



ANNUAL REPORT 2017-18

# The New South Wales Bar Association







## Directory

### Registered office

Selborne Chambers  
174 Phillip Street  
Sydney 2000  
Ph: + 61 2 9232 4055  
Fax: + 61 2 9221 1149  
www.nswbar.asn.au

### Auditor

RSM Australia Partners  
GPO Box 5138  
Sydney NSW 2001  
www.rsm.global/australia

### Bankers

National Australia Bank  
75 Elizabeth Street  
Sydney 2000

### Annual General Meeting

The Annual General Meeting  
will be held on Thursday,  
1 November 2018 at 5.00pm in the  
Bar Association Common Room.

### Cover photo

Daniel Chen @ Unsplash

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## President's Report



Arthur Moses SC  
President

2017-18 has been a time of great disruption. Our world and our society continue to face unprecedented change, and the legal profession is no different. The concept of service may seem somewhat old-fashioned. Yet at the New South Wales Bar, service remains the reason we exist. Now, more than ever, there is a need for fearless service of the administration of justice. And perhaps more urgently than ever before, there is a need to speak out on behalf of the voiceless and to advocate and agitate for the rule of law in our courts, in our parliaments, in the media and the public arena. Even and especially when it is unpopular to do so.

I am proud to say that in 2017-18 the New South Wales Bar has met disruption with dynamic resolve. Our members continue to act in the best tradition of the oldest and largest independent Bar in Australia. Just last month, the Supreme Court of Nauru paid tribute to the service of the New South Wales barristers who defended the so-called Nauru 19, noting that counsel acted 'appropriately, professionally and courageously in putting their clients' case to the courts' and upholding their duties as lawyers and responsibilities to their clients despite threatening conduct.

In 2017-18 the New South Wales Bar Association has answered disruption

with disruptive policy that is bold, forward-thinking and tenacious, as we strive to serve our members at the bar, the broader community and promote the rule of law.

First among the objectives of the Bar Association's Constitution is to 'promote the administration of justice'. The Bar Association's Strategic Plan has provided a road map for success and a benchmark for accountability throughout the year, as the association's departments and committees have achieved this objective in their respective work. There is much work done by many behind the scenes that members often do not get the chance to see. The varied activities and initiatives of the Bar Association, its committees and departments are outlined in detail in this annual report, and I commend it to you.

Headline statistics are no substitute for these comprehensive reports. Nonetheless, they capture a remarkable snapshot of the volume of work undertaken by the Bar Association and its members, and the passion of those involved in delivery. Local barristers contributed more than 4000 hours of work under the Bar Association's Legal Assistance Referral Scheme in 2017-18, a nine percent increase on the previous year. 113 readers completed the Bar Practice Course during the reporting year, under the guidance of the Professional Development Department. One in three candidates were women. 78 barristers served on the Professional Conduct Committees, which met a total 50 times throughout the year, and the Professional Conduct Department supported Bar Council to investigate 163 complaints. The Law Reform and Public Affairs Department provided more than 100 submissions to governments, statutory bodies and the courts.

Of the many initiatives delivered by the Bar Association this year, I

have room only to mention a few. I highlight the following developments not because these are any more important or worthy of mention than any other initiatives but rather as a sample of the diverse work undertaken that epitomises the driving ethos of the association and the strength of our ongoing commitment to service.

Former chief justice Robert French AC once noted that in order for the rule of law to operate effectively, access to justice cannot be limited to the rich and powerful. This year, the Bar Association has continued to advocate to secure extra funding for legal aid in order to ensure that people are better represented and lawyers are properly remunerated. We have consistently argued that the criminal justice system functions more fairly and effectively when defendants are represented by experienced and well-prepared legal counsel. The Bar Association successfully sought the intervention of the NSW Premier to secure an additional \$10m for Legal Aid NSW, which is to be allocated to pay the fees of lawyers retained to undertake work with the Early Appropriate Guilty Plea Scheme. However, under-resourcing of legal aid in NSW continues to pose serious challenges for clients, the victims of crime, witnesses, counsel and the courts in promoting the administration of justice. The failure to properly fund Legal Aid NSW has also meant that it has been unable to fund civil law cases. Many of the significant cases which established significant principles in relation to consumer protection and discrimination law were funded by legal aid prior to the slashing of funding by successive governments of both political persuasions. In recent times, this has resulted in individuals being denied access to justice to seek relief against corporations which have caused them loss. This problem has



## President's Report (continued)

been highlighted by some of the evidence in the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry. Of course, as we all know, when individuals are forced to commence proceedings and are unrepresented, this leads to court time being taken up as judicial officers do not have the assistance of lawyers representing both parties delays. We remain committed to working with the government, the courts and community to secure additional funding for Legal Aid NSW to undertake its important work in both civil and criminal law areas. At this time, the Bar Association and the NSW Law Society are currently working with Legal Aid NSW in order to propose a sustainable model of funding for legal aid in NSW.

This year, the Bar Association developed and actively championed policy and law reform designed to reduce Indigenous rates of incarceration, which remain a national shame. More than a quarter of the NSW prison population identify as Aboriginal and Torres Strait Islander, yet First Nations Australians make up less than three percent of Australia's national population.

In response to the Australian Law Reform Commission's national incarceration inquiry, Bar Council formed a Joint Working Party on the Over-representation of Indigenous people in the NSW Criminal Justice System, consisting of four members of each of the Human Rights Committee, the Criminal Law Committee and the Indigenous Barristers' Strategy Working Party. In September 2017, in a thorough and detailed submission, the Bar Association proposed new sentencing guidelines to 'expressly require courts to consider the unique systemic and background factors' affecting Aboriginal offenders, 'providing equal justice in sentencing decisions'.

I am pleased to report that in June 2018 the Police Association of NSW lent its support to the Bar Association's advocacy for the government to trial a specific indigenous sentencing court – the Walama Court – based on the Victorian Koori Court and the NSW Drug Court. I have recently met with the premier and the NSW attorney general and am hopeful that this proposal will be implemented by the NSW Government without further delay. In the year ahead, the association will continue to argue for innovative solutions to address the underlying causes of Indigenous offending and recidivism, and ensure generations of people do not continue to cycle through our criminal justice system.

The Bar Association has proudly advocated for social justice for Australia's First Nations, including by supporting the Uluru Statement from the Heart. In January 2018 the association announced the creation of the Bar Association's First Nations Committee to represent the association and our members on legal policy and practice issues concerning First Nations Peoples.

Balancing the Bar Association's statutory functions with the provision of members services has been a keen focus of Bar Council and the Executive throughout the year. As mentioned in the executive director's report, this work has included bolstering the development and resourcing of our members' services cluster. In this respect, I note that I executed a heads of agreement with the National Australia Bank this year in relation to the establishment of an escrow service which will enable barristers to secure their funds without the uncertainty or delay of payments by solicitors or the establishment of a trust account.

A review is currently being undertaken of the constitution governing the use of monies in

the Benevolent Fund to ascertain if it can be accessed by members in wider circumstances than it is presently utilised. However, in the interim, the Bar Association has been promoting the use of BarCare and access to the Benevolent Fund.

The Bar Association has continued to engage with the Association of Corporate Counsel and law firms to promote the excellence and cost effectiveness of the junior bar who should be briefed early in proceedings.

Many of our practising barristers participated in a survey regarding practice development, cultural, linguistic and educational diversity, with an outstanding response rate of 63 per cent. We are grateful to members for taking the time to complete this survey. This information will enable Bar Council to ensure that our policies and practices as an association are grounded in sound data and enable us to track and target meaningful improvements to the services and support we offer to members' practice development and welfare. I have written on the need for members of the judiciary to be mindful of their conduct in court which, according to some who participated in the earlier Wellbeing survey, at times, bordered on bullying.

Additionally, we have worked to promote the importance of diversity both at the New South Wales Bar and on the Bench through engagement with multiple stakeholders across a range of policies and platforms. There is no doubt that a judiciary and a bar that reflect the community they serve better enhances public confidence in the administration of justice, including respect for the rule of law.

After a campaign by the Bar Association and discussion with the NSW Government throughout the reporting year, the NSW Government

## President's Report (continued)

announced its commitment to raise the maximum statutory judicial retirement age to 75 and the pension age to 65. The Bar Association initiated this reform because Bar Council formed the view that there were compelling reasons for reform, including to ensure the skills and expertise of the state's experienced judicial officers can be made available for longer, to better align the judicial pension with the pension schemes of other members of the Australian community and to promote the administration of justice by encouraging diversity in appointments to the bench.

In addition, the Bar Association has advocated on behalf of Australian families and children for much-needed resourcing and meaningful reform of Australia's family law system to improve outcomes and access to justice for court users in their time of need. This has included preparing submissions to and engaging with the Australian Law Reform Commission, the Law Council of Australia, the parliament, the courts and the community.

The measure of good policy and good law is as much in its implementation as its inspiration or initiation. There remains much work to be done in 2018-19 and the efforts outlined in this annual report will stand the association in good stead to voraciously continue to pursue these endeavours in the months to come.

It has been an honour and a privilege to serve as president. I have never taken the position for granted, nor have I taken lightly the burden of the trust which members have placed in me to perform this important role. I would like to thank the Executive and the Bar Councillors for their wise counsel, tireless service and contribution, as well as those who have graciously given of their time and expertise to the Bar Association whether by serving on

a committee or working party, as a representative on a court user group, contributing to submissions, CPDs or articles for *Bar News*.

The Bar Association has recorded another year of sound management under the stewardship of the Finance, Investment and Audit Committee. I commend the financial statements to the membership and particularly thank the committee and our treasurer, Anna Mitchelmore, for their work in this critical area.

Last but not least, I wish to thank Greg Tolhurst and the staff of the Bar Association for their enthusiasm, professionalism and hard work throughout the year.

It has long been my view that we are most effective as a bar when we act in a collegiate manner and look out for the welfare of our colleagues, which is instrumental to us discharging our onerous obligations as officers of the court. My conviction in the importance of collegiality to a modern, energised and fiercely independent bar has been vindicated this year as I have had the opportunity to work with you to serve the administration of justice and the public good.

I commend the 2017-18 annual report to you.

Arthur Moses SC  
President



## Executive Director's Report



Greg Tolhurst  
Executive Director

### Introduction

I have spent a considerable amount of time this year in and out of chambers talking to members and taking up a lot of their time with various questions. I would begin this column by expressing my gratitude to all those who have kindly given of their time and expertise.

One of the more important focus points for the Bar Association this year has been the new strategic plan. On 27 July 2017 the Bar Council resolved to accept the Strategic Plan 2017-20 as drafted by the strategic plan working party. The plan recognises that the provision of legal services is well into a disruptive phase and seeks to position the NSW Bar to meet the challenges it will face over the next 5-10 years with three key questions in mind:

- a. What will be the work of the bar in 5-10 years?
- b. What are the areas of practice at the bar which are at risk during the next 5-10 years?
- c. What will influence the structure of barristers' practices over the next 5-10 years?

The concern of the Strategic Plan is one of focussing on strategies that enhance the objectives of the Bar Association which are to:

- a. promote the public good in relation to legal matters and the administration of justice viewed in the broadest context;

- b. promote collegiality and mutual assistance among its members;
- c. represent the interests of its members in dealings with government, the broader legal profession, the media and the community;
- d. promote fair and honourable practice among barristers;
- e. promote the continuing education of barristers;
- f. promote, maintain and improve the interests and standards of local practising barristers;
- g. help members grow their practice either locally or internationally through education and the development of commercial opportunities;
- h. (through the statutory role of its Council) assist in matters of professional discipline of members and the resolution of complaints against them.

Strategic plans consist of three elements which may be expressed, 'what', 'why' and 'with what'. That is, 'what are you going to do', 'why are you going to do that' and 'what resources are you going to commit'.

Given the current disruption in the legal services market the Bar Association is committed to a strong focus on the Strategic Plan over the coming two years. Carriage of the Strategic Plan rests with the Bar Association staff, the Bar Council and its committees. Some aspects may also be given to ad-hoc working groups. In order to ensure that we implement each aspect of the Strategic Plan and consider the roll-out of its initiatives over the three year period, the president now has regular meetings of Bar Association staff and all heads of committees. Those initiatives that have been triggered in this first year of the Strategic Plan can be gleaned from a reading of the committee reports in this publication.

Some of the initiatives in the Strategic Plan and their success will depend to a large extent on the bar making decisions as to where it wants to position itself in coming years and in turn this will inform the Bar Association as to how it will focus its time and resources. This will require many informal and formal conversations to take place. We have been thinking about what might be the common foundation of information needed for the Bar Council to trigger those conversations such as demographics, possible impact of technology, relevance of globalisation of legal services, impact of specialisation, diversity, client needs, movements in the services law firms are providing, business models for the bar and obviously the core beliefs of the bar. In short, business models, drivers for change, industry trends and assumptions and beliefs. From there we can build some scenarios for the operating environment of the bar and potential options for discussion. That discussion will allow the Bar Association to understand the role members want it to play in that future. More of this to follow in 2019.

### Office matters

It has been a busy year for the Bar Association staff as we go about streamlining aspects of the office and I would like to thank the staff who have worked long days and, in many cases, weekends to bring about change. It is not possible here to mention every piece of work we have done but I will mention a few.

First, work continues on developing an on-line renewal platform. The platform was tested with a number of members this year and we received valuable feedback from them. All is set for a roll out next year which will result in significant efficiencies for the Association.

Second, we have been developing the new website and this too will

## Executive Director's Report (continued)

be launched soon. This has not been a rebranding exercise so the website will in many ways look the same but the functionality will improve. We have studied the traffic on the website and know what you and the public use most and need to get to within one or two clicks. The Innovation and Technology Committee have also been working on improving the 'Find a Barrister' function.

Third, we have re-structured the Professional Conduct Department to address a long-held wish by staff in that department to play a more active role in working closely with Professional Development and Law Reform and Public Affairs to inform the educational, policy and CPD offerings of the Bar Association so that these proactively address matters that we see arising in complaints. We are now in a position for that to occur. We have also been working on developing a more focussed set of CPD offerings moving forward.

Fourth, we have further developed the members' services cluster and invested resources into that section to support its work. The section has been heavily involved in the development of the website but also recently launched a new suite of member benefits which we hope you will take advantage of.

Finally you will also have noticed in your PC renewal this year that a short survey was attached. This was developed by the staff and we will continue to carry out these short surveys each year to provide us with good data for decision making.

### The National Conference

As I noted briefly in my report last year, in late 2017 the New South Wales Bar was invited to co-host the 2018 Australian Bar Association National Conference. Each year the ABA holds a national or international conference. When holding a national

conference it co-hosts with one of the state bars, this year that being the New South Wales Bar. The conference is put on by the bar and is intended to be for the whole profession and to bring Australia's legal community together with politicians, press and the public to engage in important discussions of issues of national significance and drive law reform and public debate. The conference title is *Rise2018* and is a two-day legal conference to be held at the International Convention Centre, Darling Harbour, between 15-17 November 2018. These national conferences involve enormous amounts of time and energy and I would like to thank the staff at the New South Wales Bar Association and the conference steering committee for all the effort they have put into organising the conference. I would also like to acknowledge the work of the ABA staff, particularly ABA CEO Cindy Penrose, who has worked collaboratively with us over the last eight months in bringing the conference together.

I will finish again by thanking the Bar Association staff for all their help and dedication during the year.

I would like pay special tribute to three members of staff who left us this year after many years of service to the Bar Association: Katie Retford (11 years), Barrie Anthony (19 years) and Helen Barrett who retired after 33 years of service to the Bar Association. We wish them all well for their future endeavours.

Greg Tolhurst  
Executive Director





## Membership Statistics

The Bar Association is a voluntary association. Being a member and holding a barrister's practising certificate (PC) are distinctly separate.

As at 30 June 2018 the Bar Association had 3204 members.

	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
<b>Members, practising</b> (as at 30 June. Inc. life members with a PC)						
Male	1754	1788	1805	1838	1832	1862
Female	438	456	485	500	518	536
<b>Total</b>	<b>2192</b>	<b>2244</b>	<b>2290</b>	<b>2338</b>	<b>2350</b>	<b>2398</b>

<b>Members, practising - senior counsel</b> (as at 30 June. QC or SC)						
Male	318	326	334	352	351	342
Female	34	35	37	38	40	42
<b>Total</b>	<b>352</b>	<b>361</b>	<b>371</b>	<b>390</b>	<b>391</b>	<b>384</b>

<b>Members, practising - junior counsel</b> (as at 30 June)						
Male	1436	1462	1471	1486	1481	1520
Female	404	421	448	462	478	494
<b>Total</b>	<b>1840</b>	<b>1883</b>	<b>1919</b>	<b>1948</b>	<b>1959</b>	<b>2014</b>

<b>Members without a NSW practising certificate</b> (as at 30 June)						
Former barrister	141	145	156	169	179	191
Former judge / magistrate	110	111	106	107	106	103
Interstate / overseas barrister	188	183	185	195	197	191
Judge	175	174	176	183	179	183
Judicial officer	2	3	5	5	4	5
Magistrate	30	31	30	26	29	32
Solicitor-general (Commonwealth or state)	1	1	1	1	0	0
Crown prosecutor (interstate or Commonwealth)	2	3	3	1	0	0
Statutory appointment	10	9	9	9	11	11
Member of parliament	1	1	2	2	2	2
Trial advocate	0	0	0	0	0	1
Academic	13	13	13	14	14	14
Clerk	15	20	44	41	43	38
Other	35	37	38	37	36	35
<b>Total</b>	<b>723</b>	<b>731</b>	<b>768</b>	<b>790</b>	<b>800</b>	<b>806</b>

<b>Life members</b> (as at 30 June)						
Current NSW PC holders	9	9	7	7	13	11
Non-practising	27	27	32	32	32	35
<b>Total</b>	<b>36</b>	<b>36</b>	<b>39</b>	<b>39</b>	<b>45</b>	<b>46</b>

### Members

# 3204

### Members with a NSW PC

# 2398

### Members without a NSW PC

# 806



## Practising Certificates

	NSW	QLD	WA	ACT	UK	NZ	USA	Total
<b>Practitioners who are senior counsel (SC or QC)</b>								
Male	341	0	0	0	2	1	0	344
Female	42	0	0	0	0	0	0	42
<b>Total</b>	<b>383</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>386</b>

### Junior barristers

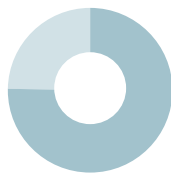
Male	1526	2	0	2	0	0	0	1530
Female	495	1	2	0	0	0	1	499
<b>Total</b>	<b>2021</b>	<b>3</b>	<b>2</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>2029</b>

### Percentage of male and female barristers with a NSW PC

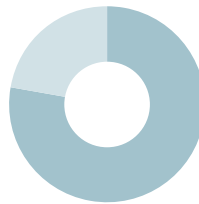
**Junior**  
75.4% Male  
24.6% Female



**Senior**  
89% Male  
11% Female



**Total**  
77.6% Male  
22.4% Female





## Office Bearers



Arthur Moses SC  
President



NEW SOUTH WALES  
**BAR ASSOCIATION®**



Tim Game SC  
Senior Vice-President



Andrew Bell SC  
Junior Vice-President



Anna Mitchelmore  
Treasurer



Sophie Callan  
Honorary Secretary

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## Bar Council

As at 30 June 2018

Arthur Moses SC  
Tim Game SC  
Andrew Bell SC  
Anna Mitchelmore  
Sophie Callan  
Richard Weinstein SC

Michael McHugh SC  
Kylie Nomchong SC  
Gabrielle Bashir SC  
Ruth Higgins SC  
Kate Morgan SC  
Mary Walker

Paresh Khandhar  
Nanette Williams  
Ben Katekar  
David Rayment  
Vanessa Whittaker  
Michael Izzo

Julia Roy  
Courtney Ensor  
James Mack

## Bar Association Staff As at 30 June 2018

### Office of the Executive Director

Executive Director	Greg Tolhurst
Executive Assistant	Georgina Stow
Director Legal	Jennifer Pearce

### Administration Department

Receptionist	Maree Fitzgerald
Admin. Assistant (Records)	Kim Ellis
Records Assistant	Melanie Whitehorn

### Bar Library

Librarian	Lisa Allen
Assistant Librarian	Leonie Anderson
Technical Services Librarian	Emma Sellwood

### Finance Department

Finance Manager	Basil Catsaros
Deputy Finance Manager	Lubaina Paisawala
Certification Officer	Barrie Anthony

### Legal Assistance Referral Scheme

Legal Assistance Manager	Heather Sare
Administrative Assistant	Ray Burgess

### Professional Conduct Department

Director, Professional Conduct	Jocelyn Sparks
Deputy Director	Helen Barrett
Legal Officer	Angela Huang
Senior Administrative Assistant	Corinne Gilbert

### Law Reform and Public Affairs

Deputy Executive Director	Alastair McConnachie
Co-ordinator, Services & Benefits	Chris Winslow
Publications & Promotions Co-ordinator	Michelle Nisbet
Senior Policy Lawyer	Roshana Wikramanayake
Senior Projects Lawyer	Kim Kemp
Policy Lawyer	Ting Lim
Policy Lawyer	Elizabeth Pearson

### Professional Development Department

Director, Professional Development	Bali Kaur
Professional Development Co-ordinator	Tiffany McDonald
Event Manager	Katie Retford
Education Assistant	Courtney Ford





## Committees As at 30 June 2018

### Alternative Dispute Resolution

Ian Davidson SC (Chair)  
Max Kimber SC  
Peter Callaghan SC  
John Fernan SC  
Robert Angyal SC  
Anthony Lo Surdo SC  
Michael McGrowdie  
Mary Walker  
Jeffery Sewell  
Philip Bambagiotti  
Justin Hogan-Doran  
Fiona Sinclair  
Philip Carr  
Deborah Robinson  
Sean Docker  
Kellie Edwards  
Elizabeth Picker  
Svetlana German

### Bar News

Ingmar Taylor SC (Chair)  
Anthony Cheshire SC  
Dominic Villa  
Christopher Withers  
Nicolas Kirby  
Daniel Klineberg  
Catherine Gleeson  
Victoria Brigden  
Caroline Dobraszczyk  
Talitha Fishburn  
Juliet Curtin  
Radhika Withana  
David Robertson  
Kevin Tang  
Alexander Edwards  
Charles Gregory

### Common Law

Robert Sheldon SC (Chair)  
Simon Harben SC  
Matthew White SC  
Lorna Mcfee  
Richard Royle  
Greg Hickey  
William Fitzsimmons  
Elizabeth Welsh  
Paresh Khandhar  
Andrew Combe  
Nicholas Broadbent  
Matthew Lewis

Ross Stanton  
Andrew Oag  
Sarah Warren

### Costs and Fees

Mark Brabazon SC (Chair)  
Mark Walsh SC  
Michael Eagle  
Mark Cleary  
Philippe Doyle Gray  
Michael Dawson  
Andrew Harding  
Janet McDonald  
David Stewart  
Emma Beechey

### Criminal Law

Stephen Odgers SC (Chair)  
John Agius SC  
Tim Game SC  
Ian Bourke SC  
Gabrielle Bashir SC  
Gina O'Rourke SC  
Kara Shead SC  
Neil Adams  
Tom Hughes  
Bernard Glennon  
David Jordan  
Anne Healey  
David O'Neil  
Peter Singleton  
Richard Wilson  
Kieran Ginges  
Sophia Beckett  
Lester Fernandez  
Sharyn Hall  
Helen Roberts  
Sophie Anderson  
Elizabeth McLaughlin  
Rose Khalilizadeh

### Academics

Luke McNamara/  
Alex Steel (UNSW)  
David Hamer (USYD)  
Nicholas Cowdery QC

### Diversity and Equality

Kate Eastman SC (Chair)  
Adam Casselden SC  
Richard Scruby SC  
Stephanie Fendekian  
Hakan Sonmez  
Penny Thew

Sophie Callan  
Brenda Tronson  
Lee-May Saw  
Zoe Hillman  
Sonia Tame  
Alexandra Rose  
Sevinch Morkaya  
Bernice Ng

### Education

Kelly Rees SC (Chair)  
John Marshall SC  
Graham Turnbull SC  
Richard Weinstein SC  
Robert Hollo SC  
Ian Bourke SC  
Michael Hall SC  
Edward Muston SC  
Sean Docker  
Michael O'Meara  
Gillian Mahony  
Melanie Cairns  
Greg Antipas  
Julia Roy  
Jocelyn Williams  
David Birch

### Family Law

Michael Kearney SC (Chair)  
Peter Cummings SC  
Jonathon Priestley SC  
Peter Campton SC  
Paul Sansom SC  
Lynette Judge  
Warwick Tregilgas  
Mark Anderson  
Robyn Druitt  
Derek Hand  
Angela Petrie  
Alexandra Shearman  
Giles Stapleton  
John Longworth

### Human Rights

Sarah Pritchard SC (Chair)  
Richard Lancaster SC  
Angus Stewart SC  
Michael Wright SC  
Simeon Beckett  
Shane Prince  
Paul Moorhouse  
Tom Dixon

Trent Glover  
Alexandra Rose

### Academic

Professor Andrew Byrnes (UNSW)

### Innovation & Technology

Michael Green SC (Chair)  
Dominic Villa  
Catherine Gleeson  
Anton Hughes  
James Mack  
Anna Spies

### Legal Aid

Dean Jordan SC (Chair)  
Tim Game SC  
Alex Radojev  
David G Price  
Ashok Kumar  
Greg Bullard  
Michael King  
Sharyn Hall  
Emmanuel Kerkyasharian  
Michelle Swift  
Clyllyn Sperling  
Michael Valentin  
Rose Khalilizadeh

### New Barristers

James Mack (Chair)  
Jock Baird  
Janet McKelvey  
Thomas Buterin  
Geoff Farland  
Corrie Goodhand  
Gideon Gee  
Glenn Fredericks  
Ali Cheema  
Marea Wilson  
Sonia Stewart  
Catherine Hamilton-Jewell  
Nick Roucek  
Trish Hoff (Clerk)

### Practice Development

Elizabeth Cheeseman SC (Chair)  
Tom Thawley SC  
Ian Hemmings SC  
Michelle Painter SC  
Peter Lowe  
David Thomas  
William Edwards

## Committees As at 30 June 2018 (continued)

Patrick Knowles  
Philip Wallis  
Stephanie Patterson  
Caspar Conde  
Jaye Alderson  
Victoria Sweetman  
O'Halloran  
Geoff Farland  
Michele Kearns (Clerk)  
Simon Walker (Clerk)

### Wellbeing

Kylie Nomchong SC (Chair)  
Philip Clay SC  
Peter McGrath SC  
Pat Griffin SC  
Adam Casselden SC  
David Jordan  
Cameron Jackson  
Simon Philips  
Hakan Sonmez  
Kellie Edwards  
Theresa Baw  
Michael Gleeson  
Elizabeth James  
Jason Hale

### PCC#1

Tim Game SC (Chair)  
Anthony McInerney SC  
Matthew Darke SC  
Paul Sansom SC  
Edward Muston SC  
Kara Shead SC  
Kate Morgan SC  
Peter Russell  
Chris Wood  
Kieran Ginges  
Madeline Avenell  
Scott Maybury  
Michael Izzo  
Reg Graycar  
Daniel Klineberg  
Catherine Gleeson  
**Community Members**  
Judy Bursle  
John Davison  
Dr Robyn Godding

