

2017 - 2018

Annual Report

Legal Services Commission

31 August 2018

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 2017-18.

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



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 however, 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

Robert Brittan

On behalf of the Legal Services Commission, I present this Report as the Acting Legal Services Commissioner for the 2017 - 2018 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 hope will give you a clear understanding of our achievements and our role in the disciplinary process. Since assuming this role in October 2017 I have taken the initiative, with the assistance of dedicated staff, to undertake certain improvements and processes with a view to enhancing our performance 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 review of the Commission's policies, processes and systems which is ongoing, whilst ensuring that sufficient resources are directed at complaint handling and enforcement action.

With the assistance of Department of Justice and Attorney-General Information Technology (DJAG IT) we have completed a work package which has upgraded the Commission's server database environment that has improved efficiency, replication and synchronisation of information and created a more secure environment for the use, access to and exchange of information with our colleagues at the Queensland Law Society (QLS) and in-house investigators and litigators. In addition, we have with DJAG IT commenced a review of the Commission's website, archiving and updating information to create a more user friendly access, whilst also undertaking further enhancements to the Commission's discipline register and other information tabs. This is ongoing and it is a work in progress. We have reviewed our Right to Information and Privacy (RTI) process and now undertake those applications in-house with delegated officers utilising a designed Appligent/Redax Software programme whilst undertaking further RTI training, which has resulted in savings of over \$40,000.00 to the budget.

I have made it a priority to refresh our training and continual professional development activities and participation for our staff. I am pleased to see that the staff have actively engaged in the process with vigour and enthusiasm, with various staff from administrative or professional streams having attended 29 seminars, events or presentations. This is

commendable and displays a dedicated workplace culture of respect, innovation, openness, collegiality and a willingness to participate. This was further evidenced by staff contributions to the Youth Justice (DJAG) Christmas” bring a book for Christmas” campaign, which resulted in two boxes of books being donated. Staff have also contributed overwhelmingly by donating gifts and food bank items to the Queensland Police Service Child Protection Investigations Unit/PCYC Christmas appeal contributing 2 boxes of gifts for children and 2 boxes of food items. Staff participated in Law Walk and have commenced an LSC walking group. I am proud of these achievements and the generosity and overall commitment of our staff.

We have continued to engage with the profession by undertaking speaking engagements in-house with law firms, students at Griffith University and presented at Legalwise seminars. I was also privileged to have a paper published at the International Conference of Legal Regulators (ICLR) in Singapore in October 2017 and proud to have been given this opportunity on behalf of the Commission to provide our views on effective regulation. Additionally, I attended the Conference of Regulatory Officers (CORO) in Adelaide in October 2017 and freely liaised with our counterparts from other states and territories to enhance our knowledge and share information to enable all of us to promote more effective regulation in the future.

I have undertaken a performance review and agreed expectation agreement process with all staff who embraced the process and provided valuable feedback on how we can improve our performance. This has resulted in a review of the Commission’s precedent templates and identified issues internally to improve record management and created a more efficient precedent data recovery system.

We have expended over \$80,000.00 in improving office layout in the general administrative area as well as our conferencing and meeting facilities to enhance our workplace environment.

We have completed the Commission’s Retention and Disposal Schedule and consulted with representatives from Queensland State Archives to achieve this outcome. Although somewhat time consuming, it allowed us to reflect upon the importance of identifying, recording and maintaining an effective retention schedule of documentation and its impact on the Commission’s policies and processes.

We have taken seriously complainant’s responses and interactions with us and implemented a Policelink/self-harm/social welfare protocol, where we have identified persons who need assistance, guidance and answers. We are 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 successful and pleasing outcomes.

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

This year’s financial savings, made as a direct result of refining and refreshing our approach to regulation, has resulted in the ability of the Legal Services Commission to provide \$1.35 million from its budget to be returned as operating surplus to enable the Government to utilise such funds for other projects such as community legal aid centres, domestic violence programmes and the like. Notwithstanding this fiscal achievement we have, within budget and with office resources, already allocated and commenced a recruitment process. We hope to employ 3 new investigators within the next 6 months.

We have raised the stakes on practitioners who either neglectfully or intentionally adopt a course of conduct where they do not, until prompted on many occasions, pay the Commission court ordered costs. It is incumbent upon us as an independent statutory body to ensure that public monies expended in the maintenance of our operations are recovered in appropriate circumstances. Our rigorous costs recovery regime in those matters where the Commission has successfully prosecuted practitioners and a costs order in favour of the Commission has been awarded has resulted in us recovering to 30 June 2018 over \$172,000.00.

This year the key statistics for the Commission are generally on par with 2017 but show some trending variances. This year, there were 262 solicitors subject to investigation compared to 353 the year before. Most complaints did, as usual, centre around quality of service, costs and the general ethical conduct of practitioners. 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 2840 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 more featured prominently on 19 matters which represented 26.39% of all matters, generally relating to concerns under the *Personal Injuries Proceedings Act 2002* (PIPA). Trust Account breaches also featured prominently on 12 matters or 16.67% of all matters.

We had 359 complaints on hand as at 1 July 2017 and opened a further 1295 complaint and investigation matters compared to 1332 last year. We summarily dismissed 904 of those and closed an additional 320 conduct matters. We also closed 72 investigation matters. We had 322 complaint and investigation matters on hand as at 30 June 2018. The staff of the Commission have applied 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 files such as self-assessment notices, reviews and prosecution matters as at 30 June 2018 total some 382 matters and this figure accurately reflects our current open files. Three (3) matters were decided by the Magistrates Court and 13 matters were heard and decided before the Queensland Civil and Administrative Tribunal (QCAT) during the year and we re-considered, withdrew or discontinued 30 other matters making a total of 46 prosecution matters in all.

Of the matters prosecuted in QCAT four practitioners were struck off, being three solicitors and one barrister. Four practitioners were suspended for varying periods of time and a further seven lawyers were reprimanded and financial penalties imposed for either unsatisfactory professional conduct or professional misconduct.

