



2020 ANNUAL REPORT

Legal Profession
Conduct Commissioner

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COMMISSIONER'S REPORT

In accordance with section 90A, I present to the Attorney-General and the Chief Justice the sixth annual report of the Legal Profession Conduct Commissioner for the year ended 30 June 2020.

Overview

This report relates to the sixth year of my office's operation. My office was created as part of the substantial changes that were made to the *Legal Practitioners Act 1981* with effect from 1 July 2014, as a result of which my office took over from the Legal Practitioners Conduct Board as the regulator of the conduct of the legal profession in South Australia.

I was initially appointed as Commissioner on 1 February 2014 for a 5 year term. I have since been re-appointed for a further 5 year term that expires on 31 January 2024.

Functions

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

If I find that there is misconduct on the part of a practitioner, then I can take disciplinary action against the practitioner myself by exercising one or more of a wide range of disciplinary powers. However, if a practitioner's misconduct is particularly serious (for example, conduct that in my view warrants the practitioner's name being struck off the Roll), I don't take disciplinary action against the practitioner myself but I instead 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 and determination numbers

I have set out in detail later in this report some relevant statistics in relation to the number of complaints received by my office during the reporting period, the nature of those complaints, and the outcome in relation to them.

In the Board's last year (2013/14) it received 445 complaints. Since then, my office has received 505 complaints (2014/15), 616 complaints (2015/16), 632 complaints (2016/17), 551 complaints (2017/18) and 525 complaints (2018/19). I received 471 complaints in the reporting period.

On the face of it, there has been a downward trend in the number of complaints received over

the last few years. However, at least to some extent that reduction has resulted from changes to the Act made by the *Legal Practitioners (Miscellaneous) Amendment Act 2016*, which meant that from part way through the 2016/17 year:

- a person who is a vexatious litigant can no longer complain to me; and
- a person can no longer complain to me about my staff and me.

In the first 3 months of the next financial year (ie 2020/21), I received 125 complaints, which extrapolates to 500 complaints for that financial year. Subject to the impact on complaint numbers that charging a fee for lodging a complaint may have (which I will expand on shortly), it seems that we have settled at an average of about 500 complaints per year.

I made 519 determinations during the reporting period. By way of comparison, I made 473 determinations during 2018/19, 451 during 2017/18 and 414 during 2016/17.

2019 Amendment Act

The 2019 Amendment Act came into operation on 1 December 2019. I originally expected that, as a result, I would commence charging a nominal fee for the lodging of a complaint at some stage during the reporting period. However, logistically that proved a difficult process to implement, and it was particularly difficult to do so during the COVID-19 lockdown. I will however now be introducing that fee (\$110, including GST) from 1 November 2020. The way in which I will be implementing that fee charging regime is set out in detail on my website, including the circumstances in which I will waive or refund the fee.

The other main change that was made by the 2019 Amendment Act related to overcharging complaints. I had previously only been able to make a binding determination in relation to an overcharging complaint if the amount in dispute is no more than \$10,000. The 2019 Amendment Act changed that monetary limit, so that for complaints made after 1 December 2019 I can now make a binding determination if the amount in dispute is up to \$50,000. In order to make a binding determination I need to have the practitioner's costs assessed, which I will usually have done by an external costs assessor – which of course comes at a cost. The 2019 Amendment Act has introduced provisions that will enable me to pass on the cost of that assessment to either the complainant or the practitioner, depending on the outcome of my investigation of the complaint.

Tribunal proceedings – extension of time applications

Disciplinary proceedings in the Tribunal that need the Tribunal to grant an extension of time before they can proceed have proven to be extremely problematic over the last few years. I have set out the problems in that respect in previous Annual Reports, and also in the section of this report dealing more specifically with Tribunal proceedings. Those problems have created a great deal of uncertainty about the way in which such applications are to be heard by the Tribunal, which has again resulted in very few Tribunal proceedings being heard during the reporting period. That has meant that I have spent less than expected on counsel fees in running those proceedings, which has contributed substantially to the underspend of my budget (about which I will say more shortly). The 2019 Amendment Act has addressed those problems, but only for disciplinary proceedings that will be commenced well into the future.

The legislative changes made by the 2019 Amendment Act have not helped with any of the current matters that are before the Tribunal.

Sexual Harassment

It has now been well documented that the legal profession has a problem with sexual harassment. Over the past few years, the prevalence of sexual harassment in the profession has been highlighted in many reports and surveys. It has also been brought to everyone's attention by recent incidents, most notably that involving former High Court Justice Dyson Heydon.

The reports and survey results however are definitely not reflected by the number of complaints I receive about this type of conduct. I receive very few complaints of this nature or, indeed, of bullying or harassment.

I have made some changes to the way in which I deal with these type of complaints so that people will, I hope, be less concerned about making a formal complaint of this type of inappropriate personal conduct. Or, if they are so concerned, they can now communicate with someone in my office about it on a direct and confidential basis. Those changes are now described on my website.

COVID-19

I have already mentioned in passing the COVID-19 lockdown. Like most organisations, my office was impacted by the lockdown, with most of my staff working from home from late March. Our ability to access our systems remotely was put to the test, which they passed – not always with flying colours, particularly to start with, but we got there! Consistent with Government expectations, most of my staff returned to working from the office at the end of June. Like most workplaces though, since then we have had a greater number of staff members working from home on a regular basis, which is appropriate having regard to their proven ability to do so effectively (ie during lockdown) and is in line with the Government's desire that its public sector workforce have flexible work arrangements.

Staff

My staffing levels have remained relatively constant since my office commenced on 1 July 2014. Over the last few years my office has usually had around 20 to 21 FTE employees. As at 30 June 2019, I had 20 FTE employees. As at the end of the reporting period I had 18.8 FTE employees. That reduction came about through some of my employees as at the start of reporting period reducing their hours from the year before.

I would like to acknowledge the outstanding job my staff all do in what are, on occasions, very difficult circumstances. The work we do is important, both from the profession's perspective and also from that of the public. Our decisions and processes are not always welcomed, either by the complainant or by the practitioner. I have little doubt that not many in the profession look forward to a call or to receiving correspondence from my office.

Nonetheless, my staff members continue to discharge their responsibilities in an exemplary, professional way. And during the reporting period they did it notwithstanding the challenges thrown up by COVID-19, as well as having to come to terms (like the rest of the profession!) with the new *Uniform Civil Rules 2020*. 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.

During the period from my office's commencement on 1 July 2014 to 30 June 2018, my financial statements reflected a cumulative deficit of \$264,397. That deficit has not been made good by additional funding from the Fidelity Fund or by utilisation for the purpose of subsequent budget surpluses.

During the 2018/19 financial year, I had a total operating underspend of \$122,029. Rather than offset that underspend against the cumulative deficit referred to in the last paragraph, the Attorney-General required that I return that amount to the Fidelity Fund. That was done by way of an offset against my approved funding for the reporting period.

The Attorney-General also decided that, from the 2018/19 year, my approved budget would not necessarily be fully funded from the Fidelity Fund in the relevant financial year. The main impact in that regard during the reporting period was that I only received funding for a percentage of the increase in leave provisions that was included in my budget (and in that regard I refer to Note 15 of the attached financial statements).

The Attorney-General approved my expenditure budget for the reporting period of \$4,272,384.

I received payments totalling \$4,196,343 from the Fidelity Fund – with that figure being determined by deducting from my approved expenditure budget:

- \$45,000 on account of the interest that I anticipated I would earn on those funds (in fact, I only earned \$31,785 in interest on those funds); and
- \$31,041 on account of the underfunding of my leave provisions.

The financial statements for the reporting period show that my total income during the reporting period was \$4,106,029. However, that includes the payment I made to the Fidelity Fund of \$122,029 on account of the 2018/19 underspend. So my total income during the reporting period that related only to the reporting period was \$4,228,128, comprising:

- \$4,196,343.00 from the Fidelity Fund; and
- \$31,785 earned in interest.

