

ANNUAL REPORT 2018 - 2019



QUEENSLAND

Protecting the Rights
of Legal Consumers

LEGAL SERVICES COMMISSION

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30 August 2019

The Honourable Yvette D'Ath MP
Attorney-General and Minister for Justice
Leader of the House
1 William Street
BRISBANE QLD 4000

Dear Attorney-General

I am pleased to provide you with the Legal Services Commission's Annual Report for the reporting year 2018-19.

The *Legal Profession Act* 2007 (the LPA) requires that the report "deals with the system established under the LPA for dealing with complaints".

In my view the report achieves that requirement and deals similarly with the Commission's performance of our core functions, the work we are doing to support us in our service delivery roles and to ensure that the Commission meets high standards of transparency and accountability.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Robert Brittan'.

Robert Brittan
Acting Legal Services Commissioner

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OUR VISION

To regulate the legal profession with fairness and transparency in order to ensure the best outcome possible in the public interest. We will take disciplinary action when it is appropriate to do so but, where possible and appropriate an educative and preventative approach will be employed.

To be well-informed, focussed, determined, fair and accountable.

To continue to value our independence but employ a responsive, open and consultative, philosophy in our operations

OUR PURPOSE

The Legal Services Commission (LSC) has two fundamental and overlapping purposes: **to give** users of legal services an independent, timely, effective, fair and reasonable means of redress for complaints and;

to promote, monitor and enforce professionally appropriate standards of conduct in the provision of legal services.

These two purposes serve the even more fundamental purpose to help protect and promote public confidence in the legal system, the administration of justice and the rule of law.

We seek to achieve our purposes by:

- Facilitating outcomes to complaints between complainants and their lawyers.
- Investigating complaints which involve a disciplinary issue or contravention of a relevant law.
- Initiating 'own motion' investigations into conduct we have reasonable grounds to believe may involve a disciplinary issue or other significant wrongdoing.
- Supporting and as appropriate auditing law firms to help them develop and maintain appropriate management and supervisory systems and an 'ethical infrastructure'.
- Initiating disciplinary or other enforcement action when it is warranted by the evidence after investigation and in the public interest.
- Engaging with, and sharing knowledge and perspective with the profession, consumers and stakeholders to help improve standards of conduct in the provision of legal services.
- Creating and maintaining a productive, motivating and professional work environment.

OUR VALUES

We strive to do our best at all times, we behave in ways that demonstrate efficiency, competency and equality. We are committed to our five core values:

Respect: ourselves and those around us.

Innovate: encourage and embrace new methods and ideas.

Transparency: working collaboratively and collectively.

Collegiality: united for the common purpose, while respecting each other's abilities.

Performance: drive with intention and lead to empowerment through knowledge.



Commissioner's Overview

On behalf of the Legal Services Commission, I present this report as the Acting Legal Services Commissioner for the 2018 - 2019 reporting year. The report outlines our performance and achievements for this period.

As in past years this report includes quite detailed statistics which describe our performance as well as other information which I trust will give you a clear understanding of our achievements and our role in the disciplinary process.

Once again with the assistance of dedicated staff we have undertaken certain enhancements to refresh our image and make our website more user friendly. We have re-designed our website and letterhead which was in need of a more modern and fresh appearance. Additionally our discipline register has also been upgraded and we have acquired new printers and updated our telephone system in line with DJAG policy to a VOIP system a project that was not without some challenges.

Thus we have continued to enhance our processes towards efficiency whilst ensuring that we continue to engage with and share knowledge and perspective with the profession consumers and stakeholders to help improve standards of conduct in the provision of legal services.

We have undertaken a further review of the Commissions policies processes and systems which has resulted in implementing our strategic plan for 2019-2021. We continue to ensure that sufficient resources are directed at complaint handling and enforcement action.

As highlighted last year I have again made it a priority to refresh our training and continual professional development activities and participation for our staff. Similar to last year commission staff have actively engaged in the process with enthusiasm, with various staff from either the administrative or professional stream having attended 36 training seminars, events or presentations.

Commission staff have given generously of their time and financially by contributing to Share the Dignity for Women, the Queensland Police Service (QPS), Child Protection Unit Christmas gift drive and the QPS and Department of Justice and Attorney-General (DJAG) Christmas

foodbank; Law Walk; charity ride for AEIOU Foundation (children with autism); donations to Youngcare and Alzheimer's Queensland. This is commendable and displays a dedicated workplace culture of respect, innovation and openness, collegiality and a willingness to participate and help others in need.

We have continued to engage with law students by undertaking speaking engagements with students at the University of Queensland and University of Southern Queensland.

We continue to liaise with our professional stakeholders. I have had the pleasure of presenting at the Magistrates Regional conference in Cairns and on two occasions in Brisbane for the north coast/south coast/south west and Brisbane Magistrates regions.

Staff have also presented at forums at the Queensland Law Society (QLS) and attended the Government Lawyers conference and the QLS 2019 Symposium.

We liaise with the Society of Notaries and provide information relevant to prospective applicants, and also provide certificates of good standing to members of the profession seeking admission elsewhere, or upon seeking admission in Queensland (where appropriate).

I have again undertaken a performance review and agreed expectation agreement process with all staff who have embraced the process and provided valuable feedback on how we can improve our performance.

We have once again taken complainants responses and interactions with us seriously and implemented a Policelink protocol where we have identified persons who need assistance, guidance and answers. Being considerate of their welfare and the stresses and strains they encounter in the environment of regulation, this protocol has been utilised and has met with success.

Our Performance

As highlighted last year it is again pleasing to note that the organisational changes implemented in past years has risen to the fore and is paying dividends financially.

This year financial savings that have been made as a direct result of refining and refreshing our approach to regulation has resulted in the ability for the Legal Services Commission to provide \$1.567 million from its budget to be returned as operating surplus. Of that sum \$0.850 million has been approved to be redirected to the Community Organisations within the Legal Assistance Program.

We have continued to up the ante on practitioners who either neglectfully or intentionally adopt a course of conduct where they do not, until prompted on many occasions, pay the Commissions costs. It is incumbent upon us as an independent statutory body to ensure that public monies expended to maintain its operations are recovered in appropriate circumstances. Our rigorous costs recovery regime in those matters where the Commission has been successful in prosecutions against practitioners and a costs order in favour of the Commission has been made has resulted in us recovering to 30 June 2019 \$183,053.

This year the key statistics for the Commission are generally on par with 2018 but show some slight variances. This year there were 250 solicitors subject to investigation compared to 262 the year before and 22 barristers compared to 20 last year. Most complaints did, as usual, centre on quality of service, costs, general ethical conduct and poor communication. In the categories of complaints received, family law, conveyancing, deceased estates, litigation,

personal injury, criminal and commercial law constituted the major areas of the law. In addition the Commission dealt with over 2547 general enquiries.

In matters commenced by way of “own motion” or described as investigation matters under the *Legal Profession Act 2007* (LPA), personal injuries and WorkCover litigation once again featured prominently on 51 matters which represented 51.52% of all matters, generally relating to concerns under the *Personal Injuries Proceedings Act 2002* (PIPA). Conduct not in the practice of law that is personal conduct accounted for 14.4% and Trust Account breaches also featured on 9% of all matters.

We had 322 complaints on hand as at 1 July 2018 and opened a further 1391 complaint and investigation matters compared to 1259 last year. We summarily dismissed 965 of those and closed an additional 348 conduct matters. Of the 965 matters summarily dismissed approx. 34% or 326 of those matters were dismissed on the basis that complainants either did not comply with our request for more information, withdrew their complaints, or were out of time, not within jurisdiction or were frivolous and vexatious complaints. The balance of the summary dismissals being approximately 66% were dismissed on the basis that the allegations made by the complainants could not be sustained and therefore did not amount to conduct which required investigation. More statistical data appears on page 31 onwards.

We also closed 99 investigation matters. We had 400 complaint and investigation matters on hand as at 30 June 2019. The staff of the Commission have been applying themselves diligently to the processing of all complaints received by the LSC and are to be congratulated on the efficient turnaround of matters.

The number of matters on hand including prosecution matters, civil litigation and reconsideration files as at 30 June 2019 total some 450 matters and this figure accurately reflects our current open file matters. We had 16 matters heard and decided before the Queensland Civil and Administrative Tribunal (QCAT) during the year and 1 re-considered and withdrew or discontinued 15 other matters.

Of the matters prosecuted in QCAT 9 solicitors were struck off the roll compared to 4 last year. An additional 4 practitioners were suspended for varying periods of time and a further 5 lawyers were reprimanded for either unsatisfactory professional conduct or professional misconduct, and financial penalties were imposed on 2 lawyers totalling \$34,000 and 2 lawyers were ordered to undertake training. Details of all these Decisions are available on the Discipline Register or under the Disciplinary or Other Decisions section on the Commission’s website.

In striking contrast to last year the Commission dealt with 80 complaints/investigation matters concerning barristers as compared to 68 last year and 24 the year before that. As at 30 June 2019 two decisions relating to Barristers are yet to be decided by the Queensland Civil Administrative Tribunal (QCAT). Seven other matters which had been heard by QCAT concerning solicitors were also awaiting a decision as at that date. We had 31 prosecution matters on hand as at 30 June 2019.

During the course of this year the Commission has also assisted complainants to obtain refunds or waiver of legal costs of approximately \$82,000 which is not an insignificant achievement for the year.

We have secured apologies from lawyers in response to 43 complaints. We have secured 26 undertakings from lawyers to improve their management systems; 16 undertakings to be

supervised or mentored or to undertake training; and 52 undertakings from principals of law firms to amend their personal injury advertising to become compliant under the PIPA.

It is disappointing, however, whilst discussing statistics to note that around 20 % of all enquiries received in the 2018-19 year related to costs issues and once again most concerned on-going disclosure during the course of a complainant's matter. Approximately 12% of all written complaints are costs related. However of note this year is a spike in the number of complaints relating to quality of service (29%) communication (11%) and ethical conduct (29%).

The growth of incorporated legal practices (ILPs) continues and as at 30 June 2019 there were 1253 ILPs as compared with 2242 law firms and 16 MDPs registered with the Commission. This indicates a growth of ILPs over last year's figure of 87. The number of MDPs has decreased by three, but when combined these figures represent approximately 57% of all law firms operating within Queensland.

There has been a substantial increase over the years of women entering the profession and they now represent 6523 compared to 6042 men.

We continue to have an appetite to stamp out unlawful operators as highlighted in last year's Annual Report. We undertook investigations into 34 matters this year. Last year's report highlighted similar action taken by the Commission in that year. This can be a very difficult area of the law to prosecute, as the criminal standard of proof applies and the respondents in these matters are entitled to exercise their right to silence.

Personal Conduct of practitioners

Disappointingly, I remain concerned about the continuing behaviour of a limited number of members of the profession outside the practice of law. Of matters coming to my attention this year 21 practitioners have been required to give a show cause notice to the QLS for behaviour ranging from personal bankruptcies to criminal offences such as assault and in the past minor drug use or for more serious matters where convictions may result.

Quite appropriately, and in consultation with the Commission, where the practitioner has been able to show cause why their practising certificate should not be cancelled or suspended or otherwise dealt with, and where no further conduct issues arise warranting a disciplinary response from the Commission, the QLS has placed conditions on the practising certificate of the lawyers and required specific and detailed undertakings. We continue to work with the QLS on these matters to ensure appropriate outcomes are achieved for the protection of consumers of legal services. We have continued to liaise with the Queensland Law Society's ethics unit and supported and approved the publication of their guidance statements for distribution to the profession. This greatly assists the profession in understanding their professional and ethical obligations as we see them in conjunction with the QLS.

The Model Litigant

The Commission takes its role seriously and where appropriate is not shy of challenging decisions and testing the law.

We were successful in appealing the matter of Legal Services Commissioner v Timothy John McQuaid see [2019] QCA 136 where we were concerned about the approach taken by the tribunal (QCAT) in relation to the Commissions costs argument and representation by our Counsel.

Quite appropriately the Court of Appeal in a majority Judgement written by his Honour Morrison JA held that in respect of the order at first instance where costs were fixed at \$2,500 that the Tribunal lacked power to limit such costs. It was further held (see paragraph 89) that the order made by the Tribunal was ‘without any proper evidentiary foundation and beyond the scope of s 462(1) of the *Legal Profession Act 2007*’. At paragraph 88 His Honour noted”the Tribunal did not as is submitted by the respondent, take judicial notice of the likelihood that the amount fixed for costs was “by no means the entirety of the amount that would be ordered on taxation”.

It had been of concern that the Tribunal had clearly purported to exercise a power it did not have but nevertheless had imposed such decision and criticism upon the Commission. It was further held (see paragraph 54) that the Tribunal’s finding that our Counsel had indulged in an apparently wilful misreading of an affidavit placed in evidence could not be sustained. Equally their finding that reliance on the client’s condition in our Counsel’s written submissions was ill founded was also not sustained.

The Tribunal (QCAT) held that “an element of unreasonableness permeates the applicant’s case as presented to the Tribunal (see paragraph 55). However the Court of Appeal found after an extensive analysis (see paragraphs 55 to 69) that there was nothing unreasonable at all about the manner in which the Commission or our Counsel had conducted the case.

