

COMMISSIONER
FOR UNIFORM LEGAL
SERVICES REGULATION

LSC LEGAL
SERVICES
COUNCIL

ANNUAL REPORTS
2017/2018

LEGAL PROFESSION
Uniform Law

INTRODUCTION

The Legal Services Council is an inter-governmental statutory corporation created by the Legal Profession Uniform Law, applied in Victoria (Vic) and New South Wales (NSW) by the *Legal Profession Uniform Law Application Act 2014* (Vic) and the *Legal Profession Uniform Law Application Act 2014* (NSW). The intention of the Parliaments of each State is that one single Council and one single Office of Commissioner is created for all.

This publication contains the Annual Reports of both the Legal Services Council and the Commissioner for Uniform Legal Services Regulation for 2017-2018. The reports are prepared and submitted in accordance with clause 26 of Schedule 1 and clause 10 of Schedule 2 to the Legal Profession Uniform Law as in force in each participating State. All references to legislation in this report should be understood to refer to the Legal Profession Uniform Law, also referred to as the Uniform Law, unless otherwise indicated.

The Uniform Law commenced on 1 July 2015 in both Victoria and NSW. The inaugural Commissioner for Uniform Legal Services Regulation, Dale Boucher, and the members of the Council were appointed in September and October 2014 respectively and the Commissioner was reappointed in September 2015 for a further two years. The new Commissioner, Megan Pitt, commenced in the dual roles in October 2017 and will serve for five years.

Copies of this Annual Report are publicly available at www.legalservicescouncil.org.au or by contacting the Legal Services Council by telephone on (02) 9692 1300, in writing to PO Box H326, Australia Square, Sydney, NSW 2000 or by email to lsc@legalservicescouncil.org.au.

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5 September 2018

The Hon Mark Speakman SC MP
Attorney General of New South Wales
GPO Box 5341
SYDNEY NSW 2001

The Hon Martin Pakula MP
Attorney-General of Victoria
Level 26, 121 Exhibition Street
MELBOURNE VIC 3000

Dear Attorney-General,

Annual Report of the Legal Services Council for 2017-2018
Annual Report of the Commissioner for Uniform Legal Services Regulation for 2017-2018

I am pleased to submit the Annual Report of the Legal Services Council for 2017-2018 in accordance with Schedule 1 clause 26 to the *Legal Profession Uniform Law*.

I am also pleased to provide the Annual Report of the Commissioner for Uniform Legal Services Regulation for 2017-2018 prepared in accordance with Schedule 2 clause 10 of the *Legal Profession Uniform Law*. This is included in the same volume as the Council's report.

The financial statements of the Council encompass the Office of the Commissioner, consolidated as one entity and have been prepared in accordance with Australian Accounting Standards. The statements have been audited and a report provided by the Auditor is also included.

Yours sincerely,

M. Black

The Hon Michael Black AC QC
Chair
Legal Services Council

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GLOSSARY

ABA: the Australian Bar Association.

Admissions Committee: an Admissions Committee established by the Council develops Admission Rules for the legal profession and advises the Council on admissions policy.

ASCRs: Australian Solicitors' Conduct Rules.

Australian lawyer: a person admitted to the Australian legal profession in Victoria or NSW or in any other jurisdiction.

Australian legal practitioner: an Australian lawyer who holds a current Australian practising certificate. A legal practitioner could be a solicitor or a barrister.

Australian-registered foreign lawyer: a person who has overseas legal qualifications and is registered to practise foreign law in Australia.

AustLII: the Australasian Legal Information Institute.

ATO: Australian Taxation Office.

AVO: Apprehended Violence Order.

BFA: Binding Financial Agreement.

CAANZ: Chartered Accountants Australia and New Zealand.

Chapter 5: Chapter 5 of the Uniform Law details how complaints made about legal practitioners are resolved and how legal practitioners are disciplined.

COAG: the Council of Australian Governments.

Council and Legal Services Council: these references relate to the five member body, including the Chair who are members of the statutory body called the Legal Services Council.

References to the Legal Services Council are also collective references to the roles, responsibilities and work, collaboratively performed by the Council, the Chair, the CEO and the Secretariat.

Commissioner: Commissioner for Uniform Legal Services Regulation.

DLRA: Designated Local Regulatory Authority.

IELTS: the International English Language Testing System.

IGA/Inter-Governmental Agreement: Bilateral Agreement on the Legal Profession Uniform Framework between the State of New South Wales and the State of Victoria.

IPA: Institute of Public Accountants.

Law practice: includes sole practitioners, traditional law firm structures, community legal services and incorporated and unincorporated legal practices.

LACC: Law Admissions Consultative Committee, a committee of the Council of Chief Justices of Australia and New Zealand.

LCA: the Law Council of Australia.

Legal costs: the amount a person has been or may be charged by or become liable to pay a law practice for legal services, including disbursements (or other costs) but not including interest.

Legal Profession Uniform Framework: the legislative framework for regulation of the legal profession, including the Legal Profession Uniform Law, Uniform Rules and Uniform Regulations.

Legal Profession Uniform Law: Legal Profession Uniform Law applied in Victoria by the *Legal Profession Uniform Law Application Act 2014 (Vic)* and *Legal Profession Uniform Application Act 2014 (NSW)*.

LIV: the Law Institute of Victoria.

LPAB: Legal Profession Admission Board (NSW).

LSC: Legal Services Council.

LSNSW: the Law Society of New South Wales.

MIS: Managed Investment Scheme/s.

NCAT: NSW Civil and Administrative Tribunal.

NSWBA: the NSW Bar Association.

OLSC: Office of the Legal Services Commissioner, NSW.

PEXA: Property Exchange Australia.

PCO: Parliamentary Counsel's Office.

PILPS: partnerships of incorporated legal practices.

Pro bono work: legal services performed by a legal practitioner either without charge or at a reduced fee for clients who are unable to pay the usual fee.

PLT: practical legal training.

Trust money: money entrusted to the law practice to hold on behalf of somebody else in the course of or in connection with the law practice providing legal services.

UL: Uniform Law.

Uniform Law: the Legal Profession Uniform Law applied in each participating jurisdiction.

VCAT: Victorian Civil and Administrative Tribunal.

VLAB: Victorian Legal Admissions Board.

VPN: Virtual Private Network.

VLSB: Victorian Legal Services Board.

VLSB+C: Victorian Legal Services Board and Commissioner.

VLSC: the Victorian Legal Services Commissioner.

CHAIR'S REPORT



This has been another year of solid progress and consolidation by the Legal Services Council.

I am pleased to report that, over the course of the year, the Council and its Secretariat have continued to engage closely with the regulatory bodies of the legal profession in New South Wales and Victoria. Engagement of this nature is fundamental to the sound administration and development of the Legal Profession Uniform Law and a notable feature of the Council's work this year has been the extension of that engagement to the regulator of the legal profession in Western Australia.

During the year, in anticipation of the possible adoption by Western Australia of the Uniform Law, an invitation was extended by the Council to the then Solicitor General of Western Australia, Mr Peter Quinlan SC, to attend its meetings as an observer. The Council was very pleased that Mr Quinlan was able to accept its invitation and attended meetings whenever possible. The Council has valued Mr Quinlan's involvement in bringing Western Australia's perspective about issues we discuss.

The importance of the Legal Profession Uniform Law, conceived some years ago as a national economic reform, has become increasingly evident as the growth of e-services and other aspects of e-commerce extend access to legal services and diminish the importance and even the apparent relevance, of national and international boundaries in those fields.

An internet search readily reveals that a large and growing range of online legal services is available from or through sites across Australia and elsewhere. Some of these services already offer assistance through the medium of artificial intelligence – a field that is rapidly evolving in the law as it is in other disciplines. For example, a site operated by a law firm out of an office in the rural outskirts of Darwin and accessible from anywhere with an internet connection claims that its “artificially intelligent legal information research assistant” is “the first in the world of [its] type”. There should be no reason to doubt the enthusiasm or capacity of Australians for continued innovation in “borderless technologies” which impact upon the delivery of legal services and those who use them.

These technologies impact upon individual practitioners who provide legal services, facilitating the opportunities or, depending on viewpoint, the burdens of the so-called gig economy. This rapid growth in borderless legal services also presents challenges for state and territory based legal regulators and for consumer protection.

The case for the Uniform Law as a needed reform was strong when the law came into operation three years ago, and has become stronger still. Our Secretariat keeps itself and the Council well informed about the rapid changes being brought about by the impact of developing technologies on legal practice.

On 30 September 2017, our foundation Chief Executive Officer and Commissioner for Uniform Legal Services, Mr Dale Boucher PSM retired. On behalf of the Council, I express my thanks to Mr Boucher for his excellent work in establishing the Secretariat, having everything in place and functioning for the commencement of the Council's operations on 1 July 2015 and for his work and leadership as CEO and Commissioner over the following two years.

The Council's new CEO and Commissioner, Ms Megan Pitt, took office on 3 October 2017. It has been a great pleasure working with Ms Pitt in these capacities. As a legal practitioner and practice manager at a national level in her previous office as the Sydney Director of the Australian Government Solicitor's Office, Ms Pitt has brought a wealth of knowledge of government law, legal practice management and client focus to her new roles.

I would like to acknowledge the excellent support that we continue to receive from the Attorneys-General of Victoria and New South Wales and their respective departments, from the Law Council of Australia and the Australian Bar Association and from the local regulatory authorities in New South Wales and Victoria. In particular, the Legal Services Commissioners of both states have given valuable assistance to the Council, and their cooperation with it and with each other has demonstrated another of the merits of the Uniform Law system.

Finally, I wish to express the Council's thanks to the members of our small and hardworking Secretariat for their excellent and innovative work during the year. I also express the Council's thanks to its Admissions Committee, chaired by the Hon Acting Justice Emmett AO, and particularly to its outgoing member, the Hon Justice Richard White. The Council welcomes the incoming member of the Admissions Committee, the Hon Justice of Appeal Ruth McColl AO.

The Hon Michael Black AC QC
Chair
5 September 2018

CEO'S REPORT

I am pleased to present the Legal Services Council's Annual Report for 2017-2018.

I was appointed as Chief Executive Officer of the Legal Services Council (LSC) and Commissioner for Uniform Legal Services Regulation in October 2017. Together with the Chair, I would like to thank the inaugural CEO and Commissioner, Dale Boucher, and acknowledge his generous handover which allowed for a smooth, seamless transfer of leadership following his three year term.

I have also been greatly assisted by the five members of our Secretariat, representatives of the Department of Justice in NSW and the Department of Justice and Regulation in Victoria, and colleagues from the Designated Local Regulatory Authorities (DLRAs) with whom I liaise regularly. Thank you also to the professional associations and the legal profession in general for your warm welcome.

During this year, discussions aimed at further unifying the legal profession under the Legal Profession Uniform Law continued. As the Chair reported, we have been in positive discussions with Western Australia to explore issues relevant to joining the Uniform Law.

Over the last nine months, I have actively engaged with our stakeholders to listen to and learn about their perspectives on the Uniform Law scheme, and better understand the impact of regulatory issues on their operations and practices. The positive working relationships and open communication channels that we have developed with our stakeholders are critical to ensuring that the Council is across current and emerging issues, and that the Uniform Law remains a responsive and effective regulatory regime.

The year in brief

This year we have progressed several projects identified in the **Charter Letter from the Standing Committee** of the Attorneys-General of Victoria and NSW.

- **Reviewing Managed Investment Schemes (MIS)** was a priority task on the Charter Letter that the LSC completed this year. Following consultation and advice from an independent consultant, LSC recommended an amendment to section 258 which was approved by the Standing Committee and passed in the Victorian Parliament. The resulting MIS legislation which commenced on 1 July 2018 restricts the involvement of law practices in promoting and operating mortgage practices and other MIS. I acknowledge and greatly appreciate the input and feedback the DLRAs and the legal profession provided us in preparation for this new legislation which includes new Uniform General Rules on MIS.
- We are developing an **Australian Legal Profession Register** aimed at gathering together electronic, public information about registered legal practitioners in all Australian States and Territories. This will be a useful tool for the legal profession, regulators and consumers and we are being ably assisted by the Law Society of NSW as we advance the technical requirements of this project (which will initially cover NSW and Victoria).
- The **Admissions Committee**, under the Chairmanship of the Hon Acting Justice Arthur Emmett AO, met on four occasions. It considered a range of matters including establishing a steering committee for the review of the legislation, rules and conventions relating to the admission of foreign lawyers in the Uniform Law States; and changing the timing of workplace experience to enhance the efficacy of practical legal training (PLT).

Some notable **LSC-driven activities** we progressed during the year include:

- **External Examiners:** The LSC achieved a nationally-consistent approach to the trust account reporting year for External Examiners which came into effect from 1 January 2018. This reporting year was harmonised between the Uniform Law States, requiring the External Examiners' written reports to reach the DLRAs by 31 May each year, unless Uniform General Rule 68 (Final External Examination) applies.
- **Registration of Foreign lawyers:** The LSC has recommended that section 70 of the Uniform Law be amended to permit registered foreign lawyers to practise as in-house counsel in government agencies and corporations.
- **Australian Solicitors' Conduct Rules:** The LSC has worked with the Law Council of Australia in its review of the Australian Solicitors' Conduct Rules (ASCRs). The LSC is expected to consider the ASCRs in November 2018.
- **Review of period of prohibition from practice for former tribunal members:** The LSC advised the Australian Bar Association (ABA) in January 2018 that it authorised public consultation on a proposed amendment to the Legal Profession Uniform Conduct (Barristers) Rules 2015 to maintain the five year ban for judges and reduce the prohibition period to two years for tribunal members. The LSC is expected to consider the new Barristers' Conduct Rule in November 2018.
- **Indexation:** Having considered a consistent approach to indexation in June, the Council is now drafting a proposed new Uniform Rule pursuant to section 471(b) of the Uniform Law for consultation.



These LSC projects would not be successful without the assistance of the DLRAs and stakeholders and I extend my sincere thanks to these organisations and their staff for their thoughtful and valued contributions.

In all of our undertakings it has been a pleasure to work with the Chair of the Legal Services Council, the Hon Michael Black AC QC, and all members of the Council, the Chair of the Admissions Committee, the Hon Acting Justice Arthur Emmett AO and Committee members, the Audit and Risk Committee, chaired by Ms Fiona Bennett and our Secretariat.

A spirit of cooperation and collaboration is clearly evident in the Uniform Law States and demonstrates how much can be achieved through collegiate alliances.

Megan Pitt
Chief Executive Officer
5 September 2018

OUR ORGANISATION

The Legal Services Council and the Commissioner for Uniform Legal Services Regulation oversee the operation of the Uniform Law scheme. The Council is a statutory corporation, which is separate from the Crown and may do what is necessary or convenient to perform its functions.

The Council's objectives under the Uniform Law are to:

- monitor implementation of the Uniform Law to ensure that it is applied consistently;
- ensure the Uniform Law framework remains efficient, targeted and effective, and promotes the maintenance of professional standards; and
- ensure the Uniform Law framework appropriately accounts for the interests and protection of consumers of legal services.

The Council formally makes all the Uniform Rules and, to achieve a consistent approach, can issue guidelines and/or directions to local regulatory authorities, except in relation to complaints and professional discipline (which are matters for the Commissioner).

The current Council has five members, including the Chair, drawn from participating jurisdictions. The members are appointed by the Attorney-General of the host jurisdiction for the Uniform Law - the Attorney-General of Victoria, as follows:

- one member appointed as Chair on the recommendation of the Standing Committee with the concurrence of the Presidents of the Law Council of Australia (LCA) and the Australian Bar Association (ABA);
- two members – one each recommended by the LCA and ABA respectively; and
- two members recommended by the Standing Committee on the basis of their expertise in legal

practice, consumer protection, legal professional regulation or financial management.

Members are appointed for three years and may be reappointed but cannot hold office for a total of more than six years. Council members do not have a representational role in relation to any particular area of expertise or in relation to any particular organisation or jurisdiction.

THE RELATIONSHIP BETWEEN THE COUNCIL AND THE COMMISSIONER, AS CEO OF THE COUNCIL

The person who is appointed as the Commissioner must also exercise the functions of CEO of the Council. However, in a formal sense the Council administers all chapters of the Uniform Law except Chapter 5, and oversees the Commissioner in their exercise of functions under that Chapter.

In practice, the day-to-day operations of the Council are run by the CEO and by the staff of the Secretariat, in consultation with the Chair.

COUNCIL MEETINGS

During the year one circular resolution was adopted, and the Council met six times, alternating between Sydney and Melbourne. The Council used video and teleconferencing when possible to enable participation while containing costs. The generosity of those organisations that shared their facilities free of charge for our LSC meetings is very much appreciated.

OUR VISION AND VALUES



OUR ROLE AND PURPOSE

The LSC seeks to promote the administration of justice and an efficient and effective Australian legal profession by:

- enhancing protection of the interests of clients and the public generally in accessing legal services;
- empowering clients to make informed choices about the services they access and the costs involved;
- ensuring lawyers maintain high ethical and professional standards and promoting compliance with the requirements of the Uniform Law and Rules;
- providing and promoting consistency in the Uniform Law applying to the profession and ensuring consistent and effective implementation of the Uniform Law and Rules;
- promoting regulation of the profession that is efficient, effective, targeted and proportionate; and
- raising awareness of the Uniform Law framework and its objectives.

OUR COUNCIL

LEGAL SERVICES COUNCIL MEMBERS



The Hon Michael Black AC QC Chair
(14 October 2014-13 October 2020)

The Hon Michael Black practised at the bar from 1964 until 1990 when he was appointed Chief Justice of the Federal Court of Australia (1991-2010). At various times whilst at the bar he was a member of the Victorian Bar Council, the Victorian Legal Aid Committee and the Council of the Leo Cussen Institute. He was the foundation Chair of the Victorian Bar's course of instruction for new barristers.

As Chief Justice of the Federal Court, he sat as an appellate judge in all areas of the Court's jurisdiction and was closely involved in the Court's administration and in its reforms to practice and procedure. Mr Black is a former Co-President of the Paris-based International Association of Supreme Administrative Jurisdictions. Since 2012 Mr Black has been the inaugural Chair of the Australian Law Schools Standards Committee, an independent committee established by the Council of Australian Law Deans.



Ms Fiona Bennett Council Member
(14 October 2014-13 October 2020)

Fiona Bennett is a non-executive director of a number of entities including Select Harvests Limited and Hills Limited. She has been a member of the Victorian Legal Services Board since 2008 and Chairperson since 2013. She is Chair of the LSC's Audit and Risk Committee.

Ms Bennett is a Chartered Accountant and has previously held senior executive positions at BHP Billiton Ltd and Coles Group Ltd. Ms Bennett has been the Chief Financial Officer of several organisations in the health sector and is Chair of the Audit Committee of the Department of Education and Training (Victoria) and of the Risk Committee of the Australian Prudential Regulation Authority.



Ms Kim Boettcher Council Member
(14 October 2014-13 October 2020)

Kim Boettcher is a Barrister at Chalfont Chambers in Sydney. She was previously a Solicitor practising in commercial and civil litigation law in England and Wales, NSW and Queensland. From 2010-2017, Ms Boettcher was a Solicitor at the Seniors Rights Service, an independent legal centre in Sydney, which forms part of an Australian network of community legal centres.

Ms Boettcher has attended the United Nations in New York as a civil society delegate and has presented papers at international conferences on compliance with elder rights regulation and its relationship with consumer law and human rights. Ms Boettcher was appointed to the NSW Minister for Fair Trading's Retirement Villages Advisory Council in 2013 and also to the Minister's Expert Committee on Retirement Villages Standard Contract Terms and Disclosure Documents in 2011. She is also Treasurer of the International Commission of Jurists Australia and a member of the NSW Bar Association.



Mr Steven Stevens Council Member
(14 October 2014-13 October 2020)

Steven Stevens is a tax practitioner and Principal of Stenas Legal in Melbourne. He was appointed to the Legal Services Council in October 2014. He is also a member of the Victorian Legal Services Board, elected as a legal practitioner representative in July 2013 and re-elected for a further four-year term from July 2014 to 30 June 2018. Mr Stevens practised as an economist before being admitted to legal practice in 1988.

Between 1993 and 2011, Mr Stevens was a tax partner at Herbert Smith Freehills. In addition, he has held a number of positions within the legal profession, including President of the Law Institute of Victoria (2010) and Director of the Law Council of Australia (2010-2011). He is currently the Chair of the Professional Ethics Committee of the Law Council of Australia and a member and former Co-Chair of the Professional Ethics Committee of the International Bar Association. Mr Stevens has represented the profession on a number of external bodies, including Australian Taxation Office consultative bodies and the Australasian Institute of Judicial Administration.



Mr Bret Walker SC Council Member
(14 October 2014-13 October 2020)

Bret Walker is a barrister at Fifth Floor St James' Hall in Sydney. He was admitted to the NSW Bar in 1979 and was appointed Senior Counsel in 1993 and Queen's Council in WA in 1994. Mr Walker has held several senior positions including President of the NSW Bar Association (2001-2003), President of the Law Council of Australia (1997-1998), and Governor of the Law Foundation of NSW (1996-2007).

Mr Walker was Australia's first Independent National Security Legislation Monitor from 2011 to 2014. Mr Walker prepared the 1993 NSW Barristers' Rules which provided the basis for the Uniform Rules relating to advocacy. He is a member of the National Criminal Law Committee of the Law Council of Australia.

THE COMMISSIONER

The Commissioner for Uniform Legal Services Regulation, Dale Boucher (until 30 September 2017) and Megan Pitt (from 3 October 2017), is responsible for raising awareness of and promoting compliance with the Uniform Law and Rules and is the Chief Executive Officer of the Council. The Commissioner also monitors and reviews the dispute resolution and professional discipline functions set out in Chapter 5 of the Uniform Law.

The Commissioner can issue guidelines and directions to local regulatory authorities concerning the exercise of their complaints and professional discipline functions, in order to ensure consistency across participating jurisdictions.

The Commissioner's Report can be found at page 58.

THE CHIEF EXECUTIVE OFFICER

The Commissioner, as CEO, manages the day-to-day affairs of the Council in accordance with the policies and directions of the Council.

As a lawyer of 35 years standing, Ms Pitt has a strong background in Commonwealth litigation and legal practice management. Prior to becoming the CEO of the Legal Services Council and the Commissioner for Uniform Legal Services Regulation on 3 October 2017, Megan Pitt led the Sydney office of the Australian Government Solicitor (AGS) as its Director for more than 20 years.

In this role, she was responsible for the leadership, management and business development of AGS Sydney and has worked closely with many in-house lawyers and clients across Australia.

Ms Pitt was also the national manager of AGS' pro-bono practice and convenor of AGS' national network of the General Counsel of Corporate Commonwealth Entities. As Chair of the Australian

Government Leadership Network (NSW), Ms Pitt worked with Commonwealth agencies to provide leadership development opportunities for employees, and to link Commonwealth agencies together in NSW.

THE STANDING COMMITTEE

The Standing Committee comprises the Attorneys-General of the participating jurisdictions – currently Victoria and NSW. It makes the Uniform Regulations and considers and approves the Uniform Rules proposed by the Council, the LCA, the ABA and the Admissions Committee. The Standing Committee has a 'general supervisory role' over the Council, the Commissioner and local regulatory authorities, which includes overseeing the finances of the Council and approving its budget.

The Legal Services Council reports biannually to the Standing Committee in respect of its work to expand the Uniform Law, and to keep the Standing Committee updated on issues of importance as they arise.

THE ADMISSIONS COMMITTEE

The Admissions Committee appointed by the Council is responsible for developing Admission Rules – that is, the rules that govern how people are admitted to the legal profession – which are applied by the local Admission Boards. The Committee also provides the Council with advice about admission issues.

Under Schedule 1, Part 6 of the Uniform Law, the Admissions Committee consists of seven people drawn from the participating jurisdictions (currently NSW and Victoria). Two of the members must be current or former Supreme Court judges, nominated by the Chief Justice of the host jurisdiction of the Uniform Law (Victoria) with the concurrence of the Chief Justice of each other participating jurisdiction.