The financial statements for the reporting period show that my expenditure during the reporting period was \$4,238,407. After adding back capitalised costs for computer equipment (ie \$12,441) and deducting non-cash components (ie depreciation – \$253,070), my actual cash expenditure was \$3,997,778.

Accordingly, my net result for the reporting period was:

- an underspend by reference to my approved budget of \$274,606; and
- a total operating underspend (by reference to income received in relation to the reporting period) of \$230,350.

As will almost always be the case, the vast majority of my expenditure takes the form of salaries for my staff, rent for our office premises, and counsel fees. Counsel fees are the main variable in relation to budget. I have made some comments about the counsel fees I incurred during the reporting period in Note 16 of the attached financial statements. It is also worth noting that, although I get no budgetary credit for it, I also recovered from other parties to the various proceedings just over \$50,000 on account of my costs relating to those proceedings (as described in more detail in Note 12 of the attached financial statements).

All of the amounts I have referred to above are GST exclusive amounts.

Education of the profession

My office continues to spend many hours presenting seminars to the profession on the disciplinary regime generally. This included seminars organised by both the Law Society and Legalwise, as well as direct to some firms. I also regularly contribute articles to the Law Society's monthly Bulletin.

Register of Disciplinary Action

I am required by section 89C 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 her ongoing support of my office.



Greg May

Legal Profession Conduct Commissioner

30 October 2020

PEOPLE WHO CARRIED OUT THE WORK OF THE COMMISSIONER

Staff Members - as at 30 June 2020

| Title | Name | Commenced (with Board / Commissioner) |
|-------------------------|-------------------|--|
| Commissioner | Greg May | 1 February 2014 (transitional) 1 July 2014 (formal) |
| Principal Legal Officer | Elizabeth Manos | September 2003 |
| Solicitor | Deslie Billich | April 2015 |
| Solicitor (costs) | Rebecca Birchall | September 2005 |
| Solicitor / Conciliator | Paul Blackmore | April 2013 |
| Solicitor | Philippa Branson | March 2011 |
| Solicitor | Kathryn Caird | August 2012 |
| Solicitor | Linda Doré | June 2011 |
| Solicitor | Julia Dunstone | May 2012 |
| Solicitor | Rebecca Geyer | September 2016 |
| Solicitor | Mark Heitmann | October 2018 |
| Solicitor | Sharon Hurren | April 2007 |
| Solicitor | John Keen | January 2017 |
| Solicitor | Nadine Lambert | June 2007 |
| Solicitor | Debra Miels | October 2010 |
| Solicitor | Priya Subramaniam | October 2018 |
| Conciliator | Amelia Taeuber | March 2010 |
| Systems Manager | Bart Fabrizio | March 2010 |
| Paralegal | Yvette Manocchio | October 1997 |
| Executive Secretary | Robyn Delaney | September 2006 |
| Admin Officer | Robyn Hurni | November 2011 |
| Admin Officer | Lee Moulden | August 2012 |
| Admin Officer | Rose Kilgus | June 2016 |
| Admin Officer | Rachel Jonas | December 2018 |
| Receptionist | Pat Porter | August 2006 |

INVESTIGATIONS BY THE COMMISSIONER

Complaint / Investigation process

I am obliged to investigate any complaint I receive about a practitioner, and I also must investigate a practitioner's conduct if I am directed to do so by the Attorney-General or the Law Society. Even without a complaint or a direction, I may decide to make an "own initiative investigation" into a practitioner's conduct if I have reasonable cause to suspect misconduct. I will often make an Own Initiative Investigation following a report from the Law Society under section 14AB, or a referral from the Judiciary or the Police.

To constitute a valid complaint, a complaint must be in writing, and sufficiently detailed (in terms of describing the alleged conduct the subject of the complaint) so that I can decide whether to investigate. I cannot treat an anonymous complaint as a formal complaint – any complaint is required by the Act to identify the complainant. 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. In some cases, further information will be required from a complainant before a decision can be made as to whether or not to investigate a complaint.

Section 77B(3c) provides that a complaint must be made to me within 3 years of the conduct complained of, or such longer period as I may allow.

Having said that I must investigate in certain circumstances, section 77C also gives me the ability to close a complaint at any stage without having to (further) consider its merits. Some of the circumstances in which I can do so are where:

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

I have 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;
- 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. Some fail to engage with my office at all. During the reporting period, I issued 3 formal notices to 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. I also issued 2 formal notices

to third parties under clause 4(2) of Schedule 4 requiring the production of documents and the provision of information.

Once an investigation is complete, I then make a determination in relation to the practitioner's conduct. I can decide either that:

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

If I am satisfied that there is evidence of misconduct:

- I can 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 I can only do so with the consent of the practitioner; or
- if I consider that I can't 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).

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 be able to institute proceedings directly in the Supreme Court without first having to lay a charge before the Tribunal.

Number of formal complaints

The Board, and now my office, has received the following number of complaints over the last 7 years:

| | Regulator | Complaints (including intake files) | Intake files |
|---------|------------------|--|---------------------|
| 2013/14 | Board | 445 | |
| 2014/15 | Commissioner | 505 | |
| 2015/16 | Commissioner | 616 | |
| 2016/17 | Commissioner | 632 | |
| 2017/18 | Commissioner | 551 | 57 |
| 2018/19 | Commissioner | 525 | 45 |
| 2019/20 | Commissioner | 471 | 69 |

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.

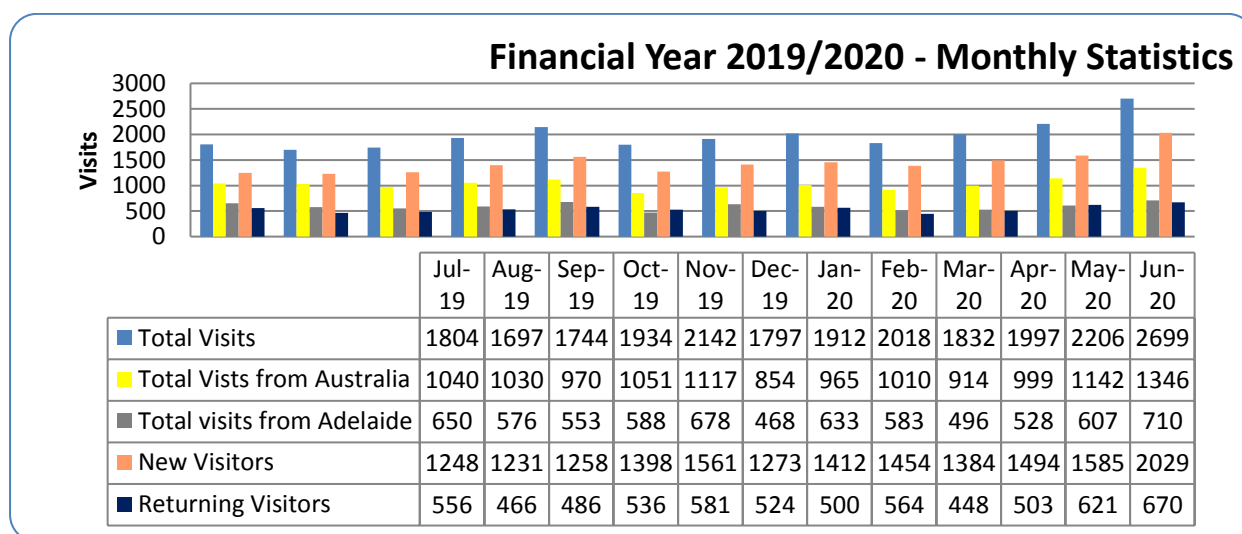
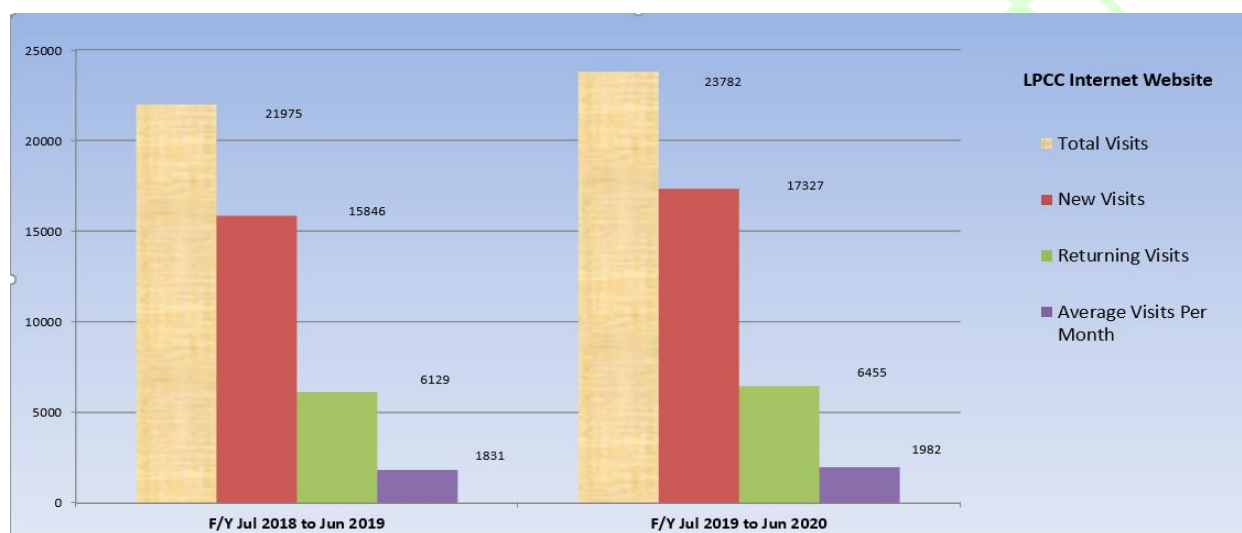
A third party complaint is one where the complaint is made by someone other than the practitioner's client. Common examples are:

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

Website – the last 2 years

A large proportion of complaints received were lodged through my website on a pro forma complaint form.

The number of people accessing information on the Board's, and now my, website has increased significantly over the years. The following charts show the number of local, Australian and worldwide visitors to my website over the last 2 years. Total visits for the year are down slightly from last year, as are average visits per month.



Nature of matters complained of / investigated

| Areas of law | Complaints | Percentage of total complaints |
|--|------------|--------------------------------|
| Family | 92 | 23% |
| Civil Litigation | 42 | 10.5% |
| Criminal | 39 | 9.7% |
| Estate Administration | 36 | 9% |
| Personal Injury | 31 | 7.7% |
| Workers Compensation | 25 | 6.2% |
| Administrative | 20 | 5% |
| Will Preparation | 18 | 4.5% |
| Industrial | 15 | 3.7% |
| Building Disputes | 14 | 3.5% |
| Other | 11 | 2.7% |
| Bankruptcy | 10 | 2.5% |
| Real Property | 7 | 1.7% |
| Debt Collection | 7 | 1.7% |
| Failure to comply with LPCC requirements | 6 | 1.5% |
| Conveyancing | 6 | 1.5% |
| Environment, Resources & Development | 6 | 1.5% |
| Commercial | 4 | 1% |
| Criminal Injuries | 4 | 1% |
| Migration | 3 | 0.7% |
| General | 2 | 0.5% |
| Defamation | 1 | 0.3% |
| Not Disclosed | 1 | 0.3% |
| Powers / ACD's | 1 | 0.3% |

Some complaints extend to more than one area of law.

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

| Area of Law | 2018/19 | | 2019/20 | |
|--------------------------|------------|--------------|------------|--------------|
| | Complaints | | Complaints | |
| Family | 126 | 25.8% | 92 | 23% |
| Civil Litigation | 51 | 10.4% | 42 | 10.5% |
| Criminal | 55 | 11.2% | 39 | 9.7% |
| Estate Administration | 71 | 14.5% | 36 | 9% |
| Personal Injury | | | 31 | 7.7% |
| Total of top five | | 61.9% | | 59.9% |

As has been consistently the case for many years, family law was the area of practice that generated the most complaints, by quite a considerable margin. I expect that the number of complaints relating to estate administration will continue to remain high given the increased ageing of our population and the scourge of dementia – practitioners practising in this area need to be ever vigilant for signs of a lack of testamentary capacity.

Nature of allegations made

| Nature of allegation | On complaint |
|------------------------------------|--------------|
| Poor Handling | 128 |
| Overcharging | 116 |
| Delay | 67 |
| Lack of Communication | 57 |
| Fail to Comply with Instructions | 47 |
| Breach of ASCR's | 31 |
| Conflict of Interest | 30 |
| Misleading The Court | 30 |
| Negligence | 28 |
| Breach of Legal Practitioner's Act | 24 |
| Inappropriate Behaviour | 22 |
| Other | 21 |
| Rudeness / lack of respect | 17 |
| Failure to Pay Third Party | 10 |
| Trust Regulatory Breach | 9 |
| Acting W/O Instructions | 8 |
| Incompetence | 6 |
| Breach of Confidentiality | 6 |
| Misleading another party | 5 |
| Failure to assess capacity | 5 |
| Theft/Fraud | 5 |
| Acting Against Instructions | 4 |
| Misrepresentation | 4 |
| Failure to Account to Payer | 4 |
| Retention of Documents | 3 |
| Unsubstantiated allegation | 3 |
| Criminal Offence (Not Theft) | 3 |
| Terminating instructions | 2 |
| Breach of Undertaking | 1 |
| No Cost Advice | 1 |
| Misappropriation of trust money | 1 |
| Legal System | 1 |

In the reporting period we opened 471 new investigation files. A total of 699 allegations were made as set out in the above table, across those files. The top four allegations – ie poor handling, overcharging, delay, and lack of communication – amounted to 368 of the 699 allegations made, or 53% of all allegations.

Profile of practitioners being complained about

Complaints by type of practice for the last two reporting periods

| Type of practice | 2018/2019 | | 2019/2020 | |
|---|----------------------|-------|----------------------|-------|
| | Number of Complaints | | Number of Complaints | |
| Sole practitioner | 100 | 20.8% | 83 | 20.6% |
| Employee | 119 | 24.8% | 79 | 19.7% |
| Partner | 49 | 10.2% | 39 | 9.7% |
| Director incorporated practice | 102 | 21.3% | 119 | 29.6% |
| Non-practising | 38 | 7.9% | 39 | 9.7% |
| Barrister | 28 | 5.8% | 19 | 4.7% |
| Government employee (including Legal Services Commission) | 9 | 1.9% | 6 | 1.5% |
| | | | | |
| Corporate practitioner | 1 | 0.2% | 4 | 1% |
| Interstate practitioner | 8 | 1.7% | 9 | 2.2% |
| Judiciary | 1 | 0.2% | 1 | 0.2% |
| Unknown/Other | 18 | 3.7% | 4 | 1% |
| | | | | |
| Total | 480* | | 402* | |

This does not include intake files.

Complaints by Gender

| Gender (2019/20) | Number of Complaints | % of Total Complaints | Number of Practitioners | % of Practising Profession |
|------------------|----------------------|-----------------------|-------------------------|----------------------------|
| Men | 254 | 63.2% | 2006 | 47.4% |
| Women | 141 | 35% | 2222 | 52.6% |
| Firm | 7 | 1.7% | N/A | N/A |
| Total | 402* | | 4228 | |

This does not include intake files.

