

**LSC** LEGAL  
SERVICES  
COUNCIL

**COMMISSIONER**  
FOR UNIFORM LEGAL  
SERVICES REGULATION

**ANNUAL REPORTS**

**2018/2019**

LEGAL PROFESSION  
**Uniform Law**

# Introduction

The Legal Services Council is an intergovernmental 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 2018–2019. 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 Council was appointed in October 2014 and will serve until October 2020. The current Commissioner, Megan Pitt, commenced in the dual roles of Chief Executive Officer of the Legal Services Council and Commissioner for Uniform Legal Services Regulation in October 2017 and will serve for five years.

Copies of this Annual Report are publicly available at [www.legalservicescouncil.org.au](http://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 1215 or by email to [lsc@legalservicescouncil.org.au](mailto:lsc@legalservicescouncil.org.au).

# Contents

## **Annual Report of the Legal Services Council**

Chair's Letter	4
Chair's Report	5
CEO's Report	7
Our Guiding Principles	9
Our Council	10
Our Framework	12
Our Organisation	12
The Uniform Law Scheme	16
Admissions Committee Report	17
Highlights of 2018–2019	19
The Uniform Law in Action	21
Features and Benefits of the Uniform Law Scheme	22
Amending the Uniform Law	24
Amending the Uniform General Rules under the Uniform Law	25
Making Guidelines and Directions under the Uniform Law	26
Progress against our Strategic Plan 2018–2021	27
Financial Statements	32
<b>Report of the Commissioner for Uniform Legal Services Regulation 2018–2019</b>	<b>58</b>
Complaints handling and professional discipline	70
Data analysis	71
Glossary	93

18 September 2019

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

The Hon Jill Hennessy MP  
Attorney General of Victoria  
Level 26, 121 Exhibition St  
MELBOURNE VIC 3000

The Hon John Quigley MLA  
Attorney General of Western Australia  
5th Floor, Dumas House  
2 Havelock Street  
WEST PERTH WA 6005



**Annual Report of the Legal Services Council for 2018–2019**  
**Annual Report of the Commissioner for Uniform Legal Services Regulation for 2018–2019**

I am pleased to submit the Annual Report of the Legal Services Council for 2018–2019 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 2018–2019 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,

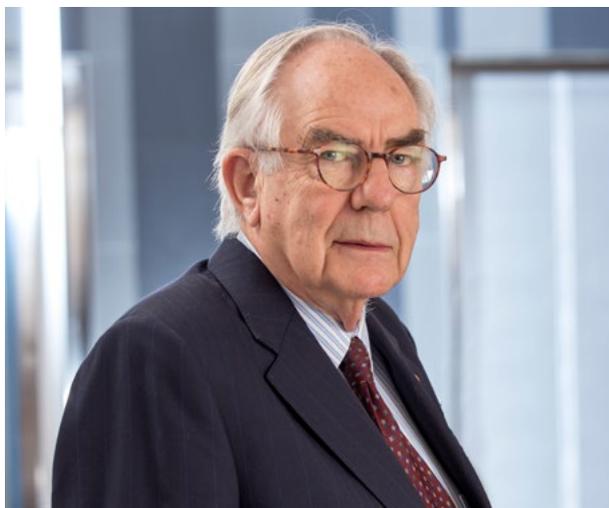


The Hon Michael Black AC QC FAAL  
Chair  
Legal Services Council

Level 3, 19 O'Connell Street, Sydney NSW 2000  
PO Box H326, Australia Square NSW 1215

T +61 2 9692 1300  
E [lsc@legalservicescouncil.org.au](mailto:lsc@legalservicescouncil.org.au)  
[www.legalservicescouncil.org.au](http://www.legalservicescouncil.org.au)

# Chair's Report



It is with pleasure that I present the fourth Annual Report of the Legal Services Council, covering the year 2018–2019.

This has again been a productive year, of which the highlight has been the progress made towards the application of the Legal Profession Uniform Law to Western Australia. An important step was taken on 28 February when the Attorneys General of New South Wales, Victoria and Western Australia signed an Intergovernmental Agreement establishing the framework for the extension of the Uniform Law to Western Australia with the aim that this should occur on 1 July 2020.

Under the terms of the Intergovernmental Agreement the Attorney General of Western Australia will become a member of the Standing Committee for the Uniform Law. The membership of the Legal Services Council will increase from the current five members to seven, with the additional two members being from Western Australia; one nominated by the Law Council of Australia and one by the Standing Committee. The membership of the Admissions Committee, established under the Uniform Law, will be increased to ensure that its membership includes a current or former judge of the Supreme Court of Western Australia.

This important development has been greatly assisted by the leadership and active engagement of the Attorney General of Western Australia, the Hon John Quigley MLA, and by the support of the Attorneys General of New South Wales, the Hon Mark Speakman MP SC, and Victoria, the Hon Jill Hennessy MP, in their capacities as members of the Standing Committee.

In this connection also, the Council had the benefit of the attendance at its meetings as observers, the Solicitor General of Western Australia, Mr Peter Quinlan SC until his appointment as Chief Justice of Western Australia, and then his successor in the office of Solicitor General, Mr Joshua Thomson SC.

The advantages of the Uniform Law in promoting sound, cooperative solutions to common regulatory issues have again been demonstrated. A good example is the streamlined arrangements that have been established for suggested amendments to be examined cooperatively and comprehensively at meetings between the Council and the designated local regulatory authorities and for proposals to be agreed and priorities established.

The consideration of issues arising from the growth of PEXA and other electronic conveyancing platforms is another field to benefit from a cooperative, collaborative approach. At its meeting on 30 April the Council resolved to establish a Uniform Law Working Group to examine matters concerning e-conveyancing and the possible impacts upon consumers and the regulation of the legal profession.

The Working Group, chaired by Council member, Mr Bret Walker SC and including regulators from New South Wales and Victoria, provided the opportunity to discuss shared concerns and underlined the importance of effective regulation in this developing field. The Council will continue to keep a close watch on the implementation of e-conveyancing in Australia.

The growth of PEXA is but one aspect of the impact of the borderless online age upon all aspects of social and economic activity including, inevitably, the provision of legal services at every level. It was for such an age that the Uniform Law was established as an important element in national micro-economic reform.

In that context the extension of the Uniform Law to the remaining jurisdictions is of continuing importance and to that end, the Chief Executive Officer and Commissioner, Ms Megan Pitt and I had meetings with representatives of other jurisdictions during the year. We will continue to do so.

The Admissions Committee, under the leadership of Acting Justice Arthur Emmett AO, plays an important part in the scheme of the Uniform Law and I thank him and the members for their work

in the important area of admission standards and requirements. I would also like to acknowledge outgoing member, the Hon Ruth McColl AO, formerly of the New South Wales Court of Appeal and welcome incoming member, the Hon Justice Patricia Henry of the Supreme Court of New South Wales.

The Council has again worked productively and harmoniously and I am grateful for the ongoing commitment and valuable contributions of our Council members. We have again received excellent support from our Chief Executive Officer and from our small and dedicated Secretariat, to all of whom I express the Council's gratitude. It has been a pleasure to work with them.

The Hon Michael Black AC QC FAAL  
Chair, Legal Services Council

---

**“The advantages of the Uniform Law in promoting sound, cooperative solutions to common regulatory issues have again been demonstrated. A good example is the streamlined arrangements that have been established for suggested amendments to be examined cooperatively and comprehensively at meetings between the Council and the designated local regulatory authorities and for proposals to be agreed and priorities established.”**

The Hon Michael Black AC QC FAAL  
Chair, Legal Services Council

---

**“Joining the Uniform Law scheme will provide uniformity of access to the market for legal services and benefits our local legal profession while at the same time retaining many of the existing features of our present method of regulating legal practitioners.”**

Mr Joshua Thomson SC  
Solicitor General of Western Australia

# CEO's Report



I am pleased to present the Legal Services Council's Annual Report for 2018-2019

This year marks the fourth year of the operation of the Uniform Law Scheme, and my second year as CEO of the Legal Services Council. With the passage of time, it is clear that the benefits of the Scheme are becoming more apparent, as the two Uniform Law jurisdictions work more closely together and with the Council; and as the Scheme expands to take in another jurisdiction, Western Australia. I have been delighted to experience the continuing collaborative and cooperative approach by all the key players in the now three participating jurisdictions, with each actively contributing their regulatory experience and perspectives to the Council's deliberations and to the continuing success of the Scheme.

At the beginning of this year, we refined our organisational Vision and developed a new Strategic Plan to provide a clear direction and focus for our Council's work over the next three years.

## Our Vision is:

*To achieve uniform regulation of a national legal profession and legal services in Australia to meet community needs and balance the interests of the legal profession and the protection of clients of law practices.*

Our Strategic Plan sets out our four goals as:

- Achieve national implementation of the Uniform Law;
- Ensure that the Uniform Law Scheme is a responsive regulatory regime;
- Build awareness of the Uniform Law;
- Continue to develop a well governed organisation.

In this first year, we have already made significant progress towards the achievement of our Strategic Plan goals. While the details of our achievements are set out later in this report, there are highlights that stand out for special mention as follow:

## Achieve National implementation of the Uniform Law

During the year, a significant step in the national implementation of the Uniform Law was the decision by Western Australia (WA) to join the Scheme. In the lead-up to this announcement, it was a pleasure to work with the former and current Solicitors General of Western Australia and with representatives of the Legal Practice Board of WA, the WA Legal Complaints Committee, the Law Society of WA and the WA Bar Association. Understanding the perspectives of our WA stakeholders and jointly sharing information about the Uniform Law and WA's legal regulatory framework has been invaluable in bringing the three jurisdictions together.

We recognise that the views and perspectives of other jurisdictions that are not currently in our Scheme remain critically important to our expansion agenda. We are aware that these jurisdictions are monitoring the WA process and continue to consider their positions.

## Ensure that the Uniform Law Scheme is a responsive regulatory regime

This year the Council has completed a range of projects that support the Uniform Law Scheme being a responsive regulatory regime. A highlight is the Australian Legal Profession Register (ALPR). Information about legal practitioners that is currently held by the legal regulators in NSW and Victoria will be able to be electronically accessed from one central location, the ALPR, on the LSC's website.

The Council has also made changes to the Uniform Law, Rules and issued a Direction to establish:

- A new power to revoke a person's designation as an External Examiner to provide a safeguard for regulators to deal with instances where questions about an External Examiner's competence and/or suitability arise - Uniform General Rule 65A;
- Public Registers of eligible External Examiners to be maintained by the Law Society of NSW and the

Victorian Legal Services Board and Commissioner and linked to the LSC website - LSC Direction 3 September;

- A new Indexation provision to ensure that the Victorian and NSW Legal Services Commissioners and the Victorian Civil and Administrative Tribunal maintain their jurisdictions to determine costs disputes in line with inflation - Uniform General Rule 111A;
- A reduction in the period of prohibition from five to two years during which a barrister may not appear before tribunals of which they were formerly a member; and to limit the retrospectivity of the prohibition - Legal Profession Uniform Conduct (Barristers) Rules 2015 rule 101A.

### **Build awareness of the Uniform Law**

In order for our Scheme to operate effectively, it is essential that we continue to develop and maintain strong, collegiate and cooperative working relationships with our key stakeholders and that we share experiences, information and ideas. The Uniform Law designated local regulatory authorities (DLRAs) in Victoria and NSW – the Victorian Legal Services Board and Commissioner, Fiona McLeay, the NSW Legal Services Commissioner, John McKenzie, the Law Society of NSW CEO, Michael Tidball, the NSW Bar Association CEO, Greg Tolhurst, and their staff, are critically important to us and we are grateful to them for their insightful contributions to our work and for the assistance that they have provided in many ways.

To reinforce the value we derive from the DLRAs' views and to provide enhanced opportunities for exchanges between us, this year we initiated quarterly DLRA meetings, Uniform Law Round tables and a Uniform Law Summit to bring our key stakeholders together on a regular basis. These meetings have been instrumental in focusing our attention on changes to the Uniform Law and Rules that were identified by these regulators as a priority aimed at ensuring that the Scheme operates at an optimal level in the future. The collaboration that has occurred at every stage of these consultations, and the intellectual and legal capital involved in proposing and debating changes to the Uniform Law is much appreciated and is a fine illustration of the Scheme working very well.

### **Continue to develop a well governed organisation**

Recognising the importance of sound governance and continuously improving our organisation, we have refined our operations and reviewed our costs over the last twelve months. Our office move within the Sydney CBD went smoothly and delivered rental cost savings, as did our review of our corporate services which reduced our IT, HR and finance costs. Our secretariat continues to be small in number with only five staff - but all are highly professional, dedicated and productive contributors to our results, and I thank them for their hard work this year.

As always, it has been a great pleasure to work with our Chair, the Hon Michael Black AC QC FAAL and I appreciate the outstanding contributions made by all members of the Council. I have also enjoyed working on admission and legal education matters with our Chair of the LSC's Admissions Committee, the Hon Acting Justice Arthur Emmett AO, and the Committee members. The LSC's Audit and Risk Committee chaired by Fiona Bennett has efficiently overseen our operations and I acknowledge its sound advice and expertise. The relevant Departments of Justice the Victorian Department of Justice and Community Safety and the NSW Department of Justice, have continued to assist us with valuable guidance. I also join the Chair in acknowledging the Standing Committee for its consideration and support of our work again this year.

As we are entering an exciting new phase for the Uniform Law Scheme, it is gratifying to know that this year has provided a solid and positive platform for moving forward and for facing the opportunities and challenges that the next year will present.

**Megan Pitt**  
Chief Executive Officer, Legal Services Council

# Our Guiding Principles



## OUR VISION

*To achieve uniform regulation of a national legal profession and legal services in Australia to meet the community needs and balance the interests of the legal profession and the protection of clients of law practices.*

## Our Objectives

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

- providing and promoting consistency between States and Territories in the law applying to the Australian legal profession.
- ensuring legal practitioners are competent and maintain high ethical and professional standards.
- enhancing the protection of clients and the public.
- empowering clients to make informed choices about their legal options.
- efficient, effective, targeted and proportionate regulation, and
- a co-regulatory framework with appropriate independence for the legal profession.

# Our Council

## LEGAL SERVICES COUNCIL MEMBERS

Appointed 14 October 2014 - 13 October 2020



### **The Hon Michael Black AC QC FAAL** Chair

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 of 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**

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 Legal Services Council’s Audit and Risk Committee.

Ms Bennett is a Chartered Accountant and has previously held senior executive positions at BHP Ltd and Coles Group Ltd. Ms Bennett has also 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**

Kim Boettcher is a barrister at Frederick Jordan Chambers in Sydney. She was previously a solicitor practising in commercial and civil litigation law in England and Wales, New South Wales 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.

She has attended the United Nations in New York as a civil society delegate and regularly presents papers at international conferences.

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 a Director of the International Network on the Prevention of Elder Abuse (INPEA), Treasurer of the International Commission of Jurists Australia and a member of the NSW Bar Association.



### **Mr Steven Stevens**

Steven Stevens is a tax practitioner and principal of Stenas Legal in Melbourne. He has represented the legal profession as an elected member of the Victorian Legal Services Board from 2013–2018.

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**

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.

## **LEGAL SERVICES COUNCIL OBSERVERS**

During the year, two Western Australian Solicitors General, Peter Quinlan SC and Joshua Thomson SC, attended Council meetings as observers ahead of WA's entry into the Uniform Law Scheme. The Council has appreciated their perspectives and contributions to the Council's consideration of issues.



**The Hon Peter Quinlan SC** Chief Justice of Western Australia (August 2018–present)  
Western Australian Solicitor General (July 2016–August 2018)



**Mr Joshua Thomson SC** Western Australian Solicitor General (August 2018–present)

# Our Framework

## THE STANDING COMMITTEE

The Standing Committee comprises the Attorneys General of Victoria and NSW, and, for the purposes of decisions under the Intergovernmental Agreement dated 28 February 2019, Western Australia. It makes the Uniform Regulations and considers and approves the Uniform Rules proposed by the Council, the Law Council of Australia (LCA), the Australian Bar Association (ABA) and the Admissions Committee of the LSC. 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.



NSW Attorney General  
**The Hon Mark Speakman SC MP**



Victorian Attorney General  
**The Hon Jill Hennessy MP**



WA Attorney General  
**The Hon John Quigley MLA**

# 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 Government and may do what is necessary or appropriate 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
- 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.

During the year the Council met five times, alternating between Sydney and Melbourne.

## 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.

## THE COMMISSIONER

The Commissioner for Uniform Legal Services Regulation 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 for 36 years, Megan 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 in October 2017, Ms Pitt led the Sydney office of the Australian Government Solicitor as its Director for more than 20 years.

Ms Pitt is appointed as CEO of the Legal Services Council and Commissioner for Uniform Legal Services Regulation for a period of five years.

## THE ADMISSIONS COMMITTEE

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

The members during the reporting period are:

- The Hon Acting Justice Arthur R Emmett AO, Chair: *appointed to 30/6/2020, nominee of the Standing Committee of Attorneys General of Victoria and NSW*
- The Hon Ruth McColl AO: *appointed to 30/6/2019, nominee of the Chief Justice of Victoria, in concurrence with the Chief Justice of NSW*
- The Hon Justice Emilios Kyrou: *appointed to 30/6/2021, nominee of the Chief Justice of Victoria, in concurrence with the Chief Justice of NSW*
- Dr Elizabeth Boros: *barrister appointed to 30/6/2021, nominee of the Australian Bar Association*
- Stuart Clark AM: *solicitor appointed to 30/6/2021, nominee of the Law Council of Australia*
- Professor Lesley Hitchens: *Dean of UTS Law School appointed to 30/6/2020, nominee of a Faculty of Law*
- Professor Bronwyn Naylor: *Graduate School of Business and Law RMIT appointed to 30/6/2020, nominee of a Faculty of Law.*



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

## 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, 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.

The ARC consists of Fiona Bennett (Chair), Steven Stevens (LSC member) and Geoffrey Applebee (independent member).



*LSC Audit and Risk Committee from left: Steven Stevens, Fiona Bennett and Geoffrey Applebee.*

## THE SECRETARIAT

The Council 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 lawyers), 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.

## Staffing

In August 2018, Executive Assistant, Maureen Shaw retired. Following an extensive recruitment process, Tina O'Brien (previously with the Australian Law Reform Commission) was recruited as her successor in a permanent full time capacity, commencing in August 2018.

On 28 June 2019, Senior Policy Advisor, Sonya Kim, resigned to take up a role at a Commonwealth Royal Commission.



*LSC Secretariat from left: Tina O'Brien (Executive Assistant), Sonya Kim (Senior Policy Advisor), Bridget Sordo (Senior Executive Officer), Cora Groenewegen (Senior Policy Officer) and Julia Langham (Senior Project Officer - Communications).*

## 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 Intergovernmental Agreement (IGA) between the two participating jurisdictions and Western Australia. The LSC is jointly funded by the jurisdictions participating in the Uniform Law scheme (currently NSW and Victoria) and its budget was approved by the Standing Committee on 10 September 2018.

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 from the Public Purpose Fund. 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
- \$400 to the NSW Department of Justice

### The LSC's operating budget

The LSC and the Commissioner operate on a triennial budget (2019-2021). The Standing Committee approved the budget and provided assurance of continued funding for the purpose of the 2018-2019 financial statements.

The operating budget of \$1,569,703 was approved for the 2018-2019 financial year. Audited financial statements are presented in this report from page 32.

## Financial operations

During the year the LSC continued to operate as a cost centre in the NSW Department of Justice and the Department provided corporate services to the LSC on a fee for service basis. The current budget 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 which commenced on 1 July 2018.

---

**“The last four years’ experience of the Uniform Law shows that the consultative and policy setting processes established with the Legal Services Council and the Office of the Commissioner for Uniform Legal Services Regulation have succeeded overall.**

**That is a good outcome given the inevitable differing views on certain issues that arise when two or more independent jurisdictions join together after more than a century of separate development and precedent building. This success is testament to the good will and unwavering commitment of those involved from all the various stakeholders.”**

Mr John McKenzie  
NSW Legal Services Commissioner

# The Uniform Law Scheme

## STANDING COMMITTEE - NSW and VICTORIAN ATTORNEYS GENERAL

Supervises the Legal Services Council, Commissioner for Uniform Legal Services Regulation and local regulatory authorities to ensure they fulfil their duties consistently with the Uniform Law's objectives.

Makes regulations and approves Uniform Rules.



### ADMISSIONS COMMITTEE

Develops rules about admission to the legal profession.

Gives advice to the Legal Services Council about admissions-related matters.

### LEGAL SERVICES COUNCIL

Monitors the Uniform Law's implementation and operation.

Develops General Rules and makes all Uniform Rules.

Issues guidelines and directions to local regulatory authorities about the exercise of their functions.

### COMMISSIONER FOR UNIFORM LEGAL SERVICES REGULATION

Promotes compliance with the Uniform Law and Rules.

Ensures the consistent and effective implementation of Chapter 5 of the Uniform Law.

Raises awareness of the Uniform Law framework and its objectives.

Issues guidelines and directions to local regulatory authorities about Chapter 5 functions.

## LOCAL REGULATORY AUTHORITIES FOR FUNCTIONS AND REGULATION OF THE LEGAL PROFESSION

ADMISSION TO THE LEGAL PROFESSION	AUSTRALIAN PRACTISING AND REGISTRATION CERTIFICATES	TRUST MONEY AND TRUST ACCOUNTING	COMPLIANCE AUDITS AND MANAGEMENT SYSTEM DIRECTIONS	CONSUMER COMPLAINTS, DISPUTE RESOLUTION AND PROFESSIONAL DISCIPLINE
Legal Profession Admission Board (NSW) Victorian Legal Admissions Board	Bar Council (NSW) Law Society Council (NSW) Victorian Legal Services Board	Bar Council (NSW) Law Society Council (NSW) Victorian Legal Services Board	NSW Legal Services Commissioner Law Society and Bar Councils (NSW) Victorian Legal Services Board	NSW Legal Services Commissioner Law Society and Bar Councils (NSW) Victorian Legal Services Commissioner

## COURTS AND TRIBUNALS

### SUPREME COURT

Appeal or review of some DLRA decisions, disqualification of entities from providing legal services, admission to and removal from the roll of Australian lawyers, appointment of receivers, injunctive relief.

### LOCAL COURT OF NSW MAGISTRATES COURT OF VICTORIA

Prosecution of summary offences.

### NSW CIVIL AND ADMINISTRATIVE TRIBUNAL; VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

Chapter 5 consumer complaints, dispute resolution and professional discipline.

# Admissions Committee Report

The Admissions Committee of the Council (Committee) develops admission rules and gives advice to the Council about matters relating to admissions. To that end, it negotiates and cooperates with Australian and foreign authorities, Courts and professional associations, to gather 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 and practical legal training (PLT) courses.

## CONSTITUTION OF THE COMMITTEE

On 28 June 2018, the terms of the Hon Justice Richard White, the Hon Justice Emilius Kyrou, Dr Elizabeth Boros and Mr Stuart Clark AM as members of the Committee ended.

With Council appointments and reappointments for terms commencing on 29 June 2018, the Committee comprised the Hon Acting Justice Emmett AO QC, the Hon Justice Emilius Kyrou, the Hon Ruth McColl AO, Dr Elizabeth Boros, Mr Stuart Clark AM, Professor Lesley Hitchens and Professor Bronwyn Naylor.

After almost four years of service commencing November 2014, the Committee was unanimous in expressing its acknowledgement and gratitude to Justice White for his outstanding and insightful contribution to the Committee.



*LSC Admissions Committee L-R: the Hon Justice Emilius Kyrou, Prof Lesley Hitchens, the Hon Ruth McColl AO, the Hon Acting Justice Arthur Emmett AO (Chair), Prof Bronwyn Naylor, Dr Elizabeth Boros and Stuart Clark AM.*

## ACCREDITATION STANDARDS FOR AUSTRALIAN LAW COURSES

In 2018 a pilot review of the law courses of Victoria University, University of Melbourne and University of Technology, Sydney (UTS) was completed. Additionally, a report on the review process was considered by the respective Boards. In response, UTS and the NSW Legal Profession Admission Board developed a comprehensive, cost effective framework for reviews of law courses in the future. The Committee recommends that the framework be used by those seeking law course accreditation by the Boards in all participating Uniform Law jurisdictions.

## ACCREDITATION AND REACCREDITATION OF LAW COURSES AND PLT PROVIDERS

On 7 June 2019, the Council made the Legal Profession Uniform Admission Amendment (Accreditation) Rule 2019, following Committee consultation with all Australian admitting authorities, the Deans of law schools and PLT providers in NSW and Victoria, the Law Admissions Consultative Committee (LACC) and the public. The new rule amends rules 3, 4, 7, 8 and Sch 2 cl 4 of the Legal Profession Uniform Admission Rules 2015, relating to the accreditation and reaccreditation of law courses and PLT providers, and commenced on 7 June 2019.

