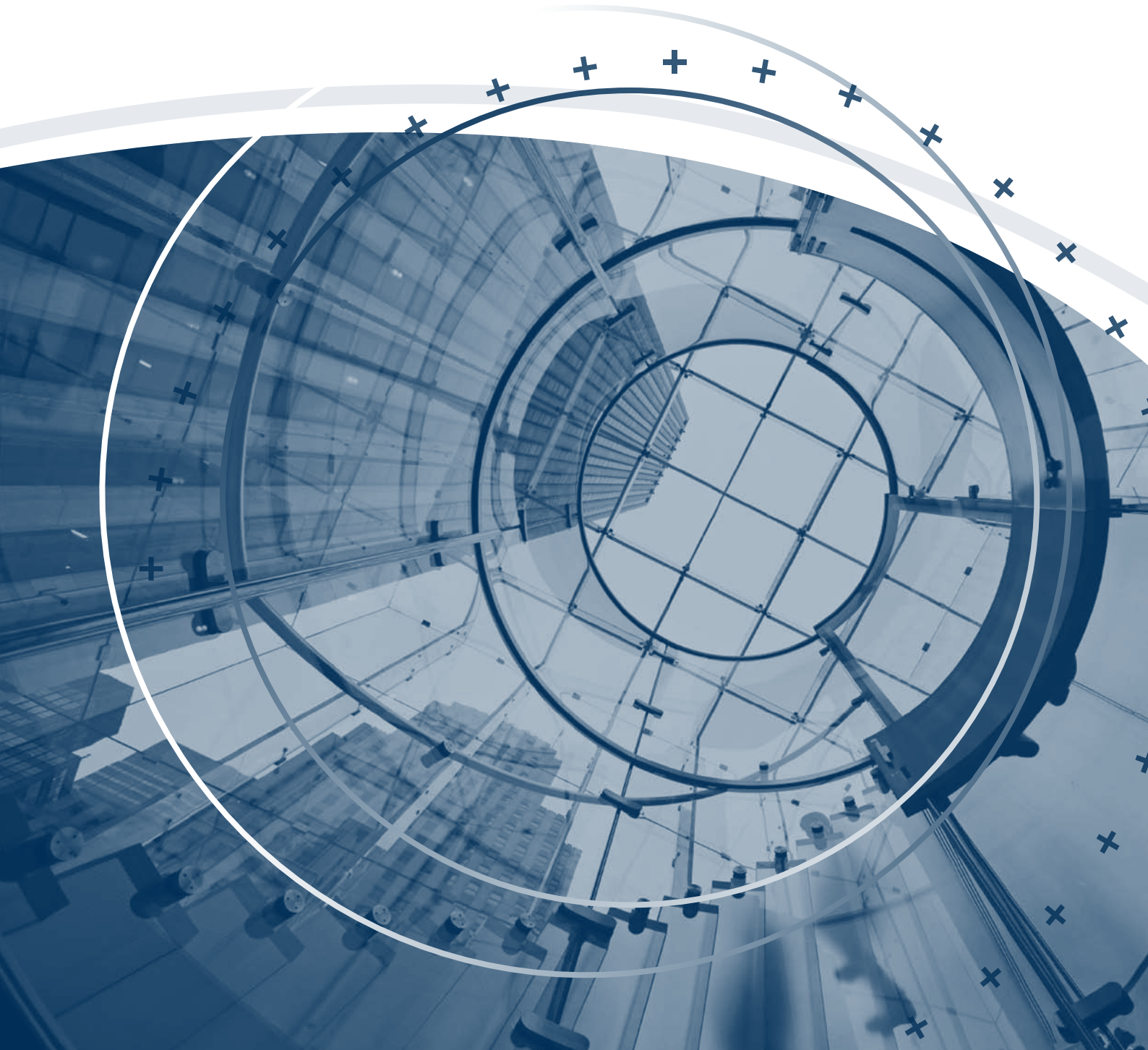




The Office Of The Legal Services Commissioner

2008-09

Annual Report



VISION

We want to lead in the development of an ethical legal services market which is fairer, more accessible and responsive.

MISSION

To improve consumer satisfaction with legal services through:

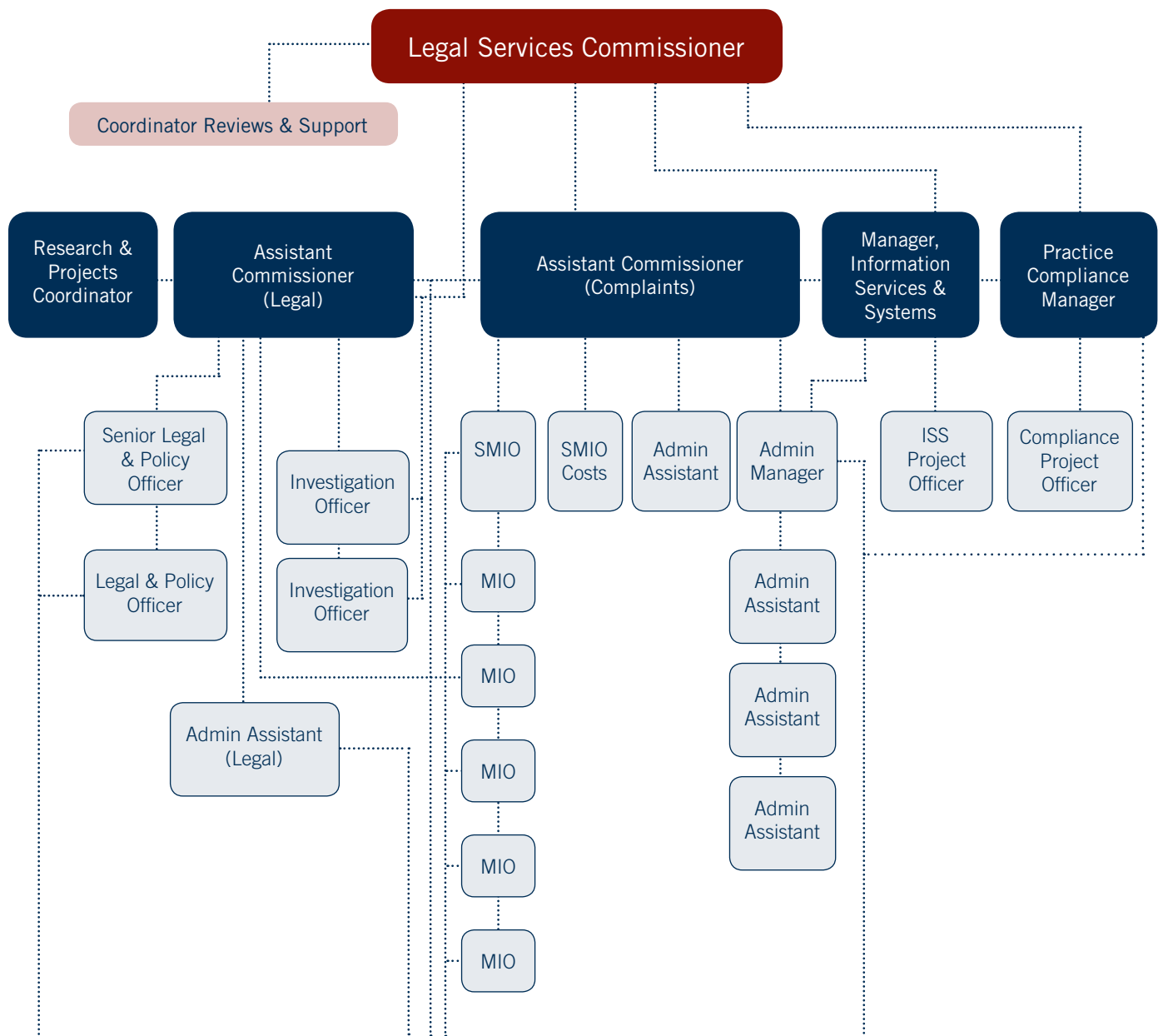
- developing and maintaining effective complaint-handling processes;
- promoting compliance with high professional and ethical standards;
- encouraging an improved consumer focus within the profession to reduce causes for complaint; and
- promoting realistic community expectations of the legal system.

VALUES

- fairness
- accessibility
- reliability
- problem solving
- education
- teamwork
- social justice
- reform
- empathy

OFFICE OF THE LEGAL SERVICES COMMISSIONER

ORGANISATIONAL CHART



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COMMISSIONER'S REPORT

This reporting year has been marked by growing economic instability and financial insecurity with many people feeling the effects of the sub-prime market crash that originated in the United States. The global financial crisis (GFC) as it is now known has exposed the inadequacies of the existing regulatory framework for the world's financial markets and forced us to reconsider the very role and purpose of regulation. The GFC has also exposed a questionable ethical framework and resulted in an unprecedented degree of public scrutiny of the professions. As a result there has been a renewed focus on entrenching ethics in the professions, including the legal profession.

All professions have an obligation to act in an ethical manner. The obligation is derived from the very definition of a "profession", being a disciplined group of individuals who adhere to ethical standards and who hold themselves out as, and are accepted by the public, as possessing special knowledge and skills. As I have said on many occasions, ethics is the glue that holds a profession together. The impact of the GFC has provided a timely reminder to all professions of the need to reassess their work practices and adopt an ethical infrastructure that supports and encourages ethical practice.

As in previous years the OLSC has been actively involved in the promotion of ethics and ethical practice for the legal profession.

ETHICS EDUCATION

The OLSC has spent a considerable amount of time this reporting year talking to legal practitioners and reminding them of their obligation to act ethically. Over the past twelve months my staff and I have on many occasions spoken in various forums to undergraduate, newly admitted and seasoned legal practitioners on the importance of ethics and good ethical practice. It is a topic that simply cannot be exhausted and is applicable to all legal practitioners irrespective of their practice type.

The forums and seminars run by the OLSC provide legal practitioners with the opportunity to discuss and analyse a range of topical issues including the general ethical duties and obligations in practice, how these obligations may have changed with the incorporation of legal practices and how to work within and beyond the letter and spirit of the professional conduct rules. These forums and seminars have been well received by the profession and with the recent introduction of a mandatory ethics component in Continuing Professional Development (CPD) the OLSC is being asked to speak more frequently.

INCORPORATED LEGAL PRACTICES (ILPS) SELF-ASSESSMENT RESEARCH STUDY

The OLSC was involved this year in a research study with Dr Christine Parker of the University of Melbourne to assess whether the ethical framework for ILPs, the self-assessment process, has been effective and whether the process is leading to improved conduct by ILPs as evidenced by the number of complaints made against firms that have become incorporated.

