

**Office of the NSW
Legal Services
Commissioner**

**ANNUAL
REPORT
2023 – 2024**

Office of the NSW Legal Services Commissioner

Organisational Chart

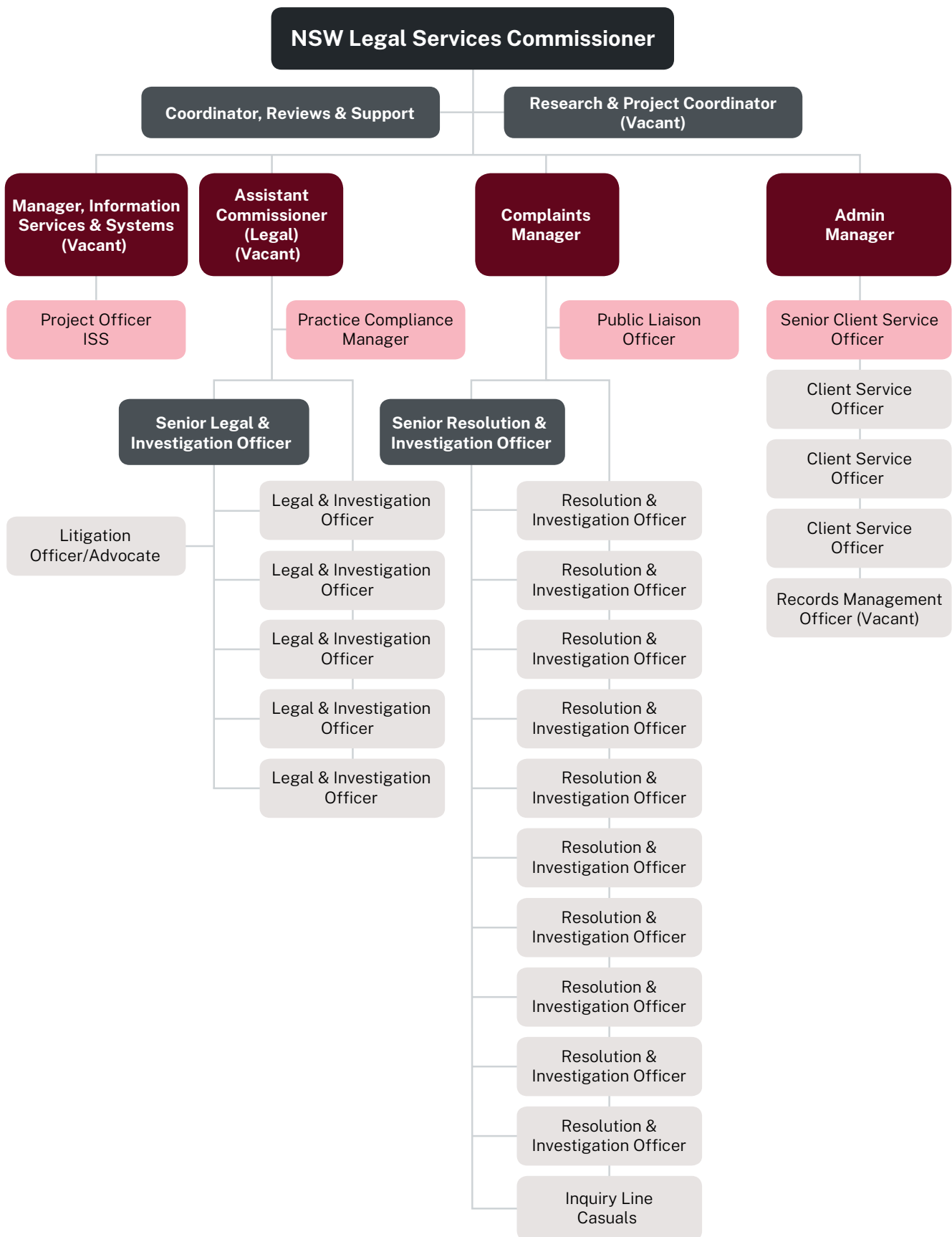


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Chapter 1

Commissioner's Report

This is my first report as NSW Legal Services Commissioner, following my appointment to the role on 4 March 2024.

Reporting year 2023-24 has proved to be another busy and, at times, challenging year.

Complaint handling and other activities

OLSC has noticed an upward trend in the number of complaints received since 2019-20 and 2023-24 was no exception with 2,960 complaints received, an increase of 118 from 2022-23.

The number of practising lawyers in NSW has also increased, reaching 44,614 (42,228 solicitors and 2,386 barristers) by 30 June 2024.

As in previous years, family law and elder law, capacity and succession were the areas of law most complained about. These complaints often arise from highly volatile and emotionally charged disputes, and complainants may be very distressed and anxious to have their complaint resolved.

Electronic lodgement of complaints (via our complaint portal or email), whilst more efficient, has enabled complainants to submit a large quantity of documents with their complaints.

This, coupled with the nature of complaints received, resulted in longer processing times and a high and increasingly complex caseload for OLSC case officers in 2023-24.

Fortunately, towards the end of the year we were able to create two new, additional case officer roles for our consumer matter/costs disputes team, with further positions to be created in 2024-25.

However, the demands of complaint handling, together with the temporary assignment of senior legal officers to backfill the Assistant Commissioner (Legal) role left vacant by my appointment as Acting Commissioner then Commissioner, resulted in the scaling back of certain activities, notably the conduct of in person compliance audits (to audit the compliance of law practices with the *Legal Profession Uniform Law*, accompanying Uniform Rules and other applicable professional obligations). We remain committed to using all regulatory tools available to us and once fully staffed will re-evaluate how best to use the powers to conduct a compliance audit and/or give a management system direction to a law practice.

Website re-design

In 2023-24, as in previous years, around 44% of complaints were ultimately closed as misconceived, lacking in substance or requiring no further investigation. A further 16% were either withdrawn by the complainant, or closed as the complainant did not respond, or responded inadequately, to a request for further information.

With this in mind, we took the opportunity during a scheduled re-design of our website to review and update the information being provided to members of the public, so as to better inform potential complainants about our processes, outcomes and, importantly, issues we can and cannot assist with. The new website went live on 22 December 2023 and we continue to monitor traffic to the website, and pages most accessed.

Sexual harassment

In December 2022, a new positive duty on employers and persons conducting a business or undertaking (PCBUs) to eliminate workplace sex discrimination and harassment commenced. New regulatory powers conferred on the Australian Human Rights Commission (AHRC) to investigate and enforce compliance with the positive duty commenced in December 2023. We will be monitoring developments to see how the AHRC's role intersects with that of OLSC.

I would like to thank OLSC staff for their patience, dedication and hard work throughout this at times challenging year, and look forward to working with them all in 2024-25 and beyond.

Chapter 2

Legal and Investigation Team

The Legal & Investigation Team continued to work flexibly in 2023-24, dealing with complaints, conducting investigations and running litigation, where required. Many members of the Legal & Investigation Team settled into a pattern of regular attendance in the office on specific days of the week to maximise knowledge sharing, communication and team building.

Complaints containing disciplinary matters

The Legal & Investigation Team deals with complaints containing disciplinary matters, and mixed complaints containing both a consumer matter and a disciplinary matter.

A disciplinary matter is so much of a complaint about a lawyer or a law practice as would, if the conduct concerned were established, amount to unsatisfactory professional conduct or professional misconduct.

In practice, most complaints made by persons other than a client/third party payer, which cannot by definition be “consumer matters” are, on receipt and pending preliminary assessment, classified as containing a disciplinary matter.

The first step in dealing with the complaint is to conduct a preliminary assessment, to identify the allegations being made, assess whether the conduct complained of would, if established, amount to unsatisfactory professional conduct or professional misconduct and assess whether the available material provides a factual basis for the allegations made.

The OLSC is not bound by rules of evidence and may inform itself of any matter in any manner as it thinks fit. Further information may be requested from the complainant, the lawyer or any other person who may have relevant information. However, the OLSC is not required to give a complainant or a lawyer an opportunity to be heard or make a submission before determining whether or not to close a complaint.

After preliminary assessment, a complaint may be closed without further consideration of its merits, or an investigation may be commenced.

Complaints may be closed for any of the ten reasons set out in section 277 of the *Legal Profession Uniform Law (NSW)* (“Uniform Law”). By way of example, complaints may be closed as misconceived or lacking in substance if the conduct, as described in the complaint and clarified with the complainant, is not capable of being unsatisfactory professional conduct or professional misconduct, or if the material provided in support of a complaint is insufficient to establish a proper factual basis for the complaint.

Complaints not closed after preliminary assessment may be investigated pursuant to section 282 of the Uniform Law. If, after completing an investigation, the Commissioner finds a lawyer has engaged in unsatisfactory professional conduct, the Commissioner may determine the matter by making any of the orders specified in section 299 of the Uniform Law.

Orders may include:

- Cautioning the lawyer
- Reprimanding the lawyer
- Requiring an apology from the lawyer
- Requiring the lawyer to redo the work that is the subject of the complaint at no cost or at a reduced cost
- Requiring the lawyer to undertake training, education or counselling
- Requiring the lawyer to pay a fine of up to \$25,000
- Recommending the imposition of conditions on the lawyer’s practising certificate.

Alternatively, if the Commissioner is of the opinion that the alleged conduct may amount to professional misconduct, or unsatisfactory professional conduct that would be more appropriately dealt with by the NSW Civil & Administrative Tribunal, the Commissioner may initiate and prosecute disciplinary proceedings in the Occupational Division of the NSW Civil & Administrative Tribunal.

Complaints received

In 2023-2024, the OLSC received a total of 2,960 written complaints, an increase of 118 from the previous year. Of the total written complaints received, 1,561 were classified as disciplinary matters.

The OLSC continues to notice an ongoing increase in the complexity of investigations and a sizeable increase in the amount of documentary material submitted with complaints, especially as attachments to emailed complaints.

Consistently for a number of years, more complaints were received in relation to family and de facto law matters than any other area of law at around 24% of all complaints. Many of these complaints are made not by the lawyer’s client but by the opposing party, and many of the complainants are litigants in person. Often their complaints arise from a misunderstanding of the adversarial system and the role of a lawyer within that system, specifically that they are bound to act on the reasonable instructions, and in the best interests, of their own client, which often means putting forward evidence and making submissions that are adverse to the other party. Similarly with complaints about Independent Children’s Lawyers (ICLs), it is often misunderstood that the ICLs must act in a way that they consider is in the best interests of the child or children, independent from the views of the parents or carers in conflict.