The effect of the amendments is to:

- Provide the admitting authorities (Boards) with the same powers, whether accrediting or reaccrediting a course or provider
- Ensure that any monitoring or review of a course or provider is for the purpose of accreditation or reaccreditation; or consideration by the Boards of whether to impose or vary conditions on an accreditation
- Allow a limited review by the Boards for the purpose of considering whether to impose or vary conditions on an accreditation
- Require the Boards to take into account the report of a reviewer when considering the reaccreditation of a course or provider.

These amendments are expected to provide greater clarity regarding the purpose of reviews of courses and providers and certainty that the reports of the reviews will be taken into account by the Boards.

The amendments also allow an interim, shorter and less expensive review of conditions attached to accreditation.

The Standing Committee, in concert with the Attorney General of Western Australia, agreed to the proposed amendments, expressing gratitude to the Council for its work in ensuring that the Uniform Law continues to reflect modern forms of legal practice, and for responding to stakeholder concerns.

### **ACCREDITING LAW COURSES RATHER THAN LAW COURSE PROVIDERS**

The Committee resolved on 20 June 2019, and the Council agreed on 27 June 2019, to pursue an amendment to s 29 of the Uniform Law, so that the Boards will be empowered to review and accredit *law courses, whether academic or practical*, as opposed to *law courses and PLT providers*.

### **ADMISSION OF FOREIGN LAWYERS**

The Committee's review into the admission of foreign lawyers (Review) was extended by four months to 31 January 2019 to allow more time to receive information from stakeholders identified by the terms of reference of the Review.

On 8 March, the Committee decided to develop a new rule which would have the effects of:

- Formally acknowledging that a foreign lawyer, who has complied with directions by a Board to complete further study, satisfies the specified academic qualifications and/or PLT prerequisite for admission
- Drawing a distinction between experienced and inexperienced foreign lawyers who apply for admission. When assessing the application for a direction by a foreign lawyer with five or more years of experience, a Board, prior to directing further study and/or PLT, will be compelled to take into account the applicant's legal skills and experience, with reference to specific factors which have been identified with risk, such as whether the foreign jurisdiction in which the lawyer practised was codified or applied common law, whether the legal profession was regulated, the number of years and type of legal practice engaged in, and the nature of the applicant's previous work including their level of responsibility and handling of trust money

- Assisting the Boards to apply s 18 of the Uniform Law by listing in a new Uniform Admission Rule the factors the Boards must take into account when considering granting an exemption from further study and/or PLT
- Enhancing perceptions of transparency, so that if a request is made by an applicant, the Board will be compelled to provide reasons for giving a direction or for failing to give an exemption.

On 27 June, consultation on the draft Legal Profession Uniform Admission Amendment (Qualifications) Rule 2019 commenced. At its meeting in October 2019, the Committee will consider the submissions received and decide whether to ask Council to make the rule.

### **RELATIONSHIP WITH STAKEHOLDERS**

The Committee has been diligent in informing itself broadly of matters that relate to its work. It expresses its appreciation and gratitude to those persons and bodies who have responded to its requests for information when conducting the Review and/or to its invitations for comments when consulting about proposed rules. In particular, the Committee is mindful of the extensive assistance offered by the Boards in these areas, as well as their willingness to work together in providing data for the Uniform Law database.

As the Committee looks forward to welcoming a Western Australian member when that State joins the Uniform Law Scheme, it has sought, valued and applied the Legal Practice Board of Western Australia's input into proposals to amend the Uniform Law and Rules affecting admissions.

The Committee continues to remain open to the perspectives and responsive to the concerns of other jurisdictions - expressed individually or through LACC - and is committed to retaining uniformity whenever possible.

Finally, the Committee acknowledges the enormous contribution of the Law Society of NSW, which stores the Uniform Law database and facilitates access to and presentation of admissions data in a most useful way.

# Highlights of 2018–2019

Our focus this year has been to support Western Australia's entry into the Uniform Law Scheme, consult widely on a range of matters to ensure the effective operation of the Uniform Law, prioritise amendments to the Uniform Law and Rules and complete important projects such as the Australian Legal Profession Register.

## WESTERN AUSTRALIA JOINS THE UNIFORM LAW SCHEME

On 28 February 2019, the Attorneys General of NSW, Victoria and Western Australia, the Hon Mark Speakman SC MP, the Hon Jill Hennessy MP and the Hon John Quigley MLA, announced that they had signed a landmark agreement to enable Western Australia to join the Legal Profession Uniform Law Scheme.

This milestone brings Australia a step closer to having a national legal profession operating under a national regulatory framework. Currently almost 70% of Australia's practising lawyers are regulated by the Uniform Law. When Western Australian lawyers are included, around 75% of Australia's lawyers will be covered by the Scheme.

Having three States under the same regulatory regime will deliver time and cost savings to consumers, the legal profession and regulators. Legislation has been introduced into the Victorian Parliament to give effect to this development and legislation will follow in the Western Australian Parliament with a target start-up date of 1 July 2020.

As a result, the LSC will expand from five to seven members with at least one member from Western Australia. The LSC's Admissions Committee will also be expanded to include at least one member from Western Australia.

In the lead-up to this announcement and since then, the LSC has actively engaged with the Western Australian Attorney General, the Western Australian Solicitor General, the Legal Practice Board of Western Australia and its Legal Profession Complaints Committee, the Law Society of Western Australia and the Western Australian Bar Association to discuss the Uniform Law Scheme and transitional arrangements.

Over the coming year, the LSC will continue to liaise with Western Australian stakeholders and the Standing Committee to support Western Australia joining the Scheme.



## UNIFORM LAW SUMMIT

On 12 September, and following two strategic Roundtable meetings with designated local regulatory authorities (DLRAs) from NSW and Victoria, in Sydney in May and Melbourne in July, the CEO convened a Uniform Law Joint Summit, to bring together all agencies involved in the Uniform Law Scheme, the Legal Profession Admission Board (NSW) and the Costs Assessment Scheme overseen by the Prothonotary of the Supreme Court of NSW.

The inaugural Summit provided a valuable opportunity for the legal regulators to raise issues relevant to their regulatory responsibilities and to discuss their priorities. The meeting agreed on a set of Uniform Law legislative and Rule changes to be addressed as the First Priority Amendment Project which will inform the Council's forward work plan over the coming year. The Summit was a prime example of DLRAs working together, sharing experiences and expertise.



*Uniform Law Summit from left: Fiona McLeay (VLSB+C), Michael Tidball (LSNSW), John McKenzie (OLSC), Greg Tolhurst (NSWBA), Kerri-anne Millard (VLSB+C), Anna Verney (LSNSW), Cora Groenewegen (LSC), Sonya Kim (LSC), Jennie Pakula (VLSB+C), Michael Black AC QC FAAL (LSC), Anne-Marie Foord (LSNSW), Megan Pitt (LSC) and Samantha Gulliver (OLSC).*

## UNIFORM LAW AND RULE CHANGES

### Barristers' Conduct Rule

On 15 January, the LSC made the Legal Profession Uniform Conduct (Barristers) Amendment (Refusal of Briefs) Rule 2018, following the Australian Bar Association's release of the rule for consultation.

The new rule, r 101A, provides that while the prohibition period for judges from appearing in the court they previously served should be preserved at five years, tribunal members with limited tenure should be treated differently and be prohibited from appearing as barristers in their tribunal division or list for only two years.

The new rule will not apply to a barrister who was appointed a judge or other judicial officer before the commencement of the Barristers' Conduct Rules on 1 July 2015.

---

**"I would like to thank the LSC, policy officers and staff for their unfailing assistance to me during 2018 when it became apparent that regrettably it was necessary for a change to the Barristers' Rules to permit me to return to practise. I was at all times kept informed of the necessary processes and steps along the way; there was a sympathetic understanding of my position and an eagerness to address the necessary rule change in the minimum time."**

Mr Jack Rush QC  
Victorian Barrister

### New rule to revoke the status of external examiners

Under Part 4.2 of the Uniform Law, external examiners (EEs) (usually accountants and auditors) are appointed to inspect and report on the trust records of law practices every year.

On 3 September, a new rule to revoke the status of EEs was made by the LSC. The Legal Profession Uniform General Amendment (External Examiners) Rule 2018 provides regulators with the power to revoke the status of EEs as designated persons under the Uniform Law, on the basis of incompetence or unsuitability. Rule 65A also

ensures that procedural fairness applies to persons who are subject to a proposed disqualification.

The new rule seeks to advance the objective of ensuring that appropriate safeguards are in place to uphold the integrity of legal services.

### LSC DIRECTION

On 3 September, the LSC issued a Direction to the Council of the Law Society of NSW and the Victorian Legal Services Board requiring them to keep Public Registers of External Examiners. The Direction is in relation to the Legal Profession Uniform General Amendment (External Examiners) Rule 2018.

The Direction seeks to promote consistency in the law, maintain the integrity of legal services and protect consumers of legal services. The Registers are also required to be accessible by links from the LSC website.

### AUSTRALIAN LEGAL PROFESSION REGISTER

The development of an electronic Australian Legal Profession Register (ALPR), containing publicly available information about registered legal practitioners in all Australian States and Territories under the Uniform Law, was completed during the year and will be launched later in 2019.

The ALPR provides an easy search function for legal regulators, legal professionals and the general public, so that they can confirm that a person holds a valid practising certificate, and if so, ascertain the type of certificate held as well as the jurisdiction in which the certificate was issued. The ALPR also provides guidance as to where further enquiries about a legal practitioner may be made, through the relevant State regulatory authority.

The LSC acknowledges the valuable input of the Law Society of NSW which developed the database and provides ongoing technical assistance and support, and the NSW Department of Justice for its IT oversight. The LSC is also grateful to the Victorian Legal Services Board and Commissioner, the NSW Bar Association and the Law Society of NSW for providing the data for the ALPR on a weekly basis.

# 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
- functions and powers of the LSC, the Commissioner and local regulatory authorities.

## RELEVANT LEGISLATION

The Uniform Law is applied in NSW and Victoria by local Application Acts. Certain jurisdiction-specific arrangements, such as the operation of local authorities and fees, are dealt with by local Application Acts and Regulations.

- Legal Profession Uniform Law
- *Legal Profession Uniform Law Application Act 2014* (NSW)
- *Legal Profession Uniform Law Application Act 2014* (Vic)

## 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 Law Council of Australia (LCA) and the Australian Bar Association (ABA) are responsible for developing Legal Practice, Legal Profession Conduct and Continuing Professional Development Rules for solicitors and barristers. The Council's 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' CPD Rules)
- Legal Profession Uniform Continuing Professional Development (Solicitors) Rules 2015 (Solicitors' CPD Rules)
- Legal Profession Uniform Legal Practice (Solicitors) Rules 2015 (Solicitors' Legal Practice Rules)
- Legal Profession Uniform Conduct (Barristers) Rules 2015 (Barristers' Conduct Rules)
- Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015 (Australian Solicitors' Conduct Rules).

## LSC REGISTER OF DELEGATIONS

The LSC may delegate certain functions to the Chair of the Council or the Commissioner.

The LSC maintains a Register of Delegations as required by section 413 of the Uniform Law 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. There were no delegations made during the reporting period.

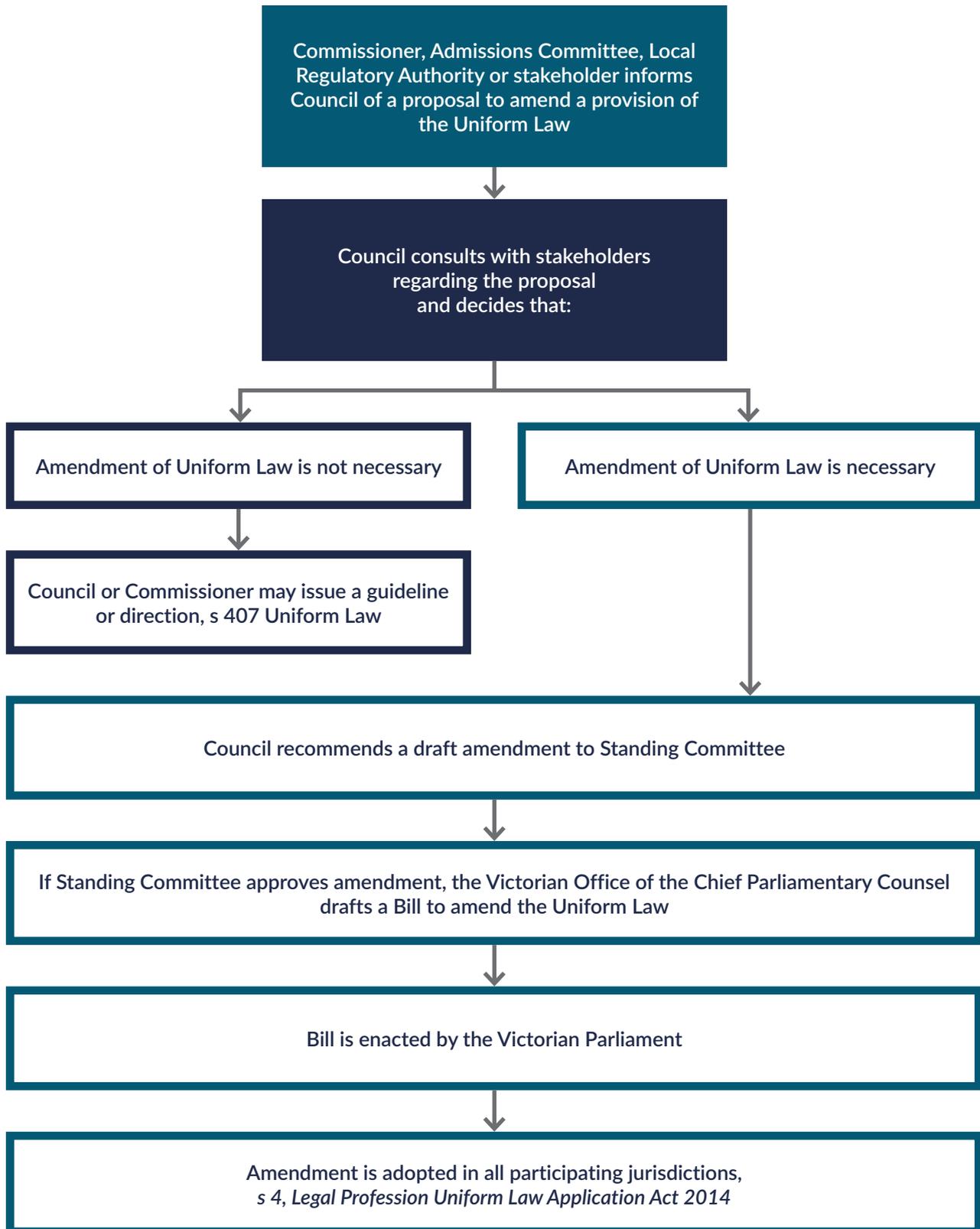
# Features and Benefits of the Uniform Law Scheme

<p><b>Benefits for governments, the legal profession and consumers</b></p>	<ul style="list-style-type: none"> <li>• The Uniform Law contributes to significant micro-economic reform that benefits governments, the legal profession and consumers.</li> <li>• Harmonisation of the regulation of the legal profession creates a seamless national legal market.</li> <li>• A national legal profession furthers Australia’s participation in the international demand for legal services.</li> <li>• The Legal Services Council (LSC) is becoming an expert advisory body to governments on legal regulation.</li> <li>• The LSC’s Admissions Committee determines consistent policies and procedures for admission of Australian and foreign lawyers; the content of academic and practical legal education, and the importation of legal expertise from overseas, in consultation with Admission authorities.</li> <li>• Legal profession has an entrenched place in the co-regulatory scheme.</li> <li>• Law practices benefit from a common framework.</li> <li>• Consumers benefit from strengthened protections and faster resolution of disputes and complaints.</li> <li>• The Australian Legal Profession Register will allow consumers to search for legal practitioner details.</li> </ul>
<p><b>Regulatory autonomy remains for State and Territory</b></p>	<ul style="list-style-type: none"> <li>• Supreme Courts’ admission and supervisory roles unchanged.</li> <li>• Local regulatory bodies continue unchanged.</li> <li>• State Application Acts provide for local machinery and regulatory arrangements.</li> </ul>
<p><b>A common framework applies to regulation of the legal profession</b></p>	<ul style="list-style-type: none"> <li>• Standing Committee of Attorneys General oversees the framework and the LSC.</li> <li>• The Uniform Law is the same in all participating jurisdictions.</li> <li>• An Intergovernmental Agreement (IGA) provides for arrangements between participating States.</li> <li>• Admission Rules are broadly the same everywhere.</li> <li>• Common Continuing Professional Development, Practice and Conduct Rules apply in all participating jurisdictions.</li> <li>• Uniform General Rules replace most legal profession regulations.</li> <li>• The LSC and Admissions Committee can be expanded to accommodate new participating jurisdictions.</li> </ul>

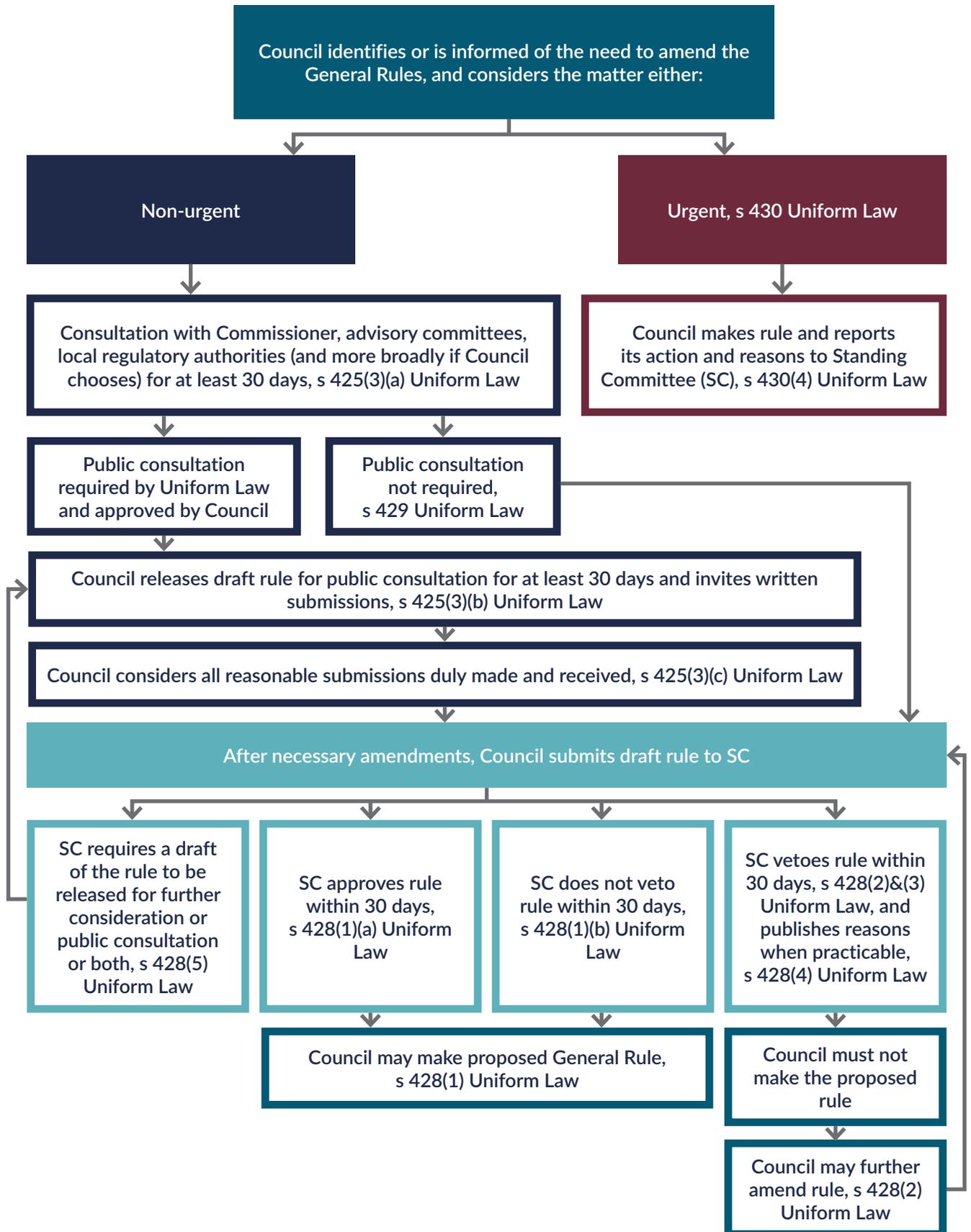
<p><b>Light touch overarching structure</b></p>	<ul style="list-style-type: none"> <li>• The LSC is a high-level policy and rule making body and is not involved in individual cases.</li> <li>• Commissioner for Uniform Legal Services Regulation oversees dispute resolution and discipline functions of Designated Local Regulatory Authorities (DLRAs).</li> </ul>
<p><b>Low cost of governance and operations</b></p>	<ul style="list-style-type: none"> <li>• The cost of the LSC, Commissioner and Secretariat are low.</li> <li>• The notional Scheme cost is \$20-\$30 annually per legal practitioner.</li> <li>• The current LSC budget for FY 2018-2019 is \$1.57m.</li> </ul>
<p><b>A collaborative approach promotes best practice and efficiencies</b></p>	<ul style="list-style-type: none"> <li>• The Uniform Law framework encourages collaboration between local regulatory authorities to identify and promote agreed best practice.</li> <li>• Continuous improvement saves time and costs.</li> </ul>
<p><b>In-built consultation requirements</b></p>	<ul style="list-style-type: none"> <li>• The IGA requires consultation on Uniform Law changes.</li> <li>• All participating Attorneys General are members of the SC.</li> <li>• The LSC and Commissioner hold regular DLRA liaison meetings and an annual Uniform Law Summit.</li> <li>• Mandated 30+ day consultation periods for rule changes.</li> </ul>



