

*Omnium Jura Defendimus*

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**PROFESSIONAL STANDARDS  
DEPARTMENT ANNUAL REPORT  
2018/2019**

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**President:** E. Espinosa  
**Senior Vice President:** R. Harvey  
**Junior Vice President:** J. Warner  
**Treasurer:** J. van der Plaat  
**Immediate Past President:** The Hon D. Humphreys OAM

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#### **Professional Conduct Committee (as at 30 June 2019)**

J. van der Plaat (Councillor and Chairperson)  
A. Cerny (Councillor and Deputy Chairperson)  
A. Biliass, G. Briot, J. Brooke-Cowden, J. Camden, J. Dawson, M. Devitt, R. Everingham, F. Fisher, D. Garnsey, J. Glowrey, K. Hong, J. Howard, A. Iuliano, C. James, K. Jones, J. King, J. Lowbeer, R. MacSweeney, B. McGrath, D. Miller, K. Osborne, J. Pope, J. Prowse, T. Russell, A. Sarmed, B. Saunders, P. Taylor, R. Thomson, P. Warn, M. Warton

#### **Ethics Committee (as at 30 June 2019)**

H. Macken (Councillor and Chairperson)  
S. Alden, R. Anderson, G. Bates, A. Best, G. Burton, S. Cohen, S. Crellin, M. Curran, R. Fletcher, B. Haines, R. Hoyles, D. Miller, J. Moller, S. O'Regan, S. Pallavicini, K. Rosati, T. Spohr

#### **Costs Committee (as at 30 June 2019)**

H. Macken (Councillor and Chairperson)  
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#### **Disclosure Committee (as at 30 June 2019)**

Z. Kekeff (Councillor and Chairperson)  
R. Hughes, N. Kroesche, P. Lewis, K. Osborne, A. Sarmed, J. Sutton, R. Thomson, D. Turner, P. Warn

#### **Chief Executive Officer**

M. Tidball

#### **Professional Standards Department**

Director (as at 30 June 2019): A. Foord  
Director (current): A. Lean

#### **Annual Report Production:**

Professional Standards Department

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# INTRODUCTION

The Annual Report of the Professional Standards Department (**Professional Standards**) of the Law Society of New South Wales (**Society**) encapsulates the work of the Society in performing its statutory functions, including the education and improvement of the standards of the legal profession in New South Wales. Through its co-regulatory role with the New South Wales Legal Services Commissioner (**Commissioner**), the Society not only endeavours to uphold high professional standards but is also committed to protecting members of the public.

Utilising its powers under the legal profession legislation, Professional Standards investigates complaints against solicitors and associates of law practices. Professional Standards also investigates allegations about persons who engage in legal practice when they are not entitled to do so.

Many of the complaints dealt with by Professional Standards involve serious and complex conduct issues which are investigated thoroughly and, upon completion, reported to and considered by the Society's Professional Conduct Committee (**PCC**). In undertaking its statutory functions, Professional Standards acts fairly and impartially and aims to ensure that all complaints are dealt with as efficiently and expeditiously as possible.

Professional Standards also conducts litigation on behalf of the Council of the Society (**Council**) including disciplinary proceedings in the New South Wales Civil and Administrative Tribunal (**NCAT**).

The work of Professional Standards encompasses more than investigation and litigation of complaints. It also provides guidance, assistance and education to the legal profession through its Professional Support Unit.

Professional Standards also deals with show-cause events, external intervention and the recovery of regulatory costs, and has a role in monitoring compliance. Under the co-regulatory regime, Professional Standards works closely with the Commissioner and his Office (**OLSC**) in relation to the complaints process and policy development.

## OUR MISSION

The mission of Professional Standards is to:

- Promote and improve Professional Standards
- Regulate solicitors
- Implement the law relating to professional standards and educate legal practitioners
- Protect members of the public
- Provide timely and practical guidance to the profession
- Conduct timely and impartial investigations

## OUR VALUES

The values embodied in the work Professional Standards do:

- Integrity
- Personal and professional effectiveness
- Teamwork
- Motivation to achieve

This Annual Report is an overview of the work undertaken by Professional Standards from 1 July 2018 to 30 June 2019 (**2018/2019**). Where relevant, comparative data for the period from 1 July 2017 to 30 June 2018 (**the previous reporting period**) is provided. The statistical information set out in this report, in conjunction with the Society's Annual Report, complies with the reporting requirements of the legal profession legislation.

# PRESIDENT'S MESSAGE

## The Law Society and Professional Standards

The 2019 Professional Standards Annual Report is presented for your reading to demonstrate the Law Society of New South Wales' ongoing commitment to ensure public confidence in the integrity of the legal profession. The Law Society seeks to enhance and maintain professional standards in an independent and transparent manner.

The annual report is a snapshot of the varied and important work that is undertaken by Professional Standards and describes how the organisation is an active participant within the legal profession.

This important and varied work undertaken is done so in conjunction with the New South Wales Legal Services Commissioner to provide comprehensive regulation and guidance for the legal profession in New South Wales.

## Dealing with complaints

Pursuant to the Legal Profession Uniform Law, the Commissioner receives complaints about the conduct of solicitors in New South Wales.

The Council of the Law Society of New South Wales has been delegated functions by the Commissioner to enable it to assess, investigate and determine the complaints referred to it by the Commissioner.

The annual report provides information as to how the disciplinary process has been undertaken and the outcome of the complaints received and dealt with.

These outcomes, including disciplinary actions taken against solicitors, illustrate the diligent and professional approach taken by the Law Society.



## Our future role

The Society has a unique and ongoing relationship with the legal profession by combining leadership, regulation, guidance and assistance.

The Professional Support Unit in Professional Standards continues to utilise the skill and experience provided by our specialist professionals to lead, mentor, guide and teach the legal profession about key areas of everyday practice including costs, ethics and regulatory compliance.

Constant improvement to the delivery of these services has resulted in a comprehensive suite of resources that are available for the legal profession. New digital technologies together with traditional methods of support have been utilised to effectively deliver our online guides, advisory services and Continuing Professional Development programmes.

As President of the Law Society, it is with great pride that I present the 2019 Professional Standards Annual Report.

**E. Espinosa**  
President

# THE PROFESSIONAL STANDARDS DEPARTMENT

The Society has a statutory obligation to uphold and improve the professional standards of the legal profession in New South Wales. Professional Standards fulfils this obligation through a number of key activities detailed below.

## Key Activities

### Management

- Discharge responsibilities and accountabilities in accordance with statutory requirements.
- Develop and meet budget targets.
- Consult with relevant stakeholders in relation to legal profession legislation, including changes and national uniformity.
- Supervise staff to ensure timely and quality outcomes.
- Take appropriate action in relation to aged files.
- Consistently review and update processes and policies to improve the function and operation of Professional Standards.
- Manage complainant and solicitor expectations through education and communication.

### Investigations

- Conduct timely and impartial investigations in relation to solicitors, unqualified practitioners and associates of legal practices.
- Prepare reports and make recommendations on conduct to the PCC and/or the Council
- Attempt to resolve matters.
- Conduct timely and efficient investigations of disclosure matters including the making of recommendations.

### Litigation

- Institute and conduct, on behalf of the Council, proceedings before NCAT and the Courts.
- Respond, on behalf of the Council, to various applications made before NCAT and the Courts.
- Provide regular and informative reports to the PCC and the Council concerning litigation matters.

## WORK UNDERTAKEN BY PROFESSIONAL STANDARDS

### Regulatory Compliance Enquiries

3,839	2018/2019
-------	-----------

4,507	2017/2018
-------	-----------

### Ethics Enquiries

3,230	2018/2019
-------	-----------

3,354	2017/2018
-------	-----------

### Costs Enquiries

531	2018/2019
-----	-----------

1,004	2017/2018
-------	-----------

### Complaint Files

498	2018/2019
-----	-----------

481	2017/2018
-----	-----------

### Disclosure Files

280	2018/2019
-----	-----------

209	2017/2018
-----	-----------

### Litigation/Intervention

56	2018/2019
----	-----------

67	2017/2018
----	-----------

### Unqualified Practitioner Enquiries

40	2018/2019
----	-----------

51	2017/2018
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## Costs

- Provide assistance and guidance to solicitors in relation to costs issues and ensure solicitors understand their obligations and rights pursuant to the legal profession legislation.
- Provide assistance in settlement of costs disputes.
- Prepare matters for the Society's Costs Committee (**Costs Committee**).
- Address policy issues associated with the legal profession legislation, including the effectiveness of the Costs Assessment Scheme and issues associated with legal costs.
- Consult in relation to cost provisions of the legal profession legislation.
- Educate the legal profession.
- Recover costs from any successful disciplinary action taken against solicitors.

## Ethics

- Provide prompt guidance to solicitors consistent with established ethical and legal principles.
- Research and keep abreast of relevant ethical and legal developments.
- Submit timely and informative reports to the Society's Ethics Committee (**Ethics Committee**).
- Maintain accurate records of enquiries.
- Provide legal ethics education through various means, including the publication of articles in the *Law Society Journal* and addresses to the profession and interested groups.

## Regulatory Compliance

- Assist solicitors in dealing with issues of a regulatory nature required for compliance with the legal profession legislation.
- Educate solicitors in relation to changes introduced by new regulatory initiatives, including preparation of online material, factsheets and toolkits.
- Undertake research into appropriate compliance standards.
- Review and advise on practice structures permitted under the legal profession legislation.

## Administration

- Maintain accurate and timely information stored on the Society's databases.
- Provide administrative management and support to ensure the efficient running of Professional Standards, including paralegal support, agenda preparation for the PCC and Society's Disclosure Committee (**Disclosure Committee**), high level document and file management and financial records administration.
- Provide administrative support to the Director of Professional Standards, as well as the solicitors within Professional Standards.

## Disclosure

- Investigate show cause events and other disclosures.
- Prepare matters for the Disclosure Committee.
- Refer appropriate matters to the Council.

# COMPLAINTS

## The complaints process

A complaint may be made by any person or body, including by either the Commissioner or by the Society itself (**Complaints made by the Society**). Further details about Complaints made by the Society are set out below.

All complaints must be made to or by the Commissioner who may, among other things, refer the complaint to the Council of the Society.

Professional Standards currently deals with complaints made both before and after the commencement of the *Legal Profession Uniform Law (NSW) (Uniform Law)* on 1 July 2015. Complaints made on or after 1 July 2015 are dealt with in accordance with Chapter 5 of the Uniform Law. Complaints made prior to 1 July 2015 continue to be dealt with in accordance with Chapter 3 of the *Legal Profession Act 2004* (NSW) (now repealed).

Professional Standards has certain statutory obligations in relation to its handling of complaints, including ensuring that procedural fairness is afforded and that complaints are dealt with as efficiently and expeditiously as possible. Professional Standards also aims to ensure that all complaints are dealt with in an impartial and fair manner.

Professional Standards deals predominantly with those complaints which are provisionally identified, upon referral by the Commissioner, as ‘disciplinary matters’. A disciplinary matter relates to conduct of a solicitor or law practice that would, if the conduct concerned was established, amount to professional misconduct or unsatisfactory professional conduct.

In dealing with disciplinary matters, Professional Standards will undertake a preliminary assessment of the complaint. Following that preliminary assessment, a determination may be made to close part or all of the complaint or to proceed to an investigation of it pursuant to the Uniform Law.

