

2024 ANNUAL REPORT

Legal Profession
Conduct Commissioner

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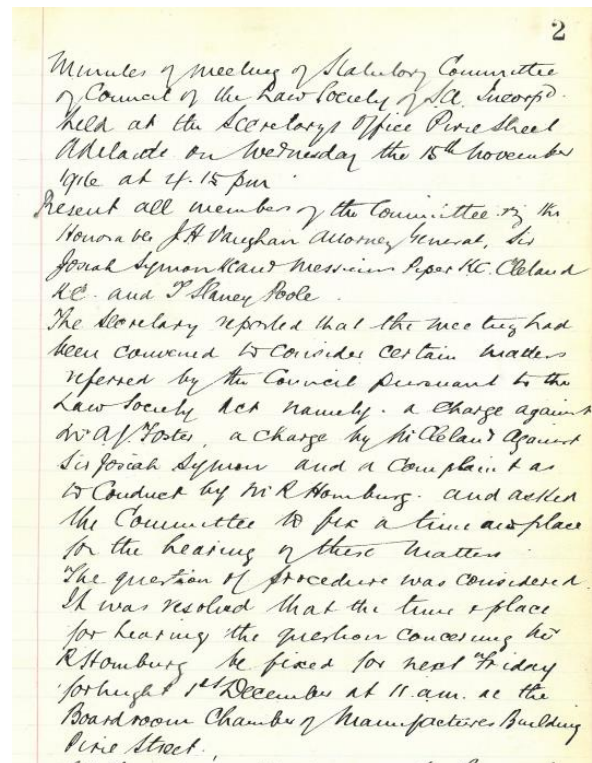
Commissioner's Report

In accordance with section 90A of the *Legal Practitioners Act 1981*, I present to the Attorney-General and the Chief Justice the ninth annual report of the Legal Profession Conduct Commissioner for the year ended 30 June 2023.

Overview

This report relates to the 10th year of the operation of my office and my second year as Commissioner. This presents as an opportune moment to reflect on the role of the Commissioner and the regulation of the legal profession in South Australia.

My office is the current iteration of a long line of regulators of the legal profession in South Australia. One of, if not the first, South Australian regulator of the legal profession was the Statutory Committee of the Law Society of South Australia. The image you see is a portion of the first page volume 1 of the Minutes of that Committee. The legal profession has expanded considerably since 1916 and the apparatus of regulation the legal profession has necessarily changed also. I suspect that the Attorney-General is relieved not to have to regularly attend Committee meetings to oversee the regulation of the legal profession today.



My office, like most public sector agencies, has had to carry out the Commissioner's functions under financial constraint. When the office was created as the successor to the Legal Practitioners Conduct Board it received all of the open files of the Board.

Immediately prior to the transition, the staff of the Board numbered 27: the Director; a Principal Legal Officer; 14 investigating solicitors; seven administrative staff; a Finance Manager; and an IT Systems Manager. Written complaints were on the increase both as a percentage of enquiries received and in gross terms; total written complaints in the 2013/14 year reached 445. While the gap was not great, new investigation files opened were beginning to exceed investigations being closed and a backlog of investigations was beginning to build.

By the end of the 2021/22 year, captured in the first report I would author some three months into the role, total staff numbers had been reduced to 19 primarily part time staff (and only 17 would commence the 2022/23 year). The number of new investigations being opened had reduced, from a peak in 2018/19 of 525 to 356. Despite reduced staff numbers (at that point 10 investigating solicitors/conciliators) and what had become a sizeable burden in terms of open investigations (peaking at 767 in 2018/19), the office was making great strides in clearing dated investigations. At the end of the 2021/22 year, open complaints numbered 591.

As is set out in some detail in the report which follows, for the 2023/24 year, new investigations numbered 333 and, at the end of the year, open investigations numbered 482 (an 18.4% reduction). I made a total of 444 Determinations during the 2023/24 year.

I am encouraged by the progress we are making at ridding the office of the backlog of files and I appreciate and would like to recognise the efforts of my staff in striving to finalise complex aged investigations while completing new investigations in a timely way.

It is in the nature of regulating a profession that there will be circumstances beyond the control of me as Commissioner, and my staff, which will inevitably lead to delays in completing some investigations. Some of those factors are mundane: delays in communications from complainant and/or practitioner. Others, such as legal proceedings by practitioners and firms to recover unpaid fees, will see investigations suspended, sometimes for years.

One small, but significant factor, which has seen some investigations sit idle in my office for extended periods is the time taken to dispose of proceedings in the Legal Practitioners Disciplinary Tribunal. By way of example:

- in 2016 a complainant who was unhappy with the Commissioner's determination of his complaint commenced proceedings in the Tribunal. In June 2016, a preliminary argument was heard as to whether the appellant should provide security for the Commissioner's costs. No decision on that application has been delivered **more than eight years later**.
- in 2016, charges were laid against Atanas Radin. Further charges were laid in 2019, 2020 and 2021. One charge was heard by the Tribunal which reserved its decision on 1 July 2021. Three further charges were heard by the Tribunal with a decision reserved on 5 November 2021. A decision in respect of that first charge heard remains outstanding **more than three years later**. Fortunately, a decision on the three other charges was handed down (in July 2023) and Mr Radin has since been removed from the Roll of Practitioners.

The creation of the Commissioner's role was intended, at least in part, to reduce the workload of the Legal Practitioners Disciplinary Tribunal. That was to be achieved by giving the Commissioner the power, in certain circumstances, to impose disciplinary action without the need for recourse to the Tribunal. Under the *Legal Practitioners Act 1981* as amended, the Commissioner has the power to take disciplinary action for unsatisfactory professional conduct and, with the practitioner's consent, for professional misconduct. As a consequence, I need only lay a charge in the Tribunal for the most serious misconduct or where a legal practitioner refuses to accept a finding of professional misconduct or to consent to the disciplinary action I propose to take. In the 2013/14 year, 15 charges were laid against 11 practitioners. In the 2021/22 year, that number had reduced to 3 charges against 3 practitioners who refused to consent to disciplinary action proposed by the Commissioner. In the past year, I laid 4 charges in the Tribunal against 4 practitioners.

The reduction in the number of charges laid in the Tribunal is indicative of some success as a result of these legislative changes. So too is the reduction in open files held by the Tribunal: from 81 open proceedings in 2013/14 (of which 38 had been laid by the Legal Practitioners Conduct Board) to 37 in 2022/23 (25 of which had been laid by the Commissioner). Of concern to me, however, is that only 10 proceedings commenced by the Legal Profession Conduct Commissioner (involving 4 practitioners) were finalised in 2023/24 (I do not include here the

4 proceedings which were dismissed or withdrawn after I elected to deal with the practitioners by other means to avoid ongoing delay).

Lengthy delays in the finalisation of disciplinary complaints are detrimental to complainants and practitioners alike. I have made no secret of my view that it is time for the South Australian legal profession to follow the majority of the profession interstate (and most other professions in South Australia) by transferring the functions of the Legal Practitioners Disciplinary Tribunal to the State's expert administrative tribunal: the South Australian Civil and Administrative Tribunal (SACAT).

A move to SACAT will, in my view, provide significant benefits:

- improved efficiency;
- a greater degree of separation from the profession; and
- improved transparency of the disciplinary process in conformity with most other regulated professions,

to name just a few. The change will, I believe, instil greater confidence in the general public, and members of the profession, in the disciplinary regime. (I note that decisions of the Legal Practitioners Disciplinary Tribunal are not published on Austlii and are not readily accessible).

Purpose

The Legal Profession Conduct Commissioner's role is to regulate the professional conduct of all lawyers in South Australia as well as interstate and Australian-registered foreign lawyers who practise in South Australia and thereby to maintain the integrity of and public confidence in the legal profession in South Australia.

Vision

The Legal Profession Conduct Commissioner strives to be an independent, robust and respected regulator playing a leadership role in ensuring an ethical, accessible and responsive legal profession in South Australia.

Functions

My functions are to receive complaints against legal practitioners (complaints about practitioner conduct and complaints of overcharging by practitioners), to determine which complaints warrant investigation, to investigate those complaints, and to determine whether, in any particular case, there has been misconduct on the part of, and/or overcharging by, the practitioner who is the subject of a complaint.

If I find that there has been misconduct on the part of a practitioner, then I can take disciplinary action against the practitioner myself by exercising one or more of a range of disciplinary powers at my disposal. If I determine that a practitioner's misconduct is particularly serious, such that it warrants a sanction beyond my powers (for example, conduct that in my view warrants the practitioner's name being struck off the Roll), I commence disciplinary proceedings in either the Legal Practitioners Disciplinary Tribunal or the Supreme Court.

If I find that there is overcharging by a practitioner then, in some circumstances, I can make a binding determination as to the amount of the overcharging and, in other circumstances, I can make a (non-binding) recommendation as to what the practitioner's fees should have been.

Complaint numbers

Complaint numbers are set out in detail later in this report.

In summary, in the year to 30 June 2024:

- my office received 333 complaints;
- the fee was paid for 126 of them and subsequently refunded on 16;
- a reduced fee was paid for 74 of them and subsequently refunded on 12;
- the fee was waived for 95 of them;
- the fee was not required, not paid, the complaint was withdrawn on 38 occasions; and
- in addition, I commenced 35 own initiative investigations.