His Honour Morrison JA held:

The factual basis for limiting costs

“[70] The analysis above demonstrates, in my respectful view, that there was no basis for limiting the costs ordered, even if the Tribunal had the power to do so;

[71] That the Commissioner failed in the submission that the conduct was professional misconduct as opposed to unsatisfactory professional conduct does not, in the circumstances examined above, warrant an apportionment of costs, let alone a limiting of them. To speak of “weighing up the applicant’s lack of success on the issues litigated” is to adopt an approach applicable where there is a general discretion as to ordering costs, not the statutory regime apparent in s 462 of the Act.

[72] As explained above there was nothing in the manner in which the case was conducted to warrant an apportionment of costs, let alone a limiting of them.”

Calls for a Judicial Commission

That leads me to the discussion that is occurring in relation to comments attributable to the President of the Bar Association Queensland (BAQ) (as recently reported in Lawyers Weekly 17 July 2019) that the time is right for a judicial bullying policy in Queensland.

Whilst I agree in principle with such a policy it does not in my view go far enough in respect of who enforces such a policy. It would seem to me that the time is right for a Judicial Commission to be formed as is the case in New South Wales and Victoria to review the conduct of judicial officers, where appropriate, and provide other guidance, education and support for the judiciary.

Mr Ken Taylor, Immediate past President of the QLS in a press release on 13 September 2018 backed calls by the Law Council of Australia to introduce a Federal Commission and called for a Judicial Commission at state level. At the time Mr Taylor was quoted as saying:

“The Society has called for a judicial commission to be established in Queensland for quite some time.”..... “We aren’t suggesting that there are major issues with any members of the judiciary, but we are supportive of anything that will strengthen not only public faith in our judges but also protect them from any unfounded allegations.”

Mr Taylor explained that a judicial commission at both state and federal levels would strengthen public confidence in the administration of justice and also ensure all processes around judicial appointments, conduct and education remained open, transparent and independent. In my view that says it all. The current President, Mr Bill Potts, has stated that the QLS still supports the establishment of such a commission.

No individual’s conduct, in any capacity, in which they function should be beyond scrutiny or accountability.

National Uniform Law

A recent article in the Australian (15 March 2019 – ‘Queensland hesitant on national regulation’) is suggestive that Queensland is hesitant on national regulation.

The President of the QLS has stated that the QLS would support a scheme that provided direct benefits to its solicitors but the QLS are not yet convinced that the uniform scheme will work effectively for everybody within their membership. Mr Potts is quoted as saying:

“The Law Society has also been conscious of the need to balance the increased cost to practitioners to fund the operations of the Legal Services Council and Commissioner with the benefit to the local profession. We still wish to see the evidence that there is going to be a value proposition and a significant benefit to Queensland Law Society members”

I totally agree with those remarks. I have been involved in the legal profession as a practising lawyer for over 20 years and subsequently in regulation of the profession in Queensland for nearly 15 years. During that latter period much has been said about the benefits of national regulation. However, I do not support the current model and cannot, with respect, see the benefits of another layer of bureaucracy (such as the Council and Commissioner) when all jurisdictions have had, prior to the introduction of Uniform law, Commissioners or their equivalents who seem to me to have mastered regulation quite well. However, for some reason now it is suggested that another Commissioner and Council is more appropriate. Our system here works well and whilst I support national regulation per se I do not support a model that establishes the Council and Commissioner and the ongoing costs involved in supporting those roles.

Our Thanks

I would like to thank all stakeholders with whom the Commission dealt throughout the year. I thank the professional representative bodies namely, the Queensland Law Society and the Bar Association of Queensland with whom we have engaged throughout the year.

To our colleagues at the Department of Justice and Attorney-General our thanks are extended for their assistance and support across a range of areas including budgetary, human resources and information technology support. We continued to work in ‘partnership’ to provide concise and accurate briefing notes about our performance for the Attorney-General relating to Estimate Hearings and their support is greatly appreciated.

I extend my thanks to The Honourable Yvette D’Ath MP, Attorney-General and Minister for Justice and Minister for Training and Skills for her support and that of her Department. In

particular I extend my sincere thanks to the Director-General David Mackie who has been most supportive of our work and staffing structure throughout the year and continued to provide the resources necessary to fulfil our objectives and obligations under the LPA 2007.

This has allowed the Commission to continue to act with integrity, maintain stability and continuity, focus, and operational efficiency without distraction. The Commissions performance results and achievements as demonstrated in this report lend support for such a statement.

The staff at the Commission have once again provided a level of professional expertise and service throughout the year of which they should be proud. They have exhibited a positive attitude of co-operation and mutual help which has benefitted the morale and productivity of the Commission. I thank them for their input and individual contributions.

Delivering an efficient and effective system for dealing with enquiries and complaints

This is our core regulatory function and our strategy is to ensure that we provide a high quality and professional service to all those we deal with, consumers of legal services, complainants and lawyers equally.

The Commission provides an enquiry service to assist members of the public with preliminary queries relating to the client/lawyer relationship and the complaints handling process in general. These first contact enquiries are usually made by telephone but can also be made in writing, emailed or in person. This year staff of the Commission handled 2547 enquiries.

The LPA describes its main purpose as ‘to provide for the protection of consumers of the services of the legal profession and the public generally’. It describes the main purposes of the system for dealing with complaints as ‘to promote and enforce the professional standards, competence and honesty of the legal profession’ and to ‘provide for the discipline of the legal profession’.

We achieve these purposes by investigating complaints which involve a disciplinary issue, initiating ‘own motion’ investigations, conducting compliance audits of incorporated legal practices, commencing disciplinary or other enforcement action and engaging with stakeholders.

The LPA requires that complaints which involve an issue of unsatisfactory professional conduct or professional misconduct are fully and properly investigated. It allows us either to conduct the investigations ourselves or refer complaints to the QLS and the BAQ for investigation but limits the role of the QLS and BAQ in those circumstances to recommending what further action, if any, the Commissioner should take on those complaints. The Commissioner has only two options having investigated a complaint or having received and considered the recommendation from the QLS or the BAQ: either to dismiss the complaint; or if the Commissioner decides there is a reasonable likelihood of a finding by a disciplinary body of unsatisfactory professional conduct or professional misconduct and that it is in the public interest to do so, to initiate a disciplinary proceeding.

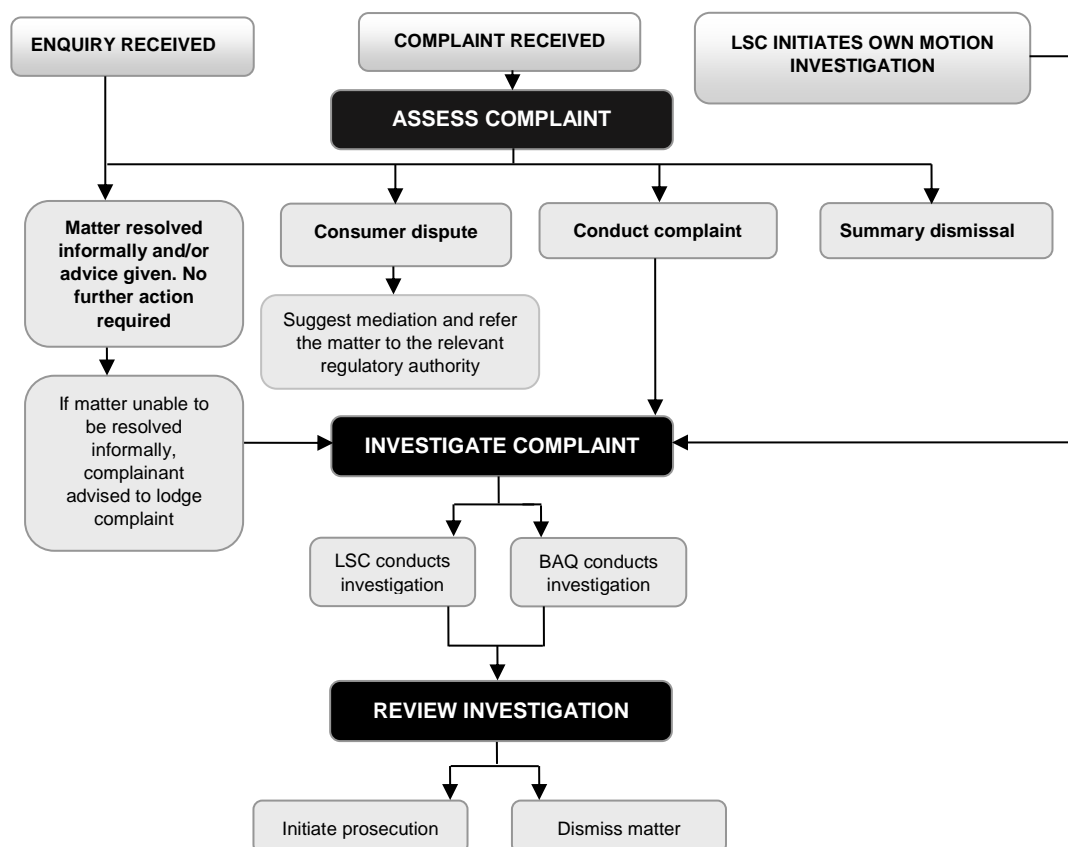
There are various reasons why the Commissioner might decide there is no public interest in initiating a disciplinary proceeding notwithstanding an investigation having found evidence of unsatisfactory professional conduct or professional misconduct. It may be, for example, that the conduct is of a minor kind only, that the lawyer has acknowledged his or her error, that there is no need to send a message to the profession about the issue and that the lawyer has corrected that error with the complainant and indeed may well have provided some appropriate redress such as a refund and/or apology.

We describe the system for dealing with complaints in great detail on the Commission's website, see link to [Complaints](#). The LPA requires us to produce information about the making of complaints and the procedure for dealing with complaints to:

- ensure that information is available to members of the public on request
- give help to members of the public in making complaints
- deal with complaints as efficiently and expeditiously as is practicable

We assess our performance having regard to our clearance ratio and our timeliness in bringing matters to conclusion. There is comprehensive statistical timeliness data identified in the tables below. Our complaint handling process also appears below.

Enquiry and complaint handling flowchart



Engaging collaboratively and constructively with stakeholders

We have written a series of plain English fact sheets which describe how we deal with complaints and how to make a complaint and for lawyers how to respond to a complaint amongst other information. There are currently 15 fact sheets which also include answers to frequently asked questions about our complaint handling and investigation processes. They are readily available both in hard copy and on our website at [Fact Sheets](#) and are listed below:

- Communicating with your Lawyer
- Ten questions to ask your lawyer about costs
- Making a Complaint
- Information for Complainants
- Information for Respondents
- Negligence
- Compensation Orders
- Discipline Applications
- Discipline Hearings
- Communicating with your Client
- Responding to a Complaint
- Avoiding Complaints
- No win-no fee cost agreement consumer guide

We have also published in consultation with the QLS two fact sheets to do with costs titled 'Your Right to Challenge Legal Costs' and 'Legal Costs Your Right to Know'. These will be updated and reviewed when appropriate. These fact sheets assist all parties to that process but in particular the consumers of legal services to assist them in understanding their rights.

We have also, in conjunction with the QLS, endorsed their Guidance Statements, as follows:

1. Undertakings
2. Ongoing Cost Disclosure
3. Paying Referral Fees and Rule 12.4.4 ASCR 2012
4. Receiving Referral Fees and Rule 12.4.3 ASCR 2012
5. Witnessing Enduring Powers of Attorney
6. Form of Delivery for Client Documents
7. Limited scope representation in dispute resolution.
8. Termination of a retainer.
9. Dealing with self-represented litigants
10. Power of Attorney (solicitor attorney remuneration)
11. Financial reporting proceeds of crime compliance and anti-money laundering (withdrawn)

12. Conflicts of interest in Criminal and Crime & Corruption Commission Proceedings
13. Proceeds of Crime compliance and Anti Money Laundering
14. Financial reporting
15. In house counsel-practising certificates
16. Supervision

We have published a series of regulatory guides as appears below:

1. Charging Outlays and Disbursements;
2. Advertising Personal Injury Services;
3. Charging Fees in Speculative Personal Injury Matters;
4. Advertising Personal Injury Services on the Internet;
5. Advertising Personal Injury Services on Internet Search Engines and Non-Lawyer Websites;
6. Itemised Bills;
7. The Application of the Australian Consumer Law to Lawyers;
8. Billing Practices – Some Key Principles;
9. Fixed Fee Cost Agreements; and
10. Report of Suspected Offences.

Proactive regulation ‘own motion’ investigations

The LPA authorises us to commence an investigation into the conduct of a lawyer, law practice employee or unlawful operator without having received a complaint i.e. an ‘investigation matter’ or the terminology which we use generally as an ‘own motion’ investigation, ‘if the Commissioner believes an investigation about a matter should be started’ and the Commissioner has come to that belief ‘on grounds that are reasonable in the circumstances’.

Similarly the LPA authorises us to start an investigation into the conduct of a lawyer, or for that matter anyone else, the Commissioner reasonably suspects may have contravened the PIPA legislation by touting at the scene of an accident or advertising personal injury services contrary to the restrictions set out in Chapter 3, Part 1 of that Act.

We have published our [‘Own Motion’ Investigations](#) policy on the Policies page of our website which sets out the factors the Commissioner takes into account in deciding whether to commence an ‘own motion’ investigation. We assess our performance, having regard amongst other things to our clearance ratio; our pro-activity as assessed by the number of ‘own motion’ investigations we commence expressed as a percentage of the number of conduct matters overall; the reliability of the risk assessments that underpin our decisions to commence ‘own motion’ investigations as assessed by the outcomes of our investigations; the extent to which we identify systemic issues and then implement appropriately targeted remedial strategies; and of course the feedback we get from the parties to this process.