Complainants in family law matters commonly complain of discourtesy, unfair or intimidatory tactics, false or misleading affidavits and submissions, and lawyers acting in a conflict of interests, particularly where work has been done for a couple and the lawyer subsequently represents one person from the couple.

Complaints related to deceased estates, including wills, powers of attorney, probate and family provision claims, have remained consistent in recent years, accounting for approximately 13% of all complaints. Many of these complaints are from beneficiaries of the estate who complain about the lawyer who is either the executor of the estate, or more commonly the lawyer who represents the executor of the estate. The issues complained about are typically delay, lack of communication about estate accounts and excessive legal costs. Often complaints arise from a misunderstanding of the rights and entitlements of a residuary beneficiary. The lawyer for the estate acts for the executor, not the residuary beneficiary, and therefore a residuary beneficiary generally has a limited right to information direct from the lawyer.

Another common complaint with respect to wills and powers of attorney is that the person making the will or power of attorney lacked legal capacity to do so. Complainants allege that the lawyer either knew that their client lacked capacity, or did not sufficiently assess their capacity prior to taking instructions.

The most commonly made complaint, across all complaints received was negligence at around 20%, followed by poor communication, and overcharging.

Determinations and disciplinary action

Table W6 reports on the determinations made, and disciplinary action taken, by the Commissioner in the reporting year. Apart from orders to caution, disciplinary action is published on the Register of Disciplinary Action kept by the Commissioner and accessible on the OLSC's website.

The Commissioner issued reprimands to two (2) lawyers and issued cautions to four (4) lawyers.

Reprimands were issued for conduct including:

- Making inappropriate verbal submissions in the Supreme Court of NSW, asserting the Law Society weren't honest, suggesting the District Court manipulated transcripts, and suggesting District Court orders were not made on a lawful basis.
- Recklessly making a false and/or misleading written submission to the Supreme Court of NSW
- Failure to appear at a Local Court hearing without reasonable excuse

Cautions were issued for conduct including:

- Recklessly attempting to mislead the OLSC
- Breach of Solicitors Conduct Rule 36.1 – Misleading or deceptive advertising
- Inappropriate assertions in a biography on a law practice webpage
- False or Misleading assertions in a biography on a law practice webpage
- Failing to take appropriate steps to ensure a client had relevant mental capacity
- Inappropriate statement by a principal to an employed solicitor

Disciplinary proceedings

Disciplinary proceedings initiated against lawyers are heard in the Occupational Division of the NSW Civil & Administrative Tribunal ('Tribunal'). There were no decisions delivered in the reporting year.

Internal reviews

Decisions made by the Commissioner or their delegates, the Council of the Law Society of New South Wales and the Council of the New South Wales Bar Association, are final except that the Commissioner may (at their absolute discretion) conduct an internal review of a decision if they consider it appropriate to do so. On review, the Commissioner must consider whether the decision was dealt with appropriately and whether the decision was based on reasonable grounds, and may confirm the original decision, make a new decision or refer it back to the original decision maker. The Commissioner declined to conduct an internal review in the majority of requests received in the reporting year, as on examination most sought to either re-agitate issues that had been raised and addressed in dealing with the original complaint and/or no new evidence or persuasive reasons were provided to justify conducting an internal review.

Reviews by NSW Civil & Administrative Tribunal

Hao Ran Shen v NSW Legal Services Commissioner

By Amended Administrative Review Application filed with the Tribunal on 8 March 2024, the lawyer, Mr Hao Ran Shen, seeks administrative review of a disciplinary decision made by the then Acting Commissioner on 13 November 2023 (Decision).

The disciplinary decision determined a complaint made by a former client, Mr AB, alleging the lawyer when acting on his behalf in a criminal matter, failed to attend a court hearing without reasonable excuse. The former client also alleged that the lawyer failed to cease acting when instructed to do so.

Following an investigation, the Acting Commissioner found that the lawyer in failing to attend Court without a reasonable excuse, had engaged in unsatisfactory professional conduct and made an order pursuant to section 299(1)(b) of the Uniform Law reprimanding the lawyer.

The matter is listed for hearing in the Tribunal on 8 October 2024. The outcome of the Amended Administrative Review Application will be reported next year.

Judicial review and other proceedings before the Supreme Court of New South Wales

One complainant and one lawyer have sought judicial review of decisions made by the Commissioner and the former Commissioner. In the first matter, the complainant sought judicial review of the Commissioner's decision to close the complaint without conducting an investigation pursuant to section 277(1)(h) of the Uniform Law. The complainant also sought judicial review of the then Acting Commissioner's decision to decline to exercise her absolute discretion to conduct an internal review. Those proceedings were dismissed by consent on 16 October 2023 with costs in favour of the complainant. The complainant has now commenced new proceedings in the Supreme Court of NSW seeking an order that the Acting Commissioner breached an agreement reached between the parties during the judicial review proceedings as well as various declarations and other orders.

In the second matter, a lawyer has commenced proceedings in the Supreme Court of NSW seeking a declaration and an order from the Court seeking to set aside compensation orders made by the former Commissioner pursuant to section 290(2)(e) of the Uniform Law. The matter is awaiting allocation of a hearing date.

Another complainant has brought proceedings in the Supreme Court of NSW seeking damages for an alleged breach of contract and damages for 'professional negligence'. The Commissioner filed a Notice of Motion seeking orders that the proceedings be summarily dismissed or that the initiating proceedings as against the Commissioner be struck out. This Notice of Motion was heard on 23 July 2024 and judgment on the orders sought in the Notice of Motion has been reserved.

The outcome of these proceedings will be reported next year.

Policy development

The OLSC continued to work with New South Wales co-regulators (the Law Society of New South Wales and the New South Wales Bar Association), our Uniform Law scheme counterparts in Victoria and Western Australia, the Legal Services Council and the Commissioner for Uniform Legal Services Regulation throughout the reporting year including:

- Initiating discussion about policy and approaches at joint CPD sessions with the Law Society and Bar Association, including about sexual harassment and workplace bullying
- Regular liaison with Victorian Legal Services Board & Commissioner about review procedures and other investigative processes
- Attending regular meetings of Uniform Law scheme policy officers
- Being part of a working group to progress proposed amendments to the Uniform Law
- Attending the annual Uniform Law Summit
- Responding to inquiries and consultation papers from the Legal Services Council and Commissioner for Uniform Legal Services Regulation as required.

The Legal & Investigation Team continues to provide guidance and legal advice to senior managers and staff on the interpretation and application of the Uniform Law. The Assistant Commissioner (Legal), Senior Legal and Investigation Officer and the Practice Compliance Manager meet regularly with the Director Legal Regulation, the Deputy Directors, and Team Leaders of the Legal Regulation Department at the Law Society of New South Wales and the Director of Professional Conduct at the New South Wales Bar Association to discuss lawyers of interest, complaints of interest, complaint handling procedures and other common issues. The Commissioner is also a member of the Supreme Court of New South Wales Costs Assessment Rules Committee.

CASE STUDY 1

A complaint initiated by the NSW Legal Services Commissioner following Supreme Court appeal proceedings relating to the suspension of a lawyer's practising certificate, resulting in a finding of unsatisfactory professional conduct and orders reprimanding the lawyer and orders for apologies

The lawyer commenced appeal proceedings in the Supreme Court that contested the suspension of the lawyer's practising certificate. The practising certificate had been suspended on medical grounds, the lawyer having indicated she was unable to participate in an OLSC professional disciplinary investigation into the lawyer's conduct. During the proceedings, the lawyer made inappropriate submissions to the Supreme Court that the Law Society of NSW "weren't honest", the NSW District Court "manipulated transcript recordings" and suggested that certain District Court orders were not made on a lawful basis. The lawyer then provided subsequent written submissions to the Supreme

Court that stated that the lawyer offered to be cross-examined in the Supreme Court proceedings, when in fact the lawyer had refused to be cross-examined. The lawyer then repeated this same submission to the OLSC, a year later during a related investigation into the lawyer's conduct. The investigation of this matter was protracted and complicated due to conflicting psychiatric evidence from the lawyer and an independently engaged psychiatric expert, about whether at the time of the conduct the lawyer was suffering from a medical condition, and whether or not that condition was the sole or substantial cause of the alleged conduct. Ultimately the OLSC accepted the

independent psychiatric evidence that the lawyer did not have a diagnosable medical condition at the time of the conduct. The lawyer ultimately expressed contrition for the conduct forming the subject of each allegation, and the OLSC accepted that the conduct was reckless and not intentional. On this basis, the Commissioner made a finding of unsatisfactory professional conduct for each allegation and made various orders reprimanding and cautioning the lawyer, as well as orders directing that the lawyer apologise to the Law Society of NSW, the District Court, a District Court Judge and the OLSC.

CASE STUDY 2

A complaint initiated by the NSW Legal Services Commissioner following a referral from a Local Court, relating to a misleading profile of a lawyer on a law practice website, resulting in findings of unsatisfactory professional conduct and an orders cautioning the lawyer and the principal of the law practice

A newly admitted lawyer commenced working at a law practice. Prior to being admitted, the lawyer had experience working as a court officer at a Local Court. Around 4 weeks into being employed at the law practice, the principal of the law practice uploaded a profile of the lawyer that suggested that the lawyer had an advantage due to the lawyer's familiarity with unspecified Magistrates. The profile also claimed that the lawyer had specific areas of speciality and experience in the court room in relation to a wide range of criminal law matters, that did not appear to reflect the lawyer's 4 weeks' experience as an admitted lawyer. The principal of the law practice, upon receiving the complaint, immediately amended the lawyer's profile and stated that he did not intend to suggest that any familiarity with a Magistrate would give any advantage. The principal conceded that the profile could have been interpreted that way and

immediately apologised for the conduct. The principal also conceded that the specified experience of the lawyer was partially false and misleading as the lawyer did not have all of the specified experience. The principal stated that due to his copying of another lawyer's profile and being in a rush to upload, the principal did not ensure the profile was correct, or ask the lawyer to review the profile. The principal apologised for this recklessness.

The newly admitted lawyer stated that whilst he had no knowledge of the profile being prepared or uploaded, he did access the profile when it was uploaded and read the contents. The lawyer stated that as he was a newly admitted lawyer, and a new employee, he did not raise any concerns to the principal. The lawyer ultimately apologised for his conduct.