Total complaint numbers (including own initiative investigations) received by my office peaked in 2016/17 at 632 complaints. That number steadily declined until this year which has seen a small increase (5.7%) over last year's complaint numbers.

In November 2020, the fee for lodging a written complaint was introduced. The introduction of the fee to lodge a complaint was intended to reduce the number of complaints made by people who were not serious about pursuing a complaint. Despite the introduction of the fee, a large number of complaints continue to be closed under section 77C (ie without considering the merits of the complaint because, for example, the complaint is "vexatious, misconceived, frivolous or lacking in substance", or the complainant would not engage with the investigator), or with findings of no misconduct. Although these complaints are disposed of comparatively expeditiously, the sheer number of complaints means that a not insignificant amount of the resources of my office are applied to dealing with what are ultimately unproven or unmeritorious allegations about legal practitioners. This, quite obviously, impacts on the time taken to determine genuine and reasonable complaints and investigations.

In reviewing many of the complaints I closed under section 77C in my first 6 months in the role, I noticed that there was a small but persistent set of complainants who, despite previous determinations in respect of their complaints, continued to lodge complaints with my office. The majority of these complainants had the requirement to pay the fee waived under the existing fee policy. In March 2023, I introduced a second, reduced fee where a complainant was making subsequent complaints which largely replicated previous, determined complaints and where no new reliable evidence was provided.

It is difficult to assess whether the introduction of the original fee had any impact on the total number of complaints received, given the five year decline in complaint numbers that preceded the fee's introduction. I suspect, however, given the breadth of the waiver applied to the requirement to pay a fee that the fee had little if any effect on overall complaint numbers. I cannot yet assess whether my introduction of the reduced fee has had any impact on complaint numbers but, anecdotally, I believe that there has been a modest reduction in repeat complaints received from those paying the reduced fee.

Although the introduction of the original fee and now the reduced fee has resulted in some additional, primarily administrative, work in determining whether a fee is applicable in a specific case or whether it ought to be waived or reduced based on general principles or the specific circumstances of the complaint/complainant, I am hopeful that the introduction of the fees will reduce the number of frivolous or vexatious complaints.

The amount of \$12,893 (including GST) was collected in fees.

Determination numbers

During the reporting period, I made 444 determinations including 124 that arose from complaints made before 1 July 2021. Encouragingly, 111 more complaints were determined than investigations commenced during the reporting period.

Sexual Harassment and Workplace Bullying

Speak safely was launched in May 2023 in response to a recommendation of the Acting Equal Opportunity Commissioner's 2021 Review of harassment in the legal profession (**2021 Review**). While I have received a number of reports of bullying, discrimination and sexual harassment in the legal profession through the *Speak safely* portal, I remain concerned at what, based on the statistics in the 2021 Review, must be ongoing underreporting of bullying, discrimination and sexual harassment.

At the time of making this annual report, the Commissioner for Equal Opportunity's 2024 Review of harassment in the legal profession (**2024 Review**) is, I believe, in its final stages before publication. I am hopeful that the last three years has seen some modest improvement in the culture of the legal profession. Whether my hopes are well placed remains to be seen. What I anticipate the 2024 Review will demonstrate, however, is that there remains plenty of work to be done to achieve appropriate cultural change.

I and my office remain committed to supporting those reporting BDH, and I trust that the majority of those working in the legal industry, in conjunction with the Law Society, will play their part in driving cultural change in the profession.

Staff

I would like to acknowledge the outstanding job all my staff do in what are, on occasions, very difficult circumstances. Despite a reduction in staff numbers in recent years, output has not reduced. The work this office does is important, both from the profession's perspective and also from that of the public.

In last year's report I said that *our decisions and processes are not always welcomed, either by the complainant or by the practitioner*. At that time I was new to the position of Commissioner and my understanding of the extent and nature of the unwelcome responses my office receives from unhappy complainants and legal practitioners alike was limited. I am now better versed in the nature of those responses.

A good many of the complaints my office receives arise from emotionally charged engagements with the legal profession and our adversarial court systems. Complainants regularly complain to my office seeking remedies that are outside my jurisdiction. Practitioners will, on occasion, demand that I curtail or cease an investigation they consider unwarranted. Even a measured but

unfavourable response from my office may generate significant ill will. Nonetheless, my staff continue to discharge their responsibilities in an exemplary, professional way. I am very grateful for their hard work and dedicated service.

Financial arrangements

My office is funded from the Fidelity Fund, which is established under the Act and maintained by the Law Society.

At the end of this report are my office's financial statements for the reporting period, which have been prepared by my office with the assistance of UHY Sothertons Chartered Accountants, and then audited by UHY Sothertons.

The Attorney-General approved a budget for the reporting period of \$3,635,445 including \$105,025 GST. My office received payments totalling \$3,600,445 including \$105,025 GST from the Fidelity Fund – with that figure being determined by deducting from the approved budget \$35,000 on account of the interest that we anticipated we would earn on those funds (in fact, \$123,989 in interest was earned on those funds).

The financial statements for the reporting period show that the total income during the reporting period was \$3,619,409 comprising:

- \$3,495,420 from the Fidelity Fund; and
- \$123,989 earned in interest.

The financial statements for the reporting period show that expenditure during the reporting period was \$3,142,448. After adding back capitalised costs for capital expenditure (ie \$37,313) and deducting non-cash components (ie depreciation of \$62,174), actual cash expenditure was \$3,117,587.

Accordingly, the net result for the reporting period was:

- an underspend by reference to the approved budget of \$501,822; and
- a total operating underspend (by reference to income received in relation to the reporting period) of \$476,960.

As is always the case, the main expenditure of my office takes the form of salaries for my staff, rent for our office premises, and counsel fees. Counsel fees, which I continue to maintain at low levels, in part due to undertaking much of my own counsel work, remain a significant variable in relation to budget. A single contested matter can result in significant fees being incurred. In this reporting period it had been anticipated that a contested Tribunal matter would result in significant costs being incurred. Instead, the matter was dismissed at a preliminary stage. While the anticipated trial costs were not incurred, unexpected legal costs were incurred when I appealed the Tribunal's decision. I was successful on appeal and will recover a portion of those costs while the anticipated trial costs are no likely to be incurred in the current reporting year or perhaps even the next.

On occasion I am awarded legal costs in proceedings before the Tribunal and the Supreme Court. Any such award of costs is intended to compensate me for the costs I incur in litigation. Moneys I recover are returned to the Fidelity Fund.

I also receive moneys in the form of fines imposed on practitioners either by me or by the Tribunal or the Supreme Court. Moneys received on account of fines are forwarded to the Treasurer for General Revenue.

In the reporting period, in various proceedings, I recovered \$11,000 in costs awarded and received \$27,000 on account of fines.

For the sake of comparison, and having regard to the reduction in complaint numbers for the year and my lesser staff numbers, I note that the approved budget for 2024/2025 is \$3,614,768 including \$96,702 GST.

Register of Disciplinary Action

Section 89C of the *Legal Practitioners Act 1981* requires the Legal Profession Conduct Commissioner to maintain a public register of practitioners who, after 1 July 2014, are subject to certain types of disciplinary action.

A finding of professional misconduct against a practitioner (whether made by the Supreme Court, the Tribunal, or by me) **must** be displayed on the Register. A finding of unsatisfactory professional conduct **may** be displayed on the Register. The Register shows what order(s) was made – such as whether the practitioner was struck off, suspended from practice, reprimanded, fined or similar. Links to relevant decisions of the Tribunal and to judgements of the Supreme Court are also provided.

The Register is available on my website at www.lpcc.sa.gov.au. I have no doubt that it is a useful resource for members of the public, and hopefully for the profession too.

To finish my report, I would like particularly to thank the Attorney-General for his ongoing support of my office.



Anthony Keane

Legal Profession Conduct Commissioner

30 October 2024

People who carried out the work of the Commissioner

STAFF MEMBERS - AS AT 30 JUNE 2024

Title	Name	Commenced (with Board / Commissioner)
Commissioner	Anthony Keane	August 2022
Solicitor (costs)	Rebecca Birchall	September 2005
Solicitor / Conciliator	Paul Blackmore	April 2013
Solicitor	Philippa Branson	March 2011
Solicitor	Sarah Brown	December 2023
Solicitor	Kathryn Caird	August 2012
Solicitor	Sharon Hurren	April 2007
Solicitor	John Keen	January 2017
Solicitor	Nadine Lambert	June 2007
Solicitor	Debra Miels	October 2010
Solicitor	Danielle Stopp	December 2023
Solicitor	Priya Subramaniam	October 2018
Solicitor / Conciliator	Amelia Taeuber	March 2010
Systems Manager	Bart Fabrizio	March 2010
Paralegal	Yvette Manocchio	October 1997
Admin Officer	Robyn Hurni	November 2011
Admin Officer	Rose Kilgus	June 2016
Admin Officer	Lee Moulden	August 2012
Admin Officer	Pat Porter	August 2006

Investigations by the Commissioner

COMPLAINT / INVESTIGATION PROCESS

The Legal Profession Conduct Commissioner is obliged to investigate any valid complaint they receive about a practitioner, and must investigate a practitioner's conduct if they are directed to do so by the Attorney-General or the Law Society. In addition, the Legal Profession Conduct Commissioner may decide to make an "Own Initiative Investigation" into a practitioner's conduct if they have reasonable cause to suspect misconduct. I will make an Own Initiative Investigation following a report from the Law Society under section 14AB, or a referral from the Judiciary or the Police, as well as in other circumstances in which I obtain information sufficient to conclude that I have reasonable cause to suspect misconduct.

