

ANNUAL REPORT

2018-2019



THE OFFICE OF THE LEGAL SERVICES COMMISSIONER

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ORGANISATIONAL CHART

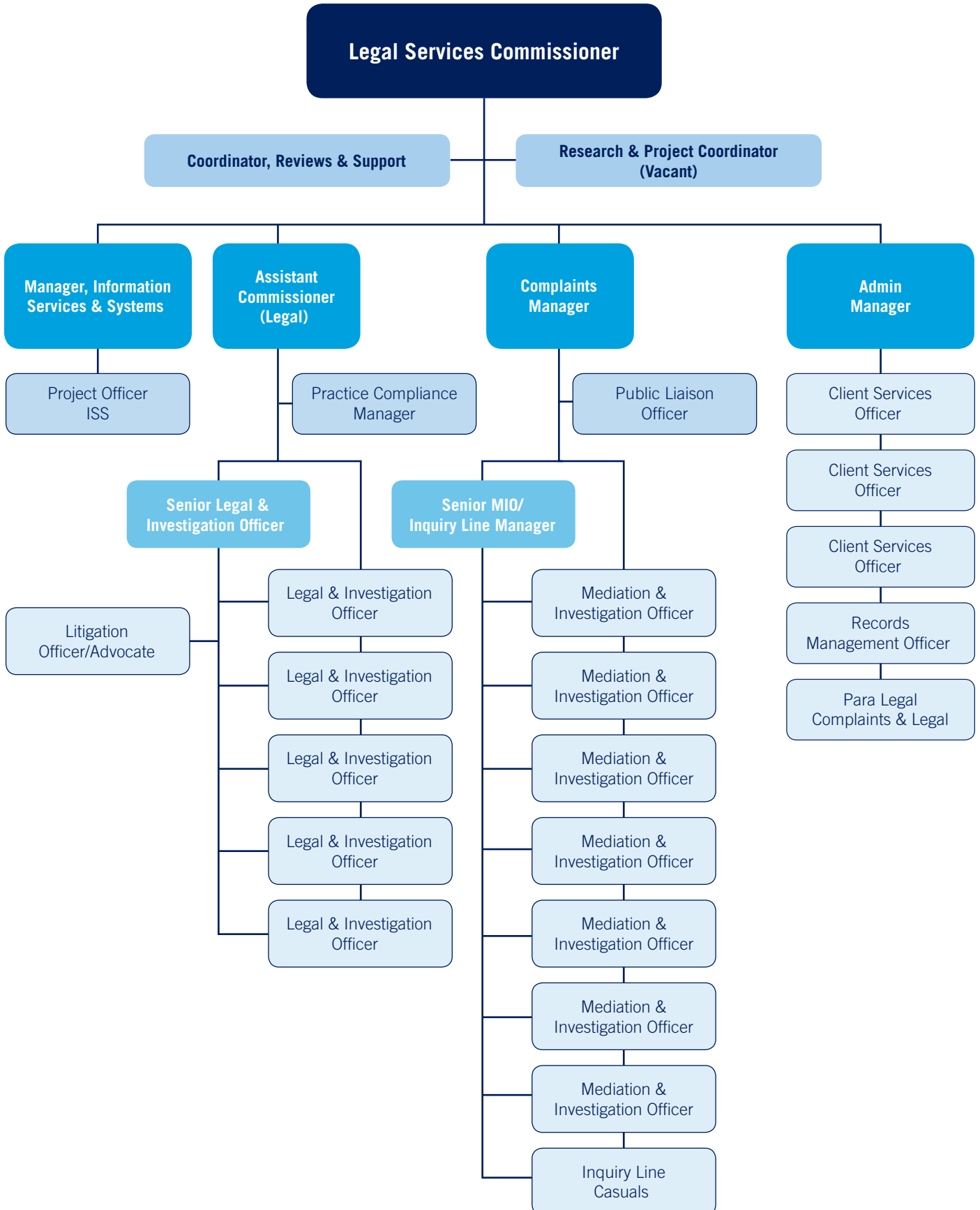


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Chapter 1

THE COMMISSIONER'S REPORT

I am pleased to report that Western Australia will join the Uniform Law jurisdictions of New South Wales and Victoria in 2020, now that enabling legislation has passed through the Victorian Parliament. As a result, more than 75% of all Australian practising lawyers will be regulated under the Legal Profession Uniform Law (LPUL). Further to this, at least one other state jurisdiction has indicated interest in joining.

It is timely to reflect upon the varying local landscapes of legal regulation evident. Whilst regulatory powers are largely concentrated in the Victorian Legal Services Board + Commissioner, those powers are shared amongst the Commissioner and the legal professional bodies in New South Wales. The picture in Western Australia is somewhere between the two founding jurisdictions. I consider that to be good evidence of the adaptability of the LPUL and an encouragement to those jurisdictions still considering their positions that whatever history and locally developed regulatory arrangements informed their current systems, the LPUL can effectively work. This is largely due to the principle based, overall design of the LPUL.

I am pleased to report that the building work is well underway on our long-awaited new comprehensive case management system and database. We are working towards our goal of having it ready to “go live” before July 2020. Ongoing testing of every component by relevant OLSC staff members, as it is being built, should minimise any implementation problems. In light of the trend of an ever-increasing complexity and, sheer weight of documentary evidence and submissions involved in the complaints we are handling, the new case management system is expected to streamline procedures and reduce complaint handling time.

As the digital revolution continues to impact the way law is practised, we are mindful of the need to address the up skilling of all our staff regarding technical innovations. Our staff members remain the most important resource to the success of our regulatory endeavours and I am once again most thankful to them for their earnest and dedicated efforts during this year.

Finally, in further response to the serious issue of sexual harassment and bullying behaviour in the legal profession which I mentioned last year, we have made some practical improvements in the reporting and supported investigation of any such complaints and reports. We have specially trained six staff members who constitute our Personal Conduct Team. They are already sympathetically taking telephone calls from anyone who wishes to make informal reports about such behaviour, explaining rights, providing referrals to relevant agencies and starting to map the incidence of the behaviour for future consideration in the use of our compliance audit powers under the LPUL. Already we are receiving significantly more calls than before we launched this initiative in the legal profession media. Work on the development of an online reporting platform to allow for informal disclosures on a 24/7 basis is well under way. These initiatives have been taken to start to address the serious dislocation between the very small numbers of formal complaints we receive about this behaviour in contrast to a number of research and survey reports in the public domain documenting a high incidence of the behaviour in the profession. We hope to make a contribution to changing the culture of the profession so that such behaviour is minimised, if not eradicated, and that the leaders of all the various types of law practices take responsibility for implementing supportive complaint processes that do not further victimise those who have suffered the consequences of this unlawful behaviour.

John McKenzie

NSW Legal Services Commissioner

Chapter 2

INVESTIGATIONS AND DISCIPLINE

Complaints process

The Legal & Investigation Team deals with complaints in which disciplinary matters are raised.

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

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

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

The regulatory authority is not bound by rules of evidence and may inform itself of any matter in any manner as it thinks fit. Further information may be requested from the complainant, the respondent lawyer or any other person who may have relevant information.

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

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

Complaints not closed after preliminary assessment may be investigated.

If, after completing an investigation, the Commissioner finds a lawyer has engaged in unsatisfactory professional conduct, he may determine the matter by making any of the orders specified in LPUL section 299. Orders may include:

- Cautioning or reprimanding the lawyer
- Requiring an apology from the lawyer
- Requiring the lawyer to redo the work that is the subject of the complaint at no cost or at a reduced cost
- Requiring the lawyer to undertake training or counselling
- Requiring the lawyer to pay a fine or
- Imposing conditions on the practising certificate of the lawyer.

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

Complaints received

The number of complaints received in the reporting year remained relatively stable. However, the OLSC has noticed an ongoing increase in the complexity of investigations and a sizeable increase in the amount of documentary material submitted with complaints.

As has been the case for a number of years, more complaints were received in relation to family and de facto law matters than any other area of law. Many of these complaints are made not by the lawyer’s client but by the opposing party, and many of the complainants are litigants in person. Often their complaints arise from a misunderstanding of the adversarial system and the role of a lawyer within that system, specifically that they are bound to act on the instructions, and in the best interests, of their own client, which often means putting forward evidence and making submissions that are adverse to the other party.

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

Complaints in relation to deceased estates (covering wills, powers of attorney, probate and family provision claims) are also common. Complaints in this area of law may raise conduct that occurred a number of years ago, or conduct that began years ago but extends into the present. They can be factually complex and require the review of substantial documentary material. They are often emotionally charged. Beneficiaries of deceased estates complain of delay or inaction on the part of the executor and their lawyer, not being kept informed about progress, that instructions were taken when the testator lacked testamentary capacity and excessive costs (especially in the case of a solicitor/executor)

The Legal and Investigation team continues to liaise with the Taskforce established by NSW Police to investigate fraudulent activity in the New South Wales Compulsory Third Party insurance scheme, reporting suspected offences and making material available to Police as required.

The most commonly made complaint, across all complaints received, was negligence, followed by poor communication and then overcharging.

