



LEGAL PROFESSION COMPLAINTS COMMITTEE  
WESTERN AUSTRALIA

# **2017 ANNUAL REPORT**

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## 1. Report from the Chair

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This report reflects on the wide ranging functions of the Legal Profession Complaints Committee, and aspects of the work undertaken by the Committee during the year ended 30 June 2017. As the Law Complaints Officer, Philippa Rezos, says in her report, the Committee underwent significant changes, both planned and unplanned, in the reporting period.

One of those changes was the re-location of the Committee from premises at 55 St George's Terrace, which it had occupied by itself for many years, to new premises at 111 St George's Terrace, which it would share with the Legal Practice Board. It must be said that there was considerable trepidation amongst Committee staff (as I am sure there also was amongst Board staff) as to whether co-location of the two bodies, after so many years apart, could be achieved in a way that positively enhanced the manner in which the bodies engaged with each other. Despite the inevitable teething problems, I am delighted to be able to say that the move and the co-location has been a great success. I have been impressed with the level of collegiality and professionalism exhibited by all staff, both Committee and Board, in adjusting to and embracing the necessary changes resulting from the move.

That change was planned. The other significant change was not. That was the decision of the former Law Complaints Officer, Gael Roberts, in February 2017, to resign from her position, after discharging her duties with great distinction for the previous 6 years. Whilst I totally respected and understood the reasons for Gael's decision, that did not make the decision much more palatable. In addition to her 6 years as LCO, Gael had worked as a Senior Legal Officer at the Committee for a further 11 years. Her knowledge of the workings of the Committee was encyclopaedic. Gael was

also a very good decision maker and a fierce protector of the Committee's statutory independence and the privilege of its communications. Above all, Gael was an extremely hard worker, and was essentially the backbone of the Committee.

Gael gave 3 months notice of her resignation and worked at the Committee until May. After that, it was left to the Managers, Philippa Rezos, Nick Pope and Cassandra Paterson, to operate the Committee on a daily basis. They did a great job, particularly when the office relocation took place only a short time after Gael's departure. Philippa and Nick took turns at being Acting LCO, and, in September, after a competitive selection process, Philippa was appointed as the new LCO. Philippa has a very good grasp of the workings of the Committee, and I am sure that she will be a great success as LCO. It now only remains to appoint a new Manager of the Rapid Resolution Team, Philippa's old position.

While all those things were going on, the Committee continued to perform its predominant function, complaint handling. In that regard, 2016/2017 was a very busy year for the Committee. Throughout the year, the Committee staff continued to refine the triage processes of the Committee, which were first introduced in 2011. That refinement has led to more effective resolution by conciliation of a substantial proportion of the enquiries and complaints dealt with by the Committee.

Also as a result of the refinement of the Committee's triage processes, the only matters which the Committee's Investigation Team referred to a full meeting of the Committee for determination were those which the Rapid Resolution Team considered disclosed conduct by a practitioner which could be found by the State Administrative

Tribunal to constitute professional misconduct or unsatisfactory professional conduct. Complaints which were not capable of being conciliated (usually because the complainant would not accept that the complaint was without substance), but which, in the view of the RRT, did not disclose conduct which SAT would find constituted professional misconduct or unsatisfactory professional conduct, usually resulted in a delegated dismissal by the LCO. Since the inception of the delegated dismissal process, not one of the reviews of those decisions by SAT (and there has been a number of such reviews) has been successful. The success of the delegated decision process has enabled the Committee to direct its resources to dealing with and resolving the more serious and complex matters with which it is required to deal. That development is reflected in the high percentage of matters referred to the Committee for determination during the reporting period which resulted in a disciplinary outcome (85.3%). The disciplinary outcomes ranged from an expression of concern by the Committee to a practitioner about his or her conduct (12.2%), a determination by the Committee, in the exercise of its summary conclusion powers, that there was a reasonable likelihood that SAT would find the practitioner guilty of unsatisfactory professional conduct, and the imposition by the Committee of a sanction (2.4%), and a referral to SAT, for determination of whether the practitioner is guilty of professional misconduct or unsatisfactory professional conduct, and, if so, the imposition of a sanction (70.7%).

### **Trends**

One of the trends which emerged from the RRT process during the reporting period was a consistent failure by practitioners to properly account to their clients for the legal services they had performed. To deal

with this worrying trend, the Committee undertook a number of formal trust account investigations, with a legal officer from the RRT accompanying or assisting the Committee's Senior Trust Account Inspector. These investigations were initiated when there was reason for the Committee to suspect that a practitioner had received monies from a client on trust, but had not paid them into a trust account, or had paid them into a trust account, but had then dealt with them in a manner which was inappropriate for trust monies. The Committee found that many practitioners whose accounts it investigated did not understand the true character of trust money and how it must be dealt with, and relied on incorrect anecdotal information as to how to deal with money paid by a client on account of costs, in circumstances where the practitioner did not have a trust account

### **Proposal for improving the operations of the Committee**

As indicated in the Committee's last 5 Annual Reports, the implementation of a complaints management system would greatly enhance the Committee's operations. Work on reviewing the Committee's needs in this regard continued during the year, and preliminary investigation with the assistance of the Board was undertaken in sourcing a suitable system to meet those needs.

### **Thanks**

I have already made mention of the former Law Complaints Officer, Gael Roberts. I would like to personally thank Gael for her enormous contribution to the Committee throughout the period of 17 years she worked for it, and, in particular, for her outstanding service in her 6 years as LCO. I wish Gael well in her future endeavours.

My thanks also go to the Deputy Chair of the Committee, Kim Wilson SC, for his support and assistance throughout the year in overseeing the Committee's operations, and to all the other members of the Committee, for their hard work during the year. I would also like to acknowledge two members who left the Committee during the course of the year. The first of those was Mark Ritter SC, who resigned from the Committee earlier this year, after serving as a member of the Committee for many years, in two stints. The second was Clyde Hudson, whose term as one of the Committee's Community Representatives expired during the year, ending 6 years of continuous service as a Community Representative on the Committee.

I thank Mark and Clyde for their valuable contributions. Also during the year, The Committee welcomed Darren Jackson SC as a new member of the Committee, and Terry Buckingham and Karina Ballard as the new Community Representatives. I wish them all well during their time on the Committee.

The Committee's work could not be undertaken without its staff. I would like to acknowledge and express gratitude to each of the Committee's staff members for their service to the Committee during the year, and look forward to their continued support in the future.

***John Ley  
Chair  
December 2017***

## 2. Report from the Law Complaints Officer

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I present the annual report as Acting Law Complaints Officer for the final month of the reporting period.

The 2016-2017 year has seen a number of innovations and challenges for the Committee.

Ms Gael Roberts, the Law Complaints Officer from January 2011 to May 2017, resigned after leading the Committee through a transitory period of embracing Dispute Resolution models that enable the Committee to pursue effective triaging of complaints. Her enduring support for the Rapid Resolution Team has seen it evolve from an embryonic process to an effective and recognized model of dispute resolution replicated in many aspects by other legal profession regulatory authorities.

The Committee's staff miss Gael's wisdom, guidance, incalculable knowledge, and humour, and I wish her well in her new endeavours.

Towards the end of the financial year the Committee faced the challenge of moving to new premises with the Legal Practice Board. I am happy to say that the move exceeded expectations and whilst ensuring appropriate systems are in place and abiding the separate regulatory requirements of both the Legal Practice Board and the Legal Profession Complaints Committee, the bringing together of the two bodies under one roof both makes sense and greatly enhances the provision of regulatory services to the profession and the public.

The Committee's legal officers have continued to support increasing involvement and participation in the presentation of seminars held by the Law Society, Criminal

Lawyers Association, Family Law Practitioner's Association, Legal Aid, Australasian Legal Practice Managers Association, Legalwise, Western Australian Bar Association, South West and Great Southern Law Society and other firms and organisations.

I believe that the greater engagement with the profession educationally has seen a more positive response by the profession in dealing with the Committee.

The tables demonstrate an increasing contact from the profession with the Rapid Resolution Team which is encouraged not just for the purpose of raising a possible conduct issue but in the nature of seeking guidance.

### Further Innovations

The Committee is continuing to develop different tracks for differentiating the disposition of complaints in a responsive regulatory environment. This is predicated by the degree of insight and acknowledgment by a practitioner of the conduct issues being investigated. Where there is a significant degree of candour with accompanying mitigation it is enabling a "fast track" process to be developed for matters referred to the State Administrative Tribunal (**SAT**). The fast track may negate a response being filed by a practitioner to the Committee's application with the practitioner choosing to adopt the Committee's Statement of Facts which is incorporated in a Minute of Consent Orders (**the Minute**). The Minute is filed either with the Committee's application or shortly after its filing. SAT may either list the matter for mediation with the mediator making the necessary recommendation to the Tribunal and/or directions for orders to be made.

## Mental Health Protocol

As reported in the 2016 Annual Report, the Committee introduced a Mental Health Protocol to address any concern when investigating a matter where it emerges that the practitioner may have a mental health issue. In the current reporting year the investigation of conduct in regards to 3 practitioners was managed by the implementation of the protocols, with two practitioners not practising because of their circumstances and a third practitioner subject to a mental health reporting condition to the Legal Practice Board.

## Legal Aid Commission of Western Australia (LAWA)

Pursuant to the Memorandum of Understanding between LAWA and the Committee, the Committee continues to provide the disciplinary histories of practitioners to assist it with the operation of its various private practitioner panels. LAWA has in the reporting year following the introduction of its new audit team referred several matters for investigation by the Committee where LAWA has assessed that the practitioner has invoiced it for payment for work which cannot be substantiated such as prison visits, attendance on mention dates, length of a hearing, and disbursements.

## Complaints Management System (CMS)

The Committee continues to investigate options for a Complaint Management System and whilst initial models/platforms were considered they have been deferred pending the move. In the interim the Committee is investigating a hybrid solution to collect and utilise complaints data.

## Staffing

I express my indebtedness to Gael Roberts for the invaluable guidance, support and enthusiasm she provided to me, Nick Pope, the manager of the Investigations Team, and Cassandra Paterson, the manager of the Litigation Team.

Also, whilst sharing the same surname and apparently very distantly related, Ms. Linda and Ms. Viede Thiphthorp, as well as Ms. Anne Duncan, moved on to new ventures and I wish them well.

## Thanks

Mr Clyde Hudson, one of the Committee's community representatives, reached the end of his term and was no longer eligible for re-appointment. The Committee appreciated and valued his contribution to the Committee's work.

Mr. Mark Ritter SC resigned from the Committee in June 2017 having served on the Committee for 7 years. I extend my thanks on behalf of the Committee's legal officers for his considered contributions to the Committee's determinations

I acknowledge the hard work and effort of all of the Committee's staff in meeting its objectives and often in very trying circumstances, particularly when dealing with vulnerable and at times threatening complainants. Particular thanks are in order for the Committee's staff's assistance in taking on the extra responsibilities and workload resulting from being a senior legal officer down during part of the reporting period.

I again extend the Committee's gratitude to the barristers who undertake work for the Committee at reduced rates and often acting on quite challenging and complex matters. Further, I am grateful for the assistance afforded to practitioners by WABA, and the inaugural members' advisory panel of the Family Law Practitioner's Association.

I thank the Chair and Deputy Chair for the generous giving up of their time to provide support and assistance to the Committee's managers and also for the contributions of all the Committee members, as well as the

Executive Director (until his retirement in February 2017) and the Deputy Executive Director (and acting Executive Director from February until appointment as the Executive Director in September 2017) of the Legal Practice Board for the management and assistance with aspects of the Committee's administrative processes.

***Philippa Rezos***  
***Law Complaints Officer***  
***December 2017***





## 3. About the Legal Profession Complaints Committee

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### 3.1 Our role, purposes and objectives

The Legal Profession Complaints Committee has statutory responsibility under the *Legal Profession Act 2008 (Act)* for supervising the conduct of legal practitioners, enquiring into complaints and other conduct concerns which come to its attention and instituting professional disciplinary proceedings against practitioners in the State Administrative Tribunal (**SAT**).

The statutory purposes of the Committee's work are:

- to provide for the discipline of the legal profession in this jurisdiction, in the interests of the administration of justice and for the protection of consumers of the services of the legal profession and the public generally;
- to promote and enforce the professional standards, competence and honesty of the legal profession;
- to provide a means of redress for complaints about lawyers.

Our objectives are:

- to provide an efficient and expeditious system for dealing with complaints
- to proactively monitor the conduct of the legal profession
- to initiate disciplinary proceedings as appropriate
- to promote and enforce the professional standards, competence and honesty of the profession

- to maintain a productive and motivating work environment.

### 3.2 Our relationship with the Legal Practice Board

The Committee is one of the two regulatory authorities established under the Act, the other being the Legal Practice Board (**Board**).

Although the Committee is constituted as a committee of the Board, it does not derive its powers from the Board. Instead, its powers are conferred on it directly by the Act. This ensures that in the exercise of its statutory functions the Committee acts independently of the Board. Despite the independence of the Committee, it works closely with the Board to ensure the effective operation of the regulatory scheme governing legal practitioners.

The Committee's operations are now fully funded by the Board. Prior to the end of 30 June 2015 part of the Committee's accommodation costs were funded by the Government. The Board also employs all the staff of the Committee including the Law Complaints Officer.

The office of the Law Complaints Officer is established by the Act. The Law Complaints Officer assists the Committee in the exercise of its functions and the Committee may delegate many of its powers and duties to the Law Complaints Officer, which the Committee has done, including the power to dismiss certain complaints.

### 3.3 Our members

The Committee consists of a Chair and not less than six other legal practitioners appointed by the Board from amongst its membership and not less than two community representatives, none of whom is or has been an Australian lawyer, appointed by the Attorney General.

During the reporting year the Committee was constituted by:

Chair: Mr J R B Ley  
Deputy Chair: Mr K R Wilson SC

Legal members:  
Mr K M Pettit SC  
Mr M T Ritter SC (until 2 June 2017)  
Mr T Lampropoulos SC  
Mr B Dharmananda SC  
Mr D J Jackson SC (from 1 June 2017)

Ms S M Schlink  
Mr J G Syminton  
Mr S French

Community representatives:  
Mr C Hudson (until 23 January 2017)  
Mr G R Fischer  
Ms K Ballard AM (from 24 January 2017)

Deputy community representatives:  
Ms K Ballard AM (until 24 January 2017)  
Mr T Buckingham (from 24 January 2017)

### 3.4 Our operations

The Committee usually sits as two divisions in order to share the workload. One of the community representatives is present at every meeting.

During the year, the Committee held 11 meetings.

The Committee's day to day operations are conducted by the Law Complaints Officer and the staff of the Committee.

The Law Complaints Officer's office is divided into three operational areas: Rapid Resolution, Investigation and Litigation. Each of these operational areas is managed by a Senior Legal Officer who forms part of the Law Complaint Officer's management team. The Law Complaints Officer and her management team are ably supported by the Office Administrator, Ms Michelle Rodgers, and other administrative staff.

The Rapid Resolution team is managed by Ms Philippa Rezos and comprises 3.2 full time equivalent (*FTE*) legal officers, 0.8 *FTE* senior legal officer and one secretary.

The Investigation team is managed by Mr Nicholas Pope and comprises 2.4 *FTE* legal officers, 0.8 *FTE* senior legal officer, a senior trust account inspector and two secretaries.

The Litigation team is managed by Ms Cassandra Paterson and comprises 1 full time legal officer and one secretary.

### 3.5 Trust account inspections

Ms Anna Young, a Senior Trust Account Inspector, is part of the Investigation Team but also assists the Rapid Resolution Team and the Litigation Team.

During the year, Ms Young undertook 34 inspections of which 6 were causal inspections, 1 was an ILP Audit and 27 were routine inspections.

At times Ms Young is also requested to assist legal officers with reviewing

various accounting issues with respect to complaints and these generally are in regard to invoices, receipt of funds (trust and general) and accounting for trust monies received by the practice.

Ms Young has attended CPD training each year and has attempted to target aspects which are relevant to the legal profession and some of these specific areas dealt with included cyber crime, money laundering and anti-bribery. These topics are extremely relevant to the legal staff of the LPCC and Ms Young delivered an in-house training seminar to facilitate the CPD training of the Committee's legal officers.