The Commission takes its role seriously and where considered appropriate, is not shy of challenging decisions and testing the law. We were successful in appealing three matters from the decisions of QCAT being Shand, Woodman and Sheehy. In two matters the practitioners were struck off and in the other matter the practitioner was reprimanded, fined and ordered to pay costs. Details of all these matters are available within the Disciplinary and Other Decisions section on the Commission’s website.

However, what I wish to highlight is the importance in the findings of the Court of Appeal in the matter of Shand. As the Honourable McMurdo JJA found:

“The community needs to have confidence that only fit and proper persons are able to practise as lawyers and if that standing, and thereby that confidence, is diminished, the

effectiveness of the legal profession, in the service of clients, the courts and the public is prejudiced. The Court's Roll of Practitioners is an endorsement of the fitness of those who are enrolled" [2018] QCA 66 at page 17 para 55 of decision and McMurdo JJA further stated at p17 para 60:

"It is difficult to imagine that a mature person having studied and practised the law, could have failed to underestimate the seriousness of an offence of corruption involving a Minister of the Crown. It was an isolated offence, but nevertheless an unfitness to practise law was plainly demonstrated by this offence..."

The Court in essence, held and accepted the argument that the test of probable permanent unfitness can be gauged by identifying that the character of the practitioner is so indelibly marked by the misconduct that he/she cannot be regarded as a fit and proper person to be upon the Roll.

What is also of concern, and a worrying trend, is the number of practitioners who are dealt with by QCAT or through the Court of Appeal who submit that their conduct should be excused, explained by or mitigated to a significant extent because of mental illness or addiction.

Decided cases and submissions on the practitioner's behalf vary but it is difficult for regulators to distinguish when a diagnosed mental illness would affect a practitioner's ability to know right from wrong, impact on his/her capacity to control their actions and/or the ability to know he/she ought not do the acts that have become the subject of disciplinary charges.

As the learned author Professor Gino Dal Pont has said when referring to mental illness defences

....."but evidence of this kind does not ordinarily carry great weight-it does not, after all, address the protective role of disciplinary proceedings-especially for misconduct that involves dishonesty. There is, to this end natural reticence to allow mental illness to excuse (as opposed to explain) dishonest conduct, as it is unlikely to deprive a person of the ability to appreciate the wrongfulness of her or his behaviour." (see Lawyers Professional Responsibility 6th Edition page 773 para [23.145])

As has been submitted on behalf of the Commission an opinion of a psychiatrist or psychologist must be read, in my view, as limited to the respondent being a fit and proper person to practise law from a medical perspective. Whether the respondent is otherwise a fit and proper person to resume legal practice is the decision for the QCAT or Court of Appeal.

I now take some comfort in the Courts ruling in Shand (notwithstanding mental illness issues or other addictions) that the probable unfitness of the practitioner can be gauged by identifying that the character of the practitioner can be so indelibly marked by the misconduct itself and the seriousness of the offending that they should not remain on the Roll.

Disappointingly, I remain concerned at the behaviour of a limited number of members of the profession outside the practice of law. Of the matters coming to my attention this year, 25 practitioners have been required to give a show cause notice to the QLS of behaviour ranging from personal bankruptcies to criminal offences such as assault and for minor drug use.

Quite appropriately and in consultation with the Commission, where the practitioner has been able to show cause why their practising certificate (PC) should not be cancelled, or suspended, and where no conduct issues arise warranting a disciplinary response from the

Commission, the QLS has placed conditions on the PC of all 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.

In striking contrast to last year, the Commission dealt with 68 complaints/investigation matters concerning barristers as compared to 24 last year and 16 the year before that. As at 30 June 2018, 28 barristers are under investigation or prosecution, with two this reporting year having been disciplined by QCAT. One being struck off and the other being reprimanded for failing to abide with a Court order to file certain material.

Disappointingly, barrister Grant Ruben Forward misappropriated \$89,300.00 of monies entrusted to him as the proceeds of a personal injury claim belonging to his client through a direct brief. As the practitioner was incarcerated and has no means, the client will be unable to recover any monies because unlike the QLS, the BAQ does not have a fidelity fund whereupon a claim could be made for misappropriated monies.

During the course of this year, the Commission has also assisted complainants to obtain refunds or waiver of legal costs of approximately \$69,482.00 which is not an insignificant achievement for the year. We have secured apologies from lawyers in response to 39 complaints. We have secured undertakings from lawyers to improve their management systems; 9 undertakings have been given to be supervised or mentored or to undertake training; and 18 undertakings given 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 23% of all enquiries received in the 2017-18 year related to costs issues and, once again, most concerned on-going costs disclosure during the course of a complainant's matter. Approximately 23% of all written complaints and investigation matters are costs related. In all, this resulted in 46% of matters we dealt with being related to costs issues.

The growth of Incorporated Legal Practices (ILPs) continues and as at 30 June 2018 there were 1182 ILPs as compared with 2222 law firms and 17 multi-disciplinary partnerships (MDPs) registered with the Commission. These figures represent approximately 53.97% of all law firms operating within Queensland.

We continue to have an appetite to stamp out unlawful operators as highlighted in last year's Annual Report. We undertook investigations into 28 matters this year. We commenced or continued proceedings against three persons under s.24 and s.25 of the LPA for engaging in legal practice when not an Australian Practitioner and holding out to be a solicitor when not entitled to practise law. In the matter of the *Legal Services Commissioner v Kelli Bond* the respondent was charged with, and pleaded guilty to, two offences, one under section 24 of the *Legal Profession Act 2007* (the Act), by engaging in legal practice when she was not an Australian legal practitioner, and the second under section 25 of the Act, by holding herself out as a solicitor when she was not entitled to practise law. While she did not accept money for her "legal services", she maintained a website that detailed her ability to practise in many areas of the law and acted for "clients" in their legal matters. The sentencing Magistrate was disturbed by the audacity of her conduct and sentenced her to a supervision order for three years. The other two matters are yet to be finally determined. The balance of the matters were finalised on the basis of insufficient evidence (bearing in mind as a criminal offence

unlawful operation must be proved beyond a reasonable doubt) or after provision of undertakings to desist and suitable redress.