### PCC#2

Richard Weinstein  
SC (Chair)  
Wendy Abraham QC  
Todd Alexis SC  
David Pritchard SC  
Ingmar Taylor SC  
Justin Young  
Mark Seymour  
Simon Buchen  
Anna Mitchelmore  
Donna Ward  
Scott Aspinall  
Caroline Dobraszczyk  
Juliet Curtin  
Julia Roy  
Courtney Ensor  
Jocelyn Williams  
**Community Members**  
Sandra Fleischmann OAM  
Jennifer Mason  
Bronwyn Preston

### PCC#3

Chrissa Loukas SC (Chair)  
David Williams SC  
Gail Furness SC  
Kylie Nomchong SC  
David McLure SC  
Nicholas Owens SC  
James Duncan  
Sheila Kaur-Bains  
Elizabeth Welsh  
Patricia Lane  
Andre Zahra  
Andrew Fox  
Yaseen Shariff  
Jonathan Kay Hoyle  
James Emmett  
Stephanie Patterson  
Rebecca Gall  
Community Members  
Jenny-Lea Charlier  
Catherine Hart

### PCC#4

Andrew Bell SC (Chair)  
Angus Stewart SC  
Michael McHugh SC  
Matthew White SC  
Peter McGrath SC  
Kate Williams SC  
Mark Anderson  
Andrew Naylor  
Nicholas Eastman  
Michelle England  
Ben Kremer  
Sophie Callan  
Amy Douglas-Baker  
Adam McGrath  
Lisa-Claire Hutchinson  
**Community Members**  
Jim Tsirimiagos  
Rachel Williams  
John Coleman

## Sections

For the year 2017-18

### Commercial Law

**Convenor:** Andrew Bell SC  
**Secretaries:** Michael Izzo

### Industrial Law

**Convenor:** Bruce Hodgkinson SC  
**Secretaries:** Yaseen Shariff

### Public Law Section

**Convenor:** Neil Williams SC  
**Secretaries:** Stephen Free & Katherine Richardson

### Women Barristers Forum

**Chair:** Michelle Painter SC  
Vice-chairs:  
Kate Morgan SC  
Michelle McMahon  
**Treasurer**  
Rosalind Winfield  
**Co-secretaries**  
Caroline Dobraszczyk  
Theresa Power  
**WLANSW Liaison**  
Lee-May Saw  
**IT officer**  
Kavita Balendra

## Working Parties

For the year 2017-18

### Examination Working Group

**Chair:** Richard Weinstein SC  
Patrick Griffin SC  
Michael Hall SC  
Andrew Pickles SC  
Edward Muston SC  
Wendy Abraham QC  
Sandrah Foda  
Miiko Kumar  
Hamish Bevan  
Elisabeth Peden  
Peter Maddigan  
Ross Glover  
Michelle Swift  
Julia Roy

### PII Working Group

**Chair:** Garry Rich SC



## Court Committees and Working Parties For the year 2017-18

### Supreme Court

Uniform Rules  
Committee  
Carol Webster SC

Rule Committee  
Carol Webster SC

Common Law Division  
Civil Users Group  
Eugene Romaniuk SC  
Lorna McFee

Probate Users Group  
Michael Willmott SC

Court of Criminal  
Appeal  
Users Group  
Stephen Odgers SC

### Land and Environment

**Court User Group**  
Clifford Ireland

**Industrial Relations  
Commission User Group**  
Yaseen Shariff  
Patricia McDonald SC

**Workers Compensation  
Commission**  
Ross Stanton

### District Court

Rule Committee  
Paresh Khandhar

Civil Business  
Committee  
Larry King SC  
Eugene Romaniuk SC

Criminal Business  
Committee  
Rose Khalilzadeh

### Local Court

Rule Committee  
Lisa-Claire Hutchinson

Downing Centre  
User Forum  
John-Paul Redmond

### NSW Civil and Administrative Tribunal (NCAT)

Occupational Division  
Consultative Forum  
Carol Webster SC

Guardianship Division  
Consultative Forum  
Irving Wallach

Administrative, Equal  
Opportunity and  
Consultative Forum  
Brenda Tronson

## NSW Council of Law Reporting For the year 2017-18

Mark Brabazon SC  
Garry Rich SC  
Professor Margaret Allars SC

Todd Marskell  
Sophie Callan

## Representatives on Educational Institutions For the year 2017-18

### Law Extension Committee (University of Sydney)

Tony O'Brien  
Janet Oakley

### University of NSW

Faculty of Law  
Anne Healey

### University of Western Sydney

External Law Advisory  
Committee  
Robert O'Neill

### University of Wollongong

Faculty of Law,  
Visiting Committee  
Bruce Collins QC



## Professional Development Department

### The Professional Development Department provides education, training and additional learning and development services to all practising barristers in NSW.

The main responsibilities of the department are to:

- Co-ordinate induction to practice of, and services for, new barristers. There are two main aspects to the substantive educational services for new barristers: the Bar Examinations; and the Bar Practice Course;
- Provide Continuing Professional Development (CPD) seminars and conferences;
- Arrange the various social functions put on by the association for members, such as the Bench & Bar Dinner, the Tutors & Readers Dinner and the 15-Bobber functions.

The department remains focussed on our core objectives: to continue to provide relevant, practical and intellectual content to members to assist in their ongoing professional, and practice, development. The department continues to work closely with the Bar Council and the committees to promote collegiality and mutual assistance among its members and to implement the strategic plan. This involves identifying areas of need and interest to members and to provide services that address those needs and interests in a timely and cost effective manner.

#### Exams

For the February 2018 Bar examinations 149 candidates submitted a registration to sit for the Bar Examination. Not all that registered sat the examination in February – 109 candidates sat the examination. In June 2018, 142 registered and 111 candidates sat the single Bar Examination. A total of 32 members

of the association assisted in the preparation and marking of papers in February 2018 and 37 assisted with the June 2018 examinations.

The Bar Examination Working Party, a subcommittee of the Education Committee, chaired by Richard Weinstein SC continues to provide support, guidance and assistance to the department in the implementation of the Bar Council policy in relation to the Bar Exam.

#### Bar Practice Course

The August/September 2017 and May 2018 courses represented the 52nd and 53rd BPC. The courses were directed by Gillian Mahony. In 2017-18 113 readers completed the two courses. This is 29 readers more than 2016-17. The course continues to see a greater percentage of women undertaking the course (35 per cent) than the overall percentage of women in practice at the bar generally (23 per cent).

The course continues to be structured as a four week program of intensive, full-time study. The overall format of the course has remained constant in recent years while individual components have been developed and refined in response to feedback, as well as to developments in practice. In 2017-18 the following sessions were added to the course: 'Providing for Aboriginal clients and witnesses' and 'Working with Interpreters'. The Bar Practice Course would not be possible to deliver to the high standard that it is without the very generous support of over 200 barristers and members of the judiciary who give so willingly of their time, frequently for both courses and year after year, to help provide readers with the best possible induction to practice at the bar.

The Bar Practice Course spans over 50 scheduled lectures, mini-trials and workshops, and the involvement of vast numbers of barristers assisting as tutors, lecturers, workshop leaders

In February 2018

# 109

candidates sat the Bar examination.

In June 2018

# 111

candidates sat the Bar examination.

In 2017-18

# 113

candidates completed the two Bar Practice Courses,

# 29

 readers

more than 2016-17

In 2017-18

# 35%

of candidates were women. The overall percentage of women in practice at the Bar is generally 23 per cent.

## Professional Development Department (continued)



and advocacy coaches as well as judges, past and present, from all jurisdictions. As such, the course continues to be a major part of the professional development calendar and a considerable administrative task but culminates in some of the most rewarding experiences of the year. Through the Bar Practice Course, we see the very best of practice at the bar by way of collegiality, mentoring and tutelage, and dedication to court craft as well as the increasing diversity within the profession. The commitment of all involved is absolute.

We could not run these courses without the continuing support from the presenters, instructors and judges who set aside time from their busy practices to assist in welcoming and guiding the newest members of the bar. The Bar Council wishes to extend its sincere thanks to all those involved in the Bar Practice Course.

### CPD

The CPD requirement in order to maintain a barrister's practising certificate in New South Wales is fundamental to maintain the professional reputation of the bar and the highest professional standards.

In 2016–17 the department offered 66 seminars (84 points) covering all four strands plus a number of workshops and conferences. The professional development department is working towards introducing live-streaming to increase and improve regional inclusivity. With the support of the IT department, the CPD program and supporting software continue to undergo development and upgrading in order to increase member take up of this service. New microphone and computing software were introduced in 2017 to improve the video and audio quality. The conference program continued to enjoy strong support from all

members and provided excellent opportunities for networking and promoting collegiality. Conferences were run throughout February and March in Orange, Newcastle, Parramatta, the North Coast, and two conferences in Sydney. The conference programs were designed to offer a wide range of topics and speakers that would be of interest to all members.

An additional all day specialist CPD conference was held at the Federal Court, titled 'The Sword of Damocles' which examined the unique world of regulatory litigation.

As in previous years, the preparation for the conferences for 2019 will commence around the time of the publication of the annual report. If any member would like to be involved in the conferences – or any aspect of the CPD program – you are encouraged to contact the professional development department.

### Mentoring Program

Since 2014 the NSW Bar Association Mentoring program has supported over 100 junior barristers in their second year at the bar. The aim of the program is to increase retention and career progression within the bar. The program is a unique 10-month professional development initiative supporting junior barristers in building confidence, expanding networks and achieving a long term successful career at the bar. During 2017 and 2018 the program continued to connect junior barristers with a more experienced barrister. The senior barristers are mentors and confidential advisors offering a private forum, outside of chambers, for mentees to discuss their practice, career plans and challenges. The 2017 program was launched in May 2017, 32 barristers in their second year at the bar successfully took part in this program.

The Art of Mentoring was

successfully engaged as the external mentoring provider in 2018 after a full evaluation of the mentoring program and its suitability to the NSW Bar. The 2018 program is currently running with 28 mentors and mentees. The program is made available to all barristers in their second year of practice.

### Additional activities

The University Open Day remains a popular day in the calendar. Held in spring each year it attracts over 120 students from the 10 law faculties in NSW. The department also provided a full calendar of social events, with the Bench and Bar Dinner again being the highlight of the year. A wide variety of social functions including 15 Bobbers, the Tutors' and Readers' Dinner, and a Judicial Q&A were put on for members.

### Thank you

As in previous years, the department is extremely grateful for all the assistance provided by a great many volunteers. All give of their time freely and generously with the end goal being the improvement of the bar. It simply would not be possible for the department to operate without the support and commitment of so many.

In 2016–17 the  
department offered

**66** seminars

covering all four  
strands plus a number  
of workshops and  
conferences

## Arranging and promoting continuing professional development

## Education Committee

**The committee provides support and guidance to the Bar Council, the executive director, the Professional Development Department and other departments of the New South Wales Bar Association in respect of the educational activities of the NSW Bar, and implements on Bar Council's behalf: the NSW Bar Exam, the Bar Practice Course, the tutor/reader program, the mentoring program and Continuing Professional Development Program.**

In its activities the Education Committee supports attainment of the objectives set out in

the New South Wales Bar Association's Strategic Plan.

In 2018 this has included the continuing education of barristers, the development of transformational knowledge and skills so that barristers can compete in the environment of increasing internationalisation of the law: equality and diversity of the NSW Bar membership; and supporting readers and the junior bar.

The committee has made a number of recommendations relating to policy to the Bar Council and has worked collaboratively with the

Examination Working Party and the New Barristers Committee in relation to the exams and issues impacting upon the junior Bar. The committee this year focussed on improvements to the Mentoring program, CPD program, reader/tutor guidelines and established a compulsory CPD for all tutors to attend.

The committee also reviewed the reader/tutor information on the Bar Association website leading to improvements to make it easier for those coming to the bar to access the relevant information.

## Supporting readers and the junior bar

## New Barristers Committee



Photo: Murray Harris Photography

**The goals and objectives of the New Barristers Committee are:**

to promote the pursuit of excellence through targeted continuing professional development, camaraderie through social events and other traditions of the general bar among NSW barristers under six years; to assist NSW barristers under six years to build and develop their practices; to make submissions to the Bar Council regarding issues and matters that affect the interests of barristers under six years seniority; and to otherwise support the work of the Bar Council as and when needed. The New Barristers Committee provides a great deal of assistance to the professional development

department, particularly in the design and provision of CPD for the junior bar. These CPDs and workshops provide an informal opportunity for under 6s to practise their advocacy skills.

The workshops comprise an initial seminar, followed by a group cross-examination exercise and conclude with a demonstration by senior members of the bar. The next scheduled cross-examination workshop will be in February / March 2019.

The committee also provides regular breakfast events providing networking opportunities for NSW barristers under six years.

## Strategic Plan 2017-20

**Supporting readers and the junior Bar**

**Rationale:** To provide all the information required for a new barrister to make an informed decision about chambers and areas of practice. Information to prospective readers should be made available on the Bar Association's website. It will also allow all chambers to compete equally for new members.

**1.** To survey all chambers regarding: their availability to provide reader accommodation; the cost (floor fees and other charges); whether the floor / tutor undertake to provide work for the reader.

**2.** To provide a central register recording the results of an annual survey





## Practice Development Committee

**The Practice Development Committee's major responsibilities under the Bar Association's Strategic Plan involve facilitating closer collaboration directly with in-house counsel and the promotion of the bar as a highly cost efficient part of the litigation process.**

These items form part of the committee's core responsibilities and are an ongoing priority.

Accordingly, the committee's primary focus remains the promotion and marketing of the bar's services to in-house counsel, both corporate and government, in two principal areas, direct briefing and early briefing. The committee has been active in developing new ways to promote the services of the bar beyond our traditional, and still core, market of instructing solicitors.

The committee developed a proposal for and co-ordinated the 2017 IBA Open Chambers Evening as a satellite event during the 2017 IBA conference in Sydney in October 2017. Eighteen chambers hosted events on the evening of 10 October 2017. Over 320 guests attended these events. The events were directed to marketing the New South Wales Bar and the services it offers to conference delegates (many of whom were in-house counsel) in a convivial and informal atmosphere. Invitations were also extended to local in-house counsel, including through the Association of Corporate Counsel (ACC), as well as to members of the regional bars, the judiciary and others. A feature on the Chambers Evening was included in the Summer 2017 edition of *Bar News*.

In November 2017 association representatives presented a NSW Bar Association-sponsored session on direct briefing at the ACC National Conference in Alice Springs. The 2017 ACC Australia Benchmarks and Leading Practices

Report identified employment/workplace relations law as one of the top three areas of work that in-house legal departments are most likely to outsource.

In addition to sponsoring an award and a table at the gala dinner, the Bar Association presented a master class on direct briefing in an employment context (presented by Ingmar Taylor SC and Kellie Edwards along with Westpac In-House Counsel Justin Moses). A Barista Bar staffed by clerks (Michele Kearns, Angela Noakes and Emma Houlihan) ran throughout the conference to provide practical advice to in-house counsel regarding briefing the bar. In-house counsel delegates displayed a great deal of interest in the information provided on how and when to brief the bar direct and in the NSW Bar merchandise available at the conference.

The committee oversees the association's corporate partnership arrangements with ACC Australia which provide ongoing opportunities for the bar to interact with and promote its services to in-house counsel. The Association hosted a function at the ACC NSW Corporate Counsel Day in May 2018 which provided in-house counsel the opportunity to network with members of the Bar Council and the committee and will be presenting again at the 2018 ACC National Conference.

In mid-2017 the committee arranged for the Bar Association's sponsorship of the 10th Anniversary of the Toongabbie Legal Centre Seminar Series and liaised with the New Barristers Committee to provide members to present and chair sessions.

The committee also drafted a policy regarding third party service providers which was adopted by the Bar Council in November 2017.

The committee has also been active in the continuing professional development area over the reporting year, developing a proposal for a CPD series aimed at personal marketing for barristers; and Ian Hemmings SC will present a session later in 2018 regarding running paperless trials in the Land and Environment Court.

The committee has also contributed ideas for enhancement of the Bar Association's website and has an ongoing role in monitoring and improving specific web content regarding briefing the bar and in-house counsel.

### Strategic Plan 2017-20

#### Marketing and promoting the work of barristers

**Rationale:** To ensure Bar Association members remain engaged in the marketplace and consumers of legal services perceive the Bar as a viable and cost effective option – especially in the earlier stages of litigation.

1. Closer collaboration directly with corporate counsel.
2. Promotion of the Bar as a highly cost efficient part of the litigation process.
3. Encourage, by subsidy or otherwise, educational activities by barristers, including but not limited to teaching advocacy overseas.

## Alternative Dispute Resolution Committee

### 2017-18 saw a continued trend in the legal profession of increasingly using bodies other than the courts to resolve disputes.

The ADR Committee has worked to promote and support NSW barristers' work both in representing clients in and conducting mediations, arbitrations and other methods of alternative dispute resolution.

#### Training for members

In 2017-18 the ADR Committee continued to assist the Bar Association to exercise its function as a Mediation Accreditation Body under the National Mediation Accreditation System. In 2017 the committee recommended to Bar Council the accreditation of a number of 'new' and 'experience-qualified' mediators, in addition to re-accrediting members last accredited in 2015.

The ADR Committee has supported the association and Bar Council to maintain lists of barristers accredited or approved as mediators, arbitrators or expert determiners, and provided these lists to the Local, District and Supreme Courts as required.

Additionally, the ADR Committee has planned and provided continuing professional development to ADR barrister practitioners throughout the year, including presenting Barristers' Skills, Practice Management and Business Skills sessions at the association's regional conferences in Newcastle, Ballina and Sydney in early 2018.

### Skills & standing in ADR forums

The ADR Committee has worked throughout the year to advance barristers' skills and standing via a number of key projects.

In September 2017 the ADR Committee hosted an 'ADR Chat' event in Sydney which provided an opportunity for ADR barrister practitioners to get together in an informal social environment to network and discuss a topical issue. Robert Angyal SC and John J Whelan led discussion on the topic 'Lessons from the Cricketers' Pay Dispute – Negotiating Commercial Agreements in the Spotlight'.

Further, the ADR Committee has worked with the Education Committee to develop and expand the ADR training provided to junior barristers, including through involvement in the Bar Practice Courses.

The ADR Committee has invested a significant volume of time and work in planning the ADR Masterclass 2018, a highly respected one-day CPD conference dedicated to alternative dispute resolution, was held in August. Speakers will include the chief justice of NSW, the Hon TF Bathurst AC; president of the New South Wales Bar Association, Arthur Moses SC; UNCITRAL rapporteur Professor Khory McCormick; and Gold Walkley award-winning journalist and lawyer Richard Ackland AM.

### Strategic Plan 2017-20

#### Dispute resolution outside courts

**Rationale:** Effective dispute resolution encompasses choosing the most appropriate and effective process for resolving a dispute between parties. Traditional litigation is now complemented and augmented by numerous alternatives. The Bar Association should ensure members are able to offer a full suite of services to consumers.

1. To increase the number of barristers as mediators and arbitrators especially for complex matters.
2. Establish a committee to foster the work of barristers who regularly appear in, or sit on, tribunals or administrative bodies.

## Alternative Dispute Resolution Committee (continued)



The ADR Committee has also worked to revise and update the content of BarADR's website to better profile the standing and skills of ADR barrister practitioners and make BarADR's services more accessible to clients, the public and solicitors.

The Bar Association has continued to circulate regular broadcast emails, including the ADR Mailout newsletter, to accredited mediators, approved arbitrators, approved expert determiners and other interested barristers. These emails provide details about upcoming CPDs, relevant case law and industry developments, as well as important information about accreditation. In response to the increasing globalisation of ADR, the ADR Mailout now includes an 'ADR Abroad' section to profile educational opportunities and news of interest to members interested in international practice development.

### **Liaising with relevant professional bodies**

Throughout 2017-18 members of the ADR Committee continued to represent the Bar Association on the New South Wales Supreme Court's ADR Steering Committee and the board of the Australian Centre for International Commercial Arbitration.

The ADR Committee has assisted the association to respond to requests from the courts to nominate barrister ADR practitioners, including under the Practice Note Supreme Court Gen 6 (Supreme Court – Mediation).

Additionally, members of the ADR Committee have worked collaboratively with the Law Society and the association's Family Law Committee to maintain and participate in the Family Law Settlement Service.

Ian Davidson SC stepped down as chair of the ADR Committee in May 2017 after two years of service. The ADR Committee will continue its important work in 2018-19 under the guidance of new chair, Mary Walker.



## Wellbeing Committee

**In 2016 the Wellbeing Committee was formed for the purposes of identifying the causal factors of poor mental and physical health among barristers and targeting them for intervention by the Bar Association.**

The committee participates in research and education, promotes collegiality and helps to organise recreational activities.

In the 2016-17 annual report it was noted that the Quality of Working Life (QoWL) survey was distributed to all practising barristers in March-April 2017. During the first quarter of the reporting year, the data was analysed by researchers at the University of Portsmouth. Initial findings were revealed at the Clerks Association Conference in July 2017, after which the Bar Association submitted a series of follow-up enquiries with the researchers.

Once the Wellbeing Committee subsequently received the final report in early 2018 it began to interpret the results and to recommend remedial action.

### Judicial bullying

A key finding of the QoWL survey was in respect of judicial bullying, which two-thirds of respondents (619 barristers) said they had experienced. This was the subject of a column by President Arthur Moses SC in the Autumn 2018 issue of the *Bar News* and his presentation to a CPD mini-conference. It has been the focus of endeavours by the committee throughout the remaining months of the reporting year. There is no formal definition of the phenomenon, but respondents identified as examples:

- Belittling, patronising or humiliating comments in front of colleagues or a jury
- Repeated intimidation and interruptions
- Angry outbursts and yelling

- Unreasonable deadlines
- Gender slurs: 'Being asked in an open court who will take care of my baby during the trial'

The salient points of the QoWL survey are:

- Respondents who said they had experienced judicial bullying returned significantly lower average scores on the Quality of Working Life and Barristers Wellbeing scales than those who did not
- For both men and women barristers, judicial bullying correlates with diminished wellbeing and quality of working life, however the effect is relatively more pronounced for men
- Judicial bullying was reported by barristers of all levels of seniority
- Junior members of the bar who experienced bullying returned lower scores for wellbeing and quality of working life than their more senior colleagues
- The incidence of bullying is reportedly higher in the District Court and Supreme Court than in other courts
- A 'Yes' response to the question on judicial bullying correlates with a cluster of factors, which together predict a low quality of working life. Most of these other factors relates to a barrister's working conditions, some of which will be discussed below.

After careful deliberation, the committee has promulgated a number of recommendations and at the time of publication, consultations involving the president, Bar Council and other stakeholders are ongoing.



**WELLBEING**

at the New South Wales Bar

### Strategic Plan 2017-20

**Assisting barristers with the economic and personal challenges of a sole practitioner**

**Rationale:** One of the objectives of the Bar Association is to promote, maintain and improve the interests and standards of local practising barristers. The Bar Association should look for ways to assist barristers in their practice, easing administrative burdens where possible, and promoting a culture that values and encourages a reasonable work / life balance.

1. To assist barristers in relation to recovering counsels' fees by providing clear and actionable mechanisms to recover unpaid fees.
2. To establish an escrow service provided by the Bar Association to its members in conjunction with a financial institution.
3. Establish mechanisms to allow members to take a short to medium term break from chambers work, whether for personal leave (including carer and parental leave) or other reasons, should they wish to do so.
4. Promote to members the advantages and benefits of a balanced lifestyle, appropriate stress management, and improved physical fitness.
5. Provide greater assistance to members in relation to financial management. Appropriate financial planning including the management of debt, superannuation and insurance.
6. To establish mechanisms to assist members in the transition from the Bar to retirement or other fields of endeavour.



## Wellbeing Committee (continued)

### Poor quality of working life

More than one-third of respondents are not satisfied with their quality of working life. The survey identified a cluster of factors related to working conditions the bar, which together can lead to poor mental health outcomes. Among them are:

- Working more than 60 hours per week
- Working more than 20 unpaid hours per week
- Lack of sleep
- A perception that other barristers are more productive
- Perfectionism
- A feeling that their practice isn't secure

Women are more likely than their male counterparts to return lower average scores on the Quality of Working Life and Barristers Wellbeing scales, while older barristers returned higher average scores than their younger peers.

Under the Bar Association's *Strategic Plan 2017-20*, one of the 12 headline objectives is to 'promote a culture that values and encourages a reasonable work / life balance' (page 5).

The relevant performance indicators direct the Bar Association, through its new Services and Benefits Department, in conjunction with the Wellbeing Committee, to:

- Establish mechanisms to allow members to take a short to medium term break from chambers work, whether for personal leave (including carer and parental leave) or other reasons, should they wish to do so.
- Promote to members the advantages and benefits of a balanced lifestyle, appropriate stress management, and improved physical fitness
- Establish mechanisms to assist members in the transition from the bar to retirement or other fields of endeavour.

Pursuant to these objectives, the Wellbeing Committee focussed on delivering the following key projects in 2017-18.

### New BarCare website

As noted elsewhere in this report, BarCare is singularly the most important demonstration by members of their collegiality and mutual assistance during times of crisis in their personal or professional lives. The strictly confidential service is funded by the Barristers' Benevolent Association and operates independently of the Bar Association.

At the request of the Wellbeing Committee, the Benevolent Association approved funding for a new and improved BarCare website, which went live in February 2018.

### Mindfulness seminars

A variety of organisations have shown increasing interest in mindfulness meditation as a way of helping their employees and members to increase concentration and meet the challenges of stress and sometimes overwhelming work demands.

In April 2018 Theresa Baw and the Wellbeing Committee organised 'TheMindful Barrister', an interactive presentation in the Common Room, to provide an overview of the science of how mindfulness reduces stress and enhances focus, introduce the practice of mindfulness meditation, and explore ways in which mindfulness can be incorporated into daily work in chambers and before court. Theresa also published an article on mindfulness in *Bar News*. More seminars are planned for 2018-19.

### Sleep deprivation and wellness seminars

One of the key findings of the QoWL Survey was that practising barristers have a problem with sleep deprivation and waking in the early hours of the morning. The physical and emotional effects of inadequate or interrupted sleep patterns are well known. Particularly relevant for barristers are blood pressure, cardiovascular disease, poor concentration and micro-sleeps during the day.

The Wellbeing Committee has targeted chronic sleep deprivation for intervention. At the time of publication, preparatory research is under way for hosting seminars presented by medical specialists.

## Wellbeing Committee (continued)

### St John Ambulance training

The committee has identified gaps in the preparedness of some members and their chambers to deal with medical emergencies.

In June 2018 the Bar Association hosted a well-attended St John Ambulance Express First Aid course in the Common Room. Barristers, clerks and chambers staff attended and the feedback from the course was extremely positive. Plans are afoot for a repeat course in October 2018.

### Life after the bar

Almost one-third of practising barristers in NSW are over 60 years of age - the overwhelming majority of whom are men. Although the survey data suggest that this cohort enjoys above-average quality of working life at the bar, there is anecdotal evidence that many barristers would welcome opportunities to find fulfilment outside their practice - whether through voluntary public service, teaching, study or commerce.

