



LEGAL PROFESSION COMPLAINTS COMMITTEE
WESTERN AUSTRALIA

2020 ANNUAL REPORT



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1. Report from the Chair

This report covers the operations and activities of the Legal Profession Complaints Committee for the year ended 30 June 2020.

It has been a year marked by anticipation about the arrival of the Uniform Law (as mentioned in my previous reports), and the arrival of a new Law Complaints Officer, after one of the Committee's senior managers, Nick Pope, had acted in the role throughout 2019. However, by far the most significant aspect of the year was the challenge posed in the second half of the year by the COVID-19 global pandemic.

The Committee was supported through this challenging period by its dedicated and hardworking staff. I would like to thank all of them for their efforts and commitment.

Looking at the data for the Committee's operations in 2019-20, it can again be seen that the area that attracted the most inquiries and complaints was Family Law (34.5% of the inquiries and 28.2% of the complaints), with Civil Litigation and Probate/Wills/Family Provision coming in some way behind (each accounting for approximately 10% of inquiries and approximately 10% of complaints). The breakdown of figures here has not changed much in recent years.

There was a drop in the number of inquiries received by the Committee's Rapid Resolution Team (RRT), which receives and triages all new contacts. In 2019-20, the RRT received 989 new inquiries, down from 1146 the year before.

On the other hand, the Committee experienced an increase in the number of new complaints, receiving 71, compared with 59 in 2018-19. It is notable that complaints made by clients or former clients comprised

48.8% of new complaints this year, compared with about 30% in past years.

Overall, however, the number of matters referred for formal investigation, and the number of investigations which the Committee commenced on its own initiative, under section 421 of the *Legal Profession Act 2008* (WA) (**LPA**), remained about the same.

The number of outstanding investigations at the end of the financial year increased from 106 to 145. The various disruptions mentioned have had an impact that will require some time and effort to deal with.

During the year, the Committee made determinations in 42 matters, of which 38% resulted in a referral of the practitioner's conduct to the State Administrative Tribunal (**SAT**). The proportion of matters considered by the Committee which resulted in a referral to SAT or a summary conclusion was down this year, from 77% to 50%. Also, the Committee dismissed 45% of the complaints brought before it, compared with 36% the year before.

In some cases, the Committee had concerns about the conduct of the practitioner, but considered that the shortcoming identified was not sufficiently serious to require a disciplinary response. In those cases, the complaint was dismissed, but the Committee expressed its concern about certain specific aspects of the practitioner's conduct. That was done with a view to assisting the practitioner to improve his or her practice in the future. In 2019-20 the Committee expressed concern in 9% of cases before it, down from 15% in 2018-19.

Inquiries about costs remained steady compared with previous years (24% of all inquiries), while there was a drop in the number involving communication issues

(down to 23.9% of all inquiries). It would be pleasing to think that this was a real trend, given the emphasis placed on the importance of good communication in the continuing professional development seminars which the Committee staff conduct for members of the profession. However, communication issues were a concern raised in 53% of new investigations. That was up from 38.6% the year before.

Communication issues are often an underlying issue with the inquiries and complaints which the Committee receives, particularly in those inquiries and complaints in which the Committee tries to achieve a conciliated result.

In 2019-20, the Committee referred to SAT the conduct of 15 practitioners, down from 23 in 2018-19. Details of matters referred to and dealt with by SAT are provided in the body of this report. Many of those referrals resulted in mediated outcomes, but several proceeded to a contested hearing.

During the year, the Committee's Litigation Team and external counsel engaged by the Committee put in an enormous effort, dealing with proceedings in SAT in the public interest and, at the same time, ensuring that the Committee conducted itself as a model litigant. While the vast majority of the profession maintains very high standards and provides an excellent service to their clients and the courts, part of the Committee's role is to promote and enforce the professional standards of the profession, as well as to pursue disciplinary action where necessary to protect consumers and the public, in the interests of the administration of justice.

Trends

Family Law remains the area which generates the most inquiries and complaints. Litigation in the Family Court, litigation concerning wills and family provision and civil litigation generally can all be highly stressful

for clients and practitioners alike. When things go wrong in these areas, it is useful that the Committee's services are available, and that its staff are able to assist.

Complaints by clients are notably up this year, and complaints about costs and communication also remain a staple. It is hoped that the Uniform Law will provide the Committee with better legislative tools to deal with these complaints.

During the year, complaints about lack of supervision of junior lawyers increased from around 1% to 6.5%. The factors that have caused that increase are also reflected in other statistics. It can be seen that complaints against a 'firm' have increased to 13.4%. There has been a similar increase in complaints where the age of the practitioner the subject of the complaint, and/or the practitioner's years in practice, are not applicable.

This situation seems to relate to a trend I mentioned in my report last year: the increasing emergence of national 'low cost' firms (usually in the form of an incorporated legal practice) where the principal is resident in another State. That circumstance, along with the employment of many junior lawyers, raises issues as to the adequacy of supervision.

Fortunately, the Committee (working with the Legal Practice Board) has the ability to conduct an audit of the management of the provision of legal services by the incorporated legal practice (including the supervision of officers and employees providing the services).

The audit is a useful tool that can be utilised prior to conducting a full scale investigation into whether there has been unsatisfactory professional conduct or professional misconduct and can have a more immediate impact on improving services to consumers engaged with the audited practice.

Under the Uniform Law, the ability to audit will be available in relation to all legal practices, and not just incorporated legal practices, which is the present situation under the LPA. It provides a means for management systems to be examined, and for directions to be issued to the practice, to help the practice address issues. This means that, in suitable cases, it may be practicable to address issues that are identified in ways other than the taking of disciplinary action. This could have benefits for all concerned.

While the Committee's staff are doing what they can to try and facilitate more productive engagement with the profession, they do encounter some practitioners who do not engage appropriately, courteously, candidly and fulsomely, in accordance with their professional obligations.

There are also cases where complainant and the practitioner alike place a disproportionate burden on the Committee's staff and resources, through the nature and volume of their communications and actions.

Uniform Law

On 18 March 2020, the State Government introduced into the Legislative Assembly the *Legal Profession Uniform Law Application Bill 2020 (WA)*, which, when passed, will introduce into Western Australia (with modifications) the Legal Profession Uniform Law which presently applies in New South Wales and Victoria.¹

As mentioned, when the Uniform Law is introduced into Western Australia, the legal regulators in this State will join with those in New South Wales and Victoria in operating under a common set of legislative provisions and conduct rules (with some modifications). It is hoped that, under the Uniform Law, as it

applies in Western Australia, the Committee will be provided with a framework for the timely and effective resolution of disputes between practitioners and their clients.

The focus of the Uniform Law will be the resolution of such disputes, including disputes as to costs where the amount involved is under \$100,000, or where the amount in dispute is under \$10,000 (indexed). It will also allow for determinations to be made where such matters can be resolved by agreement, and for audits of all legal practices (where appropriate) as mentioned above. It is hoped that the Uniform Law will provide other ways for the Committee, working with the Legal Practice Board, to work towards achieving the goal of protecting the clients of practitioners and the public generally, using regulation that is efficient, effective, targeted and proportionate.

In its operations today, the Committee endeavours to do the same thing, by taking a practical approach to the contacts that it receives, looking to help resolve the issues of concern, and only undertaking full blown investigations where they are warranted. The Committee believes that the Uniform Law will facilitate that process and its staff have been actively planning for its introduction as it moves through State Parliament.

Education

The impact of COVID-19, and the social distancing practices it has brought about, have had a significant impact on the ability to gather in person and hold traditional seminars and presentations. In the first half of 2019-2020, the Committee's staff continued to conduct those seminars and presentations in the usual way. This changed in the latter part of the year, when it became necessary for the staff to use technology to facilitate interactions, with a focus on working with the regulators in New South

¹ At the time of writing this report the Bill had not passed through State Parliament before it was prorogued for the 2021 State election.

Wales and Victoria to examine the operations of the Uniform Law, and how it might work in Western Australia. Since then, the Committee has been working with the Law Society of Western Australia to provide guidance to the profession about the Uniform Law.

Relationships

As mentioned, the Law Complaints Officer and staff have, throughout the year, engaged extensively with their counterparts in NSW and Victoria, and for that matter, with their counterparts throughout Australia.

Most importantly, the Committee has worked closely with the Legal Practice Board to try to achieve the best regulatory outcomes for the legal profession in WA.

The Committee has also worked with Legal Aid (WA), the courts, including SAT, and the Department of Justice.

The Committee has also worked with the Office of the Migration Agents Registration Authority (OMARA), although that involvement will diminish when the Board and the Committee become responsible for regulating legal practitioners who practise migration law.

The Committee has continued to have representation on the Law Society's Costs and Mental Health Wellbeing Committees, noting the benefits gained from information sharing and the consideration of topical matters. This representation has also been another avenue for the Committee to contribute to maintaining the standards and wellbeing of the profession.

Forecast workload

As mentioned, in 2019-20, there was an increase in the number of outstanding investigations. While that is a concern, it is hoped that the Uniform Law will provide

alternative ways for the Committee to deal with some of those matters. Notwithstanding that, however, the Committee's staff will continue to deal with a heavy workload.

Proposals for improving the operations of the Committee

It is essential to the efficient functioning of the Committee that it have an electronic complaints management system (**ECMS**). An ECMS would improve workflows and management reporting, and would allow more targeted and efficient handling of complaints and conduct investigations.

While previous Annual Reports have discussed the protracted history regarding the introduction of an ECMS, planning is currently underway for the introduction of a fit-for-purpose ECMS in mid-2021, to coincide with the introduction of the Uniform Law.

Staffing

This year has seen considerable turnover in staffing in the Investigation Team, which has also been adversely affected by the protracted absence of senior members. Those factors have undoubtedly contributed to the increase in the number of outstanding investigations mentioned previously. As the Committee rebuilds its capacity in this area, the situation will be continually monitored, to ensure that the Committee has all the resources that it needs.

Thanks

The Committee is not alone when it says that this has been a difficult year. The impact of COVID-19, in particular, will continue.

During the year, the Committee lost one of its longest serving members, Kim Wilson SC, who departed after being a member of the

Committee for 14 years. He was Deputy Chair for a little over 5 of those years. I thank Kim for the outstanding contribution that he made to the Committee during that time and for the unwavering support that he provided to me as Chair of the Committee. Kim was replaced as Deputy Chair by Brahma Dharmananda SC. Brahma has been a member of the Committee for many years, and I thank him for agreeing to take on the role of Deputy Chair.

Also during the year, Ken Pettit SC resigned from the Committee. I thank Ken for the contribution he made during his 5 years as a member of the Committee.

I also want to express my sincere thanks to Nick Pope, the Manager of the Investigation Team, for acting as the Law Complaints Officer from the time the former LCO, Philippa Rezos, left the Committee, at the end of 2018, until February 2020, when the new LCO, Russell Daily, took up his appointment. Throughout that time, Nick was obliged to discharge not only the duties of LCO, but also his existing duties as Manager of the Investigations Team. How he managed that, I will never know.

I am also grateful to Cassie Paterson, Manager of the Committee's Litigation Team, and Cath Carroll, Manager of the RRT, for their hard work and support throughout the year. Along with their teams, Cassie and Cath continue to provide high quality work for the Committee, often under very challenging circumstances. This has been even more the case in a year in which the particular challenges of COVID-19 have been felt by us all. I thank all members of the staff of the Committee for everything they have done and continue to do, and for their commitment to what the Committee works to achieve.

I also again acknowledge and thank all other members of the Committee for their contribution by devoting their time free of charge to deal with the varied and complex matters which the Committee is required to determine. I also give special thanks to the community members of the Committee, who participate fully in the work of the Committee and bring a different and valuable perspective to the Committee's decision making.

I also thank the barristers who undertake work for the Committee at reduced rates, and who are invariably required to act on challenging and complex matters. I am also grateful for the assistance afforded by the Western Australian Bar Association to practitioners who are investigated and prosecuted by the Committee. Barristers who act for practitioners through the involvement of the WABA are integral to the efficient resolution of disciplinary matters.

Overall, I look forward to a year ahead where the Committee can build on what it has learnt from the past, and utilise the opportunities provided by the Uniform Law. People who come to the Committee looking for help with their concerns want to know that the members of the Committee's staff will listen and try their best to resolve their disputes. I believe that, in an extremely difficult year for us all, the Committee's staff have done that to the best of their ability. That helps to build and maintain the public's trust and confidence in the legal profession as a whole.

John Ley SC
Chair
December 2020

2. Report from the Law Complaints Officer

I commenced as Law Complaints Officer in February 2020, returning to Perth from Melbourne, where I had worked with the legal regulators for over ten years. During my time in Victoria, I saw numerous developments in the approach to legal regulation and complaint handling, none more notable perhaps than the introduction of the Uniform Law Scheme in 2015.

The Legal Profession Uniform Law Application Bill was introduced into the Western Australian Parliament shortly after my arrival. The Bill is aimed at bringing this State into the Uniform Law Scheme, to join with Victoria and New South Wales.

The Uniform Law allows individual jurisdictions to administer the uniform provisions through their own regulatory bodies. This will allow WA to maintain its self-regulatory regime, while also operating under a modern, consumer-focused and nationally consistent scheme. This promises benefits to consumers and the profession alike.

While some of the tools that will be available under the Uniform Law are similar to the practical approach we take now in handling inquiries and complaints, we are looking at further ways that we can improve the way we work today, consistent both with what is coming, and with the current legislation.

I am grateful to John Ley SC, our dedicated and supportive Committee Chair, who welcomed me into the LCO role during what turned out to be a time with more challenges than anticipated. In his Chair's report, John has provided many details of the operations of the Committee in 2019-20, not all of which I will repeat here.

John mentions in his report the planned introduction of an electronic case

management system (ECMS). The introduction of the ECMS has been a major priority since my arrival. Such a system needs to be fit-for-purpose and capable of evolving. It needs to allow for the Committee to better measure what it does, as, without this ability, it is impossible to determine what it needs to do to improve its performance. Ultimately, an ECMS provides for better service to those we deal with and more timely resolution of complaints. I am hopeful that we will have the first iteration of the ECMS in place for the arrival of the Uniform Law, expected in July 2021.

In what was an unexpected feature of my early days as Law Complaints Officer, COVID-19 began to make its presence felt. Things moved quickly and, in March, staff made the change to remote working for over two months, our number one priority being the wellbeing of our people. This tested our operations and our systems, but it did in some ways help show us some new ways of working.

COVID has had a devastating impact across the globe, and while, in Western Australia, we have been relatively fortunate to date, it has still undeniably affected all of us, including the legal profession and consumers of legal services.

We saw new ways of working with the courts and the State Administrative Tribunal, and became adept at using videoconferencing where it would not have been considered before. However, social distancing did mean that we were not able to meet with people face to face. Connecting through technology is not a substitute for that.

I thank all of my managers and staff for their continued hard work in the face of these and other challenges. Without the commitment and efforts of our people, we could not

provide the services the public and the profession expect from the Committee. I would also like to thank the members of the Committee, as well as all of the staff and members of the Legal Practice Board for their continued support as we work together to achieve our aims.

Finally, I would also like to sincerely thank Nick Pope, our Investigations Manager, who acted in the Law Complaints Officer role

throughout 2019, after the departure of the previous LCO. Through the change and disruptions Nick worked to support our dedicated managers and staff, and the members of the Committee.

Russell Daily
Law Complaints Officer
December 2020

3. About the Legal Profession Complaints Committee

3.1 Our role, purposes and objectives

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

The statutory purposes of the Committee's work are:

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

Our objectives are:

- to provide an efficient and expeditious system for dealing with complaints
- to proactively monitor the conduct of the legal profession
- to initiate and prosecute disciplinary proceedings as appropriate

- to promote and enforce the professional standards, competence and honesty of the profession
- to maintain a productive and motivating work environment.

3.2 Our relationship with the Legal Practice Board

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

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

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

3.3 Our members

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

During the reporting year the Committee was constituted by:

Chair: Mr J R B Ley SC

Deputy Chair: Mr K R Wilson SC (until 6 April 2020)

Mr B Dharmananda SC (from 9 April 2020)

Legal members:

Mr K M Pettit SC (until 20 December 2019)

Mr M H Zilko SC

Mr J B Hedges SC

Mr M R Berry SC

Ms C J Thatcher SC

Mr J G Syminton

Ms K A Shepherd

Mr R G Wilson

Ms M-L Coulson (from 21 April 2020)

Community representatives:

Ms K Ballard AM

Mr T Buckingham

Deputy community representatives:

Ms S Hunt

On 6 April 2020 the Committee's dedicated and long serving Deputy Chair, Mr Kim Wilson SC, resigned from his position. The Committee extends its gratitude to Mr Wilson SC for the huge amount of work that he has contributed over the years, and the leadership and support that he has

shown. We wish him well with his future endeavours.

On 9 April 2020 Mr Brahma Dharmananda SC was appointed as the Committee's new Deputy Chair, following several years as an ordinary member. The Committee welcomes Mr Dharmananda SC in his new capacity.

3.4 Our operations

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

During the year, the Committee held 9 meetings.

The Committee's day-to-day operations are conducted by the LCO and the staff of the Committee.

The LCO's office is divided into three operational areas: Rapid Resolution, Investigation and Litigation. Each of these operational areas is managed by a Senior Legal Officer who forms part of the LCO's Complaint Leadership team. The LCO and leadership team are ably supported by a team of administrative staff, and across the broader office which also supports the Board.

The Rapid Resolution team is managed by Ms Catherine Carroll and comprises 2.8 full time equivalent (FTE) legal officers, a 0.8 FTE senior legal officer, a paralegal and a secretary.

The Investigation team is managed by Mr Nicholas Pope and comprises 4 legal officer FTE's, a 0.8 FTE senior legal officer, and 1.2 FTE secretaries.

The Litigation team is managed by Ms Cassandra Paterson and comprises a full time senior legal officer, a paralegal and a 0.6 FTE secretary.

3.5 Trust account inspections

Trust account inspections are undertaken on a routine basis or where a concern has arisen about the management or otherwise by firms in regard to their trust account records, or not having a trust account where on the face of the material being reviewed by the Committee it appeared the firm has been handling money which is likely to be characterised as trust money.

Following an inspection a report is prepared and provided to the firm.

The Trust Account Inspectors perform work for both the Board and the Committee. This promotes flexibility in the allocation of resources as needed.

Complex trust account investigations can benefit from the involvement of the Committee's legal officers. During the reporting period, Trust Account Inspectors conducted two investigations accompanied by a Committee legal officer.

The Trust Account Inspectors are often also requested to assist the Committee's legal officers in reviewing various accounting issues with respect to complaints and these are generally in regard to invoices, receipt of funds (trust and general) and accounting for trust monies received by the practice.

3.6 Our staff training and professional development

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

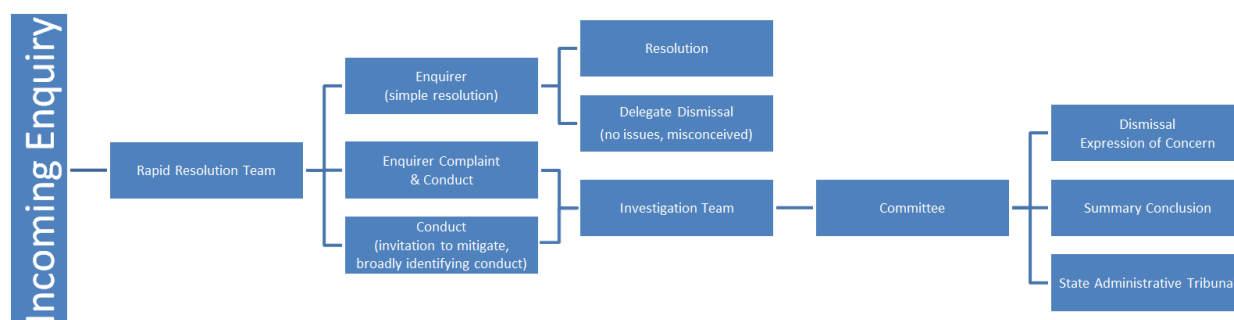
During the year, there has been a focus on preparation for the implementation of the Uniform Law in Western Australia. This had been anticipated to commence in July 2020, but the expectation later moved to a commencement date likely to be July 2021.

Work began internally in assessing the Uniform scheme and soon extended to engaging with our equivalents in the current Uniform Law jurisdictions (being the Law Society and the Legal Services Commissioner in NSW and the Victorian Legal Services Board + Commissioner). This has since moved on to working with the Law Society of Western Australia in educating the local profession about the details of the scheme.

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

A number of key staff also attended the annual Conference of Regulatory Officers, which in 2019 was hosted by the Victorian Legal Services Board + Commissioner in Melbourne, where information and ideas were exchanged with the Committee's counterparts from interstate and New Zealand.

4. Complaints



4.1 Complaint handling process

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

People with a concern about a practitioner are encouraged to contact the RRT by submitting an enquiry form via the website. During the relevant period, 63.9% of all new contacts were received through the website.