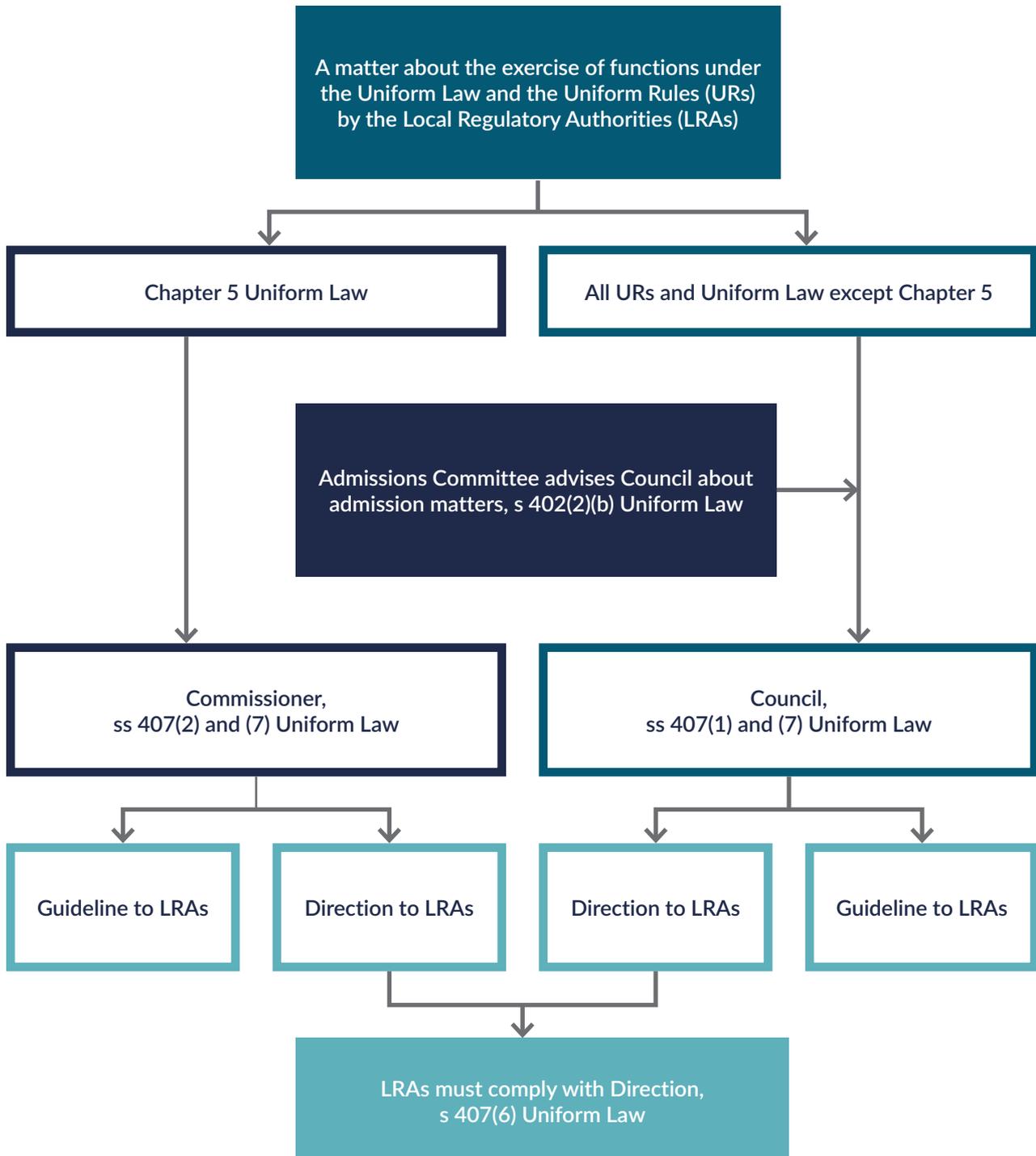
# Amending the Uniform Law



# Amending the Uniform General Rules under the Uniform Law



# Making Guidelines and Directions under the Uniform Law



# Progress against our Strategic Plan 2018–2021

GOAL 1: ACHIEVE NATIONAL IMPLEMENTATION OF THE UNIFORM LAW	
Priority Actions	Work undertaken/completed
<b>1.1 Work with the Standing Committee, the LSC &amp; Departments of Justice on national implementation</b>	
<p><b>The Standing Committee (SC)</b></p> <ul style="list-style-type: none"> <li>Meetings and six monthly progress reports.</li> <li>Annual reports (ARs).</li> </ul> <p><b>The LSC</b></p> <ul style="list-style-type: none"> <li>Five Council meetings per year.</li> <li>Regular liaison with the Chair and Council members.</li> </ul> <p><b>The Departments of Justice in NSW and Victoria</b></p> <ul style="list-style-type: none"> <li>Meetings and regular liaison about policy matters and expansion of the Uniform Law Scheme.</li> </ul>	<ul style="list-style-type: none"> <li>The SC was sent six monthly reports in July 2018, January and July 2019.</li> <li>The LSC Chair and CEO met with the NSW Attorney-General on 8 November 2018.</li> <li>The LSC Chair and CEO met with Attorneys General of WA &amp; NSW on 27 June 2019.</li> <li>The tripartite Intergovernmental Agreement to enable WA to join the UL Scheme was signed by the Attorneys General of NSW, Victoria and WA on 28 February 2019.</li> <li>The 2017–18 Annual Reports were tabled in the NSW Parliament in December 2018 and the Victorian Parliament in February 2019.</li> <li>The Council met on 10 July, 21 November 2018, 7 March, 30 April and 27 June 2019.</li> <li>The LSC CEO regularly liaises with the NSW and Victorian Departments of Justice.</li> </ul>
<b>1.2 Engagement with the participating jurisdictions to understand their perspectives, address any issues and promote the Uniform Law.</b>	<ul style="list-style-type: none"> <li>The CEO had over 100 meetings with over 30 stakeholders in NSW, Victoria and WA.</li> <li>The CEO held four quarterly DLRA meetings, two Roundtable discussions and a Uniform Law Summit bringing together legal regulators from NSW and Victoria.</li> </ul>
<b>1.3 Engagement with the non-participating jurisdictions to understand their perspectives, address any issues and promote the Uniform Law.</b>	<ul style="list-style-type: none"> <li>The Council, the Chair and the CEO have continued to engage with other jurisdictions to encourage their participation in the UL Scheme.</li> </ul>
<p><b>Western Australia</b></p> <ul style="list-style-type: none"> <li>Regular liaison with the WA representatives.</li> <li>Convene meetings between WA stakeholders and their counterparts in NSW and Victoria.</li> <li>Arrange for WA Solicitor General to participate in LSC meetings.</li> </ul>	<ul style="list-style-type: none"> <li>The LSC met the WA Attorney General and Solicitor General in Perth in October 2018.</li> <li>The LSC has arranged meetings between WA representatives and NSW and Victorian counterparts in 2018/2019.</li> <li>WA stakeholders have been consulted on various proposed amendments to the UL.</li> <li>The WA Solicitor General participated as an observer at Council meetings which were held in August and November 2018, March, April and June 2019.</li> </ul>
<b>Other jurisdictions</b>	<ul style="list-style-type: none"> <li><b>Queensland:</b> On 4 March and 8 May the CEO and staff met with the Qld Law Society.</li> <li><b>South Australia:</b> On 4 April the Chair and CEO met with the Law Society of SA and the SA Legal Profession Conduct Commissioner to discuss UL matters.</li> <li>The LSC remains committed to engage with the other non-participating jurisdictions as opportunities arise.</li> </ul>

## GOAL 2: ENSURE THAT THE UNIFORM LAW SCHEME IS A RESPONSIVE REGULATORY REGIME FOR THE LEGAL PROFESSION IN AUSTRALIA

Priority Actions	Work undertaken/completed
<b>2.1 Ensure the Uniform Law remains an effective regulatory regime</b>	
<b>2.1.1 Uniform Law Changes</b>	
<b>Managed Investment Schemes (MIS)</b> <ul style="list-style-type: none"> <li>Amendment to s 258 of the Uniform Law to balance law practice business needs and the protection of clients.</li> <li>New Uniform General Rules pursuant to s 258(3) and s 259 of the Uniform Law.</li> </ul>	<ul style="list-style-type: none"> <li>On 1 July 2018, new laws that restrict the involvement of law practices and legal practitioners promoting or operating MIS commenced in NSW and Victoria, except as exempted by s 258(1A) UL and as specified in the <b>Legal Profession General Uniform Rules</b>. The new laws also affect the provision of legal services in connection with mortgage practices.</li> </ul>
<b>Registration of Foreign Lawyers</b> <ul style="list-style-type: none"> <li>Amend s 70 re forms of practice to include in-house and government lawyers.</li> </ul>	<ul style="list-style-type: none"> <li>Proposed amendments to s 70 UL are with the SC.</li> </ul>
<b>Designated show cause events</b> <ul style="list-style-type: none"> <li>LSC to consider whether this category is superfluous given the overlap with provisions relating to variation, suspension and cancellation of licences.</li> </ul>	<ul style="list-style-type: none"> <li>This matter was included in the DLRA submissions on First Priority Amendments (UL and UGR) for LSC consideration throughout 2019 but was withdrawn by the DLRAs on 12 July 2019.</li> </ul>
<b>Priority Amendments to the Uniform Law</b> <ul style="list-style-type: none"> <li>LSC to consider proposed changes to the UL as jointly agreed by the DLRAs in NSW and Victoria.</li> </ul>	<ul style="list-style-type: none"> <li>Since 1 July 2018, 54 jointly agreed Priority Amendments have been submitted by the DLRAs for consideration by LSC.</li> </ul>
<b>2.1.2 Uniform Law Rules and Guidelines Changes</b>	
<b>External Examiners (EEs) 'revocation of status'</b>	<ul style="list-style-type: none"> <li>On 3 September the SC approved the <b>Legal Profession Uniform General Amendment (External Examiners) Rule 2018</b> to provide regulators with the power to revoke for incompetence or unsuitability, the status of EEs as designated persons under the UL.</li> </ul>
<b>Legal Profession Uniform Conduct (Barristers) Amendment (Refusal of Briefs) Rule 2018</b>	<ul style="list-style-type: none"> <li>On 18 January 2019 the SC approved the <b>Legal Profession Uniform Conduct (Barristers) Amendment (Refusal of Briefs) Rule 2018</b> which reduces the period of prohibition from five to two years during which a barrister must not appear before tribunals of which they were formerly a member, and limits the retrospectivity of the prohibition.</li> </ul>
<b>Australian Solicitors Conduct Rules Project (ASCRs)</b> <ul style="list-style-type: none"> <li>Review LCA proposal to update the ASCRs and to harmonise relevant rules with the Bar Rules.</li> </ul>	<ul style="list-style-type: none"> <li>The LCA is expected to submit a final draft of the ASCRs report to the LSC in late 2019.</li> </ul>
<b>Uniform General Rule (UGR) on Indexation</b>	<ul style="list-style-type: none"> <li>From 1 July 2019, a new rule on Indexation, r 111 A of the <b>Legal Profession Uniform General Rules 2015</b>, has applied to ss 291-293 of the Uniform Law and s 99 of the <i>Legal Profession Uniform Application Act 2014 (Vic)</i>.</li> </ul>

## GOAL 2: ENSURE THAT THE UNIFORM LAW SCHEME IS A RESPONSIVE REGULATORY REGIME FOR THE LEGAL PROFESSION IN AUSTRALIA

Priority Actions	Work undertaken/completed
<b>E-Conveyancing and use of the PEXA source account</b>	<ul style="list-style-type: none"> <li>The LSC established a working group of stakeholders to monitor the impact e-conveyancing on consumer protection and the public purpose funds. The LSC will maintain a watching brief on e-conveyancing and the review of Australian Registrars National Electronic Conveyancing Council (ARNECC).</li> </ul>
<b>Priority Amendments to UL Rules</b> <ul style="list-style-type: none"> <li>LSC to consider proposed changes to Uniform Rules as jointly agreed by the DLRA's in NSW and Victoria.</li> </ul>	<ul style="list-style-type: none"> <li>Since 1 July 2018 various Priority Amendments of the Rules have been considered by Council and 12 recommendations for rule amendments have been made to the SC.</li> </ul>
<b>2.1.3 Uniform Law Policy Projects</b>	
<b>Uniform Law Data Sharing Project</b> <ul style="list-style-type: none"> <li>Implement electronic data sharing for all Chapters of the Uniform Law to enable analysis of trends.</li> </ul>	<ul style="list-style-type: none"> <li>The LSC UL database now includes data shared by DLRA's in relation to their complaint and admissions functions and is published in the Commissioner's Annual Report.</li> <li>Reports on practising certificates and registration certificates data is underway.</li> </ul>
<b>Australian Legal Profession Register (ALPR) Project</b> <ul style="list-style-type: none"> <li>Develop an electronic ALPR containing legal practitioner details for the Uniform Law States.</li> </ul>	<ul style="list-style-type: none"> <li>In 2019 MOUs were signed between the LSC, VLBSB+C, LSNSW and NSW Bar Association to agree on data transfer for the ALPR.</li> <li>The Register will be officially launched later in 2019.</li> </ul>
<b>Term 'Law Practice' re multi-jurisdictional law firms</b> <ul style="list-style-type: none"> <li>Clarify the meaning of 'law practice' re MJ firms.</li> </ul>	<ul style="list-style-type: none"> <li>This item will be progressed when more States join the UL.</li> </ul>
<b>2.2 Support the Admissions Committee (AC)</b>	
<b>2.2.1 Assist the AC to review the Uniform Admission Rules (UARs)</b>	
<b>Review of UARs 3, 4, 7, 8 and Sch 2 re accreditation and reaccreditation of law courses and PLT providers</b>	<ul style="list-style-type: none"> <li>On 7 June 2019 the LSC made the Legal Profession Admission Amendment (Accreditation) Rule 2019 (NSW), a new rule relating to the accreditation and reaccreditation of law courses and PLT providers, and consequential amendments.</li> </ul>
<b>Admission of foreign lawyers</b>	<ul style="list-style-type: none"> <li>On 17 October 2019 the AC will consider an amendment to the UARs to provide guidance to admission authorities in their consideration of applications for admission by foreign lawyers, without necessary recourse to educational equivalence testing.</li> </ul>
<b>2.2.2 Provide policy, technical and administrative support</b>	
<b>Manage AC appointments and meetings</b>	<ul style="list-style-type: none"> <li>Stuart Clarke AM (LCA nominee) and Dr Elizabeth Boros (ABA nominee) were re-appointed until 30 June 2021 and the Hon Justice Patricia Henry (nominee of Chief Justice of Victoria in concurrence with Chief Justice of NSW) was appointed until 30 June 2022.</li> <li>Three AC meetings were held in October 2018, March and June 2019.</li> </ul>

## GOAL 2: ENSURE THAT THE UNIFORM LAW SCHEME IS A RESPONSIVE REGULATORY REGIME FOR THE LEGAL PROFESSION IN AUSTRALIA

Priority Actions	Work undertaken/completed
<b>Liase with Law Admissions Consultative Committee (LACC) to achieve national consistency.</b>	<ul style="list-style-type: none"> <li>The AC considers the minutes of LACC meetings and liaises and consults with LACC and the non-participating jurisdictions on admission matters.</li> <li>The Chair of the AC is a member of LACC.</li> </ul>
<b>Approve LACC Disclosure Guidelines to achieve national consistency.</b>	<ul style="list-style-type: none"> <li>The LSC approves that the UL Admitting Authorities are to rely upon the LACC Disclosure Guidelines when assessing the suitability of an applicant for admission.</li> </ul>

## GOAL 3: BUILD AWARENESS OF THE UNIFORM LAW BY CONSULTING WITH STAKEHOLDERS

Priority Actions	Achievements
<b>3.1 Provide legal practitioners and consumers with timely and accurate information about the Uniform Law Scheme</b>	
<b>Regularly update the LSC website and advise stakeholders of Uniform Law developments</b>	<ul style="list-style-type: none"> <li>During the reporting year, 15 news items (Highlights) were added to the LSC Website.</li> <li>There were approx. 56,000 visits to the website, an increase of 2.7% on last year.</li> <li>The LSC issues quarterly newsletters and a new media page is now available on the LSC website.</li> <li>The LSC writes and maintains the currency of information sheets about the UL, for lawyers, legal practitioners and consumers.</li> </ul>
<b>3.2 Enhance the profile of the LSC and the Admissions Committee (AC) in the legal profession</b>	
<b>Engage with the legal profession to discuss the role of the LSC and AC</b> <ul style="list-style-type: none"> <li>Regularly meet with stakeholders to discuss the LSC, AC and the Uniform Law.</li> </ul>	<ul style="list-style-type: none"> <li>The CEO/Commissioner has continued to build awareness of the UL by regular liaison with stakeholders, meetings and speaking engagements during the last 12 months.</li> <li>The LSC office opening in March 2019 brought together UL stakeholders to celebrate the achievements of the UL Scheme.</li> </ul>
<b>3.3 Promote the Uniform Law Scheme in non-participating jurisdictions (NPJs)</b>	
<b>Engage and consult with stakeholders in NPJs</b>	<ul style="list-style-type: none"> <li>The Council, the Chair and the CEO/ Commissioner have continued to engage with other jurisdictions to encourage their participation in the UL Scheme – see 1.3.</li> </ul>
<b>3.4 Develop and implement a LSC Marketing Plan</b>	
<b>The LSC's Marketing plan includes:</b> <ul style="list-style-type: none"> <li>Utilising LSC website, email and stakeholder publications.</li> <li>Develop a LSC quarterly newsletter for stakeholders, with special editions where appropriate.</li> <li>Submit relevant UL articles to legal publications.</li> <li>Ensure LSC and UL branding is consistent and effective.</li> </ul>	<ul style="list-style-type: none"> <li>The LSC posts proposed UL changes, guidelines and policies on the website and informs stakeholders by email.</li> <li>LSC newsletters published in October and December 2018 and March and June 2019.</li> <li>Articles on MIS were published in the Law Institute of Victoria and Law Society Journals in June/July 2018.</li> <li>LSC stationery and branding guidelines were updated with new colour values.</li> </ul>

## GOAL 4: CONTINUE TO DEVELOP A WELL-GOVERNED ORGANISATION

Priority Actions	Achievements
<b>4.1 Provide support for the Council, the Admissions Committee and Audit and Risk Committee</b>	
<b>Effectively support the LSC and AC by:</b> <ul style="list-style-type: none"> <li>• Arranging meetings and providing support.</li> <li>• Undertaking policy development and implementation.</li> </ul>	<ul style="list-style-type: none"> <li>• The Secretariat supported LSC and AC meetings and provided policy, administrative, audit and governance compliance support.</li> </ul>
<b>4.1.2 Audit and Risk Committee (ARC)</b>	
<b>Effectively support the ARC by developing an annual plan including:</b> <ul style="list-style-type: none"> <li>• Convening meetings at least three times a year.</li> <li>• Reviewing ARC governance documents.</li> </ul>	<ul style="list-style-type: none"> <li>• The Secretariat supported four ARC meetings, on 2 and 22 August, 5 September 2018 and 30 April 2019.</li> <li>• ARC's annual plan includes its risk management framework review, annual financial statements, processes, financial management and system certification and legislative compliance.</li> </ul>
<b>4.2 Comply with statutory reporting requirements</b>	
<b>Publish Annual Reports for the LSC and Commissioner</b>	<ul style="list-style-type: none"> <li>• The 2018-2019 Annual Report will be finalised in September 2019.</li> </ul>
<b>4.2.2 Finalise LSC Triennial Operating Budget 2019-21</b>	<ul style="list-style-type: none"> <li>• The LSC's Triennial Budget has been approved by the SC.</li> </ul>
<b>4.3 Develop and review LSC's governance and business arrangements</b>	
<b>4.3.1 Annual review and update of key documents</b>	
<ul style="list-style-type: none"> <li>• Review the LSC's Governance Manual; Business Continuity Plan; Risk Register; Privacy Management Plan.</li> </ul>	<ul style="list-style-type: none"> <li>• In 2019 the LSC approved these documents and published them on the website.</li> </ul>
<b>4.3.2 Settle service support arrangements</b>	
<ul style="list-style-type: none"> <li>• Finalise corporate services arrangements.</li> </ul>	<ul style="list-style-type: none"> <li>• The Corporate Services Agreement with NSW DOJ was finalised on 30 August 2018.</li> </ul>
<b>4.4 Foster a productive and collegiate workplace</b>	
<b>4.4.1 Encourage effective teamwork</b>	
<ul style="list-style-type: none"> <li>• Team meetings to track work progress, monitor workload and discuss policy proposals.</li> <li>• Establish a Workplace Health and Safety (WHS) Committee.</li> </ul>	<ul style="list-style-type: none"> <li>• Regular team meetings are held to consider and progress matters listed in the work plan and ensure effective work allocation and collaboration within the team.</li> <li>• The LSC participates on the NSW Trustee and Guardian WHS Committee.</li> </ul>
<b>4.4.2 Train and develop staff to maximise their potential</b>	
<ul style="list-style-type: none"> <li>• Settle performance agreements and conduct reviews.</li> <li>• Support staff training and development.</li> </ul>	<ul style="list-style-type: none"> <li>• Performance agreements and reviews were conducted in January and July 2019.</li> <li>• Staff training and development needs are identified and relevant training undertaken.</li> </ul>

# FINANCIAL STATEMENTS

## For the year ended 30 June 2019

# Contents

General information	34
Financial statements summary	34
Statement by Chief Executive Officer and Commissioner	35
Independent Auditor's Report	36
Statement of comprehensive income	38
Statement of financial position	39
Statement of changes in equity	40
Statement of cash flows	41
Notes to the financial statements for the year ended 30 June 2019	42
1. Summary of significant accounting policies	42
2. Expenses	49
3. Revenue	50
4. Current assets – cash and cash equivalents	50
5. Current assets – receivables	50
6. Non-current assets - plant and equipment	51
7. Current liabilities – payables	51
8. Reconciliation of cash flows from operating activities to net result	52
9. Financial instruments	52
10. Commitments	56
11. Contingent liabilities	56
12. Related party disclosures	57
13. Events after the reporting period	57

# General Information

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

These financial statements contain the consolidated financial statements of both the Legal Services Council and the Commissioner for Uniform Legal Services Regulation as one entity.

The financial statements were authorised for issue in accordance with a resolution of the Council on 18 September 2019, upon recommendation by the Legal Services Council's Audit and Risk Committee.



## FINANCIAL STATEMENTS SUMMARY

### Net Result for the Year

The net result for the year ended 30 June 2019 was a surplus of \$260,315. (2018: \$67,283 deficit).

### Revenue

The revenue for the Legal Services Council for the year ended 30 June 2019 was \$1,666,147. (2018: \$1,369,080).

### Expenses

The expenditure for the Legal Services Council for the year ended 30 June 2019 was \$1,405,832. (2018: \$1,436,363).

### Assets

The total assets for the Legal Services Council as at 30 June 2019 were \$1,019,899. (2018: \$443,214).

### Liabilities

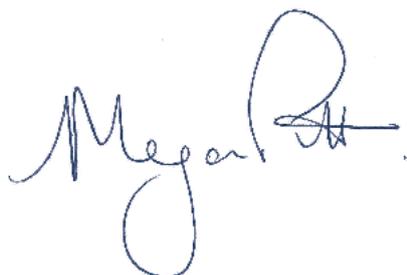
The total liabilities for the Legal Services Council as at 30 June 2019 were \$353,330. (2018: \$36,960) representing employee related provisions and other accrued liabilities.

# Statement by Chief Executive Officer and Commissioner for the year ended 30 June 2019

In the opinion of the Chief Executive Officer and Commissioner:

- 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 Council ("AASB") as appropriate for not-for-profit entities.
- 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 2019 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 (NSW) 2014*.



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

18 September 2019  
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 2019, the Statement of Financial Position as at 30 June 2019, the Statement of Changes in Equity and the Statement of Cash Flows for the year then ended, notes comprising a summary of Statement 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 2019, 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 41B of the *Public Finance and Audit Act 1983* (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

The Council's annual report for the year ended 30 June 2019 includes other information in addition to the financial statements and my Independent Auditor's Report thereon. The Board Members of the Council, Chief Executive Officer and Commissioner are responsible for the other information. At the date of this Independent Auditor's Report, the other information I have received comprise the Statement by Chief Executive Officer and 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 Board Members of the Council, Chief Executive Officer and Commissioner's Responsibilities for the Financial Statements**

The Board Members of the Council, Chief Executive Officer and Commissioner 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 Board Members of the Council, Chief Executive Officer and Commissioner determine 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 Board Members of the Council, Chief Executive Officer and Commissioner are responsible for assessing 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 Responsibilities 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](http://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

Delegate of the Auditor-General for New South Wales

20 September 2019  
SYDNEY

# Statement of comprehensive income for the year ended 30 June 2019

	Notes	Actual 2019 \$	Actual 2018 \$
<b>Expenses</b>			
Operating expenses			
Personnel services expenses	2 (a)	1,093,645	972,200
Other operating expenses	2 (b)	276,023	464,163
Depreciation and amortisation	2 (c)	36,164	-
<b>Total expenses excluding losses</b>		<b>1,405,832</b>	<b>1,436,363</b>
<b>Revenue</b>			
Grants and contributions	3	1,661,613	1,361,477
Interest revenue	3	4,534	7,603
<b>Total revenue</b>		<b>1,666,147</b>	<b>1,369,080</b>
<b>Net result</b>		<b>260,315</b>	<b>(67,283)</b>
<b>Other comprehensive income</b>		<b>-</b>	<b>-</b>
<b>Total comprehensive income/(expense)</b>		<b>260,315</b>	<b>(67,283)</b>

The accompanying notes form part of these financial statements.

# Statement of financial position for the year ended 30 June 2019

	Notes	Actual 2019 \$	Actual 2018 \$
<b>ASSETS</b>			
<b>Current assets</b>			
Cash and cash equivalents	4	622,857	187,895
Receivables	5	183,206	255,319
<b>Total current assets</b>		<b>806,063</b>	<b>443,214</b>
<b>Non-current assets</b>			
Plant and equipment	6	213,836	-
<b>Total non-current assets</b>		<b>213,836</b>	<b>-</b>
<b>Total assets</b>		<b>1,019,899</b>	<b>443,214</b>
<b>LIABILITIES</b>			
<b>Current liabilities</b>			
Payables	7	353,330	36,960
<b>Total current liabilities</b>		<b>353,330</b>	<b>36,960</b>
<b>Total liabilities</b>		<b>353,330</b>	<b>36,960</b>
<b>Net assets</b>		<b>666,569</b>	<b>406,254</b>
<b>EQUITY</b>			
Accumulated funds		666,569	406,254
<b>Total equity</b>		<b>666,569</b>	<b>406,254</b>

The accompanying notes form part of these financial statements.

# Statement of changes in equity for the year ended 30 June 2019

	Notes	Accumulated funds \$	Total equity \$
Balance at 1 July 2018		406,254	406,254
Net result for the year		260,315	260,315
Other comprehensive income		-	-
<b>Total comprehensive expense for the year</b>		<b>260,315</b>	<b>260,315</b>
Transactions with owners in their capacity as owners		-	-
<b>Balance at 30 June 2019</b>		<b>666,569</b>	<b>666,569</b>
Balance at 1 July 2017		473,537	473,537
Net result for the year		(67,283)	(67,283)
Other comprehensive income		-	-
<b>Total comprehensive income for the year</b>		<b>(67,283)</b>	<b>(67,283)</b>
Transactions with owners in their capacity as owners		-	-
<b>Balance at 30 June 2018</b>		<b>406,254</b>	<b>406,254</b>

The accompanying notes form part of these financial statements.

# Statement of cash flows for the year ended 30 June 2019

	Notes	Actual 2019 \$	Actual 2018 \$
<b>Cash flows from operating activities</b>			
<b>Payments</b>			
Employee related		(896,844)	(972,200)
Suppliers for goods and services		(271,496)	(464,163)
Other		-	(67,767)
<b>Total payments</b>		<b>(1,168,340)</b>	<b>(1,504,130)</b>
<b>Receipts</b>			
Grant & contribution received		1,594,813	1,361,477
Other		8,489	32,367
<b>Total receipts</b>		<b>1,603,302</b>	<b>1,393,844</b>
<b>Net cash flows from/(used in) operating activities</b>	<b>8</b>	<b>434,962</b>	<b>(110,286)</b>
Purchases of Plant, Equipment & Intangible assets <sup>(a)</sup>		-	(250,000)
<b>Net cash flows from investing activities</b>	<b>6</b>	<b>-</b>	<b>(250,000)</b>
<b>Net increase/(decrease) in cash</b>		<b>434,962</b>	<b>(360,286)</b>
Opening cash and cash equivalents		187,895	548,181
<b>Closing cash and cash equivalents</b>	<b>4</b>	<b>622,857</b>	<b>187,895</b>

<sup>(a)</sup> No cash outflow in current year as the purchase of Plant and Equipment was prepaid in the prior year.