Last year's Report highlighted similar action taken by the Commission in that year. These decisions are useful in that they again clarify an aspect of 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.

In last year's Report the Commissioner alluded to the evolving growth of algorithm structured robotic advice applications. Whilst this is a growth practice area, it has not translated into an increase of complaints at this time.

We continue to liaise with our regulatory counterparts in other states about these developing systems and are engaging in discussion as to how we can better regulate the profession.

We will continue to engage regularly with representatives of the QLS and Motor Accident Insurance Commission (MAIC) relative to the concerns we have about claims farmers. We support the QLS proposed amendments to the *Personal Injuries Proceedings Act 2002* (PIPA) legislation and the MAIC certification. Those initiatives are yet to be implemented and agreed upon, but the Commission will, where appropriate, take action to enforce compliance with the PIPA.

I would like to thank all stakeholders with whom the Commission dealt with 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 for her support and the confidence she has shown in allowing me to continue in this role. This has allowed the Commission to continue to act with integrity, maintain stability, continuity, focus and operational efficiency without distraction. The Commission's performance results and achievements as demonstrated in this Report lend support to such a statement.

I would also like to pay credit to the former Commissioner Paul Clauson for his services to the Commission and his support of me throughout his tenure.

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 during my tenure.

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 2840 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.

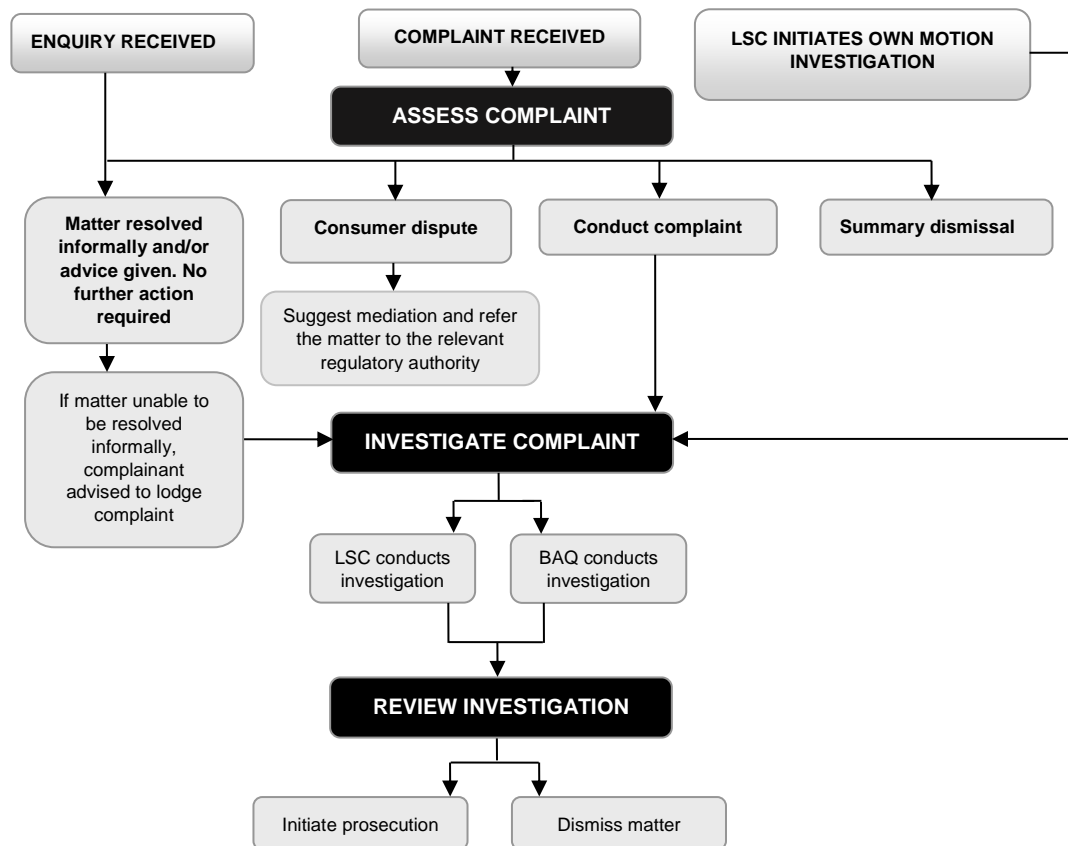
There are various reasons why the Commissioner might decide there is no public interest in initiating a disciplinary proceeding notwithstanding an investigation finds evidence of unsatisfactory professional conduct or professional misconduct. It may be, for example, that the conduct is of a minor kind 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 or/and 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. Suffice to say that we had 359 matters on hand as at 1 July 2017 and opened an additional 1295 complaints and/or investigation matters this year. We closed 320 conduct matters and 72 investigation matters and summarily dismissed 904 complaints leaving 322 as at 30 June 2018 - a very good outcome. There is more comprehensive statistical timeliness data identified in the tables below.

Enquiry and complaint handling flowchart



We have written a series of plain English fact sheets which describe how we deal with complaints 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 process. 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 aim to enhance the effectiveness of our regulation by engaging with all our stakeholders and provide information on matters that come to the Commission's attention which may require some guidance statements.

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)

For information about the regulatory guides, how we will go about developing them and importantly their status see [Regulatory Guides: An Overview](#) on our website.

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 is 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 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; and
- 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 practise 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, 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 the 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, and 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 deemed appropriate) a 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.

We have previously conducted two kinds of audits such as self-assessment audits and onsite reviews.

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.
- Proportionate.
- Add value and to 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.
- 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. 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.