A trend that has recently been noted is with a number of new legal practices choosing not to establish a trust bank account. This in itself is not a major issue; however the concern that has been highlighted when inspecting some of these practices was that they had actually received money which would be characterized as trust money or transit money which are required to be paid into trust. Whilst this may have been a one off occurrence for some, what was a concern is that the practitioners did not realise they were dealing with trust money and therefore possibly in breach of the relevant provisions of the *Legal Profession Act 2008* (LPA) and the *Legal Profession Regulations 2009* (the Regulations). In this regard in meeting one of the purposes of the Committee in its educative role, Ms Young discussed with such firms that if they believe they are going to be dealing with trust monies there is the need to open a trust account. Further, to ensure that their billing is compliant with the LPA and the Regulations.

Ms Young attended on two practices during the year to discuss various or specific trust accounting issues to facilitate a better understanding by the staff involved with dealing with the practices trust accounting records. Routine inspections which were selected have provided on the whole a noticeable improvement in the standard of trust accounting records and practices meeting their required legislative requirements when maintaining their trust bank accounts.

Inspections of new legal practices is an invaluable tool to establish a rapport with the legal practitioner and to assist in establishing the correct accounting records from the beginning without establishing bad habits, incorrect records or utilizing software packages when these are not required due to the size of the practice. It also assists these practitioners to fully understand all their legislative requirements as a legal practitioner in control of a law practice. This is a preventative, proactive and educative approach which should limit the defalcation of trust money in the future as the practitioner may be more inclined to contact the Board or the Committee to discuss issues and request assistance when they are floundering.

### **3.6 Our staff training and professional development**

The Committee places a high value on strengthening and developing the knowledge and skills of its staff.

During the year, there was a continued focus on continuing professional development with in-house seminars being held. Speakers from both outside and inside the office were invited to present on topics targeted to the work

of the professional staff. These in-house seminars included the following topics:

- Ethics and Social Media
- An Update on Costs
- Cyber Crime – Prevent Attack
- Proofing Witnesses
- Intersection of Law Mutual and LPCC Investigation
- Obligations to Provide Advice with particular emphasis on Personal Injury Matters

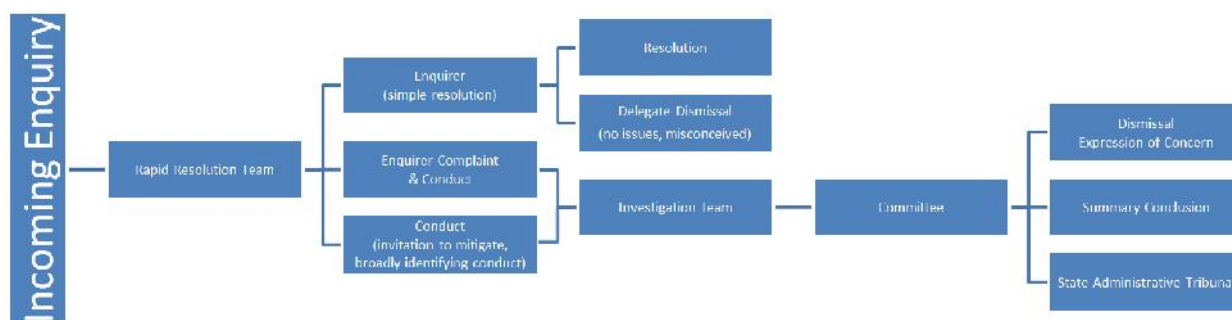
The Committee has been fortunate to secure highly respected and experienced presenters for these in-house seminars. Speakers have included a Justice of the Supreme Court, senior counsel and highly experienced practitioners in their areas of practice. The aim of these seminars is to ensure that the Committee's staff receive the training they need to undertake their work to the highest possible standard and to enhance their legal knowledge in a number of key areas.

With the addition of the new category of 'Practice Management' to the Continuing Professional Development scheme from 1 April 2015, two in-house workshops were held for professional staff which covered a range of topics relating to office procedures, protocols and processes.

Professional and administrative staff attended also external continuing professional development and training seminars on a broad range of topics.

A number of key staff also attended the annual Conference of Regulatory Officers in Canberra, where information and ideas were exchanged with the Committee's counterparts from interstate and New Zealand. Philippa Rezos together with Ms Fulham presented at a panel discussion on Mental Health Issues.

## 4. Complaints



### 4.1 Complaint handling process

All new contact with the Committee (whether referred to as a complaint or inquiry) goes to the Rapid Resolution team (**RRT**) to be assessed. In most cases, while this assessment process is being undertaken the matter is dealt with as an inquiry.

People with a concern about a practitioner are encouraged to contact the RRT by telephone. During the relevant period, 68.7% of all new contact with the Committee was via the telephone or in person.

Telephone contact enables the RRT's legal officers to discuss the caller's concerns in detail, which most members of the public find easier than having to put those concerns in writing. It also allows the legal officer to gain a real understanding of what the caller hopes to achieve by contacting the Committee. Sometimes it transpires that the caller's expectations about the Committee's role are not correct.

In quite a number of cases, the legal officer will require more information before any proper assessment of the concern can be undertaken. The advantage of the telephone call is

that the caller can be asked to provide relevant identifiable information rather than receiving irrelevant or incomplete information which may occur when a written complaint is received.

Even if an inquiry or complaint is received in writing, it is quite common for the legal officer to telephone the inquirer/complainant to discuss the matter.

Once the preliminary information is received from the inquirer/complainant, the legal officer conducts an assessment of the concerns raised. This assessment may be undertaken in a number of ways. For example, clarification may be sought over the telephone from the practitioner or the practitioner's file requested to allow a more thorough review. On other occasions the practitioner is asked in writing to provide some further information.

The aim of the assessment process is to enable the legal officer to reach a preliminary view of the inquiry/complaint as to whether it raises a conduct issue (that may amount to either unsatisfactory professional conduct or professional misconduct) or other concern which should be addressed.

During this assessment process, it is not only the particular concerns raised by the inquirer/complainant which are examined. Often during this process the legal officer will identify other issues which need to be addressed. For example, a complaint about delay may involve a review of a practitioner's accounts and may require comment about aspects of some of the charges with suggestions as to possible steps which could be implemented as a risk management consideration.

Once the legal officer has reached a preliminary view on an inquiry/complaint (a process that can happen on the spot, the same day, within a few days or require a few weeks depending on the extent of the information needed), this view is conveyed to the inquirer/complainant orally and, quite often, in writing. If no conduct issue or other concern has been identified, the inquirer/ complainant is so advised. If, despite that view, they wish the matter to be dealt with as a formal complaint that is done.

If a concern but not a conduct issue is identified, the legal officer discusses with the inquirer/complainant whether they would like to have the matter 'conciliated'. This term is used very broadly to describe a number of outcomes which may be achieved, from seeking a waiver of fees, to the manager of the RRT expressing concern about the practitioner's conduct. This process is only undertaken if the inquirer/complainant agrees to the matter being dealt with as an inquiry rather than as a complaint (although a complainant is advised that if the

conciliation process is unsuccessful they may reinstate their complaint).

If the inquirer/complainant is agreeable to conciliation being attempted, the legal officer then undertakes this process with the practitioner (if he or she is agreeable). The practitioner is advised at the outset of the legal officer's preliminary view of the matter and the process which is to be followed. If conciliation is successful, the inquiry into the concern is closed on that basis. If the conciliation process is not successful and the inquirer/complainant wishes to have a complaint determined that is done. Frequently, in highly conflicted matters face to face meetings may occur with the practitioner (sometimes accompanied by counsel) and/or the inquirer/ complainant.

If a conduct issue is identified which the legal officer considers may be mitigated in some way, the legal officer will speak to the practitioner immediately to discuss his or her preliminary view, possible mitigation and why taking mitigating action may benefit the practitioner. The practitioner is not asked for any formal response to the matter at this stage. The RRT officer recommends to the practitioner that prior to providing any response on taking up the invitation to mitigate that the practitioner consult with senior counsel or use the WA Bar Association referral scheme, which assists practitioners to obtain advice from counsel. Either when the practitioner decides not to take any mitigating action or after any mitigating action has been taken, the complaint is then referred to the

Investigation team which undertakes a formal investigation of the matter.

The practitioner's decision to participate in conciliation or to take mitigating action is one for the practitioner to make. Further, if there is a likelihood of a potential claim in negligence the RRT officer suggests that the practitioner should consider notifying his or her professional indemnity insurer.

The above process is very time and labour intensive. The RRT legal officers spend a great deal of time on the telephone ensuring that both inquirers/complainants and practitioners understand the process, the views being expressed and the basis for those views. Often the legal officers also have to review a large volume of material in order to reach a preliminary view.

The Investigation team conducts the formal investigations of complaints which are initially assessed as raising possible conduct issues. The Investigation team also investigates all conduct investigations initiated by the Committee on its own motion. Those conduct investigations are commenced as a result of information coming to the attention of the Law Complaints Officer or a member of the Committee.

The investigation process involves seeking written submissions from a practitioner addressing identified issues as well as seeking other material evidence concerning the events the subject of the investigation. This further evidence may be sought from the complainant, the practitioner, the Courts or other third parties and sometimes requires the use of the Committee's compulsory powers. Those powers include summoning documents or requesting provision of written information. Once an investigation is complete it is referred to the Committee for formal determination.

At its meetings, the Committee reviews the results of the investigation and the legal advice of the legal officers. After consideration of those materials the Committee may:

- dismiss a complaint
- with the consent of the practitioner, exercise its summary conclusion powers
- refer the matter to the State Administrative Tribunal.

Sometimes, the Committee may direct that further enquiries be made or defer investigation pending the outcome of litigation concerning the practitioner's conduct.

*Examples of the Rapid Resolution Team's work limited to the issues considered only by that team.*

### **Case Study 1**

#### ***Common interest privilege***

The Rapid Resolution Team (RRT) of the Committee was contacted by a medical practitioner who had been suspended from practice on the basis of an alleged impairment and he had sought alternate legal representation to the firm retained by his insurer. He and his new lawyer sought copies of certain correspondence and notes apparently relevant to the ongoing conduct of his defence. The RRT contacted the firm to enquire if it was prepared for the Committee to facilitate discussion on this issue. The law firm who acted for him and his insurer in proceedings in the State Administrative Tribunal (SAT) in relation to his suspension refused to release to him correspondence passing between the firm and his insurer in relation to the matter on the basis that the firm asserted that as the firm was retained by the insurer and not the medical practitioner meant that the legal profession privilege of the insurer in correspondence between it and the firm is not shared with the practitioner.

In the course of its discussion with firm ,the RRT suggested it might consider its preliminary view that the insurer and the insured ( the medial practitioner) may have a common interest in the subject matter of the communication. If so this may prevent the firm from maintaining that the communication is subject to legal professional privilege of the insurer given that the firm was in a solicitor/client relationship with both the medical practitioner and the insurer. The firm indicated that it accepted that the medical practitioner and his insurer had a shared or similar interest in defending and/or responding to the SAT proceedings giving rise to a common interest privilege.

The firm on obtaining instructions from its client, the insurer agreed to provide documents comprising communications to which the medical practitioner was privy and which then arguably gives rise to a common interest privilege.

### **Case Study 2**

#### ***Releasing funds without authority***

A wife in a family law (financial settlement) matter contacted the Committee with concerns that her practitioner had released \$38,541 (**the funds**) held in trust to her husband's solicitor without her permission. The wife said that whilst the parties had reached an agreement whereby she would pay the husband the funds, the husband was resisting signing a minute of consent orders prepared by her practitioner and had not signed the minute at the time the practitioner released the funds.



On being contacted, the practitioner acknowledged that the transfer had occurred without his client's instructions. The practitioner indicated that he had transferred the funds because the opposing party's solicitor requested he do so in the belief that he thought it would assist settlement negotiations where a readiness hearing was listed to occur at the Family Court the day following the transfer of the funds. The practitioner justified the transfer without obtaining his client's direction pursuant to section 216 of the *Legal Profession Act 2008* on the basis it was "a management decision" and was a "psychological thing that would assist the parties' settlement negotiations".

Further, the practitioner on being contacted by the RRT said he would not be attending the readiness hearing because the parties had reached an agreement in respect of orders to be made in alteration of their property interests.

In partial mitigation of the possible conduct requiring further investigation the practitioner agreed to the following:

1. To write to the opposing party's solicitor requesting the immediate return of the funds and/or not to deal with the funds pending orders being made by the Family Court enabling the payment of the funds to the husband;
2. To obtain his client's instructions to confirm that whilst pursuant to Legal Profession Conduct Rule 15(3) he is acting in a position of conflict whether in the circumstances and given both the immediacy of the court date and that the matter was largely concluded she would instruct him to attend the readiness hearing (for which he would not be charging);
3. To notify the Legal Practice Board trust account inspector pursuant to s.227(1) of the irregularity in causing the funds to be transferred without authority; and
4. To agree to the RRT contacting the husband's solicitor who agreed not to disburse the funds pending confirmation from the wife that the funds could be disbursed on the receipt of the sealed final orders.

The practitioner's conduct has been referred to the Committee's Investigations Team for further investigation.

### **Case Study 3**

#### **Direct marketing**

The Insurance Commission of Western Australia referred to the Committee an inquiry by an elderly person who was involved in a motor vehicle accident about a breach of privacy. The inquirer had received an unsolicited call from a practitioner offering to act for him in a claim for personal injuries and he has concerns as to how the practitioner had obtained his personal details.

The RRT identified that the inquirer had signed a hire car agreement which enabled that company to provide his data to unrelated third parties who provide unspecified goods and services for the purpose of direct marketing including to a legal practitioner. The inquirer

had not however retained a copy of the hire agreement and could not recall whether he had read it, nor was he aware at the time of signing the document to what other terms he agreed.

In its review of the hire agreement, the RRT identified deficiencies including that it failed to include an “opt out” clause if a person did not want their personal information released or refer to the proper legislation for making a claim for damages in Western Australia.

The practitioner agreed to discuss the deficiencies identified with the hire car company and request that amendments to its agreement be made to ensure its compliance with the *Do Not Call Register Act 2006* (Cth) and the *Privacy Act 1988* (Cth).

## 4.2 Key statistics

Full statistical information on complaints is set out in chapter 8.

In this section, key statistics are highlighted.

**References to “complaints” in this section do not include the inquiries dealt with by Rapid Resolution but do include conduct investigations initiated by the Committee of its own initiative unless stated otherwise.**

### *Number of Rapid Resolution inquiries finalised*

The Rapid Resolution team dealt with 1421 inquiries of which 21% were conciliated. The conciliated matters included the discount, waiver or refund of fees to clients in excess of \$470,000.

### *The complainants*

A quarter of all complaints (25.7%) were from clients/former clients of the practitioner complained about or friends or relatives of those clients. 22.7% of complaints were made

against the practitioner acting for the opposing party in proceedings.

In respect of Rapid Resolution inquiries, 57.3% were made by or on behalf of clients or former clients of the practitioner being enquired about or by friends or relatives of those clients. A fifth of all inquiries (21.8%) were made by an opposing party.

### *The areas of law*

The areas of law attracting the most complaints were family/de facto law (21.7%) followed by civil litigation (15.9%) and probate and wills (15.9%).

In respect of Rapid Resolution inquiries, 30.7% were in the area of family/de facto law, 15.4% in civil litigation and 11.2% in probate and wills.

### *The types of complaint*

Many complaints raised more than one matter of complaint. This year, costs issues (19.7%) and unethical conduct (19.0%) attracted the most complaints.

However, for Rapid Resolution inquiries, costs issues were the highest category with over a quarter of all inquiries raising a costs related issue (28.2%) with the next highest categories being unethical conduct (12.0%) and no communication (10.3%).

### *The practitioners*

The greatest number of complaints related to Sole Principals (45.5%), followed by Non Principals (15.2%) and Other Principals (12.1%).

### *The number of practitioners complained about*

Some 56 practitioners were the subject of one or more complaints (including conduct investigations) during the year. Of this total, 50 practitioners were the subject of one

complaint, 4 practitioners were the subject of two complaints and 2 practitioners were the subject of three or more complaints.

The Board has reported that there were 6549 certificated or deemed certificated practitioners practising in Western Australia as at the end of the year. However, this figure does not include those interstate based practitioners practising in this State who are not required to take out a practising certificate in Western Australia by reason of holding a home jurisdiction practice certificate.

The number of practitioners complained about represented 0.9% of certificated or deemed certificated Western Australian practitioners, which was in line with 1.0% of practitioners in the 2015-16 reporting year.

