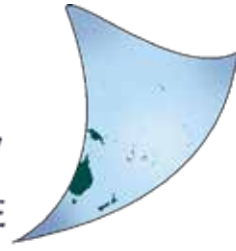


PACIFIC

JUDICIAL STRENGTHENING INITIATIVE



2018 Court Trend Report

JUNE 2019




NEW ZEALAND
FOREIGN AFFAIRS & TRADE
Aid Programme



FEDERAL COURT
OF AUSTRALIA





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Published in June 2019.

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JUNE 2019

The Pacific Judicial Strengthening Initiative is a regional programme of assistance funded by the New Zealand Ministry of Foreign Affairs and Trade



FEDERAL COURT OF AUSTRALIA





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Foreword

In Apia, Samoa in March 2012, Chief Justices endorsed the recommendations in the Regional Justice Performance Framework in which the Chief Justices of the countries participating in the Pacific Judicial Development Programme agreed to progressively build the capacity of their judicial and court staff colleagues to publish court Annual Reports. This followed a meeting of Chief Justices in Rarotonga, in the Cook Islands, in mid-2011 where a range of possible court performance measures were considered before the Chief Justices agreed upon the 15 Cook Island Indicators.

The Cook Island Indicators were chosen by PJDP Chief Justices as they represented essential data that jurisdictions, whether large or small, should ideally have the capacity to collect, analyse and present in their annual reports.

This represents the third Court Performance Trend Report updating the PJDP Court Performance Baseline Report of 2011 and presents a picture of the significant improvements in court annual reporting over the last seven years. The Chief Justices and their colleagues in the Cook Islands, the Republic of the Marshall Islands, the Republic of Palau, Papua New Guinea and Tokelau have contributed considerably to many of the tools and checklists that are part of the Court Reporting Toolkit and a great debt is owed to all PJDP Chief Justices for their generous contributions over the last seven years.

Reflecting on the last seven years, one of the most striking observations is that excellent Annual Reports are constantly evolving and reflect the dynamism and innovations being introduced by the courts during the reporting year.

Cate Sumner

ANNUAL REPORTING ADVISER

Pacific Judicial Strengthening Initiative

24 May 2019

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Federated States of Micronesia	Hon. Chief Justice Dennis Yamase
Kiribati	Hon. Chief Justice Sir John Muria
Republic of Marshall Islands	Hon. Chief Justice Carl Ingram
Nauru	Hon. Chief Justice Filimone Jitoko
Niue	Hon. Chief Justice Craig Coxhead
Republic of Palau	Hon. Chief Justice Arthur Ngiraklsong
Papua New Guinea	Hon. Chief Justice Sir Gibbs Salika
Samoa	Hon. Chief Justice Patu Sapolu
Solomon Islands	Hon. Chief Justice Sir Albert Palmer
Tokelau	Hon. Chief Justice Helen Winkelmann
Tonga	Hon. Chief Justice Owen Paulsen
Tuvalu	Hon. Chief Justice Charles Sweeney
Vanuatu	Hon. Chief Justice Vincent Lunabek

This Report was prepared in collaboration with Nicole Cherry of the Federal Court of Australia (FCA). Bethany Charlton, Simon O'Connor and Emmanuel Tupua worked as Research Interns at the FCA supporting the previous baseline and trend reports on court performance.

The PJSI Team Leader, Technical Director, other Advisers and the management team at the FCA have all generously assisted in the development of this document.

The PJSI is a regional programme of assistance supported by the New Zealand Ministry for Foreign Affairs and Trade and implemented by the Federal Court of Australia.

Executive Summary

When PJDP embarked on the Court Annual Reporting activity in 2011, three jurisdictions had sought assistance under PJDP with the aim of improving their court performance reporting through Annual Reports. These jurisdictions were Palau, Papua New Guinea and Tokelau. What has emerged over a period of seven years is a willingness from the majority of PJSI jurisdictions to embrace the idea of Annual Reporting in some form or other. The Court Annual Reporting Toolkit was originally published in 2012 and has been updated in 2014 and 2018. The Toolkit presents a range of tools developed under this activity that are now available on the PJSI website to be used by partner judiciaries.

This 2018 PJSI Court Trend Report presents a seventh year of court performance data against 15 indicators and compares results against those presented in the PJDP 2011 Court Baseline Report. There have been some significant improvements in the ability of PJSI partner courts to report on their performance each year to the public.

At the National Coordinators Leadership Meeting held in the Cook Islands in June 2011, the key court performance areas were considered and a list developed that was then sent to Chief Justices for their review and comment. The 15 court performance indicators cover:

1 Case management issues.

- Case finalisation or clearance rate.
- Average duration of a case from filing to finalisation.
- The percentage of appeals.
- Overturn rate on appeal.

2 Affordability and Accessibility for court clients.

- Percentage of cases that are granted a court fee waiver.
- Percentage of cases disposed through a circuit court.
- Percentage of cases where a party receives legal aid.

3 Published procedures for the handling of feedback and complaints.

- Documented process for receiving and processing a complaint that is publicly available.
- Percentage of complaints received concerning a judicial officer.
- Percentage of complaints received concerning a court staff member.

4 Human Resources.

- Average number of cases per judicial officer.
- Average number of cases per member of court staff.

5 Transparency.

- Court produces or contributes to an Annual Report that is publicly available.
- Information on court services is publicly available.
- Court publishes judgments on the Internet (own website or on PaCLII).

The PJDP Partner Courts ability to report on these 15 indicators is summarised in Tables A and B that follow.

This 2018 PJSI Trend Report presents trend data on eight of the 15 Cook Island Indicators.

The information presented in this 2018 PJSI Court Performance Trend Report is based on the court Annual Report or other public documents referred in Table A below. For some jurisdictions, this has been supplemented by additional information presented by courts:

Table A Data for 2018 PJSI Court Performance Trend Report

	Annual Report or Year of Court data referred to in the Trend Report (hardcopy or e –copy on file)	Court Website	Annual Report on website; if Yes what is the latest year
Cook Islands	Annual Report 2016-2017	YES http://www.justice.gov.ck	2015-2016 Annual Report on Ministry of Justice website
Federated States of Micronesia	Annual Report 2018	YES www.fsmsupremecourt.org	2018 Annual Report is on Court and PaCLII websites
Kiribati	2012-2014	NO	YES 2012-2014 on PaCLII website
Marshall Islands	Annual Report 2017	YES http://rmicourts.org/	2017 Annual Report on Court website
Nauru	2016-2017 Annual Report	NO	2009 -2010 Annual Report on PaCLII website
Niue	Annual Report 2014-2015	NO	2013-2014 Annual Report on PaCLII website
Palau	Annual Report 2017	YES http://www.palausupremecourt.net/	2018 Annual Report on Court website and PaCLII
PNG Supreme & National Courts	Annual Report 2017	YES www.pngjudiciary.gov.pg	NO
Samoa	Court data contributed to MJCA Annual Report 2016-2017	http://www.palemene.ws/new/parliament-business/annual-reports/ministry-of-justice-and-courts-administration/	2012-2013 MJCA Annual Report is available on the MJCA website
Solomon Islands	Annual Report 2012-2014	NO	2009 Annual Report is on the PaCLII website
Tokelau	Annual Report 2016-2018	NO	2015-2016 Annual Report is on the PaCLII website
Tonga	Annual Report 2017	YES http://www.justice.gov.to	2018 Annual Report is on the PaCLII website
Tuvalu	No Annual Report	NO	NO
Vanuatu	Annual Report 2017	YES https://courts.gov.vu/bi/services/downloads	2018 Annual Report is on the Court Website and 2017 Annual Report on the PaCLII website

Change 1 Sustained Increase in Transparency of Annual Reporting by PJSI Partner Judiciaries



In the baseline year of 2011, only the judiciaries of the Republic of Marshall Islands and Vanuatu published an annual report each year and only the Marshall Islands judiciary produced an Annual Report that was publicly available through the court's website or PacLII.