Professional Standards has prepared a brochure titled “Complaints Process Information” which outlines the complaints process, including the Society’s role in dealing with complaints. A copy of this brochure is routinely sent to complainants and solicitors for their assistance and information and is also readily available on the Society’s website.

## Referrals from the Legal Services Commissioner

In 2018/2019:

- the Commissioner received a total of 2,876 written complaints about solicitors, an increase of 8.73% from the previous reporting period.
- Professional Standards was referred a total of 498 complaints, 104 of which were complaints made by the Society.

## Complaints made by the Society

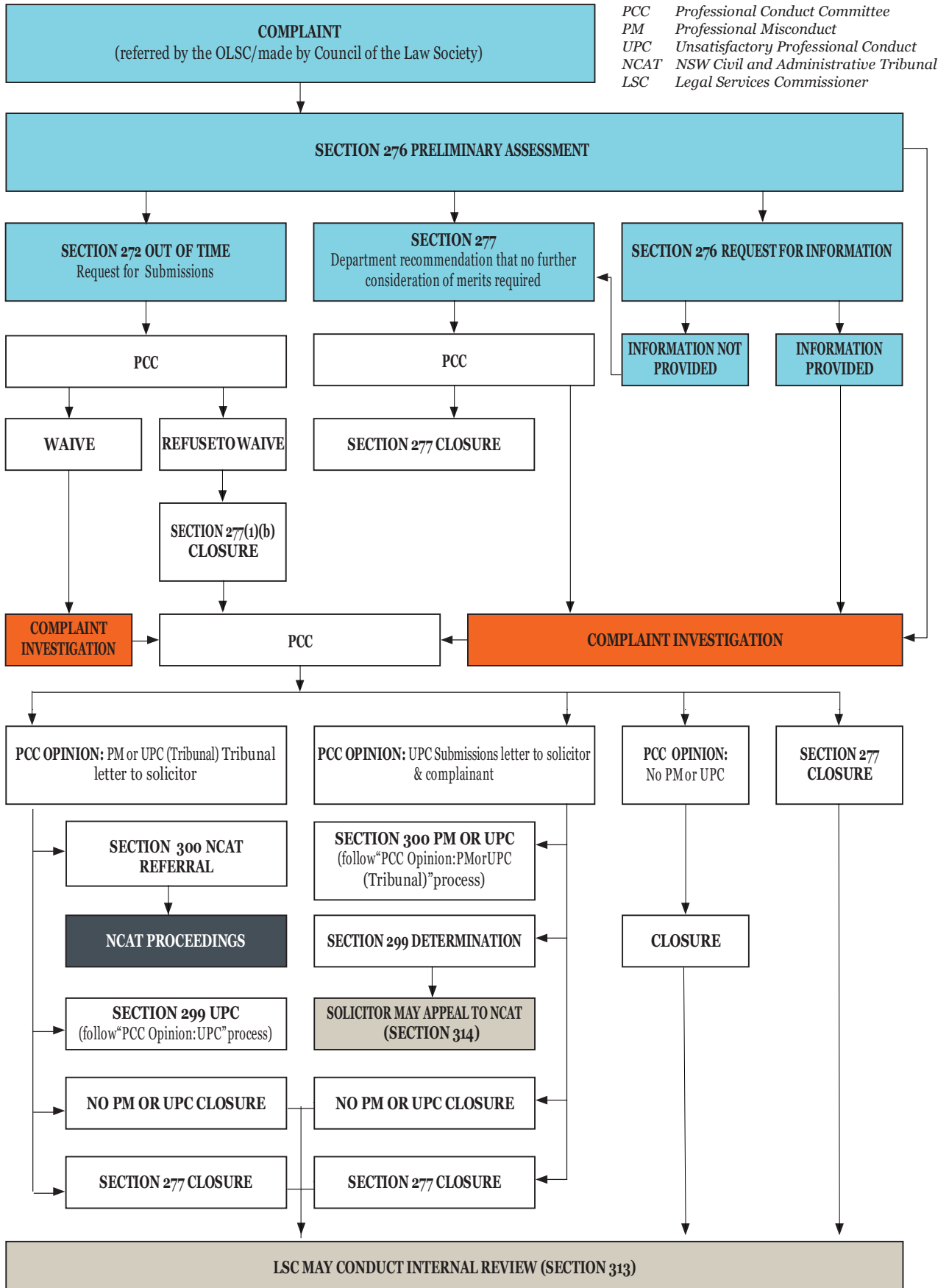
As noted above, the Society may, pursuant to section 266 of the Uniform Law, make its own complaints to the Commissioner about the conduct of solicitors.

Generally speaking, Complaints made by the Society arise from the following matters:

- Matters referred to Professional Standards by the Society’s Trust Account Department, usually involving a solicitor’s mishandling of trust money or involving a solicitor’s failure to comply with trust accounting requirements.
- Matters referred to Professional Standards by the Society’s Registry, usually involving practising certificate issues.
- Matters referred to Professional Standards by the Disclosure Committee, usually involving misconduct arising outside the practise of law.
- Matters referred to Professional Standards by judicial officers or court registrars usually involving conduct of a solicitor arising in the course of proceedings before a Court or Tribunal.



# COMPLAINTS INVESTIGATION PROCESS



## COMPLAINTS

### CATEGORIES OF COMPLAINTS

*The following section provides a snapshot summary of the type and nature of complaints opened by Professional Standards in 2018/2019.*

#### Conduct most complained about

In 2018/2019:

- “Personal Conduct” (including, for example, unethical conduct, misleading behaviour, borrowing from client and negligence) continued to be the major issue complained about, making up 260 of the total complaints.
- “Communication/Services” issues (including, for example, acting contrary to instructions, failing to carry out instructions and no communication) accounted for 50 of the total complaints.
- “Costs/Payment Issues” (including, for example, a failure to pay a third party, overcharging, a failure to provide a detailed account or costs disclosure) accounted for 48 of the total complaints.
- “Non-compliance” issues (including, for example, the failure to comply with an undertaking and failing to comply with the legal profession legislation) accounted for 33 of the total complaints.
- “Trust Account Matters” (including, for example, a breach of the legal profession legislation in relation to trust money, failure to account and misappropriation) accounted for 15 of the total complaints.

#### MAJOR COMPLAINT CATEGORIES

##### Personal Conduct

2018/2019	260
2017/2018	202

##### Communication/Services

2018/2019	50
2017/2018	65

##### Non-Compliance

2018/2019	33
2017/2018	63

##### Cost/Payment Issues

2018/2019	48
2017/2018	49

##### Trust Account Matters

2018/2019	15
2017/2018	33

##### Other

2018/2019	92
2017/2018	69

## Areas of Law with the most complaints

In 2018/2019:

- Complaints about conduct issues arising in the area of “Wills and Estates” have significantly increased from the previous reporting period.
- Complaints about conduct issues arising in the areas of “Family Law”, “Commercial Law” and “Criminal Law” continued to increase from the previous reporting period.
- A number of complaints were made about conduct issues arising in the areas of “Employment Law” and “Worker’s Compensation”.

## Complaints by solicitor type

In 2018/2019:

- 312 complaints were made against principals of a law practice (comprising 62.65% of the complaints made).
- 91 complaints were made against employees of a law practice (comprising 18.27% of the complaints made).
- From a geographical perspective, 28.11% of complaints made related to solicitors practising in suburban Sydney. These solicitors constitute 33.72% of the legal profession in New South Wales. Solicitors practising in Sydney’s CBD, who comprise 48.15% of the legal profession in New South Wales attracted 25.1% of the complaints made. Solicitors practising in rural areas, who comprise 12.3% of the legal profession in New South Wales, generated 10.84% of the complaints made.
- The legal profession in New South Wales comprised of 52.06% female solicitors and 47.94% male solicitors. 73.5% of complaints were made against male solicitors. By comparison, 26.5% of complaints were made against female solicitors.

*Note: Percentages quoted are based on all complaints received but one solicitor may generate several complaints, either separately or in the same matter.*

### AREAS OF LAW WITH THE MOST COMPLAINTS

52	Family Law
45	Wills & Estates
34	Criminal Law
35	Commercial Law
17	Conveyancing/Real Property
10	Employment Law
3	Worker’s Compensation

### COMPLAINT BY SOLICITOR TYPE

#### Principal of a law practice

312	2018/2019
318	2017/2018

#### Employee of a law practice

91	2018/2019
70	2017/2018

#### Complaints against Firms

33	2018/2019
25	2017/2018

#### Not Practising/Ceased Practising

46	2018/2019
0	2017/2018

#### Government Legal Practitioner

6	2018/2019
2	2017/2018

#### Corporate Legal Practitioner

10	2018/2019
2	2017/2018

## COMPLAINTS

### TYPE OF COMPLAINANT

#### Client/Former Client

2018/2019	115
2017/2018	134

#### Law Society

2018/2019	104
2017/2018	90

#### Third Party

2018/2019	103
2017/2018	80

#### Third Party (Other Side)

2018/2019	98
2017/2018	77

#### Solicitor

2018/2019	40
2017/2018	56

#### Barrister

2018/2019	9
2017/2018	16

#### Solicitor for Client

2018/2019	7
2017/2018	13

#### Executor

2018/2019	1
2017/2018	3

#### Legal Services Commissioner

2018/2019	2
2017/2018	3

#### Attorney General

2018/2019	2
2017/2018	0

#### Trust Account Inspector

2018/2019	1
2017/2018	0

#### Other

2018/2019	16
2017/2018	9

## Categories of Complainants

In 2018/2019:

- The highest group of complainants were the client(s) or former client(s) of a solicitor or law practice and accounted for 23.09% of the total complaints.
- Complaints made by the opposing side of the client(s) or former client(s) of a solicitor or law practice accounted for 19.68% of the total complaints.
- Complaints made by the Society complaints accounted for 20.88% of the total complaints.
- Complaints made by barristers accounted for 1.81% of the total complaints. These complaints were often related to the non-payment of their outstanding fees.

## Investigation and finalisation of Matters

In 2018/2019:

- Professional Standards closed 600 matters.
- 61.17% of matters were complaints closed following a decision or determination of the PCC.
- 18.67% of complaints were closed as “resolved” or “withdrawn”.
- 3.33% of complaints were referred to NCAT.
- 14.17% of matters not involving complaints were closed.
- 2.67% of matters were closed for other reasons.

