



THE OFFICE OF THE LEGAL SERVICES COMMISSIONER

INSTRUMENT OF DELEGATION

Pursuant to section 406 of the *Legal Profession Uniform Law (NSW)* (**Uniform Law**) I hereby delegate to each of the Bar Association and the Law Society (as defined in the *Legal Profession Uniform Law Application Act 2014* (NSW)) my functions as the designated local regulatory authority under the provisions of the *Uniform Law* stated in the Schedule to this delegation, in respect only of a complaint (as defined in section 265 of the *Uniform Law*) made to or by me which is:

- (a) a **disciplinary matter** (as defined in section 270 of the *Uniform Law*) which I have decided not to deal with or to continue to deal with, which I refer to the relevant Professional Association for assessment, investigation and determination under Chapter 5; or
- (b) a **consumer matter** (as defined in section 269 of the *Uniform Law*) which I have decided not to deal with or to continue to deal with, which I refer to the relevant Professional Association for resolution under Chapter 5, Part 5.3,

(together referred to as a **referred complaint** in this Instrument of Delegation). Part 5.7 of the *Uniform Law* applies to the relevant Professional Association in respect of referred complaints.

Nothing in this Instrument of Delegation derogates from:

- (c) my functions under Chapter 5 of the *Uniform Law* in respect of any complaint made to or by me which is not a referred complaint; or
- (d) my powers under section 411 of the *Uniform Law* to take over from a delegate the exercise of any function delegated under this Instrument of Delegation.

Dated: 18 June 2015

John Francis McKenzie

NSW Legal Services Commissioner (appointed by the Governor pursuant to section 22 of the *Legal Profession Uniform Law Application Act 2014* (NSW))

Schedule

Part 1

1. The powers, functions, and duties of the NSW Legal Services Commissioner (**NSW Commissioner**) as the designated local regulatory authority under the provisions of the *Uniform Law* specified in Column 1 of the Schedule are delegated, subject to any condition or qualification specified in Column 1.
2. The descriptions in Column 2 of the Schedule are for reference only, and do not limit the operation of the delegation.

Part 2

3. In this Schedule:

Professional Association means the Bar Association or the Law Society.

relevant Professional Association means:

- (a) in relation to a complaint concerning a person who was a barrister when the conduct the subject of the complaint allegedly occurred – the Bar Association, or
- (b) in relation to a complaint concerning a person who was a solicitor when the conduct the subject of the complaint allegedly occurred – the Law Society, or
- (c) in relation to a complaint concerning a person who was neither a barrister nor a solicitor when the conduct the subject of the complaint allegedly occurred – the Bar Association or the Law Society, whichever I nominate for the purposes of the complaint.

Chapter 5 functions has the meaning given in section 6(1) of the *Uniform Law*.

consumer matter, **costs dispute** and **disciplinary matter** have the meanings given by sections 269 and 270 of the *Uniform Law* respectively.

designated tribunal has the meaning given in section 6(1) of the *Uniform Law*.

Column 1	Column 2
Section	Description
	<p>Chapter 5 – Dispute resolution and professional discipline</p>
	<p>Part 5.2 Complaints – Division 1 Making complaints and other matters about complaints</p>
<p>Section 266(2) – on condition that a copy of a complaint made by a Professional Association is forwarded as soon as possible to the NSW Commissioner by the Professional Association.</p>	<p>Initiating a complaint</p>
<p>Section 269</p>	<p>Determining that complaint or part thereof is a consumer matter</p>
<p>Section 271</p>	<p>Determining priorities as to resolution between consumer matter and disciplinary matter</p>
<p>Section 272 (with respect to a complaint made by that Professional Association and a referred complaint)</p>	<p>Waiving the time requirement specified in section 272(1)</p>
<p>Section 273</p>	<p>Determining to initiate or continue to investigate disciplinary matters, or proceed with disciplinary matters, despite the withdrawal of a complaint in whole or in part by the complainant</p>
	<p>Division 2 Preliminary assessment of complaints</p>
<p>Section 276</p>	<p>Conducting a preliminary assessment of complaint</p>
<p>Section 277</p>	<p>Closing complaint after preliminary assessment</p>
<p>Section 278</p>	<p>Recommending immediate suspension of practising or registration certificate</p>
	<p>Division 3 Notification to and submissions by respondents</p>
<p>Section 279</p>	<p>Notifying respondent about complaint</p>
<p>Section 280</p>	<p>Submissions by respondent</p>

Column 1	Column 2
Section	Description
Section 281(2)	Determining to postpone giving the respondent a summary or details of a complaint or a notice about making submissions as required by section 279(1)(b), or in its discretion giving the respondent the notice and a statement of the general nature of the complaint
	Division 4 Investigation of complaints
Section 282	Power to investigate complaints
Section 283	Extending scope of investigation
Section 284	Referral of matters for costs assessment
	Part 5.3 Consumer matters – Division 2 Provisions applicable to all consumer matters
Section 286	Forming an opinion as to attempts to resolve a consumer as a prerequisite to resolution action
Section 287	Attempting informal resolution of consumer matters
Section 288	Mediation
Section 289	Recording agreements reached as to consumer matters
Section 290	Determining consumer matters
	Division 3 Further provisions applicable to costs disputes
Section 292	Making binding determination in costs dispute
Section 293	Where binding determination not made in costs dispute
	Part 5.4 Disciplinary matters – Division 2 Determination by local regulatory authority
Section 299	Finding of unsatisfactory professional conduct and determination of disciplinary matter

Column 1	Column 2
Section	Description
Section 300	Initiation and prosecution of proceedings in designated tribunal
	Part 5.5 Compensation orders
Section 306	Making compensation order
Section 307	Receiving request by complainant for compensation order
Section 309	Satisfaction as to prerequisites for making of compensation order
	Chapter 7 – Investigatory powers
Chapter 7 (in relation to Chapter 5 functions otherwise delegated to the Professional Association)	Investigatory functions regarding complaint investigations
	Chapter 9 – Part 9.4 Cooperative and other arrangements
Section 436(1) (in relation to Chapter 5 functions otherwise delegated to the Professional Association)	Cooperative and other arrangements with authorities