inter-agency collaboration, and I wish to express my sincere thanks and gratitude to everyone who contributes to the work of the Local Court.



*Peter Johnstone*  
JUDGE JOHNSTONE  
CHIEF MAGISTRATE

## 3. OBJECTIVES OF THE LOCAL COURT OF NSW

### 3.1 VISION

The Strategic Plan for the Local Court of NSW sets the objectives of the Court for 2023–2026 in line with the Court’s vision to summarily dispose of, according to law, a large and varied caseload in a just, fair, efficient and timely manner.

The *Acts Interpretation Act 1901* (Cth) defines a court of summary jurisdiction as ‘any justice of the peace, or magistrate of a State or Territory, sitting as a court of summary jurisdiction.’<sup>2</sup> The summary jurisdiction of the Local Court is comprised of three distinct jurisdictions as set out in section 9 of the *Local Court Act 2007* (NSW) (the ‘*Local Court Act*’), these are: a civil jurisdiction, a special jurisdiction and a criminal jurisdiction.<sup>3</sup>

Just disposal of cases requires the application of the law, that is, the common law as modified (extensively) by statute, in accordance with the rules of evidence and the relevant rules of practice and procedure.

Fair disposal involves the application of the rules of procedural fairness, the onus of proof and extending courtesy and consideration to the parties, and their legal representatives.

Efficient disposal involves the identification of, and the giving of attention to, the real issues in dispute while minimising legal technicality and formality to the extent permitted by the circumstances of the individual case. In this instance, minimising formality refers to placing an emphasis on substance rather than form where appropriate and reducing complexity through limiting the use of unnecessary ‘legalese’ and archaic conventions. Such an approach is necessary in order to promote pragmatism and improve the accessibility of the court process which is important in light of the nature of proceedings in the Local Court and the number of matters that come before the Court which involve self-represented litigants.

Timely disposal involves the resolution of cases as quickly and as cheaply as possible balanced against the countervailing considerations already discussed.

The four principles, namely, the just, fair, efficient and timely disposal of cases are fundamental to the administration of justice in the Local Court.

In addition to these principles, the concept of therapeutic justice aims to imbue the jurisdiction of the Local Court with qualitative, discerning and individualised justice in the correct application of legal principle.

Therapeutic justice means that considerations of punishment, denunciation and deterrence should be balanced against an analysis of the root causes of offending behaviour and involves a consideration of what opportunities exist for addressing these factors through diversion, treatment and rehabilitation.

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<sup>2</sup> *Acts Interpretation Act 1901* (Cth) s 2B.

<sup>3</sup> *Local Court Act 2007* (NSW) s 9.

The purpose of the Strategic Plan is to develop a single point of reference for the Court, from which a focused program of works can be developed. The Strategic plan sets out three priority areas and specific objectives for each of these areas.

## 4. PRIORITIES

This Section details the three strategic priorities for the Local Court of NSW between 2023 and 2026, and specific initiatives and deliverables for each of these areas.

### 4.1 EXPAND THERAPEUTIC AND RESTORATIVE JUSTICE INITIATIVES

#### 4.1.1 CONTRIBUTE TO THE CLOSING THE GAP TARGETS

##### SUPPORT CLOSING THE GAP INITIATIVES

The Local Court acknowledges that the over-representation of First Nations people in the criminal justice system in New South Wales is deeply intertwined with historical and ongoing experiences of intergenerational trauma, institutionalisation, and colonisation.

The Local Court is committed to working differently to realise the aspirations of First Nations people across Australia to implement the National Agreement on Closing the Gap, which was co-signed by the Coalition of Aboriginal Peak Organisations and all Australian governments.

The Local Court has a significant role to assist with reducing and working towards eliminating over-representation of First Nations people in the justice system.

##### EXPAND CIRCLE SENTENCING

Circle Sentencing is an alternative sentencing court for adult First Nations defendants who plead guilty or are found guilty in the Local Court. The Circle Sentencing program allows for input from the victim and defendant, and directly involves First Nations people in the sentencing process, with the goal of empowering First Nations communities through their involvement.