As has been discussed in previous Annual Reports, legislation in 2001 was introduced in NSW permitting

legal practices to incorporate. On incorporation the legislation required that an ILP must implement and maintain “appropriate management systems.” Ten key areas or objectives have been identified as determinative of the appropriateness of management systems. The ten objectives are intended to help ILPs systematise and entrench professional ethical conduct. ILPs use these ten objectives to conduct a self-assessment of their management systems and rate themselves on a form provided by the OLSC.

The study looked at 620 self-assessment forms and tested whether ILPs that have self-assessed their own implementation of management systems do in fact manage themselves better and have better behaviour than before they self-assessed as indicated by lower complaints rates. The results revealed that on average the complaint rate (average number of complaints per practitioner per year) for each ILP *after* self-assessment was well under one third of the complaint rate *before* self-assessment. This is a huge drop in complaints.

COMPLAINTS AGAINST FIRMS

The positive results of the ILP study have prompted the OLSC to consider firstly whether the ethical framework that has been developed for ILPs should also be applicable to law firms generally and secondly, whether complaints should be allowed to be made against law firms, rather than only against individual practitioners as at present.

The purpose of extending our approach in auditing all law firms in the same or similar way as ILPs would be prophylactic in nature. The threat of discipline if a law firm has not complied with the requirement to implement something similar to an “appropriate management system” should encourage firms to create ethical firm cultures and institute prophylactic policies and procedures. Sanctions against law firms would also encourage partners of non-incorporated practices to invest in structural controls to promote firm-wide compliance with the legislation.

NATIONAL LEGAL SERVICES MARKET

The proposal to extend the ILP framework to all law firms is one of many issues currently being considered by the National Legal Profession Reform Taskforce who have been charged with the mission of achieving national regulation of the legal profession in Australia.

The Taskforce, established on the recommendation of the Council of Australian Governments (COAG) has been asked to prepare draft legislation by April 2010 to uniformly regulate the legal profession across Australia. The Taskforce is presently considering all aspects of the existing system of regulation of the legal profession including education, admission and practice with the goal of harmonising a single national regulatory framework. A Consultative Group has been established to advise and assist the Taskforce in its work. The Consultative Group includes members from every State and Territory and represents expertise from regulators, the courts, consumers, the legal profession and legal educators.

COMPLAINTS STATISTICS

We received a total of 2,851 written complaints this reporting year. Of those written complaints, 1,724 were consumer disputes and 1,127 were investigations. Of these complaints the OLSC dealt with 75.3% of all complaints received, the balance was referred to the Law Society or Bar Association.

We received 9122 calls from the public on our Inquiry Line, an increase in number from the 9078 Inquiry Line calls we received last financial year.

Once again I would like to take this opportunity to express my sincere thanks to my staff for all of their hard work. I am extremely honoured to work with such talented and committed staff. Thanks and appreciation must also be expressed to the Law Society and Bar Association as well as the Attorney General's Department and Attorney General's Office for the positive working relationships we have developed in striving to achieve our goals.

PROMOTING COMPLIANCE WITH HIGH PROFESSIONAL AND ETHICAL STANDARDS

CONDUCT ISSUES

Investigations

The reporting year has been an extremely busy year for the legal and policy team at the OLSC. There were 2,851 complaints received in the reporting year and, of these, 634 complaints were dealt with as investigations at the OLSC. That is an increase of 102 investigations from the previous reporting year. This increase of nearly 16.1% is evidence of the great commitment shown by the members of the legal and policy team and their tireless efforts to ensure just and fair outcomes.

A formal investigation occurs where the allegations contained in the complaint raise issues of unsatisfactory professional conduct or professional misconduct. Investigations, particularly complex investigations, can be time consuming depending upon variables such as the number of witnesses, the volume of evidence, the complexity of that evidence and the approach taken by third parties.

A significant number of investigations during the reporting year dealt with complex accounting issues in relation to allegations of overcharging. In some matters forensic accountants and/or costs consultants were required to provide expert reports. Such expert evidence is of course required in circumstances where prosecutions commence as a result of the investigation.

DISCIPLINARY OUTCOMES

The *Legal Profession Act 2004* (LPA 2004) provides for a range of disciplinary outcomes. In the event the Commissioner is satisfied, in accordance with the statutory test, that there is a reasonable likelihood of a finding of professional misconduct, he is required to prosecute the matter in the Legal Services Division of the Administrative Decisions Tribunal.

The *LPA 2004* defines unsatisfactory professional conduct as conduct occurring in connection with the practice of law that falls short of the standard of competence and diligence that a member of the public is entitled to expect of a reasonably competent Australian legal practitioner. It is less egregious conduct than that amounting to professional misconduct.

The *LPA 2004* allows for the Commissioner to deal summarily with matters where the likely finding is one of unsatisfactory professional conduct rather than professional misconduct. In such circumstances the Commissioner may impose:

- A caution;
- A reprimand;
- A compensation order;
- A practising certificate condition.

In the reporting year, 23 practitioners were dealt with summarily based on the likelihood of a finding of unsatisfactory professional conduct. Twelve cautions were issued for conduct including discourtesy, breaching undertakings, delay and gross negligence. Reprimands were issued in relation to allegations of delay, failure to follow instructions, negligence and acting with a conflict of interests. Compensation orders were made in two matters. One compensation order included a waiver of fees and of a lien. The second compensation order, in the sum of \$12,161.75, related to monies paid by way of costs to a practitioner in breach of section 41 of the *Legal Aid Commission Act 1979* (NSW) in circumstances where the client was the subject of a legal aid grant.

In addition to the disciplinary outcomes addressed above, undertakings were provided by practitioners in 38 matters. Such undertakings have been provided to the Commissioner in relation to proper disclosure of costs in accordance with the Act and communicating promptly with clients. A breach of an undertaking provided to this office may amount to professional misconduct and result in disciplinary proceedings.

ADMINISTRATIVE DECISIONS TRIBUNAL

In the reporting year 20 complaints resulted in the commencement of proceedings.

Proceedings commenced in the previous year and determined in the reporting year include the matter of *Legal Services Commissioner v Bechara* [2009] NSWADT 145. The Tribunal found that Ms Bechara was guilty of professional misconduct for deliberate charging of excessive amounts of costs. Ms Bechara acted for three plaintiffs in circumstances where the Court had ordered that the matters be heard together and that evidence in one be evidence in the other yet the practitioner had charged each client for each day spent in Court. The Tribunal has yet to hear submissions on penalty.

The matters of *Legal Services Commissioner v Hagipantelis* and *Legal Services Commissioner v Bryden* are ongoing. The allegations concern breaches of the advertising regulation. The practitioners brought an interlocutory application to have the Commissioner's application dismissed on the basis that clause 24 of the *Legal Profession Regulation 2005* was invalid. At first instance the practitioners' application was unsuccessful. At this point, the practitioners have lodged a notice of intention to appeal against that decision.

A number of matters have been commenced in relation to a breach of section 660 of the *LPA 2004* (failure to comply with a section 660 notice requiring production of information and documents to this office) and each of those matters has been dealt with by consent whereby the practitioner was publicly reprimanded, fined and ordered to pay the Commissioner's costs.

In addition, during the reporting year, four applications have been filed in relation to allegations of gross overcharging. Those matters are yet to be allocated a hearing date.

In the matter of *Legal Services Commissioner v Hurley* [2009] NSWADT 125 the Tribunal found the practitioner guilty of professional misconduct in relation to deceptive and misleading conduct. The Tribunal cancelled Mr Hurley's practising certificate and ordered that he not apply to renew that practising certificate before 1 July 2010. The Tribunal also ordered that he undertake and satisfactorily complete courses relating to the management of stress in practice as a solicitor and in ethical practice as a solicitor.

Reviews

In circumstances where a complainant is dissatisfied following a decision made by either the Law Society Council or the Council of the Bar Association, the complainant may seek a review of that decision by this office. The Commissioner's review function forms part of his general power to monitor investigations carried out by the Law Society and the Bar Association. In the reporting year, the OLSC handled 81 reviews of decisions of the Law Society Council and the Bar Council. Twenty of those reviews remain under consideration as at 1 July 2009.

During the reporting year 61 reviews were completed. The determination of Council was confirmed in 51 of those matters. In two review files the complaint was reinvestigated by the OLSC. In a further two review files the complaint was reinvestigated by Council. In a further three review matters the decision was changed from a dismissal to a disciplinary outcome. In three matters the review application was made out of time and, accordingly, there was no jurisdiction to deal with it, there being no discretion to extend the time during which an application for review must be lodged.

It is again satisfying that in our co-regulatory environment so few investigations required further investigation or a re-determination.

ETHICAL MATTERS AND POLICY DEVELOPMENT

Costs Issues

As advised in last year's report, we are reviewing certain costs issues such as costs disclosure, the basis upon which costs are calculated, the absence of a requirement for disclosure to third party payers, payment of upfront retainer fees and the ongoing difficulties with failing to disclose costs at all and failing to disclose significant increases in costs. As part of this project we also consider it appropriate to revisit the costs assessment process.

This office's position in relation to allegations of gross overcharging must be considered in light of the decision of the Court of Appeal in *Nikolaidis v Legal Services Commissioner* [2007] NSWCA 130 and the decision of the Administrative Decisions Tribunal in *Legal Services Commissioner v Galitsky* [2008] NSWADT 48. The recent

decision of the Tribunal in *Legal Services Commissioner v Bechara* [2009] NSWADT 145 along with decisions from the Administrative Decisions Tribunal in relation to four matters of gross overcharging presently before it will assist in this process.

Client Instructions

In reaction to a number of complaints in which the practitioner depended entirely upon the client's instructions, the OLSC researched those occasions when there may be a professional obligation to look behind or further probe the client's instructions in order to uphold the practitioners' duties to the court, duties to the administration of justice, duties to opponents, duties to third parties, and ultimately the duty to act in the best interests of the client. This issue is to be distinguished from those instances where a practitioner must cease to act without further inquiry because he or she knows that to follow the client's instructions would be unethical.

The OLSC had regard to questions such as when and to what extent a practitioner is entitled to disregard indicators such as "unsubstantiated rumours", when the practitioner is obliged to probe further, how far a practitioner should investigate and what implications this may have on the role of the court and the practitioner in the administration of justice, as the practitioner is taking on a quasi-judicial role.

In most areas of practice, a duty to look behind a client's instructions can be seen to arise in two broad types of situation:

- Where the client is instructing the practitioner to advise and/or assist in conduct that the practitioner ought reasonably believe is illegal (eg fraud), unconscionable, or otherwise improper.
- Where the client is instructing the practitioner to present evidence that the practitioner ought

reasonably believe may be false or misleading, or to otherwise mislead the court or opponent.