An ‘own motion’ investigation may be started as a result of information received from:

- a compliance audit of an incorporated legal practice;
- a trust investigation;

- a report from a court or tribunal about a lawyer's conduct in the course of proceedings;
- a report about a lawyer's conduct from the Director of Public Prosecutions, Queensland Police Service, the Office of Fair Trading and other like agencies;
- a report in the media about a lawyer or other person over whom we have jurisdiction;
- a review of advertisements of law firms and law firm websites for compliance with the restrictions of the advertising of personal injury services;
- on some occasions anonymous sources.

The power to commence an 'own motion' investigation is therefore an important one. It enables the Commissioner to investigate conduct that has not attracted a complaint and in those circumstances it is an important consumer protection power which meets a number of the regulatory objectives.

Compliance audits

The LPA allows lawyers to practice as sole practitioners and in partnerships with other lawyers and since 1 July 2007 under a company structure as incorporated legal practices (ILPs) and in partnership with members of other professions described as multi-disciplinary partnerships (MDPs).

The LPA requires us to regulate the provision of legal services by ILPs and MDPs in the same way we regulate the provision of legal services by any other law firm by responding to complaints and if we suspect all is not as it should be, by initiating 'own motion' investigations.

Notably, the LPA requires ILPs to only have one legal practitioner director and indeed imposes obligations on that legal practitioner director over and above their usual professional obligations as lawyers. Crucially it requires them:

- To keep and implement an appropriate management system to enable the provision of legal services by the practice under the professional obligations of Australian legal practitioners.
- To take all reasonable action to ensure that lawyers who work for the firm comply with their professional obligations.
- To take appropriate remedial action should lawyers who work for the firm fail to comply with their professional obligations.

Therefore legal practitioner directors are to be responsible for ensuring that their firms have the ethical infrastructure necessary in the circumstances of their own particular practice to provide competent and ethical legal services, governance and supervisory arrangements, as well as the policies, work practices and workplace culture more generally.

Section 130 of the LPA empowers the Commissioner to conduct an audit (a compliance audit) of an ILP about:

- Compliance of the practice and of its officers and employees with the requirements of the LPA or regulation, the legal profession rules or the administration rules so far as they apply to the ILPs.
- The management of the provision of legal services by the ILP, including the supervision of the officers and employees providing the services.

Compliance audits are one of several regulatory tools available to us.

The Commissioner has, by agreement with the QLS, accepted primary responsibility for auditing ILPs. The responsibility to audit a law practice's trust account continues to be the responsibility of the QLS.

The Commission may at its discretion require, if appropriate, every corporation that notifies the QLS of its intention to commence practice as a corporation to undertake a 'self-assessment' audit of its management systems soon after giving such notice and to report those findings to the Commission, which will act upon them as deemed appropriate and may thereafter undertake periodic 'maintenance audits'. The Commission may at any time and at its discretion conduct interval 'spot' audits to test the accuracy of self-assessment statements and the standard of compliance generally of any ILP. Formal arrangements have been entered into with the QLS to assist co-operatively in the operational aspects of this arrangement.

It is our belief that compliance audits cover a full spectrum from supporting and educating ILPs to comply with the LPA to practice audits using our extensive coercive powers on those who we have identified to be at greater risk of non-compliance. Our approach is governed by six fundamental criteria. These are that compliance audits should:

- Be credible and robust.
- Be proportionate.
- Add value and engage with legal practitioner directors with problem solving as to how they might best develop and continually improve their management systems, processes and workplace cultures to establish ethical infrastructure.
- Be consistent with the Commission's education towards compliance approach to regulation which is aimed at promoting higher standards (compared to the traditional regulatory approach which is geared to enforcing minimum standards).
- Not add any regulatory burden to incorporated legal practices unless there is some demonstrable risk-related reason that justifies a more intrusive approach.
- Allow for the fact that we will inevitably have limited resources.

Who and when we decide to audit is determined by a number of factors including:

- When a law practice commences as an ILP.
- The time since our last interaction with an ILP.
- Analysing information based on a range of evidence including a firm's complaints history, the firm's self-assessment audit and the kinds of practice areas and aspects of practice that are most at risk.

We will focus our ILP compliance activities on the following areas:

- legal costs and billing practices
- supervision
- non-compliance with costs disclosure obligations
- failure to provide reasonable estimates
- implementation of appropriate management systems

Undertaking fair and consistent disciplinary and enforcement activities

The LPA gives the Commissioner sole authority to decide what action, if any, to take on a conduct complaint or 'own motion' investigation after the matter has been investigated and wide discretion in the exercise of that authority. It authorises the Commissioner to dismiss or take no further action on a complaint or 'own motion' investigation if 'there is no reasonable likelihood of a finding by a disciplinary body of unsatisfactory professional conduct or professional misconduct [or] it is in the public interest to do so', or alternatively to make a discipline application to a disciplinary body 'as the Commissioner considers appropriate'. We have published [Discipline Application Guidelines](#) on the Policies page of our website which describe the factors we take into account in exercising those discretions.

Similarly the Commissioner is the sole prosecuting authority under the LPA. We prosecute discipline applications in the Queensland Civil and Administrative Tribunal (QCAT) in relation to more serious matters and in the Legal Practice Committee (LPC) in relation to less serious matters. We are also responsible for prosecuting under the LPA including for example the offence of engaging in legal practice when not entitled and certain offences under the PIPA including, for example, touting at the scene of an accident. The Commissioner commences prosecution of these matters in the Magistrates Court.

We are not confined to a prosecutorial role. The LPA authorises the Commissioner to apply to the Supreme Court to grant an injunction restraining a person from contravening the LPA, or aiding, abetting, inducing or attempting to induce a person to contravene the LPA or relevant regulatory legislation. Further, the Commissioner is free to initiate civil litigation in the public interest including, for example, by applying to the Supreme Court of Queensland for a declaration which may clarify the proper meaning of a term or terms in the LPA.

Civil litigation matters

Civil litigation matters comprise matters opened by the Commission when it becomes involved in civil proceedings, whether on the Commission's initiative or otherwise e.g. when the Commissioner is the applicant or respondent to an originating application or when the Commissioner seeks a declaration as to the proper meaning of a term or terms in the LPA or when responding to subpoenas or applications for third party discovery.

Assessing and reviewing our performance -Prosecutions

We assess our performance of our prosecutorial and other enforcement functions having regard primarily to the findings of the disciplinary bodies and the courts and in particular to the number and proportion of matters in which we succeed.

In the past year as part of our continual improvement process and a focus on being fair and consistent in our approach to disciplinary or enforcement activities, we reviewed various matters that had progressed through our internal prosecutorial matter stages. We entered into meaningful discussions with potential respondents or their lawyers to those intended applications.

After meaningful discussion and due consideration I decided that there was no public interest in pursuing 15 of those matters. In our view, being an effective regulator depends in part on

how well we use our disciplinary and enforcement powers. This strategy focuses on ensuring that when disciplinary or enforcement action is needed, the Commission's actions are fair, proportionate and consistent.

Set out below are the issues that are taken into account before exercising the discretion to make a discipline application. The paragraphs below are extracted from the Commissions Disciplinary Application Guidelines as appear on the Commissions website under our Publications /Policies section as follows:

"The Commissioner will exercise the public interest discretion to make a discipline application or otherwise having regard to:

- the seriousness of the alleged unsatisfactory professional conduct or professional misconduct, and the need to protect the public from the respondent legal practitioner or law practice employee.
- the likely prejudice to public confidence in the integrity of the disciplinary process and to the reputation of the profession if the Commissioner exercises the discretion not to make a discipline application.
- the apparent prevalence of the conduct, and the need to 'send a message' to deter other legal practitioners or law practice employees from engaging in such conduct.
- whether the conduct raises a matter of law or professional practice of general importance.
- whether the conduct involved dishonesty or taking advantage of vulnerable clients or third parties or was pre-meditated.
- whether the conduct was a genuine mistake or misunderstanding and is unlikely to be repeated.
- whether the respondent acknowledges his or her error, or has shown remorse or apologised or made good any loss or harm his or her conduct has caused to others.
- whether the respondent co-operated fully and frankly during the investigation into his or her conduct.
- whether a finding of unsatisfactory professional conduct or professional misconduct would entitle the complainant or others who may have been adversely affected by the conduct to compensation.
- the respondent's age, health or infirmity.
- whether there have been any previous disciplinary findings against the respondent.
- the likely length and expense of the hearing.
- the likely disciplinary outcome if an application proceeds, and whether the respondent agrees to initiate the same or similar outcome him or herself – for example, by undertaking to complete a stated course of further legal education or to be subject to periodic inspection by a person nominated by the Commission or other regulatory body or to engage in legal practice only subject to stated conditions or to take advice from a stated person in relation to the management of his or her practice.
- whether there are grounds for special leniency (see co-operation policy below).
- any other relevant consideration.

Some of these considerations (the need to send a message, for example) tend to weigh in favour of making a discipline application. Others (the respondent's acknowledgement of his or her error, for example, or agreement to undertake further legal education or to change his or her work practices or systems) tend to weigh in favour of dismissing the complaint or investigation matter in the public interest. Generally speaking, the more

serious the alleged unsatisfactory professional conduct or professional misconduct, the less likely the Commissioner will exercise his/her discretion to dismiss a complaint or investigation matter in the public interest.

Co-operation policy

The Commissioner wants to encourage legal practitioners and law practice employees whose conduct may have fallen short of expectation or who know of others whose conduct may have fallen short of expectation to come forward to assist the Commission in its work.

Accordingly and in the public interest, the Commissioner will actively consider being lenient with legal practitioners and law practice employees who:

- voluntarily come forward with relevant evidence of conduct that contravenes the Act but that the Commission has either no knowledge of or insufficient evidence to make a discipline application.
- provide the Commission with full and frank disclosure of the conduct in question and any documentary or other evidence that may be available or known to them.
- undertake to co-operate throughout the Commission's investigation and comply with that undertaking.
- have not compelled or induced any other person to take part in the conduct in question or been a 'ringleader' in instigating the conduct.

The Commissioner may exercise this policy in either of two ways, by:

- not making a discipline application where appropriate;
- undertaking to make submissions (joint or otherwise) to a disciplinary body in mitigation of the sanction.

Conclusion

The Commissioner will endeavour to apply these guidelines consistently, fairly and transparently.

The Commissioner will deal with complaints and investigation matters on a case by case basis on their individual merits having regard to the evidence in its totality and to

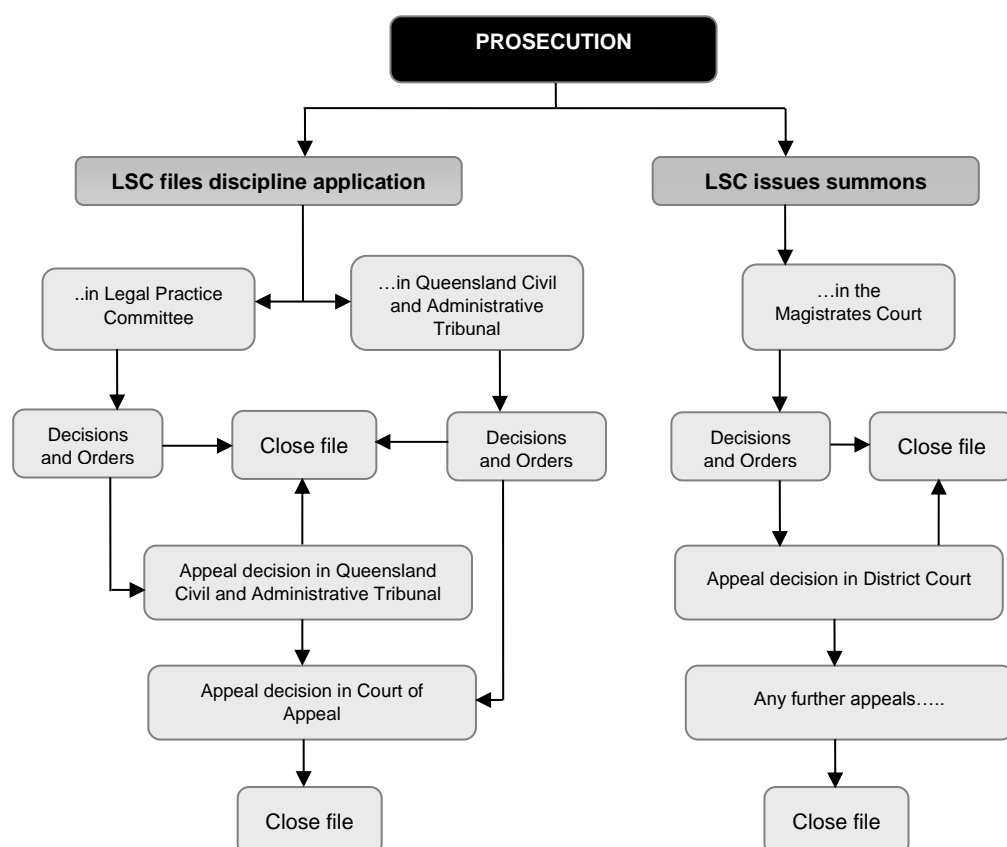
- the broad purposes and specific requirements of the Act;
- the well established principle that professional discipline should be directed primarily to the protection of the public rather than the punishment of errant practitioners;
- the desirability of maintaining and enforcing high standards of professional and personal conduct among legal practitioners and public confidence in the legal system and the profession;

The Commission will not allow itself to be influenced in coming to a decision to make a discipline application or alternatively to dismiss a complaint or investigation matter because of:

- the race, religion, sex or political association, activities or beliefs or any other personal characteristic of the respondent legal practitioner or law practice employee or any other person or persons who may be involved.

