



### Message from the CEO, Megan Pitt

#### Welcome to our third newsletter for 2019.

One of the ways in which the Legal Services Council (LSC) monitors the implementation of the Uniform Law is to electronically collect, share and analyse data in relation to the administration of various chapters of the Uniform Law provided by the designated regulatory authorities.

Complaints data is provided by the Victorian and NSW Legal Services Commissioners and the NSW Bar Association. In 2018-19 the total number of complaints opened during the reporting year was 4,660 with the top three issues being lack of competence and diligence, ethical matters and costs disputes.

Since 2015, one trend observed 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 amount of documentary material being submitted with complaints, leading often to an increase in the time spent closing complaints.

Data about admissions of legal practitioners is provided by the Victorian Legal Admissions Board and the NSW Legal Profession Admission Board.

Over the past three years there has been a 35% increase in overall admissions to the legal profession in NSW and Victoria and a 4% increase this reporting year. In 2020 the Council will start to collect data in relation to practising certificates and trust account matters.

Over time and with more data provided by the DLRAs, the Council will be able to use the data for a range of purposes, including to identify and analyse trends.

The LSC greatly appreciates the work done by the DLRAs in providing this data for our Uniform Law database so that this information can be shared in accordance with s 440 of the Uniform Law.

## Council news

### Victoria passes Legal Profession Uniform Law Application Amendment Act 2019

On 17 September the *Legal Profession Uniform Law Application Amendment Act 2019* (Vic) was given the Royal Assent, officially paving the way for Western Australia to become the third jurisdiction to join the Uniform Law Scheme. Part 2 of the Bill, which deals with changes to the governance arrangements for the LSC, is expressed to commence on proclamation, in order to synchronize with the passage of the Western Australian Application legislation.

Victorian Attorney-General, the Hon Jill Hennessy MP, announced the news on Twitter: *"Welcome to the club WA! Victoria has today passed a Bill to bring WA into the uniform scheme for the legal profession - almost 75% of Australia's lawyers now under the one rulebook. Great news for consumers and the profession. #auslaw."*

The LSC looks forward to working with all parties to help complete the process in the lead-up to Western Australia joining the Scheme next year.

### Meeting with the Victorian Attorney General

On 18 September our Chair and CEO met with the Victorian Attorney General, the Hon Jill Hennessy MP, to provide an update about the LSC's achievements and to discuss the progress of our discussions with non-participating jurisdictions (NPJs) about joining the Scheme. The meeting was a great opportunity to engage with a member of the Standing Committee and to hear her views about the Uniform Law Scheme.



The Hon Jill Hennessy MP

## Latest Council meeting

On 18 September the LSC met in Melbourne for its fourth meeting of the year. At the invitation of the Council, representatives of various organisations attended to provide expert advice and views about matters on the agenda. Invited DLRA representatives included from the VLSC+C, Legal Services Commissioner, Fiona McLeay and Natalie Neale; from the NSW Law Society, Heather Moore and Nadya Haddad and from the NSW Bar, Jennifer Pearce (by telephone); from the ATO, Timothy Fraser and from the University of NSW, Professor Pamela Hanrahan

On the agenda was a progress report on the current review into the Managed Investment Scheme rules; a number of Uniform Law Priority Amendments including Chapter 1 definitions review of 'disqualified person', 'corporate legal practitioner' and 'related entity'; a number of proposals regarding Chapters 3 and 4 and the Uniform General Rules; and a new rule clarifying barristers' continuing professional development activities.

At this meeting, the Council adopted the Consolidated Financial Statements for 2018-2019 and agreed to submit the LSC and Commissioner's Annual Reports and the Financial Statements to the Standing Committee by 31 October 2019.

## LSC Audit and Risk Committee

The LSC's Audit and Risk Committee (ARC) met on 17 September. On the agenda were matters including an update of the LSC's audit process, discussion of Treasury Policy TPP17-06 'Certifying the Effectiveness of Internal Controls over Financial Information' and an amendment to ARC's Terms of Reference to include decisions by circular resolution. The NSW Audit Office provided an unqualified audit report and thanked the CEO for the work that went into achieving this result.

## LSC Admissions Committee

From 1 July 2019, the Hon Justice Patricia (Trish) Henry replaced Ms Ruth McColl AO as the NSW judicial member of the Admissions Committee. Her Honour's appointment is to 30 June 2022. Ms McColl has taken up the position as Chair of the Australian Dispute Resolution Advisory Council and we wish her well. More information on the Admissions Committee is available on [our website](#).



*The Hon Justice Patricia Henry.*

## Working with our stakeholders

### Law Society of NSW

On 23 July the LSC's CEO, Megan Pitt, met with NSW Law Society CEO Michael Tidball, to update him on the LSC's work. Discussions included the First Priority Amendment project, the review of the 'related entity' provisions in the Uniform Law, the reviews of the Foreign Lawyer Admission provisions and the Managed Investment Scheme Rules review, all of which are progressing well.