For the sake of comparison, the same table in 2018/19 was as follows:

| Gender (2018/19) | Number of Complaints | % of Total Complaints | Number of Practitioners | % of Practising Profession |
|-----------------------------|---------------------------------|----------------------------------|------------------------------------|---|
| Men | 304 | 63.3% | 2015 | 47.8% |
| Women | 164 | 34.2% | 2200 | 52.2% |
| Firm | 11 | | N/A | N/A |
| Total | 479* | | 4215 | |

* 1 unknown

So, despite there being approximately equal gender diversity in the profession now, for the last two years nearly two-thirds of all complaints have been against male practitioners.

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

| Length of time in practice | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|--|-------------|-------------|-------------|-------------|-------------|-------------|
| Less than 5 years | 27 | 35 | 48 | 28 | 25 | 35 |
| | 5.3% | 5.7% | 7.6% | 5.7% | 5.2% | 8.7% |
| 5–10 years | 69 | 69 | 92 | 62 | 70 | 36 |
| | 13.7% | 11.2% | 14.6% | 12.5% | 14.6% | 9% |
| 10–15 years | 60 | 79 | 78 | 73 | 62 | 78 |
| | 11.9% | 12.8% | 12.3% | 14.8% | 13.9% | 19.4% |
| More than 15 years | 320 | 400 | 378 | 299 | 297 | 232 |
| | 63.4% | 64.9% | 59.8% | 60.5% | 61.9% | 57.7% |
| Not admitted or not identified or a firm | 29 | 33 | 36 | 32 | 26 | 21 |
| | 5.7% | 5.4% | 5.7% | 6.5% | 5.4% | 5.2% |
| Total | 505 | 616 | 632 | 494 | 480 | 402 |

Comparison of practitioners who received a complaint by years of admission

| Admission Years | Practice Experience | No. of Practitioners | % of Practising Profession | No. of Complaints | % of total Complaints |
|-----------------|---------------------|----------------------|----------------------------|-------------------|-----------------------|
| 1959 -1968 | 52 - 61 years | 21 | 0.5% | 2 | 0.5% |
| 1969-1973 | 47- 51 years | 51 | 1.2% | 5 | 1.2% |
| 1974-1978 | 42 – 46 years | 151 | 3.8% | 31 | 7.7% |
| 1979-1983 | 37 - 41 years | 238 | 5.6% | 42 | 10.4% |
| 1984-1988 | 32 - 36 years | 229 | 5.4% | 36 | 9% |
| 1989-1993 | 27 - 31 years | 224 | 5.3% | 34 | 8.5% |
| 1994-1998 | 22 - 26 years | 295 | 6.8% | 37 | 9.2% |
| 1999-2003 | 17 - 21 years | 551 | 13% | 39 | 9.7% |
| 2004-2008 | 12 - 16 years | 614 | 14.5% | 59 | 14.7% |
| 2009-2013 | 7 - 11 years | 674 | 16% | 46 | 11.4% |
| 2014-2018 | 2 - 6 years | 902 | 21.3% | 46 | 11.4% |
| 2019-2020 | up to 1 year | 278 | 6.8% | 4 | 1% |
| Unknown | | | | 21 | 5.2 |

CASE MANAGEMENT

Files opened and current numbers

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

| Status of file | 2016/17 | 2017/18 | 2018/19 | 2019/20 |
|--------------------------------------|---------|---------|---------|---------|
| New investigation files opened | 632 | 494 | 480 | 402* |
| New intake files opened** | | 57 | 45 | 69 |
| Current investigations as at 30 June | 776 | 668 | 767 | 863 |
| Intake files closed | | 23 | 40 | 50 |

*This includes 36 own initiative investigations

**Intake files that had not been converted to new investigation files by the end of the reporting period

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

| Category | 30 June 2017 | 30 June 2018 | 30 June 2019 | 30 June 2020 |
|---------------|--------------|--------------|--------------|--------------|
| Investigation | 776 | 688 | 767 | 863* |
| Tribunal | 28 | 32 | 34 | 33 |
| Supreme Court | 23 | 24 | 24 | 28 |
| High Court | 2 | 1 | 1 | 2 |
| Total | 867 | 782 | 862 | 962 |

*This includes intake files

(The figures in this table do not include matters that have moved from investigation into conciliation, that have been suspended, or that simply remain open for monitoring purposes.)

All new complaints are opened initially as intake files. Those that are obviously formal complaints are converted immediately into investigation files. Any matter that I must make a decision to investigate (eg a complaint that is made more than 3 years after the conduct complained of, or a matter about which I must decide to make an Own Initiative Investigation) is only converted to an investigation file 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 closed 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.

Determinations made

I made 519 Determinations during the reporting period, comprising the following:

- 77 Determinations that there was no misconduct (or no or insufficient evidence of misconduct) on the part of the relevant practitioner;
- 360 Determinations to close the complaint under section 77C – and, of those matters that were so closed:
 - 174 of them were closed without commencing an investigation; and
 - 53 of them were overcharging complaints;
- 22 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);
- 9 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);
- 3 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;
- 48 Determinations and Reports relating to overcharging (which are expanded on immediately below).

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

- 5 Determinations that there was overcharging by the practitioner;
- 36 reports under section 77N in relation to matters in which I made no finding of overcharging; and
- 2 Determinations that there was no overcharging by the practitioner;
- 5 reports under section 77N in which I recommended that the practitioner/firm reduce its fees and/or refund an amount.

I was satisfied that there was evidence of unsatisfactory professional conduct on the part of the practitioner on 22 occasions, and I took the following disciplinary action under section 77J(1):

- I reprimanded 21 practitioners;
- I ordered 4 practitioners to undertake certain training, education or counselling, or to be supervised;
- I ordered 4 practitioners to make an apology;
- I ordered 12 practitioners to pay a fine;
- I made an order to suspend a practitioner's practising certificate for a period of 6 weeks.

I was satisfied that there was evidence of professional misconduct on the part of the practitioner on 9 occasions, and I took the following disciplinary action under section 77J(2):

- I reprimanded all 9 practitioners;
- I ordered 6 of those practitioners to make an apology;
- I ordered 1 of those practitioner to enter into a Professional Mentoring Agreement;
- I ordered all 9 practitioners to pay a fine
- I ordered that conditions be imposed on the practising certificates of 1 of those practitioners;
- I made an order to suspend 1 of those practitioner's practising certificate for a period of 1 month;

- I ordered 2 of those practitioners to make a specified payment or do or refrain from doing a specific act.

Decisions in relation to intake files

During the reporting period, I closed 48 intake files without treating them as formal complaints. I did so for the following reasons:

- 16 files were closed because I decided that I did not have 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);
- 9 files were closed because 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 describe the alleged conduct the subject of the complaint;
- 22 files were closed because the 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; and
- 1 file was closed because the complaint was not made within the 2 year time limit referred to in section 77N(1) (ie from the date of delivery of the final bill to which the overcharging complaint relates), and I decided not to exercise my discretion to allow a longer period within which to complain.

CONCILIATION, PROMPT RESOLUTION AND ENQUIRIES

Conciliation

Sections 72(1)(d) and 77O give my office the power to conciliate complaints.

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 formal (involving the parties attending a meeting at my office facilitated by one of my conciliators) or informal (conducted over the telephone, by email or exchange of written correspondence).

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 already seen conduct issues that concern me, then 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 then devote my office's resources to other complaints that need to be investigated and that aren't yet resolved, rather than further investigating a complaint that has been resolved.

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

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.

Matters referred

During the reporting period, there were 33 active conciliations. Of those, 14 matters were resolved. The overwhelming majority of those complaints referred to conciliation concerned costs disputes arising in Family Law matters.

There were also 19 attempted prompt resolutions of complaints undertaken by my conciliators. Of those, 16 matters were resolved. The balance of the complaints in which we attempted prompt resolution were unable to be resolved at an early stage and were subsequently referred back to investigation.