The OLSC's view is that notwithstanding the contrition and

apology from both the principal and the lawyer, the impartiality and independence of a Judicial Officer is sacrosanct. Any intentional or reckless statement or suggestion that a lawyer's personal familiarity with a Judicial Officer would be advantageous for a client in their legal matter is conduct that warrants a professional disciplinary finding. Further, the OLSC's view is that notwithstanding being a newly admitted and newly employed lawyer, where an issue relates to a factual and materially false statement about the lawyer, that the lawyer knows to be false, it is the lawyer's professional ethical duty as an admitted lawyer to raise this issue appropriately.

In all the circumstances, the Commissioner made a finding of unsatisfactory professional conduct against the principal and the lawyer and made orders cautioning both of them.

Chapter 3

Consumer Matters

The 2023-24 reporting year has been another busy one for the consumer team, however the creation of additional establishment positions and subsequent new recruitment, has meant that toward the end of the reporting year we saw the beginning of a reduction in high individual caseloads and resulting, a decrease in the time taken to deal with complaints. We have previously observed that the general complexity of consumer matters seems to be increasing and staff are often required to deal with matters involving significant documentation.

A further change that has occurred late in this reporting year has been an alteration to the position titles of staff within the consumer matter team to better reflect the work that they do. The previous title of 'Mediation & Investigation Officer' has been replaced with 'Resolution & Investigation Officer'. This reflects the focus on 'resolution' within the legislation and also the fact that we rarely conduct formal face to face 'mediations' noting that much of our complaint handling is done via the exchange of correspondence and telephone calls.

In 2023-24, the OLSC received a total of **2,960** written complaints, a rise from the 2,842 received the previous year. The OLSC registered the completion of **2,942** written complaints, a very similar figure to that achieved in the previous reporting year.

Under the legislation complaints may be characterised as containing either a consumer matter (including costs dispute) or a disciplinary matter, or both.

A **consumer matter** is so much of a complaint about a lawyer or a law practice as relates to the provision of legal services to the complainant by the lawyer or law practice and as the Commissioner determines should be resolved by the exercise of functions relating to consumer matters.

A **costs dispute** is a consumer matter involving a dispute about legal costs payable on a lawyer-client basis where the dispute is between a lawyer or law practice and a person who is charged with those legal costs or is liable to pay those legal costs (other than under a court or tribunal order for costs), whether as a client of the lawyer or law practice or as a third party payer.

The OLSC must attempt to resolve a consumer matter by informal means. The Commissioner also has power to make a determination under section 290 of the Uniform Law, if satisfied that it is fair and reasonable in all the circumstances, and/or a binding determination about costs. As has been noted in previous Annual Reports, giving an indication to a lawyer that the Commissioner may give consideration to making a determination in a consumer matter or a costs determination, where grounds exist to support that, will often have the effect of encouraging a lawyer to engage in attempts to informally

resolve the complaint. Resolution & Investigation staff also encourage complainants to actively participate in the informal resolution process through the OLSC, noting that the service is free of charge and that a realistic proposal for resolution may lead to a speedier outcome.

Where a Resolution & Investigation Officer comes to a view that a complaint may involve a disciplinary matter, issues of potential unsatisfactory professional conduct or professional misconduct must be considered separately from consumer aspects of a complaint. The legislation does allow a mechanism for the resolution of consumer matters prior to the consideration of disciplinary aspects of a complaint.

The year under review

Of the total written complaints received, **1,392** were assessed as consumer matters. In the 2023-24 financial year, from the consumer matters received, we assessed a total of **542** as cost dispute complaints.

For this reporting year, Family and De facto matters were again the areas of law most represented in consumer matters (**22%**), followed by Other Civil matters (**12.5%**) and Conveyancing (**11.8%**).

Breaking down the main issues in Consumer matters, these were Negligence (**32.6%**), Communication (**19.4%**), and Overcharging (**10.6%**).

In 2023-24, Family and De facto matters were once again the areas of law most represented in cost disputes (26.6%) followed by Other Civil matters (18.8%) and Criminal matters (**8.9%**).

Outcomes

For the 2023-24 reporting year, **495** of the consumer matters received were either resolved or closed.

Where a matter is closed, an explanation is generally provided, although in some instances matters must be closed as the complainant has failed to provide necessary information to deal with the complaint. A small number of consumer matters were closed as not able to be resolved or were outside our jurisdiction. Consumer matters that are resolved may include matters where documents have been transferred, an apology has been offered or legal work has been redone to the satisfaction of the complainant, following the involvement of the OLSC.

This year, **324** of the costs disputes received were either resolved or closed.

Complainants may be referred to the New South Wales Costs Assessment Scheme in circumstances where the totality of the costs involved, or the amount in dispute, may exceed the limits of the OLSC's jurisdiction. This may also be the case where the invoices in question fall outside the time periods allowed for the OLSC to deal with a costs dispute.

Resolution & Investigation Officers are also obliged to inform complainants of the right to apply for a costs assessment where attempted resolution through the OLSC has been unsuccessful. However, the costs potentially associated with such an application may not be viable in disputes about smaller amounts.

The OLSC acknowledges that for many people, engagement in legal proceedings may not be something they have previously experienced and can be challenging and confusing. Our Resolution & Investigation Officers do not give legal advice or opinion, but are often able to supply additional procedural or contextual information to complainants that had not previously been made available to them by their lawyers. Whilst the provision of additional information may not always resolve all of a complainant's concerns, it can assist their understanding of why events may have occurred and, in many instances, this may be sufficient to resolve the complaint.

Allegations of negligence remain a significant proportion of the consumer matters that come before the OLSC. In some cases, complaints containing allegations of negligence may be able to be resolved by negotiation to the satisfaction of the parties but there are also instances where such disputes would be more properly referred to the civil Courts for determination. It is a requirement for lawyers practising in New South Wales to hold insurance in the event of a client making a claim against them alleging professional negligence.

It must be noted that the OLSC continues to receive complaints of instances of inadequate, misleading or non-existent disclosure of costs particularly in the family law area. Once again, we encourage all lawyers working in this challenging area of law to regularly review their cost disclosure regimes to ensure that clients are being provided with accurate and timely information about cost implications.

Where inadequate costs disclosure is identified, it is open to the Commissioner to issue a consumer matter caution pursuant to section 290(2)(a) of the Uniform Law. This can have the effect that lawyers are unable to recover their costs until they have been formally assessed and in more serious instances, such failures may also constitute unsatisfactory professional conduct or professional misconduct pursuant to section 178 of the Uniform Law.

It is our experience that a small number of lawyers each year magnify the difficulties that have led to a complaint, by subsequently delaying their responses to the OLSC. Sometimes we become aware of instances where lawyers have been dealing with significant issues with their physical health or may be suffering with mental health

problems. In other instances, there may be no obvious explanation for the failure to respond to the inquiries of the Regulator. Continued instances of failure to respond may result in a law practice being referred to the Compliance Audit team for consideration to be given to conducting an audit of the practice. In more serious instances, continued failure to respond or supply relevant information may raise questions as to whether the lawyer should maintain a right to practice.

We are increasingly noting an awareness and concern regarding on-line 'reviews' of legal services. In some instances, lawyers have decided to respond publicly to the review, generally refuting the allegations but in the process releasing confidential information in breach of client legal privilege. This can be a serious disciplinary matter so we again remind lawyers of their duty of courtesy and their professional obligations to maintain client confidentiality. In dealing with complainants and lawyers, our staff deal with people who are unhappy because they have a complaint or may be unhappy because a complaint has been made against them. While always conscious of access to justice issues, staff of the OLSC are not required to tolerate instances of abuse or threatening behaviour and it is pleasing that most people dealing with the OLSC do so in a respectful and courteous manner. We acknowledge that not all complainants will be satisfied with the outcome of their complaint to the OLSC but where a matter has not been able to be resolved we do attempt to provide a clear explanation as to why the OLSC may not consider that further action can be taken.

As ever, the OLSC commends the considerable resources offered by the Law Society to lawyers who may be suffering work or life stresses.

Inquiry Line

The OLSC Inquiry Line is a telephone service that provides members of the public and, at times, the profession, with procedural information about making a complaint to the OLSC. It also provides general information in relation to the role of, and the powers of, the OLSC with respect to the handling and determination of complaints. Where appropriate, Inquiry Line staff can provide general information relating to common complaint scenarios and refer callers to applicable OLSC Fact Sheets that may assist callers to understand common issues. Inquiry Line staff can also offer referrals to other agencies where such agencies are better placed to assist.

At times, calls may simply involve the Inquiry Line staff providing information to the caller about how to raise their concerns directly with the lawyer. In cases, however, where it is not possible or appropriate for a caller to raise a complaint directly with a lawyer, or where such methods of informal resolution have been attempted outside of the OLSC and exhausted, a caller may be provided with information about the process of submitting a formal written complaint.

In total, for the 2023-24 reporting year, 4,718 calls were made to the Inquiry Line, a decrease of 211 calls from the previous reporting year. At the conclusion of each call, survey forms were sent to callers who indicated an interest in participating in the provision of feedback. Participation in the survey assists in the maintenance and improvement of the Inquiry Line's service, and the information gathered through the survey allows the OLSC to identify and implement improvements to the service where appropriate. From the 4,718 calls made to the Inquiry Line, 1,600 callers expressed interest in participating in the survey. Due to a technical issue, no survey responses from January 2024 were received. As a result, from July 2023 to December 2023, 97 surveys (13.5%) were then completed online or sent back to the OLSC for analysis.

Overall, results were overwhelmingly positive. 97.9% of callers agreed with the statement that the call was handled promptly, 94.80% of callers agreed with the statement that the information provided was helpful and 97.9% of callers agreed with the statement that the Inquiry Line staff member was professional and courteous. These are all increases from the 2022-23 reporting year. In addition to this, 90.7% of callers indicated that they would recommend the OLSC's Inquiry Line service to a friend or relative.

Assistance provided to complainants with a special need or disability in preparing their written complaints to the OLSC

The OLSC's Public Liaison Officer (PLO) assists a large number of people each year. The PLO assists complainants to put their complaints in writing via conducting telephone interviews.

During this reporting year, approximately 65 requests for PLO assistance were received.