To constitute a valid complaint, a complaint must be in writing, and sufficiently detailed (in terms of describing the alleged misconduct the subject of the complaint) so that the Legal Profession Conduct Commissioner can decide whether to investigate. In addition a valid complaint must identify the complainant.¹ I will only investigate a complaint if the issues raised in the complaint can properly and fairly be put to the practitioner for a response. Vague or speculative allegations of misconduct may result in a request for further information before I will decide whether a complaint is a valid complaint and whether it warrants investigation.

Section 77B(3c) provides that a complaint must be made to the Legal Profession Conduct Commissioner within 3 years of the conduct complained of, or such longer period as the Legal Profession Conduct Commissioner may allow. I will consider the exercise of my discretion to receive a late complaint only after I have received an explanation for the delay and after taking into account any prejudice to the practitioner which might arise due to the delay.

Although the Act provides that complaints meeting the requirements of section 77B(3c) must be investigated, section 77C gives the Legal Profession Conduct Commissioner the capacity to close a complaint at any stage without having to (further) consider its merits. Some of the circumstances in which I may do so are where:

- the complaint is vexatious, misconceived, frivolous or lacking in substance; or
- the subject matter of the complaint has been or is already being investigated, whether by me or by another authority; or
- the subject matter of the complaint is the subject of civil proceedings (and there is no disciplinary matter involved); or
- I am satisfied that it is otherwise in the public interest to close the complaint.

¹ For this reason I speak of reports received through *Speak safely* as, generally, the identity of the reporter is not to be disclosed beyond my office.

The Legal Profession Conduct Commissioner has wide powers when investigating a complaint – with the most commonly used being the power to:

- require a practitioner to produce any specified document, to provide written information, or to otherwise assist in, or cooperate with, the investigation; and
- require any other person (which may include a non-practitioner) to allow access to documents relating to the affairs of a practitioner.

Despite having a professional obligation to be open and frank in their dealings with my office, and to respond within a reasonable time to any requirement from my office for comment or information, not all practitioners are as prompt in responding to my office as they should be. A small few fail to engage with my office at all.

During the reporting period, I issued four notices (two each to two practitioners) under clause 4(1) of Schedule 4 requiring the production of documents and the provision of information as a result of their failure to respond. Non-compliance with a Schedule 4 notice is professional misconduct.

Once an investigation is complete, the Legal Profession Conduct Commissioner makes a determination in relation to the practitioner's conduct. The Legal Profession Conduct Commissioner can decide either that:

- there is no misconduct (or no or insufficient evidence of misconduct) on the part of the practitioner; or
- they are satisfied that there is evidence of misconduct on the part of the practitioner.

Usually, if satisfied that there is evidence of misconduct I will take disciplinary action against the practitioner myself under section 77J – eg by reprimanding the practitioner, ordering the practitioner to apologise for the misconduct, ordering the practitioner to pay a fine, imposing conditions on the practitioner's practising certificate, suspending the practitioner's practising certificate etc – although sometimes this can only do so with the consent of the practitioner.

Where I consider that I cannot adequately deal with the misconduct under section 77J, then I must lay a charge against the practitioner before the Tribunal (unless I decide that it is not in the public interest to do so).

As recently confirmed by the Court of Appeal, in the rare circumstance where I find myself, at the end of an investigation, satisfied that there is evidence of professional misconduct but unable to reach a concluded view as to whether professional misconduct occurred, I may lay a charge in the Tribunal.

If I take disciplinary action myself under section 77J, then I am conscious of the need for parity and consistency with other similar decisions.

In some limited circumstances, if I take the view that a practitioner should be struck off the Roll, then I may institute proceedings directly in the Supreme Court without first having laid a charge before the Tribunal.

Number of formal complaints

The following number of complaints have been received over the last 5 years:

	Complaints (including intake and pre-intake files)	Intake files	Pre-intake files
2019/20	471	69	
2020/21	409	56	20
2021/22	380	33	24
2022/23	350	36	17
	366	36	33

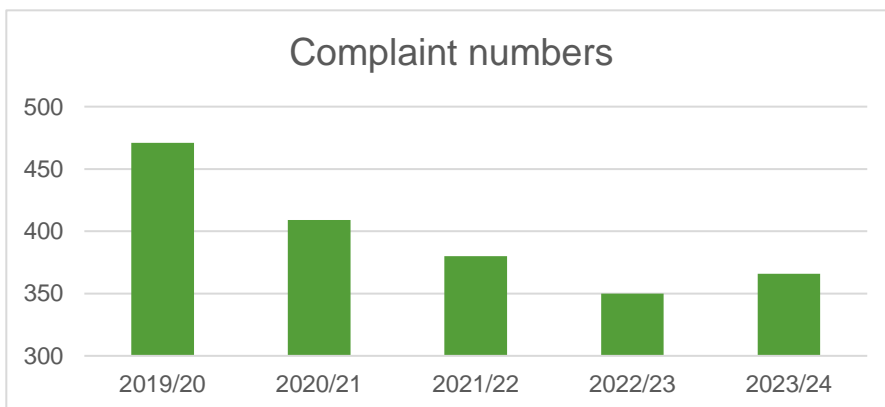
For these purposes, a “complaint” comprises the following:

- a complaint made by the client of the practitioner complained of;
- a complaint made by a third party (see immediately below); and
- an Own Initiative Investigation.

A third party complaint is one where the complaint is made by someone other than the practitioner’s client and includes complaints by one legal practitioner against another legal practitioner. Common examples are:

- a person complains about the conduct of the practitioner who is acting for the person’s spouse in their family law proceedings; and
- a beneficiary of a deceased estate complains about the conduct of the practitioner who is acting for the executor of that estate.

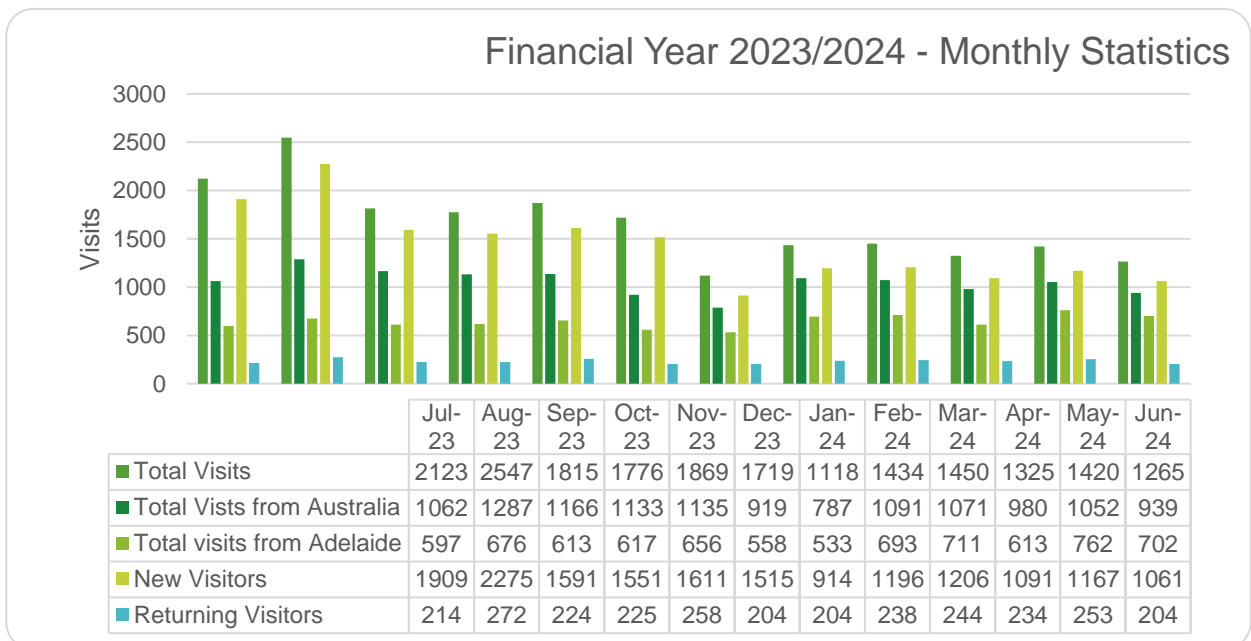
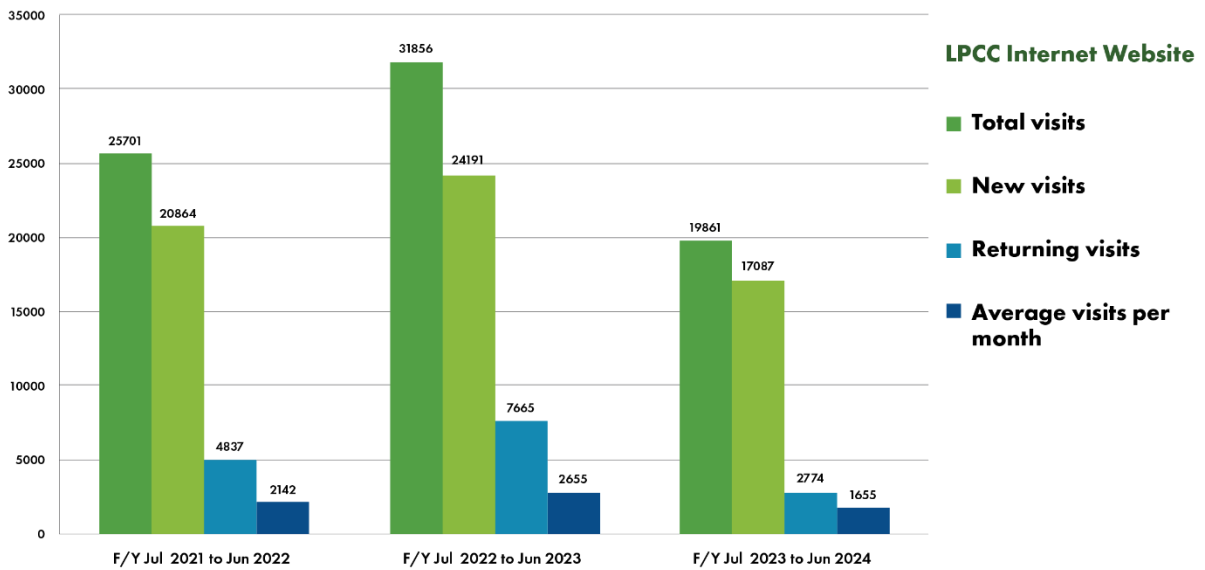
A pre-intake file is one in which the complainant has not yet paid the necessary fee to lodge the complaint, and where a fee waiver application has not been granted. An intake file is a file that had passed the pre-intake stage but had not progressed to the investigation stage by the end of the reporting period.