The RRT will check to see if the inquiry raises any matters which they may be able to assist the person with. This may require clarifying the points in dispute, referring the person to appropriate services, contacting the person and/or the practitioner to discuss the concerns and their options. The RRT will also form a preliminary view on any possible conduct issues which might arise.

Once the legal officer has reached a preliminary view on an inquiry/complaint (a process that can happen almost immediately or take a

longer period of time depending on the extent of the information needed), this view is conveyed to the inquirer/complainant orally and, quite often, in writing. If no conduct issue or other concern has been identified, the inquirer/complainant is informed of this. If, despite that view, they wish the matter to be dealt with as a formal complaint that is done.

If a concern but not a conduct issue is identified, the legal officer discusses with the inquirer/complainant whether they would like to have the matter conciliated. This term is used very broadly to describe a broad range of outcomes which may be achieved; examples include improved communication in an ongoing solicitor-client relationship, waiving of fees, or the Manager of the RRT expressing concern about a practitioner's conduct.

If both the practitioner and inquirer/complainant are agreeable to conciliation being attempted, the legal officer then undertakes this process. The practitioner is advised at the outset of the legal officer's preliminary view of the matter and the process which is to be followed. If conciliation is successful, the inquiry into the concern is closed on

that basis. If the conciliation process is not successful and the inquirer/complainant wishes to have a complaint determined that is done. Frequently, in highly conflicted matters face to face meetings may occur with the practitioner (sometimes accompanied by counsel) and/or the inquirer/complainant.

Throughout the RRT process, the legal officer will attempt to identify and suggest steps that may be implemented by the practitioner to improve their practices.

During the assessment or conciliation process, the legal officer will also identify any conduct issues that should be addressed. These conduct issues may not always arise directly from the concerns brought to the Committee by the inquirer/complainant.

If a conduct issue is identified which the legal officer considers may be mitigated in some way, the legal officer will speak to the practitioner immediately to discuss their preliminary view, possible mitigation and why taking such action may benefit the practitioner. The practitioner is not asked for any formal response to the matter at this stage. The RRT officer recommends to the practitioner might choose to consult with counsel or use the WA Bar Association referral scheme, which assists practitioners to obtain advice from counsel.

The diagram above indicates the stages and manner in which a matter may be dealt with by the Committee.

The Investigation team generally conducts the formal investigation of complaints including matters which are initially assessed as raising possible conduct issues. The Investigation team also investigates conduct investigations initiated by the Committee on its own motion. Those conduct investigations are commenced as a result of information coming to the attention of the Law Complaints Officer or a member of the Committee. Own motion investigations can also arise through identification of further conduct issues during the course of an investigation.

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

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

- dismiss a complaint
- with the consent of the practitioner, exercise its summary conclusion powers

- refer the matter to the State Administrative Tribunal.

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

4.2 Key statistics

Full statistical information on complaints is set out in chapter 7.

In this section, key statistics are highlighted.

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

Number of Rapid Resolution inquiries finalised

The Rapid Resolution Team dealt with 1081 inquiries (excluding practitioner initiated enquiries) of which 10.4% were conciliated. Outcomes in conciliated matters included the discount, waiver or refund of fees to clients; release of liens; retractions and apologies; and improved communication practices.

The complainants

Nearly half of all complaints (48.8%) were from clients/former clients of the practitioner complained about. 17.1% of complaints were made against the practitioner acting for the opposing party in proceedings.

In respect of Rapid Resolution inquiries, 57.2% were made by or on behalf of clients or former clients of the practitioner being enquired about or by friends or relatives of those clients. Almost a quarter of all inquiries (24.8%) were made by an opposing party.

The areas of law

The areas of law attracting the most complaints were family/de facto law (28.2%) followed by probate and wills (13.6%), and civil litigation (10.7%).

In respect of Rapid Resolution inquiries, 34.5% were in the area of family/de facto law, 15.4% in civil litigation and 11.3% in probate and wills.

The types of complaint

Many complaints raised more than one matter of complaint. This year, no communication (10.9%), costs issues (10.4%) and delay (9.6%) attracted the most complaints.

For Rapid Resolution inquiries, costs issues were the highest category with almost a quarter of all inquiries raising a costs related issue (24.2%). The next highest categories were no communication (9.3%) and threatening behaviour (6.0%).

The practitioners

The greatest number of complaints related to Sole Principals (41.5%), followed by Non Principals (19.5%) and Firms Only (11.0%).

The number of practitioners complained about

Some 63 practitioners were the subject of one or more complaints (including conduct investigations) during the year. Of this total, 53 practitioners were the subject of one complaint, 7 practitioners were the subject of two complaints and 3 practitioners were the subject of three or more complaints.

The Board has reported that there were 7030 certificated or deemed certificated practitioners practising in Western Australia as at the end of the year. However, this figure does not include those interstate based

practitioners practising in this State who are not required to take out a practising certificate in Western Australia by reason of holding a home jurisdiction practice certificate.

The number of practitioners complained about represented around 0.9% of certificated or deemed certificated Western Australian practitioners, which was broadly in line with previous reporting years.

This shows that the vast majority of practitioners do not attract complaints and provide services to the public to a very high standard.

Number of complaints received and dealt with

<i>Matters under investigation</i>	<i>Total</i>	<i>Complaints</i>	<i>Conduct Investigations</i>
Open as at 1 July 2019	107	74	33
Opened during year	88	76	12
Closed during year	(50)	(43)	(7)
Outstanding as at 30 June 2020	145	107	38

5. Formal determination of complaints

5.1 Overview and key statistics

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

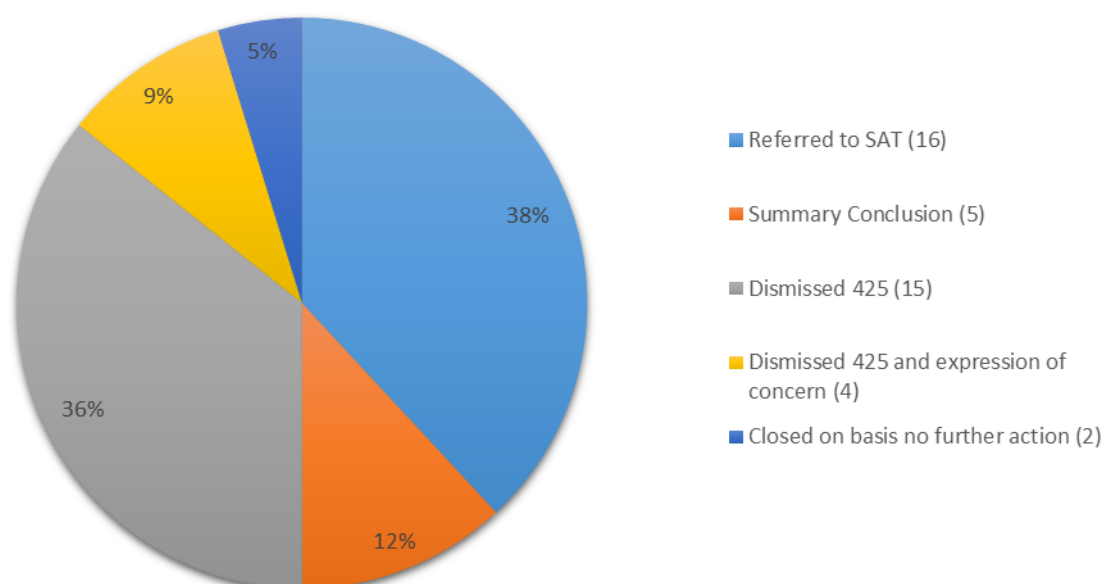
When a matter goes before the Committee, the Committee may finally determine the matter in one of three ways:

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

During the year the Committee determined 42 matters of which 38% were referred to SAT, 12% were dealt with in the exercise of the Committee's summary conclusion powers, 4 were dismissed with an expression of concern to the practitioner, 15 were dismissed and two were closed because it was considered that it would not be in the public interest to proceed with it.

The Acting Law Complaints Officer exercised the delegated power of the Committee to dismiss one complaint after an investigation during the reporting period.

Committee determinations



5.2 Determinations

Although the tables refer to 42 investigative matters being determined, invariably those matters involve multiple and complex conduct issues and can involve multiple client files. Such matters often involve careful review and consideration and analysis of extensive amounts of documentation.

The Committee has the power to investigate further issues of its own initiative. This discretion is exercised where it is appropriate to take action, weighing up the various issues involved. These will include the evidence available suggesting that the conduct occurred, how long ago the conduct took place, the severity of the conduct, and whether there is any ongoing risk to the public.

Such investigations by the Committee of its own initiative may involve the use of significant resources and impact upon the time taken to investigate complaints, however such issues may ultimately be relevant to consideration of whether a practitioner is a fit and proper person to remain on the roll of practitioners and are therefore considered an important part of the Committee's functions of protecting the public.

5.3 Matters dismissed or not taken further

The Committee may dismiss a matter without completing an investigation in certain situations. This power of summary dismissal is used, for example, when complaints are made outside the 6 year time limitation, when they have previously been dismissed after investigation or, if the

complaint is misconceived or lacking in substance.

In 19% of the matters dismissed or not taken further, the Committee expressed concern to the practitioner about an aspect of the practitioner's conduct. Such expressions of concern are generally used by the Committee when the conduct of the practitioner is not such that it would amount to unsatisfactory professional conduct or professional misconduct but is still of some concern to the Committee. The Committee does so with a view to raising professional standards and preventing such conduct by the practitioner in the future.

Examples of where the Committee expressed concern included:

- Ensuring a client is properly advised of the potential advantages and disadvantages of using specific information in plea negotiations such that the client is in a position to provide clear instructions on the use of such information
- Providing proper and timely costs disclosure in accordance with Division 3 of Part 10 of the *Legal Profession Act 2008*
- Providing revised costs disclosure as soon as reasonably practicable in accordance with the obligations under section 267 of the *Legal Profession Act 2008*
- Delivering legal services diligently and in a timely manner

5.4 Summary conclusion determinations

If, after an investigation is completed, the Committee is satisfied that there is a reasonable likelihood that a practitioner would be found guilty by SAT of unsatisfactory professional conduct (but not professional misconduct) in respect of a matter the Committee may deal with the matter using its summary conclusion powers.

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

up to a fine of \$2,500. The Committee can also make compensation orders in certain circumstances.

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

The Committee exercised its summary conclusion powers in respect of 5 practitioners during the reporting year. Often, a matter dealt with in the exercise of summary conclusion powers can involve significant mitigating factors.

Summary of matters determined in the exercise of summary conclusion powers

<i>Grounds of unsatisfactory professional conduct</i>	<i>Finding</i>
By failing to lodge a claim for unlawful discrimination in the Australian Human Rights Commission within the required time limit, failing to advise the client as to the risks associated with the expiration of the time limit for the claim, failing to make a proper case for the relief sought by the client in the claim and rendering invoices to the client that were not fair and reasonable.	Public reprimand Fine of \$1,000
By failing to properly advise a client of the availability of legal aid assistance in a clear and timely manner and failing to submit an application for legal aid assistance on behalf of the client in a timely manner or at all.	Public reprimand Fine of \$1,000
By failing to copy the practitioner's correspondence to the Family Court to an opposing party in proceedings in breach of the <i>Family Court Case Management Guidelines</i> and sending correspondence to a third party that was intimidatory, conveyed a false impression and made serious allegations in relation to that third party without any reasonable basis.	Public reprimand Fine of \$2,000

<i>Grounds of unsatisfactory professional conduct</i>	<i>Finding</i>
By accepting instructions to act beyond the practitioner's competency, failing to obtain a proper working knowledge of the relevant areas of law, failing to provide proper and timely advice to the client in relation to a financing transaction, failing to act in accordance with the client's instructions and failing to take reasonable steps to ensure that legal practitioners employed at the practitioner's firm received the appropriate legal training required to have a proper working knowledge of the relevant areas of law and practice within their areas of competency.	Public reprimand Fine of \$2,500
By accepting instructions to act beyond the practitioner's competency, failing to obtain a proper working knowledge of the relevant areas of law, failing to provide proper and timely advice to the client in relation to a financing transaction and failing to act in accordance with the client's instructions.	Public reprimand Fine of \$1,000

5.5 Referrals to the State Administrative Tribunal

During the year, the Committee resolved to refer matters arising from 16 complaints or conduct investigations to SAT involving 15 practitioners. As at 30 June 2020, 7 of these matters had been filed in SAT.

As indicated, such matters often involve multiple and complex conduct issues.

The referral is by way of an Application filed in SAT. The Application sets out the Grounds of the professional misconduct or unsatisfactory professional conduct together with the supporting facts and contentions.

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

6. State Administrative Tribunal and Court Proceedings

6.1 SAT Applications

The Committee filed 19 Applications in SAT during the period under review (which included 26 individual matters).

During the year there were 13 Applications determined by SAT (which included 16 individual matters).

Of the matters determined, seven were determined (including penalty) as a result of consent orders, and two matters were determined after a hearing; both of which are still awaiting penalty orders. A further matter was determined as a result of consent orders, but in respect of the conduct finding only. This matter is still awaiting penalty orders following a hearing on that issue.

Two Applications were withdrawn by the Committee by way of consent, with one of these following the removal of the practitioner's name from the roll. One further Application was withdrawn by the Committee, with the practitioner making a subsequent costs application, which was still before the Tribunal for determination at the conclusion of the reporting period.

At the conclusion of the reporting period there were 24 Applications

relating to 31 individual matters which had not been determined.

The majority of consent orders were made following SAT ordered mediation where the Committee and the practitioner reached agreement on the orders to be sought.

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

9 matters relating to 9 practitioners were referred to SAT during the year which have not yet been filed.

15 matters relating to seven practitioners referred to SAT previously have not yet been filed in SAT for various reasons, including the personal circumstances of practitioners and public interest considerations. One of those matters was referred back to the Investigations Team for further conduct matters raised.

Two matters relating to two practitioners referred to SAT were referred back to the Committee and were rescinded.

Summary of SAT matters determined 1.7.19 – 30.6.20

Application No. & Date determined	Practitioner	Penalty
90/2019 23/09/2019	Young, Nicole Anne	Proceedings withdrawn Practitioner's costs application still to be determined
85/2019 9/10/2019	Tolson, Helen Marie	Report to the Full Court
<p>This matter proceeded to a hearing before the Tribunal for 1 day on 26 September 2019 following which the Tribunal handed down its decision in <i>Legal Profession Complaints Committee and Tolson</i> [2019] WASAT 84 and made findings that the practitioner engaged in professional misconduct by her conduct in circumstances where:</p> <ul style="list-style-type: none"> On 28 November 2018 the practitioner pleaded guilty to and was convicted of 9 indictable offences of stealing as a servant under s 378(7) of the <i>Criminal Code</i> the sum of almost \$2 million from the trust account of the law practice of which she was an employee, for which she was sentenced to a term of imprisonment of 7 years 6 months. The practitioner did not oppose the Committee's application for a finding of professional misconduct and an order pursuant to s 438(2)(a) of the LP Act that the Tribunal make and transmit a report to the Full Bench with a recommendation that the name of the practitioner be removed from the roll. <p><u>Penalty</u></p> <p>(i) report transmitted to the Supreme Court (full bench) with a recommendation that the practitioner's name be removed from the roll.</p>		
83/2016 18/10/2019	Bower, Ronald William	Proceedings withdrawn Parties to bear their own costs
50/2019 29/10/2019 (Mediated Outcome)	Mossenson, Ian	Reprimand Fine: \$5,000 Costs: \$4,000
<p>Findings were made by the Tribunal by way of a mediated outcome that the practitioner as sole ILP director of the firm and responsible for the management of the legal services provided by the firm pursuant to s 105(2) of the LP Act, between March 2014 and July 2015:</p> <ul style="list-style-type: none"> engaged in unsatisfactory professional conduct within the meaning of ss 402, 404(a) and 438 of the LP Act in that he: <ul style="list-style-type: none"> failed to take reasonable steps to implement/maintain appropriate management systems to ensure the provision of legal services by the firm was in accordance with the professional obligations under the LP Act by failing to ensure a lump sum invoice complied with s 291(1) in respect to the notification of client's rights and with s 290(3) by being signed, and failed to provide an itemised invoice within 21 days of the written request to do so, breaching s 292(2); and commencing or causing to be commenced proceedings on behalf of the firm on 13 		

Application No. & Date determined	Practitioner	Penalty
<p>November 2014 to recover legal fees on a non-compliant invoice when not entitled to do so, in breach of s 289(1) and maintaining proceedings when he knew or ought to have known there was no basis for the proceedings to have been commenced and/or maintained.</p> <p><u>Penalty</u></p> <p>(i) reprimand;</p> <p>(ii) \$5,000 fine;</p> <p>(iii) \$4,000 costs.</p>		
233/2018 11/11/2019	Practitioner A	Proceedings withdrawn Parties to bear their own costs
236/2018 21/02/2020 (Mediated outcome)	Bannerman, Richard Iain Michael	Reprimand Local practising certificate suspended for 3 months from 18 May 2020 Costs: \$10,000
<p>Findings were made by the Tribunal by way of a mediated outcome that the practitioner engaged in:</p> <ul style="list-style-type: none"> Professional misconduct – in circumstances where on 21 June 2017 he caused to be filed his client's application for costs and supporting affidavit where service on the former wife was required by 22 June 2017, and where a sealed copy could not be served within the time required by court order, by: <ul style="list-style-type: none"> attempting to further his client's matter by unfair or dishonest means in breach of rule 16(1) <i>Legal Profession Conduct Rules 2020</i>, by (a) on 30 June 2017 proposing that the client may prefer to delay service on the former wife to ensure her compliance with orders giving effect to a property settlement in the proceedings, and that he could explain the delay on the basis he was away on annual leave; and (b) on 20 July 2017 preparing and sending a letter to the former wife which represented that the delay in serving her was a result of the documents being received by the firm in his absence on leave, which was a false and misleading representation in that the practitioner had intentionally not informed the former wife for the reasons in (a) and he intended that she rely on that representation and be misled as to the actual reason for the delay in service of the documents; preparing and on 30 August 2017 causing to be sworn by the client and then filed in the court an affidavit in circumstances where the Court considered the delay in service of the documents on the former wife a "serious oversight" and ordered the client file an affidavit explaining the reasons for that delay, whereby he caused to be represented to the court, the former wife and her lawyers that the delay in serving the documents on the former wife was due to the practitioner's absence on leave overseas, which representation was false and misleading in that the delay was in order to achieve an advantage for his client and not because he was absent on leave overseas, and further where the practitioner did not immediately on his return from leave serve the documents, and which representation he knew to be false and misleading and intended the court, the former wife and her lawyers would rely on the affidavit and was 		

<i>Application No. & Date determined</i>	<i>Practitioner</i>	<i>Penalty</i>
<p>recklessly indifferent to whether they would be misled as to the actual reason for the delay in service of the application, and the practitioner failed to correct the false and misleading representations;</p> <ul style="list-style-type: none"> ○ further, from 30 June 2017, when he made the proposal to the client until the termination of his retainer by the client on around 14 November 2017 and in circumstances where he ought reasonably to have known that it would have been in the client's best interests to have independent legal advice as to any possible claim against the practitioner or the firm arising from the failure to advise as to the client's breach of the order (to file and serve the documents by 22 June 2017) and the reasons for the delay in service, the practitioner where he had a duty to act in the best interests of the client and to protect and preserve the interests of the client unaffected by his own interests, provided legal services to the client when he ought reasonably to have known that there may be a conflict, or the potential for a conflict, of interest and, and at no time ensured that the client was fully informed of and about and received legal advice about the effect of the conflict, or potential for a conflict, of interest and agreed to the practitioner and/or the firm continuing to provide legal services, as a result of which he breached Conduct Rule 15(3) and further caused the client's proper costs to be increased. <p><u>Penalty</u></p> <ul style="list-style-type: none"> (i) reprimand; (ii) suspension of local practising certificate for 3 months commencing 18 May 2020, where the delayed commencement, and period of, suspension to be viewed in light of factors relevant to penalty, including information provided to the Tribunal concerning the practitioner's mental health condition at relevant time and information provided by Legal Aid WA in respect to the practitioner's role as ICL on Legal Aid grants regarded as most complex and serious; (iii) \$10,000 costs. 		
230/2018 12/09/2019 and 9/03/2020 (Mediated Outcome as to finding only)	Young, Nicole Anne	Reprimand Local practising certificate not granted for period of 6 months from 7 August 2019 Costs: \$20,000 ²
<p>Findings were made by the Tribunal by way of a mediated outcome that the practitioner engaged in:</p> <ul style="list-style-type: none"> • Professional misconduct – on or around 7 April 2016 by preparing and sending from her work email address to the email address "CourtTranscriptDC@justice.wa.gov.au" addressed to the Registrar seeking access to "decisions" made in the District Court of WA in respect to an offender (Mr B) who was sentenced on 4 April 2016, as well as a copy of the sentencing decision (Decisions), which email represented that she was making the request in the course of her practice of law in respect of matters concerning the admissibility of DNA evidence, 		

² Penalty and costs being appealed to the Court of Appeal by Ms Young (CACV 40 of 2020)