The accompanying notes form part of these financial statements.

# Notes to the financial statements for the year ended 30 June 2019

## 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 Act 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 (3) of Schedule 1 of the Uniform Law the functions of the Chief Executive Officer (CEO) 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 2019 have been authorised for issue by the Council on 18 September 2019.

### (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 Council ("AASB") as appropriate for not-for-profit 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) Plant and Equipment

#### i. Acquisition of Assets

Plant and equipment are initially measured at cost, and subsequently revalued at fair value less accumulated depreciation and impairment. Cost is the amount of cash or cash equivalents paid or the fair value of the other consideration given to acquire the asset at the time of its acquisition or construction or, where applicable, the amount attributed to the asset when initially recognised in accordance with the requirements of other Australian Accounting Standards.

Assets acquired at no cost, or for nominal consideration, are initially recognised at their fair value at the date of acquisition.

Fair value is the price that would be received to sell an asset in an orderly transaction between market participants at measurement date.

Where payment for an asset is deferred beyond normal credit terms, its cost is the cash price equivalent, i.e. deferred payment amount is effectively discounted over the period of credit.

#### ii. Capitalisation threshold

Plant and equipment costing \$3,000 and above individually (or forming part of a network costing more than \$3,000) are capitalised.

### (d) Depreciation of Plant and Equipment

Depreciation is calculated using the straight-line method for plant and equipment to allocate their cost, net of their residual values for all depreciable assets so each asset is consumed over its useful life. In the case of leasehold improvements the shorter lease term is applied.

The depreciation rates used for each class of assets are as follows:

Asset Class	Rate of Depreciation
Leasehold Improvements	20%

## (e) Financial Instruments

### i. Financial assets

#### • Receivables

Receivables are initially recognised at fair value plus any directly attributable transaction costs. Trade receivables that do not contain a significant financing component are measured at the transaction price.

#### **Subsequent measurement under AASB 9 (from 1 July 2018)**

The Council holds receivables with the objective to collect the contractual cash flows and therefore measures them at amortised cost using the effective interest method, less any impairment. Changes are recognised in the net result for the year when impaired, derecognised or through the amortisation process.

#### **Subsequent measurement under AASB 139 (for comparative period ended 30 June 2018)**

Subsequent measurement is at amortised cost using the effective interest method, less any impairment. Changes are recognised in the net result for the year when impaired, derecognised or through the amortisation process.

#### • Impairment of financial assets

#### **Impairment under AASB 9 (from 1 July 2018)**

The Council recognises an allowance for expected credit losses (ECLs) for all debt financial assets not held at fair value through profit or loss. ECLs are based on the difference between the contractual cash flows and the cash flows that the Council expects to receive, discounted at the original effective interest rate.

For trade receivables, the Council applies a simplified approach in calculating ECLs. The Council recognises a loss allowance based on lifetime ECLs at each reporting date. The Council has established a provision matrix based on its historical credit loss experience for trade receivables, adjusted for forward looking factors specific to the receivable.

#### **Impairment under AASB 139 (for comparative period ended 30 June 2018)**

Receivables are subject to an annual review for impairment. These are considered to be impaired when there is objective evidence that, as a result of one or more events that occurred after the initial recognition of the financial asset, the estimated future cash flows have been affected.

The Council first assesses whether impairment exists individually for receivables that are individually significant, or collectively for those that are not individually significant. Further, receivables are assessed for impairment on a collective basis if they were assessed not to be impaired individually.

The amount of the allowance is the difference between the asset's carrying amount and the present value of estimated future cash flows, discounted at the original effective interest rate. The amount of the impairment loss is recognised in the net result for the year.

Any reversals of impairment losses are reversed through the net result for the year, if objectively related to an event occurring after the impairment was recognised. Reversals of impairment losses cannot result in a carrying amount that exceeds what the carrying amount would have been had there not been an impairment loss.

### ii. Financial liabilities at amortised cost

Payables represent liabilities for goods and services provided to the Council and other amounts. Short-term payables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial. Payables are financial liabilities at amortised cost, initially measured at fair value, net of directly attributable transaction costs. These are subsequently measured at amortised cost using the effective interest method. Gains and losses are recognised in net result when the liabilities are derecognised as well as through the amortisation process.

As per clause 63 of the Legal Profession Uniform Law Application Regulation 2015, the admission fee to the Australian legal profession in New South Wales is \$950.00. The Council is responsible for collecting the fees of which \$400 is payable to the Department of Justice to fund the operation of the Legal Services Council in regulating the Legal Profession Uniform Framework.

### **iii. Derecognition of financial assets and financial liabilities**

A financial asset (or, where applicable, a part of a financial asset or part of a group of similar financial assets) is derecognised when the contractual rights to the cash flows from the financial assets expire; or if the Council transfers its rights to receive cash flows from the asset or has assumed an obligation to pay the received cash flows in full without material delay to a third party under a 'pass-through' arrangement; and either:

- the Council has transferred substantially all the risks and rewards of the asset; or
- the Council has neither transferred nor retained substantially all the risks and rewards of the asset, but has transferred control.

When the Council has transferred its rights to receive cash flows from an asset or has entered into a pass-through arrangement, it evaluates if, and to what extent, it has retained the risks and rewards of ownership. Where the Council has neither transferred nor retained substantially all the risks and rewards or transferred control, the asset continues to be recognised to the extent of the Council's continuing involvement in the asset. In that case, the Council also recognises an associated liability. The transferred asset and the associated liability are measured on a basis that reflects the rights and obligations that the Council has retained.

A financial liability is derecognised when the obligation specified in the contract is discharged or cancelled or expires. When an existing financial liability is replaced by another from the same lender on substantially different terms, or the terms of an existing liability are substantially modified, such an exchange or modification is treated as the derecognition of the original liability and the recognition of a new liability. The difference in the respective carrying amounts is recognised in the net result.

### **iv. Offsetting financial instruments**

Financial assets and financial liabilities are offset and the net amount is reported in the Statement of Financial Position if there is a currently enforceable legal right to offset the recognised amounts and there is an intention to settle on a net basis, or to realise the assets and settle the liabilities simultaneously.

### **(f) Personnel Services**

The Council does not directly employ staff, and therefore does not carry the 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 comprehensive income, 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.

### **(g) 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.

#### **(h) Trade and other receivables**

Receivables are initially recognised at fair value plus any directly attributable transaction costs. Trade receivables that do not contain a significant financing component are measured at the transaction price.

##### ***Subsequent measurement under AASB 9 (from 1 July 2018)***

The Council holds receivables with the objective to collect the contractual cash flows and therefore measures them at amortised cost using the effective interest method, less any impairment. Changes are recognised in the net result for the year when impaired, derecognised or through the amortisation process.

##### ***Subsequent measurement under AASB 139 (for comparative period ended 30 June 2018)***

Subsequent measurement is at amortised cost using the effective interest method, less any impairment. Changes are recognised in the net result for the year when impaired, derecognised or through the amortisation process.

##### ***Impairment under AASB 9 (from 1 July 2018)***

The Council recognises an allowance for expected credit losses (ECLs) for all debt financial assets not held at fair value through profit or loss. ECLs are based on the difference between the contractual cash flows and the cash flows that the Council expects to receive, discounted at the original effective interest rate.

For trade receivables, the Council applies a simplified approach in calculating ECLs. The Council recognises a loss allowance based on lifetime ECLs at each reporting date. The Council has established a provision matrix based on its historical credit loss experience for trade receivables, adjusted for forward looking factors specific to the receivable.

##### ***Impairment under AASB 139 (for comparative period ended 30 June 2018)***

Receivables are subject to an annual review for impairment. These are considered to be impaired when there is objective evidence that, as a result of one or more events that occurred after the initial

recognition of the financial asset, the estimated future cash flows have been affected.

The Council first assesses whether impairment exists individually for receivables that are individually significant, or collectively for those that are not individually significant. Further, receivables are assessed for impairment on a collective basis if they were assessed not to be impaired individually.

The amount of the allowance is the difference between the asset's carrying amount and the present value of estimated future cash flows, discounted at the original effective interest rate. The amount of the impairment loss is recognised in the net result for the year.

Any reversals of impairment losses are reversed through the net result for the year, if objectively related to an event occurring after the impairment was recognised. Reversals of impairment losses cannot result in a carrying amount that exceeds what the carrying amount would have been had there not been an impairment loss.

#### **(i) 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 Australia 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.

#### **(j) 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.

**(k) 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 Comprehensive Income on a straight-line basis over the lease term.

**(l) Accumulated Funds**

The category 'Accumulated Funds' includes all current and prior period retained funds.

**(m) 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.

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

***i. Effective for the first time in 2018-19***

The accounting policies applied in 2018-2019 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 2018-19.

The Council has adopted AASB 9 *Financial Instruments* (AASB 9), which resulted in changes in accounting policies in respect of recognition, classification and measurement of financial assets and financial liabilities; derecognition of financial instruments and impairment of financial assets. AASB 9 also significantly amends other standards dealing with financial instruments such as the revised AASB 7 *Financial Instruments: Disclosures* (AASB 7R).

The Council applied AASB 9 retrospectively but has not restated the comparative information, which is reported under AASB 139 *Financial Instruments: Recognition and Measurement* (AASB 139). Had any adjustments arisen from the adoption of AASB 9 these would have been recognised directly in accumulated funds and other components of equity. There was no effect of adopting AASB 9 on the Council's statement of financial position as at 1 July 2018.

**a. Classification and measurement of financial instruments**

Under AASB 9, classification and subsequent measurement of financial assets is based on assessing whether the contractual cash flow are of solely principal and interest and the Council's business model for collecting those cash flows.

The assessment of the Council's business model was made as of the date of initial application of AASB 9, 1 July 2018. The assessment of whether contractual cash flows on financial assets are solely comprised of principal and interest was made based on the facts and circumstances as at the initial recognition of the assets.

On 1 July 2018, the Council assessed the terms of the contractual cash flows and business models that apply to its financial assets resulting in the classification of some financial assets changing to conform with the new categories specified in the standard. Practically the basis for subsequent measurement has remained the same as under AASB 139 and therefore there has been no material impact to the carrying values of financial assets upon transition.

The following are the changes in the classification of the Council's financial assets:

- Trade receivables classified as 'Loans and Receivables' (L&R) under AASB 139 as at 30 June 2018 are held to collect contractual cash flows representing solely payments of principal and interest. At 1 July 2018, these are classified and measured as receivables at amortised cost.

The table below summarises the changes in classification and measurement upon adoption of AASB 9:

	Measurement category		Carrying amount		
	AASB 139	AASB 9	Original	New	Difference
			\$	\$	\$
Current receivables	L&R	Amortised cost	183,206	183,206	-

The Council has not designated any financial liabilities at fair value through profit or loss.

There are no changes in the classification and measurement for the Council's financial liabilities.

## b. Impairment

The adoption of AASB 9 has changed the Council's accounting for impairment losses for financial assets by replacing AASB 139's incurred loss approach with a forward-looking expected credit loss (ECL) approach. AASB 9 requires the Council to recognise an allowance for ECLs for all financial assets not held at fair value through profit or loss. The Council re-performed its impairment of financial asset calculations using the new expected credit loss model and determined that a nil provision was appropriate upon transition at 1 July 2018. Thus the impact of transition to AASB 9 as a result of the new impairment model on financial assets, reserves and accumulated funds is nil.

### ii. Issued but not yet effective

The following new Accounting Standards have not been applied and are not yet effective as per NSW Treasury Circular NSW TC 19/04:

- AASB 15, AASB 2014-5, AASB 2015-8 and 2016-3 regarding *Revenue from Contracts with Customers* (not for profits only)
- AASB 16 *Leases*
- AASB 1058 *Income of Not-for-profit Entities*
- AASB 2016-8 *Amendments to Australian Accounting Standards – Australian Implementation Guidance for Not-for-Profit Entities*
- AASB 2018-1 *Amendments to Australian Accounting Standards - Annual Improvements 2015-2017 Cycle*
- AASB 2018-3 *Amendments to Australian Accounting Standards – Reduced Disclosure Requirements*
- AASB 2018-7 *Amendments to Australian Accounting Standards – Definition of Material*

- AASB 2018-8 *Amendments to Australian Accounting Standards – Right-of-Use Assets of Not-for-Profit Entities*

### Assessment of the impact on adoption of AASB 15 *Revenue from Contracts with Customers* (not-for-profits only), AASB 2014-5 *Amendments to Australian Accounting Standards arising from AASB 15* and AASB 1058 *Income of Not-for-Profits* on the Council:

AASB 15 *Revenue from Contracts with Customers* (AASB 15) is effective for reporting periods commencing on or after 1 January 2019. AASB 15 establishes a five-step model to account for revenue arising from contracts with customers. Revenue is recognised when control of goods or services is transferred to the customer at amounts that reflect the consideration to which the Council expects to be entitled in exchange for transferring the goods or services to the customer. Under AASB 118 *Revenue* (AASB 118), revenue recognition is currently based on when risks and rewards are transferred.

AASB 1058 *Income of Not-for-Profits* (AASB 1058) is effective for reporting periods commencing on or after 1 January 2019 and will replace most of the existing requirements in AASB 1004 *Contributions* (AASB 1004). The scope of AASB 1004 is now limited mainly to parliamentary appropriations, administrative arrangements and contributions by owners. Under AASB 1058, the Council will need to determine whether a transaction is consideration received below fair value principally to enable the Council to further its objectives (accounted for under AASB 1058) or a revenue contract with a customer (accounted for under AASB 15).

The standards will result in the identification of separate performance obligations that will not change the timing of recognition for some revenues, including revenues relating specific purpose contributions and subsidies.

Under AASB 1058, the Council will not recognise as liabilities, obligations for funding received where there is an obligation to construct recognisable non-financial assets controlled by the Council. This is because all funding is spent in the year they are received or there are no sufficiently specific performance obligations attached.

The Council will adopt AASB 15 and AASB 1058 on 1 July 2019 through application of the full retrospective transition approach. Recognition and measurement principles of the new standards will be applied for the current year and comparative year as though AASB 15 and AASB 1058 had always applied.

Based on the impact assessments the Council has undertaken on currently available information, the impacts to balances resulting from the adoption of AASB 15 and AASB 1058 have been assessed by the Council as not being significant.

#### **Assessment of the impact on adoption of AASB 16 Leases on the Council:**

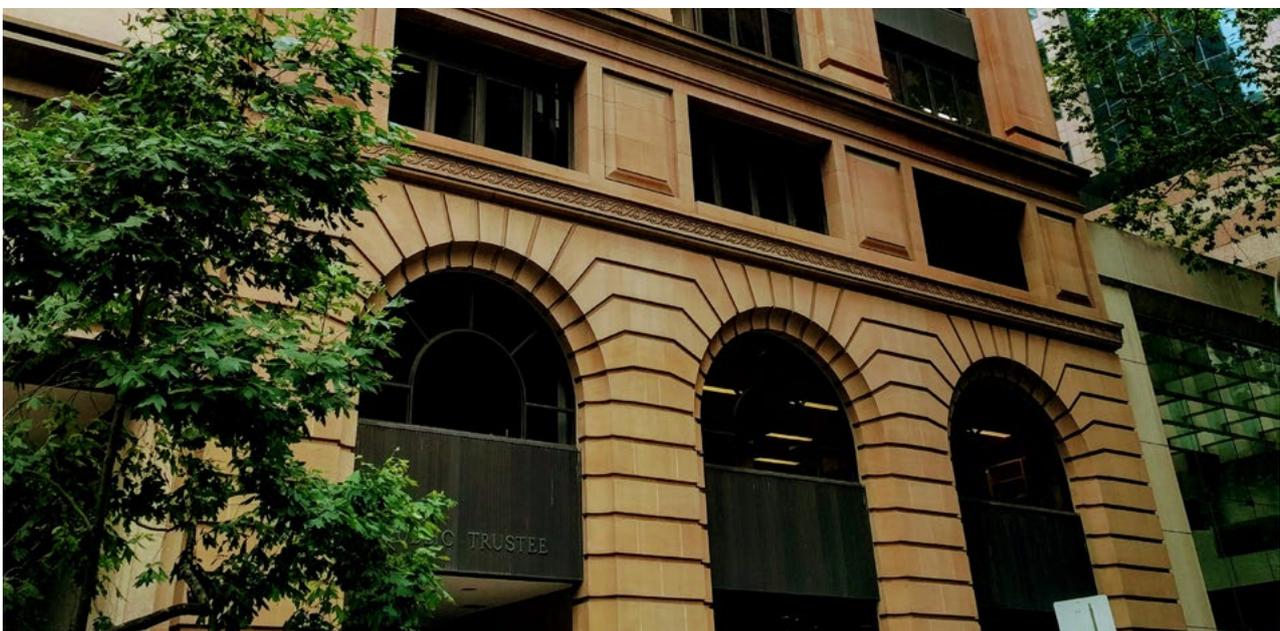
AASB 16 *Leases* (AASB 16) is effective from reporting periods commencing on or after 1 January 2019.

For lessees, AASB 16 will result in most leases being recognised on the Statement of Financial Position, as the distinction between operating and finance leases is largely removed. Under the new standard, an asset (the right to use the leased item) and a

financial liability to pay rentals are recognised at the commencement of the lease. The only exceptions are short-term and low-value leases. AASB 16 will therefore increase assets and liabilities reported on the Statement of Financial Position. It will also increase depreciation and interest expenses and reduce operating lease rental expenses on the Statement of Comprehensive Income. Expenses recognised in the earlier years of the lease term will be higher as the interest charges will be calculated on a larger lease liability balance.

The Council will adopt AASB 16 on 1 July 2019 through application of the partial retrospective approach, where only the current year is adjusted as though AASB 16 had always applied. Comparative information will not be restated. The Council will also adopt the practical expedient whereby the fair value of the right-of-use asset will be the same as the lease liability at 1 July 2019.

Based on the impact assessments Finance Services of the NSW Department of Justice, on behalf of the Council, has undertaken on currently available information, the Council estimates additional lease liabilities of \$294,324 and right-of-use assets of \$294,324 will be recognised as at 1 July 2019 for leases in which the Council is a lessee. Most operating lease expenses will be replaced by depreciation of the right of use asset and interest on the lease liability. The impact on the statement of comprehensive income is expected to be \$2,744 for the year ended 30 June 2020.



## 2. EXPENSES

### (a) Personnel services expenses

	2019 \$	2018 \$
Salaries and wages (including annual leave)	934,931	843,744
Payroll tax	62,649	51,541
Superannuation	95,664	71,995
Workers compensation insurance	401	4,920
<b>Total</b>	<b>1,093,645</b>	<b>972,200</b>

### (b) Other operating expenses

	2019 \$	2018 \$
Administration	45,758	46,502
Communications	30,417	45,983
Corporate Services - Department of Justice	35,899	100,000
Agency staff	1,899	84,378
Audit fees	23,700	26,000
Legal representation	3,240	8,126
Recruitment	56	55
Rental	76,179	104,440
Travel	58,875	48,679
<b>Total</b>	<b>276,023</b>	<b>464,163</b>

### (c) Depreciation

	2019 \$	2018 \$
<b>Depreciation</b>		
Plant and equipment	36,164	-
<b>Total</b>	<b>36,164</b>	<b>-</b>

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

### 3. REVENUE

	2019 \$	2018 \$
Contribution from NSW Department of Justice	1,052,550	838,190
Contribution from Victorian Legal Services Board	609,063	523,287
Interest revenue	4,534	7,603
<b>Total</b>	<b>1,666,147</b>	<b>1,369,080</b>

Funding contributions were provided by the NSW Department of Justice and Victorian Legal Services Board (VLSB) 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 NSW Department of Justice for the purposes of the Council.

### 4. CURRENT ASSETS - CASH AND CASH EQUIVALENTS

	2019 \$	2018 \$
Cash and equivalents	622,857	187,895
<b>Total</b>	<b>622,857</b>	<b>187,895</b>

### 5. CURRENT ASSETS - RECEIVABLES

	2019 \$	2018 \$
<b>Current receivables</b>		
Amount owed by NSW Department of Justice	183,201	5,316
Prepayment*	-	250,000
Sundry debtors	5	3
<b>Total</b>	<b>183,206</b>	<b>255,319</b>

\* 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 works were completed by 12 October 2018 when the Council took occupancy.

## 6. NON-CURRENT ASSETS - PLANT AND EQUIPMENT

	Plant and equipment \$	Total \$
<b>At 30 June 2018 - fair value</b>		
Gross carrying amount	-	-
Accumulated depreciation and impairment	-	-
<b>Net carrying amount</b>	<b>-</b>	<b>-</b>
<b>At 30 June 2019 - fair value</b>		
Gross carrying amount	250,000	250,000
Accumulated depreciation and impairment	(36,164)	(36,164)
<b>Net carrying amount</b>	<b>213,836</b>	<b>213,836</b>

### Reconciliation

A reconciliation of the carrying amount of each class of plant and equipment at the beginning and end of the current reporting period is set out below:

	Plant and equipment \$	Total \$
<b>Year ended 30 June 2019</b>		
Net carrying amount at start of year	-	-
Additions	250,000	250,000
Depreciation expense (note 2 (c))	(36,164)	(36,164)
<b>Net carrying amount at end of year</b>	<b>213,836</b>	<b>213,836</b>

	Plant and equipment \$'000	Total \$'000
<b>Year ended 30 June 2018</b>		
<b>Net carrying amount at end of year</b>	<b>-</b>	<b>-</b>

## 7. CURRENT LIABILITIES - PAYABLES

	2019 \$	2018 \$
<b>Other</b>		
Creditors and sundry accruals	36,329	36,960
Amount owing to NSW Department of Justice	33,626	-
Accrued payroll expense	283,375	-
	<b>353,330</b>	<b>36,960</b>

## 8. RECONCILIATION OF CASH FLOWS FROM OPERATING ACTIVITIES TO NET RESULT

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

	2019 \$	2018 \$
<b>Net Result for the year</b>	<b>260,315</b>	<b>(67,283)</b>
<b>Changes in assets and liabilities</b>		
Decrease/(increase) in receivables and prepayments	(177,887)	(1,621)
Depreciation and amortisation expense	36,164	-
Increase/(decrease) in payables	316,370	(41,382)
<b>Net cash flows from/(used in) operating activities</b>	<b>434,962</b>	<b>(110,286)</b>

## 9. FINANCIAL INSTRUMENTS

The Council's principal financial instruments are outlined below. These financial instruments arise directly from the Council's operations or are required to finance the Council's operations. The Council does not enter into or trade financial instruments, including derivative financial instruments, for speculative purposes.

The Council's main risks arising from financial instruments are outlined below, together with the Council's objectives, policies and processes for measuring and managing risk. Further quantitative and qualitative disclosures are included throughout the financial statements.

The Council has overall responsibility for the establishment and oversight of risk management and reviews and agrees on policies for managing each of these risks. Risk management policies are established to identify and analyse the risks faced by the Council, to set risk limits and controls and to monitor risks. Compliance with policies is reviewed by the Council on a continuous basis.

### (a) Financial instrument categories

#### i. As at 30 June 2019 under AASB 9

Class	Note	Category	Carrying amount \$
<b>Financial Assets</b>			
Cash and cash equivalents	4	N/A	622,857
Receivables <sup>1</sup>	5	Receivables at amortised cost	183,206
<b>Financial Liabilities</b>			
Payables <sup>2</sup>	7	Financial liabilities measured at amortised cost	353,330

<sup>1</sup> Excludes statutory receivables and prepayments (i.e. not within scope of AASB 7).

<sup>2</sup> Excludes statutory payables and unearned revenue (i.e. not within scope of AASB 7).

ii. **As at 30 June 2018 under AASB 139 (comparative period)**

Class	Note	Category	Carrying amount \$
<b>Financial Assets</b>			
Cash and cash equivalents	4	N/A	187,895
Receivables <sup>1</sup>	5	Receivables at amortised cost	5,319
<b>Financial Liabilities</b>			
Payables <sup>2</sup>	7	Financial liabilities measured at amortised cost	36,960

<sup>1</sup> Excludes statutory receivables and prepayments (i.e. not within scope of AASB 7).

<sup>2</sup> Excludes statutory payables and unearned revenue (i.e. not within scope of AASB 7).

The Council determines the classification of its financial assets and liabilities after initial recognition and, when allowed and appropriate, re-evaluates this at each financial year end.

**(b) Credit risk**

Credit risk arises when there is the possibility that the counterparty will default on their contractual obligations, resulting in a financial loss to the Council. The maximum exposure to credit risk is generally represented by the carrying amount of the financial assets (net of any allowance for impairment).