There are many reasons why potential complainants seek assistance from the PLO. These reasons can include, but are not limited to the potential complainant:

- Having an intellectual or physical disability
- Experiencing mental health issues
- Being illiterate or having an inability to access or use computers
- Requesting the assistance of an interpreter, which the PLO can organise, due to English not being their first language
- Experiencing social isolation and they are unable to obtain assistance via a friend or family member
- Being a survivor of domestic and family abuse or survivor of child sexual abuse within institutional care

There are various areas of the law in which potential complainants seek assistance from the PLO, however, the majority of the complaints appear to be coming from the following areas of law:

- Personal injury Law
- Family Law
- Wills and Estates/Probate

When the PLO provides assistance, the potential complainants are given general information about the OLSC's complaint handling process including the preliminary assessment of complaints and the timeframes within which to make their complaints. Sometimes complainants are referred to a more appropriate government agency or non-government service to seek special assistance relevant to their needs.

CASE STUDY 1

Complaint involving a conveyancing matter resulting in a refund of legal fees

The complainant engaged the lawyer in relation to the preparation of a Contract of Sale for a conveyancing matter. The lawyer informed the complainant that the legal fees would be \$1,200 plus disbursements, and that an upfront payment of \$700 was required to begin work on the matter. The final invoice stated that the lawyer's professional fees were \$1200.

The complainant alleged that they were under the impression that the \$700 initial payment would be deducted from the \$1,200 in professional fees, but the lawyer maintained that the \$700 payment was in addition to the \$1,200.

The complainant sought assistance from the OLSC to clarify the

situation. The OLSC sought an explanation from the lawyer. The lawyer acknowledged that there had been some miscommunication regarding fees and apologised to the complainant. The lawyer offered to refund the complainant \$400, which the complainant was happy to accept.

CASE STUDY 2

Complaint involving a costs dispute in a lease matter resulting in a fee reduction

The complainant engaged the lawyer to act in regard to a small commercial lease. The complainant disputed an invoice for \$2,040, alleging he had been quoted \$800 in total for the work to be completed. The complainant had already paid \$300, and was prepared to pay another \$500. The

lawyer requested a \$1,000.00 payment instead.

The complainant and the lawyer both made submissions to the OLSC about the instructions that had been given, the work that had been performed, and the costs disclosures that were

provided.

The OLSC assisted the parties with attempts at informally resolving the matter. Ultimately, the lawyer reduced the invoice, and the complainant paid another \$800.

CASE STUDY 3

Complaint involving a family law matter resulting in a reduction of legal fees

The complainant retained the lawyer to assist them with their family law property settlement. The complainant and lawyer had entered into a costs agreement which included an agreement for invoices to be provided monthly. Monthly invoices were not provided.

The lawyer was also obliged to provide the complainant with updated cost disclosures pursuant to the *Legal Profession Uniform Law (NSW)*; updated Costs Notices pursuant to rule 12.06 of *Federal Circuit and Family Court of Australia (Family Law Rules) 2021* and in this matter court orders had specifically directed the lawyer to file updated costs

disclosure. The complainant did not receive any updated costs disclosure from the lawyer.

The complainant's matter was ultimately settled at a Conciliation Conference before a Registrar. The Registrar required the lawyer to provide their updated costs disclosure orally within the course of the conciliation conference. The complainant alleged that the final tax invoice issued by the lawyer was approximately \$30,000 more than the amount disclosed to the Registrar as the total costs to that date.

The OLSC proceeded to assist the parties to resolve the dispute and

wrote to the lawyer requesting a response. The OLSC informed the lawyer it did not appear he had complied with his disclosure obligations pursuant to the *Legal Profession Uniform Law (NSW)* or the *Federal Circuit and Family Court of Australia (Family Law Rules) 2021* or court orders that had been issued in the matter.

The costs dispute was resolved by way of a Deed of Settlement with the lawyer agreeing to reduce the costs charged to an amount close to the amount that had been disclosed to the Registrar in the settlement conference.

CASE STUDY 4 Complaint involving a civil dispute resulting in a refund of legal fees

The complainant engaged the lawyer to assist her with a civil matter. The complainant alleged the lawyer provided a poor level of customer service and was professionally negligent in the handling of her matter.

The complainant requested the assistance of the OLSC to obtain a waiver of outstanding fees owed of \$2,023 and a partial refund of fees paid thus far totalling \$20,000.

By way of informal resolution facilitated by the OLSC, the lawyer

agreed to waive the outstanding costs owed, and to reduce previously paid fees to \$18,160 resulting in an offer to refund the complainant an amount of \$1,840. The complainant accepted this offer to resolve the dispute.

CASE STUDY 5 Complaint involving a civil matter resulting in a consumer matter caution

The complainant engaged the lawyer to assist her with a civil matter. The complainant alleged she was not provided a cost agreement or cost disclosure for this matter, and as such was overcharged for the work completed.

During informal resolution, the lawyer confirmed the complainant was not issued a cost agreement or disclosure statement for this matter, and instead, the lawyer explained he relied upon a cost agreement and disclosure statement from a prior, unrelated, and completed matter the law practice had been previously engaged for by the same complainant. The lawyer

was unwilling to reduce the invoice as requested by the complainant.

Ultimately, the Commissioner determined to make an order under section 290(1)(a) of the *Legal Profession Uniform Law (NSW)*, cautioning the lawyer for his failure to meet his professional obligations regarding disclosure.

CASE STUDY 6 Complaint involving a costs dispute in a probate matter resulting in a reduction of legal fees

The complainant engaged the services of the lawyer to attend to the Probate and the administration of the Estate of his late father.

The complainant alleged that owing to a costs dispute, the lawyer refused to release monies held in trust even

though he had suggested to the lawyer that the amount in dispute could be retained until a review of costs was undertaken. A compromise could not be reached between the parties and the complainant sought the assistance of the OLSC.

Following informal resolution by the OLSC, the lawyer agreed to release trust monies in excess of \$150,000, and the law practice also reduced their professional fees. The complainant accepted the lawyer's proposal, and he was satisfied with the outcome.

CASE STUDY 7 Complaint involving a costs dispute in an immigration matter resulting in a refund of legal fees

The complainant retained the lawyer to assist with their visa application. The complainant alleged that the lawyer failed to provide the services for which they were retained, failed to provide progress updates, and failed to respond to an email containing the complainant's concerns about their conduct. As a result, the complainant

requested a partial or total refund of the sum of \$3,630, which they had paid into trust initially in the matter.

The lawyer responded that they had perused the file and highlighted areas where the law practice could improve its client services. They indicated that the payments made by the

complainant were a deposit only and not the full fees owed. However, in the interests of resolving the complaint, the lawyer offered to refund the complainant the sum of \$2,200. This was accepted by the complainant and the matter was resolved on that basis.

CASE STUDY 8 Complaint involving a costs dispute in a family law matter resulting in a refund of legal fees

The complainant instructed the lawyer in a family law matter. The complainant alleged that the lawyer gave negligent advice. The complainant only discovered this after the lawyer engaged a barrister, who advised the complainant during the first consultation that the case did not have prospects.

The complainant had previously received advice from the lawyer which indicated they had a good case. As a result, the complainant believed they had been misled and requested a refund of the barrister's fee of \$8,800.

The OLSC assisted the parties with attempts at informally resolving the dispute. The lawyer offered to refund the complainant the sum of \$4,000 to resolve the matter, and the complainant agreed to resolve the dispute on that basis.

CASE STUDY 9 Complaint involving a conveyancing matter resulting in compensation

The complainant instructed the lawyer in a conveyancing matter. The complainant alleged the lawyer failed to adequately review a contract for the purchase of a unit and gave incorrect advice on the contract which

meant the purchase of the property was ultimately subject to a lease. The complainant sought compensation.

The OLSC assisted the parties with attempts at informally resolving the

dispute. The lawyer ultimately agreed to pay \$10,000 in compensation to the complainant to compensate for the expense of renting other premises and other associated costs.

CASE STUDY 10 Complaint involving an Estate matter resulting in a resolution

The complainant engaged a lawyer to act in the administration of her deceased husband's Estate. Her complaint alleged that there were significant unexplained delays in this process. She also disputed an amount of \$1,500 from the total fees charged.

In response to the complaint the lawyer provided an explanation about

the complainant's misapprehension about aspects of the Estate that required additional work and time to complete. In support of the explanation, the lawyer provided copies of contemporaneous correspondence with the complainant which had provided her with that information. Additionally, the lawyer

provided an explanation of additional work that had been completed in the matter but was not ultimately charged to the complainant.

Upon receipt of the lawyer's response, the complainant informed the OLSC that she considered her complaint resolved and that no further action was required.

CASE STUDY 11 Complaint involving a workers compensation matter resulting in resolution

The complainant engaged the services of the lawyer to assist with a workers compensation matter. The complainant sought the assistance of the OLSC to obtain a more comprehensive explanation about the merits of her claim, and why the law practice could no longer assist/act for her.

Following informal resolution with the assistance of the OLSC, the law practice provided a detailed explanation of the merits of her claim, mentioned the strengths and weaknesses of her legal matter and outlined the risks involved with further legal action.

The complainant alleged that there had been poor communication between the parties. However, after receiving the lawyer's detailed information about her matter, she was satisfied with their explanation and considered the matter resolved.

CASE STUDY 12 Complaint involving a professional negligence matter resulting in a compensation order and a consumer matter caution

The complainants engaged the lawyer to act for them in their professional negligence claim against their previous conveyancer. The complainants paid the lawyer \$3,080.00 for their services. The complainants alleged that the lawyer delayed actioning the matter over a number of years and that the lawyer failed to communicate with them when updates were requested.

During the informal resolution process, the OLSC attempted to assist the parties to come to an agreement

regarding the matter. The lawyer failed to provide sufficient information to the OLSC in response to the complaint and did not provide any suggestions to resolve the dispute.

While it appeared that the lawyer had completed some work in the matter on behalf of the complainants, it was clear that the lawyer did not progress the matter in a timely fashion or in the manner originally contemplated. The Commissioner determined that the complainants had suffered a loss as the lawyer did not efficiently

progress the matter for which they had instructions and received payment for, and the complainants were now disadvantaged in seeking to have their matter dealt with by the Court.

The Commissioner determined to make a compensation order in the amount of \$3,080, representing the total amount of legal fees paid, and to issue a consumer caution due to the excessive delay and poor communication by the lawyer.