As an alternative sentencing tool for magistrates, Circle Sentencing promotes the sharing of responsibility between the community and the criminal justice system. It attempts to address the causes of criminal behaviour and to develop solutions to issues raised, and also actively involves the community in solving its problems.

Recent research conducted by BOCSAR<sup>4</sup> indicates that there is a strong correlation between indigenous sentencing courts such as Circle Sentencing and reduced imprisonment and recidivism.

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<sup>4</sup> Yeong, S. and Moore, E., (2020). Circle Sentencing, incarceration and recidivism (Crime and Justice Bulletin No. 226). Sydney: NSW Bureau of Crime Statistics and Research.

The Chief Magistrate’s Office and the Local Court’s First Nations Committee are working collaboratively with the Department to expand Circle Sentencing to an additional eight locations.

#### 4.1.2 IMPROVE THE WAY THE LOCAL COURT RESPONDS TO FAMILY VIOLENCE

##### TRIAL OF SPECIALIST FAMILY VIOLENCE LIST

The Local Court will pilot a specialist family violence list, replacing existing AVO lists at pilot locations. The purpose of the specialist family violence list is to:

- Improve the court experience for complainants
- Implement a trauma-informed approach in the court
- Coordinate better case management of family violence matters.

##### REVIEW AND UPDATE FAMILY VIOLENCE PRACTICE

The future approach to family violence by the Local Court intends to better integrate the various agencies involved in responding to family violence, reduces duplication across jurisdictions and meet the needs of complainants while holding perpetrators of family violence to account. Through this approach the Local Court anticipates that family violence matters will be addressed by the Court in a timely, culturally respectful and trauma-informed way.

#### 4.1.3 SUPPORT PROGRAMS THAT CONTRIBUTE TO THERAPEUTIC JUSTICE

People who come before the Local Court may have a range of complex social needs, such as alcohol and drug misuse, experiences of family violence, physical or mental ill health or contact with the child protection system.

In response to the increasing complexity of court users’ needs, some jurisdictions are developing court justice responses underpinned by the principles of therapeutic and restorative justice.

Therapeutic justice means that considerations of punishment, denunciation and deterrence should be balanced against an analysis of the root causes of offending behaviour and involves a consideration of what opportunities exist for addressing these factors through diversion, treatment and rehabilitation.

The Local Court is committed to strengthening its response to social issues through a therapeutic justice orientation.



## ASSIST WITH THE IMPLEMENTATION OF THE JUSTICE ADVOCACY SERVICE, MERIT PROGRAM AND SCCLS CLINICIANS IN LOCAL COURTS

The Local Court will assist with the expansion of the Justice Advocacy Service (JAS), the Magistrates Early Referral into Treatment (MERIT) program and the expansion of the Statewide Community and Court Liaison Service (SCCLS).

The JAS supports young people and adults with cognitive impairment who are in contact with the NSW criminal justice system (as victims, witnesses and defendants) to exercise their rights and fully participate in the process. The service uses an individual advocacy approach by arranging a support person to be with victims, witnesses and suspects/defendants when they are in contact with police, courts and legal representatives. In six locations, JAS has been expanded to include a court-based diversion service.

The MERIT Program is a pre-plea 12-week drug treatment and rehabilitation program associated with the Local Court that provides adult defendants with an opportunity to break the drug and alcohol-related crime cycle. MERIT has operated since 2000 and is currently available in 62 Local Court locations. Over the next three years, the MERIT program will be expanded to new locations across the state.

The Statewide Community and Court Liaison Service (SCCLS) assists magistrates, solicitors and police prosecutors at Local Courts with diversion of people with mental health problems and disorders by referring clients to appropriate mental health services in the community and to hospital settings. Justice Health NSW's Court Liaison Service provides mental health services in 22 NSW Local Courts. Over the next four years, the SCCLS program will be expanded to new locations across the state.

