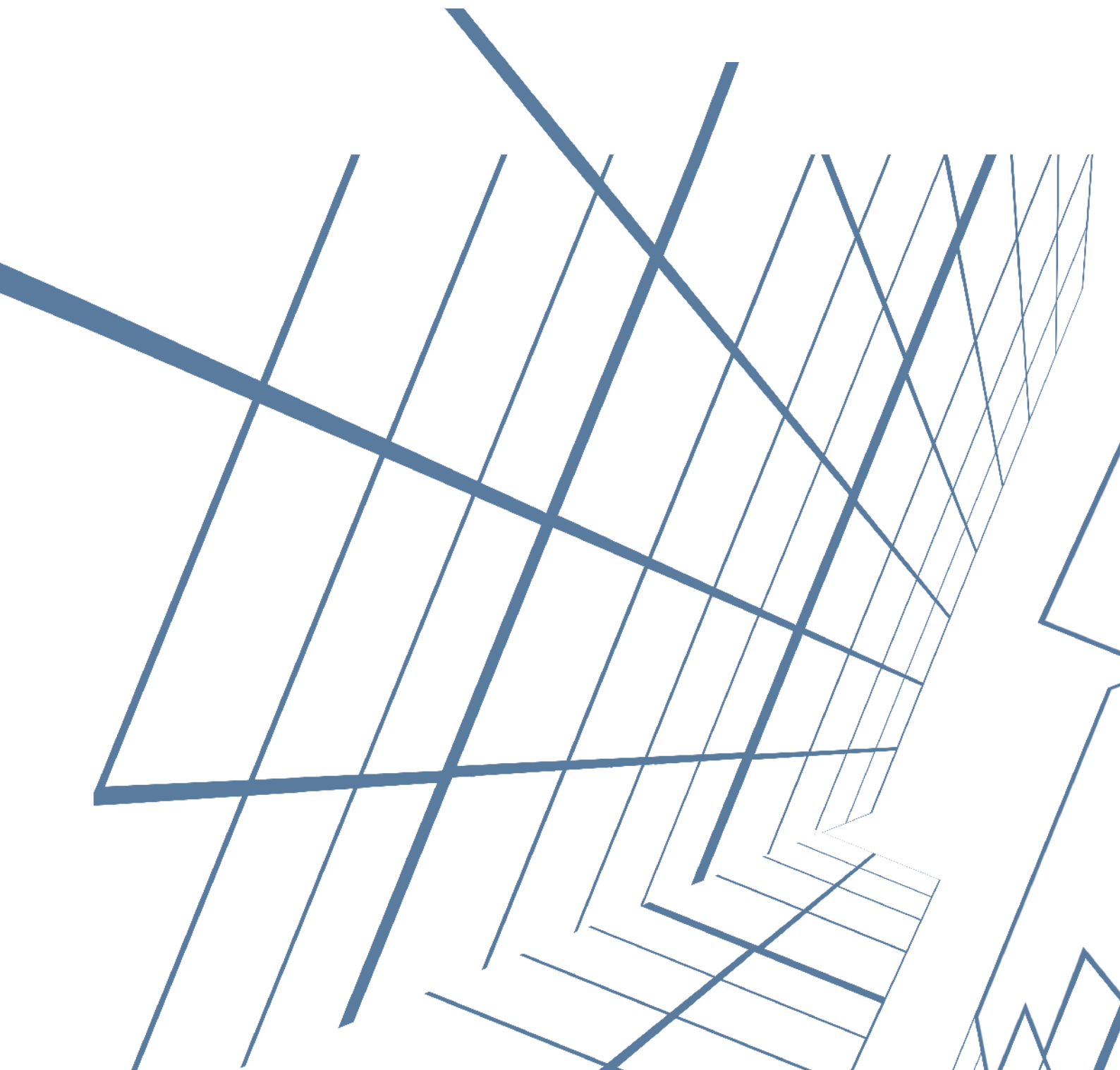


THE OFFICE OF THE LEGAL SERVICES COMMISSIONER

**2013-14**

ANNUAL REPORT



## OUR VISION

We want to lead in the development of an ethical legal services market that is fairer, more accessible and more responsive.

## OUR MISSION

To improve consumer satisfaction with legal services through:

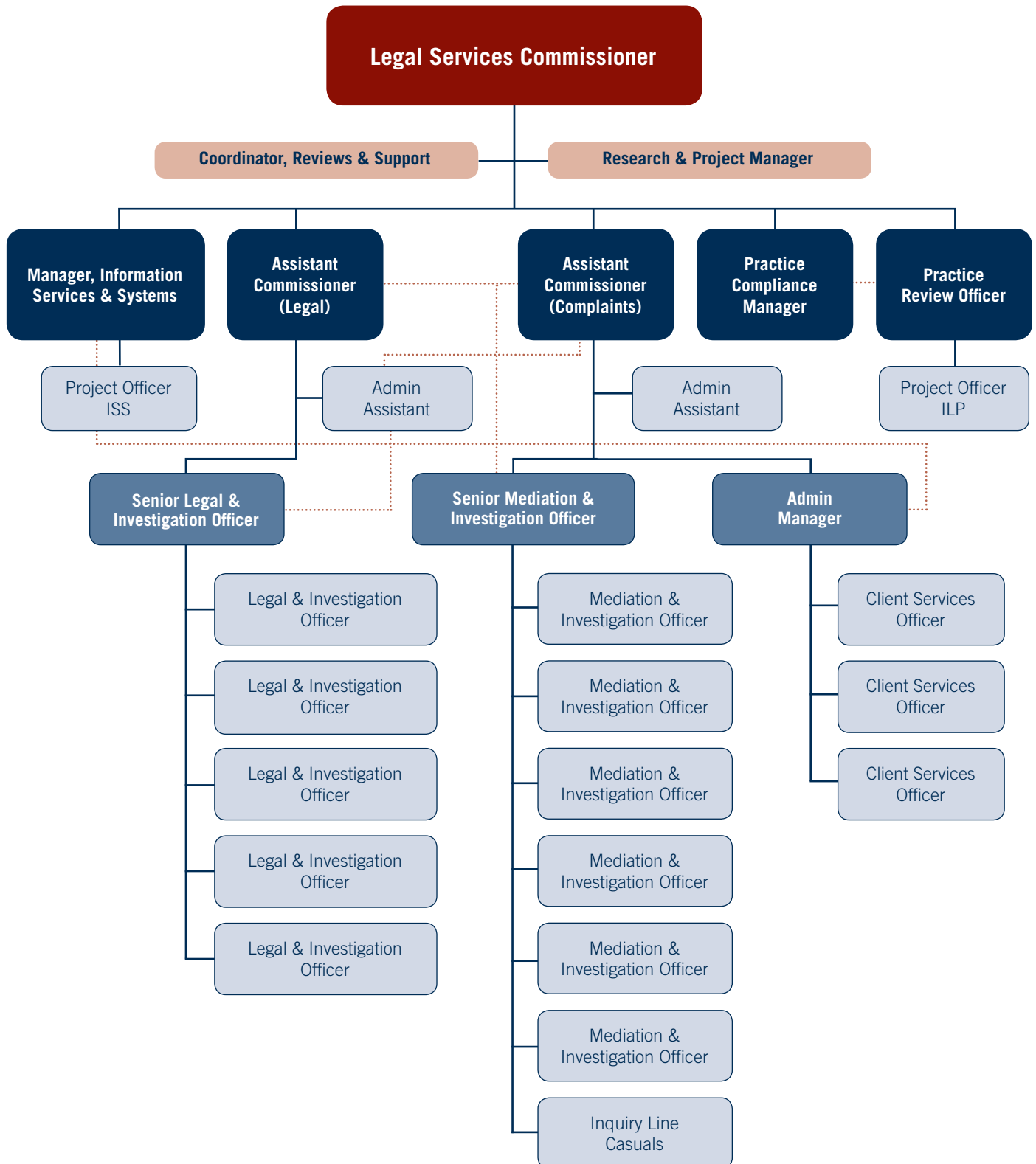
- Developing and maintaining effective complaint-handling processes;
- Promoting compliance with high professional and ethical standards;
- Encouraging an improved customer focus within the profession to reduce causes for complaint; and
- Promoting realistic community expectations of the legal system.

## OUR VALUES

- Fairness
- Accessibility
- Reliability
- Problem solving
- Education
- Teamwork

# OFFICE OF THE LEGAL SERVICES COMMISSIONER

## ORGANISATIONAL CHART



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## CHAPTER ONE:

# THE REPORT OF THE ACTING COMMISSIONER

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This Annual Report marks a milestone in the history of the Office, as it reports on the activities of our twentieth year in operation. The past two decades have seen the Office deal with almost 55,000 complaints. We have been able to successfully resolve more than a quarter of those complaints. In collaboration with our state regulatory partners, the Law Society of New South Wales and the New South Wales Bar Association, we have also disciplined over 1500 lawyers.

However, we believe that the greatest impact we have had on the profession lies in the prevention of complaints. We have put a great deal of effort into working with legal practitioners and firms in implementing and maintaining the highest ethical standards instead of adopting a rigid 'top-down' regulatory approach. Through open communication, the self-assessment process we devised to communicate with legal practices, the complaints process, and our publications and seminars, we encourage practitioners to take responsibility for their professional practice but offer practical support when needed.

However, we also take our relationship with the consumers of legal services very seriously, and spend a significant amount of time explaining the legal system and what they can expect from both the law and their legal representative.

As we deal with consumer disputes and investigations we have fostered productive working relationships with our co-regulators, our interstate counterparts and other regulatory bodies.

## THE PAST

The past twenty years have seen extensive changes in some regards in the nature of complaints and how we deal with them, but little change in others. The 1994-95 reporting year – our first year of operation – saw the lodging of 2726 complaints. We received 2695 complaints in the 2004-5 period, and 2528 in the current 2013-14 financial year. We are very pleased to see this

decrease in complaints, particularly given the exponential growth of the profession over the same period. We hope to see this trend continue.

The main issues that give rise to complaints have not varied a great deal over the past twenty years. Allegations of negligence, poor communication and overcharging have always featured prominently in the complaints that we receive. Many of these complaints could have been avoided had the practitioner put a little more effort into managing the client's expectations, maintaining adequate levels of communication and being entirely upfront about the anticipated costs in line with their professional obligations to disclose. We therefore see scope for the number of complaints to drop even further with the implementation of more effective communication strategies in lawyer-client relationships.

There has been greater fluctuation in the areas of law that attract complaints. The reason for some of these changes are fairly clear; for example, as a result of legislative reform, we saw complaints about personal injuries matters fall from 15.11% of all complaints received in the 1998-99 reporting period, to 12.9% in the 2004-5 reporting period and then to 7.8% in the current period. Workers compensation matters saw a similar fall, from 7.4% to 4.6% to 2.4% in the same periods.

Complaints about civil law matters also fell quite significantly, from 21% in 2004-5 to 15.2% in 2013-14. However, with these reductions came increases, particularly in family law matters (an increase from 13.3% to 16%) and in wills and probate matters (an increase from 7.3% to 13.2%). We will continue to monitor the trends in our complaints and to identify new ones as legislative amendments and technological innovations impact upon the legal environment. We also hope to entice more researchers and analysts to examine the underlying reasons for complaints and in doing so to develop means by which complaints can be further reduced or resolved.