In 2018, judiciaries in 13 of the 14 PJSI countries produce or contribute to an Annual Report. 9 of the 14 PJSI countries (64%) produced or contributed to an Annual Report in the year immediately following the reporting period and 6 out of the 14 PJSI countries (43%) make this Annual Report publicly available in the year immediately following the reporting period.

For the first time, judiciaries in four PJSI countries published their 2018 Annual Report by April 2019 (Federated States of Micronesia, Republic of the Marshall Islands, Republic of Palau and Tonga) showing that systems were in place for the analysis and publication of court performance data early in the following year.

Change 2 Smaller PJSI Partner Judiciaries Maintain Commitment to Annual Reporting



In the baseline year of 2011, the judiciaries of the Cook Islands, FSM, Kiribati, Niue, Palau and Tokelau did not produce or contribute to an Annual Report. In 2018, three of six jurisdictions have produced an Annual Report every year since 2011, while the remaining three PJSI jurisdictions have produced at least three Annual Reports since this time.

Change 3 More In-depth Analysis and Increased presentation of Trend Data in Annual Reports



In the baseline year of 2011, the Annual Reports that were produced would often present a single year's court data without analysis of how the year's performance compared with the previous years' accomplishments.

The PJDP Excel Chart Creator was a tool created by PJDP in late 2013 and allows courts to enter trend data over a number of years on most of the Cook Island Indicators. Recent Annual Reports from a number of judiciaries include trend data presented in clear charts and tables using the PJDP Excel Chart Creator Tool.

All PJSI partner judiciaries have improved the depth of analysis and quality of Annual Reports over the last seven years. Many judiciaries are now able to present data in a more user-friendly manner incorporating charts and clear narrative text that explain the reasons for changes in court performance to a wide range of court stakeholders.

Change 4 Some PJSI Partner Judiciaries present Sex, Age and Disability Disaggregated Data



In 2018, PJSI further developed the excel chart creator to allow courts to present data disaggregated by sex and age. Part 3 shows which PJSI partner courts are presenting sex, age and disability disaggregated data in their Annual Reports.



Women and children in the Pacific experience levels of violence that are double the global average, with most violence occurring within the family. UNESCAP reports that women living with a disability are more likely to experience sexual or physical violence than women without disabilities. Tracking case trends and presenting sex, age and disability disaggregated data for violence and family law cases is important to enable a range of national stakeholders to understand the proportion of cases coming through the formal justice system, the outcomes in these cases and the challenges faced by women and children in order to improve service provision.



The 2018 revised Court Annual Reporting Toolkit included a tool outlining the data fields that would ideally be included in court tracking systems to improve the collection, analysis and publication of sex, age and disability disaggregated data in their Annual Reports. The 2018 Annual Reports from Palau, Tonga and Vanuatu present new age and sex disaggregated data in relation to family law and violence cases.

Change 5 Greater Ability of PJSI Judiciaries to Report on more of the Cook Island Indicators

In the baseline year of 2011, only the judiciaries of the Marshall Islands and Palau were able to report on ten or more of the Cook Island Indicators. In 2018, 8 of the 14 PJSI countries (57%) are able to report on ten or more of the Cook Island indicators.



Change 6 PJSI Partner Judiciaries Commitment to Court User Surveys



From 2011-2018, The Republic of the Marshall Islands has undertaken four court user surveys in 2012, 2014, 2016 and 2018 and the results are included in their Annual Reports.

Similarly, the Republic of Palau has undertaken four court user surveys in 2011, 2012, 2013 and 2014 and the results are included in their Annual Reports.

Table B 14 PJSI countries that currently report on the 15 indicators

PJSI Countries		Cook Islands	FSM	Kiribati	Marshall Islands	Nauru	Niue	Palau	
2011 Baseline Report		1	1	4	14	2	1	11	
2012 Trend Report		10	6	5	15	2	12	14	
2014 Trend Report		12	12	15	15	2	13	15	
2018 Trend Report		6	13	14	15	4	10	15	
Type	Indicator								
1	Case Management Information	Case finalisation/clearance rate							
2	Case Management Information	Average duration of a case							
3	Appeals	The percentage of appeals							
4	Appeals	Overture rate on appeal							
5	Access	Percentage of cases that are granted a court fee waiver							
6	Access	Percentage of cases disposed through a court circuit							
7	Access	Percentage of cases where party receives legal aid							
8	Complaints	Documented process for receiving and processing a complaint that is publicly available							
9	Complaints	Percentage of complaints received concerning a judicial officer							
10	Complaints	Percentage of complaints received concerning a court staff member							
11	Human Resources	Average number of cases per judicial officer							
12	Human Resources	Average number of cases per court staff							
13	Judicial Transparency	Court procedures or contributes to an Annual Report that is publicly available							
14	Judicial Transparency	Information on court services is publicly available							
15	Judicial Transparency	Judgments on PaCLII							



Can report on the indicator



Cannot report on the indicator/judgments online but not for the previous 2 years

PJSI Countries		PNG	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu	
2011 Baseline Report		6	1	3	5	5	9	6	
2012 Trend Report		3	5	3	10	12	1	6	
2014 Trend Report		11	12	11	10	15	2	13	
2018 Trend Report		8	4	7	10	15	1	12	
Type	Indicator								
1	Case Management Information	Case finalisation/clearance rate							
2	Case Management Information	Average duration of a case							
3	Appeals	The percentage of appeals							
4	Appeals	Overturn rate on appeal							
5	Access	Percentage of cases that are granted a court fee waiver							
6	Access	Percentage of cases disposed through a court circuit							
7	Access	Percentage of cases where party receives legal aid							
8	Complaints	Documented process for receiving and processing a complaint that is publicly available							
9	Complaints	Percentage of complaints received concerning a judicial officer							
10	Complaints	Percentage of complaints received concerning a court staff member							
11	Human Resources	Average number of cases per judicial officer							
12	Human Resources	Average number of cases per court staff							
13	Judicial Transparency	Court procedures or contributes to an Annual Report that is publicly available							
14	Judicial Transparency	Information on court services is publicly available							
15	Judicial Transparency	Judgments on PacLII							



Judgments online but not available for the previous year/ Court produces an Annual Report but not clear how the public can access it/ or there is not an Annual Report for the previous reporting period.

2

Overview of Sex, Age and Disability Disaggregated Data in PJSI Partner Annual Reports

Pacific Leaders Gender Equality Declaration

(Adopted in 2012 and reaffirmed in 2015)

The Leaders of the Pacific Islands Forum met from 27 to 30 August 2012 in Rarotonga and brought new determination and invigorated commitment to efforts to lift the status of women in the Pacific and empower them to be active participants in economic, political and social life.

Leaders expressed their deep concern that despite gains in girls' education and some positive initiatives to address violence against women, overall progress in the region towards gender equality is slow. In particular Leaders are concerned that women's representation in Pacific legislature remains the lowest in the world; violence against women is unacceptably high; and that women's economic opportunities remain limited. Leaders understand that gender inequality is imposing a high personal, social and economic cost on Pacific people and nations, and that improved gender equality will make a significant contribution to creating a prosperous, stable and secure Pacific for all current and future generations...