Application No. & Date determined	Practitioner	Penalty
<p>(representation) which representation was made in part by her use of her work email address, her work signing clause, the presence of the HHG Legal Group corporate logo and her reference to having access to the PLEAS database when making the request, where the representation was misleading and deceptive in that the practitioner was not motivated to seek the Decisions for the stated purpose but was motivated to seek them for the purpose of confirming that the identity of the offender named in the Decisions was in fact Mr B, the husband of Ms A, which the practitioner failed to disclose in her email) and the practitioner knew the representation was misleading and deceptive, intended the Registrar to rely on the representation and was recklessly indifferent as to whether the Registrar would be misled or deceived by the representation.</p> <ul style="list-style-type: none"> Unsatisfactory professional conduct – on 5 May 2016 in the course of purporting to act, or holding herself out as acting, for her father and her brother (practitioner's family) in relation to a personal dispute with Ms A, in that her conduct in a telephone call with Ms A and, or, in a text message she sent to Ms A, made serious allegations when the practitioner was recklessly indifferent as to whether or not there were reasonable grounds to make those allegations; further, on 5 May 2016 in the text message sent to Ms A threatened that Ms A may be imprisoned when the practitioner was recklessly indifferent as to whether or not there were reasonable grounds for the threatened action to be taken. <p>This matter proceeded to a hearing before the Tribunal for 2 days on 12 September 2019 and 11 December 2019 following which the Tribunal handed down its decision in <i>Legal Profession Complaints Committee and Young</i> [2020] WASAT 29 and orders made as to penalty as follows:</p> <p><u>Penalty</u></p> <ul style="list-style-type: none"> (i) In respect to the finding of unsatisfactory professional conduct, a reprimand; (ii) In respect to the finding of professional misconduct, the practitioner is not to be granted a local practising certificate for a period of 6 months, commencing on 7 August 2019; (iii) \$20,000 costs. 		
231/2018 7/04/2020 (Mediated Outcome)	Winkler, Portia	Reprimand Local practising certificate suspended for 6 months from 30 days of the Order Practitioner to attend additional ethics seminars Costs: \$5,000
<p>Findings were made by the Tribunal by way of a mediated outcome that the practitioner engaged in professional misconduct in Family Court proceedings commenced by her client's former partner (mother) seeking parenting orders in relation to the child of their former relationship in circumstances where the client had instructed the practitioner that he had a number of criminal convictions and the practitioner was in receipt of the mother's case information affidavit which referred to the client as having criminal convictions and a restraining order made against him, in that the practitioner:</p> <ul style="list-style-type: none"> prepared and filed a Form 4 Notice of Child Abuse or Family Violence sworn by the client and was grossly careless as to whether or not the client's answer at paragraph 8 of the Form 4 conveyed the false and misleading impression that the client had no criminal convictions and as to whether the Court would be misled by the Form 4 impression; 		

<i>Application No. & Date determined</i>	<i>Practitioner</i>	<i>Penalty</i>
	<ul style="list-style-type: none"> prepared and filed the client's sworn Case Information Affidavit (CIA) which at paragraph 21 made the false and misleading statement that the client had no criminal convictions when in fact he did have criminal convictions, and the practitioner acted with reckless disregard or indifference as to whether the paragraph 21 statement was false and misleading and as to whether the Court would be misled by the statement; Following a request by the mother's solicitor, who knew the client had criminal convictions, to correct the false and misleading paragraph 21 statement in the CIA and where the practitioner by then had also been informed by her client that he had been subject to a past restraining order (which was also required to be disclosed in the CIA), the practitioner: <ul style="list-style-type: none"> proposed to the mother's solicitor an amendment by the client to the CIA which she well knew would be false and misleading; stated that the false and misleading paragraph 21 statement in the CIA was a "typographical error", in circumstances where she well knew it to be a serious omission of relevant and required information from the client's CIA and that any proposed amendment would be to correct a matter of relevance and substance in the proceedings and not a mere "typographical error", and which was in any event inconsistent with her proposed amendment and where she did not make any "brief description" of the nature of the criminal convictions included in the proposed amendments, which was required to be included in the CIA in the answer to paragraph 21, <p>and failed to deal appropriately with the serious issue raised by the mother's solicitor of false and misleading evidence being placed before the Court in the proceedings and attempted to mislead the mother's solicitors as to the reason for the false and misleading statement having been made, and failed to correct the record by also disclosing, as she by this date knew, the restraining order that had been made against the client in the past, and thereby impliedly conveyed the impression that the client had not been subject to any past restraining orders (RO impression);</p> <ul style="list-style-type: none"> prepared and filed a supplementary affidavit sworn by the client which was false and misleading as in it the client stated he was amending a "typographical error" when the practitioner well knew the paragraph 21 statement was false and misleading as a result of the omission by her of relevant information when preparing the client's CIA, and that any amendment to the paragraphs 21 statement was a matter of correcting a matter of substance and relevance to the proceedings, and not a mere "typographical error", such that the statements in the supplementary affidavit were false and misleading and the practitioner intended that the Court, the mother's solicitor and/or the independent children's lawyer rely on and be misled by the statements in the supplementary affidavit and well knew that when she answered "yes" to the client having criminal convictions in the client's CIA, the client was required to 'briefly describe' those convictions and she failed to include a brief description of the criminal convictions in the supplementary affidavit; and failed in all the circumstances to ensure the client in the supplementary affidavit provided a full and frank explanation to the Court as to the true circumstances by which the paragraph 21 false and misleading statement in the CIA was made, and again failed to correct the record by also disclosing the past restraining order that had been made against the client, thus maintaining the RO impression; 	

<i>Application No. & Date determined</i>	<i>Practitioner</i>	<i>Penalty</i>
<ul style="list-style-type: none"> failed to provide a full and frank explanation to the Committee as to the circumstances by which the false and misleading paragraph 21 statement was made in the CIA; and failed to correct the record of the Family Court in respect of false and misleading representations by way of statements or the conveying of the RO impression, in each of the Form 4, the client's CIA and the Supplementary Affidavit, where she knew each contained representations and/or conveyed the RO impressions which were false and misleading. <p><u>Penalty</u></p> <ul style="list-style-type: none"> (i) reprimand; (ii) suspension of local practising certificate for 6 months commencing 30 days from the Orders; (iii) practitioner to attend at her own expense four (4) 'Law Society of WA – Ethics on Friday' seminars; (iv) \$5,000 costs. 		
4/2020 17/04/2020 (Mediated Outcome)	See, Jacqueline	Reprimand Practitioner to attend additional ethics seminars Fine: \$10,000 Costs: \$3,500
<p>Findings were made by the Tribunal by way of a mediated outcome that the practitioner engaged in:</p> <ul style="list-style-type: none"> Professional misconduct – in that the practitioner released and caused to be applied a portion of the proceeds of sale of a property (which proceeds were 'trust money' within the meaning of s 205 LP Act) towards the purchase of another property for the benefit of her client being settled the same day, in breach of s 216 LP Act in circumstances where she failed to honour and thereby breached a Solicitor's Irrevocable Undertaking given by her to hold the entire settlement proceeds on trust on behalf of all parties to a Deed of Family Arrangement as stakeholder and not solely as an agent for her client (who was one of the parties), to only distribute the settlement proceeds in accordance with the terms of the Deed, which required the direction of all of the parties to the Deed and not only her client, and was grossly careless as she ought to have known she was in breach of the Undertaking and her obligations as a legal practitioner holding trust funds under the Deed and causing the client to breach her obligations under the Deed. <p><u>Penalty</u></p> <ul style="list-style-type: none"> (i) Reprimand; (ii) within 12 months of the date of these orders the practitioner to attend at her own expense three (3) 'Law Society of WA – Ethics on Friday' seminars; (iii) by 31 August 2020 the practitioner at her own expense to seek advice in relation to the management of her practice, in particular file management, from a legal practitioner of not less than 10 years post admission experience approved by the Legal Practice Board and that practitioner to confirm in writing to the Board the advice and provide to the Board a summary of its contents; 		

<i>Application No. & Date determined</i>	<i>Practitioner</i>	<i>Penalty</i>
(iv) \$10,000 fine; (v) \$3,500 costs.		
92/2019 21/04/2020 (Mediated Outcome)	Brook, Alan Michael	Reprimand Conditions on local practising certificate Practitioner to attend College of Law unit Fine: \$5,000 Costs: \$4,000
<p>Findings were made by the Tribunal by way of a mediated outcome that the practitioner engaged in:</p> <ul style="list-style-type: none"> Professional misconduct in that the practitioner in the course of acting for the Executors and Trustees who held funds from the estate on trust for the two children of the deceased and his former de facto (Ms S), in circumstances where he had prepared a Heads of Agreement (HOA) between the Executors and Ms S on terms which provided for the release of the sum of \$100,000 from the trust funds (trust sum) on the condition that the minor beneficiaries would be registered as the holders of a one quarter share as tenants in common on the certificate of title of a new home to be purchased with the trust sum by Ms S for her and the minor beneficiaries to live in (New Property), the practitioner: <ul style="list-style-type: none"> failed to provide any proper advice to the Executors (who had a duty to act in the best interests of the minor beneficiaries) as to the effect of, and the risk of relying on, the terms of the HOA, and in respect to the request made by Ms S's solicitor on 7 July 2016 (in circumstances where the transfer of land documentation prepared on behalf of Ms S named only Ms S as the registered proprietor), that the Executors release the trust sum and proceed with the purchase of the New Property on terms which would: <ul style="list-style-type: none"> cause Ms S to be registered on the certificate of title as the sole proprietor of the New Property and thereby be contrary to the terms agreed in the HOA as the minor beneficiaries would not be registered as the holders of a one quarter share interest as tenants in common on the certificate of title for the New Property; and cause the interests of the minor beneficiaries to be noted on the certificate of title to the New Property by way of a caveat referencing the HOA (the caveat), <p>and he failed to advise (A) as to the implications for the minor beneficiaries, and therefore for the Executors as trustees of their interests, of the New Property being transferred in the sole name of Ms S and other options available to the Executors, and (B) of the risks of releasing the trust sum to Ms S to assist in the purchase of the New Property on the basis only of the proposed caveat where such action was not in the best interests of the minor beneficiaries or consistent with the trustees' duty, their instructions to the practitioner and the terms agreed by them with Ms S in the HOA, and the practitioner agreed to the transfer proceeding on the terms referred to in (i) and (ii) above and without instructions;</p> between 20 July 2016 and 2 July 2018 failed to take adequate steps to progress the registration of a transfer of a one quarter share in the New Property from Ms S to the Executors as trustees for the minor beneficiaries to ensure that Ms S did not remain the sole registered proprietor on the title to the New Property; 		

Application No. & Date determined	Practitioner	Penalty
<ul style="list-style-type: none"> ○ from 11 April 2016 failed to provide adequate costs disclosure in the conduct of the matter in breach of sections 260 and 262 of the LP Act by failing to provide any estimate of the costs of his acting after that date in circumstances where he rendered further invoices to the Executors; ○ from 7 July 2016, being the date the practitioner agreed to Ms S being registered as the sole registered owner of the New Property and that a caveat could be registered to protect the interest of the minor beneficiaries (which was contrary to the terms of clause 1.3 HOA and not in the best interests of the minor beneficiaries), until 2 July 2018, the date he lodged the new transfer to include the interests of the minor beneficiaries and in circumstances where he was subsequently informed from 14 October 2016 by the Committee and on 27 October 2016 by the supervisor (appointed pursuant to orders of the SAT in VR 35 of 2015 made 7 August 2015) the practitioner acted for the Executors when he knew or ought reasonably to have known there was a conflict of interest, or potential conflict of interest, between the interests of the practitioner and the interests of the Executors and he did not obtain fully informed consent in accordance with rule 15(4) of the Conduct Rules from the Executors and was in breach of his duty to act in the best interests of the Executors. 		
Penalty		
<ul style="list-style-type: none"> (i) reprimand; (ii) extension of conditions already imposed on practitioner's practising certificate for supervision until 31 December 2021; (iii) prior to 31 December 2021 the practitioner to successfully complete unit WEP 3 "Construing and Drafting Wills" which forms part of the College of Law Graduate Diploma of Applied Law for Wills and Estates and provide evidence to the Legal Practice Board of his successful completion; (iv) \$5,000 fine; (v) \$4,000 costs. 		
51/2018 9/09/2019 and 15/05/2020	Chang, Christina Marie	Report to the Full Court Costs: \$20,761.35 ³
<p>This matter proceeded to a hearing before the Tribunal for 1 day on 13 June 2019 following which the Tribunal handed down its decision in <i>Legal Profession Complaints Committee and Chang</i> [2019] WASAT 67 and made orders that the practitioner engaged in:</p> <ul style="list-style-type: none"> • Professional misconduct - between 23 June 2016 and 7 July 2016, in the course of corresponding with a former client (complainant) in response to a letter of demand from the complainant dated 2 June 2016 for a refund of \$10,000 for fees paid by the complainant in relation to an unsuccessful visa application the practitioner had prepared and lodged on behalf of the complainant and her family on 16 October 2015 (claim) by preparing and 		

³ Determination of conduct, penalty and costs being appealed to the Court of Appeal by Ms Chang (CACV 61 of 2020 and CACV 79 of 2020).

Application No. & Date determined	Practitioner	Penalty
		<p>sending to the complainant emails dated 23 June 2016 (in which she stated <i>"I will notify my Insurers and will await their response. Once I have that, I can then respond to you in detail"</i>), 29 June 2016 (in which she stated <i>"Hi the way insurance works is that all claims must be reported to the insurers and I am required by my insurers not to discuss the claim with you directly"</i>) and 7 July 2016 (in which she stated <i>"Hi I am waiting for [a] reply from my insurer[.] I should hear by next week. They know its[sic] urgent"</i>) (together, the email statements), in circumstances where the email statements were false and misleading as at no time between 23 June and 7 July 2016 did the practitioner notify, or correspond with, any insurer or insurers regarding the claim and the practitioner knew the email statements were false and misleading and intended that the complainant be misled by the email statements, so as to defer or delay the complainant from commencing proceedings against the practitioner in respect of the claim.</p> <ul style="list-style-type: none"> Professional misconduct - between 23 August 2016 and 27 September 2016, in the course of defending Magistrates Court proceedings lodged by the complainant against the practitioner, by which the complainant sought the sum of \$10,118.20 (including allowable Court fees) (proceedings), by at a pre-trial conference before a registrar of the Court on 23 August 2016 saying words to the effect <i>"I cannot disclose any details because the matter is in the insurer's hands. I will discuss it as soon as I have more information on what they are going to do"</i> and at a further pre-trial conference before the registrar on 27 September 2016 saying words to the effect <i>"I cannot speak about the matter because there is an insurer involved"</i> (together, the PTC statements), in circumstances where the PTC statements were false and misleading as in truth at no time prior to 23 August 2016 or between 23 August and 27 September 2016 did the practitioner notify or correspond with any insurer or insurers regarding the claim or the proceedings and the practitioner knew the PTC statements were false and misleading and intended that the Court and the complainant be misled by the PTC statements, so as to defer or delay the proceedings; Professional misconduct - on and after 6 October 2017, following a complaint to the Committee by the complainant against the practitioner arising from the practitioner's response to the claim, her conduct in the proceedings and her failure to pay the judgment sum (complaint), the practitioner, by, without reasonable excuse, failing to respond to three notification letters (dated 5 October 2017, 7 November 2017 and 6 December 2017) in breach of rule 50(3) of the <i>Legal Profession Conduct Rules 2010</i>, a Summons to Produce Documents dated 14 September 2017 and a Summons to Produce Documents and Provide Written Information Verified by Statutory Declaration dated 6 December 2017, in breach of s 520(5) and s 532(3) of the LP Act. <p>Penalty was determined on the documents and the Tribunal's reasons for decision were published in <i>Legal Profession Complaints Committee and Chang</i> [2019] WASAT 67 (S) on 15 May 2020.</p> <p><u>Penalty</u></p> <ul style="list-style-type: none"> (i) report transmitted to the Supreme Court (full bench) with a recommendation that the practitioner's name be removed from the roll; (ii) \$20,761.35 costs.

Application No. & Date determined	Practitioner	Penalty
25/2019 2/06/2020	Staffa, Kevin Colin Benedict	Findings only Penalty still to be determined ⁴
<p>This matter proceeded to a hearing before the Tribunal for 3 days on 30 and 31 January 2020 and 6 March 2020 following which the Tribunal handed down its decision in <i>Legal Profession Complaints Committee and Staffa</i> [2019] WASAT 58 and made orders that the practitioner engaged in:</p> <ul style="list-style-type: none"> Professional misconduct – by providing legal services to a client when the practitioner and his law practice were engaged by another client in the same or a related matter and the interests of the client and the other client were adverse and there was a conflict of the duties to act in the best interests of each client contrary to rule 14(2) of the <i>Legal Profession Conduct Rules 2010</i>. Unsatisfactory professional conduct – by rendering two invoices to a client in respect of work carried out for another client. Professional misconduct – by advising a client to transfer money belonging to another client to a bank account controlled by the first client without the consent or authority of the other client. Professional misconduct – by failing to be open and candid in his dealings with the Committee in breach of rule 50 Conduct Rules. 		
93/2019 18/06/2020 (Mediated Outcome)	Turner, Helen Margaret	Reprimand
<p>Findings were made by the Tribunal by way of a mediated outcome that the practitioner engaged in:</p> <ul style="list-style-type: none"> Professional misconduct in the course of acting as an ICL between June 2014 and February 2017 in proceedings where parenting orders were sought and the parties were in significant dispute, including about the children's medical treatment and manner of schooling, the practitioner and having regard to sections 60CA and 60CC of the <i>Family Law Act 1975</i> (Cth) and the <i>Guidelines for Independent Children's Lawyers</i> (2003), by failing to competently and diligently discharge her duties as an ICL by: <ul style="list-style-type: none"> from around August 2014 when she was in receipt of information she had requested from the parties to enable her to issue subpoenas to obtain medical and other records pertaining to the children to put before the Court to assist it with its determinations, and where a Single Expert Witness (SEW) was appointed by the Court in February 2015, she failed to file any subpoenas until December 2015, as a result of which the SEW did not have all relevant information made available to him before preparing and presenting his September 2015 SEW report to the Court (SEW Report); and after receipt of the subpoenaed materials from February 2016 failed until after proceedings were listed for hearing to seek an updated SEW report with reference to the subpoenaed materials; after receipt in November 2014 of information from a medical practitioner in respect of 		

⁴ Determination of conduct being appealed to the Court of Appeal by Mr Staffa (CACV 72 of 2020)

<i>Application No. & Date determined</i>	<i>Practitioner</i>	<i>Penalty</i>
		<p>the husband's conduct concerning the children's existing medication regime, which conduct had (at least) the potential to be in breach of orders of the Court made in April 2014, failing to take any steps to protect the interests of the children, where the conduct had the potential to cause them not to receive medical treatment necessary for their diagnosed medical conditions;</p> <ul style="list-style-type: none"> ○ failing to take any steps to facilitate the resolution of the dispute between the parties about the children's medication regime and to seek orders from the Court for independent medical reviews of the children by paediatricians and other specialists in respect to their medication, in circumstances where the SEW Report made recommendations that the children be reviewed by independent medical professionals and that the husband be guided by those reviews in respect to the children's medication regimes, the treatment fell into a hiatus for reasons including the reluctance of medical practitioners to treat the children where there was significant conflict between the parents' wishes and/or where the husband had withdrawn his consent to treatment, and where the wife brought to the practitioner's attention the need for the children to have medical attention; ○ failing to ensure that the best evidence was obtained by her, including by subpoena, and put before the Court to assist it in determining what was in the best interests of the children; ○ making assertions of belief about the wife without any reasonable factual foundation and inconsistent with her role as the ICL to be impartial and objective; ○ failing to ascertain if the proceedings were ready to proceed to trial in February 2017, including agreeing to the matter being listed for trial without obtaining updated medical evidence and an updated report from the SEW in light of changed circumstances in relation to the children's living arrangements, medical treatment and schooling, all of which was known to the practitioner, and opposing an adjournment of the hearing sought by the parties in circumstances where the proceedings were not ready to proceed to trial including as a result of the practitioner's failure, as ICL, to facilitate the proceedings progressing in a competent and diligent manner. <ul style="list-style-type: none"> • The practitioner evinced her intention to never again engage in legal practice and provided an undertaking to the Committee and the Legal Practice Board of Western Australia not to engage in legal practice in Western Australia within the meaning of section 12 of the LP Act, including in a pro bono capacity, whether in her own right, as an employee or under supervision after 9 October 2019 and to not apply for a certificate to practise law in Western Australia or elsewhere after 9 October 2019 (Undertaking). The practitioner stated in the consent orders that she understood and accepts that by providing the Undertaking she will not be able to engage in legal practice in the future. • As the practitioner agreed to the findings set out above being made by the Tribunal and provided the Undertaking, the Committee sought only a reprimand and the practitioner was reprimanded by the Tribunal.