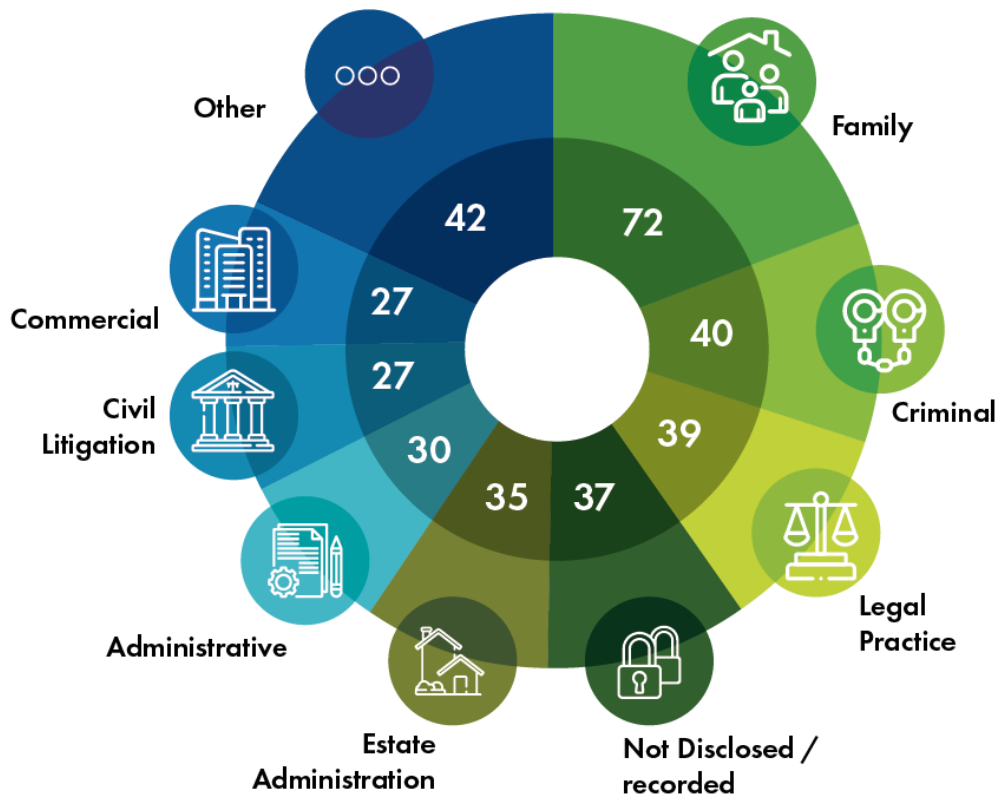
Website – the last 3 years

The Legal Profession Conduct Commissioner website remains the source of a large proportion of complaints received with many clients lodging complaints on a pro forma complaint form.

The number of people accessing information on the Legal Profession Conduct Commissioner website has increased significantly over the years though total visits for this reporting year are down slightly from last year. Interestingly, almost 24% of total visits were from overseas and I have received complaints from far flung places including the United States of America, South Africa and the Cayman Islands (though only the Cayman Islands complaint related to an Australian (Victorian) legal practitioner).



Nature of matters complained of / investigated



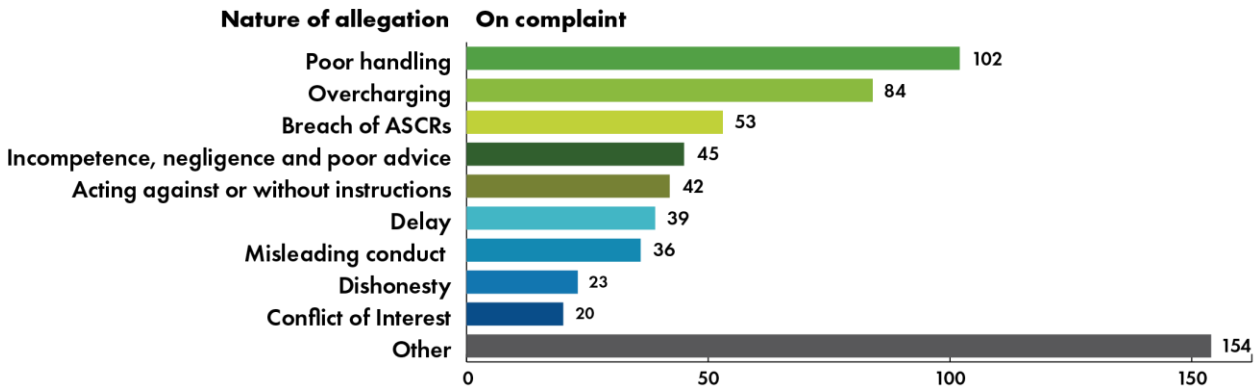
Some complaints extend to more than one area of law.

Comparison of complaints for last three years from top five areas of law

Area of Law	2021/22	2022/23	2023/24
	Complaints	Complaints	Complaints
Family	27.4%	18.9%	19.7%
Criminal	8.4%	8.0%	10.9%
Legal Practice	5.5%		10.6%
Estate Administration	7.3%	12.3%	9.6%
Administrative		5.4%	8.2%
Civil Litigation	16.8%	6.3%	
Total of top five	62.7%	50.9%	59.0%

Family remains, not unexpectedly, the number one area of law for complaint.

Nature of allegations made



In the reporting period 333 new investigation files were opened (not including pre-intake files). A total 551 allegations were made across those files (most complaints allege misconduct in a number of areas).

Poor handling, a generic term which covers a wide range of general allegations of misconduct, and overcharging featured in 186 (56%) investigations.

My impression is that if the poor handling allegations were distributed across the more specific types of misconduct, what would become clear is that the majority of complaints arise due to a failure to manage client expectations whether that be in the likely outcome, the time a matter will take or the eventual costs incurred.

PROFILE OF PRACTITIONERS BEING COMPLAINED ABOUT

Complaints by type of practice for the last two reporting periods

Type of practice	2022/2023		2023/2024	
	Number of Complaints		Number of Complaints	
Director incorporated practice	119	34.0%	103	28.1%
Employee	78	22.3%	83	22.7%
Sole practitioner	57	16.3%	69	18.8%
Non-practising	22	6.3%	27	7.4%
Barrister	15	4.3%	25	6.8%
Partner	22	6.3%	22	6%
Government employee (including Legal Services Commission)	13	3.7%	12	3.3%
Interstate practitioner	7	2.0%	7	1.9%
Judiciary	1	0.3%	4	1.1%
Corporate practitioner	9	2.6%	0	0
Unknown/Other	7	2.0%	14	3.8%
Total	350		366	

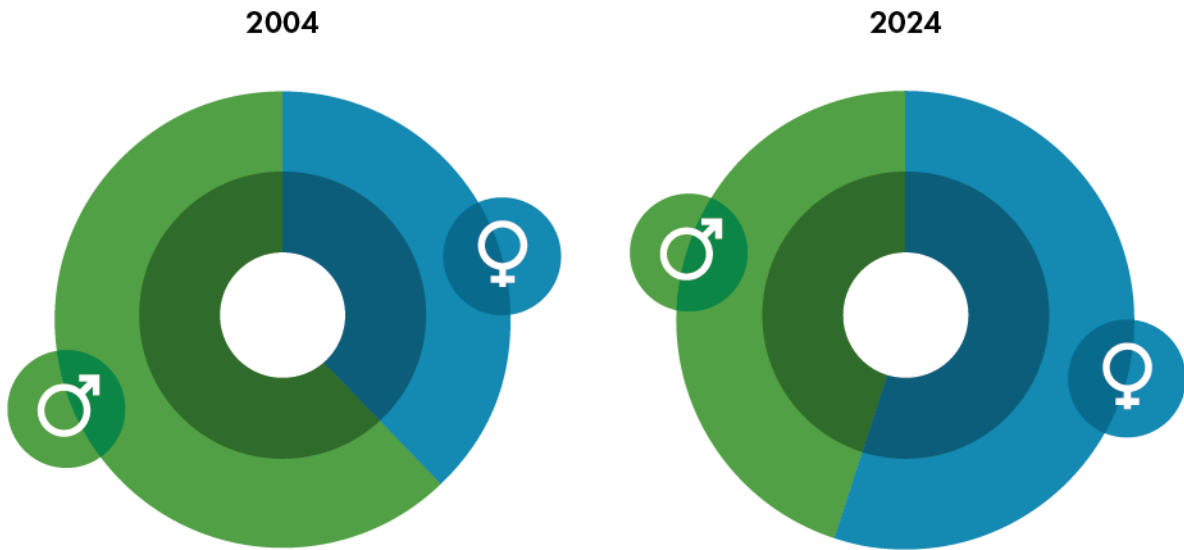
Complaints by gender

Gender (2023/24)	Number of Complaints	% of Total Complaints	Number of Practitioners	% of Practising Profession
Men	227	62%	2150	44.9%
Women	129	35.2%	2636	55.1%
Firm / unknown	10	2.7%	N/A	N/A
Total	366		4786	

There was no statistically significant shift from the previous reporting period.