The LCA and the ABA each nominate a member with expertise or experience in legal practice. Two members are appointed on the nomination of the Dean of a Law School or of a Faculty of Law or the head of an institution that provides PLT (or a person of equivalent status or who has equivalent functions).

The Standing Committee nominates a member who is either an officer or employee of a government department with relevant expertise or experience or a person who has expertise or experience in developing policy standards for admission or in accrediting education courses or institutions.

The Legal Services Council appointed a third Admissions Committee on 29 June 2017.

The Committee is responsible for developing Admission Rules. The Admission Rules set out the qualifications that a person who wants to practise law must obtain before being admitted to the legal profession by the relevant Supreme Court. The Committee also has a broader role providing advice to the Council about admission matters.

The current members are:

- The Hon Acting Justice Arthur Emmett AO (Chair) (until 1 July 2020)
- Dr Elizabeth Boros (until 30 June 2019)
- Mr Stuart Clark AM (until 30 June 2019)
- Professor Lesley Hitchens (until 1 July 2020)
- The Hon Justice Emiliios Kyrou (until 30 June 2021)
- The Hon Justice Ruth McColl AO (until 30 June 2019) who replaced the Hon Justice Richard White (until 30 June 2018)
- Professor Bronwyn Naylor (until 1 July 2020)

The report of the Admissions Committee can be found at page 37.

THE AUDIT AND RISK COMMITTEE

The Audit and Risk Committee (ARC) is established as a committee of the Council, pursuant to approved terms of reference, to monitor and review the effectiveness and efficiency of the processes of the Council and the Commissioner.

The key areas of focus for the ARC are:

- effective financial, management and budget reporting; and
- risk management.

This oversight role is achieved via three formal meetings per calendar year, the timing of which is to accommodate the legislative and policy compliance timeframes in respect of the NSW Audit Office and the end of year financial statements. The Committee also considers audit and risk matters throughout the year and consults with the NSW Department of Justice Finance Services team.



Audit and Risk Committee from left: Steven Stevens, Fiona Bennett (Chair), Geoffrey Applebee.

THE SECRETARIAT

The LSC and CEO are supported by a small Secretariat in administering the day-to-day work of the Council. It comprises a Senior Executive Officer and two Senior Policy Advisers (all of whom are legal practitioners), a part-time Communications Officer and an Executive Assistant to the CEO/Commissioner. The Secretariat team has extensive experience in legal practice and in policy development, as well as in providing support to advisory bodies, governments and committees.



*Sitting from left: Megan Pitt (CEO and Commissioner) and Cora Groenewegen (Senior Policy Adviser).
Standing from left: Julia Langham (Communications Officer), Bridget Sordo (Senior Executive Officer), Sonya Kim (Senior Policy Adviser), Maureen Shaw (Executive Assistant).*

“The Uniform Law is a success story because it caters for the existing local landscape allowing the same regulators to perform their functions, while allowing the law to be fine-tuned through local Application Acts. I look forward to the day that all jurisdictions adopt the Uniform Law, which is achievable if it is accepted in the spirit of improving the regulation of the legal profession on a national level and in the international arena.”

John McKenzie,
NSW Legal Services Commissioner

HIGHLIGHTS OF 2017–2018

Engaging with legal sector stakeholders, progressing Charter Letter tasks identified by the Standing Committee and making amendments to ensure that the Uniform Law continues operating smoothly have all been focus areas for the reporting year.

STAKEHOLDER ENGAGEMENT

Since October 2017, the CEO has attended over one hundred engagements with stakeholders in NSW and Victoria including:

- NSW Legal Services Commissioner (OLSC)
- Law Society Council (LSNSW)
- Legal Profession Admission Board (NSW) (LPAB)
- Bar Association of NSW
- Victorian Legal Services Board + Commissioner (VLSB+C)
- Law Institute of Victoria (LIV)
- Victorian Legal Admissions Board (VLAB)
- Victorian Bar
- Tribunals – NSW Civil and Administrative Tribunal (NCAT) and Victorian Civil and Administrative Tribunal (VCAT)

- Supreme Courts of NSW and Victoria
- Consumer groups and Community Legal Centres

Uniform Law Strategic Roundtable

On 29 May 2018, the LSC convened Uniform Law Strategic Roundtable meetings with the DLRA in NSW to consider a refined strategic approach to changes to the Uniform Law and Rules for the future.

The roundtables were chaired by Megan Pitt who was joined by senior representatives from the LSNSW, the OLSC, VLSB+C, NSW Bar Association, LPAB, VLAB and the Supreme Court of NSW.

These meetings were an opportunity to discuss the operation of the Uniform Law over the last three years, and to set a direction for the future. Similar workshops are planned with the Victorian DLRA in the coming months. The positive and collegiate discussions covered the LSC's strategic priorities for the next three years, the processes and timeframes for Uniform Law and Rule changes, DLRA perspectives on the Uniform Law and the process for future changes to the Uniform Law and Rules. Meeting participants agreed to pursue a more strategic streamlined approach to Uniform Law issues in NSW and Victoria.



The Uniform Law Roundtables bring the LSC and regulators together to determine the best way forward.

AUSTRALIAN LEGAL PROFESSION REGISTER

The development of an electronic Australian Legal Profession Register, containing public electronic information about registered legal practitioners in all Australian states and territories, is a priority that the LSC is working with the LSNSW and the VLSB+C to progress.

The LSNSW will be providing the IT infrastructure for the Register and the Register fields have now been settled with the DLRA's. This project is expected to progress quickly, and be a useful tool for the legal profession, legal regulators and consumers.

CONSULTATIONS

The LSC has consulted with stakeholders on a wide range of issues over the year, as detailed in the section, Progress against our Strategic Plan on page 22. Two of our formal consultations are described below.

External Examiners revocation power

In February 2017, the Legal Services Council sought public comment on a draft Uniform General Rule to reinstate the power to revoke the status of an External Examiner (EE) as a designated person under the Legal Profession Uniform Law. Subsection 168(2)(e) of the Uniform Law states that the Uniform Rules may make provision with respect to the external examination of law practice trust records.

The Uniform General Rules currently specify a list of designated classes of persons in subrule 65(2) of the Legal Profession Uniform General Rules 2015, including members of the CPA Australia, Chartered Accountants Australia and New Zealand (CAANZ), Institute of Public Accountants (IPA) and

persons registered as auditors under Part 9.2 for the *Corporations Act 2001* (Cth), who may be appointed as an EE under section 156 of the Uniform Law. They provide the right of the DLRA's, the VLSB+C and the LSNSW, to approve the termination of an EE by a law practice in accordance with subrule 66(3) of the Uniform General Rules.

In April, the LSC considered submissions from five stakeholders to inform its recommendation of new rules to the Standing Committee.

Australian Solicitors' Conduct Rules

The Australian Solicitors' Conduct Rules (ASCRs) were collaboratively developed by the LCA and promulgated in June 2011, as a common set of professional obligations and ethical principles for Australian solicitors when dealing with their clients, the courts, their fellow legal practitioners, regulators and other persons.

The ASCRs are a uniform set of ethical and professional principles governing the conduct of all Australian solicitors especially in their relations and interactions with clients, the courts, fellow legal practitioners, regulators and other persons. For example, Rule 3 states that solicitors have a paramount duty to the court and to the administration of justice and Rule 36 proscribes false, misleading or deceptive advertising by solicitors.

The ASCRs have been adopted and apply in New South Wales and Victoria as the Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015.

The Rules have also been adopted in South Australia, Queensland, Victoria, NSW and the Australian Capital Territory.

In February, the Legal Services Council endorsed the release of the LCA's Review of the ASCRs, with a consultation period open until 31 May 2018. This is

the first comprehensive review of the ASCRs since 2011. The Consultation Discussion Paper canvasses views on a wide range of issues and suggestions about adjustments to some of the Rules.

AMENDMENTS TO THE UNIFORM LAW

Section 258 Managed Investment Schemes

Individual solicitors and incorporated law practices and their related entities have been prohibited from conducting a MIS for over a decade. However, under changes to the Uniform Law effective from 1 July 2018, all law practices and their related entities are also prohibited from:

- promoting or operating a MIS;
- providing legal services in relation to a MIS in which an associate of the law practice has a substantial interest; and
- providing certain mortgage-related services to private lenders in circumstances where the law practice (or its agent or associate) has introduced the borrower to the lender.

The new section 258(1A) of the Uniform Law narrows the broad prohibition to exclude internal firm arrangements such as service trusts.

The Uniform Law adopts the definition of a MIS used in section 9 of the *Corporations Act 2001* (Cth). It includes any 'scheme' that has all three of the following features:

- people contribute money or money's worth as consideration to acquire rights (interests) to benefits produced by the scheme (whether the rights are actual, prospective or contingent and whether they are enforceable or not);
- any of the contributions are to be pooled, or used in a common enterprise, to produce financial

benefits, or benefits consisting of rights or interests in property, for the people (the members) who hold interests in the scheme (whether as contributors to the scheme or as people who have acquired interests from holders); and

- the members do not have day-to-day control over the operation of the scheme (whether or not they have the right to be consulted or to give directions).

The MIS changes were a priority task on the Standing Committee's Charter Letter for the Legal Services Council. The Standing Committee's approval in March of the Legal Services Council's recommendation to amend section 258 of the Uniform Law was implemented in time for the expiry of transitional arrangements which suspended the effect of section 258 of the Uniform Law.

AMENDMENTS TO THE LEGAL PROFESSION UNIFORM LAW APPLICATION ACT 2014 (VIC)

Changes to the regulation of barristers' clerks

The use of "approved clerks" to receive trust money on behalf of barristers is a long standing practice of the Victorian Bar. In August, the *Legal Profession Uniform Law Application Act 2014* (Vic) was amended to provide stronger regulation by the VLSB+C in respect of approved clerks.

This change strengthens the regulatory oversight of approved clerks, making it more consistent with the regime that applies to law practices.

In general, the Uniform Law requirements for the handling of trust money apply to an approved clerk in the same way that they apply to a law practice.

The changes to Division 3 of Part 5 of the Victorian Application Act are:

- Transferal of the power to licence approved clerks from the Victorian Bar to the Board to achieve a greater level of alignment with the Uniform framework.
- Any person who is not an ‘approved clerk’ who receives money on account of the legal costs of a barrister will be in breach of a civil penalty provision.
- A new ‘fit and proper’ test will be applied by the Board in determining whether to grant an application by a person approved as an approved clerk.
- The Board is granted a new power to revoke or suspend an approval of an approved clerk.
- The Board is provided with a limited range of options for external intervention where the Board considers that intervention necessary to protect clients’ trust money.
- The Board will be able to appoint a supervisor of trust money to supervise an approved clerk, in certain circumstances.
- Consistent with the regime applicable to law practices, an ‘aggrieved person’, such as a barrister or a client, will have the power to seek a Supreme Court review of a decision of the Board to appoint a supervisor.

Other changes

In May, the *Legal Profession Uniform Law Application Act 2014* (Vic) was amended by the *Justice Legislation Amendment (Access to Justice) Act 2018* (Vic) to:

- allow the Victorian Legal Admissions Board to recover its costs by charging a fee for undertaking assessments of overseas qualifications;

- increase the cap on funding that may be provided by the Victorian Legal Services Board via Public Purpose Fund payments to the local Legal Aid Fund;
- allow the VLSB to make grant payments in respect of a new category of law-related services and activities, namely “innovative improvements to access to justice”; and
- prohibit law practices from promoting or operating managed investment schemes from 1 July 2018 (see above).

AMENDMENTS TO THE LEGAL PROFESSION UNIFORM RULES

Managed Investment Schemes

The Standing Committee approved the Legal Profession Uniform General Amendment (Managed Investment Schemes) Rules 2018 in June to commence on 1 July 2018. Rules 91A-91D of the General Rules proscribe certain services or conduct and/or allow law practices to provide legal services in relation to a MIS in certain circumstances.

The new rules relate to the promotion and operation of mortgage practices and other managed investments schemes. They also affect the provision of legal services in connection with mortgage practices.

In order to educate the legal profession and the public on these complex changes, the LSC in June issued and published to its website, an Information Sheet on the new law and Uniform Rules including Frequently Asked Questions. As the Standing Committee requested, the LSC will review the effectiveness and regulatory impact of the MIS Rules after 12 months’ operation.

RULES AND GUIDELINES

Harmonisation of the trust account reporting year

At its December 2017 meeting, the Legal Services Council determined that, from 1 January 2018, an External Examiner must give a written report of an examination to the DLRA by 31 May each year, unless Uniform General Rule 68 (final external examination) applies.

This reporting date aligns with reporting timeframes in all other Australian states and territories. Requests from a law practice for an extension of time to provide the External Examiner's report will be dealt with at the discretion of the local regulatory authorities.

The Council also confirmed its view that the trust account year end date should remain as 31 March and the lodgement date for the statement or declaration of trust money by law practices should also remain as 30 April each year, noting that these dates are determined by the DLRA's.

POLICIES AND REGULATION

Illustrating the Uniform Law process

In May the Secretariat developed a series of flowcharts to illustrate the steps involved in amending the Uniform Law and the five types of Rules under the Uniform Law. The flow charts demonstrate the procedures outlined by the legislation and also the time required for various steps to occur. Flowcharts were also developed to illustrate the process involved in the Council and the Commissioner making Guidelines and Directions. They were uploaded to the LSC website as practical reference tools for legal practitioners, regulators, stakeholders and consumers. See page 32 for examples.

“The Council’s willingness to engage with us and other stakeholders on this matter and address this key concern prior to the end of the current reporting period is appreciated.

We are pleased that the Council has supported our recommendation to change the deadline for submission of an external examiner’s report from 15 May to 31 May, with effect from 1 January 2018. The change will support the quality of external examinations by allowing a more reasonable timeframe to complete examinations and as such is in the public interest and will be welcomed by External Examiners.”

Stuart Dignam,
Former General Manager Policy &
Corporate Affairs, CPA Australia

PROGRESS AGAINST OUR STRATEGIC PLAN

Action Plan 1: Drive strategic initiatives that embed Uniform Law reform and respond to emerging issues and opportunities	
2017-2018 Priority Actions	Work undertaken/completed
<p>Managed Investment Scheme Project</p> <ul style="list-style-type: none"> Review Managed Investment Scheme exemption framework in the Uniform Law to take effect from 1 July 2018, as required by the Standing Committee Charter Letter. 	<ul style="list-style-type: none"> Following extensive consultation with the profession, the DLRAs and community organisations, the LSC adopted a report prepared by expert consultant and academic, Professor Pamela Hanrahan in October 2017. The inquiry recommended law reform that achieves a balance between the business needs of law practices and the protection of clients. The report recommended amendment of s 258 of the Uniform Law and the Uniform General Rules subject to Standing Committee approval. Draft Rules were circulated to the DLRAs in April 2018, and public consultation was completed on 20 June 2018. Section 258 amendments to the Uniform General Rules were passed on 28 June 2018.
<p>Electronic Uniform Law data sharing project</p> <ul style="list-style-type: none"> Implement electronic data sharing for all chapters of the Uniform Law to enable more in-depth analysis of the Uniform Law. 	<ul style="list-style-type: none"> The architecture for the LSC Uniform Law database, and work collecting and reporting on Chapter 5 – Dispute Resolution and Professional Discipline has been completed. Admissions data reports were signed off by the Commissioner in January, with reporting due to commence in August 2018. Practising Certificates reports which contain Legal Practice data and reporting have been approved by the DLRAs.

Action Plan 1: Drive strategic initiatives that embed Uniform Law reform and respond to emerging issues and opportunities

2017-2018 Priority Actions	Work undertaken/completed
<p>Costs Disclosure regime project</p> <ul style="list-style-type: none"> Review costs disclosure to harmonise thresholds to ensure protection for consumers and legal practitioners. Review alternative costs disclosure short form. 	<ul style="list-style-type: none"> During 2017-2018 the LSC consulted extensively with a broad range of consumers, the DLRAs, professional associations and stakeholders about options for harmonising costs disclosure thresholds. Taking this feedback into account, the LSC drafted three revised Costs Disclosure forms in an interactive PDF format. The proposed disclosure forms include two for solicitors (both fixed fee and estimates) and one for barristers (direct briefs). Feedback on proposed new thresholds and forms has so far been received from: <ul style="list-style-type: none"> Law Firms Australia Law Society of NSW Costs Committee Law Society of NSW Presidents of Regional Law Societies LIV Costs Committee Manager of Costs Assessment, Supreme Court NSW NSW Bar Association NSW Ethnic Communities Council NSW Office of the Legal Services Commissioner Qld Law Society VicBar Victorian Legal Services Board and Commissioner Victorian Southern Solicitors Group WA Legal Practice Board WA Legal Profession Complaints Committee The three forms have been revised to take into account that feedback and further testing of the forms will take place in the coming year. Informal discussions are continuing about threshold options and LSC expects to make a recommendation before the end of 2018.

Action Plan 2: Develop rules, policies and guidelines to give effect to the Uniform Law

2017-2018 Priority Actions	Work undertaken/completed
<p>Australian Solicitors' Conduct Rules Project</p> <ul style="list-style-type: none"> Review LCA proposal on the changes to the Australian Solicitors' Conduct Rules which also harmonises relevant rules with the Bar Rules. Implement Law Council of Australia improved Australian Solicitors' Conduct Rules (ASCRs). 	<ul style="list-style-type: none"> The LSC authorised ASCRs for release by LCA for public consultation until 31 May 2018. The LSC website provides information on the review of the ASCRs. The LSC will liaise further with LCA in the coming months.
<p>External Examiners revocation of status project</p> <ul style="list-style-type: none"> Reinstate the power of the DLRA's to revoke the status of External Examiners as designated persons on the basis of impropriety and other appropriate grounds, clarify the power of the DLRA's to remove External Examiners. 	<ul style="list-style-type: none"> The LSC sought advice from the NSW Parliamentary Counsel's Office (PCO) on changes to the Uniform Rules, to enable the formal consultation process under section 425 to commence. In November 2017 a Consultation Draft of the proposed Uniform General Rule was settled with the PCO which was approved by the Council in December. In January-February 2018 the LSC consulted with the Commissioner, VLSB+C LSNSW, LIV and OLSC and CPA Australia, CAANZ and IPA under s 425(3)(a) of the UL. In March-April 2018 we conducted public consultation under s 425(3)(b) of the UL. In June 2018 the Standing Committee approved the Legal Profession Uniform General Amendment (External Examiners) Rule 2018.
<p>External Examiners – extension of reporting time from 2018</p> <ul style="list-style-type: none"> Review 15 May deadline for an External Examiner to report to the DLRA in light of feedback received during 2017. 	<ul style="list-style-type: none"> The LSC agreed to extend the reporting time from 15 May to 31 May to commence from 1 January 2018. All DLRA's were notified by letter and a website notice was published.
<p>Former Tribunal members practice project</p> <ul style="list-style-type: none"> Review the period of prohibition from practice for former tribunal members provided in the Legal Profession Uniform Conduct (Barristers) Rules 2015 Rule 101 (n) change from five to two years at the request of the Australian Bar Association. 	<ul style="list-style-type: none"> In September 2017 the ABA Council decided to maintain a five year ban for judges and reduce the prohibition period to two years for tribunal members and recommended amendment to the Barristers' Conduct Rule. After preliminary consultation, the LSC authorised the ABA to release the draft conduct rule for public consultation.
<p>Review of Admissions Rules 7 and 8</p> <ul style="list-style-type: none"> Admissions Committee review of Admission Rules 7 and 8 of Legal Profession Uniform Admission Rules 2015 in respect of powers to accredit law courses. 	<ul style="list-style-type: none"> In November 2017 the Admissions Committee was asked to consider a proposal to amend Rules 7 and 8 of the Admission Rules and resolved to reconsider after completion of the pilot review of the accreditation of law courses in NSW and Victoria. The results of the reviews of the law courses have been received by the relevant admitting authorities, and consideration of the framework for the review process is underway.

Action Plan 2: Develop rules, policies and guidelines to give effect to the Uniform Law

2017-2018 Priority Actions	Work undertaken/completed
<p>Indexation</p> <ul style="list-style-type: none"> Consider a consistent approach to indexation and propose a new rule pursuant to s 471(b) of Uniform Law. 	<ul style="list-style-type: none"> In July 2017 the LSC was asked by a DLRA to consider an approach to indexation in respect of s 291, s 292 and s 293 of the Uniform Law. The LSC considered and approved the development of a rule on indexation as provided for in s 471 of the Uniform Law in June 2018. The LSC also approved the instructions to the PCO to develop a consultation draft rule on indexation.
<p>Review of registration of foreign lawyers working as in-house counsel and as government lawyers</p> <ul style="list-style-type: none"> Consider whether to include foreign lawyers working as in-house counsel and government lawyers (permissible under s 62) as another s 70 form of practice. 	<ul style="list-style-type: none"> From August to November 2017 the LSC was asked by DLRA's in NSW and Victoria to review s 70 and Part 3.4 of the Uniform Law. In December 2017 the LSC resolved to consider amending s 70 to include corporate and government lawyers and notified the DLRA's of this intention. The LSC Secretariat also consulted with Law Firms Australia and the Association of Corporate Counsel. The proposed amendments are currently before the Standing Committee.
<p>E-Conveyancing – use of Property Exchange Australia (PEXA) Source Account</p> <ul style="list-style-type: none"> Consider whether the trust money protections under the Uniform Law apply in electronic conveyancing transactions where solicitors do not use their trust accounts to receive or transfer client funds required to complete a transaction. 	<ul style="list-style-type: none"> In November 2017 two of the DLRA's sought amendment to the Uniform Law Guidelines and Directions to ensure that the protections provided by the Uniform Law in relation to clients' money continue to apply irrespective of whether or not an electronic lodgement network has been used to effect a conveyancing transaction. During the April 2018 meeting, the PEXA CEO and Transformation Officer addressed the Council on consumer protections in place and the status of the PEXA Source Account and the impact on trust accounts. In June 2018 the LSC considered consumer protection measures offered by PEXA, and due to its potential nationwide impact, referred the matter to LCA for comment.

Action Plan 3: Undertake highly effective stakeholder engagement and communication

2017-2018 Priority Actions	Achievements
<p>Engagement with Uniform Law jurisdiction stakeholders</p> <ul style="list-style-type: none"> Continue to build awareness of the Scheme and its benefits by engaging with relevant stakeholders about the Uniform Law and its benefits. This year the LSC engaged with: <ul style="list-style-type: none"> Australian Bar Association Bar Council (NSW) Law Council Australia Law Institute of Victoria (trust account investigations) Law Society Council (NSW) Legal Profession Admission Board (NSW) NSW Legal Services Commissioner Victorian Legal Admissions Board Victorian Legal Services Board + Commissioner <p>Stakeholders:</p> <ul style="list-style-type: none"> Departments of Justice (NSW and Victoria) Courts and Tribunals in NSW and Victoria Legal Practitioners Liability Committee and LawCover Community bodies and Community Legal Centres Professional Standards Authority 	<p>Engagement with Victorian and NSW stakeholders since 1 July 2017 has been extensive:</p> <ul style="list-style-type: none"> Collaborative monthly teleconference with national legal regulators. Quarterly Admissions Committee meetings. The CEO met with Victorian Department Justice & Regulation, VLSC+V, Law Society NSW, OLSC, NSW Bar Association, Chair of Admissions Committee, Chair and ED of Law Firms Australia. In October 2017 the Secretariat met with legal regulators at the Conference of Regulatory Organisations (CORO) 2017. In January and February 2018 the CEO and staff met via teleconference with representatives of the Departments of Justice. In March 2018 the CEO met with the Costs Committee of the LSNSW and in April 2018 met the NSW Bar regarding cost disclosure. In April 2018 the CEO met with the NSW and Victorian Legal Services Commissioners and also convened the External Examiners Working Group. The LSC published its new quarterly newsletter in March 2018 on the LSC website and sent it to stakeholders in NSW and Victoria. The second newsletter was released in June 2018. In May 2018 the CEO convened the Uniform Law Strategic Roundtable which comprised senior DLRA staff and built on the success of the Uniform Law Implementation Group. Meetings were held in NSW in May and Victoria in June 2018.
<p>Engagement with non-Uniform Law jurisdiction stakeholders</p> <ul style="list-style-type: none"> Continue to engage with regulatory authorities and government agencies in non-participating jurisdictions to promote an understanding of the Uniform Law. 	<p>Engagement with non-participating jurisdictions included all non-participating states and territories as follows:</p> <ul style="list-style-type: none"> WA: The LSC discussed the Uniform Law scheme in detail with the WA Solicitor General and representatives of the WA Legal Services Board together with Victorian regulators in March, and NSW regulators in May 2018. SA: The CEO contacted the SA Law Society CEO. ACT: The former CEO met with the ACT Justice Department in August 2017. QLD: The former CEO had a teleconference with Qld Law Society in July 2017 and the LSC Chair, CEO and SEO met with Law Society Qld in August 2017. All: The CEO attended monthly teleconferences between all Australian regulators.