CASE STUDY 13 Complaint involving a costs dispute and allegations of professional negligence resulting in a fee reduction

The complainant engaged the lawyer to act for them in a building law matter before the NSW Civil & Administrative Tribunal. The complainant alleged that the lawyer had been negligent as they did not identify various issues regarding their legal matter and did not prepare sufficient evidence before the Court deadline. The complainant also alleged that the costs charged totalling approximately \$5,000 were not fair and reasonable.

The OLSC attempted to assist the parties to resolve the dispute by requesting a response from the lawyer to the allegations made as well as suggestions from both parties regarding resolution of the dispute. The lawyer denied any wrongdoing and provided a comprehensive response addressing the allegations made. In the interests of resolving the dispute however, the lawyer offered to reduce the amount of outstanding fees owed.

After the parties exchanged various offers regarding the outstanding fees, the parties agreed to resolve the complaint in its entirety by the lawyer reducing the outstanding fees owed from approximately \$5,000 to \$1,000.

CASE STUDY 14 Complaint involving a costs dispute resulting in a refund of legal fees

The complainant engaged the lawyer to represent him in relation to a driving offence in the Local Court. The complainant alleged that the work that was completed did not ultimately amount to \$4,400 which was originally estimated and transferred into the lawyer's trust

account. He also complained that the bill that was issued was not sufficiently itemised to allow him to calculate the work completed.

The lawyer asserted that they had been engaged on a "fixed fee" basis but made an offer to provide a partial

refund of \$495 to resolve the matter. The complainant did not agree to this offer and requested a refund of \$2,000. The lawyer ultimately agreed to provide the complainant with the refund of \$2,000.

CASE STUDY 15 Complaint involving a family law matter resulting in a refund of legal fees

The complainant engaged the lawyer to assist them with a family law property settlement. The complainant alleged that they had not received a costs agreement, that they had been charged for services that they were unaware of, that the lawyer had made an offer to settle the matter without their knowledge or consent, that the lawyer had used discriminatory language to describe them and members of their family and that

the lawyer had failed to ensure that details of the assets of the other party such as superannuation details were requested.

The complainant was willing to pay for work that was in their view reasonably executed. However, they requested a partial refund for the services they considered were not done reasonably.

The OLSC attempted informal resolution. The lawyer was reminded of their obligations in relation to costs disclosure, ethical duties such as acting in their client's best interests and being courteous in all their dealings, communication of advice and following a client's lawful and competent instructions. The lawyer agreed to refund to the complainant \$935 which was the amount the complainant requested.

CASE STUDY 16 Complaint involving a family law matter resulting in a fee reduction

The complainant engaged the lawyer in relation to a family law dispute. The complainant requested an itemised invoice several weeks after engaging the lawyer. The lawyer provided an invoice and the complainant raised an objection directly with the lawyer regarding the amounts claimed. The complainant and lawyer failed to agree on an amount to settle the disputed invoice, and the lawyer subsequently deducted funds from trust to pay the entire invoice.

The OLSC wrote to the lawyer and noted that it would appear that they deducted funds from trust to pay the invoice despite an objection being raised by the complainant within 7 days of receiving the invoice. The OLSC asked the lawyer to confirm whether they believed they had complied with their obligations pursuant to Rule 42 of the *Legal Profession Uniform General Rules 2015* (withdrawal of trust funds to pay professional fees). The lawyer

responded by stating that the transfer appeared to have been an administrative error, and the funds were returned to trust pending resolution of the complaint. The lawyer then made an offer to discount the invoice by \$430. The complainant subsequently accepted the lawyer's offer.

Chapter 4

The OLSC and the Community

During 2023-2024, the Commissioner maintained a consistent aim to raise awareness about current issues facing the legal profession and to collaborate closely with co-regulators to enhance regulatory interactions with the legal profession.

The OLSC continued to deliver tailored seminars to law practices and organisations, focussing on ethics in the legal profession and fostering a better understanding of the OLSC's role.

OLSC staff continued to maintain strong professional relationships with key stakeholders, co-regulators and our counterparts in other jurisdictions. We engaged with our co-regulators through regular meetings, forums and conferences. Additionally, the Commissioner is a member of the Supreme Court Costs Assessment Rules Committee.

Legal Education

Due to universities, law practices and other organisations offering online training sessions, the Commissioner and her staff delivered only a limited number of in-person presentations. The Commissioner presented the following face to face seminars:

- 15 November 2023 –The Law Society of NSW “Navigating the legal system: An education program for Aboriginal support workers” on the topic ‘The role of the Office of the Legal Services Commission’
- 13 March 2024 –The Mid North Coast Legal Centre annual CPD conference, Bellingen on the topic of ‘Professional Obligations as a Lawyer’, with OLSC co-presenter, Nikki Strong Harris, Legal & Investigation Officer
- 11 June 2024 –Public Service Commission Graduate Program on the topic ‘Risk Management for Legal Graduates and Early Career Lawyers’

The Commissioner and her staff continued their support of the NSW Bar Association Bar Practice Course, by participating in their Ethics Hypothetical session on 30 May 2024.

Inappropriate Personal Conduct

During the reporting year, the Commissioner and the OLSC's Personal Conduct Team continued in their commitment to identifying and understanding the barriers to reporting sexual harassment, discrimination, workplace bullying or other inappropriate conduct in the legal profession.

For this period statistical data demonstrates that inappropriate personal conduct is still prevalent in the legal profession with a combined total of 55% of initial inquiries received by the Personal Conduct Team (either by a telephone call, an email or on the Elker online informal reporting platform) being individuals who wished to further informally report their experience.

Reporting is not an easy decision to make and, following analysis of data, it appears instances of underreporting may be due to several factors: not wanting to hinder internal job promotions, career progressions and opportunities and concerns around the potential repercussions such as a defamation claim. It is also a complex decision to make while being under workplace scrutiny. These are some of the reasons that have been relayed to the Personal Conduct Team by reporters for not wanting to proceed with formal complaints. This is verified by the figures for informal reports lodged through the Elker platform, with 45% of informal reports abandoned at the preliminary stage.

Many reporters would like an investigation to be conducted and disciplinary action taken, and for the alleged perpetrator to be held accountable while maintaining their anonymity. However, this must be balanced against the requirement to accord procedural fairness to a lawyer the subject of a disciplinary investigation.

The OLSC's Personal Conduct Team is keeping abreast of the ever-evolving topic of the use of non-disclosure agreements in the resolution of workplace sexual harassment and how these may impact on complaints received about inappropriate conduct in the legal industry. In particular, the OLSC had a joint information session with the University of Sydney Social Justice Practitioners in Residence (lawyers at Redfern Legal Centre and the Human Rights Law Centre) on their report on NDA use in sexual harassment settlements since the Respect@Work report.

In the interests of facilitating and improving accessibility to members of the public, the OLSC welcomed additional staff members to our Team. Our new staff bring a wealth of experience including professional qualifications and experience working with survivors of sexual assault and trauma informed practice.

The Commissioner strives to improve our existing Elker reporting platform by monitoring and working with other jurisdictions, through continuous improvements and the streamlining of questions on the platform to reduce lodgement times. We also recognise the barriers to reporting inappropriate personal conduct in the legal profession.

Staff Training

MS Teams remains an essential tool for staff, facilitating meetings, remote learning, and enhancing productivity. It encourages online collaboration and communication, thereby improving collegiality across all the OLSC teams when working remotely.

All OLSC legal officers attended continuing professional development (CPD) courses to meet their mandatory CPD requirements, necessary for the renewal of their practising certificates.

During 2023-2024, inhouse training was continually provided to all new Resolution & Investigation Officers and Legal & Investigation Officers by the Senior Legal & Investigation Officer. The training focuses on the *Legal Profession Uniform Law (NSW)* and its associated legislation, explaining how these relate to the role of the OLSC and processes of the OLSC. This helps new staff members gain a better understanding of the complaint and investigative processes.

The training also enhances their ability to focus on the relevant issues when managing complaints and navigating the complexities involved when dealing with complaints. All new complaint handling staff are continually supported by experienced officers who offer guidance and share their experiences, helping them develop their knowledge and skills in a challenging complaint handling environment.

In early 2024, the OLSC resumed its Lunch & Learn Seminars, offering staff the opportunity to gain knowledge, apply insights from the sessions to their daily operations, and enhance their complaint investigation skills. Some of the Lunch & Learn Seminars were:

- An introduction to Family Law Reforms and their potential impact on complaints, presented by an accredited family law specialist
- A presentation by the Senior Deputy Registrar & Manager of Costs Assessment on cost assessment practice and procedure
- NDA use in sexual harassment settlements presented by the Redfern Legal Centre and the Human Rights Law Centre

The OLSC will continue to hold more lunch and learn seminars, addressing topical issues and issues raised in complaints, next year.

During 2023-2024, OLSC staff completed the Department of Communities & Justice (DCJ) mandatory compliance and regular training modules through the online Thrive Learning App to ensure that they keep up to date with their obligations in the following areas:

- Mandatory Data Breach Notification training
- DCJ Cyber Security Awareness Essentials
- Everyone's business: Cultural Awareness Journey

OLSC staff also accessed some of the Department of Communities & Justice online courses via the learning platform to enhance their knowledge and skills in:

- DCJ Conflicts of Interest
- Preventing Workplace Bullying
- DCJ Code of Ethical Conduct
- M365 Single Tenant Merge
- The importance of direct conversations

The training needs of our Legal & Investigation Officers and Resolution & Investigation Officers were further addressed through CPD e-learning webinars, seminars and workshops to supplement their knowledge. Some of the knowledge area sessions attended were:

- Generative AI, Law Society of NSW
- Navigating the next wave: Making your enterprise AI ready, Lexis Nexis
- Capacity and Other Emerging Issues, Law Society of NSW for the OLSC, Law Society and Bar Association joint CPD
- Fundamental ethical obligations of practitioners when engaging in correspondence with clients, organisations and other parties, Thomson Geer
- Current Developments in the Regulation of AI, Thomson Geer
- AI and emerging tech: Tackling current data handling trends at the intersection of AI, surveillance and other technologies, Thomson Geer
- Thriving together: strategies for enhancing organisational and team wellbeing, Minter Ellison Legal Studio
- Managing in-house technology systems: enhancing efficiency and precision in operations, knowledge management, and research in the digital age, Minter Ellison Legal Studio

In June 2024 a member of the Legal & Investigation Team attended the LexisNexis, Lexis+ AI orientation webinar where a demonstration of their new Lexis+ platform and Lexis+ AI (Generative AI Research Assistant) was given. The demonstration covered the four generative tasks of Lexis+AI such as conversation search, summarisation, drafting and an effective prompt case base with pin-point citation, amongst other things.