Determinations and disciplinary action

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

The Commissioner issued 7 reprimands and 6 cautions. Reprimands were issued for:

- Minor breaches of legislative provisions relating to trust accounts and keeping trust records
- Misleading the client and causing delay in the conduct of the client's matter in a single matter
- Misleading the Court and opponent in a single matter
- Failing to comply with a personal costs order to pay the opponent's costs
- Making inappropriate comments to a Judge's associate
- Delay in providing a beneficiary of a deceased estate with a copy of the Will and in distributing the estate

- Acting in a conflict of interests (own interests vs client's)
- Failure to supervise an employed solicitor

In one matter, the reprimand was accompanied by a fine of \$5,000.00 (for misleading the Court and the lawyer's own legal representatives, and swearing two misleading affidavits).

The cautions related to isolated instances of:

- Failing to notify the client of a settlement offer
- Acting in a conflict of interests – own/client and current/former client
- Non-compliance with a Supreme Court Practice Note when communicating with an expert witness
- Misleading an opponent and
- Breaches of the Solicitors' Conduct Rules

The Commissioner ordered the lawyer to make a written apology in one matter, for giving incorrect advice.

Disciplinary proceedings

Disciplinary proceedings initiated against lawyers are heard in the Occupational Division of the NSW Civil and Administrative Tribunal.

Decisions were delivered in the following matters in the reporting year:

• **Legal Services Commissioner v Potkonyak**

This matter has been reported on previously. In May 2017 George Potkonyak was found to have engaged in professional misconduct in approaching matters under the *Children and Young Persons (Care and Protection) Act 1998 (Care Act)* with a preconceived mindset, without any apparent concern for the underlying interests of the client, or the essential work carried out by the Children's Court under the *Care Act*, and for making scurrilous and ill-considered comments and unfounded criticism of judicial officers and fellow legal practitioners.

On 9 January 2018, the NSW Civil and Administrative Tribunal ordered Mr Potkonyak's name be removed from the Roll of Lawyers of the Supreme Court of New South Wales with effect seven days from the date of its Decision. Mr Potkonyak appealed the Tribunal's Decision.

The Court of Appeal handed down judgment on 8 August 2018, dismissing Mr Potkonyak's appeal with costs. Mr Potkonyak's name was accordingly removed from the Roll. He is no longer a lawyer, and is not entitled to practise law or provide legal services.

- **Legal Services Commissioner v Peter Livers**

As reported last year, on 3 August 2017, Peter Livers was found guilty of professional misconduct, arising from deliberate acts of dishonesty, or, in the alternative, reckless carelessness in seeking to obtain a grant of funding from the Independent Legal Assistance and Review Service (ILARS) of the WorkCover Independent Review Office (WIRO). The Tribunal found that Mr Livers had altered the date of an audiogram, amended his client's statement in a misleading way, and misled WIRO by preparing and relying on a funding application which contained material omissions and assertions some of which were false.

On 7 September 2018, the Tribunal ordered the removal of Mr Livers' name from the Roll of Lawyers.

Mr Livers appealed the decision. His appeal was allowed on 14 December 2018. The Orders of the Tribunal made on 3 August 2017 and 7 September 2018 were set aside and the proceedings remitted to the Tribunal to be determined according to law. Mr Livers' name has been reinstated on the Roll of lawyers pending further Order.

The remitted proceedings were part heard on 20-21 June 2019.

- **Legal Services Commissioner v DRA**

In July 2018, a lawyer (pseudonym "DRA") was found guilty of professional misconduct for knowingly providing false and/or misleading information to NSW Police, and for inappropriate communication and conduct towards NSW Police.

DRA was drinking alcohol at a railway station which is prohibited. DRA was approached by NSW Police and formally requested to identify himself for the purpose of being issued an infringement notice. DRA gave a false name and date of birth. As the NSW Police were attempting to verify DRA's identity, he produced his Law Society identification card to the NSW Police and began using offensive language, whilst threatening to have the NSW Police officer "sacked". The offensive language continued and DRA was arrested for this and other related matters, including resisting and/or hindering a police officer. DRA was subsequently convicted of all offences.

The Tribunal found that the DRA's provision of false details to the NSW Police lacked integrity and was objectively dishonest by ordinary and reasonable standards. The Tribunal also found that DRA's communication and conduct to the NSW Police was statutory professional misconduct, in that he was not a fit and proper person to engage in legal practice at the time of the conduct. The Tribunal also found that the conduct was common law professional misconduct, in

that it could reasonably be regarded as disgraceful or dishonourable by professional brethren of good repute and competency.

The penalty hearing took place on 26 November 2018. DRA adduced significant medical evidence of historical alcoholism, other related psychological issues and recent successful treatment. DRA expressed contrition for his conduct and a commitment to his continuing recovery and rehabilitation.

On 14 December 2018, the Tribunal ordered that DRA be reprimanded, he pay costs, and that should he apply for a practising certificate in the future, he must provide the relevant regulatory authority with updated medical and alcohol treatment reports. The Tribunal also ordered, after considering their protective and deterrence functions, DRA's mental health and his continuing recovery, that it was appropriate to anonymise his name and to replace it with a pseudonym "DRA".

- **Legal Services Commissioner v Pierpoint**

The Tribunal held that the lawyer's conduct in drawing numerous Wills and codicils for her client which conferred substantial benefits on her without referring the client to independent legal advice was in breach of Rules 10.1 and 11.2 of the *Revised Professional Conduct and Practice Rules 1995* and amounted to professional misconduct. The Tribunal also held that the lawyer had breached 11.1 of the same Rules, in relation to receiving a benefit under a will. The lawyer was reprimanded, fined \$2,500.00 and ordered to pay costs as agreed or assessed.

This decision should serve as a timely reminder to lawyers about their obligations when drafting wills.

- **Legal Services Commissioner v Nguyen**

Mai Anh Nguyen was found guilty of professional misconduct for failing to comply with a Notice issued by the NSW Commissioner under section 371 of the *Legal Profession Uniform Law (NSW)* requiring she provide information and produce documents. She was also found to have breached Rule 43.2 of the *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015*, which requires a solicitor to be open and frank in their dealings with a regulatory authority, to respond within a reasonable time to any requirement of the regulatory authority for comments or information in relation to the solicitor's conduct or professional behaviour, and to furnish in writing a full and accurate account of their conduct.

The Tribunal ordered Ms Nguyen be reprimanded and that she not be granted a practising certificate by the Law Society of New South Wales until she has complied with the Notice.

- **Legal Services Commissioner v Yakenian**

This prosecution arose from a referral from a District Court Judge. The lawyer admitted he had filed a notice of motion for default judgment knowing the defendants intended to file a defence, that he had misled and lulled the defendants' lawyer into believing they had time to file a defence and, most seriously, that he had misled the Court in that his affidavit in support of the motion for default judgment failed to set out the complete and relevant circumstances in which default judgment was being obtained. Further, that he applied for issue of a bankruptcy notice to one of the five defendants without prior notice.

On 21 June 2019, the Tribunal found the lawyer guilty of professional misconduct and made orders that he be reprimanded, pay a fine in the sum of \$7,500.00 and undertake, at his own expense, a course in legal ethics. The lawyer was ordered to pay the Commissioner's costs as agreed or assessed.

Internal reviews

The LPUL makes provision for the Commissioner to conduct an internal review of his own decisions or, where relevant, the decisions of his delegates, the Council of the Law Society of New South Wales and the Council of the New South Wales Bar Association. The Commissioner may (at his absolute discretion) conduct an internal review if he considers it appropriate to do so. On review, the Commissioner must consider whether the decision was dealt with appropriately and whether the decision was based on reasonable grounds, and may confirm the original decision, make a new decision or refer it back to the original decision maker.

The Commissioner declined to conduct an internal review in the majority of requests received in the reporting year, as on examination most sought to re-agitate issues that had been raised, and addressed, in dealing with the original complaint.

Two complainants have commenced judicial review proceedings challenging the Commissioner's decision not to conduct an internal review this year.

Policy development

The OLSC worked with New South Wales co-regulators (the Law Society of New South Wales and the New South Wales Bar Association), our counterparts in Victoria and the Commissioner for Uniform Legal Services Regulation throughout 2018-2019 to formulate and prioritise proposed amendments to the Legal Profession Uniform Law (LPUL), for consideration by the Legal Services Council. The amendments arise from the regulators' practical experience in interpreting and applying LPUL since 1 July 2015, and are intended to clarify and improve the operation of certain provisions.

The OLSC also provided feedback to the Legal Services Council on a draft Uniform General Rule to be made in accordance with section 471 of LPUL specifying the basis for indexation of amounts in LPUL. The new rule, rule 111 A of the Legal Profession Uniform General Rules 2015 will come into effect from 1 July 2019.

In February 2019, the OLSC made a submission to the Australian Human Rights Commission National Inquiry into Workplace Sexual Harassment, outlining the professional obligations resting on lawyers in this area, explaining our role and emphasising that a non-disclosure agreement will not prevent scrutiny of a lawyer's conduct from a disciplinary perspective.

The Legal and Investigation team continues to provide guidance and legal advice to senior managers and staff on the interpretation and application of LPUL. The Assistant Commissioner (Legal) meets with the Director of Professional Standards at the Law Society of New South Wales and the Director of Professional Conduct at the New South Wales Bar Association as required to discuss problem lawyers, difficult complaints and other common issues, and liaises with the Commissioner for Uniform Legal Services Regulation and the OLSC's Victorian counterparts as required. She is also a member of the Costs Assessment Rules Committee.

Chapter 3

CONSUMER MATTERS AND COSTS DISPUTES

In the 2018-2019 reporting year, the OLSC received a total of 2,588 written complaints and registered the total completion of 2,361 written complaints.

Complaints may be characterised as containing either a consumer matter (including costs dispute) or a **disciplinary matter**, or both.