- the Commissioner's personal feelings or the personal feelings of the staff of the Commission about the alleged conduct, the complainant, the respondent or any other person or persons who may be involved.
- any possible political disadvantage to the government of the day or other political party or any possible media or community reaction of the decision.
- the possible impacts of the decision on the person or professional circumstances of the Commissioner or staff of the Commission or members of the disciplinary bodies or any other person or persons who may be or be perceived to be responsible for the conduct and outcome of the disciplinary proceedings.

Prosecution flowchart



The Discipline Register

The LPA requires the Commissioner to keep a discipline register on the Commission's website of disciplinary action taken under the LPA. It requires that the register includes the names of the practitioners against whom discipline action was taken, the names of their law firms and the particulars of the disciplinary action.

It defines disciplinary action to mean 'findings of a disciplinary body or a court of professional misconduct'. We keep the register as required, keep it up to date and in every case include a link to the written judgment and reasons of the relevant disciplinary body or court.

We have also created (entirely separate to the discipline register) a [Disciplinary and other relevant regulatory decisions](#) page on our website which includes links to decisions of the disciplinary bodies and the courts which made findings of unsatisfactory professional conduct but not of professional misconduct. It includes links also to other decisions relevant to the regulation of the provision of legal services, including decisions in our civil litigation matters.

Below is an extract from the Commissions discipline register of matters heard and decided and where findings of professional misconduct were made in the past year.

SLIPPER, Robin John (DOB 29/06/1955)

Practitioner type:	Solicitor
Admitted:	Monday, 8 November 1993
Home jurisdiction:	Queensland
Law practice:	Slipper Lawyers Pty Ltd Scarborough & Railway Streets Southport 4215
Disciplinary body:	QCAT
Date of decision:	Monday, 1 July 2019 Date of hearing and proposed Orders made on 10 June 2019
Findings:	The respondent's conduct is categorised at professional misconduct.
Penalty:	1. The respondent's name be removed from the local roll. 2. The respondent to pay the Commissioner's costs.

MUNT, Nigel Francis (DOB 06/05/1970)

Practitioner type:	Solicitor
Admitted:	Monday, 31 January 1994
Home jurisdiction:	Queensland
Disciplinary body:	QCAT
Date of decision:	Tuesday, 25 June 2019
Findings:	The respondent's conduct amounted to professional misconduct.

Penalty:	<ol style="list-style-type: none">1. The respondent not to be granted a local practising certificate before the end of the period of 5 years commencing 8 April 2015.2. The respondent is publically reprimanded.3. The respondent pay the applicant's costs, assessed on the standard basis for matters of the Supreme Court of Queensland.
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MANZ, Matthew Kenneth (DOB 10/02/1977)

Practitioner type:	Solicitor
Admitted:	Monday, 11 November 2002
Home jurisdiction:	Queensland
Law practice:	Mahoneys 235 Varsity Parade Varsity Lakes 4227
Disciplinary body:	QCAT
Date of decision:	Monday, 10 June 2019
Findings:	The respondent's conduct is categorised as professional misconduct.
Penalty:	<ol style="list-style-type: none">1. The respondent is publically reprimanded.2. The respondent is to pay a fine of \$30,000.00.3. The respondent is to pay the Commissioner's costs.

RIMMER, Margaret Faith (DOB 03/05/1951)

Practitioner type:	Solicitor
Admitted:	Tuesday, 4 February 1975
Home jurisdiction:	Queensland
Law practice:	Maleny Law 9 Bunya Street MALENY 4552
Disciplinary body:	QCAT
Date of decision:	Monday, 11 March 2019
Findings:	The respondent engaged in professional misconduct.

Penalty: Struck off

O'REILLY, Mark Joseph (DOB 24/09/1966)

Practitioner type: Solicitor

Admitted: Thursday, 14 December 1989

Home jurisdiction: Queensland

Law practice: O'Reilly Lillicrap 239 George Street BRISBANE 4000

Disciplinary body: QCAT

Date of decision: Thursday, 28 February 2019

Findings: The respondent is publicly reprimanded;

Penalty: The respondent is suspended from practising as a legal practitioner for a period of three years.
The respondent is to pay the applicant's costs of and incidental to the application to be assessed on the standard basis.

TAY, Melvin Poh Onn (DOB 09/08/1977)

Practitioner type: Solicitor

Admitted: Monday, 15 July 2002

Home jurisdiction: Queensland

Law practice: Tay Lawyers 250 McCullough Street SUNNYBANK 4109

Disciplinary body: QCAT

Date of decision: Tuesday, 26 February 2019

Findings: Respondent engaged in professional misconduct

Penalty: Recommendation that the respondent's name is removed from the Roll of Practitioners.
Costs to the applicant to be assessed on the Supreme Court scale.

BEATTY, Michelle Rosena (DOB 19/09/1972)

Practitioner type:	Solicitor
Admitted:	Tuesday, 3 February 1998
Home jurisdiction:	Queensland
Disciplinary body:	QCAT
Date of decision:	Monday, 25 February 2019
Findings:	Guilty of professional misconduct
Penalty:	Recommended that Ms Beatty's name be removed from the Roll of Solicitors in Queensland. Pay applicant's costs as assessed.

MEEHAN, Timothy Vincent Charles (DOB 15/11/1975)

Practitioner type:	Solicitor
Admitted:	Monday, 8 May 2000
Home jurisdiction:	Queensland
Law practice:	Bosscher Lawyers
Disciplinary body:	QCAT
Date of decision:	Monday, 18 February 2019
Penalty:	1. Recommended that name of respondent be removed from the roll of legal practitioners in Queensland. 2. Respondent shall pay applicant's costs of and incidental to disciplinary application, such costs to be assessed on the standard basis.

MCHENRY, DAVID ALLAN (DOB 03/10/1970)

Practitioner type:	Solicitor
Admitted:	Friday, 6 September 1996

Home jurisdiction:	Queensland
Law practice:	Dave McHenry & Associates, Lawyers 6 Roseberry Street GLADSTONE
Disciplinary body:	QCAT
Date of decision:	Tuesday, 18 December 2018
Findings:	1. Respondent engaged in professional misconduct; 2. Respondent's name be removed from the local roll of practitioners;
Penalty:	1. Respondent struck off; 2. Respondent pay applicant's costs to be assessed on standard basis.

BUI, An (DOB 05/05/1968)

Practitioner type:	Solicitor
Admitted:	Monday, 31 July 2000
Home jurisdiction:	Queensland
Law practice:	Benson Lawyers 72 Partridge Street INALA 4077
Disciplinary body:	QCAT
Date of decision:	Monday, 3 December 2018
Findings:	Respondent found guilty of professional misconduct.
Penalty:	1. Respondent's Practising Certificate is cancelled immediately; 2. Respondent is fined \$2,500.00; 3. Respondent is to pay the applicant's costs as assessed.

SULLIVAN, Keith Nicholas Linedale (DOB 16/04/1974)

Practitioner type:	Solicitor
Admitted:	Monday, 13 September 1999
Home jurisdiction:	Queensland

Disciplinary body:	QCAT
Date of decision:	Thursday, 29 November 2018
Findings:	Guilty of professional misconduct on all charges.
Penalty:	Recommended that Mr Sullivan's name be removed from the Roll of Solicitors in Queensland; pay the applicant's costs as assessed.

BROWN, Peter Mitchell (DOB 08/08/1965)

Practitioner type:	Solicitor
Admitted:	Thursday, 13 December 1990 QCAT
Home jurisdiction:	Queensland
Law practice:	Browns Lawyers 79 West Burleigh Road BURLEIGH HEADS 4220
Disciplinary body:	QCAT
Date of decision:	Friday, 10 August 2018
Findings:	Guilty of professional misconduct on all charges
Penalty:	<ol style="list-style-type: none">1. Respondent is publicly reprimanded;2. Respondent shall pay a pecuniary penalty in the sum of \$4,000.00;3. Respondent is to undertake the Ethics Course facilitated by the Queensland Law Society within 12 months;4. Any Practising Certificate granted to the respondent is to contain a condition that he not accept from 1 July 2018 appointment under a Power of Attorney and other conditions as remain necessary, to give effect to the conditions of the Practising Certificate granted by the Queensland Law Society on 20 June 2018;5. Respondent shall pay the applicant's costs of and incidental to this proceeding, to be assessed on a standard basis, on the Supreme Court scale.

QUINN, Michael James (DOB 27/09/1973)

Practitioner type:	Solicitor
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Admitted:	Thursday, 13 December 2001 Queensland
Home jurisdiction:	Qld
Law practice:	Q5 Law Pty Ltd 40 Tank Street BRISBANE 4000
Disciplinary body:	QCAT
Date of decision:	Wednesday, 4 July 2018
Findings:	Guilty of professional misconduct on all charges. Convicted of fraud. Trust Account deficiencies - 24 charges in total for breaches of ss58, 248, 249, 259(1) and 261 of the Legal Profession Act.
Penalty:	Recommended that Mr Quinn's name be removed from the Roll of Solicitors in Queensland. Ordered to pay applicant's costs as assessed.

LAWRENCE, Lindsay Terence (DOB 25/06/1964)

Practitioner type:	Solicitor
Admitted:	Monday, 11 July 1994 Queensland
Home jurisdiction:	Qld
Law practice:	Lawrence and Associates 4 Byres Street NEWSTEAD QLD 4006
Disciplinary body:	QCAT
Date of decision:	Tuesday, 3 July 2018
Findings:	1. Declared respondent's conduct subject of charges 1, 3, 4 & 5 amounts to professional misconduct. 2. Charge 2 dismissed Charge 1: failure to maintain reasonable standards of competence & diligence. Charge 2: mislead client. Charge 3: failure to comply with s443 notices. Charge 4: failure to lodge external examiner's reports. Charge 5: failure to comply with s443 notices.
Penalty:	Recommended that the name of the respondent be removed from the local roll. Respondent to pay applicant's costs of and incidental to the application to be assessed on standard basis.

Pursuing organisational excellence

The key to the success of the Commission is ensuring that it continues to be a good place to come to work where the workplace culture is one of respect, innovation, openness, collegiality and performance. We strive to be a model regulator adopting continual improvement and best practice. The activities identified in our Strategic Plan 2019 - 2021 seek to support that workplace culture.

We measure our performance in this regard not only by our operational performance but also the feedback our staff provide us. Their commitment to continuing professional development is encouraging as is our commitment to continually improving our management and business systems and processes and practices to better support what we do.

We have made it a priority to revise and refresh our training and continuing professional development activities for our staff. We monitor legislative case law and other developments and share legislative case and other developments.

We see that there is always a need for continual improvement and quality. In that respect we will continue to monitor and improve our business systems and processes and practices.

We revisit when required and refresh internal policies and procedures. As a relatively small organisation the opportunity arises regularly for direct discussion between line managers and staff as to performance.

Below is **Strategy 6** of our Strategic and Performance Plan, which sets out what we will do:

Action	Activities and Deliverables
Knowledge Management	<ul style="list-style-type: none"> ▪ Review and refine our Knowledge Plan. ▪ Revise and refresh our training and CPD activities. ▪ Ensure that all lawyers comply with the Government Lawyers CPD scheme. ▪ Monitor legislative, case law and other developments. ▪ Share legislative, case law and other developments through monthly intranet updates. ▪ Review and refresh our document generation system. ▪ Network with stakeholders or join related membership bodies to maintain and develop awareness of current legal profession challenges and changes.
Continual Improvement and Quality	<ul style="list-style-type: none"> ▪ Monitor and continually improve our business systems, processes and practices; ▪ Complete a systematic review of our operations, systems, processes and performance to identify areas for improvement. ▪ Update our Grievance procedures.

Action	Activities and Deliverables
	<ul style="list-style-type: none"> Revisit and where required refresh internal policies and procedures.
Workplace Culture	<ul style="list-style-type: none"> All staff to have at least 1 professional development planning meeting and 1 review meeting with their manager per year. All staff to undertake at least 2 days of professional development activities per year. Preserve our current respectful, open and collegiate workplace culture. Monitor staff turnover and sick leave. Team climate assessed by staff feedback.

Corporate Governance	<ul style="list-style-type: none"> Management meetings to be held monthly. Ensure that we are cost efficient and within budget. IT system meetings to be held regularly. Complete a systematic review of our operations, systems, processes and performance to identify areas for improvement. Effective communication of policies and procedures. Ensure legislative and compliance requirements are met. Consistency of approach/interpretation of policies and procedures through regular employee training and development.
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Complaints about us

We take any complaint about our service, conduct and regulatory obligation seriously. We continue to actively seek out feedback and review the feedback we received from enquirers, complainants and lawyers who are respondents to those enquiries and complaints and to learn from that with a view to improving the way we go about our work.

We receive feedback about our performance through the unsolicited feedback we received from people we have dealt with, usually by mail or email and through the formal processes available to all persons if they are dissatisfied and therefore can make complaints about us.