Action Plan 3: Undertake highly effective stakeholder engagement and communication

2017-2018 Priority Actions	Achievements
<p>Legal Services Council and Admissions Committee profile in the legal profession</p> <ul style="list-style-type: none"> Continue to engage with, promote and discuss the role of the Council and Admissions Committee and to raise the profile of the Legal Services Council within the profession. 	<ul style="list-style-type: none"> Regular liaison with LSC Chair and members, and with Admissions Committee Chair and Committee members continued. Improvements to the LSC website and search engine optimisation strategies increased traffic to the site. During the reporting period the LSC website recorded approximately 24,150 visits with an average of two pages viewed per session. The most frequently visited pages were the Homepage, Highlights and Rules and Guidelines. The LSC also submitted articles which were published to the <i>Law Institute Journal</i>, <i>Lawyer's Weekly</i> and the <i>Law Society Journal</i>, and issued six media releases during the year.
<p>Legal Profession Uniform Law Library (Australia) project</p> <ul style="list-style-type: none"> Establish the Legal Profession Uniform Law Library (Australia) within the Australasian Legal Information Institute (AustLII) to include: Uniform Law legislation. 	<ul style="list-style-type: none"> The Legal Profession Uniform Law Library within AustLII is nearing completion. Law journals have been added as have determinations (Victoria only at this stage). The addition of NSW determinations is the last outstanding action.



The LSC liaises closely with Legal Services Commissioners in both Uniform Law States as well as the NSW Law Society. L-R: LSC CEO Megan Pitt, Law Society of NSW CEO Michael Tidball, Victorian Legal Services Commissioner Fiona McLeay, NSW Legal Commissioner John McKenzie.

L-R: VLSB+C's Russell Daily, Kerri-anne Millard, Jennie Pakula, LSC CEO Megan Pitt, Victorian Legal Services Commissioner Fiona McLeay and LSC Chair Michael Black AC QC.

Action Plan 4: Build a well-governed, efficient and inclusive Uniform Law administration

2017-2018 Priority Actions	Achievements
<p>Legal Services Council Secretariat</p> <ul style="list-style-type: none"> • Effectively support the Legal Services Council by: <ul style="list-style-type: none"> - Policy development and implementation. - Regular meetings with business papers. - Administrative arrangements and logistics. 	<p>Secretariat-supported LSC meetings were held on:</p> <ul style="list-style-type: none"> • 30 August 2017 • 6 October (special meeting) 2017 • 19 December 2017 • 21 February 2018 • 18 April 2018 (circular resolution) • 26 April 2018 • 21 June 2018
<p>Admissions Committee Secretariat</p> <ul style="list-style-type: none"> • Effectively support the Admissions Committee by: <ul style="list-style-type: none"> - Policy development and implementation. - Regular meetings with business papers. - Administrative arrangements and logistics. 	<p>Admissions Committee meetings were held on:</p> <ul style="list-style-type: none"> • 10 August 2017 • 17 November 2017 • 14 December 2017 (circular resolution) • 1 March 2018 • 15 June 2018 <p>Meetings with Chair of the Admissions Committee were held on:</p> <ul style="list-style-type: none"> • 17 August 2017 • 20 October 2017 • 14 November 2017 • 12 February 2018 • 3 May 2018 • 31 May 2018
<p>Strategic and Business Plan</p> <ul style="list-style-type: none"> • Develop and finalise a Strategic and Business Plan with the Council for 2019-2021. 	<ul style="list-style-type: none"> • The LSC endorsed the draft Strategic and Business Plan for 2019-2021 prepared by the Secretariat and submitted to the Standing Committee.
<p>Triennial Budget 2019-2021</p> <ul style="list-style-type: none"> • Develop Triennial Budget for the consideration of the Standing Committee for the next Triennium (2019-2021). 	<ul style="list-style-type: none"> • The Council considered a new Triennial Budget on 21 February and 26 April 2018. • It was endorsed by the LSC and is with the Standing Committee for its consideration.

Action Plan 4: Build a well-governed, efficient and inclusive Uniform Law administration

2017-2018 Priority Actions	Achievements
<p>Annual Reports for Legal Services Council and for the Commissioner for Uniform Legal Services Regulation.</p>	<ul style="list-style-type: none"> • Annual Reports for 2016-2017 were tabled in the NSW and Victorian Parliaments in November 2017 and published on the LSC website.
<p>Audit Project (Annual)</p> <ul style="list-style-type: none"> • Convene LSC Risk and Audit Committee and respond to NSW Audit Office to complete the audit of financial statements. 	<ul style="list-style-type: none"> • Risk and Audit Committee meetings were held on: <ul style="list-style-type: none"> - 2 August 2017 - 22 August 2017 - 26 April 2018 • Meetings with the NSW Audit Office took place on: <ul style="list-style-type: none"> - 22 August 2017 - 2 February 2018 - 19 June 2018



LSC works together with the Departments of Justice NSW (left and centre) and Victoria (right).

THE UNIFORM LAW IN ACTION

The Uniform Law sets out the regulatory arrangements for the legal profession, including:

- admission to the Australian legal profession;
 - legal practice;
 - business practice and professional conduct;
 - legal costs between a legal practitioner and their client;
 - dispute resolution and professional discipline; and
 - functions and powers of the LSC, the Commissioner and local regulatory authorities.
- Legal Profession Uniform Continuing Professional Development (Solicitors) Rules 2015 (Solicitors' Continuing Professional Development Rules);
 - Legal Profession Uniform Legal Practice (Solicitors) Rules 2015 (Solicitors' Legal Practice Rules);
 - Legal Profession Uniform Conduct (Barristers) Rules 2015 (Barristers' Conduct Rules); and
 - Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015 (Australian Solicitors' Conduct Rules).

THE UNIFORM RULES

The Uniform Rules provide operational detail and requirements for legal practitioners. The Council has specific responsibility for the development of the Uniform General Rules. After any necessary amendments, the Council submits the draft Rule to the Standing Committee. The Australian Bar Association (ABA) and the Law Council of Australia (LCA) are responsible for developing Legal Practice, Legal Profession Conduct and Continuing Professional Development Rules for solicitors and barristers. The Council's specialist Admissions Committee is responsible for developing the Admission Rules.

The Uniform Rules are:

- Legal Profession Uniform General Rules 2015 (General Rules);
- Legal Profession Uniform Admission Rules 2015 (Admission Rules);
- Legal Profession Uniform Continuing Professional Development (Barristers) Rules 2015 (Barristers' Continuing Professional Development Rules);

“The Uniform Law provides an opportunity to increase collaboration and regulatory consistency between Australian jurisdictions, and it establishes a framework that can better respond to changes in the profession and the market.”

Mitch Hillier,
Executive Director, Law Firms Australia

A flexible structure for a contemporary legal environment

The Uniform Law establishes a single legal services market for participating states and territories based on a uniform regulatory framework. New South Wales and Victoria joined the scheme in 2015, which currently covers more than 70 per cent of Australian lawyers.

The single Uniform Law offers a range of advantages and benefits compared with having separate frameworks in every jurisdiction to regulate the legal profession.

Some of these are:

SINGLE ADMISSION STANDARDS

Under the Uniform Admission Rules applicants need only satisfy one set of admission standards regardless of where they practise law.

COST SAVINGS

The Uniform Law enables multi-jurisdictional law practices to economise by operating under one regulatory system. Overlapping requirements for different jurisdictions costs large law practices several million dollars per year according to the Council of Australian Governments (COAG).

A BETTER COMPLAINTS RESOLUTION SYSTEM

The Uniform Law approach has yielded positive feedback indicating consumers and practitioners value the less formal and onerous approach, which resolves complaints more quickly at an earlier stage. The Uniform Law also increases the likelihood of consumer matters resolving successfully by providing more remedies.

COLLABORATION

Cooperation and innovation based on the same law leads to continuous improvement. For example, the development of Rule 72A on anti-voiding is a cultural shift from a sanction to an incentive to comply with cost disclosure. Working with the same Rules has encouraged the DLRA's to cooperate and consider adopting consistent policies and best practices across NSW and Victoria. Examples are the LPAB and VLAB agreeing on a common approach to stale qualifications and VLAB following the principles developed by the LPAB in relation to granting exemptions to overseas applicants from taking the English language test.

CLEAR AND TRANSPARENT COSTS ESTIMATES

For lower priced work, a costs disclosure form is helping to improve communication between lawyers and clients and to reduce complaints and misunderstandings. The adoption of the Uniform Law nationally would ensure that cost disclosure obligations are consistent across Australia.

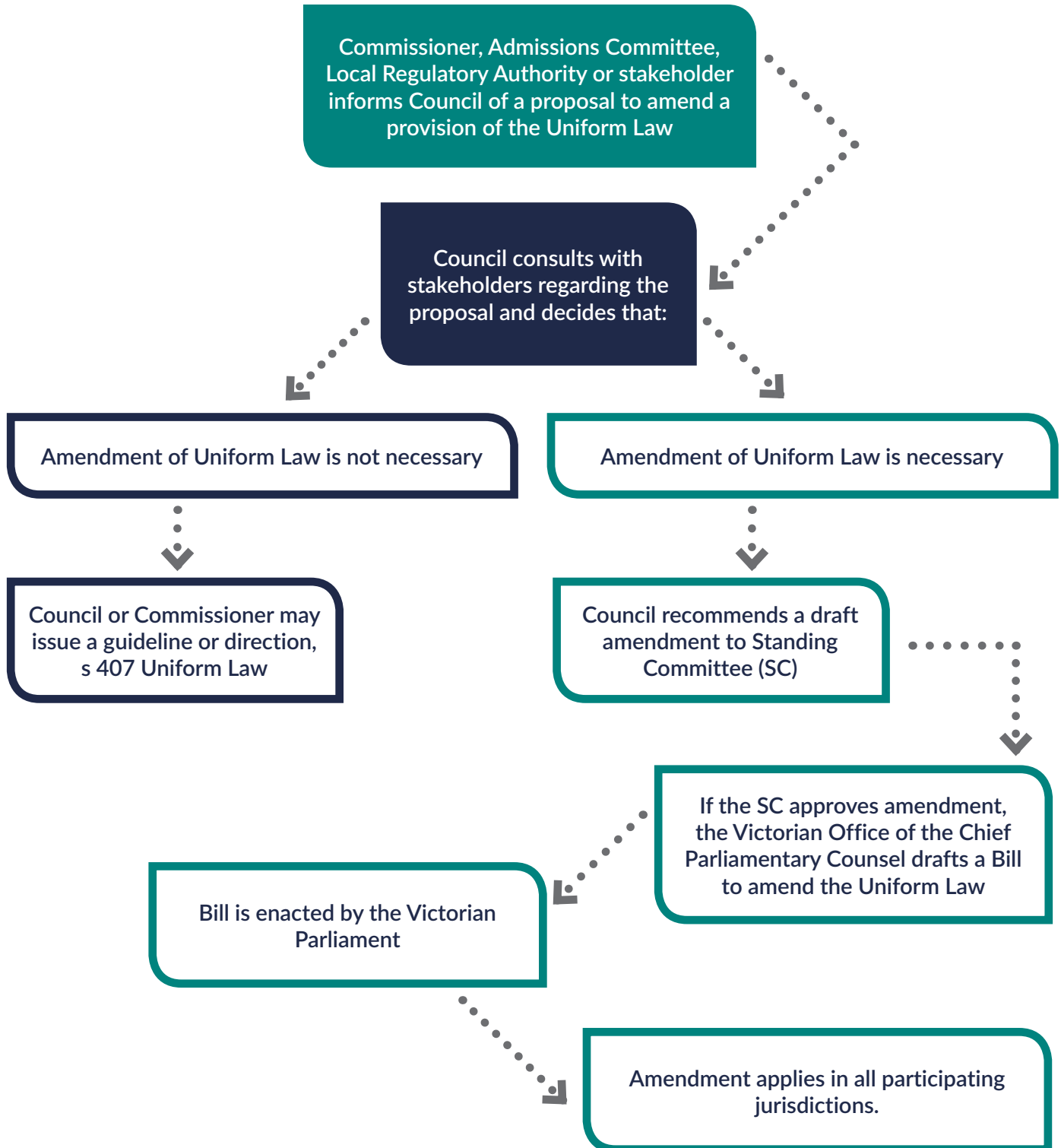
A MORE FLEXIBLE AND RESPONSIVE SYSTEM

The Uniform Law is able to more efficiently respond to challenges and issues which require changes to Rules, taking nine to 12 months (or less for urgent matters) and only six steps for rule changes. (See page 33 for an example of this process). The current rule-making system in the non-participating states involves up to 40 steps across all jurisdictions and takes at least a year to complete in each separate jurisdictions. Under the Uniform Law an amendment or change to the Uniform Rules applies in all jurisdictions in which the Uniform Law has been adopted. This saves time and resources and provides the assurance that regulatory challenges that cross state and territory borders can be addressed quickly and consistently in multiple jurisdictions concurrently.

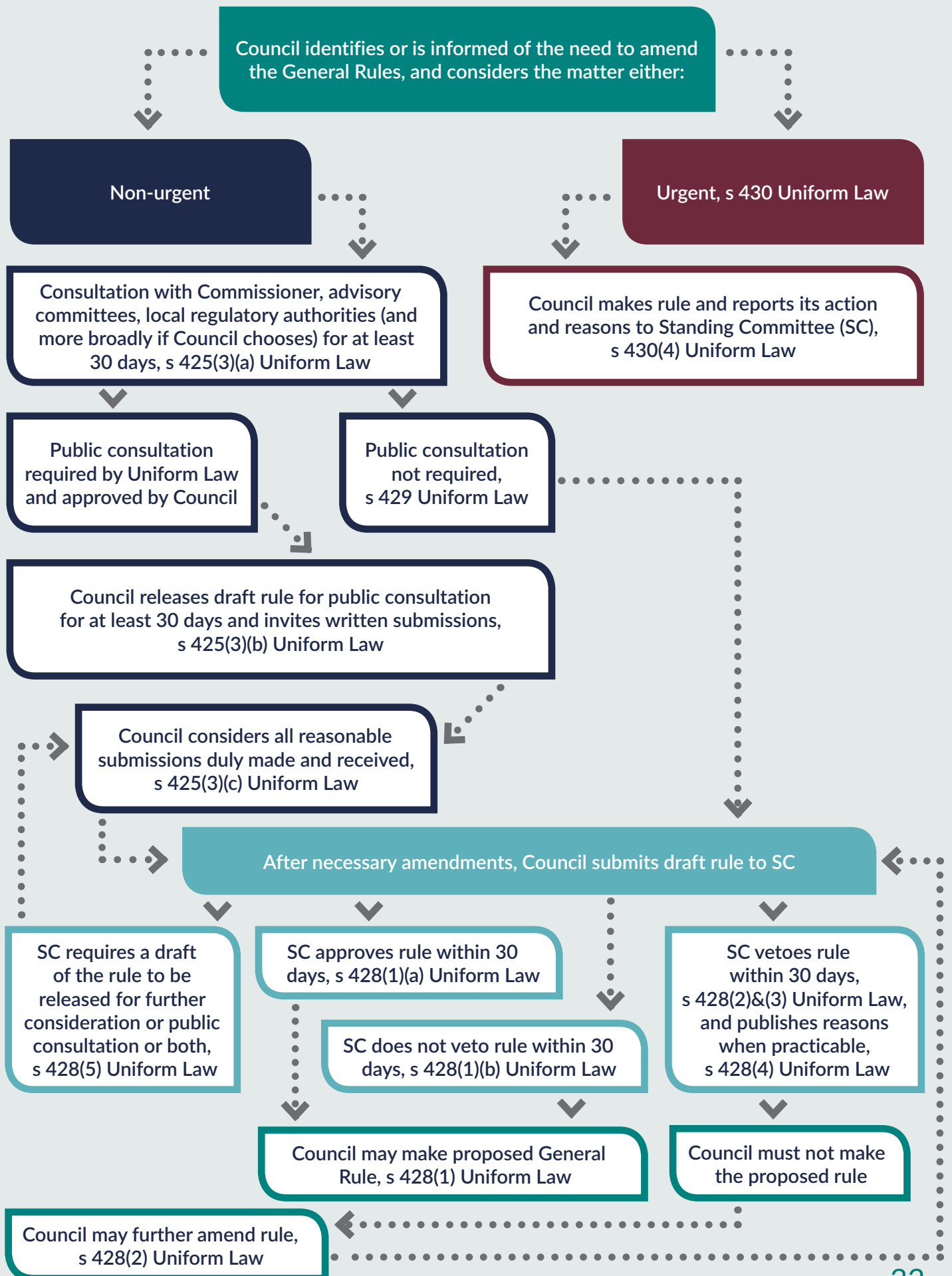
LOCAL VARIANCES ACCOMMODATED

One advantage of this principle-based legislation is that it is flexible enough to accommodate many local practises and variances to the extent that they are consistent with the Uniform Law. Examples include partnerships of incorporated legal practices (PILPS) continue in Victoria, but do not exist in NSW; and the cost assessment process includes the Costs Assessment Scheme in NSW and the Costs Court in Victoria.

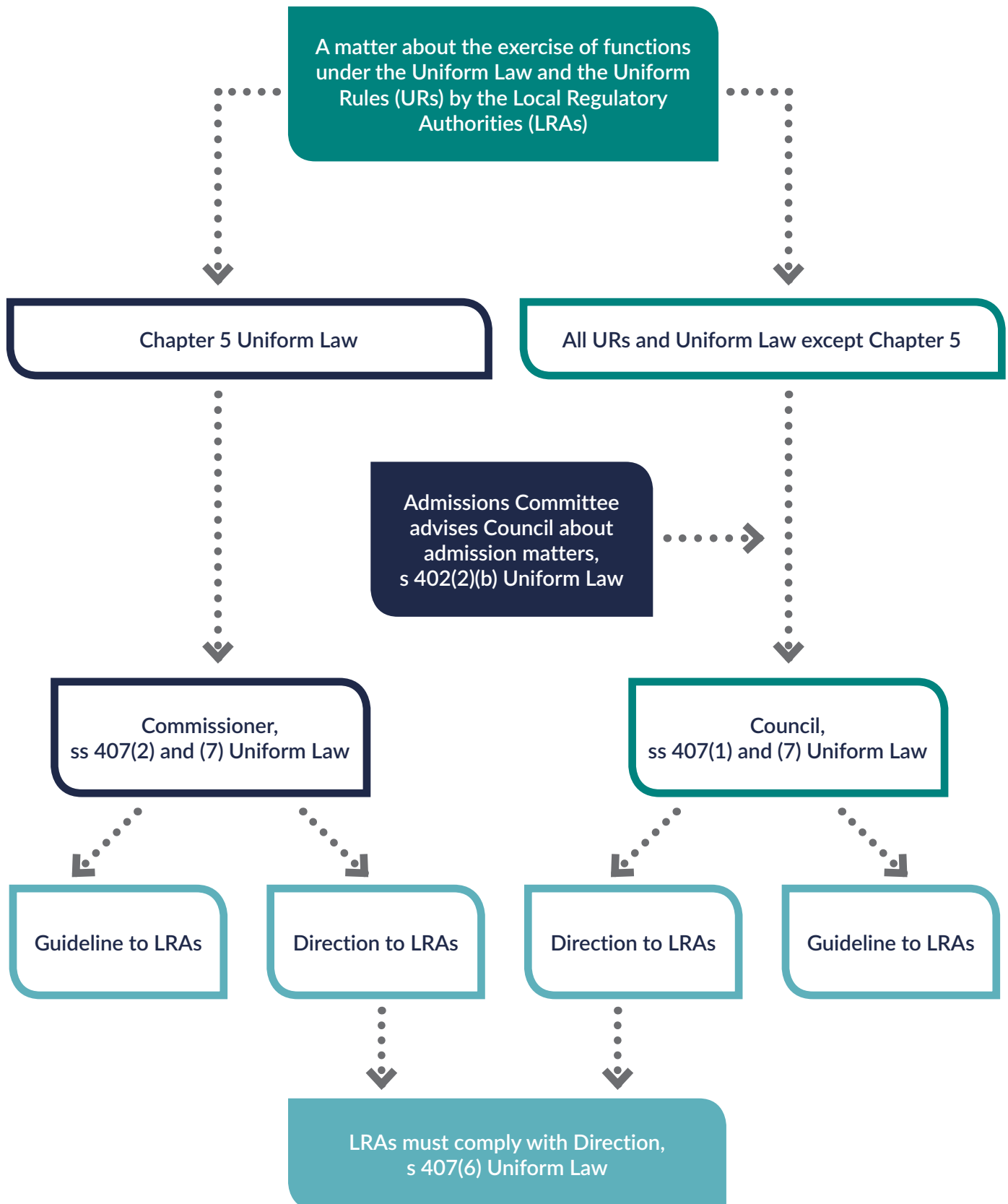
AMENDING THE UNIFORM LAW



AMENDING THE GENERAL RULES UNDER THE UNIFORM LAW



MAKING GUIDELINES AND DIRECTIONS UNDER THE UNIFORM LAW



ORGANISATIONAL ARRANGEMENTS

HOSTING ARRANGEMENTS

The New South Wales Government ‘hosts’ the LSC and Commissioner, who are based in Sydney. Staff of the Secretariat, (apart from the Commissioner), are NSW public service employees under the *Government Sector Employment Act 2013* (NSW). The Commissioner is a statutory office holder. The NSW Department of Justice provides human resources, information technology and finance services to support the operation of the LSC and Commissioner.

Oversight legislation that commonly applies to NSW Government agencies including the *Privacy and Personal Information Protection Act 1998* (NSW) and the *Government Information (Public Access) Act 2009* (NSW) also apply to the LSC and to the Commissioner.

FUNDING ARRANGEMENTS

The LSC’s and Commissioner’s funding is provided pursuant to an Inter-Governmental Agreement (IGA), *The Bilateral Agreement on the Legal Profession Uniform Framework*, between the two participating jurisdictions. The LSC is jointly funded by the jurisdictions participating in the Uniform Law scheme (currently NSW and Victoria) and its budget is approved by the Standing Committee (comprising the NSW and Victorian Attorneys-General).

The Legal Profession Uniform Law Application Act 2014 (Vic) provides that the Victorian Legal Services Board (VLSB) is to pay an amount determined by the Victorian Attorney General. In practice, that amount is determined by reference to the IGA and is paid by from the Public Purpose Fund. In practice, the NSW contribution is funded by admission fees prescribed by the Legal Profession Uniform Law Application Regulation 2015. Each admission fee of \$950 is to be allocated as follows:

- \$550 to the NSW Legal Profession Admission Board; and

- \$400 to the NSW Department of Justice.

Financial safeguards, such as controls on when expenditure can be incurred, apply to the LSC under the *Public Finance and Audit Act 1983* (NSW).

The LSC’s operating budget

The LSC and the Commissioner operate on a triennial budget (2015-2018). The Standing Committee approved the budget and provided assurance of continued funding for the purpose of the 2017-2018 financial statements.