Gender of practitioners

There has been a significant increase in the number of women in the profession 2004-2024.



Comparison of practitioners who received a complaint by post-admission experience

Length of time in practice	2020	2021	2022	2023	2024
Less than 5 years	35	31	18	30	36
	8.7%	7.6%	4.7%	8.5%	9.58%
5–10 years	36	48	59	36	46
	9%	11.7%	15.5%	10.2%	12.6%
10–15 years	78	62	65	47	65
	19.4%	15.2%	17.1%	13.4%	17.7% ¹
More than 15 years	232	244	222	222	200
	57.7%	59.6%	58.4%	63.4%	54.6%
Not admitted, not identified or a firm	21	24	16	15	19
	5.2%	5.9%	4.2%	4.3%	5.2%

There is a general consistency in the complaint data across the years: despite an equalisation in gender balance in the profession, men remain overrepresented in complaints; and senior practitioners are overrepresented. The two statistics are likely linked as gender parity is a relatively new phenomenon in the legal profession.

The earliest figure I have, from the Legal Practitioners Conduct Board’s 2004 report, indicates that there were 852 women (38%) of the South Australian legal profession in 2004.

OFFICIAL

It is not unreasonable to assume that most of the 1,500 or so additional women legal practitioners admitted to practice in the last 20 years would fall into the 0 to 15 years cohort.

There are, of course, other factors at play. However, if I am correct, I would expect to see a gradual shift toward equilibrium in complaints by gender in the coming years.

Case management

FILES OPENED AND CURRENT NUMBERS

Comparison of opened and closed investigation files for the last four reporting periods

Status of file	2020/21	2021/22	2022/23	2023/24
New files opened*	389	356	333	333
Current investigations as at 30 June	631	591	530	482

* Excludes pre-intake files.

Comparison of current files by category for the last four reporting periods

Category	30 June 2021	30 June 2022	30 June 2023	30 June 2024
Investigation*	631	591	530	482
Tribunal	28	28	27	18
Supreme Court	24	14	6	7
High Court	4	0	0	0
Total	687	633	563	507

* Includes completed investigations where determinations have been made but administrative tasks are yet to be completed.

All new complaints are opened initially as pre-intake files. Once the fee has either been paid or waived, they become intake files. Those that are obviously valid complaints are converted immediately into investigation files.

For any matter where I must make a decision to investigate (eg a complaint that is made more than three years after the conduct complained of) an investigation file is only opened once I have made the relevant decision.

Following an investigation, if I resolve to lay a charge against a practitioner in the Tribunal for misconduct, the investigation file is generally dormant and a new file is opened for the Tribunal proceedings.



We also have different categories of files for Supreme Court proceedings – which include:

- appeals (either by me or by the relevant practitioner) against a Tribunal decision;
- applications for suspension and/or strike off; and
- proceedings in relation to show cause events.

While the number of Tribunal files, that is files relating to charges or applications in the Tribunal in which I am a party has dropped in the last reporting period that largely arises from the finalisation of one long running matter involving some five sets of charges and my decision to withdraw a number of charges after reaching an agreement with the practitioner to proceed under section 77J(2). Only four litigation files were opened in the reporting period with charges laid against four practitioners.

Determinations made

I made a total of 444 Determinations during the reporting period, comprising the following:

- 285 Determinations (64.2.%) to close the complaint under section 77C – and, of those matters that were so closed:
 - 48 of them were closed without commencing an investigation; and
 - 11 of them were overcharging complaints;
- 37 Determinations that there was no misconduct (or no or insufficient evidence of misconduct) on the part of the relevant practitioner;
- 21 Determinations that there was unsatisfactory professional conduct on the part of the relevant practitioner, as a result of which I took disciplinary action under section 77J(1);
- 3 Determinations that there was professional misconduct on the part of the relevant practitioner, as a result of which I took disciplinary action under section 77J(2);
- 4 Determinations that there was misconduct on the part of the relevant practitioner, as a result of which I determined to lay a charge in the Tribunal (one of which was as a result of the practitioner not consenting to my proposed Determination under section 77J(2));
- 1 Determination to institute disciplinary proceedings against a Practitioner in the Supreme Court under section 89(1a), without first laying a charge before the Tribunal; and
- 30 Determinations and Reports relating to overcharging (which are expanded on below).



In relation to Own Initiative Investigations previously commenced, I decided to take no further action in respect of 16 investigations.

In relation to the overcharging complaints (other than those closed under section 77C), I made:

- 20 reports under section 77N in relation to matters in which I made no finding of overcharging; and
- 10 reports under section 77N in which I recommended that the practitioner/firm reduce its fees and/or refund an amount.

In respect of the 21 occasions in which I was satisfied that there was evidence of unsatisfactory professional conduct on the part of the practitioner, the following disciplinary action was taken under section 77J(1):

- reprimanded 20 practitioners;
- ordered 7 practitioners to undertake certain training, education or counselling, or to be supervised;
- ordered 3 practitioners to make an apology;
- ordered 6 practitioners to pay a fine;
- ordered that conditions be imposed on the practising certificate of 1 of those practitioners; and
- ordered 1 of those Practitioners to pay the costs of having work redone.

In respect of the 3 occasions in which I was satisfied that there was evidence of professional misconduct on the part of the practitioner but which did not warrant the laying of a charge, the following disciplinary action was taken under section 77J(2):

- reprimanded the 3 practitioners;
- ordered 2 of the practitioners to pay a fine; and
- ordered that conditions be imposed on the practising certificates of each of the three practitioners.

Decisions in relation to intake files

During the reporting period, I made a total of 47 decisions on intake files finalising them without treating them as formal complaints. I did so for the following reasons:

- 5 decisions that there was not reasonable cause to suspect that the relevant practitioner had been guilty of misconduct, such that I could not make an own initiative investigation under section 77B(1);
- 3 decisions that the complaint did not satisfy the requirements of section 77B(3a) – that is, because they did not identify the complainant and/or identify the legal practitioner about whom the complaint was being made and/or sufficiently describe the alleged conduct the subject of the complaint;
- 27 decisions that a complaint was not made within the 3 year time limit referred to in section 77B(3c) (ie, from the date of the conduct being complained of), and I decided not to exercise my discretion to allow a longer period within which to complain;
- 4 decisions that a complaint of overcharging was not received within the 2 year time limited referred to in section 77N(1) (ie from the date of the final bill to which the Complaint related), and I decided not to exercise my discretion to investigate the Complaint; and
- 8 decision to refer the complaint to another body.

Decisions in relation to pre-intake files

During the reporting period, I made 21 decisions on pre-intake files finalising them without treating them as formal complaints. In each case we did so as the fee to lodge the complaint was not paid or the complaint was withdrawn.

Conciliation, prompt resolution and enquiries

Conciliation

Sections 72(1)(d) and 77O give me the power to conciliate complaints. In practice, complaints may be referred to conciliation by my investigating solicitors during the course of their investigation, or by me directly upon receipt of the complaint. Conciliation can be either 'informal' (conducted over the telephone, by email or exchange of written correspondence) or 'formal' (involving the parties attending a meeting at my office facilitated by one of my conciliators).

Complaints are usually only conciliated where there is a dispute between a practitioner and his or her own client, although in some limited circumstances there may be a conciliation between a practitioner and a third party. Conciliation is most commonly used in circumstances where there are costs disputes, communication breakdowns or when a client seeks the return of their documents or client file from the practitioner.

If a complaint is successfully conciliated, my conciliators will assist the practitioner and the complainant to record their resolution in a formal conciliation agreement as required by section 77O(4).

Then, in appropriate circumstances, I am able to bring the complaint to an end. Unless I have become aware of conduct issues that concern me, I will most likely close the complaint under section 77C following a successful conciliation on the basis that it is in the public interest to do so. That is, if a conciliated agreement can be reached between practitioner and complainant, then it is likely to be in the public interest that I devote my resources to other complaints that need to be investigated rather than further investigating a complaint that has been resolved.

If a practitioner does not comply with the terms of a conciliated agreement, that will give rise to a new misconduct issue that I would most likely need to investigate, in accordance with section 77O(6).

During the reporting period, there were 19 conciliations of complaints undertaken by my conciliators, which was 6 less than the previous reporting period. Of those 19 conciliations, 14 resolved, which represents a success rate of 74%. Overwhelmingly, the majority of those complaints concerned disputes about overcharging.