Complaints relating to elder law are common, and often raise issues regarding a person's legal capacity to make a Will, Enduring Power of Attorney or Appointment of Enduring Guardian. On 19 July 2023, OLSC staff attended a seminar on Testamentary Capacity presented by a solicitor from Estate Planning Legal, NSW Trustee & Guardian. The seminar covered a range of topics including:

- types of capacity
- presumption of capacity
- factors that might be mistaken for a lack of capacity, such as impaired literacy, impaired hearing or a difficult personality
- key principles and tests to be applied
- the importance of record keeping of the steps taken by a lawyer to allow a client to demonstrate their capacity, as lack of capacity may be temporary

OLSC staff also participated in the College of Law's AI & Legal Practice & Ethics, webinar where an overview of AI in legal practice was discussed, including, issues of accuracy, accessibility, transparency, competence, care and skill as well as awareness about data protection and confidentiality.

Conferences

On 5 and 6 October 2023, members of the Legal & Investigation team and the Consumer matter team participated in the Law Society of NSW Annual Conference. This event provided an opportunity for attendees to engage in thought provoking and informative sessions, addressing the latest developments and trends driving technological change in the way lawyers work.

Some of the sessions attended were:

- The Great Debate Chat GPT
- Five trends that are shaping our future world
- The Tik Tok Boom
- We need to discuss costs

Conference of Regulatory Officers, Hobart 23 – 25 October 2023

This year's annual two day conference was hosted by the Legal Profession Board of Tasmania in Hobart. The theme for the year was "Regulation: Dealing with BIG issues" designed to stimulate thinking amongst participants through a variety of speakers and topics.

The then Acting Commissioner asked for expressions of interest from staff to attend CORO and four case officers attended the conference along with senior management.

The CORO Conference provides a forum for all regulators of the legal profession in Australia and New Zealand, and other interested parties, to come together to discuss the developments that have occurred in the various jurisdictions and encourages discussion for the exchange of ideas, opinions, and information about challenges that the legal profession faces in an ever-changing environment.

The Acting Commissioner delivered the presentation for NSW in the State by State roundup to the conference attendees.

Case officers who attended CORO said:

'CORO was particularly instructive with respect to both the interpretation of the law and the policies and procedures employed by the various state regulators, which can be compared and contrasted to those of the OLSC. The conference schedule was both rigorous and immersive and included the *Regulation of practitioners with health impairments*, as well as *The Concept of Misconduct*, delivered by academic and leading practice authority in legal profession discipline, Professor Gino Dal Pont of University of Tasmania. Of great value was the opportunity to mingle with colleagues who work in this protective jurisdiction and exchange ideas and war stories.'

'Attending the 2023 CORO in Hobart was a wonderful opportunity to connect with other officers and gain valuable insights from the many inspirational speakers. Topics such as *The Concept of Misconduct, What does it mean to be an intelligent regulator? Perspective of foresight, kindness and trust, and the Case roundup-significant cases over the last 18-24 months* provided food for thought. We were treated to outstanding hospitality by our Tasmanian hosts. The Welcome Reception at Government House and being ferried to dinner at Peppermint Bay were memorable highlights.'

'The 2023 Conference of Regulatory Officers was held in Hobart, and it was an experience invaluable, insofar that we were able to connect with other regulatory delegates from across the states.'

It was also a great active learning opportunity, and the seminars were insightful with an opening reception hosted at Government House Tasmania.

The conference offered a stimulating and inspirational forum whereby the conference added to the attendees' learning experience through seminars and open dialogue with other colleagues.

The highlights being 'The Concept of Misconduct by Prof Gino Dal Pont' and the discussion on emerging trends with the opportunities for AI in the legal profession.'

Meetings/Forums

On 30 November 2023, the Acting Commissioner attended the Uniform Law Summit in Melbourne, hosted by the Legal Services Council/ Commissioner for Uniform Legal Services Regulation and attended by her counterparts at the Law Society of NSW, NSW Bar Association, Victorian Legal Services Board + Commissioner and the Legal Practice Board of Western Australian.

Chapter 5

Information Services and Systems

The OLSC is committed to enhancing workplace performance by regularly reviewing staff needs and refining our processes. These efforts have led to improved staff morale. Although it is a challenging task, we are dedicated to continuously improving our complaints management system (CMS).

Complaints Management System (CMS)

In June 2024, the OLSC received the recommendation that the OLSC Phase 3: LS-OLSC Integration project be closed due to the achievement of the project's objectives.

The objective of the project was to migrate the legacy Azure based integration onto the strategic Enterprise Integration Platform (EIP) which is a stable, supported, and secure method to allow the transfer of data to continue seamlessly between the Law Society of NSW and the OLSC. The new system of data transfer allows the OLSC Case Management System (CMS) to have currency in lawyer and law practice data which is present in Law Society systems.

With the conclusion of the project, the following business outcomes were achieved:

- Reduced Operational Costs for Business:** The new Integration has significantly reduced the Operational cost footprint for the OLSC. The new integration was carefully designed to utilise technology components which would help reduce the Operational cost footprint of the Integration. This has resulted in cost savings upwards of \$20k per annum for the OLSC.
- Better supportability:** This project migrated the legacy integration to EIP based integration for better supportability using Out-of-the-Box features in MuleSoft & Microsoft.
- Reduced risk of Cyber vulnerabilities:** The LS-OLSC Integration facilitates the sharing of sensitive and personal information related to lawyers and law practices based in NSW. The new EIP based integration significantly uplifted the security posture of the integration by changing file formats and introducing a stable and secure way to receive information from Law Society.

OLSC users continue to monitor the CMS, compiling a list of potential improvements that may form the basis of possible future upgrades or enhancements.

Approximately 61.9% of all complaints were made via the portal for the 2023-24 financial year. This is a decrease of 1.8% from the previous reporting year.

M365 single tenant migration

During 2023-2024, the OLSC was subject to the Department of Communities & Justice Department-wide M365 single tenant migration. The single tenant migration involved merging separate Microsoft instances into a unified environment. In this case, ex-FACS and ex-Justice Microsoft applications were combined, including Teams, Outlook, OneDrive and SharePoint.

As part of this transition, many Departmental users with @facs or @justice email addresses received new @dcj.nsw.gov.au email addresses. The OLSC, however, sought an exemption and retained its @justice.nsw.gov.au email addresses.

Website

As reported in 2022-2023, OLSC staff collaborated with the Department's digital experience team to successfully restructure and redesign the OLSC website. As part of the Department-wide rebranding, the new website went live on 4 December 2023. The updated content is more streamlined, offering easier navigation and more specific information for the public, lawyers and other stakeholders to quickly find what they need. Efforts are ongoing to enhance the online complaint form and the Register of Disciplinary Action to align with the new website.

Chapter 6

Statistics

Inquiry Line

In 2023-2024 financial year 4,718 calls were made to the OLSC Inquiry Line, a decrease of 211 from the previous year.

P1 Legal matters raised in calls

	2023-2024	2022-2023	2021-2022
OLSC General Query*	19.4	31.9	29.6
Family/ Defacto	16.5	14.4	14.3
Other Civil	12.1	9.4	10.8
Wills/ Power of Attorney	9.0	9.0	8.8
General Law/ Legal Profession Query	7.9	1.7	2.8
Conveyancing	5.6	4.6	7.1
Probate/ Family Provisions	4.8	4.6	3.6
Criminal	4.7	5.0	4.2
Other	4.4	3.8	3.7
Commercial/ Corporations	2.8	2.2	1.9
Workers Compensation	2.7	2.3	2.2
Personal Injuries	2.3	3.4	4.2
Building Law	1.2	1.0	0.8
Employment Law	1.1	1.0	0.8
Immigration	1.1	1.0	0.7
Victim's Compensation	1.1	1.1	0.6
Leases/ Mortgages/ Franchises	1.1	1.3	1.5
Professional Negligence	0.8	0.8	0.7
Land and Environment	0.7	0.8	1.0
Strata Bodies/ Corporates	0.6	0.9	0.6
Insolvency	0.1	0.0	0.2

* OLSC General Query: includes Complaint enquiries, General enquiries, OLSC Website, Statistics & Publications.

P2 Nature of phone enquiry

	2023-2024	2022-2023	2021-2022
Communication	24.8	21.6	20.8
Overcharging	12.0	11.1	9.7
Negligence	11.7	11.4	13.1
Ethical matters	10.3	8.8	9.9
General Cost complaint/ query	7.6	10.6	9.7
Delay	5.8	6.3	6.2
OLSC Process*	5.6	9.6	11.1
Instructions not followed	5.1	4.6	3.5
Costs disclosure	3.4	3.1	2.6
Misleading conduct	3.4	3.0	3.5
Conflict of interests	2.6	2.2	2.6
Compliance matters	1.8	2.1	1.2
Trust fund matters	1.8	1.2	1.4
Document transfer/ liens	1.2	1.7	1.4
Fraud (not trust fund)	0.8	0.6	0.8
Document handling	0.8	0.7	1.0
Pressure to settle	0.7	0.8	0.5
Failure to honour undertakings	0.4	0.6	0.4
Capacity	0.3	0.1	0.1
Advertising	0.0	0.0	0.0
Supervision	0.0	0.0	0.0
Referral requests	-	-	0.3

* OLSC Process: includes Complaint enquiries, General enquiries, OLSC Website, Statistics & Publications.

P3 Lawyers mentioned on inquiry line

	2023-2024	2022-2023	2021-2022
Solicitor	93.8	93.0	90.7
Other*	3.9	5.0	7.0
Barrister	2.2	2.1	2.3

* Other: includes Licensed Conveyancer, Judge/ Magistrate, Executor, Interstate Lawyer, Paralegal/ Clerk & Support staff.

