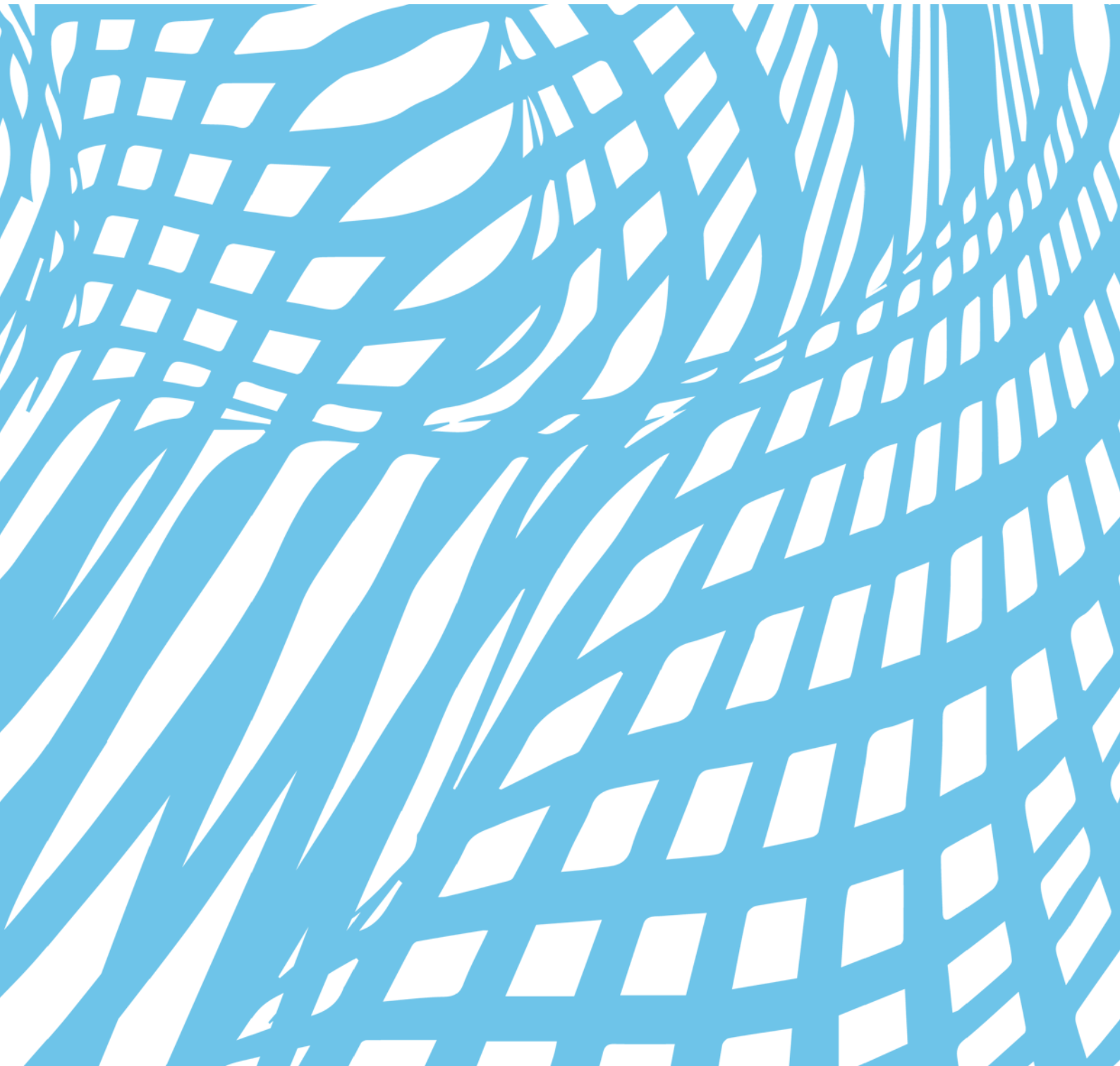


**THE OFFICE OF THE LEGAL SERVICES COMMISSIONER**

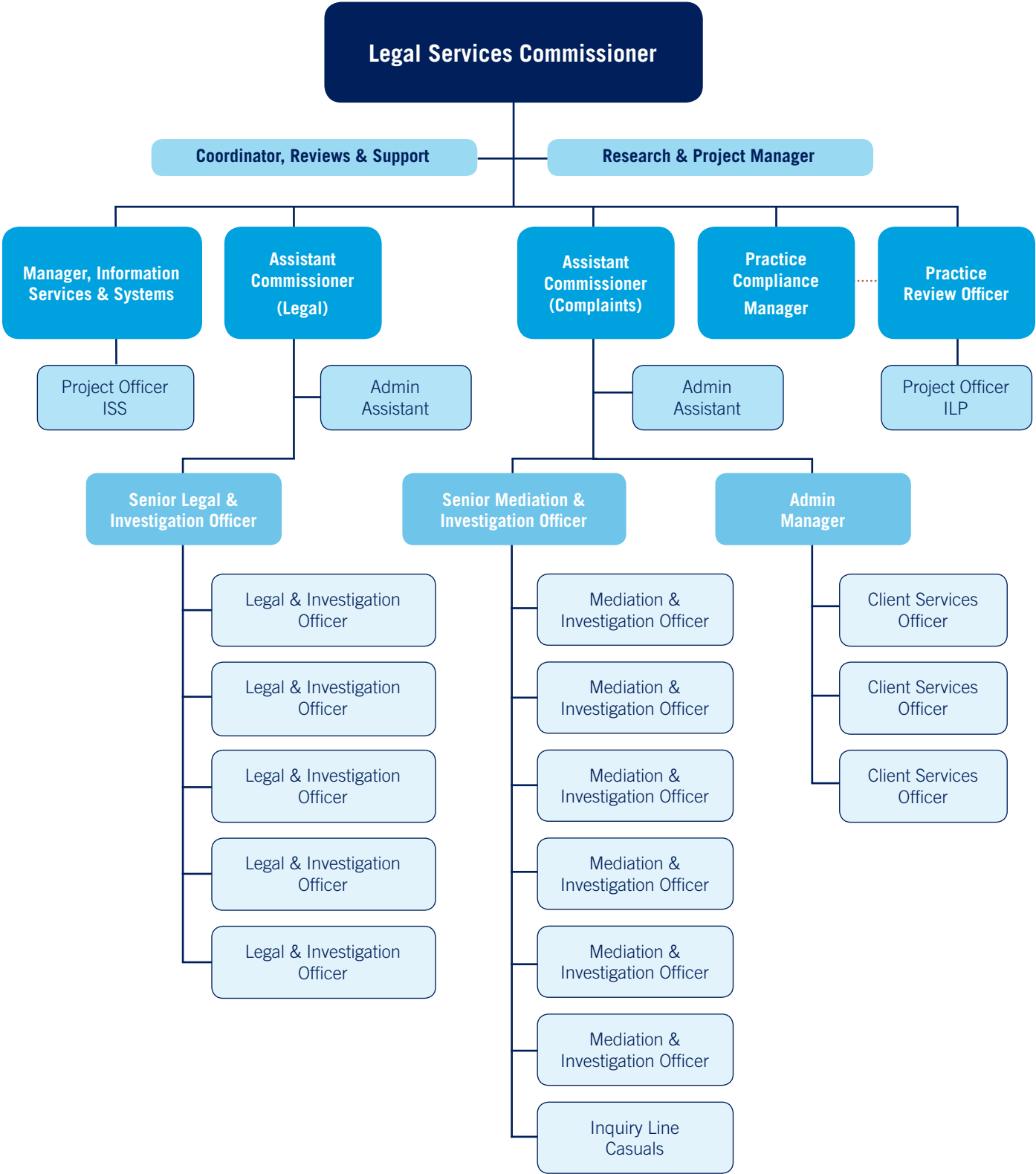
**2014-15**

**ANNUAL REPORT**



# OFFICE OF THE LEGAL SERVICES COMMISSIONER

## ORGANISATIONAL CHART



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# TABLE OF CONTENTS

<b>Chapter One:</b>	The Commissioner's Report	4
<b>Chapter Two:</b>	Investigations and Discipline	6
<b>Chapter Three:</b>	Complaints Handling	9
<b>Chapter Four:</b>	Audits and Incorporated Legal Practices	12
<b>Chapter Five:</b>	The OLSC and the Legal Community	13
<b>Chapter Six:</b>	Information Systems and Services	15
<b>Chapter Seven:</b>	Annual Statistics	17
<b>Chapter Eight:</b>	Financial Performance	28

## CHAPTER ONE:

# THE COMMISSIONER'S REPORT

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I commenced my term as the NSW Legal Services Commissioner on 12 March 2015, and was immediately struck by the dedication and diligence of the staff of the Office of the Legal Services Commissioner (OLSC). They are to be commended for their ongoing conscientious application to the task of the regulation of the legal profession in this state. I am only the second person appointed to this role, following on from the inaugural Commissioner, Steve Mark. He ended his term in late 2013, after 19 years during which he was instrumental in the establishment and development of the OLSC. Whilst the recruitment process was undertaken, Jim Milne served as the Acting Commissioner and provided much-needed stability and direction to the staff. I pay tribute to both Steve and Jim for their achievements in the role and express the hope that I can live up to the high standards they have set.