The operating budget of 1,361,477 was approved for the 2017-2018 financial year. Audited financial statements are presented in this report from page 44.

Financial operations

During the year the LSC continued to operate as a cost centre in the Department of Justice and the Department provided corporate services to the LSC on a fee for service basis. The current budget total of \$1.36 million is shared between participating jurisdictions. The notional cost of a national regulatory scheme covering all practitioners in Australia remains under \$30 per legal practitioner per year.

In addition to the current Agreement for Financial Management and Support Arrangements, the LSC entered into a Service Level Agreement for Digital Technology Services with the NSW Department of Justice on 26 April 2018 to commence on 1 July 2018.

Staffing

In November 2017 the LSC recruited a part-time Senior Policy Adviser to assist with policy and development of Admissions Committee matters. This position was converted to a three year contract position to commence on 2 July 2018.

LSC REGISTER OF DELEGATIONS

The LSC may delegate certain functions to the Chair of the Council or the Commissioner. The LSC issued a delegation to the Commissioner for the approval from time to time of the approved External Examiners Course on 19 December 2017.

The LSC maintains a register of delegations as required by section 413 and works with the DLRA's to ensure each of the authorities maintains and publishes a current Register of Delegations.

The LSC publishes a link to each of these registers on its website and ensures it is updated annually.

The current delegations made during the reporting period are set out in the table below.

Table 1: Delegations made during the reporting period

Name/Date of delegation	Delegate	Function	Duration
Approval of an External Examiners Course. 19 December 2017	Commissioner for Uniform Legal Services Regulation (under s 397 Uniform General Rules 65 and 107)	Approve course or courses of education by persons who have been designated and are appointed as External Examiners under Part 4.2 of the Uniform Law.	13 October 2020
Professional Indemnity Insurance. 19 December 2017	Commissioner for Uniform Legal Services Regulation (under s 397 Uniform General Rules 65 and 107)	Approve a policy of professional indemnity insurance for a jurisdiction that is not a participating jurisdiction for the purposes of Part 4.4 of the Legal Profession Uniform Law.	13 October 2020
Professional Indemnity Insurance. 19 December 2017	Chair of the Legal Services Council	Approve a policy of professional indemnity insurance for a jurisdiction that is not a participating jurisdiction for the purposes of Part 4.4 of the Legal Profession Uniform Law.	13 October 2020

REPORT OF THE ADMISSIONS COMMITTEE

The following is a report of the Admissions Committee (Committee) of the Council for 2017-2018.

The functions of the Committee include developing and maintaining admission rules and giving advice to the Council about guidelines and directions relating to admissions and any other matters relating to admissions. To that end, it is authorised to negotiate and enter into arrangements and cooperate with Australian or foreign authorities, courts and professional associations for the purpose of exchanging, obtaining or disclosing information relevant to any of their respective functions under the Uniform Law or Uniform Rules, and for the mutual recognition for admission purposes of academic courses and practical legal training programmes.

CONSTITUTION OF THE COMMITTEE DURING THE REPORTING PERIOD

On 30 June 2017 the terms of Professor Sandford Clark AM, Professor Carolyn Evans and Mr John Littrich as members of the Committee ended.

With new Council appointments on 29 June 2017, the Committee then comprised the Hon Acting Justice Emmett AO QC, the Hon Justice Emilius Kyrou, the Hon Justice Richard White, Dr Elizabeth Boros, Mr Stuart Clark AM, Professor Lesley Hitchens and Professor Bronwyn Naylor.

On 10 August 2017 the Committee elected the Hon Acting Justice Arthur Emmett AO QC as chair. Justice Emmett writes:

“Professor Clark’s energy as Chair of the Law Admissions Consultative Committee (LACC) and his contribution to the early stages of the Admissions Committee must be commended and I record my appreciation for his contribution. The term of Justice Richard White expired

on 30 June 2018. Justice White’s contribution to the Committee over the period of his appointment has been insightful and significant and he will be much missed.”

ABORIGINAL CULTURAL AWARENESS TRAINING

In response to Recommendation 5 of the Standing Committee on Law and Justice Report entitled ‘The Family Response to the Murders in Bowraville’, the Secretary, Department of Justice, wrote to the Council requesting that it consider pursuing the inclusion of Aboriginal cultural awareness as an admission requirement.

After obtaining information from all admitting authorities and practical legal training providers, the Committee noted that most universities currently have a dedicated or relevant graduate attribute on or related to Aboriginal cultural awareness.

Taking these factors into account, the Committee resolved to raise awareness of the issue by bringing it to the attention of the Council of Australian Law Deans.

PROPOSAL TO AMEND UNIFORM ADMISSION RULES SCH 2 CL 5

In December 2017 the Committee resolved to commence the process to amend Schedule 2 clause 5 of the Admission Rules to incorporate LACC’s changes to clause 4 of its PLT Competency Standards for Entry-level Lawyers. These changes regulate the way practical legal training is carried out in the workplace by stipulating total attendance periods and patterns of attendance.

Public consultation resulted in the Committee becoming aware of issues of possible hardship to students caused by the proposed patterns of attendance.

Before acting on LACC's recommendation to amend Sch 2 cl 5 of the Admission Rules, the Committee on 21 June 2018 referred the matter to LACC for its consideration of and comments about the issues raised in consultation.

ADMISSION OF FOREIGN LAWYERS

The Committee identified inconsistent application of LACC's Uniform Principles for Assessing the Qualifications of Overseas Applicants for Admission (Uniform Principles), by the Victorian Legal Admissions Board (VLAB) and the LPAB.

This meant that lawyers from the United Kingdom applying for admission were (in one but not both States) granted an exemption from studies in Legal Ethics and Professional Responsibility. Through a process of consultation and cooperation, the admitting authorities agreed a position where each application would be considered on its merits.

Representatives from large law firms informed the Committee of their view that the process of admission of foreign lawyers was impeding the employment of experienced foreign lawyers in large law firms and was diminishing Australia's ability to offer legal services globally.

At its March 2018 meeting, the Committee resolved to establish a Foreign Lawyers Review Steering Committee (Steering Committee) to review the operation of the legislation and rules relating to the admission of foreign lawyers in New South Wales and Victoria (Review).

In May 2018 the Terms of Reference for the Review were settled and the final constitution of the Steering Committee was agreed. Consultation will commence in July 2018, with the Review expected to be completed by the end of the year.

ACCREDITATION STANDARDS FOR AUSTRALIAN LAW COURSES

During the reporting period a pilot review of the law courses of Victoria University, University of Melbourne and University of Technology, Sydney was underway. In addition, a report on the review process was considered by the respective admitting authorities. As the admitting authorities seek to develop a joint framework for the accreditation of law courses, the Committee awaits with interest a system of law course accreditation that is comprehensive, efficacious, and inexpensive to apply.

PROPOSAL TO AMEND UNIFORM ADMISSION RULES 7 AND 8

The Committee noted a proposal that Rules 7 and 8 should be amended to ensure that any accreditation review conducted under Rule 7 is for the purpose of establishing, continuing or renewing the accreditation of a law course or PLT provider, and for determining any conditions to be attached to that accreditation.

In the light of the ongoing work relating to the pilot review described above, the Committee decided that consideration of the proposal to amend Rules 7 and 8 would be premature and should be deferred to a time after the results of the pilot are known.

DISCLOSURE GUIDELINES

To enable the admitting authorities to best assess whether an applicant for admission is currently capable of carrying out the inherent requirements of practice as an Australian legal practitioner, the websites of the admitting authorities refer to and provide a link to the LACC Disclosure Guidelines (Guidelines). The purpose of the Guidelines is to assist applicants to assess what matters they should disclose to the admitting authorities.

In November 2017, the Committee considered the Guidelines, reminding the admitting authorities of the need to apply the Guidelines consistently and requesting that they report any inconsistency emerging. No reports of inconsistency had been received by 1 July 2018.

RELATIONSHIP WITH LACC

The Committee noted its collaborative relationship with LACC and the admitting authorities of non-participating jurisdictions and acknowledged that there is a significant overlap between the roles of the Committee and LACC. The Committee expects that the present cooperative approach between it and LACC will continue and it will monitor the relationship as other Australian jurisdictions join the Uniform Law scheme.



*The Hon Acting Justice Arthur Emmett AO,
Chair of the LSC Admissions Committee.*

“The Uniform Law has opened up channels of support, guidance, assistance and collaboration between the Victorian and NSW admitting authorities. Besides being very enjoyable, I have found working with my Victorian counterparts really helpful - bouncing ideas off them, getting their insights and working together towards consistency between us. It has given depth and integrity to our processes.”

Louise Pritchard,
Executive Officer, Legal Profession
Admission Board

COMMISSIONER
FOR UNIFORM LEGAL
SERVICES REGULATION

LSC LEGAL
SERVICES
COUNCIL

**FINANCIAL STATEMENTS
FOR YEAR ENDED
30 JUNE 2018**


LEGAL PROFESSION
Uniform Law

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GENERAL INFORMATION

The audited financial statements for the Commissioner for Uniform Legal Services Regulation for 2017-2018 are included in the financial statements of the Legal Services Council, and have been consolidated as one entity.

The Legal Services Council is a not-for-profit entity and it has no cash generating units.

On 5 September 2018 the Council authorised the CEO, on behalf of the Council to issue the financial statements, with the approval of the Audit and Risk Committee. The Council has the power to amend and reissue the financial statements.

FINANCIAL STATEMENTS SUMMARY

Net Result for the Year

The net result for the year ended 30 June 2018 was a deficit of (\$67,283). (2017: \$117,637 surplus).

Revenue

The revenue for the Legal Services Council for the year ended 30 June 2018 was: \$1,369,080 (2017: \$1,364,739).

Expenses

The expenditure for the Legal Services Council for the year ended 30 June 2018 was \$1,436,363 (2017: \$1,247,102).

Assets

The total assets for the Legal Services Council as at 30 June 2018 were \$443,214 (2017: \$551,879).

Liabilities

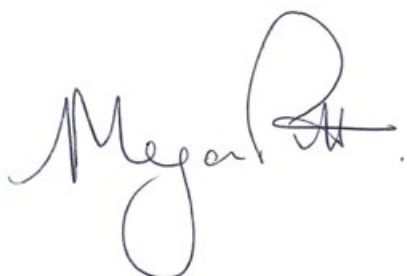
The total liabilities for the Legal Services Council as at 30 June 2018 were \$36,960 (2017: \$78,342) representing employee related provisions and other accrued liabilities.

Legal Services Council and Chief Executive Officer/Commissioner's declaration for the year ended 30 June 2018

In the opinion of the Commissioner and CEO:

- The attached financial statements and notes comply with *Australian Accounting Standards – Reduced Disclosure Requirements, Public Finance and Audit Act (NSW) 1983, Public Finance and Audit Regulation 2015* and other mandatory professional requirements;
- The attached financial statements and notes give a true and fair view of the Legal Services Council's financial position, incorporating the Commissioner for Uniform Legal Services Regulation, as at 30 June 2018 and of the performance for the financial year ended on that date; and
- There are reasonable grounds to believe that the Legal Services Council, incorporating the Commissioner for Uniform Legal Services Regulation, will be able to pay its debts as and when they become due and payable.

Signed in accordance with a resolution of the Legal Services Council made pursuant to Item 26 in Schedule 1 to the *Legal Profession Uniform Law*.



Megan Pitt
Chief Executive Officer
Legal Services Council and Commissioner
for Uniform Legal Services Regulation

5 September 2018
Sydney



INDEPENDENT AUDITOR'S REPORT

Legal Services Council

To Members of the New South Wales Parliament and Members of the Legal Services Council

Opinion

I have audited the accompanying financial statements of the Legal Services Council, incorporating the Commissioner for Uniform Legal Services Regulation (the Council), which comprise the Statement of Comprehensive Income for the year ended 30 June 2018, the Statement of Financial Position as at 30 June 2018, the Statement of Changes in Equity and the Statement of Cash Flows for the year then ended, notes comprising a Summary of Significant Accounting Policies and other explanatory information.

In my opinion, the financial statements:

- give a true and fair view of the financial position of the Council as at 30 June 2018, and of its financial performance and its cash flows for the year then ended in accordance with Australian Accounting Standards – Reduced Disclosure Requirements
- are in accordance with section 44 of the *Public Finance and Audit Act 1983* (the PF&A Act) and the Public Finance and Audit Regulation 2015.

My opinion should be read in conjunction with the rest of this report.

Basis for Opinion

I conducted my audit in accordance with Australian Auditing Standards. My responsibilities under the standards are described in the 'Auditor's Responsibilities for the Audit of the Financial Statements' section of my report.

I am independent of the Council in accordance with the requirements of the:

- Australian Auditing Standards
- Accounting Professional and Ethical Standards Board's APES 110 'Code of Ethics for Professional Accountants' (APES 110).

I have fulfilled my other ethical responsibilities in accordance with APES 110.

Parliament promotes independence by ensuring the Auditor-General and the Audit Office of New South Wales are not compromised in their roles by:

- providing that only Parliament, and not the executive government, can remove an Auditor-General
- mandating the Auditor-General as auditor of public sector agencies
- precluding the Auditor-General from providing non-audit services.

I believe the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Other Information

Other information comprises the information included in the Council's annual report for the year ended 30 June 2018, other than the financial statements and my Independent Auditor's Report thereon. The members of the Board of the Council are responsible for the other information. At the date of this Independent Auditor's Report, the other information I have received comprise the declaration by the Chief Executive Officer/Commissioner.

My opinion on the financial statements does not cover the other information. Accordingly, I do not express any form of assurance conclusion on the other information.

In connection with my audit of the financial statements, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit, or otherwise appears to be materially misstated.

If, based on the work I have performed, I conclude there is a material misstatement of the other information, I must report that fact.

I have nothing to report in this regard.

The Members' Responsibility for the Financial Statements

The members of the Council are responsible for the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards – Reduced Disclosure Requirements, and the PF&A Act, and for such internal control as the members of the Council determines is necessary to enable the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the members of the Council are responsible for addressing the Council's ability to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting except where the Council will be dissolved by an Act of Parliament or otherwise cease operations.

Auditor's Responsibility for the Audit of the Financial Statements

My objectives are to:

- obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error
- issue an Independent Auditor's Report including my opinion.

Reasonable assurance is a high level of assurance, but does not guarantee an audit conducted in accordance with Australian Auditing Standards will always detect material misstatements. Misstatements can arise from fraud or error. Misstatements are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions users take based on the financial statements.

A description of my responsibilities for the audit of the financial statements is located at the Auditing and Assurance Standards Board website at: www.auasb.gov.au/auditors_responsibilities/ar4.pdf. The description forms part of my auditor's report.

My opinion does *not* provide assurance:

- that the Council carried out its activities effectively, efficiently and economically
- about the security and controls over the electronic publication of the audited financial statements on any website where they may be presented
- about any other information which may have been hyperlinked to/from the financial statements.



Chris Harper
Director, Financial Audit Services

14 September 2018
SYDNEY

**STATEMENT OF COMPREHENSIVE INCOME
FOR THE YEAR ENDED 30 JUNE 2018**

	Notes	Actual 2018 \$	Actual 2017 \$
Expenses excluding losses			
Operating expenses			
Personnel services expenses	2	972,200	716,638
Other operating expenses	2	464,163	530,464
Total expenses		1,436,363	1,247,102
Revenue			
Grants and contributions	3	1,361,477	1,361,477
Interest revenue	3	7,603	1,943
Personnel service resource received free of charge	3	-	1,319
Total revenue		1,369,080	1,364,739
Net result		(67,283)	117,637
Other comprehensive income		-	-
Total comprehensive (loss)/income		(67,283)	117,637

The accompanying notes form part of these financial statements.

**STATEMENT OF FINANCIAL POSITION
FOR THE YEAR ENDED 30 JUNE 2018**

	Notes	Actual 2018 \$	Actual 2017 \$
ASSETS			
Current assets			
Cash and cash equivalents	4	187,895	548,181
Receivables	5	255,319	3,698
Total current assets		443,214	551,879
Total assets		443,214	551,879
LIABILITIES			
Current liabilities			
Payables	6	36,960	78,342
Total current liabilities		36,960	78,342
Total liabilities		36,960	78,342
Net assets		406,254	473,537
EQUITY			
Accumulated funds		406,254	473,537
Total equity		406,254	473,537

The accompanying notes form part of these financial statements.

**STATEMENT OF CHANGES IN EQUITY
FOR THE YEAR ENDED 30 JUNE 2018**

	Notes	Accumulated funds \$	Total equity \$
Balance at 1 July 2017		473,537	473,537
Net result for the year		(67,283)	(67,283)
Other comprehensive income		-	-
Total comprehensive expense for the year		(67,283)	(67,283)
Balance at 30 June 2018		406,254	406,254
Balance at 1 July 2016		355,900	355,900
Net result for the year		117,637	117,637
Other comprehensive income		-	-
Total comprehensive income for the year		117,637	117,637
Balance at 30 June 2017		473,537	473,537

The accompanying notes form part of these financial statements.

**STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED 30 JUNE 2018**

	Notes	Actual 2018 \$	Actual 2017 \$
Cash flows from operating activities			
Payments			
Employee related		(972,200)	(715,319)
Other		(531,930)	(509,268)
Total payments		(1,504,130)	(1,224,587)
Receipts			
Grants and contributions received		1,361,477	1,361,477
Other		32,367	36,692
Total receipts		1,393,844	1,398,169
Net cash flows (used in)/from operating activities	7	(110,286)	173,582
Cash flows from investing activities			
Purchases of Plant, Equipment & Intangible assests		(250,000)	-
Net cash flows from investing activities	5	(250,000)	-
Net (decrease)/increase in cash and cash equivalents		(360,286)	173,582
Opening cash and cash equivalents		548,181	374,599
Closing cash and cash equivalents	4	187,895	548,181

The accompanying notes form part of these financial statements.

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

(a) Reporting entity

The Legal Services Council (the Council) is an incorporated statutory body, and the Commissioner is a Statutory Office holder established under the *Legal Profession Uniform Law 2014* (NSW). These entities do not represent the Crown. These financial statements are for the Council, and incorporate transactions and balances of the Commissioner for Uniform Legal Services Regulation (Commissioner). The transactions and balances of the Commissioner in isolation are considered immaterial to these financial statements. On this basis, the reporting entity is referred to as the Legal Services Council, incorporating the Commissioner for Uniform Legal Services Regulation.

The Council, incorporating the Commissioner, is a not-for-profit entity (as profit is not its principal objective) and it has no cash generating units. Under clause 17 (2) of Schedule 1 of the Uniform Law the functions of the Chief Executive Officer of the Council are exercised by the Commissioner.

The financial statements of the Legal Services Council, incorporating the Commissioner, for the year ended 30 June 2018 have been authorised for issue by the Council on 5 September 2018.

(b) Basis of preparation

The Council's financial statements are general purpose financial statements which have been prepared on an accrual basis and in accordance with the *Public Finance and Audit Act 1983*, Public Finance and Audit Regulation 2015 and applicable *Australian Accounting Standards (which include Australian Accounting Interpretations)* and Reduced Disclosure Requirements issued by the Australian Accounting Standards Board ("AASB") as appropriate for not-for-profit oriented entities.

Judgements, key assumptions and estimations that management have made are disclosed in the relevant notes to the financial statements.

All amounts are rounded to the nearest dollar and are expressed in Australian currency.

(c) Personnel services

The Council does not directly employ staff, and therefore does not carry employee provisions. Employees are provided by the Department of Justice (Department) to carry out the Council's operating functions. While the Commissioner is a Statutory Officer, the Commissioner is for administrative purposes treated as if the Commissioner was an employee of the Department. The Department recovers the Council's employee related expenses (including entitlement and leave accruals) from the Council. The employee related expenses paid or payable to the Department are classified as "Personnel Services" in the Statement of Profit or Loss, and are calculated by the Department using the following recognition and measurement criteria:

- i. Salaries and wages (including non-monetary benefits), and annual leave expenses are recognised and measured at undiscounted amounts of the benefits in the period which the employees render the service.
- ii. Superannuation – the expense for certain superannuation schemes (Basic Benefit and First State Super) is calculated as a percentage of the employees' salary. For other superannuation schemes (State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employees' superannuation contributions.
- iii. On-costs, such as payroll tax, workers' compensation insurance premiums and fringe benefits tax, which are consequential to employment, are recognised as expenses where the employee benefits to which they relate have been recognised.
- iv. Long Service Leave (LSL) expenses of the employees who provide personnel services to the Council are assumed by the Crown. This is a notional expense calculated by Crown

Finance Entity (CFE) using a short hand method to approximate the LSL liability assumed, by making a projection for each employee based on their current salary, LSL entitlement and other factors as advised by Treasury's actuary. Expected future payments are discounted to their present value using market yields at year end on Commonwealth government bonds. The personnel service employees' LSL and defined benefit superannuation liability assumed by the Crown Entity is accounted for as part of personnel service expenses.

(d) Revenue recognition

Revenue is measured at the fair value of the consideration or contribution received or receivable.

Grants and contribution

Grant and contribution revenue from other bodies (NSW Department of Justice and Victorian Legal Services Board) is recognised in the year in which it is received or when control of the grant is gained.

Personnel service resource received free of charge

The personnel service employees' liabilities for long service leave and defined benefit superannuation are assumed by the Crown Entity. The extinguishment of the entity's liability resulting in recognition of a non-monetary revenue item is described as a personnel service resource received free of charge.

(e) Trade and other receivables

Receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. These financial assets are recognised initially at fair value. Subsequent measurement is at amortised cost using the effective interest method, less an allowance for any impairment of receivables. Any changes are recognised in the net result for the year when impaired, derecognised or through the amortisation process.

Short-term receivables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

(f) Goods and services tax ("GST") and other similar taxes

Revenues, expenses and assets are recognised net of the amount of associated GST, unless the GST incurred is not recoverable from the Australian Taxation Office (ATO). In this case it is recognised as part of the cost of the acquisition of the asset or as part of the expense.

Receivables and payables are stated inclusive of the amount of GST receivable or payable. The net amount of GST recoverable from, or payable to, the tax authority is included in other receivables or other payables in the statement of financial position.

Cash flows are presented on a gross basis in the Statement of Cash Flows. The GST components of cash flows arising from investing or financing activities which are recoverable from, or payable to the ATO, are presented as operating cash flows.

(g) Trade and other payables

These amounts represent liabilities for goods and services provided to the Council prior to the end of the financial year and which are unpaid. Due to their short-term nature they are measured at amortised cost and are not discounted. The amounts are unsecured and are usually paid within 30 days of recognition.

(h) Lease

A distinction is made between finance leases which effectively transfer from the lessor to the lessee substantially all the risks and rewards incidental to ownership of the leased assets, and operating leases under which the lessor does not transfer substantially all the risks and rewards.

An operating lease is a lease other than a finance lease. Operating lease payments are recognised as an operating expense in the Statement of Profit and Loss on a straight-line basis over the lease term.

(i) Accumulated Funds

The category ‘Accumulated Funds’ includes all current and prior period retained funds. The Council has determined that the operating surpluses from the first funding cycle (2015-2018) will be carried over to the next funding cycle

(j) Comparative information

Except when an Australian Accounting Standard permits or requires otherwise, comparative information is presented in respect of the previous period for all amounts reported in the financial statements.

(k) Change in accounting policy, including new or revised Australian Accounting Standards

i. Effective for the first time in 2017-18

The accounting policies applied in 2017-18 are consistent with those of the previous financial year except as a result of new or revised accounting standards that have been applied for the first time in 2017-18. The adoption of these standards has not caused any material adjustments to the reported financial position, performance, or cash flows of the Council.

ii. Issued but not yet effective

The following relevant Accounting Standards have not been applied and are not yet effective:

- AASB 15 *Revenue from Contracts with Customers*
- AASB 16 *Leases*

- AASB 1058 *Income of Not-for-profit Entities*
- AASB 2016-2 *Amendments to Australian Accounting Standards – Disclosure Initiative: Amendments to AASB 107 Statement of Cashflows*
- AASB 2016-4 *Amendments to Australian Accounting Standards – Specialised Assets for Not-For Profit Entities*
- AASB 2016-7 *Amendments to Australian Accounting Standards – Deferral of AASB 15 for Not-for-Profit Entities*
- AASB 2016-8 *Amendments to Australian Accounting Standards – Australian Implementation Guidance for Not-for-Profit Entities*
- AASB 2017-2 *Amendments to Australian Accounting Standards – Further Annual Improvements 2014-16 Cycle*

Other than AASB 16 Leases, the Council does not expect the adoption of these standards in the future periods to materially impact the financial statements.