The statistics also suggest that we have implemented complaints handling processes that have led to the more expeditious resolution of matters. In this reporting period, we finalised 70.4% of all complaints within 3 months of receipt; this is compared to 54.5% in the 2004-5 period. Complaints received in the 2004-5 year were, on average, completed in 83.9 days, whereas we have reduced that figure to 48.7 days in the 2013-14 year. These are figures that make me immensely proud of our staff. We look forward to continuing to improve upon the service that we provide.

## THIS YEAR

However, our twentieth year also brought with it a number of challenges. As we reported in last year's Annual Report, the inaugural and long-serving Commissioner, Steve Mark, left the Office in August 2013. I have acted in the role of Commissioner for the remainder of the 2013-14 reporting period and we await the announcement of the new Commissioner.

The Office faced a budget cut of 10%, and an additional compulsory pay rise for staff of 2.5% to be absorbed by the Office. This has meant some vacant positions

have remained unfilled and we have worked very hard to curtail expenditure in administrative and other areas. We did, however, meet the budget for the year. To address the longer-term impact of staff costs, we have put forward a review of the office structure that is under consideration by the Department of Justice.

In the face of these significant changes and a reduced number of complaints handlers, we did remarkably well to manage the complaints we received. In fact, we were still able to complete more complaints (2631) than we received (2528). These figures represent a small fall in numbers received and completed compared to the 2012-13 reporting period (2685 and 2721, respectively).

Complaints handling and legal regulation are not easy. Complainants are often desperate and sometimes difficult. The legal profession is often argumentative and defensive. Encouraging the two groups to enter into dialogue when each side tends to feel 'wronged' by the other raises many obstacles to the resolution of complaints. The pressures of complaints handling are further compounded when the Office does not have a full complement of staff, as was the case for most of this reporting year – which makes our completion rates even more impressive.

### **Legal Profession Uniform Law 2014**

*The 2013-14 reporting period has seen the passing of legislation in Victoria and New South Wales that heralds the introduction in 2015 of a shared regulatory regime for the legal profession in these two states. The changes flowing from the introduction of the new legislation will be wide-ranging, and will offer new challenges for the Office and new perspectives for legal practitioners.*

*Concerted attempts to bring about this legislative change date back at least five years, although the idea of a national system was first proposed much earlier. In February 2009, the Council of Australian Governments ('COAG') agreed to explore the possibility of a national approach to the regulation of the legal profession in Australia. It established the National Legal Profession Reform Task Force, and a supporting advisory Consultative Group, to consider the regulation of the Australian legal profession. The negotiations were intense, the lobbying fierce and various states and territories approached and retreated from a national regulatory framework.*

*By the end of this process, only New South Wales and Victoria opted to enact the legislation, which will apply to the legal profession in these two states. There are a number of benefits to this new regulatory regime: it will, amongst other things, simplify trust accounting requirements, clarify practising certificate arrangements and give regulators greater power to resolve disputes.*

*There will also be a newly-formed Legal Services Council and a new Uniform Commissioner to ensure consistency of practice, provide guidelines and recommend changes to the new legislation. These positions will, in all likelihood, be in place by the time this report is published. The core roles and functions within the existing regulatory framework in both states will be preserved. In NSW there will still be a co-regulatory system involving the Law Society and the Bar Association.*

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## THE FUTURE

In the 2014-15 financial year, we will obviously continue with our regulatory and complaints handling functions. However, we also want to see the recommencement of our research and policy activities and the further development of our relationships with our co-regulators in New South Wales as well as our colleagues in Victoria in order to deliver all of the benefits of the *Legal Profession Uniform Law*.

The job ahead should not be understated. What we now have to do, alongside our co-regulators – including our Victorian colleagues, the Supreme Court Costs Assessment Scheme in New South Wales and the new Legal Services Council and Uniform Commissioner – is plan, prepare and deliver a regime that makes it easier for lawyers to uphold their professional obligations and, in turn, improves the quality of service for consumers. In due course, we hope to see the remaining jurisdictions join New South Wales and Victoria, in order to bring consistency to the regulation of all lawyers engaged in legal practice in Australia.

In the last year we have worked hard at developing and recharging the longstanding relationships we have with our co-regulators, the Law Society and the Bar Association. There have been more meetings and greater contact in relation to complaints, practitioners and policy. Looking ahead, I would like to see the development of case management arrangements to co-ordinate the handling of complaints, audit inspections and trust inspections. Greater coordination will bring with it the advantage of shared institutional knowledge, experience and co-operation, which will give our disciplinary processes a sharper edge and hopefully help to prevent complaints.

We also look forward to working more closely with the Supreme Court Costs Assessment Scheme. Given that dissatisfaction with legal costs is a recurrent complaint, we have welcomed the *Report of the Chief Justice's Review of Costs Assessment Scheme*. In addition, the new requirements under the *Legal Profession Uniform Law*, and the important role of the Supreme Court in the legislation, will prompt a greater need for discussion and agreement about how to approach the vexed issue of legal costs.

In terms of our relationship with our Victorian counterpart, the development and deepening of our relationship with the Office of the Legal Services Commissioner in Victoria across 2013-14 was not simply due to the fact that we will soon share a regulatory system. We now meet regularly with all the independent interstate regulators via teleconference at three different levels. Hosted by the Victorian Legal Services Commissioner, commissioners and managers discuss broad issues of policy, the heads of legal sections discuss cases and precedents and complaints handlers discuss strategies and tactics for the resolution and management of complaints.

I think all parties would agree that this has been fruitful; we have benefited from the reciprocal advice, validation and support, as well as the concrete suggestions and solutions generated during these meetings. We look forward to continuing these communications as we examine specific issues, particular areas of the new legislation and ongoing co-operative measures.

**Jim Milne**  
**Acting Commissioner**

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## Electronic Conveyancing

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*The 2013-14 financial year saw the introduction of electronic conveyancing in New South Wales. Limited in scope, it is directed at the latter part of the conveyancing process, from document preparation through to signing, settlement, lodgement, registration and notification, and it removes many of the manual processes involved in each of these stages. The available services are being released gradually, and we will be closely following the experience of practitioners, their clients and the Law Society in monitoring how this development will impact the profession and the conveyancing process.*

*We see a number of benefits to e-conveyancing. There is the potential for fewer mistakes to be made as more and more aspects of the process are moved online. It will also facilitate the maintenance of accurate records. We anticipate a reduction in delays and the cost of disbursements, as the settlement process will no longer require the physical attendance of any parties and electronic documents should at least partially defray the cost of printing.*

*However, we also recognise that with new technology comes new challenges, both to the provision of legal services and to the regulation thereof. Some of the areas that will continue to require the attention of practitioners include the verification of client identity, the receipt of clear instructions and relevant authorities from the client, and the implementation of security measures to ensure that access to information and the ability to provide a digital signature is restricted to authorised parties.*

*The e-conveyancing procedure also comes with its own set of rules, the breach of which may result in the lodging of a complaint to this Office. We look forward to working with our stakeholders and offering them support in navigating their ethical obligations in a new legal environment. We will also continue to take a regulatory approach that is responsive to developments in technology and remains relevant and appropriate to the needs of both the providers and consumers of legal services.*



## CHAPTER TWO:

# INVESTIGATIONS AND DISCIPLINE

## CONDUCT ISSUES

In the Office, the Legal and Investigations team deals with all complaints in which conduct issues arise. These complaints are investigated in order to determine, in accordance with the statutory test, whether there is a reasonable likelihood of a finding of unsatisfactory professional conduct or professional misconduct were the matter to be referred to the Occupational Division of the New South Wales Civil and Administrative Tribunal (NCAT).

### Investigations

This financial year, we received 872 written complaints that were assessed as investigations. During the 2013-14 reporting year, the Legal and Investigations team finalised 441 investigations. This is an increase on the previous reporting year (409) and is reflective of the hard work and diligence shown by the members of the team. The Councils of the Law Society and Bar Association completed a further 379 investigations in the same period.

Forty-five of the matters finalised by this Office – just over 10% of the total retained – resulted in a disciplinary outcome. They are discussed in greater detail in the section that follows. We dismissed 227 investigations on the basis that the statutory test could not be met and there was no reasonable likelihood of the Tribunal finding that the conduct amounted to unsatisfactory professional conduct or professional misconduct.

Seventy-one matters were closed on the basis that the practitioner's name had already been struck from the roll, the conduct had been the subject of another complaint, or because the complainant did not provide further particulars.

Twenty-one complaints were dismissed in the public interest on the basis that the practitioner was suffering significant ill health and was unlikely to practice again in the future or had given an undertaking to that effect. In this regard, our jurisdiction is protective, rather than punitive, in nature.

Complainants withdrew 11 complaints following lodgement and in 35 matters, the investigation has been suspended pending the outcome of court proceedings. We suspend complaints when the issues raised with this Office are before a Court for determination.

The Act requires that complaints be lodged within 3 years of the conduct that is alleged to have occurred. The Commissioner may determine to deal with a complaint outside that time period in circumstances where:

- a) It is just and fair to do so given the delay and the reasons for it; or
- b) The allegations may result in a finding of professional conduct that it is in the public interest to deal with.

In 24 instances, it was determined to not deal with the complaint out of time.

The remaining seven matters were dealt with as follows: Tribunal decision delivered (2); appeal closed by the OLSC (2); costs recovery at OLSC (2); and referred for compliance audit (1).

## DISCIPLINARY OUTCOMES

### Reprimands

During this reporting year, the Commissioner issued 6 reprimands. They related to failure to appear; incompetence; breach of undertaking; gross delay (2 complaints); and misleading conduct. The Commissioner has the power to deal with a matter summarily in circumstances where there is a likelihood of a finding of unsatisfactory professional conduct, but not professional misconduct. A reprimand is one of the sanctions available under the summary conclusion provisions of the *Legal Profession Act*. We record reprimands on the Disciplinary Register, which is publicly available on our website.

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## Cautions

Unlike reprimands, cautions do not appear on the Disciplinary Register. However, we do take them into account in the event we receive further complaints about the practitioner. The 2013-14 reporting period saw 15 cautions issued for:

- Breaches of rules 34 (dealing with other persons) and 41 (mortgage financing and other investments);
- Acting without instructions;
- Misleading the CTTT;
- Breach of rule 25 (professional courtesy) (3 complaints);
- Withdrawing funds without authority (2 complaints);
- Breach of confidential information;
- Failing to disclose costs;
- Failing to transfer a file;
- Misleading a court by omission (2 complaints);
- Publishing derogatory comments about an opponent on Facebook;
- Delay in transferring funds.

In this final matter, the delay in transferring funds, compensation was also ordered for the interest lost during the period of delay and the legal costs incurred in pursuing the transfer of funds.