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

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

The OLSC must attempt to resolve a consumer matter by informal means. The Commissioner also has power to make a determination under section 290 of the Legal Profession Uniform Law (LPUL), if he is satisfied that it is fair and reasonable in all the circumstances, and/or a binding determination about costs. The Commissioner is rarely required to make a formal determination as often an indication to a lawyer that the Commissioner may consider making a determination in a consumer matter or a costs determination, in circumstances where it would appear grounds exist to support that, will have the effect of encouraging a lawyer to engage in attempts to informally resolve the complaint.

Where a Mediation and Investigation Officer comes to a view that a complaint may involve a disciplinary matter, issues of potential unsatisfactory professional conduct or professional misconduct must be considered separately from consumer aspects of a complaint.

The year under review

For the 2018 to 2019 reporting year, the OLSC received a total of 1,273 consumer matters including a total of 623 costs dispute complaints. 10 matters were not able to be characterised, generally owing to inadequate information being provided with the complaint.

For this financial year, personal injury was the area of law most represented in **consumer matters**, followed by family/ de facto, other civil matters, conveyancing and criminal matters. The lowest was building law and insolvency.

Once again this year, 'quality of service: negligence' was the most common consumer matter complaint, followed by:

- Communication: poor/ no response
- Costs: overcharged
- Quality of service: delay
- Ethical matters: instructions not followed

For this reporting year, family/ de facto matters were the area of law most represented in **cost dispute** complaints (210 or 33.7%). The overall number of complaints in this area has grown to 21.7% of the legal matters that led to complaints in the reporting year.

It should be noted that the Commissioner receives frequent complaints from parties to family law disputes wishing to complain about the actions of the opposing representative or the Independent Children's Lawyer. Where the matters remain subject to the supervision of the Court there is a very limited role for the OLSC in such complaints which, by their nature, cannot be characterised as consumer matters, noting that the complainant is not in receipt of legal services from the lawyer they are complaining about.

The frequency of cost complaints in the family law area continues to suggest that there is considerable room for improvement in relation to ongoing costs disclosure. It is acknowledged that it may not be easy to forecast how family law matters will develop, however regular communications with clients regarding costs issues would lessen complaint numbers to the OLSC.

It is open to the Commissioner to issue a consumer matter caution pursuant to section 290 (2)(a) of the LPUL in circumstances where a lawyer has failed to provide adequate costs disclosure. Such failures may also represent unsatisfactory professional conduct or professional misconduct pursuant to section 178 of the LPUL.

Following 'Family/ De facto' the main areas of law the subject of cost disputes were related to:

- Conveyancing
- Commercial/ Corporations
- Other Civil matters
- Probate/ Family Provisions

Our Role

For the 2018 to 2019 reporting year, 422 of the **consumer matters** received were either resolved or closed. Where a matter is closed, an explanation is generally provided, although in some instances matters must be closed as the complainant has failed to provide necessary information to deal with the complaint. A small number of consumer matters were closed as not able to be resolved or were outside our jurisdiction. Consumer matters that are resolved may include matters where documents have been transferred, an apology has been offered or legal work has been redone to the satisfaction of the complainant, following the involvement of the OLSC.

This year 400 of the **costs disputes** received were either closed or resolved with the remainder either remaining open, not resolved or closed as not within our jurisdiction. The number of costs disputes closed or resolved represents a significant increase on the figure for the previous year.

Complainants may be referred to the Supreme Court Costs Assessment Scheme in circumstances where the totality of the costs involved, or the amount in dispute, may exceed the limits of the OLSC's jurisdiction. Mediation and Investigation Officers are obliged to inform complainants of the right to apply for a costs assessment where attempted resolution through the OLSC has been unsuccessful, however, the costs potentially associated with such an application may not be viable in disputes over smaller amounts.

Once again, this reporting year we have had cause to write to lawyers pointing out inadequacies in their costs disclosure documents. The OLSC has particularly noted frequent failure to provide clients with a single figure

estimate of costs as required under LPUL. Too often, particularly in Family and Criminal law matters, law practices are continuing to disclose costs in 'a range'. A recent matter before the OLSC saw costs disclosed 'being between \$1,400.00 - \$51,750.00.' It is difficult to accept that such a disclosure could 'empower clients of law practices to make informed choices about the services they access and the costs involved' as contemplated under the objectives of the LPUL. The Supreme Court in *Frontier Law Group Pty Ltd v Barkman* [2016] NSWSC 1542 at 38, found that an estimate range of \$2,200.00 to \$55,000.00 was:

"...so wide a range as to provide no guidance to any client and is not, on any rational basis to be described as an "estimate of the total legal costs" that complies with the legislation."

In addition to these concerns some lawyers continue to fail in their obligations to keep their clients notified of changes to costs estimates.

For many people, engagement in legal proceedings can be challenging and confusing. Once again this year our Mediation and Investigation Officers were in many cases able to supply additional information to complainants that had not previously been made available to them by their lawyers. Whilst the provision of additional information may not always resolve all of the complainant's concerns, it can assist their understanding of why events may have occurred and, in many instances, this may be sufficient to resolve the complaint. It is clear that sometimes clients consider their lawyer has failed to communicate adequately with them, some with justification.

As indicated 'quality of service: negligence' was the most common consumer matter complaint in the reporting year. In some cases, such complaints may be able to be resolved to the satisfaction of the parties but there are also instances where such disputes would be more properly referred to the civil courts for determination. Lawyers in New South Wales are required to hold insurance for instances where it can be established that negligence has caused the client loss.

Interaction with the OLSC

OLSC staff are aware that contact with the Regulator may exacerbate the stress of practice and responding to complaints may involve considerable time and effort. It is pleasing that the majority of lawyers contacted by the OLSC continue to take a professional and often proactive approach to resolution of consumer complaints.

INQUIRY LINE 2018-2019

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

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

Inquiry Line staff assist callers from a broad range of backgrounds and circumstances. Frequently, callers are distressed by the circumstances they find themselves in. Similarly, many are economically or socially disadvantaged, have limited English skills or identify as living with a disability.

In total, for the 2018/2019 reporting year, 6,294 calls were made to the inquiry Line, down from 6,431 calls in the 2017-2018 year. At the conclusion of each call, survey forms were sent to callers who indicated an interest in participating in the provision of feedback. Participation in the survey assists in the maintenance and improvement of the Inquiry Line's service, and the information gathered through the survey allows the OLSC to identify and implement improvements to the service where appropriate. From the 6,294 calls made to the Inquiry Line, 6.4% of callers expressed interest in participating in the survey and, of the survey forms issued, 10.67% were then completed and returned.

Overall, results were overwhelmingly positive. 97.7% of callers agreed with the statement that the call was handled promptly, agreed with the statement that the information provided was helpful and agreed with the statement that the Inquiry Line officer was professional and courteous. 95.3% indicated that they would recommend the OLSC's Inquiry Line service to a friend or relative.

Assistance for complainants with a special need or disability in the writing of their complaints to the OLSC

Making a complaint about a lawyer can be daunting, particularly for those with a special need or disability. The OLSC offers to complainants with special needs or disabilities assistance either by telephone or face to face interview to complete their written complaints to this office.

We have, for example, assisted people with mental health or intellectual issues, a physical disability or frail aged persons who have no family or other support in the community.

Complainants from a non-English speaking background or with English as a second language, Aboriginal and Torres Strait Islanders or people who are socially disadvantaged, may also require our services.

During the reporting year, we have assisted 67 people with either a special need or a disability to complete their complaint.

Complainants may, when discussing their complaints, reveal vulnerabilities other than those of a legal nature. In those instances, the OLSC refers them to relevant government, non-government agencies or organisations that may be better able to assist them.

Chapter 4

COMPLIANCE AUDITS

Between July 2018 and June 2019, the Practice Compliance Manager conducted 10 on-site compliance audits. These audits included practices in the CBD, the outer suburbs of Sydney and country NSW. The issue consistently raised with law practices in all geographical areas is the failure to provide costs disclosure that complies with the requirements of the Legal profession Uniform Law (LPUL). In particular, there is a widespread tendency to omit to clearly state a single figure estimate. Principals also seem to be generally unaware of the ability to use the Standard Form of Costs Disclosure where costs are estimated to be more than \$750.00 but less than \$3,000.00 in total.

Similarly, when law practices send out invoices to their clients it is often the case that the notification of the client's rights as required by section 192 and section 272 of the LPUL is omitted.

In the current environment of concern regarding sexual harassment and bullying in the legal workplace, it was interesting to note that one audit considered the policies in place at the law practice relating to these issues. Having reviewed the policies with the responsible partners, ongoing training was recommended with a follow-up audit anticipated in the near future.

The Commissioner issued three management system directions in the reporting year. In two cases the most important issue was the implementation of a system that enabled the law practice to provide costs disclosure as required by the LPUL consistently. In the third case, the law practice was to implement a system that enabled it to correspond with and provide information to the OLSC during complaint investigations. This direction was issued after a desktop audit in previous years revealed that the law practice repeatedly failed to fully implement an effective system.

In two cases, the relevant law practices have provided multiple periodic reports in response to the management system directions to attempt to demonstrate compliance. In the third case, the law practice has temporarily suspended operation.

Chapter 5

THE OLSC AND THE COMMUNITY

In 2018-2019, the OLSC continued its educative role to the professional bodies, university law schools and other legal services by delivering professional responsibilities and ethics components of the Continuing Professional Development requirements for lawyers in New South Wales.