The committee has resolved to identify projects that would assist senior barristers in these endeavours. The first of these will come in September (2018) when the committee will jointly host an information seminar with Australian Business Volunteers, a social enterprise that seeks to place skilled business people and professionals, such as barristers, on short-term, capacity-building secondments in Papua New Guinea and elsewhere in the Asia Pacific region.

### Member Advantage

By the time of publication, the Bar Association's Services and Benefits Department will have entered into a partnership with Member Advantage in order to expand the range of lifestyle and leisure benefits that can be accessed by members.

The Wellbeing Committee will be involved in efforts to tailor these offerings to address the needs of practising barristers.

### Other projects

In addition to these major projects, the Wellbeing Committee will continue to promote, organise and/or assist in the organisation of health, social and sporting events.

Bench and Bar Lunches and the Great Bar Boat Race are well-attended and well-received by participants for promoting collegiality and wellbeing.

# BarCare

Confidential Assistance

BarCare is an integral part of the Bar community that provides assistance to barristers who are experiencing difficulties in their professional or personal lives.

The service is funded by the Barristers' Benevolent Fund and operates independently of the Bar Association. The service is strictly confidential and BarCare does not give any personal information to the Bar Association without the express permission of the barrister involved. In addition to providing professional psychological or other support it also has the capacity to give financial assistance in times of need, such as illness or bereavement.

2017-18 saw 74 barristers and clerks seeking assistance for themselves or for a family member, or advice for a colleague for whom they were concerned. As in previous years, the great majority of these contacts have been self-referred. The most common primary presenting problems were stress and anxiety (38 per cent), often consequent to work related issues, followed by depression (19 per cent). While these may be the primary presenting problem there are frequently secondary issues present, such as problematic alcohol use or relationship difficulties. These figures reflect the findings of the Quality of Life survey, undertaken in 2017 which found that 66 per cent of barristers reported experiencing quite high levels of stress at work, 42 per cent reported a high level of job dissatisfaction and 36 per cent



reported a lack of contentment with their life as a whole. The, at times, isolating and unpredictable nature of the work often contributes to a sense of feeling anxious and overwhelmed. BarCare is available to meet and talk with barristers and assist them to seek help from one of the psychologists or psychiatrists on the panel of specialists. The Benevolent Fund will pay for the first three or four sessions to support the barrister in accessing appropriate professional assistance.

BarCare is aware that the services it offers are not easily accessible to barristers working outside of Sydney, who are often practising in a setting that is both professionally and geographically isolated. It is currently working to identify appropriate psychologists practising in regional areas to include on the panel of specialists to widen the access and provide support. Barristers are always welcome to contact BarCare director, Jenny Houen and she will locate a suitable person in their area.

In 2017-18 BarCare submitted seven requests for financial assistance to the Barristers' Benevolent Fund, all of which were granted. These grants

were to assist barristers facing a range of unexpected life challenges, including illness and bereavement. Requests for assistance should be discussed with Jenny Houen.

## 38%

of the most common primary presenting problems were stress and anxiety, often consequent to work related issues.

## 74

barristers and clerks in 2017-18 sought assistance for themselves or for a family member, or advice for a colleague for whom they were concerned.

## The Benevolent Association

The Barristers' Benevolent Association of New South Wales was established to set up a scheme whereby financial assistance may be provided to persons who are (or have been) members of the NSW Bar and who have practised

predominantly in NSW. There are no fixed circumstances in which such assistance may be provided save for it being directed to 'necessitous and deserving cases'. It provides a fund for those who are suffering from hardship either

in the short term or long term. The funding is an important part of the collegiate life of the Bar and how we look after each other.

# BarCare

Confidential Assistance

Primary presenting problem	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
Siege	-	-	15	2	2	0
Bereavement	3	2	4	3	2	2
Psychological	15	7	17	2	7	7
Depression	10	11	6	20	16	14
Stress/anxiety	10	4	15	23	21	28
Relationship difficulties	1	8	9	4	4	9
Career advice	0	0	1	3	3	1
Physical health	4	9	4	9	6	1
Alcohol	1	3	1	3	3	1
Financial	3	5	2	5	6	5
Advice and NFA	6	7	5	9	3	5
Rejected offer of assistance	2	1	0	0	0	1
<b>Total</b>	<b>55</b>	<b>57</b>	<b>79</b>	<b>83</b>	<b>73</b>	<b>74</b>

2012

18%

2018

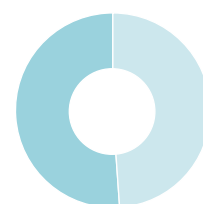
37%

referrals for stress and anxiety

Source of referral	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
Colleague via bar	2	2	0	0	1	2
Bar staff	14	14	13	11	8	7
Self	27	22	48	46	44	48
Colleague	7	6	7	13	11	8
Family	1	3	2	2	2	1
Clerk	2	3	4	2	2	3
Advice for colleague	2	7	5	9	5	5
<b>Total</b>	<b>55</b>	<b>57</b>	<b>79</b>	<b>83</b>	<b>73</b>	<b>74</b>

2012

49%

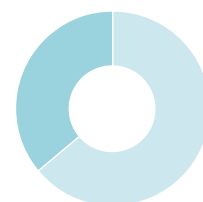


Gender	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
Male	37	37	47	46	41	44
Female	18	20	32	37	32	30

Age (years)	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
<34	6	3	6	9	8	12
35-44	12	12	22	14	7	24
45-55	13	11	27	24	17	12
56-65	13	15	13	17	20	15
>65	4	5	2	20	18	2
Unknown	7	11	9	18	-	9

2018

64%



percentage of self-referred

Years at bar	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
<5	12	8	22	25	23	24
6-15	14	16	26	19	19	22
16-25	10	12	13	10	14	7
26-35	7	6	7	11	11	7
>35	5	3	2	1	4	4
Unknown	7	12	9	17	2	5
N/A	-	-	-	-	-	5





## Costs and Fees Committee

**One of the main functions of the committee is to provide technical and policy advice to Bar Council on matters relating to legal costs and fees in response to requests from Bar Council.**

These include some confidential inquiries. They also include advice and drafting of submissions to government bodies on behalf of the Bar Association.

During the year under review, the committee has inter alia

- advised Bar Council, drafted submissions and liaised with the Legal Services Council in relation to proposed changes to disclosure thresholds and forms,
- advised Bar Council in relation to proposed changes to Civil Practice Note 1 of the Local Court,
- advised Bar Council on certain fee-related products offered to barristers, and
- advised and prepared submissions to government in relation to the remuneration of costs assessors.

The committee and the Bar Association have long advocated an increase in assessors' remuneration, the ex-GST rate not having changed since 1995. The attorney general has responded by increasing the rate from \$175 to \$285 per hour.

The committee has finalised a new Costs Information Pack prepared by Janet McDonald, which is to be provided to all new barristers, to those returning to practice at the bar and to those moving to New South Wales from other jurisdictions.

In November 2017 members of the committee worked with colleagues from the American Bar Association's Law Practice Division to organise a joint webinar on the use of legal project management as a technique to improve the estimation of fees at the outset of litigation so as to increase the likelihood of recovery of fees by the successful party and improve client service. The webinar was aimed at exchanging learning in Australia and the USA in this area as well as fostering relationships with colleagues and marketing the bar. A member of the Costs and Fees Committee moderated the webinar and another member was a panellist on the webinar held on 1 December 2017. The committee intends to continue to build relationships with its counterparts and hold further webinars.

In March 2018 the chair and members of the committee delivered professional development seminars on practice management and business skills for barristers at the Bar Association's regional and Sydney conferences.

As in previous years, the chair and committee members provided ad hoc and generally informal advice to members and to Bar Association staff on a range of cost-related issues. The committee also implemented some minor revisions of the costs precedents on the Bar Association website.

## Bar Library



Photo: Darren Covell / New South Wales Bar Association

**The Bar Library aims to provide a relevant, up to date and well balanced collection; to assist members in the effective use of library resources and to provide information resources in the most appropriate medium to practising barristers, members and staff of the Bar Association.**

The librarians identify, select, acquire, process and make available resource materials to meet the information needs of users.

In 2017-18, the three full time librarians answered more than 4,000 requests for information from members of the bar, associate members of the association and staff. Around 11,000 legal resources were borrowed.

The librarians provide legal reference services for members, Bar Association staff, committees and exam candidates as well as library orientation tours and legal research training.

The library regularly publishes a guide to assist in user education. Members can also subscribe to the weekly bulletin via the library website to assist with their current awareness.

The librarians continued to work on cataloguing, updating and making available resources via the library website.

Many more resources, such as LexisRed titles, Oxford journals, Heinonline's journal and law report collection and CCH's ebook collection can be accessed from chambers.

The library's long serving assistant librarian, Jenny Hughes, resigned earlier this year to concentrate on bringing up her much-anticipated children. We thank her for her hard work, dedication and support during her time in the 'dungeon'.

Leonie Anderson is now assistant librarian and Emma Sellwood is the new technical services librarian.

The library continues to provide support to the Bar Book Club and the Bar Knit Group, services aimed at improving wellbeing for members.

In 2017-18 the three full time librarians answered more than

**4,000**

requests for information

Around

**11,000**

legal resources were borrowed

### Strategic Plan 2017-20

#### Provision of services to members

**Rationale and objective:** To provide members of the New South Wales Bar Association with services to assist them in the operation of their practices and enable them to maintain links with the Bar Association once they have ceased to practise.

1. To maintain and develop library services for the benefit of practising and non-practising members of the Bar Association.
2. To create a 'member benefits and services' cluster to plan, co-ordinate and develop member benefits and services taking into account the needs of the city and regional bars.
3. To work towards the provision of amenities and resources for practising and non-practising members of the bar Association.



## Diversity and Equality Committee

**On 1 July 2017, the Diversity & Equality Committee (DEC) welcomed a new chair, Kate Eastman SC taking over from Anthony McGrath SC who was chair of the DEC from 1 July 2015 to 30 June 2017. Between 1 July 2017 and 30 June 2018 the DEC has met on 10 occasions and also held a committee strategic planning half day on 30 January 2018 to discuss the work plan for the committee going forward in light of the Bar Association's Strategic Plan.**

Under Ms Eastman's leadership the DEC's work has reviewed how the committee's various initiatives have been implemented. The committee acknowledged that it needed to focus on monitoring and evaluating the many initiatives and programs. The need for reliable and current data has been identified as a key issue to monitor, evaluate and measure progress. There has also been a focus on carrying out work that has 'value add' to the NSW Bar Association and the objectives of the Bar Association's Strategic Plan. The DEC continues to work collaboratively with the Women Barristers Forum (WBF) with two members of the DEC also being members of the WBF Executive.

Over the last financial year, the Bar Association has jointly hosted with the Law Society of NSW, Equitable Briefing networking drinks in August 2017, November 2017 and again in June 2018. The feedback received from members of the profession is that the networking drinks are a great initiative where new professional relationships are established. The chair has attended a number of equitable briefing functions hosted by private law firms. She has also liaised with the Australian Association of Corporate Counsel, NSW Government General Counsel, the Law Council of Australia and the Australian Bar Association. However, more work

needs to be done in successfully implementing the National Model Gender Equitable Briefing Policy. The DEC developed documentation and held a CPD seminar in August 2017 to assist members of the bar to record and report their compliance with the equitable briefing policy. By November 2017, the NSW Bar Association received 30 completed reports from members who have adopted the equitable briefing policy with some members choosing to report directly to the Law Council of Australia.

The DEC also hosted its annual female student open day in August 2017 which also fell on the same day as the birthday of Sybil Morrison, the first female barrister in NSW. This initiative was commenced in 2000 and has been held annually.

In addition to gender initiatives, the DEC this year has focussed on progressing work undertaken to advance LGBTI and cultural diversity at the NSW Bar. The Bar Council approved our involvement in the Mardi Gras Committee. Regrettably, our application was not accepted by the Mardi Gras Committee.

In September 2017, the president appointed Advocate for Change Richard Weinstein SC to advocate and promote LGBTI diversity and inclusion at the NSW Bar. On 15 February 2018, the DEC hosted a CPD seminar 'in conversation with Richard Weinstein SC' to hear about his experience at the NSW Bar as well as his thoughts on promoting a more diverse and inclusive bar.

With respect to cultural diversity, the DEC has set up a cultural diversity subcommittee which considered the need for data to be collected on the cultural makeup of the NSW Bar as well as developing an understanding of the barriers for culturally diverse individuals in considering a career at the bar.

The rise of the #metoo movement has shone a light on sexual harassment at the NSW Bar and on 16 October 2017, Ms Eastman SC presented a seminar 'Crossing the Line: Behaviour that gets barristers into trouble', chaired by the president, Arthur Moses SC. The seminar was livestreamed and recorded. Since that time, the recording has had approximately 600 views online as well as being presented again by DEC members, Sonia Tame and Penny Thew in regional conferences between February 2018 and March 2018. The seminar was accompanied by a paper of the same title published in *Bar News* (Summer) and authored by Kate Eastman SC, Sophie Callan and Aditi Rao.

Work on sexual harassment and implementation of the best practice guidelines to make the NSW Bar a more inclusive, respectful and diverse workplace continues to be a significant piece of work for the DEC.

The committee has examined issues for the Bar Association's membership with respect to disability and age.

The committee has standing items on mentoring, data collection, childcare, flexible working, barriers to entry to the bar, community engagement and BPGs.

The committee has identified the need for reliable data and working collegially with other committees as areas for continuing improvement.

## First Nations Committee

**On 8 December 2017, Bar Council resolved to establish the First Nations Committee. This was announced on 29 January 2018 and membership was announced on 19 February 2018.**

The Bar Association uses the definition of Aboriginal people and Torres Strait Islanders as adopted by the High Court in the *Tasmanian Dams Case (Commonwealth v Tasmania)* (1983) 158 CLR 1) which is a three part test. A person must be of Aboriginal or Torres Strait Islander descent, identifies as an Aboriginal person or a Torres Strait Islander and is accepted by the relevant community as an Aboriginal person or a Torres Strait Islander. To obtain any benefits from any of the Association's programs, an applicant must provide written verification of their acceptance in an Aboriginal and Torres Strait Islander community.

The committee marks an increased level of engagement by the NSW Bar Association with the legislation and policy matters that affects Aboriginal and Torres Strait peoples. The committee was formulated on the basis that it would bring into its operation the Indigenous Barristers Strategy Working Party, now called the Indigenous Barristers Sub Committee. Notionally the Joint Working Party on Indigenous Incarceration also comes under the umbrella of the First Nations Committee, although it is comprised of members from the First Nations Committee, the Criminal Law Committee and the Human Rights Committee.

The first meeting of the First Nations Committee was held on 22 March 2018 and the second meeting was held on 5 July 2018. The Indigenous Barristers Strategy Sub-Committee met on 31 May 2018.

The First Nations Committee is currently finalising its initial strategic plan. The major work of the committee this year is the review of the various, relevant Bar Association policies, contributions through the Chairperson to the Law Council of Australia, submissions on Constitutional recognition of the Aboriginal and Torres Strait Islander Peoples, consideration of the issues surrounding the low numbers of Aboriginal and Torres Strait Islander People holding judicial appointments, opportunities for recognition by the Bar Association of its initial Aboriginal and Torres Strait Islander members and a further review of the Bar Association's Reconciliation Action Plan.

Importantly, the Bar Association held an event recognising the 25th anniversary of the Hon Paul Keating's Redfern Speech with speakers Bunja Smith, chairperson of the NSW Aboriginal Legal Service, and Leverage Bellel CEO of the Redfern Aboriginal Medical Service.

### Indigenous Barristers Strategy Sub-Committee

A mentoring scheme was established in February 2009. Mentors have worked with many students who have now graduated and there were 16 First Nations law students being mentored by NSW barristers in 2017-18. Students continue to report substantial increases in their understanding of the way the legal system works which provides a significant input to their legal studies. Barristers continue to remark on the rewarding nature of the scheme and frequently claim the benefits are higher to them than to the student.

### Strategic Plan 2017-20

#### Equity and diversity of membership

**Rationale:** In order to assist society the Bar must represent and reflect society. A vibrant Bar will support and encourage equal opportunity in respect of gender, race, disability, sexuality and human diversity.

1. Improve diversity at the Bar and promote and ensure equality of opportunity irrespective of age, physical disability, class, gender, ethnicity, sexual orientation and religion.
2. Identify and remove barriers to entry to the Bar, practice and advancement at the Bar. Promote and ensure equality of opportunity for barristers and for any person wishing to come to the Bar.
3. Increase the adoption of and ensure the implementation of the Equitable Briefing Policy for female barristers by clients, solicitors, government, barristers' clerks and barristers.

## First Nations Committee (continued)



Developing part-time employment opportunities for law students is a low key program. Unfortunately, few employment opportunities have been made available to date with currently three law students working with barristers.

On 19 July 2017, the second Share A Judge's Day was held. Nineteen First Nations law students spent the day with a judge from the Federal Court, the NSW Supreme Court or the Land and Environment Court and finished with a social event. Students and judges all considered the Day to be a significant success.

In August 2017, seven barristers assisted the organisers of the UNSW Law Students Mooting Competition for Australia's First Peoples by working with individual students for the two weeks before the mooting period and assisted them with their advocacy skills and their preparation during the mooting rounds.

In October 2017, the trust made the third annual award at the UNSW Indigenous Students Awards to Jason O'Neil with an award of \$500 for promoting advocacy.

On 12 December 2017, the UNSW pre-law students attended a one day program at the Bar Association. This is the 18th year that this program has been conducted and was a highly successful exchange from the students and the seven barristers who joined the students and explained their careers and then took them on small group tours of chambers. Justice Slattery addressed the group on the various roles and functions of a Supreme Court judge. An informal luncheon facilitated easy exchanges and demystifying the bar and the operation of the justice system.



Photo: Daniel Chen @ Unsplash

The Indigenous Barristers' Trust- The Mum Shirl Fund (the trust) was established in 2001 to create a pool of funds to provide financial assistance to First Nations barristers especially in their first few years of practice and to First Nations law students and lawyers. The fund has deductible gift recipient status under the *Income Tax Assessment Act 1936* (Cth).

There are four trustees: Justice Michael Slattery of the NSW Supreme Court; the current president of the NSW Bar Association, Arthur Moses SC; Anthony McAvoy SC and Chris Ronalds AO SC.

For the 11th year, the trust funded 15 First Nations law students from all NSW law schools to attend the National Indigenous Legal Conference, an initiative of the Working Party and now seen as the leading Aboriginal and Torres Strait Islander legal conference in Australia. In November 2017, over 140 mainly Aboriginal and Torres Strait Islander lawyers and law students met in Adelaide for two days of papers and discussions on all-important First Nations legal issues and also specific issues involving law students.

The trust continues to provide financial support to any Aboriginal law students who have a significant financial problem that threatens their ability to continue and complete their law studies.



## The Women Barristers Forum

### **The Women Barristers Forum (WBF) supports women at the New South Wales Bar by advancing the skills of women, encouraging diversity and equality, and cultivating strong professional and social networks for women barristers.**

The 2017-18 year saw continuing success for WBF: WBF celebrated the accomplishments of women at the Bar, organised CPD and other seminars, and facilitated a range of networking and philanthropic initiatives.

WBF also aims whenever possible to work with the Diversity and Equality Committee of the NSW Bar Association to promote women barristers.

The WBF's key activities for the year have included the following:

#### **Continuing Professional Development and other seminars**

WBF has organised a number of seminars throughout this period, with the emphasis on women barristers and judges as speakers.

These seminars have included the following:

- Towards the end of July 2017, the Hon Justice Jagot, Vanessa Whittaker and Clarissa Amato presented a compelling CPD seminar on interlocutory applications that covered practical advocacy tips, as well as substantive issues arising in common applications.
- In August 2017, Arthur Moses SC, Kate Eastman SC and Jane Needham SC presented an informative seminar on the National Model Gender Equitable Briefing Policy, providing a step-by-step practical guide to reporting.

- In February 2018, the chair, Jane Needham SC, Sarah McNaughton SC and Kelly Rees SC presented a seminar on 'Pathways to Silk'. This seminar provided barristers interested in applying for silk with invaluable practical advice on how to shape their practice in the years leading up to a silk application. WBF saw a significant interest among junior and more senior male and female barristers, and provided a fantastic opportunity to have questions answered by women who have previously been on the Senior Counsel Selection Committee.
- In March 2018, Richard Scruby SC and Brenda Tronson dissected and discussed the wealth of data collated on the number of women appearances in NSW Courts, Federal Court (NSW Registry) and the High Court of Australia between November 2016 and April 2017. The seminar was chaired by Kate Eastman SC, and expanded on her work in the 2016 paper, *Visible Targets: The Case for Equitable Briefing* which shed light on the 141 per cent gender pay gap among barristers Australia wide, with the New South Wales Bar comprised of only 21 per cent women in 2015.
- In August 2018, WBF facilitated a round-table lunch discussion on returning to work from parental leave with a panel of barristers (being Gabby Bashir SC, Jonathan Clark, Melanie Cairns and Naomi Oreb).

### **Social functions**

The new silks function in 2017 was, once again, a great success. Guest speaker The Hon Mary Gaudron QC proved a huge drawcard and a record number of barristers were in attendance to celebrate our new women silks.

Throughout the year, WBF has also organised drinks nights at the Verandah Bar and invited readers. These events are always enjoyable and provide an opportunity for women barristers to get together and exchange ideas.

### **Fitted for Work clothing drive**

In both 2017 and 2018 WBF was proud to support the Fitted For Work Clothing Drive, following on from overwhelming success in previous years. Fitted For Work Clothing is a Sydney-based charity that supports women experiencing adversity to break through barriers to get and keep work. This is done by providing women with a selection of clothes, as well as coaching and mentoring to ensure they are job ready, and have the best chance of success in work and beyond.



## Law Reform and Public Affairs

**The New South Wales Bar Association Strategic Plan 2017-20 acknowledges that 'informed public debate and the provision of legal expertise to law reform proposals is crucial to the maintenance of the rule of law in society and the administration of justice' and to this end contains the strategic objective 'To continue the role of the New South Wales Bar Association, collectively and through individual members, as a voice on issues relating to the administration of justice.'**

Two of the major aims of the association enunciated in its Constitution relate to the promotion of the administration of justice and making recommendations with respect to legislation, law reform, Rules of Court and the business and procedure of courts. In order to fulfil these aims and objectives, the association's Law Reform and Public Affairs Department provides secretariat, research and writing support to the association's various 'policy' committees and assists the president and other officeholders in advancing the association's public profile.

The primary focus of the Bar Association's policy staff is to assist with research and the drafting of submissions on draft legislation and other policy proposals from government and statutory bodies such as the NSW Law Reform Commission and NSW Sentencing Council, parliamentary committees and the courts. In the reporting year, the department was responsible for over 100 submissions on policy issues.

These submissions are developed in conjunction with particular committees, specialist working parties and sections of the association on a diverse array of matters ranging from major criminal law proposals to specialist issues such as the position of beneficiaries of trusts and the need for change to guardianship laws.

Further details of the policy and project work of specific committees through the reporting year are provided below.

The department also assists with particular law reform and policy priorities identified by the president, the Executive and the Bar Council. In this regard the department provided research and drafting support to the president on a number of major projects including:

- Advocating the establishment of the Walama Court, a specific sentencing jurisdiction for indigenous offenders;
- Successfully lobbying the New South Wales Government for an increase in counsel's fees under the new early guilty plea regime;
- Proposing an increase in the judicial retirement age to 75 and the renaming of magistrates as 'judges'.

The department's policy work provides a springboard for the Bar Association's public affairs activity. The director, law reform and public affairs works with the president, Executive and Bar Council in preparing and disseminating the association's public statements and responds to requests for comment and background from the media. The co-location of the association's policy and public affairs functions ensures close co-ordination of the association's policy and public policy positions.

### Strategic Plan 2017-20

#### Contribute to public debate

**Rationale:** Informed public debate and the provision of legal expertise to law reform proposals is crucial to the maintenance of the rule of law in society and the administration of justice.

**1.** To continue the role of the New South Wales Bar Association, collectively and through individual members, as a voice on issues relating to the administration of justice.

The Bar Association seeks to defend and promote fundamental tenets of our justice system such as the rule of law in its public affairs work. Another ongoing aspect of this work is to educate members, the media and the broader community concerning issues of legal principle and the justice system.

During the reporting year, the president in his role as the Bar Association's spokesperson made extensive contributions to public debate regarding justice and law reform issues.

Throughout 2017 the association had been advocating the position of people with moderately severe injuries under the government's new CTP scheme. When the government introduced a restrictive definition of 'minor injury' by regulation in November of that year, President Arthur Moses SC expressed the association's disappointment with the outcome and concerns about the treatment of the injured:

The regulations exclude injured people with moderately severe injuries which manifest in neurological damage from access to damages, even if those injuries prevent them from returning to work. This

## Law Reform and Public Affairs

approach has been adopted in spite of the acknowledgement by medical specialists, during the consultation process that such injuries are genuine and can be disabling. (*Sun Herald* 24 November 2017)

The president's comments led to his appearance on the Ray Hadley Show to reinforce the Bar Association's concerns with the unfairness inherent in the government's position:

The insurance industry has got off very well out of this and I see no need for the community who will ultimately have to pay for it either through social welfare or individuals selling their homes having to in effect compensate insurance companies. [That] will lead to their bottom lines being better and that is not fair and that is not how policy [should] be made in this state. (Ray Hadley Show 2GB 1 December 2017.)

In March 2018 the Australian Law Reform Commission released its detailed report into Indigenous incarceration, proposing a number of initiatives that had been advocated by the Bar Association. At the time the president's media release stated:

Many of the Report's recommendations reflect the New South Wales Bar Association's submissions to the Inquiry. Last year the Bar Council established a high level Joint Working Party on the Over-representation of Indigenous People in the NSW Criminal Justice System consisting of practising barristers, judges and prominent experts to prepare submissions to the Inquiry ... the NSW Bar is indebted to the working party for their important work which has significantly contributed to this outcome.



Machineheadz / iStock

Subsequently the president joined with Mr Pat Gooley, the secretary of the Police Association of NSW, to call on the state government to fund the Walama Court in NSW:

Our organisations, representing barristers and police officers in this State, believe that urgent action needs to be taken to address the spiralling rates of Indigenous incarceration. Although Aboriginal and Torres Strait Islander adults comprise 3% of the population, they make up 27 per cent of prisoners nationwide. The figures are even worse in NSW. It is time for innovative solutions to be put in place that address the underlying causes of Indigenous offending and reoffending... We believe that the establishment of the court will reduce recidivism and increase compliance with court orders to better protect the community and we urge the Government to urgently fund a trial of the Walama Court model.

For the first time, the bar and the police of this state found common ground to advocate an important law reform initiative. The joint position of the two associations was widely reported in print and electronic media.

An enduring theme of the association's public profile involves support for the independent role of the judiciary in this state and the defence of judicial officers from unjustified criticism:

Our judges and magistrates work in an under-resourced and busy justice system. These judges and magistrates determine matters in good faith in the context of the available evidence before them. Personal abuse and name calling does not advance public debate and undermines the rule of law. The justice system has its checks and balances to ensure that justice is done. (Arthur Moses SC, Media Release, 11 May 2018 'Uninformed Personal Attacks On Judges Undermine Our Justice System'.)

These kinds of statements embody the Bar Association's dual public affairs functions of contributing to policy debate and educating the media and public on issues relating to the bar, the justice system and the rule of law.