### *Number of complaints received and dealt with*

<i>Matters under investigation</i>	<i>Total</i>	<i>Complaints</i>	<i>Conduct Investigations</i>
Open as at 1 July 2016	123	91	32
Opened during year	67	55	12
Closed during year	(63)	(48)	(15)
<b>Outstanding as at 30 June 2017</b>	<b>127</b>	<b>98</b>	<b>29</b>

## 5. Formal determination of complaints

### 5.1 Overview and key statistics

Once the investigation of a complaint has been finalised it is referred for formal determination. Formal determinations are undertaken by the Committee and also the Law Complaints Officer exercising the delegated powers of the Committee.

When a matter goes before the Committee, the Committee may finally determine the matter in one of three ways:

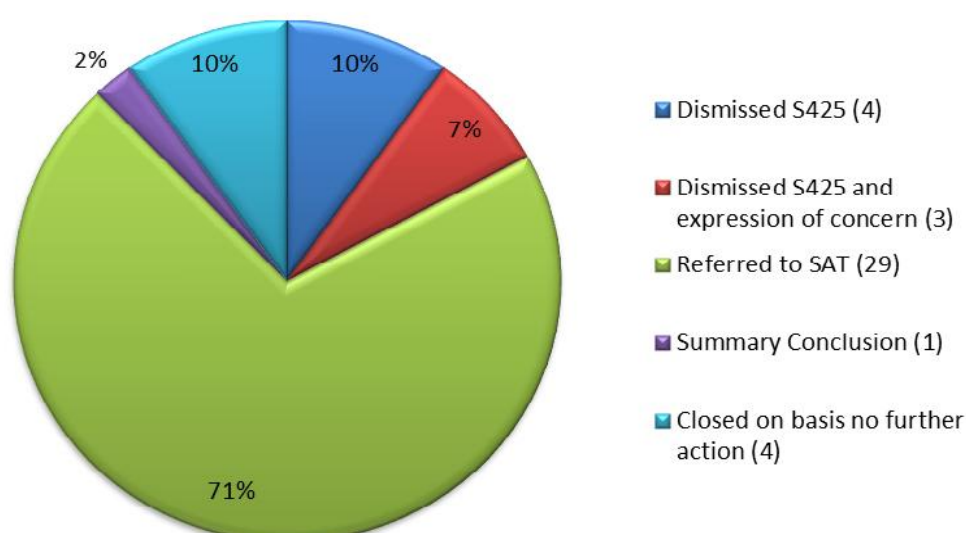
- dismiss the complaint (or in the case of a conduct investigation, decide not to take further action)
- exercise its summary conclusion powers (with the consent of the practitioner)

- refer the matter to SAT.

During the year the Committee determined 41 matters of which 4 were closed on the basis of not being in the public interest, 4 were dismissed and 3 dismissed with an expression of concern to the practitioner, 70.7% were referred to SAT, and 2.4% were dealt with in the exercise of its summary conclusion powers.

In addition to the matters dealt with by the Committee, a further 9 complaints were dismissed by the Law Complaints Officer exercising the delegated power of the Committee.

#### *Committee determinations*



## 5.2 Matters dismissed or not taken further

The Committee may dismiss a matter without completing an investigation in certain situations. This power of summary dismissal is used, for example, when complaints are made outside the 6 year time limitation, when they have previously been dismissed after investigation or, if the complaint is misconceived or lacking in substance. Most complaints which are summarily dismissed are dismissed by the Law Complaints Officer exercising the delegated power of the Committee. All complaints dismissed by the Committee were dismissed following a full investigation.

In 45.5% of the matters dismissed or not taken further, the Committee expressed concern to the practitioner about an aspect of the practitioner's conduct. Such expressions of concern are generally used by the Committee when the conduct of the practitioner is not such that it would amount to unsatisfactory professional conduct or professional misconduct but is still of some concern to the Committee. The Committee does so with a view to raising professional standards and preventing such conduct by the practitioner in the future.

Examples of where the Committee expressed concern included lack of oversight of administrative staff in preparing and submitting applications for legal aid and invoices to Legal Aid WA resulting in unauthorised fee payments, the use of inappropriate language in communications with

clients and where a practitioner continued to act in a matter when ill health and medication may have affected his professional judgment.

## 5.3 Summary conclusion determinations

If, after an investigation is completed, the Committee is satisfied that there is a reasonable likelihood that a practitioner would be found guilty by SAT of unsatisfactory professional conduct in respect of a matter the Committee may deal with the matter using its summary conclusion powers.

The use of these summary conclusion powers means that a matter that would otherwise be referred to SAT can be dealt with by the Committee and lower penalties apply. The range of penalties available to the Committee range from a public reprimand (or, if there are special circumstances, a private reprimand) up to a fine of \$2,500. The Committee can also make compensation orders.

However, before it can exercise its summary conclusion powers the Committee must also be satisfied that the practitioner is generally competent and diligent and that the taking of action is justified. The practitioner concerned must also consent to the Committee exercising its summary conclusion powers.

The Committee exercised its summary conclusion powers in respect of 1 practitioner during the year.

### Summary of matters determined in the exercise of summary conclusion powers

<i>Grounds of unsatisfactory professional conduct</i>	<i>Finding</i>
<p>Failing to advise a client of the risks of an action prior to the mediation scheduled to take place by not adequately advising the client of:</p> <ol style="list-style-type: none"> <li>a. the issues that might arise in the action based on the defence filed by the opposing party; and</li> <li>b. the advantages and disadvantages of the courses open to the client at mediation</li> </ol>	<p>Fine of \$1,500</p>

#### 5.4 Referrals to the State Administrative Tribunal

During the year, the Committee resolved to refer matters arising from 29 complaints or conduct investigations to SAT involving 20 practitioners. As at 30 June 2017, 18 of these matters had been filed in SAT.

The referral is by way of an Application filed in SAT. The

Application sets out the Grounds of the professional misconduct or unsatisfactory professional conduct together with the supporting facts and contentions.

Where matters are unable to be resolved at mediation and proceed to a defended hearing, counsel from the independent bar is briefed to represent the Committee.

## 6. State Administrative Tribunal and Court Proceedings

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### 6.1 SAT Applications

The Committee filed 17 Applications in SAT during the period under review (which included 21 individual matters).

During the year there were 18 Applications determined by SAT (which included 30 individual matters).

Of the matters determined, 14 were determined (including penalty) as a result of consent orders, one was determined as a result of the finding being made by consent but with penalty and costs being referred to SAT for hearing, two matters were determined after a hearing and one application was dismissed but, following appeal, was remitted to the SAT for hearing and determination.

At the conclusion of the period there were 13 Applications relating to 14 individual matters which had not been determined.

The majority of consent orders were made following SAT ordered mediation where the Committee and the practitioner reached agreement on the orders to be sought, with SAT declining to make penalty orders proposed by the parties on one occasion, with the matter proceeding to a penalty and costs hearing.

All minutes of proposed consent orders are referred to SAT. SAT is required to consider and determine if the proposed orders are appropriate before making orders in those terms.

Seven matters relating to 5 practitioners were referred to SAT during the year but have not yet been filed.

Four matters relating to 2 practitioners referred to SAT in the previous year have not yet been filed in SAT for various reasons, including the personal circumstances of practitioners and public interest considerations.

### Summary of SAT matters determined 1.7.16 – 30.6.17

Application No. & Date determined	Practitioner	Penalty
104/2015 29/08/2016 (Mediated Outcome)	Lawson, Richard James	Practising certificate suspended for a period of 6 months Reprimand Costs: \$5,000
<p>1. Professional misconduct in that he:</p> <ol style="list-style-type: none"> <li>a. did not provide any of the required costs disclosure;</li> <li>b. did not deposit into a general trust account two cash payments of (at least) \$1,000 and \$10,000 which were trust money;</li> <li>c. failed to account to the client for the two cash payments in (b) which were trust money, where he briefed counsel to represent the client at trial for which counsel charged fees of \$4,000 he at no time informed the client of the amount of those counsel fees, failed to make out a receipt for the cash monies as soon as practicable after receiving them, failed to give the client a bill for the legal services he provided, failed to provide to the client a trust account statement as soon as practicable after the completion of the matter, failed to repay to the client until a significant time later the cash monies received less the \$4,000 paid to counsel, or alternatively, the remainder of the cash monies after both paying counsel for her fees and allowing for the practitioner's reasonable fees and disbursements for any work done by the practitioner;</li> <li>d. sent an email to the client's brother in response to his request by letter for a refund of \$15,000, being the difference between the sum of cash which the client said he paid to the practitioner (\$25,000), less counsel's fees and a reasonable sum for the practitioner's fees, in which email the practitioner stated that the practitioner had received and had accepted professional legal advice that the client's brother had in his letter committed the offence of extortion pursuant to s.338A of the <i>Criminal Code WA</i>, when the statement was false and misleading as the practitioner had not received professional advice to that effect, and the practitioner was recklessly indifferent when making the statement as to whether it was false and misleading and, further, that the practitioner's email to the client's brother was written in a manner that was intimidating and threatening;</li> <li>e. by acting as set out in paragraphs (a) to (c) he did not treat the client fairly and in good faith in circumstances where the client was a vulnerable person and facing serious criminal charges.</li> </ol>		



<i>Application No. &amp; Date determined</i>	<i>Practitioner</i>	<i>Penalty</i>
105/2015 22/06/2017 (Mediated Outcome as to findings and hearing as to penalty and costs)	Park, John Frederick	Reprimand Fine: \$7,500 (UPC) & \$15,000 (PM) Costs: \$20,000
<ol style="list-style-type: none"> <li>Professional misconduct by swearing an affidavit for the purposes of Supreme Court costs proceedings in which he deposed to certain statements, which he later adopted as his evidence in chief in the costs proceedings, where the statements were misleading and had the potential to mislead the Court and further, where he was grossly careless as to whether the statements were, and thereby the affidavit was, misleading and had the potential to mislead the Court.</li> <li>Unsatisfactory professional conduct by providing legal services to the client that included work not reasonably required to be carried out in the manner in which it was, or at all, and work for which he was not entitled to charge as he did, or at all, such that he increased or caused to be increased by a figure between 15 and 20 percent the proper costs of the client's criminal proceedings.</li> </ol>		
147/2015 7/10/2016 (Mediated Outcome)	Horwood, Louise	Condition that any practising certificate to be granted to the practitioner is for practise only as a supervised employed solicitor (for four years) Reprimand
<ol style="list-style-type: none"> <li>Unsatisfactory professional conduct by not providing to the clients the required costs disclosure when acting in an application for Letters of Administration in respect of their daughter's estate.</li> <li>Professional misconduct by not progressing the application in a timely and competent manner and by discourtesy to the clients.</li> <li>Professional misconduct by sending a letter to the client that was false and misleading in that it conveyed the impression that the practitioner had filed the application at the court and then withdrawn it, when the true position was that the practitioner had not filed the application, and she did so with reckless disregard as to whether the letter was false and misleading and whether the clients would be misled by the letter.</li> </ol>		
149/2015 20/10/2016 (Mediated Outcome)	Ride, James David Lindsay	Reprimand Fine: \$10,000 Costs: \$5,000
<ol style="list-style-type: none"> <li>Professional misconduct relating to the administration of an estate by failing to respond to the Committee's requests for copies of documents and information first made by telephone and then by correspondence on 8 occasions over a 12 month period in circumstances where he owed a duty to the Committee to respond to its reasonable requests for documents and information.</li> <li>Professional misconduct by making the provision of an itemised account for services provided</li> </ol>		

<i>Application No. &amp; Date determined</i>	<i>Practitioner</i>	<i>Penalty</i>
		by him in respect of the estate requested by a fellow executor of the estate conditional on the withdrawal of a complaint about him made by the beneficiaries of the estate to the Committee.
		3. Professional misconduct by, without reasonable excuse, failing to properly or adequately respond to a summons issued by the Committee for the provision of documents and written information to the Committee.
173/2015 19/12/2016	Rayney, Lloyd Patrick <sup>1</sup>	Dismissed
		1. The practitioner's application dated 26 April 2006 that the Committee's proceedings in VR 173 of 2015 be dismissed, is granted on the ground that those proceedings are an abuse of process.
		2. The Committee's application in VR 173 of 2015 is dismissed pursuant to s47 of the <i>State Administrative Tribunal Act 2004 (WA)</i> on the ground that it is an abuse of process.
		3. The Committee's application dated 26 April 2016 for the Tribunal members who heard <i>Rayney and the Legal Practice Board of Western Australia</i> [2016] WASAT 7 to recuse themselves is dismissed on the basis that it is now irrelevant.
193/2015 2/05/2017	Neil, Peter Christison <sup>2</sup>	Conditions on practising certificate – able to practise only as an employed solicitor under supervision for a 12 month period Fine: \$5,000 Costs: \$10, 218.90
		1. Professional misconduct in that he did not provide any or any adequate legal advice to his client in relation to a dispute regarding a property development in which he had been retained to, and had agreed to, provide legal advice.
		2. Professional misconduct where he rendered a lump sum invoice for legal fees to the client in the sum of \$1,495 and further rendered an itemised invoice in substitution of the lump sum invoice in the sum of \$2,006.40, which were not fair or reasonable as he did not carry out or perform the legal work for which he was retained at all and was not therefore entitled to charge the client at all.

<sup>1</sup> The Tribunal's decision in [2016] WASAT 142 was set aside on appeal CACV 3 of 2017 on 26 April 2017 (see *Legal Profession Complaints Committee v Rayney* [2017] WASCA 78) and in substitution orders were made, relevantly, that the practitioner's application dated 26 April 2016 is dismissed and the referral of VR 173 of 2015 is remitted to the State Administrative Tribunal (differently constituted) for hearing and determination or otherwise in accordance with the *State Administrative Tribunal Act 2004 (WA)*

<sup>2</sup> Decisions subject to appeal in CACV 42 of 2017 (findings) and CACV 65 of 2017 (penalty)

<i>Application No. &amp; Date determined</i>	<i>Practitioner</i>	<i>Penalty</i>
23/2016 25/05/2017 (Mediated Outcome)	Aldrich, Alison Janice <sup>3</sup>	Report to the Full Bench of the Supreme Court with recommendation to remove name from the roll of practitioners Practising certificate suspended Costs: \$36,000
		<ol style="list-style-type: none"> <li>1. Unsatisfactory professional conduct by witnessing an affidavit when the practitioner was not an authorised witness because she had participated in the proceedings.</li> <li>2. Professional misconduct by swearing an affidavit in appeal proceedings which was false and misleading in a material respect and had the potential to mislead the Court of Appeal in circumstances where the practitioner acted with reckless disregard or indifference as to whether or not her affidavit was false or misleading, or both, in a material respect and had the potential to mislead the Court of Appeal and to whether the Court of Appeal would be misled by the practitioner's affidavit.</li> <li>3. Unsatisfactory professional conduct in failing to ensure the execution of a Deed of Family Arrangement by her client as beneficiary was witnessed, or alternatively was recorded as witnessed, in circumstances where the practitioner witnessed the client's execution of the Deed as Executor, causing the Deed to be potentially unenforceable.</li> <li>4. Unsatisfactory professional conduct in that the practitioner incompetently drafted a will for her client which purported to dispose of real estate assets incapable of forming part of the client's estate and which was so uncertain in its terms as to cause the will to be at a significant risk of being incapable of carrying into effect those instructions as to the proper disposition of her estate.</li> <li>5. Unsatisfactory professional conduct by drafting a codicil to a will which contained provisions purporting to dispose of real property which were so uncertain in their terms as to be at a very significant risk of being ineffective to carry out the client's instructions as to the disposition of the real property, which was the main asset of her estate.</li> <li>6. Professional misconduct by purporting to take instructions from, preparing and witnessing a will where the practitioner knew that there was a significant risk that the client, a person recently hospitalised after suffering a stroke and unable to communicate, may lack the requisite legal capacity to provide instructions for, or execute, the will and failing to ensure the client had capacity to provide any, or any proper or adequate, instructions for making a will and/or to make a will and preparing the will to incorporate the (incompetent) provisions from the codicil referred to in (4) above.</li> <li>7. Unsatisfactory professional conduct in an application for Probate in respect of the will (referred to in (5) above), and in an estate dispute by not providing costs disclosure.</li> <li>8. Unsatisfactory professional conduct by attempting to charge for the use of the conference room at her offices for a two hour mediation conference, which room charge was unfair and unreasonable as the practitioner did not incur any expense for the use of the conference</li> </ol>

<sup>3</sup> The penalty outcome was on the basis of the mediated outcome in three matters – VR 23 of 2016, VR 13 of 2017 and VR 38 of 2017