Other special categories may include:

- Where a practitioner needs to take additional steps to be satisfied that there are reasonable prospects of success.
- Where a practitioner needs to take additional steps to be satisfied that a client has capacity to give instructions.
- Where a practitioner is acting in a family law matter, as there are additional duties to the court and to children in children's matters.
- Where prosecuting counsel in criminal law matters have additional duties of fairness and impartiality.

Whether a disciplinary outcome should follow a legal practitioner's failure to uphold the obligation to look behind a client's instructions needs to be decided on the facts of each complaint depending on the seriousness of the conduct.

Advertising

Sections 84, 85 and 86 of the *LPA 2004* govern the advertising of legal services. Generally legal practitioners are free to advertise their legal services in any way they think fit, subject to the *Legal Profession Regulation 2005* (see below). However there are two qualifications. Advertising must not be:

- of a kind that is, or might reasonably be regarded as being, false, misleading or deceptive; or
- in contravention of the Trade Practices Act (Cth) or the *Fair Trading Act 1987 (NSW)* or any similar legislation.

case study

An elderly couple retained a solicitor with respect to a dispute they had with their accountant. The solicitor corresponded with the accountant and in that correspondence threatened the institution of criminal proceedings in default of the accountant satisfying a concurrent liability to the practitioner's clients. This letter was in breach of Rule 34.3 of the Revised Conduct and Practice Rules 1995. The solicitor admitted the breach and in doing so outlined his outrage at the conduct of the accountant who, on his instructions, had taken advantage of his clients causing them substantial financial losses. The Commissioner took this into account, but the solicitor was issued with a caution for the breach, noting that clients seek a solicitor's professional detachment and composed representation and it is not in their best interests for a solicitor to become emotionally involved in their dispute.

Section 86 provides that a legal practitioner must not advertise or hold himself or herself out as being a specialist or offering specialist services, unless the legal practitioner:

- has appropriate expertise and experience, or
- is appropriately accredited under an accreditation scheme conducted or approved by the relevant Council.

The Commissioner investigates alleged breaches of the *LPA 2004*. For the year 1 July 2008 to 30 June 2009 the Commissioner received 17 complaints in relation to advertisements, which allegedly breached the above provisions. Of these, 14 complaints have been dismissed, one complaint was withdrawn and one was referred to the Law Society, Professional Standards Department for further investigation.

Clauses 23 to 31 of the *Legal Profession Regulation 2005* regulate legal practitioners' ability to advertise personal injury services. Clauses 74 to 80 of the *Workers Compensation Regulation 2003* contain similar provisions, which regulate legal practitioners' ability to advertise work injury services. A breach of either regulation constitutes an offence and can amount to professional misconduct. The Commissioner investigates potential breaches of the regulations.

For the year 1 July 2008 to 30 June 2009 the Commissioner initiated 59 complaints relating to alleged breaches of the regulations. Of these, there were findings of professional misconduct in relation to 49 complaints but the matters were dismissed in the public interest. One matter was closed as the Commissioner did not have jurisdiction to deal with it and six complaints have been referred to the Legal Services Division of the Administrative Decisions Tribunal.

Anti-Money Laundering

The Federal Government is currently in the process of legislating to address concerns with Anti-Money Laundering and Counter Terrorist Financing ("AML/CTF").

The government is now in the process of considering AML/CTF legislation that will directly affect the legal profession. The exposure draft was expected in the first half of 2009, however recent comments from the Federal Attorney General suggest that it will be some time before implementation.

case study

A mother instructed a solicitor to act on her behalf in relation to property and children's issues in family law proceedings. The children's issues were settled quickly. In July 2006 the property proceedings were set down for hearing in early January 2007 and affidavits were to be filed and served by December 2006. The solicitor was instructed to issue a subpoena to the husband's accountant because the wife believed he was hiding assets and income. The solicitor did not issue any subpoena. He did not do any preparation for the hearing, and did not prepare a fresh affidavit for his client. He did not send his client the husband's affidavit. In mid-September 2006 the solicitor spoke with the client about adjourning the hearing until February 2007. At the end of the OLSC investigation it remained unclear who initiated this

conversation, but it was clear that it was agreed that an adjournment would be sought. The solicitor did not advise the court or the opposing party that an adjournment would be sought until less than a week before the hearing. He instructed counsel to appear to seek an adjournment, but not to appear in any hearing that may proceed if the adjournment application was refused. The court refused the adjournment application. The solicitor was not present and he had advised his client she did not need to be present. Counsel withdrew, as he had no instructions. The hearing proceeded on an undefended basis. The solicitor failed to advise his client of this until March 2007. He failed to advise his client that the husband had applied for the Registrar to sign documents permitting the former matrimonial

home to be placed solely in the husband's name. The solicitor failed to appear when that matter was listed for hearing. The conduct of the solicitor left the client with no avenues to appeal the orders made. In addition, due solely to the solicitor's conduct, the proceedings had earlier been placed in the defaulter's list and a costs order was made against the client. The Commissioner determined that, taken together, the solicitor's conduct amounted to gross negligence. The practitioner was reprimanded and a compensation order was issued waiving any lien, all legal fees from the date the children's issues were settled, and requiring the solicitor to pay the costs order made by the court.

COMPLAINTS HANDLING

Our consumer dispute statistics have remained remarkably consistent in recent years. This year we successfully completed 1,524 consumer complaints. The greatest proportion of these files were resolved by negotiating reductions in bills, prompting work to be done, rebuilding practitioner client relationships and simply providing valuable information.

As always, issues of costs, communication, ethics and negligence dominate the complaints we received.

Civil court matters still attract the most complaints (22.5%), along with family law (16.5%), wills and probate (11%), personal injuries (10.2%) and conveyancing (7.7%).

Notwithstanding changes to personal injuries legislation that has greatly reduced the number of personal injuries matters before the courts, the number and proportion of complaints in this area remains stubbornly high. The complaints frequently arise from clientele not speaking English as a first language and a lack of understanding of the legal system. This can result in communication challenges and complaints when these challenges are not addressed.

Conveyancing complaints are at their lowest number and proportion of all complaints since we started keeping records. No doubt a depressed housing market, global financial circumstances and a more competitive environment have contributed to this.

NEGOTIATING

While it has had no noticeable impact on the number of consumer disputes, staff have noticed that the current global financial crisis is having an impact on how complaints are being dealt with by complainants and legal practitioners. We have, for example, noted that negotiations about legal bills have become tougher.

It would appear that as a result of the current financial crisis legal practitioners are less inclined to reduce bills or agree on a schedule for time payments. Legal practitioners appear to be more inclined to adopt a strict policy of pursuing costs rather than offering a reduction to finalise a dispute.

COMPLAINT HANDLING AS EDUCATION

OLSC staff spend a considerable amount of time talking to and educating complainants about their particular complaint and the legal processes that lie at the base of them. The reason for doing so is that we have found that when a complainant makes a complaint about his/her legal practitioner often what s/he really wants is the outcome for which s/he originally went to the practitioner about. S/he wants for example, the conveyance to go through or the personal injuries action to result in a desired outcome. We have found that most of the complainants who lodge a complaint really want what they consider is justice. As a result we often have to manage complainants' expectations.

In managing a complainant's expectations OLSC staff spend a large amount of time explaining to complainants why the legal system has "failed" them – why they did not get their desired outcome. Staff will thus talk to the complainant about why they went to a legal practitioner in the first place, what they hoped to achieve by obtaining legal advice and what they hoped to achieve through the complaint process. The purpose of taking the time to discuss these issues is to provide complainants with an opportunity to reassess their complaint and gain an understanding about why their expectations may not have been met.

INQUIRY LINE

This year has been another very productive and successful year on the Inquiry Line.

The OLSC saw some staffing changes towards the last quarter when we employed seven casual inquiry line staff to replace inquiry line officers that were completing their law degrees and wished to seek full time employment. This required us to focus on the training and development of our new staff in this period to ensure that we continued to provide a quality information service to the community.

This year 20.7%, of inquiry line calls related to referrals to other legal organisations, our OLSC complaint process as well as general information requests. This is an increase from last year of just over 3%. During the year we created some more data categories to record these information requests to obtain more meaningful data.

Queries about family law continued to represent the largest number of calls received this financial year, with 18.9% of all calls relating to this category. Despite legislative changes, we experienced an increase of 1.8% in calls relating to family law matters from the previous year. The Inquiry Line received a considerable proportion

of calls concerning civil law matters (11.7%) as well as conveyancing and probate/ wills matters (11.6%)

Most calls received were overwhelmingly about the conduct of solicitors (94.3%) rather than barristers. This number is consistent with previous years. Most calls are received from the client (66.9%). The most common issues raised by callers were again communication breakdowns (20.6%) and costs disputes (17.5%). This further highlights for our office and the profession the importance of practitioners developing good communication skills and providing early opportunities for dispute resolution.

Our data presents some interesting observations in relation to the outcomes of the inquiry line calls.

The most significant observation is the indication by callers that they intended to submit a complaint form. This reporting year sees an increase from 14.1% of the previous year to 20.1%. There are a number of reasons as to why callers are so willing to submit a complaint form.

The primary reason appears to be due to the current financial climate and the ensuing pressures placed on both practitioners and complainants. We have noticed an increased reluctance to mediate negligence and costs

case study

The daughter of an elderly woman who had been hospitalised as a result of a stroke, asked her mother's solicitor to draw a Power of Attorney in her favour. When the solicitor was told by the hospital staff that the elderly woman did not have capacity, he refused to act. The daughter then instructed a second solicitor to draft the Power of Attorney. Using the Power of Attorney the daughter transferred funds from her mother to herself.

Six months later the Guardianship Tribunal determined that the elderly woman was a person in need of a guardian and that the medical evidence supported a conclusion that due to dementia the elderly woman was not capable of making decisions about her accommodation and care. Four months later the Guardianship Tribunal declared that the Power of Attorney was invalid because the elderly woman did not have the capacity to make it.

The elderly woman died a year after the decision of the Guardianship Tribunal. A Deed of Family Arrangement was negotiated in relation to the funds transferred and the estate was finalised. The solicitor who prepared the Power of Attorney failed to follow the guidelines prepared by the Law Society of New South Wales in relation to Client Capacity. The Commissioner issued the practitioner with a caution which is a serious penalty and remains permanently on the solicitor's record.

The Commissioner also drew the solicitor's attention to the decision of Legal Services Commissioner v Ford [2008] LPT 12 in Queensland that also related to client capacity and resulted in the legal practitioner receiving a public reprimand.

disputes. A second reason may be as a result of our increased profile in the media this reporting year, which has no doubt increased the awareness of our presence in the community. Finally, the number of legal practitioners who now hold a practising certificate to practice in NSW has increased from 12,000 legal practitioners in 1994 to over 22,000 legal practitioners today.

