



**CHIEF JUSTICE'S REFLECTIONS ON 2020**  
**THE SUPREME COURT OF NEW SOUTH WALES**  
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**CHIEF JUSTICE OF NEW SOUTH WALES**

As the Law Term of 2020 draws to a close, I wish to review the major developments in the operations of the Supreme Court of New South Wales during this challenging year.

**Response to the COVID-19 pandemic**

The Supreme Court did not close at any time this year. In response to the COVID-19 pandemic, the Court moved rapidly to a system of virtual courtrooms to ensure that the wheels of justice continued to turn. From 24 March until 1 June, all proceedings were conducted through the use of virtual courtrooms with no personal appearances in any matters. Proceedings across the Supreme Court, Court of Appeal and Court of Criminal Appeal were and continue to be held virtually through the use of the Court's video-conference and teleconference facilities, Microsoft Teams or external providers. The principle of open justice remains a paramount consideration. Members of the public and media are able to observe virtual proceedings in virtual courtrooms.

Remarkably, despite the move to virtual courts, the Court continued to operate essentially at its normal capacity. During the period when all proceedings were heard through virtual courtrooms between 24 March until 1 June, 3968 listings were disposed of by judges and a further 3980 listings by registrars. All judge-alone criminal trials were disposed of. However, jury trials remain unsuitable for a virtual courtroom setting. As a result, there has been an inevitable backlog in criminal jury trials following the suspension of new jury trials from 16 March until 29 June and thereafter from the need to use at least two courtrooms for each trial to accommodate physical distancing requirements.

The use of virtual courtroom technology has brought significant benefits and will undoubtedly be indispensable to the future of the Court. The number of matters being live-streamed, including on YouTube, has greatly improved the accessibility and visibility of the Court to the public. For example, more than 1800 people watched the YouTube live stream of a Supreme Court hearing relating to a challenge to a protest in support of the Black Lives Matter movement. I also note that the entirety of the proceedings at first instance and in the Court of Appeal were heard and determined within 24 hours.

The judges of the Court unanimously resolved to forego any potential salary increase this year in light of the devastating effects of the pandemic for many members of the community.



I am proud of what has been achieved. Although other courts may have equalled what we have done, I do not believe any have bettered it.

The success the Court had in coping with the problems that arose in 2020 is due to a significant extent to the enthusiasm, dedication and good humour with which the judges and their staff have confronted a whole new set of circumstances. I am deeply grateful to all of them and to the registry staff who particularly dealt with technological and listing difficulties arising from the changes.

### **Improvements in digital infrastructure**

The digital infrastructure of the Court has undergone significant improvements during the year. These improvements have enabled the Court to rectify many of the technical difficulties that emerged during the rapid transition to virtual courtrooms and conduct a greater number of proceedings virtually without impairing the quality of the virtual connection.

### **Resumption of face-to-face hearings**

Following the easing of government restrictions, face-to-face civil hearings resumed on 1 June and criminal jury trials resumed from 29 June. The health and wellbeing of all court users – litigants, the legal profession, judges, judicial and registry staff, and members of the public and media – remains the paramount consideration for the Court.

The Court continues to take all reasonable steps and precautions to reduce the risk of transmission of COVID-19. The Court adopted a staged approach to return to in-court hearings. The Court has also implemented staggered courtroom start and finish times and limited the number of proceedings on each floor of the Court. The Court has also placed visual guidance in courtrooms and elevators to ensure physical distancing requirements, implemented hand sanitiser stations and increased cleaning and disinfecting. I express my appreciation to the Court staff and members of the public who have attended the Court for their co-operation with these requirements.

To ensure compliance with physical distancing requirements, jury trials have resumed through the use of at least two courtrooms and changes to the juror empanelment process.

Looking towards the future, the Court will continue with a hybrid model where some proceedings will be conducted entirely through in-person appearances, some will be a mixture of in-person and virtual courtroom methods, and others will continue to be conducted entirely by virtual courtroom methods. I envisage that once the impacts of the pandemic have passed, the Court will continue to use virtual courtrooms to harness the many benefits they offer.

### **Inappropriate Workplace Conduct Policy**

The Court recognises the importance of fairness, dignity and respect for others in the workplace and that each person has a safe and secure place in which to work. The Court has



zero tolerance towards inappropriate workplace behaviour, which includes bullying, harassment, sexual harassment, and other forms of unlawful discrimination, vilification and violence. Any such behaviour is entirely unacceptable in any workplace but particularly in a Court in which the highest standards of integrity and probity are essential.

On 2 July the Court issued its *Inappropriate Workplace Conduct Policy*. Following wide-spread consultation by myself, the Executive of the Court and an external consultant with judicial staff, the Policy was reviewed and subsequently amended on 19 October. The Policy defines clear standards of appropriate behaviour and provides a safe and secure method by which any person can raise a matter in confidence. The Policy sets out the framework within which any concerns will be addressed, including a mechanism for complaints to be made to an independent external consultant who can, with the consent of the complainant, raise the matter anonymously and confidentially for review. The Policy is publicly available on the website of the Supreme Court.

In addition to the release of the Policy, the Judicial Commission of New South Wales is separately preparing education material for judges on workplace conduct. The National Judicial College of Australia has also been requested to include sessions on this issue in their induction programme for new judges.

### **Admission of new lawyers to the profession**

The Supreme Court has conducted ceremonies to admit new lawyers to the profession since 1824. In August, the Supreme Court live-streamed the first virtual admission celebration on YouTube to welcome newly admitted lawyers. Since then, admission celebrations have been live-streamed on YouTube monthly. The ceremonies held between August and November have been viewed by over 12,000 people.

The Supreme Court will return to in-person admission ceremonies in February 2021. The number of ceremonies will be sufficiently expanded to ensure that all admittees can have a traditional ceremony. I am conscious of the significance new admittees and their family and friends attach to these ceremonies.

### **Gratitude and best wishes to the community**

I would finally like to thank and express my gratitude to the legal profession and community more broadly for their continued commitment to the administration of justice in New South Wales during this year. The resilience and flexibility of many have not gone unnoticed. I wish you all the best for the festive season and for the Law Term of 2021.

A handwritten signature in blue ink, appearing to read "J. R. Spence".

14 December 2020