<b>Application No. &amp; Date determined</b>	<b>Practitioner</b>	<b>Penalty</b>
		room.
9.		Professional misconduct by acting where there was a conflict or potential conflict of interest and charging the client fees in an estate dispute which arose largely from the practitioner's incompetent drafting of the will (referred to in (5) and (6) above).
31/2016 5/05/2017	Bower, Ronald William <sup>4</sup>	Report to the Full Bench of the Supreme Court with recommendation to remove name from the roll of practitioners Practising certificate suspended Costs: \$46,325.10
1.		Professional misconduct by causing an affidavit to be prepared, sworn and filed in District Court proceedings where he knew the affidavit to be false and misleading in material respects and intended that the Court be misled by the affidavit.
2.		Professional misconduct (2 counts) in that he deliberately permitted an email sent to a client about the status and progress of the proceedings to remain uncorrected where he knew the email to be false and misleading in material respects and intended that the client be misled about the true status and progress of the proceedings.
3.		Professional misconduct by failing to take reasonable steps, as the principal of the law firm retained by the client, in respect of the proceedings to ensure that the proceedings were progressed without undue delay.
4.		Professional misconduct by failing to take reasonable steps, as the principal of the law firm retained by the client, in respect of the proceedings to ensure that the client was given timely, accurate and complete information about the significant developments and progress in the proceedings and informed of various matters.
5.		Professional misconduct by issuing an invoice to the client which included fees charged for work undertaken in applying to the Court pursuant to r 45 of the <i>District Court Rules 2005</i> (WA) to, in effect, order that the proceedings were no longer inactive in circumstances where the proceedings had become inactive because of undue delay by the law firm retained by the client, of which he was the principal.
6.		Professional misconduct by causing to be filed in District Court proceedings two affidavits which were false and misleading in material respects where he knew the affidavits to be false or misleading in material respects and he intended that the Court be misled by the affidavits.
7.		Professional misconduct in swearing an affidavit and causing it to be filed in District Court proceedings where he knew the affidavit to be false and misleading in material respects and intended that the Court be misled by the affidavit.
48/2016 21/11/2016 (Mediated Outcome)	Quinlivan, Lynette Patricia	Undertaking not to engage in legal practice Undertaking to pay outstanding costs orders Costs: \$3,000
1.		Professional misconduct

<sup>4</sup> Decision subject of appeal by practitioner in CACV 52 of 2017 (findings) and CACV 53 of 2017 (penalty)

Application No. & Date determined	Practitioner	Penalty
a.	by, without reasonable excuse and in breach of r 50(3) of the <i>Legal Profession Conduct Rules 2010</i> (WA), failing to comply with requests made by the Legal Practice Board to provide information and with a notice issued to her by the Board pursuant to s 75(1)(b) of the Act;	
b.	in the course of Supreme Court proceedings by: <ol style="list-style-type: none"> <li data-bbox="347 512 1474 633">i. failing to make an application for an order declaring that she had ceased to act for certain parties in circumstances where she had been advised twice by the Supreme Court that she needed to do so;</li> <li data-bbox="347 647 1474 813">ii. failing to attend four status conferences in circumstances where, in respect of two of those status conferences, the Supreme Court had made her aware that she remained on the record as solicitor for the parties and that she was required to attend;</li> <li data-bbox="347 826 1474 992">iii. by communicating with a Registrar of the Supreme Court on two occasions in a discourteous way and, on another occasion in a discourteous and intimidating manner in an attempt to dissuade the Registrar from making a personal costs order against her;</li> <li data-bbox="347 1005 1474 1126">iv. writing to the Principal Registrar of the Supreme Court seeking to have personal costs orders made against her dismissed administratively, without copying that letter to the other parties to the proceedings at the same time or at all;</li> <li data-bbox="347 1140 890 1171">v. failing to comply with the costs orders;</li> </ol>	
c.	making serious allegations of professional impropriety against two legal practitioners without first consulting with a mentor regarding those allegations and thereby breaching an agreement she made with the Committee to consult with a mentor prior to making allegations of professional impropriety against any person;	
d.	by without proper regard to the law: <ol style="list-style-type: none"> <li data-bbox="347 1408 1474 1619">i. while on her way to a client meeting, failing to provide a sample of breath for breath analysis testing contrary to s 67(2)(a) of the <i>Road Traffic Act 1974</i> (WA) (RTA), obstructing a police officer contrary to s 273(4) of the <i>Road Traffic Code 2000</i> (WA), and driving contrary to conditions of an extraordinary driver's licence contrary to s 77(1) of the RTA;</li> <li data-bbox="347 1632 1474 1843">ii. while on her way to appear on her own behalf in a directions hearing in the Magistrates Court, failing to provide a sample of breath for breath analysis testing contrary to s 67(2)(a) of the RTA, failing to provide a sample of breath for preliminary test contrary to s 67A(1) of the RTA and driving a motor vehicle while not authorised to drive contrary to s 49(1)(a) of the RTA;</li> </ol>	
e.	by, on the same day as (d)(ii) above, giving a false and misleading explanation to a Magistrate as to why she had been unable to appear in Court that morning;	
f.	by approaching a Magistrate in a street and making adverse comments on the Magistrate's understanding of a case heard by the Magistrate in which the practitioner	

<i>Application No. &amp; Date determined</i>	<i>Practitioner</i>	<i>Penalty</i>
		<p>was a party, in circumstances where the practitioner's conduct had the potential to be prejudicial to, and/or diminish the public confidence in, the administration of justice;</p> <ul style="list-style-type: none"> <li>g. by charging clients agreed professional fees of \$1,650 inclusive of GST in respect of the preparation of wills, enduring powers of attorney (EPAs) and enduring powers of guardianship (EPGs) that were excessive in all the circumstances;</li> <li>h. by making a report to the police concerning an incident outside her former work premises, in relation to which she exaggerated the circumstances of her interaction with another person;</li> <li>i. by attending her former work premises on two occasions accompanied by others without making prior arrangement with the owner's solicitors to do so;</li> <li>j. by making a serious allegation against another practitioner in an application to SAT without providing evidence in support of that serious allegation and repeating that serious allegation in an email copied to both the practitioner's employee and the Legal Practice Board, again without providing evidence in support;</li> <li>k. in the course of representing a client in respect of a sentencing hearing in criminal proceedings in the District Court by: <ul style="list-style-type: none"> <li>i. failing to properly prepare for the sentencing hearing;</li> <li>ii. failing to represent the client to the requisite standard at the sentencing hearing;</li> <li>iii. lacking professional courtesy by failing to attend at the adjourned sentencing hearing and without notifying the client that she would not be attending, and failing to arrange alternate legal representation of the client at the adjourned sentencing hearing;</li> </ul> </li> <li>l. in the course of acting for a client in respect of the client's application for a violence restraining order (VRO) against the client's former partner by failing to adequately prepare for the defended hearing of the VRO, and at a Magistrates Court hearing in Fremantle by: <ul style="list-style-type: none"> <li>i. presenting at the Court without the papers for the hearing, in a dishevelled state;</li> <li>ii. making inappropriate statements to the client's mother (and to the client);</li> <li>iii. seeking an adjournment of the hearing contrary to the client's instructions in order to attend a callover in Court in Perth (of her pending road traffic charges referred to in (d)) and, in the course of doing so, making false statements to the Magistrate as to the anticipated length of the hearing of the VRO and the number of witnesses;</li> <li>iv. leaving the Court before the VRO hearing was called on for hearing to attend the callover and not returning to represent the client at the VRO hearing;</li> </ul> </li> <li>m. by on another date: <ul style="list-style-type: none"> <li>i. attempting to interfere in the administration of justice at a callover, by seeking to influence which Magistrate would be appointed to hear the road traffic charges referred to in (d);</li> </ul> </li> </ul>

<i>Application No. &amp; Date determined</i>	<i>Practitioner</i>	<i>Penalty</i>
		<p>ii. following that callover, by making a statement to a news reporter that she would object to any Magistrate hearing her road traffic charges that she did not like or get on well with, in circumstances where the practitioner's conduct had the potential to be prejudicial and/or diminish the public confidence in, the administration of justice.</p> <p>2. Unsatisfactory professional conduct in respect of the preparation of wills, EPAs and EPGs by:</p> <p>a. failing to include in her original invoice and an amended invoice issued to the clients a written statement in respect to the clients' rights complying with s 291(1) of the Act;</p> <p>b. including in her further amended invoice to the clients statements contradictory to the statement of clients' rights required under s 291(1) of the Act;</p> <p>c. preparing wills for the clients which were incompetently drafted, and preparing EPAs and EPGs for the clients which were standard form documents which were not properly completed.</p>
62/2016 15/08/2016 (Mediated Outcome)	Stokes, Bryan Francis	Reprimand Fine: \$1,500 Costs: \$3,000
		<p>1. Unsatisfactory professional conduct in that he failed to adequately outline the basis on which legal costs would be calculated when requested to do so by his client's mother, on behalf of the client, as required by section 263(6)(b) of the Act.</p> <p>2. Unsatisfactory professional conduct by rendering two bills to the client without notifying the client of his rights in relation to those bills, as required by section 291(1) of the Act.</p> <p>3. Unsatisfactory professional conduct by commencing legal proceedings to recover costs before the expiration of a period of at least 30 days after the date the bill was given to the client, in contravention of section 289(1) of the Act.</p>
63/2016 10/08/2016 (Mediated Outcome)	Campbell, Karen Denise	Reprimand Fine: \$12,000 Costs: \$4,000
		<p>1. Unsatisfactory professional conduct in being grossly careless in failing to take any or any proper steps to check or verify the position in family law proceedings with respect to a property, including any orders in the proceedings concerning its disposition by the client, where she had available to her at all material times the client file including the orders made in the proceedings concerning the property.</p> <p>2. Unsatisfactory professional conduct in being grossly careless in failing to take any or any proper steps to check or verify the position in the proceedings with respect to the property, including any orders concerning the retention of the Certificate of Title for the property, where the firm she was employed by held the Certificate of Title in compliance with a Court order that it retain it, where she had available to her at that time the client file including the Court orders made in the proceedings concerning the Certificate of Title.</p> <p>3. Professional misconduct in that at a hearing in the Family Court on 31 July 2012, the practitioner</p>

<i>Application No. &amp; Date determined</i>	<i>Practitioner</i>	<i>Penalty</i>
		was grossly careless in conveying a false impression that at all times the firm held the Certificate of Title in compliance with the Court order that it retain it, which impression was false as a result of which the practitioner caused the Court to be misled as to the true position concerning the Certificate of Title and the firm's breach of that order and further, the practitioner was grossly careless in failing during or after the hearing to correct the false impression formed by the Court as a result of the practitioner's conduct in conveying the false impression and causing the Court to be misled.
64/2016	Butler,	Reprimand
17/11/2016 (Mediated Outcome)	John Wesley	Fine: \$12,000 Costs: \$4,000
1.	Professional misconduct, in that he:	
a.	failed to take any or any proper steps to check or verify the position in family law proceedings with respect to a property, including any orders in the proceedings concerning its disposition by the client, where he had available to him at all material times the client file including the orders made in the proceedings concerning the property;	
b.	failed for about 3 months to advise the client that the practitioner should inform his ex-wife's solicitors that he had entered into a contract for sale of the property the subject of the order in (a) and to take instructions from the client to so inform the ex-wife's solicitors where the practitioner knew that the client had entered into contracts of sale over the property and for the purchase of a new property;	
c.	further, in circumstances where orders required his firm to retain the Certificate of Title to the property and without taking any or any proper steps to check or verify the position with respect to the property in the proceedings, including any orders in the proceedings, the practitioner advised the client there was no issue with the sale of the property and to purchase the new property in his sole name, discussed with the client his obtaining a replacement for the Certificate of Title, and later returned to the client the Certificate of Title which the firm was required to retain by Court order;	
d.	further, provided legal services to the client for a period of about 5 months when he ought reasonably to have known that there may be a conflict of interest and increased the proper costs of the proceedings.	
137/2016 21/02/2017 (Mediated Outcome)	Newton, Allan William	Practising certificate suspended for two years Conditions placed on any practising certificate to be granted to the practitioner Undertakings not to accept appointments and executorships Reprimand Costs: \$20,917
1.	Professional misconduct in that, in circumstances in which his mother Mrs Newton was a pensioner and placed trust and confidence in him, including by reason of his position as a legal	



<i>Application No. &amp; Date determined</i>	<i>Practitioner</i>	<i>Penalty</i>
		<p>practitioner:</p> <ol style="list-style-type: none"> <li>a. in 2001, he advised her to sign, and prepared and arranged for her to sign, an Authority by which she requested and authorised him to deposit the sum of \$91,493 into his legal practice trust account and to pay \$69,630 (of the sum of \$91,493) to the practitioner in his personal capacity, which he then paid to himself by way of loan;</li> <li>b. further, on or about 3 occasions in 2001 and 2002 Mrs Newton made, and the practitioner accepted and retained, 3 cash gifts of \$10,000 each (being a total of \$30,000);</li> <li>c. further, in 2001, he advised Mrs Newton to execute a Deed by which she admitted that she owed him the sum of \$23,571.50 and by which he agreed to pay her the sum of \$46,291.50 (being the balance of the loan of \$69,630 referred to in (a) over that sum of \$23,571.50) on the terms therein, and prepared the Deed, and arranged for her to execute it;</li> <li>d. further, between on or about 2004 and December 2010 the practitioner paid to himself from Mrs Newton's bank account the amount of \$5,600 by way of loan and otherwise requested Mrs Newton to make, and received from Mrs Newton and accepted and retained, 7 further amounts by way of loan totalling \$33,000 (being a total of \$38,600 in loans);</li> </ol> <p>and in so doing the practitioner failed to give undivided fidelity to Mrs Newton's interests unaffected by his own interests by reason of his being in a position of conflict between his own interests and her interests;</p> <ol style="list-style-type: none"> <li>e. further, in 2011, he requested Mrs Newton to pay, and received from her and accepted and retained, 2 further amounts by way of loan totalling \$1,512.66, and in so doing the practitioner failed to act in the best interests of Mrs Newton and failed to protect and preserve the interests of Mrs Newton unaffected by his own interests by reason of his being in a position of conflict between his own interests and Mrs Newton's interests;</li> <li>f. further, from in or about March 2012 until on or about December 2012 as the attorney under an enduring power of attorney (EPA) made by Mrs Newton failed to act in her best interests, to protect and preserve her interests unaffected by his own interests and to exercise his powers as attorney under the EPA with reasonable diligence to protect the interests of Mrs Newton in respect to his failure to repay further loans and monies due and payable under the Deed, to account for the cash gifts and interest and as attorney under the EPA, failed to do those things; and</li> <li>g. further, he failed to account to Mrs Newton for any interest on any of the further loans, or for Mrs Newton's loss of the use of those monies.</li> </ol>
172/2016 15/12/2016 (Mediated Outcome)	Klimek, Richard Mathew	Reprimand Costs: \$3,000
1.	Professional misconduct in Family Court proceedings for an alteration of property by:	
a.	in circumstances where the Court granted leave and then later extended the time	

<i>Application No. &amp; Date determined</i>	<i>Practitioner</i>	<i>Penalty</i>
		<p>period, failing for a further 3 weeks to seek to file an amended Form 1A Response on behalf of the client despite being instructed by the client to do so;</p> <p>b. lodging with the Court for filing the amended Form 1A Response, the drafting of which was incompetent;</p> <p>c. filing with the Court a Form 2 Application and an affidavit sworn by the client the drafting of which was incompetent;</p> <p>d. failing until outside the time for compliance with a springing order of the Court, to file and serve an amended Form 1A Response in accordance with the client's instructions and in compliance with an order made by the Court, failing which the client's claim, if any, would be dismissed, so that the client's claim stood dismissed; and</p> <p>e. failing to respond in a timely manner to a letter sent on behalf of the Chief Judge of the Court addressed to each of the solicitors on record for the parties in the proceedings in which it was requested the parties confer and jointly advise the Chief Judge of the certain matters, where the client had shortly after the practitioner's receipt of the letter instructed him to respond and he agreed to, the client contacted the Committee and on 6 occasions by telephone and email the client followed him up to send the response, and on 4 occasions the Committee contacted him regarding his responding to the Chief Judge's letter.</p>
3/2017 4/05/2017 (Mediated Outcome)	Reyburn, John Henry	Undertaking not to engage in legal practice and to not apply to practice law Reprimand Fine: \$12,000 Costs: \$3,500
1.	Professional misconduct by:	
a.	taking instructions and preparing a will for a client where he had doubts as to the client's capacity to make a will and advised the client that she should see her doctor but failed to seek instructions to obtain a formal capacity assessment or, at least, to seek information regarding the client's capacity to make a will, from the client's treating medical practitioners and further failed to advise the client as to the consequences of a lack of capacity to make the will;	
b.	further, preparing an enduring power of attorney for the client (EPA) where the practitioner had doubts as to the client's capacity to make a will and advised the client that she should see her doctor, but failed to consider how to assess the client's capacity to make an EPA, which would have immediate consequences for the client upon its execution;	
c.	further, where the practitioner ought to have known at the date of execution of the will (the terms of which were varied from the client's previous will to the benefit of the client's son) and the EPA as a result of failing prior to that date to review emails sent to him 6 days prior containing information that:	
i.	the client's son had been seeking an authority from the client's bank for the client	