Whilst I am new to the field of professional regulation, I have worked as a practising solicitor for the past 36 years. I greatly cherish the crucial role that an independent legal profession plays in our society and I enter into my duties with the twin goals of assisting members of the profession to build upon the worthy foundations already laid by our forebears, and to provide the public and the clients of the profession with an appropriate recourse to complaint resolution and a better understanding of the role and obligations of the profession. I am mindful of the unique system of co-regulation of the profession in NSW that has been in place since 1994 and I intend to enhance the vital relationships that my office has with both professional bodies, the Law Society of NSW and the NSW Bar Association. Each member of this tripartite system has a separate, though complementary, role to play.

My own experience of managing a large team of dedicated and relatively young lawyers very much informs my perspective of the future needs of the legal profession. As a result of this, I will be keen to address emerging issues that particularly impact upon the more junior members of the profession. Whilst there will be many unanticipated and novel issues for the profession, there remains much we can take from past lessons. Those of us with extensive experience have a responsibility to support the next generation, particularly in a world undergoing change at an ever-increasing rate.

In common with many areas of operation reliant upon public funds, the OLSC has experienced a significant reduction in its operating budget in recent years. It is a credit to the talented and hard-working staff that during 2014-15, a total of 2611 written complaints were appropriately completed, that being a reduction of only 20 from the previous reporting year. Our Inquiry Line received 7328 telephone calls this year. This service is an integral connection between our office and the general public, providing information, assistance in understanding the complaint system and, where appropriate, referrals to other services.

I intend to conduct a review of the work processes and roles of all our staff, with a view to building upon the already impressive achievements of our office. With reduced financial resources, it is important that we align our operations with the needs of the public, clients and the profession. Also high on my list of priorities is the evident need to significantly enhance our Information Technology systems, both hardware and software, so that our staff can better address our responsibilities in the most efficient way possible. I am already in discussions with the relevant officers from the Department of Justice and I look forward to progress on this front so that the talents of our staff can be better utilised. Another area that has suffered due to the reduced budget is that of research and policy development, as first priority has sensibly been given to the daily task of dispute resolution and disciplinary actions. I perceive there to be great value to be had from a modest research and policy capability based on the firsthand experience of dispute resolution and investigation of disciplinary issues that is undertaken every day in our office.

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The final months of 2014-15 saw intense activity around preparations for the commencement of the Legal Profession Uniform Law on 1 July 2015. I commend the efforts of our staff to prepare for this new regime in the regulation of the legal profession in this state and Victoria. I will report on its implementation in our next annual report.

I look forward to working with all involved in the legal profession including practitioners, clients, professional bodies, our fellow regulators, the judiciary and the government to build upon the wonderful legacy that previous generations have gifted to our society. Whilst we should never forget the bedrock principles of the profession, we cannot afford to stand still in a society undergoing change at the current rate.

John McKenzie  
Legal Services Commissioner

## CHAPTER TWO:

# INVESTIGATIONS AND DISCIPLINE

## Investigations

The Legal and Investigation Team deals with complaints in which disciplinary issues are raised. The complaints are investigated with evidence obtained from the complainant, the practitioner and, where required, from third parties such as independent witnesses or financial institutions.

At the conclusion of an investigation, the statutory test must be applied. The statutory test requires that, in circumstances where there is no reasonable likelihood of a finding of unsatisfactory professional conduct or professional misconduct were the matter to be referred to the Occupational Division of the Civil & Administrative Tribunal, the complaint must be dismissed. In circumstances where there is a reasonable likelihood of such a finding, the matter may be dealt with summarily by the Commissioner in relation to a likelihood of a finding of unsatisfactory professional conduct or referred to the Tribunal where there is a likelihood of a finding of professional misconduct.

In the reporting year, the Legal and Investigation Team dealt with 423 investigations. Of these, 379 were dismissed or closed in accordance with the statutory test, nine were not dealt with out of time because the complaint had been lodged more than three years after the conduct that was alleged to have occurred, and the balance of the complaints, being 35 in total, had a disciplinary outcome. These outcomes are addressed below.

As has been the case for a number of years now, more complaints were lodged in relation to family and de facto law matters than any other area of law. Complaints arising from probate, wills or family provision claims constitute the second most common area of law to attract complaints.

More complaints concerned the costs charged by legal practitioners, with allegations of negligence being the second most common complaint followed by poor communication. These trends have been established over a number of years and, accordingly, create a flag for all practitioners when considering their complaint risk profile.

## Disciplinary outcomes

The Commissioner dealt with 13 matters summarily. These were complaints where there was a likelihood of a finding of unsatisfactory professional conduct but not misconduct. Cautions were issued in relation to matters of minor misleading conduct, delay, breach of undertaking and borrowing funds from a client. Reprimands were issued in relation to a serious lack of competence and diligence, improper communication with a judge and more serious misleading conduct. Compensation in the sum of \$5,000.00, being the costs incurred with new solicitors engaged to remedy the damage from the initial conduct, was ordered in relation to one file where it was determined there was a reasonable likelihood of a finding of misleading conduct.

In 13 matters, the complaints were dismissed in the public interest despite the likelihood of a finding of unsatisfactory professional conduct or professional misconduct. Such public interest dismissals occur when a practitioner is suffering from serious ill health and/or the practitioner has provided an undertaking to not apply for a practising certificate in this jurisdiction or in any other jurisdiction in the future. The purpose of the disciplinary function is to protect the public from further occasions of professional misconduct. In appropriate circumstances, the provision of an undertaking to not practise again in the future satisfies this function.

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## New South Wales Civil and Administrative Tribunal

A number of matters were commenced in the Occupational Division of the Tribunal during the reporting year, a number of matters commenced in the previous reporting year had decisions delivered and some matters were taken on appeal to the New South Wales Court of Appeal.

Decisions were delivered in the following matters:

- *Legal Services Commissioner v Dennis*: In this matter, the practitioner was found guilty of professional misconduct for delaying repayment to his client of costs determined by a Costs Assessor and delaying the payment of the costs of assessment to the client. He was reprimanded and ordered to pay the Commissioner's costs.
- *Legal Services Commissioner v O'Donnell*: In this matter, the practitioner was alleged to have misappropriated funds, obtained fees improperly and borrowed money from a client. The Tribunal found that he was guilty of professional misconduct, his name was removed from the Roll of Legal Practitioners and he was ordered to pay the Commissioner's costs (see below for details of the practitioner's appeal).
- *Legal Services Commissioner v Papantoniou*: It was alleged that the solicitor breached section 660 of the Legal Profession Act 2004 and breached her undertaking. The Tribunal found her guilty of professional misconduct and ordered that her name be removed from the Roll. She was also ordered to pay the Commissioner's costs.
- *Legal Services Commissioner v Anderson*: in this matter, the Tribunal found that the practitioner had deceptively assumed the identity of a deceased client and had taken benefits of such identity being membership of the Melbourne Cricket Ground when he had no entitlement to do so. The Tribunal found the practitioner guilty of professional misconduct. He was reprimanded and ordered to pay a fine in the sum of \$10,000, along with the Commissioner's costs.
- *Legal Services Commissioner v Kelly*: This matter has been reported on previously. Ms Kelly was found guilty of professional misconduct in relation to misleading conduct but the Tribunal's reasons were not published until this reporting year. It was ordered that her name be removed from the Roll and that she pay the Commissioner's costs.

The Commissioner has recently commenced proceedings in the Tribunal against:

- Mr Yu Nan Wen, alleging that the practitioner forged the signature of a client in an affidavit and falsely witnessed the affidavit;
- Mr Hugh Byrne for failing to communicate with his client, failing to obtain his client's instructions and misleading conduct;
- Mr Salvatore Russo, where it is alleged that the practitioner engaged in breaches of the trust account requirements and failed to pay Counsel's fees.