Our data led to another interesting observation in relation to the amount of referrals to other organisations for legal advice, or in providing information about the legal system. Such calls reduced from 22.9% to 19.2% and from 10% to 7.7% respectively. This also suggests that the community is becoming more educated about the services that we provide.

Our Inquiry Line Satisfaction Survey was launched last year. It has continued to provide us with valuable data essential to profiling our callers to assist us in educating consumers and improving our service to the community.

A total of 1,209 survey forms were sent to callers this reporting year (September 2008 and March 2009). We received a total of 254 completed surveys.

According to the satisfaction survey over 84% of callers agreed that our staff clearly explained how we could assist them. The survey also showed that over 81% of respondents agreed that their call was answered promptly and that over 74% of respondents agreed that the information provided to them during the call was helpful. The results received were very positive. More than 75% of callers advised that they would recommend our service to a relative or a friend and more than 86% of

callers considered that they were treated in a courteous and professional manner.

It is an interesting observation that an equal 47.24% of calls were male or female and that 5.51% chose not to disclose their gender. The majority of calls received on the Inquiry Line for this period were from callers aged between 56-65 years of age (26.38%).

The OLSC satisfaction survey also recorded data concerning the most common language being spoken in the homes of our callers. The most common language was English (75.33%). Some of the other languages identified were Maltese, Italian, Tamil, Spanish and Egyptian. Two percent of callers identified as being Aboriginal or Torres Straight Islander. We also recorded that 22% of callers identified as having a disability. This is the first time that such questions have been asked and it has provided us with valuable information regarding the make-up of consumers of our service.

Overall, it has been a challenging yet rewarding year on the Inquiry Line, which continues to develop and improve its service to the profession and the community.

STAFF

With our stable team of Mediation and Investigation Officers in 2008/09 I am very proud of the work we do resolving complaints and working with practitioners to address and reduce serious issues of complaint.

case study

Co-executors instructed a practitioner in relation to the administration of the estate of a man who died in March 2007. The estate had assets of less than \$50,000 and the executors were assured that the estate would be finalized within three months. The executors contacted the practitioner on many occasions seeking progress reports. However the estate was not finalized until seventeen months after the practitioner was instructed, causing the executors anxiety and frustration.

They alleged that, as a result of the delay in acting on their instructions, the estate had suffered a financial loss of approximately \$6,000 which had a serious impact on the modest assets of the estate. The practitioner apologized for the delay, agreed to waive the legal costs and offered to pay \$6,000 in compensation.

INCORPORATED LEGAL PRACTICES

INCORPORATED LEGAL PRACTICES (ILP) STATE OF PLAY

As at 30 June 2009 there were 945 ILPs in New South Wales. The majority of these practices are located in suburban Sydney. There are now ten ILPs operating nationally. More than half of the ILPs have one principal legal practitioner director (LPD).

PRACTICE REVIEWS

The OLSC conducted a number of practice reviews of ILPs this year. The OLSC obtains its powers to conduct a practice review from section 670 of the *LPA 2004*. The powers extend not only to ILPs but also to all law practices in New South Wales.

Section 670 of the *LPA 2004* provides the OLSC with broad powers to conduct a practice review. Section 670(1) provides that the OLSC “may cause an audit to be conducted of the compliance of a law practice (and of its officers and employees) with the requirements of this Act, the regulations or the legal profession rules.” Section 670(2) states that an ILP audit may include an audit of the legal practice’s compliance with the requirements of Part 2.6, and the management of the provision of legal services.

It is important to note that although the powers are broad they do not override provisions of the Act that relate to the powers entrusted to the Law Society’s Trust Account Inspectors and/or the financial audits required by the *Corporations Act 2001*. The OLSC will not thus specifically review a legal practice’s accounting or financial records.

case study

A practice review of an ILP was conducted as a result of a letter written by the legal practitioner directors of the ILP to the Law Society. The letter notified the Law Society of a perceived breach of the Act. The perceived breach was in relation to mortgage practices and managed investments and any conflict of interests that might arise from those transactions. The perceived breach of the Act went to the heart of appropriate management systems being conflict of interests and acting for two parties in the one transaction. The Law Society forwarded this information to the OLSC. The ILP then completed a self-assessment form, which showed that the directors of the practice considered that the ILP was only partially compliant in nine out of ten objectives and compliant in only one objective. The OLSC was concerned that appropriate management systems had not been implemented effectively and maintained pursuant to the legal practitioner director’s obligations under the Act.

A practice review was duly conducted on the ILP. The practice review established that although the ILP had appropriate management systems in place the management systems could have been improved. The OLSC worked together with the ILP to assist them in developing a more robust management system. The ILP certified that it was compliant with the Act in February 2009. A follow up audit may be conducted if there are further causes for concern.

As discussed in the 2007-2008 OLSC Annual Report, the OLSC has recently adopted the term “practice review” rather than audit when discussing the power under section 670 of the *LPA 2004* because the term “practice review” has no financial implications.

Practice reviews are generally trigger based. A legal practitioner who has been the subject of multiple complaints to the OLSC will more than likely be identified for a practice review, as would a legal practice that has failed to complete a self-assessment form. Triggers to conduct a practice review can also include adverse information from the Law Society about an ILP or a low rating returned self-assessment form.

This reporting year the OLSC also conducted several follow up reviews of ILPs who had previously been subject to practice reviews. It has been pleasing to note that these ILPs had taken the OLSC’s observations from the previous practice review into account and had improved their systems.

In the 2009/10 financial year the OLSC proposes to commence conducting practice reviews on legal practices. The OLSC will adopt the established methodology and processes used for practice reviews of ILPs.

THE PORTAL PROJECT

Following the expansion of scope in 2008, Cirrus Technologies was appointed as the vendor for the Legal Practice Management and Audit System (LPMAS). The LPMAS is a web-based portal, which has been designed by the Information Services Branch in consultation with the OLSC.

The Solution Design document was refined, reviewed and signed off in the 08/09 financial year. The project is now in the construction phase and is due to be completed in 2010.

case study

The OLSC conducted a practice review on an ILP following a considerable number of complaints made about the legal practitioner. The OLSC had received over 100 complaints about the legal practitioner director in the last 14 years. The complaints increased in frequency and it was recognised that the legal practitioner director needed the assistance of the OLSC to get the ILP back on track.

A practice review was conducted over two days. During that time, the OLSC interviewed the legal practitioner director extensively, conducted file reviews and held confidential discussions with staff. The practice review identified considerable issues and significant areas for improvement. The OLSC presented a report to the ILP together with several recommendations. The OLSC monitored closely the ILP’s attempts to improve the systems.

The practitioner did not implement the OLSC’s recommendations. After discussions with the Law Society, the practitioner agreed to have conditions placed on his practising certificate. The Law Society and the OLSC is closely monitoring the practitioner’s progress and a follow up audit is to be conducted in the near future.

EDUCATION AND COMMUNICATION

Education is a core function of the OLSC. Sections 688(1)(o) of the *LPA 2004* provides that the Commissioner is responsible for assisting the Bar Council and the Law Society Council in promoting community education about the regulation and discipline of the legal profession. Section 688(1)(p) of the *LPA 2004* provides that the Commissioner is responsible for assisting the Bar Council and the Law Society Council in the enhancement of professional ethics and standards through liaison with legal educators or directly through research, publications and educational seminars. This year, as in previous years, the OLSC embarked on a diverse range of educational programs.

LECTURES

Staff at the OLSC presented 18 lectures to undergraduate students at universities in NSW. Lectures were presented at the University of New South Wales, the University of Technology, Macquarie University, University of Newcastle, and the University of Western Sydney. Once again the lectures were well received with many students commenting on their relevance and clarity. More than 96% of students who took part in our external education survey commented that the lectures were “helpful” whilst 96.4% of students believed that the lectures enhanced their understanding of lawyers’ roles and responsibilities.

In addition to the university lectures, the Commissioner and staff also conducted ethics lectures as part of the Professional Responsibility Program for students completing their final training at the College of Law campuses in Sydney City and St. Leonards.

OUTREACH – PRESENTATIONS TO THE LEGAL COMMUNITY

This reporting year, as in past years, the Commissioner presented papers on a wide range of topics. Such papers included:

Technology and Compliance Auditing – the Future of Legal Regulation, paper presented by the Commissioner at the Third International Legal Ethics Conference in Queensland on 13-16 July 2008.

Assessing the Impact of Incorporation and Listing: An Opportunity for the Ethical Maturation of the Law Firm?, paper presented by the Commissioner and the Research & Projects Coordinator at the Third International Legal Ethics Conference in Queensland on 13-16 July 2008.

Re-Imagining Lawyering: Whither the Profession?, Keynote Address by the Commissioner to the Australian Academy of Law Symposium in Sydney on 24 July 2008.

An Ethics Hypothetical, joint presentation by the Commissioner and the Senior Legal and Policy Officer to the Young Lawyers Joint Environmental and Property Law Committee Ethics Forum in Kiama on 21 August 2008.

Setting the Scene – Our Regulatory Environment, paper presented by the Commissioner to the Continuing Legal Education Association of Australasia Conference on 16 October 2008.

The Office of the Legal Services Commissioner and legal ethics – An overview, seminar presented by the Commissioner to Marsdens Lawyers at Marsdens Annual Seminar in Mollmook on 25 October 2008.

The Office of the Legal Services Commissioner and legal ethics – An overview, seminar presented by the

Commissioner at Carroll & O'Dea in Sydney on 6 November 2008.

Implementing Anti-Money Laundering Legislation and the Professions, paper presented by the Commissioner at the Symposium on Money Laundering Tax Evasion and Tax Havens, Faculty of Economics & Business, University of Sydney, 7 November 2008.

The Office of the Legal Services Commissioner – An overview, seminar presented by the Commissioner to a delegation of the Vietnamese Supreme People's Prosecution Office, Human Rights Technical Cooperation Project, at the OLSC office on 4 December 2008.

Where is the interest in Conflict of Interests?, seminar presentation by the Commissioner to the Australian Corporate Lawyers Association, at the offices of Hudson Legal, Sydney on 19 November 2008.

Risks of Money-Laundering and Financing of Terrorism in the Professional Sectors, roundtable discussion for the legal profession attended by the Commissioner at the Australian Institute of Criminology on 17 February 2009.

An Ethical Hypothetical, joint presentation by the Commissioner and the Senior Legal and Policy Officer to the New South Wales Young Lawyers in Sydney on 4 March 2009.