To progress these commitments, Leaders commit to implement specific national policy actions to progress gender equality in the areas of gender responsive government programs and policies, decision making, economic empowerment, ending violence against women, and health and education.

Gender Responsive Government Programmes and Policies

- Support the production and use of sex disaggregated data and gender analysis to inform government policies and programmes.

Ending Violence against Women

- Implement progressively a package of essential services (protection, health, counselling, legal) for women and girls who are survivors of violence.
- Enact and implement legislation regarding sexual and gender based violence to protect women from violence and impose appropriate penalties for perpetrators of violence.

The Pacific Leaders Gender Equality Declaration is relevant for considering how the Cook Island Indicators should enable Pacific Island Countries to report on how their countries have implemented specific national policy actions to progress gender equality and, in particular:

- Whether courts provide sex, age and disability disaggregated data in Annual Reports, particularly in relation to family law and gender based violence cases
- Specific services provided by courts for women and girls who are survivors of violence, including women and girls with a disability, as well as those services that are undertaken in collaboration with Government agencies and/or Civil Society Organisations
- Penalties imposed on perpetrators of violence. Analysis of outcomes of gender and family violence cases brought to court.

The importance of courts participating in the collection, analysis and presentation of sex, age and disability disaggregated data on cases involving violence against women and children is underlined by the high rates of prevalence of violence against women, girls and boys.

In 2018, both Palau and Tonga added new narrative sections containing sex and age disaggregated data to their Judicial Annual Reports. For Palau, the 2018 Annual Report included sex segregated data for juvenile cases filed in the Court of Common Pleas, family law cases, and domestic violence cases as well as data on outcome in these cases. Senior Judge Rudimch in her opening message to the Palau 2018 Annual Report states that:

The Judiciary continues to take its role in informing the public of what it does seriously and has added additional narratives to this year's Annual Report to explain some of the data. ...Our work is not over though, and we continue to invite the public to tell us how we may improve our services. Your comments and concerns may be addressed to our new special assistant to the Chief Justice, Ryobch Luii, at rluii@palausupremecourt.net.

In 2018, the Chief Justice of Tonga added a new section in the Annual Report with sex and age disaggregated data and in the introduction to this section states:

There has been an acceptance by Pacific Leaders (see Pacific Leaders Gender Equality Declaration 2012) that they should support the production of sex disaggregated data and gender analysis to inform Government policies and programmes.

The Courts are one source of such data. They have the ability to collect data on a range of matters which might broadly be described as sex, age and disability disaggregated data. Unfortunately data is either not collected or is not easily retrievable from our Case Management System. Some disaggregated data has been manually collected and is presented below. This data relates to criminal and divorce cases in the Supreme Court.

It should be a priority of the Ministry of Justice to update the Case Management System so as to make it possible to collect and provide disaggregated data more easily.

Table D Sex, Age and Disability Disaggregated Court Data in Annual Reports

	Sex Disaggregated Data	Juvenile Disaggregated Data	Disability Disaggregated Data
Cook Islands	Some sex disaggregated data.	Data in Annual Report does not cover all children under the age of 18 years.	No disability disaggregated data in the Annual Report.
Federated States of Micronesia	Sex disaggregated data in the Annual Report on for trafficking cases.	The State Courts of Pohnpei, Chuuk and Yap presented case data disaggregated to show juvenile cases.	No disability disaggregated data in the Annual Report.
Kiribati	The 2012-2014 Annual Report contains details of the number of High Court and Magistrates Court criminal cases involving violence against women and girls.	The 2012-2014 Annual Report contains details of the number of cases involving children.	No disability disaggregated data in the Annual Report.
Nauru	No sex disaggregated data presented.	There is no case data disaggregated to show all cases involving children under the age of 18.	No disability disaggregated data in the Annual Report.
Niue	There is no sex data disaggregated as the Annual Report.	There is no data disaggregated to show all cases involving children under the age of 18 as the Annual Report only refers to Land cases and not criminal and civil matters.	No disability disaggregated data in the Annual Report
Palau	Sex disaggregated data is in the Annual Report.	The Palau judiciary presented case data disaggregated to show juvenile cases heard in the Supreme Court and Court of Common Pleas in the Annual Report.	No disability disaggregated data in the Annual Report.
PNG (National and Supreme Courts)	No sex disaggregated data in the Annual Report.	There is no case data disaggregated to show all cases involving children under the age of 18 years in the Annual Report.	No disability disaggregated data.
Republic of the Marshall Islands	Sex disaggregated data presented for both criminal and civil cases.	Juvenile disaggregated data presented for children under 18 years of age.	Disability disaggregated data presented.
Samoa	No sex disaggregated data in the Annual Report.	There is no data disaggregated to show all cases involving children under the age of 18.	No disability disaggregated data.

	Sex Disaggregated Data	Juvenile Disaggregated Data	Disability Disaggregated Data
Solomon Islands	No sex disaggregated data presented to the public as there is no Annual Report.	No sex disaggregated data presented to the public as there is no Annual Report.	No disability disaggregated data presented to the public as there is no Annual Report.
Tokelau	Some sex disaggregated data presenting sex of offenders in criminal cases.	Juvenile disaggregated data in the 2016/2018 Annual Report refers to children under 18 years.	No disability disaggregated data in the Annual Report.
Tonga	Sex disaggregated data presented in the 2018 Annual Report.	There is no case data disaggregated to show cases involving children under the age of 18 years in the 2018 Annual Report.	No disability disaggregated data.
Tuvalu	No sex disaggregated data presented to the public as there is no Annual Report.	There is no case data disaggregated to show all cases involving children under the age of 18 presented to the public as there is no Annual Report.	No disability disaggregated data presented to the public as there is no Annual Report.
Vanuatu	There is some sex disaggregated data presented in the 2018 Annual Report.	There is some case data disaggregated to show juvenile cases in the 2018 Annual Report.	No disability disaggregated data.

3 Review of Selected Court Performance Indicators

Indicator 1 Case Management – Clearance Rate

The result against this indicator is obtained by dividing all cases finalised in a year by cases filed.

What has changed?

Change 1



Year 1 baseline trend data: 9 courts could calculate a clearance rate in one or more jurisdictions.

Year 4 trend data: 12 courts could calculate a clearance rate in one or more jurisdictions.

Year 7 trend data: 11 courts could calculate a clearance rate in one or more jurisdictions.

Change 2

In Year 1: One court, (the Republic of the Marshall Islands) presented in their Annual Report trends over 3-5 years of how their clearance rates had changed.

In Year 7: Nine courts (The Federated States of Micronesia, Kiribati, the Republic of the Marshall Islands, Niue, the Republic of Palau, Solomon Islands, Tokelau, Tonga and Vanuatu) presented 3-5 years data on how their clearance rates had changed.

This allows judicial stakeholders and the public to see if clearance rates are improving or not and provide reasons for these trend changes. An excellent example of this is provided by the Republic of the Marshall Islands in its 2017 Annual Report:

The High Court's clearance goal is to achieve an annual clearance rate of 100%, or better. In 2017, however, the High Court did not meet its goal. The clearance rate for civil cases was only 93.46%: 314 cases were cleared and 337 were filed.