It is anticipated that these matters will be allocated hearing dates in the near future. We will report the outcome of that litigation in the next annual report.

The Commissioner has appeared as respondent in the Court of Appeal in four matters during the reporting year:

- In the matter of *Legal Services Commissioner ats Kumar*, the Tribunal found Mr Kumar guilty of professional misconduct in relation to misappropriation of funds and ordered that his name be struck from the Roll. Mr Kumar lodged an appeal with the Court of Appeal in relation to that decision but his appeal was unsuccessful. Mr Kumar has now lodged a Special Leave Application in the High Court of Australia.
- In *Legal Services Commissioner v O'Donnell*, the Tribunal had found Mr O'Donnell guilty of professional misconduct and his name was struck from the Roll. Mr O'Donnell filed an appeal but that has subsequently been withdrawn.
- In the matter of *Legal Services Commissioner ats Wood*, Mr Wood, a complainant to this office, sought relief from the Court on administrative law grounds because his complaint had been dismissed. His application was dismissed with an order that he pay the Commissioner's costs.
- The matter of *Legal Services Commissioner ats Donaghy* has a long and complex history. Mr Donaghy was initially reprimanded by this office and he sought a review of that decision in the Tribunal. The Tribunal upheld the reprimand. Mr Donaghy then appealed the Tribunal's decision to the Court of Appeal. His appeal was successful and the matter was remitted to the Tribunal. For the reasons given by the Court of Appeal, the Commissioner determined to consent to orders in the Tribunal that Mr Donaghy's review be

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allowed and that the decision of the Commissioner dated 4 September 2012, to reprimand the practitioner be set aside. The initial complaint was dismissed.

## Reviews

Under the Legal Profession Act, the Commissioner had a power to review decisions on complaints made by the Law Society or the Bar Association. During the reporting year, 63 requests for reviews were received. Of the 44 reviews concluded during the reporting year, the decision of the Professional Association was confirmed in 39 complaints, and in five other matters, a reinvestigation was determined to deal with matters either not dealt with or not dealt with fully during the investigation.

## Policy development

The focus of our policy development during the reporting year was the Legal Profession Uniform Law, which commenced operation on 1 July 2015. There was intense consultation between this office, the Departments of Justice in NSW and Victoria, the Law Society of New South Wales, the New South Wales Bar Association, the Legal Services Commissioner of Victoria, the Law Council of Australia, the Commissioner for Uniform Legal Services and the Legal Services Council.

The Assistant Commissioner (Legal) liaises regularly with the Manager of Professional Standards, Law Society of New South Wales and the Director of Professional Conduct, New South Wales Bar Association. She also liaises regularly with her interstate and New Zealand counterparts. She meets quarterly with other heads of government legal departments at the Government Lawyers Forum.



## CHAPTER THREE:

# COMPLAINTS HANDLING

## Complaints

Consumer matters make up over two thirds of all complaints received at the OLSC. Despite a small fall in the overall number of complaints, the OLSC dealt with 1668 consumer matters in the 2014-15 reporting period, almost 100 more than last year. Once more, we finalised over 94% of consumer matters within 6 months, with around 74% being resolved in some way. Our Mediation and Investigation Officers did an admirable job, dealing promptly, practically and positively with an increased number of consumer complaints leading up to the commencement of our new legislation, the Legal Profession Uniform Law.

Family law (17%), estate issues (12.7%) and other civil matters (12.7%) were once more the most complained about areas of law. When all categories of complaints are taken into account, 21% of complaints are about legal costs (see below), 17.7% about negligence and 15.5% about communication. These categories have remained relatively consistent over many years.

## Inquiry Line

The Office provides callers with information about our role and powers, the complaints process, suggestions for how to resolve disputes with lawyers, and referrals to other organisations where appropriate. We receive calls from different groups of people who often, but not exclusively, want to complain about lawyers. They include clients, former clients, opposing clients, solicitors or barristers on their own behalf or on behalf of their clients, friends or relatives on behalf of others, expert witnesses, law students, educators, and judicial officers.

In the 2014-15 reporting period, we took 7,328 calls. This was 698 fewer than the previous year and the first significant drop in calls since the 2010-11 reporting period. It is not accounted for by an increase in email enquiries and it seems likely that more people are getting the information they need from our website before lodging a complaint.

Callers are asked to participate in a feedback survey for the purpose of monitoring caller satisfaction and enhancing our service where possible. This reporting year we sent out 1,432 surveys of which 15.4% were returned, which is consistent with return rates in previous years. Overall, results were extremely positive about the service OLSC performs. 70% of callers responded they would recommend the OLSC to a friend or a relative, 72.8% of respondents agreed that the information they received was helpful and/or useful, and 87.3% of respondents agreed that staff handling the call treated them in a courteous and professional manner. We will continue to monitor these statistics and the feedback we receive from callers.

## Reporting under the LPUL

The introduction of the Legal Profession Uniform Law has required us to co-ordinate our information gathering processes, consider issues of consistency with our colleagues at the Legal Services Commissioner Victoria and look to the needs of the Uniform Commissioner and the Legal Services Council.

As we review and revise the statistics we gather, the way we gather them and the codes we use to record them, the OLSC has an opportunity to gain new insight into the legal profession. Hopefully, the resources will become available to improve our collection of data and to refine our analysis of it. We look forward to working with universities and our co-regulators to explore, for example, significant issues related to communication between lawyers and clients, and gender and age differences in complaints.

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## eLaw

The past financial year has seen the continuation of the digitisation of the legal profession. The New South Wales Supreme, District and Local Courts now have online registries, where users can file court forms, view information about their matter(s), publish probate notices, download court sealed documents and request copies of judgments and orders.

The Federal Court of Australia also allows users to electronically file documents and, in some cases, to have hearings conducted in an online courtroom. As we reported last year, e-conveyancing has also been introduced in New South Wales, thus moving a number of aspects of the conveyancing process – including signing, settlement, lodgement, registration and notification – online.

Social media and websites are now often key aspects of the marketing strategies of legal service providers. Mobile technology, including laptops, tablets and smartphones, have made it easier than ever to communicate with colleagues and clients, to create and access documents, and to enhance productivity and assist in time-management. There are a number of apps available and recommended for use by legal practitioners that include audio recorders and dictation programs, task managers, legal dictionaries and law libraries. While many of the legal apps are currently designed for the US market, we are beginning to see some directed at Australian practitioners, such as an AustLII app.

There are clearly many advantages to these developments. However, they also raise issues that must be considered. For example, legal practitioners must ensure that they meet the legislative requirement that they retain client documents for at least 7 years. This might require the implementation of policies and systems, such as frequent back-ups to a hard disk that is securely stored.

In addition to this, digital security is more important than ever. The nature of mobile technology means that it can be easily misplaced or stolen. Law firms and legal practitioners often hold material that can be of an extremely sensitive nature. Those in possession of confidential information must ensure that appropriate systems are in place to secure such data, given that breaches could have significant consequences.

If such material is stored on or accessible via a mobile device, we expect legal practitioners to take all

reasonable steps to ensure that this information remains secure in the event that the device goes missing. This includes protective measures such as passcodes, the automatic deletion of data if an incorrect passcode is entered a certain number of times, and the installation of tracking technology to locate a missing device.

## Capacity

No one can doubt the sometimes profound impact that disputes can have on the elderly, in terms of their personal circumstances, housing, medical treatment and estates. With our aging population, we have seen a gradual increase in complaints about lawyers taking instructions from clients who lack the capacity to give them. Those complaints often include allegations that lawyers have ignored many of the “red flags” identified in the Law Society’s comprehensive *Client Capacity Guidelines: Civil and Family Law*, including ignoring existing medical evidence of incapacity, not taking instructions in private, not testing the client for comprehension of proposed instructions, and acting on unsupported assertions about mismanagement of money and property, amongst other things.

While few of these complaints have risen to the level required to discipline a legal practitioner, we have written to an increasing number of (sometimes very junior) lawyers reminding them of the need for great care and consideration in dealing with older clients. Our position is supported by the accumulation of cases in other jurisdictions (especially Queensland) in which lawyers have been disciplined for acting recklessly in such situations. This is a vital and difficult area of law that we will continue to examine very closely in coming years.

## Personal injuries

Tort reform dramatically changed the landscape for personal injuries law in NSW more than 10 years ago. Since then, complaints in this area have stabilised to between around 215 and 250 complaints each year (that is, between approximately 8.5% to 10% of all complaints).