### COMPLAINTS CLOSED UNDER THE UNIFORM LAW

200 COMPLAINT WITHDRAWN - s273(1)	70
201 MISCONCEIVED/LACKING IN SUBSTANCE - s277(1)(a)	145
202 TIME LIMIT NOT WAIVED UNDER s272(1) - s277(1)(b)	21
216 CM CAUTION - s290(2)(a)	1
204 FAILURE/INADEQUATE RESPONSE TO REQUEST FOR INFO - s277(1)(c)	63
205 COMPLAINT ALREADY/HAS BEEN INVESTIGATED - s277(1)(d)	7
206 COMPLAINT BETTER DEALT WITH BY LAW ENFORCEMENT/INVESTIGATORY BODY - s277(1)(e)	5
207 DLRA MADE RECOMMENDATION UNDER SECTION 82(4) - s277(1)(f)	3
209 NO FURTHER INVESTIGATION REQUIRED EXCEPT CM - s277(1)(h)	6
210 NO POWER TO INVESTIGATE COMPLAINT - s277(1)(i)	1
211 PUBLIC INTEREST CLOSURE - s277(1)(j)	1
223 D CAUTION - s299(1)(a)	3
224 D REPRIMAND - s299(1)(b)	11
230 D INITIATE TRIBUNAL PROCEEDINGS - s300(1)	20
231 TRIBUNAL DECISION HANDED DOWN	1
232 SUPREME COURT JUDGMENT HANDED DOWN	1
235 REFERRED BACK TO LSC	1
237 CLOSED AWAITING ADVICE	1
238 CLOSED ENQUIRY	78
239 CLOSURE - NO UPC/PM	91

### COMPLAINTS CLOSED UNDER LEGAL PROFESSION ACT 2004

1 REPRIMAND (TRIBUNAL)	1
10 COMPLAINT WITHDRAWN	1
11 NO PROF MISCONDUCT	2
100 RECEIVER APPOINTED	1
106 APPOINTMENT TERMINATED	5
138 S.511 SUMM DISMISS	4
146 APPLIC DISMISSED	3
2 STRUCK OFF	2
38 DISS/NO P.MC./U.P.C.	3
46 RESOLVED	41
94 CLOSED ENQUIRY	7

## COMPLAINTS

### Decisions of the Professional Conduct Committee

The Council delegates certain functions under Chapter 5 of the Uniform Law to the PCC.

The PCC is one of the Society's larger committees and plays an essential role in relation to the regulatory functions of the Society. In 2018/2019, there were 32 members of the PCC, comprising 6 Councillors of the Society, 26 solicitors and 6 lay members.

Members of the PCC contribute many hours on a voluntary basis. The PCC is reflective of a broad range of legal expertise, insights and experience. The PCC generally meets fortnightly to consider the reports and recommendations of Professional Standards in relation to complaints.

Following its consideration of a complaint, the PCC may:

- Close the complaint.
- Find that the solicitor has engaged in unsatisfactory professional conduct and order that the solicitor:
  - be cautioned;
  - be reprimanded;
  - apologise to the complainant;
  - re-do the work the subject of the complaint at no cost or waive or reduce the fees for the work;
  - undertake education, training, counselling or be supervised;
  - pay a fine of a specified amount not exceeding \$25,000 to the Public Purpose Fund; or
  - recommend a specified condition be imposed on the solicitor's practising certificate.
- Initiate proceedings in NCAT against the solicitor.

In 2018/2019:

- Of the 600 matters finalised by Professional Standards, 387 comprised of complaints which had been referred to the PCC.
- Of the complaints considered by the PCC:
  - 96 were closed on the basis that the alleged conduct did not amount to professional misconduct or unsatisfactory professional conduct.
  - 252 were closed for one or more of the grounds provided under section 277 of the Uniform Law including that the complaint was misconceived or lacking in substance (277(1)(a)); the complainant had not responded, or responded inadequately to a request for further information (277(1)(c)); the subject matter of the complaint had already been investigated (277(1)(d)); or that it was otherwise in the public interest to close the complaint (for example, in circumstances where the solicitor's name may already have been removed from the roll) (277(1)(j)).

### DECISIONS OF THE PROFESSIONAL CONDUCT COMMITTEE

#### Closed pursuant to s.277

2018/2019	252
2017/2018	181

#### Closure no UPC/PM

2018/2019	96
2017/2018	95

#### Solicitor referred to NCAT

2018/2019	20
2017/2018	60

#### Dismissed pursuant to s.511 (Legal Profession Act 2004)

2018/2019	4
2017/2018	7

#### Caution

2018/2019	4
2017/2018	5

#### Reprimand

2018/2019	11
2017/2018	5

#### Dismissed pursuant to s.155A (Legal Profession Act 1987)

2018/2019	0
2017/2018	1

- 15 determinations of unsatisfactory professional misconduct were made by the PCC, and 4 cautions and 11 reprimands were consequently ordered by the PCC.
- 20 matters were referred to NCAT for the commencement of disciplinary proceedings.

## Complaints Management

The staff practices and procedures of Professional Standards are regularly reviewed and updated to ensure complaints are handled as efficiently and expeditiously as possible.

Professional Standards also liaises with the Commissioner concerning the status and progress of all complaints referred to the Society.

A factor which may often impact the progress of a complaint investigation is where the subject matter of the complaint is also the subject of a court proceeding, an application (such as, costs assessment) or investigation by another body. In those circumstances, the Society will generally defer its consideration of the complaint until the court proceeding, application or investigation is finalised.

## Reviews by the New South Wales Legal Services Commissioner

The decisions and determinations of the PCC are subject to review. The avenue of review that may be available under the legal profession legislation will depend upon the type of decision or determination made. For example, in relation to a complaint which has been closed by the PCC under section 277 of the Uniform Law, an application for review must be made to the Commissioner within 30 days of the date of notice of the decision.

The Commissioner has the absolute discretion to conduct an internal review of that decision if he considers it appropriate to do so.

Reviews conducted by the Commissioner are one of the criteria used by Professional Standards to measure its key complaint handling objectives.

In 2018/2019, the Commissioner received 17 requests for reviews and completed 11 reviews. The Commissioner referred 2 complaints back to the Society for further investigation and upheld 9 of the original decisions of the PCC.

### 2018/2019: Turn-around Times

Indicator:	30% of complaints closed within 6 months of opening
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2019	35% closed within six months
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Assessment:	
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Indicator:	70% of complaints closed within 12 months of opening
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2019	56% closed within 12 months
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Assessment:	
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Indicator:	95% of complaints closed within 2 years of opening
------------	--

2019	80% closed within two years
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Assessment:	
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### Reviews check

Indicator:	90% of reviewed decisions upheld
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2019	82% of those completed were upheld
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Assessment:	
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# LITIGATION AND INTERVENTION

## New South Wales Civil and Administrative Tribunal

If the PCC is of the opinion that the alleged conduct of a solicitor may amount to professional misconduct, it will decide to initiate and prosecute proceedings in NCAT in relation to that conduct. It may also decide to initiate and prosecute proceedings where it is of the opinion that the alleged conduct may amount to unsatisfactory professional conduct which would be better dealt with by the NCAT.

Proceedings are commenced in NCAT on behalf of the Council by the filing of an Application for Disciplinary Findings and Orders. Applications must be made within 6 months of the date of the PCC's decision.

Many of the matters referred to NCAT are complex and quite often involve multiple issues of conduct. The table on the next page sets out the types of conduct considered by NCAT and orders it made in relation to that conduct.

In 2018/2019:

- 20 matters resulted in solicitors being referred to NCAT.
- 26 Applications for Disciplinary Findings and Orders were filed in NCAT.
- NCAT handed down decisions in respect of 36 disciplinary matters commenced by the Council (see NCAT Matters and Orders table).

### NCAT ORDERS FOR REPRIMANDS, FINES OR REMOVALS FROM THE ROLL

#### 2018/2019

23	Reprimand
19	Fine
8	Removed from the Roll

#### 2017/2018

13	Reprimand
7	Fine
8	Removed from the Roll

#### 2016/2017

8	Reprimand
5	Fine
11	Removed from the Roll

#### 2015/2016

15	Reprimand
3	Fine
9	Removed from the Roll

#### 2014/2015

4	Reprimand
3	Fine
6	Removed from the Roll

#### 2013/2014

8	Reprimand
4	Fine
4	Removed from the Roll

#### 2012/2013

15	Reprimand
9	Fine
12	Removed from the Roll



## NCAT Matters and Orders

Name of Solicitor	Conduct	Orders Made	Date of Orders
ADAMSON, Luke Jerome	<ul style="list-style-type: none"> <li>• Deficiencies in trust account and other matters</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> <li>• Removal of Solicitor's name from the Roll</li> <li>• Fine</li> <li>• Costs</li> </ul>	2 January 2019
AUTORE, Anthony	<ul style="list-style-type: none"> <li>• Failure to comply with s371 notice</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> <li>• Reprimand</li> <li>• Restrictions on practising certificate</li> <li>• Costs</li> </ul>	14 May 2019
BOUZANIS, Peter	<ul style="list-style-type: none"> <li>• Various breaches of the Legal Profession Act 2004</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> <li>• Reprimand</li> <li>• Fine</li> <li>• Costs</li> </ul>	10 July 2018
CLARKE, Daniel Christopher	<ul style="list-style-type: none"> <li>• Breach of undertaking</li> <li>• Making statements/representations which were misleading</li> <li>• False and misleading conduct</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> <li>• Reprimand</li> <li>• Fine</li> <li>• Costs</li> </ul>	14 August 2018
COREN, Nicholas Mitchell	<ul style="list-style-type: none"> <li>• Various breaches of the Legal Profession Act 2004</li> <li>• Misappropriation of trust funds</li> <li>• Failure to communicate</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct and unsatisfactory professional conduct</li> <li>• Removal of Solicitor's name from the Roll</li> <li>• Costs</li> </ul>	26 April 2019
CUMMINS, Paul Bernard	<ul style="list-style-type: none"> <li>• Breach of condition of a practising certificate</li> <li>• Attempt to intimidate Counsel</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> <li>• Reprimand</li> <li>• Fine</li> <li>• Costs</li> </ul>	14 November 2018
DIB, Ghassan	<ul style="list-style-type: none"> <li>• Failure to comply with s371 Notice</li> <li>• Failure to assist investigator</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of unsatisfactory professional conduct</li> <li>• Reprimand</li> <li>• Fine</li> <li>• Costs</li> </ul>	18 January 2019
DO, Tien Ngoc (also known as Ngoc Tien Do)	<ul style="list-style-type: none"> <li>• Misappropriation of trust funds</li> <li>• Various breaches of the Legal Profession Act 2004 and Legal Profession Regulation 2005</li> <li>• Failure to carry out instructions</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> <li>• Removal of Solicitor's name from the Roll</li> <li>• Costs</li> </ul>	5 September 2018
DXW	<ul style="list-style-type: none"> <li>• Trust account breaches</li> </ul>	<ul style="list-style-type: none"> <li>• Finding that Tribunal had no jurisdiction</li> </ul>	25 June 2019
FEENEY, Judy Anne	<ul style="list-style-type: none"> <li>• Various breaches of the Legal Profession Act 2004 and the Legal Profession Regulation 2005</li> <li>• Misappropriation of trust funds</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> <li>• Removal of Solicitor's name from the Roll</li> <li>• Costs</li> </ul>	19 October 2018
GURUSAMY, Baskaran	<ul style="list-style-type: none"> <li>• Various breaches of the Legal Profession Act 2004 and the Uniform Law</li> <li>• Failure to disclose payment of financial benefit to third party</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> <li>• Reprimand</li> <li>• Fine</li> <li>• Costs</li> </ul>	12 June 2019
HEDGES, Brent Arthur	<ul style="list-style-type: none"> <li>• Various breaches of the Legal Profession Act 2004</li> <li>• Delay in payment of third party fees</li> <li>• Failure to communicate</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> <li>• Fine</li> <li>• Costs</li> </ul>	3 September 2018
HEDGES, Stephen Lewis	<ul style="list-style-type: none"> <li>• Various breaches of the Legal Profession Act 2004</li> <li>• Delay in payment of third party fees</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> <li>• Fine</li> <li>• Costs</li> </ul>	3 September 2018
HELBY, Christopher Vincent	<ul style="list-style-type: none"> <li>• Failure to disclose costs</li> <li>• Various breaches of the Legal Profession Regulation 1994</li> <li>• Failure to provide trust account statements</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of unsatisfactory professional conduct</li> <li>• Reprimand</li> <li>• Fine</li> </ul>	8 November 2018

