

Information Statement

July 2022

Acknowledgement of Country

The Legal Practice Board acknowledges the traditional custodians throughout Western Australia and their continuing connection to the land, waters and community. We pay our respects to all members of the Aboriginal communities and their cultures; and to Elders both past and present.

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Introduction

This Information Statement is prepared and published pursuant to the requirements of Part 5 of the *Freedom of Information Act 1992* (WA) (**FOI Act**) and relates to the Legal Practice Board (**Board**).

Our Mission

To be an effective, efficient, and innovative regulator of legal services in Western Australia.

Legislation Administered

The Board is provided duties and functions under, and is responsible for administration of, the following legislation:

- *Legal Profession Uniform Law Application Act 2022* (**Application Act**); and
- *Legal Profession Uniform Law Application Act 2014 (Victoria) Schedule 1* (**Uniform Law**).
- Uniform Local Regulations and Rules under the Application Act:
 - *Legal Profession Uniform Law Application Regulations 2022*; and
 - *Legal Profession Uniform Law Application (Accreditation) Rules 2022*.
- Uniform Rules under the Uniform Law (Administered under the functions of the Legal Services Council):
 - *Legal Profession Uniform Law General Rules 2015*;
 - *Legal Profession Uniform Law Admission Rules 2015*;
 - *Legal Profession Uniform Conduct (Barristers) Rules 2015*;
 - *Legal Profession Uniform Conduct (Solicitors) Rules 2015*;
 - *Legal Profession Uniform Legal Practice (Solicitors) Rules 2015*;
 - *Legal Profession Uniform Continuing Professional Development (Barristers) Rules 2015*;
 - *Legal Profession Uniform Continuing Professional Development (Solicitors) Rules 2015*; and
- *Legal Profession Act 2008* (Repealed).

The Board also has varying responsibilities under acts administered by other authorities.

Structure and Functions

The Board's functions are to advance the administration of justice and protect the public by regulating the competence and behaviour of legal practitioners in Western Australia and enable the effective operation of the Board and its committees.

Membership of the Board comprises of, ex-officio the Attorney General of Western Australia and the Solicitor General of Western Australia, all self-nominated Queen's

Counsel and Senior Counsel whose principal place of practice is in Western Australia, and twelve elected members from the legal profession.

The Board has appointed five committees of Board members:

- The Admissions and Registration Committee function is to advise and assist the Supreme Court of Western Australia in the regulation of the admission of local lawyers and the registration of and legal practice by foreign lawyers.
- The Management Committee was established to manage the Board's human and physical resources, finances, information technology requirements and records at its various locations.
- The Professional Affairs Committee function is to regulate:
 - the issue and renewal of practising certificates;
 - trust money and trust accounts;
 - business structures and practices;
 - professional conduct matters;
 - professional indemnity insurance;
 - external intervention; and
 - unqualified and prohibited legal practice.
- The Professional Development Committee provides guidance to and oversight of Board Officers exercising delegated power, in relation to the continuing professional development of local legal practitioners.

The Board has appointed legal members of the Board to the Legal Services and Complaints Committee (**LSCC**). The LSCC is established under section 57(1) of the Application Act and pursuant to section 57(2) of the Application Act is a committee of the Board. The LSCC comprises of legal members of the Board and two community representatives. The LSCC's functions are delegated by the Board under Chapter 5 of the Uniform Law. The LSCC delegates powers to the Legal Services and Complaints Officer (**LSCO**), a statutory role established by section 79 of the Application Act.

The Board has an Executive Director and Secretary, whose role is to be responsible for the day to day operations of the Board and has the functions that the Board directs the Secretary to perform. All persons employed or engaged by the Board engagement may be subject to parts of the *Public Sector Management Act 1994*.

Details of functions, including decision-making functions, affecting the public

The functions of the Board affect persons and legal practitioners involved in the provision of legal services and other related purposes.