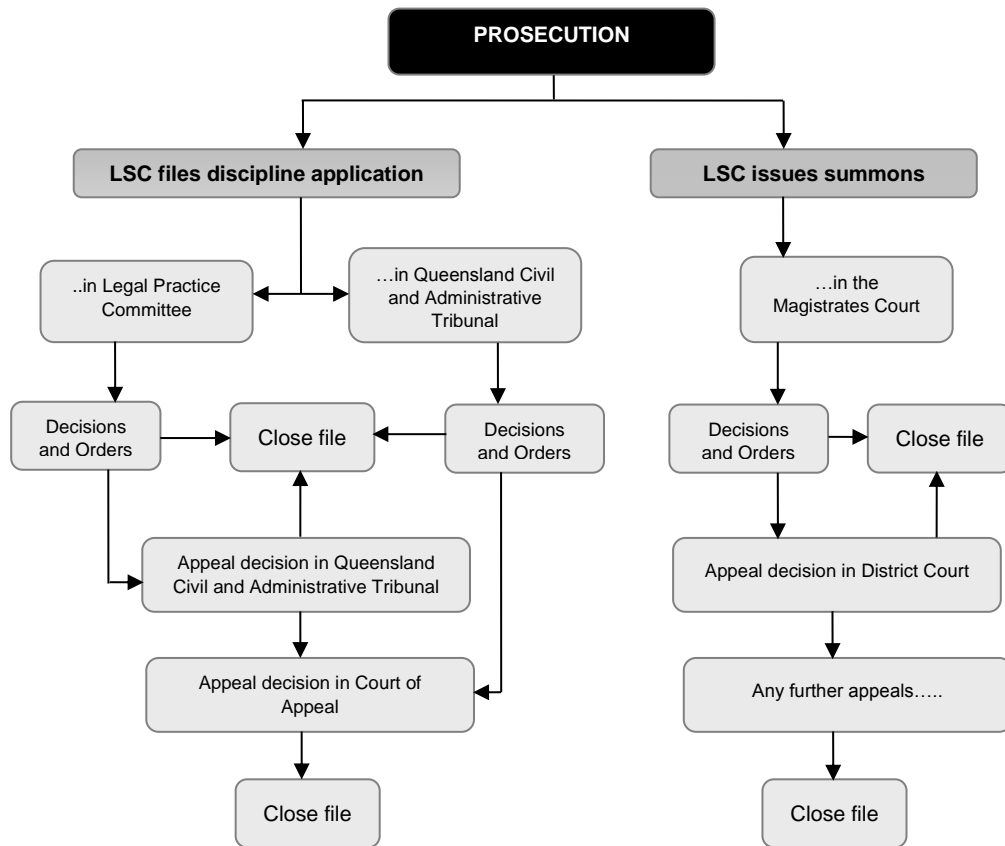
Assessing and reviewing our performance

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 our focus on being fair and consistent in our approach to disciplinary or enforcement activities we reviewed various matters that progressed through our internal prosecutorial matter stages. We entered into meaningful discussions with potential respondents or their lawyers to those intended applications.

After further meaningful discussion and after due consideration the Commissioner decided that there was no public interest in pursuing some of these matters further. 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.

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 a [Disciplinary and other relevant regulatory decisions](#) page on our website entirely separate to the discipline register 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.

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 2016 - 2019 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.

Action	Activities and Deliverables
	<ul style="list-style-type: none"> ▪ 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. ▪ 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.

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 receive 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 receive 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:

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 RTI

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 system

The cost of administering the system for dealing with complaints in 2017-18

	2017-18 employment costs \$	2017-18 all other costs \$	2017-18 total actual costs \$	2017-18 \$ Approved investment	2018-19 \$ approved investment
LSC ¹	2,196,159	1,633,676	3,829,835	5,014,800	5,118,900

¹ This figure includes brief-out costs of \$556,758.

Brief out costs

2016-17	2017-18
\$318,078	\$556,758

Surplus monies were returned to the Department and will be redistributed to Community Organisations over 2018-19.

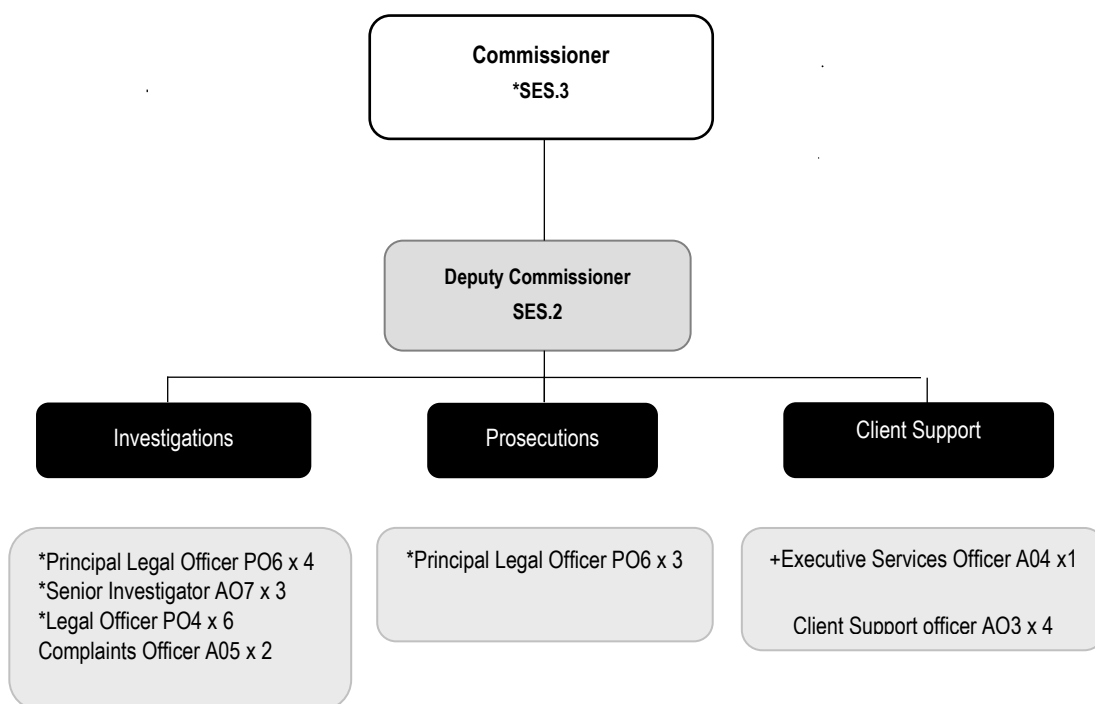
	QCAT \$	LPC \$	2017- 18 \$ total	2016- 17 \$ total	2015- 16 \$ total
Financial penalties ordered	32,750	-	32,750	24,500	38,250
Penalty payments received	46,121	-	46,121	25,100	27,926
Penalties written off	-	-	-	18,800	-
Penalty payments pending at 30 June	30,350	-	30,350	43,721	63,121
Costs ordered, agreed or assessed	241,915	-	241,915	416,065	71,762
Costs payments received	172,256	-	172,256	123,735	42,857
Costs written off	1,500	-	1,500	15,050	-
Costs payments pending at 30 June	406,893	-	406,893	338,734	61,455
Court of Appeal, agreed or assessed	25,000	-	25,000	31,000	27,328
Court of Appeal payments received	11,669	-	11,669	27,400	12,061