Those complaints are almost all about a small number of medium to large personal injuries law firms – about 12 – that have been able to ride out the changes and establish a profitable client base with high turnover. Compared to other areas of law, a very high proportion of these complaints (84%) are dealt with as consumer disputes.

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These complaints overwhelmingly concern clients who are disappointed with their final settlements, and the costs they are charged by their legal representatives.

We understand that, in some of these firms, the percentage of clients who do not have English as a first language may constitute more than 90% of the client base. That can make communication very difficult but, nonetheless, an absolute priority – particularly at the outset, when the costs disclosure documentation is discussed, and towards the conclusion of the matter, when offers of settlement are conveyed and agreed upon.

The key issues that we see often concern what clients are told about how their case will proceed; how the uncertainties of litigation are explained; the detail in which updates are provided to the client about the case (which can sometimes span years); the clarity with which the settlement is explained, particularly in circumstances where costs are inclusive in the settlement amount; and the circumstances in which the settlement is signed, which often includes clients feeling pressured to settle.

For lawyers, communication needs to be regular, file notes need to be detailed and explanations and advice need to be fearless, while taking into account the pressure and stress of the circumstances. For law firms, we expect clear, well-expressed documentation, protocols for staff about communication at all stages of a case and a flexible complaints handling framework within the practice.

## Costs

The law is expensive. If the law doesn't give a client what they want, they see it as very expensive indeed. If the legal service is seen as poor, clients feel as though they have received poor value. If the estimate of costs provided by a lawyer is inaccurate, a complaint might result; if it is grossly inaccurate, a complaint will almost certainly result.

What we have done in the last 20 years to resolve costs disputes varied, of course, from case to case. Many matters have been referred to the Cost Assessment

Scheme. Where there are unanswered questions, legitimate concerns about the amount of costs, or demonstrable failures in the delivery of services (including a failure to disclose costs or increases in estimates), we facilitate negotiations between lawyers and clients. We have been able to resolve hundreds of complaints every year using a flexible approach.

Under the Legal Profession Uniform Law there is still an encouragement to informally resolve consumer matters; however, there are changes that affect how we deal with complaints. For example, there is a reduced time frame for lodging costs disputes – sixty days from the date the bill becomes payable, with the possibility of a four month extension, at the discretion of the Commissioner. Submissions as to whether to deal with disputes out of time will be necessary.

We have powers in certain, very limited, circumstances to make a determination of whether costs in a matter are fair and reasonable, up to \$10,000. In other limited situations, we have power to determine that compensation or other orders should be made in non-disciplinary complaints.

For lawyers there are other changes. For example, there is an alternative standard cost disclosure document that can be used where estimated professional costs are not likely to exceed \$3000. Lawyers also need to ensure that specific estimates are provided in any costs disclosure or cost agreement. They must obtain informed consent from clients in relation to those costs and the proposed course of action for the conduct of the matter.

The resolution of consumer matters, and in particular costs disputes, is a vital part of what the OLSC does. We look forward to working with our co-regulators in NSW, our Victorian counterparts, and the Uniform Commissioner in applying the new legislation.

## CHAPTER FOUR:

# AUDITS AND INCORPORATED LEGAL PRACTICES

## Audits

We continue to work closely with our co-regulators, including the Trust Account Inspectors at the Law Society, in conducting our audits of legal practices. Where appropriate, we attend law practices together. This is advantageous for us, in that we have the opportunity to share knowledge and information, but also for the law practice, in that it reduces the burden that would otherwise be incurred by separate audits.

In this reporting period, the Practice Review Officer conducted 13 on-site compliance audits. These audits included practices located both in the Central Business District as well as in the outer suburbs of Sydney. Seven of these audits constituted short, one-day follow-up audits after full, two-day audits had been conducted in previous years.

We are pleased to report that, in the case of one of these follow-up audits, the practice concerned made good progress and had introduced effective initiatives to address the concerns that we raised in the Practice Review Report. In another instance, a practice that we audited in the 2013-14 financial year and followed up with again this year saw the number of complaints made about them halved. The preceding seven years saw an average of more than four complaints made annually about the firm. In the past financial year, we received only two complaints. As it is a small practice specialising in family law and criminal law, this represents a significant reduction.

However, the organisation and carrying out of audits is not always straight-forward. In one case this past year, we had to make several attempts over some six months to gain access to a law practice. While extremely frustrating, we were eventually able to complete the audit satisfactorily and prepare a report.

With the commencement of the Legal Profession Uniform Law in July 2015, those practices where significant improvements have not been made in relation to the issues raised in the Compliance Audit Reports may be subject to “management system directions”. Under section 257 of the Legal Profession Uniform Law, we

can give management system directions to law practices where we deem it necessary do so following our examination, investigation or audit of a law practice. Law practices will be obliged to comply with a management system direction. We anticipate that this measure will provide greater weight to what have previously been referred to as “suggestions” or “areas for consideration” in the reports.

## Incorporated Legal Practices

The number of ILPs has grown at a steady rate since the legislation permitting incorporation was introduced in NSW, more than 10 years ago. The 2014-15 reporting period has seen the number of incorporated legal practices (ILPs) continue to increase, with over 1800 such law practices recorded as operating in New South Wales as at 30 June 2015. Of those ILPs that were active at the end of the reporting period, 571 are located within the Sydney CBD, 824 are located in the suburbs, 375 are located in rural NSW and 33 are located interstate.

Under section 140 of the Legal Profession Act, legal practitioner directors of incorporated legal practices were required to ensure the implementation of appropriate management systems. We asked them to evaluate their policies and procedures by completing a self-assessment process. Since that legislation commenced in 2004, over 1800 self-assessment forms have been completed.

The Legal Profession Uniform Law no longer requires incorporated legal practices specifically to implement these management systems. However, we still expect law practices to have appropriate management systems in place, and, as noted above, we will now be able to give law practices management system directions where necessary. Accordingly, the issues raised in the self-assessment form - communication, delay, file transfers, costs practices, conflicts of interest, records management, undertakings, supervision of practice and staff, trust account requirements, and measures to prevent negligence - remain as relevant as ever and may assist practitioners to implement appropriate management system within their practice in the future.

## CHAPTER FIVE:

# THE OLSC AND THE LEGAL COMMUNITY

This financial year, the OLSC has continued to engage with the legal community in a variety of ways. Since his appointment to the role of Legal Services Commissioner, John McKenzie has met with many of our stakeholders and members of the legal community, across a number of meetings, conferences and events. Lynda Muston and Jim Milne, the Assistant Commissioners, have also presented at various events throughout the financial year.

We value these opportunities to engage with practitioners and hope to continue to participate in this dialogue between the profession and the regulators. We have also continued to work with the providers of legal education to reiterate the importance of ethical legal practice to law students and those just entering the profession. Finally, our staff members continue to seek opportunities to develop their own knowledge and skills.

### Legal Conferences and Events

The Law Society once again hosted their annual Government Solicitors' Conference in September 2014, which was attended by a number of OLSC staff members. This event saw government solicitors from the national, state, and local level come together for a day of professional development that included panels addressing the mental health and wellbeing of lawyers, contract law in the context of government and the outsourcing of legal services, amongst other things. These days are a valuable opportunity for attendees to expand their knowledge about government legal practice as well as earn points towards their continuing professional development obligations.

In October 2014, Jim Milne and Lynda Muston both attended the Conference of Regulatory Officers ('CORO'), hosted by the New Zealand Law Society in Wellington, New Zealand. This annual conference offers legal regulators from Australia and New Zealand the opportunity to explore common issues pertaining to the legal profession, to exchange information, and to build and maintain professional relationships between the different jurisdictions. Jim Milne and Michael

McGarvie, the Legal Services Commissioner and CEO of the Victorian Legal Services Board, together spoke on a panel about the Australian National Legal Profession Reform, while Lynda Muston introduced a panel on the challenges to investigators posed by technology (including e-discovery and cloud computing).

Jim Milne also presented at the National Investigations Symposium in Sydney in November 2014. The two-day Symposium, held every two years, is co-organised by the NSW Independent Commission Against Corruption, the NSW Ombudsman and the NSW Division of Public Administration Australia. It brings together investigators and complaint handlers working in the public sector to discuss issues common to investigation and complaints handling bodies across a number of different areas of regulation, and canvasses issues such as data management, staff conduct, privacy and procedural fairness. In his presentation, Jim Milne provided an overview of the legal and regulatory background of the Office, and offered an insight into some of the challenges that we face in handling complaints.