AASB 16 is applicable to annual reporting periods beginning on or after 1 January 2019. For leases where the Council is the lessee, AASB 16 will require the Council to recognise right-of-use assets and lease liabilities on the statement of financial position where the lease term is for more than 12 months unless the underlying asset is of low value. There will be no impact on the total amount of cash flows reported.

The current lease accounting standard does not require the recognition of any right-of-use asset or liability for future payments for the lease, instead, the operating lease commitment is disclosed as in note 8.

2. EXPENSES

(a) Personnel services expenses

	2018 \$	2017 \$
Salaries and wages (including annual leave)	843,744	623,620
Payroll tax	51,541	36,599
Superannuation	71,995	52,435
Workers compensation insurance	4,920	2,665
Long service leave	-	1,319
	972,200	716,638

Staff are provided by the Department of Justice to carry out the Council's business operations.

(b) Other operating expenses

	2018 \$	2017 \$
Administration	46,502	64,996
Communications	45,983	38,797
Corporate Services - Department of Justice	100,000	120,189
Agency staff	84,378	89,934
Audit fees	26,000	30,700
Legal representation	8,126	13,087
Recruitment	55	18,840
Rental	104,440	90,000
Travel	48,679	63,921
	464,163	530,464

The Department of Justice provides corporate services to the Council including financial, HR, IT and asset management services.

3. REVENUE

	2018 \$	2017 \$
Contribution from NSW Department of Justice	838,190	848,811
Contribution from Victorian Legal Services Board	523,287	512,666
Interest revenue	7,603	1,943
Personnel service resources received free of charge	–	1,319
	1,369,080	1,364,739

Funding contributions were provided by the NSW Department of Justice and Victorian Legal Services Board based on the Council’s operating budget that was approved by the Standing Committee (currently comprising the Attorneys General of NSW and Victoria). Funding is split between NSW and Victoria and calculated in accordance with clause 8.2.1 of the Intergovernmental Agreement, that is with reference to each participating jurisdiction’s proportion of the total number of legal practitioners to whom practising certificates were issued over the immediately preceding year.

The NSW contribution is funded by a \$400 fee charged on each legal profession admission in NSW. The fee is collected by NSW Legal Profession Admission Board and is allocated to the Department of Justice for the purposes of the Council.

As a result of acceptance by the NSW Crown Entity of departmental employee long service leave (LSL) and defined benefit superannuation liabilities, a notional revenue is recognised as personnel services resources received free of charge, and the equivalent expense is accounted as LSL expense under the personnel services.

4. CURRENT ASSETS – CASH AND CASH EQUIVALENTS

	2018 \$	2017 \$
Cash and equivalents	187,895	548,181
	187,895	548,181

5. CURRENT ASSETS – RECEIVABLES

	2018 \$	2017 \$
Current receivables		
Amount owed by NSW Department of Justice	2,254	–
Prepayment*	250,000	–
Sundry debtors	3	3,697
Goods and services tax-input tax credits	3,062	1
	255,319	3,698

* The Council paid \$250,000 to the NSW Department of Justice for the fit out works at the Council's new office at 19 O'Connell Street, Sydney. The fit out work will be completed by 12 October 2018 when the Council takes occupancy.

6. CURRENT LIABILITIES – PAYABLES

	2018 \$	2017 \$
Other		
Creditors and sundry accruals	36,960	50,945
Amount owing to NSW Department of Justice	–	27,397
	36,960	78,342

7. RECONCILIATION OF CASH FLOWS FROM OPERATING ACTIVITIES TO NET RESULT

Reconciliations of cash flows from operating activities to the net result as reported in the Statement of Comprehensive Income as follows:

	2018 \$	2017 \$
Net Result for the year	(67,283)	117,637
Decrease/(increase) in receivables	(1,621)	(2,397)
Increase/(decrease) in payables	(41,382)	58,342
Net cash flows (used in)/from operating activities	(110,286)	173,582

8. COMMITMENTS

	2018 \$	2017 \$
Operating lease commitments		
Future non-cancellable operating lease not provided for and payable		
Not later than one year	84,902	99,000
Later than one year but not later than five years	320,813	24,750
Total	405,715	123,750

(a) Lease

The operating lease commitment relates to a Deed of Licence with the Australian Government Solicitor that is held by the Department on behalf of the Council, for the occupancy of premises in Sydney CBD from 21 August 2015 to 12 October 2018. The licence is treated as an operating lease for the purpose of the disclosure.

The commitments above include input tax credits of \$36,883 (2017: \$11,250) that are expected to be recoverable from the ATO.

The Council will enter into a new lease from 13 October 2018 with the NSW Trustee and Guardian to occupy premises at 19 O'Connell Street, Sydney. The lease is expected to be for five years at an annual rent of \$72,912 ex GST.

9. CONTINGENT LIABILITIES

The Council is unaware of any matters that may lead to significant contingent liabilities.

10. RELATED PARTY DISCLOSURES

The entity's key management personnel compensation is as follows:

	2018 \$	2017 \$
Short-term employee benefits		
Salaries	385,000	336,000
Other monetary allowances	-	-
Non-monetary benefits	-	-
Other long-term employee benefits	-	-
Post-employment benefits	-	-
Termination benefits	-	-
Total remuneration	385,000	336,000

The Council's key management personnel and their compensation disclosures are limited to the key decision makers, i.e. CEO and all members of the Council.

During the year, the Council received funding contributions from the Victorian Legal Services Board (VLSB). The Chairperson of the VLSB and a director of the VLSB are also members of the Council pursuant to Schedule 1, Part 2 of the Legal Profession Uniform Law. The aggregate value of the material transactions and related outstanding balances as at and for the year ending 30 June 2018 are as follows:

	Transaction value \$	Net receivable/ (payable) \$
Natures of transaction		
Funding contribution from Victorian Legal Services Board	523,287	-

The Council did not enter into any other transactions with key management personnel, their close family members and controlled or jointly controlled entities.

11. EVENTS AFTER THE REPORTING PERIOD

No matter or circumstance has arisen since 30 June 2018 that has significantly affected, or may significantly affect the Council's operations, the results of those operations, or the Council's state of affairs in future financial years.

COMMISSIONER
FOR UNIFORM LEGAL
SERVICES REGULATION

LSC LEGAL
SERVICES
COUNCIL

**REPORT OF THE COMMISSIONER
FOR UNIFORM LEGAL SERVICES
REGULATION 2017/2018**


LEGAL PROFESSION
Uniform Law

ANNUAL REPORT 2017/2018

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5 September 2018

The Hon Michael Black AC QC
Chair, Legal Services Council
PO Box H326
Australia Square NSW 1215

Dear Mr Black,

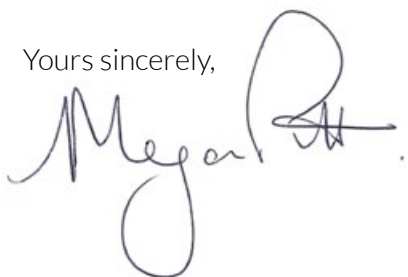
Annual Report for 2017–2018

I submit my Annual Report for 2017–2018 to the Legal Services Council, in accordance with Clause 10 in Schedule 2 to the *Legal Profession Uniform Law*.

The report does not include separate financial statements for me as Commissioner, as the financial statements of the Council and for my office have been consolidated with those for the Council, as one entity. The financial statements have been prepared in accordance with Australian Accounting Standards and have been audited.

A report from the Auditor is contained with the financial statements.

Yours sincerely,



Megan Pitt

Chief Executive Officer | Legal Services Council
Commissioner for Uniform Legal Services Regulation

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COMMISSIONER'S REPORT

During this reporting year, I took over as Commissioner for Uniform Legal Services Regulation (Commissioner) from Dale Boucher and I thank him for his excellent founding work.

Over the last nine months, I have valued the opportunity to observe how the Uniform Law is developing and operating; how we liaise with our stakeholders and how they interact with each other; and to become familiar with the different perspectives and views about the Uniform Law scheme.

It is clear that the Uniform Law scheme has operated very successfully in New South Wales and Victoria. The increased interaction between stakeholders in these two States and common legislation has provided benefits for the legal profession, regulators and consumers. I have observed the active cooperation and consultation occurring as a matter of course between regulators in NSW and Victoria, as the scheme envisaged.

With the prospects of the scheme expanding across other jurisdictions, it seems timely to consider how my office, together with our stakeholders and under the auspices of the Legal Services Council, might build on these solid foundations, and deal most effectively and efficiently with Uniform Law issues in the future.

To that end, I have convened roundtable discussions with the DLRA's in New South Wales and Victoria to seek their perspectives and to discuss preferred future approaches. This will culminate in a summit to devise an agreed strategy to drive the future development of the Uniform Law. I look forward to reporting on the outcomes of these meetings on our website and in our next Annual Report.

Since my appointment, I have continued our focus on the **objectives of the Commissioner** in the Uniform Law.

Promote compliance with the Uniform Law and Uniform Rules s 398

An important objective of the Commissioner set out in the Uniform Law is to promote and reinforce compliance with the Uniform Law and Uniform Rules. We have pursued this through meetings with stakeholders and by working with the DLRA's to ensure that the Uniform Law assists them in their regulatory roles. We have also supported changes to the Uniform Law legislation, rules, guidelines and directions to facilitate compliance.

Our work relating to dispute resolution and professional discipline (Chapter 5 of the Uniform Law) has focussed on encouraging the DLRA's to collaborate to achieve best practice. This approach is now becoming standard practice between the local authorities, benefitting both the legal profession and the regulatory authorities.

Consistent and effective implementation of Chapter 5, supporting Rules and Guidelines

Although the DLRA's are responsible for handling complaints, I am responsible for promoting consistent practice in relation to dispute resolution and professional discipline. To do this, I have encouraged ongoing dialogue between the State Legal Services Commissioners and other stakeholders.

I meet regularly with the Legal Services Commissioners in NSW and Victoria to identify opportunities to achieve greater consistency in terms of how the Uniform Law provisions are applied.

Electronic sharing of complaints data is also enabling us to compare and analyse statistics to assess the consistency and effectiveness of legal services being provided from the perspectives of consumers in NSW and Victoria.

Also, while there is still some way to go to include data from all chapters of the Uniform Law in the **LSC Uniform Law database**, I am grateful to staff from the Law Society of NSW for their continuing assistance in building and hosting this important resource.

When completed, this will provide a fuller picture of the Uniform Law in operation. We will be able to evaluate and recommend changes to the Uniform Law, and share data with stakeholders so as to better inform regulation of the profession and meet the needs of consumers of legal services

A number of **Uniform Law legislative and rule changes** were made this year to support a consistent approach to specific issues. These include: the External Examiners Course review; consultation on practical legal training competency standards; and the application of s 70 in respect of forms of practice permitted to registered foreign lawyers, and costs disclosure thresholds.

In addition, the LSC will formally make the Legal Profession Uniform General Amendment (External Examiners) Rule 2018 in September 2018 following the Standing Committee's approval in June. This will enable the DLRA's to **revoke the status of External Examiners** on grounds of incompetence or unsuitability. Under the Rule, the DLRA's must provide a written notice to specify the reasons for the proposed revocation and consider any submissions received within the set time period.

A revised **External Examiners Course** which was approved in 2016 and conducted in NSW and Victoria in 2017 was reviewed and regarded as a success, with some minor technical improvements to be made before its next roll-out.

Finally, we are continuing informal consultation with stakeholders in relation to harmonising the **costs disclosure thresholds** between the Uniform and non-Uniform Law jurisdictions. We appreciate the feedback that we have received from a wide range of interested parties about this issue. We will continue this consultation process in the second half of 2018 to ensure that we capture all relevant views before the LSC further considers this issue.

Raise awareness of the Uniform Law framework and its objectives

I have continued building awareness of the Uniform Law via stakeholder meetings, speaking engagements, our consultation processes, media releases, website updates on Uniform Law developments and a new quarterly LSC newsletter. In the last nine months, I have held over 100 meetings with stakeholders and we have had approximately 12,000 visits to our website.

Our **Legal Profession Uniform Law Library (Australia) in AustLII**, which is an excellent source of information about the Uniform Law, is another important achievement. The Library now includes links to all relevant legislation, Guidelines and Directions, case law and law journal articles that cite the Uniform Law. Users may search for material relating to the Uniform Law in the jurisdictions covered by the Uniform Law framework.

I would like to take this opportunity to acknowledge the professionalism and unwavering support of our small Secretariat in terms of their day-to-day support and their policy expertise.

They have been instrumental in raising awareness of the Uniform Law through the strong working relationships they have forged with their counterparts in the DLRAs and other stakeholder organisations. This has greatly assisted our understanding of their perspectives and ensured open and valuable communication.

I look forward to taking the Uniform Law forward to the next stage of its development in 2019 to 2021.

Megan Pitt

Commissioner for Uniform Legal Services Regulation
5 September 2018



“It is clear that the Uniform Law scheme has operated very successfully in NSW and Victoria and the increased interaction between stakeholders in these two states operating under the same legislation has provided benefits for the legal profession, regulators and consumers.”

Megan Pitt,
Commissioner for Uniform Legal Services
Regulation

ROLES AND RESPONSIBILITIES

ROLES AND RESPONSIBILITIES OF THE COMMISSIONER FOR UNIFORM LEGAL SERVICES REGULATION (COMMISSIONER)

The office of the Commissioner is established by the Legal Profession Uniform Law 2014. The Commissioner is appointed for a term of up to five years by the Victorian Attorney-General on the recommendation of the Standing Committee and with the concurrence of the Council.

During the reporting year there were two Commissioners: Dale Boucher was Commissioner from September 2014 until 30 September 2017. Megan Pitt was appointed Commissioner on 3 October 2017 for a period of five years, and her biographical information can be found on page 14.

The Commissioner is independent of the Council in exercising functions under the Uniform Law, except as provided in Part 8.3 of the Uniform Law. The Commissioner works in close consultation with the LSC Chair and staff of the Secretariat and is also the Council's CEO.

The role of the Commissioner is to:

- promote compliance with the Uniform Law and Uniform Rules;
- ensure consistent and effective implementation of Chapter 5 of the Uniform Law (Dispute Resolution and Professional Discipline) and supporting Uniform Rules, through developing and making appropriate guidelines and monitoring and reviewing whether these are being applied consistently; and
- raise awareness of the Legal Profession Uniform Law Framework and its objectives.

As this list shows, the Commissioner's role is broader than focussing on Chapter 5 functions, although that is a core part of the role. In effect, the Commissioner has an ongoing mission to promote the Uniform Law and see it adopted and functioning well, ultimately in all Australian jurisdictions.

Because the role of CEO of the Council and the role of Commissioner are required by the Uniform Law to be exercised by the same person, it is difficult to distinguish between them. The Commissioner's role has an internal dimension and an external one. The internal focus this year has been to monitor the operation of the Uniform Law in the area of complaints and admissions to ensure that in the long term, the Uniform Law scheme will prosper.

The external focus has been on pursuing the adoption of the scheme nationwide. These two functions work in tandem with each other.

Commissioner's reporting obligations

The Commissioner can report on matters relating to the exercise of Chapter 5 functions to the LSC for the attention of the Standing Committee. The Commissioner can also recommend that changes to Chapter 5 functions be referred to the Standing Committee.

However, no recommendation was made by the Commissioner in respect of Chapter 5 during the year.

The functions of the Council in relation to the Commissioner and an account of how these have been executed during the year are summarised as follows:

- The Commissioner reports formally to each meeting of the Council and seeks to keep Council members informed of significant developments or issues between meetings.
- The Council examines annual and other reports of the Commissioner and reports to the Standing Committee on any matter appearing in or arising from any such report.
- This Annual Report was examined in draft by the Council in August 2018. No matters were suggested as the subject of a report to the Standing Committee.
- The Council can make recommendations to the Standing Committee on any changes to the role or functions of the Commissioner that the Council considers appropriate. No changes have been suggested since the commencement of the Uniform Law.
- The Council is required to inquire into and report on any question about the Commissioner's functions referred to it by the Standing Committee. No such questions were referred in the year.

More broadly, the Council and Commissioner regularly evaluate the scheme to identify whether outcomes reflect intended objectives, or whether change is needed, including in specific areas referred to them by the Standing Committee.



HIGHLIGHTS OF 2017-2018

EXTERNAL EXAMINERS

External Examiners were a particular focus of the Commissioner's work this year with three important pieces of work progressed.

Review of the External Examiners Course

Between December 2016 (when the Uniform Law External Examiners (EE) course was approved by the former Commissioner) and February 2018, 850 EEs attended 24 courses in NSW conducted by the Law Society of NSW (LSNSW) and 370 EEs attended 16 courses in Victoria conducted by the Law Institute of Victoria (LIV). Those who successfully completed the course and the assessment component (90%) were included in the online registers of the LSNSW and the LIV. The aim of the new course was to obtain greater clarity in the External Examiners reports and to encourage EEs to spell out facts so that problems are more readily identifiable to the investigators reading the reports.

A common EE course and reporting document has provided uniformity across the participating jurisdictions so that an EE trained and certified in one state can conduct EEs in another participating jurisdiction provided that the EE gives notice to the DLRA and evidence of course certification.

In February 2018 the Council issued a delegation to the Commissioner to approve the External Examiners course from time to time. That delegation is valid until 13 October 2020.

In April the Commissioner re-convened the External Examiners Working Group, constituted by representatives from the Secretariat, VLSB+C, LIV and Law Society of NSW. The Group reviewed the External Examiners Course and the EE Forms which are completed annually by an EE for a law practice.

The Group is expected to change the current EE Form in the light of feedback received from EEs, the NSW Bar Association (for barristers holding trust money) and law practices.

The EE Working Group is expected to complete the review in November 2018.

External Examiners revocation of status power

On 27 June 2018, the Standing Committee approved the LSC's request to make new rules to empower the DLRA to revoke a person's designation as an External Examiner of a law practice. This will serve to protect the integrity of the external examination process, and to deal with instances where questions about an EE's competence and/or suitability arise. The Council is expected to formally make the rules in September 2018, which will take effect as soon as they are published on the NSW legislation website.

Harmonisation of the Trust Account Year - extension of reporting time to the DLRA

On 19 December 2017, the LSC determined, pursuant to Uniform General Rule 69, that from 1 January 2018, an External Examiner must give a written report of an examination to the DLRA by 31 May each year, unless Rule 68 on final external examination applies. This was in response to feedback from the LIV and the peak accounting bodies, and determined in consultation with the DLRA. The LSC reconfirmed its view that to achieve uniformity across participating jurisdictions, the trust account year should end on 31 March and the preparation of the statement/declaration of trust money by law practices should be completed and lodged by 30 April each year.

BUILDING ON THE DATA EXCHANGE PROJECT

The Uniform Law recognises that there is a great benefit in comparing data with a view to adopting best practice. One of the Legal Services Council's primary objectives is "to monitor the implementation of the Legal Profession Uniform Law and ensure consistent application across participating jurisdictions" (s 368(1)).

The LSC Uniform Law Database is an important tool to assist the Council meet its objective through the use of empirical rather than anecdotal evidence. The benefits of the DLRA's working together are starting to emerge as the data provides comparisons between reporting years and we are able to observe emerging trends between jurisdictions. See page 73 Data Analysis section.

The Council appreciates the cooperation of the DLRA's in providing Chapter 5 complaints data and Chapter 2 Admissions data during the reporting period. Work has also commenced on reports

for Practising Certificates data and Registration Certificates data (Chapter 3), which will be progressed in the second half of the year.

The LSC looks forward to continuing cooperation on trust money and fidelity fund reporting and external intervention reporting.

LEGAL PROFESSION UNIFORM LAW LIBRARY (AUSTRALIA) AUSTLII

This year the second phase of this project included decisions of the VLSB+C and creating 'virtual' databases that draws from AustLII's complete collection of databases of case law relating to the regulation of legal practitioners in Uniform Law States. The library now includes relevant decisions of the High Court, the Federal Court and Family Court, the NSW and Victorian Supreme Courts, as well as VCAT and NCAT, together with law reform reports and law journal articles relevant to the regulation of legal practitioners in NSW and Victoria.



Comprising representatives from LSC, LIV, VLSB+C and LSNSW, the EE Working Group is responsible for reviewing the EE Course.

This project commenced in late 2016 when the LSC collaborated with AustLII in the development of the library to make available all legislation and regulations relating to the Legal Profession Uniform Law, together with published decisions of the tribunals and courts. The AustLII Legal Profession Uniform Law Library Australia supports the LSC and the Commissioner in making open access information publicly available and providing resources for legal practitioners, law practices and consumers.

During the reporting year the LSC's AustLII Library home page was accessed 5,699 times and the Council and Commissioner regulations and guidelines were accessed 5,810 times (www.austlii.edu.au/au/special/lpuniformlaw/).



THE YEAR AHEAD

A key priority in the year ahead will be encouraging other jurisdictions to join the Uniform Law scheme.

In support of this, the Commissioner together with the LSC will continue monitoring issues that matter to legal regulators and the legal profession Australia-wide and engage with non-participating jurisdictions to identify and overcome any barriers to joining the Uniform Law scheme.

Other priorities during 2018-2019 will include:

- **monitoring legal technology** and other legal practice developments to ensure the legal settings of the Uniform Law are appropriate for the times and to improve the LSC's capacity to respond to emerging challenges in an agile manner;
- **developing and enhancing the Commissioner's role** in overseeing complaints by improving the LSC's analytical capacity;
- facilitating an **agreement on revised costs disclosure thresholds**;
- completing the **Uniform Law Database**;
- completing the **Australian Legal Profession Register**; and
- **developing a strategic approach** to Uniform Law rule change requests to identify priority issues.

REPORTING AND INFORMATION

REGISTER OF DELEGATIONS

The Commissioner may delegate any of their functions (other than the power of delegation) to a member of the LSC staff. The Uniform Law requires that the Commissioner maintains a register of delegations, and that the register must be kept up to date and reviewed at least annually (s 413). There were no delegations of the Commissioner's functions during the reporting period.

REPORT ON COMPLAINTS HANDLING AND DISCIPLINARY PROCEDURES FOR THE YEAR

The Uniform Law requires that the Commissioner report on the following information each year:

- statistical information about complaints received, resolved and determined;
- a report containing information regarding compliance functions; and
- audit information about fidelity funds submitted by fidelity authorities.

This information is set out in the next section.