Prompt Resolution

In limited circumstances, I may refer a complaint directly to my conciliators to deal with as a 'Prompt Resolution' complaint.

If I receive a complaint that does not raise any allegations that are capable of amounting to a conduct finding, and if there is a dispute between a practitioner and a complainant that seems capable of resolution by us making a few telephone calls (for instance, the complainant may have waited two weeks for a phone call from the practitioner, or may have misunderstood the content of the practitioner's correspondence), I can provide the parties with a limited opportunity

to resolve the dispute directly between themselves (with some assistance from us) before I determine whether formal conciliation or investigation of the complaint is required. If the dispute resolves in this way then I am likely to close the complaint under section 77C, again on the basis that it is in the public interest to do so. If the complaint does not resolve then I will consider whether conciliation or investigation of the complaint is appropriate.

There were 3 Complaints referred to Prompt Resolution during the reporting period. Of those 3 Complaints, all were resolved.

There were two accredited solicitor/conciliator staff members dedicated to the Conciliation and Prompt Resolution team during the reporting period. These staff carried a file-load of both investigation and conciliation files.

Enquiries

Most enquiries to my office are made by telephone, though my website does permit enquirers to send their enquiry by email.



During the reporting period, we received 514 enquiry contacts, which was 115 less enquiry contacts received than during the previous reporting period. These enquiry contacts were responded to by three solicitors who were each rostered on the enquiry line from 1-4pm on Monday, Wednesday and Friday of each week during the reporting period.

The Enquiry Line is intended to assist people by directing them on how to make a complaint or, if the Commissioner is not the correct entity for their concerns, by directing them to alternative bodies. The Enquiry Line is not for the provision of legal advice or for the receipt of oral complaints.

Nonetheless, a significant number of people contacting the Enquiry Line will seek to discuss their complaint and, on occasion, in quite some detail.

The types and numbers of matters about which enquiries are received broadly reflect the types and numbers of matters about which complaints are received. Family Law was the most enquired about area of law, which was followed by Probate and Wills. Both results are consistent with the previous reporting period. A significant number of enquiries were also received relating to Criminal Law and Personal Injury.

Most enquirers contacting the Enquiry Line raised concerns of Overcharging followed by concerns of Poor Handling followed by queries regarding the process for handling complaints to the Legal Profession Conduct Commissioner. These results were all consistent with the previous reporting period.

Litigation work

Tribunal charges

As I have said previously, if I consider that I cannot adequately deal with a practitioner’s misconduct under section 77J, then I must lay a charge against the practitioner before the Tribunal (unless I decide that it is not in the public interest to do so). I am not the only party who can lay a charge of misconduct against a practitioner before the Tribunal. A charge can also be laid by the Attorney General or the Law Society, or by *a person claiming to be aggrieved by reason of* the alleged misconduct. This report generally refers only to charges that I have laid.

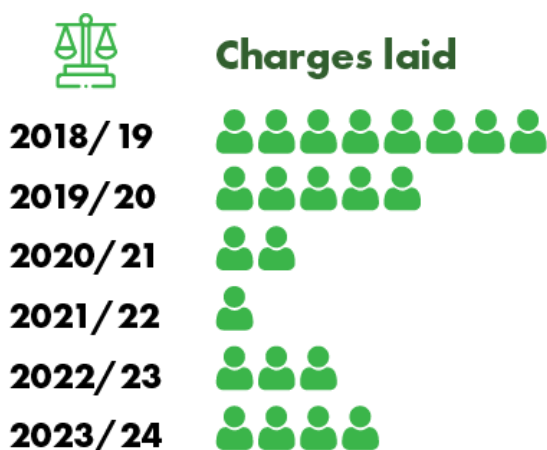
In 2013/14, the Board laid charges against 11 practitioners. The introduction of the office of the Commissioner and the associated powers to take disciplinary actions resulted in an immediate reduction in the number of charges being laid in the Tribunal.

In the reporting period, I commenced 4 proceedings in the Tribunal with a view to laying charges against 4 practitioners.

The charges or proposed charges included:

- a charge of having failed to comply with a Determination that the practitioner pay a fine;
- a charge of professional misconduct arising from the administration of a deceased estate including by overcharging; and
- a charge of having failed to comply with a condition on the practitioner’s practising certificate.

Only the proceeding relating to the failure to pay a fine was heard substantively during the reporting period. In that instance, the Tribunal found the practitioner had committed professional misconduct.



Tribunal proceedings

In the reporting period 14 sets of proceedings were finalised. Of those, 10 were finalised by substantive decisions of the Tribunal and the remaining four were finalised by consent dismissal or withdrawal of the charges after negotiations with the practitioners, initiated by me.

Notable amongst the decisions made by the Tribunal were:

- the finalisation of charges laid against Mr John Fitzpatrick in 2017, 2018 (2) and 2023 were finalised by decisions of the Tribunal finding significant unsatisfactory professional conduct and professional misconduct by the practitioner. The charges included multiple counts of failing to cooperate with investigations by my predecessor; failing to comply with formal notices to produce documents or provide information; failing to comply with statutory obligations to lodge documents with the Law Society; failing to respond to requests from the Society and to deal appropriately with other practitioners; breach of a Supreme Court order; breaching duties to clients and failing to be honest in his dealings in practice. The Tribunal recommended that I make application to the Supreme Court for the removal of the practitioner's name from the Roll of Practitioners and I have made such application.
- A decision to summarily dismiss charges of professional misconduct I laid against a practitioner. I appealed the Tribunal's decision and on 22 August 2024 the Court of Appeal upheld my appeal and remitted the charges to the Tribunal.² The Court of Appeal decision clarifies my powers to lay charges and the role of the Tribunal in inquiring into charges laid before it.

Of the proceedings in the Tribunal dismissed by consent or withdrawn by me, one was a charge laid in 2014, one in 2015 and one in 2018. Given the age of each proceeding, I took the opportunity to review and determined that the public would be better served by me adopting an alternative approach including the imposition of alternative disciplinary action. I withdrew the fourth proceeding, laid in 2016 and yet to be heard, as the practitioner's name was removed from the Roll of Practitioners consequent upon other misconduct findings.

At the conclusion of this reporting period, I was awaiting decisions in seven proceedings six of which involved charges laid by my predecessor against two practitioners both of whom have had their names removed from the Roll of Practitioners, and one proceeding brought against my predecessor in 2016 in which a decision on an interlocutory argument has been reserved for some eight years.

Supreme Court matters

During the reporting period, the Supreme Court handed down two decisions in proceedings to remove the name of a practitioner from the Roll of Practitioners: Mr Radin (see last year's annual report) and Mr Norman O'Bryan SC. Mr O'Bryan's name was removed from the Roll in Victoria as a consequence of his conduct in proceedings in that jurisdiction and a separate inquiry into those events was not considered necessary.

² Legal Profession Conduct Commissioner v A Practitioner [2024] SASCA 102 (22 August 2024).

Access to decision

All Tribunal decisions and Supreme Court decisions referred to in this report can be accessed from any one or more of:

- my website at www.lpcc.sa.gov.au
- the Tribunal's Secretary, Mr Glenn Hean (08 8204 8425 / lpdt@courts.sa.gov.au)
- [AustLI](#).

Interpretation of terms used in this report

Act – the *Legal Practitioners Act 1981*

2019 Amendment Act – the *Legal Practitioners (Miscellaneous) Amendment Act 2019*

Board – the former Legal Practitioners Conduct Board, which ceased to exist on 30 June 2014

Chief Justice – the Chief Justice of the Supreme Court

Commissioner – the Legal Profession Conduct Commissioner

Law Society – the Law Society of South Australia

intake file is a file that is not, for the purposes of our complaints management system, treated immediately as a formal complaint, unless and until the Commissioner exercises his discretion to treat it as such

misconduct means both unsatisfactory professional conduct and professional misconduct

Own Initiative Investigation – an investigation into a practitioner’s conduct commenced by the Commissioner in the absence of a complaint in accordance with section 77B(1)

practitioner – a person duly admitted and enrolled as a barrister and solicitor of the Supreme Court, or an interstate practitioner who practises the profession of the law in South Australia

reporting period – 1 July 2023 to 30 June 2024

Roll – the roll (register) of practitioners duly admitted and enrolled in South Australia as a barrister and solicitor of the Supreme Court, which roll is kept by the Supreme Court

professional misconduct includes, in relation to pre-1 July 2014 conduct, “unprofessional conduct” as that term was defined in section 5 before 1 July 2014

Supreme Court – the Supreme Court of South Australia

Tribunal – the Legal Practitioners Disciplinary Tribunal

unsatisfactory professional conduct includes, in relation to pre-1 July 2014 conduct, “unsatisfactory conduct” as that term was defined in section 5 before 1 July 2014

vexatious litigant – a person who is subject to an order under section 39 of the *Supreme Court Act 1935* prohibiting him or her from instituting proceedings (or proceedings of a particular class)

A reference in this report (without more) to a section or a Schedule is a reference to a section or a Schedule of the Act

Any term that is defined in the Act has the same meaning in this Report as it has in the Act.