In March 2015, Jim Milne and Samantha Gulliver, the Senior Legal and Policy Officer at the OLSC, presented at the New South Wales State Legal Conference. They discussed the changes in costs under the new Legal Profession Uniform Law, focusing on the new powers given to the Legal Services Commissioner under this legislation in relation to costs disputes.

Lynda Muston also presented at this event, on disciplinary proceedings for lawyers. She spoke about the role of the OLSC in the legal regulation framework, and the changes to the Office's handling of disciplinary matters under the Legal Profession Uniform Law. In addition to this, Lynda has presented to Legal Aid and the Bar Readers program, and has also contributed chapters to the Lawyers Practice Manual and the Law Handbook this reporting year.

In April 2015, the Commissioner and another member of staff participated in a roundtable at the Australian Law Symposium. They were invited to speak to the attendees,

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a group of legal practitioners who act in personal injury matters, on the amendments to the regulation of personal injury advertising under the new legislative framework. It was a valuable opportunity to field questions and discuss the relevant provisions with those practitioners directly affected by the legislative changes.

Finally, the Commissioner attended the NSW Young Lawyers Golden Gavel competition in May 2015. The Golden Gavel is a public speaking competition that has been running since 1993. Open to NSW Young Lawyers and law students, it sees competitors given twenty-four hours to prepare a presentation of three to five minutes on a designated topic. The winner then competes as the representative for New South Wales in the national competition. While the Golden Gavel is a light-hearted event, it is also an opportunity to celebrate the skills and achievements of the younger members of our profession.

## Engagement with Legal Education Providers

Over the past financial year, we have continued to work in conjunction with legal educators to discuss the role of the office, the regulatory framework and the ethical obligations of lawyers. This year, we presented to a number of law students at different stages of their legal education.

As we have done in previous years, members of OLSC staff presented to law students at the University of New South Wales as part of their 'Lawyers, Ethics and Justice' course. The majority of these students were in their second or third years of their degree. We received overwhelmingly positive feedback from the students, who indicated that they found the lectures engaging and informative. They reported that they appreciated being able to see how the theory that they had learnt in class operated in practical scenarios. It also prompted some students to reflect on their future ethical responsibilities and some of the pressures that they are likely to face should they choose to enter into practice.

We have also continued our tradition of delivering lectures at the University of Newcastle, which has been going on for a number of years now. This financial year, then-Acting Commissioner Jim Milne spoke twice to law students in their final year who were enrolled in the 'Professional Conduct' unit of study.

While we appreciate that many students undertaking law degrees do not plan to practise law, for those who do, this is a good opportunity for them to reflect on their studies and begin to think about how they might apply their knowledge and act ethically in real-life situations. This is also the case with our annual lecture at the College of Law, also delivered by Jim Milne to students completing the requirements for the Graduate Diploma of Legal Practice, the final qualification required for admission as a legal practitioner.

Finally, John McKenzie, the Legal Services Commissioner, participated in a roundtable on ethics at the Australian National University. This annual one-day event brought together educators, researchers, practitioners and regulators to exchange knowledge about ethics and the law.

## Staff Training

The complaints that the Office deals with cover the breadth of the various areas of legal practice, and our staff members accordingly need to maintain a comprehensive and an up-to-date understanding of the state of the law. Cumulatively, OLSC employees have completed 265.4 hours – or 45.8 days – worth of education this financial year, by way of training sessions run within the office, as well as those offered by external providers.

The Aboriginal Legal Service presented to the Office this year on the work that they do. There have also been multiple sessions devoted to the provisions of the Legal Profession Uniform Law, which commenced on 1 July 2015, to ensure that all members of staff are familiar with the new framework of legal regulation.

Staff members have also attended a variety of external training sessions. These sessions included training on specific areas of the law, including administrative law, privacy law, family law, property law, costs, e-conveyancing, and evidence law. Other sessions attended included those covering general issues facing legal practitioners, such as costs and digital security, and issues relating to practice management, including risk management and legal computer software.

## CHAPTER SIX:

# INFORMATION SYSTEMS AND SERVICES

This year we have conducted a significant review of our information systems and services, as detailed below. However, the role of Manager, Information and Services was unfilled for part of this financial year, which impacted upon the development and maintenance of our systems.

### Strategic Direction of the Information Systems and Services Unit

This financial year, the ISS Unit and the senior management of the Office have developed the strategic direction for the provision of efficient and flexible information systems and services. In developing this strategic plan, we have identified our key areas of attention: the QMaster telephone system and Inquiry Line; our Complaint Tracking System (CTS) / QA Plus; the OLSC Portal; new systems requirements; executive and management business intelligence and reporting requirements and tools; the OLSC website; and the establishment of a flexible working environment.

A number of key recommendations came out of these discussions, which will inform the development of our information systems and services processes over the coming years. As noted above, we are in the process of updating our telephone system; we plan to update our Complaint Tracking System and integrate it with an electronic document and record management system; we are looking to enhance the functionality of the OLSC Portal and see it integrated with the electronic document and record management system. We are also in the process of reviewing the overall information requirements of the OLSC, by identifying and implementing new information systems that will drive efficient and high quality service delivery. As part of this, we are looking to implement effective reporting tools that will offer improved data and business intelligence to OLSC managers. We have also started to implement secure remote access to the systems for our employees as required.

Finally, this financial year we launched our new and updated website, available at <http://www.olsc.nsw.gov.au/>. The website is a useful resource for our stakeholders, and offers information about the complaints process, hosts the register of disciplinary action, and provides practical advice for legal practitioners, including how to respond to complaints, practice guidelines and information about incorporated legal practices. Also available on the website are our 17 fact sheets, which provide consumers of legal services with information on a range of topics, including costs disputes, liens, conflicts of interest and file ownership.

### Upgrades of Software and Hardware

This financial year saw us begin the process of replacing the OLSC's information technology equipment. New PCs running the Windows 7 operating system have been installed, which required a number of OLSC systems that were not compatible with Windows 7 to be updated as well.

As a result, we are planning to replace our QMaster telephone system with the Genesys System, which is already currently being used by Information Technology Services within the Department of Justice. This, we hope, will facilitate both the transition and support processes. We have upgraded QA Plus, our complaint tracking system, and it is now compatible with Windows 7.

We are also in the process of upgrading and testing our systems that were developed in-house: our inquiry line register, our conduct (ROAR) register, our education, presentation and training register, and our OLSC survey register.

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## Quality Systems Manual

Our Quality Systems Manual operates as a practical staff resource in laying out the Office's policies and detailed working of procedures. It has been designed to be used as both a hard copy and electronic manual.

In the last financial year, the Information Systems and Services Unit updated the Manual to incorporate changes in the existing policies, procedures, standard documents and forms.

Some of these changes stemmed from the transfer of the Administrative Decisions Tribunal (ADT) to the NSW Civil and Administrative Tribunal (NCAT). Detail was also added to the manual on our reporting procedures in the 'Quality Management Policy and Procedures' chapter.

We believe that regularly updating our Quality Systems Manual ensures that consistent, reliable, relevant and current information is always available to staff, meaning that core processes run smoothly and efficiently. This has benefits not only for our staff, but also for our stakeholders. For this reason, we will continue to seek opportunities to update the Manual throughout the financial year.



## CHAPTER SEVEN:

# ANNUAL STATISTICS

## Inquiry Line

In 2014-2015 the OLSC received 7,328 calls from the public on our Inquiry Line, a decrease of 698 from the previous year.