Grievances

Grievances comprise written complaints that are made either to the Commission or to external bodies about a decision of or the conduct of the Commission and or its staff. They include the following:

Reconsiderations are matters the Commission opens when the Commissioner and/or his or her delegate are asked to reconsider or review a decision made under the LPA including decisions to summarily dismiss a complaint, to dismiss a complaint after investigation or to commence disciplinary proceedings.

There is no express power in the LPA enabling the Commissioner to reconsider a decision to close a complaint. For example, the decision to summarily dismiss a matter or a decision to reject a complaint out of time or indeed a decision to dismiss a complaint following investigation or for that matter a decision to start disciplinary proceedings or to discontinue proceedings.

However, it is the Commission's position that any decision made by the Commissioner may be reconsidered where this is warranted in the circumstances and where such action promotes good administration and fairness.

Ombudsman complaints are matters the Commission opens when the Queensland Ombudsman has accepted a complaint under the *Ombudsman Act 2001* about a decision or action of the Commissioner or an officer of the Commission.

CCC complaints are matters the Commission opens when the Crime and Corruption Commission (CCC) has commenced an investigation under the *Crime and Corruption Act 2001* into the conduct of the Commissioner or an officer of the Commission;

Grievances – other are matters the Commission opens when some other relevant agency (such as the Anti-Discrimination Commission) accepts a complaint and/or commences an investigation involving the conduct of the Commissioner or an officer of the Commission.

Privacy and Right to Information

Privacy and Right to Information applications comprise applications made to the Commission under the *Information Privacy Act 2009* and the *Right to Information Act* respectively.

As highlighted in the Commissioner's Overview these matters are now dealt with at the Commission by delegated officers.

Staffing and funding

The cost of administering the system for dealing with complaints in 2018-19

	2018-19 employment costs \$	2018-19 all other costs \$	2018-19 total actual costs \$	2018-19 Approved investment \$	2019-20 Approved investment \$
LSC ¹	2,244,772	1,516,627	3,761,399	5,118,900	5,236,900
Total	2,244,772	1,516,627	3,761,399	5,118,900	5,236,900

¹ This figure includes brief-out costs of \$495,071.

Brief out costs

2017-18	2018-19
\$556,758	\$495,071

Surplus monies were returned to the Department and will be redistributed to Community Organisations over 2019-20.

	QCAT \$	LPC \$	2018-19 total \$	2017-18 total \$	2016-17 total \$
Penalties					
Ordered	9,000	-	9,000	32,750	24,500
Payments received	8,837	-	8,837	46,121	25,100
Written Off	24,000	-	24,000	-	18,800
Payments pending at 30 June	6,513	-	6,513	30,350	43,721
Costs					
Ordered, agreed or assessed	208,872	-	208,872	241,915	416,065
Payments received	183,053	-	183,053	172,256	123,735
Written off*	264,058	-	264,058	1,500	15,050
Payments pending at 30 June	168,654	-	168,654	406,893	338,734
Court of Appeal					
Agreed or assessed	2,000	-	2,000	25,000	31,000
Payments received	2,731	-	2,731	11,669	27,400

QCAT penalties include matters heard in QCAT and Court of Appeal

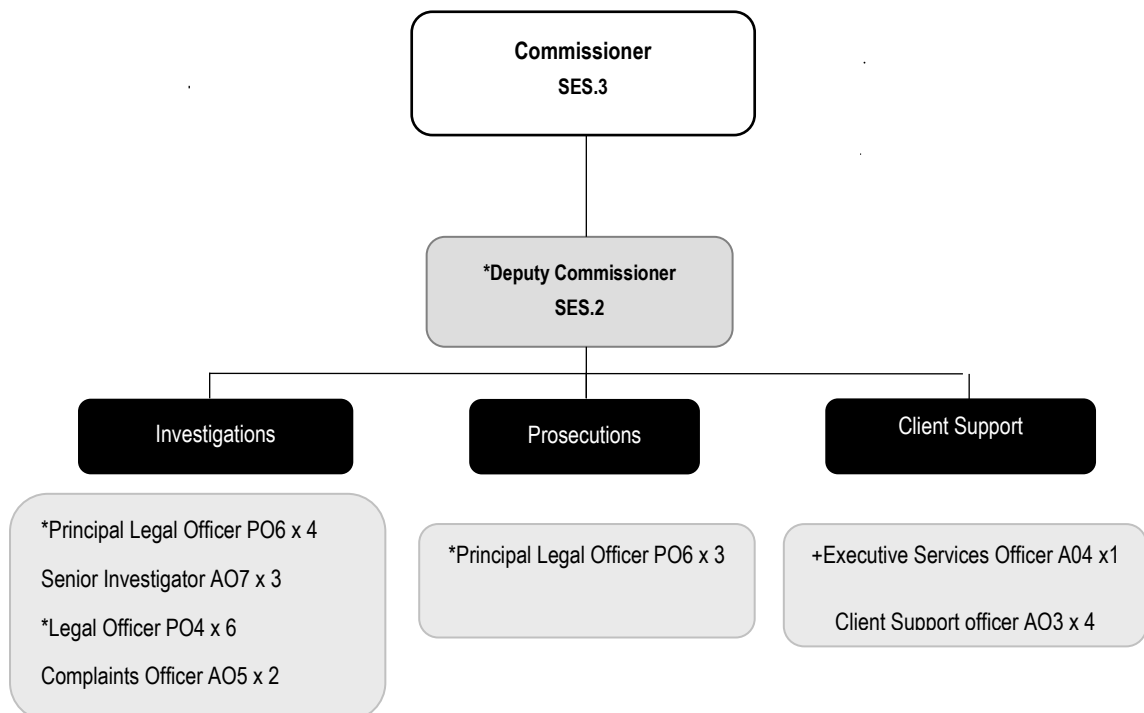
*This amount was written off due to the respondents being made bankrupt or unable to be located.

Staffing the Legal Services Commission

The Legal Services Commission consists of the Commissioner and a staff of full-time equivalent people. We will continue to undertake a systematic review of our operational systems, processes and performance to identify areas for improvement.

We will continue to monitor this process to ensure that we are cost efficient and within budget having regard to our core responsibilities.

The 2018-19 organisation chart appears below.



Total full time equivalent staff: 24 FTE + Legal Services Commissioner

* These positions require legal qualifications

+ The Executive Services Officer also provides secretariat support to the Legal Practice Committee

Performance criteria

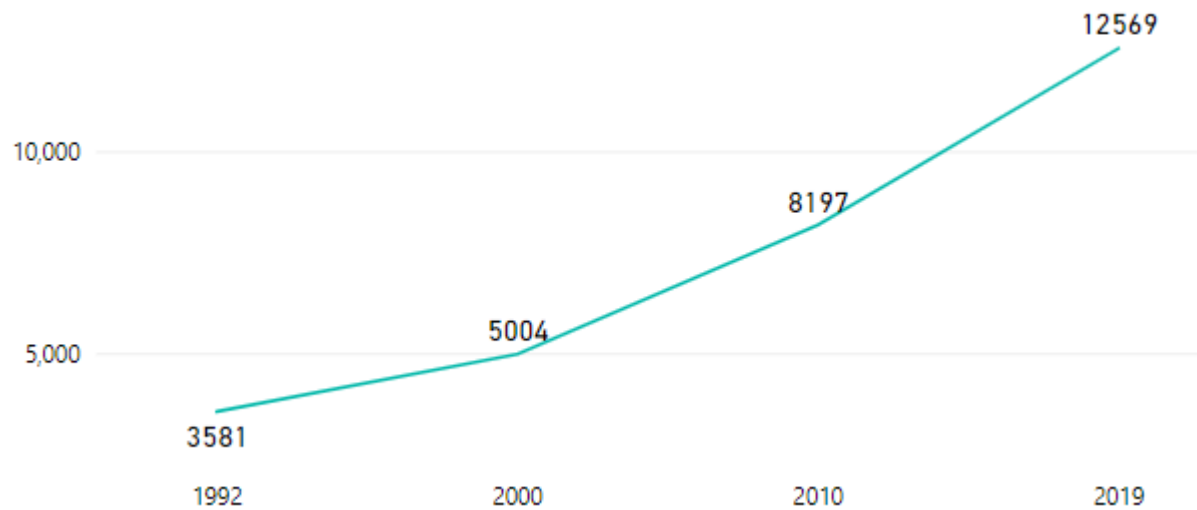
Certificate Holder analysis as at 30 June 2019

The following section provides an analysis of the make-up of the profession for the respondent types of solicitor and barrister.

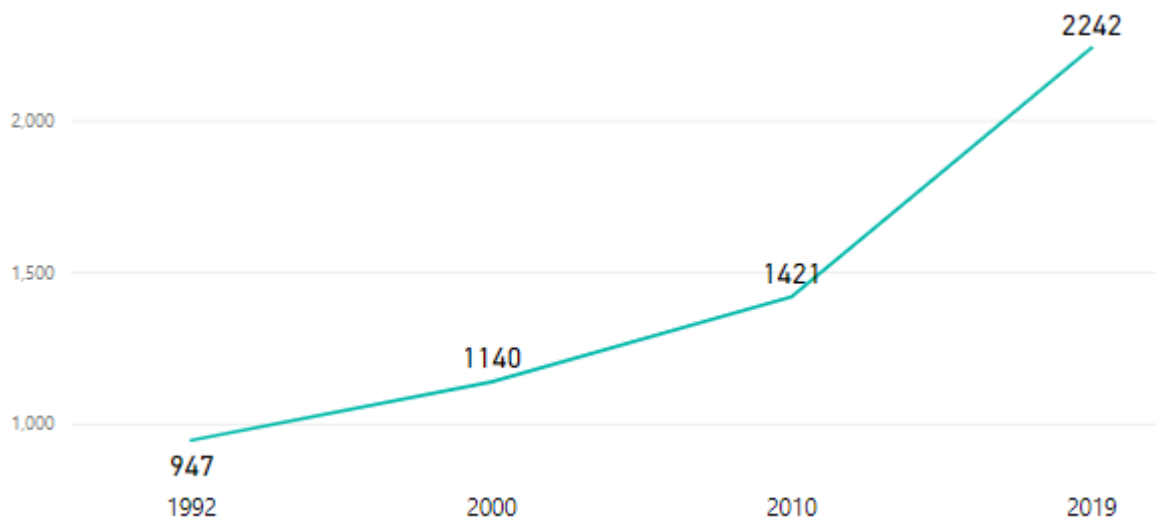
The following analysis has been performed on data extracts provided by the QLS from their regulatory database on the 17 July 2019. We have chosen 30 June 2019 as the reference date – hence complaints about solicitors during 2018-19 will be profiled against the solicitor's attributes as recorded at 30 June 2019. The profession has been profiled by counting the

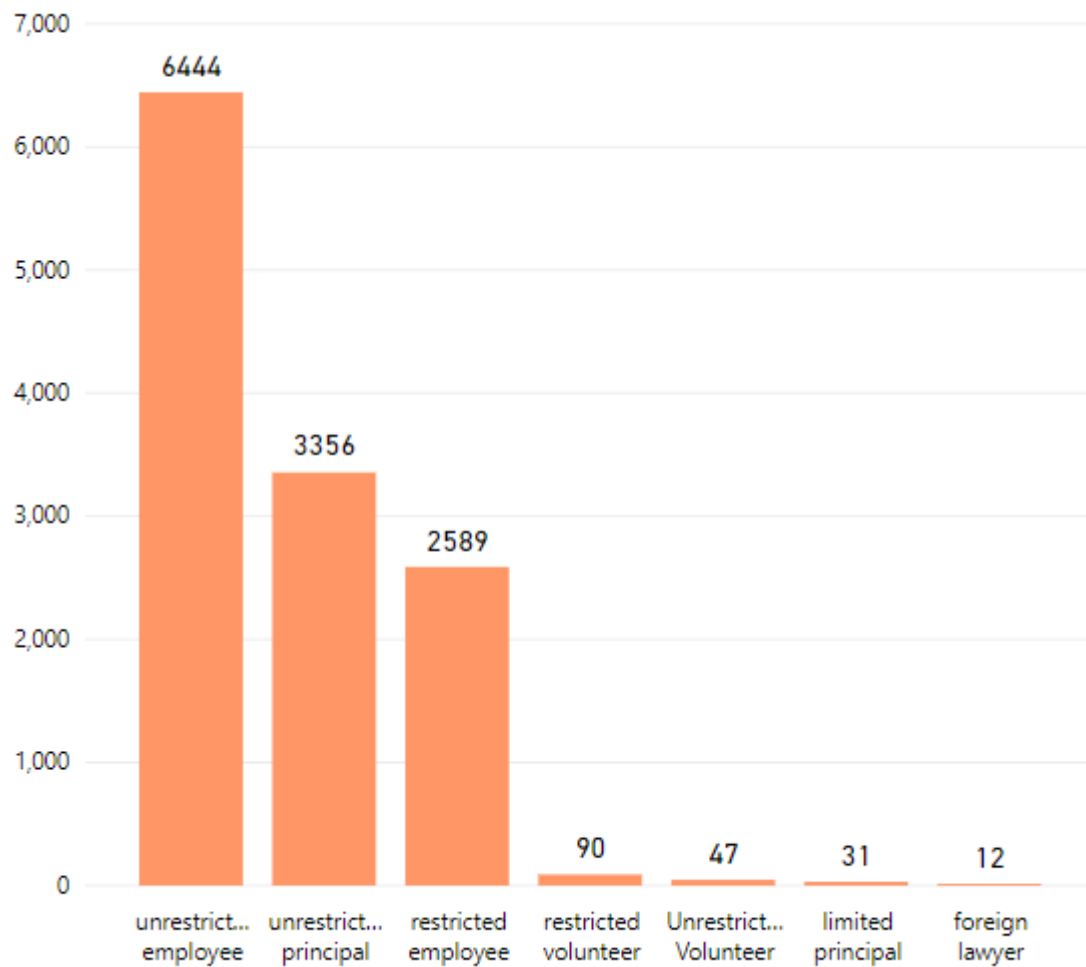
number of practising certificate holders and the law firms in which they are employed. The following tables and graphs provide a brief summary.