Rule 25 deals with professional courtesy. It is unfortunate that we found a breach of this rule in three separate complaints. It is frequently said by judicial officers and, most recently, by the Western Australian Supreme Court on 5 August 2014 in *Mineralogy Pty Limited -v- Sino Iron Pty Limited* at paragraph 59:

Legal representatives in the course of practice, whether opposed or not, should always be treated with respect, dignity, and occasionally admiration... this is never inconsistent with the vigorous, even forceful prosecution of a client's interests.

The bench and the community in general can rightfully expect courtesy from all legal practitioners.

We have also seen the use of social media result in a breach of rule 25, where a practitioner wrote derogatory comments about her opponent in a criminal trial on her personal Facebook page (see case study on page 14). The practitioner received a caution, offering a timely reminder that the use of social media should be strictly circumscribed in relation to professional matters.

## Public interest dismissals

In 14 instances, we dismissed complaints in the public interest despite the likelihood of a finding of unsatisfactory professional conduct or professional misconduct. These matters dealt with advertising complaints in which practitioners breached the regulation prohibiting advertising personal injury legal services. In all instances practitioners acknowledged the breaches and took immediate steps to rectify them. We are pleased to see a significant reduction in the number of complaints in this category and that most practitioners now appear to be fully cognisant of their obligations under the regulation.

## New South Wales Civil and Administration Tribunal

The NCAT assumed responsibilities for the former Administrative Decisions Tribunal (ADT) from 1 January 2014. It appears that the transition has been seamless. We now file proceedings commenced by the Commissioner in the Occupational Division of the NCAT, as opposed to the Legal Services Division of the ADT. During the reporting year, 7 separate complaints resulted in matters referred to the Tribunal.

In the matter of *Legal Services Commissioner v Bridges*, the Tribunal found Mr Bridges guilty of professional misconduct in relation to one charge of misleading the court and unsatisfactory professional conduct in relation to a further charge of misleading the court. Despite the gravity of the allegations, the Tribunal was satisfied that Mr Bridges performed predominantly pro bono services and, in those circumstances, ordered that he be subject to conditions on his practising certificate (to work under the supervision of another solicitor). He was reprimanded for his conduct.

In *Legal Services Commissioner v Reymond*, the Tribunal found Mr Reymond guilty of professional misconduct in relation to his breach of rule 12 of the Solicitors Rules. This rule prohibits a solicitor from drafting a will for a client when the solicitor is a major beneficiary in the will. Mr Reymond was reprimanded and was subject to restrictions on his practising certificate, namely that he could practise only as an employed solicitor. Mr Reymond had previously repaid all of the monies received by him under the will to the testator's family.

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In the matters of *Legal Services Commissioner v O'Donnell*, *Legal Services Commissioner v Dennis* and *Legal Services Commissioner v Papantoniou*, the matters have either not yet been set down for hearing or the decision of the Tribunal has not been published. We will report on the outcomes of these matters in our 2014-15 Annual Report.

Decisions in matters commenced in the Tribunal in previous years have been handed down this year.

In the matter of *Legal Services Commissioner v Kumar*, the Tribunal was satisfied that Mr Kumar was guilty of professional misconduct in relation to the misappropriation of funds from a client and ordered that his name be struck from the roll of legal practitioners. Mr Kumar has now lodged an appeal with the Court of Appeal in relation to that decision.

In the matter of *Legal Services Commissioner v Kelly*, the Tribunal was satisfied that Ms Kelly was guilty of professional misconduct in relation to misleading conduct and has indicated that it will order that her name be removed from the roll of legal practitioners. That decision will take effect on the publication of the Tribunal's reasons.

*Donaghy v Legal Services Commissioner* was brought in response to the Commissioner's issuing of a reprimand on a summary basis. Mr Donaghy, the solicitor in question, sought a review of that decision by the ADT. The NCAT subsequently delivered its decision in relation to that review, and reprimanded Mr Donaghy. They also imposed a practising certificate condition upon him, being a successful completion of course of ethics

education covering the duties and obligations of a solicitor to the Court. Mr Donaghy has lodged an appeal against the Tribunal decision with the NSW Court of Appeal.

In *Legal Services Commissioner v Sandroussi*, the ADT ordered that Mr Sandroussi's name be removed from the roll of legal practitioners. Mr Sandroussi appealed the Tribunal decision to the NSW Court of Appeal. His appeal was unsuccessful.

In other matters involving costs orders, the Commissioner has sought assessment of costs from the Supreme Court's Costs Assessment Scheme and has proceeded to enforce those costs.

## REVIEWS

During the 2013-14 reporting year, the Legal and Investigations team handled 75 reviews of decisions of the Law Society Council and the Council of the Bar Association. In 44 reviews, the decision to dismiss the complaint was confirmed. In 5 matters we reinvestigated the complaint and, in the balance of matters, the reprimand was confirmed, the request for review was withdrawn or the request for review was made out of time.

It remains encouraging that a reinvestigation was required in less than 10% of review matters. This again confirms the consistency of decision-making between the Office and the professional councils of the Law Society and the Bar Association.

## Communication and social media

*The Commissioner initiated a complaint when it was brought to his attention that a legal practitioner had made disparaging personal remarks about an opposing representative on their Facebook page. Due to lax privacy settings, these comments were publicly accessible. This took place during a trial dealing with serious criminal allegations and, when brought to the attention of the presiding judicial member, attracted a stern rebuke. The legal practitioner who had made the comments offered an unreserved apology and was regretful for her conduct. Although it was established that the integrity of the trial had not been*

*compromised, we agreed with the judicial member that the conduct was of significant concern.*

*The Commissioner determined that there was a reasonable likelihood that the Occupational Division of the NCAT would make a finding that the legal practitioner had engaged in unsatisfactory professional conduct, but not professional misconduct. The legal practitioner received a formal caution.*

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## BANKRUPTCY PROCEEDINGS

Although not a trend specific to the 2013-14 financial year, we have been forced to initiate bankruptcy proceedings on multiple occasions over the past few years in order to enforce costs determinations made in our favour. This occurs when the Tribunal makes a costs order in our favour at the conclusion of a disciplinary hearing and the practitioner refuses to pay it or is unable to pay it. We then apply to have our costs assessed by the Supreme Court Costs Assessment Scheme and, if the respondent again refuses to pay, we register the certificate of costs in proceedings before the Court. If the respondent continues to refuse to pay the costs, we initiate bankruptcy proceedings.

This process is clearly time-intensive and often costly. Even where the bankruptcy proceedings succeed, it is often the case that we see only a portion of the full amount claimed. This means that even when disciplinary proceedings are successful, we still incur significant costs, which is far from ideal given the budgetary constraints discussed in the Acting Commissioner's report.

## POLICY DEVELOPMENT

The reporting year has seen significant change impacting upon this office. First, jurisdiction in relation to prosecutions under the *Legal Profession Act* has been seamlessly changed from the ADT to the NCAT. New legislation relating to regulation has also commenced.

The new *Solicitors Rules*, which commenced on 1 January 2014, are national rules and followed significant development by Law Council and collaboration with the regulators. The former rules were in existence since 1995 and the change is timely.

Further, the *Legal Profession Uniform Law* has now been passed through parliament. That law has not yet commenced but it is anticipated it will do so in 2015. It provides a new structure and new powers to the regulator and we look forward to the implementation of the Uniform Law and the improvements in regulation that we consider it will bring.

The Assistant Commissioner (Legal) maintains frequent communication with many of the Office's stakeholders and co-regulators. She meets quarterly with the Government Legal Managers Forum, a group that looks at common legal issues across government. She also meets quarterly with the Costs Assessment Users Group to discuss issues and interpretation involving the costs assessment scheme. She has regular liaison meetings with representatives of Professional Standards at the Law Society and Professional Conduct at the Bar Association. She also communicates bi-monthly by way of teleconference with colleagues in all Australian states and New Zealand to discuss and exchange information in relation to common issues and solutions regarding regulation of the profession. In addition, she regularly presents seminars on current ethical and regulatory issues to members of the profession.

### Advertising breaches

*The Legal Profession Act 2004, Legal Profession Regulations 2005 and the Workers' Compensation Regulations 2005 all place limitations on how a legal practitioner may advertise the legal services that they provide. The majority of legal practitioners meet their legal obligations in this regard.*

*However, we have come across instances where a legal practitioner has retained a third party to prepare marketing materials, and they have done so without regard for the provisions contained in the legislation. Whether or not the breach is intentional, the legal*

*practitioner remains responsible for ensuring that their advertising complies with their statutory obligations, and they will risk being reprimanded if they fail to do so.*

*We therefore encourage all legal practitioners – and particularly those who employ a third party to prepare advertisements on their behalf – to check and approve all material before it is released publicly.*

## CHAPTER THREE:

# COMPLAINTS HANDLING

## COMPLAINTS HANDLING

Although the 2013-14 financial year saw one of the more difficult years that the Office has experienced, we are pleased to report that the Mediation and Investigation team managed to complete 1,576 matters. Over 93% of consumer disputes were finalised within 6 months with about 77% being resolved in one way or another. These achievements are a testament to the skill and dedication of the Office's staff.

Family law, other civil, and wills and probate matters generated the most complaints at 16%, 15.2% and 13.2% respectively. These figures represent a very slight drop in the overall proportion of family law and wills and probate matters, and a slight increase in other civil. The order of issues complained about remained unchanged with negligence (15.8%), communication (15.7%) and overcharging (12.6%) most frequently recurring. Many complaints involve a combination of all three which is entirely unsurprising given consumers of legal services are primarily concerned about how their matter is progressing, how much their matter is costing them and whether or not they 'won'. We expand upon this below.

## INQUIRY LINE

The Office Inquiry Line provides callers with information about our role and powers, the complaints process, suggestions for potential avenues of resolution of their dispute, and referrals to other organisations where appropriate. In the 2013-14 reporting period, our Inquiry Line staff responded to 8,026 calls. That number has remained relatively steady from the 2010-11 reporting period to present.

We receive calls from a number of different groups of people, who often (but not exclusively) want to complain about a legal practitioner's conduct. They include clients, former clients, opposing clients, solicitors or barristers on their own behalf or on behalf of their clients, friends or relatives on behalf of others, expert witnesses, law students or educators, and judicial officers.

Callers to the Inquiry Line are invited to participate in a feedback survey, for the purpose of monitoring caller satisfaction and enhancing our service where possible. This reporting year we sent out 1641 surveys, which is a significantly higher number than any other year since we began seeking this feedback in 2008 – for example, in 2012-13, we sent out 726 surveys. We received 260 completed surveys, which constitutes a response rate of just over 15%. This is a really useful process for us to ensure that we are providing a service that meets the needs of callers. It can also help us to identify those areas in which we need to provide more guidance or training for our staff.

The average level of caller satisfaction since 2008 has been around 75%, but we have seen this rise above 80% at times, and fall below 70% at others. In this reporting year we made a much greater effort to send out survey forms. Surveys were sent out in July 2013, December 2013 and March 2014. The first of these surveys showed a significant drop in the satisfaction levels to around 60%. Upon receiving and assessing this feedback from our callers, we made a significant effort to improve our service at all levels, and this renewed attention to quality saw satisfaction levels increase to 67.5% in the second survey and up again to 74.4% in March 2014.