The key functions and decision making functions of the Board include, but are not limited to:

- receive and assess applications for admission of local, interstate and foreign legal practitioners;

- receive and assess applications for the grant or renewal of a local practising certificate;
- monitor the non-renewal of local practising certificates;
- monitor the continuing professional development obligations of legal practitioners;
- accredit providers of continuing professional development activities;
- oversee professional indemnity insurance obligations;
- monitor legal practice structures;
- monitor, audit, and investigate or inspect, law practices and their trust accounts;
- receive and assess enquiries and complaints about legal practitioners, legal practice structures and unqualified legal practice, and to conduct investigations and disciplinary processes where appropriate;
- resolve disputes between legal practitioners and consumers of legal services;
- educate the legal profession;
- coordination of inter-jurisdictional regulatory matters; and
- compliance with relevant public service, government and statutory obligations.

Many of the powers and functions of the Board are delegated to the established committees. The Legal Services Complaints Officer has separate powers and functions delegated by the LSCC.

The Board employs or engages persons to carry out the day-to-day operations of the Board. The work of the persons employed or engaged by the Board include, but are not limited to:

- Executive and legal support of the Board and Committees;
- Maintenance of the legal practitioner register (a record of all practitioners admitted to practice or practising in Western Australia, or both) plus various other records pertaining to legal practitioners in this State;
- Maintenance of a disciplinary register;
- Processing of admission and registration applications;
- Issue and renewal of annual practising certificates and the administration of other legal practitioner compliance matters;
- Processing applications for professional indemnity insurance exemptions or schemes;
- Processing applications for trust account exemptions;
- Management of continuing professional development requirements;
- Management of practice management requirements;
- Regulation and investigation of trust accounts;
- Conducting the Board's annual election; and

- Management of the Board's human, technological, financial and physical resources.

Public participation in the formulation of policy and performance of the Board's functions

No arrangements exist to enable members of the public to participate in the formulation of the Board's policy or in the performance of its functions, other than by virtue of the fact that representatives of the community are members of the Board.

Documents held by the Board

The types of documents typically held by the Board comprise the following:

- Files containing documents, correspondence and memoranda relating to the admission of legal practitioners, the issue and regulation of practising certificates, and legal practice;
- Enquiries from overseas and interstate legal practitioners, and persons, relating to admission in Western Australia;
- Files relating to the investigation or prosecution, or both, of offences under the *Application Act*, the *Uniform Law*, and the *Legal Profession Act 2008* (repealed), for example unqualified and prohibited legal practice or the initiation of disciplinary proceedings;
- Files relation to actions in which the Board or the LSCC is a party;
- Documents relating to meetings of the Board and its committees, including agendas, minutes, memoranda and the like;
- Documents relating to the management of the Board's assets and facilities, including documents relating to persons employed or engaged by the Board, premises, information technology, and so on; and
- Notes dealing with the Board's procedures relating to an application for admission, an application for and issue of a practising certificate, an application relating to continuing professional development matters, an application relating to an exemption, and the audit of a practitioner's trust account for an external auditor.

The notes referred to in paragraph (g) above are accessible on the Board's website. Copies of the notes referred to in paragraph (g) may also be made available to any person who calls at the Board's office, or who otherwise contacts the Board with an enquiry concerning the functions of the Board.

Otherwise there is no other law or practice under which any of the documents referred to above can be purchased.

The Operation of FOI in the Board

The FOI Act creates a general right of access to documents held by all state and local government agencies. It is the aim of the Board to make information available promptly, for the least possible cost, and wherever possible documents will be provided outside the

FOI process. Any prospective applicant is encouraged to contact the Board regarding the information they seek before lodging an FOI application.

The Board has no procedures for amending personal information in its documents pursuant to Part 3 of the FOI Act. Any application for an amendment is to be dealt with in accordance with Part 3 of the FOI Act.

The Board has no internal manual as defined in section 95 of the FOI Act. None of its functions affect or are likely to affect 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, apart from the legal profession and others dealt with for unqualified practice.