Credit risk arises from the financial assets of the Council, including cash and receivables. No collateral is held by the Council. The Council has not granted any financial guarantees.

The Council considers a financial asset in default when contractual payments are 90 days past due. However, in certain cases, the entity may also consider a financial asset to be in default when internal or external information indicates that the Council is unlikely to receive the outstanding contractual amounts in full before taking into account any credit enhancements held by the Council.

**Cash and cash equivalents**

Cash comprises cash on hand and bank balances.

**Receivables - trade debtors**

**Accounting policy for impairment of trade debtors and other financial assets under AASB 9**

Collectability of trade debtors is reviewed on an ongoing basis. Procedures as established in the Treasurer's Directions are followed to recover outstanding amounts, including letters of demand.

The Council applies the AASB 9 simplified approach to measuring expected credit losses which uses a lifetime expected loss allowance for all trade debtors.

To measure the expected credit losses, trade receivables have been grouped based on shared credit risk characteristics and the days past due.

The expected loss rates are based on historical observed loss rates. The historical loss rates are adjusted to reflect current and forward-looking information on macroeconomic factors affecting the ability of the customers to settle the receivables.

Trade debtors are written off when there is no reasonable expectation of recovery. Indicators that there is no reasonable expectation of recovery include, amongst others, a failure to make contractual payments.

There are no debtors which are currently past due and impaired.

The Council is materially exposed to concentrations of credit risk to a single trade debtor as at 30 June 2019. This debtor is the Department of Justice.

**Accounting policy for impairment of trade debtors and other financial assets under AASB 139 (comparative period only).**

Collectability of trade debtors is reviewed on an ongoing basis. Procedures as established in the Treasurer’s Directions are followed to recover outstanding amounts, including letters of demand. Debtors which are known to be uncollectible are written off. An allowance for impairment is raised when there is objective evidence that the Council will not be able to collect all amounts due. This evidence includes past experience, and current and expected changes in economic conditions and debtor credit ratings. No interest is earned on trade debtors. Sales are made on 30 day terms.

For the comparative period 30 June 2018, the ageing analysis of trade debtors is as follows:

	2018 \$
<b>Neither past due nor impaired</b>	
<b>Past due by not impaired</b>	-
< 3 months overdue	-
<b>Impaired</b>	-
< 3 months overdue	-
	-

The ageing analysis excludes statutory receivables, as these are not within the scope of AASB 7. Therefore, the ‘total’ will not reconcile to the receivables total recognised in the statement of financial position.

**(c) Liquidity risk**

Liquidity risk is the risk that the Council will be unable to meet its payment obligations when they fall due. The Council continuously manages risk through monitoring future cash flows and maturities planning to ensure adequate holding of high quality liquid assets.

During the current and prior year, there was no default or breach on any loans payable. No assets have been pledged as collateral. The Council’s exposure to liquidity risk is deemed insignificant based on prior period data and current assessment of risk.

Liabilities are recognised for amounts due to be paid in the future for goods or services received, whether or not invoiced. Amounts owing to suppliers (which are unsecured) are settled in accordance with the policy set out in TC 11-12. For small business suppliers, where terms are not specified, payment is made not later than 30 days from date of receipt of a correctly rendered invoice. For other suppliers, if trade terms are not specified, payment is made no later than the end of the month following the month in which an invoice or a statement is received.

For small business suppliers, where payment is not made within the specified time period, simple interest must be paid automatically unless an existing contract specifies otherwise. For payments to other suppliers, the payment of simple interest is at the discretion of the Executive Officer.

The table adjacent summarises the maturity profile of the Council’s financial liabilities based on contracted undiscounted payments, together with the interest rate exposure.

**Maturity Analysis and interest rate exposure of financial liabilities**

	Weighted average effective interest rate	Nominal Amount \$	Interest Rate Exposure			Maturity Dates		
			Fixed Interest Rate \$	Variable Interest Rate \$	Non-interest bearing \$	< 1 year \$	1 -5 years \$	> 5 years \$
<b>2019</b>								
<b>Financial liabilities</b>								
Payables		353,330	-	-	353,330	353,330	-	-
		<b>353,330</b>	<b>-</b>	<b>-</b>	<b>353,330</b>	<b>353,330</b>	<b>-</b>	<b>-</b>

**Maturity Analysis and interest rate exposure of financial liabilities**

	Weighted average effective interest rate	Nominal Amount \$	Interest Rate Exposure			Maturity Dates		
			Fixed Interest Rate \$	Variable Interest Rate \$	Non-interest bearing \$	< 1 year \$	1 -5 years \$	> 5 years \$
<b>2018</b>								
<b>Financial liabilities</b>								
Payables		36,960	-	-	36,960	36,960	-	-
		<b>36,960</b>	<b>-</b>	<b>-</b>	<b>36,960</b>	<b>36,960</b>	<b>-</b>	<b>-</b>

**(d) Market risk**

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices and comprises interest rate risk and other price risk. The Council's only exposure to market risk is interest rate risk on cash balances.

**(e) Interest rate risk**

The Council does not have exposure to interest rate risk through interest bearing liabilities. The Council does not account for any fixed rate financial instruments at fair value through profit or loss or as at fair value through other comprehensive income or as available-for-sale (until 30 June 2018). Therefore, for these financial instruments a change in interest rates would not affect profit or loss or equity. A reasonably possible change of +/- 1% is used, consistent with current trends in interest rates. The basis will be reviewed annually and amended where there is a structural change in the level of interest rate volatility. The Council's exposure to interest rate risk is set out below.

	2019		2018	
	\$	\$	\$	\$
	-1%	+1%	-1%	+1%
Net Result	(6,229)	6,229	(1,879)	1,879
Equity	(6,229)	6,229	(1,879)	1,879

## (f) Fair Value Measurement

### i. Fair value compared to carrying amount

The Council does not hold financial assets and financial liabilities where the fair value differs from the carrying amount.

Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The fair value measurement is based on the presumption that the transaction to sell the asset or transfer the liability takes place either in the principal market for the asset or liability or in the absence of a principal market, in the most advantageous market for the asset or liability.

### ii. Fair value recognised in the Statement of Financial Position

Management assessed that cash, trade receivables and trade payables approximate their fair values, largely due to the short-term maturities of these instruments.

The Council does not hold financial assets and liabilities that are valued at fair value using valuation techniques.

## 10. COMMITMENTS

	2019 \$	2018 \$
<b>Operating lease commitments</b>		
Aggregate other expenditure for property lease		
Not later than one year	80,203	84,902
Later than one year but not later than five years	263,679	320,813
<b>Total</b>	<b>343,882</b>	<b>405,715</b>

### (a) Lease

The operating lease commitment relates to an occupancy agreement with the NSW Trustee and Guardian for the occupancy of premises at 19 O'Connell Street, Sydney from 15 October 2018 to 15 October 2023. The lease is treated as an operating lease for the purpose of the disclosure.

The commitments above include input tax credits of \$31,262 (2018: \$36,883) that are expected to be recoverable from the ATO.

## 11. CONTINGENT LIABILITIES

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

## 12. RELATED PARTY DISCLOSURES

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

	2019 \$	2018 \$
<b>Short-term employee benefits</b>		
Salaries	424,380	397,241
Other monetary allowances	-	-
Non-monetary benefits	-	-
Other long-term employee benefits	-	-
Post-employment benefits	-	-
Termination benefits	-	-
<b>Total remuneration</b>	<b>424,380</b>	<b>397,241</b>

The Council did not enter into transactions on arm length terms and conditions with key management personnel, their close family members and controlled or jointly controlled entities.

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 is a member of the Council pursuant to Schedule 1, Part 2 of the *Legal Profession Uniform Law 2014* (NSW). The aggregate value of the material transactions and related outstanding balances as at and for the year ending 30 June 2019 are as follows:

	Notes	Revenue \$	Net receivable/ (payable) \$
<b>Nature of transaction</b>			
Contribution from NSW Department of Justice	3	1,052,550	-
Contribution from Victorian Legal Services Board	3	609,063	-
Receivable from NSW Department of Justice	5	-	183,201
Payable to NSW Department of Justice	7	-	(317,001)
		<b>1,661,613</b>	<b>(133,800)</b>

## 13. EVENTS AFTER THE REPORTING PERIOD

No matter or circumstance has arisen since 30 June 2019 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.

END OF AUDITED FINANCIAL STATEMENTS

# REPORT OF THE COMMISSIONER FOR UNIFORM LEGAL SERVICES REGULATION 2018–2019

# ANNUAL REPORT 2018–2019

## Contents

### Annual Report of the Commissioner for Uniform Legal Services Regulation

Commissioner's Letter to Council	60
Commissioner's Report	61
Roles and Responsibilities	63
Highlights of 2018–2019	64
Reporting and Information	67
Legal Profession Snapshot	68
Complaints handling and professional discipline	70
Data analysis	71
Glossary	93

18 September 2019

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

Dear Mr Black,

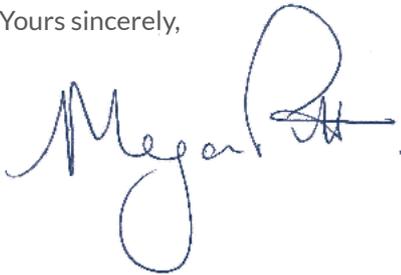
**Annual Report for 2018–2019**

I submit my Annual Report for 2018–2019 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

Level 3, 19 O'Connell Street, Sydney NSW 2000  
PO Box H326, Australia Square NSW 1215

T +61 2 9692 1300  
E [lsc@legalservicescouncil.org.au](mailto:lsc@legalservicescouncil.org.au)  
[www.legalservicescouncil.org.au](http://www.legalservicescouncil.org.au)

# Commissioner's Report

It is my pleasure to present my second Annual Report as the Commissioner for Legal Services Regulation.

This year, we have undertaken a review of our operations to examine how we can maximise our effectiveness with the resources available to us, and ensure that we deliver results to the highest standards, consistent with the objectives of the Office of the Commissioner, as defined by the Uniform Law. This review has resulted in changes to the way in which we interact with our stakeholders, our approach to proposals for legislative and rule changes, the prioritisation of our work and our oversight of compliance with the Uniform Law.

The priorities of the Commissioner's role, as set out in s 398 of the Uniform Law, provide a useful framework for reporting on these developments.

## **Promote compliance with the Uniform Law and Uniform Rules**

Prior to this year, the Council has considered proposals for changes to the Uniform Law and Rules as they were received. Following discussions and agreement with the DLRAs at Uniform Law roundtable meetings and a Summit, a more strategic process was devised. This new streamlined approach has involved joint agreement and prioritisation of proposals by DLRAs in NSW and Victoria, prior to their consideration by our Council.

This detailed examination of proposed amendments by the regulators in both jurisdictions at an early stage has allowed for any differences of view or perspective and any compliance or practical issues to be identified or resolved. Consequently, when the proposals are ready for consideration, this refinement has resulted in a more efficient use of our Council's time and resources. The project has resulted in 54 proposed First Priority Amendments which are now in our Council's work plan. Since March, Western Australia has formally participated in this project and our Council has had the benefit of the experience of the regulator in that State, in its consideration of these proposals.

To assist compliance with changes to the Uniform Law and Rules, we have ensured that these are published on our website when made, and notice given beforehand for any major law changes, such as the new Managed Investment Scheme provisions which commenced on 1 July 2018 and the new

Indexation rule which commenced from 1 July 2019. Our stakeholders are also advised by email and encouraged to distribute notification of the changes to their members in the profession.

## **Consistent and effective implementation of Dispute Resolution and Professional Discipline provisions in Chapter 5 and supporting Rules and Guidelines**

As Commissioner, I meet quarterly with the Victorian and NSW Legal Services Commissioners, the Law Society of NSW and the NSW Bar Association, who handle complaints, dispute resolution and professional discipline matters, to ensure that the law is operating effectively and to discuss any emerging issues or trends. These meetings provide an opportunity for me to advise the DLRAs of upcoming Rules and Guidelines and to discuss projects that they may be undertaking related to Chapter 5 of the Uniform Law. The Legal Practice Board of Western Australian will be involved in these meetings from July 2019.

The First Priority Amendment project that was undertaken this year, as described in the highlights section of this report, addressed various operational issues that impact on the DLRAs' work in relation to this Chapter and recommended improvements to various regulatory procedures that will assist their implementation of these provisions.

The LSC data projects which enable complaint and disciplinary data to be shared electronically between the Uniform Law jurisdictions are designed to provide a basis for comparing and analysing legal regulatory statistics, examining trends and identifying best practice. Each month, the DLRAs electronically transfer complaints data to the LSC database and this data is uploaded for examination. These electronic data reports are summarised later in this report.

## **Raise awareness of the Uniform Law framework and its objectives**

Although the Uniform Law States and our key stakeholders are clearly very familiar with the operation of the Uniform Law Scheme, we are aware that the level of understanding of how the Scheme operates may not be as high in other jurisdictions. In order for the Scheme to expand, it is essential that we are active in explaining the Law and Rules

to jurisdictions that may be interested in joining the Scheme at some time in the future.

Unique features of the Scheme, such as the fact that local variances can be accommodated as long as they are not inconsistent with the Uniform Law and that local regulatory structures will generally be unaffected through membership of the Scheme, need to be well known and understood.

To that end, this year we hosted meetings with the Queensland Law Society, the South Australian Law Society and Legal Profession Conduct Commissioner, to update them on our operations, to undertake a comparison between their regulatory regimes and the Uniform Law and to discuss any issues of concern. We look forward to continuing these discussions in the coming year and we will continue to reach out to interested non-participating jurisdictions.

To raise awareness more generally about the work of the LSC and developments in the Uniform Law Scheme, we use a variety of other marketing tools centred on our website. Our Strategic Plan and our progress against our goals and objectives are published on our website. We post updates on changes to the Law and Rules, and consultations. Our quarterly newsletter that informs our stakeholders and the public was published and despatched in October, December, March and June and is available on our website. A dedicated website media page contains press releases and clippings on the Uniform Law from a variety of sources. Our Annual Reports that provide a comprehensive summary of our work can be found in our publications section on our website.

During this busy and productive year, I have been fortunate to receive the professional support and conscientious, tireless work from my small but very productive team who have achieved tremendous results with very limited resources. I am also very grateful to our outstanding Chair for his support and to our Council for their thorough and considered approach to Uniform Law matters.

Again this year, our DLRA partners have continued to share their regulatory expertise and experience that informs our work. We are indebted to them. Their willingness to collaborate and approach matters in a collegiate manner benefits our regime, the legal profession 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.

The Commissioner, Megan Pitt, 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
- raise awareness of the Legal Profession Uniform Law Framework and its objectives.

As this list shows, the Commissioner's role is broader than focusing 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 September 2019. 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 2018–2019

The role of the Commissioner for Uniform Legal Services Regulation (Commissioner) is to ensure that the dispute resolution and professional discipline provisions set out in Chapter 5 of the Uniform Law are applied consistently and effectively to promote compliance with the Uniform Law and Rules.

Some highlights of the work of the Commissioner's office this year follow.

## FIRST PRIORITY AMENDMENTS

The DLRA's have sought the LSC's approval of several proposed amendments to Chapter 5, including

- allowing the DLRA's to deal with complaints by beneficiaries of deceased estates
- adding a class of persons eligible to apply for costs assessment
- confirming the DLRA's' absolute discretion on internal review decisions
- allowing compensation orders, where appropriate, in all types of matters heard by the designated tribunal
- permitting a DLRA to order the refund, in part or full, of fees paid
- allowing DLRA's, to deal with low level professional misconduct in specific cases when the practitioner consents
- making a failure to comply with an order made by a DLRA as conduct capable of amounting to unsatisfactory professional conduct or professional misconduct.

## UNIFORM LAW DLRA MEETINGS

This year, the Commissioner expanded the programs of meetings with the Legal Services Commissioners in NSW and Victoria to include the Law Society of NSW and the NSW Bar Association, so that these DLRA's now meet on a quarterly basis.

The meetings provide an opportunity for the Commissioner to provide updates about Uniform Law priorities, developments and projects, such as the First Priority Amendment project, the Australian Legal Profession Register and electronic data sharing.

The DLRA's have reported on their regulatory work, the operation of the Uniform Law and upcoming projects. In Victoria, important work has been undertaken on lawyer well-being and the establishment of a consumer panel. In both jurisdictions, work to address sexual harassment and workplace bullying in the legal profession has been a priority.

## MEETING WITH NON-PARTICIPATING JURISDICTIONS

The LSC has continued to engage with jurisdictions which have not yet joined the Uniform Law Scheme to explain the framework in detail, discuss its features and benefits and address any issues of concern.

In March, the Commissioner met with the President and CEO of the Law Society of Queensland; and in April, the LSC's Chair and Commissioner met with the President and CEO of the Law Society of South Australia and the Legal Profession Conduct Commissioner of South Australia.



From left: Fiona McLeay (VLSB+C), Heather Moore (LSNSW), Megan Pitt (LSC), John McKenzie (OLSC) and Greg Tolhurst (NSW Bar).

In consultation with these jurisdictions, the LSC has produced tables that compare the Uniform Law with legislative provisions that prescribe legal profession regulation in these jurisdictions: the *Legal Profession Act 2007* (Qld) and the *Legal Practitioners Act 1981* (SA). The tables provide a very useful analysis and basis for discussion of the similarities and differences that exist.

Through the meetings, the LSC has gained both a clearer understanding of the issues relevant to these jurisdictions in their consideration of the Uniform Law Scheme, and opportunities to address issues and provide an update on the evolution of the Scheme since 2015.

The LSC looks forward to continuing open dialogue with non-participating jurisdictions as they consider their interest in joining the Scheme.



From left: Michael Black AC QC FAAL (LSC), Stephen Hodder, Amy Nikolovski, Rosalind Burke (Law Society SA), Megan Pitt and Sonya Kim (LSC).



From left: Sonya Kim (LSC), Greg May (LPCCSA), Michael Black AC QC FAAL (LSC) and Megan Pitt (LSC).



From left: Sonya Kim & Megan Pitt (LSC), Rolf Moses (CEO, Qld Law Society) and Bill Potts (President, Qld Law Society).

## E-CONVEYANCING WORKING GROUP

At its meeting in April, the Council agreed to convene a working group led by Council member Bret Walker SC, to examine matters around e-conveyancing and in particular, any possible negative impacts on consumers and/or public purpose funds. The Group met on 7 June in Sydney and comprised representatives from the DLRAs, professional indemnity insurers and the LSC.

The meeting discussed the importance of effective regulation of the operators of e-conveyancing, concerns about the risk of hacking resulting in financial loss for consumers and insurance issues.

The Group concluded that whilst there is no identifiable basis for the LSC to take action under the Uniform Law, there may be action available to the DLRAs to manage the impact of e-conveyancing through consultation with the operators and/or legal practitioners.

The LSC will continue to monitor e-conveyancing developments and the Review of the Intergovernmental Agreement for an Electronic Conveyancing National Law being conducted by the Australian Registrars' National Electronic Conveyancing Council (ARNECC).

## NEW INDEXATION RULE

From 1 July 2019, the new rule on Indexation, r 111 A of the Legal Profession Uniform General Rules 2015 (General Rules), applied to ss 291-293 of the Uniform Law and s 99 of the *Legal Profession Uniform Application Act 2014* (Vic).

This new rule ensures that the NSW and Victorian Legal Services Commissioners and the Victorian Civil and Administrative Tribunal maintain their jurisdiction to determine costs disputes in line with inflation.

The Legal Profession Uniform Law (Indexed Amounts) Notice 2019 shows the actual indexed amounts that will apply from 1 July 2019 to 30 June 2020 to sums referred to in the Uniform Law: \$10,000 (\$10,685), \$25,000 (\$26,710) and \$100,000 (\$106,835). The calculation of the indexed amounts is based on the latest CPI number published by the Australian Statistician and in accordance with rule 111A of the General Rules.

## EXTERNAL EXAMINERS' WORKING GROUP

The External Examiners Working Group has continued its review of the External Examiners course and forms throughout the year. Chaired by the Commissioner and constituted by representatives from the LSNSW, NSW Bar, VLSB+C and LIV, the Group undertook an evaluation of the trust forms and the course assessment questions. A chapter by chapter review of the course materials has commenced and will be completed in 2020.

The Commissioner, by delegation from the LSC of its function under General Rule 65 of 'approving from time to time' the External Examiners' Course, approved the amendments to a revised set of course assessment questions as well as the following trust forms:

- Law Practice & Approved Clerk Confirmation - Part A
- Statement of Trust Money: Law
- Practice & Approved Clerk - Part B
- External Examiner's Report: Law Practice & Approved Clerk
- External Examiner's Report: Barrister (2019)

These reviews aim to ensure high standards and a consistent approach to the assessment of External Examiners across NSW and Victoria - objectives which could not have been achieved without the meticulous work and expertise of the Group in its review of the trust forms, the course assessment questions and its ongoing review of the course materials.



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

## UPDATING OUR WEBSITE

The LSC website continues to be a repository of information and updates on the Uniform Law.

During the reporting period there were 55,973 visits to the website, an increase of 2.7% on the previous year. Popular pages visited include Legislation and Rules, Guidelines and Directions, Recent Changes and Information for Legal Practitioners.

Fifteen news stories were published and a dedicated media page now includes a catalogue of LSC media releases, media statements and media clippings on the Uniform Law.

[www.legalservicescouncil.org.au/Pages/media.aspx](http://www.legalservicescouncil.org.au/Pages/media.aspx)

## LEGAL PROFESSION UNIFORM LAW LIBRARY (AUSTRALIA)

The Legal Profession Uniform Law Library on the Australasian Legal Information Institute (AustLII) website remains an important resource for the legal profession, containing legislation and cases related to the Uniform Law.

Over the reporting year there were over 20,000 visits to the Library.

[www.austlii.edu.au/au/special/lpuniformlaw](http://www.austlii.edu.au/au/special/lpuniformlaw)

# 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

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
- audit information about fidelity funds submitted by fidelity authorities.

This information is set out in the next section.

## COMPLIANCE FUNCTIONS

The Commissioner has complied with the requirements under Clause 10 of Schedule 2 of the Uniform Law detailed in this report, including: audited consolidated financial statements (pp 32–57), analysis of statistical information about complaints received (pp 70–80) and publication of audited information submitted by fidelity funds (p 88).