### P1 Legal matters raised in calls

	2014-2015	2013-2014	2012-2013
OLSC General Query*	14.9	15.0	13.8
Family/ Defacto	14.9	16.8	18.6
Probate/ Wills/ Family Provisions	11.1	11.5	12.0
Conveyancing	9.9	9.9	10.4
Other Civil	9.0	7.6	9.9
General Law/ Legal Profession Query	8.2	6.4	3.4
Personal Injuries	5.1	6.1	5.4
Commercial/ Corporations	4.7	6.7	9.1
Other	4.6	3.9	2.9
Criminal	4.5	6.0	5.3
Land and Environment	4.4	2.7	0.8
Workers Compensation	3.7	3.4	4.2
Leases/ Mortgages/ Franchises	1.1	1.0	0.8
Victim's Compensation	1.0	1.1	1.1
Immigration	0.9	0.8	0.6
Industrial Law	0.7	0.7	1.0
Professional Negligence	0.6	0.6	0.8

\* 'OLSC General Query' includes calls relating to complaint enquiries, general enquiries, the OLSC website, statistics and publications

## P2 Nature of phone enquiry

	2014-2015	2013-2014	2012-2013
OLSC Process*	18.0	17.5	14.7
Communication	15.5	14.4	13.7
Overcharging	13.0	14.0	14.9
Negligence	10.2	10.6	12.0
General Cost Complaint/ Query	8.0	8.8	9.7
Delay	6.7	6.3	5.8
Ethical Matters	5.4	6.3	6.8
Misleading Conduct	5.2	5.1	4.7
Instructions Not Followed	4.6	3.3	4.0
Costs Disclosure	3.6	2.7	3.0
Conflict of Interests	2.6	2.4	2.3
Document Transfer/ Liens	2.1	2.5	2.2
Referral Requests	1.4	2.1	1.9
Trust Fund Matters	1.1	1.4	1.7
Document Handling	0.7	0.8	1.1
Pressure to Settle	0.7	0.8	0.5
Fraud (Not Trust Fund)	0.4	0.5	0.5
Failure to Honour Undertakings	0.3	0.3	0.2
Compliance Matters	0.2	0.1	0.3
Advertising	0.1	0.1	0.2
Supervision	0.1	0.0	0.1

\* 'OLSC Process' includes calls relating to complaint enquiries, general enquiries, the OLSC website, statistics and publications

### P3 Practitioners mentioned on inquiry line

	2014-2015	2013-2014	2012-2013
Solicitor	91.0	92.6	92.3
Other*	6.6	5.5	5.0
Barrister	2.0	1.6	2.5
Licensed Conveyancer	0.4	0.3	0.3

\* 'Other' includes calls relating to a Judge or a Magistrate, a legal firm, an executor, multiple types of practitioner, a paralegal or a clerk and support staff.

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

	2014-2015	2013-2014	2012-2013
Client	67.7	69.0	69.0
Friend/ Relative	9.2	8.7	8.8
Opposing Client	6.4	6.5	5.8
Other*	3.3	2.5	2.8
Unrepresented Client	2.9	3.7	2.3
Solicitor on Own Behalf	2.7	2.7	3.4
Beneficiary/ Executor/ Administrator	2.6	2.5	2.2
Solicitor on Another's Behalf	2.2	1.2	1.4
Previous Client	1.3	1.4	2.1
Non-Legal Service Provider	1.1	1.1	1.4
Government Agency	0.2	0.3	0.3
Barrister on Own Behalf	0.2	0.2	0.1
Barrister on Another's Behalf	0.2	0.1	0.3
Student/ Educator	0.1	0.2	0.2

\* 'Other' includes calls relating to witnesses, judges or judicial officers, quasi-judicial officers, Professional Councils, cost assessors and calls where the source is not identified.

## P5 Outcomes of calls to the inquiry line

	2014-2015	2013-2014	2012-2013
Caller indicated intention to send in complaint	30.5	26.3	24.9
Provided information about the OLSC*	18.7	14.2	9.8
Listened to caller's concerns	11.5	10.2	8.3
Recommended direct approach to lawyer about concerns	9.7	11.0	12.5
Provided complaint/ cost mediation form	7.4	13.8	19.6
Provided information about the legal system	7.3	6.6	5.2
Provided referral for legal advice or other assistance	6.9	10.1	9.4
Explained that concerns are outside jurisdiction of OLSC	4.0	3.8	3.8
Provided information about the OLSC and LPA to a legal practitioner	2.0	1.5	2.5
Provided referral to the NSW Supreme Court Costs Assessment Scheme	1.5	1.6	3.0
Other	0.4	0.3	0.3
Conducted telephone mediation	0.2	0.5	0.6
Scheduled interview for caller	0.1	0.1	0.1

\* *'Provided information about the OLSC' includes calls relating to complaint enquiries, general enquiries, the OLSC website, statistics and publications*

## Written Complaints

In the 2014-2015 reporting period, the OLSC received a total of 2505 written complaints, a decrease of 23 from the previous year. Of the total written complaints received, 1668 were assessed as consumer disputes and 821 as investigations. 16 complaints were assessed as non-jurisdictional so were sent directly to the Law Society, MARA, OFT or regulators outside NSW. Of those complaints assessed as within jurisdiction, 82.6% of those written complaints received were retained and handled by the OLSC. The remaining 17.4% were referred to the professional associations for handling. The OLSC registered the completion of 2611 written complaints, a decrease of 20 from the previous year. Of the total written complaints completed, 1734 were closed as consumer disputes and 805 as investigations. 72 complaints were non-jurisdictional so were closed and sent directly to Law Society, MARA, OFT or regulators outside NSW. Of those complaints assessed as within jurisdiction, 77.9% of written complaints were completed by the OLSC. The professional associations completed the remaining 22.1%.

### W1 Legal matters giving rise to complaints received in 2014-2015

	Agency Handling Complaint				
	OLSC	Council	2014-2015*	2013-2014	2012-2013
Family/ Defacto	14.8	2.3	17.0	16.0	17.8
Probate/ Wills/ Family Provisions	11.5	1.2	12.7	13.2	13.3
Other Civil	9.5	3.2	12.7	15.2	14.7
Commercial/ Corporations	8.0	2.9	10.9	10.6	10.3
Conveyancing	8.9	1.2	10.1	9.1	7.2
Other	5.7	3.4	9.2	7.9	9.7
Personal Injuries	8.1	0.7	8.8	7.8	9.1
Criminal	7.1	0.9	8.0	7.4	7.0
Industrial Law	2.2	0.5	2.6	2.3	2.0
Strata Bodies/ Corporates	1.5	0.3	1.8	1.4	0.7
Immigration	1.4	0.2	1.5	0.6	0.4
Leases/ Mortgages/ Franchises	1.1	0.3	1.4	2.5	2.4
Professional Negligence	1.1	0.2	1.3	1.7	1.3
Workers Compensation	1.2	-	1.2	2.4	2.8
Land and Environment	0.6	0.1	0.7	1.1	1.1
Victim's Compensation	0.1	-	0.1	0.8	0.3
<b>TOTAL %</b>	<b>82.8</b>	<b>17.4</b>			

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

## W2 Nature of complaints received in 2014-2015

	Agency Handling Complaint				
	OLSC	Council	2014-2015*	2013-2014	2012-2013
Negligence	16.0	1.6	17.7	15.8	17.5
Communication	13.8	1.8	15.5	15.7	15.5
Overcharging	10.9	0.6	11.5	12.6	12.6
Ethical Matters	7.3	2.8	10.1	9.5	7.9
Misleading Conduct	5.7	2.5	8.1	8.5	8.0
Instructions Not Followed	5.0	0.9	5.9	4.5	6.0
Delay	4.7	0.5	5.2	5.2	4.9
General Cost Complaint/ Query	3.7	1.4	5.1	5.0	5.8
Cost Disclosure	4.1	0.3	4.4	4.6	4.7
Trust Fund	2.5	1.8	4.3	5.7	4.9
Conflict of Interest	2.2	0.4	2.6	2.5	2.5
Compliance Matters	0.9	1.5	2.4	2.7	2.0
Document Transfer/ Liens	2.2	0.1	2.3	2.7	2.8
Fraud (Not Trust Fund)	0.7	0.4	1.1	0.7	0.6
Pressure to Settle	0.9	0.1	1.0	0.8	0.8
Document Handling	0.9	-	0.9	1.0	1.0
Capacity	0.6	-	0.6	0.7	0.4
Advertising	0.5	-	0.5	0.6	0.8
Undertakings	0.1	0.3	0.4	0.7	1.0
Supervision	0.1	0.1	0.2	0.4	0.3
<b>TOTAL %</b>	<b>82.8</b>	<b>17.1</b>			

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

### W3 Type and source of complaints received in 2014-2015

	Number of Complaints						
	Solicitor*	Barrister	Other**	TOTAL	2014-2015	2013-2014	2012-2013
Bar Association	0	4	0	4	0.4	0.4	0.3
Barrister on Another's Behalf	1	2	0	3	0.0	0.0	0.0
Barrister on Own Behalf	23	1	0	24	0.9	0.9	1.6
Beneficiary/ Executor/ Administrator	136	0	0	136	6.3	6.3	6.1
Client	589	37	19	645	23.1	23.1	27.7
Commissioner	32	0	2	34	1.5	1.5	3.4
Client's Friend / Relative	100	5	1	106	3.9	3.9	3.2
Law Society	68	0	1	69	3.4	3.4	3.3
Non-Legal Service Provider	37	1	1	39	2.0	2.0	3.0
Opposing Client	368	27	6	401	16.4	16.4	16.8
Previous client	550	40	13	603	25.1	25.1	21.6
Solicitor on Another's Behalf	128	10	4	142	6.1	6.1	5.7
Solicitor on Own Behalf	102	8	2	112	4.5	4.5	3.1
Unrepresented Client	41	1	0	42	1.7	1.7	0.2
Cost Assessor	2	0	0	2	0.2	0.2	0.1
Other ***	128	10	5	143	4.7	4.7	3.9
<b>TOTAL</b>	<b>2,305</b>	<b>146</b>	<b>54</b>	<b>2,505</b>			

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

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

\*\*\* Includes complaints against government agencies, witnesses, judges and quasi-judicial officers.