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 2017-18 organisation chart appears below.



Total full time equivalent staff: 25

* 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 2018

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 17/7/2018. We have chosen 30 June 2018 as the reference date – hence complaints about solicitors during 2017-18 will be profiled against the solicitor's attributes as recorded at 30 June 2018. 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 provide a brief summary.

1.1 Solicitors by type of locally issued practising certificate

	Total	%
unrestricted employee	6,281	51.78
unrestricted principal	3,265	26.91
restricted employee	2,414	19.90
restricted volunteer	89	0.73

	Total	%
unrestricted volunteer	41	0.34
limited principal	29	0.24
foreign	9	0.07
restricted principal	3	0.02
total	12,131	

1.2 Solicitors by gender

	Total	%
Male	5,297	48.66
female	6,204	51.14
total	12,131	

1.3 Solicitors by age group

	Total	%
24 & under	386	3.18
25 - 29	2,151	17.73
30 - 34	1,998	16.47
35 - 39	1,734	14.29
40 - 44	1,429	11.78
45 - 49	1,349	11.12
50 - 54	964	7.95
55 - 59	823	6.78
60 - 64	667	5.50
65 - 69	395	3.26
70 & over	235	1.94
total	12,131	

1.4 Solicitors by gender by age group

	Male %	Female %
24 and under	2.23	4.09
25 - 29	12.99	22.26
30 - 34	12.18	20.57
35 - 39	11.22	17.23

	Male %	Female %
40 - 44	10.98	12.54
45 - 49	12.55	9.75
50 - 54	10.29	5.71
55 - 59	9.47	4.22
60 - 64	8.72	2.42
65 - 69	5.80	0.82
70 and over	3.56	0.39

1.5 Law firms by size

No. of PC Holders	No. of Law Firms	%
1	1,011	45.50
2 - 3	692	31.14
4 - 6	250	11.25
7 - 12	146	6.57
13 - 24	59	2.66
25 - 50	19	0.86
51 - 100	13	0.59
101 - 200	7	0.32
secondary PC holders only	25	1.13
total	2,222	

* This table counts law firms only once even if they have more than one office. These figures also include interstate law firms that have a local office.

1.6 Law firms by business structure

Firm Type	Total	%
ILP	1,182	53.20
partnership/ sole practitioners	1,023	46.04
MDP	17	0.77
total	2,222	

* This table counts law firms only once even if they have more than one office. These figures also include interstate law firms that have a local office.

1.7 Location of law firm offices

	No. of Law Offices	%
Brisbane city	488	20.23
Brisbane north suburbs	411	17.04
Brisbane south suburbs	388	16.09
Gold Coast	415	17.21
Ipswich region	68	2.82
Toowoomba region	80	3.32
Western Queensland	6	0.25
Sunshine Coast	216	8.96
Hervey Bay to Gladstone	58	2.40
Rockhampton region	39	1.62
Mackay region	32	1.33
Cairns region	124	5.14
Townsville region	76	3.15
unknown	11	0.46
total	2,412	

* This table counts each office with an employed solicitor for a law firm. These figures also include interstate law firms that have a local office.

2.1 Enquiries

	17-18	16-17	15-16
enquiries from public received by LSC	2,740	2,294	2,342
PIPA enquiries handled during period	100	84	67

2.2 Complaints

	17-18	16-17	15-16
matters on hand at 1 July	359	417	474
plus, matters opened	1,259	1,332	1,222
less summary dismissals	904	885	780
less conduct matters closed	320	417	418
less investigation matters closed	72	88	81
on hand at 30 June	322	359	417

2.3 Prosecutions

	17-18	16-17	15-16
matters on hand at 1 July	65	72	83
plus, matters opened	30	37	15
less matters closed	46	44	26
on hand at 30 June	49	65	72

2.4 Self-Assessment Audits and Civil Litigation

	Self-Assessment Notices	Civil Litigation
on hand at 1/7/2017	-	3
opened during year	235	7
closed during year	231	6
on hand at 30/6/2018	4	4

2.5 Complaints About Us, Grievances and RTI Applications

	Complaints about Us	Reconsiderations	Ombudsman	RTI
on hand at 1/7/2017	1	4	-	1
opened during year	3	72	6	5
closed during year	4	73	6	5
on hand at 30/6/2018	-	3	-	1

2.6 Timeliness

Type	Matters Completed	Time Band	Actual %	Cumulative %	Target %	Median days open (17-18)	Median days open (16-17)
complaints	229	<= 6 months	58.42	58.42	75	178.5	168
	116	7 - 18 months	29.59	88.01	100		
	47	> 18 months	11.99	100	0		
summary dismissals	734	<= 1 month	81.28	81.28	90	23	21