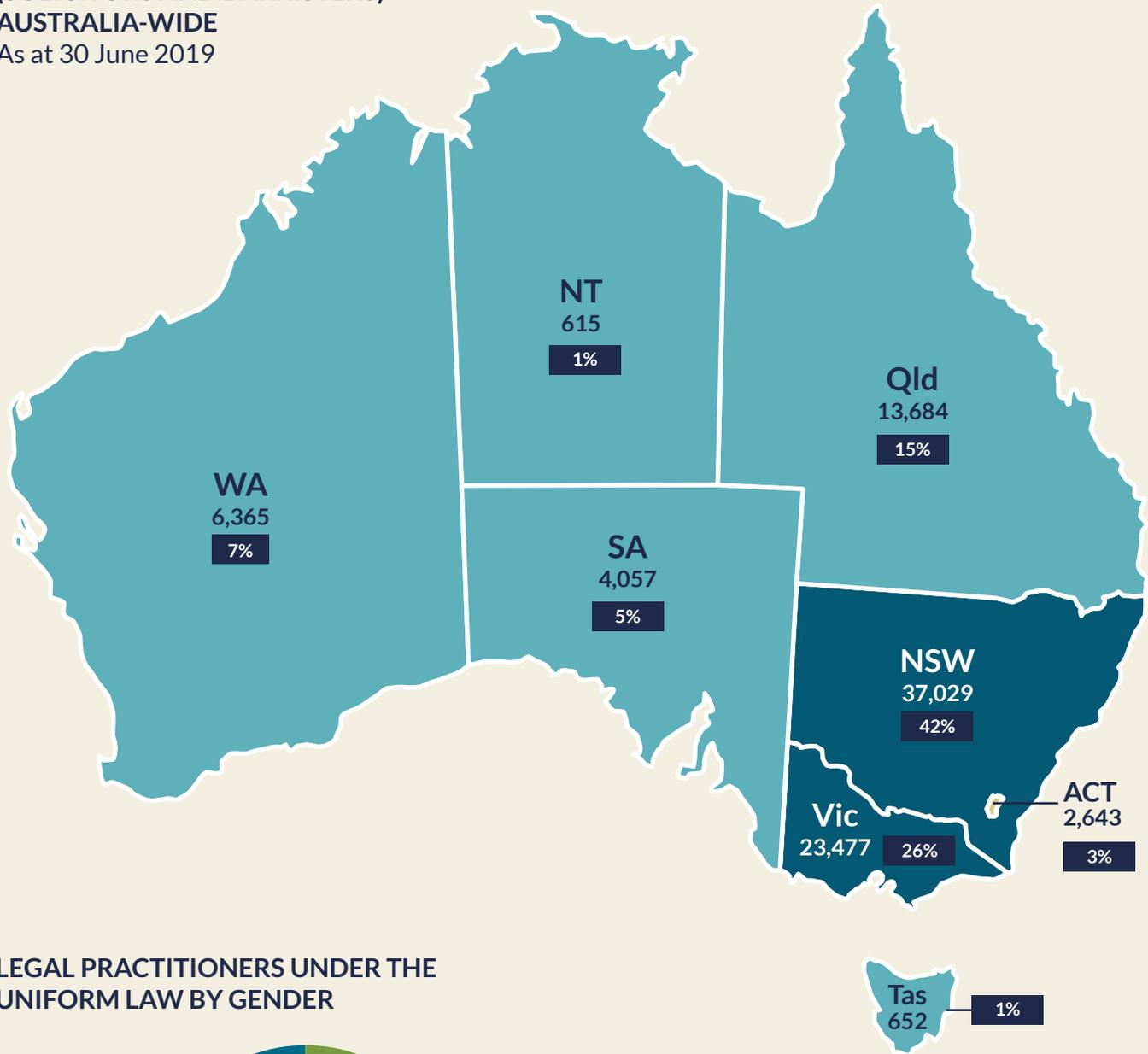


# Legal Profession Snapshot

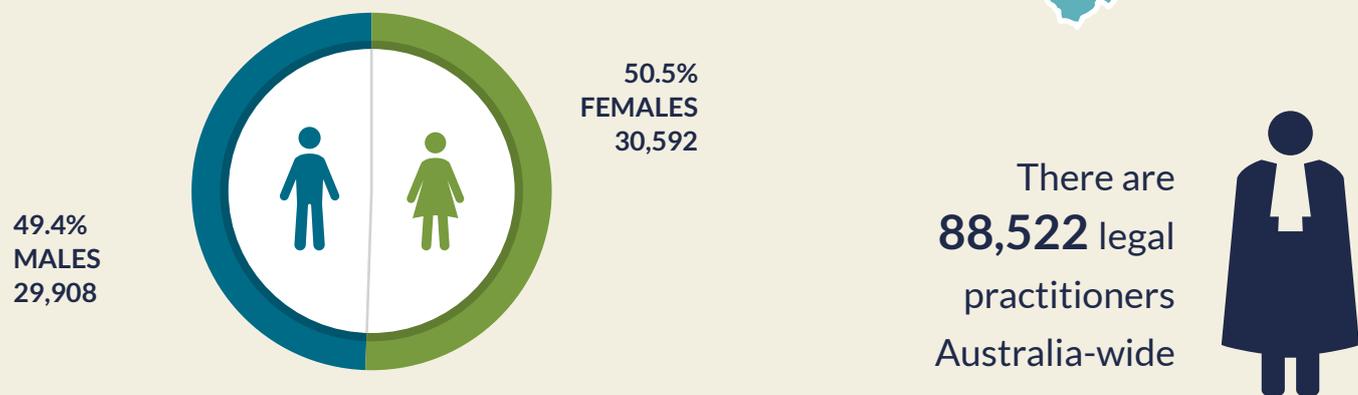
## NUMBER OF LEGAL PRACTITIONERS (SOLICITORS AND BARRISTERS)

### AUSTRALIA-WIDE

As at 30 June 2019

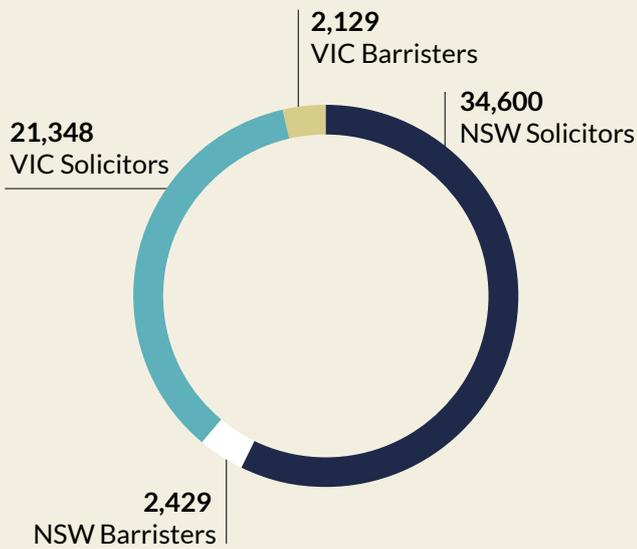


## LEGAL PRACTITIONERS UNDER THE UNIFORM LAW BY GENDER



A difference of only 1.1% between the sexes with 0.1% not identifying as male or female.

## NUMBER OF LEGAL PRACTITIONERS UNDER THE UNIFORM LAW



There are **60,506** 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 **60,506**. This figure represents 68% of all legal practitioners Australia-wide.

NSW solicitors: 34,600 barristers: 2,429  
**Total number of legal practitioners in NSW: 37,029**

VIC solicitors: 21,348 barristers: 2,129  
**Total number of legal practitioners in VIC: 23,477**

There are **88,522** legal practitioners in Australia\*.

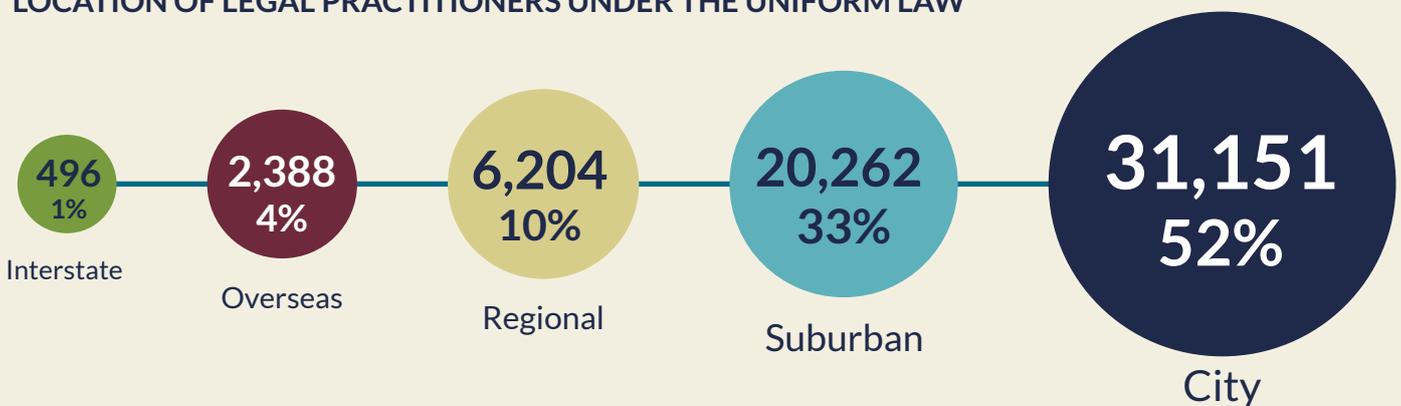
Solicitors (55,948) make up 92% of the legal profession across the two Uniform Law States.

There are 82,158 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 in the Uniform Law States (4,558) represent 72% of barristers Australia-wide (6,364).

## LOCATION OF LEGAL PRACTITIONERS UNDER THE UNIFORM LAW



\* Figures are based on Practising Certificates issued by State and Territory authorities as at 30 June 2019 and does not include government lawyers.

# Complaints handling and professional discipline

## PERSPECTIVE

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 as submitted by fidelity authorities.

The following report analyses the third full year of data on the operation of Uniform Law Chapter 3 (Admissions) and Chapter 5 (Complaints and Discipline) in NSW and Victoria. All data is provided by the Victorian Legal Services Board and Commissioner (VLSB+C), the NSW Office of the Legal Services Commissioner (OLSC), the Law Society of NSW (LSNSW), the NSW Bar Association (NSWBA), the Legal Profession Admission Board (NSW) (LPAB) and the Victorian Legal Admissions Board (VLAB), collectively referred to as designated local regulatory authorities (DLRAs).

In reading this report, it is important to remember that every year, 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 LSC Uniform Law database contains complaints data provided by the DLRAs in NSW and Victoria from 1 July 2015 and admissions data from 1 July 2017. This database serves as a valuable and unique repository of information about legal practitioners, identifying trends and demonstrating progress towards uniformity in the Uniform Law States.

The DLRAs provide statistical de-identified complaints data to the database on a regular basis. In the reporting year, work was undertaken to automate the loading of data into the database. This work was aimed at reducing manual intervention and risks of human errors to provide the latest reports accurately and efficiently.

In addition, data on the number and breakdown of admissions from the LPAB and the VLAB is now available to the Commissioner monthly, for monitoring and reporting purposes.

This work is achieved with the assistance of the LSNSW, which is hosting the database for the LSC. The Secretariat will work with the VLSB+C, the LSNSW and the NSWBA to map and capture data relating to practising certificates and foreign lawyers' registration certificates next year.

## COMMENTS ON DATA

Evaluation of statistical information assists the Commissioner and the Legal Services Council to monitor the operation of the Uniform Law and ensure its objectives are being met.

The data is provided to the host via a Virtual Private Network (VPN) using a data template developed through a joint mapping exercise with the DLRAs to establish a common reporting framework.

This report compares Uniform Law complaints data collected from 1 July 2015. The utility of these comparisons is limited by the tail end of complaints under previous legal profession legislation being gradually closed. Three year comparisons made in this report are made with this qualification.



# Data analysis

The data relating to complaints handling and disciplinary procedures falls into six categories as follows:

1. Total number of new complaints by jurisdiction
2. Opened complaints by category and jurisdiction
3. Complaints opened by issue and jurisdiction
4. Opened complaints by individual and firm type
5. Area of practice attracting the most opened complaints
6. Number of closed complaints

## 1. TOTAL NUMBER OF NEW COMPLAINTS BY JURISDICTION

The total number of new complaints recorded from 1 July 2018 to 30 June 2019 across NSW and Victoria was 4,660.

The Victorian Legal Services Commissioner deals with all solicitor complaints in Victoria and delegates the handling of some barrister complaints to the Victorian Bar. About 0.3% of Victorian complaints under the Uniform Law were handled by the Victorian Bar.

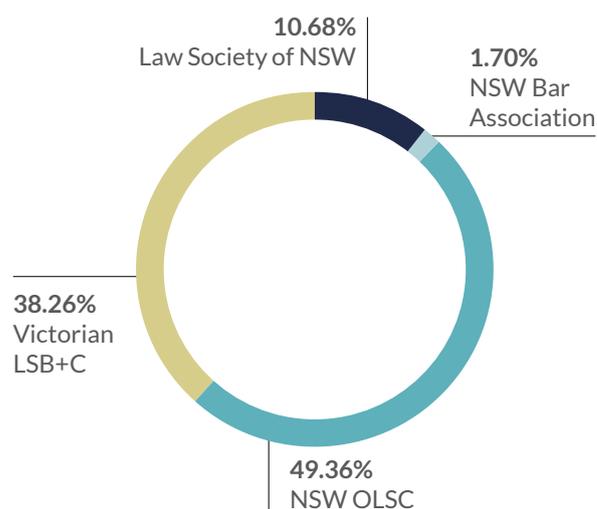
In NSW, the OLSC is the repository of all complaints. Through the Commissioner's powers of delegation, the OLSC co-regulates with the LSNSW Council and the NSWBA Council. Together, the Councils handled approximately 20% of all NSW complaints under the Uniform Law framework.

The number of complaints in the two jurisdictions was directly proportional to the number of legal practitioners in each State. NSW accounts for 61% of Uniform Law legal practitioners and received 59% of complaints. Victoria accounts for 39% of Uniform Law legal practitioners and received 40% of complaints.

Almost half of these complaints (43%) were closed under section 277 of the Uniform Law after preliminary assessment and, of these complaints closed, over half (53%) were found to be unsubstantiated or misconceived. The percentage of unsubstantiated or misconceived complaints in 2019 was 25%, similar to 2018 (26%) as compared with nearly one third (31.5%) in 2017.

## Total New Complaints

Source	Complaints		
	NSW	Victoria	All
Law Society of NSW	498	0	498
NSW Bar Association	79	0	79
NSW Office of the Legal Services Commissioner	2,300	0	2,300
Victorian Legal Services Board and Commissioner	0	1,783	1,783
<b>Grand Total</b>	<b>2,877</b>	<b>1,783</b>	<b>4,660</b>

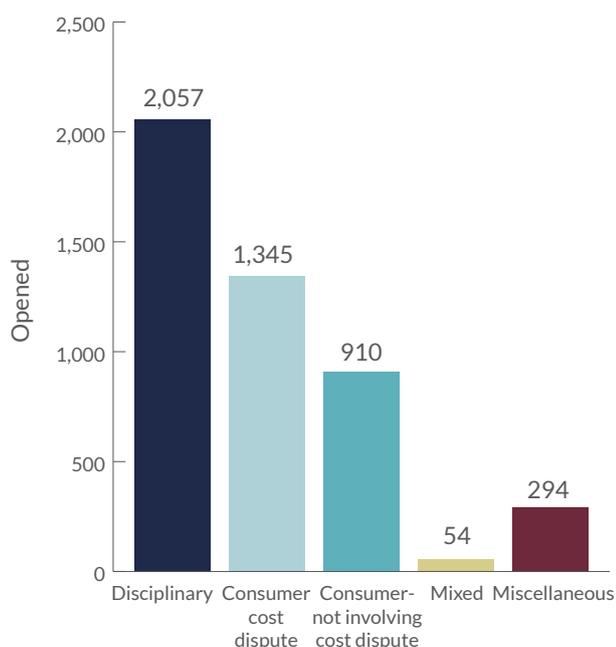


## 2. OPENED COMPLAINTS BY CATEGORY

The total number of new complaints opened during the reporting period was 4,660.

Under sections 269 to 271 of the Uniform Law, complaints are categorized as consumer, disciplinary or mixed matters. A costs dispute is a type of consumer matter. For added transparency, Graph 2.1 records separately those consumer matters that are costs disputes. The matters described as miscellaneous are provided by the OLSC and include requests for internal review as well as files opened for Tribunal and Court proceedings.

### 2.1 Number of complaints by category



Disciplinary matters accounted for less than half of all new complaints in 2019 (44%), similar to the proportion of complaints in 2018 (47.8%) and 2017 (49.3%). This category is broad and includes many minor matters that fall short of a disciplinary breach, but are categorised as disciplinary because they are not consumer matters. This category also includes section 270 complaints about a lawyer or a law practice where, if the conduct concerned was established, it would amount to unsatisfactory professional conduct or professional misconduct.

The total number of consumer matters was 2,255:

- The second highest category in 2019 was costs disputes with 1,345 complaints comprising 29% of complaints compared with 21.3% in 2018 and 18.6% in 2017.
- As in the previous two years, consumer matters that did not involve a costs dispute ranked a close third with 910 complaints or 19.5% which is less than in previous years: 21.6% in 2018 and 23% in 2017. This number includes complaints about a lawyer or a 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.

## 3. COMPLAINTS OPENED BY ISSUE AND JURISDICTION

The LSNSW, NSWBA, OLSC and VLSB+C agreed to report on a hierarchy of common complaint types and subtypes as part of the joint mapping exercise conducted during Stage One of the development of the LSC Uniform Law Database.

### 3.1 Complaints opened by issue and jurisdiction

Complaint Type	NSW	Vic	All
Competence and diligence	1,028	485	1,510
Ethical matters	856	614	1,470
Costs	481	622	1,103
Miscellaneous <sup>1</sup>	69	0	69
Communication	226	65	291
Trust money and trust accounts	128	112	240
Compliance matters	40	108	148
Personal conduct	49	54	103
<b>Grand Total</b>	<b>2,877</b>	<b>2,060</b>	<b>4,937<sup>2</sup></b>

1. These are LSNSW disciplinary matters that are still at the preliminary assessment stage.

2. This figure is more than the figure for all opened complaints of 4,660 because a complaint may contain more than one issue.

Unlike the previous reporting period, the highest number of opened complaints across NSW and Victoria related to legal practitioners' competence and diligence in 2019 (30.6%) compared with 28.6% in 2018 and 31.65% in 2017. This complaint type includes failure to supervise, delay, poor advice/case handling, client capacity, record management, and general incompetence. Poor advice/case handling was the basis of 728 complaints or 14.7% of all complaints, an increase on the 2018 figure of 14.2%.

Closely following are complaints falling under the broad heading of 'ethical matters' (29.8%), which encompasses many aspects of legal practice. This complaint type includes allegations about settlement issues, fraud (not trust funds), misleading conduct, ceasing to act, conflict of interest, communicating with another lawyer's client, breach of 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 an increase since 2018 (28.75%) but is less than the figure in 2017 (31.7%).

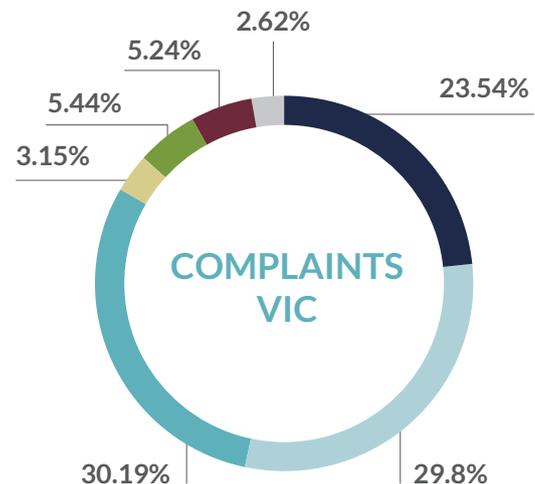
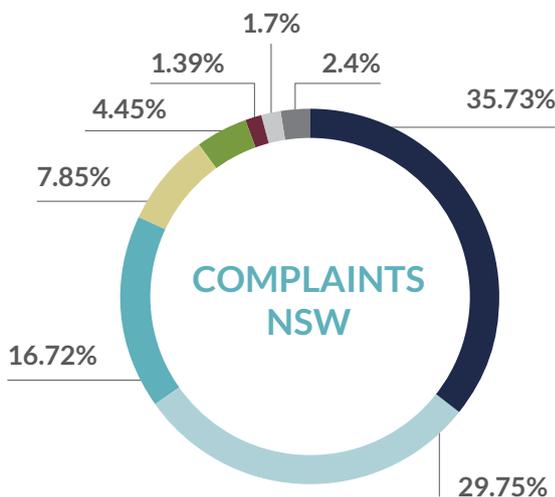
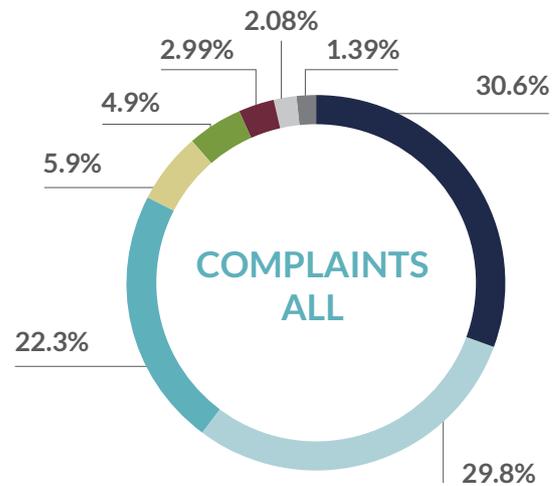
There were more complaints relating to trust money and trust accounts (4.9%) as compared with 2018 at 3.6%, but an improvement on 2017 figures at 6.5%.

The most common sub-issue across the two jurisdictions remains alleged overcharging at 15.5% comparable with 18.2% in 2018 and 16.5% in 2017.

Billing issues were also represented in the top ten sub-issues, comprising 323 or 6.5% of all complaints, a slight improvement on previous years (2018: 7.2% and 2017: 7.7%). These figures need to be read in the context of the very large number of matters conducted in which bills were issued correctly by law practices and that a sizeable portion of these complaints were ultimately dismissed.

### 3.1 Complaints opened by issue and jurisdiction

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



## 4. OPENED COMPLAINTS BY INDIVIDUAL AND LEGAL PRACTITIONER TYPE

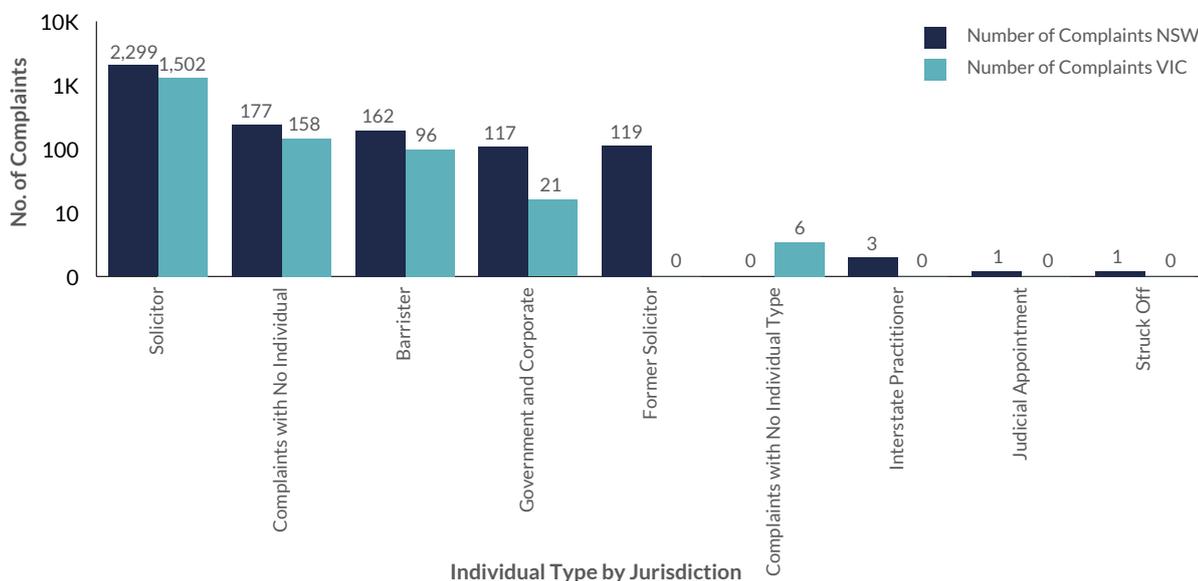
### 4.1 Individual Practitioner Types

Complaints against solicitors and former solicitors ranked highest at 87%, consistent with previous years. Barristers were the subject of 5.5% (257 of 4,660) of all complaints also corresponding to the 2018 figure of 5.2% and less than the 2017 figure of 6.3%. The other individual practitioner types in the graph and tables below make up the remaining 7.5%

These figures broadly reflect the proportion of solicitors (92%) and barristers (8%) that make up the legal profession in NSW and Victoria.

Individual Type	Complaints		
	NSW	Vic	All
Solicitor	2,299	1,502	3,801
Complaints with no individual	177	158	335
Barrister	162	96	258
Government and Corporate	117	21	138
Former solicitor	119	0	119
Complaints with No Individual Type	0	6	6
Interstate Practitioner	3	0	3
Judicial Appointment	1	0	1
Struck Off	1	0	1
<b>Grand Total</b>	<b>2,877</b>	<b>1,783</b>	<b>4,660</b>

### 4.1 Breakdown of the types of individuals who were the subject of a complaint



The data should be read subject to the following comments:

- Complaints with 'no individual type' or 'no individual' are captured in 'firm type' in the next table under 4.2 as they are complaints made against a law practice.
- NSW has a separate category 'former solicitors' whereas VLSB+C record complaints about 'former solicitors' under 'solicitor complaints'.
- NSW has a separate category for 'struck off' practitioners whereas VLSB+C record complaints about struck off practitioners under 'solicitor' or 'barrister'.
- Complaints about conveyancers are recorded in NSW only where the conveyancer is also a lawyer. Complaints about licensed conveyancers who are not lawyers are dealt with by NSW Fair Trading.
- 'Not Legal Service Provider' captures complaints for unqualified legal practice.