## 4.2 INNOVATION AND IMPROVEMENT

Each year, the Local Court's workload increases in terms of complexity, volume and jurisdiction. The increase in workload can be attributed to many factors, including legislative reform and change, population growth, an increase in policing and police resourcing and an increase in the number of matters which are transferred from the District Court to the Local Court.

This increase in the Court's workload and the increase in the complexity of the matters that come before the Court have not always been met with a proportional increase in the number of judicial officers (together with the necessary auxiliary supporting court staff).

In light of these considerations, the Local Court must find a way to insulate itself and its judicial officers from the pressures of the steady increase to both its jurisdiction and caseload, whilst ensuring access to justice is delivered in a fair and timely way.

Innovation and improvements to the operations of the Local Court, more effective use of resources and harnessing technology will create opportunities for better outcomes for court users, magistrates and other staff within the Local Court.

Technology can be used to support efficiency gains. For example, a recent innovation is the Virtual Traffic Court Pilot conducted by Sutherland Local Court, which aimed to reduce hearing backlogs by dealing with defended traffic matters using an online platform.<sup>5</sup>

In addition, the social distancing requirements associated with COVID-19 have resulted in a substantial number of matters yet to be finalised within the Local Court, further contributing to its workload.

#### 4.2.1 PROGRESS WORK TO DEVELOP A FOURTH TIER

An underpinning principle of the Local Court is that it is to ensure quick access to justice.

There is agreement within the Local Court that creating a Fourth Tier will increase the Court's efficiency.

Consideration of the development of a Fourth Tier is intended to extend decision making authority to non-judicial officers (registrars and assessors) for some types of procedural and civil matters. Consultation with stakeholders suggests that matters initially considered suitable for resolution by a Fourth Tier could include traffic offences and licence appeals. This would enable the Local Court to focus judicial decision making on more complex matters.

Traffic offences, many of which are strict liability offences and licence appeals, occupy a significant amount of Court resources, and may be suitable for disposition through a Fourth Tier trial whereby registrars and assessors are entrusted to make decisions where it is appropriate for a function to be delegated.<sup>6</sup>

#### 4.2.2 IDENTIFY AREAS FOR LEGISLATIVE REFORM AND IMPROVED PRACTICE

##### WORK WITH THE DEPARTMENT ON PROPOSALS FOR LEGISLATIVE REFORM

The recently established Local Court Legislative Reform Committee has developed a number of proposals to improve the efficiency and effectiveness of the Local Court. These proposals are designed to improve practice in the Local Court, allow for fairer sentencing and contribute to greater innovation.

##### INCREASE USE OF SPECIALISATION AND ALTERNATIVE DISPUTE RESOLUTION IN THE CIVIL JURISDICTION

The contribution that Alternative Dispute Resolution (ADR) processes make in resolving matters or narrowing issues in dispute is highly valued. Engagement with processes that empower parties to meaningfully participate in proceedings and which also enable an examination of all the available options before the Court is called upon to be the final arbiter can be further developed.

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<sup>5</sup> Virtual Traffic Court Pilot Brief Summary.

<sup>6</sup> The Local Court of NSW, *2021 Annual Review* (Annual Review, 2021), 3.

A review of the Local Court’s civil jurisdiction work is underway to increase the use of specialisation and ADR processes to facilitate the overarching objectives of the *Civil Procedure Act 2005* (NSW). A proposal is currently being developed to promote court ordered or court annexed mediation to assist parties to arrive at a mutually satisfactory settlement, with the effect of permanently finalising more matters sooner.<sup>7</sup>

An aspect of this review includes the development of a framework to ensure that civil matters are heard by judicial officers whose predominant experience is in civil law or who have undertaken training to develop specialist expertise in hearing civil matters.

#### IMPROVE USE OF DATA TO SUPPORT DECISION MAKING

Increased access to and use of data to measure the demand for the Local Court and time taken to finalise matters is required to inform resourcing decisions. In addition to throughput measures (number and type of matters, time to finalisation) key data could include court user satisfaction. The use of data could also extend to efficient use of human resources.