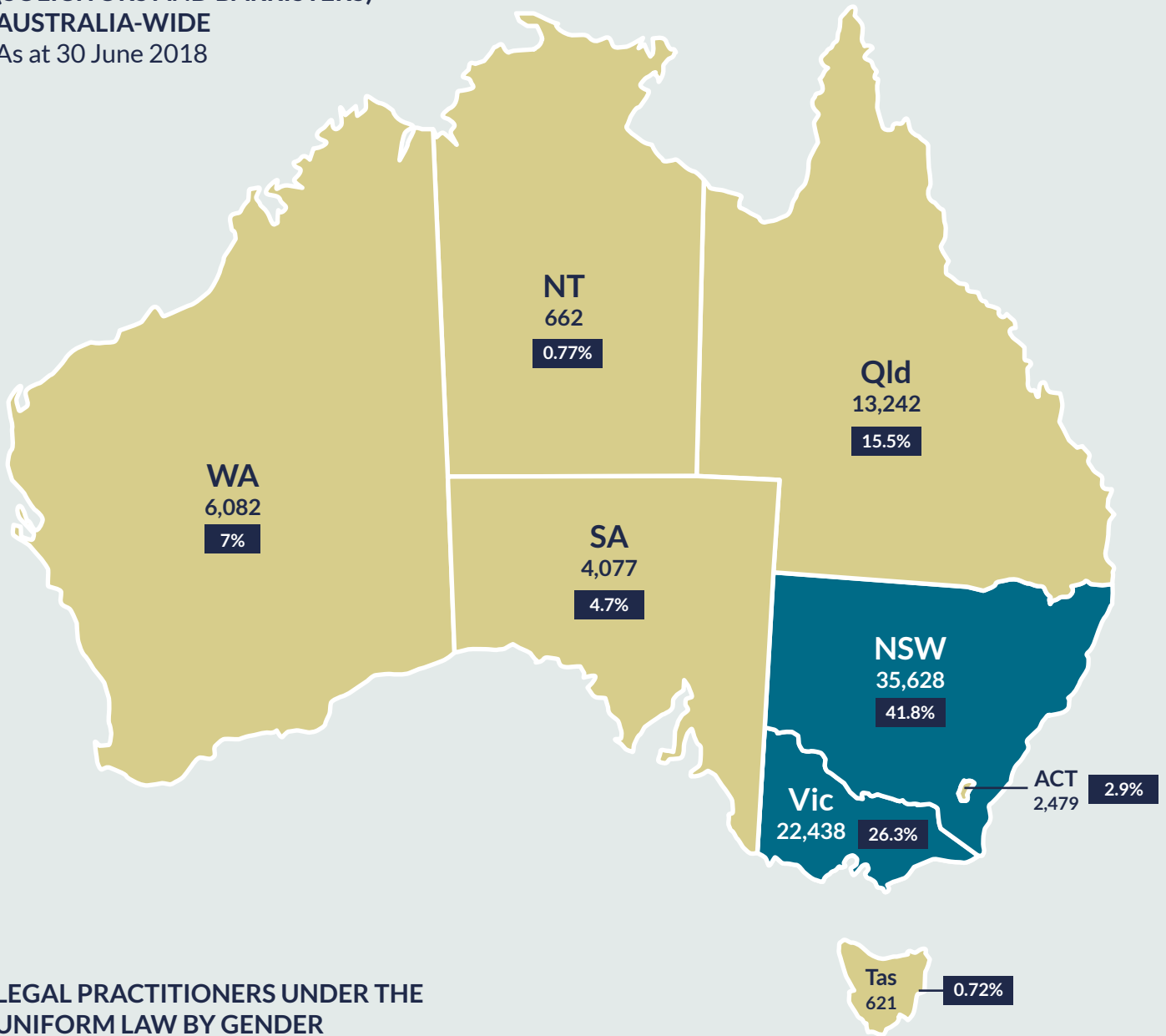


INDUSTRY SNAPSHOT

NUMBER OF LEGAL PRACTITIONERS (SOLICITORS AND BARRISTERS)

AUSTRALIA-WIDE

As at 30 June 2018



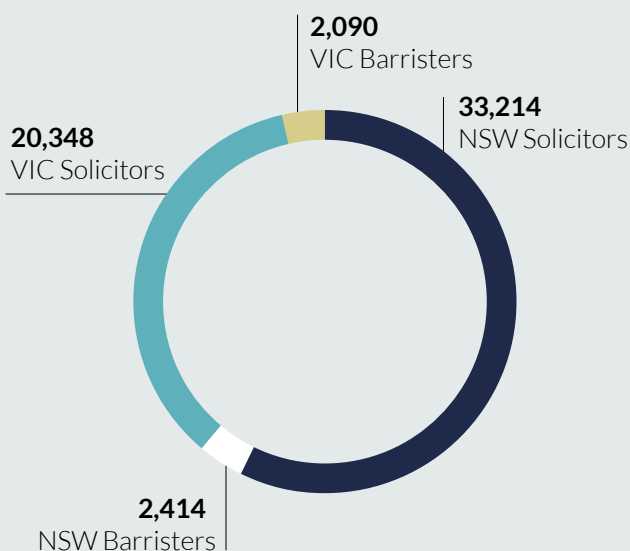
LEGAL PRACTITIONERS UNDER THE UNIFORM LAW BY GENDER



There are **85,229** legal practitioners Australia-wide

A difference of only 0.5% between the sexes.

NUMBER OF LEGAL PRACTITIONERS UNDER THE UNIFORM LAW



There are **58,066** legal practitioners under the Uniform Law - **68%** of legal practitioners Australia-wide

The number of legal practitioners (solicitors and barristers) regulated by the Uniform Law framework is **58,066**: This figure represents 68% of all legal practitioners Australia-wide.

NSW solicitors: 33,214 barristers: 2,414
Total number of legal practitioners in NSW: 35,628

VIC solicitors: 20,348 barristers: 2,090
Total number of legal practitioners in VIC: 22,438

There are **85,229*** legal practitioners in Australia.

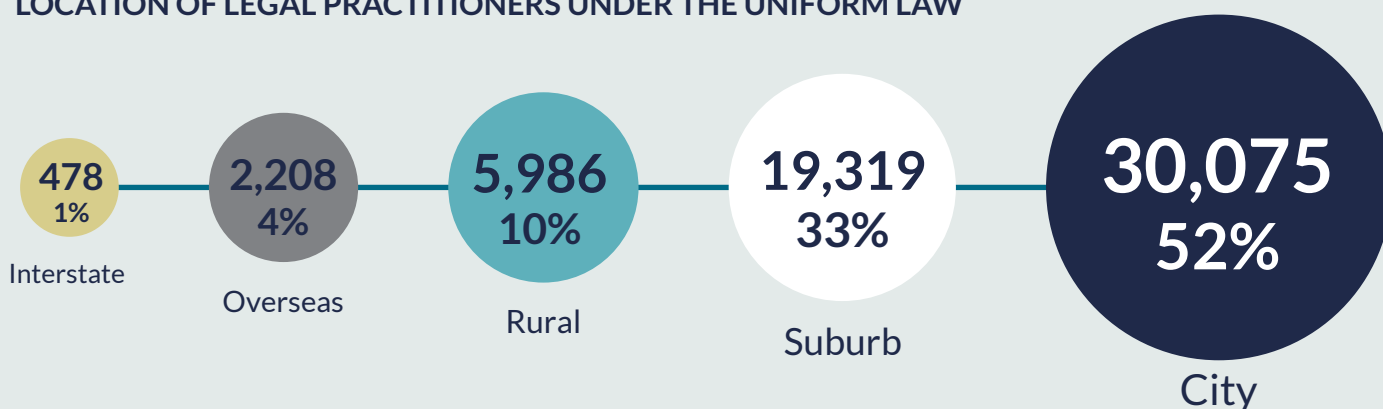
Solicitors (53,562) make up 92% of the legal profession across the two Uniform Law States.

There are 78,996 solicitors Australia-wide. The largest proportion of solicitors are registered in NSW (42%) followed by Victoria (26%).

Solicitors in the Uniform Law States comprise 68% of solicitors Australia-wide.

Barristers (4,504) in NSW and Victoria represent 72% of barristers Australia-wide (6,233).

LOCATION OF LEGAL PRACTITIONERS UNDER THE UNIFORM LAW



* Figures are based on Practising Certificates issued by State and Territory authorities as at 30 June 2018 and does not include government lawyers.

REPORT ON COMPLAINTS HANDLING AND DISCIPLINARY PROCEDURES

PERSPECTIVE

The Uniform Law sets up an overarching regulatory framework which is flexible and consultation-based. This has proven advantageous particularly where local issues arise as they are dealt with expeditiously within the framework. The following report analyses the second full year of data collected on the operation of the Uniform Law.

Every year, throughout Victoria and NSW, legal practitioners provide hundreds of thousands of legal services to members of the community, as well as to corporate and government clients. The great majority of legal services are provided professionally, expeditiously and to clients' satisfaction and do not come to the attention of the legal profession's regulators.

THE LSC UNIFORM LAW DATABASE

The Commissioner has a statutory obligation under Clause 10 (2) of Schedule 2 of the Uniform Law to publish statistical information about complaints received, resolved and determined. The Commissioner is also required to report on compliance functions and audit information about fidelity funds submitted by fidelity authorities. Evaluation of this information assists the Commissioner and the Legal Services Council to monitor the operation of the Uniform Law and ensure its objectives are being met.

A LSC Uniform Law database contains complaints data (from 1 July 2015) and admissions data from (1 July 2017) provided by the Designated Local Regulatory Authorities (DLRAs) in NSW and Victoria. This database serves as a valuable and unique repository of information and knowledge about legal practitioners, identifying trends and demonstrating progress towards uniformity in NSW and Victoria.

The Victorian Legal Services Board + Commissioner (VLSB+C), the NSW Office of the Legal Services Commissioner (OLSC), the Law Society of NSW (LSNSW) and the NSW Bar Association (NSWBA), provide statistical de-identified complaints data to the LSC Uniform Law database on a fortnightly basis.

In 2017-2018, work was undertaken to extend the project to the other aspects of the Uniform Law including admission and compliance with Practising Certificate requirements. As a result of this work, data from the Legal Profession Admission Board (NSW) (LPAB) and the Victorian Legal Admissions Board (VLAB) is now available to the Commissioner for monitoring and reporting purposes.

COMMENTS ON DATA

At present all data is provided by the VLSB+C, the OLSC, the LSNSW, the NSWBA, LPAB and VLAB. This data is provided to the host (LSNSW) via a VPN using a data template developed through a joint mapping exercise with the DLRAs to establish a common reporting framework.

Comparisons made with previous years will be of limited use because over time, there are more complaints brought under the Uniform Law than under previous legal profession legislation. Where comparisons have been made in this report, they are made with this qualification.



DATA ANALYSIS

1. TOTAL NUMBER OF COMPLAINTS BY JURISDICTION

The total number of new complaints recorded during the reporting period across Victoria and NSW was **4,259**.

The Victorian Legal Services Commissioner deals with all solicitor complaints in Victoria and delegates the handling of most barrister complaints to the Victorian Bar. About 0.03% of Victorian complaints under the Uniform Law were handled directly by the Victorian Bar.

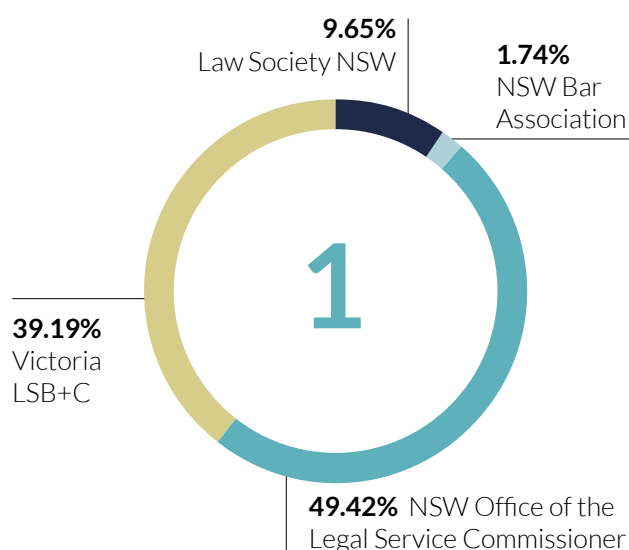
The NSW Legal Services Commissioner is the repository of all complaints and through its powers of delegation, co-regulates with the Law Society Council (NSW) and the Bar Council (NSW). Together, the Law Society and Bar Councils handled approximately 11% of all NSW complaints under the Uniform Law framework.

The number of complaints in the two jurisdictions was directly proportional to the number of practitioners registered in each State. For example, Victoria with 39% of Uniform Law jurisdiction practitioners, received 39% of Uniform Law jurisdiction complaints.

Following preliminary assessment, approximately a quarter of all complaints (1,077; 26%) made were found to be unsubstantiated or misconceived, compared with nearly one third (31.5%) in 2016-2017.

Total New Complaints

Source	# Complaints All	# Complaints NSW	# Complaints VIC
Law Society NSW	411	411	0
NSW Bar Association	74	74	0
NSW Office of the Legal Service Commissioner	2,105	2,105	0
Victorian Legal Services Board + Commissioner	1,669	0	1,669
Grand Total	4,259	2,590	1,669



2. AVERAGE NUMBER OF OPEN / CLOSED COMPLAINTS BY MONTH

The total number of new complaints open at the end of the reporting period was 4,259. By 30 June 2018 only 1,408 of these complaints remained opened. During the same period, 4,130 complaints were closed.

The Uniform Law data shows slightly fewer complaints being closed than were opened, with an average of 344 complaints being closed per calendar month for the 2017-2018 financial year, compared with an average of 355 complaints being opened. It should be noted however that the DLRAs are also still closing complaints under their respective Legal Profession Acts, and these figures are not captured here.

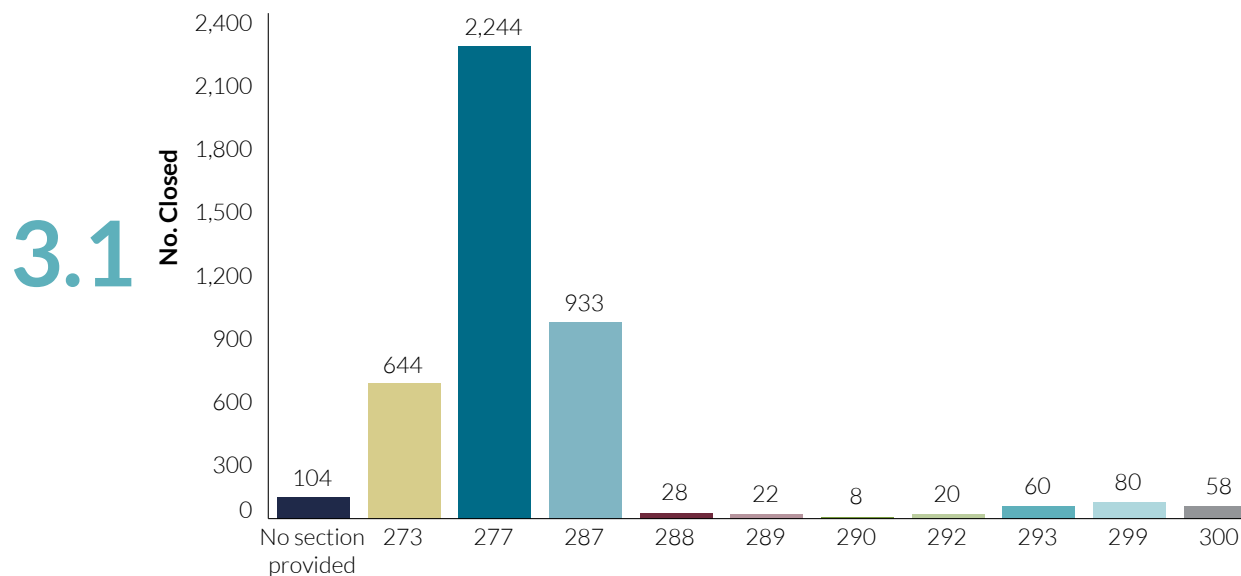
The average close time relates to the average amount of time in days across both States. The average time between the opening and closing of a complaint is calculated within each category in days. On average, disciplinary issues take the longest to close at 74 days (2017: 85 days) and costs disputes take an average of 71 days (2017: 68 days) to close. The average close time in days for each complaint type under these categories is recorded in the table below.

Average Close Time by Complaint Issue

Category Description	Complaint Type	Average Close Time (Days)
CONSUMER MATTER	Communication	63
	Competence and Diligence	71
	Compliance Matters	44
	Costs	65
	Ethical Matters	68
	Personal Conduct	44
	Trust money and Trust Accounts	66
COST DISPUTE	Communication	90
	Competence and Diligence	87
	Costs	64
	Ethical Matters	94
	Personal Conduct	68
	Trust money and Trust Accounts	82
DISCIPLINARY MATTER	Communication	55
	Competence and Diligence	75
	Compliance Matters	63
	Costs	96
	Ethical Matters	73
	Personal Conduct	41
	Trust money and Trust Accounts	111
MIXED MATTER	Communication	108
	Competence and Diligence	67
	Compliance Matters	34
	Costs	66
	Ethical Matters	65
	Personal Conduct	40
	Trust money and Trust Accounts	63

3. TOTAL NUMBER OF CLOSED COMPLAINTS BY SECTION OF THE UNIFORM LAW

The graph below provides a breakdown of all closed complaints by reference to the Uniform Law section. The number of complaints finalised includes matters commenced prior to the reporting period and excludes duplicate complaints.



Key to section numbers:

Section	Description	2018	2017
None	Other or no section provided in LSNSW and NSWBA data ¹	104	96
273	Withdrawal of complaint	644	465
277	Closure of whole or part of complaint (any reason, any stage) after preliminary assessment ²	2,244	1,857
287	Informal resolution of consumer matters	933	848
288	Mediation	28	11
289	Settlement agreements	22	0
290	Determination of consumer matters by local regulatory authority	8	8
292	Binding determinations in costs disputes	20	17
293	Cases where binding determinations are not made in costs disputes	60	50
299	Determination by local regulatory authority - unsatisfactory professional conduct	80	70
300	Initiation and prosecution of proceedings in designated tribunal	58	21
Total		4,201³	3,442

1. This may reflect the corollary of ss 299 and 300, for which there is no Uniform Law provision – for closures after completion of an investigation where no finding of unsatisfactory professional conduct and the regulator is not of the opinion conduct may amount to professional misconduct.
2. This covers matters from pre-assessment stage and through to matters which have been fully investigated. It excludes duplicate complaints which are complaints, the subject matter for which has been or is already being investigated (section 277 (1)(d) of the Uniform Law).
3. This total figure of 4,201 is higher than the total of closed complaints 4,130 because one complaint may be closed against more than one section. For example: in a complaint with two streams (i.e. mixed) the consumer matter component may be closed under s. 277(1)(b) and the disciplinary complaint may be closed under s.299(1) (c).

Of the complaints finalised by section, a large proportion of total complaints were closed under s 277 (2,244 or 54.3%); which is used to close all complaints where no disciplinary breach is established. The majority of these complaints were closed after preliminary assessment. Closure of these complaints in whole or in part may be due to the complaint being assessed as lacking substance or being misconceived, being out of time, outside the jurisdiction of the State Commissioners, or because the complaint would be better investigated by the police or other investigatory or law enforcement agency. Closure may also occur when there is a failure by the complainant to provide adequate information or the complainant withdraws the complaint.

Overall, 644 complaints were withdrawn, which is approximately 15% of all complaints. Withdrawal of a complaint may occur at any stage of the investigation. In most of these cases, the Commissioner advised that the concerns of the complainant were addressed or resolved and the complainant no longer wished to continue with the complaint.

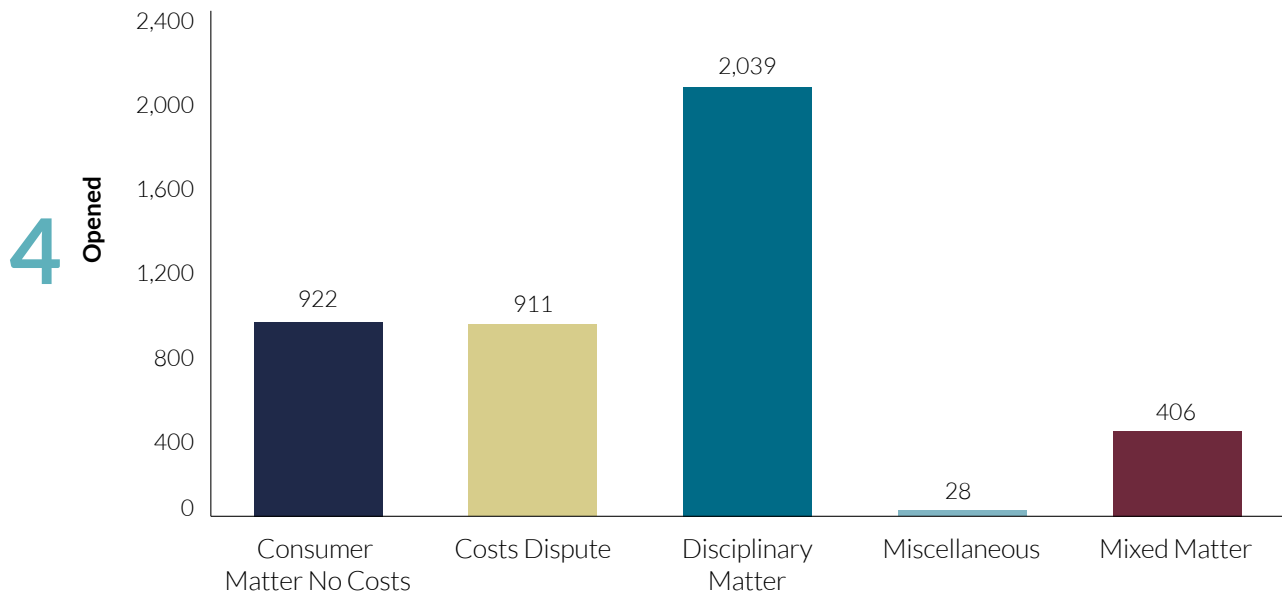
Of all finalised complaints, 22.6% or 933 consumer matters/costs disputes settled through informal resolution as required by s 287 compared with nearly a quarter in 2017 (24.6%). When a matter is not resolved by informal dispute resolution, a merits assessment of the information provided by the parties is undertaken and the complaint may be closed for any of the reasons contained in s 277(1).

In costs disputes where binding determinations are not made and where the DLRA is unable to finalise the case, the Uniform Law gives the parties the right to apply for a costs assessment or to make an application under jurisdictional legislation for the matter to be determined.

In all, 58 matters were closed to initiate tribunal proceedings.



4. OPENED COMPLAINTS BY CATEGORY



Just under half of all new complaints (2,039 or 47.8%) related to disciplinary matters (2017: 49.3%). This category is broad. It includes many minor conduct issues that are described as disciplinary, because they are not consumer matters, (but would not amount to a disciplinary breach) as well as section 270 complaints about a lawyer or a law practice which would, if the conduct concerned were established, amount to unsatisfactory professional conduct or professional misconduct. As previously stated, a majority of these complaints was closed under section 277 after preliminary assessment.

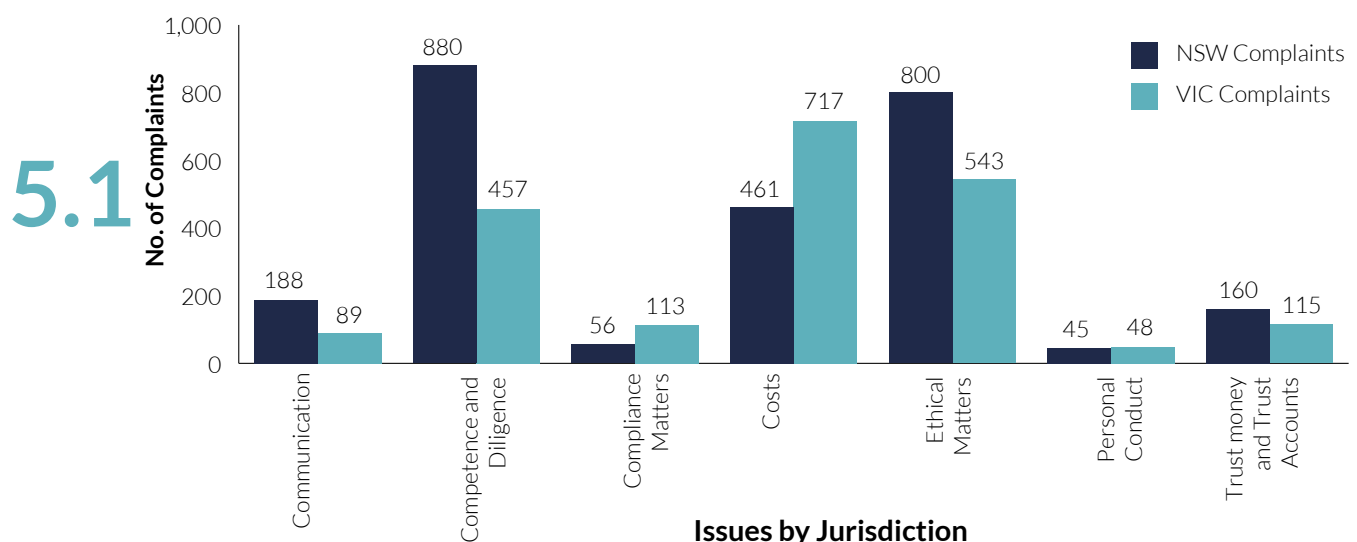
Consumer matters (section 269(1)) were the second highest category at 21.6% or 922 (2017: 23%). This number includes complaints about a lawyer or law practice relating to the provision of legal services to the complainant, which the DLRA determines should be resolved by the exercise of the functions relating to consumer matters under Part 5.3 of the Uniform Law.