P4 Source of calls to the OLSC inquiry line

	2023-2024	2022-2023	2021-2022
Client	67.7	63.4	62.8
Opposing client	9.0	8.8	8.9
Other*	5.3	6.5	8.3
Friend/ relative	5.2	6.4	6.0
Beneficiary/ executor/ administrator	4.9	6.1	4.3
Previous client	2.9	3.0	4.7
Solicitor on own behalf	1.8	2.4	2.0
Non-legal service provider	1.4	1.4	1.2
Solicitor on another's behalf	1.3	1.7	1.6
Barrister on own behalf	0.2	0.2	0.2
Barrister on another's behalf	0.1	0.1	-

* Other: includes Unrepresented Client, Government Agency, Witnesses, Judges, Quasi-judicial officers & non-identified source of calls.

P5 Outcomes of calls to the inquiry line

	2023-2024	2022-2023	2021-2022
Provided complaint form	38.6	43.4	39.0
Referred to OLSC website	31.0	15.1	12.3
Caller indicated intention to send in complaint	7.9	12.6	14.3
Provided information about the legal system	5.4	4.5	5.2
Other results	3.9	6.8	6.8
Provided referral for legal advice or other assistance	3.7	3.2	4.5
Listened to caller's concerns	3.6	6.4	6.4
Explained that concerns are outside jurisdiction of OLSC	2.0	3.1	2.7
Recommended direct approach to lawyer about concerns	1.9	3.1	5.2
Scheduled interview for caller	1.4	1.5	1.4
Referred to other agencies	0.4	0.4	1.4
Provided referral to Costs Assessment	0.2	0.5	0.8

Written Complaints

Please note the *Legal Profession Uniform Law (NSW)* applies to complaints made on or after 1 July 2015. This Office also continues to deal with complaints made under the *Legal Profession Act 2004*.

In 2023-2024 the OLSC **received** a total of 2,960 written complaints, an increase of 118 from the previous year. Of the total written complaints received, 1,392 were assessed as consumer matters, 1,561 as disciplinary matters and 3 as mixed matters. On receipt 4 complaints could not be classified as a consumer matter or disciplinary matter. Of those complaints assessed as within jurisdiction, 75.3% of those written complaints received were retained and handled by the OLSC. The remaining 24.7% were referred to the professional associations for handling.

The OLSC registered the **completion** of 2,942 written complaints, a decrease of 1 from the previous year. Of the total written complaints completed, 221 complaints were resolved following informal resolution, 54 complaints were determined by OLSC/ Council and 2,490 complaints were closed. 177 complaints were closed on the basis OLSC had no power to deal with them and/ or were sent directly to NSW Police or regulators outside NSW. Of those complaints assessed as within jurisdiction, 74.5% of written complaints were completed by the OLSC. The professional associations completed the remaining 25.5%.

W1 Legal matters giving rise to complaints received in 2023-2024

	Agency Handling Complaint				
	OLSC	Council	2023-2024*	2022-2023	2021-2022
Family/ Defacto	19.3	4.2	23.5	22.3	22.6
Other Civil	13.5	7.1	20.6	21.6	20.0
Criminal	6.4	2.6	8.9	8.6	8.8
Probate/ Family Provisions	6.0	2.2	8.3	8.9	9.3
Conveyancing	6.0	0.8	6.8	6.4	8.4
Commercial/ Corporations	3.8	2.3	6.1	6.5	6.2
Wills/ Power of Attorney	3.8	1.2	5.0	3.4	3.9
Personal Injuries	4.1	0.7	4.8	5.9	7.0
Employment Law	2.4	1.7	4.0	3.7	2.7
Workers Compensation	2.2	0.0	2.3	3.0	2.2
Building Law	1.8	0.4	2.2	1.8	1.4
Strata bodies/ Corporates	1.5	0.5	1.9	1.9	1.9
Leases/ Mortgages/ Franchises	1.5	0.4	1.9	1.7	2.0
Immigration	0.8	0.2	1.0	1.9	1.3
Insolvency	0.6	0.3	0.8	0.5	0.6
Victim's Compensation	0.7	0.0	0.7	0.7	0.4
Land and Environment	0.6	-	0.6	0.7	0.9
Professional Negligence	0.4	0.1	0.4	0.6	0.5
Total %	75.4	24.7			

* 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 2023-2024

Agency Handling Complaint					
	OLSC	Council	2023-2024*	2022-2023	2021-2022
Negligence	16.7	2.3	19.0	20.4	18.1
Communication	14.1	2.6	16.8	17.9	18.2
Overcharging	12.7	0.4	13.1	13.1	12.3
Ethical Matters	6.8	5.6	12.4	8.0	9.5
Misleading Conduct	4.8	4.7	9.4	10.1	9.6
Delay	5.1	0.5	5.6	6.0	6.1
General Cost Complaint/ Query	4.3	0.9	5.2	4.2	4.6
Instructions Not Followed	4.1	0.4	4.6	4.9	4.8
Conflict of Interest	1.3	1.5	2.8	2.8	3.5
Cost Disclosure	2.3	0.0	2.4	3.2	2.7
Compliance Matters	1.0	1.2	2.2	2.0	1.9
Trust Fund	0.8	0.6	1.5	2.2	2.6
Document Transfer/ Liens	1.3	0.1	1.4	1.6	2.4
Fraud (Not Trust Fund)	0.5	0.6	1.1	1.2	1.1
Capacity	0.4	0.4	0.8	0.7	0.7
Document Handling	0.6	0.1	0.8	0.5	0.6
Pressure to Settle	0.5	0.1	0.6	0.8	0.6
Undertakings	0.1	0.1	0.2	0.1	0.1
Advertising	0.1	0.0	0.1	0.2	0.2
Supervision	-	0.1	0.1	0.2	0.1
Total %	77.5	22.2			

* 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 2023-2024

	Number of complaints						
	Solicitor*	Barrister	Other**	TOTAL	2023-2024	2022-2023	2021-2022
Client	1305	64	4	1373	46.4	46.6	47.8
Opposing client	741	38	4	783	26.5	24.4	26.1
Previous client	154	13	3	170	5.7	6.5	3.8
Other ***	142	10	5	157	5.3	4.0	4.4
Beneficiary/ Executor/ Administrator	115	-	-	115	3.9	5.3	5.8
Solicitor on own behalf	73	10	1	84	2.8	2.5	2.9
Client's friend / relative	74	6	-	80	2.7	2.8	2.2
Solicitor on another's behalf	51	7	-	58	2.0	2.7	2.8
Unrepresented client	45	2	-	47	1.6	1.2	1.3
Non-legal service provider	37	2	-	39	1.3	1.9	1.2
Barrister on own behalf	21	7	-	28	0.9	1.3	0.7
Barrister on another's behalf	2	6	1	9	0.3	0.2	0.2
Commissioner	6	-	-	6	0.2	0.1	0.3
Law Society	5	-	-	5	0.2	0.2	0.2
Bar Association	-	5	-	5	0.2	0.2	0.1
Cost Assessor	1	-	-	1	0.0	0.1	0.1
TOTAL	2772	170	18	2960			

* Includes former solicitors and law practices.

** Includes licensed conveyancers, magistrate and interstate lawyers.

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

W4 Age of complaints remaining open or suspended on 30 June 2024 and being handled by the OLSC

Year opened	Open at 30 June 2024	Open at 30 June 2023	Open at 30 June 2022
2023-2024	858		
2022-2023	131	900	
2021-2022	35	120	922
2020-2021	14	41	117
2019-2020	7	18	40
2018-2019	2	4	10
2017-2018	0	1	3
2016-2017	0	2	4
2015-2016	0	1	2
2014-2015	0	0	2
2013-2014	0	0	6
2012-2013	2	2	2
2010-2012	0	0	0
2009-2010	0	0	2
1994-2009	0	0	0
TOTAL	1049	1089	1110

* 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 handled by the OLSC in 2023-2024

	Days*
Average time to complete complaints received and completed/ resolved in 2023-2024	100.6
Average time to complete complaints received in any year but completed/ resolved in 2023-2024	375.9
Average time taken to close complaints received in 2023-2024	72.4
Average time to close complaints received in any year but closed in 2023-2024	280.1

* Averages rounded to 1 decimal point.

W6 All Complaints finalised in 2023-2024

All OLSC Complaints Resolved

	Solicitor*	Barrister	Other**	TOTAL
Complaints resolved informal resolution	219	2	0	221
Subtotal resolved at the OLSC	219	2	0	221

All OLSC Complaints Closed

Disciplinary action: Reprimand/ Fine/ Waive or reduce fees	1	0	1	2
Determination: Caution & Apology	4	0	0	4
Consumer matter Determination	6	0	0	6
Compensation order	1	0	0	1
NCAT disciplinary proceedings	1	0	0	1
Subtotal determined by OLSC	13	0	1	14
Withdrawal of a complaint at OLSC	199	4	0	203
Misconceived/Lacking in substance	592	20	3	615
Time requirement not waived	99	3	0	102
Complainant No/Inadequate response to request info	198	2	0	200
Duplicate complaint	32	1	0	33
Closed Civil proceedings on foot	24	0	0	24
Closed No further investigation except CM	115	2	0	117
Closed in Public interest	59	6	3	68
Not Resolved after informal resolution	441	20	1	462
Appeal closed by OLSC	2	0	0	2
Subtotal closed by OLSC	1761	58	7	1826
Total OLSC Complaints Completed	1993	60	8	2061

All Non Jurisdictional Complaints

Closed No power to investigate	89	5	5	99
Refer to NSW Police or other	74	0	4	78
Total Non Jurisdictional Complaints	163	5	9	177

	Solicitor*	Barrister	Other**	TOTAL
All Council Complaints Closed				
Disciplinary action: Reprimand/ Fine	10	3	1	14
Determination: Caution & Apology	4	14	1	19
NCAT disciplinary proceedings	6	1	0	7
Subtotal determined by Council	20	18	2	40
Withdrawal of a complaint at Council	34	7	1	42
Misconceived/Lacking in substance	32	8	0	40
Time requirement not waived	5	6	0	11
Complainant No/Inadequate response to request info	32	1	0	33
Duplicate complaint	5	0	0	5
Closed No further investigation except CM	476	41	6	523
Closed in Public interest	9	1	0	10
Subtotal closed by Council	593	64	7	664
Total Council Complaints Completed	613	82	9	704
Total finalised by OLSC	1993	60	8	2061
Total Non Jurisdictional Complaints	163	5	9	177
Total finalised by Council	613	82	9	704
TOTAL	2769	147	26	2942

* Includes former solicitors and law practices.