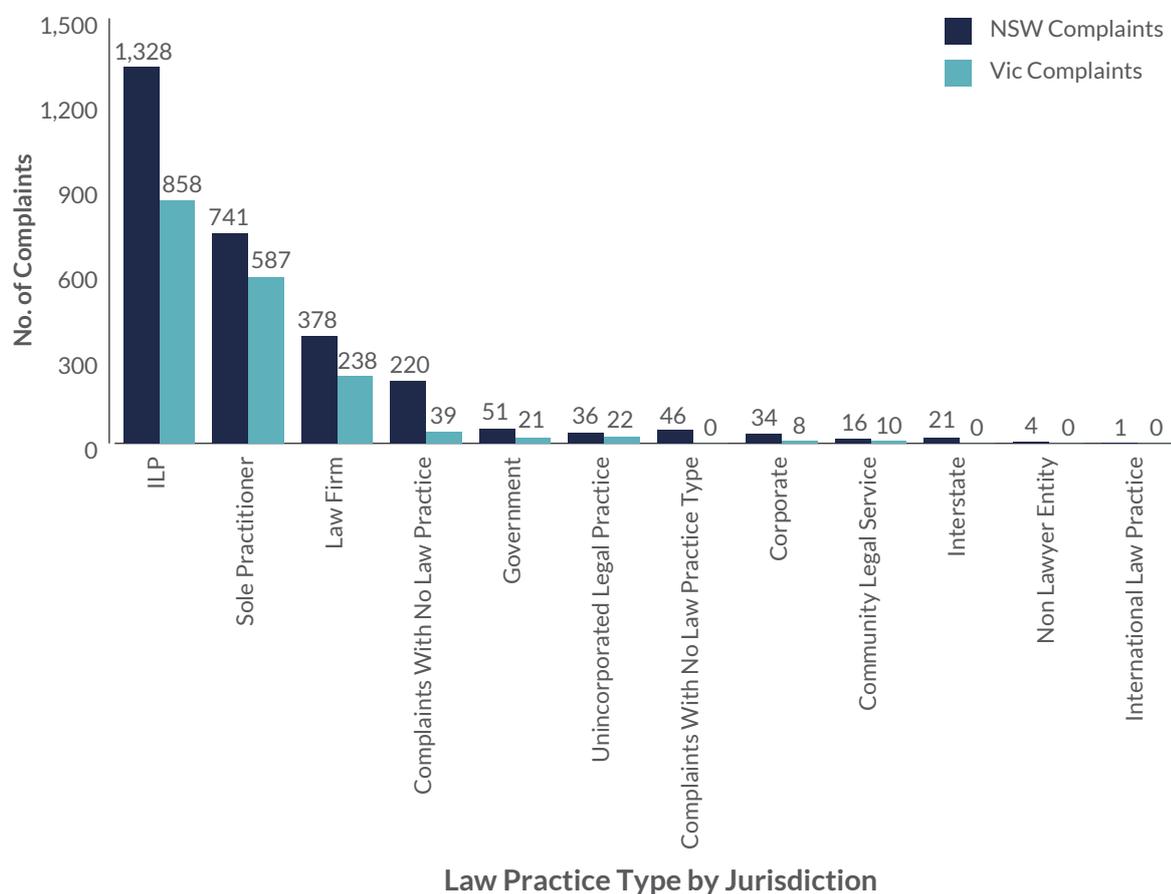
## 4.2 Complaints by Law Practice Type

Law practice type	Complaints		
	NSW	Vic	All
Incorporated legal practice	1,328	858	2,186
Sole practitioner	741	587	1,328
Law firm	379	238	617
Complaints with no law practice	220	39	259
Government	51	21	72
Unincorporated legal practice	36	22	58
Complaints with no law practice type	46	0	46
Corporate	34	8	42
Community legal service	16	10	26
Interstate	21	0	21
Non lawyer entity	4	0	4
International law practice	1	0	1
<b>Grand Total</b>	<b>2,877</b>	<b>1,783</b>	<b>4,660</b>

As in the previous year, incorporated legal practices (47%) have overtaken sole practitioners (28.5%) as the most prominent law practices complained about in both States. Complaints made against law firms comprise only 13.2% of all complaints.

Complaints with 'no firm' are captured in 'individual type' in Graph 4.1.

## 4.2 Breakdown of the types of law practice the subject of complaint

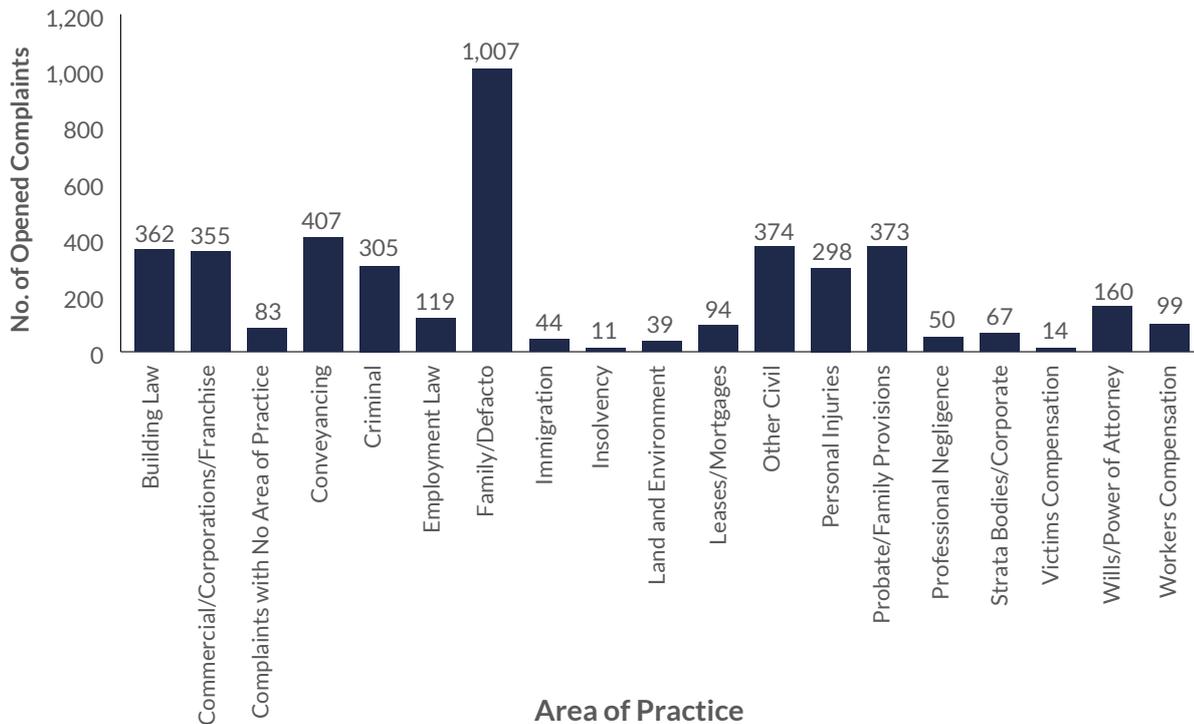


## 5. AREAS OF PRACTICE ASSOCIATED WITH COMPLAINTS

As in 2017 and 2018, just over one fifth (21.6%) of opened complaints were family/de facto law matters (1,007 of 4,660). This was followed by conveyancing (8.7%), probate/family provision claims (8%), other civil (8%), building law (7.7%), commercial/corporations/franchise (6.4%), criminal law matters (6.5%), personal injury work (6.4%), and wills/powers of attorney (3.4%).

If we were to group the complaints in the areas of probate/family provision, wills and powers of attorney as 'Elder Law', the proportion would amount to 11.4% of all complaints.

The remaining 22% of complaints were in areas of practice including employment law, immigration, insolvency, leases and mortgages, professional negligence, strata bodies corporate, victims compensation, worker compensation and complaints with no area of practice.



## 6. NUMBER OF CLOSED COMPLAINTS

The number of complaints closed was 4,324. This figure includes the closure of complaints that were opened prior to 1 July 2018.

The group of complaints that was both opened and closed during the reporting period was 3,043.

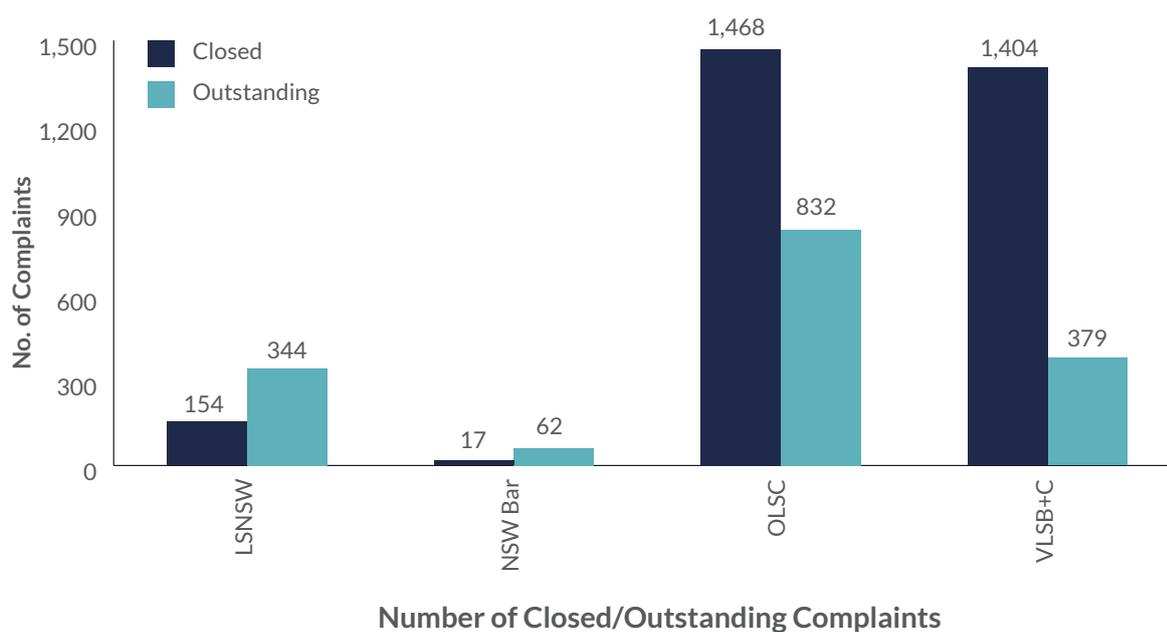
The breakdown is set out in the table below.

### 6.1 Table of figures for complaints both opened and closed

Source	Total Complaints	Closed	% Closed	Outstanding	% Open
LSNSW	498	154	30.92	344	69.07
NSW BAR	79	17	21.52	62	78.48
OLSC	2,300	1,468	63.83	832	36.17
VLSB+C	1,783	1,404	78.74	379	21.25
<b>Total</b>	<b>4,660</b>	<b>3,043</b>	<b>65.30</b>	<b>1,617</b>	<b>34.70</b>

During the year, 65% (3,043) of the complaints opened were finalised.

Of the 4,660 complaints opened in 2019, 78.7% of the Victorian complaints were finalised compared with 57% of the NSW complaints. These statistics may be affected by the complexity of the complaints.



## 6.2 AVERAGE TIME TAKEN TO FINALISE COMPLAINTS

By 30 June 2019, 34.7% of the 4,660 complaints remained opened.

The Uniform Law data shows slightly fewer complaints being closed than were opened, with an average of 360 complaints being closed per calendar month for the 2018-2019 year, compared with an average of 388 complaints being opened. It should be noted however that the DLRA continued to close complaints under previous legislation, and those figures are not captured here.

The average close time relates to the average amount of time in days to finalise a complaint. On average in 2019:

- Disciplinary complaints were dealt with in 82 days as compared with 74 days in 2018 and 85 days in 2017.
- Costs disputes were dealt with in 74 days as compared with 71 days in 2018 and 68 days in 2017.

### 6.2 Average close time for each complaint type

Category Description	Complaint Type	Average Close Time (Days)
CONSUMER MATTERS	Communication	74
	Compliance Matters	61
	Costs	99
	Ethical Matters	69
	Personal Conduct	82
	Trust money and Trust Accounts	77
COST DISPUTES	Communication	146
	Competence and Diligence	101
	Compliance Matters	8
	Costs	72
	Ethical Matters	83
	Personal Conduct	172
	Trust money and Trust Accounts	87
DISCIPLINARY MATTERS	Communication	65
	Competence and Diligence	101
	Compliance Matters	77
	Costs	138
	Ethical Matters	85
	Miscellaneous	66
	Personal Conduct	53
	Trust money and Trust Accounts	95
MIXED MATTERS	Communication	85
	Competence and Diligence	59
	Compliance Matters	44
	Costs	62
	Ethical Matters	55
	Personal Conduct	125
	Trust money and Trust Accounts	39

### 6.3 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 relevant provision of the Uniform Law. The total of 4,360 includes matters commenced prior to the reporting period and excludes duplicate complaints. This figure is more than the figure for closed complaints of 4,324 (above) because a complaint may be closed against more than one provision. 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).

Almost half (46%) of the total complaints were closed under s 277 compared with 54% in 2018. Section 277 is used to close all complaints where no disciplinary breach is established after preliminary assessment.

Closure of complaints in whole or in part may be due to the complaint lacking substance or being misconceived (25%), or when there is a failure by the complainant to provide adequate information (5.5%). Closure may also occur when the complaint is outside the jurisdiction of the relevant Legal Services Commissioner's powers (2.4%), or because the complaint would be better investigated by the police or other investigatory or law enforcement agency (0.2%).

Overall, 16% of complaints were withdrawn compared with 15% in 2018. Withdrawal of a complaint may occur at any stage of an investigation. In most of these cases, the Legal Services Commissioners advised that the concerns of the complainant were addressed or resolved and the complainant no longer wished to continue with the complaint.

A quarter of consumer matters were settled through informal resolution as required by s 287, compared with just over one fifth in 2018 (22.6%). 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 allows the parties to apply for a costs assessment or to make an application under jurisdictional legislation for the matter to be determined. In all, 38 matters were closed when a decision was taken to initiate tribunal proceedings.

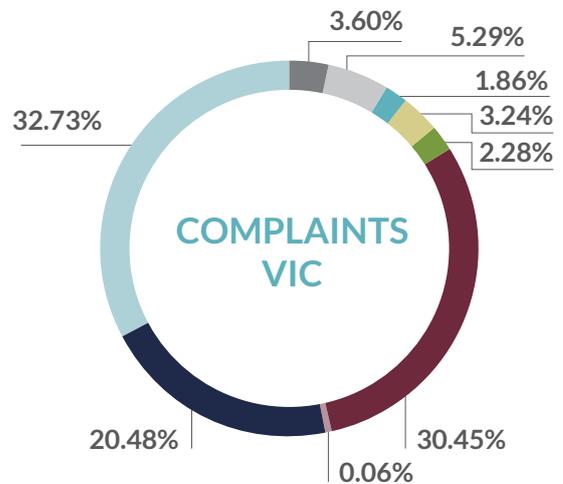
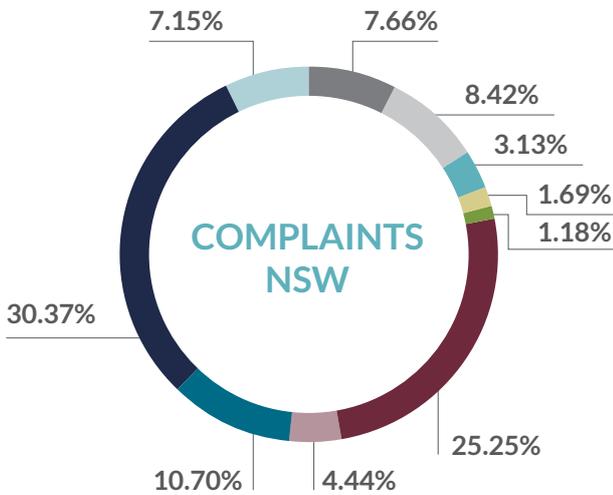
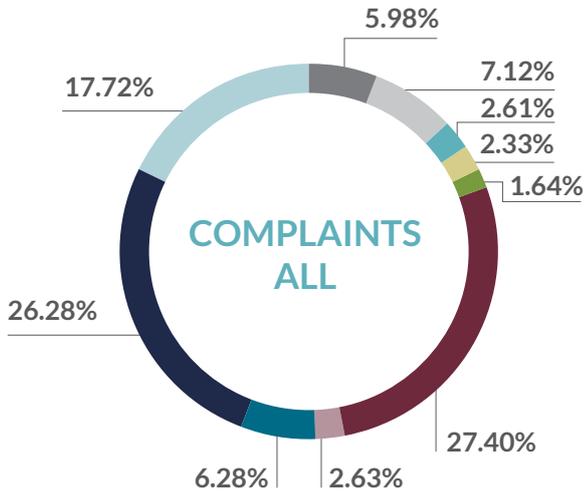
A total of 256 internal reviews were conducted under s 313 of the Uniform Law. On review, the relevant State Legal Services Commissioner must consider whether the decision was dealt with appropriately and whether it was based on reasonable grounds. They may confirm the original decision, make a new decision or refer it back to the original decision maker.

### 6.3 Total Number of Closed Complaints by Section

Section	Description	2018	2019
None	Other or no section provided <sup>1</sup>	104	103
273	Withdrawal of complaint	644	714
277	Closure of whole or part of complaint (any reason, any stage) after preliminary assessment <sup>2</sup>	2,244	2001
287	Informal resolution of consumer matters	933	1104
288	Mediation	28	25
289	Settlement agreements	22	0
290	Determination of consumer matters by local regulatory authority	8	13
292	Binding determinations in costs disputes	20	5
293	Cases where binding determinations are not made in costs disputes	60	38
299	Determination by local regulatory authority - unsatisfactory professional conduct	80	63
300	Initiation and prosecution of proceedings in designated tribunal	58	38
313	Internal reviews	Unavailable	256
<b>Total</b>		<b>4,201</b>	<b>4,360</b>

1. This includes 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 - for which there are no Uniform Law provisions.
2. This covers matters from pre-assessment stage through to matters which have been fully investigated. It excludes duplicate complaints, the subject matter for which has been or is already being investigated (s 277(1)(d) of the Uniform Law).

#### 6.4 TOP TEN TYPES OF CLOSED COMPLAINTS BY OUTCOME



- Closed failure/inadequate response to request for information
- Closed no further investigation except consumer matters
- Closed no power to investigate
- Closed no time waiver costs
- Closed public interest
- Closed informal resolution
- Complaint with no result
- Discretion declined for review
- Misconceived/lacking in substance
- Withdrawal of complaint

## 7. DETERMINATIONS

### 7.1 By Local Regulatory Authority

Determinations by the Commissioners are a last resort, before a referral to NCAT or VCAT. As with many regulatory schemes, often the prospect of having a decision imposed from above motivates law practices to settle non-disciplinary complaints beforehand. The table below shows the number of determinations made by the Commissioners. The difference in the number of determinations in NSW and Victoria reflects the difference in the costs assessment processes under local legislation.

Determinations by Commissioner	OLSC (NSW)	VLSC (Vic)	Total
Disciplinary (including cautions & apologies)	12	27	39
Costs	1	6	7
Non-costs consumer	7	1	8
<b>Total</b>	<b>20</b>	<b>34</b>	<b>54</b>

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.

### 7.2 By Courts

Throughout the year, the LSC monitors and evaluates Court decisions that refer to the Uniform Law. Decisions that include a discussion or an interpretation of the Uniform Law are extracted to the extent that they shed light on its operation. Those considered most important appear below.

#### ***Council of the Law Society of New South Wales v Parente [2019] NSWCA 33***

In this case, the respondent committed several offences at a time when he was a solicitor in NSW. He was convicted and sentenced to a term of imprisonment.

The Law Society invoked the inherent powers of the Supreme Court, preserved by s 264 of the Uniform Law, to seek the following orders:

1. A declaration that the respondent is guilty of professional misconduct.

2. A declaration that the respondent is not a person of good fame and character.
3. A declaration that the respondent is not a fit and proper person to remain on the roll of Australian lawyers.
4. An order that the name of the respondent be removed from the roll.

Their Honours Basten and Meagher JJA at [6]-[14] referred to previous debate about the scope of professional misconduct: at its broadest – any conduct which would reasonably be regarded as disgraceful or dishonourable by solicitors of good repute and competency, or narrowest – only misconduct in the exercise of the profession.

Their Honours held that the difficulty of characterising misconduct has been resolved by the definition of professional misconduct in s 297(1) of the Uniform Law. The distinction remains relevant with respect to the first limb of s 297(1) because ‘unsatisfactory professional conduct’ is defined in s 296 to refer to ‘conduct of a lawyer occurring in connection with the practice of law that falls short of the standard of competence and diligence that a member of the public is entitled to expect of a reasonably competent lawyer’. The second limb of s 297(1) covers any misconduct which would justify a finding that the lawyer is not a fit and proper person. There is no purpose in making a declaration with respect to professional misconduct and the first order sought by the Law Society should not be made. If the third declaration is made the first is otiose.

Similar reasoning applies to the proposed second declaration. Throughout the last century, an applicant for admission to the profession was required to demonstrate that he or she was ‘of good fame and character’. However that language has now been removed from the statute.

The phrase ‘good fame and character’ has not been entirely removed from the lexicon in this area of the law. Nevertheless, it is unnecessary to import this phraseology into the exercise being undertaken by the Court in its supervisory jurisdiction with respect to the disciplining of Australian lawyers. Particularly is that so where the older terminology was itself imprecise and required care in its application. The only benefit in the reference to ‘fame’, which was used in the sense of ‘reputation’, was that it drew attention to one purpose of the disciplinary powers,

which was (and is) to maintain public confidence in the integrity and honesty of the profession.

Questions of reputation remain relevant in that respect. For other purposes, the old language should be put to one side; there is no purpose in making a declaration in the terms sought by the Law Society's order (2).

The third order, seeking a declaration that the respondent is not a fit and proper person, reflects the current statutory terminology and is therefore an appropriate form of declaration.

***MN Legal and Management Consultants Pty Ltd v The Council of the Law Society of New South Wales; Michail v The Council of the Law Society of New South Wales [2018] NSWSC 1410***

In this case, a solicitor allegedly disseminated unfounded accusations about public officeholders; illegally recorded court proceedings; and obstructed subsequent investigation and external intervention by the regulator.

In January 2018, the Law Society resolved:

- a. to suspend immediately the practising certificate of the solicitor pursuant to s 77 of the Uniform Law on the grounds that such action was necessary in the public interest; and that the Law Society was considering whether to continue or complete action under Part 3.5 of the Uniform Law.
- b. to appoint a Manager of the Law Practice known as MN Legal for a period of two years.

In February 2018, the Law Society resolved pursuant to s 82(1) of the Uniform Law to suspend the solicitor's practising certificate to 30 June 2018.

The suspension arising from the January resolution had ceased to be operative by reason of s 77(2), the making of the February resolution and the reasoning set out in *Balzola v Council of the Law Society of New South Wales* [2018] NSWSC 849.

The solicitor appealed against the January suspension on the basis that that it was invalidly and improperly made. In a hearing de novo, Justice Davies dealt with that temporary suspension even though it was overtaken by the February resolution, considering whether:

- immediate suspension of the solicitor's practising certificate was necessary in the public interest, including whether construction of *Legal Profession Act 2004* (NSW) s 548 is relevant to construction of *Legal Profession Uniform Law (NSW)* ss 77 and 82.
- the solicitor was unable to fulfil inherent requirements of a legal practitioner.
- the solicitor could contend that her mental health prohibited her from assisting an investigation into her legal practice but not from practising law.

His Honour decided that what was said in *Berger v Council of the Law Society of NSW* [2013] NSWSC 1080 at [10]-[20] applies to a consideration under ss 77 and 82 of the Uniform Law. Section 77 refers to a suspension being 'necessary in the public interest'. In respect of s 82, where the ground is a recommendation to suspend under s 278, s 278(1)(b) refers to the suspension being 'warranted in the public interest'. The test of being warranted is a lesser, although similar, requirement to being 'necessary'. It involves the concept of a need without the strict requirement of necessity.

The February resolution was made pursuant to s 82(1) and, seemingly, in reliance on paragraph (c) concerning s 278, and paragraph (d). Under s 82(1)(d), a suspension can be imposed if the Law Society reasonably believes that the holder of the practising certificate is unable to fulfil the inherent requirements of an Australian legal practitioner.