Freedom of Information Applications

It is the aim of the Board to make documents available promptly for the lowest possible cost, and where possible, documents will be provided outside of the FOI process.

Enquiries regarding information and documentation held by the Board should be made by telephone or email:

Telephone: (08) 6211 3600

Email: info@lpbwa.com

Where information is not routinely available as part of the enquiry process, an applicant can apply for access to documents held by the Board. Access applications have to:

- (a) be in writing;
- (b) give enough information so that the documents requested can be identified;
- (c) give an email address and/or an Australian postal address to which notices can be sent; and
- (d) be lodged at the agency with any application fee payable.

Applications can be lodged by email, post or in-person:

Email: info@lpbwa.com
Subject – Freedom of Information Application

Post: Freedom of Information
Legal Practice Board of Western Australia
PO Box 5720
WA 6831

In-person: Level 6, 111 St Georges Terrace
Perth WA 6000

Applications will be acknowledged in writing and you will be notified of the decision within 45 calendar days.

Freedom of Information Fees and Charges

Application Fees

The *Freedom of Information Regulations 1993 (WA)* (**FOI Regulations**) set the application fees.

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| (a) Personal information about the applicant | No fee and no charges |
| (b) Application fee (for non-personal information) | \$30.00 |

There is no application fee for applicants seeking their personal information. Personal information is defined in the FOI Act as being information or an opinion about an individual.

Applications for non-personal information require payment of an application fee. An application fee payable for non-personal information cannot be waived, irrespective whether the Board provides access to the requested documents, or not, and regardless of whether the applicant is impecunious.

Applications for non-personal information are invalid unless accompanied by payment for the application fee

Processing Charges

A range of discretionary processing charges are set under the FOI Regulations.

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| (a) Charge for time dealing with the application (per hour, or pro rata) | \$30.00 |
| (b) Access time supervised by Officers or Employees (per hour, or pro rata) | \$30.00 |
| (c) Photocopying time (per hour, or pro rata) | \$30.00 |
| (d) Per photocopy | \$0.20 |
| (e) Transcribing from tape, film or computer (per hour, or pro rata) | \$30.00 |
| (f) Duplicating a tape, film or computer information | Actual cost |
| (i) Packaging, delivery and postage | Actual cost |

Where charges are likely to exceed \$25.00, the Board will provide the applicant an 'Estimate of Costs'. This process provides an opportunity to reduce the charges by re-considering the number of documents required to satisfy the application.

For impecunious applicants or applicants that hold a pensioner concession card issued by the Australian Government, any charges payable are reduced by 25%.

Deposits

- | | |
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| (a) An advance deposit may be required in respect of the estimated charges | 25% |
| (b) Further advance deposit may be required to meet the charges for dealing with the application | 75% |

Access Arrangements

Access to documents can be granted by way of inspection; a copy of a document; a copy of an audio or video tape; a computer disk; or a transcript of a recorded, shorthand or encoded document from which words can be reproduced.

Notice of Decision

As soon as possible but in any case within 45 calendar days of receipt of the application, the applicant will be provided with a written notice of decision which will include details including -

- (a) the date the decision was made;
- (b) the name and the designation of the Officer who made the decision;
- (c) if access is refused, the reasons for claiming the document is exempt; and
- (d) information on the rights of review and the procedures to be followed to exercise those rights.

Refusal of Access

Applicants who are dissatisfied with a decision of the Board are entitled to ask for an internal review by the Board. The internal review application should be made in writing within 30 calendar days after being given the Board's notice of decision.

An applicant will be notified of the outcome of the internal review within 15 calendar days.

If an applicant disagrees with the outcome of the internal review, the application can apply to the Information Commissioner of Western Australia for an external review. The external review application should be made within 60 calendar days after being given the Board's written notice of the internal review decision. (Note: if you are requesting external review as a third party or following an application for amendment of personal information, you must lodge your external review application within 30 calendar days after being given written notice of the internal review decision.)