#### 4.2.3 ADVOCATE FOR IMPROVED DIGITAL INFRASTRUCTURE IN LOCAL COURTS

In response to the COVID-19 pandemic, the Court increased remote appearances by audio-visual linkage (AVL). Mediation has been conducted by MS Teams and telephone. The Local Court, like many other organisations, has observed that there are a range of benefits of remote appearances both for the court, and for court users, which included:

- better experience for court users (for example, reduced transportation of prisoners, the general public attending court, and expert witnesses, together with a greater feeling of safety for victims of crime or witnesses called to appear);
- improved efficiency (for example, matters able to proceed more quickly if prisoners appear remotely rather than being brought to the courtroom from holding facilities);
- reduced demand for physical space (for example, courtrooms used for remote appearances could be smaller).

In response to this change in ways of working, some types of matters may be more suited to remote appearances, and some court users may not have sufficient access to internet data or bandwidth to support their remote attendance.

Ongoing investment in technology will be required to improve its capability and reliability.

Promoting an increase in the utilisation and availability of technology is interconnected with the creation of a Fourth Tier of the NSW justice system and is central to increasing efficiency and accessibility in the Local Court’s jurisdiction.

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<sup>7</sup> Ibid 4.

## WORK WITH THE DEPARTMENT ON PROPOSALS FOR AN ELECTRONIC DIARY AND DIGITAL CASE FILE

The Local Court currently schedules its listing using a paper diary. This exposes the Court to inefficiency and risk. Stakeholders suggest there would be considerable efficiencies if an electronic diary or scheduling tool was available to the Court.

The Local Court is working with DCJ to progress implementation of an e-diary, including the development of process and training to support implementation.

## SUPPORT EFFORTS TO TRIAL VIRTUAL COURTS

The recent Virtual Traffic Court Pilot conducted by Sutherland Local Court aimed to ameliorate hearing backlogs by dealing with defended traffic matters using an online platform.<sup>8</sup> This pilot has yielded positive preliminary results with the pilot achieving its aim of reducing time listed in the Court's hearing diary.<sup>9</sup> Participants also reported that they felt satisfied with the online court process.<sup>10</sup> Expansion of this pilot and an evaluation of its effectiveness could be valuable to the Local Court.

## ADVOCATE FOR IMPROVED ACCESS TO AVL

The roll out of AVL facilities across New South Wales would increase timely access to justice for those living in regional areas by enabling the Court to deal with a greater number of matters remotely where appropriate. Use of AVL facilities can also assist the Court to ensure workload is equitably distributed across the State.

### 4.2.4 ADVOCATE FOR IMPROVED PHYSICAL INFRASTRUCTURE IN LOCAL COURTS

#### ADVOCATE FOR IMPROVED PHYSICAL INFRASTRUCTURE IN LOCAL COURTS

The increase in the number of matters within the jurisdiction of the Local Court has resulted in a need for the physical infrastructure of the Local Court to be upgraded (renovation of existing facilities) and increased (construction of new facilities) to ensure the Court can respond to these matters in a timely manner.

This includes ensuring there is sufficient and appropriate space in:

- Holding facilities (court houses and police stations), so the defence can access their clients;
- courtrooms, so that listed matters can be heard efficiently;

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<sup>8</sup> Virtual Traffic Court Pilot Brief Summary.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

- court houses, to enable expansion of general and specialist support services, including alternative dispute resolution or mediation.

## 4.3 INCREASE INITIATIVES TO SUPPORT JUDICIAL WELLBEING

### 4.3.1 SUPPORT JUDICIAL WELLBEING

A recent research study found that judicial officers in summary jurisdictions are more likely to report significantly higher levels of stress and significantly lower levels of basic psychological needs satisfaction when compared to judicial officers in higher jurisdictions.<sup>11</sup> This emphasises the need to actively work to mitigate the occupational risk factors for Magistrates that have the potential to contribute to burnout, vicarious trauma and psychological distress.