#### W4 Age of complaints remaining open or suspended on 30 June 2015 and being handled by the OLSC

Year opened	Open at 30 June 2015	Open at 30 June 2014	Open at 30 June 2013
2014-2015	446		
2013-2014	72	443	
2012-2013	23	72	504
2011-2012	17	21	53
2010-2011	7	12	18
2009-2010	3	4	7
1994-2009	0	0	0
<b>TOTAL</b>	<b>568</b>	<b>552</b>	<b>582</b>

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

#### W5 Average time taken to finalise a complaint at the OLSC of complaints handled in 2014-2015

	Days*
Average time to complete complaints received and completed/ resolved in 2014-2015	46.8
Average time to complete complaints received in any year but completed/ resolved in 2014-2015	72.0
Average time taken to dismiss complaints received in 2014-2015	61.5
Average time to dismiss complaints received in any year but dismissed in 2014-2015	154.0

\* Averages rounded to 1 decimal point

#### W6 All Complaints finalised in 2014-2015

##### All OLSC Consumer Disputes

	Solicitor*	Barrister	Other**	TOTAL
Dispute Resolution completed	1117	33	13	1163
<b>Subtotal concluded by OLSC</b>	<b>1117</b>	<b>33</b>	<b>13</b>	<b>1163</b>
Consumer Dispute closed by OLSC	331	19	7	357
Withdrawn by Complainant at OLSC	33	1	0	34
Unable to be Resolved at the OLSC	2	0	0	2
<b>Subtotal closed at the OLSC</b>	<b>366</b>	<b>20</b>	<b>7</b>	<b>393</b>



### ALL OLSC Investigations

	Solicitor*	Barrister	Other**	TOTAL
Practitioner Referred to Tribunal	4	0	4	8
Practitioner Disciplined by OLSC#	13	0	0	13
Disciplined by OLSC with Compensation Ordered#	1	0	0	1
Likely UPC/PM Dismissed in Public Interest	11	0	2	13
<b>Subtotal determined by OLSC</b>	<b>29</b>	<b>0</b>	<b>6</b>	<b>35</b>
Tribunal Finding of UPC/ PM Unlikely ***	243	26	7	276
Summary Dismissal in the Public Interest	7	1	0	8
Investigation closed by OLSC	70	5	1	76
Withdrawn by Complainant at OLSC	8	1	0	9
Investigation Suspended Pending Court proceedings	6	0	0	6
Investigation awaiting Tribunal Findings	0	0	0	0
Tribunal Decision Delivered	2	0	0	2
Appeal closed by OLSC	0	0	0	0
Costs Recovery at OLSC	2	0	0	2
Referred for Compliance Audit	0	0	0	0
<b>Subtotal closed by OLSC</b>	<b>338</b>	<b>33</b>	<b>8</b>	<b>379</b>
Investigation not accepted Out of Time	6	2	1	9
<b>Subtotal not accepted by OLSC</b>	<b>6</b>	<b>2</b>	<b>1</b>	<b>9</b>
<b>Total OLSC Investigations Completed</b>	<b>373</b>	<b>35</b>	<b>15</b>	<b>423</b>

### All Non Jurisdictional Complaints

	Solicitor*	Barrister	Other**	TOTAL
Refer to Council	8	0	7	15
Refer to MARA & OFT****	32	3	10	45
Refer to other States	8	1	3	12
<b>Total Non-Jurisdictional Complaints</b>	<b>48</b>	<b>4</b>	<b>20</b>	<b>72</b>

### All Council Consumer Disputes

	Solicitor*	Barrister	Other**	TOTAL
Dispute Resolution completed	36	1	0	37
Resolved through Formal Mediation	0	0	0	0
<b>Subtotal concluded by Council</b>	<b>36</b>	<b>1</b>	<b>0</b>	<b>37</b>
Consumer Dispute closed by Council	59	6	1	66
Withdrawn by Complainant at Council	58	5	1	64
Unable to be Resolved at Council	11	0	0	11
<b>Subtotal closed by Council</b>	<b>128</b>	<b>11</b>	<b>2</b>	<b>141</b>
<b>Total Council Consumer Disputes Completed</b>	<b>164</b>	<b>12</b>	<b>2</b>	<b>178</b>

## ALL Council Investigations

	Solicitor*	Barrister	Other**	TOTAL
Practitioner Referred to Tribunal	80	10	1	91
Practitioner Disciplined by Council#	39	7	0	46
Likely UPC/PM Dismissed in Public Interest	4	0	0	4
Disciplined by Council with Compensation Ordered	0	0	0	0
<b>Subtotal determined by Council</b>	<b>123</b>	<b>17</b>	<b>1</b>	<b>141</b>
Tribunal Finding of UPC/ PM Unlikely***	188	29	4	221
Summary Dismissal in the Public Interest	12	2	1	15
No Further Action at Council	4	0	1	5
<b>Subtotal closed by Council</b>	<b>204</b>	<b>31</b>	<b>6</b>	<b>241</b>
<b>Total Council Investigations Completed</b>	<b>327</b>	<b>48</b>	<b>7</b>	<b>382</b>
<b>Total finalised by OLSC</b>	<b>1856</b>	<b>88</b>	<b>35</b>	<b>1979</b>
<b>Total Non-Jurisdictional Complaints</b>	<b>48</b>	<b>4</b>	<b>20</b>	<b>72</b>
<b>Total finalised by Council</b>	<b>491</b>	<b>60</b>	<b>9</b>	<b>560</b>
<b>TOTAL</b>	<b>2395</b>	<b>152</b>	<b>64</b>	<b>2611</b>

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

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

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

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

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

## W7 Duration of file handling at the OLSC

(Time taken for complaints received in all years and finalised in 2014-2015)

Percentage of files closed within the following periods (to one decimal place)

	2014-2015	2013-2014	2012-2013
0-30 days	39.3	40.0	35.0
1-3 months	32.9	30.4	35.1
3-6 months	15.6	15.4	16.3
6-9 months	4.6	6.3	5.6
9-12 months	2.5	2.7	3.3
Over 12 months	5.1	5.2	4.7

## R2 Reviews in progress and finalised in 2014-2015 - received all years

	Solicitor	Barrister	Other*	TOTAL	Percentage
<b>Reviews in progress</b>					
In progress at OLSC	18	4	1	23	30.3
Consulting with Council prior to finalising	1	0	0	1	1.3
<b>Total remaining open</b>	<b>19</b>	<b>4</b>	<b>1</b>	<b>24</b>	<b>31.6</b>
<b>Reviews completed</b>					
Dismissal confirmed	39	8	0	47	61.8
Out of time, no jurisdiction	0	0	0	0	0.0
Review request withdrawn	0	0	0	0	0.0
Reprimand confirmed	0	0	0	0	0.0
Reinvestigated by OLSC	2	0	0	2	2.6
Reinvestigated by Council	3	0	0	3	4.0
Decision changed	0	0	0	0	0.0
<b>Total completed</b>	<b>44</b>	<b>8</b>	<b>0</b>	<b>52</b>	<b>68.4</b>
<b>TOTAL handled</b>	<b>63</b>	<b>12</b>	<b>1</b>	<b>76</b>	<b>100.0</b>

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

## NCAT

### T1: Complaints referred to the NSW Civil and Administrative Tribunal in 2014-2015

(Data provided by NSW Civil and Administrative Tribunal - please note that, unlike previous years, the NCAT no longer provides us with data on the outcomes of Tribunal matters.)