While we have therefore seen slightly lower overall satisfaction levels for this reporting year, this should be read in light of the vast increase in the number of surveys sent to and received from callers. We therefore consider the upward trend in satisfaction levels achieved in the second and third surveys as a very positive result. In addition to this, we saw responses to certain key aspects of our service attract solid satisfaction levels; for example, 70.4% of callers indicated that they would recommend the OLSC to a friend or relative, 67.7% of respondents agreed that the information they received was helpful or useful, and 83.9% of respondents agreed that our staff treated them in a courteous and professional manner. We will continue to closely monitor the feedback that we receive from callers.

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## COMMUNICATION

All too often, complainants contact us with allegations of negligence, overcharging and poor communication by their legal representative. More often than not, it becomes clear that the genesis of the complaint is that the client feels left in the dark. They are unsure of where their matter is up to, why it is taking so long or how much it is costing them. When they get the answers to these questions – for example, by way of an invoice or an adverse outcome to their matter – they lodge complaints with this Office.

Given our complaints handling function, we are, for the most part, denied the opportunity to deal directly with lawyers who communicate effectively and manage their clients' expectations in a way that avoids complaints. We appreciate that lawyers face many different pressures on a daily basis, particularly sole practitioners. We also appreciate that clients can sometimes be difficult. That said, we have the benefit of examining and assessing the conduct of a large number of legal practitioners, and from our experience, there is a clear correlation between poor communication with clients and negative client satisfaction. The overwhelming picture that emerges every year is that many allegations of negligence and overcharging stem from a failure by lawyers to communicate clearly and to properly manage their clients' expectations about prospects of success and costs.

Where a lawyer can show us proof that they frankly and comprehensively discussed these issues at the outset of a matter and at crucial stages along the way, complaints are dealt with swiftly. Where they cannot do so, they will inevitably be faced with difficult questions from us. We encourage all lawyers to keep this in mind each time their instinct is to avoid the next difficult call from the next difficult client.

We also encourage lawyers to ensure that they keep sufficiently detailed notes on their communications with clients that they can turn to in the event that a complaint is made.

## TARGETED RISK PROFILING

The threshold for us taking disciplinary action against lawyers is high. It has always been a concern that a small proportion of the profession generates a disproportionate number of complaints. Very often these complaints are about the same things, none of which are sufficiently egregious to result in disciplinary proceedings.

The 2013-14 year saw us start to more closely review our data to identify those practitioners whose complaints history reveals a pattern, but against whom no disciplinary proceedings would be likely. We have invited a number of them to meet with us and to discuss why they think the complaints are being made. We have also asked them to turn their mind to strategies that might allow them to avoid the instigation of these complaints. Early signs point to this being an effective approach bringing a corresponding decline in complaints and we accordingly hope to broaden its impact in the future.

We know that instances of concerning behaviour rarely exist in a vacuum. Where a number of risk factors emerge from our targeted risk profiling (for example, high staff turnover, a sudden spike in similar complaints) combined with an extensive complaint history, the need to co-operate with our co-regulators becomes particularly pronounced. We look forward to further developing our relationship with the professional associations and taking advantage of their specific skills and knowledge to better understand and deal with identified areas of risk.

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## Case study

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*The complainant contacted our office and expressed concern about communications received from a legal practice. They had received multiple phone calls from the same number, with the caller providing different names each time. Upon returning the call, the complainant discovered that the caller was from the opposing legal practice in a debt recovery matter.*

*When the complainant made their concerns known to a more senior member of the practice, they discovered that the caller was a student completing the practical component of their legal training. We put the complaint to the legal practice in question, and asked them to provide details about the incident and to indicate to us the supervisory measures that the practice had in place.*

*The supervising solicitor provided a detailed response to this office and confirmed that the student in question had been informed that their conduct was inappropriate. The practice amended their volunteer manual to highlight the professional standards expected of staff members and implemented measures that resulted in the closer supervision of employee activity. They offered an unreserved apology.*

*We were satisfied that all necessary steps were taken to educate the staff member and to prevent the recurrence of this incident, and no further action was taken.*



## CHAPTER FOUR:

# AUDITS AND INCORPORATED LEGAL PRACTICES

The 2013-14 reporting period has seen the number of incorporated legal practices continue to increase, with more than 1600 such firms operating in New South Wales alone.

## COMPLIANCE AUDITS

In the 2013-14 period, we conducted seven on-site compliance audits, including practices in the CBD as well as in the outer suburbs of Sydney. Two of the audits were shorter, one-day follow-up audits after full two-day audits had been conducted in the 2012-13 financial year. We conduct these follow-up audits within three months of the full audits to check on progress. We were pleased to see that, in the case of both of these follow-up audits, the practices concerned had made good progress and had introduced effective initiatives to address the concerns that we raised in the Practice Review Reports.

Another two practices saw the two-day audit with a follow-up one-day audit. Again, we were pleased to see the practices respond to our concerns. In one instance, the law practice took the opportunity to review its business plan and decided to relocate from relatively expensive city accommodation to a suburban area where it could focus on its key client base and provide legal services to that area more efficiently. The other practice stopped providing legal services and the practitioner directors went their separate ways with one starting a new practice and the other returning to practice as an employed solicitor.

On-site compliance audits are very difficult to schedule logistically and hugely resource intensive. This year, the Practice Review Officer started an initiative of “desk-top” audits whereby we selected certain practices on the basis of criteria previously identified as pointing to potentially ‘at risk’ practices. The partner(s)/director(s) of those practices were then asked to complete a Compliance Audit Questionnaire to help us to decide whether an on-site audit would be appropriate. We conducted five

“desk-top” audits in the 2013-14 financial year. The process is especially suited to identifying whether the practice in question has appropriate systems and procedures in place to deliver full costs disclosure as required by the Act.

The Compliance Audit Questionnaire is based on the self-assessment questionnaire but the questions asked are more detailed and consequently require a greater level of detail in the response. Partners/directors may be asked to provide copies of precedent documents that we can review to determine whether all obligations are being met.

The desk-top audit will be a particularly effective and efficient compliance tool to establish how practices are preparing for the changes to costs disclosure, for example, with the *Legal Profession Uniform Law* bringing new requirements. It is anticipated that key areas will be the target of different desk-top audits. The different questionnaires will be available to be completed online through the LPMAS Portal so that data can be stored and more effectively interrogated at a later stage.

The Practice Review Officer continues to work closely with the Trust Account Inspectors at the Law Society and, where appropriate, attend law practices together to share knowledge and information as well as reducing the burden on the law practice in question. These relationships will continue and develop and we also look forward to closer relationships with our counterparts in Victoria in light of the uniformity brought about by the *Legal Profession Uniform Law*.



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## LPMAS PORTAL

We continue to work on the Legal Practice Management Audit System ('LPMAS'), or OLSC Portal, in order to make it as user friendly as possible with the hope that this will improve the quality of information that we receive from practitioners. While there are still a number of enhancements that need to be made to the online self-assessment process, we have seen positive outcomes result from adopting the Portal.

The quality of responses has improved significantly, as we are collecting more detail about Incorporated Legal Practices. For example, we are now able to obtain information about the areas of law in which practices accept instructions and the numbers of staff they employ. This places their responses and compliance ratings in context. The online process also requires law practices to provide brief descriptions of how they meet each of the objectives and has the facility to allow them to attach copies of supporting documentation.

Accordingly, this Office is able to gain a better understanding of the different ways practices meet the objectives. Consequently, responses to those practices can be more accurately targeted with any suggestions made taking into account the likely needs and capacity of each practice.

This information will not only help us to address current gaps in law practices but also to identify those areas that require improvement. It can also help us to determine how any issues might best be addressed. On a practical level, this information can then be used to better educate law practices on how to achieve compliance with a view to reducing complaints about lawyers. However, it will also inform changes to our processes, including the contents of the self-assessment form itself.

Already, we have seen changes result from moving the self-assessment process online. For example, in many cases, legal practices could make improvements in record keeping. Many practices are conducting conflict of interests checks but may not be recording the fact they have done so. Such measures can help a practice to demonstrate that they have taken appropriate steps to manage risk should this be called into question. Similarly, although many practices are receiving valuable feedback (both positive and negative) from clients, they may not be recording or collating this information in a systematic manner.

We have also worked to backfill data from those law practices that had previously completed the self-assessment form on paper. We now have over 870 self-assessment records stored electronically. We will continue to monitor the user experience of the LPMAS Portal, and to find ways to improve the data collection process and our analysis of the information that we gather.

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## Capacity

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*The capacity of a client to give instructions is an issue that we are increasingly seeing raised in complaints, particularly where a client (or potential client) is elderly, has known medical problems, or has any known form of mental impairment. Many of these complaints could have been avoided had the legal practitioner given greater consideration to assessing the capacity of their clients, and to the potential conduct issues raised by situations in which capacity is in question.*

*Although there is a presumption of capacity at the outset and the client's individual circumstances need to be considered on a case-by-case basis, there are certain contexts that should prompt a practitioner to be alert to questions of capacity. These include situations where:*

- *The client is a resident in a nursing home or a patient in a hospital;*
- *Someone other than the client makes the appointment;*
- *The person who made the original appointment or who accompanies the client stands to gain benefits under a new will or Power of Attorney;*
- *The client has recently made several changes to a Power of Attorney, Enduring Guardianship and/or will;*
- *Proposed amendments to a will seek to exclude family members who may be eligible to make a claim under the Succession Act.*

*Depending on the circumstances of the client, it may be appropriate for a practitioner to consider medical or psychiatric reports, the views of treating medical staff and nursing home staff, and the opinions of relatives with regular contact with the client, as well as those of friends, neighbours and associated professionals. If a legal practitioner is in any doubt as to the client's capacity, we recommend that they seek a medical or psychogeriatric assessment before taking instructions.*

*Some of the aspects of legal practice that may require specific attention to professional obligations include the costs charged in matters where capacity is questioned or contested (New South Wales Bar Association v Amor-Smith [2003] NSWADT 239), the potential for conflicts of interest (Law Society v Hansen 2004 NSWADT 183) and the quality of the enquiries that the practitioner made about the client's capacity (see, for example, the Queensland matter of Legal Services Commissioner v Ford [2008] LPT 12).*

*Those practising in this area of law should also familiarise themselves with the 'Client Capacity: Civil and Family Law Matters' document released by the Law Society of New South Wales. These guidelines, developed by the Client Capacity Issues Sub-Committee, provide commentary and resources to support decision-making on capacity, and can help legal practitioners to assess a client's capacity.*

## CHAPTER FIVE:

# EDUCATION AND RESEARCH

## EDUCATION

Aside from seeking to educate legal practitioners about their obligations through the complaints process, the Office aims to engage in a proactive and educative dialogue with the profession at all levels of practice, from students studying for their legal qualifications to senior practitioners, and in all types of practice, whether private, in-house, community or government. This breadth is reflected in the seminars and workshops that we conducted in the 2013-14 financial year.