Consultation conducted as part of the strategic planning process identified workplace bullying as an issue that may contribute to poor mental health and high turnover rates, with a particular impact on junior staff.

#### ADVOCATE FOR IMPROVED ACCESS TO WELLBEING PROGRAMS FOR MAGISTRATES

The Local Court Well-being Committee, is examining issues relating to judicial officer well-being, including:

- overseeing the Mentoring Program for magistrates
- access to specialist support services for magistrates such as counselling and
- developing strategies to better support magistrates who work in isolation in regional areas.

#### DEVELOP NEW WELLBEING, BULLYING AND HARASSMENT POLICY

To assist in enhancing wellbeing and reducing bullying and harassment in the workplace a wellbeing, bullying and harassment policy will be developed. This will assist the Local Court to further develop a positive and supportive workplace culture.

#### REVIEW MAGISTRATES' TERMS AND CONDITIONS

A review of the Magistrates' Handbook and Terms and Conditions will aim to ensure magistrates are adequately supported in their role.

#### PROFESSIONAL DEVELOPMENT

Ongoing professional development is an important issue identified by many stakeholders. Additional expertise is considered to contribute to better outcomes for court staff and a better court experience for court users. Suggested focus areas for professional development include:

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<sup>11</sup> Carly Schrever, Carol Hulbert and Tania Sourdin 'Where stress resides: Predictors and correlates of stress among Australian judges and magistrates' (2021) 28(2) *Psychiatry, Psychology and Law*, 1 <<https://www.tandfonline.com/doi/full/10.1080/13218719.2021.1904456>> .

- wellbeing;
- bullying and harassment;
- trauma-informed approaches, and cultural competency;
- workload and diary management.

### 4.3.2 MONITORING OF LISTING AND WORKLOAD

Increased workloads for those within the Local Court are a significant issue.

During the consultation for the development of this plan, stakeholders indicated that an increased number of matters is to be resolved by the Local Court by a similar number of magistrates. The increased number of matters has resulted from an expanding jurisdiction, changing legislation and police practice. Changes in offending behaviour may also drive greater demand for court services.

Workload increase may compromise the wellbeing of magistrates. Reviewing and assessing the volume and distribution of workload are strategies to be employed by the Local Court.

#### REGULARLY REVIEW AND ASSESS MAGISTRATES' WORKLOADS

Accurate data to provide information about Magistrate workloads, and the distribution of these could provide valuable insight into the demand for Local Court services.

#### CONSIDER OPTIONS TO MANAGE AND DISTRIBUTE JUDICIAL WORKLOAD ACROSS THE STATE

Another strategy being explored is the introduction of listing caps to ensure that daily workloads are manageable for Local Court Magistrates and for registry staff.

The Local Court will use data on magistrates' workloads to consider the allocation of resources, strategies to provide assistance across the state and approaches to ensure that magistrates have a manageable workload.

### 4.3.3 ADVOCATE FOR ADDITIONAL RESOURCES

As noted throughout this plan the workload of the jurisdiction is increasing. The priorities listed within the plan focus on improvements for the experience of court users, the Court itself and judicial officers and registry staff. These priorities will enable more efficient and effective use of human resources.

#### WORK WITH THE DEPARTMENT TO ESTIMATE FUTURE DEMAND ON LOCAL COURTS

Better data, and increased use of data can assist the Local Court and the Department more broadly to better estimate the future demand for Local Court services.

ADVOCATE FOR RESOURCES TO ADDRESS THE DEFENDED HEARING BACKLOG CAUSED BY THE COVID-19 PANDEMIC

Advocacy for additional resources to address the defended hearing backlog caused by the COVID-19 pandemic will assist the Local Court to meet its objective of summary disposal according to law of matters in a just, fair, efficient and timely manner.