Type	Matters Completed	Time Band	Actual %	Cumulative %	Target %	Median days open (17-18)	Median days open (16-17)
	83	1 - 2 months	9.19	90.48	100		
	86	> 2 months	9.52	100	0		

3. Agency Summary

3.1.1 Matters on hand by agency

	Total	Start of Year
At LSC		
complaints under assessment	137	141
conduct matters	174	213
self-assessment audits	4	-
on-site reviews	-	-
sub-total	315	354
At QLS		
conduct matters	1	-
At BAQ		
conduct matters	10	5
total	326	359

3.1.2 Complaints assigned by agency

	YTD	% of YTD
retained at LSC	291	95.72
referred to BAQ	12	3.95
referred to QLS	1	0.33
total	304	

3.1.3 Investigation matters assigned by agency

	YTD	% of YTD
retained at LSC	55	100
referred to BAQ	-	-
total	55	

4. Closure Summary

4.1 Enquiries

4.1.1 Enquiries by enquirer type

	17-18	%	16-17	15-16
client/former client	2,069	72.85	1,707	1,769
non-client	396	13.94	336	399
solicitor	211	7.43	146	133
beneficiary	57	2.01	65	29
third party	55	1.94	75	29
solicitor for client	11	0.39	14	9
executor	8	0.28	4	15
barrister	5	0.18	4	5
all other 'enquirer types' combined	28	0.99	27	21
total	2,840		2,378	2,409

4.1.2 Enquiries by outcome

	17-18	%	16-17	15-16
general enquiry	1,455	51.23	1,146	993
provided complaint form	736	25.92	524	586
recommended direct approach to firm about concerns	371	13.06	422	353
provided information about LSC to lawyer	106	3.73	56	59
explained concerns are outside jurisdiction	66	2.32	68	73
provided referral for legal advice or other assistance	63	2.22	95	171
provided information about legal system	11	0.39	6	22
negotiated remedial action	4	0.14	11	1
matter unable to be resolved	4	0.14	9	26
lost contact with complainant/enquirer	3	0.11	5	28
provided cost information	2	0.07	5	48
all other 'outcomes' combined	19	0.67	31	49
total	2,840		2,378	2,409

4.1.3 Enquiries by area of law

	17-18	%	16-17	15-16
family law	494	17.39	415	381
personal injuries /WorkCover litigation	365	12.85	338	302
deceased estates or trusts	284	10.00	246	235
Litigation	216	7.61	190	128
Conveyancing	189	6.65	219	193
criminal law	112	3.94	119	98
property law	81	2.85	58	38
commercial /company law	43	1.51	46	56
conduct not in the practice of law	29	1.02	23	23
Immigration	18	0.63	15	16
building/construction law	13	0.46	23	14
administrative law	13	0.46	1	9
trust account breaches	11	0.39	5	5
bankruptcy and insolvency	4	0.14	3	9
leases/mortgages	3	0.11	12	8
all other 'areas of law' combined	965	33.98	660	894
total	2,840		2,378	2,409

4.1.4 Enquiries by nature of the enquiry

	17-18	%	16-17	15-16
Costs	656	23.10	620	574
quality of service	366	12.89	392	378
ethical matters	351	12.36	119	158
communication	173	6.09	163	113
PIPA	101	3.56	84	67
compliance	45	1.58	27	30
documents	42	1.48	37	65
trust funds	23	0.81	36	25
personal conduct	3	0.11	15	12
Advice	-	-	1	9
all other 'natures of enquiry' combined	1,080	38.03	809	978

	17-18	%	16-17	15-16
total	2,840		2,378	2,409

4.1.5 Enquiries - breakdown of ethical matters

	17-18	%
unethical conduct	265	75.50
conflict of interest	48	13.68
instructions – not followed/acting without	11	3.13
breach of confidentiality	10	2.85
misleading/dishonest conduct	8	2.28
misleading/dishonest conduct in Court	4	1.14
fraud/misappropriation/stealing	3	0.85
all other natures combined	2	0.57
total	351	

4.2 Summary Dismissals

4.2.1 Summary Dismissals by area of law

	17-18	%	16-17	15-16
family law	234	25.88	215	159
litigation	110	12.17	97	65
deceased estates or trusts	107	11.84	98	81
conveyancing	82	9.07	76	88
criminal law	74	8.19	57	36
personal injuries /WorkCover litigation	70	7.74	53	53
property law	38	4.20	62	32
commercial law	38	4.20	43	70
conduct not in the practice of law	19	2.10	22	15
leases/mortgages	13	1.44	12	7
building/construction law	13	1.44	12	6
bankruptcy & insolvency	12	1.33	6	16
immigration	9	1.00	9	8
administrative law	7	0.77	6	14
trust account breaches	4	0.44	7	4

	17-18	%	16-17	15-16
all other 'areas of law' combined	74	8.19		126
total	904		885	780

4.2.2 Summary Dismissals by nature of matter

	17-18	%	16-17	15-16
ethical matters	329	36.39	256	227
quality of service	286	31.64	285	202
Costs	95	10.51	127	147
communication	81	8.96	94	94
compliance	28	3.10	29	23
trust funds	18	1.99	18	16
documents	12	1.33	16	14
personal conduct	6	0.66	22	21
PIPA	2	0.22	3	2
all other 'natures of matter' combined	47	5.20	35	34
total	904		885	780

4.2.3 Summary Dismissals - breakdown of ethical matters

	17-18	%
unethical conduct	248	75.38
conflict of interest	26	7.90
instructions – not followed/acting without	13	3.95
misleading/dishonest conduct	13	3.95
misleading/dishonest conduct in Court	11	3.34
breach of confidentiality	10	3.04
failure to honour undertakings	5	1.52
contacting another solicitor's client	2	0.61
fraud/misappropriation/stealing	1	0.30
total	329	

4.3 Complaints/Investigation Matters

4.3.1 Complaints by complainant type

	17-18	%	16-17	15-16
client/former client	207	64.69	291	291
non-client	39	12.19	65	68
third party	26	8.13	10	6
solicitor for client	19	5.94	12	22
solicitor	15	4.69	20	19
beneficiary	2	0.63	5	4
barrister	2	0.63	5	1
executor	-	-	1	4
Judge	1	0.31	1	1
all other 'complainant types' combined	9	2.81	7	2
total	320		417	418