As the table and chart below show, the High Court has met its goal in four of the past five years. The drop of the clearance rate from 143.06% in 2014, to 101.16% in 2015, and to 93.46% to 2017 is the result of the Court's successful backlog reduction policy. In the near term, the High Court expects its annual clearance rate to fluctuate around 100%. Also, the lower clearance rate and higher number of cases in 2017 results from an influx of non-resident corporation cases.

Annual Clearance Rates for High Court Cases Cleared 2013 to 2017						
	2013	2014	2015	2016	2017	Avg.
Cases Filed	281	281	258	280	337	287.40
Cases Cleared	404	402	261	282	314	332.80
Clearance Rate	143.77	143.06	101.16	100.71	93.46	115.80%
Annual Goal: 100%	100%	100%	100%	100%	100%	100%

Change 3

Some PJSI partner courts have set court performance goals or standards in relation to clearance rates. The 2017 Annual Report for the Republic of the Marshall Islands presented above shows how an example of how a reduction in a court clearance rate can be explained in the context of broader court performance reforms that are underway. In future, it is hoped that more courts refer to the court performance standards they have set and present data and a short narrative that explores whether they have met this standard or the factors that have contributed to the court not reaching their performance goal.

Clearance rates – 2011 Baseline Report

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Data unavailable	Data unavailable	Magistrates Court 22% High Court 32%	Supreme Court 225% (2010) High Court 103% (2010) District Court 87% (2010)	Supreme Court 14% (2010/2011) Magistrates Court 81% (2010/2011)	Data unavailable	Court of Common Pleas 86% (2010)
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Supreme Court 53% (2007) civil and criminal cases National 12% (2007) civil cases only Magistrates Court 68% (2010) (This data is obtained using the 57 Magistrates Courts with an electronic case management system as a sample)	Data unavailable	High Court 30.92% (2009)	Data unavailable	Supreme Court 70% (2010) Magistrates Court 84% (2010)	Magistrates Court 67%	Supreme Court 82% (2010) Magistrates Court 80% (2010) Island Court 76% (2010)

Clearance rates – Year 7 Trend Data

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
High Court Land cases: 84%	Supreme Court of FSM: Criminal Cases: 79% Civil Cases: 69%	Court of Appeal 100% High Court 81% Magistrates Court 76%	Supreme Court: 83% High Court: Civil cases 93% Probate Cases 80% Criminal cases 86% District Court Traffic Cases 98% Criminal Cases 96% Juvenile Cases 137% Small Claims 93%	Data unavailable	High Court Land Division 114%	Trial Division – criminal cases 2017 = 110% Trial Division – civil cases 2017 = 78% Trial Division – Juvenile cases 2017 = 200% Appellate Division – civil and criminal appeals = 146% Land Court - 2017 = 171% Court of Common Pleas – Small Claims 2017 = 109% Court of Common Pleas – Civil Action 2017 = 90% Court of Common Pleas – Family Protection Act cases 2017 = 99% Court of Common Pleas – Citation cases 2017 = 91%
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Supreme Court 88% National Court overall 110% Criminal matters = 81%, civil matters = 129%, human rights matters 198%, common law matters 142%, appeal and review cases 61%	Data unavailable	Court of Appeal 95% High Court 175% Magistrates Court 81% Local Court 74% Customary Land Appeal Court 26%	Nukunonu 100%, Atafu 56% and Fakaofu 98%	Court of Appeal 100% Supreme Court: average of all case types 109%. Clearance rates for 10 separate divisions of the Supreme Court are provided with a range of clearance rates from 85%-148%. Details of Clearance rates in circuit courts were also provided. Land Court 98% Magistrates Court 110% average for all case types. Clearance rates for 5 separate divisions of the Magistrates Court are provided with a range of clearance rates from 95%-180%.	Data Unavailable	Court of Appeal 85% Supreme Court 97% Magistrates Court 120% Island Court 89%

Indicator 2 Average Duration of a Case

The result against this indicator is obtained by totalling the days for each case from the date the case is filed to the date it is finalised and then dividing this by the number of cases finalised.

What has changed?

Change 1



Year 1 baseline trend data: 2 courts could calculate the average duration of a case in one or more jurisdictions.

Year 4 trend data: 10 courts could calculate the average duration of a case in one or more jurisdictions.

Year 7 trend data: 9 courts could calculate the average duration of a case in one or more jurisdictions.

Change 2

In Year 1: no court presented trends over 3–5 years of how the average duration of a case had changed.

In Year 7: Eight courts presented trends over 3–5 years of how the average duration of a case had changed (the Federated States of Micronesia, Kiribati, Niue, the Republic of Palau, the Republic of the Marshall Islands, Tokelau, Tonga and Vanuatu).

This allows judicial stakeholders and the public to see if the length of time that a case is taking is improving or not and provide reasons for these trend changes.

Change 3

Over time, courts are presenting greater detail on the average duration of cases by the type of case (e.g. criminal, civil, family, juvenile) and by the level of court (Court of Appeal, Supreme Court, District/ Magistrates Court or Land Court) and by location of the court hearing (e.g. in a courthouse or on a circuit). This allows court leadership teams to identify areas of relative strength and weakness in the hearing of cases and develop strategies where necessary. The Annual Reports of Palau and Tonga are excellent examples of this move to greater disaggregation in the presentation of data on the average duration of a case.

Change 4

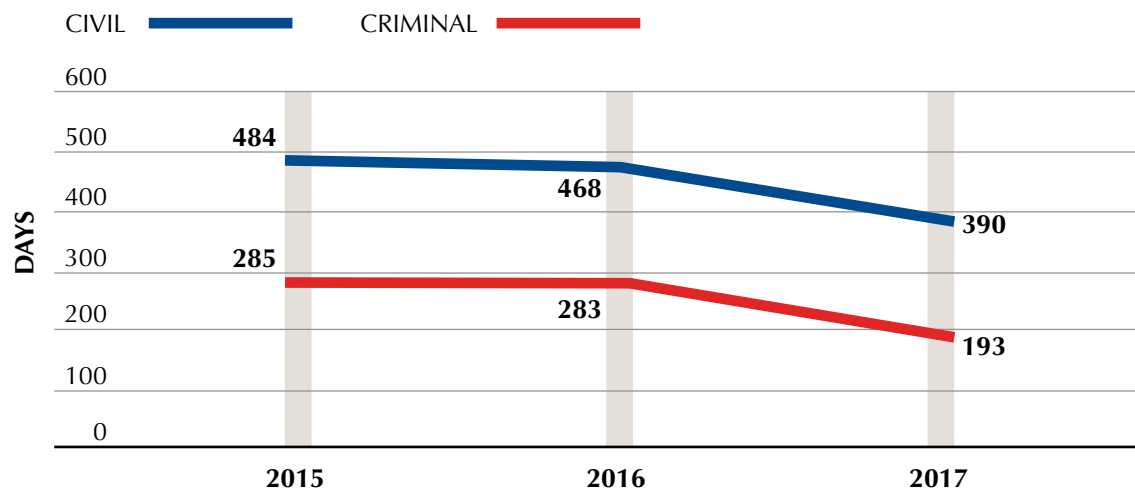
The Federated States of Micronesia, the Republic of the Marshall Islands and Tonga have set court performance goals in relation to the average duration of a case since the PJDP Court Performance Baseline Report was published.

The 2017 Superior Courts of Tonga Annual Report refers to such a court performance goal:

In the Ministry of Justice's Annual Management Plan the target for this indicator is that all criminal cases should be finalised within 1 year of filing (taken as 365 days) and all civil actions should be finalised within 15 months of filing (taken as 455 days). These targets were exceeded in the reporting period.

