



Message from the CEO, Megan Pitt

Welcome to our December newsletter.

On 25 November, I was delighted to welcome our new Chair and Council members to their first Council meeting where they met our WA Observer, Solicitor General, Joshua Thomson SC, our Secretariat staff and were provided with an overview of the operation of the Uniform Law scheme. Further details about our new Council are in this newsletter.

On 9 December, we were pleased to be able to hold our third Annual Uniform Law Summit in Sydney, in-person and by webex, to introduce our new Council to our key Uniform Law partners and vice versa.

Although this year has been unusual, to say the least, it has nevertheless been filled with projects and initiatives that continue to move the scheme forward. This final edition of our newsletter for 2020 details many of our achievements.

I wish you all the very best for a healthy, safe and enjoyable festive season and we look forward to working with you again next year!

Council News

New appointments

The new Chair and members of the Legal Services Council (LSC) commenced their terms on 26 October.



Alan Cameron AO

Alan Cameron AO – Chair

Alan Cameron has occupied a range of senior roles in both the private and public sectors, including Chairman of the Australian Securities and Investments Commission from 1993 to 2000, Commonwealth and Defence Force Ombudsman, Principal Solicitor of the NSW Aboriginal Legal Service in the mid-1970s, the first national managing partner of Blake Dawson Waldron (now known as Ashurst Australia) from 1989 to 1991 and is a company director. In 2015, Alan was appointed Chairperson of the NSW Law Reform Commission and continues to undertake this role on a part time basis.



Murray Baird

Murray Baird – Council member

Murray Baird was the inaugural Assistant Commissioner General Counsel at the Australian Charities and Not-for-profits Commission (ACNC) from its inception in 2012 until 2019. In this role, he was responsible for registration, compliance, legal and policy functions of the national regulator. Prior to that he was Senior Partner and Chair of Melbourne law firm Moores Legal. He now practises in the law, governance and regulation of not for profit organisations. Murray is a member of the Law Institute of Victoria's Charities and Not for Profit Committee and the Law Council of Australia's (LCA's) Legal Practice Section Charities and Not-for-profits Committee.



Elizabeth Harris

Elizabeth Harris – Council member

Liz Harris is a lawyer who has specialised in consumer complaints relating to lawyers, acting for both lawyers and consumers. She is a recognised expert in costs law as co-author of Quick on Costs, the pre-eminent Australian text. She has conducted her own legal practice, been a sessional member of the VCAT Legal Practice list, a member of the Victorian Supreme Court Costs Committee and Chair of the LIV Advisory Board on costs law and its Cost Lawyers section. Liz consults to government and corporate legal departments about managing external lawyers and is regularly engaged as an expert witness on the management of legal work and costs in class actions and other significant litigation.



Noel Hutley SC

Noel Hutley SC – Council member

Noel Hutley is a barrister at Fifth Floor St James' Hall. He was admitted to the NSW Bar in 1981, appointed as Senior Counsel in 1996 and appointed as Queen's Counsel in Western Australia in 1997. Noel has also been admitted in the ACT, Victoria, South Australia, Northern Territory, Queensland and Tasmania. Noel has previously been a member of the Council of the NSW Bar Association, President of the NSW Bar Association (November 2015 to May 2017) and President of the Australian Bar Association (November 2017 to November 2018). Noel's practice includes general appellate, equity/commercial, administrative, trade practices, company and competition law.



Juliana Warner

Juliana Warner – Council member

Juliana Warner is a lawyer with more than 30 years' experience in conducting complex disputes. She represents

clients in litigation, alternative dispute resolution and regulatory processes. Juliana is currently the Managing Partner of the Sydney office of Herbert Smith Freehills. Juliana serves as the Law Society of NSW's Senior Vice-President and will be the President in 2021. She is the Chair of the Law Society's Litigation Committee and Nominations Committee and is a member of its Diversity and Inclusion Committee. Juliana is also a Director of the LCA, a Trustee of the Public Purpose Fund of NSW and a Director of Law Firms Australia Pty Limited.



Joshua Thomson SC

Joshua Thomson SC – Council's WA observer

Joshua Thomson SC is the Solicitor General for Western Australia. Since 2018 he has attended LSC meetings, as an observer, ahead of Western Australia's entry into the Uniform Law scheme. Joshua was admitted to practice in Western Australia in 1995 and worked at the then Crown Solicitor's Office of Western Australia until 2001. In 2001, he joined the Independent Bar and was appointed Senior Counsel in 2012. Joshua has experience in constitutional law, administrative law, native title, taxation, State Agreements, statutory construction, regulatory and competition law. He was appointed Solicitor General for Western Australia on 4 October 2018.

LSC meeting

The newly constituted LSC met for the first time on 25 November in Sydney and via webex. At the meeting, the LSC's CEO, Megan Pitt, took the Council through the induction manual about the operations of the LSC, our stakeholders and the Uniform Law scheme. The Council reviewed the existing meeting procedures, confirmed the meeting dates for 2021, approved the membership of the Audit and Risk Committee and renewed the LSC delegations.