A consumer matter may also include a costs dispute (section 269(2)). However, for added transparency, the data in graph 4 has recorded consumer matters involving costs disputes separately. The costs disputes category ranked a close third at 21.3% or 911 and was more than last year's figure of 18.6%.

5. COMPLAINTS OPENED BY ISSUE

The VLSB+C, OLSC, the LSNSW and the NSWBA agreed on a hierarchy of common complaint types and subtypes against which to report as part of the joint mapping exercise during stage one of the development of the LSC Uniform Law database.

The graph below divides the complaints into seven issues by jurisdiction.



As in the previous reporting period, the highest number of opened complaints across NSW and Victoria (1,343: 28.75%) fell under the broad heading of Ethical Matters which encompass many aspects of legal practice. Included in this category are complaints or allegations about settlement issues; fraud (not trust fund); misleading conduct; ceasing to act; conflict of interest; communicating with another lawyer’s client; undertakings; breach of confidentiality; instructions issues; advertising; failure to pay a third party; abuse of process, or a failure to comply with court orders. The proportion of complaints relating to Ethical Matters this year shows a slight improvement on the 2017 figure of 31.7%.

Ethics complaints were followed closely by complaints relating to a legal practitioner’s competence and diligence 1,337 or 28.6% (2017: 31.65%). Included under this complaint type is: a failure to supervise; delay; poor advice/case handling; client capacity; record management, and general incompetence. In respect of poor advice/case handling, there were for example, 606 complaints or 14.2% of all complaints.

There were fewer complaints relating to trust money (152 or 3.6%) in respect of a failure to account compared with 6.5% in 2017.

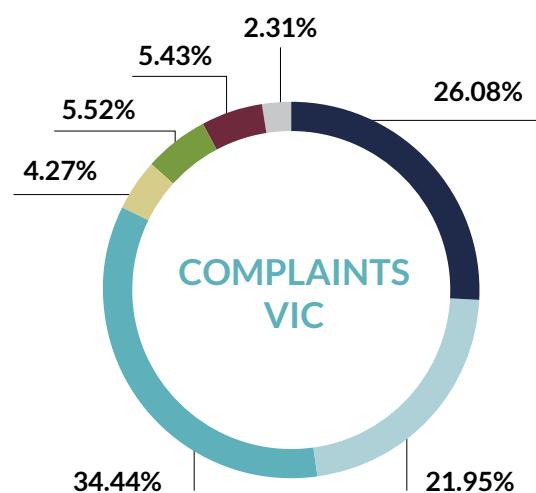
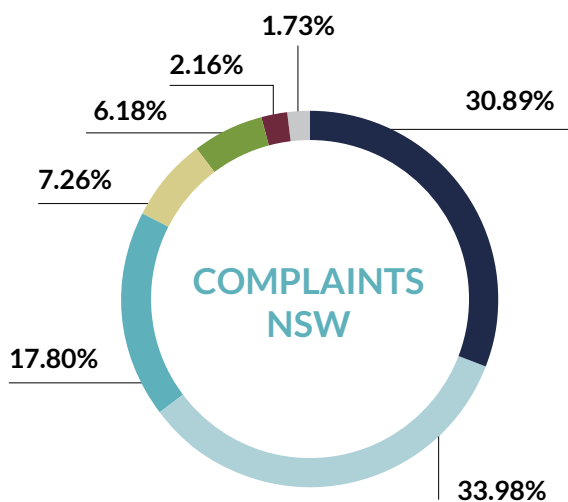
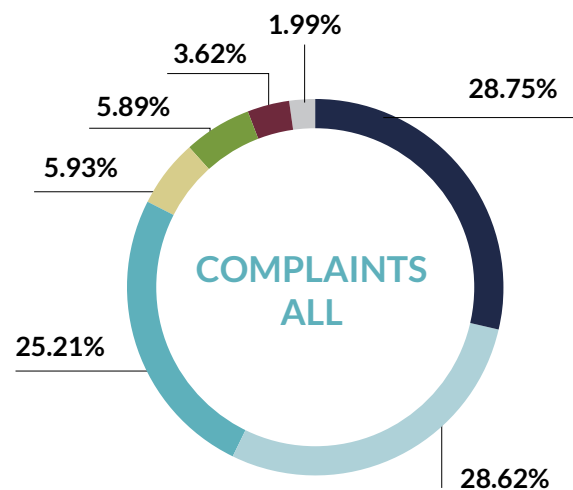
The most common sub issue recorded across the two jurisdictions at 776 or 18.2% (2017:16.5%) remains alleged overcharging under “Costs”.

Billing issues were also represented in the top ten sub issues making up 308 or 7.2% (2017: 7.7%) of all complaints. However these figures need to be read in the light of the facts that first, a sizeable portion of these complaints were ultimately dismissed, and secondly, a very large number of matters were conducted in which bills were issued by law practices in the period throughout NSW and Victoria. (See discussion on emerging themes later in this report in respect of cost disclosure statistics).

Open complaints by issue and jurisdiction

5.2

- Ethical Matters
- Competence and Diligence
- Costs
- Communication
- Trust Money and Trust Accounts
- Compliance Matters
- Personal Conduct



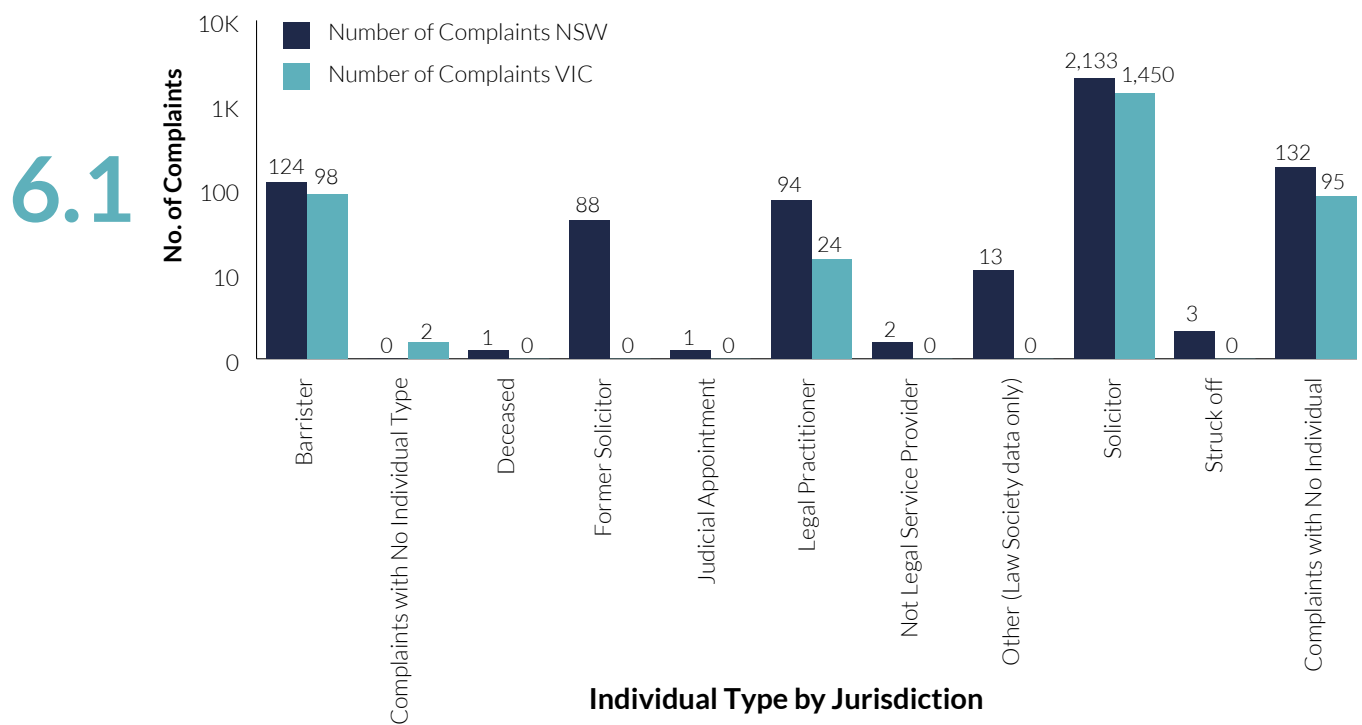
6. OPENED COMPLAINTS BY INDIVIDUAL AND FIRM TYPE

6.1 Individual Practitioner Types

Complaints against solicitors ranked highest constituting more than three quarters of all complaints at 84.1% (2017: 87.8%). Barristers were the subject of 222 (5.2%) of all complaints (2017: 6.3%).

These figures broadly reflect the proportion of solicitors (92%) and barristers (8%) that make up the legal profession in Victoria and NSW; however, more information is required to draw any further conclusions.

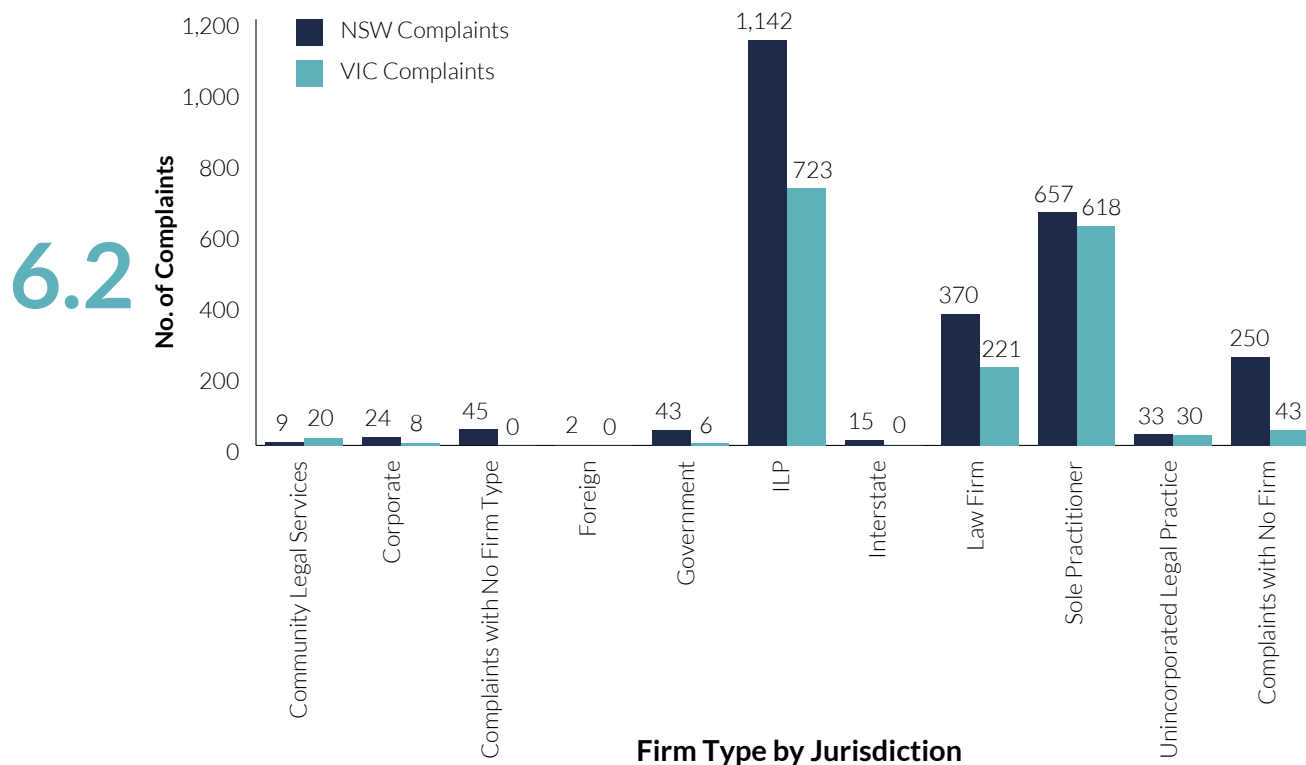
Graph 6.1 provides a breakdown of the types of individuals who were the subject of a complaint.



The data should be read subject to the following comments:

- (i) Complaints with “no individual type” are captured in “firm type” in the next table under 6.2.
- (ii) NSW has a separate category “former solicitors” whereas VLSB+C record complaints about “former solicitors” under “solicitor complaints”.
- (iii) NSW has a separate category for “struck off” practitioners whereas VLSB+C record complaints about struck off practitioners under “solicitor” or “barrister”.
- (iv) Complaints about conveyancers are recorded in NSW only where the conveyancer is a lawyer. Complaints about licensed conveyancers who are not lawyers are dealt with by NSW Fair Trading.
- (v) ‘Legal practitioner type’ includes government, corporate solicitors, as well as employees of law practices.

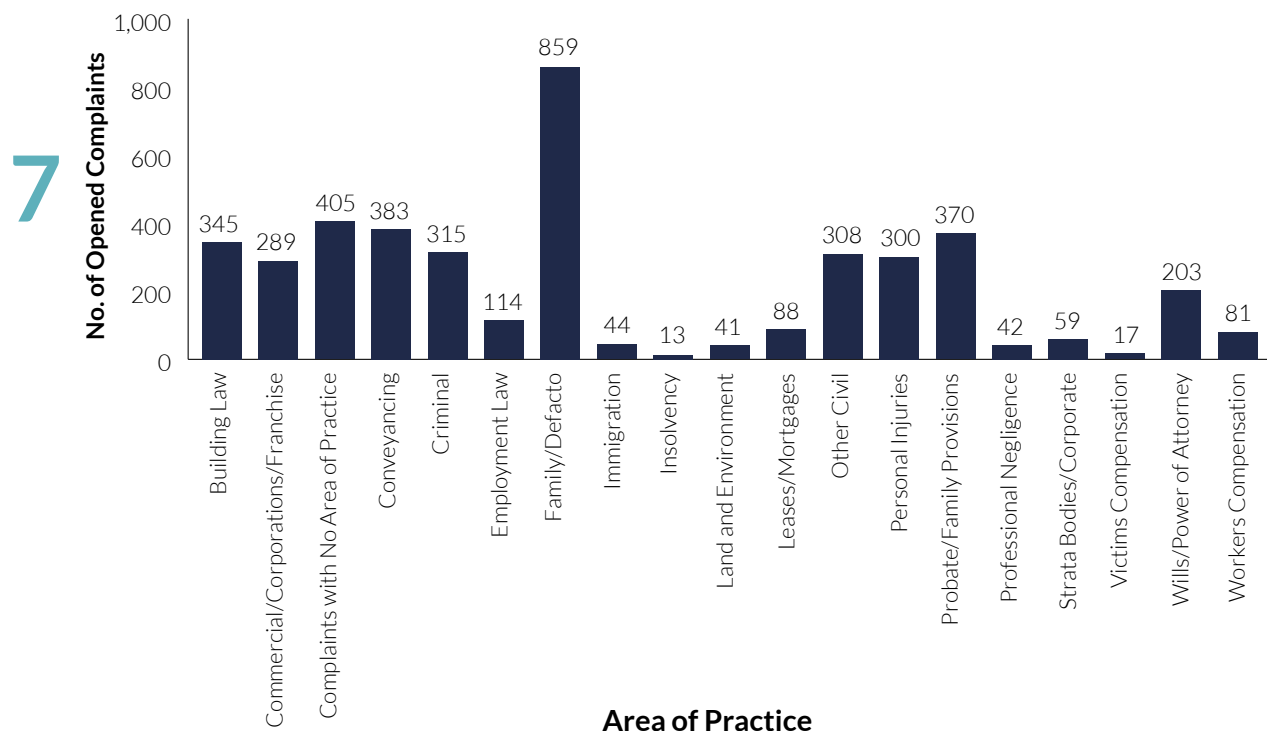
6.2 Complaints by Firm Type



For the first time, incorporated legal practices (1,865) have overtaken sole practitioners (1,275) as the most prominent law practices complained about in both States. Complaints with “no firm” are captured in “individual type” in Graph 6.1.

7. OPENED COMPLAINTS BY AREA OF PRACTICE

As in 2017, almost one fifth of the complaints, by area of practice, were in relation to family/de facto law matters (859). This was followed by conveyancing (383), probate/family provision claims (370), personal injury work (300), criminal law matters (315) and Powers of Attorney (186).



8. DETERMINATIONS

8.1 By DLRA

Determinations by the DLRA are a last resort. As with many regulatory schemes, often the prospect of having a decision imposed by the DLRA using its determination powers under the Uniform Law motivates law practices to settle beforehand. The table below shows the number of determinations made by the DLRA during the reporting period. The difference in the number of determinations in NSW and Victoria reflect the differences in their complaint handling processes under the Uniform Law.

Determinations by DLRA	OLSC (NSW)	VLSB+C (Victoria)	UL TOTAL
Disciplinary (including cautions and apologies)	16	44	60
Costs	0	20	20
Non-costs consumer	0	6	6
Total	16	70	86

It should be noted that any given complaint may have more than one determination (e.g. a costs determination and then later a disciplinary determination). Therefore, the above figures are not necessarily indicative of complaint numbers, and, as with issues associated with complaints, there can be more than one type.

8.2 By Courts

The Courts of Appeal in both States have considered the operation of certain provisions of the Uniform Law and Rules.

In *Gilles v Palmieri* [2017] NSWCA 320 (12 December 2017) the NSW Court of Appeal considered the operation of the transition provisions of the Uniform Law relating to client information and legal costs (Clause 18 of Schedule 4). Having concluded that Part 11 of the Legal Profession Act 1987 (NSW) continued to apply to a costs assessment, Barrett AJA (with whom McColl JA and White JA agreed) decided that Clause 18(1) of Schedule 4 of the Uniform Law continues the operation of Clause 18(1) of Schedule 9 of the Legal Profession Act 2004 (NSW) (being a provision of the 2004 Act “relating to legal costs” in a matter where the client first instructed the law practice before 1 July 2015) notwithstanding the repeal of the 2004 Act by the *Legal Profession Uniform Law Application Act 2014* (NSW).

This decision is of significance because under the old legislation, the only mechanism for assessing costs and obtaining a binding determination as to the amount of fair and reasonable costs, was costs assessment by the NSW Costs Assessment Scheme. The NSW Commissioner had no power to assess costs, and no power to make a binding determination about costs.

In *Bodycorp Repairers Pty Ltd v Holding Redlich* [2018] VSCA 17 (8 February 2018) the Victorian

Court of Appeal considered the Legal Profession Uniform Legal Practice Rules 2015 applicable to barristers and solicitors. Those Rules enshrine ethical rules of conduct in relation to what a barrister or solicitor must do when possessed of confidential information pertaining to another party. The appellant also referred to Rule 101 of the *Legal Profession Uniform Conduct (Barristers) Rules 2015* and Rule 31 of the *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015*, which concerns the inadvertent disclosure of ‘material known or reasonably suspected to be confidential’ to argue for the restraint of legal practitioners. The Court of Appeal found the primary judge had explained that the submissions were unpersuasive and held that there was no appealable error.

During the reporting period there were several Supreme Court decisions on the provisions of the Uniform Law which are summarised briefly below:

In *Malouf v Constantinou* [2017] NSWSC 923 (13 July 2017) the Supreme Court of NSW looked at the interpretation of ‘reasonable security’ within the meaning of section 206 of the Uniform Law. Section 206 states that a law practice may take reasonable security from a client for legal costs (including security for the payment of interest on unpaid legal costs) and may refuse or cease to act for a client who does not provide reasonable security.

The contract of retainer provided for the solicitor to take security for costs from the client, by way of a Costs Agreement and a separate Deed of Charge. The solicitor claimed that the security included

an interest in all the client's assets, including three properties, one of which was co-owned by the client and his parents. The solicitor entered a contract of guarantee with the client's parents. The solicitor's estimate of costs was between \$55,000 and \$77,000.

In the solicitor's attempt to enforce the security, the Court held that the solicitor was in breach of his fiduciary obligations to the client in stipulating for the entitlements of security over the client's assets in the Costs Agreement and the Deed of Charge and the entitlements could not be enforced.

In connection with the fiduciary conflict issue, the solicitor's disclosure was inadequate. The solicitor failed to show that the client's grant of security over his assets was an independent and voluntary decision based on proper consideration of his own interests. The security stipulations were therefore entirely unenforceable in equity against the client on the ground of undue influence.



Supreme Court of NSW

Finally, the Supreme Court of NSW held that an "all assets" security was unlikely to be reasonable and had it been necessary to make a decision on the question of reasonableness, the Court would have concluded that it was not reasonable for the solicitor to take security over any of the client's assets apart from his interest in one property.

In ***Adam Sullivan v John Snodgrass T/A John Snodgrass and Associates* (S CI 2016 2767 27 October 2017)**, the retainer between the client and the lawyer was entered into prior to the Uniform Law commencing

on 1 July 2015, but the complaint was not made until May 2017. Therefore the matter was handled according to clause 27 of Schedule 4 of the *Legal Profession Uniform Law Application Act 2014* (Vic), that is, under the provisions of the Uniform Law.

The Costs Court of the Victorian Supreme Court however ruled that the effect of clause 18 of Schedule 4 was that the complaint should have been handled under the previous *Legal Profession Act 2004* (Vic).

In ***Council of NSW Bar Association v Biscoe* [2017] NSWCA 286 (9 November 2017)** the Supreme Court of NSW made orders including that the name of the defendant be removed from the roll after finding that he:

- in breach of s 10(1) of the Uniform Law, engaged in legal practice while not being the holder of a practising certificate;
- in breach of s 211 of the Uniform Law, engaged in legal practice while not being the holder of a professional indemnity insurance policy;
- was paid, and had not repaid, money for legal practice in which he engaged while not being a holder of a practising certificate or a professional indemnity insurance policy;
- made false and misleading statements to the Court, a professional indemnity insurer, the Bar Council, the Law Society of New South Wales and a client; and
- failed to answer notices issued under the *Legal Profession Act 2004* and the Uniform Law.

The Court stated that some of the grounds, considered alone, would not suffice to warrant removal of the respondent's name from the roll, but considered that as a whole, the removal from the roll was warranted.

In ***Huang v Attapallil (No.2)* [2017] NSWSC 1382 (10 November 2017)** the Supreme Court of NSW observed that it was the legislative intention of the Uniform Law that a private citizen has no standing under the Uniform Law to sue a solicitor. The Uniform Law does not provide for the involvement of a private citizen in the prosecution of any relevant breaches of legal professional standards beyond the making of an initial complaint to the relevant regulatory body and then, if required, taking part as a witness in proceedings. Following the lodging of a complaint, the process is managed by the statutory bodies nominated in s 11 of the *Legal Profession Uniform Law Application Act 2014* (NSW).

In ***Kaczmariski v Victorian Legal Services Board & Anor*** [2017] VSC 690 (16 November 2017) the plaintiff appealed the appointment of external managers to a law firm now in liquidation. The Victorian Supreme Court ruled on the meaning of 'lodged' in the context of s 358(3) of the Uniform Law. The time frame for lodgement of appeals is seven days and there is no mechanism for time to be extended.

The Court accepted that s 358(4)(d) of the Uniform Law was applicable and granted the Court power to make any other orders it thinks fit. However, the orders that the Court may make under s 358(4)(d) must be confined to the scope of an appeal under s 358 of the Uniform Law. Consequently, consideration must be given to Chapter 6 of the Uniform Law. In particular, s 232, providing the objectives of the Chapter; s 326, providing the circumstances warranting external intervention; s 327, granting the first respondent power to make a determination to initiate external intervention, and s 328, providing the scope of the appointment.