His Honour decided that the inherent requirements for a legal practitioner must include the following:

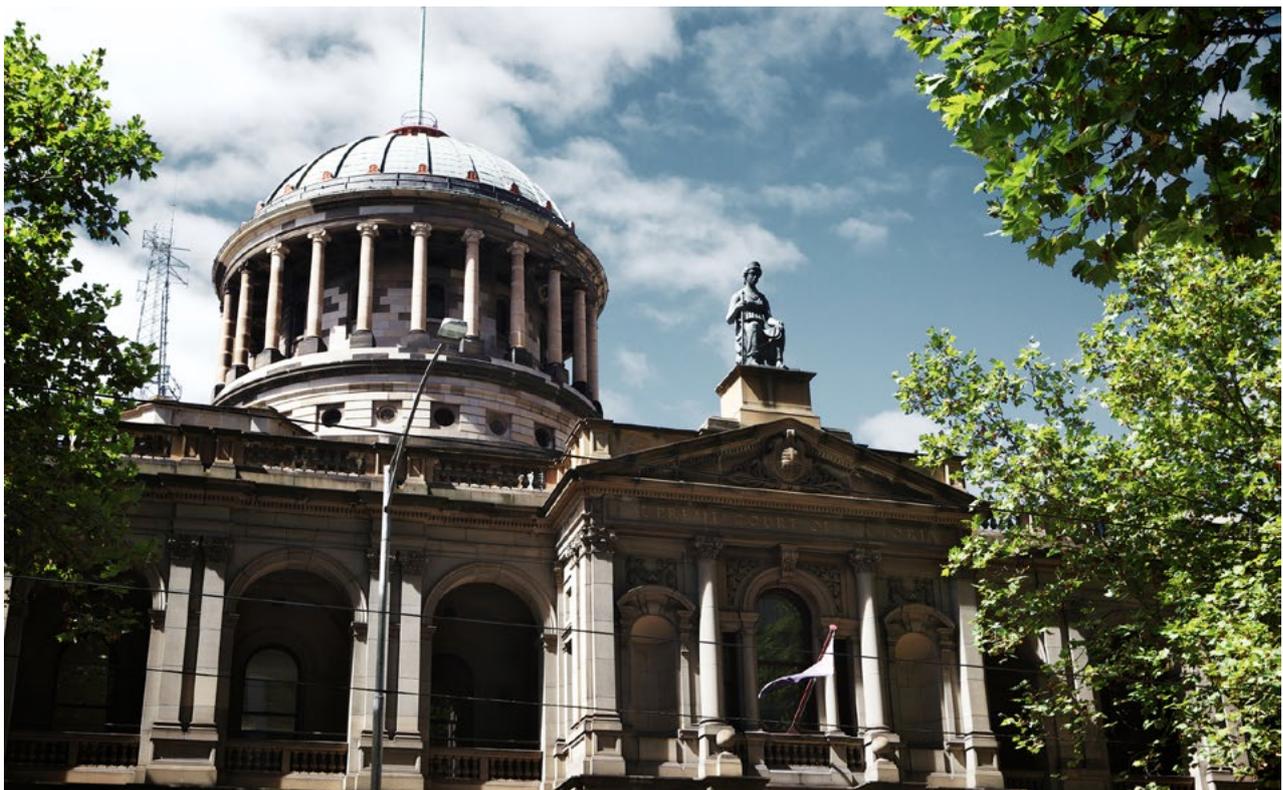
- a. the ability to perform the day-to-day tasks associated with providing legal services, including the ability to communicate in a professional manner with the courts, law-enforcement agencies and other legal practitioners
- b. the ability to discharge the legal practitioner's tortious and fiduciary duties to his or her clients, whether arising under their retainer, in tort or in equity
- c. the ability to discharge the legal practitioner's duties to the Court, including:
  - i. the duty to be honest and courteous in all dealings in the course of legal practice: r 4.1.2, *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* (NSW) (Conduct Rules)

- ii. the duty not to engage in conduct, in the course of practice or otherwise, which is likely to a material degree to be prejudicial to, or diminish the public confidence in, the administration of justice, or bring the profession into disrepute: r 5.1, Conduct Rules
- iii. the duty not to knowingly or recklessly mislead the court: r 19.1, Conduct Rules
- iv. the duty not to allege any matter of fact in any court document settled by the solicitor, or any submission during any hearing, unless the solicitor believes on reasonable grounds that the factual material already available provides a proper basis to do so: r 21.3, Conduct Rules
- v. the duty not to communicate in the opponent's absence with the court concerning any matter of substance in connection with the current proceedings: r 22.5, Conduct Rules
- vi. an obligation to obey the law and to comply with court orders

The requirements of ss 77 and 278 demand that the following public interests must be considered:

- Clients must feel secure in confiding their secrets and entrusting their most personal affairs to lawyers.
- Fellow practitioners must be able to depend implicitly on the word and the behaviour of their colleagues.
- The judiciary must have confidence in those who appear before the courts.
- The public must have confidence in the legal profession by reason of the central role the profession plays in the administration of justice.

The complaint contained very serious allegations and the medical evidence provided by the solicitor to the Law Society raised the issue of the solicitor's fitness to practise, and whether she was able to fulfil the inherent requirements of a legal practitioner. In circumstances where the solicitor claimed that she could not participate in the investigation process because of her health, the Law Society was correct to reach the decisions contained in both the January resolution and the February resolution. Whether the test is 'necessary' or 'warranted' in the public interest, it was in the public interest to do so.



***Pumpa v Victorian Legal Services Board & Anor [2018] VSC 385 upholding Pumpa v Victorian Legal Services Board & Anor [2017] VSC 629 extracted here***

In this case, the principal issue is whether the first defendant ('Board') and its officers are immune from suit by virtue of s 467 of the Uniform Law in the context of the enforcement of statutory prohibitions on unqualified persons engaging in legal practice (s 10 of the Uniform Law) or advertising or representing their entitlement to engage in legal practice (s 11 of the Uniform Law).

To attract the protection of s 467 the following criteria must be satisfied:

- a. the entity seeking protection must be a relevant person;
- b. any act or omission done or omitted to be done must be in the exercise or purported exercise of functions under the Uniform Law, the Uniform Regulations or the Uniform Rules; and
- c. that act or omission of the relevant person must be done in good faith.

Given the broad language of the immunity, that 'no liability attaches', if the Court is satisfied that the criteria in (a)-(c) above are made out then the immunity is a complete defence to all of the plaintiff's claims.

To attract the protection of s 467 the actions of the defendants, being the investigation and commencement of the proceedings and ancillary actions (including correspondence and communications with the plaintiff and the County Court), must have been performed in 'good faith and in the exercise or purported exercise of functions' under the Uniform Law.

Section 9 of the Uniform Law sets out the objectives of Chapter 2 Part 2.1:

- (a) to ensure, in the interests of the administration of justice, that legal work is carried out only by those who are properly qualified to do so; and
- (b) to protect clients of law practices by ensuring that persons carrying out legal work are entitled to do so.

Whether or not the requirement of good faith in s 467 involves both honesty and the 'exercise of caution and diligence to be expected of an honest person of ordinary prudence', this is a case where

the facts, objectively assessed, show that M and the Board did act honestly, without malice, and exercised the caution and diligence expected of an honest person of ordinary prudence in the position of the defendants.

***Victorian Legal Services Board v Jensen [2018] VSC 740 (2 August 2018)***

The Board alleged that the defendant engaged in conduct which is prohibited unless performed by an Australian legal practitioner, and advertised or represented that he was entitled to so act.

The Court was satisfied that this was an appropriate case for injunctions and orders to be made under s 447(3) of the Uniform Law.

### **7.3 By Tribunals**

On 1 July 2019, the Uniform Law has been operating for four years. As expected, there were more decisions made by the State Tribunals relating to complaints made under the Uniform Law during this latest reporting period. The Legal Profession Uniform Law Library in AustLII reported at least 48 decisions by the NSW Civil and Administrative Tribunal and a further 13 decisions by the Victorian Civil and Administrative Tribunal.

## **8. EMERGING TRENDS IN UNIFORM LAW STATES**

There are consistent practices deployed by the DLRA in each State in their consideration of complaints with some emerging trends. DLRA staff aim to informally resolve complaints as soon as possible, but also to manage a complainant's expectations where the complaint is without merit. There is much effort made to assist the profession comply with its obligations, either in handling individual complaints, or through other professional development programs, outreach and media activities. Putting a lawyer on a path where they can avoid future complaints is the preferred strategy.

One trend observed by the OLSC and VLSB+C is that whilst the number of complaints received remains relatively stable, there is an ongoing increase in the complexity of investigations and a sizeable increase in the documentary material being submitted with complaints.

## Commissioner's Cost Estimate Guideline

The Commissioner for Legal Services Regulation has requested to be kept informed at quarterly intervals of the extent to which the functions and views expressed in Guideline CULSR 01/2016 – Costs Estimates are applied in practice. The DLRA's 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 to report pursuant to s 440 at least annually.

Each DLRA has provided the following information.

### Victoria

In this period, there have not been any decisions of the Costs Court of the Supreme Court of Victoria or the Victorian Civil and Administrative Tribunal that concern the interpretation of s 174(1)(a) and (b) of the Uniform Law.

#### 8.1 Victorian Legal Services Board and Commissioner

During 2018-2019, the VLSB+C received 1,030 complaints that were assessed as raising a consumer matter; 26 more than the previous year. Not all of these consumer complaints raised a costs dispute.

Consumer matter complaints were broken down into costs disputes (345); non-costs disputes (287) and mixed (688).

The table below shows the number of complaints in Victoria about costs disclosure in the past two years.

Issue	2017-18	2018-19
Fail to give initial disclosure	29	4
Fail to give revised disclosure	32	20
Delay in providing disclosure	4	3
No informed consent given	5	3
No disclosure given	27	28
<b>Total</b>	<b>97</b>	<b>58</b>



*The Victorian Legal Services Board and Commissioner.*

## CULSR's Cost Estimate Guideline

Under the Uniform Law, legal practitioners 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.

The VLSB+C continued to receive a number of complaints about costs agreements and disclosure statements with varying levels of compliance with the Guidelines.

Informal resolution remains the most frequent outcome in consumer matters. During the reporting period, the VLSB+C made only six consumer matter determinations.

A common theme in complaints was that a consumer was unaware of the scope of the matter at the outset and of the types of issues that may require the overall estimate to be revised. 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.

Where the legal practitioner explained to the consumer the variables that may make an increase in estimate necessary, the VLSB+C found that the consumer was less likely to be surprised by the need for an updated estimate. Reasons why an estimate may require review includes increased complexity of a task, extra tasks required that were not anticipated at the commencement of the matter, quarrelsome opposing party or an increase to the lawyer's own charge-out rate.

## Final legal costs higher than disclosed estimate

A significant number of Victorian complaints related to the final costs being in excess of the initial costs estimate, particularly where lawyers failed to provide on-going costs disclosure (as is required under s 174(1)(b) of the Uniform Law) resulting in '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.

The Victorian Legal Services Commissioner has not made any consumer matter determinations about final legal costs charged being higher than the original estimate. However, in a number of consumer matter determinations, the Commissioner made a finding that the cost disclosure and costs agreement provided to the consumers were inadequate and the agreements were therefore voided. This has resulted in a number of matters where the lawyer's file was costed on Scale or by the Practitioner Remuneration Order. This in turn resulted in orders being made for a reduction in legal costs charged and a refund paid to the consumer.

On the operation of Rule 72A (made under s 178(3) of the Uniform Law), the VLSB+C advised that it was not aware of any examples of the corrective action prescribed in this rule in order to prevent the voiding of the costs agreement.

## New South Wales

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

## Office of the Legal Services Commissioner (OLSC)

In 2019, the OLSC received 989 complaints or 38% about costs, as compared with 37% in 2018.

The OLSC has recorded a maximum of five issues for each complaint. The 989 complaints about costs raised a total of 1,467 issues. Of these issues, 301 (20.5%) related to costs disclosure and 110 (7.5%) related to failure to disclose costs increases.

## CULSR's Cost Estimate Guideline

There were 19 complaints in matters where the total estimated costs were less than \$750 (the Uniform Law costs disclosure threshold); seven complaints where the total estimated costs were between \$750 and \$1001 and a further six complaints where the estimate was between \$1001 and \$1,500.

The OLSC reported that law practices seemed generally unaware of the Uniform Law Short Costs Disclosure Form until the regulator brought the Form to their attention. The OLSC also noted the provision of information to law practices to ensure that clients are informed of their rights regarding ss 192 and 272 on their invoices.

One matter was referred to costs assessment by the OLSC for recovery of ordered (party/party) costs.

## Compliance Audits

The OLSC conducted ten compliance audits under the Uniform Law during the reporting period, all of which were conducted in the legal practices. There were also three follow-up audits to monitor progress. The Commissioner issued three management system directions. In two cases the most important issue was the implementation of a system that enabled the law practice to provide costs disclosure consistently as required by the Uniform Law. In the third case, the law practice was to implement a system that enabled it to correspond with and provide information to the OLSC during complaint investigations. This direction was issued after a desktop audit in previous years revealed that the law practice repeatedly failed to fully implement an effective system.

In two cases, the relevant law practices have provided multiple periodic reports in response to the management system directions in an attempt to demonstrate compliance. In the third case, the law practice has temporarily suspended operation.

### NSW Bar Association

Generally, when a barrister is retained by a solicitor, the barrister makes a disclosure under s 175. There have been no complaints in this regard.

Nevertheless, all complaints involving the type of issues raised by the Direction in the relevant period were reviewed by the NSWBA. There were two complaints received in the past year concerning barristers' disclosures; the ambit of one of those was unclear and the other was closed. Four others are ongoing but do not relate directly to the issue of disclosure under s 174.

Eleven complaints were made which were related to the costs category. These have been further classified as follows:

Costs issues	Number
Costs/billing	1
Disclosures	2
Overcharging/over-servicing	3
Other	5
<b>Total</b>	<b>11</b>

Of the two complaints in the 'disclosures' group, both were direct access cases, resulting in breaches of cl 15 of the Legal Profession Uniform Law Application Regulation 201; and one of those was closed pursuant to s 277. The precise issues in the other complaint have not yet been clearly identified and the investigation was ongoing at the time of writing.

Of the five complaints in the 'other' group, one was returned to the OLSC (by agreement), as it was more properly characterised as a consumer matter and there were conflict of interest issues for the NSWBA in conducting a preliminary assessment and investigation.

The other four were ongoing and not resolved. However all four were direct access matters and therefore involved cl 15 issues, although not specifically costs disclosures.

There have been no judicial decisions involving the NSWBA concerning the interpretation of s 174.

### Law Society of NSW

The Law Society of NSW made one referral to the Supreme Court and a total of 19 referrals to the tribunal. In addition to these actions the Professional Conduct Committee issued 11 reprimands and seven cautions during the reporting period.



*From left: The Hon Michael Black AC QC FAAL (LSC), Michael Tidball (LSNSW), Joshua Thomson (WA Solicitor General) and Elizabeth Espinosa (LSNSW).*

## 9. FIDELITY FUND AUDIT INFORMATION

The Uniform Law requires that claims against the Fidelity Fund received on or after 1 July 2015 are determined independently of the legal profession.

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

Since the commencement of the Uniform Law, 100 claims in NSW and 96 in Victoria were determined against the respective Fidelity Funds.

In NSW, an annual contribution to the Fidelity Fund 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.

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

2018–2019 Financial Year	NSW	Victoria
Practitioners contributing to the Fidelity Fund	24,179	10,615
Balance of the Fidelity Fund as at 30 June 2019, \$	57,480,000	71,018,000
Claims outstanding as at 1 July 2018	67	14
Claims received	64	26
Classification of claims	Trust money	Trust money
Value of claims received, \$	13,944,485.02	6,571,313.65
Number of claims allowed/partly allowed/settled	23	12
Value of payments made, \$	\$5,411,472.61. In a financial year, not all claims allowed/partly allowed may be paid in that same period, as formal requirements may not be completed. Of the payments made, \$1,196,417.80 comprised advance payments to alleviate hardship where the claims were not determined in the same period.	\$1,776,175.24 paid for claims resolved during the reporting period (includes interest).
Reasons for allowing claims	Satisfaction of the statutory requirement that a claimant has suffered pecuniary loss because of default.	There had been a 'default' due to a failure to pay or deliver trust money involving fraud or dishonesty.
Disallowed claims	5	3
Reasons for disallowing claims	Failure to fall within the statutory requirements, e.g. not trust money, money was not received in the course of legal practice, no failure to pay, no pecuniary loss, illegality. Most claims were disallowed for multiple reasons.	Claims were wholly disallowed because they did not relate to trust money received by a law practice and/or they did not involve a failure to pay or deliver trust money.
Appeals made by unsuccessful claimants	0	0
Claims outstanding at end of financial year	99	23
Court proceedings commenced as a result of claim	0	0

## 10. UNIFORM LAW ADMISSIONS BOARDS

In 2019 a total of 4,133 applicants were admitted, an increase of 4% on the previous reporting period. In NSW there were 2,356 admissions and in Victoria, 1,777 admissions. Six percent of applicants were previously admitted outside Australia, with 162 admitted in NSW and 78 admitted in Victoria. Of the total applications for admissions received, six in NSW and three in Victoria were refused.

### Legal Profession Admission Board (NSW) (LPAB)

The Supreme Court of NSW admitted 2,356 applicants, compared with 2,352 last year.

The number of applications received for admission was 2,629 - an increase of 12% from the previous year. Of this, the proportion of applicants who were previously admitted overseas was 5.5%, compared with 6% in the previous period. Sixty one per cent of applicants identified as female.

Almost all applicants (99%) were NSW residents and 94% attained their academic qualification in Australia.

The number of applications refused was six, compared with nine in the previous period.

The reasons for refusal included:

- Not a fit and proper person to be admitted
- Failed to disclose a significant matter
- Breach of bond conditions
- Was on a good behaviour bond
- Was on a conditional release order

### Qualifications

A total of 162 applicants for admission had foreign qualifications from the: United Kingdom (82), South Africa (40), Hong Kong (8), Ireland (8), USA (6), India (6), Canada (4), Philippines (2), Fiji (1), Brazil (1), Israel (1), Sri Lanka (1), Singapore (1), France (1).

### Disclosures

In 2019, the proportion of applicants with a disclosure was 31.97%, compared with 38.86% in the previous year. The LPAB noted that some applicants had made multiple disclosures

Type of disclosure	%
Traffic and other minor infringements	50.14
Academic misconduct	10.04
Criminal matter – other than conviction	8.39
Criminal matter – conviction	2.43
Bankruptcy, insolvency, debt, tax and overpayment	18.86
Mental health and incapacity	3.44
Other*	5.16
Employment misconduct	1.50

\* Other' includes any disclosure that cannot be allocated to any of the other categories such as AVOs, non-academic misconduct and non-essential disclosures.

### Accreditation

The University of New South Wales was accredited as a PLT provider in February 2019.



From left: Siew McKeogh (LPAB), Maria De Palma (VLAB) and Sonya Kim (LSC).

### Victorian Legal Admissions Board (VLAB)

Over the past three years there has been a 35% increase in overall admissions.

The Supreme Court of Victoria admitted 1,777 applicants - an increase of 9.7% when measured against the 2017-2018 reporting year. Sixty five percent of applicants identified as female.

The VLAB approved compliance certificates without conditions to 1,773 applicants, including 74 with foreign qualifications and 50 New Zealand practitioners under mutual recognition legislation. VLAB approved compliance certificates with conditions to four applicants with foreign qualifications.

## Qualifications

### Australian

During the reporting period, 89% of applicants admitted obtained an academic qualification in Victoria and 11% in other Australian States and Territories.

### Foreign

Seventy eight foreign graduates and lawyers were admitted from the: United Kingdom (25), Malaysia (16), Sri Lanka (6), USA (4), Singapore (4), India (3), South Africa (3), Canada (2), France (1), Hong Kong (1), Ireland (1), Germany (1), Argentina (1), Bangladesh (1), Brunei (1), Darussalam (1), Colombia (1), Poland (1), Uganda (1), Venezuela (1), Vietnam (1), Thailand (1) and Italy (1).

### Practical legal training (PLT)

PLT was undertaken by 80% of Australian applicants through Victorian accredited training providers and 12% through other Australian States and Territory providers. VLAB regulated 135 supervised legal traineeships of 12 months duration throughout Victoria and interstate (8%).

### Assessments

VLAB received 41 applications for assessment of academic and/or PLT qualifications that had been gained more than five years previously.

Time Since Qualification (years)	No. of Applicants Required to Complete		
	No further study	Academic subjects	PLT
Unspecified	23		
5 to 9		2	
9 to 12		4	
12 to 14		4	1
>16		5	2

VLAB received 281 applications for assessment of foreign qualifications - a decrease of 16% compared with the previous financial year. However, there was an overall increase of 105% in foreign

qualification assessments over the past three years. This significant increase coincides with the application for assessment being made available in an online format.

### Disclosures

An applicant for admission must disclose details of any matters which might be relevant to the Board's consideration of whether or not he or she is a 'fit and proper person' to be admitted to the Australian legal profession. An applicant must also disclose any matters which a reasonable applicant would consider that the Board might regard as not being favourable to them when considering whether or not the applicant is a fit and proper person to be admitted to the Australian legal profession.

VLAB undertook an analysis of suitability matters disclosed by 1,777 applicants. The results follow.

Not suitable	419	23.58%
Disclosure only received	1,232	69.33%
Capacity only received	16	0.90%
Disclosure and capacity received	110	6.19%

Ninety one applicants (5.12%) with significant disclosures attended a meeting with the Chairman and CEO and/or appeared before the Victorian Legal Admissions Committee (VLAC), a delegate of VLAB.

<b>CEO and Chairman's Meeting</b>	<b>59</b>	<b>64.84%</b>
Certificate granted	49	83.05%
Referred to VLAC	10	16.95%
<b>VLAC Meeting</b>	<b>32</b>	<b>35.16%</b>
Direct to VLAC	22	68.75%
Referred by Chairman	10	31.25%

VLAC conducted six formal hearings and approved two applications for a compliance certificate. One application remains part-heard and three applications were refused.

VLAC considered written submissions and oral evidence from 32 applicants with significant disclosures. The majority of applicants disclosed more than one matter, as shown below:

<b>Type of Disclosure</b>	
Traffic Infringements: speed, failing to obey signals, toll fines, warrants	25.45%
Criminal Conduct: theft, drugs, assault, weapons, affray, IVO	23.64%
Social Security: overpayments from \$2,000 to \$16,000	18.18%
Academic Misconduct: plagiarism, collusion, other	9.09%
Parking Infringements: various up to 32 infringements	7.27%
Other: bankruptcy, inappropriate conduct, defaults on loan	5.45%
Medical Condition: mental, physical	3.64%
General Misconduct: drunk & disorderly, work termination	3.64%
Transit Infringements: travel without valid ticket, feet on seat	3.64%

## Major Projects

### Accreditation

The University of Melbourne Law School (Juris Doctor) and College of Law (PLT) were reaccredited by VLAB.

The VLAB is also developing a timetable for the accreditation of the following approved law schools and law courses and practical legal training providers including Australian Catholic University (LLB), Deakin University (LLB & Juris Doctor), La Trobe University (LLB & Juris Doctor), Monash University (LLB & Juris Doctor), RMIT University (Juris Doctor), Swinburne University of Technology (LLB), Victoria University (LLB) and Leo Cussen Centre for Law (PLT).

### English Language Proficiency

To demonstrate suitable English language aptitude in the legal sector, VLAB has endorsed the LACC's English Language Proficiency Guidelines introducing a new testing standard option 'Test of English as a Foreign Language iBT' (TOEFL iBT) as a pathway for admission. All Victorian legal admission applicants' English language knowledge is now verified through a newly configured online portal to capture and accurately reflect language ability.

### Data Integrity

The VLAB is committed to the continued protection of data and integrity of information made available to the public. Increasing improvements to social media outlets including website and online admission procedures for applicants seeking to become Australian lawyers will ensure that system reliability and usability is a priority.

Setting best practice will provide systems in which applicants can readily navigate information and securely provide data.

### LPAB and VLAB Working Together

#### Foreign lawyers

The Foreign Lawyers Steering Committee, chaired by the Admissions Committee Chair and Chair of the LPAB, Acting Justice Emmett, included the Chair, Deputy Chair and Policy Officer of VLAB; Mr Stuart Clark AM, together with the LSC's representatives.

Continuous engagement surrounding the regulatory framework in which applications by foreign lawyers for admission are determined important to maintain high standards by defining risks, whilst allowing for the reduction of red tape; and ensuring that consumers are protected as their demands are satisfied.

### **Qualification Assessment**

Regulators remain focussed on the progression of workable criteria and the development of policies to achieve consistency between the LPAB and VLAB with respect to assessment of applications in which qualifications were completed five years previously. Methods to ensure the adoption of a common approach involve actively sharing information relating to policy and practical issues to devise common solutions. By making policies publicly available, the transparency of information and future proofing requirements to support explicit and creditable practices is enhanced.

### **Admissions data**

The LPAB and VLAB have worked together and with the Legal Services Commissioner on admissions matters ensuring a consistent and reliable approach to reporting the number and categorisation of admissions that are provided to the Commissioner monthly.



*From left: The Hon Acting Justice Arthur Emmett AO (AC Chair), Megan Pitt (LSC) the Hon David Habersberger (AC), Kristen Murray (VLAB), Stuart Clark AM (AC) and Cora Groenewegen (LSC).*

---

**“The Admissions Committee is developing admissions policies which will both maintain the highest standards and ensure that the Australian legal profession can compete in the global market for legal services.”**

Mr Stuart Clark  
LSC Admissions Committee member

# Glossary

**ABA:** the Australian Bar Association.

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

**ARNECC:** Australian Registrars' National Electronic Conveyancing Council.

**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 entitling them to practice as 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.

**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.

**Commissioner:** Commissioner for Uniform Legal Services Regulation.

**DLRA:** Designated Local Regulatory Authority.

**IELTS:** International English Language Testing System.

**IGA/Intergovernmental Agreement:** The tripartite agreement between NSW, Victoria and Western Australia signed 28 February 2019.

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

**Legal Services Council, Council, LSC:** these references relate to the Chair and the five member 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.

**LIV:** the Law Institute of Victoria.

**LPAB:** Legal Profession Admission Board (NSW).

**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.

**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 and Uniform Law:** see Legal Profession Uniform Law.

**VCAT:** Victorian Civil and Administrative Tribunal.

**VLAB:** Victorian Legal Admissions Board.

**VLSB:** Victorian Legal Services Board.

**VLSB+C:** Victorian Legal Services Board and Commissioner.

**VLSC:** the Victorian Legal Services Commissioner.

THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY





**LSC** LEGAL  
SERVICES  
COUNCIL

**COMMISSIONER**  
FOR UNIFORM LEGAL  
SERVICES REGULATION

Level 3,  
19 O'Connell Street  
Sydney NSW 2000

PO Box H326  
Australia Square  
NSW 1215

T +61 2 9692 1300  
E [lsc@legalservicescouncil.org.au](mailto:lsc@legalservicescouncil.org.au)