## Human Rights Committee

### **The Human Rights Committee worked on a broad range of matters during the last year.**

In July 2016 the New South Wales Parliamentary Working Group on Assisted Dying (PWGAD) had invited the New South Wales Bar Association to make a submission on the *Voluntary Assisted Dying Bill 2016*. The Human Rights Committee had prepared this submission in August 2016. In May 2017 the PWGAD invited the association to make a submission on the *Draft Voluntary Assisted Dying Bill 2017*. The Human Rights Committee prepared this submission in August 2017.

The committee continued to work collaboratively with the Law Council of Australia. The former chair of the Bar Association's Human Rights Committee was also the chair of the Law Council's Human Rights Committee and the two committees worked closely together on various projects.

In August 2017 the Human Rights Committee prepared comments on the *Australian Border Force Amendment (Protected Information) Bill 2017* for input into a submission to be made by the Law Council of Australia. This Bill had been introduced by the minister for immigration and Border Force protection in order to clarify the secrecy and disclosure provisions within the *Border Force Act 2015*.

In November 2017 the committee prepared a comprehensive submission in relation to the law of contempt which was provided to the Law Council for incorporation into its submission to the Senate Legal and Constitutional Affairs Committee Reference into the Law of Contempt.

In June 2017 the Legislation Review Committee of the New South Wales Parliament invited the Bar Association to make a submission to the committee inquiry into the operation of the *Legislative Review Act 1987*. The Human Rights Committee prepared an extensive submission, which was made in November 2017. The New South Wales Bar Association was invited to appear before the Legislation Review Committee at a public hearing in May 2018. Two members of the Human Rights Committee, who had prepared the association's submission, appeared on 21 May 2018 and also provided further material to assist the Legislation Review Committee with its work.

In March 2018 a member of the committee prepared an article on gender fluidity and the law which was published in *Bar News*. The article provided a brief introduction to the non-binary world and how the law is slowly addressing this.

The former chair of the Human Rights Committee and some members of the committee are also members of the New South Wales Bar Association's Joint Working Party on the Over-representation of Indigenous people in the New South Wales Criminal Justice System, which is co-chaired by the former chair of the Human Rights Committee. In September 2017 the Joint Working Party prepared a comprehensive submission to the Australian Law Reform Commission Inquiry into the Incarceration Rates of Aboriginal and Torres Strait Islander Peoples. In February 2018 the joint working party prepared a submission to the Legislative Assembly Committee on Law and Safety Inquiry into Youth Diversionary Programs in New South Wales. On 30 April 2018 the former chair of the Human Rights Committee and two members of the joint working party appeared before the Committee on Law and Safety at a public hearing to assist the committee with its inquiry.

Contribute to public debate

## Family Law Committee

**2017-18 was a significant year for Australia's family law system. The Family Law Committee has played an important role in promoting the public good and tirelessly advocating for both the administration of justice and meaningful outcomes for families and children in the face of uncertainty and change.**

In October 2017 the Australian Law Reform Commission began the first comprehensive review of the *Family Law Act 1975* (Cth) since the legislation commenced. On 30 May 2018 the Commonwealth attorney-general announced that the government would introduce legislation in Spring 2018 to significantly restructure the federal courts and establish a new 'Federal Circuit and Family Court of Australia'.

Consistent with its mandate under the Bar Association's Strategic Plan, the committee has actively informed and contributed to public debate about the future of Australia's family law system, including by engaging in discussions about law reform with the Law Council of Australia, the courts, the Australian Government and the media. Further, the committee has provided legal expertise to inform critical evaluation of law reform proposals and highlight the urgent need for improved resourcing and funding of the family law courts and legal aid.

Throughout the year, members of the committee have been actively involved in representing the Bar Association at key meetings with stakeholders, including the courts, the government and the Law Council of Australia.

In April the committee hosted the 'State of the Family Law System' seminar, presented by the committee chair, Michael Kearney SC, the Hon Stephen O'Ryan QC and Suzanne Christie, and chaired by the president of the Bar Association. This event was well-attended by the family law judiciary and the NSW Bar. In May the committee actively contributed to the Law Council of Australia's response to the ALRC's Issues Paper, in addition to drafting an independent submission informed by the experiences of the family law bar in NSW registries of the family law courts.

The committee has continued to represent the interests of clients and family law practitioners at the NSW Bar in liaison with the courts, through representatives of the committee regularly meeting with Federal Circuit Court judges and Family Court judges to provide feedback to the profession and to put forward the views of the profession in relation to the conduct of hearings and the management of delays in the courts. A committee nominee continued to serve on the high level working group with judges in the Family Court and Federal Circuit Court. The committee participated in providing continuing support to the Family Law Settlement Service which provides mediators for referral by the Federal Circuit Court.

Additionally, the committee provided advice to the Commonwealth Attorney-General's Department on an exposure draft of the Family Law Amendment (*Family Violence and Cross-examination of Parties*) Bill 2017, the committee chair providing evidence to the Senate Legal & Constitutional Affairs Committee in July upon invitation following receipt of the submissions. The committee also hosted a CPD on Gender Dysphoria following the decision of *Re Kelvin*, a case that the president described as a powerful reminder that family law is about people, especially children, who deserve to be treated with dignity by experienced judges.

There remains much work to be done in relation to the proposed reforms to Australia's family law system which will no doubt continue in 2018-19. The efforts of the committee in researching, planning and advocating for meaningful reform have set the committee and the Bar Association in good stead to continue these endeavours in the year to come.





## Criminal Law Committee

### **During the last year the Criminal Law Committee has made a significant contribution to the development of criminal law in New South Wales.**

It has been a particularly busy year with the attorney general introducing significant criminal justice reforms and a reform package on child sexual abuse laws. The committee has considered and responded to over 40 government consultations which include statutory reviews, inquiries, participation in consultation roundtable meetings as well as reviewing miscellaneous justice amendments and wide ranging substantive amendments to criminal justice legislation.

### **Criminal Justice Reforms Package**

In May 2017, the NSW attorney general announced that the NSW Government intended to introduce criminal justice reforms designed to deliver justice more quickly to communities and victims as well as strengthening sentencing options. Between July 2017 and August 2017, the NSW Bar Association Criminal Law Committee was consulted on a number of amendments relating to the criminal justice reforms. These amendments are contained in the following Acts which were all passed by government on 24 October 2017.

- *Justice Legislation Amendment (Committals and Guilty Pleas) Act 2017;*
- *Crimes (High Risk Offenders) Amendment Act 2017;*
- *Crimes (Administration of Sentences) (Parole) Act 2017;* and
- *Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017.*

The Justice Legislation Amendment (Committals and Guilty Pleas) Act 2017 gave rise to the Early Appropriate Guilty Plea (EAGP) mechanism which commenced on Monday, 30 April 2018. The new sentencing reforms are due to commence on 24 September 2018.

In February 2018, the committee presented a CPD seminar on the changes due to the EAGP scheme to assist barristers with understanding the changes. The seminar was presented by Sophia Beckett, with the session chaired by Tim Game SC and Stephen Odgers SC providing commentary.

### **Legislative reform package on child sexual abuse laws**

Following the release of the Royal Commission into institutional responses to child sexual abuse's Criminal Justice Report, the government announced that it would introduce significant reforms in NSW to its child sexual abuse laws. The Criminal Law Committee representatives, Stephen Odgers SC and Sharyn Hall participated in a number of roundtable discussions on the legislative reform package between October 2017 and November 2017. The NSW Bar Association was consulted on the draft Bill between December 2017 and May 2018 with the Criminal Law Committee reviewing and writing submissions in response to aspects of the Bill. The Criminal Legislation Amendment (Child Sexual Abuse) Act 2018 was eventually passed on 20 June 2018.

### **Other inquiries**

The Criminal Law Committee also provided a submission to the New South Wales Legislative Council Standing Committee on Law and Justice's inquiry into the adequacy and scope of special care offences. We were ultimately invited to provide oral evidence to the Legislative Council Standing Committee. Sharyn Hall and Richard Wilson represented the Association at these proceedings on 27 June 2018.

In addition, the Criminal Law Committee provided a submission to:

- Sentencing Council's review into victim's involvement in sentencing;
- The Independent National Security Legislation Monitor's review of the Prosecution and Sentencing of Children for Commonwealth Terrorist Offences; and
- The New South Wales Law Reform Commission's (NSWLRC) inquiry into consent in relation to sexual assault offences.

The Criminal Law Committee has also been represented in the NSW Bar Association Joint Working Party on the overrepresentation of Indigenous people in the NSW Criminal Justice System contributing to submissions made to the Australian Law Reform Commission and the Legislative Assembly Committee on Law and Safety inquiry into the Adequacy of Youth Diversionary Programs.

## Common Law Committee

**At the commencement of the reporting year Robert Sheldon SC took over as chair of the committee from Andrew Morrison SC, who had held the position for the previous four years.**

The committee's primary focus over the reporting year was its continued engagement with the NSW Government regarding its changes to the motor accidents scheme, a process requiring extensive work from committee members. *The Motor Accident Injuries Act 2017* was passed by the parliament in March 2017 and established a revised scheme for the resolution of personal injury claims resulting from motor accidents.

Since the passage of the Act, committee members have been involved in ongoing consultations with SIRA on the regulations and guidelines that will underpin the new legislation, which deal with issues ranging from the definition of 'minor injury' (particularly important as common law rights will only be activated where an injury is regarded as more than 'minor') to legal costs, dispute resolution structures and claims processes.

By the time of the commencement of the new scheme on 1 December, it became apparent that the approach taken to the definition of minor injury was at odds with the government's stated aim of preserving common law rights for the seriously injured. The current definition of 'minor injury' means that many people with moderately severe injuries will be excluded from claiming common law damages.

In early 2018 the president met with the premier and the minister to raise the Bar Association's ongoing concerns. At that meeting an undertaking was given to provide the association with monthly data on claims under the new regime so that the effect of the definition could be monitored. Since that time the committee has been analysing the monthly claims data provided by SIRA. Although it is too early to make a definitive judgment, there are indications that the government may have overestimated the number of claims which will be made under the scheme and that there could be scope to wind back the current restrictive definition of 'minor injury' without affecting the government's commitment to lower green slip prices.

Other significant work done by the committee in the reporting period included:

- Preparing draft submissions in response to District Court Practice Note (Civil) No 1 regarding case management in the General List;
- Providing submissions to the Department of Finance review of workers compensation dispute resolution arrangements, which has resulted in recommendations for a single dispute resolution system for statutory workers compensation claims;
- Preparing submissions to the Standing Committee on Law and Justice Reviews of the CTP and Workers Compensation Schemes;
- Giving preliminary consideration to a set of guiding principles for the Bar Association's policy approach regarding any move to establish a single system for the determination of personal injury claims;

- Liaising with the Supreme Court concerning procedures regarding evidentiary statements;
- Contributing to submissions in response to the chief magistrate's proposal to increase the civil jurisdiction of the Local Court. The submissions opposed any increase in this regard;
- Contributing to representations by the Bar Association regarding country sittings of the District Court; and
- Organising a successful common law drinks function on 24 August 2017 at the Verandah Wine Bar. The Hon Justice Ian Harrison was the guest of honour for the evening;

Particular thanks are due to Elizabeth Welsh, Paresh Khandhar and Ross Stanton for their contributions during 2017-18.



## Legal Aid Committee

**The Legal Aid Committee has continued to work strategically during the past twelve months to assist members of the Bar Association performing legal aid work as well as improving access to justice in New South Wales.**

The main project for the committee has been to try to secure an increase in fees paid to barristers undertaking criminal matters for Legal Aid NSW as there has not been an increase in those fees for more than 11 years. Members of the committee undertook a comprehensive review of fees paid in such matters to assist with negotiations for a fee increase. The chair and some members of the committee attended several meetings with the CEO and other officers of Legal Aid NSW and proposals made by Legal Aid NSW were analysed by members of the committee.

The Legal Aid Committee also examined reforms introduced by the NSW Parliament in relation to the Early Appropriate Guilty Plea Scheme, which commenced on 30 April 2018. The committee assisted the association to make several submissions to Legal Aid NSW and the attorney general for a significant increase in the funding to be provided for counsel to act in these matters to try to ensure that the scheme will not fail. In September 2017 the committee considered proposed new fee scales for counsel provided by Legal Aid NSW and prepared a response to that proposal.

In March 2018 the committee assisted with the president's campaign to seek additional funding from the New South Wales Government for the Early Appropriate Guilty Plea Scheme, which had been gravely underfunded. Additional funding was ultimately announced in the New South Wales Government budget in May 2018. There are ongoing negotiations for a substantial increase in fees paid to counsel for this work as well as a number of other areas of legally aided work.

In April 2018 a seminar was organised on the crisis in legal aid. The seminar was presented by a member of the Legal Aid Committee and a panel comprising members from the committee also spoke. The seminar highlighted the decline in funding for Legal Aid NSW and touched on interstate and international experiences. Many members in the audience shared their views and stories.

In October 2017 the committee prepared a letter to the Department of Justice which was conducting a review of the New South Wales Government's support for legal services provided by community legal centres. The letter sought an increase in funding to be made available for legal aid so as to allow real access to professional legal services for all members of the community, particularly in relation to criminal law and family law.

In October 2017 the committee also prepared a letter to Legal Aid NSW regarding proposed changes to service delivery in the New South Wales North West region.

The committee continued to assist Legal Aid New South Wales with its panels. In January 2018 one of the members of the Legal Aid Committee was nominated to be the New South Wales Bar Association's representative on the Crime and Grants Subcommittee of the Legal Aid NSW Board.

In May 2018 a nominee was provided to represent the Bar Association on the Panels Monitoring Committee. Nominees were also arranged to sit on selection committees for the Complex Criminal Law Solicitors Panel, the Appellate Criminal Law Barrister Panel and the Summary Criminal Law Panel.

In June 2018 a nominee was provided to sit on the selection committee of the Back Up Duty Scheme. A new representative was also arranged to replace the former member of the Care and Protection Panel Selection Committee, who was unable to continue in this role.

## Industrial, Employment, Health & Safety Committee

### **The Industrial, Employment Health and Safety Committee was established by a resolution of Bar Council on 8 December 2017.**

The committee replaces the previous Industrial Law Section and its establishment recognises the need for a specialist committee with the following functions:

- To engage with barristers practising in the industrial, employment and health and safety areas and to ensure a sense of collegiality and best practice among those members;
- To organise seminars/lectures/discussions to deal with developments in industrial, employment and health and safety law;
- In consultation with the president, to act as a liaison between the Bar Association and its members and the various courts and tribunals engaged in industrial, employment and health and safety matters; and
- To assist the Bar Association in dealing with government on industrial, employment and health and safety matters.

Bruce Hodgkinson AM SC and Yaseen Shariff were respectively appointed as chair and secretary of the committee, which held its first meeting in February 2018.

Over the period to 30 June 2018 the committee's major priorities have included:

- Working with members of the Federal Court and the Fair Work Commission regarding potential joint CPD events regarding topical industrial and employment issues. The first such CPD, regarding appearances before industrial tribunals has been scheduled for August 2018 and Vice President Catanzariti of the Fair Work Commission will participate;
- Participating in discussions with government representatives regarding the relocation of the Industrial Relations Commission to Parramatta;
- Preparing representations to the federal minister for employment and the attorney-general regarding the disparity in court fees in adverse action claims depending on whether the applicant had been dismissed or was still in employment;
- Preparing comments to the Federal Court User Group regarding Fair Work Ombudsman submissions on concise statements for pleadings in the Federal Court;
- Organising a social function for the Industrial Bar to mark the establishment of the committee, which will be held in August 2018.

The committee chair and secretary participate in Federal and Federal Circuit Court industrial law user groups as well as user groups for the Fair Work Commission and Industrial Relations Commission. The user groups provide an important forum whereby the views of the Industrial Bar can be conveyed on a variety of issues in these jurisdictions.

The chair has encouraged members to consult with their colleagues and bring forward relevant industrial, employment, health and safety issues to the committee for its consideration.



## Legal Assistance Referral Scheme

### Hours of work

In 2017-18 barristers contributed 4040 hours of work through the Legal Assistance Referral Scheme (LARS), with 10 matters still in the court system. This was made up of 1812 hours of work in matters referred in the current period and an additional 2228 hours of work in continuing matters commenced in previous financial years.

The total number of hours represents a nine per cent increase from the previous year.

Barristers also contributed 820 hours of work through the court appointed Federal Court Pro Bono Scheme

Since the scheme's inception in 1994 barristers have contributed approximately 56,640 hours of work.

### Applications

In the 2017-18 financial year, 273 formal applications for assistance were received and processed. This is an almost five per cent increase on the number of applications received last year.

Of the 273 applications, 137 were eligible under the scheme's guidelines for referral to a barrister.

The assessment of all applications involves the expenditure of considerable time and resources, whether they were ultimately referred or not. The breakdown of those applications not referred to barristers is set out in the accompanying statistics.

### Salient points

- Nearly 80 per cent of the applications to the scheme were refused Legal Aid as being outside the commission's guidelines
- 61 per cent of matters referred to barristers were considered to have legal merit/prospects of success
- No-fee matters comprised the highest category by a ratio of 5 to 1 in referred matters

- Judges, magistrates and registrars comprised the highest referral source
- Nearly 40 per cent of matters received were in the Supreme Court of NSW
- The number of referrals from country areas increased by 40 per cent
- The number of matters received from detention centres increased four-fold
- The number of website hits to the pages of Legal Assistance/Duty Barrister and Legal Assistance Referral Scheme guidelines on the Bar Association's website increased by 30 per cent
- The number of matters received in the Family Court of Australia decreased by 45 per cent

### The Law Kitchen (TLK)

The Law Kitchen (TLK) was established in 2011 by barristers Les Einstein and Geoff Pulsford, joined by Stephen Richards, solicitor and a stalwart support of TLK's work.

Very sadly since those early days both Geoff and Steve have passed away but their contribution to the work of TLK continues to have an enduring influence.

TLK has an informal arrangement with Hope Street Urban Compassion, a charitable organisation operating in the Woolloomooloo area which manages a number of services.

This arrangement which has gone on for some years now has enabled both TLK and Hope Street to provide a more holistic service to marginalised individuals and their families who are in need of legal assistance, social work, counselling and someone to talk to.

Hope Street Urban Compassion has recently provided a quiet and safe office space in the downstairs area of its premises.



In 2017-18 barristers contributed

**4040** hours

of work through the legal assistance referral scheme

the total number of hours represents a

**9%** increase

from the previous year



**273**

formal applications for assistance were received and processed in 2017-18

**137**

applications were eligible under the scheme's guidelines for referral to a barrister



## Promoting access to justice

Legal Assistance Referral Scheme (continued)

This is a significant step. The legal difficulties of a number of clients seen by TLK arise out of circumstances which are highly sensitive and confidential. TLK's ability to respect and protect that sensitivity has now been enhanced by the availability of the private working space now afforded to them.

Over the last year a number of barristers have continued to volunteer to assist TLK and the association's solicitor employee to ensure that TLK provided legal advice sessions almost every week. The association is extremely grateful to all of them.

While we acknowledge that TLK is not part of the funding arrangement with the Public Purpose Fund, we include it because of its co-location and synchronicity with the work of LARS.

#### Interaction with other pro bono service providers

LARS works closely with the Law Society Pro Bono Scheme. There is also a close working relationship with Refugee Advice & Casework Centre (RACS) and Salvos Legal.

Legal Aid consistently refers matters to the scheme where it is unable to assist and Justice Connect contacts us when matters are outside its parameters for assistance.

The Bar Association is a member of the NSW Legal Assistance Forum (NLAF). The Deputy Executive Director attends Board meetings with the manager of the scheme as his alternate.

The executive director of the Bar Association is a board member of Law Access. The association's deputy executive director, who oversees the operation of LARS, deputises for the executive director at Law Access board meetings and at meetings of the trustees of the Pro Bono Disbursement Trust Fund.

During the year the manager of the scheme continued to be a member

of the steering committee of the Justice for Refugees (JFR) project initiated by the RACS. This led to a proposal being put to Bar Council to be a RACS fundraising partner to support furtherance of its work. As part of that arrangement LARS arranged and hosted a fundraising event at the association's premises attended by 126 people and raised \$14,271.00 on the night.

With the assistance of LARS staff arranged a cocktail party to thank all members of the bar who supported LARS and the Duty Barrister Schemes over the previous two years. Many members of the judiciary attended.

The manager attended meetings with:

- The deputy executive director and the deputy president of NCAT to assess the efficacy of the referral arrangement with NCAT in its Administrative and Equal Opportunity Division
- The Administrative Appeals Tribunal with a view to setting up a panel of barristers to assist the tribunal along the lines of the scheme operating in the Administrative and Equal Opportunity Division at NCAT
- Salvos Legal, the Law Society of NSW and the Law & Justice Foundation

The manager also attended a course on 'Handling Difficult People' arranged and hosted by the Bar Association as well as a course on Legal Aid guidelines arranged and hosted by the Bar Association.

#### Volunteers encouraged

In 2017-18, the executive director and the manager of the scheme made two presentations to new barristers at the Bar Practice Course with a pleasing response in the number of readers who volunteered to help the scheme and go on the Duty Barrister Roster.



# 40%

increase in the number of referrals from country areas

# x4

the number of matters received from detention centres increased four-fold

# 30%

increase in the number of website hits to the pages of Legal Assistance/ Duty Barrister and Legal Assistance Referral Scheme guidelines on the Bar Association's website

The president and the executive director, by circular and personal representation, have also encouraged members to participate in all schemes administered by the Bar Association and in the various court-appointed pro bono schemes.

#### Barristers' Referral Service

The Barristers' Referral Service is aimed at addressing the increasing number of requests to the association for assistance in obtaining the services of a barrister. Enquiries are directed to the association's website under 'Find a Barrister', where there have been 507,536 sessions on the site over the past twelve months. This avenue of



## Legal Assistance Referral Scheme (continued)

assistance is invaluable for many applicants who have not qualified for assistance through LARS on financial grounds. If the enquirer does not have access to the internet, staff fax or post them a list of barristers in the relevant areas of practice.

### Duty Barrister Schemes

The manager and staff of LARS manage the operation of the Duty Barrister Scheme which operates at the Downing Centre and John Maddison Tower to assist the Local and District Courts. 120 barristers from all levels of seniority have volunteered to assist. Barristers are rostered to attend each day at the courts. The schemes were promoted to readers at each of the Bar Practice courses, which resulted in a healthy number of additional volunteers being added to the roster.

An additional iPad and looseleaf service were provided to support barristers at both locations.

Four duty barristers see an average of four clients each per day, which equates to approximately 4,000 members of the public each year.

### Court appointed pro bono schemes

The manager and staff of LARS assist with the administration of the court-appointed legal assistance schemes concerning day-to-day enquiries which may arise, together with the provision and updating of the list of barristers who have volunteered their services. Barristers now support pro bono schemes operating in the Federal Court, the Full Bench of the Family Court of Australia, Federal Magistrates Court, Land & Environment Court and District Court of NSW. The executive director has ongoing discussions with members of the judiciary and court staff in relation to these schemes.

The schemes impose a significant burden on members of the bar and in cases where there is insufficient time for a judge/magistrate

or registrar to make a referral under their own schemes, on Bar Association and LARS staff.

There continue to be many difficult phone calls, which often involve multiple calls from the one person, or from different individuals, which are dealt with by the scheme. Reception staff of the Bar Association also have to deal with the applicants who attend unannounced. Staff have received training in dealing with difficult clients and in how to identify, and deal with, those clients suspected of having a mental illness.

The Bar Association continues to bear a significant portion of the costs for the administrative infrastructure needed to support the operation of the scheme. The staffing component of this support, in terms of time and salary, is significant.

### Conclusion

The pro bono landscape has changed significantly since the inception of the scheme in 1994. There are now more organisations, including courts, offering assistance. The Bar Association is committed to ensure the highest possible level of co-ordination between legal service providers, and will continue to work with these organisations in that regard. LARS is a scheme which operates at the coalface of offering services to necessitous people requiring legal help.

We feel that the scheme embodies and reflects the strongly held view of the profession that a person's rights and access to justice should not be diminished because of impecuniosity.

The seemingly general increase in the numbers of unrepresented litigants, due in the main to the lack of Legal Aid funding, has contributed significantly to the workload (and stress) of LARS and other Bar Association staff who manage walk-in applicants.



**Judges, magistrates and registrars comprised the highest referral source**

**80%**

**of the applications to the scheme were refused Legal Aid as being outside the commission's guidelines**

**61%**

**of matters referred to barristers were considered to have legal merit/prospects of success**

## Legal Assistance Referral Scheme Case Studies

**The Law Society Pro Bono Scheme referred a matter to a solicitor who asked for a barrister's assistance in making a Family Provision claim on behalf of his client who was an elderly woman on a disability pension. The claim was against the estate of her late mother as she had been excluded from the will.**

The woman had been the subject of both physical and emotional abuse at the hands of her mother since a child. The abuse was daily and unrelenting. She and her elder sister were forced to make their own clothes from the ages of 12/13 years. At aged 14/15 years they regularly found money by begging on the streets during the day and night. They used the money to buy fabric, pay for bus fares and other necessities. From the ages of 10/11 years they were completely responsible for the rearing of their two younger siblings as well as all the household duties. These duties were inspected by their now deceased mother.

While studying at university the deceased began stalking her on campus and at friends' homes. This continued when she set up house with a boyfriend in a house close to the university. She was also stalked as she continued post-graduate studies at another university. Her health was badly affected when she contracted a rare auto-immune disorder which prevented her from working in a paid capacity.

A barrister agreed to assist and a claim was lodged in the Supreme Court. The court made an order for family provision in favour of the client.

**A duty judge of the Supreme Court of NSW referred a mother living in New Zealand in a matter which involved a dispute over the burial of the remains of her teenage son. Her son had had a disability and died suddenly in tragic circumstances.**

A barrister agreed to assist on an urgent basis.

The mother of the deceased wanted her son's body to be buried in New Zealand where she lived and where her son's grandparents were buried. She argued that Maori culture supported this. The father of the deceased wanted his son's body to be cremated in NSW where he and his family lived. The court heard evidence from a cultural expert that it was not uncommon for Maori families to cremate a body and from family members who testified that the teenager did not have strong ties to New Zealand.

His Honour commented what a difficult decision it was for the court to make. He ordered that the body be released to the father and that after the funeral service and cremation, both parents were to receive half of the ashes.

**A senior member of NCAT sitting in the Administrative & Equal Opportunity Division referred a woman to the scheme for assistance in relation to a claim alleging racial discrimination and abuse against her neighbor in a social housing complex.**

The woman had been subjected to prolonged and ever escalating incidents of verbal abuse concerning her country of birth and attendant accent. These incidents became intolerable causing the applicant to leave the premises.

Senior counsel agreed to assist. The respondent did not appear at the hearing. The tribunal ordered that the respondent apologise in writing and a copy of that apology be placed in the community hall on the ground floor of the building where the applicant used to live. The respondent was to pay the applicant \$2,500. If the respondent did not comply with the order to apologise then the respondent was to pay the applicant \$2,500 by way of damages for non-compliance.