<i>Application No. &amp; Date determined</i>	<i>Practitioner</i>	<i>Penalty</i>
		<p>to sign to authorise him to withdraw the last of the client's investment monies from the client's bank account, prior to which time the client's son frequently had been taking the client to the bank to withdraw considerable monies from the client's bank account;</p> <p>ii. the bank manager had contacted the client's general practitioner about her concerns about the client's mental capacity, and the general practitioner had recommended that the practitioner contact him to discuss the client's mental capacity;</p> <p>the practitioner did not contact the bank manager, the general practitioner or follow up his own request to the client that she see her doctor and arranged the execution by the client of the will and EPA;</p> <p>d. further, failing to give any, or any adequate, advice to the client as to the terms and effect of and the consequences of her signing the EPA, as well as the options available for restricting the exercise of powers in the EPA;</p> <p>e. further, failing to inform the client of the conflict of interest, or potential conflict of interest in his being able to charge legal fees for acting as the client's attorney under the EPA and of options for approval of such fees by a suitable person and failing to obtain her informed consent to so charge.</p>
13/2017 25/05/2017 (Mediated Outcome)	Aldrich, Alison Janice <sup>5</sup>	Report to the Full Bench of the Supreme Court with recommendation to remove name from the roll of practitioners Practising certificate suspended Costs: See 23/2016
		<p>1. Professional misconduct (2 counts), in that her conduct breached s 215 of the Act by:</p> <p>a. charging and obtaining payment in respect of an invoice, where the amount charged and received included amounts charged for work that had not yet been performed and included money received on account of legal costs in advance of providing the services, and which was therefore, to that extent, "trust money"; and</p> <p>b. causing the amount, or that part of it which was trust money, to be deposited into her Firm's general office account, which was not a general trust account.</p> <p>2. Professional misconduct in that her conduct breached ss 215 and 224 of the Act by:</p> <p>a. requesting the client pay to the Firm, a sum that was expressly to be paid on account of legal services in advance of the Firm providing the services, which would, when paid, be "trust money" for the purposes of the Act;</p> <p>b. directing and/or causing the client to deposit the sum into the general office account of the Firm, which is not a general trust account;</p> <p>c. not causing the sum deposited in the Firm's general office account to be transferred</p>

<sup>5</sup> The penalty outcome was on the basis of the three mediated matters – VR 23 of 2016, VR 13 of 017 and VR 38 of 2017

<i>Application No. &amp; Date determined</i>	<i>Practitioner</i>	<i>Penalty</i>
		<p>into a general trust account of the Firm; and</p> <p>d. permitting the mixing of trust money being the sum deposited with other money in the Firm's general account at the time of the client's deposit.</p> <p>3. Professional misconduct by failing to report irregularities in the Firm's trust account to the Legal Practice Board namely the contraventions referred to in (1) and (2) above, as soon as practicable after the practitioner became aware of those irregularities, in breach of s 227(1) of the Act.</p> <p>4. Professional misconduct by purporting to charge the client a fee and paying to the Firm that sum from the sum deposited by the client in respect of the purported charges in circumstances where the practitioner had no authority from the client to do so, had not given the client a bill or provided costs disclosure to her, the purported charges were for an amount in excess of the value of the work recorded and undertaken by the Firm at the time, and included charging fees at a professional rate for administrative or clerical tasks.</p> <p>5. Professional misconduct by misleading, or attempting to mislead, the Committee by:</p> <p>a. on or about 13 February 2014 stating to the Committee's Legal Officer that the practitioner had already issued an invoice in respect of the client's matter when the true position was that as at 13 February 2014 no invoice had been prepared or issued in respect of the client's matter and where the practitioner knew that no invoice had been prepared or issued;</p> <p>b. in response to a request by the Legal Officer for the practitioner to provide the Committee with a copy of the invoice issued, on 20 February 2014 emailing to the Committee an invoice bearing the date "31/12/2013" (Invoice), thereby representing to the Committee that the Invoice had been prepared and/or issued on or about 31 December 2013, alternatively prior to 13 February 2014, in circumstances where the practitioner knew no invoice had been issued at any time prior to 13 February 2014 and she created the Invoice following the telephone discussion with the Legal Officer on 13 February 2014 where the Legal Officer raised concerns that she may have been in breach of Regulation 65;</p> <p>c. on 13 July 2015 emailing to the Committee her file in respect of the client containing a File Memorandum dated 13 February 2014 stating that the Invoice was generated on 31 December 2013 in the circumstances referred to in (a) and (b) above;</p> <p>d. making representations to the Committee in submissions on or about 28 October 2015 and on or about 8 June 2016 that the Invoice was prepared on or about 31 December 2013 when it was created by her at some time between 13 February 2014 and 20 February 2014 following the telephone discussion with the Legal Officer on 13 February 2014;</p> <p>e. impliedly representing to the Committee that an unexecuted costs agreement had been prepared at some time prior to 31 December 2013, and stating in submissions to the Committee that to the best of the practitioner's recollection, a copy of the Unexecuted Costs Agreement was handed to the client, which representations were</p>

<i>Application No. &amp; Date determined</i>	<i>Practitioner</i>	<i>Penalty</i>
		<p>false as the true position was that a hard copy of the Unexecuted Costs Agreement had been created by the practitioner between about 13 February 2014 and about 19 March 2014 and after the client had terminated the practitioner's instructions and the practitioner knew that she had not handed the Unexecuted Costs Agreement to the client.</p>
		<p>6. Professional misconduct by misleading the Board and the Committee by preparing and forwarding a letter to the Board purporting to report to the Board an irregularity in the Firm's trust accounts or trust ledger accounts pursuant to s 227 of the Act which conveyed the impression that the client had deposited the sum in 2(a) into the Firm's general account by reason of an error by the client and did not give a full and frank explanation to the Board as to the circumstances surrounding that deposit, where she was recklessly indifferent as to whether her letter was misleading and did not give a full and frank explanation as to the irregularity purported to be reported.</p>
37/2017 24/05/2017 (Mediated Outcome)	McEwan, Ian Stuart	Undertaking not to engage in legal practice and to not apply for a certificate to practise law Reprimand Costs: \$3,000
		<p>1. Professional misconduct in the course of acting for his 99 year old client by taking instructions, preparing and arranging the execution of a will for the client:</p> <ol style="list-style-type: none"> <li>a. in circumstances where the practitioner considered it prudent to satisfy himself as to the client's testamentary capacity due to her very advanced age, by failing to seek information as to her medical status and to advise her as to the consequences of a lack of capacity to make the will (including that the will could be challenged), and instead relying on his own assessment that the client had testamentary capacity and had issued her instructions to him with testamentary capacity; and</li> <li>b. without making any enquiries of the client as to the existence and contents of any previous wills, particularly in the circumstances where the client's instructions did not provide for certain members of her family for whom she would usually be expected to provide in her will.</li> </ol> <p>2. Professional misconduct in the course of preparing for and giving evidence in proceedings in the Supreme Court relating to the will executed by the client on 10 August 2010 by:</p> <ol style="list-style-type: none"> <li>a. swearing the 2011 affidavit, which was tendered in evidence during the hearing of proceedings about the validity of the will and which was false and misleading and had the potential to mislead the Supreme Court as to the circumstances in which the practitioner received instructions, where the practitioner was grossly careless in failing to ensure that the 2011 affidavit was not false and misleading and had the potential to mislead the Supreme Court;</li> <li>b. signing the 2012 witness statement which was tendered in evidence during the hearing of the validity proceedings and which was false and misleading and had the potential to mislead the Supreme Court as to the circumstances in which the practitioner received</li> </ol>

Application No. & Date determined	Practitioner	Penalty
		<p>instructions, where the practitioner was grossly careless in failing to ensure that the 2012 witness statement was not false and misleading and had the potential to mislead the Supreme Court;</p> <p>c. giving oral evidence on oath in the Supreme Court in the validity proceedings which was false and misleading and had the potential to mislead the Supreme Court where the practitioner was grossly careless in failing to ensure that his evidence was not false and misleading in a material respect and had the potential to mislead the Supreme Court.</p>
38/2017 25/05/2017 (Mediated Outcome)	Aldrich, Alison Janice <sup>6</sup>	Report to the Full Bench of the Supreme Court with recommendation to remove name from the roll of practitioners Practising certificate suspended Costs: See 23/2016
		<ol style="list-style-type: none"> <li>1. Unsatisfactory professional conduct by preparing a will for her client appointing her firm the executor and trustee of the will in circumstances where the firm was not a licensed trustee company as defined in the <i>Corporations Act 2001</i> (Cth) and therefore could not be validly appointed as an executor of a will.</li> <li>2. Unsatisfactory professional conduct by failing to provide costs disclosure to Ms A in accordance with sections 260 and 262 of the Act.</li> <li>3. Professional misconduct by charging the estate and/or Ms A professional fees which were excessive.</li> <li>4. Unsatisfactory professional conduct by failing to retain the duplicate Certificate of Title for a property, which had been entrusted to her for safekeeping.</li> <li>5. Professional misconduct by: <ol style="list-style-type: none"> <li>a. when the joint donees under an enduring power of attorney (EPA) sought advice from the practitioner about the purposes for which they could exercise their powers under the EPA, in particular concerning the sale of the Donor's house and the distribution of the proceeds of sale including to the benefit of the Donor's children, failing to advise them that their duty was to exercise their powers only to protect the interests of the Donor;</li> <li>b. following the joint donees seeking the advice as in (a), causing them to be placed into a position whereby there was the potential for them to breach their duties under the EPA by instructing her to prepare a Deed of Family Arrangement to distribute part of the proceeds from the sale of a property belonging to the Donor in circumstances including where the practitioner knew the Donor did not have legal capacity to consent to the sale and manner of the distribution of the proceeds, the sale was being undertaken solely to assist one of the joint donee's siblings, was evidently not in the interests of the Donor,</li> </ol> </li> </ol>

<sup>6</sup> The penalty outcome was on the basis of the mediated outcome in three matters – VR 23 of 2016, VR 13 of 2017 and VR 38 of 2017

<i>Application No. &amp; Date determined</i>	<i>Practitioner</i>	<i>Penalty</i>
		and there was the potential for the interests of the Donor not to be protected as a result and probably caused the joint donees to fail to act to protect the interests of the Donor, and where her fees for the preparation of the Deed and associated work were paid from the Donor's share of the sale proceeds.
6.		Unsatisfactory professional conduct in that she incompetently drafted a will for the Deceased which was ineffective to give effect to the Deceased's testamentary wishes and increased the costs of administering the estate of the Deceased.

### *Summary of SAT matters which were not determined as at 30.6.17*

<i>Application No.</i>	<i>Date filed</i>	<i>Allegation</i>	<i>Status</i>
173/15	12/10/2015	Professional misconduct a) recording conversations on a hand held recording device without the knowledge or consent of the person being recorded, in contravention of s 5(1) of the <i>Surveillance Devices Act 1988</i> (WA). b) swearing an affidavit to be read in the Magistrates Court at Perth in which the practitioner gave evidence on oath when the practitioner knew, or alternatively the practitioner was recklessly indifferent to whether, the evidence was false, doing so with the intention of misleading the Magistrates Court as to the matters the subject of the evidence. c) giving evidence on oath in the Magistrates Court when the practitioner knew, or alternatively the practitioner was recklessly indifferent to whether, the evidence was false, doing so with the intention of misleading the Magistrates Court as to the matters the subject of the evidence.	To be listed for final hearing on a date to be fixed
83/2016	31/05/2016	Professional misconduct by a) assisting a person to engage in legal practice in contravention of the <i>Legal Practice Act 2003</i> (WA) and the <i>Legal Profession Act 2008</i> (WA); b) signing and causing to be filed writs,	Directions 5/09/2017

Application No.	Date filed	Allegation	Status
		<p>pleadings, particulars and schedules of damages without satisfying himself the claims, pleading, particulars and schedules were tenable in fact and/or law, and causing to be filed informal lists of documents and correspondence to other parties' lawyers without satisfying himself that reasonable steps had been taken to comply with discovery obligations and that the content of the correspondence was accurate and appropriate, and serving an expert report without satisfying himself that the person who briefed the expert had complied with all usual professional obligations on a legal practitioner when briefing an expert and that the expert had complied with usual obligations imposed on the expert;</p> <p>c) signing and causing to be filed 3 entry for trial certificates when the practitioner knew each to be false and misleading, intended the Court to be misled; alternatively was recklessly indifferent to the above;</p> <p>d) failing to attempt to ascertain in relation to a consent judgment in which he represented the plaintiff whether the plaintiff's total legal costs were not less than the sum of fixed costs agreed pursuant to the consent judgment and, to extent they were not, failing to inform the Court and the defendant;</p> <p>e) failing to provide, or to cause his firm to provide, to 3 clients retaining the firm, costs disclosure in terms of the <i>Law Society Professional Conduct Rules</i> and to 9 clients costs disclosure in accordance with the <i>Legal Profession Act 2008 (WA)</i>;</p> <p>f) in circumstances where the practitioner was retained to prosecute a claim for damages for personal injury, failing to take reasonable steps to inform the client of his rights and possible courses</p>	



<i>Application No.</i>	<i>Date filed</i>	<i>Allegation</i>	<i>Status</i>
		<p>of conduct in relation to the proceedings, failing to keep the client informed about significant developments and generally the proceedings, failing to inform client that the defendant considered the proceedings were statute barred and failing to offer advice to, or advise, the client about possible causes of action and/or taking independent legal advice about his having a possible cause of action;</p> <p>g) accepting and carrying out instructions when it caused the practitioner to be in a position of owing conflicting duties to the client and another.</p>	
117/2016	2/08/2016	<p>Professional misconduct</p> <p>a) in respect of an application for probate and in the administration of the estate:</p> <ul style="list-style-type: none"> <li>(i) failing to maintain accurate and complete records of all transactions relating to the administration of the estate and as to assets and liabilities;</li> <li>(ii) failing to account, or properly account, in respect of the assets, income, liabilities, expenses and transactions relating to the estate, including not producing accounts;</li> <li>(iii) failing to maintain any books of account of all trust moneys and/or failing to maintain books of account in such a manner so as to disclose the true position as to those moneys;</li> <li>(iv) failing to maintain books of account in the manner required by the Regulations;</li> <li>(v) not providing trust account statements as soon as practicable and following correspondence from the client as required by the Regulations;</li> </ul> <p>b) in Family Court proceedings:</p> <ul style="list-style-type: none"> <li>(i) failing to maintain books of account of all trust moneys received, deposited and disbursed or otherwise</li> </ul>	Hearing 30/10/2017

<i>Application No.</i>	<i>Date filed</i>	<i>Allegation</i>	<i>Status</i>
		<p>dealt with and/or failing to maintain books of account in such a manner as to disclose the true position as regards those moneys;</p> <p>(ii) failing to account, or properly account, for trust moneys received;</p> <p>c) in the course of acting with respect to criminal charges:</p> <p>(i) failing to maintain books of account of all trust moneys received, deposited and disbursed or otherwise dealt with and/or failing to maintain books of account in such a manner as to disclose the true position as regards those moneys;</p> <p>(ii) failing to account, or properly account, for trust moneys received;</p> <p>d) inter alia not finalising the administration of the estate and/or not progressing the administration of the estate in a timely manner;</p> <p>e) not having in force professional indemnity insurance;</p> <p>f) not depositing trust money withdrawn by the practitioner from the deceased's account to the credit of a trust account;</p> <p>g) not depositing trust money being proceeds of cheques for the benefit of the estate to the credit of a trust account; and</p> <p>h) 2 counts of dishonest conduct in intending to use, and using, monies at his own will or otherwise for his own benefit in circumstances where he was not authorised, directed or otherwise entitled to do so.</p>	
121/2016	11/08/2016	<p>Professional misconduct</p> <p>a) despite instructions in family law proceedings that the practitioner keep the client's residential address confidential and that it not be released to anyone, filing a Form 13 Financial Statement which contained the client's residential address, providing the Form 13 to the opposing party's solicitor, and</p>	Mediation 23/08/2017