In July 2013, the former Commissioner and former Research and Projects Manager delivered a seminar to around 135 staff from Thomsons Lawyers. The presentation in Sydney was also streamed to the firm's offices in Melbourne, Adelaide and Brisbane. It addressed the role of the Commissioner and the functions of the Office, and offered commentary on some of the ethical issues that we frequently consider.

They also presented at the 9<sup>th</sup> Annual Public Sector In-House Counsel Conference, which was held in Barton, Canberra. Their segment, entitled 'Juggling Multiple Roles: Ethical Dilemmas for In-House Counsel' considered, amongst other things, conflicts of interest, the competing ethical duties faced by in-house counsel, the impact of technology on legal practice, and the role of in-house counsel as ethical gatekeepers.

The following month, the former Commissioner and former Research and Projects Manager spoke at the Family and Community Services Mandatory Continuing Legal Education Seminar. Their presentation, which satisfied the participating lawyers' obligation to undertake ongoing professional development in ethics under the *New South Wales Professional Conduct and Practice Rules 2013*, addressed the ethical responsibilities of government in-house lawyers. Later in August, the former Commissioner and former Research and Projects Manager delivered a seminar at the Fair Work Ombudsman, during which they offered a number of hypothetical scenarios for discussion.

September 2013 brought the Conference of Regulatory Officers, which was held in Darwin. This annual conference brought together legal services regulators and stakeholders from around Australia and offered the opportunity to discuss the state of the profession and its trajectory. The Acting Commissioner contributed to a panel discussion on the philosophy of approaches to regulation, with a specific focus on managing practitioners facing significant health issues. The Assistant Commissioner (Legal) also attended this Conference and represented the Office.

Also in September, the Assistant Commissioner (Legal) presented on ethics at the LawCover Conferences as well as for the Bar Readers Program. In November 2013, she again presented on ethics at an in-house seminar hosted by Clayton Utz.

1 January 2014 saw the commencement of the *New South Wales Professional Conduct and Practice Rules 2013* (Solicitors' Rules), which replaced the *Revised Professional Conduct and Practice Rules 1995*. Both the Assistant Commissioner (Legal) and the Acting Commissioner delivered presentations on the new rules, to Legal Aid in February 2014 and Salvos Legal in March 2014, respectively. Also in March 2014, the Assistant Commissioner (Legal) presented on Rule 42 and Regulation 176 at a Legal Wise seminar.

The College of Law ran a Personal Injury Law Specialist Accreditation Conference in Terrigal in May 2014, at which the Acting Commissioner co-presented with Linden Barnes of the Law Society of New South Wales. They spoke on the ethical issues that are particular to personal injury lawyers and encouraged engagement with the issues that they raised by offering hypothetical scenarios that were specifically designed to highlight aspects of personal injury practice that require care and consideration. Also in May 2014, the Acting Commissioner addressed the New South Wales Young Lawyers Mid-Year Assembly, which was held in the Blue Mountains. This offered the opportunity to share some of the experiences and insights of the Office with members of New South Wales Young Lawyers and to support the

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younger members of the profession in navigating their ethical obligations and helping their peers to do likewise.

This financial year we have continued the Office's tradition of delivering lectures to law students. Throughout the year, the former Commissioner, former Research and Projects Manager and the Acting Commissioner have spoken at the College of Law (New South Wales) to law graduates completing the practical legal training program in fulfilment of the Diploma of Legal Practice. They have also, with the support of several other staff members, delivered lectures to university students studying law at the University of New South Wales, the University of Technology, Sydney, Macquarie University, the University of Western Sydney, and the University of Newcastle. We value these opportunities to explain the role and philosophy of the Office to future lawyers and hope that, by opening a dialogue with them at an early stage, we will be able to maintain a productive relationship with them as they commence practising and, in time, mentor and supervise the next generation of legal practitioners. The feedback that we have received from the students has been overwhelmingly positive; they frequently express enthusiasm for the 'real world' examples that we offer and the (anonymised) anecdotes that we share in these sessions, and many genuinely seem to appreciate the insight into how the Office operates. The students find the interactive lectures informative and can see how the ethics courses that they are undertaking are relevant in a practical sense. We look forward to delivering more of these sessions and developing the programme further.

The 2013-14 financial year saw a decrease in the education activities that we were able to offer. This is due to staffing pressures and the need to set priorities that focussed on our complaints handling function. However, we have endeavoured to maintain the breadth of coverage seen in previous years and have fulfilled all requests for the provision of education and engagement despite staff and budgetary constraints. We look forward to having the capacity to undertake more outreach in the future.

## PROFESSIONAL DEVELOPMENT

Staff members of the Office have also undertaken units for their own professional development. Training seminars offered internally included sessions on cost assessment and library services, and we also enjoyed presentations from representatives of the Supreme Court of New South Wales, the Family Court of Australia,

the Office of the Department of Public Prosecutions, the Ombudsman, the Law Society of New South Wales and LawCover (the provider of legal professional indemnity insurance to legal practitioners in New South Wales). Some of the eLearning courses completed by our staff over the past financial year included those relating to management and performance, recruitment, communication and record keeping. In addition to this, staff attended seminars and conferences that addressed aspects of practice specific to their role, including seminars on the practice of family law, administrative law, immigration law and estate law, as well as seminars on areas such as the development of client relationships, legal costs and working with clients who have mental health issues.

## PUBLICATIONS AND RESEARCH

Our research output has been limited this year due to the position of Research and Projects Manager being vacant. We opted to put greater effort into maintaining our external engagement by way of presentations and educative seminars, as outlined extensively above. However, we have a number of guidelines, publications, working papers, reports, and fact sheets available for download on our website. We will shortly be updating our fact sheets, which currently address sixteen common areas of complaint, to reflect the upcoming changes to the legislation upon the commencement of the *Legal Profession Uniform Law in 2015*.

Our Assistant Commissioner (Legal) has continued to contribute chapters to 'The Law Handbook', a publication that is designed to provide accessible and practical information about the legal system in plain English. Her chapters, 'About the Legal System', 'Assistance with Legal Problems' and 'Complaints', offer readers up-to-date information about their legal rights as well as some of the options that may be available to them in the event that they require legal advice or wish to pursue a complaint. She has also contributed to the Legal Practice chapter of the 'Lawyers Practice Manual NSW', with a section on 'Complaints About Lawyers'.

We have also continued to collaborate on particular research projects with academics and welcome enquiries from interested researchers. We see great value in contributing our time, institutional experience and detailed statistics to such projects. This is both in order to maximise the research potential of the data that we produce, but also so that it contributes to the production of knowledge about the legal profession and the law.

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This, in turn, helps us to ensure that our regulatory activities are as relevant and productive as possible for all of our stakeholders.

The close observation of the complaints that we have dealt with over the past twenty years throws up myriad questions. For example:

- Why are men between 50 and 65 overrepresented in the complaints profile?
- Why are women underrepresented?
- Just what is it about sole practice that leads to complaints?
- Why are large law firms not the subject of more complaints?
- What influence does geography have on whether a complaint is lodged?

While we have opinions and theories about the answers to some of these questions, what we are lacking is empirical evidence and close analysis. Whether or not our suspicions are confirmed, the profession, professional bodies, regulators and other stakeholders should have an interest in the answers to these questions. We look forward to making better use of our 20 years of data by collaborating with researchers and analysts in the hope of getting a clearer idea of why certain complaints come about and what we, together with the profession, can do to pre-empt and prevent them.

## Case study

*The complainant contacted us expressing concern with the costs charged by his legal representative in two personal injuries matters. The complainant pointed to a number of discrepancies between the tax invoices issued by the solicitor and the figures contained in the handwritten authority to settle.*

*After extensive correspondence with the complainant and legal practitioner, it emerged that the legal practitioner had sought payment for the same disbursement twice, deducted more than they were authorised for another disbursement, and deducted more than they were authorised to for their own costs. The legal practitioner acknowledged these discrepancies and agreed to refund the difference.*

*We also took the opportunity to raise some general concerns about the firm's billing practices, particularly in relation to the distribution of settlement monies. We suggested the firm review their accounting practices, including forwarding copies of invoices received from service providers to clients, providing receipts of any disbursements that had been paid, and maintaining accurate records. The practitioner agreed to implement these overdue measures.*

## CHAPTER SIX:

# INFORMATION SYSTEMS AND SERVICES

## QUALITY IMPROVEMENT AND INTERNAL AUDIT

As we noted in our Annual Report for the 2012-13 period, we decided not to undertake certification and accreditation under the ISO 9001 Quality Management process in the 2013-14 financial year. However, we have ensured that our Office processes are maintained to the highest standard and we continue to identify and implement quality improvement measures.

The Department of Attorney General and Justice NSW engaged PwC to conduct an Internal Audit Program in 2014, which included a review of the OLSC. The audit report praised “the mature control environment” of the Office and noted that our Quality Systems Manual is “comprehensive”. The report also recognised that “key positions in the OLSC are occupied by staff with extensive experience of the business”. We look forward to implementing the recommendations made by the auditor to ensure that our policies and practices remain as effective as possible in meeting the business needs of the Office, the objectives of the Department and the expectations of our stakeholders.

## THE LEGAL PRACTICE MANAGEMENT AUDIT SYSTEM

We were delighted to see the Legal Practice Management Audit System (‘LPMAS’ or ‘OLSC Portal’) go live this financial year, after an extensive phase of development and testing. The Portal is a customised online application that was co-designed by the Department of Justice, the Law Society of New South Wales, and Cirrus Technologies. It offers the OLSC the ability to access real-time data from multiple sources, which has benefits across all of our activities, including in complaints handling, investigations, decision-making, practice reviews, risk profiling, information management and reporting. In addition, it has moved the self-assessment process for incorporated legal practices online, increasing accessibility while reducing the time burden on legal practitioners. The Portal also therefore offers

new ways for us to meet the information needs of our stakeholders and to respond to the ever-changing context in which legal services are provided and received.

The implementation phase saw the creation of one temporary 12-month full time position of the LPMAS Client Officer. The LPMAS Client Officer provided invaluable support to the Information Systems and Services Unit during this period, offering record management, frontline technical assistance and user support, including in relation to Portal access. This role ceased during the 2013-14 financial year, after the successful roll-out of the Portal. The Information Systems and Services Unit continues to monitor the operation of the Portal.

## DATA

As in previous years, we have continued to find ways to capture and interrogate data relating to our business activities to enhance our ability to effectively respond to stakeholder needs and monitor trends in the profession. The OLSC Portal provides another level of information management that offers a different way to generate and engage with the data that we possess. Drawing from this data, we produce monthly, quarterly and annual reports regarding our activities to ensure that decision-making and service delivery benefits from information that is accessible, relevant and current. We also receive direct feedback from our stakeholders by way of Inquiry Line surveys, staff surveys and correspondence from complainants and practitioners.

We share our statistics and findings with our co-regulators, the Law Society of New South Wales and the New South Wales Bar Association, to ensure consistency across the regulatory framework and to capture the maximum amount of data that we can. We look forward to sharing information with our counterpart in Victoria in the coming years as the *Legal Profession Uniform Law 2014* brings with it greater opportunities for interstate discussions.