## Legal Assistance Referral Scheme Case Studies (continued)

**A solicitor approached the scheme on behalf of his impecunious client living in accommodation provided by a charity. The client was in dispute with a former solicitor friend over the ownership of a property.**

The client had been a tenant of the previous owner of the property and became a friend. Because of the friendship the owner indicated that she would be willing to sell the unit to the client at a lower than market price. At the time the client was working and had a legacy from his parents' estate.

The client consulted with his friend who was a solicitor. Ultimately the solicitor proceeded as purchaser on the basis that he 'had good contacts with the bank' and would be able to raise the necessary funds. The client contributed his available funds. The transfer was effected into the name of the solicitor only and the client continued to live in the property as a tenant paying the quarterly levies on an alternating basis to compensate the now owner for what had been described as the client paying lower than market rent. The client had also contributed to upgrading the finishes on the unit but informed the owner he would have to vacate the property as he could no longer afford the special levies. In an attempt to finalise the financial arrangement between them, the owner calculated what he thought the client was entitled to.

The instructing solicitor believed there was an unequal bargaining position between the parties as his client seemed to suffer from a disability.

A barrister agreed to assist and after receiving a strongly worded letter the owner agreed to pay the client four times the amount which he had initially offered.

**The deputy president of NCAT sitting in a regional area referred a woman to the scheme for assistance in an anti-discrimination claim against a large education provider.**

The woman was an ex-teacher who was now on a disability support pension from a chronic back condition. She also suffered from numerous environmental sensitivities, especially scent sensitivity. She had been unsuccessful in attempting to negotiate a position with the education provider to take her sensitivities into account in the classroom and was unable to complete her studies.

A barrister agreed to assist and appear at the hearing which was set down to be heard in northern NSW. Prior to the hearing the barrister appeared at a mediation with the education provider on behalf of the client, which extended over 2 days.

The matter was settled on the first of what was to be a three-day hearing on terms acceptable to the client. LARS was able to obtain pre-approval from the Trustees of the Pro Bono Disbursement Trust Fund for reimbursement of the barrister's costs in travelling to the hearing. The barrister contributed over 100 hours of work over a two-year period on a no fee basis.

**A junior barrister responded to an urgent request to the scheme from a judge's associate sitting in a civil matter in the District Court.**

It was a slip and fall matter which happened at the defendants' rental property. There was no landlord insurance on the property. The plaintiff's claim amounted to over \$600,000. The hearing before the court was in the second day of attempting to proceed. It was initially set down for three days and had been vacated once. His Honour was prepared to stand the matter down until the next day to allow the scheme to find a barrister to allow the hearing to proceed.

The defendants had been previously represented by a solicitor but were now litigants in person. There was a language difficulty. The plaintiff had supplied an interpreter which the court had deemed not to be of the required standard.

His Honour allowed the junior barrister to be involved as amicus but the plaintiff objected to being cross-examined by the barrister whilst in that role. The barrister continued in the matter as counsel representing the defendants.

Ultimately the defendants were not successful but the court reduced the plaintiff's claim to approximately \$70,000. Through their own hard work and frugal habits the defendants owned a family home and a rental property but were not wealthy people. The decision meant they were not forced into homelessness nor bankruptcy. The importance of the decision highlighted the benefit of legal representation to the clients which can be effected through the scheme and to the overall facilitation of the administration of justice. Overall, the barrister contributed over 100 hours of no fee work.

## Legal Assistance Referral Scheme Statistics

	2013-14	2014-15	2015-16	2016-17	2017-18
<b>High Court</b>					
Application for special leave	2	2	2	3	11
Original jurisdiction	-	-	-	-	1
<b>Total</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>3</b>	<b>12</b>

<b>Federal Court</b>					
Full bench appeals	-	2	-	2	3
Immigration	3	4	2	5	10
Administrative	2	2	-	-	1
Discrimination	3	1	-	-	-
Intellectual property	-	-	-	-	-
Trade practices	-	-	-	-	-
Native title	-	-	2	1	1
Bankruptcy	2	1	2	2	-
General	-	-	-	1	1
<b>Total</b>	<b>10</b>	<b>10</b>	<b>6</b>	<b>11</b>	<b>16</b>

<b>Family Court</b>					
Full bench appeals	1	-	-	-	-
Access	5	4	3	6	4
Residency	7	5	2	5	1
Child support	-	-	-	2	2
Spousal maintenance	-	-	-	-	1
Property settlement	7	-	1	5	-
<b>Total</b>	<b>20</b>	<b>9</b>	<b>6</b>	<b>18</b>	<b>8</b>

<b>Federal Circuit Court</b>					
Discrimination	1	1	1	-	-
Family law - access	10	10	4	2	3
Family law - child support	1	1	2	-	-
Family law - residency	5	2	1	1	1
Family law - property settlement	4	8	2	3	3
Family law - spousal maintenance	-	2	1	-	-
Intellectual property	-	-	-	1	-
Industrial relations	-	2	-	-	2
Immigration	13	19	11	9	12
Bankruptcy	2	4	2	3	1
General	-	-	1	1	1
<b>Total</b>	<b>36</b>	<b>49</b>	<b>25</b>	<b>20</b>	<b>23</b>



## Legal Assistance Referral Scheme Statistics (continued)



	2013-14	2014-15	2015-16	2016-17	2017-18
<b>Supreme Court</b>					
Court of Appeal	11	6	13	12	12
Court of Criminal Appeal	9	7	9	5	4
Common Law	26	32	38	27	27
Administrative	1	3	7	7	29
Equity	23	25	28	28	8
Criminal	1	2	4	7	7
Corporations List	-	-	-	-	11
Commercial	1	3	1	2	-
Family Provisions	8	8	8	8	-
Defamation	2	5	4	7	1
Professional Negligence	1	1	4	1	1
Adoptions list	-	-	-	3	-
<b>Total</b>	<b>83</b>	<b>92</b>	<b>116</b>	<b>107</b>	<b>100</b>

<b>District Court</b>					
Criminal	9	10	12	28	38
Civil	11	12	10	18	17
Care proceedings	1	2	6	-	-
Defamation	-	3	2	1	-
Professional negligence	-	-	-	-	-
<b>Total</b>	<b>21</b>	<b>27</b>	<b>30</b>	<b>47</b>	<b>55</b>

<b>Local Court</b>					
Criminal	16	16	18	10	12
Civil	14	14	7	7	9
Coronial inquest	1	1	-	-	-
Family law - residency and access	-	-	1	-	-
<b>Total</b>	<b>31</b>	<b>31</b>	<b>26</b>	<b>17</b>	<b>21</b>

<b>Other courts</b>					
Land and Environment Court	3	5	4	5	4
Children's Court	2	1	1	1	2
Coroner's Court	2	3	3	1	1
<b>Total</b>	<b>7</b>	<b>9</b>	<b>8</b>	<b>7</b>	<b>7</b>

<b>Tribunals</b>					
Administrative Appeals Tribunal	2	2	1	2	-
NCAT	8	16	13	25	26
Workers' Compensation Commission	-	-	1	-	-
<b>Total</b>	<b>10</b>	<b>18</b>	<b>15</b>	<b>27</b>	<b>26</b>

<b>Commissions</b>					
Fair Work Commission/ NSW IRC	-	-	9	4	4

## Legal Assistance Referral Scheme Statistics (continued)

	2013-14	2014-15	2015-16	2016-17	2017-18
<b>Referral source</b>					
Community legal centre	34	45	20	25	25
Law Society / solicitor	64	75	35	51	37
Member of the public	49	32	66	47	51
Legal Aid	26	23	20	22	27
LawAccess	21	24	18	17	15
Judge / magistrate / registrar	19	32	62	61	61
Member of the bar	15	15	13	16	22
Member of parliament	1	1	2	-	2
Justice Connect (formerly PILCH)	1	1	3	2	-
Pro bono director of a large firm	3	2	3	2	1
Welfare / community group	1	1	-	6	4
Attorney General's Department / DPP	1	1	2	22	35
Website hits	10,580	3,977	4,418	* 3,351	* 4,418

\* unique hits to the pages of Legal Assistance, Duty Barrister / LARS guidelines on the updated website

### Client location

#### Sydney Metropolitan Area

West	70	70	63	89	64
North	51	49	30	22	29
South	39	41	40	40	44
East	19	8	21	12	25
Inner City	12	23	12	7	29
Central Coast	9	11	9	17	23
Country	15	12	32	31	15
Prison	12	16	14	28	10
Villawood Detention Centre	8	4	2	4	17
Interstate	4	5	15	10	16
Overseas	-	4	4	1	1
<b>Total</b>	<b>239</b>	<b>243</b>	<b>242</b>	<b>261</b>	<b>273</b>

### Types of work done

Merit assessment - no fee	95	114	111	142	83*
Advice (over and above initial merit assessment)	67	76	67	113	107
Conferences	31	40	31	74	55*
Appearances	22	26	22	40	30*
Appearances at hearing	5	12	2	24	27*
Mediations	1	1	1	13	10
Other (inc. 2nd opinion and prep.submission)	26	17	26	37	38*

\* These numbers are not truly reflective as at this stage we are not able to collect multiples

In 2017-18

61

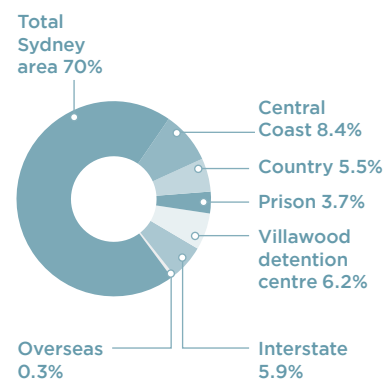
referrals were from a judge / magistrate or registrar

In 2017-18

22

referrals were from a colleague / member of the bar

### Client Location



## Legal Assistance Referral Scheme Statistics (continued)



	2013-14	2014-15	2015-16	2016-17	2017-18
<b>Rejection / No action</b>					
Outside guidelines	70	69	70	54	58
No further information received / no further contact from applicant	38	38	36	36	61
No longer requires LARS assistance	16	17	4	6	7
Subject to Federal Court RRT LAS	5	-	-	-	-
Subject to Federal Court LAS	2	-	-	-	7
Subject to Supreme Court LAS	-	-	-	-	2
Referred to community legal centre	-	-	-	2	1
Briefed barrister privately	2	4	4	6	-
Briefed solicitor privately	2	4	4	6	2
Matter discontinued	1	-	1	-	-
Unable to refer - insufficient resources	1	1	1	-	1
Requires a migration agent	-	-	-	-	-
Too late notification	4	2	6	8	7
Matter dismissed	-	1	1	-	-
Matter settled	2	-	-	-	-
Conflict of interest	-	-	1	1	-
<b>Total</b>	<b>143</b>	<b>136</b>	<b>128</b>	<b>119</b>	<b>146</b>

<b>Turnaround</b>					
Same day	17	25	20	37	42
Less than a week	19	30	37	33	14
1-2 weeks	29	21	29	28	24
2 weeks plus	30	35	42	44	37
Matters pending	-	-	-	-	20
<b>Total</b>	<b>95</b>	<b>111</b>	<b>128</b>	<b>142</b>	<b>137</b>

<b>Basis brief accepted</b>					
No fee - merit assessment	95	111	114	142	117
No fee - access to justice: urgent requests from DPP				-	31
No fee - continuing involvement	69	76	84	93	90
Reduced fee - continuing involvement	14	14	13	21	7
Speculative / costs recovery - continuing involvement	11	20	17	22	9
Market rates - continuing involvement	1	1	-	6	-

<b>Basis on which refused legal aid</b>					
Merit	27	35	23	21	19
Financial	28	20	35	46	36
Outside guidelines	184	188	184	194	218

## Professional Conduct

**The Professional Conduct Department has a broad range of functions. Its principal regulatory function is to facilitate the investigation of complaints about barristers, show cause events, and other disclosures.**

The department also:

- provides advice and policy support to the Bar Council in respect of the council's functions under legal profession legislation, including functions related to practising certificates and legal practice in general,
- facilitates the provision of ethical guidance to barristers,
- responds to queries from barristers, solicitors and members of the public regarding complaints and regulatory processes,
- assists the Bar Council in connection with enquiries from, and reports submitted to, the Legal Profession Admission Board,
- assists in the ongoing development and review of legal profession legislation, including rules relating to barristers,
- provides assistance to the Executive and other departments within the Bar Association in relation to the interpretation and application of legal profession and other legislation, and
- liaises with the Professional Development Department in relation to CPD and other training issues which come to notice in connection with regulatory matters.

Work related to the implementation of the Uniform Law, which came into effect in NSW and Victoria on 1 July 2015, is ongoing. This includes liaison with the Legal Services Council, Commissioner for Uniform Legal Services Regulation, the Office of the Legal Services Commissioner, the Law Society, Legal Profession Admission Board and Law Council of Australia.

### Complaints

Complaints about a barrister's conduct are made to the NSW Legal Services Commissioner. The commissioner deals with consumer disputes involving legal practitioners and refers most disciplinary matters concerning barristers to the Bar Council for assessment, investigation and determination.

Complaints referred to the Bar Council are investigated by one of the professional conduct committees established by the council. The committees report to the Bar Council, which makes a determination in respect of each complaint.

In 2017-18 the majority of complaints were dealt with under the *Legal Professional Uniform Law (NSW)*, although a small number of complaints (those made before 1 July 2015) were dealt with under the *Legal Profession Act 2004*.

In the course of 2017-18 the Bar Council investigated 163 complaints – 74 complaints made during the year and 89 complaints made in previous years but ongoing as at 1 July 2017. Of those investigations, the Bar Council made a determination in 68 matters during the year – 53 complaints were dismissed under the *Legal Profession Act 2004* or closed under the *Legal Profession Uniform Law (NSW)*, 11 resulted in the barrister being cautioned or reprimanded, and the Bar Council determined to initiate proceedings in the New South Wales Civil and

In 2017-18

# 163

complaints were investigated by the Bar Council

In 2017-18

# 22

referrals were from a colleague / member of the bar



## Professional Conduct (continued)

Administrative Decisions Tribunal in four matters. In addition, seven complaints were withdrawn and five complaints were referred to the Office of the Legal Services Commissioner (due to conflict of interest or jurisdictional issues).

In 2017-18 the commissioner completed one review of a Bar Council decision made under the *Legal Profession Act 2004* about a complaint. The commissioner confirmed the Bar Council's decision to dismiss the complaint. There have been no reviews of Bar Council decisions made under the Legal Profession Uniform Law (NSW).

An analysis of the complaints received in 2017-18 shows:

- 63 barristers were the subject of one or more complaints made in 2017-18 (approximately 2.6 per cent of the barristers in NSW);
- Source of complaints – 40 per cent were made by the barrister's client or former client and 25 per cent by the opposing party or opposing solicitor;
- Jurisdiction type – 25 per cent relate to criminal jurisdiction and 16 per cent to family law;
- Complaint issues – many complaints arise from poor communication. Other significant issues include costs (including failure to comply with disclosure obligations, overcharging and billing issues), conflict of interest and instructions relating to pleas or settlement;
- Direct access – 20 per cent of complaints arise from matters in which the barrister was directly retained by the client.

The Professional Conduct Department is liaising with the Bar Association's Professional Development Department to develop training relevant to issues arising in complaint matters.

### Show cause events

Under the Legal Profession Uniform Law (NSW) barristers must notify the Bar Council of automatic show cause events, that is, certain bankruptcy matters or a conviction for a serious offence (as defined in the legislation) or a tax offence. The Bar Council is required to determine whether the barrister is a fit and proper person to hold a practising certificate.

The investigation of show cause events is carried out by the professional conduct committees.

In 2017-18 two show cause events were examined. One investigation was completed during the reporting year, with the Bar Council determining that the barrister was not a fit and proper person to hold a practising certificate. The other matter remains under investigation as at 30 June 2018.

### Professional conduct committees

The professional conduct committees comprise barrister members and community members. Each committee is chaired by a senior member of the bar. The deputy directors of the Professional Conduct Department serve as secretaries of the committees. The committees held 50 meetings in total during the reporting year.

The professional conduct committees play a major role in the preliminary assessment and investigation of complaints. Committee members devote many hours of their time, on a voluntary basis, and their input is highly valued by the Bar Council.

In 2017-18

**63** barristers

were the subject of one or more complaints.

In 2017-18

**40%**

of complaints were made by the barrister's client or former client.

In 2017-18

**25%**

of complaints relate to criminal jurisdiction.

In 2017-18

**20%**

of complaints arise from matters in which the barrister was directly retained by the client.



## Professional Conduct (continued)

Community representation on the professional conduct committees is vital to the healthy functioning of the complaint handling process. The Bar Council would like to thank the community members who served on the committees for their significant contribution – Judy Bursle, Jenny-Lea Charlier, John Coleman, John Davison, Sandra Fleischmann OAM, Jane Fry, Robyn Godding, Catherine Hart, Jennifer Mason, Wendy Phillips, Bronwyn Preston, Mike Smart, Ross Tarlinton, Merrin Thompson, Jim Tsirimiagos and Rachel Williams.

The Bar Council wishes to express its sincere appreciation to the 78 barristers who served on the professional conduct committees this year. Their service demonstrates the ongoing commitment of the profession to ensuring complaints regarding the conduct of barristers are fully investigated and appropriate disciplinary action taken in the interests of professional standards and maintaining public confidence in the profession.

### Ethical guidance and information

The Bar Association Ethical Guidance Scheme enables barrister members of the Bar Association to seek ethical guidance from the senior counsel serving on the association's professional conduct committees. Twenty-seven senior counsel were available to assist members in 2017-18. Most calls are initially directed to the association's Professional Conduct Department.

The department also receives calls from barristers, solicitors and members of the public enquiring about Barristers Rules, conduct issues and the processes relating to complaints and show cause events. In 2017-18 the officers of the Professional Conduct Department received over 300 calls seeking either ethical guidance or information.

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### The committees held

**50** meetings

in total during the reporting year.

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### In 2017-2018

**78**

barristers served on the professional conduct committees.



## Professional Conduct Statistics

### Number and Type of Complaints referred to the Bar Council during the year

Complaint type	Number	
Communication	4	Figures comprise complaints referred by the LSC to the Bar Council for assessment, investigation and determination (including complaints made by the Bar Council).
Competence and diligence	16	
Compliance matters	1	
Costs	6	
Ethical matters	42	
Personal conduct	5	
<b>Total number of complaints</b>	<b>74</b>	

### Source of complaints referred to the Bar Council during the year

Source of complaints	Number
Bar Council	6
Barrister	2
Client / former client	28
Government department / statutory body	2
Instructing solicitor	2
Opposing party	12
Opposing solicitor	5
Witness	1
Other	15
<b>Total number of complaints</b>	<b>73</b>

### Number & type of complaints assessed/ investigated during the year by the Bar Council

All complaints referred to the Bar Council were disciplinary matters – no consumer matters were referred.

Complaint type	Complaints made during the year	Complaints made in previous years	
Communication	4	6	Figures include complaints remaining under investigation as at 30/06/2018, all complaints in respect of which the Bar Council made a decision & complaints that were withdrawn or referred to the Bar Council during the year.
Competence and diligence	16	12	
Compliance matters	1	15	
Costs	6	24	
Ethical matters	42	28	
Personal conduct	5	4	
<b>Sub-totals</b>	<b>74</b>	<b>89</b>	
<b>Total Number of complaints dismissed / closed</b>		<b>163</b>	

## Professional Conduct Statistics (continued)

### Number & type of complaints dismissed under the Legal Profession Act 2004 or closed under the Legal Profession Uniform Law (NSW) during the year by the Bar Council\*

Complaint type	Complaints made during the year	Complaints made in previous years	
Communication	0	4	
Competence and diligence	1	9	* In addition, four complaints were returned to the legal services commissioner due to jurisdictional issues or conflict of interest.
Compliance matters	0	9	
Costs	0	8	
Ethical matters	5	16	
Personal conduct	0	1	
<b>Sub-totals</b>	<b>6</b>	<b>47</b>	
<b>Total Number of complaints dismissed / closed</b>		<b>53</b>	

### Number & type of complaints in respect of which an Australian lawyer was reprimanded or cautioned during the year by the Bar Council

Complaint type	Complaints made during the year	Complaints made in previous years	
Communication	0	1	
Compliance and diligence	0	1	
Costs	1	6	
Ethical matters	0	2	
Personal conduct	0	1	
<b>Sub-totals</b>	<b>0</b>	<b>11</b>	
<b>Total Number of complaints dismissed / closed</b>		<b>11</b>	

### Number & type of complaints withdrawn during the year

Complaint type	Complaints made during the year	Complaints made in previous years	
Communications	1	0	
Compliance	0	1	
Costs	1	2	
Ethical matters	1	1	
<b>Sub-totals</b>	<b>3</b>	<b>4</b>	
<b>Total Number of complaints dismissed / closed</b>		<b>7</b>	

### Number & type of complaints referred by the Bar Council to the NSW Civil and Administrative Tribunal during the year

Complaint type	Complaints made during the year	Complaints made in previous years	
Compliance matters	0	1	Decisions made by NCAT during the reporting year are available on the Bar Association website at <a href="http://www.nswbar.asn.au">www.nswbar.asn.au</a>
Ethical matters	0	3	
<b>Sub-totals</b>	<b>0</b>	<b>4</b>	
<b>Total Number of complaints dismissed / closed</b>		<b>4</b>	



## Professional Conduct Statistics (continued)

### Number & type of complaints in respect of which proceedings were instituted in the NSW Civil and Administrative Tribunal during the year by the Bar Council

Number and type of complaint where proceedings were instituted	Number	
Compliance	1	In addition, one barrister commenced proceedings in NCAT seeking a review of the Bar Council determination in a complaint matter.
Costs	1	
Ethical matters	4	
<b>Total number of complaints</b>	<b>6</b>	

### Number of complaints not finally dealt with at the end of the year

Age of complaints not finally dealt with at the end of the year	Number	Complaints made in the year ending 30 June	
Less than six months	36	2018	Note: These complaints remain under investigation
Between seven and twelve months	24	2017	
Between thirteen and eighteen months	16	2017	
Between nineteen and and twenty four months	6	2016	
Up to three years	1	2016	
<b>Total</b>	<b>83</b>		

### Time intervals involved in the complaint process, being the time between receipt of a complaint and finalisation of the complaint

Time intervals between receipt of complaint and completion	Number
Up to six months	19
Between seven and twelve months	24
Between thirteen and eighteen months	18
Between nineteen and twenty four months	10
Up to three years	8
Up to four years	1
<b>Total</b>	<b>80</b>

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These financial statements cover The New South Wales Bar Association as an individual entity. The financial statements are presented in Australian dollars, which is The New South Wales Bar Association's functional and presentation currency. The New South Wales Bar Association is an unlisted public company limited by guarantee.

The financial statements were authorised for issue by the directors on 6 September 2018. The directors have the power to amend and reissue the financial statements.

## Directors' Report

For the year ended 30 June 2018

The Directors present their report together with the financial statements of The New South Wales Bar Association ('the Association') for the year ended 30 June 2018 and the auditors' report thereon.

### Directors

The following persons were directors of the Association i.e. members of the Bar Council, during the whole of the financial year and up to the date of this report:

S Callan	J Roy	A Moses SC	A Bell SC
T Game SC	P Khandhar	M Walker	R Weinstein SC
M Izzo	K Nomchong SC	B Katekar	A Mitchelmore
M McHugh SC			

The following persons were directors from the beginning of the financial year to 3 November 2017:

C Gleeson	L Hutchinson	E Welsh	G Antipas
W Terracini SC	K Shead SC		

The following persons were directors from 3 November 2017 up to the date of this report :

J Mack	C Ensor	K Morgan SC	V Whittaker
D Rayment	N Williams		

R Higgins SC resigned on 3 Nov 2017. She was re-appointed on 6 February 2018, replacing C Loukas SC who resigned on that day.

J Gormly SC was a director from 3 November 2017 to 5 March 2018. G. Bashir SC was a director from 5 March 2018.

All Directors are practising barristers.





## Directors' Report (continued)

For the year ended 30 June 2018

### Principal Activities

The principal activities of the Association during the course of the financial year were to conduct the affairs of The New South Wales Bar Association including:

- operating the Bar Library;
- organising the Bar Exams and a program of Continuing Professional Development;
- running various programs for the benefit and wellbeing of its members such as: ABA Member Benefits, Fee Recovery Assistance, Ethical Guidance, BarCare, social events, and various publications;
- administering the Bar Association's Professional Standards Scheme;
- making submissions and providing advice to government and government agencies on specific legal policy and practice issues as they arise;
- working with media organisations and other bodies in order to disseminate to the public the Bar Association's position on key issues;
- co-ordinating the provision of pro bono or reduced cost legal services to underprivileged sections of the public through the Bar Association's Legal Assistance Referral Scheme and Duty Barristers Schemes; and
- fulfilling the Bar Association's statutory duties in relation to the regulation of the legal profession through the work of its Professional Conduct Committees and the Bar Council.

There were no significant changes in the nature of these activities during the financial year.

### Short and long term objectives and strategies

The Association's aims are to:

- promote the public good in relation to legal matters viewed in the broadest context;
- promote collegiality and mutual assistance among its members;
- represent the interests of its members in dealing with Government, the broader legal profession, the media and the community;
- promote fair and honourable practice among barristers;
- promote the continuing education of barristers;
- promote, maintain and improve the interests and standards of local practising barristers;
- help members grow their practice either locally or internationally through education and the development of commercial opportunities; and
- (through the statutory role of its Council) assist in matters of professional discipline of members and the resolution of complaints against them.

The Association's strategies for achieving these aims are set out in its strategic plan and include:

- Promoting a national legal profession to enhance the independence of the legal profession by retaining control over the development of practice, conduct, and continuing professional development rules;
- Marketing and promoting the work of NSW barristers;
- Assisting barristers with the economic and personal challenges of a sole practitioner;
- Contributing to informed public debate and the provision of the Bar's legal expertise in relation to law reform proposals;
- Provision of services to its members, including welfare services through BarCare;
- Supporting and encouraging equity and diversity at the NSW Bar; and
- Promoting the administration of justice.

### Strategies and Performance

Each year the incoming Bar Council reviews progress made over the preceding 12 months in achieving the stated objectives. The Bar Council has developed a Strategic Plan which charts many of the Association's objectives over a three year period.

### Review and Results of Operations

The Association continued to engage in its principal activities during the financial year. The comprehensive surplus of the Association for the year ended 30 June 2018 was \$336,356 (2017: \$1,087,489). This surplus was achieved despite expenses having gone up in certain areas including expenses associated with additional staffing, occupancy costs increasing in line with rental review and I.T. costs.

## Directors' Report (continued)

For the year ended 30 June 2018

### Association Particulars

The New South Wales Bar Association, incorporated and domiciled in Australia, is a public company limited by guarantee. The address of the registered office and principal place of business is:

174 Phillip Street  
Sydney NSW 2000

### Meetings of Directors

From 1 July 2017 to 30 June 2018 there were 20 meetings.