	Applications Filed	Disposed	Pending as at 30 June 2015
<b>TOTAL</b>	<b>38</b>	<b>29</b>	<b>42</b>

## CHAPTER EIGHT:

# FINANCIAL PERFORMANCE

### FINANCIAL STATEMENT 2014-2015

	Budget	Spent	Variance	Notes
	\$	\$	\$	
Public Purpose Fund Recoupments	(3,946,577)	(3,680,644)	(265,933)	
Other Revenue	-	-	-	
<b>TOTAL REVENUE</b>	<b>(3,946,577)</b>	<b>(3,680,644)</b>	<b>(265,933)</b>	
Salaries & Wages	2,427,787	2,244,638	183,149	1
Allowances	1,414	41,349	(39,935)	2
Leave Entitlements ( <i>Recreation Leave, Annual Leave Loading &amp; LSL</i> )	284,034	283,086	948	
Workers Compensation	16,616	15,020	1,596	
Payroll Tax	158,217	152,618	5,599	
Fringe Benefits Tax	1,074	(24)	1,098	
Superannuation	198,458	249,808	(51,350)	3
<b>EMPLOYEE RELATED PAYMENTS Excl Crown Liabilities</b>	<b>3,087,600</b>	<b>2,986,495</b>	<b>101,105</b>	
Advertising & Publicity	4,604	3,212	1,392	
Bank Charges	60	-	60	
Contractors	10,000	-	10,000	4
Electricity & Gas	16,474	15,572	902	
Fees	169,423	147,758	21,665	5
Freight & Cartage	18	20	(2)	
Insurance	1,301	1,234	67	
Interpreters & Translations	6,574	3,330	3,244	
Motor Vehicles	2,159	-	2,159	
Postal Expenses	22,670	20,699	1,971	
Printing	23,435	13,516	9,919	
Publications	6,226	8,793	(2,567)	
Rates & Outgoings	54,180	36,845	17,335	6
Rent	328,682	313,209	15,473	7
Staff Expenses	20,866	7,812	13,054	8

## FINANCIAL STATEMENT 2014-2015 *continued*

	Budget	Spent	Variance	Notes
	\$	\$	\$	
Stores & Stationery	20,407	11,216	9,191	
Telephone	13,153	14,478	(1,325)	
Travel	15,350	5,404	9,946	
<b>OTHER OPERATING EXPENSES</b>	<b>715,582</b>	<b>603,098</b>	<b>112,484</b>	
Maintenance Contracts	143,089	140,871	2,218	
Repairs and Maintenance	306	148	158	
<b>MAINTENANCE</b>	<b>143,395</b>	<b>141,019</b>	<b>2,376</b>	
<b>TOTAL EXPENSES Excl Crown Liabilities &amp; Depreciation</b>	<b>3,946,577</b>	<b>3,730,612</b>	<b>215,965</b>	
Gains/Loss on Impairment	-	66,500	(66,500)	9
Profit/Loss on Sale of Assets	-	128	(128)	
<b>Net Cost of Services Excl Crown Liabilities &amp; Depreciation</b>	<b>-</b>	<b>116,596</b>	<b>(116,596)</b>	
<b>Add Non-Cash Items:</b>				
Crown Liabilities ( <i>LSL Liability Assumed by Crown</i> )	71,966	-	71,966	10
Depreciation & Amortisation	369,669	16,170	353,499	11
<b>Net Cost of Services Incl Crown Liabilities &amp; Depreciation</b>	<b>441,635</b>	<b>132,766</b>	<b>308,869</b>	

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## Notes Supporting the 2014-2015 Financial Statement

During this financial year, we closely monitored our monthly operating costs, particularly those expenditures within our control, and were mindful of not exceeding our approved budget allocation for the year. As a result of our effective budget management, we were able to contain our costs within budget and deliver a good budget outcome at close of the financial year. Details of the OLSC's financial performance including comments on significant variances are provided in the following financial statement and supporting notes.

### Employee Related Payments

- 1. Salaries & Wages:** The OLSC's budget for *Salaries & Wages* contains provision for annual salary payments to employees assigned to ongoing, temporary and casual roles. The OLSC experienced some staff movement in assigned roles during the year resulting in job vacancies and salary savings. As at 30 June 2015, OLSC staffing comprised 26 full-time equivalent roles – 25 full-time equivalent ongoing roles were maintained by administrative and professional staff, while one full-time equivalent role was assigned to rostered casuals on the OLSC Inquiry Line
- 2. Allowances:** The OLSC's *Allowances* budget provides for allowance payments to OLSC staff performing the First Aid Officer role for the Office. There was no budget provision, however, for allowance payments to OLSC executive staff who were temporarily assigned to the Legal Services Commissioner role pending filling of the vacancy during the year. The budget variance highlights these additional costs.
- 3. Superannuation:** The OLSC's *Superannuation* budget provides for superannuation entitlements of OLSC employees. The *Superannuation* budget variance reflects year-end adjustments the Department prepares as part of year-end procedures required by Treasury.

### Other Operating Expenses

- 4. Contractors:** The OLSC's *Contractors* budget includes provision for the engagement of professional services to support OLSC business operations. The OLSC did not engage contractors in 2014-2015 and the *Contractors* budget variance reflects the resultant cost saving for this expenditure item.

- 5. Fees:** The OLSC's *Fees* budget maintains funds for various types of fees expenditure including legal fees incurred in bringing matters before the NSW Civil and Administrative Tribunal and the Courts. In 2014-2015 the OLSC initiated several major investigations into the conduct of legal practitioners and firms with some matters resulting in Tribunal proceedings. The *Fees* budget variance includes credit adjustments that were made to the OLSC's legal fees account to offset income. During the year the OLSC recovered the Commissioner's costs as follows:
  - \$3,445 from the bankrupt estate of Tony Barakat and \$4,075 from the bankrupt estate of Scott Roulstone representing final dividend payments;
  - \$5,000 from Bryce Bridges;
  - \$2,500 from Bruce Dennis;
  - \$9,967 from Barry Wood;
  - \$1,500 from Charles Tsalidis. Mr Tsalidis is settling the Commissioner's costs (totalling \$8,000) by monthly instalments. At close of 2014-2015, Mr Tsalidis' balance payable is \$6,500; and
  - \$8,750 from Lupco Angelovski. Mr Angelovski is settling the Commissioner's costs (totalling \$25,000) by fortnightly instalments. Mr Angelovski's balance payable is \$12,750.
- 6. Rates & Outgoings:** The OLSC's *Rates & Outgoings* budget includes provision for cleaning contractors' costs and miscellaneous charges for common services such as lift maintenance, building electricity costs, etc. in connection with the OLSC's leased premises in the CBD. The *Rates & Outgoings* budget variance reflects adjustments prepared by the Department in 2014-2015.
- 7. Rent:** The OLSC's *Rent* budget makes provision for monthly rent payments the Department prepares for payment to the landlord of OLSC's leased accommodation in the CBD. The *Rent* budget variance reflects adjustments prepared by the Department in 2014-2015.
- 8. Staff Expenses:** The OLSC's *Staff Expenses* budget reserves funds for costs associated with staff attendance at seminars and conferences as part of training and development, as well as fees reimbursement to eligible staff renewing their solicitor's practising certificate for job requirements. In 2014-2015 the OLSC conducted mainly in-house staff training at very minimal cost.

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## Gain/Loss on Impairment

**9. Gain/Loss on Impairment:** In 2013-2014 the Department's Debt Recovery Unit established solicitor Maria Bechara as a debtor in their financial system and raised an invoice for \$140,000 crediting the OLSC with the full amount payable by her following Tribunal proceedings that resulted in a costs order in favour of the LSC. In 2014-2015 Ms Bechara negotiated and settled payment on a reduced amount of her debt. This item represents the balance recovered by the Department's Debt Recovery Unit from the OLSC following Ms Bechara's debt write-off.

## Non-Cash Items

- 10. Crown Liabilities (LSL Liability Assumed by Crown):** Crown Liabilities is a non-cash item and as such does not form part of the OLSC's recoupment figure from the Public Purpose Fund. *The Crown Liability for LSL* budget reflects the Crown's assumption of the Department's long service leave liability for Departmental officers. The Department is obliged to make this provision as part of Treasury requirements.
- 11. Depreciation & Amortisation:** *Depreciation* expense is a non-cash item and does not form part of the OLSC's recoupment figure from the Public Purpose Fund. The *Depreciation* budget variance resulted from an adjustment prepared by the Department to take into account the amortisation expense of OLSC's intangible software assets. The Department is obliged to make this adjustment as part of Treasury requirements.

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