Enquiries

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

During the reporting period, we received 540 enquiry contacts. These enquiry contacts are responded to by our enquiry officers. (This number only includes the initial contacts, and does not include any subsequent follow up contacts, for example for the purposes of an assisted enquiry.)

The types and numbers of matters about which we receive enquiries broadly reflect the types and numbers of matters about which we receive complaints. Family Law was again the most enquired about area of law during the reporting period, with Wills and estate administration also a common line of enquiry. Most callers contacted my office to enquire about how to make a complaint about a legal practitioner to my office.

During the reporting period my enquiry officers continued to conduct “assisted enquiries” for eligible enquiry contacts received by my office by telephone or email. That is, in limited circumstances where my enquiry officer considers it appropriate to do so, and in circumstance where express consent was provided by the enquirer, my enquiry officer contacts the practitioner to explore whether a resolution to the enquirer’s concerns could be achieved with some limited assistance to attempt to resolve the dispute before a complaint is made.

An assisted enquiry may be assessed as appropriate in circumstances where:

- the enquirer is complaining that the practitioner won’t return phone calls / emails;
- the enquirer hasn’t had any communication from the practitioner at all; or
- there is a costs dispute over a relatively nominal amount,

and the practitioner’s conduct isn’t likely to amount to misconduct in the event a complaint is made. In those circumstances we will most likely call that practitioner and suggest that if he or she attempts to deal with the issue immediately then it might prevent a formal complaint / investigation.

During the reporting period, my conciliators conducted 14 assisted enquiries with a view to resolving the enquirer's concerns at an early stage in disputes which may have otherwise become formal complaints. Of those 14 assisted enquiries, 7 of them resolved without a complaint being made to my office at that time.



LITIGATION WORK

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)
- [AustLII](#).

Tribunal charges

As I have said previously, if I consider that I can't 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 isn't in the public interest to do so). However, 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 refers only to charges that I have laid (or that were previously laid by the Board).

In 2013/14, the Board laid charges against 11 practitioners.

In 2014/15, I laid charges against 4 practitioners.

In 2015/16, I laid 7 charges against 6 practitioners.

In 2016/17, I laid 8 charges against 6 practitioners

In 2017/18, I laid 7 charges against 5 practitioners.

In 2018/19, I laid charges against 8 practitioners.

In the reporting period, I laid 5 charges against 4 practitioners. Those charges were laid on the basis of the following alleged misconduct by the practitioners:

- A practitioner, *Mr Colin Dorrian*, was charged for failing to provide information and responses to my office during the course of my investigation of complaints made by a number of his clients and a barrister. Mr Dorrian was also charged with practising while his practising certificate was suspended pursuant to an order of the Supreme Court, and for lying to the Law Society. The Tribunal found him guilty of professional misconduct, and he was subsequently (after the end of the reporting period) struck off by the Supreme Court.
- The practitioner was charged in relation to her failure to provide information and responses to my office during the course of my investigation of complaints against her, including in responding to a formal notice issued under clause 4 of Schedule 4.

- The practitioner was charged with breaching orders I had previously made against him under section 77J. He had failed to provide an apology to a client in accordance with my order, to pay a fine that I had ordered him to pay, and to undertake certain professional development activities and advise me when he had done so.
- The practitioner was charged in relation to her failure to respond to various formal notices issued under clause 4 of Schedule 4.

All of the charges related to conduct in relation to which I:

- was satisfied that there was evidence of misconduct;
- was satisfied that I could not deal adequately with the conduct in question under section 77J; and
- did not determine that it would not be in the public interest to lay a charge before the Tribunal (section 77L).

Only the charges against Mr Dorrian had been heard by the Tribunal in any substantive way before the end of the reporting period.

Tribunal decisions about misconduct

The Tribunal handed down 3 decisions in this reporting period. One of those decisions related to two charges I had laid against Mr Dorrian, which I have already referred to earlier. The other two related to charges I had laid prior to the reporting period.

The first related to *Ms Sarah Southern*. She had been charged with professional misconduct in that, in her newly established small practice, she had breached numerous trust account requirements, and overdrawn several client trust ledgers by significant amounts. The Tribunal found her guilty of unsatisfactory professional conduct, and reprimanded her and fined her \$1,000.

The second related to *Mr David Cleland*. Mr Cleland had been charged in relation to his preparation of two Wills for an elderly relative in circumstances in which there was a conflict between his duty to serve the best interests of the testator and his own interests, and by so doing he preferred his interests over those of the testator. The Tribunal found that Mr Cleland had engaged in professional misconduct, and it has now recommended that disciplinary proceedings be commenced against him in the Supreme Court. Mr Cleland has appealed against the Tribunal's decision.

The Tribunal is yet to deliver its decision in relation to 22 charges that were laid against 13 practitioners prior to the reporting period. A number of these matters involve applications to the Tribunal for an extension of time under section 82(2a)(b).

One of the charges laid against a practitioner prior to the reporting period was finalised during the reporting period when I decided not to proceed with my application for an extension of time. Rather than doing so, I made a determination about the practitioner's conduct under section 77J(1).

Tribunal appeals

Decisions of the Board were not previously able to be appealed against.

As a result of the changes made to the Act by the *Legal Practitioners (Miscellaneous) Amendment Act 2013*, if I determine that there has been misconduct by the practitioner, and if I decide to deal with that misconduct under section 77J, then the complainant and (in some circumstances) the practitioner can appeal to the Tribunal.

Not all of my decisions can be appealed against. The Tribunal has previously decided that there is no right of appeal against my determination if either:

- I find that there is no misconduct by the practitioner; or
- I close the complaint under section 77C.

During the reporting period, there was 1 appeal by a practitioner to the Tribunal. The appeal had not been heard in any substantive way by the Tribunal before the end of the reporting period.

Tribunal decisions about extension of time applications

I have referred to this issue in my Annual Reports for both 2017/18 and 2018/19, and it continues to be problematic for both my office and the Tribunal. To some extent at least I am repeating here what I said in those earlier Annual Reports.

Under section 82(2a) of the Act (as it was after 1 July 2014 and until it was amended by the 2019 Amendment Act), if I was to lay a charge in the Tribunal against a practitioner then I had to do so within 3 years of the practitioner's conduct unless the Tribunal allowed an extension of time. (Prior to 1 July 2014, the Board had 5 years from the date of the practitioner's conduct to lay a charge, rather than 3 years.)

It has not been unusual for me to have to seek an extension of time from the Tribunal. For example, it has not infrequently been the case that I first find out about a practitioner's conduct (whether by way of a complaint or a section 14AB report from the Law Society) after that 3 year period has already expired, or at least once a substantial part of that period has already passed. And, even if I find out about the conduct relatively soon after it occurs, I still have to investigate it properly, comply with the requirements of procedural fairness and natural justice before making a decision, obtain counsel's advice as necessary, and then prepare properly drafted charges.

The Tribunal had previously considered various of my applications for extensions of time. In relation to most of them, the Tribunal comprised only 1 member when it made decisions in relation to those applications. Most of my applications were successful.

In its December 2017 decision in *Legal Profession Conduct Commissioner v Fittock*, the Full Court of the Supreme Court decided that extension of time applications should have been, and thereafter had to be, heard by 3 Tribunal members. That decision meant that we needed to re-argue a number of matters in which we had already been allowed an extension of time by a Tribunal comprising of only 1 member.

As a result of that decision, and in order to try to get these matters heard as efficiently as possible, we asked the Tribunal to hear the extension of time application at the same time that it conducted the inquiry into the practitioner's conduct. The Tribunal asked the Full Court, by way of a "case stated", whether it could commence an inquiry into the practitioner's conduct without having first heard and determined the application to extend the time within which to lay the charge. In its October 2019 decision in *Legal Profession Conduct Commissioner v A Practitioner*, the Full Court of the Supreme Court decided that the Tribunal could not do so. Accordingly, in relation to any matter in which I have to apply for an extension of time within which to lay a charge, there has to first be an initial hearing before the Tribunal in relation to the application to extend time. Then, once the Tribunal has decided to allow an extension (assuming it does), it can then (and only then) proceed with the inquiry itself (ie the inquiry into the conduct for which the practitioner has been charged).