** Includes licensed conveyancers, magistrate and interstate lawyers.

W7 Duration of file handling at the OLSC

Time taken for complaints received in all years and finalised in 2023-2024

Percentage of files closed within following periods*			
	2023-2024	2022-2023	2021-2022
0-30 days	20.3	22.9	17.0
1-3 months	23.2	19.8	24.3
3-6 months	22.5	23.3	25.0
6-9 months	12.4	14.9	13.6
9-12 months	9.4	8.4	7.4
Over 12 months	12.1	10.7	12.8

* 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 2023-2024 - received all years

	Solicitor	Barrister	Others	Total	Percentage
Reviews in progress					
Internal review application under LPUL	102	12	0	114	46.0
Total remaining open	102	12	0	114	46.0
Reviews completed					
Discretion declined for review under LPUL	117	17	0	134	54.0
Total completed	117	17	0	134	54.0
Total handled	219	29	0	248	100

NSW Civil and Administrative Tribunal

For matters filed and disposed of by NCAT in 2023-2024 refer to NCAT's annual report.

Chapter 7

Financial Performance for 2023-24

The OLSC operates within the organisational framework of the NSW Department of Communities and Justice. Unlike most other Departmental agencies funded by State Treasury, the OLSC receives operational funding from the Public Purpose Fund.

In the months preceding the 2023-2024 financial year, the Legal Services Commissioner undertook a review of the OLSC's capacity to meet increased workloads that were the result of escalating complaint numbers and the time consuming impact on complaint handling staff of reading increasingly large amounts of electronic documentation submitted in relation to cases.

As a result of the review the Legal Services Commissioner prepared a detailed submission to the Secretary, applying for additional annual budget to meet the salary and on-cost expenses of new, ongoing roles for inclusion on the OLSC Establishment as a means of meeting the increased need.

In mid-October 2023, the OLSC received confirmation of the Secretary's approval of funding for three additional Resolution and Investigation Officers (Clerk Grade 5/6) and one Legal and Investigation Officer (Legal Officer Grade 3).

With funding secured, the OLSC began the process of creating role descriptions for the new positions, formalising the new roles within the DCJ Payroll system (MyWorkZone), and the advertisement and filling of the positions by open merit recruitment. By the end of June 2024, the OLSC had created and filled two new Clerk Grade 5/6 Resolution and Investigation Officers, with plans to create and fill the remaining complaint handling and legal roles in the early stages of FY25.

The significantly large variance for Employee Related Payments is the result of the unused, additional ERE budget that the OLSC did not have sufficient time to utilise, together with the impact of timing differences involved between the finalising of recruitment and selection processes and the filling of position vacancies as they arose during the year.

During 2023-2024 the OLSC continued the trend of recent financial years, with low expenditure from its Other Operating Expenditure (OOE) accounts, largely due to the ongoing impact of the paperless office environment. The low expenditure on OOE, has resulted in significant positive variances for many of our general ledger accounts, comments about which can be found in the accompanying notes on the financial statement.

Human Resources

With the addition of two new roles to its establishment during 2023-2024, the OLSC closed the reporting year with 33 ongoing, full time administrative and professional staff, and one full time equivalent position for rostered casual employees working on the OLSC Inquiry Line.

The year saw a significant amount of movement among staff, with two long serving and highly valued staff members resigning from their roles to pursue careers outside the Department. The subsequent vacancies, together with vacancies resulting from newly created roles added to the establishment, were filled through open merit recruitment processes. The Public Liaison Officer (Clerk Grade 3/4) role, that had been temporarily held by a roster of internal staff members acting on Temporary Acting Assignment was also subject to recruitment and filled. In total, recruitment resulted in the commencement of six new ongoing staff members throughout the year.

2023-2024 also saw some staff movement in relation to maternity leave entitlements, with one staff member commencing maternity leave for a period of 10 months. In accordance with standard practice, the maternity leave vacancy was backfilled with a temporary occupant.

The number of rostered casual staff working on the OLSC Inquiry line was kept constant, with outgoing staff swiftly replaced with new members.

At the close of the financial year, the OLSC looks forward optimistically to the utilisation of aforementioned additional ERE funding to create further, much needed additional roles that will contribute to the achievements of our team of administrative, complaint handling and legal staff.

Financial Statement 2023-2024

	Budget	Actual	Variance	Notes
	\$	\$	\$	
Public Purpose Fund Recoupments (Budget)	(6,088,203)	(5,315,541)	(772,662)	
Other Revenue	-	-	-	
TOTAL REVENUE	(6,088,203)	(5,315,541)	(772,662)	
EMPLOYEE RELATED PAYMENTS Inc. Crown Liabilities	4,857,999	3,911,882	946,117	1
Advertising	-	183	(183)	
Cleaning	28,559	41,527	(12,968)	2
Car Parking	12,363	11,227	1,136	
Staff Related Costs	2,800	166	2,634	
General Expenses	14,516	7,852	6,664	
Postage	28,815	12,751	16,064	3
Courier	-	58	(58)	
Printing	15,787	3,375	12,412	
Property Rental	540,900	504,543	36,356	
Books & Publications	10,611	8,170	2,441	
Staff Amenities	1,020	553	467	
Stationary/Consummables	6,088	1,681	4,407	
Telephone	60,237	26,738	33,499	4
Travel (Domestic)	17,621	865	16,756	
Rates	35,074	20,642	14,433	
Electricity	18,120	3,830	14,290	
IT Supplies	4,225	-	4,225	
Insurance (Public Liability)	585	1,542	(957)	
Insurance (Property)	540	1,424	(884)	
Legal Fees	321,588	11,121	310,467	5
Fees (Miscellaneous)	11,244	34,784	(23,540)	
Fees (Administrative)	7,212	28	7,184	
Interpreters	7,236	2,360	4,876	
Software Support	129,335	106,310	23,025	6
Makegood expense	-	(54,333)	54,333	7
Recruitment	-	345	(345)	
Training	12,000	5,673	6,327	
Professional Membership Fees	16,380	18,623	(2,243)	
Conference Expenses	8,000	9,441	(1,441)	

	Budget	Actual	Variance	Notes
OTHER OPERATING EXPENSES	1,310,856	781,479	529,377	
FINANCE COSTS	4,792	-	4,792	
DEPRECIATION & AMORTISATION	357,851	163,847	194,004	8
TOTAL EXPENSES	6,531,498	4,857,208	1,674,290	
Net Cost of Services Inc Crown Liabilities & Depreciation	443,295	(458,333)	901,628	

Notes supporting the 2023-2024 Financial Statement

1. Employee Related Payments: The OLSC Budget (including additional funding for new roles) was approved by the Secretary in mid-October 2023. The OLSC had insufficient time to create and fill all the roles for which the funding was intended in the months remaining, leaving the Employee Related Payments budget with a surplus at the end of the financial year. The very large variance for this budget item is the result. The additional funding will be utilised with creation of new OLSC roles in the coming financial year.

Other Operating Expenses

2. Cleaning: The OLSC's *Cleaning* budget includes provision for cleaning contractors' costs in connection with the OLSC's leased premises in the CBD, and services that provide the secure removal and destruction of confidential waste documentation. The negative variance reflects the impact of increased contractor's costs, together with a credit adjustment totalling \$17,754 implemented by Finance in February 2024.

3. Postage: The OLSC's *Postage* budget provides for payment of Australia Post PO Box charges, courier fees, and prepaid envelope costs for OLSC correspondence. The continued adoption of paperless office practices during 2023-2024, including the employment of electronic rather than paper based correspondence delivery, has resulted in a significant reduction in the amount of hard copy letters and documentation being sent through Australia Post. The reduction in physical mail and subsequent lower charging by Australia Post is the cause of the notable positive variance for this budget item. A review and analysis of OLSC postal trends is being undertaken to assist with forecasting future *Postage* budget requirements.

4. Telephone: The OLSC's *Telephone* budget includes provision for monthly telephone rental expenses and metered call costs in addition to data service charges in connection with the fibre communications network. The OLSC *Telephone* budget for 2023-2024 was forecast using FY23 actual expenditure data together with adjustments for inflation. A credit reimbursement relating to Data expenses of \$6,831 in January 2024, together with efficiencies achieved by the Department's Information and Digital Services (IDS) over the last 12 months have resulted in full year Telephone actuals totalling \$33,499 less than forecast, with the positive budget variance illustrating these cost savings.

5. Legal Fees: The OLSC's *Legal Fees* budget maintains funds for various types of legal expenditure, primarily litigation costs incurred in bringing matters before the NSW Civil and Administrative Tribunal (NCAT) and the Courts. Whilst the OLSC can estimate its legal fees for proceedings we anticipate commencing, we are unable to forecast unexpected legal costs such as litigation brought against us by dissatisfied complainants. Such litigation is usually brought in the Supreme Court of NSW and can be very lengthy and costly. Even if the OLSC successfully defends such proceedings, our prospects of recovering costs from the Applicant are highly unlikely. Lawyers may also seek an administrative review in NCAT of disciplinary determinations made by the Commissioner, and judicial review of both consumer matter and disciplinary determinations. The OLSC paid no invoices to defend against litigation during 2023-2024, with the Legal Fees budget variance reflecting the resultant low usage of this vital expenditure line item.

6. Software Support: The OLSC's *Software Support* budget provides for payment of maintenance and support costs associated with the OLSC Complaints Management System (CMS), including application hosting, Dynamics 365 licence fees for users, security certificates, and storage. During 2023-2024 a project to upgrade the integration linkage that allows secure passage of lawyer data from the Law Society of NSW to the CMS system was successfully concluded. In addition to the functional and security benefits achieved from the project, the outcome included reduced annual costs resulting in a saving of \$20,000 PA, contributing to the favourable variance for this budget item.

7. Makegood Expenses: *Makegood Expense* is an accrued cost associated with returning rented property to its original condition at the conclusion of a lease. Makegood Expense was applied to the OLSC budget during FY23 in preparation for the anticipated termination of our CBD office lease agreement in December 2024. The OLSC rental lease has since been renegotiated, with the Makegood Expense paid to date now preserved by Finance for application upon future lease termination. The favourable end of year variance for this unbudgeted item is due to credit adjustments totalling \$54,333 that were applied by the Department to correct an imbalance in the amount of *Makegood Expense* paid by the OLSC to date.

Non Cash Items

8. Depreciation: *Depreciation* expense is a non-cash item and does not form part of the OLSC's recoupment figure from the Public Purpose Fund. The Department is obliged to make this provision as part of Treasury requirements.

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