## LITIGATION AND INTERVENTION

KING, Denise Elizabeth	<ul style="list-style-type: none"> <li>• Acting against client's interests</li> <li>• Engaging in threatening behaviour when seeking payment of costs</li> <li>• Failure to make timely costs disclosure</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct and unsatisfactory professional conduct</li> <li>• Removal of Solicitor's name from the Roll</li> <li>• Costs</li> </ul>	19 September 2018
HO, Darren	<ul style="list-style-type: none"> <li>• Drafted and submitted false correspondence and false Statutory Declaration to the Society</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> <li>• Reprimand</li> <li>• Restrictions on right to practice</li> <li>• Costs</li> </ul>	3 June 2019
LEWIS, Paul Edward	<ul style="list-style-type: none"> <li>• Failure to comply with undertaking</li> <li>• Practising in breach of a condition on practising certificate</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> <li>• Reprimand</li> <li>• Fine</li> <li>• Costs</li> </ul>	24 June 2019
MARANDO, Mark Paul	<ul style="list-style-type: none"> <li>• Breach of Tribunal order</li> <li>• Breach of undertaking to the Society</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> <li>• Reprimand</li> <li>• Fine</li> <li>• Costs</li> </ul>	7 December 2018
MESSIHA, Nadia	<ul style="list-style-type: none"> <li>• Misappropriation of trust funds</li> <li>• Various breaches of the Legal Profession Act 2004 and Legal Profession Regulation 2005</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> <li>• Reprimand</li> <li>• Course</li> <li>• Fine</li> <li>• Costs</li> </ul>	22 February 2019
MOORE, Simeon Peter	<ul style="list-style-type: none"> <li>• Application to file Disciplinary Application out of time</li> </ul>	<ul style="list-style-type: none"> <li>• Application dismissed</li> </ul>	24 August 2018
MULOCK, Mark Joseph	<ul style="list-style-type: none"> <li>• Practising without a practising certificate</li> <li>• Failure to obtain professional indemnity insurance</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> <li>• Reprimand</li> <li>• Costs</li> </ul>	28 August 2018
PETROVICH, Vic	<ul style="list-style-type: none"> <li>• Failure to comply with undertakings</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> <li>• Reprimand</li> <li>• Costs</li> </ul>	28 March 2019
POWELL, Helen Jean	<ul style="list-style-type: none"> <li>• Failure to comply with undertaking</li> <li>• Practising in breach of a condition on practising certificate</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> <li>• Reprimand</li> <li>• Fine</li> <li>• Costs</li> </ul>	15 February 2019
RENFREW, Louise Trudence	<ul style="list-style-type: none"> <li>• Preparing and witnessing affidavit knowing or ought to have known to be false</li> <li>• Knowing or recklessly misleading the Supreme Court in probate proceedings</li> <li>• Attempting to mislead another solicitor</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> <li>• Reprimand</li> <li>• Course</li> <li>• Restrictions on practising certificate</li> <li>• Costs</li> </ul>	30 April 2019
ROGERS, Michael Edward	<ul style="list-style-type: none"> <li>• Failure to pay superannuation entitlements and to provide PAYG summary</li> </ul>	<ul style="list-style-type: none"> <li>• Application dismissed (Jurisdictional issue)</li> </ul>	5 June 2019
SEARLE, Deborah Jean	<ul style="list-style-type: none"> <li>• Use of without prejudice communications in breach of Family Law Act and Rules</li> <li>• Threatening to use material that may lead to criminal proceedings in settlement negotiations</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct and unsatisfactory professional conduct</li> <li>• Reprimand</li> <li>• Course</li> <li>• Fine</li> <li>• Costs</li> </ul>	8 May 2019
SOSZYN, Belinda Joanne	<ul style="list-style-type: none"> <li>• Failure to properly comply with subpoena</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of unsatisfactory professional conduct</li> <li>• Reprimand</li> <li>• Costs</li> </ul>	17 May 2019
TEREPO, Sesilia Fehoko	<ul style="list-style-type: none"> <li>• Misappropriation of trust funds</li> <li>• Various breaches of the Legal Profession Act 2004 and Legal Profession Regulation 2005</li> <li>• Failure to comply with s371 notice</li> <li>• Failure to assist investigator</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct and unsatisfactory professional conduct</li> <li>• Recommendation of removal of Solicitor's name from the Roll</li> <li>• Costs</li> </ul>	26 April 2019
TEYS, Michael John	<ul style="list-style-type: none"> <li>• Failure to remit monies to Australian Taxation Office</li> <li>• Failure to pay superannuation entitlements</li> <li>• Various breaches of the Legal Profession Act 2004</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> <li>• Removal of Solicitor's name from Roll</li> <li>• Costs</li> </ul>	27 September 2018

TITMARSH, Shaun Michael	<ul style="list-style-type: none"> <li>• Failure to follow instructions</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of unsatisfactory professional conduct</li> <li>• Reprimand</li> <li>• Course</li> <li>• Fine</li> <li>• Costs</li> </ul>	31 January 2019
THADSANAMORTHY, Viji	<ul style="list-style-type: none"> <li>• Trust account breaches</li> <li>• Breach Professional Conduct and Practice Rules 2013</li> <li>• Charging Goods and Services Tax when not entitled</li> <li>• Misappropriation of trust funds</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct and unsatisfactory professional conduct</li> <li>• Reprimand</li> <li>• Course</li> <li>• Fine</li> <li>• Costs</li> </ul>	28 June 2019
WALSH, Peter Francis	<ul style="list-style-type: none"> <li>• Purporting to witness signature on document</li> <li>• Purporting to take Declaration</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> <li>• Reprimand</li> <li>• Fine</li> <li>• Costs</li> </ul>	17 December 2018
WINTER, Ronald William	<ul style="list-style-type: none"> <li>• Purporting to act for company when it had ceased to exist</li> <li>• Misleading</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of unsatisfactory professional conduct and professional misconduct</li> <li>• Reprimand</li> <li>• Course</li> <li>• Fine</li> <li>• Costs</li> </ul>	18 April 2019
YOON, Seog Won	<ul style="list-style-type: none"> <li>• Various breaches of the Legal Profession Act 2004</li> <li>• Misappropriation of trust funds</li> <li>• Failing to comply with s370 Notice</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> <li>• Recommendation of removal of Solicitor's name from the Roll</li> <li>• Costs</li> </ul>	20 February 2019
YOUSSEF, Mouna	<ul style="list-style-type: none"> <li>• Failure to comply with s370 Notice</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of unsatisfactory professional conduct Reprimand</li> <li>• Course</li> <li>• Costs</li> </ul>	23 November 2018
ZAKI, Nader Youssef	<ul style="list-style-type: none"> <li>• Failure to comply with s371 Notice</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> </ul>	19 March 2019

### Court Matters

#### Supreme Court Matters

The following matters were heard in the 2018/2019 year by the Supreme Court of New South Wales (including the Court of Appeal and Court of Criminal Appeal):

1. **AB v Law Society of New South Wales [2018] NSWSC 1975** – Judicial review proceedings – Upheld.
2. **Berger v Council of the Law Society of New South Wales [2019] NSWCA 119** – Appeal against NCAT order – Dismissed.
3. **Burrows v Law Society of New South Wales [2019] NSWCA 8** – Leave to appeal costs order – Dismissed.
4. **Council of the Law Society of New South Wales v Hedges – Supreme Court of NSW proceedings no. 2018/00281137** – Appeal against NCAT order – Upheld.
5. **Council of the Law Society of New South Wales v Hedges – Supreme Court of NSW proceedings no. 2018/00281138** – Appeal against NCAT order – Upheld.
6. **Council of the Law Society of New South Wales v Parente [2019] NSWCA 33** – Removal of solicitor as not a fit and proper person – Upheld.
7. **Council of the Law Society of New South Wales v Levitt [2018] NSWCA 247** – Judicial review proceedings – Upheld.
8. **JB v Regina [2019] NSWCCA 48** – Variation of suppression and non-publication orders.
9. **Mendonca v Legal Services Commissioner [2019] NSWSC 409** – Appeal against refusal to conduct internal review.
10. **MN Legal and Management Consultants Pty Ltd v The Council of the Law Society of New South Wales; Michail v The Council of the Law Society of New South Wales [2018] NSWSC 1410** – Appeal against decision to suspend practising certificate – Dismissed.
11. **Tangsilsat v Council of the Law Society of New South Wales [2019] NSWCA 144** – Appeal against NCAT order – Dismissed.
12. **Council of the Law Society of NSW v O'Brien [2019] NSWSC 383** – Application for freezing order – Upheld.
13. **Council of the Law Society of New South Wales v Cassidy (being the former principal of ECK Lawyers Pty Ltd – an incorporated legal practice trading as ECK Lawyers) [2018] NSWSC 2008** – Application for appointment of receiver – Upheld.
14. **Council of the Law Society of New South Wales v XX [2019] NSWSC 874** – Application for injunction order – Upheld.

#### Federal Court Matters

**Rubis v Garrett as Trustee of the Andrew Garrett Family Trust Trading as Dynamic Commercial Workforce Solutions (No 2)** – Security interest claim.

#### High Court Matters

**Council of the Law Society of New South Wales v Levitt [2019] HCATrans 78 – 12 April 2019** – Special leave application – Dismissed.

#### Unqualified Practice

The Society's role, in addition to protecting the public against the inappropriate conduct of solicitors, includes investigating queries about entities that may have breached sections 10(1) and/or 11 of the Uniform Law.

Section 10(1) of the Uniform Law prohibits entities from engaging in legal practice in New South Wales when they are not qualified to do so. Section 11(1) of the Uniform Law prohibits entities from holding themselves out as entitled to engage in legal practice.

In dealing with queries about potential breaches of sections 10(1) and 11 of the Uniform Law, Professional Standards will usually, in the first instance, attempt to resolve matters without commencing legal proceedings by liaising with the entity the subject of the query.

In 2018/2019:

- 40 enquiries about unqualified practice were dealt with, a decrease from the 51 enquiries in the previous reporting period.
- No court proceedings were instituted.

#### Disqualification of Individuals

The Society may apply to the NCAT for an order, under section 119 of the Uniform Law, disqualifying an individual (other than a legal practitioner) for the purposes of the Uniform Law.

Grounds for disqualification include:

- the individual has been convicted of a serious offence;
- the individual is not a fit and proper person to be employed or paid in connection with the practice of law, or to be involved in the management of a law practice;
- the individual was formerly an Australian legal practitioner and has been guilty of conduct that constituted unsatisfactory professional conduct or professional misconduct; or
- the individual has been guilty of conduct that, if the person were an Australian legal practitioner, would have constituted unsatisfactory professional conduct or professional misconduct.

## External Intervention

In certain circumstances, the Council may determine to initiate external intervention in relation to a law practice. The circumstances, where external intervention may be warranted are outlined in section 326 of the Uniform Law and include:

- when a solicitor ceases to hold a practising certificate;
- where a law practice or an unincorporated legal practice has been wound up or dissolved;
- where the Society believes on reasonable grounds that a law practice is not dealing with trust money adequately or where there has been a serious irregularity in relation to trust money;
- where a solicitor is in prison;
- where a solicitor has failed to comply with any requirement of an investigator or external examiner appointed under the legal profession legislation; or
- where a solicitor ceases to be engaged in legal practice without making provision for properly dealing with trust money or for properly winding up the affairs of the law practice.