## 5. WORKPLAN

Focus Area	Priority	Initiative	Deliverable	CMO responsibility	Timeframe
Expand therapeutic and restorative justice initiatives	Contribute to the Closing the Gap targets	Support Closing the Gap initiatives	The Local Court makes a meaningful contribution to the work undertaken as part of Closing the Gap	Participate in and support of the Closing the Gap working groups	Ongoing
		Expand Circle Sentencing	Circle Sentencing Program expanded to eight new sites	Support magistrates to effectively deliver Circle Sentencing	December 2023
	Improve the way the Local Court responds to family violence	Trial a specialist family violence list	Specialist family violence list established in three courts	Design of specialist family violence list and stakeholder coordination and implementation	December 2023
		Review and update family violence practice	Family Violence Practice Note updated	Review and update Practice Note	December 2023
Support programs that contribute to therapeutic justice	Assist with the implementation of the Justice Advocacy Service, MERIT program and SCCLS clinicians in local courts	Magistrates are aware of therapeutic justice programs and are able to make referrals	Stakeholder liaison and providing information for magistrates	December 2023	
Innovation and improvement	Progress work to develop a Fourth Tier	Scope options to develop a Fourth Tier	Fourth Tier proposal is developed and scoped	Work with the Department on the Fourth Tier proposal	June 2023
	Identify areas for legislative reform and improved practice	Work with the Department on proposals for legislative reform	Proposals for legislative reform and the case for change are articulated to the Department	Work with the Department to identify current physical infrastructure needs and future requirements	Ongoing
		Increase use of specialisation and ADR in the civil jurisdiction	Increased access to ADR an increased use of magistrates with civil expertise	Support for specialisation and ADR	December 2023
		Improve use of data to support decision making	Local Court data collection reviewed and updated	Oversight of Local Court data	December 2023
	Advocate for improved digital infrastructure in local courts	Work with the Department on proposals for an electronic diary and digital case file	Magistrates' needs and priorities for an electronic diary and digital case file are identified	Work with the Department to identify current needs around an electronic diary and future requirements	December 2023
		Support efforts to trial virtual courts	Matters that could be suitable for virtual courts are identified	Work with the Department to establish virtual courts and develop Practice Note	June 2024
		Advocate for improved access to AVL	Courts that require AVL are identified	Work with the Department to identify current AVL needs and future requirements	Ongoing
Advocate for improved physical infrastructure in local courts	Advocate for improved physical infrastructure in local courts	Infrastructure needs in local courts are identified and escalated to the Department	Work with the Department to identify current physical infrastructure needs and future requirements	Ongoing	
Increase initiatives to improve judicial wellbeing	Support judicial wellbeing	Advocate for improved access to wellbeing programs for magistrates	Proposal developed for new initiatives to support magistrates' wellbeing	Work with the Department to develop wellbeing program for magistrates	December 2023
		Develop new wellbeing, bullying and harassment policy	New wellbeing, bullying and harassment policy developed	Overall responsibility for new policy	June 2024
		Review Magistrates' Terms and Conditions	Terms and Conditions reviewed	Submit revised Terms and Conditions to the Attorney General	June 2023
		Promote ongoing professional development	Magistrates access regular professional development opportunities	Work with Judicial Commission on professional development and education initiatives	Ongoing
	Monitoring of listing and workload	Regularly review and assess magistrates' workloads	Regular review of magistrates' workloads	Overall responsibility for listing and sitting arrangements	Ongoing
		Consider options to manage and distribute judicial workload across the state	Opportunities to equitably adjust workloads across court locations are identified and implemented	Overall responsibility for listing and sitting arrangements	Ongoing
	Advocate for additional resources	Estimate future demand on local courts	Accurate modelling of the future demand on local courts and resources needed to adequately staff the Local Court	Work with the Department to accurately scope future demand on local courts	December 2023
		Advocate for resources to address the defended hearing backlog caused by the Covid-19 pandemic	Development of a model for the Local Court to address the defended hearing backlog	Work with the Department to identify funding to reduce the defended hearing backlog	June 2024