<i>Application No.</i>	<i>Date filed</i>	<i>Allegation</i>	<i>Status</i>
		<p>stating at a hearing in the Family Court that the client did not mind the opposing party having her residential address, which statement was false and/or misleading, which the practitioner knew and intended the Court to rely on and be misled, or acted in reckless disregard or was grossly careless as to whether the court would be misled;</p> <p>b) preparing and sending to the Committee letters which, either knowingly and with the intention to mislead the Committee or with reckless disregard or indifference, contained statements which were false or misleading, or both, and had the potential to mislead the Committee, in order to provide a basis for the false and/or misleading explanation to the Committee made in order to attempt to excuse or mitigate the practitioner's conduct the subject of investigation by the Committee.</p>	
183/2016	2/11/2016	<p>Professional misconduct</p> <p>a) preparing and sending a letter the practitioner knew to be false and/or misleading or had the potential to mislead the client and intended the client to be misled, and where the practitioner intended that the client be misled, alternatively, acted with reckless disregard or indifference as to whether the letter was false and/or misleading and whether the client would be misled;</p> <p>b) preparing and sending a letter to the client that was false and/or misleading; alternatively, permitting the letter to remain uncorrected in circumstances where the practitioner knew the letter was false and/or misleading or had the potential to mislead the client and intended the client be misled, alternatively, acted with reckless disregard or indifference as to whether the letter was false and/or misleading and whether the client would be misled;</p>	Hearing 11/09/2017

<i>Application No.</i>	<i>Date filed</i>	<i>Allegation</i>	<i>Status</i>
		<p>c) preparing and sending a letter to the Principal Registrar of the Family Court which the practitioner knew was false and/or misleading or had the potential to mislead and the practitioner intended that the Court be misled, alternatively, the practitioner acted with reckless disregard or indifference as to whether the letter was false and/or misleading and whether the Court would be misled;</p> <p>d) acting in a conflict of interest, in breach of her duty of loyalty to the client and in breach of her duty to act in the best interests of the client.</p>	
184/2016	2/11/2016	<p>Professional misconduct</p> <p>a) causing or permitting a letter to be sent that was false and/or misleading; alternatively, permitting the letter to remain uncorrected, in circumstances where the practitioner knew the letter was false and/or misleading or had the potential to mislead the client, and the practitioner intended the client to be misled, alternatively, acted with reckless disregard or indifference as to whether the letter was false and/or misleading and whether the client would be misled;</p> <p>b) causing or permitting a letter to be sent to the Family Court; alternatively, permitting the letter to remain uncorrected, in circumstances where the practitioner knew the letter was false and/or misleading or had the potential to mislead and the practitioner intended that the Court be misled, alternatively, the practitioner acted with reckless disregard or indifference as to whether the letter was false and/or misleading and whether the Court would be misled;</p> <p>c) acting in a conflict of interest, in breach of his duty of loyalty to the client and in breach of his duty to act in the best interests of the client.</p>	Pending determination following mediation 26/05/2017
56/2017	28/03/2017	Professional misconduct and/or unsatisfactory professional conduct	Directions 7/08/2017

<i>Application No.</i>	<i>Date filed</i>	<i>Allegation</i>	<i>Status</i>
		<p>a) preparing, and causing to be sworn by her client and filed a Case Information Affidavit which contained statements and assertions which were:</p> <ul style="list-style-type: none"> <li>(i) offensive, insulting, provocative and intemperate;</li> <li>(ii) irrelevant to the issues involved;</li> <li>(iii) statements or assertions of belief or opinion made without reasonable factual foundation;</li> <li>(iv) inadmissible; and</li> <li>(v) inappropriate for the advancement of the client's case,</li> </ul> <p>and further which conveyed an impression which was misleading as to the correct position; and</p> <p>b) not providing adequate disclosure as to costs.</p>	
84/2017	02/05/2017	<p>Professional misconduct</p> <ul style="list-style-type: none"> <li>a) without reasonable cause, failing to progress proceedings in a timely and diligent manner and/or at all;</li> <li>b) without reasonable cause, failing to take all reasonable and practicable steps to keep the clients informed of the proceedings and further failing to respond in a timely manner to the client;</li> <li>c) failing to attend a directions hearing when he knew the proceedings were in danger of being dismissed due to his failures in (a) and having informed the clients and the Committee he would attend.</li> </ul>	Directions 27/07/2017
88/2017	4/05/2017	<p>Professional misconduct</p> <p>Causing caveats to be prepared and registered on behalf of the client against the title to properties owned by the plaintiff in proceedings in circumstances where:</p> <ul style="list-style-type: none"> <li>a) there was no caveatable interest in the properties;</li> <li>b) the practitioner was recklessly indifferent or, alternatively, was grossly careless, as to whether the client had a caveatable interest in the properties; and</li> <li>c) the practitioner attempted to advance</li> </ul>	Mediation 5/07/2017

<i>Application No.</i>	<i>Date filed</i>	<i>Allegation</i>	<i>Status</i>
		the interests of the insurer and/or the client by unfair means in that she caused the caveats to be registered as part of a strategy to exert pressure on the plaintiff to abandon her application for special leave to the High Court.	
103/2017	26/05/2017	<p>Professional misconduct and/or unsatisfactory professional conduct</p> <p>In circumstances where the practitioner knew the client as executor was deriving no personal benefit from the estate and expected her costs as executor to be fully reimbursed by the estate, and the practitioner provided a figure for inclusion in a Deed of Family Arrangement as an upper limit for the client's legal costs as executor to be reimbursed by the estate, by:</p> <ol style="list-style-type: none"> <li>a) failing at various times to inform the client in respect to her total legal costs, her likely future costs and failing to ensure that the upper limit in the Deed was sufficient to fully reimburse the client;</li> <li>b) where he knew or ought to have known that the client's costs exceeded the upper limit, providing the Deed to the client, failing to inform her that her costs exceeded the upper limit and failing to advise or obtain instructions to negotiate an amendment to the Deed prior to its execution, and then permitting her to sign the Deed without informing her she would not be able to recover costs in excess of that upper limit and therefore causing the client to be left out of pocket for legal costs incurred as executor;</li> <li>c) causing or permitting 9 invoices to be issued when the total costs were already in excess of the upper limit in the Deed.</li> </ol>	Mediation 28/07/2017
110/2017	07/06/2017	<p><u>Annexure A</u></p> <p>Professional misconduct</p> <ol style="list-style-type: none"> <li>a) disbursing funds from the firm's trust account in circumstances where the practitioner undertook not to deal with, transfer, move or use the funds without express written consent and where the</li> </ol>	Mediation 10/10/2017

Application No.	Date filed	Allegation	Status
		<p>practitioner did not have express written consent and in releasing the funds acted in reckless disregard as to whether he was, alternatively was grossly careless in failing to ensure that release was not, in breach of his undertaking;</p> <p>b) sending emails which conveyed an impression which was misleading, which he permitted to remain uncorrected, which he knew were misleading in a material respect; alternatively, the practitioner was recklessly different as to whether the emails were misleading in a material respect or further alternatively the practitioner was grossly careless as to whether the emails were misleading in a material respect;</p> <p>c) conveying an offer to repay funds that was contingent upon withdrawal of a complaint about him to the Committee.</p> <p>Unsatisfactory professional conduct</p> <p>d) failing to keep trust records in a way that disclosed the true position in relation to withdrawals;</p> <p>e) failing to deliver an original receipt for the receipt of funds into trust when requested to do so;</p> <p><u>Annexure B</u> Professional misconduct</p> <p>f) preparing and sending letters to the Federal Circuit Court and to solicitors containing false and misleading statements where the practitioner knew the statements were false and misleading and had the potential to mislead or, alternatively, acted with reckless disregard as to whether the statements were false and misleading and had the potential to mislead</p>	
121/2017	29/06/2017	<p>Professional misconduct</p> <p>Failing to progress proceedings in a timely and competent manner and without reasonable cause by:</p> <p>(i) failing to take any or adequate steps to</p>	<p>Directions hearing 18/07/2017</p>

<i>Application No.</i>	<i>Date filed</i>	<i>Allegation</i>	<i>Status</i>
		progress the proceedings; (ii) failing to respond to enquiries from the clients on a number of occasions; (iii) failing to respond to requests from the client's new solicitors for the clients' documents relating to the proceeding and requests.	
124/2017	30/06/2017	Professional misconduct Failing to take all necessary steps to ensure that there was a proper factual basis for a proposed ground of appeal and oral submissions made to the Court of Appeal in support of the application for leave to appeal and the appeal.	Directions Hearing 18/07/2017

## 6.2 Review Applications

Complainants who have had their complaints dismissed have the right to apply to SAT for a review of the Committee's decision. If the Committee specifically finds a complaint to be trivial, unreasonable, vexatious or frivolous, the complainant may apply to SAT for a review of the Committee's decision only with the leave of SAT.

There were three Review Applications filed during the year of which two

were dismissed by SAT and one remains pending.

The extent of the Committee's involvement in review proceedings depends on the circumstances of the particular matter. The Committee usually appears, and provides documents and submissions to SAT. The matter may proceed to a defended hearing in which the Committee is a party or, on occasion, may be dealt with on the papers.

<i>Review Applications</i>	<i>Total</i>
Pending as at 1 July 2016	0
Lodged during year	3
Withdrawn	0
Dismissed	2
Pending as at 30 June 2017	1



### 6.3 Reports to the Full Bench of the Supreme Court

If SAT finds a matter to be proved, it has a range of penalties open to it. The maximum penalty is a period of suspension. Where SAT considers that a period of suspension is inadequate it can decide to transmit a Report to the Full Bench of the Supreme Court with a recommendation as to penalty. This is ordinarily done when SAT is of the view that a practitioner's name should be removed from the roll of practitioners.

The Full Bench of the Supreme Court can make any order available to SAT and/or remove a practitioner's name from the roll of practitioners. During the year, there were no orders removing from the roll the name of any practitioner.

Due to appeals which are yet to be determined, a practitioner from previous years remains the subject of a Report to the Full Bench of the Supreme Court.

### 6.4 Appeals

During the year the following matters were determined from previous years:

- an appeal to the Court of Appeal of the Supreme Court (CACV 122 of 2014) by Gavin George Wells from a final SAT decision was dismissed.
- an appeal to the Court of Appeal of the Supreme Court (CACV 5 of 2015) by Gavin George Wells from a SAT penalty decision was dismissed.

- an appeal to the Court of Appeal of the Supreme Court (CACV 38 of 2015) by Peter George Giudice from a final SAT decision and from a SAT penalty decision (being SAT's decisions on its reconsideration of the matter following a previous appeal by Mr Giudice where the matter was referred back to SAT) was determined in [2016] WASCA 159 by the Court of Appeal on 14 September 2016 making orders in terms of a minute of consent orders agreed by the parties.
- Ms Megan Maree in de Braekt application for an extension of time to file the appellant's case in an appeal to the Court of Appeal from a final SAT decision (CACV 125 of 2016), in circumstances where the appeal was dismissed on 29 January 2013 following her failure to comply with an order to file her appellant's case. The Court of Appeal in [2016] WASCA 220 dismissed the application. The Committee's costs were agreed at \$4,125.

Appeals lodged prior to the year, but which have not been determined as at 30 June 2017 were:

- an appeal to the Court of Appeal of the Supreme Court by Leonard Gandini relating to a final SAT decision (CACV 33 of 2013).
- an appeal to the Court of Appeal of the Supreme Court by Leonard Gandini from a SAT penalty decision (CACV 117 of 2014).
- an appeal to the Court of Appeal of the Supreme Court by Manraj Singh Khosa from a final SAT

decision (CACV 150 of 2015) (heard on 23 May 2017).

- an appeal to the Court of Appeal of the Supreme Court by Manraj Singh Khosa from a SAT penalty decision (CACV 55 of 2016) (heard on 23 May 2017).

The following appeals were lodged during the year, but as at 30 June 2017 had not been determined:

- an appeal to the Court of Appeal of the Supreme Court by Peter Christison Neil from a SAT interlocutory decision (CACV 6 of 2017).
- an appeal to the Court of Appeal of the Supreme Court by Peter Christison Neil from a final SAT decision (CACV 42 of 2017).
- an appeal to the Court of Appeal of the Supreme Court by Peter Christison Neil from a SAT penalty decision (CACV 65 of 2017) – in this matter the practitioner also filed an application for a stay of the penalty decision, which was dismissed by the Court of Appeal in [2017] WASCA 109 on 15 June 2017.
- an appeal to the Court of Appeal of the Supreme Court by Ronald William Bower from a final SAT decision (CACV 52 of 2017).
- an appeal to the Court of Appeal of the Supreme Court by Ronald William Bower from a SAT penalty decision (CACV 53 of 2017).

During the year the following appeals were filed and determined:

- an appeal to the Court of Appeal of the Supreme Court by John Frederick Park from a SAT order dismissing the practitioner's interim application. A discontinuance notice was filed on 28 June 2017.
- the Committee filed an appeal (CACV 3 of 2017) against Lloyd Patrick Rayney. The Court of Appeal in [2017] WASCA 79 allowed the appeal and the matter was remitted to the State Administrative Tribunal for determination.

## 6.5 Full Bench Supreme Court

On 21 November 2016 Ms in de Braekt filed a summons in Supreme Court (Full Bench) LPD 1 of 2012 to set aside the judgment of the Full Bench made 12 April 2013 in [2013] WASC 124 (to remove her name from the roll of practitioners).

On 10 May 2017 by consent of parties, the Full Bench ordered that the 21 November 2016 application be dismissed, vacated the hearing listed for 15 May 2017 and Ms in de Braekt pay the Committee's costs fixed at \$2,500.

## 6.6 Special Leave Applications

There were no applications for special leave to appeal to the High Court filed during the year.

## 7. Promoting Professional Standards

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One of the purposes of Part 13 of the Act (which deals with complaints and discipline) is to promote and enforce professional standards, competence and honesty.

As in previous years, the Committee has continued to be proactive in this regard, particularly through its work in the Rapid Resolution team (RRT) and the issuing of risk alert letters.

Risk alert letters are sent out to firms which have received multiple inquiries or complaints of substance against their practitioners in the previous 6 months. The letters set out the nature of the inquiries/complaints and invites the practice to consider ways to reduce the practice's exposure to inquiries/complaints.

Due to the RRT workloads, whether risk alert letters should be sent out was only assessed once during the year and three letters were issued. However, in a follow up to risk alert letters sent (two from the previous year), legal officers from the RRT visited three firms. The purpose of those visits was to discuss the reasons behind contact being made with the Committee and to discuss what proactive steps the firms could take to reduce the reason for that contact.

The Committee has continued to issue expressions of concern to practitioners to highlight concerns the Committee has about a practitioner's conduct even though the conduct concerned was not sufficient to amount to unsatisfactory professional conduct. This is done with a view to preventing such conduct from the practitioner in future.

The Committee's focus during the year has been on oral presentations at conferences and continuing professional development seminars, as well as to individual law firms and to university law students.

There were a total of 22 presentations given by Committee staff. Where these presentations are accompanied by papers or power point presentations, those papers and presentations are also published on the Board's website.

The Committee also continued with its initiative of visiting regional areas to talk to practitioners about issues relating to complaints. During the year Gael Roberts, Law Complaints Officer, and Philippa Rezos, the manager of the Rapid Resolution team, visited Albany and presented one seminar to practitioners and one seminar to the principals of law practices in the area.