LEGAL PROFESSION CONDUCT COMMISSIONER

ABN 74 875 673 354

FINANCIAL REPORT

**FOR THE YEAR ENDED
30 JUNE 2024**

LEGAL PROFESSION CONDUCT COMMISSIONER

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LEGAL PROFESSION CONDUCT COMMISSIONER

**AUDITOR'S INDEPENDENCE DECLARATION
TO THE LEGAL PROFESSION CONDUCT COMMISSIONER**

I declare that, to the best of my knowledge and belief, during the year ended 30 June 2024 there have been:

- i. no contraventions of the auditor independence requirements in relation to the audit; and,
- ii. no contraventions of any applicable code of professional conduct in relation to the audit.

UHY Sothertons

UHY SOTHERTONS Adelaide Partnership

Alex Reade

ALEX READE
Partner

Dated 17 October, 2024

LEGAL PROFESSION CONDUCT COMMISSIONER

STATEMENT OF INCOME & EXPENDITURE FOR THE YEAR ENDED 30 JUNE 2024

	Note	2024 \$	2023 \$
INCOME			
Operating - Fidelity Fund		3,495,420	3,369,851
Interest on Funds		123,989	49,041
Prior Year Funds Reconciliation		-	(14,336)
TOTAL INCOME		3,619,409	3,404,556
EXPENDITURE			
Salaries and Staff Expenses			
Amenities		1,876	2,154
Car Parking		991	11,514
Consultants		-	1,356
First Aid Allowance		1,359	1,836
Fringe Benefits Tax		6,392	12,220
Professional Development		13,918	11,459
Provision for Annual Leave		(25,315)	38,482
Provision for Long Service Leave		74,177	37,757
Payroll Tax		71,895	78,182
Practising Certificates		12,350	11,941
Salaries - Professional	9	1,477,813	1,573,584
Salaries - Support Staff		328,310	371,643
Salaries - Parental Leave		10,315	-
Subscriptions/Membership		836	250
Superannuation		199,888	196,336
Reportable Employer Superannuation		34,747	36,040
WorkCover	10	12,364	(12,805)
Total Salaries and Staff Expenses		2,221,917	2,371,950
External Expert Expenses			
Costs Assessment Expenses		-	653
Counsel Fees	16	72,646	49,092
Associated Costs	16	4,188	3,888
External Delegations	16	-	-
Total External Expert Expenses		76,833	53,633

The accompanying notes form part of these financial statements.

LEGAL PROFESSION CONDUCT COMMISSIONER

STATEMENT OF INCOME & EXPENDITURE FOR THE YEAR ENDED 30 JUNE 2024

	Note	2024 \$	2023 \$
Equipment Expenses			
Computer - Operating, Licences, Software		125,681	150,716
Computer - Provision/Purchase		27,436	6,580
Computer - Repairs and Maintenance		64,768	50,557
Depreciation		62,174	57,245
Lease Charges - Photocopier		3,678	18,638
Photocopier		2,417	3,500
Repairs and Maintenance		1,991	2,490
Total Equipment Expenses		288,147	289,725
General Expenses			
Audit Fees		9,570	9,000
Accounting Services		38,400	36,000
Bank Charges		348	356
Courier Services		1,255	1,233
General Office Expenses		-	419
Insurance		25,128	26,143
Internet Services		7,725	8,847
Library		15	1,122
Occupational Health and Safety		578	2,312
Merchant Fees		487	406
Postage		7,700	2,180
Printing and Stationery		18,638	7,248
Security & Website		8,837	-
Records Management		32,963	27,063
Telephone and Fax		2,057	3,397
Travel		1,521	918
Website Development		2,219	16,979
Total General Expenses		157,440	143,622
Occupancy Expenses			
Light and Power		19,864	20,364
Office Cleaning		29,996	26,491
Rent	11	347,039	312,253
Security		1,212	1,272
Total Occupancy Expenses		398,111	360,380
TOTAL EXPENDITURE		3,142,448	3,219,311
OPERATING SURPLUS/(DEFICIT)		476,960	185,244
ACCUMULATED FUNDS AT THE BEGINNING OF THE YEAR		430,641	245,397
ACCUMULATED FUNDS AT THE END OF THE YEAR		907,603	430,641

The accompanying notes form part of these financial statements.

LEGAL PROFESSION CONDUCT COMMISSIONER

STATEMENT OF FINANCIAL POSITION AS AT 30 JUNE 2024

	Note	2024 \$	2023 \$
CURRENT ASSETS			
Cash	2	1,745,051	1,086,750
Receivables	3	38,226	33,460
Prepayments	4	-	30,079
TOTAL CURRENT ASSETS		1,783,277	1,150,289
NON CURRENT ASSETS			
Fixed Assets	5	58,119	82,980
TOTAL NON CURRENT ASSETS		58,119	82,980
TOTAL ASSETS		1,841,396	1,233,270
CURRENT LIABILITIES			
Creditors and Accruals	6	202,488	148,813
Provisions	7	731,305	653,816
TOTAL CURRENT LIABILITIES		933,793	802,629
TOTAL LIABILITIES		933,793	802,629
NET ASSETS		907,603	430,641
ACCUMULATED FUNDS			
Retained Funds	8	907,603	430,641
TOTAL ACCUMULATED FUNDS		907,603	430,641

The accompanying notes form part of these financial statements.

LEGAL PROFESSION CONDUCT COMMISSIONER

RECONCILIATION OF CASH FOR THE YEAR ENDED 30 JUNE 2024

	Note	2024 \$	2023 \$
Operating Surplus/(Deficit)		476,960	185,244
Depreciation		62,174	57,245
Movement in Provision for Annual Leave		(7,657)	38,482
Movement in Provision for Long Service Leave		74,177	37,757
Movement in Provision for Workers Compensation		10,969	(13,912)
Payables		53,674	(166,688)
Purchase of Office Furniture		(998)	(4,170)
Purchase of Office Equipment		(36,315)	(23,081)
Prepayments		30,079	(1,103)
Receivables		(4,766)	(6,137)
		<u>181,337</u>	<u>(81,607)</u>
Net Increase in Cash Held		658,298	103,637
Cash at Beginning of Financial Year		1,086,750	983,113
Cash at End of Financial Year	2	<u>1,745,048</u>	<u>1,086,750</u>

The accompanying notes form part of these financial statements.

LEGAL PROFESSION CONDUCT COMMISSIONER

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2024

NOTE 1: STATEMENT OF ACCOUNTING POLICIES

The Legal Profession Conduct Commissioner ("Commissioner") has prepared the financial statements on the basis that the Commissioner is a non-reporting entity. These financial statements are therefore special purpose financial statements.

The financial statements have been prepared on the basis of historical costs unless otherwise stated.

The following significant accounting policies, which are consistent with the previous period unless otherwise stated, have been adopted in the preparation of this financial report.

(a) Revenue

Grant revenue is recognised in the income and expenditure statement when the Commissioner obtains control of the grant and it is probable that the economic benefits gained from the grant will flow to the Commissioner and the amount of the grant can be measured reliably.

If conditions are attached to the grant which must be satisfied before it is eligible to receive the contribution, the recognition of the grant as revenue will be deferred until those conditions are satisfied.

All revenue is stated net of the amount of goods and services tax (GST).

(b) Expenditure

Expenditure is recognised when the Commissioner incurs the cost of the goods or services and is obligated to pay for it. Services are not amortised over the period of service where the period is less than 12 months.

(c) Fixed Assets

Leasehold improvements and office equipment are carried at cost less, where applicable, any accumulated depreciation.

The depreciable amount of all fixed assets is depreciated over the useful lives of the assets to the Commissioner commencing from the time the asset is held ready for use. Leasehold improvements are amortised over the shorter of either the unexpired period of the lease or the estimated useful lives of the improvements.

(d) Employee Provisions

Provision is made for the Commissioner's liability for employee benefits arising from services rendered by employees to balance date. Employee benefits have been measured at the amounts expected to be paid when the liability is settled. Long service leave is accrued after 5 years of service.

(e) Cash and Cash Equivalents

Cash and cash equivalents includes cash on hand, deposits held at call with banks, and other short-term highly liquid investments with original maturities of three months or less.

(f) Leases

Lease payments for operating leases, where substantially all the risks and benefits remain with the lessor, are charged as expenses in the period in which they are incurred.

LEGAL PROFESSION CONDUCT COMMISSIONER

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2024

NOTE 1: STATEMENT OF ACCOUNTING POLICIES (cont.)

(g) Goods and Services Tax (GST)

Revenues, expenses and assets are recognised net of the amount of GST, except where the amount of GST incurred is not recoverable from the Australian Taxation Office. In these circumstances the GST is recognised as part of the cost of acquisition of the asset or as part of an item of the expense. Receivables and payables in the balance sheet are shown inclusive of GST.

(h) Income Tax

No provision for income tax has been raised as the Commissioner is exempt from income tax under Div 5C of the Income Tax Assessment Act 1997.

(i) Trade and Other Payables

Trade and other payables represent the liability outstanding at the end of the financial year for goods and services received by the Commissioner during the financial year which remain unpaid. The balance is recognised as a current liability with the amount being normally paid within 30 days of recognition of the liability.