Name	Meetings attended	Meetings entitled to attend
Arthur Moses SC (President)	20	20
Tim Game SC (Senior Vice President)	20	20
Chrissa Loukas SC (Junior Vice President to 22 Feb 18)	8	12
Andrew Bell SC (Treasurer to 22 Feb 18, Junior VP from 22 Feb 18)	15	20
Sophie Callan (Secretary to 3 Nov 17 and from 22 Feb 18)	12	20
Jeremy Gormly SC	3	5
Gabrielle Bashir SC	7	8
Mary Walker	15	20
Greg Antipas	7	7
Michael McHugh SC	16	20
Elizabeth Welsh	5	7
Paresh Khandhar	17	20
Anna Mitchelmore (Secretary from 3 Nov 17 to 22 Feb 18, then Treasurer from that date)	15	20
Kate Morgan SC	10	13
Kara Shead SC	5	7
Vanessa Whittaker	9	13
Ruth Higgins SC	6	8
Courtney Ensor	13	13
David Rayment	12	13
Catherine Gleeson	5	7
Julia Roy	17	20
Lisa-Claire Hutchinson	6	7
James Mack	13	13
Winston Terracini SC	1	7
Kylie Nomchong SC	15	20
Richard Weinstein SC	19	20
Nanette Williams	12	13
Ben Katekar	13	20
Michael Izzo	19	20



## Directors' Report (continued)

For the year ended 30 June 2018

### Meetings of Directors (continued)

#### Meetings of the Finance, Investment and Audit Committee

From 1 July 2017 to 30 June 2018 there were 4 meetings.

Name	Meetings attended	Meetings held
Gregory Antipas	1	1
Michael McHugh SC	3	4
Chrissa Loukas SC	1	2
Andrew Bell SC	3	4
Sophie Callan	1	3
Arthur Moses SC	1	1
Kate Morgan SC	2	3
Kylie Nomchong SC	1	2
Anna Mitchelmore	0	1
Tim Game SC	3	3

### MEMBERS' GUARANTEE

If the Association is wound up, the Constitution states that each member is required to contribute an amount not exceeding \$4 per member to meet all outstanding obligations of the Association and any such amounts as may be required. The Association had 3,101 members at balance date, and the total that members are liable to contribute is \$12,404.

### Auditor's Independence Declaration

A copy of the Auditor's Independence Declaration as required under section 307C of the Corporations Act 2001 given to the Directors by the lead auditor for the audit undertaken by RSM Australia is included on page 58.

The report is made in accordance with resolution of directors made pursuant to section 298(2) of the Corporations Act 2001.

A Moses SC

A Mitchelmore

Sydney, NSW  
6 September 2018

## Auditor's Independence Declaration



### RSM Australia Partners

Level 13, 60 Castlereagh Street, Sydney NSW 2000  
GPO Box 5138 Sydney NSW 2001

T + 61 (0) 2 8226 4500  
F + 61 (0) 2 8226 4501

[www.rsm.com.au](http://www.rsm.com.au)

### AUDITOR'S INDEPENDENCE DECLARATION

As lead auditor for the audit of the financial report of New South Wales Bar Association for the year ended 30 June 2018, I declare that, to the best of my knowledge and belief, there have been no contraventions of:

- (i) the auditor independence requirements of the *Corporations Act 2001* in relation to the audit; and
- (ii) any applicable code of professional conduct in relation to the audit.

A stylized, handwritten signature in grey ink that reads 'Rsm'.

RSM AUSTRALIA PARTNERS

A handwritten signature in grey ink that reads 'C J Hume'.

C J Hume  
Partner

Sydney, NSW  
Dated: 6 September 2018



## Statement of Surplus and Other Comprehensive Income

For the year ended 30 June 2018

	Notes	2018 \$	2017 \$
Revenue from continuing operations	2	9,636,155	9,313,143
Employee benefits expense		(3,853,560)	(3,667,563)
Legal and professional fees		(1,420,656)	(1,266,930)
Subscriptions		(953,949)	(889,307)
Communications and information technology expense		(468,839)	(313,417)
Depreciation and amortisation expense		(339,020)	(335,923)
Occupancy expense		(825,170)	(721,680)
Advertising and marketing expense		(273,349)	(311,532)
Financial expense		(136,863)	(181,548)
Seminar and function expense		(302,317)	(257,036)
Other expenses from ordinary activities		(711,534)	(437,318)
Surplus before investment revaluation to market		350,898	930,889
Profit on financial assets at fair value through surplus or deficit		<b>52,724</b>	<b>146,809</b>
Surplus before income tax expense		403,622	1,077,698
Income tax (expense) / benefit	3(a)	(67,266)	9,791
<b>Net surplus</b>		<b>336,356</b>	<b>1,087,489</b>
<b>Other comprehensive income for the year, net of tax</b>		<b>-</b>	<b>-</b>
<b>Total comprehensive income</b>		<b>336,356</b>	<b>1,087,489</b>

The above statement of surplus and other comprehensive income should be read in conjunction with the accompanying notes.



## Statement of Financial Position

As at 30 June 2018

	Notes	2018 \$	2017 \$
<b>ASSETS</b>			
<b>CURRENT ASSETS</b>			
Cash and cash equivalents	12	1,361,509	10,850,130
Receivables		11,732	21,731
Other financial assets	4	11,362,891	1,519,572
Inventories		6,078	11,079
Other assets	5	255,077	242,772
<b>TOTAL CURRENT ASSETS</b>		<b>12,997,287</b>	<b>12,645,284</b>
<b>NON-CURRENT ASSETS</b>			
Other financial assets	4	3,033,981	2,637,513
Deferred tax assets	3(b)	22,756	7,106
Property, plant and equipment	7	1,423,518	1,623,427
<b>TOTAL NON-CURRENT ASSETS</b>		<b>4,480,255</b>	<b>4,268,046</b>
<b>TOTAL ASSETS</b>		<b>17,477,542</b>	<b>16,913,330</b>
<b>LIABILITIES</b>			
<b>CURRENT LIABILITIES</b>			
Trade and other payables	8	666,984	791,126
Employee benefits		661,554	585,577
Fees received in advance	9	6,641,238	6,428,384
<b>TOTAL CURRENT LIABILITIES</b>		<b>7,969,776</b>	<b>7,805,087</b>
<b>NON-CURRENT LIABILITIES</b>			
Employee benefits		40,217	59,965
Deferred tax liabilities	3(b)	82,915	-
<b>TOTAL NON-CURRENT LIABILITIES</b>		<b>123,132</b>	<b>59,965</b>
<b>TOTAL LIABILITIES</b>		<b>8,092,908</b>	<b>7,865,052</b>
<b>NET ASSETS</b>		<b>9,384,634</b>	<b>9,048,278</b>
<b>ACCUMULATED FUNDS</b>			
Accumulated surpluses		9,384,634	9,048,278
<b>TOTAL ACCUMULATED FUNDS</b>		<b>9,384,634</b>	<b>9,048,278</b>

The above statement of financial position should be read in conjunction with the accompanying notes.



## Statement of Changes in Accumulated Funds

For the year ended 30 June 2018

	Accumulated Surpluses \$	Total Accumulated Funds \$
Balance at 30 June 2016	<u>7,960,789</u>	<u>7,960,789</u>
Surplus after income tax expense for the year	1,087,489	1,087,489
Other comprehensive income for the year, net of tax	<u>-</u>	<u>-</u>
Total comprehensive for the year	<u>1,087,489</u>	<u>1,087,489</u>
Balance at 30 June 2017	<u>9,048,278</u>	<u>9,048,278</u>
Surplus after income tax expense for the year	336,356	336,356
Other comprehensive income for the year, net of tax	<u>-</u>	<u>-</u>
Total comprehensive income for the year	<u>336,356</u>	<u>336,356</u>
Balance at 30 June 2018	<u>9,384,634</u>	<u>9,384,634</u>

The above statement of changes in accumulated funds should be read in conjunction with the accompanying notes.

## Statement of Cash Flows

For the year ended 30 June 2018

	Notes	2018 \$	2017 \$
<b>Cash flows from operating activities</b>			
Receipts from operating activities		9,859,008	9,205,791
Payments to suppliers and employees		(9,291,848)	(8,722,647)
Dividends received		104,740	77,660
Interest received		233,249	283,705
Income tax paid		<u>-</u>	<u>-</u>
Net cash inflow from operating activities		<u>905,149</u>	<u>844,509</u>
<b>Cash flows from investing activities</b>			
Proceeds from sale of plant and equipment		1,842	2,448
Payments for plant and equipment		(211,541)	(127,379)
Proceeds from sale of investments		1,076,279	2,650,166
Payment for purchase of investments		<u>(11,260,350)</u>	<u>(15,664)</u>
Net cash (outflow)/inflow from investing activities		<u>(10,393,770)</u>	<u>2,509,571</u>
Net (decrease)/increase in cash and cash equivalents		(9,488,621)	3,354,080
Cash and cash equivalents at the beginning of the financial year		<u>10,850,130</u>	<u>7,496,050</u>
<b>Cash and cash equivalents at the end of the financial year</b>	12	<u>1,361,509</u>	<u>10,850,130</u>

The above statement of cash flows should be read in conjunction with the accompanying notes.

# Notes to the Financial Statements

For the year ended 30 June 2018

## 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The principal accounting policies adopted in the preparation of these financial statements are set out below. These policies have been consistently applied to all the years presented, unless otherwise stated.

### (a) Basis of Preparation

These general purpose financial statements have been prepared in accordance with Australian Accounting Standards – Reduced Disclosure Requirements and interpretations as issued by the Australian Accounting Standards Board, and the *Corporations Act 2001*. The New South Wales Bar Association is a Not-for-profit entity for the purpose of preparing the financial statements.

#### (i) Historical cost convention

These financial statements have been prepared under the historical cost convention, as modified by the revaluation of available-for-sale financial assets.

#### (ii) Critical accounting estimates and judgments

The preparation of financial statements requires the use of certain critical accounting estimates. It also requires management to exercise its judgment in the process of applying the Association's accounting policies. There are no estimates and judgments that have a significant risk of causing material adjustments to the carrying amounts of assets and liabilities within the next financial year.

### (b) Revenue Recognition

Revenue is measured at the fair value of the consideration received or receivable. Revenue is recognised for the major activities as follows:

#### (i) Subscriptions and Practising Certificate Fees

Subscriptions and Practising Certificate Fees comprise annual fees for membership and practising certificates. Subscriptions and Practising Certificate Fees are recognised on a pro rata basis through the course of the year to which the fees relate.

#### (ii) Administration Charge

Administration charges comprise revenue earned from the provision of administrative services. They are recognised when the fee in respect of services is receivable.

#### (iii) Dividends Received

Revenue from dividends is recognised when the right to receive the payment is established.

#### (iv) Interest Income

Interest income is recognised on a time proportion basis using the effective interest method.

#### (v) Grants

Grants comprise monies received during the year in respect of the professional conduct department and legal assistance department. Income is recognised when the grant is receivable.

#### (vi) Other Income

Income from other sources is recognised when the fee in respect of other products or services provided is receivable.

### (c) Income Tax

The Association has adopted the balance sheet method of tax effect accounting.

In addition, under the mutuality provisions of the Income Tax Assessment Act, income and expenses wholly applicable to members of the Association are not brought to account in calculating income for tax purposes.

Deferred income tax is provided in full, using the liability method, on temporary differences arising between the tax bases of assets and liabilities and their carrying amounts in the financial statements. Deferred income tax is determined using tax rates (and laws) that have been enacted or subsequently enacted by the end of the reporting period and are expected to apply when the related deferred tax assets is realised or the deferred tax liability is settled.

Deferred tax assets are recognised for deductible temporary difference and unused tax losses only if it is probable that future taxable amounts will be available to utilise those temporary differences and losses.

Deferred tax assets and liabilities are offset when there is a legally enforceable right to offset current tax assets and liabilities and when the deferred tax balances relate to the same taxation authority. Current tax assets and liabilities are offset where the entity



## Notes to the Financial Statements (continued)

For the year ended 30 June 2018

### 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

has a legally enforceable right to offset and intends either to settle on a net basis, or to realise the asset and settle the liability simultaneously.

Current and deferred tax is recognised in surplus or deficit, except to the extent that it relates to items recognised in other comprehensive income or directly in equity. In this case, the tax is also recognised in other comprehensive income or directly in equity, respectively.

#### (d) Leases

Leases in which a significant portion of the risks and rewards of ownership are not transferred to the Association as lessee are classified as operating leases (Note 10). Payments made under operating leases (net of any incentives received from the lessor) are charged to surplus or deficit on a straight-line basis over the period of the lease.

#### (e) Impairment of Assets

Assets are tested for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. An impairment loss is recognised for the amount by which the asset's carrying amount exceeds its recoverable amount. The recoverable amount is the higher of an asset's fair value less costs to sell and value in use. For the purposes of assessing impairment, assets are grouped at the lowest levels for which there are separately identifiable cash inflows which are largely independent of the cash inflows from other assets (cash generating units). Non-financial assets other than goodwill that suffered an impairment loss are reviewed for possible reversal of the impairment at the end of each reporting period.

#### (f) Cash and Cash Equivalents

For purposes of presentation in the statement of cash flows, cash and cash equivalents includes cash on hand, deposits held at call with financial institutions and other short-term, highly liquid investments with original maturities of three months or less that are readily convertible to known amounts of cash and which are subject to an insignificant risk of changes in value.

#### (g) Receivables

Receivables are recognised initially at fair value and subsequently measured at amortised cost using the effective interest method, less allowance for impairment. Receivables are due for settlement no more than 60 days from the date of recognition.

Collectability of receivables is reviewed on an ongoing basis. Debts which are known to be uncollectible are written off by reducing the carrying amount directly. An allowance account (provision for impairment of receivables) is used when there is objective evidence that the Association will not be able to collect all amounts due according to the original terms of the receivables.

The amount of the impairment loss is recognised in surplus or deficit with other expenses. When a trade and other receivable for which an impairment allowance had been recognised becomes uncollectable in a subsequent period, it is written off against the allowance account. Subsequent recoveries of amount previously written off are credited against other expenses in surplus or deficit.

#### (h) Inventories

Inventories are stated at the lower of cost and net realisable value. Costs are assigned to individual items of inventory on the basis of weighted average costs. Net realisable value is the estimated selling price in the ordinary course of business less the estimated costs necessary to make the sale.

#### (i) Investments and other financial assets

##### Classification

The Association classifies its financial assets in the following categories: receivables, available-for-sale financial assets and held-to-maturity investments. The classification depends on the purpose for which the financial assets were acquired. Management determines the classification of each investment at initial recognition.

##### (i) Receivables

Receivables and other financial assets are non-derivative financial assets with fixed or determinable payment amounts that are not quoted in an active market. They are included in current assets, except for those with maturities greater than 12 months after the end of the reporting period which are classified as non-current assets.

##### (ii) Held-to-maturity investments

The Association classifies its term deposits as held-to-maturity investments. Held-to-maturity investments are non-derivative financial assets with fixed or determinable payments and fixed maturities that the Association's management has the positive intention and ability to hold to maturity. Held-to-maturity investments are included in current assets except for those with maturities greater than 12 months from the end of the reporting period, which are classified as non-current assets.

## Notes to the Financial Statements (continued)

For the year ended 30 June 2018

### 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

#### *(iii) Designated at fair value through surplus or deficit*

The Association classifies financial assets 'at fair value through surplus or deficit', unless they are otherwise classified. Changes in fair value of these financial assets are recognised in surplus or deficit.

#### *(iv) Recognition and Derecognition*

Receivables and held-to-maturity investments are initially recognised at cost.

Financial assets at fair value through surplus or deficit are initially recognised at fair value plus transactions costs, with fair values based on current bid prices for listed securities, and on published market prices for fixed interest securities.

#### *(v) Subsequent Measurement*

Receivables and held-to-maturity investments are carried at amortised cost using the effective interest method.

Financial assets at fair value through surplus or deficit are subsequently carried at fair value. Gains and losses are recognised within other income or other expense.

#### **(j) Property, plant and Equipment**

All property, plant and equipment is recognised at historical cost less depreciation. Historical cost includes expenditure that is directly attributable to the acquisition of the items.

Depreciation is calculated using the straight line method to allocate the cost, net of their residual values, over the estimated useful lives, as follows:

- Refurbishments	4 to 15 years
- Furniture, Computers, Computer Software, Office Machines and Equipment	3 to 5 years
- Kitchen Equipment	5 years

The assets' residual values and useful lives are reviewed, and adjusted if appropriate, at the end of each reporting period.

#### **(k) Intangibles**

Intangibles consist of expenditure paid to external consultants on software used to record the Association's database. The database has been amortised over its estimated useful life of 3 years.

#### **(l) Trade and Other Payables**

These amounts represent liabilities for goods and services provided to the Association prior to the end of financial year which are unpaid. The amounts are unsecured and are usually paid within 30 days of recognition.

#### **(m) Employee Benefits**

##### *(i) Wages and salaries and annual leave*

Liabilities for wages and salaries, including non-monetary benefits and annual leave expected to be settled within 12 months of the end of the reporting period, are recognised as payables in respect of employees' services up to the end of the reporting period and are measured at the amounts expected to be paid when the liabilities are settled.

##### *(ii) Long service leave*

The liability for long service leave is recognised in the provision for employee benefits and measured as the present value of expected future payments to be made in respect of services provided by employees up to the end of the reporting period. Consideration is given to the expected future wage and salary levels, experience of employee departures and periods of service.

##### *(iii) Retirement benefit obligations*

The Association contributes to accumulation superannuation plans. Contributions are charged against surplus or deficit as they are made.

#### **(n) Goods and Services Tax ('GST')**

Revenues, expenses and assets are recognised net of the amount of associated GST, unless the GST incurred is not recoverable from the Australian Taxation Office ('ATO'). In this case it is recognised as part of the cost of acquisition of the asset or as part of an item of the expense.

Receivables and payables are stated inclusive of the amount of GST receivable or payable. The net amount of GST recoverable from, or payable to, the ATO is included in receivables or payables in the statement of financial position.



## Notes to the Financial Statements (continued)

For the year ended 30 June 2018

### 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

Cash flows are presented on a gross basis. The GST components of cash flows arising from investing and financing activities which are recoverable from, or payable to, the ATO are presented as operating cash flows.

#### (o) Comparative Figures

Where required by Accounting Standards, comparative figures have been adjusted to conform with changes in presentation for the current financial year.

#### (p) New or amended Accounting Standards and Interpretations adopted

The company has adopted all of the new or amended Accounting Standards and Interpretations issued by the Australian Accounting Standards Board ('AASB') that are mandatory for the current reporting period.

Any new or amended Accounting Standards or Interpretations that are not yet mandatory have not been early adopted.

#### (q) Current and non-current classification

Assets and liabilities are presented in the statement of financial position based on current and non-current classification.

An asset is classified as current when: it is either expected to be realised or intended to be sold or consumed in the company's normal operating cycle; it is held primarily for the purpose of trading; it is expected to be realised within 12 months after the reporting period; or the asset is cash or cash equivalent unless restricted from being exchanged or used to settle a liability for at least 12 months after the reporting period. All other assets are classified as non-current.

A liability is classified as current when: it is either expected to be settled in the company's normal operating cycle; it is held primarily for the purpose of trading; it is due to be settled within 12 months after the reporting period; or there is no unconditional right to defer the settlement of the liability for at least 12 months after the reporting period. All other liabilities are classified as non-current.

Deferred tax assets and liabilities are always classified as non-current.

#### (r) Impairment of non-financial assets

Non-financial assets are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. An impairment loss is recognised for the amount by which the asset's carrying amount exceeds its recoverable amount.

#### (s) Fair value measurement

When an asset or liability, financial or non-financial, is measured at fair value for recognition or disclosure purposes, the fair value is based on the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date; and assumes that the transaction will take place either: in the principal market; or in the absence of a principal market, in the most advantageous market.

Fair value is measured using the assumptions that market participants would use when pricing the asset or liability, assuming they act in their economic best interests. For non-financial assets, the fair value measurement is based on its highest and best use. Valuation techniques that are appropriate in the circumstances and for which sufficient data are available to measure fair value, are used, maximising the use of relevant observable inputs and minimising the use of unobservable inputs.



## Notes to the Financial Statements (continued)

For the year ended 30 June 2018

	2018 \$	2017 \$
<b>2. REVENUE FROM CONTINUING OPERATIONS</b>		
<b>Operating revenue</b>		
Subscriptions and practising certificate fees	6,480,276	6,391,414
Bar Practice Course & Bar Examinations	606,150	485,350
	<u>7,086,426</u>	<u>6,876,764</u>
<b>Other revenue</b>		
Interest and dividends	331,644	356,955
Seminars	116,914	136,069
External funding	1,874,800	1,507,556
Other	226,371	435,799
	<u>9,636,155</u>	<u>9,313,143</u>
<b>Revenue from continuing operations</b>		
	<u>9,636,155</u>	<u>9,313,143</u>
<b>3. INCOME TAX EXPENSE</b>		
<b>(a) Reconciliation of income tax expense to prima facie tax payable</b>		
Net surplus from continuing operations	403,622	1,077,698
Tax at the Australian tax rate of 27.5% (2017: 30%)	110,996	323,309
Decrease in income tax expense due to:		
- Net mutual income	(174,246)	(333,634)
Tax effect of amounts which are not deductible	130,516	534
Income tax expense/(benefit)	<u>67,266</u>	<u>(9,791)</u>
<b>(b) Deferred taxes</b>		
Deferred tax asset	22,756	7,106
Deferred tax liability	(82,915)	-
	<u>(60,159)</u>	<u>7,106</u>



## Notes to the Financial Statements (continued)

For the year ended 30 June 2018

	2018 \$	2017 \$
<b>4. OTHER FINANCIAL ASSETS</b>		
<b>Current</b>		
<b>Held-to-maturity investments:</b>		
Term deposit (i)	<u>11,362,891</u>	<u>1,519,572</u>
 (i) The Association has classified its Term deposits with maturity term longer than 3 months as other current financial assets in the current year		
<b>Non-current</b>		
<b>At cost</b>		
Investments in associates	<u>14</u>	<u>14</u>
<b>Designated at fair value through surplus or deficit</b>		
Shares in Australian listed companies	3,033,967	1,710,434
Fixed interest securities - listed	<u>-</u>	<u>927,065</u>
	<u>3,033,967</u>	<u>2,637,499</u>
<b>Total other financial assets – non current</b>	<u><b>3,033,981</b></u>	<u><b>2,637,513</b></u>

### (a) Investments in associates

The Association holds two \$2 shares in The Barrister's Sickness and Accident Fund Pty Ltd. The sole purpose of this company is to act as trustee for the Barrister's Sickness and Accident Fund.

The Association holds one \$10 share in the Pro Bono Disbursement Fund Pty Ltd. The Executive Director of the Association is a director of that company. The purpose of that company is to hold and pay funds to reimburse legal practitioners for their disbursements incurred in the conduct of pro bono matters.

### (b) Investment in Counsel's Chambers Limited

The Association also holds 7 deferred ordinary shares ('the shares') in Counsel's Chambers Limited ('CCL'). The shares were acquired circa 1962 and have a cost of \$14, which has not been recorded in the Association's records for many years. The shares entitle the Association to: one vote per share at general meetings of CCL; the receipt of dividends as declared; and any surplus assets in the event of a winding up of CCL. The Association does not have any record of dividends having been paid by CCL. In addition, it does not have the ability to significantly influence the voting at general meetings of CCL. As there is no active market in the shares and other valuation techniques do not permit the calculation of a reasonable fair value estimate, the Association is precluded from measuring or recognising such values in its financial statements.

## 5. OTHER ASSETS

Prepayments	209,567	203,607
Accrued interest	<u>45,510</u>	<u>39,165</u>
	<u><b>255,077</b></u>	<u><b>242,772</b></u>

## Notes to the Financial Statements (continued)

For the year ended 30 June 2018

	2018 \$	2017 \$
<b>6. INTANGIBLES</b>		
<b>Database &amp; website</b>		
At cost	304,665	304,665
Accumulated amortisation	(304,665)	(304,665)
<b>Net carrying amount</b>	<b>-</b>	<b>-</b>

## 7. PROPERTY, PLANT AND EQUIPMENT

	Library \$	Refurbishments \$	Furniture, computers, computer software, office machines & equipment \$	Kitchen equipment \$	Total \$
<b>At 30 June 2017</b>					
Cost	469,043	3,154,110	1,306,377	3,511	4,933,041
Accumulated depreciation and impairment	(375,238)	(1,981,771)	(950,347)	(2,258)	(3,309,614)
<b>Net carrying amount</b>	<b>93,805</b>	<b>1,172,339</b>	<b>356,030</b>	<b>1,253</b>	<b>1,623,427</b>
<b>At 30 June 2018</b>					
Cost	469,043	3,234,876	1,386,102	3,511	5,093,532
Accumulated depreciation and impairment	(469,043)	(2,165,214)	(1,033,133)	(2,624)	(3,670,014)
<b>Net carrying amount</b>	<b>-</b>	<b>1,069,662</b>	<b>352,969</b>	<b>887</b>	<b>1,423,518</b>

Movements:

### Year ended 30 June 2017

At 1 July 2017, net carrying amount	<b>93,805</b>	<b>1,172,339</b>	<b>356,030</b>	<b>1,253</b>	<b>1,623,427</b>
Additions	-	80,765	128,931	-	209,696
Disposals	-	-	(233)	-	(233)
Write off	(70,353)	-	-	-	(70,353)
Depreciation/ amortisation charge for the year	(23,452)	(183,442)	(131,759)	(366)	(339,019)
<b>At 30 June 2018, net carrying amount</b>	<b>-</b>	<b>1,069,662</b>	<b>352,969</b>	<b>887</b>	<b>1,423,518</b>



## Notes to the Financial Statements (continued)

For the year ended 30 June 2018

	2018 \$	2017 \$
<b>8. TRADE AND OTHER PAYABLES</b>		
Trade and other payables	<u>666,984</u>	<u>791,126</u>
<b>9. FEES RECEIVED IN ADVANCE</b>		
<b>Current</b>		
Subscriptions, practising certificate fees & other revenue received in advance	<u>6,641,238</u>	<u>6,428,384</u>
<b>10. COMMITMENTS</b>		
<b>Lease Commitments</b>		
<b>Operating Lease Commitments Payable</b>		
Within one year	674,728	623,749
Later than one year but not later than 5 years	2,749,699	2,590,010
Later than 5 years	<u>2,768,416</u>	<u>3,432,726</u>
	<u><b>6,192,843</b></u>	<u><b>6,646,485</b></u>

The Association leases from Counsels' Chambers the two premises from which it operates. The main premises are on a fifteen year lease, with an option to renew for a further five years. This lease expires in March 2027. Additional office space is occupied under a three year lease with rent increases of 3% in the 2nd and 3rd year. This lease expires in December 2020. Balances disclosed are GST exclusive.

## 11. RELATED PARTY DISCLOSURES

### (a) Directors

The names of persons who were directors of the Association at any time during the financial year are as follows:

N Williams	C Ensor	M McHugh SC	M Izzo	S Callan
D Rayment	B Katekar	J Mack	W Terracini SC	R Weinstein SC
A Moses SC	K Shead SC	T Game SC	G Bashir SC	K Nomchong SC
R Higgins SC	C Gleeson	C Loukas SC	M Walker	A Mitchelmore
P Khandhar	L Hutchinson	K Morgan SC	E Welsh	A Bell SC
J Roy	G Antipas	V Whittaker	J Gormly SC	

### (b) Key management personnel

Key management personnel compensation for the years ended 30 June 2018 and 30 June 2017 is set out below. The key management personnel are the directors of the Association, and those executives with authority and responsibility for planning, directing and controlling the activities of the Association.