The particular facts and circumstances of each matter will determine the form of any external intervention. In addition, the facts and circumstances may warrant the appointment, by the Council, of an external investigator.

## Managers

The Council may resolve to appoint a manager to a law practice under section 334 of the Uniform Law. Managers are generally appointed to ensure the orderly conduct of the matters of a law practice, for example, upon the death or ill health of a sole practitioner or where a receiver's powers of collecting or tracing trust property are not required. A manager must hold Principal of a Law Practice practising certificate and will take over all of the duties and responsibilities of a solicitor's law practice and dispose of the law practice.

In 2018/2019, the Council appointed a total of 28 managers.

## Supervisors

The Council may resolve to appoint a supervisor to a law practice pursuant to section 329 of the Uniform Law. A supervisor of trust money of a law practice has the powers and duties of a law practice in relation to all trust money, that is, to receive trust money into a law practice, to open and close trust accounts and to make payments to those parties entitled.

In 2018/2019, the Council appointed a total of 4 supervisors.

## Receivers

The Council may resolve to apply to the Supreme Court of New South Wales for the appointment of a receiver to a law practice pursuant to the grounds set out in the Uniform Law, including where a solicitor has ceased to hold a practising certificate, is mentally or physically infirm, has abandoned his or her practice, or has died, or when a client cannot obtain trust property. A receiver's powers, as outlined in the Uniform Law, are extensive and include taking possession of all trust property of the law practice.

In 2018/2019, the Council appointed a total of 2 receivers.

## Investigators

The Council may also resolve to appoint an external investigator if there is a suspicion of improper conduct or irregularity in relation to a solicitor's law practice or general affairs. The external investigator may be either a solicitor or an accountant and is tasked to examine the affairs of the solicitor or law practice generally or in relation to a specific matter.

In 2018/2019, the Council appointed a total of 5 external investigators.

# COMPLIANCE AND DISCLOSURE

The legal profession legislation requires applicants for, and holders of, practising certificates to disclose certain matters to the Society.

Relevantly, these are:

1. “Automatic show cause events” - Part 3.5 of the Uniform Law sets out certain “automatic show cause events” that solicitors must disclose to the Society. Such “automatic show cause events” are defined in section 86 of the Uniform Law and include a bankruptcy event, conviction for a serious offence (indictable offences) or a tax offence.
2. Matters involving section 51 of the Uniform Law – such matters include a charge or conviction for a serious offence, a tax offence or an offence specified in rule 15 of the *Legal Profession Uniform General Rules 2015* (NSW) (Rules), a bankruptcy related event or disciplinary proceedings brought against a solicitor in a foreign country.
3. Matters referred to in rule 13 of the Rules - At the time a solicitor renews or applies for a practising certificate, consideration must be given to the disclosure of each of the matters referred to in rule 13(1) of the Rules for the Society to determine whether or not s/he is a fit and proper person to hold a practising certificate.

## PRE ADMISSION DISCLOSURES

42	Traffic infringements
32	Centrelink Overpayment
16	DUI
16	Academic Misconduct
10	Serious Offence
38	Parking Infringements
4	Drug Possession
10	Infringement Notice
30	Summary offence
0	Tax offence
3	Complaint
5	Mental Health
3	Bankruptcy
4	Engaging in legal practice without practising certificate

Applicants for a practising certificate are also required to disclose certain preadmission events such as convictions and other incidents affecting their fitness to practise pursuant to section 93 of the Uniform Law.

The Society expects that all relevant persons engaging, or seeking to engage, in legal practice in New South Wales are aware of and comply with the mandatory disclosure obligations.

## Disclosure Committee

The Disclosure Committee, under delegation of the Council, deals with the matters that solicitors are required to disclose to the Society. The Disclosure Committee does not have the power to make a determination adversely affecting a solicitor's right to practice. Any such determination is reserved for the Council.

In 2018/2019, the Disclosure Committee comprised 2 Councillors of the Society, 7 solicitors and 2 lay members. It met 9 times to make determinations on the reports tabled before it.

In 2018/2019:

- A total of 280 disclosures were made to the Society, an increase of 71 from the previous reporting period.
- This included 145 pre-admission disclosures, which is an increase of 60 from the previous reporting period.
- Of the 280 disclosures received:
  - 213 involved summary offences, consisting predominantly of driving offences (such as drink-driving, negligent driving, driving without a licence, traffic infringements and parking infringements), possession of prohibited drugs, academic misconduct, Centrelink overpayments, disorderly behavior, failure to attend jury duty, failure to vote, failure to leave licensed premises, drinking in public, public nuisance, jaywalking, possessing a knife in public, failure to submit to breath test, behaving in an offensive manner, breaching biotechnology regulations, breaching customs regulations and using false identification.
  - 41 involved serious offences including aggravated break and enter, affray, larceny, destroying and damaging property, indecent assault, common assault, stalking and intimidating, assaulting police and resisting/ hindering arrest, breaching domestic apprehended violence orders, recklessly dealing with the proceeds of crime, accessory after the fact to murder, child pornography offences, obtaining financial advantage by deception, fraud, conspiracy to defraud, breaching security regulation and participating in criminal group.
  - 5 were notifications of bankruptcy.
  - 11 were notifications relating to mental health.
  - 10 were notifications relating to disciplinary proceedings other than brought by the Society.
  - No further action was taken in relation to 192 disclosures made to the Society on the basis that the offence did not impact upon the solicitor's fitness to practice. Of these 192 disclosures, 118 related to pre-admission/Rule 13 disclosures, 20 were bankruptcy disclosures, 12 related to serious offences and 32 concerned summary offences.
  - 6 disclosures resulted in undertakings being given by solicitors. The undertakings arose from the disclosure of bankruptcy, medical conditions, stalking and intimidating, drink driving and contravening apprehended domestic violence orders. The undertakings included the obligation to provide regular medical and/or financial reports to the Society.
  - 8 disclosures were referred to Professional Standards - 3 related serious offences, 3 related to bankruptcy and 3 related to a medical condition.

# PROFESSIONAL SUPPORT ETHICS UNIT

The Ethics Unit of the Professional Support Unit (Ethics Unit) and the Society’s Ethics Committee provide professional assistance and specialist services to the legal profession and help on a wide range of topics.

These activities have resulted in the maintenance and enhancing of ethical and professional standards within the legal profession.

## Overview

An emphasis was made to provide timely and practical guidance to all members of the legal profession and assistance to resolve ethical conflicts when and in the event they arose. The services were provided by several methods of communication including a telephone enquiry line, an ethics e-mail in-box and personal attendance by solicitors. More complex and technical matters were resolved using written guidance and review by the Ethics Committee.

In addition to these services, the Society’s website also contains detailed guidelines on frequently asked questions concerning ethics in legal practice. *Monday Briefs* an electronic newsletter and a regular ethics column in the *Law Society Journal* also assist the profession with ethical issues.

The Ethics Unit received and resolved 3230 enquiries, which reflects the ongoing need for the services provided. The number of enquiries remains steady from the previous reporting period. Of these 3230 enquiries:

- 706 (21.9%) related to conflict of interest issues
- 379 (11.7%) related to confidentiality/privilege issues
- 260 (8%) related to communication issues
- 209 (6.5%) related to liens/documents issues

The frequency and range of ethical issues raised by the legal profession illustrate the value of the services provided and reflects the important role of the Ethics Unit and Ethics Committee.

## ETHICS ENQUIRIES

823	Miscellaneous
706	Conflict of interest
379	Confidentiality/privilege
365	Client's instructions
260	Communications
209	Lien/documents
109	Termination of retainer
72	Client lacking capacity
74	Assist fraudulent activity
58	Trust monies
78	Costs
24	Undertakings
10	Advertising
20	Disclosure
11	Sol material witness
17	Unqualified persons
4	Sol leaving firm contacting clients
8	Misleading
3	Practice - General



## The Ethics Committee and its Functions

The Ethics Committee's role and function are derived from the directives given by the Council and the delegation of powers from the Council to the Ethics Committee. Each year, the Council reviews and scrutinizes a set of goals focusing on maintaining and promoting the high ethical standards expected of the legal profession.

The Ethics Committee has a diverse membership that represents the depth of the legal profession and the practical skills needed in daily practice. Members of the Ethics Committee have many years of experience in legal practice and are from a diverse group of practitioners including government departments, private practice (large, medium and small) and in-house departments.

In 2018/2019, the Ethics Committee comprised of 18 members of the legal profession, with the Chair of the committee also a Councillor of the Society. The Ethics Committee met each month and reviewed a broad range of ethical matters affecting the legal profession.

The specialist services provided by the Ethics Committee include:

- Providing the various sectors of the legal profession with assistance and oversight.
- Responding to enquiries made by solicitors by providing guidance and information.
- Running practical activities including developing and implementing education programmes and publishing relevant guidelines and articles on specific topics.
- Reviewing developments and preparing submissions in relation to law reform proposals, *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* (NSW), case law and academic papers.
- Promoting a culture of integrity and independence within the legal profession and promoting public confidence in the legal profession.

Administrative and legal support is provided to the Ethics Committee by the Ethics Unit.

## Highlights of 2018/2019

- The provision of professional assistance and specialist services to the legal profession and for accredited specialists.
- Addressing the key needs of the various sectors (government, in-house, private firms and young solicitors) within the legal profession.
- Provision of ethics training for the Practice Management Course provided by the Society.
- Content and delivery of Ethics modules utilizing a suite of new information technologies to promote access and availability for the legal profession.
- Developing greater links between the public and legal profession to promote ethical issues.
- Providing leadership within the legal profession and fostering links between state and national organizations to promote ethical standards for the profession.

# PROFESSIONAL SUPPORT LEGAL COSTS UNIT

The Legal Costs Unit of the Professional Support Unit (**Costs Unit**) provides specialist costs advice and education to all solicitors in New South Wales, regardless of their membership status, as a means of ensuring their compliance with the legislation. It promotes this service in the *Law Society Journal* and the *Law Society Members' Services Guide*. The Costs Unit had a busy and productive year assisting and guiding the legal profession through all their costs enquiries and individual costs needs.

The year was dominated by significant interest and requests for seminar presentations on the costs disclosure obligations under the legal profession legislation. The Cost Unit in conjunction with the Costs Committee also reviewed and promoted the Society's updated Costs Guidebooks.

The most common problems faced by solicitors requiring assistance included:

- Costs Agreements and Disclosure.
- Withdrawal of costs and disbursements from money held in trust.
- Recovery of legal costs and assessment.
- Recovery of party/party costs.

## Education

Once again the Costs Unit had an increased number of practitioners attending seminars on legal costs this year. Practitioners continue to express concern about the strict disclosure obligations contained in the Uniform Law. There are a number of areas where practitioners could benefit from further guidance such as scoping legal costs for the purposes of providing a single figure estimate of total legal costs. The costs unit is striving to develop practically oriented "workshop" presentations addressing problem areas such as communication, file transfers, disclosure and billing.

A number of medium and large law practices in the Sydney CBD and Parramatta requested speakers for their in-house Continuing Professional Development (CPD) sessions during the year.