The OLSC also contributed to legislative reforms relevant to our regulatory function by working collaboratively with our co-regulators and in consultation with the Legal Services Council and Commissioner for Uniform Legal Services Regulation to streamline the uniform processes.

With the rapid rise of technology within the legal profession, in 2018-2019 the OLSC was invited to participate in summits and roundtable meetings exploring and discussing the challenges that lay ahead for future practising lawyers in the ever changing technological aspects within a legal practice.

In 2018, BenchTV explored the possibility of the Commissioner's willingness to participate in a discussion with other presenters who deal with issues surrounding claims farming. The Commissioner saw this as an excellent opportunity to educate lawyers in their compulsory legal education requirements through social media, co-presenting with consultants who specialise in insurance issues.

Legal Conferences

On 24 July 2018, the Commissioner attended an international conference on Human Rights and Technology hosted by the Australian Human Rights Commission exploring the human rights implications of unprecedented technological change.

On 4 September 2018, the Commissioner presented a session at the Law Society of New South Wales, Government Solicitors Conference on the topic "Conflicts of Interest: Lessons from Case Studies on Professional Responsibility". A number of staff members also attended the Government Solicitors Conference and participated in a range of topical session discussions.

On 13 September 2018, the Commissioner participated in a panel discussion on the ethical and regulatory implications of new technology and unbundling of legal services at the Legal Future Summit hosted by the Law Council of Australia. The panel explored a range of views on the form legal services will take in the future.

On 14 September 2018, the Commissioner participated in a panel discussion "Legal Advice v Legal Information" at the Future of Law & Innovation in the Profession Conference, hosted by the Law Society of NSW.

Staff members from the Legal and the Mediation & Investigation Teams attended the 12th National Investigations Symposium, a joint initiative by Ombudsman NSW, ICAC NSW and IPAA NSW, on 14 November 2018. OLSC staff valued the opportunity of developing their complaint handling and investigative skills when dealing with the complexities and challenges of complaint handling.

Conference of Regulatory Officers 2018

As in previous years, the Commissioner, Assistant Commissioner (Legal) and the Complaints Manager, attended the Conference of Regulatory Officers (CORO) in Perth on 25 and 26 October 2018 together with three other OLSC staff members. The Legal Practice Board of Western Australia and the Legal Profession Complaints Committee hosted the 2018 Conference in Fremantle, Perth, Western Australia.

The theme for CORO 2018 was "Professional Obligations in a Brave New World". As lawyers are becoming more exposed to digital technology in the legal profession and with the movement of the ' #MeToo' campaign, leading professional speakers in their field stimulated debate on how the traditional methods of a legal practice are rapidly changing.

Participants at CORO heard from a panel of leading professionals in the field of sexual harassment, discrimination and workplace bullying in the legal workplace. The ‘#MeToo’ campaign has called for legal regulators and professional associations to be proactive in doing more to improve workplace cultures and more importantly educate lawyers and the community to report instances of sexual harassment in a safe and non-threatening environment in a law practice.

As in previous years, Expressions of Interest were called from OLSC staff members interested in attending CORO for the first time. Three OLSC case officers were successful and attended the Conference in 2018. Their comments include:

“I am grateful for the opportunity to attend last year’s CORO in Perth and had a thoroughly enjoyable time with my OLSC colleagues and fellow interstate counterparts from the other states and jurisdictions.”

Some of the things which I got out of CORO are:

- *Insight into the operation of other interstate regulators and how they differ to the OLSC, especially Western Australia, given that they were the hosts. The similarities yet differences between NSW and Victoria.*
- *Future of the law and developments across three main areas:*
 - *The implications of technological advances and artificial intelligence (PEXA, Block Chain), what economic implications these have for the profession as a whole and increased risks in cyber security. The professional obligations a law practice has when transiting to electronic practice as compared to standard conventional practice.*
 - *The rising trend of issues such as Elder Abuse and emerging of law in the areas of Wills & Estates as Australia’s population ages.*
 - *Emphasis into professional misconduct, sexual harassment, discrimination and workplace bullying and the implications of the ‘Me Too’ movement which has prompted the current OLSC training so that MIOs can be better equipped to deal with these types of complaints.”*

“I’m thankful to have been chosen to attend the Conference of Regulatory Officers (CORO) which was held in Fremantle, Western Australia on 25 and 26 October 2018.”

The conference was a great opportunity to network and expand my contacts in this particular area of the legal profession, something that will remain of great benefit to me throughout my legal career. The conference allowed me to discuss and share information with others working in this field and obtain valuable information on how other jurisdictions deal with complaints efficiently, expeditiously and in accordance with their legislative framework. Finally, I found that the presentations themselves were interesting, relevant and inspired by current issues affecting regulators of the legal profession, such as the panel discussion titled ‘MeToo and the Rule of Law’ that dealt with the implications of the ‘MeToo’ movement in the legal workplace.”

“The papers presented at CORO were very interesting and relevant to the work we do. It was also a good opportunity to meet our co-regulators and get to know some of their officers.”

Events

During 2018-2019, the Commissioner and staff attended and participated in a variety of panel discussions and symposiums on a range of topics, including:

- Australian Human Rights Commission roundtable meeting on human rights and technology
- Online Dispute Resolution Symposium Melbourne

On 29 October 2018, the Commissioner participated in a Law Society of New South Wales Panel Discussion on Mental Capacity. The panel members were drawn from law practices, medical practices and government departments who specialise in this area of growing concern. The panel members discussed how lawyers can determine the mental capacity of a client and drew from their experiences and scenarios encountered in their own practices.

In April 2019, the Commissioner was invited to participate in the Law Society of New South Wales’ Future of Law and Innovation in the Profession (FLIP) regulatory subcommittee meeting. This subcommittee is responsible for reviewing the impact of technology and innovation on regulation and its skill-sets facing the legal profession into the future. The subcommittee meeting was an inquiry and workshop style format where external experts gave their views on the potential implications for the future. The Commissioner delivered an overview of the current legislation, the Legal Profession Uniform

Law, and its implications and shortcomings arising from the automation of legal services from an ethical and regulatory perspective and, in particular the distinction between legal information vs legal advice and regulated vs unregulated legal service. The Commissioner continues to work with this engaging and thought provoking subcommittee to assist the regulators and the legal profession in the challenges that lie ahead with this rapidly moving technological change.

In June 2019, staff at the OLSC attended a presentation by Ms Kim Boettcher which was hosted by the Society of Trust and Estate Solicitors (STEP) on the topic of Elder Law issues and the impact of the Royal Commission into Aged Care.

The presenter began by setting the scene and exploring what is understood by the term “elder abuse”. Ms Boettcher gave background and context by explaining events that led up to the Royal Commission being established e.g. the NSW Parliamentary Inquiry into Elder Abuse in 2015; the Australian Law Reform Commission Inquiry in 2016 and the ABC Four Corners investigation following the Oakden nursing home scandal in South Australia.

At the time of the presentation, Ms Boettcher could only speculate about the possible outcomes of the Royal Commission as the interim report is not due until 31 October 2019 and the final report is due on 30 April 2020. There is a possibility that criminal action may be recommended.

Currently there are various pathways available to seek redress for elder abuse because jurisdiction does not reside with one particular court or tribunal. For example, proceedings might be commenced in the Supreme Court for disputes over Granny flats or NCAT for Financial Management and Guardianship orders. There are numerous barriers to seeking redress including the evidentiary burden, stress, time and costs.

Ms Boettcher noted that there are gaps in criminal law for example regarding the misuse of chemical or physical restraints. It was also noted how more training is needed for lawyers in this wide-ranging and complex area.

Legal Education

In 2018-2019, the Commissioner and his staff continued to visit universities, law practices, College of Law, legal centres and regional law societies in delivering presentations and compulsory professional development sessions. These visits provide an educative role to law students, about the purpose and regulatory function of the OLSC. We aim to educate law students about how to avoid a complaint being made in the first instance, through for example, ensuring compliance with his/her statutory obligations, such as costs disclosure. The Commissioner and his staff continued to present educational seminars to law students and lawyers in private, government and community law centres on the topic of professional responsibility and ethics. Some of these included:

- Clarence River & Coffs Harbour Regional Law Society
- Toongabbie Legal Centre
- Holding Redlich
- Unsworth Legal
- Professional Conduct Workshop, Southern Cross University
- Professional Legal Conduct Two Day Residential Program, Centre for Law & Justice, Charles Sturt University
- University of New South Wales, Supervising Junior Lawyers
- Newcastle University
- Centre for Law & Justice, Charles Sturt University
- Law Society of NSW, In-House Counsel Half Day CPD seminar
- Sole Practitioners One Day CPD Seminar, Law Society of NSW

Sexual Harassment

Throughout 2018, the Commissioner attended a number of events which highlighted the incidence of sexual harassment and bullying within the legal profession.

Recognising the ongoing concerns in this area the Commissioner, in consultation with the Law Society of NSW, invited a specialist in workplace bullying and harassment to train members of staff in dealing with complaints of this nature.

The Commissioner called on interested OLSC staff members to submit Expressions of Interest to participate in this training and in January 2019, the training was undertaken by six OLSC staff members along with staff from the Law Society of NSW.

In May 2019, the Commissioner organised a further training session to be undertaken by the OLSC staff members, joined by two representatives from the Law Society of the ACT. This session aimed to develop the skills required to handle difficult and sensitive telephone calls concerning sexual harassment and bullying.