The LSC also considered the interest rate payable on fidelity fund claims, the LCA's consultation on Rule 11A of the Australian Solicitors' Conduct Rules and the current status of the review of the Australian Solicitors' Conduct Rules.



*In person (L-R): Alan Cameron AO & Juliana Warner
By video (L-R): Liz Harris, Joshua Thompson SC, Noel Hutley SC & Murray Baird*

Admissions Committee

The Admissions Committee (Committee) continues its work on the admission of foreign lawyers - both unconditional and conditional.

In September through to early December, the Committee informally consulted with the Uniform Law admitting authorities (Boards), to ascertain their views on proposed draft amendments to the Admission Rules; and to understand their processes, recommendations and options for requiring further study by foreign lawyers, prior to admission. Additionally, the administrators dealing with foreign lawyer applications for admission were invited to attend the 15 December Foreign Lawyers Working Group (Working Group) meeting.

At that meeting, it was apparent that the Boards are concerned to have a process for assessing foreign qualifications that is sufficiently robust to ensure that lawyers held out to the public as being appropriately qualified, do in fact meet the high standards expected of the legal profession. While noting that the Boards' processes in assessing applications for admission by foreign lawyers were consistent between the participating jurisdictions, the Working Group heard that by virtue of the global source of applications, the vast number of universities and institutions from which qualifications are presented, and the necessity to deal with each application on its merits—these processes have necessarily become complex and time consuming.

The Working Group will continue to liaise with the Boards' representatives to develop recommendations for consideration by the Admissions Committee in February 2021.

Law Admissions Consultative Committee (LACC)

The LSC continues to provide secretariat services to LACC to support the forging of a consensus on admission matters nationally.

The LSC posts updates of LACC documents to the LSC's website and is grateful for the contributions of those similarly interested in keeping the pages current.

Update on Western Australia

The Legal Profession Uniform Law Application Bill 2020 passed the Western Australian Legislative Assembly on 16 June and proceeded to the Legislative Council. On 15 September, the Standing Committee on Uniform Legislation and Statutes Review tabled a report on the Application Bill and the associated Legal Profession Uniform Law Application (Levy) Bill 2020, which recommended a number of amendments to the Application Bill and further information to be provided to the Parliament.

The Bills were not passed by the Legislative Council prior to the final sitting of the year on 26 November. Due to the caretaker period in place prior to the Western Australian state election in March 2021, Parliament will not sit again until after the election.

The Uniform Law WA Project team will reconvene in 2021 to continue to support WA's progress in joining the UL scheme.

Working with our stakeholders

Uniform Law Summit 2020

On 9 December, the LSC held its third annual Uniform Law Summit in Sydney and by videoconference. The Summit brought together the Uniform Law's key stakeholders in NSW, Victoria and WA to discuss the achievements and challenges of the last year, review our progress, and look to the key priorities of 2021.



L-R: Murray Baird, Juliana Warner, Liz Harris & Alan Cameron AO



Megan Pitt, LSC CEO



Sonja Stewart, LSNSW CEO

The LSC's CEO opened the Summit and welcomed all attendees. The LSC's Chair and Council members introduced themselves and advised of their backgrounds and interest in legal regulation. Representatives from each organisation then spoke about the recent work that their organisations had undertaken, how they had met the challenges arising from the COVID-19 pandemic, and their upcoming priorities for 2021.



Fiona McLeay, VLSB+C



Brittany Quayle, DJCS



Deborah Jones, VLAB



Chris Banks, LPAB



L-R: Greg Tolhurst, NSW Bar, John McKenzie AM, OLSC & Liz Harris, Council member



L-R: Anthony Lean, LSNSW & Chelly Milliken, LSC

The Summit was attended by the LSC Chair, Council members, our CEO/Commissioner, our Secretariat staff and our key Uniform Law stakeholders including representatives of the Law Society of NSW, the Office of the Legal Services Commissioner, the NSW Bar Association, the NSW Legal Profession Admission Board, the Victorian Legal Services Board and Commissioner, the Victorian Legal Admissions Board, the Legal Practice Board of Western Australia, the WA Legal Profession Complaints Committee, the Victorian Department of Justice and Community Safety and the NSW Department of Communities and Justice.



Uniform Law Summit 2020: L-R: on screen Fiona McLeay, VLSB+C; Kellie Blackmore, DCJ; Cassandra Woolley, DCJ; Chris Banks; Kristen Murray, VLAB; Deb MacDonald, Russell Daily, WA LPCC; Libby Fulham, LPBWA; Jennifer Pearce, NSW Bar Association; Leigh Plater, LPBNSW; Cora Groenewegen, LSC; Kerri-ane Millard and Michelle Marfurt, VLSB+C

Uniform Law DLRA meeting

On 11 November the last of the 2020 quarterly meetings between the LSC and the designated local regulatory authorities (DLRAs) was held by videoconference.

The meeting was chaired by Megan Pitt and attended by Kerri-ane Millard, VLSB+C Director Policy & Outreach, and Matt Anstree; John McKenzie AM, NSW Legal Services Commissioner; Sonya Stewart, CEO, Heather Moore, Senior Manager Strategy and Projects, and Anthony Lean, Director, Legal Regulation, LSNSW; Greg Tolhurst, Executive Director, NSW Bar Association; Libby Fulham, Executive Director, LPBWA; and Russell Daily, WA LPCC.