	2024	2023
	\$	\$
NOTE 2: CASH		
Cash on Hand	300	300
Cash at Banks	1,429	3,805
Access Saver	1,243,323	282,646
Term Deposits	500,000	800,000
	<u>1,745,051</u>	<u>1,086,750</u>

NOTE 3: RECEIVABLES

GST Refundable	38,226	33,460
	<u>38,226</u>	<u>33,460</u>

NOTE 4: PREPAYMENTS

Prepayments - Rent	-	30,079
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NOTE 5: FIXED ASSETS

Office Furniture at cost	80,387	79,389
Less: Accumulated Depreciation	(76,703)	(75,983)
	<u>3,685</u>	<u>3,406</u>
Office Equipment at cost	448,516	412,201
Less: Accumulated Depreciation	(401,523)	(386,997)
	<u>46,992</u>	<u>25,204</u>
Leasehold Improvements at cost	426,624	426,624
Less: Accumulated Depreciation	(419,182)	(372,253)
	<u>7,442</u>	<u>54,371</u>
Case Management System - ICT	662,729	662,729
Less: Accumulated Depreciation	(662,729)	(662,729)
	<u>-</u>	<u>-</u>
Total Fixed Assets	<u>58,119</u>	<u>82,980</u>

LEGAL PROFESSION CONDUCT COMMISSIONER

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2024

	2024	2023
	\$	\$
NOTE 6: CREDITORS & ACCRUALS		
Bank SA Visa	5,088	2,161
PAYG Withholding	34,977	34,219
Recoveries - Fidelity Fund	11,000	10,000
Recoveries - Treasurer	27,000	24,950
Accrual	10,000	12,006
Trade Creditors	104,727	55,791
Superannuation	9,696	9,687
	<u>202,488</u>	<u>148,813</u>

NOTE 7: PROVISIONS

Provision is made for the liability for employee entitlements arising from services rendered by employees to balance date and self insured workers compensation payments.

Workcover Provision	22,671	11,702
Annual Leave	158,270	165,927
Long Service Leave	550,364	476,187
	<u>731,305</u>	<u>653,816</u>

Number of employees at 30 June 2024 (FTE) 21.0 15.1

The policy for the provision of long service leave is that the provision is recognised after the employee has provided 5 years of service. Refer to note 15 in relation to the funding of that provision.

NOTE 8: ACCUMULATED FUNDS

Accumulated surplus at the beginning of the financial period	430,641	245,397
Operating surplus/(deficit) for the year	476,960	185,244
Accumulated surplus at the end of the financial period	<u>907,602</u>	<u>430,641</u>

NOTE 9: SALARIES - PROFESSIONAL

Salary and wages	1,477,813	1,537,543
Salary Sacrifice - Superannuation	34,747	36,040
	<u>1,512,560</u>	<u>1,573,584</u>

Salaries - Professional consists of wages paid to professional staff and salary sacrifice contributions deducted from employees wages and paid directly to their nominated superannuation fund.

NOTE 10: WORKERS COMPENSATION CLAIMS

Return to Work SA annual premium	1,395	1,107
Compensation paid in relation to employee claim		
Movement in Crown workers compensation provision	10,969	(13,912)
	<u>12,364</u>	<u>(12,805)</u>

Because the Commissioner is an agency of the Crown, he is a self-insured employer for the purposes of any workers compensation claim by any of his employees. A provision has been recorded in the 2024 financial statements in accordance with the calculations provided by PwC as the actuary for Crown workers compensation. An annual administration fee is also paid to Return to Work SA.

LEGAL PROFESSION CONDUCT COMMISSIONER

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2024

	2024	2023
	\$	\$
NOTE 11: OCCUPANCY EXPENSES		
Rent	347,039	312,253
Refund of prior year outgoings	-	-
	<u>347,039</u>	<u>312,253</u>

NOTE 12: RECOVERIES OF COSTS OF DISCIPLINARY PROCEEDINGS

Disciplinary proceedings in the Supreme Court and the Legal Practitioners Disciplinary Tribunal ("Tribunal") can result in costs orders to the successful party. Sometimes those orders will be in the Commissioner's favour, and sometimes against him. When costs are awarded to the Commissioner, he remits any costs he recovers from the other party to the Legal Practitioners Fidelity Fund ("Fidelity Fund") maintained by the Law Society. When costs are awarded against the Commissioner, or if he otherwise agrees to pay the other party's costs, those costs are recorded as "Associated Costs".

Costs recovered but unremitted carried forward from the previous financial year	10,000	69,486
Costs recovered during the financial year	11,000	10,000
Costs remitted to the Fidelity Fund during the financial year	<u>(10,000)</u>	<u>(69,486)</u>
Recovered costs to be remitted to the Fidelity Fund in the next financial year	6 11,000	10,000

NOTE 13: RECOVERIES OF FINES

The disciplinary action the Commissioner can take against a practitioner includes a fine. When a fine is paid by the practitioner to the Commissioner, the Commissioner remits the fine to the Treasurer and those funds form part of the State Government's general revenue.

Fines paid but unremitted carried forward from the previous financial year	24,950	37,250
Fines paid during the financial year	27,000	24,950
Fines remitted to the Treasurer during the financial year	<u>(24,950)</u>	<u>(37,250)</u>
Paid fines to be remitted to the Treasurer in the next financial year	6 27,000	24,950

NOTE 14: LEASING COMMITMENTS

Operating Lease Commitments

Being for rent of office premises payable:		
- not later than one year	422,429	409,131
- later than one year but not later than the lease period	-	422,429
	<u>422,429</u>	<u>831,560</u>

A new lease was executed by the Commissioner for 5 years commencing 1 July 2020 to 30 June 2025 with a right of renewal for an additional 3 years commencing 1 July 2025. The rent is to increase by a fixed 3.25% annually on 1 July.

LEGAL PROFESSION CONDUCT COMMISSIONER

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2024

NOTE 15: ECONOMIC DEPENDENCY

The Commissioner is financially dependent on the continuation of grants from the Fidelity Fund.

Commencing from 1 July 2018, funding from the Fidelity Fund has covered expected cash outlays in the relevant 12 month period. That has resulted in leave provisions from 2018/19 onwards no longer being funded in full.

In the event that a significant liability for payment of leave entitlements arises in any one year, the Commissioner would need to seek additional funding from the Fidelity Fund to pay the entitlements when they became due.

NOTE 16: COUNSEL FEES, ASSOCIATED COSTS AND EXTERNAL DELEGATION

During the financial year, the Commissioner incurred \$72,646 on Counsel Fees (as against a budget for that item of \$200,000), \$4,188 on Associated Costs (\$5,000) and \$0 on External Delegations (\$50,000). Those expenses together totalled \$76,833, as against a total budget of \$255,000.

It is often appropriate for the Commissioner to brief independent counsel when involved in proceedings in the Tribunal and the Supreme Court. The overall fees paid to counsel in any particular financial year will depend largely on how many proceedings are heard by the Tribunal and the Supreme Court during that period, as well of course as the complexity of those proceedings.

In relation to the amounts paid to external delegates, those delegates consider and investigate complaints in relation to which the Commissioner considers that he and his staff are conflicted.

LEGAL PROFESSION CONDUCT COMMISSIONER

STATEMENT BY THE LEGAL PROFESSION CONDUCT COMMISSIONER

The Commissioner has determined that this special purpose financial report should be prepared in accordance with the accounting policies outlined in Note 1 to the financial report.

In the opinion of the Commissioner, the financial report as set out on pages 2 to 10:

1. Presents a true and fair view of the financial position of the Commissioner as at 30 June 2024 and its performance for the year ended on that date.
2. At the date of this statement, there are reasonable grounds to believe that the Commissioner will be able to pay its debts as and when they fall due.



.....
Anthony Keane
Legal Profession Conduct Commissioner

Dated 29 October, 2024

Independent Auditor's Report

To the Legal Professional Conduct Commissioner ("the Commissioner")

We have audited the accompanying financial report, being a special purpose financial report, of the Legal Profession Conduct Commissioner for the financial year ended 30 June 2024, consisting of the Statement of Income & Expenditure, Statement of Financial Position, Reconciliation of Cash, accompanying notes and Statement by the Commissioner.

Commissioner's Responsibility for the Financial Report

The Commissioner is responsible for the preparation and fair presentation of the financial report and he has determined that the accounting policies described in Note 1 to the financial report are appropriate. The Commissioner's responsibilities also include designing, implementing and maintaining internal controls relevant to the preparation of a financial report that is free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on the financial report based on our audit. No opinion is expressed as to whether the accounting policies used, as described in Note 1, are appropriate to meet the needs of the Commissioner. We conducted our audit in accordance with Australian Auditing Standards. These Auditing Standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial report is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial report. The procedures selected depend upon the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal controls relevant to the entity's preparation and fair presentation of the financial report in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Commissioner, as well as evaluating the overall presentation of the financial report.

The financial report has been prepared for the purpose of fulfilling the Commissioner's financial reporting obligations. We disclaim any assumption of responsibility for any reliance on this report or on the financial statements to which it relates to any person other than the Commissioner or for any purpose other than that for which it was prepared.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Independence

In conducting our audit, we have complied with the independence requirements of Australian professional ethical pronouncements.

Opinion

In our opinion, the financial report of the Legal Profession Conduct Commissioner gives a true and fair view of the financial position of the Legal Profession Conduct Commissioner as at 30 June 2024 and of its financial performance for the year then ended in accordance with the accounting policies described in Note 1 to the financial statements.

Basis of Accounting

Without modifying our opinion, we draw attention to Note 1 to the financial report, which describes the basis of accounting. The financial report has been prepared for the purpose of fulfilling the Commissioner's financial reporting responsibilities. As a result, the financial report may not be suitable for another purpose.

UHY Sothertons

UHY SOTHERTONS
Adelaide Partnership

Alex Reade

ALEX READE
Partner

Dated 29 October, 2024