The six OLSC staff members now form the Personal Conduct Team, and they are responsible for handling confidential telephone enquiries from people who have witnessed, or who have been the target or victim of, sexual harassment and bullying. We recognise that it can be difficult to report inappropriate personal conduct and the members of the Personal Conduct Team respond to all enquiries in a supportive and sympathetic way.

Staff Training

During 2018-2019, OLSC staff had the opportunity to participate in internal and external learning and development seminars and programs to expand their knowledge base and skills. All OLSC legal officers undertook mandatory legal education to maintain their practising certificates.

Some of the seminars attended by OLSC staff members include:

- Risk management, LawCover
- Claims Prevention, LawCover
- Tech Summit Australia DLA
- Legal Studio Minter Ellison
- NSW Public Sector CPD Intensive. Thomson Geer Lawyers
- Technology – Ethical and document management issues, Allens
- Employment Law – Looking ahead in 2019, Sparke Helmore Lawyers
- Online Conveyancing Fundamentals for solicitors – Law Society of NSW
- BenchTV online seminars through subscription

A training seminar, presented by LegalAid NSW, on ‘Mental Health – Overcoming the Barriers’ was a compulsory seminar for all staff members. OLSC staff were encouraged to raise scenarios for discussion to develop techniques for staff members to provide a more supportive environment for each other when handling complaints as well as have a better understanding about mental illness.

During the year, a series of direct and targeted lunch and learn seminars were provided for staff members. Some of the lunch and learn seminars included:

- ‘Sexual Harassment – It’s your business’ presented by the Anti -Discrimination Board
- NCAT Guardianship Tribunal on capacity
- Lexis Advance
- Preview: Sexual Harassment after #MeToo, a BenchTV production where two senior female members of the profession gave their views and experiences about sexual harassment in the workplace and the barriers in place for women to report sexual harassment.

This year we enrolled one staff member on the eight week online conveyancing procedure course through the Law Society of NSW. The aim of the course being to provide the skills and knowledge in the procedures involved with a residential conveyance. There have been significant changes in the conveyancing arena, with a number of versions of the Contract for Sale and Purchase of Land in NSW, since 2014, to accommodate, for example, the electronic conveyance “space” and cover the foreign investment tax requirements. The OLSC sees it necessary to keep up to date, as far as possible, with this fast changing area of law. The course structure included from preparation of the Contract to Exchange, post Exchange, pre settlement, settlement and moving in with a final assessment in week 8. Tutorials and case studies provided a good practical application of the learnt theory, and commentary on old system, strata title and electronic conveyancing.

Participation in the Elder Law, Capacity & Succession Committee

An OLSC staff member is privileged to be a member of the Law Society Elder Law, Capacity & Succession Committee. Meetings this year opened with presentations from stakeholders in key areas of interest to the Committee. For example, NSW Police Superintendent Rob Critchlow spoke about policing initiatives to combat elder abuse and Mr Robert Fitzgerald AM, the newly appointed NSW Ageing and Disability Commissioner, described the foundational work being carried out by his office. Subcommittees were established to discuss important policy areas such as superannuation inheritance and aged care accommodation. Submissions were made to Centrelink, the Minister for Department for Social Services and Australian Banking Association on the topic of deeming rates and a response was prepared to the draft guidelines prepared by Australian Guardianship and Administration Council (AGAC) regarding the participation of represented persons in NCAT proceedings.

At a very practical level, Committee members pooled their wealth of experience to develop helpful answers to “Frequently Asked Questions” in the area of Elder Law which are available on the Law Society website. The Committee followed with interest developments in the Royal Commission into Aged Care Quality and Safety. With an interim report due later this year and the final report next year, there will inevitably continue to be important policy and educational work for the committee in this wide-ranging area of law.

Chapter 6

INFORMATION SYSTEMS AND SERVICES

The Information Systems and Services Unit continued to assist the OLSC in achieving and maintaining its operational efficiencies as well as data sharing with its co-regulators and reporting to the Commissioner for Uniform Legal Services Regulation.

During 2018-2019, the OLSC began researching the feasibility and desirability of digitalising all the hard copy OLSC records with a view of reducing the costs associated with record storage and to achieve greater uniformity of records management across the Department. This project coincides with the development by Digital & Technology Services (DTS) of an overarching case management system which will be referred to further in this chapter. It is hoped, in the not too distant future, that all closed complaint files will be managed and stored digitally within the new case management system.

Case Management System

In February 2019, the OLSC and a project team from the Department of Justice, Digital Technology Service (DTS) commenced work on developing a comprehensive case management system. The digitalised system will enable consumers of legal services to submit a complaint form online. It will also streamline the day to day processes of complaint handling.

The digital case management system will enable the OLSC to meet its co-regulatory legislative reporting requirements and also improve the efficiency in the way consumer and disciplinary complaints are handled. The OLSC has collaborated with our co-regulators so that the case management system will go some way in improving our current paper-based processes. OLSC staff are actively engaged and working closely with the IT project team to provide feedback on the functionality and useability of the new case management system from the bottom up and they are providing feedback on the design of the digitalised case management system.

It is envisaged that, through automation, the case management system will improve staff productivity, administrative efficiencies and the cross referencing with our co-regulators. The case management system will automate manual tasks and this will allow staff more time to focus on emerging technology trends currently facing the legal profession.

We will report in more detail next year.

Document Working Group

Shadowing the establishment of the Personal Conduct Team, a secondary group of OLSC staff members was formed referred to as the “Document Working Group”. This Group worked closely with members of the Personal Conduct Team in order to draft “Notification Forms” and an “Information Sheet” which provide members of the public with the means to notify the OLSC of any inappropriate personal conduct by anyone in a law practice. The Information Sheet explains the investigative process should a formal complaint or notification be made.

In June 2019, the OLSC received its first enquiries relating to inappropriate personal conduct by telephone. Much work remains to be done in this area, and we will report on developments next year.

Chapter 7

ANNUAL STATISTICS

Inquiry Line

In 2018-2019 financial year 6,294 calls were made to the OLSC Inquiry Line, a decrease of 137 from the previous year.

P1 Legal matters raised in calls

	2018-2019	2017-2018	2016-2017
OLSC General Query*	20.9	16.9	16.9
Family/ Defacto	14.3	13.2	13.1
Other Civil	13.9	12.7	12.7
Probate/ Wills/ Family Provisions	11.5	11.7	12.3
Conveyancing	8.3	10.2	9.2
Other	7.9	5.9	3.9
Personal Injuries	5.6	4.6	5.4
Criminal	4.3	4.2	4.2
Commercial/ Corporations	4.1	3.7	3.6
General Law/ Legal Profession query	2.2	7.9	10.3
Workers Compensation	2.0	2.7	2.6
Land and Environment	1.6	1.7	1.8
Leases/ Mortgages/ Franchises	1.3	1.3	1.5
Industrial Law	0.8	1.0	0.8
Immigration	0.6	0.8	0.8
Victim's Compensation	0.4	1.2	0.7
Professional Negligence	0.3	0.3	0.4

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

P2 Nature of phone enquiry

	2018-2019	2017-2018	2016-2017
OLSC Process*	14.4	13.4	14.4
Communication	14.2	12.7	13.2
Overcharging	12.9	11.2	12.2
Negligence	12.8	13.1	12.1
General Cost Complaint/ query	10.0	11.0	9.6
Ethical matters	7.2	10.1	9.6
Misleading Conduct	6.7	6.7	5.2
Delay	4.7	4.1	5.5
Costs Disclosure	3.9	3.0	3.5
Instructions not followed	2.7	3.7	4.6
Conflict of Interests	2.7	2.4	2.4
Document Transfer/ Liens	2.1	2.2	2.2
Trust Fund matters	1.9	1.7	1.6
Referral requests	0.9	1.4	1.1
Document handling	0.8	1.0	0.7
Fraud (not trust fund)	0.8	0.9	0.9
Pressure to settle	0.7	0.8	0.6
Supervision	0.2	0.3	0.1
Compliance matters	0.2	0.2	0.1
Failure to Honour undertakings	0.1	0.2	0.1
Advertising	0.0	0.1	0.1

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

P3 Lawyers mentioned on inquiry line

	2018-2019	2017-2018	2016-2017
Solicitor	92.4	92.0	93.0
Other*	5.3	5.7	4.9
Barrister	1.8	1.6	1.8
Licensed Conveyancer	0.4	0.7	0.3

* Other: includes calls relating to Judge/ Magistrate, Legal Firm, Executor, Multiple type of Lawyer, Paralegal/ Clerk and Support staff.

P4 Source of calls to the OLSA inquiry line

	2018-2019	2017-2018	2016-2017
Client	66.8	64.8	66.5
Opposing client	8.1	7.4	7.8
Friend/ Relative	6.4	7.3	6.0
Other*	4.6	4.2	3.7
Beneficiary/ Executor/ Administrator	4.3	4.1	3.7
Solicitor on own behalf	2.5	3.6	3.5
Solicitor on another's behalf	2.3	1.4	1.6
Previous client	2.1	3.0	3.0
Unrepresented client	1.5	2.5	3.0
Non-legal service Provider	0.9	1.0	0.7
Government Agency	0.2	0.2	0.1
Barrister on own behalf	0.1	0.4	0.2
Barrister on another's behalf	0.1	0.1	0.1
Student/ Educator	0.1	0.1	0.2

* Other: includes calls relating to Witnesses, Judges/ Judicial officers, Quasi-judicial officers, Professional Councils, Cost Assessors & non-identified source of calls.