The combined effect of those two Full Court decisions is that, for any matter in relation to which I need to apply for an extension of time under the previous (pre-2019 Amendment Act) version of section 82(2a):

- the extension application has to be heard by a 3 member Tribunal; and
- that application has to be heard and determined before the inquiry itself can be conducted.

All of this has had a very significant impact on my office, and has led to longer waiting times for matters to be listed for a hearing in the Tribunal.

The 2019 Amendment Act has addressed these legislative shortcomings, but it has only done so in relation to any charges I lay as a result of a complaint I receive after 1 December 2019 (ie the day that Act came into operation).

Supreme Court matters

Disciplinary proceedings

I had previously taken disciplinary proceedings in the Supreme Court against *Dr John Walsh of Brannagh*, following findings of misconduct against him by the Tribunal and a recommendation by the Tribunal that those disciplinary proceedings should be commenced. Dr Walsh took little part on those proceedings, and we did not progress them in any meaningful way because it came to my attention that Dr Walsh was also involved in disciplinary proceedings instituted in the Supreme Court of Norfolk Island. An order was made within those proceedings removing Dr Walsh's name from the Register of Practitioners of the Supreme Court of Norfolk Island. Dr Walsh's name was then removed from the Roll of Legal Practitioners in Victoria. Those developments effectively meant that it was unnecessary for me to proceed with the disciplinary proceedings I had commenced in the Supreme Court, because Dr Walsh is not on the Roll in South Australia and no longer has a practising certificate in any State or Territory in Australia. Accordingly, I discontinued those proceedings in September 2019.

In August 2019, the Full Court of the Supreme Court of the Australian Capital Territory ordered that the name of *Mr John Davey* be removed from the Roll maintained by that Supreme Court. Mr Davey's name is also on the Roll in South Australia. I decided to issue disciplinary

proceedings in the Supreme Court seeking an order that Mr Davey's name be struck off of our Roll. Those proceedings have not yet been finalised.

In June 2020, following the decision of the Tribunal I have already referred to, I commenced disciplinary proceedings in the Supreme Court against *Mr Colin Dorrian*, seeking an order that his name be struck off the Roll. Those proceedings had not been finalised by the end of the reporting period, but he has since been struck off.

Section 20AH – show cause events

Under section 20AH, where a show cause event happens to a practitioner who holds a practising certificate, he or she must give a statement to the Supreme Court as to why the practitioner is still a fit and proper person to hold a practising certificate. Both the Law Society and I can then make written representations to the Supreme Court in that regard.

In 2018/19, the Supreme Court delivered its decision in the show cause proceedings the *Mr Duncan Fowler* commenced as a result of his bankruptcy. The Supreme Court was satisfied that Mr Fowler was a fit and proper person to hold a practising certificate, subject to certain conditions that were imposed on the practitioner's practising certificate for the duration of the bankruptcy. Those conditions:

- require the practitioner to meet all of his taxation related obligations;
- subject the practitioner to supervision;
- require the practitioner's financial affairs to be monitored;
- allow the practitioner to continue to operate a trust account, subject to certain supervision and monitoring requirements;
- impose other reporting requirements on the practitioner.

The Law Society and I appealed to the Full Court of the Supreme Court against that decision. The appeal was heard during the reporting period, and the Full Court delivered its decision on 2 July 2020 dismissing the appeal.

Joined as a party to proceedings

In my 2018/19 Annual Report, I reported on a charge I had laid in the Tribunal against a practitioner who had prepared a Will for a client in which the practitioner was named as the executor, and who, after the testator had died, had then (amongst other alleged misconduct) inappropriately charged for legal work despite the Will not including an appropriate charging clause, incurred significant expenses on behalf of the deceased estate, failed to act in the best interests of the beneficiaries of the deceased estate, and allowed her own interests to conflict with her fiduciary duties.

During the reporting period the practitioner commenced proceedings in the Supreme Court seeking various declarations and orders relating to the testator's Will, her involvement with the testator's estate following his death, and the remuneration to which she was entitled in relation to that involvement.

I sought to intervene in those proceedings, so that I could apply to have them stayed pending the hearing of the disciplinary proceedings in the Tribunal. Justice Stanley decided instead

that I should be joined as a defendant to the practitioner's proceedings in the Supreme Court, and that the Tribunal proceedings should await the outcome of the Supreme Court's determination of the practitioner's application.

Mr John Viscariello

There are two proceedings in the Supreme Court commenced by *Mr John Viscariello* that continued during the reporting period.

The first proceedings were commenced by Mr Viscariello in the Supreme Court against the Board before 1 July 2014. I took the Board's place in those proceedings on 1 July 2014.

I was conflicted in considering any of Mr Viscariello's various complaints about practitioners, both because he had complained about me and because many of his complaints were about practitioners at my former firm. I had therefore delegated my powers and functions in relation to those complaints to an independent barrister.

Mr Viscariello was seeking an order in the nature of *mandamus* against (originally) the Board and now me. He was seeking to compel the Board (and subsequently me) to undertake investigations into the conduct of various practitioners about whom he had complained to the Board. For various reasons, the Board considered it inappropriate that it do so at the time that he made them, and it had suspended those investigations.

Mr Viscariello challenged the validity of my delegations, and the proceedings in relation to that issue meant that the substantive judicial review proceedings were not heard until March 2018. They were ultimately heard before Justice Hinton, who handed down his decision on 1 July 2019, dismissing Mr Viscariello's application. Mr Viscariello appealed against Justice Hinton's decision. The appeal has not yet been heard.

Mr Viscariello commenced the second proceedings in June 2018. He has applied to the Supreme Court to judicially review the decisions of the Board to lay two sets of charges against him in the Tribunal, one of which led to his name being struck off the Roll. He wants to have the decisions of the Tribunal and, ultimately, the Supreme Court reviewed, and overturned such that he should then be able to be re-admitted as a practitioner. Justice Bampton summarily dismissed his application in June 2019. Mr Viscariello appealed against Justice Bampton's decision. The Full Court heard the appeal during the reporting period, but has not yet delivered its decision.

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 2019 to 30 June 2020

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.

FINANCIAL REPORTS

FOR YEAR ENDED 30 JUNE 2020



LEGAL PROFESSION CONDUCT COMMISSIONER

ABN 74 875 673 354

FINANCIAL REPORT

**FOR THE YEAR ENDED
30 JUNE 2020**

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 2020 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 Ha