PC Holders as at 30 June - Trend Analysis



Law Firms as at 30 June - Trend Analysis



Solicitors by type of locally issued practising certificate

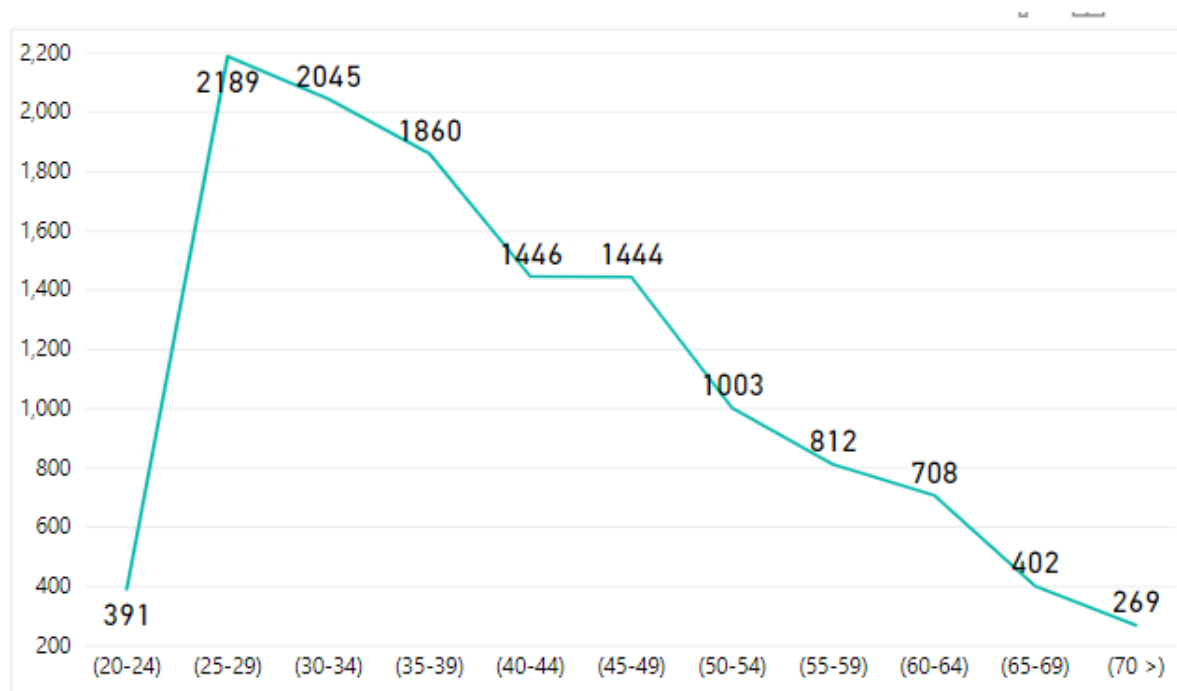
Solicitors by gender

Gender ● Female ● Male ● Unspecified

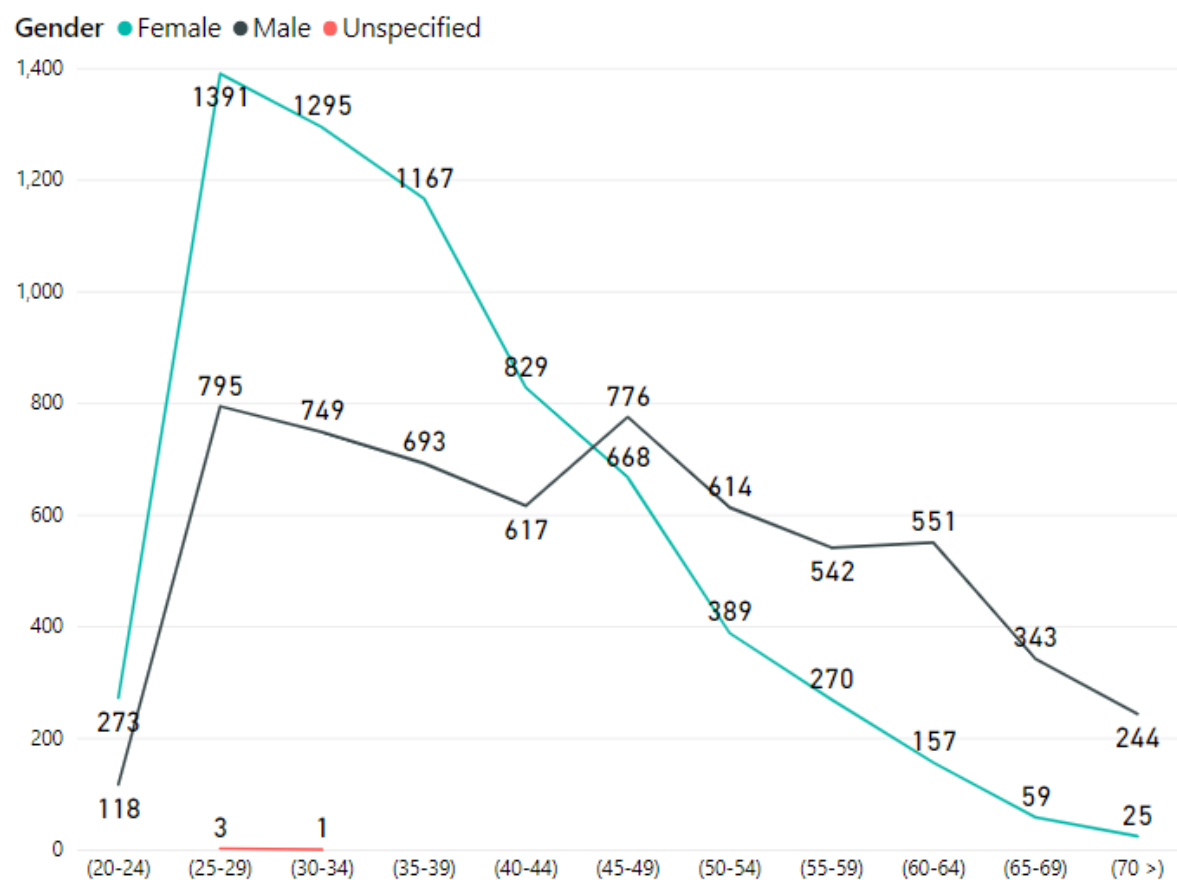


	2018-19	%
female	6,523	51.90
male	6,042	48.07
unspecified	4	0.03
total	12,569	

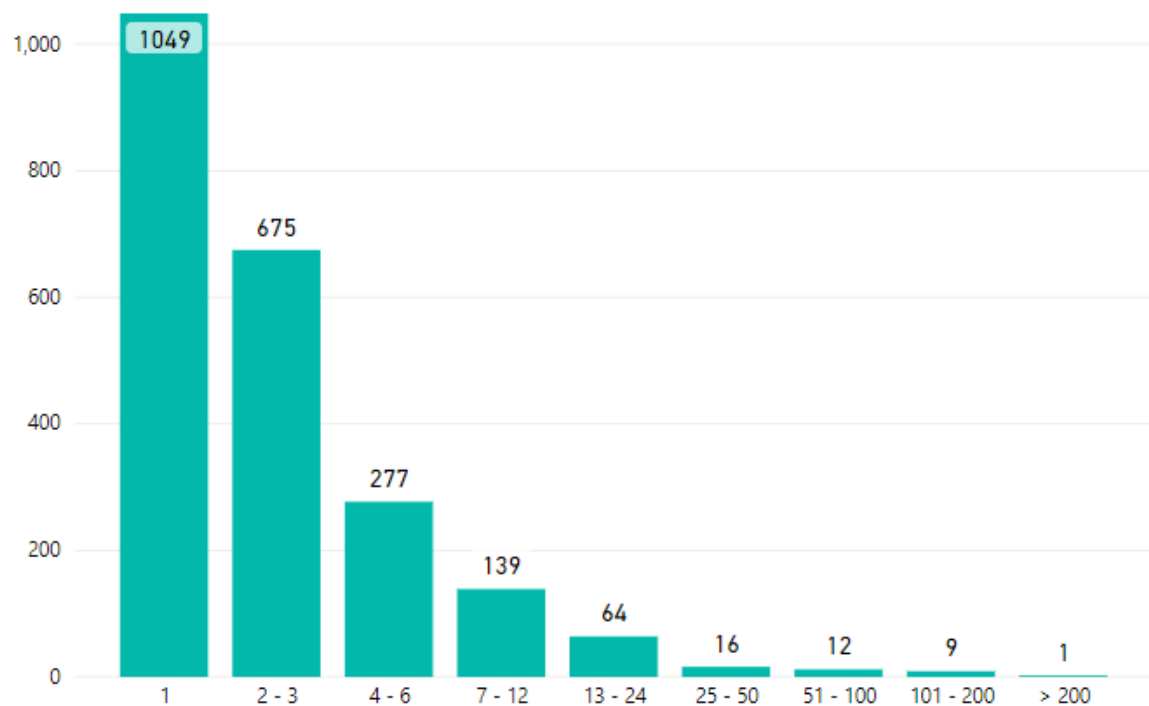
Solicitors by age group



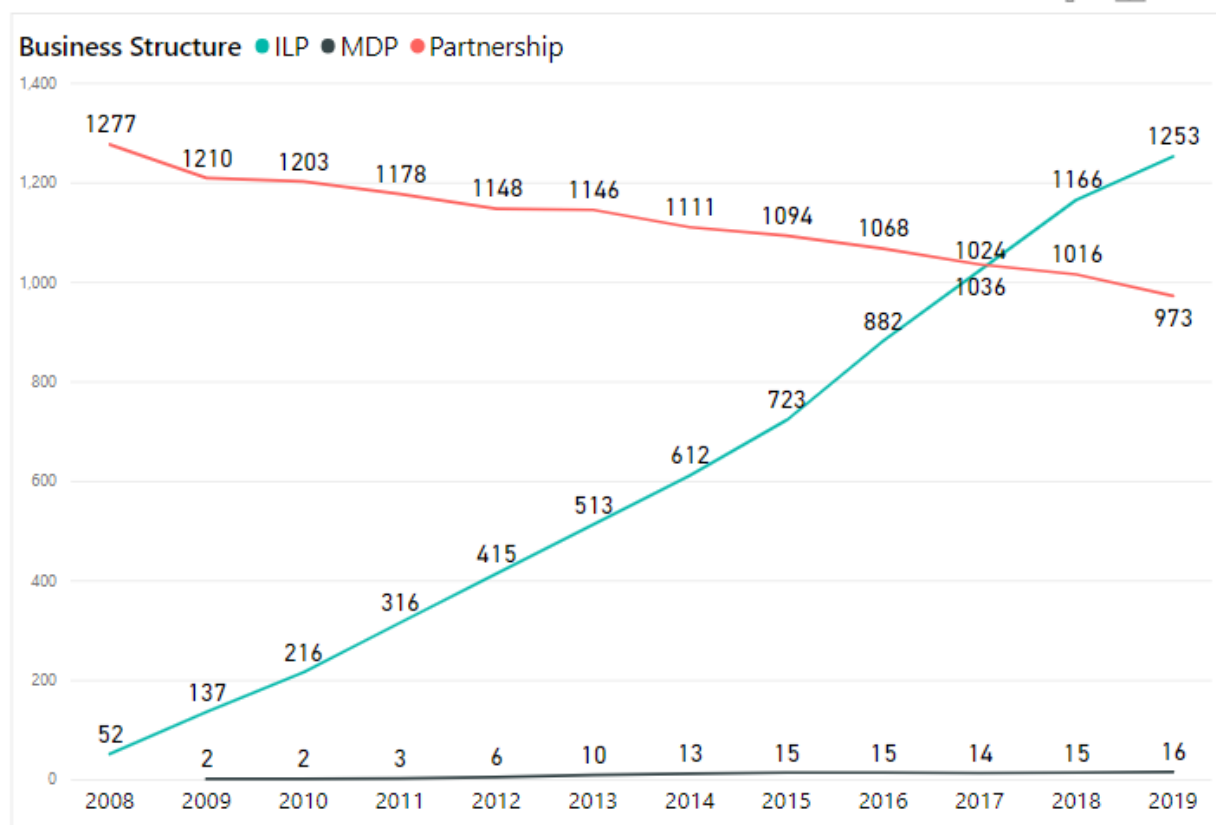
Solicitors by gender by age group



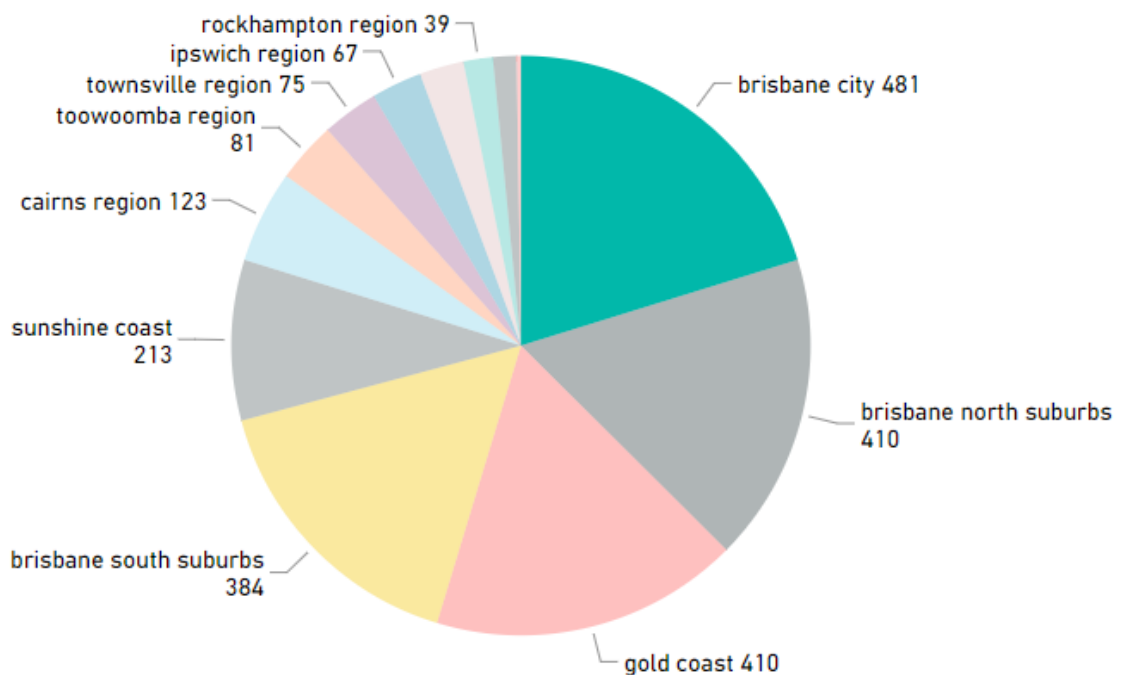
Law firms by size (number of PC Holders)



Law firms by business structure



Location of law firm offices



Throughput Summary

Enquiries

	18-19	17-18	16-17
enquiries from public received by LSC	2,452	2,740	2,294
PIPA enquiries handled during period	95	100	84

Complaints

	18-19	17-18	16-17
matters on hand at 1 July 2018	322	359	417
plus matters opened	1,391	1,259	1,332
less summary dismissals	965	904	885
less conduct matters closed	249	320	417
less investigation matters closed	99	72	88
on hand at 30 June	400	322	359

Prosecutions

	18-19	17-18	16-17
matters on hand at 1 July 2018	49	65	72
plus, matters opened	16	30	37
less matters closed	34	46	44
on hand at 30 June	31	49	65

Compliance Notices and Civil Litigation

	ILP Notices Issued	Onsite Reviews	Civil Litigation
on hand at 1/7/2018	4	-	4
opened during year	210	-	8
closed during year	214	-	7
on hand at 30/6/2019	-	-	5

Complaints About Us, Grievances and RTI Applications

	Complaints about Us	Reconsiderations	Ombudsman	RTI
on hand at 1/7/2018	-	3	-	1
opened during year	1	64	3	5
closed during year	1	53	2	3
on hand at 30/6/2019	-	14	1	3

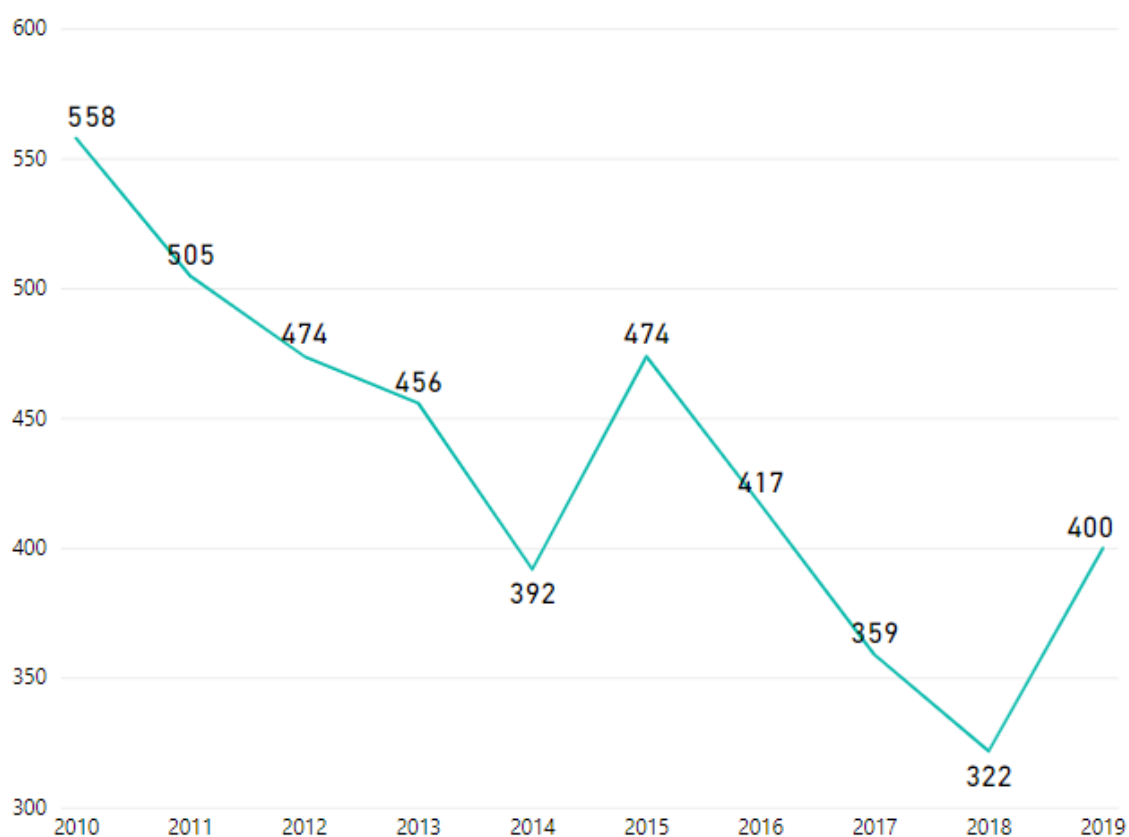
Timeliness

Type	Matters Completed	Time Band	Actual %	Cumulative %	Target %	Median days open (18-19)	Median days open (17-18)
complaints	240	<= 6 months	68.97	68.97	75	135	178.5
	93	7 - 18 months	26.72	95.69	100		
	15	> 18 months	4.31	100.00	0		
summary dismissals	744	<= 1 month	77.10	77.10	90	31	23

Type	Matters Completed	Time Band	Actual %	Cumulative %	Target %	Median days open (18-19)	Median days open (17-18)
	111	1 - 2 months	11.50	88.60	100		
	110	> 2 months	11.40	100	0		

Agency Summary

Matters on hand as at 30 June - trend summary



Matters on hand by agency

	Total	Start of Year
At LSC		
complaints under assessment	206	137
conduct matters	175	175
self-assessment audits	-	4

	Total	Start of Year
on-site reviews	-	-
sub-total	381	316
At BAQ		
conduct matters	19	10
Total	400	326

Closure Summary

Enquiries

Enquiries by enquirer type

	18-19	%	17-18	16-17
client/former client	1,861	73.07	2,069	1,707
non-client	345	13.55	396	336
solicitor	169	6.64	211	146
third party	59	2.32	55	75
beneficiary	27	1.06	57	65
solicitor for client	9	0.35	11	14
executor	9	0.35	8	4
barrister	5	0.20	5	4
all other 'enquirer types' combined	63	2.47	28	27
total	2,547		2,840	2,378

Enquiries by outcome

	18-19	%	17-18	16-17
general enquiry	1,270	49.86	1,455	1,146
provided complaint form	668	26.23	736	524
recommended direct approach to firm about concerns	273	10.72	371	422
provided information about LSC to lawyer	106	4.16	106	56
provided referral for legal advice or other assistance	86	3.38	63	95

	18-19	%	17-18	16-17
explained concerns are outside jurisdiction	57	2.24	66	68
provided information about legal system	8	0.31	11	6
matter unable to be resolved	3	0.12	4	9
provided cost information	3	0.12	2	5
negotiated remedial action	1	0.04	4	11
lost contact with complainant/enquirer	1	0.04	3	5
all other 'outcomes' combined	71	2.79	19	31
total	2,547		2,840	2,378

Enquiries by area of law

	18-19	%	17-18	16-17
family law	414	16.25	494	415
personal injuries /WorkCover litigation	296	11.62	365	338