P5 Outcomes of calls to the inquiry line

	2018-2019	2017-2018	2016-2017
Caller indicated intention to send in complaint	23.9	27.0	26.9
Provided information about the OLSC*	16.7	20.9	23.9
Listened to caller's concerns	15.6	13.7	15.7
Recommended direct approach to lawyer about concerns	13.0	9.9	10.0
Provided information about the legal system	10.2	9.8	7.2
Provided referral for legal advice or other assistance	7.7	7.2	6.8
Provided complaint/ cost mediation form	6.7	4.7	4.2
Explained that concerns are outside jurisdiction of OLSC	2.9	4.0	3.0
Provided referral to the NSW Supreme Court Costs Assessment Scheme	1.6	1.4	0.8
Provided information about the OLSC and LPUL to a legal practitioner	1.2	1.0	1.0
Other	0.4	0.3	0.4
Scheduled interview for caller	0.1	0.1	0.1
Provide cost mediation form	0.0	0.0	-

* *Provided information about the OLSC: includes calls relating to Complaint enquiries, General enquiries, OLSC Website, Statistics & Publications.*

Written complaints

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

In 2018-2019 the OLSC **received** a total of 2,588 written complaints, a decrease of 57 from the previous year. Of the total written complaints received, 1,277 were assessed as consumer matters and 1,301 as disciplinary matters. On receipt 10 complaints could not be classified as a consumer matter or disciplinary matter. Of those complaints assessed as within jurisdiction, 78.2% of those written complaints received were retained and handled by the OLSC. The remaining 21.8% were referred to the professional associations for handling.

The OLSC registered the **completion** of 2,361 written complaints, a decrease of 240 from the previous year. Of the total written complaints completed, 247 complaints were resolved following informal resolution, 78 complaints were determined by OLSC/ Council and 1,942 complaints were closed. 94 complaints were closed on the basis OLSC had no power to deal with them and/or were sent directly to NSW Police or regulators outside NSW. Of those complaints assessed as within jurisdiction, 78% of written complaints were completed by the OLSC. The professional associations completed the remaining 22%.

W1 Legal matters giving rise to complaints received in 2018-2019

	Agency Handling Complaint				
	OLSC	Council	2018-2019*	2017-2018	2016-2017
Family/ Defacto	19.1	2.6	21.7	18.8	18.9
Other Civil	10.7	5.5	16.3	17.2	17.1
Conveyancing	8.3	1.4	9.6	8.1	8.8
Personal Injuries	8.2	1.1	9.2	9.9	12.1
Criminal	6.0	2.8	8.7	10.3	8.1
Commercial/ Corporations	5.7	2.8	8.5	7.7	8.8
Probate/ Family Provisions	6.0	1.5	7.5	8.2	8.8
Wills/ Power of Attorney	3.4	0.6	4.0	5.5	3.4
Industrial Law	2.5	0.8	3.2	3.0	2.8
Workers Compensation	2.0	0.2	2.2	1.9	2.2
Leases/ Mortgages/ Franchises	1.7	0.5	2.1	2.3	2.0
Immigration	0.7	0.9	1.7	2.0	1.5
Strata bodies/ Corporates	1.4	0.3	1.6	2.0	1.8
Land and Environment	0.9	0.4	1.3	1.0	1.3
Building Law	0.8	0.1	0.9	0.6	0.4
Professional Negligence	0.5	0.2	0.7	0.7	0.7
Victim's Compensation	0.4	0.1	0.5	0.4	0.4
Insolvency	0.2	0.2	0.3	0.4	0.5
TOTAL %	78.5	22.0			

* 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 2018-2019

	Agency Handling Complaint				
	OLSC	Council	2018-2019*	2017-2018	2016-2017
Negligence	15.5	2.3	17.8	17.7	18.2
Communication	13.4	2.4	15.8	14.3	15.0
Overcharging	13.1	0.4	13.5	13.9	14.1
Ethical matters	6.2	3.2	9.5	8.5	8.7
Misleading Conduct	5.5	3.6	9.0	9.1	7.7
General Cost Complaint/ Query	5.8	1.1	6.9	6.0	5.0
Cost Disclosure	4.4	0.4	4.7	4.6	5.3
Instructions not followed	4.1	0.7	4.7	4.9	5.0
Delay	4.3	0.3	4.6	4.7	4.0
Trust Fund	1.9	2.1	3.9	4.8	4.2
Conflict of Interest	1.8	1.1	3.0	2.7	2.8
Document Transfer/ Liens	1.6	0.2	1.8	2.4	3.2
Compliance matters	0.6	0.8	1.4	1.8	2.1
Pressure to settle	0.6	0.0	0.7	1.0	1.2
Fraud (not trust fund)	0.4	0.3	0.7	1.1	1.3
Capacity	0.5	0.1	0.6	0.7	0.6
Document handling	0.5	0.1	0.6	1.1	0.7
Undertakings	0.1	0.2	0.4	0.3	0.7
Supervision	0.2	0.1	0.3	0.4	0.3
Advertising	0.1	0.1	0.2	0.2	0.1
TOTAL %	80.6	19.5			

* 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 2018-2019

	Number of complaints				2018-2019	2017-2018	2016-2017
	Solicitor*	Barrister	Other**	TOTAL			
Client	1299	61	1	1361	52.6	51.6	43.8
Opposing client	521	30	2	553	21.4	18.2	17.9
Other ***	106	10	0	116	4.5	5.1	4.7
Solicitor on another's behalf	102	2	0	104	4.0	2.5	3.2
Client's Friend / Relative	91	4	0	95	3.7	3.1	2.9
Beneficiary/Executor/ Administrator	93	0	0	93	3.6	4.8	4.0
Solicitor on own behalf	59	5	0	64	2.5	2.5	3.2
Previous client	62	1	0	63	2.4	3.7	9.9
Law Society	36	0	0	36	1.4	1.8	3.6
Unrepresented client	35	0	1	36	1.4	1.3	0.6
Non-legal service Provider	30	1	1	32	1.2	1.7	1.2
Barrister on own behalf	11	2	0	13	0.5	0.9	1.2
Commissioner	8	0	0	8	0.3	0.3	0.6
Bar Association	1	6	0	7	0.3	0.2	0.4
Barrister on another's behalf	4	0	0	4	0.2	0.3	0.3
Cost Assessor	3	0	0	3	0.1	0.2	0.0
TOTAL	2461	122	5	2588			

* Includes former solicitors and law practices other than barristers.

** Includes complaints about non-legal service providers & lawyers that have been struck off.

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

W4 Age of complaints remaining open or suspended on 30 June 2019 and being handled by the OLSC

Year opened	Open at 30 June 2019	Open at 30 June 2018	Open at 30 June 2017
2018-2019	775		
2017-2018	129	675	
2016-2017	38	73	634
2015-2016	7	10	53
2014-2015	5	7	20
2013-2014	7	12	16
2012-2013	2	3	12
2011-2012	0	0	2
2010-2011	1	1	2
2009-2010	0	0	2
1994-2009	0	0	0
TOTAL	964	781	741

* 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 2018-2019

	Days*
Average time to complete complaints received and completed / resolved in 2018-2019	111.2
Average time to complete complaints received in any year but completed / resolved in 2018-2019	186.8
Average time taken to dismiss complaints received in 2018-2019	90.0
Average time to dismiss complaints received in any year but dismissed in 2018-2019	144.3

* Averages rounded to one decimal point.

W6 All Complaints finalised in 2018-2019

All OLSC Complaints Resolved

	Solicitor*	Barrister	Other**	TOTAL
Complaints resolved informal resolution	244	2	1	247
Subtotal resolved at the OLSC	244	2	1	247

ALL OLSC Complaints Closed

	Solicitor*	Barrister	Other**	TOTAL
Disciplinary action: Reprimand/ Fine	7	0	0	7
Determination: Caution & Apology	7	0	0	7
Consumer matter Determination	8	0	0	8
Compensation Order	1	0	0	1
NCAT disciplinary proceedings	7	0	0	7
Subtotal determined by OLSC	30	0	0	30
Withdrawal of a complaint at OLSC	99	0	0	99
Misconceived/ Lacking in substance	553	19	0	572
Time requirement not waived	69	5	0	74
Complainant No/ Inadequate response to request info	113	4	0	117
Duplicate complaint	21	1	0	22
Closed Civil proceedings on foot	34	1	0	35
Closed No further investigation except CM	171	2	0	173
Closed in Public Interest	30	0	3	33
Not Resolved after informal resolution	355	11	0	366
Appeal closed by OLSC	1	0	0	1
Subtotal closed by OLSC	1446	43	3	1492
Total OLSC Complaints Completed	1720	45	4	1769

All Non Jurisdictional Complaints

	Solicitor*	Barrister	Other**	TOTAL
Closed No power to investigate	79	3	0	82
Refer to NSW Police or other	12	0	0	12
Total Non-Jurisdictional Complaints	91	3	0	94

All Council Complaints Closed

	Solicitor*	Barrister	Other**	TOTAL
Disciplinary action: Reprimand/ Fine	12	6	0	18
Determination: Caution & Apology	6	4	1	11
NCAT disciplinary proceedings	17	2	0	19
Subtotal resolved at Council	35	12	1	48

	Solicitor*	Barrister	Other**	TOTAL
Withdrawal of a complaint at Council	63	4	1	68
Complaints dismissed by Council	2	0	0	2
Misconceived/ Lacking in substance	139	14	1	154
Time requirement not waived	18	1	0	19
Complainant No/ Inadequate response to request info	60	1	0	61
Duplicate complaint	9	1	0	10
Closed No further investigation except CM	111	21	2	134
Closed in Public Interest	2	0	0	2
Subtotal closed by Council	404	42	4	450
Total Council Complaints Completed	439	54	5	498
Total finalised by OLSC	1720	45	4	1769
Total Non Jurisdictional Complaints	91	3	0	94
Total finalised by Council	439	54	5	498
TOTAL	2250	102	9	2361

* Includes former solicitors and law practices other than barristers.