Partner

Dated 26 October, 2020

LEGAL PROFESSION CONDUCT COMMISSIONER

STATEMENT OF COMPREHENSIVE INCOME FOR THE YEAR ENDED 30 JUNE 2020

| | Note | 2020 \$ | 2019 \$ |
|------------------------------------|------|------------------|------------------|
| INCOME | | | |
| Operating - Fidelity Fund | | 4,196,343 | 4,320,978 |
| Interest on Funds | | 31,785 | 41,366 |
| Prior Year Funds Reconciliation | | (122,099) | - |
| TOTAL INCOME | | 4,106,029 | 4,362,344 |
| EXPENDITURE | | | |
| Salaries and Staff Expenses | | | |
| Amenities | | 1,776 | 4,354 |
| Car Parking | | 7,786 | 5,680 |
| First Aid Allowance | | 824 | 824 |
| Fringe Benefits Tax | | 14,164 | 16,835 |
| Motor Vehicle - Lease Cost | | 10,393 | 11,203 |
| Motor Vehicle -Fuel, R & M | | 5,715 | 4,404 |
| Motor Vehicle - Salary Sacrifice | | (19,908) | (18,165) |
| Professional Development | | 3,577 | 10,612 |
| Provision for Annual Leave | | 35,287 | (46,702) |
| Provision for Long Service Leave | | 9,726 | 107,849 |
| Payroll Tax | | 105,261 | 109,987 |
| Practising Certificates | | 11,952 | 10,944 |
| Salaries - Professional | 9 | 1,880,462 | 1,903,788 |
| Salaries - Support Staff | | 563,929 | 552,601 |
| Salaries - Temp/Casuals | | 201 | 44,525 |
| Salaries - Parental Leave | | - | 17,583.35 |
| Subscriptions/Membership | | 1,222 | 1,956 |
| Superannuation | | 231,196 | 237,131 |
| Reportable Employer Superannuation | | 49,879 | 52,563 |
| WorkCover | 10 | 2,874 | 476 |
| Total Salaries and Staff Expenses | | 2,916,316 | 3,028,449 |
| External Expert Expenses | | | |
| Costs Assessment Expenses | | 2,313 | 9,713 |
| Counsel Fees | 16 | 214,142 | 229,056 |
| Associated Costs | 16 | 9,729 | 60,650 |
| External Delegations | 16 | 24,845 | 67,835 |
| Expert & Witness Fees | | 2,390 | 2,250 |
| Total External Expert Expenses | | 253,419 | 369,504 |

The accompanying notes form part of these financial statements.

LEGAL PROFESSION CONDUCT COMMISSIONER

STATEMENT OF COMPREHENSIVE INCOME FOR THE YEAR ENDED 30 JUNE 2020

| | Note | 2020 \$ | 2019 \$ |
|---|------|------------------|------------------|
| Administration and Operating Expenses | | | |
| Equipment Expenses | | | |
| Computer - Operating | | 77,039 | 75,796 |
| Computer - Provision/Purchase | | 17,538 | 36,031 |
| Computer - Repairs and Maintenance | | 54,107 | 30,470 |
| Depreciation | | 253,070 | 330,468 |
| Lease Charges - Photocopier | | 18,638 | 14,786 |
| Photocopier | | 4,497 | 4,636 |
| Repairs and Maintenance | | 5,366 | 4,314 |
| Total Equipment Expenses | | 430,255 | 496,501 |
| General Expenses | | | |
| Audit Fees | | 7,952 | 8,850 |
| Accounting Services | | 34,320 | 31,200 |
| Bank Charges | | 502 | 639 |
| Courier Services | | 1,878 | 2,317 |
| Insurance | | 18,126 | 17,354 |
| Internet Services | | 9,301 | 6,388 |
| Library | | 538 | 19,259 |
| Occupational Health and Safety | | 5,336 | 3,835 |
| Postage | | 5,111 | 5,039 |
| Printing and Stationery | | 10,990 | 10,534 |
| Protective Security Compliance | | 7,500 | 4,146 |
| Records Management | | 13,439 | 22,528 |
| Telephone and Fax | | 3,471 | 8,057 |
| Website Development | | 8,960 | 853 |
| IT Provision - Security & Website Upgrade | | 25,590 | - |
| Total General Expenses | | 153,014 | 140,999 |
| Occupancy Expenses | | | |
| Light and Power | | 22,013 | 25,795 |
| Office Cleaning | 11 | 29,904 | 33,526 |
| Rent | 11 | 431,970 | 427,462 |
| Security | | 1,516 | 1,022 |
| Total Occupancy Expenses | | 485,403 | 487,805 |
| TOTAL EXPENDITURE | | 4,238,407 | 4,523,257 |
| OPERATING SURPLUS/(DEFICIT) | | (132,378) | (160,914) |
| TOTAL OPERATING SURPLUS/(DEFICIT) | | (132,378) | (160,914) |
| ACCUMULATED FUNDS AT THE BEGINNING OF THE FINANCIAL YEAR | | 370,128 | 531,042 |
| ACCUMULATED FUNDS AT THE END OF THE FINANCIAL YEAR | | 237,750 | 370,128 |

The accompanying notes form part of these financial statements.

LEGAL PROFESSION CONDUCT COMMISSIONER

STATEMENT OF FINANCIAL POSITION AS AT 30 JUNE 2020

| | Note | 2020 \$ | 2019 \$ |
|----------------------------------|------|----------------|------------------|
| CURRENT ASSETS | | | |
| Cash | 2 | 636,510 | 557,862 |
| Receivables | 3 | 33,817 | 42,620 |
| Prepayments | 4 | 27,367 | 40,960 |
| TOTAL CURRENT ASSETS | | 697,694 | 641,442 |
| NON CURRENT ASSETS | | | |
| Fixed Assets | 5 | 271,797 | 512,425 |
| TOTAL NON CURRENT ASSETS | | 271,797 | 512,425 |
| TOTAL ASSETS | | 969,491 | 1,153,867 |
| CURRENT LIABILITIES | | | |
| Creditors and Accruals | 6 | 132,562 | 256,853 |
| Provisions | 7 | 599,179 | 526,885 |
| TOTAL CURRENT LIABILITIES | | 731,741 | 783,738 |
| TOTAL LIABILITIES | | 731,741 | 783,738 |
| NET ASSETS | | 237,750 | 370,128 |
| ACCUMULATED FUNDS | | | |
| Retained Funds | 8 | 237,750 | 370,128 |
| TOTAL ACCUMULATED FUNDS | | 237,750 | 370,128 |

The accompanying notes form part of these financial statements.

LEGAL PROFESSION CONDUCT COMMISSIONER

RECONCILIATION OF CASH FOR THE YEAR ENDED 30 JUNE 2020

| | Note | 2020 \$ | 2019 \$ |
|--|----------|-----------------------|-----------------------|
| Operating Surplus/(Deficit) | | (132,378) | (160,914) |
| Depreciation | | 253,070 | 330,468 |
| Movement in Provision for Annual Leave | | 35,289 | (46,704) |
| Movement in Provision for Long Service Leave | | 9,726 | 107,849 |
| Movement in Provision for Workers Compensation | | 1,689 | (505) |
| Payables | | (124,291) | 50,221 |
| Provision for Special Grant Funds | | 25,590 | - |
| Purchase of Office Furniture | | - | - |
| Purchase of Office Equipment | | (12,442) | (47,455) |
| Purchase of Leasehold Improvements | | - | - |
| Purchase of Case Management System - ICT | | - | - |
| Prepayments | | 13,593 | (1,834) |
| Receivables | | 8,804 | 765 |
| | | <u>211,028</u> | <u>392,805</u> |
| Net Increase in Cash Held | | 78,650 | 231,891 |
| Cash at Beginning of Financial Year | | 557,860 | 325,969 |
| Cash at End of Financial Year | 2 | <u>636,510</u> | <u>557,860</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 2020

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 an accruals basis and are based on historical costs unless otherwise stated in the notes.

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) 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.

(c) 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.

(d) 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.

LEGAL PROFESSION CONDUCT COMMISSIONER

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2020

NOTE 1: STATEMENT OF ACCOUNTING POLICIES (cont.)

(e) 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.

(f) 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.

(g) Income Tax

No provision for income tax has been raised as the Commissioner is exempt from income tax under Div 50 of the Income Tax Assessment Act 1997.

(h) 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.