There is a trend for civil and criminal cases to be finalised more quickly than in previous reporting periods. This is represented in the line graph below.

Average duration of a criminal and civil case (in days – by year)



Average duration of a case – 2011 Baseline Report

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Data unavailable	Data unavailable	Data unavailable	Supreme Court Data unavailable	Supreme Court Data unavailable	Data unavailable	Court of Common Pleas Civil 62 days Criminal 72 days Small claims 55 days
			High Court Average of 174 days for 2009 cases	Magistrates Court Data unavailable		
			District Court Data unavailable			
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Supreme Court Data unavailable Magistrates Court Data unavailable	Data unavailable	High Court Data unavailable	Data unavailable	Supreme Court Data unavailable Magistrates Court Data unavailable	Data unavailable	Supreme Court Data unavailable Appeal Court Data unavailable Island Court Data unavailable

Average duration of a case – Year 7 Trend Data

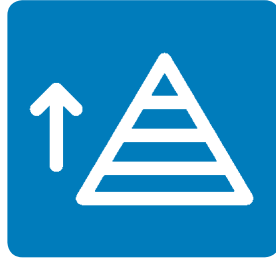
Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Data unavailable	Supreme Court of FSM: Criminal Cases: 40 days	Court of Appeal 235 days	Supreme Court: 387 days High Court: Civil cases 140 days Probate Cases 62 days Criminal cases 203 days District Court Traffic Cases 55 days Criminal Cases 30 days Juvenile Cases 278 days Small Claims 55 days	Data unavailable	High Court Land Division 439 days	Trial Division – criminal cases 2017 = 260 days Trial Division – civil cases 2017 = 393 days Trial Division – Juvenile cases 2017 = 340 days Land Court - 2017 = 1185 days Court of Common Pleas – Small Claims 2017 = 54 days Court of Common Pleas – Civil Action 2017 = 61 days Court of Common Pleas – Family Protection Act cases 2017 = 12 days Court of Common Pleas – Citation cases 2017 = 28 days Appellate Division – civil and criminal appeals = 436 days
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Data unavailable	Data unavailable	Court of Appeal 129 days	Atafu 88 days Nukunonu 4 days Fakaofu 60 days	Court of Appeal 110 days Supreme Court average of all cases is 198 days, data collected for 10 types of cases by division of the Supreme Court ranging from 95 days for wedlock cases to 390 days for civil cases. The Court met the time goals it had set itself in both criminal and civil cases. Land Court: 594 days. Magistrates Court: average duration criminal cases: 38 days, civil cases: 87 days, family cases: 29 days, Youth cases: 65 days, infringement case: 46 days.	Data unavailable	Court of Appeal criminal cases 74 days civil cases 109 days Supreme Court: criminal cases 180 days civil cases 800 days Magistrates Court: 346 days for criminal cases civil cases 730 days

Indicator 3 Percentage of Appeals

The result against this indicator is obtained by dividing the number of cases appealed to a higher court by the number of cases finalised in the level of court jurisdiction from which the appeal is made.

What has changed?

Change 1



Year 1 baseline trend data: 8 courts could calculate the percentage of appeals from one or more jurisdictions.

Year 4 trend data: 12 courts could calculate the percentage of appeals from one or more jurisdictions.

Year 7 trend data: 9 courts could calculate the percentage of appeals from one or more jurisdictions.

Change 2

In Year 1: no court presented trends over 3–5 years of how the percentage of appeals had changed.

In Year 7: Kiribati, Niue, the Republic of the Marshall Islands and Tonga presented trends over 3-5 years of how the percentage of appeals had changed.

This allows judicial stakeholders and the public to see if length of time that a case is taking is improving or not and provide reasons for these trend changes.

Change 3

Over time, courts are presenting greater detail on the percentage of appeals by the type of case (e.g. criminal, civil, family, juvenile) and by the level of court (Supreme Court, District/Magistrates Court or Land Court). The 2017 Annual Report of the Supreme Court of Tonga presents an excellent example of this move to greater disaggregation in the presentation of data on the percentage of appeals (see Table E).

Change 4

Some PJSI partner courts have set court performance goals in relation to the percentage of appeals since the Baseline Trend Report. The Supreme Court of Tonga presents in its 2017 Annual Report that:

In the Ministry of Justice's Annual Management Plan the target for this indicator is that the percentage of appeals not exceeds 2% of all cases finalised in the Supreme Court. There is a trend of fewer appeals from decisions of the Supreme Court.

Table E Percentage of cases appealed by Division of the Supreme Court in 2017
(Source: 2017 Annual Report for the Superior Courts of Tonga)

Division	Total Cases Finalised	No. of Cases Appealed	No. of Cases Not Appealed	% of Cases Appealed	% of Cases Not Appealed
Criminal	127	2	125	2%	98%
Civil	68	7	61	10%	90%
Criminal Appeal	14	0	61	0%	100%
Civil Appeal	9	1	8	11%	89%
Divorce	234	0	234	0%	100%
Adoption	105	0	105	0%	100%
Legal Guardianship	82	0	82	0%	100%
Wedlock	101	0	101	0%	100%
Custody	5	0	5	0%	100%
Estate Administration	50	0	50	0%	100%
TOTAL	795	10	785	1%	99%

The percentage of appeals – 2011 Baseline Report

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Data unavailable	Data unavailable	Data unavailable	High Court 1% (2010). District Court 0%	Supreme Court Data unavailable Magistrates Court Data unavailable	0.43%	Court of Common Pleas 0%
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Supreme Court 6% (2007)	Data unavailable	High Court High Court 2%	Data unavailable	Supreme Court 4% (2010) Magistrates Court 0.002% (2010)	0.005	Supreme Court 7%
Magistrates Court Data unavailable						Appeal Court Data unavailable Island Court Data unavailable

The percentage of appeals – Year 7 Trend Data

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Data unavailable	16% of Supreme Court first instance decisions are appealed	4% of High Court decisions appealed and 4% of Magistrates Court decisions appealed.	2% of High Court 2017 civil decisions were appealed and 0% of High Court probate, criminal and juvenile 2017 decisions were appealed. No district court 2017 decisions were the subject of an appeal.	Data unavailable	6% of High Court decisions appealed	4% of Trial Decisions were appealed in the Supreme Court .
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Data unavailable	Data unavailable	7% of High Court decisions appealed 1% of Magistrates Court decisions appealed	0% of Law Commission decisions appealed	1% of Supreme Court cases were the subject of an appeal to the Court of Appeal. Appeal rates for 10 separate divisions of the Supreme Court are provided with a range of appeal rates from 0%-11%. 27% of Land Court cases were the subject of an appeal to the Court of Appeal. Magistrates Court : less than 1%: 9 criminal cases and 8 civil cases appealed to the Supreme Court.	Data unavailable	9% of Supreme Court decisions were the subject of an appeal to the Court of Appeal. 2% of Magistrates Court decisions were the subject of an appeal to the Supreme Court

Indicator 4 | Overturn Rate on Appeal

The result against this indicator is obtained by dividing the number of appeal cases in which the lower court decision is overturned in whole or in part by the total number of appeals.

What has changed?

Change 1



Year 1 baseline trend data: 3 courts could calculate an overturn rate on appeal for one or more jurisdictions.

Year 4 trend data: 11 courts could calculate an overturn rate on appeal for one or more jurisdictions.