Summary of SAT matters which were not determined as at 30.6.20⁵

<i>Application No.</i>	<i>Allegation</i>	<i>Status</i>
117/2016 Filed 2/08/2016	<p>Professional misconduct by:</p> <p>a) in respect of an application for probate and in the administration of the estate:</p> <p>(i) failing to maintain accurate and complete records and books of account relating to the administration of the estate including trust moneys;</p> <p>(ii) failing to account, or properly account, in respect of the assets, income, liabilities, expenses and transactions relating to the estate, including not producing accounts;</p> <p>(iii) not depositing trust money to the credit of a trust account; and</p> <p>(iv) not finalising the administration of the estate and/or not progressing the administration of the estate in a timely manner;</p> <p>b) in both Family Court proceedings and in the course of acting with respect to criminal charges:</p> <p>(i) failing to maintain books of account of all trust moneys received, deposited and disbursed or otherwise dealt with and/or failing to maintain books of account in such a manner as to disclose the true position as regards those moneys;</p> <p>(ii) failing to account, or properly account, for trust moneys received;</p> <p>d) not having in force professional indemnity insurance;</p> <p>e) 2 counts of not depositing trust money to the credit of a trust account;</p> <p>f) 2 counts of dishonest conduct in intending to use, and using, trust monies at his own will or otherwise for his own benefit in circumstances where he was not authorised, directed or otherwise entitled to do so; and</p> <p>g) (Amended Grounds 12/12/17) dishonest conduct</p>	<p>On 15/05/2018 proceedings stayed until further order, directions hearing listed for 7/04/2020 vacated and relisted to 20/10/2020</p>

⁵ A further two matters are the subject of non-publication orders made by the Tribunal and are not detailed here

Application No.	Allegation	Status
	<p>by signing and causing to be filed in the SAT proceedings an Amended Response which to the knowledge of the practitioner, contained false statements concerning the practitioner's dealing with moneys relating to the estate and the executrix of the estate; and attached a handwritten note of the practitioner's dated 5/11/08 which the practitioner subsequently altered by adding to the note with the intention of creating the false impression that the whole of the note had been written on 5/11/08.</p>	
<p>159/2017 Filed 18/08/2017</p> <p>Leave to amend in terms of Substituted Annexure A given 22/02/2019</p>	<p>Professional misconduct by:</p> <p>a) in his capacity as the sole legal practitioner director of the practice in entering a retainer agreement agreeing that the practice would be liable to pay the fees of junior counsel for the client in proceedings (estimated by junior counsel as between \$135,000 to \$180,000) even if the practice did not receive funds from the client to pay those fees, where at all material times neither the practice or the practitioner personally had the capacity to pay if the client did not make payment of those fees to the practice, and where the practice failed to pay 5 invoices issued by the junior counsel and in preference paid invoices issued by the practice, thereby breaching the retainer and rule 26 <i>Legal Profession Conduct Rules 2010</i>;</p> <p>b) (Amended Ground 22/02/2019) sending an email to junior counsel in which he knowingly made a false and/or misleading representation;</p> <p>c) knowingly making false and/or misleading representations to the Legal Practice Board at a meeting that the practice could meet its current debts and was solvent and failing to inform the Board the practice had significant outstanding debts, including the \$137,815 owed to junior counsel, which the practice did not have the means to pay, and knowingly misrepresenting to the Board that a new incorporated legal practice (new ILP) was not taking over the existing practice, when the true position was that it was;</p>	<p>On 19/06/2020 listed for hearing of interim application on 29/07/2020</p>

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	<p>d) attempting to avoid the liabilities of the practice, including the obligations to pay junior counsel's fees pursuant to the Retainer and rule 26 of the Conduct Rules by deriving a new ILP from the existing practice;</p> <p>e) without reasonable excuse, failing over a 12 month period (September 2015 to September 2016) and then after 28 September 2018 (and continuing) during a conduct investigation pursuant to section 421 of the LP Act to respond to correspondence from the Committee in breach of rule 50(3) Conduct Rules and to a summons issued pursuant to section 520(1) of the LP Act in contravention of section 520(5) and 532(5) of the LP Act.</p>	
<p>240/2017 Filed 20/12/2017</p>	<p>Professional misconduct by:</p> <p>a) in the course of acting for the client, in respect of Family Court proceedings for an alteration of property interests, sending to a Scottish law firm, a letter enclosing two original dispositions which by their terms gifted the ownership of two properties located in Scotland (First Property and Second Property) to the client's mother which, once registered in Scotland, would complete or effect a transfer of the ownership of the First Property and the Second Property to the client's mother, in circumstances in which the practitioner knew that, or was recklessly indifferent as to whether:</p> <p>(i) the dispositions would complete or effect a transfer of the ownership of the First Property and the Second Property to the client's mother;</p> <p>(ii) as intended by the client, a transfer of ownership of the First Property to the client's mother would contravene a specific order made by the Court restraining the parties from transferring or otherwise dealing with those funds (Order); and</p> <p>(iii) as intended by the client, a transfer of ownership of the Second Property to the client's mother would have the effect of removing that property from the pool of</p>	<p>On 15/05/2018 proceedings stayed until further order, directions hearing listed for 7/04/2020 vacated and relisted to 20/10/2020</p>

<i>Application No.</i>	<i>Allegation</i>	<i>Status</i>
	<p>assets that was the subject of the proceedings;</p> <p>b) the practitioner, or a restricted practitioner under his supervision, caused an affidavit sworn by the client in support of an application to vary the Orders, of which the Order was one, to be filed in the Court which was misleading in material respects in circumstances where the practitioner knew, or was recklessly indifferent to whether, the affidavit was misleading in material respects.</p>	
241/2017 Filed 20/12/2017	<p>a) Professional misconduct by providing to the police an unsigned statement and later, a signed statement which both contained admissions by the client in respect of the charges and information as to the identity and conduct of two alleged co-offenders who had not yet been apprehended by Police in circumstances where the practitioner failed to:</p> <ul style="list-style-type: none"> (i) obtain clear instructions from the client as to whether he would be pleading guilty or not guilty and to which charges; (ii) adequately explain to the client the legal and factual consequences related to the provision of the statements to the Police; <p>and/or</p> <ul style="list-style-type: none"> (iii) obtain written instructions from the client to provide the statements to the Police; <p>b) Unsatisfactory professional conduct by failing to provide the client with adequate costs disclosure as required by section 262 of the LP Act.</p>	On 15/05/2018 proceedings stayed until further order, directions hearing listed for 7/04/2020 vacated and relisted to 20/10/2020
52/2019 Filed 15/04/2019	<p>a) Professional misconduct by attempting to further the matter of his client, namely to procure a transfer of a Property into the client's name as the sole registered proprietor, by unfair and/or dishonest means contrary to rule 16(1) <i>Legal Profession Conduct Rules 2010</i> where the practitioner knew that the client held the Property in whole or in part, on trust with Ms A for the benefit of the client's adult children, and at a time when the practitioner did not act for the Children he:</p>	Mediation 30/07/2020

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	<p>(i) wrote to Ms A with a partially-completed transfer of land form in respect of the Property in which the 'consideration' and 'transferee' panels were both left blank and demanded, alternatively requested, that Ms A execute the partially-completed transfer form to transfer the Property to an unspecified person or persons for an unspecified consideration; and</p> <p>(ii) wrote to Ms A's solicitors and demanded, alternatively requested, that Ms A execute the transfer form which sought to transfer the Property to his client,</p> <p>and the practitioner made intentionally false statements to Ms A and Ms A's solicitors, as well as intentionally failed to disclose various matters, and attempted to improperly intimidate Ms A to sign the transfer form;</p> <p>b) Professional misconduct by making false and/or misleading statements to Ms A's solicitors by letter contrary to rule 37(1) Conduct Rules;</p> <p>c) Professional misconduct by acting for both the client and each of the Children in circumstances in which their interests were adverse and the practitioner knew, or was recklessly indifferent or grossly careless as to whether, there was a conflict or potential conflict of the practitioner's duties to act in the best interests of each of the client and the Children, individually and/or collectively as beneficiaries, and contrary to rule 14 Conduct Rules the practitioner failed to protect and preserve the interests of the Children unaffected by the interests of the client, contrary to rule 12 Conduct Rules;</p> <p>d) Professional misconduct by procuring and/or preparing or assisting with the preparation of, 2016 statutory declarations which contained false and/or misleading statements, where the practitioner knew, or was recklessly indifferent as to whether, the 2016 statutory declarations contained false and/or misleading statements; and knowingly or recklessly misleading or attempting to mislead both the nominated</p>	

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	<p>investigator appointed by the Legal Profession Complaints Committee and the Committee by causing to be provided to the Investigator and the Committee the 2016 statutory declarations;</p> <p>e) Professional misconduct by knowingly or recklessly making a 2018 statutory declaration which contained false and/or misleading statements; and misleading, or attempting to mislead, the Committee by causing the 2018 Statutory Declaration made by him to be provided to the Committee which he knew, or was recklessly indifferent to whether it contained false and/or misleading statements and as to whether the Committee would be misled.</p>	
<p>60/2019 Filed 1/05/2019</p>	<p>a) Unsatisfactory professional conduct by not providing adequate disclosure to the client as to costs as required by sections 260 and 262 of the LP Act;</p> <p>b) Professional misconduct by charging the client professional fees of \$27,500 (including GST) for the legal services, later varied by the practitioner to \$22,253 (including GST), that were excessive and included charges for work not in fact carried out by the practitioner; further or alternatively, included charges which were unreasonable and/or not properly chargeable;</p> <p>c) Unsatisfactory professional conduct by making payable and providing to the client's sister a cheque which was trust money in the amount of \$60,500 where the sister had not yet executed her acceptance of an EPA instrument as donee and without the practitioner taking any steps to ensure that the EPA pursuant to which the trust money was released by the practitioner was a valid and effective instrument in that the sister had signed and accepted the EPA as the donee;</p> <p>d) Professional misconduct by preparing and issuing to the client at his request the First Itemised Account relating to tax invoice 0545 in the sum of \$27,500 (including GST) for the practitioner's fees for the legal services (Original</p>	<p>On 10/06/2020 provisionally listed for hearing on 12-16/10/2020</p>

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	<p>Invoice), in circumstances where the practitioner knew the First Itemised Account was false and/or misleading and intended the client be misled by the First Itemised Account; alternatively, the practitioner was recklessly indifferent as to whether the First Itemised Account was false and/or misleading and as to whether the client would be misled by the First Itemised Account;</p> <p>e) Professional misconduct by preparing and sending a letter to the Committee regarding a complaint made by the client against the practitioner, in circumstances where the practitioner knew the letter was false and/or misleading and intended the Committee be misled by the letter; alternatively, the practitioner was recklessly indifferent as to whether the letter was false and/or misleading and as to whether the Committee would be misled by the letter;</p> <p>f) Professional misconduct by preparing and issuing to the client at his request a Second Itemised Account) relating to tax invoice 0545C in the sum of \$27,544 (including GST) for the practitioner's fees for the legal services, in circumstances where the practitioner knew the Second Itemised Account was false and/or misleading and intended the client be misled by the Second Itemised Account; alternatively, the practitioner was recklessly indifferent as to whether the Second Itemised Account was false and/or misleading and as to whether the client would be misled by the Second Itemised Account;</p> <p>g) Professional misconduct by swearing and filing, or permitting to be filed, an Affidavit in Supreme Court of Western Australia costs assessment proceedings commenced by the client against the practitioner, in circumstances where the practitioner knew the Affidavit was false and/or misleading and intended the Supreme Court be misled by the Affidavit; alternatively, the practitioner was recklessly indifferent as to whether the Affidavit was false</p>	

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	<p>and/or misleading and as to whether the Supreme Court would be misled by the Affidavit;</p> <p>h) Professional misconduct by filing, or permitting to be filed, a Bill of Costs in the sum of \$22,253 (including GST, but excluding a claim for drafting the bill and preparing for and attending the taxation) in the costs assessment proceedings, in circumstances where the practitioner knew the Bill of Costs was false and/or misleading and intended the Supreme Court be misled by the Bill of Costs; alternatively, the practitioner was recklessly indifferent as to whether the Bill of Costs was false and/or misleading and as to whether the Supreme Court would be misled by the Bill of Costs;</p> <p>i) Professional misconduct by not refunding to the client the sum of \$5,247, being the difference between the Original Invoice (\$27,500) and the Bill of Costs (\$22,253) for the practitioner's professional fees for the legal services;</p> <p>j) Professional misconduct by preparing and sending to the Committee Letters regarding a complaint made by the client against the practitioner, in circumstances where the practitioner knew the Letters were false and/or misleading and intended the Committee be misled by the Letters; alternatively, the practitioner was recklessly indifferent as to whether the Letters were false and/or misleading and as to whether the Committee would be misled by the Letters;</p> <p>k) Professional misconduct by preparing and sending to the Committee a Further Letter in response to a letter from the Committee regarding a conduct investigation pursuant to section 421(1) LP Act, and providing, or permitting to be provided, to the Committee with the Further Letter a witness statement from the practitioner's wife (wife; wife's Statement), in circumstances where the practitioner knew the Further Letter and the wife's Statement were false and/or misleading and intended the Committee be misled by the</p>	

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	<p>Further Letter and the wife's Statement; alternatively, the practitioner was recklessly indifferent as to whether the Further Letter and the wife's Statement were false and/or misleading and as to whether the Committee would be misled by the Further Letter and the wife's Statement;</p> <p>l) Professional misconduct by under cover of a letter to the Legal Practice Board of Western Australia and in response to a letter from the Board requesting further information in relation to the conduct investigation for the purposes of consideration by the Board's Professional Affairs Committee's (PAC) of the practitioner's application for the renewal of his local practising certificate, providing a copy of the Further Letter and a copy of the wife's Statement and preparing and sending to the Board an email (Email), in circumstances where the practitioner knew the Further Letter, the wife's Statement and the Email were false and/or misleading and intended the PAC be misled by the Further Letter, the wife's Statement and the Email; alternatively, the practitioner was recklessly indifferent as to whether the Further Letter, the wife's Statement and the Email were false and/or misleading and as to whether the PAC would be misled by the Further Letter, the wife's Statement and the Email;</p> <p>m) Professional misconduct by preparing and sending to the Committee a letter (November letter) in response to a letter from the Committee regarding the conduct investigation, and providing, or permitting to be provided, with the November letter a letter from the wife (wife's letter), in circumstances where the practitioner knew the November letter and the wife's letter were false and/or misleading and intended the Committee be misled by the November letter and the wife's letter; alternatively, the practitioner was recklessly indifferent as to whether the November letter and the wife's letter were false and/or misleading and as to whether the Committee</p>	

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	<p>would be misled by the November letter and the wife's letter;</p> <p>n) Professional misconduct by preparing, declaring and providing to the Committee a Statutory Declaration in response to a summons issued by the Committee pursuant to sections 520(1)(c), 520(1)(d), and 520(3) LP Act, in circumstances where the practitioner knew the Statutory Declaration was false and/or misleading and intended the Committee be misled by the Statutory Declaration; alternatively, the practitioner was recklessly indifferent as to whether the Statutory Declaration was false and/or misleading and as to whether the Committee would be misled by the Statutory Declaration.</p>	
<p>94/2019 Filed 1/07/2019</p>	<p><u>ANNEXURE – A</u></p> <p>a) Professional misconduct by swearing an affidavit in support of an application to change the date of a trial listed in relation to the four charges against Client A, and causing that affidavit to be filed in the Magistrates Court with the Application, which affidavit was false and misleading in a material respect in circumstances where the practitioner knew the affidavit was false and misleading and intended that the Magistrates Court be misled by the Statements; alternatively the practitioner acted with reckless disregard or indifference as to whether the affidavit was false and misleading in a material respect, and as to whether the Magistrates Court would be misled.</p> <p><u>ANNEXURE – B</u></p> <p>In the course of acting for Client B in relation to charges in the Magistrates Court (Client B Matter) as an employed legal practitioner of the law practice retained by Client B and in circumstances where the practitioner had the primary conduct of the Client B Matter on behalf of the instructed law practice, the practitioner engaged in:</p> <p>a) Professional misconduct in that he received from Client B, on behalf of the instructed law practice, a sum of \$1,000 in cash, being "trust</p>	<p>Mediation 10/08/2020</p>

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	<p><i>money</i>” within the meaning of section 205(1) the LP Act (Client B Cash Payment) and:</p> <ul style="list-style-type: none"> (i) did not disclose to the instructed law practice the Client B Cash Payment; (ii) did not deliver up to the instructed law practice the Client B Cash Payment; (iii) did not deposit the Client B Cash Payment, or take all reasonably practicable steps to cause the Client B Cash Payment to be deposited, into a general trust account of the instructed law practice (or any general trust account whatsoever); (iv) caused the instructed law practice’s contravention of section 222 LP Act, in that the practitioner caused the law practice’s failure to deposit the Client B Cash Payment into a general trust account of its practice after having received the Client B Cash Payment on behalf of the instructed law practice, or at all, and, as a consequence, he, himself, contravened section 226(1) LP Act; (v) did not account to Client B for the Client B Cash Payment and, further, or alternatively, caused the instructed law practice’s failure to account to Client B for the Client B Cash Payments; and/or (vi) by reason of his failures as set out in sub-grounds 1, 2 and 3, misappropriated the Client B Cash Payment from the instructed law practice; <p>b) Unsatisfactory professional conduct in failing adequately or at all to provide proper costs disclosure;</p> <p>c) Professional misconduct by swearing an affidavit in support of an application to change the date of a trial listed in the Client B Matter and causing that affidavit to be filed in the Magistrates Court with the application, which affidavit was false and misleading and the practitioner knew the affidavit was false and misleading and intended that the Magistrates Court rely on and be misled by it; alternatively,</p>	

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	<p>acted with reckless disregard or indifference as to whether the affidavit was false and misleading, and as to whether the Magistrates Court would rely on it and be misled; and further, the practitioner continued to mislead the Magistrates Court, in that he subsequently appeared in the Magistrates Court for the hearing of the Application on three separate occasions, during two of which he allowed the Magistrates Court to rely on the false and misleading affidavit and, despite having the opportunity to do so, did not correct the false and misleading aspects of the affidavit; and during the course of all of which attendances, did not inform the Magistrates Court of the true reason the application was filed;</p> <p>d) Professional misconduct by charging, or causing the instructed law practice to charge to, Client B legal costs for work carried out by him, in circumstances where he could not properly be charged for one of the charges and the practitioner sent, or caused the instructed law practice to send, the invoice knowing Client B could not, alternatively with reckless disregard or indifference as to whether Client B could, properly be charged for one of the charges that the Invoice improperly included that charge; further, or alternatively, charging, or causing the instructed law practice to charge, to Client B legal costs of \$6,927.80 (inclusive of GST) for work carried out by him that were grossly excessive in circumstances where the sum of legal costs to be charged for the work carried out by a reasonably competent and diligent practitioner was, at most, 75 per cent of those legal costs charged, or about \$5,120.85 (inclusive of GST).</p> <p><u>ANNEXURE – C</u></p> <p>In the course of acting for Client C to defend a charge of common assault (Client C Matter) as an employed legal practitioner of the law practice retained by Client C, the practitioner engaged in:</p> <p>a) Professional misconduct, by charging, or causing the instructed law practice to charge to, Client C</p>	

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	<p>legal costs by way of an invoice for work purportedly carried out by him, in circumstances where to the practitioner's knowledge, the practitioner did not carry out some of the work charged at all and/or to the extent charged and knew that Client C could not properly be charged for some of the charges and/or that the invoice improperly included those charges; alternatively, sent or caused to be sent the invoice to Client C with reckless disregard or indifference as to whether Client C could properly be charged for some of the charges the subject of the invoice and/or whether the invoice properly included those charges; and further, or alternatively, charging, or causing to be charged to, Client C legal costs of \$25,561.36 (inclusive of GST, excluding disbursements, such as counsel fees) for work carried out by him that were grossly excessive in circumstances where the sum of legal costs to be charged for the work carried out by a reasonably competent and diligent practitioner was, at most, 75 per cent of those legal costs charged, or about \$19,171.02 (inclusive of GST, excluding disbursements);</p> <p>b) Unsatisfactory professional conduct in respect to failing adequately or at all to provide proper costs disclosure in respect to having retained Mr X as counsel;</p> <p>c) Unsatisfactory professional conduct in respect to failing adequately or at all to provide proper costs disclosure.</p> <p><u>ANNEXURE – D</u></p> <p>In the course of acting for Client D in relation to a charge of possessing child exploitation material as an employed legal practitioner of the law practice retained by Client D the practitioner engaged in:</p> <p>a) Professional misconduct, by charging, or causing the instructed law practice to charge to, Client D legal costs by way of an invoice for work purportedly carried out by him, in circumstances where to the practitioner's knowledge, the practitioner did not carry out</p>	