deceased estates or trusts	244	9.58	284	246
conveyancing	146	5.73	189	219
litigation	145	5.69	216	190
criminal law	92	3.61	112	119
property law	70	2.75	81	58
commercial /company law	33	1.30	43	46
conduct not in the practice of law	23	0.90	29	23
building/construction law	22	0.86	13	23
administrative law	15	0.59	13	1
immigration	13	0.51	18	15
trust account breaches	8	0.31	11	5
leases/mortgages	4	0.16	3	12
bankruptcy and insolvency	-	-	4	3
all other 'areas of law' combined	1,022	40.13	965	660
total	2,547		2,840	2,378

Enquiries by nature of the enquiry

	18-19	%	17-18	16-17
costs	505	19.83	656	620
quality of service	279	10.95	366	392
ethical matters	362	14.21	351	119
communication	101	3.97	173	163
PIPA	95	3.73	101	84
compliance	32	1.26	45	27
documents	35	1.37	42	37
trust funds	18	0.71	23	36
personal conduct	7	0.27	3	15
advice	1	0.04	-	1
all other 'natures of enquiry' combined	1,112	43.66	1,080	809
total	2,547		2,840	2,378

Enquiries - breakdown of ethical matters

	18-19	%	17-18
unethical conduct	294	81.22	265
conflict of interest	39	10.77	48
instructions – not followed/acting without	5	1.38	11
breach of confidentiality	7	1.93	10
misleading/dishonest conduct	4	1.10	8
misleading/dishonest conduct in Court	2	0.55	4
fraud/misappropriation/stealing	2	0.55	3
all other natures combined	9	2.49	2
total	362		351

Summary Dismissals**Summary Dismissals by outcome**

	18-19	%	17-18	16-17
not comply with notice	99	10.26	82	104
costs dispute	74	7.67	62	62

	18-19	%	17-18	16-17
Withdrawn	66	6.84	41	36
referred to other investigative process	27	2.80	33	34
frivolous/vexatious/lacking in substance	23	2.38	18	34
out of time – s.430	22	2.28	36	38
previous complaint	4	0.41	7	4
all other 'outcomes' combined	11	1.14	14	8
sub-total:	326	33.78	293	320
not Chapter 4 conduct	639	66.22	611	565
total	965		904	885

Summary Dismissals by area of law

	18-19	%	17-18	16-17
family law	228	23.63	234	215
litigation	134	13.89	110	97
deceased estates or trusts	101	10.47	107	98
conveyancing	77	7.98	82	76
personal injuries /WorkCover litigation	56	5.80	70	53
property law	54	5.60	38	62
criminal law	47	4.87	74	57
commercial law	43	4.46	38	43
building/construction law	21	2.18	13	12
conduct not in the practice of law	18	1.87	19	22
immigration	12	1.24	9	9
industrial law	11	1.14		
leases/mortgages	3	0.31	13	12
bankruptcy & insolvency	9	0.93	12	6
administrative law	8	0.83	7	6
trust account breaches	4	0.41	4	7
all other 'areas of law' combined	139	14.40	74	
total	965		904	885

Summary Dismissals by nature of matter

	18-19	%	17-18	16-17
ethical matters	421	43.63	329	256
quality of service	236	24.46	286	285
costs	110	11.40	95	127
communication	62	6.42	81	94
compliance	33	3.42	28	29
trust funds	24	2.49	18	18
documents	26	2.69	12	16
personal conduct	4	0.41	6	22
PIPA	1	0.10	2	3
all other 'natures of matter' combined	48	4.97	47	35
total	965		904	885

Summary Dismissals - breakdown of ethical matters

	18-19	%	17-18
unethical conduct	359	85.27	248
conflict of interest	25	5.94	26
instructions – not followed/acting without	13	3.09	13
breach of confidentiality	13	3.09	10
misleading/dishonest conduct	6	1.43	13
fraud/misappropriation/stealing	3	0.71	1
misleading/dishonest conduct in Court	1	0.24	11
contacting another solicitor's client	1	0.24	2
failure to honour undertakings	-	-	5
total	421		329

Complaints/Investigation Matters

Complaints by complainant type

	18-19	%	17-18	16-17
client/former client	140	56.22	207	291
non-client	48	19.28	39	65
third party	12	4.82	26	10
solicitor for client	23	9.24	19	12
solicitor	12	4.82	15	20
beneficiary	5	2.01	2	5
barrister	2	0.80	2	5
executor	-	-	-	1
judge	1	0.40	1	1
all other 'complainant types' combined	6	2.41	9	7
total	249		320	417