Seminars organised by the Society at its office again attracted large audiences. These were mainly from small to medium law practices with a number of sole practitioners.

The Costs Committee is committed to providing CPD sessions to suburban and regional areas.

## COST ENQUIRIES 2011-2019

531	2018/19
1,004	2017/18
1,342	2016/17
1,849	2015/16
688	2014/15
1,091	2013/14
1,364	2012/13
1,355	2011/12
1,132	2010/11

## TOPICS

99	Cost agreements
78	Cost billing
54	Cost assessments
89	Cost recovery
44	Disclosure
37	Regulated costs
33	Party party costs
37	Cost trust account
24	File transfers
21	Liens
15	Third party payers

The suburban and regional areas attended by the Costs Unit included:

- Maitland.
- Newcastle.
- Wollongong.
- Coffs Harbour.
- Parramatta.
- Gosford.
- Manly.
- St. George Sutherland.
- Campbelltown & Macarthur.
- Nowra.
- Forster.
- Grafton.

In addition the Costs Unit also provided speakers for government, community and educational organisations such as the Crown Solicitors Office, the Department of Customer Service (NSW), Community Legal Centers and District Court judges' associates. Significant preparation was undertaken to ensure that these seminars were tailored to those entities.

## Other Work

The Costs Unit researched and provided seminars on:

- Costs disclosure, costs agreements and billing under the Uniform Law.
- Costs Assessments, costs disputes, determinations by the Commissioner and Compensation Orders under the Uniform Law.
- The various forms of security available to a practitioner with respect to protection of their fees including possessory liens, equitable liens, caveats and mortgages together with what constitutes reasonable prospects of success.
- Regulated costs and withdrawing money from trust to pay professional fees.

The Costs Unit also researched and wrote articles relating to costs for the *Law Society Journal* with new costs issues highlighted by reference in *Monday Briefs*.

## The Costs Committee

The Costs Committee consists of practitioners from a range of legal practice. The Costs Committee:

- monitors the effect of the *Civil Procedure Act 2005* (NSW) and the Rules with respect to costs.
- monitors the efficacy of the Costs Assessment Scheme.
- examines and comment on legislation and law reform proposals relating to solicitors' costs.

These activities aim to reduce the regulatory burden for solicitors, simplify the provisions in the legislation and ensure its effectiveness.

The Costs Committee also produces a range of information resources such as the *Costs Guidebook* and handles direct enquires from solicitors.

The Costs Unit continues to provide assistance to the Costs Committee including providing a responsible legal officer to assist the Committee. It is also committed to facilitating communication between the legal profession and the Costs Committee.

## Costs Recovery

The Costs Unit assists with the recovery of legal costs incurred by the Society during the course of its disciplinary and investigative functions. The Society attempts to recover costs pursuant to costs orders, recovery of fines imposed and costs incurred by the appointment of supervisors, managers, investigators and receivers.

Fines and lump sum costs payments ordered by NCAT are enforced by applying to NCAT under section 78 of the *Civil and Administrative Tribunal Act 2013* (NSW) for a certificate, which can then be registered as a judgment.

The legal profession legislation allows Council to specify the fees of supervisors, managers, investigators and receivers, making those fees a debt payable by the law practice the subject of the investigation.

# PROFESSIONAL SUPPORT REGULATORY COMPLIANCE

As an integral part of the Professional Support Unit of Professional Standards, the Regulatory Compliance Support Unit (Regulatory Compliance Unit) provides comprehensive guidance to the legal profession around issues of a regulatory nature.

## Overview

In 2018/2019, the Regulatory Compliance Unit responded to more than 3,800 issues raised by the legal profession. Areas giving rise to the highest number of queries remain practice management, practising certificates and business development.

Employment related queries also remained high reflecting the changing nature of employment relationships including flexible and part-time work arrangements as well as requirements for contracting legal services.

As has been the case in previous years, the incorporated legal practice (ILP) remains a popular practice structure amongst the profession. Queries on establishment of an ILP remained in the top 5.

There was a notable reduction in queries arising from in-house practice this year. Anecdotally, this may be a result of the settling in of changes introduced by the Uniform Law for corporate and government lawyers.

## Highlights of 2018/2019

### LSJ Articles

In addition to and complimenting professional skills and practice management seminars, the Regulatory Compliance Unit prepared practice management and compliance risk articles for publication in the *Law Society Journal*. Published articles include:

- “Top 5 tips to boost your productivity at work”.
- “Better business management for a sustainable practice”.
- “Three compliance considerations for staff recruitment”.
- “Contingency and succession planning”.
- “Responsibilities of Principals”.

## REGULATORY COMPLIANCE ENQUIRIES

709	Practising Certificate
715	Practice Management
424	Business Development
156	In House Practice
395	Employment
304	Establishment of an ILP
137	Interstate & Foreign Legal
109	Law Practice Demands
144	Miscellaneous
131	Establishment of Practice - Non ILP
145	Transfer of a Practice
107	Trust Accounts
91	Closing/Selling a Practice
72	Letterheads/Business Names
36	Consultants
50	Unqualified Practitioners
72	Establishment of an ULP
42	Show Cause Event/Disclosure

## Collaboration on Licensing Issues

The Regulatory Compliance Unit worked collaboratively with other departments at the Society and the Society Registry.

The Regulatory Compliance Unit assisted Registry staff with regulatory issues including:

- Practising certificate limitation.
- Interstate practice.
- Registration of foreign lawyers/practise of foreign law/overseas practice.
- Supervised legal practice.
- Pro-bono practice.

## Collaboration on Strategic Policy issues

- Anti Money Laundering & Counter Terrorist Financing Tranche 2.
- Migration Amendment (Regulation of Migration Agents) Bill 2017.
- Incorporated Legal Practice Principals.
- Management Investment Schemes.
- Review of admission of foreign qualified lawyers in New South Wales.

## Practice Restructuring

The Regulatory Compliance Unit assisted a significant number of law practices with restructuring during the reporting period. Popular areas of practice restructure included sole practitioner to an ILP and law firm to an ILP as well as law firm partnerships converting to Unincorporated Legal Practices (ULP) partnerships. As a fundamental part of this type of restructuring, companies were often included as members of a new or restructured ULP partnership. The published *Transfer of a Practice Checklist* proved particularly useful in this regard.

## Practice Management Guidance

One of the key areas for the Regulatory Compliance Unit was the provision of guidance on practice management issues. Key areas of practice management included:

- Assisting law practices in developing appropriate practice management systems.
- Providing guidance on appropriate titles for staff.
- Assisting with employment related queries.
- Discussions surrounding regulatory requirements of pro-bono practice.
- Guidance for interstate practices/solicitors.
- Assisting solicitors experiencing bullying in the workplace – in particular employed solicitors - rule 42 of the *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* (NSW).

- Providing guidance around succession planning for sole practitioners and sole principals of an incorporated legal practice.
- Rule 37 guidance for complying with 'reasonable supervision' requirements.

## Education

The Regulatory Compliance Unit noted an increase in the number of requests for seminars. In response to these requests the number of seminars provided by the Regulatory Compliance Unit increased to 72.

Consistent with the trend of previous years, the Regulatory Compliance Unit responded to the demand for on-site regional and suburban seminars. Seminars in metropolitan and regional areas presented with the assistance of the respective metropolitan or regional law society included Chatswood, Fairfield, Toongabbie, BASIL, Clarence Chambers and the Women Lawyers Association. Regional law society conferences attended included Grafton, Maitland, Albury, Newcastle and Wollongong where 1 hour CPD workshops and lectures were presented. The Regulatory Compliance Unit also provided an increased number of seminars on-site at law practices, at the Society office and at government conferences including ASIC, the Australian Taxation Office (Sydney and Newcastle), the Department of Customer Service (NSW), the University of New South Wales and the Crown Solicitors Office.

Following the publication of the Regulatory Compliance Unit's article featuring "succession planning for law practices" in the February 2019 edition of the *Law Society Journal*, the Regulatory Compliance Unit responded to specific requests from 4 regional law societies and one metropolitan solicitors' organisation for succession planning seminars.

1-hour CPD seminar topics included:

- Practice management systems.
- Productivity skills for legal practitioners.
- Induction seminar for in-house solicitors.
- Risk management systems for legal practitioners.
- Supervision of legal services.
- Delegation skills.
- Practice structures.
- Marketing a law practice.
- Succession planning.
- Undertakings and client retainers.
- Compliance driving profit.
- Compliance pitfalls.
- The cost of not communicating.
- Managing a law practice trust account.
- Written communication seminar.
- Responsibility of principals – reasonable steps.
- Legal professional privilege for in-house solicitors.
- Undertakings for in-house solicitors.

**Table 1 - Number of complaints opened, by type of complaint**

<b>INVESTIGATIONS</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>
<b>Personal Conduct</b>					<b>195</b>	<b>165</b>	<b>226</b>	<b>284</b>	<b>202</b>	<b>260</b>
Unethical Conduct	165	128	150	118	71	77	113	122	91	155
Negligence	40	40	25	48	29	24	20	44	23	31
Misleading	46	24	22	29	32	23	58	45	35	24
Conflict of Interest	25	15	17	22	16	16	12	31	18	27
Failure to Transfer Documents	7	10	7	4	6	3	2	4	6	4
Communicating with a Client of Another Solicitor	5	9	3	4	10	8	9	7	7	2
Breach Confidentiality	8	4	6	7	4	2	5	6	5	2
False Swearing of Documents	6	4	1	7	11	3	2	13	3	3
Undue Pressure	2	3	2	1	3	0	0	1	3	2
Threatening Behaviour	1	3	4	7	9	7	4	8	10	10
Failure to Assist Law Society	0	1	0	0	0	2	0	1	0	0
Borrowing from Client	2	0	5	6	4	0	1	2	1	0
<b>Cost / Payment Issues</b>					<b>52</b>	<b>48</b>	<b>59</b>	<b>68</b>	<b>49</b>	<b>48</b>
Failure to Pay Third Party	40	37	31	42	35	29	43	34	33	24
Overcharging	14	14	11	9	8	5	8	17	11	1
No Costs Disclosure	10	9	13	6	6	12	6	8	3	19
Failure to Provide a Detailed Account	12	3	0	0	2	1	0	5	1	1
Transfer Costs Without Authority	0	2	3	5	1	1	2	4	1	3
<b>Communication / Service</b>					<b>65</b>	<b>67</b>	<b>68</b>	<b>75</b>	<b>65</b>	<b>50</b>
No Communication	16	17	24	8	9	10	11	14	13	12
Failure to Carry Out Instructions	39	12	13	10	14	18	11	15	13	6
No Client Advice	6	12	5	1	5	3	6	0	2	2
Discourtesy	4	11	7	1	10	13	6	8	13	9
Act Without/Contrary to Instructions	9	7	10	6	15	13	19	15	11	12
Delay	11	4	7	7	9	7	11	15	11	8
Lack of Supervision	8	4	2	7	2	3	3	7	0	0
No Advice on Progress	1	1	4	0	1	0	1	1	2	1
<b>Non-Compliance</b>					<b>53</b>	<b>45</b>	<b>42</b>	<b>102</b>	<b>63</b>	<b>33</b>
Not Complying with Undertaking	20	15	11	18	13	8	8	19	9	9
Practising without a Practising Certificate	12	12	1	8	11	11	7	36	15	1
Not Complying with a s.660 Notice	16	11	1	5	2	4	3	2	0	0
Not Comply with Legal Profession Act/Regulations	15	9	19	19	19	15	20	41	38	21
Not Complying with Fiscal Obligations	6	8	11	14	8	7	4	4	1	2
<b>Trust Account matters</b>					<b>76</b>	<b>47</b>	<b>40</b>	<b>57</b>	<b>33</b>	<b>15</b>
Breach of Sections of Act / Regs relating to Trust Moneys	31	22	19	41	40	23	17	19	2	0
Failure to Account	11	14	13	14	10	11	10	22	23	8
Misappropriation	17	7	8	5	26	13	13	16	8	7
<b>Other</b>					<b>0</b>	<b>6</b>	<b>13</b>	<b>14</b>	<b>69</b>	<b>92</b>
Review Re-Investigation	3	5	27	3	0	1	2	0	0	0