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The Office wants to see more conversations take place within the profession about ethical practice, and seeks to offer our support in practical ways. One of the ways in which we do so lies in our responsiveness to requests for information from our stakeholders, including the profession. We want to use our data sets to advance knowledge in a way that is useful in addressing the needs of the profession and the interests of consumers by improving the quality of legal service. We therefore consider all reasonable requests for information, statutory obligations and resources allowing.

We are also dedicated to finding the most comprehensive ways to analyse our data, by periodically reviewing our own research methods and forging relationships with external researchers. This financial year, we have collaborated with researchers from the University of Newcastle and Macquarie University, and entered into communications with researchers at the University of New South Wales to find areas of potential collaboration. This Office is in a unique position to contribute to scholarship on the legal profession and on legal regulation more generally, and we hope to continue to develop our relationships with researchers, as well as establish new partnerships, in the coming years.

## Case study

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*We contacted the legal practitioner as a matter of routine, when he became a legal practitioner director upon the incorporation of his firm. We asked him to assess the firm's management systems by completing a self-assessment form that included ten specific areas to be addressed. After multiple delays, the legal practitioner director returned the self-assessment form and rated the firm as only 'partially compliant' in most of the fields. He sought an extension of time to implement effective management systems and again submit the self-assessment form. After further delays, and amid concern about the state of his practice, we informed the legal practitioner director of our intention to perform a compliance audit of the law practice.*

*Upon attending the firm's office, it became clear that there were a number of problems with the way that the law practice was being run. Amongst other things, costs were not disclosed to clients in the form required under the Legal Profession Act 2004, and bills were issued on an ad hoc basis. The legal practitioner director did not have a systematic approach to recording the time spent on matters, nor had he implemented clear processes when commencing or concluding matters. He conducted no inquiries into potential or actual conflicts of interests, and accepted retainers in areas of law in which he had little or no experience.*

*There were further issues that compounded these problems. Firstly, the practitioner did not have administrative support, meaning that he was attending to all aspects of the firm's practice, including the preparation of documents, the management of records, the maintenance of the firm's trust account, and communication with clients. Secondly, the legal practitioner director was managing health issues that had been ongoing for a significant period of time.*

*We sought and received a written undertaking from the legal practitioner director that he would undertake further education, bring all files up-to-date and ensure compliance with his legal obligations or, if unable to do so, to transfer those files to another solicitor, and not open any new matters for a stipulated period of time or until the completion of a course in risk management. Shortly after the legal practitioner director gave these undertakings, he informed us that he was not able to comply with them and advised this Office of his intention to close the firm. Over the following months, we maintained close contact with the legal practitioner director to ensure that he transferred the files in ongoing matters to other legal practitioners and brought the balance of their matters to conclusion. Upon confirmation that he no longer held any funds in trust and the practice had been closed, we closed our file.*



## CHAPTER SEVEN:

# FINANCIAL PERFORMANCE 2013-2014

The Office of the Legal Services Commissioner operates within the organisational framework of the New South Wales Department of Justice. We maintain a recurrent recoupment budget and receive operational funding from the Public Purpose Fund.

The Office commenced the 2013-14 financial year faced with a reduced operating budget allocation dictated by reductions in funding from the Public Purpose Fund. Notwithstanding the challenges that this has posed, we are pleased to report that we managed our overall expenditure and delivered a good budget result at the close of the reporting year. During the year, we put a great deal of effort into identifying opportunities for more efficient work practices and systems designed to reduce operating costs within our control. We focused on our employee costs in particular, while ensuring that there was no adverse impact on either our quality of service or the day-to-day running of the Office.

As a result of our effective budget management and active monitoring of our financial performance, we were able to identify and implement business improvement strategies for achievable budget savings throughout the year.

## HUMAN RESOURCES

The new *Government Sector Employment Act 2013* commenced on 24 February 2014. This legislation provides for executive structure reforms over the next three years, as well as a new approach to recruitment, merit and capability assessment in the New South Wales Public Service. As part of the New South Wales Department of Justice, this impacted the Office of the Legal Services Commissioner. We have already commenced the reform process of our executive structure, and expect this to be finalised in June 2015. We look forward to reporting on our new executive structure in our 2014-15 Annual Report.

As at the conclusion of the 2014-15 financial year, the Office's establishment was comprised of 27 full-time roles: administrative and professional staff occupied 25 full-time equivalent ongoing roles, rostered casuals on our Inquiry Line occupied one full-time equivalent role, and one full-time equivalent temporary role was occupied by the LPMAS Client Officer (Clerk Grade 3-4). This latter role, which ran for 12 months, expired in March 2014 following the completion of frontline support during the implementation phase of the LPMAS Gateway application.

Details of our financial performance, including comments on significant budget variances, are provided in the following financial statement and supporting notes.



## FINANCIAL STATEMENT 2013-2014

	Budget	Spent	Variance	Notes
	(\$)	(\$)	(\$)	
Public Purpose Fund Recoupments	(3,946,577)	(3,589,545)	(357,032)	
Other Revenue	-	(675)	675	
<b>TOTAL REVENUE</b>	<b>(3,946,577)</b>	<b>(3,590,220)</b>	<b>(356,357)</b>	
Salaries & Wages	2,427,787	2,230,866	196,921	1
Allowances	1,414	75,215	(73,801)	2
Leave Entitlements ( <i>Recreation Leave, Annual Leave Loading &amp; LSL</i> )	284,034	273,232	10,802	3
Workers Compensation	16,616	16,062	554	
Payroll Tax	158,217	152,535	5,682	
Fringe Benefits Tax	1,074	29	1,045	
Superannuation	198,458	220,769	(22,311)	4
<b>EMPLOYEE RELATED PAYMENTS</b> ( <i>excluding Crown liabilities</i> )	<b>3,087,600</b>	<b>2,968,708</b>	<b>118,892</b>	
Advertising & Publicity	4,604	9,107	(4,503)	
Bank Charges	60	7	53	
Contractors	10,000	-	10,000	5
Electricity & Gas	16,474	16,552	(78)	
Fees	169,423	(62,615)	232,038	6
Freight & Cartage	18	-	18	
Insurance	1,301	1,342	(41)	
Interpreters & Translations	6,574	3,461	3,113	
Motor Vehicles	2,159	-	2,159	
Postal Expenses	22,670	20,713	1,957	
Printing	23,435	16,239	7,196	
Publications	6,226	5,570	656	
Rates & Outgoings	54,180	44,743	9,437	
Rent	328,682	324,594	4,088	
Staff Expenses	20,866	7,891	12,975	7
Stores & Stationery	20,407	8,585	11,822	8
Telephone	13,153	12,803	350	
Travel	15,350	4,090	11,260	9
<b>OTHER OPERATING EXPENSES</b>	<b>715,582</b>	<b>413,082</b>	<b>302,500</b>	
Maintenance Contracts	143,089	139,263	3,826	
Repairs and Maintenance	306	-	306	
<b>MAINTENANCE</b>	<b>143,395</b>	<b>139,263</b>	<b>4,132</b>	
<b>TOTAL EXPENSES</b> ( <i>excl Crown liabilities &amp; depreciation</i> )	<b>3,946,577</b>	<b>3,521,053</b>	<b>425,524</b>	
Profit/Loss on Sale of Assets	-	1,822	(1,822)	
<b>Net Cost of Services</b> ( <i>excl Crown liabilities &amp; depreciation</i> )	<b>-</b>	<b>(67,345)</b>	<b>67,345</b>	
<b>Add Non Cash Items:</b>				
Crown Liabilities ( <i>LSL liability assumed by Crown</i> )	71,966	-	71,966	10
Depreciation & Amortisation	369,669	46,700	322,969	11
<b>Total Net Cost of Services</b> ( <i>incl Crown liabilities &amp; depreciation</i> )	<b>441,635</b>	<b>(20,645)</b>	<b>462,280</b>	

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## NOTES SUPPORTING THE 2013-2014 FINANCIAL STATEMENT

### Employee-Related Payments

**1. Salaries & Wages:** The OLSC's *Salaries & Wages* budget contains provision for annual salary payments to employees assigned to ongoing, temporary and casual roles in the OLSC establishment. Despite a reduced operating budget in 2013-2014 the OLSC effectively absorbed the cost of a 2.27% salary increase within budget while achieving a considerable saving in *Salaries & Wages* at close of the financial year. The significant budget result is largely attributable to a cost savings initiative involving staff long term leave arrangements and the decision to leave some less critical roles vacant or partially filled during the year.

**2. Allowances:** The OLSC's Allowances budget has provision for allowance payments to OLSC staff performing the role of first aid officer for the Office. The *Allowances* budget, however, made no provision for allowance payments to OLSC executive staff who were temporarily assigned to the vacant Legal Services Commissioner role during the year. The budget variance highlights the additional costs involved in filling the higher executive role.

**3. Leave Entitlements:** The OLSC's *Leave Entitlements* budget reserves funds for recreation leave, annual leave loading and long service leave entitlements of OLSC employees. The *Leave Entitlements* budget variance reflects year-end adjustments the Department prepares as part of year-end procedures required by Treasury.

**4. Superannuation:** The OLSC's *Superannuation* budget provides for superannuation entitlements of OLSC employees. The *Superannuation* budget variance reflects year-end adjustments the Department prepares as part of year-end procedures required by Treasury.

### Other Operating Expenses

**5. Contractors:** The OLSC's *Contractors* budget includes provision for the engagement of professional services to support the OLSC's ongoing development of the Legal Practice Management and Audit System (LPMAS) as well as our ongoing program of audits of major and complex Incorporated Legal Practices (ILPs). The OLSC did not engage contractors in 2013-2014 and the Contractors budget variance reflects the resultant cost saving achieved.

**6. Fees:** The OLSC's *Fees* budget maintains funds for various types of fees expenditure including legal fees incurred in bringing matters before the NSW Civil and Administrative Tribunal and the Courts as well as costs associated with the complaints review system and the engagement of independent reviewer advisors. In 2013-2014 the OLSC initiated several major investigations into the conduct of legal practitioners and firms with some matters resulting in Tribunal proceedings. The *Fees* budget variance, which highlights a significant cost saving, includes a number of credit adjustments to the OLSC's legal fees account to offset income. During the year the OLSC recovered the Commissioner's costs in the following NCAT matters:

- (i) *Legal Services Commissioner v Keddie* and related disciplinary proceedings: The OLSC received approx \$26k from the bankrupt estate of Russell Keddie, approx \$8k from the bankrupt estate of Tony Barakat and \$4k from the bankrupt estate of Scott Roulstone.
- (ii) *Legal Services Commissioner v Raymond*: The OLSC received \$9k from Mr Raymond.
- (iii) *Legal Services Commissioner v Angelovski*: Mr Angelovski is settling the Commissioner's costs of \$25k by fortnightly instalments. The OLSC received approx \$4k from Mr Angelovski in 2013-2014.
- (iv) *Legal Services Commissioner v Bechara*: Ms Bechara is settling a \$140k costs order in favour of the LSC by monthly instalments extending over a period to 1.12.15. To ensure Ms Bechara is aware of her legal obligations, in 2013-2014 the Department's Debt Recovery Unit established Ms Bechara as a debtor in their financial system and raised an invoice for \$140k crediting the OLSC with the full amount payable by Ms Bechara.