Year 7 trend data: 8 courts could calculate an overturn rate on appeal for one or more jurisdictions.

Change 2

In Year 1: no court presented trends over 3-5 years on the overturn rate on appeal.

In Year 7: Five courts presented trends over 3-5 years on the overturn rate on appeal (Federated States of Micronesia, Kiribati, Niue, the Republic of the Marshall Islands and Tonga).

This allows judicial leadership, court stakeholders and the public to see whether the percentage of the original court decisions affirmed or overturned on appeal is changing or not and provide reasons for these trend changes. Court leadership can implement appropriate judicial education programmes if there is a significant percentage of first instance decisions being overturned on appeal.

Tonga is one of the few PJSI partner courts to show trends over the previous three years in the rate at which cases are overturned on appeal. The 2017 Annual Report for the Superior Courts of Tonga states that:

It will be observed that in the two previous reporting periods the percentages of cases overturned on appeal had remained steady at 34% but in this reporting period it has reduced to 29%.

Overturn rate on appeal – 2011 Baseline Report

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Data unavailable	Data unavailable	Data unavailable	High Court 0% District Court 0% Data collected but no appeals in 2010	Supreme Court Data unavailable Magistrates Court Data unavailable	Data unavailable	Court of Common Pleas 0% (2010) Data collected but no appeals in 2010
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Supreme Court Data not presented in 2007 Magistrates Court Data unavailable	Data unavailable	Data unavailable	Data unavailable	Supreme Court Data unavailable Magistrates Court Data unavailable	100%	Supreme Court Statistics not recorded Appeal Court Data unavailable Island Court Data unavailable

Overturn rate on appeal – Year 7 Trend Data

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Of the six matters that were the subject of an appeal to the Court of Appeal , in 3 matters (50%) the appeal was dismissed and in 3 matters (50%) the appeal was allowed in whole or in part.	Supreme Court: 0% of cases that were the subject of an appeal were overturned on appeal.	High Court: 2 of the 14 High Court decisions that were the subject of an appeal (14%) were overturned on appeal. Magistrates Court: 1 of the 253 Magistrates Court decisions that were the subject of an appeal (less than 1%) were overturned on appeal.	High Court 0% of civil cases that were the subject of an appeal in 2017 were overturned on appeal.	Data unavailable	Data unavailable	In 2017 there were 40 cases disposed by the Appellate Division and of these cases: <ul style="list-style-type: none"> • 25 or 63% of the original court decisions were affirmed • 7 or 17% of the original court decision were affirmed in part and overturned in part • 8 or 20% of the original court decision were overturned
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Data unavailable	Data unavailable	Data unavailable	0%	Of the 10 Supreme Court cases appealed to the Court of Appeal, 29% were overturned on appeal or were successful. Of the 12 Land Court cases appealed to the Court of Appeal, 25% were overturned on appeal or were successful. Of the 14 Magistrates Court cases appealed to the Supreme Court, 71% were overturned on appeal or were successful.	Data unavailable	Of the 56 Supreme Court cases appealed to the Court of Appeal 16 (29%) were allowed. The Annual Report does not include overturn rates on appeal for any other court.

Indicator 5 Percentage of Cases that are Granted a Court Fee Waiver

The result against this indicator is obtained by dividing the number of cases that are granted a court fee waiver by the total number of cases filed.

What has changed?

Change 1



Year 1 baseline trend data: 3 courts could present data on the percentage of civil cases that were granted a court fee waiver for one or more jurisdictions.

Year 4 trend data: 12 courts could present data on the percentage of civil cases that were granted a court fee waiver for one or more jurisdictions.

Year 7 trend data: 12 courts could present data on the percentage of civil cases that were granted a court fee waiver for one or more jurisdictions.

Change 2

More Court Annual Reports Include Court Fee Waiver Data

Most of the fourteen PJSI countries have had a basic needs poverty line calculated for their country. On average, a quarter of the population in each of these PJSI countries has an income that falls below the basic needs poverty line for their country. There is a growing awareness in PJSI courts that it is important to advertise the availability of court fee waivers for client's facing poverty who need to bring certain civil cases to the courts. The 2017 Annual Report of the Republic of the Marshall Islands states that:

By rule and statute, fee waivers are available upon a showing of need. In 2017, the High Court continued to aggressively publish fee waiver rules, however, no one requested a fee waiver in a High Court civil case.

The filing fee for most types of High Court civil cases remained low: only \$25. And in 2016, the filing fee for child custody and support cases (usually filed by single mothers) was reduced from \$25 to \$5. To off-set the low fees for most users, fees for admiralty cases, enforcement of foreign judgments, non-resident corporate cases, international adoptions, and citizenship cases are substantially higher. Although, by rule and statute, fee waivers are available upon a showing of need, plaintiffs did not request a fee waiver in any of the 2017 District Court small claims cases. The filing fee for small claims cases remains low at only \$5 dollars.

The 2018 Annual Report for the Superior Courts of Tonga states that:

There is presently no statutory authority to grant fee waivers. There were no applications for fee waivers in this reporting period.

The fact that no applications were made for fee waivers should not be thought to indicate that there is no need for fee waivers. It is likely that no applications are made because it is understood that they cannot or will not be granted. There are certainly cases of hardship where fee waivers should be given and also good reasons why there should be a no fees regime in certain types of cases.

There is a proposal to amend the Court Fees Act to make Court fees more equitable, increase access to justice for disadvantaged persons and to allow the Lord Chief Justice to grant fee waivers in the exercise of his discretion. It is understood the proposals are presently with the Ministry of Justice and have been for some time. The introduction of a new fee regime should be pursued as a matter of urgency.

Percentage of cases that are granted a court fee waiver – 2011 Baseline Report

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Data unavailable	Data unavailable	Data unavailable	Data unavailable	Supreme Court Data unavailable Magistrates Court Data unavailable	Data unavailable	Court of Common Pleas 0% (2010)
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Supreme Court Data unavailable Magistrates Court Data unavailable	Data unavailable	Appeal Court Data unavailable Supreme Court Data unavailable Magistrates Court Data unavailable	100%	Supreme Court Data unavailable Magistrates Court Data unavailable	Magistrates Court 0% (2010)	Data unavailable

Percentage of cases that are granted a court fee waiver – Year 7 Trend Data

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
0% The High Court does not have a formal Court fee waiver policy	100% There are no fees for cases in the Supreme Court (except in bankruptcy matters).	Court of Appeal: in 14% of cases the court fee was waived.	0% In 2017, no applicant in a civil matter requested a waiver of the court fee.	Data unavailable	0%	0%
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
National Court: All cases in the Human Rights track are filed without a court fee. These cases comprised 6 % of cases filed in the National Court in 2017.	Family Court: no fees charged for an application for a protection order or maintenance. No fee waivers granted in any divorce or adoption matters (0%).	Court of Appeal: 1 fee waiver (2%)	100%	0% There is presently no statutory authority for the Superior Courts to grant fee waivers. There were no applications for fee waivers in this reporting period. The percentage of cases where fee waivers are given is therefore 0%.	Data unavailable	All family protection orders issued by the Magistrates Court had the fee waived: this was 824 cases or 40% of all Magistrates Court cases.

Indicator 7 Percentage of Cases Where a Party Receives Legal Aid

The result against this indicator is obtained by dividing the number of cases where a party receives legal aid by the total number of cases filed.

What has changed?

Change 1



Year 1 baseline trend data: 2 courts could calculate the percentage of cases in which parties receive legal aid.