The Office of the Legal Services Commissioner – An overview, seminar presented by the Commissioner to a delegation of the 2009 participants in the Australia-China Legal Professional Development Program of the International Legal Services Advisory Council, at the OLSC on 5 March 2009.

Lawyers and Ethics, talk presented by the Commissioner at the New South Wales Fabian Luncheon Discussion Series in Sydney on 18 March 2009.

Exploring the Boundaries: Ethics, Rules & Law, seminar presented by the Commissioner and the Senior Legal and Policy Officer at the Australian Lawyers Alliance NSW State Conference on 20 March 2009.

Billing Complaints: Are you overcharging?, paper presented by the Commissioner at the Best Billing Practice 2009 LegalWise Seminar in Sydney on 24 March 2009.

The Office of the Legal Services Commissioner – An overview, seminar presented by the Commissioner to court officers from Courts of Thailand at the UNSW Centre for Continuing Legal Education, Faculty of Law, on 11 May 2009.

The Future is Here: Globalisation and the Regulation of the Legal Profession, paper delivered by the Commissioner to the American Bar Association Centre for Professional Responsibility and Georgetown Law Centre for the Study of the Legal Profession in Chicago, Illinois on 27 May 2009.

Ethics and the Legal Profession, seminars presented by the Commissioner and the Assistant Commissioner (Legal) at the College of Law on 6 August 2008, 17 September 2008, 1 October 2008, 12 November 2008, 26 November 2008, 28 January 2009, 11 February 2009, 18 March 2009, 22 April 2009, 15 May 2009 and 17 June 2009.

STAFF TRAINING

As required by the Attorney General's Department, all OLSC staff participated in training this reporting year. The OLSC offered both in-house and external training to OLSC staff. Options included face-to-face learning, E-Learning, seminars/conferences and workplace learning. Programs this year covered a diverse range of topics including Ethics Hypotheticals; Information Systems; Public Trust and Confidence; Law for Non-Lawyers; Directors Duties and Corporations Law; Suicide Prevention and Intervention; Lawbook/LexisNexis/Westlaw Training Seminars; the ABC of Letter Writing and Advices; Writing Statements for the Attorney General; How Government Works; Sanity, Profitability and Wellbeing; Developing Women for Management; and Inheritance Disputes and Family Provision Claims.

Twenty-nine staff members including legal and non-legal staff participated in over 1105.75 hours of training. The training mainly consisted of on the job workplace training (309 hours) followed by attendances at seminars and conferences (345.25 hours). OLSC staff have commented positively on their chosen training programs and look forward to further training opportunities.

PUBLICATIONS – INTERNAL AND EXTERNAL

Eighteen fact sheets are published by the OLSC. The purpose of the fact sheets is to assist the general public and practitioners in understanding and dealing with aspects of the complaints handling process. The fact sheets are written in plain English and cover a diverse range of topics. These include information about costs disclosure, file ownership, deceased estates, conflict of interests, liens, settlement and costs dispute resolution. Each fact sheet is available in hard copy from the OLSC or via our website at www.lawlink.nsw.gov.au/olsc. The fact sheets are amended from time to time where necessary to ensure currency.

In addition to the fact sheets the OLSC also publishes brochures to assist complainants in understanding the procedures and process involved in making a complaint, and the role of the OLSC. The OLSC also publishes a brochure for legal practitioners to assist them in responding to a complaint. The brochures are also available in hard copy or via the OLSC website.

This reporting year the OLSC published five issues of its newsletter, *Without Prejudice*. As reported last year the newsletter has become increasingly popular amongst the public and the profession. Topics covered in the newsletter this reporting year included Emotional Intelligence Training for Legal Practitioners, Ethical Conflicts and In-House Counsel, Money Laundering, Professional Courtesy and File Transfers, Billing Complaints and *Pro Bono Publico*.

The OLSC also had three papers/articles externally published this reporting year.

In June 2009 a paper by the Commissioner and the Research and Projects Coordinator was published in an American Legal Journal, the *Georgetown Journal of Legal Ethics*. The title of the paper was “*Innovations in Regulation – Responding to a Changing Legal Services Market*.” The paper discussed the potential significance of changes in law firm ownership and access to capital markets and the emergence of the publicly traded law firm in Australia.

In January 2009 the Commissioner wrote an article for the Australian Lawyers’ Alliance bi-monthly journal, *Precedent*. The article, entitled “Office of the Legal Services Commissioner – consumer protection”, discussed the protective jurisdiction of the OLSC, and outlined how to make a complaint and how complaints are resolved by the OLSC.

In August 2008 the OLSC published with the University of Melbourne an in-depth research paper on the self-assessment process for incorporated legal practices. The paper detailed the results of a research study conducted in conjunction with Dr Christine Parker from the University of Melbourne. The study looked at the effectiveness of the self-assessment process for incorporated legal practices and whether the process is leading to better conduct by ILPs. The study concluded that on average the complaint rate (average number of complaints per practitioner per year) for each ILP after self-assessment was well under half the complaint rate before self-assessment.

VISITS

International

On 27-28 May 2009 the Commissioner attended and presented a paper at a symposium in Chicago Illinois, on recent global legal practice developments impacting the U.S. state supreme courts’ regulatory authority over the U.S. legal profession. The symposium, which was attended by many Supreme Court Chief Justices in the United States, was organised by the American Bar Association Center for Professional Responsibility and Standing Committee on Professional Discipline and the Georgetown Center for the Study of the Legal Profession.

The Commissioner was asked to be a panel member in two forums. The first was a discussion of international regulatory developments and the potential ramifications for U.S. lawyers, law firms and clients. The Commissioner discussed regulatory developments in Australia including the listing of law firms on the Australian Stock Exchange. The second forum, entitled “Responses and the Future: Where Do We Go From Here?” discussed suggestions about how the U.S. state supreme courts can fulfil their

regulatory mission in a changing global environment. The Commissioner presented a paper and a PowerPoint presentation on the regulatory developments in Australia and their challenges for the global legal services marketplace. The Commissioner also presented a paper on law firm ownership.

Copies of the papers and PowerPoint presentation are available on the OLSC's website at http://www.lawlink.nsw.gov.au/lawlink/olsc/ll_olsc.nsf/pages/OLSC_speeches.

Domestic

On 13-16 July 2008 the Legal Services Commissioner and the Research and Projects Coordinator attended and presented papers at the Third International Legal Ethics Conference, which was held on Gold Coast. The conference provided an opportunity to discuss the ethical dilemmas that legal practitioners now face and future challenges.

The Commissioner presented a paper entitled *"Technology and Compliance Auditing – The Future of Legal Regulation"*. This paper covered advances in technology and their impact on regulating the legal profession. The paper is due to be published in a forthcoming edition of the *University of Queensland Law Journal*.

The Commissioner and the Research & Projects Coordinator also present a paper with Dr Christine Parker. The paper, entitled *"Assessing the Impact of Incorporation and Listing: An Opportunity for the Ethical Maturation of the Law Firm?"* tested the hypothesis that the incorporation of law firms has provided an opportunity to improve ethical performance through the requirement for "appropriate management systems".

On 17 February 2009 the Commissioner attended a forum at the invitation of the Australian Institute of Criminology to participate in a roundtable discussion on the risks of money laundering and terrorist financing in the legal sector. The purpose of the conference was to discuss the level of risk of money laundering and counter terrorist activity in the legal profession. The Commissioner presented a research paper outlining cases involving legal practitioners in NSW that have resulted in both criminal and disciplinary proceedings for offences related to misappropriation of funds. The paper noted that no practitioner in NSW has been prosecuted for money laundering or counter terrorist financing offences. A draft report of the roundtable discussion was forwarded to the OLSC for comment last month. The Commissioner has responded to the draft report. The OLSC is expecting a final report to be released shortly.

case study

A mother retained a solicitor to act on her behalf in a family law matter relating to children's issues. When she first retained the solicitor, she told him she proposed to relocate from Sydney to Newcastle and had all but moved. She had not sought the permission of the father. The practitioner failed to advise her about the legal implications of her move without the father's consent. In addition, the solicitor prepared an affidavit for his client that was poorly drafted and contained little relevant information; he issued a subpoena in relation to the wrong child; made a significant error with regard to the orders sought; did not return the client's calls; and did not advise her adequately or at all in some crucial respects. When his conduct was taken together, the Commissioner determined that it amounted to gross negligence and a caution was issued.

RESEARCH AND PROJECTS

The OLSC has continued to develop its research profile this reporting year. Once again in-house research has been conducted on a diverse range of matters, some of which are related to specific complaints and others, which cover more general topics such as ethics, regulation and professionalism. The OLSC also received several research requests from external bodies seeking information about the role and function of the OLSC and the regulation of ILPs.

The OLSC has continued to work in collaboration with tertiary institutions on various research projects. Each project has enabled the OLSC to develop ideas and clarify its regulatory techniques. The OLSC has welcomed the opportunity to work together with academics and looks forward to future collaborative projects.

IN-HOUSE RESEARCH REQUESTS

This reporting year research on the following topics was conducted at the request of OLSC staff:

- A comparative analysis of billing fraud in jurisdictions in the United States and Canada;
- An evaluation of overseas mandating the reporting of impaired practitioners;
- Recent developments in the Anti-Money Laundering and Counter-Terrorist Financing (AML/CTF) legislation debate as applicable to the legal profession;
- An analysis of cases dealing with practitioners who have appeared before courts and tribunals in NSW for fraud related offences;
- A discussion of the role of in-house counsel in the 21st century and the ethical dilemmas they face;
- The entitlement of an executor under the *Probate and Administration Act 1898 (NSW)* to commission;
- *An analysis of the Trustee Companies Act 1964 (NSW)* in relation to the restrictions, liabilities, privileges and powers of trustee companies for purposes connected with the administration of estates;

- A comparative analysis of complaint based versus compliance based regulation;
- An analysis of the effects of globalisation on the domestic and international legal services market;
- The use of technology to assist in effective risk profiling;
- A historical analysis of the concept of a “profession”;
- An evaluation of the benefits of alternative educational programmes for legal practitioners including the teaching of emotional intelligence.

EXTERNAL RESEARCH REQUESTS

This reporting year the OLSC received several research requests from external bodies seeking information about legal regulation in Australia.

In December 2008 the OLSC received a research request from the Law School of University College Dublin, in Ireland which was conducting part of a European Union funded study on reflexive governance within Better Regulation policies in Ireland, the UK and Australia. The study is part of a larger five-year project on reflexive governance in 12 OECD countries and is funded by the European Union. The study was seeking to identify programmes that go beyond narrow application of regulatory impact analysis to new legislation and examples of innovation in Better Regulation processes. The OLSC discussed a range of regulatory and ethical issues that arise in legal practice with the study's researcher and, in particular, the framework for regulating ILPs.