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	<p>some of the work charged to Client D by an invoice at all; and sent, or caused to be sent, the invoice knowing that Client D could not, alternatively, with reckless disregard or indifference as to whether Client D could, properly be charged for some of the charges and/or that the invoice improperly included those charges; further, or alternatively, charging, or causing the instructed law practice to charge, to Client D legal costs of \$30,034.40 (inclusive of GST, excluding disbursements, such as counsel fees) for work carried out by him that were grossly excessive in circumstances where the sum of legal costs to be charged for the work carried out by a reasonably competent and diligent practitioner was, at most, 75 per cent of those legal costs charged, or about \$22,764.22 (inclusive of GST, excluding disbursements);</p> <p>b) Unsatisfactory professional conduct by failing adequately or at all to provide proper costs disclosure;</p> <p>d) Unsatisfactory professional conduct in respect to failing adequately or at all to provide proper costs disclosure in respect to having retained Mr X as counsel;</p> <p>e) Unsatisfactory professional conduct by failing to provide any, or any adequate, advice to Client D about the strength of the prosecution case and the prospects of success on a plea of not guilty.</p> <p><u>ANNEXURE E</u></p> <p>In the course of acting for Client E in relation to allegations made of sexual assault and robbery (Client E Matter), the practitioner as an employed legal practitioner of the law practice retained by Client E engaged in:</p> <p>a) Professional misconduct, where in circumstances where the practitioner had the sole conduct of the Client E Matter on behalf of the instructed law practice, he failed to open any file, or cause the instructed law practice to open any file, for the carriage of the Client E Matter; had not charged, or caused the</p>	

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	<p>instructed law practice to charge, any legal costs to Client E for any work carried out in relation to the Client E Matter; had not created any accounting records at all for any work carried out in relation to the Client E Matter, and received from Client E, on behalf of the instructed law practice, a sum of \$5,000 in cash, being “<i>trust money</i>” within the meaning of section 205(1) of the LP Act (Client E Cash Payment), in that the practitioner:</p> <ul style="list-style-type: none"> (i) did not disclose to the instructed law practice the Client E Cash Payment; (ii) did not deliver up to the instructed law practice the Client E Cash Payment; (iii) did not deposit the Client E Cash Payment, or take all reasonably practicable steps to cause the Client E Cash Payment to be deposited, into a general trust account of the instructed law practice (or any general trust account whatsoever); (iv) caused the instructed law practice’s contravention of section 222 LP Act, in that the practitioner caused the law practice’s failure to deposit the Client E Cash Payment into a general trust account of its practice after having received the Client E Cash Payment on behalf of the instructed law practice, or at all, and, as a consequence, he, himself, contravened section 226(1) LP Act; (v) did not account to Client E for the Client E Cash Payment and, further, or alternatively, caused the instructed law practice’s failure to account to Client E for the Client E Cash Payment; and/or (vi) by reason of his failures as set out in sub-grounds (i), (ii) and (iii), misappropriated the Client E Cash Payment from the instructed law practice; <p>c) Unsatisfactory professional conduct in respect to failing adequately or at all to provide proper costs disclosure in respect to having retained Mr X as counsel.</p>	

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	<p><u>ANNEXURE – F</u></p> <p>In the course of acting for Client F in relation to charges of sexual offences (Client F Matter) as an employed legal practitioner of the law practice retained by Client B, the practitioner engaged in:</p> <p>a) Professional misconduct in circumstances where the practitioner had the sole conduct of the Client F Matter on behalf of the instructed law practice, he failed to open any file, or cause the instructed law practice to open any file, for the carriage of the Client F Matter; had not charged, or caused the instructed law practice to charge, any legal costs to Client F for any work carried out in relation to the Client F Matter; had not created any accounting records at all for any work carried out in relation to the Client F Matter, and received from Client F, on behalf of the instructed law practice, five separate sums of cash totalling about \$16,000, being ‘trust money’ within the meaning of section 205(1) LP Act (Client F Cash Payments), in that the practitioner:</p> <ul style="list-style-type: none"> (i) did not disclose to the instructed law practice the Client F Cash Payments; (ii) did not deliver up to the instructed law practice the Client F Cash Payments; (iii) did not deposit the Client F Cash Payments, or take all reasonably practicable steps to cause the Client F Cash Payments to be deposited, into a general trust account of the instructed law practice (or any general trust account whatsoever); (iv) caused the instructed law practice’s contravention of section 222 LP Act, in that the practitioner caused the law practice’s failure to deposit the Client F Cash Payments into a general trust account of its practice after having received the Client F Cash Payments on behalf of the instructed law practice, or at all, and, as a consequence, he, himself, contravened section 226(1) LP Act; (v) did not account, or properly account, to Client F for the Client F Cash Payments and, 	

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	<p>further, or alternatively, caused the instructed law practice's failure to account, or properly account, to Client F for the Client F Cash Payments; and/or</p> <p>(vi) by reason of his failures as set out in sub-grounds (i), (ii) and (iii), misappropriated the Client F Cash Payments from the instructed law practice;</p> <p>b) Unsatisfactory professional conduct in respect to failing adequately or at all to provide proper costs disclosure in respect to having retained Mr X as counsel.</p>	
<p>133/2019 Filed 10/09/2019</p>	<p>a) Professional misconduct by causing to be commenced and maintained and/or commencing and maintaining legal proceedings against her former husband, namely:</p> <p>(i) an application to the Busselton Magistrates Court for final orders in relation to an interim violence restraining order made on 11 July 2012 which application was heard and dismissed on 20 March 2013 (March 2013 Decision);</p> <p>(ii) an application to the District Court of Western Australia filed on around 10 April 2013 to appeal the March 2013 Decision which was heard on 24 October 2013 and dismissed on 27 November 2013 (District Court Decision);</p> <p>(iii) an application to the Court of Appeal of the Supreme Court of Western Australia on around 7 January 2014 for leave to appeal the District Court Decision which was heard and dismissed on 20 June 2014 (Court of Appeal Decision);</p> <p>(iv) an application to the High Court of Australia in around August 2014 for leave to appeal the Court of Appeal Decision which was heard and dismissed on 10 December 2014;</p> <p>(v) an application to the Busselton Magistrates Court on around 28 August 2015 to set aside the March 2013 Decision which was heard and dismissed on 24 September 2015</p>	<p>Directions 21/07/2020</p>

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	<p>(September 2015 Decision); and</p> <p>(vi) an application to the District Court of Western Australia on around 5 November 2015 to appeal the September 2015 Decision, which was heard on 6 January 2017 and dismissed on 3 March 2017,</p> <p>(together, the applications),</p> <p>in circumstances where the applications:</p> <p>(vii) had no, or no proper, basis;</p> <p>(viii) were an abuse of process;</p> <p>(ix) were conducted in a manner which was oppressive to the husband;</p> <p>(x) had the potential to diminish public confidence in the administration of justice; and/or</p> <p>(xi) had the potential to bring the profession into disrepute;</p> <p>b) Professional misconduct in the course of acting in proceedings commenced by the practitioner on 25 March 2013 against the husband in the Family Court of Australia (Family Court) to reinstate an appeal against orders made by the Federal Magistrates Court on 30 October 2012 (FC Appeal), in that she:</p> <p>(i) at a hearing on 8 May 2013, made oral submissions in support of an oral application to restrain the husband's counsel from acting for the husband in the FC Appeal, without any, or any proper, basis;</p> <p>(ii) at a hearing at which she attended by way of telephone on 28 June 2013, deliberately severed the telephone connection with the Family Court before the hearing was concluded;</p> <p>(iii) prepared, filed and maintained an application dated 5 July 2013 seeking orders that the presiding judge be disqualified from hearing the FC Appeal on the grounds of alleged bias (presiding judge; disqualification application) and that the husband's solicitor and counsel</p>	

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	<p>be restrained from acting for the husband in the FC Appeal on the grounds of an alleged conflict of interest, which had no, or no proper, basis;</p> <p>(iv) at a hearing on 31 July 2013 did not accurately read to the Family Court from the transcripts of previous hearings, which the practitioner knew had the potential to mislead the Family Court and the practitioner intended the Family Court to be misled, alternatively was recklessly indifferent as to whether the conduct had the potential to mislead the Family Court and as to whether the Family Court would be misled; made comments that were discourteous, intemperate and/or scandalous, made without any, or any reasonable, basis, and had the potential to diminish public confidence in the administration of justice and/or to bring the profession into disrepute;</p> <p>(v) prepared, filed and maintained an appeal against the presiding judge's decision on 31 July 2013 to dismiss the disqualification application, which appeal had no, or no proper, basis and in which the practitioner made discourteous, intemperate and/or scandalous comments in written and oral submissions;</p> <p>(vi) on 28 August 2013 prepared and sent two emails to a Registrar of the Family Court which contained comments that were discourteous, intemperate and/or scandalous, made without any, or any reasonable, basis, and had the potential to diminish public confidence in the administration of justice and/or had the potential to bring the profession into disrepute;</p> <p>(vii) at a hearing on 12 February 2015, made oral submissions which were inconsistent with her oral submissions at the hearing on 8 May 2013; discourteous, intemperate and/or scandalous, made without any, or any reasonable basis, and which had the</p>	

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	<p>potential to bring the profession into disrepute; and</p> <p>(viii) at a hearing on 27 March 2015, made discourteous, intemperate and/or scandalous comments and, where she attended by way of telephone, deliberately severed the telephone connection with the Family Court before the hearing was concluded;</p> <p>c) Professional misconduct by preparing, swearing, filing, and failing to correct an affidavit sworn by her in circumstances where the practitioner knew that the affidavit was false and/or misleading in a material respect and intended the Court to rely on it and to be misled; alternatively, the practitioner was recklessly indifferent as to whether the affidavit was false and/or misleading in a material respect and as to whether the Court would be misled by it.</p>	
<p>141/2019 Filed 20/09/2019</p>	<p>a) Engaged in professional misconduct in the course of assisting another practitioner, Ms A, with her response, and in respect, to a default judgment entered in Magistrates Court proceedings, which had been lodged by a firm on behalf of its clients against Ms A personally for the recovery of a debt in the sum of \$1,870 (debt), and enforcement of the default judgment by way of a Property (Seizure and Sale) Order against Ms A's land (Land PSSO), by:</p> <p>(i) assisting Ms A in circumstances where her relationship with Ms A compromised her integrity and professional independence, in breach of rule 6(1)(d) of the <i>Legal Profession Conduct Rules 2010</i>;</p> <p>(ii) assisting in preparing three (3) letters based on information provided to her by Ms A that were signed and sent by Ms A to the firm, the contents of which Letters were discourteous, threatening, intimidating and misleading and were likely to bring the profession into disrepute and sought to advance Ms A's interests by unfair means, in</p>	<p>Mediation 8/07/2020</p>

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	<p>that the letters:</p> <ul style="list-style-type: none"> A. threatened the possibility of making an application to the Supreme Court for an urgent injunction and demanded an unconditional written undertaking from the firm's solicitors when the practitioner knew that there were no, or no reasonable grounds to make that threat and demand; alternatively was recklessly indifferent, or further alternatively, grossly careless, as to whether or not there were reasonable grounds to make that threat and where there was no basis to demand the unconditional written undertaking; and/or B. alleged with no, or no reasonable basis, that the default judgment was irregular; and/or C. made allegations about a law clerk employed by the firm (Ms C) holding herself out as a solicitor when the practitioner knew that there were no, or no reasonable, grounds to make that allegation; alternatively was recklessly indifferent, or further alternatively, grossly careless, as to whether or not there were reasonable grounds to make that allegation; and/or D. threatened that Ms A would write to the Chief Magistrate about Ms C misleading the Court when the practitioner knew that there were no, or no reasonable, grounds to make that threat; alternatively was recklessly indifferent, or further alternatively, grossly careless, as to whether or not there were reasonable grounds to make that threat and, further, where it would be improper for a practitioner to write to a judicial officer in those terms; and/or E. threatened that Ms A would make a 	

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	<p>complaint against the firm and in respect to Ms C allegedly holding herself out as a legal practitioner, to the Committee when the practitioner knew that there were no, or no reasonable, grounds to make a complaint; alternatively was recklessly indifferent, or further alternatively, grossly careless, as to whether or not there were reasonable grounds to make a complaint to the Committee;</p> <p>F. alleged that the solicitor at the firm with conduct of the proceedings failed to advise the Court that the debt had been paid in full either before or after the firm obtained default judgment, that the firm took steps to enforce a default judgment when the debt had been paid and that the firm continued to take steps to enforce an irregularly obtained default judgment, when the practitioner knew there was no, or no reasonable, grounds for the allegations; alternatively was recklessly indifferent, or further alternatively, grossly careless, as to whether or not there were reasonable grounds to make the allegations; and/or</p> <p>G. threatened that the Committee would take appropriate action against the firm if the matter was not resolved by a nominated deadline, which statement was false and misleading and the practitioner knew that the statement was false and misleading and intended the firm be misled; alternatively was recklessly indifferent, or further alternatively, grossly careless, as to whether the statement was false and misleading and as to whether the firm would be misled; and/or</p> <p>H. the practitioner by her conduct as set out in paragraphs A to G above assisted Ms A seeking to improperly pressure</p>	

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	<p>or induce the firm to provide to her the unconditional undertaking, alternatively, to accede to the demands and set aside the default judgment;</p> <p>(iii) witnessing Ms A swearing an affidavit in breach of section 9(7) of the <i>Oaths Affidavits and Statutory Declarations Act 2005</i> (WA) where the practitioner had assisted Ms A with the preparation of, and thereby was not an authorised witness for, her affidavit;</p> <p>(iv) failing to competently advise Ms A in relation to whether there were grounds to set aside the default judgment, where there were none;</p> <p>(v) assisting Ms A in preparing, and causing to be filed in the Court on behalf of Ms A:</p> <p>A. a Form 9 application seeking an order to suspend the enforcement of the default judgment;</p> <p>B. a Form 23 application seeking, relevantly, orders for substituted service in respect to the Form 9 application and Ms A's affidavit, that the default judgment be set aside, the proceedings be dismissed and the clients and the firm's solicitors pay Ms A's costs of the Form 23 application, the Form 9 application and the whole proceedings on an indemnity basis,</p> <p>in circumstances where there was no basis on which the Court could set aside the default judgment or dismiss the proceedings and the Form 23 application was misconceived and incompetent, sought orders that the Court could not make and was bound to be, and was, unsuccessful; and wasted the time and resources of the Court and was an abuse of process;</p> <p>(vi) assisting Ms A in preparing, and delivering to the Court, a letter signed by Ms A to the Chief Magistrate which was improper, discourteous and likely to diminish public confidence in the administration of justice</p>	

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	<p>and which contained false and/or misleading statements and sought to advance Ms A's matter by unfair means, where the letter:</p> <ul style="list-style-type: none"> A. should not have been sent at all; and/or B. made serious allegations concerning the entering of default judgment when the practitioner knew that there were no, or no reasonable, grounds to make those allegations; alternatively was recklessly indifferent, or further alternatively, grossly careless, as to whether or not there were reasonable grounds to make those allegations; and/or C. made statements which were false and/or misleading as to the content of the unconditional undertaking sought from the firm; and/or D. made the serious allegation improperly suggesting that the firm and/or the clients would take steps to enforce the Land PSSO knowing that an application in respect of the Land PSSO was before the Court when she knew that there were no, or no reasonable, grounds to make those allegations; alternatively was recklessly indifferent, or further alternatively, grossly careless, as to whether or not there were reasonable grounds to make those allegations; and/or E. made serious allegations against the firm's principal (Mr D), when the practitioner knew that there were no, or no reasonable, grounds to make those allegations; alternatively was recklessly indifferent, or further alternatively, grossly careless, as to whether or not there were reasonable grounds to make those allegations and where the letter failed to disclose to the Chief Magistrate that the sum 	

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	<p>awarded when the default judgment was entered included the allowable court costs that were not paid by Ms A; and/or</p> <p>F. asked the Chief Magistrate to exercise “discretionary powers” pending the determination of applications shortly to be heard, which was both improper and an attempt to interfere with the administration of justice;</p> <p>(vii) dealing and attempting to deal directly with the clients, who were represented by the firm in the proceedings, in breach of Conduct Rule 37(4);</p> <p>(viii) breaching rule 102 of the <i>Magistrates Court (Civil Proceedings) Rules 2005</i> (WA), by failing to ensure that she was on the Court record as the practitioner representing Ms A in the proceedings.</p>	
<p>142/2019 Filed 20/09/2019</p>	<p>a) Professional misconduct in knowingly making false and misleading statements in an email sent to a firm, which she intended that the firm rely on and be misled or alternatively, acted with reckless disregard or indifference as to whether or not the statements were false and misleading, and as to whether the firm would be misled;</p> <p>b) Professional misconduct by preparing and sending to the Legal Profession Complaints Committee, or causing to be sent to the Committee on her behalf, submissions and other correspondence in which she made false and/or misleading statements in respect to:</p> <p>(i) the nature of the undertaking she sought from the principal of the firm (Mr D);</p> <p>(ii) a law clerk employed by the firm (Ms C) holding herself out as a legal practitioner;</p> <p>(iii) the practitioner having filed a defence;</p> <p>(iv) the correctness of the email statements;</p> <p>(v) the responsibility of Ms B (another practitioner) for drafting various</p>	<p>Mediation 22/07/2020</p>

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	<p>correspondence referred to in (c) and d(ii) below</p> <p>(together, the Statements),</p> <p>and where the practitioner knew that the Statements were false and/or misleading and intended that the Committee rely on the Statements in its investigation into her conduct and be misled by the Statements in its investigation into her conduct; alternatively, the practitioner acted with reckless disregard or indifference, or further alternatively, was grossly careless, as to whether the Statements were false and misleading and as to whether the Committee would be misled in its investigation into her conduct.</p> <p>c) Professional misconduct by causing to be prepared, signing and causing to be sent to the firm three (3) letters the contents of which letters were discourteous, threatening, intimidating and misleading and were likely to bring the profession into disrepute and sought to advance the practitioner's own position by unfair means in that:</p> <p>(i) the letters threatened the possibility of making an application to the Supreme Court for an urgent injunction and demanded an unconditional written undertaking from the firm's solicitors when the practitioner knew that there were no, or no reasonable, grounds to make that threat and demand; alternatively was recklessly indifferent, or further alternatively, grossly careless, as to whether or not there were reasonable grounds to make that threat and demand; and/or</p> <p>(ii) alleged with no, or no reasonable, basis that the default judgment was irregular; and/or</p> <p>(iii) made allegations about Ms C holding herself out as a solicitor when the practitioner knew that there were no, or no reasonable, grounds to make that allegation; alternatively was recklessly indifferent, or further alternatively, grossly careless, as to</p>	

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	<p>whether or not there were reasonable grounds to make those allegations; and/or</p> <p>(iv) threatened to write to the Chief Magistrate about Ms C misleading the Court when the practitioner knew that there were no, or no reasonable, grounds to make that threat; alternatively was recklessly indifferent, or further alternatively, grossly careless, as to whether or not there were reasonable grounds to make that threat and, further, where it would be improper for the practitioner to write to a judicial officer in those terms; and/or</p> <p>(v) threatened to make a complaint against the firm and in respect to Ms C allegedly holding herself out as a legal practitioner, to the Committee when the practitioner knew that there were no, or no reasonable, grounds to make a complaint; alternatively was recklessly indifferent, or further alternatively, grossly careless, as to whether or not there were reasonable grounds to make a complaint; and/or</p> <p>(vi) alleged that the solicitor at the firm with conduct of the proceedings failed to advise the Court that the debt had been paid in full either before or after the firm obtained default judgment, that the firm took steps to enforce a default judgment when the debt had been paid and that the firm continued to take steps to enforce an irregularly obtained default judgment, when the practitioner knew there was no, or no reasonable, grounds for the allegations; alternatively was recklessly indifferent, or further alternatively, grossly careless, as to whether or not there were reasonable grounds to make the allegations; and/or</p> <p>(vii) threatened that the Committee would take appropriate action against the firm if the matter was not resolved by a nominated deadline, which statement was false and misleading and the practitioner knew that the statement was false and misleading and</p>	

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	<p>intended the firm be misled; alternatively was recklessly indifferent, or further alternatively, grossly careless, as to whether the statement was false and misleading and as to whether the firm would be misled; and/or</p> <p>(viii) the practitioner by her conduct as set out in paragraphs (i) to (vii) sought to improperly pressure or induce the firm to provide to her the unconditional written undertaking, alternatively, to accede to her demands to do so and set aside the default judgment.</p> <p>d) Professional misconduct by:</p> <p>(i) signing and filing in the proceedings:</p> <p>A. a Form 9 application seeking an order to suspend the enforcement of the default judgment;</p> <p>B. a Form 23 application seeking, relevantly, orders for substituted service in respect to the Form 9 application and an affidavit sworn by the practitioner, that the default judgment be set aside, the proceedings be dismissed and the Cs and the firm's solicitors pay the practitioner's costs of the Form 23 application, the Form 9 application and the whole proceedings on an indemnity basis;</p> <p>in circumstances where there was no basis on which the Court could set aside the default judgment or dismiss the proceedings and the Form 23 application was misconceived and incompetent, sought orders that the Court could not make and was bound to be, and was, unsuccessful; and wasted the time and resources of the Court and was an abuse of process.</p> <p>(ii) causing to be prepared, signing and causing a letter to be delivered to the Chief Magistrate which was improper, discourteous and likely to diminish public confidence in the administration of justice and which contained false and/or misleading</p>	