## 8. Tables

TABLE 1 RAPID RESOLUTION INQUIRIES 2015 - 2017

### TYPE OF INQUIRER 2015 - 2017

	<i>Total % 2014 – 2015</i>	<i>Total % 2015 – 2016</i>	<i>Total % 2016 – 2017</i>
Client/Former Client	48.8	50.5	49.2
Friend/Relative of Client	8.8	9.0	8.1
Opposing party	20.1	20.9	21.8
Beneficiary/Executor/Administrator	3.6	3.8	4.4
Practitioner on own behalf	8.8	4.3	4.0
Practitioner on another's behalf	2.3	1.4	1.7
Other	7.7	10.0	10.7

### INQUIRIES BY AREAS OF LAW 2015 - 2017

	<i>Total % 2014 – 2015</i>	<i>Total % 2015 – 2016</i>	<i>Total % 2016 – 2017</i>
Family/Defacto Law	30.7	30.2	30.7
Civil Litigation	15.4	15.3	15.4
Conveyancing	3.8	3.1	3.0
Leases / Mortgages / Franchises	2.9	2.9	1.7
Probate/Wills/ Family Provisions	13.6	13.2	11.2
Commercial/Corporations Law	4.5	3.1	2.2
Criminal	7.3	7.6	8.7
Personal Injuries	4.5	5.6	4.2
Workers Compensation	5.0	5.1	5.7
Victims Compensation	0.5	0.8	0.2
Employment / Industrial Law	2.7	2.7	3.0
Other	9.1	11.3	11.9

TABLE 1 RAPID RESOLUTION INQUIRIES 2015 - 2017

## INQUIRIES BY AREAS OF INQUIRY 2015 - 2017

	<i>Total % 2014 – 2015</i>	<i>Total % 2015 – 2016</i>	<i>Total % 2016 – 2017</i>
<b>Cost/Payment Issues</b>			
Failure to Pay Third Party	0.7	0.4	0.1
Overcharging	12.0	13.4	13.1
No Costs Disclosure	5.1	4.4	2.9
Transfer Costs Without Authority	0.5	0.4	0.8
Failure / Delay to Provide a Detailed Account	2.5	1.8	1.2
Other Costs Complaint	13.9	10.7	10.1
<b>Subtotal</b>	<b>34.7</b>	<b>31.1</b>	<b>28.2</b>
<b>Communication/Service</b>			
Act Without / Contrary to Instructions	2.4	2.1	1.2
No Communication	7.7	9.8	10.3
Failure to Carry Out Instructions	5.0	4.7	4.1
Delay	7.0	7.7	7.8
Lack of Supervision	0.5	0.5	0.5
No Client Advice	1.5	1.8	0.9
No Advice on Progress	1.2	0.6	0.8
Discourtesy	3.6	2.8	3.7
Neglect	1.6	1.1	1.2
<b>Subtotal</b>	<b>30.5</b>	<b>31.1</b>	<b>30.4</b>
<b>Personal Conduct</b>			
Unethical Conduct	12.6	12.6	12.0
Negligence	3.5	3.1	3.8
Misleading	1.4	1.7	1.2
Conflict of interest	2.6	2.5	2.9
Failure to Transfer Documents	0.9	0.1	0.7
Communicating with a Client of Another Solicitor	0.1	0.1	0.1
Threatening Behaviour	2.2	2.3	2.1
False Swearing of Documents	0	0.2	0.2
Breach Confidentiality	0.4	0.4	0.5
Undue Pressure	0.5	0.3	0.6
Alteration of Documents	0	0.1	0.1
Liens	0.9	1.1	0.9
<b>Subtotal</b>	<b>25.1</b>	<b>24.4</b>	<b>24.9</b>
<b>Other</b>	<b>9.8</b>	<b>13.4</b>	<b>16.5</b>

TABLE 1 RAPID RESOLUTION INQUIRIES 2015 - 2017

## RESOLUTION OF INQUIRY 2015 - 2017

	<i>Total % 2014 – 2015</i>	<i>Total % 2015 - 2016</i>	<i>Total % 2016 – 2017</i>
<b>Conciliated Outcome</b>			
Fee waiver	2.1	1.7	1.4
Apology	1.5	1.6	1.2
Undertaking	0.2	0.1	0.0
Discounted fees	5.4	5.9	8.7
Release of lien	1.0	1.0	1.0
Withdrawn	0.8	1.3	0.6
Improved communication	5.1	2.9	5.2
Improved legal practice, training, supervision, mentoring or management systems	2.9	3.5	2.9
Other	0	0	0
<b>Subtotal</b>	<b>19.0</b>	<b>18.0</b>	<b>20.9</b>
<b>No Further Action</b>			
Accepted Committee / practitioner's response	18.5	18.8	17.9
Brochures provided	18.6	19.0	11.8
Suggested direct approach to practitioner	8.4	6.3	5.7
No further information provided	16.3	14.0	14.5
Advised to get legal advice	4.0	5.8	7.1
Misconceived	3.4	3.8	3.3
Other	8.3	7.7	10.1
<b>Subtotal</b>	<b>77.5</b>	<b>75.4</b>	<b>70.4</b>
Expression of Concern issued	1.1	3.7	6.3
Part/Whole inquiry resolved per above category, but referred for investigation	0.4	0.0	0.3
Referred for investigation	1.7	2.3	2.0
Referred for formal determination s415 / s425	0.6	0.5	0.1
<b>Subtotal</b>	<b>3.8</b>	<b>6.5</b>	<b>8.7</b>

TABLE 2 NEW COMPLAINTS/CONDUCT INVESTIGATIONS/RAPID RESOLUTION INQUIRIES 2015 – 2017

	<i>Total 2014 – 15</i>	<i>Total 2015 – 16</i>	<i>Total 2016 – 17</i>
Complaints	77	64	56
Conduct Investigations	31	18	10
Rapid Resolution inquiries	1413*	1366**	1479***
<b>Total</b>	<b>1515</b>	<b>1448</b>	<b>1545</b>

\* Does not include 121 miscellaneous inquiries

\*\* Does not include 172 miscellaneous inquiries

\*\*\* Does not include 197 miscellaneous inquiries

TABLE 3 COMPLAINTS OPENED BY TYPE OF COMPLAINANT 2015 - 2017

	<i>Total % 2014 – 15</i>	<i>Total % 2015 – 16</i>	<i>Total % 2016 – 17</i>
Client / former client	38 (37.3)	34 (41.5)	14 (21.2)
Client's friend / relative	1 (1.0)	2 (2.4)	3 (4.5)
Opposing party	21 (20.6)	10 (12.2)	15 (22.7)
Beneficiary / executor / administrator	4 (3.9)	2 (2.4)	2 (3.0)
Practitioner on own behalf	6 (5.9)	7 (8.5)	3 (4.5)
Practitioner on another's behalf	1 (1.0)	5 (6.1)	2 (3.0)
Legal Practice Board	1 (1.0)	0	0
Other	8 (7.8)	4 (4.9)	17 (25.8)
Court Enquiry	1 (1.0)	0	0
Other Investigation	21 (20.6)	18 (22.0)	10 (15.2)
<b>Total</b>	<b>102</b>	<b>82</b>	<b>66</b>

TABLE 4 COMPLAINTS OPENED BY AREAS OF LAW 2015 – 2017

	<i>Total % 2014 – 15</i>	<i>Total % 2015 – 16</i>	<i>Total % 2016 – 17</i>
Family/Defacto law	27 (23.9)	24 (28.9)	15 (21.7)
Civil Litigation	16 (14.2)	17 (20.5)	11 (15.9)
Conveyancing	3 (2.7)	0	0
Leases/Mortgages/Franchises	1 (0.9)	1 (1.2)	1 (1.4)
Probate/Wills/Family Provisions	22 (19.5)	9 (10.8)	11 (15.9)
Commercial/Corporations Law	7 (6.2)	5 (6.0)	1 (1.4)
Criminal law	13 (11.5)	13 (15.7)	7 (10.1)
Personal injuries	1 (0.9)	1 (1.2)	6 (8.7)
Workers Compensation	2 (1.8)	2 (2.4)	1 (1.4)
Victims Compensation	0	0	0
Employment/Industrial law	9 (7.0)	1 (1.2)	4 (5.8)
Professional negligence	1 (0.9)	0	0
Land and Environment	0	0	1 (1.4)
Immigration	1 (0.9)	0	1 (1.4)
Other	10 (8.8)	10 (12.0)	10 (14.5)



TABLE 5 COMPLAINTS OPENED BY AREAS OF COMPLAINT 2015 - 2017

	<i>Total % 2014 – 15</i>	<i>Total % 2015 – 16</i>	<i>Total % 2016 – 17</i>
<b>Cost/Payment issues</b>			
Failure to pay third party	0	2 (1.0)	1 (0.7)
Overcharging	24 (10.5)	13 (6.7)	8 (5.8)
No costs disclosure	6 (2.6)	14 (7.2)	6 (4.4)
Transfer costs without authority	0	1 (0.5)	2 (1.5)
Failure/delay to provide a detailed account	2 (0.9)	1 (0.5)	1 (0.7)
Other cost complaint	10 (4.4)	8 (4.1)	9 (6.6)
<b>Subtotal</b>	<b>42 (18.4)</b>	<b>39 (20.1)</b>	<b>27 (19.7)</b>
<b>Communication/Service</b>			
Act without/contrary to instructions	9 (3.9)	7 (3.6)	2 (1.5)
No communication	8 (3.5)	10 (5.2)	4 (2.9)
Failure to carry out instructions	10 (4.4)	4 (2.1)	6 (4.4)
Delay	10 (4.4)	17 (8.8)	3 (2.2)
Lack of supervision	3 (1.3)	4 (2.1)	1 (0.7)
No client advice	2 (0.9)	3 (1.5)	5 (3.6)
No advice on progress	0	2 (1.0)	0
Discourtesy	9 (3.9)	6 (3.1)	10 (7.3)
Neglect	4 (1.9)	9 (4.6)	2 (1.5)
<b>Subtotal</b>	<b>55 (24.2)</b>	<b>62 (32.0)</b>	<b>33 (24.1)</b>
<b>Personal Conduct</b>			
Unethical conduct	45 (19.7)	20 (10.3)	26 (19.0)
Negligence	10 (4.4)	2 (1.0)	6 (4.4)
Misleading	14 (6.1)	17 (8.8)	8 (5.8)
Conflict of interest	8 (3.5)	5 (2.6)	7 (5.1)
Failure to transfer documents	0	1 (0.5)	1 (0.7)

	<i>Total % 2014 – 15</i>	<i>Total % 2015 – 16</i>	<i>Total % 2016 – 17</i>
Communicating with a client of another solicitor	0	1 (0.5)	0
Threatening behaviour	6 (2.6)	6 (3.1)	4 (2.9)
False swearing of documents	3 (1.3)	0	0
Breach confidentiality	2 (0.9)	1 (0.5)	0
Failure to assist LPCC	0	0	1 (0.7)
Undue pressure	3 (1.3)	2 (1.0)	1 (0.7)
Alteration of documents	1 (0.4)	0	1 (0.7)
Liens	0	0	0
<b>Subtotal</b>	<b>92 (40.2)</b>	<b>55 (28.4)</b>	<b>55 (40.1)</b>
<b>Non-Compliance</b>			
Not complying with undertaking	2 (0.9)	1 (0.5)	0
Practising without a practice certificate	0	0	0
Not complying with Legal Profession Act/Regulations	2 (0.9)	1 (0.5)	2 (1.5)
<b>Subtotal</b>	<b>4 (1.8)</b>	<b>2 (1.0)</b>	<b>2 (1.5)</b>
<b>Trust Account Matters</b>			
Breach of Sections of Act / Regulations relating to trust monies	1 (0.4)	6 (3.1)	5 (3.6)
Misappropriation	2 (0.9)	1 (0.5)	0
Failure to account	0	2 (1.0)	4 (2.9)
Other – Trust Account Matters	0	0	0
<b>Subtotal</b>	<b>3 (1.3)</b>	<b>9 (4.6)</b>	<b>9 (6.6)</b>
<b>Other</b>	<b>33 (14.4)</b>	<b>27 (13.9)</b>	<b>11 (8.0)</b>

TABLE 6 COMPLAINTS OPENED BY PRACTITIONER TYPE OF EMPLOYMENT 2015 – 2017

	<i>Total % 2014 – 15</i>	<i>Total % 2015 – 16</i>	<i>Total % 2016 – 17</i>
Barrister	4 (3.9)	9 (11.0)	8 (12.1)
Sole Principal	46 (45.1)	35 (42.7)	30 (45.5)
Other Principal	21 (20.6)	13 (15.9)	8 (12.1)
Non Principal	13 (12.7)	11 (13.4)	10 (15.2)
Government Legal Position	7 (6.9)	3 (3.7)	0
Corporate Legal Position	4 (3.9)	1 (1.2)	0
Firm only	0	1 (1.2)	0
Struck off/suspended	2 (2.0)	0	0
Other	5 (4.9)	9 (11.0)	10 (15.2)
<b>Total</b>	<b>102</b>	<b>82</b>	<b>66</b>

TABLE 7 COMPLAINTS OPENED BY PRACTITIONER AREA OF PRACTICE 2015 – 2017

	<i>Total % 2014 – 15</i>	<i>Total % 2015 – 16</i>	<i>Total % 2016 – 17</i>
CBD/West Perth	43 (42.2)	52 (63.4)	40 (60.6)
Suburbs	54 (52.9)	21 (25.6)	20 (30.3)
Country	5 (4.9)	6 (7.3)	2 (3.0)
Interstate	0	3 (3.7)	4 (6.1)
Not known	0	0	0
<b>Total</b>	<b>102</b>	<b>82</b>	<b>66</b>

TABLE 8 COMPLAINTS OPENED BY PRACTITIONER YEARS IN PRACTICE 2015 – 2017

	<i>Total % 2014 – 15</i>	<i>Total % 2015 – 16</i>	<i>Total % 2016 – 17</i>
Under 5	5 (4.9)	3 (3.7)	0
5 – 9	22 (21.6)	24 (29.3)	14 (21.2)
10 – 14	32 (31.4)	17 (20.7)	22 (33.3)
15 – 19	11 (10.8)	8 (9.8)	8 (12.1)
20 – 24	7 (6.9)	11 (13.4)	1 (1.5)
25 – 29	10 (9.8)	3 (3.7)	5 (7.6)
30 – 34	12 (11.8)	7 (8.5)	6 (9.1)
35 – 39	3 (2.9)	8 (9.8)	6 (9.1)
Over 40	0	1 (1.2)	1 (1.5)
Not known/Not applicable	0	0	3 (4.5)
<b>Total</b>	<b>102</b>	<b>82</b>	<b>66</b>

TABLE 9 COMPLAINTS OPENED BY PRACTITIONER AGE 2015 – 2017

	<i>Total % 2014 – 15</i>	<i>Total % 2015 – 16</i>	<i>Total % 2016 – 17</i>
Under 25	0	0	0
25 – 29	4 (3.9)	2 (2.4)	1 (1.5)
30 – 34	3 (2.9)	8 (9.8)	6 (9.1)
35 – 39	5 (4.9)	2 (2.4)	6 (9.1)
40 – 44	14 (13.7)	7 (8.5)	6 (9.1)
45 – 49	22 (21.6)	11 (13.4)	4 (6.1)
50 – 54	8 (7.8)	16 (19.5)	10 (15.2)
55 – 59	18 (17.6)	9 (11.0)	11 (16.7)
60 – 64	9 (8.8)	12 (14.6)	8 (12.1)
65 – 69	7 (6.9)	6 (7.3)	5 (7.6)
70 – 75	12 (11.8)	8 (9.8)	2 (3.0)
76 – 80	0	0	3 (4.5)
81+	0	0	0
Not known/Not applicable	0	1 (1.2)	4 (6.1)
<b>Total</b>	<b>102</b>	<b>82</b>	<b>66</b>

TABLE 10 NUMBER OF PRACTITIONERS COMPLAINED OF 2015 – 2017

	<i>Total 2014 – 15</i>	<i>Total 2015 – 16</i>	<i>Total 2016 – 17</i>
Practitioners with 1 complaint	59	59	50
Practitioners with 2 complaints	6	6	4
Practitioners with 3 or more complaints	5	3	2
<b>Total number of practitioners</b>	<b>70</b>	<b>68</b>	<b>56</b>

TABLE 11 OUTSTANDING COMPLAINTS 2015 – 2017

	<i>Total 2014 – 15</i>	<i>Total 2015 – 16</i>	<i>Total 2016 – 17</i>
Outstanding complaints	80	90	98
Outstanding conduct investigations	45	33	29
<b>Total</b>	<b>125</b>	<b>123</b>	<b>127</b>

TABLE 12 COMPOSITION OF THE WA LEGAL PROFESSION AS AT 30 JUNE 2017

<i>Composition of WA Local Legal Practitioners</i>	<i>Resident Females</i>	<i>Non-Resident Females</i>	<i>Resident Males</i>	<i>Non-Resident Males</i>	<i>Totals</i>
Barristers	45	1	189	1	236
Commonwealth Government	42	0	35	1	78
Consultants	20	0	30	2	52
Director	180	1	461	4	646
Employees	1611	42	1082	26	2761
Equity Partner	42	0	217	7	266
Fixed Profit-share Partner	20	4	17	7	48
Inhouse	337	24	286	21	668
Locum	0	0	0	0	0
Legal Practitioner Partner	10	0	66	3	79
Not practising (certificated)	377	8	157	5	547
Salaried Partner	19	1	47	5	72
Sole Practitioners	153	3	338	4	498
Judiciary <sup>^</sup>	2	0	0	0	2
Deceased <sup>^</sup>	0	0	2	0	2
Struck Off <sup>^</sup>	0	0	0	0	0
Suspended <sup>^</sup>	0	0	1	0	1
State Government*	48	2	22	1	73
Volunteer/Pro Bono	11	0	5	0	16
Practising Certificates Cancelled	20	3	11	2	36
<b>Practising Certificates ISSUED</b>	<b>2937</b>	<b>89</b>	<b>2966</b>	<b>89</b>	<b>6081</b>
<b>S.36 Practitioners</b>					
** State Solicitor's Office	82	0	56	2	140
**Director of Public Prosecutions (State)	53	1	50	1	105
**Other Departments	165	3	91	0	259
<b>TOTAL PRACTITIONERS</b>	<b>3169</b>	<b>88</b>	<b>3130</b>	<b>89</b>	<b>6549</b>

<sup>^</sup> held a practising certificate during 2016/2017, however by 30 June 2017, were appointed judiciary/deceased/struck off/suspended.