In January 2009 the OLSC received a research request from the Scottish Government concerning research it was undertaking to inform the development of a Legal Profession Bill in Scotland. The Scottish Government

sought general information about the legislation permitting ILPs in NSW and the management systems we have developed. The Scottish Government also sought information about measures the OLSC has instituted to ensure that the core values of the legal profession have been maintained and other general regulatory issues.

In April 2009 the OLSC received a request from Professor Ted Schneyer, Milton O. Riepe Professor of Law at the University of Arizona, about some possible implications of the recent U.K. and Australian reforms in the regulation of law practice. Professor Schneyer was researching the growth in the United States of “hyper-specialization” (the rapid increase in the percentage of lawyers who nowadays practice exclusively in one rather narrowly defined practice field). Professor Schneyer was interested in the Australian experience. The OLSC provided Professor Schneyer with information about the emergence of specialist legal organizations in Australia and the Specialist Accreditation Schemes.

JOINT RESEARCH PROJECTS

Assessing the Impact of the Management-based Regulation for NSW Incorporated Legal Practices on Professional Quality and Ethics

This reporting year the OLSC embarked on a new in-depth research project with Dr Christine Parker of the University of Melbourne to assess whether the self-assessment process for incorporated legal practices (ILPs) is effective and whether the process is leading to better conduct by ILPs as evidenced by the number of complaints relating to ILPs.

Since 2004 all new ILPs have been sent the self-assessment package and asked to fill in and return the self-assessment form. Of the 790 current ILPs, the OLSC has on file 620 self-assessments plus documentation from 11 ILPs who were not required to fill in a self-assessment form because they provided evidence that they have been accredited to a quality management standard for legal practices. The methodology of the study involved analysing the 620 self-assessment forms.

The study found that the majority of ILPs assess themselves to be in compliance on all ten objectives from their initial self-assessment (62%). Of the remaining

38%, about half became compliant within 3 months of the initial self-assessment. ILPs have the highest rates of self-assessed compliance with trust accounting obligations and the lowest rates of self-assessed compliance with management systems to ensure good communication with clients and good supervision of practice.

The study also tested whether ILPs that have self-assessed their own implementation of management systems do in fact manage themselves better and have better behaviour than before they self-assessed as indicated by lower complaints rates. On average the complaint rate (average number of complaints per practitioner per year) for each ILP *after* self-assessment was one third of the complaint rate *before* self-assessment. This is a huge drop in complaints.

Overall the study provides compelling evidence that the Australian legislative approach requiring ILPs to implement appropriate management systems, combined with the OLSC’s self-assessment regime for encouraging law firms to actually put this into practice, improves both firm management and lawyer behaviour.

Anti-Money Laundering/Counter-Terrorist Financing Guidelines

The OLSC has been working with the regulators in Victoria, Queensland and Western Australia to develop guidelines for the implementation of the AML/CTF legislation for the legal profession. Paddy Oliver, Director of Legal and Compliance at SSAM Management Consulting, has been assisting us with this project.

The first task of the project has been to undertake a general analysis of the AML/CTF legislation and the implications of a planned extension to the legal profession under Tranche Two of the AML/CTF reforms in Australia. The project then conducted an analysis of other countries that are subject to similar AML/CTF legislation affecting the legal profession and how those countries have responded. The project evaluated AML/CTF legislation in England and Wales, Scotland, Ireland, Hong Kong and Singapore. Discussions were held with each of the AML/CTF Working Implementation Groups or policy advisors in these jurisdictions. A report has been drafted detailing the findings. The report will be used to inform the regulators how to draft effective implementation guidelines for the legal profession.

Conference of Regulatory Officers (CORO) website

As I have reported in previous annual reports, the OLSC is a member of the Conference of Regulatory Officers (CORO). CORO is an organisation which formally meets once a year to discuss issues relevant to the regulation of the legal profession such as the harmonisation of the legal profession, the development of continuing professional development guidelines, the development of a national disciplinary register and the development of national regulatory protocols. In addition to the formal meeting CORO members hold informal discussions on a regular basis. Members of CORO include all of the legal regulators in Australia and New Zealand.

This reporting year the OLSC worked together with CORO members to design and develop a website that would detail CORO's work. The website includes information about CORO's current projects as well as about past and future conferences. The website can be accessed at <http://www.coro.com.au/>

Australian Research Council (ARC) Grant Applications

In the 2007-2008 Annual Report I discussed the OLSC's participation in three ARC grant applications for funding to conduct research studies. The first grant application was with the Centre for Applied Philosophy and Public Ethics (CAPPE) for funding to research pressing ethical problems confronting the operation of capital markets in Australia and examine the adequacy of the regulatory apparatus and integrity systems. The second grant application was with the University of Western Sydney for funding to study the impacts of the incorporation of law firms upon regulation, governance and the organisation of legal services. The third application was with Monash University, the University of Melbourne, the University of Queensland and the University of Adelaide to study the ethical structures, attitudes and behaviours of lawyers in large law firms. Unfortunately none of the applications were successful. A decision was made this reporting year to re-lodge each application for funding. We are awaiting a decision.

INFORMATION SYSTEMS AND SERVICES REPORT

This financial year the Information Systems and Services (ISS) Unit concentrated on enhancing the design of datasets to improve the capacity and capture of data, and the creation of more detailed reports to support the changing information needs of the OLSC. This has resulted in a number of new ongoing reports that have increased the OLSC's ability to use available data to manage and resolve complaints, and to enhance our ability to respond to queries from government bodies.

Also, in an effort to improve our service and to ensure stakeholders' needs are identified and being met, the ISS Unit undertook a major review resulting in the design of a number of new feedback surveys aimed at those accessing the OLSC service. The surveys designed and being analysed so far include those targeting: callers to the Inquiry Line, OLSC website users, complainants who have lodged written complaints with the OLSC, practitioners who are contacted regarding complaints, university and higher education students, and OLSC Staff.

Results so far have been overwhelmingly positive (in all areas), and a number of changes have been put in place from feedback received to ensure even better access to services.

ISO RE-CERTIFICATION

The aim of the OLSC is to use a philosophy of continuous improvement, concentrating on areas of identified problems or required minimum standard. We also aim to review everyday practice to ensure efficiency and effectiveness.

In April 2009 the OLSC was again recertified to ISO 9001: 2000 standards, with the support of all management and staff. The OLSC originally gained certification in 2005-2006, in an effort to ensure there

was a formal external recognition of the OLSC as a professional, efficient and well managed entity with evidence of its commitment to continuous improvement.

As with all such programs, this is an ongoing process, with the need to ensure we keep improving our standards and reviewing our processes regularly. It is not an easy task, but one to which the OLSC is committed, to ensure we continually improve and provide satisfaction for all stakeholders. In line with our role, vision, mission, and values, the OLSC has set a number of objectives to ensure we do so. These are:

- To deliver our existing services in a consistent, reliable fashion while meeting and exceeding our stakeholders' needs;
- To ensure the core processes run smoothly and efficiently, with minimal non-compliance whilst ensuring maximum customer satisfaction and maximum staff morale;
- To align the Quality Management System to the OLSC's Business Plan, which uses project management methodology, each year to set new projects to form its business plan to improve areas identified in performance monitoring and other new business initiatives;
- To observe centralised Human Resources, Information Technology, Asset Management and all other policies and procedures of the Attorney General's Department (AGD);
- To maintain the OLSC Quality Systems Manual, incorporating policies, working procedures, flow charts and general administrative requirements, together with standard documents and forms to ensure accessibility and currency of information provided; and
- To maintain ISO 9001 certification.

OLSC PROJECTS

The OLSC introduced project management methodology in the 2003 fiscal year to complement the annual OLSC Business Plan. This allowed much of the work performed within the OLSC to be categorised into projects to improve the systems utilised to meet organisational objectives.

A review was undertaken this financial year in an effort to streamline and consolidate overarching project teams. These have now been combined into three teams. Staff Development Project (Survival Enhancement Tactics) has been absorbed into the 'Staff Training & Education Project' due to the similarity in needs and outcomes.

Below are the projects undertaken for the 2008-09 financial year. These projects were used as the basis for OLSC's business planning and ongoing process improvements.

Project Team 1: Information Sharing/ Knowledge Management Project

Areas of Improvement: Information turnaround and currency. Consistency of Information. Increased knowledge sustainability and accessibility.

Rationale: These projects will ensure better access to information for all staff and related stakeholders; sustainability of information stored; currency of information sourced; and that knowledge management principles are enhanced.

Related Working Parties and Objectives

Complaints Tracking System (CTS) Coding Update and Review:

To further enhance the coding options, accessibility and reporting functionality within QA Plus/ CTS.

Complaints Tracking System (CTS) Reporting:

To ensure better access to information for managers, for management of staff teams, useability of information and currency of information sourced.

Complaints Tracking System (CTS) Upgrade:

To test the CTS upgrade, to further enhance the accessibility and functionality of the CTS.

Incorporated Legal Practices (ILP) Reporting:

To ensure better access to information for ILP Unit for management of firms, useability of information, and currency of information sourced.

Inquiry Line & Mediation Register:

To further enhance the accessibility and reporting functionality of the Inquiry Line and Phone Mediation Register by redesigning and combining both in MS Access.

OLSC Shared Drive:

To ensure better access to information for all staff, sustainability of information stored, and currency of information sourced.

Project Team 2: Staff Training & External Education Project

Areas of Improvement: Enhanced staff training. Consistency of Information. Stakeholder Feedback.

Rationale: These Projects will focus on enhancing OLSC's current staff training, ensuring better service delivery to stakeholders, and staff training needs being met.

Related Working Parties and Objectives

Internal Staff Training/ Lunchtime Sessions:

To ensure enhanced staff training, consistency of staff knowledge and focused training sessions.

Pre-service Information & Induction Manual:

To ensure better access and useability of information for new staff. To ensure better transition of new staff into OLSC roles.

Stakeholder Training, Education and Communication:

To further ensure the promotion of OLSC work/ role with students and to enhance student training to ensure OLSC is meeting educational needs.

Stakeholder Satisfaction Survey Project:

To ensure stakeholder satisfaction needs are recorded and met. To produce reports that enable improved reporting functionality enhanced information & data sharing regarding stakeholder needs and experience of OLSC.

Project Team 3: Quality & Compliance Management Project

Areas of Improvement: Compliance. Continual improvement. Consistency of Information.

Rationale: This Project will focus on enhancing compliance and ensuring a continual improvement philosophy is established, to provide better service delivery to stakeholders, and ensure OLSC needs are met.