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**7. Staff Expenses:** The OLSC's *Staff Expenses* budget reserves funds for costs associated with staff attendance at seminars and conferences as part of training and development as well as fees reimbursement to eligible staff renewing their solicitor's practising certificate for job requirements or following successful completion of approved tertiary courses. In 2013-2014 the OLSC conducted its staff training program mainly in house at very minimal cost and there were no officers enrolled in university courses during the year.

**8. Stores & Stationery:** The OLSC's *Stores & Stationery* budget contains provision for monthly costs of office consumables requisitions including ad hoc computer equipment purchases during the year. The Stores & Stationery budget variance highlights cost savings achieved as a result of the OLSC's continued improvements to its inventory management and purchasing processes in 2013-2014.

**9. Travel:** The OLSC's *Travel* budget maintains funds for travel costs incurred by the Commissioner and staff to attend interstate and intrastate official business, training and conferences including, where approved, overseas travel. The OLSC experienced a reduced level of travel costs in 2013-2014 largely due to lower usage of taxis and Cabcharge. In addition, no overseas travel was undertaken during the reporting year.

## Non-Cash Items

### **10. Crown Liabilities (LSL Liability Assumed by Crown):**

Crown Liabilities is a non-cash item and as such does not form part of the OLSC's recoupment figure from the Public Purpose Fund. *The Crown Liability for LSL* budget reflects the Crown's assumption of the Department's long service leave liability for Departmental officers. The Department is obliged to make this provision as part of Treasury requirements.

**11. Depreciation & Amortisation:** *Depreciation* expense is a non-cash item and does not form part of the OLSC's recoupment figure from the Public Purpose Fund. The Depreciation budget variance resulted from an adjustment prepared by the Department to take into account the amortisation expense of OLSC's intangible software assets. The Department is obliged to make this adjustment as part of Treasury requirements.

## CHAPTER EIGHT:

# ANNUAL STATISTICS 2013-2014

## INQUIRY LINE

In the 2013-2014 reporting period, the Office received 8,026 calls from the public on our Inquiry Line, a decrease of 152 on the previous year.

### P1: Legal matters raised in calls

	2013-2014	2012-2013	2011-2012
Family/ Defacto	16.8	18.6	16.9
OLSC General Query*	15.0	13.8	10.6
Probate/ Wills/ Family Provisions	11.5	12.0	12.5
Conveyancing	9.9	10.4	11.4
Other Civil	7.6	9.9	12.6
Commercial/ Corporations	6.7	9.1	8.4
General Law/ Legal Profession Query	6.4	3.4	2.2
Personal Injuries	6.1	5.4	5.1
Criminal	6.0	5.3	6.0
Other	3.9	2.9	4.6
Workers Compensation	3.4	4.2	4.2
Land and Environment	2.7	0.8	0.8
Victim's Compensation	1.1	1.1	1.5
Leases/ Mortgages/ Franchises	1.0	0.8	0.8
Immigration	0.8	0.6	0.6
Industrial law	0.7	1.0	1.0
Professional Negligence	0.6	0.8	0.5

\* 'OLSC General Query' includes calls relating to Complaint Enquiries, General Enquiries, OLSC Website, Statistics & Publications

## P2: Nature of phone enquiry

	2013-2014	2012-2013	2011-2012
OLSC Process*	17.5	14.7	16.5
Communication	14.4	13.7	14.4
Overcharging	14.0	14.9	15.7
Negligence	10.6	12.0	10.7
General cost complaint/query	8.8	9.7	10.8
Ethical matters	6.3	6.8	5.7
Delay	6.3	5.8	5.0
Misleading conduct	5.1	4.7	3.3
Instructions not followed	3.3	4.0	4.1
Costs disclosure	2.7	3.0	3.4
Document transfer/ liens	2.5	2.2	2.5
Conflict of interests	2.4	2.3	2.2
Referral requests	2.1	1.9	1.7
Trust fund matters	1.4	1.7	1.3
Pressure to settle	0.8	0.5	0.6
Document handling	0.8	1.1	1.0
Fraud (not trust fund)	0.5	0.5	0.5
Failure to honour undertakings	0.3	0.2	0.3
Advertising	0.1	0.2	0.2
Compliance matters	0.1	0.3	0.2
Supervision	0.0	0.1	0.0

\* 'OLSC Process' includes calls relating to Complaint Enquiries, General Enquiries, OLSC Website, Statistics & Publications

## P3: Practitioners mentioned on inquiry line

	2013-2014	2012-2013	2011-2012
Solicitor	92.6	92.3	90.8
Other*	5.5	5.0	6.8
Barrister	1.6	2.5	2.1
Licensed Conveyancer	0.3	0.3	0.3

\* 'Other' includes calls relating to Judge/ Magistrate, Legal Firm, Executor, Multiple Type of Practitioner, Paralegal/ Clerk and Support Staff.

#### P4: Source of calls to the OLSC inquiry line

	2013-2014	2012-2013	2011-2012
Client	69.0	69.0	63.6
Friend/relative	8.7	8.8	7.8
Opposing client	6.5	5.8	6.4
Unrepresented client	3.7	2.3	1.1
Solicitor on own behalf	2.7	3.4	4.0
Beneficiary/executor/administrator	2.5	2.2	3.6
Other*	2.5	2.8	4.6
Previous client	1.4	2.1	4.9
Solicitor on another's behalf	1.2	1.4	1.8
Non-legal service provider	1.1	1.4	1.1
Government Agency	0.3	0.3	0.3
Barrister on own behalf	0.2	0.1	0.5
Student/ Educator	0.2	0.2	0.1
Barrister on another's behalf	0.1	0.3	0.1

\* 'Other' includes calls relating to Witnesses, Judges /Judicial officers, Quasi-judicial officers, Professional Councils, Cost Assessors & non-identified source of calls.

#### P5: Outcomes of calls to the inquiry line

	2013-2014	2012-2013	2011-2012
Caller indicated intention to send in complaint	26.3	24.9	24.5
Provided information about the OLSC*	14.2	9.8	14.6
Provided complaint/ cost mediation form	13.8	19.6	14.5
Recommended direct approach to lawyer about concerns	11.0	12.5	16.3
Listened to caller's concerns	10.2	8.3	6.3
Provided referral for legal advice or other assistance	10.1	9.4	8.8
Provided information about the legal system	6.6	5.2	5.3
Explained that concerns are outside jurisdiction of OLSC	3.8	3.8	3.2
Provided referral to the NSW Supreme Court Costs Assessment Scheme	1.6	3.0	2.5
Provided information about the OLSC and LPA to a legal practitioner	1.5	2.5	2.8
Conducted telephone mediation	0.5	0.6	0.6
Other	0.3	0.3	0.5
Scheduled interview for caller	0.1	0.1	0.1

\* Provided information about the OLSC: includes calls relating to Complaint Enquiries, General Enquiries, OLSC Website, Statistics & Publications

## WRITTEN COMPLAINTS

In the 2013-2014 reporting period, the Office received a total of 2528 written complaints, a decrease of 157 on the previous year. Of the total written complaints received, 1646 were assessed as consumer disputes and 872 as investigations. Ten complaints were assessed as non-jurisdictional so were sent directly to the Law Society of New South Wales, the Office of the Migration Agents Registration Authority ('MARA'), NSW Fair Trading, or regulators outside NSW. Of those complaints assessed as within jurisdiction, 79% of those written complaints received were retained and handled by the OLSC. The remaining 21% were referred to the professional associations for handling.

The OLSC registered the completion of 2631 written complaints, a decrease of 90 on the previous year. Of the total written complaints completed, 1769 were closed as consumer disputes and 820 as investigations. Forty-two complaints were non-jurisdictional so were closed and sent directly to the Law Society of NSW, MARA, NSW Fair Trading or regulators outside NSW. Of those complaints assessed as within jurisdiction, 78% of written complaints were completed by the OLSC. The professional associations completed the remaining 22%.

### W1: Legal matters giving rise to complaints received in 2013-2014

	Agency Handling Complaint		2013-2014*	2012-2013	2011-2012
	OLSC	Council			
Family/ Defacto	13.9	2.1	16.0	17.8	18.1
Other Civil	11.0	4.2	15.2	14.7	14.0
Probate/ Wills/ Family Provisions	11.9	1.2	13.2	13.3	12.4
Commercial/ Corporations	7.6	3.0	10.6	10.3	11.6
Conveyancing	7.8	1.3	9.1	7.2	7.4
Other	3.8	4.1	7.9	9.7	14.0
Personal Injuries	6.8	1.0	7.8	9.1	9.4
Criminal	5.6	1.8	7.4	7.0	7.7
Leases/ Mortgages/ Franchises	2.0	0.5	2.5	2.4	3.0
Workers Compensation	2.0	0.4	2.4	2.8	3.0
Industrial law	1.9	0.5	2.3	2.0	2.6
Professional Negligence	1.5	0.2	1.7	1.3	1.1
Strata bodies/ corporates	1.2	0.2	1.4	0.7	-
Land and environment	1.1	0.1	1.1	1.1	1.4
Victim's Compensation	0.8	0.0	0.8	0.3	0.3
Immigration	0.5	0.1	0.6	0.4	0.9
<b>Total %</b>	<b>79.4</b>	<b>20.7</b>			

\* Percentages have been rounded to one decimal place resulting in the total possibly being plus or minus 0.1%

## W2: Nature of complaints received in 2013-2014

	Agency Handling Complaint		2013-2014*	2012-2013	2011-2012
	OLSC	Council			
Negligence	13.6	2.2	15.8	17.5	18.1
Communication	13.1	2.6	15.7	15.5	15.5
Overcharging	11.7	0.9	12.6	12.6	12.2
Ethical Matters	7.0	2.5	9.5	7.9	8.8
Misleading Conduct	5.9	2.6	8.5	8.0	8.6
Trust Fund	2.4	3.3	5.7	4.9	5.0
Delay	4.8	0.4	5.2	4.9	5.1
General Cost Complaint/ Query	3.3	1.7	5.0	5.8	5.3
Cost Disclosure	4.1	0.5	4.6	4.7	4.0
Instructions Not Followed	3.4	1.1	4.5	6.0	6.7
Document Transfer/ Liens	2.3	0.4	2.7	2.8	2.9
Compliance Matters	1.2	1.5	2.7	2.0	1.1
Conflict Of Interest	1.6	0.9	2.5	2.5	2.4
Document Handling	1.0	0.1	1.0	1.0	0.7
Pressure To Settle	0.7	0.1	0.8	0.8	0.9
Capacity	0.7	0.1	0.7	0.4	-
Undertakings	0.3	0.5	0.7	1.0	0.9
Fraud (Not Trust Fund)	0.3	0.3	0.7	0.6	0.7
Advertising	0.5	0.1	0.6	0.8	1.0
Supervision	0.3	0.0	0.4	0.3	0.3
<b>Total %</b>	<b>78.2</b>	<b>21.8</b>			

\* Please note numbers for the following are collected from analysis of the complaints received (up to 5 options per complaint) so do not tally with overall total numbers received.