4.3.2 Complaints by respondent type

	17-18	%	16-17	15-16
solicitor	270	84.38	370	370
barrister	20	6.25	24	16
unlawful operator	20	6.25	10	11
law practice employee	5	1.56	3	9
Other	2	0.63	4	1
legal practitioner	2	0.63	1	3
corporation	1	0.31	4	4
non-legal director	-	-	1	4
total	320		417	418

4.3.3 Complaints by outcome

	17-18	%	16-17	15-16
no reasonable likelihood	201	62.81	276	276
no public interest	72	22.50	75	75
referred to tribunal	22	6.88	32	18
withdrawn/discontinued	16	5.00	20	18
referred to other investigative process	4	1.25	4	22

	17-18	%	16-17	15-16
referred for civil litigation	2	0.63	6	4
referred for criminal litigation	2	0.63	2	1
referred to LPC	1	0.31	-	-
referred to Magistrates Court	-	-	1	2
all other 'outcomes' combined	-	-	1	2
total	320		417	418

4.3.4 Complaints by area of law

	17-18	%	16-17	15-16
family law	75	23.44	86	81
litigation	42	13.13	43	55
deceased estates or trusts	40	12.50	48	49
conveyancing	32	10.00	37	61
personal injuries /WorkCover litigation	26	8.13	42	19
criminal law	22	6.88	33	15
commercial /company law	17	5.31	27	39
conduct not in the practice of law	12	3.75	10	6
property law	9	2.81	22	16
administrative law	4	1.25	3	3
building /construction law	4	1.25	2	6
leases /mortgages	3	0.94	7	6
immigration	3	0.94	4	3
industrial law	2	0.63	2	2
trust account breaches	2	0.63	1	3
bankruptcy and insolvency	-	-	3	3
all other 'areas of law' combined	27	23.44	47	51
Total	320		417	418

4.3.5 Complaints by nature of matter

	17-18	%	16-17	15-16
quality of service	93	29.06	152	143
ethical matters	78	24.38	75	90
Costs	64	20.00	79	85

	17-18	%	16-17	15-16
compliance	34	10.63	30	31
communication	27	8.44	42	37
trust funds	8	2.50	17	15
documents	8	2.50	8	10
personal conduct	3	0.94	8	6
PIPA	3	0.94	3	-
all other 'natures of matter' combined	2	0.63	3	1
total	320		417	418

4.3.6 Complaints - breakdown of ethical matters

	17-18	%
unethical conduct	45	57.69
conflict of interest	8	10.26
instructions – not followed/acting without	8	10.26
breach of confidentiality	7	8.97
misleading/dishonest conduct	5	6.41
misleading/dishonest conduct in Court	3	3.85
contacting another solicitor's client	1	1.28
fraud/misappropriation/stealing	1	1.28
total	329	

4.3.7 Investigation matters by outcome

	17-18	%	16-17	15-16
no public interest	34	46.58	45	42
no reasonable likelihood	22	30.14	25	23
referred to tribunal	15	20.55	9	11
referred for criminal litigation	1	1.37	1	1
referred for civil litigation	1	1.37	1	1
referred to other investigative process	-	-	4	2
referred to Magistrates Court	-	-	1	-
all other outcomes combined	-	-	2	1
total	72		88	81

4.3.8 Investigation matters by area of law

	17-18	%	16-17	15-16
personal injuries /WorkCover litigation	19	26.39	33	25
conduct not in the practice of law	15	20.83	6	8
trust account breaches	12	16.67	18	12
criminal law	7	9.72	4	-
deceased estates or trusts	5	6.94	2	7
family law	4	5.56	6	2
litigation	2	2.78	5	2
administrative law	1	1.39	1	1
bankruptcy and insolvency	-	-	2	6
conveyancing	-	-	1	2
building/construction law	-	-	1	-
commercial /company law	-	-	-	3
all other 'areas of law' combined	7	9.72	9	13
total	72		88	81

4.3.9 Investigation matters by nature of matter

	17-18	%	16-17	15-16
PIPA	17	23.61	31	24
compliance	17	23.61	16	17
ethical matters	17	23.61	12	13
trust funds	5	6.94	15	10
personal conduct	5	6.94	5	3
quality of service	4	5.56	2	3
Costs	2	2.78	2	9
all other 'natures of matter' combined	5	6.94	5	2
total	72		88	81

4.4 Prosecution Matters**4.4.1 Prosecutions – heard and decided**

	17-18	16-17	15-16
by Tribunal	13	17	21
by the Committee	-	2	1

	17-18	16-17	15-16
by the Magistrates Court	3	3	
by the Court of Appeal	-	2	
sub-total	16	24	22
reconsidered/withdrawn/discontinued/other	30	20	4
total	46	44	26

4.4.2 Prosecutions by respondent type

	17-18	16-17	15-16
solicitor	11	18	18
unlawful operator	3	3	-
barrister	2	1	3
law practice employee	-	2	-
all other respondent types	-	-	1
total	16	24	22

4.4.3 Prosecutions by charge outcome

	17-18	16-17	15-16
proved - professional misconduct	7	6	16
proved -unsatisfactory professional conduct	-	11	15
proved – LPA/PIPA offence	-	-	-
dismissed after hearing	4	-	-
withdrawn	3	7	4
total	14	24	35

4.4.4 Prosecutions by area of law

	17-18	16-17	15-16
family law	3	3	6
litigation	3	2	2
conduct not in the practice of law	2	1	1
conveyancing	2	1	1
deceased estates or trusts	2	4	2
criminal law	1	1	2
property law	1	1	2

	17-18	16-17	15-16
trust account breaches	-	3	1
commercial /company law	-	2	1
personal injuries/WorkCover litigation	-		2
bankruptcy and insolvency	-		1
all other 'areas of law' combined	2	6	1
total	16	24	22