\* State Government employees who held a local practising certificate during 2016 - 2017

\*\* State Government employees taken to be certificated pursuant to Section 36 of the *Legal Profession Act 2008*

## 9. Information Statements

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### 9.1 Freedom of Information Act

Pursuant to Part 5 of the *Freedom of Information Act 1992 (FOI Act)* the Committee is required to publish an Information Statement. The Attorney General has approved, in accordance with section 96(1) of the FOI Act, publication of the statement by incorporation in an annual report. Accordingly, the Information Statement of the Committee is at the end of this report. It has been prepared in accordance with the requirements of section 94 of the FOI Act.

### 9.2 Public Interest Disclosure

In accordance with the *Public Interest Disclosure Act 2003* the Committee has appointed a Public Interest Disclosure Officer.

No public interest disclosures were received during the relevant period.



## Freedom of Information Act 1992 Information Statement

### 1. INTRODUCTION

The *Freedom of Information Act 1992* (“**the FOI Act**”) is the legislation in Western Australia which provides members of the public with a general right of access to a vast majority of records and information held by public bodies.

As a public body established for a public purpose, the Legal Profession Complaints Committee (“**the Complaints Committee**”) is obligated to:

- assist the public to obtain access to documents;
- allow access to documents to be obtained promptly and at the lowest reasonable cost; and
- assist the public to ensure that personal information contained in documents is accurate, complete, up to date and not misleading.

Some material held by the Complaints Committee may be exempt from access. There are provisions under the FOI Act which allow the Complaints Committee to refuse access to certain documents or information.

The Complaints Committee at all times complies with the provisions of the FOI Act and has included, in this Information Statement, details of the website where internal publications can be located.

### 2. STATEMENT OF STRUCTURE AND FUNCTIONS

Section 555 of the *Legal Profession Act 2008* (“**the LP Act**”) establishes the Complaints Committee, which consists of the following members:

- a chairperson, and not less than 6 other legal practitioners; and
- not less than 2 representatives of the community who are not and have never been Australian lawyers (see Section 556 of the LP Act).

The functions of the Complaints Committee are set out in Sections 409, 410 and 557 of the LP Act and include, among other things, the responsibility of:

- supervising the conduct of legal practitioners;
- inquiring into complaints received about legal practitioners for the purposes of determining whether such conduct may constitute unsatisfactory professional conduct or professional misconduct; and
- instituting professional disciplinary proceedings against legal practitioners in the State Administrative Tribunal, if appropriate to do so.

These functions, in particular the Complaints Committee’s decision making functions, do not directly affect members of the public; they affect Australian Lawyers and Australian Legal Practitioners (as defined in Sections 4 and 5 of the LP Act) on the one hand and those among the classes of persons set out in Section 410(1) of the LP Act from whom complaints are received on the other hand.

Further, none of the Complaints Committee's functions are likely to affect the rights, privileges or other benefits, or obligations, penalties or other detriments, to which members of the public are or may become entitled, eligible, liable or subject.

### **Our Process**

The Complaints Committee receives inquiries and complaints about legal practitioners. All inquiries and complaints are assessed on receipt to ascertain whether they raise an issue which, if proved, may amount to a conduct issue.

Further information on the Committee's processes is publicly available and can be found using the link "The Committee's Services" in the Complaints area on the Legal Practice Board's website at [www.lpbwa.org.au](http://www.lpbwa.org.au).

### **Organisational Structure**

Information as to the organisational structure of the Complaints Committee and statistics in relation to its performance are publicly available and can be found in the Complaints Committee's Annual Reports which are located in the Complaints area on the Legal Practice Board's website at [www.lpbwa.org.au](http://www.lpbwa.org.au).

## **3. PUBLIC PARTICIPATION IN AGENCY FUNCTIONS**

The purposes of the Complaints Committee are set out in Section 401 of the LP Act. There are no arrangements to enable members of the public to participate in the formulation of the Complaints Committee's purposes or in the performance of its functions other than through the community representatives appointed by the Attorney General as members of the Complaints Committee.

## **4. INFORMATION HELD BY THE COMPLAINTS COMMITTEE**

### **Publications**

The Complaints Committee produces a number of publications which are available free of charge from the website at <https://www.lpbwa.org.au/Complaints>. These publications include (but are not limited to):

- Annual Reports;
- Forms;
- Brochures;
- Fact Sheets;
- Guidelines;
- Papers; and
- Press Releases.

All of the Complaints Committee's publications are available for inspection or downloading by accessing the website above. Copies of select publications are available at the offices of the Complaints Committee at Level 6, 111 St Georges Terrace, Perth to any person who attends at the office or who otherwise contacts the Complaints Committee with an enquiry concerning the nature and limits of its functions. These publications are not covered by the FOI Act as they are publicly available.

## Documents

The other kinds of documents usually held by the Complaints Committee comprise:

- the Complaints Committee's files containing correspondence, memoranda and other associated documents; and
- documents related to meetings of the Complaints Committee such as agendas, minutes, memoranda and other associated documents.

The FOI Act is the only written law under which any of these types of documents may be inspected.

There is no other law or practice under which any of these documents can be purchased.

## 5. PROCEDURES FOR FOI ACCESS

### Freedom of Information Officer

Initial enquiries as to access to documents under the FOI Act should be made to Mr Stephen Merrick of Level 6, 111 St Georges Terrace, Perth, Legal Practitioner, who is the officer of the Complaints Committee that can deal with such enquiries and who has been generally directed to make decisions under the FOI Act. Initial enquiries may be made by telephone to (08) 6211 3699.

### Submitting an FOI request

Should an applicant wish to proceed with a formal request for access to documents under the FOI Act, a valid FOI application can be made in writing to the Complaints Committee by letter to:

The Freedom of Information Officer  
Legal Profession Complaints Committee  
Post Office Box Z5293  
St George's Terrace  
Perth WA 6831

Facsimile: +61 8 6211 3650  
Email: [lpcc@lpbwa.com](mailto:lpcc@lpbwa.com)

A valid FOI application needs to:

- be in writing;
- give enough information so the documents requested can be identified;
- give an Australian address to which notices can be sent; and
- be lodged at the Complaints Committee's office with a fee of \$30 (unless the application is one for personal information only, which does not attract a fee). No reductions to the application fee are available.

### The FOI Process

Applications submitted to the Complaints Committee will be acknowledged in writing and applicants will be notified of the decision as soon as practicable and in any case within 45 days of a valid application being received.

In the notice of decision, applicants will be provided with:

- the date the decision was made;
- the name and designation of the officer making the decision;
- the reasons for classifying any particular documents as exempt under the FOI Act;
- the fact that access is to be given to an edited document; and
- information as to the right of review and the procedures to be followed to exercise that right.

The Complaints Committee is obligated under the FOI Act to assist applicants in clarifying and narrowing the scope of the documents for which access is sought.

Access to documents may be granted by way of: inspection at the office of the Complaints Committee; provision of copies of documents; provision of copies of audio or video tapes; by a computer disk; or by agreement in other ways. The best method of providing access to documents will be discussed with the applicant.

### **Access Charges**

The FOI Act states that a valid FOI application must be accompanied by a \$30 application fee unless the request is entirely for personal information about the applicant. The Complaints Committee's Freedom of Information Officer can assist applicants determine if their request is likely to attract the application fee prior to an application being submitted.

In addition, other fees may apply for:

- the reasonable cost of photocopying documents sought which will be charged at 20 cents per photocopy or \$30 per hour of staff time taken to photocopy the documents required;
- staff time for dealing with an application, at a rate of \$30 per hour;
- supervision by staff when access is given to an applicant by way of inspection of the documents sought, at a rate of \$30 per hour; and
- the actual costs incurred by the Complaints Committee for preparing copies of audio or video tapes, computer disks etc and for arranging delivery, packaging and postage of documents or other items.

For financially disadvantaged applicants or those applicants issued with prescribed pensioner concession cards, charges for dealing with FOI applications (such as copying material, searching for documents or supervision by staff when documents are inspected) will be reduced by 25%.

If the charges are likely to exceed \$25, then under Section 17 of the FOI Act, the Complaints Committee is required to provide the applicant with an estimate of the charges and ask whether the applicant wishes to proceed with his or her FOI application. The applicant must notify the Complaints Committee, in writing, of his or her intention to proceed within 30 days of receiving the estimate. In some instances the Complaints Committee may request an advance deposit for estimated charges.

## Procedure for Amending Personal Information

The Complaints Committee has no procedures for amending personal information in its documents pursuant to Part 3 of the FOI Act. Any application for an amendment will be dealt with in accordance with Part 3 of the FOI Act. Such applications should be addressed to:

The Freedom of Information Officer  
 Legal Profession Complaints Committee  
 Post Office Box Z5293  
 St Georges Terrace  
 Perth WA 6831

Facsimile: +61 8 6211 3650  
 Email: lpcc@lpbwa.com

## 6. INTERNAL REVIEW RIGHTS

Applicants who are dissatisfied with the decision of an FOI officer may apply for an internal review of the decision pursuant to Section 39 of the FOI Act. Once an applicant has received his or her notice of decision from the Complaints Committee, there is 30 days in which to lodge an application for internal review with the Complaints Committee. The application for internal review should:

- be in writing;
- give particulars of the decision to be reviewed; and
- confirm an Australian address to which notices can be sent.

The Complaints Committee is required to notify an applicant of the result of his or her application for internal review within 15 days of the Complaints Committee receiving an application for internal review.

Applications for internal review can be made to:

Legal Profession Complaints Committee  
 Post Office Box Z5293  
 St Georges Terrace  
 Perth WA 6831

Facsimile: +61 8 6211 3650  
 Email: lpcc@lpbwa.com

No further fees apply to an application for internal review.

## 7. EXTERNAL REVIEW RIGHTS

If an applicant is dissatisfied with the decision regarding an application for internal review, the applicant may lodge a complaint with the Office of the Information Commissioner ("**the OIC**") pursuant to Section 65 of the FOI Act.

Complaints lodged with the OIC must:

- be lodged within 60 days of the applicant receiving the Complaints Committee's decision in relation to an application for internal review;
- be in writing;
- have attached to it a copy of the Complaints Committee's decision; and
- give an Australian address to which notices can be sent.

There is no charge for lodging a complaint with the OIC and complaints should be lodged at:

Office of the Information Commissioner  
Albert Facey House  
469 Wellington Street  
PERTH WA 6000

Telephone: +61 8 6551 7888  
Facsimile: +61 8 6551 7889  
Email: [info@foi.wa.gov.au](mailto:info@foi.wa.gov.au)  
Website: [www.foi.wa.gov.au](http://www.foi.wa.gov.au)

The Information Commissioner is an independent officer who reports directly to Parliament and whose role it is, where an applicant is dissatisfied with a decision, to review decisions by agencies on access applications and applications to amend personal information.

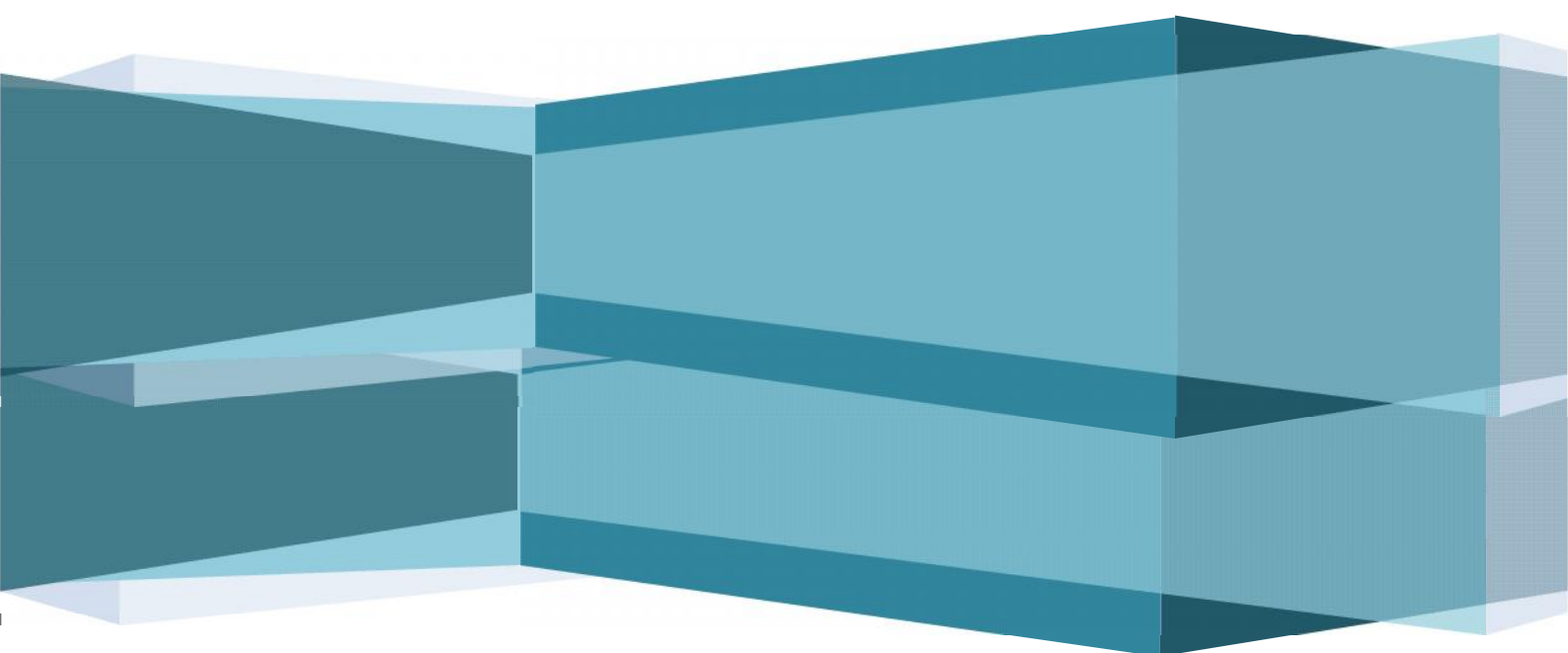
The OIC also provides assistance to members of the public and agencies on matters relevant to the FOI Act.

Further information on the Office of the Information Commissioner as well as access to the FOI Act and Regulations, can be found at [www.foi.wa.gov.au](http://www.foi.wa.gov.au).

## **8. STATEMENT REVIEW**

This FOI Information Statement is current as at July 2017 and is reviewed annually.





## **LPCCWA**

Level 6, 111 St Georges Terrace, Perth WA 6000  
Post Office Box Z5293, St Georges Terrace, Perth WA 6831  
Ph: 08 6211 3699 Fax: 08 6211 3650  
Email: [lpcc@lpbwa.com](mailto:lpcc@lpbwa.com) Web: [www.lpbwa.org.au](http://www.lpbwa.org.au)