Year 4 trend data: 8 courts could calculate the percentage of cases in which parties receive legal aid.

Year 7 trend data: 8 courts could calculate the percentage of cases in which parties receive legal aid.

Change 2

Expansion of Services in Family Violence Cases – Tonga Example

Tonga Family Protection Legal Aid Centre

Tonga's new Family Protection Legal Aid Centre (<http://fplac.justice.gov.to/>) opened on 12 March 2018 and in its first year of operation provided support to 304 women, men and their children seeking protection from violence.



The Centre has produced its first Annual Report for 2018 that presents a comprehensive outline of its work including age and sex disaggregated data of the clients that were assisted. Highlights from this 2018 Annual Report include:

- 275 of 304 clients of the Centre (or 91%) were women and girls.
- 108 of 113 clients of the Centre (or 96%) that received assistance for protection orders were women
- 18 of 21 clients (or 86%) who sought assistance with their emergency protection orders (EPOs) were granted these orders
- 65 of 85 clients (76%) who sought assistance with their temporary protection orders (TPOs) were granted these orders
- 5 of 5 clients (100%) who sought assistance with their final protection orders (FPOs) were granted these orders (one case was still pending)
- 31 other civil applications for writs of distress, restraining orders, affiliation orders, and permanent maintenance were filed in the Magistrate Civil and Criminal Court respectively during the reporting period. 3 applications were withdrawn and 24 of the remaining 28 applications (or 86%) were granted.
- 13 applications to the Supreme Court were made during this reporting period in family law related matters.
- Data on the number of referrals from and to other social service providers in Tonga.
- Information on a significant communications and outreach campaign.

Percentage of cases where a party receives legal aid – 2011 Baseline Report

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Data unavailable	Data unavailable	Data unavailable	High Court 59% (2010) In 84% of criminal cases and 100% of juvenile criminal cases the defendant received legal aid (2010)	Supreme Court Data unavailable Magistrates Court Data unavailable	Data unavailable	Data unavailable
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Supreme Court Data unavailable Magistrates Court Data unavailable	Supreme Court Data unavailable Magistrates Court Data unavailable	Appeal Court Data unavailable Supreme Court Data unavailable Magistrates Court Data unavailable	0% of parties receive legal aid (parties represent themselves)	Supreme Court Data unavailable Magistrates Court Data unavailable	Data unavailable	Data unavailable

Percentage of cases where a party receives legal aid – Year 7 Trend Data

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Data unavailable	In 2018 16% of parties before the Supreme Court received legal aid.	High Court In 1% of civil matters filed in 2014, one or more parties received legal aid.	High Court: In 71% of civil matters and 40% of probate matters one or more parties received free legal aid. 100% of all criminal defendants, including juvenile defendants, appearing before the court received free legal aid. District Court: 16% of parties in traffic matters, 2% of parties in criminal matters, including juvenile offenders, and 1% of parties in small claims matters received free legal aid	Data unavailable	0% of parties who brought cases before the High Court Land Division received legal aid.	Supreme Court 212 parties in the 210 criminal cases (100%), and 170 parties in the 349 civil cases (49%), received legal aid through the Public Defenders Office, MLSC or Court appointed counsel.
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Data unavailable	0% of parties appearing in the Family Court or Family Violence Court receive legal aid.	Data unavailable	0% There is no provision for legal aid	0% There is no provision for legal aid	Data unavailable	Data unavailable

Indicator 8 Documented Process for Receiving and Processing a Complaint That is Publicly Available

To show results against this indicator a documented process for receiving and processing a complaint should be accessible to the public.

What has changed?

Change 1



Year 1 baseline trend data: 3 courts had a documented process for receiving and processing a complaint that is publicly available.

Year 4 trend data: 6 courts had a documented process for receiving and processing a complaint that is publicly available.

Year 7 trend data: 7 courts had a documented process for receiving and processing a complaint that is publicly available.

Change 2

Improved Trend Data

Year 1 baseline trend data: no court presented trends over 3-5 years of complaints received in relation to judicial officers.

Year 7 trend data: Kiribati, the Republic of the Marshall Islands and the Republic of Palau presented trends over 3-5 years of complaints received in relation to judicial officers.

This allows the judicial leadership, court stakeholders and the public to see the number of complaints made in a year against judicial officers as a percentage of all the cases heard each year and whether this changes over time. It also allows the courts to explain how these complaints are handled. The judiciary of Palau presented four years trend data on complaints received against its judicial officers in its 2017 Annual Report.

VIII. Accountability: Code of Conduct and Complaints

The Judiciary's Code of Judicial Conduct was promulgated on March 1, 2011 by the Palau Supreme Court and amended on March 9, 2011. A copy of the Judicial Code of Conduct can be retrieved from the Palau Judiciary website: <http://www.palausupremecourt.net>, *Rules & Other Publications, Judicial Code of Conduct*.

Year	Total Cases Filed(all Case Types)	Complaints against *JOs	Cases where no Complaint made against *JOs	Cases where Complaint made against *JOs
2014	1983	2	99.90%	0.10%
2015	2002	2	99.90%	0.10%
2016	1827	0	100.00%	0.00%
2017	3115	0	100.00%	0.00%

*JO – Judicial Officers – Judges

There were no cases filed against a judicial officer in 2017.

There were 2 complaints made against Judiciary staff in 2017. Cases were filed against the court employee involved and were later dismissed for lack of jurisdiction.

Change 3

Greater Transparency of Outcomes

The PNG 2016 Report of the Judges presented for the first time details on how each of the 52 complaints received were handled (see below).

18.18 JUDICIARY COMPLAINTS PROCEDURE

2016 Annual statistical Report

NATIONAL JUDICIARY SERVICES – JUDICIAL COMPLAINTS PROCESS – REPORT 2016

Year	Total Complaints	Staff Category	Complaint type	Number of Complaints	Investigated or not investigated	Allowed or dismissed by JCC Secretariat	Allowed or dismissed by JCC	Dismissed or allowed by Disciplinary Authority (Chief Justice, Secretary (NJSS) – NJSS, Registrar)	Final Outcome by internal Disciplinary Authority (Chief Justice, Secretary – NJSS, Registrar)	Outcome by referred External Disciplinary Authority (eg: JLSC, Police, OC or NEC)
2016										
	52 Total Complaints (including 4 complaints carry over from 2015)	JUDICIAL 18 complaints	Delayed judgement	6	Only 5 investigated	3 dismissed by JCC Secretariat as complaints forms not properly filled and not properly particularised	Allowed 3 Dismissed 2 as decisions were delivered	Allowed by Chief Justice 3	Respective Judges delivered judgements upon receiving letters from Chief Justice	Complaints
			Dubious circumstance in acquiring land	1	Not investigated	Submitted to JCC	Dismissed by JCC as it was outside JCC's jurisdiction to deal with it.			