Other than the directors, the key management personnel identified for the years ended 30 June 2018 and 30 June 2017 are as follows:

Greg Tolhurst	Bali Kaur	Jocelyn Sparks	Lisa Allen	Basil Catsaros
Alastair McConnachie	Jennifer Pearce			

No compensation was paid or payable to directors of the Association during the financial year.

The compensation paid or payable to key management personnel during the financial year comprised.

	2018 \$	2017 \$
Employee benefits	<u>1,388,192</u>	<u>1,245,606</u>

## Notes to the Financial Statements (continued)

For the year ended 30 June 2018

### 11. RELATED PARTY DISCLOSURES (continued)

#### (c) Other transactions

Transactions between related parties are on normal commercial terms and conditions no more favourable than those available to other parties unless otherwise stated.

The Association paid rent (including associated air-conditioning, electricity and cleaning charges) totalling \$789,868 (2017: \$709,549) for office space to Counsel's Chambers Limited, a company of which some directors of the Association are also members. The bulk of this payment was at two-thirds of the normal market rate.

#### (d) Loans to/from related parties

There were no loans to or from related parties at the current and previous reporting date.

#### (e) Receivable from and payable to related parties

There were no trade receivables from or trade payables to related parties at the current and previous reporting date.

### 12. CASH AND CASH EQUIVALENTS

	2018 \$	2017 \$
Cash at bank	954,023	921,064
Term deposits (i)	406,586	9,928,166
Petty Cash	900	900
	<u>1,361,509</u>	<u>10,850,130</u>

(ii) The Association has classified its Term deposits with maturity term longer than 3 months as other current financial assets in the current year

### 13. REIMBURSEMENT BY THE PUBLIC PURPOSE FUND

Section 34 (3)(a) of the Legal Profession Uniform Law Application Act 2014 requires certification by the auditor of the costs incurred by the Bar Council in relation to its regulatory function. Expenditure on regulatory activities in 2017-2018 amounted to \$1,674,800 (2017: \$1,313,711).

### 14. EVENTS OCCURRING AFTER THE REPORTING DATE

Changes since reporting date in the market values of financial assets at fair value through profit or loss held by the Association has impacted the total value of the financial assets. As at 22 August 2018, the total market value of financial assets at fair value through profit or loss held by the Association was \$3,145,006 compared with \$3,033,967 as at 30 June 2018, an increase of 3.66%

### 15. CONTINGENT LIABILITIES

The company had no contingent liabilities as at 30 June 2018 and 30 June 2017.



## Directors' Declaration

In the directors' opinion:

- (a) the financial statements and notes set out on pages 54 to 70 are in accordance with the *Corporations Act 2001*, including:
  - (i) complying with Accounting Standards – Reduced Disclosure Requirements (including the Australian Accounting Interpretations) and the *Corporations Regulations 2001*; and
  - (ii) giving a true and fair view of the company's financial position as at 30 June 2018 and of its performance for the financial year ended on that date; and
- (b) there are reasonable grounds to believe that the company will be able to pay its debts as and when they become due and payable.

This declaration is made in accordance with a resolution of the directors.

A Moses SC

Sydney, NSW  
6 September 2018

A Mitchelmore



## Independent Auditor's Report



### RSM Australia Partners

Level 13, 60 Castlereagh Street Sydney NSW 2000  
GPO Box 5138 Sydney NSW 2001

T + 61 (0) 2 8226 4500  
F + 61 (0) 2 8226 4501

[www.rsm.com.au](http://www.rsm.com.au)

### Opinion

We have audited the financial report of New South Wales Bar Association (the Company), which comprises the statement of financial position as at 30 June 2018, the statement of comprehensive income, the statement of changes in equity and the statement of cash flows for the year then ended, and notes to the financial statements, including a summary of significant accounting policies, and the directors' declaration.

In our opinion, the accompanying financial report of the Company is in accordance with the Corporations Act 2001, including:

- (i) giving a true and fair view of the Company's financial position as at 30 June 2018 and of its financial performance for the year then ended; and
- (ii) complying with Australian Accounting Standards – Reduced Disclosure Requirements and the Corporations Regulations 2001.

### Basis for Opinion

We conducted our audit in accordance with Australian Auditing Standards. Our responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Report* section of our report. We are independent of the Company in accordance with the auditor independence requirements of the Corporations Act 2001 and the ethical requirements of the Accounting Professional and Ethical Standards Board's APES 110 *Code of Ethics for Professional Accountants* (the Code) that are relevant to our audit of the financial report in Australia. We have also fulfilled our other ethical responsibilities in accordance with the Code.

We confirm that the independence declaration required by the Corporations Act 2001, which has been given to the directors of the Company, would be in the same terms if given to the directors as at the time of this auditor's report.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

### Other Information

The directors are responsible for the other information. The other information comprises the information included in the Company's annual report for the year ended 30 June 2018, but does not include the financial report and the auditor's report thereon.

Our opinion on the financial report does not cover the other information and accordingly we do not express any form of assurance conclusion thereon.

In connection with our audit of the financial report, our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial report or our knowledge obtained in the audit or otherwise appears to be materially misstated.

If, based on the work we have performed, we conclude that there is a material misstatement of this other information, we are required to report that fact. We have nothing to report in this regard.

## Independent Auditor's Report (continued)



### RSM Australia Partners

Level 13, 60 Castlereagh Street, Sydney NSW 2000  
GPO Box 5138 Sydney NSW 2001

T +61 (0) 2 8226 4500  
F +61 (0) 2 8226 4501

[www.rsm.com.au](http://www.rsm.com.au)

### Responsibilities of the Directors for the Financial Report

The directors of the Company are responsible for the preparation of the financial report that gives a true and fair view in accordance with Australian Accounting Standards – Reduced Disclosure Requirements and the Corporations Act 2001 and for such internal control as the directors determine is necessary to enable the preparation of the financial report that gives a true and fair view and is free from material misstatement, whether due to fraud or error.

In preparing the financial report, the directors are responsible for assessing the ability of the Company to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the directors either intend to liquidate the Company or to cease operations, or have no realistic alternative but to do so.

### Auditor's Responsibilities for the Audit of the Financial Report

Our objectives are to obtain reasonable assurance about whether the financial report as a whole is free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the Australian Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of this financial report.

A further description of our responsibilities for the audit of the financial report is located at the Auditing and Assurance Standards Board website at: [http://www.auasb.gov.au/auditors\\_responsibilities/ar4.pdf](http://www.auasb.gov.au/auditors_responsibilities/ar4.pdf). This description forms part of our auditor's report.

A stylized, handwritten signature of RSM Australia Partners in grey ink.

RSM Australia Partners

A handwritten signature of C J Hume in grey ink.

C J Hume  
Partner

Sydney, NSW  
Dated: 12 September 2018

## Barristers' Benevolent Association

Financial report for the year ended 30 June 2018

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The financial statements cover Barristers' Benevolent Association of NSW as an individual entity. Its registered office and principal place of business is 174 Phillip St, Sydney NSW 2000.

The financial statements were authorised for issue by the Committee of Management on 6 September 2018.

The Committee of Management has the power to amend and re-issue the financial statements.

## Statement of Surplus and Other Comprehensive Income

For the year ended 30 June 2018

	Notes	2018 \$	2017 \$
Revenue from continuing operations	2	330,341	359,640
(Loss)/profit on sale of investments		(1,216)	70,495
Auditor's remuneration		(9,500)	(10,400)
Bar care costs		(25,814)	(24,867)
Employee benefits expense		(80,614)	(60,718)
Gifts		(105,941)	(125,000)
Impairment of loans - write back		800	200
Other operating expenses		(7,486)	(5,146)
Surplus before fair value gains		100,570	204,204
Net gains on non-current assets held at fair value through surplus or deficit		55,214	169,052
Surplus before income tax		155,784	373,256
Income tax expense	1 (c)	-	-
<b>Net Surplus</b>		<b>155,784</b>	<b>373,256</b>
<b>Other comprehensive income</b>		<b>-</b>	<b>-</b>
<b>Total comprehensive income</b>		<b>155,784</b>	<b>373,256</b>

The above statement of surplus and other comprehensive income should be read in conjunction with the accompanying notes.



## Statement of Financial Position

As at 30 June 2018

	Notes	2018 \$	2017 \$
<b>CURRENT ASSETS</b>			
Cash and cash equivalents		257,866	464,453
Held-to-maturity investments	4	2,042,278	1,875,548
Loans and receivables	3	46,548	58,185
<b>TOTAL CURRENT ASSETS</b>		<b>2,346,692</b>	<b>2,398,186</b>
<b>NON-CURRENT ASSETS</b>			
Other financial assets	5	3,086,994	2,880,822
<b>TOTAL NON-CURRENT ASSETS</b>		<b>3,086,994</b>	<b>2,880,822</b>
<b>TOTAL ASSETS</b>		<b>5,433,686</b>	<b>5,279,008</b>
<b>CURRENT LIABILITIES</b>			
Trade and other payables		9,500	18,233
Employee benefits		7,627	-
<b>TOTAL CURRENT LIABILITIES</b>		<b>17,127</b>	<b>18,233</b>
<b>TOTAL LIABILITIES</b>		<b>17,127</b>	<b>18,233</b>
<b>NET ASSETS</b>		<b>5,416,559</b>	<b>5,260,775</b>
<b>ACCUMULATED FUNDS</b>			
Accumulated surpluses		5,416,559	5,260,775
<b>TOTAL ACCUMULATED FUNDS</b>		<b>5,416,559</b>	<b>5,260,775</b>

The above statement of financial position should be read in conjunction with the accompanying notes.

## Statement of Changes in Accumulated Funds

For the year ended 30 June 2018

	Accumulated Surpluses \$	Total Accumulated Funds \$
<b>At 30 June 2016</b>	<b>4,887,519</b>	<b>4,887,519</b>
Total comprehensive income	373,256	373,256
<b>At 30 June 2017</b>	<b>5,260,775</b>	<b>5,260,775</b>
Total comprehensive income	155,784	155,784
<b>At 30 June 2018</b>	<b>5,416,559</b>	<b>5,416,559</b>

The above statement of changes in accumulated funds should be read in conjunction with the accompanying notes.

## Statement of Cash Flows

For the year ended 30 June 2018

	2018 \$	2017 \$
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Receipts from members, sponsorship and general activities	129,680	145,477
Payments to suppliers	(229,661)	(227,791)
Interest and dividends received	212,298	215,095
<b>Net cash inflow from operating activities</b>	<b>112,317</b>	<b>132,781</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Proceeds from other financial assets	324,129	1,171,567
Proceeds from held to maturity investments	294,036	15,000
Payments for other financial assets	(476,303)	(351,083)
Payments for held to maturity investments	(460,766)	(1,004,177)
<b>Net cash (outflow) from investing activities</b>	<b>(318,904)</b>	<b>(168,693)</b>
Net (decrease) in cash and cash equivalents	(206,587)	(35,912)
Cash and cash equivalents at the beginning of the year	464,453	500,365
<b>Cash and cash equivalents at the end of the year</b>	<b>257,866</b>	<b>464,453</b>

The above statement of cash flows should be read in conjunction with the accompanying notes.

## Notes to the Financial Statements

For the year ended 30 June 2018

### 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The principal accounting policies adopted in the preparation of the financial statements are set out below. These policies have been constantly applied to all the years presented, unless otherwise stated.

#### (a) Basis of Preparation

These general purpose financial statements have been prepared in accordance with Australian Accounting Standards - Reduced Disclosure Requirements and interpretations as issued by the Australian Accounting Standards Board, and the *Australian Charities and Not-for-profits Commission Act 2012*. Barristers' Benevolent Association of NSW is a not-for-profit entity for the purpose of preparing the financial statements.

#### Historical cost convention

These financial statements have been prepared under the historical cost convention.

#### Critical accounting estimates and judgments

The preparation of financial statements requires the use of certain critical accounting estimates. It also requires management to exercise its judgment in the process of applying the Association's accounting policies. There are no estimates and judgments that have a significant risk of causing material adjustments to the carrying amounts of assets and liabilities within the next financial year.

#### (b) Revenue Recognition

Revenue is measured at the fair value of the consideration received or receivable. Revenue is recognised as follows:

##### (i) Contributions

Revenue from contributions is recognised when the contribution is received.



## Notes to the Financial Statements (continued)

For the year ended 30 June 2018

### *(ii) Dividend and Distribution income*

Distributions and dividends are recognised as revenue when the right to receive payment is established.

### *(iii) Interest income*

Interest income is recognised as it accrues.

### *(iv) Other Income*

Income from other sources is recognised when the income is receivable.

### *(v) Changes in fair value of investments*

Net gains or losses on investments designated at fair value through surplus or deficit are calculated as the difference between the fair value at year end and the fair value at the previous valuation point. This includes both realised and unrealised gains and losses, but does not include interest or dividends.

### **(c) Income Tax**

As the Barristers' Benevolent Association of NSW is a charitable institution in terms of subsection 50-5 of the Income Tax Assessment Act 1997, as amended, it is exempt from paying income tax.

### **(d) Cash and Cash Equivalents**

For purposes of presentation in the statement of cash flows, and in the statement of financial position, cash and cash equivalents includes cash at bank.

### **(e) Loans and Receivables**

Loans and receivables are recognised initially at fair value and subsequently measured at amortised cost using the effective interest method, less provision for impairment. These are repayable on demand.

Collectability of loans and receivables is reviewed on an ongoing basis. Debts which are known to be uncollectible are written off by reducing the carrying amount directly. An allowance account (allowance for impairment of loans and receivables) is used where there is objective evidence that the Association will not be able to collect all amounts due according to the original terms.

The amount of the impairment loss is recognised in profit or loss with other expenses. When a loan or receivable for which an impairment allowance had been recognised becomes uncollectable in a subsequent period, it is written off against the allowance account. Subsequent recoveries of amounts previously written off are credited against other expenses in surplus or deficit.

### **(f) Other Financial Assets**

#### *Classification*

The Association classifies its financial assets in the following categories: financial assets designated at fair value through surplus or deficit and held-to-maturity investments.

#### *(i) Financial assets at fair value through surplus or deficit*

##### *Recognition and Derecognition*

Financial assets at fair value through surplus or deficit are initially recognised at fair value and transaction costs are expensed in surplus or deficit. Financial assets are derecognised when the rights to receive cash flows from the financial assets have expired or have been transferred and the Association has transferred substantially all the risk and rewards of ownership.

##### *Subsequent Measurement*

Financial assets at fair value through surplus or deficit are subsequently carried at fair value. Gains or losses arising from changes in fair value are recognised in surplus or deficit in the period in which they arise. Dividend income is recognised in surplus or deficit as part of revenue from continuing operations when the Association's right to receive the payment is established.

##### *Fair Value*

The fair values of quoted investments are based on current bid prices. The fair value of fixed interest securities are based on published market prices. The fair values of investments in Australian managed funds are based on the redemption price advised by the relevant fund manager.

#### *(ii) Held-to-maturity investments*

The Association classifies its term deposits as held-to-maturity investments. Held-to-maturity investments are non-derivative financial assets with fixed or determinable payments and fixed maturities that the Association's management has the positive intention and ability to hold to maturity. Held-to-maturity financial assets are included in current assets except those with maturities greater than 12 months from the end of the reporting period, which are classified as non-current assets.

Held-to-maturity investments are carried at amortised cost using the effective interest method.



## Notes to the Financial Statements (continued)

For the year ended 30 June 2018

### 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

#### (g) Trade and Other Payables

These amounts represent liabilities for goods and services provided to the Association prior to the end of financial year which are unpaid. The amounts are unsecured and are usually paid within 30 days of recognition.

#### (h) Employee Benefits

##### (i) Short-term employee benefits

Liabilities for wages and salaries, including non-monetary benefits, annual leave and long service leave expected to be settled wholly within 12 months of the reporting date are measured at the amounts expected to be paid when the liabilities are settled.

##### (ii) Other long-term employee benefits

The liability for annual leave and long service leave not expected to be settled within 12 months of the reporting date are measured at the present value of expected future payments to be made in respect of services provided by employees up to the reporting date using the projected unit credit method. Consideration is given to expected future wage and salary levels, experience of employee departures and periods of service. Expected future payments are discounted using market yields at the reporting date on national government bonds with terms to maturity and currency that match, as closely as possible, the estimated future cash outflows.

#### (i) Goods and Services Tax ('GST')

Revenue, expenses and assets are recognised net of the amount of associated GST, unless the GST incurred is not recoverable from the Australian Taxation Office ('ATO'). In this case it is recognised as part of the cost of acquisition of the asset or as part of an item of expense.

Receivables and payables are stated inclusive of the amount of GST receivable or payable. The net amount of GST recoverable from, or payable to, the ATO is included in receivables or payables in the statement of financial position.

Cash flows are presented on a gross basis. The GST components of cash flows arising from investing or financing activities which are recoverable from, or payable to, the ATO are presented as operating cash flows.

#### (j) New accounting standards

Certain new accounting standards of the Australian Accounting Standards Board have been published that are not mandatory for 30 June 2018 reporting periods. The directors' assessment of the impact of these new standards is that they will have no material impact on the future financial reports of the Association, other than as follows:

*AASB 15: Revenue from Contracts with Customers and AASB 1058: Income of Not-for-Profits* AASB 15 and AASB 1058 will apply to the Association for the first time for the year ending 30 June 2020, unless the Association decides to adopt the Standards earlier. The Association does not consider these two Standards will have an impact on future financial reports.

	2018 \$	2017 \$
<b>2. REVENUE FROM CONTINUING OPERATIONS</b>		
Contributions	120,690	137,338
Distribution and dividend income	154,334	174,352
Interest income	55,317	47,950
<b>Revenue from continuing operations</b>	<b>330,341</b>	<b>359,640</b>

### 3. LOANS AND RECEIVABLES

#### Current

NSW Bar Association	33,649	50,407
Accrued interest	12,679	7,662
Interest free loans	16,100	16,900
Allowance for impairment of interest free loans	(16,100)	(16,900)
GST receivable	220	116
	<b>46,548</b>	<b>58,185</b>



## Notes to the Financial Statements (continued)

For the year ended 30 June 2018

	2018 \$	2017 \$
<b>4. HELD-TO-MATURITY INVESTMENTS</b>		
<b>Term Deposits</b>		
Current	<u>2,042,278</u>	<u>1,875,548</u>
<b>5. OTHER FINANCIAL ASSETS</b>		
<b>Non-Current</b>		
Designated at fair value through surplus or deficit		
- Fixed interest securities	-	325,345
- Shares in Australian listed companies	<u>3,086,994</u>	<u>2,555,477</u>
	<u>3,086,994</u>	<u>2,880,822</u>

## 6. RELATED PARTY DISCLOSURES

### (a) Committee of Management

The names of persons who were members of the Committee of Management of the Association at any time during the financial year are as follows:

N Williams	C Ensor	M McHugh SC	M Izzo	S Callan
D Rayment	B Katekar	J Mack	W Terracini SC	R Weinstein SC
A Moses SC	K Shead SC	T Game SC	G Bashir SC	K Nomchong SC
R Higgins SC	C Gleeson	C Loukas SC	M Walker	A Mitchelmore
P Khandhar	L Hutchinson	K Morgan SC	E Welsh	A Bell SC
J Roy	G Antipas	V Whittaker	J Gormly SC	

The members of the Committee of Management are also directors of the New South Wales Bar Association.

### (b) Key Management

The key management personnel are the members of the Committee of Management of the Association.

No compensation was paid, or is payable, to the members of the Committee of Management of the Association.

### (c) Other Transactions

The Association conducts its business from the premises of NSW Bar Association at no cost to the Association.

## 7. EVENTS OCCURRING AFTER THE REPORTING DATE

Changes since reporting date in the market values of financial assets at fair value through surplus or deficit held by the Association have impacted the total value of the financial assets. As at 22 August 2018 the total market value of financial assets at fair value through surplus or deficit held by the Association was \$3,233,233 compared with \$3,086,994 as at 30 June 2018, an increase of 4.74%.

## Committee of Management Declaration

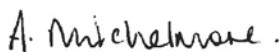
In the opinion of the Committee of Management of Barristers' Benevolent Association of NSW;

- (a) the financial statements and notes as set out on pages 74 to 79 satisfy the requirements of the *Australian Charities and Not-for-profits Commission Act 2012*, including:
  - (i) complying with Accounting Standards - Reduced Disclosure Requirements and the *Australian Charities and Not-for-profits Commission Regulation 2013*, and
  - (ii) giving a true and fair view of the Association's financial position as at 30 June 2018 and its performance, as represented by the results of its operations, changes in accumulated funds and cash flows, for the year ended on that date; and
- (b) there are reasonable grounds to believe that the Association will be able to pay all of its debts as and when they become due and payable.

Signed in accordance with subsection 60.15(2) of the Australian Charities and Not-for-profits Commission Regulation 2013.



A Moses SC



A Mitchelmore

Sydney, NSW  
6 September 2018

# Independent Auditor's Report

For the year ended 30 June 2018



## RSM Australia Partners

Level 13, 60 Castlereagh Street, Sydney NSW 2000  
GPO Box 5138 Sydney NSW 2001

T +61 (0) 2 8226 4500  
F +61 (0) 2 8226 4501

[www.rsm.com.au](http://www.rsm.com.au)

## Opinion

We have audited the financial report of Barristers' Benevolent Association of NSW, which comprises the statement of financial position as at 30 June 2018, the statement of comprehensive income, the statement of changes in equity and the statement of cash flows for the year then ended, and notes to the financial statements, including a summary of significant accounting policies, and the declaration by committee of management.

In our opinion, the financial report of Barristers' Benevolent Association of NSW has been prepared in accordance with Division 60 of the *Australian Charities and Not-for-profits Commission Act 2012*, including:

- (a) giving a true and fair view of the registered entity's financial position as at 30 June 2018 and of its financial performance and cash flows for the year ended on that date; and
- (b) complying with Australian Accounting Standards – Reduced Disclosure Requirements and Division 60 of the *Australian Charities and Not-for-profits Commission Regulation 2013*.

## Basis for Opinion

We conducted our audit in accordance with Australian Auditing Standards – Reduced Disclosure Requirements. Our responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Report* section of our report. We are independent of the Barristers' Benevolent Association of NSW in accordance with the ethical requirements of the Accounting Professional and Ethical Standards Board's APES 110 *Code of Ethics for Professional Accountants* (the Code) that are relevant to our audit of the financial report in Australia. We have also fulfilled our other ethical responsibilities in accordance with the Code.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

## Other Information

The committee of management are responsible for the other information. The other information comprises the information included in Barristers' Benevolent Association of NSW's annual report for the year ended 30 June 2018 but does not include the financial report and the auditor's report thereon.

Our opinion on the financial report does not cover the other information and accordingly we do not express any form of assurance conclusion thereon.

In connection with our audit of the financial report, our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial report or our knowledge obtained in the audit or otherwise appears to be materially misstated.

If, based on the work we have performed, we conclude that there is a material misstatement of this other information, we are required to report that fact. We have nothing to report in this regard.

## Independent Auditor's Report (continued)

For the year ended 30 June 2018



### RSM Australia Partners

Level 13, 60 Castlereagh Street Sydney NSW 2000  
GPO Box 5138 Sydney NSW 2001

T + 61 (0) 2 8226 4500  
F + 61 (0) 2 8226 4501

[www.rsm.com.au](http://www.rsm.com.au)

### Responsibilities of committee of management for the Financial Report

The committee of management of the registered entity are responsible for the preparation of the financial report that gives a true and fair view in accordance with Australian Accounting Standards – Reduced Disclosure Requirements and the *Australian Charities and Not-for-profits Commission Act 2012* (ACNC Act) and for such internal control as the committee of management determine is necessary to enable the preparation of the financial report that gives a true and fair view and is free from material misstatement, whether due to fraud or error.

In preparing the financial report, committee of management are responsible for assessing Barristers' Benevolent Association of NSW's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate Barristers' Benevolent Association of NSW or to cease operations, or has no realistic alternative but to do so.

### Auditor's Responsibilities for the Audit of the Financial Report

Our objectives are to obtain reasonable assurance about whether the financial report as a whole is free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with the Australian Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of this financial report.

A further description of our responsibilities for the audit of the financial report is located at the Auditing and Assurance Standards Board website at: [http://www.auasb.gov.au/auditors\\_responsibilities/ar4.pdf](http://www.auasb.gov.au/auditors_responsibilities/ar4.pdf). This description forms part of our auditor's report.

A stylized, handwritten signature in dark ink, appearing to read 'RSM'.

RSM Australia Partners

A stylized, handwritten signature in dark ink, appearing to read 'C J Hume'.