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	<p>statements and sought to advance the practitioner's case by unfair means, where the letter:</p> <ul style="list-style-type: none"> A. should not have been sent at all; and/or B. made serious allegations concerning the entering of default judgment when the practitioner knew there were no, or no reasonable, grounds to make those allegations; alternatively was recklessly indifferent, or further alternatively, grossly careless, as to whether or not there were reasonable grounds to make those allegations; and/or C. made statements which were false and/or misleading as to the content of the unconditional written undertakings she had in actual fact sought from the firm; and/or D. made the serious allegation improperly suggesting that the firm, Mr D and/or the clients would take steps to enforce the Land PSSO knowing that an application in respect of the Land PSSO was before the Court when she knew that there were no, or no reasonable, grounds to make those allegations; alternatively was recklessly indifferent, or further alternatively, grossly careless, as to whether or not there were reasonable grounds to make those allegations; and/or E. made serious allegations against Mr D when the practitioner knew that there were no, or no reasonable, grounds to make those allegations; alternatively was recklessly indifferent, or further alternatively, grossly careless, as to whether or not there were reasonable grounds to make those allegations and where the practitioner failed to disclose to the Chief Magistrate that the sum awarded against her when the 	

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	<p>default judgment was entered included the allowable court costs, to which the Cs were entitled, that were not paid by her; and/or</p> <p>F. asked the Chief Magistrate to exercise “discretionary powers” pending the determination of applications shortly to be heard, which was both improper and an attempt to interfere with the administration of justice.</p> <p>e) Professional misconduct by causing to be filed in the proceedings a Form 23 application seeking orders that any reference to the proceedings appearing on the Credit Reference File of the practitioner held by [X] or any other credit agency be removed forthwith, in circumstances where she failed to confer with the clients and serve on the firm the application and sought orders be made affecting entities that were not parties to the proceedings and was therefore misconceived and incompetent and bound to be, and was, unsuccessful, wasting both the time and resources of the Court and was likely to bring the profession into disrepute.</p>	
<p>164/2019 Filed 27/11/2019</p>	<p>a) Professional misconduct in family law proceedings to set aside or vary consent orders and pursue spousal maintenance against the client’s former husband, by failing to ensure that:</p> <p>(i) a restricted practitioner under her supervision was supervised adequately or at all while he had the daily conduct of the client’s matter;</p> <p>(ii) the client was properly advised in a timely manner that she could apply for orders seeking leave for an extension of time to be granted within which to review the consent orders and, subject to that extension of time being granted, seek a review of the consent orders;</p> <p>(iii) the client was properly and/or adequately advised as to her ongoing duty of disclosure in the proceedings and that she was required</p>	<p>Programmed for filing of response Mediation adjourned to 22/09/2020</p>

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	<p>to update the court about changes in her financial circumstances consequent on the approval of a bank loan;</p> <p>(iv) the client's case had been properly prepared for the hearing of her interim application for spousal maintenance;</p> <p>(v) a valuer engaged as an expert witness to value the former husband's business (expert) was properly instructed as to his obligations in accordance with rule 15.54 of the <i>Family Law Rules 2004</i> (Cth); and</p> <p>(vi) where the client had nominated the expert to be retained in the proceedings, the client was properly advised against contacting the expert directly and the potential consequences for her in the proceedings of making such contact.</p> <p>b) Unsatisfactory professional conduct by continuing to act for the client when she knew or ought reasonably to have known that there was a conflict or potential conflict between the interests of the practitioner and the interests of the client, and thereby was in breach of her duty to avoid that conflict, contrary to rules 15(2) and 15(3) of the <i>Legal Profession Conduct Rules 2010</i> (WA).</p>	
<p>165/2019 Filed 28/11/2019</p>	<p>a) Professional misconduct by:</p> <p>(i) advising the client to commence proceedings under the <i>Family Provision Act 1972</i> (WA) (FP Act) in circumstances in which the practitioner had not advised the client adequately or at all about the purpose and operation of the FP Act and other relevant matters, including costs and had not taken any, or any adequate instructions about various matters nor taken any steps to confirm whether the limitation period in which to commence proceedings under the FP Act had already run; and/or</p> <p>(ii) failing to advise the client adequately or at all as to the merits of and/or prospects of success of other possible causes of action or</p>	<p>On 3/06/2020 listed for hearing on 1-7/09/2020 Directions hearing 4/08/2020</p>

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	<p>courses of conduct in the matter; and/or</p> <p>(iii) failing to take any, or any adequate, further instructions from the client, including as to any preliminary inquiries required, in order to properly and competently advise the client as to obtaining any alternative sources of information and documents.</p> <p>b) Professional misconduct by:</p> <p>(i) issuing to the client a memorandum of account in the matter and subsequently seeking payment of that account in advance of providing the legal services the subject of that account, to which money the practitioner was not lawfully entitled; and which money could not lawfully be held by him in circumstances where he did not maintain a general trust account in the jurisdiction in accordance with section 214 of the LP Act;</p> <p>(ii) rendering a final bill of costs to the client, and purporting to account for payments made to him by, or on behalf of, the client in the sum of \$5,000, and retaining that money, for work purportedly performed by him where to his knowledge, he did not perform some of the work for which he billed the client, or by which he purported to account for payments made by the client to him, at all and/or to the extent billed; and sent, or caused to be sent, the bill to the client when he knew, or was recklessly indifferent as to whether, the client could not properly be charged for some of the charges in that Bill, as a result of which the practitioner knowingly misled the client as to the extent of legal services performed by him in the Matter;</p> <p>(iii) further, over the course of the matter, charging the client legal costs and/or retaining money paid to the practitioner by or on behalf of the client in the total sum of \$10,000 (inclusive of GST), in circumstances where it was not reasonable to carry out the</p>	

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	<p>work to which the legal costs related or for which money was retained by the practitioner; and/or his legal costs were not fair and reasonable, or it was not fair and reasonable for the practitioner to retain the money paid to him.</p> <p>c) Professional misconduct in circumstances where the Legal Profession Complaints Committee was investigating the practitioner's conduct under the LP Act (Investigation) and requested the practitioner to produce to it <i>"all [his] entire original files and all documents relating to [him] acting in the [Matter]"</i> including documents such as file notes:</p> <ul style="list-style-type: none"> (i) the practitioner produced a file containing documents which he represented to be his file in relation to the matter which contained file notes, which by including them in his file in respect to the matter he represented were prepared contemporaneous to the events they recorded (Representation); (ii) the Representation was misleading and deceptive in that the file notes were not prepared contemporaneous to the events they recorded and were in fact dictated and prepared, or caused to have been prepared, by the practitioner in the preceding 2-3 days before providing his file and following the commencement of the Investigation; (iii) the practitioner knew the Representation was misleading and deceptive and intended the Committee to rely on the Representation in the Investigation and be misled or deceived by the Representation; or alternatively he was recklessly indifferent as to whether the Committee would be misled or deceived by the Representation. <p>d) Professional misconduct by, without reasonable excuse, failing to provide information verified by statutory declaration required by the terms of a 'Summons to Provide Written Information verified by Statutory Declaration and to Produce Documents and to otherwise assist in and</p>	

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	<p>cooperate with an Investigation' issued to the practitioner by the Committee pursuant to sections 520(1)(c) and 520(3) of the LP Act, in breach of sections 520(5) and 523(3) of the LP Act.</p> <p>e) Professional misconduct by:</p> <ul style="list-style-type: none"> (i) preparing and sending to the Legal Practice Board written submissions as to why he remained a fit and proper person to hold a practising certificate under the LP Act in light of among other things, the client's complaint, in which he made representations which were false and/or misleading in material respects; (ii) making the representations when he knew that they were false and/or misleading; and intending the Board to rely on the representations when considering his fitness to practice and to be misled by the representations; or alternatively, preparing and sending to the Board the representations recklessly indifferent as to whether the Board would be misled by the representations. <p>f) Professional misconduct by:</p> <ul style="list-style-type: none"> (i) providing to the Committee written submissions which contained information that was false/or misleading in material respects, in circumstances where the practitioner provided the written submissions knowing that the written submissions contained false/or misleading information and intending that the Committee rely on the written submissions and be misled; alternatively, the practitioner provided the written submissions to the Committee with reckless disregard or indifference as to whether the written submissions contained the false and/or misleading information and as to whether the Committee would be misled; (ii) providing to the Committee written responses to questions put to the 	

Application No.	Allegation	Status
	<p>practitioner in relation to matters concerning his conduct, which responses contained information that was false and/or misleading in a material respect, knowing that the written responses contained the false/or misleading information and intending that the Committee rely on the written responses and be misled; alternatively, with reckless disregard or indifference as to whether the written submissions contained the false and/or misleading information and as to whether the Committee would be misled;</p> <p>(iii) providing to the Committee further written responses and, subsequently, a statutory declaration (in the same terms as the further written responses) in purported compliance with the Summons, which contained information that was false and/or misleading in a material respect, and the practitioner provided the written responses and statutory declaration knowing that they contained the false/or misleading information; and intending that the Committee rely on the written responses and statutory declaration and be misled; alternatively, with reckless disregard or indifference as to whether the written responses and statutory declaration contained the false and/or misleading information and as to whether the Committee would be misled.</p>	
<p>173/2019 Filed 13/12/2019</p>	<p>a) Professional misconduct in that he failed to competently and diligently discharge his duties as the ICL in circumstances where:</p> <p>(i) at a hearing on 13 February 2017, and following a case assessment conference at which issues of drug use were raised in respect to both parents of the child (parents), orders were made that the parents undergo random drug urinalysis at the request of the other parent's solicitor;</p> <p>(ii) at a case assessment conference on 5 May 2017 attended by the practitioner as ICL and</p>	<p>Directions hearing 21/07/2020</p>

Application No.	Allegation	Status
	<p>where significant issues relating to drug use, alcohol abuse and family violence by both parents were identified, the practitioner expressed his intention to request random drug urinalysis of the parents and the Court family consultant recommended that a single expert witness (SEW) be appointed to assess the matter;</p> <p>(iii) as ICL the practitioner had an obligation to try to facilitate a resolution of the proceedings by agreement to the extent to which doing so was in the best interests of the child; and</p> <p>(iv) neither of the parents had filed any evidence relevant to a determination by the Court of what parenting orders might be in the child's best interests,</p> <p>the practitioner failed to comply with his obligations as an ICL under section 165 of the <i>Family Court Act 1997</i> (WA) in that he failed to:</p> <ol style="list-style-type: none"> 1. prior to a status hearing on 6 April 2018 (April 2018 status hearing), take any or any adequate steps to facilitate the production to the Court of all reasonably available evidence relevant to the best interests of the child, including by failing to: <ol style="list-style-type: none"> A. make any request for the parents to undergo random drug urinalysis; B. seek the appointment of a SEW to provide a report; 2. seek funding from Legal Aid WA (LAWA) for a late intervention dispute resolution (LIDR) conference; and 3. after the April 2018 status hearing was adjourned to a further hearing on 2 May 2018, take any or any adequate steps to ensure that the proceedings were ready for trial or that there was sufficient evidence before the Court on which basis it could determine what action was in the best interests of the child. 	

Application No.	Allegation	Status
	<p>b) Professional misconduct in that the practitioner:</p> <ul style="list-style-type: none"> (i) on 6 April 2018, and in response to direct questions from the Court, stated that at the end of March 2018 he had made enquiries of LAWA about the provision for a LIDR conference but had not yet received a response from LAWA to the enquiries (Statements), in circumstances where: <ul style="list-style-type: none"> A. the Statements were false and/or misleading in a material respect as the practitioner had not made any enquiry to LAWA seeking provision for a LIDR conference at the end of March 2018 or at all but, in fact, had written to LAWA on 12 March 2018 to the effect that he did <u>not</u> consider a LIDR conference was appropriate in the proceedings; B. the practitioner well knew the Statements were false and/or misleading in a material respect and intended that the Court rely on the Statements and that the Court be misled; C. alternatively, the practitioner was recklessly indifferent as to whether the Statements were false and/or misleading in a material respect and/or had the potential to mislead the Court and as to whether the Court would be misled; (ii) failed to correct the record of the Court in respect to the Statements as soon as possible after becoming aware that the Statements were false and/or misleading, or at all, including at a subsequent status hearing in the proceedings on 2 May 2018 by which time the practitioner well knew that the Statements were false and/or misleading in a material respect and where the matter of LAWA's provision of a LIDR conference was the subject of further enquiry by the Court. 	

<i>Application No.</i>	<i>Allegation</i>	<i>Status</i>
176/2019 Filed 17/12/2019	<p>a) Unsatisfactory professional conduct that:</p> <ul style="list-style-type: none"> (i) fell short of the standard of professional conduct observed and approved by members of the legal profession of good repute and competence; (ii) further or alternatively, fell short of the standard of competence and diligence that a member of the public is entitled to expect of a reasonably competent legal practitioner, <p>in that he commenced, served, maintained and prosecuted proceedings in the Supreme Court of Western Australia on behalf of his client without any reasonable basis to do so.</p>	Directions hearing 28/07/2020
5/2020 Filed 16/01/2020	<p>a) Professional misconduct in the course of acting for her client in Family Court proceedings for parenting orders in respect of the children of the client and the former spouse, by:</p> <ul style="list-style-type: none"> (i) failing to act upon the client's proper and competent instructions and to progress the proceedings in a competent and diligent manner by failing to seek final orders consistent with the client's instructions (which were also consistent with the recommendations of the Single Expert Witness (SEW)) and, from a certain date failing to negotiate a settlement of the proceedings where the spouse offered to do so on terms acceptable to the client's instructions, which increased the proper costs to the client; (ii) preparing and filing in the proceedings a Form 2 application for orders that the Children live with the client and the spouse have only supervised contact and seeking an urgent hearing date in circumstances where: <ul style="list-style-type: none"> A. the orders sought were contrary to the SEW recommendation and to the principle that a child's best interests are met by having a meaningful relationship with both parents, both of which the Court would give weight to in considering the application; 	Mediation adjourned to 20/07/2020

Application No.	Allegation	Status
	<p>B. there had been a delay of some 7 months since the SEW recommendation was made to the date of the practitioner filing the application and there was no, or no adequate, evidence that the circumstances of the parties had changed since the SEW recommendation was made, which would provide a reasonable basis on which to make the application;</p> <p>C. the practitioner knew, or ought to have known, that the application would be unsuccessful and failed to adequately, or at all, advise the client of this in light of the above matters; and</p> <p>D. the application increased the proper costs to the client.</p> <p>(iii) failing to communicate with the client in a courteous and professional manner, as well as failing to respond to his communications in breach of the practitioner's duty to treat the client fairly and in good faith, having regard to the client's dependence on, and high trust in, her and encroaching on the client's private and social life in a manner that had the potential to compromise the practitioner's integrity and to bring the profession into disrepute.</p> <p>b) Professional misconduct by:</p> <p>(i) preparing and sending to the Principal Registrar of the Court a letter in which the practitioner made a false and/or misleading statement which the practitioner well knew was false and/or misleading and/or that it had the potential to mislead the Court and the practitioner intended that the Court be misled; alternatively, the practitioner acted with reckless disregard or indifference; further alternatively was grossly careless, as to whether or not the statement was false or misleading, or both, and/or had the potential</p>	

<i>Application No.</i>	<i>Allegation</i>	<i>Status</i>
	<p>to mislead the Court and as to whether the Court would be misled by the Statement;</p> <p>(ii) failing until October 2018 to correct the record of the Court in circumstances where by letter to the practitioner dated December 2014 the spouse's solicitor had drawn to the practitioner's attention the false and/or misleading nature of the Statement and invited the practitioner to correct the Court record.</p>	
7/2020 Filed 24/01/2020	<p>a) Professional misconduct, in circumstances where a condition on his local practising certificate required him to provide to the Legal Practice Board written confirmation of the lodgement of his Business Activity Statement (BAS) with the Australian Taxation Office within 7 days of the due date of lodgement (Condition), by failing to provide written confirmation of the lodgement of his BAS for:</p> <p>(i) the July 2018 to September 2018 quarter (September 2018 BAS) by 5 November 2018;</p> <p>(ii) the October 2018 to December 2018 quarter (December 2018 BAS) by 7 March 2019;</p> <p>(iii) the January 2019 to March 2019 quarter (March 2019 BAS) by 6 May 2019; and</p> <p>(iv) the April 2019 to June 2019 quarter (June 2019 BAS) by 5 August 2019,</p> <p>and thereby failing to comply with the Condition in breach of section 53 of the LP Act.</p> <p>b) Professional misconduct by, without reasonable excuse, failing to respond to correspondence requesting information, responses and/or submissions from the Board dated 15 November 2018, 14 January 2019, 5 February 2019, 25 February 2019, 19 March 2019 and 29 July 2019, and from the Legal Profession Complaints Committee dated 18 April 2019, 16 May 2019, 9 July 2019 and 7 August 2019, all in breach of rule 50(3) of the <i>Legal Profession Conduct Rules 2010</i> and failing to respond to a Summons to Provide Written Information from the Committee dated 23 August 2019 issued to the</p>	Agreed orders as to finding only filed, awaiting determination

Application No.	Allegation	Status
	practitioner by the Committee pursuant to section 520(1)(c) of the LP Act, in breach of sections 520(5) and 532(3) of the LP Act.	
13/2020 Filed 10/02/2020	<p>a) Professional misconduct by preparing and causing to be sent to the defendant's solicitors (firm) a letter dated 15 May 2018 which:</p> <p>(i) made a false and misleading representation that at a hearing in proceedings at which there was no attendance on behalf of the defendant by the firm, the Magistrate made preliminary indemnity costs orders that either the defendant or the solicitor employed by the firm with conduct of the matter (Ms A) was to pay the claimant's costs; and on the basis of the Representation, sought payment from Ms A of \$5,000 towards the claimant's costs, when no orders, preliminary or otherwise, as to costs were made by the Magistrate;</p> <p>(ii) the practitioner knew that the Representation was misleading and deceptive and the practitioner intended Ms A and/or the firm to rely on and be misled and/or deceived by the Representation and therefore induced to pay the costs sought by him; alternatively, was recklessly indifferent as to whether the Representation was misleading and deceptive and as to whether Ms A and/or the firm would be misled and/or deceived by the Representation and thereby induced to pay the costs sought by him,</p> <p>and when on 16 May 2018 the practitioner provided to the firm a copy of the orders made by the Magistrate, he failed to take any steps to correct, or provide an explanation for, making the misleading and deceptive representation;</p> <p>b) Professional misconduct by commencing and maintaining an application for indemnity costs against Ms A in the proceedings on behalf of his client pursuant to section 25 of the <i>Magistrates Court Civil Proceedings Act 2004</i></p>	

Application No.	Allegation	Status
	(WA) without any reasonable basis to do so and in breach of rules 6(2)(b) and/or 6(2)(c) of the <i>Legal Profession Conduct Rules 2010</i> .	
14/2020 Filed 10/02/2020 Leave to amend in terms of substituted Annexure A given 16/02/2020	<p>a) Professional misconduct in that, and in circumstances where:</p> <ul style="list-style-type: none"> (i) on 29 October 2016 the practitioner engaged counsel (Mr A) to act for the client in the Supreme Court of WA proceedings; (ii) on 31 October 2016 Mr A provided the practitioner with an offer to enter a costs agreement (costs agreement), the terms of which provided, relevantly: <ul style="list-style-type: none"> A. <i>"Your firm will be liable for payment of all bills even if your firm has not received funds from its client to pay the bill"</i> (clause 9); B. <i>"Payment of each bill is due within 30 days"</i> (clause 10); C. <i>"This offer may be accepted in writing or by conduct namely by continuing to instruct me after the receipt of this letter"</i> (clause 12); (iii) thereafter, and on the practitioner's instructions, Mr A prepared for and attended hearings in the proceedings on 3 and 9 November 2016; (iv) on 21 November 2016 Mr A provided the practitioner with an invoice for his fees in the sum of \$23,100 inclusive of GST (Fees), <p>the practitioner failed to pay any or all of the Fees, which conduct was in breach of clauses 9 and 10 of the costs agreement and the practitioner's professional obligations pursuant to rule 26 of the <i>Legal Profession Conduct Rules 2010</i>.</p> <p>b) Professional misconduct in that he:</p> <ul style="list-style-type: none"> (i) made and maintained a complaint to the Western Australian Bar Association (WABA) against Mr A (WABA complaint), without any reasonable basis and solely in response to a complaint made by Mr A to the Committee 	Directions hearing 21/07/2020