** Includes complaints about non-legal service providers & lawyers that have been struck off.

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

W7 Duration of file handling at the OLSC

Time taken for complaints received in all years and finalised in 2018-2019

Percentage of files closed within following periods*

	2018-2019	2017-2018	2016-2017
0-30 days	12.8	20.3	25.3
1-3 months	33.3	35.4	36.1
3-6 months	27.3	23.5	16.8
6-9 months	13.6	10.4	7.4
9-12 months	6.0	4.4	3.1
Over 12 months	7.1	6.1	11.4

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

R2 Reviews in progress and finalised in 2018-2019 - received all years

	Solicitor	Barrister	Others	TOTAL	Percentage
Reviews in progress					
Internal review application under LPUL	66	1	0	67	20.6
Total remaining open	66	1	0	67	20.6
Reviews completed					
Dismissal confirmed	1	0	0	1	0.3
Discretion declined for review under LPUL	232	22	0	254	78.2
Decision to make new decision under LPUL	1	0	0	1	0.3
Decision to refer back to maker under LPUL	2	0	0	2	0.6
Total Completed	236	22	0	258	79.4
Total Handled	302	23	0	325	100

NSW Civil and Administrative Tribunal

For matters filed and disposed of by NCAT in 2018-2019 refer to NCAT's annual report.

Chapter 8

FINANCIAL PERFORMANCE 2018-2019

The OLSC operates within the organisational framework of the NSW Department of Justice. The Office maintains a recurrent recoupment budget and receives operational funding from the Public Purpose Fund.

During the year the OLSC monitored closely to ensure its human resources establishment correctly aligned with the approved budget for employee-related expenditure. The positive employee related payments (ERP) variance indicates a particularly successful outcome given that the *Salaries & Wages* budget was additionally required to meet the unbudgeted expense of salary recoveries paid to the Office of the General Counsel (OGC) to reimburse the salary costs of OGC staff seconded to the OLSC. Despite the additional OGC salary costs, the full-year ERP budget variance remained successful due to the accumulated effect of lower than anticipated expenditure on all other employee related expense accounts.

The OLSC also closely scrutinised its Other Operating Expenditure (OOE) throughout the financial year. Operating Expenses budget accounts were carefully realigned during 2018-2019 budget preparations to ensure adequate provision for anticipated expenditure.

Outside of our control was the impact of increased rental costs resulting from the renegotiation of our CBD Office lease. The new lease was approved by the Department in 2017, though not implemented until November 2018. The unbudgeted rental costs, backdated to the beginning of the 2017-2018 financial year when the renegotiated lease commenced, were applied to our cost centre during the 2018-2019 financial year.

The full-year Net Cost of Services variance is a direct result of the negative impact of backdated rental adjustments.

Detail regarding significant elements of the OLSC's budget variances are provided in the financial statement and supporting notes.

Funding for CTP Insurance Fraud Investigations

In 2018-2019, the OLSC continued to use the special funding allocation provided by the Public Purpose Fund to pay the salary costs of staff involved in the investigation of lawyers arising from police inquiries into compulsory third party (CTP) insurance fraud. Salary costs for investigators during the financial year amounted to \$17,095.00. The expenditure and balance of the related funding is detailed in the accompanying financial statement and supporting notes.

Human Resources

The 2018-2019 financial year saw a change to the OLSC's approved establishment when creation of an additional Mediation and Investigation Officer was approved to meet increasing demands on the team handling consumer and disciplinary complaints.

The change brings the number of full time equivalent positions on the establishment to 30 permanent full time administrative and professional staff and one full time equivalent position for rostered casuals on the OLSC Inquiry Line.

During the year a number of full time, establishment roles were filled with candidates selected from talent pools created as a result of open merit recruitment processes conducted within the preceding 12 months.

The OLSC experienced staff movement among its permanent positions, including one staff member being granted a 12 month secondment to another organisation to take advantage of a career development opportunity, the transfer of one staff member from full-time to permanent part-time hours for family commitments, and the opportunity for various staff to act in higher duties in complaints handling and CTP investigative roles.

There were no resignations or retirements among the complement of full time staff during the year.

FINANCIAL STATEMENT 2018-2019

	Budget	Actual	Variance	Notes
	\$	\$	\$	
Public Purpose Fund Recoupments (Budget)	(4,446,340)	(3,992,920)	(453,420)	
Other Revenue	-	-	-	
TOTAL REVENUE	(4,446,340)	(3,992,920)	(453,420)	
Salaries & Wages	2,575,889	2,534,940	40,949	1
Leave Entitlements (<i>Recreation Leave, Annual Leave Loading & LSL</i>)	325,093	314,368	10,725	
Workers Compensation	32,534	22,877	9,657	
Payroll Tax	181,858	170,490	11,368	
Fringe Benefits Tax	4,000	2,946	1,054	
Superannuation	257,564	218,715	38,849	
Allowances	70,000	54,475	15,525	
EMPLOYEE RELATED PAYMENTS Excl Crown Liabilities	3,446,938	3,318,810	128,128	
Advertising & Publicity	11,000	-	11,000	
Contractors	30,000	-	30,000	2
Electricity & Gas	17,121	9,994	7,128	
Fees	122,910	133,745	(10,835)	3
Insurance	1,353	1,143	210	
Interpreters & Translations	6,832	5,942	890	
Postal Expenses	24,561	25,627	(1,066)	
Printing	24,356	19,491	4,865	
Publications	9,471	9,339	132	
Rates & Outgoings	56,310	43,579	12,731	
Rent	341,602	743,428	(401,826)	4
Staff Expenses	21,686	23,810	(2,124)	5
Stores & Stationery	21,209	12,625	8,584	
Telephone	35,300	14,627	20,673	6
Travel	20,000	8,999	11,001	
OTHER OPERATING EXPENSES	743,710	1,052,350	(308,640)	
Maintenance Contracts	38,714	30,600	8,114	
Repairs and Maintenance	110,318	101,066	9,251	

FINANCIAL STATEMENT 2018-2019 *continued*

	Budget	Spent	Variance	Notes
	\$	\$	\$	
MAINTENANCE	149,032	131,666	17,365	
TOTAL EXPENSES Excl Crown Liabilities & Depreciation	4,339,680	4,502,827	(163,147)	
Net Cost of Services Excl Crown Liabilities & Depreciation	(106,660)	509,906	(616,566)	
Add Non Cash Items:				
Crown Liabilities (<i>LSL Liability Assumed by Crown</i>)	77,033	21,788	55,245	7
Depreciation & Amortisation	376,806	12,378	364,428	8
Net Cost of Services Inc Crown Liabilities & Depreciation	347,180	544,073	(196,893)	

CTP Investigation Funding 2018-2019

	Allocation	Actual	Balance Remaining	Notes
	\$	\$	\$	
CTP Investigations	(311,398)	17,095	(294,303)	9
TOTAL CTP EXPENDITURE	(311,398)	17,095	(294,303)	

NOTES SUPPORTING THE 2018-2019 FINANCIAL STATEMENT

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 in the OLSC establishment.

In 2018-2019 the *Salaries & Wages* budget was also required to meet the unbudgeted salary costs of an investigator from the Office of the General Counsel (OGC) seconded to the OLSC to conduct a special investigation. Salary costs of the OGC investigator during 2018-2019 amounted to \$40,355.00 which were reimbursed by journal back to the OGC.

Other Operating Expenses

- 2. Contractors:** The Contractors budget allocation caters for contractor expenses associated with the implementation of major project works in software development and quality service improvements. The OLSC did not engage contractor services during the year and as a result, a sizeable budget saving ensued.
- 3. Fees:** The OLSC's Fees budget maintains funds for various types of expenditure including legal fees, professional memberships, archiving costs and secure destruction of documents. The majority of expenditure from the Fees budget relates to litigation costs incurred in bringing matters before the Administrative Decisions Tribunal and the Courts. In 2018-2019, the OLSC paid large legal bills in proceedings before the Administrative Decisions Tribunal and the Court of Appeal. The Fees budget variance includes a credit adjustment made to the OLSC's legal fees account to offset income. The adjustment represents recovery of Commissioner's legal costs totalling \$37,445.00.

- 4. Rent:** The OLSC incurs a monthly rental fee for leased floor space in the Sydney CBD. Our current lease was renegotiated by the Department in 2017, with the commencement date of 1 July 2017.

In 2018-2019, accumulated rent expenditure exceeded the budget forecast due to the delayed implementation of the renegotiated lease conditions, which were backdated to July 2017. The Rent budget overrun reflects the impact of the backdated excess rent figure as well as the effect of the subsequent increased monthly rent charges applying to the site. After negotiations with the Legal Services Commissioner, the Department of Justice agreed that rental over-expenditure unable to be met by the OLSC budget during the 2018-2019 financial year would be absorbed by the Department, thereby preventing any requirement for the OLSC to make a supplementary funding application to the Public Purpose Fund to meet the expense.