4.4.5 Prosecutions by nature of matter

	17-18	16-17	15-16
ethical matters	3	9	7
personal conduct	3	1	2
quality of service	3	2	2
communication	2	2	1
Costs	1	1	2
trust funds	1	2	2
compliance	-	3	3
all other 'natures of matter' combined	3	4	3
total	16	24	22

5. Investigations by Solicitor/Law Firm

5.1 Investigations regarding solicitors as a proportion of the profession

	PC Holders	Law Firms	Law Offices
size of profession as at 30 June 2016	11,188	1,987	2,142
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
no of respondents for 2017-18 year	262	212	217
Percentage	2.16	9.54	9.00

5.2 Solicitors subject to investigation

	2017-18	2016-17	2015-16
1 complaint	224	295	288
2 complaints	22	42	39
3 complaints	10	9	13
4 complaints	3	4	1
5 complaints	2	1	1
between 6 and 9	1	2	1
between 10 and 14	-	-	1
15 and > complaints	-	-	-
total	262	353	344

5.3 Law firms subject to investigation

	2017-18	2016-17	2015-16
1 complaint	160	201	198
2 complaints	28	44	54
3 complaints	15	15	17
4 complaints	6	8	5
5 compliant	1	4	2
between 6 and 9	2	3	2
between 10 and 14	-	-	1
15 and > complaints	-	-	-
total	212	275	279

5.4 Solicitors subject to investigation by gender

	2017-18	%	2016-17	2015-16
Male	194	74.05	273	253
female	68	25.95	80	91
total	262		353	344

5.5 Solicitors subject to investigation by age group

	2017-18	%	2016-17	2015-16
24 and under	1	0.38	12	8
25 - 29	11	4.20	23	18
30 - 34	18	6.87	34	24
35 - 39	25	9.54	29	35
40 - 44	27	10.31	37	46
45 - 49	44	16.79	54	34
50 - 54	34	12.98	44	51
55 - 59	39	14.89	46	57
60 - 64	30	11.45	30	33
65 - 69	20	7.63	31	30
70 and over	12	4.58	13	8
Other	1	0.38	13	8
total	262		353	344

5.6 Solicitors subject to investigation by law firm business type

	2017-18	%	2016-17	2015-16
partnership/ sole practitioners	108	50.94	148	168
ILP	102	48.11	123	107
MDP	2	0.94	4	4
total	212		275	279

5.7 Solicitors subject to investigation by law firm size

PC holders	2017-18	%	2016-17	2015-16
1	73	34.43	90	93
2 - 3	61	28.77	74	75
4 - 6	40	18.87	50	47
7 - 12	17	8.02	34	23
13 - 24	8	3.77	17	24
25 - 50	7	3.30	5	5
51 - 100	3	1.42	3	7

PC holders	2017-18	%	2016-17	2015-16
101 - 200	3	1.42	2	5
total	212		275	279

5.8 Solicitors subject to investigation by law office location

	2017-18	%	2016-17	2015-16
Brisbane city	50	23.04	74	74
Brisbane north suburbs	24	11.06	32	32
Brisbane south suburbs	38	17.51	37	40
Gold Coast	36	16.59	56	68
Ipswich region	10	4.61	9	7
Toowoomba region	6	2.76	8	7
Western Queensland	-	-	-	-
Sunshine Coast	21	9.68	24	24
Hervey Bay to Gladstone	7	3.23	8	4
Rockhampton region	2	0.92	6	2
Mackay region	1	0.46	4	3
Cairns region	11	5.07	13	16
Townsville region	11	5.07	14	11
total	217		285	288

5.9 Barristers by type of Practising Certificate

Membership status and PC Type	Male	Female	Total per PC type
<i>Member - Class A PC</i>	739	198	937
<i>Member - Class B PC</i>	106	63	169
<i>Non-member - Class A PC only</i>	4	1	5
<i>Non-member - Class B PC only</i>	0	0	0
	849	262	1111*

*The Commission dealt with 68 complaints/investigation matters compared to 24 last year.

6. 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.

6.1 Enquiries

	17-18	\$	16-17	\$	15-16	\$
apology	-	-	2	-	-	-
financial redress/compensation	-	-	-	-	1	1,000
redress - improved communications	1	-	3	-	-	-
redress – other-	1	-	-	-	-	-
management system improvements	-	-	-	-	-	-
training/mentoring/supervision	-	-	-	-	-	-
made advertisement PIPA compliant	-	-	1	-	4	-
total	2	-	6	-	5	1,000

6.2 Complaints

	17-18	\$	16-17	\$	15-16	\$
apology	39	-	40	-	42	-
financial redress/compensation	17	69,482	35	242,809	37	102,557
redress - improved communications	3	-	-	-	5	-
redress - other	21	-	16	-	12	-
management system improvements	18	-	23	-	31	-
training/mentoring/supervision	9	-	11	-	4	-
made advertisement PIPA compliant	18	-	31	-	20	-
total	125	69,482	156	242,809	151	102,557

6.3 Prosecutions

	17-18	\$	16-17	\$	15-16	\$
employee not to be employed	-	-	-	-	-	-
fined (disciplinary body – USP / PMC)	5	14,500	12	20,000	11	38,250
fined (Magistrates Court – LPA offence)	2	2,500	2	1,501	-	-
ordered to apologise	-	-	-	-	-	-
ordered to pay compensation	-	-	3	106,447	1	7,000
ordered to make other redress	1	-	1	-	-	-
ordered to undertake training or be supervised	-	-	7	-	4	-
reprimanded	7	-	15	-	11	-
struck off	3	-	3	-	6	-
suspended	4	-	2	-	-	-
withdrawn/reconsidered – apology	12	-	14	-	2	-
withdrawn/reconsidered – financial redress	4	38,075	1	20,000	-	-
withdrawn/reconsidered – apology	1	-	2	-	-	-
total	39	55,075	62	147,978	35	45,250