Related Working Party and Objective

ISO 9001 Accreditation:

To ensure certification and accreditation of OLSC to ISO 9001 and to gain formal external recognition of OLSC as a professional, efficient, well managed entity.

FINANCIAL PERFORMANCE

The OLSC operates within the organisational framework of the NSW Attorney General's Department. The Office maintains a recurrent recoupment budget and receives operational funding from the Public Purpose Fund (PPF).

In 2008-09 the OLSC focused attention on enhancing its budget performance reporting as part of ongoing initiatives for business improvement.

During the year we reviewed our business planning processes and implemented improvements to our financial monitoring systems and budget management practices. We closely scrutinised our monthly budget performance to uncover and manage significant budget variances with potential to adversely affect our full year budget allocation. We performed detailed analysis of our monthly cash flows and budget movements and formulated rolling forecasts on major trends of expenditure as well as strategies for managing unfavourable trends within our control.

This financial year the OLSC participated in a Departmental review of the Office's approved establishment to determine the OLSC's funding position for 2008-09 and future years. The comprehensive review revealed that funding for OLSC employee related expenditure was not commensurate with current salary costs being incurred for positions in the OLSC approved establishment and a funding adjustment was required. The funding anomaly has been rectified with the result that the OLSC's recurrent operating budget includes additional funding from the PPF in 2008-09 while a further budget increase will be applied to the OLSC budget in 2009-10.

In addition to receiving normal operational funding, the OLSC received \$403,070 from the PPF to apply towards capital costs incurred in implementing the final phase

of the ILP Portal Project – Stage 3 the Build/Test/Install stage. The OLSC has spent \$102,044 on the portal project this year and has arranged to defer payment on the balance of available 2008-09 PPF funds for completing the project to 2009-10.

Details of the OLSC's financial performance including comments on significant budget variances are provided in the following financial statement and supporting notes.

HUMAN RESOURCES

In 2008-09 the OLSC increased its approved establishment by the addition of one full time permanent position. The Practice Review Officer, Clerk Gr 9/10 position was created in March 2009 to complement a small team in the Practice Compliance Unit.

As at 30 June 2009 the OLSC's approved establishment comprised 29 permanent and temporary full time positions for administrative and professional staff and one full time equivalent position maintained by a team of rostered casuals on the OLSC Inquiry Line.

The OLSC had a near full complement of staff in 2008-09 with some unforeseen staff movements in temporary and permanent establishment positions during the year and a timing difference experienced by the OLSC in finalising recruitment and selection processes to coincide with the staff changes. The unavoidable recruitment lag resulted in some positions remaining vacant for a period of the reporting year.

NOTES SUPPORTING THE 2008-2009 FINANCIAL STATEMENT

1. **Salaries & Wages:** The *Salaries & Wages* budget variation reflects the impact of unforeseen staff movements in temporary and permanent OLSC establishment positions during the year and a timing difference experienced by the OLSC in finalising recruitment and selection processes to coincide with the staff changes. The unavoidable recruitment lag in filling the position vacancies produced a moderate saving in the OLSC's *Salaries & Wages* budget.
2. **Fees:** The *Fees* budget includes provision for litigation costs incurred by the OLSC in bringing matters before the Administrative Decisions Tribunal and the Courts. The *Fees* budget also maintains funds for costs associated with the complaints review system and the engagement of independent reviewer advisors as well as professional services for practice reviews of major incorporated legal practices. In 2008-09 the OLSC initiated a number of significant investigations into the conduct of legal practitioners and firms with some matters resulting in Tribunal proceedings. The *Fees* budget variation is largely attributed to an increase in the level of counsel fees incurred by the OLSC in preparation of lengthy and complex matters for hearing by the Tribunal.
3. **Depreciation & Amortisation:** *Depreciation* expense is a non-cash item and as such does not form part of the OLSC's recoupment figure from the Public Purpose Fund. The budget variation resulted from an adjustment to depreciation expense for plant and equipment following a reassessment of the residual values of the OLSC's assets.
4. **Capital Expenditure – Computer Software/Systems:** In 2008-09 the OLSC received \$403,070 from the Public Purpose Fund to meet in year capital costs associated with the development and implementation of the final phase of the Incorporated Legal Practices (ILP) Portal Project – Stage 3 (the Build/Test/Install stage). Project costs this year totalled \$102,044 and the OLSC has arranged to defer payment on the balance of available capital funds for completing the project to 2009-10.

FINANCIAL STATEMENT 2008-2009

	Budget \$	Spent \$	Variance \$	Notes
Salaries & Wages	2,385,857	2,328,417	57,440	1
Allowances	1,612	2,060	(448)	
Leave Entitlements	84,958	81,621	3,337	
Workers Compensation	10,910	10,716	194	
Payroll Tax	153,783	145,429	8,354	
Fringe Benefits Tax	2,000	1,111	889	
Superannuation	172,394	172,600	(206)	
Total Employee Related Payments	2,811,514	2,741,954	69,560	
Advertising & Publicity	5,115	4,064	1,051	
Bank Charges	102	75	27	
Contractors	11,144	9,817	1,327	
Electricity & Gas	12,614	11,068	1,546	
Fees	140,130	173,085	(32,955)	2
General Expenses	4,092	-	4,092	
Insurance	2,121	1,592	529	
Interpreters & Translations	4,228	10,032	(5,804)	
Motor Vehicle Levy	-	938	(938)	
Postal Expenses	20,302	22,083	(1,781)	
Printing	29,920	32,533	(2,613)	
Publications	8,253	8,023	230	
Rates & Outgoings	8,585	15,137	(6,552)	
Rent	314,304	314,300	4	
Staff Expenses	18,184	18,654	(470)	
Stores & Stationery	25,073	21,425	3,648	
Telephone	24,121	21,188	2,933	
Travel	23,459	14,681	8,778	
Total Other Operating Expenses	651,747	678,695	(26,948)	
Maintenance Contracts	32,372	32,372	-	
Repairs and Maintenance	1,023	145	878	
Total Maintenance	33,395	32,517	878	

	Budget \$	Spent \$	Variance \$	Notes
Depreciation & Amortisation	77,546	46,149	31,397	3
Other Services – Interest Paid	-	9	(9)	
Total Expenses	3,574,202	3,499,324	74,878	
Less: Revenue (Recoupment)	(3,496,656)	(3,447,038)	(49,618)	
Less: Other Revenue – Discount Received	-	(11)	11	
Net Cost of Services	77,546	52,275	25,271	
Less Non Cash Items: Depreciation & Amortisation	(77,546)	(46,149)	(31,397)	
Net Position	-	6,126	(6,126)	

CAPITAL EXPENDITURE 2008-2009

	Allocation \$	Spent \$	Variance \$	Notes
Computer Software/Systems	403,070	102,044	301,026	4
Total Capital Expenditure	403,070	102,044	301,026	

ANNUAL REPORT STATISTICS 2008-2009

PHONE ENQUIRIES

P1 Legal matters raised in calls

	06-07	07-08	08-09
Other*	16.4	16.7	20.7
Family	18.2	17.1	18.9
Civil	12.2	11.2	11.7
Conveyancing	13.6	14	11.6
Probate/ Wills/ Family provisions	11.4	12.7	11.6
Commercial/ Corporations law	9.2	9.6	8.5
Personal injuries	5.5	6.1	6
Criminal law	5.8	6.5	5.8
Workers compensation	5.3	4.6	3.7
Victims compensation	2.5	1.4	1.4

* "Other" includes queries regarding Legal Referral Services, OLSC processes, general legal queries and OLSC data requests.

P2 Nature of phone enquiry

	06-07	07-08	08-09
Communication	22.1	21.2	20.6
General cost complaint/query	17.4	17	17.5
Negligence	12.4	12.2	11.6
Overcharging	7.8	8.5	9.8
Ethical matters	8.6	8.5	9.2
Costs disclosure	8.7	7.7	5.8
Delay	4.9	5.7	5.2
Misleading conduct	1.8	2.3	2.9
Non conduct enquiry*	-	-	2.7

Document transfer/ Liens	2	2.5	2.5
Conflict of interests	1.9	2.2	2.4
Quality of service	4.2	3.9	2.2
Instructions not followed	2.6	2.5	2.1
Trust fund matters	1.9	2.1	1.8
Document handling	1.2	1.1	1.1
Failure to honour undertakings	0.8	1.1	0.8
Pressure to settle	0.7	0.7	0.8
Fraud (not trust fund)	0.7	0.6	0.6
Compliance matters	0.2	0.3	0.3

* New area added due to increase in types of calls received. Includes queries regarding OLSC processes, general legal queries and statistic requests.

P3 Practitioners mentioned on inquiry line

	06-07	07-08	08-09
Solicitor	94.4	93.4	94.3
Barrister	2.2	2.6	2.6
Other	2.8	3.7	2.6
Licensed Conveyancer	0.6	0.4	0.6

* Calls where Practitioner deemed N/A were taken out of dataset.

P4 Source of calls to the OLSC inquiry line

	06-07	07-08	08-09
Client	69.1	69.4	66.9
Government Agency	2.7	6.1	6.8
Friend/ Relative	7.2	6.7	6.7
Opposing client	6.6	5.7	6.7
Solicitor on own behalf	2	2.6	2.5
Beneficiary/ Executor/ Administrator	2.7	3.0	2.4
Unrepresented client	2.7	0.9	2.1
Previous client	2.4	1.2	2.0
Solicitor on another's behalf	2	2.3	1.7
Non-legal service provider	1.9	1.1	1.3
Barrister on own behalf	0.3	0.5	0.6
Other	0.2	0.4	0.4
Barrister on another's behalf	0.1	0.2	0.1

P5 Outcomes of calls to the inquiry line

	06-07	07-08	08-09
Caller indicated intention to send in complaint	11.6	14.1	20.1
Provided referral for legal advice or other assistance	24.6	22.9	19.2
Provided complaint form	14.4	17.7	18.3
Recommended direct approach to lawyer about concerns	13.5	15.9	14.3
Provided information about the legal system	20.6	10	7.7
Other	5.9	7.6	6.5
Listened to caller's concerns	1.8	3.4	4.8
Provided referral to the NSW Supreme Court Costs Assessment Scheme	2.3	2.4	3.3
Provided information about the OLSC and LPA to a legal Practitioner	0.8	1.2	2.1
Explained that concerns are outside jurisdiction of OLSC	1.4	1.4	1.6
Conducted telephone mediation	2.9	2.9	1.4
Scheduled interview for caller	0.3	0.5	0.5