- 5. Staff Expenses:** The OLSC's *Staff Expenses* budget contains provision for costs associated with staff training and development, staff renewal of their solicitor's practising certificates and staff attendance at seminars and conferences. In 2018-2019, the OLSC adhered closely to budget predictions for staff expenses. The Staff Expenses budget variation is attributable to accruals applied at year end that will be reversed in the following month.
- 6. Telephone:** The OLSC's Telephone budget includes provision for monthly telephone rental expenses and metered call costs in addition to data service charges in connection with the fibre communications network. In 2019, the Department's Digital Technology Services (DTS) branch identified billing errors made by telecommunications service providers which resulted in a rebate back to the Department of Justice. The rebate was apportioned to cost centres proportional to billing. The OLSC cost centre received a total rebate of \$32,175.00. The Telephone budget's variance includes the credit adjustment resulting from the reimbursement.

Non Cash Items

- 7. 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.
- 8. 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 results from adjustments prepared by the Department to take into account the amortisation expense of OLSC's intangible assets. The Department is obliged to make these adjustments as part of Treasury requirements.

CTP Investigation Funding

- 9. CTP Investigation Funding:** The *CTP Investigation Funding* table summarises expenditure during 2018-2019 from a special allocation the OLSC requested from the Public Purpose Fund to meet salary expenses of staff required to conduct investigations about lawyers involved in compulsory third party insurance fraud. The 2018-2019 financial year saw a number of CTP related investigations in progress, with related salary costs paid from the appropriation. The CTP funding variance column indicates the remaining balance of funding after expenditure that will be carried over to the 2019-2020 financial year.s

CASE STUDIES

Complaint involving a costs dispute where the lawyer's legal costs significantly exceeded the estimate provided in the costs agreement

The complainant engaged the services of the lawyer to assist him in a criminal law matter.

At the commencement of the matter, the complainant received a Costs Agreement that estimated the total legal costs to proceed to hearing would be \$15,000.00. However, three months prior to the hearing date, the complainant received a bill in the sum of \$14,000.00. The lawyer then provided an updated costs estimate of a further \$15,000.00 in anticipated costs up to and including attendance at the hearing.

As the complainant was struggling financially and could not afford this increase in legal costs, he instructed the lawyer to cease acting for him and requested his file be released to him. However, the lawyer refused to release his file on the basis that he was claiming a lien to secure his outstanding legal fees.

Following informal resolution with assistance from the OLSC an agreement was reached between the complainant and lawyer. The complainant accepted the lawyer's proposal to waive any fees above the \$10,000.00 already paid by the complainant. The lawyer then transferred the complainant's file to his new legal representatives.

Complaint involving allegations of poor communication and failure to progress matter

The complainant instructed the lawyer to assist him in a personal injury matter.

The complainant alleged that the lawyer failed to communicate with him in a timely manner. He said that the lawyer repeatedly failed to return his phone calls, text messages and emails within a reasonable timeframe. He also alleged that the lawyer failed to progress his matter in that he did not file an Application for Assessment of Permanent Impairment with the Medical Assessment Service within a reasonable timeframe.

Following informal resolution with assistance from the OLSC an agreement was reached between the complainant and lawyer. The complainant accepted the lawyer's offer of a reduction of his legal fees to resolve the complaint.

Complaint involving a failure by the lawyer to provide updated costs disclosure

In this complaint, the complainant disputed the lawyer's fees for the preparation of a Testamentary Trust Will as well as preparation of an Enduring Power of Attorney and Enduring Guardianship. The complainant was provided an estimate that the costs of preparing the documentation would be \$1,500.00. There were delays, and the complainant was ultimately charged a total of \$4,975.85.

The OLSC alerted the lawyer to the fact that they did not appear to have provided an updated disclosure of costs to the complainant in accordance with their obligations under the *Legal Profession Uniform Law*. The lawyer agreed with this, and agreed to accept payment of \$1,500.00 to resolve the matter.

Complaint involving allegations of rudeness by the lawyer

In this matter, the complainant lodged a complaint about a lawyer who they alleged had been rude to them in the course of attempting to obtain instructions. In making the complaint, the complainant was seeking an apology from the lawyer about the manner in which it was alleged they were spoken to.

Upon receiving the complaint, the lawyer provided some background information on the matter and indicated that while they did not necessarily agree with the complainant's version of events, they would provide a written apology to the complainant. The apology was then provided to the complainant who accepted the apology. The matter was then considered resolved.

Complaint involving a costs dispute where the lawyer failed to adequately disclose costs

The complainant engaged the services of the lawyer to assist her in a dispute with an educational institution. The complainant says the lawyer wrote to the educational institution without waiting for the complainant to approve the draft letter, in circumstances in which the complainant had requested an opportunity to approve the letter before it was sent by the lawyer. The complainant then requested a refund of the lawyer's fees of \$834.00.

Despite initially indicating to the OLSC that she would refund the complainant, the lawyer wrote to the OLSC and to the complainant claiming that she was owed a further \$6,250.00, and less than a month later, wrote to demand an amount of \$13,506.00.

The OLSC determined that the lawyer had failed to provide the complainant with adequate costs disclosure, as she had not complied with sections 174(1)(a) and 174(2) of the *Legal Profession Uniform Law* ("LPUL"). The OLSC determined that the lawyer had no basis for charging the complainant any further costs beyond the amount of \$834.00, as she had not provided any evidence that she had done further work for the complainant beyond writing a letter to the educational institution.

Accordingly, the Commissioner determined that it would be fair and reasonable to make orders pursuant to sections 290(2)(a) and (2)(c) of the LPUL that the lawyer be issued with a caution due to her failure to comply with section 174 of the LPUL, and that the lawyer be ordered to waive the fees of \$13,506.00 that she claimed was owed by the complainant. The OLSC considered that it was clear that the lawyer had carried out work for the complainant and drafted a letter to the educational institution as instructed, albeit not to the satisfaction of the complainant. As such, the lawyer was not ordered to refund the complainant the amount of \$834.00.

Complaint involving a costs dispute as well as allegations of delay and poor communication

The complainant engaged the services of the lawyer in relation to an employment law matter. The complainant alleged that the legal fees exceeded the estimate provided in the Costs Agreement. The Cost Agreement estimated costs to be \$6,600.00 plus GST.

The complainant believed the fees were excessive. He sought to dispute a sum of \$9,207.20. At the time, there was an outstanding sum of \$6,392.85. He also made a number of quality of service allegations against the law practice – including poor communication and questioned the quality of advice provided.

Following informal resolution with assistance of the OLSC, the lawyer agreed to waive the outstanding amount of \$6,392.85. Whilst the complainant expressed his disappointment with the lawyer's response, he accepted that the matter had been resolved.

Complaint involving a costs dispute where the lawyer failed to disclose costs

The complainant engaged the services of the lawyer to assist her in a commercial leasing matter. The complainant disputed the lawyer's bill for \$3,595.00 on the basis that she believed those costs would be covered by the tenant.

The lawyer confirmed that the lease costs were to be paid by the tenant but submitted that this did not include costs connected with difficulties he experienced in dealing with the tenant in question who the lawyer indicated was unrepresented and unsophisticated in dealing with a lease. The lawyer also explained that the tenant should not be liable for legal fees payable in relation to either the production of the Certificate of Title by the Lessor's Mortgagee and associated costs, nor should the tenant be responsible for the costs associated with the drafting and execution of the Surrender of Lease with the previous tenant. The lawyer maintained that the complainant was advised that there would be legal costs payable for the attendances on her bank and her accountant, which were outside of the costs payable by the new tenant under the lease. However, the lawyer confirmed that no costs agreement was entered into between his office and the complainant. He instead provided file notes of phone conversations he had with the complainant during which he says he informed her of further costs.

In light of his failure to adequately disclose costs in accordance with section 174 of the *Legal Profession Uniform Law*, the lawyer agreed to accept the complainant's offer to pay him an amount of \$643.40

Complaint involving the charging of a cancellation fee

The complainant instructed the lawyer in a criminal law matter and an initial appointment was scheduled. However, the evening before the appointment, the complainant became aware that he would be unable to attend. The complainant notified the lawyer of this on the morning of the appointment.

Upon receipt of the bill, the complainant realised that the lawyer charged a cancellation fee in relation to this appointment. The complainant made a complaint to the OLSC to dispute this fee.

The OLSC was satisfied that the lawyer had failed to notify the complainant about any cancellation fees prior to arranging the appointment, and that the complainant had a reasonable excuse for not attending. In circumstances where the lawyer could have performed other work, the OLSC considered it fair and reasonable to make a costs determination to reduce the lawyer's costs in the matter.

Complaint involving a delay in the drafting of a Will

The lawyer delayed in drafting a Will for the complainant. When the complainant contacted the lawyer about the delay, she did not receive a reply. The complainant decided to retain another lawyer to draft the Will.

It appeared that the draft Will had been sent to the incorrect postal address. However, the matter was resolved by the lawyer providing the complainant with a written apology, and by waiving the costs for preparing the Will.

Complaint involving delay and poor communication

This complaint arose from a criminal law matter. The complainant was incarcerated and sought advice from the lawyer. The complainant alleged delay and poor communication.

The lawyer acknowledged and apologised for the delay and agreed to assist the complainant to further his matter. The complainant agreed to this offer and the matter was resolved.



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