### W3: Type and source of complaints received in 2013-2014

	Number of Complaints				2013-2014	2012-2013	2011-2012
	Solicitor*	Barrister	Other**	TOTAL			
Bar Association	1	8	0	9	0.4	0.3	0.3
Barrister on another's behalf	0	0	0	0	0.0	0.0	0.2
Barrister on own behalf	20	1	2	23	0.9	1.6	1.6
Beneficiary/ Executor/ Administrator	154	2	3	159	6.3	6.1	5.3
Client	549	24	10	583	23.1	27.7	29.4
Commissioner	35	1	1	37	1.5	3.4	1.7
Client's friend / relative	92	4	2	98	3.9	3.2	3.9
Law Society	86	0	0	86	3.4	3.3	2.5
Non-legal service provider	48	1	1	50	2.0	3.0	2.2
Opposing client	387	17	10	414	16.4	16.8	17.6
Previous client	588	34	12	634	25.1	21.6	19.2
Solicitor on another's behalf	145	7	2	154	6.1	5.7	5.9
Solicitor on own behalf	99	7	7	113	4.5	3.1	5.4
Unrepresented client	40	2	2	44	1.7	0.2	0.5
Cost Assessor	6	0	0	6	0.2	0.1	0.0
Other ***	105	7	6	118	4.7	3.9	4.2
<b>TOTAL</b>	<b>2,355</b>	<b>115</b>	<b>58</b>	<b>2,528</b>			

\* Includes former solicitors, legal practitioners and legal practices.

\*\* Includes complaints against law clerks, departmental staff, licenced conveyancers, non-legal service providers, judicial appointments, migration agents, interstate legal practitioners, deceased practitioners and practitioners that have been struck off.

\*\*\* Includes complaints against government agencies, witnesses, and judge/quasi-judicial officer.

#### W4: Age of complaints remaining open or suspended on 30 June 2014 and being handled by the OLSC

Year opened	Open at 30 June 2014	Open at 30 June 2013	Open at 30 June 2012
2013-2014	443		
2012-2013	72	504	
2011-2012	21	53	511
2010-2011	12	18	41
2009-2010	4	7	20
2008-2009	0	0	4
2007-2008	0	0	3
1994-2007	0	0	0
<b>TOTAL</b>	<b>552</b>	<b>582</b>	<b>579</b>

\* Variations may be noted due to files being reopened. Data has been checked, verified and is accounted for.

#### W5: Average time taken to finalise a complaint at the OLSC

(Of complaints handled in 2013-2014, time taken to finalise)

	Days*
Average time to complete complaints received and completed / resolved in 2013-2014	48.7
Average time to complete complaints received in any year but completed / resolved in 2013-2014	78.4
Average time taken to dismiss complaints received in 2013-2014	52.6
Average time to dismiss complaints received in any year but dismissed in 2013-2014	124.0

\* Averages rounded to 1 decimal point

## W6: All Complaints finalised in 2013-2014

### All OLSC Consumer Disputes

	Solicitor*	Barrister	Other**	TOTAL
Dispute resolution completed	1,179	25	10	1,214
<b>Subtotal concluded by OLSC</b>	<b>1,179</b>	<b>25</b>	<b>10</b>	<b>1214</b>
Consumer Dispute closed by OLSC	295	16	10	321
Withdrawn by complainant at OLSC	29	0	0	29
Unable to be resolved at the OLSC	12	0	0	12
<b>Subtotal closed at the OLSC</b>	<b>336</b>	<b>16</b>	<b>10</b>	<b>362</b>
<b>Total OLSC Consumer Disputes Completed</b>	<b>1,515</b>	<b>41</b>	<b>20</b>	<b>1,576</b>

### ALL OLSC Investigations

	Solicitor*	Barrister	Other**	TOTAL
Practitioner referred to Tribunal	7	0	0	7
Practitioner disciplined by OLSC#	20	1	0	21
Disciplined by OLSC with compensation ordered#	3	0	0	3
Likely UPC/PM dismissed in Public Interest	13	0	1	14
<b>Subtotal determined by OLSC</b>	<b>43</b>	<b>1</b>	<b>1</b>	<b>45</b>
Tribunal finding of UPC/PM unlikely ***	215	8	4	227
Summary Dismissal in the Public Interest	20	1	0	21
Investigation closed by OLSC	55	9	7	71
Withdrawn by complainant at OLSC	10	1	0	11
Investigation suspended pending court proceedings	35	0	0	35
Investigation awaiting Tribunal findings	0	0	0	0
Tribunal Decision Delivered	2	0	0	2
Appeal closed by OLSC	1	0	1	2
Costs Recovery at OLSC	2	0	0	2
Referred for Compliance Audit	1	0	0	1
<b>Subtotal closed by OLSC</b>	<b>341</b>	<b>19</b>	<b>12</b>	<b>372</b>
Investigation not accepted out of time	23	1	0	24
<b>Subtotal not accepted by OLSC</b>	<b>23</b>	<b>1</b>	<b>0</b>	<b>24</b>
<b>Total OLSC Investigations Completed</b>	<b>407</b>	<b>21</b>	<b>13</b>	<b>441</b>

### All Non Jurisdictional Complaints

	Solicitor*	Barrister	Other**	TOTAL
Refer to Council	5	0	4	9
Refer to MARA & OFT****	13	0	6	19
Refer to other States	11	2	1	14
<b>Total Non-Jurisdictional Complaints</b>	<b>29</b>	<b>2</b>	<b>11</b>	<b>42</b>

### All Council Consumer Disputes

	Solicitor*	Barrister	Other**	TOTAL
Dispute resolution completed	47	0	1	48
Resolved through formal mediation	0	0	0	0
<b>Subtotal concluded by Council</b>	<b>47</b>	<b>0</b>	<b>1</b>	<b>48</b>
Consumer Dispute closed by Council	54	0	1	55
Withdrawn by complainant at Council	74	4	0	78
Unable to be resolved at Council	12	0	0	12
<b>Subtotal closed by Council</b>	<b>140</b>	<b>4</b>	<b>1</b>	<b>145</b>
<b>Total Council Consumer Disputes Completed</b>	<b>187</b>	<b>4</b>	<b>2</b>	<b>193</b>

### ALL Council Investigations

	Solicitor*	Barrister	Other**	TOTAL
Practitioner referred to Tribunal	64	12	7	83
Practitioner disciplined by Council#	30	5	0	35
Likely UPC/PM dismissed in Public Interest	5	0	2	7
Disciplined by Council with compensation ordered	1	2	0	3
<b>Subtotal determined by Council</b>	<b>100</b>	<b>19</b>	<b>9</b>	<b>128</b>
Tribunal finding of UPC/PM unlikely***	202	19	1	222
Summary Dismissal in the Public Interest	14	1	6	21
No Further Action at Council	5	0	3	8
<b>Subtotal closed by Council</b>	<b>221</b>	<b>20</b>	<b>10</b>	<b>251</b>
<b>Total Council Investigations Completed</b>	<b>321</b>	<b>39</b>	<b>19</b>	<b>379</b>
<b>Total finalised by OLSC</b>	<b>1922</b>	<b>62</b>	<b>33</b>	<b>2017</b>
<b>Total Non-Jurisdictional Complaints</b>	<b>29</b>	<b>2</b>	<b>11</b>	<b>42</b>
<b>Total finalised by Council</b>	<b>508</b>	<b>43</b>	<b>21</b>	<b>572</b>
<b>TOTAL</b>	<b>2459</b>	<b>107</b>	<b>65</b>	<b>2631</b>

\* Includes former solicitors, legal practitioners and legal practices.

\*\* 'Other' includes interstate legal practitioners, licensed conveyancers, law clerks, non-legal service providers and practitioners who have been struck off the roll.

\*\*\* Unsatisfactory Professional Conduct (UPC); Professional Misconduct (PM)

\*\*\*\* Office of the Migration Agents Registration Authority (MARA); Office of Fair Trading (OFT)

# Number of complaints that result in a disciplinary action, not number of practitioners disciplined

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## W7: Duration of file handling at the OLSC

(Time taken for complaints received in all years and finalised in 2013-2014)

Percentage of files closed within following periods\*

	2013-2014	2012-2013	2011-2012
0-30 days	40.0	35.0	28.3
1-3 months	30.4	35.1	33.7
3-6 months	15.4	16.3	21.7
6-9 months	6.3	5.6	7.8
9-12 months	2.7	3.3	3.1
Over 12 months	5.2	4.7	5.3

\* Percentages have been rounded to one decimal place resulting in the total possibly being plus or minus 0.1%

## R1: Duration of review handling at the OLSC

(Of reviews finalised in 2013-2014, time taken for review handling)

Percentage of files closed within following periods\*

	2013-2014	2012-2013	2011-2012
0-3 months	44.2	40.0	29.8
3-6 months	46.2	35.4	49.4
6-9 months	5.8	16.9	11.7
9-12 months	1.9	4.6	9.1
Over 12 months	1.9	3.1	0.0

\* Percentages have been rounded to one decimal place resulting in the total possibly being plus or minus 0.1%

## R2: Reviews in progress and finalised in 2013-2014

(Received all years)

	Solicitor	Barrister	Other*	Total	Percentage
Reviews in progress					
In progress at OLSC	20	3	0	23	30.7
<b>Total remaining open</b>	<b>20</b>	<b>3</b>	<b>0</b>	<b>23</b>	<b>30.7</b>
Reviews completed					
Dismissal confirmed	36	5	3	44	58.7
Out of time, no jurisdiction	1	0	0	1	1.3
Review request withdrawn	1	0	0	1	1.3
Reprimand confirmed	1	0	0	1	1.3
Reinvestigated by OLSC	4	1	0	5	6.7
Reinvestigated by Council	0	0	0	0	0.0
Decision changed	0	0	0	0	0.0
<b>Total completed</b>	<b>43</b>	<b>6</b>	<b>3</b>	<b>52</b>	<b>69.3</b>
<b>Total handled</b>	<b>63</b>	<b>9</b>	<b>3</b>	<b>75</b>	<b>100.0</b>

\* 'Other' includes interstate legal practitioners, licenced conveyancers, law clerks, non-legal service providers and practitioner who have been struck off the roll.

## ADMINISTRATIVE DECISIONS TRIBUNAL (2013) AND NSW CIVIL AND ADMINISTRATIVE TRIBUNAL (2014)

### T1: Complaints referred to the ADT/NCAT in 2013-2014\*

	Applications filed	Disposed	Pending as at 30 June 2014
ADT			
(1 July 2013 to 31 December 2013)	19	30	16
NCAT			
(1 January 2014 to 30 June 2014)	19	2	17
<b>Total</b>	<b>38</b>	<b>32</b>	<b>33</b>

\* Data provided by Administrative Decisions Tribunal / NSW Civil and Administrative Tribunal  
Previous OLSC annual reports have reported on the number of referrals to the Tribunal as well as the outcomes. The Tribunal no longer provides this information to us, we are now informed only of the number of applications filed, disposed of, and pending.



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