Application No.	Allegation	Status
	<p>against the practitioner (as particularised in (1) below) (LPCC complaint) and proceedings commenced in the Magistrates Court by Mr A against the practitioner for payment of the Fees (as particularised in (3) below) (MC proceedings);</p> <p>(ii) by email to Mr B, who had been engaged as junior counsel for the client in the proceedings, on 20 April 2017, offered to withdraw the WABA complaint if Mr A agreed to withdraw the LPCC complaint and the MC proceedings,</p> <p>in circumstances where:</p> <ol style="list-style-type: none"> 1. by email to Mr A on 10 February 2017, and in response to an email from Mr A the same day, the practitioner stated that if Mr A made a complaint to the LPCC regarding the practitioner's non-payment of the Fees, the practitioner <i>"will be left with no alternative other than to lodge a formal complaint with WABA"</i> about both Mr A and Mr B; 2. on 8 March 2017 Mr A made the LPCC complaint regarding the practitioner's non-payment of the Fees and his email of 10 February 2017; 3. on or about 17 March 2017 Mr A caused to be filed in the Perth Registry of the Magistrates Court a Form 3 general procedure claim against the practitioner for payment of the Fees, thereby commencing the MC proceedings; 4. on 7 April 2017 the practitioner made the WABA complaint, which related to Mr A's expertise and conduct of the proceedings; 5. by letter dated 9 May 2017, the President of WABA informed the practitioner that the President considered that the conduct the subject of the WABA complaint was not within the range of matters about which a complaint could be made to the WABA Disciplinary Committee and, accordingly, no further action would be taken in relation to 	

Application No.	Allegation	Status
	<p>the WABA complaint;</p> <p>6. on or about 17 July 2017, and while the MC proceedings were still on foot, the practitioner sought to engage Mr A to act for the client in a new matter (as particularised in (d) below).</p> <p>c) Professional misconduct in that he prepared and filed, alternatively caused to be prepared and filed, in the MC proceedings a Form 21 statement of defence which relevantly stated that:</p> <p>(i) it was an express term of the retainer between the practitioner and Mr A that any bills rendered by Mr A would be payable by the practitioner upon the exercise by the practitioner of his rights under a caveat registered against the title to a property owned by the client (alleged term; Caveat);</p> <p>(ii) the alleged term was orally agreed to by Mr A in the course of a telephone discussion with the practitioner on 29 October 2016 (discussion);</p> <p>(iii) the alleged term was not, but ought to have been, included in the costs agreement;</p> <p>(iv) Mr A was not entitled to payment of the Fees because as at the commencement of the MC proceedings the practitioner had not exercised his rights under the Caveat,</p> <p>which statements were false and misleading in material respects, as, in truth, at no time during the discussion, or subsequent to the discussion and prior to the completion of the retainer by Mr A, did the practitioner raise the alleged term with Mr A; or Mr A agree to the alleged term, and the practitioner knew the statements were false and misleading in material respects and intended that the Magistrates Court rely on and be misled by the statements, alternatively the practitioner was recklessly indifferent as to whether the statements were false and misleading in material respects and as to whether the Magistrates Court would be misled</p>	

Application No.	Allegation	Status
	<p>by the statements.</p> <p>d) Professional misconduct in that, and in circumstances where he had made and maintained the WABA complaint, the MC proceedings were still on foot, and in the Form 21 he alleged that, relevantly, Mr A had made misleading and deceptive representations as to his experience, he sought to engage Mr A to act for the client in a new matter;</p> <p>e) Professional misconduct in that:</p> <p>(i) in the course of a pre-trial conference (PTC) in the MC proceedings before a Registrar, and in circumstances where terms of settlement of the MC proceedings had been agreed by the parties, the practitioner stated that he would not sign a Form 49 memorandum of consent orders unless it included an additional term of settlement that Mr A would withdraw the LPCC complaint;</p> <p>(ii) following the PTC, by email to Mr A's solicitor in the MC proceedings (which email attached the Form 49 signed by the practitioner), the practitioner requested that Mr A withdraw the LPCC complaint.</p>	
<p>24/2020 Filed 12/03/2020</p>	<p>a) Professional misconduct in that the practitioner commenced and then failed to comply with orders made in, and thereby failed to prosecute, Magistrates Court proceedings seeking a misconduct restraining order in the practitioner's favour pursuant to section 38 of the <i>Restraining Orders Act 1997</i> (WA) against Ms A;</p> <p>b) Professional misconduct by making allegations to the WA Police that Ms A had assaulted the practitioner at the school at which both their children attended, which allegations were untrue; alternatively, the practitioner had no, or no reasonable, basis for making the allegations to the WA Police, and further or alternatively, was in breach of rule 6(2)(c) of the <i>Legal Profession Conduct Rules 2010</i> in that the conduct in making the allegations to the WA</p>	<p>Mediation 31/07/2020</p>

Application No.	Allegation	Status
	Police had the potential to bring the profession into disrepute.	
58/2020 Filed 30/06/2020	<p>a) Professional misconduct by soliciting from Mr A, the proprietor of an engineering business engaged by Company B in respect of a development (and in respect of which engagement the practitioner acted on behalf of Company B), a secret commission in the sum of \$12,500 in cash (Commission) for his own benefit, alternatively, for the benefit of a company controlled by him and/or his father and causing the Commission to be received through an employee of his legal practice, Ms C, which conduct was to the practitioner's knowledge, engaged in without the knowledge or authority of Company B, was dishonest, in breach of the practitioner's fiduciary duties to Company B and/or understood by the practitioner to be in connection with Mr A's engagement by Company B in respect of the development and/or future work which Mr A may receive.</p> <p>b) Professional misconduct in that by his correspondence to the Legal Profession Complaints Committee the practitioner made statements in respect to the solicitation of the Commission which were false or misleading, or both, and well knew the statements were false or misleading, or both, and/or had the potential to mislead the Committee and the practitioner intended that the Committee rely on and be misled by the statements and that the Committee thereby be obstructed in its investigation into his conduct; and further, the practitioner failed to correct the statements until the Committee provided to him evidence of the solicitation by him of the Commission; and/or was not open and candid in his dealings with the Committee and failed until later in the investigation to provide a full and accurate account of his conduct contrary to rule 50(2) and (3) of the <i>Legal Profession Conduct Rules 2010</i>.</p>	Directions hearing 28/07/2020

<i>Application No.</i>	<i>Allegation</i>	<i>Status</i>
59/2020 Filed 30/06/2020	<p>a) Professional misconduct by:</p> <p>(i) in a written complaint addressed to a Member of the Legal Profession Complaints Committee dated 8 August 2018, making an allegation that an officer of the Committee (LPCC Officer) had acted dishonestly; and</p> <p>(ii) in letter addressed to a Senior Legal Officer of the Committee dated 12 September 2018, again making an allegation that the LPCC Officer had acted dishonestly,</p> <p>in circumstances in which the practitioner had no, alternatively no reasonable, grounds to make any such allegation.</p>	Directions hearing 28/07/2020
60/2020 Filed 30/06/2020	<p><u>ANNEXURE A</u></p> <p>a) Professional misconduct in respect to the Firm acting in relation to a deceased's will and Estate by failing to:</p> <p>(i) ensure that a legal practitioner employed by the Firm as a restricted practitioner under his supervision was supervised adequately, or at all, in respect to the taking of instructions for the will and after the death of the deceased, failing to provide any or any adequate legal advice to the Estate in relation to the proper process for applications for letters of administration under the <i>Administration Act 1903</i> (WA), and preparing and causing to be filed applications in the Probate Registry which failed to comply with the requirements of both the Administration Act and the <i>Non-Contentious Probate Rules 1967</i> (NCPR) and which was refused by order of the Probate Registry and dismissed and/or required a supplementary affidavit and revised statement of assets and liabilities to be filed, and where the practitioner failed to have in place a competent standard practice at the Firm when taking instructions for wills to make enquiries as to the existence of any previous wills; and/or</p> <p>(ii) take any, or any adequate, steps to implement and/or maintain appropriate</p>	Directions hearing 28/07/2020

Application No.	Allegation	Status
	<p>management systems to ensure the provision of legal services by the Firm was in accordance with the professional obligations of Australian legal practitioners pursuant to section 105(3) of the LP Act.</p> <p>b) Professional misconduct by preparing and sending a letter dated 19 February 2018 to the administrator of the Estate which letter made misleading and/or deceptive representations as to the Firm's delays in obtaining letters of administration and the practitioner well knew the representations were misleading and/or deceptive and/or had the potential to mislead and/or deceive the Administrator as to the true reasons for delay and the practitioner intended that the Administrator rely on the representations and be misled and/or deceived as to the reasons for delay; alternatively, the practitioner acted with reckless disregard or indifference as to whether or not the representations were misleading and/or deceptive and/or had the potential to mislead and/or deceive the Administrator as the reasons for the delay and as to whether the Administrator would rely on and be misled and/or deceived by the Representations as to the reasons for delay.</p> <p>c) Professional misconduct in that by his correspondence to the Committee dated 17 February 2018 and 1 July 2018 the practitioner was not open and candid in his dealings with the Committee and failed to provide a full and accurate account of his conduct in relation to matters covered by requests by the Committee to provide comments or information in relation to the practitioner's conduct or professional behaviour contrary to rule 50 of the <i>Legal Profession Conduct Rules 2010</i> in that the practitioner made false and/or misleading statements to the Committee and well knew the statements were false and/or misleading and/or that they had the potential to mislead the Committee and the practitioner intended the Committee to rely on the Statements and be misled; alternatively, the practitioner acted with</p>	

Application No.	Allegation	Status
	<p>reckless disregard or indifference, further alternatively, was grossly careless, as to whether or not the statements were false and/or misleading and/or had the potential to mislead the Committee and as to whether the Committee would rely on and be misled by the statements.</p> <p><u>ANNEXURE B</u></p> <p>a) Professional misconduct in that having been engaged by A, alternatively, A and B, with respect to the distribution of the matrimonial assets of A and B following their separation and impending divorce after 30 years of marriage, the practitioner advised the parties that their agreed distribution of the matrimonial assets was not just and equitable and would not be approved by the Family Court of Western Australia and:</p> <p>(i) prepared, caused to be executed by A and B (parties) and filed in the Family Court a Form 11 Application for Consent Orders (Application) and Minute of Consent Orders (Minute) dated 8 August 2016, which relevantly included false and/or misleading terms as to the distribution of B's interest in his superannuation plan (superannuation split), as the practitioner well knew, and which terms were included by the practitioner with the intention that the Family Court rely on its terms and thereby be misled that the distribution of the matrimonial assets between the parties was just and equitable and make orders in terms of the Minute under section 79 FLA, when in fact the parties did not intend to enforce the terms of the superannuation split;</p> <p>(ii) further or alternatively, failed to advise A adequately, or at all, as to her rights under the FLA to a fairer division of the matrimonial assets and/or to seek independent legal advice in this respect;</p> <p>(iii) further or alternatively, in his letters to:</p> <p>A. the Family Court dated 8 August 2016</p>	

Application No.	Allegation	Status
	<p>(8 August FC letter), 24 August 2016 (24 August FC letter) and 9 September 2016;</p> <p>B. the Fund Administrator (Trustee) dated 24 August 2016; and/or</p> <p>C. the solicitors for the Trustee dated 9 September 2016,</p> <p>the practitioner represented to the Family Court, the Trustee and/or the solicitors for the Trustee respectively that the parties intended to enforce the superannuation split in the distribution of the matrimonial assets (enforcement representations) in circumstances where the enforcement representations were false and/or misleading as the parties did not intend to enforce the superannuation split, which the practitioner well knew (given his intention in (a)(i) above) and he intended the Family Court, the Trustee and/or the solicitors for the Trustee to rely on the enforcement representations and be misled as the parties' intentions in respect to the enforcement of the superannuation split.</p> <p>b) Professional misconduct by:</p> <p>(i) preparing and causing to be sent the 8 August FC letter in which the practitioner made the misleading and/or deceptive representation to the Family Court that his role was limited to only assisting the parties to file the Application and the Minute, in circumstances where in fact he well knew he had devised and the terms of the Application and the Minute to ensure that the Family Court was misled and/or deceived by the enforcement representations, and not simply assisted the parties to file them, and intended that the Family Court rely on the assistance representation and be misled as the true nature and extent of his involvement in devising the terms of the Application and the Minute;</p> <p>(ii) by preparing and causing to be sent the 24</p>	

Application No.	Allegation	Status
	<p>August FC letter in which he made a false and/or misleading representation to the Family Court that the Trustee had previously been asked by the practitioner to approve the terms of the Application and the Minute but had not provided a reply to the practitioner and the practitioner had sent a follow up letter (Trustee representation), where the practitioner well knew he had not previously asked the Trustee to approve the terms of the Application and the Minute and wrote to the Trustee for the first time in this respect by letter dated 24 August 2016, which was posted 25 August 2016; and intended the Family Court to rely on and be misled by the Trustee representation; alternatively, the practitioner was recklessly indifferent as to whether the Trustee representation was false and/or misleading and as to whether the Family Court would be misled.</p> <p>c) Professional misconduct in that he provided legal services to the parties A and B with respect to the same matter, namely approval by the Family Court of the Application and the Minute in the terms required under section 79 FLA, in circumstances in which the interests of the parties were adverse and the practitioner had advised the parties that the agreed distribution of the matrimonial assets was not just and equitable to A, such that there was a conflict or potential conflict between the duties of the practitioner to act in the best interests of each of the parties as to their rights and entitlements under the FLA and he was in breach of rules 7(d) and 14(2) of the <i>Legal Profession Conduct Rules 2010</i>.</p> <p>d) Professional misconduct in that he, without reasonable excuse:</p> <p>(i) failed to respond to letters sent to him by the Committee on 9 July 2019, 23 August 2019 and 5 November 2019 requesting submissions and responses, including as to his failure to respond, in breach of rule 50(3)</p>	

<i>Application No.</i>	<i>Allegation</i>	<i>Status</i>
	<p>of the Conduct Rules and/or section 531(2) LP Act;</p> <p>(ii) failed to comply with a summons issued to the practitioner by the Committee pursuant to:</p> <p>A. sections 520(1)(a) and (d) LP Act dated 9 July 2019 to produce documents; and</p> <p>B. sections 520(1)(a), (c) and (d) and 520(3) of the LP Act dated 5 November 2019 to produce a document and provide written information verified by statutory declaration,</p> <p>in breach of sections 520(5) and 532(3) LP Act.</p>	

6.2 Review Applications

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

There were two Review Applications filed during the year and four

applications pending from the previous period, four of which were dismissed by SAT. Two Review Applications remain pending.

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

<i>Review Applications</i>	<i>Total</i>
Pending as at 1 July 2018	4
Lodged during year	2
Withdrawn	0
Dismissed	4
Pending as at 30 June 2019	2

An aggrieved person may review either a decision of the Committee or a decision made by the Law Complaints Officer using the delegated powers of the Committee. A comparison of the decisions that have been the subject of review proceedings since 2015-16 is

produced below, and shows no real trend or indication as to the type of decision likely to attract review (noting that in the 2018-19 period the Law Complaints Officer did not make any dismissals using the delegated powers of the Committee).

<i>Types of Decisions Reviewed</i>	<i>Total 15 – 16</i>	<i>Total 16 – 17</i>	<i>Total 17 – 18</i>	<i>Total 18 – 19</i>	<i>Total 19 – 20</i>
Delegated Dismissal	1	1	0	0	0
Committee Decision	0	1	4	3	2
Total	1	2	4	3	2

Summary of SAT review applications pursuant to s 435 LPA determined 1.7.19 – 30.6.20

Application No. & Date determined	Applicant	Outcome
18/2019 8/11/2019	Lund, Eric Louis	Application for review dismissed
<i>Lund and Legal Profession Complaints Committee</i> [2019] WASAT 108 (8 November 2019)		
<ul style="list-style-type: none"> Final decision in review proceeding pursuant to s 435(1)(a) of LP Act of Committee's decision to dismiss complaints pursuant to s 425(a) relating to practitioner's conduct in Magistrates Court criminal proceedings against the complainant. Tribunal was satisfied the Committee's decision to dismiss was the correct and preferable decision and dismissed the application. 		
106/2018 20/12/2019	First Complainant	Application for review dismissed
<i>First Complainant and Legal Profession Complaints Committee</i> [2019] WASAT 136 (20 December 2019)		
<ul style="list-style-type: none"> Final decision in review proceeding pursuant to s 435(1)(b) of LP Act of Committee's decision to exercise summary conclusion pursuant to s 426 (private reprimand; compensation orders) relating to practitioner's conduct in Tribunal guardianship and administration proceedings commenced by practitioner in her personal capacity seeking orders in respect to the second complainant. Application dismissed and non-publication order made in relation to names of complainants, practitioner, and any other family members referred to in evidence before the Tribunal (which non-publication order was made at the outset to ensure the private reprimand was not rendered otiose by the naming of the practitioner in the proceedings). 		
147/2018 20/12/2019	Second Complainant	Application for review dismissed
<i>First Complainant and Legal Profession Complaints Committee</i> [2019] WASAT 136 (20 December 2019)		
<ul style="list-style-type: none"> Final decision in review proceeding pursuant to s 435(1)(b) of LP Act of Committee's decision to exercise summary conclusion pursuant to s 426 (private reprimand; compensation orders) relating to practitioner's conduct in Tribunal guardianship and administration proceedings commenced by practitioner in her personal capacity seeking orders in respect to the second complainant. Application dismissed and non-publication order made in relation to names of complainants, practitioner, and any other family members referred to in evidence before the Tribunal (which non-publication order was made at the outset to ensure the private reprimand was not rendered otiose by the naming of the practitioner in the proceedings). 		
247/2018 20/12/2019	First Complainant and Second Complainant	Application for review dismissed
<i>First Complainant and Legal Profession Complaints Committee</i> [2019] WASAT 136 (20 December 2019)		
<ul style="list-style-type: none"> Final decision in review proceeding pursuant to s 435(1)(a) of LP Act of Committee's decision to dismiss complaint relating to practitioner's alleged failure to comply with compensation 		

<i>Application No. & Date determined</i>	<i>Applicant</i>	<i>Outcome</i>
		orders made pursuant to s 426.
		<ul style="list-style-type: none"> Application dismissed and non-publication order made in relation to names of complainants, practitioner, and any other family members referred to in evidence before the Tribunal (which non-publication order was made at the outset to ensure the private reprimand was not rendered otiose by the naming of the practitioner in the proceedings).

6.3 Reports to the Full Bench of the Supreme Court

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

The Full Bench of the Supreme Court can make any order available to SAT and/or remove a practitioner's name from the roll of practitioners.

During the year, Ronald William Bower was struck from the roll on 31 July 2019, Nicholas Neil Peter Oud was struck from the roll on 31 July 2019, Lloyd Patrick Rayney was struck from the roll on 21 April 2020, and Helen Marie Tolson was struck from the roll on 12 May 2020.

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

6.4 Appeals

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

- an appeal to the Court of Appeal of the Supreme Court (CACV 46 of 2018) by Lloyd Patrick Rayney from a final SAT decision and SAT penalty decision was dismissed: [2019] WASCA 104 [CACV 23 of 2018 and 48 of 2018 were consolidated].
- an appeal to the Court of Appeal of the Supreme Court (CACV 84 of 2018) by Arthur Metaxas from a final SAT decision and SAT penalty decision was dismissed: [2020] WASCA 27.
- an appeal to the Court of Appeal of the Supreme Court (CACV 42 of 2019) by Michael Joseph Lourey from a Supreme Court decision dismissing the practitioner's interim application in contempt proceedings brought by the Committee was dismissed by consent.
- an appeal to the Court of Appeal of the Supreme Court (CACV 49 of 2019) by Richard Bruce Whitwell from a mediated final SAT decision and SAT penalty decision was discontinued.

Appeals lodged prior to the year, but which have not been determined as at 30 June 2020 were:

- an appeal to the Court of Appeal of the Supreme Court by Christina Marie Chang from a SAT interim decision dismissing the practitioner's interim application to set aside a SAT decision based on consent orders (CACV 109 of 2018).

The following appeals were lodged during the year, but as at 30 June 2020 had not been determined:

- an appeal to the Court of Appeal of the Supreme Court by the Legal Profession Complaints Committee from a final SAT decision (CACV 78 of 2019).
- an appeal to the Court of Appeal of the Supreme Court by Carol Penn from a mediated final SAT decision and SAT penalty decision (CACV 151 of 2019).
- an appeal to the Court of Appeal of the Supreme Court by Nicole Anne Young from a SAT penalty decision (CACV 40 of 2020).
- an appeal to the Court of Appeal of the Supreme Court by Christina Marie Chang from a SAT penalty decision (CACV 61 of 2020).

- an appeal to the Court of Appeal of the Supreme Court by Kevin Colin Benedict Staffa from a final SAT decision (CACV 72 of 2020).

6.5 Other

An application for judicial review and writ of certiorari lodged prior to the year against a former Law Complaints Officer in respect of a decision to issue a summons to produce documents pursuant to section 520(1)(a) of the LP Act in an extant investigation had not been determined as at 30 June 2020.

An originating motion for contempt lodged prior to the year pursuant to section 520(8) of the LP Act in respect of a practitioner's failure to comply without lawful excuse with a summons to produce documents issued pursuant to section 520(1)(a) of the LP Act in an extant investigation had not been determined as at 30 June 2020.

6.6 Special Leave Applications

During the year there were no applications for special leave to appeal to the High Court filed and determined.

7. Promoting Professional Standards

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

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

Work has continued in providing guidance in individual cases when dealing with practitioners even where no formal concern is expressed. This can be where suggestions are offered about improving communications with clients, or about improving the written costs disclosure that is provided to a client

either when they are retained or when the likely amount of legal costs exceeds an initial estimate. Practitioners will also contact us directly for guidance which is welcomed.