Documented process for receiving and processing a complaint that is publicly available –
2011 Baseline Report

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Data unavailable	Data unavailable	Complaints Handling Process included in the new Judicial Code of Conduct	Accountability section in the RMI Code of Judicial Conduct applies to all courts	Supreme Court Data unavailable Magistrates Court Data unavailable	A Complaints Handling Ombudsman Backed Service was implemented in February 2010 and applies to court staff, but not judicial officers	The Republic of Palau Code of Judicial Conduct 2011 was promulgated by the Palau Supreme Court March 1, 2011, and amended March 9, 2011, and is available on the Palau Judiciary website Part 7 of the Code deals with complaints against judges
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Supreme and Magistrates Court There is not a policy for receiving and processing a complaint that is publicly available	Data unavailable	High Court Data unavailable	Data unavailable	Supreme Court Data unavailable Magistrates Court Data unavailable	The court does not have such a policy for receiving and processing complaints	Supreme Court No document exists Appeal Court Data unavailable Island Court Data unavailable

Documented process for receiving and processing a complaint that is publicly available – Year 7 Trend Data

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
The existing procedures of the Court to address complaints against Judges and Justices of the Peace have been reduced to writing in the 2011-2012 Annual Report.	The Annual Report mentioned that two General Court Orders were promulgated in 2017 on: <ul style="list-style-type: none"> the Code of Judicial Conduct for the Supreme Court of the Federated States of Micronesia. Code of Ethics for the Employees of the Supreme Court of the Federated States of Micronesia. 	Complaints Handling Process included in the new Judicial Code of Conduct	Complaints handling process included in the accountability section of the RMI Code of Judicial Conduct	Data unavailable	There is no complaint handling process for Judicial Officers. There is a complaint handling process that is applied to the public servants working in the Niue High Court .	Part 7 of the Republic of Palau Judicial Code of Conduct deals with complaints against judges
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Complaints handling process included in the new Judiciary Complaints Procedure (March 2014) covering both judicial officers and court staff. A summary of proceedings before the Committee in 2017 appears in the Annual Report.	There is no complaint handling process for Judicial Officers. There is a complaint handling process that is applied to the public servants working in the Court under the Public Services Act 2004.	There is no complaint handling process for Judicial Officers. The new Ombudsman Act 2017 allows complaints to be made in relation to the administrative conduct of public servants.	At present, there is no established complaint handling mechanism for the Tokelau Judiciary	There are documented processes for handling complaints against Judicial Officers. Formal complaints are made to the Judicial Appointments and Discipline Panel. The procedures by which such complaints are handled are set out in the Discipline Procedure Order 2017.	Data unavailable	A Complaint Procedure has been drafted and consultations with judicial officers have been undertaken, however it is yet to be officially launched.

Indicator 13 Court produces or contributes to an Annual Report that is publicly available in the following year

This indicator is demonstrated through the publication of an annual report in the year immediately following the year that is the subject of the annual report.

What has changed?

Change 1



Year 1 baseline trend data: 1 court published an Annual Report that was accessible to the public online in the following years.

Year 4 trend data: 10 courts published an Annual Report that was accessible to the public online in the following year.

Year 7 trend data: 6 courts published an Annual Report that was accessible to the public online in the following year.

Change 2

The depth and quality of court performance reporting has improved significantly since the PJDP Baseline Report with more PJSI partner courts using the tools developed over the last eight years to show trends against the 15 Cook Island Indicators on court performance.

Does not produce an annual report for the previous year

Annual report is publicly available for the previous year

Court produces an Annual Report but it is not clear how the public can access it/or there is not an Annual Report for the previous reporting period

Court produces or contributes to an Annual Report that is publicly available for the previous year – 2011 Baseline Report

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Online No Hardcopy Yes (2008)	Online No Hardcopy No	Online No Hardcopy Chief Justice of Kiribati presents a speech containing court performance data at the start of the Legal Year. It is not clear how the public who do not attend this event would otherwise access this information	Online Yes (2010) Hardcopy Yes (2010)	Online Yes (2009–2010) Hardcopy Yes (2009–2010)	Online Yes (2009–2010) Hardcopy Yes (2009–2010)	Online No Hardcopy Yes (2010) Performance Report to Parliament occurs, but the public has to request the document as it is not referred to on the Palau judiciary website or noticeboard
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Supreme Court Online No Hardcopy Yes (2007) Magistrates Court Online No Hardcopy Yes (1982)	Online No Hardcopy Yes (2009)	Online Yes (2009) Hardcopy Yes (2009)	Online No Hardcopy No	Online No Hardcopy Yes (2010)	Online No Hardcopy No	Online Yes (2009) Hardcopy Yes (2010)

Court produces or contributes to an Annual Report that is publicly available for the previous year – Year 7 Trend Data

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
2016-2017 Annual Report is finalised but is not published on the government or PacLII websites	2018 Annual Report is available on the FSM Court website http://fmsupremecourt.org/	The 2012-2014 Annual Report is available on PacLII.	2017 Annual Report available online	The 2016-2017 Annual Report is not published on PacLII	2018 Annual Report published and available on Court and PacLII websites	2018 Annual Report published and available on Court and PacLII websites
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
2017 Annual Report is not available on PacLII or the PNG National and Supreme Court website.	2016-2017 MJCA Annual Report is published but not available online	The 2012-2014 Annual Report is not published on PacLII.	The 2016-2018 Annual Report is being finalised to be presented to the July 2019 Parliament Meeting	2017 Annual Report is on PacLII.	No Annual Report for the last Reporting Period	2018 Annual Report published and available on Court and PacLII websites

Annex

Cook Island Indicators

**Indicator 1: Clearance Rate**

The result against this indicator is obtained by dividing all cases finalised in a year by cases filed.

**Indicator 2: Average Duration of a Case**

The result against this indicator is obtained by totalling the days for each case from the date the case is filed to the date it is finalised and then dividing this by the number of cases finalised.

**Indicator 3: Percentage of Appeals**

The result against this indicator is obtained by dividing the number of cases appealed to a higher court by the number of cases finalised in the level of court jurisdiction from which the appeal is made.

**Indicator 4: Overturn Rate on Appeal**

The result against this indicator is obtained by dividing the number of appeal cases in which the lower court decision is overturned in whole or in part by the total number of appeals.

**Indicator 5: Percentage of Cases that are Granted a Court Fee Waiver**

The result against this indicator is obtained by dividing the number of cases that are granted a court fee waiver by the total number of cases filed.

**Indicator 6: Percentage of Cases Disposed Through a Circuit Court**

The result against this indicator is obtained by dividing the number of cases finalised through a circuit court by the total number of cases finalised.

**Indicator 7: Percentage of Cases Where a Party Receives Legal Aid**

The result against this indicator is obtained by dividing the number of cases where a party receives legal aid by the total number of cases filed.



Indicator 8: Documented Process for Receiving and Processing a Complaint That is Publicly Available

To show results against this indicator a documented process for receiving and processing a complaint should be accessible to the public.



Indicator 9: Percentage of Complaints Received Concerning a Judicial Officer

The result against this indicator is obtained by dividing the number of complaints received concerning a judicial officer by the total number of cases filed.



Indicator 10: Percentage of Complaints Received Concerning a Court Staff Member

The result against this indicator is obtained by dividing the number of complaints received concerning a court staff member by the total number of cases filed.



Indicator 11: Average Number of Cases Per Judicial Officer

The result against this indicator is obtained by dividing the total number of cases filed by the number of judicial officers.



Indicator 12: Average Number of Cases Per Member of Court Staff

The result against this indicator is obtained by dividing the total number of cases filed by the number of court staff.



Indicator 13: Court produces or contributes to an Annual Report that is publicly available in the following year

This indicator is demonstrated through the publication of an annual report in the year immediately following the year that is the subject of the annual report.



Indicator 14: Court Services Information

Information on court services that is publicly available.



Indicator 15: Publication of Judgments

Court publishes judgments on the Internet (through PacLII or their own website).







2018 Court Trend Report

www.fedcourt.gov.au/pjsi