Matters discussed covered the LSC's work over the last quarter, including the First Priority Amendment Project, Australian Solicitors' Conduct Rules, interest payable on fidelity fund claims and the impact of Commonwealth litigation funding reforms.



L-R: Bridget Sordo, LSC & Juliana Warner, Council member



Phillippa Hetherington, DCJ



Libby Fulham, LPBWA



Russell Daily, WA LPCC

International Conference of Regulators (ICLR)

The ICLR was held virtually from 26-30 October. The ICLR aims to bring together legal regulators from around the globe, to share knowledge and best practice, and to find solutions to common challenges. This year's ICLR was structured around four themes: pandemic; social justice and attorney well-being; technology; and putting the public interest first. Staff of the LSC Secretariat attended virtually.



L-R: Samathan Gulliver, OLSC & Heather Moore, LSNSW



L-R: Tina O'Brien, LSC; Robert Dubois, IDS, DCJ



Fiona McLeay



John McKenzie AM

Australian speakers included John McKenzie AM, NSW Legal Services Commissioner, on "Remote Regulation during the COVID19 pandemic" and Fiona McLeay, Victorian Legal Services Commissioner, on "Bullying and Sexual Harassment in Law – How Should Regulators Respond?" and "In Search

of Solutions, not Sanctions: A Look at How Australia Applies Restorative Justice Principles in Legal Regulation”.

Additional speakers from the VLSB+C included Catherine Wolthuizen on “What Do Consumers Want?”, Kerri-anne Millard on “Checks on entry, then what? Assuring ongoing competence throughout legal professionals’ careers”, and Jennie Pakula spoke on “Technology and the Future of Legal Services Regulation”.



Catherine Wolthuizen



Jenny Pakula



Kerri-anne Millard

Professional Standards Forum: Putting the Consumer First in Ethics

On 15 October, the LSC’s Chelly Milliken and Ella Howard attended a virtual forum hosted by the CEO of the Professional Standards Authority (PSA) on “Putting the Consumer First in Ethics: the role of a consumer ethics framework in delivering consumer focused professional and occupational services”.



Roxane Marcelle Shaw,
Chief Executive Officer, PSA

A panel of speakers (Ms Rachel Webber, Dr Justine Rogers and Dr Rory Gallagher) led a discussion on the opportunities and challenges in successfully regulating for ethical values, principles and behaviours that are consumer focused. The forum included a practical workshop run by Dr Gallagher on behavioural insights and the ways in which associations can use them to increase engagement on codes of ethics.

Uniform Law Trust Inspectors’ meeting

On 1 December, the LSC’s Megan Pitt and Bridget Sordo participated in a meeting of representatives from the VLSB+C, Law Institute of Victoria, LSNSW and LPBWA Trust Investigations departments, including the Uniform Law External Examiners’ Working Group. Hosted via zoom by Maggie McNamara, VLSB+C Manager, Regulatory Compliance Programs, the group of eight technical experts exchanged notes on how the challenges of 2020 were met by each organisation. The NSW Bar provided a written report.



Maggie McNamara, VLSB+C

Participants shared their experiences in dealing with the difficulties in conducting trust investigations during lockdown and the types of guidance provided to law practices to enable principals to continue to comply with the trust money provisions of the Uniform Law. The main issues identified in the External Examiners reports were delays in completing monthly reconciliations, remote inspecting by External Examiners and the quality of some audit reports.

Megan Pitt thanked the External Examiners’ Working Group for their collaboration on the review of the External Examiners’ course, the course assessment questions and the end of year trust forms.

Policy meetings with NSW and Victorian Departments

On 14 October, the LSC’s Megan Pitt, Chelly Milliken and Ella Howard hosted a videoconference with Phillipa Hetherington, Director, Kellie Blakemore Policy Manager and Cassandra Woolley Policy Officer of the Court, Access to Justice and Regulatory team at the NSW Department of Communities and Justice. Discussion topics included the Uniform Law First Priority Amendments Project, the Australian Solicitors’ Conduct Rules and the status of the previous consultation on the interest rate payable on fidelity fund claims.

On 29 October, the LSC hosted a videoconference with Brittany Quayle, Lauren Schultz and Claire Picone of the Office of General Counsel at the Victorian Department of Justice and Community Services to provide an update on the above matters.

Recent consultations

Rule 11A of the Australian Solicitors’ Conduct Rules (ASCR)

On 6 November, the LCA commenced a public consultation on a proposed new Rule 11A of the ASCR. The purpose of the proposed rule is to clarify how existing ethical principles relating to avoiding conflicts of interest between current clients, or current and former clients of a solicitor or law practice may be applied when providing short-term legal assistance services. The consultation closed on 7 December.

Secretariat

The LSC offices will be closed on the public holidays over December and January 2021.

For more information

Visit the LSC website: www.legalservicescouncil.org.au

Or contact us at lsc@legalservicescouncil.org.au