Complaints by respondent type

	18-19	%	17-18	16-17
solicitor	211	84.74	270	370
barrister	22	8.84	20	24
unlawful operator	13	5.22	20	10
law practice employee	2	0.80	5	3
other	1	0.40	2	4
legal practitioner	-	-	2	1
corporation	-	-	1	4
non-legal director	-	-	-	1
total	249		320	417

Complaints by outcome

	18-19	%	17-18	16-17
no reasonable likelihood	138	55.42	201	276
no public interest	69	27.71	72	75
withdrawn/discontinued	25	10.04	16	20

	18-19	%	17-18	16-17
referred to tribunal	9	3.61	22	32
referred to other investigative process	5	2.01	4	4
referred for criminal litigation	2	0.80	2	2
referred for civil litigation	-	-	2	6
referred to LPC	-	-	1	-
referred to Magistrates Court	-	-	-	1
all other 'outcomes' combined	1	0.40	-	1
total	249		320	417

Complaints by area of law

	18-19	%	17-18	16-17
family law	47	18.88	75	86
litigation	39	15.66	42	43
deceased estates or trusts	26	10.44	40	48
personal injuries /WorkCover litigation	22	8.84	26	42
conveyancing	21	8.43	32	37
criminal law	21	8.43	22	33
commercial /company law	10	4.02	17	27
property law	9	3.61	9	22
conduct not in the practice of law	6	2.41	12	10
trust account breaches	5	2.01	2	1
building /construction law	4	1.61	4	2
leases /mortgages	3	1.20	3	7
industrial law	3	1.20	2	2
immigration	2	0.80	3	4
bankruptcy and insolvency	-	-	-	3
administrative law	-	-	4	3
all other 'areas of law' combined	31	12.45	27	47
Total	249		320	417

Complaints by nature of matter

	18-19	%	17-18	16-17
quality of service	72	28.92	93	152
ethical matters	72	28.92	78	75
costs	29	11.65	64	79
communication	27	10.84	27	42
compliance	21	8.43	34	30
trust funds	9	3.61	8	17
documents	8	3.21	8	8
personal conduct	4	1.61	3	8
PIPA	4	1.61	3	3
all other 'natures of matter' combined	3	1.20	2	3
total	249		320	417

Complaints - breakdown of ethical matters

	18-19	%	17-18
unethical conduct	45	62.50	45
conflict of interest	11	15.28	8
instructions – not followed/acting without	5	6.94	8
breach of confidentiality	1	1.39	7
misleading/dishonest conduct	2	2.78	5
misleading/dishonest conduct in Court	1	1.39	3
contacting another solicitor's client	6	8.33	1
failure to honour undertakings	1	1.39	1
fraud/misappropriation/stealing	-	-	1
total	72		329

Investigation matters by outcome

	18-19	%	17-18	16-17
no public interest	71	71.72	34	45
no reasonable likelihood	17	17.17	22	25
referred to tribunal	10	10.10	15	9

	18-19	%	17-18	16-17
referred for civil litigation	1	1.01	1	1
referred for criminal litigation	-	-	1	1
referred to other investigative process	-	-	-	4
referred to Magistrates Court	-	-	-	1
all other outcomes combined	-	-	-	2
total	99		72	88

Investigation matters by area of law

	18-19	%	17-18	16-17
personal injuries /WorkCover litigation	51	51.52	19	33
conduct not in the practice of law	14	14.14	15	6
trust account breaches	9	9.09	12	18
litigation	4	4.04	2	5
deceased estates or trusts	3	3.03	5	2
property law	3	3.03	-	-
family law	2	2.02	4	6
conveyancing	2	2.02	-	1
commercial /company law	2	2.02	-	-
criminal law	1	1.01	7	4
administrative law	-	-	1	1
bankruptcy and insolvency	-	-	-	2
building/construction law	-	-	-	1
all other 'areas of law' combined	8	8.08	7	9
total	99		72	88

Investigation matters by nature of matter

	18-19	%	17-18	16-17
PIPA	47	47.47	17	31
compliance	16	16.16	17	16
ethical matters	14	14.14	17	12
trust funds	11	11.11	5	15

	18-19	%	17-18	16-17
personal conduct	5	5.05	5	5
costs	3	3.03	2	2
quality of service	2	2.02	4	2
all other 'natures of matter' combined	1	1.01	5	5
total	99		72	88

Prosecution Matters

Prosecutions – heard and decided

	18-19	17-18	16-17
by Tribunal	16	13	17
by the Committee	-	-	2
by the Magistrates Court	-	3	3
by the Court of Appeal	3	-	2
sub-total	19	16	24
reconsidered/withdrawn/discontinued/other	15	30	20
total	34	46	44

Prosecutions by respondent type

	18-19	17-18	16-17
solicitor	15	11	18
unlawful operator	-	3	3
barrister	3	2	1
law practice employee	-	-	2
all other respondent types	1	-	-
total	19	16	24

Prosecutions by area of law

	18-19	17-18	16-17
family law	4	3	3
deceased estates or trusts	3	2	4

	18-19	17-18	16-17
litigation	2	3	2
trust account breaches	2	-	3
conveyancing	1	2	1
criminal law	1	1	1
property law	1	1	1
commercial /company law	1	-	2
family law	1	-	-
personal injuries/WorkCover litigation	-	-	
conduct not in the practice of law	-	2	1
bankruptcy and insolvency	-	-	
all other 'areas of law' combined	3	2	6
total	19	16	24

Prosecutions by nature of matter

	18-19	17-18	16-17
ethical matters	10	3	9
quality of service	3	3	2
trust funds	2	1	2
compliance	2	-	3
personal conduct	1	3	1
communication	1	2	2
costs	-	1	1
all other 'natures of matter' combined	-	3	4
total	19	16	24

Investigations by Solicitor/Law Firm

Investigations regarding solicitors as a proportion of the profession

	PC Holders	Law Firms	Law Offices
size of profession as at 30 June 2017	11,606	2,108	2,278
size of profession as at 30 June 2018	12,131	2,222	2,412

	PC Holders	Law Firms	Law Offices
size of profession as at 30 June 2019	12,569	2,242	2,389
no of respondents for 2018-19 year	250	209	213
Percentage	1.99	0.09	0.09

Solicitors subject to investigation

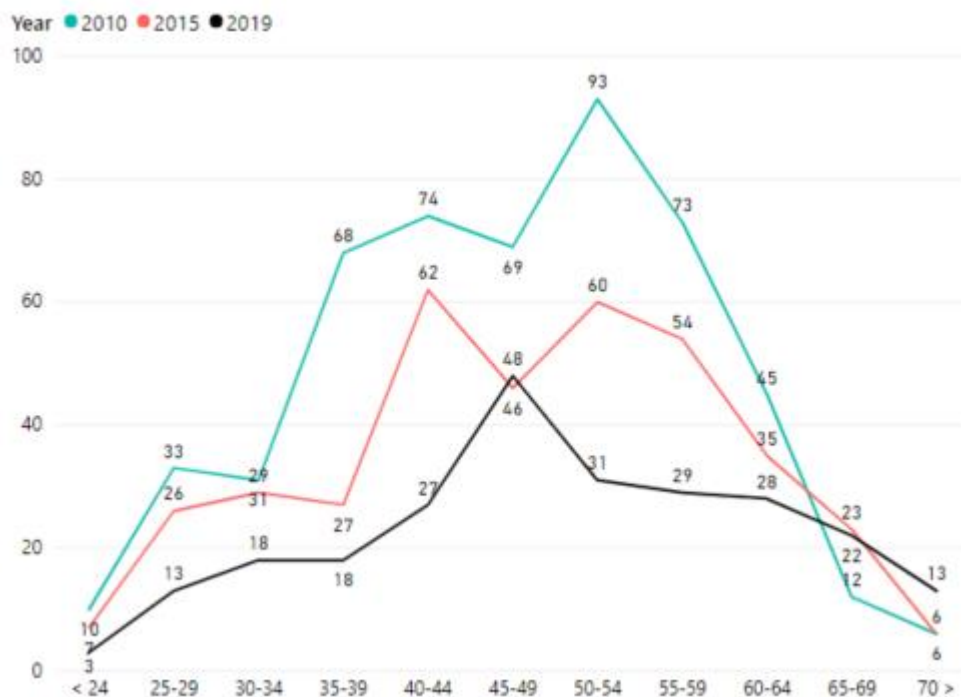
	2018-19	2017-18	2016-17
1 complaint	219	224	295
2 complaints	24	22	42
3 complaints	5	10	9
4 complaints	-	3	4
5 complaints	1	2	1
between 6 and 9	1	1	2
between 10 and 14	-	-	-
15 and > complaints	-	-	-
total	250	262	353

Law firms subject to investigation

	2018-19	2017-18	2016-17
1 complaint	177	160	201
2 complaints	22	28	44
3 complaints	6	15	15
4 complaints	1	6	8
5 complaint	1	1	4
between 6 and 9	2	2	3
between 10 and 14	-	-	-
15 and > complaints	-	-	-
total	209	212	275

Solicitors subject to investigation by gender

	2018-19	%	2017-18	2016-17
male	186	74.40	194	273
female	64	25.60	68	80
total	250		262	353

Solicitors subject to investigation by age group

	2018-19	%	2017-18	2016-17
24 and under	3	1.20	1	12
25 - 29	13	5.20	11	23
30 - 34	18	7.20	18	34
35 - 39	18	7.20	25	29
40 - 44	27	10.80	27	37
45 - 49	48	19.20	44	54
50 - 54	31	12.40	34	44
55 - 59	29	11.60	39	46
60 - 64	28	11.20	30	30
65 - 69	22	8.80	20	31

	2018-19	%	2017-18	2016-17
70 and over	13	5.20	12	13
other	-	-	1	13
total	250		262	353

Solicitors subject to investigation by law firm business type

	2018-19	%	2017-18	2016-17
partnership/ sole practitioners	91	43.54	108	148
ILP	115	55.02	102	123
MDP	3	1.44	2	4
total	209		212	275

Solicitors subject to investigation by law firm size

PC holders	2018-19	%	2017-18	2016-17
1	64	30.62	73	90
2 - 3	61	29.19	61	74
4 - 6	32	15.31	40	50
7 - 12	21	10.05	17	34
13 - 24	14	6.70	8	17
25 - 50	9	4.31	7	5
51 - 100	5	2.39	3	3
101 - 200	3	1.44	3	2
total	209		212	275

Solicitors subject to investigation by law office location

	2018-19	%	2017-18	2016-17
Brisbane city	49	23.00	50	74
Brisbane north suburbs	31	14.55	24	32
Brisbane south suburbs	33	15.49	38	37
Gold Coast	40	18.78	36	56

	2018-19	%	2017-18	2016-17
Ipswich region	10	4.69	10	9
Toowoomba region	6	2.82	6	8
Western Queensland	-	-	-	-
Sunshine Coast	16	7.51	21	24
Hervey Bay to Gladstone	3	1.41	7	8
Rockhampton region	5	2.35	2	6
Mackay region	2	0.94	1	4
Cairns region	6	2.82	11	13
Townsville region	12	5.63	11	14
total	213		217	285

Barristers by type of Practising Certificate

Membership status and PC type	Male	Female	Total per PC type
Member – Class A PC	747	207	954
Member – Class B PC	106	62	168
Non-member – Class A PC only	3	1	4
Non-member – Class B PC only	0	0	0
Total:	856	270	1126

Consumer Redress

Note: It is possible to have multiple remedies for a matter. The number of remedies may be greater than the number of matters within each of the following categories.

Enquiries

	18-19	\$	17-18	\$	16-17	\$
Apology	-	-	-	-	2	-
financial redress/compensation	1	-	-	-	-	-
redress - improved communications	-	-	1	-	3	-
redress – other-	-	-	1	-	-	-

	18-19	\$	17-18	\$	16-17	\$
management system improvements	-	-	-	-	-	-
training/mentoring/supervision	-	-	-	-	-	-
made advertisement PIPA compliant	-	-	-	-	1	-
total	1	-	2	-	6	-

Complaints

	18-19	\$	17-18	\$	16-17	\$
Apology	43	-	39	-	40	-
financial redress/compensation	15	81,973	17	69,482	35	242,809
redress - improved communications	8	-	3	-	-	-
redress – other	24	-	21	-	16	-
management system improvements	26	-	18	-	23	-
training/mentoring/ supervision	16	-	9	-	11	-
made advertisement PIPA compliant	52	-	18	-	31	-
total	184	81,973	125	69,482	156	242,809

Prosecutions

	18-19	\$	17-18	\$	16-17	\$
employee not to be employed	-	-	-	-	-	-
fined (disciplinary body – USP / PMC)	2	34,000	5	14,500	12	20,000
fined (Magistrates Court – LPA offence)	-	-	2	2,500	2	1,501
ordered to apologise	-	-	-	-	-	-
ordered to pay compensation	-	-	-	-	3	106,447
ordered to make other redress	-	-	1	-	1	-
ordered to undertake training or be supervised	2	-	-	-	7	-
Reprimanded	5	-	7	-	15	-
struck off	9	-	3	-	3	-
suspended	4	-	4	-	2	-
withdrawn/reconsidered – apology	10	-	12	-	14	-
withdrawn/reconsidered – financial redress	1	45,000	4	38,075	1	20,000

	18-19	\$	17-18	\$	16-17	\$
withdrawn/reconsidered – apology	1		1	-	2	-
total	34	79,000	39	55,075	62	147,978