LEGAL PROFESSION CONDUCT COMMISSIONER**NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2020****NOTE 2: CASH**

| | 2020 | 2019 |
|---------------|----------------|----------------|
| | \$ | \$ |
| Cash on Hand | 300 | 300 |
| Cash at Banks | 1,211 | (1,330) |
| Access Saver | 334,942 | 158,891 |
| Term Deposits | 300,057 | 400,000 |
| | <u>636,510</u> | <u>557,862</u> |

NOTE 3: RECEIVABLES

| | 2020 | 2019 |
|----------------|---------------|---------------|
| | \$ | \$ |
| GST Refundable | 33,817 | 42,160 |
| Sundry Debtors | - | 461 |
| | <u>33,817</u> | <u>42,620</u> |

NOTE 4: PREPAYMENTS

| | 2020 | 2019 |
|--------------------|---------------|---------------|
| | \$ | \$ |
| Prepayments - Rent | <u>27,367</u> | <u>40,960</u> |

NOTE 5: FIXED ASSETS

| | 2020 | 2019 |
|--------------------------------|------------------|------------------|
| | \$ | \$ |
| Office Furniture at cost | 75,219 | 75,219 |
| Less: Accumulated Depreciation | <u>(67,047)</u> | <u>(62,529)</u> |
| | <u>8,172</u> | <u>12,690</u> |
| Office Equipment at cost | 377,973 | 365,531 |
| Less: Accumulated Depreciation | <u>(309,505)</u> | <u>(264,366)</u> |
| | <u>68,468</u> | <u>101,165</u> |
| Leasehold Improvements at cost | 426,624 | 426,624 |
| Less: Accumulated Depreciation | <u>(231,467)</u> | <u>(184,539)</u> |
| | <u>195,157</u> | <u>242,085</u> |
| | 2020 | 2019 |
| | \$ | \$ |
| Case Management System - ICT | 662,729 | 662,729 |
| Less: Accumulated Depreciation | <u>(662,729)</u> | <u>(506,245)</u> |
| | <u>-</u> | <u>156,484</u> |
| Total Fixed Assets | <u>271,797</u> | <u>512,425</u> |

LEGAL PROFESSION CONDUCT COMMISSIONER

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2020

NOTE 6: CREDITORS & ACCRUALS

| | 2020 | 2019 |
|----------------------------|----------------|----------------|
| | \$ | \$ |
| Bank SA Visa | 1,226 | 2,654 |
| PAYG Tax Withholding | 45,209 | 52,473 |
| Recoveries - Fidelity Fund | 9,900 | 1,250 |
| Recoveries - Treasurer | 5,075 | - |
| Accrual | 7,779 | 9,612 |
| Trade Creditors | 63,373 | 177,838 |
| Superannuation | - | 13,026 |
| | <u>132,562</u> | <u>256,853</u> |

NOTE 7: PROVISIONS

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

| | 2020 | 2019 |
|---------------------|----------------|----------------|
| | \$ | \$ |
| Workcover Provision | 8,766 | 7,077 |
| Annual Leave | 99,102 | 63,813 |
| Long Service Leave | <u>465,721</u> | <u>455,995</u> |
| | <u>573,589</u> | <u>526,885</u> |

| | | |
|---|------|----|
| Number of employees at 30 June 2020 (FTE) | 18.8 | 20 |
|---|------|----|

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.

(b) Provision is made for unspent website Development and IT security compliance at balance date.

| | 2020 | 2019 |
|--|---------------|----------|
| | \$ | \$ |
| Special Grant - Website Development | 13,090 | - |
| Special Grant - Protective Security Compliance | <u>12,500</u> | <u>-</u> |
| | <u>25,590</u> | <u>-</u> |

The Attorney General approved funding to upgrade the website to accommodate the online receipt of fees that will be paid by complainants in order to lodge a complaint. At 30 June 2020, \$13,090 remains unspent and is expected to be spent in the 2021 financial year. The Attorney General also approved funding for security compliance testing. At 30 June 2020, \$12,500 remains unspent and is expected to be spent in 2021.

NOTE 8: ACCUMULATED FUNDS

| | 2020 | 2019 |
|--|----------------|----------------|
| | \$ | \$ |
| Accumulated surplus at the beginning of the financial period | 370,128 | 531,042 |
| Operating surplus/(deficit) for the year | (132,378) | (160,914) |
| Accumulated surplus at the end of the financial period | <u>237,750</u> | <u>370,128</u> |

LEGAL PROFESSION CONDUCT COMMISSIONER

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2020

NOTE 9: SALARIES - PROFESSIONAL

| | 2020 | 2019 |
|-----------------------------------|------------------|------------------|
| | \$ | \$ |
| Salary and wages | 1,830,583 | 1,829,774 |
| Salary Sacrifice - Superannuation | 49,879 | 74,014 |
| | <u>1,880,462</u> | <u>1,903,788</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

| | 2020 | 2019 |
|--|--------------|------------|
| | \$ | \$ |
| Return to Work SA annual premium | 1,186 | 982 |
| Compensation paid in relation to employee claim | - | - |
| Movement in Crown workers compensation provision | 1,688 | (506) |
| | <u>2,874</u> | <u>476</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 2020 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.

NOTE 11: OCCUPANCY EXPENSES

| | 2020 | 2019 |
|--|----------------|----------------|
| | \$ | \$ |
| Office cleaning | 29,904 | 33,140 |
| 2017 and 2018 cleaning cost adjustment | - | 386 |
| Total Office Cleaning | <u>29,904</u> | <u>33,526</u> |
| Rent | 426,725 | 410,313 |
| Outgoings | 15,151 | 18,188 |
| Refund of prior year outgoings | (9,906) | (1,039) |
| | <u>431,970</u> | <u>427,462</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".

| | 2020 | 2019 |
|---|-----------------|-----------------|
| | \$ | \$ |
| Costs recovered but unremitted carried forward from the previous financial year | 1,250 | - |
| Costs recovered during the financial year | 51,493 | 48,169 |
| Costs remitted to the Fidelity Fund during the financial year | <u>(42,843)</u> | <u>(46,919)</u> |
| Recovered costs to be remitted to the Fidelity Fund in the next financial year | <u>9,900</u> | <u>1,250</u> |

(Note 6)

LEGAL PROFESSION CONDUCT COMMISSIONER

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2020

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.

| | 2020 | 2019 |
|--|-----------------|-----------------|
| | \$ | \$ |
| Fines paid but unremitted carried forward from the previous financial year | - | - |
| Fines paid during the financial year | 47,925 | 29,550 |
| Fines remitted to the Treasurer during the financial year | <u>(42,850)</u> | <u>(29,550)</u> |
| Paid fines to be remitted to the Treasurer in the next financial year (Note 6) | <u>5,075</u> | <u>-</u> |

NOTE 14: LEASING COMMITMENTS

Operating Lease Commitments

Being for rent of office premises:

| | 2020 | 2019 |
|---|------------------|----------------|
| | \$ | \$ |
| Payable: | | |
| - not later than one year | 371,700 | 426,725 |
| - later than one year but not later than the lease period | <u>1,611,593</u> | <u>-</u> |
| | <u>1,983,293</u> | <u>426,725</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.

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.

LEGAL PROFESSION CONDUCT COMMISSIONER

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2020

NOTE 16: COUNSEL FEES, ASSOCIATED COSTS AND EXTERNAL DELEGATION

During the financial year, the Commissioner incurred \$214,142 on Counsel Fees (as against a budget for that item of \$330,000), \$9,729 on Associated Costs (\$22,000) and \$24,845 on External Delegations (\$55,000). Those expenses together totalled \$248,716, as against a total budget of \$407,000. The shortfall in those expenses therefore accounts for just under \$159,000 of the Commissioner's underspend (\$230,349) as against budget for the financial year.

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. As noted in the Commissioner's Annual Report, many of the disciplinary proceedings in the Tribunal that were expected to proceed during the financial year did not do so because of the difficulties associated with extension of time applications. To the extent that that has meant there is a backlog of those proceedings, when those proceedings are ultimately heard there will inevitably be a greater amount spent on counsel fees in that financial year than would otherwise have been the case.

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 12:

1. Presents a true and fair view of the financial position of the Commissioner as at 30 June 2020 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.



Greg May
Legal Profession Conduct Commissioner

Dated 29 October, 2020

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 2020, consisting of the Statement of Comprehensive Income, 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 2020 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
Partner

Dated 29 October, 2020