The Court confirmed that the Uniform Law is civil legislation, as reinforced in the objectives of the Law. The Uniform Law refers to criminal penalties in s 451 but it must be read in conjunction with s 154 of the *Legal Profession Uniform Law Application Act 2014* (Vic) that enumerates the bodies with powers to prosecute offences under the Uniform Law namely the VLSB, a police officer or the Director of Public Prosecutions.

Section 447 of the Uniform Law refers to injunctions to restrain contraventions of the Uniform Law or Uniform Rules and it states that the DLRAs may apply to the Supreme Court for an injunction. The Court determined that Mr Kaczmariski did not have standing under s 447 of the Uniform Law to seek an injunction.

Finally, the Court held that there was no express power in s 358(4) of the Uniform Law to make orders for document disclosure. However, disclosure of documents may fall within the 'other orders' the trial judge may make pursuant to s 358(4) (d) of the Uniform Law.

In ***Re Bank Mansion Pty Ltd*** [2018] VSC 52 (2 February 2018), the Victorian Supreme Court ordered the production of revised versions of invoices, with the narrations or items found not to be privileged, to be disclosed to the plaintiffs.

The plaintiffs submitted that as a third party payer of the subject invoices within the meaning of clause 171 of Schedule 1 of the *Legal Profession Uniform Law Application Act 2014* ('Uniform Law'), Bank Mansion may have rights, under s 198 of the Uniform Law, to

make an application to the relevant court or tribunal (in this case, presumably the Costs Court) for an assessment of the legal costs. Counsel also referred to s 198(6) of the Uniform Law, which provides that if the third party payer is a 'non-associated third party payer', the law practice must provide the third party payer, upon a written request, with 'sufficient information to allow the third party payer to consider making, and if thought fit to make, an application for a costs assessment under this section'. The Court stated that whether an invoice for legal advice or legal services is in itself likely to be privileged will depend on the circumstances of each case.

In ***Victorian Legal Services Commissioner v Kotsifas*** [2018] VSC 114 (6 March 2018), the Victorian Supreme Court ordered the solicitor be removed from the local roll of lawyers after finding that Mr Kotsifas would not be a fit or proper person to practice as a lawyer in the foreseeable future.

The Court noted that VCAT has the power to recommend that Mr Kotsifas' name be removed from the roll pursuant to s 302(1)(f) of the Uniform Law. While the recommendation of the Tribunal should be given appropriate weight, the Court must independently exercise its discretion provided by s 23(1)(c) of the Uniform Law and is not bound to follow the Tribunal's recommendation.

The Court concluded that Mr Kotsifas' history of misconduct was most unsatisfactory because he had breached the trust of his clients and flouted or ignored orders (or directions) of the VLSC.



In *Wilson v Bauer Media Pty Ltd (Costs)* [2018] VSC 161 (12 April 2018), the Victorian Supreme Court ruled that the Uniform Law did not remove a client's legal liability to pay their solicitor. Rather, if disclosure obligations are contravened the client is not required to pay the legal costs until either the costs have been assessed, or any costs dispute has been determined by the DLRA. For a costs agreement to be rendered void, the Court needs to be satisfied of the relevant facts. The judge refused the plaintiff's application and ordered that the defendant pay the plaintiff's costs of and incidental to the proceeding, including reserved costs, on an indemnity basis.

In *Frigger v Madgwicks* [2018] VSC 281 (4 June 2018) the applicant alleged that, pursuant to s 178(1) of the Uniform Law, the costs agreement with the respondent was void because the respondent failed in its disclosure obligations. The Judicial Registrar of the Victorian Supreme Court found that s 174(3) did not impose a disclosure obligation on the law practice. Rather the section required the respondent to be satisfied that the client understood the proposed course of action for the conduct of the matter and the proposed costs. On signing and returning the acceptance of the costs agreement, the Judicial Registrar of the Victorian Supreme Court found it was reasonable for the respondent to be so satisfied. She dismissed the preliminary objections stating the costs agreement is not void as there had not been a failure to disclose as required by s 174(1) or s 175(1).

In *Balzola v Council of the Law Society of New South Wales* [2018] NSWSC 849 (8 June 2018) the Supreme Court of NSW considered the effect of a stay in relation to the suspension of the practising certificate pursuant to s 77 of the Uniform Law.

The plaintiff submitted that, pursuant to s 77(2) the suspension of his practising certificate had expired because no further decision has been made under Part 3.5 of the Uniform Law and 56 days had expired after the notice was given to him of the suspension. The Law Society submitted that the effect of the stay was not only that the suspension of the practising certificate ceased to be in force during the period of the stay but also that the 56 day period referred to in subsection (2)(b) did not run.

The scheme of Part 3.5 of the Uniform Law provides for two circumstances where the Law Society can, relevantly, suspend a solicitor's practising certificate. Under s 77 a practising certificate can be suspended immediately where the Law Society considers it is necessary in the public interest. That suspension is a temporary one which lasts either for a period of 56

days or until the Law Society informs the practitioner of its decision under Part 3.5, either to lift the suspension or to impose a suspension for a specified period of time under s 82, whichever is earlier.

The Court held that since the 56 day period had expired without any action under s 82, the temporary suspension under s 77 had lapsed. The plaintiff was entitled to the declaration that the defendant's immediate suspension of his practising certificate under s 77 of the Uniform Law on 20 July 2017 had expired.



8.3 By Tribunals

As at 1 July 2018, the Uniform Law has been operating for three years. As expected, there were more decisions made by the State Tribunals relating to complaints made under the Uniform Law during this reporting period. The Legal Profession Uniform Law Library in AustLII reported at least ten decisions by the NSW Civil and Administrative Tribunal and a further three decisions by the Victorian Civil and Administrative Tribunal.

9. EMERGING THEMES IN UNIFORM LAW STATES

The emerging themes in each State are based on information provided by the DLRAs. Their staff aim to informally resolve complaints as soon as possible, but also to manage a complainant's expectations where the complaint patently has no merit. There is much effort made to helping the profession comply with their obligations, either in handling individual complaints, or through other education, outreach and media activities. Putting a lawyer on a path where they can avoid future complaints is the preferred strategy.

The Commissioner has requested to be kept informed at quarterly intervals of the extent to which their functions and views expressed in *Guideline CULSR 01/2016 – Costs Estimates* are applied in practice. The DLRAs are asked to comment on the extent to which the total estimated legal costs in matters are based on the appropriate exercise of the professional judgment of law practices generally or in particular matters or classes of matters. They are also asked to report on any judicial or other decisions that may come to their attention concerning the interpretation of the requirements of s 174(1)(a) and (b) to provide an estimate; and to report pursuant to s 440 at least annually.

9.1 Victorian Legal Services Board + Commissioner (VLSB+C)

This year the VLSB+C welcomed a new CEO in January, Ms Fiona McLeay.

In Victoria, complaint numbers increased in the 2017-18 year by about 12%. Just over 1,000 (1,003) complaints were assessed as raising a consumer matter and approximately one third of these complaints raised a costs dispute. The table below shows the number of times certain issues were complained about during the period

Issue	FY 2017-18
Fail to give initial disclosure	56
Fail to give revised disclosure	31
Delay in providing disclosure	4
No informed consent given	5
Costs exceed disclosed estimate	1
Failure re 2nd law practice disclosure	2
Failure to disclose settlement costs	2
Total	101

LSC Guidelines for costs estimates

The VLSB+C has suggested improvements to standard disclosure templates used by firms, helping them adopt plain English, and/or adapt existing compliant templates. The VLSB+C continued to receive a number of complaints with varying levels of compliance with the Guidelines about costs agreements and disclosure statements.

Informal resolution remains the most frequent outcome in consumer matters. During the 2017-2018 period, the VLSB+C made 24 consumer matter determinations. There were no decisions of the Costs Court or VCAT that concern the interpretation of s 174(1)(a) and (b) of the Uniform Law reported during the financial year.

Adequate disclosure of variables

Under the Uniform Law, lawyers must inform their clients in writing if costs estimates exceed \$750 and must provide full disclosure if costs estimates exceed \$3,000. Short form disclosure is available for costs estimates between these two thresholds.

In 2017-2018 the VLSB+C reported complaints where:

- costs had increased beyond an initial estimate without any update or explanation;
- the scope of the retainer had not been adequately explained to the client, nor the total costs; and
- costs disclosure had not been provided in a timely manner.

Providing proper written disclosure under s 174 as soon as practicable enables the lawyer and their client to agree on the scope of the work to be done and allows the client to make an informed choice about the estimated costs involved.

In one complaint the first and only written costs agreement and disclosure was provided to the complainant 51 days after the initial instructions were provided to the lawyer. As the lawyer did not provide written costs disclosure as soon as practicable after receiving initial instructions, the costs agreement was considered to be void in accordance with s 178(1) of the Uniform Law. The lawyer was not able to rely on the costs agreement in billing his client resulting in an order to reduce the legal costs by 59%. Given the significant reduction, the lawyer was also ordered to undertake a professional development course with a focus on compliance with costs disclosure obligations.

There are other factors which might increase costs above the estimate such as where complainants do not understand the scope of the retainer. In one instance, the complainant made allegations that a valid retainer was not in place, as she did not sign any costs agreement accepting that the legal practitioner was acting for her. On a request for monies to be placed into trust, the complainant indicated that she could not afford to do this and ceased the retainer. The lawyer continued work after this date. It was found that the lawyer was not entitled to recoup any costs after the date on which the complainant ended the retainer.

Final legal costs higher than disclosed estimate

One of the most prevalent issues noted in costs complaints is a lack of forewarning to clients about an increase in costs and the reasons why costs have increased.

A significant number of Victorian complaints related to the final costs being in excess of the initial costs estimate. In particular, complaints where lawyers have failed to provide on-going costs disclosure as is required under s 174(1)(b) of the Uniform Law, with the resultant “bill shock”. To avoid such issues, lawyers are encouraged by the VLSB+C to maintain open communication with their clients and to ensure that their obligations under the Uniform Law are met.

It is no response to inadequate costs disclosure for the legal practitioner to rely on the defence that an update was provided verbally. Section 174(6) of the Uniform Law requires that any costs estimates should be provided in writing. In one complaint the complainant was not provided with timely costs disclosure at the outset of the matter, and the legal practitioner failed to provide on-going written costs disclosure. The retainer commenced on 12 August 2016 and was finalised on 21 October 2016. The estimate that was ultimately provided was \$10,000 plus GST and disbursements. But the bill rendered on the same day was for \$18,235.40. The finding made in the determination was that the cost agreement was void in accordance with s 178(1)(a) of the Uniform Law and an order was made to reduce the costs by 34%.

9.2 New South Wales

During the reporting year, there were no judicial or other decisions in NSW concerning the interpretation of the costs disclosure requirements in s 174(1)(a) and (b) of the Uniform Law reported.

Office of the Legal Services Commissioner (OLSC)

The OLSC received 973 complaints (37%) which raised issues about costs.

The OLSC can record a maximum of five issues for each complaint. The complaints raising costs issues raised a total of 1,333 issues. Of these, 250 (19%) related to costs disclosure and 91 (7%) related to failure to disclose costs increases.

By way of example, in respect of inadequate cost disclosure, the OLSC reported that one complainant engaged the services of two lawyers in a law practice to assist her in a family law matter regarding a Binding Financial Agreement (BFA). The law practice provided the complainant with a Form 1 - Standard costs disclosure containing an estimate of total costs of \$3,000. The complainant deposited into trust an amount of \$1,500 initially in the matter. There was some urgency about the matter and it needed to be completed in the lead up to Christmas. The complainant some weeks later received an email stating that legal costs owing totalled \$10,472.

The complainant submits that, whilst the senior lawyer told the complainant that the costs would run over the \$3,000 estimated amount, the lawyer did not specify by how much, nor was a further costs estimate provided.

The complaint raised allegations of the firm of:

- Overcharging;
- Failing to provide a full written costs disclosure; and
- Failing to provide ongoing written costs disclosure of increasing costs.

The lawyer’s main submissions were that:

- The short-form costs disclosure states that, in relation to the \$3,000 costs estimate, this assumes 1-2 rounds of negotiations to formalise.
- The senior lawyer advised the complainant in circumstances in which the BFA presented by the opposing party was ‘draconian’ in its terms, which made the matter more complex.

- The senior lawyer acknowledged that the original costs estimate was exceeded and indicated the firm was open to resolving the matter with the assistance of the OLSC. The lawyer noted that the senior lawyer warned the complainant that the costs would run over the initial estimate.

The lawyer offered to reduce the complainant's costs to \$5,500. The complainant made a counter-offer of \$3,800, agreeing to pay the lawyer a further \$2,300 in addition to the \$1,500 the complainant had already paid into trust at the start of the retainer. The lawyer accepted the complainant's counter-offer in full and final settlement of the matter.

Upon closing the matter, the NSW Commissioner wrote to the lawyers of the firm and reminded them of their professional obligations regarding costs disclosure, in an effort to ensure that this situation does not arise again.

The OLSC conducted five compliance audits under the Uniform Law during the reporting period. Two audits were conducted in the legal practices and three were remote desktop audits. There were no management systems directions issued.

NSW Bar Association

The Bar Association advised the Commissioner that most disclosures under s 174(1) are made to a client by a solicitor. In the usual situation where a barrister is retained by a solicitor, the barrister makes a disclosure to the solicitor under s 175. In direct access cases, where a barrister is retained directly by a client, the barrister is required to make a disclosure to the client under s 174. Three complaints received in the reporting year alleged a breach of s 174 involving failure to make a costs disclosure.



Law Society of NSW

The Law Society of NSW made a total of 29 referrals to NCAT. In addition to these actions the Professional Conduct Committee issued five reprimands and six cautions during the reporting period.

Compliance Functions

See Highlights section of Commissioner's Report page 66.



LSC Chair, the Hon Michael Black AC QC and Law Society of NSW CEO, Michael Tidball.

10. FIDELITY FUND AUDIT INFORMATION

The Fidelity Funds are statutory compensation schemes maintained by the VLSB+C for Victorian legal practitioners and the NSW Law Society for NSW legal practitioners.

In NSW, contribution to the Fidelity Funds is made by legal practitioners who wish to be granted a principal or employee practising certificate. In Victoria, the Fidelity Fund fee is charged at variable rates to both principals and employees who work in firms that carry a trust account. Corporate legal practitioners and government legal practitioners are not required to make a contribution.

Since the commencement of the Uniform Law, 72 claims in NSW and 96 in Victoria were determined against the respective Fidelity Funds.

The following information relates to all claims in the reporting period including Uniform Law claims.

2017-2018 Financial Year	Victoria	NSW
1. Number of practitioners contributing to the fund	11,455	23,009
2. The balance of the Fidelity Fund as at 30 June 2018	\$59,000,000	\$57,495,000
3. Number of claims that were outstanding as at 1 July 2017	25	35
4. Claims received during the financial year	20	76
5. The classification of claims made	Allegations of a failure to pay or deliver trust money type default: 19 Allegations of a fraudulent dealing with trust property: 1 (mortgage fraud).	All 76 are allegations regarding trust money; none relate to trust property
6. The value of claims received during 2017-2018	\$2.47 million	\$10,532,177.03
7. The number of claims allowed/ partly allowed	20 claims made in 2017-2018 (includes two claims made in 2017-2018 but not yet paid)	25, including settled claims
8. The value of the payments made	\$1.734 million paid from claims received in 2017-2018. \$267,477, additionally paid from 6 claims received in previous years but paid out in 2017-2018.	\$2,283,567.72* In a financial year, not all claims allowed/partly allowed may be paid in that same period, as formal requirements may not be completed in that year.
9. The reasons for allowing claims	Claims were allowed where it was found that had been a 'default' either as a result of a fraudulent dealing with trust property or a failure to pay or deliver trust money.	A claim is allowed or partly allowed where it satisfies the statutory requirement that a claimant has suffered pecuniary loss because of default.
10. Number of disallowed claims	1	12 claims were wholly disallowed
11. The reasons for disallowing claims	Claim was wholly disallowed because the associate restored the deficiency.	A claim is disallowed where it does not fall within the statutory requirements. This could be for a number of reasons, e.g. there was no trust money or property, it was not received within the course of legal practice, there was no failure to pay, no dishonesty, or it was excluded from fidelity cover as it related to investment. A claim may be disallowed because it fails one or more elements.
12. Appeals were made by unsuccessful claimants during 2017-2018	0	0
13. The number of claims outstanding at the completion of the financial year	14	67
14. Number of court proceedings commenced as a result of claims	0	0

11. ADMISSIONS BOARDS

A total of 3,982 applicants (1,618 Vic; 2,364 NSW) were admitted under the Uniform Law in 2017-2018, a small proportion of which (80 in Vic, 152 in NSW) were applicants previously admitted outside Australia. Nine applications (9 in NSW and 0 in Victoria) were refused.

Victorian Legal Admissions Board

During the current reporting period, the Supreme Court of Victoria admitted 1,618 applicants, an increase of 17% when measured against the 2016-2017 reporting year (1,362 applicants). Gender breakdown is 64% (1,012) female and 36% (577) male.

The total of 80 foreign graduates and lawyers were admitted from the following countries compared with 40 in the previous reporting period:

- United Kingdom (36), Malaysia (10), Sri Lanka (6), USA (5), Ireland (4), South Africa (3), Fiji (2), Singapore (2), Brazil (1), Canada (1), China (1), France (1), Hong Kong (1), India (1), Kenya (1), Peru (1), Philippines (1), Poland (1), Russia (1), Vietnam (1)

A total of 29 applicants (18 male and 11 female) were admitted from New Zealand under the *Mutual Recognition Act 1992* (Cth).

Academic Institutions

The 1,618 applicants admitted during the reporting period obtained the academic qualification prerequisite in the following jurisdictions:

- 87.34% in Victoria
- 3.58% in Queensland
- 2.98% in New South Wales
- 1.72% in Australian Capital Territory
- 1.46% in South Australia
- 1.66% in Tasmania
- 0.80% in Northern Territory
- 0.46% in Western Australia

The jurisdiction of the 80 foreign graduates and lawyers are included above but no additional prerequisite is required for admission under the *Mutual Recognition Act 1992* (Cth).

Qualification Assessments

VLAB undertook 47 academic and/or practical legal training assessments of qualifications that were more than five years old. A total of 17 applicants were required to undertake further study and/or practical legal training.

Admission of Foreign Lawyers subject to Conditions

VLAB assessed three applications for conditional admission of foreign lawyers. One application was approved and two were refused. The reasons for refusal were that both applicants had no employment or supervisory arrangements in place in Australia.



The Hon Acting Justice Arthur Emmett AO, Chair of the LSC Admissions Committee and of the LPAB and the Hon Justice Bernard Teague AO, Chair VLAB.

Suitability

There were 2,066 disclosures recorded against 1,618 applicants in this reporting period, noting that some applicants make more than one type of disclosure:

- 33% of disclosures related to traffic infringements;
- 17% of disclosures related to transit infringements;
- 15% of disclosures related to parking infringements;
- 13% of disclosures related to social security offences;
- 7% of disclosures related to another matter;
- 5% of disclosures related to addictions, mental health and physical conditions affecting capacity;
- 3% of disclosures related to criminal offences – alcohol, drug, AVO and dishonesty;
- 3% of disclosures related to plagiarism, collusion and other academic misconduct;

- 2% of disclosures related to taxation offences, bankruptcy and corporate insolvency; and
- 1% of disclosures related to general misconduct.

During the reporting period 90 applicants (5.6%) attended meetings with the CEO and Chairman. Fifty six applicants had significant disclosures requiring further investigation. Subsequently 14 of the 56 applicants appeared in person before the Victorian Legal Admissions Committee. An additional 8 applicants were requested to show cause as to why a compliance certificate should be granted and the Committee conducted one special hearing in the Supreme Court.

VLAB did not refuse to issue a compliance certificate to any applicant in the reporting period.

Accreditation

VLAB undertook a review of the Melbourne Law School JD program and resolved that the JD course offered by the University of Melbourne be reaccredited for five years.

Major Projects

VLAB has undertaken the following major projects:

Identity Check project

An advanced Dow Jones watch list is being trialled to facilitate the process of applicant identity checks to highlight any potential persons of interest. The watch list supports a real time check thus enabling applicants to progress through their identity check quickly. The watch list is being trialled for a three to six month period before a final decision is made on its effectiveness and time saving capabilities.

International English Language Testing System

The International English Language Testing System (IELTS) is often prescribed by VLAB for foreign applicants for admission as part of their assessment. If prescribed, applicants are required to obtain certain scores for listening, reading, writing and speaking.

Recently VLAB has engaged with IELTS to sign up for an online verification system to electronically verify online test results to prevent fraudulently obtained test scores. This system allows VLAB to ensure accuracy of reports and consistency of its policy in ensuring it maintains authenticity of documentation presented as part of an admissions pathway.

Legal Profession Admission Board of NSW

Compared with the previous year, during 2017-18:

- The number of applicants for admission decreased slightly from 2,358 to **2,352**.
- **One** objection was received resulting from the publication of applicants' names on its website.
- The number of persons admitted decreased marginally from 2,386 to **2,364**.
- The proportion of applicants for admission who were previously admitted overseas increased slightly from 5% to **6%**.
- The proportion of applicants with a disclosure increased from 28.3% to **31.97%**.
- A total of **152** applicants with foreign qualifications applied for admission from the following countries:
 - United Kingdom (73), South Africa (30), Hong Kong (10), Ireland (9), USA (9), India (8), Canada (5), Singapore (2), Philippines (2), Sri Lanka (2), Fiji (1), and Portugal (1)
- The number of applications refused decreased from 17 to **9**.

The reasons for refusal included that the applicant was bankrupt, failed to disclose a significant matter, or did not meet the academic re-requisite. Eight of the refused admission applicants were notified that they may re-apply after a specific period of time had elapsed. These were applicants who were bankrupt or did not meet the specified academic re-requisites. Statistics about admission, which are now readily available to the LPAB as a result of its online processes, include:

- 62% of admission applicants were female;
- 95.5% were residents of NSW;
- 94% attained their academic qualification in law within Australia;
- 68% of disclosures related to traffic and minor infringements;
- 17.44% of disclosures related to academic misconduct;
- 9.45% of disclosures related to criminal matters (other than conviction);
- 17.84% of disclosures related to bankruptcy;
- 4.92% of disclosures related to criminal convictions; and

- 4.79% of disclosures related to a mental health issue.

Cooperation between VLAB and NSW LPAB

The Secretariat has been working with the Admitting Authorities on Stage 2 of the LSC data sharing project for the past 12 months to ensure consistency with regard to data reporting. Continuous dialogue between NSW LPAB and VLAB ensures that data provided by each authority is a reliable and viable method for promoting compliance with the Uniform Law and Rules.

NSW LPAB is liaising closely with VLAB to establish a joint database of conditional admission applications. The data will be utilised for the imposition of conditions for all applications received. The aim is that the register will allow the regulators to target conditions to assess applications uniformly and transparently. Victoria has led the way for the online version with NSW expressing consent for the project

to continue. It is envisaged that other states could benefit from this online register.

The adoption of a common approach between VLAB and NSW LPAB is enhanced by sharing information relating to policy and practical issues to devise common solutions. VLAB will develop workable criteria and establish policies to ensure consistency between VLAB and LPAB with respect to academic qualifications policies and a register similar to that of conditional admission is also being investigated. The register will ensure transparency and consistency of assessments. An online register will allow for shared information in an electronic format between jurisdictions with the option of additional states utilising these technologies as required.

VLAB and NSW LPAB continue to improve their processes in order to achieve best practice and facilitate accessibility to all applicants who seek to be admitted as Australian Lawyers under the Uniform Law.



VLAB and LPAB working together with LSC, DOJ and LSNSW to add Admissions Data to the Uniform Law Database.

COMMISSIONER
FOR UNIFORM LEGAL
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