Act on Subpoena						1	1	1	0	0
Liens						3	5	3	0	1
237 NON COMPLY SECTION 371 NOTICE							1	6	4	0
241 MANAGER APPOINTED - NO CONDUCT							4	4	1	0
223 FAILURE TO SUPERVISE									5	2
235 BREACH SECTION 138 LPUL									14	10
238 OTHER TRUST BREACHES									8	0
242 BREACH SECTION 137 LPUL									1	1
243 CAUSING A DEFICIENCY IN THE TRUST ACCOUNT									1	2
245 INTERVENER									35	0
Rulings Enquiries						1	0	0	0	0
246 OLSA Enquiry										69
217 Practising Contrary to Practising Certificate										6
236 Breach Section 147 LUPL										1
<b>TOTAL NUMBER OF INVESTIGATIONS</b>	<b>608</b>	<b>477</b>	<b>482</b>	<b>482</b>	<b>441</b>	<b>378</b>	<b>448</b>	<b>600</b>	<b>481</b>	<b>498</b>
<b>CONSUMER DISPUTES</b>	<b>72</b>	<b>68</b>	<b>68</b>	<b>64</b>	<b>39</b>	<b>30</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>TOTAL NUMBER OF COMPLAINTS OPENED <sup>1</sup></b>	<b>680</b>	<b>545</b>	<b>550</b>	<b>546</b>	<b>480</b>	<b>408</b>	<b>449</b>	<b>600</b>	<b>481</b>	<b>498</b>

Notes:

<sup>1</sup> Includes complaints made by the Law Society

**Table 2 - Number of complaints opened, by type of complainant**

COMPLAINANT TYPE	10	11	12	13	14	15	16	17	18	19
Client/Former Client	222	159	174	124	141	116	115	179	134	115
Law Society	110	87	72	94	84	73	60	111	90	104
Solicitor	91	87	88	98	81	73	70	72	56	40
Third Party	82	85	78	104	84	69	70	69	80	103
Third Party (Other Side)	95	63	76	68	56	35	94	121	77	98
Barrister	43	37	40	32	11	22	20	22	16	9
Solicitor for Client	27	22	18	16	12	11	7	6	13	7
Legal Services Commissioner	4	3	2	7	5	4	7	11	3	2
Other <sup>1</sup>	6	2	2	3	6	2	6	5	9	16
Trust Account Inspector										1
Executor						2	0	2	3	1
Attorney General						1	0	2	0	2
<b>TOTAL NUMBER OF COMPLAINTS OPENED</b>	<b>680</b>	<b>545</b>	<b>550</b>	<b>546</b>	<b>480</b>	<b>408</b>	<b>449</b>	<b>600</b>	<b>481</b>	<b>498</b>

Notes:

1 Other includes Legal Aid Commission, Government Department and Beneficiary

**Table 3 - Complaints opened, by solicitor type**

SOLICITOR TYPE	NUMBER OF COMPLAINTS	COMPLAINTS AS % OF TOTAL ACTIVE SOLS <sup>1,2</sup>	% OF TOTAL COMPLAINTS
Principal of Law Practice	312	0.902%	62.65%
Employee of Law Practice	91	0.263%	18.27%
Not Practising/Ceased Practising	46	0.133%	9.24%
Complaints Against Firms	33	0.095%	6.63%
Corporate Legal Practitioner	10	0.029%	2.01%
Government Legal Practitioner	6	0.017%	1.20%
<b>TOTAL NUMBER OF COMPLAINTS OPENED</b>	<b>498</b>		

Notes:

1 At 30 June 2019 total active solicitors 34,600 (Source: Law Society of NSW, Policy &amp; Research)

2 Includes multiple complaints against individual solicitors



**Table 4 - Complaints opened, by practice region<sup>1</sup>**

<b>REGION</b>	<b>NUMBER OF COMPLAINTS</b>
<i>Sydney City</i>	125
<i>Suburban</i>	140
Bankstown & District	8
City of Sydney	8
Eastern Suburbs	9
Inner West	23
Liverpool & District	11
Macarthur	6
Nepean Hawkesbury	3
North Metropolitan	18
Northern Beaches	11
Parramatta District	30
St. George-Sutherland	13
<i>Regional</i>	29
Newcastle	12
Hunter/Central Coast	13
Wollongong	3
Blue Mountains/Nepean	1
<i>Rural</i>	54
<i>Interstate</i>	1
<i>Other</i>	149
<b>TOTAL NUMBER OF COMPLAINTS OPENED</b>	<b>498</b>

Notes:

1 Refers to individual solicitor complaints

Table 5 - Number of complaints closed, by result

RESULT TYPE	2019
Reprimand (Tribunal)	1
Complaint Withdrawn	1
No Prof Misconduct	2
Receiver Appointed	1
Appointment Terminated	5
S.511 Summary Dismiss	4
Application Dismissed	3
Struck Off	2
Complaint Withdrawn - S273(1)	70
Misconceived/Lacking in Substance - S277(1)(A)	145
Time Limit Not Waived Under S272(1) - S277(1)(B)	21
Failure/Inadequate Response to Request for Info - S277(1)(C)	63
Complaint Already/Has been Investigated - S277(1)(D)	7
Complaint Better Dealt with by Law Enforcement/Investigatory Body - S277(1)(E)	5
DLRA Made Recommendation Under Section 82(4) - S277(1)(F)	3
No Further Investigation Required Except Cm - S277(1)(H)	6
No Power to Investigate Complaint - S277(1)(I)	1
Public Interest Closure - S277(1)(J)	1
Cm Caution - S290(2)(A)	1
D Caution - S299(1)(A)	3
D Reprimand - S299(1)(B)	11
D Initiate Tribunal Proceedings - S300(1)	20
Tribunal Decision Handed Down	1
Supreme Court Judgment Handed Down	1
Referred back to LSC	1
Closed Awaiting Advice	1
Closed Enquiry	78
Closure - No UPC/PM	91
Dismissal/No PMC/UPC	3
Resolved	41
Closed Enquiry	7
<b>TOTAL</b>	<b>600</b>

**Table 6 - Complaints opened and closed within the 2018/2019 reporting period**

COMPLAINT TYPE	NUMBER OPENED	NUMBER CLOSED	% OF OPENED
Act Without/Contrary to Instructions	12	1	8%
Borrowing from Client	0	0	0%
Breach of Confidentiality	2	1	50%
Communicating with a Client of Another Solicitor	2	2	100%
Conflict of Interest	27	10	37%
Consumer Dispute	0	0	0%
Delay	8	4	50%
Discourtesy	9	0	0%
Failure to Carry Out Instructions	6	1	17%
Failure to Pay Third Party	24	13	54%
Failure to Provide a Detailed Account	1	0	0%
Failure to Transfer Documents	4	1	25%
Failure to Account	8	0	0%
False Swearing of Documents	3	1	33%
Lack of Supervision	0	0	0%
Misappropriation	7	0	0%
Misleading	24	3	13%
Negligence	31	11	35%
No Advice on Progress	1	0	0%
No Client Advice	2	0	0%
No Communication	12	6	50%
Not Complying with Fiscal Obligations	2	0	0%
Not Complying with Undertaking	9	4	44%
No Costs Disclosure	19	1	5%
No Statement Available	0	0	0%
Not Complying with a s.660 Notice	0	0	0%
Not Complying with Legal Profession Act/Regulations	21	7	33%
Other Trust Breaches	0	0	0%
Overcharging	1	1	100%
Practising Without a Practising Certificate	1	0	0%
Review Re-Investigation	0	0	0%
Section 255 Breach Trust Money	0	0	0%
Section 264 Breach Trust Records	0	0	0%
Transfer Costs without Authority	3	0	0%
Threatening Behaviour	10	3	30%
Undue Pressure	2	0	0%
Unethical Conduct	155	70	45%
Act on Subpoena	0	0	0%
Liens	1	1	100%

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Non Comply Section 371 Notice	0	0	0%
Manager Appointed - No Conduct	0	0	0%
Rulings Enquiries	0	0	0%
Failure to Assist Law Society	0	0	0%
Breach Section 138 LPUL	10	1	10%
Failure to Supervise	2	0	0%
OLSC Enquiry	69	11	16%
Practising Contrary to Practising Certificate	6	0	0%
Causing a Deficiency in the Trust Account	2	1	50%
Breach Section 147 LUPL	1	0	0%
Breach Section 137 LUPL	1	0	0%
<b>TOTAL</b>	<b>498</b>	<b>154</b>	<b>31%</b>