C J Hume  
Partner

Sydney, NSW  
Dated: 12 September 2018



## Contributors to the Barristers' Benevolent Fund

Ms Wendy Abraham QC	Mr Paul Blackburn-Hart SC	His Hon Judge	Mr J Duncan
Chief Commissioner	Dr S Blount	Richard Cogswell SC	Mr J R Dupree
Michael Adams QC	The Hon J M Boland AM	The Hon B J K Cohen QC	Mr D Dura
Mr Awais Ahmad	Mr Craig Bolger	Mr B A Coles QC	Mr Philip Durack SC
Mr P G Aitken	Mr R A Bonnici	The Hon D J Collier AM	Mr P Dwyer
Ms Sandrine Alexandre-Hughes	Ms A Bonnor	Mr B W Collins QC	Ms Kate Eastman SC
Ms C J Allan	Mr P R Boulten SC	Mr A Combe	The Hon R Edmonds AM SC
Mr P Allport	Mr M Boulton	Mr M K Condon SC	Mr M Einfeld QC
Ms Clarissa Amato	Mr A J Bowen	Mr N A Confos	Ms E Elbourne
Mr M W Anderson	Mr Carl Boyd	Dr A L Connolly	Mr G Elliott
Ms Sophie Anderson	Mr T J Boyle	Mr A Conwell	Mr L Ellison SC
Mr Edward Anderson	Mr M L Brabazon SC	Ms A Cotter-Moroz	Mr C A Evatt
Mr K W Andrews	Mr Luke Brasch	Mr G P Craddock SC	The Hon Elizabeth A Evatt AC
Mr Nic Angelov	Mr Bernard D Brassil	The Hon M G Craig QC	Ms Tania Evers
Mr B A Apelbaum	Mr W P Brewer	His Honour Judge	Mr Oshie Fagir
Mr Thomas Arnold	Mr Campbell Bridge SC	C Craigie SC	Ms Mary Falloon
Mr J A Arnett	Mrs M Bridger	Mr M Cranitch SC	Ms M Fanning
Her Honour Judge	Ms Madeleine Bridgett	Mr M Crawford - Fish	Mr Geoff Farland
L M Ashford	Ms Victoria Brigden	Mr M G Crowley	Ms Stephanie Fendekian
Mr G E Babe	Mr Josh Brock	Mr I Cullen	Mr Lester Fernandez
Mr Conor Bannan	Mr P Bruckner	Mr P R Cummings SC	Mr J J Fernon SC
Mr A Bannon SC	The Hon J P Bryson QC	Ms Maeve Curry	Mr M J Finnane RFD QC
The Hon C J Bannon QC	Mr D A Buchanan SC	Mr W J Dalley	Mr E T Finnane
Mr P A Barnes	Mr S J Buchen	Mr Matthew S Daniels	Mr W M Fitzsimmons
Mr Darrell Barnett	Mr A J Bulley	Mr M J Darke SC	Mr James Foley
Ms M Barnett	Mr S Burchett	Mr I E Davidson SC	Mr M J Fordham SC
Dr Sean Baron Levi	Mr Michael Burke	Mr T J Davie	Mr Ross Foreman
Mr D Barrow	Mr Gregory Burton SC	The Hon Justice D	Mr David Forster
Mr G M Barter	Mr I F Butcher	L Davies SC	Mr P Fowler
Mr A J Bartley SC	Ms Melanie R Cairns	Mr Andrew R Davis	Ms R Francois
Mr J Bartos	Mr P Callaghan SC	Mr W Dawe QC	Mr Ian Fraser
Ms G A Bashir SC	Ms Sophie Callan	Mr A T S Dawson SC	His Honour Judge
Mr E H Baskerville	Ms Cleopatra Calokerinos	Magistrate D Day	D Frearson SC
Mr M J Bateman	Mr Benjamin Cameron	Mr Sebastian M De Brennan	Mr Stephen J Free
Mr T J Bates	The Hon M W Campbell QC	Ms Maureen De Vere	Mr C D Freeman
Mr Paul Batley	Ms M Campbell	Ms K Deards	Mr Mark Friedgut
Mr R C Beasley SC	Mr G Carolan	Mr Dominic Delany	Mr Neal Funnell
Mr Damian Beauflis	Mr P R Carr	Mr M Dempsey SC	Mr N E Furlan
Miss Elizabeth Beilby	Ms Nicole S Carroll	Mr H K Dhanji SC	Ms J L Gallagher
Mr R S Bell	Mr Charles H Cassimatis	Mr Tony Di Francesco	Mr J M Galluzzo
Mr A J Bellanto QC	Mr T D Castle	Mr Richard Di Michiel	Mr T A Game SC
His Honour Judge	Ms Michelle Castle	Ms Olivia J Dinkha	Mr Aidan Gandar
J Bennett SC	Mr Christopher Catt	Mr T J Dixon	Mr Stephen Gardiner
Mr K G Bennett	Mr J J Cauchi AM SC	Mr Alexander Djurdjevic	Mr G P Gee
Mr D R Benson	Mr R Cavanagh SC	Mr B G Docking	Mr G Gemmell
Mr G Berecny	Ms J Chapman	Mr P L Dodson	Ms H Gerondis
Mr Duncan Berents	Mr Luke Chapman	Mr P J Doherty SC	Mr Geoff Gersbach
The Hon P A Bergin SC	Mr Keith Chapple SC	Mr Gary Doherty	Mr Nicolaous Ghabar
Mr J Berry OAM	Mr Simon Chapple	Mr A Doig	Mr James T G Gibson
Mr D A Bertini	Mr Ali Cheema	Mr F M Douglas QC	Mr M G Gilbert
Mr H P T Bevan	Mr A Cheshire SC	Mr P F Doyle	Ms M A Gillies SC
Mr Anish Bhasin	Mr M Christie SC	Mr Justin Doyle	Mr Kieran D Ginges
Mr Benjamin Bickford	Mr J R Clarke SC	Mr R Driels	Mr A Givney
Dr C J Birch SC	Mrs S Clemmett	Ms T D'souza	Mr Simon Glascott
Ms E A Bishop	Mr G A Coakes	Mr I C Duane	Mr R D Glasson
Mr J D Blackah		Ms S Duggan SC	Ms Catherine Gleeson



## Contributors to the Barristers' Benevolent Fund (continued)

Mr A Goldsworthy	Mr A Hochroth	Dr John Keogh	Mr Peter J McGrath SC
Mr S Golledge	Ms G Hoeben	Mr S M Kettle	Mr M McHugh SC
Mr J V Gooley	Mr A Hogan	Ms R Khalilzadeh	Mr R S McIlwaine SC
Ms F Gordon	Ms D Hogan-Doran SC	Mr P N Khandhar	Mr G McIlwaine
Mr J P Gormly SC	Mr T L Hollo	Mr N J Kidd SC	Mr A J McInerney SC
Mr J F Gormly	Mr R W Hood	Mr L King SC	Mr J K McLaughlin AM
Mr G M Gould	Mr D J Hooke SC	Mr I Kirgiz	Mr Daniel McMahon
Mr R J Grady	Mr R Hooper SC	Chief Commissioner	Magistrate L McManus
Mr G Graham	Ms J S Hopper	P M Kite SC	Mr S J McMillan
Mr G J Graham	Mr P A Horobin	Mr Piotr Klank	Mr G P McNally SC
Ms Felicity Graham	Mr Jacob Horowitz	Mr D D Knoll AM	Miss L McSpedden
Ms Emily C Graham	Mr W D Hosking QC	Mr Patrick Knowles	Mr Ben Mee
Ms R Graycar	Mr T G Howard SC	Mr Peter Kondich	Ms Jennifer K Mee
Mr M Green SC	Mr A Howell	Mr G Kumarasinha	Mr M K Meek SC
Mr R P Greenhill SC	Mr Slade Howell	Mr R Lancaster SC	Mr T M Mehigan
Mr L T Grey	His Honour Judge C Hoy SC	Mr A R Langshaw	Mr A G Melick AO SC
The Hon M B Grove QC	Mr T Hughes	Mr S Lawrence	Mr P J Menary
Mr J L Gruzman	Mr S Hughes	Miss Esther A Lawson	Ms T Z Messner
Mr J Guihot	Mr V B Hughston SC	Mr James Leaver	The Hon J A Miles AO
Mr Mark Gunning	Mr B Hull	Mr A Leopold SC	Mr C Mitchell
Mr J Hale	Ms L E Hulmes	His Honour Judge	Mr P J Mooney SC
The Hon Justice P Hall	Mrs Melissa Humphreys	L A Levy SC	Mr G Moore
Ms S T Hall	Mr Bill Ilkovski	Ms Y C Lin	Mr C A Moore SC
The Hon Justice P Hallen	Ms Emily Ito	Mr P J Livingstone	Mr J Moore
Mr J M Hallion	Mr S Jacobs	Mr W L S Lloyd	Mr T J Morahan
Mr R L Hamilton SC	The Hon P Jacobson QC	Mr J R J Lockhart SC	Mr J M Morris SC
The Hon JP Hamilton QC	Ms Elizabeth James	Mr D M Loewenstein	Mr Hugh Morrison
Ms L Hamilton	Mr R Jankowski	Mr J Longworth	Mr K Morrissey
Ms Natasha Hammond	Mr R Johnson	Mr P B Lott	Mr Charles Moschoudis
Mr G Hansen	The Hon Justice P A Johnson	The Hon Justice I J Loughnan	Mr A R Moses SC
Mr S J Harben SC	Mr G J Johnson	Mr W P Lowe	Mr D A Moujalli
Mr Roger Harper	Mr Russ Johnson	Mr G Lucarelli	Ms J A Munday
Mr J M Harris	Mr B L Jones	Dr Juliet Lucy	Mr P R Munro AM
Mr Jake Harris	Mr Thomas Jones	Mr Terrence Lynch SC	Ms A Munro
Mr Christian Hart	Mr Oliver Jones	Mr Angus Macauley	Mr C L Murphy
Ms V A Hartstein	Ms K Jones	Mr R H Macready	Mr Neil Murray
Mr B E Haverfield	Mr D K Jordan	The Hon R N Madgwick QC	Nicholas Poynder
Miss A Hawkins	Mr K Josifoski	Ms K Madgwick	The Hon J A Nader RFD QC
Mr W R Haylen QC	Ms T Jowett	Mr C Magee	Mr Andrew P L Naylor
Mr T Healey	Ms L E Judge	His Honour Judge	Ms J Needham SC
Ms A Healey	Mr S D Kalfas SC	P G Mahony SC	Mr P W Neil SC
Mr David Healey	Mr M A Karam	Ms G F Mahony	Ms M Neville
Ms V M Heath	Mr A Karim	Mr David Mallon	Mrs Danielle New
Mr M J Heath	Mr Leonard Karp	Dr Christos Mantziaris	Mr C R C Newlinds SC
Mr G R Heathcote	Mr Anthony Kaufmann	His Honour Acting Judge	The Hon P J Newman RFD QC
Mr John F Heazlewood	The Hon Dr Tricia Kavanagh	M C Marien SC	Mr Nicholas Newton
Mr R A Hewson	Mr J B Kay Hoyle	Ms Kay Marinos	Mr Gerald Ng
Mr G J Hickey	Mr J A Kearney	Mr A E Maroya	Mr N A Nicholls SC
Mr F P Hicks SC	Mr J T Kearney	Mr H J Marshall SC	Mr L W Nicholls
The Hon P J Hidden AM	Mr J Keesing	Mr A M Martin	Mr J Nicholson
Dr Ruth C A Higgins SC	Mr S Keim SC	Ms Louise Mathias	Mr G Niven
Mr A Hill	Mr J Kellaway	Mr M McAuley	Mr Paul J Nolan
Ms S Hill	Mr R Keller	Ms L McBride	His Honour Judge
Mr J S Hilton	Mr Hayden Kelly SC	Mr M F McDermott	S Norrish QC
Mr D Hirsch	Mr D P Kelly	Mr I J McGillicuddy	Mr M Oakes SC
Mrs Michelle Hirschhorn	Mr Jesse Kennedy	Mr Chris McGorey	Mr Rhys O'Brien
		Mr G McGrath	



## Contributors to the Barristers' Benevolent Fund (continued)

Mr B A Odling	Mr David M Roberts	Mr M S Spartalis	Mr B Williams
Ms Victoria O'Halloran	Mr T F Robertson SC	Mr C Sperling	Mr M S Willmott SC
Mr P P O'Loughlin	Mr Scott Robertson	Mr D G Staehli SC	Mr Dennis Wilson
Her Honour Judge	Mr M W Robinson	Mr Ashley Stafford	Ms Celia Winnett
E Olsson SC	Miss W L Robinson QC	Mr G J Stanton	Mr Christopher H Withers
The Hon J L O'Meally AM RFD	Mr Bryan Robinson	Mr R A Stanton	Mrs L G Wong
Mr D B O'Neil	The Hon Justice J E Robson	Mr C Steirn SC	Ms Tiffany L Wong
Mr R N O'Neill	Mr Declan Roche	Ms A Stenmark SC	Mr Matthew Wong
Mr Seyi Onitiri	Mr Daniel S Roff	Mr K L Stewart	Deputy President E G Wood
Mr B C Oslington QC	The Hon R Rolfe	Mr D C P Stewart	Mr Christopher Wood
Mr T M Ower	Mr M K Rollinson	Mr Angus Stewart SC	Mr S A Woods
Ms M Painter SC	Mr D Ronzani	Ms S L Stewart	Peter P Wray-McCann
Mr Christopher Palmer	Mr J A Rose	Mr Robert Stitt QC	Ms G Wright
Mr David Parish	Mr K Roser	Mr P G W Stitz	Mr John Wydell
Mr R A Parsons	Ms F T Roughley	Mr P Strasser	Ms Sophie York
Mr Anthony N Parsons	Mr J E Rowe	Mr G J Sundstrom	
Ms S Patterson	Mr P A Rowe	Mr Philip Swaine	
Dr Elisabeth Peden	Mr T M Rowles	Ms Sonia Tame	
The Hon Justice R A Pepper	Ms T Harris-Roxas	Mr J O Tancred	
Mr R J Perrignon	Ms J L Roy	Mr R J Taylor	
Mr M J Perry	Mr R Royle	Mr B Taylor	
The Hon Justice M Perry	Mr G Rundle	Ms Jane E Taylor	
Dr G Pesce	Mr S Russell	Mr M Thangaraj SC	
Mr E Petersen	Mr Peter Russell	Ms P Thew	
Mr G R Petty SC	The Hon D M Ryan QC	Mr G M Thomas	
Miss Meredith Phelps	Mr T J Ryan	Ms W Thompson	
Ms S Phillips	Mr J J Ryan	Mr Cameron L Thompson	
Mr J Phillips SC	Mr M V Sahade	Ms Mandy Tibbey	
Mr A M Pickles SC	Mr J R Sainty	Miss L Ticehurst	
Mr K J Pierce	Ms K Sant	Mr T K Tobin QC	
Mr I H Pike AM	Mr F Santisi	His Honour Judge	
Mr B Pluznyk	Mr P F Santucci	R S Toner SC	
Mr J L Polese	Ms Lucy Saunders	Mr J A Trebeck	
Ms T M Power	Mr S H Scarlett OAM RFD	Mr J Trevallion	
Mr J Priestley SC	Mr S A Schaudin	Ms B J Tronson	
Mr D Priestley SC	Mr G Scragg	Mr J Van Aalst	
Mrs Margaret Pringle	Mr Michael Seck	Mr D F Villa	
Mr D R Pritchard SC	Ms Rashelle L Seiden SC	Mr Bret Walker SC	
Ms S E Pritchard SC Mr	Mr R J A Sergi	Mr I H Wallach	
A F Puckeridge QC	Mr Ian Serisier	Mr Philip Wallis	
Mr Colin Purdy	Mr J P Sewell	Mr W J Walsh	
The Hon Dr Rodney	Mr J E Sexton SC	Mr Mark Walsh SC	
Purvis AM QC	Mr Mark Seymour	Dr C S Ward SC	
Mr R E Quickenden	Mr K P Shadbolt	Mr E Wasilenia	
Mr G L Raffell	Mr Yaseen Shariff	Mr G J Watkins	
Mr M C Ramage QC	Mr Phillip G Sharp	Mr G M Watson SC	
Ms E Raper	Mr J C Sheahan QC	Mr P Webb QC	
The Hon Justice S D Rares	Mr J Sheller	Dr R J Webb	
Ms Jane Rawlings	Mr Lucas Shipway	Ms C A Webster SC	
Mr David W Rayment	Mr Craig Simpson	Mr Michael J Weightman	
Mr J P Redmond	Mr Geoff Simpson	Mr R H Weinstein SC	
Mr J Redwood	Mr Nicholas Simpson	Mr J N West QC	
Mr P A Regattieri	The Hon Greg Smith SC	Mr S Wheelhouse SC	
Mr M Rennie	Mr Craig J Smith SC	Ms J Wilcsek	
Mr A J J Renshaw	Ms L Smith	Mr Adrian Williams	
Mr S Reuben	Mr B Snelling	Mr Jay Williams	
Mr Garry Rich SC			

## Indigenous Barristers' Trust – The Mum Shirl Fund

Financial report for the year ended 30 June 2018

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The financial statements cover the Indigenous Barristers' Trust - The Mum Shirl Fund as an individual entity. Its registered office and principal place of business is at 174 Phillip Street, Sydney NSW 2000.

The financial statements were authorised for issue by the Trustees on 14 August 2018. The Trustees have the power to amend and re-issue the financial statements.

## Statement of Surplus and Other Comprehensive Income

For the year ended 30 June 2018

	Notes	2018 \$	2017 \$
Revenue from continuing operations	2	155,385	96,320
Audit and accounting		(6,000)	(5,150)
Bank charges		(76)	(75)
Conference expenses		(21,713)	(36,780)
Fundraising		-	(2,560)
Grants made		(73,344)	(125,803)
Other expenses		-	(500)
Surplus before income tax expense		54,252	(74,548)
Income tax expense	1(c)	-	-
<b>Net surplus</b>		54,252	(74,548)
<b>Other comprehensive income</b>		-	-
<b>Total comprehensive income</b>		<b>54,252</b>	<b>(74,548)</b>

The above statement of surplus and other comprehensive income should be read in conjunction with the accompanying notes.



## Statement of Financial Position

As at 30 June 2018

	Notes	2018 \$	2017 \$
<b>CURRENT ASSETS</b>			
Cash and cash equivalents		69,385	65,258
Held-to-maturity investments	4	408,879	358,422
Other receivables	3	43,910	43,392
<b>TOTAL CURRENT ASSETS</b>		<u>522,174</u>	<u>467,072</u>
<b>TOTAL ASSETS</b>		<u>522,174</u>	<u>467,072</u>
<b>CURRENT LIABILITIES</b>			
Trade and other payables		<u>6,000</u>	<u>5,150</u>
<b>TOTAL CURRENT LIABILITIES</b>		<u>6,000</u>	<u>5,150</u>
<b>TOTAL LIABILITIES</b>		<u>6,000</u>	<u>5,150</u>
<b>NET ASSETS</b>		<u>516,174</u>	<u>461,922</u>
<b>ACCUMULATED FUNDS</b>			
Accumulated surpluses		<u>516,174</u>	<u>461,922</u>

The above statement of financial position should be read in conjunction with the accompanying notes.

## Statement of Changes in Accumulated Funds

For the year ended 30 June 2018

	2018 \$	2017 \$
<b>As at 1 July - opening</b>	<b>461,922</b>	<b>536,470</b>
Total comprehensive income/(loss)	<u>54,252</u>	<u>(74,548)</u>
<b>As at 30 June - closing</b>	<u><b>516,174</b></u>	<u><b>461,922</b></u>

The above statement of changes in accumulated funds should be read in conjunction with the accompanying notes.

## Statement of Cash Flows

For the year ended 30 June 2018

	2018 \$	2017 \$
<b>Cash flows from operating activities</b>		
Receipts from sponsorship and general activities	144,910	80,568
Interest received	9,957	10,748
Payments to suppliers and grantees	(100,283)	(170,718)
Net cash (outflow)/inflow from operating activities	54,584	(79,402)
<b>Cash flows from investing activities</b>		
Proceeds/(Payments) from term deposits	(50,457)	99,268
Net increase/(decrease) in cash and cash equivalents	4,127	19,866
Cash and cash equivalents at the beginning of the year	65,258	45,392
<b>Cash and cash equivalents at the end of the year</b>	<b>69,385</b>	<b>65,258</b>

The above statement of cash flows should be read in conjunction with the accompanying notes.

## Notes to the Financial Statements

For the year ended 30 June 2018

### 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The principal accounting policies adopted in the preparation of the financial statements are set out below. These policies have been consistently applied to all the years presented, unless otherwise stated.

#### (a) Basis of Preparation

These general purpose financial statements have been prepared in accordance with Australian Accounting Standards - Reduced Disclosure Requirements and interpretations as issued by the Australian Accounting Standards Board. The Indigenous Barristers' Trust - The Mum Shirl Fund is a not-for-profit entity for the purpose of preparing the financial statements.

##### *Historical cost conversion*

These financial statements have been prepared under the historical cost convention.

##### *Critical accounting estimates and judgments*

The preparation of financial statements requires the use of certain critical accounting estimates. It also requires management to exercise its judgment in the process of applying the Trust's accounting policies. There are no estimates and judgments that have a significant risk of causing material adjustments to the carrying amounts of assets and liabilities within the next financial year.

#### (b) Revenue Recognition

Revenue is measured at the fair value of the consideration received or receivable. Revenue is recognised as follows:

##### *(i) Contributions*

Revenue from contributions is recognised when the contribution is received.

##### *(ii) Interest income*

Interest income is recognised as it accrues.

##### *(iii) Other Income*

Income from other sources is recognised when the income is receivable.



## Notes to the Financial Statements (continued)

For the year ended 30 June 2018

### 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

#### (c) Income Tax

The Trust is exempt from income tax.

#### (d) Cash and Cash Equivalents

For purposes of presentation in the statement of cash flows, and in the statement of financial position, cash and cash equivalents includes cash at bank.

#### (e) Held-to-maturity investments

The Trust classifies its term deposits as held-to-maturity investments. Held-to-maturity investments are non-derivative financial assets with fixed or determinable payments and fixed maturities that the Trust's management has the positive intention and ability to hold to maturity. Held-to-maturity financial assets are included in current assets except those with maturities greater than 12 months from the end of the reporting period, which are classified as non-current assets.

Term deposits are recognised at cost.

#### (f) Other Receivables

Other receivables are recognised initially at fair value and subsequently measured at amortised cost using the effective interest method, less provision for impairment. Other receivables are usually settled within 30 days from the date of recognition.

#### (g) Trade and Other Payables

These amounts represent liabilities for goods and services provided to the Trust prior to the end of financial year which are unpaid. The amounts are unsecured and are usually paid within 30 days of recognition.

#### (h) Goods and Services Tax ('GST')

Revenue, expenses and assets are recognised net of the amount of associated GST, unless the GST incurred is not recoverable from the Australian Taxation Office ('ATO'). In this case it is recognised as part of the cost of acquisition of the asset or as part of an item of expense.

Receivables and payables are stated inclusive of the amount of GST receivable or payable. The net amount of GST recoverable from or payable to the ATO is included in receivables or payables in the statement of financial position.

Cash flows are presented on a gross basis. The GST components of cash flows arising from investing or financing activities which are recoverable from or payable to the taxation authority are presented as operating cash flows.

#### (i) New accounting standards

Certain new accounting standards of the Australian Accounting Standards Board have been published that are not mandatory for 30 June 2018 reporting periods. The directors' assessment of the impact of these new standards is that they will have no material impact on the future financial reports of the Trust, other than as follows:

*AASB 15: Revenue from Contracts with Customers and AASB 1058: Income of Not-for-Profits* AASB 15 and AASB 1058 will apply to the Trust for the first time for the year ending 30 June 2020, unless the Trust decides to adopt the Standards earlier.

The Trustees consider that these Standards will have no impact on Thrust's revenue recognition.

## Notes to the Financial Statements (continued)

For the year ended 30 June 2018

	2018 \$	2017 \$
<b>2. REVENUE FROM CONTINUING OPERATIONS</b>		
Contributions received	145,428	85,059
Interest	9,957	11,261
<b>Revenue from continuing operations</b>	<b>155,385</b>	<b>96,320</b>

### 3. OTHER RECEIVABLES

#### Current

NSW Bar Association	36,628	35,109
GST receivable	5,814	6,294
Accrued interest	1,468	1,989
	<b>43,910</b>	<b>43,392</b>

### 4. HELD-TO-MATURITY INVESTMENTS

#### Current

Term deposits	<b>408,879</b>	<b>358,422</b>
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### 5. RELATED PARTY DISCLOSURES

#### (a) Trustees

The names of persons who were Trustees of the Trust at any time during the financial year are as follows:

Chris Ronalds SC	Arthur Moses SC
Justice Michael Slattery	Tony McAvoy SC

#### (b) Key management

The key management personnel are the Trustees of the Trust.

No compensation was paid or payable to Trustees of the Trust during the financial year or the previous year.



## Trustee's Declaration



### RSM Australia Partners

Level 13, 60 Castlereagh Street, Sydney NSW 2000  
GPO Box 5138 Sydney NSW 2001

T +61 (0) 2 8226 4500  
F +61 (0) 2 8226 4501

[www.rsm.com.au](http://www.rsm.com.au)

In the opinion of the Trustees of Indigenous Barristers' Trust The Mum Shirl Fund ('the Trust'),

- (a) the financial statements and notes as set out on pages 86 to 90 of the Annual Report up to 30 June 2018:
  - (i) have been drawn up in accordance with Accounting Standards - Reduced Disclosure Requirements and other mandatory professional reporting requirements in Australia; and
  - (ii) present fairly the Trust's financial position as at 30 June 2018 and its performance, as represented by the results of its operations, changes in accumulated funds and cash flows, for the year ended on that date.
- (b) there are reasonable grounds to believe that the Trust will be able to pay its debts as and when they become due and payable.

Signed in accordance with a resolution of the Trustees:

A handwritten signature in black ink that reads 'C Ronalds'.

C Ronalds AO SC  
Trustee

14 August 2018  
Sydney, NSW

## Independent Auditor's Report



### RSM Australia Partners

Level 13, 60 Castlereagh Street Sydney NSW 2000  
GPO Box 5138 Sydney NSW 2001

T +61 (0) 2 8226 4500  
F +61 (0) 2 8226 4501

[www.rsm.com.au](http://www.rsm.com.au)

### To the Members of The Indigenous Barristers' Trust – The Mum Shirl Fund

#### Opinion

We have audited the financial report of The Indigenous Barristers' Trust – The Mum Shirl Fund, which comprises the statement of financial position as at 30 June 2018, the statement of surplus and other comprehensive income, the statement of changes in accumulated funds and the statement of cash flows for the year then ended, and notes to the financial statements, including a summary of significant accounting policies, and the declaration by trustees.

In our opinion, the financial report of The Indigenous Barristers' Trust – The Mum Shirl Fund has been prepared in accordance with Division 60 of the *Australian Charities and Not-for-profits Commission Act 2012*, including:

- (a) giving a true and fair view of the registered entity's financial position as at 30 June 2018 and of its financial performance and cash flows for the year ended on that date; and
- (b) complying with Australian Accounting Standards – Reduced Disclosure Requirements and Division 60 of the *Australian Charities and Not-for-profits Commission Regulation 2013*.

#### Basis for Opinion

We conducted our audit in accordance with Australian Auditing Standards – Reduced Disclosure Requirements. Our responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Report* section of our report. We are independent of the The Indigenous Barristers' Trust – The Mum Shirl Fund in accordance with the ethical requirements of the Accounting Professional and Ethical Standards Board's APES 110 *Code of Ethics for Professional Accountants* (the Code) that are relevant to our audit of the financial report in Australia. We have also fulfilled our other ethical responsibilities in accordance with the Code.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

#### Other Information

The trustees are responsible for the other information. The other information comprises the information included in The Indigenous Barristers' Trust – The Mum Shirl Fund's annual report for the year ended 30 June 2018 but does not include the financial report and the auditor's report thereon.

Our opinion on the financial report does not cover the other information and accordingly we do not express any form of assurance conclusion thereon.

In connection with our audit of the financial report, our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial report or our knowledge obtained in the audit or otherwise appears to be materially misstated.

If, based on the work we have performed, we conclude that there is a material misstatement of this other information, we are required to report that fact. We have nothing to report in this regard.

## Independent Auditor's Report (continued)



### RSM Australia Partners

Level 13, 60 Castlereagh Street, Sydney NSW 2000  
GPO Box 5138 Sydney NSW 2001

T +61 (0) 2 8226 4500  
F +61 (0) 2 8226 4501

[www.rsm.com.au](http://www.rsm.com.au)

### Responsibilities of Trustees for the Financial Report

The trustees of the registered entity are responsible for the preparation of the financial report that gives a true and fair view in accordance with Australian Accounting Standards – Reduced Disclosure Requirements and the *Australian Charities and Not-for-profits Commission Act 2012* (ACNC Act) and for such internal control as the committee of management determine is necessary to enable the preparation of the financial report that gives a true and fair view and is free from material misstatement, whether due to fraud or error.

In preparing the financial report, committee of management are responsible for assessing The Indigenous Barristers' Trust – The Mum Shirl Fund's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate The Indigenous Barristers' Trust – The Mum Shirl Fund or to cease operations, or has no realistic alternative but to do so.

### Auditor's Responsibilities for the Audit of the Financial Report

Our objectives are to obtain reasonable assurance about whether the financial report as a whole is free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with the Australian Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of this financial report.

A further description of our responsibilities for the audit of the financial report is located at the Auditing and Assurance Standards Board website at: [http://www.auasb.gov.au/auditors\\_responsibilities/ar4.pdf](http://www.auasb.gov.au/auditors_responsibilities/ar4.pdf). This description forms part of our auditor's report.

A stylized, handwritten signature of 'RSM' in dark ink.

RSM Australia Partners

A handwritten signature in dark ink, appearing to read 'C J Hume'.

C J Hume  
Partner  
Sydney, NSW  
Dated: 14 August 2018