Staff also engage with practitioners in this way through trust investigations and incorporated legal practice audits when these are conducted.

The Committee continues to work collaboratively with the Law Society, the Universities and the profession to provide CPD seminars and presentations on issues including ethical behaviour and trends in complaint handling.

Legal staff of the Committee also contributed through their membership of the Law Society's Costs and Mental Health and Wellbeing Committees.



8. Tables

TABLE 1 RAPID RESOLUTION INQUIRIES 2018 - 2020

TYPE OF INQUIRER 2018 - 2020

	<i>Total % 2017 – 2018</i>	<i>Total % 2018 – 2019</i>	<i>Total % 2019 – 2020</i>
Client/Formal Client	48.1	52.4	52.7
Friend/Relative of Client	6.2	4.4	4.5
Opposing party	21.9	22.5	24.8
Beneficiary/Executor/Administrator	5.7	4.6	3.0
Practitioner on own behalf	4.1	2.7	4.2
Practitioner on another's behalf	2.2	1.6	0.7
Other	11.8	11.9	10.2

INQUIRIES BY AREAS OF LAW 2018 - 2020

	<i>Total % 2017 – 2018</i>	<i>Total % 2018 – 2019</i>	<i>Total % 2019 – 2020</i>
Family/Defacto Law	31.4	37.5	34.5
Civil Litigation	13.4	13.2	15.4
Conveyancing	3.2	1.9	2.0
Leases / Mortgages / Franchises	3.2	1.5	2.4
Probate/Wills/ Family Provisions	13.1	10.7	11.3
Commercial/Corporations Law	4.0	5.5	7.1
Criminal	7.8	6.2	8.4
Personal Injuries	3.0	3.7	2.8
Workers Compensation	4.4	3.3	5.6
Victims Compensation	0.8	1.6	1.6
Employment / Industrial Law	2.9	3.4	4.3
Other	12.7	11.5	4.8

TABLE 1 RAPID RESOLUTION INQUIRIES 2018 - 2020

INQUIRIES BY AREAS OF INQUIRY 2018 - 2020

	<i>Total %</i> <i>2017 – 2018</i>	<i>Total %</i> <i>2018 – 2019</i>	<i>Total %</i> <i>2018 – 2019</i>
Cost/Payment Issues			
Failure to Pay Third Party	0.5	0.4	0.5
Overcharging	13.8	7.6	2.5
No Costs Disclosure	2.9	1.8	1.4
Transfer Costs Without Authority	0.4	0.3	0.0
Failure / Delay to Provide a Detailed Account	1.4	1.1	0.5
Other Costs Complaint	9.8	14.3	19.4
Subtotal	28.7	25.5	24.2
Communication/Service			
Act Without / Contrary to Instructions	1.8	2.1	3.1
No Communication	9.7	9.6	9.3
Failure to Carry Out Instructions	4.6	3.8	2.2
Delay	7.6	5.5	3.4
Lack of Supervision	0.5	0.3	0.1
No Client Advice	0.6	1.7	0.9
No Advice on Progress	1.3	1.4	0.4
Discourtesy	5.2	2.5	3.8
Neglect	2.6	1.6	0.7
Subtotal	34.1	28.6	23.9
Personal Conduct			
Unethical Conduct	9.1	14.6	2.2
Negligence	4.5	3.9	0.9
Misleading	1.8	2.6	2.0
Conflict of interest	3.1	3.4	3.8
Failure to Transfer Documents	0.7	0.4	0.2
Communicating with a Client of Another Solicitor	0.3	0.1	0.2
Threatening Behaviour	2.6	1.6	6.0
False Swearing of Documents	0.2	0.1	0.3
Breach Confidentiality	0.9	0.8	1.4
Undue Pressure	0.2	0.6	1.0
Alteration of Documents	0.2	0.1	0.1
Liens	0.9	1.1	1.4
Subtotal	24.4	29.0	19.6
Other	12.8	16.8	32.2

TABLE 1 RAPID RESOLUTION INQUIRIES 2018 - 2020

RESOLUTION OF INQUIRY 2018 - 2020

	<i>Total % 2017 – 2018</i>	<i>Total % 2018 - 2019</i>	<i>Total % 2019 – 2020</i>
Conciliated Outcome			
Fee waiver	1.1	1.2	1.3
Apology	1.7	0.6	1.1
Undertaking	0.2	0.1	0.2
Discounted fees	5.9	4.4	3.1
Release of lien	0.4	0.4	0
Withdrawn	1.3	2.7	2.2
Improved communication	4.3	2.7	2.0
Improved legal practice, training, supervision, mentoring or management systems	1.5	0.7	0.6
Other	0	0	0
Subtotal	16.4	12.9	10.4
No Further Action			
Accepted Committee / practitioner's response	22.3	14.8	14.4
Brochures provided	5.3	2.9	3.0
Suggested direct approach to practitioner	5.3	1.8	1.4
No further information provided	24.1	32.1	28.0
Advised to get legal advice	5.7	6.3	6.4
Misconceived	4.4	4.4	5.1
Other	8.5	13.7	24.6
Subtotal	75.6	76.0	83.0
Expression of Concern issued	5.6	5.2	0.4
Part/Whole inquiry resolved per above category, but referred for investigation	0.2	0.4	0
Referred for investigation	2.2	5.5	6.1
Referred for formal determination s415 / s425	0.2	0.1	0.1
Subtotal	8.1	11.2	6.6

TABLE 2 NEW COMPLAINTS/CONDUCT INVESTIGATIONS/RAPID RESOLUTION INQUIRIES 2018 - 2020

	<i>Total 2017 – 18</i>	<i>Total 2018 – 19</i>	<i>Total 2019 – 20</i>
Complaints	37	59	71
Conduct Investigations	25	24	11
Rapid Resolution inquiries	1337*	1146**	989***
Total	1399	1229	1071

* Does not include 217 miscellaneous inquiries

** Does not include 118 miscellaneous inquiries

*** Does not include 137 miscellaneous inquiries

TABLE 3 COMPLAINTS OPENED BY TYPE OF COMPLAINANT 2018 - 2020

	<i>Total % 2017 – 18</i>	<i>Total % 2018 – 19</i>	<i>Total % 2019 – 20</i>
Client / former client	19 (30.6)	25 (30.1)	40 (48.8)
Client's friend / relative	4 (6.5)	0	1 (1.2)
Opposing party	7 (11.3)	12 (14.5)	14 (17.1)
Beneficiary / executor / administrator	2 (3.2)	5 (6)	0
Practitioner on own behalf	1(1.6)	8 (9.6)	6 (7.3)
Practitioner on another's behalf	0	3 (3.6)	2 (2.4)
Legal Practice Board	0	0	0
Other	4 (6.5)	5 (6)	9 (11.0)
Court Enquiry	6 (9.7)	1 (1.2)	2 (2.4)
Other Investigation	19 (30.6)	23 (27.7)	8 (9.8)
Total	62	83	82

TABLE 4 COMPLAINTS OPENED BY AREAS OF LAW 2018 - 2020

	<i>Total % 2017 – 18</i>	<i>Total % 2018 – 19</i>	<i>Total % 2019 – 20</i>
Family/Defacto law	17 (23.0)	21 (23.1)	29 (28.2)
Civil Litigation	8 (10.8)	11 (12.1)	11 (10.7)
Conveyancing	3 (4.1)	7 (7.7)	4 (3.9)
Leases/Mortgages/Franchises	3 (4.1)	3 (3.3)	2 (1.9)
Probate/Wills/Family Provisions	11 (14.9)	11 (12.1)	14 (13.6)
Commercial/Corporations Law	4 (5.4)	4 (4.4)	7 (6.8)
Criminal law	10 (13.5)	11 (12.1)	10 (9.7)
Personal injuries	0	3 (3.3)	1 (1.0)
Workers Compensation	2 (2.7)	0	4 (3.9)
Victims Compensation	0	3 (3.3)	0
Employment/Industrial law	0	2 (2.2)	1 (1.0)
Professional negligence	0	0	2 (1.9)
Land and Environment	0	0	0
Immigration	0	0	1 (1.0)
Other	16 (21.6)	15 (16.5)	17 (16.5)

TABLE 5 COMPLAINTS OPENED BY AREAS OF COMPLAINT 2018 - 2020

	<i>Total % 2017 – 18</i>	<i>Total % 2018 – 19</i>	<i>Total % 2019 – 20</i>
Cost/Payment issues			
Failure to pay third party	1 (0.6)	2 (0.9)	0
Overcharging	15 (9.0)	10 (4.3)	8 (3.5)
No costs disclosure	9 (5.4)	8 (3.4)	9 (3.9)
Transfer costs without authority	2 (1.2)	5 (2.1)	2 (0.9)
Failure/delay to provide a detailed account	0	2 (0.9)	1 (0.4)
Other cost complaint	8 (4.8)	10 (4.3)	4 (1.7)
Subtotal	35 (21.1)	37 (15.9)	24 (10.4)
Communication/Service			
Act without/contrary to instructions	8 (4.8)	11 (4.7)	11 (4.8)
No communication	6 (3.6)	7 (3.0)	25 (10.9)
Failure to carry out instructions	7 (4.2)	12 (5.2)	17 (7.4)
Delay	12 (7.2)	18 (7.7)	22 (9.6)
Lack of supervision	2 (1.2)	3 (1.3)	15 (6.5)
No client advice	4 (2.4)	10 (4.3)	12 (5.2)
No advice on progress	1 (0.6)	7 (3.0)	3 (1.3)
Discourtesy	9 (5.4)	13 (5.6)	13 (5.7)
Neglect	2 (1.2)	9 (3.9)	4 (1.7)
Subtotal	51 (30.7)	90 (38.6)	122 (53.0)
Personal Conduct			
Unethical conduct	12 (7.2)	24 (10.3)	19 (8.3)
Negligence	2 (1.2)	0	2 (0.9)
Misleading	11 (6.6)	17 (7.3)	11 (4.8)
Conflict of interest	11 (6.6)	15 (6.4)	3 (1.3)
Failure to transfer documents	0	0	1 (0.4)

	<i>Total % 2017 – 18</i>	<i>Total % 2018 – 19</i>	<i>Total % 2019 – 20</i>
Communicating with a client of another solicitor	0	2 (0.9)	0
Threatening behaviour	3 (1.8)	3 (1.3)	6 (2.6)
False swearing of documents	0	0	2 (0.9)
Breach confidentiality	1 (0.6)	2 (0.9)	3 (1.3)
Failure to assist LPCC	0	1 (0.4)	4 (1.7)
Undue pressure	1 (0.6)	1 (0.4)	3 (1.3)
Alteration of documents	0	1 (0.4)	1 (0.4)
Liens	1 (0.6)	0	1 (0.4)
Subtotal	42 (25.3)	66 (28.3)	56 (24.3)
Non-Compliance			
Not complying with undertaking	2 (1.2)	2 (0.9)	0
Practising without a practice certificate	2 (1.2)	2 (0.9)	0
Not complying with Legal Profession Act/Regulations	3 (1.8)	9 (3.9)	2 (0.9)
Subtotal	7 (4.2)	13 (5.6)	2 (0.9)
Trust Account Matters			
Breach of Sections of Act / Regulations relating to trust monies	8 (4.8)	7 (3.0)	5 (2.2)
Misappropriation	1 (0.6)	1 (0.4)	3 (1.3)
Failure to account	3 (1.8)	2 (0.9)	1 (0.4)
Other – Trust Account Matters	1 (0.6)	2 (0.9)	2 (0.9)
Subtotal	13 (7.8)	12 (5.2)	11 (4.8)
Other	18 (10.8)	15 (6.4)	15 (6.5)

TABLE 6 COMPLAINTS OPENED BY PRACTITIONER TYPE OF EMPLOYMENT 2018 - 2020

	<i>Total % 2017 – 18</i>	<i>Total % 2018 – 19</i>	<i>Total % 2019 – 20</i>
Barrister	2 (3.2)	3 (3.6)	1 (1.2)
Sole Principal	37 (59.7)	40 (48.2)	34 (41.5)
Other Principal	7 (11.3)	15 (18.1)	9 (11.0)
Non Principal	7 (11.3)	9 (10.8)	16 (19.5)
Government Legal Position	0	1 (1.2)	1 (1.2)
Corporate Legal Position	0	1 (1.2)	0
Firm only	0	0	11 (13.4)
Struck off/suspended	0	0	1 (1.2)
Other	9 (14.5)	14 (16.9)	9 (11.0)
Total	62	83	82

TABLE 7 COMPLAINTS OPENED BY PRACTITIONER AREA OF PRACTICE 2018 - 2020

	<i>Total % 2017 – 18</i>	<i>Total % 2018 – 19</i>	<i>Total % 2019 – 20</i>
CBD/West Perth	34 (54.8)	38 (45.8)	49 (59.8)
Suburbs	23 (37.1)	42 (50.6)	29 (35.4)
Country	3 (4.8)	3 (3.6)	2 (2.4)
Interstate	1 (1.6)	0	2 (2.4)
Not known	1 (1.6)	0	0
Total	62	83	82

TABLE 8 COMPLAINTS OPENED BY PRACTITIONER YEARS IN PRACTICE 2018 - 2020

	<i>Total % 2017– 18</i>	<i>Total % 2018 – 19</i>	<i>Total % 2019 – 20</i>
Under 5	4 (6.5)	7 (8.4)	3 (3.7)
5 – 9	5 (8.1)	21 (25.3)	15 (18.3)
10 –14	11 (17.7)	13 (15.7)	15 (18.3)
15 – 19	13 (21.0)	12 (14.5)	8 (9.8)
20 – 24	5 (8.1)	10 (12.0)	13 (15.9)
25 – 29	3 (4.8)	7 (8.4)	5 (6.1)
30 – 34	8 (12.9)	4 (4.8)	3 (3.7)
35 – 39	5 (8.1)	6 (7.2)	3 (3.7)
Over 40	5 (8.1)	2 (2.4)	3 (3.7)
Not known/Not applicable	3 (4.8)	1 (1.2)	14 (17.1)
Total	62	83	82

TABLE 9 COMPLAINTS OPENED BY PRACTITIONER AGE 2018 - 2020

	<i>Total % 2017 – 18</i>	<i>Total % 2018 – 20</i>	<i>Total % 2019 – 20</i>
Under 25	0	2 (2.4)	0
25 – 29	1 (1.6)	3 (3.6)	2 (2.4)
30 – 34	1 (1.6)	11 (13.3)	4 (4.9)
35 – 39	6 (9.7)	6 (7.2)	8 (9.8)
40 – 44	6 (9.7)	6 (7.2)	11 (13.4)
45 – 49	9 (14.5)	8 (9.6)	8 (9.8)
50 – 54	4 (6.5)	13 (15.7)	8 (9.8)
55 – 59	11 (17.7)	13 (15.7)	14 (17.1)
60 – 64	8 (12.9)	11 (13.3)	8 (9.8)
65 – 69	10 (16.1)	6 (7.2)	3 (3.7)
70 – 75	2 (3.2)	2 (2.4)	2 (2.4)
76 – 80	1 (1.6)	1 (1.2)	1 (1.2)
81+	0	0	0
Not known/Not applicable	3 (4.8)	1 (1.2)	13 (15.9)
Total	62	83	82

TABLE 10 NUMBER OF PRACTITIONERS COMPLAINED OF 2018 – 2020

	<i>Total 2017 – 18</i>	<i>Total 2018 – 19</i>	<i>Total 2019 – 20</i>
Practitioners with 1 complaint	51	61	53
Practitioners with 2 complaints	4	5	7
Practitioners with 3 or more complaints	1	3	3
Total number of practitioners	56	69	63

TABLE 11 OUTSTANDING COMPLAINTS 2018 - 2020

	<i>Total 2017 – 18</i>	<i>Total 2018 – 19</i>	<i>Total 2019 – 20</i>
Outstanding complaints	69	77	111
Outstanding conduct investigations	28	29	34
Total	97	106	145

9. Information Statements

9.1 Freedom of Information Act

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

9.2 Public Interest Disclosure

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

No public interest disclosures were received during the relevant period.



Freedom of Information Act 1992 Information Statement

1. INTRODUCTION

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

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

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

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

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

2. STATEMENT OF STRUCTURE AND FUNCTIONS

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

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

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

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

These functions, in particular the Complaints Committee’s decision making functions, do not directly affect members of the public; they affect Australian lawyers and Australian legal practitioners (as defined in sections 4 and 5 of the LPA) on the one hand and those among the classes of persons set out in section 410(1) of the LPA from whom complaints are received on the other hand.

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

Our Process

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

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

Organisational Structure

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

3. PUBLIC PARTICIPATION IN AGENCY FUNCTIONS

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

4. INFORMATION HELD BY THE COMPLAINTS COMMITTEE

Publications

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

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

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

Documents

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

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

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

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

5. PROCEDURES FOR FOI ACCESS

Freedom of Information Officer

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

Submitting an FOI request

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

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

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

A valid FOI application needs to:

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

The FOI Process

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

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

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

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

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

Access Charges

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

In addition, other fees may apply for:

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

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

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

Procedure for Amending Personal Information

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

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

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

6. INTERNAL REVIEW RIGHTS

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

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

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

Applications for internal review can be made to:

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

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

No further fees apply to an application for internal review.

7. EXTERNAL REVIEW RIGHTS

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

Complaints lodged with the OIC must:

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

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

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

Telephone: +61 8 6551 7888
Facsimile: +61 8 6551 7889
Email: info@foi.wa.gov.au
Website: www.oic.wa.gov.au

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

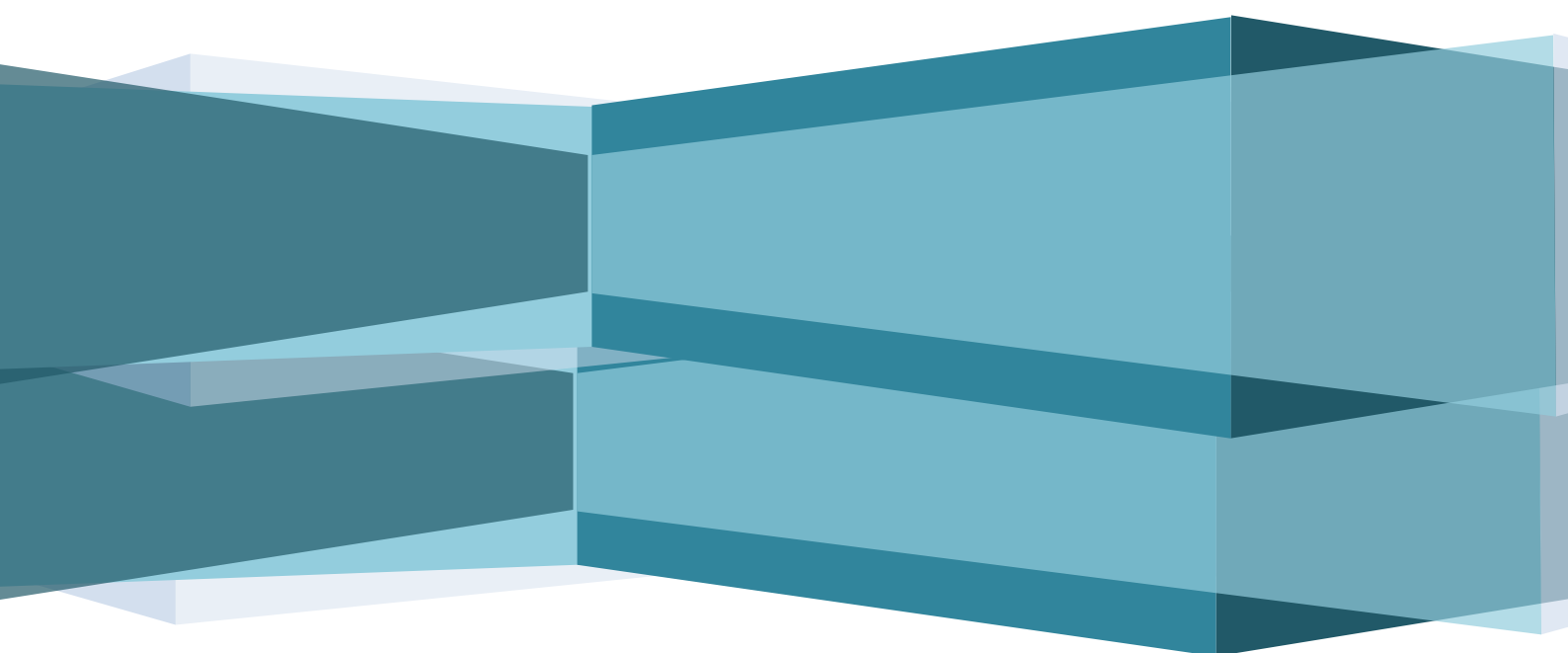
The OIC also provides assistance to members of the public and agencies on matters relevant to the FOI Act.

Further information on the Office of the Information Commissioner as well as access to the FOI Act and Regulations, can be found at www.oic.wa.gov.au.

8. STATEMENT REVIEW

This FOI Information Statement is current as at August 2020 and is reviewed annually.





LPCCWA

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