Table 7 - Number and type of proceedings instituted at NCAT

NAME OF SOLICITOR	CONDUCT	ORDERS MADE	DATE OF ORDERS
ADAMSON, Luke Jerome	<ul style="list-style-type: none"> <li>Deficiencies in trust account and other matters</li> </ul>	<ul style="list-style-type: none"> <li>Finding of professional misconduct</li> <li>Removal of Solicitor's name from the Roll</li> <li>Fine</li> <li>Costs</li> </ul>	2 January 2019
AUTORE, Anthony	<ul style="list-style-type: none"> <li>Failure to comply with s371 notice</li> </ul>	<ul style="list-style-type: none"> <li>Finding of professional misconduct</li> <li>Reprimand</li> <li>Restrictions on practising certificate</li> <li>Costs</li> </ul>	14 May 2019
BOUZANIS, Peter	<ul style="list-style-type: none"> <li>Various breaches of the Legal Profession Act 2004</li> </ul>	<ul style="list-style-type: none"> <li>Finding of professional misconduct</li> <li>Reprimand</li> <li>Fine</li> <li>Costs</li> </ul>	10 July 2018
CLARKE, Daniel Christopher	<ul style="list-style-type: none"> <li>Breach of undertaking</li> <li>Making statements/representations which were misleading</li> <li>False and misleading conduct</li> </ul>	<ul style="list-style-type: none"> <li>Finding of professional misconduct</li> <li>Reprimand</li> <li>Fine</li> <li>Costs</li> </ul>	14 August 2018
COREN, Nicholas Mitchell	<ul style="list-style-type: none"> <li>Various breaches of the Legal Profession Act 2004</li> <li>Misappropriation of trust funds</li> <li>Failure to communicate</li> </ul>	<ul style="list-style-type: none"> <li>Finding of professional misconduct and unsatisfactory professional conduct</li> <li>Removal of Solicitor's name from the Roll</li> <li>Costs</li> </ul>	26 April 2019
CUMMINS, Paul Bernard	<ul style="list-style-type: none"> <li>Breach of condition of a practising certificate</li> <li>Attempt to intimidate Counsel</li> </ul>	<ul style="list-style-type: none"> <li>Finding of professional misconduct</li> <li>Reprimand</li> <li>Fine</li> <li>Costs</li> </ul>	14 November 2018
DIB, Ghassan	<ul style="list-style-type: none"> <li>Failure to comply with s371 Notice</li> <li>Failure to assist investigator</li> </ul>	<ul style="list-style-type: none"> <li>Finding of unsatisfactory professional conduct</li> <li>Reprimand</li> <li>Fine</li> <li>Costs</li> </ul>	18 January 2019
DO, Tien Ngoc (also known as Ngoc Tien Do)	<ul style="list-style-type: none"> <li>Misappropriation of trust funds</li> <li>Various breaches of the Legal Profession Act 2004 and Legal Profession Regulation 2005</li> <li>Failure to carry out instructions</li> </ul>	<ul style="list-style-type: none"> <li>Finding of professional misconduct</li> <li>Removal of Solicitor's name from the Roll</li> <li>Costs</li> </ul>	5 September 2018
DXW	<ul style="list-style-type: none"> <li>Trust account breaches</li> </ul>	<ul style="list-style-type: none"> <li>Finding that Tribunal had no jurisdiction</li> </ul>	25 June 2019
FEENEY, Judy Anne	<ul style="list-style-type: none"> <li>Various breaches of the Legal Profession Act 2004 and the Legal Profession Regulation 2005</li> <li>Misappropriation of trust funds</li> </ul>	<ul style="list-style-type: none"> <li>Finding of professional misconduct</li> <li>Removal of Solicitor's name from the Roll</li> <li>Costs</li> </ul>	19 October 2018
GURUSAMY, Baskaran	<ul style="list-style-type: none"> <li>Various breaches of the Legal Profession Act 2004 and the Uniform Law</li> <li>Failure to disclose payment of financial benefit to third party</li> </ul>	<ul style="list-style-type: none"> <li>Finding of professional misconduct</li> <li>Reprimand</li> <li>Fine</li> <li>Costs</li> </ul>	12 June 2019
HEDGES, Brent Arthur	<ul style="list-style-type: none"> <li>Various breaches of the Legal Profession Act 2004</li> <li>Delay in payment of third party fees</li> <li>Failure to communicate</li> </ul>	<ul style="list-style-type: none"> <li>Finding of professional misconduct</li> <li>Fine</li> <li>Costs</li> </ul>	3 September 2018
HEDGES, Stephen Lewis	<ul style="list-style-type: none"> <li>Various breaches of the Legal Profession Act 2004</li> <li>Delay in payment of third party fees</li> </ul>	<ul style="list-style-type: none"> <li>Finding of professional misconduct</li> <li>Fine</li> <li>Costs</li> </ul>	3 September 2018

## APPENDIX

HELBY, Christopher Vincent	<ul style="list-style-type: none"> <li>• Failure to disclose costs</li> <li>• Various breaches of the Legal Profession Regulation 1994</li> <li>• Failure to provide trust account statements</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of unsatisfactory professional conduct</li> <li>• Reprimand</li> <li>• Fine</li> </ul>	8 November 2018
KING, Denise Elizabeth	<ul style="list-style-type: none"> <li>• Acting against client's interests</li> <li>• Engaging in threatening behaviour when seeking payment of costs</li> <li>• Failure to make timely costs disclosure</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct and unsatisfactory professional conduct</li> <li>• Removal of Solicitor's name from the Roll</li> <li>• Costs</li> </ul>	19 September 2018
HO, Darren	<ul style="list-style-type: none"> <li>• Drafted and submitted false correspondence and false Statutory Declaration to the Society</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> <li>• Reprimand</li> <li>• Restrictions on right to practice</li> <li>• Costs</li> </ul>	3 June 2019
LEWIS, Paul Edward	<ul style="list-style-type: none"> <li>• Failure to comply with undertaking</li> <li>• Practising in breach of a condition on practising certificate</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> <li>• Reprimand</li> <li>• Fine</li> <li>• Costs</li> </ul>	24 June 2019
MARANDO, Mark Paul	<ul style="list-style-type: none"> <li>• Breach of Tribunal order</li> <li>• Breach of undertaking to the Society</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> <li>• Reprimand</li> <li>• Fine</li> <li>• Costs</li> </ul>	7 December 2018
MESSIHA, Nadia	<ul style="list-style-type: none"> <li>• Misappropriation of trust funds</li> <li>• Various breaches of the Legal Profession Act 2004 and Legal Profession Regulation 2005</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> <li>• Reprimand</li> <li>• Course</li> <li>• Fine</li> <li>• Costs</li> </ul>	22 February 2019
MOORE, Simeon Peter	<ul style="list-style-type: none"> <li>• Application to file Disciplinary Application out of time</li> </ul>	<ul style="list-style-type: none"> <li>• Application dismissed</li> </ul>	24 August 2018
MULOCK, Mark Joseph	<ul style="list-style-type: none"> <li>• Practising without a practising certificate</li> <li>• Failure to obtain professional indemnity insurance</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> <li>• Reprimand</li> <li>• Costs</li> </ul>	28 August 2018
PETROVICH, Vic	<ul style="list-style-type: none"> <li>• Failure to comply with undertakings</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> <li>• Reprimand</li> <li>• Costs</li> </ul>	28 March 2019
POWELL, Helen Jean	<ul style="list-style-type: none"> <li>• Failure to comply with undertaking</li> <li>• Practising in breach of a condition on practising certificate</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> <li>• Reprimand</li> <li>• Fine</li> <li>• Costs</li> </ul>	15 February 2019
RENFREW, Louise Trudence	<ul style="list-style-type: none"> <li>• Preparing and witnessing affidavit knowing or ought to have known to be false</li> <li>• Knowing or recklessly misleading the Supreme Court in probate proceedings</li> <li>• Attempting to mislead another solicitor</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> <li>• Reprimand</li> <li>• Course</li> <li>• Restrictions on practising certificate</li> <li>• Costs</li> </ul>	30 April 2019
ROGERS, Michael Edward	<ul style="list-style-type: none"> <li>• Failure to pay superannuation entitlements and to provide PAYG summary</li> </ul>	<ul style="list-style-type: none"> <li>• Application dismissed (Jurisdictional issue)</li> </ul>	5 June 2019
SEARLE, Deborah Jean	<ul style="list-style-type: none"> <li>• Use of without prejudice communications in breach of Family Law Act and Rules</li> <li>• Threatening to use material that may lead to criminal proceedings in settlement negotiations</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct and unsatisfactory professional conduct</li> <li>• Reprimand</li> <li>• Course</li> <li>• Fine</li> <li>• Costs</li> </ul>	8 May 2019

SOSZYN, Belinda Joanne	<ul style="list-style-type: none"> <li>• Failure to properly comply with subpoena</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of unsatisfactory professional conduct</li> <li>• Reprimand</li> <li>• Costs</li> </ul>	17 May 2019
TEREPO, Sesilia Fehoko	<ul style="list-style-type: none"> <li>• Misappropriation of trust funds</li> <li>• Various breaches of the Legal Profession Act 2004 and Legal Profession Regulation 2005</li> <li>• Failure to comply with s371 notice</li> <li>• Failure to assist investigator</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct and unsatisfactory professional conduct</li> <li>• Recommendation of removal of Solicitor's name from the Roll</li> <li>• Costs</li> </ul>	26 April 2019
TEYS, Michael John	<ul style="list-style-type: none"> <li>• Failure to remit monies to Australian Taxation Office</li> <li>• Failure to pay superannuation entitlements</li> <li>• Various breaches of the Legal Profession Act 2004</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> <li>• Removal of Solicitor's name from Roll</li> <li>• Costs</li> </ul>	27 September 2018
TITMARSH, Shaun Michael	<ul style="list-style-type: none"> <li>• Failure to follow instructions</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of unsatisfactory professional conduct</li> <li>• Reprimand</li> <li>• Course</li> <li>• Fine</li> <li>• Costs</li> </ul>	31 January 2019
THADSANAMORTHY, Viji	<ul style="list-style-type: none"> <li>• Trust account breaches</li> <li>• Breach Professional Conduct and Practice Rules 2013</li> <li>• Charging Goods and Services Tax when not entitled</li> <li>• Misappropriation of trust funds</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct and unsatisfactory professional conduct</li> <li>• Reprimand</li> <li>• Course</li> <li>• Fine</li> <li>• Costs</li> </ul>	28 June 2019
WALSH, Peter Francis	<ul style="list-style-type: none"> <li>• Purporting to witness signature on document</li> <li>• Purporting to take Declaration</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> <li>• Reprimand</li> <li>• Fine</li> <li>• Costs</li> </ul>	17 December 2018
WINTER, Ronald William	<ul style="list-style-type: none"> <li>• Purporting to act for company when it had ceased to exist</li> <li>• Misleading</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of unsatisfactory professional conduct and professional misconduct</li> <li>• Reprimand</li> <li>• Course</li> <li>• Fine</li> <li>• Costs</li> </ul>	18 April 2019
YOON, Seog Won	<ul style="list-style-type: none"> <li>• Various breaches of the Legal Profession Act 2004</li> <li>• Misappropriation of trust funds</li> <li>• Failing to comply with s370 Notice</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> <li>• Recommendation of removal of Solicitor's name from the Roll</li> <li>• Costs</li> </ul>	20 February 2019
YOUSSEF, Mouna	<ul style="list-style-type: none"> <li>• Failure to comply with s370 Notice</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of unsatisfactory professional conduct Reprimand</li> <li>• Course</li> <li>• Costs</li> </ul>	23 November 2018
ZAKI, Nader Youssef	<ul style="list-style-type: none"> <li>• Failure to comply with s371 Notice</li> </ul>	<ul style="list-style-type: none"> <li>• Finding of professional misconduct</li> </ul>	19 March 2019

**Table 8 - Practising solicitor statistics at 30 June 2019**

<b>GENDER OF SOLICITORS</b>	
Female	18013
Male	16587
<b>TOTAL</b>	<b>34600</b>

<b>CATEGORY OF SOLICITORS</b>	
Corporate	6588
Government	3676
Private	24268
Volunteer	68
<b>TOTAL</b>	<b>34600</b>

<b>LOCATION OF SOLICITORS</b>	
City	16659
Interstate	242
Overseas	1776
Rural	4255
Suburban	11668
<b>TOTAL</b>	<b>34600</b>

**Table 9 - Amounts expended by the Public Purpose Fund and Fidelity Fund on Regulation, 2018/2019**

<b>EXPENSE DESCRIPTION</b>	<b>RECOVERABLE FROM</b>	<b>TOTAL</b>
Professional Standards / General Regulatory Expenses	Public Purpose Fund	\$4,522,441
External Interventions	Public Purpose Fund	\$1,256,613
Trust Account Inspections / Investigations	Public Purpose Fund	\$2,410,927
Fidelity Fund Administration	Fidelity Fund	\$838,959
<b>TOTAL REGULATORY COSTS</b>		<b>\$9,028,940</b>
<b>TOTAL PAID FROM PUBLIC PURPOSE FUND</b>		<b>\$8,189,981</b>
<b>TOTAL PAID FROM FIDELITY FUND</b>		<b>\$838,959</b>
<b>TOTAL</b>		<b>\$9,028,940</b>



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