### DLRA Meeting

On 10 July Megan Pitt met with the regulators from NSW, Victoria and Western Australia as part of our quarterly DLRA meetings. In attendance were Kerri-anne Millard (VLSC+C), Heather Moore (NSW Law Society), NSW Legal Services Commissioner, John McKenzie, Greg Tolhurst (NSW Bar Association) and Libby Fulham (WA Legal Practice Board).

Topics discussed included a report on the DLRA's work to address sexual harassment in the legal profession, the NSW Law Society's new strategic plan, and an update from WA about joining the Uniform Law Scheme.



*L-R Kerri-anne Millard (VLSC+C), Megan Pitt (LSC), Heather Moore (LSNSW), Libby Fulham (LPBWA), John McKenzie (OLSC) and Greg Tolhurst (NSWBA).*

### Department of Communities and Justice

On 9 July, members of the LSC Secretariat met with the Department of Communities and Justice (DCJ) A/Director Design and Performance, André Schoeman and Kiera Brown, our ICT Business Partner for Information and Digital Services to settle the Corporate Services Agreement between the Department and the Legal Services Council. We are grateful to Andre and Kiera for their assistance.



*From left: Tina O'Brien, Bridget Sordo and Megan Pitt (LSC), Andre Schoeman and Kiera Brown (DCJ).*

## Tax Practitioners Board (TPB) review team

On 14 August Megan Pitt and Cora Groenewegen, LSC Senior Policy Officer, met with former member and Deputy Chair of the Board of Taxation, Keith James, former president of the Tax Institute of Australia, Neil Earle and Commonwealth Treasury representative, Nick Westerink. Mr James and Mr Earle, together with staff from the Treasury, the TPB and the Australian Taxation Office (ATO), are conducting a review of the TPB. The TPB is responsible for regulating the services provided by tax agents, business activity statement agents and tax (financial) advisers (collectively called tax practitioners) and ensuring that these services are provided in accordance with appropriate standards of professional and ethical conduct.

The purposes of the review include considering potential reforms to the regulation of tax practitioners in Australia, the effectiveness of the TPB and the operation of the *Tax Agents Services Act 2009* and the Tax Agent Services Regulations 2009. The review panel informed the LSC of ATO concerns that increasing numbers of tax practitioners assert and maintain unsubstantiated claims of client legal privilege and delay identifying documents, in order to frustrate investigations. An issue raised by the panel was whether maintaining a claim for privilege is within the professional expertise of a tax practitioner.

The law relating to what comprises engagement in legal practice in NSW and Victoria was discussed, and section 4 of the *Conveyancers Licensing Act 2003* (NSW) was cited as an example of legislation allowing work of a legal nature to be done by non-lawyers who are licensed in the field. The LSC maintains an ongoing interest in the TPB review, particularly the emergence of any trends about tax practitioners and multidisciplinary law practices that could have implications under the Uniform Law.



L to R: Neil Earle, Cora Groenewegen, Megan Pitt, Keith James and Nick Westerink.

## Strategic initiatives

### MIS Rules Review

On 1 July 2018, new Uniform Law provisions regarding the operation of Managed Investment Schemes commenced in NSW and Victoria. To ensure that these provisions meet the reform objectives, the LSC was tasked by the Standing Committee to review after 12 months, the effectiveness and regulatory impact of Rules 91A-91D of the Uniform General Rules relating to Managed Investment Schemes (MIS Rules).

On 1 July 2019, the LSC commenced its review and, pursuant to the [Terms of Reference](#), will consider and report on the effectiveness and regulatory impact of the MIS Rules in relation to the legal profession, consumers and regulators, having particular regard to:

- I. The extent to which the MIS Rules are meeting the objective of consumer protection;
- II. The nature and extent of any regulatory activity in respect of the MIS Rules; and
- III. The nature and extent of any impact on law practices and regulated entities.

The Review will not consider or re-visit the scope of s 258 of the Uniform Law. Submissions were invited on the MIS Review until 3 October.

### New Information Sheet on Technology and the Uniform Law

A new LSC information sheet for lawyers is now available via the LSC website. This [information sheet](#) shows how technological innovation that increases the efficiency and lowers the cost of delivery of quality legal services — by legal practitioners to informed consumers — is consistent with the objectives of the Uniform Law. The information sheet highlights the difference between giving legal information and engaging in legal practice and examines who is entitled to do each under the Uniform Law.

## Secretariat news

We are delighted to announce the promotion of two Policy Officers to our Secretariat in September.

On 30 September, Chelly Milliken joined us as our new Senior Principal Policy Officer from NSW Legal Aid.

Chelly has extensive policy experience, having worked at the LSNSW from 2012 to 2017 where, as a Principal Policy Officer, she was involved in the implementation of the UL Framework. In her position of Senior Executive Officer in the Office of Secretary of the DCJ, Chelly also worked on policy and ministerial matters.

On 6 September, Cora Groenewegen was promoted to the role of Principal Policy Officer. Cora brings to her new position a wealth of expertise as a barrister, solicitor in private practice and at the LSNSW, together with her policy experience in complex UL matters in our office. Warmest congratulations to Chelly and Cora.



Chelly Milliken Cora Groenewegen