WRITTEN COMPLAINTS

W1 Legal matters giving rise to complaints received in 2008-2009

	06-07	07-08	08-09
Civil	16.1	20.6	22.5
Family/ Defacto	15.9	15.1	16.5
Probate/ Wills/ Family provisions	8.2	10.0	11.0
Personal Injuries	9.6	10.0	10.2
Commercial/ Corporations law	10.9	8.6	8.9
Conveyancing	10.2	9.0	7.7
Criminal	6.2	6.4	6.3
Other	9.7	6.9	5.6
Leases/ Mortgages/ Franchises	2.9	3.1	3.3
Workers Compensation	4.2	4.1	2.6
Industrial Law	1.8	1.5	1.8
Land and Environment	1.5	2.0	1.7
Professional Negligence	1.4	1.4	1.0
Immigration	0.8	0.7	0.6
Victims Compensation	0.8	0.8	0.4

W2 Nature of complaints received in 2008-2009

	06-07	07-08	08-09
Ethical matters	13.4	15.5	16.6
Negligence	16.4	16.9	16.0
Communication	14.8	14.5	14.8
Overcharging	9.1	10.3	10.9
Misleading conduct	6.3	6.5	7.1
General cost complaint/query	9.2	8.3	6.9
Cost disclosure	5.4	4.9	5.6
Delay	5.3	4.8	4.9
Instructions not followed	4.2	3.9	3.9
Trust fund	4.6	4.4	3.6
Document transfer/ Liens	2.9	2.9	2.5
Quality of service	2.5	2.4	2.2
Conflict of interests	2.1	1.6	2.0
Document handling	0.8	0.9	0.9
Compliance matters	0.5	0.6	0.8
Fraud (not trust fund)	0.7	0.5	0.6
Failure to honour undertakings	1.0	0.5	0.6
Pressure to settle	0.8	0.6	0.3

W3 Type and source of complaints received in 2008-2009

	Number of complaints				08-09	07-08	06-07
	Solicitor*	Barrister	Other**	TOTAL			
Bar Association	0	10	0	10	0.4	0.4	0.1
Barrister on another's behalf	3	2	0	5	0.2	0.2	0.2
Barrister on own behalf	41	1	0	42	1.5	2.2	2.2
Beneficiary/ Executor/ Administrator	125	0	1	126	4.4	3.7	2.4
Client	919	59	22	1000	35.1	38.0	35.3
Commissioner	101	2	1	104	3.6	3.5	4
Client's friend / relative	65	8	2	75	2.6	2.6	2.6
Law Society	138	0	0	138	4.8	3.9	3.5
Non-legal service provider	63	1	1	65	2.3	2.3	2.4
Opposing client	384	29	10	423	14.8	14.4	13.4
Previous client	443	31	7	481	16.9	16.1	19.9
Solicitor on another's behalf	144	3	4	151	5.3	5.3	6.2
Solicitor on own behalf	101	3	1	105	3.7	3.7	3.1
Unrepresented client	20	2	0	22	0.8	0.3	0.5
Cost Assessor****	5	0	0	5	0.2	-	-
Other ***	89	6	4	99	3.5	3.3	4
TOTAL	2641	157	53	2851			

* Includes former solicitors and legal practitioners.

** Includes complaints against law clerks, departmental staff, licensed conveyancers, non-legal service providers, judicial officers, migration agents, interstate legal practitioners, deceased practitioners and practitioners that have been struck off.

*** Includes complaints against government agencies, witnesses, and judge/quasi-judicial officer.

**** New source of complaint.

W4 All Complaints finalised in 2008-2009

All OLSC Consumer Disputes

	Solicitor	Barrister	Other*	TOTAL
Dispute resolution completed	1254	36	14	1304
Subtotal completed by OLSC	1254	36	14	1304
Complaint closed by OLSC	103	5	2	110
Withdrawn by complainant at OLSC	55	5	0	60
Subtotal closed by OLSC	158	10	2	170
Outside OLSC jurisdiction	35	1	14	50
Subtotal not accepted by OLSC (1)	35	1	14	50
Total OLSC Consumer Disputes Finalised	1447	47	30	1524

All OLSC Investigations

	Solicitor	Barrister	Other*	TOTAL
Practitioner referred to Tribunal#	20	0	0	20
Practitioner disciplined by OLSC##	21	0	0	21
Compensation ordered by OLSC##	2	0	0	2
Likely UPC but generally competent	9	0	0	9
Subtotal completed by OLSC	52	0	0	52
Tribunal finding of UPC/PM unlikely	441	41	10	492
Public Interest	36	0	0	36
Subtotal closed by OLSC	477	41	10	528
Complaint not accepted out of time	46	5	3	54
Subtotal not accepted by OLSC (1)	46	5	3	54
Total OLSC Investigations Finalised	575	46	13	634

All Council Consumer Disputes

	Solicitor	Barrister	Other*	TOTAL
Dispute resolution completed	92	2	1	95
Resolved through formal mediation	1	0	0	1
Subtotal completed by Council	93	2	1	96
Complaint closed by Council	36	1	0	37
Withdrawn by complainant at Council	58	2	2	62
Not resolved at Council	1	0	0	1
Subtotal closed by Council	95	3	2	100
Total Council Consumer Disputes finalised	188	5	3	196

	Solicitor	Barrister	Other*	TOTAL
Practitioner referred to Tribunal#	44	5	1	50
Practitioner disciplined by Council##	20	1	1	22
Likely UPC but generally competent	20	0	1	21
Subtotal completed by Council	84	6	3	93
Tribunal finding of UPC/PM unlikely	222	37	3	262
Public Interest	6	1	0	7
Subtotal closed by Council	228	38	3	269
Total Council Investigations Finalised	312	44	6	362
Total handled by Council	500	49	9	558
Total handled by OLSC	2022	93	43	2158
TOTAL	2522	142	52	2716

* Other includes interstate legal practitioners, licensed conveyancers, law clerks, non-legal service providers and practitioners who have been struck off the roll.

Some complaints that have had proceedings in the ADT instituted are still open and therefore included in the open complaints.

Number of complaints that result in a disciplinary action, not number of practitioners disciplined.

(1) Category to differentiate between OLSC complaints closed and those not accepted.

W5 Duration of file handling at the OLSC

Of complaints finalised in 2008-2009, time taken for complaints handling

	Percentage of files closed within following periods*		
	06-07	07-08	08-09
0-30 days	20.8	23.0	22.8
1-3 months	29.6	34.9	32.1
3-6 months	22.8	23.4	26.4
6-9 months	9.9	7.6	9.1
9-12 months	4.6	4.3	3.1
Over 12 months	12.3	6.8	6.5

* Percentages have been rounded to one decimal place resulting in the total possibly being plus or minus 0.1%.

W6 Age of complaints remaining open or suspended on 30 June 2009 and being handled by the OLSC

Year opened	Open at 30 June 2007	Open at 30 June 2008	Open at 30 June 2009
2008-2009	-		483
2007-2008	-	572	61
2006-2007	403	77	26
2005-2006	88	37	10
2004-2005	49	15	10
2003-2004	18	3	1
2002-2003	4	0	0
2001-2002	1	1	0
2000-2001	0	0	0
1999-2000	1	0	0
1998-1999	0	0	0
1997-1998	0	0	0
1996-1997	0	0	0
1995-1996	0	0	0
1994-1995	0	0	0
TOTAL	564	705	591

* Variations may be noted due to files being reopened. Data has been checked, verified and is accounted for.

W7 Average time taken to finalise a complaint at the OLSC

Of complaints handled in 2008-2009, time taken to finalise a complaint

	Days*
Average time to complete complaints received and completed / resolved in 2008-2009	78.4
Average time to complete complaints received in any year but completed / resolved in 2008-2009	116.4
Average time taken to dismiss complaints received in 2008-2009	71
Average time to dismiss complaints received in any year but dismissed in 2008-2009	146.1

* Averages rounded to 1 decimal point.

REVIEWS

R1 Duration of review handling at the OLSC

Of reviews finalised in 2008-2009, time taken for review handling

	Percentage of files closed within following periods*	
	07-08	08-09
0-3 months	16.1	45.8
3-6 months	53.6	45.8
6-9 months	25	5.1
9-12 months	1.8	1.7
Over 12 months	3.6	1.7

* Percentages have been rounded to one decimal place resulting in the total possibly being plus or minus 0.1%.

R2 Reviews in progress and finalised in 2008-2009 – received all years

	Solicitor	Barrister	Other**	Total	Percentage
Reviews in progress					
In progress at OLSC	3	2	0	5	6.2
Being reviewed by consultant	6	5	0	11	13.6
Consulting with Council prior to finalising	4	0	0	4	4.9
Total remaining open	13	7	0	20	24.7
Reviews completed					
Dismissal confirmed	37	14	0	51	63.0
Out of time, no jurisdiction	3	0	0	3	3.7
Review request withdrawn	0	0	0	0	0.0
Reprimand confirmed	0	0	0	0	0.0
Reinvestigated by OLSC	1	1	0	2	2.5
Reinvestigated by Council	2	0	0	2	2.5
Decision changed	2	0	0	2	2.5
Other	1	0	0	1	1.2
Total completed	46	15	0	61	75.3
Total handled	59	22	0	81	100

** “Other” includes interstate legal practitioners, licensed conveyancers, law clerks, non-legal service providers and practitioners who have been struck off the roll.

TRIBUNAL PROCEEDINGS

T1 Complaints referred to the Administrative Decisions Tribunal in 2008-2009*

Reason	Solicitor	Barrister	Clerk / Associate	TOTAL
Reprimand/ Compensation Order ***	1			1
Approval of Lay Associate s17(3)			1	1
Prohibited employment**			2	2
Disciplinary Action	24	3		27
TOTAL	25	3	3	31

* Data provided by Administrative Decisions Tribunal.

** *Legal Profession Act 2004* (LPA) s18.

*** *Legal Profession Act 2004* (LPA) s540.

T2 Outcomes of Tribunal Proceedings in 2008-2009*

Outcome	Number
Reprimanded	17
Fined	12
Removed from roll	20
Consent Order	4
Conditions imposed on practising certificate	8
Practising Certificate cancelled	6
Practising Certificate suspended	1
Dismissed after hearing	3
Application granted	1
Undertake and complete course of further Legal Education	7
Approval of lay associate: Application granted	1
Approval of lay associate: Application refused	1
TOTAL	81

* Data provided by Administrative Decisions Tribunal.

Please note:

1. Statistics may differ slightly from Law Society and Bar Association data due to different office procedures, codes and data definitions that are used by the three organisations. Also the Councils can reduce two complaints to one or can split one complaint into multiple issues.
2. Names of some tables have been improved to more accurately indicate nature of data they contain.

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